



# Statement of Issues

5 December 2013

## Woolworths Limited - proposed acquisition of the St Kilda Renaissance Supa IGA

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### Introduction

1. Outlined below is the Statement of Issues released by the Australian Competition and Consumer Commission (**ACCC**) on the proposed acquisition of the St Kilda Renaissance Supa IGA 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 (at [www.accc.gov.au/processguidelines](http://www.accc.gov.au/processguidelines)) the ACCC has established a secondary timeline for further consideration of the issues. The ACCC anticipates completing further market inquiries by 17 January 2014 and anticipates making a final decision on 6 February 2014. However, the anticipated timeline can change in line with the Informal 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. The ACCC invites comments from these parties by 17 January 2014.

### Background

5. The ACCC commenced its informal review of the proposed acquisition on 16 October 2013.

## The parties

### The Acquirer: Woolworths Limited

6. Woolworths Limited (**Woolworths**) is an Australian and New Zealand retailer. Its operations include supermarkets, petrol, liquor, general merchandise stores, hardware and home improvement.
7. Woolworths is Australia's largest grocery retailer. It operates over 800 supermarkets across Australia.

### The Target – St Kilda Renaissance Supa IGA

8. The St Kilda Renaissance Supa IGA is a 1,259m<sup>2</sup> supermarket located at 64 Fitzroy Street in the Fitzroy Street shopping precinct in St Kilda, a suburb of Melbourne.
9. The supermarket is considered by market participants to be 'full-line', meaning it retails a full range of groceries and fresh produce. It also has a large liquor section with both chilled and non-chilled products. The supermarket also has 63 car parking spots and offers customers 1 hour free parking via a redemption scheme.
10. The St Kilda Renaissance Supa IGA and the associated liquor licence are currently owned by Nero Tadeo Nominees Pty Ltd (**Nero Tadeo**), controlled by Mr George Altman, who owns and runs two other supermarkets under the Renaissance Supa IGA brand in another suburb of Melbourne, Hawthorn.

### Other supermarket retailers

#### *Coles*

11. Coles is a leading food, liquor and convenience retailer. Coles is owned by Wesfarmers Limited, an Australian listed public company with diverse business operations in the retail, resources, insurance, chemicals, energy, fertilisers and industrial sectors.

#### *ALDI Australia*

12. ALDI is a privately-owned global supermarket operator that entered Australia in 2001. It has over 300 stores across NSW, the ACT, Queensland and Victoria. In February 2013, ALDI announced plans to expand its operations into South Australia and Western Australia.
13. ALDI can be characterised as a limited assortment discounter. Limited assortment discounters emphasise private label products, do not provide the same depth of range as full-line supermarkets (such as Woolworths and Coles) and are generally smaller stores. Various brands of limited assortment discounters operate internationally but in Australia ALDI is the only such operator with a significant interstate network.

### Other participants

#### *Metcash Limited*

14. Metcash Limited (**Metcash**) is Australia's largest grocery, fresh produce, liquor and hardware wholesaler and distributor to independently owned supermarkets. Metcash's IGA Distribution business provides warehousing,

distribution and marketing of grocery consumables to independent retailers operating under the IGA, Supa IGA and IGA Xpress supermarket brands and to supermarkets which do not carry the IGA brand such as FoodWorks, Supabarn, SupaExpress and Supabarn Express. There are over 1400 stores across Australia operating under the IGA brands (including supermarkets previously branded Franklins). Metcash is also a wholesaler to bottleshops under banner groups including IGA Liquor, Cellarbrations, Thirsty Camel and the Bottle-O, and to hardware retailers under the Mitre 10 and True Value banners.

## The transaction

15. Woolworths proposes to acquire the business, business assets and liquor licence of the St Kilda Renaissance Supa IGA from Nero Tadeo, and to convert the existing retail space into a Woolworths branded supermarket and a BWS branded liquor outlet. Woolworths is also involved in commercial negotiations with the landlord of the property.

## Market inquiries

16. On 16 October 2013 the ACCC commenced market inquiries regarding the proposed acquisition. Submissions from interested parties closed on 6 November 2013. The ACCC has received information from a range of interested parties.
17. The ACCC is now calling for further information from interested parties to assist with its investigation as set out below.

## Competition Analysis

18. The ACCC's preliminary view is that the proposed acquisition may result in a substantial lessening of competition in the local retail supermarket market surrounding the target, which includes the suburb of St Kilda and neighbouring suburbs of St Kilda West, Middle Park and Windsor.
19. The ACCC is concerned that the proposed acquisition would remove the only independent full-line supermarket and the closest competitor to Coles and Woolworths in the local market. In addition, the St Kilda Renaissance Supa IGA has a differentiated promotion, product range and service offering which represents a competitive response to the offer of rival supermarket chains and provides additional choice to consumers. The proposed acquisition would replace this differentiated offer with the offer of Woolworths, which is already present in the local market. Given the market is characterised by high barriers to entry, new entry at a sufficient scale to replace the lost competitive tension is unlikely.

## Future with and without the proposed acquisition

20. In assessing a proposed acquisition pursuant to section 50 of the *Competition and Consumer Act 2010 (Cth)* (**the Act**), the ACCC considers the effects of the acquisition by comparing the likely future competitive environment if the acquisition proceeds (the 'with' position) to the likely future competitive environment if the acquisition does not proceed (the likely 'without' position) to

determine whether the acquisition is likely to substantially lessen competition in any relevant market.

21. In this case, the target is a profitable business and is therefore likely to continue operating as an independent supermarket, at least for the next three years, absent the proposed acquisition.
22. The ACCC notes that the end date for the lease agreement in respect of the property where the St Kilda Renaissance Supa IGA is situated is in February 2017. The ACCC is considering the possibility that without the proposed acquisition, at the expiry of its lease, Nero Tadeo would vacate the premises and the target supermarket would exit the market. The ACCC is also considering whether any other parties are likely to be interested in acquiring the target supermarket. The ACCC has not yet made a final assessment on the likelihood that the St Kilda Renaissance Supa IGA will exit the market in 2017. However, in merger reviews the ACCC primarily considers the competitive effects of acquisitions in the foreseeable future.
23. As such, the ACCC currently considers that the appropriate 'without' position is a continuation of the status quo. However, the potential closure of the St Kilda Renaissance Supa IGA supermarket in the longer term is relevant to the extent that it may affect the strategic direction, incentives or competitiveness of the business in the foreseeable future.

The ACCC invites comments from interested parties on the likely future without the acquisition. In particular you are invited to comment on:

- i. whether other potential acquirers of the target supermarket exist or are likely to emerge and the likely timeframes; and
- ii. the extent to which the St Kilda Renaissance Supa IGA is likely to compete vigorously in the future without the proposed acquisition, and for what length of time.

## Market definition

24. The ACCC's preliminary view is that the competitive effects of the proposed acquisition should be assessed in the context of the following markets:
  - a. a local retail supermarket market surrounding the target, which includes the suburb of St Kilda and neighbouring suburbs of St Kilda West, Middle Park and Windsor;
  - b. a state-wide retail supermarket market; and
  - c. state-wide wholesale procurement and supply markets.
25. The ACCC also considered the acquisition in relation to retail liquor markets but as no concerns have been identified these markets have not been considered further. The liquor outlets in the local market in which the target operates face competition for liquor sales from a range of Coles, Woolworths and independent bottleshops and supermarkets and therefore the effect from the proposed acquisition is unlikely to be substantial.

## Retail markets

26. The ACCC considers that in retail markets involving chains and/or buying groups, competition may occur at both the national or state level and at the local geographic level. While all retailers compete to attract customers from other similar retailers located in the same local area, large chains/brands also compete through elements of their retail offers that are standardised across all stores within a broader area.

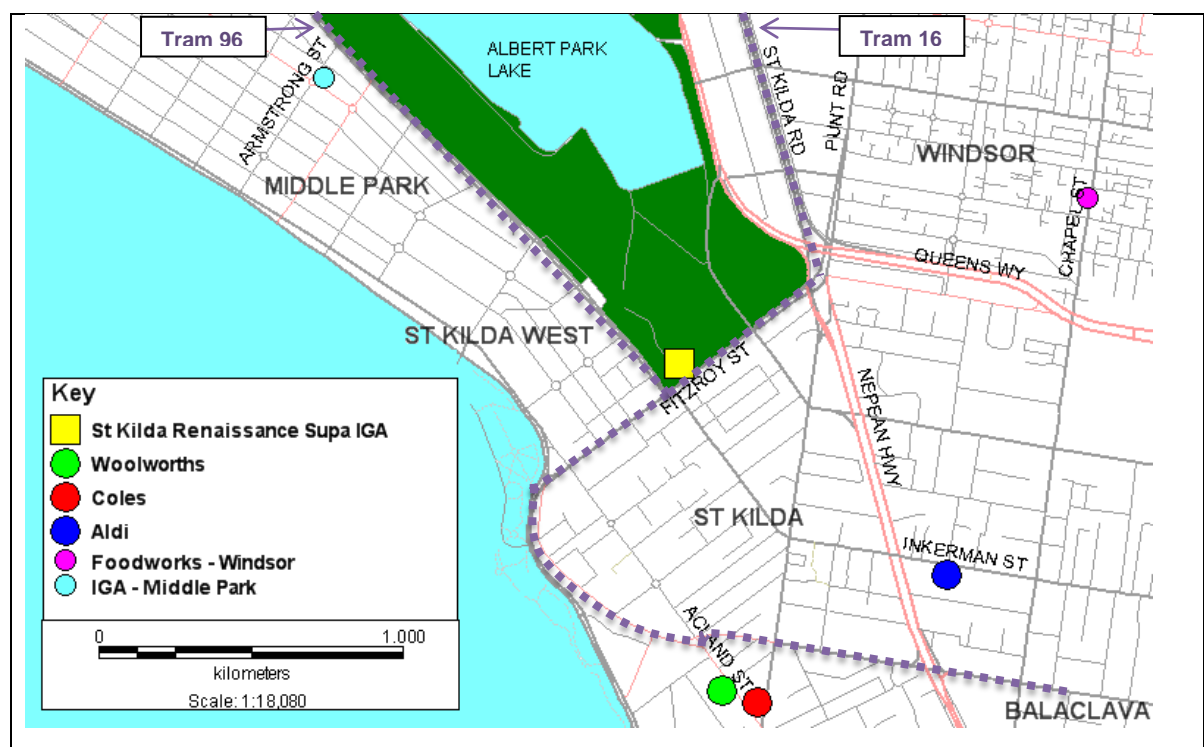
## Local retail supermarket market

27. When assessing local retail markets, the ACCC aims to identify the competitive constraints on the store level retail offers of the target store and other nearby stores operated by the acquiring firm.
28. Market inquiries to date have indicated that shoppers are most likely to switch readily between the target supermarket and other supermarkets in the suburbs of St Kilda, St Kilda West, Middle Park and Windsor for the same shopping trips. Therefore, the ACCC has considered the proposed acquisition in the context of a local retail supermarket market encompassing these suburbs.

### *Local retail supermarket market: geographic dimension*

29. The Renaissance Supa IGA is located in St Kilda, which is a bayside suburb of Melbourne, located approximately 6 km south of the CBD. The St Kilda suburb is separated from St Kilda East, Balaclava and Windsor by the Nepean Highway. Immediately north and west of St Kilda are the suburbs of St Kilda West and Middle Park, as well as a large recreational space - Albert Park and Albert Park Lake. To the south of St Kilda are the suburbs of Elwood and Ripponlea.
30. The location of the target supermarket is shown on the following map.

**Figure 1: Map of area surrounding the target site**



31. The ACCC has taken account of submissions received in market inquiries as to the likely dimensions of the local market. The ACCC has also considered the catalogue distribution areas of the target supermarket and other independent supermarkets in the area, and evidence of existing shopping patterns and the likely travel patterns of customers who currently shop at the St Kilda Renaissance Supa IGA.
32. The ACCC has also considered straight line distances between supermarkets, public transport routes, and both walk and drive time analysis.
33. St Kilda is a densely populated suburb and is also a destination suburb for residents of Victoria and tourists due to its many iconic attractions, including Luna Park, the Astor Theatre, the National Theatre, numerous vibrant cafes, restaurants and pubs, the popular beach and the shopping strips and markets. For these reasons, traffic can get busy and congested, particularly on weekends, during summer and cultural and public events and holidays. In addition, St Kilda is easily accessible by public transport, and there is a low level of car ownership per household relative to the average in Victoria<sup>1</sup>. Due to these factors, the ACCC is of the preliminary view that the geographic market is likely to be narrow, as some shoppers are more likely to walk or take public transport to the supermarket rather than drive. This is particularly likely to be the case for shoppers who purchase smaller basket sizes, such as top-up shoppers and small households. The prominence of small households is another distinctive feature of the St Kilda area.
34. The ACCC examined the catalogue distribution areas of the St Kilda Renaissance Supa IGA and found that catalogues were only distributed to households located within 2kms of the supermarket. The ACCC also found that catalogues were primarily distributed to households that were either located a short walking distance from the supermarket, or along the tram routes 16 and 96, which are the key public transport routes to St Kilda from Melbourne CBD.
35. Having regard to the considerations above, the ACCC's preliminary view is that supermarkets within the suburbs of St Kilda, St Kilda West, Middle Park and Windsor are likely to provide the closest substitutes for the target. Customers of the target supermarket are likely to have easy access to supermarkets in these suburbs, as they are each within 3km, a short tram ride or 5 minutes' drive of the St Kilda Renaissance Supa IGA.

*Local retail supermarket market: product dimension*

36. The ACCC considered the extent to which the following types of supermarket and non-supermarket retailers are substitutes for a supermarket at the target site, and therefore whether they should be considered part of the relevant market:
  - full-line supermarkets, such as those typical of the major supermarket chains, which retail a full range of goods including packaged groceries, fresh meat, bakery and deli products, fresh fruit and vegetables, and frozen foods.

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<sup>1</sup> The ABS census data from the 2011 census indicates that 25% of private dwellings in St Kilda do not own a motor vehicle (compared to 8% of private dwellings in Victoria).

- convenience oriented supermarkets, which are smaller, retail a limited range of products, and are generally used by consumers as a top-up supermarket;
  - limited assortment discounters (i.e. ALDI);
  - specialist food retailers such as butchers, bakers and greengrocers; and
  - 'markets', including the South Melbourne market and Prahran market, which bring together a number of specialist food retailers, and retailers of other products.
37. Market participants commented that supermarkets offer customers convenience by providing them with the ability to purchase grocery items across multiple categories in one transaction. In this regard, they can be distinguished from specialist retailers, including those operating in close proximity to each other within a 'market'. For this reason, the ACCC's preliminary view is that specialist retailers are not sufficiently close substitutes to supermarkets to be included in the relevant market. In addition, it was considered that due to their limited operating hours<sup>2</sup>, the South Melbourne and Prahran markets are unlikely to be close substitutes for many of the shopping trips made to supermarkets.
38. Further, not all supermarkets are equally close substitutes for each other. The ACCC considers that the closest constraint on a supermarket at the target site would be likely to come from other full-line supermarkets in the local area, rather than from limited assortment discounters and convenience oriented supermarkets. The ACCC will comment on the relative constraint imposed by these different types of supermarkets in the competition analysis below.
39. Consistent with its findings in previous matters, the ACCC's preliminary view is that the product dimension of the relevant market is the retail supermarket market.

#### State-wide retail supermarket market

40. In addition to competition in the local retail market, the ACCC also considers competition in a broader retail market which provides competitive constraint on aspects of the Woolworths' retail offer that are standardised across multiple local markets.
41. Woolworths currently standardises elements of its retail offer (such as state-wide marketing campaigns and pricing on most products) across all stores in Victoria. This standardisation is a matter of policy that can be changed in response to competitive conditions.
42. The ACCC therefore considers that the relevant geographic market in which to consider broader aspects of supermarket competition is Victoria-wide. As discussed above for local retail markets, the product dimension for the state-wide retail market is also the retail supermarket market.

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<sup>2</sup> South Melbourne market is open on Wednesday, Saturday and Sunday from 8am to 4pm and on Friday from 8am to 5pm. Prahran market is open on Tuesday, Thursday and Saturday from 7am to 5pm, on Friday from 7am to 6pm and on Sunday from 10am to 3pm.

## Wholesale procurement and supply markets

43. Consistent with its consideration of previous supermarket acquisitions, the ACCC has also considered the proposed acquisition in the context of state-wide markets for the wholesale procurement and supply of products sold in supermarkets.

The ACCC invites comments from interested parties on its proposed definition of the relevant markets. In particular you may wish to comment on:

- i. the extent to which customers view supermarkets in St Kilda, St Kilda West, Middle Park, Windsor and further afield as close substitutes for the target;
- ii. the distances and types of retailers/stores that St Kilda Renaissance Supa IGA shoppers are likely to switch to if the target supermarket were to increase prices or reduce service quality; and
- iii. what factors influence the distance that customers in this region are willing to travel to do their grocery shopping.

## Statement of issues

44. For the purposes of this Statement of Issues, the issues in this matter are divided into two categories, 'issues that may raise concerns', and 'issues unlikely to raise concerns'.

### Issues that may raise concerns

#### *Market concentration*

45. The local market posited above includes:
- a. the target;
  - b. one Woolworths supermarket at the Acland Street shopping precinct in St Kilda;
  - c. one Coles supermarket at the Acland Street shopping precinct in St Kilda;
  - d. one Aldi supermarket, at 135 Inkerman Street, St Kilda;
  - e. two smaller format independent supermarkets in nearby local shopping strips (Foodworks in Windsor and IGA in Middle Park).
46. While Coles and Woolworths are likely to be each other's closest competitors, market inquiries indicate that the target supermarket is the only other full-line supermarket in the local market. This means that it is the only option, other than Coles and Woolworths, for shoppers in the local market for a full weekly shop.
47. While the ACCC considers that ALDI may provide price competition, as a limited assortment discounter, it does not provide the same depth of range as a full-line supermarket. Similarly, market inquiries revealed that convenience-oriented supermarkets in St Kilda and the surrounding areas are substantially smaller than the St Kilda Renaissance Supa IGA and do not offer the full range of products available at full-line supermarkets. Therefore, market participants



considered these smaller supermarkets to be weaker constraints on a full-line supermarket than other full-line supermarkets.

*Existing competitive behaviour of the St Kilda Renaissance Supa IGA*

48. Market inquiries have indicated that the Renaissance Supa IGA in St Kilda competes with other supermarkets in the local market by providing a price and non-price offering that is unique to the local market. Rather than seeking to match its competitors' offerings, it provides a differentiated offer.
49. In particular, the St Kilda Renaissance Supa IGA is the only full-line independent supermarket in the local market. Full-line supermarkets offer a wide range of supermarket products including groceries, deli and fresh produce and in most cases will offer multiple brands of common products. They are distinct from smaller format independent supermarkets (such as those listed in paragraph 45.e above). They can also be distinguished from the competitive offer of ALDI, with its more focused product range, smaller store size and emphasis on private label brands.
50. Market participants have commented that as a full-line independent supermarket, the St Kilda Renaissance Supa IGA is suitable for a full weekly shop, and for 'top-up' shopping trips that, while smaller, may still include items across the full product range. These comments indicate the closest local competitors of the St Kilda Renaissance Supa IGA are the nearby Coles and Woolworths supermarkets.
51. As an independent full-line supermarket, the St Kilda Renaissance Supa IGA differentiates its offer in terms of price, promotions, product range and service.
52. The target supermarket has a price promotional cycle through the Supa IGA brand that is unique in the local market. All Supa IGA supermarkets within Victoria provide standard extensive promotions through a weekly catalogue. The promotional offers are on at different times and on different products to Coles and Woolworths, allowing shoppers to benefit from additional promotions. The proposed acquisition would remove the Supa IGA promotional cycle from the local market. While some of the promotional items are also provided in smaller format IGAs, the Supa IGA promotional cycle includes a much more significant number (and range) of products relative to the IGA promotional cycle. Further, while there may be some overlap on particular products between the Supa IGA promotions and those of other retailers in the local market, the overall package of promotions offered by Supa IGA is an element of the target's competitive offer that is differentiated from its local rivals. The target is the only Supa IGA in the suburbs to the south east of Melbourne CBD (the closest Supa IGA is in Hawthorn which is 8kms from the target), so even if the local market were broader than the ACCC has defined, this concern would remain relevant.
53. The target's independent offer is differentiated from its competitors in the local market. Market participants have expressed concern that the proposed acquisition would result in the loss from the local market of that differentiated retail offer, particularly its unique product offering. The ACCC understands that the St Kilda Renaissance IGA's product range includes a variety of products that are not stocked by the major supermarket chains, including delicatessen and bakery goods, a wide range of fresh fruit and vegetables, specialty gourmet and health-food products, imported and branded products.

54. In addition, market inquiries have indicated that there is a general perception of high quality and personal service at the target supermarket and that it is valued by shoppers for being distinct from the standardised offerings available from major supermarket chains.
55. The ACCC notes that customers in the local market already have access to a Woolworths branded supermarket at St Kilda (as well as others in nearby suburbs of Balaclava, Prahran and South Melbourne). Therefore, these customers are already benefitting from the Woolworths product range and promotional cycles in the local market.

*Barriers to entry*

56. As the ACCC has noted in previous reviews, barriers to entry to supermarket retailing are generally high. There are considerable lead times and sunk costs involved in establishing a new supermarket, which can pose a particular barrier when the market is already served by multiple existing supermarkets (particularly if they include a scaled incumbent). In addition, due the fact that St Kilda is a developed area, it would be difficult to find appropriate sites for the establishment of a full-line supermarket or the space to expand an existing smaller format supermarket to a full-line scale.
57. The ACCC's preliminary view is that entry of an independent full-line supermarket (or expansion by an existing independent operator) to replace the offering of the St Kilda Renaissance Supa IGA is unlikely in the foreseeable future.

*Conclusion*

58. The ACCC's preliminary view, therefore, is that the proposed acquisition would replace the differentiated offer of the target with the standardised offer of Woolworths, which is already available in the local market. In contrast, in the absence of the proposed acquisition, it is likely that an independent full line supermarket will continue at the site of the current Renaissance Supa IGA in St Kilda, for at least the next three years. The entry of an independent full-line supermarket, or expansion by an existing independent operator, to replace the offering of the target supermarket is unlikely in the foreseeable future.

The ACCC invites comments from interested parties on the following matters:

- i. the extent to which the St Kilda Renaissance Supa IGA contributes a retail offering that is differentiated from Woolworths, Coles, ALDI and other independent supermarkets in the local market;
- ii. whether the differentiated features of the St Kilda Renaissance Supa IGA are more or less important than features that will remain regardless of the proposed acquisition, such as location;
- iii. the extent to which customers value the price, promotions, service and product offering of the St Kilda Renaissance Supa IGA, and make decisions about where to shop on the basis of those attributes;
- iv. details about the product range of the St Kilda Renaissance Supa IGA, including the extensiveness of its product range and the extent to which the St Kilda Renaissance Supa IGA can be classified as a full-line supermarket; and

- v. the likelihood of new entry of an independent full-line supermarket in the local market should the proposed acquisition proceed.

## Issues unlikely to raise concerns

### *State-wide retail supermarket market*

59. The ACCC considers that the proposed acquisition would be unlikely to pose concerns in the state-wide retail supermarket market as the transfer of a single supermarket would result in only a very small increase in state wide market share for Woolworths. Further, it would not result in a reduction in the number of operators and retail chains competing with Woolworths on a state-wide level. It would therefore not be likely to have a substantial impact on competition in the state-wide market.

### *Wholesale procurement and supply markets for products sold in supermarkets*

60. Market inquiries have not suggested that the proposed acquisition could have an impact on the wholesale supply market in Victoria. The ACCC notes the sale of a single supermarket is unlikely to be sufficient to have a substantial effect on the viability of wholesale operations, which need to achieve a large scale to be efficient. The ACCC does not consider the volume of a single supermarket is likely to have a significant effect on competition in the wholesale procurement market.

## ACCC's future steps

61. The ACCC will finalise its view on this matter after it considers market responses invited by this Statement of Issues.
62. 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.
63. Submissions are to be received by the ACCC no later than 17 January 2014. 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.
64. The ACCC intends to publicly announce its final view by 6 February 2014. 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.