

2023

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Health)

# Health Infrastructure Enabling Bill 2023

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J2022-748

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(As presented)

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## Health Infrastructure Enabling Bill 2023

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### A Bill for

An Act enabling the acquisition on just terms of land and other property for a public hospital, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Health Infrastructure Enabling Act 2023*.

4 **2 Commencement**

5 (1) This Act (other than schedule 2) commences on the day after its  
6 notification day.

7 *Note* The naming and commencement provisions automatically commence on  
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 (2) Schedule 2, parts 2.1, 2.3 and 2.4 commence on the acquisition day.

10 (3) Schedule 2, part 2.2 commences on the day the *Planning Act 2023*,  
11 section 3 commences.

12 **3 Dictionary**

13 The dictionary at the end of this Act is part of this Act.

14 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
15 Act, and includes references (*signpost definitions*) to other terms defined  
16 elsewhere in this Act.

17 For example, the signpost definition ‘*health record*—see the [Health  
18 Records \(Privacy and Access\) Act 1997](#), dictionary.’ means that the term  
19 ‘health record’ is defined in that dictionary and the definition applies to  
20 this Act.

21 *Note 2* A definition in the dictionary applies to the entire Act unless the  
22 definition, or another provision of the Act, provides otherwise or the  
23 contrary intention otherwise appears (see [Legislation Act](#), s 155 and  
24 s 156 (1)).

25 **4 Notes**

26 A note included in this Act is explanatory and is not part of this Act.

- 1     **5**           **Purposes of Act**
- 2           The purposes of this Act are to—
- 3           (a) enable the Territory to acquire the public hospital land for the
- 4                 construction of a public hospital; and
- 5           (b) enable the transition of the operation of the public hospital to the
- 6                 Territory, including by terminating the network agreements; and
- 7           (c) provide for the safe and orderly transition of the operation of the
- 8                 public hospital to the Territory, including by—
- 9                 (i) enabling the Territory to acquire the public hospital assets;
- 10                 and
- 11                 (ii) providing for the transition of employment of public
- 12                 hospital employees to the Territory; and
- 13                 (iii) providing for the novation and assignment of public
- 14                 hospital contracts to the Territory; and
- 15           (d) ensure the continued operation of, and maintenance of service
- 16                 delivery standards at, the public hospital during and
- 17                 immediately after the transition; and
- 18           (e) ensure the Territory can, after the transition, effectively manage
- 19                 its obligations and liabilities in relation to the operation of the
- 20                 public hospital, including liabilities arising in relation to the
- 21                 operation of the public hospital before the transition; and
- 22           (f) ensure that interests acquired under this Act are acquired on just
- 23                 terms.

- 1     **6           Application of other territory laws**
- 2           (1) The following territory laws do not apply in relation to anything done
- 3           under this Act:
- 4               (a) the *Government Agencies (Land Acquisition Reporting)*
- 5                 *Act 2018*;
- 6               (b) the *Government Procurement Act 2001*;
- 7               (c) the *Lands Acquisition Act 1994*;
- 8               (d) the *Planning and Development Act 2007*;
- 9               (e) any other territory law prescribed by regulation.
- 10          (2) Despite subsection (1) (d), on and from the acquisition day, the
- 11          *Planning and Development Act 2007* continues to apply to the
- 12          amended Crown lease.
- 13          (3) However, any provision of this Act that applies to the amended
- 14          Crown lease on and from the acquisition day prevails over any
- 15          provision of the *Planning and Development Act 2007* that applies to
- 16          the lease to the extent of any inconsistency.
- 17          (4) A regulation may modify the operation of subsections (2) and (3).



1 **Part 2** **Compulsory acquisition of public**  
2 **hospital land and assets**

3 **7** **Meaning of *acquisition day***

4 (1) In this Act:

5 *acquisition day* means—

6 (a) 3 July 2023 (the *default acquisition day*); or

7 (b) if the Executive gives notice before the default acquisition day  
8 of a day earlier or later than the default acquisition day—the day  
9 stated in the notice.

10 (2) A notice is a notifiable instrument.

11 **8** **Acquisition of public hospital land**

12 (1) On the acquisition day, Calvary's interest in the public hospital  
13 land—

14 (a) vests in the Territory; and

15 (b) is freed and discharged from any trust, restriction, dedication,  
16 reservation, obligation, charge, encumbrance, lien, contract,  
17 licence, rate or any other interest.

18 (2) Any interest in land, or part of an interest in land, that is divested,  
19 extinguished or diminished because of subsection (1) (b) is taken to  
20 have been acquired by the Territory under this Act.

21 (3) A regulation may provide for an interest mentioned in subsection (2)  
22 to be dealt with in a different way.

- 1     **9           Acquisition of public hospital assets**
- 2           (1) On the acquisition day, the public hospital assets—
- 3               (a) vest in the Territory; and
- 4               (b) are freed and discharged from any trust, restriction, dedication,
- 5                     reservation, obligation, charge, encumbrance, lien, contract,
- 6                     licence, rate or any other interest.
- 7           (2) Any interest, or part of an interest, that is divested, extinguished or
- 8                     diminished because of subsection (1) (b) is taken to have been
- 9                     acquired by the Territory under this Act.
- 10          (3) Subsection (1) does not apply to an interest in an excluded asset.
- 11          (4) A regulation may provide for an interest mentioned in subsection (2)
- 12                     to be dealt with in a different way.
- 13     **10          Acquisition must be on just terms**
- 14           (1) The Territory must provide just terms to a person from whom an
- 15                     interest is acquired under this Act.
- 16           (2) Without limiting subsection (1), just terms for the acquisition
- 17                     includes reasonable compensation for the following:
- 18               (a) the acquisition of Calvary’s interest in the public hospital land;
- 19               (b) any security right or other interest in land taken to have been
- 20                     acquired under section 8 (2);
- 21               (c) the acquisition of the public hospital assets;
- 22               (d) any security right or other interest in a public hospital asset taken
- 23                     to have been acquired under section 9 (2);

- 1 (e) things arising as a consequence of an acquisition mentioned in  
2 paragraphs (a) to (d) including the following:
- 3 (i) the termination of the network agreements under  
4 section 14 (1);
- 5 (ii) the termination of any public hospital contract or other  
6 contract because of the operation of this Act;
- 7 (iii) any redundancy or similar payment payable by Calvary to  
8 a public hospital employee because of the operation of this  
9 Act;
- 10 (iv) anything else prescribed by regulation.
- 11 (3) A regulation may provide for the following matters:
- 12 (a) how compensation under subsection (2) is worked out;
- 13 (b) how claims for compensation are made and dealt with;
- 14 (c) a time limit within which a claim for compensation may be  
15 made;
- 16 (d) information or other things required from a person claiming  
17 compensation that is needed to assess their claim and work out  
18 any compensation;
- 19 (e) how any dispute about working out compensation is resolved;
- 20 (f) how compensation is paid;
- 21 (g) any other matter relevant to providing just terms to a person  
22 from whom an interest is acquired under this Act.
- 23 (4) A claim for compensation is not maintainable if brought after the end  
24 of a time limit made for subsection (3) (c), and the *Limitation*  
25 *Act 1985* does not apply to the claim.

- 1           (5) In this section:
- 2                 *compensation*, for an acquisition of an interest under this Act,
- 3                 includes the following:
- 4                 (a) monetary payment;
- 5                 (b) the transfer or assumption of a loss, liability or expense;
- 6                 (c) the grant of a right, entitlement or benefit;
- 7                 (d) any other beneficial term.

1 **Part 3** **Acquisition and transition of**  
2 **public hospital operations**

3 **11 Territory may enter hospital land**

4 (1) An authorised person may, at any reasonable time before the  
5 acquisition day and with reasonable written notice, do any of the  
6 following things:

7 (a) enter on the hospital land with any person, vehicle or thing for  
8 the purpose of carrying out any necessary or desirable survey,  
9 review or other investigation related to the proposed  
10 construction by the Territory of a public hospital on the hospital  
11 land;

12 (b) make surveys, take levels, dig or bore into the hospital land,  
13 examine the soil and do any other thing reasonably necessary for  
14 the purpose mentioned in paragraph (a);

15 (c) enter on the hospital land to do anything necessary for section 18  
16 (Territory must prepare draft deposited plan) or section 19  
17 (Amendment of the Crown lease etc);

18 (d) enter any operational or service delivery part of the public  
19 hospital to do anything reasonably necessary for a purpose of  
20 this Act, including any of the following:

21 (i) undertake an inspection or stocktake of public hospital  
22 assets;

23 (ii) assess the Territory's requirements for maintaining and  
24 operating facilities and public hospital assets immediately  
25 after the acquisition day;

26 (iii) assess the Territory's requirements for complying with all  
27 licences and authorisations required by law to operate the  
28 public hospital immediately after the acquisition day;

- 1 (iv) assess the Territory's requirements for operating, and  
2 maintaining service delivery standards at, the public  
3 hospital immediately after the acquisition day;
- 4 (e) enter on the hospital land to do any other thing reasonably  
5 necessary to prepare for or give effect to a purpose of this Act  
6 or to otherwise exercise a function under this Act;
- 7 (f) any other thing prescribed by regulation.
- 8 (2) If requested by an authorised person, Calvary must give the  
9 authorised person any assistance reasonably necessary for the  
10 authorised person to exercise a function under subsection (1).
- 11 (3) Without limiting subsection (2), Calvary must:
- 12 (a) give an authorised person access to secured areas in the public  
13 hospital; and
- 14 (b) show an authorised person where records, equipment and other  
15 assets in relation to the public hospital are kept on the hospital  
16 land.
- 17 (4) In entering the hospital land under this section, the Territory must  
18 minimise any interference with Calvary's use of the land to the extent  
19 reasonably practicable.
- 20 (5) In this section:
- 21 ***authorised person*** means a person authorised in writing by the  
22 director-general to exercise a function under this section.

1    **12           Calvary to provide information**

- 2           (1) For a purpose of this Act, the director-general may request Calvary  
3           provide information about any of the following:
- 4           (a) public patient health records;
  - 5           (b) stock in trade and inventory of the public hospital;
  - 6           (c) fixed and non-fixed assets of the public hospital including asset  
7           maintenance records and condition reports;
  - 8           (d) trade debts and other receivables owed in relation to the public  
9           hospital;
  - 10          (e) suppliers of goods and services in relation to the public hospital;
  - 11          (f) subleases, underleases, licences, easements, rights of way and  
12          any other occupancy rights or arrangements in relation to the  
13          public hospital land;
  - 14          (g) accounting and financial records in relation to the operation of  
15          the public hospital;
  - 16          (h) public hospital employees including employment records and  
17          payroll information;
  - 18          (i) public hospital contracts;
  - 19          (j) any trust funds for the public hospital including details about the  
20          specific purpose for which the funds are held or the trusts  
21          established;
  - 22          (k) any existing or pending investigation, proceeding (whether civil  
23          or criminal) or remedy in relation to a right, privilege or liability  
24          under a law applying in the ACT in relation to the public  
25          hospital;

- 1 (l) details about any existing security over the hospital land, public  
2 hospital assets or other property in relation to the public hospital  
3 including—
- 4 (i) contact details of the securityholder; and
- 5 (ii) the total amount of debt secured by the security and details  
6 of any other security instrument which secures that debt;
- 7 (m) details of any other personal property security interest in relation  
8 to the public hospital or the arrangements to which they relate,  
9 including contact details of the security interest holder;
- 10 (n) intellectual property relating to the operation of the public  
11 hospital, including any intellectual property created under a  
12 network agreement;
- 13 (o) public hospital administration records, including any reports,  
14 audited materials, regulatory matters, maintenance and  
15 operational records;
- 16 (p) any other matter relevant to a purpose of this Act;
- 17 (q) anything else prescribed by regulation.
- 18 (2) A request—
- 19 (a) must be in writing; and
- 20 (b) must state a reasonable period within which the information is  
21 to be provided; and
- 22 (c) may state a reasonable format or way in which the information  
23 is to be provided.
- 24 (3) Calvary must—
- 25 (a) comply with the request within the stated period; and
- 26 (b) provide the information in any stated format or way.



- 1 (4) For a purpose of this Act, the director-general may give any  
2 information, including a public patient health record, provided to  
3 them by Calvary under this section to a Territory employee or  
4 contractor.

5 **13 Calvary and Territory must cooperate to ensure safe and**  
6 **orderly transition etc**

- 7 (1) Calvary and the Territory must act in good faith, cooperate and do all  
8 other things reasonably necessary to ensure—  
9 (a) the safe and orderly transition of the operation of the public  
10 hospital to the Territory; and  
11 (b) the continued operation of, and maintenance of service delivery  
12 standards at, the public hospital.  
13 (2) Without limiting subsection (1), Calvary must—  
14 (a) appoint a senior executive to—  
15 (i) be the contact person for operational matters relating to the  
16 transition of the operation of the public hospital to the  
17 Territory; and  
18 (ii) coordinate Calvary's role in the transition of the operation  
19 of the public hospital to the Territory; and  
20 (b) cooperate with the Territory to develop a transition plan for the  
21 transfer of the operation of the public hospital and ensure its  
22 employees, officers and contractors comply with the plan; and  
23 (c) provide all reasonable assistance to enable the Territory to  
24 obtain all licences and authorisations required by law to operate  
25 the public hospital; and  
26 (d) provide reasonable access to any records management  
27 information technology systems used for public patient health  
28 records, employee and payroll records, financial records and  
29 other operations management records; and

- 1 (e) ensure its employees and officers provide all reasonable  
2 assistance to the Territory to assist in the transition of the  
3 operation of the public hospital to the Territory and ensure there  
4 is sufficient staffing to do so; and
- 5 (f) ensure all maintenance and repair of public hospital facilities  
6 and public hospital assets continues until the acquisition day;  
7 and
- 8 (g) comply with all requirements under this Act as soon as is  
9 reasonably practicable; and
- 10 (h) provide reasonable assistance to the Territory to enable the  
11 Territory to comply with its obligations under this Act; and
- 12 (i) not do anything that hinders, obstructs or delays the transition of  
13 the operation of the public hospital to the Territory; and
- 14 (j) promptly notify the Territory of any matter of which it is aware  
15 may hinder, obstruct or delay the transition of the operation of  
16 the public hospital to the Territory; and
- 17 (k) do anything else prescribed by regulation.
- 18 (3) Without limiting subsection (1), the Territory must—
- 19 (a) appoint a senior executive to—
- 20 (i) be the contact person for operational matters relating to the  
21 transition of the operation of the public hospital to the  
22 Territory; and
- 23 (ii) coordinate the Territory's role in the transition of the  
24 operation of the public hospital to the Territory; and
- 25 (b) cooperate with Calvary to develop a transition plan for the  
26 transfer of the operation of the public hospital and ensure its  
27 employees and contractors comply with the plan; and

- 1 (c) ensure that any disruption to Calvary caused by the transition of  
2 the operation of the public hospital to the Territory is minimised;  
3 and
- 4 (d) comply with all requirements under this Act as soon as is  
5 reasonably practicable; and
- 6 (e) provide reasonable assistance to Calvary to enable Calvary to  
7 comply with its obligations under this Act; and
- 8 (f) not do anything that hinders, obstructs or delays Calvary in  
9 complying with its obligations under this Act; and
- 10 (g) on request by Calvary, provide Calvary with any reasonable  
11 assistance to enable Calvary to comply with its obligations  
12 under this Act; and
- 13 (h) promptly notify Calvary of any matter of which it is aware may  
14 hinder, obstruct or delay the transition of the operation of the  
15 public hospital to the Territory; and
- 16 (i) do anything else prescribed by regulation.

- 1 **Part 4** **What happens on or after**  
2 **acquisition day**
- 3 **Division 4.1** **Operation of public hospital**
- 4 **14** **Operation of public hospital—generally**
- 5 (1) On the acquisition day—
- 6 (a) the Crown lease for the hospital land is amended under  
7 section 18; and
- 8 (b) the network agreements are terminated; and
- 9 (c) Calvary must—
- 10 (i) vacate the public hospital land; and
- 11 (ii) allow the Territory to enter the public hospital land; and
- 12 (iii) allow the Territory to use all public hospital assets; and
- 13 (iv) allow the Territory to perform any activity necessary for  
14 the continued operation of the public hospital; and
- 15 (v) execute all documents necessary to give effect to a purpose  
16 of this Act; and
- 17 (vi) do all other things reasonably necessary to ensure—
- 18 (A) the safe and orderly transition of the operation of the  
19 public hospital to the Territory; and
- 20 (B) the continued operation of, and maintenance of  
21 service delivery standards at, the public hospital.
- 22 (2) A regulation may provide for the following matters:
- 23 (a) the offer of employment by the Territory to public hospital  
24 employees and employment by the Territory of those employees  
25 and related matters;

- 1 (b) the disapplication of provisions of the *Public Sector*  
2 *Management Act 1994* for paragraph (a);
- 3 (c) for public hospital contracts—
- 4 (i) the novation or assignment of the contracts to the Territory;  
5 and
- 6 (ii) other arrangements in relation to the contracts, including  
7 renegotiation by the Territory of existing contractual  
8 arrangements with other parties to the contracts;
- 9 (d) arrangements with parties to charges or other security interests,  
10 including renegotiation by the Territory of existing  
11 arrangements;
- 12 (e) the transfer, retention and storage of public patient health  
13 records, employment and other records of the public hospital;
- 14 (f) any other thing reasonably necessary to ensure—
- 15 (i) the safe and orderly transition of the operation of the public  
16 hospital to the Territory; and
- 17 (ii) the continued operation of, and maintenance of service  
18 delivery standards at, the public hospital.

19 **15 Access to hospital land on and after acquisition day**

- 20 (1) On the acquisition day—
- 21 (a) the Territory grants Calvary a licence to enter on the public  
22 hospital land and do all things reasonably necessary—
- 23 (i) to allow Calvary to comply with its obligations under this  
24 Act; and
- 25 (ii) to do any other thing reasonably required to ensure the  
26 continued operation of facilities on the private hospital  
27 land; and
- 28 (iii) for any other reason prescribed by regulation; and

- 1 (b) Calvary grants the Territory a licence to enter on the private  
2 hospital land—
- 3 (i) to allow the Territory to comply with its obligations under  
4 this Act; and
- 5 (ii) to do anything mentioned in section 11; and
- 6 (iii) to do any other thing reasonably required to ensure—
- 7 (A) the safe and orderly transition of the operation of the  
8 public hospital to the Territory; and
- 9 (B) the continued operation of, and maintenance of  
10 service delivery standards at, the public hospital; and
- 11 (iv) for any other reason prescribed by regulation.
- 12 (2) The *Public Unleased Land Act 2013* does not apply to the grant of a  
13 licence by the Territory under this section except that the licence is  
14 taken to be a licence for that Act, section 43 (4) (Offence—use public  
15 unleased land without permit).
- 16 (3) In entering land under a licence granted under this section, the  
17 Territory and Calvary, must minimise any interference with the other  
18 party's use of the land to the extent reasonably practicable.
- 19 (4) This section expires on the day declared by the Minister.
- 20 (5) A declaration under subsection (4) is a notifiable instrument.
- 21 **16 Territory may grant Calvary short-term licence to operate**  
22 **public hospital**
- 23 (1) The Territory may grant Calvary a licence to operate the public  
24 hospital on and from the acquisition day to ensure the continued  
25 operation of, and maintenance of service delivery standards at, the  
26 public hospital while the matters required to be done under this part  
27 are done.
- 28 (2) The terms of the licence are as agreed by the Territory and Calvary.

- 1 (3) The *Public Unleased Land Act 2013* does not apply to the grant of a  
2 licence by the Territory under this section except that the licence is  
3 taken to be a licence for that Act, section 43 (4) (Offence—use public  
4 unleased land without permit).

5 **17 Continued access to historical records relating to public**  
6 **hospital**

- 7 (1) The director-general may at any time after the acquisition day request  
8 that Calvary—

- 9 (a) provide historical information reasonably required by the  
10 Territory in relation to the following:

- 11 (i) any existing or pending investigation, proceeding (whether  
12 civil or criminal) or remedy in relation to a right, privilege  
13 or liability under a law applying in the ACT in relation to  
14 the operation of the public hospital before the acquisition  
15 day;

- 16 (ii) the employment of public hospital employees before the  
17 acquisition day including in relation to their rights and  
18 entitlements;

- 19 (iii) any other thing prescribed by regulation; and

- 20 (b) do anything reasonably required in relation to the storage and  
21 retention of information mentioned in paragraph (a) including  
22 storing the information in a stated electronic form.

23 *Note* Nothing in this section limits any obligation Calvary or a related  
24 corporation would otherwise have under a territory privacy law  
25 (see s 22).

- 26 (2) A request—

- 27 (a) must be in writing; and

- 28 (b) must state a reasonable period within which the request must be  
29 complied with; and

1 (c) may state a reasonable format or way in which the information  
2 is to be provided, stored or retained.

3 (3) Calvary must—

4 (a) comply with the request within the stated period; and

5 (b) provide, store or retain the information in any stated format or  
6 way.

## 7 **Division 4.2 Amendment of Crown lease**

### 8 **18 Territory must prepare draft deposited plan**

9 (1) The Territory must prepare a draft deposited plan describing—

10 (a) the land to be the subject of the amended Crown lease, which—

11 (i) substantially corresponds to the area identified as the  
12 'PRIVATE PRECINCT AREA' in the plan in schedule 1;  
13 or

14 (ii) corresponds to any other area in the hospital land agreed in  
15 writing by the Territory and Calvary; and

16 (b) any easement or right of way the Territory decides is appropriate  
17 to allow Calvary to access the land the subject of the amended  
18 Crown lease; and

19 (c) any other thing prescribed by regulation.

20 (2) In this section:

21 *draft deposited plan* means a plan in a form that is registerable under  
22 the *Districts Act 2002*, section 7 (Deposited plans).



- 1 **19** **Amendment of the Crown lease etc**
- 2 (1) On the acquisition day, the Crown lease is amended—
- 3 (a) to only apply to the private hospital land; and
- 4 (b) in any other way prescribed by regulation.
- 5 (2) The registrar-general must, as soon as is practicable after the
- 6 acquisition day record the amendments on the register under the *Land*
- 7 *Titles Act 1925*.
- 8 (3) The Territory must—
- 9 (a) prepare an instrument for any easement or right of way noted in
- 10 the draft deposited plan prepared under section 18 (1) (b); and
- 11 (b) take all reasonable steps to ensure the draft deposited plan and
- 12 the instrument mentioned in paragraph (a) are registered under
- 13 the *Land Titles Act 1925*.

1 **Part 5** **Miscellaneous**

2 **20** **No repudiation etc of network agreements**

- 3 (1) None of the following constitutes a repudiation or breach of a network  
4 agreement:
- 5 (a) the development or preparation of the Bill for this Act, or  
6 government or Cabinet consideration of policy carried out in  
7 developing or preparing the Bill;
- 8 (b) the presentation of the Bill in, and agreement to the Bill by, the  
9 Legislative Assembly, or any processes associated with the  
10 passage of the Bill through the Legislative Assembly;
- 11 (c) the making, notification or commencement of this Act;
- 12 (d) any act done in accordance with this Act;
- 13 (e) anything done by the Territory to give Calvary notice (whether  
14 in writing or orally) of the Territory's intention to do a thing  
15 mentioned in paragraphs (a) to (d);
- 16 (f) any other communication between the Territory and Calvary  
17 before the commencement of this Act about a matter mentioned  
18 in paragraphs (a) to (e).
- 19 (2) Calvary or a related corporation may not bring any claim against the  
20 Territory for repudiation or breach of a network agreement, and is not  
21 entitled to any compensation or remedy for repudiation or breach of  
22 a network agreement, because of an event or matter mentioned in  
23 subsection (1).
- 24 (3) Subsection (2) does not limit any right a person may have to  
25 compensation for an acquisition under section 10 (Acquisition must  
26 be on just terms).

1   **21           Performance of Calvary’s obligations**

- 2           (1) This section applies if—
- 3               (a) this Act requires Calvary to do, or not do, a thing; and
- 4               (b) Calvary fails to comply with the requirement, including because
- 5                     Calvary does not have or cannot access the resources required
- 6                     to do so.
- 7               *Note     Fail* includes refuse (see [Legislation Act](#), dict).
- 8           (2) A related corporation of Calvary nominated in writing by the
- 9               Territory must comply with the requirement or ensure another related
- 10              corporation does so.

11   **22           Application of privacy legislation**

- 12           (1) This section applies in relation to either of the following information
- 13               Calvary is required to give to the Territory under this Act
- 14               (the *transferred information*):
- 15               (a) a public patient health record;
- 16               (b) personal information of a public hospital employee or other
- 17                     person.
- 18           (2) None of the following constitutes a breach of a territory privacy law:
- 19               (a) Calvary or a related corporation providing the transferred
- 20                     information;
- 21               (b) the Territory receiving the transferred information;
- 22               (c) the Territory keeping the transferred information;
- 23               (d) the Territory using the transferred information for a purpose of
- 24                     this Act.

1 (3) Nothing in this section limits any obligation Calvary, a related  
2 corporation or the Territory would otherwise have under a territory  
3 privacy law in relation to the use, disclosure and security of the  
4 transferred information.

5 (4) In this section:

6 *territory privacy law* means—

7 (a) the *Health Records (Privacy and Access) Act 1997*; and

8 (b) the *Information Privacy Act 2014*.

### 9 **23 References to director-general etc**

10 (1) A reference to the *director-general* in this Act means the  
11 director-general of the administrative unit responsible for matters  
12 generally under the *Health Act 1993*.

13 (2) The director-general may delegate a function under this Act to—

14 (a) the director-general responsible for Canberra Health Services;  
15 or

16 (b) another public servant.

### 17 **24 Supreme Court may order stay of proceedings under** 18 **security**

19 (1) This section applies if—

20 (a) an interest acquired under this Act is, immediately before the  
21 acquisition day, subject to a security and the securityholder—

22 (i) commences a proceeding and the proceeding was pending  
23 on the acquisition day; or

24 (ii) commences, or proposes to commence, a proceeding on or  
25 after the acquisition day and before compensation has been  
26 paid in full in relation to the acquisition; or

- 1 (b) Calvary or a related corporation has granted a security over  
2 property which is not acquired under this Act and, as a direct  
3 consequence of the operation of this Act, the securityholder—
- 4 (i) commences a proceeding and the proceeding was pending  
5 on the acquisition day; or
- 6 (ii) commences, or proposes to commence, a proceeding on or  
7 after the acquisition day and before compensation has been  
8 paid in full in relation to the relevant acquisition under this  
9 Act.
- 10 (2) The Supreme Court may, on application by Calvary or a related  
11 corporation and subject to any condition it considers appropriate—
- 12 (a) order a stay of the proceeding or enjoin the securityholder  
13 against commencing or continuing the proceeding; and
- 14 (b) make any other order it considers appropriate.
- 15 (3) In this section:
- 16 *proceeding*, by a securityholder, means any action to enforce the  
17 rights of the securityholder under the security, whether or not the  
18 proceeding is in a court, including action with a view to taking  
19 possession of or selling an interest or foreclosing.

## 20 **25 Court order to enforce exercise of powers**

- 21 (1) This section applies if—
- 22 (a) a person hinders or obstructs or intends to hinder or obstruct an  
23 authorised person in the exercise of a function under section 11;  
24 or
- 25 (b) Calvary does not comply with a requirement under—
- 26 (i) section 11 (Territory may enter hospital land); or  
27 (ii) section 12 (Calvary to provide information); or

- 1 (iii) section 13 (Calvary and Territory must cooperate to ensure  
2 safe and orderly transition etc); or
- 3 (iv) section 14 (Operation of public hospital—generally); or
- 4 (v) section 17 (3) (Continued access to historical records  
5 relating to public hospital).
- 6 (2) The Magistrates Court may, on application by the director-general,  
7 make an order—
- 8 (a) authorising a police officer or other stated person to provide  
9 assistance or use force as is reasonably necessary to allow an  
10 authorised person to exercise their power under section 11; or
- 11 (b) requiring Calvary, or a related corporation nominated under  
12 section 21 (2), to comply with a requirement mentioned in  
13 subsection (1) (b).
- 14 (3) The director-general must give a copy of an application under  
15 subsection (2) to Calvary or the related corporation.
- 16 (4) Calvary or the related corporation is entitled to appear and be heard  
17 on the hearing of the application.
- 18 (5) In this section:
- 19 *authorised person*—see section 11 (5).

20 **26 Payments to be good discharge**

21 Any payment made by or on behalf of the Territory to a person under  
22 this Act is good and valid discharge to the Territory and the Territory  
23 is not bound to see to the application of any money paid or to the  
24 performance of any trust.

1   **27**           **Execution of documents for or on behalf of Territory**

2                   The planning and land authority may execute any instrument or other  
3                   document, for and on behalf of the Territory, relating to an acquisition  
4                   of land under this Act.

5   **28**           **Regulation-making power**

6                   The Executive may make regulations for this Act.

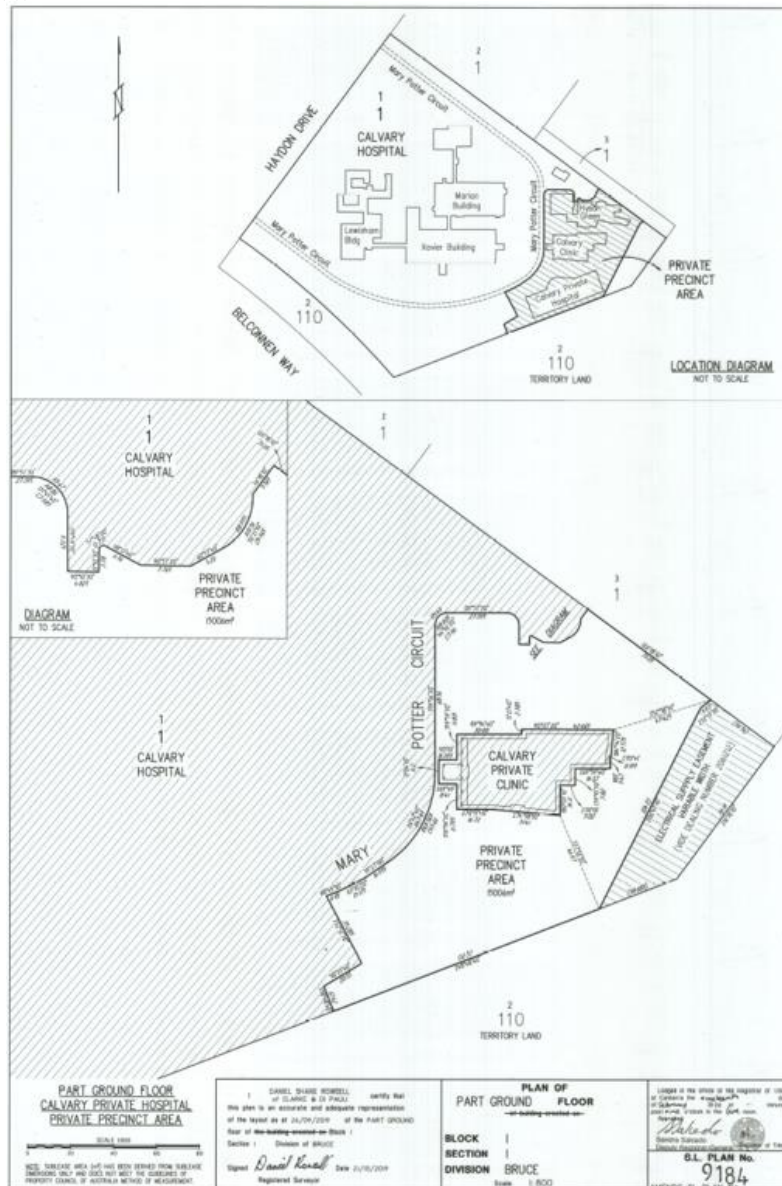
7                   *Note*       Power to make a regulation includes power to make different provision  
8                   in relation to different matters or different classes of matters (see  
9                   [Legislation Act](#), s 48).





# Schedule 1 Private precinct area

(see 18 (1) (a))



1 **Schedule 2 Consequential amendments**

2 (see pt 6)

3 **Part 2.1 Health Act 1993**

4 **[2.1] Section 50, definition of *chief executive officer, Calvary***

5 *omit*

6 **[2.2] Section 66 (4)**

7 *omit*

8 and the chief executive officer, Calvary (the *executive officers*)

9 **[2.3] Section 66 (5) and examples**

10 *substitute*

11 (5) If the director-general is told about the withdrawal or amendment of  
12 the scope of clinical practice of a practitioner under this section, the  
13 director-general must tell appropriate officers under their authority or  
14 direction of the committee's decision so that proper effect can be  
15 given to the decision.

16 **[2.4] Section 69 (6) (c)**

17 *omit*

18 **[2.5] Dictionary, definition of *chief executive officer, Calvary***

19 *omit*

1 **Part 2.2** **Health Infrastructure Enabling**  
2 **Act 2023**

3 **[2.6] Section 6 (1) (d)**

4 *substitute*

5 (d) the *Planning and Development Act 2007* (repealed);

6 (da) the *Planning Act 2023*.

7 **[2.7] Section 6 (2) and (3)**

8 *omit*

9 *Planning and Development Act 2007*

10 *substitute*

11 *Planning Act 2023*

12 **Part 2.3** **Medicines, Poisons and**  
13 **Therapeutic Goods**  
14 **Regulation 2008**

15 **[2.8] Section 861A (5), definition of *public employee***

16 *substitute*

17 *public employee* includes a police officer.

18 **Part 2.4** **Public Sector Management**  
19 **Act 1994**

20 **[2.9] Division 8.3**

21 *omit*

## Dictionary

(see s 3)

*Note* The [Legislation Act](#) contains definitions relevant to this Act.  
For example:

- [Corporations Act](#)
- director-general (see s 163)
- Executive
- public servant
- registrar-general
- territory law.

***acquisition day***—see section 7.

***amended Crown lease*** means the Crown lease as amended under section 19.

***Calvary*** means Calvary Health Care ACT Limited (ACN 105 304 989).

***Crown lease*** means the Crown lease over the hospital land.

***director-general***—see section 23 (1).

***excluded asset*** means—

- (a) any asset used only in, or only purchased for, the private hospital; and
- (b) any non-fixed asset of religious or cultural significance to Calvary or a related corporation, as agreed in writing by the Territory; and
- (c) any loan receivables between Calvary and a related corporation; and
- (d) any special purpose fund or trust fund for the public hospital held by Calvary or a related corporation the terms of which only Calvary or a related corporation can fulfil; and
- (e) any other thing prescribed by regulation.

1           **health record**—see the *Health Records (Privacy and Access)*  
2           *Act 1997*, dictionary.

3           **hospital land** means Block 1 Section 1 Division of Bruce.

4           **interest**, in the public hospital land or a public hospital asset—

5           (a) means—

6                   (i) the legal or equitable estate or interest in the public hospital  
7                   land or a public hospital asset; and

8                   (ii) any other right (including a right under an option and a  
9                   right of redemption), charge, power or privilege over, or in  
10                  connection with, the public hospital land or a public  
11                  hospital asset or an interest in the public hospital land or a  
12                  public hospital asset; and

13          (b) includes—

14                   (i) an interest of the Territory, a State or another Territory in  
15                   the public hospital land or a public hospital asset; and

16                   (ii) an interest that did not previously exist in relation to the  
17                   public hospital land or a public hospital asset; and

18                   (iii) a restriction on the use of the public hospital land or a  
19                   public hospital asset, whether or not annexed to the public  
20                   hospital land or public hospital asset; and

21          (c) does not include an interest excluded by regulation.

22          **network agreement**—

23          (a) means each of the following:

24                   (i) the agreement between the Territory and Calvary dated  
25                   7 December 2011 in relation to the operation of the public  
26                   hospital on the hospital land;

27                   (ii) the precinct deed;

- 1 (iii) if the provisions of the new public hospital agreement  
2 applies because of clause 32 of the network agreement—  
3 the agreement constituted by those provisions;
- 4 (iv) any other agreement (not including a public hospital  
5 contract) related to the operation of the public hospital  
6 prescribed by regulation; but
- 7 (b) does not include an agreement excluded by regulation.
- 8 **operation**, of the public hospital, includes the provision of public  
9 health services by public hospital employees at places other than the  
10 public hospital.
- 11 **patient**, of the public hospital, means a consumer as defined in the  
12 [Health Records \(Privacy and Access\) Act 1997](#), dictionary.
- 13 **precinct deed** means the Bruce Health Care Precinct Deed between  
14 the Territory and Calvary dated on or about 7 December 2011.
- 15 **private hospital** means the private health care facilities (including  
16 Hyson Green and Calvary Clinic) operated on the hospital land by  
17 Calvary or a related corporation.
- 18 **private hospital land** means the land identified as the private hospital  
19 land in the draft deposited plan prepared under section 18.
- 20 **public hospital** means the public hospital located on the hospital land  
21 known as Calvary Public Hospital Bruce.
- 22 **public hospital assets**—
- 23 (a) means the following:
- 24 (i) the fixed and non-fixed assets of the public hospital  
25 nominated by the Territory in writing;
- 26 (ii) the public hospital stock;
- 27 (iii) the motor vehicles used for the public hospital nominated  
28 by the Territory in writing;

- 1 (iv) any special purpose fund or trust fund for the public  
2 hospital held by Calvary or a related corporation the terms  
3 of which only the Territory can fulfil;
- 4 (v) any asset purchased for the public hospital before the  
5 acquisition day;
- 6 (vi) any other thing prescribed by regulation; but
- 7 (b) does not include—
- 8 (i) an excluded asset; or
- 9 (ii) a public hospital contract;
- 10 (iii) any other thing excluded by regulation.

11 ***public hospital contract—***

- 12 (a) means a contract (not including a network agreement) to which  
13 Calvary or a related corporation is a party necessary for and  
14 ancillary to the operation of the public hospital; and
- 15 (b) includes a contract (not including a network agreement)  
16 prescribed by regulation.

17 ***public hospital employee—***

- 18 (a) means a person employed by Calvary or a related corporation  
19 solely or substantially for the purpose of providing services in  
20 or to the public hospital or other public health services and  
21 includes the following:
- 22 (i) a person employed under the *Public Sector Management*  
23 *Act 1994*;
- 24 (ii) a person employed under an industrial agreement  
25 prescribed by regulation;
- 26 (iii) any other person prescribed by regulation; and
- 27 (b) does not include a person excluded by regulation.

- 1            **public hospital land** means that part of the hospital land that is not  
2            private hospital land.
- 3            **public hospital stock** means stock in trade and inventory of the public  
4            hospital and all other items held for sale or use in the ordinary course  
5            of the operation of the public hospital as at the acquisition day and  
6            includes items which are—
- 7            (a) held by or on behalf of Calvary or a related corporation; and  
8            (b) in transit to Calvary or a related corporation; and  
9            (c) on consignment with a customer or any other person.
- 10           **public patient health records** means a health record for a current or  
11           past patient of the public hospital.
- 12           **purpose of this Act** means a purpose mentioned in section 5.
- 13           **related corporation**, of another corporation, means a related body  
14           corporate, associate or related entity under the [Corporations Act](#).
- 15           **security**—
- 16           (a) means security over an interest in land or other property securing  
17           the payment or repayment of money; and
- 18           (b) includes a mortgage.
- 19           **securityholder**, in relation to a security, means the person who is or  
20           was entitled to receive payment or repayment of the money secured  
21           by the security, or any agent or security trustee on their behalf.
- 22           **security right** means the interest in the land or other property of a  
23           securityholder under a security.



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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 11 May 2023.

**2 Notification**

Notified under the [Legislation Act](#) on 2023.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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