Consultation on Strengthening Australia's legislative response to modern slavery in supply chains

September 2026



AUSTRALIAN
FOOD &
GROCERY
COUNCIL

PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation bringing Australia's fast-moving consumer goods (FMCG) sector together to champion growth.

With an annual turnover in the 2024-25 financial year of $182.6 billion, Australia's food and grocery manufacturing sector makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity. Each business in the sector has contributed towards an industry-wide $4.5 billion capital investment in 2024-25, underpinning the sector's continued growth.

Food and grocery manufacturing together forms Australia's largest manufacturing sector, representing over 33 per cent of total national manufacturing turnover. The industry makes a large contribution to Australia's rural and regional economies, with over 30 per cent of its 301,000 employees based outside metropolitan areas.

It is essential to the economic and social development of Australia that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

The industry's growth ambition to 2030 is set out in *Sustaining Australia: Food and Grocery Manufacturing 2030*, which outlines a path to expand domestic manufacturing, create jobs, increase exports and strengthen the sovereign capability of the entire sector.

This submission has been prepared by the AFGC and is informed by, and reflects, the collective views of the membership.

EXECUTIVE SUMMARY

The AFGC welcomes the opportunity to submit on the Australian Government's proposed reforms to strengthen Australia's legislative response to modern slavery in supply chains. The AFGC supports stronger action to prevent modern slavery and improve outcomes for victims and vulnerable workers.

The proposed 'Failure to Prevent' offence should encourage earlier risk identification, effective prevention, prompt remediation, and clear corporate accountability. Its design should also ensure criminal liability is tied to a corporation's own conduct and to matters it could reasonably influence. AFGC supports the introduction of a 'Failure to Prevent' offence in these circumstances.

Food and grocery supply chains are global and often span several tiers of suppliers, processors, traders, and producers. Visibility and leverage vary by business size and market concentration. Companies may rely on information provided by suppliers and, in some commodity supply chains, may not have a direct relationship with the farm, facility or worker where exploitation occurs. Limited visibility does not remove responsibility to identify and respond to credible risk, but it is relevant to what a corporation can reasonably be expected to do. We estimate that around 60% of AFGC's food and beverage members are subject to, or covered by, Commonwealth modern slavery reporting requirements.

AFGC considers that an effective regime should direct corporate effort to the areas where it can make the greatest difference. This means distinguishing between the existence of modern slavery somewhere in a supply chain and conduct for which a corporation should be criminally responsible. It also means rewarding actual prevention, disclosure, cooperation and remediation rather than creating incentives for defensive disengagement from suppliers or higher-risk markets.

AFGC recommends that the final framework:

- **be proportionate and clearly targeted**, by aligning the revenue threshold and calculation methodology with the existing Modern Slavery Act 2018 (Cth) (Modern Slavery Act) reporting threshold, requiring a clear and material connection to the underlying offence, rejecting absolute liability, and ensuring the reasonable steps defence reflects risk, supply chain structure, practical capacity to influence, existing leverage, reasonable and proportionate opportunities to increase leverage where practicable, and information reasonably available or obtainable in the circumstances.
- **support effective due diligence and remediation**, through a targeted and risk-based approach rather than universal auditing, recognition of good-faith disclosure, cooperation and remediation, and clear expectations around evidence, investigations and enforcement.
- **work coherently with existing domestic and international requirements**, including the UN Guiding Principles and OECD Guidelines, while minimising duplication across Commonwealth, NSW and comparable international reporting and due diligence regimes.
- **provide sufficient certainty and implementation time**, including clarity on the scope of underlying conduct and the interaction between corporate and individual liability, coordination with broader Modern Slavery Act reforms, further consultation on penalty design, and at least 18 months after final legislation and final guidance are available before commencement. Any DPA scheme or new civil remedy should be subject to separate detailed design and consultation.

SUMMARY OF RECOMMENDATIONS

AFGC's full set of recommendations is set out below, with further detail and supporting rationale in the relevant sections of this submission.

- **Recommendation 1:** Use a material contribution test requiring proof that the corporation's act or omission materially contributed to, facilitated or enabled the underlying offence. Guidance should explain how the test applies across different supply chain tiers and sourcing models, including how responsibility is allocated in pooled, mass balance and intermediary arrangements and how differences in commercial leverage should be considered.
- **Recommendation 2:** Reject absolute liability. If a no-fault model is retained, it should include appropriate safeguards, a clear connection to the underlying offence and a workable reasonable steps defence.
- **Recommendation 3:** Clearly define the underlying conduct and consult further on any material expansion of scope. Government guidance should also explain how the proposed corporate offence interacts with the underlying offences in Divisions 270 and 271 of the Criminal Code and with existing criminal liability provisions applying to directors and other office holders, so that the respective responsibilities of corporations and individuals are clear.
- **Recommendation 4:** Make proportionality explicit in legislation, supplemented by detailed guidance. Assessment of reasonable steps should consider risk, supply chain tier, practical capacity to influence, existing leverage, reasonable and proportionate opportunities to increase leverage where practicable, information reasonably available or obtainable, and relevant legal constraints.
- **Recommendation 5:** Recognise remediation, use of leverage and responsible disengagement as relevant elements of reasonable steps and enforcement decisions.
- **Recommendation 6:** Confirm that due diligence and auditing should be targeted by risk, materiality, supply chain tier and the corporation's leverage and practical capacity to influence, rather than applied uniformly to every supplier. Encourage proportionate information requests and mutual recognition of equivalent assurance systems, controls and escalations where appropriate.
- **Recommendation 7:** Publish detailed, sector-aware guidance before commencement and establish a formal implementation dialogue with business, regulators, enforcement agencies and affected stakeholders. Government should also consider whether demonstrated compliance with prescribed guidance, or recognised equivalent due diligence standards, should provide statutory assurance that reasonable steps have been taken, including through a rebuttable presumption or appropriately framed safe harbour, subject to credible information, known red flags, or material risk.
- **Recommendation 8:** Further develop the penalty framework through consultation, with penalties calibrated to the seriousness and impact of the offending, the corporation's contribution and its response once the issue was identified.
- **Recommendation 9:** Publish an implementation roadmap explaining how the proposed offence will be coordinated and sequenced with reforms arising from the review of the Modern Slavery Act, including changes to reporting, compliance and enforcement settings, any future due diligence requirements, civil penalties and associated guidance.
- **Recommendation 10:** Allow at least 18 months after final legislation and final guidance are available before commencement, supported by education and sector-specific examples.
- **Recommendation 11:** Commit to a post-implementation review that assesses prevention, remediation, enforcement effectiveness, duplication and impacts on smaller suppliers.

- **Recommendation 12:** Develop a comprehensive DPA framework for appropriate corporate offending, including the proposed 'Failure to Prevent' offence and the existing failure-to-prevent foreign bribery offence, through separate, targeted consultation. If the framework is intended to support the proposed modern slavery offence, it should be operational when that offence commences. The framework should establish clear eligibility criteria, procedures and governance arrangements, and provide guidance on self-reporting, cooperation, remediation and the treatment of information disclosed during DPA negotiations.
- **Recommendation 13:** Undertake separate and targeted consultation with victim and survivor representatives, legal experts, business and civil society before introducing a new civil cause of action, including consideration of jurisdiction, access to remedy, evidentiary issues and interaction with existing legal frameworks.

PRINCIPLES FOR AN EFFECTIVE REGIME

AFGC considers that four principles should guide the design and implementation of the proposed offence.

- **Accountability** should follow contribution, control and influence. Criminal liability should require a meaningful connection between corporate conduct and the underlying offending.
- **Prevention** should be risk-based and proportionate. Businesses should focus effort where the risk of harm is greatest and where they have the practical capacity to act.
- **Remediation** and responsible engagement should be encouraged. The framework should support investigation, use of leverage and corrective action, and should avoid incentives for abrupt disengagement where that could worsen harm.
- **Australian requirements** should work with existing domestic and international systems. Businesses should be able to use equivalent due diligence processes and evidence where they meet Australian requirements. Reporting and compliance settings should be aligned and sequenced where possible so that resources remain focused on identifying, preventing and remediating modern slavery risks rather than duplicative administration.

A CLEAR CONNECTION TO THE CORPORATION IS ESSENTIAL

AFGC supports aligning the revenue threshold and calculation methodology for the proposed 'Failure to Prevent' offence with the existing reporting threshold under the Modern Slavery Act. This would provide consistency and reduce unnecessary complexity for affected entities.

The offence should distinguish between modern slavery being present somewhere in a supply chain and conduct for which a corporation should be criminally responsible. A connection based only on the fact that a corporation sourced a product, service, labour or material is too remote. Liability should require evidence that the corporation's act or omission materially contributed to, facilitated or enabled the underlying offending.

This distinction is particularly important in multi-tiered and commodity supply chains. Where commodities are sourced through intermediaries, pooled systems or mass balance arrangements, there may be no direct link between a particular farm or facility and a finished branded product. Where multiple corporations source through the same intermediary, guidance should clarify how responsibility is allocated between the

intermediary, downstream brand owners and other entities in the chain, having regard to each entity's contribution, contractual relationship, access to information and actual leverage.

Different entities within a commodity supply chain may have very different levels of visibility, leverage and influence. A corporation purchasing a relatively small volume of an input from a large global supplier may have limited ability to influence practices further upstream. By contrast, an entity that represents a significant share of a supplier's business, has a direct sourcing relationship or exercises greater commercial influence may reasonably be expected to take more extensive steps.

The framework should recognise this asymmetry rather than assume that all entities in a supply chain have the same capacity to prevent or address offending. Where a corporation already operates established supplier assurance, human rights due diligence or modern slavery processes, those systems should be recognised where they meet the requirements of the new framework.

For the purposes of assessing reasonable steps, 'available information' should be interpreted reasonably and in context. Relevant information may include information already held by the corporation, information reasonably obtainable from suppliers, credible public sources, sector or country risk information, and information available through recognised due diligence, supplier assurance or collaborative platforms, where these are appropriate to the nature and level of risk. The framework should not prescribe the use of any particular commercial platform or create an expectation that corporations exhaust every possible source of information irrespective of risk, proportionality, cost, access or practical utility. Corporations should nevertheless be expected to act on credible information and known red flags that are reasonably available to them.

Ordinary commercial activity, including negotiating price, quality and delivery terms, should not by itself establish criminal liability. The relevant question should be whether the corporation's conduct, considered in context, materially contributed to the offending. Relevant factors may include the corporation's leverage, the reasonableness of commercial demands, credible warning signs, audit findings and the steps taken when concerns became known.

1. **Recommendation:** Use a material contribution test requiring proof that the corporation's act or omission materially contributed to, facilitated or enabled the underlying offence. Guidance should explain how the test applies across different supply chain tiers and sourcing models, including how responsibility is allocated in pooled, mass balance and intermediary arrangements and how differences in commercial leverage should be considered.

ABSOLUTE LIABILITY IS NOT APPROPRIATE

AFGC does not support absolute liability for the proposed offence. Modern slavery can occur several tiers removed from a corporation, where the corporation has limited visibility, no direct commercial relationship and limited practical influence. Those features distinguish the proposed offence from corporate offences in which an employee, agent, or close business associate carries out the relevant conduct for the corporation's benefit.

If the Government retains a no-fault model, it should include appropriate safeguards, a clear connection to the underlying offence and a workable reasonable steps defence. The prosecution should still be required to prove the underlying offence and the statutory connection to the corporation beyond reasonable doubt.

2. **Recommendation:** Reject absolute liability. If a no-fault model is retained, it should include appropriate safeguards, a clear connection to the underlying offence and a workable reasonable steps defence.

THE SCOPE OF UNDERLYING CONDUCT SHOULD BE CLEAR

The proposed offence should provide certainty about the underlying criminal conduct that corporations are expected to prevent. AFGC notes the consultation proposes to focus on slavery, servitude, forced labour and debt bondage. Any material expansion of the conduct captured should be subject to further consultation so businesses can understand the offence's scope and align their prevention systems accordingly.

The framework should clearly explain how the proposed corporate offence interacts with existing criminal liability provisions applying to directors and other office holders. While the proposed offence would apply to the corporation, existing Criminal Code provisions may still apply to individuals in some circumstances. Government guidance should distinguish corporate responsibility under the new offence from individual liability under existing law, so that boards and senior management understand their respective responsibilities.

Australia already criminalises slavery, slavery-like practices and trafficking conduct under Divisions 270 and 271 of the Criminal Code. The proposed corporate offence should therefore complement, rather than obscure or unnecessarily duplicate, the existing criminal framework. Government guidance should clearly explain the relationship between the underlying offences, the proposed corporate 'Failure to Prevent' offence and any existing liability that may apply to individuals.

3. **Recommendation:** Clearly define the underlying conduct and consult further on any material expansion of scope. Government guidance should also explain how the proposed corporate offence interacts with the underlying offences in Divisions 270 and 271 of the Criminal Code and with existing criminal liability provisions applying to directors and other office holders, so that the respective responsibilities of corporations and individuals are clear.

REASONABLE STEPS MUST BE PROPORTIONATE AND RISK-BASED

The reasonable steps defence is central to the proposed offence. It should encourage businesses to identify risk, act on credible information and support remediation, rather than creating checklists that treat all suppliers and all risks in the same way.

Reasonable steps should be assessed having regard to the corporation's size, resources, supply chain complexity, risk profile, existing leverage, and reasonable, proportionate opportunities to increase leverage where practicable; information reasonably available or obtainable in the circumstances; legal constraints; and the practical options open to it. Practical capacity should reflect the corporation's actual ability to influence the relevant conduct, rather than theoretical influence alone. A company will generally have greater influence over a direct supplier than over a producer several tiers removed from the commercial relationship. A company will also have greater influence where it procures a large proportion of a smaller entity's goods or services.

Guidance should also recognise that leverage may sometimes be exercised collaboratively, including through industry initiatives or collective engagement with suppliers. Where collaborative approaches are encouraged, Government should clarify how they interact with competition law and other legal constraints.

Guidance on reasonable steps should recognise measures such as:

- integrating human rights due diligence into governance, procurement and risk management systems;
- identifying and assessing actual and potential modern slavery risks;
- prioritising action according to severity, likelihood, supplier risk and the corporation's leverage;
- using supplier engagement, contractual requirements, training, improvement plans, worker voice mechanisms and targeted audits where appropriate;
- responding to credible allegations, warnings or adverse audit findings;
- monitoring the effectiveness of actions taken and keeping appropriate records; and
- supporting remediation and responsible transition where immediate disengagement could worsen harm.

The defence should also recognise that local laws may restrict access to sites, data or workers. A corporation should not be expected to undertake an activity that is unlawful in the jurisdiction where the supplier operates, but it should consider other reasonable ways to assess and address the risk.

Guidance should address cross-border legal constraints in practical terms. These may include restrictions on access to sites or workers, data transfer and privacy requirements, state secrecy or similar laws, and legal limits on audit activity. Where a corporation cannot lawfully obtain particular evidence, the assessment of reasonable steps should focus on the alternative measures reasonably available to it and the way it responds to credible risk, rather than treating the absence of a particular audit or data source as determinative.

The consultation proposes that a corporation bear the legal burden of establishing the reasonable steps defence on the balance of probabilities. If that approach is retained, evidentiary expectations should be practical where overseas suppliers or entities several tiers removed from the corporation hold relevant information. A business should be able to rely on reasonable, good-faith evidence and records available to it, while still being expected to act on credible warning signs.

4. **Recommendation:** Make proportionality explicit in legislation, supplemented by detailed guidance. Assessment of reasonable steps should consider risk, supply chain tier, practical capacity to influence, existing leverage, reasonable and proportionate opportunities to increase leverage where practicable, information reasonably available or obtainable, and relevant legal constraints.

REMEDIATION AND RESPONSIBLE DISENGAGEMENT

The framework should encourage businesses to investigate credible concerns, use available leverage, support corrective action and contribute to remediation where appropriate. Immediately terminating a supplier relationship may not always improve outcomes for affected workers and, in some circumstances, may remove the commercial leverage that could support corrective action.

Where risks cannot be addressed within a reasonable period, responsible disengagement may be necessary. Guidance should distinguish responsible transition from abrupt disengagement and explain how remediation, worker protection and the consequences of exit should be considered.

5. **Recommendation:** Recognise remediation, use of leverage and responsible disengagement as relevant elements of reasonable steps and enforcement decisions.

DUE DILIGENCE SHOULD BE TARGETED AND RISK-BASED

AFGC does not support an expectation that every supplier must be audited. Large businesses may have thousands of suppliers, including suppliers representing a very small share of spend or operating several tiers from the reporting entity. Universal auditing would create substantial costs and administrative burdens and would divert resources from higher-risk suppliers and remediation.

The framework should instead support targeted due diligence where credible indicators of risk exist, such as high-risk sectors or commodities, vulnerable workforces, limited transparency or other reasonable grounds for concern. Country or regional risk should be treated as a relevant risk indicator informing the nature and extent of due diligence required, but should not, by itself, establish that a corporation has failed to take reasonable steps. The focus should remain on the specific supplier, sourcing arrangement and actions taken in response to identified risk.

The Government should also consider the effect of repeated information, assurance and audit requests on smaller suppliers. Smaller suppliers may be asked by multiple customers to provide similar information in different formats or meet overlapping contractual requirements. This can increase administration without necessarily improving risk identification. The framework should encourage proportionate information requests and recognise equivalent assurance systems where appropriate.

Testing control systems, accountability mechanisms and escalation triggers may be more efficient than universal auditing and extensive associated data collection.

6. **Recommendation:** Confirm that due diligence and auditing should be targeted by risk, materiality, supply chain tier and the corporation's leverage and practical capacity to influence, rather than applied uniformly to every supplier. Encourage proportionate information requests and mutual recognition of equivalent assurance systems, controls and escalations where appropriate.

CLEAR EVIDENCE, GUIDANCE AND ENFORCEMENT EXPECTATIONS ARE REQUIRED

Corporations need to understand what evidence may demonstrate reasonable steps, especially where suppliers hold the information or the corporation is several tiers removed from the activity. Clear expectations will help businesses direct resources to prevention and remediation and support more consistent enforcement.

Guidance should be finalised through consultation before the offence commences. It should be practical, sector-aware and aligned with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. It should complement existing Australian guidance and comparable international requirements rather than create a separate parallel system.

Guidance should address:

- what constitutes reasonable steps and adequate procedures in different risk settings;
- examples for businesses with different supply chain structures and levels of leverage;
- the records, supplier information, risk assessments and remediation evidence that may reasonably be relied upon in good faith;
- how businesses should respond where suppliers refuse access or local law restricts audits, data access or worker engagement;
- how mass balance, pooled commodity and intermediary sourcing models should be treated;
- how self-disclosure, cooperation, remediation and corrective action will be considered in enforcement decisions;
- the interaction between the proposed offence, the Modern Slavery Act, group-level systems and comparable international regimes;
- the factors likely to trigger investigation, where appropriate and consistent with law enforcement practice;
- the investigation process and the evidence likely to be relevant to enforcement;
- how the proposed corporate offence interacts with existing criminal liability provisions applying to directors and other office holders; and
- how ordinary commercial conduct will be distinguished from conduct that materially contributes to exploitation.

AFGC also supports an ongoing forum for business, regulators, enforcement agencies and affected stakeholders to discuss de-identified examples and implementation issues. This would allow practical issues to be identified early and guidance to be updated where needed.

Government should consider providing greater statutory certainty where a corporation can demonstrate that prescribed guidance or recognised, risk-based due diligence standards have been implemented effectively in practice. This could include a rebuttable presumption, an appropriately framed safe harbour or another form of statutory assurance that reasonable steps have been taken.

Any such protection should depend on effective implementation and should not apply where a corporation has ignored credible information, known red flags or material risk. This would recognise effective due diligence systems while avoiding protection for corporations that maintain procedures on paper but fail to respond to credible information.

Guidance should also address how corporations can evidence reasonable steps while protecting legal professional privilege, commercially sensitive supplier and sourcing information, and information that could identify or endanger affected workers. Reliance on the defence should not require unnecessary public disclosure of sensitive material or waiver of privilege.

7. **Recommendation:** Publish detailed, sector-aware guidance before commencement and establish a formal implementation dialogue with business, regulators, enforcement agencies and affected stakeholders. Government should also consider whether demonstrated compliance with prescribed guidance or recognised equivalent due diligence standards should provide statutory assurance that reasonable steps have been taken, including through a rebuttable presumption or appropriately framed safe harbour, subject to credible information, known red flags or material risk.

PENALTIES REQUIRE FURTHER DEVELOPMENT

AFGC considers that any penalty framework should be proportionate to the seriousness of the conduct and the impact of the offence, including the harm caused to affected workers and the corporation's contribution to the offending. Further work is needed before settling the appropriate penalty structure, particularly given the complexity of global supply chains and the difficulty of attributing or quantifying financial benefit in some circumstances.

The penalty framework should also distinguish between deliberate or systemic misconduct and circumstances where a corporation has identified risk, cooperated with authorities and taken prompt steps to remediate harm. AFGC does not consider it appropriate to endorse a specific penalty formula until these design issues have been worked through.

8. **Recommendation:** Further develop the penalty framework through consultation, with penalties calibrated to the seriousness and impact of the offending, the corporation's contribution and its response once the issue was identified.

COORDINATION WITH OTHER MODERN SLAVERY REFORMS

The proposed offence is being developed while broader reforms to the Modern Slavery Act remain under consideration following the statutory review. AFGC considers that these reforms should be designed and implemented as a coherent framework, with clear interaction between the proposed offence, reporting requirements, compliance and enforcement settings, any future due diligence requirements, civil penalties and associated guidance.

Without clear sequencing, businesses may need to revise governance, supplier due diligence, reporting and assurance systems multiple times as different elements of the reform program commence. Government should therefore provide an implementation roadmap that aligns these reforms and avoids unnecessary duplication.

International interoperability should be an express design objective. Comparable regimes increasingly use risk-based due diligence, reporting and remediation concepts, although their liability and enforcement models differ. In New Zealand, the Education and Workforce Committee has recommended measures to reduce duplicate reporting, including allowing eligible entities to rely on statements prepared under Australia's Modern Slavery Act. Australia should consider a corresponding approach where practicable, including mechanisms to recognise equivalent overseas statements, evidence, assurance and group-level processes while retaining Australian substantive and enforcement requirements.

9. **Recommendation:** Publish an implementation roadmap explaining how the proposed offence will be coordinated and sequenced with reforms arising from the review of the Modern Slavery Act, including changes to reporting, compliance and enforcement settings, any future due diligence requirements, civil penalties and associated guidance.

TRANSITION, COST AND CAPABILITY

The proposed offence may require corporations to review supplier segmentation, contracts, escalation pathways, evidence systems and remediation processes. The scale of this work will vary with supply chain complexity and the maturity of existing due diligence systems.

A 12-month transition may be insufficient where businesses need to review large supplier populations, amend contractual arrangements or introduce new supplier requirements. The transition period should begin only after final legislation and detailed guidance are available.

The framework should also account for existing and emerging reporting and due diligence obligations. Businesses may already be responding to requirements under the Modern Slavery Act, NSW Modern Slavery Act 2018 (NSW) requirements and guidance, broader ESG and sustainability disclosure obligations and comparable overseas regimes.

Where multiple frameworks require substantially similar information, evidence or assurance, duplication can create a significant reporting and compliance burden and divert resources from identifying, preventing and remediating modern slavery risks. Government should therefore align definitions and recognise equivalent processes where appropriate, particularly for smaller suppliers that may receive repeated and overlapping information requests from multiple customers.

Implementation should also be assessed for unintended consequences. Uncertain or overly broad liability settings could discourage self-disclosure, encourage abrupt supplier exit or reduce sourcing from higher-risk markets without improving outcomes for workers. They may also lead larger businesses to pass extensive assurance requirements down the supply chain. Consider these effects alongside compliance costs when finalising the legislation and guidance.

10. **Recommendation:** Allow at least 18 months after final legislation and final guidance are available before commencement, supported by education and sector-specific examples.

MEASURING WHETHER THE REFORMS ARE WORKING

AFGC recommends reviewing implementation against the outcomes the reforms are intended to achieve. The review should consider whether the framework is improving risk identification, prevention, remediation, and corporate response to credible concerns, as well as whether implementation creates avoidable duplication or shifts disproportionate requirements to smaller suppliers.

Measures of success should not rely only on the number of investigations, prosecutions or reports submitted. A more useful assessment would consider whether businesses identify serious risks earlier, take effective corrective action, and improve outcomes for affected workers.

11. **Recommendation:** Commit to a post-implementation review that assesses prevention, remediation, enforcement effectiveness, duplication and impacts on smaller suppliers.

DEFERRED PROSECUTION AGREEMENTS

AFGC supports further consultation on a comprehensive Deferred Prosecution Agreement (DPA) framework for appropriate corporate offending, rather than a scheme designed solely for the proposed modern slavery offence. A broader framework could provide a consistent resolution mechanism for relevant corporate offences, including the existing failure-to-prevent foreign bribery offence, while retaining offence-specific eligibility and public interest criteria. For relevant corporate modern slavery offending, a DPA could encourage earlier disclosure, cooperation, investigation and remediation while preserving prosecution for serious misconduct.

If a DPA framework is intended to support the 'Failure to Prevent' regime, AFGC considers it preferable that it be operational when the offence commences. Otherwise, businesses may face a period in which prompt self-disclosure creates prosecution risk without an established cooperative resolution pathway.

The design should include clear eligibility criteria and procedural stages, including investigation and referral, negotiation, independent approval and oversight, appropriate transparency, consequences of breach, safeguards for affected workers and clear remediation expectations. The seriousness, deliberateness, systemic nature and repetition of conduct should be relevant to whether a DPA is appropriate, including whether prosecution is required in the public interest.

Any DPA framework should be subject to separate, targeted consultation before commencement. The legislation should clearly define the legal effect of an approved DPA and provide certainty about the treatment of information disclosed during self-reporting and DPA negotiations, including where negotiations do not result in a DPA. The Commonwealth should also issue clear public guidance on DPA eligibility, negotiation, approval and enforcement, including the factors to which the Commonwealth Director of Public Prosecutions will have regard.

Where appropriate, DPA terms should support tangible remediation for affected workers, including compensation or other remedial measures, while maintaining transparency and appropriate independent oversight.

12. **Recommendation:** Develop a comprehensive DPA framework for appropriate corporate offending, including the proposed 'Failure to Prevent' offence and the existing failure-to-prevent foreign bribery offence, through separate, targeted consultation. If the framework is intended to support the proposed modern slavery offence, it should be operational when that offence commences. The framework should establish clear eligibility criteria, procedures and governance arrangements, and provide guidance on self-reporting, cooperation, remediation and the treatment of information disclosed during DPA negotiations.

CIVIL REMEDIES REQUIRE SEPARATE DETAILED DESIGN

AFGC recognises the importance of accessible and effective remedies for victims and survivors. Any new civil pathway should be developed through separate consultation and should address jurisdiction, access to remedy, evidentiary issues, interaction with existing legal frameworks and the risk of overlapping proceedings. It should support remediation without discouraging good-faith investigation, disclosure, cooperation or corrective action.

13. **Recommendation:** Undertake separate and targeted consultation with victim and survivor representatives, legal experts, business and civil society before introducing a new civil cause of action, including consideration of jurisdiction, access to remedy, evidentiary issues and interaction with existing legal frameworks.

CONCLUSION

AFGC supports stronger action to prevent modern slavery and improve outcomes for victims and vulnerable workers. The proposed offence can contribute to that objective if it distinguishes clearly between the existence of modern slavery in a supply chain and conduct for which a corporation should be criminally responsible.

The final model should focus on a corporation's actual contribution, practical capacity to influence, leverage and response to identified risk. It should provide a practical reasonable steps defence, encourage remediation and responsible engagement, align with established international standards, provide proportionate enforcement settings and give businesses enough time to implement the final requirements. Clear guidance and consistent enforcement will be important to ensure corporate resources are directed to identifying, preventing and remediating harm. The offence should also be coordinated and sequenced with broader reforms to the Modern Slavery Act so that related obligations operate as a coherent framework.

AFGC thanks the Attorney-General's Department for the opportunity to contribute to the consultation and welcomes further engagement with government on our submission, any related matters, and subsequent reviews.



The figures on this page exclude the fresh food sector and are based on 2024-25 ABS data.

1: This is total number of employees, head count basis and does not include seasonal employees.
2: Gross fixed capital formation for food, beverage and tobacco manufacturing subsector is taken as indicator of capital investment.