

1 March 2022

Parliamentary Joint Committee on Intelligence and Security

**Via direct upload to website**

Dear Sir/Madam

***Review of the Security Legislation Amendment (Critical Infrastructure) Bill 2022 (Cth)***


Thank you for the opportunity to make submissions to the consultation on the exposure draft of the *Security Legislation Amendment (Critical Infrastructure) Bill 2022 (Cth)*.

In Australia, Ramsay Health Care Limited (**Ramsay**) is the largest private hospital operator, with 72 hospitals and day surgery units, together with three public hospitals through public private partnerships and a number of in-house and retail pharmacies and dispensaries. Ramsay is a respected leader in Australia's private health care sector and is a well-recognised brand in the industry.

Please find attached Ramsay's Submission.

As set out in the Submission, Ramsay would welcome the opportunity to work with the government to ensure the proportionate and balanced implementation of the proposed obligations in the health care and medical sector.

Yours sincerely



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## Ramsay Health Care

### Submission to the Parliamentary Joint Committee on Intelligence and Security's Review of the *Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022 (Cth)*

1 March 2022

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Ramsay Health Care Limited (**Ramsay**) welcomes the opportunity to make this submission to the Parliamentary Joint Committee on Intelligence and Security's (**PJCIS**) Review of the *Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022 (Cth)* (**SLACIP Bill**).

*It is requested that this Submission be treated as confidential.*

#### 1. Background to Ramsay's operations

- 1.1 In Australia, Ramsay Health Care Limited (**Ramsay**) is Australia's largest private hospital operator with 72 hospitals and day surgery units, more than 1.1 million patients and over 33,000 employees. In addition to its comprehensive range of private hospitals, Ramsay also operates three public facilities in Australia and a community pharmacy brand with more than 35 in-house pharmacy departments and dispensaries and a retail franchise operation supporting more than 55 community franchise pharmacies.
- 1.2 This submission outlines the issues raised by the definition of a 'critical hospital', and explains the regulatory impact of the SLACIP Bill for Ramsay.
- 1.3 The health care and medical sector faces significant challenges with the continued impact of the COVID-19 pandemic, the rapid escalation of telehealth, an ageing population, rising health care costs and workforce shortages. The sector is already heavily regulated and faces a significant existing compliance burden.

#### 2. Submission

- 2.1 Ramsay respectfully submits that:
  - (a) although Ramsay has previously provided feedback to the PJCIS in relation to the amendments to the security of critical infrastructure laws more broadly,<sup>1</sup> Ramsay does not consider that its feedback in relation to the matters raised in this Submission have been incorporated into the SLACIP Bill or addressed in explanatory material;
  - (b) the potential regulatory impact of the SLACIP Bill has not been reflected accurately; and
  - (c) while Ramsay supports the general intent of the SLACIP Bill (and the reforms more broadly), Ramsay does not support the scope of the current definition of 'critical hospital' in the legislation.
- 2.2 Further detail in relation to each of these submissions is set out below.

#### *Incorporation of previous feedback*

- 2.3 Ramsay has previously submitted (through written submissions) that it is presently unclear which classes of critical infrastructure assets are intended to be declared as systems of national significance. Ramsay submitted that a sector-specific consultation prior to the further consideration of the SLACIP Bill by Parliament is justified given the complex, varied and multi-functional nature of the sector. However, it is not clear from the SLACIP Bill, its explanatory materials, or other consultations that have taken place, what types of medical or health sector assets the government intends to declare as systems of national significance. Given the potentially significant impacts of a declaration being made about a system of national significance, Ramsay submits that government should conduct further consultation with key stakeholders from the health and medical sector, with a view to issuing draft Rules setting out the types of hospital

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<sup>1</sup> Ramsay refers to its previous submissions dated 27 November 2020, 12 February 2021 and its estimated costings dated 22 December 2021.

assets (if any) that the government proposes to declare as systems of national significance. This process should take place prior to further consideration of the Bill by Parliament.

- 2.4 Ramsay has also previously submitted that that the timeframe for the proposed passage of the Bill is ambitious. It was submitted that government should work with the health care and medical sector to develop a more realistic implementation timeframe that takes into account the current challenges facing the sector, particularly due to the continuing impact of COVID-19. However, despite the Draft *Security of Critical Infrastructure (Critical infrastructure risk management program) Rules (LIN/22/018) 2022* (Cth) (**Draft RMP Rules**) proposing a delay in the implementation of the RMP Rules in some sectors (eg food and grocery) as a result of the impact of COVID-19, there has not been a similar concession made in respect of the hospital sector. It is submitted that the implementation of the RMP Rules should be delayed for critical hospital assets, in line with critical food and grocery assets and critical freight services and infrastructure assets.
- 2.5 In addition to the written submissions referred to above, Ramsay has made oral submissions to the Parliamentary Joint Committee on Intelligence and Security (at hearings held in July 2021) and to the Cyber and Infrastructure Security Centre (at Town Hall sessions held in October 2021) regarding the scope of the definition of a 'critical hospital'. Ramsay's submission regarding this aspect are set out in more detail in paragraphs 2.9 - 2.11 below. Ramsay's submissions regarding the scope of the definition of a 'critical hospital' have not been addressed in the SLACIP Bill or in any draft Rules.

#### *Potential regulatory impact*

- 2.6 It is submitted that the potential regulatory impact of the SLACIP Bill has not been captured accurately. Although the critical aspect of the hospital sector that is captured by the security of critical infrastructure amendments is intensive care units (ICU), it is not practical to implement the measures required by the SLACIP Bill only for ICU departments. As is common in the sector, Ramsay has a single enterprise-wide shared services (including IT) division, which will be primarily responsible for implementing the uplift to Ramsay's existing security and risk management program, as well as shared systems, in line with the requirements of the SLACIP Bill. This means that, not only does the shared services division support non-ICU departments within Ramsay hospitals, but it also supports Ramsay hospitals that do not fall within the definition of 'critical hospital'. However, due to the inter-related nature of the systems across the enterprise, in practical terms, the SLACIP Bill will necessitate an uplift of all such systems at an enterprise level. This will result in a far more significant regulatory impact than has been reflected in the explanatory materials.
- 2.7 More specifically, of Ramsay's 72 facilities, 20 will be captured by the current definition of a 'critical hospital'. Those facilities represent a total of 4970 beds, of which 183 are ICU beds. From these numbers, this represents only a small proportion of Ramsay's operations; however, the overall financial burden for Ramsay of uplifting all impacted shared systems will be significant.
- 2.8 It is also submitted that the regulatory impact and financial burden of the proposed obligations as set out in the SLACIP Bill for new private operators could serve as a deterrent to them entering the market, resulting in worse health outcomes for the community.

#### *Definition of 'critical hospital'*

- 2.9 It is submitted that the current definition of 'critical hospital' is broader in scope than is necessary to address the intention of the legislation. As indicated above, in defining 'critical hospitals' by reference to an ICU department, the legislation does not adequately take account of the complexities and inter-dependencies for operators (such as Ramsay) that run hospitals both with and without ICUs.
- 2.10 As a result of the current definition, Ramsay will be subject to a significant regulatory and financial burdens, as compared with other private hospital operators that do not operate ICU departments. This places Ramsay at a disadvantage, and, as outlined above, may result in negative health outcomes for the community.
- 2.11 It is therefore submitted that the definition of 'critical hospital' be amended to exclude private hospitals. This amendment could be made by Rules made by the Minister in accordance with the Minister's powers under section 9(2)(n) of the *Security of Critical Infrastructure Act 2018* (Cth). Alternatively, the SLACIP Bill should amend the definition of a 'critical hospital' to include *all* hospitals (including those that only provide day surgeries).

Ramsay welcomes the opportunity to work with government to ensure the proportionate, balanced and fair implementation of the proposed obligations in the health care and medical sector.

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