IRON ORE AGREEMENTS LEGISLATION AMENDMENT BILL (NO. 2) 2010

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Norman Moore (Leader of the House)**, read a first time.

Second Reading

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [10.23 pm]: I move —

That the bill be now read a second time.

The purpose of this bill is to authorise 11 variation agreements that amend the iron ore state agreements held by BHP Billiton and Rio Tinto, and their various joint venture partners, in order to enable the integration of infrastructure between these agreements. The main purpose of these amendments is to give the companies the flexibility to improve their efficiency and facilitate expansions of their operation, with further flow-on benefits for the people of Western Australia.

A non-binding heads of agreement between the state, BHP Billiton and Rio Tinto was signed on 21 June 2010. The heads of agreement set out a series of principles and agreed actions to allow the companies to integrate their iron ore operations in Western Australia, should they choose to do so in the future, notwithstanding whether the companies were able to conclude the joint venture proposal.

In recognition of the value that these changes will deliver to the companies, BHP Billiton and Rio Tinto have agreed to make a one-off payment of $350 million to consolidated state revenue upon the variations to the state agreements receiving royal assent. The state's sign-off to the heads of agreement was in the context of negotiations over the government's intention to remove the historic royalty concessions enjoyed by these two companies under several of their state agreements since the early days of the iron ore industry in the Pilbara. The removal of the concessional royalty rates was achieved through the passage through this Parliament of the Iron Ore Agreements Legislation Amendment Act 2010.

On 18 October 2010, the companies announced that they were no longer pursuing the production joint venture. They advised they still required the flexibility to integrate their Pilbara or proximate area iron ore operations in Western Australia within their respective corporate groups and, potentially, between the groups through commercial arrangements.

Accordingly, the following 11 state agreements are to be varied: Iron Ore (Hamersley Range) Agreement 1963, Iron Ore (Hamersley Range) Agreement 1968 (Paraburdoo), Iron Ore (Robe River) Agreement 1964, Iron Ore (Mount Bruce) Agreement 1972, Iron Ore (Hope Downs) Agreement 1992, Iron Ore (Yandicoogina) Agreement 1996, Iron Ore (Mount Newman) Agreement 1964, Iron Ore (Mount Goldsworthy) Agreement 1964, Iron Ore (Goldsworthy–Nimingarra) Agreement 1972, Iron Ore (McCamey's Monster) Agreement 1972 and Iron Ore (Marillana Creek) Agreement 1991.

Key integration aspects of the variation agreements include the following: the unrestricted ability for existing facilities and infrastructure held by an integration proponent—that is, the party to one or more of the 11 agreements in question—to be used by other integration proponents; the ability for an integration proponent's existing infrastructure to be expanded for other integration proponents, or for new infrastructure to be built for other integration proponents and for connections between integration projects; and, the ability of the minister to decline to consider or approve an integration proposal if he deems the proposal to be out of scope, or he is reasonably satisfied that it is not in the public interest for the proposal to be approved. Other key integration aspects include the ability, with the minister's consent, for an integration proponent to extend its facilities and infrastructure to service a related entity iron ore mining project outside the state agreement areas; and the ability for iron ore mined outside the agreement areas on Mining Act tenure held by a related entity or ore purchased "at the mine gate" from an independent third party to be able to be processed on agreement land and transported using agreement facilities and infrastructure. Although each proponent is free to use the other's infrastructure and to allow other integration proponents to use its infrastructure, this requires ministerial notification, as does any change of use of this infrastructure. The variation agreements also give the ability for an integration proponent to obtain tenure for its operations over infrastructure constructed under one of the other 10 integration agreements where the minister is satisfied that such infrastructure is required by the integration proponent and no longer required for the other state agreement operations; and make various changes to the royalties provisions to enable the companies to make a first sale "at cost" to either a related or unrelated entity that could onsell the ore to a trader, an end user or another entity. Provision is made in the variation agreements for the minister to approve proposals, but not grant tenure, before native title processes have been completed. This measure is not intended to circumvent native title processes but will assist in expediting the state agreement approvals process when native title clearance is involved. The variation agreements provide the ability for an integration proponent

to receive and use electricity generated by another integration proponent, and for nominated integration proponents to be able to expand or construct new electricity generation facilities and transmission lines to supply electricity to other parties. The integration companies have not been given the right to share water rights and related infrastructure. A clause has been added to enable the development of private railways, subject to the minister's prior approval, as there is no current provision in these agreements or other legislation that enables either new main lines or spur lines to be developed. These provisions are based on the approach used in the recent Railway (Roy Hill Infrastructure Pty Ltd) Agreement Bill 2010.

At the minister's discretion, the minister can permit the request of an integration proponent to increase the existing 777 square kilometre maximum area of the agreement mineral or mining lease or leases to 1 000 square kilometres for each agreement. In the case of Rio Tinto, the minister can consider alternative investments or projects in lieu of all or some part of that company's remaining secondary processing obligations. A range of minor amendments have been included to modernise and standardise definitions, terms and procedures across all 11 state agreements. I now table a description of the provisions of the bill for the consideration of members. I commend the bill to the house.

[See paper 2877.]

The PRESIDENT: I am sure all members will read that bill tonight and be prepared for the debate, which stands adjourned until the next sitting of the house!

Debate adjourned, pursuant to standing orders.

House adjourned at 10.28 pm