

**RAILWAY (BBI RAIL AUS PTY LTD) AGREEMENT AMENDMENT BILL 2021**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Alannah MacTiernan (Minister for Regional Development)**.

*Second Reading*

**HON ALANNAH MacTIERNAN (South West — Minister for Regional Development)** [2.39 am]: I move —

That the bill be now read a second time.

The purpose of the Railway (BBI Rail Aus Pty Ltd) Agreement Amendment Bill 2021 is to ratify amendments to the Railway (BBI Rail Aus Pty Ltd) Agreement Act 2017. Firstly, this will extend the deadline for the submission by BBI Rail Aus Pty Ltd, as the company under the BBI state agreement, of initial proposals for the railway project by a period of 18 months, from the current deadline of 30 September 2020 to 31 March 2022, and provide, at the minister's discretion, a further extension of up to 18 months beyond this date. Secondly, it will expressly provide, given the extension of the deadline for submission of initial railway project proposals, that force majeure may not be claimed by the company for any reason to justify any future delay in submitting the proposals. Thirdly, it will expressly recognise that the state may enact general legislation that may substitute for, or modify, clauses in the BBI state agreement relating to local participation.

The bill being introduced today is consistent with the government's vision to support the Pilbara mining industry, and with the long-established practice for significant railway infrastructure to be developed under state agreements. As a reminder, the BBI 2017 state agreement was entered into by the state and ratified by Parliament to facilitate the development by the Balla Balla Infrastructure Group of a 165-kilometre heavy haulage railway that will link a number of iron ore deposits, known as the Pilbara iron ore project, to a transshipment port to be constructed at Balla Balla Harbour. The BBI state agreement stipulates that the port be capable of exporting not less than 50 million tonnes of ore per annum.

The BBI state agreement has a term commensurate with the special railway licence to be granted under it—namely, 20 years from the grant date, with provision for two 10-year extensions. Total capital investment for the integrated mine, rail and port project is expected to be in the order of \$5.6 billion, generating 3 300 jobs during construction and 900 jobs once in operation.

Since the BBI state agreement was ratified by Parliament in 2017, the proponents have continued to develop the commercial requirements to deliver an integrated mine, rail and port project, along with meeting many of the obligations contained within the BBI state agreement that concern the construction of the railway. To date, the proponents have achieved the following milestones. They have submitted reports on investigative works under clause 5 of the BBI state agreement. These are the preparatory works for geological, geophysical, geotechnical, engineering and environmental investigations and studies, as well as marketing and finance studies. They have received approval for submissions made under clause 7 for the railway corridor. They have received approval under clause 8 of the state agreement for submissions detailing the area and layout of the railway in the port area. They have received approval under clause 9 of the state agreement for a community development plan. They have received approval under clause 10 of the BBI state agreement for a local industry participation plan. They have formed an incorporated joint venture to enable the Flinders Mines Pilbara iron ore project to be developed and to be the foundation customer for the project under a long-term infrastructure services agreement.

The BBI state agreement stipulates that the carriage of ore will be for no less than 20 years and no less than 25 million tonnes per annum from the PIOP. The proponents have also reached all native title and heritage agreements with the Ngarluma, Yindjibarndi and Wintawari Guruma people upon whose lands the integrated mine, rail and port project will be developed. They have negotiated and agreed to agreements with many of the underlying landholders, including pastoralists and mining companies. They have received primary approvals for the integrated project, including environmental approvals under ministerial statements 945, 1006, 1014 and 924; environmental approvals under the commonwealth Environment Protection and Biodiversity Conservation Act 1999; and rail safety accreditation.

Despite the significant progress made to date, recent world events have contributed to delays to the project. The variation agreement will overcome the time constraints within the BBI state agreement for the submission of initial project proposals for the railway, which would otherwise have been required by 30 September 2020. In agreeing to this extension, the McGowan government reinforces its commitment to supporting projects that can deliver growth and economic development to Western Australia, noting the many challenges that we, as a state, have faced in the past year. The variation agreement also contemplates the potential for future general legislation to enhance local participation and procurement. This may apply to the railway project under the BBI state agreement in substitution for or in modification of the existing provisions of the state agreement relating to local participation. This is consistent with the government's policy to maximise local participation and the ongoing work to develop policy and legislation that focuses on the delivery of these outcomes.

Although the integrated project has yet to make a final investment decision, the proponents have commenced engagement with the local community, which has included the establishment of regional offices, a commitment to the early listing of proposed packages of work, and an undertaking that the project's head contractor and tier 1 and tier 2 contractors will be contractually obligated to appoint a local engagement resource. This is to ensure that procurement planning and decisions are made with an understanding of the capability of local industry and, when possible, for those contractors to work with local and Western Australian-based industry to maximise business engagement with the project.

As noted during the ratification of the BBI state agreement in 2017, this railway project and the integrated project will facilitate the delivery of significant positive outcomes for local communities and those businesses servicing the mining and ancillary sectors of the Western Australian economy. The integrated project has the potential to generate significant jobs in both its construction and operation phases, and I would like it acknowledged that it is a project that has had the support of both sides of the house.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper [355](#).]

Debate adjourned, pursuant to standing orders.