

INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

Organisation: Ethical Partners Funds Management

Date Received: 3 October 2019

Attention: The NSW Legislative Council's Standing Committee on Social Issues

Re: Inquiry into The Modern Slavery Act 2018 and associated matters

Thank you for the opportunity to comment on the Inquiry into the Modern Slavery Act 2018 and associated matters. At Ethical Partners, we believe that the NSW Modern Slavery Act is the strongest and most holistic in the world, and we urge the NSW government to implement it as a matter of urgency. We applaud NSW for being a global leader in this space and urge them to retain this position of leadership.

About Ethical Partners:

Ethical Partners Funds Management is an independent, boutique Australian fund manager with funds under management of approximately \$1.5bn. Ethical Partners has a dual focus on performance and investing ethically. Its investment approach directly manages risk for its clients, provides the ability to invest in line with clients' values and actively advocates for change. As well as investing in a manner that reflects our own and our client's moral and ethical beliefs, Ethical Partners strongly believes that companies that treat the world and people in a better way, will also do better than the broader market in the long run. By focusing on the companies with the best practises when it comes to knowing where their products came from, who made them and what impact they had on the planet, we believe we are lowering risk, and generally have more confidence investing in companies that are ahead of the pack with respect to social and sustainability issues. We also believe that investing in this way is an integral part of addressing the need for business and finance to be part of creating a more sustainable and equitable world.

Ethical Partners interest in the Modern Slavery Legislation

Ethical Partners' sustainability assessments are done in-house, directly by its investment analysts with support from its Sustainability Manager. We have a clearly defined and formal investment process that assesses cash flow, balance sheet, management, social, environmental, country and industry risks for individual companies. Our team has applied our investment process across more than 200 companies, which has involved assessing almost 3,000 individual data points and undertaking over 350 company meetings in the past year.

*Importantly however, as outlined in our recent Ethical Standards report, **there is a critical lack of transparency, disclosure, understanding and action amongst Australian corporates on human rights, forced labour and modern slavery issues.** In 2018 only 40% of companies within our study of 214 listed Australian companies had a human rights report, only 50% had some knowledge of their supply chains, and only 29% had any policies around child labour and modern slavery. This report can be found at <https://www.ethicalpartners.com.au/post/2019-ethical-standards-report>*

We believe that the Modern Slavery Legislation is an integral part of addressing this problem, and we have already seen a significant improvement in corporate transparency, disclosure and attention to modern slavery with the passage of the NSW and Commonwealth Modern Slavery Acts. We believe this improvement will dramatically increase even more once reporting commences

As investors we deeply believe we have an important role in both engaging with companies and using our shareholder voice to advocate for change, as well as being able to understand a company's exposure to the reputational and business risks of Modern slavery for our clients.

We strongly believe the Modern Slavery Legislation is a very important tool to increase corporate transparency and disclosure, as well as directing board and senior management attention to Modern Slavery issues, human rights issues and better social responsibility.

We further believe it will be of critical assistance to investors in understanding a company's management of Modern Slavery, showing investors where we can advocate for improvement and allowing more informed investment decisions.

Comments on the Inquiry into the Modern Slavery Act 2018 (NSW) and associated matters

Terms of Reference 1 (a)

We believe it is imperative that the NSW legislation retains the:

- **Turnover threshold of \$50 million.**
This threshold (\$50 million-\$100 million) would currently capture an additional 127 ASX listed companies in Australia (many of which would be within NSW jurisdiction)
- **The Inclusion of penalties.**
*Research has clearly shown that voluntary schemes are not effective in ensuring compliance – for example, the UK MSA that does not have penalties has a compliance of only 23% of reporting companies meeting the minimum requirements of the act.
We strongly believe penalties will result in a higher compliance with reporting and is a real strength of the NSW legislation.*
- **The inclusion of an Independent Anti-Slavery Commissioner:**
*We believe this is crucial. The politically independent nature of the commissioner is vital and a real strength of the NSW legislation.
Furthermore we believe that the current interim anti-slavery commissioner has done a great job of educating and advocating around this legislation with multiple stakeholders and should be commended for her work.*

We also believe it is crucial the Anti-Slavery Commissioner is well resourced and can be readily accessed by both corporates and the public.

- **Requirement for Board level approval.**

We firmly believe CEO and board level engagement is absolutely crucial to a corporation's meaningful and effective management of modern slavery in their operations.

We believe that the operability of the proposed anti-slavery scheme could be strengthened by *allowing for voluntary modern slavery risk statements*. We believe that corporates and entities that wish to establish themselves as leaders in the social responsibility space may wish to submit voluntary statements and we believe this leadership should be applauded and facilitated.

We also believe that providing strong clear guidance and detail on the mandated, relevant information that needs to be reported is essential. Corporates and investors are very much on a learning curve about how to address modern slavery in supply chains and a *uniform detailed basis* for reporting will assist companies in the learning process as well as investors in *comparison and analysis* of the reports, for both investment and engagement/advocacy activities. This will also assist in efforts to develop *outcome measurements*, to be able to analyse the effectiveness of the legislation.

The requirement that companies set up grievance mechanisms at all levels, as well as a complaints and grievance pathway to make reports to the Anti-slavery Commissioner, are also suggestions from the parliamentary inquiry into the Modern Slavery Act that we believe would be very beneficial.

On terms of reference 1 (b)

We do not believe that the effects of the anti-slavery scheme on business are detrimental – in fact we believe that there are very positive effects for businesses on addressing the risks of modern slavery in their supply chain.

There is mounting evidence to this affect and we have heard numerous times from corporates that have been leaders in addressing modern slavery in their businesses, that it has had positive business, financial, reputational and corporate culture effects on their operations, like cost-savings, supply chain rationalization, better understanding of their supply chain, decreased risk, increased employee engagement and so forth. We believe that the ultimate cost-savings and positive business benefits of addressing modern slavery will more than outweigh the costs.

On terms of reference 1 (g)

We do not believe that the Modern Slavery Act 2018 (Cth) renders parts or all of the NSW Act unnecessary.

We believe that the NSW Modern Slavery Act is the strongest and most holistic in the world, and we urge the NSW government to implement it as a matter of urgency. We applaud NSW for being a global leader in this space and urge them to retain this position of leadership.

As mentioned above, specifically we believe that the:

- *Turnover threshold of \$50 million*
- *The Inclusion of penalties*
- *The inclusion of an Independent Anti-Slavery Commissioner*

are particular strengths of the NSW Act and urge the Government to retain these.

On terms of Reference 1 (h)

We urge the NSW Government to address the matters as speedily as possible and minimize delays to minimize uncertainty for business, and enable investors and corporates to address the moral imperative to take action on modern slavery.

On Draft Regulation Clause 5:

We applaud the inclusion of mandatory criteria for modern slavery statements that are set out in Clause 7. We believe corporates need guidance in what needs to be included in the modern slavery statements. Experience from the UK Modern Slavery act has seen a wide variation in the reporting, and many experts have recommended mandatory criteria for reporting be included. Many corporates we speak to have also requested clear and consistent mandatory criteria.

We also applaud that this mirrors the criteria in the Commonwealth Act, to allow consistency in how corporates are addressing modern slavery risk. This ability to be able to compare the statements of NSW and Commonwealth reports will be of great benefit to investors to allow us to compare and analyse the hundreds of statements we study.

We furthermore applaud that these criteria reflect international best practice, including the UN Guiding Principles on Business and Human Rights (2011)

On Draft Regulation Clause 8 (3)-(6)


We strongly believe that the inclusion of all statements on a register that is publically accessible is a very important requirement. We believe these should be kept and archived indefinitely. This allows us as investors to readily access statements, and to be able to compare and track progress over time. It also allows the public and other stakeholders to hold corporates accountable for their reporting or lack thereof, and progress towards addressing modern slavery. Social issues within the supply chain of products are of increasing interest to investors and consumers, and we believe both investors and

consumers have a right to make an informed choice of which businesses they chose to support.

We appreciate and thank the NSW Legislative Council's Standing Committee on Social Issues for the opportunity to comment on this Inquiry into The Modern Slavery Act 2018 and associated matters and would be very happy to be involved in any further input on this very important, globally leading legislation.

We congratulate NSW on their leadership and look forward to the fast and full implementation of this crucial legislation to address modern slavery.

Yours Sincerely,

 Nathan Parkin
Investment Director