

PERTH MARKET AUTHORITY BOARD — MEMBERSHIP

Statement by Minister for Agriculture and Food

HON KEN BASTON (Mining and Pastoral — Minister for Agriculture and Food) [10.12 am]: Yesterday in the house during question time I was asked whether I had a conflict of interest regarding the sale of the Perth Market Authority. I advised the house that I considered that I did. I would now like to provide further information concerning this matter. When I first became aware of the possible conflict of interest, I advised Peter Conran, the director general of the Department of the Premier and Cabinet, on 2 July 2015, and I now table a copy of that.

The nature of the conflict is that my son is a director of a company engaged by a bidder for the purchase of the Perth Market Authority. I was advised by Peter Conran that I had met my obligations under the Ministerial Code of Conduct by declaring this possible conflict of interest. Mr Conran advised me to declare the conflict in cabinet when appropriate, and I have done so. He also advised me not to discuss the matter of asset sales or the Perth Market Authority with my family or associates of my son who I may know and to ensure that staff in my office did not deal with my son or the company with which he is working. That advice has also been followed.

The matter was also referred to the independent probity adviser to the Perth Market Authority sale process, who provided advice to my office on the probity aspects of my son's role with an advisory group and my own role, and that of my office, in that process. That advice recommended a number of steps to be taken in order to manage any actual or perceived conflict risks in the sales process. The advice was applied within the office in a slightly modified form to fit in with the workings of a ministerial office. Those steps were subsequently endorsed by the probity adviser as being appropriate for the management of the situation. I also note that the probity adviser's advice included specific reference to the need to maintain the confidentiality of the situation, based on considerations of fairness and equity to the participants in the process, including that consortium, on the basis that it should not be disadvantaged simply because of a family relationship. Having made this declaration, I was then unable to comment or be present during discussions regarding the sale of the Perth Market Authority.

I also wish to clarify the position regarding the appointment of the interim board. In the opinion of the probity adviser, and supported by the State Solicitor's Office, I considered it appropriate for me to appoint an interim board during the transition process on the basis that the interim board had no role or decision-making responsibility in the sale process.

In respect of the resignation yesterday of Mr Chris Wilkins, I wish to advise the following. In accordance with the control measures that my office had put in place in July, when the requirement to appoint an interim board became known and potential members were identified, their resumes were sent to the probity adviser for consideration and advice. He was also informed by my office that no nominee had declared any further conflicts of interest that would impact on the role of the board. On the basis of what was provided to my office, and referred to the probity adviser, I was satisfied that there were no apparent barriers to the appointment of the nominated board members. Mr Wilkins has resigned from the position of board member.

[See paper 3717.]

Point of Order — Ministerial Statement — Made Order of the Day

Hon KEN TRAVERS: Mr President, I seek your guidance on whether we can move that the Minister for Agriculture and Food's ministerial statement be made an order of the day. I know it does not come up on the notice paper in the way it used to, but is there anything to prevent me from moving that the ministerial statement be made an order of the day?

The PRESIDENT: I do not believe there is, but I will just confirm that.

Ruling by President

The PRESIDENT: Members, in reviewing the whole of the standing orders a few years ago, a conscious decision was taken not to make ministerial statements—unlike committee reports—an item of discussion during a session, but that was on the understanding that ministerial statements would not contain controversial or political content. This has not arisen since those times. In consultation with the clerks, my initial interpretation is that if the member wishes this matter to be made an order of the day for the next sitting of the house, as I understand what he has foreshadowed —

Hon Ken Travers: For a later stage of this day's sitting, in fact.

The PRESIDENT: — for a later stage of this day's sitting, there are two ways he can do it. One is with a notice of motion; the other one is to seek leave to suspend standing orders to move that motion immediately.

Point of Order — Ministerial Statement — Made Order of the Day

Hon SUE ELLERY: Mr President, we are dealing with two documents here—one is the statement; the other is the document that has been tabled—but I ask your view about the nature of the content of the statement. Given the circumstances from yesterday, this matter is highly contentious, so I wonder whether you would express a view about that.

The PRESIDENT: I think it is a matter of interpretation.

Hon SUE ELLERY: Indeed, Mr President; I am asking for your interpretation.

The PRESIDENT: I accept that there may be debatable matters in the statement. Another point I would like to bring to the attention of the house is standing order 17(3), which states —

A Minister or Parliamentary Secretary may move without notice that the sequence of orders of the day on the Business Program be varied, or other items of business on the Notice Paper be added to the Business Program. Any such motion shall be put without amendment or debate.

Therefore, if the member wishes to make this matter an order of the day for a later stage of this day's sitting, it is out of his control.

Hon Ken Travers: I could seek to suspend standing orders.

The PRESIDENT: Yes. I hope it is clear that it gives the member two options if he wishes to pursue the matter.

Hon KEN TRAVERS: To clarify to the house, I indicate that I intend to move that so much of standing orders be suspended to allow me to move a motion that the ministerial statement be made an order of the day for a later stage of this day's sitting. I give notice also that if I am unsuccessful in that, I will definitely move under standing order 68 that the tabled paper be made an order of the day.

The PRESIDENT: I will take that as foreshadowed as a motion without notice further down in formal business, or do you want to move it immediately?

Hon Ken Travers: I would have thought that the appropriate time is now for me to move that so much of standing orders be suspended to allow me to move that motion.

The PRESIDENT: Can I have a copy of that motion in writing please? I will get the copy in writing for a start.

Members, I will read the motion that Hon Ken Travers has foreshadowed —

I move —

That so much of standing orders be suspended to allow me to move —

That the ministerial statement be made an order of the day for a later stage of this day's sitting.

Members, given that the issue is unprecedented and a couple of other matters have been brought to my attention, I will leave the chair until the ringing of the bells to take a bit of advice.

Sitting suspended from 10.25 to 10.43 am

Ruling by President

The PRESIDENT: Members, we are in new territory here so I had to seek a bit of advice on this. I do not have a written ruling but I will try to explain things. Hon Ken Travers sought to move —

That so much of standing orders be suspended to allow me to move —

That the ministerial statement be made an order of the day for a later stage of this day's sitting.

First, I will make a couple of observations. Standing order 19 states —

Any motion connected with the conduct of the business of the Council may be moved by a Minister or Parliamentary Secretary at any time without notice.

That is pretty obvious, but the only way a member can ordinarily move to affect the business of the day is via a notice on motion. First, only ministers and parliamentary secretaries can move to change the sequence of the orders of the day—that is according to standing order 17(3). The Leader of the Opposition raised with me standing order 103(2), which deals with ministerial statements. For everyone's information, it states —

A statement must impart factual information relating to public affairs, and must not contain debateable matter other than matter that is inherent in the content of the statement.

Obviously the content of the statement is meant to be factual, but elements of it may be considered debatable by some people. In that respect, my ruling is that if some members consider it to be debatable, it is. Therefore, that is how it stands. But standing orders then provide the mechanism whereby it is debated, and that is where we are

at at the moment. A suspension of standing orders to consider a matter can be decided only by the house itself. That is where we are at. The motion to consider this matter at a later stage of this day's sitting is indicative of the mover's wishes, but only a minister or a parliamentary secretary can actually make that happen. As it is moved by a member, not a minister, it remains available only if the house adopts the motion for a minister to bring it on at a later stage of this day's sitting. If the member moving the motion is successful in the motion and succeeds to the subsequent motion that is foreshadowed, then a change in the sequence of the matter can be done only by a motion at the next day's sitting—not today's sitting. In summary, my ruling is that I will allow the motion to suspend standing orders that has been mooted by Hon Ken Travers. I will just read that motion again —

Point of Order — Ministerial Statement — Made Order of the Day

Hon KEN TRAVERS: Mr President, before you do, I wish to make a slight amendment to the motion so it reads “consideration of the ministerial statement” rather than “the ministerial statement”. I have an amended version of that motion. They are the words that we normally used to use for this type of matter.

Hon PETER COLLIER: Can I seek some clarification on your ruling, Mr President?

The PRESIDENT: Sure.

Hon PETER COLLIER: Should the government agree to the suspension and the motion itself, can we then debate that motion today?

The PRESIDENT: Only if you bring it on.

*Consideration of Ministerial Statement — Made Order of the Day —
Standing Orders Suspension — Motion*

THE PRESIDENT (Hon Barry House): I will read the motion so that it is clear. Hon Ken Travers' motion reads —

That so much of standing orders be suspended as to allow me to move —

That consideration of the ministerial statement be made an order of the day for a later stage of this day's sitting.

The question is that the motion be agreed to. I will give the call to Hon Ken Travers, but I remind members that suspension of standing orders is a very narrow debate.

HON KEN TRAVERS (North Metropolitan) [10.49 am]: Thank you, Mr President. I will not take up much of the house's time. What has occurred has led to an extraordinary set of circumstances. It is important that the house has a debate on this matter. We are in the very unusual situation in that potentially throughout today we will deal with a bill related to the matter that I want to consider through the suspension of standing orders. It is potentially the last sitting day of the year, so it is my view that these matters are urgent and need to be considered by the house. I certainly hope that we get the cooperation of all members to allow those issues to be debated in the house today.

HON PETER COLLIER (North Metropolitan — Leader of the House) [10.50 am]: As the scope of this debate is very narrow, I will keep my comments short. The government will support the motion.

Question put and passed with an absolute majority.

Consideration of Ministerial Statement — Made Order of the Day — Motion

On motion by **Hon Ken Travers**, resolved —

That consideration of the ministerial statement be made an order of the day for a later stage of this day's sitting.