

REVIEW OF THE NATIONAL WIND FARM COMMISSIONER

MAY
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The Climate Change Authority would like to thank the many individuals and organisations that contributed time and expertise to this review by making submissions or participating in consultations. These contributions have improved the quality of the review and provided evidence to help inform the Authority's recommendations.

The National Wind Farm Commissioner, the Department of the Environment and Energy and the Clean Energy Regulator also provided information to assist the Authority in its preparation of this review. However, the views in this report are the Authority's own.

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CHAIR'S FOREWORD

The Climate Change Authority is pleased to release this report on its review of the National Wind Farm Commissioner. At the time the National Wind Farm Commissioner was established, the Government said it would review the role in 2018. This review responds to that undertaking.

The Authority found that, for many stakeholders, the Commissioner exceeded expectations. Representatives from the wind farm industry as well as state governments told the Authority that the Commissioner has facilitated uptake of wind energy by helping to address community concerns.

This is no small thing. The relative newness of the wind industry in Australia and its rapid growth off a small base may have been factors in sparking what felt like a groundswell of community concern.

The National Wind Farm Commissioner provided a new and valued avenue for individuals and communities to have their voices heard on wind development. The Commissioner has done so by dealing constructively with complaints on wind farms and its best practice recommendations guide community consultation and complaints handling. In some cases, the Commissioner's best practice guidance has positively influenced state government processes for wind farms.

The Authority recognises that some stakeholders remain unhappy (and some very unhappy) with the outcome of their complaints to the Commissioner about wind farms – in many cases because of ongoing concerns about turbine noise and health impacts. The Authority notes that there is little the Commissioner can do about wind farms that have already been approved and perhaps, some expectations about the Commissioner's role were always going to be difficult to meet.

Stakeholder expectations may be better calibrated to what is possible in the future, however, if the outcomes of the Commissioner's work are communicated even more transparently through his annual reports, and stakeholders have a clear process to provide the Commissioner with feedback. The Authority has made recommendations aimed at facilitating this, and also to help stakeholders feel more comfortable when they meet with the Commissioner and wind industry representatives.

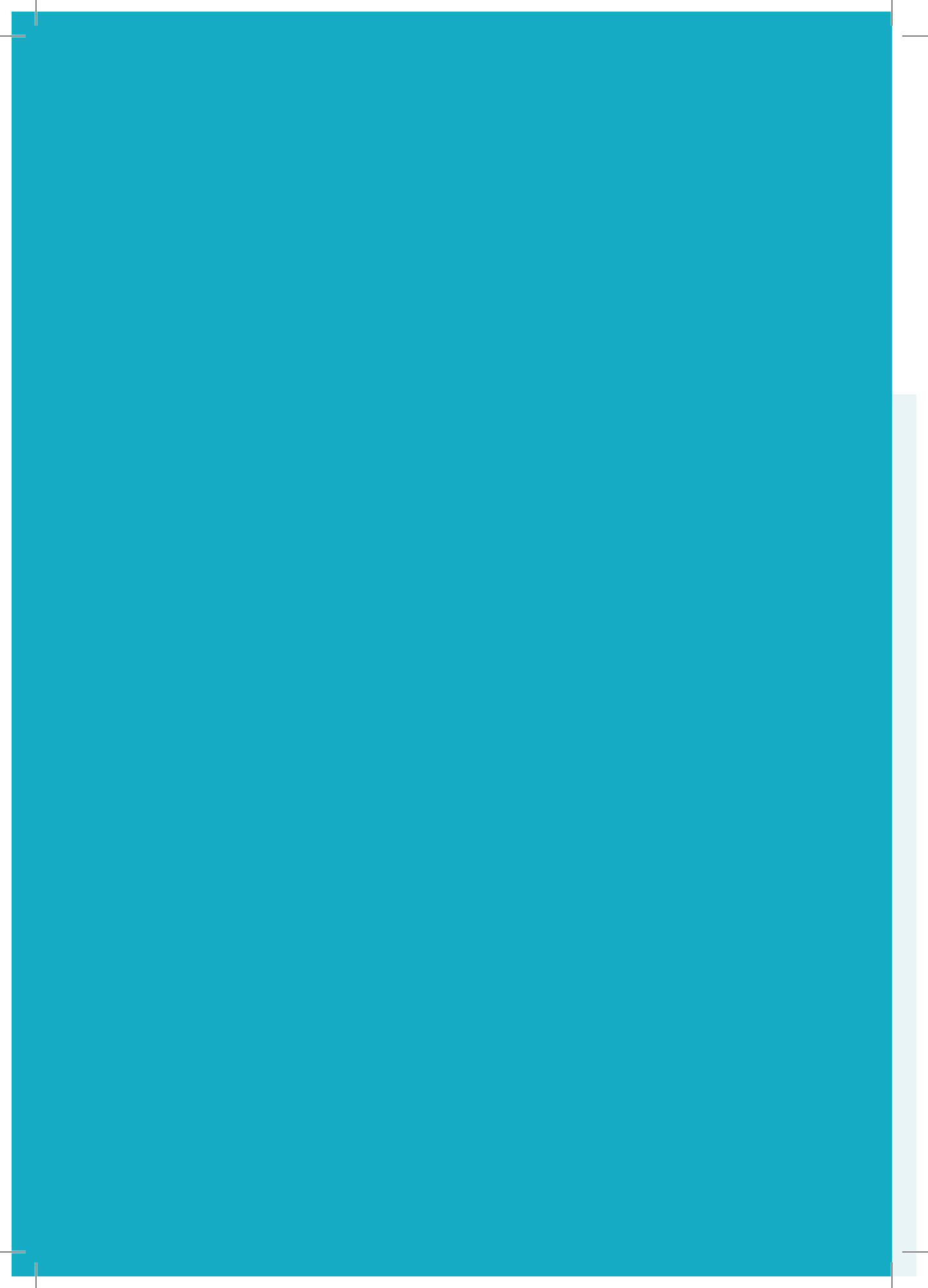
The Authority was asked to consider whether the Commissioner's role should continue beyond the initial three years, be expanded to large scale solar and storage and if so, how this should be funded. The Authority found that the role is likely to be needed for at least the next few years and an expanded scope funded by the Australian Government offers an efficient and relatively low cost way of helping to manage community concerns about large scale solar, wind and storage (such as large scale batteries) in the short to medium term.

The Authority is of the view that the effectiveness of the Office of the National Wind Farm Commissioner in no small way reflects the attributes that the incumbent Commissioner Mr Andrew Dyer has brought to the role. His skills and abilities offer a model that any future National Wind Farm Commissioner would do well to emulate.



Wendy Craik AM

Chair, Climate Change Authority
31 May 2018



EXECUTIVE SUMMARY

The Climate Change Authority is an independent statutory agency, which provides expert advice to the Government on climate change policy. When the National Wind Farm Commissioner was established in 2015, the Government advised that it would review the role in 2018. The Minister for the Environment and Energy, the Hon Josh Frydenberg MP, asked the Authority to conduct the review of the role of the National Wind Farm Commissioner, in response to that undertaking.

The National Wind Farm Commissioner is a non-statutory office holder and was appointed by the Australian Government in response to community concerns about wind farms. The Commissioner's key roles are to resolve complaints from communities about proposed and operational wind farms and develop best practice approaches for wind farm development and planning. Participation in the Commissioner's process is voluntary and the Commissioner does not have any powers to enforce suggestions for resolving complaints or to make binding decisions. As such, the Commissioner seeks to build effective relationships and tries to achieve mutually beneficial outcomes for individuals, firms and communities affected by the development or operation of wind farms.

In undertaking this review, the Authority sought the views of community members, industry and government representatives through submissions and meetings.

THE WIND INDUSTRY IN AUSTRALIA

The number and size of wind farms in Australia has grown rapidly off a small base over the last few decades. This has been driven primarily by the Commonwealth Renewable Energy Target and coincided with advances in wind technologies. There are currently around 78 wind farms in Australia with at least another 21 proposed, which will increase wind farm capacity by almost two-thirds when they are completed.¹ Proposed and operating wind farms are mainly concentrated in particular regions in South Australia, Victoria and New South Wales but are also located in Tasmania, Western Australia and Queensland.

COMPLAINTS HANDLING

Many stakeholders from government, the wind industry and local communities said their interactions with the Commissioner had been positive. A number of individuals commented favourably on the Commissioner's constructive approach to addressing concerns they had raised through the Office's complaints handling process.

¹ CER 2018d

The wind industry is broadly supportive of the National Wind Farm Commissioner. Some in the wind industry commented that having another point of escalation (beyond their internal complaints handling process) was very helpful while other industry players said they had adopted the Commissioner's recommendations for complaints handling and community engagement in their own processes.

A number of state and Australian government representatives also reflected positively to the Authority on the contribution the Commissioner had made to government approaches for community engagement and complaints handling on wind farms. The Authority found however that the role of the Commissioner appears somewhat better known in Victoria (where the Office is based). This is possibly because at the time the Office was established there were a number of controversial wind farms in Victoria. The Authority recommends the Commissioner explore ways to increase broader community awareness of the Office's complaints handling role.

The Authority recognises that not everyone is satisfied with the outcomes of the Commissioner's complaints handling process. A number of stakeholders expressed their views on the Commissioner in strong terms because he did not resolve their complaints. Some stakeholders (often with concerns about noise or health issues) think the Commissioner should be able to overturn development conditions for wind farms that are already approved. The Authority notes that the power to approve wind farms rests largely with state or local governments (in some circumstances, Australian Government approval is required). There would be significant legal and constitutional challenges in attempting to provide the Commissioner with powers to overturn wind farm development approvals. The Authority was persuaded by the views of other stakeholders who said, in effect, the Commissioner's lack of mandatory powers is beneficial because it creates a constructive dynamic in which stakeholders can explore issues and possible solutions during conciliation meetings with the wind industry without feeling locked into a particular outcome.

The Authority found however that some stakeholders affected by wind farms feel at a disadvantage when meeting with industry representatives. Some individuals want to bring a support person to conciliation meetings and know in advance who else will be attending. The Commissioner's guide to conciliation meetings² says that, after consultation with those taking part in the conciliation, the Commissioner will advise participants where the meeting will take place and who will be attending. Support people as well as industry representatives can participate in the conciliation meetings following this consultation process. The Authority recommends the Commissioner also include this advice in the Office's complaints handling policy to further clarify how support people can attend conciliation meetings.

The Authority also found that it would assist the transparency of the Commissioner's complaints handling if the Office advises people when their complaint has been closed, and the reason for closure. The Authority notes the value of feedback for continuous improvement and recommends that the Commissioner also include in the complaints handling policy how stakeholders can provide feedback to the Office.

The Commissioner should also advise stakeholders the Office can re-open their complaint if material new information becomes available. The Commissioner should further advise stakeholders that they can seek a review of the Commissioner's handling of their complaint through the Commonwealth Ombudsman. The Office could also advise stakeholders about other forums for making a complaint about other agencies, such as state or Commonwealth ombudsmen for complaints about government agencies that approve wind farms.

2 www.nwfc.gov.au/publications/guide-conciliation-meetings

Some stakeholders were satisfied with the timeliness of the Commissioner's complaints handling process while others raised concerns that their complaint was not dealt with in a timely manner. The Authority recommends that the Office develop key performance indicators (KPIs) to indicate timeframes associated with the complaints handling process and report against the KPIs in annual reports, noting that more complex cases will require more time and resources to resolve.

INFORMATION PROVISION AND PROMOTING BEST PRACTICES

The Authority found that stakeholders value the Commissioner's best practice guidance, which is generally presented as recommendations about wind farm development and planning in the Office's annual reports to the Australian Parliament.

As some stakeholders may not be aware of the observations and recommendations in the Commissioner's annual reports, the Authority recommends the Commissioner reproduce the best practice guidance on its website in a summary document. This will enhance access to this information and could allow the Commissioner to update the best practice guidance more easily.

The Commissioner also provides best practice information to stakeholders through a range of means including presenting at conferences and specific community consultations on wind farm development. Again, stakeholders generally commented favourably on the Commissioner's provision of information through these activities.

Some wind industry stakeholders pointed to the different approaches to wind farm development approval in the different states as an obstacle to consistent community engagement. The Authority recommends therefore that the Office of the Commissioner lead a voluntary effort with the states and territories (including broader consultation) to develop harmonised guidance for wind farms on complaints handling, community consultation and key issues for development approvals such as noise.

ONGOING ROLE, EXPANDED SCOPE AND FUNDING MODELS

In this review the Authority was asked to consider whether the Commissioner's role should continue, whether it should be expanded beyond wind farms to large scale solar and storage projects (such as large scale batteries) and if it continues, how the Office of the Commissioner should be funded.

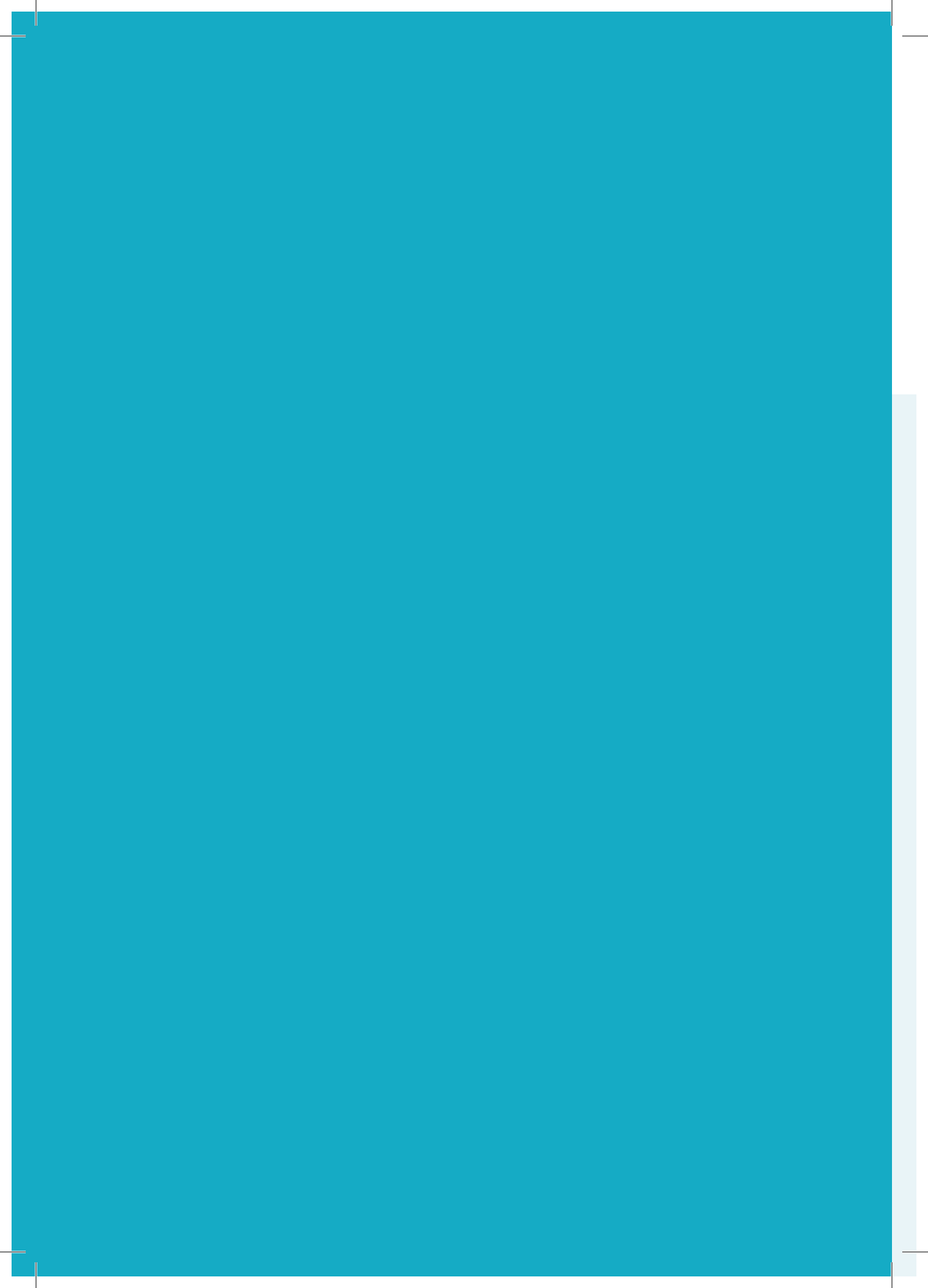
The Authority assessed the Commissioner's current funding and value for money by benchmarking it against the Aircraft Noise Ombudsman (ANO), a complaints handling body of similar size to the Office of the National Wind Farm Commissioner. The Authority found that the Commissioner is achieving similar value for money to the ANO.

The Authority explored other funding options for the Commissioner (including cost recovery from the wind industry), noting that costs associated with the Office are relatively low. The Authority found that the case for other funding models is not compelling. A mandatory levy on industry would require legislation (which could be challenging to achieve) and some stakeholders including industry commented that it could risk perceptions of a lack of independence. On balance, the Authority found that the Australian Government should continue to fund the Commissioner and review funding arrangements again in 2021.

The Authority also found that new development associated with the Commonwealth's Renewable Energy Target is likely to be significant over the next few years and large scale solar and storage development (such as large scale batteries) as well as further wind farm developments will occur. There is evidence that large scale solar and storage development (such as large scale batteries) can raise similar concerns to wind farms for local communities. Expanding the Commissioner's scope to large scale solar and storage development such as large scale batteries could allow lessons learnt from the wind industry to be applied to these other forms of development, enhancing the effectiveness of the role.

The Authority recommends therefore that the Office of the Commissioner continue for another three years before being reviewed again and that its scope be expanded to cover large scale solar and storage development such as large scale batteries. The Office of the Commissioner should receive a modest increase in resources to accommodate the Authority's recommended expanded scope.

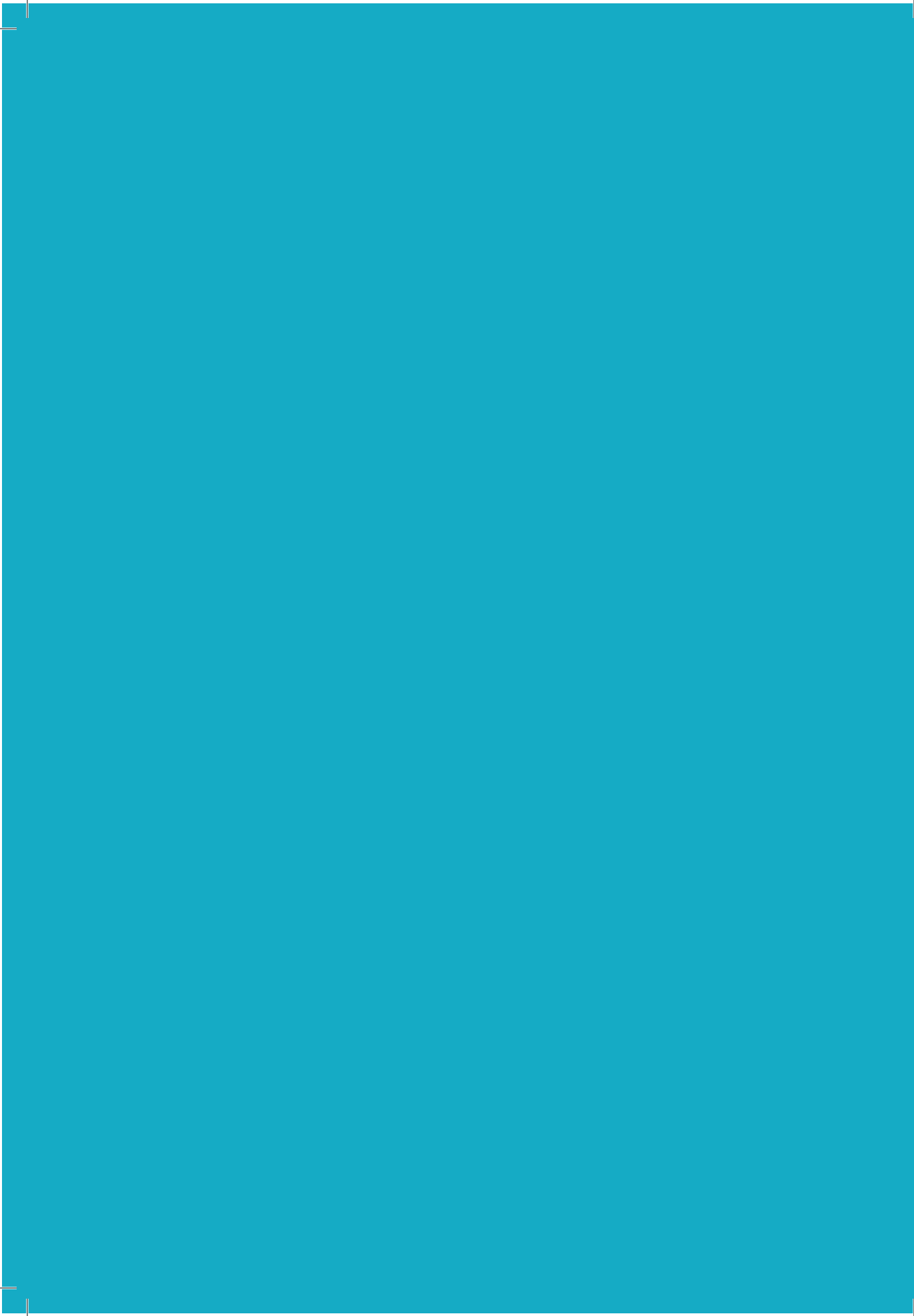
In conclusion, the Authority found that the Commissioner is playing a valuable role in assisting interested players work through issues related to wind farm development and operation, and is well placed to help manage Australia's transition to other forms of lower emissions electricity generation over the next few years.



LIST OF RECOMMENDATIONS

The Climate Change Authority recommends that:

- R.1** The National Wind Farm Commissioner include advice on meeting participation in the Office's complaints handling policy to further clarify how support people and industry representatives can attend conciliation meetings after consultation with those participating.
- R.2** The National Wind Farm Commissioner engage with state and local governments to explore ways to improve community awareness of the complaints handling role.
- R.3** The National Wind Farm Commissioner inform people when their complaint is closed and provide a reason for closure. The Commissioner should advise stakeholders the Office can re-open their complaint if material new information becomes available. The Commissioner should further advise stakeholders they can seek a review of the Commissioner's handling of their complaint through the Commonwealth Ombudsman.
- R.4** The National Wind Farm Commissioner develop key performance indicators (KPIs) to indicate timeframes associated with the complaints handling process and report against the KPIs in annual reports, noting that more complex cases will require more time and resources to resolve.
- R.5** The National Wind Farm Commissioner include in the complaints handling policy guidance on how stakeholders can provide feedback on the complaints handling process.
- R.6** The National Wind Farm Commissioner's recommendations on best practice for wind farms should be given greater prominence in a summary document on the Office's website to make them more accessible to stakeholders.
- R.7** The role of the National Wind Farm Commissioner should continue for another three years until 2021 when the Government should re-evaluate the ongoing need for the role.
- R.8** The National Wind Farm Commissioner's scope be expanded to cover large scale solar and storage such as large scale batteries as well as wind farms.
- R.9** The National Wind Farm Commissioner lead work with the states and territories, including broader consultation, to develop voluntary harmonised guidelines for community consultation, complaints handling and standards e.g. for noise and set back distances.
- R.10** The Australian Government consider the need for a modest increase in resourcing for the Office of the National Wind Farm Commissioner, in light of the recommendation to expand the Commissioner's role and noting developments in community responses to the wind, solar and large scale battery industries.
- R.11** The National Wind Farm Commissioner's role should continue to be funded by the Australian Government and re-evaluated in 2021.



1

INTRODUCTION AND BACKGROUND

1.1 ABOUT THIS REVIEW

The Climate Change Authority is an independent statutory agency, established to provide expert advice on climate change policy.

The Minister for the Environment and Energy, the Hon Josh Frydenberg MP, asked the Authority to undertake a special review of the role of the National Wind Farm Commissioner (Appendix A). The Authority was asked to consider whether the Commissioner is meeting its terms of reference (Appendix B), the ongoing need for the role, its scope and options for funding. The Commissioner's own terms of reference say that the Government will review the role in 2018 and this review responds to that commitment.

1.1.1 APPROACH TO THIS REVIEW AND PUBLIC CONSULTATION

The Authority consulted widely as part of this review and sought submissions from stakeholders. Submissions opened on 16 March 2018 and closed on 13 April 2018. The Authority received 66 submissions on the terms of reference, 14 of which are confidential (Appendix C). Most non-confidential submissions can be found on the Authority's website at www.climatechangeauthority.gov.au/submissions/submissions-received#apr2018.

Given that a key element of the Commissioner's role is to address community concerns about wind farms (Section 1.2), the Authority was particularly interested in understanding the views of community members who had interacted with the Office of the National Wind Farm Commissioner.

1.2 THE NATIONAL WIND FARM COMMISSIONER'S ROLE

The Commissioner is an independent non-statutory office holder appointed by the Australian Government. Participation in the Commissioner's process is voluntary and the Commissioner does not have any powers to enforce his suggestions for resolving complaints or make binding decisions. As such, the Commissioner seeks to build effective relationships and tries to achieve mutually beneficial outcomes for individuals, firms and communities that may be affected by the development or operation of wind farms.

The Commissioner was appointed in October 2015 and commenced work in November 2015 to address concerns from landholders and other stakeholders about existing standards for wind farm planning and impacts, monitoring and operation of wind farms (NWFC n.d.a). The Commissioner's role is guided by the terms of reference issued by the then Minister for the Environment in 2015 and most recently updated on 4 May 2016 (Appendix B). Revisions to the terms of reference in May 2016 included clarification that the Commissioner would work to resolve complaints about proposed wind farms, as well as operational ones. They also specified that the Commissioner would promote best practices.

The terms of reference establish the activities that the Commissioner undertakes. The Commissioner's key roles are to help to resolve complaints from communities about proposed and operational wind farms and lead efforts to promote best practices, make information available to industry and communities, and provide a central, trusted source for information.

The establishment of the Commissioner was part of the Australian Government's response to the interim report of the Senate Select Committee on Wind Turbines. The Senate Select Committee found that the wind industry was the subject of persistent complaints and criticism on a range of issues, which can be broadly grouped into impacts on local communities, the environment and processes related to planning and monitoring (Commonwealth of Australia 2015b). The establishment of the National Wind Farm Commissioner was also part of the agreement reached with the parliamentary cross-bench on legislation to amend the Renewable Energy Target (RET) (Commonwealth of Australia 2015a; Taylor 2015).

In a further response to the interim report, the Independent Scientific Committee on Wind Turbines was established to improve science and monitoring of the potential impacts of sound from wind turbines (including low frequency and infrasound) on health (Commonwealth of Australia 2015b; DoEE n.d.).

1.2.1 THE CURRENT COMMISSIONER AND OFFICE

The current Commissioner, Mr Andrew Dyer, was appointed by the then Minister for the Environment in October 2015 for a period of three years. Mr Dyer leads an office in Melbourne with three staff members (one of whom is part time) provided by the Department of the Environment and Energy (NWFC 2018a).

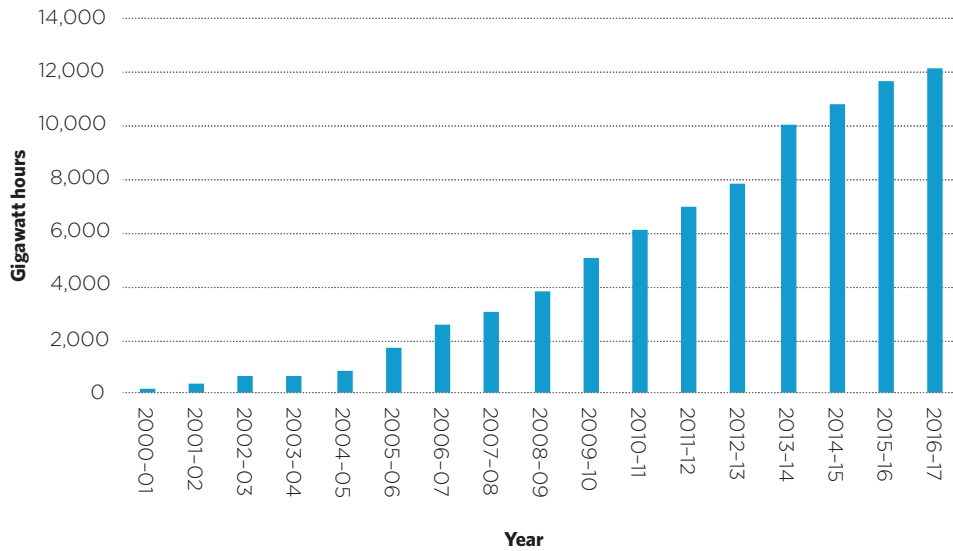
1.3 BACKGROUND ON THE WIND INDUSTRY IN AUSTRALIA

This section provides a brief background on the wind industry in Australia including an overview of wind farm developments and their regulatory landscape.

1.3.1 WIND FARM DEVELOPMENTS IN AUSTRALIA

Australia's first wind farm was built in 1987 near Esperance, Western Australia (Synergy 2018). Installed wind capacity in Australia increased from very few wind farms at the beginning of this century to 5,300 megawatts (MW) in 2017 (CER 2018d). In 2016, Australia was ranked 16th in the world in terms of installed wind capacity (GWEC 2018). The proportion of Australia's total electricity generated by wind power increased from close to zero in 2000 to nearly 5 per cent (12,144 gigawatt hours (GWh)) in 2016-17 (Figure 1).

FIGURE 1: ANNUAL ELECTRICITY GENERATED BY WIND POWER IN AUSTRALIA



Source: DoEE 2017; CER 2018d

The strong growth in wind power (off a low base) has been driven by a number of factors including Commonwealth and to a lesser extent state renewable energy targets (Table 1), and advances in wind technologies, which have led to significant cost declines.

TABLE 1: RENEWABLE ENERGY TARGETS

JURISDICTION	RENEWABLE ENERGY TARGET	MECHANISMS TO DELIVER THE TARGET
COMMONWEALTH	33,000 GWh by 2020	Legislated target, administration and compliance framework. Creation of tradeable renewable energy certificates and obligation on electricity retailers to surrender certificates.
VICTORIA	25% by 2020 40% by 2025	Legislated target in place. One reverse auction held to fund renewable energy generation projects. Successful bidders will enter into contracts with the Victorian Government to supply electricity.
SOUTH AUSTRALIA	33% by 2020 50% by 2025	Target is not legislated. No direct policy mechanism for achieving target. A range of complementary policies are in place to support investment including streamlined development approval processes and opening up of pastoral land for co-location of solar and wind development.
AUSTRALIAN CAPITAL TERRITORY	100% by 2020	Legislated target. Reverse auctions have been held to fund renewable energy generation projects. Successful bidders have entered into contracts for difference to supply electricity.
NORTHERN TERRITORY	50% by 2030	Target is not legislated. A reverse auction process and preferential purchasing is proposed by the NT Government.
QUEENSLAND	50% by 2030	Target is not legislated. An initial reverse auction of 400 MW is currently underway.
TASMANIA	100% by 2022	Target is not legislated. No direct policy mechanism for achieving the target.

Source: Climate Council 2017; CER 2018a; DELWP n.d.; Langworthy et al. 2017; Queensland Government 2018; Government of South Australia n.d.

In 2012, the Bureau of Resource and Energy Economics estimated the levelised cost of electricity (LCOE) from wind in New South Wales at \$116 per megawatt hour (MWh) (BREE 2012).³ In 2017, the Australian Energy Market Operator estimated the levelised cost of wind power in Australia to be around \$85/MWh (Table 2).⁴ The cost reductions are driven in part by technological advances including larger and more efficient wind turbines (CEC 2017a).

³ Levelised costs of electricity do not take into account the cost of intermittency or revenue from government incentives such as the certificates created under the Commonwealth Renewable Energy Target or state feed-in tariffs.

⁴ Other commentators, such as Bloomberg New Energy Finance, have estimated lower LCOE for wind in Australia (BNEF 2018).

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TABLE 2: 2017 MINIMUM LEVELISED COSTS OF ENERGY FOR VARIOUS TECHNOLOGIES

TECHNOLOGY	WIND	SOLAR	BIOMASS	COMBINED CYCLE GAS	SUPERCritical BLACK COAL
Levelised cost of energy (\$/MWh)	85	90	120	70	81

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Source: AEMO 2017

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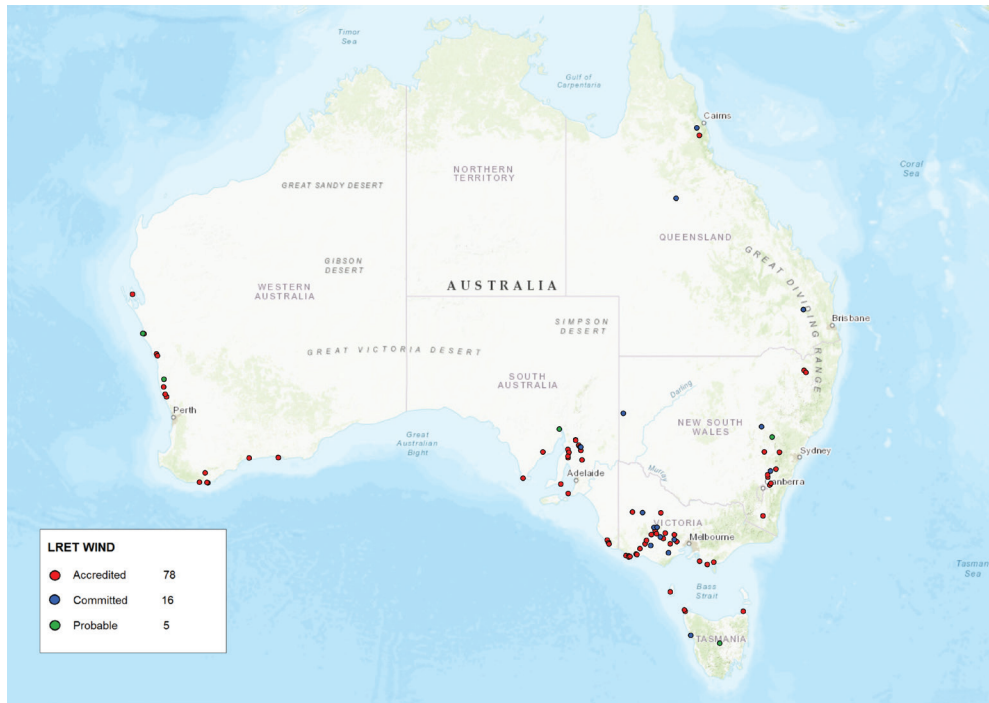
There was significant investment in renewable generation in 2017, as policy uncertainty on the RET diminished. In May 2018, the Clean Energy Regulator (CER) announced that more than enough renewable generation projects are under construction or already built to meet the RET's large scale renewable energy generation target of 33,000 GWh by 2020 (CER 2018b).

There are reports that some businesses are entering into power purchase agreements (PPAs) with wind farms to reduce their exposure to increasing electricity prices and help achieve their corporate sustainability goals (PwC 2017; The University of Melbourne 2018). This may help drive continued investment in wind. For example, in November 2017, a consortium of 14 firms entered into Australia's first bulk-buy corporate wind PPA to purchase 88 GWh of electricity per year from a wind farm to be built near Ararat in Victoria (City of Melbourne n.d.). Since then, a number of other firms including Telstra, ANZ and Coca-Cola Amatil have also entered into PPAs with wind farms (Vorrath 2017).

As of 17 May 2018, there were 78 operating wind farms each with capacity exceeding 1 MW across Australia: 16 in Western Australia, 21 in South Australia, 22 in Victoria, 12 in New South Wales, 6 in Tasmania and 1 in Queensland. Another 16 are under construction and 5 have secured financial commitments. These committed wind farms are located in Queensland, New South Wales, South Australia, Victoria, Tasmania and Western Australia (CER 2018d). There are also a number of wind farms in earlier stages of the development pipeline. There are currently no operating or proposed wind farms in the Northern Territory or Australian Capital Territory (ACT) (CER 2018d). The ACT reverse auctions fund wind farm investment in other states (ACT Government Environment Planning and Sustainable Environment Development Directorate n.d.). There are no offshore wind farms in Australia, however a 2,000 MW wind farm to be located off the Gippsland Coast has been proposed (Latimer 2017).

As illustrated in Figure 2, proposed and operating wind farms are mainly concentrated in specific regions in South Australia, Victoria and New South Wales.

FIGURE 2: MAP OF WIND FARM LOCATIONS



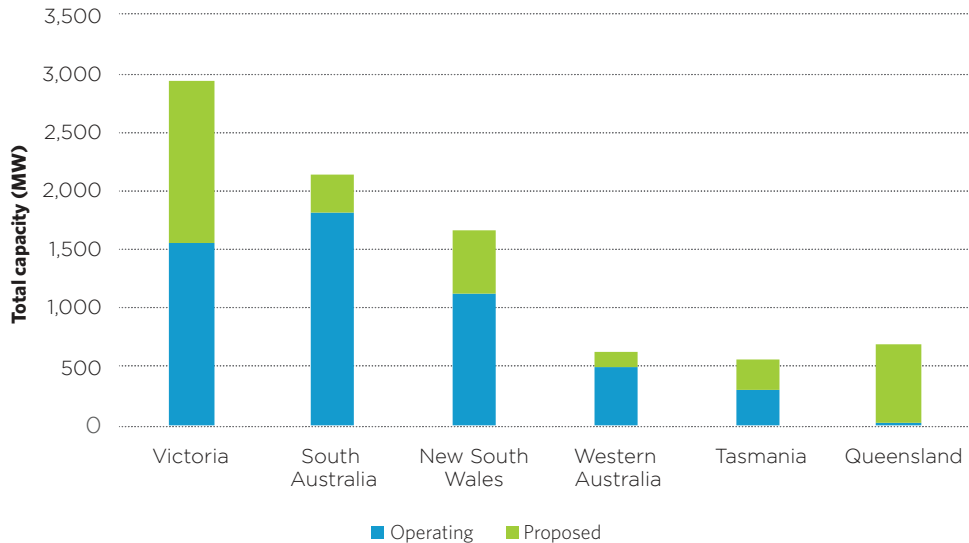
Source: CER 2018, pers comm

Legend: Accredited wind farms are those operating and accredited under the Commonwealth Renewable Energy Target, committed wind farms are those under construction and probable wind farms are those which have signed power purchase agreements. Some locations marked on the map include multiple wind farms.

The Macarthur Wind Farm, completed in 2013 and operated by AGL in Victoria, is currently Australia's largest with a capacity of 420 MW.⁵ Once completed (expected in the 2020–21 financial year), the Liverpool Range Wind Farm in New South Wales operated by Epuron, will be larger with a capacity of around 1 GW (Epuron n.d.).

There is significant new installation of wind farms proposed in Australia (Figure 3). Some approved developments are also seeking to have their approvals modified to allow the use of newer and larger turbines.

⁵ On average this would produce as much energy as is consumed by about 54,000 homes (AGL n.d.). This assumes the Macarthur wind farm has a capacity factor of about 35 per cent, which means that over a year on average it produces 35 per cent of its potential maximum generation output. Some media commentators have questioned this assumption and suggest the actual capacity of Macarthur is less than 30 per cent (Parkinson 2017a).

FIGURE 3: OPERATING AND PROPOSED WIND FARMS

Source: CER 2018d

Note: The figure includes only proposed wind farms that have reached financial commitment or are under construction. There is 12 MW of operating wind capacity in Queensland.

1.3.2 THE WIND INDUSTRY IN AUSTRALIA

Wind power is a multi-billion dollar industry. The companies involved in wind farm developments are diverse and include Australian, foreign, community-owned and state owned corporations. For example, AGL Energy Ltd is an Australian company, Hydro Tasmania is state owned, Hepburn Wind is a community-owned cooperative and Beijing Jingneng Clean Energy and Mitsui & Co are foreign investors involved in Australian wind farm developments. Some of the companies are involved with generation only, while others such as EnergyAustralia and Origin are also energy retailers. Many companies are one-off investors in wind farms, whereas for others (such as Infigen Energy and Pacific Hydro) operating wind farms is part of their core business.

1.3.3 REGULATION OF WIND FARMS IN AUSTRALIA

In Australia, the Australian, state and local governments regulate the planning and operation of wind farms. Regulation covers land use and development of new projects, rules about energy generation and transmission, environmental impacts and work, health and safety laws. For the purpose of this review, the Authority considers that land use and development legislation is most relevant.

Wind farm development approvals usually take a number of years. A period of many years can also elapse between the approval of the development and beginning construction of the wind farm. The process varies depending on the jurisdiction and in some cases, the size of the wind farm. It can involve many steps such as:

- consultation requirements with the community, including affected landholders, community groups, and local councils
- obtaining landholder consents and lease arrangements from state governments
- obtaining Aboriginal heritage approval and addressing native title issues for example through negotiating an Indigenous land use agreement
- submitting environmental impact statements to state or local government agencies
- lodging development applications including visual and noise assessments
- applying for licences or permits to construct and operate a wind farm
- seeking approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) under some circumstances
- operating a complaints handling system.

When a wind farm development is approved, the wind farm is issued with a permit by the responsible state or local government (Table 3). The permit covers the conditions of approval, for example the number and layout of turbines, scheduling of construction, landscaping requirements and noise standards. The wind farm's operations must be consistent with the permit. Once it is approved, the wind farm is also subject to further regulation so it can generate electricity into the grid. The National Electricity Rules include technical standards for wind generation and grid connection. The CER requires compliance with all Commonwealth, state and territory and local government planning and approval laws regulating renewable energy generation for participation in the RET (CER 2015).

TABLE 3: WIND FARM REGULATION BY STATE OR LOCAL GOVERNMENTS

STATE	STATE DEPARTMENTS OR LOCAL GOVERNMENT RESPONSIBLE FOR APPROVALS	STATE DEPARTMENTS OR LOCAL GOVERNMENT RESPONSIBLE FOR COMPLIANCE
NEW SOUTH WALES	State approvals (Department of Planning and Environment) for significant developments (capital investment value \$30m or more, or \$10m or more and located in an environmentally sensitive area of state significance) Others – local government approvals or Joint Regional Planning Panel (NSW and local government)	Department of Planning and Environment and Environment Protection Authority
QUEENSLAND	State approvals (Department of Infrastructure, Local Government and Planning) for all developments	Department of Infrastructure, Local Government and Planning
SOUTH AUSTRALIA	State approvals (Department of Planning, Transport and Infrastructure) for public infrastructure developments and developments declared as major by the Minister for Urban Development and Planning ⁶ Others – local government approvals	Local councils and the Environment Protection Authority
TASMANIA	Local government approvals for all developments	Environment Protection Authority
VICTORIA	State government approvals for all developments (Department of Environment, Land, Water and Planning)	Local councils
WESTERN AUSTRALIA	In general, development assessment panel (consisting of experts and local government representatives) approvals for developments above \$2m Others – local government approvals, state government approvals or Ministerial approvals	Department of Water and Environmental Regulation

Sources: Government of Western Australia 2017; NSW Department of Planning and Environment 2016; Queensland DILGP 2017; Government of South Australia 2018b; Tasmanian Planning Commission n.d.; DELWP 2017b

1.4 CONCERNS ABOUT WIND FARMS IN AUSTRALIA

Wind farm developments have the potential to impact on individuals and local communities including landholders who host turbines, owners of neighbouring properties, residents affected by construction and the wider community. As outlined in Chapter 2, concerns raised by affected communities and individuals include noise, potential health impacts, shadow flicker, amenity, lack of community consultation and economic loss. The establishment of the Commissioner in 2015 was in response to these concerns (NWFC n.d.a). Chapter 2 provides an analysis of the complaints received by the Commissioner and reviews the complaints handling process.

⁶ Wind farm developments endorsed by a state agency are classified as public infrastructure developments. 'Major developments' are those of 'major environmental, social or economic importance' (*Development Act 1993* (SA) s 46).

1.5 WIND FARM DEVELOPMENTS OVERSEAS

Internationally, there are a number of different approaches taken to managing concerns about wind farms. Many countries use national legislation to address noise-related issues and establish land use and development planning requirements, with local governments empowered to investigate complaints related to these issues (Box 1). No other country appears to have a complaints handling role like Australia's National Wind Farm Commissioner.

BOX 1: INTERNATIONAL EXPERIENCE WITH CONCERNS ABOUT WIND FARMS

UNITED KINGDOM

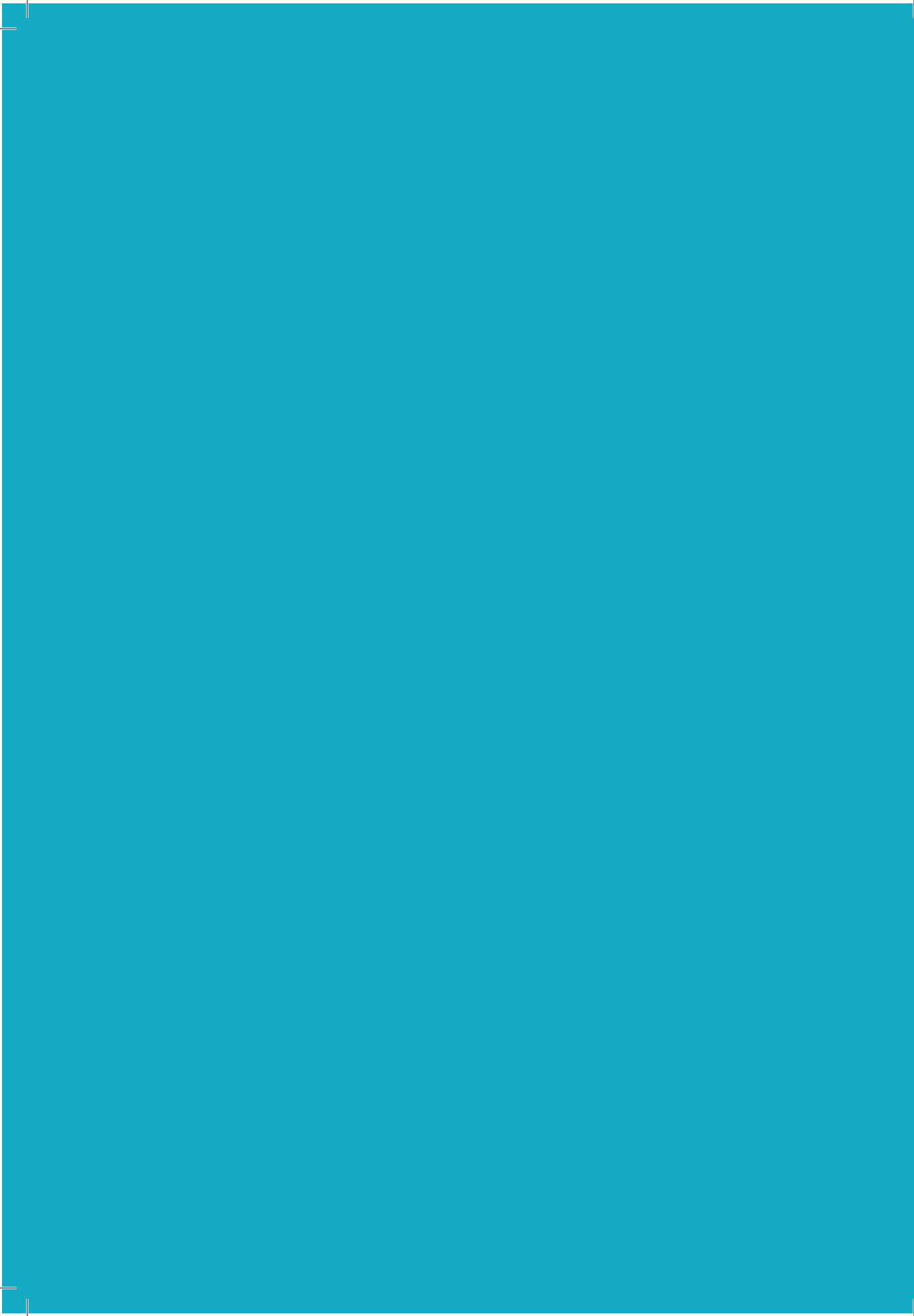
The United Kingdom (UK) is ranked sixth in the world in terms of its capacity of wind power generation (GWEC 2018). Unlike Australia, the UK generates a significant component of its wind power offshore (renewableUK n.d.). Local governments have a legal obligation to investigate complaints about noise from wind turbines (*Environmental Protection Act 1990* (UK)). In 2015, the UK Government announced measures to strengthen community consultation early in the planning process and the wind industry also pays a community benefit package (House of Commons Library 2016). These community benefits could include monetary payments, investment options or employment opportunities for the affected community. In addition, the Department of Energy and Climate Change has released best practice guidelines for these community benefits (UK DECC 2014).

CANADA

Canada, the country ranked ninth in the world in terms of its capacity of wind power generation (GWEC 2018), regulates wind farms and handles wind farm complaints at the provincial level. In Ontario, which has about 40 per cent of Canada's installed wind capacity (canwea 2017), the Ministry of the Environment and Climate Change administers and monitors noise guidelines for wind farms (Ontario Ministry of the Environment and Climate Change 2016). Those seeking approval to install a wind farm must consult with the public, municipalities and Aboriginal communities (Ontario Ministry of the Environment and Climate Change 2017).

DENMARK

Denmark is ranked 14th in the world in terms of its capacity of wind power generation and has the world's largest installed capacity per capita (GWEC 2018). Denmark is also considered a leading example of best practice decision making, community engagement, and benefit sharing relating to wind farm developments (Mills & Manwell 2012). Denmark features strong cooperation between communities and all levels of government. Decision making for wind farms is partly decentralised with municipalities empowered to develop their own energy plans to meet local renewable energy targets. The primary issue related to wind farms in Denmark is noise (VidenOmVind n.d), the regulation of which falls under the *Environmental Protection Act* (Denmark). Concerned residents can register noise complaints with their local municipality, which will subsequently check the turbine's compliance with the Act (VidenOmVind n.d.).



2

RESOLVING COMPLAINTS

The National Wind Farm Commissioner has a key role dealing with complaints from individuals and community groups on existing and proposed wind farms (NWFC 2018a). This chapter examines the Commissioner's complaints handling policy; the number and nature of complaints; and how the Commissioner has sought to resolve them.

2.1 COMPLAINTS HANDLING POLICY AND PROCEDURES

The complaints handling policy outlines how the Office of the Commissioner deals with complaints about wind farms (NWFC 2018b). The policy says that the Commissioner will act in a facilitative role to resolve complaints and may suggest possible solutions. The complaints handling process is voluntary and the Commissioner does not have any powers to require stakeholders to participate in the process or to enforce suggestions.

The complaints handling process is complemented by an information handling policy, which outlines how personal information will be collected and used (NWFC 2018c). It also contains guidelines on confidentiality and privacy.

The Commissioner has developed a number of core principles to guide the handling of complaints:

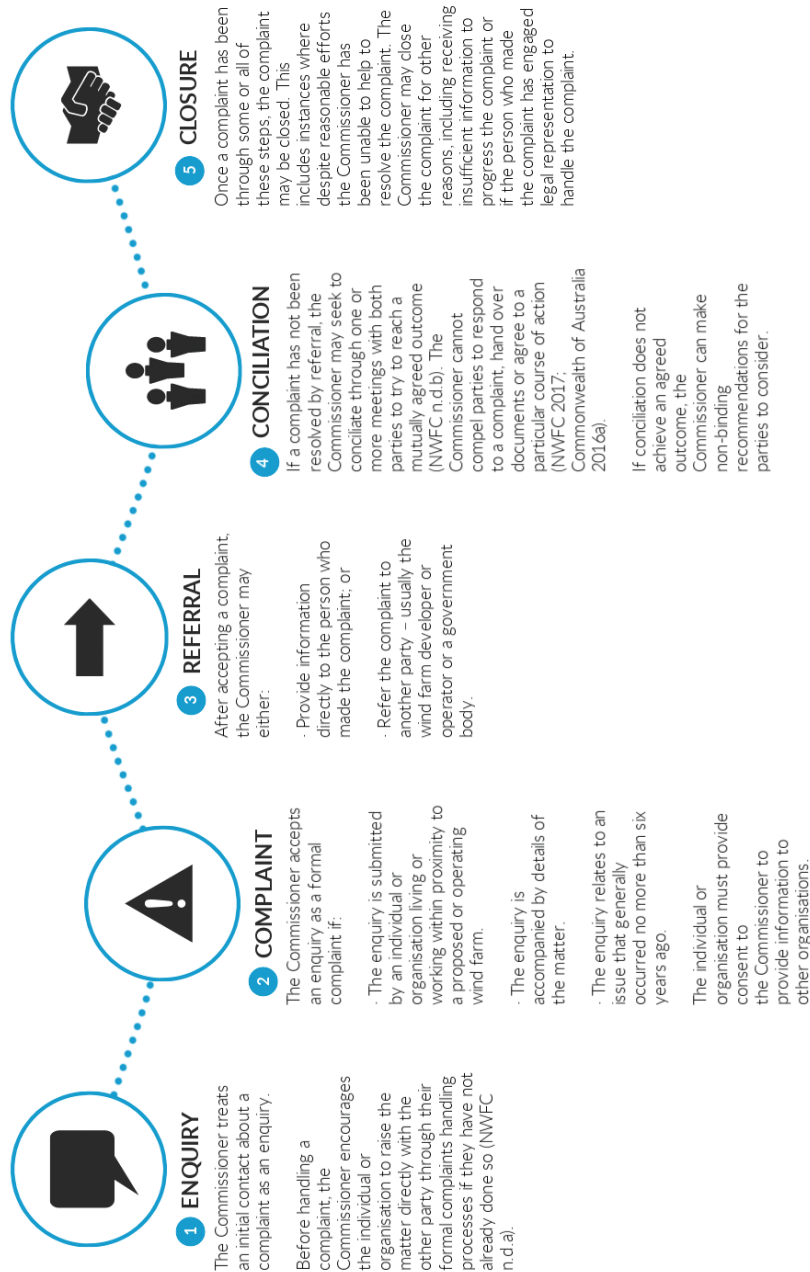
- be independent and always act impartially and ethically
- use best efforts to assist parties to find acceptable outcomes
- assist parties to share fact and evidenced based information.

The Commissioner developed its complaints handling policy in February 2016, within the Commissioner's first four months of operation, following a period of public consultation. It was updated in August 2016, taking into account stakeholder feedback (NWFC 2017).

There are five steps in the complaints handling process: enquiry, complaint, referral, conciliation, and closure. These steps are outlined in Figure 4 and discussed below. The Office of the Commissioner advises stakeholders that not all the steps may be needed to resolve a complaint.

Stakeholders that are impacted by wind farms can pursue other avenues to address their concerns. These are outlined in Section 4.1.

FIGURE 4: COMPLAINTS HANDLING PROCESS



Source: Climate Change Authority based on NWFC 2018b. See the National Wind Farm Commissioner's complaints handling policy for further details.

2.1.1 MAKING AND TRACKING COMPLAINTS

Information on making a complaint is accessible on the Commissioner's website and complaints can be made by email using an online form, post or via a toll-free telephone number. There is also an option to submit a complaint on behalf of another person if consent is given (NWFC n.d.b).

To manage the administration of the complaints, the Commissioner established an electronic complaints management system in early 2016 (NWFC 2017). Each enquiry is given a reference number and is tracked through the complaints process.

2.2 OVERVIEW OF COMPLAINTS

There have been 163 complaints⁷ made to the Commissioner since the establishment of the Office in late 2015. In summary, there were 58 complaints to March 2016 and the number of complaints has ranged from 6 to 33 complaints per quarter since then. Overall, more complaints have been made about proposed wind farms rather than operating wind farms.⁸

2.2.1 COMPLAINTS BY STATE

As of December 2017, the majority of all complaints to the Commissioner came from Victoria (55 per cent), New South Wales (21 per cent) and South Australia (15 per cent) (Figure 5). The rest of Australia accounts for only six complaints in total (five from Queensland and one from Tasmania) (NWFC 2018a). No complaints had been received about Western Australian wind farms. The Australian Capital Territory and the Northern Territory have no wind farms.

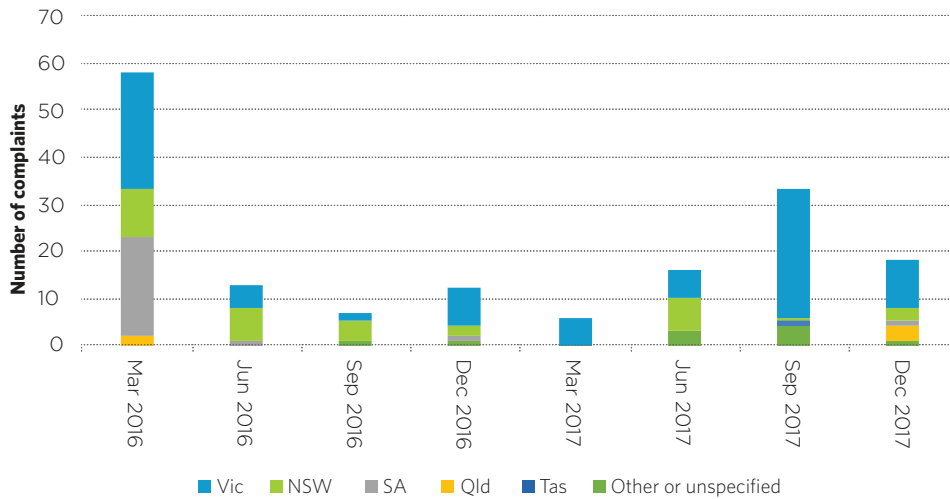
Victoria had around twice as many complaints as South Australia for operating wind farms, and has a similar number of wind farms as South Australia. Victoria has more than twice the number of complaints as New South Wales for proposed wind farms. Both jurisdictions had a similar number of proposed wind farms under construction or at the stage of financial commitment in 2017 (CER 2018d). South Australia had no complaints about proposed wind farms in 2017 and had six wind farms under construction or with financial commitment at that time (CER 2018d).

A large number of complaints received from Victoria in September 2017 were linked to the development of two wind farms in south-west Victoria – an area which is populated, close to electricity grid infrastructure, and with a number of operating and proposed wind farms (NWFC 2018, pers comm).

⁷ to 31 December 2017 (NWFC 2018a).

⁸ 10 complaints did not specify a particular wind farm.

FIGURE 5: NUMBER OF COMPLAINTS BY STATE PER QUARTER



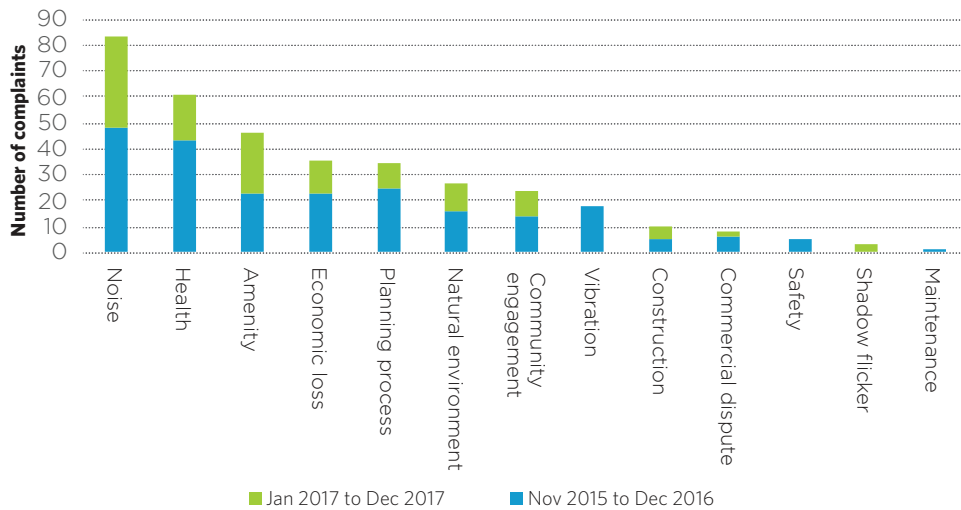
Source: NWFC 2017; NWFC 2018a and quarterly data provided by NWFC

Notes: March 2016 data is for 5 months and includes all data from November 2015 up to and including March 2016.

2.2.2 COMPLAINT ISSUES

Overall, for wind farms, noise is the most commonly complained about issue followed by health, amenity, economic loss and the planning process (Figure 6). Complaints about a range of issues including noise, health, planning processes, economic loss, community engagement and vibration fell in 2017 compared with 2015–16.

FIGURE 6: ISSUES RAISED BY COMPLAINTS



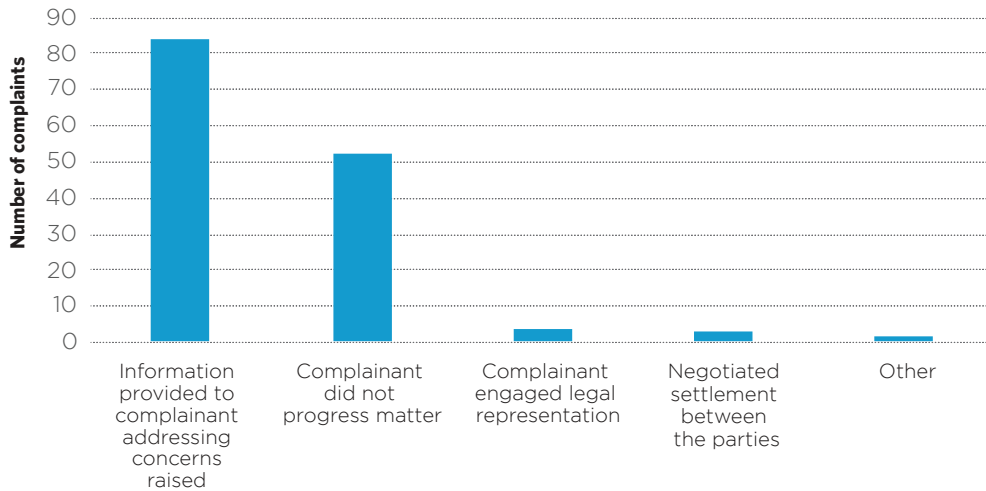
Note: A single complaint can raise more than one issue, and on average two issues were raised per complaint overall (NWFC 2018a). The National Wind Farm Commissioner's annual report provides more detail about the type of issues raised in each category of complaints (NWFC 2018a).

Source: NWFC 2018a

2.2.3 CLOSURE OF COMPLAINTS

As of 31 December 2017, the Commissioner had closed 145 complaints (89 per cent) with 18 complaints remaining open (NWFC 2018a). There is a range of reasons why the Office closes a complaint. 84 of the complaints were addressed by the provision of information to the person making the complaint, referral of the complaint to the wind farm developer or operator, or a government agency. Three complaints were resolved following a negotiated settlement. Four complaints were closed because the person making the complaint engaged a lawyer – at this point, the Commissioner stopped handling the complaint in accordance with the complaints handling policy. 52 complaints were closed because the person making the complaint decided not to pursue them (Figure 7).

FIGURE 7: NUMBER OF COMPLAINTS CLOSED FOR EACH REASON



Source: NWFC 2018a

2.3 ASSESSMENT OF COMPLAINT OUTCOMES

2.3.1 PRINCIPLES FOR ASSESSMENT

The Authority has reviewed the Commissioner's complaints handling process, both the policy and the way it has been implemented, against seven principles: independence, fairness, accessibility, accountability, efficiency, effectiveness and integration (Table 4).

The unique features of the Commissioner's role led the Authority to craft a purpose built set of assessment principles rather than simply using one of the existing standards. These principles are informed by those used by best practice, industry-based dispute resolution bodies and for managing complaints by government agencies (The Treasury 2015; Commonwealth Ombudsman 2009). The Authority also considered the Australian Standard guidelines for complaints management in organisations in developing its principles (Australian/New Zealand Standard 2014).

.....

TABLE 4: PRINCIPLES FOR ASSESSMENT AND THEIR MEANING

PRINCIPLES	DESCRIPTION
Independence	The dispute resolution process is independent from participating organisations and other interests, and processes are unbiased.
Fairness	The dispute resolution procedures are fair in that complaints receive impartial treatment without favouritism or discrimination. In resolving complaints, regard is given to best practice and the law.
Accessibility	Stakeholders are made aware of the services and can readily and easily access them at no cost.
Accountability	Public accountability is maintained by regularly publishing information about complaints. The Commissioner considers feedback about the process.
Efficiency	The Office handles complaints with the best possible use of time and effort. Complaints are tracked, dealt with in a timely manner, and are directed to other organisations (where needed). The complaints handling process is subject to continuous improvement.
Effectiveness	The Office's complaints handling process works well and produces the desired outcome (i.e. stakeholders with reasonable expectations value the process and outcome). The Office has appropriately qualified staff to undertake its functions.
Integration	The complaints handling process is integrated with the other functions of the Office to deliver synergies. For example, the Office's work on complaints handling informs development of its best practice guidance and provision of information. The Office interacts effectively with the wind farm industry and governments to help resolve complaints.

The Office of the Commissioner has significantly less resources than many of the other bodies that seek to resolve complaints.

Unlike many industry ombudsmen, like telecommunications for example, the Office of the Commissioner cannot compel anyone to a particular course of action, so some of the features of complaints handling guidance for ombudsmen are not applicable to the National Wind Farm Commissioner.

2.3.2 ASSESSMENT AGAINST PRINCIPLES

The Authority's analysis of the Commissioner's approach to complaints handling against the assessment principles is given below.

Independence: The dispute resolution process is independent from participating organisations and other interests, and processes are unbiased.

The Office of the Commissioner is funded by the Australian Government and the Commissioner reports to the Australian Government through the Minister for the Environment and Energy. The Commissioner has a significant degree of independence however because the Government takes no role in directing the work of the Office of the Commissioner. The Commissioner is financially independent of the wind farm industry (Section 4.4.1).

Independence and the sharing of fact and evidence based information are core principles that guide the Office's complaints handling policy (NWFC 2018b).

A number of stakeholders commented positively on the Commissioner's independence. For example, Hepburn Wind in their submission on this review noted that 'Having an objective representative to have discussions with the complainant was a positive experience for us...' (p 4). Several wind farm developers noted that the complaints handling process provides all parties with access to an independent resource, which could help to address complaints (Beijing Jingneng Clean Energy Corporation Limited, Energy Developments Pty Ltd, Infigen Energy Limited and WestWind Energy's submissions on this review). The Australian Wind Alliance submitted 'His primary value in the wind farm 'space' is his role as an independent arbiter of complaints' (p 6). In their submissions on this review, the Hon Gordon Rich-Phillips MLC stated that the Commissioner 'is trusted as a genuinely independent engagement point for the community' (p 1) and Goldwind Australia Pty Ltd said that 'The Commissioner regularly engages with the industry's key stakeholders...providing an independent perspective on the performance of the wind industry' (p 1).

A number of stakeholders gave feedback (some in strong terms) that the Commissioner appeared more amenable to the wind industry's interests than those of individuals and communities affected by wind farms.

Some stakeholders suggested that individuals who had made complaints be allowed to have support persons attend conciliation meetings (Christine Jelbart, Jan Hetherington and Waubra Foundation's submissions on this review), and that the Commissioner inform them in advance who will be in attendance (Gunther Wilhelm and Bernadette Janssen's submission on this review).

In practice, the Authority considers that the Commissioner satisfies the principle of independence.

The Authority is of the view that being able to build strong relationships with all stakeholders (including the wind industry) is key to the Commissioner being able to facilitate effective outcomes to complaints in a process that in effect relies on good-will and the wind industry's interest in a social licence to operate in local communities. That said, perceptions of independence are important for building trust, particularly in some rural and regional communities where wind development appears to be quite divisive.

The Authority found that some stakeholders affected by wind farms feel at a disadvantage when meeting with industry representatives. The Commissioner's guide to conciliation meetings⁹ advises that, after consultation with those taking part in the conciliation, the Commissioner will advise participants where the meeting will take place and who will be attending. Support people as well as industry representatives can participate in the conciliation meetings following this consultation process. The Authority recommends the Commissioner also include this advice in the Office's complaints handling policy to further clarify how support people can attend conciliation meetings.

9 www.nwfc.gov.au/publications/guide-conciliation-meetings

RECOMMENDATION

- R. 1** The National Wind Farm Commissioner include advice on meeting participation in the Office's complaints handling policy to further clarify how support people and industry representatives can attend conciliation meetings after consultation with those participating.

Fairness: The dispute resolution procedures are fair in that complaints receive impartial treatment without favouritism or discrimination. In resolving complaints, regard is given to best practice and the law.

The Commissioner's complaints handling policy outlines the procedures that are used to help achieve a fair process. The Commissioner adheres to privacy and confidentiality requirements and advises individuals and organisations of other avenues to address their complaints (Figure 4).

A number of individuals and industry stakeholders submitted that the Commissioner acted fairly and impartially when handling complaints (Energy Developments Pty Ltd, Janet Collins, Michelle Evans, WestWind Energy and Wind Prospect Pty Ltd's submissions on this review).

Hepburn Wind provided positive feedback on the Office of the Commissioner's complaints handling process in its submission on this review but also observed '...that the complainant may not feel the issue was resolved' (p 4).

Many people have provided their feedback on the Commissioner's complaints handling process through this review. A number of stakeholders particularly those impacted by operating wind farms do not believe the process for dealing with their complaints is fair (Gunther Wilhelm and Bernadette Janssen's submission on this review). Many of these stakeholders also expressed strong frustration and unhappiness that the Office of the Commissioner's complaints handling process has not provided the outcomes they are seeking. These complaints are often about noise and health issues.

For the Authority, a question arises as to whether people that are highly unhappy with the outcome of their complaints would be disposed to consider the complaints handling process itself to be fair. The Authority recognises that wind farm development can be a highly troubling issue for local communities. Like all major development, irrespective of issues like noise and shadow flicker from turbine blades, wind farms can carry implications for landholders' visual amenity and (at least) perceptions about property values. The location of turbines on rural properties can also lead to significant financial benefits for those that host them while neighbouring properties may experience the perceived dis-benefits of wind farm development rather than the rewards. The Authority is of the view however that it is unlikely that a complaints handling process would be able to secure a satisfactory resolution in cases where the wind farm has already been approved by the relevant state or local authority,¹⁰ and where stakeholders will only be satisfied if the wind farm does not go ahead. This then begs the question as to whether the expectations of some stakeholders are too high, noting the Commissioner does not have mandatory powers to enforce an outcome. These issues are discussed further in the section on Effectiveness.

On balance, the Authority has found no compelling evidence that the Commissioner's complaints handling process does not satisfy the principle of fairness.

Accessibility: Stakeholders are made aware of the services and can readily and easily access them at no cost.

The Authority notes that the Commissioner makes its services available through the Office website, by email or by toll free phone (Section 2.1.1). The Commissioner's complaints handling policy appears clear and easy to understand, and there are no costs to access the service.

Submissions received from people who had made a complaint to the Commissioner indicated that they generally understood the complaints handling process and its voluntary nature (Janet Collins, John Carter, and Paul and Jennifer Lewis's submissions on this review).

On balance, the Authority considers that the Office of the Commissioner performs well against this assessment principle. However, there was some feedback from stakeholders to suggest that the role of the Commissioner and the assistance on offer may be better known in Victoria than other jurisdictions (Hazell 2018, pers comm; Yass Community Consultative Committee Chair 2018, pers comm). This is possibly because at the time the Office was established, there were a number of controversial wind farms in Victoria. The Authority recommends the Commissioner explore ways to make the Office better known outside Victoria through more direct engagement with local and state governments.

RECOMMENDATION

R. 2 The National Wind Farm Commissioner engage with state and local governments to explore ways to improve community awareness of the complaints handling role.

¹⁰ In some circumstances, Australian Government approval is also required.

Accountability: Public accountability is maintained by publishing information about complaints. The Commissioner considers feedback about the process.

The Commissioner provides a considerable degree of information publicly through a comprehensive report, which is provided to the Australian Parliament annually and published on the Commissioner's website. The report outlines the role of the Office, provides key statistics on complaints and also includes key recommendations on industry and government best practice for wind farms (Section 3.1.3).

There may be value in the Commissioner providing more information directly to stakeholders on the outcome of their complaints.

One stakeholder submitted that her complaint was closed without her knowledge and noted 'We were not informed of his intention to close our case, and only found that it was closed because we inquired' (Christine Jelbart's submission on this review p 1).

The Authority recommends the Commissioner inform people when their complaint is closed and let them know why. The Authority also recommends that the Commissioner advise stakeholders that the Office can re-open their complaint if material new information becomes available. The Commissioner should further advise stakeholders they can seek a review of the Commissioner's handling of their complaint through the Commonwealth Ombudsman. The Office could also advise stakeholders about other forums for making a complaint about other agencies, such as the state or Commonwealth ombudsmen for complaints about government agencies that approve wind farms.

While these new process steps could increase the Commissioner's administrative tasks, the Authority thinks that the benefits of greater transparency would be worthwhile in helping to build trust.

RECOMMENDATION

- R. 3** The National Wind Farm Commissioner inform people when their complaint is closed and provide a reason for closure. The Commissioner should advise stakeholders the Office can re-open their complaint if material new information becomes available. The Commissioner should further advise stakeholders they can seek a review of the Commissioner's handling of their complaint through the Commonwealth Ombudsman.

Efficiency: The Office handles complaints with the best possible use of time and effort. Complaints are tracked, dealt with in a timely manner and are directed to other organisations (where needed). The complaints handling process is subject to continuous improvement.

The Commissioner has a clear complaints handling process and maintains a complaints handling register that enables the Office to track complaints effectively and refer them to industry bodies or government agencies as needed.

Some submissions said that their complaint was handled in a timely manner (3M Pastoral Company, Donald Thomas and Michelle Evans' submissions on this review). In contrast, another submission raised concerns that their complaint was not dealt with quickly and said they needed to follow up with the Commissioner to prompt action (Rikki Nicholson's submission on this review).

The Authority notes however that on establishment in 2015, the Commissioner was required to deal with a backlog of complaints, many of which were complex, and this took some months to work through.

The Authority is of the view that the Commissioner's complaints handling process could be enhanced by introducing a quantitative measure of timeliness.

Other organisations include this type of information in their complaints procedures and reporting. For example, the Energy & Water Ombudsman NSW advises they will endeavour to respond to written complaints within 5 business days and reports on the number of complaints closed after 30 days and after 90 days (EWON 2017; EWON n.d.).

To increase transparency, the Authority recommends the Commissioner develop key performance indicators (KPIs) to report on the timeliness of the Office's complaints handling process. The KPIs could be designed to show how quickly the Office first took action on a complaint and the length of time taken to resolve or close the complaint, noting that more complex cases will take longer to resolve than simpler ones. The Commissioner should publish information in annual reports on performance against these KPIs.

RECOMMENDATION

- R. 4** The National Wind Farm Commissioner develop key performance indicators (KPIs) to indicate timeframes associated with the complaints handling process and report against the KPIs in annual reports noting that more complex cases will require more time and resources to resolve.

One submission suggested that stakeholder feedback could offer an opportunity for enhancing the complaints handling process.

[Seeking feedback] would ensure that as the process occurred adjustments could be made to ensure the process was achieving good results, that the complainants felt that their complaints were being addressed. (Gunther Wilhelm and Bernadette Janssen's submission on this review p 4)

The Authority recognises however that wind farm development can generate strong feelings and high expectations amongst some stakeholders. This could make it difficult for the Commissioner to receive objective and constructive feedback on the Office's processes and outcomes.

The Authority notes that this review sought and analysed stakeholder feedback as key inputs to assessing the Commissioner's performance and making recommendations. The Authority suggests that further reviews of the Commissioner continue this practice.

The Authority notes the value of feedback for continuous improvement and recommends the Commissioner include in its complaints handling policy, guidance on how stakeholders can provide feedback on that process.

RECOMMENDATION

R. 5 The National Wind Farm Commissioner include in the complaints handling policy guidance on how stakeholders can provide feedback on the complaints handling process.

Effectiveness: The Office's complaints handling process works well and produces the desired outcome (i.e. stakeholders with reasonable expectations value the process and outcome). The Office has appropriately qualified staff to undertake its functions.

In general, the Commissioner received positive feedback on the effectiveness of its complaints handling process from industry and government. In their submission on this review, WestWind Energy stated that the Commissioner 'facilitated meetings and conversations and worked constructively with all parties to arrive at a mutually beneficial outcome' (p 4). Other companies including Energy Developments Pty Ltd and Wind Prospect Pty Ltd expressed similar views in their submissions on this review. Amy Kean, Renewable Energy Advocate said 'The Commissioner provides an essential complaints handling service for communities in NSW...' (p 1).

Feedback on the Commissioner's complaints handling procedures by individuals or communities affected by wind farms was mixed. Generally, people concerned about proposed wind farms provided positive feedback on the process, even if they were not satisfied with the outcome. Several stakeholders commented that the Commissioner's involvement enabled their concerns to be heard and provided them with useful information and additional avenues to pursue (Janet Collins, Melon Pastoral Pty Ltd, Michelle Evans, and Paul and Jennifer Lewis's submissions on this review). Ms Collins' submission on this review said 'The Office of the NWFC contacted us to advise us of the progress of our complaint on an ongoing basis and were very helpful' (p 4). Lal Lal Environment

Protection Association Inc submitted 'The NWFC has generally been very responsive in terms of handling our complaints/suggestions and has involved various relevant organisations in the process' (p 1). Mr Draffen noted 'The process facilitated by the NWFC was the most rewarding of all approaches tried' (Ken Draffen's submission on this review p 3).

The Commissioner's lack of statutory powers was seen as a key strength by some stakeholders as it allowed flexibility in trying to resolve complaints and encouraged participation (Clean Energy Finance Corporation and Melon Pastoral Pty Ltd's submissions on this review). Melon Pastoral Pty Ltd said that:

The Wind Farm Commissioner has no authority to mandate change. This makes the Office a unique repository for a range of public policy issues and an important reference point for governments looking to establish more complete and effective wind farm guidelines (p 6).

On the other hand, many individuals affected by wind farms see the Commissioner's lack of power to compel developers and planning authorities to take action as a significant limitation in the Office's ability to resolve complaints (Bruce and Noeleen Hazell, Donald Thomas, and Gunther Wilhelm and Bernadette Janssen's submissions on this review). The Authority has sympathy with this view but notes there would be statutory challenges to overcome if the Commissioner was to have such powers, given that responsibility for approving wind farm development rests primarily with the states and local government.

In addition, the Commissioner's terms of reference state that the role cannot override state government approval of wind farms.

Although the Office of the Commissioner has only a small number of staff, they work effectively. Mr Carter submitted that the Commissioner 'has a small, efficient team' and 'I am very impressed by the current team' (John Carter's submission on this review p 5 and p 7).

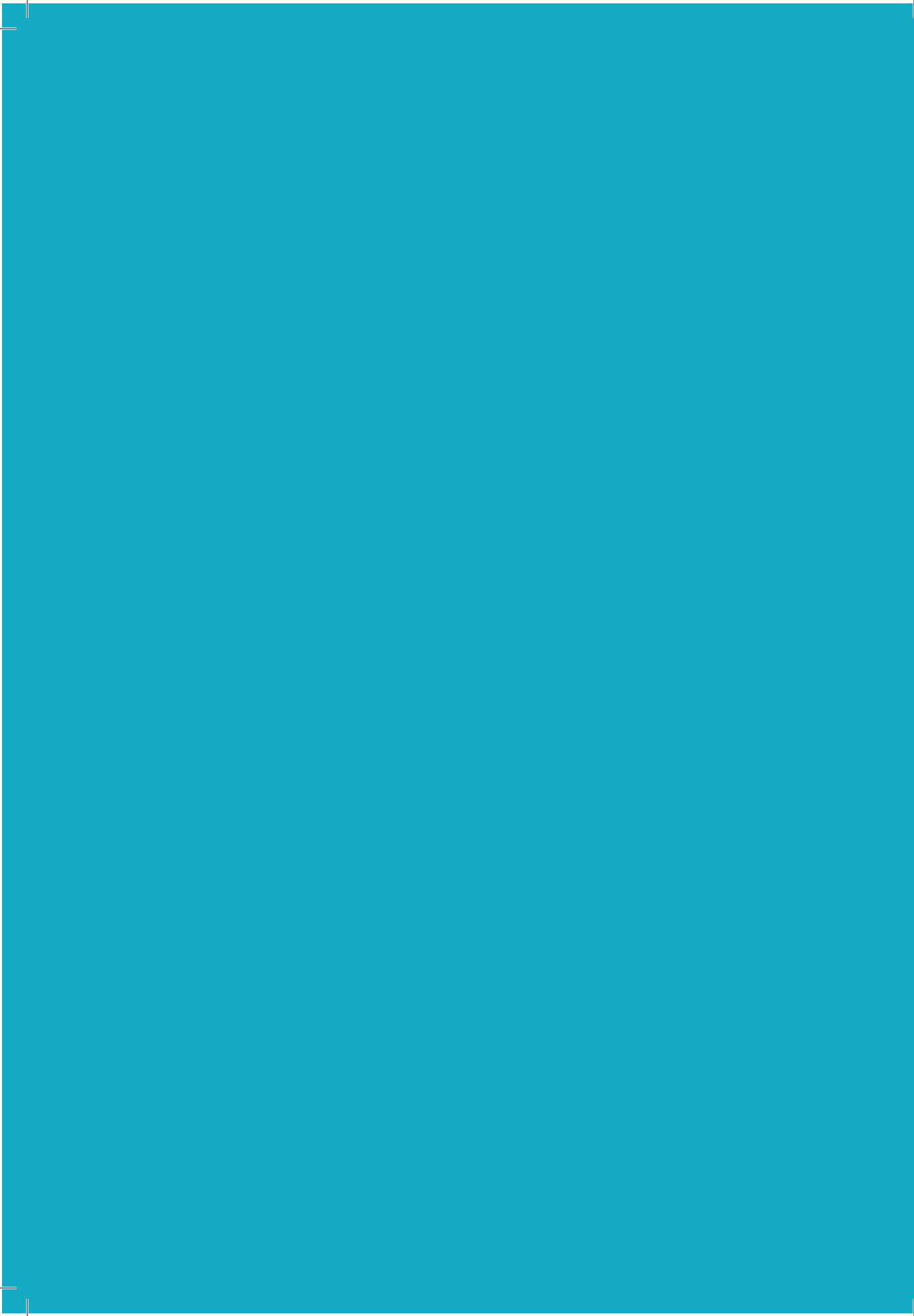
On balance, the Authority considers that the Commissioner performs well against the principle of effectiveness, noting that the expectations of some stakeholders affected by wind farms would be difficult to meet unless the role of the Commissioner is substantively altered. The Authority is of the view that the benefits of the Commissioner not having the power to mandate action outweigh the downsides and should not be changed.

Integration: The complaints handling process is integrated with the other functions of the Office to deliver synergies. For example, the Office's work on complaints handling informs development of its best practice guidance and provision of information.

The Office interacts effectively with the wind farm industry and governments to help resolve complaints.

It seems clear the Commissioner draws on information the Office receives through complaints handling to help develop best practice guidance for community consultation and share information. Best practice recommendations developed by the Commissioner on consultation with local communities and issues like noise and set back standards are good examples of this (Chapter 3).

There is also evidence that the Commissioner works effectively with the wind industry (section on independence) and government (Section 3.2.3) in seeking to resolve complaints.



INFORMATION PROVISION AND PROMOTING BEST PRACTICES

3

Under the terms of reference for the National Wind Farm Commissioner (Appendix B), the Commissioner is to 'lead efforts to promote best practices, information availability, and provide a central, trusted source for dissemination of information' and 'work with stakeholders to identify needs and priorities for monitoring wind farms'.

3.1 THE COMMISSIONER'S ACTIVITIES

The Commissioner has sought to give effect to the terms of reference by identifying and promoting best practices for the planning, development and operation of wind farms including practices that guide wind farm compliance and standards, complaints handling and community engagement. The Commissioner considers that issues related to the physical monitoring of wind farms for noise or compliance with (for example) development conditions are also best done as part of the Commissioner's role in developing best practice guidance. The Authority agrees this is a sensible approach.

The Commissioner uses a variety of methods to work collaboratively with stakeholders, provide information and identify needs that can be met by best practice guidance and other information. These include direct engagement with community, industry and government stakeholders, maintaining a website and releasing an annual report. This section provides an overview of these activities.

3.1.1 DIRECT ENGAGEMENT

Since the commencement of the Commissioner in November 2015, the Commissioner has engaged with over 900 stakeholders, including community members and organisations, industry representatives, scientific experts, and Australian, state and local governments (NWFC 2018a).

Engagement is done through face-to-face meetings, teleconferences and presentations.

The Commissioner has:

- visited 34 proposed and operating wind farm sites (some multiple times) and met with community groups to gain an understanding of the local impacts of wind farms
- interacted with wind farm developers to obtain information about planned developments and provide guidance to minimise future concerns arising in local communities
- presented to industry associations about complaints handling and made recommendations for industry reform
- briefed Australian and state government officials on industry developments and proposed reforms to planning and development processes
- met with Australian Government agencies to seek feedback on the reforms proposed by the Commissioner
- met with state government departments and local governments to discuss best practice for wind farm development and made recommendations on industry reforms
- presented at stakeholder forums and events
- met with the Independent Scientific Committee on Wind Turbines to convey issues identified through community and industry engagement and keep abreast of their work.

3.1.2 THE OFFICE OF THE NATIONAL WIND FARM COMMISSIONER'S WEBSITE

The Office of the Commissioner provides information and promotes best practices through its website. Original content includes:

- a 2017 discussion paper regarding financial payments to landowners by wind farm developers, which outlines the Commissioner's observations about the use of payments to landowners and its advantages and disadvantages
- a 2016 wind farm complaints handling bulletin, which sets out the Commissioner's recommendations for wind farm developers to improve their accessibility and complaints handling procedures
- the Commissioner's complaints and information handling policies, which outline the process for receiving and handling complaints and personal information
- an overview of state, territory and Commonwealth responsibilities for wind farm approvals and compliance
- the Office of the Commissioner's annual reports and some presentations given by the Commissioner.

The website also provides links to external sources that provide best practice guidance for the planning, development and operation of wind farms. These include:

- state guidelines on wind farm development
- location and the amount of electricity generated by wind farms
- examples of best practice community engagement for wind farm development and complaints handling for industry in general
- guidance around the management of bushfires near wind farms
- statements relating to wind farms and health
- guides for landowners about payments for hosting wind turbines.

3.1.3 THE OFFICE OF THE NATIONAL WIND FARM COMMISSIONER'S ANNUAL REPORTS

The Office of the Commissioner's annual reports are published on its webpage and tabled in the Australian Parliament. The annual reports provide information on the Commissioner's complaints handling activities and stakeholder engagement, as well as observations about the wind farm industry and recommendations for improvements.

3.1.3.1 OVERVIEW OF THE ANNUAL REPORT RECOMMENDATIONS

The Office of the Commissioner uses its annual reports to outline how practices in the planning, development and operation of wind farms could be improved and best practice could be achieved. This includes recommending practices to guide wind farm standards and compliance, complaints handling and community engagement.

The 2016 annual report made 68 preliminary recommendations for discussion and consideration by stakeholders, and noted that some of these recommendations may already have been implemented in some circumstances (NWFC 2017). Appendix D provides a summary of the 2016 annual report recommendations. They address the following topics:

- host landowner negotiations
- neighbour consultation and agreements
- community engagement
- length and renewal of planning permits
- governance and compliance of standards and permit conditions
- selection and use of experts
- wind farm complaints handling and emergency procedures
- site selection
- health matters.

Since releasing the report, the Commissioner has consulted extensively on the recommendations with industry, state government departments and community members and groups. The Commissioner distributed the annual report widely and presented the recommendations at stakeholder meetings and forums. Some stakeholders provided formal feedback to the Commissioner on the recommendations.

In their response to the Commissioner's 2016 annual report, the Clean Energy Council is generally supportive of the Commissioner's recommendations. Although the Council notes that a large number of the recommendations have already been adopted by some wind farm developers and responsible authorities, other recommendations could improve industry practice and be more widely adopted. For example, the Council endorses the Commissioner's recommendation that developers provide an informal channel for community members to ask questions and provide feedback about the project, and be able to do so anonymously if required (CEC 2017b).

The Clean Energy Council does not support a number of the recommendations including the re-approval of permits when there is a change of ownership of the wind farm, imposing an approval to prospect requirement and a maximum period for the time between the approval of the initial planning permit and completion of construction; implementing a national standard for noise limits, set-back distances and shadow flicker; using experts from an approved panel and requiring different experts to be used for planning and post-construction assessment; and assessing proposed wind projects on a wider range of criteria. In their view, these recommendations are inconsistent with existing regulations, or impose additional costs or risks (CEC 2017b). In the 2017 annual report, the Commissioner omitted the recommendation on permit re-approvals and amended the recommendation on standards for noise limits, set-back distances and shadow flicker to suggest that instead of implementing a consistent standard, governments review the appropriateness of their current standards (NWFC 2018a).

The Australian Wind Alliance also responded to the Commissioner's 2016 annual report and '...commend[s] the Commissioner for his well-constructed, independent report' (AWA 2017 p 1). It does not agree with all the recommendations but strongly endorses those relating to negotiations between wind farm developers and landowners, neighbour consultation and health matters.

Based on the feedback received through this process and observations made in 2017, the National Wind Farm Commissioner's 2017 annual report includes updated recommendations. Some of the recommendations have been expanded to address additional aspects of a problem, qualified to allow flexibility in their implementation or omitted based on stakeholder feedback (NWFC 2018a). A summary of the recommendations added in 2017 is provided in Appendix D.

Some stakeholders praised the Commissioner's annual report recommendations including Paul and Jennifer Lewis, Janet Collins and the Lal Lal Environment Protection Association Inc in their submissions on this review. The Clean Energy Finance Corporation (CEFC), in their submission on this review, said that:

the various recommendations and observations made ... have been carefully described, and in the CEFC's opinion offer beneficial insights to the sector, regulators and policy makers and to the wider interested community (p 4).

The Authority is of the view that a number of the Commissioner's recommendations are valuable and merit further examination by industry and government. In particular, the Authority notes that a period of many years can elapse between the approval of the initial planning permit and beginning construction of the wind farm. The Authority considers that state and local planning authorities could consider placing a time limit (perhaps five years) on how long a development approval can run before a fresh community consultation is required.

3.2 FINDINGS FROM INFORMATION PROVISION AND PROMOTING BEST PRACTICES

3.2.1 IDENTIFYING NEEDS AND PRIORITIES FOR MONITORING WIND FARMS

The recommendations made in the annual reports (Section 3.1.3) reflect the Commissioner's identification of the needs and priorities for monitoring wind farms based on stakeholder engagement (Section 3.1.1) as well as the nature of the complaints received (Chapter 2).

Through consultation meetings and submissions, stakeholders indicated to the Authority that they found the Commissioner's best practice guidance for monitoring wind farms to be relevant and applicable. For example, in their submission on this review, WestWind Energy stated that 'we as a developer can use [the guidelines and information] to ensure we are meeting or exceeding best practice of engagement' (p 5). Other wind farm developers stated in their submissions that they found the information distributed by the Commissioner to be useful and AGL Energy Ltd, Goldwind Australia Pty Ltd and Infigen Energy Limited said the Commissioner's best practice recommendations helped to inform their own stakeholder engagement, community consultation and complaints management processes. On the other hand, some individuals who had complained to the Commissioner pointed out that best practice was still not being adhered to by some wind farm developers and that governments should ensure that the Commissioner's recommendations were implemented (3M Pastoral Company, Donald Thomas, and Paul and Jennifer Lewis' submissions on this review).

Stakeholders provided generally positive feedback on the information provided by the Commissioner. Melon Pastoral Pty Ltd, Janet Collins, the Office of the Hon Ben Franklin MLC, the Clean Energy Council, the Australian Wind Alliance, Friends of the Earth Australia, Regional Development Victoria and the Civil Aviation Safety Authority in their submissions on this review said that they found the Commissioner's information to be valuable. However, the Municipal Association of Victoria and Ken Draffen submitted that the Commissioner still has more work to do to share information about wind farms, for example by increasing the promotion of the Office's work. Some stakeholders raised concerns that the Office of the Commissioner has not itself conducted monitoring of wind farms for noise levels. The Authority recognises that this would be a source of frustration for some stakeholders, whose expectations have not been met. The Commissioner considers that issues related to the physical monitoring of wind farms for noise or compliance with (for example) development conditions are best done as part of the Commissioner's role in developing best practice guidance and also through the complaints handling process. The Authority agrees with this approach.

3.2.2 ACCESSIBILITY OF BEST PRACTICE RECOMMENDATIONS AND OTHER INFORMATION

The Commissioner's annual reports are the key publicly available documents that outline, in the Commissioner's view, what constitutes best practice for the planning, development and operation of wind farms. Other documents prepared by the Commissioner that outline best practices include a submission to the Victorian renewable energy auction scheme consultation paper and the Australasian Fire and Emergency Service Authorities Council's updated position paper on wind farms and bushfire operations.

Some stakeholders were of the view that the Commissioner had actively promoted the best practice guidance in the annual reports. On the other hand, the Lal Lal Environment Protection Association Inc in their submission on this review said that the Commissioner's recommendations for the industry 'have not been well publicised' (p 2).

As stakeholders may not be aware that the observations and recommendations are contained within the annual reports, the Office of the Commissioner should consider reproducing this information on its website in an easily findable and accessible form. As well as enhancing access to this information, it would allow the Commissioner to more easily provide updates on any refinements made to the recommendations and progress regarding their implementation on an ongoing basis.

Some stakeholders support increased visibility for the Commissioner's recommendations. For example, in their submission on this review, the Western Australian Department of Water and Environmental Regulation proposed 'making these [best practice] recommendations available on the NWFC's website with a view to facilitating their consideration and broader adoption by Australian jurisdictions' (p 3).

RECOMMENDATION

R. 6 The National Wind Farm Commissioner's recommendations on best practice for wind farms should be given greater prominence in a summary document on the Office's website to make them more accessible to stakeholders.

3.2.3 WORKING WITH STAKEHOLDERS

The Commissioner engages with stakeholders to provide information and promote best practices. For example, the Commissioner presented on the complexities and challenges of the wind farm development process to a community meeting in Hawkesdale, Victoria in September 2017, which was attended by approximately 100 local residents. In her submission on this review, Janet Collins, who attended the Hawkesdale community meeting, said that it 'proved very successful as the Commissioner was able to provide information about the development of the Hawkesdale Wind Farm to people in the community who were uninformed and rurally isolated' (p 4). Further, the Commissioner presented to the Victorian Farmers' Federation (VFF) on the potential issues that can arise due to the development of wind farms in rural communities. Alex Arbuthnot AM, a member of the VFF land management committee, stated in his submission on this review that he 'was very impressed with... [the] presentation' (p 1).

The Commissioner is also working with stakeholders on a broad range of reforms to be implemented by the wind industry, as outlined in the 2017 annual report (NWFC 2018a). This includes assisting state governments in their development of guides for wind farm developers and host landholders. The Victorian Department of Environment, Land, Water and Planning (DELWP) said in their submission on this review:

the Commissioner has been proactive in offering the benefit of his experience to DELWP where he can assist. I would like to recognise the constructive role of the Commissioner working with our agency (p 1).

On the other hand, the Western Australian Department of Water and Environmental Regulation submitted, 'There may be a benefit in establishing more formal information sharing networks across state and territory governments' (p 2). A representative from the New South Wales Department of Planning and Environment noted that they would welcome more direct engagement from the Office of the Wind Farm Commissioner.

The Authority sees benefit in bringing all state and territory governments involved in wind farm approvals together regularly to share their insights into emerging issues and collaborate on ways to address them. This could be achieved through the Authority's recommendation that the Office of the Commissioner lead work with the states and territories to develop voluntary harmonised guidelines for community consultation and complaints handling (Section 4.3.2).

In general, the Authority found that the Commissioner's stakeholder engagement is effective. Section 2.3.2 discusses opportunities to enhance the accessibility of the Commissioner's complaints handling services. The number and types of stakeholders the Commissioner has engaged with appear representative of wind farms developers and those who experience impacts from wind farm developments. The methods of engagement used by the Commissioner seem suitable for the different types of stakeholder groups and well targeted in conveying best practice information (Section 3.1.1). In their responses to the 2016 annual report, the Clean Energy Council welcomed the Commissioner's 'open approach to engagement with the wind industry over the past two years' (CEC 2017b p 1) and the Australian Wind Alliance has 'been pleased to work closely with Mr Dyer... [and] found him to be methodical and constructive' (AWA 2017 p 1).

3.3 OUTCOMES OF THE COMMISSIONER'S WORK ON PROMOTING BEST PRACTICES AND OTHER INFORMATION

This section explores the effectiveness of the Commissioner's role in providing information and promoting best practice reforms.

In her submission on this review, Amy Kean, Renewable Energy Advocate said:

As a subject matter expert, the Commissioner has provided independent expert advice regarding the NSW Wind Energy Planning Framework, which was finalised in 2016. The Commissioner is also providing input into the Department's development of a landholder guide for wind and solar farms. The expert advice provided, based on evidence from case studies, will help the government equip landholders with information they need to achieve optimal outcomes for all stakeholders (p 1).

The Victorian Department of Environment, Land, Water and Planning has adopted a number of the Commissioner's recommendations for permit approvals, modifications and renewals (Box 2). As the changes to permit approvals have only recently been implemented and the guides recently published, it is a little early to assess their effectiveness. The Authority is of the view however that the developments in Victoria are positive and the Commissioner should continue to monitor the number and nature of complaints from Victoria to determine how effective the changes to permit approvals have been in reducing complaints.

BOX 2: VICTORIAN GOVERNMENT CHANGES TO PERMIT APPROVALS AND RENEWALS

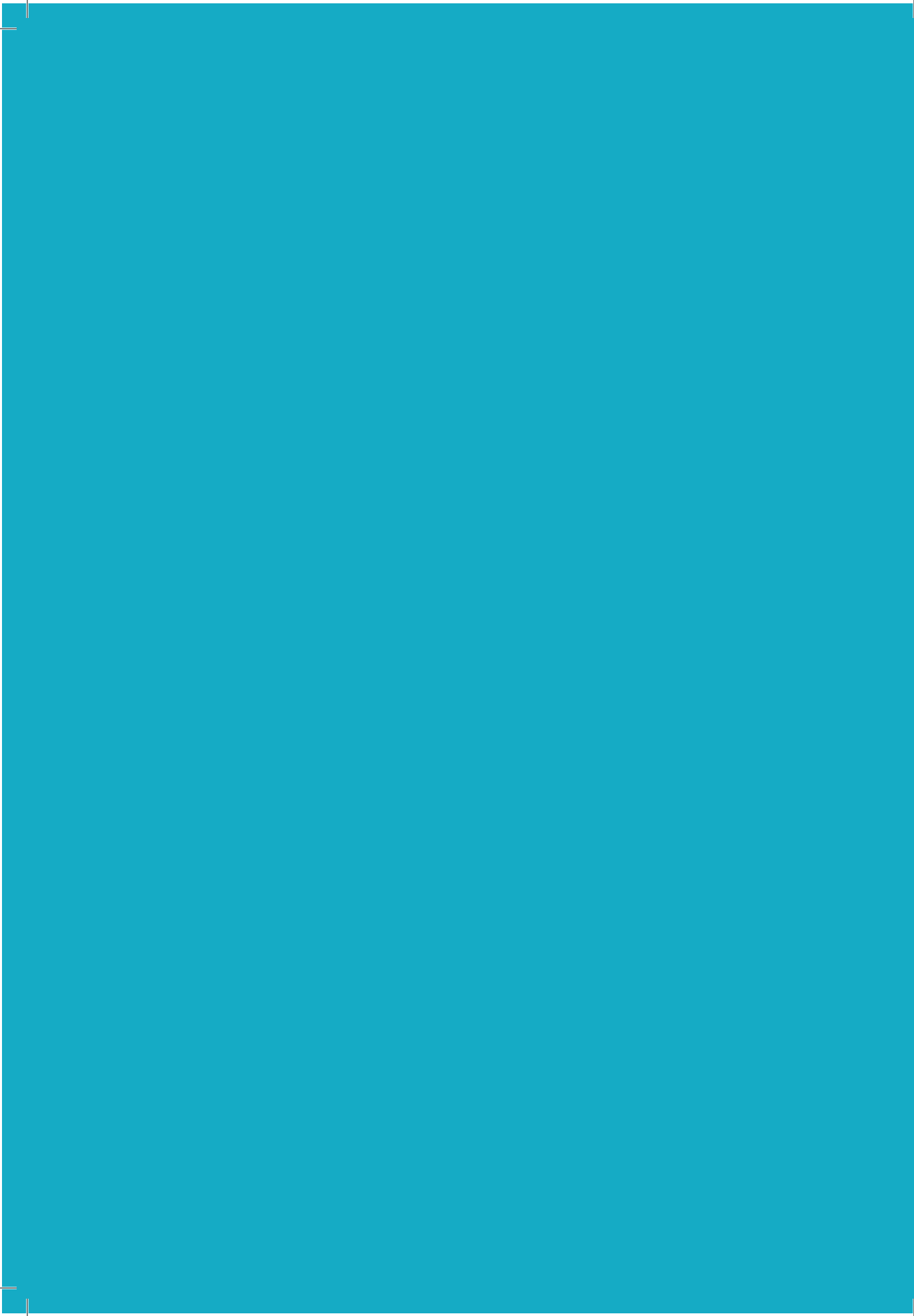
Based on complaints and interactions with stakeholders in Victoria, the Commissioner made recommendations to the Victorian Government on the endorsement, transparency and compliance of wind farm complaints handling procedures. The Victorian Government adopted recommendations in November 2017 by requiring new and renewed wind farm permits to contain conditions about complaints handling procedures and transparency in accordance with the Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria (DELWP 2017b). This means wind farm developments or renewals could be in breach of their permit if conditions relating to complaints handling are not met. These include a requirement for wind farm developers to implement a complaints handling procedure, prepared in accordance with the Australian/New Zealand Standards Guidelines for complaints management in organisations (2014), and publish it on the wind farm's website (DELWP 2017b). The aim is to promote transparency and accountability for developers in effectively dealing with complaints from community members, ensure confidence within communities that there is a proper process in place for dealing with complaints and significantly reduce the number of unresolved complaints.

The Commissioner also provided input to the guide (DELWP 2017a) and criteria for effective community engagement for participants in the Victorian Government's reverse auctions. Regional Development Victoria in their submission on this review stated that:

The Wind Farm Commissioner's support for the VRET and guidelines for Community Benefit Sharing was a valuable contribution to the creation of this understanding [between wind farm developers and the community] (p 5).

Complaints to the Commissioner about engagement with the local community fell between 2016 and 2017 (Section 2.2). This could indicate that the Commissioner's promotion of best practices for community engagement helped the wind industry's engagement with local stakeholders. State and territory governments have also been instrumental in encouraging improved community engagement. For example, the Australian Capital Territory and Victorian Government reverse auctions (Table 1) included community engagement in their assessment criteria (ACT Government Environment, Planning and Sustainable Development Directorate – Environment n.d.; DELWP 2017d). These jurisdictions also published guides to community engagement as part of their auction documentation (Lane & Hicks 2014; DELWP 2017a). Further, some corporations are entering into power purchase agreements with wind farms (Section 1.3.1) and investors in these corporations are increasingly seeking evidence of good community engagement (Hicks et al. 2018).

The Authority considers that the Commissioner's role in providing information and promoting best practice reforms has led to a range of positive outcomes, including influencing government requirements for wind farm development and community consultation and complaints handling by the wind farm industry.



ONGOING NEED FOR THE ROLE, SCOPE AND MODELS FOR FUNDING

4

This chapter assesses whether there is an ongoing need for the Commissioner's role. This assessment considers other avenues available for addressing complaints about the wind industry as well as whether the Office of the Commissioner is making a unique and valuable contribution to resolving complaints (Chapter 2), providing information and promoting best practices (Chapter 3). This chapter also examines whether the Commissioner's scope should be expanded and if the funding model is fit for purpose.

4.1 OTHER AVENUES FOR ADDRESSING WIND INDUSTRY COMPLAINTS

The Commissioner's terms of reference say that 'The work of the Commissioner will not duplicate or override the important statutory responsibilities of other jurisdictions, such as those relating to the planning and approval of wind farms' (Appendix B). As discussed in Chapter 2, the Commissioner's complaints handling policy and procedures emphasise the voluntary nature of the role. Further, the Commissioner does not have any powers to make planning decisions, enforce compliance or make binding decisions. As such, the Authority is of the view that the Commissioner's work by its nature cannot duplicate the statutory powers of other bodies in state and local government.

However, the Commissioner represents only one of various avenues through which complaints about the wind industry can be addressed. Some of the other available avenues are outlined below.

4.1.1 OMBUDSMEN

Ombudsmen exist at the Commonwealth and state and territory levels. In general, their roles are to consider complaints about actions or decisions of government agencies.

As discussed in Section 1.3.3, Commonwealth, state, territory and local governments are involved in wind farm approvals and compliance. Complaints about their actions can be directed to the relevant Commonwealth, state or territory ombudsman. The ombudsman can then work with the complainant and agency to resolve the complaint by making recommendations.

Actions by state planning departments, environment protection authorities and local governments for the approval and compliance of wind farms are within the scope of the state and territory ombudsmen (Appendix F). The Australian Government's Department of the Environment and Energy's administration of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) to assess wind farm development is within the scope of the Commonwealth Ombudsman. However, complaints about the actions of wind farm developers themselves are outside of the scope of the Commonwealth and state and territory ombudsmen because the ombudsmen generally only review decision making and administration of legislation by government bodies.

The Commonwealth and state and territory ombudsmen resolve complaints through investigation, negotiation and making recommendations but generally do not have the power to enforce their recommendations. Some of these ombudsmen issue best practice guidance, for example the Commonwealth Ombudsman published the *Better Practice Guide to Complaint Handling* in 2009 (Commonwealth Ombudsman 2009). This is similar to the approach taken by the Commissioner although the ombudsmen do have some investigative powers available to them, which the Commissioner does not.

The Authority notes that state, territory and Commonwealth ombudsmen cover a broad field of issues and possible complaints, and do not have the dedicated focus that the Commissioner has been able to bring to wind farms.

The Commissioner's website states that:

If a resident is already engaged in a process aimed at resolving the complaint (for example, a ... state government ombudsman process), the Commissioner may decide to not accept or stop handling the complaint (NWFC n.d.b).

This means that in practice overlap between the Commissioner and state, territory and Commonwealth ombudsmen is likely to be low.

Further, as discussed in Section 2.2, many complaints received by the Commissioner are now about proposed rather than operating wind farms. Complaints about proposed wind farms, which have not yet been approved by a government agency, are unlikely to fall within the scope of the Commonwealth and state and territory ombudsmen. As discussed in Section 2.3, in general, feedback on the Commissioner's handling of complaints about proposed wind farms was positive. This is a unique benefit of the Commissioner's role.

There are also energy ombudsmen in each state, which resolve complaints about energy retailers and distributors. However, their scope does not extend to wind farm developments and operations.

The Authority notes that the Commissioner was appointed in October 2015 in recognition of community concerns about wind farms (Section 1.2) that were not being satisfactorily addressed through existing complaints handling bodies including ombudsmen. Feedback from stakeholders to this review suggests that this remains the case.

4.1.2 THE LEGAL SYSTEM

The legal system provides another potential avenue for individuals or communities to seek review of decisions made by government ministers or agencies with a view to having their concerns about wind farms addressed.

A wind farm development may be subject to Commonwealth environmental legislation if it is captured by one or more of the EPBC Act triggers, such as creating significant impacts on threatened species or if the planned development is on Commonwealth land or in Commonwealth waters. Reviews of a wind farm's EPBC Act assessment can be heard by the Administrative Appeals Tribunal and the Federal Court of Australia.

Most wind farm approvals are the responsibility of state or local government, however. In New South Wales, South Australia and Queensland, designated environment courts review state and local government decisions relating to environmental, development and planning issues such as those concerning wind farms. In Tasmania, Victoria and Western Australia, these decisions are reviewed by administrative tribunals and courts.

The court or tribunal is empowered to conduct either a judicial or merits review of the decision. Judicial review looks at whether the process used by the decision maker to make the decision was lawful but does not assess the merits of the decision itself. It may require the original decision makers reconsider their decision (say to approve a wind farm) based on the tribunal's findings. A court or tribunal conducting a merits review will reconsider the decision having regard to all relevant facts and law.

As discussed in Chapter 2, the complaints received by the Commissioner concern a broad range of issues and it is likely that many of these are beyond the powers of the courts to address. Even if the issue is legal in nature, courts and tribunals will be constrained in their approach and the Commissioner is likely to have more flexibility in any resolution the Office helps to negotiate. For example, in some cases, the Commissioner was able to resolve complaints by encouraging the wind farm developer to sit down with local community members to discuss a settlement or provide information that addressed the concerns raised (NWFC 2018, pers comm). Further, court and tribunal proceedings can be lengthy and expensive processes, whereas the Commissioner's services are free. Overall, for many stakeholders, the legal system is not a suitable alternative forum for the resolution of their complaint.

4.2 ONGOING NEED FOR THE ROLE

As discussed in Section 1.2, when the Commissioner was established in 2015 there was significant concern about wind farms in the community, apparently exacerbated by the increasing number of wind farm developments in Australia. Investment in wind farm developments has continued since then, with significant new installation of wind farms being committed in 2017 (Section 1.3.1). Over 3,000 megawatts (MW) of new wind capacity is projected to enter the National Electricity Market (NEM) by 2020 (COAG Energy Council 2017). This represents more than two-thirds of existing wind capacity (AEMO 2018). As planning, consultation and construction on new wind projects begins to ramp up, there is a risk that community concern could rise again unless community engagement and complaints are managed well. Beyond 2020, the outlook for further investment in wind is more uncertain and is likely to depend on future policy settings for energy and emissions reductions.

In the shorter term (to 2020), ongoing investment in wind farms and potential for community concern suggests that there will be a continued need for the Office of the Commissioner, at least for the time being. This view was generally supported by stakeholder submissions. For example, in their submission on this review, WestWind Energy stated that

For the next few years this role is likely to add value in the debate around wind farms and appropriate policy settings. As more wind farms become operational and issues that have arisen from operating projects have been successfully dealt with, this role may become redundant at some stage in the future (p 5).

The Australian Wind Alliance in their submission on this review ‘believes that for now there still exists an ongoing need for the Commissioner’ (p 6) although the role could probably be wound up in the next few years. Wind Prospect Pty Ltd and Meridian Energy Australia Pty Ltd suggested in their submissions on this review that the Commissioner should focus on information provision and encouraging industry best practice. Other industry stakeholders including Hepburn Wind and Infigen Energy Limited suggested in their submissions on this review that resolving complaints would continue to be important as investment in the sector is set to continue. A number of other stakeholders including the Hon Gordon Rich-Phillips MLC, the 3M Pastoral Company, Emeritus Professor Simon Chapman, the Municipal Association of Victoria, Friends of the Earth Australia and the Clean Energy Council also supported the ongoing need for the Commissioner’s role in their submissions on this review.

However, some individuals who were dissatisfied with the handling of their complaint did not support the Commissioner having an ongoing role. These complaints were often about noise and health issues. Other individuals who made a complaint were supportive of the Commissioner’s role continuing, including Janet Collins who in her submission on this review stated that ‘the role of the Commissioner is vitally important...The Commissioner is key to ensuring that the individual is heard and that their complaint is addressed’ (p 5). See Chapter 2 for further stakeholder reactions to the complaints handling process.

The Authority is of the view that in the medium term, significant investment and new development of wind farms in response to the incentive posed by the Commonwealth Renewable Energy Target (RET) and state renewables schemes (Table 1) means that the Office of the National Wind Farm Commissioner is likely to be needed for the next few years at least to resolve complaints and provide information and best practice recommendations for the wind industry.

As discussed in Chapter 2, the Authority found that the Commissioner should continue to operate without legislative powers as this reduces the regulatory burden and cost of the Office, provides the Commissioner with flexibility in how best to deal with complaints and encourages voluntary participation. In the Authority’s view, these features have been key to the role’s success to date.

The Authority is also aware that some state and territory governments as well as the Clean Energy Council are playing a more active role in promoting best practice community engagement for wind farms (Section 3.3). However, it is currently too early to determine how effective their work has been in improving industry practices. The Authority considers that the ongoing need for the Office of the National Wind Farm Commissioner should be re-evaluated in 2021, providing another three years before a further review. The next review should take into account trends in wind farm investment, the level and scope of complaints and other options to address them.

RECOMMENDATION

- R. 7** The National Wind Farm Commissioner’s role should continue for another three years until 2021 when the Government should re-evaluate the ongoing need for the role.

4.3 EXPANDING THE COMMISSIONER'S ROLE TO OTHER LARGE SCALE RENEWABLE ENERGY PROJECTS

As discussed in Section 1.2, the Commissioner's role is to address concerns relating to wind farms. However, uptake of other renewable energy projects for example, large scale solar and storage (such as large scale batteries), raises the question of whether the Commissioner's role should be expanded to include these technologies. The Authority defines large scale solar as exceeding 5 MW capacity and large scale battery storage as exceeding 1 MW capacity to exclude smaller systems, including household solar photovoltaic panels and batteries.

4.3.1 UPTAKE OF OTHER RENEWABLE ENERGY PROJECTS

4.3.1.1 UPTAKE OF LARGE SCALE SOLAR

As discussed in Section 1.3.1, in recent years, there has been strong investment in renewable generation and solar now makes up almost half of the total proposed new renewable capacity (CER 2018d). Installed capacity of large scale solar in Australia increased from almost none in 2014 to 1,035 MW in 2018. There are currently 24 operating large scale (5 MW or more) solar farms in Australia, with an additional 45 proposed (CER 2018d). The 45 proposed solar farms only include those that have reached financial commitment or are under construction and there are likely to be significantly more projects in the development pipeline. For example, in New South Wales, there are 38 solar farms seeking approval (NSW Department of Planning & Environment 2018, pers comm).

Solar farm project costs decreased by more than 40 per cent between 2014 and 2016 due to decreasing technology costs (ARENA n.d.e). The Australian Renewable Energy Agency (ARENA) predicts the cost of large scale solar to reach parity with wind between 2020 and 2023 (ARENA n.d.a). Over 1,800 MW of new large scale solar capacity is projected to enter the NEM by 2020 (COAG Energy Council 2017). This will almost triple the existing solar capacity in Australia (AEMO 2018).

4.3.1.2 UPTAKE OF LARGE SCALE BATTERY STORAGE

To date, uptake of large scale battery storage has been very low although some investment occurred in 2017 and early 2018. For example, a 100 MW battery commenced operating in South Australia in November 2017 (Harmsen 2017) and two projects for batteries totalling 55 MW in Victoria were announced in March 2018 (Minister for Energy, Environment & Climate Change 2018).

Large scale battery storage has received support from government including through ARENA at the Commonwealth level (ARENA n.d.b) and some state governments. In 2017, the South Australian Government established a \$150 million fund for the 100 MW battery (Government of South Australia 2018a) and the Victorian Government committed up to \$25 million for the two battery projects (DELWP 2017c).

The uptake of battery storage may increase in the coming years due to increasing recognition of its role in securing the reliability of the electricity network and its decreasing cost profile (Godfrey et al. 2017).

4.3.1.3 UPTAKE OF HYBRID RENEWABLE ENERGY PROJECTS

There has also been increasing uptake of renewable energy projects combining wind and solar, or wind or solar and battery storage. In 2017, a number of milestones were achieved:

- Australia's first solar farm (10 MW capacity) co-located with a wind farm (165 MW capacity) commenced operating at Gullen Range (Parkinson 2017b).
- Construction of Australia's first grid-connected large scale solar and battery project (13 MW capacity) was completed at Lakeland in Far North Queensland (Conergy 2017).
- Kennedy Energy Storage Park, the first wind, large scale solar and battery project (60 MW capacity), secured financing (ARENA n.d.d).
- Lincoln Gap, a large scale grid-connected battery (10 MW capacity) alongside a wind development (212 MW capacity), secured financing (CEFC n.d.).

Hybrid renewable energy projects have a number of advantages including the complementary nature of the technology types, achieving economics of scale and enabling price arbitrage and access to new revenue streams (AECOM 2018; ARENA n.d.c; Windlab 2018). However, there are some risks associated with hybrid projects, such as potential complexities around grid connection, securing approvals and licencing and additional entities involved in development and construction (AECOM 2018; Windlab 2018). As more hybrid projects are developed and constructed, the industry will likely devise new tools for managing these risks and the uptake of hybrid projects may increase over time. In its submission on this review, Goldwind Australia Pty Ltd said that 'Many renewable energy firms are increasingly integrated, with portfolios comprising wind, solar and storage...' (p 1). This observation was echoed by the Clean Energy Council and ARENA in their submissions on this review.

4.3.2 CONCERNS ABOUT OTHER LARGE SCALE RENEWABLE ENERGY PROJECTS

The increasing uptake of large scale solar has led to community concerns about impacts including:

- disturbance from construction, including traffic management (Haynes 2017)
- toxic potential of materials such as cadmium telluride used in solar panels (Hack 2017)
- electromagnetic fields affecting television signals and mobile reception (Loftus 2017)
- solar panels causing glare and acting as heat banks and posing a bushfire risk (Haynes 2017; Riverine Herald 2018)
- reduced availability and productivity of prime agricultural land and effects on stock and cropping (Ellicott 2017; Lawson 2014)
- reduced property values and loss of tourism (Kelly 2017)
- reduced amenity due to visual impact and noise from tracking panels (Kelly 2017)
- effects on flora and fauna, including bird life (Haynes 2017)
- potential for stranded assets (Shepparton News 2018)
- inadequate community consultation and transparency (Green 2017)
- inadequate financial compensation and flow-on benefits for the community (Haynes 2017).

There is evidence of community concern about solar development. For example, in October 2017, the development application for the proposed Beryl Solar Farm to be located west of Gulgong in New South Wales was referred to the Planning Assessment Commission as it received more than 25 objections (PAC 2017). Further, in February 2018, the Greater Shepparton City Council referred four development applications for solar farms to the Victorian Minister for Planning as the council received 55 objections across the four projects (Greater Shepparton City Council 2018). In 2014, the planned Uriarra solar farm was relocated to Williamsdale in the Australian Capital Territory after it received 116 objections (Lawson 2014; 2015). Objections mostly appear to relate to land use compatibility and visual amenity impacts.

As uptake of large scale battery storage in Australia has so far been very low (Section 4.3.1.2), it is difficult to assess their prospect to generate community concern. However, the Buninyong battery (which was the largest in Australia when it was installed in 2016) was taken out of operation for a number of months to allow the battery's operator to install noise barriers in response to noise complaints (Wrigley 2017). Further, there is anecdotal evidence that there have been recent objections to Victorian grid-scale battery projects (DELWP 2018). In its submission on this review, ARENA said that:

...battery storage which, while typically having a relative smaller footprint, can be subject to the same types of concerns to wind and solar farms with regard to noise, electromagnetic radiation, visual impact and disruption caused by construction and operation (pp 1-2).

Stakeholder views on whether or not the Commissioner's role should be expanded were mixed. Some find it 'desirable for the Wind Farm Commissioner to concentrate on... wind farms' (Melon Pastoral Pty Ltd's submission on this review p 5) and that there are 'specific issues related to [wind farms]' (Southern Grampians Landscape Guardians' submission on this review p 7). This view was supported by others in their submissions on this review including Wind Prospect Pty Ltd, Kris McMillan, 3M Pastoral Company, Lal Lal Environment Protection Association Inc and Bruce and Noeleen Hazell in their submissions on this review.

Other stakeholders proposed that '[the role] should be expanded, as all renewable energy projects should be held to the same level of scrutiny and accountability' (WestWind Energy's submission on this review p 6). The Hon Gordon Rich-Phillips MLC in his submission on this review said 'similar benefits may be possible from [large scale solar and storage proposals]' inclusion within the scope of the Commissioner's role' (p 1). The expansion of the Commissioner's scope to other renewable energy projects was also supported by Goldwind Australia Pty Ltd, Beijing Jingneng Clean Energy Corporation Limited and the Clean Energy Council in their submissions on this review.

Some stakeholders in their submissions on this review, including AGL Energy Ltd, the Australian Wind Alliance, Friends of the Earth Australia and the Clean Energy Finance Corporation, went further to suggest that the Commissioner's role could be expanded to cover non-renewable electricity generation like coal or gas. The Authority understands that some stakeholders would prefer to see a level playing field covering both intermittent renewable development and other forms of electricity generation. In this case, extending the level playing field means that the Commissioner would address community complaints, provide information and develop best practice guidance for coal and gas development as well as renewables.

The Authority notes however that the Office of the Commissioner was established in response to community concern prompted in large part by the significant investment leveraged by the Commonwealth RET. While the state schemes also act as drivers for renewables, modelling for the Energy Security Board indicates that the RET is the primary cause of investment in wind to 2022 (COAG Energy Council 2017). If it was not for the Commonwealth RET, the level of investment in wind and the resulting community concern is likely to have been much less and there would be less need for the National Wind Farm Commissioner to address those concerns. Coal and gas are not eligible under the RET so the 'but for' consideration does not apply to them. On balance, the Authority is of the view that expanding the role of the Commissioner to non-renewable generation is difficult to justify.

Batteries are not incentivised by the RET but their inclusion in the Office of the Commissioner's remit is justified by the argument that developers appear to be increasingly coupling wind, solar and batteries in a single or linked development.

On balance, the Authority is of the view that the Commissioner's scope should be expanded to include large scale solar and storage such as large scale batteries given that community concerns appear to be emerging for these technologies.

RECOMMENDATION

- R. 8** The National Wind Farm Commissioner's scope be expanded to cover large scale solar and storage such as large scale batteries as well as wind farms.

To provide a longer-term solution to community concerns, the Authority recommends that the Office of the Commissioner lead work with the states and territories including broader consultation to develop voluntary harmonised guidelines for community consultation and complaints handling. The work could also consider guidelines for some of the key complaint triggers for renewables projects (such as noise). This would allow the Commissioner to apply the relevant learnings from the wind industry and recommendations for improving best practices to other renewable energy projects, enhancing the efficiency of the role. If completed, the standard could guide development including at the local government level and could reduce the Commissioner's workload over time.

RECOMMENDATION

- R. 9** The National Wind Farm Commissioner lead work with the states and territories, including broader consultation, to develop voluntary harmonised guidelines for community consultation and complaints handling and standards e.g. for noise and set-back distances.

4.4 MODELS FOR FUNDING

4.4.1 CURRENT FUNDING

The 2015–16 Mid-Year Economic and Fiscal Outlook allocated the Office of the Commissioner \$2.03 million over three years (Table 5).

TABLE 5: THE OFFICE OF THE NATIONAL WIND FARM COMMISSIONER'S BUDGET

	2015–16	2016–17	2017–18	2018–19
EXPENSES (\$'000)	438	674	680	238

Source: Commonwealth of Australia 2016

Note: The Commissioner started operations in November 2015 and the funding commitment by Government ends in 2018.

The Office of the Commissioner's budget covers staffing, travel and information and communications technology costs (Commonwealth of Australia 2016).

As a point of comparison, the Telecommunications Industry Ombudsman had revenue of over \$38 million in 2016–17 and received almost 160,000 complaints that year (TIO 2017). On the other hand, the Aircraft Noise Ombudsman (ANO)'s size is similar to that of the Commissioner. Box 3 provides an overview of its funding and role.

BOX 3: AIRCRAFT NOISE OMBUDSMAN

The Aircraft Noise Ombudsman (ANO) was established in 2010. It was a measure proposed in the Australian Government's National Aviation Policy White Paper (Australian Government 2009) to reduce the impact of aircraft noise. The ANO conducts independent reviews of Airservices Australia's and the Department of Defence's management of aircraft noise including the handling of complaints, community consultation related to aircraft noise and aircraft noise-related information. The ANO also makes best practice recommendations on these issues and publishes its reports online. Its budget for the 2016 financial year was \$670,836 and it has the equivalent of around two and a half staff. The ANO receives its budget from Airservices Australia, which is funded through levies imposed on airlines, and the Department of Defence. In 2016–17, the ANO handled 131 complaints, 119 of which it closed.

Source: ANO 2017

Having examined the role (Section 1.2), operating expenditure and staffing of the Commissioner and the ANO, the Authority is of the view that the Commissioner is achieving similar value for money. Although the ANO receives more complaints than the Commissioner on average per year, the Commissioner is required to respond to a more diverse range of complaints and makes best practice recommendations across a broader range of issues than the ANO.

Expanding the Commissioner's scope as per Recommendation 8 is likely to require a modest increase in resourcing noting the Office of the Commissioner will be able to draw on its existing processes for complaints handling and the relationships already established with industry and governments, which could help reduce costs.

RECOMMENDATION

R. 10 The Australian Government consider the need for a modest increase in resourcing for the National Wind Farm Commissioner, in light of the recommendation to expand the Commissioner's role and noting developments in community responses to the wind, solar and large scale battery industries.

4.4.2 FUNDING MODELS

The Authority was asked to consider alternative models for funding the Office of the Commissioner. A key consideration is whether the Office should be funded through taxpayers or by industry. The main rationale for government recovering some or all of the cost of providing a service from industry is that the service benefits a specific group of stakeholders (Department of Finance 2014). Most ombudsmen bodies aimed at resolving consumer issues relating to a particular industry are funded by that industry. A similar argument could be made that the wind industry should fund the Office of the Commissioner. On the other hand, it could be argued that taxpayers should fund the Office of the Commissioner given that it benefits the Australian community by alleviating community concerns and assisting wind farms' development that helps meet the Government's renewable energy and emissions reductions targets (Section 1.2). Further, recovering the cost of the Commissioner's functions from industry could lead to perceptions of a lack independence.

4.4.2.1 COST RECOVERY MODELS

There are different cost recovery models, which would allow the Government to recover the cost of the Commissioner's functions from industry.

Full or partial cost recovery or cross subsidisation

Organisations may recover all or part of the cost of providing a service. The Australian Government Cost Recovery Guidelines state that the full cost of providing the service should be recovered unless:

charges are being 'phased in', full cost recovery would be inconsistent with community service obligations endorsed by the Australian Government, [or] the Australian Government has made an explicit policy decision to charge [only] for part of the costs of an activity (Department of Finance 2014 p 6).

Cross-subsidisation occurs where the charge imposed by an organisation on a specific group for a specific service also funds other services provided by that organisation. This should be avoided as it can reduce the equity improvements achieved through cost recovery.

In the case of the National Wind Farm Commissioner, the cost of resolving a complaint could be attributed to the wind farm developer or operator who is the subject of the complaint. However, it would be difficult to recover the cost of information provision as this has the potential to benefit a large, dispersed group of stakeholders.

4.4.2.2 FEES-FOR-SERVICE OR LEVIES

Cost recovery charges can take the form of fees-for-service or, where it is not possible to link the charge directly to provision of the service, levies imposed on a specific industry. Fees are preferable as they provide a greater pricing signal and more efficient outcome (Productivity Commission 2001).

In the case of the Office of the National Wind Farm Commissioner, it is likely that if it is to apply to all wind farm developments, a levy or charge would need to be given effect through legislation.

Stakeholder views as to the Commissioner's source of funding varied with most wind farm developers suggesting that the funding source remain as is because Australian Government funding avoids any conflict of interest claim if the industry is involved and 'Additional costs on energy generation projects will potentially contribute to higher costs in the wholesale energy market' (AGL Energy Ltd's submission on this review p 6).

The Authority notes however that independence does not appear to be an issue for other industry-funded ombudsmen, such as the energy ombudsmen, so long as there is a governance structure in place for ensuring the ombudsman operates at arms-length from industry.

Some individuals who made a complaint and other stakeholders including the National Health and Medical Research Council, Southern Grampians Landscape Guardians and community organisations stated in their submissions on this review that industry should fund the Office of the National Wind Farm Commissioner because industry is the key beneficiary of the role.

The Authority considered the Department of Finance's cost recovery principles and requirements (Box 4) when analysing the advantages and disadvantages of cost recovering the National Wind Farm Commissioner's functions.

BOX 4: COST RECOVERY PRINCIPLES AND REQUIREMENTS

Cost recovery principles

Efficiency and effectiveness: Available resources should be put to their best use to achieve government policy outcomes. The cost of administering cost recovery should be proportional to the charges for and potential revenue from the activity.

Transparency and accountability: Key information about the cost recovery, such as the cost recovery model and legislation, should be accessible to the stakeholders from whom the cost is recovered. Appropriate governance structures should be in place.

Stakeholder engagement: Well-planned and meaningful stakeholder engagement should occur throughout all stages of the cost recovery process.

Australian Government cost recovery requirements for the Australian Government

Implementing cost recovery requires:

- obtaining Australian Government policy approval
- a statutory basis underpinned by specific legislation
- ensuring revenue collected reflects the costs of the activity
- preparing a cost recovery implementation statement and ongoing financial statements
- participating in portfolio charging reviews at least every five years.

Source: Department of Finance 2014

One of the cost recovery principles is 'whether it is efficient to cost recover the activity' (Department of Finance 2014 p 6) (i.e. are the costs of administering cost recovery less than the costs recovered). The costs of administering cost recovery include establishing the framework, enforcing the framework and accounting requirements.

The Authority is of the view that given the Commissioner's relatively low operating costs (Section 4.4.1), the cost of administering cost recovery would be high when compared with the amount of costs recovered. For example, resources would be required to develop a model for costing the Commissioner's functions and reflecting them in the charges imposed. The cost recovery framework and the Commissioner's role would need to be established in legislation and could be difficult to secure. Further, there would need to be a system in place to account for and manage the revenue received (Box 4). This view was supported by Meridian Energy Australia Pty Ltd and the Clean Energy Council in their submissions on this review. The Clean Energy Council said:

It is our view that the size of the administrative task of recovering the costs from either energy consumers or industry would be disproportionately large for the relatively small amount of money in question (p 3).

In light of the Department of Finance's cost recovery principles and requirements and stakeholder concerns about perceptions of independence, the Authority is of the view that it is not efficient to cost recover the Commissioner's activities at this time.

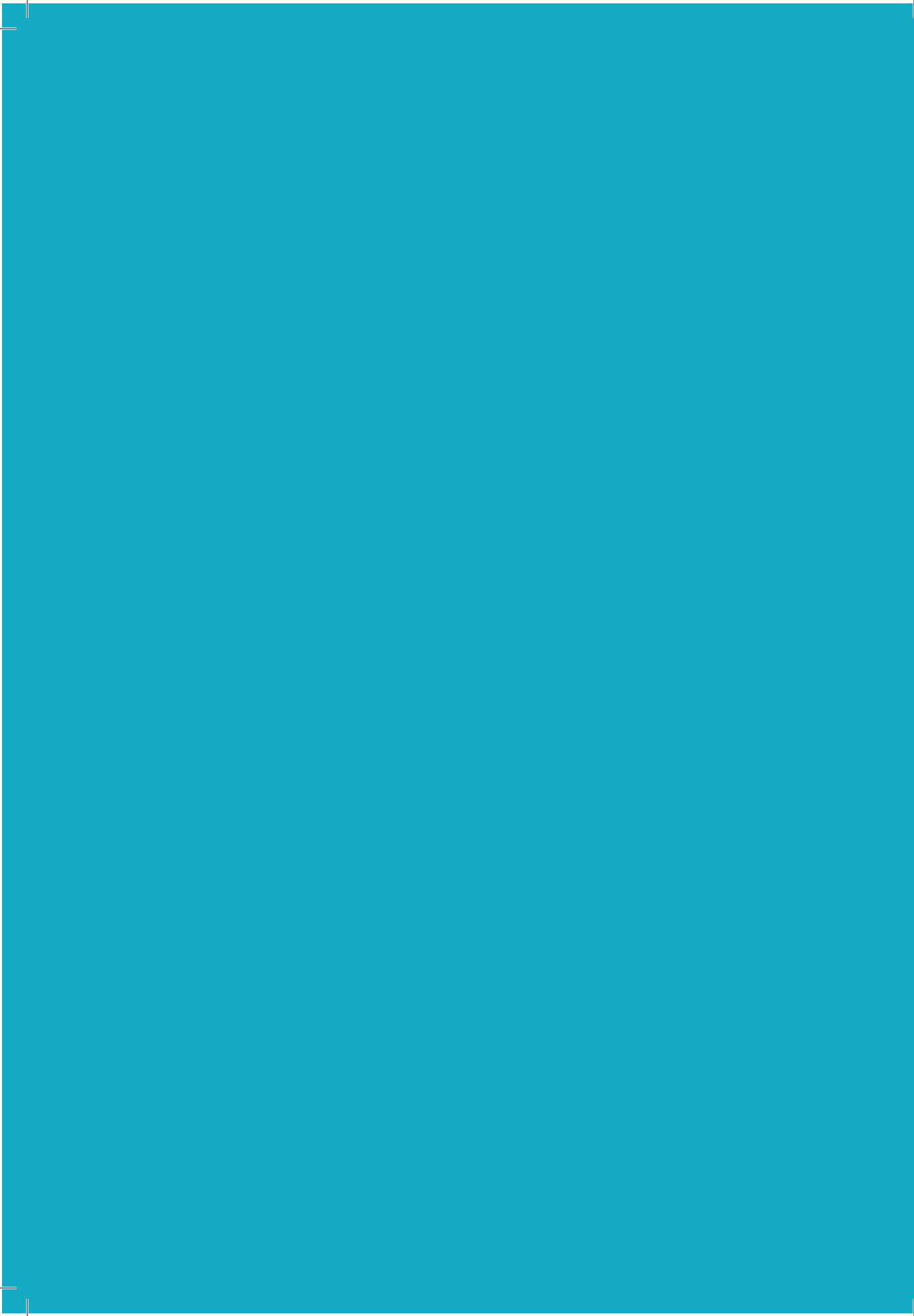
RECOMMENDATION

- R. 11** The National Wind Farm Commissioner's role should continue to be funded by the Australian Government and re-evaluated in 2021.

4.5 PRINCIPLES FOR ONGOING ROLE

Government guidance on complaints handling emphasises the importance of the person in the role having the attributes that can help to elicit an effective resolution to complaints (The Treasury 2015). In addition to acting in a professional manner, these attributes include respect, courtesy, discretion and empathy (Australian/New Zealand Standard 2014). Further, for the role of the Commissioner, the willingness and ability to be visible, independent, and to build and sustain good working relationships across a range of vastly different stakeholders is very important. Such a person needs to be comfortable in dealing with complaints. The need to have the right person in the Commissioner's role should be a key consideration in any future appointments to the role.

The Authority encourages the Government to consider the need to maintain the role for the next three years with the goal of it continuing to be filled by a suitably qualified person during that time. As such, the Authority considers that succession planning for the Commissioner's role is an important priority for the Government.



5

CONCLUSION

The Authority found, in general, the National Wind Farm Commissioner has exceeded expectations in dealing with community concerns about wind farms.

In the Authority's consultation on this review, a significant number of stakeholders from government, the wind industry and local communities said their interactions with the Commissioner had been positive, and a number of individuals commented favourably on the Commissioner's constructive approach to addressing problems they had raised.

Some in the wind industry commented that having another point of escalation (beyond their own complaints handling process) was very helpful while other industry players said they had adopted the Commissioner's recommendations for complaints handling and community engagement.

A number of government representatives also reflected positively to the Authority on the contribution the Commissioner had made to government approaches for community engagement and complaints handling on wind farms. The Authority found however that the role of the Commissioner appears better known in Victoria (where the Office is based). This is possibly because at the time the Office was established, there were a number of controversial wind farms in Victoria. The Authority recommends the Commissioner explore ways to improve broader community awareness of the complaints handling role.

The level of community concern and media attention on wind farm development seems to have diminished significantly since late 2015 when the Commissioner took up the role. While this reduction in public concern could be due to a range of factors, the Authority is of the view that the Commissioner made a significant contribution to calming the troubled waters associated with wind farm development and operation by handling complaints effectively and developing sound best practice recommendations.

Some industry stakeholders pointed to the different approaches to wind farm development approval in the different states as an obstacle to consistent community engagement. The Authority recommends therefore that the Office of the Commissioner lead a voluntary effort with the states and territories (including broader consultation) to develop harmonised guidance for wind farms on complaints handling, community consultation and key issues for development approval such as noise.

The Authority recognises that not everyone is satisfied with the role the Commissioner plays. A number of stakeholders expressed their views on the Commissioner in strong terms because he did not resolve their complaints. Some stakeholders (often with concerns about noise or health issues) want the Commissioner to have the power to overturn development conditions for wind farms that are already approved. The Authority notes, in general, the power to approve wind farms rests with state or local governments (in some circumstances, Australian Government approval is required). There would be significant legal and constitutional challenges in attempting to provide the Commissioner with such powers.

In any case, the Authority is of the view that it is partly the Commissioner's lack of power to compel anyone to accept his suggestions that allows the Office to be effective. This is because when the outcome of a conciliation process is voluntary, people can come to the table to discuss concerns about wind farms and possible solutions in an open, exploratory fashion.

The Authority found however that some stakeholders affected by wind farms feel at a disadvantage when meeting with industry representatives. Some individuals want to bring a support person to conciliation meetings and know in advance who else will be attending. The Commissioner's guide to conciliation meetings¹¹ advises that, after consultation with those taking part in the conciliation, the Commissioner will advise participants where the meeting will take place and who will be attending. Support people as well as industry representatives can participate in the conciliation meetings following this consultation process. The Authority recommends the Commissioner also include this advice in the Office's complaints handling policy to further clarify how support people can attend conciliation meetings.

The Authority also found that it would assist the transparency of the Commissioner's complaints handling if the Office advises people when their complaint has been closed, and the reason for closure. The Commissioner should advise stakeholders the Office can re-open their complaint if material new information becomes available. The Commissioner should further advise stakeholders they can seek a review of the Commissioner's handling of their complaint through the Commonwealth Ombudsman. The Authority also notes the value of feedback for continuous improvement and recommends that the Commissioner also include in the complaints handling policy how stakeholders can provide feedback to the Office.

The Authority found that the best practice guidance contained in the Commissioner's annual reports to the Australian Parliament is generally well regarded by stakeholders. To further enhance the Commissioner's public reporting, the Authority recommends the Office place a summary document of the Commissioner's best practice recommendations prominently on its website. In addition, the Authority recommends that the Office develop key performance indicators to indicate timeframes associated with its complaints handling process, noting that more complex cases will require more time and resources to resolve.

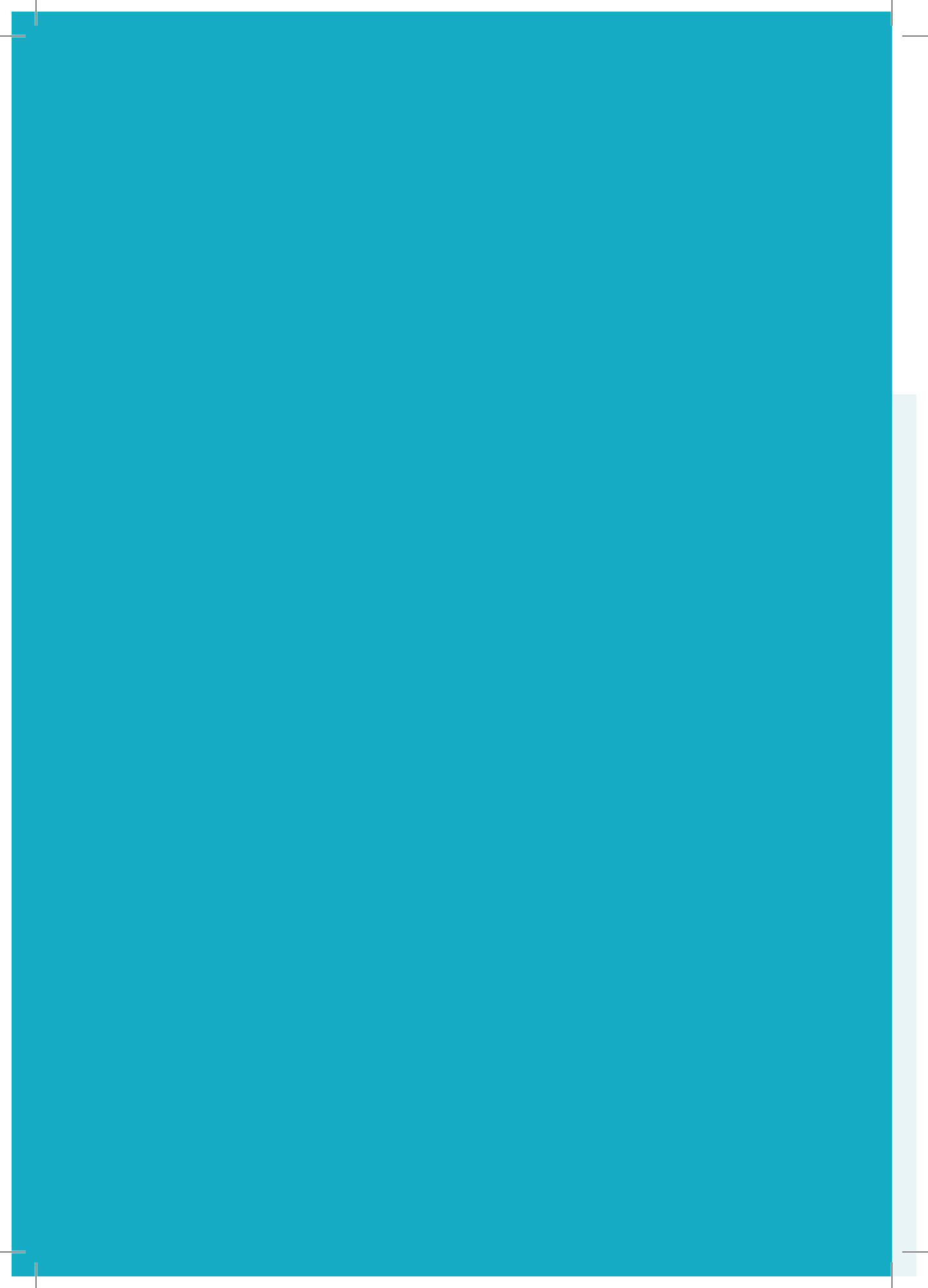
In this review the Authority was asked to consider whether the Commissioner's role should continue, whether it should be expanded beyond wind farms to large scale solar and storage and if it continues, how the Office of the Commissioner should be funded. The Authority found that new development associated with the Commonwealth's Renewable Energy Target is likely to be significant over the next few years and large scale solar and battery as well as further wind farm development will occur, often together. There is evidence that large scale solar and batteries can raise similar concerns to wind farms for some local communities. Expanding the Commissioner's scope to large scale solar and storage such as large scale batteries could allow lessons learnt from the wind industry to be applied to these other forms of development, enhancing the effectiveness of the role.

The Authority recommends therefore that the Office of the Commissioner continue for another three years before being reviewed again and that its scope be extended to cover large scale solar and storage such as large scale batteries.

11 www.nwfc.gov.au/publications/guide-conciliation-meetings

The Authority explored other funding options for the Commissioner (including cost recovery from the wind industry) noting that the costs associated with the office are relatively low – even with a modest increase to cover its recommended broader scope to large scale solar and storage such as large scale batteries. The Authority found that the case for other funding models is not compelling. A mandatory levy on industry would require legislation (which could be challenging to achieve) and could risk perceptions of a lack of independence from the wind industry. On balance, the Authority found that the Government should continue to fund the Commissioner and review funding arrangements again in 2021.

In summary, the Authority found that the Commissioner is playing a valuable role in assisting interested players work through issues related to wind farm development and operation, and is well placed to help manage Australia's transition to other forms of lower emissions electricity generation over the next few years.



TERMS OF REFERENCE FOR THIS REVIEW



COMMONWEALTH OF AUSTRALIA

SPECIAL REVIEW BY THE CLIMATE CHANGE AUTHORITY

By this written instrument I, Josh Frydenberg, Minister for the Environment and Energy, request that the Climate Change Authority conducts a review under section 59 of the *Climate Change Authority Act 2011* of the role of the National Wind Farm Commissioner.

The review must consider the following questions:

- To what extent is the role of National Wind Farm Commissioner fulfilling the terms of reference (attached), including:
 - working collaboratively with all levels of government, scientists, industry and the community to resolve complaints from communities about proposed and operational wind farms;
 - referring complaints about wind farms to relevant state authorities and help ensure that they are properly addressed;
 - leading efforts to promote best practices, information availability, and provide a central, trusted source for dissemination of information?
- Should the role of the National Wind Farm Commissioner continue beyond the initial period of three years?
- Should the scope of the National Wind Farm Commissioner's role be expanded to other large scale renewable energy projects, such as solar and storage?
- What options are available to fund any ongoing role for the Wind Farm Commissioner?

The Review must include stakeholder consultation.

Timing

The Authority is to produce a final report by 31 May 2018.

Dated

6/3/

2018

THE NATIONAL WIND FARM COMMISSIONER'S TERMS OF REFERENCE



The negotiated settlement of the Renewable Energy Target in mid 2015 is expected to lead to increased construction of wind turbines in the next five years.

The Senate Select Committee on Wind Turbines, held during 2015, identified many issues of concern relating to the standards, monitoring and operation of wind farms.

The Government responded positively to the recommendations of the Committee's Interim Report, including creation of the role of a National Wind Farm Commissioner.

The Commissioner will work collaboratively with all levels of government, scientists, industry and the community to resolve complaints from communities about proposed and operational wind farms.

The Commissioner will refer complaints about wind farms to relevant state authorities and help ensure that they are properly addressed.

The Commissioner will work with stakeholders to identify needs and priorities for monitoring wind farms.

The Commissioner will lead efforts to promote best practices, information availability, and provide a central, trusted source for dissemination of information.

The Commissioner, supported by the Australian Government Department of the Environment, will report to the Minister for the Environment and provide an Annual Report to the Australian Parliament on delivering against these Terms of Reference.

The work of the Commissioner will not duplicate or override the important statutory responsibilities of other jurisdictions, such as those relating to the planning and approval of wind farms.

The Commissioner is to draw on the work of the Independent Scientific Committee on Wind Turbines.

The role of the National Wind Farm Commissioner will be established for an initial period of three years and will be reviewed by the Australian Government.



PUBLIC CONSULTATIONS

The Authority conducts public consultations on all its reviews.

Throughout this review, the Authority consulted with a wide range of individuals and organisations including industry and community representatives and Commonwealth, state and territory and local government organisations.

On 16 March 2018, the Authority released the terms of reference for the review and invited submissions. The Authority received 66 stakeholder submissions, 14 of which are confidential. Most non-confidential submissions are available on the Authority's website at www.climatechangeauthority.gov.au/submissions/submissions-received#apr2018.

While the Authority values public consultation highly and seeks to be transparent, it is under no obligation to publish submissions it receives and reserves the right not to publish submissions on its website that raise legal or other concerns.

The Authority thanks all those that provided submissions or engaged with the Authority on this work.

SUMMARY OF THE NATIONAL WIND FARM COMMISSIONER'S ANNUAL REPORT RECOMMENDATIONS



In summary, the 2016 annual report recommendations (NWFC 2017) include:¹²

- **Host landowner negotiations:** Developers should manage landowners' expectations for hosting wind turbines and associated payments and consider negotiating with all potential host landowners together as a group. Landowner agreements should be fair and reasonable and cover payments, responsibility for decommissioning activities, insurance premiums, rates, road or transmission line access and taxes.
- **Neighbour consultation and agreements:** Wind farm developers should implement an effective consultation program with all neighbours. Authorities should require evidence of neighbour consultation as part of approval criteria. Neighbour agreements should be fair and reasonable. Developers should also propose effective solutions to reduce noise and loss of visual amenity such as screens.
- **Community engagement:** Community engagement should commence early and include a transparent complaints and enquiry process. Wind farm developers should establish an effective community consultative committee, community engagement fund and a system and register of complaints and enquiries. Developers should consult extensively on the proposed construction plan. Local councils should proactively engage with the project and community. Authorities should require evidence of community consultation when considering imposing conditions on the project. Industry members should promote effective community engagement.
- **Length and renewal of planning permits:** Approvals of permit renewals should be subject to approvals for any material changes to a wind farm's design and be based on the current guidelines, standards and permit conditions. Evidence of community engagement should accompany the renewal application. Re-approval of permits should be considered when there is a change of ownership of the wind farm. The maximum period between the approval of the initial planning permit and completion of construction should be no greater than seven and a half years. Affected landowners should be required to disclose a proposed wind farm to potential purchasers.
- **Governance and compliance of standards and permit conditions:** State governments should review the best practice alignment of their arrangements for setting and enforcing compliance with environmental standards. Planning permits or licenses should clearly state the process for handling alleged breaches. Non-compliant facilities should be subject to a suspension of renewable energy certificates by the Clean Energy Regulator and a requirement to cease operation. Governments should consider implementing a consistent standard across all jurisdictions for noise limits, set-back distances and shadow flicker, which should also cover electrical infrastructure and back-up generators.

¹² For the actual wording of the recommendations go to www.nwfc.gov.au.

- **Selection and use of experts:** Experts used for compliance assessment should be selected from an approved panel. The expert engaged for a post-construction assessment should be different from the expert involved in planning. Expert reports should be independently audited. This aims to minimise errors and maximise transparency in the design and approval of wind farms and manage any perceived or real conflicts of interest between the developer and the expert.
- **Wind farm complaints handling and emergency procedures:** Permit conditions should stipulate minimum standards for complaints handling procedures, including publishing the procedure and a complaints register on the wind farm developer's website. State and local government regulators should monitor the developer's compliance with the procedures. The Clean Energy Council could develop and promote best practice standards for complaints handling, community engagement and agreements.¹³ The wind farm operator should work with the relevant firefighting agency to develop appropriate controls, protocols and procedures for emergency situations.
- **Site selection:** Governments should consider assessing proposed wind energy projects on a wider range of criteria including the suitability of a location from a community impact perspective, the degree of community support and benefits for regional and industry development. Prospecting for new wind farm development sites could be subject to an 'approval to prospect' requirement. Once a wind farm has commenced construction, authorities should review other proposed wind farm projects in the area for any compounding effects on residents. State governments should publish a map of all operating and proposed wind farms and take into account connection to wind farms when planning transmission infrastructure.
- **Health matters:** Governments should continue to assess the outcomes of research into wind farms and health. Residents near an operating or proposed wind farm that are experiencing health conditions should seek medical advice and those who are experiencing unacceptable noise levels should report such incidents. Medical practitioners should report any causal links identified between health conditions and wind farm proximity.

In summary, the recommendations added in 2017 (NWFC 2018a) include:¹⁴

- **Host landowner negotiations:** Councils and state jurisdictions should examine their processes for valuing properties that host wind farm turbines for the purpose of calculating land taxes, council rates and emergency services levies. The proposed wind farm's construction plan and design should respect the landowner's need to continue agricultural activities. State governments should consider licensing developers that intend to prospect wind farms. Developers should consider developing a standard landowner agreement.
- **Neighbour consultation and agreements:** Wind farm developers should find out the neighbour's history of involvement with the project to determine if they were previously identified as potential host landowners. Neighbours should be represented in community consultative committees.
- **Community engagement:** Developers should ensure that all contractors and other project stakeholders are aware of their responsibility to be involved in community engagement and minimise community impacts. Developers should also be aware of the potential cumulative community impacts of multiple construction projects occurring in a region.

¹³ The Clean Energy Council published its Community Engagement Guidelines for the Australian Wind Industry in 2013 (CEC 2013). In March 2018, the Council released a research report titled 'Enhancing Positive Social Outcomes from Wind Farm Development', which makes recommendations for improving social outcomes from wind farm development (Hicks et al. 2018). The Commissioner acted as formal advisor to the project.

¹⁴ For the actual wording of the recommendations go to www.nwfc.gov.au.

- **Planning permits – time limits and scope changes:** A wind farm planning permit should only be renewed for one further term as a maximum.¹⁵ Neighbours to wind farm projects should be allowed to submit development plans for new development. However, where the proposed development is within the minimum set-back distance, the proposal should be referred to the wind farm developer for consultation. Electrical infrastructure related to the wind farm should require an appropriate planning permit.
- **Governance and compliance of standards and permit conditions:** The organisation responsible for setting and maintaining environmental standards should be independent of the organisation regulating compliance with the standards. Appropriate resources should be provided to local governments responsible for compliance. Consideration should be given to set-back distances between a wind farm and town or city boundaries to ensure amenity is preserved and there is flexibility for the town or city to grow in the future.
- **Use and selection of experts:** Planning approval processes should take into account the advice of auditors and referral agencies.
- **Wind farm complaints handling and emergency procedures:** Policies and procedures for handling wind farm noise complaints lodged with councils should be in place where the possibility exists for noise complaints to be made under state legislation.
- **Health matters:** General practitioners receiving patients from wind farm locations should maintain an awareness of wind farm and health matters and assist patients in understanding the need for appropriate testing, diagnosis and remedies for the health conditions or concerns presented.

15 A wind farm planning permit's term is typically around five years.

OVERVIEW OF THE COSTS AND BENEFITS OF THE AUTHORITY'S RECOMMENDATIONS



The Climate Change Authority Act 2011 (Cth) requires the Authority to analyse the costs and benefits of any recommendations from this review. The Authority is also required to have regard to the principles set out in the Act when performing its functions. These include that measures to respond to climate change should be economically efficient, environmentally effective, equitable, in the public interest, support the development of an effective global response to climate change, be consistent with Australia's foreign policy and trade objectives, and take account of the impact on households, businesses, workers and communities. Table 6 presents a summary of the recommendations' outcomes against the relevant criteria. Further analyses of the costs and benefits of the recommendations are made throughout the report.

TABLE 6: ANALYSING THE RECOMMENDATIONS' OUTCOMES

RECOMMENDATION	ECONOMIC EFFICIENCY	
	COSTS	BENEFITS
R.1 Include advice on meeting participation in the Office's complaints handling policy to further clarify how support people and industry representatives can attend conciliation meetings after consultation with those participating	Small increase in administrative cost for Office of the Commissioner	Enhances transparency of the process
R.2 Engage with state and local governments to improve community awareness of the complaints handling role	Increases administrative costs for Office of the Commissioner	Enhances accessibility and encourages greater use of the available services
R.3 Inform people when and why their complaint is closed and advise them the complaint can be re-opened if material new information becomes available and that the Commissioner's handling of their complaint can be reviewed by the Commonwealth Ombudsman	Small increase in administrative costs for Office of the Commissioner	Enhances transparency of the process
R.4 Develop key performance indicators for the timeliness of handling complaints and publish performance against these indicators	Small increase in administrative costs for Office of the Commissioner	Enhances transparency of the process and provides increased information about the effectiveness of the Office
R.5 Include in the complaints handling policy how stakeholders can provide feedback	Small increase in administrative costs for Office of the Commissioner	May lead to improvements in complaints handling process
R.6 Give the best practice recommendations for wind farms greater prominence through a summary document on the Office's website	Small increase in administrative cost for the Office of the Commissioner	Enhances accessibility of best practice recommendations for modest outlay of resources
R.7 Continue the National Wind Farm Commissioner's role until 2021 and then re-evaluate the ongoing need for the role	Ongoing cost for Australian Government	Continues to resolve complaints and promote best practices

ENVIRONMENTAL EFFECTIVENESS	EQUITY	IMPLEMENTATION RESPONSIBILITY
NA	Could allow individuals to engage on a more equal footing with the wind industry, who may have a number of representatives at a meeting with the Commissioner	The Office of the National Wind Farm Commissioner
Supports the development of best practice renewable energy projects assisting uptake of renewables in line with emissions reduction policies	Increases awareness of the Commissioner's services across jurisdictions	The Office of the National Wind Farm Commissioner
NA	Stakeholders have increased information	The Office of the National Wind Farm Commissioner
NA	Stakeholders have increased information about the effectiveness of the Office	The Office of the National Wind Farm Commissioner
NA	Enhances transparency	The Office of the National Wind Farm Commissioner
Supports development of best practice wind farms assisting uptake of renewables in line with emissions reduction policies	NA	The Office of the National Wind Farm Commissioner
Supports the development of best practice wind farms assisting uptake of renewables in line with emissions reduction policies	Helps to address community concerns resulting from wind farm developments by providing free access to complaints handling services	Australian Government

RECOMMENDATION		ECONOMIC EFFICIENCY	
		COSTS	BENEFITS
R.8	Expand the Commissioner's scope to large scale solar and storage such as large scale batteries	Increases costs for Australian Government	Addresses emerging community concerns at relatively low cost by building on existing processes and outcomes for wind farms
R.9	Lead work with the states and territories to develop voluntary harmonised guidelines for community consultation, complaints handling and standards	Increases costs for the Office of the Commissioner	Streamlines approval, community consultation and complaints handling processes for renewables development, which reduces costs for business
R.10	Consider the need for a modest increase in resourcing	Increases costs for Australian Government	Addresses emerging community concerns at relatively low cost by building on existing processes and outcomes for wind farms
R.11	Australian Government continue to fund the Commissioner's role until 2021 and then re-evaluate funding model	Increases costs for Australian Government	No additional costs to Australian Government associated with legislation development and implementation or administering industry funding

ENVIRONMENTAL EFFECTIVENESS	EQUITY	IMPLEMENTATION RESPONSIBILITY
Supports the development of best practice large scale solar and storage such as large scale batteries, assisting uptake of renewables in line with emissions reduction and energy policies	Helps to address community concerns resulting from large scale solar and storage developments such as large scale batteries	Australian Government
Supports the development of best practice large scale wind, solar and storage such as batteries assisting uptake of renewables and storage in line with emissions reduction and energy policies	Can improve community outcomes from renewable energy and storage projects	The Office of the National Wind Farm Commissioner
Supports the development of best practice large scale solar and storage such as batteries assisting uptake of renewables and storage in line with emissions reduction and energy policies	Helps to address community concerns about a broader range of renewable energy and storage projects	Australian Government
Supports the development of best practice large scale wind, solar and storage such as batteries assisting uptake of renewables and storage in line with emissions reduction and energy policies	Minimises risk to perceived independence that can arise if funded by industry sources. On the other hand, taxpayers who do not use the services contribute to them. Services remain free to use for individuals and industry	Australian Government

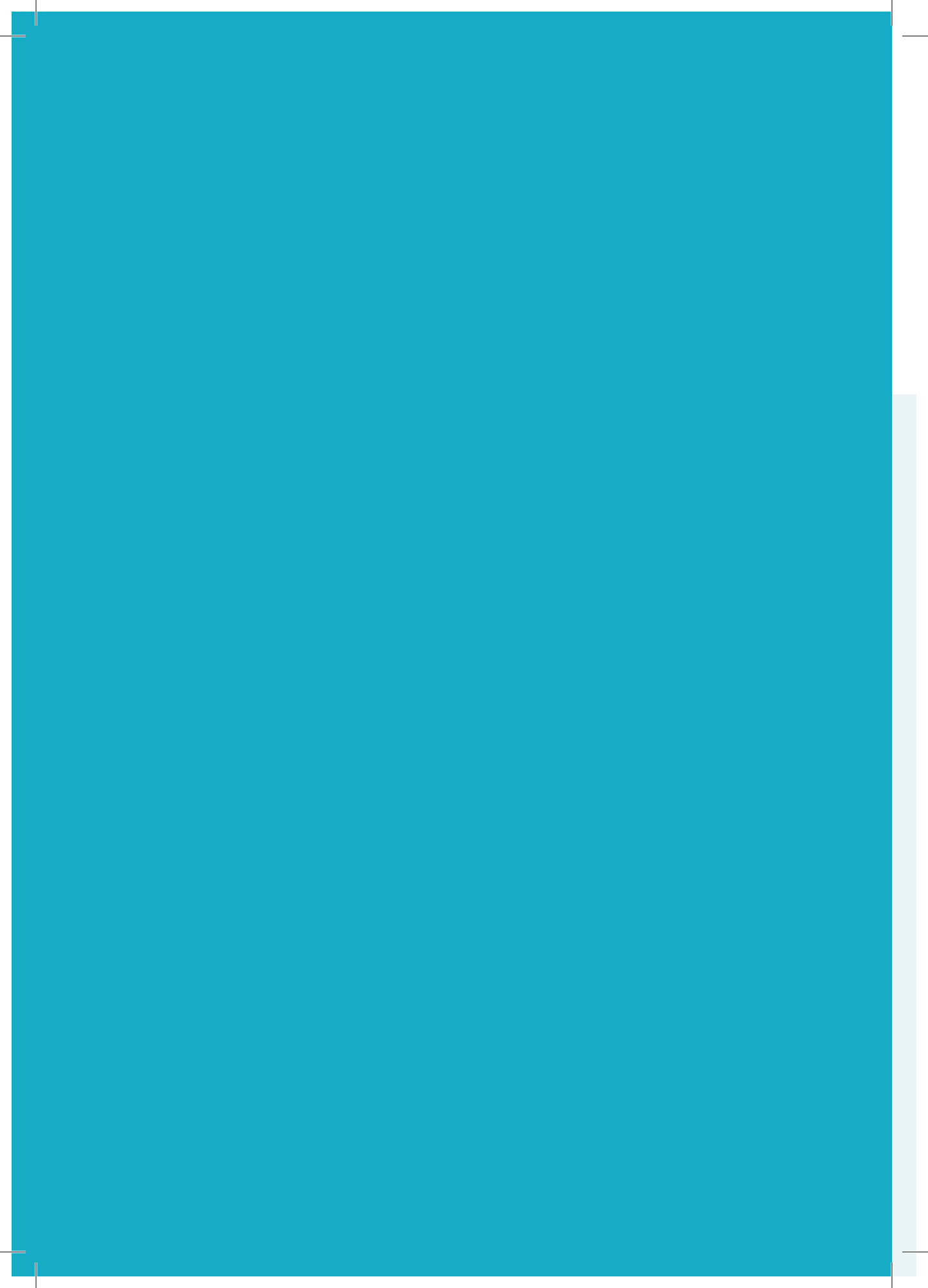
OVERVIEW OF COMMONWEALTH AND STATE OMBUDSMEN'S ROLES



OMBUDSMAN	SCOPE INCLUDES	MAIN FUNCTIONS INCLUDE
COMMONWEALTH (also delivers the role of the ACT Ombudsman)	Australian Government departments and agencies, private education providers with overseas students, postal industry, private health insurance, defence	Investigation, complaints handling, making recommendations, publishing consumer tools and information, providing information on best practice complaints handling, conducting inspections, compliance monitoring, reporting to government or publicly
AUSTRALIAN CAPITAL TERRITORY	ACT Government agencies, policing and tertiary public education providers	Investigation, complaints handling, making recommendations, compliance monitoring, reporting to government or publicly
NEW SOUTH WALES	NSW Government agencies, local government, tertiary public education providers, private agencies delivering public and community services and services to children	Investigation, complaints handling, making recommendations, providing information, advice and training, reviewing service delivery, reporting to government or publicly
VICTORIA	Victorian Government agencies, local government, tertiary public education providers	Investigation, complaints handling, making recommendations, examining systemic problems, compliance monitoring, reporting to government or publicly
QUEENSLAND	Queensland Government agencies, local government, public education providers	Investigation, complaints handling, making recommendations, delivering training and providing advice, reviewing complaints management systems, reporting to government or publicly
SOUTH AUSTRALIA	South Australian Government agencies, local government, tertiary public education providers	Investigation, complaints handling, making recommendations, conducting audits of government agencies, reporting to government or publicly

WESTERN AUSTRALIA	Western Australian Government agencies, local government, public education providers, police	Investigation, complaints handling, making recommendations, compliance monitoring, conducting inspections, delivering training and providing guidance, encouraging best practice and leadership in public authorities, reporting to government or publicly
NORTHERN TERRITORY	Northern Territory Government agencies, local government, public education providers, police	Investigation, complaints handling, making recommendations, publishing best practice guidance, reporting to government or publicly
TASMANIA	Tasmanian Government agencies, local government, tertiary public education providers, police	Investigation, complaints handling, making recommendations, reporting to government or publicly

Sources: ACT Ombudsman 2017; Commonwealth Ombudsman 2017; Ombudsman New South Wales n.d.; Ombudsman NT n.d.; OmbudsmanSA 2018; Ombudsman Tasmania 2018; Ombudsman Western Australia n.d.; Queensland Ombudsman 2018; Victorian Ombudsman 2018



GLOSSARY OF TERMS

Community engagement	The consultative process of wind farm developers supporting the participation of community members in the development process.
Contracts for difference	A long-term contract between an electricity generator and the government, which enables the generator to stabilise its revenue at a pre-agreed price for the duration of the contract.
Economic loss	The potential negative impact that a proposed or developed wind farm may have on a particular community or individuals within a community. This is typically the loss or perceived loss of property values or business within proximity to a proposed or operating wind farm.
Generation	The amount of electrical energy produced or used over a period of time, typically measured in gigawatt hours (GWh) or megawatt hours (MWh).
Levelised cost of electricity (LCOE)	A key comparative cost across technologies that is expressed in Australian dollars per megawatt hour of electricity generation (\$/MWh). The LCOE is the price at which electricity must be generated from a specific plant to break even, taking into account the costs incurred over the life of the plant (capital cost, cost of capital/financing, operations and maintenance costs, cost of fuel). LCOE is equivalent to a long-run marginal cost of electricity generation.
Ombudsman	A body that is responsible for the independent resolution, redress and prevention of disputes and complies with fundamental principles and criteria.
Planning process	A local, state or Australian Government process to determine whether a proposed project will be approved.
Power purchase agreement	A long-term contract under which a business agrees to purchase electricity directly from an energy generator.
Reverse auction	In a reverse auction, the sellers compete to win the auction and prices will typically decrease as the sellers underbid each other.
Shadow flicker	The shadow cast by the sun over the rotating blades of a wind turbine that results in a rotating shadow.
Vibration	An effect of the infrasound (frequencies below the lower limit of human audibility) that is produced by turbines.

Source: Terms used to describe complaint issues use the definition in the National Wind Farm Commissioner's Annual Report 2017 (NWFC 2018a).

ABBREVIATIONS AND ACRONYMS

ARENA	Australian Renewable Energy Agency
CEFC	Clean Energy Finance Corporation
CER	Clean Energy Regulator
Commissioner	National Wind Farm Commissioner
DELWP	Victorian Government Department of Environment, Land, Water and Planning
GW	Gigawatts
GWh	Gigawatt hours
LCOE	Levelised cost of electricity
MW	Megawatts
MWh	Megawatt hours
NEM	National Electricity Market
NWFC	National Wind Farm Commissioner
Office	Office of the National Wind Farm Commissioner
Office of the Commissioner	Office of the National Wind Farm Commissioner
PPA	Power purchase agreement
RET	Commonwealth Renewable Energy Target

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