



Australian Government  
Department of Industry, Science,  
Energy and Resources

Anti-Dumping  
Commission

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## **Consideration report number: 554**

Application for a dumping duty notice

Submitted by: LCM General Products Pty Ltd

In relation to concrete underlay film exported to Australia  
from Malaysia

30 June 2020

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<b>ABBREVIATIONS</b>
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<b>Abbreviation</b>	<b>Full reference</b>
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i> (Cth)
AUD	Australian dollar
The Commission	The Anti-Dumping Commission
The Commissioner	The Commissioner of the Anti-Dumping Commission
Cromford Film	LCM General Products Pty Ltd trading as Cromford Film (also referred to as 'the applicant')
CTMS	cost to make and sell
FOB	Free on Board
the goods	concrete underlay film
the Minister	the Minister of Industry, Science and Technology
SG&A	selling, general and administration

## 1. FINDINGS AND RECOMMENDATIONS

This report provides the result of the consideration by the Anti-Dumping Commission (the Commission) of an application under subsection 269TB(1)<sup>1</sup> of the *Customs Act 1901* (the Act) by LCM General Products Pty Ltd trading as Cromford Film (Cromford Film; the applicant) for the publication of a dumping duty notice in respect of concrete underlay film imported into Australia from Malaysia.

Cromford Film alleges that the Australian industry for concrete underlay film has suffered material injury caused by concrete underlay film exported to Australia from Malaysia at dumped prices.

The legislative framework that underpins the making of an application and the Commission's consideration of an application is contained in Divisions 1 and 2 of Part XVB of the Act.

### 1.1. Findings

In accordance with subsection 269TC(1), the Commission has examined the application and is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (as set out in section 2.2 of this report);
- there is an Australian industry in respect of like goods (as set out in section 2.4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods, the subject of the application (as set out in sections 3, 4 and 5 of this report).

### 1.2. Recommendations

Based on the above findings, the Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) decide not to reject the application and initiate an investigation to determine whether a dumping notice should be published.

The Commission further recommends that:

- exports to Australia during the investigation period from 1 July 2019 to 30 June 2020 be examined for dumping; and
- details of the Australian market from 1 March 2017 be examined for injury analysis purposes.

If the Commissioner agrees with these recommendations, the Commissioner must give public notice of the decision in accordance with the requirements set out in subsection 269TC(4).

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<sup>1</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

## 2. THE APPLICATION AND THE AUSTRALIAN INDUSTRY

### 2.1. Lodgement of the application

#### 2.1.1. Legislative framework

The procedures for lodging an application are set out in section 269TB.

The procedures and timeframes for the Commissioner's consideration of the application are set out in section 269TC.

#### 2.1.2. The Commissioner's timeframe

Event	Date	Details
Application lodged & received by the Commissioner under subsections 269TB(1) and (5)	25 May 2020	The Commission received an application from Cromford Film which alleges that the Australian industry has suffered material injury caused by concrete underlay film imported into Australia from Malaysia at dumped prices.
	4 June 2020	The Commission notified Cromford Film that the application contained critical and important deficiencies which, if left unaddressed, may diminish the reasonableness of the grounds for the publication of a dumping duty notice.
Applicant provided further information in support of the application under subsection 269TC(2A)	4 June 2020 and 10 June 2020	Cromford Film provided further information in support of its application without having been requested to do so (as provided in section 269TC(2A)). This provision of further information restarted the 20 day period for consideration of the application, and the application was taken to have been lodged and received from the last date the further information was provided.
Consideration decision due under section 269TC(1)	30 June 2020	The Commissioner shall decide whether to reject or not reject the application within 20 days after the applicant provided further information.

**Table 1: Timeframe for Commissioner's decision**

### 2.2. Compliance with subsection 269TB(4)

#### 2.2.1. Finding

Based on the information submitted by the applicant, the Commission considers that the application complies with subsection 269TB(4).

#### 2.2.2. Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that the application complies with subsection 269TB(4).

#### 2.2.3. The Commission's assessment

The table below summarises the Commission's assessment of compliance with subsection 269TB(4).

PUBLIC RECORD

Requirement for the application	Details
Lodged in writing under subsection 269TB(4)(a)	The applicant lodged in writing confidential and non-confidential versions of the application. The non-confidential version of the application can be found on the electronic public record on the Commission's website at: <a href="http://www.adcommission.gov.au">www.adcommission.gov.au</a>
Lodged in an approved form under subsection 269TB(4)(b)	The application is in the approved form (B108) for the purpose of making an application under subsection 269TB(1).
Contains such information as the form requires under subsection 269TB(4)(c)	The applicant provided: <ul style="list-style-type: none"> <li>• a completed declaration;</li> <li>• answers to all questions that were required to be answered by the applicant;</li> <li>• completed all appendices; and</li> <li>• sufficient detail in the non-confidential version of the application to enable a reasonable understanding of the substance of the information submitted in confidence.</li> </ul>
Signed in the manner indicated in the form under subsection 269TB(4)(d)	The application was signed in the manner indicated in Form B108 by a representative of the applicant.
Supported by a sufficient part of the Australian industry under subsection 269TB(4)(e) and determined in accordance with subsection 269TB(6)	<p>The applicant has stated that it is aware of another Australian manufacturer of goods that are similar to the imported goods. However, the volume of products manufactured by this entity is small compared to the applicant's volume of production. The applicant also purchases the goods from the identified entity for re-sale.</p> <p>The Commission identified a number of other entities that may have the capacity to produce concrete underlay film. The Commission has undertaken enquiries with these other potential Australian industry members to determine if they are manufacturers.</p> <p>Based on the information available at this time, the Commission considers that the application is supported by a sufficient part of the Australian industry under subsection 269TB(4)(e) and complies with the requirements of subsections 269(6)(a) and (b).</p>
Lodged in the manner approved under section 269SMS for the purposes subsection 269TB(4)(f)	The application was lodged in a manner approved in the Commissioner's instrument made under section 269SMS, being by email to the Commission's nominated email address provided in that instrument. The application was lodged in a manner approved under subsection 269SMS(2).

**Table 2: Commission's assessment of compliance with subsection 269TB(4)**

### 2.3. The goods the subject of the application

Full description of the goods, as subject of the application
<p><i>Black concrete underlay film (also marketed as builders film), manufactured from either recycled and/or virgin resins, with a thickness ranging between 150-230 microns, and a width from 2-6 metres.</i></p>
Further information
<p>Concrete underlay film is manufactured using recycled and/or virgin polyethylene resins, such as high-density polyethylene (HDPE), low-density polyethylene (LDPE) and linear-low density polyethylene (LLDPE), in no specific percentages, and typically sold in 30-50 metre length rolls. The film is typically branded to comply with Australian Standards, although it is not uncommon for some imported film to be unbranded. These unbranded underlay films still fall within the description of the subject goods.</p> <p>The subject goods are imported and sold as two grades within the Australian market, being high impact (damp proof membrane) and medium impact (vapour barrier), which refers to the different impact strengths of the film. Concrete underlay film complying to Australian Standard (AS/NZS 4347.6) requires a falling dart impact test whereby high impact film is tested using a 340 grams drop dart on body of film and 310 grams on the fold, and medium impact film is tested with 200 grams drop dart on body and 180 grams on the fold.</p> <p>In addition, concrete underlay film is subject to Australian Standard (AS/NZS 4347.9) which outlines the procedure for determining the thickness of polyethylene film as:</p> <p><b>6 PROCEDURE</b> <i>At least one and not more than three strips, 50 mm wide, shall be taken across the width of the roll. The film thickness shall be measured at a minimum of five points and a maximum of 20 points, equally spaced across the strip.</i></p> <p><i>The maximum distance between any two points shall be 300 mm.</i></p> <p><i>The surface of the anvil and the spindle head, and of the specimen, shall be clean and dry.</i></p> <p><i>The specimen shall be placed on the anvil and the spindle head slowly lowered on to it.</i></p> <p><i>The measurements shall be averaged to obtain the thickness of the test specimen.</i></p> <p>Concrete underlay film is required to be sold as complying to Australian Standard (AS 2870). The standard provides as follows:</p> <p><b>5.3.3.3 Properties</b></p> <p><i>Properties specified for vapour barriers and damp-proofing membranes shall be determined by the following methods:</i></p> <p>(a) <i>Film thickness 0.2 mm – shall be determined using the method of test outlined in AS/NZS 4347.9, except that three tests per metre width of film shall be carried out across the full width of the film, with the resulting mean average thickness to be between 180 µm (microns) and 220 µm (microns) and a maximum of only one measurement to be below 170 µm for a material pass to be recorded.</i></p>

**Table 3: The goods description**

PUBLIC RECORD

The applicant has advised that the goods under consideration are generally classified in the following tariff codes.

<b>Tariff classification (Schedule 3 of the Customs Tariff Act 1995)</b>				
<i>Tariff code</i>	<i>Statistical code</i>	<i>Unit</i>	<i>Description</i>	<i>Duty rate</i>
3920.10.00		KG	Other plates, sheets, film, foil and strip, of plastics, non-cellular, and not reinforced, laminated, supported or similarly combined with other materials.  Of polyethylene  Not exceeding 0.08mm in thickness.	5%
	25	KG	Printed, embossed or otherwise surface worked, except merely polished	
	40	KG	Low density	
	41	KG	Other	

**Table 4: The goods and general tariff classification for the goods**

## **2.4. Like goods and the Australian industry**

### **2.4.1. Finding**

The Commission is satisfied that there is an Australian industry producing like goods to the goods, the subject of the application, on the basis that:

- Cromford Film produces goods that have characteristics that closely resemble the goods the subject of the application; and
- at least one substantial process in the manufacture of these goods is carried out in Australia.

### **2.4.2. Legislative framework**

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

'Like Goods' is a defined term set out in subsection 269T(1) of the Act. Subsections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

### **2.4.3. Locally produced like goods**

The goods subject to this application are limited to black concrete underlay film, although Cromford Film contends that its production of orange concrete underlay film possesses characteristics that also closely resemble the imported black concrete underlay film. Cromford lists five categories of the goods it manufactures, that it considers to be like goods, being:

- High impact black film with a thickness of 200 µm;
- Medium impact black film with a thickness of 200 µm;
- High impact orange film with a thickness of 300 µm;
- High impact orange film with a thickness of 200 µm; and
- Medium impact orange film with a thickness of 200 µm.

In its application, Cromford film applied the Commission's framework to its assessment of orange and black film separately.



PUBLIC RECORD

The table below summarises the Commission’s assessment of whether, based on information available to it at this time, the locally produced goods are identical to, or closely resemble, the goods comprising the subject of the application (i.e. whether the goods are ‘like goods’ as defined by the Act).

<b>Factor</b>	<b>Coloured film</b>	<b>The Applicant’s claims</b>	<b>The Commission’s assessment</b>
Physical likeness	Black	The imported goods and Australian manufactured like goods are both physically the same as they are the same colour, are a comparable thickness and width.	<p>The Commission has examined information in the application and in the websites of the applicant, exporters and importers.</p> <p>The Commission considers that the imported goods and the locally produced black concrete underlay film are physically alike on the basis of similar appearance and attributes such as thickness, width and materials used.</p> <p>Notwithstanding the differences in colour, the Commission considers that the locally produced orange concrete underlay film has physical characteristics closely resembling those of the goods imported, such as thickness, width and materials used.</p> <p>The Commission will continue to make an assessment throughout the course of this investigation about the physical likeness (or otherwise) of black compared with orange underlay film.</p>
	Orange	<p>The Australian manufactured goods are physically the same as the imported goods in terms of comparable thickness and roll widths.</p> <p>The applicant has specified that the different colour, as a result of using slightly different resins, is not an essential characteristic of the product.</p>	
Commercial likeness	Black	<p>The imported goods and like goods are both commercially alike as they are sold in the Australian market to the same customers, via similar distribution channels, in direct competition.</p> <p>Cromford Film states that this is demonstrated by the imported goods and like goods competing directly for existing supply agreements.</p>	<p>The Commission considers, in relation to locally produced black concrete underlay film, like goods are sold to the same or similar customers such as distributors and end users and therefore, compete directly with imported products.</p> <p>The Commission has not made an assessment, at this stage, as to whether the orange concrete underlay film manufactured locally competes in the same market, and is sold to the same or similar customers.</p> <p>The Commission will continue to make an assessment throughout the course of this investigation about the commercial likeness (or otherwise) of black compared with orange underlay film.</p>
	Orange	<p>Orange concrete underlay film is typically marketed in the South Australian market and increasingly in New South Wales. The applicant claims, however, that orange and black film are commercially alike, despite consumer perception that orange film is a superior product to black film.</p> <p>Cromford claim that the only reason imported black film and orange film do not compete directly is due to the preferences of the jurisdictional authorities.</p>	

PUBLIC RECORD

Factor	Coloured film	The Applicant's claims	The Commission's assessment
Functional likeness	Black	<p>The applicant specifies that both its orange and black concrete underlay film and the imported black concrete underlay film are predominantly used for the same end use application, being either a damp-proof membrane or vapour barrier, separating a concrete slab from the ground soil to stop ground moisture penetrating the concrete.</p> <p>The applicant states that there is no difference in the performance or ability to function as required between either of the coloured films.</p>	<p>The Commission is satisfied that the Australian industry manufactures like goods, being both orange and black concrete underlay film, which are used for the same ends and are, therefore, functionally alike to the imported goods.</p> <p>The Commission will continue to make an assessment throughout the course of this investigation about the functional likeness (or otherwise) of black compared with orange underlay film.</p>
	Orange		
Production likeness	Black	<p>The imported goods and like goods are produced in the same manner using a similar manufacturing process involving the mixing of polyethylene resins and extruding of film.</p>	<p>The Commission considers that the production of imported goods and locally produced orange and black concrete underlay film are manufactured using similar processes whereby resins are mixed in various proportions and then put through an extrusion process.</p>
	Orange	<p>The imported goods are produced in a similar manner, using a process involving the mixing of polyethylene resins and the extrusion of film, with the mix of resins being slightly different to produce the orange colour. The addition of the resin to produce an orange colour does not impact the strength or thickness of the film.</p>	
<b>Commission's assessment</b>			
<p>The Commission's assessment is that the locally produced black concrete underlay film is identical to, or closely resembles, the goods the subject of the application and are like goods given these goods have similar physical, commercial, functional and production characteristics.</p> <p>Further, it is the Commission's assessment that the locally produced orange concrete underlay film closely resembles the goods the subject of the application with respect to physical, functional and production process likeness. The Commission notes that, as the investigation progresses, it will make further enquiries as to the extent that participants in the supply chain are willing to switch between orange and black concrete underlay film. This, together with other factors raised by interested parties, may impact on the commercial likeness of the goods that are imported to Australia, and the orange underlay film manufactured by the applicant.</p> <p>For the purposes of the consideration of Cromford Film's application, where possible, the Commission has based its analysis on black concrete underlay film only.</p>			

**Table 5: Like goods assessment**

**2.4.4. Manufacture in Australia**

The table below summarises the Commission's assessment of whether the goods are wholly or partially manufactured in Australia and whether the like goods are therefore considered to have been manufactured in Australia.

<b>The Applicant's claims</b>
Cromford Film claims that the most critical and substantial process in the manufacture of its product is the process of extruding and rolling the film, although notes that some inputs, such as colour, additive master-batch and polyethylene recycled resins, are imported.
<b>The Commission's assessment</b>
Based on the description of the manufacturing process provided by Cromford Film, and the fact that these processes take place at manufacturing facilities in Australia, the Commission is satisfied that like goods are manufactured in Australia, with at least one substantial process in the manufacture of these goods being carried out in Australia.

**Table 6: Manufacture of the goods in Australia**

## 2.5. Australian industry information

The table below summarises the Commission's assessment of whether the applicant has provided sufficient information in the application to analyse the performance of the Australian industry.

<b>Have the relevant appendices to the application been completed?</b>		
A1	Australian production	Yes
A2	Australian market	Yes
A3	Sales turnover	Yes
A4	Domestic sales	Yes
A5	Sales of other production	Yes
A6.1	Cost to make and sell (& profit) – Domestic sales	Yes
A6.2	Cost to make and sell (& profit) – Export sales	Yes
A7	Other injury factors	Yes
<b>General administration and accounting information – Cromford Film</b>		
History	The Martogg Group of Companies acquired Cromford Film in March 2017. Cromford film was established in 1978 and has manufactured a range of polyethylene branded concrete underlays in Pendle Hill, New South Wales since that time.	
Ownership	Cromford Film is a wholly owned privately held company and subsidiary of Enborne Pty Ltd. Enborne Pty Ltd is a wholly owned subsidiary of Ropley Pty Ltd, trustee company for the Martogg Group of Companies.	
Operations	<p>LCM General Products Pty Ltd trading as Cromford Film comprises two divisions Cromford Film and Cromford Recycle.</p> <p>Cromford Film manufactures polyethylene branded concrete underlays from virgin and recycled polyethylene resins. Cromford Film produces a range of polyethylene films that include medium and high impact for branded concrete underlay film, industrial building films including black, orange, natural and handy rolls, agricultural films and dampcourse products.</p> <p>Cromford Recycle was established as an individual business unit to develop resource and recycling recovery.</p>	
Financial year (FY)	1 July to 30 June.	

PUBLIC RECORD

Audited accounts	Cromford Film provided its audited financial statements for the 2018 FY and 2019 FY.	
Annual reports	Cromford Film does not prepare annual reports. Cromford Film, in addition to its audited financial statements, provided management reports for the 2018 FY and the 2019 FY.	
<b>Production and sales information</b>	<b>Cost to make and sell information</b>	<b>Other injury factors</b>
The Commission has no significant concerns in relation to the production and sales information provided by the applicant for the purposes of the application.	The Commission has no significant concerns in respect of the cost information provided by the applicant for the purposes of the application.	The Commission has no significant concerns regarding the data provided in Appendix A7 of the application.
<b>The Commission's assessment</b>		
Based on the information in the application, the Commission is satisfied that there is sufficient data with which to analyse the performance of the Australian industry between 1 March 2016 and 20 February 2020. This information is considered sufficient to examine the reasonableness of the applicant's claims. However, noting the proposed investigation period at section 1.2, the Commission will require that the applicant provide updated data for certain appendices following initiation of the investigation.		

**Table 7: Australian industry information**

**2.5.1. Market size**

Applicant estimation

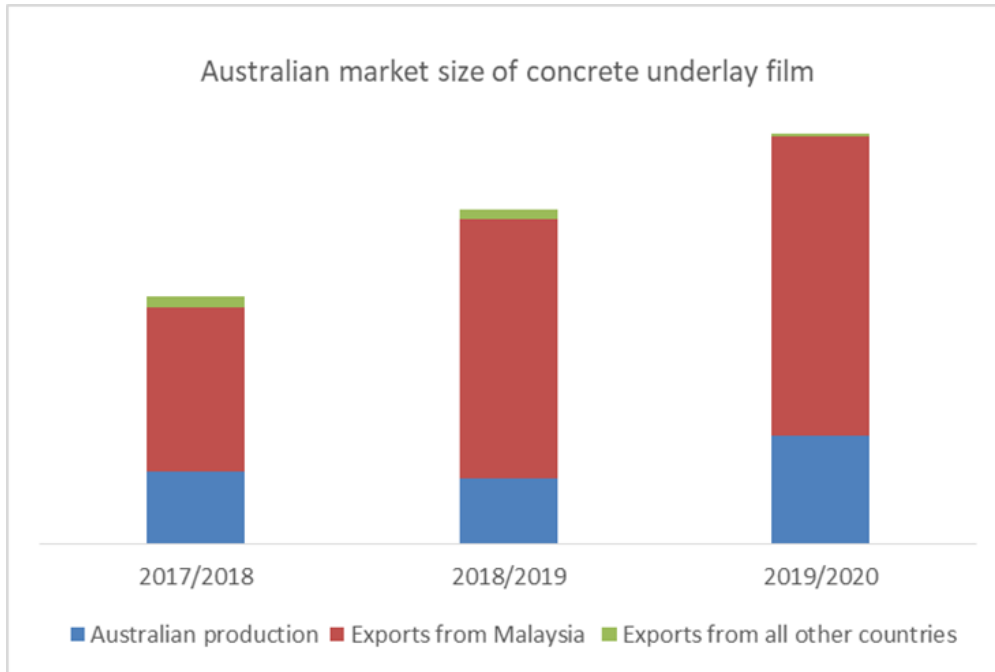
In its application, Cromford Film provided an estimate of the size of Australian concrete underlay film market, based on data available to it on the number of new dwelling starts for the three years 2017, 2018 and 2019 (forecasted). Cromford Film has noted that information contained in the report '*Composition of Australia's Housing*'<sup>2</sup> informed its estimate that approximately 75 per cent of new units would require concrete film underlay.

Commission analysis

The relative size of the Australian market for concrete underlay film is depicted in Figure 1 below, for years ending at the end February.

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<sup>2</sup> <https://hia.com.au/-/media/HIA-Website/Files/IndustryBusiness/Economic/discussion-papers/the-changing-composition-of-australia-new-housing-mix.ashx?la=en&hash=5C6948C6D70E5856F29100D9D55A72301E133C03>



**Figure 1: Estimate of the Australian market size of concrete underlay film**

The Commission has estimated the volume of imports of concrete underlay film into Australia using the following methodology:

- data was obtained from the Australian Border Force (ABF) import database using the relevant tariff code and statistical codes for concrete underlay film listed in section 2.3 of this report;
- the data was filtered using the goods description and background information provided in the application and included variations to material names, advertised product names and descriptions and dimensions. This was used to exclude imports that appear to not be the goods subject to the application;
- the data was filtered to remove outliers, using information from the application and import data to establish a price range estimated to be the Free-on-Board (FOB) export price of the subject goods using Australian dollars (AUD)/kg from 1 AUD to 5 AUD.

The Commission notes that, despite applying the above filters to the data obtained from the ABF import database, there appear to be limitations in the data. This is because there is no information provided for key characteristics including density, width, length and thickness of the concrete underlay film. While in some instances the Commission is able to identify the colours of the goods, this information is not always provided in the description of the imported goods. Upon initiation, the Commission will seek this information from exporters, importers and other interested parties.

The Commission's assessment of the Australian market size for concrete underlay film forms **Confidential Appendix 1**.

### 3. REASONABLE GROUNDS – DUMPING

#### 3.1. Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the claims that:

- the goods have been exported to Australia from Malaysia at dumped prices;
- the estimated dumping margin for exports from Malaysia is greater than 2 per cent and therefore is not negligible; and
- the estimated volume of goods from Malaysia that appear to have been dumped is greater than 3 per cent of the total Australian import volume of goods, and therefore is not negligible.

#### 3.2. Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the Minister for Industry, Science and Technology (the Minister) must be satisfied of, in order to publish a dumping duty notice, is that the export price of goods that have been exported to Australia is less than the normal value of those goods (i.e. that dumping has taken place to an extent that is not negligible). This issue is considered in the following sections.

#### 3.3. Export price

##### 3.3.1. Legislative framework

Export price is determined by applying the requirements in section 269TAB taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA.

##### 3.3.2. The Applicant's estimate

The table below summarises the approach taken by the applicant to estimate export prices and the evidence relied upon.

Country	Basis of estimate	Details
Malaysia	Deductive export price under subsection 269TAB(1)(b)	The applicant has calculated a deductive export price for both high and medium impact concrete underlay film based on price offers from both its customers and suppliers. Cromford Film has made adjustments based on its own experience in regards to container unpacking, import clearance, delivery and shipping costs.

**Table 8: Cromford Film's estimate of the export prices from Malaysia**

##### 3.3.3. The Commission's assessment

The Commission examined the export price calculations and supporting evidence provided by Cromford Film. The Commission considers that Cromford Film's approach to estimating export prices is reasonable, considering the potential limitations of the information available to Cromford Film.

The Commission considered data obtained from the ABF import database, to confirm the accuracy of information provided by Cromford Film. This data was filtered based on the approach outlined at section 2.5.1 above. There is a slight variance between

the export price calculated using the ABF import data and the export prices calculated by the applicant.

In light of the above, the Commission considers the ABF import database to be more reliable basis for the calculation of an export price for Malaysia for the purposes of this report.

The applicant's calculation of export price and the Commission's comparison is provided at **Confidential Appendix 2**.

### 3.4. Normal value

#### 3.4.1. Legislative framework

Normal value is determined by applying the requirements in section 269TAC taking into account whether:

- the purchase or sale of the goods was an arms length transaction under section 269TAA;
- the goods were sold in the ordinary course of trade under section 269TAAD;
- there has been an absence or low volume of sales of like goods in the country of export; and
- whether the situation in the market of the country of export is such that sales in that country are not suitable for determining normal value under subsection 269TAC(1).

#### 3.4.2. The Applicant's estimate

The table below summarises the approach taken by the applicant to estimate normal values and the evidence relied upon.

Country	Basis of estimate	Details
Malaysia	Constructed normal value under s269TAC(2)(c).	<p>Cromford Film claim that there is no domestic market for the goods in Malaysia. They have therefore constructed normal values using the following methodology:</p> <ul style="list-style-type: none"> <li>• raw material costs based on the applicant's actual costs, which they consider to be similar to costs in the East Asian region;</li> <li>• labour and overhead costs, based on the applicant's actual costs adjusted to reflect differences in average manufacturing wages between Australia and Malaysia; and</li> <li>• Selling, general and administration (SG&amp;A) and profit based on reported rates from a manufacturer of industrial stretch film and industrial packaging products in Malaysia.</li> </ul> <p>The applicant did not make further adjustments to the normal value as they have calculated the normal value and export price at the FOB level.</p>

**Table 9 – Cromford Film estimate of normal value in Malaysia**

#### 3.4.3. The Commission's assessment

The Commission must determine whether there appear to be reasonable grounds for supporting a claim that the goods have been exported at dumped prices. The

Commission is therefore required to assess whether the estimated normal value provided in the application is a reasonable estimate.

For an estimated constructed normal value, as in the present application, the Commission will assess whether the costs used by Cromford Film to construct the normal value reasonably reflect the costs of production in the subject country. When making this assessment, the Commission is cognisant of the fact that applicants usually have access to limited data to enable them to estimate the costs in the country of production. The Commission considers it reasonable for applicants to use their own costs, but where it is reasonable and practicable to do so, the Commission considers that those costs should be adjusted to reflect costs in the country of production.

In certain circumstances, the Commission will have access to information which will enable it to make an assessment of the reasonableness of the information relied on by the applicant, on a comparison basis. The Commission may also have other sources of information that are directly relevant to the application, which the Commission may prefer to use in making its own assessment, particularly if that information is considered more relevant and reliable than the information relied upon by the applicant.

#### Normal value

The Commission considers the general approach taken by Cromford Film appears reasonable.

The Commission has accordingly assessed the elements of the normal value calculation. In making its assessment of whether Cromford Film's estimate of normal value is reasonable, the Commission has had regard to the information contained in the application and other information the Commission considers relevant.

#### Raw material, labour and overhead costs

The Commission considers the use of Cromford Film's actual raw material costs is a reasonable basis for estimating the domestic raw material costs in Malaysia. The Commission notes that the composition of resins for each model of the goods will vary, and the applicant is best placed to estimate these costs. Similarly, the use of Cromford Film's actual labour and overhead costs is reasonable, noting Cromford Film have adjusted labour costs for differences between Australian and Malaysian wages.

#### SG&A costs and profit

The Commission considers Cromford Film's method for estimating SG&A costs to be reasonable for the purposes of this report. These costs appear to be from a local Malaysian manufacturer of a similar film product, and the applicant has based their estimates on audited financial information. Similarly, Cromford Film has estimated profit based on the published financial information for this local manufacturer.

The Australian industry's calculation of normal value forms **Confidential Appendix 3**.

### **3.5. Dumping margins**

#### **3.5.1. Legislative framework**

Dumping margins are determined in accordance with the requirements of section 269TACB.



Dumping margins and dumping volumes cannot be negligible, otherwise the investigation is terminated. Whether the dumping margins and dumping volumes are negligible is assessed under section 269TDA.

**3.5.2. The Commission's assessment**

The table below summarises the dumping margins estimated by the applicant and dumping margins calculated by the Commission using the method described in sections 3.3 and 3.4 above. Dumping margins are expressed as a percentage of the export price.

Country	Applicant estimate	Commission estimate
Malaysia	<p>The dumping margin calculated for medium impact black concrete underlay film is 36.9%.</p> <p>The dumping margin calculated for high impact black concrete underlay film is 24%.</p>	<p>The dumping margin calculated for medium impact black concrete underlay film is 5.5%.</p> <p>The dumping margin calculated for high impact black concrete underlay film is 14.3%.</p>

**Table 10: Estimated dumping margin**

**3.5.3. Volume of dumped goods**

Sections 269TDA(3) and (4) provide that an investigation into dumping must be terminated if the total volume of goods exported to Australia over the relevant investigation period that may have been dumped is negligible. A negligible volume of goods is less than 3 per cent of the total Australian import volume. Using the method set out in section 2.5.1, the Commission has estimated the volumes of goods exported from Malaysia. Based on the Commission's assessment, the Commission is satisfied that there appears to be reasonable grounds to consider that the volume of dumped goods are above negligible levels for Malaysia.

The Commission's assessment of dumping forms **Confidential Appendix 4**.

## 4. REASONABLE GROUNDS – INJURY TO THE AUSTRALIAN INDUSTRY

### 4.1. Findings

Pursuant to subsection 269TC(1)(c), having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury in the form of:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits; and
- reduced profitability.

### 4.2. Legislative framework

Under section 269TG of the Act, one of the matters that the Minister must be satisfied of in order to publish a dumping notice is that the Australian industry has experienced material injury. This issue is considered in the following sections.

### 4.3. The Applicant's claims

Cromford Film claims that the Australian industry has been injured through:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits; and
- reduced profitability.

The applicant has claimed that injury to the Australian industry commenced from March 2017.

### 4.4. Approach to injury analysis

#### 4.4.1. Legislative framework

The matters that may be considered in determining whether the industry has suffered material injury are set out in section 269TAE.

#### 4.4.2. The Commission's approach

This section analyses the economic condition of the Australian industry and provides an assessment as to whether there appear to be reasonable grounds to support a claim that the Australian industry has suffered material injury.

In its analysis of volume effects and market share, the Commission has used data provided by the applicant in *Confidential Appendix A2* in respect of Australian industry sales, and import data from the ABF imports database. The method for determining volumes is discussed in section 2.5.1.

The Commission's assessment of the economic condition of the Australian concrete film underlay industry (and therefore the basis for the figures set out in this section) forms **Confidential Appendix 5**.

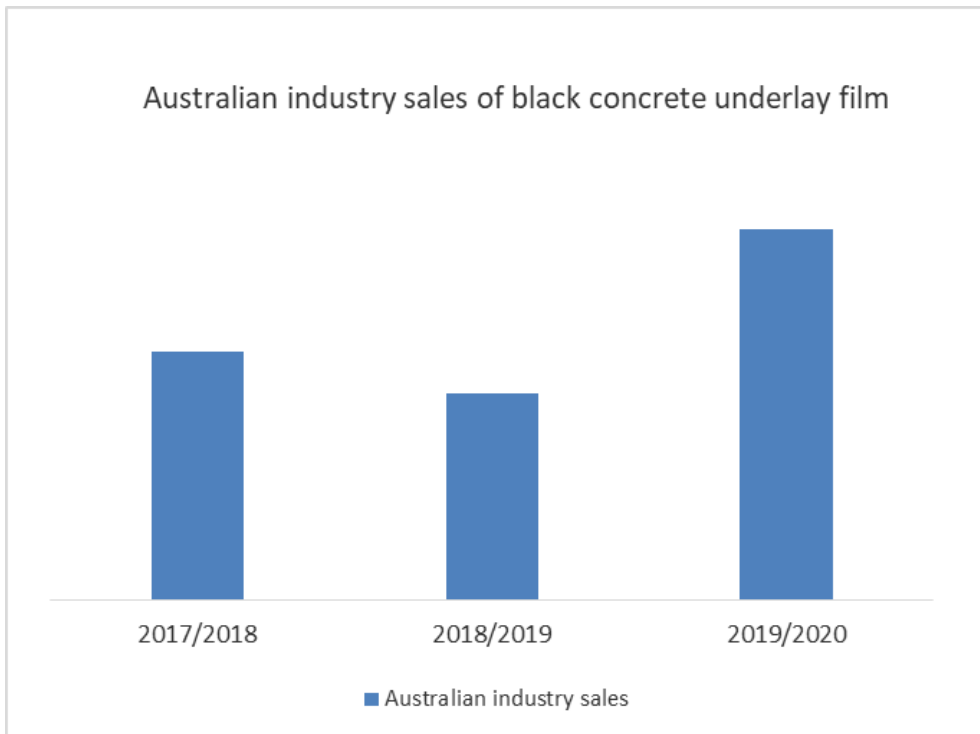
**4.4.3. Injury analysis period**

The purpose of the injury analysis period is to enable the Commission to identify and examine trends in the Australian market, which in turn assists the Commission in its examination of whether material injury has been caused by dumping. Cromford Film has provided data from 1 March 2017 to 29 February 2020 for this purpose, and the charts below depict the performance of Cromford Film over this time.<sup>3</sup>

**4.5. Volume effects**

**4.5.1. Sales volume**

The figure below depicts the applicant’s sales volumes for the last three years.



**Figure 1 – Australian industry sales**

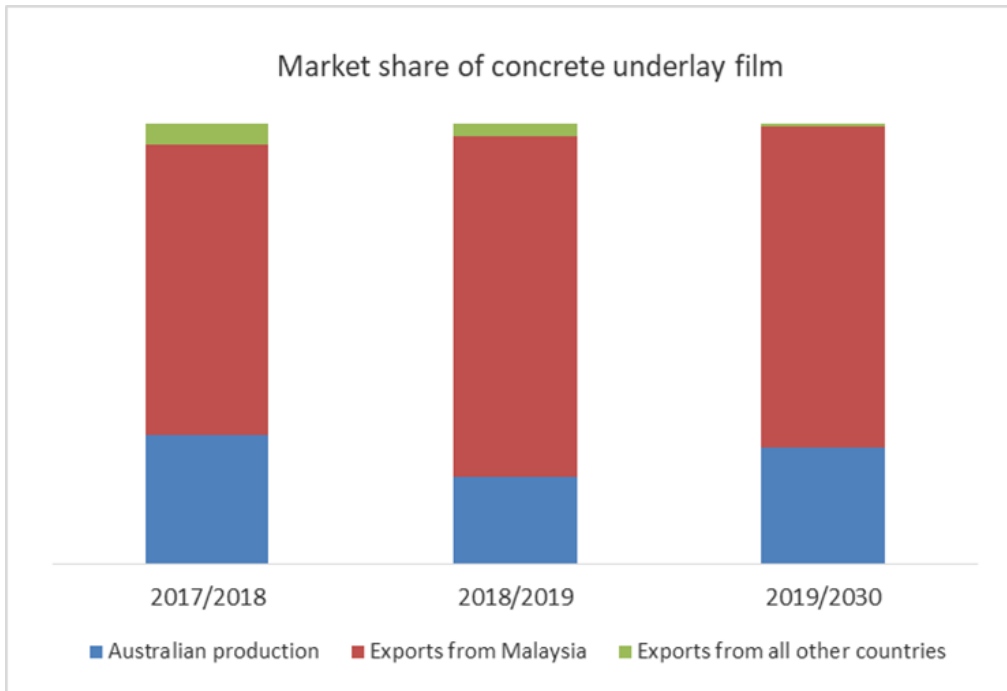
In the application, Cromford Film set out that it was able to increase sales volumes during the 12 month period ending on 29 February 2020. However, in doing so, this has been at the expense of reduced prices, revenue, profits and profitability. The Commission acknowledges, as shown in Figure 2, that the applicant was able to increase its sales volumes in the most recent 12 month period for which it has provided data. The applicant has also provided evidence of a recent tender process in which they were not successful, and has also provided evidence of lost sales volume for the period from March 2020 onwards. This is not illustrated in Figure 2 above but the Commission considers, based on the evidence available, that this is a significant loss of sales volume. This will be investigated during the investigation, noting the applicant will be requested to provide additional data up to the end of the proposed investigation period.

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<sup>3</sup> Cromford Film explained that are unable to provide financial data prior to March 2017 as that was the month in which the business was acquired by the current parent entity.

**4.5.2. Market share**

The figure below depicts the respective market shares held by the Australian industry, exports from Malaysia, and exports from all other countries.



**Figure 3 – Australian market share for black concrete underlay film**

Cromford Film set out in the application that it was able to increase market share in the 12 month period concluding on 29 February 2020, at the expense of reduced prices, revenue, profits and profitability. Figure 3 supports the claim that the applicant was able to increase its market share, but also that exports from Malaysia were able to obtain a greater increase in market share, displacing exports from other countries.

**4.5.3. Conclusion – volume effects**

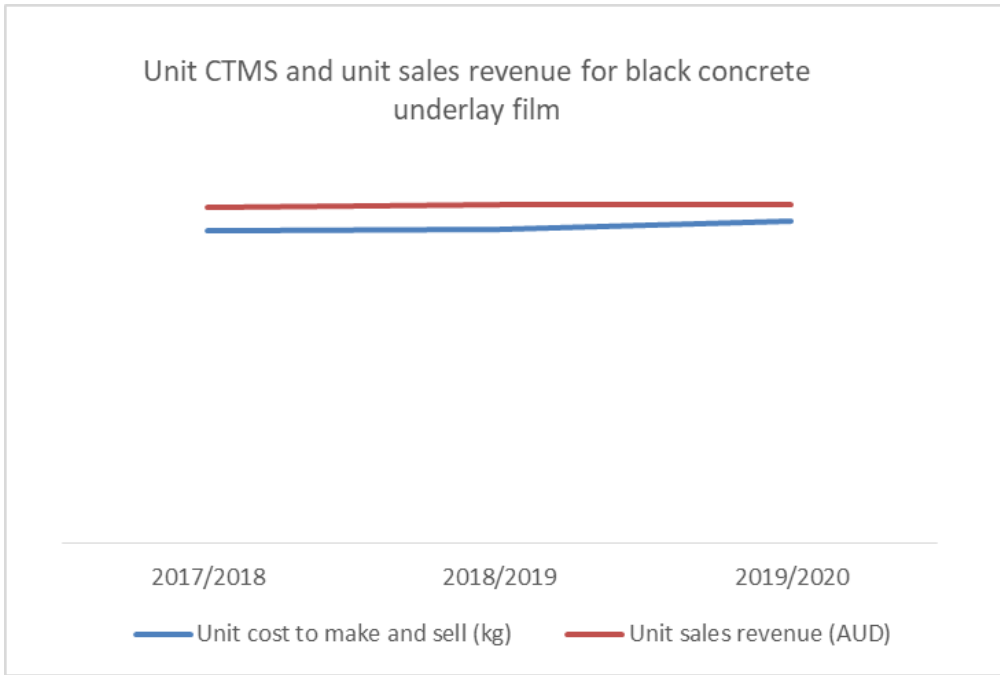
The Commission’s assessment regarding volume effects indicates that the applicant was able to increase sales volumes and market share in the 12 month period concluding on 29 February 2020. However, based on the additional information regarding lost sales volume from March 2020 onwards, the Commission considers there are reasonable grounds to support the claim that Cromford Film has suffered injury in the form of loss of sales volume and reduced market share.

**4.6. Price effects**

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

**4.6.1. Price effects – analysis**

The figure below illustrates the movement in Cromford Film’s unit sales revenue and unit cost to make and sell (CTMS) for black concrete underlay film.



**Figure 4 - Unit sales revenue and unit cost to make and sell comparison**

Figure 4 illustrates that Cromford Film’s unit sales revenue for black concrete underlay film has remained relatively consistent over a three year period. Over the past 12 months there has been an increase in the CTMS, and the applicant claims that it has not been able to increase prices due to the presence of allegedly dumped imports. This is supported by the narrowing of the margin between unit sales revenue and CTMS during the final 12 months of Figure 4.

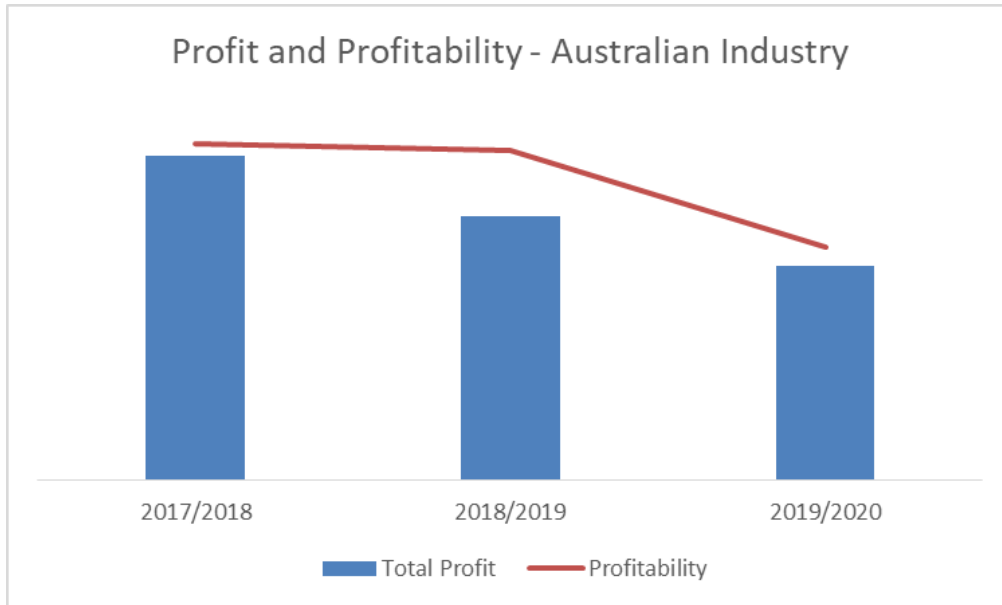
In addition to the analysis above, Cromford has also provided evidence of more recent tender negotiations where the company has been forced to reduce prices in an attempt to retain sales volumes. Supply (and pricing) in accordance with the relevant contracts commenced after 29 February 2020, and is therefore not illustrated in Figure 4 above. The Commission considers this evidence supports the applicant’s claim that it has had to lower prices in an attempt to maintain sales volumes.

**4.6.2. Conclusion – price effects**

The Commission considers there are reasonable grounds to support Cromford Film’s claims that it has experienced both price depression and price suppression.

**4.7. Profit and profitability effects**

In its application, Cromford Film claims that is has suffered injury from a loss of profits and profitability due to imported goods into the Australian market. The figures below depict the applicant’s total profit and unit profitability in respect of the goods for the analysis period.



**Figure 5 - Cromford Film's profit for black concrete underlay film**

Cromford claims in its application that it has had to reduce prices to maintain competitiveness with imports of the subject goods at the expense of profitability (due to increasing costs to make and sell). The reduction in Figure 5 above, shows decreasing profit and profitability from 2017/2018, with a larger decline in 2019/2020.

#### **4.7.1. Conclusion – profit and profitability effects**

In light of the above, there appear to be reasonable grounds to support the claim that Cromford Film has suffered injury in the form of reduced profits and profitability.

#### **4.8. Other injury factors**

Cromford film also claims injury in the form of negative return on investment and reduced employment. The Commission has examined the data provided by the applicant in respect of both of these claims, as reported in the confidential appendix A7 to the application. The Commission considers that it has insufficient data to assess these claims at this stage, however will seek to assess these, and other economic indicators, during the course of the investigation.

## 5. REASONABLE GROUNDS – CAUSATION FACTORS

### 5.1. Findings

Having regard for the matters contained in the application, and other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claim that the Australian industry has suffered injury caused by dumping, and that the injury is material.

### 5.2. Cause of injury to the Australian industry

#### 5.2.1. Legislative framework

Under section 269TG of the Act, one of the matters that the Minister must be satisfied of, in order to publish a dumping duty notice, is that the material injury suffered by the Australian industry was caused by dumping. This issue is considered in the following sections.

Matters that may be considered in determining whether the Australian industry has suffered material injury caused by dumped or subsidised goods are set out in section 269TAE.

### 5.3. The Applicant’s claims

The table below summarises the causation claims of the applicant.

Injury caused by dumping
<p><u>Volume effects</u></p> <p>The applicant claims it has lost sales volumes of the goods during the investigation period due to lower priced imports from Malaysia. This, in turn, has led to a reduced market share.</p> <p><u>Price effects</u></p> <p>The applicant claims it has had to reduce prices due to competition with allegedly dumped goods from Malaysia (price depression). Despite increasing costs of production for the goods, the applicant has not been able to increase selling prices to its customers as it competes with the imported goods (price suppression).</p> <p><u>Profits and profitability</u></p> <p>The applicant states that, as a result of price depression and price suppression, it has experienced a loss of profit and reduced profitability.</p>
Injury caused by other factors
<p>The applicant does not claim any other factors have caused the injury experienced.</p>

**Table 4: Cromford Film’s causation claims**

### 5.4. The Commission’s assessment

#### Margin of dumping

Under subsection 269TAE(1)(aa), the Minister may have regard to the size of the dumping margins worked out in respect of the goods exported to Australia. As set out in section 3.5 above, there are reasonable grounds for concluding that the goods exported from Malaysia are dumped at margins ranging between 24.0 and 36.9 per cent.

Volume effects

As identified in section 4.5 above, although Figures 2 and 3 illustrate that the applicant has experienced increases in sales volumes and market share, the applicant has provided evidence of recent tender processes where significant sales volumes have been lost due to allegedly dumped imports from Malaysia at lower prices. The applicant has provided evidence regarding the loss of sales volume, across multiple sites, and the Commission considers this to be a material volume when compared to the overall production and sales volumes of the applicant during the injury analysis period. In addition, the applicant provided evidence of the reduction of sales volume for the period from March 2020 onwards, further illustrating the impact of the lost tender. The applicant has also provided evidence available to it indicating that this lost tender was due to dumped imports of the goods from Malaysia as the tender was lost by the applicant due to undercutting by a supplier of allegedly dumped imports. The Commission considers there are reasonable grounds to conclude that the increase in these allegedly dumped goods from Malaysia has caused the volume injury experienced by the applicant.

Price effects

The Commission acknowledges that customers can purchase from multiple supply sources, including the Australian industry and import sources. Import offers and movement in the price of these offers can, therefore, be used to negotiate prices with the Australian industry.

The application provides that the applicant was able to maintain sales volumes and market share by matching import prices for the year ending 29 February 2020. However, the applicant claims this was only possible by reducing prices to the level of the allegedly dumped imports. The applicant claims that the presence of these lower priced imports prevented it from being able to increase selling prices.

In light of the preliminary dumping margins noted at section 3.5.2 above, the Commission considers that exporters from Malaysia have a price advantage over the Australian industry. The applicant has also provided evidence of price being the key factor in negotiations. The Commission considers there are reasonable grounds to support the applicant's claim that the allegedly dumped goods from Malaysia have caused the Australian industry to experience price depression and price suppression.

Price undercutting

The applicant has provided information and evidence of recent negotiations with a key customer to demonstrate how it has been forced to reduce its prices as a result of price undercutting by exporters from Malaysia. The evidence provided is based on the applicant's own involvement in a tender process for sales to multiple states in Australia.

The Commission will undertake an undercutting analysis as part of the investigation once it has obtained sufficient information to compare export prices from Malaysia with the Australian industry's prices.

Profit effects

Figure 5, above, demonstrates that the applicant has experienced reduced profits and profitability. This is primarily due to increased costs and an inability to increase selling prices. The applicant claims this is due to the presence of allegedly dumped imports at lower prices. Based on the evidence that the presence of these imports has prevented the applicant from being able to increase prices, the Commission considers there are reasonable grounds to support the applicant's claim that the allegedly dumped goods have caused injury to the Australian industry in the form of reduced profit and profitability.



Injury caused by factors other than dumping

The applicant notes that sales of concrete underlay film typically correlate with activity in the residential and commercial building sector. Over the 12 month period concluding in March 2020, the applicant states there was a one per cent change in the number of building approvals provided for dwellings. As a result, the applicant states that changes in the residential and commercial building sector cannot be said to have caused injury. The applicant states that there are no other known factors contributing to the injury experienced. The Commission will consider this further during the course of the investigation.

Materiality of injury

Focussing specifically on recent tender processes for multiple states in Australia, the applicant has outlined the materiality of injury in terms of lost sales volumes and the consequential loss in revenue. Noting the evidence provided with regards to the applicant being forced to reduce prices to maintain sales volumes, and the lost sales volumes in particular states, the Commission considers there are reasonable grounds to conclude that the injury to the Australian industry caused by dumping is material.

## **5.5. Conclusion**

The Commission considers that:

- the preliminary dumping margin outlined in chapter 3 above; and
- the preliminary assessment of injury experienced by the Australian industry in terms of lost sales volumes, reduced market share, price effects and profit effects,

support the applicant's claim that there appear to be reasonable grounds that exports of the goods from Malaysia at dumped prices have caused material injury to the Australian industry.

## 6. APPENDICES AND ATTACHMENTS

Appendices	Title
Confidential Appendix 1	Australian market size
Confidential Appendix 2	Export Price Analysis
Confidential Appendix 3	Normal Value Price Undercutting
Confidential Appendix 4	Dumping Margins
Confidential Appendix 5	Economic condition of the Australian Industry