

**NOTICE SEEKING CLEARANCE OF A BUSINESS ACQUISITION PURSUANT TO SECTION 66 OF
THE COMMERCE ACT 1986**

31 January 2023

The Registrar
Business Acquisitions and Authorisations
Commerce Commission
PO Box 2351
WELLINGTON

Pursuant to s 66(1) of the Commerce Act 1986 notice is hereby given seeking **clearance** of a proposed business acquisition.

1. EXECUTIVE SUMMARY

- 1.1 Woolworths Group Limited ("**Woolworths**" or the "**Applicant**"), seeks clearance for its proposed acquisition of 55% of the shares in PETstock Pty Ltd ("**Petspiration**" or "**PG**") (the "**Transaction**").
- 1.2 On 15 December 2022, Woolworths announced that it had entered into a Transaction Implementation Deed under which it will enter into a Share Sale and Purchase Agreement ("**SPA**") to acquire 55% of the shares in PETstock Pty Ltd (as noted above, referred to as Petspiration or PG). Woolworths and PG (together with PG's shareholders) are collectively referred to as the "**Parties**" in this application. Post-Transaction the founders, Shane and David Young, and other existing PG shareholders, will retain a 45% equity investment in PG.
- 1.3 For the avoidance of doubt, the acquisition (and, therefore, the application) is being made by Woolworths, which is based in NSW, Australia (not through or by any of Woolworths' related companies that already operate in New Zealand, which are subsidiaries of Woolworths New Zealand Limited ("**WWNZ**"), which is based in Auckland).
- 1.4 As noted above, Shane and David Young (and other existing shareholders) will retain a 45% equity investment in PG and will continue as CEO and Managing Director respectively, running PG as a standalone business of Woolworths Group, under a separate board and governance structure in a perpetual joint venture arrangement, which reflects the evergreen nature of the partnership between the Parties (see paragraph 4.4 for further details). This means there is no current intention that the New Zealand operations of PG would be operated within, or integrated with, WWNZ.
- 1.5 PG is a specialty retailer of pet products (and rural supplies in Australia), many of them premium in nature, including wide ranges of pet food, cat litter, pet accessories and pet health products, together with advice and related services such as dog grooming, water testing, pet training and veterinary services. PG operates from specialty pet stores (many of which are large format) and has an active online retail channels for pet products. Across Australasia, PG operates under various retail banners. PG's New Zealand operations include "**PETstock**" (which is a bricks-and-mortar and online banner with 15 bricks-and-mortar retail stores in New Zealand), Pet.co.nz (which is an online only banner), and Pet Post (which is an online only banner). PG's New Zealand operations are operated through PETstock NZ Limited ("**PETstock NZ**").
- 1.6 Woolworths' New Zealand subsidiary, WWNZ, supplies a comparatively limited range of pet products in the general retail pet sector, typically from either a supermarket aisle (in its Countdown and Metro stores, and its franchised SuperValue and FreshChoice stores), or its online grocery offering (albeit, as outlined further in this application, reflecting their different areas of focus, there are very few common products and suppliers between PETstock NZ and WWNZ in New Zealand).
- 1.7 The Transaction will facilitate entry by Woolworths into the specialty pet sector in which it does not currently operate in New Zealand. Given Woolworths' lack of presence in the specialty pet sector, it is therefore important that it retains the expertise, experience, and management of PG's current owners through the perpetual joint venture arrangement described at paragraph 1.4.
- 1.8 The Transaction is subject to customary conditions, including receipt of Australian Competition and Consumer Commission ("**ACCC**") informal merger clearance and New Zealand Commerce Commission ("**Commission**") merger clearance.

- 1.9 The Transaction will not result in a substantial lessening of competition in any relevant market. The bases for this conclusion are summarised in this Executive Summary and relevant facts are set out extensively in the body of this application.
- 1.10 Essentially the PETstock NZ and WWNZ businesses are not close competitors. The businesses face effective but different competitive constraints, all of which will be unaltered by the Transaction.
- 1.11 The absence of head-to-head competition is clearly demonstrated by the real-world measure of competition – price matching. PETstock NZ has a price-match guarantee: it will match, for a customer, a cheaper price offered by another retailer on an identical item. [].
- 1.12 This evidence reflects the reality that a customer who purchases specialty pet products from a PETstock NZ store would not switch to WWNZ's stores if the PETstock NZ store was shut down. They would switch to Animates, Pet Essentials, and Pet Central and numerous independent speciality pet stores, veterinary clinics and online speciality pet stores such as PetDirect.co.nz, Pet.kiwi, Pet Connect, Pet Depot, Best for Pet, Paw Store, and many others.
- 1.13 PETstock NZ customers would not switch to WWNZ because pet products are highly differentiated and there is very limited overlap in the products supplied by PETstock NZ with those supplied by WWNZ. In fact it is not possible to purchase the vast majority of products offered by PETstock NZ in WWNZ stores. For example, in cat food, [] products comprise the top 80% of PETstock NZ's cat food sales revenue. Of PETstock NZ's top-selling products, only [] identical products are also offered by Countdown. The [] identical products represent [] of the sales revenue of PETstock NZ's top [] cat food products and [] of Countdown's total cat food sales revenue. The position is even more striking in dog food. Of the [] products which comprise the top 80% of PETstock NZ's dog food sales revenue, Countdown sells [].¹
- 1.14 It follows from the fact that there are so few common products that [].
- 1.15 Not only is there minimal overlap in the specific products but there are marked differences in pricing. These differences reflect the very different offers of PETstock NZ and WWNZ. For example, the average prices per kilogram of the top 20 selling dry dog food products in PETstock NZ and Countdown were [] and [] respectively. In other words, the average price per kilogram in PETstock NZ stores was approximately [] higher than Countdown. This pattern is similar for wet dog food and wet and dry cat food. A shopper in a PETstock NZ store is purchasing very different pet products at generally much higher price points than a shopper in WWNZ.
- 1.16 PETstock NZ customers would also not switch to WWNZ because their shopping mission is different. They are seeking specialty pet products and a range of pet services at a store which is dedicated to those products and services. By definition the totality of their spend at a PETstock NZ store is on pet products and services. The average basket size for PETstock NZ stores is []. In contrast, very few customers visit WWNZ stores just to purchase pet products. Onecard data indicates that [] of transactions at Countdown were

¹ These figures have been calculated based on analysis conducted by Houston Kemp. Houston Kemp's report is enclosed with this application, and figures calculated by Houston Kemp are referenced through this application.

transactions for which pet products accounted for 90% or more of the transaction spend. For those transactions the basket sizes were [].

1.17 For essentially the same reasons, customers who purchase pet products at WWNZ stores would not be likely to switch to PETstock NZ. Those customers would likely switch to PAK'nSAVE, New World, Four Square, Costco, The Warehouse, and Mitre 10, and other supermarket and general merchandise retailers.

1.18 Set out below are more details of the key facts relevant to the competition assessment.

- (a) PG is a specialty pet supplier which operates stores and online channels in Australia and New Zealand that supply a wide range of pet products across multiple product lines (as well as rural suppliers in Australia), supported by specialist advice and related services dedicated to pet owners.
- (b) Woolworths (including WWNZ) does not currently own any specialty pet stores or online channels in New Zealand.² The Transaction will result in Woolworths entering the specialty pet retail sector in New Zealand for the first time.
- (c) PETstock NZ's and WWNZ's respective existing businesses are significantly different. They are not close competitors and regulator precedent, including from the Commission, suggests they are not in the same market.³ PETstock NZ competes most closely with leading specialty pet retailers such as Animates, Pet Essentials, and Pet Central, together with a wide range of independent specialty pet stores, veterinary stores, and online pet suppliers such as Pet.kiwi, PetDirect.co.nz, Pet Connect, Pet Depot, Best for Pet, Paw Store, and many others. WWNZ's supermarkets compete most closely with other supermarket and general merchandise retailers such as PAK'nSAVE, New World, Four Square, Costco, and The Warehouse.
- (d) The current levels of intense competition in these sectors will not be affected by the Transaction. The absence of close competition between the Parties is evident in the significant differences between their respective operations, which include that:
 - (i) as stated above, their respective product ranges are very different, in breadth and pet / animal-type, as well as the availability (or otherwise of) advice and services;
 - (ii) they carry different brands and have different supplier relationships. Significantly, specialty pet suppliers maintain control over the "channels" through which their pet products are sold;
 - (iii) as stated above, they have very different price points;
 - (iv) []; and

² In Australia, Woolworths Group also does not currently own any specialty pet stores, and has only a small "start-up" position in specialty pet retailing through its joint venture interest in the PetCulture online business.

³ NZCC Decision No. 549, *Provet NZ Pty Limited and National Veterinary Supplies Limited*.

- (v) as stated above, the “shopping missions” of customers at specialty pet stores are typically different to those of customers in a supermarket or general merchandise store. Specialty pet retailers are focused on pets and their owners, including by welcoming pets in-store (while pets are prohibited in supermarkets),⁴ offering expert pet-specific advice, providing pet services, and tailoring products and services to the pet.
- (e) In Woolworths' view, the differentiation of speciality pet from general retail pet is sufficiently clear that they are properly to be considered separate markets.
- (f) Even if PETstock NZ and WWNZ were considered to be within the same market (contrary to the above evidence and regulator precedent), their combined market shares are modest, and demonstrate that the Transaction is unlikely to give rise to competition concerns.
- (g) In each of the 15 local 5km radii in which a PETstock NZ store is located in proximity to a WWNZ store, there are only 2 areas (Cambridge and Bethlehem) [] where PETstock NZ's strongest competitor, Animates, is not also present in the same 5km radius, and in each such 5km radius, the Parties will remain constrained by at least 8 other specialty pet retailers or general retail pet retailers. The presence of these competitors would make any increase in price above, or decrease in service below, competitive levels unprofitable even if the Commission were to consider that specialty and general retail pet retailers fall within the same market.
- (h) Further, online competition in the supply of pet products is fierce, with consumers increasingly turning to online suppliers for ease of price-comparison, 24-7 ordering, availability of supply, subscription service offerings, and also delivery arrangements for bulky pet food and cat litter. Online sales penetration increased significantly during the COVID-19 pandemic, and has continued to expand with many speciality pet stores introducing or expanding their online offerings. The product ranges of many online suppliers closely resemble those of specialty bricks-and-mortar pet stores, while others offer a direct-to-consumer model with a single brand.
- (i) In relation to acquisition markets:
 - (i) The supplier and product acquisition overlaps between PETstock NZ and WWNZ are very limited. Even where there is a common supplier between the Parties, PETstock NZ and WWNZ generally purchase different products and/or different pack sizes. The addition of PETstock NZ's purchasing volumes to WWNZ's existing procurement of general pet products will not increase any power WWNZ has as a buyer, either in particular product lines or across product categories more generally.
 - (ii) PETstock NZ and WWNZ's respective top suppliers will also continue to exercise countervailing power in their negotiations with PETstock NZ and WWNZ as they are large companies with significant revenue (for

⁴ Assistance and guide dogs are welcome.

example, Mars Petcare and Nestle Purina), and are capable of negotiating competitive supply terms with both PETstock NZ and WWNZ, and determining which of their products are to be sold in general retail pet or specialty pet channels.

- (j) The Transaction will not make it easier for competitors to: (a) reach and sustain agreement on key dimensions of competition; (b) detect deviations from any such agreement, so as to dissuade firms from deviating for fear of punishment; or (c) deter such deviations from coordination by means of more effective punishments (eg faster and more costly to the "cheating" firm).
- (k) There is no prospect of any "vertical" or "conglomerate" effects concerns arising from the Transaction.

1.19 Accordingly, the Applicant requests that the Commission grant clearance for the Transaction.

PART A: PARTIES TO THE TRANSACTION**2. THE APPLICANT: WOOLWORTHS**

2.1 This notice seeking clearance is given by Woolworths. The contact details for the Applicant are:

Nerilee Telford
General Counsel, Australian Food and Competition
Woolworths Group Limited
[]

2.2 All correspondence and notices in respect of the application for Woolworths should be directed in the first instance to:

Russell McVeagh
Level 30, Vero Centre
48 Shortland Street, Auckland 1140
PO Box 8
Auckland 1140

Attention: Troy Pilkington (Partner) / Petra Carey (Partner) / Sophie
Vinicombe (Solicitor)
Telephone: 09 367 8108 / 09 367 8831 / 09 367 8117
Email: troy.pilkington@russellmcveagh.com /
petra.carey@russellmcveagh.com

2.3 A corporate structure chart for Woolworths and its related companies is provided at **Appendix One**.

Description of Applicant

2.4 Woolworths is an ASX-listed retailer, based in New South Wales, Australia, with businesses in both Australia and New Zealand. Its existing New Zealand businesses are operated through WWNZ and WWNZ's subsidiaries. A summary of WWNZ's businesses in New Zealand is contained at paragraphs 7.8 and 7.9.

3. THE TARGET: PETSTOCK PTY LTD

3.1 The contact details for PETstock Pty Ltd are:

Anna Sheehan
General Counsel
PETstock Pty Ltd
1 Humffray Street North, Ballarat, VIC 3350
[]
[]

3.2 All correspondence and notices in respect of the application for PG should be directed in the first instance to:

Norton Rose Fulbright Australia
Level 5, 60 Martin Place
Sydney
Australia

Attention: Nick McHugh (Partner) / Dietrich Marquardt (Senior Associate)
 Telephone: +61 2 9330 8028 / +61 2 9330 8273
 Email: nick.mchugh@nortonrosefulbright.com / dietrich.marquardt@nortonrosefulbright.com

3.3 A corporate structure chart for PG and its related companies is provided at **Appendix Two**.

Description of Target

3.4 PG operates a specialty pet retail business and supplies a broad range of pet products, rural supplies (in Australia), and pet services in-store and online. Its product range includes dog food, cat food, cat litter, equine, fish, and other small animal products, pet accessories and pet health products, as well as various pet services and advice.

3.5 The majority of PG's 269 retail stores are fully corporate-owned stores (225),⁵ including all of PETstock NZ's stores in New Zealand. PG also has four majority owned joint venture stores, 15 50/50 owned joint venture stores, and 25 franchise stores in Australia. In Australia:

- (a) PG operates under various retail banners, including "PETstock", Best Friends Pets, My Pet Warehouse, and Pet City. PG operates online in Australia predominantly via PETstock.com.au, bestfriendspets.com.au, Petpost.com.au and mypetwarehouse.com.au. In regional areas in Australia, PG also operates a "PETstock Country" model, which has a greater focus on rural suppliers, equine and stock feeds in addition to domestic pet products (PETstock NZ does not operate this "PETstock Country" model in New Zealand).
- (b) PG also has interests in certain manufacturers and / or wholesalers of pet products that operate in Australia, but not New Zealand:

Table 1: PG's interests in pet product manufacturers / wholesalers in Australia

Manufacturer / wholesaler	Interest	Description
Agribrands	[]	<p>A manufacturer and supplier of horse feed, small animal, poultry and bird foods that supplies to third party retailers in Australia.</p> <p>Agribrands has a number of subsidiaries, including Southern Cross Feeds, Peter Gibbs Stock Feeds, Bird Zone, Chicken Guard Australia and Peters Pure Animal Foods.</p> <p>Peters Pure Animal Foods supplies products to Woolworths in Australia, however the majority of Peters Pure Animal Foods' sales are attributed to</p>

⁵ []

		other third-party retailers.
Big Dog Pet Foods	[]	A Brisbane-based manufacturer and wholesaler of frozen raw dog and cat food that supplies to PG and other third-party retailers in Australia. Big Dog Pet Food supplies to Woolworths in Australia, however, Woolworths is not a top 10 customer of Big Dog Pet Foods (as at June 2022).
Time Pet Products	[]	A Gold Coast-based wholesaler of pet (predominantly dog and cat) accessories that supplies to PG and other third-party retailers in Australia. Time Pet Products does not supply to Woolworths in Australia.

(c) PG also has an arrangement with Ridley, who manufactures PG's private label brands Glow and Billie's Bowl (both Billie's Bowl and Glow products are now sold by PETstock NZ, with Glow products introduced in New Zealand approximately two years ago and Billie's Bowl products in September 2022).

(d) []

3.6 PG launched in New Zealand in June 2015 when it acquired two Petmarket stores in Constellation Drive, Auckland and Cambridge. In September that year, PG acquired Four Seasons Pets in Glen Innes and Takapuna, and in 2016 it acquired the Pet.co.nz business (from Shane Bradley and The Warehouse). PETstock NZ now owns and operates 15 retail stores in New Zealand ([]), one of which (Constellation Drive, Auckland) contains a co-located veterinary clinic. PETstock NZ also sells pet products through three online retail channels, being the PETstock NZ (PETstock.co.nz) website, <http://pet.co.nz> and <http://petpost.co.nz>.⁶

3.7 More information about PETstock NZ is available at <https://www.petstock.co.nz/>.

⁶ []

PART B: TRANSACTION DETAILS

4. THE TRANSACTION

Outline of the Transaction

- 4.1 As outlined at paragraph 1.1 above, the Transaction is being undertaken by Woolworths in Australia (not via WWNZ in New Zealand).
- 4.2 Pursuant to the SPA dated 22 December 2022, on Completion, Woolworths will acquire 55% of the shares in Victorian headquartered PG, with existing shareholders of PG retaining 45% of the shares in PG.
- 4.3 The Parties are targeting Completion by mid-calendar year 2023 or sooner if possible. The Transaction is conditional on both Commission and ACCC clearance.
- 4.4 On Completion, Woolworths and the continuing shareholders of PG will enter into a Shareholders Agreement under which:
- (a) []
 - (b) []. This means that there is no current intention that the New Zealand operations of PG would be operated within, or integrated with, WWNZ.
 - (c) []
 - (d) []
 - (i) []
 - (ii) []
 - (iii) []
 - (iv) []

Transaction documents

- 4.5 A copy of the Transaction Implementation Deed, SPA, and Shareholders Agreement are provided at **Annex One**.

Overseas competition agencies notified

- 4.6 The Transaction was notified to the ACCC on 23 December 2022.

5. RATIONALE FOR THE TRANSACTION

Woolworths' rationale

- 5.1 Woolworths considers that the Transaction will bring a number of important benefits to its operations, with many flow-on advantages for its customers. These are outlined below:

- (a) **Exposure to specialty pet sector:** Woolworths does not currently operate in the specialty pet sector (with the exception in Australia of Pet Culture, which is a small online "start up" operation in Australia that is partly owned by Woolworths). Growth rates in the specialty pet sector have been significant in recent years, and are expected to remain strong, with some moderation post COVID-19. Through the Transaction, Woolworths will gain exposure to the sector, resulting in a broader offering to Australian and New Zealand families. Further, given high rates of pet ownership in Australian and New Zealand households and the frequency of purchases, Woolworths believes that gaining exposure to the specialty pet sector will complement its supermarket / general retail business.

- (b) **Retaining experience management/JV partner:** The JV structure will retain the day-to-day involvement of the founders of the PG business, together with a significant equity stake, in markets where Woolworths has little current experience.

- (c) **Opportunities to improve PG's current operations:** Woolworths considers that, post-Transaction, Woolworths and PG together can build on PG's strong performance. []

PG's rationale

5.2 []

PART C: COUNTERFACTUAL

6. COUNTERFACTUAL

The Applicant

6.1 In the absence of the Transaction, the most likely scenario is that:

(a) []

(b) []

6.2 For the reasons set out in the remainder of this application, the Transaction will not substantially lessen competition in any market by reference to this counterfactual or to any other counterfactual that could credibly be adopted.

PART D: THE INDUSTRY

7. BACKGROUND TO THE INDUSTRY

- 7.1 The Transaction concerns the provision of specialty pet products and services to customers in Australia and New Zealand. The value of all pet product sales in New Zealand in FY21 was estimated to be approximately \$[].⁷ Pet product sales, in this context, comprises pet food and pet non-food products (such as cat litter, pet accessories, pet health products and toys). Veterinary services, pet insurance and adjacent services (such as grooming, training, daycare and walking) are not included in that \$[] estimate.
- 7.2 New Zealand is a nation of pet lovers, with Companion Animals NZ estimating in April 2020 that 64% of New Zealand households owned some kind of pet (a figure that remained largely unchanged between 2015 and 2020).⁸ Companion Animals NZ estimated that in April 2020 there were 851,000 dogs, 1.2 million cats, and 1.37 million pet fish in New Zealand.⁹ It is understood that one of the impacts of COVID-19 was a further increase in pet ownership in New Zealand.¹⁰
- 7.3 Against this background, the pet industry has observed two related trends of "humanisation" of pets and "premiumisation" of pet products – the first involving consumers treating their pets as being on a par with other members of the family, including in terms of the food they eat (leading, for example, to demands for organic or healthy pet food options), and the second involving consumers being prepared to pay higher prices for products perceived to be of a better quality or better for their pets. Both of these trends have driven up customer spend per pet and, in particular, have resulted in strong performance by specialty pet stores in New Zealand.¹¹
- 7.4 The [] FY21 pet sales figure is comprised of an estimated [] general pet retail sector and an estimated [] specialty pet sector.¹² The general retail pet sector is comprised of pet food, pet non-food products and pet health products. The participants in the general retail pet sector are primarily supermarkets such as Countdown, SuperValue, FreshChoice, PAK'nSAVE, New World, Four Square, Costco and general merchandise stores such as The Warehouse and Kmart, together with some hardware stores (such as Mitre 10, which also sells a range of general merchandise) and rural merchants (such as Farmlands, Farm Source, and PGG Wrightson). The general retail pet sector's offering is focused on packaged products only (no services) and typically involves a significantly

⁷ According to WWNZ estimates based on Euromonitor data and internal estimates.

⁸ (April 2020). Companion Animals in New Zealand 2020. Companion Animals NZ Publications. Retrieved from: <https://static1.squarespace.com/static/5d1bf13a3f8e880001289eeb/t/5f768e8a17377653bd1eebef/160160533874/Companion+Animals+in+NZ+2020+%281%29.pdf>

⁹ (April 2020). Companion Animals in New Zealand 2020. Companion Animals NZ Publications. Retrieved from: <https://static1.squarespace.com/static/5d1bf13a3f8e880001289eeb/t/5f768e8a17377653bd1eebef/160160533874/Companion+Animals+in+NZ+2020+%281%29.pdf>

¹⁰ (24 November 2020). Kiwis seek comfort of pets during Covid, splash out on premium pet food. Stuff. Retrieved from: <https://www.stuff.co.nz/business/123250174/kiwis-seek-comfort-of-pets-during-covid-splash-out-on-premium-petfood>

¹¹ (18 August 2019). Human nature. How treating pets as people is driving a retail boom. The Register. Retrieved from: <https://theregister.co.nz/2019/08/18/human-nature-how-treating-pets-people-driving-retail-boom/>

¹² According to WWNZ estimates based on Euromonitor data and internal estimates.

narrower, and more limited range than the specialty pet sector, with the pet section comprising a relatively small proportion of a supermarket's or general merchandise retailer's broader retail offering. Participants in the general retail pet sector tend to sell products at lower price points, with such products generally positioned at budget-focused consumers and consumers making convenience, general grocery, or emergency purchases. For ease of reference in this application, these products are referred to as **general retail pet products**.

- 7.5 The specialty pet sector comprises pet food, pet non-food products, veterinary services, pet health products, pet insurance, and a range of other adjacent services. The participants in this sector are specialty pet retailers such as PETstock NZ, Animates, Pet Essentials and Pet Central, and there are a considerable number of independent operators in the market. The sector also includes the increasingly popular and proliferating number of online-only retailers, which includes retailers such as Pet.kiwi, PetDirect.co.nz, Pet Connect, Pet Depot, Best for Pet, Paw Store, and many others. A new channel that is also emerging in the specialty pet sector is "direct-to-consumer", where brands such as Raw Essentials,¹³ New Zealand Pet Foods,¹⁴ The Raw Dog Food Co,¹⁵ and Tame Wolf Raw Pet Foods¹⁶ supply their own branded products directly to consumers via the online channel, as well as popular pet food subscription services, such as FeedMyFurBaby.co.nz and Brodie's Raw Pet Food Delivery. Veterinary clinics, to the extent they supply pet products, also fall into this sector.
- 7.6 The offering in the specialty pet sector is much broader than the general retail pet sector, along with pet care services. Many of the products sold by specialty pet retailers tend to be higher quality, higher priced products targeted at premium-focused consumers. Some of these products are prescribed by veterinarians and some are recommended for particular breeds or particular health conditions. For ease of reference, in this application these products are referred to as **specialty pet products**. Through their offering of adjacent services, specialty pet retailers act as one-stop destinations where customers can purchase a range of these premium goods and services, and also receive specialist advice and information from expert in-store staff.
- 7.7 The following sections provide further detail about the Parties' pet businesses and those of their largest competitors.

WWNZ's retail business

- 7.8 WWNZ operates a national supermarket business, supplying grocery products through:
- (a) 193 Countdown and Metro supermarkets;
 - (b) 33 FreshChoice and 38 SuperValue stores, which are franchised by WWNZ's subsidiary Wholesale Distributors Limited ("**WDL**"). While these franchised stores are locally owned and operated, for the purposes of this application, these are treated as part of WWNZ's retail footprint given the Commission has previously

¹³ <https://www.rawessentials.co.nz/>

¹⁴ <https://nzpetfoods.co.nz/collections/all>

¹⁵ <https://therawdogfoodco.nz/collections/all>

¹⁶ <https://www.tamewolf.co.nz/shop-2>

"consider[ed WWNZ] and FCSV to be associated" for the purposes of s 47 due to the franchise and supply links between them;¹⁷

- (c) online at <https://www.countdown.co.nz/>;
- (d) via its myCountdown app; and
- (e) an online beer / wine / spirits business called Vineonline.¹⁸

7.9 WWNZ has also recently established a new grocery wholesale business, called New Zealand Grocery Wholesale ("**NZGW**") to wholesale grocery products to third party retailers.

7.10 Countdown supermarkets supply general retail pet food and accessories in its bricks-and-mortar outlets in an aisle that contains pet products (and other non-pet products) in the supermarket (the "pet aisle"), and via its online grocery shopping offering. Countdown's pet aisle contains a limited range of products at a general retail level. There is a basic range of general retail pet products, and Countdown stores do not employ dedicated staff to provide service or information in relation to those products. Below is an image of a Countdown pet product aisle (noting that it also contains other non-pet products, eg laundry liquid, sponges).



Figure 1: Countdown pet product aisle (Countdown Greenlane)

7.11 WWNZ views other supermarkets, such as PAK'nSAVE, New World, Four Square, and Costco, as well as The Warehouse, a general merchandise and grocery retailer, as its

¹⁷ Decision No. 448, *Progressive Enterprises Ltd / Woolworths (NZ) Ltd.*

¹⁸ <https://www.vineonline.co.nz/>

closest competitors for general retail pet products (with The Warehouse having stated publicly that the pet food / care category is an area of growth for it).¹⁹

PETstock NZ's retail business

7.12 As described at 3.4 above, PETstock NZ is a national specialty pet retail business with 15 stores in New Zealand ([]), which supplies a broad range of pet products and pet services in-store and online. Its online channels consist of:

- (a) <https://petstock.co.nz>, which is directly correlated with its bricks-and-mortar stores;
- (b) <https://pet.co.nz>; and
- (c) <https://petpost.co.nz>.²⁰

7.13 Its national market share is estimated at [] of the specialty pet category, with annual sales of approximately [] for FY 21 - 22.

7.14 PETstock NZ's premium pet product range includes dog food, cat food, cat litter, products for other species, pet accessories and pet health products. In addition to pet products, PETstock NZ offers a range of pet services such as grooming, DIY wash, puppy school, pet adoption, pet ID Tags, and water testing for fish tanks.



¹⁹https://www.thewarehousegroup.co.nz/application/files/4116/6430/7406/3_FY22_Annual_Result_Media_Release_FINAL.pdf

²⁰ []



Figure 2: Examples of the products and services at PETstock (PETstock Ellerslie)

- 7.15 Additionally, PETstock NZ's Constellation Drive location is home to a purpose-built animal hospital that offers complete veterinary services, including vaccinations, consultations, microchipping, desexing, dental care, x-rays, surgeries and anaesthesia, blood testing and parasite control. This hospital is staffed by veterinarians and veterinary nurses.
- 7.16 PETstock NZ offers a rewards program entitled PETstock Rewards. Members of the program earn "PETstock Dollars" when they spend over a certain cumulative amount. These PETstock Dollars can be used for purchases in store or online. Members also earn "Brand Cash" when they purchase certain participating brands, which can then be used on the same brand in future.
- 7.17 [].

Animates

- 7.18 Animates NZ Holdings Limited ("**Animates**") is New Zealand's largest specialty pet retailer, and describes itself as being "New Zealand's leading Pet Specialty Retailer for 20+ years."
- 7.19 Animates is a joint venture between Greencross Limited, Australasia's "largest integrated consumer facing pet care company,"²¹ and the NZX-listed EBOS Group. EBOS Group has interests in a number of businesses in the animal care space, including Masterpet, Vitapet and Black Hawk dog food.

²¹<https://cvsg.com.au/project/petbarn-greencross/#:~:text=Petbarn%20is%20part%20of%20Greencross,currentl%20operates%20140%20stores%20nationwide.>

- 7.20 Animates opened its first store in Christchurch in 1996, and has since grown to a network of 44 retail stores, 28 grooming salons and 18 veterinary clinics throughout the country, as well as an online retail store. Its national market share is estimated at []²² of the specialty pet category, with annual sales of over \$183 million in the year to 26 June 2022.²³
- 7.21 Animates is described as being a "one-stop-shop for pet lovers offering high quality food, flea treatments, fun and educational toys, kennels, hutches, cages and tanks, dog and cat grooming products, pet health supplements, as well as pet shampoos and conditioners – all underpinned by good advice in-store."²⁴ As part of its competitive offering, Animates operates a loyalty system called "Petpoints" where customers earn points for each dollar spent in-store that will then translate into rewards, such as vouchers, free delivery and other perks. It also maintains a "price promise" where it will match the price of any identical stocked item advertised in New Zealand, ensuring that its products are available for the lowest retail price anywhere in the country.

Other specialty pet retailers

- 7.22 In addition to Animates, there are a number of other specialty pet retailers active in New Zealand. In relation to retailers with bricks-and-mortar outlets, these include:
- (a) **Pet Essentials**, which operates a chain of 9 stores across the North Island. While Pet Essentials Limited was formed in March 2002, all stores are individually owned and operated, with some established as early as 1995. Given this ownership model, product ranges across stores vary, however most stores have access to the same network of suppliers. Pet Essentials stocks a wide range of specialty pet food, but has a particular focus on raw meats, with several of its store owners having interests in a meat processing plant.²⁵ The New Plymouth Pet Essentials store also maintains an online retail presence for the banner called Pet Essentials Direct (petessentialsdirect.co.nz).²⁶ Pet Essentials is understood to be a member of the Australasian independent speciality pet buying group IndePet (which has 30 IndePet member specialty pet stores in Australia and 18 in New Zealand).²⁷

²² WWNZ estimates.

²³ Animates NZ Holdings Limited. Annual Report – 26 June 2022. Retrieved from: <https://app.companiesoffice.govt.nz/companies/app/service/services/documents/4235D74DB9ADEF69AF96764729E67F37>

²⁴ <https://www.ebosgroup.com/businesses/animal-care/>

²⁵ <https://petessentials.co.nz/About-Us/About-Pet-Essentials>

²⁶ <https://www.petessentialsdirect.co.nz/>

²⁷ <https://indepet.com.au/store-locator>

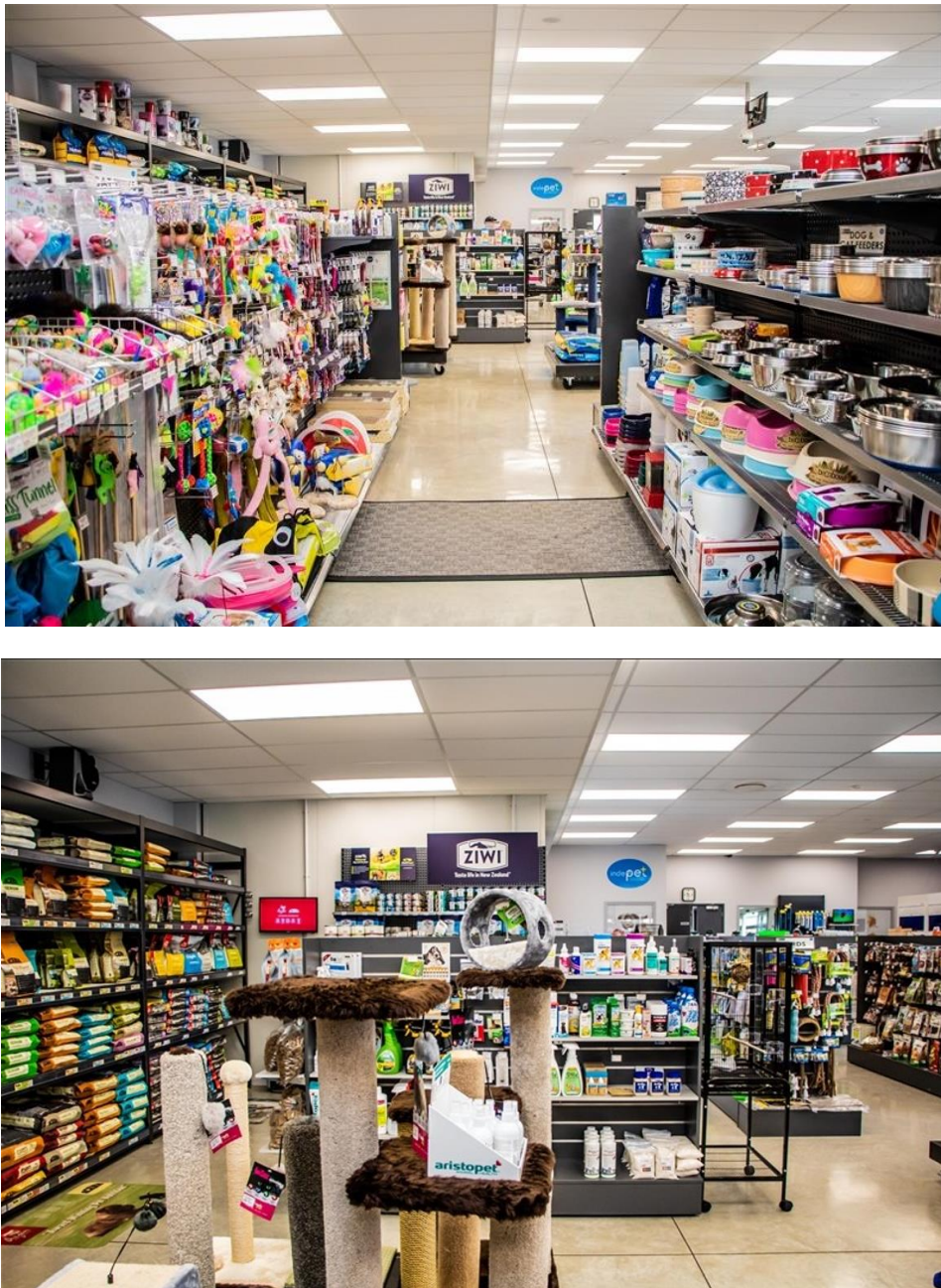


Figure 3: Images of a Pet Essentials store

- (b) **Raw Essentials**, which operates 14 stores across New Zealand (9 in Auckland, Hamilton, Cambridge, Mount Maunganui, Wellington, Christchurch),²⁸ and an online channel, and is self-described as being "New Zealand's raw pet food experts", selling "frozen raw, treats and freeze dried pet food".²⁹ Raw Essentials markets that its "14 stores [specialise] in raw pet food & nutritional advice",³⁰ and

²⁸ <https://www.rawessentials.co.nz/stores>

²⁹ <https://www.rawessentials.co.nz/about>

³⁰ <https://www.rawessentials.co.nz/>

encourages customers to "drop in and ask us anything... we like to help and we love seeing your pets in-store, too!".

RAW PET FOOD	STORES & ADVICE	DELIVERY OPTIONS
100% natural, raw food for cats, dogs, kittens & puppies. Including mixes, minces, bones, broth, treats and supplements	We have 14 stores specialising in raw pet food & nutritional advice across Auckland, Waikato, Bay of Plenty, Wellington & Christchurch	Purchase online for delivery in Auckland, Whangarei, Waikato, Bay Of Plenty, Wellington. Delivering treats & supplements nationwide.
SEE PACKS	FIND STORES	ORDER ONLINE

Figure 4: Example of products at Raw Essentials online marketing of its nutritional advice services



Figure 5: Examples of products at Raw Essentials (Raw Essentials Ellerslie)

- (c) **Pet Central**, "Aotearoa's largest 100% NZ owned and operated pet retailer".³¹ It first began in 2005 as Cyberpets, and now has 6 locations throughout the South Island and an online retail store.

³¹ <https://petcentral.co.nz/>



Figure 6: Images of a Pet Central store

- (d) **Pet Stop** (registered as E Z Pet Limited), which has 3 locations in Auckland, being Newmarket, East Tamaki and Penrose, as well as an online retail store.³²
- (e) **The Pet Centre**, a supplier of food and accessories for most pet breeds, including cats and dogs. The Pet Centre has 3 locations in Lower Hutt, Upper Hutt and Lyall Bay, as well as an online retail store.³³
- (f) **Nichol's Pet Centre**, with 3 pet and pet supplies stores attached to Nichol's Garden Centre outlets in Dunedin, Cromwell, and Invercargill.³⁴

³² <https://petstop.co.nz/>

³³ <https://www.thepetcentre.co.nz/>

³⁴ <https://www.nichols.co.nz/Pet-Centre>

- (g) **Horselands**, a New Zealand owned retailer of animal supplies, first established in 1975. While Horselands specialises in products for horses, it also retails food for a range of domestic pets, including dogs and cats. It maintains 3 stores in Auckland and Hamilton, in addition to an online retail store.³⁵
- (h) **Petmart**, which is described as "the largest retailer of pet accessories in the Nelson Marlborough region", with 2 stores in each of Nelson and Richmond.³⁶ Petmart is understood to be a member of the Australasian independent speciality pet buying group IndePet (which has 30 IndePet member speciality pet stores in Australia and 18 in New Zealand).³⁷

7.23 To the extent that they provide pet products, veterinary clinics are also key participants in the specialty pet sector:

- (a) The New Zealand Veterinary Association's online register lists 437 accredited veterinary clinics throughout New Zealand.³⁸ The largest of these, aside from Animates (with 18 clinics nationwide), is Pet Doctors New Zealand. Pet Doctors is owned by the Australian-based VetPartners Group which operates a network of 12 clinics throughout New Zealand, as well as maintaining an online retail presence via <https://shop.bestforpet.co.nz>.
- (b) Many veterinary clinics in New Zealand are local or independent franchises, many of which provide an in-store retail offering. These clinics will stock a range of specialty pet products, including pet food (including items that has been formulated to cater for specific dietary needs), pet health items and accessories, and provide expert advice and recommendations to assist the customer's purchase decision.

³⁵ <https://horselands.co.nz/>

³⁶ <https://www.petmart.co.nz/page/1/about-us-nelson-richmond-tasman>

³⁷ <https://indepet.com.au/store-locator>

³⁸ <https://nzva.org.nz/public/find-a-vet/>



Figure 7: Pet product offering at Te Puna Vets Clinic

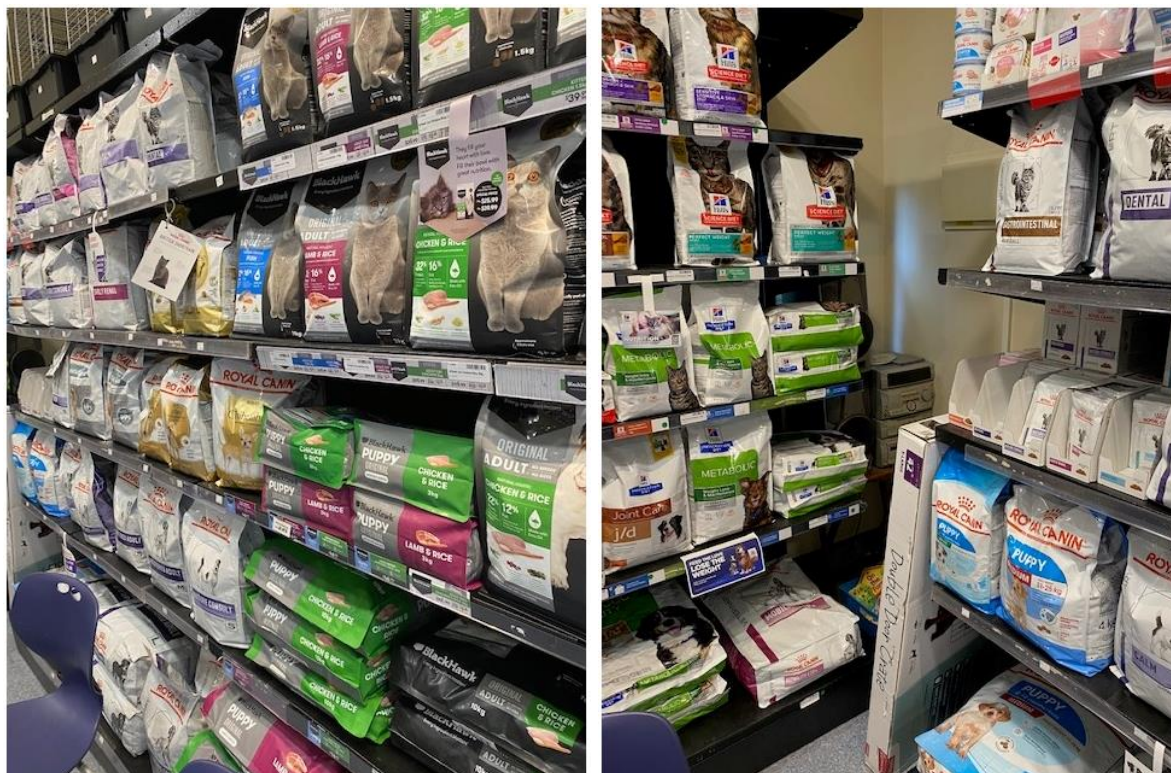


Figure 8: Pet product offering at VetCare Tauranga (Bethlehem Clinic)

7.24 In addition to bricks-and-mortar retailers, a large number of online specialty pet retailers are active in this sector. Many of these online retailers' offerings mirror that of a specialty pet bricks-and-mortar store, while also having the convenience of 24/7 shopping, and other

additional benefits such as home-delivery and subscription options. While a sub-set of these businesses may also carry-on business from a bricks-and-mortar store, many of these are based entirely online. Recent years have also seen the growth of a number of direct-to-consumer specialty pet retailers (see paragraph 7.5 above). As noted, in recent years brands such as Raw Essentials,³⁹ Tame Wolf Raw Pet Foods,⁴⁰ FeedMyFurBaby.co.nz, and Brodie's Raw Pet Food Delivery⁴¹ have emerged. These businesses supply specialty pet products (often on the basis of a personalised offering for a particular pet, selected from their own brand offering) directly to consumers via their online channel (and in the case of Raw Essentials, via its bricks-and-mortar stores). Many of these brands place a significant focus on customer acquisition by social media. Online specialty pet retailers include:

- (a) **PetDirect.co.nz**, a "100% Kiwi-owned and operated" pet supplies retailer founded in 2020.⁴² It sells cat and dog food, accessories and veterinary products. While it operates as an online-only store, it has an on-the-ground customer support team based in Auckland, and a 3,000sqm warehouse in Avondale. In addition to its range of international brands, PetDirect.co.nz stocks over 22 New Zealand pet brands. PetDirect.co.nz was founded in 2020 by Shane Bradley and Aaron Waters, and both have significant experience in the specialty pet retail industry in New Zealand.⁴³ Shane Bradley previously was the founder of Pet.co.nz (and sold 50% of Pet.co.nz to The Warehouse in 2013,⁴⁴ and continued to hold a 50% interest in that business until it was sold to PETstock NZ in 2016). Aaron Waters was previously the New Zealand country manager of PETstock NZ.⁴⁵ [].

[]

Figure 9: New Zealand specialty pet retailers' website traffic (top 3 websites): January 2021 to December 2022

- (b) **Pet.kiwi**, which is predominantly an online specialty pet retailer, with one bricks-and-mortar location in Grey Lynn, Auckland. It was launched in 2016 by a team of veterinarians, veterinary nurses and animal rescue volunteers who wanted to "bring new and exciting products into the market" after many years in the veterinary and animal industries.⁴⁶ It supplies specialty pet wet food, dry food and treats, along with health products, toys, clothing, and other accessories.
- (c) **Pet Connect**, an online retailer of over 80 brands and 2,000 pet products for dogs, cats and other small animals. It was launched in 2017 and ships to customers nationwide from its Waiheke Island headquarters. It offers a loyalty programme and a price match guarantee.⁴⁷

³⁹ <https://www.rawessentials.co.nz/>

⁴⁰ <https://www.tamewolf.co.nz/shop-2>

⁴¹ <https://www.brodies.nz/>

⁴² <https://petdirect.co.nz/why-pet-direct>

⁴³ <https://petdirect.co.nz/the-pet-direct-story>

⁴⁴ <https://stoppress.co.nz/news/warehouse-buys-50-percent-shane-bradleys-ecommerce-company/>

⁴⁵ <http://www.ponsonbynews.co.nz/article-detail/show/791/>

⁴⁶ <https://www.pet.kiwi/page/our-mission.aspx>

⁴⁷ <https://www.petconnect.nz/>

- (d) **Pet Depot**, an online store which launched in 2019, and offers "popular brands of food, flea and worming treatments for cats and dogs."⁴⁸ Pet Depot has been operated in partnership with the SPCA New Zealand since the charitable society acquired a 30% ownership stake in April 2020.⁴⁹ It is the only specialty pet retailer in New Zealand offering customers AA Smartfuel discounts.
- (e) **Best for Pet**, an online specialty pet retailer of cat and dog food, health and cleaning products. It is operated by VetPartners New Zealand Limited, whose parent company owns an extensive network of veterinary clinics across Australia and New Zealand, including Pet Doctors New Zealand which operates 11 clinics nationwide.
- (f) **The Paw Store**, which began as a small business making a range of natural handmade dog shampoo bars, and later progressed into selling a wide range of "premium 100% naturally sourced New Zealand pet treats and accessories."⁵⁰ It stocks Wishbone and Addiction pet food products, a more extensive range of "treat and chew" brands, and various pet health products and accessories.
- (g) **Vet Plus**, which, in addition to operating veterinary clinics in Taupo, Reporoa and Rotorua, also maintains an online retail store, stocking specialty pet food, flea treatments and worming treatments for cats and dogs.⁵¹
- (h) **Pet Naturals**, which is "known NZ wide as the place to go for all natural pet food and one of the first companies with a store offering affordable raw food for dogs and raw cat food." In addition to raw pet food, Pet Naturals stocks a range of other dog and cat food brands, as well as pet accessories and pet health products. Pet Naturals has one bricks-and-mortar store in Orewa, Auckland.⁵²
- (i) **PetWorkz**, which is a "Waikato, New Zealand based online pet store established in 2005" that also operates a pick-up location in Hamilton.⁵³
- (j) **Kiwipetz**, a bricks-and-mortar and online speciality pet retailer, with 1 bricks-and-mortar store in Tauranga, that delivers online orders nationwide.⁵⁴
- (k) **Feed My Furbaby**, which is an online service that designs personalised meal plans for dogs, and then provides a meal service on a subscription basis.⁵⁵ Earlier this year Feed My Furbaby received investment from Icehouse Ventures' ArcAngels Fund.⁵⁶

⁴⁸ <https://www.petdepot.co.nz/pages/about-us>

⁴⁹ <https://www.scoop.co.nz/stories/BU2004/S00404/spca-announces-new-retail-partnership-with-pet-depot-to-drive-funds.htm>

⁵⁰ <https://thepawstore.co.nz/pages/about-us>

⁵¹ <http://vetplus.co.nz/>

⁵² <https://petnaturals.co.nz/>

⁵³ <https://petworkz.co.nz/about/>

⁵⁴ <https://kiwipetz.co.nz/>

⁵⁵ <https://www.feedmyfurbaby.co.nz/howitworks/>

⁵⁶ (6 April 2022). Fund aims to raise \$20m to invest up to women-led startups in Aotearoa. Stuff. Retrieved from: <https://www.stuff.co.nz/business/industries/128272099/fund-aims-to-raise-20m-to-invest-in-up-to-50-womenled-startups-in-aotearoa>

- (l) **Brodie's Raw Pet Food Delivery**, which is an online service that provides meal subscriptions for pets. The significant growth of Brodie's Raw Pet Food Delivery has been reported in the media:⁵⁷

The convenience of online shopping and home deliveries has helped propel pet food business Brodie's Raw Pet Food Delivery to new heights.

What started out as a side hustle more than three years ago has become a thriving business supplying almost 20,000 raw meals a month for dogs and cats in Auckland and parts of the North Island...

She has been running the business from a huge garage fitted out with freezers at her home in Orakei, Auckland, but with 40 per cent growth in the year to March 2021 and plans to top that with 50 per cent plus growth in the current financial year, she is planning to move into commercial premises.

Often described as 'My Food Bag for pets', Brodie's provided weekly menu bags which were daily pre-packed meals based on a pet's weight.

- (m) **NZ Dog Box**, which offers a monthly subscription box for dogs, including up to 6 "randomly selected natural dog treats and premium products all carefully selected by dog scouts and delivered to [customers'] door step every month." NZ Dog Box offers customers the option to purchase products on a one-off or continuous subscription, basis and enables them to tailor their box for their particular dog's size and needs.⁵⁸ It first began out of a garage in 2015, and has grown to serve over 10,000 dogs over the last four years.
- (n) **Bark Bag**, which has been offering a monthly home-delivery subscription service of dog treats and toys to customers across New Zealand since 2016.⁵⁹
- (o) Other online specialty pet retailers that predominantly supply pet food products, such as **The Dog Depot**,⁶⁰ **Out of the Wild**,⁶¹ **Ultra Pet Supplies**,⁶² **Pet Food Club**⁶³ and **Happy Pet**.⁶⁴
- (p) Other online specialty pet retailers which predominantly supply non-food pet products, such as **House of Pets**⁶⁵, **Eight Paws**⁶⁶ and **Everyday Pets**.⁶⁷

⁵⁷ (15 April 2021). 'My Food Bag' for pets blossoms from sideline to thriving business. Stuff. Retrieved from: <https://www.stuff.co.nz/business/124776589/my-food-bag-for-pets-blossoms-from-sideline-to-thriving-business>

⁵⁸ <https://www.nzdogbox.co.nz/faq>

⁵⁹ <https://barkbag.co.nz/learn-more>

⁶⁰ <https://www.thedogdepot.co.nz/>

⁶¹ <https://outofthewild.co.nz/>

⁶² <https://www.ultrapetsupplies.co.nz/>

⁶³ <https://petfoodclub.co.nz/>

⁶⁴ <https://happypet.co.nz/>

⁶⁵ <https://houseofpets.innovations.co.nz/>

⁶⁶ <https://eightpaws.co.nz/>

⁶⁷ <https://everydaypets.co.nz/>

7.25 In addition, there are a number of other e-commerce platforms, such as **Amazon.com**, **Mighty Ape** and **GrabOne Store** that ship pet food and accessories to New Zealand based customers.

Other general retail pet retailers

7.26 Other retailers that supply pet products include supermarkets, general merchandise retailers and rural merchants.

7.27 Supermarkets that supply general retail pet products include:

- (a) **Foodstuffs North Island and Foodstuffs South Island**,⁶⁸ which together account for more than 400 retail stores nationwide under the New World, PAK'nSAVE and Four Square retail banners. In terms of pet products, Foodstuffs stocks a limited range of general retail pet products.

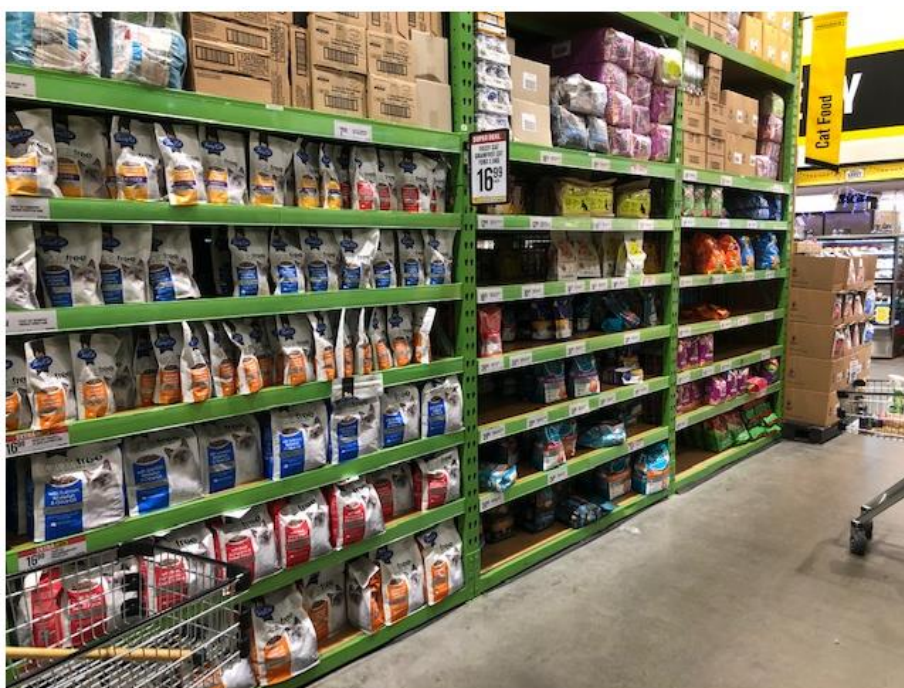


Figure 10: PAK'nSAVE pet product aisle (PAK'nSAVE Royal Oak)

⁶⁸ Together referred to as "Foodstuffs" in this application.

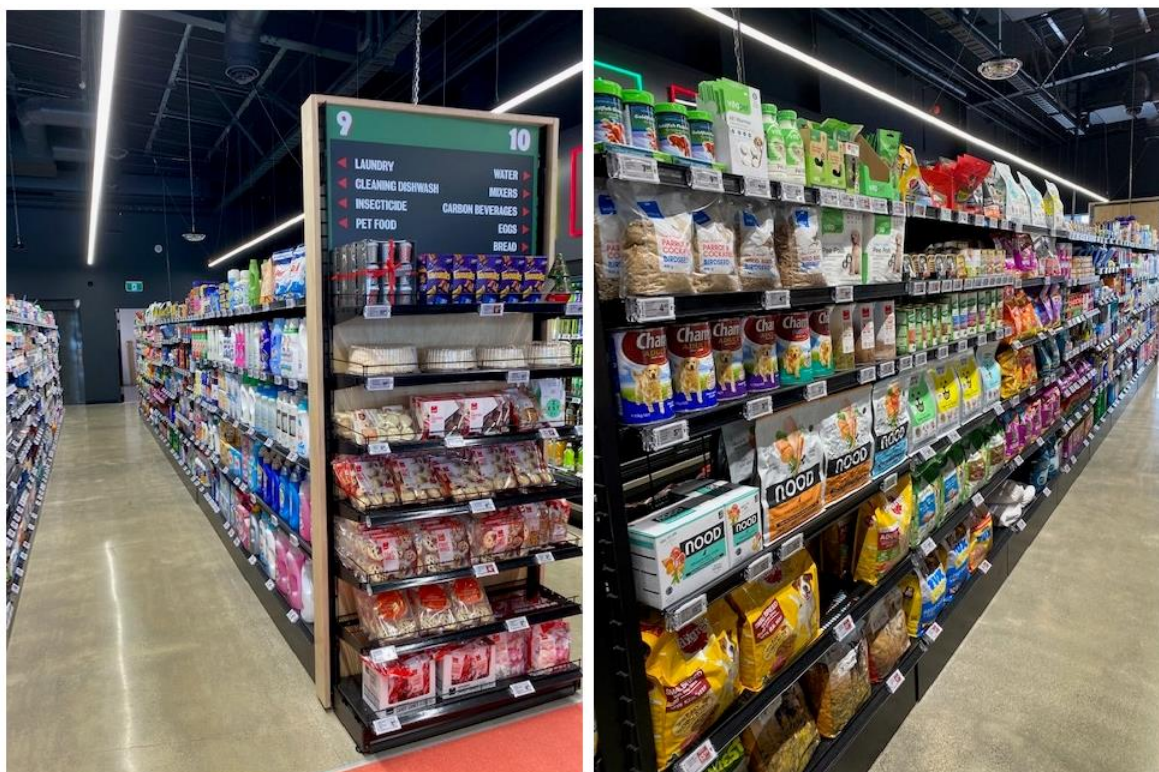


Figure 11: Four Square pet product aisle (Four Square Remuera)

- (b) **Costco**, which is the second largest bricks-and-mortar food / grocery retailer in the world. It opened its first New Zealand store in Auckland during 2022, and has plans to open further stores in Wellington and Christchurch (with land use consent granted to Costco for a site in Rolleston).⁶⁹ Costco sells branded and private label general retail pet products.
- (c) **Bin Inn** is a bricks-and-mortar retailer that specialises in wholefoods and specialty groceries. Its product range covers a wide range of categories, including general retail pet products. It operates a licensee model, with each of its 35 stores (across Northland, Auckland, Waikato, Coromandel, Bay of Plenty, Hawkes Bay, Taranaki, Manawatu-Wanganui, Wellington, Tasman, Nelson, Marlborough, Canterbury and Otago) being locally owned and operated.⁷⁰
- (d) **Farro Fresh** is a bricks-and-mortar and online banner with 6 stores across Auckland, and is understood to be looking to expand to the Waikato, Bay of Plenty, and Christchurch.⁷¹ Farro Fresh stocks general retail pet products,⁷² as illustrated in the image below.

⁶⁹<https://extranet.selwyn.govt.nz/sites/consultation/DPR/Shared%20Documents/PDF%20for%20markup%20Rolleston%20Industrial%20Developments%20Limited.pdf>

⁷⁰ <https://www.bininn.co.nz/>

⁷¹ (9 July 2021). Farro Fresh expands IRL and online. FoodTicker. Retrieved from: <https://www.foodticker.co.nz/farro-fresh-expands-irl-and-online/>

⁷² <https://www.farro.co.nz/shop/products?searchTerm=dog%20food>
<https://www.farro.co.nz/shop/products?searchTerm=cat%20food>



Figure 12: Farro Fresh pet product offering (Farro Fresh Epsom)

- (e) **Supie** is an online grocery retailer that sells general retail pet products.⁷³

7.28 General merchandise retailers that supply general retail pet products include:

- (a) **The Warehouse**, which has over 90 bricks-and-mortar stores across New Zealand, and stocks general retail pet products. In September 2022, as part of its FY22 annual result announcement, The Warehouse stated that pet care is a growing category for it:⁷⁴

"Grocery, pantry, health & beauty, laundry and pet care are all growing categories for us and are now available in all of our existing 89 The Warehouse stores. Looking ahead, we will continue to expand our value range and offer grocery essentials at NZ's best prices."

⁷³ <https://supie.co.nz/products/Pets?page=2>

⁷⁴ https://www.thewarehousegroup.co.nz/application/files/4116/6430/7406/3_FY22_Annual_Result_Media_Release_FINAL.pdf

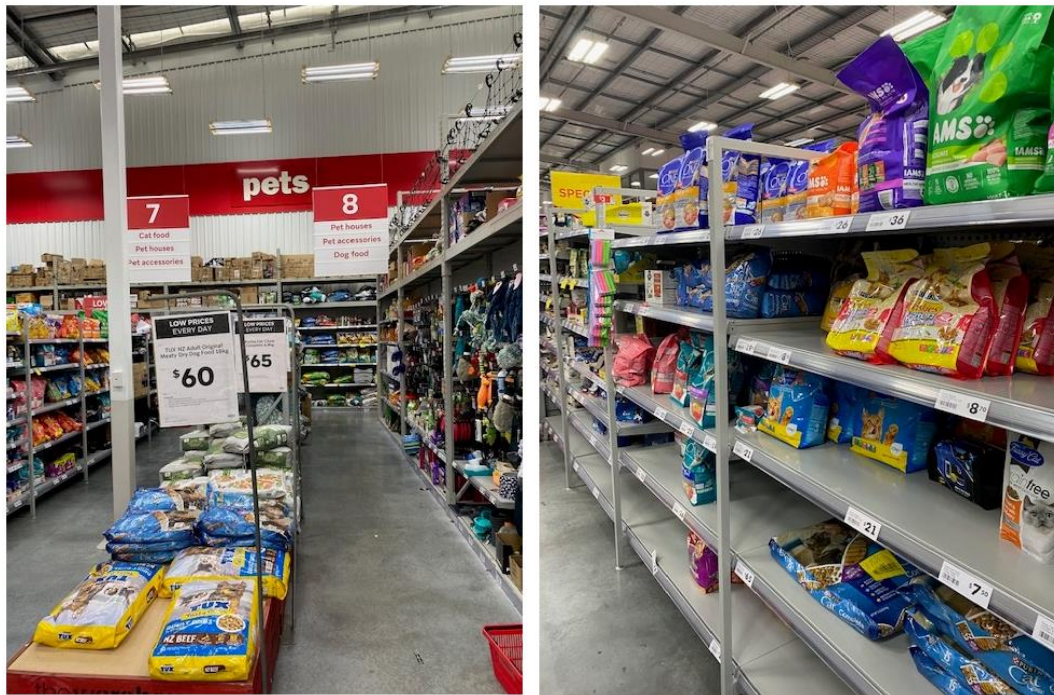


Figure 13: The Warehouse pet product aisle (The Warehouse Royal Oak)

- (b) **Mitre 10** is New Zealand's largest home improvement and garden retailer, with 84 stores across New Zealand, that sells hardware and a range of general merchandise. Mitre 10's "Pet Care" product category contains over 650 products, such as pet beds, kennels, doors toys, leashes, fish accessories, bird feeders and food bowls.⁷⁵ As part of its pet offering, Mitre 10 stocks general retail pet food products, including brands such as Whiskas, Purina, Pedigree and Vitapet.

⁷⁵ <https://www.mitre10.co.nz/shop/pet-care>



Figure 14: Mitre 10 Mega pet product aisle (Mitre 10 Mega Mt Wellington)

- (c) **Kmart** is an Australian headquartered department store with 24 outlets throughout New Zealand (7 in Auckland, 2 in Hamilton, 2 in Tauranga, Rotorua, Whakatane, Napier, Hastings, Palmerston North, 2 in Wellington, Nelson, 2 in Christchurch, Ashburton, Queenstown and Invercargill). It offers products ranging from women's, men's and children's wear to homewares, electronics, toys and books. Its vision is to "provide families with everyday products at low prices," which is reflected in its budget-friendly selection of pet products. Kmart offers 456 pet products for dogs, cats, and fish.⁷⁶ While Kmart does not supply a full selection of general retail pet food, and instead limits its range to treats and snacks rather than everyday feeding needs, Kmart offers a selection of functional and recreational pet accessories. Kmart's Australia and New Zealand CEO has stated that "We've got growth plans for Kmart New Zealand in both the North and South Islands for many, many years to come."⁷⁷

⁷⁶ <https://www.kmart.co.nz/category/home-&-living/home-by-category/pets/440259/>

⁷⁷ <https://insideretail.co.nz/2022/09/22/kmart-eyes-new-zealand-growth-for-many-years-to-come/>

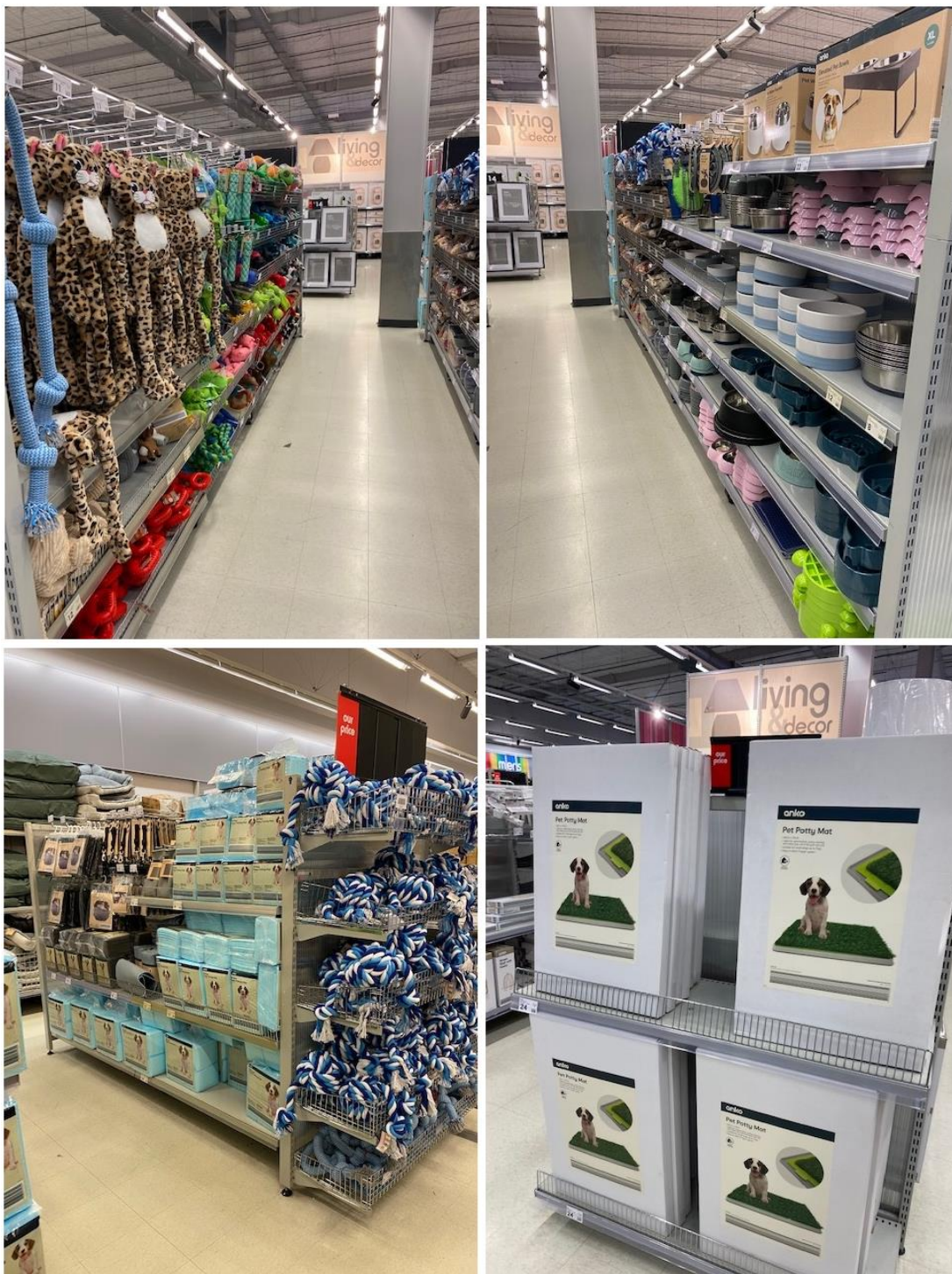


Figure 15: Kmart pet product aisles (Kmart Bethlehem)

- (d) **Briscoes** is part of the Briscoe Group and is an NZX listed company, supplying general merchandise to the New Zealand market for 150 years. It has a network of 48 stores nationwide (13 in Auckland, 2 in Northland, 12 in Central North Island, 9

in Lower North Island, Blenheim, Nelson, 7 in Canterbury and 3 in Otago and Southland). Its pet product selection consists of 63 items, offering pet beds, bowls and accessories, but does not extend to general retail pet food, treats, or other pet needs.⁷⁸

- (e) **Crackerjack** is a bricks-and-mortar and online banner (with 14 stores across the North Island) that offers "bargain" products, that vary with availability, across a range of grocery categories, including a selection of general retail pet food and pet accessories.⁷⁹
- (f) **Bunnings** is Australia and New Zealand's leading retailer of home improvement and lifestyle products for consumer and commercial customers. It has 41 stores across New Zealand, with 34 in the North Island, and 7 in the South Island. In New Zealand, Bunnings stocks a selection of pet products for dogs and cats, including kennels, beds, mats, pet doors, and flea repellents, but does not sell pet food. Bunnings Australia has recently increased its penetration of non-food pet products. While Bunnings stocks a smaller sub-set of products in New Zealand, it could readily expand to provide the more extensive range sold in their Australian stores.
- (g) **Look Sharp** is an online and bricks-and-mortar "variety bargain" retailer that operates 19 stores around the country (including 8 in Auckland, 7 throughout Central and Lower North Island, and 4 in the South Island). Look Sharp's pet selection consists of toys, accessories, training and grooming products for cats and dogs.⁸⁰

⁷⁸ <https://www.briscoes.co.nz/furniture-and-storage/storage/pet-accessories/>

⁷⁹ <https://www.crackerjack.co.nz/shop-online/pet>

⁸⁰ <https://www.looksharpstore.co.nz/product-category/home-everyday-essentials/pet-care/>



Figure 16: Look Sharp pet product offering (Look Sharp Mt Wellington)

7.29 Rural merchants that supply pet products include:

- (a) **Farmlands** is New Zealand's largest farmer owned co-operative that was formed by farmers for farmers over 55 years ago. As part of its co-operative, Farmlands has a network of 82 bricks-and-mortar retail outlets across New Zealand and an online store. Through these channels, Farmlands sells products across categories such as crop protection, fertiliser, fencing, seed, garden supplies, horticulture, household supplies, machinery and equipment. In the animal space, Farmlands sells a range of products for both large animals and domestic pets. This includes cat food, dog food, flea and worming treatments, as well as a selection of pet bowls, leashes, beds and cleaning products.

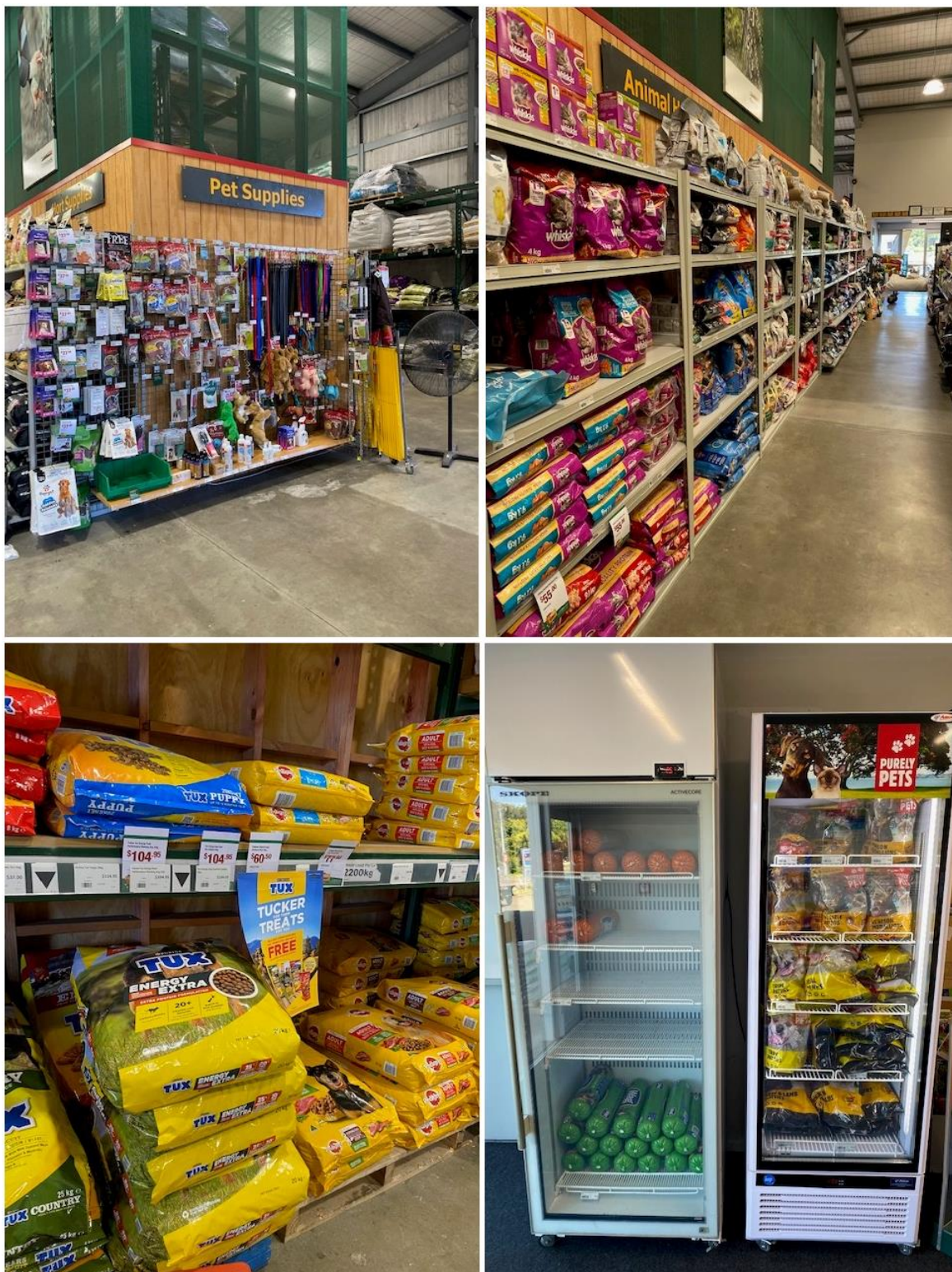


Figure 17: Farmlands pet product offering (Farmlands Te Puna)

- (b) **PGG Wrightson** is a NZX listed company that is a major participant in the agriculture sector, providing farmers with a full-service offering including animal health products, farming equipment and agricultural supplies. It has a nationwide network of 92 bricks-and-mortar retail outlets, in addition to an online store. It supplies products for various animals, ranging from farmstock to domestic pets. Its domestic pet selection includes cat food, dog food, leashes and kennels.

- (c) **Farm Source** is part of Fonterra Co-operative Group Limited. It operates 66 bricks-and-mortar stores across the country, mainly servicing rural farming areas (8 in Northland, 4 in Auckland, 14 in the Waikato, 7 in the Bay of Plenty, 8 in Taranaki, 7 in Manawatu-Wanganui, 1 in Wellington-Wairarapa, 2 in Tasman-Marlborough, 8 in Canterbury, 2 in Otago and 5 in Southland). Farm Source sells a wide range of farming equipment, supplies and animal food. While Farm Source mainly focuses on products for farm animals, it also supplies cat and dog food, flea treatments, pet cleaning products and cat litter.
- (d) **Ruralco** is a co-operative that was established in 1963 by a group of farmers. It has 3 bricks-and-mortar retail outlets in Ashburton, Rakaia and Methven, as well as operating an online store. Ruralco's online store supplies products pertaining to animal nutrition, animal management and animal health categories, including a selection of cat and dog food options.⁸¹

⁸¹ <https://www.ruralco.co.nz/>

PART E: RELEVANT MARKETS

8. OVERLAPS

- 8.1 PETstock NZ and WWNZ (via Countdown, Metro, FreshChoice and SuperValue outlets) both sell pet food, pet accessories and pet health products in New Zealand. However, the products and services sold by the Parties, their customer engagement, and their brand positions are very different, as demonstrated in the sections below. This is consistent with PETstock NZ operating in the specialty pet retail sector, and WWNZ operating in the general retail pet sector. Demonstrating this, in FY22, []% of PETstock NZ's revenue for its top selling 80% of cat food came from goods and services not currently offered by Countdown. The position is even more striking in dog food. Of the [] products which comprise the top 80% of PETstock NZ's dog food sales revenue, Countdown sells [].⁸²
- 8.2 PETstock NZ also supplies many pet-related products and services, which WWNZ outlets do not supply, such as dog grooming, water testing, pet training and veterinary services. These other pet-related products and services are not further discussed in this application.

9. MARKET DEFINITION

Product dimension

- 9.1 As explained above, there are several distinct types of stores in which customers can acquire pet food, pet accessories and other pet products. There are specialty pet providers whose core business focus is the sale of pet products together with the provision of knowledgeable product advice and the supply of ancillary services. There are specialty pet retailers that operate through bricks-and-mortar stores, pure-play online stores or omni-channel offerings that combine both in-store and online retailing, as well as more online business models from direct-to-consumer suppliers.
- 9.2 The products sold by specialty pet retailers tend to be higher quality, higher priced products targeted at premium-focused consumers. Some of these products are recommended or prescribed by veterinarians and some are recommended for particular breeds or particular health conditions. The terminology of specialty or "premium" products being the focus of the specialty pet sector, including PETstock NZ and its competitors, aligns with the descriptions previously adopted by various competition regulators in relation to specialty pet businesses (as discussed below).
- 9.3 Notwithstanding that supermarkets and general merchandise retailers also sell pet products, it is clear that they have a very different offering to specialty pet retailers. Supermarkets and general retailers typically offer a limited range of general retail pet products at more "budget" price points and for general consumer convenience. For these businesses, pet products are only an incident to the supply of groceries and general merchandise. Such businesses offer a wide range of non-pet products that are not sold by specialty pet retailers (for example,

⁸² These figures have been calculated based on analysis conducted by Houston Kemp. Houston Kemp's report is enclosed with this application, and figures calculated by Houston Kemp are referenced through this application.

(human) food and groceries, homewares, and clothing). The sale of pet products represented approximately only [] of WWNZ's total revenue in New Zealand for FY22.

9.4 Supermarkets and general merchandise retailers tend to offer mainstream, non-premium general retail products which are often referred to as "budget" or "grocery" pet products. We have referred to them as "general retail pet" products in this submission.

9.5 The relevant products markets for the purpose of assessing the impact on competition of this Transaction can be divided between the supply of speciality pet or "premium" pet products and the supply of "general retail" pet products. These products are generally sold in two distinct channels – specialty pet retailers (both bricks-and-mortar and online) on the one hand and supermarkets / general merchandise retailers (both bricks-and-mortar and online) on the other. The Parties' commercial experience is that customers who purchase from specialty pet retailers are generally seeking premium pet products and typically have different shopping missions from customers who purchase general retail pet products as an incident to food and grocery, or general merchandise, shopping.

Distinct shopping missions

9.6 A customer who purchases pet products from a specialty pet retailer typically focused on obtaining pet products (and / or services) and advice and information from expert staff. Specialty pet products tend to be high-quality products sold at materially higher price points and are perceived to be better for one's pet (and often supported by veterinarian recommendations).

9.7 By contrast, a customer who purchases general retail pet products typically does so as part of their regular grocery or general merchandise shop. Such customers will be seeking pet product(s) as only part of their shop. Supermarkets and general merchandise retailers are not equipped to and do not provide pet product advice or any related services. General retail pet products are selected by supermarkets and general merchandise retailers for this purpose with these consumers in mind. For this reason, they are generally sold at a lower price point, and are focused on being sufficiently generic to be used for a wide range of pets (as compared, for example, to specialised dog food targeted for consumption by particular breeds of dogs).

9.8 Another shopping mission relevant to general retail pet products involves customers making convenience or emergency purchases based on factors such as the longer opening hours and broad network of bricks-and-mortar stores offered by a supermarket or general merchandise retailer. For example, a customer may need to urgently purchase dog food because they have run out, or a replacement collar or lead while on holiday – in these circumstances, the quality or brand of the product may be less of a driver than the convenience of a supermarket / general merchandise retailer and the ability to find a spare product at an affordable price.

Little supplier overlap

9.9 There are also very significant differences between the speciality pet and general retail pet channels at the supplier level. There are very few suppliers that overlap between the speciality pet channel and the supermarket / general merchandise retailer channel.

9.10 In addition, many suppliers of pet products including Mars, Nestle and Masterpet do not supply certain premium brands / products (such as Mars' Royal Canin products) to supermarkets or general merchandise retailers (such as WWNZ), or otherwise supply different formulations and pack-sizes for specialty pet and general pet stores. This reflects

their intention to protect the premium nature of the brand, or otherwise to reflect the different consumer and retailer requirements of those different channels. Accordingly, such suppliers apply "dual-channel" distribution strategies, under which they offer certain premium products to specialty pet retailers, and offer different products, brands, and formulations to supermarkets and general merchandise retailers.

- 9.11 The approaches taken by competition law regulators in New Zealand and overseas offer several relevant precedents for analysing competition in these distinct specialty and general retail pet product markets and supply channels. For example, the Commission has considered the pet food industry in *Decision No. 549*, where it defined a market for "premium" pet food⁸³ that was separate from the market for "medium or low range" pet food sold in supermarkets on the basis there was a "limited degree of demand-side substitutability."⁸⁴ The Commission stated, at paragraph 43 of the decision:⁸⁵

Premium pet foods generally differ in their technical specification to those sold to supermarkets, such as the nutritional composition, and include food formulated to address specific problems in cats and dogs, such as weight control and urinary problems. This would indicate the product has a specific use that is distinct from a medium or a low range product. Further, the nutritional content in a premium product is, typically, of a higher quality than the nutritional content in a supermarket product. The Commission notes that when veterinarians are selecting a premium product, they are selecting a product with particular characteristics, such as the technical specification, and for these characteristics they pay a price-premium. The Commission is of the view that this indicates a limited degree of demand-side substitutability between premium pet food and medium or low range products.

- 9.12 That is consistent with the ACCC's approach in the *Mars / Procter & Gamble* review (2014), in which it focused on:⁸⁶

the competition effects of the proposed acquisition on the supply of premium and therapeutic dry cat food and premium and therapeutic dry dog food in the speciality retail (e.g. pet stores and veterinary clinics) channel. Procter & Gamble's Eukanuba and Iams range of premium and therapeutic cat/dog foods and Mars' range of premium and therapeutic cat/dog foods, including the Royal Canin, Nutro and Advance brands, are predominantly sold via this channel.

- 9.13 European Commission cases such as *Mars / Anicura* (2018)⁸⁷, *Masterfoods / Royal Canin* (2002)⁸⁸ and *Nestlé / Ralston Purina* (2001)⁸⁹ also identified differences between the two distribution channels, but ultimately left open whether the channels might be in separate markets because it did not change the competition law analysis. In *Mars / Anicura* at paragraph 46, the European Commission cited a previous decision, stating:⁹⁰

In Nestlé/Dalgety, the Commission found that it cannot be excluded that specialist (non-grocery) stores are a separate relevant product market for the sale of pet food from grocery stores.

⁸³ NZCC Decision No. 549, *Provet NZ Pty Limited and National Veterinary Supplies Limited*.

⁸⁴ NZCC Decision No. 549 at [43].

⁸⁵ NZCC Decision No. 549 at [43].

⁸⁶ <https://www.accc.gov.au/public-registers/mergers-registers/public-informal-merger-reviews/mars-incorporated-proposed-acquisition-of-the-procter-gamble-companys-pet-food-business>

⁸⁷ https://ec.europa.eu/competition/mergers/cases/decisions/m9019_996_3.pdf.

⁸⁸ https://ec.europa.eu/competition/mergers/cases/decisions/m2544_en.pdf.

⁸⁹ https://ec.europa.eu/competition/mergers/cases/decisions/m2337_en.pdf.

⁹⁰ https://ec.europa.eu/competition/mergers/cases/decisions/m9019_996_3.pdf.

- 9.14 The Parties note, for completeness, that the specialty and general retail pet product markets could theoretically be further divided into separate markets for pet food, pet accessories and pet health products. In *Fressnapf / Tomy's Zoo* (2017), the Austrian competition regulator defined separate markets for pet food, pet supplies, and small pets, which in that case were all supplied by specialty pet retailers.⁹¹ The regulator made that determination on the basis that the products are not interchangeable.⁹²
- 9.15 The Parties consider the competitive analysis will not ultimately change if the Commission chooses to focus on particular segments of the separate speciality pet and general retail pet product markets (such as pet food or, within that segment, dog food and cat food, or indeed, which those segments, dry dog food, wet dog food, dry cat food, and wet cat food), because the likely competitive effects outlined in the following section will apply equally in each case. Therefore, for the sake of simplicity, the Parties have largely addressed product markets for specialty pet products and for general retail pet products, but have provided specific product information where relevant.

Functional dimension

- 9.16 PETstock NZ's and WWNZ's respective operations overlap (to a limited extent) in the retail supply of certain types of pet products and in the acquisition of those types of pet products from suppliers. Accordingly, this application analyses the Transaction on the basis of PETstock NZ's and WWNZ's respective retail operations (retail markets) and on the basis of the PETstock NZ's and WWNZ's interactions with suppliers of pet products (acquisition markets).

Geographic dimension

- 9.17 Historically, competition for the supply of pet products took place at a local level, with consumers visiting local bricks-and-mortar stores to acquire products. The introduction of online pet stores, and the shift to online purchasing during the COVID-19 pandemic in particular, has reduced the relevance of competition in particular local areas because online suppliers can deliver across New Zealand in competition with both bricks-and-mortar stores and other online retailers. A hybrid situation has also arisen in respect of "click and collect" services, where competition for the initial purchase takes place online, but by reference to a local collection point.
- 9.18 Accordingly, defining the relevant geographic market on the basis of bricks-and-mortar stores in a local area may be overly restrictive and may not provide a full picture of the extent to which those local stores are now constrained by competition from online suppliers. Nonetheless, local area dynamics can be used as a starting point for the analysis of competition in respect of PETstock NZ's and WWNZ's respective individual stores, and the extent to which they constrain (or do not constrain) each other. The Parties have therefore provided information on this basis, to assist the Commission with its review.
- 9.19 The Parties note that these local area dynamics will vary depending on the features of a given local area, with customers in regional and rural areas likely to be more accustomed to

⁹¹ (27 – 28 November 2018). OECD. Annual Report on Competition Policy Developments in Austria. Retrieved from: [https://one.oecd.org/document/DAF/COMP/AR\(2018\)32/en/pdf](https://one.oecd.org/document/DAF/COMP/AR(2018)32/en/pdf)

⁹² (27 – 28 November 2018). OECD. Annual Report on Competition Policy Developments in Austria. Retrieved from: [https://one.oecd.org/document/DAF/COMP/AR\(2018\)32/en/pdf](https://one.oecd.org/document/DAF/COMP/AR(2018)32/en/pdf)

traveling longer distances to acquire the products and services they need. As the Commission noted in its recent market study into the retail grocery sector ("**Retail Grocery Market Study**"):⁹³

We have estimated the approximate geographic size of local markets separately for urban and rural areas. This is because there are regional variations in the options available to consumers, both in terms of product range and the diversity of grocery stores.

Rural consumers tend to drive further than urban consumers for grocery shopping purposes. For example, we heard many rural Māori shop about once a month, due to large distances required to travel to the nearest supermarket. We discuss regional variations in the options available to consumers below from paragraph 4.152.

This is consistent with Foodstuffs SI's submission that the distance that consumers are willing to travel to purchase groceries is catchment dependent based on the nature and unique attributes of the community. In their view a catchment area would generally be up to a 15 km radius. However, for a rural store its catchment area will depend on the store's location and its proximity to surrounding urban areas....

Estimates by the major grocery retailers of urban catchment areas for Countdown and New World stores range from 1 km to 10 km. PAK'nSAVE stores tend to have a slightly wider catchment area of up to 15 km. This is consistent with Foodstuffs NI's submission that consumers are generally willing to drive further to larger stores and PAK'nSAVE.

However, estimates of catchment areas for Countdown and New World stores in rural locations tend to be wider than those in urban areas, generally ranging between 3 km and 40 km.

9.20 For the purpose of the local area analysis described below, the Parties have provided data to assist the Commission with its review on the basis of local areas comprising 5km radii as that is the area the Commission has adopted in previous clearance applications involving supermarkets.⁹⁴ However, in doing so the Parties note:

- (a) Online shopping has advanced significantly since the Commission previously adopted such radii in considering supermarket transactions, which will inevitably impact on that assessment.
- (b) In its Retail Grocery Market Study, the Commission did not use its previous 5km radius, rather it "used drive time to estimate the approximate geographic size of local markets in urban and rural areas",⁹⁵ with it noting that "on average, respondents in medium (eg, Te Awamutu), large (eg, Rotorua) and major (eg, Auckland) urban areas travel less than 10 minutes to their main store. Consumers located in small urban (eg, Gore) and rural areas (eg, Haast) tend to travel longer to their main store, with consumers in rural areas travelling close to 20 minutes on average to their main store."⁹⁶

⁹³ NZCC Retail Grocery Market Study Final Report at [4.123], [4.124], [4.125], [4.131], [4.132].

⁹⁴ NZCC Decision No. 448, *Progressive Enterprises Limited and Woolworths (NZ) Limited*.

⁹⁵ NZCC Retail Grocery Market Study Final Report at [4.126].

⁹⁶ NZCC Retail Grocery Market Study Final Report at [4.127].

- (c) Specialty pet stores are likely to have a larger radii than supermarkets, given they are more "destination" shopping missions. As the Commission identified in relation to a store it regarded as a "destination" store during its Retail Grocery Market Study:⁹⁷

Costco is widely regarded as being a shopping destination for its members. It may therefore have differing site location requirements as it might expect consumers within a larger catchment area to visit its stores... Woolworths NZ also mentions it has seen analysis suggesting that Costco stores have in-person catchments of about 25 km.

9.21 Nevertheless, using 5km as a conservative starting point, WWNZ has identified 15 local 5km radii where WWNZ and PETstock NZ both have stores.

9.22 However, even if the Transaction is viewed on the basis of competition between banner groups at a broader geographic level (or even a national level), the competitive analysis is unlikely to change. This is because the Parties and their main competitors (including Animates and Pet Essentials in the case of PETstock NZ, and PAK'nSAVE, New World, Four Square, The Warehouse, and Costco (once it expands to additional stores) in the case of WWNZ) largely price their products on a nationwide / Island-wide basis, and undertake marketing and promotional activities on that basis. For example, as the Commission identified in its Retail Grocery Market Study in relation to supermarkets:⁹⁸

Most of the strategies relating to pricing and discounting of products are made at a national (Woolworths NZ) or at a co-operative level (Foodstuffs SI and Foodstuffs NI). This means that over time the national and island-level component of competition is likely to be a bigger driver of prices charged at major grocery retailers' stores than competition in individual local markets.

9.23 Further, there are a number of online speciality pet stores that operate across New Zealand and will place ongoing competitive pressure on the Parties in all relevant local 5km radii.

9.24 A list of the relevant local 5km radii where the Parties overlap, and the number of competing speciality and general retail pet retailers that will remain post-Transaction is provided below:

Table 2: Relevant local 5km radii

PETstock NZ store location	Competitors by banner	Competitors by store numbers	
		Specialty pet	General retail pet
Bethlehem	8	4	6
Botany	19	13	15
Cambridge	10	4	7
Constellation Drive	20	13	17
Ellerslie	15	9	16
Ferrymead	10	7	3

⁹⁷ NZCC Retail Grocery Market Study Final Report at [6.54.3] and footnote 554.

⁹⁸ NZCC Retail Grocery Market Study Final Report at [4.138].

Glen Innes	13	8	12
Hamilton	14	6	10
Hastings	16	6	14
Henderson	12	7	8
Northwood	9	8	5
Ponsonby	15	11	12
Rotorua	16	8	9
St Lukes	17	14	14
Takapuna	14	7	10

Conclusion on market definition

- 9.25 Having regard to the facts above and regulator precedent, the Parties consider that the relevant markets for the purpose of analysing the Transaction are most appropriately defined as:
- (a) markets for the retail supply of speciality pet (predominantly "premium" pet) products in local areas (noting that online supply is also an option in these areas);
 - (b) markets for the retail supply of general retail pet products in local areas (noting that online supply is also an option in these areas); and
 - (c) a national market for the acquisition of pet products by retail suppliers.
- 9.26 On the basis of these market definitions, there is no overlap between the Parties in the first two markets (ie (a) or (b)). There is also limited competitive impact on the third market (as explained in paragraphs 10.46 - 10.51 below).
- 9.27 To assist the Commission, and notwithstanding the distinction between the specialty pet and general retail pet channels, the Parties have also provided an analysis in the following section on the extent to which there is competition between them on the assumption that there is a single product market for the supply of pet products (ie not split between speciality pet and general retail pet distribution channels), before applying this analysis to each of the local areas in which PETstock NZ operates a bricks-and-mortar store.
- 9.28 The Parties submit that it is ultimately not necessary to come to a concluded view on the appropriate market definition because the Transaction is not likely to substantially lessen competition in any properly defined market. As noted above, while the Parties have provided relevant data points by reference to particular product categories (eg dog food, cat food, pet accessories etc), the Parties submit that the competitive dynamics are broadly consistent across the different categories, such that it is sensible to apply the competitive analysis to "pet products" generally, for the purpose of this Transaction.

PART F: COMPETITIVE ASSESSMENT**10. OVERVIEW OF COMPETITIVE DYNAMICS**

- 10.1 The Transaction will not have the effect, or likely effect, of substantially lessening competition in any of the relevant markets set out at paragraph 9.25 above for the following reasons:
- (a) Consistent with the fact that specialty pet and general retail pet stores operate in very different segments, the only overlap between PETstock NZ and WWNZ is a very small sub-set of all pet products.
 - (b) PETstock NZ and WWNZ are not close competitors in relation to the limited number of pet products that they both supply.
 - (c) The strongest constraint on PETstock NZ comes from direct speciality pet rivals such as Animates, Pet Essentials and Pet Central, as well as online specialty pet retailers.
 - (d) Conversely Countdown, SuperValue and FreshChoice outlets' general retail pet products sales are most closely constrained by competition with PAK'nSAVE, New World, Four Square, Costco and The Warehouse.
 - (e) Furthermore, in addition to Mitre 10, the Parties also consider that other large scale retailers such as Bunnings have the ability to expand their presence in pet and increase the constraint that they impose on WWNZ.
 - (f) The existence of strong competition facing each of the Parties is reflected in the market share estimates, which show a number of strong alternative retailers to both the specialty and general retail pet segments.
 - (g) Accordingly, the Transaction will not result in any material lessening of competition, either at a national or local market level.
 - (h) If, however, the Commission does not adopt a separate market for specialty and general retail pet retailers (ie, it analyses a single product market for the supply of pet products), then it must follow that PETstock NZ is also constrained by PAK'nSAVE, New World, Four Square, Costco, The Warehouse, Mitre 10, and other general merchandise retailers. Accordingly, there will not be any material reduction in competition:
 - (i) at a national level, because Animates, PAK'nSAVE, New World, Four Square, Costco, The Warehouse, and Mitre 10 (amongst other general retail pet retailers) will remain as relevant competitors.
 - (ii) at a local level, because they will continue to be competitively constrained in each local 5km radii post-Transaction.

- (i) There are only 2 relevant local 5km radii, Bethlehem and Cambridge, in which Animates, PETstock NZ's closest competitor, is not present []. However, at least 8 specialty pet retailers and / or general retailers that supply pet products will remain in each 5km radii around PETstock NZ in Bethlehem and Cambridge post-Transaction (and in the case of PETstock NZ in Bethlehem, 2 Animates stores will be located within 8km of that store). []⁹⁹
- (j) The Transaction will not increase WWNZ's power as a buyer because supplier and product overlaps between PETstock NZ and WWNZ are limited and, in relation to the few common suppliers between them, PETstock NZ and WWNZ generally purchase different products and/or different pack sizes. Further, the addition of PETstock NZ's purchasing volumes to WWNZ will not increase any power WWNZ has as a buyer, in particular product lines or across product categories more generally, and PETstock NZ's top suppliers (many of which are large companies with significant revenue, such as Mars whose FY21 global revenue was NZ\$71 billion) will continue to exercise countervailing power in their negotiations.
- (k) The Transaction will not increase the potential for coordinated effects to arise in any market because there is no element of the Transaction that will make it easier for the remaining firms to: (a) reach and sustain agreement on key dimensions of competition; (b) detect deviations from the agreement, so as to dissuade firms from deviating for fear of punishment; or (c) deter such deviations from coordination by means of more effective punishments (eg faster and more costly to the "cheating" firm).
- (l) There is no prospect of any "vertical" or "conglomerate" effects concerns arising from the Transaction.

The Parties overlap in relation to only a sub-set of all pet products

- 10.2 Certain types of pet products are supplied by both PETstock NZ and WWNZ (eg dog food and cat food). Such products constitute a sub-set of all pet products. WWNZ does not offer any of the following products (or services) which are provided by PETstock NZ, and so does not impose constraint on PETstock NZ in relation to them: pet grooming and DIY pet washing, puppy school, doggy daycare and cat boarding, veterinary services, and other services such as pet adoption and water testing.
- 10.3 Conversely, PETstock NZ does not supply any of the wide range of other grocery products supplied by WWNZ in its supermarkets. PETstock NZ cannot impose any competitive constraint on WWNZ in relation to the vast majority of WWNZ's business.

The Parties are not each other's closest competitors in relation to the pet products that they both supply

- 10.4 WWNZ is not a close competitor to PETstock NZ in the retail supply of the few pet product categories that both Parties supply for the reasons explained below.

⁹⁹ [

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10.5 The analysis in this section focuses on pet food because it is, by proportion of total revenue, the largest category of pet products. Cats and dogs need to be fed every day, whereas other products are purchased less routinely.

10.6 Notwithstanding this, the points made in this section also apply to the other categories.

Limited product and brand overlaps

10.7 There is very limited overlap in the specific products the Parties supply.

10.8 Table 3 and Table 4 below set out the product overlaps between PETstock NZ and WWNZ's Countdown for the products sold in FY22.¹⁰⁰ An "exact match" is where PETstock NZ and Countdown sell the same product in the same packaging size. "Close matches" (ie where the same product is sold at two retail banners, but in different packaging sizes) were also considered, but in many instances purported "close matches" were in fact sold in materially different packaging sizes (and therefore different pricing) across retail banner groups, and so exact matches reflect the most direct form of product overlap. For this reason, the Parties have focused on exact matches in this application.

10.9 Because PETstock sells a very large number of products, the below analysis focuses on the highest selling products that make up 80% of PETstock's revenue for dog and cat food, which were [] dog food products and [] cat food products. Those products were compared against all of the dog food and cat food products supplied by Countdown.

Table 3: Overlap in dog food products sold by PETstock NZ and Countdown (FY21 - FY22)¹⁰¹

	Proportion of revenue from PETstock NZ's top 80% [] dog food products that come from products also sold by Countdown	Proportion of revenue from Countdown's sales of dog food that come from products that are in top 80% [] dog food product sold by PETstock NZ
Exact match (dry food)	[]	[]
Exact match (wet food)	[]	[]

Table 4: Overlap in cat food products sold by PETstock NZ and Countdown (FY21 - FY22)¹⁰²

	Proportion of revenue from PETstock NZ's top 80% [] cat food products that come from products also sold by Countdown	Proportion of revenue from Countdown's sales of cat food that come from products that are in top 80% [] cat food product sold by PETstock NZ
Exact match (dry food)	[]	[]
Exact match (wet food)	[]	[]

¹⁰⁰ In relation to the products with the largest sales revenue that make up 80% of PETstock NZ's sales for cat and dog food.

¹⁰¹ Based on analysis in the enclosed Houston Kemp report.

¹⁰² Based on analysis in the enclosed Houston Kemp report.

10.10 The tables above demonstrate that, of the products that make up 80% of PETstock NZ's revenue for cat and dog food:

- (a) in relation to dog food (with the top 80% comprising [] products):
 - (i) no exact matches of PETstock NZ's top [] dog food products are sold at Countdown.
- (b) in relation to cat food (with the top 80% comprising [] products):
 - (i) only [] of PETstock NZ's revenue came from exact match products that were also sold by Countdown; and
 - (ii) only [] of Countdown's revenue came from exact match products that were in PETstock NZ's top [] cat food products.

10.11 Only 9 of the top [] cat food products sold by PETstock NZ (by revenue) are also sold by Countdown. Table 5 below contains a list of each of these common products along with current stockists of the products other than the Parties. The table demonstrates that the Parties face robust competitive constraint in relation to each of the products on which they overlap and that customers have a range of alternative options if they choose not to purchase these products from PETstock NZ or Countdown post-Transaction.

Table 5: Common products and examples of other stockists

Overlap	Product	Examples of other stockists
Dry cat food products	IAMS Adult Cat Chicken 1.59kg	PetDirect.co.nz, PAK'nSAVE, New World, The Warehouse, Online Vet Store
Wet cat food products	Omega Plus King Salmon Bite Pet Treat 100g	PetDirect.co.nz, Vet Warehouse
	Fancy Feast Chopped Grill Feast 85g	Animates, PetDirect.co.nz, PAK'nSAVE, The Warehouse, New World
	Temptations Chicken Tub 454g	Animates, PetDirect.co.nz, The Warehouse, New World,
	Fancy Feast BROTHS Tuna Shrimp Whitefish 40g	Animates, PetDirect.co.nz, PAK'nSAVE
	Fancy Feast Tender Liver & Chicken 85g	Animates, PetDirect.co.nz, PAK'nSAVE, New World, The Warehouse
	Fancy Feast Tender Beef 85g	Animates, PetDirect.co.nz, PAK'nSAVE, New World, The Warehouse
	Fancy Feast Kitten Ocean W/fish Tuna 85g	Animates, PetDirect.co.nz, PAK'nSAVE, New World, The Warehouse
	Fancy Feast Tender Beef & Liver 85g	Animates, PetDirect.co.nz, PAK'nSAVE, New World, The Warehouse

10.12 To summarise, therefore, in relation to pet food products: the vast majority of the Parties' product ranges are entirely different to each other, and do not overlap at all. In relation to

the very small number of products (9 in total, out of hundreds of products) that a customer could in principle purchase from either PETstock NZ or Countdown, there are multiple alternative retail suppliers available.

10.13 In pet health products, the overlap between WWNZ and PETstock NZ is limited. Countdown stocks 3 pet health brands, while PETstock NZ stocks 53 pet health brands.

10.14 Countdown supplies the following dog health products: flea, tick and worming treatments, flea spray, powder, medicinal shampoo, dental chews and treats, dental water additives, eye and ear products, hip and joint products, and skin and coat products. PETstock NZ offers each of those dog health product categories plus the following:

- (a) flea and tick collars;
- (b) toothbrush and toothpaste;
- (c) vitamins and supplements;
- (d) first aid products;
- (e) anxiety and stress products; and
- (f) digestion and stomach products.

10.15 In cat health products, Countdown offers: cat and kitten flea treatments, cat and kitten worming treatments and hairball treatments. PETstock NZ offers each of those cat health product categories plus the following:

- (a) flea and tick collars;
- (b) dental treats;
- (c) dental food and treats;
- (d) vitamins and supplements; and
- (e) stress and anxiety products.

10.16 A pet owner seeking basic pet health products may pick those up from the supermarket as part of their weekly shopping, but a pet owner seeking a range of options to assist their pet, and typically some specialist advice in relation to the best product, will visit a specialty pet store such as PETstock NZ. Similarly, for those pet owners who have a vet appointment and then seek to purchase products recommended by the vet, the logical approach will be to obtain these products from a specialty pet store (particularly in relation to those PETstock NZ stores that have an adjacent veterinary practice). The Parties are, therefore, not each other's closest competitor in respect of pet health products.

Pricing differences between products

10.17 There is a material price difference between the products sold at Countdown and PETstock NZ. The four tables below provide a comparison of the top 20 top-selling products across dry dog food, wet dog food, dry cat food and wet cat food for PETstock NZ and Countdown. Figure 18 and Figure 19 illustrate this difference across the top 20 products in both the wet and dry food categories.

10.18 These tables demonstrate that for all product categories, the weighted average price per kg of PETstock NZ's top 20 selling products is significantly higher than the equivalent figure for the top 20 selling products at Countdown. This is consistent with the fact that many of the products supplied through PETstock NZ stores are premium pet products, whereas the general retail pet products supplied through supermarkets and general merchandise retailers are often sold at a lower price point.

Table 6: Comparison of top 20 dry dog food products¹⁰³

Store	Average weight (kg)	Average price (NZD)	Average price per kg (NZD)	Weighted average price per kg (by units)
PETstock NZ	[]	[]	[]	[]
Countdown	[]	[]	[]	[]

Table 7: Comparison of top 20 wet dog food products¹⁰⁴

Store	Average weight (kg)	Average price (NZD)	Average price per kg (NZD)	Weighted average price per kg (by units)
PETstock NZ	[]	[]	[]	[]
Countdown	[]	[]	[]	[]

Figure 18: Weighted average price per kg of the top 20 dog food products¹⁰⁵

[]

Table 8: Comparison of top 20 dry cat food products¹⁰⁶

Store	Average weight (kg)	Average price (NZD)	Average price per kg (NZD)	Weighted average price per kg (by units)
PETstock NZ	[]	[]	[]	[]
Countdown	[]	[]	[]	[]

¹⁰³ Based on analysis in the enclosed Houston Kemp report.

¹⁰⁴ Based on analysis in the enclosed Houston Kemp report.

¹⁰⁵ Based on analysis in the enclosed Houston Kemp report.

¹⁰⁶ Based on analysis in the enclosed Houston Kemp report.

Table 9: Comparison of top 20 wet cat food products¹⁰⁷

Store	Average weight (kg)	Average price (NZD)	Average price per kg (NZD)	Weighted average price per kg (by units)
PETstock NZ	[]	[]	[]	[]
Countdown	[]	[]	[]	[]

Figure 19: Weighted average price per kg of the top 20 cat food products¹⁰⁸

[]

Different shopping missions

10.19 During the Retail Grocery Market Study, WWNZ submitted that its competitor set should not be limited just to other supermarkets (and, therefore, should also include butchers, green-grocers, bakeries, convenience stores, general merchandise retailers, liquor stores, pharmacies, specialty pet retailers, online platforms, hardware retailers, and meal kit suppliers).¹⁰⁹ However, the Commission reached a conclusion that "Single-category or specialist grocery retailers (eg, greengrocers, butchers, bakeries, liquor stores, pet stores, pharmacies)", which it included within the broader category of "other grocery retailers"¹¹⁰ only "provide limited competition to the major grocery retailers in some instances and in some locations" on the basis that "there is a low risk that a material portion of consumers will switch their grocery spend to other grocery retailers in response to an increase in price (or deterioration in other non-price aspects of competition) of their respective retail grocery offers relative to those of other grocery retailers."¹¹¹ The Commission was of this view because:¹¹²

the major grocery retailers are uniquely placed to offer a wide range of groceries at locations which consumers can easily access (both in store and online), at prices which are generally lower than other grocery retailers. Other grocery retailers are generally unable to offer the convenience of one-stop shopping which means they are constrained by supermarkets with a wide product range, access to products at more competitive prices and greater geographic coverage. However, the evidence shows that the constraint imposed by most other grocery retailers on the major grocery retailers is generally limited

10.20 The Commission made this conclusion by reference to "shopping missions", noting that:¹¹³

[major grocery retailers] offer the convenience of one-stop shopping no matter the shopping mission. Other grocery retailers are unable to compete effectively

¹⁰⁷ Based on analysis in the enclosed Houston Kemp report.

¹⁰⁸ Based on analysis in the enclosed Houston Kemp report.

¹⁰⁹ (4 February 2021). Woolworths New Zealand Limited's submission on the New Zealand Commerce Commission's preliminary issues paper regarding the market study into the retail grocery sector. Retrieved from https://comcom.govt.nz/_data/assets/pdf_file/0030/236946/Woolworths-New-Zealand-Submission-on-retail-grocery-market-study-preliminary-issues-paper-4-February-2021.pdf

¹¹⁰ NZCC Retail Grocery Market Study Final Report, glossary on page 10.

¹¹¹ NZCC Retail Grocery Market Study Final Report at [5.28].

¹¹² NZCC Retail Grocery Market Study Final Report at [5.31].

¹¹³ NZCC Retail Grocery Market Study Final Report at [4.2].

with this retail offer for consumers' grocery spend. Although the major grocery retailers face some competition from other grocery retailers in some local markets for different types of shopping missions, their closest competitors are usually other major grocery retailer banners with broadly similar retail grocery offers.

- 10.21 While many other types of single-category stores sell almost identical products (in similar pack sizes and at similar price points) to WWNZ's supermarkets within their categories (such as greengrocers, butchers, bakeries and liquor stores), consumers' shopping missions are typically different between WWNZ and PETstock NZ, reflecting the clear differences between their products, range, services and price points. The vast majority of shoppers who purchase pet products from Countdown are doing so as part of a broader grocery shopping trip.
- 10.22 In contrast, the shopping mission for a consumer who seeks to purchase pet products from a specialty pet store is focused on the pet. Specialty pet stores, through their offering of adjacent services and advice (as well as a much larger range of pet products than at supermarkets and general merchandise retailers), are set up to provide a one-stop shop destination for a consumer's pet needs. Further, pets are welcomed and, indeed, encouraged at PETstock NZ and other specialty pet stores, while they are prohibited in supermarkets.¹¹⁴
- 10.23 Analysis of WWNZ's Onecard data suggests that only a small cohort of customers at Countdown supermarkets focus solely on pet products. Of the Onecard transactions at Countdown supermarkets over a relevant one year period, less than [] involved the purchase of pet products for 90% or more of the spend.
- 10.24 Further analysis of Countdown's Onecard data suggests that the average basket size value is also much greater at PETstock NZ. []. [].¹¹⁵

Lack of price matching by PETstock NZ to supermarkets

- 10.25 PETstock NZ offers a "Smart Price Guarantee", under which PETstock NZ offers a price match for any customer who finds and provides acceptable evidence of a cheaper price being offered by a different retailer on an identical item. Because the guarantee only applies to identical items, PETstock NZ does not recognise WWNZ for price matching purposes [] since their products are not generally stocked in PETstock NZ stores.
- 10.26 The following is a list of the top active third-party retailers against whom PETstock NZ has price matched over the past three retail years:

- (a) [];
- (b) [];
- (c) [];
- (d) [];

¹¹⁴ Assistance and guide dogs are welcome.

¹¹⁵ The online figure includes PETstock, PetPost.co.nz and pet.co.nz. Units is the number of products. For example, when PETstock sells, say, a slab of cans, that will be counted as 12 units.

- (e) [];
- (f) []; and
- (g) [].

10.27 The list is comprised solely of specialty pet retailers.

10.28 As noted at paragraph 10.25 above, the fact that this list does not contain WWNZ [] is unsurprising because PETstock NZ does not recognise WWNZ for price matching purposes, as there are very few products that are supplied by PETstock NZ and also supplied by WWNZ in respect of which a price match could occur.

The strongest constraint on PETstock NZ comes from Animates

10.29 PETstock NZ considers its closest and strongest competitor to be Animates. Animates is a leading specialty pet participant, with a strong online presence, and a store footprint in New Zealand approximately three times that of PETstock NZ (44 stores to 15 stores) []. Further information on Animates is provided at 7.18.

10.30 [].¹¹⁶

10.31 Customers who cannot secure the products they are looking for, or who are faced with an increase in price or decrease in service quality at PETstock NZ, are most likely to switch to Animates, or one of the other specialty pet retailers described below, in the alternative.

Other specialty pet chains are strong competitors and offer an equivalent experience to PETstock NZ

10.32 PETstock NZ also faces competition from other specialty pet retailers in addition to Animates. Many of these retailers have both a bricks-and-mortar and online presence. These retailers include:

- (a) Pet Essentials (see 7.22(a));
- (b) Raw Essentials (see 7.22(b));
- (c) Pet Central (see 7.22(c));
- (d) Pet Stop (see 7.22(d)); and
- (e) The Pet Centre (see 7.22(e)).

PETstock NZ is also constrained by online retailers

10.33 PETstock NZ faces significant constraint from online competition, with an increasing number of consumers buying pet products online, and the growth of online-only specialty pet retailers. There is a large number of online-only specialty pet retailers in New Zealand that each receive material share of website traffic, as set out in the table below.

¹¹⁶ []

Table 10: Speciality pet retailers web traffic (New Zealand) by brand (3 months to December 2022)¹¹⁷

Domain	% of traffic
animates.co.nz	[]
petdirect.co.nz	[]
pet.co.nz	[]
petstock.co.nz	[]
vetpost.co.nz	[]
myvet.co.nz	[]
petcentral.co.nz	[]
petpost.co.nz	[]
thepetcentre.co.nz	[]
petconnect.nz	[]
Other	[]

10.34 Online competition in the supply of pet products is fierce, with consumers increasingly turning to online suppliers for ease of price-comparison, the availability of products, the ability to find product details and reviews, the option of subscription services, and 24-7 ordering, along with delivery arrangements for bulky pet food and cat litter. As has been reported in New Zealand:¹¹⁸

Hamlen-Williams [founder of Wolves of Wellington] believes that the main reason why so many pet care brands have proliferated in recent years is because of the internet — that most disruptive of forces in our modern business climate. E-commerce allows anyone and everyone with a computer, bank account, and half a brain to set up a storefront to sell their goods, while social media has equipped these brands with the power to tap into relevant communities instantly and, most importantly, for free.

10.35 As described above at 9.17, during the COVID-19 pandemic, many consumers switched to making their pet and other purchases online due to lockdowns and other restrictions on movement. Post-pandemic, the online channel has continued to expand with many bricks-and-mortar stores introducing or expanding their online offering. The Parties expect this growth to continue given the low barriers to entry in online retailing. This growth is illustrated in the chart below, which shows that (even allowing for the inevitable temporary increase in specialty pet retailer web traffic during the COVID lockdowns / restrictions from August 2021 to December 2021), web traffic to speciality pet retailers has been trending upwards between January 2021 and December 2022 (from under 600,000 monthly web visits to almost 800,000).

Figure 20: Speciality pet retailer website traffic (New Zealand) over 24 months¹¹⁹

[]

¹¹⁷ Source: SimilarWeb. As noted elsewhere in this application, PETstock NZ operates pet.co.nz, petstock.co.nz, and petpost.co.nz.

¹¹⁸ (10 December 2018). Cashing in on the fur baby economy. The Spinoff. Retrieved from: <https://thespinoff.co.nz/business/10-12-2018/cashing-in-on-the-fur-baby-economy>

¹¹⁹ Source: Similarweb.

10.36 Product ranges of many online suppliers (such as PetDirect.co.nz, Pet.kiwi, Pet Connect, Pet Depot, Best for Pet, and Paw Store) closely resemble those of bricks-and-mortar specialty pet stores. [].

10.37 In addition to online-only specialty pet retailers, PETstock NZ will continue to be constrained by the online sales channels of several of the specialty pet retailers identified in 7.22 that also operate bricks-and-mortar outlets, including Animates, Pet Essentials Direct, Pet Central, Petstop, The Pet Centre, and Horselands.

WWNZ's closest competitors for general retail pet products are other supermarkets and general merchandise retailers

10.38 As noted at paragraph 10.19 above, in its Retail Grocery Market Study the Commission said that "the major grocery retailers are each other's closest competitors",¹²⁰ and that they "regularly monitor both price and non-price dimensions of competition of each other's competing retail banners on an ongoing and frequent basis".¹²¹

10.39 Supermarkets and general merchandise retailers (such as The Warehouse and Mitre 10) carry a similar general retail pet product range. Customers who cannot find the pet product they want at Countdown (or SuperValue or FreshChoice), or who are faced with an increase in price or decrease in quality are most likely to switch to New World, PAK'nSAVE, Four Square, Costco or alternatively, to another general merchandise retailer, such as The Warehouse or Mitre 10.

10.40 That could be either through a visit to the bricks-and-mortar outlets of such retailers, or through their online sales channels of general retailers. For example:

- (a) The Warehouse operates an online store where customers can opt to have pet products purchased delivered to their homes or arrange a "click-and-collect" from one of The Warehouse's bricks-and-mortar outlets; and
- (b) most Foodstuffs franchisees now offer some form of either home delivery or "click-and-collect" online shopping options, with Foodstuffs continuing to roll out online shopping options throughout New Zealand in the near future.¹²²

Other large-scale retailers such as Bunnings could expand their pet offering and increase the competitive constraint they impose on Woolworths

10.41 As noted at paragraph 7.28(f) above, in New Zealand, Bunnings stocks a range of pet products for dogs and cats, including kennels, beds, mats, pet doors, and flea repellents, but does not sell pet food, and Bunnings Australia has recently increased its penetration of non-food pet products. While Bunnings stocks a smaller sub-set of products in New Zealand, it could readily expand to provide the more extensive range sold in their Australian stores. Bunnings have both the floor space, and a large enough store network to be a considerable competitive constraint on existing retailers of general retail pet products.

¹²⁰ NZCC Retail Grocery Market Study Final Report at [5.32].

¹²¹ NZCC Retail Grocery Market Study Final Report at [4.82].

¹²² NZCC Retail Grocery Market Study Final Report at [2.79].

The existence of strong competition on both PETstock NZ and WWNZ is consistent with market share estimates in the specialty and general retail pet segments

- 10.42 To the best of the Parties' knowledge there are no credible third party sources of market share estimates available (on a national basis) for the specialty and general retail pet segments. Nonetheless, the estimates that the WWNZ management team has developed support the descriptions above of a number of strong alternative suppliers in both segments.
- 10.43 In a national specialty pet market, it is estimated that Animates' market share is approximately twice that of PETstock NZ (with a store footprint in New Zealand approximately three times that of PETstock NZ (44 stores to 15 stores) []). This applies to a national market for all specialty pet products, and for more specific national markets for food, accessories and health products.
- 10.44 In a national general retail pet market, the PAK'nSAVE, New World, Four Square, and The Warehouse are strong competitors in a market for all general retail pet products.

Table 11: Estimated market shares in a national specialty pet market¹²³

	NZ SPECIALTY PET MARKET SHARE FY21 (%)			
	Total	Food	Accessories	Health
Animates	[]	[]	[]	[]
PETstock NZ	[]	[]	[]	[]
Other	[]	[]	[]	[]

Table 12: Estimated market shares in a national general retail pet market¹²⁴

	NZ GENERAL RETAIL PET MARKET SHARE FY21 (%)			
	Total	Food	Accessories	Health
PAK'nSAVE (Foodstuffs)	[]	[]	[]	[]
New World (Foodstuffs)	[]	[]	[]	[]
Countdown	[]	[]	[]	[]
SVFC	[]	[]	[]	[]
Kmart	[]	[]	[]	[]
The Warehouse	[]	[]	[]	[]
Four Square	[]	[]	[]	[]
Bunnings	[]	[]	[]	[]
Mitre10	[]	[]	[]	[]

¹²³ WWNZ management estimates.

¹²⁴ WWNZ management estimates.

- 10.45 Accordingly, the Parties are confident that the Transaction will not result in any material lessening of competition at a national market level for either specialty pet or general pet retailing.

No material reduction in competition at a national level

- 10.46 If contrary to the data above, the Commission took the view that WWNZ and PETstock NZ are within the same market, then it must follow that PETstock NZ is also constrained by PAK'nSAVE, New World, Four Square, The Warehouse, Costco, Mitre 10, and the other general retailers as well. Accordingly, if the relevant market comprises supermarkets, general merchandise retailers, and specialty pet retailers, any reduction in competition at a national level will not be material, because Animates will be a close competitor to PETstock NZ, and New World, PAK'nSAVE, Four Square, Costco, The Warehouse, and Mitre 10 (amongst other supermarket and general merchandise retailers) will be close competitors to WWNZ, together with all other active participants in both specialty and general retail pet products.
- 10.47 PETstock NZ and WWNZ's market share of a hypothetical "combined national pet market" (or any more specific national market for pet food, accessories or health products) is relatively modest, which suggests that the Parties would face strong competition at a national level.
- 10.48 Table 13 below sets out PETstock NZ's and WWNZ's individual and combined market shares in a combined market for specialty and general retail pet retailers alongside a small number of key competitors.

Table 13: National market shares in a hypothetical market for specialty and general retail pet retailers¹²⁵

Business	Total Pet Retail	Pet food	Pet accessories	Pet health products
WWNZ	[]	[]	[]	[]
PETstock NZ	[]	[]	[]	[]
Parties combined	[]	[]	[]	[]
PAK'nSAVE (Foodstuffs)	[]	[]	[]	[]
New World (Foodstuffs)	[]	[]	[]	[]
Animates	[]	[]	[]	[]
Kmart	[]	[]	[]	[]
The Warehouse	[]	[]	[]	[]
Four Square	[]	[]	[]	[]
Bunnings	[]	[]	[]	[]
Mitre10	[]	[]	[]	[]
Other (including Pet Essentials, Pet.kiwi etc)	[]	[]	[]	[]
Total	100%	100%	100%	100%

¹²⁵ WWNZ management estimates.

- 10.49 The table shows that the Parties' combined market share of a combined national market for all pet products (or any more specific market for pet food, pet accessories or pet health) is less than []%.
- 10.50 The table also demonstrates that any national market for pet products (or any more specific national market for pet food, accessories or health products) is diverse and wide-ranging, with multiple strong participants constraining the Parties.
- 10.51 Across all such markets, the Parties face competition from major supermarkets, general merchandise retailers, speciality pet retailers, along with online speciality pet retailers and the many independent speciality pet stores across New Zealand.

PETstock NZ and WWNZ will continue to face competitive constraint in all local areas

- 10.52 As set out in 9.20, WWNZ has undertaken an overlaps analysis, and identified 15 local 5km radii where WWNZ and PETstock NZ both have a physical presence, [].
- 10.53 If the Commission considers that WWNZ's supermarkets (ie Countdown, Fresh Choice and SuperValue) are not in the same market as PETstock NZ, then local market concerns are unlikely in any local area. However, if the Commission considers that WWNZ supermarkets and PETstock NZ are in the same market, the Commission would likely wish to examine each local market to determine the level of concentration post-Transaction.
- 10.54 We have provided a list of each of the specialty and general retail pet stores that will remain in each 5km radius post-Transaction in **Annex Two**. As can be seen in these tables, applying a conservative 5km radius, of the 15 relevant 5km radii surrounding each PETstock NZ store, there are, to the best of the Parties' current knowledge:
- (a) **13** relevant local 5km radii where PETstock NZ will remain constrained by New Zealand's largest specialty pet retailer, Animates. PETstock NZ considers Animates to be its closest competitor, and its continuing presence in a relevant 5km radii post-Transaction would prevent the Parties from exercising any unilateral market power;
 - (b) **2** relevant local 5km radii where there is no Animates (Cambridge and Bethlehem), [].
 - (i) Of those 2 relevant 5km radii where there is no Animates, there are no relevant local 5km radii where there is no PAK'nSAVE, New World, and/or Four Square within 5km;
 - (ii) []; and
 - (c) **No** relevant 5km radii where there is only a WWNZ supermarket and a PETstock NZ within 5km (across both specialty pet and general retail pet).

- 10.55 In addition, the analysis above and the lists in **Annex Two** do not take into account competitors present in a region that do not adopt the traditional bricks-and-mortar retail store

model.¹²⁶ This may include, for example, online retailers and retailers that deliver directly to consumers in those areas. As addressed at 7.22(h), these alternative suppliers compete closely with PETstock NZ and WWNZ's respective operations and will continue to constrain the combined entity post-Transaction.

No likely competition concerns in Bethlehem

- 10.56 As noted above, 1 of the 2 relevant local 5km radii where there is no Animates within 5km is Bethlehem.
- 10.57 However, there are 4 specialty pet retailers located within 5km of PETstock NZ Bethlehem, consisting of Vet Care Tauranga, Kaimai Vets, Te Puna Vets Clinic and Brookfield Veterinary Centre, that will continue to impose a competitive constraint.
- 10.58 Further, in addition to the general retail pet retailers (ie Farmlands, New World, Four Square, Kmart and Bin Inn) that will remain within a 5km radius post-Transaction, there are several strong specialty pet retailers within a 10km radius that will impose a competitive constraint. These include:
- (a) Animates Tauranga, which is located 7km (a 9-minute drive) away.
 - (b) Animates Tauriko, which is located 8km (a 13-minute drive) away.¹²⁷
 - (c) KiwiPetz, which is located 6.6km (a 10-minute drive) away from PETstock NZ Bethlehem. KiwiPetz is a family-owned pet store that has been "proudly serving Tauranga's pet owners since 2008" which prides itself "in providing good quality pet items at very competitive pricing". It has a particular focus on "supplying the best premium foods on the market, while also specializing in natural products with minimal processing".¹²⁸
 - (d) Roar Pet Food, which is located 5.5km (9-minute drive) away, manufactures its own range of raw cat and dog food and treats, as well as a small range of natural pet care products such as shampoos. While Roar predominantly sells products via its website and retailers, it operates one bricks-and-mortar location in Tauranga.
 - (e) Pet Essentials Tauranga, which is located 8.2km (a 12-minute drive) away.

No likely competition concerns in Cambridge

- 10.59 Similarly, the Parties have further identified that Cambridge is a catchment that the Commission may seek to examine further, given again there is no Animates within 5km (the closest Animates to PETstock NZ Cambridge is 23.5km (23-minute drive) away).
- 10.60 However, there are a number of other retailers that will continue to impose competitive constraint on PETstock NZ and Countdown in Cambridge respectively. These include:

¹²⁶ Further, these lists only include veterinary clinics where that particular veterinary clinic's website made it clear that they also had an in-store retail offering supplying pet products.

¹²⁷ Subsequent Google Maps searches indicate that, in January 2023, the distance between PETstock NZ Bethlehem and Animates Tauriko is recorded as 11.1km (instead of 8km). The reason for the change in Google Maps' figure is not clear.

¹²⁸ <https://kiwipetz.co.nz/pages/about-us>

- (a) several other specialty retailers of pet food and accessories are located within 5km of PETstock NZ Cambridge, such as:
 - (i) Raw Essentials, which recently opened its Cambridge store in November 2022. Raw Essentials has 14 stores across New Zealand, and "offers a wide range of products and personalised advice";¹²⁹
 - (ii) Cambridge Grains, which sells a range of dog and cat food, including BlackHawk, Iams, Nutrience, Wanpy and Raw Pawz;
 - (iii) veterinary clinics that stock pet food and accessories, such as Cambridge Vets and Vetora Cambridge;
- (b) a number of other general retail pet retailers of pet food and accessories, including:
 - (i) general retailers, such as New World, Four Square, The Warehouse, Mitre 10, and Briscoes; and
 - (ii) rural merchants, such as Farmlands and Farm Source.

[]

10.61 []

10.62 []¹³⁰ []¹³¹ []¹³² []

10.63 []:

- (a) []
- (b) []
- (c) []
- (d) []

The 5km radii are imperfect and conservative guides

10.64 The Parties reiterate that the radius methodology is an imperfect and conservative guide for geographic market definition and is not particularly meaningful in more remote areas like Cambridge. In more rural areas, stores based further than 5km away are likely to be seen as closely competitive with the Parties' stores as customers living in these areas are accustomed to travelling longer distances when they need to.

¹²⁹ <https://www.facebook.com/rawessentials/>

¹³⁰ []

¹³¹ []

¹³² []

- 10.65 Further, customers in Bethlehem and Cambridge [] can also order their pet products from online retailers such as Pet.kiwi, PetDirect.co.nz and The Paw Store, as well as through the online stores of omni-channel participants such as Animates.
- 10.66 The Parties are therefore confident that the Transaction will not substantially lessen competition in Bethlehem or Cambridge [].

The Transaction will not increase WWNZ's buyer power

- 10.67 The Transaction will not increase WWNZ's power as a buyer. This is because:
- (a) supplier and product overlaps between PETstock NZ and WWNZ are limited and, where there is a common supplier, PETstock NZ and WWNZ generally purchase different products and/or different pack sizes;
 - (b) the addition of PETstock NZ's purchasing volumes to WWNZ's existing procurement volumes will not increase any power WWNZ has as a buyer, in particular product lines or categories more generally; and
 - (c) PETstock NZ's top suppliers will also continue to exercise countervailing power in their negotiations with WWNZ. They are large companies with significant revenue. See **Appendix Four** for publicly available information on PETstock NZ's top suppliers.

Limited supplier overlap

- 10.68 Some of PETstock NZ's suppliers also supply pet products to WWNZ (including Mars Petcare and Nestle). However, as demonstrated in Figure 21 below, the overall overlap between suppliers to PETstock NZ and WWNZ is low.
- 10.69 In New Zealand, PETstock NZ has over [] suppliers, of which only [] also supply to Countdown (which has just [] pet product suppliers). These are [] This shows that at least [] suppliers of pet products in New Zealand are able to find routes to customers other than through Countdown, which is consistent with the retail pet product markets being highly competitive and fragmented. Further, the small number of suppliers that Countdown has relative to PETstock is also reflective of the far more limited range of products stocked by supermarkets and general merchandise stores compared with specialty pet stores.

Figure 21: PETstock NZ suppliers and overlap with Countdown (FY21 – 22)¹³³

[]

- 10.70 Figure 22 below show the incremental purchases from common suppliers in FY21 – FY22.

Figure 22: incremental purchases by Countdown from common suppliers by supplier (FY 21 - 22)¹³⁴

[]

¹³³ Based on analysis in the enclosed Houston Kemp report.

¹³⁴ Based on analysis in the enclosed Houston Kemp report.

10.71 For most of the common suppliers, the incremental increase in Woolworths' annual pet product purchases as a result of the Transaction will be modest.

10.72 The Parties estimate that:

- (a) for the largest suppliers of pet products to WWNZ, [], the incremental growth in purchases will be around [] and [] when adding the value of PETstock NZ's purchases.¹³⁵ [].
- (b) Of common suppliers representing greater than \$1 million in sales for Countdown in FY22, there are only [] suppliers for whom the proposed Transaction will result in greater than [] incremental growth in spend when the value of PETstock NZ's purchases is added to Countdown's.¹³⁶ For each of these suppliers, there are significant alternative sources of demand readily available. Countdown and PETstock NZ are only two of many channels to market currently utilised, as shown in Table 14 below.

Table 14: Common suppliers and their other stockists

Common supplier	Examples of current stockists
[]	[]
[]	[]
[]	[]

10.73 The products that PETstock NZ purchases are generally different to those that WWNZ purchases, including from common suppliers as demonstrated in the product overlap analysis above. Further, the bulk of PETstock NZ's range is generally only sold in specialty pet stores - namely, almost all of the products that PETstock NZ sells are exclusive to the specialty pet channel, including Bell & Bone, FuzzyYard, Howlpot, Hunter, Pet Connection, Roar Petfoods, Scruffs, Petsport, Akikou, and others.

10.74 Many of the common suppliers have a separate specialty pet range which they do not offer to supermarkets and other general retailers. Examples are set out in Table 15 below:

Table 15: Examples of common suppliers with specialty ranges not sold at supermarkets or other general retailers

Common Supplier	Specialty
Mars Petcare	Royal Canin Royal Canin (subsidiary of Mars Petcare) is a leading pet food brand that manufactures food designed to meet the nutritional needs of specific breeds of dogs and cats, as well as those with certain health conditions. The company was founded in

¹³⁵ Based on analysis in the enclosed Houston Kemp report.

¹³⁶ Based on analysis in the enclosed Houston Kemp report.

	<p>1968 in France and is headquartered in Aimargues, near Montpellier. According to Royal Canin's website, the company's products are exclusively available in pet speciality stores and veterinarians. As part of its veterinary range, Royal Canin offers a number of different formulations tailored for specific diets and nutritional needs, such as weight management, renal support and to assist with atopy and skin disease.</p> <p>PETstock NZ stocks Royal Canin products online and in its stores.</p> <p>WWNZ does not sell Royal Canin in its stores.</p>
<p>Mars Petcare</p>	<p>Eukanuba</p> <p>Eukanuba is a brand of premium, high-protein dog food. Eukanuba is designed specifically for active, athletic dogs. Eukanuba's dog food is manufactured in Bathurst, Australia and in the USA.</p> <p>PETstock NZ stocks Eukanuba products online and in its stores.</p> <p>WWNZ does not sell Eukanuba products in its stores.</p>
<p>Masterpet</p>	<p>Black Hawk</p> <p>Black Hawk is a premium dog and cat food brand which offers nutritionally balanced food for adult dog and cats, as well as puppies and kittens. Black Hawk's range is specially formulated by leading pet nutritionists using only the highest quality ingredients. Black Hawk is a part of the Masterpet family of brands. Masterpet is an Australian/New Zealand business, owned by the EBOS group and listed on the Australian and New Zealand stock exchanges (and which owns 50% of Animates).</p> <p>PETstock NZ stocks Black Hawk products online and in its stores.</p> <p>WWNZ does not sell Black Hawk products in its stores.</p>
<p>Purina</p>	<p>Purina</p> <p>Purina, which is a brand owned by Nestle, supplies different products (sub-brands) into the speciality and general retail pet sector, with different price points and pack sizes.</p> <p>For example, Purina's PRO PLAN offers a more premium product for cats and dogs. The PRO PLAN range is precisely formulated to make the most of high quality ingredients, deliver efficient nutrient absorption and proven targeted benefits.</p> <p>PETstock NZ stocks PRO PLAN online and in its stores.</p> <p>WWNZ does not sell PRO PLAN, and instead stocks a number of Purina's lower priced ranges, including Purina One and Fancy Feast.</p>
<p>Animals Like Us</p>	<p>Animals Like Us</p>

	<p>Animals Like Us established itself as a premium pet food brand in the specialty pet food sector initially. When it looked to expand into the general retail pet sector, such as supermarkets, it created reformulated products with sufficiently lower meat content to meet consumer pricing expectations and product turnover requirements in that channel.</p>
Real Pet Food Company	<p>Ivory Coat</p> <p>Ivory Coat is owned by Real Pet Food Company, which also manufactures the more budget-friendly Jimbo's range.</p> <p>Ivory Coat is a more premium offering, formulated using only the freshest, locally-sourced specially selected natural ingredients, including Australian meat, vitamins and minerals. It offers grain-free options and a wide range of flavours, with no added artificial preservatives, colours or flavours. It supplies a variety of products catering for different ages, sizes and breeds of pets.</p> <p>PETstock NZ stocks Ivory Coat products online and in its stores.</p> <p>WWNZ does not sell Ivory Coat, but stocks Real Pet Food Company's Jimbo's range.</p>

10.75 The majority of PETstock NZ's customers purchase different products (including different pack sizes) to the products generally purchased by WWNZ for sale in its supermarkets. This is evident from the product overlap analysis outlined at 10.7.

10.76 In any event, the product categories in which there is any material overlap between suppliers to PETstock NZ and to Countdown are all generally grocery channel pet products. Products in these categories are widely consumed, and sold by suppliers through many different channels (including other supermarkets and general merchandise retailers), such that alternative sources of demand are readily available to suppliers of these products.

Supplier countervailing power

10.77 Some of PETstock NZ and WWNZ's common suppliers have strong bargaining positions because their products are in high demand and PETstock NZ and WWNZ risk losing a material volume of consumers and sales if they lost these suppliers. The Parties consider that the bargaining power of large sellers such as Mars Petcare and Nestle Purina is strong for the following reasons:

- (a) these suppliers are two of the world's largest companies, with much of their product range being manufactured overseas rather than locally. For example, the entirety of Mars' Whiskas range is made in Australia, Canada and Thailand.¹³⁷

¹³⁷<https://www.whiskas.co.nz/faqs/#:~:text=All%20of%20our%20WHISKAS%C2%AE,products%20are%20made%20in%20Thailand>

- (b) these suppliers generate sales across multiple channels, including PAK'nSAVE, New World, Four Square, The Warehouse, Mitre 10, and Animates, and are not reliant on PETstock NZ or WWNZ;
- (c) moreover, as large multinational companies, Mars and Nestle's sales in New Zealand account for very little of their global revenue. Demonstrating this:
 - (i) Mars New Zealand Limited has annual revenue of NZ\$236 million,¹³⁸ which can be compared to Mars' global revenue of US\$45 billion;¹³⁹ (NZ\$71 billion), which means New Zealand only accounts for 0.3% of Mars' global revenue.
 - (ii) Nestle New Zealand Limited has annual revenue of NZ\$497 million,¹⁴⁰ which can be compared to Nestle's global revenue of CHF 87.1 billion¹⁴¹ (NZ\$146 billion), which means New Zealand only accounts for 0.3% of Nestle's global revenue.
- (d) these suppliers offer a large range of products that are popular with consumers.

11. NO RISK OF COORDINATED EFFECTS

11.1 The Parties are also confident that the Transaction will not increase the potential for coordinated effects to arise in any market. Specifically, there is no element of the Transaction that will make it easier for the remaining firms to:

- (a) reach and sustain agreement on key dimensions of competition;
- (b) detect deviations from the agreement, so as to dissuade firms from deviating for fear of punishment; or
- (c) deter such deviations from coordination by means of more effective punishments (eg faster and more costly to the "cheating" firm).

11.2 The reasons for this are as follows:

- (a) **A large number of competitors will remain in each relevant market:** Irrespective of the Transaction, as outlined in this application, the specialty and general retail pet sectors in New Zealand will continue to have a large number of competitors, including Animates, PAK'nSAVE, New World, Four Square, The Warehouse, Costco, Mitre 10, online retailers, and many others that will disrupt the potential for any coordinated conduct.

¹³⁸<https://app.companiesoffice.govt.nz/companies/app/service/services/documents/024F55790905D8B17EBF8D72F9210755>

¹³⁹ <https://www.ft.com/content/302b67a6-5979-49f6-aa55-f288d5baee60>

¹⁴⁰ <https://app.companiesoffice.govt.nz/companies/app/service/services/documents/1ACF47E6F2DD9501AFDBE517F0F8EBFB>

¹⁴¹ <https://www.nestle.com/media/pressreleases/allpressreleases/full-year-results-2021>

- (b) **The Parties are not each other's closest competitors:** When assessing the potential for coordinated effects to arise out of a transaction, the Commission needs to focus on whether the target is playing any substantial role in constraining prices or destabilising any coordination between the other competitors.

The evidence (for the reasons set out at paragraph 10.4 above) is that PETstock NZ and WWNZ are not each other's closest competitors, with significant competitive constraint on the Parties being exercised by Animates (in the case of PETstock NZ) and other supermarkets and general merchandise retailers (in the case of WWNZ). As such, the removal of any competition between PETstock NZ and WWNZ could not be regarded as likely to lead to increased potential for coordination in the factual when compared to the counterfactual.

- (c) **Highly dynamic industry:** The Commission has previously described markets with "little innovation" as susceptible to coordinated effects. The specialty pet supply sector is the opposite of such a market – it is a dynamic industry, with a range of new offerings, recent examples of entry and expansion (including by both Animates and PETstock NZ), and a range of other bricks-and-mortar and online competitors. The highly dynamic nature of the sector creates volatility in the relevant markets and would make any attempts at coordination between competitors post-Transaction very difficult - including because this volatility would make it almost impossible for coordinating businesses to determine whether a reduction in their sales is due to another coordinating party deviating from any coordinated outcome, or a supply shock caused by new entry and/or expansion. This will inevitably reduce the likelihood of coordination post-Transaction.

- (d) **Different business models among primary competitors:** The Commission has said that markets with "homogenous products" and "firms of similar size and cost structures" will be more susceptible to coordinated effects than a market with firms of different sizes, with different product offerings.¹⁴² Post-Transaction, there will continue to be a number of large competitors with different business models to WWNZ / PETstock NZ, including:

- (i) Foodstuffs, which is a cooperative owned supermarket business, with a range of banners – including PAK'nSAVE (a "no frills" shopping environment with unlined interiors, concrete floors, cardboard boxes in the retail area, and customers are asked to pack their own bags), and therefore offers a very different customer proposition to Countdown;
- (ii) The Warehouse, which is a general merchandise and (increasingly) grocery retailer, and therefore operates a very different business model to Countdown;
- (iii) Costco, which is the second largest bricks-and-mortar food / grocery retailer in the world, and offers what the Commission described in its Retail Grocery Market Study as a "differentiated offering from the major

¹⁴² NZCC "Mergers and Acquisition Guidelines" (July 2019) at [3.89].

grocery retailers... as it charges a membership fee and offers a relatively limited selection of grocery products, typically in larger package sizes";¹⁴³

- (iv) Mitre 10, which is a general merchandise and hardware retailer, and therefore operates a very different business model to Countdown; and
- (v) Animates, which as a pure-play specialty retailer will continue to run a different business model to Countdown.

This means that there will be no material increase in the symmetry of WWNZ / PETstock NZ and their competitors' operations and cost structures and, therefore, no material increase in any ability to reach a common assessment of the optimal industry price.

- (e) **Multi-market contact:** The Commission considers that coordinated effects will be more likely to arise where competitors have frequent contractual or other commercial interactions with one another. The Parties do not have any material ongoing contractual or commercial interactions with other key competitors in New Zealand, further mitigating any prospect of coordinated effects arising.

11.3 Given the industry characteristics described above, the Parties are confident that there is no likelihood of any materially increased potential for coordinated effects as a result of the Transaction.

12. NO RISK OF VERTICAL EFFECTS

12.1 There is no vertical relationship between the Parties that is relevant to the assessment of the Transaction.

12.2 In particular, while PG has some manufacturing and wholesale supply operations in Australia, PG (including PETstock NZ) does not sell wholesale products to third parties in New Zealand.

12.3 Furthermore, the Billie's Bowl and Glow products [].

12.4 There is accordingly no risk of vertical effects arising out of the Transaction.

13. NO RISK OF CONGLOMERATE EFFECTS

13.1 There is also no risk of the Transaction substantially lessening competition in any market due to conglomerate effects. In particular:

- (a) it is said that conglomerate effects can only arise where, as a result of the acquisition of complementary products, a merger can increase the ability or incentive of an acquirer to bundle or tie the sale of products in a way that results in foreclosure of competitors;

¹⁴³ NZCC Retail Grocery Market Study Final Report at [5.98.1].

- (b) it is acknowledged that "the circumstances where harmful conglomerate effects emerge are limited",¹⁴⁴ and that "[c]onglomerate mergers that raise neither vertical nor horizontal concerns are unlikely to be problematic";¹⁴⁵ and
- (c) the Commission has described the conditions for conglomerate concerns to arise as requiring the merged entity to not only have market power in a particular market, but to have a "must-have" product in one market¹⁴⁶ in order for it to be able to offer a "bundle with which rivals cannot compete" that lessens competition in another market.¹⁴⁷
- 13.2 The Transaction could not have (nor increase the risk of) any such conglomerate effects. In particular:
- (a) for the reasons outlined in the rest of this application, the Transaction does not raise any vertical or horizontal concerns;
- (b) neither WWNZ nor PETstock NZ could be considered "must-have" suppliers in their respective sectors given WWNZ and PETstock NZ will each continue to face significant competitive constraint in their respective sectors. Namely:
- (i) WWNZ will continue to face significant competition in general retail pet product retailing from PAK'nSAVE, New World, Four Square, Costco, The Warehouse, and others (with Foodstuffs combined larger than WWNZ across New Zealand);
- (ii) PETstock NZ will continue to face significant competition in specialty pet product retailing from speciality pet rivals such as Animates, Pet Essentials and Pet Central, as well as online speciality pet retailers (with Animates, having a market share approximately twice that of PETstock NZ (with a store footprint in New Zealand approximately three times that of PETstock NZ (44 stores to 15 stores) []).
- (c) PETstock NZ's and WWNZ's respective existing businesses are significantly different to each other, including with customers of each typically having different "shopping missions", which means that the Parties cannot envisage a way in which their respective product offerings could be "bundled" or "tied" to each other. Furthermore, while WWNZ's loyalty programme¹⁴⁸ may be extended to PETstock NZ, Woolworths is confident that this could not give rise to any problematic conglomerate effects given:
- (i) many other retailers operate their own loyalty programmes, including:

¹⁴⁴ Paragraph 4. (10 - 12 June 2020). Roundtable on Conglomerate Effects of Mergers – Background Note. OECD. Retrieved from: [https://one.oecd.org/document/DAF/COMP\(2020\)2/en/pdf#:~:text=Conglomerate%20effects%20arise%20when%20the,or%20soften%20competition%20among%20firms.](https://one.oecd.org/document/DAF/COMP(2020)2/en/pdf#:~:text=Conglomerate%20effects%20arise%20when%20the,or%20soften%20competition%20among%20firms.)

¹⁴⁵ Paragraph 3. (10 June 2020). Conglomerate effects of mergers – Note by the United States. Retrieved from: <https://www.justice.gov/atr/page/file/1316666/download>

¹⁴⁶ Bluescope Steel (NZ) Limited and Pacific Steel Group [2014] NZCC 8.

¹⁴⁷ Vodafone Europe B.V. and Sky Network Television Limited [2017] NZCC 1.

¹⁴⁸ []

- (aa) in relation to general pet retailers, New World with FlyBuys and New World Dollars, Mitre 10 with "Mitre 10 Club" (which offers Airpoints),¹⁴⁹ Farro Fresh with "Friends of Farro",¹⁵⁰ Farm Source with "Farm Source Rewards",¹⁵¹ PGG Wrightson with "Max Rewards",¹⁵² The Warehouse with "Market Club",¹⁵³
- (bb) in relation to specialty pet retailers, Animates with "Petpoints",¹⁵⁴ Pet Depot with AA Smartfuel discounts,¹⁵⁵ Pet Connect with its own "Loyalty Programme", Pet Food Club with its "Club Rewards" programme;¹⁵⁶ Pet.kiwi with its own "Loyalty Programme";¹⁵⁷
- (ii) there are a number of third party loyalty programme providers in New Zealand, including Fly Buys, Air New Zealand Airpoints, and AA Smartfuel; and
- (iii) in its Retail Grocery Market Study, the Commission said that "we generally have not heard during the course of our study that loyalty programmes are a significant factor impacting on entry and expansion" in the grocery retail sector,¹⁵⁸ including as:
 - (aa) "a number of other grocery retailers such as other supermarkets and international food stores also have their own loyalty programmes (eg, Farro Fresh, Moore Wilson's, Jadan and Huckleberry)";¹⁵⁹
 - (bb) "[c]onsumers can and do participate in multiple programmes";¹⁶⁰
 - (cc) loyalty programmes are "not a key driver of store choice";¹⁶¹
 - (dd) consumers "do not appear particularly committed to one loyalty programme and one grocery retailer each";¹⁶²
 - (ee) many consumers value "immediate rewards" rather than accumulated awards";¹⁶³ and

¹⁴⁹ <https://www.mitre10.co.nz/register>

¹⁵⁰ <https://www.farro.co.nz/corporate/friends-of-farro>

¹⁵¹ <https://rewards.nzfarmsource.co.nz/>

¹⁵² <https://www.pggwrightson.co.nz/accounts/max-rewards>

¹⁵³ <https://www.thewarehouse.co.nz/c/marketclub>

¹⁵⁴ <https://www.animates.co.nz/petpoints>

¹⁵⁵ <https://www.aa.co.nz/aasmartfuel/shop-earn-fuel-discounts/petdepot/>

¹⁵⁶ <https://petfoodclub.co.nz/club-rewards/>

¹⁵⁷ <https://www.pet.kiwi/page/terms-conditions.aspx>

¹⁵⁸ NZCC Retail Grocery Market Study Final Report at [6.226].

¹⁵⁹ NZCC Retail Grocery Market Study Final Report at [6.230].

¹⁶⁰ NZCC Retail Grocery Market Study Final Report at [6.233].

¹⁶¹ NZCC Retail Grocery Market Study Final Report at [6.235.1]

¹⁶² NZCC Retail Grocery Market Study Final Report at [6.235.2]

¹⁶³ NZCC Retail Grocery Market Study Final Report at [6.235.3]

- (ff) "it [is] unlikely that accumulated food rewards would significantly raise costs for consumers to switch retailers in the longer term."¹⁶⁴

13.3 Accordingly, post-Transaction Woolworths would not have the ability or incentive to offer bundles, or require tying, in a way that would artificially distort or lessen competition (or foreclose a competitor) in any market given WWNZ and PETstock NZ each will each continue to face significant competitive constraint, customers will continue to use the general pet retail and speciality pet retail channels for typically distinct shopping missions, and there is no way in which extending WWNZ's loyalty programme to PETstock NZ could give rise to any anti-competitive conglomerate effects.

14. CONCLUSION

14.1 For the reasons described above, the Parties are confident that the Transaction will not substantially lessen competition in any market in New Zealand. Accordingly, the Applicant requests that the Commission grant clearance for the Transaction.

¹⁶⁴ NZCC Retail Grocery Market Study Final Report at [6.235.4]

15. FURTHER DOCUMENTATION / INFORMATION

15.1 Each party's sales revenues and volumes

(a) See **Confidential Appendix Five**

15.2 Names and contact details of WWNZ's key competitors

Name	Contact
Foodstuffs North Island	09 621 0600 https://www.foodstuffs.co.nz/contact-us
Foodstuffs South Island	03 353 8700 enquiries@foodstuffs-si.co.nz
The Warehouse	0800 733 665 https://help.thewarehouse.co.nz/Help/s/contactsupport
Costco	+61 2 9469 7900 https://www.costco.co.nz/contact-us
Kmart	0800 945 995 https://www.kmart.co.nz/contact-us/need-more-help/
Mitre 10	09 443 9900 https://www.mitre10.co.nz/contact-us
Bunnings	09 978 2200 https://www.bunnings.co.nz/contact-us

15.3 Names and contact details of PETstock NZ's key competitors

Name	Contact
Animates	0800 2646 2837 customerservices@animates.co.nz
Pet Essentials	Contact details for each individual Pet Essentials store can be accessed at https://petessentials.co.nz/About-Us/Store-Locations
Pet Central	https://petcentral.co.nz/pages/contact
Pet Stop	East Tamaki: 09 273 3955 Penrose: 09 579 9086
The Pet Centre	04 569 8861 info@thepetcentre.co.nz

15.4 Key suppliers

(a) See **Confidential Appendix Six**

15.5 Trade or industry associations

(a) See **Confidential Appendix Seven**

15.6 Copies of most recent financial statements

(a) See **Confidential Appendix Eight**

15.7 Copies of most recent management accounts

(a) See **Confidential Appendix Nine**

15.8 **Woolworths Group's most recent annual report**

- (a) <https://www.woolworthsgroup.com.au/content/dam/wwg/investors/reports/2022/full-year/2022%20Annual%20Report.pdf>

PART G: CONFIDENTIALITY**16. REASONS FOR SEEKING CONFIDENTIALITY**

- 16.1 Confidentiality is sought in respect of the information in this application that is contained in square brackets (with confidentiality indicated by the coloured highlighting). Confidentiality is sought for the purposes of s 9(2)(b) of the Official Information Act 1982 on the grounds that:
- (a) The information is commercially sensitive and valuable information which is confidential to the Parties; and
 - (b) Disclosure would be likely to unreasonably prejudice the commercial position of the Parties, as the entities providing the information.
- 16.2 The Parties request that they are notified of any request made to the Commission under the Official Information Act 1982 for release of the confidential information. The Parties also request that the Commission seek and consider Woolworths' or PG's views, as the case may be, as to whether the information remains confidential and commercially sensitive at the time responses to such requests are being considered.
- 16.3 The foregoing equally applies in respect of any additional information provided to the Commission that is expressed to be confidential.

PART H: DECLARATION

I, Bill Reid, have prepared, or supervised the preparation, of this notice seeking clearance.

To the best of my knowledge, I confirm that:

- all the information specified by the Commission has been supplied;
- if the information has not been supplied, reasons have been included as to why the information has not been supplied;
- all information known to me that is relevant to the consideration of this notice has been supplied; and
- all information supplied is correct as at the date of this notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to the notice.

I understand that it is an offence under the Commerce Act to attempt to deceive or knowingly mislead the Commission in respect of any matter before the Commission, including in these documents.

I am a director/officer of the company and am duly authorised to submit this notice.

Bill Reid of Woolworths Group Limited

Signature

Date

APPENDIX ONE

Corporate structure chart of Woolworths (as it relates to New Zealand)

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APPENDIX TWO

Corporate structure chart of PG

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CONFIDENTIAL APPENDIX THREE

Post-Transaction Corporate Structure (as it relates to PG and New Zealand)

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APPENDIX FOUR

PG's Key Suppliers

PG Supplier	Description	Pet Brands
Mars Petcare	<p>Mars Petcare is a division of Mars, Incorporated, which is reportedly the 4th largest privately held company in the US, with estimated revenue of \$45 billion (USD) and approximately 140,000 employees.¹⁶⁵ Mars New Zealand Limited is the local subsidiary of Mars, Incorporated.</p> <p>Mars Petcare is reportedly the largest pet food company in the world. In addition to pet food, the company has a network of over 2,000 pet hospitals and owns the Whistle smart pet tracker and the Wisdom Panel pet DNA company.</p>	Advance; Schmackos; Optimum; Greenies; Temptations; Eukanuba; Iams; Nutro; Trill; Pedigree; exelpet; Harmony; Golden Cob; Catsan; Linnaeus; Dine; MyDog; Royal Canin; Whiskas.
Masterpet	<p>Masterpet is one of Australasia's leading pet food manufacturers and has operated for over 90 years. Some of the brands manufactured and distributed by Masterpet are Black Hawk, VitaPet, Aristopet, and Blue Earth.</p> <p>Masterpet currently has offices and factories in Australia, New Zealand, and China.</p> <p>Masterpet was acquired by EBOS Group Ltd, a publicly listed healthcare marketer, wholesaler and logistics provider in 2011. EBOS Group is listed on the New Zealand and Australian stock exchanges.</p> <p>According to EBOS Group's financial report for FY22, its Animal Care Segment (i.e Masterpet) generated revenue of \$541.3 million.¹⁶⁶</p>	BlackHawk; Vitapet; Aristopet; Yours Drooly; Trouble&Trix; Blue Planet; Nothin' to Hide.
Nestle	Nestle New Zealand Ltd is the local subsidiary of Switzerland-based Nestle S.A, one of the world's largest food and beverage manufacturers. Nestle New Zealand supplies the Purina product range, which includes food, recipes, treats and accessories, catering to cats and dogs in their various life stages.	Purina Pro Plan; Purina One; Purina Friskies; Purina Bonnie; Purina Supercoat; Purina Fancy Feast; Purina Lucky Dog; Purina Felix; Purina Beneful; Purina Beyond; Tux.

¹⁶⁵ <https://www.forbes.com/lists/largest-private-companies/?sh=71becb35bac4>

¹⁶⁶ <https://www.ebosgroup.com/assets/FY22/EBOS-FY22-Results-Media-Release.pdf>

	Nestle has a number of offices and factories across New Zealand, including factories in Auckland and Marton. It has also recently expanded its pet food factory in Blayney, Australia, from which it exports its Purina range to New Zealand, Thailand and Japan. ¹⁶⁷	
SVS Veterinary Supplies	SVS has been New Zealand's leading full-service supplier to the veterinary industry for 28 years. It specialises in wholesaling veterinary supplies, consumables, equipment and instruments. It is 100% New Zealand owned, and has three warehouses in Hamilton, Palmerston North and Christchurch. ¹⁶⁸	ZebraVet; GLOW; Hill's; Breederselect; Buzz Off; Feliway; Hale Animal Health; Surefeed; Sureflap.
Orijen	Based in Alberta, Canada, Orijen has been manufacturing pet food for over 30 years, and exports to over 80 countries around the world. Its New Zealand subsidiary, Orijen.co.nz Limited trades as Natures Ki, and wholesales its range of cat food, dog food, bird food, cat litter and kelp-based pet supplements to specialty pet stores throughout the country. ¹⁶⁹	Orijen; Acana; Higgins; World's Best Cat Litter; Poop Bags; Pet Kelp.
Kong's	Kong's (NZ) Limited was established in New Zealand in 1996, and is now a leading manufacturer and wholesaler of high quality products for dogs, cats, fish, birds, reptiles, fish and other small animals. Its head office is located in Tauranga, from which it distributes products both domestically and globally.	ZiwiPeak; Flexi; Dog Rocks; Pet One; Pet Corp; WashBar; Alcott Adventure.

¹⁶⁷ <https://www.foodprocessing-technology.com/projects/nestles-blayney-pet-food-factory-expansion/>

¹⁶⁸ <https://svs.co.nz/about/>

¹⁶⁹ <https://www.natureski.co.nz/about-us/>