



HERBERT
SMITH
FREEHILLS

WA Department of Health

**Application for urgent interim and final
authorisation under s88(1) of the *Competition
and Consumer Act 2010 (Cth)***

Lodged by:

The State of Western Australia as represented by the Department
of Health

28 February 2022

1 Application for authorisation

1.1 Background

On 13 August 2020, the Australian Competition and Consumer Commission (**ACCC**) granted authorisation to the State of Western Australia, as represented by the Department of Health (the **Department; Previous Authorisation**).¹ The Previous Authorisation was granted for the broad purpose of enabling the Department 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 Previous Authorisation was granted for the benefit of the following parties:

- 1 the Department, on behalf of the State of Western Australia;
 - 2 all public hospitals and healthcare facilities owned or operated by the Department or an authority of the Department (**Public Facilities**);
 - 3 the Australian Medical Association (WA) Inc., Day Hospitals Australia, Australian Private Hospitals Association as represented by its Western Australian branch, and Catholic Health Australia (**Representative Bodies**);
 - 4 the private healthcare operators identified in **Annexure 1** (and their related bodies corporate) (**Private Operators**); and
 - 5 any other person notified to the ACCC as intending to engage in the Proposed Conduct.
- (together, the **Parties**).

The Previous Authorisation expired on 30 September 2021.

This application is made on behalf of the Parties listed above as well as residential aged care providers and disability support service or accommodation providers. Annexure 1 lists the parties who are engaged or who are likely to engage in the Proposed Conduct. In respect of residential aged care providers and disability support service or accommodation providers, the Department proposes to notify the ACCC when, and if, relevant service providers engage in the Proposed Conduct.

The Pandemic is continuing to have a severe impact in Australia. COVID-19 cases are increasing as new variants (presently the highly infectious Omicron variant) emerge and result in new waves of infection. In Western Australia daily case numbers are currently rising, with further increases likely to occur as state and international borders continue to open.

The Pandemic is expected to continue to place high demands on the Australian healthcare system even with high rates of vaccination, particularly as public health measures continue to be eased. It is critical that the State of Western Australia, and in particular the Department, 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 Previous Authorisation was granted, the Department 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. Each of these agreements has subsequently expired.

As case numbers are expected to continue to increase across the State, the Department intends to enter into new agreements with Private Operators in order to respond to the Pandemic.

The Department is therefore seeking authorisation to allow it to coordinate the health response to the Pandemic, for an 18 month period from the date on which authorisation is granted.

The proposed 18 month authorisation period is consistent with the period of authorisation granted to health departments in others states/territories in relation to similar conduct. The

¹ Previous Authorisation number AA1000505.

Department 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 Western Australian 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 Department will only put in place and give effect to measures to coordinate healthcare services in Western Australia where it is necessary to do so to respond to the Pandemic; and
- the desire to minimise the administrative burden and costs for the Department of needing to seek re-authorisation within a shorter time period in the future.

The Department considers that the significant net public benefits that were identified as being likely to result from the Previous Authorisation are even more likely to result from an 18 month period of authorisation given the expected ongoing impacts of the Pandemic.

The Department notes that the ACCC has authorised the departments/ministries of health in a number of other jurisdictions to coordinate their respective Pandemic responses with private healthcare providers (**Healthcare Authorisations**).² The scope of authorisation sought by the Department, and the public benefits arising from authorisation are similar to those considered in the Healthcare Authorisations.

1.2 Application for urgent interim authorisation and final authorisation

The Department is applying for urgent interim authorisation and final authorisation under section 88(1) of the *Competition and Consumer Act 2010* (Cth) (**CCA**).

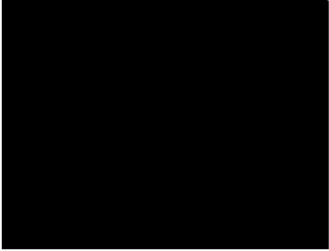
To ensure that the Department can efficiently and effectively respond to the Pandemic, particularly given the current rising case numbers, the Department requests that interim authorisation be granted as soon as possible.

² See e.g. AA1000570-1, AA1000574-1, AA1000572-1, AA1000575-1, AA1000567-1, AA1000573-1.

2 Parties to the Proposed Conduct

2.1 Applicant

The State of Western Australia as represented by the Department of Health (the **Department**).

| Address | Contact | Description of business activities |
|--|---|--|
| 189 Royal Street East Perth WA 6004 |  | The Department is the Western Australian 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 registration of private hospitals in Western Australia. |

2.2 Email address for service of documents in Australia

Contact:

Email address:

Telephone:



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

In addition to the Department, the other persons who are engaged or who are likely to engage in the Proposed Conduct are identified in **Annexure 1**.

3 Agreements with Private Operators

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

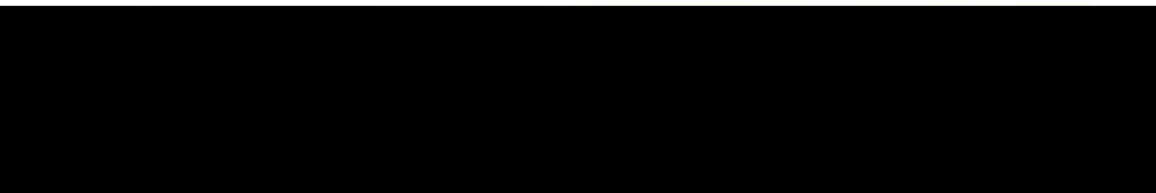
- maximise the capacity and resources of the Western Australian healthcare system, thereby minimising the risk that there will be insufficient capacity and resources to respond to the healthcare needs of patients during the Pandemic;
- provide healthcare services and manage equipment, medical supplies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

3.1 Status of Cooperation Agreements

As foreshadowed in its application for the Previous Authorisation, the Department entered into Cooperation Agreements with a number of Private Operators in 2020 as part of its response to the Pandemic. An example template of the Cooperation Agreement is attached as Confidential

Attachment 1 to this application. Each of these Cooperation Agreements expired prior to the end of the Previous Authorisation.

The Department is currently negotiating new cooperation agreements (**New Cooperation Agreements**). The objectives and key features of the New Cooperation Agreements are substantially the same as the objectives and key features of the Cooperation Agreements.



3.2 Objectives of New Cooperation Agreements

The objectives of the New Cooperation Agreements include:

- (a) for the Department and Private Operators to work cooperatively to successfully respond to the Pandemic;
 - (b) ensuring the ongoing sustainability and operation of the Private Operators' facilities during the Pandemic, including the full retention of the workforces at each facility, so that they are able to resume operations once the pandemic response ends;
 - (c) ensuring that Private Operators make available sufficient capacity and resources and provide the healthcare services and workforce required by the Department to respond to the Pandemic;
 - (d) ensuring that the Private Operators provide equitable access to healthcare services in accordance with required standards, including that patients are treated in the most appropriate setting to optimise health outcomes;
 - (e) ensuring that the Department obtains healthcare services and access to Private Operators' facilities, equipment and workforce in an efficient, cost-effective and flexible manner; and
 - (f) collaborating in an environment that fosters cost efficiency, transparency and open, honest and timely communication.
- (the **Objectives**).

3.3 Key features of New Cooperation Agreements

The Department expects to enter into substantially similar New Cooperation Agreements with each Private Operator. The key features of the New Cooperation Agreements include:

- (a) The Department will provide funding to the Private Operator on a cost-recovery basis on the condition that they provide certain services to the Department, including:
 - (1) any services the Private Operator performs or is authorised to perform immediately prior to the commencement of the New Cooperation Agreement;
 - (2) the Private Operator making specified healthcare facilities available to the Department, including healthcare, beds, equipment, supplies and workforce;
 - (3) any other healthcare services reasonably necessary to respond to a patient who has been (or is suspected to have been) infected with the COVID-19 virus;
 - (4) any services delivered in the community and social care services, including accommodation and nursing for quarantine and isolation cases; and
 - (5) the temporary redeployment of personnel and equipment at the direction of the Department to assist its response to the Pandemic;
- (b) the Department may request the Private Operator to participate in a 'Private Health Coordination Group', which will consist of representatives from some or all of the Private Operators and which will be the forum for coordinating resources between

Private Operators, their facilities and **Department Facilities**, which includes Public Hospitals, Public Health Service Facilities, residential aged care facilities, disability support services facilities and disability support accommodation facilities;

- (c) the Private Operator will retain operational control of their facilities, but must ensure they cooperate with and provide access for public hospital staff at their facilities;
- (d) subject to its obligations to provide capacity, resources and services to the Department, the Private Operator may continue to provide services to private patients in accordance with its normal business practices;
- (e) all patients referred or transferred to private health facilities are to be treated as public patients and will not be required to pay for any cost of treatment by, or using the resources or facilities of, a Private Operator;
- (f) the Private Operator must maintain all categories of employees in the ordinary course of business at its facilities and may be required to second its employees to Public Facilities, residential aged care facilities and disability support services and accommodation facilities if directed by the Department; and
- (g) the Private Operator will cooperate with the Department in respect of the procurement and supply of personal protective equipment and other medical supplies.

4 Conduct to be authorised

4.1 Proposed Conduct

The Proposed Conduct is similar to the conduct that was authorised in the Previous Authorisation. For necessary reasons of flexibility and efficiency, the Department has listed a wide number of entities in Annexure 1. It is likely to be the case that the Department will not enter into New Cooperation Agreements with all of the Private Operators listed.

The Department is seeking interim and final authorisation for it, the Private Operators, the Representative Bodies and the Department Facilities to cooperate in implementing and giving effect to the integrated provision of healthcare across Western Australia, in accordance with the New Cooperation Agreements.

This will involve the following Proposed Conduct:

- (a) negotiating and entering into New Cooperation Agreements with the Private Operators;
 - (b) consistent with the Objectives, coordinating:
 - (1) service and patient allocation between the Private Operators and Department Facilities;
 - (2) the restriction of the type of services provided by the Private Operators, or their capacity to provide services;
 - (3) the sharing, procurement and allocation of resources, including staff and medical supplies and equipment, between the Private Operators and Department Facilities;
 - (c) some or all of the Private Operators and the Representative Bodies engaging in coordinated group discussions and sharing information, including through the Private Health Coordination Group as required or contemplated by the New Cooperation Agreements or otherwise reasonably necessary to facilitate the Objectives and effectively and efficiently coordinate healthcare services across Western Australia;
 - (d) engaging in any other conduct that is necessary to facilitate the efficient integration of healthcare services across Western Australia and give effect to the New Cooperation Agreements, at the request or direction of the Department or a Public Facility.
- (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 Department to give effect to the New Cooperation Agreements. The New Cooperation Agreements are 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 Department can continue to respond quickly, effectively and efficiently to the changing healthcare impacts of the Pandemic, within the parameters of the New Cooperation Agreements.

While the Department does not intend to enter into New Cooperation Agreements with the Representative Bodies, the Representative Bodies may facilitate communication and cooperation between the Department and Private Operators regarding the negotiation and implementation of New Cooperation Agreements.

4.2 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).

4.3 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 Western Australian healthcare system, are expected to continue for some time.

It is critical that the State of Western Australia, and in particular the Department, remains in a position to respond to the evolving Pandemic effectively and efficiently through the coordination and maximisation of healthcare services across the State.

Consistent with other Healthcare Authorisations, the Department is seeking authorisation to allow it to continue to coordinate the health response to the Pandemic for an 18 month period from the date on which authorisation is granted.

The Department 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 Western Australian 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 Department will only put in place and give effect to measures to coordinate healthcare services in Western Australia where it is necessary to do so to respond to the Pandemic; and
- the desire to minimise the administrative burden and costs for the Department of needing to seek re-authorisation within a shorter time period in the future.

4.4 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;

- residential aged care facilities and disability support or accommodation facilities;
- individuals in Western Australia who may require healthcare services;
- healthcare workers in both public and private hospitals; and
- suppliers and potential suppliers of medical equipment, supplies or services.

5 Significant net public benefits

5.1 Substantial public benefits

In the Final Determination for the Previous 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 Western Australia as efficiently and effectively as possible, including by facilitating the swift response to any outbreaks that may emerge in Western Australia. 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 substantially the same as the conduct authorised in the Previous Authorisation, the same public benefits are likely to arise from this authorisation. Given likely increases in COVID-19 case numbers, there is a continued and growing need to allow for coordination as contemplated in the Proposed Conduct.

In addition, as part of considering the recent Healthcare Authorisations, which relate to substantially similar conduct in different jurisdictions, the ACCC has recognised the likelihood of the conduct giving rise to significant public benefits. For example, in the NSW Healthcare Authorisation, the ACCC concluded:

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 COVID-19.³

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 18 month authorisation sought.

5.2 Net public benefits

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

The Department considers that no public detriment arose as a result of the Previous Authorisation and that no public detriments are likely to arise as a result of substantially the same Proposed Conduct in the future. The Department has implemented its response to the Pandemic in a manner that has minimised impacts on the provision of healthcare services by

³ Determination AA1000573, 2 December 2021, paragraph 4.15.

Private Operators and the potential for any anti-competitive detriments to occur, and will continue to do so in the future.

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

Additionally, as recognised by the ACCC in the Final Determination for the Previous Authorisation, in respect of substantially the same Proposed Conduct that was previously authorised:⁴

- 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 Western Australia and Australia;
- nothing in the New Cooperation Agreements 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 Department Facilities other than as necessary or desirable to give effect to New Cooperation Agreements and facilitate the Objectives;
- coordination between the participating parties can only occur at the request or direction of the Department or one or more of the Public Facilities;
- 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 New Cooperation Agreements 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 Department, rather than an ongoing arrangement.

The ACCC has recently assessed the net public benefits arising from substantially similar conduct in its determinations relating to recent Healthcare Authorisations. The above points are reflected in the ACCC's determinations in respect of these authorisations,⁵ where it concluded that the conduct would give rise to net public benefits.

Further, as noted by the ACCC in the NSW Healthcare Authorisation determination:

The ACCC notes that public-in-private patient treatment arrangements, along with any incentive which may exist to extend these beyond what is necessary to respond to COVID-19, would be likely to occur in the absence of the Conduct, in the form of bilateral arrangements between the Ministry and private providers. Therefore, any such detriments which may arise would be likely with or without the Conduct, rather than resulting from the Conduct itself.⁶

Equivalent findings are contained in other Healthcare Authorisation determinations.

In these circumstances, the Department considers that the Proposed Conduct will not lead to any meaningful public detriment and will lead to significant net public benefits. Authorisation should therefore be granted.

⁴ Previous Authorisation Determination, paragraph 38.

⁵ See for example, Determination AA1000573, 2 December 2021, paragraph 4.22.

⁶ Determination AA1000573, 2 December 2021, paragraph 4.19.

6 Conditions

Consistent with the approach taken by the ACCC in other Healthcare Authorisation determinations, the Department is prepared to accept that authorisation be granted on the following condition:

Reporting Requirements

- a) Subject to paragraph (b) below, the Department 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 Department is not required to provide an update.

7 Conclusion

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

- Authorisation of the Proposed Conduct for a period of 18 months from the date on which authorisation is granted.
- Urgent interim authorisation, until the final authorisation commences.

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

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

- 1 The following Western Australian private healthcare providers (and their related bodies corporate) (**Private Operators**):
 - Abbotsford Private Hospital - Healthe Care
 - Absolute Cosmetic Medicine at Image 21
 - Academy Day Hospital
 - Albany Community Hospice
 - Albany Day Hospital
 - AME Hospitals Pty Ltd
 - Bethesda Hospital Inc (trading as Bethesda Health Care)
 - Bunbury Day Hospital
 - Cambridge Day Surgery
 - Churchill Day Surgery
 - Concept Day Hospital
 - Craigie Day Surgery
 - Fresh Start Recovery Programme
 - Genesis Care
 - GI Clinic Perth
 - Healthe Care Marian Centre
 - Healthscope Limited
 - Icon Cancer Centre Midland
 - Icon Cancer Centre Rockingham
 - Joondalup Hospital Pty Ltd
 - Kings Park Day Hospital
 - Lions Eye Institute Day Surgery Centre
 - Marie Stopes Australia - Midland Centre
 - McCourt Street Day Surgery
 - Murdoch Surgicentre
 - Nanyara Medical Group
 - Ngala Family Services
 - Oxford Day Surgery
 - Perth Clinic
 - Perth Day Surgery Centre
 - Perth Dermatology Clinic
 - Perth Eye Hospital
 - Ramsay Health Care Australia Pty Ltd
 - Skin Rejuvenate Day Hospital

- SleepMed Healthcare
 - South Perth Hospital
 - Southbank Day Surgery
 - St John of God Health Care Inc
 - Subiaco Private Hospital
 - Sundew Day Surgery
 - The Park Private Hospital
 - Waikiki Private Hospital
 - Walcott Street Surgical Centre
 - West Coast Endoscopy Centre
 - West Leederville Private Hospital
 - Western Haematology and Oncology Clinics
 - Woodvale Private Hospital for Women
- 2 The Australian Medical Association (WA) Inc., Day Hospitals Australia, Australian Private Hospitals Association as represented by its Western Australian branch, and Catholic Health Australia (**Representative Bodies**)
- 3 All public hospitals operating in Western Australia and any other healthcare facility owned or operated by the Department or an authority of the Department (**Public Facilities**):
- Child and Adolescent Health Service**
- Perth Children's Hospital
- North Metropolitan Health Service**
- Graylands Hospital, Frankland Centre and Selby Older Adult Mental Health Unit
 - King Edward Memorial Hospital for Women
 - Osborne Park Hospital
 - Sir Charles Gairdner Hospital
- South Metropolitan Health Service**
- Fiona Stanley Hospital
 - Fremantle Hospital
 - Murray District Hospital
 - Rockingham General Hospital
 - Rottnest Island Nursing Post
- East Metropolitan Health Service**
- Armadale-Kelmscott Memorial Hospital
 - Bentley Hospital
 - Kalamunda District Community Hospital
 - Royal Perth Hospital
- WA Country Health Service**
- Albany Hospital
 - Augusta Hospital
 - Bayulu Health Centre
 - Beverley Hospital

- Boddington Hospital
- Boyup Brook Soldiers Memorial Hospital
- Bremer Bay Health Centre
- Bridgetown Hospital
- Broome Hospital
- Bruce Rock Memorial Hospital
- Bunbury Hospital
- Burringurrah Health Centre
- Busselton Hospital
- Carnarvon Hospital
- Collie Hospital
- Coolgardie Health Centre
- Coral Bay Health Centre
- Corrigin Hospital
- Cue Health Centre
- Cunderdin Health Centre
- Dalwallinu Hospital
- Denmark Hospital
- Derby Hospital
- Dongara Health Centre
- Donnybrook Hospital
- Dumbleyung Memorial Hospital
- Esperance Hospital
- Exmouth Hospital
- Fitzroy Crossing Hospital
- Geraldton Hospital
- Gnowangerup Hospital
- Goomalling Hospital
- Halls Creek Hospital
- Harvey Hospital
- Hedland Hospital
- Jerramungup Health Centre
- Jurien Bay Health Centre
- Kalbarri Health Centre
- Kalgoorlie Hospital
- Kalumburu Health Centre
- Kambalda Health Centre
- Karratha Health Campus
- Katanning Hospital
- Kellerberrin Memorial Hospital
- Kojonup Hospital

- Kondinin Hospital
- Kukerin Health Centre
- Kununoppin Hospital
- Kununurra Hospital
- Lake Grace Hospital
- Laverton Hospital
- Leonora Hospital
- Lombadina Health Centre
- Looma Health Centre
- Marble Bar Health Centre
- Margaret River Hospital
- Meekatharra Hospital
- Menzies Health Centre
- Merredin Hospital
- Moora Hospital
- Morawa Hospital
- Mount Magnet Health Centre
- Mukinbudin Health Centre
- Mullewa Hospital
- Nannup Hospital
- Narembeen Memorial Hospital
- Narrogin Hospital
- Newman Hospital
- Nookanbah Health Centre
- Norseman Hospital
- North Midlands Hospital
- Northam Hospital
- Northampton Hospital
- Northcliffe Health Centre
- Nullagine Health Centre
- One Arm Point Health Centre
- Onslow Health Service
- Paraburdoo Hospital
- Pemberton Hospital
- Pingelly Health Centre
- Plantagenet Hospital
- Quairading Hospital
- Ravensthorpe Hospital
- Roebourne Hospital
- Sandstone Health Centre
- Southern Cross Hospital

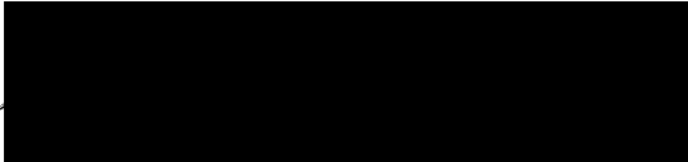
- Tambellup Health Centre
 - Tom Price Hospital
 - Varley Health Centre
 - Wagin Hospital
 - Wangkatjunka Health Centre
 - Warren Hospital
 - Wickepin Health Centre
 - Williams Health Centre
 - Wongan Hills Hospital
 - Wundowie Health Centre
 - Wyalkatchem-Koorda and Districts Hospital
 - Wyndham Hospital
 - Yalgoo Health Centre
 - York Hospital
- 4 Operators in Western Australia of residential aged care facilities, disability support services facilities, or disability support accommodation facilities as notified by the Department to the ACCC.
- 5 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).



Dr D J Russell-Weisz

Director General, Western Australia Department of Health

This 18th day of February 2022

28th

