



ELECTRICITY GENERATION LICENCE

**KESS ProjectCo Pty Ltd (ACN 667 691 698) as
trustee for The KESS ProjectCo Trust
(ABN 36 517 768 629)**

**Issued on
12 December 2024**

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

This Licence was first issued on **12 December 2024**.

Licensee

This Licence is issued to:

KESS ProjectCo Pty Ltd (ACN 667 691 698) as trustee for The KESS ProjectCo Trust (ABN 36 517 768 629)

THE COMMON SEAL of the)
ESSENTIAL SERVICES COMMISSION)
was affixed pursuant to the authority)
of the Commission on 17 December 2024)



Gerard Brody

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Gerard Brody
CHAIRPERSON

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Part A – Definitions and Interpretation

1. Definitions

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

Act	the <i>Electricity Industry Act 2000</i> (Vic)
AEMO	Australian Energy Market Operator Limited (ACN 072 010 327)
Business Day	a day other than a Saturday, Sunday or a public holiday in Victoria
Change of Control	occurs in relation to the Licensee if: (a) an Entity that Controls the Licensee ceases to Control the Licensee; or (b) an Entity that does not Control the Licensee starts to Control the Licensee provided that no change of control will be deemed to have occurred where the Ultimate Holding Company that Controls the Licensee remains the same or the Change in Control results from the acquisition or cancellation of, or dealing in, securities which are traded on a recognised financial market
Commission	the Essential Services Commission established under the ESC Act
Control	has the same meaning given in section 50AA of the Corporations Act
Corporations Act	means the <i>Corporations Act 2001</i> (Cth)
Entity	has the same meaning given in section 50AA of the Corporations Act
ESC Act	the <i>Essential Services Commission Act 2001</i> (Vic)
Guideline	a guideline published by the Commission
Holding Company	in relation to an entity, an entity of which the first entity is a Subsidiary
Licensed Generation Facility	Koorangie BESS, located in the vicinity of Kerang, Victoria, 3579
Licensee	KESS ProjectCo Pty Ltd (ACN 667 691 698) as trustee for The KESS ProjectCo Trust (ABN 36 517 768 629)
Minister	the person who is, from time to time, the Minister for the purposes of the Act

National Electricity Law	the National Electricity (Victoria) Law in force in Victoria under the <i>National Electricity (Victoria) Act 2005 (Vic)</i>
National Electricity Rules	the rules of that name as in force from time to time under the National Electricity Law
Review	a systemic and independent process for obtaining evidence and evaluating it objectively to determine the extent to which particular criteria are fulfilled, this includes, but is not limited to, a regulatory audit undertaken in accordance with relevant Guidelines issued by the Commission
Subsidiary Ultimate Holding Company	has the meaning given in the Corporations Act means, in relation to an entity, an entity that: (a) is a Holding Company of the first-mentioned entity; and (b) is itself a Subsidiary of no entity

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:
 - (i) which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
 - (ii) 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.

2. Notices

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

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

Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

licences@esc.vic.gov.au; or

- (b) if given by the Commission to the Licensee – given by the Chief Executive Officer of the Commission and addressed to (and marked for the attention of) the Chief Executive Officer of the Licensee at the physical or email address specified below or as otherwise notified by the Licensee:

KESS ProjectCo Pty Ltd ATF The KESS ProjectCo Trust
Level 2, Salesforce Tower, 180 George St,
Sydney NSW 2000
kess@sosteneo.com

2.2. A notice is to be:

- (a) signed by or on behalf of the person giving the notice and delivered by hand; or
- (b) signed by or on behalf of the person giving the notice and sent by pre-paid post; or
- (c) transmitted electronically by or on behalf of the person giving the notice by electronic mail.

2.3. A notice is deemed to be received:

- (a) if delivered by hand – upon delivery to the relevant address;
- (b) if sent by post – upon the confirmation of delivery of the notice by the relevant delivery services, or in accordance with section 160(1) of the *Evidence Act 2008 (Vic)*, whichever is earlier;

(c) if transmitted electronically – in accordance with the *Electronic Transactions (Victoria) Act 2000 (Vic)*.

- 2.4. 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 conditions

3. Grant of the Licence

- 3.1. In exercise of its powers under section 19 of the Act, the Commission grants the Licensee a licence to generate electricity for supply or sale on the terms and conditions set out in this Licence.
- 3.2. The Licence only permits the Licensee to generate electricity at the Licensed Generation Facility.
- 3.3. The Licence was granted on 12 December 2024 and has been varied on the dates set out in Schedule 1.

Part C - Conditions of the Licence

4. Status of the requirements in this Part

- 4.1. A failure on the part of the Licensee to meet any of the requirements set out in this Part C is a breach of a civil penalty requirement for the purposes of the ESC Act.

5. Payment of fees

- 5.1. The Licensee 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

- 6.1. The Licensee must at all times maintain:
- (a) such technical capacity as is:
- (1) required to meet the obligations under this Licence; and
- (2) reasonably required to undertake the activities authorised by this Licence; and
- 6.2. In this clause 6, activities undertaken pursuant to this Licence include any activities undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensee for the purpose of enabling the Licensee to undertake the activities authorised by this Licence.
- 6.3. The Licensee must ensure that any contract, entered into with any third parties for the performance of licensable functions, contains such provisions as are necessary to ensure the third party provides its services in a way that enables the Licensee to comply with the requirements of this Licence and this clause 6.

7. Compliance with regulatory instruments

- 7.1. Subject to clause 7.2, the Licensee must comply with any procedure or Guideline issued by the Commission from time to time that is expressed as being one with which the Licensee must comply, to the extent they are applicable to activities undertaken by the Licensee 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 Licensee must have in place an adequate system for monitoring compliance with this Licence and the instruments referred to in clause 7.1.
- 7.4. The Licensee 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.

8. Compliance with Laws

- 8.1. The Licensee must comply with the National Electricity Law and the National Electricity Rules.

9. Separate accounts

- 9.1. If the Licensee holds more than one category of licence under Part 2 of the Act, the Licensee must prepare separate accounts for each part of its business in respect of which it has been granted a separate licence.

10. Provision of information

- 10.1. The Licensee must maintain comprehensive records regarding any activities undertaken pursuant to this Licence for a period of at least 7 years.
- 10.2. The Licensee must notify the Commission of any breach by it 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.
- 10.3. The Licensee must, as soon as reasonably practicable, provide the Commission with such information, relating to activities undertaken pursuant to this Licence, 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.
- 10.4. The Licensee must, as soon as reasonably practicable, provide the Commission with information on its ongoing technical capacity or financial viability to undertake the activities authorised by this Licence as the Commission may properly request in connection with the performance of its functions or the exercise of its powers under the Act and in a manner and form specified by the Commission.
- 10.5. In this clause 10:

- (a) activities undertaken pursuant to this Licence includes any activities of that type undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensee for the purpose of enabling the Licensee to undertake the activities authorised by this Licence; and
- (b) information includes information in the possession, custody or control of any third party.

11. Change of Control

- 11.1. The Licensee must give the Commission a notice if any event occurs, any decision by the Licensee is made, or any other circumstances exist that will effect a Change of Control of the Licensee.
- 11.2. The notice required under condition 11.1 must set out particulars of the relevant event, decision or circumstance as soon as practicable and in any case not later than 3 Business Days after the Licensee becomes aware of the event or circumstance or makes the decision.

12. Revocation

- 12.1. The Commission may revoke this Licence:
 - (a) at any time at the request of, or with the consent of, the Licensee; or
 - (b) in accordance with the Act.
- 12.2. Where the Commission proposes to revoke this Licence, the Commission will issue a notice to the Licensee, specifying:
 - (a) the basis upon which the Commission proposes to revoke the Licence; and
 - (b) the date upon which the revocation is proposed to take effect, such date to be:
 - (i) where 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
 - (ii) in all other cases, no less than 20 Business Days after the date upon which the notice is issued.
 - (c) that the Licensee has the opportunity to make representations on the matter and the time and date and manner in which those representations must be made.
- 12.3. The Commission must consider any submissions received from the Licensee prior to making a decision to revoke the Licence.
- 12.4. Where the Commission decides to revoke this Licence, the Commission will issue a notice to the Licensee specifying:
 - (a) the basis upon which the Commission is revoking the Licence; and

- (b) the date upon which the revocation takes effect, being no earlier than the date specified in the notice issued pursuant to clause 11.2

and this Licence will be revoked on the date specified in the notice.

13. Variation

- 13.1. The Commission may vary this Licence in accordance with section 29 of the Act.

14. Transfer

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

15. Review

- 15.1. Upon direction by the Commission, the Licensee must appoint an independent reviewer to conduct Reviews of:
- (a) the Licensee's compliance with its obligations under its Licence, a Code of Practice, or the Act; and
 - (b) the reliability and quality of information reported by the Licensee to the Commission and the consistency of that information with the Commission's specifications; and
 - (c) any other matter relating to the activities conducted pursuant to this Licence, as directed by the Commission.
- 15.2. Following a direction pursuant to clause 15.1, the Licensee must obtain the Commission's approval of the independent reviewer and the scope, timing and methodology of the Review.
- 15.3. The Licensee must ensure that the Commission is promptly provided with a copy of any reports produced by the independent reviewer pursuant to this clause.
- 15.4. The Licensee must comply, and must require the independent reviewer to comply, with any Guidelines issued by the Commission dealing with Reviews.

Schedule 1 – Variations to the Licence

Date	Variation
	This Licence has not been varied.