



Determination

Application for authorisation AA1000591 lodged by
the State of South Australia as represented by the Department for
Health and Wellbeing
in respect of
co-ordination of healthcare services in response to COVID-19

Date: 23 March 2022

Commissioners: Keogh
Rickard
Brakey
Ridgeway

Summary

The ACCC has decided to grant authorisation to the State of South Australia, as represented by the Department for Health and Wellbeing (the Department), and relevant healthcare providers, in relation to arrangements for the purpose of maximising healthcare capacity and ensuring South Australia-wide coordination of healthcare services while responding to issues from COVID-19.

In broad terms, the arrangements involve the Department, participating private healthcare providers, and public hospitals in South Australia sharing information about capacity and resources and, under the oversight and direction of the Department, 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 coordination of the procurement of medical equipment and supplies and the sharing of resources to meet demand.

The arrangements for which authorisation is sought are the same as those previously authorised by the ACCC on 13 August 2020. The previous authorisation expired on 30 September 2021.

On 8 December 2021, the ACCC granted interim authorisation to enable the Department, the participating private healthcare providers and public hospitals in South Australia to engage in the arrangements while the ACCC completed its assessment of the substantive application.

The Department sought authorisation for 12 months. The ACCC accepts there is inherent uncertainty as to the period of time COVID-19 will continue to impact the health system. Given the ACCC's consideration of the balance of public benefits and detriments likely to result from the arrangements (and consistent with similar authorisations recently granted to other jurisdictions), the ACCC grants authorisation until 24 June 2023.

Authorisation is granted with a condition which requires reporting of conduct engaged in under the authorisation, similar to the requirements of the previous authorisation.

1. The application for authorisation

1.1. On 3 December 2021, the State of South Australia as represented by the Department for Health and Wellbeing (the **Department**) lodged an application for authorisation AA1000591 with the Australian Competition and Consumer Commission (the **ACCC**). The Department seeks authorisation for a period of 12 months on behalf of itself and the following parties who are engaged, or propose to engage, in the Proposed Conduct (as defined at paragraph 1.6):

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

- 1.2. 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.
- 1.3. The Department seeks authorisation for the broad purpose of maximising healthcare capacity and ensuring the South Australian-wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare services while responding to issues arising from COVID-19. To achieve this purpose, the Department 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 1.5 below.
- 1.4. On 8 December 2021 the ACCC issued a draft determination proposing to grant authorisation, with a reporting condition, until 24 June 2023. At the same time, the ACCC granted interim authorisation under subsection 91(2) of the Act.¹ Interim authorisation will remain in place until the date the ACCC's final determination comes into effect, the application for authorisation is withdrawn, or until interim authorisation is revoked.

The Proposed Conduct

- 1.5. The Department's objectives include to:
 - (a) work cooperatively to ensure that the public and private hospital and healthcare sectors respond successfully to the COVID-19 pandemic;
 - (b) ensure the ongoing sustainability and operation of the private hospitals across South Australia during the COVID-19 pandemic and that the hospitals are able to resume operations once the COVID-19 response ends;
 - (c) make available to the Department (and South Australian public) the maximum amount of hospital facilities;
 - (d) ensure that hospital services are provided equitably, consistently and in accordance with clear standards (having regard, where applicable, to the circumstances presented by the COVID-19 pandemic) in order to optimise health outcomes;
 - (e) ensure that the Department obtains access to additional hospital and health services required as a result of the COVID-19 pandemic at a reasonable cost and in a manner that achieves a cost-efficient solution for the Department; and
 - (f) work together through a culture of mutual respect and cooperation, and in an environment that fosters cost efficiency, transparency and open, honest and timely communication.(the **Objectives**).
- 1.6. The Department is seeking authorisation to:
 - (a) negotiate and enter into Agreements;
 - (b) engage in conduct consistent with the Objectives to give effect to the Agreements, including (without limitation) by:
 - a. engaging in coordinated group discussions regarding healthcare operations, capacity and other matters required or contemplated by the

¹ See ACCC decision of 8 December 2021 available at the [ACCC's Public Register](#).

Agreements; and sharing any information required or contemplated by the Agreements or otherwise reasonably necessary to facilitate the Objectives, including but not limited to:

- i. information about the capacity or expected capacity of a hospital to provide care to patients or patients with particular conditions; and
 - ii. information about the availability of resources required to treat patients (including, but not limited to, hospital beds, staff, medicines and other equipment);
- b. coordinating the following activities:
- i. allocation of the provision of certain services or certain patients to particular healthcare providers and / or between certain healthcare facilities (e.g. designating specific categories of patients to particular hospitals);
 - ii. restriction of certain services that can be provided at particular healthcare facilities;
 - iii. sharing of resources (including staff and medical supplies and equipment) to meet demand at particular healthcare facilities;
 - iv. procurement and supply of medical equipment and supplies in order to minimise supply chain disruption and ensure these resources are available to healthcare facilities on an as-needs basis; and
- c. engaging in any other conduct that is necessary or desirable to give effect to the Agreements and facilitate the Objectives at the request or direction of the Department or one or more of the South Australian Public Providers

(the **Proposed Conduct**).

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

- (a) the Department will provide funding to the Participating Providers on condition they provide certain services to public patients, being:
 - i) any services which the Participating Provider performs or is authorised to perform immediately prior to the commencement of the Agreement,
 - ii) each Participating Provider making available to the Department its specified healthcare facilities (including beds, healthcare and other

services required to support the operation of each of its healthcare facilities), and

- iii) 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;
 - b) each Participating Provider will continue to hold operational control and operate their respective healthcare facilities;
 - c) each Participating Provider will be permitted to continue to provide healthcare services to private patients but only to the extent permitted by the Agreement or by the Department in accordance with principles to be agreed;
 - d) the Department will oversee and direct a 'Private Hospital Coordination Group' which is a group that will have a representative from some or all of the Participating Providers and which will be the forum for coordinating resources between the Participating Providers, each of their facilities and the South Australian Public Providers;
 - e) each Participating Provider will continue to maintain all categories of employees in the ordinary course of business with the provision of secondment of staff to public healthcare facilities in certain circumstances;
 - f) each Participating Provider will provide services under the Agreement on a purely cost recovery and non-profit basis;
 - g) public patients will not be required to pay any amount arising from or in connection with healthcare treatment by a Participating Provider; and
 - h) the parties participating in the Proposed Conduct will cooperate in respect of the procurement and supply of medical equipment.
- 1.8. Under the Agreements, the Department will have a mechanism to 'suspend' and 're-activate' the Agreements where, given the COVID-19 environment at a point in time, there is no immediate requirement by the Department for a Private Operator's facilities or resourcing, and therefore no need for the Department to provide funding to those private hospitals under the Agreement.
- 1.9. The Agreements are not intended to, and do not extend to, coordination or any agreement between Participating Providers other than as necessary or desirable to give effect to the Agreements and facilitate the Objectives at the request or direction of the Department or one or more of the South Australian Public Providers.
- 1.10. A copy of the application for authorisation is available on the [Authorisations public register](#).

2. Background

- 2.1. The ACCC recognises the significant challenges that continue to exist as a result of the ongoing impact of COVID-19. There is risk that Australia's health services may continue to be put under pressure in responding to increasing COVID-19 case numbers, as state and international borders re-open.

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 Response² (the **NPA**). The NPA is a commitment between the Commonwealth and the states and territories to respond to COVID-19.
- 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 COVID-19; and
 - (b) the viability of private hospitals is maintained and they are able to resume operations once the COVID-19 response ends.

3. Consultation

- 3.1. Given the urgency of the application due to the evolving situation relating to COVID-19 and its management, the ACCC did not seek the views of interested parties prior to the release of its draft determination and the grant of interim authorisation.
- 3.2. In response to the draft determination, the ACCC received submissions from the Australian Society of Orthopaedic Surgeons (**ASOS**) and the Department. A pre-decision conference was not requested.
- 3.3. ASOS submits that the Proposed Conduct is being used to bring about a more permanent change to the balance between the private and public hospital sectors, to the detriment of patients with private health insurance, and to the growth and resourcing of public hospitals. ASOS submits that orthopaedic surgeons accept the need to ensure plans have been made for a worst-case scenario resulting from COVID-19, but that there is now an imperative to restore the ability of private hospitals to meet the demands of privately insured patients, many of whom have had surgery delayed. ASOS is concerned that some public hospitals may have under-utilised elective surgery capacity, and arrangements to treat public patients in private hospitals ('public-in-private') are being extended beyond what is needed. This results in detriments to medical training, rural specialist practice and patient care (through the fragmented provision of care by different providers in both the public and private system).
- 3.4. ASOS submits that, should the ACCC grant authorisation, it should do so for a further six months only and subject to a condition which provides the ACCC with the ability to revoke the authorisation should the arrangements be used for a purpose other than the specific purpose that gave rise to the application. The ACCC notes that the Act provides for the ACCC to review an authorisation if there is a material change in circumstances. Given these existing powers, the ACCC considers any such condition is unnecessary. Further, the authorisation granted by the ACCC is to enable the coordination of healthcare services for the purpose of facilitating the most efficient and effective allocation of healthcare in response to issues arising from COVID-19. Arrangements entered into by the Department and Participating Providers for another purpose are not covered by this authorisation.

² See <https://www.coag.gov.au/sites/default/files/communique/covid19-npa.pdf>

- 3.5. In response to ASOS' submission, the Department submits that:
- the arrangements the Department has implemented are necessary and justified
 - the current public-in-private patient treatment arrangements in South Australia are a necessary response to the current stage of the pandemic,
 - given the ongoing presence of COVID-19 in South Australia, and the uncertainty around the potential for surging cases in the future, it is important that the Department has the continued ability to coordinate the state-wide provision of healthcare services, in order to maximise healthcare capacity and ensure the ongoing operation of hospital facilities, and
 - the coordination measures put in place to date have operated as intended and have provided a clear public benefit to the people of South Australia.
- 3.6. Public submissions by the Department and interested parties are available from the [Public Register](#) for this matter.

4. ACCC assessment

- 4.1. The ACCC's assessment of the Proposed Conduct is carried out in accordance with the relevant authorisation test contained in the Act.
- 4.2. The Department seeks authorisation for the Proposed Conduct in relation to Division 1 of Part IV of the Act, and sections 45, 46 and 47 of the Act. Consistent with 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 Proposed 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 Proposed Conduct (the **authorisation test**).
- 4.3. The ACCC's assessment of AA1000591 is made in the context of the ongoing impacts of COVID-19. 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 issues arising from COVID-19, 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 Proposed Conduct, the ACCC has considered:
- the relevant areas of competition likely to be affected by the Proposed Conduct. These areas of competition include the supply of overnight and day hospital healthcare services to persons in South Australia, in both the private and public healthcare system. The supply of surgical and other related healthcare services to persons in the state of South Australia is also likely to be relevant. These areas of competition encompass a diverse range of healthcare services.
 - the likely future with the Proposed Conduct that is the subject of the authorisation compared to the likely future in which the Proposed Conduct does not occur. In the future without the Proposed Conduct the ACCC considers that the South Australian 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 Proposed 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 in considering public benefits:

*...we would not wish to rule out of consideration any argument coming within the widest possible conception of public benefit. This we see as 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.*³

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

- enabling the Participating Providers and the South Australian Public Providers to work to coordinate the medical response to the COVID-19 pandemic as effectively, efficiently and economically as possible;
- reducing the likelihood that private healthcare providers operating in the State of South Australia 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 Department 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 South Australian 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 COVID-19 pandemic;
- ensuring provision of additional intensive care facilities in response to the COVID-19 Pandemic;
- ensure the Participating Providers can remain operational, and retain staff under existing industrial arrangements during the COVID-19 pandemic; and
- ensuring the viability of Participating Providers during and following the COVID-19 pandemic which will help ensure that following the COVID-19 Pandemic consumers will continue to have a choice of private or public care.

4.7. As noted in paragraph 4.4, the ACCC considers that, without the Proposed Conduct, the South Australian Government would be likely to enter into bilateral contracts with

³ 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.

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 issues arising from COVID-19. In these circumstances it is likely that some of the public benefits arising from the ongoing viability of the private healthcare system could be achieved without the Proposed Conduct.

- 4.8. However, the ACCC considers that the Proposed Conduct will allow the parties to coordinate the medical response to COVID-19 in South Australia as efficiently and effectively as possible, including by facilitating swift responses to outbreaks in South Australia. The ACCC considers that this is likely to contribute to public confidence in the response to COVID-19. The ACCC considers that the Proposed Conduct is likely to result in a significant benefit to the public by supporting the timely deployment of critical resources.
- 4.9. 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 in the future without the Proposed Conduct.

Conclusion on public benefits

- 4.10. The ACCC considers that the Proposed Conduct is likely to deliver significant public benefit through the enhanced coordination and improved responsiveness of the South Australian healthcare system to COVID-19.

Public detriments

- 4.11. 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.⁴

- 4.12. The Department submits that it is not aware of any public detriments that resulted from engaging in the conduct permitted under the previous authorisation.
- 4.13. ASOS submits that ongoing reliance on arrangements that treat public patients in private hospitals is likely to result in public detriments, including by reducing opportunities for doctor training, threatening rural specialist practice and patient care (through fragmented treatment), and reducing the value proposition of private health insurance for private patients.
- 4.14. In response, the Department submits that restrictions on elective surgery imposed during the pandemic are as a result of a Ministerial decision under the *Emergency Management Act 2004 (SA)*, which is outside of the scope of the authorisation application. In any event, the Department notes that the Minister has demonstrated a commitment to winding back these restrictions as and when practicable, as evidenced by the recommencement of paediatric surgery on 29 January 2022, and the staged reinstatement of elective surgery in South Australia on 7 February 2022. Further, the Department notes that participation in the Proposed Conduct by private hospital and day surgery operators is voluntary.

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

- 4.15. While providing a mechanism for the healthcare system to coordinate its response to COVID-19, the ACCC considers that 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 COVID-19, and by public policy decisions in response to it. In that sense, many of these detriments would occur with and without the Proposed Conduct.
- 4.16. The Proposed 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 resulting from the Proposed 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 Proposed Conduct does not extend to any coordination or agreement between Participating Providers or between Participating Providers and the South Australian 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 Department or one or more of the South Australian Public Providers;
 - (d) there will be continued transparency around the Proposed Conduct as the Department is required under the Proposed Conduct to notify the ACCC of additional Participating Providers, and the ACCC's condition requires the Department to provide regular updates to the ACCC;
 - (e) any information shared under the Proposed Conduct is likely to lose relevance following the cessation of the Proposed Conduct;
 - (f) the Proposed Conduct provides a temporary response to COVID-19, the measures are not designed or intended to provide a permanent restriction on competition; and
 - (g) the ACCC has the power to revoke authorisations in certain circumstances set out in s91B of the Act (for example, due to a material change in circumstances since the authorisation was originally granted).

Conclusion on public detriments

- 4.18. The ACCC considers that the Proposed 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 South Australia. However, a number of factors make it unlikely that the Proposed Conduct will significantly impact competition in the longer term - including oversight by the

Department and as a result of the transparency provided by the condition (outlined at paragraph 5.8).

Balance of public benefit and detriment

- 4.19. The ACCC considers that the Proposed Conduct is likely to result in significant public benefit through the enhanced coordination and improved responsiveness of the South Australian healthcare system to COVID-19.
- 4.20. The ACCC also considers that the Proposed 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 South Australia. 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 longer term. The ACCC also considers that the condition will provide important transparency.
- 4.21. Overall, the ACCC considers that the Proposed Conduct is likely to result in a public benefit and that this public benefit would outweigh any likely detriment to the public from the Proposed Conduct.

Length of authorisation

- 4.22. The Act allows the ACCC to grant authorisation for a limited period of time.⁵ 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 Department requested authorisation for 12 months from the date of a final determination by the ACCC, noting that an extension may be needed as it is possible the pandemic may last for a longer period of time.
- 4.24. In response to the draft determination, ASOS submits the arrangements should only be authorised for six months, given the public detriments ASOS considers are likely to result.
- 4.25. The ACCC accepts that there is inherent uncertainty as to the period of time COVID-19 will continue to impact 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 likely to result from the Proposed Conduct, and the potential benefits in having certainty of ongoing authorisation, the ACCC has decided to authorise the Proposed Conduct until 24 June 2023. This is consistent with authorisations for similar conduct the ACCC recently granted to six other jurisdictions.

5. Determination

The application

- 5.1. On 3 December 2021, State of South Australia as represented by the Department for Health and Wellbeing (the **Department**) lodged application AA1000591 with the ACCC, seeking authorisation under subsection 88(1) of the Act.

⁵ Subsection 91(1)

- 5.2. The Department seeks authorisation for the Proposed Conduct described at paragraph 1.6, on behalf of itself, Participating Providers and South Australian Public Providers, for the broad purpose of maximising healthcare capacity and ensuring the South Australia-wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare in response to issues arising from COVID-19. As part of these arrangements, the Department will enter into Agreements with Participating Providers to plan for and, if necessary, respond to outbreaks of COVID-19 in particular geographic regions in South Australia.

The authorisation test

- 5.3. 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 Proposed 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 Proposed Conduct.
- 5.4. For the reasons outlined in this 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 Proposed Conduct.
- 5.5. Accordingly, the ACCC has decided to grant authorisation.

Condition of authorisation

- 5.6. The ACCC may specify conditions in an authorisation.⁶ The legal protection provided by the authorisation does not apply if any of the conditions are not complied with.⁷
- 5.7. 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.⁸
- 5.8. In this instance, the ACCC has decided to grant authorisation with 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.
- 5.9. 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 condition of this authorisation on its behalf.

⁶ Section 88(3) of the Act.

⁷ Section 88(3) of the Act.

⁸ Application by Medicines Australia Inc (2007) ATPR 42-164 at [133].

Conduct which the ACCC authorises

- 5.10. With the condition, the ACCC has decided to grant authorisation AA1000591 to enable the Department and Participating Providers and South Australian Public Providers to coordinate healthcare services to facilitate the most efficient and effective allocation of healthcare while responding to issues arising from COVID-19 as described in paragraph 1.6 and defined as the Proposed Conduct. The ACCC has decided to grant authorisation to the Proposed Conduct only in so far as it is for the sole purpose of dealing with the effects of COVID-19 in South Australia.
- 5.11. Authorisation is granted in relation to Division 1 of Part IV of the Act, and sections 45, 46 and 47 of the Act.
- 5.12. The ACCC grants authorisation AA1000591 until 24 June 2023.

6. Date authorisation comes into effect

- 6.1. This determination is made on 23 March 2022. If no application for review of the determination is made to the Australian Competition Tribunal it will come into force on 14 April 2022.

Attachment 1 – Participating Providers

1. Specified private healthcare providers

- ACHA – Ashford Community Hospital
- ACHA - Flinders Private Hospital
- ACHA - Memorial Hospital
- Adelaide Ambulatory Day Surgery
- Burnside War Memorial Hospital
- Calvary Adelaide Hospital
- Calvary Central Districts Hospital
- Calvary North Adelaide Hospital
- Glenelg Community Hospital
- Glenelg Day Surgery
- North Eastern Community Hospital
- ParkView Day Surgery
- Ramsey Health Care – Adelaide Clinic
- Seaford Day Surgery
- Southern Endoscopy Centre
- Sportsmed Hospital
- Stirling District Hospital
- St Andrew's Hospital
- Tennyson Centre Day Hospital
- Vista Day Surgery
- Western Hospital

2. Any other private healthcare operator in South Australia who seeks to engage in conduct the subject of this application providing the ACCC is notified by the Department.

Attachment 2 - The South Australian Public Providers

The South Australian Public Providers, being those providers listed below and any other hospital facility owned or operated by the State of South Australia or an authority of the State of South Australia.

- The following hospital facilities of the Barossa Hills Fleurieu Local Health Network
 - Angaston District Hospital (previously Barossa Area Health Services)
 - Eudunda Hospital
 - Gawler Health Service
 - Gumeracha District Soldiers' Memorial Hospital
 - Kangaroo Island Health Service
 - Kapunda Hospital
 - Mt Barker District Soldiers' Memorial Hospital
 - Mt Pleasant District Hospital
 - South Coast District Hospital (Victor Harbor)
 - Southern Fleurieu Health Service
 - Strathalbyn & District Health Service
 - Tanunda War Memorial Hospital (previously Barossa Area Health Service)

- The following hospital facilities of the Central Adelaide Local Health Network
 - Royal Adelaide Hospital
 - The Queen Elizabeth Hospital

- The following hospital facilities of the Eyre and Far North Local Health Network
 - Ceduna District Health Services
 - Cleve District Hospital and Aged Care
 - Coober Pedy Hospital and Health Services
 - Cowell District Hospital and Aged Care
 - Cummins and District Memorial Hospital
 - Elliston Hospital (also known as Mid-West Health, Elliston)
 - Kimba District Hospital and Aged Care
 - Oodnadatta Health Service
 - Port Lincoln Hospital and Health Service
 - Streaky Bay Hospital
 - Tumby Bay Hospital and Health Services
 - Wudinna Hospital (also known as Mid-West Health, Wudinna)

- The following hospital facilities of the Flinders and Upper North Local Health Network
 - Hawker Memorial Hospital
 - Leigh Creek Health Service
 - Port Augusta Hospital and Regional Health Service
 - Quorn Health Service
 - Roxby Downs Health Service
 - Whyalla Hospital and Health Service 16

- The following hospital facilities of the Limestone Coast Local Health Network
 - Bordertown Memorial Hospital
 - Kingston Soldiers Memorial Hospital
 - Millicent and Districts Hospital and Health Services
 - Mt Gambier and Districts Health Service
 - Naracoorte Health Service
 - Penola War Memorial Hospital

- The following hospital facilities of the Northern Adelaide Local Health Network
 - Lyell McEwin Health Service
 - Modbury Hospital

- The following hospital facilities of the Riverland Mallee Coorong Local Health Network
 - Barmera Health Service
 - Karoonda and District Soldiers' Memorial Hospital
 - Lameroo District Health Services
 - Loxton Hospital Complex
 - Mannum District Hospital
 - Meningie and Districts Memorial Hospital and Health Services
 - Murray Bridge Soldiers' Memorial Hospital
 - Pinnaroo Soldiers' Memorial Hospital
 - Renmark Paringa District Hospital
 - Riverland General Hospital
 - Tailem Bend District Hospital
 - Waikerie Health Service

- The following hospital facilities of the Southern Adelaide Local Health Network
 - Flinders Medical Centre

- Repatriation General Hospital
- Noarlunga Health Service

- The following hospital facilities of the Women's and Children's Health Network
 - Women's and Children's Hospital

- The following hospital facilities of the Yorke and Northern Local Health Network
 - Balaklava Soldiers' Memorial District Hospital
 - Booleroo Centre District Hospital and Health Services
 - Burra Hospital
 - Maitland Hospital and Health Services (previously Central Yorke Peninsula Hospital)
 - Clare Hospital and Health Services
 - Crystal Brook and District Hospital
 - Jamestown Hospital and Health Service
 - Laura and District Hospital
 - Wallaroo Hospital and Health Service (previously Northern Yorke Peninsula Health Service)
 - Orroroo and District Health Service
 - Peterborough Soldiers' Memorial Hospital and Health Service
 - Port Broughton and District Hospital and Health Service
 - Port Pirie Regional Health Service
 - Riverton District Soldiers' Memorial Hospital
 - Snowtown Hospital and Health Services
 - Yorketown Health Service (previously Southern Yorke Peninsula Health Service)