



Australian  
Competition &  
Consumer  
Commission

31 May 2012

## Statement of Issues — ALH Group Pty Ltd (75 per cent owned by Woolworths Limited) - proposed acquisition of the Caringbah Hotel

1. Outlined below is the Statement of Issues released by the Australian Competition and Consumer Commission (ACCC) in relation to the proposed acquisition of the Caringbah Hotel by ALH Group Pty Ltd (ALH) from the Bayfields Group (Bayfields) (the **proposed acquisition**). Woolworths Limited (Woolworths) holds 75 per cent of the issued share capital in ALH. As a related acquisition, Laundry Hotels Pty Ltd (LHG) proposes to acquire the freehold property for the site.
2. A Statement of Issues published by the ACCC is not a final decision about a proposed acquisition, but provides the ACCC's preliminary views, drawing attention to particular issues of varying degrees of competition concern, as well as identifying the lines of further inquiry that the ACCC wishes to undertake.
3. In line with the ACCC's *Merger Review Process Guidelines* (available on the ACCC's website at [www.accc.gov.au](http://www.accc.gov.au)) the ACCC has established a secondary timeline for further consideration of the issues in relation to the proposed acquisition. The ACCC anticipates completing further market inquiries by **14 June 2012** and anticipates making a final decision on **28 June 2012**. However, the anticipated timeline can change in line with the *Merger Review Process Guidelines*. To keep abreast of possible changes in relation to timing and to find relevant documents, market participants should visit the Mergers Register on the ACCC's website at [www.accc.gov.au/mergersregister](http://www.accc.gov.au/mergersregister).
4. A Statement of Issues provides an opportunity for all interested parties (including customers, competitors, suppliers, shareholders and other stakeholders) to ascertain and consider the primary competition issues identified by the ACCC. It is also intended to provide the merger parties and other interested parties with the basis for making further submissions should they consider it necessary.

### Background

5. The ACCC commenced an informal review into the proposed acquisition on 1 March 2012.

## ALH - proposed acquisition of the Caringbah Hotel

### The Parties

#### Acquirers

##### ALH

6. ALH is owned by Woolworths (75 per cent) and the Bruce Mathieson Group (25 per cent).
7. ALH owns and operates 294 hotels and approximately 12,000 gaming machines nationally. ALH currently operates 27 hotels and around 700 gaming machines in NSW.
8. Woolworths (including ALH) is the largest liquor retailer in Australia with over 1,100 retail outlets and around 37 per cent of national liquor retail sales. Woolworths operates the takeaway liquor brands *Dan Murphy's*, *BWS* and *Woolworths Liquor*.
9. ALH/Woolworths have submitted to the ACCC that the hotels in the ALH group are managed separately from other Woolworths Liquor outlets. However, the ACCC understands that, where an ALH group hotel also operates a bottleshop, the bottleshop is branded *BWS* or *Dan Murphy's* and operates in accordance with the policies of the *BWS* and *Dan Murphy's* brands.
10. The ACCC considers that because Woolworths has effective control of ALH through its 75 per cent holding in the group and retains ownership and control of the retail liquor brands under which ALH bottleshops are operated, such bottleshops are properly considered as part of the Woolworths liquor group for the purposes of assessing the competitive effects of the proposed acquisition.

##### LHG

11. LHG is a family owned and operated business which is currently the largest independently owned hotel chain in NSW with around 40 hotels and a small number of takeaway packaged liquor licences.
12. It is the ACCC's understanding that ALH and LHG have entered into a joint venture arrangement, of which the proposed Caringbah acquisition is a part, whereby LHG will become or remain the freehold property owner for a large number of hotel properties which will be leased to ALH. This arrangement includes the following related transactions:
  - ALH is proposing to acquire 24 of LHG's hotel businesses and two takeaway packaged liquor retailers while LHG will retain the freehold which will be leased to ALH; and
  - ALH is proposing to purchase 5 hotel businesses from the Waugh Group while LHG will acquire the associated freehold property which will be leased to ALH.

## **ALH - proposed acquisition of the Caringbah Hotel**

### **Target - The Caringbah Hotel**

13. The Caringbah Hotel is currently owned and operated by Bayfields. Bayfields also owns and operates a number of other hotels in Sydney, including the Newport Arms Hotel, the Dee Why Hotel, the President Hotel Belrose and the Newport Mirage Hotel (all located in the northern beaches area of Sydney). Bayfields also operates a further two large format 'big box' liquor stores under the Bayfields banner. The other Bayfields stores are located in northern Sydney at Dee Why and Belrose.
14. The Caringbah Hotel is located in the Sutherland Shire in southern Sydney at 343 Port Hacking Road, Caringbah NSW. It is a large venue (over 1100 m<sup>2</sup> without including the bottleshop) with three separate bars and 30 electronic gaming machines.
15. In addition to the on-site facilities, the Caringbah Hotel operates a very large detached bottleshop on the same site as the hotel. This bottleshop operates under the 'Bayfields at the Caringbah' banner (**Caringbah Bayfields**) with a trading area of approximately 800 square metres and around 3000 products available. The site is easily accessible by car and has a large number of car parking spaces available.
16. The Bayfields bottleshops are members of the Bottlemart banner/buying group but are not advertised as such except for small signs indicating that all Bottlemart specials are available in-store. Further, the Bottlemart specials do not appear to be incorporated into the Bayfields special catalogues and the Bayfields group often provides an additional discount over the Bottlemart promotional price.

### **Other industry Participants**

17. Wesfarmers (**Wesfarmers**) through its Liquorland, Vintage Cellars and 1<sup>st</sup> Choice brands is currently the second largest packaged liquor retailer in Australia, with a share of national sales of around 20 per cent.
18. Banner and buying groups including Bottlemart, Local Liquor, Liquor Stax, Bottle-O, Cellarbrations and Thirsty Camel, along with other non-aligned independent retailers account for the remainder of national liquor sales.

### **The Proposed Acquisition**

19. ALH proposes to acquire from Bayfields the business and associated assets of the Caringbah Hotel, including the detached bottleshop currently operating as Bayfields Caringbah.
20. In a related transaction, LHG will purchase from Bayfields the associated freehold property. LHG will then enter into a long term registrable lease agreement with ALH for the use of the freehold. As such, post- acquisition LHG will be the lessor of the hotel and bottleshop to ALH.

## **ALH - proposed acquisition of the Caringbah Hotel**

### *Related transactions*

21. The ACCC is currently reviewing related but separate proposed acquisitions by ALH of 31 hotels and 1 takeaway packaged liquor licence in NSW, including 24 hotels from LHG (**31 hotels transaction**), as mentioned at paragraph 12 above. Further details on these proposed acquisitions can be found on the ACCC's website at [www.accc.gov.au/mergersregister](http://www.accc.gov.au/mergersregister).

## **Industry Background**

### **Retail sale of packaged liquor for off-site consumption**

22. ALH/Woolworths and Wesfarmers are Australia's largest retailers of packaged liquor, together accounting for 58 per cent of national sales in 2011, comprising ALH/Woolworths with 37 per cent and Wesfarmers with 21 per cent.
23. Independently owned bottleshops make up the remainder of retail sales. Independent operators often retail packaged liquor in association with marketing banner groups such as *Cellarbrations*, *Liquorstax*, *Liquor Legends*, *Bottlemart* and *Thirsty Camel* and achieve purchasing power and reduced costs through participating in buying groups.
24. While liquor retailers are differentiated by the characteristics of their retail offering, including product range, location, service and price, most can usually be defined to be part of a broader category of retailers which target particular types of liquor purchases. Categories of bottleshops include:
- i. 'destination' or 'big box' retailers, such as Woolworths' *Dan Murphy's* brand and Wesfarmers' *1<sup>st</sup> Choice*. These retailers target customers seeking a broader selection of products or making bulk purchases, hence they usually offer a wide range of products and tend to be price leaders in a particular area; and
  - ii. 'convenience' outlets such as Woolworths' *BWS* and Wesfarmers' *Liquorland* and the majority of independent brands. These retailers target customers making smaller purchases where convenience and accessibility is more important than price or range. These tend to be smaller and have higher prices than the 'big box' outlets, but are more numerous, are more likely to be in a convenient location and often incorporate drive-through facilities.

### **Retail sale of liquor for on-site consumption, entertainment and gaming**

25. In Australia, the hotel industry is highly fragmented with the largest shares of hotel licences nationally controlled by:

ALH with 10 per cent;<sup>1</sup>

Wesfarmers with 3.8 per cent;

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<sup>1</sup> The ACCC understands that Woolworths does not own hotel licences, and any bottleshops attached to hotels and operating under Woolworths brands are owned by ALH.

## **ALH - proposed acquisition of the Caringbah Hotel**

National Leisure and Gaming with 1.5 per cent; and

the Independent Pub Group with 1 per cent.

In NSW, ALH currently holds approximately 1.3 per cent of hotel licences.<sup>2</sup>

26. In NSW, LHG is currently the largest independent hotel operator in NSW with 1.9 per cent of hotel licences in that state. It is closely followed by a number of other operators in NSW including National Leisure and Gaming (1.5 per cent), the Waugh Hotel Group (0.9 per cent) and the De Angelis Group (0.4 per cent).
27. In NSW, hotels generate a significant proportion of their revenue from electronic gaming machines and, as such, ownership of these machines is considered important to the viability and competitiveness of hotels in the state. There are currently around 96,000 electronic gaming machine licences in NSW of which around 23,000 are held by hotels, with the remainder controlled by clubs and casinos. ALH/Woolworths owns and operates around 700 gaming machines in NSW.<sup>3</sup>

### **Areas of Overlap**

28. The ACCC considers that the following areas of overlap exist between the parties to the proposed acquisition:
  - i. ALH/Woolworths, LHG and Bayfields compete for the retail sale of packaged liquor for off-site consumption at a local geographic level;
  - ii. ALH/Woolworths, LHG and Bayfields compete in various local areas for the sale of liquor for on-site consumption, entertainment and gaming; and
  - iii. ALH/Woolworths, LHG and Bayfields compete to acquire liquor from wholesale suppliers in NSW.

### **Market Inquiries**

29. On 7 March 2012, the ACCC commenced market inquiries regarding the proposed acquisition.
30. As part of this process, the ACCC contacted market participants in the Caringbah area including packaged liquor retailers, hotels and a number of competing liquor banner groups and wholesale suppliers of liquor.

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<sup>2</sup> This 1.3 percent share would increase to 3 percent if the related 31 hotels transaction proceeds in full. As identified above, the ACCC is currently reviewing that proposed transaction.

<sup>3</sup> This would increase to around 1400 if the 31 hotels transaction proceeds. As identified above, the ACCC is currently reviewing that proposed transaction.

## **With/without test**

31. In assessing a merger pursuant to section 50 of the *Competition and Consumer Act 2010 (Cth)* (CCA), the ACCC considers the effect of the transaction by comparing the likely competitive environment post-acquisition if the transaction proceeds (the “with” position) to the likely competitive environment if the transaction does not proceed (the “without” position or “counterfactual” position) to determine whether the proposed acquisition is likely to have the effect of substantially lessening competition in any relevant market.
32. The ACCC has received conflicting information from market participants in relation to the likely situation without the proposed acquisition, particularly in relation to whether ALH/Woolworths is likely to seek to enter the Caringbah area with a Dan Murphy’s branded retailer should the proposed acquisition not proceed.
33. The ACCC notes that possible competition issues are likely to differ depending on the counterfactual.

The ACCC invites market participants to comment on the likely counterfactual should the proposed acquisition not proceed.

The ACCC invites market participants to provide information and evidence as to the likely competitive environment if the proposed acquisition does not proceed, including specific information to assist the ACCC in forming a view as to the likelihood of ALH/Woolworths seeking to enter the Caringbah area with a Dan Murphy’s branded retailer.

## **Market Definition**

34. Section 50 of the CCA prohibits mergers or acquisitions that would have the effect or be likely to have the effect of substantially lessening competition in any market. In assessing a proposed acquisition pursuant to section 50 of the CCA, the ACCC considers the competitive impact of the transaction in the context of the market/s relevant to the proposed acquisition.

### **Retail markets for the sale of packaged liquor for off-site consumption**

35. The ACCC considers that in retail markets involving chains and buying groups, competition may occur at both the national or state level and at the local geographic level. While all liquor retailers compete to attract customers from other retailers located in the same local area, many large retailers (such as ALH/Woolworths) standardise many elements of their retail offers (including promotional pricing) across all stores within a state.
36. When assessing local retail markets, the ACCC aims to identify the competitive constraints on the merged firm’s retail offers at a store level. In assessing the broader NSW retail market, the ACCC aims to identify the competitive

## **ALH - proposed acquisition of the Caringbah Hotel**

constraints on the merged firm in determining its state-wide retail offers (such as state prices and state-wide marketing campaigns).

### **State-wide market**

37. In the broader market, the ACCC notes that major chains including the Woolworths brands (*Woolworths Liquor*, *Dan Murphy's* and *BWS*); the Wesfarmers brands (*Liquorland*, *1<sup>st</sup> Choice* and *Vintage Cellars*); and independent brands (*IGA*, *Cellarbrations*, *Bottlemart*, *Liquor Legends* and *Liquorstax*) standardise major elements of their retail offer across all stores in NSW, for example, through state-wide promotions. The ACCC considers that the relevant issue in defining the broader market is to identify the constraints on the merged firm's state-based retail offers.

### **Local markets**

38. The ACCC considers that the geographic scope of a local liquor market will depend on a range of factors, including the nature of the target retail outlet and its customer base. For a 'convenience' retailer, the relevant geographic market might be expected to be narrower than for a 'destination' retailer.
39. To undertake an analysis of competition in a local liquor market the ACCC starts from the target bottleshop, and the competing stores already owned by the acquirer, and considers the factors that influence customers' decisions to shop there, and what alternative outlets would represent close substitutes in the event of a price increase or deterioration in service. These factors include:
- i. the product range and prices offered by alternative bottleshops relative to those offered by the target and acquirer;
  - ii. whether alternative bottleshops provide customers with convenient access in conjunction with other services required by customers, such as supermarkets or shopping centres;
  - iii. how far customers are willing to travel for different types of liquor purchases; and
  - iv. whether the alternative bottleshop is located on a major thoroughfare and can be accessed easily by customers on their way to or from another location (e.g. commuting to or from a workplace).
40. Market inquiries undertaken by the ACCC indicate that the willingness of customers to bypass their nearest bottleshop to access competing bottleshops is strongly influenced by the attractiveness of the retail offering of more distant stores, with customers travelling greater distances to access significant savings or a greater range of products. That is, customers' willingness to travel to a competing retailer increases with the strength of the retail offering of that retailer relative to geographically closer substitutes. This means that:

### **ALH - proposed acquisition of the Caringbah Hotel**

- Small bottleshops located away from other services and major transport routes are unlikely to be an attractive substitute for other bottleshops outside a very small geographic area.
  - Conversely, a store with a very strong retail offering, such as a 'destination' or 'big box' retailer, may be an attractive substitute for other retailers over a larger area.
41. Further to analysing the geographic scope of a particular retailer's competitive influence, the ACCC considers whether competitive constraints in a market are asymmetrical. For example, in the case of big box retailers the ACCC considers that the presence of a big box store in a local area may impose a significant competitive constraint on smaller retailers in the same area. However, smaller stores may be less likely to provide a strong competitive constraint on big box stores due to their smaller range and generally higher prices.
42. The ACCC considers that Caringbah Bayfields is a large format 'big box' store similar to a *Dan Murphy's* or *1<sup>st</sup> Choice* and as such, is likely to be a strong competitive influence over a greater geographical area than the majority of other liquor retailers.

The ACCC invites market participants to comment on the geographic scope of the relevant retail liquor market(s), with reference to:

- i. how far consumers are willing to travel to purchase liquor from 'big box' format stores like Caringbah Bayfields and *Dan Murphy's* in preference to a more conveniently located store;
- ii. what factors influence consumers' willingness to travel to access takeaway packaged liquor stores; and
- iii. the extent to which other retailers competitively constrain 'big box' retailers and vice versa.

### **Retail market for the sale of liquor for on-site consumption, entertainment and gaming**

43. In assessing the proposed acquisition, the ACCC has sought information from the industry on the geographic scope of markets for the sale of liquor for on-site consumption, entertainment and gaming, in venues such as hotels and licensed clubs.
44. Market participants have indicated that for venues in regional or suburban areas, customers generally travel 3-5km to a licensed venue to purchase alcohol for on-site consumption.
45. In the Caringbah area, the ACCC has reviewed the proposed acquisition in the context of a local market within a radius of 3-5km from the Caringbah Hotel.



## **ALH - proposed acquisition of the Caringbah Hotel**

The ACCC invites market participants to comment on whether the 3-5km radius identified by the ACCC is the correct geographic scope for the local Caringbah market for the sale of liquor for on-site consumption, entertainment and gaming, with reference to:

- i. whether the majority of customers of a venue travel less than 3-5km to visit the venue;
- ii. what factors influence a consumer's willingness to travel more than 3-5km to an alternative venue; and
- iii. which other venues constrain the local offer of the Caringbah Hotel, regardless of whether these are within 3-5km of the Caringbah Hotel.

### **Wholesale market for the acquisition of liquor in NSW**

46. In assessing the proposed acquisition, the ACCC has sought information from the industry on the geographic scope of the wholesale market for the acquisition of liquor. Market participants have indicated that liquor supply agreements between liquor manufacturers and major retailers and wholesalers such as Woolworths, Wesfarmers and Metcash are usually arranged on a state-wide basis. However, the ACCC has also received information that the growth in national liquor brands and retail chains has resulted in a shift towards national liquor supply agreements.

### **Statement of Issues**

47. For the purposes of this Statement of Issues, the issues in this matter are divided into two categories 'issues of concern' and 'issues unlikely to pose concerns'.

#### **Issues of Concern**

##### **Local market for the retail sale of packaged liquor for off-site consumption in the Caringbah area**

48. The ACCC's preliminary view is that the proposed acquisition is likely to result in a substantial lessening of competition in the local market for the retail sale of packaged liquor for off-site consumption in the Caringbah area, both in terms of 'big box' and 'convenience' liquor purchases. The ACCC considers that this is likely to occur as a result of the removal of Caringbah Bayfields as a vigorous and effective competitor in that market.
49. In the Caringbah area the closest other large format 'destination' store to the Caringbah Bayfields is the *1<sup>st</sup> Choice Liquor* in Sylvania, owned by Wesfarmers, which is around 3km from the Caringbah Bayfields. The next closest 'destination' store is the *Dan Murphy's* at Hurstville, owned by Woolworths, which is around 10km from the Caringbah Bayfields.
50. There are also many small format stores within the narrower Caringbah area which compete for 'convenience' customers, including several stores owned by

## ALH - proposed acquisition of the Caringbah Hotel

each of Woolworths and Wesfarmers, as well as independent stores, one of which is currently proposed to be purchased by ALH under the separate 31 hotels transaction and rebranded as a *BWS*.

51. To compete against other bottleshops, Bayfields has three distinct promotional discount programmes: a monthly specials catalogue, a weekly specials catalogue and a Bottlemart specials range. Bayfields lists some of these specials in multiple full page advertisements in the local newspaper, the St George & Sutherland Shire Leader (the **Leader**). It is the ACCC's understanding that as a result of these price promotions, the Caringbah Bayfields may have more than 200 products discounted at any given time.
52. Market inquiries undertaken by the ACCC indicate that the prices offered by the Caringbah Bayfields during its regular specials are usually discounted aggressively. Further, while Bayfields at least matches all Bottlemart specials (as required under its buying group conditions) Bayfields often offers an additional discount beyond the advertised Bottlemart special.
53. In addition to its own discounting, Bayfields also offers a price match guarantee which states that it will honour any competitor's prices advertised in the Leader.
54. The ACCC notes that while other bottleshops advertise in the Leader, the number of lines promoted, the size of the advertisements and the extent of the price discounting is usually less than Bayfields. In addition, no other competitor advertising in the Leader offers a similar price match promotion. The ACCC notes that while *Dan Murphy's* and *1<sup>st</sup> Choice* offer similar price match promotions, neither of these advertise in the Leader.
55. The ACCC also notes that the *Dan Murphy's* at Hurstville appears to follow the specials offered by Caringbah Bayfields. As a result, the *Dan Murphy's* price at Hurstville will be cheaper for the products advertised by Caringbah Bayfields than for the *Dan Murphy's* brand state-wide. Accordingly, both Caringbah and Hurstville customers benefit from the strong promotional price offering of Caringbah Bayfields.
56. The ACCC further notes that the *Dan Murphy's* at Hurstville does not appear to match the price promotions of the other competitors in the Caringbah area, regardless of whether they advertise in the Leader, indicating that the Caringbah Bayfields may be considered a price leader in this area.
57. It is the ACCC's understanding that post-acquisition, Caringbah Bayfields will be rebranded as a *Dan Murphy's* store. This would result in the removal of the Caringbah Bayfields' strong promotional offering in the local market and would additionally lead the *Dan Murphy's* at Hurstville to cease matching prices with Caringbah Bayfields.
58. Given the above information, the ACCC is concerned that the removal of Caringbah Bayfields would lead to an increase in takeaway packaged liquor prices in the Caringbah area due to the removal of the current aggressive price discounting of a vigorous and effective competitor. The impact of this on the post-acquisition market may include:

### **ALH - proposed acquisition of the Caringbah Hotel**

- i. an increase in prices at Caringbah Bayfields, primarily through a reduction in the frequency, breadth or extent of discounting;
  - ii. an increase in prices at competing independent liquor retailers in the narrower Caringbah area which would no longer need to compete with the aggressive discounting and strong promotion of Caringbah Bayfields; and
  - iii. a reduction in the frequency, breadth or extent of discounting offered by the *Dan Murphy's* at Hurstville.
59. The ACCC notes that a number of smaller (including independent) 'convenience' competitors will remain in the vicinity of the Caringbah Bayfields post-acquisition, and may be able to constrain ALH/Woolworths' ability to increase prices or reduce service at its other stores. However, the ACCC considers that these operators would be unlikely to impose a sufficient competitive constraint on the merged entity as these sites do not offer the same level of range and prices offered by the large format retailers.
60. The ACCC notes that while *1<sup>st</sup> Choice* at Sylvania is also a large format store with a broad range, competitive pricing and a price-matching retail policy and is around 3km from Caringbah Bayfields, the *1<sup>st</sup> Choice* brand does not appear to respond to local competition in the same way as *Dan Murphy's* and is unlikely to become a vigorous and effective local competitor like Caringbah Bayfields. While it will match competitors' prices on an ad-hoc basis on request of a customer, it does not alter in-store shelf prices in response to local competition. As such, the ACCC currently considers that the competitive constraint imposed by *1<sup>st</sup> Choice* in the area post-acquisition would be less than the constraint currently provided by Caringbah Bayfields.

The ACCC invites market participants to comment on the likely effect of the proposed acquisition of Caringbah Bayfields in the local market around Caringbah Bayfields, with reference to:

- i. the extent to which Caringbah Bayfields is a price leader in the local liquor market;
- ii. the likely effect of Caringbah Bayfields being removed as a vigorous and effective competitor in the market;
- iii. the extent to which the discounts offered by *1<sup>st</sup> Choice Liquor* at Sylvania compares with the price discounting offered by Caringbah Bayfields; and
- iv. the extent to which a reduction in competition in the Caringbah region might have a flow-on effect to other nearby regions, particularly for consumers in Hurstville.

### **Issues unlikely to pose concerns**

## **ALH - proposed acquisition of the Caringbah Hotel**

### **Caringbah market for the sale of liquor for on-site consumption, entertainment and gaming**

61. The ACCC is investigating whether the proposed acquisition will result in a substantial reduction in competition in the local market for the sale of liquor for on-site consumption, entertainment and gaming within 3-5km of the Caringbah Hotel.
62. Market inquiries indicate that there are four other hotels within a 3km radius of the Caringbah Hotel. These hotels are:
  - a. The Miranda Hotel located at 590 Kingsway Miranda NSW 2228
  - b. The Taren Point Hotel located at 105 Parraweena Road, Taren Point NSW 2229, part of the Feros Group of Hotels
  - c. The Gymea Hotel located at 41 Gymea Bay Road, Gymea NSW 2227, currently part of the Waugh Group of Hotels
  - d. The Royal Crest Sylvania located 114 Princes Highway Sylvania NSW 2224.
63. The Gymea Hotel is currently a proposed acquisition target in the 31 hotels transaction.
64. The ACCC notes that no concerns have yet been raised during market inquiries in respect of its assessment of that proposed acquisition. Market participants have indicated that the on-site market is highly competitive and it is unlikely that ALH will have sufficient market power to increase prices and/or reduce service at its sites in the Caringbah area post acquisition as there will be sufficient remaining competitors in the market to competitively constrain ALH.

The ACCC invites market participants to comment on the likely effect of the proposed acquisition of the Caringbah Hotel on the local market surrounding the Caringbah Hotel, with reference to the extent other hotels in the area will provide a competitive constraint on ALH post- acquisition.

### **The NSW market for the sale of packaged liquor for off-site consumption**

65. In the NSW retail liquor market, the ACCC considers that the more significant competitive constraints on ALH/Woolworths are likely to come from competitors with similar state-based offers. This includes Wesfarmers (*1<sup>st</sup> Choice*, *Vintage Cellars* and *Liquorland*) and banner groups such as *Cellarbrations*, *IGA*, *Bottlemart*, *Liquor Legends* and *Liquorstax*.
66. While this is the case, it does not necessarily mean that an independent liquor retailer (such as Bayfields) does not impose a constraint on ALH/Woolworths' state retail offers. In setting its state offers, ALH/Woolworths are likely to consider the competitive position of its stores against all major competitors.

## ALH - proposed acquisition of the Caringbah Hotel

67. In this particular matter, the ACCC notes that the proposed acquisition would represent one of over 330 ALH/Woolworths liquor stores in NSW. As such, despite the fact that the store being acquired is large and may be a vigorous and effective competitor in the local market, the ACCC considers that it is unlikely that the proposed acquisition alone would materially alter the competitive constraints imposed on ALH/Woolworths' state-wide retail offers.
68. In this context, the ACCC considers it unlikely that the proposed acquisition would have a significant impact on competition between brands at a state level due to the very small transfer of market share as a result of the proposed acquisition.

### Wholesale market for the acquisition of liquor in NSW

69. The ACCC estimates that the proposed acquisition will result in a market share transfer of less than 1 per cent in this market.
70. Market participants did not consider that the proposed acquisition would result in a significant lessening of competition in the NSW wholesale liquor market as the additional market share gained by ALH/Woolworths would be insufficient to significantly increase its market power when negotiating liquor supply agreements with manufacturers and other suppliers.
71. Accordingly, due to the small transfer of market share the ACCC believes it is unlikely the proposed acquisition will raise any competition concerns within the wholesale liquor market in NSW.

The ACCC invites market participants to comment on whether the proposed acquisition raises competition concerns in the NSW or national wholesale liquor market.

## **ACCC's Future Steps**

72. The ACCC will finalise its view on this matter after it considers market responses invited by this Statement of Issues.
73. The ACCC now seeks submissions from market participants on each of the issues identified in this Statement of Issues and on any other issue that may be relevant to the ACCC's assessment of this matter.
74. Submissions are to be received by the ACCC no later than **14 June 2012**. The ACCC will consider the submissions received from the market and the merger parties in light of the issues identified above and will, in conjunction with information and submissions already provided by the parties, come to a final view in light of the issues raised above.
75. The ACCC intends to publicly announce its final view by **28 June 2012**. However the anticipated timeline may change in line with the *Merger Review Process Guidelines*. A Public Competition Assessment for the purpose of

**ALH - proposed acquisition of the Caringbah Hotel**

explaining the ACCCs final view may be published following the ACCCs public announcement.