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Mr David Latina
Commissioner
Australian Trade Remedies Commission

By email: investigations1@atrc.gov.au

Dear Commissioner

Submission to the Australian Trade Remedies Commission
Investigation No. 691: Aluminium windows and doors exported from China
Response to Statement of Essential Facts 691 and Preliminary Affirmative Determination

1. Hamilton Marino and this submission

Hamilton Marino is a Melbourne-based commercial builder with more than 40 years' experience. We predominantly deliver multi-level residential projects and have constructed approximately 1,800 apartments each year, on average, over the past decade, making us one of Victoria's larger multi-residential builders.

Hamilton Marino directly procures bespoke window wall systems for Class 2 to 9 buildings. We strongly oppose the proposed measures applying to those systems because:

(a) the bespoke window wall systems imported for Hamilton Marino's projects are not genuinely substitutable for the products manufactured by the Applicant or other Australian manufacturers;

(b) the Applicant has not participated in, actively competed for or tendered for any of Hamilton Marino's Class 2 to 9 window wall packages during the past 10 years;

(c) the Applicant has not demonstrated that it can design, manufacture, test, deliver and warrant an equivalent complete window wall system;

(d) Australian industry does not presently have the practical capacity to supply comparable systems at the scale and within the programs required for major Class 2 to 9 projects; and

(e) Hamilton Marino's imports have not caused the Applicant or another Australian manufacturer to lose a sale.

These matters go directly to product comparability, competition, injury and causation. The Commission has not established them. The existence of Australian production of standard aluminium windows does not justify the imposition of measures on a separate market for complete, project-specific window wall systems that Australian manufacturers have not historically supplied, tendered for or demonstrated that they can deliver.

Complete façade systems including windows and doors have been imported into Australia for over 20 years for large scale complex projects. There has been no claim by Australian manufacturers of any harm prior to the period noted in the application. Furthermore, the Applicants' lack of participation in this market segment historically can only confirm that they have not suffered harm as a result of import windows and doors that serve this market segment.

2. Class 1 windows and Class 2 to 9 window wall systems are materially different

Façade systems including aluminium windows and doors are an extremely high-risk building component in bespoke class 2-9 buildings.

Supplier pre-qualification, bespoke system development, testing, certification, manufacturing capacity, warranty requirements often take into years of development for just a single project.

You cannot simply buy a window and put it into the façade of a building. A window wall system for a multi-storey development is not an off-the-shelf collection of individual windows. It is an integrated, project-specific building-envelope solution designed and manufactured to satisfy requirements concerning structural loads and inter-storey movement, water penetration and weather-tightness, acoustic and thermal performance, glazing configuration, air infiltration, fire-related interfaces, testing and certification, building interfaces and installation methodology, and the design, production and delivery program.

Every individual project constructed by Hamilton Marino is required to be tested to AS/NZS 4284. We do not just import windows and doors – we import large scale façade system, nearly always incorporating insulated spandrel panels, feature façade panels, and often façade elements such as fins, blades and other architectural features.

They also note that windows are required to be tested to AS4284 '*except where a developer or design team consciously elects to depart from the Deemed-to-Satisfy provisions and pursue a bespoke Performance Solution, or where the nature of the construction site wholly outside the NCC'.*

This shows the lack of fundamental understanding of the bespoke architectural design market that the Applicant does not participate in.

Every major project constructed by Hamilton Marino is a bespoke design. It requires complete façade system testing to AS4284. It is not something we can contract out of – which the Applicant suggests is one of the reasons our façades are required to be tested to it.

Testing to AS4284 is constrained by resources and availability of capacity. It is not possible in the short to medium term for the local market to meet that demand.

3. The Applicant has not participated in Hamilton Marino's market

Neither the Applicant nor any other Australian manufacturer has tendered for any of Hamilton Marino's relevant window wall packages during the past 10 years, including before and during the injury and investigation period.

That absence is significant. Hamilton Marino has a substantial and visible project pipeline. Our directors and senior procurement personnel receive unsolicited expressions of interest from suppliers and trades on a near-daily basis, including from offshore window and façade suppliers. We have received no comparable approach from the Applicant or another Australian manufacturer seeking to tender for our window wall work.

Hamilton Marino is also not aware of the Applicant having delivered a comparable complete window wall package tested to AS4284 for a major Class 2 to 9 tower.

This sustained non-participation raises a fundamental causation issue. A manufacturer that did not tender for the work, did not seek the opportunity and did not offer an equivalent system cannot automatically be treated as having lost the sale because of dumped pricing. The Applicant's absence may instead reflect its product range, technical capability, production capacity, commercial strategy or unwillingness to assume the responsibilities associated with a complete window wall system.

The application excludes curtain wall, but sought the inclusion of window wall. However, the proposed measures should not protect a market segment that the Applicant has not historically supplied, tendered for or demonstrated the present capacity to service.

4. An equivalent complete solution has not been demonstrated

Hamilton Marino requires more than the manufacture of individual aluminium frames, panels or window assemblies. A viable window wall supplier must provide a complete, compliant and warrantable system.

Depending on the project, suppliers must assume responsibility for project-specific design and engineering, structural, acoustic, thermal and weather performance, applicable testing, certification and evidence of compliance, design and workmanship warranties, complete system-performance obligations, defect investigation and rectification, manufacturing capacity and quality assurance, and delivery in accordance with the construction program.

The warranty and contractual obligations imposed on suppliers for government, institutional and social-housing projects materially exceed those ordinarily associated with the sale of a standard residential window. Hamilton Marino is prepared to provide confidential examples of those requirements.

The Applicant's products and standard warranties do not provide the equivalent complete system or satisfy the contractual and extended-warranty requirements applicable to Hamilton Marino's Class 2 to 9 projects, including government, institutional and social-housing projects.

The Commission has not examined these matters at the necessary level of detail. General evidence that the Applicant manufactures aluminium windows does not establish that it can design, manufacture, test, deliver and warrant a complete window wall system.

5. Neither practical capability nor available capacity has been established

Capability and capacity are separate matters.

The ability to manufacture an aluminium component is not equivalent to the technical capability to provide an integrated window wall system. Nor does technical capability establish available manufacturing capacity at the scale and speed required for major developments.

The Commission should require evidence of comparable completed Class 2 to 9 projects, suitable facilities and specialist equipment, engineering, testing and certification capability, demonstrated production throughput and uncommitted capacity, achievable lead times and quality-assurance systems, willingness to assume equivalent contractual and warranty obligations (including duration).

The Commission has not demonstrated that the Applicant or the broader Australian industry presently has that capability or capacity.

Any suggestion that Australian industry could scale up confirms the absence of a present alternative, and confirms that harm has not been caused by the importation of Aluminium windows and doors tested to AS4284. Future investment in facilities, equipment, personnel, tested systems and production capacity does not provide a substitute for projects already designed, contracted, manufactured or under construction.

6. Lost sales and causation have not been established

Hamilton Marino's imported window wall packages cannot properly be treated as lost Australian sales unless the Commission establishes that an Australian manufacturer had a reasonable opportunity to tender, was willing to tender and could provide an equivalent system that satisfied all technical, contractual, insurance, certification and warranty requirements, and lost the work because of price.

None of those matters has been demonstrated in relation to Hamilton Marino's work.

A price comparison between a complete, engineered, tested and warrantable window wall package and a standard manufactured window or individual component is not a like-for-like comparison. Price becomes relevant only after a supplier demonstrates that it can meet the threshold technical, contractual, capacity and program requirements.

For over 20 years, overseas factories have invested significantly in their ability to delivery complex façade systems including windows and doors to the Australian market. As Australian Architectural and regulatory requirements have continued to become more complex, overseas factories have continued to develop to meet these requirements.

In this time, local manufacture has largely focused on class 1 type window and door manufacturing. Local industry admits itself it was not harmed, as no application for anti-dumping was made prior to the alleged period of harm that the Applicant who largely supplies windows into the class 1 domestic market manufactures.

7. Immediate consequences of the securities

The taking of securities from 15 October 2026 affects projects priced, contracted, designed and procured before the Preliminary Affirmative Determination. Hamilton Marino has affected government, institutional and social-housing projects. The additional costs were not included in the relevant tenders, contracts or project funding arrangements.

The measures will not overcome Australian manufacturers' higher capital, labour, raw-material and energy costs, nor create an immediate local supply alternative. They will instead add costs ultimately borne by consumers and government housing programs.

In the meantime, Hamilton Marino and other builders face significant unrecoverable losses under fixed-price contracts, increased costs for government and social-housing programs, project delay and reduced feasibility, and contractual disputes and litigation. The resulting financial impact will likely result in job losses across Hamilton Marino, its subcontractors and suppliers.

Changing supplier is not a practical short-term solution. It would require redesign, further engineering, testing and certification, revised warranties and approvals, and material changes to the construction program.

8. Requests to the Commissioner

For the reasons above, Hamilton Marino requests that the Commissioner:

1. reconsider whether subject imports caused material injury across the full range of goods under investigation, including bespoke window wall systems used in Class 2 to 9 buildings;
2. separately assess the markets for standard Class 1 residential windows and bespoke Class 2 to 9 window wall systems;

3. determine whether the Applicant or another Australian manufacturer supplied, tendered for or could supply an equivalent aluminium window and door and window wall package during or before the injury period;
4. assess actual Australian capability and available capacity, including engineering, testing, certification, complete-system warranties (including duration), insurance and delivery at the required scale and within project programs;
5. reconsider the inclusion of bespoke window wall and engineered façade systems tested to AS4284 in the proposed measures, and determine the existing exclusion and exemption requests;
6. reconsider lost sales and causation findings where Australian manufacturers did not tender, could not supply an equivalent complete system, or lacked available capacity, and assess whether other factors caused the alleged injury;
7. consider the consequences for existing construction contracts and Australia's housing pipeline, and immediately rescind the taking of securities for these systems; and
8. if measures are ultimately recommended:
    (a) exclude or exempt bespoke Class 2 to 9 window wall systems tested to AS4284 where no directly competitive Australian product is available;
    (b) recommend a 24-month transition from the Minister's final decision, protecting existing commitments and allowing local industry time to establish capacity;
    (c) recommend no retrospective collection in respect of existing commitments; and
    (d) address Hamilton Marino's product-specific evidence in the final report.

The trade remedies framework should protect Australian manufacturers from material injury caused by unfairly traded imports. It should not protect a market that Australian manufacturers have not historically served, or impose measures on bespoke Class 2 to 9 window wall systems without evidence of genuine competition, lost sales and causation.

Hamilton Marino would welcome the opportunity to provide project-level tender, technical, warranty and cost information to the Commission on a confidential basis.

Yours sincerely
Hamilton Marino

Matt Green
Director

Jan David Storm
Director