

# ELECTRICITY GENERATION LICENCE APPLICATION

## 1. General Information – The Applicant

### 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<sup>1</sup>*

### 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:** *Company*

### 1.3 Contact details and address of the applicant

#### The applicant

**Business address:** *Level 1, 39 Brisbane Avenue, Barton*

**State:** *ACT*                                      **Postcode:** *2600*

**Postal address (if different):**

**State:**    **Postcode:**

**Full name of contact person:** [REDACTED]

**Position title:** *Energy Sales Manager  
YES Energy*

**Telephone:** [REDACTED]                      **Mobile:** [REDACTED]

**Email:** [REDACTED]

### 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:

<sup>1</sup> The applicant is also referred to in this application as Ferguson or FWF.

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

*Prime Super is the entity that ultimately owns the applicant and therefore the Ferguson Wind Farm. Prime Super has engaged Patrizia, an investment consultant, to advise on and manage Prime Super's infrastructure investments including the Ferguson Wind Farm,*

**Attachment reference:**

*Confidential Attachment 1.1 - Corporate Structure*

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

**Attachment reference:**

*Confidential Attachment 1.2 - Organisational Chart*

## 1.5 The licence

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:	<i>1 December 2023.</i>
Type of generation:	<i>Wind farm.</i>
Expected name plate capacity:	<i>The expected name plate capacity of the Ferguson North Wind Farm is 3.6MW and the expected name plate capacity of the Ferguson South Wind Farm is 7.2MW.</i>
Location of generation facility:	<i>1862 Princetown Road Cooriemungle VIC 3268.</i>

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

*Each of the Ferguson North Wind Farm and the Ferguson South Wind Farm has its own connection point into Powercor's 22kV distribution network.*

## 2. Technical capacity

### 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);
- *Jason Wang, Asset and OHS Manager*  
  
*8+ years of experience as an asset and OHS manager for the Mortons Lane, Diapur and Ferguson Wind Farms.*
  - *Saji Anantkrishnan, Director*  
  
*25+ years of experience in: (a) principal investment and origination; (b) asset management in the infrastructure sector; (c) transaction project management, investment analysis, financial modelling and due diligence; and (d) corporate strategy and board governance.*
  - *Shawn Lal, Director*  
  
*13+ years of experience in: (a) infrastructure across a range of sectors including energy; (b) structured finance; and (c) private equity and venture capital.*

*Further details of the experience and qualifications of Jason, Saji and Shawn are included in their CVs.*

#### Attachment reference:

*Confidential Attachment 2 - Jason Wang CV*  
*Confidential Attachment 3 - Saji Anantkrishnan CV*  
*Confidential Attachment 4 - Shawn Lal CV*

- 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

*Jason Wang is employed by Mortons Lane Windfarm Pty Ltd. Mortons Lane Windfarm Pty Ltd makes Jason available to the applicant, so that Jason can act as asset and OHS manager for the Ferguson Wind Farm.*

*Australian Wind Technology Pty Ltd (Vestas) provides operations and maintenance services for the Ferguson Wind Farm. Vestas has the largest fleet of wind turbines under service in the world.*

#### Attachment reference:

*Confidential Attachment 5 – Secondment Agreement for Jason Wang*

*Public Attachment 1.1 – Vestas Capability Statement – Overview*

*Public Attachment 1.2 – Vestas Capability Statement – Operations and Maintenance Services*

*Confidential Attachment 6.1 – Vestas Contract Overview*  
*Confidential Attachment 6.2 – Vestas Contract*  
*Confidential Attachment 6.3 – Vestas Contract Novation*  
*Confidential Attachment 6.4 – Vestas Contract Amendment*

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

- c) the experience and qualifications of any relevant key employees who will manage those systems and processes;

*Beyond Jason Wang and Vestas, the applicant is not relying on any such third party.*

- 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.

*Beyond Jason Wang and Vestas, the applicant is not relying on any such third party.*

**Attachment reference:** *Not applicable*

## **2.2 Risk management**

- a) Provide confirmation and evidence that the applicant has identified the risks associated with electricity 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.

*The applicant will follow its Risk Policy in undertaking the licensed activity. AS ISO 31000:2009 was used as a base guidance document for addressing risk as provided for in the Risk Policy. In accordance with the Risk Policy, the applicant has identified the risks arising from the undertaking of the licensed activity and recorded them in a Risk Register which also includes the controls and mitigants applicable to each of the identified risks.*

*Vestas uses its own risk-related documentation in performing its services.*

**Attachment reference:**

*Confidential Attachment 7 – Risk Policy*  
*Confidential Attachment 8 – Risk Register*  
*Confidential Attachment 9 – Vestas Risk Documents*

**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.

*Diamond Energy Pty Ltd is registered with AEMO with respect to both the Ferguson North Wind Farm and the Ferguson South Wind Farm, as Generator and as intermediary for the applicant. It follows under clause 2.9.3 of the National Electricity Rules that the applicant is exempt from the requirement to register with AEMO.*

**Attachment reference:**

*Public Attachment 2.1 – AEMO Exemption Letter – Ferguson Wind Farm North*  
*Public Attachment 2.2 – AEMO Exemption Letter – Ferguson Wind Farm South*

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 negotiated performance standards are included in schedule 3 of the Generator Deed between the applicant and Powercor for the Ferguson North Wind Farm and in schedule 2 of the Generator Deed for the Ferguson South Wind Farm respectively.*

**Attachment reference:**

*Confidential Attachment 10.1 – Generator Deed – Ferguson North Wind Farm*  
*Confidential Attachment 10.2 – Generator Deed – Ferguson South Wind Farm*

**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.

*The applicant does not hold, and has not previously held, any electricity and/or gas licences or authorisations in other jurisdictions.*

**Attachment reference:** *Not applicable*

**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.

*The applicant has not unsuccessfully applied for any electricity or gas licence in any other jurisdiction.*

## 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.

*Each of Mortons Lane Windfarm Pty Ltd and Diapur Wind Farm Pty Ltd hold an electricity generation licence.*

## 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).

*The applicant will follow its Compliance Policy in undertaking the licensed activity. The applicant designed its Compliance Policy having regard to, and has designed its compliance management system in accordance with, AS ISO 19600-2015. In accordance with the Compliance Policy, the applicant has identified the compliance obligations it will have undertaking of the licensed activity and recorded them in a Compliance Register which also includes the controls applicable to each of the identified obligations. Nelson Derham Law has advised on the Compliance Register and how it deals with obligations under the National Electricity Law and National Electricity Rules, the Electricity Industry Act 2000 (Vic) and the Electricity Safety Act 1998 (Vic).*

### Attachment reference:

*Confidential Attachment 11 – Compliance Policy  
Confidential Attachment 12 – Compliance Register  
Confidential Attachment 13 – Nelson Derham Law advice*

## 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.
- 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).
- c) Any Network Services Agreements.
- d) Any contracts concerning the managerial aspects of the activity (sometimes commonly referred to as a Management Services Agreement or Asset Management Agreement).

- e) Any contract concerning the ongoing operations and maintenance of the transmission assets (sometimes commonly referred to as an Operations and Maintenance Agreement).
- f) Any contract concerning the sale of electricity from the generator under a Power Purchase Agreement.

**Attachment reference:**

*Confidential Attachment 6.1 – Vestas Contract Overview*  
*Confidential Attachment 6.2 – Vestas Contract*  
*Confidential Attachment 6.3 – Vestas Contract Novation*  
*Confidential Attachment 6.4 – Vestas Contract Amendment*

*Confidential Attachment 10.1 – Generator Deed – Ferguson North Wind Farm*  
*Confidential Attachment 10.2 – Generator Deed – Ferguson South Wind Farm*

*Confidential Attachment 14.1 – Connection Agreement – Ferguson North Wind Farm*  
*Confidential Attachment 14.2 – Connection Agreement – Ferguson South Wind Farm*

*Confidential Attachment 15.1 – Deed of Agreement to Grant Easement – Ferguson North*  
*Confidential Attachment 15.2 – Deed of Agreement to Grant Easement – Ferguson South*

*Confidential Attachment 16 – Power Purchase Agreement*

## **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 engaged with Energy Safe Victoria prior to energisation of the Ferguson Wind Farm the result of which was a certificate of electrical safety.*

**Attachment reference:**

*Public Attachment 3 – ESV Certificate*

## **2.10 Additional information**

Provide any additional information the applicant considers relevant to the Commission's assessment of the applicant's technical capacity.

*None.*

### **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 confirms that:*

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



#### 4. Fit and proper person

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.

- 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:

No.

- 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:

No.

- 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.*

- 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.*

- f) Provide any other information the applicant considers relevant to the Commission's fit and proper person assessment.

*None.*

#### **Additional information**

Answer the following questions and, where the answer to any question is "no" (except for question b)), provide further detail.

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

*Yes.*

- 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?

*No.*

- c) Is the applicant immune from suit in respect of the obligations under the *Electricity Industry Act 2000*?

*No.*

- d) Is the applicant capable of being sued in its own name in a court of Australia?

*Yes.*

## 5. Commission objectives

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*.

*The Ferguson Wind Farm increases the supply of electricity in Victoria and in the National Electricity Market and therefore advances the long term interests of Victorian consumers including with respect to the price, quality and reliability of electricity as well as competition within the electricity industry.*

*From the viewpoint of environmental legislation applying to the electricity industry, as a renewable energy generator, the Ferguson Wind Farm contributes to the achievement of renewable energy targets under and the objectives of the Renewable Energy (Jobs and Investment) Act 2017 (Vic).*

## **6. Statutory declaration**

### Statutory Declaration

I, Shantanu Lal, Director, of 25 Cobar Street, Dulwich Hill, New South Wales, make the following statutory declaration under the *Oaths and Affirmations Act 2018 (Vic)*:

- a) I am the director of Ferguson Wind Farm Pty Ltd;
- b) The information provided in this application (including any attachments) to the Essential Services Commission for an electricity generation licence is true and correct; and
- c) I believe Ferguson Wind Farm Pty Ltd has the financial resources to commence and operate the activities the subject of the licence.

I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.

Signature:  .....

Declared at: SYDNEY, AUSTRALIA

on 25/10/2023

### Witness

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

Signature:  .....

on 25/10/2023

Name CHRISTOPHER RUSSELL-GIBSON

Address 49 FORMOSA STREET, DRUMMOYNE NSW

Qualification CHARTERED ACCOUNTANT, AUSTRALIA (#52666)

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