

**RAILWAY AND PORT (THE PILBARA INFRASTRUCTURE PTY LTD)  
AGREEMENT AMENDMENT BILL 2018**

*Second Reading*

Resumed from 21 March.

**DR M.D. NAHAN (Riverton — Leader of the Opposition)** [12.14 pm]: I assume the Minister for Police is the responsible minister for this bill?

**Mrs M.H. Roberts:** It is the Premier and Minister for State Development, Jobs and Trade. He will be back shortly.

**Dr M.D. NAHAN:** Thank you.

The opposition will be supporting this bill, of course. This bill is a flow-on from an agreement between the government and Fortescue Metals Group Ltd to facilitate the continuation of Fortescue's iron ore operations in the Pilbara. We know that one of the challenges with the iron ore industry is that iron ore companies always need to find additional ore bodies that they can extract and develop. This bill will enable that to take place. Some of Fortescue's existing ore bodies have a limited life, as is the case with most mines, and some will come to an end more imminently than others. Fortescue has found a new resource at Eliwana. In order to extract and export that resource, it needs to build a rail spur to that ore body. This agreement bill will provide authority under the Land Administration Act 1997 for Fortescue Metals Group to identify, map out and prepare the optimal route for the rail line to that ore body.

Rather than go into consideration in detail on this bill, I would like to put some questions to the Premier so that he can answer them in his reply to the second reading debate. That will expedite the passage of this legislation.

**Mrs M.H. Roberts:** I understand that your questions are being noted and that when the Premier comes into the chamber, he should be able to respond to them.

**Dr M.D. NAHAN:** I hope the minister will relay those questions to the Premier.

One issue that will need to be resolved is native title. We understand there is a dispute between FMG and the Yindjibarndi Aboriginal Corporation about native title issues related to the proposed rail spur. I assume those issues are yet to be addressed. Will the Yindjibarndi dispute affect the rail link to this ore body? There is some uncertainty about that. We have a press release from SBS that says it could impact on future land access arrangements in the area. I am not sure about the claimant areas.

The bill will also enable FMG to have access to crown land, excluding port land, to carry out site investigations and studies to enable development of the rail line. The bill also obliges FMG to prepare a local participation plan. Is that local participation plan part of the Western Australian Jobs Bill that was passed by Parliament last year; and, if not, is it different? I notice some of the wording is different. The Western Australian Jobs Bill refers to local industry, which means suppliers of goods produced, or services provided, in Western Australia, another state, territory or New Zealand, whereas the specification in this bill is not local industry, but Western Australian industry. Is it more specific than the local jobs bill; and, if so, why? I understand that the reason that local industry is defined as it is in the jobs bill is that otherwise it would violate numerous trade and intergovernmental agreements between the states and would probably run into constitutional issues. Is there some reason we can be more specific in specifying Western Australian industry in this bill and not run into those same constitutional and legal problems, and what is it? Also, what is meant by "Western Australian"? I do not think local content is going to be a major issue for Fortescue Metals Group in this, but we are not arguing against having either a local participation or local content requirement. Most of these developments in the past have essentially been through the same process. However, is this the first time it has been embedded into an agreement? Sometimes these agreement acts can be inflexible; they are very specific. Is a local participation scheme going to be put into it? What are some of the criteria that will be used to specify the local participation scheme in the bill? I might be wrong, but my reading is that this is probably the first time it has been put into an agreement act. I think it is a positive step, but I would like to know some of the policy and specificity behind it. I note that in the second reading speech the minister referred to a local participation plan—an obligation for the government to prepare a plan and implement it to provide local industry participation benefits. The bill goes beyond that and requires FMG, both directly and through its subsidiaries or agents, to provide jobs for Western Australian industries, so it is much more specific than the jobs bill. I want to know what the difference is between the Western Australian industry participation plan in the jobs bill and its implementation in this agreement. My understanding is that there is a potential in agreements, because the agreements are between two parties—the government of Western Australia and FMG or its subsidiaries or parties—and those agreements are not as subject to constitutional challenge as a bill or an act of state such as the jobs bill. Perhaps that allows the agreements with the government to be more specific in clearly specifying that the local industry, as referred to in the participation plan, is actually based in Western Australia, whereas that was not able to be done in the Western Australian Jobs Bill. I would like

some discussion on that in the minister's reply to the second reading debate; otherwise, we will have to go into consideration in detail.

The opposition of course will support the agreement. It needs to have gone through this Parliament by September this year and I am confident that, as long as the government expedites the bill in the upper house, which it has struggled to do with many bills so far in this term of government, it will get through quite easily. FMG is one of our great success stories in Western Australia. It is a firm that is about 15 years old this year. It employs nearly 4 000 people. It sprang up from a thought of "Twiggy" Forrest and became a third force in the iron ore industry in the Pilbara and one of the largest exporters in Australia, let alone Western Australia. It has done a remarkable job in that it came to the fore when it faced difficulties competing against the giants of Rio Tinto, BHP and Vale, which really did not want another force coming in. FMG was able to do that when the cost and difficulties of acquiring the infrastructure and people and building the facilities necessary were horrendous. It had to then get funding for it and find markets, mainly in China, and took on huge amounts of debt. I think it peaked at nearly \$11 billion or more, which was a huge amount of debt for a single commodity-based business. Usually, they do not have very much debt and cannot get it. Throughout its history, it has been able to meet not only its targets, with its first production in 2008, but also its target of maximum production of, I think, 160 million tonnes a year. It has not only been able to reduce its debt levels to a very manageable level of \$2 billion to \$3 billion, but also become the lowest cost producer of iron ore in Western Australia. That is remarkable. Its costs of production have come down by nearly 70 per cent since 2008. It has some real challenges, because its ore bodies are not of the same iron ore content as those of Rio, BHP and Vale—Vale's is higher. As a result, it gets a substantial discount in the Chinese market. Rumours from the newspapers are that the discount is getting larger. China is giving a higher premium for higher iron ore content and therefore any differentiation in that or any lower iron ore content gets a heavy discount. That means that FMG has to make the treadmill go even quicker in the sense that it has to work harder and get its costs down lower. Some of its ore bodies are not as deep, rich and longstanding as BHP's and Rio's, so it has to continually look for replacement ore bodies from its existing facilities. Given all those challenges it faces, it has done a remarkable job in creating itself, meeting those challenges, flourishing, employing 4 000 people and being one of the largest exporters. It has successfully overcome each one of its challenges. It is a remarkable Western Australian success story. It shows the absolute necessity to grow businesses of entrepreneurship and risk taking that have a go. When there is potential like this, we need people like Mr Forrest, Nev Power and the team at FMG to get on and develop a firm like this. We in Western Australia should be forever grateful to them for going out and doing this. With state responsibility in this agreement act, one of the bases for the success of Fortescue was the agreement underlying its projects—it expedited, reduced the risk and gave certainty. Indeed, I doubt that Fortescue would have got off the ground in the first place without an agreement act that provided the certainty needed. What we are doing here is amending it directly and indirectly to allow the great success story of FMG to continue by starting to plan to bring on a new ore body. In the past, even when Fortescue Metals Group was being built at the height of the liquefied natural gas boom that took place at the time, local content from FMG was pushing 80-plus per cent, and I am confident that any future exploration would be even higher than that. Even though local content in the iron ore industry and FMG is very high, it also emphasises hiring locals, specifically from the Aboriginal communities that are the native title holders or live around those mines, which is a great success story, driven by the chairman, Andrew Forrest. He has done a great job on that. But I think it is useful to have a local participation plan to provide clarity around the requirements that the Western Australian society and its agent, the government, have vis-a-vis hiring locals for this project. I do not anticipate any uncertainty or reluctance on the part of FMG in participating in a local participation plan. It is more than willing to do so anyway.

The opposition will support the bill, of course. I seek the Premier's response to some of the questions raised and I look forward to helping FMG in its great success story into the future by supporting this bill. I hope, into the future, it gets on and maps out an adequate, low-cost rail line, gets it built, and opens the new Eliwana mine.

**MR W.R. MARMION (Nedlands)** [12.31 pm]: I rise to make a few comments on the Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2018, a very important amending bill on a state agreement act. To explain what we are doing, this legislation amends a current state agreement act that was enacted in 2004 and signed on behalf of the state by the then Premier, Hon Geoffrey Ian Gallop. That started a remarkable journey for a company known as Fortescue Metals Group. We have to congratulate the state for signing this agreement in 2004 and commend the Department of State Development and all the people involved in putting together this very complicated agreement of more than 90 pages. Today we are amending a current state agreement that was put in place by Hon Geoff Gallop in 2004, which in my view basically initiated the wonderful story of FMG. That is what we are about.

We all know, as the Leader of the Opposition said, that FMG is a great supporter of local jobs and local content. Indeed, it goes beyond that. As a hockey player, I have to say I am very pleased that it supports the Australian men's and women's hockey teams and hockey in Western Australia. It is a great community leader.

What is this bill about? As the Leader of the Opposition said, the source material for all mining companies eventually runs out because they are finite materials. FMG has quite a number of deposits, and this amending bill is about allowing it access to crown land to explore and define a route for a future railway line for another deposit. For any company, this is a procedure that will go on until its resource runs out, and we will run out of iron ore in Western Australia in about 600 years.

That is what we are about today. The obligations, from the state's point of view, are identified in clause 7, and they are to allow the company to go onto crown land—mainly pastoral leases—for the purposes of negotiating native title agreements, defining routes, and carrying out engineering and soil studies to define a cost-effective railway route for the new ore body and obviously link into the current rail infrastructure to transport the ore body through to Port Hedland.

In amending the state agreement, the government is taking the opportunity to incorporate participation plans into any new projects that FMG undertakes. We all know that FMG already has participation plans, but it is my understanding—the Premier can verify this—that this legislation will provide that future local participation plans are consistent with the ones already in place through more recent state agreements. I will be interested to hear the Premier's comments on the local participation plans. Indeed, it is defined quite specifically in the legislation that "local industry participation benefits" means the use and training of labour available within the state; the use of the services of engineers, surveyors, architects and other professional consultants, experts, specialists, project managers and contractors available within the state; and the procurement of works, materials, plant, equipment and supplies from Western Australian suppliers, manufacturers and contractors. I will be interested to know the definition of "Western Australian suppliers". I know from my own experience that FMG sources Western Australian suppliers probably all the time. Indeed, I am sure that that is its aim, but I would like to know that definition. As the Leader of the Opposition said, the so-called Western Australian Jobs Act has its own definition of "local content". It is my understanding that "local content" in that context has a very broad meaning, greater than Western Australia. It will be very interesting to hear the reason for the difference between the definition of "local content" in this amendment bill and what it means in the Western Australian Jobs Act. As I understand it, within three months of delivering a plan to develop a mine and all the associated infrastructure around it, the company is obliged to prepare a participation plan. This legislation actually defines what the local content plan should entail. It has to be provided for approval by the minister. I will be interested to have that clarified by the Premier.

Another important aspect of this legislation is the use of a third party to make sure that opportunities to provide services to the new project are identified, advertised and distributed to potential suppliers. I will be interested to hear the Premier explain how that might work. I think it is a very good idea. I know that Chevron engaged someone I know very well; he did engineering with me. He was engaged full-time by Chevron to go to all the local suppliers and manufacturers in Western Australia to make sure that they were aware of the opportunities and of what Chevron's requirements were to make sure that they could deliver services to a satisfactory standard. That is a very good initiative in this legislation.

I am conscious that the member for North West Central wants to speak to this bill, so I will see if there is anything else I wanted to raise. I conclude by acknowledging that this amendment bill could not have been put together by only the Premier. It was his staff in the Department of State Development, so I want to acknowledge —

**Mr M. McGowan:** I wrote it!

**Mr W.R. MARMION:** The Premier wrote it, he jokes. I acknowledge those staff members in the Department of State Development who were involved in writing this bill and negotiating with Fortescue Metals Group. I congratulate the new CEO of FMG, Elizabeth Gaines, who has taken over from Nev Power, who made FMG such a success story and drove down the production cost to a figure that is almost unbelievable. I understand it is \$19 a tonne.

**Mr D.C. Nalder:** Lower.

**Mr W.R. MARMION:** It is even lower than \$19 a tonne. I acknowledge Milka Klobucar, Sarah Kepert, Peter Kiossev and Paul Platt from the Department of State Development. They all work under the very good leadership of Steve Wood, who, unfortunately, I understand is leaving the government service. He is an asset who will be missed by many people. His depth of knowledge of state agreements is illustrated by the fact that we have been able to produce this very good amendment bill today. We support the bill and look forward to the continued success of Fortescue Metals Group.

**MR V.A. CATANIA (North West Central)** [12.41 pm]: I rise on behalf of the National Party to also relay our support for the Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2018. I cannot believe that the original agreement is from 2004. I remember being a candidate for the Mining and Pastoral Region and lobbying the then Minister for State Development, Clive Brown, who pushed this state agreement bill through

Parliament in 2004. It has proved to be quite fruitful for WA in what Fortescue Metals Group has been able to achieve over that time and, more importantly, what has been put back into the community. In recent times, we have seen the fruits of the success of FMG and investment has occurred, particularly in my electorate.

This amendment bill is about the Eliwana project, which is 100 kilometres from Tom Price in my electorate. As I said, the investment by Andrew Forrest through the success of FMG is leading to what I think will be a boom in not only the resource sector in the Gascoyne, but also the tourism sector in Exmouth. Yesterday's announcement about developing the largest rock oyster farm in the world in Carnarvon has the potential for 250 jobs to be based there. That is the success of FMG and the benefits it is delivering to the community. FMG is also growing the cattle industry through the purchase of several stations in the Gascoyne and developing Minderoo station. It is exciting. The success of FMG and the opportunities it is providing for the Gascoyne and the people in my electorate over the next few years are going to be huge and create a mining boom that the Pilbara will get to see but much of the rest of the state will not. The Gascoyne has a richness in agriculture, aquaculture and tourism.

This project is in my electorate and will provide more investment. It will cost about \$1.9 million to extend the spur railway line from Firetail to the new mine site, which will obviously lead to more jobs. As I think the Leader of the Opposition pointed out quite clearly, FMG's predicament is in the quality of iron ore and how it can stay ahead of the game. Nev Power, as the former CEO, set up FMG to be a couple of steps ahead of the game. It is disappointing that here we are still talking about amending the state agreement. The Nationals would like to look at state agreements and modernise them, like FMG's state agreement and unlike the state agreements of some other iron ore companies. FMG has the ability to have the best iron ore, have the market sewn up, and dictate price to the rest of the world. FMG has really stepped up and tried to be ahead of the game, as I think it has been, to combat the control and dominance of the two majors, Rio Tinto and BHP, in the iron ore market. Like I said, this bill amends a state agreement to allow for the continuation of the great Western Australian and Australian success story of FMG so that it can continue to achieve and provide benefits to my electorate in the Gascoyne. Through the University of Western Australia, Andrew Forrest has been able to take philanthropic actions to communities that need support.

Clause 9A, "Local participation plan", in the amendment bill will modernise the state agreement. The National Party has been fighting to modernise state agreements to make sure that state agreements keep pace with what is happening today. I think it is absolutely imperative for government, companies, the community, the state and the country that state agreements are modernised. This local participation plan, much like a community development plan, would be in the state agreement originally, but we see this new addition of a local participation plan. It sounds great. Its intent is good for local jobs and local procurement, but the problem is that we do not get to see the criteria. We do not get to see much. As with a community development plan, it is done in secret between the department, the minister and the company. My concern with clause 9A, "Local participation plan", is that there is no visibility to see the criteria, the benchmarks or the effect on the local communities of Tom Price, Paraburdoo or the Pilbara in general. More importantly, we do not know the benchmark or the criteria that allow small and large businesses in Western Australia to get the benefit of this new clause in the state agreement. I fully support the intent of amending and modernising a state agreement and having a local participation plan, but I would still like to know exactly what that is. As members of Parliament, we get the opportunity to scrutinise that to make sure that we negotiated the best deal possible in amending the state agreement. I know that when Labor was in opposition, it always said that we cannot amend state agreements unless we have agreement from the other side. I would like to know what agreement took place between FMG and the government to include this local participation plan in this bill to amend the state agreement. If there is no negotiation to include this, why can we not do that with other parts of state agreement acts such as special lease rental for argument's sake by perhaps increasing that to assist the state's finances by getting a little bit more from the two top producers, which are the two top producers of iron ore, compared to companies such as Fortescue Metals Group Ltd, which has to be innovative to keep pace with the rest of industry?

As I said, this is a must. I think it is urgent for the government to deal with it so that it will allow FMG to continue on its path of assessing the potential for that spur railway line to go through some tough country. Some huge engineering feats are needed to get the railway line through, recognising of course, that it has to run through various interests such as some of Rio's land. Also, there are obviously native title issues. I think three groups fall along this spur railway line.

**Mr W.R. Marmion:** Environmental issues.

**Mr V.A. CATANIA:** Of course, there are also environmental issues. A lot of work has to be done to get that spur railway line agreed upon before that \$ 1.9 billion can be spent on developing the new mine site, which is integral to the state given that the state's economy relies on receiving royalties from the iron ore industry and therefore FMG is a large contributor to our state's finances.

A couple of things have been brought up and I think some media attention has been paid to the Windawarri–Gumula Aboriginal Corporation, the prescribed body corporate that holds the native title rights interest trust for the eastern Gumula people. I understand there are some issues around Spear Hill, where FMG has been in negotiations with the group for some time—I think close to 10 years—dealing with some issues of Aboriginal heritage. I think the media have been indicating concerns about the pathway. This Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill does not grant that pathway; it grants the ability for FMG to start to map out where the train line will go. It does not provide all the approvals for it to go ahead. As I said, FMG has to overcome a lot of hurdles to get the okay to start that construction.

My understanding from discussions with FMG is that it has consulted with the native title groups under section 18 of the Native Title (State Provisions) Act 1999, and funded and facilitated many of the archaeological surveys that are needed in the area, remembering that the Solomon Hub is 90 per cent Windawarri–Gumula people, so FMG has a strong relationship with the group that has some concerns about some heritage areas. Obviously, FMG will do everything to avoid significant Aboriginal heritage places. It has done that before on the Solomon Hub and other areas of its operations throughout Western Australia. When Independent Heritage Consultants assessed a number of places in the area as being of low significance, about 50 places were under consideration that met the minimum requirements to be considered sites under the meaning of the Aboriginal Heritage Act. Out of those 50 places, 12 have been deemed necessary to negotiate. I am confident that FMG will come up with a good outcome with the Windawarri group to enable delivery of this project. There are always hurdles in the way but I am confident that FMG and the Windawarri group will come to an agreement to ensure that site is protected. FMG will even look at protecting a lot of rock art that is some distance away from the railway line and its operations. I am confident that there will be an agreement on Aboriginal heritage with not just the Windawarri group but also the other two groups, as well as other third parties such as Rio, given that it will have to cross through some of the group’s lease land.

All in all, the National Party is very supportive of this bill. As a local member, I am very supportive of FMG and what it has been able to deliver for my electorate and the people and the economy of Western Australia. More important, we need to celebrate the success of a Western Australian company and a Western Australian individual who is putting back the dividends from 2004, on a journey that has led to the investment that is occurring in my electorate, as I said, with the potential for the largest rock oyster farm and an increase in the cattle trade and pastoral stations as well as in tourism and horticulture, in light of what the Minderoo Group is embarking on in developing Minderoo station, and Brickhouse station in the expansion of the horticultural area in the Gascoyne and parts of the Pilbara. These are exciting times. Members all need to get on board and support companies like FMG that play a large part in providing royalties to the state. As I said, Premier, it would be nice to know the detail of the local participation rate in drafting this bill. It shows us that we can amend state agreement acts to suit the will of the government of the day, which is to include this participation plan. The will of Western Australians is to ensure that we can maximise local content being utilised from Western Australia. Why can we not do that with other outdated state agreement acts, which prevent us—the state government; Western Australians, who own the resource—from maximising our potential to earn as much money as we can on a finite resource, as the member for Nedlands said? Although it is some years away—some decades or maybe hundreds of years away—we need to continue to develop our state to realise its potential and we need those companies to play their role in budget repair.

**MS J.J. SHAW (Swan Hills)** [12.58 pm]: I am very pleased to rise in support of this Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2018 today. I have been quite close to the Fortescue Metals Group Ltd projects throughout the Pilbara. Over the course of my career, I worked on the original power supply arrangements and the asset developments for the port facilities and managed commercially over my career with Horizon Power the port power supply arrangements for FMG and TPI—The Pilbara Infrastructure—which facilitated the first phases of the projects we are now seeing. As others have observed, the principal state agreement act was signed in 2004 under the Gallop government. The minister at the time, the Minister for Planning and Infrastructure, was Hon Alannah MacTiernan, who now sits in the other place. After construction of the railway line first began in February 2007, the first ore was delivered in April 2008 on the “Alannah MacTiernan express”—a very exciting day for the diversity of iron ore projects in the Pilbara region. The timetable that FMG worked on then indicates that these projects tend to move on at a fair clip. FMG has now reached the position of the fourth largest iron ore producer in the Pilbara. It owns and operates three iron ore mines, 620 kilometres of the world’s fastest heavy haul rail and five operating berths at the port. As I indicated before, I did a bit of work around the power supply for them. It exports around 70 million tonnes of iron ore per annum and has over 3 500 employees. The projects that FMG currently operates are based in the Chichester hub, which I had the great pleasure of visiting with a number of my Labor Party colleagues when I was a newly elected member of Parliament. We got to see in real time some of the innovations that FMG brings to its mining operations, with automation at the pit and the dramatic landscape in which those projects exist. I acknowledge the previous contributor’s speech about the importance of recognising and preserving environmental and heritage values as these new projects are developed, which will undoubtedly be a part of this project’s progression.

**Extract from Hansard**

[ASSEMBLY — Wednesday, 11 April 2018]

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Dr Mike Nahan; Mr Bill Marmion; Mr Vincent Catania; Ms Jessica Shaw; Mr Mark McGowan

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As others have mentioned, the Firetail deposit in the Solomon hub is now becoming depleted. FMG has cast around and looked for other opportunities and has decided on the Eliwana deposit to the west of the Solomon hub. It has identified 2.1 billion tonnes and is aiming for a 30 million tonnes per annum development with a 24-year mine life. It aims to commence production in 2020 with an investment of around \$1.9 billion in the rail and mine project. It will deliver around 200 jobs in the construction phase and then sustain The Pilbara Infrastructure and FMG's current operating workforce over the longer term. It will require 130 kilometres of additional railway infrastructure.

This bill intends to facilitate the development of that rail infrastructure. It will do that by doing several things. It will allow site investigations and studies for the rail spur to occur, which will produce detailed proposals that will be submitted to the minister as part of the usual application process. It also requires that FMG develop local participation plans and that third parties also develop local participation plans. According to the definition, the plans will cover the use and training of labour available within the said state, which will be Western Australia; the use of the services of engineers, surveyors, architects and other professional consultants, experts, specialists, project managers and contractors available within the state; and the procurement of works, materials, plant, equipment and supplies from Western Australian suppliers, manufacturers and contractors.

On the face of it, these two amendments to the principal 2004 agreement are relatively small but, nonetheless, they are very noteworthy for a number of reasons. Firstly, the initiation of this project is indicative of and, indeed, contributes to, the growing level of business confidence that we are seeing under this government. In November 2017, the Chamber of Commerce and Industry of Western Australia reported that the previous quarter had seen the largest rise in business confidence in the last three years. The announcement of this Eliwana railway project occurred at the same time in February 2018 that the CCI also reported the highest quarterly rise in business confidence since the global financial crisis. These things have ripple effects. When companies such as FMG initiate expansions in capital expenditure, it signals to other businesses throughout the Western Australian economy that things are looking up and they can start to have increasing confidence in the economic management of the state by the McGowan Labor government. Secondly, it highlights the importance that this government places on including local content in major infrastructure spending. It reflects the underpinning philosophy of the Western Australian Jobs Act in that it has a local participation obligation and complements our focus on WA jobs for WA workers. Thirdly, this project also highlights the government's focus on supporting job-creating infrastructure projects more broadly, which is also evidenced by the announcement of Infrastructure WA, which will look at a 20-year state infrastructure strategy and signals the need for a strategic approach to planning and prioritising infrastructure projects. It will coordinate orderly and efficient infrastructure planning.

I observe that in the Pilbara, which I have a fairly long association with, where infrastructure has been developed it has been characterised by a lack of coordinated development, with quite a bit of asset duplication and ongoing access disputes. Criss-crossing the Pilbara are multiple transmission lines, railway lines and all sorts of asset classes. I understand the justifications that have been proffered by operators in the Pilbara about the need to duplicate these capital intensive assets and the issues and arguments for and against access to certain classes. However, I think some infrastructure classes, particularly energy, lend themselves to better coordination and offer scope for more economically efficient capital deployment and lower operating costs. Over the course of my career I have dealt with FMG on large-scale transmission projects into the Pilbara region and I have worked for companies that work with FMG on gas lateral and power station projects. Gas lateral multi-user infrastructure projects can deliver a substantial benefit to the whole region and really unlock that place. The key point is that open access common user infrastructure encourages smaller players to enter the market. There are opportunities for third-party investment in other classes of economic infrastructure. This will unlock additional opportunities in the Pilbara for a broader range of players. As business confidence increases, I hope to see a whole range of other types of player entering the market, developing a pipeline of projects to deliver additional local jobs.

It is great to see FMG's Eliwana project being initiated but we have to acknowledge that considerable value can be gained from enabling smaller scale operators to enter the market. It will deliver employment opportunities and broader benefits to the state.

The fourth noteworthy element of this project are the linkages to longer term opportunities and potential synergies with WA Labor's other great state building project—that is, Metronet. It is a longer term play, but, nonetheless, it is important to acknowledge that this government has an economic growth development trajectory and a number of projects that will deliver synergies economy-wide. This project will obviously work to a pretty aggressive timetable. FMG hopes to achieve a final investment decision in late 2018 or early 2019. It needs to step through a number of approval processes that other speakers have alluded to. It is aiming for the first ore to be produced in 2020. I noted before that these projects tend to progress at a fair clip. It will create 200 construction opportunities, but over the longer term, associated with other rail projects that this state government will deliver, the McGowan Labor government intends to develop a service industry that is very synergistic with rolling stock and rail opportunities in the mining and agricultural sectors. WA Labor's Metronet plan includes a 15-year strategy to include 50 per cent locally manufactured railcars, which will create ongoing jobs and apprenticeships. Although

the priority at the moment is passenger railcars for Metronet stage 1, cars for expanded services and replacement of the A series and replacement passenger carriages for the *Australind* train, thousands of railcars are servicing mining and agriculture sectors on a vast network of tracks and rolling stock that need to be upgraded and replaced. Making the investment in developing those capabilities in those workforces right now will support the agricultural and mining industries right across the state—throughout the goldfields and into the Pilbara—over the long term.

Victoria has taken a very proactive approach and has established an advanced railcar manufacturing industry. It has constructed 65 high-capacity metro trains. It aimed for 50 per cent local content and achieved 60 per cent local content, creating 1 100 jobs. On an ongoing basis, those skilled workers will be able to service the state's future rail needs. It is fantastic that the same sort of opportunities, if not more, are presented by the WA government's policies for manufacturing Metronet rolling stock here in Western Australia. We need to consider also that BHP's South Flank project and Rio Tinto's Koodaideri project will provide long-term opportunities to build on the capacity that will be delivered through the Metronet rail manufacturing project. No matter where we are in Australia and no matter what is being exported—iron ore in the Pilbara, copper in South Australia, pineapples from Queensland, dairy from Victoria—access to infrastructure is needed. In welcoming the state government's release of the blueprint for Infrastructure WA, the Chamber of Commerce and Industry of Western Australia noted —

Access to infrastructure is also fundamental to ensuring the whole community can contribute to, and share in, WA's wealth and quality of life.

Stable government is also needed to foster business confidence, promote local content and, through investment in projects like Metronet, support a whole new manufacturing pipeline. I look forward to observing this project's ongoing development and the economic development opportunities it presents for WA.

**MR M. MCGOWAN (Rockingham — Minister for State Development, Jobs and Trade)** [1.11 pm] — in reply: I thank members for their support of the Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2018. So that members fully understand, this bill provides the opportunity for Pilbara Infrastructure Pty Ltd, which is the vehicle used by Fortescue Metals Group Limited, to access land to carry out investigations for building a railway. The bill amends a state agreement act of 2004, the Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement 2004, which was passed when the Gallop government was in office. It will allow—not actually approve—FMG to investigate a 100-kilometre stretch between the existing Firetail mine and the proposed new Eliwana iron ore mine. The Firetail mine, which has been operational for 10 or 15 years and which may well have been the first mine in the FMG stable, is going to cease operations at some point in the future. The next deposit FMG wants to access is its Eliwana deposit to the south west of the Firetail mine. If it accesses that deposit, FMG will need a railway to ship its ore from the Eliwana deposit through to Firetail from where it joins its rail line through to Port Hedland for export. The bill essentially provides an opportunity for investigation of the land so that FMG can determine the best route to use and to determine engineering and structural issues to build a railway line through to the Eliwana site. By the normal standards of a state agreement, it is a relatively minor change to an existing state agreement because all it does is provide an opportunity for technical investigation by the company.

All this is done prior to native title, or an Indigenous land use agreement, being granted. FMG needs to work out the exact area the railway will need to use before it seeks native title and those discussions commence. There will be fairly unobtrusive and minor impacts on the land, or investigation of the land, in working out where to build the route, which will need to be carried out prior to other approvals being granted to build the railway.

On 13 March this year, I signed the state agreement—which is at the back of the bill—on behalf of the government, with representatives of Pilbara Infrastructure Pty Ltd and Fortescue Metals Group Ltd. A member asked whether we had an agreement with the company; and that, if we had, where it was. Members can look at the back of the bill to find the agreement. That answers that member's question.

I was also asked two predominant questions. One was in relation to native title processes with the parties involved. The native title processes that will need to be gone through on the land where the railway will go, as I said earlier, will occur subsequent to an investigation to work out what land the company actually needs. One thing will follow another. I am sure that those processes will be gone through—in fact, they have to be gone through—after FMG works out what land it will need. That is when that will happen.

Clearance is also required under the Aboriginal Heritage Act, but my department does not have visibility of those issues. Apparently, there has been some dispute about that process but it is running separately from this legislative process. A separate process governs those issues, both state and federally. I understand that there is some confidentiality around heritage surveys, and some discussion—or at least negotiation, perhaps even court action—is going on in relation to those things that is separate from this process. Through this bill we are attempting to amend the state agreement act to allow the company to investigate land, and all those other processes and approvals are separate from this. There is a separate range of issues before mining commences.

In 2010 and 2011, when I was shadow Minister for State Development, this house considered some state agreements. We constantly raised the issue of local participation plans. To his credit, the former Premier and then state development minister, Colin Barnett, agreed that that process would be followed in the future. From 2011 local participation plans have been included as a matter of course in state agreements. The department will negotiate with companies about what local participation plans will include, but they will largely outline the processes by which suppliers are made aware of and are given opportunities to tender for work. They do not mandate levels of work. This is not related to the Western Australian Jobs Act because that covers government agencies and trading enterprises. The Western Australian Jobs Act puts in processes by which the agreements reached as a part of tender processes are written into the actual contracts. What this bill does is set up a negotiation process between the miner—FMG—and the government, to put in place a local participation plan for local contractors, it and specifies that local contractors will be given an opportunity to bid for work. That is the difference between the two arrangements. I have always said, from the lobbying I have received on these issues, that we cannot mandate the level of local content that mining companies employ, but we can ensure that they are held to account for what they commit to. I think it is fair to say that local participation plans are good, but they are largely best endeavour-type arrangements—that is, the company commits to processes to allow fair bidding opportunities for local companies, but it does not do anything more than that; whereas the jobs act provides that when a company puts in a bid and offers the government certain arrangements, it can be tested against what other companies put in and what the successful bidding company agrees can be written into the contract. There will be a process between two bidders, and it will be determined on which one has a higher level of local content; that is one of the things that will be taken into account when awarding a contract.

The difference between the two is actually quite significant—I was going to say subtle. We are looking at what we can do to enhance local participation in the future with mining agreements or mining companies. Local participation plans have been inserted into state agreements since 2011. It is fairly standard in this case, but we are looking at how we might beef that up in the future. I think I have answered the principal question from the opposition about this. It is a good question because it is important that we maximise local content. We are all in furious agreement. We want to see Fortescue Metals Group Ltd continue to employ Western Australians. Obviously, as Firetail's resource depletes, FMG will need to move to another resource that it has control over. It has decided that that resource is Eliwana and it requires a 100-kilometre rail line, which is a pretty significant amount of work. I am advised that just the construction of the railway to get from the Firetail deposit to the Eliwana deposit would create hundreds of jobs, and that is prior to the engineering, construction and operation of the Eliwana deposit.

In overall terms, this is a good thing for Western Australia. We want to get the Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2018 through Parliament as soon as possible because there is a requirement on the part of The Pilbara Infrastructure Pty Ltd and FMG to get on with the work they need to do. That might become climactic, in fact; therefore, we would like to see this legislation passed as quickly as possible.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

*Third Reading*

**MR M. MCGOWAN (Rockingham — Minister for State Development, Jobs and Trade)** [1.21 pm]: I move —

That the bill be now read a third time.

**DR M.D. NAHAN (Riverton — Leader of the Opposition)** [1.21 pm]: I will not talk for very long. We have said enough about the specifics of the agreement. We give our full support to the Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2018 and we wish the companies well. They have to jump over a few hurdles, including getting \$1.9 million to get the rail underway, but given FMG's history, I am confident that it will get over this hurdle as well. I will follow up on the local participation agreement. I thank the Premier for answering the questions that we put forward, telling us that local participation agreements have been around since 2011, and outlining the difference between those and local participation plans in the Western Australian Jobs Bill. I understand the difference now. As the Premier indicated, there are some limits to the Western Australian Jobs Bill, and in procurement generally. This bill specifically provides that, for a variety of reasons, only firms, people and consultants domiciled in WA can be hired. We accept that. That has been the case for a long time. It has been one of the challenges of procurement. The Western Australian Jobs Bill specifies local industries, quite correctly and necessarily, as industries in any state in Australia and New Zealand. This bill before us is more specific and states —

... qualified Western Australian suppliers, manufacturers and contractors to tender or quote for works, materials ...

**Extract from *Hansard***

[ASSEMBLY — Wednesday, 11 April 2018]

p1850d-1858a

Dr Mike Nahan; Mr Bill Marmion; Mr Vincent Catania; Ms Jessica Shaw; Mr Mark McGowan

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In other words, this agreement bill specifically refers to “Western Australian” and does not include other states and territories or New Zealand. My understanding is that the reason is that this agreement has been freely entered into between the state and FMG. Although it will be embedded into an act of Western Australia, it is an agreement that has been freely entered into and therefore it is not compulsory by force of law. The local content requirements in the legislation allows the government to require the proponent—in this case, FMG—to hire Western Australians rather than people from South Australia or New South Wales or anywhere else. It is a very pointed and powerful local content requirement that is available because of the unique nature of agreement acts. As the Premier put it, yes, the company must make its best endeavours. But history shows that best endeavours in the iron ore industry have generally been achieved, particularly with FMG, and even during times of full employment and a lack of spare capacity in fabrication and other areas. My view is that this is a very powerful mechanism to ensure that we have a continuation of Western Australian, as opposed to Australian and Kiwi, work activity by Western Australian-based firms in this area. This is very important because a lot of manufacturing and services based in Western Australia originated from support for our mining sector, particularly iron ore mining as it has expanded over the decades. These types of activities are an essential part of the food chain for our industry, which is why they were put into the agreement about six years ago. I am glad to see this bill before the house. Because of its specificity to WA, it is to some extent more powerful than the general government procurement job programs because of the restrictions in constitutional and international agreements.

The opposition will fully support this bill, as long as it gets through the house in a timely manner as a high priority. We will also support it in the other house to expedite its passage through Parliament to enable the companies to get on with this major development.

**MR M. McGOWAN (Rockingham — Minister for State Development, Jobs and Trade)** [1.26 pm] — in reply: I thank the Leader of the Opposition for his support and for the opposition’s commitment to expediting the bill through both houses.

Question put and passed.

Bill read a third time and transmitted to the Council.