

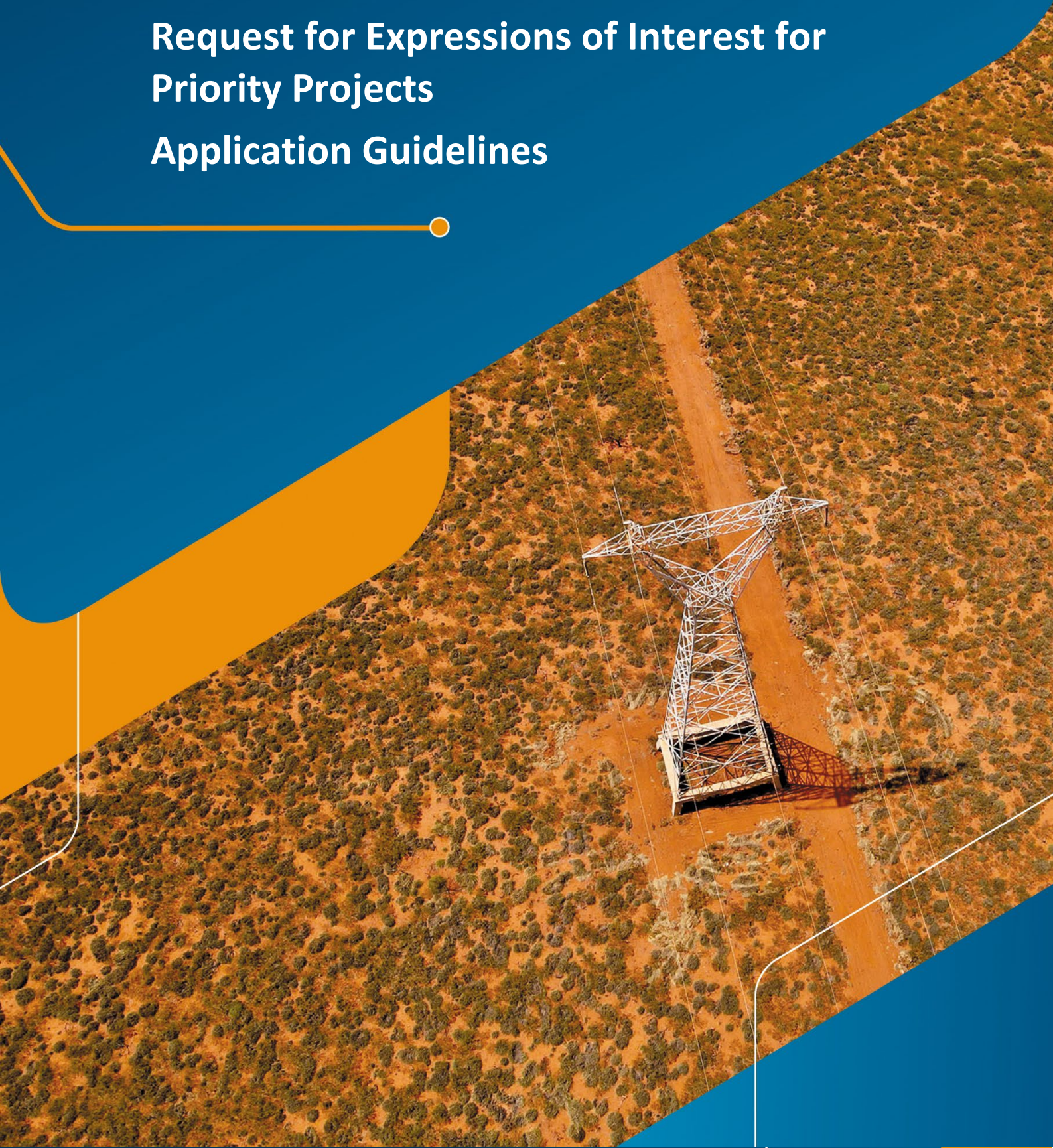


Department of Energy, Mines,  
Industry Regulation and Safety  
Energy Policy WA

Pilbara Energy Transition

# Request for Expressions of Interest for Priority Projects

## Application Guidelines



# Pilbara Energy Transition Request for Expressions of Interest for Priority Projects Application Guidelines

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Department of Energy, Mines, Industry Regulation and Safety

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Energy Policy WA

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**Enquiries:** If you have any questions, contact  
[pet.secretariat@demirs.wa.gov.au](mailto:pet.secretariat@demirs.wa.gov.au)

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## Abbreviations

Term	Definition
<b>CEFC</b>	Clean Energy Finance Corporation
<b>DEMIRS</b>	Department of Energy, Mines, Industry Regulation and Safety
<b>EOI</b>	Expression of Interest
<b>EPWA</b>	Energy Policy WA, a group within DEMIRS
<b>FID</b>	Final Investment Decision
<b>Guidelines</b>	Application Guidelines (this document)
<b>ISO</b>	Independent System Operator
<b>LNG</b>	Liquefied Natural Gas
<b>MW</b>	Megawatt
<b>NSP</b>	Network Service Provider
<b>NWIS</b>	North West Interconnected System
<b>PET</b>	Pilbara Energy Transition
<b>PET Plan</b>	Pilbara Energy Transition Plan
<b>PHTR</b>	Pilbara Harmonised Technical Rules
<b>PNAC</b>	Pilbara Networks Access Code
<b>PNR</b>	Pilbara Networks Rules
<b>PRT</b>	Pilbara Roundtable
<b>RAB</b>	Regulated Asset Base
<b>Roundtable</b>	Pilbara Industry Roundtable
<b>RTN</b>	Rewiring the Nation
<b>SIA</b>	Strategic Industrial Area
<b>State</b>	The State of Western Australia
<b>WA Government</b>	The Government of Western Australia



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# 1. Application for Priority Project Status Process



## 2. Introduction

The purpose of this Request for Expressions of Interest (EOI) is to seek submissions from project proponents to be awarded Priority Project status for one or more of four priority transmission corridors which have been identified to form the first wave of an expanded high voltage Pilbara network.

Proponents who are awarded Priority Project status are on a pathway to:

- a. negotiating a Corridor Development Agreement with a State entity; and
- b. receiving a WA Government recommendation to the Clean Energy Finance Corporation (CEFC) for the project to be considered for Rewiring the Nation (RTN) finance.

These guidelines contain information for responding to this EOI for Priority Project status under the Pilbara Energy Transition Plan (PET Plan).

This document sets out:

- the background of the PET Plan;
- the four priority transmission corridors;
- eligibility to respond to the EOI;
- how applications will be assessed, including the assessment criteria;
- how proponents will be notified of Priority Project status or unsuccessful applications;
- responsibilities and expectations in the context of Priority Project status; and
- an overview of proposed regulatory reforms and corridor and land tenure principles.

The process described in these guidelines is not a procurement for the purposes of the *Procurement Act 2020* or the Western Australian Procurement Rules<sup>1</sup>.

The process set out in these guidelines is not binding on the WA Government and may be varied, suspended or cancelled at any time by the WA Government. Any such decisions will be made at the absolute discretion of the WA Government.

The EOI process will be administered by Energy Policy WA (EPWA), a group in the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS), on behalf of the WA Government.

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<sup>1</sup> Western Australian Procurement Rules – General Procurement Direction 2024/01.

## 3. Background

### 3.1 Decarbonising the Pilbara

The WA Government has committed to working with all sectors of the economy to achieve net zero carbon emissions in Western Australia by 2050.

Building on this commitment, it is supporting national and global decarbonisation efforts, collaborating with Traditional Owner groups and local communities, to ensure meaningful and lasting benefit from the energy transition. This includes providing certainty for businesses to attract investment required for the net zero transition.

The Pilbara region is a globally significant source of mining and energy resources. It is vital to the state and national economies, accounting for around a third of Australia's exports. However, Pilbara industries are heavily reliant on fossil fuels to provide the energy needed to support their operations. Measured nationally, the Pilbara has the most significant share of scope 1 and scope 2 emissions under the Federal Safeguard Mechanism<sup>2</sup>.

As such, decarbonisation efforts will require mining operators and other heavy industries to transition their primary energy sources from gas and diesel to renewables, supported by storage, thereby increasing future regional renewable electricity demand.

### 3.2 Pilbara Industry Roundtable

The Pilbara Industry Roundtable (Roundtable) process was established in August 2022 to discuss the unique opportunities and challenges of a clean energy transformation in the Pilbara. Recognising the collective challenge that decarbonisation presents, the process also explored the opportunities of developing new common-use electricity infrastructure to underpin renewable energy development.

The Roundtable oversaw a work program that modelled future electricity demand scenarios, assessed the current regulatory framework, examined land tenure arrangements and explored social licence with a focus on the empowerment of Aboriginal people. The Roundtable's work program reached its goal in July 2023 with consensus among participants that:

- new common-use electricity infrastructure has an important role to play in supporting increased levels of renewable energy and decarbonisation in the Pilbara. Future modelling (on an annual basis if there are material changes) should continue to inform its development;
- there is support for the Pilbara electricity regulatory regime to evolve to support the energy transition, and agreement to participate in the consultation process which will support the implementation of further reforms as required;
- as a priority first step, key Government agencies will work together to update existing land tenure guidance for common-use electricity infrastructure and renewable energy development; and
- any electricity infrastructure development should support rights to self-determination and empower Aboriginal people to realise opportunities from the clean energy transformation.

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<sup>2</sup> The Safeguard Mechanism requires Australia's highest greenhouse gas emitting facilities to reduce their emissions in line with Australia's emission reduction targets of 43 per cent below 2005 levels by 2030 and net zero by 2050.



These outcomes were captured in a communique which was published, along with a media statement from then Minister for Energy, Hon Bill Johnston MLA, and then Minister for Environment; Climate Action; Racing and Gaming, Hon Reece Whitby MLA on 1 August 2023<sup>3</sup>.

As outlined in the communique, the findings of the Roundtable were used to design the next phase of work and to promote the need for Commonwealth investment in the Pilbara through Rewiring the Nation (RTN).

### **3.3 Pilbara Energy Transition Plan**

In August 2023, the WA Government approved a work program to support a green energy transformation in the Pilbara, known as the PET Plan, based on the outcomes agreed to by Roundtable members.

The PET Plan is being overseen by a reinvigorated Pilbara Roundtable which brings together Traditional Owners, Industry and the WA Government as equals, and is chaired by the Minister for Energy, Hon Reece Whitby MLA.

The PET Plan seeks to facilitate the development of new common-use transmission infrastructure to minimise environmental footprint and support a more robust and interconnected electricity system by:

- introducing Priority Project proponents of common-use transmission infrastructure to the CEFC for consideration (including for RTN concessional finance);
- supporting Traditional Owner groups to enable their members and communities to participate in the Pilbara energy transition;
- undertaking annual Pilbara electricity sector modelling;
- ensuring that the regulatory and policy frameworks appropriately support and facilitate the evolution of the Pilbara electricity system;
- accommodating financial structures for private sector transmission investment;
- providing bespoke land tenure advice to Traditional Owners and priority project proponents in the Pilbara; and
- supporting timely decarbonisation of the Pilbara to assist industry in meeting State and Commonwealth clean energy goals.

EPWA is leading the implementation of the PET Plan.

### **3.4 Rewiring the Nation**

In August 2023, the Australian and WA Governments announced that up to \$3 billion of RTN funds will be made available as concessional finance through the CEFC to support investment in transmission infrastructure in Western Australia.<sup>4</sup>

RTN is an Australian Government program investing \$20 billion to upgrade and expand national electricity grids and provide new transmission infrastructure in support of decarbonisation efforts.

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<sup>3</sup> [Landmark agreement signed to aid decarbonisation in the Pilbara | Western Australian Government \(www.wa.gov.au\)](#)

<sup>4</sup> [Joint media statement - \\$3 billion Rewiring the Nation deal to power WA jobs and growth | Western Australian Government \(www.wa.gov.au\)](#)

The CEFC is responsible for administering financing under the RTN policy. The CEFC operates independently in accordance with its governing legislation, the *Clean Energy Finance Corporation Act 2012* (Cth) (CEFC Act) and the *Clean Energy Finance Corporation Investment Mandate Direction 2023* (Investment Mandate).

Where deemed appropriate to address RTN policy objectives, the CEFC may consider the provision of concessional funding and/or take on risks and terms not commercially offered by the private sector to deliver scale efficient transmission in light of projected future capacity needs, with the intent that the benefits of concessional finance are passed through to end users.

## 4. Priority Projects

### 4.1 Priority Corridors

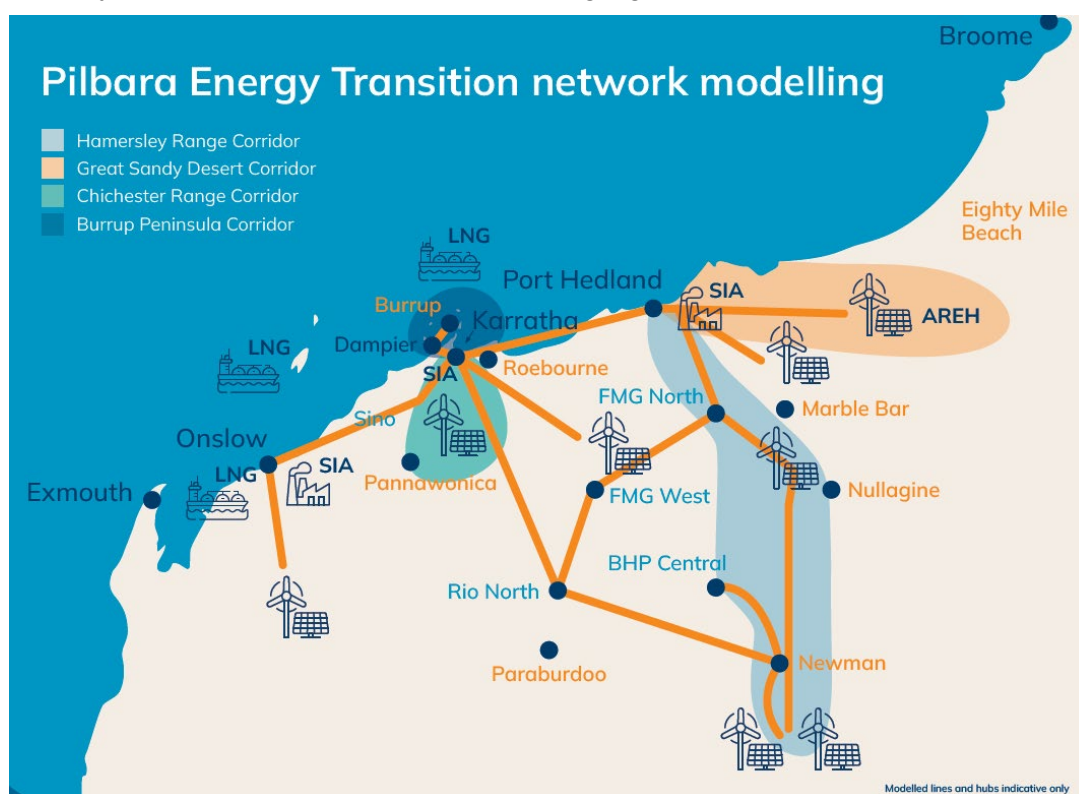
The WA Government has identified four common-use transmission priorities to form the first wave of the expanded high voltage Pilbara network.

These priorities were selected with the aim of allowing major load centres access to the greatest diversity of high-quality wind resources in the region<sup>5</sup> and were informed by extensive stakeholder engagement and power systems modelling.

Two of the corridors are located in the West Pilbara, with the other two in the East Pilbara. Proponents could submit an EOI for these projects individually or as consolidated West and East transmission solutions.

The below descriptions of the priority corridors contain general statements regarding opportunities associated with these corridors for information purposes only. Proponents must not rely on the statements made and proponents are responsible for undertaking their own due diligence and making their own assessments in relation to opportunities within the priority corridors.

The priority corridors for this EOI process are highlighted below:<sup>6</sup>



<sup>5</sup> Solar resources are generally excellent in the Pilbara but wind is highly variable.

<sup>6</sup> Maps are indicative general concepts only, not surveyed, topographically accurate or to scale. Turbine icons show possible general locations of potential future renewable energy generation hubs.

## West Pilbara Corridors

### *The Burrup (Murujuga) Corridor*

- A transmission connection linking Maitland Strategic Industrial Area (SIA), Karratha and Burrup SIA.
- This transmission corridor will terminate at a new substation on the Burrup SIA, located on the Murujuga peninsula, which is a special place and home to thousands of petroglyphs, some of which are among the oldest cultural artefacts on the planet.
- The Burrup (Murujuga) corridor can assist in facilitation of:
  - a reduction of emissions from fertiliser and liquefied natural gas (LNG) plants in the Burrup SIA;
  - the activation of the Maitland SIA, home to potential future industrial activity in the region; and
  - greater access to renewable energy across the population centres on the North West Interconnected System (NWIS) coastal network through a connection at the Karratha substation.
- This project was initially a 132 kilovolt solution led by Horizon Power to facilitate the delivery of power from a proposed 50 megawatt (MW) solar farm to the Pluto LNG plant.
- Government has responded to requests from Traditional Owners to increase the capacity of the line to limit future duplication and is now seeking to progress a larger capacity project in partnership with Traditional Owners and industry.
- Early works, including design, approvals and offtake discussions are being progressed by Government (through EPWA and Horizon Power and in partnership with Traditional Owners, via Ngarluma Aboriginal Corporation and Murujuga Aboriginal Corporation).
- This project leverages off the corridor and approvals work undertaken as part of the initial 132 kilovolt proposal.
- The Burrup SIA currently contains:
  - two LNG plants (Karratha Gas Plant and Pluto LNG plant) with a combined nameplate capacity of over 25 million tonnes per annum (once Pluto Train 2 is complete); and
  - two fertiliser plants, an ammonia plant owned by Yara and a urea project under construction by Perdaman.
- The proponents of these projects have expressed their intentions to explore or develop renewable electricity options to decarbonise.



- Proponents interested in this corridor opportunity can access further information on the above on request.

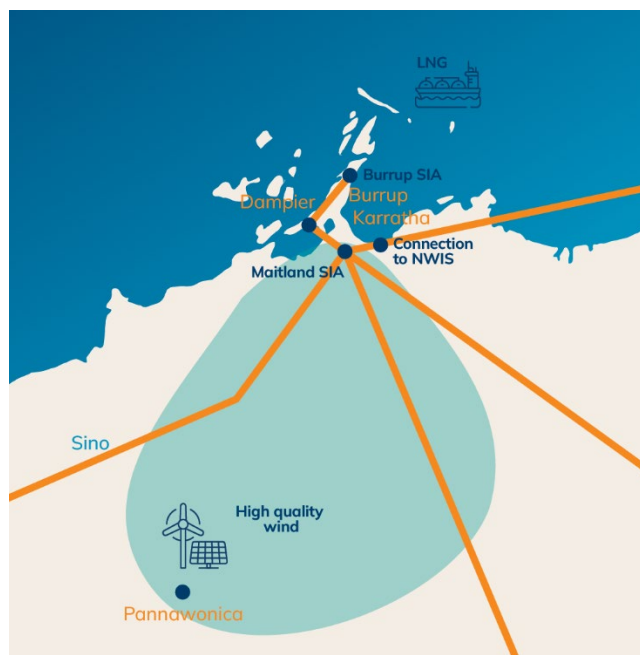
#### *The Chichester Range Corridor*

- The Chichester Range Corridor will connect the Maitland SIA with the high-quality wind zone approximately 50 to 100 kilometres further south, proximate to the Chichester Range, a hilly escarpment that rises above the coastal plains.

- This high-quality wind area is located conveniently for the Burrup, Maitland and Anketell SIAs and just outside the Wind Category D zone. This area was identified in EPWA's 2023 electricity modelling (which is available on request) as highly prospective for renewable generation projects.

- As outlined in the Burrup (Murujuga) Corridor description, potential renewable energy demand exists at the Burrup SIA with current industries located within the Burrup SIA seeking to explore and develop renewable energy solutions to reduce emissions.

- Upside demand potential may also exist from the Maitland and Anketell SIAs and through long term NWIS expansion possibilities east and west along the coast.

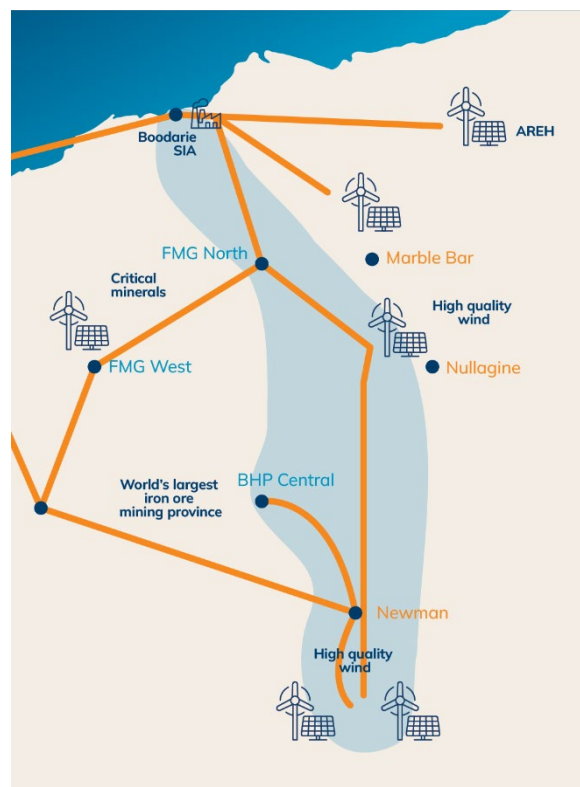




## East Pilbara Corridors

### The Hamersley Range Corridor

- The Hamersley Range Corridor is a transmission solution that will connect the Boodarie SIA and Port Hedland with the eastern edge of the Hamersley Range.
- This Range is home to the highest mountains in Western Australia and to the majority of the State's iron ore mining.
- This Corridor is expected to form an integral part of the future interconnected Pilbara network.
  - In terms of electricity demand, this line can supply the iron ore mines, lithium mines, Port Hedland and the Boodarie SIA; and
  - In terms of generation potential, high-quality wind resources are located east and south of this line, outside current active mining areas.



### The Great Sandy Desert Corridor

- The Great Sandy Desert Corridor looks to link Port Hedland with the western end of the Great Sandy Desert, a remote and sparsely populated region that is home to distinctive large longitudinal sand dunes.
- This Corridor will link the Boodarie SIA, potentially home to an emerging green iron industry, with renewable resources that prospective generators are looking to develop to the east.
- In combination with the Hamersley Range Corridor, this project could offer substantial renewable generation options, ensuring a competitive supply of green electricity to the eastern Pilbara.



## 4.2 Priority Project status

Priority Project status is intended to be awarded to proponents of projects in priority corridors (section 4.1) that best meet the WA Government's objectives as outlined in a set of five assessment criteria (section 5.2).

Priority Project proponents will be invited to negotiate, with a view to entering into a Corridor Development Agreement with a State entity. Refer to section 9 and Appendix A.2.

The State's objectives in proposing to negotiate a Corridor Development Agreement and subsequent Corridor Tenure Agreement are to:

- create a new private sector funded common-use transmission network in the Pilbara, that minimises the impact on country through avoided duplication;
- connect major load centres to high-quality renewable generation;
- introduce Priority Project proponents to the CEFC for consideration, including for RTN concessional finance (remaining subject to satisfactory agreement between Priority Project proponents and the CEFC, and subject to CEFC's investment approvals, as described in section 9.2); and
- ensure Traditional Owners achieve lasting benefit from the Pilbara energy transition.

## 4.3 Financing support for Priority Projects

Following the award of Priority Project status, the WA Government will make a recommendation to the CEFC for the project to have access to RTN concessional finance.

The CEFC will consider a recommendation from the WA Government as a key component in initiating its independent decision-making process regarding RTN Fund investments.

Projects must comply with both the objectives of the RTN program and the CEFC's eligibility requirements, as outlined in the *Clean Energy Finance Corporation Act 2012* (Cth) and the Clean Energy Finance Corporation Investment Mandate Direction 2023.

All investment decisions regarding RTN financing are made independently by the CEFC and not by the State. Any investment decision made by the CEFC is subject to the CEFC's applicable approval processes, credit and reputational assessments, and other due diligence.

Any security or other requirements imposed by the CEFC in respect of corridor rights or tenure or other State matters may be subject to other State regulatory approvals or agreement by the State.

## 5. Eligibility and Assessment Criteria

### 5.1 Eligibility Criteria

Applications will not be assessed against the Assessment Criteria in section 5.2 unless they satisfy the eligibility criteria as outlined below:

- The project seeks to provide transmission infrastructure to service a priority corridor outlined in section 4.1 of this document.
- There is evidence from a suitably authorised person(s) from within the proponent's organisation that the project is supported.
- The proponent has executed and submitted the Process Deed Poll (which accompanies the application form).

### 5.2 Assessment Criteria

Applications must address the assessment criteria outlined in this section.

There is no formal weighting of these criteria. The WA Government will assess the totality of each application.

The amount of detail and supporting evidence provided in applications should be relative to the size, complexity, stage of development and risk of the project.

Examples of documentary evidence to support meeting Priority Project assessment criteria have been provided for each criterion; these are examples only and proponents should provide documentation that best fits with their stage of project development and existing documentation.

The appendices to this guideline contain further information that proponents should consider before addressing the assessment criteria.

The following additional information will be made available to prospective project proponents on request (to the extent permitted by existing confidentiality and Intellectual Property restrictions):

- a copy of the 2023 EPWA Pilbara electricity modelling; and/or
- additional information regarding the Burrup (Murujuga) project.

A stakeholder information and question and answer session will be hosted by EPWA on 26 September 2024.

Submissions should be based on there being no express or implied commitment from the State or the RTN program to fund or finance projects and that other regulatory approvals and tenure requirements remain applicable and must be complied with.

### Criterion 1: Supports Pilbara Decarbonisation

*The project is appropriately sized and supports linking of renewable generation to demand centres.*

Assessment criteria:

- A: Project is of appropriate size and scale, with additional capacity built-in, and scope for further augmentation, to offer a level of future proofing against expected growth<sup>7</sup> in renewable generation projects and renewable energy demand in the Pilbara.
- B: Proposed project route supports accelerated decarbonisation in the Pilbara through efficient linking of renewable generation sources to renewable energy demand.
- C. Project can accommodate interconnection with other existing and proposed transmission infrastructure.

*Examples of evidentiary documentation for criterion 1 (to the extent possible given the project's stage of development):*

- *Network route map indicating possible connection points with loads and renewable generation.*
- *Project design documentation identifying:*
  - *expected or forecast demand from network users at or near project commencement (foundation demand);*
  - *indicative notional design (specifying at least voltage and number of circuits) which would be sufficient to service the foundation demand (notional base design) and its indicative thermal capacity in MW (notional base capacity); and*
  - *indicative proposed actual design (voltage, number of circuits, thermal capacity in MW) which includes additional capacity above notional base capacity built into the project from the outset to meet transmission requirements for future renewable energy needs in the Pilbara.*
- *Indicative concepts for how the actual design (i.e. including additional capacity) might itself be extended or expanded, once the spare capacity is exhausted, to further facilitate renewable uptake in the Pilbara.*
- *A summary of proposed initial interconnections of the project with existing and new transmission infrastructure, and possible future interconnections, to contribute to an expanded NWIS.*

<sup>7</sup> In most instances a minimum of 330 kilovolts will likely be required for major common-use transmission lines in the Pilbara. This does not preclude smaller capacity infrastructure in some common-use corridors, but the evidence supporting this departure must be compelling. A stakeholder pack summarising electricity modelling undertaken in 2023 will be made available to proponents on request.

## **Criterion 2: Positive Outcomes for Traditional Owners**

*The project proponent demonstrates, or commits to demonstrate, best practice engagement with impacted Traditional Owner groups and mechanisms to share project benefits with these groups.*

Assessment criteria:

- D: Proponent commits to ongoing engagement with Traditional Owners directly impacted by the project.
- E: Proponent commits to working with directly impacted Traditional Owner groups to establish meaningful benefit from the project.
- F: Project is, or will be, designed to minimise disturbance to country.

*Examples of evidentiary documentation for criterion 2 (to the extent possible given the project's stage of development):*

- *An Aboriginal engagement plan that demonstrates engagement across the life of the project.*
- *Commitment to involve Traditional Owners and their communities across the life of the project (including design and development) and a plan for how this is to be achieved.*
- *Identification of proposed benefit sharing mechanism/s, including involvement of Traditional Owners in development.*
- *Details of design philosophy to minimise disturbance to country before, during and after construction phase (e.g. flexible tower placement to avoid heritage sites, avoids the need for duplicate lines, ability to further augment with minimum disturbance if required).*

## **Criterion 3: Positive Outcomes for the Community**

*The project proponent demonstrates, or commits to demonstrate, best practice engagement and consideration of benefits with impacted communities.*

Assessment criteria:

- G: Proponent demonstrates engagement with, or commits to engage with, local communities, including plans to mitigate impacts.
- H: Project supports, or will support, employment opportunities for the local community.

*Examples of evidentiary documentation for criterion 3 (to the extent possible given the project's stage of development):*

- *Community engagement plans.*
- *Community impact mitigation plans.*
- *Socio-economic sustainability reporting for the project.*
- *Evidence of engagement with local skills providers.*
- *Summary of consideration of development of regional skills, training and employment opportunity creation in support of the project.*



#### **Criterion 4: Provides Common-Use Infrastructure**

*The project will provide credible, effective third party access to all access seekers on reasonable and equitable terms.*

Assessment criteria:

- I: Proponent commits to regulation under the Pilbara Networks Access Code (PNAC) to allow third party access;
- J: If proponent is or will be vertically integrated (defined below), adequate measures are or will be in place to mitigate the associated risk of conflicts of interest, discrimination or leakage of confidential information (refer to Appendix A.1.5 (d));
- K: Proposed revenue and tariff model is consistent with the principles set out in these guidelines (refer examples of evidentiary documentation for this criterion); and
- L: Commitment to the *CorridorCo*<sup>8</sup> model as described in Appendix A.2, and to negotiating with a view to concluding a Corridor Development Agreement.

##### *Examples of evidentiary documentation for criterion 4:*

- *Commitment that the Priority Project (inclusive of all project stages) will voluntarily opt-in to regulation under the PNAC and will not opt out again.*
- *Commitment that proponent will facilitate connection of third party generation and loads, and interconnection of third party networks, as required under the PNAC.*
- *Acknowledgement and acceptance of proposed regulatory evolution described in Appendix A.1.*
- *Any proposed departures from the CorridorCo model as described in Appendix A.2.*
- *An indicative tariff and revenue model which is consistent with the PNAC and the principles set out in Appendix A.1.5(f) and which demonstrates:*
  - *the revenue expected to be recovered from foundation users;*
  - *an indicative regulated revenue cap for the proposed actual design determined using the full Regulated Asset Base (RAB) including additional capacity;*
  - *how the model will deal with any gap between the two, to the extent RTN funding does not do so, including how long any risk-mitigation measures will apply, and what factors may trigger their cessation; and*
  - *how the model will distribute the benefits, once revenue reaches or would exceed the cap, which may include incentive mechanisms.*
- *An indicative proposal for how revenue is to be managed between Network Service Providers (NSPs), if supply to a customer involves wheeling power through multiple interconnected networks.*
- *Any proposed regulatory components which the proponent seeks to agree contractually with the State (as described in Appendix A.1.2).*

<sup>8</sup> *CorridorCo* is the term used to define a collection of functions that the State proposes to undertake. The actual form of delivery is to be determined.

- *Details on how the project will utilise the proposed priority corridor(s) efficiently such that any future expansions, additional lines or other utilities can be accommodated.*
- *Whether the proponent proposes to be vertically integrated. An entity will be considered “vertically integrated” if it or its related bodies corporate participate or propose to participate directly or indirectly in an upstream or downstream market (e.g. as a generator, retailer or material load). Any such upstream or downstream participation is a “related business”.*
- *If the proponent proposes to be vertically integrated:*
  - *Details of its proposed measures and incentives to mitigate its transmission business’ conflict of interest, scope for discrimination and risk of leakage of confidential information.*
  - *In particular, details of how the proponent will ensure that any contracts (or informal arrangements) between the transmission business and a related business are kept at arms-length, match what would be available to a third party and are made transparent.*
  - *In designing its proposals regarding how it will manage its vertical integration, the proponent should put forward the protections it would wish to have in place if it is not awarded Priority Project status, and instead its related business needs to seek access to a transmission network operated by another vertically integrated business.*

### Criterion 5: Project Viability and Timeliness

*The proponent has the capacity to progress and deliver the project in a timely fashion.*

Assessment criteria:

M: Key project delivery timeframes and approval milestones are established.

N: Proponent possesses the requisite capacity and experience to successfully deliver the project as proposed.

#### *Examples of evidentiary documentation for criterion 5:*

- *Project plan demonstrating pathway to Final Investment Decision (FID) and associated timeframes (where project is to be delivered in stages, identify indicative FID pathway for each stage).*
- *Internal (e.g. Investment Committees) and external pathway (e.g. Foreign Investment Review Board if needed) approvals required before FID.*
- *Indicative timing of construction, commissioning and commercial operation of project.*
- *To the extent possible, given the project's stage of development:*
  - *Preliminary survey, assessment and other due diligence works.*
  - *Provision of details on all existing and proposed tenure agreements within proposed priority corridor(s).*
  - *Identification of any outstanding assessments or requirements and detail any likely encumbrances or impacts on timelines.*
- *Financial capability statement with supporting evidence, including:*
  - *the latest audited financial statements (including profit and loss statement, balance sheet, statement of cash flows and explanatory notes) for the previous three financial years for:*
    - *the lead organisation and partner organisations;*
    - *where the proponent is a special purpose vehicle, for the parent organisations of the participants within the special purpose vehicle.*
- *Technical capability statement with supporting evidence, including details of key personnel with relevant experience to ensure successful completion of the project.*
- *Identified possible route-to-market options including outlining key commercial arrangements that will be required to achieve a positive FID.*
- *Identified uncertainties that need resolution prior to FID.*

## 6. Applications

### 6.1 How to apply

The following steps are required prior to submitting your application:

- Complete the application form available at <https://www.wa.gov.au/pilbara-energy-transition>;
- Execute the Process Deed Poll (accompanying the application form);
- Provide all the information requested in the application form and these guidelines;
- Address all eligibility criteria and assessment criteria; and
- Include all necessary attachments.

Applications must be submitted by **5pm AWST on Friday, 25 October 2024**.

You are responsible for ensuring that your application is complete and accurate.

If you find an error in your application after submitting it, you should contact us immediately on [PET.Secretariat@demirs.wa.gov.au](mailto:PET.Secretariat@demirs.wa.gov.au). We do not have to accept any additional information, nor requests from you to correct your application after the closing time.

If we find an error or information that is missing, we may ask for clarification or additional information from you that will not change the nature of your application. However, we can refuse to accept any additional information from you that would change your submission after the application closing time.

You should keep a copy of your application and any supporting documents.

We will acknowledge that we have received your application within two (2) working days after receipt of your submission.

### 6.2 Joint (consortia) applications

We recognise that some organisations may want to join together as a group to deliver a project. In these circumstances, you must appoint a 'lead organisation'. Only the lead organisation can submit the application form. The application must identify all other members of the proposed group and include a letter of support from each of the partners.

Each letter of support should include:

- details of the partner organisation and proposed interest in the project;
- an overview of how the partner organisation will work with the lead organisation and any other partner organisations in the group to successfully complete the project;
- an outline of the relevant capability, experience and/or expertise the partner organisation will bring to the group;
- the roles/responsibilities of the partner organisation; and
- details of a nominated management level contact officer.

Refer to section 10.6 for information regarding a change of proponent or consortium member.

### **6.3 Questions during the application process**

If you have any questions during the application period, please contact [PET.Secretariat@demirs.wa.gov.au](mailto:PET.Secretariat@demirs.wa.gov.au).

The Pilbara Energy Transition team will endeavour to respond to emailed questions within three (3) working days. If applicable, answers to questions will be posted on the PET website.



## **7. The Selection Process**

### **7.1 Assessment of applications**

Applications will initially be assessed against the eligibility criteria.

Each eligible application will then be assessed in terms of:

- how well it meets the assessment criteria;
- if applicable, how it compares to other applications; and
- any other relevant information contained in the application.

### **7.2 Who will assess applications?**

An assessment panel of senior public servants, with access to external subject matter expertise, will assess eligible applications.

The assessment panel will provide details of its review and recommendations to the WA Government, as the decision maker, as to which projects should be awarded Priority Project status.

### **7.3 Who will approve Priority Project Status?**

The WA Government will decide which projects to approve as a Priority Project, taking into account the recommendations of the assessment panel and any other external advice sought during the assessment process.

The WA Government's decision is final in all matters, including:

- the approval or non-approval of Priority Project status; and
- any recommendation for consideration of finance under the RTN program.

There is no appeal mechanism for decisions made concerning this EOI.

## **8. Application Outcomes**

### **8.1 Notification of outcome**

The Minister for Energy, through EPWA, will advise you of the outcome of your application in writing. If successful, you will be advised at this time of any specific conditions attached to Priority Project status.

### **8.2 Feedback on your application**

If unsuccessful, you may ask for written feedback within 15 business days of being advised of the outcome.

We will endeavour to provide written feedback as soon as practicable after your request.

Accommodation for a face-to-face debrief can be requested and will be met at the discretion of EPWA and/or the Minister for Energy.

### **8.3 Further opportunities**

The State may, in its absolute discretion, conduct other processes or seek further applications at a later date to identify proponents for the priority corridors, and any other Pilbara corridors, including if there are insufficient suitable applications to meet the PET Plan objectives.

## 9. Successful Applications

### 9.1 Announcement of Priority Project Status

Successful projects will be listed on the PET website 21 calendar days after the date the project is awarded Priority Project status (notification date).

No public announcement may be made by any other person on Priority Project status until after a formal announcement has been made by the WA Government.

### 9.2 Future arrangements

Successful proponents must enter into negotiations with the State as to the terms of a “Corridor Development Agreement” (refer to Appendix A.2.5).

All engagements with the CEFC in respect of RTN financing will be subject to direct discussion and resolution of commercial negotiations between successful applicants and the CEFC.

The provision of any RTN financing by the CEFC is subject to alignment with RTN policy objectives and the CEFC’s usual requirements for transactions of this nature which include:

- eligibility under the CEFC legislation and mandate;
- a detailed assessment of the commercial, credit, and other risks and returns of the financing;
- completion of satisfactory due diligence (including in relation to any environmental, social or governance matters that may arise);
- investment approvals;
- execution of finance documentation satisfactory to the CEFC; and
- satisfaction of customary conditions precedent for financings of this nature.

The State does not determine the availability of RTN financing.

### 9.3 Specific legislation, policies and industry standards

Projects are required to be compliant with all relevant laws and regulations, in order to maintain Priority Project status, and successful proponents will be expected to comply with the evolving Pilbara regulatory regime.

### 9.4 Reporting

A proponent awarded Priority Project status must submit progress reports to EPWA on at least a quarterly basis from the notification date.

Progress reports must include:

- evidence of progress towards completion of agreed activities and outcomes;
- discussion of any project delays and any likely impacts to project delivery; and
- confirmation that any conditions of Priority Project status are maintained.

If a Corridor Development Agreement is entered into, any reporting requirements in that agreement supersede these reporting requirements.

Proponents should note that Priority Project status can be withdrawn. Please refer to section 10.10.

## **10. Process Conditions**

### **10.1 Process Deed Poll**

The proponent must execute and submit the Process Deed Poll (accompanying the application form) in favour of the State as part of its application which, among other things includes an acknowledgement that the proponent accepts and is bound by these guidelines, as may be amended, including the conditions in this section 10.

### **10.2 Proponent must enter into negotiations on basis of application**

If awarded Priority Project status, the proponent must enter into negotiations with the State for a Corridor Development Agreement as described in Appendix A.2.5 on the basis of the application, subject to any changes agreed with the State.

Proponents must comply with the reporting obligations described in section 9.4.

### **10.3 Acceptance or rejection of applications**

The State is not required to accept or reject any application, including any application that does not comply with these guidelines, or which is incomplete or is submitted after the closing date for applications.

The State may issue additional instructions or materials after issuing these guidelines, in its sole discretion.

The award of Priority Project status does not of itself give rise to an express or implied contract between the successful proponent and the State. Neither the State, any Government owned entity, nor any other person is under any obligation to enter into any contract with a successful proponent or any other person.

### **10.4 Proponents agree to these guidelines**

By taking part in the process outlined in these guidelines, the proponent agrees to be bound by these guidelines.

In addition to any other remedies available to the State under law or these guidelines, any failure by the proponent to comply with any law, the Process Deed Poll or these guidelines will, in the absolute discretion of the State, entitle the State to terminate the participation of the proponent in the process or if a project has been awarded Priority Project status, to revoke that status.

The proponent must ensure that any associates or consortium members who participate in the process agree to be bound by and comply with these guidelines.

The obligations of a proponent under these guidelines survive the termination or expiry of the process.

### **10.5 Applications must be complete and accurate**

The proponent must ensure that all information provided to the State, including in its application, which is submitted in response to these guidelines or in respect of a Priority Project is complete, accurate, current and not misleading or deceptive.

The proponent must advise the State in a timely manner if there is any change to, or inaccuracy in, any information previously provided by it in, or in relation to, its application. The proponent must advise the State immediately if it ceases to meet the eligibility criteria set out in these guidelines.

### **10.6 Change to proponent and consortium members**

The proponent must notify the State promptly of any change in the structure or control of the proponent or any consortium member or the appointment, termination or replacement of any consortium member. The State reserves the right to assess the relevant change in circumstances and, in its absolute discretion, elect to terminate the proponent's or any consortium member's further participation in the process, or to invite the proponent to amend its application accordingly.

### **10.7 Guidelines are not an offer, process may change**

The proponent acknowledges and agrees that these guidelines are not an offer to enter into any contract and must not be construed or relied upon as an offer capable of acceptance by any person.

The State is under no obligation to complete the process outlined in these guidelines or to recommend or accept any application, or award any project Priority Project status. The State may change, suspend or cancel the process, or the description of requirements, outlined in these guidelines at any time. It will use reasonable endeavours to publish or otherwise communicate the change, suspension or cancellation to proponents, but a failure to publish or communicate will not affect the validity of the change, suspension or cancellation.

The State reserves the absolute right to decline, accept, defer, or redirect applications to another government process at any time.

### **10.8 Other statutory approvals and processes**

This process does not bypass any government approvals, planning, environmental and other regulatory processes.

### **10.9 State not liable**

The State will not be liable for any costs incurred by any person arising from or in connection with these guidelines or preparing and submitting an application under the process set out in these guidelines. A proponent's, or other person's involvement in the process is at the sole cost and risk of the proponent or other person.

Information on the priority corridors in this document has not been independently verified. The State does not make any representation or warranty, express or implied, as to the accuracy or completeness of any information in this document or otherwise provided in connection with this EOI, and no reliance should be placed on the statements included, including as to any potential for future opportunities. Maps are indicative general concepts only, not surveyed, topographically accurate or to scale.

The State does not accept any liability for any loss arising, directly or indirectly, from the EOI process or the information contained in this document or otherwise provided in connection with this EOI.

### **10.10 Priority project status may be withdrawn**

The State reserves the right, in its absolute discretion, to withdraw Priority Project status, including if it determines that a Priority Project fails to make sufficient progress against or seeks to depart from commitments made in the application relating to that project without the agreement of the State.

### **10.11 Evaluation**

The State may evaluate the Priority Project process to measure how well the outcomes and objectives have been achieved. The State may use information from a proponent's application and reports for this purpose.

The State may also interview a proponent or ask a proponent for more information to help the State understand how the process benefited/impacted proponents and to evaluate how effective the process was in achieving its outcomes.

### **10.12 Probity**

The State will make sure that the Priority Project EOI process is fair and incorporates appropriate safeguards against fraud, unlawful activities, and other inappropriate conduct.

These guidelines may be changed by the State at any time. Notification of the revised guidelines will be published on the PET website.

### **10.13 Conflicts of interest**

The proponent must declare, as part of its application, any perceived or existing conflicts of interest or that, to the best of its knowledge, there is no conflict of interest.

Proponents are required to disclose any current or past relationships or connections that may unfairly influence the integrity of the assessment process.

If the proponent later identifies an actual, apparent, or perceived conflict of interest, the proponent must inform EPWA in writing immediately at [PET.secretariat@demirs.wa.gov.au](mailto:PET.secretariat@demirs.wa.gov.au).

### **10.14 No anti-competitive conduct**

The proponent must not engage in any collusion, anti-competitive conduct, cartel conduct or any other similar conduct with any other person in relation to:

- any aspect of its project;
- the preparation or submission of its application under this process, or the application of any other person responding to these guidelines or participating in the process; or
- the conduct of negotiations between the State and the proponent.

The proponent acknowledges and agrees that it must not attempt to obtain any advantage for itself, or any other person, by seeking information in relation to this process other than through the means set out in these guidelines or attempt to influence the State in relation to the process through any means apart from communications consistent with these guidelines.

The State may, in addition to any other remedies available to it, in its absolute discretion, disqualify a proponent if that proponent has engaged in any collusion, anticompetitive conduct, cartel conduct or any other similar conduct in respect of the process.



### 10.15 Freedom of Information and Privacy

Documents and other information relevant to this process may be disclosed as required by law, including the *Freedom of Information Act 1992 (WA)* or under a court order.

Materials or information passed under this program to the CEFC or the RTN Office within the Australian Government Department of Climate Change, Energy the Environment and Water may also be subject to disclosure if required by law including under the *Freedom of Information Act 1982 (Cth)*.

### 10.16 Confidential Information

Other than information available in the public domain, the proponent agrees not to disclose to any person any confidential information of the State, without the prior written approval of the State. The obligation will not be breached where the proponent is required by law, Parliament or a stock exchange to disclose the relevant information or where the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation).

The State may, at any time, require the proponent to arrange for the proponent; or its employees, agents or subcontractors, to give a written undertaking relating to nondisclosure of State confidential information in a form the State considers acceptable. Subject to any applicable law and permitted disclosures below, the State will keep any information in connection with the application confidential to the extent that it meets all of the three conditions below:

1. the proponent clearly identifies the information as confidential and explains why it should be treated as confidential;
2. the information is commercially sensitive; and
3. revealing the information would cause unreasonable harm.

The State is permitted to disclose information in connection with the proponent's application to:

- the assessment panel, government employees and contractors to help manage the assessment process effectively;
- employees and contractors of DEMIRS so the State can research, assess, monitor and analyse its processes and activities;
- employees and contractors of other government agencies for any purposes, including government administration, research or service delivery;
- the CEFC;
- the RTN Office within the Australian Government Department of Climate Change, Energy, the Environment and Water (and to the extent is required by law, to other parts of the Australian Government, its agencies or to the Parliament of Australia);
- the Auditor-General, Ombudsman or Privacy Commissioner;
- the responsible Minister or Parliamentary Secretary; and
- a House or a Committee of the Western Australian Parliament.

### **10.17 Enquiries and feedback**

Any complaints about the EOI process should be provided in writing to [PET.secretariat@demirs.wa.gov.au](mailto:PET.secretariat@demirs.wa.gov.au).

Any questions about these guidelines should be sent to [PET.secretariat@demirs.wa.gov.au](mailto:PET.secretariat@demirs.wa.gov.au).

## Appendix A

The below descriptions of possible regulatory reforms and tenure arrangements describe the WA Government's present thinking, which will continue to evolve. This material is provided for information purposes only. Proponents must not rely on the statements made and are responsible for undertaking their own due diligence and making their own assessments in relation to these guidelines and any subsequent reforms, negotiations or agreement.

### A.1 Regulatory Evolution

The new Pilbara grid (of which the transmission infrastructure in the Priority Corridors will form part) will be common-use infrastructure, intended to facilitate decarbonisation of existing and future industrial activities. The present regulatory regime will evolve to ensure it remains fit for this purpose.

#### A1.1 Present state

Under the *Electricity Industry Act 2004 (WA)*, the core documents of the Pilbara regime are:

- the Pilbara Networks Rules (PNR, which include the Pilbara Harmonised Technical Rules (PHTR)) which deal with network operation and administration for the North West Interconnected System (NWIS),<sup>9</sup> and manage many of the critical operational and commercial matters necessary to make third party access viable, including essential system services, connection standards and approvals for access seekers; and
- the Pilbara Networks Access Code (PNAC), which manages third party access, contracting and pricing.

#### A1.2 Process for reform

The evolution of the PNR and PNAC will occur in stages, to accommodate the growing scale and complexity of the NWIS. All changes will go through public consultation.<sup>10</sup>

The reforms are intended to provide a transition pathway for early projects to give them and their foundation customers adequate certainty at the outset, while not hampering the broader regime's evolution.

For early projects, the WA Government intends to supplement the present regulatory regime with contractual arrangements, to be set out in the Corridor Development Agreement and Corridor Tenure Agreement (discussed in Appendix A.2).

#### A.1.3 Governance review

As part of the Pilbara Energy Transition, EPWA is reviewing the Pilbara regime's governance arrangements to ensure they remain fit for purpose.

This review will likely lead to changes, both to the PNR and to Pilbara ISOCO Ltd's internal arrangements, to strengthen the system operator's independence and provide confidence to investors.

<sup>9</sup> The NWIS comprises Horizon Power's and APA's covered networks and Rio Tinto's non-covered network. The PNR only partially apply to Rio Tinto's network: PNR rule 5.

<sup>10</sup> Changes to the PNR go through a formal consultation process under PNR Appendix 2. The PNAC's formal change process is set out in sections 120H to 120J of the *Electricity Industry Act 2004*.

#### **A.1.4 PNR evolution**

The PNR and PHTR are also being reviewed more generally to ensure they enable and support a substantially expanded Pilbara grid with high penetration of inverter-based intermittent generation.

Stakeholders should examine the minutes and meeting materials of the Pilbara Advisory Committee's 2024 meetings (available [here](#)) for more information about these reforms.

#### **A.1.5 PNAC evolution**

The PNAC is expected to evolve in several ways.

##### *(a) Coverage*

All transmission lines which form part of the core meshed interconnected system will be 'covered' for the purposes of third party access. Pending any changes to the PNAC, early transmission projects will be required to opt in to regulation and not opt out.<sup>11</sup>

##### *(b) How access contracts are formed and managed*

Under the PNAC, access contracts (including connection and interconnection agreements) are negotiated between the Network Service Provider (NSP) and the access seeker. Failing agreement, the parties may arbitrate. In general, the parties are free to agree whatever terms they choose. There is no proposal to change this.

##### *(c) Wheeling energy across multiple networks*

The reforms will deal with the contracting process for access seekers who wish to wheel their electricity across more than one network. For the time being, this will be managed using the existing PNAC contracting arrangements.

In the Pilbara, the final decision to approve new connections rests with the Independent System Operator, not the NSP,<sup>12</sup> following uniform guidelines set out in the PNR. This not only deals with potential NSP conflicts of interest (see below re NSP vertical integration), but also provides some uniformity of decision-making across multiple networks with different owners. This will be retained.

At present, interfaces between networks are managed by NSP-NSP interconnection contracts. Where matters regarding the interconnection point impact on access seekers, such as energy balancing, power quality and constraints on the interconnect, the proposed reforms will move these matters to be regulated uniformly by the PNR, rather than bespoke private bilateral contracts for each point of interconnection.

At a commercial level, the combined regulatory and contractual landscape will need to manage interconnections and interdependencies between different Priority Projects, and between Priority Projects and existing infrastructure. It will be necessary to harmonise and coordinate between the various projects, and collaborative risk management measures may be needed.

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<sup>11</sup> PNAC section 31. It is intended that this commitment will be reflected in the Corridor Tenure Agreement (see Appendix A.2).

<sup>12</sup> PNR rule 270(2)

*(d) Managing vertical integration*

A transmission business is “vertically integrated” if it or its related bodies corporate also participate directly or indirectly in an upstream or downstream market (e.g. as a generator, retailer or as a material load, other than electricity consumed incidental to its transmission operations). Any such upstream or downstream participation is a “related business”.

Vertical integration raises potential risks for effective and efficient open access because a vertically integrated NSP can favour its own related business through discriminatory decision-making, discriminatory contracting or misuse of confidential information. As a result of this, most regulatory regimes prohibit vertical integration.

The WA Government recognises the commercial reality of the Pilbara market in which many current and presently-proposed transmission operators are or propose to be vertically integrated.

Given the risks raised by vertical integration, clear and effective protections must be in place to mitigate those risks. The PNAC and PNR will be reviewed in this regard and amended as necessary.

For example, the regime will ensure that sensitive decisions are made or overseen by the ISO and not the vertically integrated NSP. The reforms will also likely include strengthened rules regarding contracts or other internal arrangements between an NSP and its related business. The ringfencing and transparency arrangements will be reviewed to ensure that they are fit for purpose.

*(e) Will access to the grid be ‘constrained’ or ‘unconstrained’?*

The evolving regime must balance competing objectives. The reforms will develop a regime that prioritises reliability for foundation customers while ensuring future access seekers have confidence in their ability to connect under fair and reasonable terms.

*(f) How access prices will be regulated*

The Government intends to retain as much of the PNAC’s current regulation model as possible.

Under the current model, each NSP may design its revenue and tariff methodology however it chooses, subject to broad bounds set out in the PNAC.<sup>13</sup> Within these bounds, each NSP, after public consultation, is free to set its own Regulated Asset Base (RAB), rate of return and depreciation arrangements, and design its own tariff methodology. There is no proposal to change this approach.

Accountability for NSPs in this process comes from access seekers’ ability to arbitrate an access dispute. The reforms may introduce faster and more effective accountability measures to supplement arbitration.

The PNAC will likely be amended to prescribe a revenue cap model,<sup>14</sup> but exceptions may be allowed to incentivise certain behaviour, e.g. to incentivise the NSP to keep selling spare capacity after the revenue cap has been reached.

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<sup>13</sup> See PNAC Chapter 5.

<sup>14</sup> In simplified terms, a “revenue cap” is a rule which requires the NSP’s revenue from all users (foundation users and others, and whether they are paying regulated tariffs or privately agreed contractual tariffs) to not exceed a theoretical target revenue allowance, calculated using the building block cost of service model to provide the NSP with full recovery of its RAB, efficient operating costs and an appropriate risk-reflective rate of return.

The PNAC's freedom of contract approach will apply. Hence, the NSP and access seekers will be free to negotiate bespoke tariff arrangements, and these will be unregulated other than making sure they are not underwritten by cross-subsidies from other users.

Proponents should bear the following principles in mind:

- the PNAC's revenue and pricing principles<sup>15</sup> will apply;
- where possible, prices should not distort competition in upstream or downstream markets;
- once sufficient spare capacity has been sold to reach the revenue cap, additional revenue should benefit all users (foundation and other) equitably, perhaps after an incentive share for the NSP as noted above; and
- the revenue model may include an 'unders and overs' mechanism to accommodate shortfalls in demand without disrupting tariffs.

*(g) Risk mitigation for early projects*

The current PNAC allows an NSP to avoid the upfront burden of regulatory approval, but this comes at the cost of having its self-determinations on key matters such as RAB, rate of return and depreciation at risk of subsequent challenge before an arbitrator.

For capital expenditure, the PNAC allows the NSP to eliminate this risk, by seeking preapproval<sup>16</sup> from the Economic Regulation Authority. The reforms may extend this optional preapproval mechanism to other matters including the rate of return determination and depreciation schedule.

*(h) How the revenue model should deal with the volume risk of additional capacity*

The WA Government expects proponents to take on the volume risk associated with additional capacity in excess of foundation demand. Proponents will need to describe how their revenue model may manage this risk and to what extent they are seeking consideration of support from RTN.

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<sup>15</sup> PNAC section 8, see also regulation 4 of the *Electricity Industry (Pilbara Networks) Regulations 2021*.

<sup>16</sup> PNAC section 56. Pre-approved capex cannot be revalued by an arbitrator, if incurred in accordance with the approval.



## A.2 Corridor Rights and Land Tenure

### A.2.1 Policy context

Infrastructure corridors in the Pilbara are strategically important and the WA Government has decided that the tenure for transmission corridors is to be secured and held by a State entity.

The reasons for this include:

- The State wishes to ensure that its objectives regarding Traditional Owner participation are met.
- The State wishes, where possible, to retain the ability to host non-conflicting activities within the corridor where it is safe and reasonable to do so.
- The State wishes to ensure that the proponent delivers on its commitments in respect of the State's objectives (e.g. effective third party access).

The State corridor entity will also provide other opportunities. Where appropriate:

- it will allow the State to maintain oversight of a long-term strategic asset;
- it may be willing to undertake or assist with early project development work on identified potential transmission projects;
- it may provide one way for Traditional Owners to participate in a project; and
- it will allow the State to facilitate wider community engagement to ensure the State's values and objectives are being met.

### A.2.2 CorridorCo

A State corridor entity, currently referred to as *CorridorCo*, is expected to perform the following functions:

- securing and maintaining land tenure for Pilbara transmission corridors on behalf of the State;
- entering into Corridor Development Agreements (Appendix A.2.5) and Corridor Tenure Agreements (Appendix A.2.6) which grant proponents adequate rights to enable them to develop, then build, own and operate, their transmission assets;
- as required, and if appropriate, undertaking early project development work for priority transmission projects;
- delivering, collaborating with the proponent to deliver, or monitoring or supervising the proponent's delivery of:
  - best practice engagement with Traditional Owners to support self-determination;
  - best practice engagement with other land interest holders; and
- where practicable and safe, enabling the State or others to use transmission corridors for non-conflicting activities that are in the public interest.

It is proposed that these functions are carried out by a State-owned or controlled entity (or similar) on behalf of the State. In performing *CorridorCo* functions, the entity will be subject to normal confidentiality obligations and, if necessary, suitable ring-fencing requirements.

There should be no expectation that the State will provide any funding towards the construction or operation of transmission infrastructure or procure any government approvals or truncate or waive any planning, environmental and other regulatory processes.

### A.2.3 Tenure options

The nature of tenure across the Pilbara is such that different tenure solutions may be required in different locations.

There are various options, although not all are equally attractive, and not all will be available or appropriate in all circumstances.

It may prove necessary for a project to commence development under one form of tenure, then transition to another more enduring form.

The Government has established a team within the Department of Planning, Lands and Heritage to work with proponents to facilitate appropriate tenure outcomes.

### A.2.4 Existing projects to transfer tenure to *CorridorCo*

Where proponents have already commenced work to secure corridor tenure, they will be expected to transfer (or otherwise vest) their existing tenure rights to *CorridorCo*, or, where this is not practicable, to make other acceptable arrangements with *CorridorCo*.

The commercial pathway and terms for this will be set out in the Corridor Development Agreement.

### A.2.5 Corridor Development Agreement

It is anticipated that the principal instrument for each transmission project (by which adequate rights for transmission infrastructure in a relevant corridor will be granted) will be an agreement, referred to as the Corridor Tenure Agreement, see section A.2.6.

However, as a precursor to that agreement and to govern the development phase of the project, it is anticipated that the State, through *CorridorCo*, and the successful proponent will enter into a Corridor Development Agreement.

The terms of the Corridor Development Agreement are to be negotiated, but the present expectation is that it may address matters such as the following:

- A preliminary transmission route.
- The proponent's commitments and a timeline in respect of developing the project, including securing off-takers and finance.
- The nature and scope of any development support to be provided by *CorridorCo*, and the terms on which this work will be compensated.
- A grant by *CorridorCo* of, or *CorridorCo's* assistance in the proponent procuring, sufficient tenure or other rights of entry to enable the proponent to undertake development work (route surveys, heritage assessments, geotechnical surveys, etc).
- The pathway and terms for the proponent to transfer or otherwise vest its existing tenure interests and work to *CorridorCo* when the Corridor Tenure Agreement is signed, if not sooner, or if this is not practicable, such other arrangements as may be agreed.
- A preliminary design and costing for the proposed infrastructure including pathways for augmentation if demand outgrows the initial facility.
- For comparison purposes, an indicative design and costing for the notional infrastructure which would have been built to service only foundation customer load (i.e. the foundation demand base case with no additional capacity).

- The proponent's commitment to opt in to regulation under the PNAC and not opt out again.
- The proponent's commitment to comply with the evolving PNAC and PNR.
- Indicative terms of the proponent's commitments in respect of Traditional Owner engagement and participation.
- Indicative terms of the proponent's proposed revenue and tariff model for third party access.
- A pathway for the parties to negotiate the main Corridor Tenure Agreement.

### **A.2.6 Corridor Tenure Agreement**

It is anticipated that a Corridor Tenure Agreement will be the main instrument by which the State or its related entity grants the proponent rights to build, own and operate its infrastructure in the corridor, and by which the proponent in return makes the necessary commitments to the State as described in these guidelines.

The terms of the Corridor Tenure Agreement are to be negotiated, but the present expectation is that it may address matters such as the following:

- The transmission route.
- The proponent's commitments in respect of Traditional Owner engagement and participation.
- A grant by *CorridorCo* of, or *CorridorCo*'s assistance in the proponent procuring, sufficient tenure or other rights of access to enable the proponent to build, own and operate the infrastructure in accordance with prescribed standards. If a permanent tenure solution cannot be put in place in time, a grant of interim tenure or rights together with an agreed pathway to how the permanent tenure solution will be established.
- Proponent to reimburse *CorridorCo* for securing and maintaining corridor rights.
- Title in all transmission assets will remain with proponent.
- Proponent will carry all project risk and will indemnify *CorridorCo* in this respect. (Noting that statutory immunities may be available for both proponent and *CorridorCo* under section 120ZB of the *Electricity Industry Act 2004* if appropriate.)
- Acknowledgement by the proponent that the State reserves the right to permit other non-conflicting activities within the corridor.
- To the extent not already completed under the Corridor Development Agreement, the transfer or other vesting to *CorridorCo* of the proponent's early work on tenure or rights, or other alternative arrangements as agreed.
- As a condition precedent, confirmation by the proponent that it has secured intending foundation customers, and a projected growth path for other third party users.
- A financing plan including indicative terms and a period within which to reach financial close.
- The final design and costing for the proposed infrastructure including pathways for augmentation if demand outgrows the initial facility.
- For comparison purposes, a final indicative design and costing for the notional infrastructure which would have been built to service only foundation customer load (i.e. the foundation base case with no additional capacity).

- The proponent's commitment to opt in to regulation under the PNAC and not opt out again.
- The proponent's commitment to comply with the evolving PNAC and PNR.
- The proponent's commitment to permit connection and interconnection and undertake augmentations as required by access seekers in accordance with sections 16 and 115(2)(c) of the PNAC, subject to the protections for the proponent set out in section 116 of the PNAC (access seeker must fund the work, cannot become an owner, etc).
- The proponent's decommissioning obligations, including an obligation to secure adequate funding for decommissioning.
- The proponent's proposed revenue and tariff model for third party access. Within reason, the corridor tenure's duration can be aligned with the cost recovery timetable set out in the revenue and tariff model.

The Corridor Tenure Agreement will likely include escalating enforcement mechanisms to ensure the proponent fulfils its commitments to the State.

The Corridor Tenure Agreement will include normal prudential requirements, such as a right for *CorridorCo* to approve any changes in the proponent's membership or constituent documents, restrictions on novation, (in each case, approval not to be unreasonably withheld), prohibitions on modern slavery, and anti-terrorism and anti-corruption measures and reporting requirements.

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