

Port Authority of New South Wales Modern Slavery Statement

Reporting Period: FY2021

Head Office: Level 4, 20 Windmill Street, Sydney NSW 2000

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1 Introduction

The Newcastle Port Corporation trading as the Port Authority of New South Wales (ABN 50 825 884 846) (**Port Authority**) is a reporting entity for the purposes of the *Modern Slavery Act 2018* (Cth), and is therefore required to prepare and publish an annual 'Modern Slavery Statement' (**Statement**) describing its actions to assess and address modern slavery risks in its operations and supply chains.

In accordance with section 16 of the *Modern Slavery Act 2018* (Cth), this Statement issued for the reporting period of FY2021:

1. identifies and describes the structure, operations and supply chains of Port Authority;
2. describes the risks of modern slavery practices in the operations and supply chains of Port Authority;
3. describes the actions taken by Port Authority to address such modern slavery risks, including due diligence and remediation processes;
4. describes how Port Authority assesses the effectiveness of such actions; and
5. (if applicable) includes any other information that Port Authority considers relevant.

The term 'modern slavery' is defined in section 4 of the *Modern Slavery Act 2018* (Cth), and is used to describe situations where coercion, threats or deception are used to exploit victims and undermine or deprive them of their freedom. The Act defines modern slavery as including eight types of serious exploitation: trafficking in persons, slavery, servitude, forced marriage, forced labour, debt bondage, the worst forms of child labour, and deceptive recruiting for labour or services.

Port Authority is committed to taking reasonable steps to prevent, mitigate and address risks of modern slavery practices in Port Authority's operations and supply chains. Port Authority is also committed to ongoing improvement in its management of modern slavery risks.

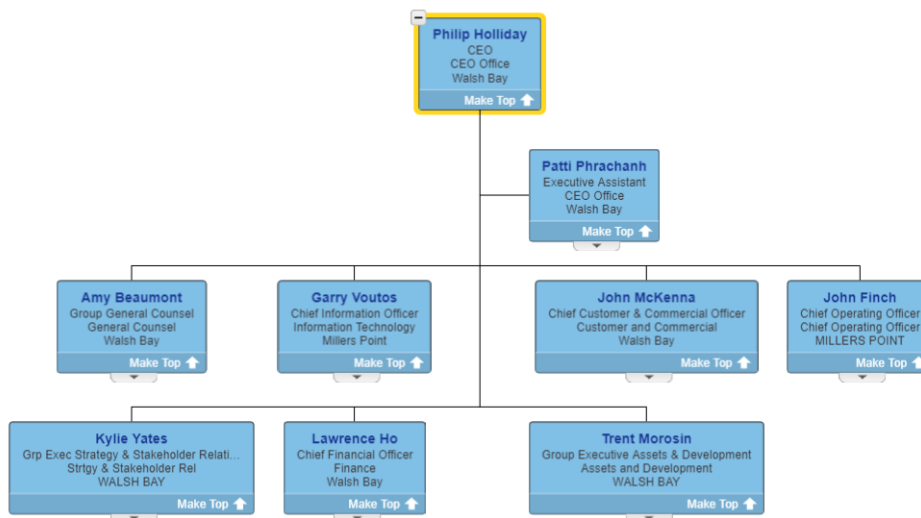
2 Structure, Operations and Supply Chains

2.1 Structure

Port Authority is a state owned corporation constituted by section 6 of the *Ports and Maritime Administration Act 1995* (NSW), and operates in accordance with that Act and the *State Owned Corporations Act 1989* (NSW) and associated regulations.

Port Authority's Board comprises of Chairman, Robert Dunn and six other directors (including its Chief Executive Officer also acting as a director). Port Authority employs approximately 373 people.

Figure 1: Organisational Chart



Port Authority's principal objectives which derive from the *State Owned Corporations Act 1989* (NSW) are:

1. to be a successful business and, to this end:
 - a. to operate at least as efficiently as any comparable businesses; and
 - b. to maximise the net worth of the State's investment in the State owned corporation;
2. to exhibit a sense of social responsibility by having regard to the interests of the community in which Port Authority operates;
3. where Port Authority's activities affect the environment, to conduct its operations in accordance with the principles of ecologically sustainable development contained in section 6(2) of the *Protection of the Environment Administration Act 1991* (NSW); and
4. to exhibit a sense of responsibility towards regional development and decentralisation in the way in which Port Authority operates.

(The *State Owned Corporations Act 1989* (NSW) states that each of the above principal objectives is of equal importance.)

In addition to the above, Port Authority's principal objectives, which derive from the *Ports and Maritime Administration Act 1995* (NSW), are:

1. to promote and facilitate trade through its port facilities;
2. to ensure that its port safety functions are carried out properly;
3. to promote and facilitate a competitive commercial environment in port operations; and
4. to improve productivity and efficiency in its ports and the port-related supply chain.

2.2 Operations

Port Authority manages the navigation, security and operational safety needs of commercial shipping in the ports of Sydney (Port Jackson and Botany Bay), Port Kembla and the ports of Newcastle, Eden and Yamba in the State of New South Wales (**NSW**).

Its principal functions are set out in section 10 of the *Ports and Maritime Administration Act 1995* (NSW), being to:

1. establish, manage and operate port facilities and services in its ports
2. exercise the port safety functions for which it is licensed in accordance with its operating licence, and
3. facilitate and co-ordinate improvements in the efficiency of the port-related supply chain.

Port Authority's business is underpinned by the property assets for which owns, controls or operates and by the management and control of shipping in accordance with the *Marine Safety Act 1998* (NSW), *Ports and Maritime Administration Act 1995* (NSW) and its Port Safety Operating Licence (**PSOL**) issued to it by the NSW Minister for Transport and Roads under section 12(2) of the *Ports and Maritime Administration Act 1995* (NSW). The PSOL establishes conditions to which Port Authority is subject in its role to ensure navigational safety for international and interstate trading vessels in the ports and an appropriate response to marine emergencies. In fulfilling its functions and obligations under its PSOL, Port Authority's main undertakings are:

Logistics and Trade

- Promotion and facilitation of a competitive commercial environment in port operations;
- Trade facilitation;
- Support and facilitation of the passenger cruise industry;
- Facilitation and coordination of improvements in the efficiency of the port-related supply chain for the Hunter Coal Export Framework (HCEF); and
- Port promotion and marketing.

Navigation

- Shipping channels and navigation aids;
- Port communications and harbour control;

- Vessel traffic management;
- Emergency response;
- Security patrols; and
- Harbour Master.

Berth Services

- Common-user wharves;
- Passenger terminals; and
- Monitoring of port security.

Shipping

- Vessel arrival system and berth allocations;
- Advice on berthing requirements, i.e. pilots, tugs, lines, handling;
- Administering Dangerous Goods in port areas; and
- Port operational/e-commerce systems.

Pilotage

- Pilotage of vessels.

Port Assets

- Port estate management and property maintenance;
- Sites for cargo handling;
- Development planning; and
- Implementation of its Maritime Security Plans, in accordance with the *Maritime Transport & Offshore Facilities Security Act 2003* (Cth).

Port Safety and Environment

- Safe transfer of bulk liquids and dangerous goods (including administering Part 11 of the *Dangerous Goods Regulation 1999* (NSW) (which, although repealed, is preserved by other legislation));
- Emergency response to and subsequent investigations into marine accidents and incidents; and
- Emergency environmental protection services for marine pollution incidents.

Port Authority has the role of Harbour Master in all commercial ports in NSW. Each Harbour Master is appointed under section 85 of the *Marine Safety Act 1998* (NSW). The general functions of a Harbour Master are outlined in section 88 of that Act and can be summarised as having ‘powers to direct and control the movement, entry and exit of vessels within port areas’. Port Authority is also the lead agency for responding to maritime incidents in coastal waters stretching from Fingal Head, Port Stephens, to Gerroa, south of Port Kembla.

The Port Authority has a governance function under the Hunter Coal Export Framework and is a participant in the Hunter Valley Coal Chain Coordinator.

Port Authority owns and manages key NSW assets, including common user berths at Glebe Island and White Bay in Sydney Harbour and lands of community significance in Newcastle (Nobbys Head and Macquarie Pier). Port Authority also provides land on long-term lease adjacent to berths at Glebe Island.

Port Authority also owns and manages cruise facilities at the Overseas Passenger Terminal (**OPT**) at Circular Quay, White Bay Cruise Terminal at Balmain and the cruise wharf and Welcome Centre in Eden.

Port Authority is subject to various pieces of legislation that provide rights and impose obligations affecting its governance processes and commercial and operational activities.

2.3 Supply Chains

In FY2021 the majority of Port Authority's total spend related to spend categories with very minimal risk of Modern Slavery. Examples of the type of spend in these categories includes inter-agency payments, professional services, superannuation, insurance, utilities and fuel.

The categories making up the balance of the spend and considered to potentially have exposure to Modern Slavery risks include (in order of spend) construction contractors, asset maintenance services, security contractors, cleaning and waste services, IT, plant and equipment and tug providers.

This spend profile and category breakdown is consistent with previous years and expected to be relatively similar in future years.

Across the spend the vast majority of the supply chain for Port Authority is made up of suppliers located exclusively in Australia and New Zealand which greatly reduces the risk of Modern Slavery.

3 Modern Slavery Risks

For Port Authority there are six main sectors when considering Modern Slavery risk:

Supplier Sectors	Key Risk Factors to Consider	Risk Rating
Building and Construction	<ul style="list-style-type: none"> A risk that forced labour (including debt bondage) is used by the sub-contractors' suppliers, as there is commonly migrant labour employed in the construction industry, and migrant labour has been linked to increased level of forced labour; A risk of forced labour (and other forms of modern slavery) in the supply chains of the construction materials purchased and used by Port Authority's suppliers; A risk of exploitation of migrant labour in lower-skilled building and construction works undertaken by suppliers; A risk of exploitation and underpayment of labour via opaque intermediaries as is common in the Australian construction industry. 	Medium
Technology support & equipment	<ul style="list-style-type: none"> A risk of exploitation of migrant labour as is common in lower-skilled technology businesses, both in Australia and offshore; A risk of opaque intermediaries and complex sub-contracting with the technology servicing supply chain (especially offshore labour conditions); A risk of underpayment of labour as is common in Australian security and tech sector; and A risk of slavery conditions including underpayment and poor working conditions in the operations of upstream suppliers, from which Port Authority's suppliers source the raw materials for technologies. 	Medium
Facilities Management	<ul style="list-style-type: none"> A risk of exploitation of migrant labour, including underpayment as is common within the Australian facilities management industry; A risk of forced labour (including debt bondage) is used by sub-contractors in deliver of facilities management services; and 	Medium

	<ul style="list-style-type: none"> • A risk that human trafficking exists within the labour supply chains of facilities management suppliers for provision of services to Port Authority, or to similar contractors. 	
Electrical, marine & maintenance	<ul style="list-style-type: none"> • A risk of forced labour (including debt bondage) in the supply chains of electrical products sold and maintained by Port Authority's suppliers; • A risk that underpayment of migrant workers within the supply chain of electrical products and maintenance, and in the direct payment from Port Authority's suppliers to their subcontractors; • A risk that there is sham contracting within the operations of Port Authority's suppliers, and subsequent underpayment of fair wages to sub-contracted labour; and • A risk of forced labour (and other forms of modern slavery) in supply chains of the materials used by suppliers in their delivery of services to Port Authority. 	Medium/ Low
Design & architectural services	<ul style="list-style-type: none"> • A risk of exploitation of offshore labour in low-cost drafting practices; and • A risk of underpayment and overwork of staff in Australian offices. 	Medium/ Low
Employee management	<ul style="list-style-type: none"> • A risk of unfair employment conditions (e.g. excessive work hours, leave restrictions, confined or isolated working conditions, ability for employee to terminate at any time, deception relating to the conditions of employment); • A risk of underpayment; • A risk of discrimination, harassment, bullying or victimisation; and • A risk of inadequate training or equipment required to perform their role (e.g. personal protective equipment). 	Low

In addition, some of the services provided to Port Authority that involve sub-contractors also present a risk of modern slavery as Port Authority has relatively limited oversight of the activities in those sub-contracting businesses.

No suppliers or spend sectors were considered to have a high risk of Modern Slavery.

4 Actions

Port Authority acknowledges the importance of having policies, procedures and contracts in place to ensure it can assess and take action to address Modern Slavery risks.

During FY2021 a review of Port Authority's policies, procedures and contracts was performed and the following actions were taken to further address the risks relating to Modern Slavery:

- Amendments to the Supplier Code of Conduct;
- Amendments to the Code of Conduct and Conflict of Interest documents to address modern slavery;
- Incorporating new modern slavery clauses in Port Authority's template works, services and supply contracts (short-form and long-form);
- Inserting a modern slavery compliance schedule into Port Authority's Request for Tender (RFT) and Request for Quote (RFQ) templates, which comprises a pre-qualification questionnaire (and a statutory declaration) to assess risks in a potential supplier's operations, workforce, processes and systems;
- Embedding provisions into the procurement processes and contracts which require the head contractor to ensure the appropriate due diligence on the sub-contractors is performed by them and that they ensure sub-contractor compliance;

- Update to Internal Reporting Policy (including whistle-blower protections) and training;
- Update to the Work Health and Safety Policy;
- Reviewed and commenced the update to the Appropriate Workplace Behaviour Policy, Code of Conduct, Disciplinary Policy, Fitness for Work Policy, Flexible Working Policy, Grievance Policy, Leave Policy, Privacy Management Plan, Recruitment and Advancement Policy and Recording Policy

In addition, Port Authority also engaged Ernst and Young (EY) to conduct a Modern Slavery risk analysis to determine the high-risk priority suppliers, map their supply chains, conduct a risk assessment and develop an action plan. The findings from EY supported Port Authority's position that there were no high-risk suppliers or spend sectors.

In accordance with the action plan Port Authority implemented the following additional risk treatments:

- Ensuring nominated sub-contractors for the successful supplier also complete the Modern Slavery compliance schedule in the RFT document; and
- A review of the security, waste and cleaning suppliers based on their responses to the following three questions:
 1. Request information on their staff and staff location used for Port Authority contracts as well as their policies around personnel hiring and management.
 2. Request information about the key sub-contractors they engage with, and any information on controls in place to reduce the risk of Modern Slavery.
 3. Request information on key upstream and downstream suppliers and what, if any controls they have in place over the supplier, to enable evaluation and determine modern slavery risk in their supply chain.

5 Assessment of Actions

There are a range of ways Port Authority can demonstrate how it assesses the effectiveness of its actions, including:

- Conducting internal audits or monitoring of specific steps taken to assess and address modern slavery risks. For example, Port Authority audit its prequalification checks for suppliers to identify Modern Slavery risks and seek further information where necessary;
- Working with suppliers to check how they are progressing any actions they have put in place to address modern slavery risks;
- Considering any trends in cases reported through grievance mechanisms and how these cases were handled; and/or
- Partnering with an external auditor to undertake an independent review of Port Authority's Modern Slavery framework.

Approval of Statement

This Modern Slavery Statement has been approved by the Board of Newcastle Port Corporation trading as the Port Authority of New South Wales (ABN 50 825 884 846) on [26 October 2021]:

Philip Holliday

Chief Executive Officer and Director

Signature:



Date:

09/11/2021

for and on behalf of Port Authority of New South Wales.

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