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Joint Standing Committee on Foreign Affairs, Defence and Trade
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INQUIRY INTO ESTABLISHING A MODERN SLAVERY ACT IN AUSTRALIA

BHP welcomes the opportunity to make a submission to the Inquiry into establishing a Modern Slavery Act in Australia. BHP is committed to upholding ethical business practices with respect to its employees, contractors and suppliers, regardless of location or role.

BHP supports the heightened focus on businesses' role in the eradication of modern slavery created by the new reporting requirement under the UK Modern Slavery Act. We would be supportive of similar efforts in Australia to increase transparency around companies' practices in relation to eliminating all forms of modern slavery, including forced labour and human trafficking, from their supply chains and any part of their own business.

In this submission, we:

- Discuss our approach to upholding ethical business practices and respecting human rights, both in our own operations and amongst our suppliers;
- Provide details about meeting our reporting obligations under the UK Modern Slavery Act, and subsequent activities; and
- Outline our position on introducing a framework for corporate reporting under a Modern Slavery Act in Australia.

Our approach

BHP believes that respect for human rights is critical to the sustainability of our business, and commits to operating to the highest standards of business integrity in relation to human rights. Our Board governs the Company and oversees our sustainability approach. A Board Sustainability Committee assists the Board in overseeing health, safety, environment and community matters, including human rights.

Sustainability is one of the core values in Our BHP Charter, and our commitments to respecting human rights through ethical business practices are reflected in the BHP Code of Business Conduct. This Code requires the human rights implications of all of our activities to be considered, and for due diligence to be undertaken on our partners and contractors to assess their alignment with human rights.

The Code specifically prohibits the use of suppliers who use child or forced labour or physical punishment to discipline employees, and requires members of the BHP workforce to report any evidence of child or forced labour, or the inhumane treatment of employees, in our operations or those linked to our Company. All BHP assets are required to conduct and periodically review a Human Rights Impact Assessment to identify and address key potential human rights risk areas relevant to the extractives sector, including forced and child labour.

In addition to the mandatory human rights performance requirements associated with BHP's own operations, the global standards set out in *Our Requirements for Supply* standard provide a commercial framework for engaging with suppliers of goods and services that is aligned with our Charter values and ethical practices. These standards include a zero tolerance requirement for child labour and forced or compulsory labour practices in our suppliers, and set out mandatory minimum standards for business conduct in relation to other workplace conditions, such as a living wage, non-discrimination and diversity, freedom of association, health and safety, and treating employees with dignity and respect.

Please refer to our FY16 [Sustainability Report](#), particularly the 'Realising and respecting human rights' section at pages 46-49, for more information.

UK obligations

The UK *Modern Slavery Act 2015* requires companies with a global turnover of more than £36 million that carry on business and supply goods or services in the UK to publish an annual statement that describes steps taken to ensure that slavery and human trafficking are not occurring in any part of their business or supply chain. In 2016, BHP published its first [annual statement](#) to meet the Company's obligations under the Act. The statement describes our global supply chain, sustainability governance and policy, standards for our own operations and for suppliers, and training, assessment and reporting mechanisms.

Our 2016 statement also notes that as part of BHP's commitment to continued improvement in our human rights performance, a review of the Company's human rights-related policy and practice will occur in FY2017. This internal review is currently underway, with practices to prevent modern slavery in our global supply chain forming an important part of the review.

A Modern Slavery Act in Australia

BHP believes there is value in creating transparency around corporate efforts to respect human rights, including specific practices to prevent modern slavery, both in companies' operations and throughout their global supply chains. This belief is consistent with our commitment to enhance transparency across our business (including through our *Economic contributions and payments to governments Report* and our *Climate Change Portfolio Analysis*) and our work with leading organisations to advance transparency and disclosure in the extractives sector in the fight against corruption.

We believe that the introduction of a framework for corporate reporting under a Modern Slavery Act in Australia could further enhance transparency in company activities. Increased transparency can be a powerful driver towards improving practice in many fields, particularly where this transparency drives improved performance over time.

In this context, BHP would be supportive of a framework that encourages annual public reporting and steps taken during the financial year to ensure that modern slavery is not taking place in Australian-listed businesses' operations and supply chains.

However, it is essential that any new requirement to report be closely aligned with the requirements in the UK Modern Slavery Act, to ensure consistency and avoid the inefficiency of different approaches for companies with global operations across multiple jurisdictions. This would aid the ability of end users of the reported data to compare performance on a like for like basis and would avoid the risk that multiple reporting frameworks would distract companies from the core task of preventing modern slavery practices. Alignment should include the recommended content, internal approvals, method, regularity, and deadline for reporting

In addition, there are several areas in which BHP would support a progression from the current approach in the UK:

- We believe that should the Australian Government establish a legislative framework for corporate reporting in relation to modern slavery, it would be helpful to outline the minimum expected content for an annual statement. This would be consistent with the UK Act's guidance material (which includes suggestions but does not mandate content beyond a requirement to report on what a company has done in the relevant financial year) and would encourage more consistent and comparable reporting between companies. It would be important, however, that the recommended level of content is appropriately high level and would allow a company to omit an element provided it explained why it was not applicable or not possible to disclose;
- We would also support greater clarity around the particular corporate entities subject to any new Australian legislation, and make it clear that a parent entity can report on behalf of its group entities; and
- Similarly, we would support an official government registry of all statements as part of any Australian reporting regime. This might reasonably substitute for the UK Modern Slavery Act's requirement that companies publish statements on their own websites, prominently linked from the homepage, which will become increasingly cumbersome and impractical as reporting requirements multiply across jurisdictions.

BHP acknowledges that some interested parties would like to see a statutory due diligence requirement included in any anti-modern slavery legislation introduced in Australia. There is no such provision in the UK Modern Slavery Act. BHP's position is that while due diligence is a key tool for a company to use to identify and mitigate its potential adverse human rights impacts, each company is best placed to determine what is practicable and most effective in the context of its particular structures and commercial arrangements.

Further, we observe that it can be a difficult, inefficient and potentially unreliable exercise for a company to undertake detailed investigations into the operations and activities of its suppliers, particularly in relation to Tier 2 and 3 suppliers.

We therefore encourage the Inquiry to consider opportunities for the Australian Government to facilitate collective approaches to tackling modern slavery across industry, regional governments and civil society. There could be a role for government, in consultation with industry, to publish best practice guidelines and provide tools that companies could use in their internal practices. This could also assist in ensuring that companies have consistent processes and standards when it comes to verifying whether suppliers meet ethical requirements in relation to slavery and human trafficking, minimising the compliance burden for those suppliers and maximising the impact of company expectations.

BHP would welcome the opportunity to further discuss our approach and position with the Committee. Please do not hesitate to contact Nick Park by email at _____ or phone on _____ should you have any questions.

Regards,

Tony Cudmore
Group Sustainability & Public Policy Officer