

**INQUIRY INTO MODERN SLAVERY ACT 2018 AND
ASSOCIATED MATTERS**

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Submission to the Inquiry into the Modern Slavery Act 2018 and Associated Matters

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On 21 June 2018, NSW Parliament ('Parliament') passed the *Modern Slavery Act 2018* (NSW) ('NSW Act'). In doing so, it not only recognised and attempted to comprehensively deal with the serious problems and risks posed by modern slavery, but also became a world leader in combatting the issue. In line with Sustainable Development Goal 8 ('SDG 8'), which commits the 193 UN member states to eradicate all forms of child labour by 2025 and modern slavery, forced labour and human trafficking by 2030, the seventh largest economy in the Southern Hemisphere set the global standard for ensuring that profit does not come at the expense of people's rights and dignity.

At least until 1 July 2019, the date on which the NSW Act was expected to commence but never did, and to this day still hasn't.

While I understand the NSW Government's ('Government') position (seen in its 6 August 2019 submission ('Submission')) that, essentially, competing interests, especially those of businesses, must be balanced, and to that end the language of the NSW Act in places refined and somewhat narrowed, I would urge the Government to think about the following in making the amendments proposed in its Submission:

1. The *Modern Slavery Act 2018* (Cth) ('Cth Act'), which passed 5 months after the NSW Act and was implemented on 1 January 2019, does not eclipse or replace the NSW Act. It is a supply chain transparency Act only and lacks many of the essential provisions of the NSW Act. One key difference between the two Acts relates to the reporting threshold. The NSW Act's reporting threshold is \$50 million, reflecting the recommendations of the *NSW Legislative Council Select Committee Inquiry into Human Trafficking in New South Wales*, the Commonwealth report *Hidden in Plain Sight*, and the *Modern Slavery Act 2015* (UK)'s £37 million threshold. However, the Cth Act's threshold is much higher, at \$100 million, and fails to include penalties for non-reporting.
2. If the Government abandons or substantially modifies the NSW Act, it will no longer be a world leader in the fight against modern slavery.
3. Given the passing of the NSW Act by Parliament, the passing and subsequent operation of the Cth Act, and the adoption of the 17 SDGs (particularly SDG 8) by all 193 UN member states in 2015, there is clear state, national and global support for significant reform to protect against modern slavery.
4. As the Government itself recognised in its Submission, 'modern slavery is a serious violation of an individual's dignity and human rights'. This alone should be reason enough to legislate against it in any and every way possible. If it is not, the prevalence of modern slavery as well as its effects should certainly be:

- a. According to the Australian Institute of Criminology, modern slavery occurs in Australia, with up to 1,900 people estimated to be living in conditions of modern slavery.
 - b. The International Labour Organisation ('ILO') estimates that there are more than 40 million people in modern slavery conditions worldwide.
 - c. Again, according to ILO estimates, forced labour generates US\$150 billion of illegal profit globally every year, making modern slavery the third most profitable criminal activity in the world.
 - d. Many academics, including [Elizabeth Such](#), Research Fellow at the University of Sheffield and [Patrick Saunders](#), Visiting Professor of Public Health at the University of Staffordshire, agree that modern slavery has severe health effects on those impacted by it.
5. The burden placed on businesses in order to ensure and protect the basic human rights of 'employees' is necessary.
 6. As according to the UN Global Compact's 2018 Report *Businesses: It's Time to Act*, a track record which indicates that a business operates based on ethical as well as commercial considerations can encourage investment in that business as well as improve employee morale.

To conclude, it would be most concerning to know that the Government could have taken action to completely, comprehensively and effectively deal with modern slavery but didn't. To pass the NSW Act but then substantially modify it or, worse, for it never to commence operation, would be to fail to protect and assist those already vulnerable in our society. I urge the Government to make only the most relevant and necessary changes to the NSW Act, and then allow it to commence operation. Only then can we reduce, and eventually eradicate, modern slavery in Australia.