



Draft Determination and interim authorisation

Application for revocation of AA1000507 and the substitution of authorisation AA1000573 lodged by the State of New South Wales as represented by the Ministry of Health in respect of co-ordination of healthcare services in response to the COVID-19 pandemic

Date 28 September 2021

Commissioners: Keogh
Rickard
Brakey
Ridgeway

Summary

The ACCC proposes to re-authorise the State of New South Wales, as represented by the Ministry of Health (the Ministry), and relevant healthcare providers in relation to arrangements for the purpose of maximising healthcare capacity and ensuring New South Wales-wide coordination of healthcare services during the COVID-19 pandemic.

In broad terms, the arrangements involve the Ministry, participating private healthcare providers, and public hospitals in New South Wales sharing information about capacity and resources and, under the oversight and direction of the Ministry, coordinating their activities in relation to the provision of certain medical services or the treatment of particular groups of patients at particular hospitals. The arrangements also allow the coordination of the procurement of medical equipment and supplies and the sharing of resources to meet demand.

The arrangements for which re-authorisation are sought are the same as those previously authorised by the ACCC on 13 August 2020. This existing authorisation will expire on 30 September 2021.

The Ministry seeks re-authorisation for a further 12 months. The ACCC notes there is inherent uncertainty as to the period of time the impact of the Pandemic will continue on the health system. Given the ACCC's consideration of the balance of public benefits and detriments and the potential benefits in having certainty of ongoing authorisation, the ACCC proposes to re-authorise the Conduct for 18 months.

The ACCC has also granted interim authorisation to allow the arrangements authorised in 2020 to continue while the ACCC completes its assessment of the application for re-authorisation.

Re-authorisation is proposed to be subject to a condition which requires reporting of conduct engaged in under the authorisation, similar to the requirements of the existing authorisation.

The ACCC invites submissions in relation to this draft determination by 21 October 2021 before making its final decision.

1. The application for authorisation

1.1. On 8 September 2021, the State of New South Wales as represented by the Ministry of Health (the **Ministry**) lodged an application with the Australian Competition and Consumer Commission (the **ACCC**) to revoke authorisation AA1000507 and substitute authorisation AA1000573 for the one revoked (referred to as re-authorisation). The Ministry seeks re-authorisation on behalf of itself and the following parties who are engaged, or propose to become engaged, in the arrangements for a period of 12 months:

- specified private healthcare providers operating in New South Wales as listed in **Attachment 1** (and their related bodies corporate), as well as any other private healthcare providers notified to the ACCC by the Ministry from time to time (the **Participating Providers**), and
- all public hospitals operating in New South Wales, as listed in **Attachment 2**, and any other healthcare facility owned or operated by New South Wales or an authority of the state of New South Wales (**the New South Wales Public Providers**).

- 1.2. This application for revocation and substitution was made under subsection 91C(1) of the *Competition and Consumer Act 2010* (Cth) (the **Act**).
- 1.3. The ACCC may grant authorisation, which provides businesses with protection from legal action under the competition provisions in Part IV of the Act, for arrangements that may otherwise risk breaching those provisions in the Act but which are not harmful to competition and/or are likely to result in overall public benefits
- 1.4. The Ministry seeks re-authorisation for the broad purpose of maximising healthcare capacity and ensuring the New South Wales -wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare services during the period of the COVID-19 pandemic (the **Pandemic**). To achieve this purpose, the Ministry has entered into separate but substantially similar agreements with the Participating Providers, and may enter into further agreements in the future (together, the **Agreements**) in order to achieve the Objectives defined at paragraph 1.6 below.
- 1.5. The Ministry is seeking to replicate the arrangements that are currently in place under the existing authorisation AA1000507, which the ACCC granted on 13 August 2020. The existing authorisation is due to expire on 30 September 2021. As such, the Ministry also requests the ACCC grant interim authorisation to enable the parties to continue to engage in the Conduct while the ACCC is considering the substantive application for re-authorisation. The request for interim authorisation is discussed further in section 6.

The Conduct

- 1.6. The Ministry's objectives include to:
 - (a) integrate the Participating Providers with the Ministry's and the New South Wales Public Providers' response to the Pandemic to provide health services in accordance with their individual capabilities and capacities;
 - (b) ensure the viability of Participating Providers during the Pandemic so that they are able to resume operations once it ends;
 - (c) ensure that Participating Providers make available sufficient capacity and resources and provide the healthcare services that are required by the Ministry or the New South Wales Public Providers to respond to the Pandemic;
 - (d) ensure that the Participating Providers 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) coordinate equipment, medical supplies and staffing resources to support the Ministry's and the New South Wales Public Providers' responses to the Pandemic;
 - (f) ensure that the Ministry and the New South Wales Public Providers obtain healthcare services and access to Participating Providers' facilities, equipment and workforce in an efficient, cost-effective and flexible manner; and,
 - (g) collaborate in an environment that fosters innovation, continuous improvement, cost efficiency, transparency and open, honest and timely communication, (the **Objectives**).

1.7. The Ministry is seeking authorisation to:

- (a) give effect to existing agreements with Participating Providers and to negotiate and enter into further agreements with Participating Providers as required;
- (b) consistent with the Objectives, coordinate:
 - a. service and patient allocation between the Participating Providers and New South Wales Public Providers;
 - b. the restriction of the type of services provided by the Participating Providers, or their capacity to provide services; and
 - c. the sharing, and allocation of resources, including staff and medical supplies and equipment, between the Participating Providers and New South Wales Public Providers;
- (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 Participating Providers, engage in coordinated group discussions and sharing information with some or all of the Participating Providers, New South Wales Public Providers; and
- (d) engage 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 Participating Providers, at the request or direction of the Ministry or New South Wales Public Providers,

(the **Conduct**).

1.8. The key features of the Agreements entered into with the Participating Providers are:

- (a) the Ministry will provide funding to the Participating Providers on the condition that they provide certain services to the Ministry and New South Wales Public Providers, including:
 - i) clinical services that are required to treat a patient referred to or transferred to the Participating Providers by or one of the New South Wales Public Providers,
 - ii) 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 New South Wales Public Provider); and
 - iii) any other Pandemic support services that are required by the Ministry or New South Wales Public Providers and that the Participating Provider is capable of providing;
- b) the Participating Providers must maintain sufficient capacity and resources to meet the likely and anticipated volume of services required by the Ministry or New South Wales Public Providers;
- c) the Ministry or New South Wales Public Providers may require the Participating Providers 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 Participating Providers and New South Wales Public Providers;

- d) the Participating Providers will retain operational control of their facilities (except in an emergency or a major default), however clinicians from a New South Wales Public Providers may perform clinical services at private facilities;
- e) subject to its obligations to provide capacity, resources and services to the Ministry and New South Wales Public Providers, the Participating Providers 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 Participating Provider; and
- g) to the extent that it is in the control of the Participating Provider, 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.

1.9. A copy of the application for authorisation is available on the ACCC's [Authorisations public register](#).

2. Background

2.1. The ACCC recognises the significant challenges that continue to exist as a result of the ongoing Pandemic. There is risk that Australia's health services may continue to be put under pressure in responding to the ongoing Pandemic, and that there is ongoing uncertainty around the effects of the vaccination roll out and increasing COVID-19 case numbers on the public and private health system.

The National Partnership on COVID-19 Response

2.2. On 13 March 2020, the Commonwealth of Australia and each of the states and territories, signed the National Partnership on COVID-19 Response¹ (the **NPA**). The NPA is a commitment between the Commonwealth and the states and territories to respond to the Pandemic.

2.3. The NPA provides that as system managers of public hospitals, each state will enter into agreements with existing private hospitals (including day hospitals) within their jurisdiction, through a consistent agreement, to ensure:

- (a) increased capacity for the Commonwealth and states to rapidly respond to the COVID-19; and
- (b) the viability of private hospitals is maintained during the Pandemic and they are able to resume operations once the Pandemic response ends.

2.4. The Ministry advises that the application for re-authorisation forms part of the implementation of the NPA and funding commitments that have been made by the Australian Government and state and territory Governments.

¹ See <https://www.coag.gov.au/sites/default/files/communique/covid19-npa.pdf>

3. Consultation

- 3.1. Given the limited time between lodgement of the application for reauthorisation and the expiration of the current authorisation, and the uncontentious nature of the existing authorisation for the same conduct, the ACCC has not sought the views of interested parties prior to the release of this draft determination and interim authorisation.
- 3.2. The ACCC will now seek the views of interested parties on the application for re-authorisation, this draft determination and the interim authorisation. The ACCC will consider any views prior to preparation of its final determination.
- 3.3. Public submissions by the Ministry and interested parties will be placed on the Public Register for this matter.

4. ACCC assessment

- 4.1. The ACCC's assessment of the Conduct is carried out in accordance with the relevant authorisation test contained in the Act.
- 4.2. The Ministry has sought re-authorisation for the Conduct in relation to Division 1 of Part IV of the Act, and sections 45, 46 and 47 of the Act. Consistent with subsection 90(7) and 90(8) of the Act, the ACCC must not grant authorisation unless it is satisfied, in all the circumstances, that the Conduct would result or be likely to result in a benefit to the public, and the benefit would outweigh the detriment to the public that would result or be likely to result from the Conduct (the **authorisation test**).
- 4.3. The ACCC's assessment of AA1000573 is made in the context of the ongoing Pandemic. Consistent with the purpose of the Act which is to enhance the welfare of Australians by promoting fair trading and competition, when considering applications for authorisation in response to the Pandemic, the ACCC is seeking to ensure that any changes to the competitive landscape are, wherever possible, temporary.
- 4.4. In making its assessment of the Conduct, the ACCC has considered:
 - the relevant areas of competition likely to be affected by the Conduct. These areas of competition include the supply of overnight and day hospital healthcare services to persons in the state of New South Wales, in both the private and public healthcare system. The supply of surgical and other related healthcare services to persons in the state of New South Wales is also likely to be relevant. These areas of competition encompass a diverse range of healthcare services.
 - the likely future with the Conduct that is the subject of the authorisation compared to the likely future in which the Conduct does not occur. In the future without the Conduct the ACCC considers that the New South Wales Government would be likely to enter into contracts with private healthcare providers on a bilateral basis. These contracts may be on broadly similar terms and would still seek to meet the NPA and other requirements implemented as part of the response to the Pandemic. However, the contracts would not establish the cooperation and coordination mechanisms between private healthcare providers provided for by the Conduct.

Public benefits

4.5. The Act does not define what constitutes a public benefit. The ACCC adopts a broad approach. This is consistent with guidance from the Australian Competition Tribunal (the **Tribunal**) which has stated that the term should be given its widest possible meaning, and includes:

*...anything of value to the community generally, any contribution to the aims pursued by society including as one of its principal elements ... the achievement of the economic goals of efficiency and progress.*²

4.6. The Ministry submits that the Conduct will continue to result in the following public benefits:

- enabling the Participating Providers and the New South Wales Public Providers to work together under the oversight and direction of the Ministry, to coordinate the medical response to the Pandemic as effectively, efficiently and economically as possible;
- reducing the likelihood that private healthcare providers operating in the State of New South Wales will have to partially or fully suspend or cease operations as a result of funding issues caused by any Commonwealth Government restrictions on their ability to provide certain surgeries;
- providing the Ministry with service capacity oversight to allow distribution of service delivery to meet periods of peak demand and minimise patient transfers between healthcare facilities which will allow patients to receive the best possible care available at the time;
- allowing the Participating Providers to be responsive to the needs of the overall healthcare system and coordinate with the New South Wales Public Providers based on clinical priorities, recognising the need for continuity and quality patient care;
- allowing the Participating Providers to work in synchronisation with the public healthcare system and each other and prioritise capacity for COVID-19 patients, urgent care and other healthcare services;
- ensuring medical equipment (including ventilators), PPE, medical supplies and other relevant supplies are, to the extent possible, available where needed to respond to the Pandemic;
- ensuring provision of additional intensive care facilities in response to the Pandemic;
- ensuring the Participating Providers can remain operational, and retain staff under existing industrial arrangements during the Pandemic; and
- ensuring the viability of Participating Providers during and following the Pandemic which will help ensure that following the Pandemic consumers will continue to have a choice of private or public care.

4.7. The Ministry advises that, under the existing authorisation, the authorised parties have entered into and given effect to Agreements and established a Private Hospital Coordination Group. The Ministry submits that it continues to be critical that the Ministry remains in a position to respond to the evolving Pandemic effectively and

² Queensland Co-operative Milling Association Ltd (1976) ATPR 40-012 at 17,242; cited with approval in Re 7-Eleven Stores (1994) ATPR 41-357 at 42,677.

efficiently through the coordination and maximisation of healthcare services across New South Wales, as the Pandemic is expected to continue to place high demands on the Australian healthcare system; in particular as lock-down and other public health measures are eased in accordance with the re-opening strategy in the National Cabinet's plan to transition Australia's National COVID-19 Response.

- 4.8. As noted in paragraph 4.4, the ACCC considers that, without the Conduct, the New South Wales Government would be likely to enter into contracts with private healthcare providers to facilitate access to the private healthcare system's resources; and that such agreements would be on broadly similar terms and would seek to meet the NPA and other requirements implemented as part of the response to the Pandemic. In these circumstances it is likely that the some of the public benefits arising from the ongoing viability of the private healthcare system could be achieved without the Conduct.
- 4.9. However, the ACCC considers that the Conduct will allow the authorised 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 outbreaks in New South Wales. The ACCC considers that this is likely to contribute to public confidence during the Pandemic. The ACCC considers that the Conduct is likely to result in significant benefits to the public by supporting the timely deployment of critical resources.
- 4.10. In addition, the ACCC considers that there are likely to be some contracting efficiencies resulting from the Conduct, and these may be more difficult to achieve in the future without the Conduct.

Conclusion on public benefits

- 4.11. The ACCC considers that the Conduct is likely to deliver significant public benefit through the enhanced coordination and improved responsiveness of the New South Wales healthcare system to the Pandemic.

Public detriments

- 4.12. The Act does not define what constitutes a public detriment. The ACCC adopts a broad approach. This is consistent with guidance from the Tribunal which has defined it as:

...any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency.³

- 4.13. The Ministry submits that it is not aware of any public detriments that have or may result from the Conduct.
- 4.14. The Conduct includes a number of measures to support the New South Wales healthcare system's response to the Pandemic, for example:
- (a) discussion of healthcare operations, facility capacity, and resourcing;
 - (b) allocation of services, including between healthcare facilities;
 - (c) restriction of services, including determining services that can be provided at particular healthcare facilities;

3 Re 7-Eleven Stores (1994) ATPR 41-357 at 42,683.

- (d) sharing of resources, including staff and medical supplies and equipment, to meet demand at particular healthcare facilities; and
- 4.15. While providing a mechanism for the healthcare system to coordinate its response to the Pandemic, these measures may restrict competition. For example, private patients with non-COVID-19 conditions may experience fewer options or longer wait times for healthcare services during these interventions, including because COVID-19 patients are prioritised over other patients. To a large extent, however, many of these detriments would be likely to arise due to increased demand on healthcare resources as a result of the Pandemic, and by public policy decisions in response to it. In that sense, many of these detriments would occur with and without the Conduct.
- 4.16. The Conduct also allows for increased cooperation and coordination between competitors. Agreements between competitors can give rise to competition concerns if the horizontal agreement makes coordination (rather than competition) between firms beyond the terms of the authorised agreement more likely and also across the market more generally. In general, coordination between competitors can cause significant detriment to the public.
- 4.17. However, the ACCC considers that, in the current circumstances, the likely public detriment from the Conduct is limited by a number of factors:
- (a) to the extent that Participating Providers retain the capacity to do so, nothing in the Agreements is intended to affect the normal competitive process vis-à-vis the provision of healthcare services to private patients;
 - (b) the Conduct does not extend to any price agreements between private hospitals for non-COVID-19 services;
 - (c) the Conduct does not extend to any coordination or agreement between Participating Providers or between Participating Providers and the New South Wales Public Providers other than as necessary or desirable to give effect to the Agreements 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 New South Wales Public Providers;
 - (d) there will be continued transparency around the Conduct as the Ministry is required under the Conduct to notify the ACCC of additional Participating Providers, and the ACCC's proposed condition requires the Ministry to provide regular updates to the ACCC;
 - (e) any information shared under the Conduct is likely to lose relevance following the cessation of the Conduct; and
 - (f) the Conduct provides a temporary response to the Pandemic, the measures are not designed or intended to provide a permanent restriction on competition.

Conclusion on public detriments

- 4.18. The ACCC considers that the Conduct is likely to result in some public detriment in the short term because it will reduce competition, including in the supply of overnight and day hospital healthcare services to particular patients in New South Wales. However, there are a number of factors that mean the ACCC considers it unlikely that the Conduct will significantly impact competition in the long term, including oversight by the Ministry and as a result of the transparency provided by the proposed condition.

Balance of public benefit and detriment

- 4.19. The ACCC considers that the Conduct is likely to result in significant public benefits through the enhanced coordination and improved responsiveness of the New South Wales healthcare system to the Pandemic.
- 4.20. The ACCC also considers that the Conduct is likely to result in some public detriment over the short term because it is likely to reduce competition in the supply of hospital healthcare services to certain patients in New South Wales. In the circumstances, the ACCC considers that the reduction in competition is limited (see paragraph 4.17 above) and is not likely to continue in the long term.
- 4.21. Overall, the ACCC considers that the Conduct is likely to result in a public benefit and that this public benefit would outweigh any likely detriment to the public from the Conduct.

Length of authorisation

- 4.22. The Act allows the ACCC to grant authorisation for a limited period of time.⁴ This enables the ACCC to be in a position to be satisfied that the likely public benefits will outweigh the detriment for the period of authorisation. It also enables the ACCC to review the authorisation, and the public benefits and detriments that have resulted, after an appropriate period.
- 4.23. In this instance, the Ministry seeks re-authorisation for a further two years following the expiry of the existing authorisation.
- 4.24. The ACCC notes that there is inherent uncertainty as to the period of time the impact of the Pandemic will continue on the health system, and that this impact is likely to differ from that on other sectors of the economy. Given the ACCC's consideration of the balance of public benefits and detriments and the potential benefits in having certainty of ongoing authorisation, the ACCC proposes to re-authorise the Conduct for 18 months.

5. Draft determination

The application

- 5.1. On 8 September 2021, the Ministry lodged an application to revoke authorisation AA1000507 and substitute authorisation AA1000573 for the one revoked (referred to as re-authorisation). This application for re-authorisation was made under subsection 91C(1) of the Act.
- 5.2. The Ministry seeks re-authorisation for the Conduct described at paragraph 1.7, on behalf of itself, Participating Providers and New South Wales Public Providers, for the broad purpose of maximising healthcare capacity and ensuring the New South Wales - wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare during the period of the Pandemic. As part of these arrangements, the Ministry will enter into Agreements with Participating Providers and form Cluster Groups to plan for and, if necessary, respond to outbreaks of COVID-19 in particular geographic regions in New South Wales.

⁴ Subsection 91(1)

- 5.3. Subsection 90A(1) of the Act requires that before determining an application for authorisation, the ACCC shall prepare a draft determination.

The authorisation test

- 5.4. Under subsections 90(7) and 90(8) of the Act, the ACCC must not grant authorisation unless it is satisfied in all the circumstances that the Conduct would or is likely to result in a benefit to the public and the benefit would outweigh the detriment to the public that would result or be likely to result from the Conduct.
- 5.5. For the reasons outlined in this draft determination, the ACCC is satisfied, in all the circumstances, that the Conduct would be likely to result in a benefit to the public and the benefit to the public would outweigh the detriment to the public that would result or be likely to result from the Conduct.
- 5.6. Accordingly, the ACCC proposes to revoke authorisation AA1000507 and substitute authorisation AA1000573 for the one revoked.

Proposed conditions of authorisation

- 5.7. The ACCC may specify conditions in an authorisation.⁵ The legal protection provided by the authorisation does not apply if any of the conditions are not complied with.⁶
- 5.8. The ACCC may specify conditions in circumstances where, although the relevant public benefit test is met, without the conditions the ACCC would not be prepared to exercise its discretion in favour of the authorisation.⁷
- 5.9. In this instance, the ACCC proposes to grant authorisation with the following condition:

Reporting Requirements

- (a) Subject to paragraph (b) below, the Ministry must provide updates to the ACCC on a quarterly basis (or as otherwise agreed with the ACCC), describing any conduct engaged in during that quarter in reliance upon this authorisation.
- (b) If no conduct was engaged in during that quarter in reliance upon this authorisation, or if there has been no change in conduct since the last update was provided, the Ministry is not required to provide an update.
- 5.10. Under the condition, the ACCC may authorise a Committee or Division of the ACCC, a member of the ACCC or a member of the ACCC staff, to exercise a decision making function under the conditions of this authorisation on its behalf.

Conduct which the ACCC proposes to authorise

- 5.11. Subject to the proposed condition, the ACCC proposes to revoke authorisation AA1000507 and substitute authorisation AA1000573 to enable the Ministry and Participating Providers and New South Wales Public Providers to coordinate healthcare services to facilitate the most efficient and effective allocation of healthcare during the period of the COVID-19 pandemic as described in paragraph 1.7 and defined as the Conduct. The ACCC proposes to grant authorisation to the Conduct

⁵ Section 88(3) of the Act.

⁶ Section 88(3) of the Act.

⁷ Application by Medicines Australia Inc (2007) ATPR 42-164 at [133].

only in so far as it is for the sole purpose of dealing with the effects of the Pandemic in New South Wales.

5.12. Authorisation is proposed to be granted in relation to Division 1 of Part IV of the Act, and sections 45, 46 and 47 of the Act.

5.13. The ACCC proposes to grant conditional authorisation AA1000573 for a further 18 months.

5.14. This draft determination is made on 28 September 2021.

6. Interim authorisation

6.1. Authorisation AA1000507 is due to expire on 30 September 2021. In order to enable due consideration to be given to the application re- authorisation, the ACCC has decided to suspend the operation of authorisation AA1000507 and grant interim authorisation in substitution for that suspended authorisation.⁸ The ACCC has decided to grant interim authorisation for the following reasons:

- A. the need for interim authorisation is due to the impending expiry of AA1000507. The possibility of harm to the Ministry and other interested parties if interim authorisation is not granted may be substantial, because it may reduce the effectiveness and/or efficiency of the New South Wales health system's response to the ongoing Pandemic.
- B. interim authorisation will continue to allow the Ministry and Participating Providers and New South Wales Public Providers to coordinate healthcare services to facilitate the most efficient and effective allocation of healthcare during the ongoing COVID-19 pandemic, while also minimising uncertainty and disruption that will be experienced if interim authorisation is not granted
- C. for the reasons set out in this draft determination, the ACCC considers the conduct specified in relation to authorisation AA1000507 is likely to result in public benefits, and that these public benefits outweigh the likely limited public detriment as a result of this conduct.

6.2. The ACCC grants interim authorisation in relation to the same conduct and parties, and with the same conditions, as specified in authorisation AA1000573.

6.3. Interim authorisation commences immediately and remains in place until it is revoked, the date the ACCC's final determination comes into effect, or when the application for re-authorisation is withdrawn.

7. Next steps

7.1. The ACCC now invites submissions in response to this draft determination by **21 October 2021**. In addition, consistent with section 90A of the Act, the Ministry or an interested party may request that the ACCC hold a conference to discuss the draft determination.

⁸ This decision is made under s 91(2)(f) of the CCA.

Attachment 1 – Participating Providers

1. 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

2. 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
- Votraint No 604 Pty Ltd
- Wollongong Day Surgery Pty Ltd

3. Representative bodies

- The Australian Private Hospitals Association and
- Day Hospitals Australia.

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

Attachment 2: New South Wales Public Providers

New South Wales Public Health Organisations as defined in the *Health Services Act 1997* (NSW). 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
- Tocumwal 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
- Tumberumba 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