

Electricity generation licence application form

Purpose of this form

This form must be completed by persons applying to the Essential Services Commission (the commission) for a licence to authorise electricity generation in Victoria. Electricity generation includes battery energy storage systems.

Basis for this form

Section 18 of the *Electricity Industry Act 2000* (the Industry Act) provides that a licence application must be made in a form approved by the commission. This is the form approved by the commission.

Use of this form and the applicant's responsibilities

A licence application may be made by any legal person including, without limitation, individuals, incorporated associations, unit and other forms of trusts and corporations. Entities that are not a legal person (for example, an unincorporated joint venture or a partnership) cannot apply for a licence.

For the purpose of this application form, reference to the term "Officer" includes the applicant's directors and secretary, and other persons who make or participate in making decisions that affect a substantial part of the business (for example, Chief Executive Officer, Chief Financial Officer or General Manager).

The applicant should list the information requested in the spaces provided in this form and enclose additional information when required.

The applicant must take all reasonable steps to ensure the information provided in the application form is complete, true and correct.

An officer of the applicant is required to make a declaration to this effect in the application form. Failure to disclose information or misrepresent any matter relevant to such information may result in a licence not being issued or in the revocation of a licence later.

It is a criminal offence under section 61A of the *Essential Services Commission Act 2001* to provide the commission with false or misleading information or documentation.

The applicant is responsible for providing the commission with current, accurate and relevant documentation. It is the applicant's responsibility to make all reasonable inquiries to obtain the information requested by this form.

Providing accurate and relevant information and a complete application (answering all questions and providing all information) will assist in timely processing of an application. All applications are assessed on a case-by-case basis. If insufficient information is provided with an application, we will contact the applicant about the requirement for additional information to be submitted before the application is considered further.

Prior reading

It is expected that the applicant has read our [Guideline: Applications for electricity and gas industry licences](#) before completing this form.

It is the applicant's responsibility to ensure its compliance with legal obligations when applying for a licence.

Licence conditions

Section 20 of the Industry Act authorises the commission to issue licences subject to conditions as decided by the commission. Licences are published on our [website](#). We recommend the applicant familiarise itself with the relevant standard conditions and be confident that it can comply with those conditions prior to applying for a licence.

Further information

The applicant should note that we may ask for further information, or to clarify the information that the applicant has already provided with the application.

Consultation and confidentiality

We will consult with relevant government, industry and consumer groups on the licence application through a public consultation process. Applications and/or supporting information that is not confidential will be made available on our website.

If the applicant believes that any information provided as part of its application is confidential or commercially sensitive, it is the applicant's responsibility to clearly identify this information on those documents. The applicant should also provide a 'non-confidential' version of the application form and documents for publication on our website.

How to lodge an application

The applicant may send the completed application form electronically (preferred) or in hard copy to:

Electronically: licences@esc.vic.gov.au

Hard copy: Market Operations, Energy Division
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Large files

Applicants generally need to send us large files which is often not suitable via email. Please contact us at licences@esc.vic.gov.au to discuss alternative options to provide an application to the commission.

Application fees and annual licence fees

The commission has the authority to set a licence application fee. Currently, there is no application fee.

Holding a licence incurs annual licence fees. Refer to the commission's [Guideline: Applications for electricity and gas industry licences](#) for more information regarding annual licence fees.

1. General Information – The Applicant

The applicant must answer all questions in this section.

1.1 Legal name of applicant

State the full legal name of the applicant. The applicant is the person who will be generating electricity and/or selling (wholesale) electricity that will be the subject of the licence.

Name: Ferguson Wind Farm Pty Ltd

1.2 Legal identity of applicant

Provide the applicant's ABN and ACN (where relevant) and information about the applicant (for example, whether the applicant is a private limited company, trust, or joint venture).

ABN: 94 608 631 321

ACN: 608 631 321

Type of entity: Australian proprietary company limited by shares (refer Attachment 1)

1.3 Contact details and address of the applicant

The applicant	
Business address:	Level 2, 79-81 Coppin Street, Richmond
State: Victoria	Postcode: 3121
Postal address (if different):	As above.
State:	Postcode:
Full name of contact person:	Charles Perry
Position title:	Senior Project Manager
Telephone: n/a	Mobile: 0407 577 386
Email:	charlie.perry@baywa-re.com

1.4 Diagram of corporate and organisational structure

Attach a diagram illustrating the corporate structure, including details of any related companies within the meaning of the *Corporations Act 2001* and the organisational chart. Provide a diagram of the:

a) corporate structure (including any parent and related companies within the meaning of the *Corporations Act 2001*), and

Attachment reference: *Attachment 2*

b) organisational chart (including composition of the board, management, and other key personnel responsible for the key functions).

Attachment reference: *Attachment 3*

1.5 The licence

The applicant must answer all questions in this section.

If the applicant is seeking for a licence to be issued by a certain date, identify this date. **Note: we do not undertake to issue the licence by this date.** The applicant should usually allow a minimum of eight to 10 weeks **once we consider the application to be complete.** An application is considered complete once we have all the information needed for the commission to make a decision. In other words, when we have no need to request further information from the applicant. This includes a public consultation period of four weeks (generally) as part of our consideration of licence applications.

Provide details on the following:

Date from which licence is sought: *26 August 2022*

Type of generation: *Wind Farm*

Expected name plate capacity: *10.8 MW (Ferguson North 3.6MW / Ferguson South 7.2MW)*

Location of generation facility: *1862 Princetown Road, Cooriemungle, Victoria, 3268*

Details of how the generator will be connected to the network:

Via two separate connection points into Powercor's 22kV network, being: Ferguson North (3.6MW) and Ferguson South (7.2MW).

2. Technical capacity

The applicant must answer all questions in this section.

2.1 Experience and knowledge of the industry

Provide information about the human resources available to the applicant. This includes:

- a) The experience and qualifications of those employees outlined in the organisational chart (see 1.4b);
- b) If the applicant will employ contractors or agents to assist with the licensed activities, the name of those contractors or agents, details about the experience of the contractors or agents in such operations and details of the processes in place to ensure the contractors or agents comply with the licence conditions, including relevant regulatory obligations

a) See Attachment 4 for the team's experience and qualifications (Key Personnel CVs).
b) Contractors: Vestas Australian Wind Technology Pty Ltd ("Vestas") is engaged for the long term operation and maintenance of the wind farm. Vestas is contractually obligated to comply with all licences and regulatory requirements under the O&M Contract (see Attachment 5). Vestas is an international original equipment manufacturer with significant market share in Australia (ISO accredited). It maintains all of its wind farms in Australia via long term O&M contracts. BayWa r.e. Project Australia Pty Ltd will carry out asset management services.

Where the applicant is relying on a third party to provide staff and/or resources to meet the technical capacity requirements of the generation and wholesale licence, provide:

- c) the experience and qualifications of any relevant key employees who will manage those systems and processes;
- d) if the applicant will engage third parties to assist with the licensed activities, provide the following information in relation to each third party:
 - (i) the name of that third party
 - (ii) the scope of activities undertaken by the third party
 - (iii) details and copies of any agreements for the provision of services
 - (iv) details about the experience of the third party in relation to the activities that it will be undertaking, including any accreditations
 - (v) details of the processes in place to ensure the third party complies with the licensee's regulatory obligations.

Vestas (see answer above at Item 2.1 (b)). Vestas' scope under the O&M agreement is to operate and maintain the wind turbine generators at the facility. Vestas has more than 40 years experience in the wind industry with more than 132 GW of wind power capacity across 83 countries. Vestas has a portfolio of 113GW under service agreements. (continued on next page)

(continued from previous page)

Please see more details at Attachment 7. Vestas is obligated under the terms of the O&M agreement to comply with all Laws and Permits and this mandate encompasses the requirements of the applicant's obligations under this licence.

Attachment reference:

2.2 Risk management

- a) Provide confirmation and evidence that the applicant has identified the risks associated with electricity generation and wholesale operations. Additionally, provide evidence that the applicant has established, utilised and relied upon risk management systems and processes which are adequate, accurate and current to address those risks.
- b) Provide a copy of the applicant's risk management strategy. A statement should also be provided (or supporting document must make it clear) whether the strategy has been developed in line with any Australian or International Standard (for example, ISO 31000:2018).
- c) Provide a copy of a risk register that identifies risks, controls and mitigations.

a) Confirmed. See attachment 6 (BayWa's Risk Management Manual and 7 (Risk Register) for evidence of risk strategy, identification and management.

b) See attachments 6 and 7.

c) See attachment 7.

Attachment reference:

2.3 Registration with the Australian Energy Market Operator and generator performance standards

Advise if the applicant will apply to register with the Australian Energy Market Operator (AEMO). If so, provide evidence of registration or exemption, or intending registration or exemption (for example, correspondence between the applicant and AEMO). If the applicant is not registering with AEMO, describe why that is the case.

Provide confirmation from AEMO that proposed negotiated generator performance standards will meet requirements for power system security and reliability under the National Electricity Rules.

The applicant has registered with AEMO. Relevant correspondence from AEMO is provided in Attachment 8. The agreed generator performance standards are captured in Schedule 2 and 3 of the Generator Deeds with Powercor for Ferguson South and North respectively (refer Attachments 12a and 12b).

2.4 Licences held in other jurisdictions

If the applicant holds, or has previously held, electricity and/or gas licences or authorisations in other jurisdictions provide details. If a licence or authorisation previously held has been suspended or cancelled, provide details.

No licence has previously been suspended or cancelled and the Applicant does not hold any licence in another jurisdiction.

2.5 Previous unsuccessful licence applications in other jurisdictions

Confirm whether the applicant has applied for an electricity or gas licence in another jurisdiction and not been issued with a licence or authorisation, provide details.

Not applicable.

2.6 Licences held by associates of the applicant

If an associate (within the meaning of the *Corporations Act 2001*) holds an electricity or gas licence in Victoria or in other Australian jurisdiction, provide details.

(response provided on next page)

Electricity Generation and Sale Licences are held by BayWa Group Australia

Entities Yatpool Solar Farm Pty Ltd and Diapur Wind Farm Pty Ltd. Note that these companies are not "Associates" as defined in the Corporations Act 2001 but they are wholly owned subsidiaries of BayWa r.e. AG.

2.7 Compliance management

- a) Provide evidence of compliance management which demonstrates how the compliance systems the applicant has (or will have) in place will ensure compliance with all the relevant regulatory obligations required by an electricity generation licence.
- b) Provide a copy of the applicant's compliance management strategy. A statement should also be provided (or supporting document must make it clear) whether the strategy has been developed in line with any Australian or International Standard (for example, AS ISO 19600:2015).

BayWa group's policies and procedures will be used for managing regulatory compliance with the licence requirements. These documents include our Corporate Compliance Policy and our Regulatory Compliance Policy (Attachments 9a & 9b).

Attachment reference:

2.8 Material agreements

Provide copies of agreements entered into, or intended to be entered into, by the applicant that are material to the undertaking of the electricity generation activity. Agreements that are material to the undertaking of the electricity generation activity may include:

- a) Connection agreements, such as a Generator Connection Agreement and Generator Project Agreement with a generation facility. **Attachments 10a & 10b**
- b) Any contract concerning the construction and delivery of the project (sometimes commonly referred to as a Project Construction and Coordination Deed (PCCD) or Engineering, Procurement and Construction Agreement). **Attachments 11a to d**
- c) Any Network Services Agreements. **Attachments 12a & 12b**
- d) Any contracts concerning the managerial aspects of the activity (sometimes commonly referred to as a Management Services Agreement or Asset Management Agreement). **13a & 13b**
- e) Any contract concerning the ongoing operations and maintenance of the transmission assets (sometimes commonly referred to as an Operations and Maintenance Agreement). **5a & 5b**

- f) Any contract concerning the sale of electricity from the generator under a Power Purchase Agreement.

Attachment reference:

2.9 Engagement with Energy Safe Victoria

Provide details about the applicant’s engagement with Energy Safe Victoria and any copies of correspondence regarding the proposed electricity generation facility.

The Applicant's engagement with Energy Safe Victoria has included the authorisations required prior to energisation (refer Attachment 14a) and in relation to bushfire mitigation associated with the REFCL protection coverage provided by the Cobden and Camperdown 22kV feeders that the wind farm is connected to (refer Attachment 14b)

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Attachment reference:

2.10 Additional information

Provide any additional information the applicant considers relevant to the commission’s assessment of the applicant’s technical capacity.

The same management board which controls the Applicant controls the Yatpool Solar Farm and the Diapur Wind Farm (see response in Item 2.6 above).

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3. Financial viability

3.1 Financial resources

The applicant must provide a statement that will be made available to the public during the consultation period that the applicant has the financial resources to commence and sustainably perform the relevant licensable activities.

Provide a statement to confirm that:

- a) the applicant is financially viable and has the financial resources to sustainably operate the electricity generation facilities, and
- b) the applicant will be a registered market participant with the Australian Energy Market Operator for its electricity generation activities, therefore subject to the prudential requirements under the National Electricity Rules.

The commission reserves the right to conduct a financial viability assessment and require the applicant to produce information and documents it considers appropriate to complete such an assessment.

The Applicant hereby confirms that:

a) it is financially viable and has the financial resources to sustainably operate the electricity generation facilities; and

b) it is a registered market participant with AEMO and will therefore be subject to the requirements under the Australian Energy Regulations.

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4. Fit and proper person

The applicant must answer all questions in this section.

In deciding whether to grant or refuse a licence application, the commission will consider whether the applicant is a fit and proper person to hold a licence in Victoria.

The concept of a 'fit and proper person' is established by common law and takes its meaning from its context, from the activities in which the person is or will be engaged, and the ends to be served by those activities.

In considering whether an applicant is a fit and proper person, we will have regard to the applicant's honesty, integrity and reputation. These are relevant factors as they can inform an assessment of the likelihood of future conduct.

We will also consider the conduct of directors, office holders or any person with significant managerial duties or influence. We will also consider the conduct of related bodies corporate or entities that can exert control over the applicant.

- a) Have any directors of the applicant, directors of any entity that can exert control over the applicant, or any person with significant managerial responsibility or influence on the applicant:
- (i) been declared bankrupt,
 - (ii) had their affairs placed under administration,
 - (iii) been disqualified from managing a company,
 - (iv) been subject to debt judgements, or
 - (v) insolvency proceedings (including any administration, liquidation or receivership in connection with the affairs of a company)?

If yes, provide details:

No.

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b) Has the applicant, any directors of the applicant, directors of any entity that can exert control over the applicant or any person with significant managerial responsibility or influence on the applicant been prosecuted for any offences or had any enforcement action taken under any state, territory, Commonwealth or foreign legislation (including, but not limited to, the *Competition and Consumer Act 2010*, *Corporations Act 2001*, or the *Australian Securities and Investments Commission Act 2001*)?

If yes, provide details:

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No.
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c) Has the applicant, any directors of the applicant, any related body corporate, or any person with significant managerial responsibility or influence on the applicant been involved in any material breaches of obligations regulated by the commission or any other regulator?

If yes, provide details:

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No.
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d) Has the applicant, any directors of the applicant, any related body corporate, or any person with significant managerial responsibility been under investigation in relation to its regulatory obligations or is currently bound by an enforceable undertaking?

If yes, provide details:

No.

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e) Has the applicant, any related body corporate or any person with significant managerial responsibility or influence on the applicant, been refused a licence or authorisation, or had restricted, suspended or revoked any such licence or authorisation (in any jurisdiction)?

If yes, provide details:

No.

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f) Provide any other information the applicant considers relevant to the commission’s fit and proper person assessment.

The same management board which controls the Applicant controls Yatpool Solar Farm and Diapur Wind Farm (both existing licence holders - see response in Item 2.6 above).

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Additional information

Answer the following questions and, where the answer to any question is “no”, provide further detail.

a) Is the applicant a resident of, or does it have permanent establishment in, Australia?

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Yes.
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b) Is the applicant under external administration (as defined in the *Corporations Act 2001*) or under a similar form of administration under any laws applicable to it in any jurisdiction?

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No, the Applicant is not under external administration or under a similar form of administration in this jurisdiction or any other.
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c) Is the applicant immune from suit in respect of the obligations under the *Electricity Industry Act 2000*?

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Yes, provided the Governor in Council makes a proclamation, the Applicant will act in good faith.
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d) Is the applicant capable of being sued in its own name in a court of Australia?

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Yes.
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5. Commission objectives

The applicant must answer all questions in this section.

In deciding whether to grant or refuse an electricity generation licence application, the commission must consider its objectives under the *Electricity Industry Act 2000* and the *Essential Services Commission Act 2001* (ESC Act).

Our primary objective under the ESC Act, when performing our functions and exercising our powers, is to promote the long-term interests of Victorian consumers. In seeking to achieve this objective, we must have regard to the price, quality, and reliability of essential services and the matters set out in section 8A to the extent they are relevant.

In seeking to achieve the objectives specified in section 8, the commission must have regard to the matters to the extent that they are relevant in any particular case.

Provide any information the applicant considers relevant to the commission's consideration of its objectives outlined in:

- Section 8 of the ESC Act (also see section 8A of the ESC Act); and
- Section 10 of the *Electricity Industry Act 2000*.

Yes. The Applicant has considered the objectives of the Commission in: sections 8 & 8A of the Essential Services Commission Act; and section 10 of the Electricity Industry Act. The Applicant firmly believes that that the Ferguson Wind Farm will contribute to the mandate of the Commission. The project forms part of the renewable energy transition and thereby intrinsically protects the long term interests of all Victorians. The project will provide consumers greater choice (thereby driving down electricity prices), while also reducing greenhouse emissions.

6. Statutory declaration


All the information provided in this application and attached documents for an electricity generation licence must be true and correct and must be verified by a statutory declaration. This statutory declaration must be made by the applicant (where the applicant is an individual) or a director of the applicant (where the applicant is a corporation) and must be made in accordance with the requirements of the *Oaths and Affirmations Act 2018*.

An example statutory declaration form can be found [here](#). Information for authorised witnesses can be found [here](#).

The statutory declaration must address the following:

- identification of the declarant's position and/or role with the applicant
- that the declarant believes the information provided in the application to be true and correct
- that the declarant believes the applicant has the financial resources to commence and operate the activities the subject of the licence.

I [name]. Fleur Yaxley.....

of [address]. 


make the following statutory declaration under the *Oaths and Affirmations Act 2018* (Victoria):

- That I am the director of Ferguson Wind Farm Pty Ltd; and
~~[insert company name and details]~~
- The information provided in this application (including any attachments) to the Essential Services Commission for an electricity generation licence is true and correct

and I make this declaration conscientiously believing these matters to be true and knowing that making a statutory declaration that I know to be untrue is an offence.

I make it knowing that making a statutory declaration that I know to be untrue is an offence.

Date: 26/8/2022

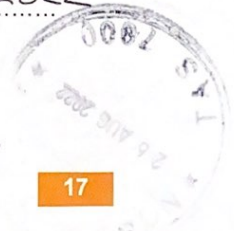
Signature: 

(signature of person making this statutory declaration in the presence of the authorised statutory declaration witness)

Declared at: HOBART, TASMANIA on 26/8/2022



Commissioner of Declarations
North Hobart Post Office
Date: 26/8/22
Name: Janina Jeffry



Witness

I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration:

[Handwritten signature]

.....
[signature of authorised statutory declaration witness]

on [date] *26/8/22*

[full name and personal or professional address of authorised statutory declaration witness in legible writing, typing or stamp]

Commissioner of Declarations
North Hobart Post Shop



[qualification as an authorised statutory declaration witness]

Date *1-1-*
Name *Janine Jeffrey*

A person authorised under section 30(2) of the **Oaths and Affirmations Act 2018** to witness the signing of a statutory declaration.