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Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: legcon.sen@aph.gov.au
Submission lodged via [MyParliament](https://www.parliament.gov.au/myparliament)

Dear Committee Secretary,

Property Council of Australia submission to the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023

The Property Council of Australia welcomes the opportunity to provide a submission to the *Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023* ('MSA Bill').

About us

The Property Council of Australia is the leading advocate for Australia's biggest industry. The property industry represents one ninth of Australia's GDP, the largest of any sector, employs 1.4 million Australians and generates over \$72 billion in tax revenues to fund community services.

The Property Council of Australia provides advocacy and services for more than 2200 member companies that invest in, design, build and manage places that matter to Australians: our homes, retirement villages, commercial buildings, industrial areas, education, research and health precincts, tourism, retail and hospitality venues and more. On behalf of our members, the Property Council provides the research and thought-leadership to help decision-makers create vibrant communities, great cities and strong economies. We support smarter planning, better infrastructure, sustainability, and globally competitive investment and tax settings which underpin the contribution our members make to the economic prosperity and social well-being of Australians.

Support for human rights and action on modern slavery

The Property Council's Human Rights and Modern Slavery Working Group (the 'Working Group') has played an active role over the past five years in implementing best practice initiatives tackling modern slavery risk across property and construction sector supply chains. The Working Group has considered the MSA Bill and provides responses on three areas:

1. Support for the establishment of an Australian Anti-Slavery Commissioner
2. Sufficient resources for the Anti-Slavery Commissioner and its team
3. Independence of the Anti-Slavery Commissioner to enable open engagement with business.

1. Support for the establishment of an Australian Anti-Slavery Commissioner

The Property Council supports the creation of a new statutory role for an Australian Anti-Slavery Commissioner, modelled on strongly supported elements of the UK Commissioner's role, as we have done since the first discussions and submissions about the *Modern Slavery Act 2018 (Commonwealth)* ('MSA Act').

The effectiveness of a new, statutory role for an Australian Anti-Slavery Commissioner will rely on appropriate governance structures and operational support to achieve independence. For example, these arrangements should be distinct from those created to support the role of NSW Anti-slavery Commissioner under the *Modern Slavery Act 2018 (NSW)* ('NSW Act'). Whilst section 7 of the NSW Act provides that the Commissioner is not subject to the control and direction of the (relevant) Minister in respect of the exercise of the Commissioner's functions under the Act, the Commissioner could be viewed as an executive-level public servant because of the various provisions around employment, remuneration and staffing.

In the UK, despite the role of the Independent Anti-Slavery Commissioner having a prescribed degree of independence, it can be difficult to manage the perception of independence, hence the need for strong and clearly defined roles and responsibilities, especially regarding governance and reporting.

The Australian Anti-Slavery Commissioner role should:

- have no responsibility regulating business compliance with the reporting requirement, but rather focus on providing advice and support to business, in the role of 'critical friend', as organisations progress in implementing policy responses. Consideration should be given to how the Commissioner might try to address failures over time, and focus on improving areas of weakness.
- work with, but separate to, the Business Engagement Unit within the Attorney-General's Department to advise business on what to do if they suspect the existence of slavery in their supply chains. On this basis, the appointee will require special expertise in identifying and responding to slavery and slavery-like practices in supply chains.
- lead in implementing a community engagement strategy to educate the public about the Commissioner's role and the MSA Act and related legislation, particularly as it relates to fostering a culture of safety for business reporting on risks of modern slavery in supply chains.
- provide new leadership in reviewing areas of strength and development under the current National Action Plan ('NAP') and lead the development of Australia's next NAP. This leadership should include extensive consultation with members of the National Roundtable on Trafficking and Slavery as well as other stakeholders across the country, whilst remaining independent from government or political decisions.

2. Sufficient resources for the Anti-Slavery Commissioner and its team

It is noted that within the 2023-2024 Budget "the Government will establish a new unit within the Attorney General's Department to scope options to establish an Anti-Slavery Commissioner to work with business, civil society and state and territory governments to support compliance with Australia's Modern Slavery Act 2018 and address modern slavery in supply chains", and this will need to be sufficiently supported, funded, resourced and encouraged in order to be effective and successful.

It is vital that the necessary resources are provided to enable increased training, collaboration and engagement with businesses of all sizes. This engagement should include the Australian

Government Department of Finance, in order to increase collaboration on how to address modern slavery risks through the public sector resource management, governance and accountability frameworks.

Recent discussions within the Working Group and across the industry about key areas of modern slavery risk indicate that the Anti-Slavery Commissioner will also need to be supported in its work by other government agencies. Many issues, and some of the more serious and emerging risks of harm to people, may involve not just individual organisations or sectors but geopolitical concerns. This requires the Commissioner to play an important role in mapping out approaches to these risks, and necessitates working with other agencies and departments to do so, to enable effective action and collaboration.

3. Independence of the Anti-Slavery Commissioner, to engage with business openly

The appointment of an Australian Anti-Slavery Commissioner complements the recent appointment of the new UK Anti-Slavery Commissioner, Eleanor Lyons. Before this appointment, the importance of actual and perceived independence from government, and a perceived lack of clarity about this may have impacted the effectiveness of the role to date. It is important that the Australian Anti-Slavery Commissioner be truly independent and able to play the role of 'critical friend' to business to support the continuous improvement set out in the MSA Act.

In this way, the Australian Anti-Slavery Commissioner can work constructively with stakeholders and build on the progress that has been made since the MSA Act was introduced, with commitment to a victim-centric approach ensuring that survivors' experiences can inform and accelerate meaningful change.

Future engagement and collaboration

The Property Council looks forward to engaging with the Attorney-General's Department on the Recommendations from the Review of the MSA Act, and subsequent consultations about continuous improvement of its provisions and key performance indicators to measure effectiveness.

Yours faithfully,

Matthew Kandelaars
Group Executive, Policy and Advocacy
Property Council of Australia