

  
**ESSENTIAL SERVICES COMMISSION**

**ELECTRICITY GENERATION LICENCE**

**Macarthur Wind Farm Pty Ltd  
(ABN 19 106 134 507),**

**Malakoff Wind Macarthur Pty Limited  
(ABN 60 124 383 688) and**

**AGL HP1 Pty Limited (ABN 86 080 429 901),  
AGL HP2 Pty Limited (ABN 75 080 810 546) and  
AGL HP3 Pty Limited (ABN 22 080 735 815)  
as partners in the  
AGL Hydro Partnership (ABN 86 076 691 481)**

**Varied on  
25 September 2013**

## ELECTRICITY GENERATION LICENCE

This Licence is issued pursuant to section 19 of the *Electricity Industry Act 2000* (Vic) and is subject to the terms set out in this Licence.

### Date

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This Licence is issued on **28 March 2012**

### Licensees

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This Licence is issued to:

Macarthur Wind Farm Pty Ltd (ABN 19 106 134 507)  
AGL, Level 22  
101 Miller Street  
North Sydney NSW 2060

Malakoff Wind Macarthur Pty Limited (ABN 60 124 383 688)  
Level 19  
181 William Street  
Melbourne VIC 3000


and

AGL HP1 Pty Limited (ABN 86 080 429 901),  
AGL HP2 Pty Limited (ABN 75 080 810 546) and  
AGL HP3 Pty Limited (ABN 22 080 735 815)  
as partners in the  
AGL Hydro Partnership (ABN 86 076 691 481)  
Level 22  
101 Miller Street  
North Sydney NSW 2060

(together, the Licensees)

**THE COMMON SEAL of the**  
**ESSENTIAL SERVICES COMMISSION**  
was affixed pursuant to the authority  
of the Commission



  
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Dr Ron Ben-David  
Chairperson

**CONTENTS**

<b>1.</b>	<b>Definitions</b>	<b>1</b>
<b>2.</b>	<b>Notices</b>	<b>3</b>
<b>3.</b>	<b>Grant of the Licence</b>	<b>4</b>
<b>4.</b>	<b>Status of the requirements in this Part</b>	<b>4</b>
<b>5.</b>	<b>Payment of fees</b>	<b>4</b>
<b>6.</b>	<b>Ongoing technical capacity</b>	<b>4</b>
<b>7.</b>	<b>Compliance with regulatory instruments</b>	<b>5</b>
<b>8.</b>	<b>Compliance with Laws</b>	<b>5</b>
<b>9.</b>	<b>Prohibited interests</b>	<b>5</b>
<b>10.</b>	<b>Separate accounts</b>	<b>6</b>
<b>11.</b>	<b>Provision of information</b>	<b>6</b>
<b>12.</b>	<b>Revocation</b>	<b>6</b>
<b>13.</b>	<b>Variation</b>	<b>7</b>
<b>14.</b>	<b>Transfer</b>	<b>8</b>
<b>15.</b>	<b>Audit</b>	<b>8</b>
<b>16.</b>	<b>Dispute resolution</b>	<b>8</b>
<b>17.</b>	<b>Administrator</b>	<b>8</b>
<b>18.</b>	<b>Compliance with licence</b>	<b>8</b>



**Part A - Interpretation****1. Definitions**

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1.1. Unless the contrary intention appears a term in bold type has the meaning shown opposite it:

<b>Act</b>	the <i>Electricity Industry Act 2000</i> (Vic)
<b>AEMO</b>	Australian Energy Market Operator ACN 072 010 327
<b>Administrator</b>	an administrator appointed by the Commission under section 34 of the Act
<b>Business day</b>	a day other than a Saturday, Sunday or a public holiday in Victoria
<b>Commencement Date</b>	the date this Licence is issued, as noted on the first page of the Licence
<b>Commission</b>	the Essential Services Commission established under the ESC Act
<b>Electricity Distribution Code</b>	the code of that name certified by the Commission
<b>Electricity System Code</b>	the code of that name certified by the Commission
<b>ESC Act</b>	the <i>Essential Services Commission Act 2001</i> (Vic)
<b>Final Enforcement Order</b>	a final order made under section 53 of the ESC Act
<b>Guideline</b>	a guideline published by the Commission
<b>Licensed power Station</b>	Macarthur Wind Farm
<b>Licensees</b>	Macarthur Wind Farm Pty Ltd (ABN 19 106 134 507), Malakoff Wind Macarthur Pty Limited (ABN 60 124 383 688) and AGL HP1 Pty Limited (ABN 86 080 429 901), AGL HP2 Pty Limited (ABN 75 080 810 546) and AGL HP3 Pty Limited (ABN 22 080 735 815) as partners in the AGL Hydro Partnership (ABN 86 076 691 481)
<b>Minister</b>	The person who is, from time to time, the Minister for the purposes of the relevant section of the Act
<b>National Electricity Rules</b>	has the same meaning as in the Act
<b>Objectives</b>	the objectives of the Commission under the Act and the ESC Act
<b>Order</b>	an Order in Council made or in force under the Act

<b>Prohibited Interest</b>	has the meaning given in section 68 of the Act
<b>Undertaking</b>	an undertaking given by the Licensees under section 53(5)(a) of the ESC Act
<b>Wholesale Electricity Market</b>	has the same meaning as in the Act
<b>Writing</b>	any mode of representing or reproducing words, figures, drawings or symbols in a visible form
<b>Total Generating Capacity Entitlement</b>	the aggregate of all entitlements to generating capacity of the Licensees within the meaning of Part 3 of the Act

1.2. In this Licence, unless the context otherwise requires:

- (a) headings and footnotes are each for convenience only and do not affect the interpretation of this Licence;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- (e) a reference to a condition, clause, or part is to a condition, clause, or part of this Licence;
- (f) a reference to any statute including the Act and regulation, proclamation, Order in Council, ordinance or by-law includes all statutes, regulations, proclamations, Orders in Council, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, Orders in Council, ordinances, by-laws and determinations issued under that statute;
- (g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- (h) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- (i) other parts of speech and grammatical forms of a word or phrase defined in this licence have a corresponding meaning;
- (j) a period of time:
  - (1) which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or



- (2) which commences on a given day or the day of an act or event is to be calculated inclusive of that day; and
- (k) an event which is required under this Licence to occur on or by a stipulated day which is not a business day may occur on or by the next business day.
- (l) a reference to the Licensees is a reference to each person named as comprising the Licensees as well as a reference to all of the persons named as comprising the Licensees collectively.

## **2. Notices**

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2.1. A notice under this Licence is only effective if it is in writing, and dealt with as follows:

- (a) if given by one or more of the Licensees to the Commission – addressed to the Chief Executive Officer of the Commission at the address specified below or as otherwise notified by the Commission:

Essential Services Commission, Level 2, 35 Spring Street,  
Melbourne VIC 3000; or

- (b) if given by the Commission to the Licensees – given by the Chief Executive Officer of the Commission and addressed (and marked for attention of) the Chief Executive Officer of Macarthur Wind Farm Pty Ltd (ABN 19 106 134 507), Malakoff Wind Macarthur Pty Limited (ABN 60 124 383 688) or AGL Hydro Partnership (ABN 86 076 691 481) as the case may be, at the addresses specified below or as otherwise notified by the Licensees:

Macarthur Wind Farm Pty Ltd  
AGL, Level 22  
101 Miller Street  
North Sydney NSW 2060

Malakoff Wind Macarthur Pty Limited  
Level 19  
181 William Street  
Melbourne VIC 3000

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AGL Hydro Partnership  
Level 22  
101 Miller Street  
North Sydney NSW 2060

A notice is to be:

- (c) signed by or on behalf of the person giving the notice and delivered by hand; or

- (d) signed by or on behalf of the person giving the notice and sent by pre-paid post; or
  - (e) transmitted electronically by or on behalf of the person giving the notice by electronic mail or facsimile transmission.
- 2.2. A notice is deemed to be effected:
- (a) if delivered by hand – upon delivery to the relevant address;
  - (b) if sent by post – upon delivery to the relevant address;
  - (c) if transmitted electronically – in accordance with the method set out in the *Electronic Transactions (Victoria) Act 2000 (Vic)* for determining the time of receipt.
- 2.3. A notice received after 5.00 pm, or on a day that is not a business day, is deemed to be effected on the next business day.

## **Part B - Licence**

### **3. Grant of the Licence**

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- 3.1. In exercise of its powers under section 19 of the Act, the Commission grants the Licensees a licence to generate electricity for supply or sale on the terms and conditions set out in this Licence with effect from the Commencement Date.
- 3.2. This Licence only applies to the generation of electricity at the licensed power station.
- 3.3. The Commission has exercised its power under section 19 of the Act having regard to the information provided by the Licensees in their application under section 18 of the Act.

## **Part C - Conditions of the Licence**

### **4. Status of the requirements in this Part**

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- 4.1. A breach of any of the requirements set out in this Part C:
- (a) is a breach of a condition for the purposes of Part 7 of the ESC Act; and
  - (b) is a breach of a condition for the purposes of clause 12 of this Licence.

### **5. Payment of fees**

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- 5.1. The Licensees must pay a licence fee as determined by the Minister in accordance with the provisions of section 22 of the Act.

### **6. Ongoing technical capacity**

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- 6.1. The Licensees must at all times maintain:
- (a) such technical capacity as is:
    - (1) required to meet obligations under this licence; and



- (2) reasonably required to undertake the activities authorised by this licence; and
  - (b) such additional technical capacity as is reasonably required to enable them to meet and utilise technological advances in the electricity industry.
- 6.2. In this clause 6, activities undertaken pursuant to this Licence includes any activities undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensees for the purpose of enabling the Licensees to undertake the activities authorised by this Licence; and
- 6.3. The Licensees must ensure that any contract entered into with any third parties contains such provisions as are necessary to enable the Licensees to comply with the requirements of this clause 6.

## **7. Compliance with regulatory instruments**

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- 7.1. Subject to clause 7.2, the Licensees must comply with:
- (a) the Electricity Distribution Code;
  - (b) the Electricity System Code; and
  - (c) any other code or guideline issued by the Commission from time to time that is expressed as being one with which the Licensees must comply,
- to the extent they are applicable to activities undertaken by the Licensees pursuant to this Licence.
- 7.2. The Commission may, from time to time, by written notice grant an exemption in relation to or otherwise modify the application of some of the requirements of the instruments referred to in clause 7.1.
- 7.3. The Licensees must have in place a system for monitoring compliance with this Licence and the instruments referred to in clause 7.1.
- 7.4. The Licensees must comply with the requirements of the *Electricity Safety Act 1998* and any regulations made under that Act.
- 7.5. The Licensees must be registered as a generator with AEMO or exempt from the requirement to be registered as a generator in accordance with the National Electricity Rules and must comply with the requirements of the National Electricity Rules.

## **8. Compliance with Laws**

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- 8.1. The Licensees must comply with all applicable laws.

## **9. Prohibited interests**

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- 9.1. The Licensees must not hold a prohibited interest.
- 9.2. The Licensees must notify the Commission as soon as they become aware of any other person holding a prohibited interest in their business.



- 9.3. The Licensees must comply with any notice issued by the Commission under section 70 or 71 of the Act.

## **10. Separate accounts**

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- 10.1. If the Licensees hold more than one category of licence under Part 2 of the Act, the Licensees must prepare separate accounts for each part of their business in respect of which it has been granted a separate licence.

## **11. Provision of information**

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- 11.1. The Licensees must notify the Commission of any breach by them of the conditions of this Licence including any of the instruments referred to in clause 7.1 as soon as reasonably practicable after becoming aware of the breach.
- 11.2. The Licensees must as soon as reasonably practicable provide AEMO with such information as AEMO may properly request in connection with the performance of their functions or the exercise of their powers under the Act in the manner and form specified by AEMO.
- 11.3. The Licensees must as soon as reasonably practicable provide the Commission with such information as the Commission may properly request in connection with the performance of its functions or the exercise of its powers under the Act in the manner and form specified by the Commission.
- 11.4. The Licensees must, as soon as reasonably practicable, upon request of and in a manner and form specified by the Commission, provide the Commission with details of their ongoing technical capacity to undertake the activities authorised by this Licence.

## **12. Revocation**

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- 12.1. The Commission may revoke this Licence:
- (a) at any time at the request of or with the consent of the Licensees; or
  - (b) in accordance with section 73 of the Act.
- 12.2. The Commission may revoke this Licence:
- (a) if the Licensees fail to comply with an undertaking or a final enforcement order;
  - (b) the Licensees breach any condition of this Licence, including any condition deemed to apply by the Act or any other legislation;
  - (c) any information provided by the Licensees pursuant to this Licence or in their application for the Licence is found to be false or misleading;
  - (d) the Licensees' financial viability or technical capacity is such that the Commission considers that the Licensees would be unable to satisfactorily meet their obligations under this Licence; or

- (e) the Licensees fail to comply with a decision, direction, determination or arrangement (as the case may be) made by or agreed with the Commission, AEMO, Energy Safe Victoria or the Minister.

12.3. Where the Commission decides to revoke this Licence, the Commission will issue a notice to the Licensees, specifying:

- (a) the basis upon which the Commission is revoking this Licence; and
- (b) the date upon which the revocation will take effect, such date to be:
  - (1) where clause 12.2(a) applies or where in the Commission's opinion it is appropriate that the Licence be revoked in a shorter time frame having regard to its objectives and the events or circumstances that gave rise to the notice being issued, no less than 5 business days after the date upon which the notice is issued; and
  - (2) in all other cases, no less than 20 business days after the date upon which the notice is issued,

and, subject to clause 12.4, this Licence will be revoked on the date specified in the notice.

12.4. The Commission may, at its discretion and by written notice to the Licensees, withdraw a notice issued under clause 12.3 at any time prior to the revocation date specified in the notice if the Commission is satisfied that the Licensees have complied with the relevant final enforcement order or undertaking, rectified the breach or complied with the relevant decision, direction, determination or arrangement (as the case may be) or if the Commission considers that it is otherwise appropriate to withdraw the notice.

### **13. Variation**

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13.1. For the purposes of section 29(1)(a) of the Act, the Commission may vary this Licence in accordance with the procedures set out in this clause 13.

13.2. Where the Commission:

- (a) wishes to amend the list of instruments referred to in clause 7.1; or
- (b) is of the opinion that a proposed variation to the Licence is consistent with its objectives and is:
  - (1) of an administrative or trivial nature; or
  - (2) required urgently, such that it would not be appropriate to issue a notice under section 29(1)(c) of the Act,

the Commission may issue a notice to the Licensees.

13.3. A notice issued under clause 13.2 will include:

- (a) the terms of the variation;
- (b) the purpose of the variation;



- (c) where clause 13.2(b)(2) applies, confirmation that the Commission is of that opinion; and
- (d) the date upon which the variation will take effect.

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**14. Transfer**

- 14.1. This licence may be transferred in accordance with section 31 of the Act.

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**15. Audit**

- 15.1. Upon request by the Commission, the Licensees must appoint an auditor to be approved by the Commission to conduct audits of:

- (a) the Licensees' compliance with its obligations under the Act or this Licence, including but not limited to the codes and guidelines referred to in clause 7.1; and
- (b) the reliability and quality of information reported by the Licensees to the Commission and the consistency of that information with the Commission's specifications; and
- (c) any other matter as directed by the Commission.

- 15.2. The Licensees must ensure that the Commission is promptly provided with a copy of any reports produced by the auditor pursuant to this clause. The Licensees must comply, and must require the auditor to comply, with any guidelines issued by the Commission dealing with audits under this clause.

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**16. Dispute resolution**

- 16.1. The Licensees must enter into a customer dispute resolution scheme approved by the Commission under section 28 of the Act.

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**17. Administrator**

- 17.1. If an administrator is appointed to the Licensees' business under section 34 of the Act, the administrator must exercise its functions and powers in such a manner as may be specified by the Commission in the instrument of appointment.

- 17.2. The Licensees are responsible for the acts and defaults of the administrator.

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**18. Compliance with licence**

- 18.1. Each Licensee must ensure that each other Licensee complies with the conditions of this Licence.

- 18.2. The conditions (both express and implied) in this Licence bind the Licensees jointly and each of them severally and, for the avoidance of doubt, each is jointly and severally liable for any failure to comply with the conditions of this Licence.

- 18.3. None of the Licensees will be released from its obligations under this Licence by reason of the Licence ceasing to be binding on any other of the Licensees.
- 18.4. The Commission may take any action available to it in relation to a failure to comply with the conditions of this Licence against any one or more of the Licensees, at the Commission's absolute discretion.

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#### Schedule 1 – Variations to the Licence

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Date	Variation
28 March 2012	Licence issued to: Macarthur Wind Farm Pty Ltd (ABN 19 106 134 507), Meridian Wind Macarthur Pty Limited (ABN 60 124 383 688) and  AGL HP1 Pty Limited (ABN 86 080 429 901), AGL HP2 Pty Limited (ABN 75 080 810 546) and AGL HP3 Pty Limited (ABN 22 080 735 815)  as partners in the AGL Hydro Partnership (ABN 86 076 691 481).
25 September 2013	Licence varied to reflect change of name of one licensee from: Meridian Wind Macarthur Pty Limited (ABN 60 124 383 688), to Malakoff Wind Macarthur Pty Limited (ABN 60 124 383 688).