Private Healthcare Australia
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Calvary Health Care's proposed acquisition of Hobart Private Hospital

Submission to the Australian Competition and Consumer Commission

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About Private Healthcare Australia

Private Healthcare Australia (PHA) is the Australian private health insurance industry's peak representative body. We have 22 registered health funds throughout Australia as members and collectively represent 99% of people covered by private health insurance. PHA member funds provide healthcare benefits for more than 15 million Australians.

Summary

1.1 This submission is made to the Australian Competition and Consumer Commission (**ACCC**) by Private Healthcare Australia Limited ACN 008 621 994 (**PHA**) on behalf of itself and its member organisations, in relation to the proposed acquisition of Hobart Private Hospital (**HPH**) by Little Company of Mary Health Care Ltd ACN 079 815 697 (**Calvary**) from Healthscope Ltd ACN 144 840 639 (**Healthscope**) (**Proposed Acquisition**).

1.2 PHA has the following serious concerns in relation to the Proposed Acquisition:

Key competition concerns

(a) **market power** – the Proposed Acquisition would plainly create, strengthen, or entrench market power in the hands of Calvary, with it becoming the monopolist private hospital operator in Hobart;

(b) **HPPA leverage** – in the above context, the Proposed Acquisition would substantially alter the competitive dynamics between Calvary and private health insurers in the supply of Hospital Purchaser Provider Agreement services (**HPPAs**);

(c) **significant consumer harm** – Calvary would then be in a position to profitably increase prices and/or worsen non-price terms of its HPPAs with private health insurers, with flow-on consequences that are disproportionately harmful to Tasmanian consumers in the form of higher premiums, and indirectly through additional pressure on an already stretched public hospital system;

(d) **alternative buyers may not have been exhausted** – it is not clear that the Proposed Acquisition is the only viable alternative to closure, given the McGrathNicol not-for-profit restructuring plan and a separate consortium are currently undertaking due diligence, with Healthscope's lenders expected to decide on a preferred option by the end of September 2026.

Further concerns

(e) **pre-existing fragility of private healthcare in Tasmania** – private healthcare affordability in Tasmania is already under pressure from the Commonwealth Government's 2026 Budget announcement to cut the Private Health Insurance Rebate discount for Australians aged 65 and over from 1 April 2027, with Tasmania's proportionally older and predominantly pension-dependent population particularly exposed; and

(f) **reduced access to clinical services** – finally, the Proposed Acquisition would remove the only private hospital alternative in Hobart for members requiring treatments that Calvary does not provide for religious reasons.

1.3 Against the background of these concerns, PHA's position on the Proposed Acquisition is that:

(a) **substantial lessening of competition** – the Proposed Acquisition would, or would be likely to, substantially lessen competition in the:

(i) Hobart and Tasmanian markets for the supply of private hospital services to patients and medical professionals; and

(ii) national market for the supply of services by private hospital operators to private health insurers under HPPAs;

(b) **avoid closure** – that said, PHA would be concerned if HPH were to close (although PHA believes that to be an unlikely counterfactual for the ACCC's assessment), and PHA considers that such an outcome would not be in the public interest, particularly for the Hobart community, and PHA does not support any regulatory outcome that directly results in closure.

(c) **opposition or conditional approval** – PHA considers the ACCC should either:

(i) in view of the highly likely substantial lessening of competition, ultimately (i.e., in a phase 2) oppose the Proposed Acquisition – but only in circumstances where HPH would be transitioned to a viable alternative ownership structure; or

(ii) issue a determination at the end of phase 1 that the Proposed Acquisition may be put into effect – but subject to conditions that, at the very least, prevent Calvary from leveraging its post-acquisition market power into its HPPA negotiations with private health insurers on behalf of consumers.

2. Background

PHA

2.1 PHA member funds provide healthcare benefits to more than 15 million Australians.[1] As the principal purchasers of private hospital services in Australia, PHA's members have direct relationships with Healthscope in respect of HPH, and Calvary in respect of its private hospital network.

Calvary

2.2 Calvary is a significant not-for-profit hospital and health services operator with an established operational footprint in Tasmania. Calvary's existing Tasmanian private hospitals are:

(a) Calvary Lenah Valley Hospital in North Hobart;

(b) Calvary St John's Hospital in South Hobart; and

(c) Calvary St Luke's Hospital and Calvary St Vincent's Hospital, both in Launceston.[2]

[1] Private Healthcare Australia, 'About PHA', webpage, <link>.
[2] Calvary Health Care, 'About Calvary', webpage, <link>.

HPH

2.3 HPH is a major private hospital option for Hobart and southern Tasmania, with around 146 beds and a broad mix of acute surgical and specialty services (including areas such as orthopaedics, urology, gynaecology, vascular and other specialties). HPH also promotes a significant cardiology and angiography capability and operates a 25-bed critical care unit for acute cardiac, medical and high-dependency surgical care, with continuous cardiac monitoring and a dedicated coronary care area.

2.4 The only comparable private hospital alternative in Hobart is operated by Calvary.

Healthscope receivership

2.5 In May 2025, Healthscope's parent entities entered receivership, and McGrathNicol was appointed receiver and manager. McGrathNicol subsequently announced a plan intended to secure the future of Healthscope's hospitals. That plan consisted of three parts:

(a) creating a new not-for-profit organisation to operate 31 hospitals;

(b) selling and transferring operations of five hospitals to established hospital operators (including HPH to Calvary); and,

(c) transferring operations of Northern Beaches Hospital to the NSW Government.

2.6 The stated intent of the plan was to support the long-term sustainability of the private hospital sector, including via a charitable structure under which surpluses are reinvested into relevant hospitals to support patient care and the workforce.

2.7 The McGrathNicol plan demonstrates that a viable, alternative not-for-profit ownership model likely exists for HPH if the Proposed Acquisition does not proceed.

2.8 Finally, PHA wishes to reiterate that it does not oppose the Proposed Acquisition if the ultimate outcome would be for HPH to simply close. That said, PHA does not consider that to be a realistic counterfactual in view of the alternative not-for-profit ownership model contemplated by McGrathNicol.

3. Market power

3.1 The ACCC's previous approach in relevant determinations[3] assists in defining relevant areas of competition in private hospital services.[4] The ACCC has noted that the relevant areas of competition likely include the supply of hospital services on a state-based or localised basis and the supply of private health insurance / HPPA services on a national basis.[5] Most recently, that approach was reflected in the ACCC's Phase 1 Determination in respect of the acquisition of National Capital Private Hospital by Ramsay Health Care Investments Pty Ltd.[6] The ACCC's previous approach recognises the critical distinction that, whilst private health insurance may be sold nationally and contracts may be negotiated through national HPPAs, the actual provision and consumption of hospital services occurs locally and regionally.

[3] See ACCC, *Determination: Application for authorisation lodged by Honeysuckle Health Pty Ltd and nib health funds limited in respect of the Honeysuckle Health Buying Group Authorisation number: AA1000542*, 21 September 2021 ('***Honeysuckle Determination'***); *Catholic Health Determination.*

[4] See *Honeysuckle Determination,* at [4.2].

[5] See *Honeysuckle Determination*, at [4.6].

[6] See *Ramsay Health Care – National Capital Private Hospital, MN-75003,* 12 February 2026

Regional market concentration therefore directly affects competitive dynamics and bargaining power, both in local service delivery and in HPPA negotiations.

3.2 HPH is the only private acute overnight hospital other than Calvary's serving Hobart. PHA submits that the Proposed Acquisition therefore involves the monopolisation of relevant private health services in the Hobart area, and in some cases, across Tasmania.

3.3 Further, should ill patients be able and prepared to travel elsewhere in Tasmania, many of the alternative facilities in the north of the state are also operated by Calvary. In many clinical areas, Calvary will be the monopoly provider not only in Hobart but for all of Tasmania. These clinical areas include acute orthopaedic, cardiac procedures (pacemakers, defibrillators, ablation), spinal surgery, bariatric surgery and neurosurgery.

3.4 The *Competition and Consumer Act 2010* (**CCA**) requires the ACCC to also consider whether the acquisition would create, strengthen or entrench a substantial degree of market power. PHA submits that, given HPH's strategic importance and the lack of alternative private hospital options, the Proposed Acquisition would clearly satisfy that threshold.

4. HPPA leverage

4.1 As the ACCC is aware, health insurers contract with private hospitals through HPPAs, under which hospitals agree to provide services to the insurer's members at specified rates and standards. Under HPPAs, hospitals typically agree not to charge out-of-pocket costs to members in exchange for agreed fee schedules, providing financial certainty to consumers.

4.2 While the negotiation structure may be national, the underlying bargaining dynamics are fundamentally shaped by regional competitive constraints. Generally, the interaction between national HPPA negotiations and regional market power operates as follows:

(a) hospital groups leverage their strongest regional positions to extract concessions in national negotiations, with insurers facing the risk of losing 'must-have' hospitals from their networks unless overall agreement terms are accepted;

(b) insurers cannot disaggregate national HPPAs to exclude specific facilities without losing coverage across the entire hospital group, creating a 'bundling' dynamic that amplifies regional market power; and,

(c) rate schedules reflect local competitive conditions – hospitals in competitive markets face price constraints, whilst hospitals in concentrated markets can command premium pricing.

4.3 Calvary already operates a significant number of hospitals nationally. The addition of HPH to Calvary's network would strengthen its national bargaining position to a greater extent than Healthscope (in administration) was in a position to leverage. Further, HPH's strategic importance is plainly heightened as HPH is the only private hospital in Hobart other than a Calvary hospital.

4.4 In the above context, the Proposed Acquisition will inevitably:

(a) strengthen Calvary's national HPPA bargaining position – the acquisition would add a strategically important Tasmanian hospital to Calvary's national HPPA portfolio, providing Calvary with an additional regional lever in national negotiations with health insurers; and,

(b) create additional opportunities for anti-competitive bundling – as described above, insurers cannot practically disaggregate national HPPAs and for that reason Calvary's control of a must-have hospital in Hobart would allow it to extract favourable national terms from insurers who cannot afford to lose HPH from their Tasmanian network.

4.5 In other words, Calvary would plainly possess market power in the supply of private hospital services in relation to Hobart and Tasmania, enabling it to extract more favourable terms knowing that insurers have no credible alternative in Tasmania. The leverage created by that position would be amplified in national HPPA negotiations, as Calvary would be aware that the major insurers cannot exclude Tasmania from their hospital network without creating a service gap for their relevant members.

4.6 PHA member funds have already experienced behaviour from Calvary in Tasmania that demonstrates their willingness to leverage monopoly status. After Healthscope announced Hobart Private would no longer provide maternity services, Calvary contacted several health funds seeking an immediate uplift in the contracted rates for these services, as the only remaining private provider. Examples of such behaviour are available on request, on a commercial-in-confidence basis.

5. Significant consumer harm

5.1 The lack of competition resulting from the Proposed Acquisition will flow through to consumers, causing higher premiums and increased pressure on public hospitals.

Premiums

5.2 An immediate consideration is the flow-through impact on premiums for consumers. Higher payments to hospitals across the country, using the leverage of a monopoly position in Tasmania, will flow to consumers through increased premiums. This effect will be concentrated on Tasmanian consumers, as risk pools are generally state based.

Impact on the public hospital system

5.3 If Tasmanian members experience higher premium costs as a result of the Proposed Acquisition, that would reduce the attractiveness of private health insurance for Tasmanians and thus place additional pressure on public hospital services. This concern is particularly acute in Tasmania, where public hospital resources are already under significant strain, and where the private hospital system (including HPH) plays a critical role in relieving pressure on the public system.

6. Alternative buyers have not been exhausted

McGrathNicol plan

6.1 A central question for the ACCC's counterfactual analysis is whether the Calvary acquisition is the only commercially viable alternative to closure of HPH. PHA submits that it is not, and the ACCC should not approve the Proposed Acquisition on the assumption that the choice is binary: Calvary or closure. Two alternative ownership pathways remain live and are addressed in turn below.

6.2 As described above, Healthscope's parent entities entered receivership in May 2025. As a result, a plan was designed around a non-denominational charitable structure under which surpluses are reinvested into the hospitals to support patient care and the workforce, with

the stated intent of supporting the long-term sustainability of the private hospital sector in Australia.

6.3 The regulatory pathway for the not-for-profit model has advanced materially. The Australian Charities and Not-for-profits Commission (**ACNC**) approved an application to register not-for-profit entities associated with the plan as charities in October 2025, and related regulatory applications are well progressed, with relevant approvals already secured across most states.

6.4 McGrathNicol has stated its plan demonstrates that a viable, alternative not-for-profit ownership model can operate at scale across Healthscope's hospital portfolio. The existence of a functioning and regulatorily approved not-for-profit framework is directly relevant to the ACCC's counterfactual analysis because it establishes that an alternative to Calvary acquisition – one that is neither speculative nor untested – already exists in respect of the broader portfolio.

A new consortium

6.5 PHA understands that, in addition to McGrathNicol's plan outlined above, a new consortium has recently expressed interest in acquiring Healthscope hospitals and is currently undertaking due diligence. PHA further understands that Healthscope's lenders have indicated that a decision on a preferred option is expected by the end of September 2026.

6.6 PHA submits this development is directly relevant to the ACCC's counterfactual analysis. If a commercially funded consortium is actively conducting due diligence with a view to acquiring Healthscope hospitals – and may be interested in HPH – then, again, the counterfactual analysis does not involve a binary choice between the Proposed Acquisition by Calvary and closure.

7. Other issues

Pre-existing threat: rebate cuts for people over 65

7.1 In the 2026 Commonwealth Budget, the Government announced the Private Health Insurance Rebate discount will be cut for Australians aged 65 and over from 1 April 2027, materially increasing the effective cost of membership for that cohort at a fixed point in the near future.[7]

7.2 This change is of heightened significance in Tasmania because it has a proportionally older population than any other state or territory.[8] That cohort is predominantly reliant on fixed government income and has limited capacity to absorb increases in health costs.

7.3 PHA submits that the ACCC should treat this pre-existing affordability pressure as a contextual factor that amplifies the consumer harm from the Proposed Acquisition. An accelerated decline in private health insurance membership among the older population would increase the pressure on Tasmania's public hospital system, identified above.

[7] Private Healthcare Australia, 'Older Australians among Biggest Budget Losers as Health Insurance Rebate Cut Hits Seniors' (Media Release, 12 May 2026) <link>.
[8] Department of State Growth, 'Appendix - Population Strategy - Demographic Data and Related Tasmanian Government Strategies', webpage <link>.

Reduced access to clinical services

7.4 Calvary does not provide certain treatments that are currently available to health fund members at HPH, for religious reasons. A range of services currently available to consumers will no longer be provided at HPH if the Proposed Acquisition is approved.

7.5 The Australian Medical Association (Tasmania) flagged concerns about Calvary restricting access to some lawful procedures, including vasectomies, surgical terminations, IVF, gender affirming surgery, and voluntary assisted dying.[9]

7.6 If the Proposed Acquisition proceeds, Tasmanian members requiring lawful treatments previously available at HPH will have no private hospital option in Hobart through which to access them. Given Calvary is already the only other major provider of those services in Hobart, the Proposed Acquisition would extinguish private hospital access to those services within the Hobart market. Members would have no option other than to travel outside Hobart, and possibly outside Tasmania, to access those treatments privately, at significant cost and inconvenience, and with practical barriers.

8. ACCC determination

8.1 In view of the above, PHA considers the ACCC's ultimate decision should take one of the following two forms.

Oppose

8.2 First, the ACCC may ultimately (i.e., in a phase 2 process) determine that the Proposed Acquisition must not be put into effect. PHA submits that this path is available to the ACCC, but only in circumstances where HPH will not close as a consequence of that decision. PHA does not support any regulatory outcome that causes that to occur. As above, two alternative ownership pathways may currently be available: the McGrathNicol not-for-profit restructuring plan and the new consortium currently undertaking due diligence.

Conditional approval at phase 1

8.3 Second (and this is PHA's preferred path if a commercially viable alternative for HPH cannot be established), the ACCC could approve the acquisition at phase 1 but subject to firm, enforceable, and appropriately monitored conditions. PHA proposes the following as the basis for a phase 1 conditional approval.

(a) **Structural conditions** – a condition that Calvary divest itself of another private hospital in Hobart.

(b) **Behavioural conditions relating to HPPA negotiations**

As a next-best alternative to the structural condition above – conditions requiring that

(i) Calvary negotiate HPPAs in respect of HPH on a standalone basis, separate and distinct from its national HPPA negotiations, and be prohibited from bundling HPH's HPPA with its national HPPA in a manner that leverages HPH's Tasmanian market position into concessions in the national negotiation;

[9] ABC News, "Concerns over abortion, vasectomies, IVF, gender-affirming care access as Catholic organisation Calvary buys Hobart Private", (24 December 2025) available at https://www.abc.net.au/news/2025-12-24/hobart-private-hospital-sale-calvary-abortion-concerns/106177108

(ii) Calvary's pricing and terms for HPH services under HPPAs be negotiated by reference to the competitive conditions in the Hobart and Tasmanian market, and not as a mechanism for extracting national commercial concessions from insurers;

(iii) Calvary be prohibited from withdrawing or threatening to withdraw all Tasmanian facilities from any insurer's hospital network as a tactic in national HPPA negotiations; and

(iv) Given its position as a monopoly provider, Calvary engage in good-faith HPPA negotiations with health insurers in respect of Tasmanian hospitals, including participation in any dispute resolution mechanism established by the ACCC or the Commonwealth Government.

(v) Calvary maintain separate commercial and financial reporting for HPH, to enable the ACCC and private health insurers to identify whether HPH and Lenah Valley pricing and terms are being influenced by considerations arising from Calvary's national portfolio;

(vi) Calvary's management and negotiating personnel responsible for HPH HPPA negotiations be operationally separated from those responsible for Calvary's national HPPA negotiations; and,

(vii) Calvary provide the ACCC with annual compliance reports demonstrating adherence to the ring-fencing conditions and submit to audits on reasonable notice.

(c) The ACCC is required to provide the Senate with a report annually on '...any anti-competitive or other practices by health insurers or providers, which reduce the extent of health cover for consumers and increase their out-of-pocket medical and other expenses'. PHA recommends the ACCC report to the Senate for each of the next four years on the effects on competition of the Proposed Acquisition, with a public call for submissions to inform the report.