Australian Government

Office of the Australian Anti-Slavery Commissioner

Submission in response to the consultation on the Modern Slavery Bill (NZ)

Joint submission of the Australian Anti-Slavery Commissioner, the New South Wales Anti-slavery Commissioner and the Australian Human Rights Commission (May 2026)

Office of the NSW Anti-slavery Commissioner

Australian Human Rights Commission

Introduction

This submission reflects the views of the Australian Anti-Slavery Commissioner, the New South Wales (NSW) Anti-slavery Commissioner and the Australian Human Rights Commission (AHRC)(together, the **Commissioners**) on the New Zealand (NZ) Modern Slavery Bill (**Bill).**

The Australian Anti-Slavery Commissioner was appointed under an amendment to the *Modern Slavery Act 2018* (Cth) (**MSA**) in 2024 and his functions include supporting business to address modern slavery risks and advocating to the Government on matters relating to modern slavery. The NSW Anti-slavery Commissioner was appointed under the *Modern Slavery Act 2018* (NSW) (**NSW MSA**) and his work includes oversight of the mandatory modern slavery due diligence framework in NSW public buying, promotion of good practice in private sector supply-chains and government policy, and support and assistance to victims. The Australian Human Rights Commission, as Australia's National Human Rights Institution, promotes and protects human rights in Australia, including through ongoing advocacy, research and engagement to strengthen Australia's legislative and policy responses to modern slavery.

The Commissioners welcome the introduction of the Bill and commend the New Zealand Parliament for progressing a legislative response to modern slavery. The Bill represents an important and timely step in strengthening transparency, accountability, and action to address issues of severe exploitation in global and domestic business operations and supply chains.

Modern slavery is a transnational challenge of considerable and growing scale. The International Labour Organization estimates that on any given day, 27.6 million people are trapped in forced labour globally, including more than 3.3 million children, and that number is rising.[1] In 2023 World Vision New Zealand estimated that approximately NZD 8 billion worth of goods at high risk of being produced with forced or child labour were imported into New Zealand, representing around 10 per cent of total goods imports.[2]

This submission:

- highlights learnings from Australia in relation to the MSA and the NSW MSA;
- draws on the Commissioners' experience in supporting compliance with the MSA and NSW MSA, efforts to strengthen the MSA and international regulatory developments;
- points to key elements of the Bill that will support its effectiveness and capacity to protect people at risk of exploitation and encourage responsible business conduct.

Part A of this submission reflects the Commissioners' joint submission on some of the key aspects of the Bill, but is not a comprehensive examination of the Bill. Part B of this submission

[1] International Labour Organization, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: International Labour Organization, 2022).
[2] World Vision, *Risky Goods: Supply Chain Risk Report 2023*, accessed 22 May 2026, https://www.worldvision.org.nz/campaigns/risky-goods/.

sets out additional commentary from the NSW Anti-slavery Commissioner outlining further considerations specific to the legislative structure and implementation of the NSW MSA.

Part A

1. The benefits of a transparency regime

In the Australian context **mandatory reporting requirements** relating to modern slavery for large entities have contributed to a shift in how businesses understand and manage modern slavery risks. In Australia, the 2023 independent statutory review of the MSA (the McMillan Review)[3] heard that reporting obligations have increased awareness of modern slavery risks among businesses, investors, and the public, and have led to improvements in disclosure regarding supply chains and risk management processes. The Review noted evidence of organisational efforts, including executive-level training, appointment of specialist teams, supply chain mapping and auditing, revision of contract arrangements, adoption of grievance procedures and greater collaboration.[4]

The Bill's requirement that the Registrar **issue guidance** 'to facilitate compliance with reporting obligations' is an important enabling feature of the Bill. The changes in corporate practice in Australia driven by the MSA have been buttressed by detailed guidance from Government for reporting entities (Australian Government Guidance).[5] The guidance explains the reporting criteria and recommends steps entities can take to prepare to report on each criterion, in line with key international standards on business and human rights (discussed below). Similarly, the NSW Anti-slavery Commissioner has released detailed Guidance on Reasonable Steps, along with supplementary tools and resources, to support public entities in NSW to comply with mandatory due diligence and reporting obligations under the NSW MSA.[6]

Transparency should be understood as a means to an end, not the end itself. A key benefit of the reporting framework is it provides a consistent, structured format for entities to highlight their risk identification and management efforts and critically, to demonstrate improvements over time. For example, Australian Government Guidance states that:[7] "*(t)he Act aims to drive continuous improvement from reporting entities over time. Addressing modern slavery risks can be a complex and challenging process and how entities respond will evolve over time.*" The Registrar may wish to consider a similar positioning of the reporting requirement in the Act's eventual supporting guidance.

The inclusion of a Government-run publicly accessible, **online register** of modern slavery statements is an important feature of the Bill. Australia's online register has proven to be a

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[3] John McMillan, *Report of the Statutory Review of the Modern Slavery Act 2018 (Cth): The First Three Years*. (Canberra: Attorney-General's Department, 2023) (McMillan Review).
[4] Ibid, 33.
[5] Attorney-General's Department, *Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities*, (2019 and 2023) (Government Guidance).
[6] NSW Anti-slavery Commissioner, *Due diligence and reporting*, https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner/due-diligence-and-reporting.html
[7] Government Guidance, 31.

critical mechanism for investors, civil society, academic institutions and other stakeholders to assess reporting quality (as a proxy for action taken to manage modern slavery risk), identify gaps and track progress over time. Various benchmarks and other reports on modern slavery statements conducted by academics and investor bodies have helped drive corporate and investor focus on modern slavery risk and good practice.[8]

2. The importance of alignment and interoperability

The Commissioners support the Bill's general **alignment with existing modern slavery reporting frameworks**, in Australia, the United Kingdom, and Canada. More than three hundred New Zealand headquartered entities are already reporting under foreign legislation, including Australia's MSA, the UK *Modern Slavery Act 2015*, and Canada's *Fighting Against Forced Labour and Child Labour in Supply Chains Act*. Aligning core features of the Bill, particularly reporting criteria and statement authorisation and submission requirements, supports harmonised or joint reporting processes, reducing unnecessary duplication.

Crucially, the Australian Government Guidance on the MSA draws extensively on key international standards on business and human rights, the United Nations Guiding Principles on Business and Human Rights (**UNGPs**), to explain the meaning of different reporting criteria under the MSA, in particular 'due diligence'. It also details the UNGPs' due diligence process as the recommended approach for managing modern slavery risk. The Government's Guidance notes that: '*Investors, business peers, clients, civil society and governments expect you to understand and apply the* [UNGPs] *in your response to modern slavery*.'[9] This official guidance has helped socialise Australian businesses and other entities to the UNGPs' expectations including the internationally recognised 'due diligence' framework for human rights risk management. The Registrar may wish to consider the benefits of alignment, where appropriate, on supporting guidance for reporting entities under the eventual NZ Act.

This alignment with the UNGPs provides a strong normative foundation for reporting and assists business understanding of evolving stakeholder and regulatory expectations in other markets. The UNGPs' expectations inform an increasing range of emerging legislation, government guidance and certification frameworks. Mandatory human rights due diligence laws have been introduced in the European Union (EU) from 2029, in Germany, France, Norway, and Switzerland, and are being discussed in the United Kingdom, Canada, South Korea, Thailand, and Indonesia.[10] As discussed in Part B, around AUD 60 billion of commerce covered by the NSW MSA is now also subject to a legal framework aligned with the UNGPs. In addition, laws in the United States (US), Canada, Mexico and the EU from 2027, expressly prohibit goods made with forced labour from entering their markets. Malaysia and Indonesia are considering similar bans. The US is also currently carrying out investigations to examine the lack of forced labour

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[8] See: Amy Sinclair and Freya Dinshaw, *Paper Promises? Evaluating the early impact of Australia's Modern Slavery Act* (2022); Nga Pham, Bei Cui, and Ummul Ruthbah, *Modern Slavery Disclosure Quality Ratings: ASX100 Companies Update FY2024* (Melbourne: Monash Centre for Financial Studies, Monash Business School, 2024); CCLA, *Modern Slavery UK Benchmark 2025* (London: CCLA, 2025)
[9] Government Guidance, 10.
[10] See further discussion of these laws in Surya Deva, *Options for Action: Building an Effective Response to Modern Slavery in Australia* (2025).

import restrictions in trading partner countries, including New Zealand, underscoring the growing focus on forced labour within trade policy.[11]

These developments are likely to have implications for New Zealand businesses supplying directly or indirectly to these markets. Implications are likely to include: increased scrutiny by customers, investors and regulators of New Zealand businesses' management of their labour rights risks (in their domestic and global supply chains); increased contractual obligations; and requests for supply chain information. See further discussion of these developments in the Australian Anti-Slavery Commissioner's recent publication on the potential implications for Australian businesses of the new EU Corporate Sustainability Due Diligence Directive and Forced Labor Regulation.[12]

3. Monitoring compliance and enforcement

Based on the Australian experience, the Commissioners support the Bill's inclusion of **civil and criminal penalties** for failing to report and for knowingly making false or misleading statements. The MSA does not have penalties for breaches of the Act, including for failure to report. Compounding this, the MSA's existing ministerial powers to publish the details of those failing to comply, have, to date, not been used. While over 7,000 statements were published on the Australian register by early 2023,[13] estimates of entities required to report annually but that fail to do so, range from a few hundred to more than a thousand.

The McMillan Review recommended the Australian Government introduce a penalty regime into the MSA, including penalties for failure to submit a statement, providing false and misleading information, and failing to comply with a request for remedial action.[14] The Commissioners have made similar recommendations in relation to reform of the MSA.[15]

As the McMillan Review observed, it is incongruous that a law imposing a reporting duty on a matter of fundamental global human rights importance contains no robust procedure to ensure that duty is performed.[16] The absence of meaningful consequences for non-compliance with the reporting requirement not only fails to hold non-reporting entities to account, but undermines the integrity of the system for those entities investing genuine effort in compliance. The Australian Government conducted a public consultation on the introduction of penalties in 2025,[17] but has not yet announced the outcome.

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[11] See United States Trade Representative, "Section 301 – Failure to Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced with Forced Labor," accessed 28 May 2026, https://ustr.gov/trade-topics/enforcement/section-301-investigations/section-301-failure-impose-and-effectively-enforce-prohibition-importation-goods-produced-forced.
[12] Office of the Australian Anti-Slavery Commissioner and Norton Rose Fulbright, *Update: EU Regulatory Developments on Human Rights: Implications for Australian Businesses* (2026).
[13] McMillan Review, 25.
14 McMillan Review, Recommendation 20.
[15] Australian Human Rights Commission, *Submission to the Statutory Review of Australia's Modern Slavery Act 2018 (Cth)*, (November 2022); NSW Anti-slavery Commissioner, *Submission to the Consultation: Strengthening the Modern Slavery Act 2018 (Cth)* (2 September 2025); Australian Anti-Slavery Commissioner, *Submission to Consultation: Strengthening the Modern Slavery Act*, (September 2025).
[16] McMillan Review, 88.
[17] Attorney-General's Department, *Strengthening the Modern Slavery Act: Consultation Paper* (Canberra: Attorney-General's Department, July 2025)

Canada's *Fighting Against Forced Labour and Child Labour in Supply Chains Act 2023* includes penalties for failing to submit and publish a report, for providing false or misleading statements, and for failing to comply with a corrective order. The UK is also considering introducing penalties.[18] In NSW, those public entities subject to mandatory modern slavery due diligence expectations face a range of potential sanctions for non-compliance, including mandatory reporting to NSW Parliament on steps to remedy significant issues identified by the NSW Anti-slavery Commissioner, listing on a public register maintained by the NSW Anti-slavery Commissioner, and adverse findings by the NSW Auditor-General.

Penalties are most likely to be effective when embedded within a broader responsive regulatory framework. This allows the regulator the discretion to respond to issues with guidance and engagement to support voluntary compliance in the first instance (where appropriate) and escalate progressively through more formal measures including written requests for remedial action, and ultimately civil or criminal penalties, in a manner proportionate to the nature, severity, and persistence of the breach. This allows the regulator to recognise and support genuine but imperfect efforts to comply, while maintaining the integrity of the regime and addressing knowing, repeated, or flagrant breaches.[19] The Bill's proposed functions for the Registrar to prepare reports on compliance trends and statistics will help reinforce accountability, identify where targeted engagement may be needed, and build public confidence in the credibility of the regime.

4. The case for progression to due diligence

The Australian experience with the MSA is that uptake of meaningful modern slavery risk management practices remains uneven across reporting entities. This suggests that while the Bill's proposed transparency framework is likely to be a useful foundation for raising awareness of modern slavery and prompting business to take action to varied extents, this approach will need to evolve.

The McMillan Review of the MSA recommended the introduction of a mandatory due diligence obligation, requiring entities to have a due diligence system in place to identify, monitor, and address modern slavery risks, alongside a mechanism for declarations of high-risk matters.[20] The Australian Government conducted targeted consultation on these recommended measures in early 2026, however the Government has not yet announced the outcome of the consultation.

To assist the Government's consultations the Australian Anti-Slavery Commissioner published an Initial Position Paper in January 2026 welcoming these proposals and making recommendations about their design. The Initial Position Paper recommends the introduction of an enforceable, risk-based modern slavery due diligence obligation for reporting entities after a

[18] See Joint Committee on Human Rights, *Forced Labour in the UK's Supply Chains*, Sixth Report of Session 2024–25, HC 633 / HL Paper 159 (London: House of Commons / House of Lords, 24 July 2025), para. 58.
[19] See further discussion of the responsive regulatory approach in Australian Anti-Slavery Commissioner, *Submission to Consultation: Strengthening the Modern Slavery Act*, (September 2025).
[20] McMillan Review, Recommendations 11 and 27.

phase in period.[21] This would require reporting entities to take reasonable and proportionate measures to identify and address modern slavery risks in their operations and supply chains, starting with the most severe (rather than just report on their efforts).

In the Commissioners' view introducing a due diligence obligation into the MSA would build on Australia's current transparency regime, create a level playing field for Australian businesses to take meaningful action on modern slavery, and position Australian businesses to be competitive in key markets with evolving regulatory, investor and customer expectations (see Section 2 above).

The Commissioners **recommend** that the Committee consider two options for building a due diligence pathway into the Bill, either:

1. the proposed mandatory statutory review of the Act after three years currently in the Bill should include an explicit requirement to assess the case for the introduction of a due diligence obligation based on accumulated evidence and with reference to developments internationally; or

2. the commencement of an enforceable, risk-based and proportionate due diligence obligation, after a defined capability-building period.

5. Efforts to combat modern slavery must centre and empower people with lived experience

There is growing recognition in the global anti-slavery movement that people with lived experience must be involved in the development of laws and policies designed to tackle modern slavery, if these responses are to be fit for purpose. This mirrors the principle of 'nothing about us without us' that is by now embedded within the disability rights and domestic, family and sexual violence sectors.

Good policy design involves consultation, and where possible co-design, with affected stakeholders. The specific nature of modern slavery makes it all the more important that survivors are provided a safe and trauma-informed space to participate effectively in decisions and policies which affect them. Efforts to support, assist and advocate for their rights otherwise risk repeating the denial of agency inherent in the experience of exploitation.

The Committee should integrate mechanisms for survivor engagement and co-design within the Bill. These mechanisms will be particularly relevant to the review of the eventual Act (clause 25) and periodic review of legislation, government policy and other arrangements (clause 26).

One way to institutionalise lived expertise engagement would be the creation of a survivor representative body, either as an independent body or integrated within the review framework

[21] Office of the Australian Anti-Slavery Commissioner, *Recommendations to Strengthen Australia's Modern Slavery Laws: Initial Position Paper* (January 2026).

under clauses 25 and 26 of the Bill. The establishment of such a body could draw on learnings from the pilot Survivor Advisory Council established at the Australian federal level under The Salvation Army's Lived Experience Engagement Program, or from the integration of lived expertise into the NSW Anti-slavery Commissioner's Advisory Panel.

Part B

This Part, prepared by the NSW Anti-slavery Commissioner, supplements the Commissioners' joint submission above by outlining further considerations specific to the legislative structure and implementation of the NSW MSA. It is intended to complement and reinforce the submissions in Part A.

1. Independent specialist bodies play a key role in driving legislative and policy change to combat modern slavery and increase supports for survivors

Clause 3(2)(d) of the Bill requires consideration be given to establishing a specialist person or body responsible for promoting and leading work to combat modern slavery. The implementation of the NSW MSA demonstrates the value of specialist bodies – both an independent Commissioner, and also a dedicated parliamentary committee – in driving system change to address modern slavery risks in supply chains and increasing awareness and support for victims of modern slavery.

An independent anti-slavery commissioner can play a central role in raising the visibility of modern slavery, empowering survivors and developing strategies to tackle exploitation. My experience in this role has demonstrated that a commissioner can bolster and complement broader government action to combat modern slavery in several ways.

Firstly, a specialist role provides a clear and accessible source of support, advice and subject matter expertise: for government and legislative actors seeking to tackle modern slavery through laws or policies; for businesses looking for guidance on risk management; for frontline workers struggling to identify and respond to indicators of modern slavery; and for people who have lived experience of, or who may be experiencing, exploitation. An independent expert may well be best placed to issue the kind of guidance on responding to modern slavery contemplated by clause 22 of the Bill.

Secondly, an independent body can build trust with stakeholders who do not feel comfortable engaging with the government. Many survivors of modern slavery are hesitant to speak directly with policymakers, law enforcement, or regulatory authorities about their experiences. Survivors have often been failed by systems that were meant to protect them, and have been dismissed or retraumatised when reporting their experiences to government bodies. Moreover, survivors often fear the consequences of reporting: retaliation by perpetrators, deportation, or criminal charges for actions taken under coercion or for survival.

My Office has strived since its establishment to embed lived expertise and trauma-informed engagement, and works with survivors who seek my formal support and assistance, often for many months, to build relationships of safety, trust and empowerment. This helps provide the conditions for survivors to regain the agency that perpetrators have denied them and become powerful advocates for their own rights.

Finally, a commissioner can generate the collaboration that is needed to effectively address complex and hidden patterns of exploitation. By bringing together diverse perspectives across the survivor community, government, private sector, and service providers, an independent and authoritative body can build connections, foster effective communication and develop systemic responses to modern slavery. This kind of collaboration will be essential to the effectiveness of reviews of the eventual NZ Act, and of legislation, government policy, and other arrangements, provided for under clauses 25 and 26 of the Bill.

As Commissioner, the performance of my functions has been invaluably facilitated by the establishment under the NSW MSA of the Modern Slavery Committee. A dedicated joint standing committee within NSW Parliament, with the power to enquire into and report on matters related to modern slavery, this structure helps ensures that anti-slavery action is sustainable, accountable, evidence-based, and meets the expectations of the NSW public. The establishment of a standing committee has facilitated the development of nuanced and evidence-based engagement by policy makers with the complex questions of criminal justice, industrial relations, family violence, social service support and healthcare raised by modern slavery concerns in NSW.

The Modern Slavery Committee's scrutiny of the NSW MSA also ensures that the legislative framework established by the NSW MSA remains fit for purpose and is implemented and resourced effectively.

The Committee has also drawn attention to the prevalence of modern slavery practices in NSW, including in the employment of textiles outworkers and – most recently – temporary migrant workers. The inquiry process provides an opportunity for diverse actors, including survivors of modern slavery, to be heard on the public record and inform legislation and policy measures to combat these risks.

2. Public procurement is a critical tool for driving ethical market behaviour

I am encouraged by the inclusion in the Bill of amendments to public finance laws requiring public sector entities to take precautions and exercise due diligence to avoid procuring from businesses that flout modern slavery laws.

As discussed in Part A, I join my colleagues in recommending that the Committee consider options for building a due diligence pathway into the Bill. In addition, I encourage the Committee to consider the application of mandatory modern slavery due diligence to public procurement.

Under NSW law, 450 public entities, including all State departments and agencies, local councils, certain universities and state-owned corporations, have mandatory due diligence and/or reporting obligations. Entities subject to the *Public Works and Procurement Act 1912*

(NSW) must take reasonable steps to ensure they do not procure products of modern slavery. Their compliance with these obligations is overseen in different ways by the Anti-slavery Commissioner, the Parliament and the NSW Auditor General.

The implementation of due diligence and reporting obligations has demonstrated that requiring government agencies to take reasonable steps to manage modern slavery risks in their supply chains is sensible public policy and drives better risk management practices across the economy. The guidance and resources designed for NSW public procurement activities have also been enthusiastically utilised in the private sector, both to meet requirements of public sector tenders and contracts, and as a matter of good practice.

As the 'first purchaser', the government sets the market standard for responsible business practices. When public entities work together and apply the same expectations to their suppliers, they can exercise powerful leverage: in NSW, covered entities spend more than A$60 billion each year. Ensuring that taxpayer money is not spent on businesses that benefit from modern slavery is in the interests of both the public and the government. Modern slavery distorts markets, reduces productivity and competition, and undercuts responsible business, creating costs, inefficiencies, and waste for consumers.

Government entities that do not take reasonable steps to address risks of modern slavery in their supply chains expose themselves to reputational, regulatory, and legal risks. Conversely, embedding good risk management practices allows government agencies and local businesses to access markets subject to responsible business regulation, and may increasingly attract discounts on capital costs.

Conclusion

The Modern Slavery Bill represents a significant and welcome step in strengthening New Zealand's response to modern slavery. This submission has not examined all aspects of the Bill and has focused primarily on the introduction of a reporting regime. However, the Commissioners also generally welcome other aspects of the Bill.

The Commissioners would be pleased to discuss this submission further if useful. If you have any queries please contact contact@antislaverycommissioner.gov.au.

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All information in this publication is correct as at May 2026