

**IRON ORE (CHANNAR JOINT VENTURE) (HAMERSLEY RANGE)
AGREEMENTS AMENDMENT BILL 2017**

Second Reading

Resumed from 8 November.

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [2.47 pm]: I stand to make just a few comments on the Iron Ore (Channar Joint Venture) (Hamersley Range) Agreements Amendment Bill 2017. Before I make my comments on the significance of the bill, I will outline, in short precis form, exactly what it will achieve. Having said that, and before I start, I indicate that the Liberal Party will support this bill.

This bill extends the Sinosteel Channar Pty Ltd and Hamersley Iron Pty Ltd agreements for 10 years, with an additional five-year renewal period to ameliorate the environmental impact. This is an extremely significant agreement. In fact, it was the very first international agreement in the mineral area as far as China is concerned, so it is a very significant state agreement—not so much because of the quantity of ore involved, but because of the symbolism of the actual agreement. In 1987 this was one of the first, if not the first, joint venture agreements that China entered into overseas, so that in itself shows just how significant this agreement is. Forty per cent is owned by the Chinese company Sinosteel, and 60 per cent is owned by Rio Tinto.

The bill seeks to amend two state agreements: the Iron Ore (Channar Joint Venture) Agreement Act 1987, which set up the joint venture for the mining and processing of the ore body at Channar; and the Iron Ore (Hamersley Range) Agreement Act 1963, under which Hamersley Iron provided services and facilities to support the mining operations at Channar and its export out of Western Australia, with Rio Tinto being the deliverer of the services. The original production limit for the Channar mine was 200 million tonnes by 2012; it is now 250 million tonnes, and this bill will enable it to be extended to a target of 270 million tonnes. As previously mentioned, the additional five years is for rehabilitation and decommissioning at the expiry of the agreement.

In essence, that is briefly what the agreement is, but in this bill we are looking at the extension of the agreement and the five-year renewal period for the amelioration of the environmental impact. As I said, the agreement itself is there in black and white, so we do not need a history lesson on that, but the important thing is that this agreement represents one of the very first times that China entered into an international mineral agreement outside its own borders. In the period just after the Second World War, both our nations—China and Australia, particularly Western Australia—were quite insular. In China, very shortly after the end of the Second World War, in 1949, Mao Zedong and the communists seized power. I cannot say that they won government through the elections, but they took power. As a direct result of that, China became a different place. Under Mao and the communists, China's collaboration and cooperation with nations outside its borders was very limited, particularly in trade. A number of factors led to China's international involvement in trade.

Internally, Mao tried desperately to not just retain power, but also increase the prosperity of the Chinese people. He tried a number of colourful things. In 1956 we saw the Hundred Flowers campaign. Mao said, "Let a hundred flowers bloom, let a hundred schools of thought contend." He wanted to find out how much the Chinese people loved him. This is true; this is fact. He asked people to spread their understanding and knowledge of how wonderful China was under Mao Zedong's leadership. They told him all right, in no uncertain terms. That led to purges, and the deaths of hundreds of thousands, if not millions of Chinese. We then saw the Great Leap Forward, between 1958 and 1962—the first five-year plan, in which very unachievable production targets were set, particularly in steel production and agriculture, in an attempt to develop the nation. From the point of view of iron and steel production, the goals were very limited, because China had very few trading partners in those days. People on the land were asked to melt down their utensils for steel production. As a direct result of that, famine spread throughout China and millions of people lost their lives.

Moving forward, another great idea from Mao was the Great Proletarian Cultural Revolution, instigated in about 1966. It was rolled out from 1967 onwards, as a sociopolitical movement to espouse the virtues of communism, and how wonderful the Chinese Communist Party was. Operas and plays were written on the subject, and everyone was diverted into espousing the virtues of the Communist Party, particularly Mao Zedong, throughout China. Again, that came at the expense of the welfare and the health of the people of China. There were purges throughout China and millions of people lost their lives, while economically China remained quite stagnant. Not until Mao Zedong's death and the purging of the Gang of Four in 1976, and the elevation of Deng Xiaoping, did China begin to look beyond its own borders, not only towards its northern neighbours North Korea and the USSR and its southern neighbour Vietnam, which was problematic for the Chinese in those days. That is when Australia came into play. The Chinese looked beyond the Asian continent, to the south, east and the west. There was a lot of social and economic upheaval in China between 1949 and 1976, with no opportunities for strategic development in trade.

At the same time, Australia was removing itself from the coat-tails of mother England and Europe. We were seeing that the future of Australia, and Western Australia in particular, lay to the north, in Asia, and China was part of that.

Western Australia started to open the trading barriers, particularly with Japan but also with China. Two potentially extraordinarily wealthy nations, China and Australia, particularly Western Australia, saw a golden opportunity to begin a trading relationship. The rest is history. The relationship between China and Western Australia has evolved since that time and has become very productive. Western Australia signed a sister-state relationship with the Chinese province of Zhejiang in 1997, and in the same year the Western Australian Chinese Chamber of Commerce was established.

The genesis of this agreement was 30 years ago, in 1987, right at the time when China was coming out of its shell in the post-Mao period, and Western Australia had emerged from its shell of constraint that federation involved, and had moved beyond Great Britain and Europe, and was quite enthusiastic about its new Asian neighbours, particularly China. This is a symbolic agreement. A number of agreements with Chinese companies have since evolved and they have developed strong relationships with Western Australia, providing thousands of jobs and hundreds of millions of dollars of investment. With those few brief words, the Liberal Party acknowledges the benefit of the state agreement and will support its extension, so we will support this bill.

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the National Party) [2.57 pm]: I rise briefly this afternoon to indicate the Nationals' support of the Iron Ore (Channar Joint Venture) (Hamersley Range) Agreements Amendment Bill 2017, and to place on record that the National Party supports the development of the resources sector. It is important to my electorate, the Mining and Pastoral Region, and to the state as a whole. There is no question—it is recognised nationwide—that the economy of Western Australia, and its mining industry, underpins the economy of Australia. No-one in this house or the other place would argue that the resource sector in Western Australia should not be supported.

The National Party also supports modernising outdated state agreements. I could not let this opportunity pass without bringing that important issue to the attention of the house. Every Parliament should reconsider state agreements and make sure that they are modern and are delivering for the people of Western Australia. Although I support the bill before the house, I think it is a missed opportunity to deliver a better financial outcome for the people of Western Australia, and a missed opportunity for this government to start having conversations with the resource sector about how the sector and government can better deliver as a result of negotiations on state agreements linked to iron ore, which is a finite resource. Urgent and immediate action is required by government to ensure that state agreements operate in a modern, comprehensive fashion so that the people of Western Australia can have faith and confidence that they are getting a fair return for the resources they own. This is also a missed opportunity to deliver transparency in local participation plans in state agreements.

The National Party supports the iron ore industry, and local communities such as Paraburdoo, Tom Price and Pannawonica that rely on those projects of significance throughout the state. As I said, nobody disputes that. I want to be very clear about how important those projects are to not only the people in those small communities in the Pilbara, but also Western Australia as a whole. It is a finite resource and Western Australians rely on that finite resource, so it is our job to ensure that state agreements operate in their interests.

The bill amends the Iron Ore (Channar Joint Venture) Agreement Act 1987 and the Iron Ore (Hamersley Range) Agreement Act 1963 by ensuring that royalties are paid in line with the Hamersley state agreement and that local rates are paid on improvements made to land under the Channar state agreement and by permitting the blending of iron ore from Channar with that from Hamersley.

I thought the government considered that amending state agreements was a sovereign risk and that if it amended a state agreement, it was literally ripping it up, putting it in the trash can and throwing it out the door, which is a slightly dramatic way of suggesting that governments should be entitled to amend state agreements in the interests of the state, but not, it would seem, this state agreement. The government is picking and choosing which state agreements it can alter and which ones it cannot. It is nice to have that luxury. I do not believe the people of Western Australia think that this government has that luxury. When an opportunity such as this is presented to Parliament, it is incumbent on the government to ensure that it gets the best deal it possibly can in the interests of the people of the state. Perhaps the government misled people about what it thinks is a sovereign risk or whether state agreements should be ripped up; I am not entirely sure, because, apparently, some we cannot rip up and some we can change. We have the responsibility to ensure that these state agreements come through the house. They regularly do and they have done in the past, and we take every opportunity to make sure that we get the best deal.

I see two clear missed opportunities with this agreement and one, as I alluded to, was negotiating a better financial outcome. The government had a clear opportunity to sit down with Rio Tinto and negotiate a better return for the people of Western Australia. It has not done that. The Nationals took to the election a policy to increase the special lease rental fee from 25c a tonne to \$5 a tonne. No-one in this chamber would think that 25c a tonne is still okay for those companies to pay in return for our finite resources. If this government sat down and negotiated with these companies, it would have at least had the opportunity to have a conversation about creating a new revenue source, which it keeps telling us it needs. If it does not negotiate a new revenue source that is acceptable to Parliament, people in regional Western Australia will continue to suffer, the royalties for regions fund will continue to

diminish, and mums and dads in Western Australia will continue to pay more. That is a reality. That is what this government is faced with. When the government has an opportunity to link into a new revenue source, I urge it to take that opportunity, because it is its job to do that.

The second missed opportunity was allowing for transparency in state agreements, which is part of the problem. Nobody really knows what they contain. It is a different playing field for everyone the government talks to. There was a clear opportunity for this government to ensure that state agreement holders are transparent with the people of Western Australia. That failed to occur. We also had the opportunity to make sure that local participation plans, which are currently only seen and signed off by the minister of the day, are presented to Parliament and made public. That is a good thing. That is in the interests of community. We all want community. We in this place all agree that we want local participation plans and we want to allow local people to benefit from these state agreements. Therefore, I think that was a missed opportunity for the government when renegotiating this state agreement. All hell has not broken loose. There is no sovereign risk. No-one has died. No-one has fallen off the back of a truck. We have taken a step towards modernising this state agreement. I commend the government for that, but it could have gone slightly further. On that note, the Nationals support the bill, although we are disappointed that those opportunities were not explored.

HON RICK MAZZA (Agricultural) [3.05 pm]: I rise to indicate that the crossbench also will support the Iron Ore (Channar Joint Venture) (Hamersley Range) Agreements Amendment Bill 2017. I know that this bill is quite time sensitive and we need to make sure that it is through in time to extend the agreement. The state agreement is a joint venture with Rio Tinto and Sinosteel Channar Pty Ltd that came into being in 1987, and the mine has been producing since 1988. This bill will extend the agreement by 10 years, with an option to extend for another five years, which will allow for some 260 million to 270 million tonnes of ore to be mined. Obviously, royalties and rents are to be received and there are also 142 jobs. It is brief, but the crossbench supports the bill.

HON ROBIN CHAPPLE (Mining and Pastoral) [3.06 pm]: Surprise, surprise, the Greens will support this amendment to a state agreement act, but in doing so I highlight that we would not have to deal with the Iron Ore (Channar Joint Venture) (Hamersley Range) Agreements Amendment Bill 2017 had the original agreement not been a state agreement act. We continually have to come back to this place to deal with amendments because of the construct of state agreement acts. The Keating report basically stated that we should no longer have state agreement acts because they create constraints with the mining industry. I have listened to what other members have said and I will have my say.

This is a variation of the Iron Ore (Channar Joint Venture) Agreement Act. The bill also amends the Iron Ore (Hamersley Range) Agreement Act 1963. The state agreement act is scheduled to end in February 2018, so we need to deal with the bill in this term of Parliament. If we do not and we let it roll over, it will create immense fiscal problems for Hamersley Iron Pty Ltd and Rio Tinto. It is interesting that after the agreement finalises the current agreement—which is over the mine, the conveyor leases, the pit, the crushers, the screens and the conveyor transport—the processed ore will be sent to the Dampier port and Cape Lambert for export. At the port, the freight on board, which is basically where the royalty is derived from, is paid for and is the responsibility of Hamersley Iron. Under the Channar state agreement, royalties are paid as though they are produced by Hamersley.

Channar mine was originally carved out of Hamersley lease ML4 and the idea was that it was an unused resource that would revert to Hamersley at the end of the joint venture. The key issue is that the agreement is going to run out—that was the idea—but it got the numbers wrong and now there is more ore there and there is more ore possibly to be found, and so the state agreement needs to be extended, but the extension of the state agreement comes under the control of Hamersley, not the control of Channar or the joint venture. Channar mine employs about 142 people. The parties to the state agreement act are the state, Channar Mining Pty Ltd, Sinosteel Channar Pty Ltd and Hamersley Iron Pty Ltd. Channar and Sinosteel are joint venturers with a 60–40 proportion respectively. Channar and Hamersley are part of the Rio Tinto group; Sinosteel Channar is part of the Sinosteel Corporation, which is owned by China, as has already been mentioned.

Channar mine is on a mining lease under the Mining Act near Paraburdoo, and the Iron Ore (Channar Joint Venture) Agreement Act applies. I also point out that under the Mining Act 1978, Channar also pays a mining lease above and beyond the lease provision contained in the original Iron Ore (Hamersley Range) Agreement Act 1963 and is an addition to the conventional mining lease that is paid to the state, which, I think, is about \$13.60 a hectare. The problem that has arisen is that the Channar state agreement act and the mining lease are both limited to 30 years, expiring on 22 February 2018. This is really the first test case. The conveyer special lease is also for 30 years and will expire on 31 August 2023.

The annual mining rate of approximately 10 million tonnes has produced about 266 million tonnes so far. The current state agreement act approves approximately 270 million tonnes. In the time left before the state agreement is finalised, 280 million tonnes cannot be achieved, so we need to go ahead and make this extension. The changes to the term of the mine will extend the agreement by 10 years to 22 February 2028. There is an option to extend once by five years, with the intention of undertaking closure and rehabilitation activities within that time frame.

There are about 36 million tonnes of reserve, so more resources have not yet been drilled. My immediate concern comes back to the point that those in the mining game will continue to drill and explore and go deeper and broader than the current resource, and we do not know whether the option to extend once by five years is indeed enough; and, if it is not, we will be back in this place again having to make another amendment. If this was not covered by a state agreement act, it would go through automatically without involving the Parliament and all of us in this process. We go back to our original position that we do not support state agreement acts. We never have done on the basis that everything that needs to be done can be done. Perhaps way back in the early days of the iron ore industry when there were no towns up there and we needed the iron ore industry to develop the infrastructure at Tom Price, Paraburdoo, Newman and places such as that, there was some validity, but they should have been limited and phased out. One of the problems is that the royalty regime and the special lease rental regimes are tied within the state agreement acts. The moment they are tied within the state agreement acts, there is nothing that we as a Parliament or the government, whoever it is, can do, other than by mutual consent, to alter those royalty rates. The base royalty rate in this state is about 10 per cent. It is my understanding that if we look at iron ore or any other mineral, the aim is to return a 10 per cent royalty on all minerals, and that is done by making variations within the various royalty regimes to try to end up with a mine head return of 10 per cent. Iron ore, interestingly enough, has a mine-head value of about 9.2 per cent, even though we pay only 7.5 per cent on iron ore. But it is very close to the normal 10 per cent that was established under the mineral royalty rate analysis, Merriwa, which was conducted over a two-year period in the last term of government. Iron ore is getting very close to where it should be. I am not saying that we should not have more than 10 per cent. Our view is that we do not have a future fund like every other country around the world. If we were in Norway, we would have some \$900 billion in the bank and we would not have a deficit or a budget problem. But we continue to stick at this 10 per cent, and I think we should be going a lot higher than that. However, we cannot tinker with these wretched things because they are state agreement acts. It is an agreement between me and somebody else, and the only two people who can amend that agreement are the parties to the agreement by mutual consent.

It has been mentioned that there is no sovereign risk with the Iron Ore (Channar Joint Venture) (Hamersley Range) Agreements Amendment Bill. Of course there is not, because it is a mutual agreement and therein lies the issue. It is a mutual agreement between two parties basically because Rio Tinto needed to access the ore. It approached government and said what it needed to do to access the ore. The government agreed and we all benefit. But there is no sovereign risk in this. There is a sovereign risk when government goes to industry and says, "There are no negotiations; you will do this." That is where sovereign risk comes in. I wanted to make a point on that.

Interestingly enough, this legislation, by referring back to the Iron Ore (Hamersley Range) Agreement Act 1963, goes back to the very penultimate problem that we have often talked about, which is the special lease payment. Paragraph (l) of the first schedule reads —

By way of rent for the mineral lease pay to the state annually in advance a sum equal to three shillings and sixpence (3/6d) per acre of the area for the time being the subject of the mineral lease commencing on and accruing from the commencement date ...

That is where the 25c originally came from; it was the good old 3s 6d. Given that we have always consistently opposed state agreement acts, as the Keating report indicated we should, I am mindful to support this bill because it will fix the problem of a state agreement act in this state. State agreement acts are the most draconian instruments. Basically, they do not allow for the government of the day to make decisions about our iron ore or anything that is covered by a state agreement act because the agreement, once established, means that we are locked in unless both parties agree otherwise.

We will shortly deal with the Railway (BBI Rail Aus Pty Ltd) Agreement Bill 2017, and I will have a different position on that. But when it comes to many of the aspects of this, it is basically a piece of legislation that has to be rushed through by the end of this year because the very nature of the state agreement act established parameters that were unrealistic and have caused us to come into this chamber to fix the problem.

I do not think I need to go much further on this Iron Ore (Channar Joint Venture) (Hamersley Range) Agreements Amendment Bill. I have spent quite a bit of time going through the original Iron Ore (Hamersley Range) Agreement Act 1963 and the original Iron Ore (Channar Joint Venture) Agreement Act 1987. It means that Hamersley Iron or Rio Tinto can continue to mine this area. They will no longer be constrained by the limitations of the end of the agreement nor by the limitations on the tonnage associated with this agreement. As I say, if this was a conventional mining company, with a conventional mining lease, we would not have any of these constraints and we would not be spending time in this chamber debating it. This highlights, in my view, many of the reasons we should not have state agreements acts. I refer to Hon Jacqui Boyde's comments that if we did not have state agreement acts, we would not have that extra lease rental contained within this one and we would have been in a position to negotiate a royalty increase at our behest not through negotiation with the joint venture partners.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [3.20 pm] — in reply: I thank all members for their support of the Iron Ore (Channar Joint Venture) (Hamersley Range)

Agreements Amendment Bill 2017 and the very concise contributions they have made. We have a number of these bills to get through. I will respond to a number of points. Hon Peter Collier talked a little about the history. It is important to understand the historical significance and context of this Channar agreement. He talked about the glorious revolution of 1949. He is obviously not a great fan of Mao, although I am sure that if the member had been given longer to reflect, he would have talked about the circumstances that led to China being in that state. Hon Peter Collier talked about the demise of Mao Zedong and the opening up of China that led to the Channar agreement and the significance of this agreement as one of the first investments—indeed, I think the first, direct investment—in minerals made by China anywhere around the world, so it is certainly historic.

However, I must say, I had the great pleasure of going to the recent celebrations of this historic Channar agreement. There were some very interesting discussions, including talk about the relationship Bob Hawke had with the Chinese government of the day, particularly the relationship he established with one of the Chinese leaders. This was seen as one of the reasons Australia had that first investment. They went on to say that it was important to note that a relationship preceded that with Hamersley Iron. After the very positive relationship that Gough Whitlam, as Leader of the Opposition and then as Prime Minister, had established with the Chinese government in advance, generally, of China's acceptance into international affairs, representatives of the Chinese leadership and steel industry visited Western Australia, I think, in 1974. I believe that the first exports of iron ore to China may indeed have preceded the demise of Mao Zedong, although there is no doubt that the work done subsequent to his death saw the massive opening up of China and a determination to lift living standards and opportunities for the people of China. I also acknowledge, as Hon Peter Collier noted, very importantly, that with the modernisation of this agreement, there has been not only a 10-year extension of the mine life, but also the provision of five years for rehabilitation. Hon Jacqui Boyde assured us that she and her party strongly supported the development of the resources in the region and looked to Pannawonica, Paraburdoo and Tom Price as communities that would benefit from this. I was a little puzzled by the member's comments when she expressed the view that our introducing this extension legislation was somewhat inconsistent with our view of sovereign risk. I think Hon Robin Chapple picked up the error in the logic there. Sovereign risk comes when an agreement is unilaterally changed. When an agreement is entered into and one side of that agreement, the sovereign state, says, "We are now changing the operating rules notwithstanding the fact that we have an agreement", that creates sovereign risk. There is nothing at all incompatible with the notion of wanting to avoid an environment of sovereign risk through mutually agreeing to change an agreement. In this instance, there is absolutely nothing incompatible with allowing the continuation of mining because the resource turned out to be bigger, indeed, than was expected and could not be mined within the time. It is not the first time Western Australians have underestimated the size of a reserve. I want to make this point also to Hon Jacqui Boyde, putting sovereign risk to one side. The other problem with the proposition—notwithstanding that it was rejected last election—that the National Party is still clearly wedded to increasing the iron ore revenue, is that it would not largely return a great deal to this state. Because we are really the only significant producers of iron ore, we would end up having to hand back, effectively, around 90 cents in the dollar of the iron ore revenue we collect. Largely, we would be giving more money to the other states. Due to the peculiarities of the averaging system, notwithstanding some relatively minor quantities from the Northern Territory, effectively, and that the vast bulk of iron ore is exported from this state, that affects the way in which the revenue from iron ore is distributed.

Hon Rick Mazza has indicated his support on behalf of the crossbenchers, and we very much appreciate that. He acknowledged the importance of this industry to the state and that we need to get this legislation through in a time frame, and the government is very grateful for that. Over his many years in this Parliament, Hon Robin Chapple has acquired very detailed knowledge of these agreements, which is always erudition for the rest of us and we appreciate that. The fact that the price was 3s 6d in 1965, it must have been just on the cusp of decimalisation on 14 February 1966. I understand Hon Robin Chapple's point that if we do not have state agreements, we then have greater flexibility for increasing royalty rates, but I do make this point very sincerely. In the 1960s when we did not have a single road north of Geraldton and massive capital formation was required to open up the north for the iron ore industry, it was an even greater challenge. But even today, a basic iron ore mining operation, such as Balla Balla mine, requires many billions of dollars for not only the mine, but also the rail and the port operation. These are very, very expensive big commitments. Certainly, from my experience of being involved in the negotiations for the Fortescue Metals Group state agreements and now having some dealings with the Balla Balla state agreements, I can see the significance of having a state agreement for the process of capital accumulation. To a very significant extent, a project of this scale without a state agreement could become almost incomprehensible. Without a state agreement, it could become an impossible task to achieve the range of financing sources needed to take that project forward. Although I understand the purist revision from our friends in the Greens, I think that as a practical commercial matter, for projects of this scale we absolutely need state agreements to provide the secure platform from which companies can go forward and assemble the different layers of financing that they need to bring these projects to fruition.

Hon Peter Collier; Hon Jacqui Boydell; Hon Rick Mazza; Hon Robin Chapple; Hon Alannah MacTiernan

Having said that, again, I think we in this place understand how deeply connected Western Australia's economy and future is with the mining industry. We are very pleased that we have been able to act in a bipartisan way and get this legislation through quickly.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Alannah MacTiernan (Minister for Regional Development)**, and passed.