



Australian  
Competition &  
Consumer  
Commission

4 June 2008

## Statement of Issues — Woolworths Limited - proposed acquisition of the Karabar Supabarn supermarket

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 Karabar Supabarn supermarket and packaged takeaway liquor licence by Woolworths Limited (**proposed acquisition**).
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. The ACCC anticipates completing further market inquiries by 12 June 2008 and making a final decision on 25 June 2008. 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, shareholders and other stakeholders) to ascertain and consider the primary 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. On 7 April 2008 the ACCC commenced its informal review of the proposed acquisition in response to Woolworths Limited's request for an informal review.

## The parties

### The acquirer - Woolworths Limited

6. Woolworths Limited (**Woolworths**) is an Australian and New Zealand retailer. Its operations include supermarkets, petrol, liquor, Big W general merchandise stores, and consumer electronics through Dick Smith, PowerHouse and Tandy.
7. Woolworths is Australia's largest grocery retailer. It operates approximately 777 supermarkets across Australia. Woolworths is also the owner or joint owner of approximately 1058 liquor outlets. Woolworths currently owns two supermarkets near the target, one in the Queanbeyan CBD and one at Jerrabomberra.

### The target - Karabar Supabarn

8. The Karabar Supabarn supermarket and packaged takeaway liquor licence (the **Karabar supermarket**) is an independent supermarket and retail liquor outlet owned by Forager Pty Ltd (**Forager**). The Karabar supermarket operates under the Supabarn brand via a licence agreement with the Supabarn Supermarket Group. It is located at the Karabar Shopping Centre in Karabar, a suburb about 2km from the town centre of Queanbeyan, NSW.
9. The Karabar supermarket is approximately 1250 sqm. The ACCC's inquiries indicate that its range is considerably smaller than that of a full-line<sup>1</sup> supermarket, and that it does not currently provide a strong competitive constraint on the major supermarkets in Queanbeyan and Jerrabomberra.

## The proposed acquisition

10. Woolworths proposes to acquire the Karabar supermarket and packaged takeaway liquor licence from Forager.

## Other industry participants

11. Supabarn Supermarket Group (the **Supabarn Group**) – The Supabarn Group is an independent group operating full-line supermarkets. It operates three supermarkets in the ACT (Civic, Wanniasa and Kaleen) and one in Sydney (Five Dock), with further supermarkets planned at Sutherland and Sans Souci. The ACCC's inquiries indicate that the Supabarn Group is regarded as offering a range of goods which is comparable in size but different in composition to those of Woolworths and Coles. The Supabarn Group is expanding its business and has expressed an interest in acquiring the Karabar supermarket (see **With/Without test** below at paragraph 17).

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<sup>1</sup> The ACCC's inquiries indicate while some parties disagree on the precise definition of a full-line supermarket, it is generally considered to be a supermarket of at least 2500sqm with a full range of goods including packaged groceries, fresh meat, bakery and deli departments, fresh fruit and vegetables and frozen foods. Some market participants draw a distinction between basic full-line supermarkets at 2500sqm, and larger, major full-line supermarkets of at least 3000sqm and up to 4500sqm.

12. Coles Chain (**Coles**) – Coles is a division of Wesfarmers, an ASX listed company. Wesfarmers' Coles division includes Australia's second largest supermarket business (Coles and Bi-Lo), operating over 740 stores. It also includes Coles Liquor (1st Choice Liquor Superstores, Liquorland, and Vintage Cellars) and the Coles Express fuel and convenience stores. Coles operates one supermarket in the Queanbeyan CBD with a co-located Liquorland liquor store.
13. Aldi Stores (**Aldi**) – Aldi is a partnership which operates approximately 160 grocery stores in New South Wales, ACT, Queensland and Victoria, including one in the Queanbeyan CBD. Aldi's ACT and Victorian stores carry a range of liquor (its Queanbeyan store does not). Most of its products carry Aldi's own brands, and it has a reputation for low prices and basic service, with customers paying for their bags and packing their own groceries. Its product range is much smaller than that of a full-line supermarket, with an emphasis on basic, regularly purchased items, as well as weekly general merchandise specials.
14. Metcash Trading Limited (**Metcash**) – Metcash is Australia's largest independent grocery and liquor wholesaler and distributor. Through its IGA Distribution, Campbells Wholesale and Australian Liquor Marketers businesses, Metcash carries on the business of wholesaling and distributing groceries and liquor to independent grocery retailers. Metcash also provides marketing, promotional and expansion support to independent grocery retailers. Metcash supplies groceries to the Karabar supermarket and to the Supabarn Group.

## **Market inquiries**

15. On 7 April 2008 the ACCC commenced market inquiries regarding the proposed acquisition. The ACCC has received information from a range of interested parties.
16. The ACCC is now calling for further information from interested parties to assist with its investigation as set out below.

## **Additional background**

### **With/without test**

17. In assessing a merger pursuant to section 50 of the *Trade Practices Act 1974*, the ACCC must consider the effects of the transaction by comparing the likely competitive environment post-merger if the transaction proceeds (the "with" position) to the likely competitive environment post-merger if the transaction does not proceed (the "without" position) to determine whether the acquisition is likely to substantially lessen competition in any relevant market.
18. The information available to the ACCC suggests that in the absence of the proposed acquisition it is likely that the Karabar supermarket would be acquired by the Supabarn Group and be expanded and upgraded to a large format full-line supermarket. Accordingly, this forms the basis of the "without" position for the purposes of the ACCC's competition assessment.

19. The “with” position, whereby the Woolworths acquisition proceeds, also includes the likelihood that the supermarket would be expanded and upgraded to a large format full-line supermarket.

### **Proposed Googong development and new roads**

20. The ACCC has taken into account a number of proposed residential and road developments which it considers are likely to have an impact on the catchment area of the Karabar supermarket and may also have an impact on the degree of competition and potential competition between supermarkets.
21. There is a proposed residential development in the area of Googong located approximately 7km from the Karabar supermarket. As part of the Queanbeyan City Council’s *Queanbeyan Residential and Economic Strategy 2031*, it is proposed to build around 5500 new dwellings in Googong over 25 years. It is likely this development will be serviced by several retail areas, including one primary retail area containing a large format full-line supermarket. However, there are a number of planning and approval stages that need to be completed before the Googong development can go ahead and, while the ACCC considers that the development is likely to occur, it may be at least two years before construction begins and a further 5-10 years before Googong has its own large format full-line supermarket.
22. To allow for the increased traffic flow created by the proposed Googong development, a number of new roads and upgrades to existing roads have been proposed. Information received by the ACCC suggests that it is likely that Old Cooma Road, which currently links Googong with the Karabar supermarket, will be upgraded and Edwin Land Parkway, which adjoins Tomsitt Drive in Jerrabomberra, will be extended to link eastern Jerrabomberra with Old Cooma Road, providing a shorter route for residents of Jerrabomberra to reach Karabar and a shorter route for residents of Queanbeyan and Googong to reach Jerrabomberra.
23. While the timing of the proposed road developments is uncertain, the information available suggests that they are likely to take place prior to, or in conjunction with, the first development at Googong to cater for the increased traffic flow. The proposed road developments have been identified in a number of public documents as a priority before the Googong development commences.
24. A consequence of the proposed road developments is that they are likely to increase the ease of travel, and reduce travel time, between Jerrabomberra and Karabar. The possible competition effects associated with this and the Googong development are discussed below from paragraph 51.

### **Market definition**

#### **Local retail supermarket market**

25. Consistent with previous matters, the ACCC has considered the proposed acquisition in the context of a local retail supermarket market. In previous matters

the ACCC has generally considered the geographic scope of local supermarket markets to be within a 3-5km radius surrounding the supermarket to be acquired. However, in this matter there are a number of geographic factors that may influence the geographic definition of the relevant market<sup>2</sup>. These factors include the proposed residential and road developments outlined above and the geographic characteristics of the Jerrabomberra area including the location of dwellings and existing roads.

26. These factors are discussed in more detail from paragraph 51. The ACCC seeks further information regarding these factors and their influence on geographic market definition.

#### *Market concentration*

27. Woolworths, Coles and Aldi each operate one supermarket in the Queanbeyan CBD, which is approximately 2km from the Karabar supermarket. There is a Woolworths supermarket located at Jerrabomberra, within a 3km radius from the Karabar supermarket. However, there is currently no direct route between the Jerrabomberra and Karabar supermarkets. By road, the distance between the supermarkets is approximately 5.1km on back streets or 6.4km on main roads, although the proposed Edwin Land Parkway extension referred to at paragraph 22 above would shorten this distance.
28. There are also two smaller independent supermarkets, New Planet Supermarket and Vista Minimart, located within 2km of the Karabar supermarket. The ACCC's preliminary view is that these very small supermarkets do not impose a strong competitive constraint on the Karabar supermarket (or any other supermarket).
29. Following the proposed acquisition, Woolworths would operate three supermarkets within a 3km radius.

#### **Procurement market**

30. Consistent with its consideration of previous supermarket acquisitions, the ACCC has also considered the acquisition in the context of a state wide market for the procurement of products sold in supermarkets by supermarket wholesalers (including vertically integrated supermarket chains who provide their own "wholesaling" services) from growers and suppliers of products sold in supermarkets.

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<sup>2</sup> "Market definition is not an exact physical exercise to identify a physical feature of the world; nor is it an enquiry after the nature of some form of essential existence. Rather, it is the recognition and use of an economic tool or instrumental concept related to market power, constraints on power and the competitive process which is best adapted to analyse the asserted anti-competitive conduct. ... Thus, once one appreciates the integrated legal and economic notions involved in the concept of a market and its purposive role ... one is unlikely to find utility in a debate about the precise physical metes and bounds of a market": *ACCC v Liquorland (Australia) Pty Ltd* [2006] FCA 826 per Allsop J at [429]-[430].

### **Wholesale market**

31. Consistent with its consideration of previous supermarket acquisitions, the ACCC has also considered the acquisition in the context of a state wide market for the wholesaling of products sold in supermarkets.

### **Liquor markets**

32. The ACCC has also considered the proposed acquisition in the context of a number of relevant liquor markets. Similar to the supermarket markets outlined above, the ACCC has considered the effect of the proposed acquisition in the:
- local market for the retail sale of packaged liquor for off-premises consumption;
  - state wide market for the procurement of packaged liquor for subsequent sale by retail liquor outlets for off-premises consumption; and
  - state wide market for the wholesale of packaged liquor for subsequent sale by retail liquor outlets for off-premises consumption.

### **Statement of issues**

33. 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**

##### *A lessening of competition in the local retail supermarket market*

#### Overview

34. The ACCC’s preliminary view is that the proposed acquisition is likely to constitute a substantial lessening of competition in the relevant local supermarket market when compared with the likely situation without the acquisition. The factors considered in reaching this preliminary view are discussed below. The ACCC is seeking further information from interested parties regarding these issues before it forms a final view of the proposed acquisition.
35. As outlined at paragraph 18 above, the ACCC considers that if the proposed acquisition does not proceed, it is likely that the Supabarn Group will acquire the Karabar supermarket and expand and upgrade it to a large format full-line supermarket.
36. The ACCC must therefore consider whether the competitive environment if the proposed acquisition by Woolworths proceeds constitutes a substantial lessening of competition relative to the “without” position. In other words, the question is “would the market have a substantially *higher* level of competitive tension if the Supabarn Group acquired the Karabar supermarket than if Woolworths acquired

it?”. A higher level of competitive tension may be manifested in a number of ways including more price competition, specials and promotions, an increase in quality, increased range and/or consumer choice, better service levels and other relevant factors.

#### Competitive response to new entry

37. Information available to the ACCC suggests that some supermarkets and supermarket chains respond to the entry of new full-line supermarkets (such as a Supabarn Group supermarket) in a number of ways, including by offering discounts and additional promotions in nearby supermarkets. Consumers benefit from this competitive response. The ACCC seeks further information regarding the forms and duration of the competitive response by supermarkets to the entry of new full-line competitors.

#### Range

38. Existing Supabarn Group supermarkets are large format full-line supermarkets. They offer a broad range of products that, in number, is similar to that offered by Woolworths or Coles. In terms of the composition of the range, a number of products offered at Supabarn Group supermarkets are different from those offered by either Woolworths or Coles; for example, Supabarn Group supermarkets are promoted as offering a greater range of locally produced products and specialty items. The ACCC’s inquiries indicate that the Supabarn Group seeks to compete strongly on range, and that the entry of a Supabarn Group supermarket to a local market which already has Coles, Woolworths and Aldi supermarkets would provide a greater product choice for consumers.
39. The ACCC seeks further information regarding the difference in range between Supabarn Group supermarkets and other supermarkets, the degree to which a wider choice of products is a result of competition between supermarkets and whether this delivers significant competitive benefit.

#### Price competition and promotions

40. The Supabarn Group seeks to compete with other full-line supermarkets on everyday shelf pricing by offering prices which are similar to or lower than those of its competitors. The ACCC seeks further submissions on the extent of the Supabarn Group’s price competitiveness and its impact on the prices charged by competitors.
41. The Supabarn Group also runs a number of weekly promotions offering consumers discounts on certain items, as do Woolworths, Coles and Aldi. The ACCC seeks further information regarding the promotions run by the Supabarn Group, the degree to which the Supabarn Group competes via promotions and the level of response by other supermarket operators.

#### Fresh produce

42. The Supabarn Group markets itself as providing high quality fresh produce and a different range of produce to Woolworths and Coles, and seeks to use this as a

point of difference in competition with them. In addition, its procurement and supply arrangements for fresh items differ from those used by Coles and Woolworths. This may result in a differing ability to offer discounts and specials on fresh items such that the Supabarn Group is better able to discount certain products at certain times, while Woolworths and/or Coles are better able to offer discounts on other items at other times. The net result of having access to each of these supermarkets in a local market and having the ability to shop around for specials may be regarded by consumers as being a benefit arising from competition.

43. The ACCC seeks further information on competition between the Supabarn Group, Woolworths, Coles and other retailers of fresh produce.

#### Service levels

44. The Supabarn Group appears to structure other aspects of its overall offer in an attempt to create a competitive point of difference when compared with other supermarkets. For example, the Supabarn Group markets itself as having higher service levels, such as by employing more staff in each store than its competitors meaning that staff are more readily available to customers and checkout queues are shorter.
45. The ACCC seeks information regarding the ways in which Supabarn Group supermarkets differ from other supermarkets in terms of service and the degree to which such service delivers significant competitive benefits.

#### Bundled liquor and supermarket offering

46. While the ACCC's preliminary view is that there is unlikely to be a substantial lessening of competition in the local market for the retail sale of packaged liquor for off-premises consumption (see the discussion from paragraph 66 below), the ACCC notes that existing Supabarn Group supermarkets in the ACT offer a full range of liquor for purchase adjacent to the supermarket. Adjacent liquor stores and supermarkets are also offered by Coles and Woolworths. Liquor and supermarket shopping trips may be complementary, and the Supabarn Group would be in a position to offer such a "bundled offer" in Karabar, which may increase the attractiveness of its supermarket offer to customers seeking a one-stop-shop.
47. The ACCC seeks further information and submissions on this issue, any other ways in which Supabarn Group supermarkets currently compete with other supermarkets, and the question of whether a Supabarn Group supermarket would provide greater competitive tension in the local retail supermarket market.

#### Access to new sites

48. The ACCC has also considered whether it is likely that a potential new entrant could gain access to other sites for a new supermarket in the relevant local market. Generally, if there are few barriers to new entry, a substantial lessening of competition may be unlikely.



49. Market inquiries have identified some potential development sites in the Queanbeyan area. In particular, the Queanbeyan City Council is currently seeking expressions of interest from developers with possible proposals for the development of the car park off Rutledge Street near the Queanbeyan Leagues Club. It is possible that developers may suggest a retail development of this site. However, if a developer proposed to develop a supermarket on the site, there are a number of planning and approval stages that must be completed before it could be developed. Further, a supermarket operator would have to compete for the site with alternative retail proposals. In addition, if a new supermarket were developed on this site, there is no certainty that this would be a new entrant rather than another supermarket operated by an existing supermarket operator in the area.
50. While there is potential for the development of a new supermarket in the Queanbeyan area, the ACCC considers this prospect to be highly uncertain. In its preliminary view, the ACCC considers access to suitable new sites to constitute a high barrier to entry. The ACCC seeks further information and submissions on this point before it forms a concluded view on the proposed acquisition.

*A lessening of competition between the Karabar supermarket and the Woolworths supermarket at Jerrabomberra*

51. When considering the competitive tension between the supermarkets located at Karabar and Jerrabomberra, the ACCC has considered a number of issues arising from road design, geographical factors and the proposed residential development at Googong.
52. Firstly, the ACCC has considered the likely effect on competition of the proposed extension of Edwin Land Parkway that will link eastern Jerrabomberra to Old Cooma Road, approximately 1km south of Karabar. This proposed extension is likely to increase the ease of travel, and reduce travel time, between Jerrabomberra and Karabar when compared with the current situation, described above at paragraph 27.
53. Secondly, the ACCC has considered the effect on competition of the level of road access between the Woolworths supermarket at Jerrabomberra and the supermarkets in the Queanbeyan CBD. Currently, the closest full-line supermarket to the Jerrabomberra supermarket is located in the Queanbeyan CBD, where Woolworths, Coles and Aldi each have supermarkets. The Jerrabomberra supermarket is located within a 4.5km radius from the Queanbeyan CBD; however, there are a number of barriers that prevent direct access between Jerrabomberra and Queanbeyan. By road, the distance between the Jerrabomberra supermarket and the Queanbeyan CBD is approximately 5.5km on back streets or 6.5km on main roads.
54. In addition, a large proportion of the dwellings in Jerrabomberra are located to the south and east of Jerrabomberra which means that travelling distance to the Karabar supermarket and Queanbeyan CBD for those residents is significantly increased. The ACCC considers that these factors currently limit the possibility

and degree of substitution between the supermarket at Jerrabomberra and the supermarkets in the Queanbeyan CBD.

55. However, the extension of Edwin Land Parkway is likely to improve access to the Karabar supermarket, particularly for those residents located in the south and east of Jerrabomberra and consequently increase the ease of substitution, and therefore the potential for competition, between the Jerrabomberra supermarket and the Karabar supermarket.
56. Thirdly, the ACCC has considered the effect on competition of the proposed residential development at Googong. Until a large format full-line supermarket is developed in Googong, the two closest large format full-line supermarkets to Googong will be those located at Karabar and Jerrabomberra. Due to the proposed extension of the Edwin Land Parkway it is likely that a large proportion of the traffic from the Googong area will flow through Jerrabomberra, although the exact amount will depend on whether (and when) a second proposed road servicing Googong to the west, Dunns Creek Arterial, is built. Traffic using the Edwin Land Parkway will pass approximately 1km from the Karabar supermarket.
57. The ACCC considers it likely that these new road and residential developments, when combined with the entry of a full size Supabarn Group supermarket at Karabar, will lead to an increase in competitive tension between the Karabar supermarket and the supermarket at Jerrabomberra. Residents of Karabar and Jerrabomberra would no longer need to travel to the Queanbeyan CBD to access a second full-line supermarket, and the Karabar supermarket would provide the closest full-line supermarket for Googong residents during the 5-10 year wait for development of Googong's first full-line supermarket. In comparison, if both the Jerrabomberra and Karabar supermarkets were owned by Woolworths, there would be no incentive for competition between them.
58. The ACCC seeks further information regarding the effect on supermarket competition of the proposed residential development at Googong and the proposed road upgrades, particularly the extension of Edwin Land Parkway.

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

#### *Procurement market*

59. The ACCC has conducted a preliminary assessment to determine whether the proposed acquisition will lessen competition in the market for the procurement of products for sale in supermarkets.
60. Supermarket chains compete with each other and with independent supermarket wholesalers to acquire products from growers and other producers for subsequent retail sale. The proposed acquisition will lead to a small increase in the volume of supermarket products acquired by Woolworths, and a similar decrease in the amount acquired by its competitor Metcash, which supplies products to the Supabarn Group.

61. However, given the size of the transaction relative to the players in the procurement market, the ACCC's preliminary view is that the proposed acquisition is unlikely to result in a substantial lessening of competition for the procurement of products sold in supermarkets.

*Wholesale market*

62. The ACCC has conducted a preliminary assessment to determine whether the proposed acquisition will lessen competition in the wholesale market for goods sold in supermarkets.
63. The proposed acquisition would reduce the wholesale volume of Metcash by the amount that it would otherwise have supplied to the Karabar supermarket under the "without" position.
64. While this reduced volume may have an incremental impact on Metcash, reducing the volume of sales over which it is able to spread its cost, it is likely that the impact will not be large enough to materially raise its average cost nor to force Metcash to increase the prices it charges to its remaining customers (i.e. other independent supermarkets).
65. Therefore, given the relatively small volume of goods supplied to the Karabar supermarket compared with Metcash's NSW turnover, the ACCC considers any impact is unlikely to amount to a substantial lessening of competition in this market.

*Markets for the retail, procurement and wholesale of packaged liquor for off-premises consumption*

66. The ACCC has conducted a preliminary assessment to determine whether the proposed acquisition will lessen competition in these markets.
67. There appear to be a relatively large number of competitors who will continue to impose a constraint on Woolworths if it acquires the Karabar liquor licence. Further, and in contrast to the situation with respect to supermarkets, in the ACCC's preliminary assessment, the "with" and "without" scenarios (whereby Woolworths and the Supabarn Group would respectively operate the liquor store adjacent to the Karabar supermarket) are not substantially different.
68. Accordingly, the ACCC has formed the preliminary view that no substantial lessening of competition is likely in the local market for the retail sale of packaged liquor for off-premises consumption, but will take into account any further submissions on this market before reaching its concluded view.
69. However, as outlined above at paragraph 46, the ACCC is seeking further information on the extent to which the Supabarn Group liquor offering may increase the attractiveness of its supermarket to consumers, and thereby increase the competitive constraint the Supabarn Group may place on other supermarkets.
70. The ACCC's assessment of the likely impact of the proposed acquisition on the wholesale and procurement markets for packaged liquor mirrors its assessment

for these markets in relation to supermarkets, as outlined at paragraphs 61 and 65. The ACCC's preliminary view is that no substantial lessening of competition is likely in these markets.

### **ACCC's future steps**

71. The ACCC will finalise its view on this matter after it considers market responses invited by this Statement of Issues.
72. 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.
73. Submissions are to be received by the ACCC no later than 12 June 2008. 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 as to the appropriate course of action to take to resolve any competition concerns that remain.
74. The ACCC intends to publicly announce its final view by 25 June 2008. However the anticipated timeline may change in line with the *Merger Review Process Guidelines*. A Public Competition Assessment for the purpose of explaining the ACCC's final view may be published following the ACCC's public announcement.