NOTICE OF LODGMENT

AUSTRALIAN COMPETITION TRIBUNAL

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Lodgment and Details

Document Lodged:	Submissions
File Number:	ACT 1 of 2026
File Title:	APPLICATION BY COLES SUPERMARKETS AUSTRALIA PTY LTD
Registry:	VICTORIA – AUSTRALIAN COMPETITION TRIBUNAL

REGISTRAR

Dated: 6/08/2026 7:50 PM

Important information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Tribunal and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

ACT 1 of 2026: Application by Coles Supermarkets Australia Pty Limited seeking review of a determination made by the Australian Competition and Consumer Commission under subsection 51ABZE(1) of the Competition and Consumer Act 2010 (Cth)

Outline of submissions of Woolworths Group Limited: Application for further directions with respect to confidential information

Introduction

1. These submissions, made in support of the application dated 3 August 2026 by Woolworths Group Limited (**Woolworths**) for further directions in respect of its confidential information (**Woolworths' Application**), are filed pursuant to paragraph 10(b) of the Tribunal directions dated 21 July 2026 (**Tribunal Directions**). Woolworths also relies on the affidavit of Benjamin James Welk sworn 3 August 2026 (**Welk Affidavit**) and filed with Woolworths' Application. In these submissions, capitalised terms have the meaning given to them in the Tribunal Directions.

2. In short, in response to a notice issued by the Commission under subsections 155(1)(a) and (b) of the *Competition and Consumer Act 2010* (Cth) (**CCA**), Woolworths provided information and documents to the Commission in respect of which it claimed confidentiality.[1] By letter dated 24 July 2026, the Commission's solicitors provided Woolworths with a list of the confidential information that would be disclosed by the Commission to the Participants in the proceeding in accordance with the Tribunal Directions.[2] By its application, Woolworths seeks further directions that would restrict internal solicitors employed by a Participant in the proceeding from having access to a subset of the material in light of its particularly commercially sensitive nature (**Highly Confidential Information**).

3. It is trite to observe that Coles is a direct and close competitor of Woolworths[3] and that it would be commercially harmful to Woolworths for Coles' employees to have access to Woolworths' commercially sensitive information. This includes access by internal lawyers employed by Coles that work closely with and advise Coles' employees in the broader business.[4]

4. Woolworths' Highly Confidential Information claims are confined. Woolworths only identifies 5 documents as containing wholly Highly Confidential Information.[5] Targeted claims have been made in connection with specific text in 28 other documents.[6] Woolworths does not otherwise seek further orders beyond those already made by the Tribunal to prevent access to its confidential information by internal lawyers. Woolworths has not classified any information directly relating to its store in Kalgoorlie as Highly Confidential Information for the purpose of this proceeding.[7]

[1] Welk Affidavit, [3] and [4]. Woolworths produced to the ACCC a written response to the notice on 8 May 2026 and a further written response and 51 documents on 14 May 2026.
[2] Welk Affidavit, [5] and Annexure A.
[3] Welk Affidavit, [20].
[4] Welk Affidavit, [25].
[5] Woolworth's Application dated 3 August 2026, Annexure B.
[6] Woolworth's Application dated 3 August 2026, Annexure A.
[7] Welk Affidavit, [24].

Highly Confidential Information

5. Mr Welk has grouped the types of Highly Confidential Information into 5 categories.[8] The material that has been identified as comprising Highly Confidential Information is commercial information that is not publicly available and that Woolworths regards as commercially sensitive for the reasons set out below.

6. **Category 1 – Pricing indices**: The relevant information is the pricing indices used in the Woolworths supermarkets retail business from 1 July 2025 to 31 March 2026 and is contained in an information response to the section 155 notice. The pricing indices reveal how Woolworths benchmarks competitors' prices to set and monitor its own prices.[9] This information is treated with great sensitivity at Woolworths and tightly held.[10] Access to this information would benefit competitors insofar as it would reduce their uncertainty as to how Woolworths would consider competitor pricing when setting its prices, or how Woolworths would react to changes in competitor pricing. Conversely, this would place Woolworths at a competitive disadvantage.[11]

7. **Category 2 – Stores identified as low performing, some for closure or disposal**: This category comprises presentations or papers prepared for Woolworths' Property Committee.[12] These documents reveal low performing stores and where applicable stores marked for closure and sale, and the methodologies used to determine store performance and stores to be closed.[13] This information is only disclosed to a small group of senior employees.[14] The stores identified have not yet been closed and the sale negotiations are ongoing.[15] If Woolworths' competitors had access to this information they could seek to disrupt the sale process,[16] adjust their market positioning in areas where the stores are situated,[17] or leverage from the learnings of the non-performance of the specific stores for their broader store expansion strategies. This would create a competitive disadvantage for Woolworths. Further, any inadvertent disclosure of this information has the clear potential to cause great disruption to employee relations and, as a result, store performance.[18]

8. **Category 3 – Financial impact of competitor store openings or expansions**: This category relates to information contained within internal Woolworths emails, including newsletters. These documents contain assessments of the financial impact of competitor stores on Woolworths' stores.[19] With this information Woolworths' competitors may assess the effectiveness of their store openings and exploit vulnerabilities in Woolworths' network by targeting areas where lower performing Woolworths stores are located, or areas that would be particularly responsive to new

[8] Welk Affidavit, [21].
[9] Welk Affidavit, [30].
[10] Welk Affidavit, [31] and [32].
[11] Welk Affidavit, [33].
[12] Welk Affidavit, [36(b)(ii)].
[13] Welk Affidavit, [35] and [36].
[14] Welk Affidavit, [36(iii)].
[15] Welk Affidavit, [36(b)(iv)] and [36(c)(v)].
[16] Welk Affidavit, [37].
[17] Welk Affidavit, [36(c)(vii)].
[18] Welk Affidavit, [37].
[19] Welk Affidavit, [41].

store openings.[20] This would, in turn, place Woolworths at a competitive disadvantage and gives rise to the potential for commercial harm.

9. **Category 4 – Sales performance**: This category relates to information contained within internal Woolworths emails. Woolworths does not publish its store or eCommerce revenue at the levels disclosed in these documents.[21] If Woolworths' competitors were aware of the performance of its individual stores or eCommerce platforms to this level of detail, they could adjust their marketing and investments strategies to target Woolworths' revenue and customer bases in these areas.[22]

10. **Category 5 – Analyses of eCommerce market share**: This category relates to information in internal Woolworths emails. They reveal analyses of Woolworths' eCommerce market share in specific areas and performance of specific eCommerce processes and technologies.[23] A competitor could use this information to inform its commercial activities to Woolworths' competitive detriment.[24]

Further order sought

11. For the reasons identified at [25]–[27] of the Welk Affidavit, and based on Mr Welk's experience that the internal lawyers proposed to have access to Woolworths' confidential information are likely to advise on matters to which the categories of Highly Confidential Information may be relevant, Woolworths seeks further directions from the Tribunal. Such directions would restrict internal solicitors employed by a Participant in the proceeding from having access to the Highly Confidential Information. This would guard against the risk that where internal lawyers advise on matters to which the Highly Confidential Information relates, the information may be inadvertently used or further disclosed which may give rise to commercial harm to Woolworths.

12. The further directions are sought pursuant to:

    (a) section 103 of the CCA which provides that, in proceedings before the Tribunal, the procedure of the Tribunal is within the discretion of the Tribunal; and

    (b) section 106 of the CCA insofar as any of the documents identified in the Documentary Index as being subject to a claim for confidentiality come within section 106(2)(b).

Dated: 6 August 2026

Catherine Dermody

Clayton Utz

[20] Welk Affidavit, [42].
[21] Welk Affidavit, [47].
[22] Welk Affidavit, [47].
[23] Welk Affidavit, [51].
[24] Welk Affidavit, [52].