



**APPLICATION FOR REVIEW  
OF A DECISION BY THE MINISTER  
WHETHER TO PUBLISH  
A DUMPING DUTY NOTICE OR  
A COUNTERVAILING DUTY NOTICE**

**Anti-Dumping Review Panel**

c/o Legal Services Branch  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
Canberra City  
ACT 2601  
P: +61 2 6275 5868  
F: + 61 2 6275 6784  
E: [ADRP\\_support@customs.gov.au](mailto:ADRP_support@customs.gov.au)

## **INFORMATION FOR APPLICANTS**

### **WHAT DECISIONS ARE REVIEWABLE BY THE ANTI-DUMPING REVIEW PANEL?**

The role of the Anti-Dumping Review Panel (the ADRP) is to review certain decisions made by the Minister responsible for the Australian Customs and Border Protection Service (ACBPS), or by the Anti-Dumping Commissioner (the Commissioner).

The ADRP may review decisions made by the Commissioner:

- to reject an application for dumping or countervailing measures;
- to terminate an investigation into an application for dumping or countervailing measures;
- to reject or terminate examination of an application for duty assessment; and
- to recommend to the Minister the refund of an amount of interim duty less than the amount contended in an application for duty assessment, or waiver of an amount over the amount of interim duty paid.

The ADRP may review decisions made by the Minister, as follows:

#### *Investigations:*

- to publish a dumping duty notice;
- to publish a countervailing duty notice;
- not to publish a dumping duty notice;
- not to publish a countervailing duty notice;

#### *Review inquiries, including decisions*

- to alter or revoke a dumping duty notice following a review inquiry;
- to alter or revoke a countervailing duty notice following a review inquiry;
- not to alter a dumping duty notice following a review inquiry;
- not to alter a countervailing duty notice following a review inquiry;
- that the terms of an undertaking are to remain unaltered;
- that the terms of an undertaking are to be varied;
- that an investigation is to be resumed;
- that a person is to be released from the terms of an undertaking;

#### *Continuation inquiries:*

- to secure the continuation of dumping measures following a continuation inquiry;
- to secure the continuation of countervailing measures following a continuation inquiry;

- not to secure the continuation of dumping measures following a continuation inquiry;
- not to secure the continuation of countervailing measures following a continuation inquiry;

*Anti-circumvention inquiries:*

- to alter a dumping duty notice following an anti-circumvention inquiry;
- to alter a countervailing duty notice following an anti-circumvention inquiry;
- not to alter a dumping duty notice following an anti-circumvention inquiry; and
- not to alter a countervailing duty notice following an anti-circumvention inquiry.

Before making a recommendation to the Minister, the ADRP may require the Commissioner to:

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within a specified time period.

The ADRP only has the power to make **recommendations** to the Minister to affirm the reviewable decision or to revoke the reviewable decision and substitute with a new decision. The ADRP has no power to revoke the Minister's decision or substitute another decision for the Minister's decision.

## **WHICH APPLICATION FORM SHOULD BE USED?**

It is essential that applications for review be lodged in accordance with the requirements of the *Customs Act 1901* (the Act). The ADRP does not have any discretion to accept an invalidly made application or an application that was lodged late.

Division 9 of Part XVB of the Act deals with reviews by the ADRP. Intending applicants should familiarise themselves with the relevant sections of the Act, and should also examine the explanatory brochure (available at [www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au)).

There are separate application forms for each category of reviewable decision made by the Commissioner, and for decisions made by the Minister. It is important for intending applicants to ensure that they use the correct form.

This is the form to be used when applying for ADRP review of a decision of the Minister whether to publish a dumping duty notice or countervailing duty notice (or both). It is approved by the Commissioner pursuant to s 269ZY of the Act.

## **WHO MAY APPLY FOR REVIEW OF A MINISTERIAL DECISION?**

Any interested party may lodge an application for review to the ADRP of a review of a ministerial decision. An “interested party” may be:

- if an application was made which led to the reviewable decision, the applicant;
- a person representing the industry, or a portion of the industry, which produces the goods which are the subject of the reviewable decision;
- a person directly concerned with the importation or exportation to Australia of the goods;
- a person directly concerned with the production or manufacture of the goods;
- a trade association, the majority of whose members are directly concerned with the production or manufacture, or the import or export of the goods to Australia; or
- the government of the country of origin or of export of the subject goods.

Intending applicants should refer to the definition of “interested party” in s 269ZX of the Act to establish whether they are eligible to apply.

## **WHEN MUST AN APPLICATION BE LODGED?**

An application for a review must be received within 30 days after a public notice of the reviewable decision was first published in a national Australian newspaper (s 269ZZD).

The application is taken as being made on the date upon which it is received by the ADRP after it has been properly made in accordance with the instructions under 'Where and how should the application be made?' (below).

## **WHAT INFORMATION MUST AN APPLICATION CONTAIN?**

An application should clearly and comprehensively set out the grounds on which the review is sought, and provide sufficient particulars to satisfy the ADRP that the Minister’s decision should be reviewed. It is not sufficient simply to request that a decision be reviewed.

The application must contain a full description of the goods to which the application relates and a statement setting out the applicant’s reasons for believing that the reviewable decision is not the correct or preferable decision (s 269ZZE).

If an application contains information which is confidential, or if publication of information contained in the application would adversely affect a person's business or commercial interest, the application will be rejected by the ADRP unless an appropriate summary statement has been prepared and accompanies the application.

If the applicant seeks to bring confidential information to the ADRP's attention (either in their application or subsequently), the applicant must prepare a summary statement which contains sufficient detail to allow the ADRP to reasonably understand the substance of the information, but the summary must not breach the confidentiality or adversely affect a person's business or commercial interest (s 269ZZY).

While both the confidential information and the summary statement must be provided to the ADRP, only the summary statement will be lodged on the public record maintained by the ADRP (s 269ZZX). The ADRP is obliged to maintain a public record for review of decisions made by the Minister, and for termination decisions of the Commissioner. The public record contains a copy of any application for review of a termination decision made to the ADRP, as well as any information given to the ADRP after an application has been made. Information contained in the public record is accessible to interested parties upon request.

Documents containing confidential information should be clearly marked "Confidential" and documents containing the summary statement of that confidential information should be clearly marked "Non-confidential public record version", or similar.

The ADRP does not have any investigative function, and **must** take account only of information which was before the Minister when the Minister made the reviewable decision (s269ZZ). The ADRP will disregard any information in applications and submissions that was not available to the Minister.

## **HOW LONG WILL THE REVIEW TAKE?**

The timeframes for a review by the ADRP will be dependent on whether the ADRP requests the Commissioner to reinvestigate specific findings or findings that formed the basis of the reviewable decision.

### *If reinvestigation is not required*

Unless the ADRP requests the Commissioner to reinvestigate a specific finding or findings, the ADRP must make a report to the Minister:

- at least 30 days after the public notification of the review;
- but no later than 60 days after that notification.

In special circumstances the Minister may allow the Review Panel a longer period for completion of the review (s 269ZZK(3)).

*If reinvestigation is required*

If the ADRP requests the Commissioner to reinvestigate a specific findings or findings, the Commissioner must report the results of the reinvestigation to the ADRP within a specified period.

Upon receipt of the Commissioner's reinvestigation report, the ADRP must make a report to the Minister within 30 days.

## **WHAT WILL BE THE OUTCOME OF THE REVIEW?**

At the conclusion of a review, the ADRP must make a report to the Minister, recommending that the:

- Minister affirm the reviewable decision (s 269ZZK(1)(a)); or
- Minister revoke the reviewable decision and substitute a specified new decision (s 269ZZK(1)(b)).

After receiving the report from the ADRP the Minister must:

- affirm his/her original decision; or
- revoke his/her original decision and substitute a new decision.

The Minister has 30 days to make a decision after receiving the ADRP's report, unless there are special circumstances which prevent the decision being made within that period. The Minister must publish a notice if a longer period for making a decision is required (s 269ZZM).

## **WHERE AND HOW SHOULD THE APPLICATION BE MADE?**

Applications must be EITHER:

- lodged with, or mailed by prepaid post to:

**Anti-Dumping Review Panel  
c/o Legal Services Branch  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
Canberra City ACT 2601  
AUSTRALIA**

- OR emailed to:

**ADRP\_support@customs.gov.au**

- OR sent by facsimile to:

**Anti-Dumping Review Panel  
c/o Legal Services Branch  
+61 2 6275 6784**

## **WHERE CAN FURTHER INFORMATION BE OBTAINED?**

Further information about **reviews by the ADRP** can be obtained at the ADRP website ([www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au)) or from:

Anti-Dumping Review Panel  
c/o Legal Services Branch  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
Canberra City ACT 2601  
AUSTRALIA

Telephone: +61 2 6275 5868  
Facsimile: +61 2 6275 5784

Inquiries and requests for **general information about dumping matters** should be directed to:

Anti-Dumping Commission  
Australian Customs and Border Protection Service  
Customs House  
5 Constitution Avenue  
CANBERRA CITY ACT 2601

Telephone: 1300 884 159  
Facsimile: 1300 882 506  
Email: [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au)

## **FALSE OR MISLEADING INFORMATION**

It is an offence for a person to give the ADRP written information that the person knows to be false or misleading in a material particular (Penalty: 20 penalty units – this equates to \$3400).

## **PRIVACY STATEMENT**

The collection of this information is authorised under section 269ZZE of the *Customs Act 1901*. The information is collected to enable the ADRP to assess your application for the review of a decision to publish a dumping duty notice or countervailing duty notice.

NON-CONFIDENTIAL



**APPLICATION FOR REVIEW OF  
DECISION OF THE MINISTER WHETHER TO PUBLISH A DUMPING DUTY  
NOTICE OR COUNTERVAILING DUTY NOTICE**

Under s 269ZZE of the *Customs Act 1901* (Cth), I hereby request that the Anti-Dumping Review Panel reviews a decision by the Minister responsible for Australian Customs and Border Protection Service:

to publish : ☒ a dumping duty notice(s), and/or

☐ a countervailing duty notice(s)

OR

**not** to publish : ☐ a dumping duty notice(s), and/or

☐ a countervailing duty notice(s)

in respect of the goods which are the subject of this application.

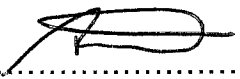
I believe that the information contained in the application:

- provides reasonable grounds to warrant the reinvestigation of the finding or findings that formed the basis of the reviewable decision that are specified in the application;
- provides reasonable grounds for the decision not being the correct or preferable decision; and
- is complete and correct to the best of my knowledge and belief.

I have included the following information in an attachment to this application:

- ☒ Name, street and postal address, and form of business of the applicant (for example, company, partnership, sole trader).
- ☒ Name, title/position, telephone and facsimile numbers and e-mail address of a contact within the organisation.
- ☒ Name of consultant/adviser (if any) representing the applicant and a copy of the authorisation for the consultant/adviser.
- ☒ Full description of the imported goods to which the application relates.
- ☒ The tariff classification/statistical code of the imported goods.
- ☒ A copy of the reviewable decision.
- ☒ Date of notification of the reviewable decision and the method of the notification.
- ☒ A detailed statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision.

- ☒ [If the application contains material that is confidential or commercially sensitive] an additional non-confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Signature:  .....

Name: Troy Morrow

Position: Authorised Representative for Fortune Electric Co., Ltd.

Applicant Company/Entity: Fortune Electric Co., Ltd.

Date: 8 / 1 / 2015

NON-CONFIDENTIAL

**Application to the Anti-Dumping Review Panel to review the decision of the Minister to publish dumping duty notice on 10 December 2014 based on Australian Customs Dumping Notice No. 2012/34 in respect of Anti-Dumping Commission Dumping Investigation ADC 219 - Power Transformers Exported from China, Indonesia, Korea, Taiwan, Thailand and Vietnam**

**1. Name, street and postal address, and form of business of the applicant.**

1.1. Fortune Electric Co., Ltd. (hereinafter called "Fortune").

1.2. Yu Tai Enterprise Building  
10<sup>th</sup> Floor, No 370, Section 1,  
Fu Xing South. Road, Taipei, 106, Taiwan

1.3. Fortune is an exporter to Australia of the goods during the period of investigation, to which the dumping duty notice applies.

**2. Name, title/position, telephone and facsimile numbers and e-mail address of a contact within the organisation.**

2.1. Contact: Rafe Ho,  
Project Manager, Export Section 2, International Department

2.2. Telephone: +886-2- 2704-7001 Ext 238

2.3. Facsimile number: +886-2-2704-7005

2.4. E-mail: rafe@fortune.com.tw

**3. Name of consultant/adviser (if any) representing the applicant and a copy of the authorisation for the consultant/adviser.**

3.1. Mr Troy Morrow  
Partner  
Mobile Business Consultants

3.2. Telephone : 0419 782205



3.3. E-mail: [troy@lentro.com.au](mailto:troy@lentro.com.au)

3.4. Refer attached authorisation

**4. Full description of the imported goods to which the application relates.**

4.1. Liquid dielectric power transformers with power ratings of equal to or greater than 10 MVA (mega volt amperes) and a voltage rating of less than 500kV (kilo volts) whether assembled or unassembled, complete or incomplete.

4.2. Incomplete power transformers are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of power transformers. The active part of a power transformer consists of one or more of the following when attached to or otherwise assembled with one other:

4.2.1. the steel core;

4.2.2. the windings;

4.2.3. electrical insulation between the windings; and

4.2.4. the mechanical frame.

4.3. Distribution transformers are not the subject of this application. Distribution transformers are smaller transformers that have design and manufacturing technology which is different from power transformers.

**5. The tariff classification/statistical code of the imported goods.**

5.1. 8504.22.00 (statistical code 40); and

5.2. 8504.23.00 (statistical codes 26 and 41)

**6. A copy of the reviewable decision.**

6.1. Refer attached

**7. Date of notification of the reviewable decision and the method of the notification.**

7.1. 10 December 2014



**8. A detailed statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision.**

**8.1. Ground 1 – Inclusion of Domestic Sales of Power Transformers of a capacity greater than 100MVA in calculation of amount of profit to be included in Constructed Normal Value established under s. 269TAC(2)(c)**

8.1.1. Fortune submit the Commissioner has erred in calculation of the amount of profit to be included in Constructed Normal Value established under s. 269TAC(2)(c) by including all domestic sales, including Power Transformers of a capacity of greater than 100MVA.

8.1.2. Fortune formed this opinion with reference to Australian Anti-Dumping Commission (ADC) Dumping and Subsidy Manual, including extracts as follows (emphasis and underline added):-

*Like goods: The Commission will decide on a case by case basis which 'like goods' are to be used for the purpose of working out ordinary course of trade sales. When making this determination the Commission is not restricted to working out profit from a limited subset of the goods only, for example identical models only. It may treat 'like goods' for this determination to be a wider subset of the goods.*<sup>1</sup>

*Same general category: This term in Regulation 181A(3)(a) is not defined. The Commission will decide on a case by case basis what goods will be included in this category. For example, the Commission may decide that the best approximation of profit on a domestic sale for the like goods in question is a narrower, rather than a broader, category. A narrower category may be preferred if it is determined this most meets the policy intent for establishing normal value based on the constructed method (section 9.2 above).*<sup>2</sup>

8.1.3. Fortune considers that Power Transformers of a capacity of less than or equivalent to 100MVA, form the same general category of goods that "most meets the policy intent for establishing normal value based on the constructed method (section 9.2 above)", including the following extract from section 9.2:-

*The purpose of the constructed normal value is to obtain results using costs and profit that approximate as closely as possible the price of the like good sold in the ordinary course of trade in the exporter's domestic market.*<sup>3</sup>

8.1.4. Power Transformers are allocated into two categories, as per international standards such as IEC:2005 - 60076:-

- 8.1.4.1. Medium Power Transformers of equal to or less than 100 MVA; and
- 8.1.4.2. Large Power Transformers of greater than 100 MVA.

8.1.5. Fortune only exported medium power transformers up to 100 MVA to Australia.

<sup>1</sup> Page 46 ADC Dumping and Subsidy Manual - [http://adcommission.gov.au/reference-material/manual/documents/DumpingandSubsidyManual-December2013\\_001.pdf](http://adcommission.gov.au/reference-material/manual/documents/DumpingandSubsidyManual-December2013_001.pdf)

<sup>2</sup> Page 48 ADC Dumping and Subsidy Manual

<sup>3</sup> Page 39 ADC Dumping and Subsidy Manual



8.1.6.Domestic competition in medium power transformers is far greater due to number of domestic producers capable of producing medium power transformers compared to large power transformers.

8.1.7.Large Power Transformers, due to physical size and mass, are subject to logistic and transport barriers that also restrict import competition in domestic market. Medium Power Transformers are not subject to such barriers therefore providing further competition in Taiwanese domestic market.

8.1.8.Fortune disagreed with the following extract from their Exporter Visit Report:-

*Visit team's recommendation*

*<sup>4</sup>Having considered the arguments presented by Fortune, the visit team does not support excluding power transformers above 100 MVA from the calculation of normal values. The domestic sales information provided by Fortune does not indicate any clear pattern in profitability according to high or low MVA. It is expected that profit levels will vary between customers because of a range of factors. There does not appear to be grounds to support excluding power transformers above 100 MVA.*

8.1.9.The following analysis was provided to demonstrate a clear pattern in profitability between high and low MVA Power Transformers did in fact exist:-

8.1.9.1. >= 100 MVA - XX of XXX domestic sales during POI = XX%

8.1.9.2. < 100 MVA – XX of XXX domestic sales during POI = XX%

8.1.9.3. >= 100 MVA - NTD XXX,XXX,XXX of NTD XXX,XXX,XXX domestic sales profit during POI = XX%

8.1.9.4. < 100 MVA - NTD XXX,XXX,XXX of NTD XXX,XXX,XXX domestic sales profit during POI = XX%

8.1.9.5. >= 100 MVA - NTD X,XXX,XXX,XXX of NTD X,XXX,XXX,XXX domestic sales volume during POI = XX%

8.1.9.6. < 100 MVA - NTD X,XXX,XXX,XXX of NTD X,XXX,XXX,XXX domestic sales volume during POI = XX%

8.1.9.7. >= 100 MVA - domestic profit margin during POI = XX.XX%

8.1.9.8. < 100 MVA - domestic profit margin during POI = XX.XX%

<sup>4</sup> Page 41 Exporter Visit Report for Fortune - <http://adcommission.gov.au/cases/documents/150-Verificationreport-Exporter-FortuneElectricCoLtd.pdf>



8.1.10. In addition to the above differences in contribution in quantity of sales, sales volume, and profit, together with clearly different profit margins generated, Fortune also submit that medium and large power transformers are physically different goods with different markets and competition.

8.1.11. The authors of ADC Report 219 dated 2 December 2014 makes the following references to Fortune's submission regarding this matter, however provides no evidence or reasoning for the alternative view (i.e. to include all domestic Power Transformer in calculation of amount of profit to be included in Constructed Normal Value established under s. 269TAC(2)(c)):-

*Fortune supported the use of Regulation 181A(3)(a) to calculate the profit to be included in constructed normal values, but it does not agree with how the Commission has calculated amount of profit. Fortune has previously submitted that certain sales should be excluded from the same general category of goods:*

- domestic sales of power transformers with a capacity greater than 100 MVA; and
- domestic sales to Taiwan Power Company.<sup>5</sup>

*Constructed FOB normal values were established under s. 269TAC(2)(c). The Commission included an amount for profit reflecting the profit achieved on domestic sales of like goods (based on the profit achieved on domestic sales of the same general category of goods) by Fortune.<sup>6</sup>*

*In response to the SEF, Fortune submitted that certain sales should be excluded from the same general category of goods in determining the amount of profit to be used in constructed normal values. As discussed in Section 6.5.3, the Commission has used all sales of the same general category of goods in the domestic market of the exporting country.<sup>7</sup>*

8.1.12. Fortune request Anti-Dumping Review Panel request the Minister and/or the ADC reconsider the visit team's recommendation and use only Power Transformers of a capacity of less than or equivalent to 100 MVA only (i.e. exclude Power Transformers of capacity greater than 100 MVA), in calculation of amount of profit to be included in Constructed Normal Value established under s. 269TAC(2)(c).

## **8.2. Ground 2 – Inclusion of Domestic Sales of Power Transformers to Taiwan Power Company in calculation of amount of profit to be included in Constructed Normal Value established under s. 269TAC(2)(c)**

8.2.1. Fortune submit the Commissioner has erred in calculation of amount of profit to be included in Constructed Normal Value established under s. 269TAC(2)(c) by including all domestic sales, including Power Transformer sales to Taiwan Power Company.

<sup>5</sup> Page 41 ADC Report 219 dated 2 December 2014 - <http://adcommission.gov.au/cases/documents/194-FinalReport219recommendingpublicationofadumpingdutynotice.pdf>

<sup>6</sup> Page 67 ADC Report 219 dated 2 December 2014

<sup>7</sup> Page 68 ADC Report 219 dated 2 December 2014





8.2.2. Fortune submitted that the amount of domestic profit to be included in Constructed Normal Value should exclude sales of power transformers to Taiwan Power Company (TPC), due to the following factors:-

8.2.2.1. TPC is a government owned power utility with local content purchase criteria. Until 2013, TPC was not permitted to purchase imported power transformers and subsequent to 2013, only defined capacities. This information was provided to ADC verification visit team.

8.2.2.2. TPC primarily purchase large power transformers, however also have quality assurance criteria for approved suppliers, with many competitor domestic producers of medium Power Transformers not applying for certification due to inability to comply or cost to comply in relation to opportunities to sell medium power transformers to TPC.

8.2.3. Fortune formed this opinion with reference to Australian Anti-Dumping Commission (ADC) Dumping and Subsidy Manual including extracts as follows (emphasis and underline added):-

*As with the normal value determined under any of the provisions, adjustments may be required to ensure a proper comparison between the constructed price of the goods in the domestic market and the export price. For further information on adjustments to a constructed price refer to **Chapter 14 “Due Allowance”**.<sup>8</sup>*

<sup>9</sup>*The ADA requires that, when determining dumping, a fair comparison be made between export price and normal value. It states that the comparison shall be made at the **same level of trade** and in respect of sales made at as nearly as possible the same time. It requires that due allowance be made in each case, on its merits, for differences which “affect price comparability”.*

*Australia’s anti-dumping legislation incorporates this obligation by requiring that:*

- *the prices of goods exported to Australia are compared with corresponding normal values (s. 269TACB); and*
- *any necessary adjustments are made to domestic prices (**or constructed domestic prices**) so that they can be fairly compared to export prices (s. 269TAC(8) and s. 269TAC(9)).*

*Under s. 269TAC(8) where the domestic and export prices:*

- *relate to sales occurring at different times; or*
- *are not in respect of identical goods; or*
- *are modified in different ways by taxes or the terms or circumstances of the sales to which they relate;*

*the price paid or payable for like goods on the domestic market is **a price adjusted to allow a fair comparison**.*

<sup>8</sup> Page 39 ADC Dumping and Subsidy Manual

<sup>9</sup> Page 58 ADC Dumping and Subsidy Manual – Chapter 14.1 “Due Allowance”





Section 269TAC(9) provides that, where the normal value is calculated using costs, the **Minister must make adjustments**, in determining the costs, to ensure the normal value so calculated is properly comparable to the export price.

8.2.4. The authors of ADC Report 219 dated 2 December 2014 makes the following references to Fortune's submission regarding this matter, however provides no evidence or reasoning why Constructed Normal Value established under s. 269TAC(2)(c)) should not be adjusted to exclude domestic sales to TPC, due to sales not being at the same level of trade as export sales.

*Fortune supported the use of Regulation 181A(3)(a) to calculate the profit to be included in constructed normal values, but it does not agree with how the Commission has calculated amount of profit. Fortune has previously submitted that certain sales should be excluded from the same general category of goods:*

- domestic sales of power transformers with a capacity greater than 100 MVA; and
- domestic sales to Taiwan Power Company.<sup>10</sup>

*Constructed FOB normal values were established under s. 269TAC(2)(c). The Commission included an amount for profit reflecting the profit achieved on domestic sales of like goods (based on the profit achieved on domestic sales of the same general category of goods) by Fortune.<sup>11</sup>*

*In response to the SEF, Fortune submitted that certain sales should be excluded from the same general category of goods in determining the amount of profit to be used in constructed normal values. As discussed in Section 6.5.3, the Commission has used all sales of the same general category of goods in the domestic market of the exporting country.<sup>12</sup>*

8.2.5. Fortune request the Anti-Dumping Review Panel request the Minister and/or the ADC review and reconsider making adjustment to Constructed Normal Value established under s. 269TAC(2)(c), in relation to domestic sales to TPC.

**8.3. Ground 3 – Section 269TAF(1) was not applied correctly in the identification the date of transaction or agreement that best establishes the material terms of the sale of the exported goods for the purposes of currency conversion.**

8.3.1. Fortune submit that the Commissioner has erred in adopting the exchange rate at the contract date or purchase order date, of each export sale, rather than invoice date, which is inconsistent with recent similar investigations, including Dumping investigation ADC 221 - Wind towers exported from China and Korea.

<sup>10</sup> Page 41 ADC Report 219 dated 2 December 2014

<sup>11</sup> Page 67 ADC Report 219 dated 2 December 2014

<sup>12</sup> Page 68 ADC Report 219 dated 2 December 2014



8.3.2. The following has been extracted from ADC response dated 3 July 2014 to invitation for comment by Anti-Dumping Review Panel in relation review application in respect of Dumping investigation ADC 221 - Wind towers exported from China and Korea (underline and emphasis added)

<sup>13</sup>“2.5 As stated in pages 35-36 of REP 221, the Commission assessed the Applicants’ claims, but ultimately did not agree with these claims.

2.6 The Commission determined, based on all the evidence before it, that the purchase orders presented to it by the Applicants did not reflect the delivery times, quantities shipped, the amounts invoiced and the payments actually received. As such, the Commission did not consider that the dates of the purchase orders were suitable for the purpose of determining the date that best establishes the material terms of the sale.

2.7 Page 35 of REP 221 states:

“Section 269TAF(1) provides that where a comparison of export prices and normal values requires a conversion of currencies, that conversion, subject to a forward rate of exchange being used, is to be made using the rate of exchange on the date of the transaction or agreement that, in the opinion of the Minister, best established the material terms of the sales of the exported goods”.

2.8 As stated in page 35 of REP 221, the Commission was satisfied that Win&P did not enter into a forward exchange contract for its wind towers during the investigation period.

2.9 On page 36 of REP 221, the Commission considered that the date of invoice, the date of sale recognition by Win&P, be used as the date for the conversion of currencies as this date best establishes the material terms of sale.

2.10 Page 60 of the Commission’s Dumping and Subsidy Manual (Manual) states the following:

“In establishing the date of sale, the Commission will normally use the date of invoice as it best reflects the material terms of sale. For the goods exported, the date of invoice also usually approximates the shipment date.

Where a claim is made that an exporter claims a date other than the date of invoice better reflects the date of sale, the Commission will examine the evidence provided.

For such a claim to succeed it would first be necessary to demonstrate that the material terms of sale were, in fact, established by this other date. In doing so, the evidence would have to address whether price and quantity were subject to any continuing negotiation between the buyer and the seller after the claimed contract date”.

2.11 The Commission has used the date of invoice, the preferred position as stated in the Manual, as the date that best reflects the material terms of sale. The Commission considers that the date that best establishes the material terms of sale is the date of sales revenue recognition in Win&P accounts. This is

<sup>13</sup> Pages 9-10 of ADC comments – Attachment A to cover letter – 3 July 2014 -

<http://www.adreviewpanel.gov.au/site/documents/AttachmentAResponseToTheReviewOfDecisionrelatingtoWindTowers.pdf>



*the date that Win&P recognised the amount as a sale as stated in the audited accounts and reflects the date of invoice.*

*2.12 As stated on page 36 of Rep 221, the Commission referred to the Trade Measures Review Officer's (TMRO) decision in the hollow structural sections review which addresses the date of sale for the purpose of currency conversion. The TMRO observed that material terms of the sale of the exported goods may include price, type and quantity of the goods subject to the order. The time and terms of delivery may also be considered to be material. It seems reasonable to assume that these terms are fixed at the time the offer is accepted. The TMRO found that price was a material term, but it was only one of a number of material terms.*

8.3.3. Similar to the above assessment in relation to Wind Towers, Fortune submits the following in relation to Power Transformers.

8.3.3.1. Fortune did not establish a forward exchange contract at date of contract or date of purchase order.

8.3.3.2. Shipment date, delivery date, installation/commission date etc. are unknown as at date of contract or date of purchase order, and can vary significantly to that proposed in either document.

8.3.3.3. The quantity and price of final shipment can vary from contract or purchase order.

8.3.3.4. Fortune proposed the date of invoice for currency conversion, as it best reflects the material terms of sale (per ADC manual) and did not claim an alternative date that would have required provision of evidence to ADC for verification.

8.3.4. Fortune request the Anti-Dumping Review Panel request the Minister and/or the ADC review and reconsider utilising invoice date as that best establishes the material terms of the sale of the exported goods for the purposes of currency conversion.

#### **8.4. Impact on dumping margin if the above grounds for review are accepted and adopted.**

8.4.1. Fortune provide the following calculations of impact on currently assessed dumping margin for which the ministers existing decision and dumping notice is based.

8.4.2. Current Margin 15.2%.

8.4.3. Should only Review Ground 1 (above) be adopted the recalculated dumping margin will be XX.X%, due to a reduced Constructed Normal Value correctly established under s. 269TAC(2)(c).

8.4.4. Should only Review Ground 2 (above) be adopted the recalculated dumping margin will be XX.X%, due to a reduced Constructed Normal Value correctly established under s. 269TAC(2)(c).



8.4.5. Should only Review Ground 3 (above) be adopted the recalculated dumping margin will be XX.X%, due to an increased Export Price correctly calculated with appropriate currency conversion under s. 269TAF(1).

8.4.6. Should Review Grounds 1 & 2 (above) be adopted the recalculated dumping margin will be XX.X%.

8.4.7. Should Review Grounds 1 & 3 (above) be adopted the recalculated dumping margin will be XX.X%.

8.4.8. Should Review Grounds 2 & 3 (above) be adopted the recalculated dumping margin will be XX.XX%.

8.4.9. Should all three Grounds for review be adopted the recalculated dumping margin will be XX.XX%.

9. **If the application contains material that is confidential or commercially sensitive] an additional non confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.**

9.1. A Confidential version and Non-Confidential version of the Application have been provided, with watermark accordingly.





**FORTUNE ELECTRIC CO., LTD.**

YU TAI ENTERPRISE BUILDING 10<sup>TH</sup> FL., NO. 370, FU HSING SOUTH RD.,  
SEC. 1, TAIPEI, TAIWAN, R.O.C.

TEL: +886-2-27047001 ext. 238

FAX: +886-2-27047005

6 January 2015

Anti-Dumping Review Panel  
c/o Legal Services Branch  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
Canberra City ACT 2601

Dear Sir/Madam

**Application with the Anti-Dumping Review Panel in accordance with the requirements in Division 9 of Part XVB of the Act within 30 days of the publication of the Parliamentary Secretary's notice.**

**Australian Customs Dumping Notice No. 2012/34 dated 10 December 2014.**

We confirm Fortune Electric Co., Ltd. appoints Mr Troy Morrow of Mobile Business Consultants our authorised representative in relation to the above.

We authorise the Anti-Dumping Review Panel to communicate with Mr. Troy Morrow regarding any aspect of this matter.

Should you require any additional information, please contact the writer.

Yours faithfully

Rafe Ho

**Fortune Electric Co. Ltd**

International Dept.

Section Manager



***Customs Act 1901 – Part XVB***

**Power transformers**

**Exported from the Republic of Indonesia, Taiwan, Thailand  
and the Socialist Republic of Vietnam**

**Findings in relation to a dumping investigation**

***Public notice under subsections 269TG(1) and (2) of the Customs Act 1901***

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed the investigation into the alleged dumping of power transformers (the goods), exported to Australia from the People's Republic of China (China), the Republic of Indonesia (Indonesia), the Republic of Korea (Korea), Taiwan, Thailand and the Socialist Republic of Vietnam (Vietnam).

The goods are classified to tariff subheadings 8504.22.00 (statistical code 40) and 8504.23.00 (statistical codes 26 and 41) of Schedule 3 to the *Customs Tariff Act 1995*. The various potential combinations of incomplete power transformers are not all classifiable to these classifications.

A full description of the goods is available in Anti-Dumping Notice (ADN) No. 2013/64 which is available at <http://www.adcommission.gov.au>.

On 1 December 2014, the Commissioner terminated the investigation so far as it related to goods exported by certain exporters in China, Indonesia and Korea and in so far as it related to all exporters in China and Korea. Termination Report No. 219 sets out the reasons for these terminations. This report is available at <http://www.adcommission.gov.au>.

The Commissioner reported the findings and recommendations to the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary) in Anti-Dumping Commission Report No. 219 (Report No. 219) which outlined the investigation carried out by the Commission and recommended the publication of a dumping duty notice in respect of the goods.

Particulars of the dumping margin established and an explanation of the method used to compare export prices and normal values to establish each dumping margin are set out in the following table:

Country	Manufacturer / exporter	Dumping margin and effective rate of duty	Method to establish dumping margin
Indonesia	PT CG Power Systems Indonesia	8.7%	Individual export prices were compared with corresponding normal values over the investigation period in accordance with subsection 269TACB(2)(b) of the <i>Customs Act 1901</i> (the Act).
	All other Indonesian exporters except PT. Unelec Indonesia	8.7%	
Taiwan	Fortune Electric Co. Ltd	15.2%	
	Shihlin Electric & Engineering Corp	21.0%	
	Tatung Company	37.2%	
	All other Taiwanese exporters	37.2%	
Thailand	ABB Limited, Thailand	3.6%	Individual export prices were compared with weighted average corresponding normal values over the investigation period in accordance with subsection 269TACB(3) of the Act.
	Tirathai Public Company Limited	39.1%	Individual export prices were compared with corresponding normal values over the investigation period in accordance with subsection 269TACB(2)(b) of the Act.
	All other Thai exporters	39.1%	
Vietnam	ABB Limited, Vietnam	3.8%	Individual export prices were compared with weighted average corresponding normal values over the investigation period in accordance with subsection 269TACB(3) of the Act.
	All other Vietnamese exporters	3.8%	

I, ROBERT CHARLES BALDWIN, Parliamentary Secretary to the Minister for Industry, have considered, and accepted, the recommendations of the Commission, the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in Report No. 219.

I am satisfied, as to the goods that have been exported to Australia, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods might have been caused if securities had not been taken. Therefore under subsection 269TG(1) of the Act, I DECLARE that section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) applies to:

- (i) the goods; and



- (ii) like goods that were exported to Australia after 27 November 2013 (being the date that the Commissioner made a Preliminary Affirmative Determination under paragraph 269TD(4)(a) of the Act that there appeared to be sufficient grounds for the publication of a dumping duty notice) but before publication of this notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been caused, is being caused, or may be caused in the future. Therefore under subsection 269TG(2) of the Act, I DECLARE that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from Indonesia (excluding goods exported by PT Unelec Indonesia), Taiwan, Thailand and Vietnam.

The dumping duties will be calculated using the *ad valorem* duty method in accordance with Regulation 5(7) of the *Customs Tariff (Anti-Dumping) Regulations 2013*; that is as a proportion of the export price.

The considerations relevant to my determination of material injury to the Australian industry caused by dumping are the size of the dumping margins, the effect of dumped imports on prices in the Australian market in the form of price undercutting and price suppression and the consequent impact on the Australian industry including loss of sales volume, reduced market share, reduced revenue, reduced profits and profitability, reduced capacity utilisation, reduced employment and reduced return on investment.

In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor other than the exportation of dumped goods, and have not attributed injury caused by other factors to the exportation of those dumped goods.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel, in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

Particulars of the export prices, non-injurious prices, and normal values of the goods (as ascertained in the confidential tables to this notice) will not be published in this notice as they may reveal confidential information.

Clarification about how measures are applied to 'goods on the water' is available in Australian Customs Dumping Notice No. 2012/34, available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

Report No. 219 and other documents included in the public record are available at [www.adcommission.gov.au](http://www.adcommission.gov.au). Alternatively, the public record may be examined at the



Anti-Dumping Commission's office by contacting the case manager on the details provided below.

Enquiries about this notice may be directed to the case manager on telephone number +61 2 6275 6729, fax number 1300 882 506 or +61 3 9244 8902 (outside Australia) or [operations1@adcommission.gov.au](mailto:operations1@adcommission.gov.au).

Dated this 4<sup>th</sup> day of December 2014

ROBERT CHARLES BALDWIN  
Parliamentary Secretary to the Minister for Industry

24

THE AUSTRALIAN, WEDNESDAY, DECEMBER 10, 2014  
theaustralian.com.au/property

## PRIMESPACE

## DAILY DEALS

## VICTORIA

**Office sale, 432 St Kilda Road, Melbourne**  
Melbourne-based private investor Yong Quek's Prime Value Asset Management is believed to have sold 432 St Kilda Road — bought for \$25.5 million in 2002 — to a group from Britain for \$41.6m. The former ANL House is close to the Fox family office as well as the Beck family office. It is 100 per cent leased and returns \$33m a year. **PRICE:** \$20m  
**BUYER:** EC Funds Management  
**SELLER:** Aveo Group  
**AGENT:** Paul Fernandes, Colliers International

**Melbourne.**  
**PRICE:** \$41.6m  
**BUYER:** Private British Co  
**SELLER:** Prime Value Asset Management  
**AREA:** 900sq m (building) plus 136 basement car spaces  
**AGENT:** Fitzroys

## NSW

**Office sale, 63 Miller Street, Pyrmont**  
Listed retirement village owner Aveo has sold a three-storey building in inner Sydney to EG Funds Management for \$20m. The sale of the building increased the total value of non-retirement asset sales to \$250m since the middle of last year, Aveo said.  
**PRICE:** \$20m  
**BUYER:** EC Funds Management  
**SELLER:** Aveo Group  
**AGENT:** Paul Fernandes, Colliers International



NSW Finance Minister Dominic Perrotto and Government Property CEO Brett Newman

## Heritage-listed CBD site to get three more levels

**DEVELOPMENT:** Three levels will be added to the top of the sandstone-clad heritage-listed education building in the core of Sydney's financial district, while an underground pedestrian link is also foreshadowed as part of a major hotel conversion.

NSW Minister for Finance and Services Dominic Perrotto said concept plans for the redevelopment of the Education and Lands Department buildings would go on public display from today until early February.

The plans include allowing hotel services facilities under Farrer Place and Gresham Street and the construction of an underground pedestrian link between the buildings under Loftus Street.

Mr Perrotto said there had been a solid response from international and local groups to redevelop Sydney's sandstone precinct after the closed tenders. "Submissions have been received from major local and international hotel operators who wish to deliver high-end, boutique hotels, similar to those in other historic precincts around the globe," Mr Perrotto said.

The government is offering a 99-year lease on the buildings saying that in their present state they are inaccessible to the general public. "Opening the doors up for hospitality or leisure will allow visitors greater access to the historic buildings."

## Triguboff lieutenant to step down

**EXECUTIVES:** Harry Triguboff's right-hand man, Peter Spira, will retire from his position as general manager of development giant Merton at the end of the week. Mr Spira joined Merton as an architect in 1978.

"Peter has been with me for more than 35 years and has been involved in every development," Mr Triguboff said. "We hope that Peter will succeed in whatever he wants to do, and enjoy some well-earned time."

A replacement for Mr Spira, who estimated he had seen 50,000 apartments produced during his time at the company, has yet to be named.

## NOTICES

www.theaustralian.com.au

**Australian Government**  
**Anti-Dumping Commission**

*Customs Act 1901 - Part XV*  
**POWER TRANSFORMERS EXPORTED FROM THE REPUBLIC OF INDONESIA, TAIWAN, THAILAND AND THE SOCIALIST REPUBLIC OF VIETNAM**

**Findings in relation to a dumping investigation**  
*Public notice under subsections 269TG(1) and (2) of the Customs Act 1901*

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed the investigation into the alleged dumping of power transformers (the goods), exported to Australia from the People's Republic of China (China), the Republic of Indonesia (Indonesia), the Republic of Korea (Korea), Taiwan, Thailand and the Socialist Republic of Vietnam (Vietnam).

The goods are classified to tariff subheadings 8504.22.00 (statistical code 40) and 8504.23.00 (statistical code 26 and 41) of Schedule 3 to the Customs Tariff Act 1995. The various potential combinations of incomplete power transformers are not all classifiable to these classifications.

A full description of the goods is available in Anti-Dumping Notice (ADN) No. 2013/64 which is available at <http://www.adcommission.gov.au>.

On 1 December 2014, the Commissioner terminated the investigation so far as it related to goods exported by certain exporters in China, Indonesia and Korea and in so far as it related to all exporters in China and Korea. Termination Report No. 219 sets out the reasons for these terminations. This report is available at <http://www.adcommission.gov.au>.

The Commissioner reported the findings and recommendations to the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary) in Anti-Dumping Commission Report No. 219 (Report No. 219) which outlined the investigation carried out by the Commission and recommended the publication of a dumping duty notice in respect of the goods.

Particulars of the dumping margin established and an explanation of the method used to compare export prices and normal values to establish each dumping margin are set out in the following table:

Country	Manufacturer / exporter	Dumping margin and effective rate of duty	Method to establish dumping margin
Indonesia	PT CG Power Systems Indonesia	8.7%	
	All other Indonesian exporters except PT Unalac Indonesia	8.7%	Individual export prices were compared with corresponding normal values over the investigation period in accordance with subsection 269TGB(2)(b) of the Customs Act 1901 (the Act).
	Fortune Electric Co. Ltd	15.2%	
	Shihlin Electric & Engineering Corp	21.0%	
	Tatung Company	37.2%	
	All other Taiwanese exporters	37.2%	
Taiwan	ABB Limited, Thailand	3.5%	Individual export prices were compared with weighted average corresponding normal values over the investigation period in accordance with subsection 269TAC(3) of the Act.
Thailand	Tatthai Public Company Limited	39.1%	Individual export prices were compared with corresponding normal values over the investigation period in accordance with subsection 269TAC(3) of the Act.
	All other Thai exporters	39.1%	Individual export prices were compared with corresponding normal values over the investigation period in accordance with subsection 269TAC(3) of the Act.
	ABB Limited, Vietnam	3.8%	Individual export prices were compared with weighted average corresponding normal values over the investigation period in accordance with subsection 269TAC(3) of the Act.
Vietnam	All other Vietnamese exporters	3.8%	

I, ROBERT CHARLES BALDWIN, Parliamentary Secretary to the Minister for Industry, have considered, and accepted, the recommendations of the Commission, the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in Report No. 219. I am satisfied, as to the goods that have been exported to Australia, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods might have been caused if securities had not been taken. Therefore under subsection 269TG(1) of the Act, I DECLARE that section 8 of the Customs Tariff (Anti-Dumping) Act 1975 (the Dumping Duty Act) applies to:

(i) the goods; and

(ii) like goods that were exported to Australia after 27 November 2013 (being the date that the Commissioner made a Preliminary Affirmative Determination under paragraph 269TD(4)(a) of the Act that there appeared to be sufficient grounds for the publication of a dumping duty notice) but before publication of this notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been caused, is being caused, or may be caused in the future. Therefore under subsection 269TG(2) of the Act, I DECLARE that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from Indonesia (excluding goods exported by PT Unalac Indonesia), Taiwan, Thailand and Vietnam.

The dumping duties will be calculated using the ad valorem duty method in accordance with Regulation 5(7) of the Customs Tariff (Anti-Dumping) Regulations 2013, that is as a proportion of the export price.

The considerations relevant to my determination of material injury to the Australian industry caused by dumping are the size of the dumping margins, the effect of dumped imports on prices in the Australian market in the form of price undercutting and price suppression and the consequent impact on the Australian industry including loss of sales volume, reduced market share, reduced revenue, reduced profits and profitability, reduced capacity utilisation, reduced employment and reduced return on investment.

In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor other than the exportation of dumped goods, and have not attributed injury caused by other factors to the exportation of those dumped goods.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel, in accordance with the requirements in Division 9 of Part XV of the Act, within 30 days of the publication of this notice.

Particulars of the export prices, non-injurious prices, and normal values of the goods (as ascertained in the confidential tables to this notice) will not be published in this notice as they may reveal confidential information. Clarification about how measures are applied to goods on the water is available in Australian Customs Dumping Notice No. 2012/34, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Report No. 219 and other documents included in the public record are available at [www.adcommission.gov.au](http://www.adcommission.gov.au). Alternatively, the public record may be examined at the Anti-Dumping Commission's office by contacting the cases manager on the details provided below.

Enquiries about this notice may be directed to the cases manager on telephone number +61 2 6275 6729, fax number 1300 982 508 or +61 3 5244 8902 (outside Australia) or [operations@adcommission.gov.au](mailto:operations@adcommission.gov.au). Dated this 4th day of December 2014.

ROBERT CHARLES BALDWIN  
Parliamentary Secretary to the Minister for Industry

**Toyota Customer Experience Survey Promotion**  
Congratulations to the following November 2014 winners of a \$500 Calson Car Cash Card: L. McCarthy, 2230; J. Molina, 3030; M. Hughes, 4301; P. Hinton, 4500.

**ANZ/ONEPATH REPUTATION MEMBER DETAILS**  
Subject to verification the winners are:  
P. Connor, PM Spidee, A. Yemini, C. Gray & H. Fraser, OnePath Custodians Pty Limited (thank everyone who participated).

**Home Timber & Hardware Reel Winners Promotion 2014**  
Major prize winners of the fishing trip to Darwin:  
ACT/NSW: Nathan Ellingworth NSW 2580 QLD: Greg Gibson QLD 4455 SA/NT: Chris Smith SA 5606 VIC/NTAS: David Chapman VIC 3478 WA: Steve Dixon WA 6285  
ACT Permit No. TP14/02353, NSW Permit No. TP14/02521, SA Permit No. TP14/1222, VIC Permit No. 14/4601.

**SARAH DANKERT DEALS**  
THE founder and managing director of Sydney-based property developer Payce Consolidated Brian Boyd has made the first steps towards a management buyout or potential sale of the \$150 million company.

Yesterday Payce — best known for its ill-fated partnership with Babcock & Brown in the mid 2000s — announced a buyback of the 70.4 per cent of shares not owned by Mr Boyd to provide liquidity for shareholders.

The largest shareholder after Mr Boyd, who controls 38.74 per cent of shares, is his brother Gary Boyd, who owns a little over 3 per cent of the developer.

Payce's shares rocketed 1875 per cent, or 79c, to \$5 following the announcement of the massive capital structure of the company.

Under the buyback, a little over 20 million of the 29 million of shares on issue will be bought back by the company.

Payce is offering shareholders two 50c instalments on each share as well as a one new "preference shares" valued at \$7.50. Payce will have a call option over the preference shares, giving Mr Boyd the expressed right to buy back all of the preference shares on issue on any future dividend payout date.

Payce develops residential, retail, industrial and office properties and has \$533m of property and developments on its balance sheet. It recently purchased an industrial site with a Jax's Saksu House.

**'Shareholders can elect to vote this down'**  
BRIAN BALLOON  
PAYCE CEO

and has worked with Sekisui on other Sydney projects.

Yesterday Payce chief financial officer Brian Balloun said it was not a takeover offer, but also conceded that Mr Boyd could end up with 100 per cent of ordinary shares if all shareholders chose to participate in the buyback.

"Technically, that could happen, but I can't give you the answer. It's not a takeover. Shareholders can elect to vote this down," Mr Balloun said.

He said the offer would provide liquidity for shareholders in the thirty traded stock.

Any decision to call the preference shares if the company received a takeover offer would be up to the board of directors.

According to the statement filed by the company with the ASX, Mr Boyd's private company Lanox, which holds 29.6 per cent of company shares, will not participate in the buyback, while his 9.14 per cent holder Ruz, is yet to decide whether it will participate in the buyback.

The deal represents an S11m payout for Gary Boyd, and if his brother opts to participate in the offer through his company Ruz he will receive \$2.7m.

Shareholders will vote on the offer on January 13.

**OFcore Double Your Dollars Competition 2014**  
Winner:  
Louise Allaway from Victoria  
Permit: NSW LTPS/14/07157, ACT TP 14/03073

**Dealer Survey Competition Winners**  
D. Leggett, QLD; V. Svensen, WA; M. Rish, VIC; G. Pogoda, TAS; G. H. W. K. Pearson; D. Burgess, NSW; G. Vogler, QLD; J. Manolis, QLD; D. Browning, VIC

**COLORBOND® steel GEN-U-WIN Promotion**  
Draw 20/11/2014 winners:  
J. Bril, Gawler NSW & W. Wong, Tuggerah, NSW

**Congratulations to the winner for the November draw of the VQA Survey Prize Draw Promotion!**  
L. Darby NSW 2079

**Australian Government**  
**Australian Radiation Protection and Nuclear Safety Agency**

**NOTICE OF INTENTION TO MAKE A DECISION ON A FACILITY LICENCE APPLICATION**

Pursuant to regulation 40(2), the CEO of the Australian Radiation Protection and Nuclear Safety Agency (ARPNSA) intends to make a decision under section 32 of the Australian Radiation Protection and Nuclear Safety Act 1998 regarding the following application for a facility licence:

Application A0292 by the Australian Nuclear Science and Technology Organisation to Operate a Nuclear Installation, known as the ANSTO Interim Waste Store, at Lucas Heights Science and Technology Centre, Lucas Heights, New South Wales 2234.

**FOXTEL Management Pty Ltd**  
"Win Channing Tatum's Shirt from 22 Jump Street Competition"  
Winner (subject to validation):  
M. Karas NSW

**CONGRATULATIONS TO THE WINNER OF SHANNON THE GREAT RACE DAYTONA COMPETITION C WALDOCK SA**

**Win one of five Qantas trips for two to Hamilton Island Promotion**  
The winners are J. Stevens, QLD; M. Burrell, WA; E. Spier, SA; J. Woodhouse, NSW; C. Quastmann, WA. Qantas Airways Limited would like to congratulate the winners & thank everyone who participated.

**Australian Government**  
**Australian Radiation Protection and Nuclear Safety Agency**

**INVITATION TO MAKE SUBMISSIONS ON AN APPLICATION FOR A FACILITY LICENCE UNDER THE AUSTRALIAN RADIATION PROTECTION AND NUCLEAR SAFETY ACT 1998**

The Chief Executive Officer (CEO) of the Australian Radiation Protection and Nuclear Safety Agency (ARPNSA) intends to make a decision under section 32 of the Australian Radiation Protection and Nuclear Safety Act 1998 on the following licence application:

Application by the Australian Nuclear Science and Technology Organisation for a licence to operate a nuclear installation being a facility at the Lucas Heights Science and Technology Centre for housing intermediate level solid waste returned from France and the United Kingdom following the reprocessing of HIFAR spent fuel.

In accordance with Regulation 40 of the Australian Radiation Protection and Nuclear Safety Regulations 1999, the CEO of ARPNSA invites submissions from the public about the application. The CEO will take submissions received into account when making a decision on whether or not to grant the licence for the application.

The application can be downloaded from the ARPNSA website at <http://www.arpnsa.gov.au/Regulation/InterimWaste/Index.cfm>. Submissions must be received by 16 January 2015. Emailed submissions are preferred; however submissions may also be faxed or posted.

Email address: [irsubmissions@arpnsa.gov.au](mailto:irsubmissions@arpnsa.gov.au)  
Fax number: 02 9541 8348  
Postal address: The CEO of ARPNSA  
PO Box 455  
MIRANDA NSW 1480

Please bear in mind when making a submission that it is likely to become a public document.

**MARK STEVEN POTTER**  
son of the late  
**DANIEL NELSON POTTER** of Coromandel, New Zealand.

Would anyone knowing the whereabouts of  
**MARK STEVEN POTTER** ask him to contact  
**FOY & HULSE SOLICITORS**,  
145 Manukau Road, Auckland, New Zealand. Please email  
[elizabeth@foyhulse.co.nz](mailto:elizabeth@foyhulse.co.nz) or  
phone 0064 9 638 7151.

**CRABTREE & EVELYN AUSTRALIA**  
"HIGH TEA" COMPETITION  
Congratulations to Sue Newby of Burnside NSW, Debbie Gould of Chastwood NSW and Sue Yan Tam of Chastwood NSW, who are the winners of the Crabtree & Evelyn Australia "High Tea" competition. Each prize consists of the entire Crabtree & Evelyn High Tea serving ware collection in Indigo Blue and a selection of Crabtree & Evelyn Fine Foods products, valued at \$450 RRP. Total prize pool \$1350.

**CUB would like to congratulate the following winners of the Falls Festival Promotion**  
D. Madigan, C. Quinn, J. Wright, R. Bishop, J. Smith, K. Malherbe, F. Simonsen, J. Vinrose, J. Sadevski, A. Schmidt.

**Urban Wellbeing Survey Prize Draw Winners**  
Public: Vanda Boshuizen, Publicist: Kenneth Cooper, Kylie Smith, Vasa pre-paid gift cards: Dana Willington, Helen Beest, Dylan Mower Taylor, Colin Hare gift cards: Sine Geismann, Carly Schelland, Glenda Brooks, Meggie Mares, Anna Gould.

**Winback (Australia) Pty Ltd congratulates the following winners of the Cystine Sheep Farmhouse Summer Competition 2014:**  
Rob Norris, 2806, Hail Oulins, 6391, Colin Edin-Brown, 6395, Shayne Willmont, 5414.

Competition operated under permit numbers: SA Permit No. TP14/1551, NSW Permit No. LTPS/14/06644, ACT Permit No. TP14/02921, VIC Permit No. 14/4972.

**Australian Government**  
**Australian Radiation Protection and Nuclear Safety Agency**

**INVITATION TO MAKE SUBMISSIONS ON AN APPLICATION FOR A FACILITY LICENCE UNDER THE AUSTRALIAN RADIATION PROTECTION AND NUCLEAR SAFETY ACT 1998**

The Chief Executive Officer (CEO) of the Australian Radiation Protection and Nuclear Safety Agency (ARPNSA) intends to make a decision under section 32 of the Australian Radiation Protection and Nuclear Safety Act 1998 on the following licence application:

Application by the Australian Nuclear Science and Technology Organisation for a licence to operate a nuclear installation being a facility at the Lucas Heights Science and Technology Centre for housing intermediate level solid waste returned from France and the United Kingdom following the reprocessing of HIFAR spent fuel.

In accordance with Regulation 40 of the Australian Radiation Protection and Nuclear Safety Regulations 1999, the CEO of ARPNSA invites submissions from the public about the application. The CEO will take submissions received into account when making a decision on whether or not to grant the licence for the application.

The application can be downloaded from the ARPNSA website at <http://www.arpnsa.gov.au/Regulation/InterimWaste/Index.cfm>. Submissions must be received by 16 January 2015. Emailed submissions are preferred; however submissions may also be faxed or posted.

Email address: [irsubmissions@arpnsa.gov.au](mailto:irsubmissions@arpnsa.gov.au)  
Fax number: 02 9541 8348  
Postal address: The CEO of ARPNSA  
PO Box 455  
MIRANDA NSW 1480

Please bear in mind when making a submission that it is likely to become a public document.

**FORM 594**  
Sub-regulation 5.6.4(3)  
CORPORATIONS ACT 2003  
NOTICE TO SUBMIT PARTICULARS OF DEBT OR CLAIM

**BSM TRANSPIRE PTY LTD**  
(IN LIQUIDATION) A.C.N. 101 232 297

Take notice that creditors of the company, whose debts or claims have not already been admitted, are required on or before 24 December 2014 to submit particulars of their debts or claims to the liquidator. If they fail to do so, they may be unable to prove their debt or claim in the liquidation. If they do not, they will be excluded from the benefit of any distribution made before their debts or claims are proved or their priority is established, and will be excluded from the distribution.

Form of proof is available from the liquidator.

Dated 10 December 2014  
David Solomon, Official Liquidator of BSM Transpire Pty Ltd  
Level 2, 55 Macquarie Street, Parramatta NSW 2150  
Tel: 02 9633 2633 Fax: 02 9633 3040

**Wyndham Vacation Resorts Asia Pacific**

**2014 Owner Enhancements Travel Adventure Competition.**  
Authorised under NSW Permit No. LTPS/14/05378, VIC Permit No. 14/4818, ACT Permit No. TP14/02483 & SA Lic. No. TP14/1274.  
Prize Draw: 02 December 2014

**Winners:**  
AAN Sharmen, QLD  
RAC Smith, NSW

**THE LATEST TERTIARY SECTOR NEWS AND CAREERS**  
Higher Education every Wednesday  
to receive our e-mail 1300 307 267  
**THE AUSTRALIAN**