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AUSTRALIAN COMPETITION TRIBUNAL

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Lodgment and Details

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



REGISTRAR

Dated: 28/08/2026 5:36 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.

Commonwealth of Australia
Competition and Consumer Act 2010

IN THE AUSTRALIAN COMPETITION TRIBUNAL

File No. ACT 1 of 2026

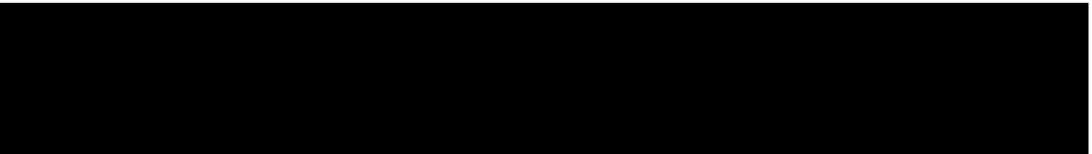
Re Application by Coles Supermarkets Australia Pty Ltd

This document contains confidential information which is indicated as follows:

1.



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CONCISE STATEMENT

O'CONNOR FRESH PTY LTD AS TRUSTEE FOR THE O'CONNOR FRESH
TRUST

A. Key issues

1. The Australian Competition and Consumer Commission (**ACCC**) has determined under s 51ABZE(1) that the proposed acquisition of a leasehold interest in Lots 95-106 Great Eastern Highway, Somerville by Coles Supermarkets Australia Pty Ltd (**Coles**) for the purposes of developing a supermarket (**Proposed Acquisition**) should not be put into effect (**Determination**). Coles now seeks a review of the Determination in the Tribunal.
2. O'Connor Fresh Pty Ltd as trustee for the O'Connor Fresh Trust operates the supermarket trading as O'Connor Fresh IGA (**O'Connor Fresh IGA**).
3. O'Connor Fresh IGA is an independently owned and operated full-line supermarket at the corner of O'Connor Street and Maguire Street, Somerville, Kalgoorlie. It serves the southern and western suburbs of Kalgoorlie and the West Kalgoorlie industrial precinct. Geographically, it is the closest supermarket to the supermarket which will result from the Proposed Acquisition (**Proposed Supermarket**). It is also the "Relevant Independent" referred to throughout the Statement of Reasons of the ACCC dated 30 June 2026 (**Reasons**).
4. Pursuant to s 100N(1) and ss 51ABZE(1) and (2)(c) of the *Competition and Consumer Act 2010* (Cth) (**CCA**), if the Tribunal is satisfied that the Proposed Acquisition would, in all the circumstances, have the effect or be likely to have the effect of a substantial lessening of competition in any market, the Tribunal may affirm the Determination that the acquisition must not be put into effect. In making that judgement, the Tribunal must have regard to the object of the CCA and all relevant matters, including the interests of consumers: s 51ABZE(3).
5. The Tribunal should be satisfied that the Proposed Acquisition would, if put into effect, have the effect, or be likely to have the effect, of substantially lessening competition (**SLC**) in the market for the retail supply of groceries by supermarkets in Kalgoorlie. The ACCC's Determination should be affirmed.

B. The relevant market

6. **Relevant market:** The relevant market is that for the retail supply of groceries by supermarkets in the city of Kalgoorlie (Coles Concise Statement (**CCS**) [3]).
7. **Current market participants:** There are presently six supermarkets in Kalgoorlie (CCS [4]). The [REDACTED] are Coles [REDACTED] Stock Keeping Units (**SKUs**)), O'Connor Fresh IGA (~[REDACTED] SKUs), and Woolworths (~[REDACTED] SKUs). Each is a full-line supermarket. Even without the Proposed Supermarket, Coles and Woolworths hold 62% of the gross lettable area and [REDACTED] by selling floor area (**SFA**) of the four largest supermarkets in Kalgoorlie.
8. Two of the remaining supermarkets, Hannans Marketplace by FoodWorks (**FoodWorks**) and IGA Lionel Street (**IGA Lionel St**), are small-format independents ($SFA < 1,000m^2$), presenting only partial substitutes to full-line supermarket offerings. IGA Lionel St, in particular, is in the nature of a convenience offering.
9. The sixth supermarket, Spudshed Kalgoorlie (**Spudshed**) stocks [REDACTED] SKUs, and does not carry the breadth of grocery, household, and convenience items that characterise the range of Coles, Woolworths and O'Connor Fresh IGA. While on some measures Spudshed may be categorised as a full-line supermarket (e.g. Reasons [2.34]), it is predominantly a low-cost discounter on fresh produce (CCS [10]) and is focused on value-shoppers.
10. **Other retailers do not impose a meaningful constraint:** Costco does not have a presence in Kalgoorlie. Amazon, Bunnings and Chemist Warehouse are not supermarkets and do not offer a sufficiently broad range to impose a meaningful constraint on the market participants (c.f. CCS [3]).

C. Supermarket demand and supply in Kalgoorlie

11. **Population growth is static:** Kalgoorlie is a remote regional city of approximately 30,000 people. As there are no adjacent population centres, population growth is a key driver of overall grocery demand. Population growth in Kalgoorlie is close to static.
- a. ABS Census data for the City of Kalgoorlie-Boulder recorded a decline in resident population: 30,841 in 2011, 29,875 in 2016 and 29,306 in 2021.

- b. Curtin University found that the population of Kalgoorlie-Boulder fell by 5.8% between 2011 and 2023 and by 2.5% between 2016 and 2023.
- 12. Coles anticipates [REDACTED]
[REDACTED]
 - a. [REDACTED]
 - b. The Government of Western Australia forecasts that the population of the City of Kalgoorlie-Boulder LGA will have an average annual growth rate of 0.4% to 2036.
 - c. The presence of FIFO workers in Kalgoorlie is not likely to generate a sustained material *increase* in demand for groceries (c.f. CCS [32(d)(ii)]). Further, mining companies are increasingly providing accommodation where meals are provided by the employer.
- 13. **Kalgoorlie is already well-supplied:** supermarket capacity has already significantly outrun population growth in Kalgoorlie. Supermarket SFA in [REDACTED]
[REDACTED]
- 14. **Population-driven estimated sales growth is almost non-existent:** [REDACTED]
[REDACTED]
- D. **O'Connor Fresh IGA is an effective and materially differentiated competitor**
- 15. **Large independent supermarket:** O'Connor Fresh IGA is a full-line large format supermarket or "Supa IGA". The "Supa IGA" designation is reserved by Metcash, the owner of the IGA brand, for its largest stores, which stock a comprehensive supermarket range, including full grocery, fresh produce, meat, delicatessen, and bakery departments.
- 16. O'Connor Fresh IGA is the largest of the Metcash-supplied independent supermarkets in Kalgoorlie, being [REDACTED] than FoodWorks and [REDACTED] of IGA Lionel St by SFA. It has higher amenity and its reported revenue is [REDACTED]

approximately [REDACTED] of each of the smaller Metcash-supplied independents (CCS [13]).

17. Although O'Connor Fresh IGA's largest supplier is Metcash, [REDACTED]
[REDACTED] O'Connor Fresh IGA also stocks a significantly wider and materially differentiated range to [REDACTED]
[REDACTED]
18. O'Connor Fresh IGA's SFA is smaller than Coles, Woolworths and Spudshed. However, its total number of SKUs is [REDACTED]
[REDACTED] Moreover, its core grocery range is comparable to that offered by Coles and Woolworths (CCS [18(b)]). O'Connor Fresh IGA's revenue [REDACTED]
[REDACTED]
19. **High amenity location:** O'Connor Fresh IGA is co-located with a Chemist Warehouse, a medical centre, a liquor store, and a carwash. It has a large and easily accessible carpark, with parking for 112 cars with wide parking bays [REDACTED]
[REDACTED] and is close to schools, a recreation centre and the Kalgoorlie-Boulder airport.
20. **Differentiated and competitive offering:** O'Connor Fresh IGA provides a differentiated offering to Coles and Woolworths (c.f. CCS [17]) that is valued by customers and imposes a material competitive constraint on the major supermarket chains.
21. O'Connor Fresh IGA's offering is differentiated from that of Coles and Woolworths in the following material respects.
 - a. **Locally responsive range:** O'Connor Fresh IGA's range [REDACTED]
[REDACTED]
Its range is tailored to local preferences including, for example, a line of South African products aimed at the large local South African population in Kalgoorlie, fruit and vegetables tailored to the local market, and a fresh meat cabinet including fresh goat meat, thick cut sausages and tomahawk steak.
[REDACTED]

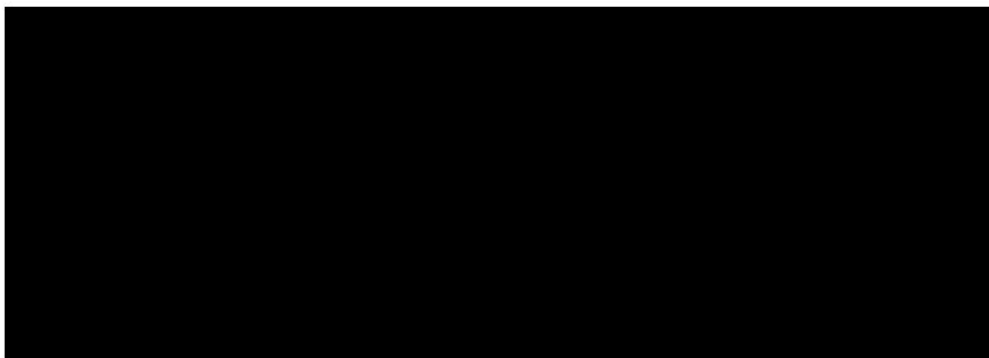
- [REDACTED]
- b. **Differentiated and wide range:** approximately [REDACTED] % of O'Connor Fresh IGA's SKUs are not stocked by Coles or Woolworths in Western Australia. Further, [REDACTED] SKUs supplied by Metcash to O'Connor Fresh IGA are [REDACTED]
[REDACTED]
While O'Connor Fresh IGA ranges a comparable number of SKUs to [REDACTED]
[REDACTED]
- c. **Local sourcing:** O'Connor Fresh IGA sources multiple product lines from local producers, purchased and delivered several times each week. [REDACTED] of its core suppliers are local to the Kalgoorlie area. Local stock includes freshly made bread, cakes and muffins from two local Kalgoorlie bakeries, biltong made by the manufacturer from rump steak acquired from O'Connor Fresh IGA, locally-made hot combo meals, ready-made meals prepared by a local Thai restaurant, curries produced by a local Indian restaurant, sushi produced by a local Japanese restaurant, salads, fruit trays health foods sourced from a local supplier. These local products do not overlap with those offered by [REDACTED]
[REDACTED]
- d. **Specialised staff and services:** O'Connor Fresh IGA operates a full-service hot and cold delicatessen and lunch bar and employs a dedicated team of chefs producing daily chef-made meals. Coles and Woolworths do not have an equivalent offering. [REDACTED]
[REDACTED]
[REDACTED]
- e. **High service levels:** customer service and engagement are O'Connor Fresh IGA's core differentiating factors and significant contributors to its success in attracting customers and sales from rivals. O'Connor Fresh IGA's offering is characterised by high service levels (c.f. CCS [19]). It has seven checkouts, five of which are regularly manned. [REDACTED]

[REDACTED] O'Connor Fresh IGA employs a total of [REDACTED] staff, equating to approximately [REDACTED] full-time equivalents (FTE). Its FTE staff-to-SFA ratio (expressed as FTE staff per 100m²) is [REDACTED], while Coles' is [REDACTED] and Woolworths' is [REDACTED]. O'Connor Fresh IGA employs more specialised staff than [REDACTED].

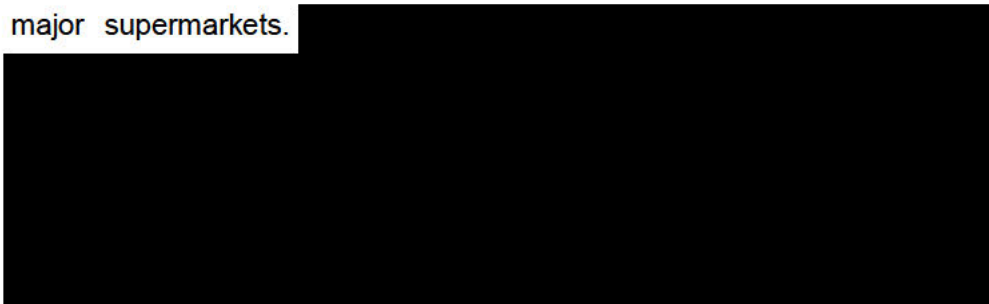
- f. **Trading hours:** Coles and Woolworths are subject to trading hour restrictions in Kalgoorlie, while the four independent supermarkets are not. These independent supermarkets are permitted, but not obliged, to offer longer trading hours than the two majors. Longer trading hours are a valuable point of differentiation and service-provision to the local community for O'Connor Fresh IGA, which trades from 4am to 10pm daily. This is particularly in relation to mining and other shift workers who may need to shop outside standard business hours. While the three other independent supermarkets also trade extended hours, two of those are small-format stores, and the third (Spudshed) is a differentiated fresh produce value operator located in a different part of the city.

22. **Price competition:** O'Connor Fresh IGA monitors competitor pricing across Kalgoorlie, including both major chains and independents, and adjusts promotional activity accordingly.

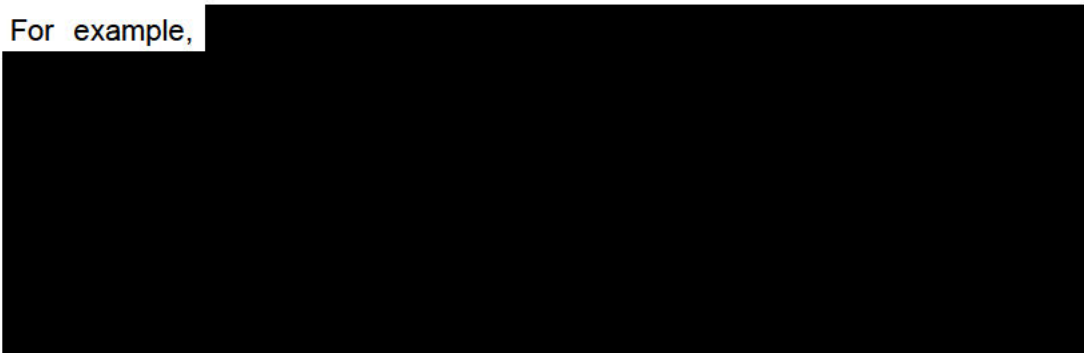
- a. **Pricing reviews and responsiveness:** [REDACTED]
- [REDACTED]



- b. **Price competitiveness with major supermarkets:** For approximately [REDACTED] of its range, O'Connor Fresh IGA prices are comparable or lower than the major supermarkets. [REDACTED]



23. On a weighted average basis, O'Connor Fresh IGA's prices are [REDACTED]. However, this price differential must be understood in the context of high freight and supply chain costs incurred in a remote regional location such as Kalgoorlie, where independent supermarket operators are unable to distribute and absorb such costs over a national network (as opposed to major supermarket chains such as Coles or Woolworths). Further, for a modest premium on predominantly packaged groceries, O'Connor Fresh IGA offers high service intensity, the convenience of extended hours (which corresponds to higher staffing costs), an on-site butchery, hot and cold delicatessen and lunch bar and a locally sourced and locally responsive range. These features are critical components of its differentiated offering and capacity to impose competitive constraint on larger supermarket chains.
24. O'Connor Fresh IGA's prices are monitored by other independents in Kalgoorlie. For example, [REDACTED]



[REDACTED]
[REDACTED] O'Connor Fresh IGA plays a central role in this local competitive rivalry.

25. **Recent investment in refurbishment and store amenity:** [REDACTED]

[REDACTED] O'Connor Fresh IGA considers store amenity to be important for attracting customers. The O'Connor Fresh IGA site has been recently refurbished twice, first in 2021 and then again in 2023. The latter refurbishment involved [REDACTED]
[REDACTED]

26. **Coles' business case establishes substitutability:** Coles' own business case for the Proposed Supermarket forecasts [REDACTED]
[REDACTED]

E. O'Connor Fresh IGA in a future without the Proposed Acquisition

27. O'Connor Fresh IGA is a profitable and financially viable business. It has consistently increased its revenue in recent years, earning [REDACTED]
[REDACTED]

28. O'Connor Fresh IGA is owned and operated by Reece Grant and his business partner and cousin, Peter Grant. Mr Grant is a Chartered Accountant by training and [REDACTED]
[REDACTED] Mr Grant comes from a family with a deep historical experience in the grocery sector.

29. In a future without the Proposed Acquisition, O'Connor Fresh IGA would remain a profitable and financially viable operation [REDACTED]

F. O'Connor Fresh IGA in a future with the Proposed Acquisition

30. **Overwhelming evidence of substantial diversion (c.f. CCS [40]):** [REDACTED]

[REDACTED] The site of the Proposed Supermarket is on the Great Eastern Highway, which is Kalgoorlie's highest-exposure arterial road, with visibility and access from two directions and direct adjacency to the West Kalgoorlie industrial precinct. It will likely intercept the commuter and daytime trade which presently shops at O'Connor Fresh IGA. Estimates before the Tribunal are consistent in identifying that there will be a substantial diversion of trade from O'Connor Fresh IGA if the Proposed Acquisition proceeds.

- a. Coles' own Source of Sales Analysis, which forms part of its business case for the Proposed Acquisition, estimates a reduction in O'Connor Fresh IGA's revenue of [REDACTED] in the first trading year.
- b. Coles' Machine Learning Model estimates the revenue impact to O'Connor Fresh IGA to be [REDACTED] of O'Connor Fresh IGA's revenue in its first trading year.
- c. [REDACTED]
[REDACTED]
- d. Geotech's initial analysis estimates foot traffic diversion from O'Connor Fresh IGA in the range of [REDACTED] from the Proposed Supermarket. Its revised analysis, based on updated assumptions regarding consumer shopping behaviour (assuming that consumers are likely to shop at the

supermarket most conveniently located to them) and the floorspace of the Proposed Supermarket, adjusted the estimate to [REDACTED]

31. **Magnitude of revenue effect on O'Connor Fresh IGA:** it is likely that the magnitude of the diversion will reduce O'Connor Fresh IGA's revenue by at least [REDACTED] from FY29. [REDACTED]

32. It is unlikely that the [REDACTED]

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

33. **O'Connor Fresh IGA revenue losses will make its debt unserviceable:** [REDACTED]

a. [REDACTED]

b.

[REDACTED]

c.

[REDACTED]

34. **O'Connor Fresh IGA will likely exit the Kalgoorlie market:** in the future with the Proposed Supermarket where O'Connor Fresh IGA's [REDACTED]
[REDACTED]

35.

[REDACTED]

a.

[REDACTED]

b.

[REDACTED]

c.

[REDACTED]

36. **A sale of the business as a going concern is unlikely:** if the Proposed Acquisition proceeds, [REDACTED]
[REDACTED]

a.

[REDACTED]

b.

[REDACTED]

c.

[REDACTED]

37.

[REDACTED]

38.

[REDACTED]

39.

[REDACTED]

40. Coles' alternative valuation (CCS [38]-[39]) is based on flawed assumptions.

a. Coles' "optimal debt level" of 10% of the NPV of forecast free cash flow (CCS [37(b) and (c)]) is derived from the observed debt levels of [REDACTED]

[REDACTED] These companies are not comparable to O'Connor Fresh IGA.

b. Coles' capex at its existing Kalgoorlie store [REDACTED] is not a reliable basis to forecast capex for O'Connor Fresh IGA (c.f. CCS [37(d)]).

i. Coles opened its existing Kalgoorlie store in 2021. [REDACTED]

[REDACTED]

ii. Store quality and amenity is critical to O'Connor Fresh IGA's differentiated offering, requiring higher capex.

iii.

iv. [REDACTED] is equal to the annual rate of depreciation of capital, such that it would be sufficient to replace O'Connor Fresh IGA's [REDACTED] plant and equipment assets.

41. **A competitive response to mitigate the diversion will not be possible (c.f CCS [43]):** any competitive response by O'Connor Fresh IGA to the Proposed Supermarket would require further investment on labour, service, promotions and store presentation. [REDACTED]

42.

G. Other market participants in the future with the Proposed Acquisition

43. **Timely and sufficient new entry is unlikely:** in the future with the Proposed Acquisition, it is unlikely that there will be any new entrants or additional store openings by existing market participants (c.f. CCS [5]) within a sufficient timeframe so as to ameliorate what would otherwise amount to a substantial lessening of competition through the loss of O'Connor Fresh IGA.

- a. There are significant barriers to entry for independent supermarkets (c.f. CCS [32]), including high freight and logistics costs associated with servicing a remote regional market, limited consumer demand and population growth, significant capital requirements to establish a full-line supermarket and the presence of major national supermarket chains (Coles and Woolworths) with substantial scale, supplier bargaining power and promotional capability.
- b. The history of entry and exit in the Kalgoorlie market demonstrates the difficulty of new entry (c.f. CCS [32(b)]).

- i. Coles itself reduced from two stores to one in 2021.
 - ii. ALDI acquired and then divested a Kalgoorlie site, [REDACTED]
[REDACTED]
 - iii. [REDACTED]
 - iv. Spudshed took over the site vacated by Hannans IGA in 2025, FoodWorks [REDACTED], and O'Connor Fresh IGA changed ownership in 2024. None of these are examples of true "new entry" as they added no additional capacity.
- c. There is no evidence before the Tribunal that any independent supermarket has [REDACTED]
[REDACTED]
- d. In respect of sites other than the Proposed Acquisition site (CCS [5(a)]):
- i. [REDACTED]
 - ii. [REDACTED]
- e. There is no evidence before the Tribunal that O'Connor Fresh IGA's exit would result in entry by a new rival of any sort (c.f. CCS [45]), including through acquisition of its assets.

i.

[REDACTED]

ii.

[REDACTED]

iii.

In any event, there is no evidence before the Tribunal that [REDACTED]

[REDACTED] would be more effective rivals than O'Connor Fresh IGA.

f. An existing store moving to a new location in the Kalgoorlie market is not new entry, and would not result in a meaningful increase in competition (c.f. CCS [5(c)]; [30(b)]).

g. Existing competitors are unlikely to develop new stores in Kalgoorlie, or to acquire O'Connor Fresh IGA's assets.

i.

[REDACTED]

ii.

[REDACTED]

44. **Spudshed will only constrain Coles and Woolworths to a limited extent:**

[REDACTED]

45. Of the six existing supermarkets in Kalgoorlie, Spudshed is located the furthest from the Proposed Supermarket.

H. The likely effects on competition

46. **Structure and concentration:** the exit of O'Connor Fresh IGA if the Proposed Acquisition proceeds will result in increased concentration and greater market share for Coles and Woolworths.

a. The number of full-line supermarket operators in Kalgoorlie will reduce from four to three, and the number of independent full-line supermarkets from two to one. The remaining independent will be Spudshed, [REDACTED] and will be located far from the Proposed Supermarket.

b. Coles' share of supply by total SFA will increase from [REDACTED] to approximately [REDACTED]

c. Coles' share of supply by SFA of "full-line" supermarkets will increase from [REDACTED] % to approximately [REDACTED]

d. The share of supply by SFA of "full-line" supermarkets held by Coles and Woolworths combined will increase to [REDACTED]

e. [REDACTED]

47. **Significantly reduced non-price rivalry**

a. **Customer service:** is a dimension on which Kalgoorlie supermarkets compete, and one of O'Connor Fresh IGA's core differentiating factors. Its departure would leave remaining rivals with less incentive to invest.

b. **Local product range and sourcing:** [REDACTED]
[REDACTED]. These sources of differentiation that O'Connor Fresh IGA currently provides will be lost.

c. **Store investment:** Coles [REDACTED]
[REDACTED]
With less competition in Kalgoorlie from O'Connor Fresh IGA, it will have less incentive to invest, as will any other remaining rivals.

d. **Trading hours:** O'Connor Fresh IGA is the only full-line supermarket in the southern and western catchment of Kalgoorlie able to trade extended hours.

That option is lost to consumers on exit and cannot be replaced by Coles or Woolworths.

48. **Reduced price rivalry**

- a. O'Connor Fresh IGA competes on price [REDACTED]
[REDACTED]
- b. Even where prices are set centrally by the major supermarkets, store managers retain discretion over markdowns. Their incentives to exercise that discretion will reduce with the decline in local competitive pressure.
- c. [REDACTED]
- d. [REDACTED] Coles may have reduced incentive to offer [REDACTED] if O'Connor Fresh IGA exits.

49. **Deficient ongoing constraint:** Once O'Connor Fresh IGA exits, the threat of new entry is remote. Coles will secure an unassailable position in Kalgoorlie on account of its large market share in relation to SFA held by full-line supermarkets (above [REDACTED]%), amplified by the lack of geographical proximity of any remaining full-line supermarkets to the Proposed Supermarket.

I. **Adverse effect on consumer interests**

50. The interests of consumers in Kalgoorlie will be adversely affected if the Proposed Acquisition proceeds and O'Connor Fresh IGA exits the Kalgoorlie market.
- a. **Loss of choice:** consumers will lose the only full-line supermarket in Kalgoorlie providing a combination of a wide and locally-responsive range, locally-sourced product lines, full-service delicatessen and lunch bar, freshly prepared food, and on-site butchery. If it proceeds, the Proposed Supermarket will not fill this gap, as it will carry substantially the same product range as Coles' existing Kalgoorlie store. Nor will the gap be filled by new entry, which is unlikely. There is no adjacent alternative source of supply; the nearest supermarket outside Kalgoorlie is 38km away at Coolgardie.

- b. **Loss of quality:** the loss of competitive tension will reduce the pressure on the remaining supermarkets to maintain or improve their product, service and store quality, and reduce their incentive to invest in customer service, tailored and locally sourced ranges, and store renewal. This adverse impact will be felt by all consumers in Kalgoorlie, not merely existing customers of O'Connor Fresh IGA.
- c. **Loss of extended trading hours shopping:** consumers will lose the only full-line supermarket in the southern and western catchment trading outside standard hours. While Spudshed also trades extended trading hours, it is located furthest from the Proposed Supermarket and its range is narrowly focused. This loss of extended-hours amenity will be particularly significant to Kalgoorlie consumers, which include mining and shift workers.
- d. **Loss of local price and promotional rivalry:** O'Connor Fresh IGA and [REDACTED] set prices having regard to local conditions, and [REDACTED]
[REDACTED]
[REDACTED] With the exit of O'Connor Fresh IGA, consumers will experience reduced local price and promotional rivalry.

J. Determination sought

- 51. The Tribunal should be satisfied that the Proposed Acquisition, if put into effect, would in all the circumstances have the effect, or be likely to have the effect, of substantially lessening competition in the Kalgoorlie market. Having regard to this matter, and to the adverse effect on the interests of consumers, the Tribunal should affirm the Determination.