

**NOTICE OF LODGMENT**  
**AUSTRALIAN COMPETITION TRIBUNAL**

This document was lodged electronically in the AUSTRALIAN COMPETITION TRIBUNAL and has been accepted for lodgment pursuant to the Practice Direction dated 3 April 2019. Filing details follow and important additional information about these are set out below.

**Lodgment and Details**

Document Lodged:	Submissions
File Number:	ACT 1 of 2023
File Title:	APPLICATIONS BY AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED AND SUNCORP GROUP LIMITED



A handwritten signature in blue ink, consisting of a stylized 'A' followed by a 'U'.

REGISTRAR

Dated: 4/03/2024 4:58 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 (Cth)***

**IN THE AUSTRALIAN COMPETITION TRIBUNAL**

File No: ACT 1 of 2023

Re: Application by Australia and New Zealand Banking Group Limited and Suncorp Group Limited for review of Australian Competition and Consumer ACCC Merger Authorisation Determination MA1000023-1

Applicant: Australia and New Zealand Banking Group Limited and Suncorp Group Limited

**SUPPLEMENTARY SUBMISSIONS ON BEHALF OF BENDIGO AND ADELAIDE BANK LIMITED**

1. These short supplementary submissions are filed on behalf of Bendigo and Adelaide Bank Limited (**BABL**) in response to the Tribunal's invitation to provide a supplementary submission in respect of certain matters raised by the ACCC in its submissions to the Tribunal dated 1 March 2024 (**ACCC Submissions**).
2. Defined terms in these submissions have the same meaning as in BABL's submissions to the Tribunal dated 1 March 2024 (**BABL Submissions**), unless stated otherwise.
3. These short supplementary submissions address the issues raised in paragraphs [6] to [8] of the ACCC Submissions, and the examples set out in Confidential Annexure B to those submissions.

**ACCC Submissions**

4. Paragraph [7] of the ACCC Submissions states that the ACCC has concerns that the approach to redactions adopted by the parties appears to have resulted in a number of claims which in the ACCC's views are either too broad or selective and that, if the proposed redactions are retained, this may give an incorrect impression of the Tribunal's reasoning and the evidential basis for its conclusions. Annexure B of the ACCC Submissions identifies some examples of claims about which the ACCC is concerned, including two claims made by BABL.
5. As set out in the BABL Submissions, BABL has sought to narrow its confidentiality claims to the extent possible. BABL submits that its proposed redactions are neither too broad nor too selective, and do not give an incorrect impression of the Tribunal's reasoning or conclusions. BABL also submits that the proposed redactions are necessary and appropriate to protect BABL's confidential information (and in some cases, the confidential information of third parties), which is commercially and competitively sensitive, for the reasons set out in the BABL Submissions.

### **Examples in the ACCC Submissions**

6. In respect of the BABL Confidential Material in paragraph [155] of the Reasons, the ACCC Submissions state:

*The ACCC is concerned that this highlighting is expansive. The commercial sensitivity of the existence of the assessments is not clear when BEN has publicly submitted that it is interested in acquiring Suncorp Bank.*

7. BABL submits that the BABL Confidential Material in paragraph [155] of the Reasons falls within Category 1 set out in paragraph [7(a)] of the BABL Submissions, as it is material which discloses the identify of BABL's external advisers, [REDACTED] and the existence and date of particular documents prepared by [REDACTED] and presented to BABL's board. As set out in the BABL Submissions, BABL owes express confidentiality obligations to [REDACTED] in respect of its engagement by BABL and all documents, analyses, advice or information provided by [REDACTED]. While the fact that BABL has considered and analysed a potential acquisition of Suncorp Bank may be in the public domain, the details of that analysis, including who BABL engaged to assist with such analysis and the specific analysis and timing of such analysis, has been kept confidential and not publicly disclosed. Such information is commercially and competitively sensitive to BABL, including because it may provide valuable insights into have BABL may approach other potential acquisitions. BABL also submits that disclosure of the identity of its external advisers, and the particular documents (including the dates of such documents) prepared by such advisers, is not necessary to understand the Tribunal's reasoning.
8. In respect of the BABL Confidential Material in paragraph [599] of the Reasons extracted in Annexure B, BABL does not press this proposed redaction. However, it maintains its claim in respect of the subsequent sentence in paragraph [599].
9. BABL is not aware of any other specific issues taken by ACCC in respect of the proposed redactions of the BABL Confidential Material.

### **Other parties' claims**

10. In relation to the claims made by Suncorp and ANZ, including those identified in Annexure B of the ACCC Submissions, BABL (other than its external legal advisers permitted to access confidential material by reason of previous directions of the Tribunal) has not had access to the Reasons and so are not able to assess claims made by the other parties. BABL's external legal advisers do not dispute any confidentiality claims raised by Suncorp or ANZ, or any third party.

**4 March 2024**