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***Commitment gaps:***  
**A human rights assessment  
of top Australian companies**

**Georgette Haddad, Hayley Jago and Surya Deva**

**February 2025**

# Acknowledgment of Country

We acknowledge the Traditional Custodians of the land on which Macquarie University stands, the Wallumattagal Clan of the Dharug Nation, whose cultures and customs have nurtured, and continue to nurture, this land since time immemorial. We pay our respects to the Elders, past and present.

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# Executive summary

This report assesses the commitment of top 25 companies listed on the Australian Stock Exchange (ASX) to respect human rights in line with the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs are recognised as the authoritative global standard to identify, prevent and address business-related adverse impacts on human rights. The UNGPs expect all business enterprises, including companies, to conduct human rights due diligence on an ongoing basis.

As the Australian government seeks to strengthen its modern slavery regime and large companies in all world regions are preparing to comply with mandatory human rights due diligence legislation in Europe, this report provides leading Australian companies with an independent and timely assessment of the extent to which their operations align with the UNGPs. It is hoped that the report will offer these Australian companies an opportunity to identify gaps and pathways to strengthen their policies, processes and practices to become leaders in the field.

The report applies the World Benchmarking Alliance's Corporate Human Rights Benchmark (CHRB) Core UNGP Indicators methodology to make this assessment. The Core UNGP Indicators methodology categorises its 12 indicators into three broad themes: (i) policy commitments to respect human rights, (ii) embedding respect through ongoing human rights due diligence, and (iii) enabling accessible remedies and grievance mechanisms for workers and external individuals and communities. By reviewing the publicly available documents of companies in these areas, the report assesses how the assessed companies have been managing human rights risks in their operations and business relationships in line with the UNGPs.

Clear, direct and unambiguous commitments to human rights and the integration of these commitments in publicly available policies and processes was fundamental to satisfying the indicators and in turn gaining scores in accordance with the CHRB methodology.

Taking the ASX's public list of the top 50 companies in Australia by market capitalisation as a starting point, we excluded companies that had previously been assessed by the World Benchmarking Alliance and then selected the top 25 companies from this list of the remaining companies across a variety of industries. This selection methodology ensured that the companies were chosen in an objective and impartial way.

From our assessment, we found that:

- **None of the assessed companies are fully embedding their responsibility to respect human rights under the UNGPs.** All companies scored 0 in at least one indicator, with the highest scoring company meeting only one-third of all requirements under all the themes.
- **More than half of the assessed companies (15 out of 25) make explicit commitments to respect human rights** in publicly available policy documents. There are significantly fewer companies in our sample that maintain publicly available commitments to respect the human rights of workers in line with the ILO Declaration of Fundamental Principles and Rights at Work or to remediate adverse impacts that they have caused or contributed to. No company expressed a commitment to cooperate with judicial or non-judicial mechanisms or to work with suppliers to assist the remediation of adverse impacts directly linked to its operations.
- **Disclosure of human rights due diligence processes by Australian companies is severely lacking,** with Theme B (embedding respect through ongoing human rights due diligence) having the lowest average score of 0.58 out of 12. No company outlined all the internal processes expected by the UNGPs to identify, prevent, mitigate and remediate human rights risks. Most companies described elements of their modern slavery due diligence process as part of mandatory modern slavery statements. However, modern slavery is only a subset of human rights, alone not being sufficient to award scores in many indicators unless specifically listed as a salient human rights issue.
- **No company described how it engages with affected stakeholders in the four stages of the human rights due diligence process.** This includes the identification and assessment of human rights risks, the decision-making process to determine the company's response to its salient human rights issues and evaluations of whether these actions have been effective. Many companies provided general information on how they engages with stakeholders but they were not specific to either the affected stakeholders or to the stage of human rights due diligence.

- **All assessed companies maintain either their own grievance mechanism or participate in a third-party mechanism for their workers to report concerns broad enough to include human rights.** Twelve companies ensure accessibility of the mechanism through awareness and multilingualism. Ten of the assessed companies provide a grievance mechanism for external individuals and communities to raise complaints or concerns, two of which ensure accessibility in some manner. Only one company described its approach to enabling timely remedy for victims where a human rights impact was identified, with none describing how systems, processes or procedures would change to prevent similar adverse impacts.

The report recommends that Australian companies, including those listed on the ASX, take the following steps to operate in line with the UNGPs:

- Make a clear and specific public commitment to respect all internationally recognised human rights (including labour rights and environmental rights) and assign the responsibility to continuously monitor and update human rights commitments to top management.
- Move away from the legal compliance mindset and extend their attention beyond modern slavery.
- Internalise the human rights due diligence process across their operations, including by developing internal expertise and assigning adequate resources to the relevant teams.
- Show the courage to communicate with external stakeholders how they address human rights concerns identified through their own processes or raised by or on behalf of affected stakeholders.
- Engage meaningfully all relevant stakeholders (including affected rightsholders) at all four stages of human rights due diligence.
- Lead by example in respecting human rights throughout their global operations, rather than passing the compliance burden of respecting human rights onto their business partners and suppliers.
- Ensure that access to effective remedy is available not only to workers but also to all external individuals and communities who may be affected by adverse human rights impacts that they have caused or contributed to.

Considering that governments have a key role under the UNGPs in ensuring that companies respect human rights, the report recommends that the Australian government introduce legislation to require large companies to conduct human rights due diligence to identify, prevent, mitigate and remediate adverse human rights impacts. A regulatory framework for human rights beyond modern slavery will ensure that Australian companies take seriously their responsibility to respect all internationally recognised human rights wherever they operate. The government should also introduce a range of incentives and disincentives to promote responsible business conduct, and strengthen access to remedy pathways for rightsholders, especially for those affected by overseas operations of Australian companies.



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# I. Introduction

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**COMMITMENT GAPS: A HUMAN RIGHTS ASSESSMENT  
OF TOP AUSTRALIAN COMPANIES**



Businesses all over the world are increasingly expected to go beyond profit maximisation. They are expected to earn ‘profit with principles’ – that is, internalising the responsibility to respect human rights throughout their operations. The United Nations Guiding Principles on Business and Human Rights (UNGPs),<sup>1</sup> endorsed by the Human Rights Council in June 2011,<sup>2</sup> solidify these expectations in an authoritative way. The UNGPs provide a blueprint to identify, prevent, mitigate and remediate business-related adverse human rights impacts. This blueprint envisages an independent but complementary role for both states and businesses: states have a duty to protect against human rights abuses by third parties, including businesses (Pillar I); businesses have a responsibility to respect all internationally recognised human rights (Pillar II); and both states and businesses have a role to play in ensuring access to effective remedies through judicial and non-judicial mechanisms (Pillar III).

Human rights due diligence is the key ‘knowing and showing’ process proposed by the UNGPs to enable businesses to discharge their responsibility to respect human rights. It is an ongoing four step-process: identify and assess any actual or potential adverse human rights impacts; integrate the findings from impact assessments into internal functions and processes; track the effectiveness of responses; and communicate externally to stakeholders how they address their adverse human rights impacts. Businesses should also make a policy commitment to respect human rights and put in place mechanisms to enable the remediation of any adverse human rights impacts that they have caused or contributed to.

In the last one decade, several states have taken steps to add teeth to the soft expectation of the UNGPs. They have done so in a range of ways – by enacting modern slavery laws (Australia, Canada and the United Kingdom), banning import of goods produced or manufactured by forced labour (the United States), and introducing mandatory human rights due diligence laws (France, Germany, Norway and Switzerland).<sup>3</sup> In 2024, the European Union adopted the Corporate Sustainability Due Diligence Directive.<sup>4</sup>

How are large Australian companies meeting their responsibility to respect human rights in line with the UNGPs? Are they ready to comply with European mandatory human rights due diligence requirements? Previous studies, for example, have assessed how the covered Australian companies have complied with the Modern Slavery Act.<sup>5</sup> This report not only complements such studies but also extends the scope of assessment beyond modern slavery.

By assessing the commitment of top 25 companies listed on the Australian Stock Exchange (ASX) to respect all human rights, this report fills an important gap in our understanding about the extent to which large Australian companies are operating in line with international standards such as the UNGPs.

The report applies the Corporate Human Rights Benchmark (CHRB) Core UNGP Indicators methodology of the World Benchmarking Alliance (WBA) to make this assessment.<sup>6</sup> The Core UNGP Indicators methodology categorises its 12 indicators into three broad themes: **(i) governance and policy commitments**, **(ii) embedding respect and human rights due diligence**, and **(iii) remedies and grievance mechanisms**. By reviewing the publicly available documents of companies in these areas, the report assesses how the assessed companies have been managing human rights risks in their operations and business relationships in line with the UNGPs.

We find that the ASX listed top 25 companies are failing to operate in line with the UNGPs. While more than half of the assessed companies (15 out of 25) make explicit commitments to respect human rights in publicly available policy documents, most companies falter in disclosing their human rights due diligence processes. Nor do they describe how they engage with affected stakeholders in the four stages of the human rights due diligence process. Our assessment also finds only 10 of 25 assessed companies provide a remedial mechanism for external individual and communities to raise human rights complaints.

The report is timely because the Australian government seeks to strengthen its modern slavery regime<sup>7</sup> and large companies in all world regions are preparing to comply with mandatory human rights due diligence legislation in Europe. The findings of the assessment undertaken in this report should be relevant not only for large Australian companies but also for the government and other stakeholders such as investors, consumers, policy makers, civil society organisations, trade unions, academics and lawyers.

**Part II** of the report outlines the methodology adopted to carry out this assessment. It also acknowledges the limitations of the study. The main findings – both overall and for each indicator – are explained in **Part III** of the report. **Part IV** of the report offers insights into the key trends discernible from our assessment of ASX listed top 25 companies' commitment to respect human rights. These trends should be relevant not only for all ASX listed companies. The report concludes in **Part V** with specific recommendations for a range of stakeholders.

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## II. Methodology

**COMMITMENT GAPS: A HUMAN RIGHTS ASSESSMENT  
OF TOP AUSTRALIAN COMPANIES**

## CHRB Core UNGP Indicators methodology

To assess the commitment of the chosen 25 companies to respect human rights, this report uses the CHRB Core UNGP Indicators methodology. These indicators are a subset of the full CHRB methodology, which provides a deeper evaluation of companies in specific high-risk sectors for adverse human rights impacts.<sup>8</sup> The Core UNGP Indicators provide a useful snapshot of how companies manage – in line with the expectations set out by the UNGPs – human rights risks in their operations and business relationships, including supply chains.<sup>9</sup>

This assessment uses the Core UNGP Indicators methodology published by the WBA in 2021. While the WBA published an updated version of the CHRB Core UNGP Indicators methodology in November 2024,<sup>10</sup> it was not finalised at the time of our review of company documents between April 2024 and September 2024.

The 12 Core UNGP Indicators are divided into three broad themes. These include making high level policy commitments to respect human rights, embedding respect through ongoing human rights due diligence, and offering accessible remedies and grievance mechanisms for workers and external individuals and communities.

The requirements to meet each indicator are separated into two distinct scores, Score 1 and Score 2.<sup>11</sup> Companies are able to score zero, one or two points on an indicator depending on how it satisfies the respective requirements. The Core UNGP Indicators methodology operates under a gated scoring system, where a company must fulfil all requirements of Score 1 to obtain a full score for Score 2. Where a score contains multiple requirements, these all must be satisfied to obtain a full point, but companies can obtain a half point where some requirements are met.

For Score 2, 0.5 points can be scored where the company meets some or none of the Score 1 requirements but some or all requirements of Score 2.<sup>12</sup> This was a key development by the WBA introduced in 2018 to give credit to companies meeting at least some requirements of Score 2 despite not fully meeting Score 1 and more accurately rank their performance.<sup>13</sup> However, companies are still unable to score 1.5 or 2 in an indicator where all the requirements of Score 1 are not satisfied, reflecting the nature of Score 2 as an extension of the basic requirements outlined in Score 1.

The assessment of companies against the Core UNGP Indicators is made exclusively with reference to publicly available information, including reports made available on the company's websites and various forms of financial and non-financial reporting.<sup>14</sup> We exclude annually produced documents when assessing whether companies made policy commitments under the Theme A (governance and policy commitments) indicators, as they cannot indicate long-term commitments for any indicators. Additionally, only the most recent iteration of annually produced documents was considered. This is because older annual reports, modern slavery statements and other such documents are superseded by the release of new versions with updated and current information.

Moreover, all other document types must be less than three years old.<sup>15</sup> Documents which are older than three years cannot be used to reflect the company's current position or to indicate a continuous engagement with human rights due diligence. As internal information on the implementation and management of human rights within companies are excluded from this assessment, the results represent a proxy of human rights performance rather than an absolute measure.<sup>16</sup> The information used in the assessment was collected from April to September 2024.

## **Company selection**

This study assesses 25 companies on the Core UNGP Indicators methodology (see Annexure 1 for the list of these companies). These companies were selected from the ASX listed top 50 companies by market capitalisation. Market capitalisation provides a quantitative and objective measure of a company's value. Market capitalisation is also indicative of a company's capacity – financial and technical expertise – to conduct appropriate human rights due diligence. Such companies can allocate more resources to embed necessary policies and processes across their operations, departments and locations.

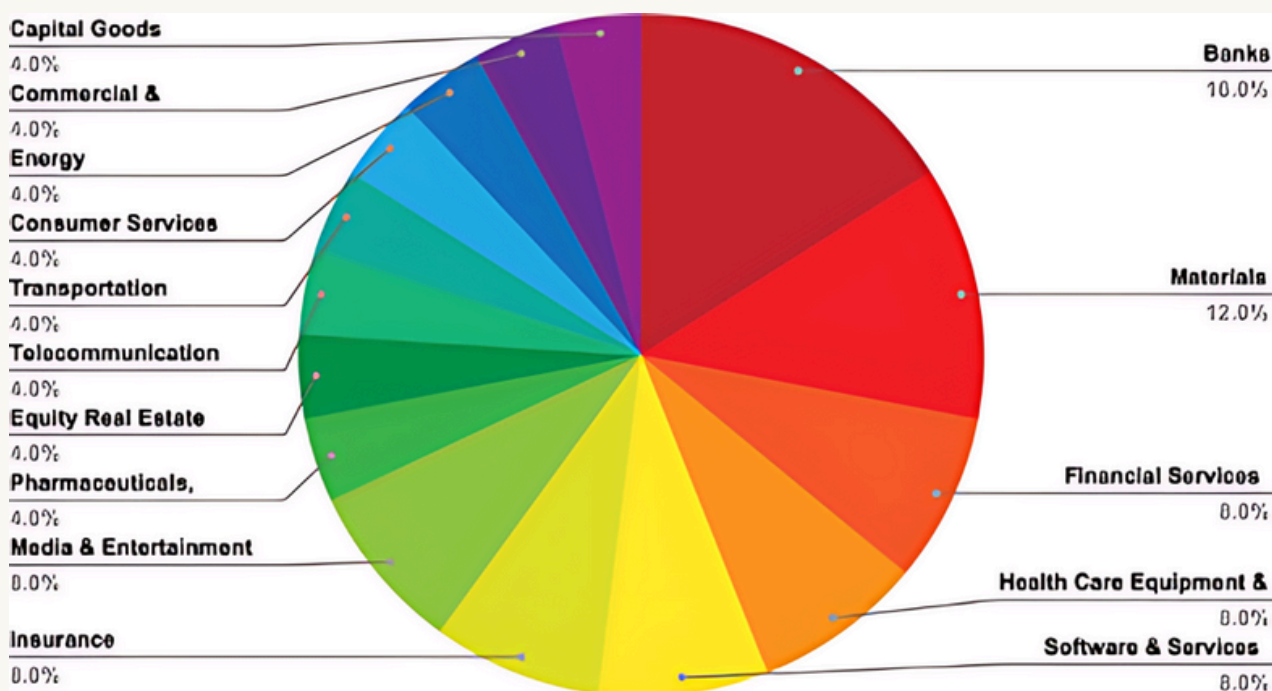
In selecting 25 companies from the ASX top 50, one consideration was whether to include companies that were previously benchmarked by the CHRB. Whilst considering previously evaluated companies would provide an opportunity to track any improvements or actions taken after the initial assessment, we decided to exclude these companies from the selection in order to expand the pool of assessed companies. Applying this criterion, the following companies previously assessed by the WBA were excluded: BHP, Coles, Woolworths, Woodside

Petroleum, Wesfarmers, Newmont Corporation and Rio Tinto. Other than these exclusions, no other manual decision was made to include or exclude any companies from the ASX top 50.

Another issue that we considered during the selection process was whether to include a subsidiary company when its parent company also featured in the top 25 list after above exclusions. There was one scenario of this type with the inclusion of REA Group and News Corporation (the former being a subsidiary of the latter). We decided to keep both companies because REA Group also owns multiple subsidiaries. Whilst there was an option to include public information from News Corporation in the assessment of REA Group, we decided not to consider this due to REA Group’s status as both a subsidiary and a parent company.

The number of assessed companies in this report is relatively fewer than the number of companies assessed by the CHRB. For example, the 2023 CHRB assessed 110 companies in the apparel and extractive industries.<sup>17</sup> However, as we assess only large Australian companies, the sample size is adequate to draw common findings and show trends. In the list of the assessed 25 companies, banks and materials appear more often but there remains significant diversity in the industries shown, with 15 different industries appearing in our sample (see *Figure 1*). As a result, the top 25 companies listed on the ASX by market capitalisation were selected without adjustment for industry diversity.

*Figure 1: Industry profile of selected companies*



## Assessment process

For consistency, the scores were cross-checked by a team of two researchers. Any discrepancies in scoring between the researchers were deliberated to come up with a draft assessment of each company. The draft scores as well as our reasoning were shared with all the assessed companies for feedback. More than half of companies (15 of 25) provided some feedback on their draft score and reasoning. We revised the scores and reasoning wherever there was a legitimate ground. In a couple of borderline cases, the authors sought the advice of the WBA and considered its advice in finalising our assessment.

It is important to note that this report only assesses what companies are stating publicly to show their commitment to respect human rights in the line with the UNGPs. We do not assess what companies do in practice, or whether companies are doing in practice what they are publicly committing to do. Although there is a correlation between a transparent disclosure of commitments to respect human rights and actual human rights performance, it cannot be ruled out that some companies might have additional internal policies and policies to identify, prevent, mitigate or remediate adverse human rights impacts. However, in accordance with the CHRB Core UNGP Indicators methodology, it was not possible to award score for commitments made in such internal and hence non-accessible documents. Moreover, clear and unambiguous language was required to meet each indicator.

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# III. Key findings

**COMMITMENT GAPS: A HUMAN RIGHTS ASSESSMENT  
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## Overview of scores

As each of the 12 Core UNGP Indicators have two separate scores (Score 1 and Score 2), 24 is the maximum score a company can be awarded. Where a score contains multiple requirements, these all must be satisfied to obtain a full point. Companies can obtain a half point where one or some requirements are met.

Table 1 provides the overall scores of all assessed 25 companies. It also provides a score for each of the three themes:

- **Theme A (governance and policy commitments);**
- **Theme B (embedding respect and human rights due diligence);** and
- **Theme C (remedies and grievance mechanisms).**

A supplementary report offers explanations for the scores assigned to each company for specific indicators.<sup>18</sup> Both reports should be read together for a full understanding of the assessment.

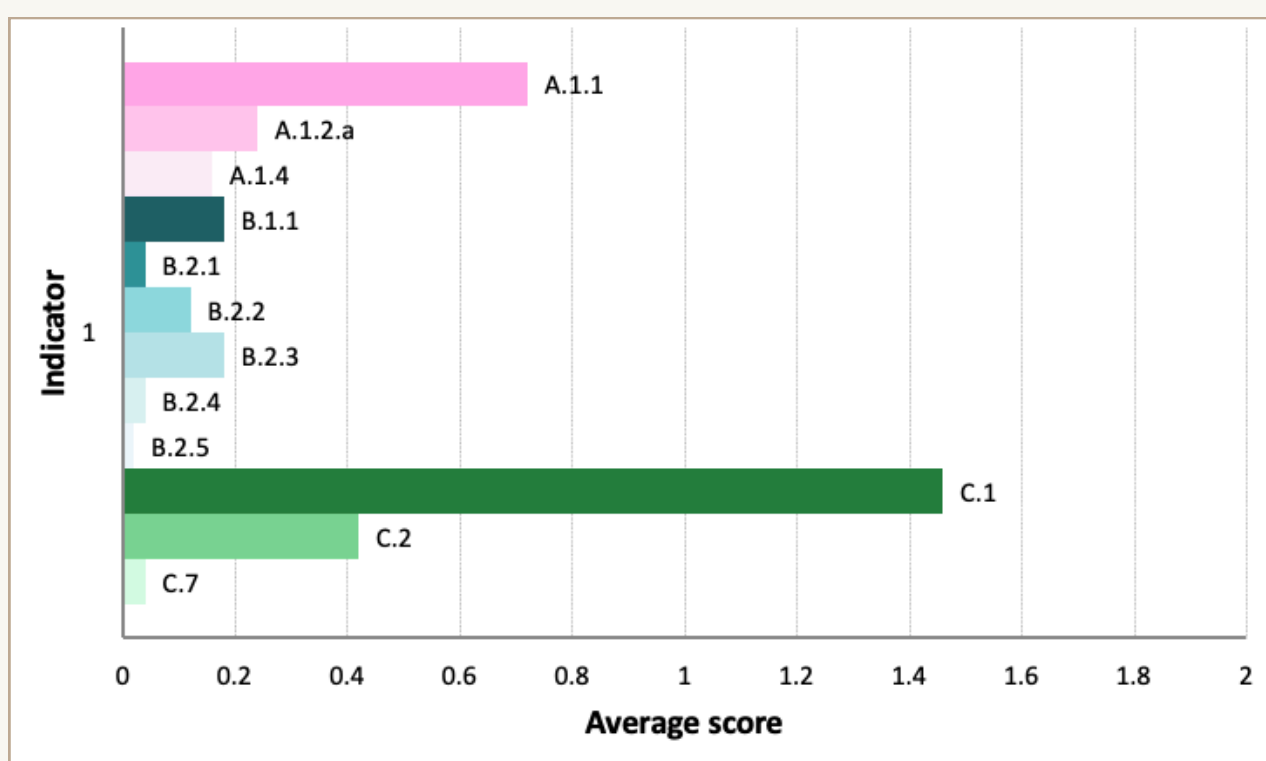
*Table 1: Company scores by theme and overall*

| <b>Company</b>   | <b>Theme A</b> | <b>Theme B</b> | <b>Theme C</b> | <b>Total (24)</b> |
|------------------|----------------|----------------|----------------|-------------------|
| NAB              | 3              | 2.5            | 2.5            | <b>8</b>          |
| Telstra          | 2              | 2              | 3.5            | <b>7.5</b>        |
| Fortescue        | 1.5            | 2.5            | 3.5            | <b>7.5</b>        |
| Westpac          | 2.5            | 1              | 2.5            | <b>6</b>          |
| QBE              | 3.5            | 0.5            | 1.5            | <b>5.5</b>        |
| ANZ              | 2              | 1              | 2.5            | <b>5.5</b>        |
| Wisetech         | 2.5            | 0              | 2              | <b>4.5</b>        |
| Santos           | 1              | 2              | 1              | <b>4</b>          |
| Transurban       | 2              | 0              | 1.5            | <b>3.5</b>        |
| James Hardie     | 1              | 1              | 1.5            | <b>3.5</b>        |
| Brambles         | 1.5            | 0              | 1.5            | <b>3</b>          |
| Macquarie        | 1.5            | 0              | 1.5            | <b>3</b>          |
| Suncorp          | 1.5            | 0              | 1.5            | <b>3</b>          |
| Cochlear         | 1              | 0              | 1.5            | <b>2.5</b>        |
| Xero             | 1              | 0              | 1.5            | <b>2.5</b>        |
| Aristocrat       | 0              | 1              | 1.5            | <b>2.5</b>        |
| Goodman          | 0              | 1              | 1.5            | <b>2.5</b>        |
| CSL              | 0              | 0              | 2.5            | <b>2.5</b>        |
| News Corporation | 0              | 0              | 2.5            | <b>2.5</b>        |
| Amcor            | 0              | 0              | 2.5            | <b>2.5</b>        |
| CBA              | 0.5            | 0              | 1.5            | <b>2</b>          |
| Block            | 0              | 0              | 2              | <b>2</b>          |
| REA Group        | 0              | 0              | 1.5            | <b>1.5</b>        |
| Reece            | 0              | 0              | 1.5            | <b>1.5</b>        |
| ResMed           | 0              | 0              | 1.5            | <b>1.5</b>        |

NAB achieved the highest total score in our assessment, with a score of 8 from a maximum of 24. Out of the nine companies with a total score of 2.5, only two met any requirements of the indicators in Theme B. ResMed, REA Group and Reece received their score of 1.5 solely from Theme C.

*Figure 2* depicts the average score obtained by companies for each indicator, while *Figure 3* shows the average score for each theme as well as the total average score.

*Figure 2: Average score by indicator*

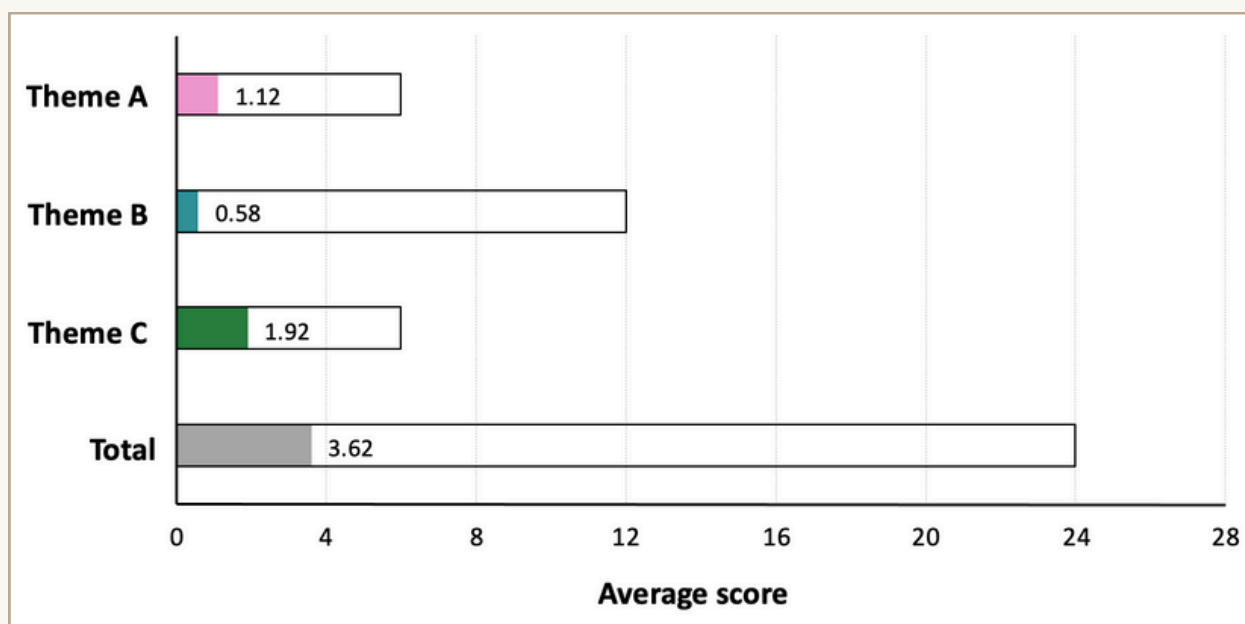


Indicator B.2.5 was the least successful indicator, with only one company (Santos) meeting part of the requirements of Score 1. This indicator requires companies to demonstrate communication to affected stakeholders through examples.

The second least successful indicators were B.2.1, B.2.4 and C.7. NAB was the only company to score in B.2.1 for identifying human rights risks as part of human rights due diligence. Telstra was the only company to partially meet the requirements of B.2.4, which requires companies to maintain systems of reviewing the effectiveness of its responses to human rights risks.

Except for A.1.1 and C.1, no company fully met the requirements of both scores for any indicator. A.1.1 requires commitments to respect human rights and international human rights documents. C.1 requires accessible mechanisms for workers and external individuals and communities respectively to report concerns about the company.

*Figure 3: Average scores by theme and the total average score*



As *Figure 3* shows, an average of 1.12 out of maximum 6 was scored across Theme A (governance and policy commitments). A.1.1 was the highest performing indicator in Theme A, relating to commitments to human rights and international human rights instruments, as shown in *Figure 2*.

The lowest average score was found in Theme B (embedding respect and human rights due diligence) with 0.58 out of the maximum score of 12, with most companies (15 out of 25) not scoring at all. Out of 10 scores awarded in the theme across all the indicators, none were a full score under a single indicator. As *Figure 2* shows, the highest performing indicators in Theme B were B.1.1 and B.2.3.

Out of the three themes, Theme C (remedies and grievance mechanisms) brought the highest average score of 3.6 out of a maximum 6 as displayed in *Figure 3*. This is largely due to all companies meeting the requirements of score 1 of C.1 by having a general grievance mechanism to accept complaints about the company.

In our assessment, no company received a full or partial score for C.2 (grievance mechanisms for external individuals and communities) without also meeting all the requirements of C.1 (grievance mechanisms for workers). These results show that companies were unlikely to maintain grievance mechanisms for external stakeholders and communities if they did not have a fully developed mechanism for their own workers as well as those in its the supply chain. A similar trend occurred with commitments to the ILO Declaration on Fundamental Principles and Rights at Work (ILO Declaration), where companies that met any of the requirements for A.1.2.a (commitment to respect the human rights of workers) also made sufficient commitments to more general human rights instruments under A.1.1.

## **Theme A: Governance and policy commitments**

Policy commitments are statements committing the company to respecting human rights that are approved at the highest level of business and communicated internally as well as externally.<sup>19</sup> Such policy commitments form a critical basis for companies to embed the responsibility to respect human rights in its core values and culture. With publicly available policy commitments to respect human rights, companies demonstrate to its staff, business relationships and the broader public that respect for human rights is critical for conducting business.

The criteria in Theme A (governance and policy commitments) require explicit commitment or some form of promise that companies will uphold the specifically mentioned human rights, international instruments and standards. To satisfy the relevant indicator, such a commitment must be stated with language that is not ambiguous, vague or weak. These commitments must also be in a formal policy document or other documents that govern the company's approach such as a company code or business principles. This is important for demonstrating a long-term commitment by companies to respect human rights and other specific rights deemed under international law. Commitments located in documents that are consistently revised and re-released are incapable of showing a long-term commitment.

Companies have already made considerable progress in making publicly available policy commitments, with more than half of all assessed companies upholding clear expressions of commitment to human rights. However, it is critical that commitments made by companies are sufficiently explicit, with clear and unambiguous language. In many instances, although companies provided information publicly about a specific requirement in Theme A, they were not able to achieve a score due to the way in which the commitment was expressed.

### **A.1.1 Commitment to respect human rights**

The first score under this indicator requires companies to make an explicit commitment to respecting human rights.<sup>20</sup> This could be a commitment to respect human rights generally or specific rights under the Universal Declaration of Human Rights (UDHR) or the International Bill of Human Rights. Fifteen of the 25 assessed companies met Score 1, with most companies making explicit commitments to respect human rights generally. Three companies committed to respecting the rights under the UDHR and six companies committed to respecting the rights under the International Bill of Human Rights. Twelve companies expressed these commitments in specific human rights policies or statements, with the remaining found in codes of conduct and other policy documents.

As an extension of Score 1, Score 2 of this indicator requires companies to make explicit commitments to respecting either the UNGPs or the OCED Guidelines for Multinational Enterprises.<sup>21</sup> Three companies made such commitments, with all three companies committing to respect the UNGPs and one company additionally committing to respect the OECD Guidelines. With three companies fully meeting this indicator, it was the highest performing indicator in this theme.

#### **A.1.2.a Commitment to respect the human rights of workers: ILO Declaration of Fundamental Principles and Rights at Work**

To achieve Score 1 for this indicator, a company must commit to respecting the human rights that the International Labour Organization (ILO) has declared to be fundamental at work through a publicly available policy document.<sup>22</sup> This policy document must also include explicit commitments to the specific rights under the ILO Declaration. These are to respect the freedom of association, rights to collective bargaining and rights not to be subjected to forced labour, child labour or discrimination in respect of employment and occupation.

Only one company fully met the requirements of Score 1. Eight companies achieved a score of 0.5 for expressing an explicit commitment to respect the rights under the ILO Declaration but did not make explicit commitments to any or some of the specific rights listed.

Score 2 is awarded where companies also expect their suppliers to commit to respect the fundamental human rights at work under the ILO Declaration.<sup>23</sup> This commitment must also include explicit commitments to the specific rights listed in Score 1 of this indicator. Two companies partially met the requirements of Score 2, with one company expecting its suppliers to respect the rights under the ILO Declaration and the other company expecting its suppliers to commit to the specific rights listed under the ILO Declaration.

#### **A.1.4 Commitment to remedy**

To achieve a score under Score 1, a company must commit to remedy the adverse impacts on the human rights of individuals, workers and communities that it has caused or contributed to.<sup>24</sup> The company must also expect its suppliers to make the same commitment to remedy. Only one company met both requirements of Score 1. Five companies committed to remedy adverse impacts in a policy document without maintaining an expectation for suppliers to make this commitment. One company expected suppliers to remediate adverse impacts without making the same commitment in its own operations.

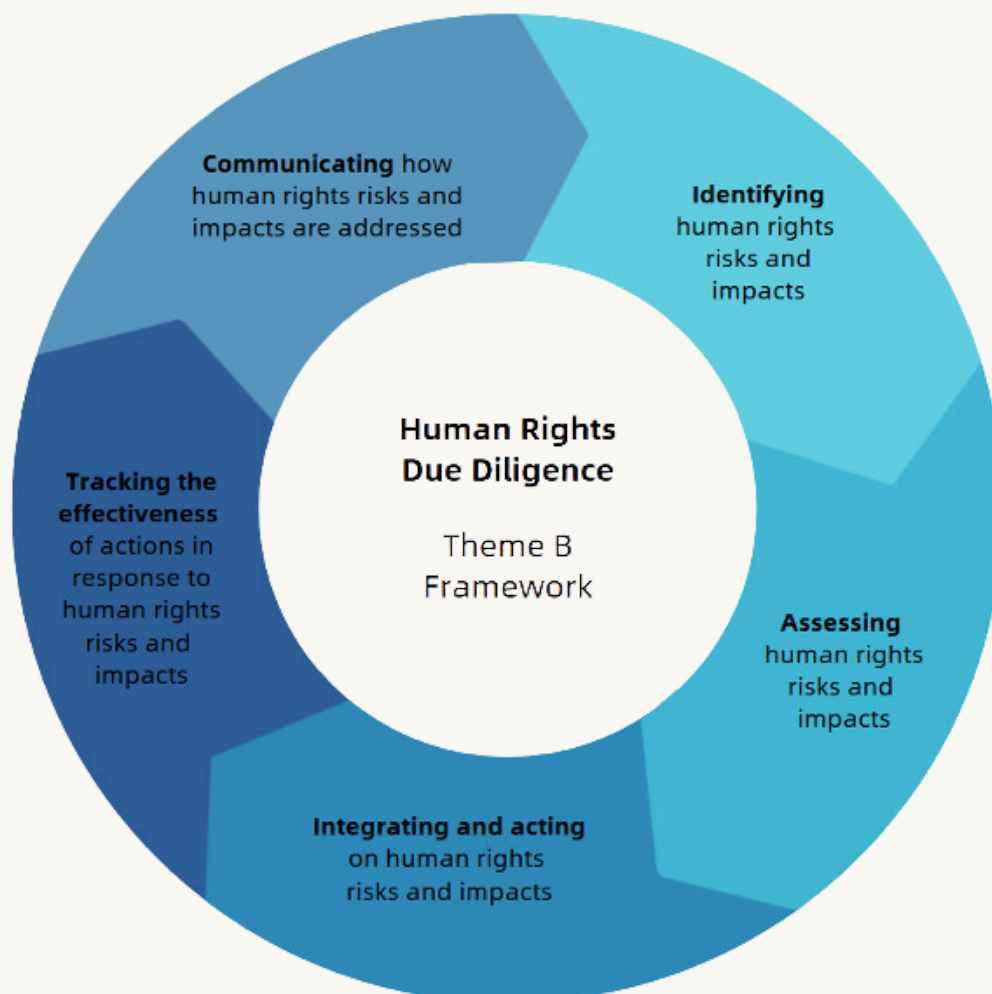
Score 2 requires companies to maintain a publicly available policy statement with commitments to collaborate with judicial or non-judicial mechanisms to provide access to remedy.<sup>25</sup> Companies must also commit to working with suppliers to remedy adverse impacts which are directly linked to the company's operations, products or services to fully satisfy this score. No company met either of the requirements of Score 2. Many companies provided information about working with suppliers in some capacity but such information either did not specifically relate to the remediation of adverse impacts or was stated with vague or unclear language.

## Theme B: Embedding respect and human rights due diligence

Human rights due diligence is a fundamental expectation of the UNGPs.<sup>26</sup> It involves embedding respect for human rights in all facets of a company. Corporate policies which govern the business operations and relationships of corporate entities should recognise and fulfil this responsibility.

Specifically, the Theme B indicators divide human rights due diligence into five steps: identifying actual and potential human rights risks and impacts, assessing these risks and impacts, integrating and acting on the findings of such assessments, tracking and evaluating the effectiveness of actions taken, and then communicating how impacts are addressed with specific regard to affected stakeholders.<sup>27</sup> *Figure 4* depicts these five interrelated steps.

*Figure 4: Five step indicators of human rights due diligence*





Successfully meeting the requirements of the indicators in this theme calls for companies to embed thorough and robust human rights due diligence processes into the company's management systems, business relationships and culture, and to evidence how this is resourced and effectuated in practice. As our assessment below will show, companies need to make the most substantial improvements in this area, as no company outlined all the internal processes expected by the UNGPs to identify, prevent, mitigate and remediate human rights risks.

### **B.1.1 Responsibility and resources for day-to-day human rights functions**

This indicator requires that a company outlines who has responsibility over human rights issues at a senior level, as well as how the company allocates resources and expertise for the running management of human rights within its operations and business relationships.<sup>28</sup> Notably, board level responsibility is assessed under A.2.1 in the full CHRB methodology, so Score 1 of this indicator requires clear attribution of responsibility to specific senior positions – not just ‘the Board’.

Further, a description of this responsibility includes responsibility for the ILO fundamental rights at a minimum.<sup>29</sup> Companies could not achieve a full score under Score 1 if they did not have a publicly available policy statement committing the company to respect the fundamental rights at work declared by the ILO (and assessed under A.1.2.a). Under Score 1, only six out of the 25 assessed companies achieved a partial point, and only one company achieved a full point.

Score 2 requires a description of how responsibility is assigned, and how resources are allocated for the management of human rights issues within the company's operations and supply chain. No company achieved a full point under Score 2 of this indicator, and only one company achieved a partial point.

It is clear that the challenge here for companies was indicating exactly how their due diligence process was managed within the company and through its supply chain – many companies would simply attribute broader environmental, social and governance (ESG) risk management to ‘the Board’ or ‘the Sustainability Committee’ without making it clear which individual comprise that entity and whether human rights issues were also looked after by those figureheads.

As such, the majority of the assessed companies did not score at all in this indicator – the highest score (1 out of 2) was achieved by only two companies.

## **B.2.1 Identifying human rights risks and impacts**

This indicator focuses on the first step of human rights due diligence. Identifying human rights risks and impacts requires that companies take a proactive, rather than reactive, approach to respecting human rights in their business operations and embed a robust policy framework to ensure concerns are managed across locations, operations and suppliers.

Under Score 1, companies are expected to describe the processes in place which identify entity-specific human rights risks and impacts, covering the company's own operations and its business relationships and supply chains.<sup>30</sup> Proactive identification requires consideration of how new risks and impacts arise in new projects, new locations, policy changes and market changes – therefore, points are not achieved by simply stating which risks and impacts exist. B.2.1 specifically looks for what process has identified those risks and impacts, and how it does so.

Only one company achieved a point under Score 1. The assessed companies overwhelmingly failed to describe a risk and impact identification process which clearly dealt with human rights concerns, and involved consideration of locations, operations and suppliers. The scoring company was the sole company which described its mechanisms in place relevant to this indicator. No company achieved any point under Score 2.

Score 2 extends the criteria of Score 1 by requiring that the company's risk and impact identification process forms part of a global system, which involves consultation with potential or affected stakeholders and human rights experts to inform how their risks and impacts are identified. The description of this system must indicate how they are triggered by not only new business ventures, but also by new country operations and human rights challenges or conflicts in those areas. No company described any such system in the publicly available documents that were reviewed.

Therefore, proactive engagement with identifying human rights risks and impacts requires clear and transparent human rights due diligence processes that consider the criteria of Score 1 and Score 2. This is evidently a major area for improvement, as B.2.1 was the second poorest performing indicator.

## **B.2.2 Assessing human rights risks and impacts**

Strong and effective corporate due diligence systems must continuously engage with the findings of human rights risk and impact identification processes. This indicator extends B.2.1 by requiring that companies assess the risks and impacts identified and discern the most salient human rights risks.<sup>31</sup>

Companies must describe their assessment processes and include how geographical, economic, social and other relevant factors are considered, as well as how such processes apply to the supply chain under Score 1. Alternatively, Score 1 may also be satisfied if the company discloses the results of risk and impact assessment processes across its operations and business locations. These requirements place an onus on companies to not only identify risks and impacts, but to assess those findings as part of a proactive and systematic response to human rights concerns.

Only three of the 25 assessed companies achieved a point under Score 1. The majority of companies were able to meet risk disclosure minimums under the *Modern Slavery Act*,<sup>32</sup> but failed to adequately describe a process which assesses all human rights risks and ultimately reveals the company's salient human rights issues. The disclosure of modern slavery risks in light of operative areas and supply chains is a mandatory criterion for modern slavery statements under section 16 of the *Modern Slavery Act*.

This indicator shows that merely meeting the disclosure requirements under the *Modern Slavery Act* is not enough to describe an assessment process concerning all human rights risks and impacts, as modern slavery issues are a subset of the totality of human rights concerns. Even where modern slavery risks could be taken as a company's salient human rights risks, there was almost no description of how these risks were assessed and according to what factors, and therefore Score 1 was largely not met.

Additionally, Score 2 requires that the assessment process described also includes how affected stakeholders are involved when assessing human rights risks and impacts. No company achieved any points under Score 2.

### **B.2.3 Integrating and acting on human rights risks and impact assessments**

This indicator requires that companies have a system which prevents, mitigates or remediates the salient human rights issues disclosed from the risk and impact assessment processes considered in B.2.2. These findings should be integrated into the company's response mechanisms and inform the appropriate actions where known human rights issues are concerned. This is a vital step to embedding respect for human rights in the corporate structure.

Score 1 requires a description of the company's system to prevent, mitigate or remediate its salient human rights issues, including how the system applies to its supply chain.<sup>33</sup> Alternatively, companies may satisfy Score 1 by providing an example of specific actions in response to at least one of the salient issues because of its risk and impact assessment process. Four companies achieved a full point under Score 1, and one company achieved a half point.

Most of the response measures described by the scoring companies relate heavily to supply chains, and included supplier audits, mandatory training compliance, and termination of business relationships. These mechanisms usually sat in the company's supplier code of conduct policies, and for the purposes of Score 1 formed a description of actions to prevent, mitigate or remediate salient issues. It was more common for the scoring companies to describe a system which embeds these response measures than it was to provide an example of specific actions taken.

Score 2 then requires that companies not only meet all the criteria under Score 1 but also describe how they involve affected stakeholders in decisions about the response measures addressing the company's salient human rights issues. No company achieved any point under Score 2. Stakeholder engagement is a prominent requirement of Score 2 under most of the Theme B indicators, but it is particularly necessary in B.2.3 because this indicator relates to response measures.

Salient human rights issues are inevitably salient because of their impact on affected stakeholders, so it is crucial that actions to prevent, mitigate and remediate in response to those issues involve the affected parties. The majority of companies did not indicate that affected stakeholders were involved in their due diligence processes.

#### **B.2.4 Tracking the effectiveness of actions to respond to human rights risks and impacts**

This indicator further calls for companies to be proactive and engaged throughout the due diligence process. It requires that companies keep track of actions taken in response to identified human rights risks and impacts and that they evaluate the effectiveness of those measures.

Under Score 1, companies are required to describe their system for tracking and monitoring response actions, and for evaluating whether those actions have been effective.<sup>34</sup> This includes whether key issues were missed or if the actions did not produce the desired results. Therefore, Score 1 requires companies to evaluate whether actions taken in response to their risks and impacts do in fact prevent, mitigate and remediate known human rights concerns.

This may be shown through an example of clear lessons learned while tracking and monitoring response measures for the purposes of satisfying Score 1. However, only one company achieved a point in Score 1. Except for that company, there was a clear lack of evidence, in the publicly available documents, of companies continuing the due diligence process after actions were taken to address risks and impacts. The vast majority did not indicate how actions were tracked and monitored to inform if they had been effective.

Score 2 encompasses another stakeholder engagement requirement. To satisfy this indicator, Score 1 must be met and the description must include how the company involves affected stakeholders in evaluating the effectiveness of their response measures. No company met this requirement. Much like Score 2 of B.2.3, consultation with those who are impacted by corporate actions are an essential informant of how to prevent, mitigate and remediate risks and impacts, and if these actions are doing so. Along with B.2.1, B.2.4 was the second poorest performing indicator.

## B.2.5 Communicating on human rights impacts

This indicator targets the communication of due diligence processes and requires that companies are transparent about how human rights impacts are addressed. This information must be accessible to affected stakeholders and include sufficient information to deduce the adequacy of responses taken by the company.

Score 1 requires that companies provide two or more examples which demonstrate how they communicate with stakeholders who have raised specific human rights impacts caused by the company.<sup>35</sup> This communication is distinct from engaging with stakeholders in the context of assessing or addressing risks and impacts, or raising general concerns under grievance mechanisms – the score is looking for companies to demonstrate how they communicate with affected parties.

No company achieved a full point under Score 1, and only one company achieved a partial point for providing one example. Importantly, this indicator is not limited to only companies who have affected stakeholders. A significant element of a thorough and effective human rights due diligence system requires that companies have the capacity and mechanisms in place to communicate how their system works, and how affected stakeholders may be engaged with. The requirement therefore is that companies are transparent about the due diligence process and demonstrate this through their communication – no company did this fully.

Score 2 requires successfully meeting the requirements of Score 1 and that companies also describe any challenges to effective communication and how these will be addressed. No company achieved any point under Score 2.

Overall, B.2.5 was the poorest performing indicator in Theme B. This indicates a distinct lack of transparency and external communication in the publicly available documents as to how companies address human rights impacts and communicate with affected stakeholders.

## Theme C: Remedies and grievance mechanisms

Providing for or cooperating in the remediation of adverse human rights impacts that companies have caused or contributed to is central to a company's responsibility to respect human rights under the UNGPs.<sup>36</sup> If appropriately designed, operational-level grievance mechanisms can be an effective process for remediating impacts caused by a company's activities.<sup>37</sup> The UNGPs provide guidance on how operational-level grievance mechanisms can be effective, including by building stakeholder trust through communication and engagement, awareness of the mechanism, publicly available information about its procedures and regular analysis of grievances to identify areas of change.<sup>38</sup>

The indicators under this theme assess the effectiveness of grievance mechanisms in remediating human rights impacts identified by the company either through its due diligence processes or by complaints raised by affected stakeholders.<sup>39</sup> Whilst companies operating in Australia are required to maintain whistleblower mechanisms for its workers, more progress is necessary to reflect the same level of access to grievance mechanisms to external individuals and communities whose human rights may be adversely impacted by companies.

### C.1 Grievance mechanism(s) for workers

Score 1 of this indicator requires a company to maintain one or more mechanisms that are accessible to all workers to raise complaints or concerns about the company.<sup>40</sup> This could be either a mechanism operated by the company or the company's participation in a third-party or shared mechanism. The mechanism is not required to explicitly reference human rights as a concern that can be reported. However, mechanisms specifically designed to cover other issues must indicate the ability to report human rights concerns as well.

It is remarkable that all 25 companies met the requirements of Score 1. This is consistent with requirements for registered companies to provide whistleblower mechanisms under section 1317 AI of the *Corporations Act*.<sup>41</sup> For all companies, this consisted of some form of whistleblower mechanism where workers can report concerns through an online portal or dedicated hotline. Most companies maintained a specific whistleblower policy that outlined the operation of such a

mechanism, including what concerns could be reported. Most companies either explicitly mention that human rights can be reported through its mechanism or include human rights in their company codes, breaches of which can be reported.

To achieve Score 2, there are three key requirements which companies must demonstrate.<sup>42</sup> First, a company is required to describe how it ensures the mechanisms are available in all appropriate languages and that workers are aware of it. Awareness could be made through specific training or communications provided by the company to its workers. The company must also describe how it ensures that workers in its supply chain have access to a mechanism to report human rights concerns concerning the company's suppliers. This could be through access to the company's own mechanism or an expectation for the company's suppliers to maintain their own mechanism for their workers. The company must also expect its suppliers to convey an expectation on their suppliers to provide the same access to grievance mechanism.

Only one company fully met the requirements of Score 2 and 21 companies met at least one requirement described above. Two of these companies maintained a sufficient description of how the mechanism is available in all appropriate languages and workers are made aware of the availability of the mechanism. Four companies met both the first two requirements of C.1 for Score 2. Fifteen companies described how they ensure that workers in the supply chain have access to either its own mechanism or expected suppliers to establish their own mechanism for their workers to report human rights concerns. One company met both the last two requirements of C.1 for Score 2.

## **C.2 Grievance mechanism(s) for external individuals and communities**

To achieve Score 1 of this indicator, a company must maintain one or more mechanisms that are accessible to all external individuals and communities to raise complaints or concerns about the company.<sup>43</sup> This could be either a mechanism operated by the company or the company's participation in a third-party or shared mechanism. The mechanism is not required to explicitly reference human rights as a concern that can be reported. However, mechanisms specifically designed to cover other issues must indicate the ability to report human rights concerns as well.



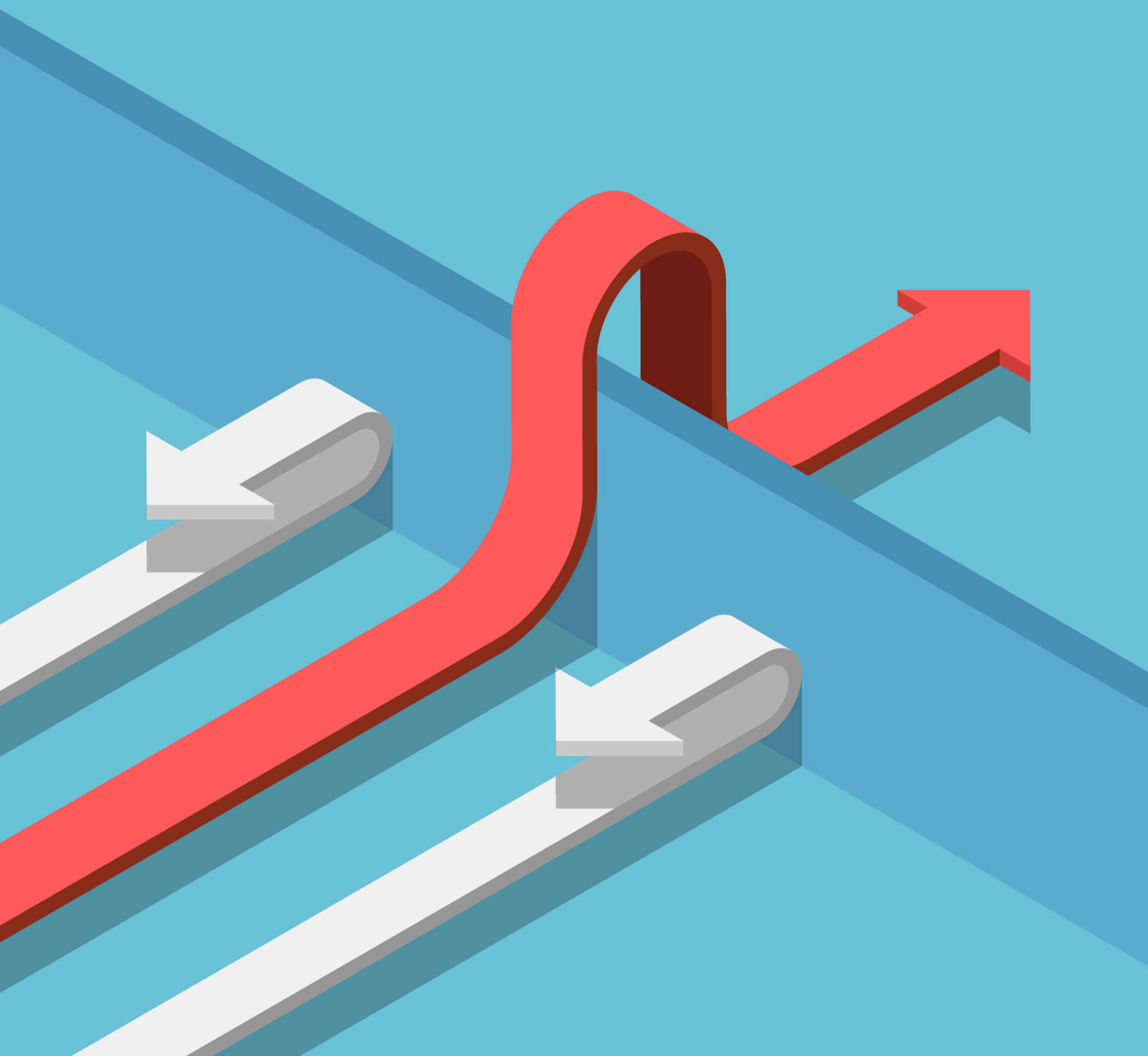
Only ten companies fully met the requirements of Score 1, a stark difference to mechanisms that are required to be available to all workers under indicator **C.1**. This indicates that the presence of whistleblower protection requirements under Australian law is important in encouraging companies to maintain grievance mechanisms.

Score 2 requires companies to demonstrate the requirements relating to language accessibility, awareness, availability of mechanisms to report concerns at the company's suppliers and expectations for suppliers to convey the same access to their own suppliers for mechanisms for external individuals and communities.<sup>44</sup> Only one company partially met the requirements of Score 2, with expectations for suppliers to provide mechanisms to external individuals and communities to report concerns and to convey the same expectation of access to its own suppliers.

## **C.7 Remediating adverse impacts**

Score 1 focuses on whether the company publicly discloses the approach it used to ensure that timely remedy is provided to victims where they have been found to cause or contribute to an adverse human rights impact.<sup>45</sup> Where the company has not identified any adverse human rights impacts, it must describe the approach it would take to provide or enable timely remedy for victims where an adverse impact is discovered. Only one company fully met the requirements of this indicator, with an example of how timely remedy was enabled where an adverse human rights impact was identified.

For Score 2 to be awarded, a company must describe how it made changes to its systems, processes and practices where it identified adverse human rights impacts to prevent similar impacts in the future.<sup>46</sup> Where a company has not identified an adverse impact, it must describe the approach it would take to review and change systems, processes or practices if such an adverse impact is identified. No company met any of the requirements in Score 2, with six companies having some form of relevant information about the regular review of policies and processes. However, these statements were either not made in the context of identified adverse human rights impacts or did not describe how systems, processes or practices would be changed where impacts are identified by the company.



# IV. Key trends

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**COMMITMENT GAPS: A HUMAN RIGHTS ASSESSMENT  
OF TOP AUSTRALIAN COMPANIES**

The findings in this report reveal common patterns about how large Australian companies are discharging their commitment to respect human rights. These patterns should be relevant not only for companies aspiring to operate in line with the UNGPs but also for the Australian government, policy makers, researchers and civil society organisations. The logic is simple: a wider ecosystem – comprising various stakeholders with distinct but complementary roles – is needed to ensure that companies take seriously their human rights responsibilities.

## **Use of passive, vague or circular language in public documents**

Although nearly all the 25 assessed companies strived to state a commitment to respect human rights, many did so by using a passive or vague language. Companies missed out on scores where they had used passive language to explain their commitments to respecting human rights or separated what their commitments are in different sentences. This was most common in Theme A. For example, it was not enough for companies to say in the first sentence ‘Respecting human rights is important’ and then in the second sentence state ‘We are committed to aligning our approach with international rights obligations...’ because aligning an approach or recognising importance is not the same as committing to respecting human rights.

Since attaining a score under the CHRB Core UNGP Indicators methodology required clear and unambiguous expression of commitments, this raises questions about whether companies want to be seen publicly as committing to respecting human rights but do so in a way that does not entail clear responsibilities. More research is needed to understand better the reasons behind companies making passive or vague human rights commitments.

The assessment also indicates that companies would often create ‘loopholes’ between documents which avoided providing a clear expression of commitments expected by the Core UNGP Indicators. It was very common to be directed to one document for ‘further details about’ a certain human rights requirement, and then to find that the relevant section directs you to a non-publicly available document or back to the original or another document, without ever finding the necessary public commitment. For example, one of the assessed companies stated in its Annual Report that ‘The Group’s ESG Lead is responsible for implementing our

human rights and modern slavery due diligence process. Details of this policy can be found in the Group's Modern Slavery Statement,' and then in the Modern Slavery Statement stating 'the ESG Lead oversees the implementation of our human rights and modern slavery due diligence process. For more information, see page 43 of the Group's Annual Report'.

Moreover, companies often failed to identify specific senior leaders responsible for human rights. For example, companies would simply say that 'the Board is responsible for ESG oversight' which is not sufficient for communicating who deals with human rights issues in the company. For this reason, points for indicator B.1.1 Score 1 was awarded to only seven companies, and only two companies achieved a full score.

The use of passive, vague or circular expressions of commitment resulted in low scores for the assessed Australian companies. There is no better way to say one is committed to respecting human rights, than by simply saying just that – it was not enough to commit to supporting respecting human rights or to recognise the significance of respecting human rights.

## **Focus on modern slavery but not on all human rights**

The performance of the 25 assessed companies was worst in relation to the Theme B indicators because the assessment was for human rights, not merely for modern slavery. These indicators might have been met for most of the companies if the assessment had focused only on modern slavery. Because of the modern slavery statements, and even where the company had a separate human rights statement, most discussions about identifying risks, measuring effectiveness, communicating with stakeholders, disclosure of salient issues and remedy were only in relation to modern slavery.

It is important for Australian companies not to equate modern slavery with human rights, the former being a much narrower category. The concept of 'internationally recognised human rights' under Principle 12 of the UNGPs captures the full range of civil, political, social, economic and cultural rights as well as the principles concerning fundamental labour rights. Therefore, companies should approach human rights in a more holistic way.

Even when companies had separate human rights statements, these were mostly in the form of policies that expressed human rights commitments and broad actions to act on these commitments. Information on specific processes to identify, assess and address salient human rights risks necessary for many of the indicators in Theme B were often absent from these statements.

Australian companies might be focusing on modern slavery due to the *Modern Slavery Act*. However, they should recognise that the protection against modern slavery as a category exists within the broader category of human rights, and they need to adopt a more holistic approach to meet the expectations under international soft standards such as the UNGPs or to prepare for compliance with mandatory human rights due diligence laws.

## Positive impact of binding regulations

It is very clear that legislation dealing with modern slavery requirements (*Modern Slavery Act 2015*) as well as corporate whistleblower obligations (*Corporations Act 2001*) had a direct and positive correlation with a higher score.

For example, almost all the scores awarded in Theme B came from some element of a company's modern slavery statement. These statements are a requirement under the *Modern Slavery Act* (see section 16 of the Act) and is likely why the highly nuanced indicators involving identification of risks per location, stakeholder involvement, assessment of effectiveness, etc. were met at all.

Further, the *Corporations Act* contains requirements relating to whistleblower policies (see section 1317 AI). This would explain why all assessed companies met Score 1 of indicator C.1 in Theme C (having a grievance mechanism available for workers) – the vast majority of evidence for this indicator were contained in whistleblower policies.

It can therefore be concluded that legislation has a major impact on whether companies make robust commitments to comply with human rights. While this is definitely a positive takeaway, it does expose the limits of voluntary standards promoting business respect for human rights, because many companies might not take seriously their human rights responsibilities in the absence of statutory provisions backed with penalties.

## **Risks of passing the compliance burden onto suppliers**

It was common for companies to maintain more rigorous, strict and robust obligations or expectations for their suppliers than of themselves in relation to own activities. This was mostly shown in policy commitments under Theme A, particularly regarding the ILO Declaration and to remedy adverse impacts, and under Theme C (the availability of grievance mechanisms).

Companies would often say that ‘Suppliers are expected to...’ or ‘suppliers must ensure...’. However, in relation to their own activities, commitments were limited to ‘we seek to...’ or ‘we are working to...’ or ‘we continue to aim for...’. Companies would use much more passive and vague language when setting out responsibilities for themselves in comparison to how doing so for their suppliers.

This suggests that the companies are aware of the aims of the Core UNGPs Indicators – that is, what the ideal requirements would be and how to express these because they articulated the expectations more clearly for their suppliers. This indicates that the companies have perhaps made a conscious decision to pass the risk, cost and burden of compliance with international standards such as the UNGPs to their suppliers. This finding seems to confirm that the passing on of the ‘compliance burden’ is one serious unintended consequence of soft or hard initiatives aimed at regulating the behaviour of companies across their operations.

## **Inadequate engagement with relevant stakeholders**

The UNGPs expect a meaningful consultation with relevant stakeholders (including affected rightsholders) in all four stages of the human rights due diligence process as well as the remediation process. However, all the assessed companies failed to describe how they engage affected stakeholders. The consistent failure on the part of large Australian companies to provide public evidence raises questions about the efficacy of their human rights due diligence processes.

There may be various reasons for the lack of public evidence of engagement with stakeholders, e.g., companies may not have mapped their relevant stakeholders; corporate officials may lack the expertise, confidence or mandate to engage stakeholders; the engagement may be done on an ad hoc basis by external consultants. Further research is required to understand better barriers to effective stakeholder engagement.

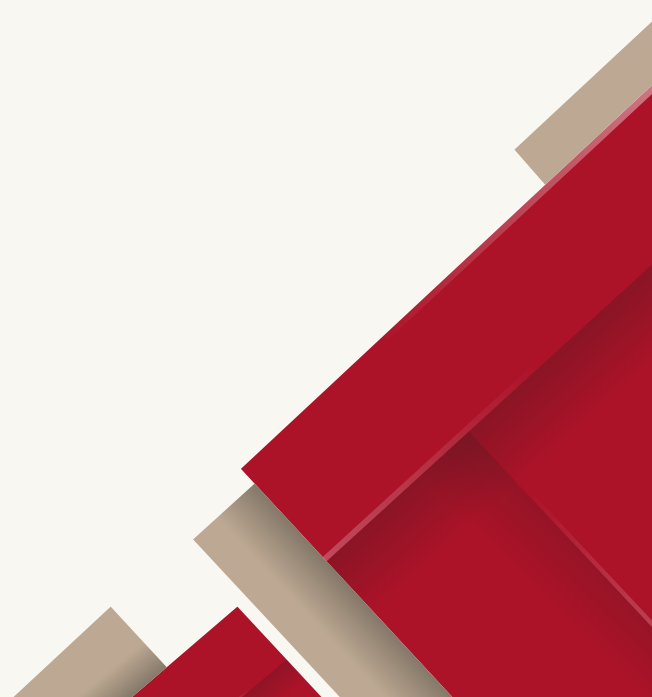


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# V. Conclusions and recommendations

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*COMMITMENT GAPS: A HUMAN RIGHTS ASSESSMENT  
OF TOP AUSTRALIAN COMPANIES*



## Conclusions

The UNGPs expect companies to ‘know and show’ how they are respecting human rights. Both knowing and showing requires that companies have suitable policies and processes in place, that these are publicly available in an accessible form and that all relevant stakeholders are meaningfully engaged in developing as well implementing such policies and processes. Moreover, such policies and processes should cover all internationally recognised human rights and apply to all business operations comprising subsidiaries, suppliers and other business partners.

This report shows that top listed Australian companies are falling short in knowing and showing how they are operating in line with the UNGPs. None of the assessed companies achieved points on every indicator, and the highest scoring company met only 33% of the requirements under the CHRB Core UNGP Indicators methodology. Many companies did not meet the indicators due to using vague or ambiguous language, by folding human rights within generic ESG reporting, or by only focusing on a narrow set of modern slavery risks.

Out of the three themes of the Core UNGP Indicators methodology, embedding respect through ongoing human rights due diligence received the lowest average score (0.58 out of 12). Again, it was not possible for companies to meet the indicators by merely disclosing elements of their modern slavery due diligence process as part of mandatory modern slavery statements, because modern slavery is only a subset of the totality of human rights issues.

Stakeholder engagement was the weakest performing requirement in the indicators. Although a meaningful consultation with relevant stakeholders is a key expectation of the UNGPs, none of the assessed companies described how they engage affected stakeholders in the four stages of the human rights due diligence process. Our assessment also noticed a tendency on the part of ASX listed companies to pass the compliance burden to their suppliers by establishing higher expectations for the conduct of their suppliers than they set for their own conduct. While all assessed companies maintain either their own grievance mechanism or participate in a third-party mechanism for workers to report human rights concerns, only 10 of the assessed 25 companies provide a mechanism for external individual and communities to raise human rights complaints or concerns.

Companies do not operate in a vacuum. How a range of stakeholders such as governments, investors, consumers, civil society organisations, trade unions and lawyers react to what companies are doing, or not doing, matters. Most companies are responsive to the behaviour of actors that are part of their operating ecosystem. Out of these actors, the role of governments is especially critical. For one, they have a duty under international human rights law to protect against business-related human rights abuses within their territory or jurisdiction – this is also reflected in Pillar I of the UNGPs.

From this perspective, the Australian government is also falling short to act in line with the UNGPs. Unlike many of its peers, the government has not yet developed a national action on business and human rights. While it has enacted the *Modern Slavery Act*, the law does not mandate that covered companies conduct human rights due diligence.<sup>47</sup> More worryingly, as shown by this report's assessment, this law has proved to be a double-edged sword: while the *Modern Slavery Act* has pushed companies to take some steps to address modern slavery, it has also inadvertently resulted in companies not taking seriously other human rights issues. Since binding regulations are an essential component of the regulatory toolkit, the Australian government should carefully assess and calibrate its regulatory regime to promote responsible business conduct.

Considering that Australian companies have significant overseas footprints in Asia and the Pacific, the government should show leadership in setting out clear expectations and enforcing these expectations.

## Recommendations

Based on the overall findings and trends discernible from an assessment of top 25 ASX listed companies, this report makes several recommendations for Australian companies, the government and other stakeholders.

### 1. Recommendations for companies

Australian companies should:

**1.1** Make a clear and specific public commitment to respect all internationally recognised human rights (including labour rights and environmental rights) and assign the responsibility to continuously monitor and update human rights commitments to top management.

- 1.2** Move away from the legal compliance mindset because the responsibility to respect human rights under the UNGPs exists over and above compliance with national laws and regulations protecting human rights.
- 1.3** Extend their attention to identify and address adverse human rights impacts beyond modern slavery.
- 1.4** Internalise the human rights due diligence process across their operations, including by developing internal expertise and assigning adequate resources to the relevant teams.
- 1.5** Communicate with external stakeholders in an accessible way how they address human rights concerns identified through their own processes, or raised by or on behalf of affected stakeholders.
- 1.6** Engage meaningfully all relevant stakeholders (including affected rightsholders) at all four stages of human rights due diligence.
- 1.7** Lead by example in respecting human rights throughout their global operations, rather than passing the compliance burden of respecting human rights onto their business partners and suppliers.
- 1.8** Ensure that access to effective remedy is available not merely to workers but to all external individuals and communities (including those based outside of Australia) who may be affected by adverse human rights impacts that they have caused or contributed to.

## **2. Recommendations for the government**

The Australian government should:

- 2.1** Introduce legislation requiring large companies to conduct human rights due diligence to identify, prevent, mitigate and remediate adverse human rights impacts. Such a law should go beyond modern slavery to ensure that Australian companies take seriously their responsibility to respect all internationally recognised human rights wherever they operate.
- 2.2** Review the *Corporations Act* to assess whether it is fit for the purpose in encouraging Australian companies to integrate human rights, environmental and climate change considerations in their governance processes and business operations.
- 2.3** Introduce a range of incentives and disincentives to promote responsible business conduct and prevent the risk of greenwashing by companies.
- 2.4** Strengthen access to remedy pathways (both judicial and non-judicial) within Australia for affected rightsholders, especially those affected by overseas operations of Australian companies.

### **3. Recommendations for other stakeholders**

**3.1 Investors** should make investment decisions based on human rights due diligence and use their leverage to encourage ASX listed Australian companies to operate in line with the UNGPs throughout their operations.

**3.2 Business consultants** should advise companies to consider all human rights risks across operations and facilitate meaningful engagement with relevant stakeholders during all four stages of human rights diligence as well as remediation.

**3.3 Academics** should conduct further research to understand better why large Australian companies are using vague or ambiguous language to express human rights commitments, what practical challenges they are facing in conducting human rights due diligence in consultation with relevant stakeholders and how these challenges could be overcome.

**3.4 Civil society organisations** should document the extent to which ASX listed companies are implementing their public commitments to respect human rights and facilitate meaningful corporate engagement with affected rightsholders.

**3.5 Lawyers and law firms** advising Australian companies should also consider implications of soft international standards such as the UNGPs and the OECD Guidelines for Multinational Enterprises while advising companies.

# Annexures

## Annexure 1: List of assessed companies

| Order | Company                     | Industry   |
|-------|-----------------------------|--|
| 1     | Commonwealth Bank Australia | Banks  |
| 2     | CSL Limited                 | Pharmaceuticals, biotechnology and life sciences |
| 3     | National Australia Bank Ltd | Banks  |
| 4     | Westpac Corporation         | Banks  |
| 5     | ANZ Group Holdings Ltd      | Banks  |
| 6     | Fortescue Limited           | Materials  |
| 7     | Macquarie Group Ltd         | Financial services                               |
| 8     | Block Inc                   | Financial services                               |
| 9     | Goodman Group               | Equity real estate investment trusts             |
| 10    | Telstra                     | Telecommunication services                       |
| 11    | Resmed Inc                  | Health care equipment and services               |
| 12    | Transurban Group            | Transportation                                   |
| 13    | Wisetech Global Ltd         | Software and services                            |
| 14    | QBE Insurance Group Ltd     | Insurance  |
| 15    | Aristocrat Leisure Ltd      | Consumer services                                |
| 16    | James Hardie Industries Plc | Materials  |
| 17    | Santos Ltd                  | Energy   |
| 18    | REA Group Ltd               | Media and entertainment                          |
| 19    | News Corporation            | Media and entertainment                          |
| 20    | Brambles Ltd                | Commercial and professional services             |
| 21    | Cochlear Ltd                | Health care equipment and services               |
| 22    | Suncorp Group               | Insurance  |
| 23    | Arcor Plc                   | Materials  |
| 24    | Xero Ltd                    | Software and services                            |
| 25    | Reece Ltd                   | Capital goods                                    |

## Annexure 2: Indicators

| <b>Theme A: Governance and policy commitments</b>  |   |
|--|---|
| <b>A.1.1: Commitment to respect human rights</b>   |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| The company has a publicly available policy statement committing it to respect human rights <b>OR</b> the rights under the Universal Declaration of Human Rights <b>OR</b> the International Bill of Human Rights.   | The company's publicly available policy statement also commits it to respecting the UN Guiding Principles on Business and Human Rights <b>OR</b> the OECD Guidelines for Multinational Enterprises.   |
| <b>A.1.2.a: Commitment to respect the human rights of workers: ILO Declaration on Fundamental Principles and Rights at Work</b>  |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| The company has a publicly available policy statement committing it to respect the human rights that the ILO has declared to be fundamental rights at work <b>AND</b> the company's policy statement includes explicit commitments to respect: freedom of association and the right to collective bargaining, and the rights not to be subject to forced labour, child labour or discrimination in respect of employment and occupation. | The company's publicly available policy statement also expects its suppliers to commit to respecting the human rights that the ILO has declared to be fundamental rights at work <b>AND</b> explicitly lists them in that commitment.   |
| <b>A.1.4: Commitment to remedy</b>   |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| The company has a publicly available policy statement committing it to remedy the adverse impacts on individuals and workers and communities that it has caused or contributed to <b>AND</b> the company expects its suppliers to make this commitment.  | The company's publicly available policy statement also commits it to collaborating with judicial or non-judicial mechanisms to provide access to remedy <b>AND</b> the policy statement includes a commitment to work with suppliers to remedy adverse impacts which are directly linked to the company's operations, products or services. |

| <b>Theme B: Embedding respect and human rights due diligence</b>   |   |
|--|---|
| <b>B.1.1: Responsibility and resources for day-to-day human rights functions</b>   |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| <p>The company indicates the senior manager role(s) accountable for implementation and decision making on human rights issues within the company.</p> <p><b>Gateway:</b> must meet ILO requirement for own operations under A.1.2.a.</p>   | <p>The company describes how it assigns responsibility for implementing its human rights policy commitment(s) for day-to-day management across relevant departments <b>AND</b> how it allocates resources and expertise for the day-to-day management of relevant human rights issues within its own operations <b>AND</b> within its supply chain.</p>   |
| <b>B.2.1: Identifying human rights risks and impacts</b>   |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| <p>The company describes the process(es) it uses to identify its human rights risks and impacts in specific locations or activities, covering its own operations <b>AND</b> through relevant business relationships, including its supply chain.</p>   | <p>The company describes the global systems it has in place to identify its human rights risks and impacts on a regular basis across its activities involving consultation with affected stakeholders and internal or independent external human rights experts <b>AND</b> describes how these systems are triggered by new country operations, new business relationships, new human rights challenges or conflict affecting particular locations <b>AND</b> describes the risks identified in relation to such events, including through heightened due diligence in any conflict-affected areas.</p> |
| <b>B.2.2: Assessing human rights risks and impacts</b>   |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| <p>The company describes its process(es) for assessing its human rights risks and discloses what it considers to be its salient human rights issues. This description includes how relevant factors are taken into account, such as geographical, economic, social and other factors <b>AND</b> this includes a description of how these processes apply to its supply chain <b>OR</b> the company publicly discloses the results of its assessments, which may be aggregated across its operations and locations.</p> | <p>The company meets all of the requirements under Score 1 <b>AND</b> describes how it involves affected stakeholders in the assessment process(es).</p>  |

| <b>B.2.3: Integrating and acting on human rights risks and impacts</b>   |   |
|--|---|
| <b>Score 1</b>   | <b>Score 2</b>  |
| The company describes its global system to prevent, mitigate or remediate its salient human rights issues <b>AND</b> this includes a description of how its global system applies to its supply chain <b>OR</b> the company provides an example of the specific actions taken or to be taken on at least one of its salient human rights issues as a result of assessment processes in at least one of its activities/ operations in the last three years.   | The company meets all of the requirements under Score 1 <b>AND</b> describes how it involves affected stakeholders in decisions about the actions to take in response to its salient human rights issues. |
| <b>B.2.4: Tracking the effectiveness of actions to respond to human rights</b>   |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| The company describes its system(s) for tracking or monitoring the actions taken in response to human rights risks and impacts and for evaluating whether the actions have been effective or have missed key issues or not produced desired results <b>OR</b> it provides an example of the lessons learned while tracking the effectiveness of its actions on at least one of its salient human rights issues as a result of its due diligence process(es). | The company meets both of the requirements under Score 1 <b>AND</b> describes how it involves affected stakeholders in evaluation(s) of whether the actions taken have been effective.                    |
| <b>B.2.5: Communicating on human rights impacts</b>  |   |
| <b>Score 1</b>   | <b>Score 2</b>  |
| The company provides at least two examples demonstrating how it communicates with affected stakeholders regarding specific human rights impacts raised by them or on their behalf.   | The company meets the requirements under Score 1 <b>AND</b> describes any challenge(s) to effective communication it has identified and how it is working to address them.                                |



| <b>Theme C: Remedies and grievance mechanisms</b>   |   |
|---|---|
| <b>C.1: Grievance mechanism(s) for workers</b>  |   |
| Score 1   | Score 2   |
| <p>The company indicates that it has one or more mechanism(s), or participates in a third-party or shared mechanism, accessible to all workers to raise complaints or concerns related to the company.</p> <p><b>Note:</b> no explicit reference to human rights is required but it must be clear that it can be used for human rights concerns as well.</p>  | <p>The company describes how it ensures the mechanism(s) is available in all appropriate languages and that workers are aware of it (e.g. specific communication(s)/training) <b>AND</b> the company describes how it ensures workers in its supply chain have access to either: the company's own mechanism(s) to raise complaints or concerns about human rights issues at the company's suppliers or the company expects its suppliers to establish a mechanism(s) for their workers to raise such complaints or concerns <b>AND</b> the company expects its suppliers to convey the same expectation on access to grievance mechanism(s) to their own suppliers.</p>  |
| <b>C.2: Grievance mechanism(s) for external individuals and communities</b>   |   |
| Score 1   | Score 2   |
| <p>The company indicates that it has one or more mechanism(s), or participates in a third-party or shared mechanism, accessible to all external individuals and communities who may be adversely impacted by the company, or those acting on their behalf, to raise complaints or concerns.</p> <p><b>Note:</b> no explicit reference to human rights is required but it must be clear that it can be used for human rights concerns as well.</p> | <p>The company describes how it ensures the mechanism(s) is available in all local languages and that all affected external stakeholders at its own operations are aware of it (e.g. specific communication(s)/training) <b>AND</b> the company describes how it ensures external individuals and communities have access to either: the company's own mechanism(s) to raise complaints or concerns about human rights issues at the company's suppliers or the company expects its suppliers to establish a mechanism(s) for them to raise such complaints or concerns <b>AND</b> the company expects its suppliers to convey the same expectation on access to grievance mechanism(s) to their suppliers.</p> |
| <b>C.7: Remedying adverse impacts</b>   |   |
| Score 1   | Score 2   |

For adverse human rights impacts which it has caused or to which it has contributed, the company describes the approach it took to provide or enable a timely remedy for victims **OR** if no adverse impacts have been identified then the company describes the approach it would take to provide or enable timely remedy for victims.

For adverse human rights impacts which it has caused or to which it has contributed, the company also describes changes to its systems, processes and practices to prevent similar adverse impacts in the future **AND** the company describes its approach to monitoring implementation of the agreed remedy **OR** if no adverse impacts have been identified then the company describes the approach it would take to review and change systems, processes or practices to prevent similar adverse impacts in the future.

# Endnotes

<sup>1</sup> United Nations Human Rights Office of the High Commissioner, *Guiding Principles on Business and Human Rights*, UN Doc HR/PUB/11/04 (2011) ('UNGPs').

<sup>2</sup> *Human rights and transnational corporations and other business enterprises*, UN Doc A/HRC/RES/17/4 (16 June 2011).

<sup>3</sup> For an analysis, see Fiona McGaughey et al, 'Corporate Responses to Tackling Modern Slavery: A Comparative Analysis of Australia, France and the United Kingdom' (2022) 7 *Business and Human Rights Journal* 249; Surya Deva, 'Mandatory Human Rights Due Diligence Laws in Europe: A Mirage for Rightsholders?' (2023) 36 *Leiden Journal of International Law* 389.

<sup>4</sup> For an analysis, see Nicolas Bueno et al, 'The EU Directive on Corporate Sustainability Due Diligence (CSDDD): The Final Political Compromise' (2024) 9 *Business and Human Rights Journal* 294.

<sup>5</sup> See, for example, Amy Sinclair and Freya Dinshaw, *Paper Promises? Evaluating the early impact of Australia's Modern Slavery Act* (2022) <<https://www.hrlc.org.au/reports-news-commentary/2022/2/3/paper-promises-evaluating-the-early-impact-of-australias-modern-slavery-act>>.

<sup>6</sup> 'Corporate Human Rights Benchmark Core UNGP Indicators', *World Benchmarking Alliance* (Document, September 2021) <[https://assets.worldbenchmarkingalliance.org/app/uploads/2022/05/CHRB-Methodology\\_COREUNGP\\_2021\\_FINAL.pdf](https://assets.worldbenchmarkingalliance.org/app/uploads/2022/05/CHRB-Methodology_COREUNGP_2021_FINAL.pdf)> ('*Corporate Human Rights Benchmark Core UNGP Indicators*').

<sup>7</sup> In December 2024, the government accepted 25 of the 30 recommendations contained in the McMillan Review of the *Modern Slavery Act*: Australian Government, 'Australian Government response to the review report of the Modern Slavery Act 2018 (Cth)' (2024) 22 <<https://www.ag.gov.au/sites/default/files/2024-11/australian-government-response-review-report-of-modern-slavery-act-2018.PDF>>.

<sup>8</sup> 'Corporate Human Rights Benchmark Methodology - Apparel Sector', *World Benchmarking Alliance* (Report, September 2021) <[https://assets.worldbenchmarkingalliance.org/app/uploads/2021/12/CHRB-Methodology\\_291121\\_Apparel\\_FINAL.pd](https://assets.worldbenchmarkingalliance.org/app/uploads/2021/12/CHRB-Methodology_291121_Apparel_FINAL.pd)>.

<sup>9</sup> *Corporate Human Rights Benchmark Core UNGP Indicators* (n 6).

<sup>10</sup> 'Corporate Human Rights Benchmark - Core UNGP Indicators', *World Benchmarking Alliance* (Webpage, 2024) <<https://assets.worldbenchmarkingalliance.org/app/uploads/2024/11/2024-Core-UNGP-Indicators.pdf>>.

<sup>11</sup> *Corporate Human Rights Benchmark Core UNGP Indicators* (n 6) 5.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid 4.

<sup>17</sup> '2023 Corporate Human Rights Benchmark', *World Benchmarking Alliance* (Webpage, 2023)

<<https://www.worldbenchmarkingalliance.org/publication/chrb/>>.

<sup>18</sup> Georgette Haddad and Hayley Jago, *Company assessments: Explanations for human rights commitments' scores of top Australian companies* (Business & Human Rights Access to Justice Lab, 2025).

<sup>19</sup> *Corporate Human Rights Benchmark Core UNGP Indicators* (n 6) 7.

<sup>20</sup> Ibid 8.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid 9.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid 10.

<sup>27</sup> Ibid 12.

<sup>28</sup> Ibid 13.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid 14.

<sup>31</sup> Ibid.

<sup>32</sup> *Modern Slavery Act 2018* (Cth).

<sup>33</sup> *Corporate Human Rights Benchmark Core UNGP Indicators* (n 6) 15.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid 16.

<sup>36</sup> *UNGPs*, UN Doc HR/PUB/11/04 (n 1) 24.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid 33.

<sup>39</sup> *Corporate Human Rights Benchmark Core UNGP Indicators* (n 6) 17.

<sup>40</sup> *Ibid* 18.

<sup>41</sup> *Corporations Act 2001* (Cth) s 1317A1.

<sup>42</sup> *Corporate Human Rights Benchmark Core UNGP Indicators* (n 6) 18.

<sup>43</sup> *Ibid*.

<sup>44</sup> *Ibid*.

<sup>45</sup> *Ibid* 19.

<sup>46</sup> *Ibid*.

<sup>47</sup> In its response to the McMillan Review of the *Modern Slavery Act*, the government merely noted the recommendation to impose a mandatory human rights due diligence obligation: Australian Government, 'Australian Government response to the review report of the *Modern Slavery Act 2018* (Cth)' (2024) 22 <<https://www.ag.gov.au/sites/default/files/2024-11/australian-government-response-review-report-of-modern-slavery-act-2018.PDF>>.

# ***Building an ecosystem to promote corporate respect for human rights***

## **Business & Human Rights Access to Justice Lab**

The A2J Lab seeks to build an ecosystem conducive to promoting corporate respect for human rights across Australia and Asia Pacific. We do so by conducting research, developing practical tools, building capacity and assisting affected individuals and communities in seeking access to justice for corporate human rights abuses. The A2J Lab brings together leading business and human rights experts, practitioners, law students and external organisations. We work with a diverse range of stakeholders such as governments, UN agencies, businesses, civil society organisations, trade unions, law firms and research centres.

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