Restriction of Publication of Part Claimed

ANZ proposed acquisition of Suncorp Bank

Submission to the Australian Competition & Consumer Commission opposing merger authorisation

3 March 2023

Public version

Note: Information shaded grey is confidential to Bendigo and Adelaide Bank and should not be disclosed

Bendigo and Adelaide Bank

Contents

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1 Executive summary

Bendigo and Adelaide Bank Limited (**BEN**) submits that the Australian Competition and Consumer Commission (**ACCC**) should not grant merger authorisation for the proposal by ANZ Group Holdings Ltd (**ANZ**) to acquire 100% of the issued shares of SBGH Limited (which owns 100% of the shares of Suncorp-Metway Limited (**Suncorp Bank**)) from Suncorp Group Limited (**Suncorp Group**) (**Proposed Acquisition**) because it will:

- have the likely effect of substantially lessening competition (**SLC**) in home loans, deposits and agribusiness markets; and
- not be likely to result in any public benefits that are sufficient to outweigh the public detriments likely to result from such an acquisition.

The key reasons supporting a decision not to authorise the Proposed Acquisition are summarised as follows.

The Proposed Acquisition would be likely to SLC compared with any relevant counterfactual	The Proposed Acquisition would be likely to SLC in Australian banking markets compared with any relevant counterfactual: • As the Productivity Commission (**PC**) found in 2018, Australian banking markets are dominated by four major banks: Commonwealth Bank of Australia (**CBA**), Westpac Banking Corporation (**WBC**), National Australia Bank Limited (**NAB**) and ANZ (together, **Major Banks**).[1] • This level of concentration has created structural conditions conducive to coordinated effects. As Professor Stephen King observes, "[t]*he structure of the Australian banking industry, with a small number of dominant banks interacting repeatedly over time, is conducive to 'coordinated conduct' by these major banks.*"[2] • Major Banks take advantage of their scale and consequential lower cost of capital with pricing that tends to be set at a level where the Major Banks are able to achieve returns above their cost of capital, whereas the non-Major Banks typically achieve lower returns on capital. • Other smaller banks, such as BEN, seek to compete vigorously, but their smaller scale is a structural impediment to organic growth of their businesses, significantly inhibiting their ability to grow by competing to take significant market share from the Major Banks. • In this context, the Proposed Acquisition would further increase the concentration of the Major Banks, increase their pricing power and the likelihood of coordinated effects, exacerbating the scale disparity between the Major Banks and smaller banks such as BEN.

[1] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at pp 4-8.

[2] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [43].

	• Absent the Proposed Acquisition, as Professor King concludes, under a status quo counterfactual, Suncorp Bank would continue as an independent mid-tier competitor and there would be an increasing likelihood that active competition would break out between the Major Banks.[3] • Further, a merger between BEN and Suncorp Bank (**BEN/Suncorp Bank counterfactual**) is a significantly more competitive outcome because it would: – Limit further concentration of the Major Banks, and the increased likelihood of coordinated effects. – Allow BEN to effectively double its scale, which immediately enhances its competitive advantages such as the ability to achieve cost efficiencies from synergies, attract deposit funding, increase investment in technology accelerating the delivery of BEN's digital capabilities and reducing its cost of funding and cost of capital. – In particular, provide BEN a larger scale platform to accelerate its growth by enabling a combined BEN/Suncorp Bank to more aggressively challenge the Major Banks across all dimensions of competition, and provide a stronger regional bank alternative to Australian consumers, able to provide a more compelling alternative offering on price, service and innovation. Absent the BEN/Suncorp Bank counterfactual, these substantial benefits to competition in the Australian banking sector would be significantly more difficult to achieve.
A merger between BEN and Suncorp Bank is the most likely counterfactual	Absent the Proposed Acquisition, there is a real chance that BEN would merge with Suncorp Bank. As the evidence reveals: • As BEN explained to Suncorp Group, there is a compelling rationale for a BEN/Suncorp Bank transaction based on the following factors: ○ BEN and Suncorp Bank's complementary strategies, capabilities, customer focus and cultures, including enhanced scale; ○ BEN's demonstrated history in partnering and executing mergers and acquisitions; ○ the clear benefits from the substantial synergies and associated value creation that would arise out of the

[3] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [122].

	transaction; and o the significant execution certainty for any potential transaction. • [redacted] • [**Public text:** BEN had undertaken extensive consideration of the proposed merger with Suncorp Bank in relation to a proposed offer for Suncorp Bank, which would have required serious consideration by Suncorp Group's board and shareholders, had BEN's attempted engagements not been resisted by Suncorp Group.] [redacted] • A BEN/Suncorp Bank merger would not have been higher risk than the Proposed Acquisition, including because of BEN's low risk appetite, strong capital position, demonstrated track record of strong performance and low credit losses, and BEN's successful integration of its past acquisitions.
A sale of Suncorp Bank is more likely than the status quo in the absence of the Proposed Transaction	While significant existing market concentration levels mean that the Proposed Acquisition would SLC relative to the status quo in any event, in the absence of the Proposed Transaction, a sale of Suncorp Bank to a third party such as BEN is more likely than preservation of the status quo for the following reasons: • Suncorp Group's claim that the relevant counterfactual is the 'status quo' is simply not credible. The claim directly contradicts Suncorp Group's announced strategy of becoming a pureplay insurer, which it cites as a key driver for the sale and public benefit flowing from the sale of Suncorp Bank to ANZ. • The evidence demonstrates that BEN was ready, willing and able to make Suncorp Group an offer, subject to due diligence. Suncorp Group's tactical delays do not negate the likely counterfactual. As the ACCC recognises, merger parties cannot avoid a likely counterfactual by manipulation of facts in an attempt to make clearance more likely.[4]

[4] ACCC, 'Merger Guidelines', November 2008, at [3.19].

The Proposed Acquisition will have the likely effect of SLC in several relevant markets	The Proposed Acquisition would, if it were to proceed, have the likely effect of SLC and cause other detriments in several markets, including the following: • In relation to **home loan** and **deposit products**, the Proposed Acquisition would allow ANZ to absorb Suncorp Bank, further increasing the concentration of home loans and deposit markets and the share of ANZ, particularly in Queensland. o In contrast, a BEN/Suncorp Bank counterfactual would significantly enhance BEN's scale, thereby substantially improving BEN's ability to compete against the Major Banks on pricing, provide a strong and differentiated regional banking offering, as well as accelerate and expand its delivery of digital capabilities to the benefit of consumers in residential mortgage lending and deposit markets. • In **agribusiness banking,** the Proposed Acquisition would materially increase concentration, and particularly ANZ's share in Queensland. Although market share data in the agribusiness banking market is relatively opaque, BEN estimates that the Proposed Acquisition would increase ANZ's shares in Queensland agribusiness banking to over **[Confidential to a third party]** [redacted] through acquiring Suncorp Bank (which BEN estimates is currently around **[Confidential to a third party]** [redacted] in Queensland). o In contrast, under the BEN/Suncorp Bank counterfactual, BEN would increase its shares of agribusiness banking in Queensland from approximately **[Confidential to a third party]** [redacted] to approximately **[Confidential to a third party]** [redacted]. However, this **[Confidential to a third party]** [redacted] would significantly improve its ability to compete aggressively and grow to win business against the dominant providers in agribusiness banking, including on pricing and on better service levels, providing an expanded network of local bankers to service the agribusiness market and BEN's product innovations (for example, BEN's Farm Management Deposit Offset Account).[5]

[5] Rural Bank, 'Farm Management Deposit Offset Account': https://www.ruralbank.com.au/savings-and-investments/farm-management-deposit-offset-account/.

2 Bendigo and Adelaide Bank Limited

Bendigo and Adelaide Bank Limited (**BEN**) is an Australian, ASX-listed authorised deposit-taking institution headquartered in Bendigo, Victoria. Established in 1858, BEN provides retail banking services to over 2.3 million customers[6] through its 443 branches across Australia.

BEN's banking business is spread across two customer facing divisions:

- the **Consumer Division** focuses on servicing consumer customers through lending and deposit products as well as credit cards, insurance, investment and superannuation products. The Consumer division includes BEN's branch network (including Community Banks and Alliance Banks), third party banking (including broker distribution), Up digital banking app, Homesafe and customer support functions. BEN also provides home loans through its partnership with TicToc Online Pty Ltd (**tic:toc**), Australia's first fully digital lending platform launched in 2017; and

- the **Business and Agribusiness Division** services business customers, with a particular focus on small to medium enterprises (**SMEs**) who are seeking a relationship banking experience, and includes all banking services provided to agribusiness, rural and regional Australian communities through the Rural Bank brand.

One of BEN's most significant banking innovations is the Community Bank model, which was established in response to a series of bank branch closures in the late 1990s. The Community Bank model involves a partnership between BEN and local communities in which a percentage of each Community Bank branch's profits is allocated to community-directed grant making. As of March 2023, there are over 300 Community Bank branches across Australia which have returned over $292 million to communities and initiatives since 1998.[7]

2.1 BEN is a well-managed bank

As reflected in its most recent results for the half year ending 31 December 2022, BEN is a well-managed bank, recording a strong financial performance, including since June 2022:

- cash earnings up 22.9% to $294.7 million;

- customer numbers up 5%;

- CET1 up 45bps to 10.13%; and

- net interest margin up 19 bps to 1.88%.[8]

BEN has strong funding and liquidity positions, supported by strong and well diversified funding sources, including a strong customer deposit franchise with customer deposits

[6] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pdf, at p 34.

[7] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pdf, at p 48.

[8] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pdf, at p 6, 17.

amounting to 73.9% of its total funding base[9] and a household deposit / loan ratio that is well above industry levels.[10]

BEN's credit expenses remain low,[11] BEN is experiencing continued improvement in its credit metrics,[12] and its loan portfolio remains resilient.[13]

2.2 Market feedback reflects BEN's high levels of customer service

BEN is Australia's most trusted bank according to the latest Roy Morgan survey,[14] and is market leading on customer satisfaction.

BEN's superior customer service, trust and innovation is manifest:

- BEN currently has a Net Promoter Score (**NPS**) of 23.8, which is +28.2 above the banking industry[15] (see also **[Confidential to a third party]**[redacted]);
- Bendigo Bank is Australia's Most Trusted Bank;[16]
- BEN's Rural Bank brand has an NPS of **[Confidential to a third party]**[redacted];
- BEN's 'Up' brand is Australia's #1 rated banking app;[18]
- BEN and its partner at the time Ferocia[19] won Best Partnership at Fintech Australia's Finnie Awards in 2019 and 2020 for Up;[20] and
- BEN has consistently won Mozo's People's Choice Awards over the last seven years, most recently winning awards for Excellent Customer Service and Outstanding Customer

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[9] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pd, at p 17.

[10] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pd, at p 27.

[11] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pd, at p 18.

[12] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pd, at p 24.

[13] Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pd, at p 25.

[14] Roy Morgan, 'Australia's Most Trusted and Distrusted Brands', February 2023.

[15] Roy Morgan Net Promoter Score – Roy Morgan Research, 6 month rolling averages, comparing BEN to the industry average. Industry includes: ANZ, BOM, BOQ, Bank SA, Bankwest, CBA, ING, NAB, St. George, Suncorp and WBC.

[16] Roy Morgan Net Promoter Score – Roy Morgan Research, 6 month rolling averages, comparing BEN to the industry average. Industry includes: ANZ, BOM, BOQ, Bank SA, Bankwest, CBA, ING, NAB, St. George, Suncorp and WBC.

[17] **[Confidential to a third party]**[redacted]

[18] Based on DBM Australian Financial Awards 2022, see Annexure 3, BEN, 'Results Presentation – for the half year ended 31 December 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/half-year-results-presentation-2022-23.pdf, at p 11.

[19] BEN acquired Ferocia in 2021, see BEN, 'Bendigo and Adelaide Bank to acquire Ferocia to accelerate digital strategy, Up's growth and shape the future of banking', 16 August 2021: https://www.bendigobank.com.au/media-centre/bendigo-and-adelaide-bank-to-acquire-ferocia/.

[20] Annexure 4, BEN, 'Digital Transformation Market Briefing – Presentation and Script for ASX presentation' 26 November 2021, at p 28.

Satisfaction in 2022 alongside Up, which won awards for Mobile Banking Experience and Outstanding Customer Satisfaction.[21]

[Confidential to a third party]

Figure 1 [redacted]

[redacted]

2.3 BEN is an innovator for the benefit of customers

BEN's innovation track record is demonstrated by the following examples:

- Several key firsts in Australia, including:
  - Australia's first mortgage offset account in 1990;
  - Australia's first financial institution to launch a Visa debit card in 1992;
  - Australia's first Farm Management Deposit (FMD) Offset account, the first of its kind in the market, in 2016;
- BEN currently accounts for approximately 25% of digital mortgages in Australia. BEN was the first Australian bank to offer a digital home loan application and assessment process under its own brand, BEN Express, using tic:toc technology under a white label partnership.[23]

[21] Mozo, 'Mozo People's Choice Awards for Banking 2022': https://mozo.com.au/peopleschoice/banking.

[22] **[Confidential to a third party]** [redacted]

[23] BEN, 'Bendigo Bank to offer TIC:TOC technology to Australian consumers', 16 November 2018: https://www.bendigobank.com.au/media-centre/bendigo-bank-to-offer-tictoc-technology-to-australian-consumers/; BEN, 'Bendigo Bank hits $100 million BEN Express target', 23 November 2022: https://www.bendigobank.com.au/media-centre/bendigo-bank-hits-$100-million-ben-express-target/.

- BEN also offers environmentally friendly loan options, launching Green Home Loans in 2002 which promote the construction of environmentally and energy efficient homes by offering customer significant discounts on home loans.[24]

- Up, which operates as an independent brand of BEN and has grown to more than 600,000 deposit customers since it launched in 2018. Up also started offering a digital home loan product, Up Home, in 2022.[25] One of Up's underpinning objectives has been to improve financial literacy by helping young Australians save effortlessly and spend wisely.[26]

- In addition to participating in the Victorian Homebuyer Fund and Federal Home Guarantee Schemes, BEN is the only participating lender for the NSW Government's Shared Equity Home Buyer Helper scheme,[27] where for eligible participants the NSW Government contributes a proportion of the purchase price of a property in exchange for equivalent interest in the property.[28]

- From 2005, through its Homesafe partnership, BEN has offered home equity release products that enable older Australians to access the equity from their homes without going into debt, through a deferred sale of an agreed proportion of their home.[29]

- BEN also offers innovative white label home loan products. For example, in February 2023 Qantas Money has begun offering a digital home loan product[30] with credit provided by BEN, under which Qantas Frequent Flyer Members can also receive 100,000 Qantas frequent flyer points each year for the life of the loan.[31]

3 Evidence of Professor Stephen King

Professor Stephen King is an independent expert economist engaged by BEN to consider whether the Proposed Acquisition will:

- have the effect, or would be likely to have the effect, of SLC in any market in Australia; and/or

- result, or be likely to result, in a benefit to the public, and whether that benefit would outweigh any detriment to the public that would result, or be likely to result, from the Proposed Acquisition.

[24] BEN, 'Bendigo makes it easier being 'Green", 25 November 2022: https://www.bendigobank.com.au/media-centre/bendigo-makes-it-easier-being-green/.

[25] Up, 'Up Home: Everything you love about Up, in a home loan", 20 July 2022: https://up.com.au/press-releases/up-home-everything-you-love-about-up-in-a-home-loan/.

[26] See more about Up here: https://up.com.au/about/.

[27] Bendigo Bank, 'Bendigo and Adelaide Bank to help NSW single parents, older singles and key workers buy their own home', 17 December 2022: https://www.bendigobank.com.au/media-centre/bendigo-and-adelaide-bank-to-help-nsw-single-parents-older-singles-and-key-workers-buy-their-own-home/.

[28] NSW Government, 'Shared equity Home Buyer Helper', 23 January 2023: https://www.nsw.gov.au/housing-and-construction/shared-equity.

[29] BEN, 'Ageing population demands new banking focus', 14 November 2006: https://www.bendigobank.com.au/media-centre/ageing-population-demands-new-banking-focus/.

[30] Qantas Money, 'Qantas Money Home Loan': https://www.qantasmoney.com/home-loans.

[31] BankingDay, 'Bendigo and Adelaide backs Qantas Money home loan', 7 February 2023: https://www.bankingday.com/bendigo-and-adelaide-backs-qantas-money-home-loan.

In relation to the **national market for home loans**, Professor King concludes that:

- *'Compared to the "status quo" counterfactual, the acquisition of Suncorp Bank by ANZ is a substantial lessening of competition … because the acquisition will* ***stabilise the existing coordinated conduct between the major banks****.'* [32]

- *'Compared to the "alternative buyer" counterfactual, the acquisition of Suncorp Bank by ANZ is a clear substantial lessening of competition… In part, this substantial lessening of competition arises because the acquisition will stabilise the existing coordinated conduct that occurs between the major banks. The acquisition* ***will also prevent the creation of a mid-tier 'challenger bank'*** *that, together with Macquarie Bank,* ***can create significant competitive tension in the market, further undermining the coordinated conduct*** *of the major banks.'*[33]

In relation to the **local/regional agribusiness banking markets** located substantially within Queensland he concludes that there is a likely SLC on either counterfactual, due to the following factors:

- ANZ and Suncorp Bank are "two very significant competitors" in the provision of agribusiness banking services across a range of regional locations in Queensland;

- ANZ and Suncorp Bank's agribusiness operations in Queensland overlap; and

- Suncorp Bank will be removed as an effective and independent competitor in a range of local and regional agribusiness markets across Queensland in a situation where it is unlikely that entry, expansion or customer switching will offset any SLC.[34]

4 The likely future without the Proposed Acquisition

4.1 The counterfactual test

According to the ACCC's Merger Guidelines, a merger analysis requires comparing likely future states – the future with the merger and the future without the merger.[35]

While the comparative state is generally the status quo, the ACCC notes:

> *if it can be established with strong and credible evidence that, in the absence of the merger, a particular alternative firm would acquire the target, the relevant counterfactual may involve a competitive outcome that differs from the status quo.*[36]

The ACCC has stated that it will not take into account counterfactuals it considers have been manipulated for the purpose of making clearance more likely. A sign that a counterfactual may have been manipulated includes *"any course of action by the merger*

[32] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [7(d)].

[33] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [7(e)].

[34] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [7(i)].

[35] ACCC, 'Merger Guidelines', November 2008, at [3.16].

[36] Id. at [3.20].

parties which cannot be demonstrated to be profit maximising and/or in the interests of shareholders (for example, refusing to sell the business to a strong competitor if the proposed merger does not proceed)".[37]

In *ACCC v Pacific National Pty Limited (No 2)* [2019] FCA 669, Beach J considered the counterfactual analysis in the context of both sections 45 and 50 of the CCA. His Honour synthesised the reasoning in *Metcash*[38] and *AGL*[39] into the following points:

- the phrase likely to have the effect of a SLC requires only a "real chance";[40]
- the standard of "real chance" is concerned with "real commercial likelihoods, not with mere possibilities, however plausible they might be"; [41] and
- the assessment of likely effect of SLC poses one question involving one evaluative judgment, with that one evaluative judgment to be assessed on the basis of a "real chance".[42]

Based on the evidence below, in the absence of the Proposed Acquisition, BEN submits that the applicable counterfactual is an acquisition of Suncorp Bank by BEN (**BEN/Suncorp Bank counterfactual**). As the evidence discussed below demonstrates, there was a real chance that BEN would have entered into an agreement to buy Suncorp Bank, had Suncorp Group not sought to resist meaningful engagement with BEN. The real chance of an alternative buyer counterfactual is not diminished by reason of the merger parties' attempts to avoid that unhelpful reality.

Nevertheless, as Professor King's evidence supports, even if the relevant counterfactual is considered to be the status quo, the Proposed Acquisition would be likely to result in a SLC for the reasons discussed in section 6.

4.2 Absent the Proposed Acquisition, there is a real chance that BEN would merge with Suncorp Bank

ANZ's Application[43] claims that in the absence of the Proposed Acquisition, the counterfactual would be the 'status quo', i.e., Suncorp Group would continue to operate Suncorp Bank.

However, BEN submits that in the absence of the Proposed Acquisition, the counterfactual is unlikely to be the status quo. In particular, it directly contradicts Suncorp Group's strategy of becoming a pureplay insurer.[44]

As the evidence demonstrates, prior to announcement of the Proposed Acquisition, BEN was preparing to make an offer to merge with Suncorp Bank, and was seeking to engage with Suncorp Group to do so. Accordingly, there is at least a real chance that without

[37] ACCC, 'Merger Guidelines', November 2008, at [3.19].

[38] *ACCC v Metcash Trading Ltd* (2011) 282 ALR 464.

[39] *Australian Gas Light Company v ACCC* (No 3) [2003] FCA 1525.

[40] *ACCC v Pacific National Pty Limited (No 2)* [2019] FCA 669 at [1274].

[41] *ACCC v Pacific National Pty Limited (No 2)* [2019] FCA 669 at [1275].

[42] *ACCC v Pacific National Pty Limited (No 2)* [2019] FCA 669 at [1276].

[43] ANZ/Suncorp, 'Application for Merger Authorisation', 2 December 2022 (**ANZ's Application**).

[44] Suncorp Group Limited, '1H23 Results Investor Presentation', 8 February 2023, at page 24: https://www.suncorpgroup.com.au/announcements-pdf/1781549.

the Proposed Acquisition, BEN would make a binding offer to acquire Suncorp Bank that would be accepted by the Suncorp Group. That is, an acquisition by BEN of Suncorp Bank is a more commercially likely counterfactual than the 'status quo' in which Suncorp Group continues to own and operate Suncorp Bank. In particular, and in contrast to the reasons why an alternative buyer counterfactual could not be established in *Metcash*,[45] there is credible evidence that:

- Suncorp Group wished to divest Suncorp Bank; it announced the rationale of the Proposed Acquisition as enabling it to become a "pureplay insurer";[46]
- BEN's interest is not speculative and it had done significant work to ensure that it was well-positioned to make a binding offer to acquire Suncorp Bank;
- BEN would have access to adequate funding to make a binding offer;
- BEN's offer would have been compelling; and
- BEN would be able to operate Suncorp Bank viably and sustainably.

That Suncorp Group would never entertain a merger of Suncorp Bank with BEN is belied by the facts, from which it can be inferred that Suncorp Group would have indeed considered BEN as a credible buyer of Suncorp Bank.[47]

4.3 BEN's interest is not speculative and BEN intended to make an offer to acquire Suncorp Bank

ANZ's Application annexes a witness statement from Mr Steven Johnston (CEO of Suncorp Group), suggesting that BEN's proposal was "preliminary and high level", suggesting that BEN's interest was not serious, and not a realistic counterfactual.[48]

BEN submits that Mr Johnston's assessment of the BEN proposal is not accurate. The evidence shows that BEN's interest in Suncorp Bank was credible and well understood by Suncorp Group through the numerous engagements between Suncorp Group's and BEN's representatives, during which BEN sought to engage substantively with Suncorp Group on such a potential acquisition. **[Confidential to BEN]** [redacted]

The contextual facts support this:

[Confidential to BEN]

- [redacted]

[45] *ACCC v Metcash Trading Ltd* (2011) 282 ALR 464 at [397] - [425].

[46] ANZ/Suncorp, 'Application for Merger Authorisation', 2 December 2022, at [55], [56].

[47] [redacted]

[48] Witness Statement of Steven Johnston at [83].

[redacted]

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[51] [Confidential to BEN] [redacted]

[52] [Confidential to BEN] [redacted]

[redacted]

[redacted]

[redacted]

4.4 BEN's indicative proposal for acquiring Suncorp Bank was not lacking in detail nor speculative

Contrary to paragraphs 83 and 84 of Mr Johnston's witness statement asserting that these letters were preliminary and lacking in detail, the **[Confidential to BEN]**[redacted] contained considerable detail of BEN's proposal given the stage of discussions and in circumstances where Suncorp Group had deferred and avoided any substantive engagements, despite BEN's repeated efforts.

[Confidential to BEN][redacted]

- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted]

[redacted]

BEN's view is that if Suncorp Group had engaged substantively with BEN on an acquisition of Suncorp Bank a formal offer to Suncorp Group could have been made within a relatively short timeframe.

As the evidence indicates, BEN's interest was far from speculative, and it was only Suncorp Group's resistance to any meaningful engagement with BEN which prevented BEN from taking the necessary steps towards making a binding offer.

4.5 BEN would have access to adequate funding to make a binding offer

[Confidential to BEN][redacted]

4.6 BEN's offer would be compelling

In Mr Johnston's witness statement, he suggests that a BEN/Suncorp Bank merger would involve more risks, including credit rating and funding risks, the extent to which synergies can be realised, branch consolidation and resourcing rationalisation, technology integration risks, diverging risk appetites, and risks to brand and reputation.[53] BEN considers these assertions to be patently inconsistent with well-known facts.

Moreover, Mr Johnston's evidence is inconsistent with Suncorp Group's earlier engagement with BEN.

[Confidential to BEN][redacted]

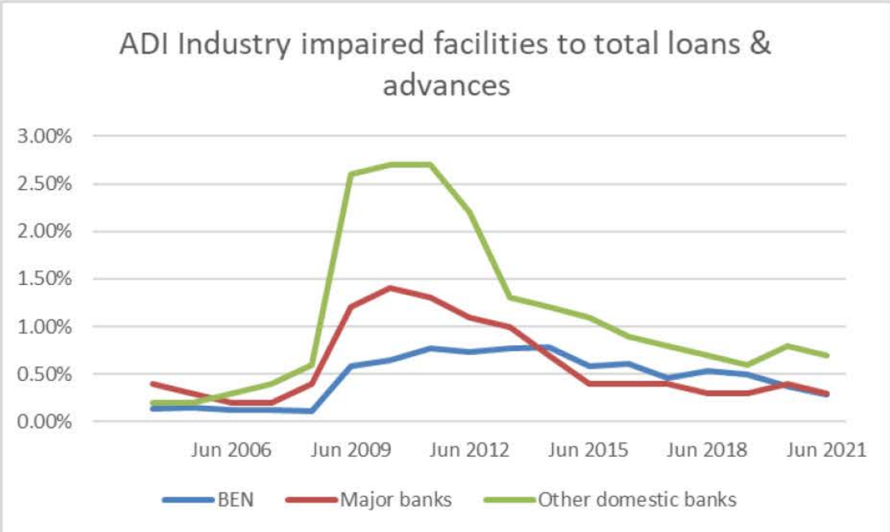
BEN considers there is no basis for Mr Johnston's claims that a merger between BEN and Suncorp Bank involved significant risk, including for the following reasons:

- BEN is a well-managed bank as evidenced by its half yearly results in FY2023 as summarised in section 2.
- BEN has a very low risk profile, as demonstrated by its strong credit quality and low losses over a long period of time (see Figure 2 below) based on a large proportion of its assets being in home loans, its strong capital position and

[53] Witness Statement of Steven Johnston at [56].

profitability. BEN's credit rating is equivalent to Suncorp Bank's credit rating absent Suncorp Group's support. BEN's margin lending business is well-managed, low risk, and has experienced very low losses even during major global events impacting equity values such as the GFC and COVID-19 pandemic. BEN's wealth business is a very small proportion of its overall business resulting in very limited exposure. Over the last 10 years, BEN has divested potentially higher risk components of its wealth business, and the remaining wealth businesses within its portfolio are considered to be low risk.

Figure 2: Authorised Deposit-Taking Institution (ADI) Industry impaired facilities to total loans and advances



- BEN has a relatively lower exposure to more volatile wholesale funding markets because it sources its funding primarily through deposits due to its strong customer deposit franchise. The risks associated with other banks' higher reliance on wholesale funding were best demonstrated during the global financial crisis of 2008-2010. It has been reported that during the global financial crisis Suncorp Bank had issues with bad debt, and that in 2008 ANZ was lined up as a potential buyer of Suncorp Bank.[54] During this time, BEN was one of only very few banks that did not access the wholesale funding guarantee.

- BEN has strong track record of successful integrations of acquisitions, including successful integration of technology platforms, often a key challenge in banking mergers. Section 4.7 sets out examples of successful past integrations.

- BEN is Australia's most trusted bank and one of Australia's most trusted brands,[55] as demonstrated by section 2.2.

BEN considers its offer to acquire Suncorp Bank to be compelling. **[Confidential to BEN]**[[redacted]

[54] Finance News Network, 'ANZ keen to mind other people's business now', 18 July 2022: https://www.finnewsnetwork.com.au/archives/finance_news_network382326.html.

[55] Roy Morgan, 'Australia's Most Trusted and Distrusted Brands', February 2023.

[redacted]

- [redacted]
- [**Public text:** The merged entity would have significant synergies.] [redacted]
- [redacted]
- [redacted]
- [redacted]

4.7 BEN would be able to operate Suncorp Bank viably and sustainably

BEN has a demonstrated track record of operating and successfully integrating acquisitions:

- **First Australian Building Society (FABS) merger (2000):** FABS' customers were converted across to the BEN banking systems within 12 months of the merger being approved. Post-acquisition, FABS customers enjoyed improved access, service and an enhanced product range. BEN customers also enjoyed increased points of service.
- **Adelaide Bank merger (2007):** BEN's merger with Adelaide Bank was estimated to provide pre-tax cost synergies of $60-65 million in IT savings, reduction of functional overlap, and consolidation of corporate costs. Adelaide Bank retail

[56] [Confidential to BEN] [redacted]

[57] [Confidential to BEN] [redacted]

customers were migrated onto BEN's banking systems, products and services following the merger, and both Bendigo and Adelaide Bank customers enjoyed access to more products, branches and ATMs across Australia. This merger occurred during the global financial crisis, further demonstrating BEN's acquisition capabilities even under adverse economic conditions.

- **Bank of Cyprus Australia (BOCAL) acquisition (2011):** BEN initially chose to operate BOCAL (later known as Delphi Bank) under its own brand rather than bring it under the Bendigo Bank name. In October 2021 BEN announced its decision to migrate Delphi customers across to BEN's banking system and its products and services, and this was achieved in FY22.

- **Rural Finance Corporation of Victoria (RFC) acquisition (2014):** RFC had a rural loan book of approximately AU$1.7 billion, 3300 customers, 115 staff and 11 offices in Victoria. BEN integrated RFC into its rural business Rural Bank, and RFC customers were migrated to the BEN banking system and its products and services post-acquisition. RFC customers benefited from improved access to services and products once migrated to the BEN banking system.

- **ANZ Investment Lending Portfolio (2022)**: BEN agreed to acquire ANZ's Investment Lending portfolio, valued at $715m, with approximately 11,900 customer facilities (as at 31 May 2022). The acquisition – which is on track to complete in the first half of calendar year 2023 - is expected to take the combined value of the Bank's margin lending portfolio to more than $2 billion. By completion the ANZ Investment Lending portfolio will be migrated onto the BEN margin lending banking system. The acquisition of this portfolio is aligned with BEN's objective of growing its return-on-equity and will be earnings accretive upon completion.

5 Impact of the Proposed Acquisition on competition in the banking sector and BEN's ability to compete

5.1 Australian banking sector is heavily concentrated in the Major Banks

As the PC found in its 2018 report, the Major Banks dominate retail banking in Australia.[58] There are a range of smaller banks also operating in Australia's banking system including Macquarie, BEN, Suncorp Bank, ING and Bank of Queensland (**BOQ**). Professor Stephen King considers this characterisation remains the same today.[59]

ANZ's Application mischaracterises the level of competition in the Australian banking sector in several ways, including by overstating the number of institutions competing with the Major Banks to suggest that the sector is highly fragmented.

ANZ's claim that there are *"over 100 suppliers of home loans in Australia"*[60] fails to recognise that many of the brands cited are effectively distribution arms of the Major Banks and other incumbent banks in Australia. For example, ME Bank, tic:toc and Bankwest have been listed as competitors in the mortgage markets, notwithstanding

[58] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at pp 4-8.

[59] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [22].

[60] ANZ/Suncorp, 'Application for Merger Authorisation', 2 December 2022, at [7.7(a)].

they are owned and/or funded by BOQ, BEN and CBA respectively which are identified separately in the list of competitors. Similarly, ANZ's application also lists Bendigo, Adelaide and Rural Bank as separate competitors (notwithstanding they are all owned by BEN) as well as Bank of Melbourne and Bank SA (notwithstanding they are owned by Westpac).

ANZ cites non-bank players as a source of significant competition in the relevant markets. While there are a number of non-bank players operating in lending markets, they face significant barriers that limit their ability to competitively constrain the Major Banks. In particular, non-banks do not collect customer deposits and therefore do not have access to a significant source of funding that banks can leverage. Accordingly, even while non-banks have achieved some success in growing and continuing to innovate, they have less stable access to funding and are reliant on higher cost and more volatile funding sources. For example, there are reports that non-bank lender Pepper Money is 'stepping away' from prime lending due to volatility in the cost of funds.[61]

In any case, many of the non-bank lenders cited by ANZ's Application rely on other balance sheets (including funding from the Major Banks), and therefore do not represent independent competition in Australian lending markets. Moreover, Unloan is part of CBA.

ANZ also overstates the extent to which customers switch banks. In 2018, the PC found that financial products are 'sticky',[62] and Professor Stephen King considers that switching has not noticeably increased, nor have switching costs notably decreased, since the PC's report was released.[63]

In circumstances where Australia's banking sector is heavily concentrated in the Major Banks and there are high barriers to customer switching and ability for other banks and non-banks to expand, the Proposed Acquisition would likely have significant detrimental impact on competition in the Australian banking sector, particularly in comparison with a BEN/Suncorp Bank counterfactual.

5.2 The Proposed Acquisition increases the concentration of the Major Banks and significantly limits the opportunity for BEN to increase scale and improve its ability to challenge the Major Banks

Smaller banks (i.e., non-Major Banks) face a significant disadvantage compared with the Major Banks due to their lack of scale. As the PC stated:

> *[T]he major banks are the dominant force in the market — able to charge higher premiums above their marginal costs, compared with other institutions. Approximately half of the average loan price that major banks charge is estimated to be a premium over the marginal cost — double the margin that other Australian-owned banks have and well above that of banks in other high income countries . . .*[64]

[61] The Australian, 'Pepper Money steps back from prime lending, waits for rates to plateau', 23 February 2023: https://www.theaustralian.com.au/business/financial-services/pepper-money-annual-profit-rises-but-lending-conditions-soften/news-story/85e18b15809be7447c96bf46d4fb3391.

[62] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at p 149.

[63] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [32].

[64] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at pp 8-9.

Suncorp Bank itself released a statement at the time noting "*the inherent disadvantages built into Australia's tiered banking system is having a direct impact on the ability of Australian families and small business to get a better deal – to access more competitive home and business loans and to experience innovative banking.*"[65]

In BEN's experience, the Major Banks consistently lead price increases following a Reserve Bank of Australia (**RBA**) rate rise and are not influenced by smaller banks who are more competitive in pricing (see section 6.1(c) below). In more recent times, BEN has seen the Major Banks pricing aggressively for 'high quality' customers, which smaller banks cannot compete with for reasons including their much smaller scale.[66]

The structural impediments that favour the Major Banks significantly inhibit a non-Major Bank from achieving scale organically. BEN's experience in home lending markets, which is supported by its customer switching data, indicates that customers' intentions to switch lenders are primarily affected by their level of price satisfaction. Furthermore, BEN notes that despite the higher levels of satisfaction customers of smaller banks experience as compared to customers of the Major Banks (as reflected by the significant differential in NPS), Major Bank customers, despite being dissatisfied, do not frequently switch.

BEN's financial result for the half year ended 31 December 2022 reported that it experienced pricing pressure which contributed to residential lending growth tapering in the half,[67] demonstrating the challenges BEN faces in seeking to grow its mortgage book profitably. Ms Marnie Baker (BEN's CEO) has recently commented that:

> "*[i]t doesn't make sense for our shareholders for us to be growing below our cost of capital*".[68]

Improved cost efficiencies arising from scale can be directed towards a range of initiatives, such as more competitive pricing, technology investment, or investment in marketing. In this way, smaller banks' lack of scale limits their opportunities to become a more significant competitor to the Major Banks.

The BEN/Suncorp Bank counterfactual would provide BEN with a lockstep increase in scale, with more than 3 million customers and 500 branches across Australia. In particular, BEN expects its enhanced scale under this counterfactual would enhance competitive advantages, such as the ability to attract more deposit funding, to invest further in technology and accelerate the delivery of BEN's digital capabilities for customer benefit.

Accordingly, the Proposed Acquisition would reduce this significant opportunity for BEN to improve its ability to challenge the Major Banks by growing to a similar size in home

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[65] Suncorp Group, 'Regional bank CEOs on competition in the Australian banking system', 29 November 2019: https://www.suncorpgroup.com.au/news/news/bank-competition-australia-suncorp.

[66] Australian Financial Review, 'What we learnt: Bendigo joins banking's Game of Thrones',20 February 2023: https://www.afr.com/chanticleer/what-we-learnt-bendigo-joins-banking-s-game-of-thrones-20230220-p5cm06; Australian Financial Review, 'Mortgage prisoners left with little hope', 21 February 2023: https://www.afr.com/companies/financial-services/mortgage-prisoners-left-with-little-hope-20230219-p5clmx.

[67] BEN, 'Appendix 4D, Half Year Results for the period ended 31 December 2022', 20 February 2023: https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/financial-results/appendix-4d-half-year-results-2023.pdf.

[68] The Australian Financial Review, 'What we learnt: Bendigo joins banking's Game of Thrones', 20 February 2023: https://www.afr.com/chanticleer/what-we-learnt-bendigo-joins-banking-s-game-of-thrones-20230220-p5cm06.

loans to Macquarie, thereby obtaining access to some of the structural benefits that the Major Banks enjoy by reason of greater scale.

5.3 A BEN/Suncorp Bank counterfactual would significantly increase BEN's scale and efficiency

Major Banks have a significant scale advantage over non-Major Banks, including in relation to operating cost efficiency and cost of funding. The Major Banks generally operate at cost to income ratios well below the non-Major Banks and have access to lower cost funding. The higher funding costs impact the ability of non-Major Banks to compete on price in lending products. The PC has found that overall, the Major Banks[69] have a significant advantage in cost of funding:

> *"Overall, there is a distinct difference in the cost of funds faced by larger and smaller players. Major banks are generally able to set the price on deposits, and they benefit from higher credit ratings, which lower the cost of their funds raised in wholesale funding markets. Even when funding costs decline, major banks' market power allows them to decide whether they pass on the savings to their borrowers.*
>
> *Smaller banks often need to pay slightly more to attract deposits and convince customers to switch away from major banks. Their cost of funds is higher overall and this makes it difficult for them to lower interest rates for borrowers while maintaining their profit margins."*[70]

While BEN is less reliant than many on wholesale funding, given its significant deposit base, an acquisition of Suncorp Bank by BEN would increase its revenue base and drive efficiency gains, whilst also potentially reducing funding costs through a credit rating uplift (discussed at section 5.5 below) which would better enable BEN to compete on price by offering lower rates on home loans to consumers and business customers (including SMEs). This is especially significant in present circumstances where price is a key differentiating factor.

5.4 An acquisition of Suncorp Bank by BEN would lift its prudential capital status, resulting in lower capital requirements and reducing the overall cost of capital for the merged entity

The PC has acknowledged the cost of regulatory capital for Major Banks as an instance of regulatory arrangements entrenching market power of incumbents:

> *"On one hand, the major banks (as well as Macquarie and ING) use internally developed risk models, approved by Australian Prudential Regulation Authority (APRA), that in effect lower their funding costs compared with all other ADIs, which use APRA's standard risk weighting. On the other hand, it is only the major banks that are required by APRA to hold additional capital because of their size and complexity. This requirement can be costly for the major banks, but it can also*

[69] The Productivity Commission considers the major banks as CBA, Westpac, NAB and ANZ: *"four major banks dominate retail banking"*: Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at p 4, Figure 2.

[70] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at p 235.

support them to the extent that it is viewed by international credit rating agencies as an indirect recognition of their 'too big to fail' status.

The net result of these regulatory measures is a funding advantage for the major banks over smaller Australian banks that rises in times of heightened instability."[71]

BEN is of the view that its ability to achieve accreditation for the internal ratings-based (**IRB**) approach, allowing it to maintain (on average) a lower level of regulatory capital, would be improved, over time, if BEN acquired Suncorp Bank. The advantages of scale would provide BEN with a materially improved ability to invest in initiatives that would improve its ability to compete, including innovation, customer services, and/or achieving advanced accreditation status. Achieving accreditation for the IRB approach would allow BEN to reduce its overall cost of capital, which would better enable it to compete in home and its target business lending markets of which agribusiness is core.

5.5 BEN's acquisition of Suncorp Bank would likely improve its credit ratings

BEN relies largely on deposits as a source of funding, with its ratio of household deposits funding household loans as at 31 December 2022 at 73.9%,[72] compared to Suncorp Bank's 68.5%[73] and ANZ's 63.1%.[74] Despite this, offshore funding markets currently represent a significant underutilised funding source for BEN, particularly in the event of a merger with Suncorp Bank.

BEN considers it likely that a merger with Suncorp Bank would likely result in a credit rating uplift through the increased scale and revenue base it would gain through acquiring Suncorp Bank. The potential credit rating benefits of a BEN/Suncorp Bank merger would enhance BEN's capacity to scale efficiencies and pass on savings to customers.

BEN faces significant challenges to obtaining an uplift in its credit rating absent the acquisition of Suncorp Bank. Figure 3 sets out an overview of the current credit ratings by S&P Global of the Major Banks, BEN, BOQ, Suncorp Bank and Macquarie. BEN notes that:

- all Major Banks and Macquarie benefit from a 2-notch uplift given their implicit Government support; and
- Suncorp Bank benefits from a 3-notch uplift attributable to support by Suncorp Group.

However, if the Proposed Acquisition proceeded, then the Australian banking system would lose one bank holding an A range rating (i.e., Suncorp Bank) because it would be absorbed into ANZ, which is already an AA- rated institution.

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[71] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at p 6.

[72] Annexure 3, BEN, 'Appendix 4D Half Year Results for the period ended 31 December 2022', 20 February 2023: https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/financial-results/appendix-4d-half-year-results-2023.pdf, at p 27.

[73] Suncorp Group, 'Investor Pack, Financial results for the half year ended 31 December 2022', 8 February 2023: https://www.suncorpgroup.com.au/announcements-pdf/1781273, at p 42.

[74] ANZ, '2022 Annual Report': https://www.anz.com/content/dam/anzcom/shareholder/2022-anz-annual-report.pdf, at p 57.

Figure 3: **[Confidential to a third party]** [redacted]

[redacted]

Accordingly, the Proposed Acquisition impacts on the ability for BEN to strengthen its credit rating, which would reduce its wholesale funding costs and improve access to these markets, thereby enhancing its ability to challenge the Major Banks on pricing.

5.6 The Proposed Acquisition would likely adversely impact competition through innovation and customer service

The Proposed Acquisition would likely result in loss of innovation and service quality in the Australian banking sector and reduce service levels, in circumstances where non-price competition in the banking sector is predominantly driven by smaller banks such as BEN.

In BEN's experience, smaller banks such as BEN and Suncorp Bank cannot compete on price alone against the Major Banks due to the significant structural disadvantages described above (at section 5) and must instead compete strongly through non-price offerings such as service quality, product delivery and innovation.

[Confidential to a third party] [redacted] The NPS data demonstrates that ANZ consistently scores below 0 on this measure, while Suncorp Bank and BEN consistently score above 0. BEN has for many years had a specific target of maintaining an NPS score at least 20 points above the average Major Banks in its executive incentive arrangements.

BEN's NPS is consistently 20+ points higher than the Australian banking sector average, achieving an NPS of 23.8 at December 2022, which is +28.2 above the banking industry.[75]

In terms of innovation, both BEN and Suncorp Bank have a demonstrated track record in innovation in financial products. In contrast, ANZ's recent challenges in relation to

[75] Roy Morgan Net Promoter Score – Roy Morgan Research, 6 month rolling averages, comparing BEN to the industry average. Industry includes: ANZ, BOM, BOQ, Bank SA, Bankwest, CBA, ING, NAB, St. George, Suncorp and WBC.

digitisation, innovation and service delivery have been well-publicised.[76] Whether compared against the status quo or a BEN/Suncorp Bank counterfactual, the Proposed Acquisition will significantly reduce competition in non-price bank offerings such as high service levels and innovation.

6 Relevant markets in which the Proposed Acquisition will be likely to substantially lessen competition

6.1 Markets for home loans products

(a) Regional and local competition is relevant in considering home loan products

It is not disputed that the market for home loans is national.[77]

However, regardless of market definition, there may be significant geographic submarkets involving consumers with high switching costs who are vulnerable to price discrimination, as Professor King explains.[78]

Although home loan pricing is set at a national level, in BEN's experience banks also compete to supply home loans in narrower geographic segments, including on a State/Territory and regional basis. BEN also gives state, regional and branch managers the ability to provide discounted pricing at a localised level to win customers.

Factors specific to certain geographies also have an impact on banks' approach to lending. Banks will typically limit their credit exposure in geographic areas that are susceptible to localised risk (e.g., flood-prone areas), or reliant on one industry or employer.

These local factors are supported by Professor King's view that the difference in substitutability between different groups of consumers could indicate distinct geographic markets for retail home loans in regions where relevant consumers are locked in to either Suncorp Bank or ANZ, and have few effective opportunities for substitution.[79] Professor King notes, for example, that Suncorp Bank's presence in Queensland is significantly greater than elsewhere in Australia, suggesting there may be a geographic market for home loans that is narrower than the national market and focussed on consumers that face high switching costs and price discrimination in home loans.[80] Professor King states that such a market would involve localised competition, for example for consumers who rely on a branch presence or do not actively access internet-based services.[81]

[76] The Australian Financial Review, 'ANZ Plus in wretched debut', 23 March 2022: https://www.afr.com/rear-window/anz-plus-in-wretched-debut-20220323-p5a7an; The Australian Financial Review, 'ANZ Set to offer 10-minute mortgages', 8 December 2021: https://www.afr.com/companies/financial-services/inside-anz-s-radical-tech-renovation-20211207-p59fed.

[77] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [6.3].

[78] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [63].

[79] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [63(e)(iii)].

[80] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [63(e)(iii)].

[81] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [63(e)(iii)].

(b) The Proposed Acquisition increases ANZ's share and significant market concentration, at the expense of creating a sizeable regional bank in the BEN/Suncorp Bank counterfactual

The Proposed Acquisition would materially increase ANZ's share in mortgage lending markets compared to the BEN/Suncorp Bank counterfactual and further entrench the dominance of the Major Banks in mortgage lending markets, both nationally and in all States/Territories.

Table 1 sets out market shares for the supply of home loan products nationally in Australia based on APRA data (based on book value),[82] and Table 2 sets out the market shares for supply of home loan products in each State/Territory, based on Roy Morgan data.[83]

Table 1: Market shares for home loans products in Australia (December 2022)

Bank*	National share of home loans (%)
CBA	25.8
WBC	21.4
ANZ+SUN	15.5
NAB	14.8
ANZ	13.1
BEN+SUN	5.2
Macquarie	4.9
BOQ	2.9
BEN	2.8
ING	2.7
SUN	2.4

* includes sub-brands and subsidiaries unless otherwise stated.

Table 2: Market shares for home loans products in Australia, by State/Territory (December 2022)

Bank*	Mortgages (%)				
	Qld	NSW/ACT	WA	Vic/Tas	SA/NT
CBA	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ANZ + SUN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
WBC	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ANZ	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
NAB	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
BEN + SUN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
BEN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Macquarie	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ING	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
SUN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
BOQ	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

* includes sub-brands and subsidiaries unless otherwise stated.

[82] Annexure 13, APRA, 'Monthly authorised deposit-taking institution statistics', December 2022: https://www.apra.gov.au/monthly-authorised-deposit-taking-institution-statistics.

[83] We have relied on Roy Morgan Single Source data to provide market shares on a State/Territory basis. Roy Morgan Single Source data is survey data collected in accordance with the methodology set out at: Roy Morgan, 'How we collect and process Single Source data in Australia', July 2020: https://cms.roymorgandev.com/wp-content/uploads/2022/08/AustraliaFactBrochure2020_JuneWEB.pdf. This data is current as at December 2022.

As demonstrated by the data in these two tables, an ANZ acquisition of Suncorp Bank would widen the gap between the Major Banks and the next tier of lenders, with ANZ/Suncorp Bank becoming the second largest supplier of home loans in Queensland. In contrast, a BEN/Suncorp Bank counterfactual would result in BEN becoming a closer competitor to the Major Banks both nationally and in each State/Territory, and in particular of similar scale to Macquarie on a national basis.

Nationally, a BEN/Suncorp Bank counterfactual would grow BEN's share of mortgage lending from 2.8% to 5.2% share. Although BEN would still significantly trail CBA with 25.8% share and WBC with 21.4% share, it would allow it to become a closer competitor to ANZ and NAB, each of which has 13.1% and 14.8% share respectively. It would also allow BEN to be a comparable size with Macquarie (with 4.9% share). In contrast, the Proposed Acquisition would mean that on a national basis there would be no bank outside the Major Banks with a share of mortgage lending over 5%.

In the BEN/Suncorp Bank counterfactual, BEN's share of mortgage lending would increase in the following States/Territories to enable it to compete more closely with the Major Banks:

- **[Confidential to a third party]** [redacted] in **Qld**. While BEN would still be significantly behind CBA with [redacted] share and WBC with [redacted] share, it would achieve similar scale to ANZ and NAB, each of which have [redacted] and [redacted] shares respectively.

- **[Confidential to a third party]** [redacted] in **Vic/Tas**. Although BEN would still be significantly behind CBA with [redacted] share, it would become a closer competitor to NAB, ANZ and WBC, each of which have [redacted], [redacted] and [redacted] share respectively.

- **[Confidential to a third party]** [redacted] share in **SA/NT**. Although BEN would still be significantly behind CBA with [redacted] share and WBC with [redacted] share, it would become a closer competitor to ANZ and NAB, with [redacted] and [redacted] share respectively).

The BEN/Suncorp Bank counterfactual would also transform BEN/Suncorp Bank into a more significant market participant in **NSW/ACT** and **WA** (currently with **[Confidential to a third party]** [redacted] and [redacted] share respectively) to [redacted] and [redacted] share, with greater scale enabling it to provide a more competitive constraint on the Major Banks alongside other mid-size banks such as Macquarie (with just under [redacted] share nationally) and BOQ and ING (each with just under [redacted] share nationally).

According to APRA statistics (see Table 1 above), the Major Banks make up approximately 75% share of home loans nationally and only 11 ADIs have more than 1% share. The dominance of the Major Banks in mortgage lending is consistent across both owner-occupied and investor home loans (see Figure 4and Figure 5 below). The Proposed Acquisition would move the Major Banks' combined share towards 80%, further entrenching a concentration of market share in the hands of a limited number of market participants.

Figure 4: Estimated mortgages market share ($m) (December 2022)[84]

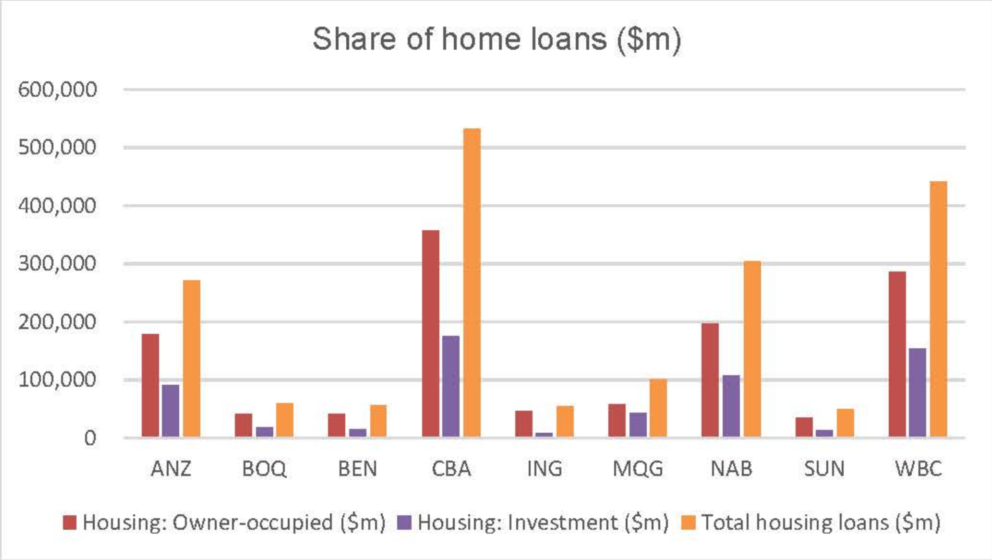


Figure 5: Estimated mortgages market share (%) (December 2022)[85]

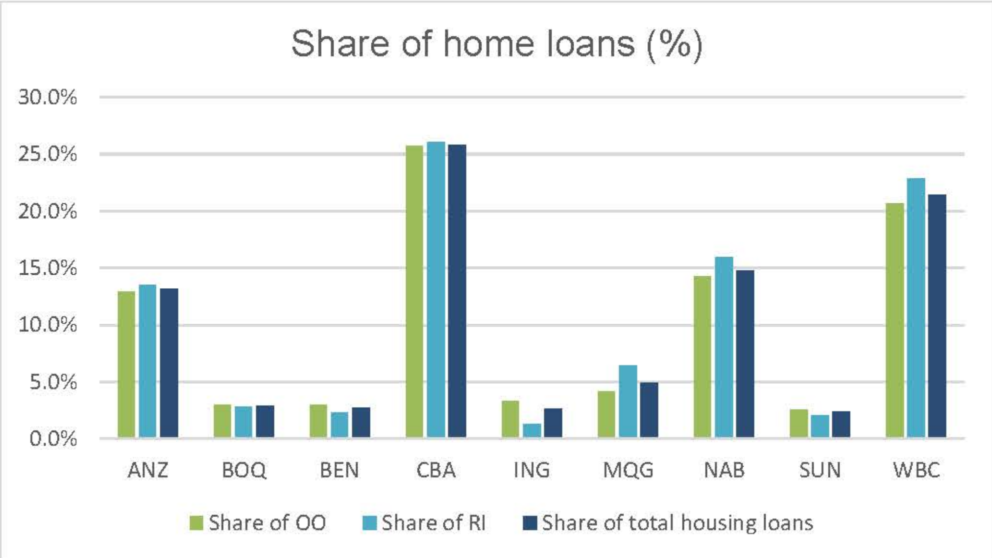


Table 2 demonstrates that the Proposed Acquisition would also significantly widen the gap between share of mortgage lending by major and non-Major Banks in each State/Territory. In particular, the Proposed Acquisition would increase ANZ's share by more than **[Confidential to a third party]** [redacted] in Queensland to nearly [redacted]. This would also more severely bifurcate mortgage lending in Queensland between Major Banks and non-Major Banks, with the Major Banks having over [redacted] share (up from [redacted] share) and the next largest provider

[84] Prepared using APRA, 'Monthly authorised deposit-taking institution statistics', December 2022: https://www.apra.gov.au/monthly-authorised-deposit-taking-institution-statistics (Annexure 13).

[85] Prepared using APRA, 'Monthly authorised deposit-taking institution statistics', December 2022: https://www.apra.gov.au/monthly-authorised-deposit-taking-institution-statistics. (Annexure 13).

(Macquarie) having only [redacted] share, while BOQ has [redacted] share and BEN has only [redacted].

ANZ seeks to rely on an expert report of Dr Phillip Williams, which includes an unorthodox attempt to use HHI, a measure of market concentration, to define the relevant markets for analysing the competitive effects of an acquisition of Suncorp Bank by ANZ. Professor King considers that Dr Williams' approach and use of HHI to determine concentration makes no economic sense, and is incorrect and inappropriate, given it ignores the evidence on coordinated conduct by Major Banks. Professor King concludes that competition analysis based on simplistic measures of concentration, such as HHI, and not adjusted for existing coordinated conduct, would be misleading and not economically relevant.[86]

As Professor King further observes, the share data for home loans supports the following conclusions:

- The national retail home loan market is dominated by the four Major Banks. This dominance has decreased slightly over the past decade, largely due to competition from Macquarie Bank and, to a lesser extent, BOQ and BEN.[87]
- If the acquisition of Suncorp Bank by ANZ were to proceed, then this will 'stabilise' the relationship between the four Major Banks, reducing the disparity in their market shares that has developed over the past decade.[88] In particular, it will raise ANZ's market share making it closer to the average market shares of the other Major Banks.

(c) The Proposed Acquisition would remove a challenger in home loan markets

The Proposed Acquisition would remove a material competitor in home loan markets and entrench its shares with the Major Banks. As Professor King notes, it will prevent the creation of a mid-tier 'challenger bank' that, together with Macquarie Bank, can create significant competitive tension in the market, further undermining the coordinated conduct of the Major Banks.[89]

ANZ submits that it does not consider Suncorp Bank to be a close competitor and that it is not influenced by Suncorp Bank's offering to any significant degree.[90] However, this view illustrates one of the core competition issues in the Australian banking system that was outlined in section 5: Major Banks are unconstrained by non-Major Banks, because smaller banks are hindered by the significant lack of comparative scale.

BEN considers that Suncorp Bank is a material competitor in front book pricing (i.e., rates offered to new customers) for home loans, particularly in Queensland and NSW. This is consistent with John Campbell's witness statement which states that ANZ Home Loans monitors and benchmarks against a wide range of lenders,

[86] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [195]-[206].

[87] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [79(b)].

[88] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [80(b)].

[89] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [7(e)].

[90] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [7.32] – [7.33]

including regional and foreign-owned banks.[91] Suncorp Bank is also particularly competitive in Queensland, where its share is **[Confidential to a third party]** [redacted], higher than its 2.4% share nationally. This is notable as ANZ's share in Queensland is the lowest of all States/Territories, at [redacted].

(d) The Proposed Acquisition hinders more innovative and effective competition in home loan markets

The Proposed Acquisition would also likely result in reduced innovation-driven competition, diminishing opportunities for non-Major Banks to compete on non-price elements in home loan markets. Professor King notes that while there has been innovation in the national home loan market, such innovation has not changed the bifurcated structure of supply in the market, the coordinated conduct between the Major Banks or the inability of smaller banks to overcome existing barriers to competition.[92]

BEN has a history of innovation in financial services, which has and continues to be a key driver of its effectiveness as a competitor of the Major Banks. In the BEN/Suncorp Bank counterfactual, BEN would have more resources and scale, and would be better positioned to continue to innovate and be a more compelling competitive force against the Major Banks.

As set out at section 5, increased scale achieved in the BEN/Suncorp Bank counterfactual will provide BEN with greater opportunities for technology investment, allowing it to become a more effective competitor. BEN's cost to income ratio for the half year ended 31 December 2022 was 54.6%, compared to that of CBA, Westpac, ANZ and NAB which have 46.7%, 55.1%, 49.7% and 45.2%, respectively.[93] The scale offered by the BEN/Suncorp Bank counterfactual would provide BEN with cost synergies that are broadly comparable with the Proposed Acquisition.[94] The reduction in its proportion of operating costs that could be achieved through synergies in the BEN/Suncorp Bank counterfactual would create opportunities for further technology investment and innovation.

BEN's innovation track record is demonstrated by the examples in section 2.3.

In contrast, ANZ's many challenges in digitising its product offerings have been well-publicised.

(e) The Proposed Acquisition would reduce service levels, including in the form of reduced branch presence

ANZ's Application states that the use of bank branches is diminishing, driven by an increasing customer preference for digital banking.[95] Whilst this is an accurate statement, in BEN's experience its branch network, which is larger than ANZ's, continues to be highly valued by customers in the home loans market, particularly in the regional areas where BEN has proportionally more branches than other

[91] Witness statement of Douglas John Campbell at [54].

[92] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [104].

[93] KPMG, 'Major Australian Banks Full Year 2022 Results Analysis', November 2022, at p 4.

[94] [redacted]

[95] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [3.33], [5.18].

banks. Nationally, more than half of BEN's branches are located in regional or remote locations,[96] which represents the importance of branches in regional areas for local and regional communities. Branch presences at prominent locations in a community ensure that the bank remains prominent in customers' minds as a potential provider. Branches also create opportunities for customers in the community to engage organically with the bank.

In BEN's experience, bank branches are valued by local communities for the broader social and economic benefits that they can provide. BEN's own Community Bank model demonstrates these benefits, where local communities, represented by volunteer boards, invest the capital required to establish a BEN branch in their community. Almost all Community Banks have reached a level of profitability that enables them to distribute their profits with local communities by investing in community building causes across a broad range of sectors, including recreation, health, and education.

ANZ's strategy with respect to its branches is quite different to BEN's.

Despite increasing digitisation, BEN expects that many customers will continue to value the involvement of a banker or broker in assisting with the home loan application process. This is also the case with customers that apply though digital channel such as BEN Express, who generally engage with BEN through another channel to seek advice from a person before making a financial commitment.

(f) New entry and expansion in the digital / online banking space will not constrain the further entrenchment of Major Banks caused by the Proposed Acquisition

ANZ's Application cites the number of recent new entrants in mortgage lending as an indicator of lower barriers to entry and expansion.[97] However, while there have been a number of new entrants in the digital and online banking space during a period of sustained low interest rates, it has not yet been tested whether those new entrances can compete 'through the cycle' and continue to provide sustainable competition in home loans markets. This is evident in previous challenging credit cycles which saw many alternative providers fail or be acquired by the Major Banks. Recent players have undergone a similar experience. For example, the ACCC specifically observed that 86 400 was of such insignificance that its acquisition by NAB is unlikely to raise any significant competition concerns, including because other competitors ("notably some of the second-tier banks") would continue to "attempt" challenging the Major Banks.[98]

Nevertheless, such attempted challenges are increasingly limited, as demonstrated by the recent demise of Volt Bank and Xinja Bank, exemplifying the challenges new entrants face in surviving as a challenger in Australian banking. Most recently in January 2023, Nano announced the transfer of its loans business to AMP after struggling to compete with traditional banks against tighter funding markets and increasing interest rates. After ceasing to accept new loan

[96] APRA, 'Authorised deposit-taking institutions' points of presence statistics', October 2022: https://www.apra.gov.au/authorised-deposit-taking-institutions-points-of-presence-statistics.

[97] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [5.62].

[98] ACCC, 'Assessment of National Australia Bank's (NAB) acquisition of 86 400', 30 March 2021: https://www.accc.gov.au/public-registers/mergers-registers/public-informal-merger-reviews/national-australia-bank-limited-86-400-holdings-ltd.

applications in October 2022, Nano has transitioned to being a financial services technology provider, exiting the home loans market as a lender.[99]

(g) Customers are sticky and would be unlikely to switch away from Major Banks following the ANZ/Suncorp Bank merger

As reported by the PC in 2018, financial products are 'sticky'.[100] This includes home loan products. Previous surveys by CHOICE (2017) and the Queensland University of Technology (**QUT**) (2015) have found that over 60% of home loan holders have not considered switching in a two-year period (CHOICE) or a five-year period (QUT).[101] In the context of the Proposed Acquisition, this suggests that a sizeable majority of Suncorp Bank customers, who are predominantly located in Queensland and northern NSW, will maintain their home loan with Suncorp Bank regardless of more competitive home loan products on offer elsewhere.

Despite recent increases in refinancing activity, BEN's experience is that Major Banks are able to implement aggressive retention strategies to offset this, with centralised mortgage retention units becoming significantly more prevalent. Major Banks are typically better placed to offer retention cash backs to offset any cash back competitors are offering customers that refinance. Even amongst customers that do refinance, BEN's experience is that the Major Banks are still winning the majority of customers.

6.2 Markets for deposit products

(a) Regional and local competition is relevant when considering deposit products

ANZ submits that its overlap with Suncorp Bank in the supply of savings and term deposits products should be assessed on the basis of national markets for each of retail deposit products and deposit products to business customers.[102] ANZ relies on the ACCC's previous market definition findings in *Westpac/St George* and *CBA/Bankwest*, where the ACCC found that competition occurred on a national basis for deposits/ term (or saving/term) products.[103]

While BEN acknowledges these previous findings, the dynamics of regional-based competition for the supply of savings and term deposits products remain critical to the ACCC's analysis of the anticompetitive effects likely to result from the Proposed Acquisition. Australian Securities Investment Commission (**ASIC**) data reported by the PC has found that over 50% of Australian adults have remained with the bank they first opened an account with.[104] There is therefore a significant concentration of Suncorp Group's customers in the Queensland/NSW region who will continue to hold deposit products with Suncorp Bank post-acquisition, and will be impacted by the Proposed Acquisition. It is therefore relevant for the ACCC

[99] The Australian Financial Review, 'Survival of the biggest as AMP gobbles up neobank Nano's loans', 31 January 2023: https://www.afr.com/companies/financial-services/survival-of-the-biggest-as-amp-gobbles-up-neobank-nano-s-loans-20230130-p5cgkh.

[100] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at p 149.

[101] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at pp 148-149.

[102] ANZ/ Suncorp Bank, 'Application for Merger Authorisation', at [6.37].

[103] ANZ/ Suncorp Bank 'Application for Merger Authorisation', at [6.56].

[104] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, at p 149.

to consider the competitive effects on the supply of deposit products at a regional level as well as on a national market basis.

(b) The Proposed Acquisition removes opportunity for BEN to increase its competitive constraint on the Major Banks in deposits, instead increasing concentration in the Major Banks

The Proposed Acquisition would materially increase ANZ's share in deposits compared to the BEN/Suncorp Bank counterfactual.

Table 3 sets out market shares for the supply of deposit products nationally in Australia based on APRA data,[105] and Table 4 sets out the market shares for supply of savings / term deposits in each State/Territory, based on Roy Morgan data.[106]

Table 3 : Market shares for deposit products in Australia (December 2022)

Bank*	National share of deposits (%)
CBA	25.1%
WBC	19.2%
NAB	17.1%
ANZ + SUN	14.5%
ANZ	12.7%
Macquarie	4.8%
BEN + SUN	4.3%
BEN	2.5%
BOQ	2.5%
SUN	1.8%
ING	1.8%

* includes sub-brands and subsidiaries unless otherwise stated.

Table 4 Key market shares: savings / term deposits (December 2022)

Bank*	Savings / Term deposits (%)				
	Qld	NSW/ACT	WA	Vic/Tas	SA/NT
ANZ + SUN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
CBA	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
BEN + SUN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
WBC	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
SUN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
NAB	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ANZ	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
BOQ	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

[105] Annexure 13, APRA, 'Monthly authorised deposit-taking institution statistics', December 2022: https://www.apra.gov.au/monthly-authorised-deposit-taking-institution-statistics.

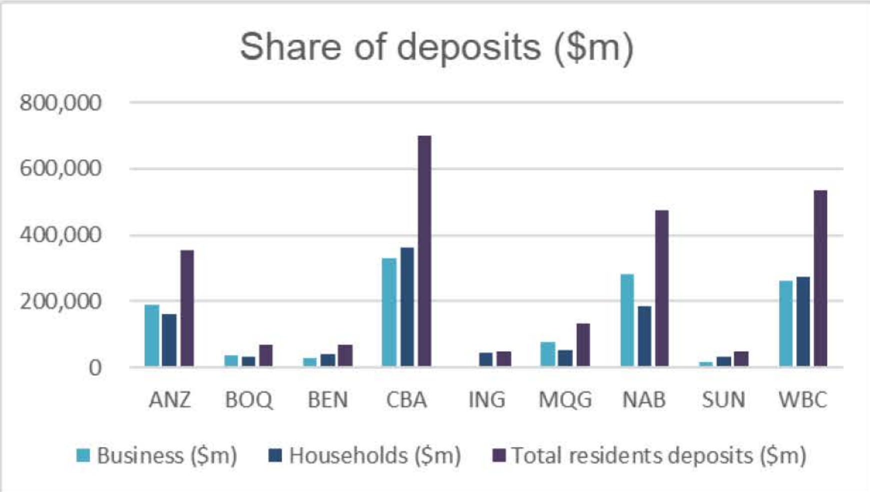
[106] We have relied on Roy Morgan Single Source data to provide market shares on a State/Territory basis. Roy Morgan Single Source data is survey data collected in accordance with the methodology set out at: Roy Morgan, 'How we collect and process Single Source data in Australia', July 2020: https://cms.roymorgandev.com/wp-content/uploads/2022/08/AustraliaFactBrochure2020_JuneWEB.pdf. This data is current as at December 2022.

Bank*	Savings / Term deposits (%)				
	Qld	NSW/ACT	WA	Vic/Tas	SA/NT
ING	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Macquarie	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
BEN	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

* includes sub-brands and subsidiaries unless otherwise stated.

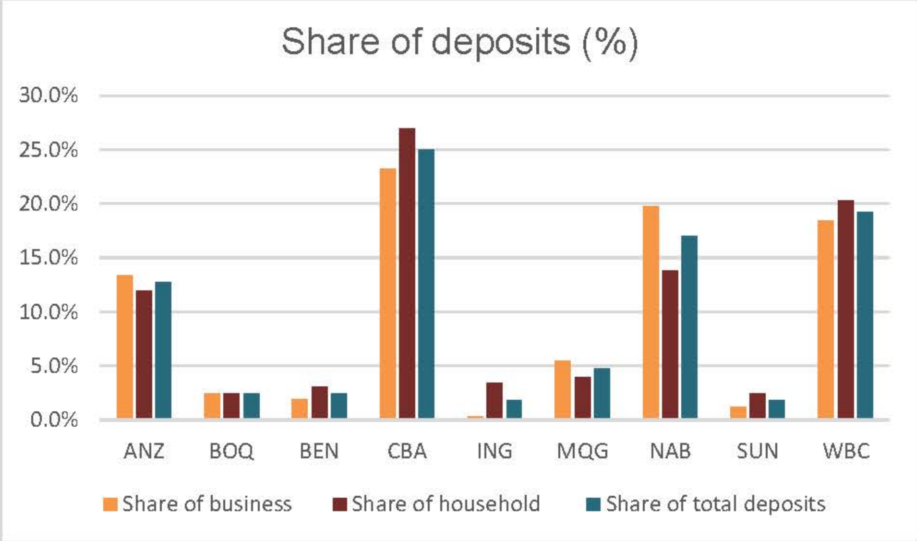
Similar to the effects in home loan markets, the above tables demonstrate that in the BEN/Suncorp Bank counterfactual, it would result in BEN becoming a closer competitor to the Major Banks both nationally and in each State/Territory.

Figure 6: Estimated deposits market share ($m) (December 2022)[107]



[107] Prepared using APRA, 'Monthly authorised deposit-taking institution statistics', December 2022: https://www.apra.gov.au/monthly-authorised-deposit-taking-institution-statistics. (Annexure 13)

Figure 7: Estimated deposits market share (%) (December 2022)[108]



The impact of the Proposed Acquisition on term deposit and savings markets will also have significant flow-on effects on competition in lending markets. This is because the majority of bank funding comes from deposits – as of February 2023, approximately 60% of total ADI funding is from deposits.[109] Deposits are one of the more economic and stable sources of funding for banks, so increasing share in deposits can benefit banks by lowering their overall cost of funding.[110]

The PC has found that while smaller banks have offered better rates, *"their ability to attract more deposits is dampened by the major banks' market dominance, the 'flight to safety' during the GFC and generally low levels of customer switching"*.[111] Smaller banks often have to pay slightly more to attract deposits, contributing to overall higher cost of funding.[112]

(c) The Proposed Acquisition would remove the opportunity for more innovative and effective competition in savings and term deposits markets

BEN has a history of innovation in financial services, which has and continues to be a key driver of its effectiveness as a competitor of the Major Banks. In the likely counterfactual where BEN would acquire Suncorp Group's banking business, BEN would have more resources and scale and be better positioned to continue to innovate and be a more compelling competitive force against the Major Banks.

BEN was an early disruptor in digital banking through the Up mobile-only digital banking app launched in 2018. With the aim of targeting younger Australians, Up launched innovative digital and deposit features including monthly fee-free accounts, payment requests and splitting features and saver pool accounts to

[108] Prepared using APRA, 'Monthly authorised deposit-taking institution statistics', December 2022: https://www.apra.gov.au/monthly-authorised-deposit-taking-institution-statistics. (Annexure 13)

[109] RBA, 'Chart Pack, Banking Indicators – Funding Composition of Banks in Australia', 8 February 2023: https://www.rba.gov.au/chart-pack/banking-indicators.html.

[110] Productivity Commission, 'Competition in the Australian Financial System - Inquiry Report', 29 June 2018, p 229.

[111] Productivity Commission, 'Competition in the Australian Financial System – Inquiry Report', 29 June 2018, p 231.

[112] Productivity Commission, 'Competition in the Australian Financial System- Inquiry Report', 29 June 2018 at p 235.

encourage deposits.[113] One of Up's underpinning objectives has been to improve financial literacy by helping young Australians save effortlessly and spend wisely.[114] Since its launch, the Up digital banking app has grown to more than 600,000 customers who have deposited more than $3 billion into savings accounts and currently sits as the highest-rated Australian banking app.[115]

(d) The Proposed Acquisition would reduce service levels, including in the form of reduced branch presence

ANZ's Application asserts that that bank branches are less relevant due to customer preference for digital banking. However, it is BEN's experience that its customers value the differentiated services that regional banks offer, including an extensive network of bank branches. The differentiated offering of a regional bank is at risk of diminution if ANZ acquires Suncorp Bank.

BEN observes that the presence of bank branches can be a differentiator for some demographics. As the bulk of Australia's retail deposits are concentrated in an older demographic, BEN still observes bank branches playing an important role in raising retail deposits, **[Confidential to BEN]** [redacted]

As at June 2022, BEN had an Australia-wide network of 459 branches, compared to ANZ's 414 branches. As at the start of 2022, ANZ had shut 272 branches since June 2017.[118] Following the Proposed Acquisition, ANZ contemplates some rationalisation of branch network, with the decision to close branches including assessment of whether digital services are available to affected customers.[119] While BEN also expects to close some Suncorp Bank branches in a BEN/Suncorp Bank counterfactual, it expects that it would only do so where there is another branch in close proximity.

Further, nationally ANZ's branch network is concentrated at 61.8% in metro regions, with only 38.2% in regional and remote locations. This is in comparison to BEN who has 45.1% of branches in metro locations and 54.9% of branches in regional and remote locations.

6.3 Markets for agribusiness banking

(a) Agribusiness banking is a separate product market

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[113] BEN, 'Bendigo Bank and Adelaide Bank to acquire Ferocia', 16 August 2021: https://www.bendigobank.com.au/media-centre/bendigo-and-adelaide-bank-to-acquire-ferocia/.

[114] See more about Up here: https://up.com.au/about/.

[115] Up, 'About': https://up.com.au/about/.

[116] **[Confidential to BEN]** [redacted]

[117] **[Confidential to BEN]** [redacted]

[118] Sydney Morning Herald, 'Devasting community impact: Why banks are closing their doors', 30 January 2022: https://www.smh.com.au/national/devastating-community-impact-why-banks-are-closing-their-doors-20220128-p59s42.html.

[119] ANZ/Suncorp Bank, 'Application for Merger Authorisation' 2 December 2022, at [8.79] – [8.80].

ANZ's Application submits that the overlap between ANZ and Suncorp Bank in the supply of a range of banking products to business customers should be assessed on the basis of a single national market for the supply of "commercial banking products and services to business customers".[120]

In BEN's experience, there are a number of separate markets within commercial banking products and services to business customers, including separate local markets for the supply of agribusiness banking products and services to agribusiness customers.

BEN considers that agribusiness banking is a specialist segment in Australian banking, which requires tailored management and solutions to support farmers with their specific financing needs over the longer term. A specialist approach is required for agribusiness banking because farming in Australia is subject to volatility, particularly in respect of seasonal and regional conditions, international trade flows, commodity prices and natural disasters. The cyclical and volatile nature of agribusiness requires farming customers and their financiers to adapt and adopt a tailored approach to the sector to provide flexibility and stable long-term funding.

BEN considers that the supply of agribusiness banking products and services needs to be assessed separately. This is because agribusiness customers require a tailored set of banking products that provide long-term funding with flexibility to deal with cycles of farming, which are not readily substitutable with banking products supplied to business customers in other sectors of the economy. For example:

– Due to the capital-intensive nature of farming businesses, agribusiness customers often require 'core debt', being a long-term debt that is fully secured by the farm land and is provided in a way that is flexible enough for the business to be able to manage its cashflow through seasonal variations.[121]

– Farm management deposits (**FMDs**) are a unique key agribusiness product created by an Australian Government initiative, allowing farmers to make tax deductible deposits during years of good cashflow and withdraw them in bad years, to deal more effectively with fluctuations in cash flows.[122]

– Equipment finance products for agribusiness also require tailoring due to the nature of the assets being financed, depreciation, seasonal farm cashflows and term for repayment.

The supply of agribusiness banking products and services requires dedicated and specialist agribusiness managers who understand the unique nature of farming businesses as well as the local issues they face.[123] For example, financiers for agribusinesses need dedicated agribusiness credit managers to critically and

[120] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [6.87]. The commercial banking products and services that are offered by ANZ and Suncorp Bank are outlined at paras 6.98 and 6.99 of the application (at pp 111 and 112).

[121] See also Witness Statement of Mark Bennett at [34] – [35].

[122] See also Witness Statement of Mark Bennett at [39].

[123] See also Witness Statement of Mark Bennett at [85]-[89], [191]-[192].

expertly assess farm businesses (including associated issues such as environmental management and animal welfare) and, where difficulties are experienced, specialist asset managers who are skilled in farm debt mediation.[124]

Professor Stephen King has also expressed the view that there are separate agribusiness banking markets involving the supply and demand of a range (or 'cluster') of financial products relevant to agricultural-based businesses.[125] In summary, his view is that there are separate such markets due to:[126]

– limited demand-side substitution, as agribusiness customers demand specific products rather than broader business banking products; and

– limited supply-side substitution, due to agribusiness banking requiring specialised knowledge and understanding of farm assets and its relationship-focussed nature involving face to face interaction and bespoke pricing.

Professor Stephen King further notes that agribusiness banking markets in the context of the Proposed Acquisition are the markets involving the supply and demand of financial products relevant to agriculture-based businesses, given the competitive overlap between Suncorp Bank and ANZ which is in such business customers, and that these markets are local/regional.[127]

(b) Competition for the supply of agribusiness products occurs in local markets

BEN further considers that the geographical dimension of the market for the supply of agribusiness banking products and services is regional or local (rather than national) for the following reasons:

– Firstly, agribusiness customers place a very high value on their relationships with bankers who understand their local area conditions and industry.[128]

– Secondly, there is a strong customer preference for their agribusiness relationship managers to be accessible and available for face-to-face meetings.[129]

BEN understands that the major financiers in the agribusiness industry adopt a specialist approach to relationship management, with dedicated managers typically looking after the needs of a portfolio of agribusiness customers.

This means that these relationship managers generally need to be located within a reasonable traveling distance of their agribusiness customers and be sourced

[124] [Confidential to BEN] [redacted]

[125] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [65].

[126] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [65(a)-(b)].

[127] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [65].

[128] Suncorp Group response to the first tranche of interested party submissions also notes that a customer's relationship with their relationship manager is particularly important factor agribusiness customers in choosing a financial institution. See Suncorp Group, 'ACCC Authorisation Application – Suncorp Group response to the first tranche of interested party submissions', 7 February 2023, at p 3.

[129] See also Witness Statement of Mark Bennett at [85]-[89], [191]-[192].

with required supplies (e.g., a premises and a vehicle) to perform their functions.[130] Consistent with this, BEN understands that regional banks attract a high proportion of their agribusiness customers from their 'home' state. For example, as at 30 June 2021, Suncorp Bank had approximately 68% of its total agribusiness portfolio with customers located in Queensland.[131]

In addition, Figure 8 shows BEN's agribusiness points of presence (in 2022) as against the estimated agribusiness debt nationally (in 2021). It shows that BEN's presence correlates with particular areas within States and Territories where there are higher levels of agribusiness debt (indicating demand). Such presence and debt are localised and unbalanced among and within the States or Territories and focused on farming areas within those regions. BEN considers that this further demonstrates the localised nature of such markets.[132]

Figure 8: [Confidential to BEN] [redacted]

[redacted]

BEN's views above in relation to the geographical definition of agribusiness banking are consistent with views expressed by Professor Stephen King that there are local/regional agribusiness markets. In his view:

[130] See also Witness Statement of Mark Bennett at [191(b)].

[131] Suncorp Group, 'Investor Pack – Financial Results for the Full Year Ended 30 June 2021', at p 42: https://www.suncorpgroup.com.au/announcements-pdf/1529206.

[132] BEN notes that the Queensland Rural and Industry Development Authority Queensland Rural Debt Survey 2021 (see Exhibit MSB-7 of Mark Bennett's witness statement) also breaks debt data down by eight regions of Queensland that reflect data collection regions used by the Australian Bureau of Agricultural and Resource Economics and Sciences (**ABARES**). These regions are Cape York and the Gulf; Central North; Charleville-Longreach; Eastern Darling Downs; Northern Coastal – Mackay to Cairns; Southern Coastal – Curtis to Moreton; West and South West; and Western Downs and Central Highlands. These regions are determined by regional boundaries set by the Australian Bureau of Statistics (**ABS**), that represent the finest level of geographical aggregation for which the ABARES Australian Agricultural and Grazing Industries Survey (**AAGIS**) is designed to produce reliable estimates. See Department of Agriculture, Fisheries and Forestry, 'Farm surveys definitions and methods': https://www.agriculture.gov.au/abares/research-topics/surveys/farm-definitions-methods#regions.

- the geographical dimensions of agribusiness markets are relatively narrow, and in general should be considered 'regional markets' that may involve only parts of a state and are no broader than a state (although a regional market may overlap state borders);[133]
- this is due to the relationship-focussed method of engaging with agribusiness customers which indicates that geographic substitution is limited by the area able to be reasonably covered in person by a relevant manager who can attend a customer's premises;[134] and
- geographical locations where ANZ and Suncorp Bank centre their agribusiness operations provide a strong indicator of relevant separate markets based on supply and demand considerations.[135]

(c) The Proposed Acquisition will materially increase concentration in agribusiness banking markets

The Proposed Acquisition will materially increase concentration nationally and in regional Queensland in favour of the Major Banks.

As noted in section 6.3(b), BEN considers that competition for the supply of agribusiness products occurs in local markets and as such, any analysis of competitive effects of the Proposed Acquisition should be focused on such effects in those local markets. However, comprehensive market share data in relation to agribusiness banking in such markets or more broadly is not readily available.

BEN has access to a comprehensive view of the estimated total lending to farming through data from Kynetec. Kynetec provides quarterly estimates of bank lending to the farming industry (Australian and New Zealand Standard Industrial Classification (**ANZSIC**)), drawing on data from the Australian Bureau of Statistics (**ABS**), Australian Taxation Office (ATO), Australian Bureau of Agricultural and Resource Economics (**ABARES**) and the RBA.

Accordingly, based on the Kynetec data, BEN is able to calculate its own shares in agribusiness lending nationally and in Queensland (calculated based on the size of its agribusiness lending portfolios) and also Suncorp Bank's such shares in agribusiness lending (because Suncorp Group reports the size of its agribusiness lending portfolio by State each year, with the exception of FY2022), as proxy for their shares in agribusiness banking.

Based on information available to BEN, **nationally**: **[Confidential to a third party]**

- [redacted]][136]

[133] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [65].

[134] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [65(c)(i)].

[135] Annexure 2, Professor Stephen P. King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [152(c)].

[136] This view is consistent with ANZ's assessment. See ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [7.196].

– [redacted][137]

– [redacted]

– [redacted][138] and

– [redacted]][139]

The Proposed Acquisition would therefore result in a material increase in concentration towards the existing largest players in agribusiness banking in Australia **[Confidential to a third party]**[redacted] However, in the BEN/Suncorp Bank counterfactual, BEN's share would increase from approximately [redacted] to [redacted], providing BEN with better scale to compete more strongly [redacted] in agribusiness banking.

In **Queensland**, Suncorp Bank has a much larger share at around **[Confidential to a third party]**[redacted].[140] Otherwise, agribusiness banking is again heavily concentrated amongst [redacted].[141] BEN notes the view of Mark Bennett of ANZ that NAB and Rabo are the first and second largest agribusiness banks in Queensland, respectively, Suncorp Bank is third, and ANZ is fourth.[142] On this basis, the Proposed Acquisition would result in the Queensland agribusiness banking becoming significantly concentrated in favour of the Major Banks and Rabo Bank (**Rabo**). However, in the BEN/Suncorp Bank counterfactual, BEN's share of agribusiness banking in Queensland would increase to approximately [redacted], providing BEN with greater scale (along with geographical diversity)[143] to compete more strongly with [redacted].

(d) The Proposed Acquisition will result in lower service levels for agribusiness customers

[137] This view is consistent with the assessment of Mark Bennett. See Witness Statement of Mark Bennett at [158].

[138] Based on BEN's agribusiness lending nationally of **[Confidential to third party]**[redacted]

[139] As at June 2022 and based on information in the Suncorp Group's FY22 Investor Pack (at p 36) that Suncorp Bank had approximately $4.3b in agribusiness lending nationally, out of the total national lending to agriculture which was around **[Confidential to third party]** [redacted] As at June 2021, Suncorp Bank's agribusiness banking share nationally was [redacted] on the basis that Suncorp Bank had approximately $4.2b in agribusiness lending nationally (according to Suncorp Group's FY21 Investor Pack at p 39), out of the total national lending to agriculture which was around [redacted]

[140] As noted in section 6.3(b) above, Suncorp Bank had 68% of its agribusiness business based in Queensland as at 30 June 2021. As at June 2021, Suncorp Bank's agribusiness banking share in Queensland was **[Confidential to third party]**[redacted] on the basis that Suncorp Bank had approximately $2.9b in agribusiness lending in Queensland (being 68% of its total lending to agriculture nationally of $4.2b), out of the total for lending to agriculture in Queensland of around [redacted]. As at June 2022, Suncorp Bank's agribusiness banking share in Queensland was [redacted] on the basis that Suncorp Bank had approximately $2.9b in Queensland (being 68% of its total lending to agriculture nationally of $4.3b), out of the total for lending to agriculture in Queensland of around **[Confidential to third party]**[redacted]

[141] Based on BEN having around **[Confidential to third party]**[redacted] in agribusiness lending in Queensland as at September 2022. [redacted]

[142] Witness Statement of Mark Bennett at [205].

[143] **[Confidential to third party]**[redacted]

BEN considers that the Proposed Acquisition will likely result in a loss of Suncorp Bank's differentiated offering in agribusiness banking markets.

BEN notes that Suncorp Bank has a greater focus on tailored relationships with its customers, including smaller agribusiness customers.[144]

In contrast, BEN understands that ANZ typically manages its 'Small Business Banking' (**SBB**) agribusiness customers in one of three ways:[145]

- By allocating the SBB agribusiness customer to a portfolio managed by the SBB Small Business Specialists and Business Banking Mangers. These bankers are generally based in regional locations close to the customer but are not specialised agribusiness bankers.
- By allocating the customer for remote management by an SBB Small Business Manager in the specialised Agribusiness team at ANZ's National Business Centre in Melbourne.
- In the case of SBB agribusiness customers with very small accounts with ANZ, not allocating a specific banker to the customer. Those customers can engage with ANZ through channels that are accessible to ANZ Commercial customers generally.

BEN understands that the majority of Suncorp Bank's agribusiness customers (by number of customers) fall within the 'small business' agribusiness customer segment.

In light of the significant increase in ANZ's market share in agribusiness banking that would result from the Proposed Acquisition (discussed above in section 6.3(c)) and ANZ's business model, there is a significant risk of the Proposed Acquisition reducing levels of service for agribusiness customers, moving them to a centralised relationship model.

In contrast, in the BEN/Suncorp Bank counterfactual, BEN would continue the focus on the relationship with customers (including small business customers), consistent with its current business model. Under this model, Suncorp Bank's agribusiness customers (including small business customers) would continue to be serviced by dedicated managers.

(e) The Proposed Acquisition increases barriers to entry and expansion in agribusiness banking markets

BEN considers that there are considerable barriers to entry and expansion in the agribusiness banking markets for the following reasons:

- The supply of agribusiness banking products and services requires expertise within the bank and dedicated managers located within the region who

[144] Suncorp Group response to the first tranche of interested party submissions also notes that Suncorp Bank focuses on a relationship-based business model and on small to medium-sized businesses in the agribusiness sector. See Suncorp Group, 'ACCC Authorisation Application - Suncorp Group response to the first tranche of interested party submissions', 7 February 2023, at p 1.

[145] Witness Statement of Mark Bennett at [55].

understand farming businesses and can appropriately formulate tailored banking solutions to customers. Therefore, substantial costs and investments are required to enter the market. For a new entrant, such costs would be in addition to the regulatory and structural barriers that they would need to overcome to become a bank in the first place.

– The high value placed by agribusiness customers on relationships with their banker (which can at times be generational) also leads to less frequent switching by such customers, creating an additional barrier to entry and expansion. BEN's experience is that the churn rate in agribusiness banking is typically between **[Confidential to BEN]** [redacted][146]

These high barriers have been evidenced by very limited entry of notable players into the market in the past 20 years. Rural Bank was the last major new entrant in 2001. At the time, the Major Banks were withdrawing funding and capital from agribusiness banking, coinciding with branch closures in rural Australia. Despite this, BEN partnered with Elders to establish Elders Rural Bank (now called Rural Bank) and provide banking products and services to farmers.

BEN understands that while Judo Bank has recently expanded into agribusiness banking, such expansion is in very early stages via the 'broker-introduced' (as opposed to direct) business.

BEN has identified Queensland as a growth state, in which it could expand through an acquisition of Suncorp Bank. In particular, BEN considers Suncorp Bank to be as highly complementary with BEN/Rural Bank in agribusiness banking because they share strong strategic alignment, similar cultures and can utilise and combine their relationship manager capacity and specialised frontline expertise, along with their extensive footprints.

The Proposed Acquisition will raise barriers to entry and expansion in agribusiness banking by further entrenching concentration amongst the Major Banks and remove a significant opportunity for BEN to improve its ability to constrain the incumbent players through additional scale.

(f) The Proposed Acquisition removes a vigorous and effective competitor

The Proposed Acquisition will remove a vigorous and effective competitor in agribusiness banking, particularly in Queensland.

Suncorp Bank is a material player in agribusiness banking and is one of the major players in the Queensland agribusiness banking market. As noted in 6.3(c) above, it has approximately **[Confidential to third party]** [redacted] share of agribusiness lending in Queensland in 2021[147] (with nearly [redacted] of its total agribusiness lending portfolio with customers based in Queensland).

[146] For example, **[Confidential to BEN]** [redacted]

[147] June 2021 data is used because Suncorp Group, contrary to previous practice, did not disclose its Queensland agribusiness lending proportion in its FY2022 Investor Pack.

7 The Proposed Acquisition will not result in likely public benefits that would outweigh the likely public detriments

BEN submits that the ACCC should place minimal weight, if any, on ANZ's claimed public benefits. The claimed public benefits are exaggerated in some instances while others are not borne out of the Proposed Acquisition (i.e., lack of merger-specificity). The Australian Competition Tribunal has previously stated in the context of a merger authorisation that *"[b]enefits and detriments that will or may arise in both future with and without the merger are not relevant to the analysis"*.[148]

Accordingly, BEN submits that because ANZ's claimed public benefits do not hold sufficient weight, they would not result, or likely result, in a net public benefit that would outweigh the SLC that would likely result from the proposed acquisition.

7.1 Suncorp Group possibly becoming a "stronger insurer" is not specific to the Proposed Acquisition, is speculative and does not outweigh anticompetitive detriments

ANZ submits that the Proposed Acquisition will yield operational efficiencies by allowing Suncorp Group to refocus as a "monoline insurer" and solely invest in developing digital systems and processes that meet the needs of insurance products.[149] In addition, Suncorp Group claims public benefits through being better positioned to weather the volatility in reinsurance markets[150] and the establishment of a Disaster Response Centre in Queensland.[151] The statement of Mr Steve Johnston describes how Suncorp Group's insurance business will be strengthened by the Proposed Acquisition "at a time when the value of insurance to customers and the community has never been greater".[152]

BEN submits that enabling Suncorp Group to become a "stronger insurer" is not a relevant public benefit that is specific to the Proposed Acquisition, including because any such benefits could be achieved by divesting Suncorp Bank to another buyer that does not raise SLC concerns (e.g., in the BEN/Suncorp Bank counterfactual).

In any case, BEN considers that any asserted public benefits relating to Suncorp Group's insurance business are speculative, incidental and not specific to any acquisition (let alone the Proposed Acquisition) and do not offset the SLC in home loan, deposit and agribusiness markets, if the transaction were to occur.

7.2 Integration benefits are unlikely to be passed on to customers

ANZ submits that the Proposed Acquisition would result in cost synergies of approximately $260 million per annum,[153] and cites the RBB Economics report (**RBB Report**) in support of the proposition that the cost synergies amount to a productive efficiency gain.[154] This would result in benefits to the broader public, ANZ shareholders,

[148] *Tabcorp Holdings Limited* [2017] ACompT 5 at [31].

[149] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.1].

[150] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [55].

[151] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.5].

[152] Witness Statement of Steven Johnston at [86(a)].

[153] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [3.8(c)].

[154] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.9].

Suncorp Group customers and customers of the combined business.[155] However, the public benefits from cost synergies are limited for the reasons set out below.

(a) Low likelihood of material cost savings from integration efficiencies, if any, flowing to consumers

ANZ states that the 'costs savings arising from increases in productive efficiency can constitute public benefits, whether or not those savings are passed on to end consumers in the form of lower prices'. ANZ submits that this is due to the wider community interest in resource savings and cites the ACCC Merger Authorisation Guidelines in support.[156]

These asserted benefits should be given little weight in light of the significant uncertainty as to whether any such cost savings will be passed on.

As Professor King observes in his expert report, based on the nature of competition in home loans, it was unlikely that lower funding costs would be passed on to home loan customers by the merged ANZ/Suncorp Bank entity.[157]

BEN submits that, in line with the PC's findings and Professor King's expert evidence, there is a low likelihood that significant cost savings from the Proposed Acquisition will be passed onto customers.

(b) Minimal, if any, weight to be placed on cost savings retained by the merged entity and its shareholders

As above, BEN submits that it is highly unlikely that cost savings would be passed on to consumers to a material degree. Even if cost savings retained by the merged entity and not passed on to consumers are considered public benefits, BEN submits that these benefits are negligible. Any productivity gain that would accrue as an aggregated gain to the entire Australian economy (an estimated GDP of $2.1 trillion) should be given minimal, if any, weight. BEN notes that the Tribunal in *Re Howard Smith*[158] considered that any benefits that would accrue to shareholders of the merged entity should be given less weight.

(c) Productive efficiency gains from integration would result from any merger

The RBB report states that most of the merger-specific efficiency gains will occur from the elimination of duplicative fixed costs between the two banks.[159] Under the BEN/Suncorp Bank counterfactual these same efficiencies would also be realised. BEN submits that substantially similar efficiency gains would occur with or without the Proposed Acquisition, meaning that such efficiency gains are not merger-specific and should be excluded from the ACCC's consideration.

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[155] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.17].

[156] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.12].

[157] Annexure 2, Professor Stephen P King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [117].

[158] *Re Howard Smith* (1977) ATPR at [391] – [392].

[159] Witness Statement of Patrick Smith at [11], [43].

(d) Productive efficiency gains from integration are unlikely to arise for a significant amount of time

The ACCC's Merger Authorisation Guidelines state that, in its assessment, less weight will be placed on those public benefits which may not be realised for some time.[160] BEN submits that most (if not all) efficiency gains will not be realised for a substantial period of time and should be afforded little weight.

BEN submits that the ACCC ought to place limited weight on the integration benefits that are unlikely to arise for a significant amount of time.

(e) Delay in integration is not a public benefit

ANZ has indicated it will integrate Suncorp Bank in 3 years' time.

It has been reported that the delay is "*due to ANZ's plan to run Suncorp independently for three years, partly to appeal to the Queensland government and also to allow time to finish the IT project, which is creating a new banking ledger and customer-facing tech.*'"[161]

BEN expects that this three-year delay is likely to have significant adverse effects on Suncorp Bank customers during this 3 year period, given the limited incentives to invest in innovation or maintenance on Suncorp Bank's platform during this period.

As noted above, BEN has a strong track record of successful integrations and considers that integration could be achieved considerably earlier.

(f) ANZ will unlikely provide a higher quality offering to Suncorp Bank customers

ANZ submits that Suncorp Bank's customers will enjoy higher quality services by way of ANZ's existing products, and potential investments in improvement to banking services.[162]

- Suncorp Bank has been consistently recognised by industry professionals for its highly competitive interest rates, digital capabilities and new products and solutions, and enjoys a superior NPS score compared to ANZ **[Confidential to third party]**[[redacted] BEN submits that, at odds with ANZ's submission, Suncorp Bank's customers will experience a lower level of service as a result of the Proposed Acquisition.

- BEN further submits that, in a counterfactual where BEN acquired Suncorp Bank, customers of a merged BEN/Suncorp Bank would retain the superior service offering provided by both banks. BEN is consistently recognised as

[160] ACCC, Merger Authorisation Guidelines, October 2018, at [8.3].

[161] Australian Financial Review, 'Slow ANZ-Suncorp deal synergies add risk: analysts', 19 July 2022: https://www.afr.com/companies/financial-services/slow-cooking-anz-suncorp-deal-benefits-add-risk-analysts-20220719-p5b2n0.

[162] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.17].

Australia's most trusted bank,[163] and has received many industry awards for its customer service and home loan offerings.[164]

- ANZ also submits that "to the extent customers respond to investments in improving the quality of banking services, ANZ will have an incentive to apply a portion of its cost savings toward further such investments."[165] As extensively addressed at section 7.2, it is BEN's submission that ANZ will not have any incentive to make these investments due to its substantial pricing power as a major Australian bank. Conversely, if BEN were to acquire Suncorp Bank, there would be a greater incentive to invest cost savings to improve its offerings and continue to compete with ANZ.

7.3 Any claimed lower wholesale funding costs are unlikely to be passed onto consumers

ANZ submits that the Proposed Acquisition would allow it to acquire wholesale funding at a lower cost, which amounts to a productive efficiency. BEN considers it highly unlikely that there would be cost savings and anticipates that any cost savings that did arise from cheaper wholesale funding would likely not flow through to consumers. This is supported by Professor King whereby he concludes that a reduction in wholesale funding costs for Suncorp Bank as a result of its acquisition by ANZ may be a benefit to the individual companies, but it is not necessarily a broader economic benefit.[166] Therefore, very little weight should be placed by the ACCC on any public benefit said to arise from passing on cost savings.

ANZ submits that in periods of financial stress there is a risk that global debt investors will withdraw or reduce fundings for financial institutions in Australia. ANZ says that this risk is greater for small banks like Suncorp Bank, and less so for one of the Major Banks.[167] ANZ submits that this means that, post-acquisition, Suncorp Bank's customers would benefit from greater assurance that economic activities (like credit funding) would continue without disruption in periods of financial distress.[168]

ANZ's Application does not acknowledge the fact that the risk of global debt investors withdrawing funding is greater for smaller banks that have a proportionally heavier reliance on wholesale funding. This is because the significance of the risk posed by reduced access to debt funding in periods of financial stress is dependent on a bank's exposure to wholesale funding. A funding profile predominantly comprising retail deposits, for example, is generally more stable and less susceptible to economic shocks than a funding profile heavily reliant on wholesale funding. Importantly, as stated elsewhere, BEN has a high proportion of retail deposits (~73% in FY22)[169] and so would a BEN/Suncorp Bank merged entity.

[163] Roy Morgan, 'Roy Morgan Trust Brand Awards 2022: Australia's most trusted financial services firms', 2 November 2022: https://www.roymorgan.com/findings/9083-trusted-brand-awards-financial-companies.

[164] DBM, 'DBM Australian Financial Awards 2022', March 2022: https://www.dbmconsultants.com.au/dbm-australian-financial-awards-2022/; RateCity, 'RateCity Home Loan Gold Award Winners', 14 February 2023: https://www.ratecity.com.au/home-loans/awards.

[165] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.16].

[166] Annexure 2, Professor Stephen P King, 'Expert economist's report regarding ANZ/Suncorp', 3 March 2023, at [190]-[194].

[167] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.35].

[168] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.39].

[169] Annexure 18, Bendigo and Adelaide Bank, 'Results Presentation for the full year ended 30 June 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/investor-presentations/full-year-results-presentation-2022.pdf, at p 15.

7.4 Increased prudential safety is unlikely

ANZ submits that the Proposed Acquisition would result in an increase in the prudential capital requirements that would apply in respect of Suncorp Bank's assets (**regulatory capital**), compared to the situation if Suncorp Bank remained owned by Suncorp Group.[170] It goes on to submit that an increase in the regulatory capital held by Suncorp Bank would increase the overall safety of Australia's banking system.[171]

(a) ANZ poses a larger systemic risk to Australia's financial system than a smaller bank

Dr Jeffrey Carmichael concludes in his expert report at a high level of generality that the Proposed Acquisition will yield a net public benefit to Suncorp Bank's depositors.[172] This is because ANZ, as one of the four Major Banks, is classified by APRA as a 'domestic systemically important bank' (**D-SIB**), which means it is required to hold higher levels of capital relative to risk-weighted assets (**RWA**) than smaller banks. This follows from the fact that there is a well-accepted correlation between higher levels of capital relative to RWA and the degree of bank safety (i.e., reduced risk of failure).

Importantly, however, the primary policy rationale for imposing higher prudential requirements on larger banks is that the Major Banks are so important to Australia's financial system that any risk of failure translates to a significant a risk of disruption and economic harm. In APRA's 2013 information paper 'Domestic systemically important banks in Australia', it states that large, interconnected banks are of greater systematic concern when they are complex, noting that complexity is associated with a lack of transparency, and difficulties in understanding the risk exposures of the bank.[173]

The information paper notes that "*APRA's assessment methodology for D-SIBs takes as its starting point the Basel Committee's four objective key indicators of systemic importance: size, interconnectedness, substitutability (including considerations related to the concentrated nature of the banking sector) and complexity*".[174]

The information paper explains that APRA measures a bank's complexity by its exposure to market risk in its trading activities, stating that:

> *'To assess the degree of complexity of banks, APRA has reviewed unpublished data on the notional amount of OTC derivatives and holdings of trading and available for-sale securities. These data show that the four major banks are dominant in these trading activities, with the volume of trading activity undertaken by the fifth largest bank less than half that of the fourth largest bank. APRA has also used traded market risk data (on a risk-weighted basis) as an indicator of complexity. Figure 7 shows the level of traded market risk assets as disclosed by banks in their Pillar 3*

[170] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.40].

[171] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.41].

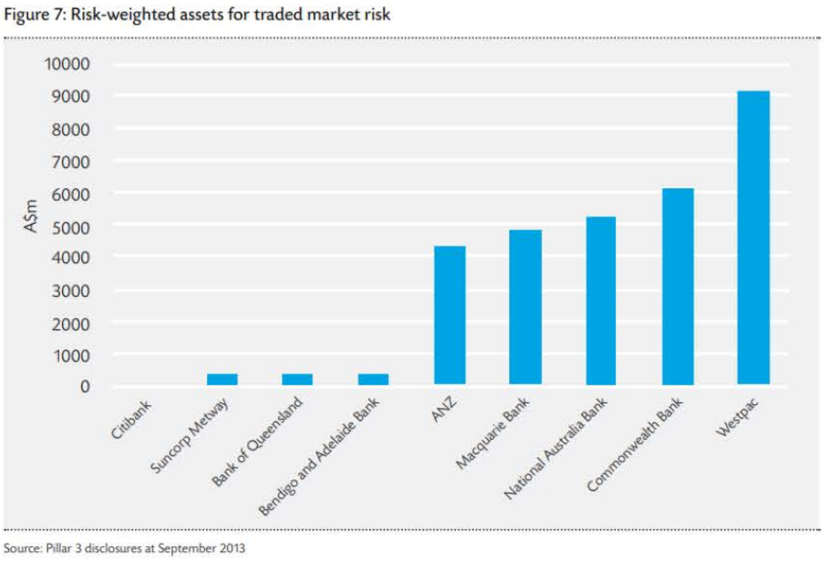
[172] Dr Jeffrey Charmichael, 'Expert Witness Report in relation to ANZ's Authorisation Application For proposed acquisition of Suncorp Bank', 25 November 2022, at p 13.

[173] APRA, 'Information Paper – Domestic systemically important banks in Australia', December 2013.

[174] APRA, 'Information Paper – Domestic systemically important banks in Australia', December 2013, p 8.

disclosures. The largest bank reported significantly higher levels of risk-weighted assets for traded market risk assets compared to the next four banks.'[175]

Figure 9: Risk-weighted assets for traded market risk (APRA 2013)



BEN submits that any increase in ANZ's size proportionally increases, not decreases, the amount of systemic risk posed to Australia's financial system. While the merged entity may be required to hold more regulatory capital (noting that the quantification of this remains highly subjective) than absent the Proposed Acquisition, BEN submits that such an increase may, at best, only balance out the increase in systemic risk, and therefore not amount to a net public benefit.

Dr Carmichael also states that larger banks tend to invest more heavily in risk management systems than smaller banks, and accordingly, a public benefit would follow from Suncorp Bank's integration with ANZ. However, this proposition is contradicted by self-reporting from Major Banks following an APRA inquiry into CBA, whereby Major Banks (including ANZ) identified that they needed to strengthen non-financial risk management, ensure accountabilities are clear and enforced, address long-standing weaknesses and enhance risk culture.[176]

(b) A merged BEN/Suncorp Bank would pose less risk to Australia's financial system

BEN submits that the preferable view is that if Suncorp Bank were to merge with a non D-SIB bank, such as BEN, it would arguably have a significantly reduced impact on financial stability than the Proposed Acquisition. This is because the merged entity would not be a D-SIB bank, and therefore would not pose the same systemic risk to Australia's financial institution.

BEN further submits that a more competitive financial system lowers the risk of misconduct and behaviours that adversely impact the integrity of the financial system. A

[175] APRA, 'Information Paper – Domestic systemically important banks in Australia', December 2013, p 17.

[176] APRA, 'APRA applies additional capital requirements to three major banks in response to self-assessments', 11 July 2019: https://www.apra.gov.au/news-and-publications/apra-applies-additional-capital-requirements-to-three-major-banks-response-to.

competitive and contestable financial system is important for financial stability and provides broader economic benefits.

7.5 Direct benefits to Queensland are limited

(a) ANZ's claimed benefits regarding lending commitments

ANZ submits that the Proposed Acquisition will provide direct public benefits to the Queensland economy and the Queensland community as a result of lending commitments and employment benefits.

ANZ submits, as does Shayne Elliot in his witness statement, that these funding commitments would not have been made but for the Proposed Acquisition.[177] ANZ acknowledges that it may have made available "some new lending"[178] to support the Queensland Government's renewable energy targets in the absence of the Proposed Acquisition, but claims that making these commitments public ensures they are "given priority" and "materially increases" the certainty that they are reached.[179] Elliot sets out in his witness statement that ANZ is held accountable by its Board and shareholders when it makes public commitments, and its progress against public commitments is reviewed by ANZ's Ethics, Environment, Social and Government Committee as well as its external auditor KPMG.[180]

BEN submits that ANZ's claimed benefits are overstated for the reasons set out below.

(b) ANZ would fund renewable energy projects in the absence of the Proposed Acquisition

ANZ concedes that it may have made new lending available to support the Queensland Government's renewable energy targets or new energy projects in Queensland in the absence of the Proposed Acquisition. Especially since ANZ has positioned itself as a leader in sustainable banking, noting in its 2022 ANZ Climate-related Financial Disclosures report that it was the first Australian Bank to join the UN Environment Programme Finance Initiative's Net-Zero Banking Alliance,[181] and noting that ANZ wants to be "the leading Australia and New Zealand-based bank in supporting customers' transition to net zero emissions by 2050".[182]

While it is unclear how much funding ANZ would have dedicated to Queensland, it is likely that ANZ would have provided a certain amount of funding for infrastructure and new energy projects in Queensland in the absence of the proposed acquisition.

[177] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.63] read with Witness Statement of Shayne Elliot at [82].

[178] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.63].

[179] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.63].

[180] Witness Statement of Shayne Elliot at [83]-[84].

[181] ANZ, 'Climate-related Financial Disclosures': https://www.anz.com/content/dam/anzcom/shareholder/2022-anz-climate-related-financial-disclosures-report.pdf, at p 4.

[182] ANZ, 'Climate-related Financial Disclosures'https://www.anz.com/content/dam/anzcom/shareholder/2022-anz-climate-related-financial-disclosures-report.pdf, at p 8.

Further, whatever funds would have been diverted elsewhere other than Queensland as part of ANZ's Climate Change Commitment, would still be benefiting renewable energy and infrastructure projects in other states of Australia.

(c) ANZ's claimed employment-related benefits are minimal and/or hypothetical

Regarding ANZ's commitment to no further Suncorp Bank branch closures or net job losses for Suncorp Bank employees in Queensland for three years post-acquisition, it is significant that this benefit is only temporary, and makes no mention of whether there would be ANZ job losses over the period.

Further, ANZ's claimed public benefits regarding increased job opportunities for Suncorp Bank's employees with a combined business are overstated.

7.6 ANZ's claimed benefit resulting from an increased contribution to the major bank levy is speculative

The major bank levy is an annual tax of 6 basis points on the liabilities of ADIs with total liabilities of over $100 billion. Amounts raised through the major bank levy contribute to the Federal Government's consolidated revenue. ANZ estimates that, post-acquisition, its levy payments will increase its by around $24 million each year.[183] In the present case, the claimed public benefits to arise from the additional major bank levy are even more speculative and vague. The stated primary objective of the major bank levy is "budget repair". ANZ simply submits that the amounts raised will form part of Government revenue "leaving the Government discretion with respect to expenditure".[184]

There is no way for ANZ to quantify, indeed, to know, what potential "public" application this increased levy will be put towards due to the Federal Government's incredibly broad ambit, or even when or where it will be used. Any public benefits claimed simply as a result of a modest increase to the Government's consolidated revenue should be given very little weight by the ACCC.

8 BEN/Suncorp Bank counterfactual will result in significant greater public benefits, including through its community investments

BEN has a proven record of investing in communities. BEN developed the Community Bank model in 1998, which involves local communities establishing a public company and raising capital to fund its establishment and operation, BEN providing the banking product, and BEN sharing the margin on these products with the Community Bank. Since 1998, Community Banks have contributed over $292 million to Australian communities, and in FY22 $19 million was distributed to local communities across Australia.[185] Other infrastructure and renewable energy initiatives facilitated by BEN include the following:

[183] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.71].

[184] ANZ/Suncorp Bank, 'Application for Merger Authorisation', 2 December 2022, at [8.72].

[185] BEN, 'Sustainability Report 2022': https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/sustainability-reports/sustainability-report-2022.pdf.

- **Warburton community hydro power plant**: BEN, alongside Warburton and Yarra Junction Community Bank branches, Yarra Ranges Council, the Victorian Government and other contributions, developed the $1.2 million hydro power plant for power generation in the Victorian town of Warburton. Estimates indicate that up to 700 tonnes of carbon will be spared from the environment each year as a result of the alternative energy supply.[186]

- **Lang Lang 'Field of Dreams' reserve:** BEN's Lang Lang Community Bank committed $3.3 million to fund a community recreational reserve and successfully lobbied the Federal Government and private sector to provide the additional $15 million in funding. The "state of the art" Lang Lang Pavilion and Reserve was completed in March 2021, featuring a gym, community space, netball courts, football and cricket ovals, cricket practice nets, a wetland area, kitchen and umpires' facilities.[187]

- **Community Bank Stadium (Diamond Creek Victoria)**: BEN and Hurstbridge, Diamond Creek and Eltham Community Bank contributed $1 million to the project and partnered with the Victorian and Federal Governments and Nillumbik Shire Council to deliver the sporting stadium, which services 6000 people a week. The stadium features indoor sports courts, a gymnasium, carpark, community meeting space and café.[188]

BEN has provided resourcing and funding for the development of community infrastructure and energy projects for many years, and in the event of a BEN/Suncorp Bank merger, would further invest in these areas in Queensland as well as in all facets of the Queensland community through its network of Community Bank branches in Queensland (of which there are currently 50).

In Queensland, BEN's Community Bank contributions have totalled nearly $16 million over the past seven years. In FY22 over $2.04 million was raised for 658 projects, with the biggest impact areas being education and research (25%) followed by arts, culture and heritage (23%). Recent community investments projects have included:

- **Emu Park foreshore playground**: In 2020, Community Bank Emu Park and Yeppoon partnered with Livingstone Shire Council and Emu Park Surf Life Saving Club to redevelop the Emu Park foreshore and surrounding Kerr Park recreation area with a contemporary playground including an alpha tower, flying fox, all-abilities swing and Galleon ship under a shade structure. The Community Bank contributed over $457,300 to the project.

- **Emu Park QLD Anzac Precinct**: Community Bank Emu Park worked with the Shire of Livingstone, RSL and other local organisations to create the $2 million ANZAC Memorial Walk, contributing $465,000 build a memorial, a gatehouse project and a boardwalk linking the memorial to the foreshore.

- **Mareeba Recreational Complex**: Community Banks Mareeba and Dimbulah committed over $1 million to the Mareeba Recreational Complex, which has developed into a major

[186] BEN, 'Warburton community turns on $1.2 million hydro power plant, 29 October 2018: https://www.bendigobank.com.au/media-centre/warburton-community-turns-on-hydro-power-plant/.

[187] Cardina, 'Lang Lang Community Sport Precinct': https://www.cardinia.vic.gov.au/langlangprecinct; Gabriella Payne, 'Lang Lang Pavilion a 'field of dreams', 15 March 2021: https://pakenham.starcommunity.com.au/news/2021-03-15/lang-lang-pavilion-a-field-of-dreams/.

[188] Nillumbik Shire, 'Community Bank Stadium': https://www.nillumbik.vic.gov.au/Explore/Parks-and-playgrounds/Community-Bank-Stadium.

sporting and recreational precinct including walking paths and bikeways for the broader community, and accredited sporting facilities for basketball, netball and cricket.

- **Sleepbus service for the homeless**: Hervey Bay Bendigo Community Bank contributed over $100,000 and partnered with Sleepbus to convert a bus into a safe mobile sleeping space for up to 20 people each night. The bus will operate nightly from a carpark on the Esplanade in Pialba for homeless and vulnerable people to access. The service includes climate-controlled individual sleep pods with sheets, linen and a pillow included, as well as a lockable door and toilet, CCTV surveillance, storage space and a place for pets.

- **Central Queensland Drivers Education Centre**: Calliope & District Community Bank provided over $250,000 in funding to the Central Queensland Drivers Education Centre, a facility available to all drivers wishing to improve their driving.

- **Community Enterprise Foundation (CEF):** the charitable arm of BEN, launched its Flood Disaster Appeal in March 2022, raising over $717,000 for flood-affected regions in south-east Queensland and northern New South Wales.

9 Conclusion

For the reasons set out above, BEN submits that the Proposed Acquisition should not be authorised.

Whether the counterfactual is the status quo or an alternative buyer such as BEN, the Proposed Acquisition will be likely to SLC in home loans, deposits and agribusiness banking by:

- increasing the market concentration in the hands of the Major Banks, reinforcing coordinated effects;

- further entrenching structural impediments to growth by smaller banks facilitated by increased scale; and

- denying a smaller bank (such as BEN) a platform to achieve scale that would lower its cost of capital and enable it to more vigorously challenge the dominance of the Major Banks by providing a stronger differentiated regional bank offering focused on customer service, competitive pricing and innovation to win market share.

These detriments are not outweighed by the asserted public benefits, which are largely speculative and not merger specific.

List of annexures to Bendigo and Adelaide Bank submission in opposition of merger authorisation

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<tr><td rowspan="19">Confidential Annexure 1</td><td>Statement of Cameron Stewart</td><td>Part</td></tr>
<tr><td>CS-1</td><td rowspan="18">Whole</td></tr>
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<tr><td>Annexure 2</td><td>Statement of Professor Stephen P. King</td><td>Part</td></tr>
</table>

Reference	Description	Restriction of publication claimed
Annexure 3	BEN, 'Results Presentation – for the half year ended 31 December 2022'	Not claimed
Annexure 4	BEN, 'Digital Transformation Market Briefing – Presentation and Script for ASX presentation',	Not claimed
Confidential Annexure 5	[redacted]	Whole
Confidential Annexure 6	[redacted]	Whole
Confidential Annexure 7	[redacted]	Whole
Confidential Annexure 8	[redacted]	Whole
Confidential Annexure 9	[redacted]	Whole
Confidential Annexure 10	[redacted]	Whole
Confidential Annexure 11	[redacted]	Whole
Confidential Annexure 12	[redacted]	Whole
Annexure 13	APRA, 'Monthly authorised deposit-taking institution statistics', December 2022	Not claimed
Confidential Annexure 14	[redacted]	Whole

Reference	Description	Restriction of publication claimed
Confidential Annexure 15	[redacted]	Whole
Confidential Annexure 16	[redacted]	Whole
Confidential Annexure 17	[redacted]	Whole
Annexure 18	Bendigo and Adelaide Bank, Results Presentation for the full year ended 30 June 2022	Not claimed
Confidential Annexure 19	[redacted]	Whole