

**IRON ORE AGREEMENTS LEGISLATION
(AMENDMENT, TERMINATION AND REPEALS) BILL 2011**

Introduction and First Reading

Bill introduced, on motion by **Mr C.J. Barnett (Minister for State Development)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR C.J. BARNETT (Cottesloe — Minister for State Development) [10.09 am]: I move —

That the bill be now read a second time.

The purpose of this bill is to authorise variation agreements that amend five iron ore state agreements held by BHP Billiton and its joint venture partners; to ratify an agreement between the state and BHP Billiton and others that terminates the Iron Ore Beneficiation (BHP) Agreement 1996, which I will refer to as the termination agreement; and repeal three related BHP iron ore processing acts. The following state agreements are to be varied: 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.

The variation agreements provide for increased royalty rates for iron ore fines on a staged basis and other amendments to facilitate BHP Billiton’s Pilbara operations and expansion programs. The amendments to the state agreements noted above will introduce a phased increase in the royalty rate for fines iron ore from 5.625 per cent to 6.5 per cent from 1 July 2012; and 6.5 per cent to 7.5 per cent from 1 July 2013 to match the lump ore rate. The proposed amendments harmonise the royalty rates for fines and fines ore with those proposed under the Mining Act 1978, which will also be raised on a staged basis, as noted above, via amendments to the Mining Regulations 1981. The amendments to the regulations will be finalised prior to 1 July 2012. This will ensure that the new rates apply consistently across the entire iron ore commodity sector. The increased rates are considered appropriate and will result in a level playing field across all iron ore producers in the Pilbara. Additionally, fines ore is now a valued product which accounts for the majority of the state’s iron ore shipments.

The Department of Treasury has estimated that this adjustment will increase net royalty income across the iron ore mining industry in Western Australia by \$1.9 billion over the next three years. An additional key element of the current variations is that they will facilitate the expansion of BHP Billiton’s iron ore operations across the Pilbara. To put this in context, BHP Billiton is proposing to expand its Pilbara iron ore production capacity from the current capacity of 250 million tonnes per annum to 350 million tonnes per annum by 2020. This is known as the iron ore growth plan, which includes a new outer harbour at Port Hedland. It is estimated that the growth plan will involve an investment of the order of \$15 billion to \$20 billion, including the outer harbour development.

There are common provisions across the state agreements as follows —

The introduction of a requirement to prepare a local participation plan and a community development plan. The companies have agreed to include the provisions for local participation and community development plans to provide an improved level of transparency in these areas. It is noted that BHP Billiton has an excellent record in these areas, and over the past couple of years the level of local content has been in the order of 90 per cent. BHP Billiton’s contributions to the local community over the past five years have been in the order of \$150 million, which includes major community infrastructure investment in the Pilbara, such as new childcare centres, recreation facilities and significant upgrades to education facilities. Last year BHP Billiton Iron Ore awarded contracts for goods and services worth approximately \$115 million to Western Australian Indigenous businesses and it currently employs approximately 650 Aboriginal people.

Strengthening of provisions to facilitate third party crossings of railways built under state agreements by providing for the minister to determine whether there is undue prejudice to and interference in the company’s operations, subject to prior consultation with the state agreement company.

Amendments to enable the minister to waive a consent requirement under the special railway licence provisions of the state agreement in circumstances in which it has not been possible to reach agreement with an affected landholder who has a miscellaneous licence for railways, and where consents have been obtained or a determination has been made under the Mining Act 1978 processes in relation to that tenure.

These variation agreements also include new tenure clauses to provide the company the ability to, with the minister’s consent, bring existing infrastructure tenure and applications under the state agreement and for the company to apply for and, if necessary, have granted tenure to be used for state agreement purposes

before it submits proposals, under special circumstances. These provisions will facilitate both companies' existing operations and future expansion plans, resolve a number of administrative issues with the sequencing of the grant of tenure and the proposals mechanism of state agreements and improve the existing provisions for the grant of tenure.

Other specific amendments to the BHP Billiton agreements include the following —

The ability to transfer the Goldsworthy railway from the Iron Ore (Goldsworthy–Nimingarra) Agreement 1972 to the Iron Ore (Mount Goldsworthy Agreement) 1964. Reciprocal provisions are incorporated in the Goldsworthy–Nimingarra agreement.

The inclusion of a plan D in the Mount Goldsworthy agreement that identifies land that will be reserved for BHP Billiton in the marine and landside area for the outer harbour until the end of 2030, subject to the submission of proposals for development by 2014. The reservation falls away if the company does not submit proposals by the required time frame and once tenure is granted for the initial development—the two berths and associated infrastructure—expected within the next couple of years. The reservation will remain in place for the remaining future six berths until developed and tenure is granted.

Deletion of production limits under the Goldsworthy, McCamey's Monster and Marillana state agreements that were linked to the company's processing obligations, which have been discharged and the clauses are therefore spent.

Many of the specific arrangements necessary to facilitate BHP Billiton's outer harbour development at Port Hedland are included in the termination agreement.

The iron ore beneficiation plant that was constructed under the Iron Ore Beneficiation (BHP) Agreement 1996 has been on care and maintenance since around 2005 when the hot briquetted iron plant, with which it was associated, closed. BHP Billiton has indicated that it wishes to permanently close the beneficiation plant and, following decommissioning and rehabilitation, use the site for the outer harbour development.

In addition, the termination agreement provides for the following, amongst other matters —

Transfer of certain general purpose leases and the Utah Jild lease held by BHP Billiton Direct Reduced Iron Pty Ltd to the Iron Ore (Mount Goldsworthy Agreement) 1964.

Surrender of certain general purpose leases—GPLs—to facilitate state planning in the area, including an indicative multi-user infrastructure corridor to service the Boodarie industrial estate.

Surrender, and facilitation of the grant, of tenure for third party infrastructure which was initially built on the GPLs to support the company's processing projects but which continue to operate.

Facilitation of third party crossing of the GPLs, including the grant of appropriate tenure where necessary.

The identification of an infrastructure corridor to Finucane Island, which will be reserved for granting of an easement for a conveyor and associated infrastructure connecting planned stockpile facilities to BHP Billiton's planned port facilities.

During the mid-1990s, a number of state agreements were entered into with BHP Billiton to promote the development of iron ore processing in the state, specifically the Iron Ore Processing (BHP Minerals) Agreement Act 1994—the processing agreement; Iron Ore – Direct Reduced Iron (BHP) Agreement Act 1996—the DRI agreement; and the Iron Ore Beneficiation (BHP) Agreement Act 1996—the beneficiation agreement. The commitments under the iron ore processing agreement were transferred to the DRI and beneficiation state agreements. Under these two latter agreements, BHP Billiton built the hot briquetted iron plant and the beneficiation plant. The construction of these two plants discharged all of BHP Billiton's remaining secondary processing obligations. The HBI plant was subsequently closed in around 2005 and the state agreement terminated in mid-2011.

All of the above state agreements have served their purposes. The agreements have been or are being terminated, and the acts are required to be repealed as part of the current parliamentary process.

I have tabled a description of the provisions of the bill for the consideration of members. I commend the bill to the house.

Debate adjourned, on motion by **Mr M. McGowan**.