



HERBERT
SMITH
FREEHILLS

NSW Ministry of Health

**Application for revocation and substitution
and urgent interim revocation and
substitution under section 91C of the
*Competition and Consumer Act 2010 (Cth)***

Lodged by:

The State of New South Wales as represented by the Ministry of
Health

8 September 2021

1 Application for authorisation

1.1 Background

On 13 August 2020, the Australian Competition and Consumer Commission (**ACCC**) granted authorisation to the State of New South Wales, as represented by the Ministry of Health (the **Ministry; Existing Authorisation**).¹ The Existing Authorisation was granted for the broad purpose of enabling the Ministry to maximise healthcare capacity and ensure State-wide coordination of healthcare services to facilitate the most effective and efficient allocation of healthcare services during the period of the COVID-19 pandemic (**Pandemic**).

The Existing Authorisation was granted for the benefit of the following parties:

- 1 State of New South Wales as represented by the Ministry;
- 2 New South Wales Public Health Organisations, in respect of public hospitals and healthcare facilities in the NSW public health system (**Public Health Organisations**);
- 3 the Australian Private Hospitals Association and Day Hospitals Australia (**Representative Bodies**);
- 4 the private healthcare operators (**Private Operators**) identified in **Annexure 1**; and
- 5 any other person notified to the ACCC as intending to engage in the Proposed Conduct,
(together, the **Parties**).

The Existing Authorisation will expire on 30 September 2021.

The impacts of the Pandemic are continuing to have severe impacts across the world and in many places, including Australia, are more acute than during 2020 when the Existing Authorisation was granted.

In Australia and overseas, COVID-19 cases are increasing as new variants (presently the highly infectious Delta variant) emerge and result in new waves of infection. In New South Wales, in particular, case numbers are presently continuing to rise, which is resulting in high numbers of people requiring medical treatment and hospitalisation. The demands on the New South Wales health system are also impacted by the highly infectious nature of the virus variants, which has increased the need for medical staff to support quarantine facilities and communities impacted by lockdowns while at the same time increasing the risk of medical staff having to isolate themselves and being unavailable to work.

The period of time since the Existing Authorisation has demonstrated that the impacts of the Pandemic, particularly on Australian health systems, are both unpredictable and likely to continue for some time. The Pandemic is expected to continue to place high demands on the Australian health care system even once high rates of vaccination have been achieved and in particular as lock-down and other public health measures are eased. It is critical that the State of New South Wales, and in particular the Ministry, remains in a position to respond to the evolving Pandemic effectively and efficiently through the coordination and maximisation of healthcare services across the State during this time.

Since the Existing Authorisation was granted, the Ministry has entered into and given effect to agreements with private healthcare providers to facilitate its response to the Pandemic in an integrated and coordinated manner. Some of those agreements will remain in effect beyond the expiry of the Existing Authorisation and the Ministry expects that it may need to renew or enter into new agreements with Private Operators following the expiry of the Existing Authorisation in order to respond to the Pandemic.

The Ministry is therefore seeking revocation and substitution of the Existing Authorisation to allow it to continue to coordinate the health response to the Pandemic for a 2 year period following the expiry of the Existing Authorisation.

¹ Existing Authorisation number AA1000507-1.

The Ministry considers that this period of authorisation is both necessary and appropriate, taking into account:

- the fact that Australia and countries across the world are continuing to experience new waves of COVID-19 infections and the likelihood that the impacts of the Pandemic will result in increased demand on the New South Wales healthcare system for more than just the next 12 months;
- the significant public benefits that are likely to result from authorisation;
- the fact that, as it has done to date, the Ministry will only put in place and give effect to measures to coordinate healthcare services in New South Wales where it is necessary to do so to respond to the Pandemic; and
- the desire to minimise the administrative burden and costs for the Ministry of needing to seek re-authorisation within a shorter time period in the future.

The Ministry considers that the significant net public benefits that were identified as being likely to result from the Existing Authorisation are even more likely to result from a 2 year period of authorisation given the expected ongoing impacts of the Pandemic.

1.2 Application for interim authorisation and final revocation and substitution

The Ministry is applying for interim revocation and substitution pursuant to section 91(2)(f) of the *Competition and Consumer Act 2010* (Cth) (CCA) and final revocation and substitution pursuant to section 91C(1) of the CCA.

To ensure no interruption to the authorised conduct and the agreements which are due to remain in effect beyond the expiry of the Existing Authorisation, and particularly given the current impacts of the Pandemic in New South Wales, the Ministry is requesting interim authorisation is granted prior to the expiry of the Existing Authorisation.

2 Parties to the Proposed Conduct

2.1 Applicant

The State of New South Wales as represented by the Ministry of Health.

Address	Contact	Description of business activities
1 Reserve Road St Leonards NSW 2065	Alfa D'Amato A/Chief Financial Officer and Deputy Secretary Financial Services and Asset Management [REDACTED] [REDACTED] [REDACTED]	The Ministry of Health is the New South Wales Government department responsible for the management and oversight of the State's public health system, including public hospitals, community health and other public health services, as well as the licensing of private health facilities in New South Wales.

2.2 Email address for service of documents in Australia

Contact: Sarah Benbow (Partner, Herbert Smith Freehills)

Email address: [REDACTED]

Telephone: [REDACTED]

3 Authorisation to be revoked (existing authorisation)

3.1 The registration number and date of the authorisation which is to be revoked

AA1000507-1, which is to expire on 30 September 2021.

3.2 Other persons and/or classes of persons who are a party to the authorisation which is to be revoked

In addition to the Ministry, the other persons who are engaged or who are party to the Existing Authorisation are identified in **Annexure 1**.

3.3 The basis for seeking revocation

The Existing Authorisation is due to expire. A substituted interim authorisation and an extended final authorisation is required to ensure that the Ministry can continue to coordinated the New South Wales health response to the ongoing Pandemic efficiently and effectively.

4 Authorisation to be substituted (new authorisation)

4.1 Details of other persons who are engaged, or propose to become engaged, in the Proposed Conduct

In addition to the Ministry, the other persons who are engaged or who are likely to engage in the Proposed Conduct are identified in **Annexure 1**. These are the same parties included in the Existing Authorisation.

5 Agreements with Private Operators

The integration of public and private healthcare facilities is critical to ensuring that the Ministry can continue to maximise the availability of healthcare services in New South Wales in response to the Pandemic in the most efficient and effective manner.

The integration and coordination of private and public healthcare facilities will enable the Ministry to:

- maximise the capacity and resources of the NSW healthcare system, thereby minimising the risk that there will be insufficient capacity and resources to respond to the healthcare needs of patients during the Pandemic;
- provide healthcare services and manage equipment, medical supplies and staff in an efficient and effective manner; and
- support the viability of private healthcare providers in New South Wales to ensure that they can maintain their operations during, and following, the Pandemic.

5.1 Status of agreements with Private Operators

As foreshadowed in its application for the Existing Authorisation, the Ministry entered into partnership agreements (described as Binding Heads of Terms) with a number of Private Operators in 2020 as part of its response to the Pandemic. The objectives of those agreements are set out in section 5.2 below.

A template of the Binding Heads of Terms is attached as Confidential Attachment 1 to [REDACTED]

[REDACTED]

The current status of the agreements entered into between the Ministry and Private Operators is as follows:

[REDACTED]

[REDACTED]

[REDACTED]

While the Ministry does not presently have agreements in place with all of the Private Operators listed in Annexure A, the Ministry considers that it is important for it to retain the flexibility to enter into or renew such agreements in the future with any of those Private Operators in order to respond to the changing and increasingly challenging healthcare impacts of the Pandemic. Any agreements that are entered into or renewed in the future with the Private Operators listed in Annexure A would have both the same objectives and are expected to have substantially the same features as those listed in sections 5.2 and 5.3 below.

While the Ministry does not intend to enter into an agreement with the Representative Bodies listed in Annexure A, the Representative Bodies may facilitate communication and cooperation between the Ministry, Public Health Organisations and Private Operators regarding implementation of healthcare response to the pandemic in accordance with the agreements with Private Operators.

5.2 Objectives of agreements with Private Operators

The objectives of these agreements include:

- (a) integrating the Private Operators with the Ministry's and the Public Health Organisations' response to the Pandemic to provide health services in accordance with their individual capabilities and capacities;
- (b) ensuring the viability of Private Operators during the Pandemic so that they are able to resume operations once it ends;
- (c) ensuring that Private Operators make available sufficient capacity and resources and provide the healthcare services that are required by the Ministry or the Public Health Organisations to respond to the Pandemic;
- (d) ensuring that the Private Operators provide healthcare services in accordance with standards of safety, quality and timeliness, including that patients are treated in the most appropriate setting to optimise health outcomes;
- (e) coordinating equipment, medical supplies and staffing resources to support the Ministry's and the Public Health Organisations' responses to the Pandemic;
- (f) ensuring that the Ministry and the Public Health Organisations obtain healthcare services and access to Private Operators' facilities, equipment and workforce in an efficient, cost-effective and flexible manner; and

- (g) collaborating in an environment that fosters innovation, continuous improvement, cost efficiency, transparency and open, honest and timely communication, (the **Objectives**).

5.3 Key features of agreements with Private Operators

The key features of the agreements include:

- (a) The Ministry will provide funding to the Private Operator on the condition that they provide certain services to the Ministry and Public Health Organisations, including:
 - (1) clinical services that are required to treat a patient referred to or transferred to the Private Operator by or one of the Public Health Organisations;
 - (2) the provision of appropriate facilities, resources, supplies and other support services (including where the clinical treatment within the private facility is provided by clinicians from a Public Health Organisation); and
 - (3) any other Pandemic support services that are required by the Ministry or Public Health Organisations and that the Private Operator is capable of providing;
- (b) the Private Operator must maintain sufficient capacity and resources to meet the likely and anticipated volume of services required by the Ministry or Public Health Organisations;
- (c) the Ministry or Public Health Organisations may require the Private Operator to participate in service control, integration and continuity groups established by the Ministry to facilitate and share information about the coordination of healthcare services across the Private Operators and Public Health Organisations;
- (d) the Private Operator will retain operational control of their facilities (except in an emergency or a major default), however clinicians from a Public Health Organisation may perform clinical services at private facilities;
- (e) subject to its obligations to provide capacity, resources and services to the Ministry and Public Health Organisations, the Private Operator will continue to provide services to private patients in accordance with its normal business practices;
- (f) public patients will not be required to pay for any cost of treatment by, or using the resources or facilities of, a Private Operator; and
- (g) to the extent that it is in the control of the Private Operator, it must maintain the full workforce at each of its facilities and do all things reasonably necessary to ensure that it remains viable during the Pandemic and can resume operations when the Pandemic ends.

6 Conduct to be authorised

6.1 Proposed Conduct

The Proposed Conduct is the same as the conduct that was authorised in the Existing Authorisation. The parties for whom authorisation is sought are also identical to the Existing Authorisation.

The Ministry is seeking further authorisation for it, the Private Operators, Public Health Organisations and the Representative Bodies to cooperate in implementing and giving effect to the integrated provision of healthcare across New South Wales, in accordance with the agreements with Private Operators.

This will involve the following Proposed Conduct:

- (a) giving effect to existing agreements with Private Operators and negotiating and entering into further agreements with Private Operators as required;

- (b) consistent with the Objectives, coordinating:
- (1) service and patient allocation between the Private Operators and Public Health Organisations;
 - (2) the restriction of the type of services provided by the Private Operators, or their capacity to provide services; and
 - (3) the sharing, and allocation of resources, including staff and medical supplies and equipment, between the Private Operators and Public Health Organisations;
- (c) where it is necessary to facilitate the efficient integration and coordination of healthcare services across New South Wales and give effect to the agreements with Private Operators, engaging in coordinated group discussions and sharing information with some or all of the Private Operators, Public Health Organisations and the Representative Bodies; and
- (d) engaging in any other conduct that is necessary to facilitate the efficient integration of healthcare services across New South Wales and give effect to the agreements with Private Operators, at the request or direction of the Ministry or Public Health Organisations,
- (the **Proposed Conduct**).

Authorisation is not sought for any coordination or agreement between Private Operators, including through the Representative Bodies, other than as requested or directed by the Ministry or Public Health Organisations, to give effect to the agreements with Private Operators. The agreements are not intended to permit the Private Operators to coordinate the pricing of services. They are also not intended to affect any competitive processes concerning the provision of services to private patients by the Private Operators.

The Proposed Conduct is necessarily broad to ensure that the NSW healthcare system can continue to respond quickly, effectively and efficiently to the changing healthcare impacts of the Pandemic, within the parameters of the agreements with Private Operators.

6.2 Provisions of the *Competition and Consumer Act 2010* (Cth) that may apply to the Proposed Conduct

The relevant provisions of the *Competition and Consumer Act 2010* (Cth) that may apply to the Proposed Conduct are:

- Division 1 of Part IV (cartel conduct);
- Section 45 (contracts, arrangements or understandings that restrict dealings or affect competition);
- Section 45 (concerted practices);
- Section 46 (misuse of market power); and
- Section 47 (exclusive dealing).

6.3 Term of authorisation

As explained in section 1.1 of this application, the impacts of the Pandemic, in particular the demands it will place on the New South Wales healthcare system, are expected to continue for some time.

It is critical that the State of New South Wales, and in particular the Ministry, remains in a position to respond to the evolving Pandemic effectively and efficiently through the coordination and maximisation of healthcare services across the State, throughout this period.

The Ministry is therefore seeking revocation and substitution of the Existing Authorisation to allow it to continue to coordinate the health response to the Pandemic for a 2 year period following the expiry of the Existing Authorisation.

The Ministry considers that this period of authorisation is both necessary and appropriate, taking into account:

- the fact that Australia and countries across the world are continuing to experience new waves of COVID-19 infections and the likelihood that the impacts of the Pandemic will result in increased demand on the New South Wales healthcare system for more than just the next 12 months;
- the significant public benefits that are likely to result from authorisation;
- the fact that, as it has done to date, the Ministry will only put in place and give effect to measures to coordinate healthcare services in New South Wales where it is necessary to do so to respond to the Pandemic; and
- the desire to minimise the administrative burden and costs for the Ministry of needing to seek re-authorisation within a shorter time period in the future.

6.4 Persons who may be impacted by the Proposed Conduct

The following classes of persons may be impacted by the Proposed Conduct:

- public and private hospitals;
- individuals in New South Wales who may require healthcare services;
- healthcare workers in both public and private hospitals; and
- suppliers and potential suppliers of medical equipment, supplies or services.

7 Significant net public benefits

7.1 Substantial public benefits

In the Final Determination for the Existing Authorisation, dated 13 August 2020, the ACCC recognised that the proposed conduct was likely to result in a number of substantial public benefits.

As set out at paragraphs 29 and 30 of the previous decision:

The ACCC considers that the Proposed Conduct will allow the participating parties to coordinate the medical response to the Pandemic in New South Wales as efficiently and effectively as possible, including by facilitating the swift response to any outbreaks that may emerge in New South Wales. The ACCC considers that this is likely to contribute to public confidence during the Pandemic. The ACCC considers that the Proposed Conduct is likely to result in significant benefits to the public by supporting the timely deployment of critical resources.

In addition, the ACCC considers that there are likely to be some contracting efficiencies resulting from the Proposed Conduct, and these may be more difficult to achieve without authorisation.

As the Proposed Conduct (and the parties for whom authorisation is sought) is the same as the conduct authorised in the Existing Authorisation, the same public benefits are likely to arise from revocation and substitution. The importance of the Proposed Conduct, and the significance of the public benefits resulting from it, is increased by the acute impacts that the Pandemic is continuing to have in Australia and overseas, particularly in New South Wales, and the increasing demands that this is placing on healthcare services.

Given the expectation that the Pandemic will continue to impact Australia and place increased demand on our healthcare services for more than the next 12 months, the Proposed Conduct is likely to result in these significant public benefits for the duration of the 2 year authorisation sought.

7.2 Net public benefits

Consistent with the conclusion in the ACCC's Final Determination for the Existing Authorisation, the Ministry considers that the Proposed Conduct will continue to result in significant public benefits that outweigh any potential public detriment.

The Ministry considers that no public detriment arose as a result of the Existing Authorisation and that no public detriments are likely to arise as a result of the same Proposed Conduct in the future. The Ministry has implemented its response to the Pandemic in a manner that has minimised impacts on the provision of healthcare services by Private Operators and the potential for any anti-competitive detriments to occur, and will continue to do so in the future.

In particular, it has, to date, negotiated its agreements on a bilateral basis with each of the Private Operators. It has also not facilitated coordination between Private Operators regarding the services that each will offer and to the extent possible has minimised the restrictions placed on the provision of services by Private Operators in response to the Pandemic.

While the Proposed Conduct is necessarily broad enough to allow for the Ministry to facilitate coordination between Private Operators, the Ministry intends to continue to implement its response to the Pandemic in a manner than minimises the need for such coordination, where possible.

Additionally, as recognised by the ACCC in the Final Determination for the Existing Authorisation, in respect of the same Proposed Conduct that was previously authorised:²

- irrespective of the Proposed Conduct, the operations of Private Operators are likely to be impacted by public policy decisions responding to the increased demand on healthcare services in New South Wales and Australia. For example, on 19 August 2021, special conditions were placed on the certain surgical class private health facilities in New South Wales, which placed restrictions on the ability of those facilities to conduct certain non-urgent elective surgery procedures;
- nothing in the agreements with Private Operators is intended to affect the normal competitive process vis-à-vis the provision of healthcare services to private patients;
- the Proposed Conduct does not extend to any price agreements between private hospitals for non-COVID-19 services;
- the Proposed Conduct does not extend to any coordination or agreement between Private Operators or between Private Operators and the Public Health Organisations other than as necessary or desirable to give effect to the agreements with Private Operators and facilitate the Objectives;
- coordination between the participating parties can only occur at the request or direction of the Ministry or one or more of the Public Health Organisations;
- any information shared under the Proposed Conduct is likely to lose relevance following the cessation of the Proposed Conduct; and
- as reflected by the way in which the agreements with Private Operators have been implemented to date, the Proposed Conduct is intended to provide a temporary response to the Pandemic implemented only to the extent and when considered necessary by the Ministry, rather than an ongoing arrangement.

These considerations apply to the Proposed Conduct. In these circumstances, the Ministry considers that the Proposed Conduct will not lead to any meaningful public detriment and will lead to significant net public benefits. A substituted authorisation should therefore be granted.

8 Conditions

The Existing Authorisation was granted pursuant to the following conditions:

² Existing Authorisation Determination, paragraph 38.

- **Condition 1 – Reporting Requirements:** The Ministry must provide regular updates to the ACCC at a frequency agreed between the Ministry and the ACCC, and provide any additional information reasonably requested by the ACCC.
- **Condition 2 – Notification of future parties:** To the extent that the Ministry believes it necessary or desirable for any other private healthcare operators (other than the private healthcare operators listed in Attachment 1) to participate in the Proposed Conduct, the Ministry must notify the ACCC of the identity of those parties.

Details of agreements with Private Operators entered into by the Ministry were provided to the ACCC in accordance with these conditions. As noted above, the Ministry does not consider that any public detriments have resulted from implementing or giving effect to these agreements.

In light of this, and given any new or renewed agreement are likely to be on substantially similar terms, the Ministry does not consider that it remains essential for it to continue to provide regular update reports to the ACCC on these arrangements in order to address any potential for public detriment. Removing this requirement will also reduce administrative, resource and cost burdens for the Ministry at a time when it is experiencing extremely high work demands in coordinating the healthcare response to the Pandemic.

The Ministry therefore submits that the revocation and substitution should be granted without conditions or only with Condition 2 from the Existing Authorisation.

9 Conclusion

For the reasons set out above, the Ministry applies for:

- revocation and substitution of Authorisation AA1000507 for the Proposed Conduct for a 2 year period; and
- interim authorisation to be granted for the Proposed Conduct prior to the expiry of the Existing Authorisation.

Annexure 1 – Details of other persons who are engaged, or propose to become engaged, in the Proposed Conduct

In addition to the Ministry, the persons who are engaged or who are proposed to become engaged in the Proposed Conduct are:

- 1 The following New South Wales private healthcare operators (and their related bodies corporate) (**Private Operators**):

Overnight facilities

- Adventist Healthcare Limited
- Alpha Pacific Hospitals Pty Ltd
- Alpha Westmead Private Hospital Pty Limited
- Alwyn Holdings Pty Ltd
- AME Hospitals Pty Ltd
- AME Properties Pty Ltd
- Armidale Hospital Pty Limited
- Australian Hospital Care (Lady Davidson) Pty Ltd
- Bondi Newco Pty Ltd
- Brisbane Waters Administration Pty Limited
- Calvary Health Care Riverina Limited
- Captia Pty Limited
- Central Coast Private Hospital Pty Ltd
- Central Lakes Hospitals Pty Ltd
- Central West Medical Group Pty Ltd
- Charlestown Private Hospital Pty Ltd
- Delmar Private Hospital Pty Ltd
- East Sydney Day Hospital Pty Ltd
- Eastern Suburbs Private Hospital Pty Ltd
- Forster Private Hospital Pty Ltd
- Gordon Clinic Pty Limited
- HCOA Operations (Australia) Pty Limited
- Health Care Corporation Pty Ltd
- Healthe Care Dubbo Pty Ltd
- Healthe Care Hironnelle Pty Ltd
- Healthe Care Lingard Pty Ltd
- Healthe Care North Gosford Pty Ltd
- Health Care Speciality Holdings Pty Ltd
- Health Care Surgical Holdings Pty Ltd
- Healthscope Operations Pty Ltd
- Herglen Pty Ltd
- Hurstville Private Pty Ltd
- Hyperbaric Health Pty Ltd
- Insight Newco Pty Ltd

- Kaizen Hospitals (Holroyd) Pty Limited
- Kaizen Hospitals (Malvern) Pty Limited
- Kogarah Private Hospital Pty Ltd
- Lakeview Private Hospital Pty Ltd
- Lifehouse Australia Limited as Trustee for the Lifehouse Australia Trust
- Macquarie Health Corporation Limited
- Macquarie Hospital Services Pty Ltd
- Maitland Private Hospital Pty Ltd
- Mayo Healthcare Group Pty Ltd
- Minchinbury Community Private Hospital Pty Limited
- MQ Health Pty Limited
- Mt Wilga Pty Ltd
- NBH Operator Co Pty Ltd
- Newcastle Private Hospital Pty Limited
- North Shore Private Hospital Pty Limited
- P.O.W. Hospital Pty Limited
- Peninsula Health Care Pty Limited
- Phiroan Pty Ltd
- Pittwater Hospital Services Pty Ltd
- Presbyterian Church (NSW) Property Trust
- President Private Hospital Pty Limited
- Pruinosa Pty Ltd
- Ramsay Health Care Australia Pty Ltd
- Royal Rehabilitation Centre Sydney
- RR Private Limited
- Shellharbour Private Hospital Pty Limited
- Sidbeal Pty Ltd
- South Coast Private Pty Limited
- St John of God Hawkesbury District Health Campus Ltd
- St John of God Health Care Inc
- St Luke's Care
- St Vincent's Private Hospitals Ltd
- Sutherland Heart Clinic Pty Ltd
- Sydney Surgery Centre Pty Ltd
- The Congregation of the Religious Sisters of Charity Australia
- The Hills Clinic Pty Ltd
- The Hunter Valley Private Hospital Pty Ltd
- Trustees of the Roman Catholic Church of Diocese of Lismore
- Vexal Pty Ltd
- Waratah Private Hospital Pty Ltd
- Wesley Community Services Limited

- Westmead Rehabilitation Hospital Pty Ltd
- Wolper Jewish Hospital
- Woodose Pty Ltd

Day only facilities

- AAC Norwest Day Surgery Pty Ltd
- Albury Day Surgery Pty Ltd
- AMJO Medial Services Pty Ltd
- Andrew Chang Services Pty Ltd
- Angelo Tsirbas
- B. Braun Avitum Australia Pty Ltd
- Baardon Medical Services Pty Ltd
- Betryan Investments Pty Ltd
- Bredd Pty Limited
- Calvary Health Care Riverina Limited
- Campsie Day Surgery Pty Ltd
- Central Coast Surgery Pty Ltd
- Centre for Digestive Diseases Pty Ltd
- CFC Global Pty Ltd
- City West Day Surgery Pty Ltd
- Coffs Harbour Day Hospital Pty Ltd
- Cosmos Cosmetic Day Surgery Pty Ltd
- Cura Newco 5 Pty Ltd
- Dalmarte Pty Ltd
- Dee Why Endoscopy Pty Ltd
- Dr R Fitzsimons, Jennifer Arnold Pty Ltd, S.T. Chung & Co Pty Ltd, S M D M Pty Ltd, Dev Jyoti Pty Ltd
- Drs S & N Sachdev
- Duer Investments Pty Limited
- Eastern Heart Clinic Pty Limited
- Edward Sun Proprietary Limited, Richard Foster Pty Limited
- Elida Holdings Pty Ltd
- Endoscopy Service Pty Ltd
- Felpet Pty Ltd
- Fresenius Medical Care Australia Pty Ltd
- Galome Pty Ltd
- Genea Limited
- Genesis Cancer Care Victoria Pty Ltd
- Germoline Pty Ltd
- Ghabrial Medical Services Pty Ltd
- Hamilton Day Surgery Pty Ltd
- Hathorn Holdings Pty Ltd

- HCoA Operations (Australia) Pty Limited
- Healthwoods Day Surgery Pty Ltd
- Hereward Pty Ltd
- Hodgkinson, Darryl James
- Idameneo (123) Pty Ltd
- Integrated Clinical Oncology Network Pty Ltd
- IVF Australia Pty Ltd
- Kearns & Smith Eye Services Pty Ltd
- Kogarah Day Surgery Pty Ltd
- Lacular Pty Limited
- Lau, Dr A T S
- Lithgow Community Private Hospital Limited
- Liverpool Day Surgery Pty Ltd
- Luke Hazell Pty Ltd
- Madison Day Surgery Pty Ltd
- Marie Stopes International
- Mark Paul Kohout
- Miranda Day Surgery Pty Limited
- NDH Newco 1 Pty Ltd
- Newcastle Endoscopy Centre Pty Limited
- Newcastle Eye Hospital Pty Limited
- Newland Street Specialist Centre Pty Ltd
- Nexus Day Hospitals Pty Ltd
- Northern Cancer Institute (Frenchs Forest) Pty Limited
- Northern Cancer Institute Pty Ltd
- Oopchar Trading Pty Ltd
- Parramatta Eye Centre Pty Ltd
- PDS Investment Holdings Pty Limited
- Peter Anthony Martin Pty Ltd
- Port Macquarie Ophthalmic Surgery Pty Ltd
- Poruby Pty Limited
- Presmed Australia Pty Ltd
- Radiation Oncology Associates Pty Limited
- Ramsay Health Care Australia Pty Ltd
- Ranchbelt Pty Limited
- Randwick Endoscopy Centre Pty Ltd
- Regional Imaging Limited
- Riverina Cancer Care Centre Pty Ltd
- Shewhing Pty Limited
- Sight for Life Foundation
- Skin & Cancer Foundation Australia

- SMDCC Pty Limited
 - South Medical Pty Ltd
 - South Western Day Surgical Centre Pty Ltd
 - Southern Suburbs Day Procedure Centre Pty Limited
 - Southside Cancer Care Centre Pty Ltd
 - Sydney Day Surgery Prince Alfred Pty Limited
 - Sydney Vision Services Pty Ltd
 - Takirosavi Pty Ltd
 - The Eye Institute Pty Ltd
 - The Surgical Chamber Pty Ltd
 - The Trustees of the Roman Catholic Church for the Diocese of Lismore (St Vincent's Hospital)
 - Trustee of the Baydoor Trust
 - Tweed Surgicentre Pty Ltd
 - VEI Services Pty limited
 - Votrait No 604 Pty Ltd
 - Wollongong Day Surgery Pty Ltd
- 2 The Australian Private Hospitals Association and Day Hospitals Australia (**Representative Bodies**).
- 3 New South Wales Public Health Organisations as defined in the *Health Services Act 1997* (NSW) (**Public Health Organisations**). This covers public health facilities, including the following:
- Albury Wodonga Health - Albury Campus
 - Armidale Rural Referral Hospital
 - Auburn Hospital & Community Health Services
 - Ballina District Hospital
 - Balmain Hospital
 - Balranald Multi Purpose Service
 - Bankstown-Lidcombe Hospital
 - Baradine Multi Purpose Service
 - Barham Koondrook Soldiers Memorial Hospital
 - Barraba Multi Purpose Service
 - Batemans Bay Hospital
 - Bathurst Base Hospital
 - Batlow/Adelong Multi Purpose Service
 - Bellinger River District Hospital
 - Belmont Hospital
 - Berrigan War Memorial Hospital/Multi Purpose Service
 - Bingara Multipurpose Service
 - Blacktown Hospital
 - Blayney Multipurpose Service
 - Blue Mountains District Anzac Memorial Hospital

- Boggabri Multi Purpose Service
- Bombala Multi Purpose Service
- Bonalbo Hospital
- Boorowa Multi Purpose Service Hospital
- Bourke Multi Purpose Service
- Bourke Street Health Service Goulburn
- Bowral Hospital
- Braeside Hospital
- Braidwood Multi Purpose Service
- Brewarrina Multi Purpose Service
- Broken Hill Base Hospital
- Bulahdelah Community Hospital
- Bulli Hospital
- Byron Central Hospital
- Calvary Health Care Sydney Ltd
- Calvary Mater Newcastle
- Camden Hospital
- Campbelltown Hospital
- Canowindra Soldiers Memorial Hospital
- Canterbury Hospital
- Casino And District Memorial Hospital
- Cessnock District Hospital
- Cobar District Hospital
- Coffs Harbour Base Hospital
- Coledale Hospital
- Collarenebri Multi Purpose Service
- Concord Repatriation Hospital
- Condobolin District Hospital
- Condobolin Retirement Village
- Coolah Multi Purpose Service
- Coolamon-Ganmain Multi Purpose Service Hospital
- Cooma Hospital & Health Service
- Coonabarabran District Hospital
- Coonamble Health Service
- Cootamundra District Hospital
- Corowa Health Service
- Cowra District Hospital
- Crookwell District Hospital
- Culcairn Multi Purpose Service Hospital
- Cumberland Hospital
- David Berry Hospital

- Delegate Multi Purpose Service
- Deniliquin Hospital
- Denman Multi Purpose Service
- Dorrigo Multi Purpose Service
- Dubbo Base Hospital
- Dunedoo Multi Purpose Service
- Dungog Community Hospital
- Emmaville - Vegetable Creek Residential Aged Care
- Eugowra Memorial Multi Purpose Service
- Fairfield Hospital
- Finley Hospital & Community Health Care
- Forbes District Hospital
- Gilgandra Multi Purpose Service
- Glen Innes District Hospital
- Gloucester Soldiers Memorial Hospital
- Goodooga Hospital
- Gosford Hospital
- Goulburn Base Hospital
- Gower Wilson Multi Purpose Service
- Grafton Base Hospital
- Greenwich Hospital
- Grenfell Multi Purpose Service
- Griffith Base Hospital
- Gulargambone Multi Purpose Service
- Gulgong Health Service
- Gundagai District Hospital
- Gunnedah District Hospital
- Guyra Multi Purpose Service
- Hay District Hospital
- Henty Multi Purpose Service
- Hillston District Hospital
- Holbrook District Hospital
- Hornsby Ku-Ring-Gai Hospital
- Hunter New England Mental Health Service
- Inverell District Hospital
- Ivanhoe Health Service
- Jerilderie Multi Purpose Service
- John Hunter Hospital Royal Newcastle Centre
- Junee Multi Purpose Service
- Karitane
- Kempsey District Hospital

- Kurri Kurri District Hospital
- Kyogle Memorial Multi Purpose Service
- Lake Cargelligo Multi Purpose Service
- Leeton District Hospital
- Lightning Ridge Multipurpose Health Service
- Lismore Base Hospital
- Lismore Base Hospital - Riverlands Drug & Alcohol Service
- Lithgow Hospital
- Liverpool Hospital
- Lockhart & District Hospital
- Long Jetty Health Care Facility
- Lourdes Hospital & Community Services
- Macksville District Hospital
- Maclean District Hospital
- Macquarie Hospital
- Manilla Health Service
- Manning Rural Referral Hospital (Taree)
- Mercy Care Hospital - Young
- Mercy Health Service
- Merriwa Multi Purpose Service
- Milton Ulladulla Hospital
- Molong Health Service
- Mona Vale Hospital
- Moree District Hospital
- Moruya District Hospital
- Mount Druitt Hospital
- Mudgee Health Service
- Murrumbah-Harden Hospital
- Murwillumbah District Hospital
- Muswellbrook Hospital
- Narrabri District Hospital
- Narrandera Hospital
- Narromine Hospital & Community Health
- Nepean Hospital
- Neringah Hospital
- Nimbin Multi Purpose Service
- Nyngan Multi Purpose Service
- Oberon Multi Purpose Service
- Orange Health Service
- Pambula District Hospital
- Parkes District Hospital

- Peak Hill Health Service
- Port Kembla Hospital
- Port Macquarie Base Hospital
- Portland Tabulam Health Centre
- Prince Albert Tenterfield
- Prince Of Wales Hospital
- Queanbeyan District Hospital
- Quirindi Community Hospital
- Royal Hospital For Women
- Royal North Shore Hospital
- Royal Prince Alfred Hospital
- Royal Rehabilitation Hospital - Coorabel/Moorong
- Ryde Hospital
- Rylstone District Hospital
- Sacred Heart Health Service
- Scott Memorial Hospital, Scone
- Shellharbour Hospital
- Shoalhaven District Memorial Hospital
- Singleton District Hospital
- South East Regional Hospital
- Springwood Hospital
- St George Hospital
- St Joseph's Hospital
- St Vincent's Hospital (Darlinghurst)
- St Vincent's Hospital (Lismore)
- Sydney Children's Hospital
- Sydney Hospital And Sydney Eye Hospital
- Tamworth Rural Referral Hospital
- Temora Hospital
- The Children's Hospital At Westmead
- The Forensic Hospital
- The Maitland Hospital
- The Sutherland Hospital
- The Tweed Hospital
- Tibooburra Health Service
- Tingha Multipurpose Service
- Tocomwal Hospital
- Tomaree Community Hospital
- Tottenham Hospital
- Trangie Multi Purpose Health Service
- Tresillian Family Care Centre - Belmore

- Tresillian Family Care Centre - Willoughby
- Tresillian Family Care Centre - Wollstonecraft
- Trundle Multi Purpose Service
- Tullamore Multi Purpose Health Service
- Tumbarumba Multi Purpose Service
- Tumut District Hospital
- Urana Health Service
- Urbenville Health Service
- Wagga Wagga Rural Referral Hospital
- Walcha Multipurpose Service
- Walgett Health Service
- War Memorial Hospital
- Warialda Multipurpose Service
- Warren Multi Purpose Health Service
- Wauchope District Memorial Hospital
- Wee Waa Community Hospital
- Wellington Health Service
- Wentworth District Hospital
- Werris Creek Community Hospital
- Westmead Hospital
- Wilcannia Health Service
- Wilson Memorial Community Hospital
- Wingham Community Hospital
- Wollongong Hospital
- Woy Woy Public Hospital
- Wyalong Hospital
- Wyong Public Hospital
- Yass District Hospital
- Young District Hospital

4 Any other person notified to the ACCC from time to time as intending to engage in the Proposed Conduct.

Declaration by applicant

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Alfa D'Amato

AVChief Financial Officer and Deputy Secretary Financial Services and Asset Management,
Ministry of Health

Date: 8 September 2021