INQUIRY INTO THE CONTINUATION OF ANTI-DUMPING MEASURES ON WIND TOWERS EXPORTED TO AUSTRALIA FROM THE PEOPLE’S REPUBLIC OF CHINA

19 January 2024
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<td>Australian Border Force</td>
</tr>
<tr>
<td>the Act</td>
<td>Customs Act 1901</td>
</tr>
<tr>
<td>ADN</td>
<td>Anti-Dumping Notice</td>
</tr>
<tr>
<td>ADRP</td>
<td>Anti-Dumping Review Panel</td>
</tr>
<tr>
<td>the commission</td>
<td>the Anti-Dumping Commission</td>
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<tr>
<td>the Commissioner</td>
<td>the Commissioner of the Anti-Dumping Commission</td>
</tr>
<tr>
<td>CTMS</td>
<td>cost to make and sell</td>
</tr>
<tr>
<td>Chengxi</td>
<td>Chengxi Shipyard Co., Ltd</td>
</tr>
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<td>China</td>
<td>the People’s Republic of China</td>
</tr>
<tr>
<td>CON 487</td>
<td>Continuation Inquiry No 487</td>
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<tr>
<td>CS Wind</td>
<td>CS Wind China Co., Ltd</td>
</tr>
<tr>
<td>DCR</td>
<td>Dumping Commodity Register</td>
</tr>
<tr>
<td>DEECA</td>
<td>Department of Energy, Environment and Climate Action</td>
</tr>
<tr>
<td>EPR</td>
<td>electronic public record</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>GOC</td>
<td>Government of China</td>
</tr>
<tr>
<td>the goods</td>
<td>wind towers exported from China as defined in Chapter 3 – the goods, like goods and the Australian Industry</td>
</tr>
<tr>
<td>GW</td>
<td>Gigawatt</td>
</tr>
<tr>
<td>Haywards</td>
<td>Crisp Bros. and Haywards Pty Ltd</td>
</tr>
<tr>
<td>IDD</td>
<td>interim dumping duty</td>
</tr>
<tr>
<td>Korea</td>
<td>the Republic of Korea</td>
</tr>
<tr>
<td>KPE</td>
<td>Keppel Prince Engineering Pty Ltd</td>
</tr>
<tr>
<td>the Manual</td>
<td>Dumping and Subsidy Manual</td>
</tr>
<tr>
<td>the measures</td>
<td>the anti-dumping measures currently applicable to exports of wind towers to Australia from China that are due to expire on 16 April 2024</td>
</tr>
<tr>
<td>the Minister</td>
<td>the Minister for Industry and Science</td>
</tr>
<tr>
<td>MW</td>
<td>Megawatt</td>
</tr>
<tr>
<td>OEM</td>
<td>Original Equipment Manufacturer</td>
</tr>
<tr>
<td>original investigation</td>
<td>Investigation No 221</td>
</tr>
<tr>
<td>Penglai</td>
<td>Penglai Dajin Offshore Heavy Industry Co., Ltd.</td>
</tr>
<tr>
<td>REQ</td>
<td>response to the exporter questionnaire</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>REP 221</td>
<td>Anti-Dumping Commission Report No 221</td>
</tr>
<tr>
<td>REP 487</td>
<td>Anti-Dumping Commission Report No 487</td>
</tr>
<tr>
<td>RET</td>
<td>Renewable Energy Target</td>
</tr>
<tr>
<td>ROI</td>
<td>return on investment</td>
</tr>
<tr>
<td>TCO</td>
<td>Tariff Concession Order</td>
</tr>
<tr>
<td>TSP</td>
<td>Shanghai Taisheng Wind Power Equipment Co., Ltd</td>
</tr>
<tr>
<td>SEF</td>
<td>statement of essential facts</td>
</tr>
<tr>
<td>SEF 621</td>
<td>Statement of Essential Facts No 621</td>
</tr>
<tr>
<td>USA</td>
<td>United States of America</td>
</tr>
<tr>
<td>Vietnam</td>
<td>the Socialist Republic of Vietnam</td>
</tr>
<tr>
<td>VRET</td>
<td>Victoria Renewable Energy Target</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>
1 SUMMARY AND RECOMMENDATION

1.1 Introduction

This report concerns an inquiry into whether to continue the anti-dumping measures (the measures) on certain utility scale wind towers exported to Australia from the People’s Republic of China (China). The measures consist of a dumping duty notice. The measures are due to expire on 16 April 2024.

The Commissioner of the Anti-Dumping Commission (the Commissioner) initiated this inquiry on 12 May 2023 following consideration of an application lodged by Keppel Prince Engineering Pty Ltd (KPE) seeking the continuation of the measures.

KPE is eligible to apply for a continuation of the measures because it is a person specified under section 269ZHB(1)(b)(i) whose application under section 269TB resulted in the measures.

For this inquiry the Commissioner examined data from the Australian Border Force (ABF) import database and KPE’s financial data from 1 January 2017 to 31 December 2023. This was for the purpose of assessing whether expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Commissioner published Statement of Essential Facts No 621 (SEF 621) on 16 October 2023. SEF 621 sets out the Commissioner’s proposed findings and recommendation to the Minister based on the information available at the time.

This report sets out the facts on which the Commissioner has based their recommendation to the Minister for Industry and Science (the Minister). In preparing this report, the Commissioner had regard to:

- KPE’s application for continuation of the measures
- submissions relating generally to the continuation of the measures to which the Commissioner has had regard to for the purpose of formulating SEF 621
- SEF 621
- submissions made in response to SEF 621 and
- any other matter referred to in this report that the Commissioner considered relevant to the inquiry.

The Anti-Dumping Commission (the commission) is assisting the Commissioner conduct the inquiry, pursuant to the commission’s function specified in section 269SMD.

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1 Refer to Anti-Dumping Notice (ADN) No 2023/030.
2 Under section 269TM of the Customs Act 1901 (the Act), dumping duty notices expire 5 years after the date of publication, unless revoked earlier. If not continued, the measures would no longer apply on and from 17 April 2024. All legislative references in this report are to the Customs Act 1901 unless otherwise specified.
3 See Electronic Public Record (EPR) 621, document no 1.
4 EPR 621, document no. 11.
1.2 Recommendation

The Commissioner recommends that the measures expire on 16 April 2024. This is because the Commissioner is not satisfied that the expiry of the measures would be likely to lead to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

1.3 Background to the inquiry

The Commissioner initiated this inquiry on 12 May 2023. This inquiry concerns whether the expiry of the measures would lead, or be likely to lead, to a continuation or a recurrence of the dumping and the material injury that the measures are intended to prevent.

Review 615

The commission is also conducting a separate review of the measures, Review 615. Review 615 is examining the period 1 July 2021 to 31 December 2022 to determine whether the variable factors have changed and possible revocation of the measures as they apply to one exporter.

Review 615 is a separate review to this continuation inquiry. In the initiation notice for this continuation inquiry, the Commissioner did not specify a particular inquiry period, but at that time proposed to have regard to the variable factors determined in Review 615 for the purposes of this inquiry, to the extent relevant. At present, Review 615 remains ongoing.

The Commissioner considers that the information available and assessed is sufficient to make findings for this inquiry. The Commissioner has had regard to information on the public record for Review 615, where applicable.

Variable factors

Based on the injury findings and information considered, the Commissioner does not consider it necessary to assess the variable factors, nor any related assessment in response to KPE’s claims that there is a particular market situation in respect of wind towers in China.

There is no requirement for the Commissioner to calculate variable factors in a continuation inquiry. The commission’s consideration of recent dumping findings (for some exporters) is relevant to its assessment in this inquiry of the likelihood of dumping and material injury continuing or recurring if the measures expire.

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5 EPR 621, document no 2.
6 EPR 615.
1.4 Summary of key findings

The Commissioner considers that the evidence does not support a recommendation to continue the measures. Based on the evidence available, the Commissioner’s findings and conclusions are that:

- There is an Australian industry (that is capable of) producing like goods, consisting of KPE as the applicant and a participant in this inquiry. KPE is based in Portland, Victoria.
- The Australian industry was last successful in winning a tender to supply wind towers in 2020 and last manufactured wind towers in October 2020.
- In recent years, the Australian market for wind towers has been predominantly supplied by imports exempt from the measures.
- There has been a significant decline in the Australian industry’s production and sales volumes coinciding with changes in the Australian market, including loss of market share to exempt exporter Shanghai Taisheng Wind Power Equipment Co. Ltd (TSP). In 2023, TSP’s imports made up 87% of total imports (from all countries) into Australia. TSP is not subject to measures. The commission considers that TSP’s ability to compete on price and produce wind towers to the specification requirements of Original Equipment Manufacturers (OEMs) has led to it being successful in capturing a large portion of the Australian market, to the detriment of the Australian industry, despite the existence of the measures.
- There have been significant changes in the Australian wind towers market from 2020 to 2023, including several factors unrelated to dumping, which have restricted the Australian industry’s ability to win wind tower projects. These changes include:
  - **No Victorian Renewable Energy Target (VRET) auctions**
    VRET is a mechanism implemented by the Victorian government to assist in meeting the legislated renewable energy targets. Projects awarded under this mechanism are subject to minimum local content requirements under the *Local Jobs First Act 2003* (Vic). KPE is in Victoria and from 2019, most projects awarded to KPE were through VRET auctions. The last VRET project was awarded to KPE in 2020. There have been no further wind energy VRET auctions since 2020. The absence of VRET or other government led wind tower projects with local content requirements is a significant factor impacting the performance of the Australian industry (see section 6.7.3).
  - **Changes in wind tower design and construction**
    Wind towers have increased considerably in size over time. The commission found that KPE’s current facilities are unable to produce wind towers that fully meet the size and dimensions required by the Australian market. As a result, KPE would need to either upgrade its current facilities to manufacture larger tower sections, build new facilities or look to supplement its own production with imports to meet market demand for wind towers that it cannot currently produce (see section 6.7.4). While this has not prevented KPE from tendering for wind tower projects, or parts of wind tower projects, it appears to have limited KPE’s chances of success in recent years.

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7 The commission is also aware of another company, Crisp Bros. and Haywards Pty Ltd (Haywards) located in Tasmania that has previously produced wind towers. Haywards did not participate in the inquiry. The commission relied on available information in relation to Haywards as part of this inquiry.
PUBLIC RECORD

- Geographical constraints
  Due to the substantial size of wind towers, the costs of road transportation and installation are significant. KPE has an advantage working on projects closer to its own geographical location of Portland, Victoria. However, the high transport costs and installation costs are prohibitive, impacting on KPE's ability to bid for projects outside of Victoria (see section 6.7.5).

- Inability to compete on procurement requirements
  Manufacturing wind towers requires rigorous quality controls and as such, OEMs require suppliers to satisfy standards relating to safety, quality, capability, delivery, and cost. Certain overseas suppliers are pre-qualified with OEMs. KPE is currently not pre-qualified with any OEMs. This lack of pre-qualification reduces KPE’s competitiveness and limits its ability to successfully tender for and be responsive to upcoming projects (see section 6.7.6).

- Lack of funding and/or investments whether through private or government means
  A lack of funding and/or investments has further constrained the Australian industry’s ability to invest in facility upgrades or build new manufacturing facilities to produce wind towers to the specifications that the Australian market requires. The commission has examined further information provided by KPE in response to SEF 621 regarding future plans and maintains the view that there remains insufficient evidence of future government funding or committed capital investments that may improve the Australian industry's economic condition (see section 6.7.4).

The paragraphs below provide a summary of these findings, which are set out in further detail throughout the report.

1.4.1 Like goods and the Australian industry (chapter 3)

Based on information gathered in the inquiry and information from previous investigations, reviews, and inquiries in relation to wind towers, KPE represented most of the Australian industry for like goods. The commission notes that the Australian industry has not produced like goods since October 2020 and has not won a tender since May 2020. However, the commission finds that KPE continues to bid for wind tower projects and retains the ability to produce like goods.

1.4.2 Australian market (chapter 4)

The Australian wind tower market has previously been supplied by KPE based in Portland, Victoria, and Haywards, a Tasmanian based manufacturer that also formerly produced like goods. Haywards did not apply for a continuation of the measures and has not made any submissions to the inquiry. Based on available public information, the commission understands that Haywards last produced wind towers in 2019/2020.

For the purposes of this report, analysis regarding the Australian industry is specific to KPE only.

Currently the Australian market is supplied by imported goods, predominantly from China. The Australian wind tower market is growing, as per analysis outlined in section 6.5.5.
Most imported goods from China do not attract anti-dumping duties as they originate from exempt exporters, predominately TSP.

1.4.3 Economic condition of the Australian industry (chapter 5)

The Commissioner assessed the economic condition of the Australian industry from 1 January 2017 to 31 December 2023 (where possible) to analyse trends and assess potential current and future injury factors.

The Commissioner found the economic condition has been negatively impacted in recent years, demonstrated by no production or sales of like goods since October 2020. This lack of revenue affected other key business metrics such as profit and capacity utilisation, reduced employment, and wages expenses.

1.4.4 Likelihood of dumping and material injury continuing or recurring (chapter 6)

The Commissioner’s view is that the expiry of the measures would not lead, or would not be likely to lead, to a continuation or recurrence of the material injury that the measures are intended to prevent. The decline in the Australian industry’s economic condition as mentioned in section 1.4.3 coincides with factors other than dumping, including an increase in goods exempt from the measures.

The Commissioner has reached this view based on the following key considerations.

Are exports likely to continue or recur? (Section 6.5)

The Commissioner considers that if measures were to expire, exports from China would likely continue.

The Commissioner has reached this finding having regard to the import volumes prior to and following the imposition of measures, the maintenance of distribution relationships between the Australian market and Chinese exporters, export focus and excess production capacity of Chinese exporters, among other factors.

Is dumping likely to continue or recur? (Section 6.6)

The Commissioner considers that should the measures expire, goods exported to Australia by most exporters from China (subject to the measures) at dumped prices are likely to continue or recur.

However, the Commissioner does not consider there is sufficient evidence to conclude that exports of the goods to Australia from Chengxi Shipyard Co., Ltd (Chengxi) at dumped prices are likely to occur should the measures expire.8

Is material injury likely to continue or recur? (Section 6.7)

The Commissioner is not satisfied that material injury is likely to continue or recur in relation to exports at dumped prices upon the expiration of the measures.

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8 TSP who are exempt from the measures do not form part of this analysis.
The Commissioner has reached this finding having regard to the economic condition of the Australian industry, which appears to be impacted heavily by factors other than dumping. Such factors include changing wind tower design and construction, geographical constraints, procurement considerations and a lack of private or government funding.
2 BACKGROUND

2.1 Legislative framework

Division 6A sets out, among other things, the procedures to be followed by the Commissioner when considering an application for the continuation of measures.

Section 269ZHE(1) requires that the Commissioner publish a SEF on which they propose to base their recommendations to the Minister concerning the continuation of the measures. Section 269ZHE(2) specifies that the Commissioner:

- must have regard to the application and any submissions received within 37 days of the initiation of the inquiry and
- may have regard to any other matters that they consider relevant.

Under section 269ZHF(4), the Commissioner is not obliged to have regard to any submissions made in response to the SEF that are received by the Commissioner after the end of the 20-day period referred to in section 269ZHF(3)(a)(iv) if to do so would, in the Commissioner’s opinion, prevent the timely preparation of this report to the Minister.

Section 269ZHF(1)(a) requires the Commissioner, after conducting an inquiry, to give the Minister a report recommending:

- that the notice remain unaltered9 or
- that the notice cease to apply to a particular exporter or to a particular kind of goods10 or
- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained11 or
- that the notice expire on the specified expiry day.12

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and/or subsidisation and the material injury that the measure is intended to prevent.

2.2 Initiation

On 16 February 2023, the Commissioner published a notice on the commission’s website inviting the following persons to apply for the continuation of the measures:13

- the person whose application under section 269TB resulted in the measures14 or

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9 Section 269ZHF(1)(a)(i).
10 Section 269ZHF(1)(a)(ii).
11 Section 269ZHF(1)(a)(iii).
12 Section 269ZHF(1)(a)(iv).
13 In accordance with section 269ZHB(1).
14 Section 269ZHB(1)(b)(i).
On 12 April 2023, KPE lodged an application for the continuation of the measures.\textsuperscript{16}

The Commissioner was satisfied that:

\begin{itemize}
  \item KPE’s application complied with section 269ZHC (content and lodgement requirements)\textsuperscript{17} and
  \item there appeared to be reasonable grounds for KPE to assert that the expiry of the measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.\textsuperscript{18}
\end{itemize}

The Commissioner therefore decided not to reject the application and published ADN No 2023/030 initiating the inquiry on 12 May 2023.\textsuperscript{19}

### 2.3 The measures

#### 2.3.1 Dumping duty notice

The measures were initially imposed by public notice on 16 April 2014 by the relevant Minister following Investigation 221 (the original investigation). The findings are detailed in Anti-Dumping Commission Report No 221 (REP 221).\textsuperscript{20} The measures initially applied to all exporters from China and the Republic of Korea (Korea).

Following Continuation Inquiry No 487 (CON 487), the then Minister for Industry, Science and Technology:

\begin{itemize}
  \item ceased the measures applying to:
    \begin{itemize}
      \item all exporters from Korea and
      \item TSP from China\textsuperscript{21} and
    \end{itemize}
  \item revised the variable factors applying to exporters generally from China (except TSP).
\end{itemize}

Table 1 summarises the current measures.

\textsuperscript{15} Section 269ZHB(1)(b)(ii).
\textsuperscript{16} Under section 269ZHC. A non-confidential version of the application is available on EPR 621, document no 1.
\textsuperscript{17} Section 269ZHD(2)(a).
\textsuperscript{18} Section 269ZHD(2)(b).
\textsuperscript{19} EPR 621, document no 2.
\textsuperscript{20} EPR 221, document no 40.
\textsuperscript{21} On 25 March 2019 the then Minister for Industry, Science and Technology decided to secure the continuation of the measures, with effect from 17 April 2019. TSP applied for a review of the Minister’s decision to the Anti-Dumping Review Panel (ADRP). On 6 April 2020, the ADRP recommended that the Minister revoke the reviewable decision in so far as it related to TSP’s exports. The then Minister accepted the ADRP’s recommendation, with the effect that TSP’s exports of the goods were no longer subject to the measures from 17 April 2019.
### Table 1: Measures applying to exports of the goods

<table>
<thead>
<tr>
<th>Country</th>
<th>Exporter</th>
<th>Duty method</th>
<th>Fixed Interim Dumping Duty (IDD) rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>Penglai Dajin Offshore Heavy Industry Co., Ltd (Penglai)</td>
<td>Ad valorem</td>
<td>1.2%</td>
</tr>
<tr>
<td></td>
<td>CS Wind China Co., Ltd (CS Wind)</td>
<td>Floor price</td>
<td>N/A – a variable IDD is payable if the actual export price is below the floor price</td>
</tr>
<tr>
<td></td>
<td>Chengxi</td>
<td>Ad valorem</td>
<td>0.0%</td>
</tr>
<tr>
<td></td>
<td>TSP (supplied either directly or through certain intermediaries)</td>
<td>Not subject to the measures</td>
<td></td>
</tr>
<tr>
<td></td>
<td>All other exporters</td>
<td>Ad valorem</td>
<td>10.9%</td>
</tr>
</tbody>
</table>

Further detail about these measures can be found on the Dumping Commodity Register (DCR).\(^{22}\)

#### 2.3.2 Previous cases

The commission has conducted other cases relating to wind towers. A summary of key cases relating to the goods is in Table 2. Further details can be found on the commission’s website.

<table>
<thead>
<tr>
<th>Case type and number</th>
<th>ADN number</th>
<th>Finalisation date</th>
<th>Country of export</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuation inquiry 487</td>
<td>2019/33</td>
<td>25 March 2019</td>
<td>China and Korea</td>
<td>Measures continued for China and expired for Korea</td>
</tr>
<tr>
<td>Accelerated review 597</td>
<td>2022/039</td>
<td>24 June 2022</td>
<td>China</td>
<td>Measures amended for Chengxi</td>
</tr>
<tr>
<td>Accelerated review 602</td>
<td>2022/057</td>
<td>20 March 2023</td>
<td>China</td>
<td>Measures amended for Penglai</td>
</tr>
<tr>
<td>Accelerated review 603</td>
<td>2022/058</td>
<td>20 April 2023</td>
<td>China</td>
<td>Measures amended for CS Wind</td>
</tr>
</tbody>
</table>

Table 2: Previous cases relating to the goods

#### 2.4 Conduct of the inquiry

##### 2.4.1 Australian industry

The commission finds that KPE is an Australian company which has previously produced like goods to the goods the subject of this inquiry.\(^{24}\) The commission notes that KPE has not manufactured the goods since October 2020, however, it continues to bid for projects and retains the ability to manufacture wind towers within Australia. The commission also notes that KPE continue to service other industries, i.e. separate to production of wind towers. This is discussed further at section 3.5 below.

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\(^{22}\) Available on the commission’s website: [Current measures in the DCR](#).

\(^{23}\) Except TSP, which became exempt from the measures following [ADRP Review 2019/100](#).

\(^{24}\) See chapter 3.
The commission conducted a verification visit to KPE’s premises and the verification report is available on the EPR.\textsuperscript{25}

Haywards did not apply for the continuation of the measures and has not made any submissions to the inquiry.

### 2.4.2 Exporters

At initiation, the commission identified exporters of the goods from China from the ABF import database for the period from 2017 to 2022.

For the 18-month period ending 31 December 2022, the commission identified the following subject exporters:

- Penglai
- Suzhou Titan New Energy Technology Co, Ltd (Suzhou Titan).

The commission sent exporter questionnaires to Chengxi, CS Wind and Penglai as exporters who have recently cooperated in recent accelerated review nos 597, 602 and 603. A copy of the exporter questionnaire was also placed on the EPR for any other exporters to complete, including Suzhou Titan.

For the purposes of this inquiry, the Commissioner did not request that exporters complete an exporter questionnaire addressing questions regarding current variable factors (noting that Review 615 is ongoing). Instead, the exporter questionnaire contained questions about whether material injury will continue or recur if the measures expire.

The commission received a response to the exporter questionnaire (REQ) from:

- CS Wind
- Chengxi

The Commissioner has taken these REQs into account in formulating this report.

### 2.5 Submissions received from interested parties

The commission received the submissions listed in Table 3 before publishing SEF 621. Non-confidential versions of these submissions are available on the EPR.

<table>
<thead>
<tr>
<th>EPR document number</th>
<th>Interested party</th>
<th>Topic of discussion</th>
<th>Date published on the EPR</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Chengxi</td>
<td>Identified what it considers are deficiencies in KPE’s application</td>
<td>5 September 2023</td>
</tr>
<tr>
<td>8</td>
<td>Penglai</td>
<td>Penglai’s view is that the measures are no longer warranted due to several factors unrelated to dumping</td>
<td>12 September 2023</td>
</tr>
</tbody>
</table>

\textsuperscript{25} EPR 621, document no 7.
The GOC consider that wind towers exported to Australia are not dumped, have not caused material injury to the Australian industry and are unlikely to cause material injury in the future.

21 September 2023

Table 3: Submissions received prior to SEF 621

The Commissioner had regard to all submissions in Table 3 in formulating SEF 621.

The following submissions were received after the publication of SEF 621. Non-confidential versions of these submissions are available on EPR 621.

<table>
<thead>
<tr>
<th>EPR document number</th>
<th>Interested party</th>
<th>Topic of discussion</th>
<th>Date published on EPR</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>KPE</td>
<td>KPE disagreed with the commission's conclusions regarding material injury and maintains that recurrence of material injury caused by dumped Chinese imports is clear.</td>
<td>6 November 2023</td>
</tr>
<tr>
<td>13</td>
<td>CS Wind</td>
<td>CS Wind agreed with the commission's assessment in SEF 621.</td>
<td>8 November 2023</td>
</tr>
<tr>
<td>14</td>
<td>Penglai</td>
<td>Penglai supports the Commission's findings and recommendations in SEF 621.</td>
<td>8 November 2023</td>
</tr>
</tbody>
</table>

Table 4: Submissions received after publication of SEF 621

The Commissioner must have regard to any submission made in response to the SEF that interested parties provide within 20 days after placing the SEF on the EPR. The Commissioner is not obliged to have regard to any submission in response to the SEF after this date, if to do so would, in the Commissioner’s opinion, prevent the timely preparation of the final report to the Minister. The Commissioner may also disregard information for which an interested party did not provide a public summary unless it could demonstrate the information was correct.

The commission has had regard to all submissions listed in Tables 3 and 4 in formulating this report.

2.6 Confidentiality of KPE’s submission

On 6 November KPE made a submission (EPR document no 12) in response to SEF 621. KPE provided a public and confidential version of the submission advising that the information in its confidential submission was commercially sensitive.

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26 All non-confidential versions of submissions are on the EPR.
27 Section 269ZHF(3)(a)(iv).
28 Section 269ZHF(4).
29 Sections 269ZJ(5) and (6).
The commission identified that KPE’s non-confidential submission, as first lodged, did not provide an adequate non-confidential summary that contained sufficient detail to allow a reasonable understanding of the substance of the confidential information. The commission wrote to KPE on 2 occasions requesting it provide further detail to allow sufficient understanding of the information without breaching confidentiality. KPE responded with a revised non-confidential version of the submission maintaining that the underlying detail is confidential. The commission published the second revised non-confidential version of the submission on EPR 621 on 8 December 2023.

The commission is of the view that the revised non-confidential submission published on the EPR may not contain sufficient detail to allow a reasonable understanding of the substance of the confidential information by other interested parties. However, given the nature of the information, which is specific to KPE and involves KPE plans and assessment of industry opportunities, the commission accepts KPE’s claims for confidentiality. There is therefore a need to balance KPE’s claims with what is practical in terms of transparency and timeliness in this case. The commission has had regard to the information.

As discussed in Confidential Appendix A the commission considers that the information submitted by KPE does not alter the commission’s assessment that factors other than dumping will continue to impact KPE’s ability to secure contracts in the future. Refer to Section 5. Accordingly, the commission did not request a further revised non-confidential submission from KPE.

Following the Minister’s decision on this inquiry, Confidential Appendix A will be provided to KPE.
3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Findings

The Commissioner finds that:

- locally manufactured wind towers in the past have been ‘like’ to the goods subject to the measures
- there is an Australian industry capable of producing like goods, KPE, who was the sole participant in this inquiry and
- the like goods have been wholly manufactured in Australia, noting KPE did not produce like goods since October 2020.

3.2 Legislative framework

To be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping and the material injury that the measures are intended to prevent, the Commissioner must firstly determine whether the goods produced by the Australian industry are ‘like’ to the imported goods.

Section 269T(1) defines like goods as:

…goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other. In performing this assessment, the Commissioner considers:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

The Commissioner must also consider whether the like goods are produced in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

The commission’s framework for assessing like goods is outlined in chapter 2 of the *Dumping and Subsidy Manual* (the Manual).\(^{30}\)

The following analysis therefore establishes the scope of the commission’s inquiry.

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3.3 The goods subject to the measures

3.3.1 Goods description

ADN No 2023/030 defined the goods as:

Certain utility scale wind towers, whether or not tapered, and sections thereof (whether exported assembled or unassembled), and whether or not including an embed being a tower foundation section.

Wind turbines that have electrical power generation capacities equal to or in excess of 1.00 megawatt (MW) and with a minimum height of 50 metres measured from the base of the tower to the bottom of the nacelle (i.e., where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment or method of manufacture, and with or without flanges, doors, or internal or external components (e.g. flooring/decking, ladders, lifts, electrical junction boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section.

Goods specifically excluded from the measures are:

- nacelles and rotor blades, regardless of whether they are attached to the wind tower
- any internal or external components which are not attached to the wind towers or sections thereof.

There are two Tariff Concession Orders (TCOs) for wind towers under tariff subheading 7308:

- TCO 1761480.
- TCO 1813104.

IDD does not apply to goods subject to TCO 1761480 with an effective date of 21 September 2017 due to Ministerial Exemption Instrument No 2 of 2018. IDD does not apply to goods subject to TCO 1813104 with an effective date of 16 May 2018 due to Ministerial Exemption Instrument No 5 of 2018.\(^{31}\)

3.3.2 Tariff classification

The goods may be classified to 7308.20.00 in Schedule 3 to the Customs Tariff Act 1995. This applies to complete towers, unassembled or assembled, and applies to a basic tower that includes doors, ladders, landings and embed or tower foundation. Steel tower sections, including sections with doors etc. are classified to 7308.90.00, assembled or

\(^{31}\) Details of these TCOs are available on the ABF website: Tariff Concession Orders.
disassembled, provided there are insufficient sections in a shipment to be considered a complete tower.

Combinations of towers and tower sections may vary on a case-by-case basis for assessment of tariff classification. Classification may vary when there is more of one item than another, for example a tower section and lift or a tower section with lift, electrical junction boxes and other equipment. An assembled complete wind powered generator is a composite machine consisting of two or more machines fitted together to form a whole; wind engine, generator, gearbox, yaw controls etc. fitted in a steel tower and nacelle and has a classification to subheading 8502.31.10.

Table summarises the tariff classifications relevant to wind towers:

<table>
<thead>
<tr>
<th>Tariff code</th>
<th>Stat Code</th>
<th>Unit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>7308:</td>
<td></td>
<td></td>
<td>TOWERS AND LATTICE MASTS:</td>
</tr>
<tr>
<td>7308.20.00</td>
<td>03</td>
<td>tonnes</td>
<td>Tubular, whether or not tapered</td>
</tr>
<tr>
<td></td>
<td>04</td>
<td>tonnes</td>
<td>Other</td>
</tr>
<tr>
<td>7308.90.00</td>
<td></td>
<td></td>
<td>OTHER:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>COLUMNS, POSTS AND BEAMS, GIRDERS, BRACING, GANTRIES, BRACKETS, STRUTS, TIES</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>AND SIMILAR STRUCTURAL UNITS:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>ROLL-FORMED STRUCTURES:</td>
</tr>
<tr>
<td></td>
<td>52</td>
<td>tonnes</td>
<td>. . . Hot rolled</td>
</tr>
<tr>
<td></td>
<td>53</td>
<td>tonnes</td>
<td>. . . Plated or coated with zinc or with aluminium-zinc alloys,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>of a thickness less than 1.2 mm</td>
</tr>
<tr>
<td></td>
<td>54</td>
<td>tonnes</td>
<td>. . . Plated or coated with zinc or with aluminium-zinc alloys,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>of a thickness of 1.2 mm or more</td>
</tr>
<tr>
<td></td>
<td>55</td>
<td>tonnes</td>
<td>. . . Other</td>
</tr>
<tr>
<td></td>
<td>56</td>
<td>tonnes</td>
<td>. . Other</td>
</tr>
<tr>
<td></td>
<td>63</td>
<td>tonnes</td>
<td>Sectional components, prepared for use in towers and lattice masts</td>
</tr>
<tr>
<td></td>
<td>65</td>
<td>tonnes</td>
<td>Other</td>
</tr>
<tr>
<td>8502:</td>
<td></td>
<td></td>
<td>ELECTRIC GENERATING SETS AND ROTARY CONVERTERS:</td>
</tr>
<tr>
<td>8502.31.10</td>
<td></td>
<td></td>
<td>OTHER GENERATING SETS:</td>
</tr>
<tr>
<td></td>
<td>31</td>
<td>no.</td>
<td>--- AC generating sets of an output exceeding 500 kVA</td>
</tr>
</tbody>
</table>

Notes:
- Statistical code 02 for tariff sub-heading 7308.20.00 was replaced with statistical codes 03 and 04.
Table 5: Relevant tariff subheadings for wind towers

These tariff classifications and statistical codes may include goods that are both the subject and not the subject of this inquiry. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods the subject of this inquiry.

3.4 Like goods

This section sets out the commission’s assessment of whether the goods, if they were locally produced, are identical to or closely resemble, the goods under consideration and are therefore like goods to the goods subject to the measures.\(^{32}\)

For the purposes of the findings outlined below, the commission has relied on information obtained at the verification of KPE, and the commission’s understanding of the goods from previous investigations, reviews, and inquiries into this product.\(^{33}\)

The commission notes that KPE has not produced wind towers since October 2020, although it still possesses the capacity to do so.

3.4.1 Physical likeness

The commission finds that the primary physical characteristics of the goods exported to Australia and locally produced goods are similar. Notwithstanding that there are variations in technical specifications (i.e. size of the wind tower sections, shape, height, content etc.) from project to project, locally produced wind towers have characteristics that are like to, or closely resemble the wind towers exported to Australia.

3.4.2 Commercial likeness

The commission finds that the goods exported to Australia and locally produced goods are commercially alike. They are sold to OEMs and directly compete in the same market. The channels to market are similar and often projects are bid on by multiple suppliers through competitive tender processes.

3.4.3 Functional likeness

The commission finds that the goods exported to Australia and locally produced goods are functionally alike. They have a similar end-use (i.e. electricity generation).

3.4.4 Production likeness

The commission finds that the goods exported to Australia and locally produced goods are manufactured in a similar manner using the same raw materials.

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\(^{32}\) As defined in section 269T(1).

\(^{33}\) See EPR 621, document no 7; EPR 487, document no 9; EPR for accelerated reviews 597, 602 and 603.
3.4.5 Conclusion – like goods assessment

Based on the information obtained from verification visits and previous investigations, reviews and inquiries, the Commissioner is satisfied that:

- KPE manufactures like goods\(^{34}\)
- the like goods are wholly manufactured in Australia\(^ {35}\)
- there is an Australian industry, consisting of KPE\(^ {36}\)

3.5 Australian industry

3.5.1 Production process

The commission conducted an onsite verification of KPE at its premises in Portland. The commission notes that KPE currently do not produce wind towers but has retained its facilities and ability to manufacture the goods should it be successful in winning tenders. KPE continue to manufacture other steel products such as off grid solar and specialised telecommunication towers.

The commission was not able to observe the manufacturing process due to no wind towers being produced during verification. However, the commission has previously observed KPE’s manufacturing process during CON 487, which involves the following processes:

- rolling of the processed plate into individual cylindrical steel cans, or “strakes”, meeting the precise specification diameter and curvature requirements
- welding according to specification to join edges and seams to form a tower section. This is followed by the precise fitting up of steel flanges
- surface treatment (including sand blasting) and then painting of steel surfaces; and internal fit out of mechanical parts (platforms are either bolted or welded in, along with ladders, cable trays and safety fall arrest devices. All electrical main power cables, junction boxes and electrical lighting are installed).

This is further outlined in the Australian industry verification report from CON 487\(^ {37}\).

3.5.2 Conclusion – Australian industry

Based on the information obtained from previous verification visits, the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia\(^ {38}\) and
- there is an Australian industry which produces like goods in Australia\(^ {39}\)

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34 Section 269T(1).
35 Section 269T(2).
36 Section 269T(4).
37 EPR 487, document no 9.
38 Section 269T(2).
39 Section 269T(4).
4 AUSTRALIAN MARKET

4.1 Finding
The commission found that, from 2021 to 2023, the Australian market for wind towers was supplied entirely by imported goods, primarily from exporters that are not subject to the measures.

4.2 Approach to analysis
The analysis in this chapter is based on verified financial information submitted by KPE and data captured in the ABF import database.

The commission’s analysis of the Australian market is in Confidential Attachment 1.

4.3 Market structure
The industry that uses wind towers in Australia is the renewable energy industry. This industry consists of energy production from:

- wind power
- hydroelectricity
- solar photovoltaics
- heat pumps
- geothermal
- wave power
- solar thermal.

The renewable energy industry for wind towers in Australia is then split into the following segments:

- free market projects
- government projects.

Projects are facilitated and controlled by OEMs. KPE stated during verification that there are 8 main wind turbine OEMs supplying to the Australian market, with related local entities undertaking the development of the associated wind farms. These local entities are:

- Vestas Wind System A/S
- GE Energy
- Goldwind Australia Pty Ltd
- Senvion Australia (formerly Repower Australia)
- Siemens Gamesa Ltd Australia
- Acciona Nordex
- Suzlon Energy Australia
- Enercon Australia Pty Ltd

OEMs are responsible for sourcing the 3 essential components required to construct a wind turbine: the tower sections, rotor blades and the nacelle.
Locally produced and imported wind tower sections are used interchangeably across the 2 key market segments in Australia. However, the production capability of producers can vary – for example, some producers may not be able to produce larger wind tower sections which impacts their competitiveness in the market.

4.4 Key drivers of demand

The primary demand driver for wind towers is the renewable energy industry.

Demand for KPE's like goods is therefore impacted by factors that impact the renewable energy industry in Australia. KPE identified economic factors (availability for capital, domestic conditions, consumer confidence), and government regulation and projects (standards, policies, state government projects) as relevant factors that influence demand.

4.5 Market size

The commission estimated the size of the Australian market for wind towers using the domestic sales data from KPE and data sourced from the Australian ABF import database since 2017. The information sourced from the ABF import database was determined using the relevant tariff subheadings and statistical codes for wind towers and additional filtering to remove imports that were not considered to be the goods.

The commission's methodology for filtering the goods in the ABF import database is in Confidential Attachment 2.

The commission considers that its approach to estimating the size of the Australian market for wind towers is relevant and reasonable as:

- the ABF import database is an independent and reliable source of data in relation to imported wind towers
- the completeness, relevance and accuracy of the sales data compiled by KPE was verified by the commission.

The commission noted that most ABF entries indicated the weight of the shipment in tonnes, while some entries provided only the number of wind tower sections. Where the ABF entries recorded sections, the commission has converted the entry to a weight in tonnes using best estimates. The commission considers that this provides a reasonable basis for estimating the size of the Australian market for the purpose of this report.

Figure 1 depicts the commission's estimate of the size of the Australian market for wind towers from fiscal year 2017 to 2023.
4.6 Wind towers preferences in Australia

Wind towers are typically a project-based product and there is a lot of scope to substitute domestically produced and imported goods. There are exceptions and practical production constraints for some producers, particularly with the market shifting towards a preference for larger wind towers. The commission notes that as of 2023, a standard wind tower is now considerably larger than at the time wind towers were first constructed in Australia. Several stakeholders have identified the transition to larger towers, and this is discussed further at section 6.7.4 below.

4.7 Price

Price remains one of the main factors that is taken into consideration by OEMs when purchasing wind towers, along with transportation and installation costs.

KPE claims that prices for the like goods are typically set through a tendering process, in which KPE will tender for a specific project and advise what can be supplied to the OEM in respect to a particular wind farm project in Australia. KPE manufactures wind tower sections to order upon winning tenders.

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40 Confidential Attachment 1. Certain Figures in this report have been updated following SEF 621 to include the 2023 calendar year, given the information is now available.

41 Confidential Attachment 4.
4.8 Geographic locations of wind farms

4.8.1 Onshore wind farms

Onshore wind farms and subsequently the geographic demand for wind towers is now dispersed across Australia. Originally concentrated mostly in Victoria, wind farms in NSW and Queensland are seeing a significant uplift in new and proposed government and free-market activity. The geographic proximity of wind tower manufacturing facilities to wind farms is known to be a competitive advantage for local manufacturers. Conversely, because of the scale of the goods and the practical limitations of road transport, Australian manufacturers are at a competitive disadvantage when it comes to tendering for distant projects. In practical terms, this means that KPE is restricted to bidding for projects within a feasible distance of Portland, and Haywards for projects in Tasmania.

4.8.2 Offshore wind farms

Offshore wind power is increasingly becoming a focus of governmental renewable energy planning. The Victorian government has set a target of commissioning 2 gigawatts (GW) of offshore wind by 2032, and other states, including NSW, have followed suit in declaring offshore wind zones.

The commission understands geographical location to be a greater consideration for establishing offshore wind farms than onshore due to the increased scale of tower sections and the associated transport, infrastructure requirements and installation challenges. The commission notes that the Australian industry does not have the capability to manufacture offshore wind towers with its current facilities.

The geographical limitations and logistical challenges faced by the Australian industry in supplying wind towers to distant onshore wind farms, and offshore wind farms is discussed in detail in section 6.7.5 below.

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5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Findings

The Australian industry’s economic condition has been negatively impacted in recent years, demonstrated by no production or sales of like goods since October 2020. This lack of revenue had a flow on effect onto other key business metrics such as profit and capacity utilisation, reduced employment, and wages expenses.

Based on the analysis outlined in this chapter and chapter 6, the commission does not consider the deterioration of the Australian industry’s economic condition to be attributable to imports of the goods subject to measures. Factors affecting the Australian industry’s economic condition in the period examined are listed in Chapter 6.

5.2 Approach to analysis

This chapter considers the economic condition of the Australian industry since the measures were imposed. This examination provides the basis for the commission’s analysis in chapter 6 of whether material injury from dumping is likely to continue or recur if the measures expire.

The commission has assessed the economic condition of the Australian industry from 1 January 2017 using the verified information provided by KPE in this inquiry, CON 487, and data from the ABF import database. As the commission has no information on Hayward’s financial performance, the commission considers that KPE’s performance is indicative of the performance of the Australian industry as a whole. The data was aggregated on an annual basis for years ending 31 December. This assessment is at Confidential Attachment 2.

5.3 Injury findings in the original investigation

In REP 221 the Commissioner found that, during the investigation period, the Australian industry had experienced injury in the form of:

- loss of sales volume
- loss of market share
- reduced revenue
- price depression
- price suppression
- reduced profits
- reduced profitability
- reduced capacity utilisation
- decline in assets and capital investment
- reduced return on investment (ROI) and
- loss of employment.\(^\text{44}\)

\(^{44}\) EPR 221, document no 40.
5.4 Volume effects

As demonstrated below, the commission has found that KPE have experienced a deterioration in volume related economic performance during the period examined.

5.4.1 Sales volume

Figure 2 shows KPE’s sales volume of wind towers from 2017 to 2022.

![Sales Volume (tonnes)](image)

Figure 2: Sales volume

KPE’s sales volume increased until 2019 and then decreased in 2020. An increase in 2019 and 2020 was related to VRET stage 1 wind tower projects. There were no sales after 2020. This decrease in sales volume is directly attributable to the ceasing of VRET wind tower projects and the increase of imports from TSP, which is visible in Figure 3.

5.4.2 Market share

Figure 3 details the proportion of the Australian market that has been supplied by the Australian industry, imports from China and from other countries.

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45 Confidential Attachment 2.
46 The VRET auctions provide long-term contracts that create investment certainty to build new energy generation projects. For more information refer to this link: [https://www.energy.vic.gov.au/renewable-energy/victorian-renewable-energy-and-storage-targets](https://www.energy.vic.gov.au/renewable-energy/victorian-renewable-energy-and-storage-targets).
The Australian industry increased its market share up until 2020 compared to 2017 levels. KPE held no market share in 2021, 2022 or 2023. This decline in KPE’s market share in 2021, 2022 and 2023 coincided with an increase in market share for Chinese goods not subject to measures, which includes TSP who are exempt from the measures.

5.5 Price effects

5.5.1 Price depression and suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise might have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

5.5.2 Commission’s assessment

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47 Confidential Attachment 1.

48 Australian industry market share is based on verified sales data for KPE and an estimate for sales of other Australian industry participants as supplied by KPE.
The commission has found it difficult to draw conclusions regarding trends in prices for wind towers as they are large bespoke products manufactured to customer requirements and involve tenders.

Unit selling prices have decreased from 2017 to 2020, but so have costs. The commission considers it is reasonable to expect that a company’s unit selling prices would normally exceed unit cost to make and sell (CTMS). Based on the available information outlined below, KPE have not achieved this in 2018 to 2020, thus KPE’s unit selling prices appear to be suppressed between that period.

The commission has not attributed this to the goods subject to measures. The commission refers to section 6.7.7 and notes that most imports belong to major price setters in the market who were exporters not subject to measures.

Figure 4 charts KPE’s unit selling price and unit CTMS from 2017 to 2020.

Figure 4: Unit CTMS and unit selling price ($ per tonne)

Figure 4 indicates that:

- Unit CTMS trended downward from 2017 to 2019 but increased in 2020.
- Unit selling prices trended downward from 2017 to 2019 but increased in 2020. The downwards trend over the period is largely explained by a fall in unit costs of the two largest inputs, plate steel and labour.
- The unit selling prices exceeded unit CTMS in 2017. During 2018 to 2020, when the Australian industry unit CTMS exceeded unit selling price.

5.6 Profits and profitability

The commission has found KPE’s wind tower business experienced negative profit and profitability between 2018 and 2020, which indicates that its profit related economic

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49 As KPE did not sell the goods after 2020, Figure 4 does not include those years.
50 Confidential Attachment 2.
condition was impacted prior to 2021. The commission can make no findings specific to 2021 and 2022 as KPE did not sell like goods during that period.

Figure 5 charts KPE’s profit and profitability as a percentage of revenue from 2017 to 2022.

![Profit & Profitability Graph](image)

**Figure 5: Profit ($) and profitability (% of revenue)**

From the production of like goods, KPE recorded a positive profit and profitability in 2017. It experienced negative profit and profitability between 2018 and 2020. There was no profit or profitability in 2021 and 2022, due to no sales taking place in those years.

### 5.7 Other economic factors

As part of its application, KPE provided data in relation to a range of other economic factors that may be indicative of injury to the Australian industry:

- asset value
- capital investment
- revenue
- ROI
- capacity utilisation
- employment
- wages

#### 5.7.1 Asset value

Figure 6 depicts the value of KPE’s assets used in the production of like goods from 2017 to 2022.

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51 Confidential Attachment 2.
KPE’s assets increased in value from 2017 to 2019, before decreasing in 2020 and flat lining in 2021 and 2022.

5.7.2 Capital investment

Figure 7 depicts KPE’s capital investment from 2017 to 2022.

KPE’s capital investment sharply increased from 2017 to 2018, before decreasing in 2019. This increased again in 2021 before falling in 2022.

52 Confidential Attachment 2.
53 Confidential Attachment 2.
5.7.3 Revenue

Figure 8 depicts KPE’s revenue from the sale of like goods from 2017 to 2022.

![Revenue graph]

**Figure 8: Revenue**

KPE’s revenue on sales of like goods gradually increased from 2018 to 2020, after which there was a period of strong decline in 2021 and no revenue in 2022.

5.7.4 Return on investment

Figure 9 depicts KPE’s ROI from 2017 to 2022 derived from capital invested in the production of like goods.

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54 Confidential Attachment 2.
KPE had a negative ROI in 2018, 2021 and 2022, with its lowest ROI in 2021.

5.7.5 Capacity utilisation

This data was not presented by KPE. The commission has a general indication of KPE’s capacity from prior investigations, reviews and inquiries and discussion at the verification visit. However, the commission understands that capacity utilisation can vary for KPE depending on the number of projects it wins and the size and complexity of the tower sections.

Despite the varying nature of wind tower production capacity due to varying project specifications, the commission understands that a maximum production capacity of 8 sections per week is a good approximation of KPE’s production capacity with normal staffing levels. This places a cap on potential market share per annum. For example, the Goyder South Stage 1 Wind Farm in South Australia which began construction in 2022 consisted of 75 wind turbines with 5 sections per wind tower, meaning that it would require approximately 90% of KPE’s current annual production capacity to deliver this project alone. The Clean Energy Council lists 18 other onshore wind projects of

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55 Confidential Attachment 2.
56 EPR 487, document no 9.
57 EPR 221, document no 14.
58 EPR 621, document no 7.
59 Renew Economy, Australia gets wakeup call on materials manufacturing in surge to renewables, August 2023, accessed 14 November 2023.
61 Goyder Energy, Delivery of Wind Turbines Goyder South Stage 1, August 2023, accessed 14 November 2023.
varying sizes under construction or commenced in 2022, which gives an indication of KPE’s inability to service the entire Australian market.\textsuperscript{62}

To further contextualise the size of the Australian market with respect to KPE’s maximum annual production capacity, the commission has converted ABF volume data from metric tonnes to sections, as KPE can produce approximately 8 wind tower sections per week.\textsuperscript{63} Based on the information at its disposal as part of this inquiry, the commission considers 60-90 metric tonnes per section to be an accurate approximation of the average weight per wind tower section in the current Australian wind tower market. From this, KPE is estimated to only have had capacity to supply 23-35% of the 2022 Australian wind tower market and as such KPE cannot service the market alone.\textsuperscript{64}

5.7.6 Employment

Figure 10 depicts KPE’s employment numbers from 2017 to 2022.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{employment.png}
\caption{Employment\textsuperscript{65}}
\end{figure}

KPE’s employment numbers increased from 2017 to 2019, before decreasing in 2020. KPE provided employed numbers for its manufacturing facility but noted that the small number of staff retained in recent years are not involved in the production of wind towers.

\textsuperscript{63} Renew Economy, \textit{Australia gets wakeup call on materials manufacturing in surge to renewables}, August 2023, accessed 14 November 2023. The commission also notes that KPE’s current production capacity may be lower, noting the reduction in employment from 2020 to 2021 noted below in Figure 10.
\textsuperscript{64} Confidential Attachment 1.
\textsuperscript{65} Confidential Attachment 2.
5.7.7 Wages

Figure 11 depicts KPE’s wages bill from 2017 to 2022.

KPE’s wage bill increased steadily from 2017 to 2019, before decreasing slightly in 2020. This was followed by a strong decrease in 2021 and 2022.

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66 Confidential Attachment 2.
6 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

6.1 Findings

Based on the evidence obtained and findings made in this inquiry, the Commissioner is not satisfied that the expiration of the measures applying to wind towers exported to Australia from China would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

Critically, in relation to the question of whether the measures should continue, the Commissioner does not consider that the evidence is sufficient to support a finding that material injury to the Australian industry is likely to continue or recur from future exports of the goods at dumped prices if the measures expire. The Commissioner therefore recommends that the measures expire.

6.2 Legislative framework

Under section 269ZHF(2) the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The commission must consider what will happen (or what would be likely to happen) in the future, should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base their conclusions and recommendations on facts.67

6.3 The commission’s approach

6.3.1 Original investigation

TSP was the only exporter from China during the investigation period for REP 221 and the measures initially included Korea. Dumping margins from the original investigation ranged from 15% to 17.2%.

The commission determined in REP 221 that the dumped exports from China cumulatively with exports from Korea resulted in lost revenue to the Australian industry in the range of $55m to $65m in a market calculated to be worth $110m to $130m. In addition, the commission was satisfied that the Australian industry lost profitability of around 10% and lost capacity utilisation. The combination of these effects, was considered material.68

Following CON 487, the measures against Korea expired along with the measures for TSP who was subsequently found to not be dumping in ADRP Review no 2019/100. For

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68 EPR 221, REP 221, document no 40, pp 54 and 55.
all other exporters from China (except TSP), the Commissioner was satisfied that the expiration of the measures from China would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury to Australian industry that the measures are intended to prevent.  

6.3.2 Assessment of factors impacting the Australian industry in this inquiry

The commission considered all known relevant factors to assess the likelihood that dumping, and material injury will continue or recur, consistent with the Manual. The commission’s view is that the relevance of each factor varies depending on the nature of the goods and the market into which the goods are sold. In this instance, no one factor can provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

The commission’s analysis for this chapter is at Confidential Attachment 1 and 3. These attachments contain confidential ABF import data relating to the importation of wind towers into Australia.

As outlined in this report, the commission has observed changes in the market since the measures were put in place. In this inquiry, the commission considers that factors other than dumped goods, which largely were not present in the original investigation, have emerged and are impacting the Australian industry. The commission’s assessment is contained in section 6.7. The commission considers that the dumping and material injury that led to the measures, and what they were intended to prevent, has shifted considerably.

6.4 Australian industry’s claims

In its application, KPE made the following claims regarding the continuation or recurrence of injury from wind towers exported to Australia from China:

- Since the imposition of the measures, exporters from China have maintained their distribution channels to Australia and will likely increase export volumes in the absence of measures.
- There is significant excess capacity in China’s steel making industries, which may contribute to increased volumes of wind towers (which comprise large quantities of steel as a raw material) being exported to Australian markets in the absence of measures.
- Anti-dumping measures on wind towers imposed by other jurisdictions such as the United States of America (USA), European Union (EU) and Mexico will influence the future export orientation towards countries where measures do not apply.
- As the global supply chains stabilise following COVID-19 related disruptions, Australian industry sales volumes will become vulnerable from increasing export volumes.
- The Australian market for wind towers remains highly price sensitive given the substitutable nature of the domestic like product and the subject goods.

69 EPR 487, document no 19.
If the measures expire, a significant volume of dumped goods from China would again substantially undercut the domestic like goods to gain market share. In turn, this would significantly depress and suppress domestic like good prices and therefore adversely affect the profitability and stability of the domestic industry.

The Australian industry claimed in its application that it is reasonable to expect that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping and the material injury that the measures were intended to prevent.

KPE also made submissions to the inquiry. The commission has considered KPE’s claims in its analysis below.

6.5 Are exports likely to continue or recur?

Section 269ZHF specifies that the key question is whether the expiration of the measures would be ‘likely’ to lead to a continuation or recurrence of the dumping and material injury that the measures are intended to prevent. As a part of that overall question, this section analyses whether exports subject to measures would likely continue or recur in a reasonably foreseeable timeframe.71

The commission notes that since the measures were imposed, exports have continued. The commission considers that if the measures were to expire, exports from China would likely continue.

In reaching this conclusion, the commission has regard to the:

- Australian market volumes including import volumes of the goods since the imposition of the measures in 2014
- Australian market volumes including import volumes of the goods since the continuation of the measures in 2019
- demand for wind tower projects in Australia which is likely to continue or possibly increase in the future
- maintenance of distribution channels or links to the Australian market by subject exporters
- steel production capacities, export focus, and capacity utilisation of the subject exporters and
- trade measures in other jurisdictions.

The following sections of the report outline the commission’s assessment in respect of each of the above considerations. The commission’s assessment of KPE’s confidential submission is contained in Confidential Attachment 1. The Commission’s calculation of market shares for the period examined is contained in Confidential Attachment 1. The calculations are based on ABF, exporter, and Australian industry data.

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71 The commission notes that there is no requirement under section 269ZHF(2) to ascertain whether each individual factor or consideration is ‘likely’ in the overall assessment under that section. The ‘likely’ standard applies to the overall determinations on dumping and injury.
6.5.1 Import volumes and patterns of trade

The commission analysed wind tower imports from 2012 (which covered the investigation period for the original investigation) using information from the ABF importation database. Measures on wind towers were originally imposed in 2014 and continued in 2019.

Figure 12 shows Australian market shares during the original investigation (1 January 2012 to 30 June 2013) and following the imposition of measures on exports from China and Korea (16 April 2014). During this time, an investigation into wind towers from the Socialist Republic of Vietnam (Vietnam) was initiated and subsequently terminated. Exports of the goods from China continued despite measures being imposed in 2014.

![Australian Market Volume - 1 Jan 2012 to 31 Dec 2016 (towers)](image)

Figure 12: Market Volume from 1 Jan 2012 to 31 Dec 2016

Figure 13 shows Australian market shares from 2017. Measures on wind towers exported from Korea were allowed to expire in 2019. Following ADRP Review No 2019/100, finalised in April 2020, the measures applying to TSP (from China) expired.

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72 Confidential Attachment 2.
Figures 12 and 13 show that exports of wind towers from China to Australia have been prevalent since the original investigation. Exports from Chinese exporters both subject and not subject to measures have continued.

In terms of subject and non-subject countries, following the continuation of the measures in April 2019, the volume of imports from:

- Chinese exports not subject to measures decreased slightly, before increasing markedly in 2021 and dominating the Australian market during 2022 with a market share of 83% and during 2023 with a market share of 87%.
- Chinese exports subject to measures decreased over the period, with only 7% of market share in 2022.
- All other countries exports decreased significantly, despite no measures being in place.
- Non-subject exporters from all countries including China made up 93% of the market in 2022.

Figure 14 shows the total volume of wind towers exported from China to Australia since 2017. Despite measures being continued in April 2019 following CON 487, imports of wind towers from China increased significantly following ADRP Review No 2019/100, where the measures applying to TSP were allowed to expire.

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73 Confidential Attachment 2.
74 Confidential Attachment 3.
75 Ibid.
This increase in wind tower sections from non-subject exporters from China is a significant factor that has led to the Australian industry having no market share in 2021 and 2022.

6.5.2 COVID-19 and its effect on supply

In its application, KPE asserted that as the global supply chains stabilise following COVID-19, the Australian industry will be vulnerable to increasing export volumes. KPE also claimed that rising wind tower inventory levels in China will lead to increased exports to Australia.

The commission considers that the analysis in section 6.5.1 indicates that disruptions due to COVID-19 in China were not a factor relating to increased Chinese exports. Rather, the commission considers that increasing volumes from China after 2020 were directly related to the recovery of Australian demand for wind towers post local COVID-19 disruptions, as well as TSP becoming exempt from measures.

The market and demand for wind towers in Australia is driven and controlled by the construction of new wind farms and the OEMs who procure the associated wind towers. As a result, wind tower volumes are dictated by wind tower demand conditions in Australia, as opposed to wind tower supply conditions China, and the decreased Australian market size in 2020-21 seen in Figure 13 likely reflects the prevalence of COVID-19 during that time in Australia.

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76 Confidential Attachment 2.
77 EPR 621, document no 1, attachment A, p 18.
78 Section 4.3 refers.
In addition, KPE’s claims of rising inventory levels of Chinese exporters are not congruous with the commission’s knowledge of the sales and manufacturing process for wind towers, reviewed as recently as Accelerated Reviews 602 and 603. As described in Chengxi’s submission, and the commission’s understanding of the tender process, wind towers are made to order based on design specifications submitted by OEMs which are specific to each project site. Producing a large volume of wind towers without an associated OEM tender request would be impractical.

In addition, as per Figure 14, following the reduction in the size of the Australian market during 2020-21, exports from China continued at similar levels whilst Australian industry and imports from other countries lost market share. Thus, it is unlikely that surplus Chinese wind towers would be readily available for export to the Australian market should measures cease.

6.5.3 Excess production capacity of the subject exporters

Figure 15 shows the pattern of production capacity and actual production volume of the goods for cooperating exporters subject to measures, by tower sections per calendar year.

![Cooperating exporter production capacity vs actual](image)

**Figure 15: Capacity utilisation for cooperating exporters subject to measures**

The commission notes that both cooperating exporters have excess production capacity as per the calendar year ending 2022. It also notes capacity utilisation declined for both exporters from 2021 to 2022, a year with significant imports from exempt exporter TSP. The commission also confirms that information received in Review 615 indicates that other exporters also have excess production capacity and declining capacity utilisation over the same period.

The commission considers it likely that Chinese exporters had the capacity to produce a greater volume of wind towers than they produced over this period. Chinese exporters

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80 EPR 621, document no 6, p 9.
81 Confidential Attachment 3.
have demonstrated their intention to utilise this excess capacity to export to Australia through continued tendering for wind tower supply contracts.

### 6.5.4 Maintenance of distribution links to the Australian market

The commission considers that the evidence of project tendering activity, in conjunction with a level of import volume over the period examined, indicates that importers have maintained distribution links with exporters from China. In making this assessment the commission had regard to ABF import data for the period 1 July 2017 to 31 December 2023.\(^\text{82}\)

The commission finds that two importer OEMs were responsible for the importation of over 85% of the total volume of imports from China in both calendar year 2018 and calendar year 2022. This subsequently increased in calendar year 2023, with two importer OEMs accounting for 87% of the total volume of imports from China. The commission notes that there had been some change in the source country of imported goods, most notably a shift in preference from goods produced in Korea and Taiwan to goods produced in China.

The commission has received evidence of continued tendering activity from Chinese manufacturers and suppliers over the period examined and understands that these parties have the capability to deliver on tender requirements for wind farm projects in Australia.

### 6.5.5 Availability of other markets – impact of trade measures in other jurisdictions

In its application and submissions, KPE detailed the extent of trade remedies or anti-dumping measures applying to the goods in other jurisdictions (or comparable goods where the scope of the goods subject to measures varies from jurisdiction to jurisdiction). The commission also considered trade remedies applying directly to wind towers in other jurisdictions in previous inquiries, and notes that many of those measures continue to apply.\(^\text{83}\)

The Australian industry claims that recent anti-dumping and countervailing measures placed on like goods in other countries increase the likelihood of dumped and injurious exports to Australia. These jurisdictions include the USA, the EU and most recently Canada.\(^\text{84}\)

The commission considers that the imposition of trade remedies and measures in other jurisdictions is a factor that influences global trade by altering access to markets. The commission considers that the expiry of the measures may make Australia a comparatively more attractive and accessible market for exports from China, given the prevalence of trade measures against Chinese wind towers in other jurisdictions.

Given that wind towers are custom built and made-to-order at the request of customers, production volumes are driven by customer demand. Accordingly, a large influx in the

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\(^{82}\) Confidential Attachment 5.

\(^{83}\) EPR 621, document no 2, attachments 1, 2, 3, 4 and 5.

\(^{84}\) Canadian International Trade Tribunal, Anti-Dumping Inquiries – Certain Wind Towers, December 2023.
volume of dumped goods is unlikely given that approximately 83% of imports to Australia in 2022 and 87% of imports to Australia in 2023 were produced by exempt exporter TSP. The commission considers that subject exporters from China may have increased their project tendering activity following the imposition of measures on 15 December 2021 in the EU, as higher anti-dumping duty rates than Australia were applied to Chengxi, Penglai and the ‘all other companies’ exporter category, making Australia potentially a more attractive destination.

Despite the imposition of these measures, subject exporters’ Australian market share was 7% during 2022 and 13% during 2023, indicating that any increase in project tendering competition resulting from the new measures in the EU has not translated into project wins against TSP. The commission acknowledges that the recent dumping measures applied in Canada may result in increased export competition for Australian projects, but given those measures were only applied recently and the long project lead times associated with wind towers, the effects are not yet measurable or predictable.

6.5.6 Conclusion

The commission considers that should the measures expire, exports from Chinese subject exporters are likely to continue as:

- exports of the goods to Australia continued following the original imposition of the measures in 2014
- exports of the goods to Australia continued following the continuation of the measures in 2019, although most imports were not subject to measures
- exporters have maintained distribution links to the Australian market
- exporters have spare production capacity and have continued to tender for Australian projects
- non-subject exporters will not be affected by the expiry of measures and will continue to export into the Australian market
- Australia remains an attractive and accessible market for exports from China given the prevalence of trade measures in other jurisdictions.

6.6 Is dumping likely to continue or recur?

The commission considers that the expiration of the measures would likely lead to a continuation of, or a recurrence of dumping of wind towers from China for all subject exporters except Chengxi.

The commission has formed this view based on the following factors:

- dumping observed in the wind tower accelerated review for Penglai and
- Chinese exporters of like goods have been found to be dumping in other jurisdictions

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85 EPR 621, document no 1, attachment 4, p 75. Chengxi was assigned a duty rate of 7.5%, Penglai was assigned a duty rate of 7.2%, Suzhou Titan (subject to Australia’s all other exporter rate of 10.9%) was assigned a duty rate of 14.4%, and ‘all other companies’ were assigned a duty rate of 19.2%.
86 Confidential Attachment 2.
87 EPR 621, document no 1, attachments 3,4,5.
The Manual provides that in assessing the likelihood of dumping continuing or recurring, the commission may assess relevant factors such as exporters’ dumping margins, export volumes before and after the measures, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures – for example, because of a review. 88

6.6.1 Historic dumping margins

Table 6 details the dumping margins assessed for exporters who have cooperated in this inquiry and all other exporters from China in all previous matters where variable factors have been ascertained.

<table>
<thead>
<tr>
<th>Country</th>
<th>Exporter</th>
<th>Original Investigation (REP 221)</th>
<th>Continuation (REP 487)</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>Penglai</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>CS Wind</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Chengxi</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>TSP</td>
<td>15.0%</td>
<td>Measures expired</td>
</tr>
<tr>
<td></td>
<td>All other Chinese exporters</td>
<td>15.6%</td>
<td>10.9%</td>
</tr>
</tbody>
</table>

Table 6: Previous dumping margins for China 89

The dumping margins ascertained for all other exporters from China in Continuation Inquiry 487 were based on TSP’s information, prior to a change in the dumping margin methodology (for TSP) in ADRP Review 2019/100.

As TSP was found to not be dumping in ADRP Review 2019/100, the historical dumping margins calculated in Continuation Inquiry 487 have not been relied on to assess the likelihood of future dumping for Chinese exporters subject to the measures.

Following CON 487, the commission conducted Accelerated Reviews 597, 602 and 603 for exporters Chengxi, Penglai and CS Wind, respectively. These exporters were given their individual IDD rate based on dumping margin calculations in the accelerated reviews during 2022 and 2023.

Table 7 shows the current measures applicable to exports from China following these accelerated reviews and ADRP Review 2019/100.


89 N/A refers to exporters who did not have their own rate for the relevant case and therefore were subjected to the ‘all other’ exporter rate.
Following *ADRP Review 2019/100*, the measures applying to TSP were allowed to expire on 16 April 2019. As illustrated in section 5.4.2, imports from TSP made up approximately 87% of the Australian market share in 2023, with minimal imports covered by the measures.

**Chengxi**

Chengxi provided a completed exporter questionnaire as part of this inquiry and *Review 615*.

The commission found that Chengxi did not export during the inquiry period for *Review 615*. Chengxi’s most recent exports were in the period examined for *Accelerated Review 597*. Chengxi was found not to be dumping as part of *Accelerated Review 597* and given a rate of 0.0% on 24 June 2022.

Since receiving its own dumping duty rate, Chengxi has not exported wind towers to Australia. In its application seeking revocation as part of *Review 615*, Chengxi contended that it operates a business model focusing on rewarding and sustainable wind tower projects that are more responsible and commercially viable in the longer term. As such, Chengxi is not incentivised to try and secure every wind tower project possible, with aggressive pricing and at any cost.\(^{91}\) Chengxi provided evidence of its continued participation in tenders and quotations since 2022. The commission notes that Chengxi did not win any of these tenders.

The commission considers that Chengxi has not endeavoured to compete on price with the lower price offerings currently on the market, by dumping, to capture sales volumes and market share.

As such, the commission considers that Chengxi’s tendering behaviour indicates that dumping is unlikely should measures expire.

**Penglai**

Penglai provided a completed exporter questionnaire as part of *Review 615*.

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\(^{90}\) N/A refers to exporters who did not have their own rate for the relevant case and therefore were subjected to the ‘all other’ exporter rate.

\(^{91}\) EPR 621, document no. 9, [Attachment 1](#).
The commission found that Penglai did not have any additional exports, following those that were assessed in Accelerated Review 602. In Accelerated Review 602, the commission found that Penglai was dumping at a rate of 1.2%. The commission considers it likely that future exports from Penglai would be dumped, although if they continued at a rate of 1.2%, it would not be what the measures intended to prevent.

**CS Wind**

CS Wind had not exported wind towers to Australia before Accelerated Review 603. As a result of Accelerated Review 603, CS Wind was given a floor price based on its normal value. CS Wind provided a completed exporter questionnaire as part of this inquiry in which it stated that the main factor affecting CS Wind’s ability to supply the Australian market is the advantage enjoyed by existing suppliers not subject to dumping duty.92

There have not been any exports of wind towers from CS Wind from China to Australia. However, the commission has identified that CS Wind has exported wind towers to Australia from both Malaysia and Vietnam in the past. These exports ceased after 2019.

From the commission’s analysis, it appears that CS Wind is unable to compete with other exporters from China. Accordingly, were CS Wind to export to Australia at prices that were competitive with other Chinese exporters, the commission considers it likely that these would be at dumped prices.

### 6.6.2 Dumping in other jurisdictions

As discussed in section 6.5.5, the commission notes the existence of anti-dumping duties on Chinese wind towers in the USA, the EU and Canada.

The commission acknowledges the existence of measures in other jurisdictions may be indicative of Chinese exporter’s propensity to dump in Australia. However, the commission notes that the relevance of dumping margins from other jurisdictions is limited due to different prevailing market characteristics across markets.

### 6.6.3 Submission received regarding variable factors

In a submission received following the publication of SEF 621, KPE submitted that:93

...In a reasoned recurrence analysis, regard should be had to the most contemporary variable factors available...

...Margins of dumping assessed under a Chinese particular market situation will certainly be different from those that would otherwise be assessed under the Commission’s earlier adopted methodology, and would certainly be higher than those assessed in the above noted accelerated reviews...

The commission notes there is no requirement for the Commissioner to calculate variable factors in a continuation inquiry. The commission views the available information as

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92 EPR 621, document no 4.
93 EPR 621, document no 12, p. 4-5.
relevant and sufficient for its assessment in this inquiry of the likelihood of dumping and material injury continuing or recurring if the measures expire.

Regarding KPE’s claim that the consideration of a particular market situation in China would possibly result in higher dumping margins, the commission is of the view that the magnitude of any change in dumping margins is relevant only to whether dumping will continue or recur, of which the commission is already satisfied (except in respect of Chengxi).

In relation to the effects of dumping which are dealt with in section 6.7, any increase in dumping margins would be highly likely to be outweighed by the significance and nature of factors other than dumping as outlined in this report. For example, the commission’s findings in section 6.7 with respect to KPE’s supply limitations (geographic and capacity) would not change. On this basis, the commission has not calculated contemporary dumping margins in this inquiry.

6.6.4 Conclusion

Based on the evidence before the commission, the commission considers that there is sufficient evidence to conclude that goods exported to Australia from China at dumped prices are likely to continue or recur, except for Chengxi.

6.7 Is material injury likely to continue or recur?

The commission considers that it is not likely that the expiry of the measures would lead to a continuation or a recurrence of material injury that the measures are intended to prevent.

As detailed in the economic condition of industry chapter, the Australian industry has not produced or supplied wind towers in the past 3 years. The commission identified that Australian industry was last awarded a tender in May 2020 and last manufactured wind towers sections in October 2020.

To understand the market context in which the Australian industry is operating and the future outlook, the commission examined the supply and demand conditions for wind energy in the Australian market. The commission also examined the reasons for the deterioration in the economic condition of the Australian industry since the measures were continued in 2019, and identified the following issues:

- decreasing wind tower projects awarded under Victoria’s VRET auctions
- changing wind tower design and construction
- geographical limitations on supplying wind towers
- procurement considerations and
- imports not subject to measures leveraging a cost advantage to secure contracts and take market share.

Each of these issues is discussed in detail below.

The commission considers that if the measures expire, the Australian industry will continue to face the same challenges, unrelated to dumping, that have led to the deterioration in its economic condition since the measures were last continued. In this
context the commission does not consider that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, any material injury that the measure is intended to prevent.

6.7.1 Submissions received regarding material injury recurring

In a submission received following the publication of SEF 621, KPE submitted that:94

- The commission has not adequately considered all positive evidence available to it and has a legal requirement to look beyond the period assessed, see section 6.7.2. In particular, the Commission should consider the variable factors in Review 615. See section 1.3 and section 6.6.2 for the commission’s reasoning regarding variable factor calculation.
- The lack of KPE’s current pre-qualification does not remove it from participating in the Australian wind tower market, nor will it remove it from participating in the future. See section 6.7.6.
- The small share of subject Chinese exporters cannot be ignored as having caused material injury to KPE, as there is no minimum standard used to determine whether dumped imports have a sufficient share of the Australian market to cause material injury. See section 6.7.6.
- The unprecedented advance of the Australian wind tower market means that is not correct nor preferable that the Commission has preliminarily concluded that Australian industry will continue to face the same challenges going forward as it has in the past. See section 6.7.3, 6.7.4 and 6.7.8.
- TSP’s behaviour is indicative of Chinese wind tower exporter behaviour. In the absence of continued (and revised) measures, KPE submits that the increasing cohort of eastern state customers will be easily entertained by dumped and injurious subject exporter wind towers. See section 6.7.7.
- KPE’s plans for capital expenditure in manufacturing sites renders null-and-void the Commission’s production capability shortfall assessment. See section 6.7.4. Confidential Appendix A also address this submission.

6.7.2 Future supply and demand conditions in the Australian market

In assessing the supply and demand conditions for wind towers in the Australian market, the commission has relied upon the Clean Energy Council’s recently published report on clean energy. The commission also considered a non-exhaustive list of known federal and state renewable energy programs within Australia in Non-Confidential Appendix A. This list includes emissions reduction targets set by Australian State and Federal Governments. Wind energy projects are, in most cases, considered necessary to achieve these various targets.

Based on the Clean Energy Council’s 2023 report, Australia’s renewable energy industry accounted for 35.9% of Australia’s total electricity generation in 2022, which is an increase from 32.5% in 2021.95

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94 EPR 621, document no 12.
According to the report, wind energy in Australia accounted for 10.1% of Australia’s total energy generation in 2021 and accounted for more than one-third of all renewable energy generated. Australia currently has a capacity of 9,126 MW directly from wind farm generation. At the end of 2022, there were 21 wind projects across Australia that had commenced construction or had been financially committed to.\(^{96}\)

Of all renewable energy projects completed in 2022, wind accounted for approximately 1,403 MW of 2,257 MW total capacity (62%). This is down from 1,745 MW total capacity produced in 2021 and up from 706 MW total capacity completed in 2020. Wind continues to be an ever-growing source of renewable energy.

In 2022 the Australian renewable energy industry commenced construction on over 5,000 MW of wind and solar farms.\(^{97}\) Wind farms under construction or committed at the end of 2022 accounted for 4,672 MW.

Wind farm developments within Australia are expected to increase dramatically with the introduction of offshore wind farms. At the end of 2021, the *Offshore Electricity Infrastructure Act 2021* was passed, which sets the framework to allow for the development of offshore wind in Australia.

Renewable energy programs will continue to grow within Australia, with the intention that Australia meets the targets set in the various programs outlined in Non-Confidential Appendix A. This has resulted in higher demand for wind farms. This demand cannot be met solely by KPE.\(^{98}\)

The lack of domestic wind tower manufacturing volume capacity means new wind farm projects will need to be supported by imported wind towers. As discussed in section 5.7.5, KPE are currently able to produce a maximum of 8 wind tower sections per week. This limits its ability to meet the Australian market demands for wind towers given the recent growth in renewable energy and the expected expansion in onshore and offshore wind as outlined above, and in a recent KPE submission.\(^{99}\)

The commission has also found that wind towers are increasing in size to meet greater energy targets. This increase in size further places constraints on KPE's ability to tender for upcoming wind farm projects. The commission understands that KPE does not have the capability to manufacture the increased-size wind towers. This is further discussed in section 6.7.4.

*KPE submission – the SEF is not sufficiently forward-looking*

In its submission dated 6 November 2023,\(^{100}\) KPE provided the following commentary regarding the commission’s analysis on the future economic condition of the Australian industry for wind towers:

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97 Ibid.
98 EPR 615, document no 9, attachment 1.
99 EPR 621, document no. 12, p. 8.
100 EPR 621, document no. 12, p.10.
…the SEF is not sufficiently forward-looking and that the Commission must necessarily consider and assess the likely future supply and demand conditions within the Australian market as part of its deliberations. As argued above, the Commission has failed to comprehensively consider all facets of the future economic reality of the Australian industry for the goods in the absence of trade measures.

At the time of issuing the SEF the commission conducted a forward-looking analysis which assessed the future supply and demand conditions within the Australian market. Following receipt of KPE’s submission and to supplement the analysis already conducted, the commission examined the Wind Map of Australia 2023 which identified all wind farms currently operating, under construction or proposed. This wind map is available at Non-Confidential Appendix B. The commission considers that this final report is sufficiently forward-looking and has considered contemporaneous information that is available.

The commission considers that the Australian market for wind towers is growing. For OEMs to meet government renewable energy targets, wind farm owners must source and import wind towers from other countries. In Australia, wind farms have historically been in Victoria. However, it is evident from Non-Confidential Appendix B that wind farm projects are expanding out to other states across Australia and offshore. KPE currently is unable to service the expanding Australian market in several states and unable to manufacture offshore wind towers for the current proposed projects, as outlined in section 6.7. Therefore, injury resulting from goods imported to states outside of Victoria is unlikely. However, the Commission notes there is still a significant volume of proposed onshore wind tower projects in Victoria.

The Commission also considers that the large and increasing size of the Australian market will provide more project opportunities for exporters subject to measures to compete, despite the current market share dominance of TSP. However, the commission finds that the increased demand for wind towers generated by the increasing volume of wind generation projects will not impact KPE’s competitiveness. The commission considers that KPE’s capability, capacity and procurement challenges will likely continue in the future irrespective of the measures.

As part of its response to SEF 621, KPE provided the commission with confidential information relating to its capital expenditure plans and assessment of industry opportunities. The information submitted by KPE does not alter the commission’s assessment that factors other than dumping will continue to impact KPE’s ability to secure contracts in the future. The commission’s assessment of this information is contained in Confidential Appendix A.101

6.7.3 Victorian renewable energy target projects

Based on recent evidence, the Commission finds that the Australian industry is less competitive where wind tower projects do not have local content requirements.

101 Refer to Section 2.6.
Victoria’s renewable energy targets are legislated in the *Renewable Energy (Jobs and Investment) Act 2017 (Vic)*. The current targets are:\(^{102}\)

- 25% by 2020 (achieved)
- 40% by 2025
- 50% by 2030.

The Victorian Government has announced an intention to legislate updated targets of:

- 65% by 2030
- 95% by 2035.

The Victorian Renewable Energy Target auctions are the mechanism that has been implemented to assist in meeting the legislated renewable energy targets. Under these auctions, participants bid for contracts to supply new energy generation projects. There have been 2 auctions so far under this mechanism. Projects awarded under this mechanism are subject to requirements for minimum local content under the *Local Jobs First Act 2003 (Vic)*.

The first VRET auction (VRET1) was finalised in September 2018. Under VRET1, 5 projects were delivered, including wind farms at Berrybank, Dundonnell and Mortlake.\(^{103}\) The commission verified that the Australian industry supplied wind towers for each of these VRET1 projects. This represents the last time that the Australian industry manufactured like goods.

The second energy auction (VRET2) was finalised in November 2022. Six solar power projects were awarded under VRET2 and no wind projects. As such, the Australian industry did not benefit from VRET2.

The commission has analysed the performance of the Australian industry in the context of the VRET auctions. Figure 20 shows the year that wind tower projects were awarded to Australian industry, whether the projects resulted from a VRET auction, and the resultant volume of production in tonnes relating to those projects.

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Figure 16 indicates that the Australian industry:

- won projects in 2018 that resulted in a significant volume of production, with most projects won outside of the VRET process
- experienced a reduction in the volume of production resulting from contracts awarded in 2019 while VRET projects made up the majority of Australian industry production
- was only awarded projects in 2020 that resulted from VRET auctions
- did not win any projects after 2020.

The commission considers that from 2018 onward the Australian industry was increasingly reliant on the Victorian Government’s local manufacturing content requirements to leverage its competitiveness in the market. From 2020, the Australian industry has not won any projects in the Australian market outside of VRET auctions. In 2020, all projects won by KPE were under VRET auctions. There has been no further VRET auctions after 2020. As such, the commission considers that the absence of government led wind tower projects with local content requirements was a significant factor impacting the performance of the Australian industry.

As the commission found in section 6.5.5, the Australian wind energy market is growing. Since 2020, new wind farms have continued to be planned, constructed, or financially committed. The ecogeneration Wind Map of Australia 2023\(^{105}\) shows the locations of wind projects bigger than 1MW that are operating, under construction or in the planning stages. The commission notes that there are numerous projects that are proposed or under construction across all Australian states. The commission understands that KPE tendered for some of these projects but was unsuccessful. From this, the commission concludes that the Australian industry’s inability to win any projects after 2020 was not due to a lack of available projects but rather KPE’s inability to be competitive against Chinese wind tower manufacturers.

\(^{104}\) Confidential Attachment 3.
\(^{105}\) ecogeneration Wind Map of Australia 2023
exporters, in particular TSP, when competing for free-market projects that did not have local content requirements.

6.7.4 Changes in wind tower design and construction

The market for wind towers in Australia commenced in 2000. There have been considerable changes in wind tower design and construction since that time. KPE provided information to the commission that highlighted these changes. When wind towers were first constructed in Australia, a standard tower had the following characteristics:

- 2 sections
- height 52 metres
- weight 60 tonnes
- base diameter 3.8 metres
- plate steel thickness 20 mm
- total length of welding 327 metres
- turbine 1.2 MW.

As of 2023, a standard tower now has the following characteristics:

- 6 sections
- height 150 metres
- weight 500 tonnes
- base diameter 6 metres
- plate steel thickness 50 mm
- total length of welding 6,977 metres
- turbine 6 MW.

This transition to larger towers was also highlighted in responses from other stakeholders.

The commission considers that the increase in size of wind towers over time has placed further constraints on KPE’s ability to meet the market’s demand for larger towers.

As the Australian industry is not able to tender to produce larger wind tower sections, the commission understands that KPE bids for parts of these projects only.

The commission notes that the Australian industry successfully applied for two TCOs in 2018 – TCO 1761480 and TCO 1813104. TCOs are granted when it is deemed there is no local industry that can produce the goods in question. The TCOs specify wind tower sections with a minimum and maximum bound in plate steel thickness, section length, section width and outer diameter that local industry is unable to produce. For example, TCO 1813104 encompasses wind towers sections with outer diameter NOT less than

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106 EPR 221, document no 40, p 19.
107 Confidential Attachment 4.
108 EPR 621, document nos 8 and 9.
109 Details of these TCOs are available on the ABF website: Tariff Concessions System
4,400 mm and NOT greater than 4,900 mm. These TCOs highlight the Australian industry’s inability to manufacture larger wind tower sections.

The commission considers that with the demand for larger towers, KPE would need to either upgrade its current facilities, build new facilities to manufacture larger tower sections or look to supplement its own production with imported wind towers of the dimensions that it cannot currently produce. The commission considers the Australian industry’s production capability shortfall is related to the change in the design and construction of wind towers over time. The commission considers it to be unrelated to the presence or absence of the measures.

In its submission, KPE stated that it has plans for servicing the expanding Australian renewables energy market which it stated demonstrated KPE’s intent to remain a viable sovereign manufacturer capable of servicing the Australian wind towers market going forward.\(^{110}\) KPE claimed the information is commercially sensitive. The commission reviewed the information provided and accepts that the information is confidential. Therefore, the commission’s assessment is contained in Confidential Appendix A.\(^{111}\)

The commission acknowledges KPE’s information, however upon assessing it, maintains the view that the Australian industry will continue to face challenges that are unrelated to dumped goods. KPE’s plans, at this point, do not alter the commission’s assessment in SEF 621 that the expiry of the measures would not lead to a continuation or recurrence of material injury that the measures are intended to prevent.

### 6.7.5 Geographical limitations on supply

The commission has noted in previous matters relating to wind towers that due to transport costs and logistical issues, KPE has a geographical advantage over importers in supplying wind towers close to its manufacturing base in Victoria. This competitive advantage dissipates when tendering to supply wind towers to locations that are more distant from KPE’s manufacturing base, as interstate transport costs are prohibitive.\(^{112}\)

In its submission dated 11 September 2023, Penglai noted that logistical challenges faced by KPE are a factor in its inability to successfully tender for projects located outside of Victoria.\(^{113}\) Penglai asserted that a key consideration in the purchasing and supply of wind towers is proximity to the manufacturing facility, making KPE not a practical or economically feasible option for wind farms located outside of Victoria.

The commission analysed the location of projects supplied by the Australian industry since 2018 and identified that all projects were in Victoria. The commission has also examined port of discharge information from the ABF database to estimate the value of the Australian market over that time. Based on this, the commission has segregated the

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\(^{110}\) EPR 621, document no. 12, p. 8.

\(^{111}\) Refer to section 2.6.

\(^{112}\) EPR 487, document no 19, p 47.

\(^{113}\) EPR 621, document no 8.
Australian market into Victorian projects and projects in other locations for both imported and locally produced goods. The commission's analysis is shown in Figure 17.

Figure 17 shows that:

- the value of projects supplied in Victoria peaked in 2019, at which time these projects accounted for most of all projects in Australia
- from the peak in 2019 both the value and share of the total market for Victoria has been in decline.

The commission considers that since the peak observed in 2019 the Australian industry has had a shrinking pool of projects that it could reasonably be expected to supply. This is due to the logistical issues and prohibitive transport costs associated with the manufacture and supply of wind towers interstate. The commission considers these factors to be unrelated to dumping.

6.7.6 Procurement considerations

Prior to publishing SEF 621, the commission received a submission from the GOC where it highlighted that some of the reasons preventing OEMs/developers awarding projects to the local producers is their limited capacity and capability to meet the customer's qualitative and quantitative requirements. When it comes to wind tower procurement priorities for OEMs and developers, the GOC submits that the key considerations are:

- product quality
- technical expertise
- timeliness and reliability in project delivery

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114 Confidential Attachment 3.
115 EPR 621, document no 9, p 4.
• ability to meet installation requirements
• logistical efficiency.

The GOC asserts that these factors are ranked above the price of the wind tower itself.

From the conduct of this inquiry, along with information obtained in previous investigations, inquiries and reviews, the commission understands that price, although an important consideration, is only one aspect in an OEM’s decision to award tenders to a particular supplier. As the commission found in CON 487, the manufacturing of wind towers requires rigorous quality controls with OEMs requiring potential suppliers to satisfy qualification standards. These standards are often enacted through a pre-qualification process, with potential suppliers being evaluated against requirements including:

• safety
• quality
• capability
• delivery
• cost.

During the CON 487 inquiry period, KPE was a pre-qualified supplier to all major OEMs. However, the commission understands that currently KPE is not pre-qualified with any OEMs. The commission considers this lack of pre-qualification representative of an inability of KPE to satisfy one or more of the above requirements to an extent which enables them to compete for tenders against Chinese exporters. This lack of pre-qualification may limit KPE’s ability to tender for and be responsive to upcoming projects.

The Commission notes the most recent tender proposal KPE provided was in 2021, despite a large volume of imports continuing throughout 2022 and 2023. The pre-qualification process and project phases is outlined in sections 4.3.1 and 4.3.2 of REP 487.\textsuperscript{116}

In a submission, KPE states the following regarding pre-qualification:\textsuperscript{117}

\ldots qualifications lapse after a defined period, a period determined by the OEM. The pre-qualification process itself is also highly dependent on the OEM’s requirements at the time. The economic reality is that all wind tower manufacturers are required to undertake the pre-qualification process, and have this re-instated regularly, in some way, shape, or form. As was evidenced during industry verification, KPE’s earlier pre-qualification status had been established and reinstated over time based on its attendance to OEM stipulations\ldots

\ldots The Commission should hence afford little weight to what is standard industry practice. It is a simple matter of administrative process for KPE to have its pre-qualification status reinstated\ldots

\textsuperscript{116} EPR 487, document no. 19.
\textsuperscript{117} EPR 621, document no. 12, p. 6.
The commission agrees that the process involved with pre-qualification in and of itself is not a reason KPE have been unable to win contracts in recent years. Rather, the commission views a lack of qualification and pre-qualification as reflective of an inability to compete on all factors involved in delivering the wind tower production required by OEMs. Pre-qualification is reflective of the relationship between OEM as the procurement decision maker and potential manufacturers, and a lack of pre-qualification may limit tender viability for non-qualified suppliers. The commission notes that a large volume of wind towers continued to be imported throughout 2022 and 2023, yet KPE’s most recent participation in a tender process occurred in 2021.

The commission acknowledges that the pre-qualification processes differ between OEMs and requirements fluctuate over time, and in an administrative capacity there is little difficulty for OEMs to reinstate pre-qualification for a particular supplier. However, the competitive requirements involved with the decision to pre-qualify suppliers are the limiting factor preventing KPE from achieving pre-qualification. These factors are listed above and are discussed in detail throughout Section 6.7. The expiry of the measures is unlikely to affect KPE’s ability to achieve pre-qualification as it is related to several procurement factors outlined above.

6.7.7 Imports not subject to measures hold significant market share

The commission used ABF import data to analyse changes in the pattern of imports since 1 January 2018. The commission’s analysis is presented in Figure 18.

![Figure 18: Import volumes by source (tonnes)](Confidential Attachment 3)

The volume of imports from China that are subject to measures has declined over the period assessed. In the period up to and including 2020, imports from countries not subject to measures made up most imports. After 2020 there is a noticeable change in...
the pattern of imports into the Australian market, with imported goods from China that are not subject to measures emerging as the dominant source of imports. This change coincides with the removal of measures from TSP. Once the Minister accepted the ADRP review recommendation in April 2020, TSP gained an advantage over its competitors.

The commission has also conducted a landed price comparison for all imports, factoring international transport and insurance costs into an average landed price per tonne. This analysis found that non-subject exporters have been the cheapest suppliers over most of the period, with:

- imports from TSP having the lowest landed price in 2019, 2022 and 2023 and
- imports from Vietnam having the lowest landed price in 2020 and 2021.

This analysis indicates non-subject exporters are price leaders in the Australian wind tower market and possess a pricing advantage over subject exporters. The commission acknowledges that while average wind tower section price per tonne is affected by differences in design requirements, the annual sample size of wind tower imports is large enough to make landed price per tonne comparison meaningful.

Following on from the discussion of geographical constraints above, the commission has also analysed import volumes by source for Victoria and Tasmania. The commission’s analysis is in Figure 19.

![Figure 19: Victoria and Tasmania import volumes by source (tonnes)](image)

Figure 19 demonstrates a similar trend to the total market shown in Figure 18, with the emergence of non-subject exporters as the dominant supplier in the Victorian wind tower market. In both 2022 and 2023, exporters not subject to measures held 100% of the market share for the Victorian segment of the market.

The commission’s view is the removal of measures on the small number of subject exporters that have participated in the Australian market will have limited impact on the

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119 Confidential Attachment 3.
120 Confidential Attachment 3.
economic condition of the Australian industry. Most imports over the period examined were not subject to measures and had a lower landed price than imports from exporters subject to the measures. In particular, the commission notes that Victorian projects transitioned solely to being supplied by TSP. These are the projects that the Australian industry has any reasonable prospect of supplying. Based on this analysis of the Victorian segment of the market, the commission finds that KPE has struggled to compete with undumped imports in the absence of government-mandated local content requirements, as outlined in section 6.7.3.

**KPE submission – TSP’s dominant market position will not hold**

In its submission dated 6 November 2023, KPE provided the following commentary regarding TSP’s future market share:

…*the Commission cannot assume that a large influx of dumped goods in [sic] unlikely given the expected future expansion of the onshore Australian wind tower market. Nor can the Commission assume that TSP will maintain its dominant market position.*

The commission examined import volumes from 1 January 2012 to 31 December 2022 in SEF 621. To supplement this and to address KPE’s submission regarding market composition, the commission conducted further analysis of total imports of wind towers using ABF import data from 1 January 2023 to 31 December 2023 to build a more comprehensive picture. This analysis is outlined in Confidential Attachment 5. A summary is described below outlining the wind tower market for this specific period:

- China was the only country supplying wind tower sections to Australia. As the Australian industry members (KPE and Haywards) have not produced the goods during 2023, the Australian market has been solely supplied by Chinese imports
- There were two exporters of the goods from China
- There were three OEM’s importing the goods for wind tower projects. TSP have maintained supply to the Australian market and are the largest supplier of the goods in 2023. This can be further visualised in figure 20 below:

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121 EPR 621, document no. 12, p.10.
122 EPR 621, document no. 11.
The commission notes that TSP supplied 87% of all goods into Australia from 1 January 2023 to 31 December 2023. Based on this analysis, the commission finds that TSP have maintained its dominant market position in Australia throughout 2021, 2022 and 2023.

The commission has also analysed imports into the Australian market over the period of 1 January 2021 to 31 December 2023. Based on this analysis, the commission finds that the Australian market has been fundamentally supplied by exporters not subject to the measures. It can be concluded that 86% of imports over the period 1 January 2021 to 31 December 2023 were from exporters not subject to measures.\textsuperscript{124}

It is evident that with the lack of Australian industry participation in the Australian market, suppliers not subject to measures have maintained a dominant position in the Australian wind tower market over the past 3 years.

Furthermore, most goods imported into Australia over the period of 1 January 2023 to 31 December 2023 were to geographical locations which KPE are currently at a disadvantage to service.\textsuperscript{125}

Of the goods imported during the period of 1 January 2023 to 31 December 2023, 23% were cleared and landed in Victorian ports. The remaining 77% of imports were cleared and landed in non-Victoria states where KPE have provided no evidence of having won wind tower projects or supplied wind tower sections. These wind tower projects outside of

\textsuperscript{123} Confidential Attachment 5.
\textsuperscript{124} Ibid.
\textsuperscript{125} Confidential Attachment 4, Slide 6.
Victoria are more likely to go to imports, as high road transport and logistical costs to deliver to interstate wind farms makes KPE less competitive.

The commission considers that the Australian market has become dependent on imports, of which currently, are primarily exempt from measures. KPE have also acknowledged in its submission that the Australian wind tower market is growing, hence the requirement for Chinese-made wind tower sections to progress wind farm projects.\(^{126}\)

KPE have asserted in their submission that:\(^ {127}\)

\[
\text{...A lack of wind tower projects after 2020 for KPE is material to KPE.}\]

The commission agrees that not winning wind tower tenders after 2020 is material to KPE. However, the commission does not accept that there has been a lack of wind tower projects after 2020 or that dumping has prevented KPE from winning tenders. The commission’s analysis shows that there have been multiple wind tower projects across Australia after 2020, as evidenced in figure 22 below.

![Market Share - Wind Towers (tonnes)](image)

**Figure 22 - Market Share from 1 January 2017 to 31 December 2023\(^ {128}\)**

The Australian market for wind towers has increased in size and the number of projects occurring. It is not a lack of projects that is material to KPE, but rather the weakened ability to win projects after successive VRET1 projects from 2018 to 2020. VRET1 projects accounted for 27% of projects KPE produced in 2018, 68% of projects KPE

\(^{126}\) EPR 621, document no. 12, p. 10.  
\(^{127}\) EPR 621, document no. 12, p. 7.  
\(^{128}\) Confidential Attachment 5.
produced in 2019 and finally 100% of all wind tower sections manufactured by KPE in 2020.

TSP have been a major supplier in the Australian market since the original investigation, and have achieved majority market share across 2021, 2022 and 2023 and appear likely to continue holding this market share.

**KPE submission**

In its submission dated 6 November 2023, KPE raised the following issues in relation to the injury caused by subject exporters:

- KPE’s participation over the period assessed by the Commission in the current inquiry has been stifled by a preference for the Chinese subject goods and will remain stifled in the absence of continued measures.
- Chinese exporters subject to measures have maintained an Australian presence. It is not a matter of assuming that the TSP-dominant Victorian market translates to a lack of injury to KPE.
- The small share of subject Chinese exporters cannot be ignored as having caused material injury to KPE, nor as likely to cause further injury to KPE in the absence of continued measures. The economic reality is that this small proportion held in 2022 will grow if the measures are allowed to lapse.

**Commission’s assessment**

The commission’s analysis of ABF import data as detailed in section 6.5.1 does not suggest that the Australian wind tower market has preferred Chinese subject goods. In fact, there is a clear trend towards goods supplied by TSP over subject goods or even goods from non-subject countries.

As the commission found, the volume of wind towers imported from Vietnam in 2020 and 2021 had the lowest landed prices yet experienced declining market share from 45% in 2020, 28% in 2021 and no market share in 2022. In a free market, it is open to KPE to tender for projects in the same manner as all other interested parties and for OEMs to award tenders to suppliers based on their specific requirements. As such, the commission does not consider that KPE’s participation in the market has been “stifled” due to Chinese subject goods.

The commission agrees that Chinese exporters subject to measures have maintained an Australian presence. The commission’s detailed analysis is contained throughout this chapter. This analysis shows that the commission has not discounted TSP’s increasing dominance in the Australian market as a factor contributing to the deterioration of KPE’s economic performance. Rather, the commission has considered several factors that has contributed to KPE’s injury, noting that those causes are not related to dumping.

The commission has also assessed the likelihood of injury to KPE should measures expire. In this scenario, the commission considers that TSP, having established its foothold in the Australian market, will maintain or grow its market share at the expense of other exporters (subject and non-subject). Given the Australian industry has remained

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129 EPR 221, document no. 40, p. 20.
dormant since 2020 and without evidence for returning to production, the commission considers that KPE has faced and will continue to face difficulties servicing the growing market, for reasons unrelated to dumping. The immediate future for the Australian wind tower market whether with or without the measures, is one that includes overseas exporters who can meet OEM’s requirements in relation to safety, quality, capability, delivery, and cost.

The commission recalls that price is an important but not the only factor influencing an OEM’s decision to award tenders to suppliers. This is demonstrated by OEMs awarding tenders to subject exporters who must price in dumping duties as part of their costs.

6.7.8 Conclusion

The Australian industry was last successful in winning a tender to supply wind towers in May 2020, and last manufactured wind towers in October 2020. Since that time manufacturing by the Australian industry has been dormant.

This has coincided with significant changes in the market for wind towers that have been detrimental to the Australian industry. Significant factors since the measures were last continued include the absence of further wind tower projects via the VRET auctions and the removal of measures on TSP. In addition, wind towers have continued to increase in size, further challenging the Australian industry’s capability, and more projects have emerged in locations where it is not logistically feasible for the Australian industry to supply, such as the MacIntyre wind farm precinct in Queensland.130

In the original investigation, the commission considered that price was the key factor that resulted in tenders being awarded to TSP (the only Chinese exporter in the investigation period) and Korean exporters. As a result, the negative price effects associated with dumped goods were the main source of injury to Australian industry, or the main contributor to likely future injury. Given recent developments in the wind tower industry, the commission now considers that sources of injury other than dumped goods are the main contributors to the material injury suffered by Australian industry over the current period examined. Price is of comparable importance to OEMs as other manufacturing factors, including capacity and section size constraints.

From Figure 22, in 2021 there was a proportion of imports that were subject to a 10.9% rate of duty at the time of importation. Despite the duty, the Australian industry was unable to secure contracts for supply of wind towers since 2020.

The commission considers that the inability of the Australian industry to compete is either a function of non-price factors such as capability and logistical limitations, or a lack of price competitiveness even when the effect of the measures is considered. In recent years, the presence of measures has not improved the financial performance of the Australian industry as injury is being caused by other factors. This is most clearly demonstrated through the entirety of Victorian and Tasmanian projects in 2021 and 2022 being serviced by Chinese exporters not subject to measures,131 in a region where Australian industry has a proximity advantage over exporters.

130 EPR 615, document no. 9, attachment 1.
131 Confidential Attachment 3.
In addition, the injury incurred by the Australian industry occurred during a period with a low proportion of subject imports, being less than 15% of the overall wind towers market.\textsuperscript{132}

As detailed in section 6.5.1, almost the entirety of exports to Australia were not subject to measures. From the assessment of the market, the commission considers that the Australian industry’s economic performance during the period examined has not been impacted by dumped exports from China.

The commission notes that the wind tower market is expected to continue to grow at a national level to contribute to the framework designed to enable Australia to reach its renewable energy targets as per section 6.7.2. However, the commission views that an expected increase in project volume is not likely to lead to improved economic condition should measures remain in place, due to factors outlined above and throughout section 6.7.

The commission considers that in the absence of measures, the Australian industry will continue to face the same challenges that have led to the deterioration in its economic condition since the measures were last continued. In this context, the commission does not consider that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

\section*{6.8 Conclusion}

Based on the findings in this report, the Commissioner:

\begin{itemize}
  \item is satisfied that there is sufficient evidence to support a finding that exports of wind towers from China are likely to continue or recur at dumped prices upon the expiration of the measures (except for Chengxi)
  \item cannot be satisfied that expiration of the measures would be likely to lead to a continuation or recurrence of material injury from dumping of exports of the goods subject to the measures.
\end{itemize}

In summary, the Commissioner has found that:

\begin{itemize}
  \item the Australian industry has experienced a deterioration in economic performance since 2020 which is unrelated to dumping of goods from China
  \item there have been several factors other than dumping which have arisen since 2020
  \item these factors other than dumping appear to have had a significant impact on the economic condition of the Australian industry
  \item factors other than dumping are likely to continue to have a significant impact on the economic condition of the Australian industry.
\end{itemize}

The Commissioner accepts that, should the measures be allowed to expire, it is likely that wind towers will be exported to Australia at dumped prices in the future. However, the Commissioner is not satisfied that future exports of dumped goods will be likely to cause material injury to the Australian industry. The Commissioner considers that any injury

\textsuperscript{132} Ibid.
experienced by the Australian industry would likely be due to other factors as detailed in this report, and these will continue to impact the Australian industry in the future.

As a result, the Commissioner is not satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the measures are intended to prevent.
7 RECOMMENDATIONS

Based on the reasons contained in this Final Report, and in accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the measures applicable to wind towers exported to Australia from China would not lead, or would not be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

As such, the Commissioner proposes to recommend that the Minister, in accordance with section 269ZHG(1)(a), declare that he has decided not to secure the continuation of the measures relating to wind towers exported to Australia from China with effect from 17 April 2024.

The dumping duty notice would therefore expire on 16 April 2024.
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## APPENDIX A: AUSTRALIAN STATE AND FEDERAL GOVERNMENT RENEWABLE ENERGY TARGETS

### Commonwealth

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| Nationally Determined Contribution under Article 4, Paris Agreement, UN Framework Convention on Climate Change | International Agreement - Emissions Reduction Target | 16/06/2022 | - Net zero by 2050  
- 43% below 2005 levels by 2030 |
| Capacity Investment Scheme | Investment Scheme (Federal + State) | 08/12/2022 | - The Capacity Investment Scheme will involve competitive tenders seeking bids for clean renewable generation and storage projects to fill expected reliability gaps. Projects selected through open tenders will be offered long-term Commonwealth underwriting agreements for an agreed revenue ‘floor’ and ‘ceiling’.  
- Funding through the 2023-24 Budget for initial tenders under the Capacity Investment Scheme (CIS).  
- In 2023 the program will deliver a joint CIS/NSW Electricity infrastructure Roadmap tender, and tenders in South Australia and Victoria for dispatchable renewable generation and storage.  
- Ultimately aims to provide at least $10 billion of investment and add 6 GW to support electricity grid reliability and security. |

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<td>Safeguard Mechanism (Crediting) Amendment Bill 2023 ¹³⁵</td>
<td>ETS</td>
<td>01/07/2023</td>
<td>- The Safeguard Mechanism has been reformed to put Australia’s largest industrial emitters on a pathway to net zero by 2050, commencing on 1 July 2023. Funding of $8.6 million in the 2023-24 Budget will support implementation and review of the Safeguard Mechanism reforms. This may drive further investment in renewables.</td>
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<tr>
<td>Offshore Electricity Infrastructure Act 2021 ¹³⁶</td>
<td>Legislative groundwork</td>
<td>02/06/2022</td>
<td>- Granted Major Project Status (regulatory ‘facilitation’ to help avoid delays) - Facilitates and regulates the development of electricity infrastructure in Commonwealth waters. - Funding of 14.5 million in the 2023-4 budget to accelerate the Offshore Renewable Growth Strategy and regulatory approvals.¹³⁷ - Aug 2022, Minister announced 6 proposed regions for offshore renewable energy developments around Australia. - Declared an area of the Bass Strait as Australia’s first offshore wind zone. - Fed gov has also proposed declaring an offshore wind zone in the Southern Ocean off the coast of Portland [between Warrnambool and Port MacDonnell SA] (consultation is ongoing / finishes 31 Aug 2023).¹³⁸</td>
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</tbody>
</table>

¹³⁵ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6957
## PUBLIC RECORD

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Reconstruction Fund 139</td>
<td>Independent financier operating commercially to deliver a positive return through: - Loans - Equity investment - guarantees</td>
<td>Announced on 25 Oct 2022 for the 2022-23 budget</td>
<td>- $15 billion to establish the National Reconstruction Fund (up to $3 billion in finance to renewables and low emission technologies)</td>
</tr>
</tbody>
</table>

## Victoria

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renewable Energy (Jobs and Investment) Act 2017 140</td>
<td>Renewable Energy Target (RET) + Funding for specific projects</td>
<td>2017</td>
<td>- 40% by 2025, 50% by 2030 [intention to go to 65% by 2030 and 95% by 2035] – net zero by 2045. - VRET 1+2 Auctions with local provision mandates (must use 60% local content or more). - To provide 2.6 GW of energy storage capacity by 2030 and 6.3 GW by 2035.</td>
</tr>
<tr>
<td>Energy Innovation Fund 141</td>
<td>Rounds of Funding for Specific Projects</td>
<td>February 2021</td>
<td>- Rd1 was limited to offshore wind, $40 mil for three projects: - Seadragon OS WF - Great Southern OS WF - Star of the South OS WF - Rd2 was available to any RE type that can support net-zero by 2045 and went to: - Two bio-energy projects - A large-scale battery - A renewable hydrogen project</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Electricity Commission of Victoria 142</td>
<td>Investment</td>
<td>2022</td>
<td>-$21 million to prepare the SEC for its new role in Vic’s energy market, including setting up a presence in Morwell and Melbourne, with an additional $24 million to be provided in 2023/24.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- The SEC will ultimately invest an initial $1 billion towards delivering 4.5 gigawatts of power through renewable energy and storage projects, by:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- being an active energy market participant, working with industry to invest in and speed up the delivery of renewable energy.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- pushing more renewable energy into the system, reducing wholesale prices.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- working with industry to create thousands of jobs in renewable energy – in solar, wind, storage, and emerging energy solutions; and,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- investing in training, skills, and generating the renewable energy workforce of the future.</td>
</tr>
<tr>
<td>Vic RE Zones (VREZ) 143</td>
<td>RE Zones</td>
<td></td>
<td>- AEMO’s integrated system plan has identified 6 VIC REZs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- $480 million from the REZ Fund has been invested in 12 Stage One projects to strengthen and modernise the state’s grid.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- 21 potential longer-term investments in REZ infrastructure require further assessment and community and stakeholder consultation (Stage 2 projects).</td>
</tr>
<tr>
<td>Vic Offshore Wind Policy Directions Paper 144</td>
<td>Roadmap + targets</td>
<td>March 2022</td>
<td>- Vision for establishing first offshore wind sector</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Targets of 2 GW by 2032, 4 GW by 2035 and 9 GW by 2040.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Funding for three projects as part of Rd1 of the Energy Innovation Fund (above)</td>
</tr>
</tbody>
</table>

South Australia

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>RET 145</td>
<td>RET</td>
<td></td>
<td>- 100% renewable by 2030</td>
</tr>
</tbody>
</table>

New South Wales

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
</table>
| Net Zero Industry and Innovation Program 146                                 | RET                 | October 2021 | - Reduce emissions by 50% by 2030  
- Reduce emissions by 70% by 2035 (compared to 2005 levels)  
- Net zero by 2050                                                          |
| NSW Electricity Infrastructure Roadmap – Electricity Infrastructure Investment Act 2020 147 | Roadmap + Round based funding for RE projects | November 2020 | - incentivise private investment by providing certainty of ROI through Long-term Energy Service Agreements (bi-annual tenders for RE projects)  
- 12GW new renewable energy  
- Creation of 5 RE zones  
- 2021-22 NSW Budget allocated a total of $380 million to deliver the roadmap, including $164 million over four years for capital works. |

### Queensland

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
</table>
| Queensland Energy and Jobs Plan 148               | RET           | 28/09/2022  | - 70% target by 2032, 80% by 2035 [net 0 by 2050]  
- **25 GW of wind/solar by 2035**  
- 90% lower electricity emissions by 2035/36 (on 2005 levels)  
- Go from 3 GW of wind/solar (2022 level) to 13 GW of wind/solar by 2030 [a percentage change of 21% renewable energy to 60% renewable], QLD is investing $36 billion (from 2022 to 2030) to meet these targets.  
- By 2035, 25 GW, 80% renewable and $62 billion investment (from 2022) [a large proportion of this will be the Pioneer-Burdekin hydro project however] |
| Queensland Renewable Energy and Hydrogen Jobs Fund |               |             | - $4.5 billion to WLD publicly owned energy corporations to increase ownership of commercial RE (including wind)  
- Investment proposals must demonstrate commercial value  
- Investments must create new and ongoing employment opportunities in QLD  
- Projects announced-to-date include:  
  - Wambo wind farm  
  - Tarong west wind farm  
  - Central QLD wind farms (prospectively: Banana Range wind farm + Boulder Creek wind farm) |
| QREZ – building 3 QLD Renewable Energy Zones 150  | Investment in specific projects | August 2020 | - $145 million for the establishment of 3 QLD RE zones  
- Includes the first stage of the Northern QREZ (a $40 mil investment to support Neoen’s Kaban Green Power Hub wind farm) – wind farm worth over $370 mil.  
- The renewable energy zones have received registrations of interest for projects totalling close to 70 billion in investment if developed. |
| Powering Queensland Plan                          |               | June 2017   | - Investment of $1.16 billion to ensure QLD secure/sustainable electricity |

Tasmania

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tasmania Renewable Energy Target</td>
<td>RET</td>
<td>November 2020</td>
<td>- 200% of 2020 levels by 2040</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- 150% of 2020 levels by 2030</td>
</tr>
</tbody>
</table>

Western Australia

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Type</th>
<th>Dates</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Emissions Reduction Target</td>
<td>Emissions Reduction</td>
<td>September 2022</td>
<td>- 80% below 2020 levels by 2030 (applying to all gov agencies in state)</td>
</tr>
</tbody>
</table>

APPENDIX B: WIND FARM BREAKDOWN CHARTS

The source data for the following charts and tables is at Non-Confidential Attachment 2.

In total, Australia has 108 onshore operating wind farms spread across the following states:

<table>
<thead>
<tr>
<th>State</th>
<th>Number of operating wind farms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tasmania</td>
<td>5</td>
</tr>
<tr>
<td>Victoria</td>
<td>41</td>
</tr>
<tr>
<td>New South Wales</td>
<td>16</td>
</tr>
<tr>
<td>Queensland</td>
<td>5</td>
</tr>
<tr>
<td>South Australia</td>
<td>21</td>
</tr>
<tr>
<td>Western Australia</td>
<td>20</td>
</tr>
</tbody>
</table>

This is further represented by Figure 23 listed below.

![Operating wind farms with MW capacity](image)

**Figure 23 - Operating wind farms in Australia**

There are 188 proposed wind farms, which are comprised of both onshore and offshore wind farms, spread across the following states:

152 Non-confidential Attachment 2.
Of these projects, 47 are offshore wind farms, spread across the following states:

<table>
<thead>
<tr>
<th>State</th>
<th>Number of proposed offshore wind farms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tasmania</td>
<td>3</td>
</tr>
<tr>
<td>Victoria</td>
<td>19</td>
</tr>
<tr>
<td>New South Wales</td>
<td>10</td>
</tr>
<tr>
<td>Queensland</td>
<td>0</td>
</tr>
<tr>
<td>South Australia</td>
<td>2</td>
</tr>
<tr>
<td>Western Australia</td>
<td>13</td>
</tr>
</tbody>
</table>

Figure 24 - Proposed wind farms in Australia\textsuperscript{153}

\textsuperscript{153} Non-confidential attachment 2
Finally, there are 13 wind farms which are currently under construction, spread across the following states:

<table>
<thead>
<tr>
<th>State</th>
<th>Number of wind farms under construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tasmania</td>
<td>1</td>
</tr>
<tr>
<td>Victoria</td>
<td>3</td>
</tr>
<tr>
<td>New South Wales</td>
<td>3</td>
</tr>
<tr>
<td>Queensland</td>
<td>4</td>
</tr>
<tr>
<td>South Australia</td>
<td>1</td>
</tr>
<tr>
<td>Western Australia</td>
<td>1</td>
</tr>
</tbody>
</table>

Figure 25 - Proposed offshore wind farms in Australia\textsuperscript{154}

\textsuperscript{154} Non-confidential Attachment 2.
Figure 26 - Under construction wind farms in Australia\textsuperscript{155}