



Economic Regulation Authority

# Determination on amendments to the ringfencing rules for the Horizon Power coastal network

23 December 2025

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At the ERA we value our cultural diversity and respect the traditional custodians of the land and waters on which we live and work.

We acknowledge their continuing connection to culture and community, their traditions and stories. We commit to listening, continuously improving our performance and building a brighter future together.

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# 1. Decision

The *Pilbara Networks Access Code* sets out a light-handed access regime that facilitates third-party access to covered networks in the Pilbara. The Code requires covered network service providers to submit ringfencing rules to the ERA for approval.

The Horizon Power coastal network is one of two networks that are currently covered under the Code.<sup>1</sup> The initial ringfencing rules for the Horizon Power coastal network were approved by the ERA in January 2022.

Horizon Power submitted proposed amendments to its ringfencing rules in December 2024. The proposed amendments related to a remediation plan Horizon Power had implemented to address some non-compliances with its ringfencing rules found during its independent annual audit.

We published the proposed amendments for consultation. Submissions were received from the APA Group and BHP.<sup>2</sup>

Based on an assessment of the audit findings, Horizon Power's remediation plan, the proposed amended ringfencing rules and matters raised in stakeholder submissions, we determined that the proposed ringfencing rules submitted by Horizon Power did not effectively address the requirements in Chapter 8 of the Code.

We notified Horizon Power of the determination and recommended amendments that would meet the relevant requirements.

Horizon Power amended the proposed ringfencing rules and resubmitted them to us. We are satisfied the resubmitted ringfencing rules effectively address the requirements of Chapter 8 of the Code and have approved them. The approved ringfencing rules are attached to this decision.

Further details of the determination are set out in the following sections.

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<sup>1</sup> The other covered network is the Port Hedland network which is owned and operated by APA Duke Energy WA Power PTY (ADEWAP), a subsidiary of the APA Group.

<sup>2</sup> Submissions received can be found [here](#).

## 2. Regulatory requirements

The *Pilbara Networks Access Code* sets out a light-handed regulatory regime that applies to covered Pilbara networks that are regulated by Part 8A of the *Electricity Industry Act 2004*.

Horizon Power is a government trading enterprise that provides electricity supplies to customers in Western Australia outside of the South West Integrated System area. Part of the network infrastructure owned by Horizon Power, the Horizon Power coastal network, is a covered Pilbara network. This includes:

- All of Horizon Power's network infrastructure in the West Pilbara area which supplies customers located in and around Karratha, including the connections to the Port of Dampier, Cape Lambert, Point Samson and Roebourne.
- All of Horizon Power's network infrastructure in the East Pilbara area, which supplies customers in and around greater Port Hedland, including the connections to the port operations of BHP Billiton and Fortescue Metals Group.
- The transmission line that connects Horizon Power's network infrastructure in the West Pilbara and East Pilbara areas
- The transmission line that runs from Port Hedland to the site of the former mining town of Goldsworthy.

The "network business", as defined in the Code, is the part of Horizon Power's business which is responsible for the operation and maintenance of the Horizon Power coastal network and the provision of services by that network. Horizon Power refers to this part of the business as the "Horizon Power Pilbara Network Business".

The Code requires Horizon Power to have ringfencing rules for the Horizon Power Pilbara Network Business.

As set out in Chapter 8 of the Code, the primary ringfencing policy objective is to ensure that vertical integration of the network service provider (i.e. Horizon Power) with an "other business" (i.e. the parts of Horizon Power's business that are not responsible for the operation and maintenance of the Horizon Power coastal network and provision of services by that network) does not lead to a reduction of competition in a "related market" (i.e. the market in which a Horizon Power "related business" – the business of generating, purchasing or selling electricity - participates) by requiring rules that:

- Prevent the use of "commercially sensitive information" outside of the network business or for a purpose other than the purpose for which the information was acquired or developed.<sup>3</sup>
- Allocate costs between the network business and any associate or other business of the NSP in a manner which avoids the charges being paid by users of the network business incorporating costs or charges associated with an associate or other business of the NSP (other than charges properly and transparently levied by the associate or other business for services or other things provided to, or at the direction of, the network

<sup>3</sup> "Commercially sensitive information" means all confidential or commercially sensitive information in relation to, as applicable:

(a) An applicant or customer which is developed by or comes into the possession of

business or the ISO for the benefit of users, such as charges for the supply of essential system services)

- Prevent discriminatory treatment in favour of an associate or other business of the NSP as compared to a competitor in a related market or against such a competitor.

A secondary objective of Chapter 8 is to achieve the primary objective by allowing for:

- Flexibility, recognising the fact that the structure and nature of NSP's businesses differ substantially.
- A balancing of cost and disruption against the primary objective.
- Flexibility to deal with changing circumstances over time.

### 3. Assessment of proposed amendments

Horizon Power's proposed amendments relate to its first annual audit of compliance with the rules.<sup>4</sup> The audit identified:

- Non-compliance with the ringfencing rules that had not been identified and reported internally.
- Potential confusion about whether business development activities for the Pilbara Green Link were covered or not.
- Concerns that responsibility for maintaining the metering systems and processes for the covered network were being undertaken by the same team that maintains Horizon Power's retail billing system – which was contrary to the description of shared services in the ringfencing rules.

Horizon Power implemented the following remediation actions to address the audit findings:

- Relevant staff were reminded of their obligations to comply with the ringfencing rules by their executive general manager (completed 31 October 2024).
- A “refresher” online training module was deployed in November 2024 and relevant staff required to undertake the training annually.
- The annual ringfencing declaration was updated and required to be completed by staff following the refresher training.
- A process was documented with the actions that are to occur if there are ongoing ringfencing compliance risks by specific staff and/or teams. Including:
  - Refresher of existing training (if last training was greater than 6 months)
  - Creation of incremental training (where required) to be incorporated into the annual ringfencing training for relevant staff and 3 yearly training for all other staff.
  - Recommendation for management and HR involvement where there have been no identified gaps in the training (for example, a disregard for Horizon Power policies).
- Following a review of the criteria for determining whether new development projects are covered or not, it was established that it would be better to amend the ringfencing rules to refer to “other business” more broadly rather than specifically to contestable retail and generation services in the Pilbara region.
- Added additional controls to restrict access to information in the metering system related to contestable customers.

Associated amendments to the ringfencing rules were developed to:

- Add the General Counsel and Company Secretary as an alternative for staff to report breaches to and to report breaches to the ERA.

<sup>4</sup> Section 5 of Horizon Power's ringfencing rules includes a requirement for an annual independent audit to ensure compliance with the ringfencing rules.

- Change the frequency of training in section 5 and 9.1 of the ringfencing rules from “three yearly” to “at least 3 yearly”.
- Refer to “other business” more broadly rather than specifically to contestable retail and generation services in the Pilbara region.
- Reflect the arrangements for metering services.

In addition, Horizon Power proposed amendments to the ringfencing rules to:

- State that the ringfencing rules would not need to be reviewed for internal movement of (or creation of new) teams or divisions that were unlikely to have a material effect on the operation of these ringfencing rule.
- Amend the title of “Manager Network Regulation and Open Access” to “Senior Manager Pilbara Network” and delete the requirement for that position to ensure all Horizon Power staff comply with the ringfencing rules.
- Amend “Commercial and Business Development”, referred to in Table 8.3, to “Business Development and Strategy Division” to reflect organisational changes.
- Various minor drafting edits.

The proposed amendments were published for consultation. Submissions were received from APA and BHP.

APA supported the proposed changes but suggested amendments to the measures for ringfencing training.

BHP considered the proposed changes addressed only some of the audit findings and raised additional issues.

An assessment of the initial proposed amendments, including consideration of the matters raised in submissions together with Horizon Power’s resubmitted amendments and our final determination is set out below.

### **Ringfencing training**

Horizon Power’s initial proposal included amendments to section 5 and section 9.1 of the ringfencing rules to change the frequency of training from “3 yearly” to “at least 3 yearly” to reflect the updated procedures and mitigation measures put in place to address the audit findings.

APA suggested consideration be given to ringfencing training being refreshed at least annually. It also considered ringfencing training and other reminders should be incorporated into Horizon Power’s compliance management systems so that reminders are automated and not dependent on individual staff.

BHP also considered ringfencing training should be undertaken annually and that there should be a requirement for any changes to the ringfencing rules to be communicated to staff.

The mitigation measures put in place by Horizon Power were similar to the suggestions in the APA and BHP submissions. We recommended Horizon Power amend the ringfencing rules to include the following:

- Training for all staff in the Pilbara network business and any staff in “other businesses” or shared functions that have access to commercially sensitive information or interact with the Pilbara network business on at least an annual cycle.
- Training for all other staff on at least a three-year cycle.
- Any changes to the ringfencing rules communicated to staff and training undertaken if there are significant amendments.
- Compliance procedures must ensure that individuals complete training promptly and that there are processes in place to deal with staff that do not meet their training obligations by the due date.

In its resubmitted amendments, Horizon Power amended section 5 and 9 as follows:

#### 5. Responsibilities and compliance

...

- training on Horizon Power’s ringfencing requirements under the Code and these ringfencing rules, including:
  - new starter induction training; and
  - periodic refresher training on:
    - an annual basis for all staff in the Horizon Power Pilbara Network Business, and all other staff that have access to Horizon Power Pilbara network Business’ commercially sensitive information or interact with the Horizon Power Pilbara Network Business; and
  - at least a three yearly cycle for all other staff; and
  - when there are significant amendments to these ringfencing rules; and
  - communication on a timely basis of any changes to these ringfencing rules to all staff; and
  - annual independent audits, to ensure compliance with relevant policies and procedures. This includes, but is not limited to:
    - all registers detailed in these ringfencing rules;
    - all ringfencing training records; and
    - the cost allocation requirements in these ringfencing rules; and
    - the processes that will be followed if staff do not comply with the ringfencing rules set out in this document.

...

#### 9.1

...

- training on the ringfencing arrangements, including induction training and periodic refresher training on at least a three yearly cycle either an annual or three yearly cycle as set out in section 5 or when there are significant amendments to these ringfencing rules;

We are satisfied the amendments are consistent with the requirements of Chapter 8 of the Code.

## Competition protection measures

In its proposed amendments, Horizon Power made updates throughout the rules to refer to “other business”, as defined in the Pilbara Networks Access Code, rather than “contestable retail and generation services in the Pilbara region”.

The proposed amendments are consistent with the Pilbara Networks Access Code requirement and align with the remediation actions to address the audit findings.

APA supported the proposed amendments and noted they were consistent with the approach it adopted in its own ringfencing rules.

BHP agreed with the proposed amendments but considered the ringfencing rules should also specifically require the network business to procure compliance with the ringfencing rules by any other business of Horizon Power, in accordance with clause 134(2) of the Code.

The obligation referred to by BHP exists regardless of whether it is set out in the ringfencing rules. However, including it in the ringfencing rules provides greater visibility of the obligations to staff and better ensures that ringfencing training, compliance procedures and monitoring processes include this obligation. We included the following in the recommended changes to Horizon Power’s initial proposed amendments:

- Include an explicit statement in the rules that Horizon Power will ensure that an associate or other business of Horizon Power complies with all applicable ringfencing rules to the extent that this is required to meet and achieve the PNAC’s ringfencing objectives.

In its resubmitted amendments, Horizon Power added the following to section 7:

Horizon Power will ensure that an associate or *other business* of Horizon Power complies with all applicable ringfencing rules to the extent that is required to meet the ringfencing objectives.

We are satisfied the revised amendment is consistent with the requirements of Chapter 8 of the Code.

## Separation of staff

Section 9.2.1 of the current ringfencing rules, states:

Horizon Power structures its business to maximise the extent to which staff involved in the provision or marketing of covered services in the Pilbara region are not also involved in the provision or marketing of “other business” except where:

- a member of its staff who, in the course of their duties:
  - Does not have access to commercially sensitive information
  - Has access to commercially sensitive information but the scope of their role does not have any opportunity to use it to engage in discriminatory behaviour.
  - Only has access to the extent necessary to perform non electricity services such as corporate and information technology support services.
- Assistance is provided to another network service provider to the extent necessary to respond to an event such as an emergency that is beyond the reasonable control of the other network service provider.
- The member of staff is an officer of Horizon Power.

“Officer” is defined as including:

- A director or company secretary of the *legal entity*;
- A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the *legal entity*
- A person who has the capacity to affect significantly the legal entity’s financial standing.

BHP considered the definition of “officer” should be reviewed to ensure it is not too broad and does not capture staff in parts of the organisation that should be subject to ringfencing rules.

We agree the definition of “officer” should be narrowed down as far as possible while balancing cost and disruption against the primary ringfencing objective. We recommended it be restricted to directors, the company secretary and senior executives that need to make, or participate in making decisions that affect the whole, or a substantial part, of the business of the legal entity.

In its resubmitted amendments, Horizon Power amended the definition of officer as follows:

In relation to a *legal entity*:

- (a) a director or company secretary of the *legal entity*;
- (b) a ~~person~~ senior executive who makes or participates in making decisions that affect the whole, or a substantial part, of the business of the *legal entity*; as part of the Executive Team. ~~or~~
- ~~(c) a person who has the capacity to affect significantly the legal entity’s financial standing.~~

We are satisfied the resubmitted amendment is consistent with the requirements of Chapter 8 of the Code.

### Mitigation measures for shared functions

In its submission, BHP considered the following paragraph in section 9.2.1 of the current rules appeared to contradict the remainder of the section 9.2.1:

However, Horizon Power will not separate the small number of functions that are shared between the provision or marketing of covered services in the Pilbara region and the provision or marketing of services by a Horizon Power Other Business”.

The Code adopts a light-handed access regime. The secondary objective, to achieve the primary ringfencing objective, allows for a balancing of cost and disruption against the primary objective. The paragraph BHP refers to is not contradictory and goes on to set out the functions that have not been separated and the measures that have been put in place to mitigate the risk that the ringfencing objectives will not be met.

### Metering services

When establishing which functions should be separated for the initial rules, Horizon Power planned to transfer responsibility for the metering system away from the team that maintains the retail billing system.

The annual audit found that some aspects of metering services related to fixing breakages in the connection between the metering system and billing system had continued to be undertaken by the team that maintains the billing system. The agreed remediation action was to either:

- Amend the ringfencing rules to reflect that the billing team is responsible for fixing breakages in the connection between the metering system and billing system with controls in place to restrict access.
- Transfer responsibility for fixing breakages to the metering team.

However, Horizon Power's proposed amendment, as shown below, was not consistent with either of these approaches.

Customer Services (Processes/systems)	<del>From the date these ringfencing rules become effective in their entirety, the metering</del> <u>A Customer Service team will be responsible for managing the metering systems and processes for all non-contestable customers. Security has been added to ensure that staff that provide and market contestable retail electricity services cannot directly access data for contestable customers.</u>
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In its resubmitted amendments, Horizon Power reverted to its original plan to transfer responsibility for all metering systems and processes, including fixing breakages, to the metering team and retained the current wording in the ringfencing rules as follows:

From the date these ringfencing rules become effective in their entirety, the metering team will be responsible for maintaining the metering systems and processes.

We are satisfied the resubmitted amendment is consistent with the requirements of Chapter 8 of the Code.

### Compliance with the ringfencing rules

Horizon Power's proposed amendments implemented the remediation action to add the General Counsel and Company Secretary as an alternative for staff to report breaches to and to report breaches to the ERA

In addition, Horizon Power's proposed amendments to section 5 included amending the title of "Manager Network Regulation and Open Access" to "Senior Manager Pilbara Network" and deleting the requirement for that position to ensure all Horizon Power staff comply with the ringfencing rules.

### 5. RESPONSIBILITIES AND COMPLIANCE

All Horizon Power staff are individually accountable to ensure that they comply with the ringfencing rules set out in this document.

The Senior Manager, Pilbara Network (formerly known as Network Regulation and Open Access) is responsible for ensuring that the procedures required to ensure and monitor compliance with these ringfencing rules have been established, maintained and implemented, ~~and all Horizon Power staff comply with these ringfencing rules.~~

Horizon Power maintains ringfencing rules compliance procedures that include:

- a Ringfencing Declaration that must be signed by all Horizon Power staff, including those involved with the provision of covered services in the Pilbara region, which requires (amongst other things);
  - compliance with these ringfencing rules; and
  - immediate reporting of breaches to the Manager, Network Regulation and Open Access Senior Manager Pilbara Network or, in circumstances where either a breach relates to the Horizon Power Pilbara Network Business or the

Senior Manager, Pilbara Network is not available, to the General Counsel and Company Secretary.

...

The Manager, Network Regulation and Open Access is The Senior Manager Pilbara Network (or if the breach is reported to the General Counsel and Company Secretary in the circumstances outlined above, the General Counsel and Company Secretary) is responsible for reporting any breaches of these ringfencing rules to the Authority within 5 business days of determining that a breach has occurred, in accordance with clause 141(1)(b) of the Code.

BHP considered the removal of the requirement for the Senior Manager, Pilbara Network, to be responsible for compliance with the ringfencing rules left it unclear which position within Horizon would now have that responsibility. It also considered the ringfencing rules should require the compliance procedure to outline the disciplinary processes and consequences if the ringfencing rules are not adhered to.

The obligation to comply with its ringfencing obligations applies to Horizon Power as an entity. We recommended this be made clear by deleting the first sentence of section 5. We agreed with BHP's view that there should be clarity about which position is responsible for monitoring compliance that the compliance procedures should set out the processes that will be followed if staff do not comply.

In its resubmitted amendments, Horizon Power:

- deleted the first sentence of section 5
- created a new position "Compliance Manager" who would take on the compliance responsibilities previously undertaken by the Senior Manager Pilbara Network and be responsible for monitoring staff compliance with the rules.
- added a requirement for the compliance procedures to include the processes that will be followed if staff do not comply with the ringfencing rules.

We are satisfied the resubmitted amendments are consistent with the requirements of Chapter 8 of the Code.

### **Other matters raised by BHP**

BHP considered the organisational structure should be published (and kept current) and clearly identify the roles and responsibilities of each division so external parties can engage with the appropriate area and not inadvertently share information with a Horizon business in ways that would lead to contravening, or increase the risk of contravening, the ringfencing rules.

Publishing an organisation structure would not provide any additional comfort that information was not being shared within the organisation in ways that would contravene the ringfencing rules. However, we agree it is important that the points of contact for parties seeking covered network services are clearly identified and adhered to.

We recommended Horizon Power amend the rules to include a requirement that the point of contact/s for external and internal customers seeking covered network services is clearly stated in an accessible format and kept up to date if there are any organisational or staffing changes with strict protocols in place to ensure that the technical teams cannot be contacted (particularly by the Horizon Power business development team) without going through the nominated customer contact/s in the Pilbara Network Business.

In addition, we recommended Horizon Power's proposed amendment to section 3, as set out below, should be deleted included the following addition to section 3 of the ringfencing rules:

To clarify, these ringfencing rules will not need to be reviewed pursuant to section 137 of the Code for internal movement of (or creation of new) teams or divisions which are unlikely to have a material effect on the operation of these ringfencing rules.

In its resubmitted amendments, Horizon Power deleted its proposed addition to section 3 and confirmed that section 2.1 of the User Access Guide, which provides contact details, would be amended to state:

These contact details apply to all enquiries, whether they be from parties that are internal or external to Horizon Power.

You are not to make any enquiries related to the covered Horizon Power Pilbara Network, other than through the channels nominated above. This may breach the ringfencing arrangements that are in place in Horizon Power, and we cannot warrant that the information provided to you is correct.

BHP also raised concerns about matters related to the audit findings including:

- Annual updates of the cost allocation method not having been undertaken.<sup>5</sup>
- Teams undertaking work not within their remit or consistent with the ringfencing rules.<sup>6</sup>
- An expectation by those in the contestable part of the business that the Horizon Power control centre would dispatch Horizon Power's generators to maximise returns rather than comply with the procedures.<sup>7</sup>

BHP considered it important that Horizon Power undertakes actions to address the findings in the audit report and ensure ongoing compliance.

Horizon Power implemented the remediation actions agreed with the auditor. The ongoing annual independent audits will confirm whether the remediation actions have been effective and identify any new issues.

<sup>5</sup> The audit finding was that this was an administrative matter that would not have any effect on outcomes.

<sup>6</sup> The agreed remediation actions were implemented.

<sup>7</sup> No non-compliance was found.