



TAMWORTH REGIONAL COUNCIL

ANNEXURES for ORDINARY COUNCIL AGENDA

22 JULY 2025

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Peel River Preliminary Environmental Assessment

Prepared for Tamworth Regional Council

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1 Introduction

1.1 Background

SMEC has undertaken a desktop based Preliminary Environmental Assessment (PEA) for Tamworth Regional Council to investigate and identify potential opportunities for general environmental, ecological and connectivity improvements to the Peel River in Tamworth CBD that would result in minimal environmental impact in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act). The PEA also provides an overview of planning pathway requirements.

1.2 Location and Context

The location of the study area is within the Peel River between Jewry Street and the Paradise Caravan Park, Tamworth and is approximately 5km in length (refer to Figure 1). The Tamworth CBD is located immediately to the east. The Peel River flows through the key public space and park areas of Tamworth city.



Figure 1: Indicative study area
Source: six maps (annotated)

1.3 Overview of river area

The study area comprises the following attributes:

- Peel River and its tributaries of Barnes Gully and Goonoo Goonoo Creek
- The levee bank on the eastern (city) side of the river
- Paradise Tourist Park in the southern portion
- Australian Country Music Hall of Fame – adjacent to the Paradise Tourist Park
- Bicentennial Park, located on the city side of the Levee, was opened December 2015, and includes:
 - Tamworth Regional Playground includes a skywalk, slides, bike track, fitness circuits, flying fox, child playground and waterfall with sway bridge
 - general public amenities – toilets, bbq facilities, seating
 - sculptures of country musicians
 - Food outlets including café, restaurant, kiosk
 - Ponds, walkways
 - Recent lighting upgrade (see major projects section below)
- Viaduct Park containing play equipment, picnic facilities and amenities. Identified as 'hot spot for family and youth focused activity.' Includes a skate park, sports fields for AFL, rugby league, rugby union, football, soccer, cricket and supports a carnival / gala day
- Riverside Sporting Complex – located on the western side of the river north of the Oxley Highway (Bridge Street), contains numerous sports fields and training fields including: Oztag (17 fields) baseball (16 fields), softball, cricket (6 cricket fields). Also used for fitness classes and cross country it also supports clubhouses and public amenities (canteen, toilets, drinking water). This area is re-purposed in January as camping area to support the country music festival
- Gipps Street Sporting Complex – located on the western side of the river between the Oxley Highway and Goonoo Goonoo Creek; primarily provides sportsfields for soccer and touch football. The area also provides a Fire Fighter track used by NSW Fire and Rescue for regional championships
- A BMX track is located just outside study area on Marius Street north of Jewry Road on the eastern side of the river
- Agricultural lands in the southern portion.

The Tamworth Central Business District (CBD) is located to the east of Peel River and includes:

- Regional art gallery
- Tamworth power station museum
- Tamworth war memorial town hall (function centre)
- Powerhouse motorcycle museum
- Wests diggers club
- Community centre
- Educational facilities
- PCYC Tamworth

- Retail Shops
- Bars, pubs, cafes restaurants
- Hotels other accommodation
- Government services.

The following major events and festivals are held within the study area and the adjacent CBD:

- Tamworth Country Music Festival – January – includes temporary closure of some streets in CBD
- Fiesta La Peel Multicultural Street Festival – annual event – March 2022 – in adjacent CBD (Fitzroy Plaza)
- Taste Tamworth Festival, annual regional food wine and produce festival, events in Bicentennial Park Next March-April 2022
- Tamworth Regional Heritage Festival held annually in April or May
- Hats off To Country – held annually in July
- Other events in Fitzroy Park and Peel Street e.g. Christmas celebrations and lights
- NAIDOC week and Reconciliation Week events.

1.4 Ecological Values

The following outlines the ecological values of the area.

The Peel River is mapped Key Fish Habitat under the *Fisheries Management Act 1994* (FM Act) with a fair freshwater fish community status. There are areas mapped on the NSW Biodiversity Values Map, taking in protected riparian land along the Peel river and Goonoo Goonoo Creek in the southern end of the study area. Groundwater-dependent ecosystem (GDE) mapping identified the Peel River as an aquatic GDE.

Main landform elements include broad floodplains, deeply incised river channels, and riparian woodland and open forest which has been mostly cleared for agriculture. The landscape at the study area is mostly level to gently undulating, with gentle slopes along the riverbank of the Peel River. The site is in close proximity to steeply graded land, with Flagstaff Mountain Lookout located approximately 3km east of the study area. Local relief is reported to be 9%, slopes are <1%, and elevation ranges 355-400m.

In descending order of dominance, the soil types reported in the area include giant, moderately well-drained Black Dermosols (Chernozems); very deep, imperfectly drained Calcareous Black Vertosols (calcareous Black Earths), very deep, imperfectly drained Haplic Black Vertosols (Black Earths); and moderately deep, moderately well-drained Brown Chromosols (Red-brown Earths).

The study area has been greatly disturbed and drainage patterns have been altered. Most of it is within the 100-year ARI flood levels according to the 2019 Flood investigations. A key feature of the eastern side of the river is the CBD levee bank. The sloping raised bank represents an area of modified soils and landform and elevates the walking track on its crest above the floodplain level.

2 Existing Strategies & Plans

2.1 Introduction

The following Strategies and Plans of the Tamworth Regional Council include elements and intentions that are or could be used to inform and support the potential restoration of the river area, enhance its role in and be a source of inspiration and interest for the community, the city and the region.

2.2 KeyChange 2017-2027 - Community Strategic Plan

The Tamworth Regional Council Community Strategic Plan (CSP), known as KeyChange 2017-2027, sets out the themes, objectives, strategies and measures, for the Council in working towards the community desires and interests for the region.

Table 1 outlines the strategies of the CSP which are relevant to the Peel river and environs.

Table 1: Relevant CSP Provisions

Theme	Strategies	How Relevant
A spirit of community	C1.1 Provide high-quality open spaces parks and reserves suitable and accessible to all	The Peel River restoration works would directly deliver on this strategy.
	C1.2 Provide high quality sporting facilities to meet the diverse needs to the community	The Peel River restoration works would not impede the continued delivery of sporting facilities for the community.
	C2.1 Preserve and celebrate the character heritage and culture of our city, towns and villages.	The Peel River restoration works would encourage the community to interact further with the region's heritage values.
	C2.2 Provide accessible, functional, multipurpose facilities with spaces suitable for cultural, recreational, learning and informational services and activities	The Peel River restoration works would directly deliver on this strategy.
	C3.1 Create safe environments to live work and play.	The Peel River restoration works would directly deliver on this strategy.
A prosperous region	P1.1 Support and facilitate economic development and employment opportunities	The Peel River restoration works would not impede on the region's continued economic development.
A region for the future	F1.1 Sound asset management planning	The Peel River restoration works would directly deliver on this strategy.
	F2.1 Protect our natural environment	The Peel River restoration works would directly deliver on this strategy.

Theme	Strategies	How Relevant
A region of progressive leadership	L1.2 Represent and advocate community needs	The Peel River restoration works would directly deliver on this strategy.

2.3 Tamworth Regional Blueprint 100 Part 1

The Tamworth Regional Blueprint 100 Part 1 is described as an “overarching strategy that provides a roadmap” for the Tamworth Region in its strategic thinking and actions in economic growth for the increased population and providing a high standard of living. It identifies four core strategies, that will be supported by each of the eight priority themes. The four Strategies are: More Jobs, More Skills, More Affordable, and More Liveable. The Themes are:

- Deliver durable water infrastructure
- Facilitate smart growth and housing choice – including a priority to build a “strong and vibrant Tamworth City Centre” through economic activity, potential new university campus and performance arts precinct, and higher density housing to support a night and weekend economy
- Create a prosperous region – including the priority to strengthen opportunities in tourism, establish an aquatic centre, and establish a university campus in Tamworth
- Build resilient communities – including the priorities to align recreational facilities to population growth and a potential weir/ lake on the Peel River in the vicinity of the Tamworth CBD / Bicentennial Park with consideration of ecological implications and associated business opportunities
- Connect our region and its citizens -including a priority to promote walking and cycling, which notes the need to enhance the cycle network to various points of interest and need
- Design with nature – including priorities to protect biodiversity, that infrastructure and facilities are sustainably designed
- Celebrate our culture and heritage – including priorities for the arts and culture of the community, indigenous culture and heritage, and protect heritage
- Strengthen our proud identity.

2.4 Tamworth Regional Blueprint 100 Part 2

The *Tamworth Regional Blueprint Part 2*, being the Local Strategic Planning Statement (LSPS) 2020, provides the strategic planning guidance for land use and development of the region to 2040 in the context of people, the economy and the environment.

The themes of the LSPS are:

1. Facilitate smart residential growth and housing choices
2. Create a prosperous region: including potential university and cultural precincts in Tamworth CBD in conjunction with the existing commercial and services focus
3. Build resilient communities
4. Connect our region and its citizens: including cycle network
5. Design with nature
6. Celebrate culture and heritage: including indigenous / aboriginal heritage, and non-aboriginal heritage.

It is considered that revitalising the Peel River area would allow Council to design with nature, connection the region and its citizens, and encourage celebration of the region's heritage.

2.5 Tamworth Region Cultural Plan 2018-2023

The *Tamworth Region Cultural Plan 2018-2023* sets out the arts and culture priorities, developed from the community feedback, as goals and actions towards those goals. The cultural plan is identified as to "reflect, enrich, and enhance the lives of the people of the Tamworth Region."

Table 2 below sets out the goals and actions from the *Tamworth Region Cultural Plan 2018-2023* which are relevant to the Peel River revitalisation.

Table 2: Relevant Cultural Plan Provisions

Goal	Action	How Relevant
Goal 1 - Connect and foster a "creative region" ecosystem	1.1 Foster a whole of council approach to cultural development in our region	The Peel River restoration works would directly deliver on this action.
	1.10 Commission new work that advances the arts and provides opportunities for innovation and creativity to flourish	The Peel River restoration works could enhance the delivery of this action.
Goal 2 - Deepen engagement with the Tamworth Region's identity and heritage	2.1 Grow the Tamworth region heritage festival as a cross directorate council project	The Peel River restoration works could enhance the delivery of this action.
	2.2 Build on Tamworth's identity as the City of Light	The Peel River restoration works could enhance the delivery of this action.
	2.3 Support the Aboriginal and Torres Strait Islander (ATSI) community to tell its stories and celebrate its history and culture.	The Peel River restoration works could enhance the delivery of this action.
	2.10 Develop contemporary public art to tell stories and histories that connect people to place and implement the TRC Public Art Engagement strategy.	The Peel River restoration works could enhance the delivery of this action.
	3.1 Provide meaningful experiences that will grow the arts community.	The Peel River restoration works could enhance the delivery of this action.
Goal 3 - Develop audiences, event and programs to reflect a bold and innovative local arts culture	3.9 Investigate new festivals and events for the region.	The Peel River restoration works could enhance the delivery of this action.
	3.12 Encourage and facilitate the use of venues and public spaces for creative activities including ephemeral art and pop-up culture.	The Peel River restoration works could enhance the delivery of this action.
	4.1 Make arts and culture in the Tamworth region accessible to people of all ages, races, genders, religions and abilities.	The Peel River restoration works could enhance the delivery of this action.
Goal 5 - Provide sustainable and engaging infrastructure, spaces and places	5.3 Develop cultural precincts for: <ul style="list-style-type: none">• Heritage• Science education and astronomy	The Peel River restoration works could enhance the delivery of this action.

Goal	Action	How Relevant
	<ul style="list-style-type: none"> Music and food The environment. 	
	5.5 Implement and activate stage 3 of the Bicentennial Park Masterplan including a permanent outdoor stage structure.	The Peel River restoration works could enhance the delivery of this action.
	5.11 Include creative design in functional items in public spaces.	The Peel River restoration works could enhance the delivery of this action.

2.6 Local Environmental Plan

The *Tamworth Regional Local Environmental Plan 2010* (TRLEP 2010) provides the planning controls to guide and regulate development and inform land management and protect certain lands within the local government area. Within the TRLEP 2010, land use zoning applicable to the project area and its surrounds, flood affected land and heritage provisions are particularly relevant to this PEA.

2.6.1 Land Use Zoning and permissibility

The immediate river corridor is affected by the land use zonings of RE1, B3 and RU4 (refer to Figure 2 below).

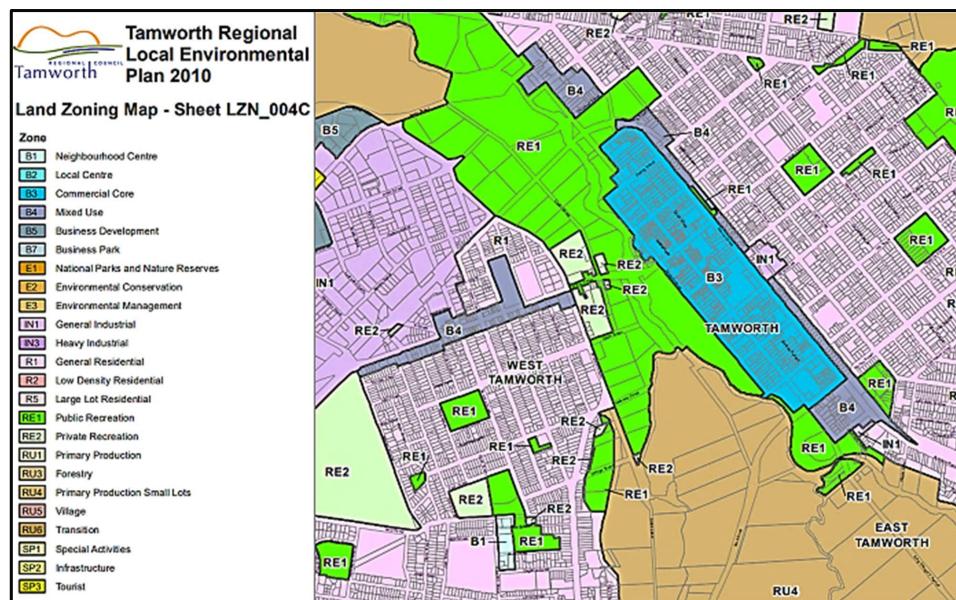


Figure 2: Land Use Zone Map of TRLEP 2010

The following land use definitions as set out within the *Standard Instrument Principal Local Environmental Plan LEP* (Standard Instrument) are relevant to the proposed Peel River restoration:

boat launching ramp means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

community facility means a building or place—

(a) owned or controlled by a public authority or non-profit community organisation, and

(b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

(a) a restaurant or cafe,

(b) take away food and drink premises,

(c) a pub,

(d) a small bar.

Note—

Food and drink premises are a type of retail premises—see the definition of that term in this Dictionary.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

jetty means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piers or piled foundation.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

market means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

Note—

Markets are a type of retail premises—see the definition of that term in this Dictionary.

marina means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities—

(a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,

(b) any facility for providing fuelling, sewage pump-out or other services for boats,

- (c) any facility for launching or landing boats, such as slipways or hoists,
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,
- (e) any berthing or mooring facilities.

recreation area means a place used for outdoor recreation that is normally open to the public, and includes—

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Note—

Restaurants or cafes are a type of food and drink premises—see the definition of that term in this Dictionary.

road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

waterbody means a waterbody (artificial) or waterbody (natural).

waterbody (natural) or natural waterbody means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

watercourse means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

waterway means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

Table 3 to Table 5 set out the objectives and permissibility of land uses for each of these zones.

Table 3: Current RE1 Public Recreation zoning

Zoning	RE1 Public Recreation
Objectives:	<ul style="list-style-type: none">• To enable land to be used for public open space or recreational purposes.• To provide a range of recreational settings and activities and compatible land uses.• To protect and enhance the natural environment for recreational purposes.

Zoning	RE1 Public Recreation
Permitted without consent:	environmental protection works; moorings; roads
Permitted with consent: (selected)	aquaculture; boat sheds; camping grounds; caravan parks; community facilities; entertainment facilities; environmental facilities; function centre; kiosks; markets; recreation areas, recreation facilities (indoor) (major) (outdoor); restaurants or cafes; shops; water recreation structures.
Prohibited: (selected)	commercial premises; neighbourhood shops. Anything else not otherwise specified.

Table 4: Current B3 Commercial Core zoning

Zoning	B3 Commercial Core
Objectives:	<ul style="list-style-type: none"> to provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community to encourage appropriate employment opportunities in accessible locations to maximise public transport patronage and encourage walking and cycling.
Permitted without consent:	roads
Permitted with consent: (selected)	attached dwellings, boarding houses, centre based child care facilities, commercial premises, community facilities, educational establishments, entertainment facilities, function centres; hotel or motel accommodation, multi dwelling housing, recreation facilities (indoor), registered clubs, residential flat building, shop top housing. Anything else not otherwise permitted.
Prohibited: (selected; categorised)	various heavy to light industrial activities, various transport infrastructure; various agricultural / primary industry activities and animal based industries; environmental facilities;

Table 5: Current RU4 Primary Production Small Lots zoning

Zoning	RU4 Primary Production Small Lots
Objectives:	<ul style="list-style-type: none"> To enable sustainable primary industry and other compatible land uses To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature. To minimise conflict between land uses within this zone and land uses within adjoining zones.
Permitted without consent: (selected)	environmental protection works; extensive agriculture; moorings; roads
Permitted with consent:	agricultural produce industries; aquaculture; dwelling houses; farm buildings; kiosks; landscaping material supplies; light industries; markets; plant nurseries.

Zoning	RU4 Primary Production Small Lots
(selected)	Anything else not otherwise specified.
Prohibited: (selected; categorised)	commercial premises; eco tourist facilities; entertainment facilities; industrial retail outlets; industries; recreation facilities (major); registered clubs; residential accommodation; rural industries; wharf or boating facilities.

The Tamworth CBD land use zoning is also zoned B3 Commercial core, with the B4 Mixed Use zone bordering the centre core area.

Land surrounding the project area western side and the CBD to the east is zoned R1 General Residential and IN1 General Industrial, with B4 Mixed Use along the Bridge Street (Oxley Highway).

Table 6 below summarises the current permissibility of some of the potential land uses which may be undertaken as part of restoring the Peel River locality.

Table 6: Potential land uses and their permissibility

Land Use	Zones where permitted under TLEP 2010	Zones where prohibited under TLEP 2010	Permitted under ISEPP where undertaken by TRC
Boat launching ramp	RU4 Primary Production Small Lots	RE1 Public Recreation B3 Commercial Core	NA
Community facility	RE1 Public Recreation B3 Commercial Core RU4 Primary Production Small Lots	NA	NA
Environmental facility	RE1 Public Recreation RU4 Primary Production Small Lots	B3 Commercial Core	NA
Environmental protection works	RE1 Public Recreation (permitted <i>without</i> consent) RU4 Primary Production Small Lots (permitted <i>without</i> consent)	B3 Commercial Core	Can be permitted without consent when undertaken by public authority in some situations.
Flood mitigation work	RU4 Primary Production Small Lots	RE1 Public Recreation B3 Commercial Core	Yes, by public authority without consent on any land
Food and drink premises	B3 Commercial Core (permitted as a form of Commercial Premises)	RE1 Public Recreation RU4 Primary Production Small Lots	NA
Function centres	RE1 Public Recreation B3 Commercial Core	NA	NA

Land Use	Zones where permitted under TLEP 2010	Zones where prohibited under TLEP 2010	Permitted under ISEPP where undertaken by TRC
	RU4 Primary Production Small Lots		
Information and education facility	RE1 Public Recreation B3 Commercial Core	RU4 Primary Production Small Lots	NA
Jetty	RE1 Public Recreation (permitted as a form of Water Recreation Structure)	B3 Commercial Core	NA
	RU4 Primary Production Small Lots (permitted as a form of Water Recreation Structure)		
Market	RE1 Public Recreation B3 Commercial Core (permitted as a form of Commercial Premises)	NA	NA
	RU4 Primary Production Small Lots		
Marina	NA	RE1 Public Recreation	NA
		B3 Commercial Core	
		RU4 Primary Production Small Lots	
Recreation areas	RE1 Public Recreation	B3 Commercial Core	Yes, within a Public Reserve under the Local Government Act 1993
	RU4 Primary Production Small Lots		
Recreation facility (outdoor)	RE1 Public Recreation	B3 Commercial Core	Yes, within a Public Reserve under the Local Government Act 1993
	RU4 Primary Production Small Lots		
Restaurant or café	RE1 Public Recreation	RU4 Primary Production Small Lots	NA
	B3 Commercial Core (permitted as a form of Commercial Premises)		
Road	RE1 Public Recreation (permitted without consent)	NA	Yes, by public authority without consent on any land
	B3 Commercial Core (permitted without consent)		

Land Use	Zones where permitted under TLEP 2010	Zones where prohibited under TLEP 2010	Permitted under ISEPP where undertaken by TRC
	RU4 Primary Production Small Lots (permitted without consent)		
Water recreation structure	RE1 Public Recreation RU4 Primary Production Small Lots	B3 Commercial Core	NA

2.6.2 Heritage

The following heritage items are located within the study area:

item number	item name and address	significance
item 371	Main Northern Railway over the Peel River – Viaduct West of the Peel River, State Railway Bridge, Viaduct East of the Peel River and the Railway Overbridge over Peel Street	State
item 446	Former Square Man Hotel and old flour mill – 165-179 Peel Street	local

There are numerous heritage listed items (non-indigenous) within the Tamworth CBD and its immediate surrounds, those adjacent to the study area being:

item number	item name and address	significance
item 407	house – king George V Avenue	local
item 409	house - 2-24 King George V Avenue	local
item 476	tobacco kiln – Scott Road	local
item 310	"Regent" Cinema – 3-5 Brisbane Street	local
item 412	Wells and Pumping Station - off Peel River King George V Avenue and Scott Road, south bank of Peel River	State
item 443	Former Brewery building – 130-138 Peel Street	local
item 444	Hotel Tattersalls – 146-148 Peel Street	local
item 445	Group of shops - 164 Peel Street	local

Figure 3 identifies heritage items as listed in the TRLEP 2010.



Figure 3: Heritage items in and surrounding the study area as mapped in TRLEP 2010

2.6.3 Flooding

The TRLEP 2010 identifies the following area affected by flood planning (refer to Figure 4).

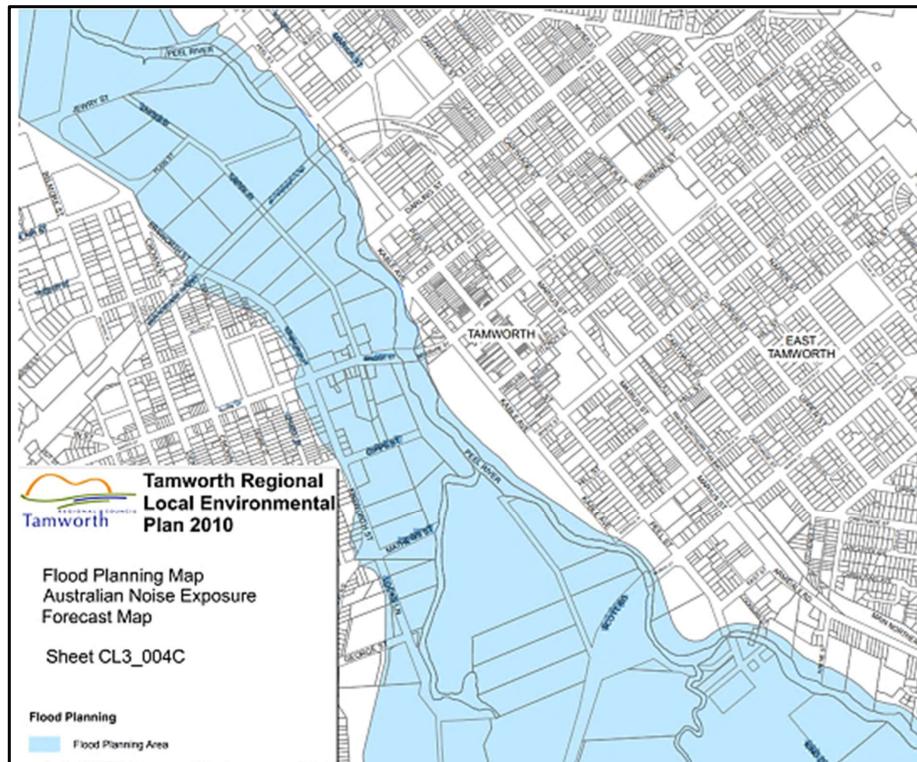


Figure 4: Flood Map in TRLEP 2010

2.7 Tamworth City-wide Flooding Investigation (volume 1) May 2019 and Flood Risk Management Study 2020

The *Tamworth City-Wide Flooding Investigation* of May 2019 assessed the flooding patterns for Tamworth City for various flood types / scale, and considered the history of flooding in the area and previous studies.

It confirmed the importance of the levee to protect the city centre. It also notes the differing level of freeboard of the city levee in different locations to the CBD.

The study recommends further investigate of the flood risk and design peak flow at Tamworth, and to investigate the potential raising of the CBD levee crest height to provide the design freeboard, and to update the council flood policy.

More recently, the Tamworth Regional Council prepared a Flood Risk Management Study, which followed on from the City-Wide Flooding Investigation. That Study went to community consultation in mid-2020. A map of the flood affectation of the city that was used in the consultation webpage is provided at Figure 5: Tamworth Flood Risk Management Study Community Consultation mapFigure 5.

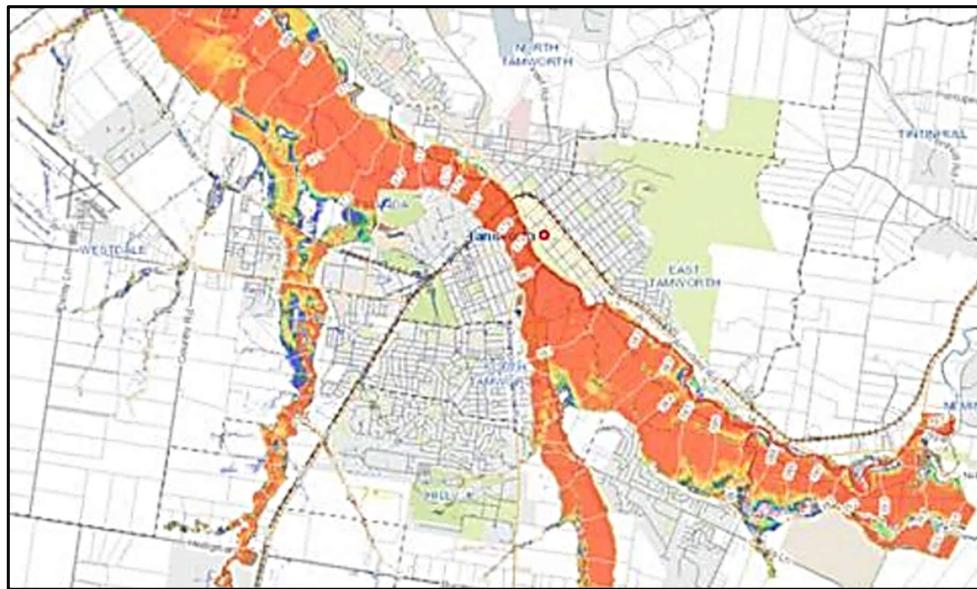


Figure 5: Tamworth Flood Risk Management Study Community Consultation map
(source: Tamworth Regional Council – community consultation webpage Tamworth Flood Risk Management Study | Tamworth Regional Council (nsw.gov.au))

2.8 Active Transport Strategy 2021

The Active Transport Strategy 2021 identifies the benefits of active transport, the current features of active transport and points of interest for active transport participants.

Key areas of interest for potential active transport modes including the Tamworth CBD as a key retail area; and the Peel River extending to south Tamworth as a key family attractor.

The Strategy identifies the Peel River Loop and the Calala to Tamworth CBD as family friendly / recreation areas for active transport, including cyclists, families or groups of people, these users may require wider paths providing separation, lighting, seating and water refill stations.

Challenges to active transport are identified as:

- Ability level
- Weather conditions
- Existing infrastructure
- Distance
- Safety.

The strategy identifies priority actions under themes. Table 7 sets out the relevant Active Transport Strategy provisions which are relevant to this project.

Table 7: Relevant Active Transport Strategy Provisions

Theme	Action	How Relevant
1. Encouraging active transport	1.2 Actively seek to attract and facilitate walking running and cycling events in the region	The Peel River restoration works could enhance the delivery of this action.
2. Providing a connected network	2.2 Identify pedestrian mobility infrastructure improvements and develop an updated works program	The Peel River restoration works would directly deliver on this action.
	2.3 Investigate additional locations that may benefit from future active transport improvements	The Peel River restoration works would directly deliver on this action.
	2.4 Plan infrastructure around key trip attractors and public transport	The Peel River restoration works could enhance the delivery of this action.
3. Providing a safe network	3.3 Separate active transport users from busy roads	The Peel River restoration works would directly deliver on this action.
	3.4 Increased focus on surveillance	The Peel River restoration works could enhance the delivery of this action.
4. Ensuring an inclusive network and accepting culture	4.2 Cater for all abilities and ages when planning and constructing infrastructure	The Peel River restoration works would directly deliver on this action.
	4.4 Improved community acceptance of active transport particularly cycling	The Peel River restoration works would directly deliver on this action.
5. Pursuing a smart network	5.1 Investigate use of smartphone applications to improve user experience	The Peel River restoration works would not impede the provision of smartphone applications to improve user experiences.
	5.4 Provide recharge stations along key active transport links	The Peel River restoration works would not impede the provision of recharge stations.

2.9 Tamworth Bicentennial Park Master Plan 2020

The *Tamworth Bicentennial Park Master Plan 2020* outlines the existing attributes of the Park and imagines the future of the park and potential enhancements and developments. The Masterplan recognises that the Park is used for events as part of the Country Music Festival; and a drawcard for the community. The Master Plan considers the park as seven (7) areas of various existing facilities and opportunities (refer to Figure 6).

The Master Plan identifies that "A vibrant Bicentennial Park will provide CBD users with opportunities such as:

- *A platform for structure and unstructured recreational pursuits*
- *Emersion in flora and fauna*
- *Tranquil place to relax*
- *Event space*
- *Education on the city's history*
- *Place of reflection on the city's culture*
- *Casual dining space*
- *Greater vehicular parking options*
- *A safe place*
- *A sense of belonging."*

The Peel River restoration works would directly deliver on these strategic opportunities as identified within the *Tamworth Bicentennial Park Master Plan 2020*.

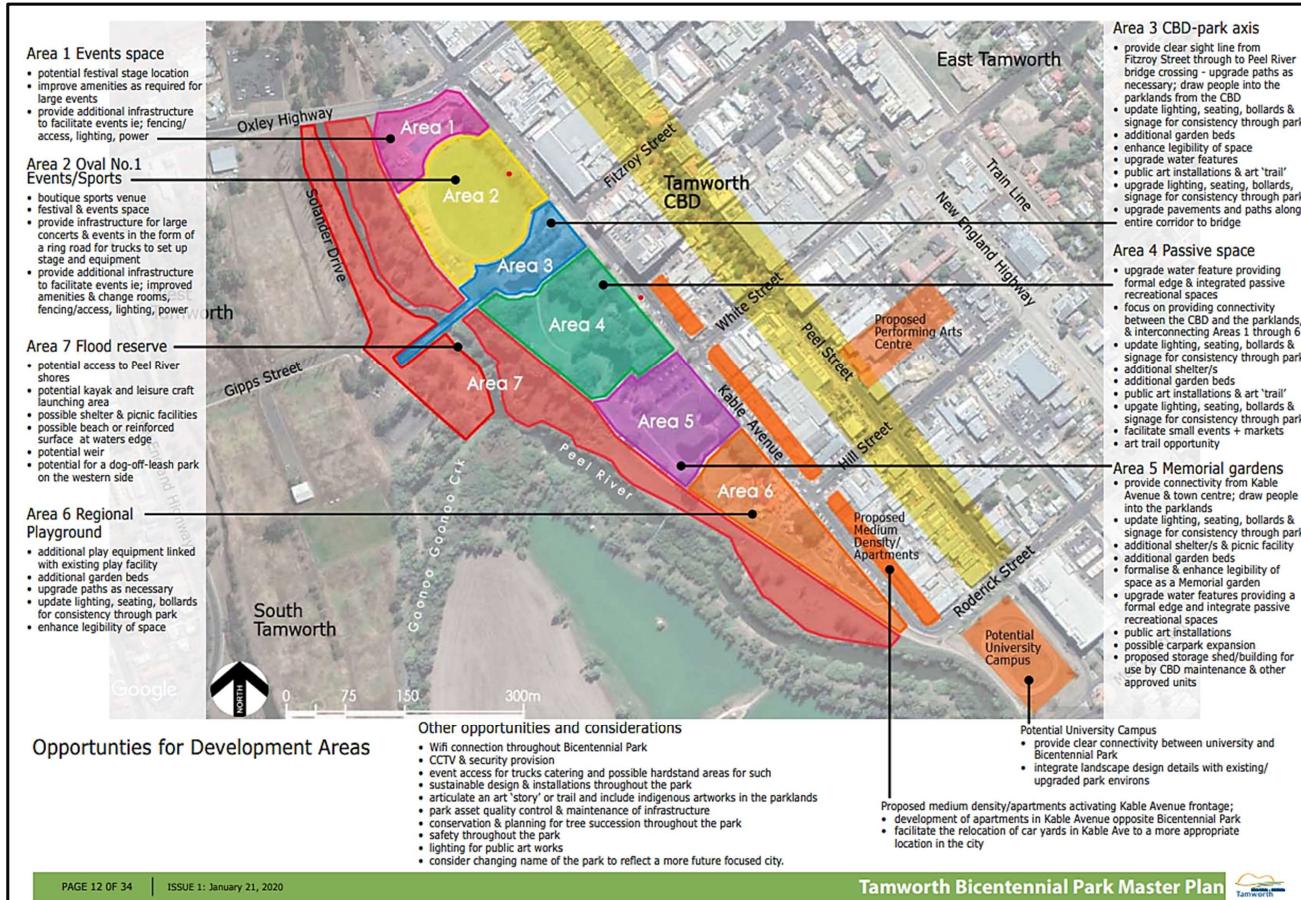


Figure 6: Overall Masterplan opportunities for Bicentennial Park (source Bicentennial Park Masterplan 2020)

2.10 Viaduct Park Masterplan 2020

Viaduct Park is located on the eastern side of Peel Street, between Macquarie and O'Connell Streets, bisected by the railway line, and directly opposite (adjacent to) the river area (refer to Figure 7).

The *Viaduct Park Master Plan 2020* builds on the recently constructed skate park and existing infrastructure and envisages "vibrant recreational and sporting precinct in the centre of Tamworth" through the masterplan. The masterplan provides for a gathering space, upgraded playground, raised café area, provide paths to move through and around the area and new pedestrian access via a pedestrian overpass (above Peel St) and path atop the Peel River levee.

The major projects section below identifies proposed upgrades to Viaduct Park including a potential pedestrian overpass of Peel Street to the Peel River levee.



Figure 7: Viaduct Park Masterplan

2.11 Open Space Management Guide

The *Open Space Management Guide* (November 2020) is to inform council of the values of and investment in its managed open spaces such as parks. It identifies a hierarchy (and type) and service level of the various spaces

- Bicentennial Park is identified as a regionally significant park, a very high service level requirement, rated as high for both usage and community expectation, and has a tourist type function
- CWA Park is identified as regionally significant, a very high service level requirement, rated as medium and high for usage and community expectation respectively, and a streetscape type function

- Other small parks associated with Peel Street are district or neighbourhood parks and rated as high for usage, community expectation and service level requirement.

Bicentennial Park is well maintained, has points of focus such as the water memorial, playground, facilities and sports fields. The grass is mown and planted trees provide shade and line some paths.

2.12 Public Art Engagement Strategy 2016-2021

The *Public Art Engagement Strategy 2016-2021* recognises the benefits of public art as an expression of history, culture, memory, values, and to contribute to environment, landscape and place.

As such the Strategy sets out the approach to incorporating and managing existing and new public art in the region.

The Strategy identifies six aims that are grounded in linking people and place and culture, and with business opportunities also noted.

The strategy identifies that themes (of public art) with little or no existing representation in the region are to be of priority of the Council to 2021 being the period of the Strategy. The Public art Themes of 'Multicultural' and 'Natural Environment' are identified as having no existing representation, while 'City of Light' and 'Young People' are identified as having low representation in public art (at the time of adopting the Strategy).

2.13 Sustainability Strategy 2017-2021

The *Sustainability Strategy 2017-2021* links into the Region for the future of the CSP (refer to Section 2.2 above) and is to live today with a view to life in the future. The Sustainability identifies four key themes, being energy wastewater, and carbon emissions, with areas of focus identified under each. Some of the areas of focus relevant to this PEA are:

- Increase energy efficiency for street and public lighting; (energy)
- Transport energy (energy)
- Increase sustainability in the community (energy)
- Reduce littering; (waste)
- Increase water awareness and understanding in the community for greater water efficiency, (water).

2.14 Tamworth Tomorrow Strategy

Tamworth Tomorrow Strategy – Driving the Tamworth Region's Economic Growth 2016-2021 guides the economic development of Tamworth through its population to build on existing and encourage new industries and services. The Strategy focuses on people and place, to make the Tamworth region an attractive option to live and work and learn and play.

The Strategy identifies the key industries for the region, which includes Access & Infrastructure; Education, Technology and Tourism & Events. These industries are built upon foundations including collaboration, education & skills development; and quality of community living.

The Strategy also identifies 'Regional Targets' being aims to guide and support the economic growth, including the aims for population growth cultural activity, innovation, infrastructure and profile, and the broader benefits and opportunity in creative thinking for economic growth.

2.15 Crime Prevention Plan 2017-2022

The *Tamworth Crime Prevention Plan 2017-2022* provides an overview of the region, actions for crime prevention and previous prevention activities. It also identifies the main types of crime and priority areas to target crime.

The Tamworth CBD to the river is identified on hotspot maps as a location in which assaults and malicious damage occur.

The Tamworth CBD is identified as priority area for crime prevention – notable for the licenced premises and entertainment venues, while the regional playground is also noted for attracting younger people.

The CBD and Parks including Bicentennial Park, the amenities of parks generally, play spaces including sporting fields, and the Riverside Recreation Walk of Bicentennial Park, are all identified as priority zones notably for graffiti.

2.16 Office of Sport Strategic Plan 2020-2024

The *Office of Sport Strategic Plan 2020-2024* (NSW Government) aims to increase the levels of physical activity of the people of NSW by providing the leadership, policies, programs, funding and infrastructure necessary to enable higher rates of participation in sport and active recreation. This includes consideration of the following key focus areas:

- Participation
- Places and spaces
- Sector sustainability
- Partnerships and investment.

The proposed Peel River restoration works is aligned with these key focus areas.

3 Planning and Environmental Assessment

3.1 Introduction

This section provides and assessment of the existing planning and environmental condition of the study area and adjacent lands to which it has a close relationship.

3.2 Biodiversity / ecology

A desktop assessment of the flora and fauna of the area was undertaken (refer also Appendix A).

The likelihood of occurrence for threatened fauna and flora species, populations and ecological communities was determined using a 10km buffer around the study area. Ecological records were obtained from the NSW Department of Planning, Industry and Environment (DPIE) Atlas of NSW Wildlife database and the Commonwealth Department of Agriculture, Water and Environment (DAWE) Protected Matters Search Tool. These records and an assessment of the habitat within the study area were used to determine how likely a threatened species or ecological community was of occurring in the survey area.

A review of the vegetation mapping was also conducted to help identify the vegetation communities present around the study area. State Vegetation Type Map: Border Rivers Gwydir / Namoi Region Version 2.0. VIS_ID 4467 (DPIE 2016) was used as a reference for SMEC's vegetation mapping.

3.2.1 Vegetation Communities

The following vegetation communities were identified in the desktop assessment within the study area (refer to Figure 8):

- Non-native vegetation
- PCT 84: River Oak - Rough-barked Apple - red gum - box riparian tall woodland (wetland) of the Brigalow Belt South and Nandewar Bioregions
- PCT 78, River Red Gum riparian tall woodland / open forest wetland in the Nandewar Bioregion and Brigalow Belt South Bioregion.

Vegetation at the study area appears, from aerial imagery, to include planted vegetation, woody plants and grassed areas. Remnant native vegetation appears to be restricted to the riparian corridor of the Peel river and Goonoo Goonoo creek, and both vegetation communities are from the Inland Riverine Forests vegetation class.

PCT 84 occurs on riverine deposits on stream-banks and terrace flats of major rivers and creeks in low hills and hills landforms of Nandewar and Brigalow Belt South Bioregions, and is associated with Kaputar, Liverpool Plains, Nandewar North Complex, Northern Basalts, Northern Outwash, Peel, Pilliga Outwash, and Talbragar Valley SRs (VCA database). It has no associated TECs.

PCT 78 is similarly associated with alluvial loamy soils, on the on banks or watercourses and on adjoining flats in undulating low hills or hill landscapes. It is known to intergrade with PCT 84 and also has no associated TECs. Site specific vegetation mapping does not appear to have been conducted. Without a detailed vegetation survey of the site and based on the publicly available mapping data and anecdotal descriptions of the site, it is likely that the area contains native and non-native vegetation, including riparian canopy species, landscaped areas and mown grass. Native species are likely to include species that form the vegetation communities identified by broadscale vegetation mapping.

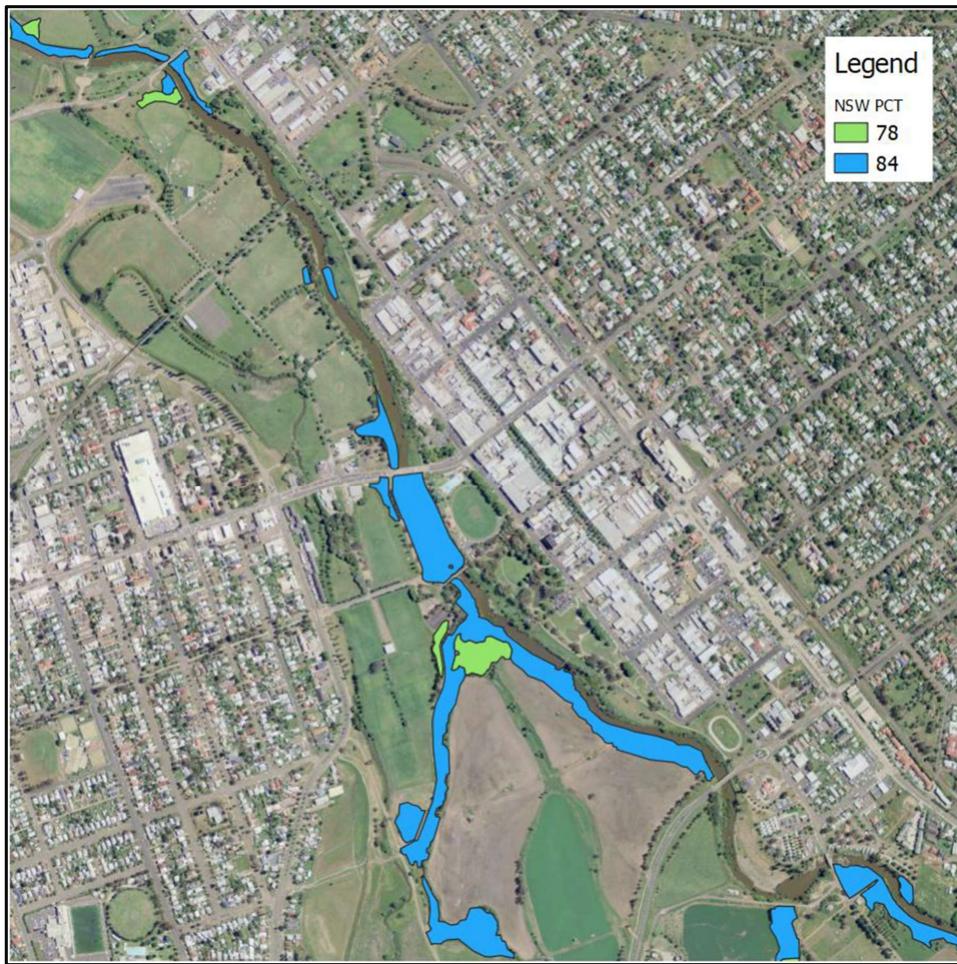


Figure 8: Broadscale native vegetation PCT mapping of the area

3.2.2 Threatened flora taxa

Database searches and literature review identified a total of 9 threatened fauna species with a potential to occur within a radius of 10km buffer of the study area (Appendix A). Four threatened flora species were considered to have a moderate likelihood of occurrence. No threatened flora species were considered to have a high likelihood of occurrence.

Database searches and literature review identified a total of 33 threatened fauna species and one threatened slug and snail community with a potential to occur within a radius of 10km buffer of the study area (Appendix A). The likelihood table (within Appendix A) found a known likelihood for the Grey-headed Flying-fox, Koala and Squirrel Glider.

Grey-headed Flying-fox

Grey-headed Flying-fox are a relatively recent frequenter of the site. A roosting colony known as the Peel River Camp began forming in around 2001, but the site has been most consistently populated since 2012 (refer to Figure

9). The size of the camp fluctuates, and appears to be strongly contingent on the flowering proficiency of nearby White Box (Eucalyptus albens). The Tamworth Regional Council Flying-fox Camp Management Plan – Peel River Camp, includes management actions for the protection of the Flying-foxes whilst mitigating impacts to the community. These management action include:

- Creation of a buffer between urban areas and Flying-fox habitat through removal of non-native trees and trimming of native trees
- Dense, rapid-growth plantings in areas where Flying-fox presence is more preferable.

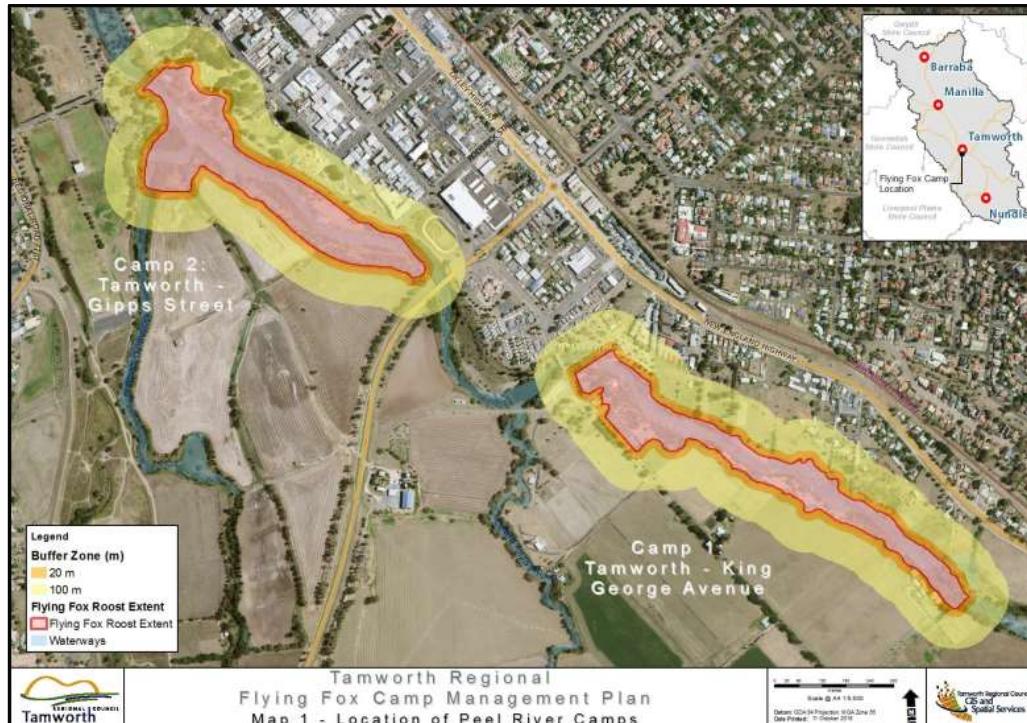


Figure 9: Location of Flying-fox camps

Source: Tamworth Regional Council

Other threatened species

The following threatened species are recorded in the vicinity by DPIE BioNet Atlas and it is recommended that surveys be carried out to determine their presence or absence.

- Australian Brush-turkey (as part of the endangered population in the Nandewar and Brigalow Belt South Bioregions)
- Little Eagle
- Powerful Owl
- Spotted-tailed Quoll.

3.3 River flow and health

Water levels and health of the river related to rainfall derived inflows via tributaries and releases of water from the Chaffey Dam.

Below graph (Figure 10) shows the inflows to the Peel River system. The graph shows periods of very low inflows and also periods of high flows that can result in local flooding.

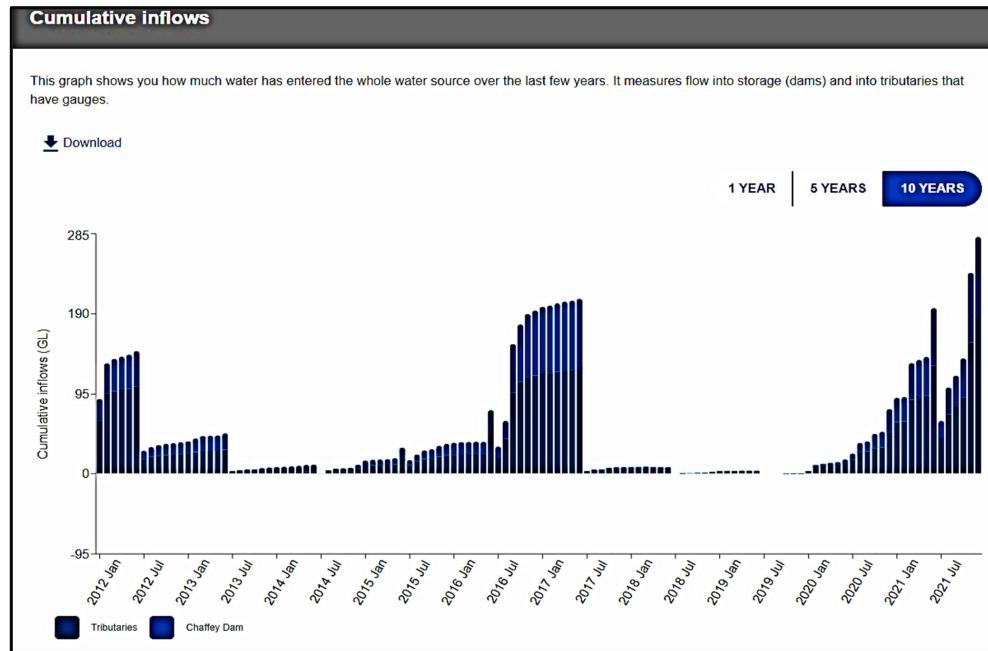


Figure 10: Water inflows to Peel River system from 2012- 2021
(source: water insights water NSW www.waterinsights.waternsw.com.au)

3.3.1 Low Flow

In mid-2020 and again in May 2021 environmental flows were released from the Chaffey Dam in response to low river levels that were having a detrimental effect on the health of the waterway. At that time river flow in some areas had effectively stopped (refer to Figure 11 below) with the river forming pools that limited fish movement, impacting the water quality and enabling the growth of algae, the drying of areas of the channel, and impacting the habitat of mammals including platypus and turtles. These water releases provided immediate benefits to the overall river ecology and were ahead of the breeding season.



Figure 11: Peel Valley update publication - showing low flow in Peel River
(Source: Water NSW PowerPoint Presentation (waternsw.com.au))

3.3.2 High Flow

The Peel River also periodically experiences high flows that exceed the water channel, particularly the result of rainfall events for which surface waters flow into the Peel River. Figure 12 to Figure 14 show flooding in the city centre in early 2021 and 2000. The high water flows not only inundate adjacent land but can also destabilise trees (refer to Figure 13) and be of lower quality such as from the sediment load as visible in these figures.

A substantial levee, with a height over 9m, is provided on the eastern side of the river to protect the nearby CBD from floodwaters. A levee to protect the CBD is identified as first being constructed in the 1930s, and has been raised several times since then (source: Bureau of Transport Economics (BTE) working paper 48 "Flood Damage in Tamworth: Costs of the November 2000 Flood"). In places, notably where a road and the city are against the levee, concrete retaining walls that support the levee are also visible.

On the western side the land slopes up from the river channel more gradually and may be of lower elevation at its highest point than the CBD levee. The distance separation provided by the sportsfields to the residential area assists to accommodates flooding, a distance not available on the CBD side and with its greater financial investment.

The Taminda Levee, of over 2.5km in length, is located in the northern area was upgraded in about 2009 to protect the industrial and commercial area.



Figure 12: Flooding in Tamworth from the Peel River in March 2021
(source: NBN News | TAMWORTH'S PEEL RIVER SWELLS, SEEPING INTO THE TOWN)

In Figure 12 the road and bridge crossing the water is the Oxley Highway. In the foreground up to mid left of the image are the flooded sportsfields on the western side of the river.



Figure 13: High rainfall flowing in the Peel River, causing trees to topple, November 2021
(source: ABC News website - Couple and their dog escape raging floodwaters in NSW, more heavy rain forecast - ABC News - photo ABC Upper Hunter: Jake Lapham)



Figure 14: Flooding of the Peel River at Tamworth November 2000

Bicentennial Park and the Tamworth CBD are on the right of the image (source: [BBC News | ASIA-PACIFIC | Australia floods isolate thousands](#))

3.3.3 Levees

The CBD levee on the eastern side of the river, while a visual and physical barrier to the river, protects the city centre from flooding and so gives support to existing and future investment in the centre. The Taminda Levee in the north protects the nearby industrial area.

The western side of the river does not have such a levee structure. As such this area is at risk of flooding and the land uses of the sports fields of the lands adjacent to the river reflects that risk. It also means that there is no visual barrier in the landscape to the river channel area.

While flood protection through a levee on the western side has previously been considered in flood studies there would be a social and environmental implication to such a structure as evident from the eastern side. There are also implications for downstream flows and flooding.

3.4 Strategic Planning

3.4.1 Development potential under existing planning controls

Under the TRLEP 2010, the existing zoning of the CBD allows higher density development, including for residential as well as commercial (including retail and office) buildings, than are currently in the area.

The area of the CBD bound by Kable Ave, Hill Street, Peel Street and Bourke Street, has an FSR of 6:1; and surrounding blocks have FSR of 4:1 and 2:1. There is no specific 'Height of Building Map' provided in the TRLEP 2010. Building heights are limited by the airspace protection (the Obstacle Limitation Surface) for the Tamworth regional airport being a maximum structure height of 45m above ground level for the city centre.

If utilised, these controls would support increased residential and working population within the CBD and so potential users of the river vicinity and bring life to the streets. It is noted that the potential for higher density residential housing on Kable Ave fronting Bicentennial Park is identified in The Bicentennial Park Master Plan.

3.4.2 Planning Proposals

At the time of this report there is only one planning proposal in progress relevant to the study area. That Planning Proposal is to introduce design excellence provisions into the TRLEP 2010 for the Tamworth CBD, to improve urban design outcomes for the centre. Developments determined to achieve design excellence may be awarded increased building height and /or floor space ratio (density) or other benefits.

3.5 Heritage

The TRLEP 2010 identifies several listed heritage items within and adjacent to the project area and numerous items in the surrounding area particularly the CBD. These listed heritage items are all European built structures.

The TRLEP 2010 does not identify any landscape heritage items in the Tamworth region. However, the Council does maintain a Significant Tree Register of those trees in the Tamworth city area to be protected and retained.

The Kamilaroi / Gomeroi people are the traditional custodians of land in the Tamworth region. There are events and activities held to celebrate their culture, including during NAIDOC week, and art exhibited in the Tamworth Regional Gallery, other galleries and across the region.

An AHIMS search did not identify any recorded indigenous heritage within the River study area.

The Tamworth CBD and Riverfront area contains numerous memorials, monuments, as well as public art that reflect heritage of the area.

3.6 Economic Considerations

The southern portion of the river area (below the New England Highway) is used for a mix of economic activities, including agricultural uses, the Paradise tourist park, and food outlets.

On the western side of the river at Oxley Highway there are some commercial outlets and a hotel.

The eastern side is bordered by the Tamworth CBD being the commercial retail and services core of Tamworth. Only a club (West Diggers) and Red Cross House is located on the river side of Kable Ave north of the Oxley Highway.

Temporary commercial stalls are established for specific events, for example commercial stallholders may apply to operate at the Tamworth Country Music Festival at Kable Avenue and in Peel Street within the CBD.

As noted previously, a number of other festivals including the Hats Off, Fiesta la Peel, Taste, and Heritage festivals are also held in the Tamworth City area.

The Tamworth city centre also supports regular markets including:

- The Tamworth Growers Markets occurs weekly in The Village Green in Bicentennial Park
- The Tamworth Peel Street Markets occur monthly in Peel Street.

Within the river area, on the eastern side between the New England Highway and Jewry Road, are community facilities including parks and swimming centre; food outlets within Bicentennial Park; and a mix of uses near Jewry Rd including community college (in converted building) and restaurant.

Any new commercial-type ventures considered for the river corridor should be aligned with the river and its environs, and not compete with / detract from existing businesses in the vicinity or the CBD. However, there may be opportunities for additional temporary commercial enterprises and complementary businesses.

3.7 Social and cultural

As indicated in the various studies and plans and strategies, the River corridor and adjacent lands are used for a wide range of formal active sports and recreation through to passive informal recreation and relaxation, in large to small groups and individually. It also allows for chance casual interactions.

The river area is also used for and support a range of cultural events and festivals. These sporting, recreational and cultural activities provide for social interaction, health benefits and mental stimulation. However, the crime strategy also identifies the potential for crime in this area (CBD river) which may deter usage by some members of the community and/or influence the times and days that it is used.

3.8 Access to and within the river area

3.8.1 Access to the river from the CBD

The eastern side of the river is affected by a substantial earth bank levee structure protecting the CBD that rises above the height of Peel street to descend to the river. Where Kable Ave runs alongside the river (northern end), and other points, the earth levee is supplemented by a concrete barrier. This levee separates the river from the city and, combined with the attractiveness of other places such as Bicentennial Park, may dissuade people from trying to reach the river.

Access to the river precinct from the CBD may therefore be considered as two parts separated by the levee and associated concrete walls (1) the CBD to the parkland / greenspace areas and (2) the greenspace of the embankment levee down to the river.

There are multiple routes to the parkland area from the CBD, being the roads and associated footpaths of the city centre connecting to carparks and the formal and informal shared pathways to the parkland. This is particularly the case south of the Oxley Highway, associated with Bicentennial Park. However to the north of the Oxley Highway the river area is closer to the Kable Avenue and Peel Street, and does not have the same extent of greenspace separation or road intersections providing pedestrian crossings. As a result, vehicles may need to park away in streets or other carparks, and access is then informal across greenspace to then the pathway alongside the river.

There is a pathway that runs along the eastern side of the river and in the corridor, commencing at the southern end near Paradise tourist park to the Tamworth Community college site on Jewry Street. This path is on top of the levee and/or on the down slope. The Bicentennial Park area has a number of smaller paths leading to specific features and carparks.

There is lighting along many of these paths, however the strength and adequacy of that lighting for perception of safety and to deter crime is difficult to determine.

3.8.2 Access to the river from the western side

On the western side of the river, the nearest residences are of about 300m distance, separated primarily by open grassed sportsfields.

Local roads connect through to the river from the residential areas, which due to the sportsfields are of larger lot and so lateral distance apart. Solander Drive runs alongside the river's northern portion, with tracks leading from it, providing near access to it although there is limited formal parking. Two key carparks are provided in the southern portion, of which one connects to a pedestrian bridge over the river to Bicentennial Park (see section below).

The western side also has a path running alongside of the river extending from Jewry Street, which connects to other streets (including Solander Drive) and car parks, to then follow Goonoo Goonoo Creek at the southern end.

3.8.3 Access across the river

There are four road crossings across the river, being at the northern end on Jewry Street, the central area being Oxley Highway (Bridge Street), and the southern end being the New England Highway and King Gorge V Ave (local road). These roads connect to the CBD to the east, the surrounding residential areas and the industrial area to the west. Each of these roads provides a pathway for active transport users, although the amenity and convenience of these may not be high given the combination of the proximity vehicle traffic causing noise and fumes, weather exposure, and the ease and safety of entry/exit points.

There is an additional footbridge crossing of the river that connects the northern portion of Bicentennial Park with a car park on the western side.

There is also a railway line crossing above the River, but this is not a publicly accessible route.

3.9 Visual and amenity values

On the eastern side of the river, the visual amenity is determined by the location of the levee bank and any associated concrete retaining wall. Bicentennial Park provides visual interest and amenity between the river (levee) and the CBD. On other areas, the CBD is adjacent to or in close proximity to the levee bank.

The levee bank and concrete retaining wall are stark and unadorned and of little visual interest. The levee bank itself is typically grassed, although some trees and extension of park facilities into it are present. The levee bank and concrete wall are a visual block and barrier to the landscape and river beyond. This levee, necessary to protect the city, also prevents views of the river corridor from the city and is a visual barrier that generally lacks interest and is functional.

As such the river is only visible from top of, and on that side of, the levee, as well as from the roads that cross the River. However, the roadway is unlikely to appeal for longer stops and limit enjoyment of the river by pedestrians and cyclists given the noise, fumes of vehicles, the exposure to the weather and the physical separation.

The river itself has vegetated areas along its banks, and as noted previously can have low to high water levels.

On the western side of the river there are wide tracts of open space, including sports fields, that provide a more gentle slope down to and so allow looking upon the river. Barnes Gully, which flows into the Peel River, also runs through this area. There are mature tree plantings along the river, on streets and surrounding some sports grounds.

3.10 Soils and Contamination

Clause 7 of *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55) provides that a consent authority may not consent to carrying out any development on land unless:

- *It has considered whether the land is contaminated, and*
- *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- *If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Existing park areas surrounding the Peel River have been subject to historic land uses which indicate the potential for contamination to be present (e.g. railway, road and agricultural operations).

These potential matters of contamination would have to be considered further in any development application prepared for the project.

3.11 Major Projects and Improvement Projects

3.11.1 Major Projects

The following major projects are proposed, planned, in construction or recently completed in the CBD and River areas:

- University campus – identified location is the Prince of Wales Park on Kable Ave / Peel Street – proposed. A memorandum of Understanding with the University of New England to establish a campus in Tamworth was being discussed in June 2021, however the location of that campus was not confirmed as potentially for this site
- New Weir on the Peel River to create a small lake, potentially in the vicinity of Bicentennial Park – under investigation
- Viaduct Park works. Progressing from the Masterplan, some works have been completed and the following are proposed: additional skate park elements, upgraded playground with shading; new pedestrian overpass across Peel street; additional parking and all-accessible footpaths; café with terrace
- Tamworth Performing Arts and Cultural Precinct – on eastern side of Peel street in CBD (incorporating Tamworth Regional Gallery). In development
- Changing Places Facility and Accessible Transport Hub – within Bicentennial Park. To support community transport services including wheelchair accessibility. In planning - with construction to commence early 2022
- Viaduct Park Youth Training Café – a food and drink outlet attached to the Youth Hub – under construction (to open December 2021)
- Regional astronomy and science centre – Victoria Reserve East Tamworth (adjacent to the Botanical Gardens) – near completion
- Lighting upgrade for the Bicentennial Park Levee shared path – recently completed.

While some of these works are outside of the river precinct, the investment made into the city and the resulting increased activity by people in the area may be levered to further activate and have people enjoy the river precinct.

3.11.2 Improvement Projects

In 2018 the Tamworth Regional Council undertook an urban design project for the Fitzroy Street and Bicentennial Park areas tested through a festival with events including jazz music, food market and open-air cinema. A focus was also placed on pedestrian movement and activity, with vehicle traffic limited. Further information is available at: [Fitzroy Street and Bicentennial Park Upgrade \(nsw.gov.au\)](#). The outcomes of this activity could be used to inform a way forward for the integration of the CBD to the riverside parklands and through to the river.

At the Council meeting of 26 October 2021 the Council supported recommendations (subject to funding):

- The Peel Street Beautification Project extension for a further three stages
- Pursue the use of the heritage listed Tamworth Station Master's Residence for an artist venue
- Holding of 'micro events' in Fitzroy Street to activate the area.

While these recommendations do relate to the Tamworth CBD, the concepts behind them to improve urban design and appeal, pop-up events to activate areas and support to the creative industry may be considered for the River project area.

4 Initiatives and Opportunities

The Initiatives and Opportunities are to identify those interrelated environmental, economic and social benefits for the Tamworth community and region including to:

- Protect and enhance the natural qualities of the river and its ecology
- Be inclusive
- Provide for a wider range of activities and interests than currently available
- Enable greater outcomes from existing planned and proposed council investments
- Provide opportunities for relaxation and interaction and activity
- Incorporate safety in design
- Support learning and education, both formal and informal, of place
- Support walking and cycling
- Connect the CBD, the parklands and the river areas.

4.1 Planning and Environment Initiatives

A number of potential planning and environmental initiatives have been developed, resulting from the review of existing policies and strategies, activities of council, and other research, and with gaps identified. While these have been grouped under sub-headings, many of these could sit under more than one type and can be inter-related as noted. In all cases, consideration should be given to meeting the needs of the whole community and be accessible and open to all irrespective of age, physical abilities, language and background.

In all cases, the variability of flow and water level in the river will impact the viability of opportunities, such as the risk of damage or loss of any investment, and ability to undertake activities, and would need to be recognised and accepted. Some elements such as art may be designed to be removable, others may be able to withstand a brief period of inundation.

4.1.1 Development potential / land use zone – alternative

W2 Waterway Zonings

Further investigate the merits and implications of rezoning the waterway to a W-type zone, and what additional land uses may merit inclusion as permissible, and to define the boundaries of any new zone.

The application of this would focus on the environmental values of the river and its restoration / rehabilitation, but still allow for and support certain related land uses and enjoyment.

There are two viable options of a W-zone for the Peel River, being the W1 Natural Waterway zone and W2 Recreational Waterway zone. Table 8 to Table 9 set out the land use tables for each per the Standard Instrument.

Table 8 and Table 9 set out the relevant zoning requirements for the W1 and W2 zones under the Standard Instrument.

Table 8: W1 Natural Waterways zoning

Zone	W1 Natural Waterway (standard instrument)
Objectives	<ul style="list-style-type: none">• To protect the ecological and scenic values of natural waterways• To prevent development that would have an adverse effect on the natural values of waterways in this zone

Zone	W1 Natural Waterway (standard instrument)
	<ul style="list-style-type: none"> • To provide for sustainable fishing industries and recreational fishing
Permitted without consent	-
Permitted with consent	Aquaculture
Notes	<p>The following must be included as either "Permitted without consent" or 'Permitted with consent' for this zone –</p> <ul style="list-style-type: none"> • Environmental facilities • Environmental protection works

Table 9: W2 Recreational Waterways zoning

zone	W2 Recreational Waterways (standard instrument)
Objectives	<ul style="list-style-type: none"> • To protect the ecological, scenic and recreation values of recreational waterways. • To allow for water-based recreation and related uses. • To provide for sustainable fishing industries and recreational fishing.
Permitted without consent	-
Permitted with consent	Aquaculture, kiosks; marinas
Notes	<p>the following must be included as either "Permitted without consent" or 'Permitted with consent' for this zone-</p> <ul style="list-style-type: none"> • Environmental facilities • Environmental protection works • Water recreation structures

Both of the waterway zoning could restrict urban / built forms of development and focus on the environmental values and community value of the river and adjacent land.

The W1 zone has stronger environmental protection and management focus, that potentially may unintentionally limit the recreational opportunities of this area and generally be more restrictive in respect of interpretation of the objectives.

The W2 zone clearly supports recreational uses of the waterway, while still providing for its environmental protection, management and enhancement, as well as the kiosk that would support the recreational aspect.

For both zones, other land uses may be included as "permitted with consent" to further support the use of the area in the context of the riverine environment. For example 'Community Facilities' may be an additional land use to be 'Permitted with Consent' that is compatible with these zones but also support the community use, engagement, and appreciation of the place.

C3 Environmental Management zone

The TRLEP 2010 utilises the C3 Environmental Management zone.

The C3 Environmental Zone may impact the ability to enable water-based activities and any development that may have a detrimental impact on the waterway values, including development that may be desired to reinvigorate the river and its use and value by the community and role within the city. The River also may not meet the objective in respect of have 'special... value'.

Table 10 sets out the zoning requirements of the C3 Environmental Management zone under the TRLEP 2010.

Table 10: C3 Environmental Management zoning

Zone	C3 Environmental Management (TRLEP 2010)
Objectives	<ul style="list-style-type: none"> to protect, manage, and restore areas with special ecological, scientific, cultural or aesthetic values. to provide for a limited range of development that does not have an adverse effect on those values.
Permitted with consent (selected)	dwelling houses; environmental facilities; environmental protection works; extensive agriculture; farm buildings; flood mitigation works; home based child care; home businesses; neighbourhood shops, recreation areas; roads, roadside stalls.

SP3 Tourist Zone

The TRLEP 2010 utilises the SP3 Tourist land use zone. Table 11 sets out the zoning requirements of the SP3 Tourist zone under the TRLEP 2010.

Table 11: SP3 Tourist zoning

Zone:	SP3 Tourist TRLEP 2010)
Objectives	<ul style="list-style-type: none"> To provide for a variety of tourist-oriented development and related uses To facilitate development that recognises the unique characteristics of the nationally and regionally significant tourist precincts that are the Australian Equine Livestock and Events Centre (AELEC) And the Tamworth Regional Racing Precincts.
Permitted with consent (selected)	boat sheds, camping grounds, caravan parks, charter and tourism boating facilities, community facilities, entertainment facilities, environmental facilities, food and drink premises, information and education facilities, kiosks, markets, recreation areas, retail premises, tourism and visitor accommodation, water recreation structures.

While this zone may be considered as an alternative for specific sites around the river, such as the existing Tourist Park, it is not considered a viable alternative for the river and its immediate area generally as it promoted development and not champion the river environment and its enhancement.

Eco-Tourism land use

The Standard Instrument clause 5.13 *Eco-tourist facilities* provides the compulsory clause wording for use if eco-tourist facilities are listed as '*permitted with consent*' in the land use tables. In particular the clause provides the objectives of the clause and the matters to be considered in the assessment for development consent of an eco-tourist facility.

The definition of Eco-tourist facilities is given in the Standard Instrument as:

"Eco-tourist facility means a building or place that –

Provides temporary or short-term accommodation to visitors on a commercial basis, and

Is located in or adjacent to an area with special ecological or cultural features, and

Is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facility that are used to provide information or education to visitors and to exhibit or display items."

In the TRLEP 2010, eco-tourist facilities are specifically listed as prohibited in the B3 and B4 zones and are prohibited (through not being listed as permitted with consent) in the RE1 zone.

This land use may be considered for inclusion as 'permitted with consent' in an existing or an alternative zone considered in this PEA. The flooding constraints and the assessment requirements on such a development would assist in managing the type of development and so extent of its application while protecting the river environment.

4.1.2 Ecological Opportunities

Waterway

From an ecological standpoint, the most important action is retention of existing vegetation. Searches of the site through publicly available vegetation databases and Google Street view reveal established canopy species and landscaped areas. This vegetation should be retained, including non-invasive non-native tree species, which can provide essential fauna habitat.

Ecological rehabilitation wherever possible is highly recommended. Revegetation will increase amenity (visual, temperature regulation), habitat for native species (both terrestrial and aquatic), and erosion control. This will involve removal of invasive non-native species, planting of local species as informed by the known vegetation community on site and encouraging natural regeneration. The study area's linear shape long the Peel River forms the obvious corridor axis along which connectivity should be assessed for improving linkages.

Protection and management of the Flying Fox camp will be an important issue.

Garden

Much of the open space provided in the study area is targeted at sports fields or play areas. In contrast, and to cater for other interests of the community, a planted garden with paths may be considered. The type and objectives of such a garden could be tailored, and one overall place containing one or more garden types. Three examples of garden type being:

- A local native plant garden. This could complement the Tamworth Botanic Gardens and located in more accessible place being near the CBD and its facilities. This garden could also be used to educate the community about plants of the area and what may grow in their own gardens and sustainable water use
- A more generic garden that includes exotic species. It may have a focus on flowers, or foliage, or a particular region or types (theme) of plant/s
- A water- based garden, as a river or pond or wetland type area, connected to the existing river way or levering off the new weir currently under investigation. This could profile a different type of environment and include a boardwalk or other walkways (see also the river trail entry under 4.1.3).

Each of these gardens could also attract and support wildlife, potentially with specific species planted for nominated wildlife outcomes. In all cases the garden could be used to educate school children and the community about the natural environment generally and as shown in the garden, as well as for creative purposes such as drawing, painting, and photography, for nature watching, and for general relaxation and enjoyment. Any such garden would likely require on-site amenities, covered and open seating areas.

4.1.3 Cultural opportunities

Trails

The following trails may be considered individually or as a consolidated offering within the study area:

- Heritage – of listed heritage items but also sites relating to the history and development of Tamworth, and/or natural heritage

- River – as a land walkway and/or a (part) boardwalk over part of the river or eco-trail that focuses on the ecological and hydrological attributes of the river. This could include the natural pool area of the river near the Paradise Tourist Park. This could enable more appreciation and engagement with the river environment. Such a trail could also integrate with a water-based garden if progressed
- Public art – that highlights and reflects the natural environmental values of the river and riparian lands, with new artworks included (recognising the shortfall in such art as indicated in the Public Art Strategy)
- Aboriginal heritage. This may be a site of focus, a trail, or another form, to be considered in consultation with the aboriginal community.

Such trails could also include signage, brochure format, online and app-enabled content that will educate as well as provide interest and a structured route. The trails could also connect with existing community infrastructure and facilities and the CBD.

Festivals and Events

Tamworth City already has a number of significant festival and events. There may be the potential to expand these to include the river precinct. Ideally there would be a connection between the locations – for example the existing footbridge over the river may enable the western side to be utilised. If a heritage trail was developed, this could then be highlighted during the existing heritage festival.

New festivals and events may also be conceived, and may be related to some of the major projects currently being undertaken by the Tamworth Council to promote those works and the resulting offering. For example an Arts festival or pop-up events that could lever off the planned Arts and Cultural Precinct and may also support a new public art trail and the creative industries and new ecological highlights such as (if progressed) a boardwalk or native garden and associated wildlife.

Expanded existing and new festivals or events could also provide opportunities for stalls and local businesses and organisations, along the lines of the temporary stalls and market type hubs.

Levee and river front

On the CBD side of the river, the levee is a visual, physical and mental barrier to the river and its waterside areas. The levee itself is large structure, and the majority of which is grassed and open. The concrete retaining walls are also plain and unattractive.

Any proposal involving the levee must ensure that its stability and ability to continue the levee function are not challenged or changed.

However there may be scope to plant on the earth levee, or add decoration to the concrete barriers, to add interest and attractiveness. Plantings such as trees or large shrubs on the levee may provide shade and invite people to stop.

The top of the levee at set points may also provide a viewing area / lookout for the river and landscape beyond. This may also assist with perceptions of safety and passive surveillance.

Alternatively a standalone tower or similar viewing structure may be constructed to view the river and landscape, within designed grounds.

Passive Recreation

There may be opportunities for further passive recreational activities in the river area, developed from any other identified initiatives if progressed, or separately with supporting facilities or infrastructure. For example, birdwatching (the Tamworth Birdwatching community group has considerable information online); walking with consideration of access safety, weather exposure, and supporting infrastructure provision.

The barriers to some recreational activities should be identified and investigated as to whether these could be redressed to some degree.

4.1.4 Access

Eastern / city side of river

The ability and safety considerations in accessing the river and its adjacent parkland, over the levee, may be a barrier to the utilisation of these areas. The accessibility and wayfinding and safety aspects of the paths in this area may warrant an audit and/or survey to confirm current usage and challenges that may be addressed.

Investigation should be made into improving pedestrian access, in the number, location, safety and ease of crossing, of Peel Street and Kable Avenue, providing destinations, and the quality of movement in the park areas including at night.

Western river side

Access, and need for access, on the western side of the river is different to that of the CBD side given the focus on sportsgrounds and use as overflow for the country music festival. There is vehicle access to and within this area, as well as pedestrian accessibility although exposed and of distance from the built area, and a pathway alongside the river.

The informal tracks leading to the river indicate an interest in having access in this area. Further investigation on the reasons for these tracks is needed to identify if there is an unmet need or opportunity.

Access across the river and along the river

There are limited river crossing points for pedestrians and cyclists. The demand for additional crossing points, under current conditions or to support any future development or initiative that will increase community participation in the river area, as an individual project and the overall cumulative outcome, should be considered. This would be particularly for an initiative on the western side of the river.

4.1.5 Socio-economic benefits

Broadly there will be social benefits from actions that seek to increase positive interaction, opportunities for relaxation and physical activity, build a sense of community and feeling of belonging. There is also the benefit of learning about the place of Tamworth, its history, natural environment, people, that can provide connection and also appreciation, and ideally foster interest and curiosity of children in particular.

There may also be indirect economic benefits from business opportunities, increased trade associated with activation and visitors, and reduced costs related to crime. Finding opportunities that build on existing planned and proposed projects of Council will enhance the benefits of those projects and investment.

Any new commercial-type ventures considered for the river corridor should be aligned with the river and its environs, and not compete with / detract from existing businesses in the vicinity or the CBD. However, there may be opportunities for additional temporary commercial enterprises and complementary businesses.

4.2 Technical Studies Recommendations

The following technical planning and environmental studies and plans are recommended to inform the above recommendations on if and how to proceed:

- Traffic and parking study or survey to determine the use of the local streets and roads on the western side of the river, the need for parking, and the reasons people use the area (outside of formal sports activities). This study/survey is proposed as a result of the lack of parking adjacent to the river and the informal (use formed) tracks
- Pedestrian and bicycle movement study including movement between the CBD and the river areas, including number and location of road crossing points, paths across parklands, traversing the levee, and destinations on the river side

- Prepare a waterway rehabilitation assessment and management plan to inform and guide the restoration of the river, that will support its ecology in typical flow and low flow periods
- A detailed strategic land zone assessment of the appropriateness, benefits and utilisation of the existing land use zones and permitted activities, and the potential merit of a Waterway zoning and any additional activities, that may be applied to the river
- Community survey on other festivals that the community would be interested in attending, or existing events or interests that could be scaled up to larger events
- As a side activities to the weir investigation, consider opportunities to create a water based garden with boardwalk
- For any initiative considered, to assess the individual and cumulative benefit of an additional pedestrian and bicycle crossing of the river
- Protection and management of the Flying Fox camp will be an important issue. It is recommended that some flowering species, such as White Box, be planted amongst more rapid-growing roosting tree species as part of a longer-term strategy to encourage Flying-fox away from less preferable areas
- Ground based survey is recommended to confirm the extent of native vegetation and areas of potential habitat for / presence of threatened species when producing detailed designs with potential impacts or for targeting areas for regeneration.

5 Approvals processes / Planning Pathway for recommendations

5.1 Introduction

The planning pathway considerations for works in the Peel River and adjacent areas are outlined below. Actual approvals and pathway requirements would depend on the typed and details of any work being proposed.

5.2 Environmental Planning and Assessment Act 1979

5.2.1 General

The EP&A Act provides for matters including: the management of the state's resources, environmental assessment requirements and protection of the natural environment, planning and managing development including the design and quality of the urban environment, protecting and managing heritage.

Part 4 of the Act addresses development assessment and consent processes for a broad range of development types undertaken by various proponents throughout NSW.

Part 5 of the Act addresses environmental impact assessment requirements for projects which can be undertaken "without consent," often under the management of a public authority. Depending on the exact nature of the land uses which TRC decides to pursue at the site, Part 5 of the EP&A Act may apply. For example, as set out in Table 6 within Section 2.6.1 above, development for the purposes of Environmental protection works, Flood mitigation works, Recreation areas, Recreation facilities (outdoor) and Roads can often be undertaken by or on behalf of public authorities using a Review of Environmental Factors under Part 5 of the EP&A Act.

5.2.2 SRD SEPP

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) specifies those developments which are considered to be Regionally Significant Development, State Significant Development (SSD) and State Significant Infrastructure (SSI). The following triggers are relevant to consider with respect to the Peel River restoration works which require approval under Part 4 of the EP&A Act:

- SSD under Schedule 1 of SRD SEPP:
 - Clause 13 Cultural, recreation and tourist facilities with a Capital Investment Value (CIV) of more than \$30M for development such as information and education facilities
- SSI under Schedule 3 of SRD SEPP:
 - Clause 2 Development for boating facilities by or on behalf of a public authority with a CIV of more than \$30M
- Regionally Significant Development under Schedule 7 of SRD SEPP:
 - Clause 2 Any development requiring consent under Part 5 of the EP&A Act which has a CIV of more than \$30M
 - Clause 3 Council related development with a CIV of more than \$5M
 - Clause 5 Private infrastructure and community facilities with a CIV of more than \$5M
 - Clause 6 Eco-tourist facilities with a CIV of more than \$5M.

SSD and SSI developments require a Preliminary Environmental Assessment to be prepared, the Secretary's Environmental Assessment Requirements to be obtained, an Environmental Impact Statement to be prepared. The

NSW Department of Planning, Industry and Environment would be the consent authority. The timeframe for undertaking an SSD or SSI assessment and obtaining approval in NSW is generally two years.

Should the project meet any Regionally Significant Development provisions under Schedule 7, the Statement of Environmental Effects would be provided to the Northern Regional Planning Panel for consent.

5.2.3 Environmental Planning and Assessment Regulation 2000

Clause 4 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) provides that development of an artificial waterbody is Designated Development where any of the following triggers apply:

- Maximum aggregate surface area of water of more than 0.5 hectares located:
 - In or within 40 metres of a natural waterbody, wetland or an environmentally sensitive area, or
 - In an area of high watertable or acid sulphate, sodic or saline soils, or
- That have a maximum aggregate surface area of water of more than 20 hectares or a storage capacity of more than 800 megalitres, or
- From which more than 30,000 cubic metres per year of material is to be removed.

Potential waterways works at the site could meet these triggers, which could require assessment under Designated Development provisions in the first instance.

Designated Developments require a Preliminary Environmental Assessment to be prepared, the Secretary's Environmental Assessment Requirements to be obtained, an Environmental Impact Statement to be prepared. In this case, the Northern Regional Planning Panel would most likely be the determining authority (due to the Capital Investment Value exceeding \$5M). The timeframe for undertaking a Designated Development assessment and obtaining Designated Development approval in NSW is generally 18 months at a minimum.

5.2.4 Planning Proposals

The planning proposal process, to make a Local Environmental Plan including amendments to an existing TRLEP 2010, is outlined 7 in the EP&A Act at Part 3 Planning Instruments, Division 3.4 Environmental planning instruments – LEPs.

There may be benefit in revising and consolidating/slightly altering some of the legacy zones at the site.

5.3 Water Management Act 2000

The *Water Management Act 2000* is to provide for the sustainable and integrated management of the state's water resources including to protect and enhance the ecological values of waterways, the benefits of responsible use and management of water and its competing needs.

Under Chapter 3 Water management implementation, Part 3 Approvals, the following clauses are relevant:

- Division 1 Preliminary - Clause 91 Activity approvals – controlled activity approvals – to carry out specific controlled activity at specified location in on or under waterfront land
- Division 2 – Applications for and granting of approvals.

For which 'Controlled activities' are defined as:

- (a) The erection of a building or carrying out of work (per meaning in the EP&A Act)
- (b) The removal of material or vegetation from land,
- (c) The deposition of materials
- (d) The carrying out of any other activity that affects the quantity or flow of water in a water source.

With 'Waterfront land' defined as:

(a) The bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of the highest bank of the river.

Note – prescribed distance is 40m.

The government agency Water NSW, within the Department of Planning Industry and Environment provides Guidelines for controlled activities. Guidelines are provided for the controlled activities of:

- Guidelines for instream works on waterfront land
- Guidelines for riparian corridors on waterfront land
- Guidelines for Vegetation Management Plans on waterfront land
- Guidelines for watercourse crossings on waterfront land.

The Guidelines outline the types of works covered, factors to consider and information to be submitted for the assessment of the works for approval under the Act.

5.4 Biodiversity Conservation Act 2016

A key objective of the *Biodiversity Conservation Act 2016* is “to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development...” with particular regard to protecting of threatened species and ecological communities, assessing the impacts of development on biodiversity and responses to minimise those impacts, and provide for offsets in response to unavoidable environmental harm.

This Act may be triggered if proposed works may impact threatened species and/or threatened ecological communities or other provisions.

Under the Act:

- Part 2 Division 1 identifies offences relating to clause 2.1 harming animals; and clause 2.4 damaging habitat of threatened species or threatened ecological community
- Part 4 addresses threatened species and threatened ecological communities
- Part 6 addresses biodiversity offsets
- Part 7 outlines the biodiversity assessment and approvals requirement under EP&A Act.

5.5 Fisheries Management Act 1994

The *Fisheries Management Act 1994* (FM Act) sets out various approvals which may be required for works in NSW waterways. The Peel River is mapped as containing Key Fish Habitat under FM Act. Any new aquatic habitat which is provided at the site could also be reasonably expected to become colonised by fish species, thereby obtaining Key Fish Habitat status itself.

Approvals which can be required under the FM Act include activities such as dredging, harming marine vegetation, damaging aquatic habitats, taking fish and blocking fish passage

Section 199 provides that a Public Authority may carry out dredging or reclamation works by first giving the Minister for Agriculture and Western NSW prior written notice (i.e. no dredging permit required). Section 205 prohibits the harming of certain marine vegetation without first obtaining a Permit to Harm. Section 219 prevents the blocking of fish passage without a Permit.

These are further matters which would need to be addressed as the scope of the project continues.

5.6 Crown Land Management Act 2016

The *Crown Land Management Act 2016* sets out how Crown Land should be best used in the public interest before there is any decision to sell or lease it. Accordingly, the Minister of Department of Primary Industries - Lands may attach conditions on the sale or lease of Crown Land. The Minister can also create an easement over Crown Land for access such as for public access.

The entire alignment of Peel River is mapped as comprising Crown Lands.

TRC may need to secure the required lease to have access of Crown Land during construction and secure acquisition (if deemed necessary) before starting works at the site.

5.7 Native Title Act 1993

The entire Tamworth region is subject to a registered Native Title claim (not yet determined), for the Gomeroi People (Tribunal File No. NC2011/006 and Federal Court File No. NSD37/2019): **Register of Native Title Claims Details (nntt.gov.au)**. The Gomeroi People's claim was registered on 20 January 2012, and extends to all eligible lands and waters within the claim area. Land within the claim area which is/has been subject to either current or past freehold title on or before 23 December 1996 under the *Real Property Act 1900* (NSW) cannot form part of this Native Title claim (as previous or current freehold title constitutes a previous exclusive possession act on land, as per Section 23B of the *Native Title Act 1993* (Cth)). Given that the Peel River is mapped as comprising Crown Lands, it is possible that this river system might also be found to constitute Native Title.

There may be areas within the Peel River in Tamworth which have not had previous exclusive possession acts undertaken on them. In that case, such portions of the waterway may remain legally subject to the registered Native Title claim until such time as that claim is determined or denied. Therefore, the relevant sections of the Peel River would require review to confirm whether they are now legally subject to this registered Native Title claim. SMEC recommends that TRC undertakes this task in consultation with a practicing Planning Lawyer who is experienced in Registered Native Title Claims.

Regardless, there are general requirements under the *Native Title Act 1993* (Cth) to consult with Registered Native Title Claimants when undertaking a development within their Native Title claim boundary. As such, TfNSW would have to formally consult with these parties. It is recommended that such consultation is done under the guidance of a practicing Planning Lawyer.

5.8 Roads Act 1993

Should roads at the site be required to be closed (or partially closed), TRC would follow the process set out in Sections 38A-38F of the *Roads Act 1993*. The possible grounds for a road closure (such as Carter Street) could be either of the following as per Section 38A:

- (a) the road is not reasonably required as a road for public use (whether for present or future needs), and
- (b) the road is not required to provide continuity for an existing road network, and
- (c) if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.

5.9 Local Government Act 1993

Division 2, Part 2 of Chapter 6 to the *Local Government Act 1993* (LG Act) sets out provisions for the use and management of community land. It is assumed that the Peel River restoration works would be provided and managed by TRC as a public asset under the LG Act. A Plan of Management for the site would therefore have to be prepared, taking into account all relevant biodiversity, waterways and heritage matters relevant to the locality.

5.10 Rail Safety National Law (NSW) No 82a of 2012

The site is in the vicinity of the Main Northern Railway Line and may conflict with this railway infrastructure. Section 54 of the *Rail Safety National Law (NSW) No 82a of 2021* (Rail Safety National Law) sets out general safety duties for any person who designs, commissions, manufactures, supplies, installs or erects any thing which will be used in connection with rail infrastructure.

Where TRC commissions works in close association with the Main Northern Railway Line, there will be resulting safety duties for TRC and other involved parties to discharge under the Rail Safety National Law. In short, such works could not impact on the safe functioning of the Main Northern Railway Line. These potential safety matters could require geotechnical and structural engineering investigations to resolve.

5.11 Heritage Act 1977

Section 57 of the Heritage Act 1977 provides that it is an offence to damage a State Heritage Item. The railway bridge as it crosses Peel River is listed as State Heritage.

Any assessment for the project would need to provide appropriate consideration of the impacts of the project on historical (non-Aboriginal) heritage.

5.12 Biosecurity Act 2016

The *Biosecurity Act 2016* outlines the requirements of government, Councils, private landholders and public authorities in the management of biosecurity matters. Priority weeds are regulated under the *Biosecurity Act 2016* with a general biosecurity duty to prevent, eliminate or minimize any biosecurity risk they may pose. Some priority weeds have additional management obligations which may apply generally, or under specific circumstances during the construction and operation of a proposed development. Any person who deals with any plant, who knows (or ought to know) of any biosecurity risk, has a duty to ensure the risk is prevented, eliminated or minimised as far as is reasonably practicable.

There are several invasive flora and fauna species known to occur within the locality that could benefit from the increased habitat which would be made available through undertaking earthworks at the site. Appropriate management measures and revegetation strategies may need to be considered to manage this occurrence.

5.13 National Parks and Wildlife Act 1974

It is an offence under Section 86 of the NP&W Act to damage Aboriginal heritage objects or places.

Previous AHIMS searches undertaken for the locality identify 31 Aboriginal sites in the Tamworth city area, although none are located in the Peel River channel or immediately adjacent land (refer Appendix B). It is noted that the AHIMS register may vary in its accuracy and may not be up to date and that the area may contain Aboriginal heritage not recorded on AHIMS.

A detailed Aboriginal Heritage Impact Assessment would therefore need to be prepared, including consultation with the local Aboriginal community.

5.14 Infrastructure SEPP

5.14.1 Existing Infrastructure SEPP

The State Environmental Planning Policy (Infrastructure) 2007, also known as the Infrastructure SEPP, provides for the efficient delivery of infrastructure for the state, and includes planning and approvals requirements and environmental assessment requirements.

Under Division 25 – Waterway or foreshore management activities, Clause 128 states “*Waterway or foreshore management activities* means

- (a) *riparian corridor and bank management including erosion control; bank stabilisation; resnagging, weed management; revegetation and the creation of foreshore access ways; and*
- (b) *instream management or dredging to rehabilitate aquatic habitat or maintain or restore environmental flows or tidal flows for ecologic proposes....*”

Clause 129 states “... development for the purpose of waterway or foreshore management may be carried out by or on behalf of a public authority without consent on any land.

5.14.2 SEPP Consolidation

The Infrastructure SEPP, along with over 50 other SEPPs, is subject to a current consolidation process which is due to come into force in March 2022. The current Infrastructure SEPP will be consolidated with other SEPPs to form the new State Environment Planning Policy (Transport and Infrastructure) 2021.

6 Conclusions

There are various potential opportunities to undertake restoration works along the Peel River in the Tamworth CBD. These could include waterways uses, garden/landscaping uses, shared path trails, festivals and events, and passive recreation, as well as other temporary and permanent land use opportunities related to the same.

Key issues relating to heritage, the adjoining railway corridor, ecology and , site access, transport and parking should be explored further. Some potential further studies which could be undertaken to enhance this understanding of the locality's potential include:

- Traffic and parking study or survey to determine the use of the local streets and roads on the western side of the river, the need for parking, and the reasons people use the area (outside of formal sports activities). This study/survey is proposed as a result of the lack of parking adjacent to the river and the informal (use formed) tracks
- Pedestrian and bicycle movement study including movement between the CBD and the river areas, including number and location of road crossing points, paths across parklands, traversing the levee, and destinations on the river side
- Prepare a waterway rehabilitation assessment and management plan to inform and guide the restoration of the river, that will support its ecology in typical flow and low flow periods
- A detailed strategic land zone assessment of the appropriateness, benefits and utilisation of the existing land use zones and permitted activities, and the potential merit of a Waterway zoning and any additional activities, that may be applied to the river
- Community survey on other festivals that the community would be interested in attending, or existing events or interests that could be scaled up to larger events
- As a side activity to the weir investigation, consider opportunities to create a water based garden with boardwalk
- For any initiative considered, to assess the individual and cumulative benefit of an additional pedestrian and bicycle crossing of the river
- Protection and management of the Flying Fox camp will be an important issue. It is recommended that some flowering species, such as White Box, be planted amongst more rapid-growing roosting tree species as part of a longer-term strategy to encourage Flying-fox away from less preferable areas
- Ground based survey is recommended to confirm the extent of native vegetation and areas of potential habitat for / presence of threatened species when producing detailed designs with potential impacts or for targeting areas for regeneration.

Overall, it is likely that the restoration of Peel River would have significant socio-economic benefits for the community.

There are several potential planning pathways and other legal permitting mechanisms which could be pursued to support the Peel River restoration works. These deserve reconsideration as the scope of works progresses, particularly in light of forecasted changes to the NSW planning system which will come into effect in March 2022.

Appendix A **Ecology Technical Note**

Appendix B **AHIMS search results**

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TAMWORTH REGIONAL COUNCIL INVESTMENT REGISTER AS AT 30 JUNE 2025

Investment Type: Term Deposit

Financial Institution	S&P Credit Rating	IFRS Classification	Investment Type	Investment Date	Maturity Date	No of Days	Interest Rate	Term Deposit Value
NAB	AA-	Held to Maturity	Term Deposit	28/06/2024	1/07/2025	368	5.45%	6,000,000
NAB	AA-	Held to Maturity	Term Deposit	2/07/2024	15/07/2025	378	5.45%	6,000,000
RAB	BBB+	Held to Maturity	Term Deposit	16/01/2025	15/07/2025	180	5.05%	5,000,000
NAB	AA-	Held to Maturity	Term Deposit	2/07/2024	29/07/2025	392	5.45%	6,000,000
NAB	AA-	Held to Maturity	Term Deposit	31/07/2024	12/08/2025	377	5.30%	4,000,000
NAB	A-1+	Held to Maturity	Term Deposit	16/04/2025	12/08/2025	118	4.45%	4,000,000
NAB	A-1+	Held to Maturity	Term Deposit	18/10/2024	26/08/2025	312	4.95%	4,000,000
BOQ	A-2	Held to Maturity	Term Deposit	27/02/2025	26/08/2025	180	4.70%	10,000,000
RAB	BBB+	Held to Maturity	Term Deposit	3/02/2025	9/09/2025	218	4.92%	5,000,000
NAB	A-1+	Held to Maturity	Term Deposit	3/12/2024	23/09/2025	294	5.05%	6,000,000
RAB	BBB+	Held to Maturity	Term Deposit	16/01/2025	7/10/2025	264	4.95%	5,000,000
NAB	AA-	Held to Maturity	Term Deposit	18/10/2024	21/10/2025	368	4.95%	4,000,000
NAB	AA-	Held to Maturity	Term Deposit	20/02/2025	4/11/2025	257	4.70%	3,000,000
BOQ	A-2	Held to Maturity	Term Deposit	6/03/2025	18/11/2025	257	4.72%	2,000,000
Westpac	AA-	Held to Maturity	Term Deposit	22/11/2024	24/11/2025	367	5.17%	12,000,000
BOQ	A-2	Held to Maturity	Term Deposit	6/03/2025	12/12/2025	281	4.72%	8,000,000
NAB	AA-	Held to Maturity	Term Deposit	20/02/2025	16/12/2025	299	4.70%	3,000,000
NAB	A-1+	Held to Maturity	Term Deposit	19/03/2025	13/01/2026	300	4.65%	8,000,000
BOQ	A-2	Held to Maturity	Term Deposit	24/06/2025	20/01/2026	210	4.39%	10,000,000
BOQ	A-2	Held to Maturity	Term Deposit	13/05/2025	27/01/2026	259	4.36%	4,000,000
BOQ	A-2	Held to Maturity	Term Deposit	10/06/2025	27/01/2026	231	4.35%	5,000,000
Westpac	A-1+	Held to Maturity	Term Deposit	18/02/2025	17/02/2026	364	4.76%	7,000,000
Westpac	A-1+	Held to Maturity	Term Deposit	20/02/2025	24/02/2026	369	4.78%	6,000,000
Westpac	AA-	Held to Maturity	Term Deposit	8/03/2023	10/03/2026	1098	4.70%	2,000,000
Westpac	A-1+	Held to Maturity	Term Deposit	16/04/2025	7/04/2026	356	4.23%	8,000,000
Westpac	AA-	Held to Maturity	Term Deposit	13/05/2025	13/05/2026	365	4.35%	7,000,000
Westpac	AA-	Held to Maturity	Term Deposit	20/05/2025	19/05/2026	364	4.35%	4,000,000
Westpac	AA-	Held to Maturity	Term Deposit	27/05/2025	26/05/2026	364	4.19%	4,000,000
NAB	AA-	Held to Maturity	Term Deposit	27/05/2025	26/05/2026	364	4.15%	10,000,000
NAB	AA-	Held to Maturity	Term Deposit	27/06/2025	16/06/2026	354	4.11%	7,000,000
TOTAL						4.74%	\$ 175,000,000	

Investment Type: Floating Rate Note, Fixed Rate Bond

Financial Institution	S&P Credit Rating	IFRS Classification	Investment Type	Investment Date	Maturity Date	No of Days	Interest Rate	Purchase Value	# Maturity Value
Bendigo	BBB+	Held to Maturity	Floating Rate Note	19/01/2023	2/12/2025	1048	BBSW+0.52%	4,000,000	4,000,000
Bendigo	BBB+	Held to Maturity	Floating Rate Note	15/05/2023	15/05/2026	1096	BBSW+1.25%	3,000,000	3,000,000
Suncorp	A-1	Held to Maturity	Floating Rate Note	19/01/2023	15/09/2026	1335	BBSW+0.48%	5,000,000	5,000,000
NAB	AA-	Held to Maturity	Fixed Rate Bond	4/03/2024	25/02/2027	1088	2.90%	5,000,228	5,241,000
CBA	AA-	Held to Maturity	Floating Rate Note	18/10/2022	18/08/2027	1765	BBSW+1.02%	1,000,000	1,000,000
ANZ	AA-	Held to Maturity	Floating Rate Note	8/11/2022	4/11/2027	1822	BBSW+1.20%	4,000,000	4,000,000
TOTAL								\$ 22,000,228	\$ 22,241,000

Floating Rate Notes can be purchased at a premium or a discount. The difference between the Purchase Value and Market Value is recognised by Council on a monthly basis as interest.

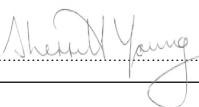
Investment Type: On Call, On Hold

Financial Institution	S&P Credit Rating	IFRS Classification	Investment Type	Date Invested	Due Date	No of Days	Interest Rate	Market Value at 30 June 2025
NAB	A-1+	N/A	On Call	N/A	N/A		3.95%	15,234,341
Westpac	A-1+	Held to Maturity	On Hold		90 Day Maturity		4.60%	5,910,639
TOTAL								\$ 21,144,981
TOTAL INVESTMENT REGISTER								\$ 218,385,981

Comparative Rates

RBA Cash Rate: 3.85%
BBSW: 3.60%

I, Sherrill Young, Tamworth Regional Council Manager of Financial Services (Responsible Accounting Officer) certify as required under Section 16(1)(b) of the Local Government (Financial Management) Regulations 1999, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Tamworth Regional Council Investment Policy.

Signed.....


Investment By Rating (excluding cash accounts) as at							30 June 2025	
S&P Credit Rating		Portfolio Limit	Counterparty Limit	Bank	Amount invested as at 30 June 2025 (\$)	% of Total Investments	Maturity	
Long Term	Short Term						Less than 12 months (\$)	One to five years (\$)
AAA	A-1+	100%	100%		-	0.00%	-	-
AA+ to AA-	A-1+	100%	100%	ANZ	4,000,000	2.03%	-	4,000,000
				CBA	1,000,000	0.51%	-	1,000,000
				NAB	76,000,228	38.58%	71,000,000	5,000,228
				Suncorp	5,000,000	2.54%	-	5,000,000
				Westpac	50,000,000	25.38%	50,000,000	-
A+ to A	A-1	100%	30%		-	0.00%	-	-
A-	A-2	40%	20%	Bendigo	7,000,000	3.55%	7,000,000	-
				BOQ	39,000,000	19.80%	39,000,000	-
BBB+	A-2	30%	10%	RAB	15,000,000	7.61%	15,000,000	-
					\$ 197,000,228	100.00%	\$ 182,000,000	\$ 15,000,228

The General Manager or his delegated representative is authorised to approve variations to Council's investment policy if the investment is to Council's advantage or due to revised legislation.

Council's investments are mostly comprised of restricted funds that have been received for specific purposes or funds held for future renewal works. The following table provides an indicative summary of investments held by each fund. The figures provided are based on opening balances from the last completed and audited financial year. The figures provide a guide on the proportion of total cash that is restricted in use:

Investments Held by Fund (including cash accounts)			
Fund	Restriction	Amount	%
General	Unrestricted	12,994,360	5.95%
General	Internally Restricted	45,519,111	20.84%
General	Externally Restricted	33,015,958	15.12%
General Fund Total		\$ 91,529,429	41.91%
Water	Unrestricted	2,131,655	0.98%
Water	Internally Restricted	19,347,595	8.86%
Water	Externally Restricted	15,578,502	7.13%
Water Fund Total		\$ 37,057,752	16.97%
Sewer	Unrestricted	2,187,583	1.00%
Sewer	Internally Restricted	68,540,200	31.38%
Sewer	Externally Restricted	19,071,017	8.73%
Sewer Fund Total		\$ 89,798,800	41.12%
Total Investments		\$ 218,385,981	100.00%

June 2025 - Monthly Budget Variations

Description	Reason	Budget Type	Budget Variation	Revenue	Reserves	Grants & Contributions	Loans
People & Culture							
OLG Trainee Grant	New Grant	Op Inc NR	(6,594)	0	0	(6,594)	0
People & Culture	Exp Increase	Op Exp R	19,803	19,803	0	0	0
People & Culture Division	Wage Increase	Op Exp R	3,970	(1,080)	0	5,050	0
	Sub Total		17,179 ↓	18,723 ↓	0	(1,544) ↑	0
Directorate Management - Strategy & Performance							
Election Expenses	Election Costs	Op Exp NR	33,005	33,005	0	0	0
	Sub Total		33,005 ↓	33,005 ↓	0	0	0
Future Communities							
Regional Housing Strategy	Finalise Grant	Op Inc NR	11,110	0	0	11,110	0
Regional Housing Strategy	Finalise Grant	Op Exp NR	(21,916)	0	0	(21,916)	0
Division Salaries	Crct Funding source	Op Exp R	0	(10,806)	0	10,806	0
	Sub Total		(10,806) ↑	(10,806) ↑	0	0	0
Airport & Aviation Development							
Screening Point Display Unit	Expense Increase	Cap Exp	3,000	0	3,000	0	0
Airport - Runway Lighting Conduit	Not commenced	Cap Exp	(90,000)	0	(90,000)	0	0
	Sub Total		(87,000) ↑	0	(87,000) ↑	0	0
Pilot Training Facility							
IFTT Thomas Foods Lunchroom	Expense Increase	Op Exp R	4,215	0	4,215	0	0
IFTT Thomas Foods Lunchroom	Income Increase	Op Inc R	(5,104)	0	(5,104)	0	0
Technical Centre - Expenses	Expense Increase	Op Exp R	94,786	0	94,786	0	0
Sydney FC Technical Centre - Inc	Income Increase	Op Inc R	(3,119)	0	(3,119)	0	0
Singapore FTC Technical Centre - Inc	Income Increase	Op Inc R	(28,000)	0	(28,000)	0	0
Operational Overheads	Expense Increase	Op Exp OH	1,000	0	1,000	0	0
Residential Complex - Others	Income Increase	Op Inc R	(77,503)	0	(77,503)	0	0
Residential Complex - Expenses	Expense Increase	Op Exp R	189,577	0	189,577	0	0

June 2025 - Monthly Budget Variations

Description	Reason	Budget Type	Budget Variation	Revenue	Reserves	Grants & Contributions	Loans
SFC Residential Complex - Income	Income Increase	Op Inc R	(137,955)	0	(137,955)	0	0
IFTT Catering - Income	Income Increase	Op Inc R	(90,000)	0	(90,000)	0	0
Residential - Block E - Lease Inc	Income Increase	Op Inc R	(96,850)	0	(96,850)	0	0
Hangar Facility - Expenses	Expense Increase	Op Exp R	14,000	0	14,000	0	0
Hangar Facility - Income	Income Increase	Op Inc R	(60,723)	0	(60,723)	0	0
SFC Hangar - Income	Income Increase	Op Inc R	(8,534)	0	(8,534)	0	0
Sub Total			(204,210) ↑	0	(204,210) ↑	0	0
Project Costing							
Stormwater Upgrade - Denne Street West T	Incomplete works	Cap Exp	(145,356)	0	(145,356)	0	0
Country Passenger Transport Infrastructure	New Grant	Cap Inc NR	(87,500)	0	0	(87,500)	0
Kiaora Bridge No 1, Bendemeer - Renewal E	Expense increase	Cap Exp	2,098	0	2,098	0	0
Sub Total			(230,758) ↑	0	(143,258) ↑	(87,500) ↑	0
Waste Management							
Hard Plastics Recycling Facility	Grant Income	Cap Inc NR	(397,888)	0	0	(397,888)	0
Sub Total			(397,888) ↑	0	0	(397,888) ↑	0
Water & Wastewater							
Calala Raw Water Storage Risk Assessment	Expense Decrease	Op Exp NR	(58,026)	0	(58,026)	0	0
Regional Drought Resilience Program	New Grant Project	Op Exp NR	81,694	0	0	81,694	0
Regional Drought Resilience Program	New Grant Project	Op Inc NR	(81,694)	0	0	(81,694)	0
Sub Total			(58,026) ↑	0	(58,026) ↑	0	0
Organisation Wide Increase							
Fringe Benefits Tax			98,158 ↓	98,158 ↓	0	0	0
Grand Total			(840,346)	139,080	(492,494)	(486,932)	0

MODERN SLAVERY PREVENTION POLICY

1 OBJECTIVE

The purpose of this policy is to outline Tamworth Regional Council's commitment to:

- (a) ensuring its operations and supply chains do not cause, involve, or contribute to modern slavery as defined in the *Modern Slavery Act 2018* (Cth), *Modern Slavery Act 2018* (NSW) and referred to in *Local Government Act 1993*; and
- (b) ensuring its suppliers, relevant stakeholders, and others with whom we do business, respect and share our commitment regarding minimising the risk of modern slavery; and
- (c) ensuring that Tamworth Regional Council remain compliant under the *Modern Slavery Act 2018* (NSW); and
- (d) ensuring all staff are aware of Tamworth Regional Council's obligations and legislated requirements in relation to the *Modern Slavery Act 2018* (NSW).

2 POLICY

Modern slavery encompasses coercive, threatening and deceptive conduct used by offenders, which results in the exploitation and the undermining of victims' personal freedom. It is a criminal offence and a human rights violation.

Modern slavery includes any direct practices that constitute modern slavery offences and extends to all forms of modern slavery both in the business operations and the supply chains of government and non-government agencies.

Tamworth Regional Council is committed to combating modern slavery by implementing this *Modern Slavery Prevention Policy* and establishing and implementing an ongoing *Modern Slavery Risk Management Plan*; as part of Tamworth Regional Council's Procurement Framework. These measures are designed to comply with the *NSW Anti-slavery Commissioner's Guidance on Reasonable Steps to Manage Modern Slavery Risks in Operations and Supply-Chains* (v1.0 Dec. 2023), by:

- (a) Identifying and assessing where modern slavery risks form part of Tamworth Regional Council's supply chain with a concerted focus on heightened risks and large spend categories; and
- (b) Conducting an audit of Tamworth Regional Council suppliers identified as high-risk, including any who are not required to submit tenders to council, to identify whether the supplier base share the Tamworth Regional Council's values and commitment to minimising the risk of modern slavery;
- (c) Continuous collaboration with all Tamworth Regional Council suppliers to assess whether they have their own modern slavery risk management plans in place, that they are effective, and that their plans align with Tamworth Regional Council's values and goals. The Tamworth Regional Council will use appropriate leverage to encourage all suppliers to maintain their commitment to eliminating modern slavery from their supply chains. As a part of this process, Tamworth Regional Council will distribute a Supplier Code of Conduct with reference to modern slavery, to all suppliers; and
- (d) Include modern slavery tender criteria in procurement documents; and

(e) Include a Modern Slavery Contract Clause in Supplier Contracts; and

(f) Incorporating a Modern Slavery Pre-Purchase Risk Checklist, to ensure the goods and/or services procured, have not been produced or manufactured within a modern slavery environment; and

(g) Providing adequate training to all Tamworth Regional Council's staff, Councillors and appointed consultants contracted in Tamworth Regional Council's goods and services procurement process, to ensure they are aware of what modern slavery is, what Council's modern slavery risks are and how to raise any identified or potential concerns; and

(1) Establishing a grievance mechanism enabling staff and others to raise concerns about modern slavery; and

(2) Ensuring the Tamworth Regional Council complies to all reporting obligations under the NSW Modern Slavery Amendment Act 2021 and the NSW Anti-slavery Commissioner issued in *The Guidance on Reasonable Steps (GRS) to Manage Modern Slavery Risks in Operations and Supply-chains*. (v1.0, December 2023).

3 APPLICATION OF THE POLICY

This policy applies to those listed below, who are all responsible for the prevention, detection, and reporting of modern slavery in any part of Tamworth Regional Council operations and supply chains:

- Staff; and
- Councilors, and
- Appointed consultants involved in the council's procurement process.

4 AUTHORITY/GOVERNANCE

This document is approved and published under the authority of the Executive Leadership Team.

The General Manager, has overall responsibility for ensuring this policy complies with Tamworth Regional Council's legal and ethical obligations, and that all those under Council's control comply with it. The General Manager, has primary and day-to-day responsibility for implementing this policy and ensuring all employees are given adequate and regular training on it, and the issue of modern slavery in supply chains.

This policy is to be reviewed at least every four (4) years, or in response to changes to Australian Commonwealth and/or NSW State Modern Slavery legislation and statutory compliance obligations, or in response to a formal issued revision to the NSW Anti-Slavery Commissioner's *Guidance on Reasonable Steps*.

5 RELATED LEGISLATION AND DOCUMENTATION

Legislation, guidance and documents referenced in this policy:

- (1) *Local Government Act (1993)*
- (2) *Modern Slavery Act 2018 (Cth)*
- (3) *Modern Slavery Act 2018 (NSW)*
- (4) *Modern Slavery Amendment Act 2021 (NSW)*
- (5) Office of the Anti-slavery Commissioner, *Guidance on Reasonable Steps (GRS): NSW Anti-slavery Commissioner's Guidance on Reasonable Steps to Manage Modern Slavery Risks in Operations and Supply-Chains (version 1.0, December 2023)*

6 DEFINITIONS

Term	Meaning
Staff	Staff refers to: <ul style="list-style-type: none"> • all staff directly employed by Tamworth Regional Council; and • any other staff member on Tamworth Regional Council's behalf in any capacity, including permanent staff, (full-time and part-time) temporary staff, casual staff, apprentices, and agency contractors (Labour hire).
Council or TRC	Tamworth Regional Council.
Consultant	Refers to any party contracted in Tamworth Regional Council's goods and services procurement process.
Modern Slavery	Under the <i>Modern Slavery Act 2018 (NSW)</i> , modern slavery means: <ul style="list-style-type: none"> • Any offence that is listed in Schedule 2 of the <i>Modern Slavery Act 2018 (NSW)</i>. • The attempt to commit a modern slavery offence, or incitement to commit a modern slavery offence, as listed in Schedule 2 of the <i>Modern Slavery Act 2018 (NSW)</i>. • An offence committed outside New South Wales that, if committed in New South Wales would be considered a modern slavery offence under the <i>Modern Slavery Act 2018 (NSW)</i>.
Modern Slavery Offences	Schedule 2 of the <i>Modern Slavery Act 2018 (NSW)</i> states that the term Modern Slavery Offence include the following 8 types of exploitation: <ul style="list-style-type: none"> • Human Trafficking – The physical movement of people across and within borders through coercion, deception and/or force for the purpose of exploiting them. In Australian law, any physical movement of a child for the purpose of exploitation is considered trafficking (Attorney-General's Department (AGD) n.d.b). (www.aihw.gov.au); • Slavery – Situations where individuals are owned by another person. This includes when ownership arises because of a debt or a contract made by a person. Slavery may include circumstances where someone buys or sells another person, uses a person or

	<p>their labour in a substantially unrestricted manner, controls a person's movements, or makes a person work with little or no pay (AGD 2020). (www.aihw.gov.au);</p> <ul style="list-style-type: none"> • Servitude – Forced labour in which a person's personal freedom related to other aspects of their life are also significantly restricted (AGD 2020). (www.aihw.gov.au); • Forced Labour – Situations where a person is not free to stop working or not free to leave their place of work (AGD n.d.b). (www.aihw.gov.au); • Forced Marriage – Where a person is married without freely and fully consenting. This may involve a person being forced to marry through threats, deception and/or coercion including psychological and emotional pressure and/or abuse, such as being made to feel they would bring shame on their family if they do not get married. A marriage is also considered forced when a person is incapable of understanding the implications of marriage or a marriage ceremony for reasons including age or mental capacity. Arranged marriages, where both parties provide ongoing consent to their marriage being organised by a third party or family members, are not considered forced marriage (AGD n.d.a). (www.aihw.gov.au); • Debt Bondage – Situations where a person is working to repay a real or perceived debt that is excessive or impossible to repay. Debt bondage can lead to other modern slavery practices (AGD 2020). (www.aihw.gov.au); • Deceptive recruiting labour and services – Situations where a person is deceived about the type of work they will be doing, the length of their employment, and/or their living or working conditions including how much they will earn (AGD 2020). (www.aihw.gov.au); • The worst forms of child labour – Situations where children work in dangerous or unhealthy conditions that could result in the child becoming sick or injured or dying (AGD n.d.b). (www.aihw.gov.au).
Procurement Framework	Refers to Tamworth Regional Council's <i>Procurement Principles and Procedures</i> (add as link)
Supplier	A Supplier is an entity engaged to provide goods or services to Council as a result of Council's procurement processes.

Reasonable Steps

1. Commit
 - 1.1. Engage key stakeholders
 - 1.2. Identify salient risks at the organisational level
 - 1.3. Adopt a Modern Slavery Policy
 - 1.4. Adopt a Modern Slavery Risk Management Plan
2. Plan
 - 2.1. Identify and map your supply-chain risks for this procurement
 - 2.2. Develop a risk-reducing sourcing strategy
3. Source
 - 3.1. Select appropriate suppliers
 - 3.2. Adopt a shared responsibility approach in contracting
4. Manage
 - 4.1. Monitor and evaluate supplier performance
 - 4.2. Develop supplier capabilities
5. Remedy
 - 5.1. Provide or enable access to effective grievance mechanisms
 - 5.2. Take safe immediate steps to remedy harm
 - 5.3. Use leverage to remediate deficient practices
 - 5.4. Withdraw responsibly
6. Report
 - 6.1. Establish a victim-centred reporting protocol
 - 6.2. Report on your modern slavery risk management efforts
7. Improve
 - 7.1. Learn lessons from your performance and others'
 - 7.2. Train your workforce
 - 7.3. Cooperate with the Anti-slavery Commissioner

1

Commit

About this Part

This Part provides guidance on the reasonable steps that entities can take to commit to effectively address modern slavery risks in their operations and supply-chains.

This requires effective stakeholder engagement, risk assessment, development of a Modern Slavery Policy and potentially a Modern Slavery Risk Management Plan, as well as workforce training.

Each reporting entity has discretion as to how to discharge the Guidance, and must determine which internal stakeholders should be responsible for various activities in the Guidance.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
1 Commit		
1.1 Stakeholder Engagement		
What steps did your entity take to engage with stakeholders during this reporting period in relation to modern slavery?	Describe steps taken	Mandatory
Did you engage with external stakeholders on modern slavery risks in this reporting period?	Yes/No	Mandatory
1.2 Identify salient risks at the organisational level		
What steps did your entity take to identify salient modern slavery risks at the organisational level (i.e. across all operational and procurement activities) during this reporting period?	Describe steps taken	Mandatory
Did you conduct or update a Salient Modern Slavery Risk Assessment in this reporting period?	Yes / No	Mandatory Option to upload copy
1.3 Modern Slavery Policy		
What steps did your entity take to adopt a Modern Slavery Policy during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery policy, approved by your senior governing body (e.g. Agency Head / Secretary), in place?	Yes / No	Mandatory Option to upload copy
Does your modern slavery policy include high-level targets?	Yes / No	Optional
1.4 Modern Slavery Risk Management Plan		
What steps did your entity take to adopt a Modern Slavery Risk Management Plan during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery risk management plan, approved by your senior management, in place?	Yes / No	Mandatory Option to upload copy
Does your plan assign accountability for performance against high-level targets to specific roles?	Yes / No	Optional

1.1. Engage key stakeholders

Discussion

Modern slavery in supply-chains is a product of how the supply-chain operates as a socio-economic system. It is not typically something that can be effectively 'solved' or addressed by any single actor in the supply-chain, even major buyers. Addressing modern slavery requires collective action along the supply-chain. For this reason, a buyer's relationships with key stakeholders in its supply-chains – suppliers, workers, affected communities – provide the foundation for effective due diligence. They are the bedrock for effective action.

Stakeholder engagement involves interactive processes of engagement with relevant stakeholders and their representatives. This can take place through, for example, meetings, hearings or consultation proceedings. Meaningful stakeholder engagement is characterised by two-way communication and depends on the good faith of the participants on both sides. It is also responsive and ongoing, and includes in many cases engaging with relevant stakeholders before decisions have been made.

Figure 18 Who are your 'key stakeholders'?

Generally speaking, stakeholders are people or organizations that can affect, be affected by, or perceive themselves to be affected by a decision or activity – someone with a 'stake' in the decision or activity. For the purposes of this Guidance, the relevant activities are your operations and procurement.

Not all individuals and groups considered as stakeholders will have interests that can be affected by a specific activity carried out by your entity. You should therefore identify the individuals, groups and organizations that are most likely to be adversely affected, in terms of modern slavery risk, by your operations and supply-chains.

Good practice due diligence will address the concerns of:

- stakeholders that have been actually affected (impacted stakeholders), including survivors and other people with lived experience of modern slavery, and
- those whose interests have not been affected but could be (potentially impacted stakeholders), including rightsholders.

Effective stakeholder engagement can help your entity to:

- better understand issues 'on the ground', including in parts of your supply-chain where you may not have visibility or access.
- verify what is happening in your operations and supply-chains by providing access to the views of workers and vulnerable groups.
- access expertise on key issues such as child protection, country or sector specific risks and context specific sensitivities.
- check if your response to modern slavery is effective, by providing a 'critical friend' who can impartially review and assess your actions.
- identify actual, or potential, risks of harm as part of your ongoing risk assessment and due diligence processes and develop effective and context appropriate ways to address such risks.
- provide information about what constitutes appropriate remedy in a particular context.
- raise awareness about the risks of harm and pathways to remedy within your own organisation, your suppliers or other business partners such as recruitment firms and supply chain workforce.

Hallmarks of Best Practice

- The entity identifies which stakeholders are most vulnerable to modern slavery impacts in connection with its operations and value chain and seeks insight into their perspectives.

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- The entity has structures or processes to hear and respond to the perspectives of affected stakeholders and/or their legitimate representatives, including at senior levels, whose use is not limited to the entity's own needs or transactions.
- The entity's decisions and actions with regard to identifying, assessing and prioritising risks, and tracking how effectively it addresses them, are informed by the perspectives of affected stakeholders and/or their legitimate representatives.
- The entity engages with affected stakeholders and/or their legitimate representatives to identify whether they are aware of and trust existing structures or processes as a way to raise concerns or grievances and have them addressed.

Considerations

What does meaningful stakeholder engagement look like?

- **Two-way engagement** means that the enterprise and stakeholders freely express opinions, share perspectives and listen to alternative viewpoints to reach a mutual understanding. It also means stakeholders should have an opportunity to help design and carry out engagement activities.
- All parties should **engage in good faith**. This means that the entity engages with the genuine intention to understand how relevant stakeholder interests are affected by its activities. It means that the entity is prepared to address adverse impacts it causes or contributes to and that stakeholders honestly represent their interests, intentions and concerns.
- **Safe engagement** requires consideration of the safety and wellbeing of vulnerable stakeholders. You may have to engage workers through trusted intermediaries such as local unions, worker organisations or civil society groups – or not at all, where risks of retaliation are excessive. You may need to consider the context in which these organisations operate, and their ability to speak freely on behalf of workers. Engagement with children should give primary consideration to the best interests of the child, and in general should be designed in collaboration with relevant experts. In engaging survivors of modern slavery and people with lived experience, you should adopt trauma-informed and shame-sensitive practices to ensure they can engage safely and effectively. See further *Appendix N Speaking with victims of modern slavery*.
- **Responsive engagement** means that the entity seeks to inform its decision by eliciting the views of those likely to be affected by the decision. It is important to engage potentially impacted stakeholders and rightsholders prior to taking decisions that may impact them. This involves the timely provision of all information needed by the potentially impacted stakeholders and rightsholders to be able to make an informed decision as to how the decision of the entity could affect their interests. It also means there is follow-through on implementation of agreed commitments, ensuring that adverse impacts to impacted and potentially impacted stakeholders and rightsholders are addressed including through provision of remedies when entities have caused or contributed to the impact(s).
- **Ongoing engagement** means that engagement continues throughout the lifecycle of an operation or activity. This may require ongoing dialogue with trade unions, worker organizations, or directly with workers – for example through 'worker voice' apps.
- **Equitable engagement** means engaging in ways that accommodate the needs of stakeholders, in order to ensure they can engage effectively. This is particularly important. In some cases, it might require ensuring access to interpretation, providing information visually or orally (to assist those with low literacy or visual impairment), or culturally appropriate meeting arrangements.

Further resources

AHRI Good Practice Toolkit. BS 25700:2022 at 9.2.2. Commonwealth Guidance. ISO 20400:2017 section 6.3. OECD Due Diligence Guidance, pp. 48-51.

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1.2. Identify salient risks

Discussion

Effective and efficient modern slavery risk management requires first identifying the salient risks in an entity's operations and supply-chains.

A **Salient Modern Slavery Risk Assessment** is an assessment of operational modern slavery risk conducted in accordance with the principles of 'salience' introduced above in *Salient modern slavery risks*, at page 28. It may involve both an initial scoping and a deeper assessment process.

Figure 19 How should my entity conduct a Salient Modern Slavery Risk Assessment?

Begin by conducting an initial scoping or mapping of the activities your entity engages in and the categories of goods and services it procures.

Identify the modern slavery risks associated with those activities, particularly procurement activities. Use the IRIT as a starting point for scoping, to identify the risks associated with specific product categories. Make sure you, or your service provider, safely engage relevant stakeholders to properly identify modern slavery risks. Remember that modern slavery is often hidden.

Conduct a more in-depth assessment of areas identified in your initial scoping as higher-risk. This will require you to identify and evaluate prioritised risks related to a specific business activity or relationship.

Prioritise the most salient, or severe, risks to people in your entity's activities by considering the following dimensions of salience:

- *Scale*: how grave or severe will the harm be?
- *Scope*: how wide will the impact be? How many people are / could be affected?
- *Irremediability*: how hard will it be to fix the harm to people (i.e. by restoring them to their position before the harm)?

Aim to identify whether your entity is causing, contributing to, or directly linked to these salient risks. This will affect how you approach use of leverage, remediation and remedy (discussed later in this Guidance).

Your entity should engage relevant stakeholders to inform each stage of risk analysis, and update its Salient Modern Slavery Risk Assessment regularly.

If your entity is conducting activities or procurements at the Heightened Modern Slavery Due Diligence Level, you should consider publishing your Salient Modern Slavery Risk Assessment.

There are service providers in the market, as well as open-access tools, that can help you to structure and conduct modern slavery risk assessments. You should confirm that these service providers or tools incorporate equivalent concepts of salience into their methodology.

The Office of the NSW Anti-slavery Commissioner can also provide information, resources and assistance: GRS@dcj.nsw.gov.au and dcjnsw.info/antislaverycommissioner

Hallmarks of Best Practice

- The entity's processes for identifying modern slavery risks:
 - Encompass its operations and business relationships throughout its value chain
 - Include impacts the entity may cause, contribute or be linked to
 - Include risks inherent in its business model and strategy
 - Go beyond identifying impacts that the entity considers it can control or impacts that could lead to liability for harms
 - Draw on a variety of well-informed sources to identify relevant risks
 - Are iterative and responsive to changes in the risk environment.

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- The entity's prioritisation of its salient modern slavery risks:
 - is determined by the severity of the potential impacts on people, not by risk to the business
 - is not determined by where the entity has leverage or what it considers easiest to address
 - is updated in light of new or emerging risks.
- Where the entity focuses its initial assessment of risks on certain parts of the business, these are selected based on the severity and likelihood of the risks to people, and the entity progressively expands its focus into other parts of the business.
- Where the entity has a broader risk management system, the entity ensures that its salient modern slavery risks are appropriately reflected in that system.

Considerations

You will first need to conduct an initial scoping. You should then conduct a deeper in-depth analysis in specific areas that your initial scoping identifies as sources of higher modern slavery risk. These two concepts are further explained below.

- **Scoping** refers to an initial process of identifying general areas of significant risk across an enterprise's own operations (e.g. activities and product and service lines) and its business relationships. Scoping is intended to be broad and to serve as an initial exercise to enable prioritisation, and to help you identify what types of information you may need to gather to undertake a deeper risk assessment.
- **Assessment**, on the other hand, refers to a more in-depth analytic process that seeks to identify and evaluate prioritised risks related to a specific business activity or relationship. Examples of forms of assessments include supplier self-assessments, on-site inspections and audits, amongst others.

Assessment methods should be tailored to the nature of the risk. These may include:

- drawing on information received through whistleblower hotlines or grievance mechanisms
- requesting information from Tier 1 suppliers about their suppliers
- engaging with key suppliers to understand how they are addressing their modern slavery risks
- working with other entities in your sector to carry out a joint assessment of high risk parts of a supply-chain
- using existing traceability processes and services to improve information about the source of products
- identifying existing credible assessments of entities in your supply chain, such as audit reports or NGO reviews
- developing trusted relationships with civil society stakeholders or engaging with multi-stakeholder initiatives who can provide information about situations 'on the ground'
- working directly with high risk entities you do not have a direct contractual relationship with to help them assess and address their risks.

Worker interviews and focus group discussions may be appropriate in some situations. In recognition that workers may not feel comfortable sharing honest responses with management, interviews and focus group discussions may need to be carried out in some cases by trusted third parties.

Further resources

Signals of Seriousness. OECD Due Diligence Guidance pp. 25-28, 61. BS 25700:2022 at 9.3.1-2. Commonwealth Guidance. OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (2017).

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1.3. Adopt a Modern Slavery Policy

Discussion

Effective modern slavery risk management is a whole-of-enterprise activity. It is not merely a procurement or compliance activity, but may also have legal, financial, workplace health and safety, human resources, and strategic implications for your entity. Accordingly, **your senior governing body must develop and adopt a formal Modern Slavery Policy. In most cases this should be in place by 30 June 2024.** This should align with this Guidance, and reflect the salient modern slavery risks you have identified through your Salient Modern Slavery Risk Assessment.

Your Modern Slavery Policy may be a standalone document, or it may be incorporated into other relevant organizational policies. In either case, it must be approved by your entity's senior management. The Commissioner will work with covered entities to develop a template Modern Slavery Policy in early 2024.

This Policy will ensure accountability and effective governance of modern slavery risks, including how risks will be assessed, prevented, mitigated, remedied and reported. It should reflect your entity's purpose, values, regulatory environment, and integrate with your existing policies, processes and resources (for example in relation to procurement or human resources). Your Modern Slavery Policy should not be seen as a 'set and forget' exercise, but should instead provide the basis for periodic discussion and reflection by your senior governing body.

Hallmarks of Best Practice

- The entity's most senior governing body discusses progress and challenges in addressing the entity's modern slavery risks, supported by appropriate expertise, informed by the perspective of affected stakeholders and with knowledge of leading practice.
- The entity's most senior governing body reviews the entity's business model and strategy, and proposed changes to them, to ensure inherent modern slavery risks are identified and addressed.
- The entity's most senior governing body formally approves high-level targets for addressing salient modern slavery risks and evaluating the entity's progress in that regard.

Considerations

For larger entities, the complexity of modern slavery risks and their effective management may require development of a cross-functional working group or committee. This group can be charged with developing the Modern Slavery Policy for consideration by the senior governing body.

Your Policy should be based on careful assessment of your actual risks and the drivers of those risks, informed by effective stakeholder engagement. Good modern slavery policies go beyond generic statements of exposure to modern slavery risk to identify how the entity's policies and practices target the specific sources of modern slavery risk. This requires consideration of whether your entity's own business practices cause, contribute to or exacerbate modern slavery risks. This could be due to:

- inattention to indicators of modern slavery amongst your consumers or beneficiaries
- reliance on poorly regulated or supervised labour hire companies and recruiters
- short turnaround times on orders, or long payment times to suppliers
- failure to consider whether tenderers are offering a living wage
- inattention to freedom of association in supply-chain workforces.

You may also wish to consider making your Modern Slavery Policy in an accessible format – online, or in language for affected stakeholders.

Further resources

AHRI Good Practice Toolkit, pp. 8-9. Commonwealth Guidance. Signals of Seriousness.

1.4. Adopt a Modern Slavery Risk Management Plan

Discussion

Entities should consider adopting a Modern Slavery Risk Management Plan to operationalise the commitments made in their Modern Slavery Policy.

This Plan should assign responsibility for implementing aspects of the Policy across relevant business units or functions, with particular attention to those whose actions and decisions are most likely to increase or decrease modern slavery risks.

The Modern Slavery Risk Management Plan should be integrated with existing information and record-keeping systems, to facilitate collection of data on due diligence processes and their effects. You should ensure the creation of channels of communication, or use existing ones, between relevant senior management and implementing business units to share and document information on risk and decision-making.

As far as possible, this Plan should be integrated with your existing risk governance framework, for example those responding to the Internal Audit and Risk Management Policy for the General Government Sector (20-08), *Local Government Act 1993* (NSW) Part 4A Internal audit, or the Standards Australia international standard AS/NZS ISO 31000: Risk management, as applicable.

Hallmarks of Best Practice

- The entity's senior management adopts a Modern Slavery Risk Management Plan that ensures risks are prioritised based on their salience (i.e. their potential impacts on people, not by risk to the entity), and not by where the entity has leverage or what it considers easiest to address.
- The entity sets both high-level and operational targets that are:
 - Articulated in terms of the intended outcomes for affected stakeholders
 - Relevant to addressing the entity's salient modern slavery risks as well as specific, measurable, achievable and timebound
 - Developed with input from internal or external subject-matter experts and, wherever possible, from affected stakeholders and/or their legitimate representatives.
- The entity monitors and evaluates progress towards the targets based on a set of indicators that together:
 - Are used to evaluate progress towards the targets
 - Enable analysis of the reasons for progress or setbacks
 - Factor in feedback from affected stakeholders and/or their legitimate representatives.
- The entity discloses progress towards at least its high-level targets, including explanations of any setbacks and resulting changes in strategy.
- The entity's senior management ensures that entity leadership is accountable for addressing the entity's salient modern slavery issues, including through performance incentives where those are used for other aspects of performance.

Considerations

Your Modern Slavery Risk Management Plan should be developed through or in response to input from key stakeholders, as discussed in Reasonable Step 1.1. It should aim to:

- Ensure clear internal and external communication of your Modern Slavery Policy
- Make clear that your entity's modern slavery risk management approach is based on prioritising risks to people
- Establish high-level targets for addressing salient modern slavery risks and evaluating your entity's progress against those goals. Where possible these should be

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- Specific, Measurable, Achievable, Realistic and Time-bound (SMART) goals (compare ISO 20400:2017 section 5.5), and
- articulated in terms of the intended outcomes for affected stakeholders.
- Establish clear monitoring and evaluation arrangements, and accountabilities. This could involve:
 - setting up a process to provide for regular engagement and feedback between relevant business units (such as Sourcing, Human Resources, and Legal), as well as with any entities you own or control. This could be the cross-functional group or committee you establish to develop your Modern Slavery Policy.
 - tracking the actions you have taken and measuring their impact. Data and reporting are discussed further in Part 6.
 - considering any trends in cases reported through grievance mechanisms and how these cases were handled
 - partnering with an industry group, external auditor, or trusted NGO to undertake an independent review of your actions
 - annual review by senior management of progress against the Modern Slavery Risk Management Plan.
- Ensure sufficient allocation of resources to enable effective risk management.
- Promote continuous improvement in capabilities and performance, including through allocation of resources for training and capability development.

The organisation should review its Modern Slavery Risk Management Plan periodically to ensure its effectiveness. The review should take into account potential changes, such as developments in legal and other requirements related to its Modern Slavery Policy, or updates to this Guidance or other aspects of the NSW Modern Slavery Shared Implementation Framework.

Further resources

BS 25700:2022, esp. sections 5 and 6. Commonwealth Guidance. ISO 20400:2017 sections 4.5.3, 5.5, 6. OECD Due Diligence Guidance, p. 23.

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Plan

About this Part

This Part provides guidance on the reasonable steps that entities can take to plan effective modern slavery risk management, particularly in their procurement environment.

This may involve integrating inherent risk analysis into procurement planning, supply-chain mapping, sourcing strategy and early market engagement.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
2 Plan		
<i>2.1 Identify and map your supply-chain risks for each procurement</i>		
What steps did your entity take to identify and map your modern slavery risks at the supply-chain level during this reporting period?	Describe steps taken	Mandatory
<i>2.2 Develop a risk-reducing sourcing strategy</i>		
What steps did your entity take to develop a modern slavery risk-reducing sourcing strategy during this reporting period?	Describe steps taken	Mandatory
In what percentage of procurement processes was modern slavery factored into your entity's sourcing strategy or other procurement planning activities during this reporting period?	Percentage	Optional

2.1 Identify and map your risks

Discussion

The steps that are reasonable to address modern slavery risks in any given procurement process depend on the salience of those risks, and your entity's capability level. (See *What level of diligence is due?*, above.) It is therefore critical to ensure that the modern slavery risks inherent in procuring a particular product, or in construction procurement, are understood and addressed from the beginning of that process. This requires integrating modern slavery risk analysis into your existing procurement processes and systems.

This occurs in two stages. In the first stage, addressed here, you should consider the *inherent* modern slavery risk associated with the particular product category or categories you are procuring – that is, with the particular procurement environment. The second stage, which involves considering the residual risk associated with particular suppliers, once their own risk management capabilities are factored in, occurs later in the procurement process – and is addressed in Part 3 Source.

Hallmarks of Best Practice

- The entity reviews the risks inherent in its procurement portfolio at least annually, drawing on best available evidence, international guidance and insights from relevant stakeholders.
- The entity maps its high-risk supply-chains to identify salient modern slavery risks and its own actual and potential leverage.

Considerations

In order to understand and manage the modern slavery risks inherent in a given procurement, you should refer to:

- The **GRS Inherent Risk Identification Tool (IRIT)** (discussed above in *GRS Inherent Modern Slavery Risk Levels*).
- Any relevant **Codes of Practice** adopted under section 27 of the *Modern Slavery Act 2018 (NSW)* (and contained in the GRS Public Register, adopted under section 26 of the *Modern Slavery Act 2018 (NSW)*)
- Other relevant **sector-specific guidance**, notably from the OECD – see Figure 20 OECD sectoral guidance, below.

Figure 20 OECD sectoral guidance

Sector	OECD guidance	URL
General	OECD Due Diligence Guidance for Responsible Business Conduct	https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf
Garments and footwear	OECD Due Diligence Guidance for Responsible Supply Chains in the Garment & Footwear Sector	https://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm
Food and agriculture	OECD-FAO Guidance for Responsible Agricultural Supply Chains	https://mneguidelines.oecd.org/rbc-agriculture-supply-chains.htm
	OECD Business Handbook on Due Diligence in the Cocoa Sector	https://www.oecd.org/publications/business-handbook-on-due-diligence-in-the-cocoa-sector-79812d6f-en.htm
Mining and extractives	OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas	https://mneguidelines.oecd.org/child-labour-risks-in-the-minerals-supply-chain.htm . Interactive version: https://www.duediligenceguidance.org/
	OECD Practical actions for companies to identify and address the worst forms of child labour in mineral supply chains	https://mneguidelines.oecd.org/Practical-actions-for-worst-forms-of-child-labour-mining-sector.pdf
	OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector	https://mneguidelines.oecd.org/stakeholder-engagement-extractive-industries.htm
Finance	OECD Responsible Business Conduct for Institutional Investors	https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf
	OECD Due Diligence for Responsible Corporate Lending and Securities Underwriting	https://mneguidelines.oecd.org/final-master-due-diligence-for-responsible-corporate-lending-and-securities-underwriting.pdf
	OECD Responsible Business Conduct Due Diligence for Project and Asset Finance Transactions	https://www.oecd-ilibrary.org/deliver/952805e9-en.pdf?itemId=%2Fcontent%2Fpaper%2F952805e9-en&mimeType=pdf

Further resources

ISO 20400:2017 section 7.2.5. UK PPN 02/23. US DoL List. Verité Commodity Atlas. Responsible Sourcing Tool. Forced Labour Lab – Products and Forced Labour Lab – desk based due diligence.

2.2 Develop a risk-reducing sourcing strategy

Discussion

If your existing procurement practices are connected to modern slavery risks, the only way you can reduce those risks is either through active engagement with your suppliers to change the way they produce and distribute goods, or to find alternative suppliers. By integrating modern slavery risk considerations into your sourcing strategy, you can create incentives for both existing and new suppliers to supply products not made with modern slavery.

Hallmarks of Best Practice

- The entity conducts documented due diligence into the availability of same or functionally similar products to those associated with high modern slavery risk.
- Where there is no alternative, the entity demonstrates ongoing efforts to work with other stakeholders to address modern slavery risks in the supply-chain or to develop new sources of supply with lower modern slavery risk levels.

Considerations

Sourcing strategies are choices that should be understood by the entity's senior governing body and senior management, and reflect the Modern Slavery Policy and Modern Slavery Risk Management Plan they have each signed off on.

Developing an effective sourcing strategy requires market analysis to understand how changes in your approach to modern slavery risk management interact with your entity's buying power, a critical aspect of an entity's leverage. Strategic approaches to modern slavery risk management may serve as powerful drivers of responsible business conduct, but to do so they need to be tailored to the realities of the market in which an entity is procuring. Given the right incentive structures, suppliers are likely to respond creatively.

Understanding these dynamics may require early market engagement: working with suppliers to understand the drivers of modern slavery inducing practices in your own entity's business practices, or the practice of other stakeholders in the supply-chain. Early engagement with suppliers can also help you to identify new market opportunities – new technologies (such as worker voice apps, or blockchain technologies) that may enable new approaches to risk management, or even new business models.

Your sourcing strategy will also reflect your entity's ambition and level of influence within the market, as reflected in the matrix in Figure 21.

Figure 21 What is your entity's position in the market?

Ambition	High	Select best in class	Market mover
		Market taker	Market influencer
		Not significant	Significant
Influence			

The matrix may help you understand what sustainability outcomes might be achieved from the supply market, depending on the buyer's market influence and ambition.

- **Market mover:** For entities where significant influence exists combined with high ambition, it might be possible to move suppliers or even markets to a higher level of modern slavery risk management behaviour and set a new level of best practice.

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- **Best in class:** Where ambition is high but influence over the supply market is low, it is likely that selecting the current level of best practice will achieve the most sustainable outcome.
- **Market influencer:** Where ambition is low and influence is significant, there is likely to be little appetite to promote market innovation. However, this influence can be used to encourage the supply chains to improve sustainability practices and outcomes within existing frameworks.
- **Market taker:** Where influence is low and ambition is also low, the appropriate strategy would be to adopt existing good practice offered by the market, while working to increase leverage within the market. This could involve collaboration with peer entities, for example within NSW Government clusters or through whole of government cooperation. Meanwhile, some suppliers could be attracted to the idea of developing modern slavery risk-reducing goods or services for a small customer, with a view to creating an additional competitive advantage with larger ones.

Adapted from ISO 20400:2017, pp. 27-28.

Early market engagement may be a key tool for developing effective sourcing strategies. Early engagement with suppliers, including SMEs and new market entrants, can provide valuable information to develop risk-reducing delivery models by testing and piloting new approaches, routes to market, and bid evaluation criteria.

There is no set process for market engagement. It can take many forms. It requires listening to the market and taking supplier feedback onboard. It is most effective where suppliers and buyers co-design new solutions to the specific modern slavery risks you have identified through your earlier risk assessment and mapping. As part of this process, you should engage as widely as possible with the market on modern slavery issues so that these can be considered, in advance of the procurement being formally launched.

Engaging with the market early will help you to ascertain what types of measures suppliers have already put in place to identify issues and manage risks. Reviewing Modern Slavery Statements published by suppliers in the sector, where available, will help identify baseline actions and risk mitigation measures across that industry. It is also possible to seek advice on identifying particular risks from trade unions and civil society organisations.

Figure 22 Good Practice Example: effective early market engagement on construction

The United Kingdom Crown Commercial Service (CCS) used the Discovery phase of an estates management procurement process to work with the market and customers. They sought to identify and agree the risks of modern slavery, how mature the market was in its approach to addressing the risks, and how this could be addressed effectively in the procurement.

The Discovery phase identified that the sector was well aware of the risk of modern slavery, but the practice in addressing it across the sector as a whole was variable. The first step would be to get universal acknowledgement of the risk, and set an expectation to manage that risk in the procurement framework. CCS reviewed industry practice and identified the *Chartered Institute of Building: Building a Fairer System Tackling Modern Slavery in Construction Supply Chains* as a commonly accepted set of principles and approaches to tackling modern slavery in the construction industry.

The resulting sourcing strategy set out CCS' expectations that suppliers would be required to work with CCS, to continuously improve performance post-award and deliver improvements across the sector. The final specification read in part:

The Supplier shall work with the Customer to deliver measurable benefits, as set out in their tender / continuous improvement plan in respect of the Social Value priorities identified by the Customer and, at least, the following:... Addressing the risk of Modern Slavery and exploitation in construction supply chains associated with the Service, in line with the principles set out in the *Chartered Institute of Building: Building a Fairer System Tackling Modern Slavery in Construction Supply Chains*. All employers involved in the construction industry should make proper background checks on the agencies who supply them with labour, including where the agency is operating in a supervisory role.

Adapted from UK PPN 02/23, pp. 13, 46-47.

Further resources

ISO 20400:2017. UK PPN 02/23.

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Source

About this Part

This Part provides guidance on the reasonable steps that entities can take to find the right suppliers, go to market and contract in ways that ensure buyers are not sourcing products of modern slavery.

This may involve integrating modern slavery risks into prequalification, supplier evaluation and contracting processes.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
3 Source		
<i>3.1 Select appropriate suppliers</i>		
What steps did your entity take to address modern slavery risks when selecting suppliers during this reporting period?	Describe steps taken	Mandatory
In what percentage of competitive procurement processes were the Model Tender Clauses used during this reporting period?	Percentage	Optional
<i>3.2 Adopt a shared responsibility approach to contracting</i>		
What steps did your entity take to adopt a shared responsibility approach to modern slavery risks in contracting during this reporting period?	Describe steps taken	Mandatory
In what percentage of competitive procurement processes were the Model Contract Clauses used during this reporting period?	Percentage	Optional

3.1 Select appropriate suppliers

Discussion

The first stage of integrating modern slavery risks into procurement processes and activities involves identifying and mapping your inherent modern slavery risks (see section 2.1), and developing a sourcing strategy to minimise them (see section 2.2). The second stage, discussed here, aims to minimise the ‘residual risk’ in your supply-chains, by selecting suppliers that are most capable of effectively managing modern slavery risks.

The easiest way to achieve this is to select suppliers that you evaluate as being able to adhere, now or in time, to this Guidance itself – and to hold these suppliers to that expectation, through effective contracting.

You can increase your chances of selecting capable suppliers by incorporating modern slavery risks and responses into prequalification arrangements and tender evaluation processes, using a variety of tools and methods including supplier codes of conduct, supplier self-assessment questionnaires (SSAQs), graduated procurement specifications and tender clauses.

Hallmarks of Best Practice

- The entity integrates modern slavery risks into supplier prequalification arrangements, procurement specifications and supplier evaluation processes.
- Adjustments to the prequalification and tendering process are stated in performance or functional terms and do not discriminate against SMEs or other particular types of suppliers, including those from countries with which Australia has trade agreements with procurement-related obligations.
- The entity undertakes effective due diligence to establish which suppliers are capable of effectively managing modern slavery risks, for example by identifying whether they have a Modern Slavery Policy or a Modern Slavery Risk Management Plan, which conform with this Guidance, in place.

Considerations

You should seek to test questions around how to integrate modern slavery risk into the sourcing process through early market engagement (see section 2.2). This will help ensure you are establishing a level playing-field and your approach is relevant and proportionate to the risk. You should also consult with internal stakeholders, to understand any potential impacts of your approach on their interests. Overly onerous supplier self assessment questionnaires (SSAQs) may, for example, risk significantly reducing the pool of suppliers seeking to do business with you, with pricing and value for money implications.

One option is to incorporate modern slavery risk management criteria into **pre-qualification schemes**. The simplest way to do this may be to require interested suppliers to commit to a basic code of conduct, committing to take reasonable steps not to buy or use products of modern slavery. See further Figure 23 below.

NSW scheme owners and panel managers may need to consider how to integrate modern slavery risk management considerations into these arrangements. This should commence with those schemes that operate in supply-chains involving products, components and services that are high modern slavery risk (which can be ascertained through the IRIT). This is likely to include: ICT, motor vehicles, electric vehicle fleet charging and certain construction-related schemes. The Anti-slavery Commissioner stands ready to assist such efforts.

Nothing in this Guidance requires any entity to discriminate against any supplier due to its degree of foreign affiliation or ownership, location, or the origin of its goods and services.

Figure 23 The NSW Supplier Code of Conduct and modern slavery

The NSW Supplier Code of Conduct contains language that makes clear NSW Government buyers' expectation that suppliers will "make all reasonable efforts to ensure that businesses within their supply chain are not engaged in, or complicit with, human rights abuses, such as forced or child labour".

Using a power under the *Modern Slavery Act 2018* (NSW), the NSW Anti-slavery Commissioner has recommended in early December 2023 to the NSW Procurement Board that this language be amended to clarify expectations on suppliers in relation to modern slavery (and not only forced or child labour) and ensure that these expectations align with this Guidance. The proposed amended provision would read:

4.6 Modern slavery, labour and human rights

Suppliers must take all reasonable steps to ensure that businesses within their supply-chains are not supplying products of modern slavery.

We expect our suppliers to provide a fair and ethical workplace free from workplace bullying, harassment, victimisation and abuse.

We expect our suppliers to ensure that businesses within their supply chain are not engaged in, or complicit with other human rights abuses.

The revised language makes clear that expectations on suppliers align with this Guidance, cover all forms of modern slavery (not only forced or child labour) and extend to 'direct linkage' situations as covered by Australia's commitment to the UN Guiding Principles on Business and Human Rights (situations where the modern slavery arises in the context of a supplier supplying goods to another buyer).

When including modern slavery criteria in a procurement specification, you should take care that the criteria:

- reflect the priorities defined in the sourcing strategy, e.g. by including key requirements in the minimum criteria
- are objective and verifiable
- are clearly defined without any risk of bias or collusion
- are transparently and effectively communicated to potential suppliers
- allow for fair competition and, in doing so, ensure that particular attention is paid to SMEs and the development of their capacity to respond to such criteria
- abide by Australia's commitments under the *WTO Agreement on Government Procurement*. Your entity may be subject to enforceable procurement provisions of this or other international agreements. (See PBD 2019-05 Enforceable procurement provisions)
- identify how far down the supply chain it is necessary to go for effective supplier evaluation.

Procurement specifications can be:

- **minimum**, when they establish minimum levels of acceptable performance, actively excluding undesirable features.
 - One way to do this is to establish certain objective criteria – such as the adoption of a Modern Slavery Policy that conforms with this Guidance – as a Yes/No or Go/No-Go criterion.
 - Another option is to require suppliers to pre-commit to a Code of Conduct. (See further Figure 23 above.)
 - A third option is to require suppliers to adhere to specific labour or recruitment standards. *Appendix O Migrant Worker Standard* provides a template standard that can be used for procurements in supply-chains with high numbers of vulnerable migrant workers. However, you should take care when referring to technical standards not to unfairly preference a particular certification scheme without allowing for suppliers that adhere to equivalent standards. ISO and relevant national standards organisation standards addressing conformity assessment may be particularly useful, including BS 25700:2022, ISO 20400:2017 and ISO 31000:2018.

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- **optional**, when they define preferred modern slavery risk management solutions. In this case, they should be related to an evaluation criterion that is used to reward performance exceeding the minimum standards, and possibly to a KPI that should be managed during the contract.

Entities can use additional techniques such as variants in order to encourage suppliers to propose better alternative solutions. The earlier market analysis should inform the decision about what aspects of modern slavery risk management capabilities should be minimum and what should be optional. For instance, the degree to which suppliers can meet expectations created by this Guidance (for example through adoption of the Model Contract Clauses) might not always be known when writing the tender, or the market analysis might have revealed a significant divergence amongst suppliers in their modern slavery risk management capabilities. In that case, the risk of restraining competition and excluding capable suppliers should be avoided. For example, you may weight the evaluation of modern slavery risk criteria in such a way that it is not determinative of the selection outcome. In that case, if a supplier is selected that shows signs of limited capability to manage modern slavery risks, the tendering process can be constructed to allow for training of the supplier, and remediation or 'alignment' of modern slavery risk management deficiencies, *prior to* contracting. Figure 25, below, provides a real-life example of how this can work in practice.

Supplier evaluation inevitably involves **supplier due diligence** to identify the residual risks associated with particular suppliers. A key question for buyers is how far down the supplier's supply-chain they propose to look in order to understand modern slavery risks. Since modern slavery at any tier of the supply-chain makes downstream goods and services a "product of modern slavery" (see *Foundational concepts*), you may need to consider salient modern slavery risks at any tier of the supply-chain. In practice, however, you can reasonably focus your limited resources on those tiers that your earlier Salient Modern Slavery Risk Assessment and subsequent supplier due diligences processes identified as the most likely source(s) of modern slavery risks. For example, in a procurement of uniforms, you may want to require information on where the cotton was sourced. In contrast, in procuring cleaning services, you may focus on the way in which janitorial and cleaning workers are hired and managed here in New South Wales, rather than on the original source of all the chemicals used in cleaning products.

Supplier self-assessment questionnaires (SSAQ) are a popular tool for gathering information about suppliers' approaches to managing modern slavery risks. However, you should be cautious not to over-burden suppliers, especially SMEs and Aboriginal and Torres Strait Islander entities. This risks deterring bidders, weakening competition and reducing value for money. There are consequently clear benefits to buyer collaboration to streamline the process for suppliers providing such information, as Figure 24 shows. While there is no centralised public SSAQ system for gathering modern slavery related information in New South Wales, the Anti-slavery Commissioner will explore possibilities for developing such a system, potentially for integration with Buy.NSW's Supplier Hub. Covered entities are encouraged to explore ways to collaborate on such solutions, for example through cooperation within NSW Government clusters, or through collaboration amongst local councils. In the meantime, covered entities may wish to refer to the list of SSAQ resources contained in the 'Further resources' at the end of this section.

Figure 24 Good Practice Example: collaboration on a sectoral SSAQ platform

The Property Council of Australia, in collaboration with property companies, Informed 365 and industry experts including Better Sydney, has developed a common platform for suppliers to input information about the actions they are taking to identify and address modern slavery risks. Suppliers complete a single questionnaire that is accessible through an online dashboard, enabling Property Council members to collect, compare and share data. This industry collaboration facilitates greater efficiency for suppliers and reduces their administrative burden to report. The platform is free for suppliers and the number of questions they must respond to is driven by the size of organisation and assessed potential of their risk of posing harm to people. The platform is designed to be a learning experience that includes information about topics such as grievance mechanisms. It may also encourage information exchange among buyers to share lessons learned in working with specific suppliers and the veracity and transparency of the information received. The suppliers can choose to share their responses with all the current platform partners or just with specific buyers. The platform also provides suppliers with a Continuous Improvement Pathway setting out areas for improvement over time and providing them with relevant resources.

Source: AHRI Good Practice Toolkit, p. 21.

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Figure 25 Good Practice Example: supplier selection involving pre-contractual capability alignment

Research commissioned by the Office of the NSW Anti-slavery Commissioner during the development of this Guidance identified several examples of creative modern slavery risk management arrangements in supplier selection processes. This case study involves a large energy operator listed on the ASX.

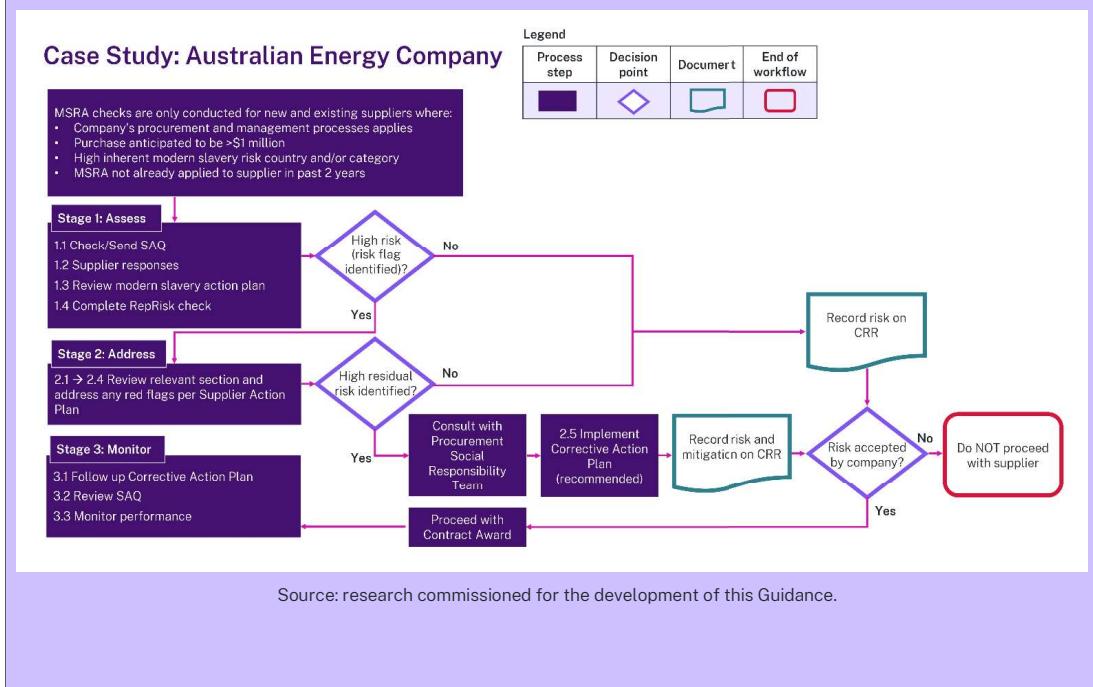
The company uses a graduated Modern Slavery Risk Assessment (MSRA) approach to conduct tailored due diligence checks based on indicators of high inherent modern slavery risk associated with specific suppliers.

In Stage 1, the company uses a supplier self-assessment questionnaire and a commercial risk tool to identify residual modern slavery risks associated with specific suppliers. In certain cases, where a supplier is selected, that risk is incorporated into the buyer's risk register.

In Stage 2, the company uses the risk assessment (a rating) arrived at in Stage 1 to frame its sourcing approach. The company's modern slavery subject-matter expert works with the supplier relationship manager to develop a 'corrective action plan' outlining modern slavery 'risk management controls' that must be put in place in order for the contract to proceed, and then met during contractual performance. The corrective action plan and associated outcomes are recorded in the company's risk register. Controls that are not met or that the supplier is unwilling to meet are flagged as a residual risk. If this risk is accepted by the company, the supplier will proceed to be awarded the contract. If not, the company will not proceed to contract with the supplier.

Stage 3 involves ongoing supplier management. Residual risks recorded in the company's risk register are reviewed and supplier performance outlined in the corrective action plan is monitored by the contract owner.

One lesson the company has identified is that the existing approach to risk analysis, including the commercial risk tool on which they are relying, may be creating false positives. This is because the tool analyses modern slavery risks at the country and product level only, and cannot penetrate to specific suppliers or worksites in the supply-chain. The result is that the process has identified a large number of high risk suppliers which the company has not had the resources to fully manage. This suggests there may be a need for bespoke due diligence to improve the resolution of risk pictures.



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Evaluation procedures involve activities such as the review of documentation, testing, inspections, audits, certification, management systems, assessment, sustainability claims, labels and declarations or a combination of them. These activities can be carried out by the supplier or its representative (first-party), the purchasing organization or an external body on its behalf (second-party) or an independent external body or organization (third-party). When defining the evaluation procedure for each requirement, the organization should establish what activities should be carried out and by whom.

When choosing an evaluation procedure, you should balance cost in connection with the desired level of assurance. Cost can differ between evaluation procedures. You should also consider who bears the cost, taking into account the context of the supplier (e.g. size, location). And you should consider the level of assurance offered by each type of evaluation procedure, including whether the technical infrastructure involved in the evaluation procedure is competent and complies with relevant applicable standards and guides. When an external body is used, you should consider whether it is operating in accordance with relevant standards (e.g. ISO/IEC 17020, ISO/IEC 17021, ISO/IEC 17025, ISO/IEC 17024 and ISO/IEC 17065.) Accreditation is a means of assessing, in the public interest, the technical competence and integrity of organizations offering evaluation services.

You should also consider any **abnormally low tenders**. You should ensure that bidders are proposing a price that ensures all workers will receive their full wages and entitlements, including overtime and other allowances. If the explanation gives rise to concerns on modern slavery, this should be investigated further with the bidder. Finally, you should consider how your **tender documents** establish the basis for effective evaluation and selection. Figure 26 introduces the GRS Model Tender Clauses which are contained in *Appendix I GRS Model Tender Clauses*. Figure 27 provides an example of good practice attention to modern slavery risks in a public tender process.

Figure 26 Model Tender Clauses for different GRS Due Diligence Levels

The GRS Model Tender Clauses set out in *Appendix I GRS Model Tender Clauses* are intended as a resource for NSW public entities. They comprise two different versions of tender clauses and accompanying schedules, and should be used in tandem with this Guidance and the Model Contract Clauses discussed below.

The **Heightened** version is intended for use in Heightened MSDD procurements. For these procurements, modern slavery weighted evaluation criteria are recommended to 1) encourage Tenderers to provide more extensive responses to the tender schedule to allow the Buyer to undertake more extensive due diligence on the Tenderers and 2) allow Buyers to factor the Tenderer's modern slavery response into the overall weighted score of the Tenderer, and into contracting. In this approach, Buyers should:

- assess and score the quality of the responses of the modern slavery tender schedule, as they would do for any other weighted evaluation criteria in accordance with the tender documents and tender evaluation guide
- refer to the Guidance to inform their assessment of tenderer's responses
- establish an effective scoring approach to suit the procurement and allow clear differentiation between tenderers' responses to the modern slavery criteria. The GRS Model Tender Clauses set out a 5-band scoring regime. The scoring methodology of the modern slavery evaluation criteria must be consistent with the evaluation process set out in the tender documents.

The **Streamlined** version is intended for use in Light, Minimal and Standard MSDD procurements. For these procurements, a pass/fail tender modern slavery tender schedule is recommended that 1) allows Buyers discretion to consider whether the response is satisfactory and the outcome where a satisfactory response is not achieved and 2) still encourages Tenderers to provide modern slavery information, without burdening them with a lengthy supplier self-assessment questionnaire.

Where a supplier completes the schedule to the buyer's satisfaction, the Model Tender Clauses recommend contracting using the Model Contract Clauses. Where the supplier does not complete the schedule to the buyer's satisfaction, the Model Tender Clauses allow for the buyer to gather more information or, importantly, engage with the supplier to undertake training or institute other modern slavery risk controls.

The GRS Model Tender Clauses, including the evaluation clause, are intended to supplement the existing clauses in the relevant tender documents, and where used, should be adjusted for consistency with the tender documents in which the clauses are inserted.

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Figure 27 Good Practice Example: Incorporating audit of labour conditions into tender evaluation

The UK Government Buying Standard for Food and Catering requires, as a mandatory specification, that at least 50% of tea and coffee is fairly traded. At best practice level it requires that all tea, coffee, cocoa and bananas are certified as fairly traded. This is supported by an award question in the Balanced Score-Card for Food.

Award question

Please describe how your organisation is working to improve labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract.

Relevant factors:

- Where food is sourced from states that have not ratified the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998), or are not covered by the OECD Guidelines for Multinational Enterprises, the supplier of catering and food services shall carry out due diligence against ILO Declaration on Fundamental Principles and Rights at Work (1998)
- Risk based audits have been conducted against social/ethical supply chain standards e.g. SA8000 compliance, audit evidence for Ethical Trade Initiative (ETI) Base Code compliance, or equivalent. Working with suppliers to improve conditions through pro-active, direct engagement programmes
- Membership & use of ethical & responsible trading information exchange services e.g. SEDEX
- Dairy products meet the Voluntary Code of Practice on Best Practice on Contractual Relationships
- Measures are taken to ensure fair dealing with farmers through, for example, the guidance contained in the Groceries Supply Code of Practice
- 100% of tea and coffee procured is produced in accordance with fair trade standards.
- Procurement of produce other than tea & coffee e.g. bananas, cocoa is in accordance with fair trade standards.

Award criteria

- [Excellent]/[100]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes all of the suggested best practice measures that are applicable to its operations.
- [Very Good]/[75]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes at least 2/3 of the suggested best practice measures that are applicable to its operations.
- [Good]/[50]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes at least 1/3 of the suggested best practice measures that are applicable to its operations.
- [Satisfactory]/[25]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes less than 1/3 but more than [-] of the suggested best practice measures that are applicable to its operations.
- [Unsatisfactory]/[0]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes less than [-] of the suggested best practice measures that are applicable to its operations.

Contract Management

Periodical review with contracting authority in accordance with contractual rights and remedial action, if necessary, in accordance with the contract. The contract may provide for termination of the contract if all other remedial steps fail.

Further resources

BS 25700:2022. ISO 20400:2017 at sections 7.3-7.4. AHRI Good Practice Toolkit. CDC Good Practice Note. Forced Labour Lab – Ethical Procurement Guide.

On SSAQs: refer to CDC Good Practice Note pp. 63-64; the SAQ provided by the Australian Government in its Modern Slavery Procurement Toolkit, And the UK Cabinet Office Modern Slavery Assessment Tool at <https://supplierregistration.cabinetoffice.gov.uk/msat>.

3.2 Adopt a shared responsibility approach in contracting

Discussion

Mere adoption of Modern Slavery Policies and Risk Management Plans will mean little if buyers do not hold suppliers to account for those commitments. Contracting is a central mechanism for achieving this. This requires moving away from the typical strict liability regime of representations and warranties, in which the supplier ‘warrants’ or guarantees that certain representations – such as the absence of modern slavery from the supply-chain – are true and correct. The effect of such contracting approaches is typically a ceremonial ‘derisking’ by the buyer, purporting to push risk onto the supplier. Yet representations and warranties are questionable in these contexts, encouraging the parties to turn a blind eye to reality while taking on theoretical strict liability. This often produces a ‘tickbox’ or ‘checkbox’ approach to supply-chain management, in which buyers require a laundry list of representations of compliance from their suppliers. Suppliers mechanistically provide them by checking the boxes, and everyone goes home happy (if perhaps resentful of having wasted time filling out forms).

This approach achieves little – it is not effective in preventing, mitigating and remediating actual modern slavery risks, because it encourages everyone to pretend they are not there. Neither suppliers nor buyers have any real incentive to raise modern slavery risks or harms as a contractual issue, when they do appear, because the contracting framework offers no real remedy – just a path to termination. The regime of representations and warranties, with their accompanying strict liability – if they are not true, there is a breach – is unrealistic and ineffective. And it serves to make it harder for the parties to openly and pragmatically discuss problems in their workforces and work processes – so much so that this may in some contexts contribute to modern slavery risks.

Since there are alternative approaches now available, **continued reliance on the representation and warranty approach is no longer a reasonable step**. The central alternative is a performance-based contracting approach that recognises the buyer and supplier’s *shared responsibility* for managing modern slavery risks, through ongoing due diligence and remediation. This regime is considerably more pragmatic. Human rights due diligence is a more realistic process that assumes parties will need to set priorities, addressing the most pressing issues first, without a fictional representation that everything is perfect.

This new approach has been developed over the last decade by legal actors closely involved in the development of the UN Guiding Principles on Business and Human Rights, then nurtured through an American Bar Association and a spin-off project, now known as the Responsible Contracting Project. It shifts contracting from a demand that the supplier make a number of representations and warranties that both parties know are likely to be false or unachievable, to a contractual expectation that all parties in the supply-chain will be duly diligent about modern slavery impacts. This is not simply aspiration: the parties are contractually obliged to take reasonable steps to achieve this goal. But failure of perfect compliance no longer attracts strict liability: instead, this framework provides for collaboration between the parties to cure the deficiency and remedy the harm.

Although much Australian contracting law rests on warranties, due diligence is by no means unknown in the common law. Notions of good faith efforts or best efforts are frequent in contracts for sale of goods. And due diligence is a constant in corporate legal practice. Yet modern slavery due diligence is not simply a question of assessing risk to the business and assuring legal compliance. Instead, it requires ongoing consideration of stakeholders’ interests that may differ from – or even run counter to – those of the contracting parties. For this reason, the ‘shared responsibility’ approach to contracting stresses remediation of human rights harms over traditional contractual remedies, such as money damages. Remediation is also not treated as the sole responsibility of the supplier, but a shared responsibility – with the buyer being obliged to participate if it has caused or contributed to the problem. Only in extreme cases is immediate termination contemplated.

Adapted from ABA, [‘Balancing Buyer and Supplier Responsibilities: Model Contract Clauses to Protect Workers in International Supply Chains, Version 2.0’](#)

Hallmarks of Best Practice

- The entity adopts a performance-based approach to contracting suppliers that allows for both parties to work together to prevent and mitigate modern slavery risks, and remedy modern slavery harms.

Consideration

The NSW Anti-slavery Commissioner has worked with the Responsible Contracting Project (RCP) and their pro bono counsel, Allens, to translate the shared responsibility approach into the New South Wales public procurement environment. The result is reflected in *Appendix J GRS Model Contract Clauses*. By translating the due diligence obligations to which the Australian government has committed under the UN Guiding Principles on Business and Human Rights and the OECD Guidelines, these **GRS Model Contract Clauses** (MCCs) provide a foundation for buyer-supplier collaboration to address modern slavery risks, and facilitate monitoring and evaluation of the effectiveness of modern slavery risk management efforts at the contract, entity and system level.

As with the GRS Model Tender Clauses, there are two versions of the GRS Model Contracts Clauses:

- A *Heightened* version for use in Heightened Due Diligence procurement contexts, and
- A *Streamlined* version for use Light, Minimal and Standard Due Diligence procurement contexts.

The two versions run in parallel:

- MCC 1.1 provides definitions. They align with *Appendix A Glossary*.
- MCC 1.2 contains Core Obligations. Both parties commit not to engage in modern slavery, and to take steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery.
- MCC 1.3 concerns Price. Each party agrees that the contracted price supports each party to comply with its Core Obligations – that is, not to engage in modern slavery, and to take reasonable steps to prevent, mitigate and remedy modern slavery.
- MCC 1.4 commits each party to establish, implement and maintain appropriate systems and policies as required to meet its Core Obligations. The effect of this provision is to commit both parties to conform with the Modern Slavery Policy and Modern Slavery Risk Management Plan obligations in Part 1 Commit, or equivalent.
- MCC 1.5 addresses implementation. For the *Streamlined* version, this simply commits the Supplier to notify the Buyer of modern slavery instances and actions taken to remedy it. For the *Heightened* version, however, this sub-clause sets out obligations relating to management of modern slavery harms, training, notification and grievance related matters. It also commits both parties not to require workers to pay recruitment fees, not to withhold identification documents, and to ensure worker accommodation is adequate. This provides a framework for collaboration to give effect to the anti-slavery commitments in the contract.
- MCC 1.6 commits parties to provide reasonable assistance to meet their anti-slavery obligations.
- MCC 1.7 deals with disclosure.
- MCC 1.8 deals with material breach and termination. The *Streamlined* version commits the parties to consult with relevant stakeholders to prevent or mitigate modern slavery risks that could arise from exercising termination rights. The *Heightened* version, in contrast, commits the parties to respond to a material breach by developing a Remediation Plan.
- MCC 1.9 explains how such Remediation Plans work.

Further resources

Responsible Contracting Project, [Responsible Contracting Toolkit](#).

American Bar Association, [Contractual Clauses Project](#).

ISO 20400:2017 section 7.5.1.

4

Manage

About this Part

This Part provides guidance on the reasonable steps that entities can take to build effective relationships with suppliers so that buyers and suppliers together excel in managing modern slavery risks, while meeting obligations.

These steps may include monitoring and assessment of supplier performance against modern slavery expectations, as well as developing supplier capabilities.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
4 Manage		
4.1 Monitor and evaluate supplier performance		
What steps did your entity take to monitor and evaluate supplier performance relating to modern slavery, during this reporting period?	Describe steps taken	Mandatory
Has your entity required any of your Tier 1 suppliers to undergo an audit addressing modern slavery risks in this reporting period?	Yes / No	Mandatory
What percentage of your Tier 1 suppliers underwent an audit addressing modern slavery in this reporting period?	Percentage	Optional
During the reporting period, what percentage of your Tier 1 suppliers' workforce were surveyed about their working conditions?	Percentage	Optional
What percentage of your Tier 1 suppliers' workforce are temporary migrant workers?	Percentage	Optional
What percentage of workers engaged by your Tier 1 suppliers in the last reporting period paid or incurred a fee to secure their engagement?	Percentage	Optional
4.2 Develop supplier capabilities		
What steps did your entity take to develop supplier capabilities relating to modern slavery risks during this reporting period?	Describe steps taken	Mandatory
What percentage of your entity's Tier 1 suppliers reported that they had participated in modern slavery training during this reporting period?	Percentage	Optional

4.1 Monitor and evaluate supplier performance

Discussion

This section sets out how you can tackle modern slavery risks in contracts you award to suppliers, including those adopted based on framework agreements, schemes, standing offers or templates.

If the risk is not caused by your entity then the type of action you take will also depend on your 'leverage' with the other entities involved, including any scheme owner or contract manager. (See *Three forms of connection: causation, contribution and direct linkage*)

Note that under the prevailing international and Australian expectations, set out in the UN Guiding Principles on Business and Human Rights, and relevant OECD Due Diligence Guidelines and Guidance, if you lack leverage to address modern slavery risks, you are expected to consider ways to increase your leverage, including by collaborating with other entities.

Your allocation of limited time and resources for managing the modern slavery risks in your diverse procurement and operational activities should be guided above all by risks to people. You should focus your efforts on those areas where the modern slavery risks are greatest to people.

Working in collaboration with suppliers even when they are mid-contract is key. Remember at all times that the risk of insufficient or ineffective action is not merely reputational, it is also human – it falls on real people who are victimised by modern slavery.

Ongoing performance monitoring is essential for the duration of the contract to ensure that the supplier continues to deliver in accordance with modern slavery expectations, and to underpin your active engagement to manage emerging modern slavery risks.

Figure 28 How does this Guidance apply to contracts that pre-date 1 January 2024?

This Guidance is considered operative from 1 January 2024.

There is no *general* expectation that contracts or agreements pre-dating this Guidance will be re-negotiated. However, covered entities are nonetheless expected to take reasonable steps to manage modern slavery risks within those business relationships, including where contracts remain on foot – see Part 4.

This could involve:

- **risk assessment.** Part 6 discusses the expectation of reporting Heightened modern slavery due diligence (MSDD) procurements to the Anti-slavery Commissioner. Some entities that report after 1 July 2024 may additionally need to identify the Modern Slavery Due Diligence level associated with procurement activities between 1 July 2023 and 31 December 2023. See further Implementation timeline, above.
- **contract management**, using existing forms of leverage, such as contractual obligations to abide by workplace health and safety standards (locked accommodation, excessive working hours, abusive behaviour). Some procurement contracts or agreements may already include references to ISO 45001 Occupational Health and Safety Management Systems, ISO 26000 Social Responsibility, or ISO 20400 Sustainable Procurement
- **supplier capability development**;
- review and improvement of **grievance mechanisms** and remediation arrangements;
- **reporting.** Covered entities will be expected to report at the end of the current reporting cycle on all contracts and agreements ongoing during the reporting period, even if they came into effect before 1 January 2024. See also the note above, under 'risk assessment'.

Exceptionally, where modern slavery risks in an ongoing operational activity or procurement are especially high, the Guidance calls not only for use of leverage but also for developing leverage to address modern slavery risks, where an entity lacks leverage. In some cases, especially where there is a salient risk of ongoing modern slavery, this could mean that entities do need to consider exploring contractual adjustments, in order to develop this leverage.

Hallmarks of Best Practice

- The entity's main activities to prevent or mitigate modern slavery risks:
 - Are focused on outcomes for affected stakeholders
 - Directly relate to the entity's salient modern slavery risks and are proportionate to them
 - Directly engage those parts of the entity whose actions or omissions can influence outcomes for affected stakeholders
 - Include steps to address any contribution of the entity's own activities to its salient risks.
- The entity monitors and evaluates progress towards its modern slavery targets based on a set of indicators that together:
 - Are used to evaluate progress towards the targets
 - Enable analysis of the reasons for progress or setbacks
 - Factor in feedback from affected stakeholders and/or their legitimate representatives.

Considerations

Effective modern slavery prevention and remediation is likely to require a long-term vision and relationship building. That vision has a better chance of success if it is shared by a supplier that considers the buyer to be a preferred customer.

Positive, proactive and collaborative engagement with your suppliers will encourage transparency and are critical to incentivise suppliers to flag issues as they arise and for you to work effectively with your suppliers to address them. You should however consider the impact of any contract management approach, in terms of time and resources, on suppliers of all types and sizes; SMEs will have less time and resources to spend on supporting contract management activities so the overall approach should be proportionate.

Effective supplier engagement can take a variety of forms. What has become clear over the last decade, however, is that what underpins all effective engagement to mitigate modern slavery risks is an evidence-based approach to performance monitoring and evaluation. This ensures that buyers and suppliers have a common frame of reference for discussions about management of modern slavery risks, and an objective basis on which to allocate limited contract management resources.

Audits and other ongoing supplier and worksite assessments and evaluations will be critical to effective ongoing due diligence. It is good practice for organizations to carry out periodic audits of suppliers throughout the life of the contract, especially for important and complex contracts, to verify that sustainability claims and work practices meet stated requirements. Audits are useful for focusing on particular issues such as modern slavery risks, and help to create awareness of expected standards of performance.

Audits and assessments can address supplier performance against all areas of this Guidance, through both desk-based review (e.g. of organisational systems and policies, human resource files, pay records) and in-person interviews and site visits. They should, where safely possible, include an opportunity for affected stakeholders to be heard. They should be conducted against existing knowledge of modern slavery risks and conform to your entity's Modern Slavery Policy and Risk Management Plan, if applicable.

You may wish to incentivise cooperation with audits and assessments by allowing for suppliers with outstanding performance to be recognised. Recognition could involve facilitating their access to business development opportunities, and possibly awards or similar initiatives, in order to reward and promote efforts towards continual improvement.

At the same time, it is important to understand the limits of auditing in the modern slavery context. Modern slavery is often actively hidden from auditors. Traditional audits often face time constraints, may only offer a snapshot of workplace conditions, and can be manipulated. Vulnerable workers are unlikely to report concerns to a stranger for fear of subsequent retribution or retaliation, whether against themselves or family members, some of whom may be overseas. They are more likely to report through trusted intermediaries, including unions and other workers and

community organisations; or through effective and trusted 'worker voice' platforms. (See further Figure 32, below.)

Where a site visit is carried out as part of routine due diligence and monitoring, it may be sufficient for a staff member to do this. However, where there are serious allegations or reports of modern slavery identified through pre-screening or other mechanisms, this should trigger a more focused assessment, usually carried out by expert assessors. Industry groups such as the Responsible Business Alliance offer the Supplemental Validated Audit Process – a specialised assessment programme aiming to identify forced labour risks, carried out by expert trained auditors. The Office of the NSW Anti-slavery Commissioner may also be able to assist, or to facilitate access to relevant experts.

In some cases, modern slavery arises not only out of conduct at worksites but also other aspects of the recruitment and worker management process. It may occur at recruitment sites, including offshore; at worker accommodation sites; in an employer or labour hire firm's headquarters (for example through inappropriate or excessive salary deductions, or overcharging); and during transport to and from worksites. For this reason, audits should not be limited to consideration of treatment in the workplace, but should aim to form a more complete view of the treatment of workforces.

Figure 29 provides some considerations when organising audits and workplace assessments. *Appendix N Speaking with victims of modern slavery* provides basic guidance on speaking directly with victims of modern slavery.

Figure 29 Factors to consider when organising audits and workplace assessments

Factor	Considerations
Contracts and agreements	Ensure that you have the right to conduct suitable workplace assessments, and access to relevant personnel and materials. Where possible, ensure contractual rights allow access to relevant third parties, for example by requiring cascading of these access requirements through sub-contracting. This is allowed for under the GRS Model Contract Clauses provided in <i>Appendix J GRS Model Contract Clauses</i> .
Assessor capabilities and profile	Select assessors trained and certified to suitable standards. They must be independent of the supplier. They should be familiar with local law, its enforcement and workforce vulnerabilities, as well as international standards, and good modern slavery due diligence practice, and have suitable language skills. It is often suitable for assessors to work in teams to ensure gender and other diversity, which can affect the willingness of workers and other personnel to share sensitive information. The inclusion of local consultants, civil society, worker and community organisations may help ensure audits and assessments are effective in accurately identifying risks. Where there is an expectation of direct engagement with vulnerable workers, it may be appropriate to ensure the audit and assessment team includes interviewers and assessors trained in trauma-informed and shame-sensitive interview techniques.
Risk assessment	Audits and workplace assessments should respond to initial risk assessments identifying potential modern slavery risks in a particular supply-chain, worksite, geography or context. Some worksites or suppliers may not require this level of due diligence; self-assessment and self-reporting may be adequate. Conversely, risk assessment should inform audit and assessment planning, for example by dictating language skills in the assessment team, or the inclusion of trauma-informed interviewers.
Safeguarding arrangements	The process of audit or assessment should not increase the risks to people. You should consider whether the audit or assessment could expose personnel and stakeholders engaged to risks of retaliation or retribution, or to persecution or prosecution. Where that is a real risk, you should examine

Factor	Considerations
	whether the auditor or assessor provides adequate safeguards, to prevent and mitigate these risks, and consider whether alternative approaches to performance monitoring may be required. Interviews, audits and workplace assessments should never compromise the ability of law enforcement and regulators to conduct further investigation if criminal abuse and exploitation is suspected. To assess this, you should consider the safeguards integrated into the auditors' or assessors' interview guides and protocols, privacy and confidentiality safeguards, and data protection arrangements.
Covering the employment journey	Audits and assessments should not be limited to treatment in the workplace, but should address the full employment journey of the worker. This must, specifically, include recruitment and accommodation. Figure 30 below offers some examples of the kinds of questions that auditors and assessors can productively ask workers during assessments.
Analytical methods	You should consider the analytical methods employed by the auditor or assessor, including: <ul style="list-style-type: none"> Interview techniques and protocols Sampling techniques. Does the auditor or assessor engage with a representative sample of the workforce and its components, especially of vulnerable workers within it? Triangulation techniques. What information does the auditor or assessor use to test, corroborate, triangulate or validate findings from workforce engagement?
Integrity	You should consider the overall integrity of the proposed audit or assessment process. How susceptible is the process to being manipulated or gamed? Does it, for example, only conduct interviews or site visits with notice, or also unannounced? Unannounced assessments are more likely to identify poor labour conditions and employment practices than assessments that are announced with dates agreed in advance. However, unannounced assessments can damage relationships between the commissioning party and the worksite. To effectively manage this and ensure that assessments proceed with the buy-in of site management, the terms of the proposed assessment must be clearly established in any existing contractual agreements, and cascaded through their contracts with any suppliers, subcontractors or other third parties.

Figure 30 Sample questions to ask workers during audits

Topic	Sample questions
Recruitment	<ul style="list-style-type: none"> What agencies/employers do you work for? How did you find out about the work? Were you promised a job? How was the job described to you? Was the job described how it turned out to be – e.g. pay rate, number of hours? Did you have to pay a fee for the job? What have you paid to get this job? Are you currently in possession of your passport and other identity documents?

Topic	Sample questions
Pay	<ul style="list-style-type: none"> • Do you owe anyone any money? If so to whom, how much and how do you make repayments? • Does anyone owe you any money? • How much were you paid last week? How many hours had you worked? Was the pay correct? • Have you been withheld pay for work you have performed? • Have you had any money unfairly deducted from your wages? • Are you free to open and be paid into the bank account of your choice? • Does anyone else use your bank account?
Entitlements	<ul style="list-style-type: none"> • Have you been prevented from joining a trade union or been penalised for doing so? • Have you taken any sick leave? Were you paid while on leave? • What training were you provided with? How much did this cost you? • What risks are there in your work? • Have you had any holiday leave? Were you paid?
Treatment	<ul style="list-style-type: none"> • Since you have been working here, how have you been treated? • Do you like working here? Why, why not? • Have you witnessed others or experienced yourself verbal or physical abuse by other staff or management here? • What hours do you normally work? Are you happy with these? • How are the hours allocated amongst workers? • How many days do you have off each week? • If you didn't want to work the hours allocated what would happen? • Have you ever been forced to work long hours, overtime or on any days when you didn't want to by anyone here? • What breaks do you take when you are working?
Accommodation	<ul style="list-style-type: none"> • How did you find your accommodation? • Who is the landlord? How much rent do you pay? • What happens if you can't pay the rent? • Who collects the money? • If you left the house/accommodation site, would you lose your job? • If you want to leave the house/accommodation site, can you? • How many people live in the house/accommodation? And how many people share your room? Are they related to you? • Are you free to buy and prepare food of your choice? If not, who provides you with food? On what terms?
Grievance Mechanisms	<ul style="list-style-type: none"> • If there was a problem at work, what would you do about it? • Do you feel your complaints are dealt with properly? • If you wanted to report an issue but did not want anyone to know it was you reporting, how would you report it?

Topic	Sample questions
	<ul style="list-style-type: none"> • Have you made any complaints about work? If yes, how did you feel about the way it was dealt with? • How have you been treated since making the complaint/ report? • Have you made complaints to (or been told that you could make complaints to) the Fair Work Ombudsman, Safe Work NSW or the NSW Anti-slavery Commissioner?

Key performance indicators (KPIs) often play a key role in effective monitoring, evaluation and collaboration. Where possible, you should work with your suppliers and other relevant stakeholders to identify realistic, SMART targets and indicators to underpin performance management throughout the life of the contract. In the process of developing KPIs, it is important to be clear about what they are measuring and what the figures mean. This should relate to what investors or companies are asking business partners to report against or what is being assessed as part of other ongoing monitoring and audits.

There are a range of areas in which modern slavery risk management performance can be measured. Figure 31 provides a list of possible KPIs identified by UK and European based public investors. Many of these are reflected in the data that this Guidance encourages covered entities to collect and report. In the area of contract management, this Guidance focuses recommended data collection on three particular areas that have proven to be highly correlated to a reduction of modern slavery risks: worker voice activities, the reliance on a temporary migrant workforce, and recruitment fees.

It can be useful to have a mix of qualitative and quantitative monitoring data, as this can reduce the risk of misinterpretation of numerical data. For example, while an increase in modern slavery-related grievances raised is an issue that should be dealt with, this may not be because negative impacts are suddenly getting worse. Instead, an increase in the number of grievances raised can be an indicator of a better-implemented grievance mechanism. Hence using a range of indicators that can help interpret the significance of the data is useful.

One approach favoured in sustainable procurement circles is the 'balanced scorecard methodology' which allows sustainability criteria to be monitored alongside service, quality, delivery, cost and technical requirements. Modern slavery indicators can be incorporated effectively into such a scorecard, using this Guidance as a benchmark.

Continuous listening to **worker voice** is also critical for effective monitoring and evaluation of modern slavery risks. While this is first and foremost the responsibility of your supplier, buyers should also have the ability to directly and safely access the views and expertise of those with lived experience, including workers. Modern slavery involves a denial of voice, so you have a critical role to play in preventing modern slavery by ensuring that affected stakeholders, including vulnerable workers, have the opportunity to safely express their concerns about their treatment. *Appendix N Speaking with victims of modern slavery* provides basic guidance on speaking directly with victims of modern slavery.

Audits (discussed above) can contribute to ensuring you can access and listen to worker voice, but for the reasons discussed above, may not be sufficient to ensure effective worker voice. Grievance mechanisms, discussed in Part 5, are also a key channel for identifying stakeholders' concerns.

Unions and worker organisations have a critical role to play in supporting advocacy. You should ensure you have effective ways to access and if appropriate cooperate with unions along supply-chains that contain salient modern slavery risks. You should schedule regular consultations with these groups to discuss working conditions. This is more likely to lead to a partnership approach that engages worker organisations and relevant stakeholders in a manner where they feel comfortable in flagging issues, challenges and developing collaborative solutions to address workplace abuses.

Increasingly, buyers are also turning to **digital tools** to support worker voice and supply-chain monitoring. Figure 32 below, from the AHRI Good Practice Toolkit, summarises the benefits and drawbacks of different digital tools, and provides some 'pro tips' on how best to employ them.

Figure 31 Exemplar Key Performance Indicators

- Percentage of business partners (clients, portfolio companies, suppliers) audited in past year
- Number of workers spoken to confidentially without a manager present during audits in the past year
- Number of identified non-compliances related to forced labour in audits
- Percentage of corrective actions related to forced labour successfully closed/remedied in agreed timeframe
- Number of repeat non-compliances on forced labour from individual business partner in past year
- Number of reports received from business partners related to modern slavery in past month
- Percentage of identified modern slavery risks addressed through collaboration (e.g. with NGOs, civil society, trade unions and government) in past year
- Number of business partners (e.g. clients, portfolio companies, contractors and suppliers) trained on modern slavery in past year
- Number of complaints of forced labour received through grievance mechanisms in the past month
- Percentage of complaints resolved in allocated timeframe in the past year
- Number of best practices shared and scaled more widely in the past year
- Percentage of workers who receive information about their employment rights in a language they understand
- Percentage of workers who have paid a fee to secure employment in the past month
- Percentage of workers who receive induction on workplace rights
- Percentage of workers who are members of an independent democratic trade union
- Identification of high-risk geographies and sectors for priority due diligence on modern slavery
- Percentage of business partners that have a policy addressing modern slavery
- Number of business partners that have cascaded requirements on modern slavery with their third parties
- Worker feedback on working conditions in staff surveys
- Victim feedback on outcomes of actions and remedy
- Independent stakeholder feedback on efficacy of strategy to address modern slavery

Source: CDC Good Practice Note, p. 60.

Figure 32 Digital tools for worker voice and supply-chain monitoring

Social media	App	Blockchain	Remote surveillance
Examples			
<ul style="list-style-type: none"> OFWwatch Job-seeking websites, forums, Facebook pages, YouTube channels, and Yelp and Google reviews are used by workers 	<ul style="list-style-type: none"> Golden Dreams: Labour Link FairWork Ombudsman Record my Hours app 	<ul style="list-style-type: none"> Blockchain Solution to address Worker Right Challenges Minespider Irespond 	<ul style="list-style-type: none"> Establishing Person-Centered Decent Labor Policies in Distant Water Fisheries
Benefits			
<ul style="list-style-type: none"> Detection: (known as social listening) analyse social media for complaints by workers of bad working conditions on social media Information provision: share information about worker rights and other services Support: advertise services and grievance mechanisms 	<ul style="list-style-type: none"> Detection: conduct worker surveys via apps, for large response rates and validity Information provision: share information about worker rights and other services Prevention: Recruit directly, eliminating recruitment fees Remediation: complaint lodgement by workers 	<ul style="list-style-type: none"> Detection: trace provenance of goods (e.g. minerals) to production/extraction points (e.g. mines) Prevention: Smart contracts can store employment contracts and supplier contracts across supply chains 	<ul style="list-style-type: none"> Detection: harness biometrics (e.g. facial recognition) to record and monitor working hours, and CCTV to monitor labour abuses; in the fishing industry, satellite image analysis shows vessel movement and fishing activity at each site to estimate work hours
Drawbacks			
<ul style="list-style-type: none"> Mistrust due to misinformation common on social media Privacy concerns 	<ul style="list-style-type: none"> Use more data and storage than workers have available on phones Low usage rates unless incentivised Mistrust Failure of reports of modern slavery to result in business action 	<ul style="list-style-type: none"> Expensive and carbon emitting (depending on the servers and technology) Resources are required to collect the data, and relevant expertise is required to process the data onto the blockchain, so does not overcome problems of worker fear, reporting 	<ul style="list-style-type: none"> Still requires on-the-ground communication with workers and investigation Access to satellite images is expensive Privacy concerns
Pro Tips			
<ul style="list-style-type: none"> Sharing information with workers about their rights via social media that they already use is more effective than developing a new app 	<ul style="list-style-type: none"> Provide face-to-face training to workers on how to use apps Work with local worker groups to promote apps and support workers to use 	<ul style="list-style-type: none"> Only use blockchain where the problem is clearly one blockchain can address, otherwise there are cheaper solutions 	<ul style="list-style-type: none"> Develop machine learning to analyse large volumes of data

Source: AHRI Good Practice Toolkit, p. 15

Figure 33 Good Practice Example: Active supplier monitoring for modern slavery risks

Research commissioned by the Office of the NSW Anti-slavery Commissioner during the development of this Guidance identified several examples of creative modern slavery risk monitoring and evaluation processes. This case study involves an Australian Government agency.

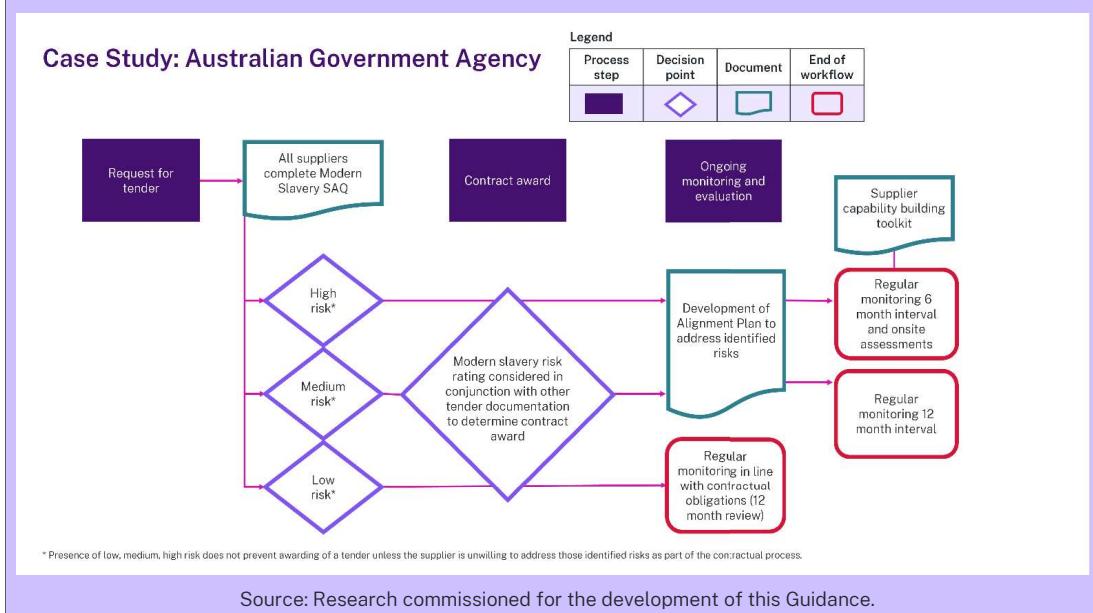
The agency identified modern slavery risks in offshore infrastructure projects with which it was involved. It developed a framework and strategy for modern slavery risk management reflecting risk analysis, SAQs and supplier training. This is framed as a Modern Slavery Control Plan, which is summarised in the workflow diagram below.

The strategy involves head contractors demonstrating explicit consideration for modern slavery risk management. All suppliers invited to tender for contracts are issued a Modern Slavery Self Assessment Questionnaire (MSSAQ) as part of the tender documentation submission process. The MSSAQ is not a pass-fail, but rather provides for risk evaluation that then informs the controls achieved through contracting.

The agency's procurement team analyses the answers to the tender questions using third-party-developed guidance. Resulting modern slavery risk ratings are factored into tender evaluations, with other factors.

The successful tender is then provided an alignment and monitoring plan, drawing on the results of the modern slavery risk analysis during the tender evaluation. High risk tenderers are subject to onset verification and an associated alignment plan, reviewed every three months; medium risk tenderers are subject to the same, but at six month intervals; and low risk tenderers are subject to standard monitoring in line with the contract management process. Regardless of risk, the MSSAQ must be completed every 12 months.

This approach is seen as allowing for active monitoring in key long-term supplier relationships, while creating opportunities for supplier capability building and dynamic risk appetite and management. This approach has also aligned with existing risk management approaches in the agency, for example in dealing with bribery and corruption. This has contributed to rapid uptake by agency staff. The approach also appears to have been well received by suppliers.



Further resources

AHRI Good Practice Toolkit. CDC Good Practice Note. ISO 20400:2017 section 7.5.1-4. BS 25700:2022 sections 7.2, 9.5.3. UK PPN 02/03, pp. 39-40. Walk Free Toolkit, Tool 8. See also: Re:Structure Lab. Forced Labour Evidence Brief: Social Auditing and Ethical Certification (Vancouver: Stanford, Simon Fraser and Yale Universities, 2022); and A.V. Benstead, L.C. Hendry, M. Stevenson, "Detecting and remediating modern slavery in supply chains: a targeted audit approach", *Prod. Plann. Contr.* (2021), vol. 32(13), pp. 1136-1157.

4.2 Develop supplier capabilities

Discussion

Improving the effectiveness of due diligence to prevent and address modern slavery will require strengthening supplier capabilities. This is a shared responsibility of both suppliers and the buyers that purchase from them.

Buyers can use a range of capability development activities, such as training, awareness-raising, direct engagement and technology development, to improve supplier risk management performance. The use of KPIs, discussed in the previous section, can provide an important incentive for supplier capability uplift – but needs to be matched by buyers working, individually or collaboratively, to provide pathways for supplier development.

Collaboration may be essential to ensure adequate supply of value-for-money goods and services with low modern slavery risks. This is especially the case where buyers face structural issues in the market, such as limited 'slavery-free' supply, or where workforces are remote, isolated or otherwise difficult to engage.

Hallmarks of Best Practice

- The entity takes deliberate steps to build leverage to influence others where its existing leverage is insufficient to prevent or mitigate risks.
- The entity identifies where collective leverage with others is needed, and collaborates with relevant stakeholders, peer entities (including companies) and/or experts to advance outcomes for affected stakeholders through processes that demonstrably align with international human rights standards.

Considerations

Figure 35, Figure 36, Figure 37 and Figure 38 below all detail examples of good practice by buyers and investors, working individually, and collaboratively, to support supplier capability development. Some of the key lessons learned from these and other such examples, detailed in relevant literature, are summarised in Figure 34 below.

Figure 34 Challenges and solutions for supplier capability development

Challenge	Potential solution
Suppliers face competing resource pressures	Embed framework for supplier engagement and capability development in contractual arrangements – see e.g. <i>Appendix J GRS Model Contract Clauses</i> .
Lack of executive buy-in	Embed framework for supplier engagement and capability development in contractual arrangements. Make formal approaches to the supplier's board or governing body to ensure the significance of the issue is appreciated. Ensure engagement not only with procurement and compliance functions but with C-suite and cross-functional teams.
Limited supplier understanding of their own supply-chains	Collaborate with the supplier, and potentially with other stakeholders, to develop shared supply-chain risk mapping.
Lack of industry standards and codes that can be used as a benchmark or reference point	Embed references to this Guidance and/or relevant industry codes in contractual arrangements.

Challenge	Potential solution
Structural obstacles to sourcing low-risk supply	Work with other stakeholders in the value-chain to find ways to incentivise development of new supply options. This may include exercising collective leverage to engage government.
Limited supplier exposure to, awareness of, and training on modern slavery risks	Provide suppliers access to education and awareness raising opportunities, including the NSW Anti-slavery Forum. Work through industry bodies and collaborative forums.

Figure 35 Good Practice Example: providing training for workers along a supply-chain

Outland Denim, founded in 2018, employs women who have been victims of exploitation, slavery, or domestic violence. Around 80 per cent of the company's workforce are women from vulnerable backgrounds predominantly working in manufacturing facilities in Kampong Cham province in Cambodia. Outland Denim focuses on extensive training for its employees and having a vertically integrated supply chain. The training provided by Outland Denim is multi-faceted in nature including trauma counselling to ensure that the women are work ready. Their NGO partner, International Justice Mission, also runs anti-trafficking workshops for their suppliers to educate them on due diligence and modern slavery. They integrate training around technical skills such as cutting and sewing but also provide training to ensure workers' financial literacy, health education, sanitation, self-defence and career progression.

Training is not limited to Outland Denim's own workforce, or that of its Tier 1 suppliers, but instead extends into the lower tiers of their supply chain. This includes a programme targeting supplier cotton farms in Turkey. Working closely with one of their primary suppliers, Outland Denim designed a responsive outreach program that involves workers in identifying workplace hazards and builds collaboration with other brands to reduce exploitation and build a more sustainable human rights focused supply chain.

Source: AHRI Good Practice Toolkit, p. 21.

Figure 36 Good Practice Example: Local council collaborate to address supply-chain risks

Since 2010, twenty-one County Councils in Sweden have collaborated in efforts to promote respect for human rights in their supply-chains, including through use of a common supplier code of conduct, common supplier questionnaires and joint factory audits.

Since 2012 this collaboration has had a formal national structure with a coordinator, steering committee, expert group and a dedicated contact point in each county council. That structure has developed a shared risk analysis and allocated limited resources accordingly. Studies have found this approach to be effective in reducing labour risks in those supply-chains.

The county councils have developed a national network on Social Responsibility in Public Procurement to promote effective and efficient compliance monitoring. In 2012, the network hired a national coordinator who is accountable to a five-member national steering committee, representing the chief procurement officers and environmental managers of the 21 county councils.

The network also includes a group of experts with representatives from each procurement region. The network provides the training and education for members of the expert group to ensure they can properly evaluate suppliers for compliance with the code of labour standards, conduct risk assessments, understand social audits and corrective action plans, and procure third-party audits to help the county councils determine whether or not there is breach of contract.

Finally, each county council appoints a point of contact to serve as 'ambassador' for socially responsible public procurement within the region, share information from the steering committee and group of experts internally, and implement new tools and processes relating to social responsibility in public procurement. To ensure necessary funding for social audits and related work, the 21 county councils pool resources based on population. Each county contributes 40 Swedish cents, about AU \$0.06, per capita.

Figure 37 Good Practice Example: Investor collaboration to develop company capabilities

Investors Against Slavery and Trafficking Asia Pacific (IAST APAC) is a group of investors focused on engaging with companies in the Asia-Pacific region to promote effective action in finding, fixing and preventing modern slavery in operations and supply chains. IAST APAC currently comprises 37 investors with AU \$7.8 trillion in Assets under Management (AUM), together with the Australian Council of Superannuation Investors (ACSI), Walk Free and the Finance Against Slavery and Trafficking (FAST) initiative.

IAST APAC focuses on building invested companies' capabilities to find, fix and prevent modern slavery. By using their leverage as allocators of capital, and sharing knowledge resources, IAST APAC hopes to build a sense of momentum among the companies they invest in. IAST APAC has established formal protocols for collaborative investor engagement with invested companies in risky supply-chains. It has identified a focus list of companies for multi-year engagement, and begun direct engagement with invested companies to discuss and address modern slavery risks through adjustments to business practices.

IAST APAC members nominate as either a lead or support investor for such engagements. Small groups of IAST APAC members collaborate to engage with an allocated focus company, listed on the stock exchanges in Australia, Hong Kong, Japan, Malaysia, the Philippines, Singapore, South Korea, Taiwan or Vietnam. These engagements follow a defined protocol and common engagement guidelines, and lead to up to one to four direct active engagements between the IAST APAC investor group and the company. The majority of engagements take place at the C-suite or management level. They canvas three issues:

- Find It: "Have you found modern slavery in your operations or supply chain?" and "If not, can you demonstrate that you have rigorous processes in place to look for it?"
- Fix It: "If so, can you demonstrate the steps you have taken to improve the lives of victims?"
- Prevent It: "Have you effectively reported your actions and the steps taken to prevent a re-occurrence?"

One example of such engagement has been between IAST APAC and JB Hi-Fi Limited, an Australian listed retailer of consumer electronics, telecommunications, home appliances and software. IAST APAC's investor group worked with JB Hi-Fi to set seven objectives for their collaborative engagement. These objectives include:

- setting up an independent and frequent audit framework covering private label manufacturers,
- the use of independent data sets maintained by Responsible Business Alliance to identify modern slavery risks in large third party manufacturers,
- introducing worker voice mechanisms at the private label supplier label, and
- providing greater disclosure on the instances of modern slavery detected in the chain.

Given JB Hi-Fi's limited leverage over large third party manufacturers, IAST APAC has encouraged JB Hi-Fi to focus its detection efforts on its private label range, particularly through improving the quality of audits and worker voice systems. JB Hi-Fi has met with IAST APAC at CFO and Head of Sustainability level, and reported on this engagement in its published results.

Figure 38 Good Practice Example: Collaboration to encourage the emergence of 'slavery-free' solar panels

Buyers of solar panels and the energy they produce are increasingly grappling with the significant modern slavery risks in solar panel supply-chains. In recent years, a number of multilateral development banks and development finance institutions have privately converged around a 'Common Approach' to forced labour risks in the solar energy value-chain. This Common Approach establishes a set of timed milestones for these organisations to strengthen traceability and social impact assessment arrangements in solar energy investments and lending, encouraging the companies they finance to take specific steps to identify and address forced labour risks in their supply-chains. These represent enforceable contractual commitments, with violation risking cross-debarment from future contracts with any of the organisations involved. The multilateral development banks and development finance institutions have also used collective leverage to engage their government members and owners, to initiate conversations around multilateral financing for new, slavery-free supply of polysilicon and solar panels.

Source: Cockayne et al., 'The Energy of Freedom'; also research undertaken for development of this Guidance.

Further resources

AHRI Good Practice Toolkit.

James Cockayne, Edgar Rodriguez Huerta and Oana Burcu, 'The Energy of Freedom? Solar energy, modern slavery and the Just Transition (University of Nottingham, 2022).

Electronics Watch, Public Procurement and Human Rights Due Diligence to Achieve Respect for Labour Rights Standards in Electronics Factories: A Case Study of the Swedish County Councils and the Dell Computer Corporation (2016).

KPMG and NSW Office of the Anti-slavery Commissioner. *Public Social Procurement: Social returns on global public social procurement initiatives and lessons for NSW's anti-slavery efforts* (2023).

Investors Against Slavery and Trafficking Asia Pacific. *Footsteps forward: Annual Report 2021-2022*.

Pauline Gothberg, "Public Procurement and Human Rights in the Healthcare Sector: The Swedish County Councils' Collaborative Model", in Olga Martin-Ortega and Claire Methven O'Brien, eds., *Public Procurement and Human Rights: Opportunities, Risks, and Dilemmas for the State as Buyer* (Cheltenham: Elgar, 2019).

Swedwatch and British Medical Association, *Healthier Procurement: Improvements for Working Conditions for Surgical Instrument Manufacture in Pakistan*, Report no. 73 (2015).

5

Remedy

About this Part

This Part provides guidance on the reasonable steps that entities can take to provide or enable effective remedy to modern slavery harms to which they are connected.

This involves access to effective grievance mechanisms, taking safe immediate steps to remedy harms, using leverage to remediate deficient practices, and in some cases, responsible withdrawal from supplier relationships.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
5 Remedy		
5.1 Provide or enable access to effective grievance mechanisms		
What steps did your entity take to provide or enable access to effective modern slavery grievance mechanisms during this reporting period?	Describe steps taken	Mandatory
How many complaints relating to modern slavery associated with your operations or the goods or services you procure were lodged during the reporting period, whether with your organisation's grievance mechanism(s) or with others?	Number	Optional
5.2 Take safe immediate steps to remedy harm		
What steps did your entity take to safely and immediately remedy modern slavery harms to which you were connected during this reporting period?	Describe steps taken	Mandatory
5.3 Use leverage to remediate deficient practices		
What steps did your entity take to use leverage to remediate deficient modern slavery practices during this reporting period?	Describe steps taken	Mandatory
In how many procurement contracts or arrangements was a material breach related to modern slavery formally notified during this reporting period?	Number	Optional
5.4 Withdraw responsibly		
What steps did your entity take to withdraw responsibly during this reporting period, in connection to modern slavery risks?	Describe steps taken	Mandatory
How many procurement contracts or arrangements were terminated on modern slavery grounds during the reporting period?	Number	Optional

5.1 Provide or enable access to effective grievance mechanisms

Discussion

Under the prevailing international norms to which Australia has committed, entities that are connected to modern slavery harms in their operations or supply-chains are expected to provide or enable effective remedy, depending on the nature of that connection.

- Entities that cause modern slavery are expected to provide effective remedy.
- Entities that contribute to modern slavery, for example through ineffective due diligence over an extended period of time, are expected to proportionately contribute to effective remedy.
- Entities that are directly linked to modern slavery, for example because a supplier upstream in their supply-chain engages in modern slavery, are expected to enable effective remedy. This means they are not required to provide remedy, but should use their leverage to work with the entity that caused the impact to prevent or mitigate the harm and its recurrence.

(See further UN Guiding Principle 32; and the section of this Guidance entitled *Three forms of connection: causation, contribution and direct linkage*.)

'Remedy' means restoring a victim of a harm to the situation that they would have been in if the harm had not occurred. Remediation can take many forms, including steps to ensure the harm cannot recur, formal apologies, compensation, medical and mental health support, returning confiscated documentation, reimbursement of recruitment fees, or stopping certain activities.

You should develop processes to enable remediation. These need not be limited to modern slavery – you may choose to use existing grievance mechanisms, whistleblower hotlines or other complaints systems. But they need to be effective at identifying and handling modern slavery-related grievances.

How can you identify appropriate forms of remedy? The type of remedy or combination of remedies that is appropriate will depend on the nature and extent of the modern slavery (and other) harms. In determining appropriate forms of remedy, you should pay attention to:

- Existing standards – In some cases domestic and international standards or laws exist on what constitutes appropriate forms of remedy.
- Precedent – Where domestic and international standards do not exist, the enterprise may seek to be consistent with what was provided in similar cases.
- Stakeholder preferences – The perspective of those affected is important.

You should seek to provide remedy through a legitimate remediation mechanism. **You may wish to develop your own, work with other NSW public buyers to develop an effective Grievance Mechanism, and/or engage existing mechanisms.** These can include State-based or non-State-based processes through which grievances concerning enterprise-related adverse impacts can be raised and remedy can be sought. Examples include:

- Legal processes such as prosecution, litigation and arbitration.
- Non-judicial state-based mechanisms such as specialist government bodies, consumer protection agencies, and regulatory oversight bodies, such as the Fair Work Ombudsman.
- The **Office of the Anti-slavery Commissioner** can accept and refer complaints (though the Anti-slavery Commissioner is not empowered to resolve complaints). Contact the Office on GRS@dcj.nsw.gov.au, or via dcjnsw.info/antislaverycommissioner.
- The **National Contact Points** to the OECD Guidelines are a State-based non-judicial mechanism through which issues can be raised about implementation of the OECD Guidelines in specific instances. (See Figure 39 below.)
- Operational level grievance mechanisms – discussed further below.

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- Global Framework Agreements between companies and Global Trade Unions, multistakeholder grievance mechanisms, community grievance mechanisms, collective bargaining agreements, and enterprise supply chain grievance mechanisms are all examples of non-State-based processes that can enable remediation.

(See further OECD Due Diligence Guidance, p. 89.)

Figure 39 OECD National Contact Points

The OECD Guidelines on Responsible Business Conduct for Multinational Enterprises contain a built-in non-judicial grievance mechanism through the National Contact Points (NCPs). NCPs are established by Adherents to the OECD Investment Declaration. NCPs have the mandate of furthering the effectiveness of the OECD Guidelines for MNEs by: undertaking promotional activities, handling enquiries and contributing to the resolution of issues that arise relating to the implementation of the OECD Guidelines in specific instances.

Any individual or organisation can bring a specific instance (case) against an enterprise to the NCP where the enterprise is operating or based regarding the enterprise's operations anywhere in the world. NCPs facilitate access to consensual and non-adversarial procedures, such as conciliation or mediation, to assist the parties in dealing with the issues. NCPs are required to issue final statements upon concluding the specific instance processes. NCPs can also make recommendations based on the circumstances of the specific instance.

The Australian NCP was established in 2000 and overhauled in 2019. The Secretariat in Treasury manages the AusNCP and supports a group of Independent Examiners that consider complaints. Independent Examiners are experts contracted to Treasury to manage complaints against multinational enterprises brought to the AusNCP, including decision-making, communication and conciliation with parties and publishing statements on findings.

See further <http://ausncp.gov.au>

Hallmarks of Best Practice

- The entity engages constructively when allegations of modern slavery impacts in its operations or value chain arise, to understand the issues and the perspectives of affected stakeholders.
- The entity engages with affected stakeholders and/or their legitimate representatives to identify whether they are aware of and trust existing structures or processes as a way to raise concerns or grievances and have them addressed.
- The organisation uses its leverage to support the development and implementation of effective grievance mechanisms in its value chain that are capable of providing remedy to affected stakeholders.
- When providing remedy for impacts it has caused or contributed to, the entity goes beyond measures to prevent the impact recurring to consider what other forms of remedy can best address the harms to affected stakeholders, taking into account their perspectives.
- The entity evaluates its actions to provide remedy for their effectiveness in delivering outcomes that are satisfactory to affected stakeholders.

Considerations

Stakeholders, especially vulnerable ones, should be able to bring their problems and complaints to your attention, and seek redress for harms. You should facilitate this by establishing a grievance mechanism, or ensuring you have access to or can direct complainants to, an effective grievance mechanism.

Grievance mechanisms support the identification of modern slavery related grievances, allow those grievances to be addressed and adverse impacts to be remediated early and directly, and help prevent harms from compounding and grievances from escalating.

Figure 40 below sets out some questions to consider in developing or evaluating an existing Grievance Mechanism. Figure 41 provides an example of a basic Grievance Mechanism workflow.

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Figure 40 Developing and evaluating a grievance mechanism for effectiveness

1. **Who are the intended users of the Grievance Mechanism?**
 - Is it only workers, or also other stakeholders (suppliers, family members, customers, community)?
 - Where are these stakeholders located, and what language do they speak?
 - Do you expect children to use the mechanism?
 - What communication channels can they safely use to communicate grievances?
2. **How will intended users be involved in designing the Grievance Mechanism?**
 - How will you access them?
 - How will you create trust and safety?
 - Do you need to work with experts, partners or trusted intermediaries?
 - How will suppliers be involved?
3. **How will intended users know about the Grievance Mechanism?**
 - How will you ensure the accessibility of the mechanism?
 - Will you use prepositioned notices, in-person training and/or digital methods?
 - Will you work with intermediaries such as unions, facilities, civil society, or collaborative initiatives?
4. **What could stop use of the Grievance Mechanism?**
 - Will you draw on lived experience to understand potential barriers?
 - Will the mechanism be independent of any personnel that may have been linked to the grievance?
 - What safeguards can you offer to ensure privacy or confidentiality, and against retaliation or reprisal – against the complainant, a third party working with them, or family members?
 - How will you communicate how information shared through the Mechanism will be used and further communicated, including to authorities?
5. **What is the Grievance Mechanism's scope?**
 - What issues will it address? What actions can it take to address them?
 - Are the relevant actors in the organisation involve and empowered?
 - Do you have suitable protocols in place for actioning grievances received, including any time-critical responses to ongoing harms?
6. **Can an existing mechanism be effectively adapted to address modern slavery issues?**
 - Does an existing mechanism (such as a whistleblower hotline, or a helpline) offer an established, known and trusted platform for addressing grievances?
 - Does it need to be adapted to the modern slavery context?
 - Will new resourcing arrangements be required?
 - Will new training be required?
7. **How will the mechanism be resourced and managed?**
 - Which personnel will be responsible for handling and resolving grievances?
 - What expertise, training and resources will they need?
 - Will they be trained in identifying and addressing modern slavery?
 - What partners, internal or external, will need to be involved?
 - Will the mechanism need to be scalable – and if so, is that feasible?
 - Is a collective or collaborative mechanism more viable or more likely to be effective?
8. **How will effectiveness be measured?**
 - What metrics or KPIs will be used to track outcomes?
 - How will data for effectiveness measurement be collected?
 - Will user feedback be included?

... continues...

9. **How will outcomes be communicated?**

- How will the outcomes from a grievance process be communicated to stakeholders, or the public?
- If outcomes are kept confidential, how will the mechanism avoid the perception it may be used to cover up adverse impacts?
- How will lessons learned be communicated internally, including to senior management?

10. **How will outcomes be learned from?**

- Will results of grievance handling be fed back into your modern slavery risk management system?
- Will there be arrangements for sharing outcomes and lessons learned with peers?

Source: UNGCNA GM Guidance

Figure 41 Basic grievance mechanism workflow

Grievance handler	Complainant	Subject expert, suppliers, other stakeholders	Senior management	Third party
Grievance received				
Acknowledge receipt to the complainant. Open a continuous line of communication.	X			
Confirm grievance within scope (or not). If necessary, support complainant to provide relevant information, or refer to an alternative mechanism.	X			X
Escalate. Notify necessary internal stakeholders.		X	X	
Evaluate and investigate. Draw on relevant expertise as needed.		X		
Develop and agree resolution in collaboration with the complainant – if not, consider involving independent arbitrator or decision-maker	X	X	Possible	Possible
Implement resolution	X	Possible		
Monitor implementation of agreed remedy and assess effectiveness, inc. through user feedback	X			
Close grievance and communicate outcome	X	Internal stakeholders	X	
Integrate learning into MS risk management processes		Internal stakeholders	X	

Source: Based on UNGCNA GM Guidance, p. 22

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Grievance mechanisms are considered to be 'effective' when they meet eight criteria set out in the UN Guiding Principles on Business and Human Rights (Principle 33). Figure 42 below discuss these effectiveness criteria and how to achieve them:

Figure 42 Effective grievance mechanisms

Effectiveness Criterion	What to consider	How to achieve it
Legitimacy (UNGPs 31(a)) <i>Do stakeholders, such as workers, trust the grievance mechanism?</i>	A legitimate grievance mechanism is one that: <ul style="list-style-type: none"> enables trust from stakeholder groups for whose use they are intended, and is accountable for the fair conduct of grievance processes. 	Establishing and maintaining stakeholder trust <ul style="list-style-type: none"> Seek out and take into account rights-holder views when designing the mechanism, and when evaluating and improving the mechanism once it is established. Ideally, consult those who have lived experience of modern slavery. If it is difficult to reach rights-holders directly, use reasonable alternatives, such as civil society organizations, trade unions, and other advocates. Develop policies that take into account the special needs of people who may be at heightened risk of vulnerability or marginalization. Address power imbalances and unique barriers to participation faced by different groups. Draw from relevant international human rights standards. Engage with and contribute constructively to efforts to develop worker-driven and community-driven grievance mechanisms.
	Independence and objectivity	<ul style="list-style-type: none"> Minimise the risk of undue influence from any actor. Maintain sufficient independence from those whose activities may be the subject of grievances. Some ways to demonstrate independence include: <ul style="list-style-type: none"> Transparent hiring processes and appropriate reporting lines Mechanism control over budget, and autonomy over mechanism policies and procedures Mechanism has the ability to make its own decisions about accepting and handling grievances, and Using an independent, multi-stakeholder advisory panel. Minimise the risk of conflicts of interest. Some ways to reduce risks include: <ul style="list-style-type: none"> Open, competitive recruitment for mechanism personnel Restrictions on movements of personnel from the mechanism to relevant business operations (and vice versa) Rotation of personnel Declaring and responding to conflicts of interest in specific cases, and Delegating dispute resolution and decision-making to legitimate, independent third-party mechanisms.

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Effectiveness Criterion	What to consider	How to achieve it
	Communications	<p>Proactively disseminate information to rights-holders about:</p> <ul style="list-style-type: none"> • What the mechanism can and cannot offer • How the mechanism works • Policies on ethical matters (e.g., conflicts of interest), and • Policies on safeguarding against retaliation.
	Resources and expertise	<p>Hire suitably qualified personnel and/or invest in training of personnel such that they:</p> <ul style="list-style-type: none"> • Have knowledge of modern slavery • Understand the rights / needs of rights-holders, and are able to relate to them in a culturally-appropriate and sensitive manner, including when there is trauma • Can adequately assess and respond to risks of retaliation • Have appropriate language and mediation skills, and • Are held to high standards of personal and professional conduct.
Accessibility (UNGPs 31(b)) <i>Do stakeholders know how to access the grievance mechanism and what information is necessary to make a complaint?</i> <i>Who is using the grievance mechanism, and do they reflect the diversity of those who could be impacted by the business activities (including in its supply chain)?</i>	<p>An accessible grievance mechanism is one that:</p> <ul style="list-style-type: none"> • is known to all stakeholder groups for whose use they are intended, and • provides adequate assistance for those who may face particular barriers to access. 	
	Proactive awareness-raising	<p>Proactively raise awareness of:</p> <ul style="list-style-type: none"> • the existence of the mechanism • how it works, and • the rights of rights-holders and how the mechanism can help enforce those rights. <p>Target outreach to those likely to use the mechanism, with a proper appreciation of the barriers different groups may face when seeking remedies. Methods of outreach could include:</p> <ul style="list-style-type: none"> • face-to-face engagement (e.g., discussion groups) • educational sessions (ideally delivered by relatable people – peers, union representatives, or community members) • social media, leaflets or prominently-displayed notices.

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Effectiveness Criterion	What to consider	How to achieve it
	User-friendly design	<ul style="list-style-type: none"> • Make it very easy to lodge grievances and engage in the process. • Minimise criteria for accessing the mechanism (“eligibility criteria”) and communicate them clearly. • Time limits for accessing the mechanism should be flexible enough to at least take account of the length of time that abuses may take to become apparent, or for the rights-holders to find out about the mechanism. • Avoid burdensome pleading requirements (e.g. to frame grievances in legal or policy terms, or identify specific offences that have occurred). • Allow rights-holders to participate in their own language. • Use multiple channels of communication (e.g., in-person communication, toll-free phone lines, regular mail, e-mail, and online forms). • Address barriers faced by people who may be at heightened risk of vulnerability or marginalization (e.g., relating to physical or job security, costs associated with participation, lost wages due to time off work, difficulty accessing childcare, physical and communicational challenges, literacy barriers, lack of digital skills, and lack of confidence due to age or social status). • Make resources and services available in accessible formats and in languages spoken by (potentially) affected stakeholders. Consider providing: <ul style="list-style-type: none"> — model submissions / templates, and other offline and online resources (e.g., instructional pamphlets and videos) — free advisory and support services (e.g., helplines, designated caseworkers, and triage services), and — materials accessible to (i) children, (ii) those facing challenges with respect to literacy, and (iii) persons with disabilities.
	Minimising financial barrier	<ul style="list-style-type: none"> • Do not impose fees for raising grievances. • Enable grievances to be lodged and pursued collectively (e.g., where members of the group have similar claims). • Do not operate in a way that might suggest a need for people to hire legal counsel. However, allow the possibility of 3rd party representation if desired.
	Complementarity to other remediation processes	<ul style="list-style-type: none"> • Do not require any person to waive their rights to seek remedy through an alternate remedial mechanism. • Take into account the different ways in which the mechanism may be complementary to other relevant decision-making processes. • Put policies in place to address parallel, overlapping, and consecutive proceedings.
	Keeping people safe	<ul style="list-style-type: none"> • Put policies in place to address risks of retaliation to those raising grievances and others (e.g., zero-tolerance policies).

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Effectiveness Criterion	What to consider	How to achieve it
		<ul style="list-style-type: none"> • Ensure that risks of retaliation are properly assessed and addressed, generally and in specific cases. • Provide advice to rights-holders about steps that can be taken to enhance safety. • Confidentiality is ensured if requested or the circumstances make it appropriate. • Protect personal information and ensure that it is not disclosed without explicit, informed consent. • Be prepared to preserve the anonymity of complainants in appropriate circumstances.
Predictability (UNGP 31(c)) <i>Do stakeholders know approximately how long the processing procedure will take and what outcomes are available?</i>	A predictable grievance mechanism is one that provides: <ul style="list-style-type: none"> • a clear and known procedure with an indicative time frame for each stage, and • clarity on the types of process and outcome available and means of monitoring implementation. 	
	External communications	Publish accurate information, particularly on: <ul style="list-style-type: none"> • What the mechanism is for and how it works • Who can access the mechanism • The extent to which the mechanism can assist rights-holders regarding risks of retaliation • The kinds of harms the mechanism can address • Eligibility criteria • What to expect at each stage of the process (with indicative time frames) • The rights of parties at each stage of the process (e.g., the right to amend a grievance or challenge a decision) • The kinds of remedies that the mechanism can provide • The extent to which remedies can be enforced and implementation monitored • Past cases (see UNGP 31(e) below), being careful to avoid risks of retaliation, and • Any other information that may be useful to stakeholders (e.g., availability of support).
	Managing expectations	Avoid overpromising, particularly as regards: <ul style="list-style-type: none"> • Timelines for resolving grievances • The types of remedies that may be available • The extent to which remedies can be enforced and implementation monitored, and

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Effectiveness Criterion	What to consider	How to achieve it
		<ul style="list-style-type: none"> The effectiveness of retaliation safeguards in place.
	Case management	<p>Address grievances without undue delay.</p> <ul style="list-style-type: none"> Meaningfully consult rights-holders prior to joining grievances or involving third parties in any aspect of the process. Have clear policies in place regarding cooperation with other mechanisms and State agencies, which take into account risks of retaliation.
Equity (UNGPs 31(d)) <i>How does the mechanism address the power imbalance between the business and the complainant and enable the complainant to negotiate outcomes on equal terms with the business?</i>		An equitable grievance mechanism is one that seeks to ensure that aggrieved parties have reasonable access to sources of information, advice, and expertise necessary to engage in a grievance process on a fair, informed, and respectful terms.
	Imbalances in power and resources	<ul style="list-style-type: none"> Provide (or direct affected stakeholders to external sources of) advisory, technical, and financial support. Make appropriate, gender-sensitive adjustments to accommodate the needs of those who may be affected by trauma or who may be at heightened risk of vulnerability or marginalization. E.g., by using navigators with first-hand experience of the harm or who can provide support through the grievance process.
	Autonomy	<ul style="list-style-type: none"> Rights-holders have the right to withdraw from the process. Allow rights-holders to decide who represents them. In case of doubt about the legitimacy of a claim to representation, seek the views of the rights-holders.
	Considerations of natural justice	<p>Parties can obtain and comment on relevant information before material decisions are made (e.g., on admissibility / final decisions). Such information includes:</p> <ul style="list-style-type: none"> That obtained by the mechanism (e.g., arguments, allegations, and evidence) Outcomes of investigations, and Any personal reports (e.g., medical evaluations). Considerations of natural justice. At the conclusion of a process, rights-holders receive: <ul style="list-style-type: none"> A record of the process, outcomes, and reasons for decisions A record of any agreement reached, and Information about how to challenge or follow up. Parties may challenge the grievance process and outcomes
	Use of technologies	<ul style="list-style-type: none"> Technologies used in connection with grievance processes respect rights (e.g., to privacy / data protection) and are used responsibly.

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Effectiveness Criterion	What to consider	How to achieve it
Transparency (UNGPs 31(e)) <i>Can a complainant easily determine the status of their complaint and how the business is responding?</i> <i>Does the business keep a public record of grievances received and their outcomes, including in an aggregate form where necessary to protect complainants?</i>		<p>A transparent grievance mechanism is one that:</p> <ul style="list-style-type: none"> keeps parties to a grievance informed about its progress, and provides sufficient information about its performance to build confidence in its effectiveness and to meet any public interest at stake.
	Communication with parties	<p>Ensure ongoing, proactive engagement with the parties regarding the status of each step of the process. This could entail:</p> <ul style="list-style-type: none"> Information on next steps, available options, and decision points, and Periodic updates (even when there is nothing new to report).
	Communication with the public at large	<ul style="list-style-type: none"> Publish information regularly on: <ul style="list-style-type: none"> The number, types, and nature of grievances received The number of requests rejected and on what grounds The number of completed cases, the outcomes, any follow-up activities, and average duration of the processes Stakeholder satisfaction levels, and Any other data that will help public understanding of the mechanism's performance. Communications should be able to reach all relevant stakeholders, and could be conveyed: <ul style="list-style-type: none"> in narrative form, statistical form, and/or as case studies; and/or through annual reports, public meetings, and/or information on a website.
	Keeping people safe	Where necessary to reduce risks of retaliation or to ensure a successful remedial outcome, redacted or aggregated formats (such as anonymised case studies) could be considered. Stakeholder input about the appropriate solution should be sought and properly taken into account.
Rights-compatibility (UNGPs 31(f)) <i>Are users of the grievance mechanism protected from reprisal or retaliation and what practical measures safeguard this?</i>		<p>A rights-compatible mechanism is one that ensures that outcomes and remedies accord with internationally recognised human rights.</p>
	Remedy standards	<ul style="list-style-type: none"> Remedies should be adequate, effective, prompt, culturally appropriate, and gender-sensitive. Consult affected stakeholders about the type of remedy and the manner in which it should be delivered. Different types of remedy (e.g. both financial and non-financial) should be considered.
	Ensuring that remedies make a positive contribution to human rights	<ul style="list-style-type: none"> Assess and address the potential human rights implications of remedies and outcomes to avoid further harm. Take account of the local context, including any legacy issues and entrenched forms of discrimination. Consult affected stakeholders and relevant experts.

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Effectiveness Criterion	What to consider	How to achieve it
<p><i>How do intended users know they will be protected from reprisal or retaliation?</i></p> <p><i>Are any protections in place to avoid discrimination against complainants, including those from at-risk or vulnerable groups?</i></p>		<ul style="list-style-type: none"> Evaluate the effectiveness of remedies and address any deficiencies. Have a plan to address non-implementation of remedial outcomes. This could include: <ul style="list-style-type: none"> Monitoring implementation (including by a third party), and/or Referral to or enforcement through another mechanism (State-based or non-State-based). Ensure that the grievance process is an empowering experience for rights-holders. Avoid/remove any aspects of the process that may be patronising or culturally insensitive. Work with and build upon any pre-existing structures for decision-making. Consult affected stakeholders.
	Keeping people safe	<ul style="list-style-type: none"> Take special care to ensure the safety of rights-holders in any engagement with State actors. Take account of the local context and practice increased vigilance in areas of weak governance. Take measures to reduce risks of retaliation.
<p>A source of continuous learning (UNGP 31(g))</p> <p><i>Does the grievance mechanism identify trends in grievances (e.g. nature of complaint or location) and are these incorporated into the business's future strategy and operations?</i></p> <p><i>Are the same types of complaints reported via the grievance mechanism?</i></p>	A mechanism is a source of continuous learning when it draws on relevant measures to identify lessons: <ul style="list-style-type: none"> to improve the mechanism, and to prevent future grievances and harms. 	
	Improving the mechanism	<ul style="list-style-type: none"> Gather information on mechanism performance. Seek feedback on parties' experiences. Keep disaggregated records on frequency, patterns, and causes of grievances. Track the effectiveness of mechanism management and processes. Evaluate the effectiveness of remedial outcomes. Draw on internal and external expertise (e.g., independent advisory panels, civil society organizations, trade unions, and NHRIs). Implement strategies to improve the mechanism based on this information
	Future prevention strategies	<ul style="list-style-type: none"> Apply 'lessons learned' from grievance processes to improve the quality of modern slavery due diligence of the companies concerned, and preventative action more broadly. Help influence reforms, including by sharing information with companies regarding:

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Effectiveness Criterion	What to consider	How to achieve it
		<ul style="list-style-type: none"> — The nature and pattern of modern slavery risks and how such risks can affect different groups — The appropriate actions that can be taken in response, and — Good practices which can be adopted to enhance existing human rights due diligence processes. • Share information (including publicly and through collaborative initiatives) that may reveal sector-specific or systemic issues.
Operational-level mechanisms should also be based on engagement and dialogue (UNGP 31(h)) <i>Do stakeholders have input into the design, implementation and outcomes of the grievance mechanism and are their suggestions incorporated?</i> <i>Are stakeholders regularly asked about the effectiveness of the mechanism and how it might be improved?</i>	An operational-level mechanism is based on engagement and dialogue when it: <ul style="list-style-type: none"> • consults the stakeholder groups for whose use it is intended on its design and performance; and • focuses on dialogue as the means to address and resolve grievances. 	<ul style="list-style-type: none"> Engagement on mechanism design and performance <ul style="list-style-type: none"> • Develop an understanding of local contexts. In particular, learn about existing dialogue and decision-making structures (e.g., indigenous institutional and decision-making processes) and build upon them. • Meaningfully and regularly consult stakeholders about their needs and expectations. • Provide multiple avenues and opportunities for stakeholders to contribute their views. • Seek out sources of local expertise (e.g., trade unions and civil society organizations). • Use the activities above when designing and improving the mechanism, including with respect to: <ul style="list-style-type: none"> — The scope of the mechanism — Language and methods of communication — Methods of raising grievances — Locations of and timings of meetings, and — Involvement of independent mediators or adjudicators. Focusing on dialogue to resolve grievance <ul style="list-style-type: none"> • Draw from remediation best practice. • Train and support mechanism personnel in dialogue-based methods of resolving grievances. • Use joint investigations and problem solving methods wherever possible and appropriate. • Rely on independent, third-party adjudicators where necessary.

Source: OHCHR, ARP III Main Report; and UNGCNA GM Guidance.

Further resources

OHCHR ARP III Report. UNGCNA GM Guidance. OECD Due Diligence Guidance. ISO 20400:2017 section 6.6 and Table A.1 iso 37002. BS 25700:2022 s 9.4.5.

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5.2 Take safe immediate steps to remedy harm

Discussion

Grievance mechanisms and contractual remediation plans can take time to achieve results. Where you identify clear indicators of modern slavery – for example by using Appendix M *Good practice in identifying forced labour* – you should take immediate steps to address these harms. These should, however, be safe – and always place the wellbeing of the rights-holder first.

To begin with, you should cease activities that are causing or contributing to modern slavery. Assign responsibility for ensuring that this happens. If you are using the GRS Model Contract Clauses, this may require triggering material breach clauses and the institution of a Remediation Plan. (See Appendix J *GRS Model Contract Clauses*.) You should keep records of this, for later reporting.

Hallmarks of Best Practice

- The entity's main activities to prevent or mitigate modern slavery risks are focused on outcomes for affected stakeholders.

Considerations

You should be prepared for the eventuality of modern slavery occurring in your operations or more likely your supply chain. Pro-active **establishment of standard operating procedures** for responding to instances of modern slavery will help you react quickly and more appropriately should a case arise, and will also help manage media exposure and reduce reputational damage.

A **standard operating procedure** for remediation should:

- identify responsibilities for identifying and assessing the harm, for responsible engagement with those affected and other stakeholders, for triggering formal contractual remedies, for follow up and resolution
- indicate how relevant stakeholders will be identified and engaged, with a view to identifying relevant leverage
- indicate how you will work collaboratively with other entities, whether from NSW or sourcing in the same location (even if they operate in different sectors), or from the same supplier
- put the interests of those affected, especially rights-holders, first. Workers may choose to remain in the situation, even when they have suffered harm. If this decision is freely made, with informed consent, and without fear of retaliation or retribution, you should not interfere with it
- identify how you will decide whether and when and how to report the harms to relevant authorities (see further section 6.1 Establish a victim-centred reporting protocol, and Figure 52).

In general, you should not attempt to resolve the situation by yourself. Trying to deal with the situation without support from other areas of your entity, other mandated government bodies or trusted partners may lead to further harm to the victim or victims.

You should always ensure your actions are in the best interests of the suspected victim or victims. Take care in how you engage with suspected victims – see further Appendix N *Speaking with victims of modern slavery*.

This also means you should take steps to prevent further harm and achieve the best possible outcome for the victim or victims. For example, immediately removing workers from an exploitative situation without appropriate support may lead to unintended negative consequences, including their deportation, re-exploitation, blacklisting by employers and/or violence from creditors. (See further Figure 43 Should you 'rescue' suspected victims of modern slavery?).

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If you believe there are indicators of modern slavery, you may need to consider if further action is required to verify if modern slavery is in fact occurring or has in fact occurred. For example, if allegations of modern slavery are made through unsubstantiated media reporting you may need to check whether these reports are correct. You should ensure any actions you take do not alert the suspected offenders or result in any unintended consequences for the affected worker or workers. You should be careful that any actions you take do not have unintended consequences for other victims you are not aware of. Recognise that you may not be aware of all the victims involved or the extent of the exploitation. For example, a supplier using forced labour on one worksite connected to a contract with you may also be exploiting workers at other worksites not connected to the products you are sourcing.

You should respond in a way that is appropriate to the circumstances of the situation. For example, your response will vary depending on whether the affected entity was unaware that modern slavery was occurring in part of their operations and supply chains or was instead deliberately engaging in modern slavery. Refer to section 6.1 to consider reporting options. In some situations, you may need to work closely with other organisations, including trade unions.

Figure 43 Should you 'rescue' suspected victims of modern slavery?

The wishes and best interests of workers need to be the primary concern for interventions in modern slavery cases. Pulling a worker or vulnerable person out of a situation without understanding the risk to the worker, or without remedy and support in place, can result in further harm. For example, immediately removing workers from an exploitative situation without appropriate support may lead to unintended negative consequences, including their deportation, re-exploitation, blacklisting by employers and/or violence from creditors – or retaliation against co-workers, associates or family – including overseas.

Unless a situation is one of serious harm to life or health, or a worker has asked to be rescued, the most responsible approach is to understand what the worker's situation is, and where possible, to consult with the worker, a trusted civil society representative or trade union, to identify the best possible approach to resolution. Negative consequences of poorly managed worker rescues include workers facing destitution with no option but to return to abusive employers, or even to fall prey to more exploitative working situations.

Source: see ETI Base Code Guidance, Appendix III; Commonwealth Guidance.

Further resources

OECD Due Diligence Guidance pp. 29-31. ETI Base Guidance. Commonwealth Guidance.

See also *Appendix N Speaking with victims of modern slavery* and *Appendix P Immediate forced labour remediation measures*.

See also UNGCNA, Listening and Responding to Modern Slavery (VIDEO). Available at <https://unglobalcompact.org.au/video-listening-and-responding-to-modern-slavery/>; and UNGCNA, Responding to potential instances of modern slavery safely (VIDEO), Available at <https://unglobalcompact.org.au/responding-to-potential-instances-of-modern-slavery-safely/>

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5.3 Use leverage to remediate deficient practices

Discussion

When specific instances of modern slavery have been uncovered in your activities or the supply chain, they must be addressed immediately and in a manner that is proportionate and adapted to the circumstances of the case. After taking immediate safe steps to remedy harm (see above, section 5.2), you should develop a plan to ensure you remediate the deficient operational or supply-chain practices, and prevent further harm.

If you identify that your entity has caused or contributed to the exploitation you should provide for, or cooperate in, the remediation of that harm. If you are directly linked to the exploitation by a business relationship, you may play a role in remediation and should use your leverage to work with the entity that caused the harm to prevent or mitigate its recurrence.

You should consider if or how you may be able to address – or help address – underlying structural factors that contribute to exploitation. For example, your entity's own purchasing practices may contribute to a supplier's decision to use forced labour. In some cases, abuses will be a consequence of the way a specific industry or supply chain model is organised and these may require a longer term approach to address the root cause. Generally, you should seek to work collaboratively with the supplier and in accordance with the terms of the contract to address instances of modern slavery.

You should also carefully consider opportunities to collaborate with international and local organisations or civil society groups. Reputable international and local organisations and civil society groups may be able to assist you by providing an 'on the ground perspective' and providing advice about the most appropriate way to respond in a given location or context.

Hallmarks of Best Practice examples

- The entity uses its leverage to support the development and implementation of effective grievance mechanisms in its value chain that are capable of providing remedy to affected stakeholders.
- The entity draws on information from its own grievance mechanisms to inform the early identification and mitigation of risks to people and to continuously improve its due diligence processes.

Considerations

You should encourage your suppliers to be proactive and open, and report risks of modern slavery as they come to light.

When a risk has been identified, an action plan setting out the behaviours, standards and actions required of both parties is required to address the issues.

It may be useful to prepare a '**Blueprint Remediation Plan**' to keep on the shelf, and deploy at short notice when foreseeable modern slavery harms materialise. This would set out the process for dealing with such instances, as well as roles and responsibilities. It should clearly set out what action will be taken, when and by whom including deadline dates, milestones and targets, and what preventative measures the supplier will put in place to stop recurrence.

You should consult impacted and potentially impacted stakeholders and rightsholders and their representatives to devise and implement such a plan. Your legal team can advise on the specific contractual mechanisms in place to handle instances of modern slavery that have emerged. If you have used the GRS Model Contract Clauses, this may include the opportunity to institute a formal Remediation Plan.

In addition, you should consider steps such as:

- updating your Modern Slavery Policy or Modern Slavery Risk Management Plan to provide for effective prevention of such issues in future

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- providing training to relevant personnel and management
- using leverage to prompt the supplier to prevent or mitigate adverse impacts or risks, or consider ways to build the necessary leverage to achieve this result, for example through outreach from or to senior management, and through commercial incentives. This may require you to cooperate with other actors to build and exert collective leverage, for example through collaborative approaches in industry associations, or through engagement with governments.

Figure 44 Good Practice Examples: Remediation

Aspect of the remediation process	Good Practice and Examples
Gathering and securing information	Confidentiality, informed consent and personal security protection of potential victims should be assured during data collection.
Corrective actions at workplace	If a situation can be resolved by a company (it is not linked to violence, criminality or state-sponsorship), a time-bound plan for correcting the processes that led to the violation should be established including actions that prevent further abuses (see 'Prevention' in this table). This could include long-term initiatives such as capacity-building programmes, or immediate steps such as returning confiscated passports or cancelling illegal debts. Example: After audits revealed possible instances of forced labour in Patagonia's Taiwanese material supply chain, it developed a Migrant Worker Employment Standard. Suppliers were expected to reimburse workers who had paid recruitment fees in excess of legal limits. Patagonia collaborated with suppliers to understand how costs could be shared to make this financially feasible.
Referral to authorities	Where violence or criminality are involved, the case should be referred to relevant legal authorities (where this is seen as viable). It should be understood whether referrals will put victims (and their families) at risk of further harm. (See further section 6.1 Establish a victim-centred reporting protocol) Example: The Gangmasters and Labour Abuse Authority (GLAA) in the UK's mandate is to protect vulnerable and exploited workers. This is accomplished through a licensing regime as well as inspections and prosecutions. The GLAA can receive referrals and reports on suspected cases of modern slavery and has clear commitments to confidentiality and protecting sources of information.
Referral to independent worker representatives or experts	If it is not viable to refer to the authorities because of inadequate mechanisms or because they have caused or contributed to the case, or where a company's corrective actions would be inadequate, the case should be referred to workers' representatives and/or experts to act on their behalf. (See further section 6.1 Establish a victim-centred reporting protocol) Before making the referral, it is important to assess third-party experts and organisations to understand their capacities and potential role. Example: In response to modern slavery risks in its Thai prawn supply chain, highlighted through a number of NGO and media campaigns, UK supermarket retailer Tesco partnered with the Issara Institute, which specialises in forced labour in the region. Tesco is one of many retail brands and food suppliers that have partnered with Issara to jointly improve leverage over lower-tier suppliers to influence change. In Tesco's case, through the Issara Institute, it ensured that migrant workers had access to the Issara Institute's multilingual helpline. Through the helpline, Tesco was able to remedy a number of cases.
Rehabilitation and material support	Rehabilitation should be tailored to the needs of the victim and could include stipends, housing support, legal assistance, medical care, psychological support or other assistance that the victim may not be able to access on their own.
Restitution or compensation	Steps should be taken to either compensate the victim or restore their situation to before their ordeal took place, including if possible: <ul style="list-style-type: none"> • reimbursement of recruitment fees or illegal deposits

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Aspect of the remediation process	Good Practice and Examples
	<ul style="list-style-type: none"> compensation for lost wages or illegal wage deductions compensation for pain and suffering endured, and assistance with repatriation, if desired. <p>In certain cases, victims may also be eligible for payments under the <i>Victims Rights and Support Act 2013 (NSW)</i>. For more information, contact the Office of the NSW Anti-slavery Commissioner: GRS@dcj.nsw.gov.au.</p>
Prevention	<p>Proactive steps to address the root cause of the labour abuse(s) in question should be taken, including by:</p> <ul style="list-style-type: none"> establishing or reinforcing access to an effective grievance mechanism (including those offered by <u>Anti-Discrimination NSW</u>, the <u>Australian Human Rights Commission</u>, and the <u>Fair Work Ombudsman</u>); educating and informing vulnerable people; educating and informing employers; leveraging key actors to influence change; protecting people, particularly migrant workers, from possible abusive and fraudulent practices; and supporting due diligence by both the public and private sectors to prevent and respond to risks of forced labour.

Adapted from CDC Good Practice Note pp. 68-69:

Figure 45 Good Practice Example: A Remediation Plan template

This agreement sets out the remedial actions to be taken, within the terms and conditions of the contract, when an occurrence of modern slavery has been identified in a government contract.

The action plan sets out the responsibilities of the supplier ('you') and the buyer ('we/Us').

When evidence of modern slavery in the supply chain occurs:

- You will take immediate, decisive action on any evidence which shows modern slavery is taking place in your supply chain
- You will investigate fully any evidence of modern slavery and promptly and regularly report to us those details in full, confirming the facts and being transparent and accountable in reporting progress
- Work in good faith with Us, and with the statutory processes and authorities in the country concerned.
- Reciprocally share information with Us that will help stop, or prevent, the abuse or exploitation of workers, including where either party has been made aware of risks specific to the supply chain
- Treat all information sensitively and appropriately and not disseminate it without Our prior agreement
- Subject to any ongoing or criminal proceedings, all relevant parties including Us shall be informed of the findings of any investigation.

You will establish a dedicated lead to implement the remedial action plan, to coordinate the response and liaise with all necessary agencies including Us and law enforcement agencies. The lead must have sufficient seniority to be responsible for the exchange of information and an understanding of how sensitive information should be handled.

When modern slavery is proven to have taken place You will set out a plan to Us detailing how you will:

- Work with victims, victims' representatives and, where relevant, statutory authorities to tackle root causes and support identified victims
- Agree timescales for remedial measures to be put in place
- Monitor delivery of the plan, in conjunction with Us
- Take further action where plans are not delivered, or where delivery is not effective or timely

(...continues...)

...

Where appropriate remedial measures require it, the dedicated lead will:

- Create partnerships with other organisations in the supply chain, and victims, and consult locally on any remedial measures
- Share responsibility and costs for investigation and remedial action appropriately across the supply chain
- Allow some flexibility for smaller businesses (i.e. longer time frames)

All remedial measures shall put the victims' welfare first, specifically the dedicated lead shall:

- Prioritise the safety and security of the victims of slavery, particularly children
- Work and consult with victims to identify remedial solutions that work for them and improves their situation
- Address modern slavery as part of a wider approach to improve working conditions, aiming for continuous improvement.

Enforcement of the action plan:

If you:

- Do not cooperate with investigations, including concealing information or unreasonably delay sharing information
- Do not put the victims first
- Continue to employ people, or use suppliers that employ people, in modern slavery
- Do not implement remedial measures or refuse to improve your practice,

then We will:

- Review the actions available to us under the terms of the contract, in light of the best outcome for victims, including:
 - suspension,
 - termination, and
 - sharing past performance information with other public sector contracting authorities.

Where it does not provide a perverse outcome for victims we may exercise any termination right if:

- You continue to employ people in modern slavery or engage suppliers who employ people in modern slavery
- You or one of your first-tier supplier suppliers are found to have committed a 'modern slavery offence' as defined in the *Modern Slavery Act 2018 (NSW)*.

If you:

- Did not commit a 'modern slavery offence' as defined in the *Modern Slavery Act 2018 (NSW)* and
- Act in accordance with the principles set out in this plan,

then We will:

- Seek to avoid termination even where an actor in your supply chain is found to have committed criminal offences under the *Modern Slavery Act 2018 (NSW)*
- Work with you to remedy any identified instances of modern slavery or child labour abuses
- Where appropriate work with you and our other suppliers to share lessons learnt, raise awareness within the supply chain and protect workers from exploitation and abuse.

Source: UK PPN 02/23, p. 45.

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There are a range of organisations working in different sectors that can help you manage modern slavery risks and remediate modern slavery harms. These include Electronics Watch in the ICT sector, the Cleaning Accountability Framework in the cleaning services sector, and the ILO's Better Work initiative in the garment sector. These are described in the Figures below.

Figure 46 Good Practice Example: Remediation in the ICT supply-chain

Electronics Watch is an independent monitoring organisation that uses worker-driven monitoring to address labour issues in the electronics sector. It collaborates with civil society organisations in electronics production regions with expertise in labour rights. Electronics Watch has played a key role in advancing understanding of what constitutes adequate remediation. In 2019, following three years of worker driven monitoring, Electronics Watch (along with its partner, MWRN) was successful in securing full compensation from Cal Comp for excessive recruitment fees paid by 10,570 migrant workers. Working with expert civil society groups, Electronics Watch is able to harness their expertise to document workplace violations and seek redress. MWRN, a membership-based organisation for migrant workers from Myanmar residing and working in Thailand, is on the ground near workers' communities and has insight into daily working conditions.

Source: AHRI Good Practice Toolkit.

Figure 47 Good Practice Example: Remediation in cleaning services

The **Cleaning Accountability Framework (CAF)** provides for certification, worker engagement and remediation in the cleaning industry. It is a multi-stakeholder initiative to address labour standards non-compliance in the commercial real estate cleaning industry, which has long suffered from underpayment, poor working conditions, and exploitation. CAF brings together building owners, cleaning companies, the union representing cleaners – the United Workers Union, cleaners themselves, and other industry stakeholders.

Worker engagement is a key aspect of CAF's approach, as it seeks to involve cleaning workers in the process of identifying and rectifying labour violations.

A key component of CAF's process is conducting independent audits. These audits involve engaging with cleaners at worker engagement meetings and collecting information on their working conditions and pay via a survey. This direct engagement with workers helps to uncover labour violations and ensures that workers have a voice. CAF works closely with the trade union to ensure that workers' interests are represented in decision-making processes. This allows the trade union to advocate for their members in the context of CAF's certification and remediation efforts.

CAF has identified and addressed numerous cases of labour standards non-compliance. Cleaners have played a vital role in this process. Despite the successes in engaging workers and improving labour conditions, CAF faces challenges in achieving industry-wide impact due to its voluntary nature, and there remains substantial resistance among actors in the cleaning supply chain to meaningfully address non-compliance and labour exploitation.

Source: AHRI Good Practice Toolkit

Figure 48 Good Practice Example: Remediation in garments and apparel

The **Better Work Initiative** is designed and supported by the International Labour Organization (ILO) and the International Finance Corporation (IFC). It brings together partners from all levels of the garment industry including workers and unions; employers (factories); national governments, development partners; and brands and retailers. The programme is presently active in over 1000 factories employing millions of workers in several different countries.

The Better Work Programme initiative combines factory compliance assessments with advisory services and training at both factory and industry levels to build capacity, facilitate and strengthen social dialogue. Participants may register to purchase reports for factories registered in Better Work programmes. The programme's effectiveness is demonstrated in improving compliance with core labour standards and national legislation covering contracts, compensation, occupational health and safety, and working time.

Source: AHRI Good Practice Toolkit

Further resources

OECD Due Diligence Guidance pp. 29-31. BS 25700:2022 section 9.4.4.2. UK PPN 02/23, p. 45.

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5.4 Withdraw responsibly

Discussion

In some cases, where a supplier or other business partner is unable or unwilling effectively to address modern slavery risks or concerns, you may need to consider withdrawing from the relationship in order to mitigate modern slavery risks to people.

Withdrawal and disengagement should be understood as a last resort coming:

- after failed attempts at preventing or mitigating severe impacts,
- when adverse impacts are irremediable,
- where there is no reasonable prospect of change, or
- when severe adverse impacts or risks are identified and the entity causing the impact does not take immediate action to prevent or mitigate them.

Any consideration of disengagement should take into account how crucial the supplier or business relationship is to your entity, the legal implications of remaining in or ending the relationship, and how disengagement might change impacts on the ground – including by potentially *increasing* modern slavery risks to people.

In some cases, taking immediate action to terminate a contract can have a drastic effect and risks causing further harm to those involved, for example by exposing workers to retaliation or destitution. The priority should be to work closely with the supplier to help victims and those at risk, and prevent recurrence.

Exiting the relationship should be a last resort. Wherever there are indicators of potential willingness or capability on the part of the supplier to engage in good faith in remediation, you should ‘stay and engage’.

Hallmarks of Best Practice

- The entity takes deliberate steps to build leverage to influence others where its existing leverage is insufficient to prevent or mitigate risks, including considering the role of disengagement as a form of leverage.

Considerations

Decisions regarding whether or not to remain in a challenging operating environment or business relationship, and how best to respond to modern slavery risks, are rarely, if ever, straightforward. An entity will often be concerned with identifying and evaluating the various sources of risk. There are likely to be a host of legal and real-world issues to consider, as well as issues arising under the entity’s own policies or commitments.

While the steps needed to guard against risks to your business or entity may sometimes be the same or similar to those needed to address modern slavery risks to people, this is not always the case. Indeed, in the face of public pressure to exit a challenging relationship, an entity’s exit may result in reputational benefits, but this may not necessarily lead to better outcomes for people on the ground. A responsible business understands this distinction and will take the latter considerations into account in decision-making.

Termination or suspension should be considered only where leverage is unavailable or proves ineffective, and should itself be considered as a source of leverage.

In some cases, the mere prospect or threat of disengagement or withdrawal itself may provide leverage that allows you to address modern slavery risks.

Generally, you should only consider ending the relationship if the affected entity refuses to address the issue and there is no real prospect of change. You should also make sure you consider and address any negative impacts that may result from ending the relationship. For example, ending the relationship could have negative flow on impacts for other workers in the supply chain who may find

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themselves unable to access any income and at risk of further exploitation. Reactive contract termination can also lead to fear and concealment by other suppliers, which in turn puts victims at greater risk.

As Figure 49 below shows, failure to contemplate these knock-on implications from withdrawal can itself create legal jeopardy.

Continuing to work with suppliers may offer the best chance of mitigating and preventing modern slavery risks to people.

Figure 49 Legal risks from irresponsible withdrawal

In August 2023, the AusNCP (discussed in section 5.1) issued a Final Statement addressing a complaint from Publish What You Pay Australia (PWYP) on behalf of 245 civil society organisations, against Myanmar Metals Limited (MYL) which is now known as Mallee Resources Limited. The Final Statement addressed the complaints by PWYP about MML's failure to comply with the OECD Guidelines before selling its ownership stake in an operation in Myanmar following a military coup, namely:

- that MYL had not conducted human rights due diligence and meaningfully engaged with stakeholders regarding the divestment,
- that MYL had not taken steps to prevent or mitigate adverse human rights impacts that it alleged could arise from divestment, and
- that MYL had not met the disclosure expectations under the OECD Guidelines in communicating with civil society and local stakeholders.

The Final Statement largely upholds these complaints. It finds that while MYL intended to operate responsibly in Myanmar, its ability to do so was compromised by not having a human rights policy and not undertaking human rights due diligence prior to and during its investment in Myanmar, nor prior to divestment. By failing to conduct effective due diligence, the entity "did not seek to prevent or mitigate potential adverse human rights impacts that it may have caused, contributed to or been directly linked with after the sale of its interest".

While making these findings, the Final Statement also noted the particular responsibilities of governmental bodies to provide clarity on the expectation to undertake effective due diligence and to assist relevant entities to access relevant resources.

See *PWP Australia v Mallee Resources Ltd*, Final Statement, 2 August 2023. Available at <https://ausncp.gov.au/sites/default/files/2023-08/27-ausncp-final-statement.pdf>

You must first check that you have a right to terminate the contract and you may need to take legal advice. If you are using the GRS Model Contract Clauses, this right is inbuilt. The clauses provide a roadmap for addressing remediation and responsible management of withdrawal – see Appendix J *GRS Model Contract Clauses*.

There may be legal considerations that will bear on how, and how quickly, your entity can exit a business relationship. For instance, there may be operating licence conditions, contractual delivery obligations or public service obligations – that may demand notice periods, transition and orderly handover arrangements – that would restrict the ability of an entity to unilaterally terminate arrangements at a time of its own choosing without penalty.

You should also consider the potential detrimental effect on workers, particularly if these are overseas, and consider:

- Will contract termination stop the abuses occurring or will it result in working conditions worsening?
- What will happen to the workers if the supplier's business closes? Will they be able to find alternative employment?
- Will the workers be paid for the work they have already undertaken?

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To the extent possible, the decision to exit responsibly should draw on internal and/or independent external modern slavery and broader human rights expertise, and involve meaningful consultation with potentially affected groups and other relevant stakeholders. Entities considering exit should engage with all workers about the implications of exit for their situations and livelihoods, in particular consequences as regards their health and safety.

Importantly where your entity has caused or contributed to modern slavery harms, withdrawal will not terminate its responsibility to provide for or cooperate in remediation through legitimate processes, including, where appropriate, to report alleged modern slavery – see further Part 6 Report.

Detailed further guidance on responsible withdrawal is available from the UN Office of the High Commissioner for Human Rights – see OHCHR Considerations.

Figure 50 Good Practice Example: staying and engaging

In their 2022 modern slavery statement, Australian retail group Woolworths revealed the identification of forced labour in one of their Malaysian suppliers. Six of the 11 International Labour Organization's (ILO) forced labour indicators were identified during a routine audit in 2021, and validated in a forced labour audit in 2022, including that workers had paid excessive recruitment fees and security bonds that placed restrictions on freedom of movement.

In their 2023 modern slavery statement Woolworths described the steps they had taken to stay and engage. This was driven by the company's Human Rights Program principles which set out that "where potential situations of modern slavery are identified, we will always do the right thing, which means acting in the best interests of potentially affected workers". Woolworths partnered with their supplier and third parties to remediate impacted workers and co-develop site level controls to prevent recurrence.

Key actions included:

- repayment of recruitment fees to 230 (98%) impacted workers totalling ~\$734,000
- a local non-government organisation (NGO) oversaw the repayment process, including engagement with affected workers at multiple stages – workers were interviewed, received a briefing session and written information in their language about the terms and conditions of the remediation program, and confirmed receipt of payment
- repayments included 44 repatriated workers who were successfully located. Three workers in Myanmar could not be located, and the remaining amount of ~\$3,300 was donated to our NGO partner to support their ongoing programs for migrant workers in Malaysia
- a social compliance audit to verify that corrective actions such as an assessment checklist for labour hire contractors and a "no fees" policy were implemented
- implementing a worker voice survey to capture worker sentiment and the fees repayment process. The survey results echoed findings from the various audits and provided valuable additional insights to inform the supplier's action plan.

At the time of writing, monitoring of remediation is ongoing through audits and a second round of worker surveys, as well as direct engagement.

Source: Woolworths Modern Slavery Statements 2022 and 2023; AHRI Good Practice Toolkit.

Further resources

OHCHR Considerations. UNGCNA GM Guidance. ISO 20400:2017 section 7.5.6; UK PPN 02/23 p. 27. AHRI Good Practice Toolkit.

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Report

Guidance on Reasonable Steps

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About this Part

This Part provides guidance on the reasonable steps that entities can take to report modern slavery and their responses to modern slavery risks.

This may involve reporting concerns about modern slavery risks or harms to law enforcement authorities or civil society organizations, as well as complying with statutory reporting obligations.

Entities should pay particular attention to the graduated implementation of reporting and monitoring arrangements set out in the *Implementation timeline* earlier in this Guidance.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
6 Report		
<i>6.1 Establish a victim-centred reporting protocol</i>		
What steps did your entity take to establish a victim-centred modern slavery reporting protocol during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery reporting protocol in place that prioritises the interests of the victim/survivor?	Yes / No	Mandatory
<i>6.2 Report on your modern slavery risk management efforts</i>		
What steps did your entity take to report on your modern slavery risk management efforts during this reporting period?	Describe steps taken	Mandatory
Did your entity report on modern slavery in its prior Annual Report?	Yes / No	Mandatory
During the reporting period, did your entity comply with its obligations to report heightened modern slavery due diligence procurements valued at AUD \$150,000 (including GST) or more within 45 days?	Yes / No	Mandatory

6.1 Establish a victim-centred reporting protocol

Discussion

Your entity should have clear protocols in place to define when and how it will report suspected modern slavery offences. These should prioritise the wellbeing of victim-survivors.

Hallmarks of Best Practice

The entity has:

- in place a reporting protocol that provides appropriate confidentiality and other safeguards to protect the interests of victim-survivors
- earmarked sufficient resources to support the welfare of victim-survivors during the reporting process
- identified suitably trained and supported individuals to oversee critical responses and reporting in modern slavery context
- communicated this protocol effectively internally.

Figure 51 Where can I report modern slavery?

There are multiple places you can report modern slavery concerns or seek assistance:

- The **Global Modern Slavery Directory** provides a worldwide database of organisations that may be able to provide assistance: see www.globalmodernslavery.org
- In NSW, you can contact the **Office of the NSW Anti-slavery Commissioner**: antislavery@dcj.nsw.gov.au
Reporting to the Anti-slavery Commissioner will not give rise to liability for the person doing the reporting, even where there otherwise may appear to be a contractual bar on disclosure or information-sharing. No criminal or civil liability, including for defamation, attaches to a person for providing information, a document or other thing to the Commissioner, even if a contract would otherwise create such liability. (See sections 16 and 16A of the *Modern Slavery Act 2018 (NSW)*).
- the **Australian Federal Police (AFP)** on 131 237 (131 AFP) or go to the AFP website at www.afp.gov.au
- The **Fair Work Ombudsman** has the power to inquire into breaches of federal fair work laws. Call the Ombudsman's office on 13 13 94 or submit an enquiry at <https://www.fairwork.gov.au/about-us/contact-us/online-enquiries>
- **Safe Work NSW** on 13 10 50 – you can report incidents and seek assistance. See also <https://www.safework.nsw.gov.au/notify-safework/incident-notification>
- **Anti-Slavery Australia** provides free and confidential legal advice and support. Call 02 9514 8115. Email ASALegal@uts.edu.au
- Australian Red Cross **Support to Trafficked People Program**: Call 03 9345 1800. Email national_stpp@redcross.org.au
- **Domus 8.7** Advisory service on remedy pathways for individuals and organisations affected by modern slavery Email antislavery@sydneycatholic.org
- **Freedom Hub** Survivor support: Call 1800 373 348 (1800 FREEHUB). Email info@thefreedomhub.org
- **My Blue Sky** Help relating to forced marriage: Call 02 9514 8115 – SMS text to 0481 070 844. Email help@mybluesky.org.au
- **Taldumande Youth Services** Also helps with forced marriage, including providing accommodation: Call 02 9460 3777. Email administration@taldumande.org.au
- **The Salvation Army** Accommodation support: Call 1300 473 560. Email endslavery@salvationarmy.org.au

Free, confidential interpretation is available on the Translating & Interpreting Service on 131 450.

Considerations

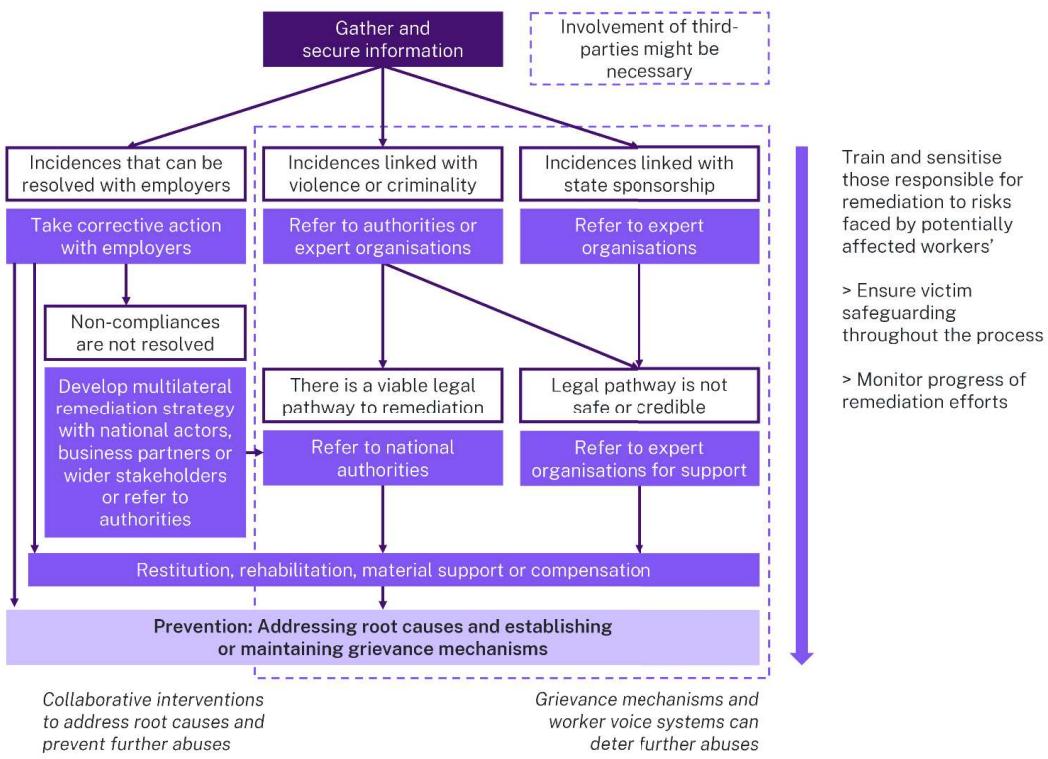
It is a crime in NSW to conceal a serious indictable offence (including modern slavery offences), provided that the information that you possess could assist police to arrest or prosecute the offender and that you do not have a reasonable excuse for failing to report it. (*Crimes Act 1900* (NSW) section 316.) Some professional roles in NSW also attract mandatory reporting obligations in relation to children at risk of significant harm. There may also be obligations under workplace health and safety laws to report certain incidents to relevant authorities.

Nonetheless, there may be occasions in which it is unclear whether reporting modern slavery could place the victim at risk of significant harm. This could be the case in countries where, for example, law enforcement or other state sponsors are connected to modern slavery perpetrators, or the legal pathway for resolving such matters is not safe or credible. In these cases you should use your existing stakeholder relationships to identify suitable civil society organizations to work with to address time-critical modern slavery concerns.

Figure 52 below sets out good practice principles for reporting in such situations. It is further explained, with examples, below.

Figure 52 Good Practice: Dealing with risks to victims from reporting

Good Practice: Dealing with risks to victims from reporting



- Gathering and securing information:** Confidentiality, informed consent and personal security protection of potential victims should be assured during information gathering. In some cases, action could be necessary to protect the immediate safety of victims, regardless of their stated preferences. This action should be led by or done in conjunction with national authorities or expert partners.

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- **Corrective actions at workplace:** If a situation can be resolved by a company (i.e. it is not linked to violence, criminality or state-sponsorship), a time-bound remediation plan for correcting the processes that led to the violation should be established including actions that prevent further abuses. This could include long-term initiatives such as capacity-building programmes, or immediate steps such as returning confiscated passports or cancelling illegal debts. See further *Appendix P Immediate forced labour remediation measures*.

Example: After audits revealed possible instances of forced labour in Patagonia's Taiwanese material supply chain, it developed a Migrant Worker Employment Standard. Suppliers were expected to reimburse workers who had paid recruitment fees in excess of legal limits. Patagonia collaborated with suppliers to understand how costs could be shared to make this financially feasible.

- **Referral to authorities** Where violence or criminality are involved, the case should be referred to national authorities (where the lawful pathway is safe and credible). It should be understood whether referrals will put victims (and their families) at risk of further harm.

Example: The Gangmasters and Labour Abuse Authority (GLAA) in the UK's mandate is to protect vulnerable and exploited workers. This is accomplished through a licensing regime as well as inspections and prosecutions. The GLAA can receive referrals and reports on suspected cases of modern slavery and has clear commitments to confidentiality and protecting sources of information.

- **Referral to independent worker representatives or experts:** If it is not viable to refer to the authorities because of inadequate mechanisms or because they have caused or contributed to the case, or where a company's corrective actions would be inadequate, the case should be referred to workers' representatives and/or experts to act on their behalf. Before making the referral, it is important to assess third-party experts and organisations to understand their capacities and potential role.

Example: In response to modern slavery risks in its Thai prawn supply chain, highlighted through a number of NGO and media campaigns, UK supermarket retailer Tesco partnered with the Issara Institute, which specialises in forced labour in the region. Tesco is one of many retail brands and food suppliers that have partnered with Issara to jointly improve leverage over lower-tier suppliers to influence change. In Tesco's case, through the Issara Institute, it ensured that migrant workers had access to the Issara Institute's multilingual helpline. Through the helpline, Tesco was able to remedy a number of cases.

- **Rehabilitation and material support:** Rehabilitation should be tailored to the needs of the victim and could include stipends, housing support, legal assistance, medical care, psychological support or other assistance that the victim may not be able to access on their own.

- **Restitution or compensation**

Steps should be taken to either compensate the victim or restore their situation to before their ordeal took place, including if possible:

- reimbursement of recruitment fees or illegal deposits
- compensation for lost wages or illegal wage deductions
- compensation for pain and suffering endured, and
- assistance with repatriation, if desired.

Further resources

CDC Good Practice Note, esp. Tool 5.

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6.2 Report on your modern slavery risk management efforts

Discussion

Reporting on your modern slavery risk management efforts is both a statutory obligation for covered entities, and a means to ensure the effectiveness of due diligence efforts both at the entity level, and across NSW public buying as a whole. Effective and efficient reporting will ensure that both risks and risk management responses are clearly and transparently communicated, which will in turn help to ensure that effective practice is more easily identified and promoted.

Hallmarks of Best Practice

- The entity reports annually as required by its statutory obligations, and submits a copy of its annual reporting information using the online template provided by the Office of the Anti-slavery Commissioner – see *Appendix K GRS Annual Reporting Template*.
- From 1 July 2024 onwards, the entity reports details of each Heightened MSDD procurement transaction with a value of AU \$150,000 (including GST) or more within 45 days of the procurement contract or other agreement coming into effect. These details are to be submitted through the online form which will be developed in 2024 by the Office of the Anti-slavery Commissioner – see *Appendix L Heightened MSDD reporting*.

Considerations

Annual reporting

The legislative provisions in relation to the timing and content of publication of annual modern slavery reporting information differ depending on the type of covered entity (see further information at *Appendix E Which entities are covered?*). Entities should carefully review their relevant legislative provisions to confirm their obligations and seek legal advice if required.

Annual reporting is distinct from transactional reporting of Heightened modern slavery due diligence transactions, which commences on 1 July 2024 (see below).

Figure 53 Can entities report jointly?

The *Modern Slavery Act 2018 (NSW)* does not provide for joint or group reporting (in the same way as the *Commonwealth Modern Slavery Act 2018* does). Each individual covered entity must satisfy its own due diligence and reporting obligations. At the same time, however, individual entities could develop a joint modern slavery report or statement which is then incorporated into their formal reporting by reference. Collaboration to effectively address modern slavery risks is generally encouraged by this Guidance. Yet such a joint report would nonetheless need to adhere to this Guidance, in the sense that no entity should substitute another's discretion – or accountability – for its own, and in reporting relevant data.

You should timely submit required annual reporting. *Appendix K GRS Annual Reporting Template* provides a template that you can use in preparing the modern slavery section of your annual report, or as a stand-alone report. For reporting up to 31 December 2023, it can be used as inspiration for entities' reporting.

For reporting from 1 January 2024, entities should report in two places:

- 1. By including relevant information in the entity's formal annual report.

The GRS Annual Reporting Template provides a template that you can use in preparing the modern slavery section of your annual report, or as a stand-alone report.

- 2. Using the online GRS Annual Reporting Form.

The GRS Annual Reporting Form is an online form on the OASC website which allows covered entities to share data directly with the Office of the Anti-slavery Commissioner. You should complete and submit this form upon publishing your Annual Report.

For more information on how annual reporting obligations relate to the period between 1 July 2022 and 31 December 2023, see the *Implementation timeline* section earlier in this Guidance.

Transactional reporting of Heightened modern slavery due diligence transactions

From 1 July 2024, you should also file an online report about each contract your entity is a party to that:

- commences on or after 1 July 2024;
- has a value of AU \$150,000.00 (including GST) or more, and
- requires Heightened modern slavery due diligence on the GRS Due Diligence Level scale. (See Figure 16 GRS Due Diligence Levels.)

The online report must be submitted within **45 working days** after the contract becomes effective.

This will help provide a baseline for understanding the effectiveness of implementation of this Guidance in subsequent years.

Please note that:

- This requirement is separate from the annual reporting process. It applies to individual procurement activities, rather than actions taken throughout the reporting period.
- This requirement applies only to contracts and other obligations commencing on or after 1 July 2024.
- The Anti-slavery Commissioner will develop an online form for transactional reporting on Heightened modern slavery due diligence procurements.

Public Register

Note that the Commissioner is to publish an electronic register of government agencies failing to comply with directions of the NSW Procurement Board, and other information. This will include those entities failing to meet reporting obligations. This is discussed above, in the *Public register* section of the first Part of this Guidance, entitled 'About this Guidance'.

Further resources

UNGPS Reporting Framework; Global Reporting Initiative Standard 409: Forced or compulsory labour.

7

Improve

About this Part

This Part provides guidance on the reasonable steps that entities can take to improve the effectiveness of their modern slavery risk management efforts.

This may involve drawing lessons from grievance mechanisms and stakeholder feedback, engaging in staff training, and participating in collaborative learning processes.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
7 Improve		
7.1 Learn lessons from your performance and others'		
What steps did your entity take to learn lessons from your modern slavery performance and others' during this reporting period?	Describe steps taken	Mandatory
Has your entity updated its modern slavery policies or procedures based on stakeholder feedback or lessons from a grievance mechanism during this reporting period?	Yes / No	Mandatory
7.2 Train your workforce		
What steps did your entity take to train your workforce on modern slavery during this reporting period?	Describe steps taken	Mandatory
What percentage of your workforce received modern slavery training during this reporting period?	Percentage	Mandatory
7.3 Cooperate with the Anti-slavery Commissioner		
What steps did your entity take to cooperate with the Anti-slavery Commissioner during this reporting period?	Describe steps taken	Mandatory

7.1 Learn lessons from your performance and others'

Discussion

The development of effective modern slavery risk management capabilities at both the entity and system level in NSW will take time. Like any process of system change, it will require long-term commitment, resourcing and mindful effort.

In particular, it will require a deliberate effort by your entity to learn lessons from your own performance, and from feedback received via grievance mechanisms and from stakeholders, including suppliers.

These lessons should be systematically and periodically identified – for example through an annual entity-wide modern slavery performance review. This could be conducted by the same cross-functional group involved in developing and sponsoring your entity's Modern Slavery Policy and Modern Slavery Risk Management Plan. Lessons identified should be learned, and then reflected through improvements to the Policy and Risk Management Plan.

You can accelerate your capability development by learning lessons from others. You should encourage participation by relevant personnel in peer learning opportunities.

Hallmarks of Best Practice

- The entity draws on information from its own grievance mechanisms and stakeholder engagement to inform the early identification and mitigation of risks to people and to continuously improve its due diligence processes.
- The entity discloses progress towards at least its high-level targets, including explanations of any setbacks and resulting changes in strategy.

Further resources

ISO 20400:2017 section 7.6

KPMG and OASC, Public Social Procurement: Social returns on global public social procurement initiatives and lessons for NSW's anti-slavery efforts (2023).

7.2 Train your workforce

Discussion

Your Modern Slavery Risk Management Plan should establish a timetable for relevant modern slavery awareness raising and training across your business units. Numerous civil society and commercial organisations now offer such training.

Training should not be limited to general awareness-raising. Where possible, training should ensure that individuals are being trained on the modern slavery risks that they are most likely to encounter, and suitable responses. Procurement officers should be trained not just on modern slavery in general, but on this Guidance specifically. And senior managers who have risk management responsibilities should be trained specifically on the concept of Heightened Modern Slavery Due Diligence and the related reporting and governance requirements set out earlier in this Guidance.

Your entity should also consider establishing professional development pathways within the organisation to ensure it has reliable and cost-effective access to modern slavery expertise across different functions and business units.

Figure 54 How will the Anti-slavery Commissioner support training?

The Office of the Anti-slavery Commissioner will provide materials and resources, including recorded webinars, to support you training your workforce. This will commence with training on this Guidance, which began in the last quarter of 2023.

You can also learn more about good practice in implementing this Guidance by attending the NSW Anti-slavery Forum. The first Forum will be held in 2024. One day of the Forum is always dedicated to peer learning amongst public and private sector organisations, with a particular focus on implementation of this Guidance and OASC Codes of Practice.

For more information, visit the Anti-slavery Commissioner's website at dcjnsw.info/antislaverycommissioner, or contact the Commissioner via GRS@dcj.nsw.gov.au

Further resources

OECD Due Diligence Guidance. UNGCNA Bite-size Learning Videos.

7.3 Cooperate with the Anti-slavery Commissioner

Discussion

Research conducted for the development of this Guidance has identified that social impact reforms to public procurement are more likely to succeed if a central hub is charged with promoting change, including by identifying lessons, disseminating them and working to secure their uptake. The NSW Anti-slavery Commissioner has been given statutory authority to drive and support system change in NSW public procurement.

NSW government agencies have a statutory duty of cooperation with the Anti-slavery Commissioner, including the obligation to share information and to provide reasonable assistance and support. (*Modern Slavery Act 2018 (NSW)* section 14).

The Anti-slavery Commissioner is charged with monitoring due diligence and government action, making recommendations to government agencies, promoting good practice in supply-chain management, and consulting with the NSW Procurement Board and Auditor-General on the effectiveness of due diligence undertaken by covered entities.

The Anti-slavery Commissioner will support covered entities' efforts to strengthen their due diligence in four ways:

- by receiving and monitoring reporting by covered entities. This will allow him to discharge various obligations, including to publish an electronic register of certain entities not meeting defined modern slavery risk management expectations (as discussed above in the 'Public register' section). In time, the Anti-slavery Commissioner may also be able to evaluate this reporting and provide feedback to covered entities.
- by supporting entities' access to information and training, including by maintaining the IRIT.
- by providing bespoke advice and support to covered entities, on demand, as they seek to manage modern slavery risks. The Commissioner is also empowered to make recommendations to government agencies about 'significant issues' in their operations.
- by regularly convening a two-day NSW Anti-slavery Forum. The Forum, which is discussed further in the NSW Anti-slavery Commissioner's Strategic Plan 2023-2026, will provide an opportunity for active community engagement, information sharing and learning, and development of new partnerships and practice arrangements. One of the two days at each Forum will focus on procurement and responsible business conduct.

Further resources

NSW Anti-slavery Commissioner's Strategic Plan 2023-2026, [Working Together for Real Freedom](#).

KPMG and OASC, Public Social Procurement: Social returns on global public social procurement initiatives and lessons for NSW's anti-slavery efforts (2023).



Tamworth Region Arts Advisory Committee (TRAAC) MINUTES

Thursday, 10 April 2025 at 5.00pm

Tamworth Regional Gallery, 466 Peel Street, Tamworth

Attendees:

Councillors

Cr Marc Sutherland Cr Ryan Brooke (Chair) Cr Charles Impy

Council Staff

<input type="checkbox"/> Peter Ross, Executive Manager Creative Communities and Experiences	<input type="checkbox"/> Bridget Guthrie, Director Art Gallery and Museums	<input type="checkbox"/> Roz Pappalardo, Manager Entertainment Venues
<input type="checkbox"/> Janelle McKenzie, Associate Producer, Entertainment Venues	<input type="checkbox"/> Karlee Cole, Manager, Marketing and Communications	<input type="checkbox"/> Brianna Learmonth, Business Support Officer, Creative Communities & Experiences (minute taker)

Committee Members

<input type="checkbox"/> Andrew Wright	<input type="checkbox"/> Cherie Gaites	<input type="checkbox"/> Daniel Gillett
<input type="checkbox"/> Jen Avery	<input type="checkbox"/> Jodie Crosby	<input type="checkbox"/> John Hyde
<input type="checkbox"/> Judy Coates	<input type="checkbox"/> Katherine Harvey	<input type="checkbox"/> Miles Cantwell
<input type="checkbox"/> Shaza Butler		

Guests

<input type="checkbox"/> Lucy White	<input type="checkbox"/> Issac Whitten	<input type="checkbox"/> Miranda Heckenberg
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Meeting to commence by the Woman, Life, Freedom mural in the Library/Gallery laneway.

1. Welcome

Meeting opened by Cr Ryan Brooke, Chair at 5.03pm.

2. Welcome/Acknowledgment of Country

I would like to acknowledge the Gamaroai/Kamaroai people, who are the traditional custodians of this land. I would also like to pay respect to Elders past and present and extend that respect to other Aboriginal people present here today.

3. Apologies

Apologies received from Cr Marc Sutherland.

RESOLUTION

That the apologies received for this meeting be noted and accepted.

Moved: Judy Coates

Seconded: Cr Charles Impy

4. Acceptance of Notes from Previous Meeting

The Minutes of the meeting held on Thursday, 4 July 2024 are attached, refer **ANNEXURE 1**.

RESOLUTION

That the Tamworth Region Arts Advisory Committee accepts the notes of the informal meeting held 4 July 2024, as a true and accurate record of the meeting.

Moved: Daniel Gillett

Seconded: Judy Coates

5. Matters arising from the Minutes (Actions)

- No matters arising

6. Agenda Items for Discussion

6.1 Introductions – All Committee Members

- Participants introduced themselves, emphasizing their roles in arts, tourism, and community engagement.

6.2 Special introduction/ welcome to Roz Pappalardo

6.3 Guest Speaker – Lucy White – Destination Country Outback

- Lucy White presented a talk highlighting the importance of enhancing visitor experiences and promoting cultural tourism to boost the local economy.
- Data was presented on the visitor economy, highlighting the potential for growth by converting day visitors into overnight stays.
- The conversation also explored the role of storytelling and adapting products to target markets, with a focus on successful influencer marketing at the Tamworth Country Music Festival.
- The Visitor Experience Event organised by Destination Country Outback happened in Tamworth this year, called “24 Hours in Tamworth”.

6.4 Guest Speaker – Issac Whitten, PLAYSTATE

- Issac introduced the company Playstate, run with business partner Jordan Lucky, giving a history of their inception.
- Playstate creates murals that are a mix of realism, native flora & fauna and surrealist pops of colour.

- Jordan and Isaac will go to Manilla to receive feedback from the community on the mural themed "Overhead and Underneath", funded from the Regional Arts Fund grant.
- Isaac also highlighted the impact on murals in the community, creating a safer more cared for environment.

6.5 Public art update and Mural Decommission

- Five ongoing public art projects are currently underway in the region such as the Manilla Mural. This grant has been received and work will be completed in 2025.
- SES has approached with funding for a large-scale mural. This project has the potential to support the public art trail from Tamworth to Barraba. The Attunga water tower is being scouted as a potential location.
- Description from SES for mural: *Tamworth, is a town rich in history and cultural significance and to mark the NSW State Emergency Service's 70th anniversary milestone, we propose the creation of a captivating and meaningful artwork on one of Tamworth's iconic silos or water towers, transforming it into a stunning visual symbol that represents the spirit, heritage, and vibrant community of the town and also of our rural and regional SES volunteers. The people behind the iconic orange overalls are what makes the NSW SES such a special emergency service to volunteer for. We would like this captured in the artwork. Including a scene depicting a flood or storm showcasing SES in a flood boat supporting local community members.*
- Playstate will produce their own design as a potential artwork for the SES mural on the Attunga Water Tower or another alternative location approved by the SES.
- Arts Northwest is mapping public artworks across all 11 LGAs they service
- Miranda and Daniel gave an update on the New England Sculpture Track (NEST). This included receiving artwork from a closing down public sculpture park in Victoria for Bendemeer.
- Arts North West has worked with TRC to apply for a Regional Development Infrastructure grant for repairs to the Bendemeer riverside area, where the public artworks are proposed to be located for both safety and aesthetic reasons.
- Bridget provided an update regarding the organisation's public art policy that now includes provisions for decommissioning artwork that has deteriorated beyond reasonable maintenance or poses safety risks.
- A mural by Angus Nivison, showing significant paint loss and fading, has been identified for decommissioning with the artist's full support. With committee approval, they propose exploring alternative mural designs for the site, including potentially commissioning the original artist's son.
- The original art work drawings by Angus Nivison are in the galleries collection and could be potentially used to tell a story in that space.

RESOLUTION

Tamworth Region Arts Advisory Committee recommend investigating the decommissioning of Angus Nivison's aging mural on Fitzroy Street and the recommissioning of further artwork in that space.

Moved: Daniel Gillett

Seconded: Cr Charles Impy

RESOLUTION

Tamworth Region Arts Advisory Committee recommend investigating the Attunga water tower or alternative options for a large-scale SES mural as part of the public art trail.

Moved: Bridget Guthrie **Seconded:** Jodie Crosby

6.6 Accessibility in all forms of entertainment offered in our region – Katherine Harvey

- Recommendations to enhance accessibility for patrons with diverse needs include offering reduced sensory performances, providing advance information, facilitating pre-show venue orientations, implementing audio description services, and incorporating signed interpretation.
- TRC has previously incorporated accessibility measures such as Sensorium Theatre's "Wonderbox", sign language interpretation, and on-screen captioning, though implementation challenges primarily involve financial constraints and accessing qualified personnel.

RESOLUTION

Tamworth Region Arts Advisory Committee recommend investigating options for making local theatre productions, events, public programs and exhibitions more accessible for people with disabilities, collaborating with the Disability Access Working Group, researching potential funding opportunities, and reporting findings at a future meeting.

Moved: Cr Charles Impy **Seconded:** Judy Coates

7. Standing Reports

7.1 Entertainment Venues – Verbal report.

- Strong ticket sales across all venues for Q1 2025: 28,000 tickets sold (55% capacity)
- Local engagement is strong, with performances by 2340 Big Band, Tamworth Dramatic Society, Logan's Gold, sold-out Frozen Junior shows, all-local production The Rest is Silence and In The Raw.
- The Very Hungry Caterpillar children's show has drawn strong audiences, with 600 tickets already sold for July.
- The laneway next to the town hall will be open 1 hour before every show to encourage audiences to engage with the arts experience.
- Tamworth Country Music Festival 2025 venue attendance increased by 7,000 from last year.
- TRECC hosted major festival shows including Suzie Quatro, John Williamson, and Golden Guitar Awards with conferences and potential national bookings planned.
- Upcoming programming features Opera Queensland, Belvoir Street Theatre, Australian Ballet, and Melbourne Comedy Roadshow.
- Local upcoming productions include Legally Blonde The Musical, 2340 Big Band, Tamworth Clarinet choir, O'Grady Drama and a new Saturday Night Social dance initiative launches soon.

7.2 Gallery and Museums – Verbal report.

- The exhibition *Overhead and Underneath* is opening, it features 23 artists, 12 from the New England North West region and is funded through a Regional Arts Fund.

- A touring exhibition *The Good* by Anna Louise Richardson featuring charcoal and graphite drawings with a regional focus is opening and will later travel to other galleries on the exhibition tour.
- In the museum space we are preparing for the Heritage Festival in late April and early May, including a refresh of the Australian Country Music Hall of Fame foyer exhibition.
- Public programs are planned with details available on the TRC website under the heritage festival.
- The Friends of the Gallery will hold a silent auction fundraiser from the 20–29 June to raise money for purchasing artworks for the gallery's collection.

8. General Business

- Transport NSW has declared Jack Smith Drive's median strip a safety hazard, with council receiving funding for safety railing installation requiring vegetation removal.
- The central roundabout was suggested as a potential public artwork location.
- It is important to note previous experience with Transport NSW resulted in a rejected roundabout artwork after significant investment, damaging council reputation and artist relationships.
- Committee is hesitant to pursue artwork without Transport NSW guarantees. The available timeline is also too short for adequate planning.
- Submissions for Tamworth SEP are currently being received.
- Private land offered with 99-year free lease for public art installation. Arrangement considered acceptable with proper agreements in place.

9. Date of Next Meeting Thursday 03 July 2025

10. Meeting Closed

Meeting closed by Cr Ryan Brooke as Chair at 7.05pm.