

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged:	Interlocutory Application - Form 35 - Rule 17.01(1)(a)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	1/10/2026 4:37:55 PM AEST
Date Accepted for Filing:	2/10/2026 9:42:47 AM AEST
File Number:	VID552/2026
File Title:	THE COMMONWEALTH OF AUSTRALIA v 3M COMPANY (DELAWARE COMPANY NUMBER 262413) & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Sia Lagos

Registrar

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 Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Interlocutory application

No. VID552/2026

Federal Court of Australia
District Registry: Victoria Registry
Division: General

THE COMMONWEALTH OF AUSTRALIA

Applicant

3M COMPANY (DELAWARE COMPANY NUMBER 262413) and another named in the Schedule
Respondents

To the Applicant

The Respondents apply for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

Time and date for hearing: [Registry will insert time and date]

Place: [address of Court]

The Court ordered that the time for serving this application be abridged to [Registry will insert date, if applicable]

Date:

.....
Signed by an officer acting with the authority of
the District Registrar



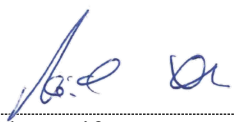
Interlocutory orders sought

1. Pursuant to r 16.45(1) of the *Federal Court Rules 2011* (Cth) (**Rules**), the Applicant provide to the Respondents further and better particulars of its claim as identified in Annexure A.
2. Pursuant to s 23 and/or s 37P(2) of the *Federal Court of Australia Act 1976* (Cth) and/or r 1.32 of the Rules:
 - a. the Applicant provide to the Respondents the information and documents identified in Annexure B;
 - b. the Applicant provide to the Respondents the information identified in Annexure C (**third party information**).
3. Alternatively to Order 1(b):
 - a. pursuant to r 21.01(1) of the Rules, the Applicant provide the third party information to the Respondents by way of written answers to interrogatories in accordance with r 21.03 of the Rules;
 - b. pursuant to r 1.34 of the Rules, r 21.02 of the Rules be dispensed with.
4. Costs.
5. Any other order that the Court deems appropriate.

Service on the Applicant

It is intended to serve this application on the Applicant.

Date: 1 October 2026


.....
Signed by Aoife Mary Xuereb
Lawyer for the Respondent



ANNEXURE A

Request for further and better particulars

The Respondents request that the following further and better particulars be provided, as referred to in the Respondents' letter to the Applicants dated 21 August 2026.¹

1. As to paragraph 25(c)(vi), specify what "potentially toxic" means and to what each of PFOS, PFHxS and PFOA was "potentially toxic", and at what concentration.
2. As to paragraph 25(c)(ix), specify what "potentially carcinogenic" means.
3. As to paragraph 30, specify what "potentially 'toxic'" means and to what FC-95 (or PFOS) was "potentially 'toxic'", and at what concentration.
4. As to paragraph 31, specify what "acute toxicity" means and to what each of FC-194, FC-195 and FC-196 (and any other chemical to which paragraph 31 relates) was acutely toxic, and at what concentration.
5. As to paragraph 32:
 - a. specify what is meant by "notices of concern";
 - b. identify the "notices of concern" to which the allegation relates.
6. As to paragraph 34, specify what is meant by the expression "toxic" and to what FC-200 (and any other chemical to which paragraph 34 relates) was toxic, and at what concentration.
7. As to paragraph 34, specify what is meant by the expression "other effects" and to what FC-200 (and any other chemical to which paragraph 34 relates) had "other effects", and at what concentration.
8. As to paragraph 39, specify what is meant by "potentially harmful" and "toxic" and to which animals each of FC-95, FC-200, FC-203 and FC-206 (and any other chemical to which paragraph 39 relates) was "potentially harmful" or "toxic", and at what concentration.
9. As to paragraph 44, specify what is meant by "potentially harmful" and "toxic" and to which animals FC-206 (and any other chemical to which paragraph 44 relates) was "potentially harmful" or "toxic", and at what concentration.
10. As to paragraph 49:
 - a. specify what is meant by "potentially harmful" and "otherwise toxic" in sub-paragraph (a), and at what concentration;
 - b. specify to which animals sub-paragraph (a) relates;
 - c. specify to which animals sub-paragraph (d) relates;
 - d. specify what is meant by "could leach" and "potentially migrate" in sub-paragraph (e);
 - e. specify what is meant by "other areas" in sub-paragraph (e).
11. As to paragraph 52(a), specify what is meant by "potentially harmful" and "otherwise toxic" and to which animals each of PFOS, PFOA, alternatively each of FC-95, FC-143 and FM-3422 was "potentially harmful" or "otherwise toxic", and at what concentration.
12. As to paragraph 52(b):
 - a. specify what is meant by "could leach" and "potentially migrate";
 - b. specify what is meant by "other areas".

¹ References to paragraphs and capitalised terms in this Annexure are references to paragraphs and capitalised terms in the SOC, unless otherwise stated.



13. As to paragraph 52(c), specify in which animals each of PFOS, PFOA, alternatively each of FC-95, FC-143 and FM-3422 bioconcentrated and/or bioaccumulated.
14. As to paragraph 53(a), specify what is meant by “potentially harmful” and “otherwise toxic” and to which animals each of PFOS, PFOA, alternatively each of FC-95, FC-143 and FM-3422 was “potentially harmful” or “otherwise toxic”, and at what concentration.
15. As to paragraph 53(b):
 - a. specify what is meant by “could leach” and “potentially migrate”;
 - b. specify what is meant by “other areas”.
16. As to paragraph 53(c), specify in which animals each of PFOS, PFOA, alternatively each of FC-95, FC-143 and FM-3422 bioconcentrated and/or bioaccumulated.
17. As to paragraph 54:
 - a. specify what is meant by “notices of concerns”;
 - b. identify the “notices of concerns” to which the allegation relates;
18. As to paragraph 59:
 - a. specify what is meant by “notices of concerns”;
 - b. identify the “notices of concerns” to which the allegation relates;
 - c. specify the formulations to which the allegation relates.
19. As to paragraph 63:
 - a. specify what is meant by “notices of concerns”;
 - b. identify the “notices of concerns” to which the allegation relates;
 - c. specify the formulations to which the allegation relates.
20. As to paragraph 68, specify what is meant by “the above information”.
21. As to paragraph 72(a), specify what is meant by “potentially harmful” and “otherwise toxic” and to which animals PFOS, PFOA, alternatively FC-95, FC-143 and FM-3422 were “potentially harmful” or “otherwise toxic”, and at what concentration.
22. As to paragraph 72(b):
 - a. specify what is meant by “could leach” and “potentially migrate”;
 - b. specify what is meant by “other areas”.
23. As to paragraph 72(c), specify in which animals PFOS, PFOA, alternatively FC-95, FC-143 and FM-3422 bioconcentrated and/or bioaccumulated.
24. As to paragraph 73(a), specify what is meant by “potentially harmful” and “otherwise toxic” and to which animals PFOS, PFOA, alternatively FC-95, FC-143 and FM-3422 were “potentially harmful” or “otherwise toxic”, and at what concentration.
25. As to paragraph 73(b):
 - a. specify what is meant by “could leach” and “potentially migrate”;
 - b. specify what is meant by “other areas”.
26. As to paragraph 73(c), specify in which animals PFOS, PFOA, alternatively FC-95, FC-143 and FM-3422 bioconcentrated and/or bioaccumulated.
27. As to paragraph 114, specify the “large quantities of 3M AFFF” that were discharged to, or in and around, the Base Use Areas at each of the Bases.



28. As to paragraph 160, specify the dates on which each of the “costs and expenses arising from the Non-Class Action Claims” were incurred by the Commonwealth.



ANNEXURE B

Information and documents concerning the Applicant's proposal that the initial trial of the proceeding be determined by reference to one or more representative "Bases"²

Information

The Respondents request that the following information be provided concerning the Applicant's proposal dated 30 July 2026 (annexed at Annexure D).

1. Why has the Applicant proposed Townsville Base as the proposed "Category 1" Base, as opposed to any other Base?
2. Why has the Applicant proposed Wagga, Tindal, Oakey, Edinburgh and East Sale Bases as the proposed "Category 2" Bases, as opposed to any other Base(s)?
3. Why has the Applicant proposed Townsville, Wagga, Tindal, Oakey, Edinburgh and East Sale Bases as the proposed "Category 3" Bases, as opposed to any other Base(s)?
4. Why has the Applicant proposed East Sale Base as the proposed Victorian Base, as opposed to any other Base(s)?
5. Why does the Applicant consider it necessary to have five "Category 2" Bases and six "Category 3" Bases, as opposed to one of each?
6. What is meant by "significant Remediation and Mitigation Activities" at paragraph 11(b) of the Applicant's letter dated 30 July 2026?

Documents and data

The Respondents request the following documents be provided in order to assist the Respondents with their effective and efficient consideration of the Applicant's proposal dated 30 July 2026 (annexed at Annexure D).

7. The "Defence Contaminated Site Register" referred to in the Defence Estate Legacy PFC Review authored by CH2M Hill Australia Pty Ltd dated July 2015 (**CH2M Report**).

Alternatively, if the "Defence Contaminated Site Register" is maintained as a database, an export of the data contained within that database, in an electronic format, which is consistent for each of the 28 Bases, and able to be readily interrogated.

² As defined and described at [12] to [13] and Schedules 1 to 27 of the Statement of Claim dated 28 May 2026 (SOC), being the properties the Applicant has continuously owned, occupied, managed or controlled and which are alleged to have been used by the Applicant for the purpose of conducting various Defence related activities, including training and operational activities, as set out in Schedules 1 to 27 of the SOC.



The Respondents request an export of the data contained within each of the following databases and/or software in order to assist the Respondents with their effective and efficient consideration of the Applicant's proposal dated 30 July 2026 (annexed at Annexure D), in an electronic format, which is consistent for each of the 28 Bases, and able to be readily interrogated, including the full suite of analytes and parameters investigated, in long table format, with complete metadata (including the unit of measure for each analytical data entry, and sample location data).

8. The "Defence Estate Legacy PFC Review Database" referred to in the CH2M Report.
9. The "Environmental Management System" referred to at paragraph 4.3.5 of the Defence Contamination Management Manual maintained by the Department of Defence dated March 2018 and amended June 2021 (**DCMM**).
10. The "Environmental Data Management Software" hosted by Earth Science Information Systems (EScIS) using Environmental Data Management Software (ESdat) referred to at paragraph 5.4 of the DCMM.
11. The "Garrison Estate Management System" referred to in paragraph 10 of the Applicant's letter to the Respondents dated 9 September 2026.



ANNEXURE C

Information pertaining to third party and/or contributory negligence claims

1. For each Base, provide a list of any AFFF products, other than "3M AFFF",³ that were used or otherwise handled by or on behalf of the Applicant for each year from 1966 onwards which identifies:
 - a. the name of the manufacturer and supplier of the product;
 - b. the brand name, product name, formulation and concentration of the product;
 - c. the volume of the product that was used or otherwise handled by or on behalf the Applicant;
 - d. the location within the Base at which each product was used or otherwise handled by or on behalf the Applicant, including any areas, other than the "[Base Name] Use Areas";
 - e. whether any third parties used or otherwise handled the product at the Base, and if so, how, where, when and for what purpose.
2. For each Base, provide a list of any 3M AFFF products that were used or otherwise handled by or on behalf of the Applicant for each year from 1966 onwards which identifies:
 - a. the brand name, product name, formulation and concentration of the product;
 - b. the volume of the product that was used or otherwise handled by or on behalf the Applicant;
 - c. the location within the Base at which each product was used or otherwise handled by or on behalf the Applicant, including any areas, other than the "[Base Name] Use Areas";
 - d. whether any third parties used or otherwise handled the product at the Base, and if so, the name of the third party, at what location, for what purpose and when.
3. For each Base, during the period from 1966 onwards, provide a list of any products containing PFAS (other than AFFF products), that were used in construction or maintenance activities, and/or in pesticides and herbicides by or on behalf of the Applicant, or by a third party, at the Base for each year from 1966 onwards, including:
 - a. the name of the manufacturer and supplier of the product;
 - b. the brand name, product name, formulation, concentration and batch or lot details of the product;
 - c. the volume of the product that was used or otherwise handled;
 - d. the location at which each product was used or otherwise handled;
 - e. when, how and for what purpose each product was used or otherwise handled at the Base.

³ As defined in [2(e)] of the SOC, being various fire-fighting foam products comprising an aqueous film forming foam sold under the brand name "3M Light Water" in 6 per cent and 3 per cent concentrates, which are alleged to have been developed, manufactured, marketed and distributed for worldwide sale by the First Respondent between about 1962 to about 2003.



ANNEXURE D

Letter from the Applicant to the Respondents dated 30 July 2026



30 July 2026

Herbert Smith Freehills Kramer
Level 22, 80 Collins Street
Melbourne VIC 3000

Attention: Aoife Xuereb and Peter Briggs

By email

Partner Howard Rapke
Direct line +61 3 9321 9752
Email howard.rapke@holdingredlich.com

Partner Joanne Jary
Direct line +61 7 3135 0681
Email joanne.jary@holdingredlich.com
Our ref H019800193

Dear Colleagues

The Commonwealth of Australia v 3M Company & 3M Australia Pty Ltd Federal Court of Australia proceeding no. VID552 of 2026

1. We refer to:
 - (a) your letter dated 24 June 2026; and
 - (b) your substantive letter dated 27 July 2026 (**Your 27 July Letter**).
2. We do not propose to respond to each of the matters raised in Your 27 July Letter by reference to individual paragraphs. Instead, we address the key matters raised and propose a way forward that will avoid unnecessary delay and inefficiency in the conduct and resolution of this matter.

Genuine steps

3. We note your clients' comments regarding the Commonwealth's approach to pre-action correspondence.
4. By letters dated 28 May 2026, we advised your clients that the Commonwealth was willing to engage in discussions that were directed towards resolving the dispute or narrowing the issues in dispute. We also requested your clients to indicate whether they were prepared to participate in discussions of that nature.
5. Despite more than two months having now elapsed since that invitation was sent, your clients have not responded to that invitation (including in Your 27 July Letter).
6. Consistent with its obligations as a model litigant, the Commonwealth remains willing to engage with your clients with a view to either resolving the dispute, or narrowing the issues in dispute. If, at any stage of the proceeding your clients wish to engage in such discussions, please let us know. The Commonwealth is prepared to consider any appropriate process(es) that your clients may suggest and offer the proposal set out below for your consideration.



Proposed approach for efficient case management

7. As you are aware, the Commonwealth's claim concerns 28 identified Defence Bases, which are located across Australia.¹
8. Having considered:
 - (a) your clients' comments regarding the time they say is required to file and serve their Defence,² i.e. either 11 December 2026 (a period of approximately 6 months after the filing of the proceeding) or 30 April 2027 (a period of more than 11 months post filing);
 - (b) the fact that many of the pleaded matters are derived from your clients' own documents and, we assume, are well known to your clients including because they have been the subject of litigation conducted elsewhere;
 - (c) the fact that you were provided with a bundle of documents referred to in the Statement of Claim (including Table A) and Base Schedules on 7 July 2026, now more than 3 weeks ago; and
 - (d) the most appropriate means of progressing this proceeding consistently with the overarching purpose of facilitating the just, quick, inexpensive and efficient resolution of the real issues in dispute,

the Commonwealth is of the view that a more efficient and proportionate approach would be for your clients to plead to the Statement of Claim in its entirety, but initially by reference to only a representative selection of Defence Bases (**Representative Bases**). This would then enable your clients to narrow the focus of expert evidence and permit the parties to identify and narrow the issues in dispute generally, progress the proceeding in a structured and efficient manner, and avoid unnecessary delay, duplication and cost.

9. On that basis, the Commonwealth proposes that the proceeding initially progress upon the basis that the Court will hear and determine those matters raised in the Statement of Claim and the schedules for the Representative Bases only.³ Following on from that initial hearing and determination, the parties and the Court can consider whether, and if so how, the remaining claims (i.e. as set out in the other Base Schedules) should be progressed, noting that some guidance is likely to be provided from any determination(s) that are made in respect of the Representative Bases.

Proposed Representative Bases

10. Part H of the Statement of Claim identifies several distinct categories of Defence Bases, each raising different factual and legal issues. To ensure that your clients' Defence meaningfully engages with the breadth of those issues, we propose that your clients plead to a set of Representative Bases which are drawn from the following categories pleaded at paragraphs 138 and 139 of the Statement of Claim:
 - (a) a "Steady State Base (or a **Category 1** Base)" in which the migration of PFAS has reached its geographical limit within that Base and surrounding areas, notwithstanding the continual leaching or dispersal of PFAS within that Base and surrounding areas;

¹ Whilst there are 28 Defence Bases identified, there are only 27 Base Schedules. This is because the Schedule for the Williams Base includes both RAAF Base Laverton and RAAF Base Point Cook (noting their relative proximity to each other).

² Including in relation to all 27 Base Schedules.

³ Akin to a separate trial of questions, as contemplated by rule 30.01 of the *Federal Court Rules 2011* (Cth).

- (b) an “Expanding Base (or a **Category 2** Base)” in which the migration of PFAS has not yet reached its geographical limit, notwithstanding the leaching or dispersal of PFAS within that Base and surrounding areas, and is migrating to new and additional areas within that Base and surrounding areas;
 - (c) an “Exceedance of Australian Drinking Water Guidelines (**ADWG**) and Australian Recreational Guidelines (**ARG**) Base (or a **Category 3** Base)” in which the contamination arising from PFAS exceeds guideline values for acceptable PFAS levels in:
 - (i) drinking water in the 2018 and/or 2025 ADWG; and further or alternatively;
 - (ii) recreational waters in the 2019 ARG and/or the 2026 Draft ARG.
11. In addition to the above categories, the Representative Bases should also include the following:
- (a) a Victorian Base to specifically address the section 39 of the *Environment Protection Act 2017* (Vic) claims; and
 - (b) a Base where significant Remediation and Mitigation Activities have been undertaken by the Commonwealth, including to mitigate the effects of the Base PFAS Contamination and which is demonstrative of the effects of those activities on the contamination levels at the Base and in surrounding areas.
12. Having regard to the categories and features identified above, the Commonwealth has identified the following six (6) Base Schedules, as being appropriate Representative Bases:

Item No.	Base	Location (State/Territory)	Category	Schedule to SOC
1.	Wagga Base	New South Wales	Categories 2 and 3	Schedule 7
2.	Tindal Base	Northern Territory	Categories 2 and 3	Schedule 11
3.	Townsville Base	Queensland	Categories 1 and 3	Schedule 15
4.	Oakey Base	Queensland	Categories 2 and 3	Schedule 16
5.	Edinburgh Base	South Australia	Categories 2 and 3	Schedule 18
6.	East Sale Base	Victoria	Categories 2 and 3	Schedule 21

13. Assuming your clients are agreeable to this approach (which we note would result in your clients not being required to respond to 21 of the 27 Base Schedules), we have enclosed a proposed set of orders to that effect. Relevantly, the proposed orders contemplate your clients’ filing a Defence to both the Statement of Claim and the six identified Representative Bases only.

Timing for the Defence

14. Given your clients’ indication that they could provide a Defence to the Statement of Claim and all 27 Base Schedules by 11 December 2026, if the above proposal is accepted, then the Commonwealth considers less time would be required to undertake that task.
15. Accordingly, the Commonwealth proposes that your clients file and serve their Defence by **7 October 2026**. We consider that timeframe to be reasonable having regard to the following matters:



- (a) the number of Base Schedules to which your clients would be required to plead has been substantially reduced from 27 to 6 Representative Bases (that is, less than one-quarter of the Base Schedules);
- (b) 3M Australia Pty Ltd has been in possession of the Statement of Claim and Base Schedules since it was served on 28 May 2026, and 3M Company since 15 June 2026;
- (c) your clients have been in possession of the documents referred to in the Statement of Claim (including Table A) and each of the Base Schedules since 7 July 2026;
- (d) confining the proposed Defence to 6 Representative Bases materially reduces the volume of documents and factual matters requiring consideration for the purposes of pleading your clients' Defence;
- (e) the Statement of Claim, particularly Parts A, C and D and Table A, refers to and particularises documents published or otherwise distributed by your clients and, in the case of 3M Company, matters that have been the subject of litigation in other jurisdictions. While the allegations concern conduct over an extended period, those matters are well known to your clients (particularly 3M Company) and should be capable of being responded to without undue difficulty;
- (f) the Statement of Claim, particularly Part E, outlines the procurement by the Commonwealth of 3M AFFF during the relevant period. Having regard to the detailed particulars provided and your clients' involvement in that procurement process, those matters should be capable of being responded to without undue difficulty; and
- (g) to the extent that your clients consider it necessary to engage consulting experts to assist with the preparation of their Defence, limiting the defence to 6 Representative Bases should enable any such work to be appropriately confined. In particular, the features of each of the Defence Bases and associated testing requiring expert consideration would, at least initially, be limited to those Representative Bases.

Further and Better Particulars

- 16. We note that your clients' proposed orders make provision for requests for further and better particulars. We also note your clients' observation in Your 27 July Letter that the Statement of Claim contains "*extensive particulars*".
- 17. In those circumstances, and given the level of detail already provided in the Statement of Claim and the Base Schedules, the Commonwealth does not accept that further and better particulars are required in order to enable your clients to plead their Defence.⁴ Accordingly, the Commonwealth does not consent to the inclusion of any orders providing for requests for further and better particulars.

Proposed cross-claims

- 18. We note reference is made in Your 27 July Letter that your clients anticipate filing a number of notices of cross-claims, apportionment claims and/or contributory negligence claims. We also note that your clients' proposed orders seek to preserve your clients' ability to amend their Defence at large until at least 30 April 2027 to address those matters (and we note, not otherwise to address your proposal to initially plead at a level of generality). However, beyond identifying the possibility that such claims may exist (or more accurately, may be commenced by your

⁴ As would be required under Rule 16.45 of the *Federal Court Rules 2011* (Cth).



30 July 2026 Page 5

clients), the precise nature of those claims is otherwise not identified. Nor are any proposed respondents identified. In the absence of proper identification of those claims, the Commonwealth does not consider it appropriate for your clients to be granted leave (effectively at large) to amend their Defence for that purpose, as is contemplated by your clients' proposed orders.

19. Instead, it would be more efficient and appropriate for you to either identify a proper basis for those claims now, or for the matter to be listed for a further case management following on from the filing of your clients' Defence – that is, in or after October 2026. If, at that stage, your clients have identified any cross-claims that they wish to pursue, a timetable can be proposed for those steps and any appropriate orders sought (including any proposal to make amendments that may be necessary and appropriate for your clients' Defence). The Commonwealth will consider any such proposal upon its merits.
20. This position is reflected in the enclosed proposed orders.
21. However, so that the proceedings are otherwise not unduly delayed (including because your clients' may not identify any potential cross-claims they wish to pursue by the time of the next case management hearing), we have also included orders for the Commonwealth to file and serve a Reply. At present, this is contemplated to occur after the next proposed case management hearing, so that if adjustments are necessary they can be made at that point. In addition, we anticipate that after the provision of your clients' Defence, the parties will then be in a position to usefully discuss any discovery process, including any document management protocol that may be required.

Next steps

22. Given that the matter is listed for a first case management hearing on 7 August 2026, we would be grateful if you could provide your clients' position in relation to the matters set out above, and the enclosed proposed orders, **by 4pm on Monday, 3 August 2026**.
23. To facilitate agreement on proposed orders ahead of the case management hearing, and the preparation of a joint position paper for provision to the Court in advance of that hearing, we would also be grateful if you could identify **by 4pm on Monday, 3 August 2026** the Counsel who will appear on behalf of your clients. This will enable our respective counsel to confer in advance of the hearing. Our counsel will be Ms Fiona McLeod AO SC and Ms Lindy Barrett.
24. We look forward to hearing from you.

Yours sincerely

A handwritten signature in blue ink, which appears to read 'Holding Redlich', is written over the typed name.

Holding Redlich

**Schedule**

No. VID552/2026

Federal Court of Australia
District Registry: Victoria Registry
Division: General

Second Respondent

3M AUSTRALIA PTY LTD (ACN 000 100 096)