

**Submission  
No 4**

## **INQUIRY INTO REVIEW OF THE MODERN SLAVERY ACT 2018**

**Organisation:** New South Wales Council for Civil Liberties (NSWCCL)

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## **NSWCCL SUBMISSION**

### **MODERN SLAVERY COMMITTEE PARLIAMENT OF NSW LEGISLATIVE COUNCIL**

### **REVIEW OF THE MODERN SLAVERY ACT 2018**

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**NSWCCL**

## **Acknowledgement of Country**

In the spirit of reconciliation, the NSW Council for Civil Liberties acknowledges the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all First Nations peoples across Australia. We recognise that sovereignty was never ceded.

## **About NSW Council for Civil Liberties**

NSWCCL is one of Australia's leading human rights and civil liberties organisations, founded in 1963. We are a non-political, non-religious and non-sectarian organisation that champions the rights of all to express their views and beliefs without suppression. We also listen to individual complaints and, through volunteer efforts, attempt to help members of the public with civil liberties problems. We prepare submissions to government, conduct court cases defending infringements of civil liberties, engage regularly in public debates, produce publications, and conduct many other activities.

CCL is a Non-Government Organisation in Special Consultative Status with the Economic and Social Council of the United Nations, by resolution 2006/221 (21 July 2006).

## **Contact NSW Council for Civil Liberties**

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The New South Wales Council for Civil Liberties (**NSWCCL**) welcomes the opportunity to provide this submission to the New South Wales Modern Slavery Committee in the Legislative Council on the matters raised in the terms of reference (**Terms of Reference**) regarding the *Modern Slavery Act 2018* (NSW) (**NSW Modern Slavery Act**).

The Terms of Reference identifies that the Modern Slavery Committee will:

1. review and determine whether the policy objectives of the NSW Modern Slavery Act remain valid and whether the terms of the NSW Modern Slavery Act remain appropriate for securing the objectives;
2. investigate any other related matter the Committee considers appropriate (while undertaking the review); and
3. report to both House of Parliament on the outcome of the review and any related investigations within 24 months of the commencement of the NSW Modern Slavery Act.

Our submission will focus on item 1 of the Terms of Reference.

### **NSWCCL's aims**

The NSWCCL's constitutional aim is to assist in the maintenance and protection of the rights and liberties of persons in Australia and its Territories, against any infringement by authority, or against the use or abuse of powers by governments, their agencies, or others in authority to the detriment of the liberties which inhabitants of this country should enjoy.

We make this submission in accordance with our constitutional aim of "*assist[ing] in the maintenance and protection of the rights and liberties of persons in Australia and its Territories, against any infringement by authority, or against the use or abuse of powers by governments, their agencies, or others in authority to the detriment of the liberties which inhabitants of this country should enjoy.*"

### **Modern Slavery in Australia**

The Global Slavery Index 2023 estimated there are 41,000 victims of modern slavery in Australia.<sup>1</sup> In financial year ended 30 June 2022, authorities received 294 modern slavery reports in Australia, which was an increase of 31% from the prior year.<sup>2</sup> It is also reported that an estimated 16,400 people in NSW are victims of modern slavery.<sup>3</sup>

Even with these numbers being 'low' in comparison to other jurisdictions, it is estimated only 1 in 5 victims are detected in Australia. Roughly 1670 modern slavery cases have been referred to the Australian Federal Police but only 31 offenders convicted.<sup>4</sup>

### **NSW Modern Slavery Act**

The NSW Modern Slavery Act requires NSW state-owned corporations who are not otherwise required to report under the *Modern Slavery Act 2018* (Cth) (**Commonwealth Modern Slavery Act**) to volunteer to do so. The NSW Modern Slavery Act applies a different definition of modern slavery to that in the Commonwealth Modern Slavery Act. Additionally, the NSW Modern Slavery Act:

- introduced an Anti-Slavery Commissioner who has broad powers relating to modern slavery including the ability to implement a code of practice and consulting with the Auditor-General and NSW Procurement Board to monitor the effectiveness of due diligence procedures in place to

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<sup>1</sup> Global Slavery Index 2023, <https://www.walkfree.org/global-slavery-index/country-studies/australia/>

<sup>2</sup> Australian Federal Police 30 July 2022, <https://www.afp.gov.au/news-centre/media-release/reports-human-trafficking-and-slavery-afp-reach-new-high>

<sup>3</sup> NSW Anti-slavery Commissioner's Strategic Plan 2023–2026, <https://dcj.nsw.gov.au/documents/legal-and-justice/anti-slavery-commissioner/plans-and-discussion-papers/working-together-for-real-freedom-nsw-anti-slavery-commissioners-strategic-plan-2023-2026.pdf>

<sup>4</sup> Anti-slavery Australia, source found [here](#).

ensure goods and services procured by government agencies are not the product of modern slavery; and

- requires NSW government bodies and councils to include a statement in their public annual report outlining:
  - » any action taken in relation to a significant issue identified by the Anti-Slavery Commissioner concerning the operations of the agency during the financial year; and
  - » the steps taken to ensure goods and services procured during the financial year were not the product of modern slavery.

The objects of the NSW Modern Slavery Act are:

- (a) to combat modern slavery;
- (b) to provide assistance and support for victims of modern slavery;
- (c) to provide for an Anti-slavery Commissioner;
- (d) to provide for detection and exposure of modern slavery that may have occurred or be occurring or that is likely to occur;
- (e) to raise community awareness of, and provide for education and training about, modern slavery;
- (f) to encourage collaborative action to combat modern slavery;
- (g) to provide for the assessment of the effectiveness and appropriateness of laws prohibiting modern slavery and to improve the implementation and enforcement of such laws;
- (h) to provide for mandatory reporting of risks of modern slavery occurring in the supply chains of government agencies;
- (i) to make forced marriage of a child and certain slavery and slavery-like conduct offences in New South Wales;
- (j) to further penalise involvement in cybersex trafficking by making it an offence to administer a digital platform for the purpose of child abuse material or encourage another person to use a digital platform to deal with child abuse material;
- (k) to provide for education, training and guidance about identifying and addressing modern slavery taking place within supply chains of organisations.

The objects of the NSW Modern Slavery Act are quite broad. It appears the NSW Modern Slavery Act achieves objects (c), (e) and (g) through the introduction of the Anti-Slavery Commissioner and the actions taken by the Anti-Slavery Commissioner to date. Objects (i) and (j) were introduced into the *Crimes Act 1900* (NSW) and potentially therefore can be considered to be achieved.

It is harder to quantify the impact of the NSW Modern Slavery Act and any ancillary actions taken by virtue of the NSW Modern Slavery Act in regards to objects (a), (b), (d), (f), (h) and (k). Some of these objects may be achieved through the objectives of the NSW Anti-Slavery Commissioner's Strategic Plan 2023-2026, being:

- *build prevention capacity*: to ensure NSW government and non-government systems can identify vulnerability to modern slavery and prevent victimisation;
- *enable remedy*: to improve access for people with lived experience to effective remedy – including essential services, justice, self-determination and empowerment;

- *foster responsible business practices*: to show leadership in identifying and addressing modern slavery in supply chains and investment portfolios;
- *change the narrative*: make the case for anti-slavery in a convincing and empowering way; and
- *develop a community of purpose*: to lay the foundations for sustainable and inclusive implementation of the NSW Modern Slavery Act.

These objectives could be strengthened by explicitly stating that effective communication is underpinned by ensuring information be provided to CaLD communities in their own languages.

The ability to '*review and determine whether the policy objectives of the NSW Modern Slavery Act remain valid and whether the terms of the NSW Modern Slavery Act remain appropriate for securing the objectives*' is made more challenging by reason that it is relatively difficult to ascertain which entities (if any) are reporting under the Commonwealth Modern Slavery Act due to the provisions of the NSW Modern Slavery Act. We could not find an example on the register of an entity reporting under the Commonwealth Modern Slavery Act due to section 25A of the NSW Modern Slavery Act.

On this basis, **we recommend that the Anti-Slavery Commissioner is required to publish the entities which are reporting under the Commonwealth Modern Slavery Act due to section 25A of the NSW Modern Slavery Act.**

We trust this submission is helpful to committee and would be happy to provide further information on request.

Yours sincerely,

**Josh Pallas**  
**President**  
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