



Dr Joe McGirr MP
Committee Chair
Modern Slavery Committee
NSW Parliament
Macquarie Street
SYDNEY NSW 2001

Our ref: R014-1198018347-2604

16 November 2023

Dear Dr McGirr

Response to request from the NSW Joint Modern Slavery Committee

Thank you for inviting me to provide a response to the NSW Parliament's Joint Modern Slavery Committee's review of the *Modern Slavery Act 2018*. I note your invitation is for me to respond to evidence provided by Dr Cockayne, the NSW Anti-Slavery Commissioner, at a committee hearing on 30 October 2023.

Division 2B of the *Government Sector Audit Act 1983* (GSA Act) enables the Auditor-General to conduct 'modern slavery audits' of government agencies and give advice to the NSW Anti-Slavery Commissioner about the audit results. This provision commenced on 1 January 2022.

As set out in section 38(G) of the GSA Act, risk-based modern slavery audits are to determine whether the audited agency is ensuring that the goods and services they procure are not the product of modern slavery. In conducting a modern slavery audit, I am to consider whether the agency has exercised due diligence, and complied with applicable NSW Procurement Board directions. Dr Cockayne's evidence to the committee relating to the nature and scope of my modern slavery audit powers under the GSA Act is broadly consistent with this overview. Dr Cockayne's clarification to the committee that this audit power is 'not a broader investigative power' is correct. However, I would like to correct a related comment made by Dr Cockayne by clarifying that I do not have the ability to 'sanction' agencies for failing to comply with their obligations.

Dr Cockayne additionally provided evidence that, to his knowledge, I have 'not yet exercised' my modern slavery audit powers. Provisions requiring agencies to take reasonable steps to remove products of modern slavery from their procurement, or report on those steps, commenced on 1 July 2022. As Dr Cockayne noted in his evidence to your committee, it is early days in the implementation of the *Modern Slavery Act 2018*. I understand that work has recently commenced under the auspices of Office of the NSW Anti-Slavery Commissioner to implement a framework by the end of 2023 to guide agencies in meeting their obligations.

The power to conduct a modern slavery audit is discretionary and consistent with the GSA Act I can exercise this power when I consider it appropriate to do so. My Annual Work Program 2023-26, published in August 2023, includes information about the addition of modern slavery audits to my mandate.

I note that when amendments were made to the GSA Act to enable my office to conduct modern slavery audits, no provision was made to resource this work. My office's performance audit function is funded through a NSW Government grant and I must prioritise efforts to ensure the best use of the finite resources at my disposal. Targeting my work program involves an assessment of whole of state sector and local government sector risks and performance gaps.

As this program is updated annually, my office will continue to have regard to whether the inclusion of a modern slavery audit in the program is appropriate. In this respect, relevant considerations are likely to include the progress of agencies and the NSW Anti-Slavery Commissioner in implementing their obligations.

Thank you again for inviting me to provide this response.

Yours sincerely

Margaret Crawford PSM
Auditor-General for New South Wales