



Human rights and Australian listed companies

Benchmarking report, October 2017

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ABOUT THE AUTHORS

ACCR

The Australasian Centre for Corporate Responsibility (ACCR) is a not-for-profit association that promotes responsible investment through undertaking and publishing research to evaluate and improve the performance of Australian listed companies on environmental, social and governance (ESG) issues. We have a small portfolio of shares that we hold for the purpose of engaging with companies on ESG issues, including through the filing of shareholder resolutions. We encourage other investors to use our research to engage with companies in their portfolio.

CAER

CAER is a leading provider of independent research and services relating to the ESG and ethical performance of companies and investment portfolios. CAER is one of the oldest and most experienced ESG research houses in Australia.

EXECUTIVE SUMMARY

This report offers a snapshot of Australian companies' responses to human rights risks.

Based on a methodology developed by a global consortium known as the Corporate Human Rights Benchmark (CHRB) (see Appendix 4 for a further explanation), this research evaluates a set of large, listed Australian companies against internationally-accepted human rights indicators, based on the UN Guiding Principles on Business and Human Rights (UNGPs), as well as other relevant norms and initiatives depending on the sector.¹

The CHRB methodology offers the advantage of comparability with a larger, international data set allowing company-to-company, business size, sector and geographical comparisons to be made. The ACCR methodology is a subset of the CHRB methodology and assesses companies against an abridged set of of the CHRB indicators.²

The UNGPs framework on the "corporate responsibility to respect human rights" expects companies to adopt a policy commitment to human rights, to carry out human rights due diligence and to provide for or cooperate in providing a remedy for adverse human rights impacts, including through establishing operational level grievance mechanisms. This report analyses companies' disclosures in relation to these expectations.

On average, Australian companies' scores are roughly in line with those of their global counterparts.

Reflecting the pattern in the global CHRB dataset, responses of the Australian extractives sector to human rights risks are well-developed compared to other sectors, due in no small part to the serious risks of adverse human rights impacts inherent in large-scale multinational, extractives operations, and significant recent controversies in that sector.

Australian companies covered by this research perform better than the global average in relation to the establishment of grievance mechanisms through which concerns can be raised about the impact of operations on human rights. On the issue of remedy for human rights abuses identified in a company's value chain, however, Australian companies received low scores, in line with the global dataset.

Out of 100, Australian companies' scores range from 2 to 77. The same range is reflected in the global data, with BHP Billiton the highest scoring company worldwide.

The scattering of companies across the range is reflective of 'business and human rights' as a field in a phase of recent, rapid development. The publication of the UN Guiding Principles on Business and Human Rights and the Human Rights chapter of the OECD Guidelines for Multinational Enterprises in 2011 marked the beginning of a growing acceptance by large, OECD-headquartered multinationals, of human rights norms as relevant considerations in business decision-making.

Conceptually, it also marked a leap in understanding of corporate human rights responsibilities, with a realisation that corporate citizens have a responsibility to respect human rights in their activities and their business relationships. This was acknowledged by the investment sector, with respect to their investee companies, at the time of the UNGPs' publication.³

¹ John Ruggie, 'UN Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework'.

² This explains minor differences in scores across companies that appear in both reports.

³ Investor statement in support of the Guiding Principles on Business & Human Rights, May 2011, signed by 29 investors – both asset owners and asset managers – that collectively represented over US\$ 2.7 trillion assets under management, available at

Investors' acceptance of their *own* responsibilities in relation to human rights impacts in their value chains has evolved at a slower pace. Even though the UNGPs clearly contemplate the application of the responsibility to respect human rights in finance and investment relationships, banks and funds have at times been reluctant to meet this head on.⁴

This resistance is shifting. A recent joint report of Australian Human Rights Commission and consulting firm EY surveyed the Australian investment landscape and found evidence of growing recognition that “[i]nvestors have a direct impact on human rights, through their employment standards and their contracts with services providers, for example. However, they may have a far greater indirect impact through their value chains – via the capital and other financial products and services they provide to other businesses.”⁵ A new report from the OCED Working Group on Responsible Business Conduct confirms this understanding: “investors are expected to consider [human rights] risks throughout their investment process and to use their so-called “leverage” with companies they invest in to influence those investee companies to prevent or mitigate adverse impacts.”⁶

This report aims to further develop investors' understanding of human rights issues for Australian companies, and increase their appetite for positive stewardship through results-driven engagements with companies on human rights.

Over the time period of research and writing of this report, a number of companies improved their score through the adoption and publication of new human rights commitments, policies and procedures. Notably, Oil Search published a new suite of human rights policies, and clarified specific existing commitments, in response to shareholder resolution activity undertaken by ACCR.⁷ Fortescue Metals Group also issued new policy commitments during the outreach process.⁸

Still, a significant number of large listed Australian companies lag far behind their peers in their response to human rights issues.

These results should encourage investors readying themselves to engage. It is the authors' firm view, evidenced by these examples, that a large proportion of companies listed on the ASX have the opportunity to make significant improvements, in respect of the metrics used in this report, in the short to medium term. The report's recommendations set out in broad terms the areas in which listed companies can improve.

Recognising that the road to full implementation of the corporate responsibility to respect human rights may be a long one, this report offers perspective on where Australian businesses now stand. Investors should engage across their portfolios in order to promote a culture of respect for human rights, identification, prevention and mitigation of human rights risks, and appropriate action where adverse impacts are identified.

<https://business-humanrights.org/sites/default/files/media/documents/ruggie/investor-statement-re-guiding-principles-2011-may-20.pdf>

⁴ See, for example discussions during 2017 catalogued on BHRRC's website, *Thun Group of Banks Releases New Discussion Paper on Implications of UN Guiding Principles for Corporate & Investment Banking; Commentaries Provided | Business & Human Rights Resource Centre* <<https://business-humanrights.org/en/thun-group-of-banks-releases-new-discussion-paper-on-implications-of-un-guiding-principles-for-corporate-investment-banks>>.

⁵ Australian Human Rights Commission and EY, *Investment and Human Rights* (April 2017) 11 <https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_EY_Investment%20and%20human%20rights%20Report%20April%202017.pdf>.

⁶ OECD (2017), *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises*

⁷ Oil Search Limited, *Oil Search and Human Rights* (9 May 2017)

<http://webcache.googleusercontent.com/search?q=cache:wbl4q5Hx2rcJ:www.oilsearch.com/_data/assets/pdf_file/0008/7838/Website_Q_A_Human_Rights_170509_FINAL.pdf+&cd=1&hl=en&ct=clnk&gl=au&client=firefox-b-ab>; Australasian Centre for Corporate Responsibility, *Oil Search - Investor Briefing Note* (18 April 2017)

<https://d3n8a8pro7vnmx.cloudfront.net/accr/pages/450/attachments/original/1494488108/ACCR_-_Oil_Search_investor_briefing_note.pdf?1494488108>.

⁸ Human Rights Statement', Fortescue Metals Group, 2017

BHP Billiton	70-79%
Newcrest	60-69%
Rio Tinto	
Oil Search	
South32	50 -59%
Fortescue Metals	
Origin Energy	40 – 49%
Ansell	30-39%
Woodside	
Iluka Resources	
AUSTRALIAN AVERAGE*	20-29%
AGL Energy	
Coca-Cola Amatil	
CSL	
Wesfarmers	10-19%
Treasury Wine Estate	
BlueScope steel	
Santos	
Woolworths	
Alumina Limited	
Caltex	
Resmed	
Graincorp	
Cochlear	

*The Australian Average excluding BHP and Rio Tinto is 28.12%. The Australian average including BHP and Rio Tinto is 31.91%.

RECOMMENDATIONS

For ASX-listed companies and investors

1. Make a public commitment to respecting human rights, endorsed at board level;
2. Build capacity on human rights issues, including through appropriate internal resourcing and engagement of human rights expertise;
3. Put in place comprehensive human rights due diligence processes in respect of the company's own operations, products and services, as well its business relationships;
4. Communicate regularly and in detail with stakeholders in respect of human rights risks;
5. Commit to provide for or cooperate in remedying adverse human rights impacts which the company has caused or to which it has contributed, including through the establishment of operational level grievance mechanisms.

Additional recommendations for investors

6. Encourage companies to adopt the elements outlined recommendations 1-5 above;
7. Incorporate human rights concerns into investment due diligence practices, screening tools, and corporate engagement and monitoring processes;
8. Publish data on engagements on human rights issues, including voting records on human rights issues, and publicise specific engagements where possible;
9. Consider exiting business relationships where adverse impacts are severe and unable to be mitigated through the exercise of leverage.

Part 1: Key Concepts, Relevance and Frameworks

ADVERSE HUMAN RIGHTS IMPACTS: RELEVANCE TO INVESTORS

Overview

Historically, outside their home country, companies and corporate boards have faced few if any material financial and legal consequences for involvement in adverse human rights impacts where those impacts are felt by individuals and communities in poorer host countries.⁹ Corporate involvement and complicity in human rights abuses has generally occurred with virtual impunity.¹⁰

Australian companies' exposure to adverse human rights impacts in their operations and business relationships has increased significantly in the past 15 years. There has been a rapid rise in the level of outward direct investment by Australian companies in non-OECD host countries,¹¹ along with a significant geographical change in the source of intermediate and final import goods towards non-OECD countries.¹²

The risk that such exposure will have material consequences for a company has also increased: 'compliance' space has opened up through significant changes in relevant norms and laws,¹³ social benchmarking has proliferated¹⁴ and scrutiny of company practices through online media connectivity and, to a lesser extent, investor interest, has sharpened.

In short, while the universe of potential human rights risks to which Australian companies are exposed has expanded, the chances of poor conduct going unchecked have fallen and are continuing to fall.

In addition, 'competitive' space has enlarged for those companies who see value in brand differentiation or incentives through tendering, finance and capital-raising activities on the basis of responsible practices.

⁹ For example, in 1984 toxic gas leaked from a pesticide plant in Bhopal, India operated and part owned by an Indian subsidiary of US listed Union Carbide - now owned by Dow Chemical. It is estimated 7,000 to 10,000 people died within three days, more than 570,000 people were exposed to damaging levels of toxic gas and many continue to suffer from that exposure today. Union Carbide operated a similar plant in the US but, in India, had replicated very few of the safety measures in place in the US. Despite suits filed in both the US and India the victims failed to obtain much by way of remedy from anyone. The Indian subsidiary and its CEO are now 'absconders from justice'. Dow claims it did not acquire Union Carbide's subsidiary's liabilities. See Amnesty International, *Injustice Incorporated*, 2014, pp

¹⁰ For example, in Latin America alone, over the 15 years to 2014 the Corporate Human Rights Database records 1306 claims of corporate human rights abuse. See "Business & Human Rights," chapter in the *SAGE Handbook of Public Affairs*, by Laura Bernal-Bermudez and Tricia D. Olsen.

¹¹ Over the period 2001 to 2015 the nominal value of the total Australian stock of outward FDI increased by a factor of 2.4. However, this comprised an increase of only 1.6X in the stock located in OECD countries. By contrast the stock located in ASEAN countries increased by a factor of six, in China and India by over 30X. The industrial breadth of outward FDI also increased. In 2015 outward investment in manufacturing exceeded mining. See ABS 5352 *International Investment Position, Australia: Supplementary Statistics, 2015*, 2016 tables 5 and 17a at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5352.02015?OpenDocument>.

¹² In 2001 the three largest sources of intermediate goods imports were the US, New Zealand and Korea. In 2015 they were China, the US and PNG. See World Bank, World Integrated Trade Solution database at

<http://wits.worldbank.org/CountryProfile/en/Country/AUS/Year/2015/TradeFlow/Import/Partner/by-country/Product/UNCTAD-SoP2>.

Similarly, in regards total merchandise imports the share sourced from developing countries increased from 37% in 2000 to 57% in 2015. See ABS 5439.0 - *International Merchandise Imports, Australia, Dec 2015*, 2016 at

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5439.0Dec%202015?OpenDocument>.

¹³ UNGPs, HR Chapter of OECD Guidelines, MSA, EU NFR directive, etc etc.

¹⁴ examples of social benchmarking at Appendix 3

Human Rights Risk: What Is It?

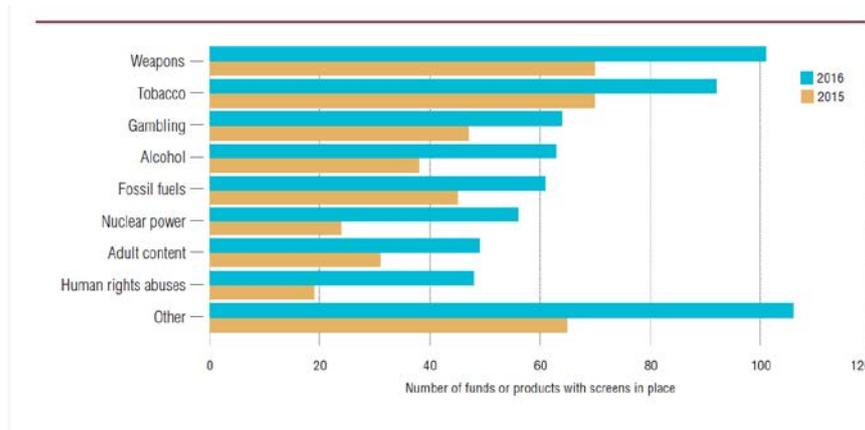
When speaking about ‘human rights risk’ in a business context one should be clear that such risks are borne by the individuals and communities unable to enjoy the full range of human rights due at least in part to the activities of business enterprises. Companies have a responsibility to respect the human rights of all people affected by their activities, including through their business relationships.

An enterprise’s involvement in or linkage to adverse human rights impacts can carry a range of consequences, and can manifest as material legal, financial, political and reputational risk for the enterprise and their financial stakeholders.

This is not a new idea, and is reflected in the literature on ‘responsible investing,’ which “considers a broad range of risks and value drivers as part of the investment decision making process, beyond and in addition to reported financial risk. It is a systematic approach that takes environmental, social and governance (ESG) and ethical issues into account throughout the process of researching, analysing, selecting and monitoring investments. It acknowledges that these factors can be critical in understanding the full value of an investment.”¹⁵

Human rights concerns sit primarily under the “social” category of ESG risks and they have been a relatively recent focus area for investors in Australia. The 2017 *Benchmark Report* published by the Responsible Investment Association Australasia (RIAA) demonstrates a significant jump in interest on the part of investors in human rights concerns (see Figure 1).

Figure 1 Most Common Screening Thematics in Australia



Source: RIAA¹⁶.

Social Responsibility in the Engagement Landscape

Most ESG-related corporate engagement by investors in Australia is done privately. Consequently there are relatively few examples to draw upon to analyse Australian investors’ appetite for engagement on ESG risks. But even within those few examples for which information is publicly available, ESG-focused engagements by Australian investors have generally been attentive to environmental and governance concerns.¹⁷

¹⁵ ‘Responsible Investment Association Australasia | 2017 Report’ 9 <<http://responsibleinvestment.org/resources/benchmark-report/australia/2017-report/>>.

¹⁶ Ibid 16.

¹⁷ *Australian Shareholder Resolutions* Australasian Centre for Corporate Responsibility <<http://www.accr.org.au/australia/>>.

This research identified only two shareholder resolutions on human rights issues put to ASX-listed companies, both of which were put by ACCR in respect of companies' activities in Papua New Guinea (including Bougainville).

Strategic Insights

Understanding how companies identify and address human rights risks in their value chains may provide investors with insights into broader cultural, governance and strategic issues within a company.

This report demonstrates, with few exceptions, a low level of understanding of human rights risk and engagement with leading practices on risk management, across the Australian companies surveyed. It is quite possible, if not highly likely, that at least some of the companies surveyed have human rights controversies lurking in their value chains of which they are simply unaware.

This poses long term strategic risks to investors across their portfolios, as highlighted by John Keeves, Chairman of the Law Council of Australia's Business and Human Rights Working Group: "[w]hether it is a global mining company that is undertaking a project in a developing country, or a branded consumer goods company with a global supply chain, human rights failure can have serious business consequences."¹⁸

Human rights risk is an area of increasing focus by increasingly sophisticated community campaigners. There are several examples of recent civil society attention to specific human rights issues, such as the risk of exploitation and unsafe labour conditions in supply chains,¹⁹ sectoral human rights risk analyses²⁰ and the involvement of companies in the operation and management of the Australian government's immigration detention system.²¹

Ignoring human rights controversies or the presence of an emerging type of risk in a company's value chain does not demonstrate good governance practices. As a strategic matter, "due diligence underpinning investment decisions should include their impact on human rights," and investors would do well to engage with their investee companies to take a proactive approach.²²

¹⁸ 'Business and Human Rights: Some Questions and Answers for Business Lawyers'

https://lawcouncil.asn.au/lawcouncil/images/Business_and_Human_Rights_QA.pdf

¹⁹ Citi Research, 'Modern Slavery & Child Labour: Assessing Risks in Global Industries and ASX-Listed Companies' (21 August 2014) 152.

²⁰ Martijn Boersma, 'Do No Harm: Procurement of Medical Goods by Australian Companies and Government' (The Australia Institute, 19 April 2017) <http://www.tai.org.au/sites/default/files/Do_No_Harm_Report%20-%20April%202017.pdf>; Baptist World Aid, '2017 Ethical Fashion Guide' (2017) <<https://baptistworldaid.org.au/resources/2017-ethical-fashion-guide/>>; See for example Oxfam Australia, 'Banking on Shaky Ground' (April 2014) <<https://www.oxfam.org.au/get-involved/how-schools-can-get-involved/resources-for-teachers/banking-on-shaky-ground/>>.

²¹ No Business in Abuse, 'Business in Abuse: Transfield's Complicity in Gross Human Rights Abuses within Australia's Offshore Detention Regime' (November 2015) <https://d68ej2dhhub09.cloudfront.net/1321-NBIA_Report-20Nov2015b.pdf>; No Business in Abuse, Human Rights Law Centre and GetUp!, 'Association with Abuse: The Financial Sector's Association with Gross Human Rights Abuses of People Seeking Asylum in Australia' (July 2016) <http://cdn.getup.org.au/1851-Association_with_Abuse.pdf>.

²² former President of the Australian Human Rights Commission, Professor Gillian Triggs, in 'Human rights in investment: The value of considering human rights in ESG Due Diligence', Australian Human Rights Commission and Ernst & Young. April 2017.

LEGAL AND NORMATIVE FRAMEWORKS FOR BUSINESS AND HUMAN RIGHTS

Overview

This part introduces, at a high level, major frameworks relevant to the analysis conducted in this report. The first section deals with international arrangements, including the 2011 United Nations Guiding Principles on Business and Human Rights (UNGPs) (upon which the CHRB methodology is based) and the possibility of an international treaty on business and human rights issues. The second section deals with the US, the third with the UK, the fourth with Europe. The final section deals with the current situation in Australia.

Across countries, in the context of FDI a reasonable level of effective parent company immunity²³ has been the consequence of the significant barriers faced by victims of corporate human rights abuses in host countries seeking redress. These have included legal hurdles to extraterritorial action, victims' lack of information and cosy relationships between companies and host states - including the corruption of public officials.²⁴ Some of these barriers are in the process of weakening,²⁵ but many hurdles to effective redress remain.²⁶

International Frameworks

In 2011 the UN Human Rights Council unanimously endorsed the UNGPs, which set out the responsibility of states to protect human rights, the responsibility of business enterprises to respect human rights, and the joint responsibility to ensure a remedy for human rights violations connected to business activity.²⁷ The UNGPs are not legally binding, however they are a global authoritative standard on business and human rights.²⁸

In addition to the UNGPs, there are two UN Working Groups on business and human rights issues: one which promotes effective implementation of the UNGPs,²⁹ and another set up to consider a binding treaty dealing with business and human rights issues.³⁰

The proposed treaty could establish requirements for countries to adopt domestic law requirements to hold corporations directly liable for human rights violations.³¹ At present, a

²³ There is an important distinction between executives/boards and shareholders in this context. Just because boards have, often, gotten away with human rights abuses doesn't mean shareholders have. For example, ASX listed Bougainville Copper operated the Panguna mine at Bougainville, PNG between 1972 and 1989. The mine was closed as a result of industrial sabotage by local landowners arguing that the mine polluted the environment and waterways. The group demanded compensation and the mine closure. The PNG government, responded, with the aid of the company, using military force and a blockade, prompting a decade long war leading to 10,000 to 20,000 deaths. Credible allegations of war crimes by the company, its officers and majority owner Rio Tinto followed, the case went to a US court in 2001 but was finally dismissed in 2013. The mine is still closed. The board and executives avoided prosecution, the company and its parent Rio avoided paying significant damages but shareholders lost virtually the entire value of their investment. See <https://business-humanrights.org/en/rio-tinto-lawsuit-re-papua-new-guinea#c9304> , <http://www.accr.org.au/mining> and <http://www.jubileeaustralia.org/2013/campaigns/notonmywatch/bougainville>.

²⁴ See Amnesty International, *Injustice Incorporated*, 2014, chapter 4. Also <http://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/StudyDomesticLawRemedies.pdf> Chapter 4

²⁵ The weakening of the 'lack of victim access to information' obstacle is partially due to the rapid spread of social media and internet access. Host state laws dealing with corruption of foreign officials have also been strengthened in recent years.

²⁶ <https://business-humanrights.org/en/ohchr-accountability-and-remedy-project/accountability-and-remedy-project-i-enhancing-effectiveness-of-judicial-mechanisms-in-cases-of-business-related-human-rights-abuse>

²⁷ Ruggie, above n 1.

²⁸ See IBA *Practical Guide on Business and Human Rights for Business Lawyers*, 2016, p 22 at

<http://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=420dc178-5f9d-48eb-978e-8876feff8ab> .

²⁹ See <http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx>

³⁰ See <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntnc.aspx> ;

<https://www.iisd.org/itn/2015/11/26/negotiations-kick-off-on-a-binding-treaty-on-business-and-human-rights/> .

³¹ See <http://www.harvardilj.org/2016/07/the-proposed-business-and-human-rights-treaty-four-challenges-and-an-opportunity/> .

binding treaty would appear to be many years off.³² A binding global standard requiring supply chain human rights due diligence has also been proposed.³³

There are also OECD Guidelines for Multinational Enterprises, intended to promote responsible business conduct. As of 2011 these guidelines include a Chapter on human rights which is designed to give effect to the responsibilities set out in the UNGPs.³⁴

There are numerous international ‘Good Corporate Citizenship’ initiatives which companies can participate in. Some of these extend to all industries and go well beyond human rights, for example, the UN Global Compact. Others are industry specific, for example, the Voluntary Principles on Security and Human Rights is extractive industry specific and foreign operations focused, and the Electronics Industry Citizenship Coalition is electronics industry and supply chain focused. While participating in these initiatives is generally indicative of good intent, the extent to which they effectively bind disclosure let alone influence conduct varies greatly.³⁵

The US

Historically speaking, US companies have generally faced greater investor scrutiny of, and have had greater engagement with, social risk and human rights issues than companies in other jurisdictions. Such engagements have included shareholder resolutions to US AGMs seeking to address human rights issues and mitigate human rights risk,³⁶ involvement by US companies in ‘good corporate citizenship’ initiatives, and attempts by foreign victims of human rights abuses by American companies to use the extraterritoriality dimensions of US law to seek to enforce claims against US companies and US issuers. More recently, California has enacted a law requiring consumer supply chain disclosure.

In 2016 alone, members of the Interfaith Center for Corporate Responsibility (ICCR) filed resolutions to 20 companies on human rights issues (including, and with a focus on, human trafficking).³⁷

Since 1979, foreign victims of corporate human rights abuses involving both foreign and US companies and their subsidiaries have used the US *Alien Tort Claims Act 1789* (ATCA) to attempt to seek redress.³⁸ A number of out-of-court settlements were reached.³⁹ However, in 2013 the US Supreme Court (in contrast to the general direction of expanded corporate

³² See <https://business-humanrights.org/binding-treaty> .

³³ See <https://www.hrw.org/report/2016/05/30/human-rights-supply-chains/call-binding-global-standard-due-diligence> .

³⁴ See <http://www.oecd.org/daf/inv/mne/48004323.pdf> especially pp 31 to 34.

³⁵ For example, Voluntary Principles signatories “are expected to: ...Submit annual reports on efforts to implement or assist in the implementation of the Voluntary Principles; and ... communicate publicly” on these efforts. See http://www.voluntaryprinciples.org/wp-content/uploads/2014/10/VPs_-_Roles_and_Responsibilities_-_Corporate_Pillar1.pdf . As at May 17 there were 29 company signatories to the Voluntary Principles but only 7 of the Annual Reports submitted to the Secretariat (most recent - for 2015) were available on the Voluntary Principles website. Even the language as to the nature of the obligation to fulfil commitments made varies. Some companies stress the entirely voluntary/non-compliance focus of the nature of the obligations assumed. See, for example Oil Search at http://www.oilsearch.com/_data/assets/pdf_file/0008/7838/Human-Rights-QA_FINAL.pdf . Others refer to conformance or compliance assessments against the commitments that have been made. See http://www.voluntaryprinciples.org/wp-content/uploads/2016/06/VPs_-_Summary_Annual_Report_of_Implementation_Efforts_in_2015.pdf p 5.

³⁶ The origins of the ICCR involve human rights - a campaign by the Episcopalian churches to stop large US companies doing business in the white ruled nations of southern Africa - South Africa, Rhodesia etc. See <http://www.iccr.org/about-iccr/history-iccr> .

³⁷ They included: a proposal that Western Union create a board committee on human rights, that Chevron report to shareholders on its operations in Burma and that Nordstrom report to shareholders on specific actions ‘it has taken to identify and curtail human rights risk in its supply chain’. See ICCR, 2016 Proxy resolutions and voting guide at http://www.iccr.org/system/files/reportpub_prop_attachments/2016_iccr_proxyresolutionsandvotingguide_2.pdf .

³⁸ This Act construes a violation of the law of nations as a tort in US law. Until 2013 it was interpreted to permit a foreign plaintiff to sue a defendant subject to US jurisdiction even if the event had no connection to US territory.

³⁹ See, for example, <http://ccrjustice.org/home/press-center/press-releases/historic-advance-universal-human-rights-unocal-compensate-burmese> and <http://ccrjustice.org/home/what-we-do/our-cases/wiwa-et-al-v-royal-dutch-petroleum-et-al> .

human rights focus) narrowed the extraterritorial applicability of ATCA to cases which touch and concern the US.⁴⁰

Effective since 2012, the *California Transparency in Supply Chains Act 2010* requires large retailers and manufacturers in California to disclose their efforts, if any, to eradicate slavery and human trafficking from their supply chain.⁴¹ There is currently a Republican sponsored bill before the US Congress which would require the Securities and Exchange Commission (SEC) to extend transparency obligations like those applicable in California to all US securities issuers with global revenue exceeding \$100m.⁴²

The UK

To a lesser degree than their American peers, though still more than in Australia, companies in the UK have fielded public shareholder engagement seeking to address human rights issues and mitigate human rights risk.⁴³ UK companies have participated in ‘good corporate citizenship’ initiatives, and foreign claimants have sought redress in UK courts in relation to human rights violations experienced abroad at the hands of UK-connected companies. More recently, the UK has set international precedent with its efforts to combat bribery and corruption, the world’s first National Action Plan (NAP) on Business and Human Rights, and in 2015 passed legislation requiring limited disclosures in respect of company activities to identify slavery in their value chains.

Over the 15 years prior to 2012 there were a number of human rights cases against UK companies based on UK tort law.⁴⁴ In April 2013, the Jackson reforms limited the use of some of the funding arrangements previously used in human rights cases.⁴⁵

In 2010 the UK introduced a new corporate offence under the Bribery Act of “failure to prevent bribery”. A defence to the charge exists if the business has in place adequate procedures to prevent bribery. Two significant features of the UK law are that it explicitly sets out that the test of the appropriateness of the behaviour must be “what a reasonable person in the United Kingdom would expect” without reference to local custom, and that it has extraterritorial application.⁴⁶

Since 2013 UK corporate disclosure law has included a requirement that listed companies include information on human rights issues alongside other non-financial information in a

⁴⁰ *Kiobel v Royal Dutch Petroleum*. See Amnesty International, *Injustice Incorporated*, 2014 pp 132 et seq and <http://ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/alien-tort-statute-protecting-law-protects>. The Rio/Bougainville case was dismissed in 2013 because of the decision in the *Kiobel* case.

⁴¹ See <https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>. There have been 2 high profile court cases (involving Costco and Nestle) claiming trade practices violations as a consequence of the company claiming intolerance of slavery in their supply chain whilst selling products tainted by slavery. See <http://www.drinkerbiddle.com/insights/publications/2017/02/california-transparency-in-supply-chains-act> and <http://bhr.stern.nyu.edu/blogs/supply-chain-liability-for-human-rights>. Neither succeeded primarily because the law addresses disclosure not conduct.

⁴² See US Congress H.R.3226 - Business Supply Chain Transparency on Trafficking and Slavery Act of 2015 at <https://www.congress.gov/bills/114/congress/house-bills/3226/all-info>. There is already a conflict minerals specific supply chain disclosure provision in the Dodd Frank Act, see s 1502. See <https://www.sec.gov/rules/final/2012/34-67716.pdf>.

⁴³ In regards engagement see, for example, the activities of the ECCR seeking FPIC - free, prior and informed consent - by indigenous communities for extractive industry projects at <http://www.eccr.org.uk/>. See also Share Action’s recent monitoring of telco shutdowns ordered by repressive regimes at <https://shareaction.org/internet-shutdowns-bad-for-human-rights-bad-for-business/>. Shareholder resolutions have been far less common in the UK than in the US though they are not unknown. See, for example, the resolution considered at the 2014 AGM of National Express Group plc which sought ‘the inclusion of human capital within the remit of the Board’s Safety and Environmental Committee, ...’, and the adoption and monitoring of a workplace human rights policy ... ‘described at <https://www.issgovernance.com/rare-u-k-shareholder-proposal-receives-rarer-company-support/>’.

⁴⁴ The UK law firm Leigh Day & Co lists 4 such actions at http://corporate-responsibility.org/wp-content/uploads/2013/11/jackson_analysis5.pdf. They include the toxic waste dumping case *Motto & Ors v Trafigura* and the asbestos exposure case *Lubbe & Ors v Cape Plc*.

⁴⁵ For example, success fees payable under conditional fee arrangements are no longer recoverable. However, damages based agreements are now permissible. See <http://hsfnotes.com/litigation/jackson-reforms/contingency-fees-or-damages-based-agreements>.

⁴⁶ UK *Bribery Act 2010*, ss 5(1) and 3(6).

strategic report to “the extent necessary for an understanding of the development, performance or position of [the company’s] business”.⁴⁷

In September 2013, the UK Government released the world’s first National Action Plan on Business and Human Rights. One aim of the NAP was to show leadership on business and human rights, which “means working hard to secure a level playing field for companies to operate to the same high standards everywhere without unfair costs or unnecessary regulatory burden.”⁴⁸ Implementation of the NAP has included financial and implementation support for good corporate citizenship initiatives such as the Global Compact, the Voluntary Principles on Business and Human Rights and the International Code of Conduct for Private Security Service Providers (ICOC), inclusion in government procurement guidelines of human rights related considerations, and lobbying foreign states to support implementation of the UNGPs. The plan was updated in 2016.⁴⁹

The UK *Modern Slavery Act* of 2015 requires boards to approve and publish an annual slavery and human trafficking statement on their website⁵⁰ setting out what steps they have taken to ensure that slavery and human trafficking is not taking place in their business and supply chains.⁵¹

EU

Presently, 12 continental European governments have NAPs.⁵² The European Union has sought to take a comprehensive approach to human rights in business activity, situating human rights risk under the broader umbrella of social risk in non-financial reporting requirements.⁵³ France has recently introduced limited, mandatory human rights due diligence requirements through its *Duty of Vigilance* law,⁵⁴ a development which may prove ground-breaking.

Australia

Australia has lagged behind comparable nations on a number of relevant fronts, however, it is likely that the country is poised make progress in this regard.

⁴⁷ The Companies Act 2006 (Strategic Report and Directors’ Report) Regulations 2013 s 414C (7) (b) (iii). See <http://www.legislation.gov.uk/ukxi/2013/1970/regulation/3/made>.

⁴⁸ See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf p 5.

⁴⁹ See

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf.

⁵⁰ Where the business exceeds a turnover threshold (£36m) and carries out any operations in the UK.

⁵¹ The statement **may** include information about: the organisation’s structure, business and supply chains; policies in relation to slavery and human trafficking; due diligence processes in relation to slavery and human trafficking in its business and supply chains; the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk; its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate, and training about slavery and human trafficking available to its staff. See s 54(5) at <http://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted>. The act is understood to apply to about 12,000 companies operating in the UK. Like the Californian Act it is focused on disclosure, but mandatory disclosure obligations do not extend to remedy. Further, there is no sanction for non-compliance.

⁵² *OHCHR / State National Action Plans* <<http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>>.

⁵³ EU directive 2014/95 see *Non-Financial Reporting - European Commission* <http://ec.europa.eu/finance/company-reporting/non-financial-reporting/index_en.htm>.

⁵⁴ *Assemblée nationale, Assemblée Nationale - Entreprises : Devoir de Vigilance Des Entreprises Donneuses D’ordre* <http://www.assemblee-nationale.fr/14/dossiers/devoir_vigilance_entreprises_donneuses_ordre.asp>.

Presently, there is no general legal requirement that companies undertake or disclose any form of human rights-related due diligence.⁵⁵ A recent announcement however has signalled the Australian government's intention to introduce, after consultation, a 'slavery in supply chains' reporting requirement.⁵⁷ This has followed a 2014-15 Working Group on Slavery in Supply Chains and a 2017 inquiry as to whether Australia should adopt disclosure requirements similar to the UK *Modern Slavery Act*.⁵⁸

While the Australian government endorsed the 2015 UN Human Rights Council resolution encouraging states to develop a NAP, Australia has not begun the process of doing so. A recent Multi-stakeholder Working Group on Business and Human Rights, convened by the Foreign Minister and auspiced by the Department of Foreign Affairs and Trade, sought advice on whether a consultation process to this effect should be undertaken by the federal government.⁵⁹

Like other OECD countries Australia has established a National Contact Point⁶⁰ to hear complaints about alleged failures to abide by the OECD Guidelines. After sustained criticism for its lack of independence of government, inadequate resourcing and lack of human rights expertise,⁶¹ the Australian NCP is currently under independent review, commissioned by federal government.⁶²

From what this research could determine, there have been only 2 resolutions to ASX listed companies dealing with human rights issues.⁶³ In addition, there are a number of recent examples of public engagement - initiated more by NGO's than investors.⁶⁴ As at May 2016, 5 Australian companies were members of the Voluntary Principles.⁶⁵ Membership of the Global Compact is broader.⁶⁶

Appendix 3 contains examples of corporate initiatives related to human rights that Australian companies are involved in according to the sample of companies researched for the ACCR report which are further detailed in Part 2.

The possibilities for litigating human rights concerns in Australia are limited, though in some cases more hopeful than in other jurisdictions. It should be noted however that Australia stands alone among OECD nations in having no federal charter or bill of rights.

⁵⁵ Two industries where workers have been identified as vulnerable in Australia, textiles, where the use of outworkers is widespread, and road transport, have imposed sector specific regulations requiring a certain level of due diligence.

⁵⁶ See http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery

⁵⁷ Attorney-General's Department, *Modern Slavery in Supply Chains Reporting Requirement – Public Consultation* <<https://www.ag.gov.au/Consultations/Pages/modern-slavery-in-supply-chains-reporting-requirement-public-consultation.aspx>>.

⁵⁸ Australia does have illegal logging specific supply chain legislation similar to the conflict minerals specific supply chain disclosure provision in the Dodd Frank Act in the US. But the Australian Illegal Logging Prohibition Act 2012 goes a lot further than s 1502 of the Dodd Frank Act. Importing materials which contain illegally logged timber is an offence as is a failure to do due diligence on imported materials. See <https://www.legislation.gov.au/Details/C2012A00166>. Similarly, there are out worker provisions in some of the Australian states which permit subcontractor's workers recourse to the contractor in a domestic supply chain. See, for example, the Victorian Outworkers (Improved Protection) Act 2003, s 12 at

http://www.austlii.edu.au/au/legis/vic/consol_act/opa2003395/s12.html

⁵⁹ See <http://www.unglobalcompact.org.au/2016/11/22/australian-government-invites-eois-for-multi-stakeholder-advisory-group-on-business-and-human-rights/>. This follows a commitment by Australia in response to its Universal Periodic Review in 2015 to undertake a national consultation on implementation of the GPs.

⁶⁰ See <http://www.ausncp.gov.au/content/content.aspx?doc=home.htm>.

⁶¹ Kristen Zornada, 'The Australian OECD National Contact Point: How It Can Be Reformed' (13 June 2017)

<<http://corporateaccountabilityresearch.net/report-xx-ancp/>>.

⁶² Treasury, *ANCP: 2017 Review* (2017) <http://www.ausncp.gov.au/content/Content.aspx?doc=2017_review.htm>.

⁶³ The first resolution was put by the ACCR to the 2014 AGM of Bougainville Copper. See <http://www.asx.com.au/asxpdf/20140403/pdf/42nsvbkpw7c017.pdf>. The second resolution was put to the 2017 AGM of Oil Search on 19 May. See http://www.oilsearch.com/_data/assets/pdf_file/0016/8170/170421-OSH-2017-Supplementary-Notice-FINAL.pdf

⁶⁴ See, for example, <https://www.nobusinessinabuse.org/> and <https://www.oxfam.org.au/what-we-do/food-and-climate/australian-banks-and-land-grabs/>.

⁶⁵ They were BHP Billiton, Newcrest, PanAust, Rio Tinto and Woodside Energy. See <http://www.voluntaryprinciples.org/wp-content/uploads/2016/05/Australia.pdf>. Australian members of the ICMM are BHP, Rio, South 32 and the MCA.

⁶⁶ As of March 2017 10 of the ASX top 20 were Global Compact members but only 18 of the top 200. See <http://www.unglobalcompact.org.au/about/our-members/>.

There have been very few class-action lawsuits filed by foreign claimants against Australian companies.⁶⁷ It seems unlikely this is a consequence of better conduct offshore by Australian companies than, say their UK or US counterparts.⁶⁸ More likely it is the consequence of the historically lower levels of outward FDI into non—OECD countries by Australian companies and lower levels of intermediate goods sourcing from those countries. In light of the rapid change in these investment and production patterns recently, the possibility of foreign-claimant human rights litigation in Australian courts against an Australian company has substantially increased.

Finally, an ASX listed company could be expected to disclose to shareholders any material exposure they have which might arise as a consequence of a failure to meet their responsibilities set out in the UNGPs.⁶⁹

⁶⁷ The best known are those following the failure of the tailings dam at Ok Tedi in PNG. BHP paid \$US 86m to affected villagers in an out-of-court settlement. The PNG government with assistance from BHP acted repeatedly to frustrate the villagers case. During the period 1992 to 2009 281 class actions commenced. Only 6 involve human rights issues - both local and foreign. See <http://www.fedcourt.gov.au/digital-law-library/judges-speeches/justice-murphy/murphy-j-20130309> and http://globalclassactions.stanford.edu/sites/default/files/documents/Australia_Empirical_Morabito_2009_Dec.pdf especially p 24.

⁶⁸ For examples of Australian companies overseas human rights impacts, see Corporate Accountability Research *Redress for Transnational Business – Related Human Rights Abuses in Australia*, 2016 pp 13 -24 at http://corporateaccountabilityresearch.net/s/NJM03_au-govt.pdf and ICIJ *Fatal Extraction Australian mining companies digging a deadly footprint in Africa* at <https://www.icij.org/project/fatal-extraction> .

⁶⁹ See Keeves, J *Business and Human Rights: Some Questions and Answers for Business Lawyers*, p 4 at https://www.lawcouncil.asn.au/lawcouncil/images/Business_and_Human_Rights_QA.pdf.

Part 2: Results and Analysis of Selected ASX Companies

Overview

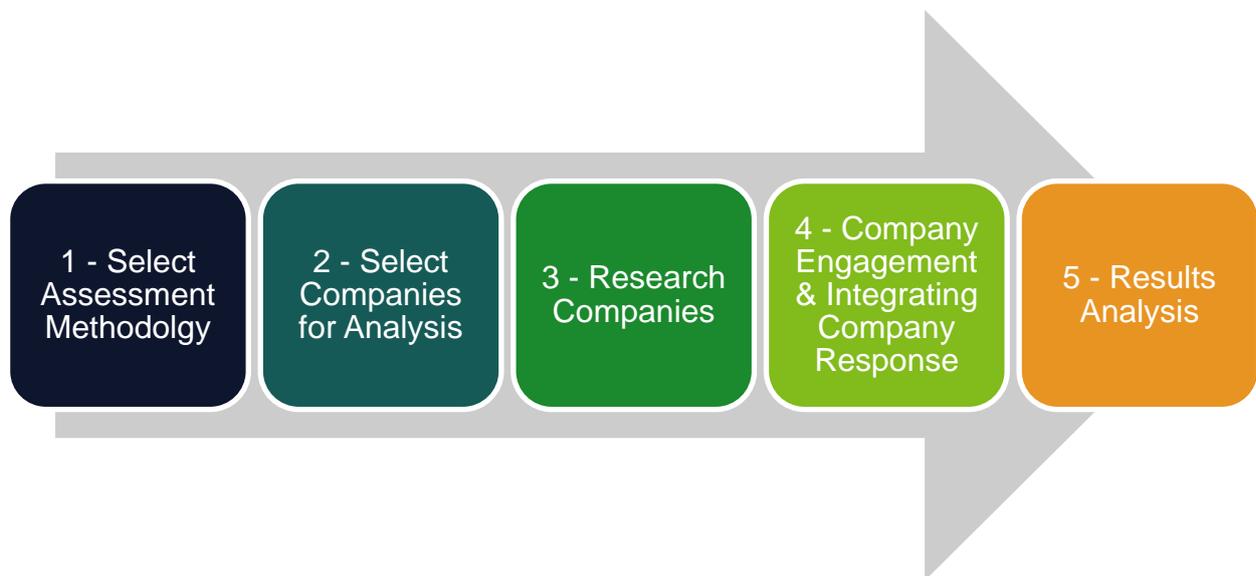
This part of the report assesses 23 ASX-listed companies in relation to their management of human rights related risks in their activities and business relationships. The process of conducting this research involved desk research, company surveys, verification of responses against publicly available information, and analysis of responses and results.

ASX-listed companies in the agricultural, extractives and medical supplies sector were assessed. These companies vary in market capitalisation and range from large international miners, to smaller medical supplies companies. The companies assessed appear in the ASX100, as at the date of publication.

Summary of Research Process

ACCR went through a comprehensive research process in order to assess the human rights disclosures of Australian companies (see Figure 2). Each of the steps in this process are summarised below, and a detailed description related to the selection of the assessment methodology and companies for analysis is set out in Appendix 4.

Figure 2 Research Process



1 - Selection of assessment methodology

Rather than inventing a new assessment metric, this report draws upon the work undertaken by the Corporate Human Rights Benchmark (CHRB) in their pilot benchmark published in March 2017, as agreed with CHRB.⁷⁰ Adopting this methodology has the advantage of producing a data set with a degree of comparability to Australian companies' international peers. Information on the development of the CHRB Methodology is detailed in Appendix 4.1.

ACCR used a sub-set of the CHRB indicators to generate data for the companies assessed in this report.

2 – Selection of companies for analysis

Three ASX-listed companies – Rio Tinto, BHP Billiton and Woolworths - were assessed in the CHRB pilot study. Accordingly, ACCR did not conduct new research for these companies, but instead reproduced a sub-set of CHRB pilot benchmark data for these companies as detailed in Appendix 2.

This report set out to assess a further 20 ASX listed companies, for which new research was undertaken and a distinct set of data produced.

Given that the CHRB pilot methodology was limited to extractives, agricultural and apparel sector companies, ACCR considered the sectoral breakdown of the ASX100 in order to identify companies suited to evaluation using the CHRB methodology. No ASX100 companies derive the majority of their revenue from apparel. As explained in Appendix 4.2, ACCR decided that the apparel sector methodology could logically be transposed to Australian businesses in the medical devices sector, given the comparability of their operating structures. For example, apparel and medical sector companies have similar supply chains. Therefore, the ACCR methodology covers extractives, agriculture and medical equipment sectors.

The 23 ASX listed companies, including the three ASX listed companies covered by the CHRB pilot study, are then compared to the 95 other global companies assessed in the CHRB pilot study. Therefore, this report makes conclusions covering 118 publicly listed companies from around the world with operations in the extractives, apparel, medical devices and agricultural products industries.

3 – Research companies

Only public sources accessible through desktop research were utilised for analysis during the first stage of research. The main sources used are public company disclosures such as annual reports, sustainability reports, corporate websites, codes of conduct, human rights policies, corporate sourcing policies and ASX announcements.

To ensure research consistency across all company assessments, a process of quality checks was applied. Details about this process can be found in Appendix 5. The quality checks included engagement with companies with regards to their corresponding assessments and scores.

⁷⁰ 'Home', *Corporate Human Rights Benchmark*, <<https://www.corporatebenchmark.org/>> [Accessed 05/06/2017]. [Accessed 01/07/2017].

4 – Company engagement and integrating company responses

The ACCR contacted the companies assessed for comment, and applied the quality checks to ensure the outputs are closely aligned with the methodology of the CHRB.

Part of the company engagement process included a mailout of the analyst assessment to allow for companies to provide feedback of the original analyst assessment and provide additional material. Out of the 20 companies assessed for the ACCR, 14 responded to the engagement. Companies were initially given three weeks to respond, which was further extended to six weeks. A few companies were also given extended deadlines if they had proven to be responsive and communicative to the engagement process.

Of the companies that did not engage, three companies responded with a decision to not participate in the survey. Three companies were non-responsive to our requests to engage.

Through additional information and clarifications in the engagement process, scores of 13 companies were revised to some degree.⁷¹

5 – Results analysis

In the Australian results analysis, sector comparisons were made based on the overall performance based on the percentage of total scores and through a comparison by Measurement Theme. The Measurement Themes selected for review cover different matters related to human rights, such as Governance and Policy Commitments, and are set out in more detail in Appendix 4.1 - Figure 13.

Where international comparisons are made, this research has translated CHRB scores to focus on the same sub-set of indicators used to review Australian companies. This subset of indicators is further detailed in Appendix 2. Notwithstanding this, any errors, oversights or mistakes in translation of data sets are the responsibility of ACCR, and not of CHRB.

In this analysis, ACCR considered market capitalisation as a means to highlight the leaders across companies of relative size. Market capitalisation was factored into ranking the performance of companies' human rights practices as theoretically, companies with a larger market cap are expected to have greater capacity and resources to internalise human rights commitments within corporate structures, and set in place appropriate processes, including operational level grievance mechanisms. However, further results analysis did not find a strong correlation between market cap size and assessment results. Therefore, geographical factors and a sector based analysis was utilized to make international comparisons.

⁷¹ The global CHRB had a public portal and companies had the opportunity to publish information that they presented to the CHRB publicly. It is important to note that the ACCR did not replicate this reporting mechanism. The absence of this opportunity to publicly publish information could have possibly reduced the scores the companies reviewed in the ACCR subset.

Results

The results were reviewed in the following manner:

1. Overall results bands were identified based on percentage of total scores. This analysis was used to identify companies' disclosures across sectors.
2. Sector comparisons where company scores were reviewed by sector peer group based on:
 - a. Overall performance based on the percentage of total scores
 - b. Comparison by *Measurement Theme*
3. International comparisons based on sector and geographic region against the Pilot CHRB
4. Qualitative breakdown based on:
 - a. Two areas where Australian companies outscore international counterparts, and two areas that require improvement
 - b. Corporate initiatives related to human rights

Australian Results

Figure 3 places the final overall percentage scores in bands. Scores have been placed into bands to compare companies across sectors as it is important to not read too much into the small differences in the absolute score. No company considered in the analysis scored in the two possible highest bands (80-89%, 90-100%). Australia's two largest diversified miners, BHP Billiton and Rio Tinto, scored the highest.⁷² In addition to the two majors, the research finds that Oil Search and Newcrest also scored in the second highest band. Overall, extractives companies are higher scoring than other sectors.

⁷² BHP Billiton and Rio Tinto were also identified in the global benchmark to be leaders in human-rights related disclosures.

Figure 3 Overall Scores

BHP Billiton	70-79%
Newcrest	60-69%
Rio Tinto	
Oil Search	
South32	
Fortescue Metals	50 -59%
Origin Energy	40 – 49%
Ansell	30-39%
Woodside	
Iluka Resources	
AUSTRALIAN AVERAGE*	
AGL Energy	20-29%
Coca-Cola Amatil	
CSL	
Wesfarmers	
Treasury Wine Estate	10-19%
BlueScope steel	
Santos	
Woolworths	
Alumina Limited	
Caltex	
Resmed	
Graincorp	
Cochlear	0-9%

*The Australian Average excluding BHP and Rio Tinto is 28.12%. The Australian average including BHP and Rio Tinto is 31.91%.

The band with the most number of companies is the second lowest band (10-19%). Eight ASX-listed companies scored between 10-19%.

This information reveals that significant improvements can be made with regards to utilising best practice human rights policies, due diligence, grievance mechanisms and performance.

Of the two lowest scoring companies, Cochlear did not respond to our engagement requests and Graincorp chose not to participate in the engagement process.

Industry Sector Results

Agricultural

Figure 4 Agriculture – Company Total Percentage Score

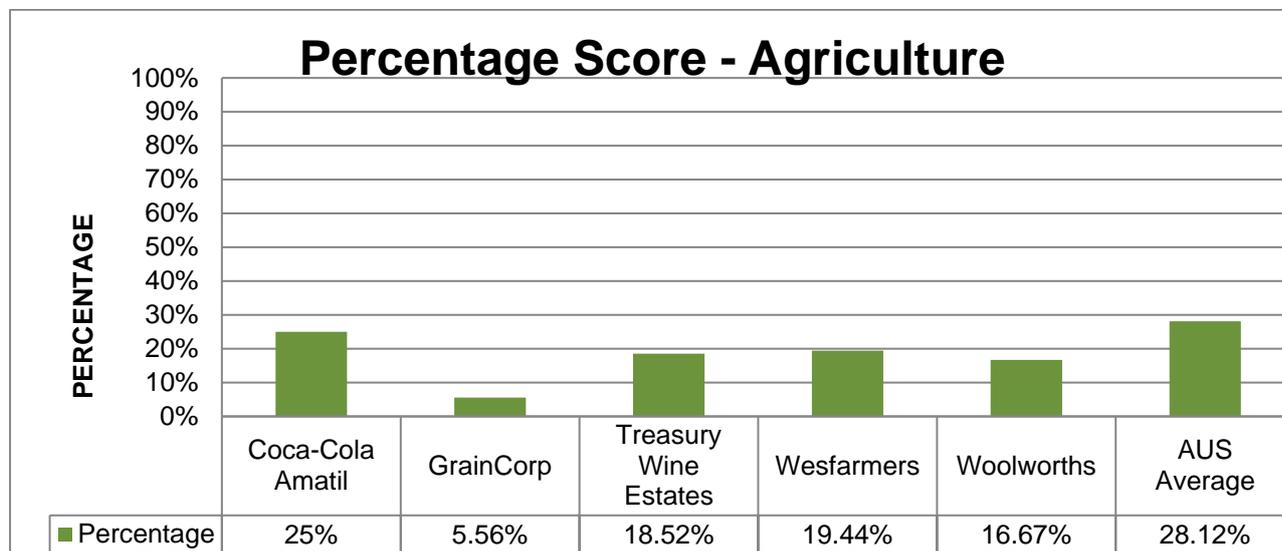


Figure 4 illustrates how the five ASX-listed companies scored using the agricultural sector methodology. Australian companies assessed under the agricultural sector methodology are the worst performers by sector.

The highest scoring company is Coca-Cola Amatil at 25%. Coca-Cola Amatil is involved in the production and manufacturing side of agricultural production, rather than just the retailing. Therefore, it is positive to see that Coca-Cola Amatil receives a higher score than both Woolworths and Wesfarmers.

Wesfarmers received a total percentage score of 19.4%. Wesfarmers was assessed through their Coles operating segment. Woolworths, Wesfarmers main industry competitor, receives 16.6%.⁷³ Woolworths and Wesfarmers are involved in the retailing of agricultural products, and do not directly own any agricultural land. However, both of the companies did not score highly in Measurement Theme D, of which the questions related to supplier commitments and policies.

Treasury Wine Estates, which operate their own agricultural vineyards and wineries across the world, scored 18.5%. The wine industry has been plagued by allegations of slavery and poor working conditions, particularly in regions such as South Africa.⁷⁴ However, Treasury Wine Estates only operates vineyards in Australia, New Zealand, the United States and Italy.⁷⁵

The lowest scoring company was Graincorp, which received a score of 5.6%. It should be noted that when Graincorp was asked to participate in the engagement process, they stated that they had no additional information to disclose to the ACCR at this time. Graincorp was assessed for its relationships with suppliers and for their own operations. This is because

⁷³ Using the Pilot CHRB Methodology Woolworths received an overall score of 25%. The Company was tiered in the third lowest band (20-29%).

⁷⁴ For insight into South Africa's Wine Industry and allegations of slavery see the documentary 'Bitter Grapes', by Tom Heinemann, released in December 2016 <<http://www.bittergrapes.net/>> [Accessed 05/06/2017].

⁷⁵ Treasury Wine Estates Annual Report 2016, p5.

Graincorp, as opposed to a retailing company, has operations in agricultural areas; the company employs a seasonal workforce and have similar risk exposure to labour rights issues within their own operations. The research found that Graincorp has no policy commitments relating to human rights or otherwise disclosed commitments to UN principles relating to human rights. The areas where Graincorp scored positively were in the questions relating to remedies and grievance mechanisms as the company has a whistle-blower procedure and an independent grievance mechanism to receive human rights concerns and available to external stakeholders. Through their Workplace Gender Equality Agency reporting the company also demonstrates how it provides equality of opportunity for women in the workforce which is maintained throughout all levels of employment. On all other indicators, there was little to no public evidence around initiatives that address the protection of basic human rights.

Figure 5 - Agriculture companies by Measurement Theme

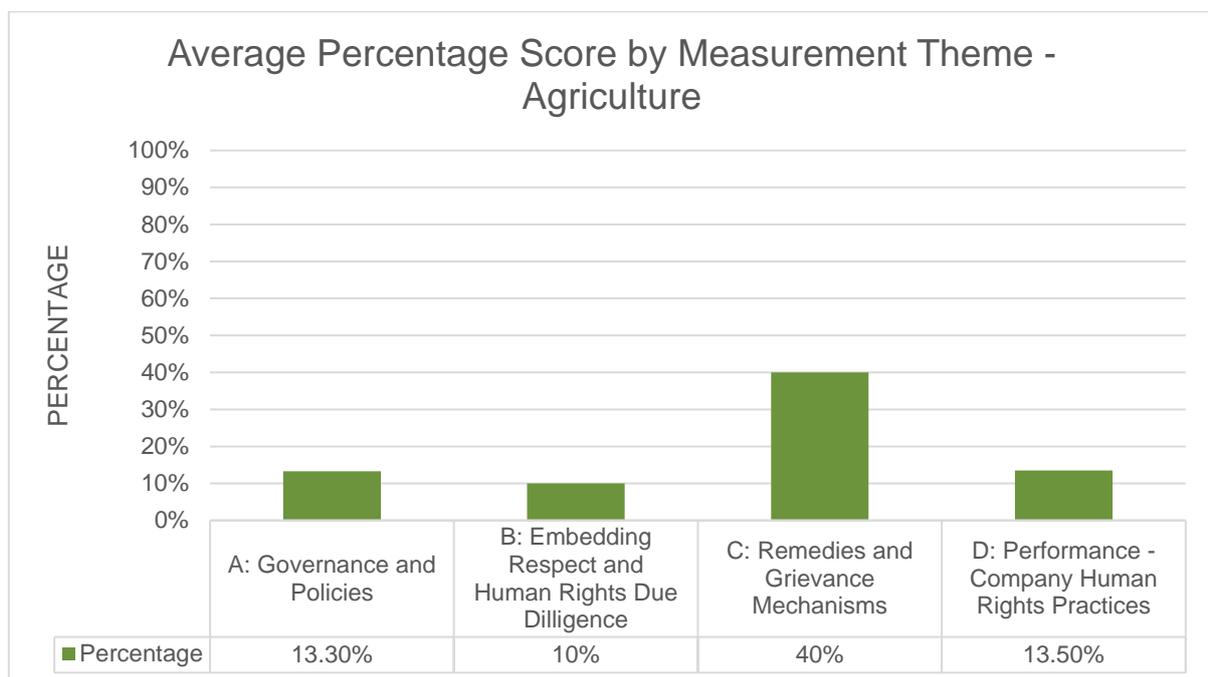


Figure 5 breaks down the average total percentage score for the Measurement Themes for all ASX-listed Australian Agricultural companies.

ASX-listed Agricultural companies on average score 40% for Measurement Theme C: Grievance Mechanisms and Remedies. This means that Agricultural companies had the best disclosures relating to access to remedies and the provision of grievance mechanisms for workers and external stakeholders. Companies scored the poorest, at an average of 10%, for Measurement Theme B: Due Diligence, which means that companies are poor at embedding their policy commitments throughout company processes. This however is unsurprising as agricultural companies scored the poorest out of any sector with regards to Measurement Theme A. Companies scored similarly for Measurement Theme A: Governance and Policy (13.3%) and Measurement Theme D: Performance Practices (13.5%).

This trend is unusual as it is not often that companies score higher in relation to performance practices than policy commitments. This is because often companies are more likely to release a commitment, than follow up those policies with management systems and reporting mechanisms. However, agricultural companies are still worse at embedding due diligence and

policy commitments across the company (Measurement Theme B), than making these policy commitments (Measurement Theme A).

Medical Supplies companies

Figure 6 Medical Supplies - Company Total Percentage Score

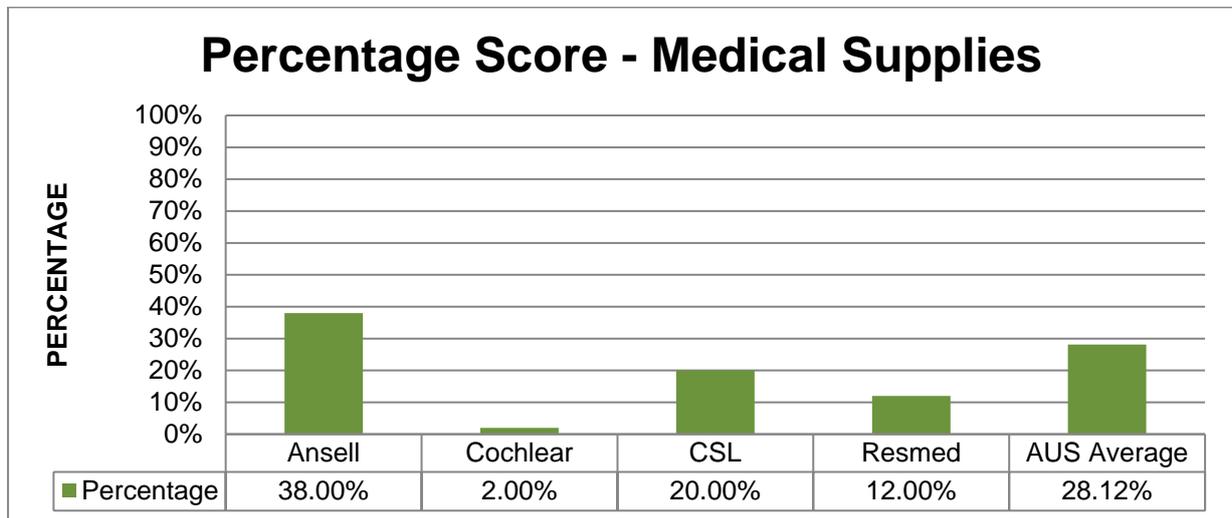


Figure 6 illustrates how the five ASX-listed companies scored using the medical supplies sector methodology.

The scores for medical supplies companies using the apparel sector methodology are illustrated in Figure 6. Australian companies assessed have scored poorly. The highest performing company is Ansell, with a percentage score of 38%. It is interesting to note that Ansell has the highest score out of all of the non-extractive companies. Ansell has a human rights statement, a code of conduct with labour guidelines, and a third party social accountability policy which covered some of the indicators' criteria. Ansell was the only medical supplies company with a standalone human rights statement or policy. However, CSL's Code of Responsible Business Conduct covered a commitment to human rights and the OECD Guidelines for Multinational Enterprises.

CSL Limited scored the second highest at 20%. CSL provided a thorough engagement response, and scored highly on indicators related to policy commitments, remedy and grievance mechanisms. CSL Limited manufactures plasma-derived products and has operations in over 30 countries. It is positive to note that the company has engaged in the research process and has shown evidence of embedding policy commitments and grievance mechanisms. Implementation of human rights commitments throughout the rest of CSL's operations should consequently be encouraged.

Cochlear limited scored the lowest at 2%. Cochlear received one score for its commitment to women's rights and providing equal opportunity for women in the workforce that are monitored and maintained throughout all levels of employment. However, it should be noted that Cochlear's manufacturing operations are based in Australia, Sweden, United States and Belgium which are covered by various regulations and legislation relating to human rights as highlighted in Part 1.

Figure 7 Medical Supplies - Measurement Theme

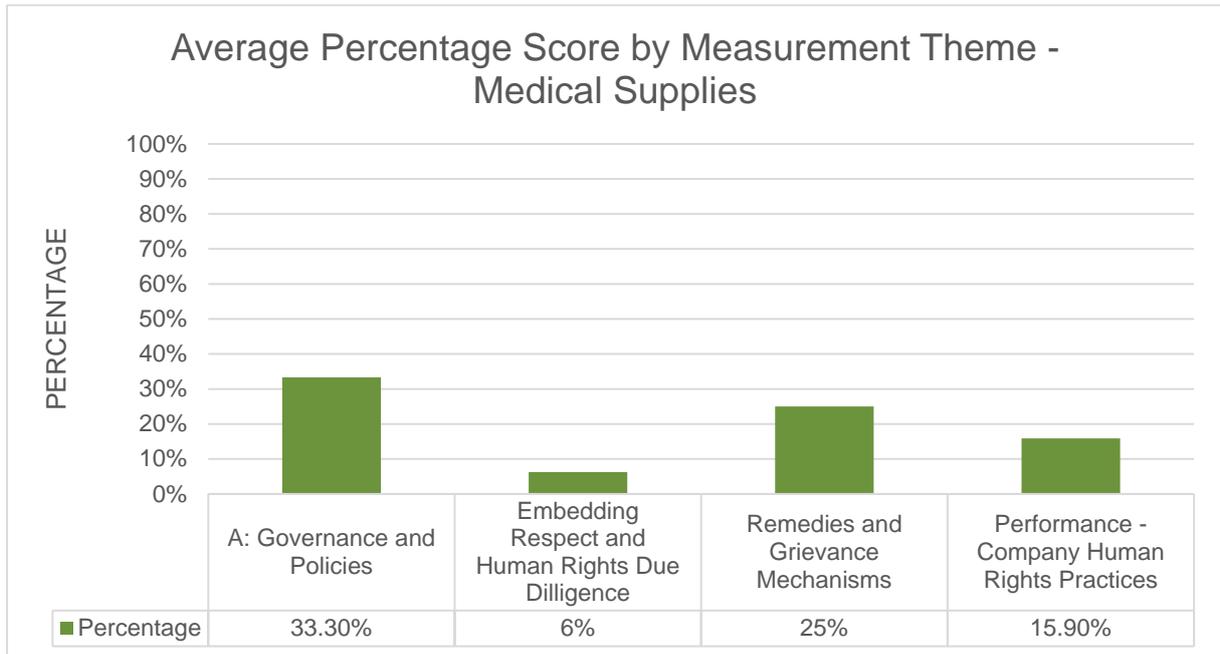


Figure 7 breaks down the average total percentage score for the Measurement Themes for all ASX-listed Australian Medical Supplies companies.

Medical supplies companies were better at showing policy commitments relating to human rights, than mechanisms and practices relating to the implementation and protection of these commitments. Medical supplies companies scored highest, at 33.3%, in Measurement Theme A: Governance and Policy. Medical supplies companies scored the lowest in Measurement Theme B: Due Diligence. This means that despite having a relatively high commitment to governance and policy, overall medical supplies companies fails to embed these policy commitments into company culture and due diligence mechanisms.

Extractives

Figure 8 illustrates the total percentage scores for extractive companies. After Rio Tinto and BHP Billiton, the best scoring companies in the extractive sector are Fortescue Metals, Oil Search, Newcrest and South 32. The poorest scoring companies are Alumina Limited, Bluescope Steel, Caltex and Santos. One must note that the higher-tier scoring companies have global mining operations. Santos is involved in oil and gas extraction and exploration in the Asia-Pacific region and has been identified as a company laggard regarding human rights disclosures. Whereas Alumina Limited essentially acts as a holding company and has a non-operating stake in mining projects, Bluescope Steel only has one mine, the Waikato North Head mine site in New Zealand and Caltex has no mining operations. This does not mean that these companies are abdicated of any responsibility related to human rights; rather their exposure to human rights issues differs from the larger global extractive companies.

Figure 8 Extractives - Company Total Percentage Score⁷⁶

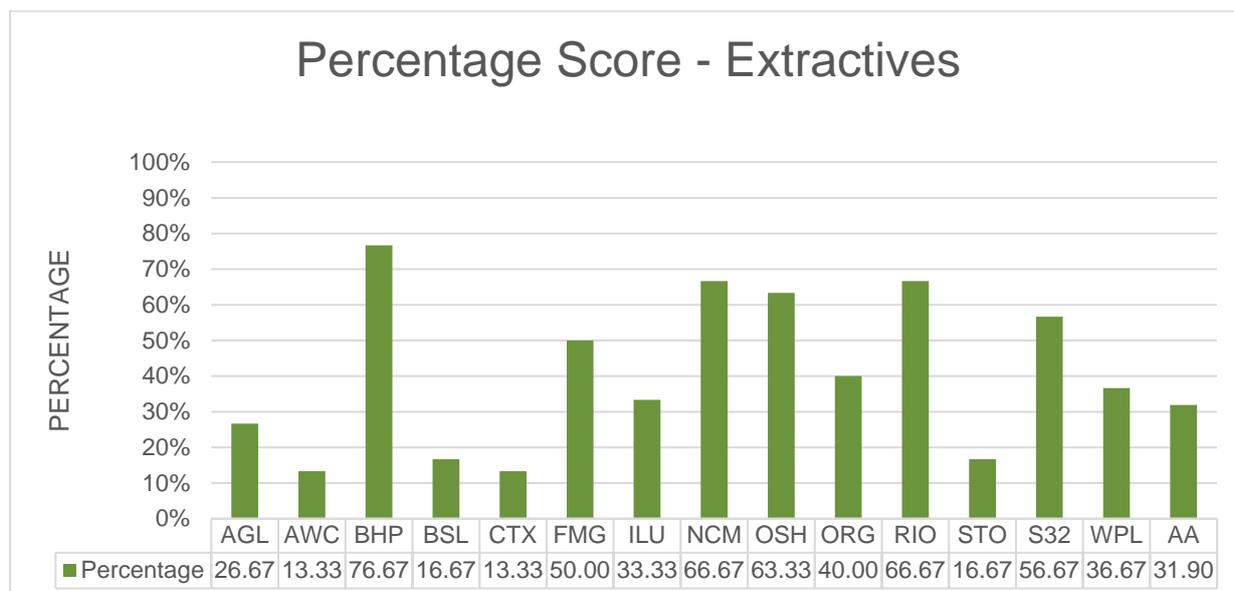


Figure 8 AGL (AGL Energy), AWC (Alumina Limited), BHP (BHP Billiton), CTX (Caltex), FMG (Fortescue Metals), ILU (Iluka Resources), NCM (Newcrest Mining), OSH (Oil Search), ORG (Origin Energy), RIO (Rio Tinto), STO (Santos), S32 (South32), WPL (Woodside Petroleum) and AA (Australian Average)

The extractives sector is the only sector to not have a company in the lowest scoring band (0-9%). Furthermore, the extractives sector has the most companies in the highest performing bands (60-69%, 70-79%).

The extractives sector also seems to have a more even distribution of scores across the seven bands. However, this also may be because there are more extractive sector companies assessed than any other sector. Furthermore, the selected extractive companies have a large range in relation to market cap. For example, the market cap of BHP is significantly higher than the market cap of Alumina Limited. It is also important to note that the AUS Average in Figure 8 includes BHP and Rio Tinto, whereas the AUS Average score in Figure 6 and Figure 4 excludes BHP and Rio Tinto.

⁷⁶ The AUS average here includes BHP Billiton and Rio Tinto, however, the graph for apparel and agriculture excludes BHP and Rio Tinto from the average.

Figure 9 - Extractives - Measurement Theme

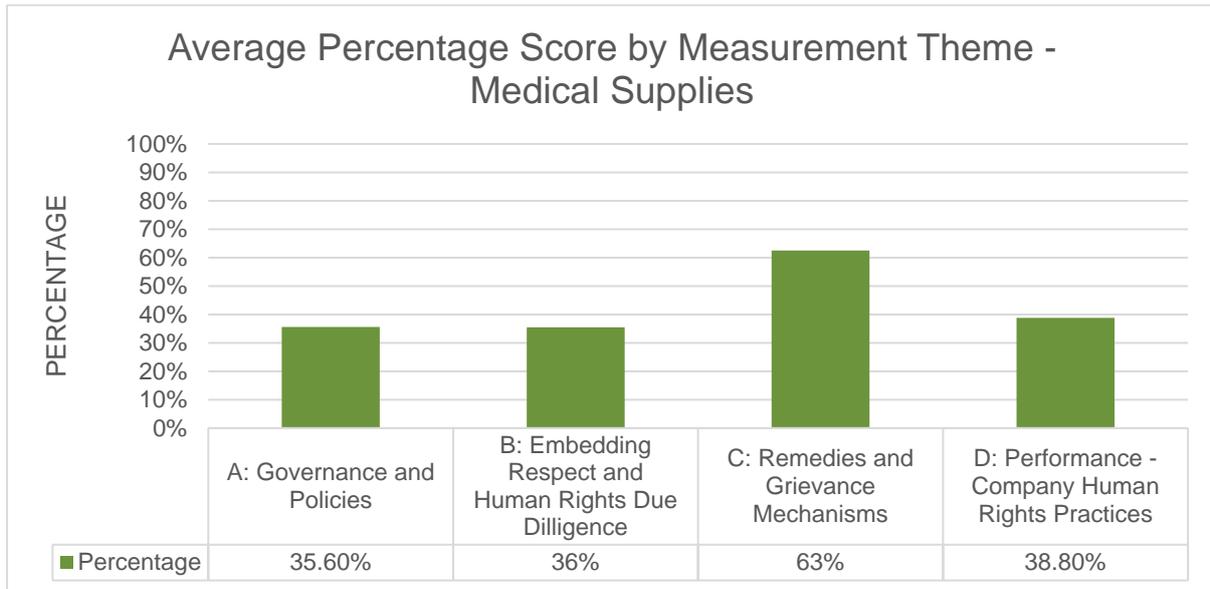


Figure 9 breaks down the average total percentage score for the Measurement Themes for all ASX-listed Australian Extractives companies.

Overall, the extractive sector has the highest scores for each Measurement Theme, when compared to the other sectors. The result for the extractive sector based on Measurement Theme is illustrated in Figure 9. The extractive sector companies score highest in Measurement Theme C: Grievance Mechanisms and Remedies.

In all sector cases, companies score higher in Measurement Theme A: Governance and Policy, then Measurement Theme B: Due Diligence. However, in the case of extractives, Measurement Theme B: Due Diligence is only marginally lower than Measurement Theme A: Governance and Policy.

An International Comparison

This section analyses companies with their international peers using the subset methodology, per sector and geographic location with the Pilot CHRB results.

Sector International Comparison

Figure 10 compares the average percentage score of Australian companies, and their global sector peers. Australia outperforms their global sector peers for the extractive and agriculture industry. However, the Australian medical sector companies slightly underperform when compared to the global apparel sector companies.

Figure 10 - Percentage Score by Sector⁷⁷

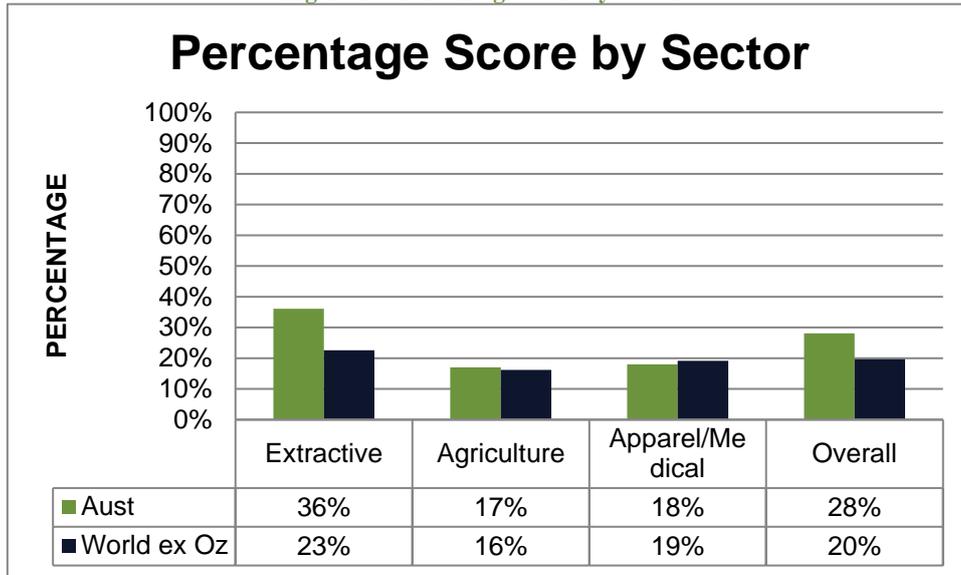


Figure 10 compares the percentage score for Australian companies to their international counterparts for each sector.

It is positive to note that Australian companies perform better than their international counterparts at an average score of 28% as compared to 20%. However, there is significant room for improvement amongst Australian companies and their global counterparts. Australian companies on average score less than 1/3 of the indicators that could potentially be received.

Geographical International Comparison

Figure 11 illustrates the average percentage score related to the geographic location of companies assessed. The correlation between geographic location and company results was more significant than the correlation between company results and market capitalization. The European companies score higher than the Australian companies on average at 29%, as compared to 28%. The Chinese and Russian companies were the lowest performing companies pulling down the World Average score. However, it is important to note that the geographic location is the location of the company’s headquarters, rather than the location of the majority of their operations.

⁷⁷ The Extractives average, and the overall average, excludes BHP and Rio Tinto.

Figure 11 Percentage Score by Geographic Location

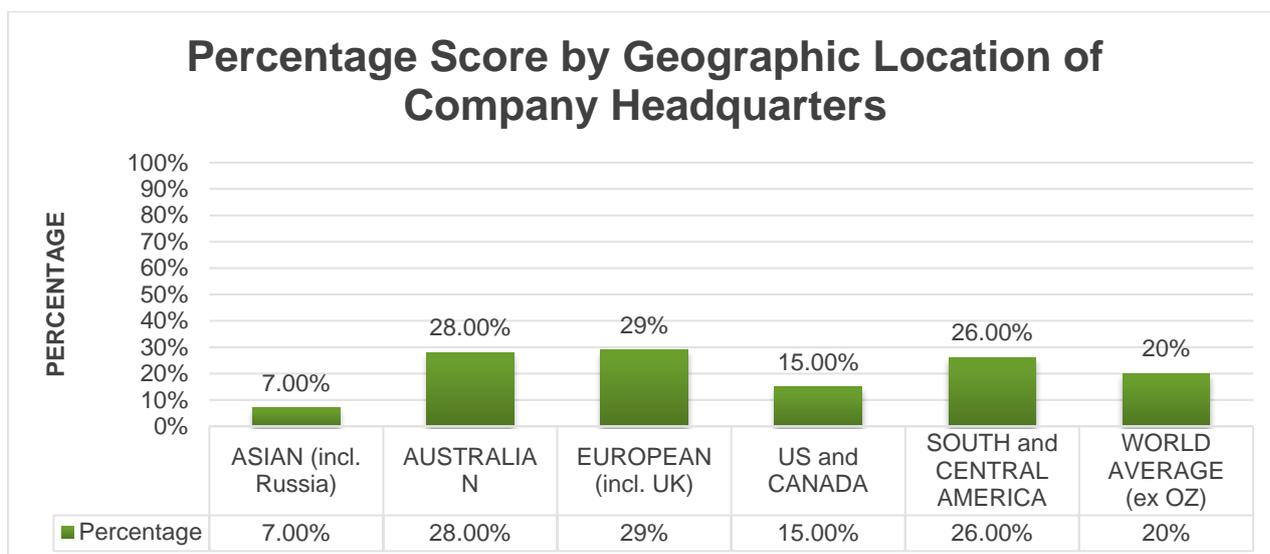


Figure 11 compares percentage scores by geographic location of company headquarters

Table 1 breaks down the companies assessed by the Global CHR and ACCR by geographic location. Africa has not been included in the assessment in Figure 11, as only two companies listed in South Africa were included in the global analysis. It is also important to note that the US and Canada consist of 39% of the companies assessed in the analysis.

Table 1 Companies Assessed by Global CHR and ACCR by Geographic Location

REGION	EXTRACTIVE	AGRICULTURE	APPARELL	TOTAL COMPANIES ASSESSED	AVERAGE SCORE
ASIAN (incl. Russia)	12	1	3	16	7%
AUSTRALIAN	14	5	4	23	28%
EUROPEAN (incl. UK)	7	11	9	27	29%
US and CANADA	14	18	13	45	15%
SOUTH/CENTRAL AMERICA	4	1	1	6	16%
AFRICA	2	0	0	2	40%

Qualitative Breakdown

This section discusses two areas where Australian companies are currently performing well – policy commitments and grievance mechanisms – and two areas where Australian companies are performing poorly – commitment to remedy, and living wage.

Appendix 3 lists corporate initiatives related to human rights, and identifies Australian companies which implement or are involved in these initiatives.

Policy Commitments

Australian companies typically have a policy statement outlining their commitment to respecting human rights. These policy statements are usually written within a Code of Conduct, or in a separate Human Rights Policy. One of the policy indicators looks for whether companies have a statement of policy committing to all of the UN Guiding Principles on Business and Human Rights or the OECD Guidelines for Multinational Enterprises. Eight of the Australian companies assessed had a public commitment either of these initiatives.

Australian companies that operate in the United Kingdom are obliged to report under the UK Modern Slavery Act (2015).⁷⁸ These disclosures also often include a commitment to criminalise forced and exploitative labour practices and human trafficking. The UK Modern Slavery Act requires that supply chains of UK businesses overseas or of overseas business in the UK make certain disclosures in relation to their activities to identify and eliminate slavery in their supply chains.

On February 2017, the Attorney-General, Senator the Hon George Brandis QC, asked the Joint Standing Committee on Foreign Affairs, Defence, and Trade of the Parliament of Australia to inquire into establishing a Modern Slavery Act in Australia to criminalize practices of modern slavery.⁷⁹ The Attorney-General referenced the UK Modern Slavery Act as a key benchmark for a similar law to be adopted in Australia.⁸⁰ If successfully adopted, stated commitments among Australian companies to modern slavery, and in turn human rights are widely expected to improve.

Grievance Mechanisms

Australian companies often have grievance mechanisms hosted by independent third parties. This is positive as it enables employees, contractors, and often external stakeholders to communicate their grievances in a confidential and secure manner without fear of retribution.

For example, Fortescue Metals Group has a grievance mechanism accessible to all employees, business partners, external communities and stakeholders. This mechanism is called ‘Speak Up’ – which is a confidential reporting service offered by Deloitte which was established in 2001. Fortescue Metals Group’s code of conduct covers human rights, and the code also describes how to report violations of the code. Therefore, violations can be assumed to include human rights complaints and these complaints can be made via the

⁷⁸ ‘Modern Slavery Act 2015’, *UK Government*, <<http://www.legislation.gov.uk/ukpga/2015/30/part/5/enacted>> [Accessed 19/06/2017].

⁷⁹ ‘Inquiry into the establishment of a Modern Slavery Act in Australia’, *Business & Human Rights Resource Centre* <<https://business-humanrights.org/en/inquiry-into-establishment-of-a-modern-slavery-act-in-australia>> [Accessed 19/06/2017].

⁸⁰ *Ibid.*

‘Speak Up’ mechanism. Other extractive companies, such as Rio Tinto, also utilise Deloitte’s ‘Speak Up’ service as a grievance mechanism.⁸¹ Fortescue Metals Group ensures that the Speak Up program is accessible at all operations by providing a number of confidential channels for people to share their concerns in a fair, balanced and confidential manner. Fortescue also has a Whistleblower Hotline, which is accessible 24/7 by phone or on the internet, which is managed by an external third party.⁸² The company also has an External Stakeholder Grievance Procedure which outlines a formal process to manage external stakeholder grievances. Fortescue Metals Group states that this Stakeholder Grievance Procedure has been designed to “ensure all grievances are managed in a systematic, fair, timely and transparent manner to ensure that stakeholders have access to effective remedy where human rights impacts arise”.⁸³

Third-party mechanisms provide a level of independence from the company and the parties to a dispute which reduces the possibility of bias.⁸⁴ This is a feature of the practice of hiring an independent investigator or advisory human rights expert as part of the grievance mechanism.⁸⁵ The high level of independence of third party mechanisms also ensures that a higher level of transparency and scrutiny is obtained from a variety of stakeholders, thus making the dispute-resolution process more predictable.⁸⁶ A dispute resolution process with greater transparency is more predictable as decisions are made according to consistent and clear standards. In addition, these standards are clearly communicated to stakeholders.

In addition, the presence of these mechanisms is a component of the process to provide remedies to solve grievances. ASX Guidelines also prescribe for the institutionalisation of these mechanisms for labour practices and decent work, human rights and societal issues.⁸⁷

Community mechanisms, which are mechanisms that can be utilised by external stakeholders, have been an important feature of dispute-resolution in Australia, and are becoming increasingly popular with mining companies.⁸⁸ In countries where political and legal institutions are weak and mining companies need to engage frequently with the local community, community mechanisms may prove attractive and effective. Given that Australian mining companies often operate in remote and multiple locations with different cultures, community-based mechanisms provide a way to tailor the grievance mechanism to suit the specific needs of each community. It also provides a way to establish a direct channel of dialogue with the community and helps the company to adopt more culturally appropriate responses.⁸⁹

An example of community mechanisms being deployed in an effective manner is that of Woodside Petroleum. The company, which has operations in Myanmar, seems to make a genuine effort to engage with its stakeholders there and respond to any grievances that they may have. They regularly provide updates on stakeholder engagements on their website.⁹⁰

⁸¹ ‘Speak Up’, *Deloitte Speak Up Website*, <<https://www.speak-up-site.com/>> [Accessed 19/06/2017].

⁸² Fortescue Metals Group, Code of Conduct, p5.

⁸³ Fortescue Metals Group, Company Engagement.

⁸⁴ Key Findings 2017”, *Corporate Human Rights Benchmark*, pg. 28,

<https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB_Findings_web_pages.pdf> [Accessed 19/06/2017].

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ “Guidance on using the GRI G4 Guidelines to comply with ASX Corporate Governance Principles and Recommendations,” *GRI*, <https://www.globalreporting.org/resource/library/GRI-LinkageG4_and_ASX.pdf> [Accessed 30/06/2017].

⁸⁸ ‘Community Complaints and Grievance Mechanisms and the Australian Minerals Industry’, *Centre for Social Responsibility in Mining*, July 2009.

<<https://www.csr.uq.edu.au/docs/CSR%20Community%20Complaints%20and%20Grievance%20Discussion%20Paper%202009%20FINAL%20REPORT.pdf>> [Accessed 30/06/2017].

⁸⁹ Ibid.

⁹⁰ ‘Consulting Activities’, *Woodside Petroleum*, <<http://www.woodside.com.au/Working-Sustainably/Stakeholder-Engagement/Pages/Consultation-Activities.aspx#.WW2OroiGOUk>> [Accessed 30/06/2017].

Commitment to Remedy

Although Australian companies generally have some form of grievance mechanism in place, Australian companies are not good at committing to remedy. In other words, companies often do not commit to reversing or even acknowledging the adverse impacts their operations can have on workers, stakeholders and broader community members. In scoring a company's "commitment to remedy", the measurement and scoring checks if the company has a public statement on committing to providing remedies for any grievances and harms it is responsible for. A company must commit to remedy its adverse impacts on individuals, workers and communities. This commitment must recognise that a company should not obstruct access to other remedies, or the company must be collaborating in initiatives that provide access to remedies. This is important as for different operational settings; certain local and community-based approaches to dispute resolution better fit the local conditions. In addition, this commitment is important to ensure that parties to a dispute are entitled to a fair and just chance of redress. For a full score, the company must also disclose that their commitment includes working with business partners where relevant to remedy adverse impacts.

Australian companies performed poorly in the measurement of this indicator. This is mostly due to the absence of any stated commitment to not obstruct remedies, even though companies may have grievance mechanisms that can be utilised by individuals who have been negatively impacted by the company operations and can potentially result in remedies being provided to affected individuals. Fortescue Metals Group is an example of a company that scored a basic score for the Commitment to Remedy. Fortescue Metals Group Human Rights Statement discloses "We respect the rights of people in communities impacted by our activities. We will seek to identify adverse human rights impacts and take appropriate steps to avoid, minimise and/or mitigate them."⁹¹ Fortescue Metals Group also has a number of mechanisms that allow for remedy for internal and external stakeholders, the details of which are publicly accessible. It is important to consider why companies scored so poorly on the commitment to remedy indicator, yet scored quite well with regards to the indicators relating to grievance mechanisms. This brings into question whether grievance mechanisms are actually an effective means of providing remedy.

Living Wage

Australian companies performed poorly in the living wage indicators. No Australian companies achieved a full score for questions relating to the 'Living wage'. Living wage is a calculated remuneration based on the basic costs of living. There are numerous definitions of living wage; however, the core concept is to provide a decent standard of living for a worker and their family.⁹² Understandably, the living wage figure will vary from country to country. Very few Australian companies seem to include living wage calculations in the development of their salaries. Often company documents refer to a company's compliance with national minimum wage standards within the countries they operate. However minimum wage standards cannot be assumed to be a living wage calculation.

To achieve a basic score under the utilizing living wage calculations indicator, companies are asked to disclose if they have a target timeframe for paying all workers a living wage, and a description of how a living wage is determined. For a full score, the company must also

⁹¹ 'Human Rights Statement', Fortescue Metals Group.

⁹² 'Pilot Methodology', *Corporate Human Rights Benchmark*, <https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB_methodology_singles.pdf> [Accessed 29/06/2017].

indicate if it has met targets or explained its failure to do so. These targets must be regularly reviewed or progress towards determining a living wages is demonstrated.

There is an additional indicator for the agriculture and apparel methodology which refers to living wage in the supply chain. For a full score, companies are asked to show that they include living wage guidelines in contractual agreements with suppliers, or in its supplier code of conduct, and must describe how these practices are taken into consideration in the identification and selection of suppliers. Alternatively, a company can achieve a score of 1 if it describes how it works with suppliers to improve their living wage practices. To achieve a full score, companies must meet both of the previously mentioned criteria and provide an analysis of trends in progress made.

An example of a company that achieved a full score for this question in the Pilot Corporate Human Rights Benchmark results is Unilever.⁹³ Unilever achieved this score as they have created a Framework for Fair Compensation that is reviewed annually. The company stated that they engaged the Fair Wage Network to conduct a review of entry-level wages in their factory sites against a variety of fair wages indicators. Unilever also identifies the next step of setting up independent benchmarks, identifying gaps, addressing these gaps and establishing a framework for fair compensation. On its website the company indicates a timeframe, stating that 'This work enabled us to set a target to achieve full Living Wage compliance for all our 169,000 direct employees by 2020'.

Incorporating Living Wage calculations into the salary determination process is important to ensure the rights of employees are protected. In the 2017 ITUC Global Rights Index, Australia was ranked in 'Category 3', indicating "regular violations of rights" for workers⁹⁴. Furthermore, Australian companies reviewed for this research report operate in countries which have been categorised in this Index as Category 4 or Category 5 – "no guarantee of rights". Considering the poor performance of Australian companies in our questions relating to living wage, Australian companies should be engaged with and encouraged to have better mechanisms with regards to setting wages.

CONCLUSION

This research reveals that Australian companies are beginning to engage with human rights risks, however, beyond policy commitments to human rights, disclosure is poor.

Australian companies' human rights due diligence and embedding mechanisms should be improved so that human rights issues are understood throughout all layers of the company. This research demonstrates a gap in due diligence and performance in relation to human rights impacts supply chains. Companies have work to do in understanding their responsibility to encourage good practice related to human rights not only in their operations, but also throughout their supply chain and amongst business partners.

During the period of research, some companies also released additional information relating to human rights commitments and their associated mechanisms to protect human rights. This highlights the quick gains that can be made in respect of understanding and observance of human rights standards amongst Australian companies.

⁹³ 'Unilever', *Corporate Benchmark Human Rights Benchmark*,

<<https://www.corporatebenchmark.org/sites/default/files/ScoreSheets/CHRB17%20Unilever.xls>> [Accessed 30/06/2017].

⁹⁴ Violation Map, *The 2017 ITUC Global Rights Index*, <<http://www.ituc-csi.org/IMG/pdf/ituc-violationmap-2017-en.pdf>> [Accessed 30/06/2017].

Further government attention to business and human rights issues is both likely, and likely to improve performance of Australian companies, particularly for companies that are not obliged to report under the current UK Modern Slavery legislation.

APPENDIX 1: GLOSSARY

Affected stakeholder: An individual whose human rights have been or may be affected by a company's operations, products or services.

Act of State doctrine: a principle of common law that limits the jurisdiction of courts in one state over cases that concern sovereign acts of the government of another state in its own territory. In Australia, it does not preclude scrutiny by a court of the actions of an agent of a foreign government which involve claims of grave breaches of human rights.

Business activities: Everything that a company does in the course of fulfilling the strategy, purpose, objectives and decisions of the business. This may include activities such as mergers and acquisitions, research and development, design, construction, production, distribution, purchasing, sales, provision of security, contracting, human resource activities, marketing, conduct of external/government relations including lobbying, engagement with stakeholders, relocation of communities, and social investment.

Business relationships: The relationships a company has with business partners, entities in its value chain and any other State or nonState entity directly linked to its operations, products or services. They include indirect relationships in its value chain, beyond the first tier, and minority as well as majority shareholding positions in joint ventures.

Child labour and child work: Not all work done by children (defined as human beings below the age of 18) should be classified as child labour that is to be targeted for elimination. "Child labour" is a much narrower concept than "child work" and refers to children working in contravention of ILO standards contained in Conventions 138 and 182 and the UN Convention on the Rights of the Child. This means all children below 12 years of age working in any economic activities, those aged between 12 and 14 engaged in work that is more than just light work, and all children engaged in the worst forms of child labour (children being enslaved, forcibly recruited for armed conflict, prostituted, trafficked, forced into illegal activities or hazardous work (work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children).

Civil Society Organisation (CSOs): Non-state, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the State and the market. CSOs represent a wide range of interests and ties. They can include community-based organisations as well as non-governmental organisations (NGOs). In the context of the CHRB, CSOs do not include business or for-profit associations.

Disclosure: All information released by a company for the purpose of informing shareholders or other stakeholders.

Effectiveness criteria: The UN Guiding Principles set out eight "effectiveness criteria" for non-judicial grievance mechanisms. They should be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, based on dialogue and engagement, and a source of continuous learning. While these criteria mostly relate to the quality of processes, they include an important requirement that outcomes should be in line with internationally-recognised human rights. (See UN Guiding Principle 31).

Electronics Industry Citizenship Coalition (EICC): a US based industry specific supply chain focused good corporate citizenship initiative. Participants commit to uphold the human rights of workers. At a minimum participant's must require their next tier suppliers to acknowledge and implement the code of conduct. There are arrangements for external audit, exclusion or downgrade of members failing to meet compliance obligations.

Embedding: The macro-level process of ensuring that a company's responsibility to respect human rights is driven across the organisation, into its business values and culture. It requires that all personnel are aware of the company's public commitment to respect human rights, understand its implications for how they conduct their work, are trained, empowered and incentivized to act in ways that support the commitment, and regard it as intrinsic to the core values of the workplace. Embedding is one continual process, generally driven from the top of the company. (See UN Guiding Principle 16).

Ethical Clothing Australia: a voluntary accreditation program dealing with legal and ethical compliance of the local supply chain of Australian textile, clothing and footwear businesses.

Ethical Trading Initiative: a UK based 'worker rights in the supply chain' focused good corporate citizenship initiative. Participants must require suppliers down the supply chain implement a set of worker rights principles. Member companies submit annual reports and membership can be terminated for failing to honour obligations.

Extractive business partners: Refers to operational level contractors (includes on-site and off-site contractors involved in operations (such as those involved in resettlement op- 140 CHRB Pilot Methodology 2016 erations or other similar operations off-site), contracted security providers, etc.) and joint ventures or similar contractual arrangements with multiple parties to carry out exploration and/or production.

Extractive operations: This term is used to cover exploration, development, production, decommissioning and closure, but not processing, refining, marketing or end-use of extractive resources. There are various terms used in each of oil & gas (upstream) and mining industries to describe these phases that involve the exploration for and extraction of resources.

Extraterritorial jurisdiction: applicability of laws of one state to conduct beyond the borders of that state.

Forum non conveniens: a common law legal doctrine that allows a court in a home state to decline jurisdiction because the venue chosen is not the appropriate one to hear the matter. Its strength varies across countries. In Australian law, the onus is on the defendant to persuade the court that Australia is a clearly inappropriate forum. By contrast, the US and the UK use a stricter (for a plaintiff seeking a hearing in a home state court) 'more appropriate forum' test.

Forced labour: Forced labour refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities. Forced labour, contemporary forms of slavery, debt bondage and human trafficking are closely related terms though not identical in a legal sense. Most situations of slavery or human trafficking are however covered by ILO's definition of forced labour. (See ILO Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No. 105).

Free Prior and Informed Consent (FPIC): FPIC is instrumental to the rights of participation and self-determination of indigenous peoples, and acts as a safeguard for all those rights of indigenous peoples that may be affected by external actors. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) sets out circumstances when FPIC shall be sought and when exceptions are permissible.

Fundamental rights at work: are set out in and are often referred to as the ILO core labour standards and cover: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation (See ILO Declaration on the Fundamental Rights and Principles At Work).

Global Compact: a broad ‘good corporate citizenship’ initiative sponsored by the UN. Participants commit to meet 10 responsibility principles, two of which involve human rights, and to provide an annual report on their progress. The default position is that subsidiaries of participating parent companies are covered. However, parents can opt to exclude subsidiaries and subsidiaries can separately participate.⁹⁵ There is no external public review of compliance however companies failing to self-report are expelled.⁹⁶

Home state of parent company: the state where the parent company is domiciled and generally listed.

Host state of supplier or subsidiary: a state where a supplier to, or a subsidiary company of the foreign parent (or of interposed companies ultimately controlled by the foreign parent) conducts operations.

Human rights: Basic international standards aimed at securing dignity and equality for all. Every human being is entitled to enjoy them without discrimination. They include the rights contained in the International Bill of Human Rights (see below). They also include the principles concerning fundamental rights at work set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.

Human rights defender: A term used to describe people who, individually or with others, act to promote or protect human rights.

Human rights due diligence: An ongoing risk management process that a reasonable and prudent company needs to follow in order to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. As set out in the UN Guiding Principles 17-21, this includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.

Human rights impacts: A “negative human rights impact” or “human rights abuse” or “human rights harms” occur when an action removes or reduces the ability of an individual to enjoy his or her human rights. Human rights impacts can either have occurred or be on-going or be potential human rights impacts in the future, which are also referred to as human rights risks (see below). The term “human rights violation” is used when governments are the source or cause of the harm.

Human rights risks: A company’s human rights risks are any risks that its operations may lead to one or more negative human rights impacts. They therefore relate to its Annexes 141 potential human rights impacts. Importantly, a company’s human rights risks are the risks that its operations pose to human rights. This is separate from any risks that involvement in human rights impacts may pose to the enterprise, although the two are increasingly related.

⁹⁵ See https://www.unglobalcompact.org/docs/about_the_gc/policy/UNGlobalCompact_SubsiaryPolicy.pdf.

⁹⁶ See <https://www.unglobalcompact.org/participation/report/cop/create-and-submit/expelled>.

Human rights performance: The extent to which a company achieves the objective of effectively preventing and addressing negative human rights impacts with which it may be or has been involved.

ICCR: Interfaith Center on Corporate Responsibility: a US not for profit that coordinates shareholder resolutions.

Indigenous peoples: Given the diversity of indigenous peoples, an official definition of “indigenous” has not been adopted by any UN-system body. Instead the system has developed a modern understanding of this term based on a number of factors: self-identification as indigenous peoples at the individual level and accepted by the community as their member; historical continuity with pre-colonial and/or pre-settler societies; strong link to territories and surrounding natural resources; distinct social, economic or political systems; distinct language, culture and beliefs; from non-dominant groups of society; resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities. (See the UN Declaration on the Rights of Indigenous Peoples).

International Bill of Human Rights: This term covers the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The International Council on Mining and Metals (ICMM): an extractive industry specific ‘good corporate citizenship’ initiative. Members commit to adhere to 10 sustainable development principles. Principle 3 deals with respect for human rights. Members are required to obtain an annual third-party assurance of their performance.

Key industry risks: The risks commonly regarded as potentially severe and/or likely within the industry and that companies are expected to demonstrate, through a process of human rights due diligence, how they are preventing them or why they are not relevant. Therefore, while these risks are anticipated to be relevant given the company’s industry, they may not necessarily be the individual company’s most salient human rights issues. See also ‘Salient human rights issues’ below.

Legitimate tenure rights holders: Existing tenure rights holders, whether recorded/formal/recognised or not, which can include those of customary and informal tenure, groups under customary tenure systems, and those holding subsidiary tenure rights, such as gathering rights (FAO CFS Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security).

Livelihoods: Livelihoods allow people to secure the basic necessities of life, such as food, water, shelter and clothing.

Living Wage: There are numerous definitions of living wage but the core concept is to provide a decent standard of living for a worker and his or her family. A living wage is sufficient to cover food, water, clothing, transport, education, health care and other essential needs for workers and their family based on a regular work week not including overtime hours.

Leverage: The ability of a company to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.

Marginalised groups: Refers to individuals belonging to specific groups or populations that require particular attention, including indigenous peoples, women; national or ethnic, religious or linguistic minorities; children; persons with disabilities; and migrant workers and their families. (UN Guiding Principle 12 and see Table 16).

Market Capitalization (Market Cap): represents the total market value of all of a company's outstanding shares. It reflects the company's value, and it is a way to rank the company's size.

Materiality: Materiality refers to what is really important or has great consequences, and the various definitions of materiality take differing views depending on who is asking and for what purpose. For company public CHRB Pilot Methodology 2016 reporting, materiality often refers to a threshold used to determine what information a company will disclose in its formal reporting. Definitions of what constitutes that threshold vary considerably.

Minerals Council of Australia (MCA): trade association for the Australian minerals industry.

Mitigation: The mitigation of a negative human rights impact refers to actions taken to reduce the extent of the impact. The mitigation of a human rights risk refers to actions taken to reduce the likelihood that a potential negative impact will occur.

Mozambique rule: a principle of private international law that limits the jurisdiction of courts in one state over cases that primarily relate to rights to land held in another state. It was abolished in NSW in 1989. In other Australian jurisdiction's its applicability is limited to exclusion of 'in rem' claims, ie claims which run with the title to the land against all others.

Negative (or adverse) impact on human rights: A negative or adverse human rights impact occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights.

Prevention: The prevention of a negative human rights impact refers to actions taken to ensure the impact does not occur.

Public commitment to respect human rights: A high-level and widely available statement by a company that sets out its intention to respect human rights with the expectation of being accountable for achieving that aim (UN Guiding Principle 16).

Subsidiary: traditionally, Foreign Direct Investment (FDI) was classified (assuming a single link in an ownership chain) as to whether the legal unit in the host state was a branch office of the parent (ie an unincorporated enterprise) or a company incorporated in the host state and controlled by the parent (ie a subsidiary). More recently, the classification has extended to include the use of multiple link Special Purpose Entities (SPE's) - which include financing subsidiaries, conduits, holding companies, shell companies, shelf companies and brass-plate companies often located in a third state and interposed between the parent and the operating subsidiary in the home state.⁹⁷ The vast bulk of Australian outward FDI uses subsidiaries or SPE's.

Remediation/Remedy: Refers to both the process of providing remedy for a negative human rights impact and the substantive outcomes that can counteract, or make good, the negative impact. These outcomes may take a range of forms such as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.

Responsibility to respect human rights: The responsibility of a company to avoid infringing on the human rights of others and to address negative impacts with which it may be involved, as set out in the UN Guiding Principles.

Salient human rights issues: Those human rights that are at risk of the most severe negative impacts through a company's activities or business relationships. They therefore vary from company to company. See also 'Key Industry Risks'.

Severe human rights impact: A negative human rights impact is severe by virtue of one or more of the following characteristics: its scale, scope or irremediability. Scale means the gravity of the impact on the human right(s). Scope means the number of individuals that are or could be affected. Irremediability means the ease or otherwise with which those impacted could be restored to their prior enjoyment of the right(s).

Stakeholder: Any individual or organisation that may affect, or be affected by a company's actions and decisions. In the UN Guiding Principles the primary focus is on affected or potentially affected stakeholders, meaning individuals whose human rights have been or may be affected by a company's operations, products or services. Other particularly relevant stakeholders in the context of the UN Guiding Principles are the legitimate representatives of potentially affected stakeholders, including trade unions, as well as civil society organisations and others with experience and expertise related to business impacts on human rights.

Suppliers: Refers to direct, contracted or tier 1 suppliers.

Supply Chain: the set of processes used by all parties to fulfil a customer demand for a good or service. It is often distinguished from the value chain which is the set of processes used by one corporate group to create its own competitive advantage. For a completely vertically integrated business steps in the supply chain and the value chain would be identical. In the context of human rights the supply chain of a particular corporate group generally refers to external downstream suppliers. In the CHRB research Supply Chain refers to all supply chain business relationships, including both direct and Annexes indirect, tier 1 and beyond.

UN Guiding Principles on Business and Human Rights (UN Guiding Principles/UNGPs): A set of 31 principles that set out the respective roles of States and companies in ensuring that companies respect human rights in their business activities and through their business relationships. The UN Guiding Principles were endorsed by the United Nations Human Rights Council in 2011.

UK Business and Human Rights Action Plan (UK BHR): the UK government's national implementation plan for the UNGPs.

Voluntary Principles on Security and Human Rights: a 'good corporate citizenship' initiative specific to the extractive sector. Participant companies file an Action Plan and are expected to fulfil a set of good corporate citizenship responsibilities. An applicant company may be rejected but there are no provisions for an independent public annual review of compliance nor for expulsion for non-compliance. The extent of intended/committed applicability of the principles to subsidiaries of Participants is left vague. Sometimes companies or subsidiaries claim adherence to the principles although they are not formally Participants.⁹⁸

Value chain: A company's value chain encompasses the activities that convert input into output by adding value. It includes entities with which it has a direct or indirect business relationship and which either (a) supply products or services that contribute to the company's own products or services or (b) receive products or services from the company.

⁹⁸ See, for example, the situation of Acacia Mining a subsidiary of Barrick Gold in the Rights and Accountability in Development Report 'Principles without justice: The corporate takeover of human rights', March 2016 at <http://www.raid-uk.org/sites/default/files/principles_without_justice.pdf> [Accessed 11/08/2017].

Water stewardship: Water stewardship is the use of water in ways that are socially equitable, environmentally sustainable, and economically beneficial. It can be adopted by businesses, through corporate water stewardship, as well as by growers, communities, and others. Ultimately, stewardship is a tool to address these critical water challenges and drive sustainable water management.

Workers: An individual performing work for a company, regardless of the existence or nature of any contractual relationship with that company.

APPENDIX 2: ACCR SUBSET OF INDICATORS FROM THE CORPORATE HUMAN RIGHTS BENCHMARK (CHRB)

SUBSET 1 – AGRICULTURE	
A: Governance and Policies	A1.1 Commitment to respect human rights
	A1.3 Agricultural industry specific human rights commitments
	A1.5 Commitment to Remedy
B: Embedding Respect and Human Rights Due Diligence	B1.1 Responsibility and resources for day-to-day
	B2.1 Identifying: Processes and triggers for identifying human rights risks and impacts
C: Grievance Mechanisms	C1 Grievance channels/mechanisms to receive complaints or concerns from workers
	C2 Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities
D: Performance - Company Human Rights Practices	D1.1a Living wage (in own operations)
	D1.1b Living wage (in the supply chain)
	D1.2 Aligning purchasing decisions with human rights
	D1.3 Mapping and disclosing the supply chain
	D1.4a Age verification and corrective actions (in own operations)
	D1.4b Age verification and corrective actions (in the supply chain)
	D1.5a Debt bondage and other unacceptable financial costs (in own operations)
	D1.5b Debt bondage and other unacceptable financial costs (in the supply chain)
	D1.5c Restrictions on workers (in own operations)
	D1.5d Restrictions on workers (in the supply chain)
	D1.6a Freedom of association and collective bargaining (in own operations)
	D1.6b Freedom of association and collective bargaining (in the supply chain)
	D1.7a Fatalities, lost days, injury rates (in own operations)
	D1.7b Fatalities, lost days, injury rates (in the supply chain)
	D1.8a Land acquisition (in own operations)
	D1.8b Land acquisition (in the supply chain)
	D1.9a Water (in own operations)

	D1.9b Water (in the supply chain)
	D1.10a Women's rights (in own operations)
	D1.10b Women's rights (in the supply chain)
TOTAL	Total of 27 questions, score out of #/54

SUBSET 2 - APPAREL	
A: Governance and Policies	A1.1 Commitment to respect human rights
	A1.3 Apparel industry specific human rights commitments
	A1.5 Commitment to Remedy
B: Embedding Respect and Human Rights Due Diligence	B1.1 Responsibility and resources for day-to-day
	B2.1 Identifying: Processes and triggers for identifying human rights risks and impacts
C: Grievance Mechanisms	C1 Grievance channels/mechanisms to receive complaints or concerns from workers
	C2 Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities
D: Performance - Company Human Rights Practices	D2.1a Living wage (in own production or manufacturing operations)
	D2.1b Living wage (in the supply chain)
	D2.2 Aligning purchasing decisions with human rights
	D2.3 Managing and disclosing the Supply chain
	D2.4a Age verification and corrective actions (in own production or manufacturing operations)
	D2.4b Age verification and corrective actions (in the supply chain)
	D2.5a Debt Bondage and other unacceptable financial costs (in own production or manufacturing operations)
	D2.5b Debt Bondage and other unacceptable financial costs (in the supply chain)
	D2.5c Restrictions on workers (in own production or manufacturing operations)
	D2.5d Restrictions on workers (in the supply chain)
	D2.7a Fatalities, lost days, injury rates (in own production or manufacturing operations)
	D2.7b Fatalities, lost days, injury rates (in the supply chain)
	D.2.8.a Women's rights (in own production or manufacturing operations)
	D.2.8.b Women's rights (in the supply chain)
	D.2.9.a Working hours (in own production or manufacturing operations)
	D.2.9.b Working hours (in the supply chain)
	TOTAL

SUBSET 3 - EXTRACTIVES	
A: Governance and Policies	A1.1 Commitment to respect human rights
	A1.3 Extractives industry specific human rights commitments
	A1.5 Commitment to Remedy
B: Embedding Respect and Human Rights Due Diligence	B1.1 Responsibility and resources for day-to-day
	B2.1 Identifying: Processes and triggers for identifying human rights risks and impacts
C: Grievance Mechanisms	C1 Grievance channels/mechanisms to receive complaints or concerns from workers
	C2 Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities
D: Performance - Company Human Rights Practices	D3.1 Living Wage (in own extractive operations)
	D3.2 Transparency and accountability (in own extractive operations)
	D3.3 Freedom of association and collective bargaining (in own extractive operations)
	D3.4 Health and safety
	D3.5 Indigenous peoples rights and free prior and informed consent (FPIC) (in own extractive operations)
	D3.6 Land rights (in own extractive operations)
	D3.7 Security (in own extractive operations)
	D3.8 Water and sanitation (in own extractive operations)
TOTAL	Total of 15 questions, score out of #/30

APPENDIX 3: AUSTRALIAN COMPANIES' PARTICIPATION IN CORPORATE INITIATIVES RELATED TO HUMAN RIGHTS

INITIATIVE	DESCRIPTION	PARTICIPATING COMPANIES ⁹⁹
Action, Collaboration, Transformation (ACT)	Action, Collaboration, Transformation (ACT) is an agreement between brands, retailers and trade unions aimed at achieving living wages in apparel sourcing countries ¹⁰⁰ . ACT attempts to achieve living wages through industry-wide collective bargaining. It is the first global commitment on living wages and all members have signed a set of Enabling Principles and a Memorandum of Understanding with IndustriALL Global Union ¹⁰¹ .	ACT is currently made up of 17 participating brands. Companies that are part of the collaborative process include Wesfarmers (Coles, Kmart and Target Australia). ¹⁰²
Ethical Trading Initiative (ETI)	The ETI is an alliance of companies, trade unions and NGOs that promotes respect for workers' rights globally. The ETI has a 'Base Code' which is based on the conventions of the International Labour Organisation (ILO) and is recognised internationally as a code of labour practice.	No Australian companies reviewed in this report are members of the ETI. However, a number of companies, including Wesfarmers, have stated that they base their responsible sourcing policies on the ETI.
Extractive Industry Transparency Initiative (EITI)	<p>The EITI is a multi-stakeholder initiative that sets a global standard for the good governance of oil, gas and mineral resources.</p> <p>Supporting Companies publicly support the EITI and help to promote the standard internationally and in countries where it operates. A monetary contribution to the International Management of the EITI. However, becoming an EITI Supporting Company does not require additional reporting or disclosure of payments.¹⁰³</p> <p>Australia is currently in the process of become in EITI implementing country. After completing a pilot implementation of the EITI in 2014, Australia announced their intension to apply for membership in May 2016.</p>	Australian companies BHP, Newcrest, Oil Search, Rio Tinto, Santos, South 32 and Woodside are EITI supporting companies. ¹⁰⁴
Human Rights and Labour Working Group	<p>The Human Rights and Labour Working Group (HRLWG) helps the UN Global Compact to identify and promote good practices in regards to business human rights. The HRLWG reviews existing and new tools to ensure alignment with the Guiding Principles on Business and Human Rights and well as labour standards of the ILO¹⁰⁵.</p> <p>The HRLWG is comprised of representatives from businesses, civil societies, trade unions, academia, UN</p>	Rio Tinto is a member of the HRLWG. ¹⁰⁶

⁹⁹ Companies covered by the ACCR subset implementation.

¹⁰⁰ 'Action, Collaboration, Transformation Fact Sheet', *Action, Collaboration, Transformation*, <<https://actonlivingwages.com/fact-sheet/>> [Accessed 25/05/2017].

¹⁰¹ 'ACT: Towards living wages in global supply chains', *Hiil*, <<http://www.hiil.org/project/act-towards-living-wages-in-global-supply-chains>> [Accessed 25/05/2017].

¹⁰² Action, Collaboration, Transformation, Members: <<https://actonlivingwages.com/members/>>

¹⁰³ 'Company Support of the EITI', *Extractive Industry Transparency Initiative*, <<https://eti.org/company-support-of-eiti>>

¹⁰⁴ International Companies Anglo American, BP Plc, Chevron, ConocoPhillips, Exxon Mobil, Freeport-McMoran, Glencore, Goldcorp, Petrobras, Repsol, Royal Dutch Shell, Total and Vale are EITI supporting companies.

¹⁰⁵ 'Human Rights Labour Working Group', *United Nations Global Compact*, <<https://www.unglobalcompact.org/take-action/action/human-rights-labour-working-group>> [Accessed 29/05/2017].

¹⁰⁶ 'Human Rights and Labour Working Group: Members', *United Nations Global Compact*, <https://www.unglobalcompact.org/docs/issues_doc/human_rights/Human_Rights_Working_Group/HRWG_Members_Nov2016.pdf> [Accessed 29/05/2017]. Unilever, Total, Nestle and Anglo American are also members.

	agencies and Global Compact Local Networks. Membership to the group is reviewed every two years.	
United Nations Global Compact (UNGC)	UNGC is the largest corporate sustainability initiative in the world which provides a framework and platform for corporate commitment. ¹⁰⁷ UNGC has over 12,000 participating businesses and other organisations. ¹⁰⁸ The UNGC asks businesses to align their values, strategies and operations with its ten principles in the areas of human rights, labour, environment, and anti-corruption and to take action in support of UN initiatives and targets.	The Global Compact Network Australia's members include AGL Energy, BHP, Fortescue Metals Group, Oil Search and Wesfarmers.
Uzbek Cotton Pledge	The Company Pledge against Forced Labour in the Uzbek Cotton Sector affirms companies' opposition to the use of child and adult forced labour in the harvest of Uzbek cotton. The pledge commits companies to "not knowingly source Uzbek cotton for the manufacturing of any of our products until the Government of Uzbekistan ends the practice of forced child and adult labour in its cotton sector." ¹⁰⁹	Target Australia, which is owned by Wesfarmers, has committed to the Uzbek Cotton Pledge.
Voluntary Principles on Security and Human Rights (VPS)	The VPs are designed specifically for extractive sector companies. By applying the VPs, companies align themselves with recognised human rights principles relating to the provision of security. ¹¹⁰ The VPs help companies identify human rights risks and take meaningful steps to address those risks in a manner that helps ensure respect for human rights in their operations. ¹¹¹ Corporate Participants are encouraged to implement the VPs, participate in dialogue on the VPs, build public awareness of the VPs, report annually on activities that support the VPs implementation and formally participate in the governance of the VPS. ¹¹²	Australian companies BHP Billiton, Newcrest Mining Limited, Oil Search, Rio Tinto and Woodside are all corporate participants of the Voluntary Principles on Security and Human Rights.
Women's Empowerment Principles	WEP is a set of seven principles for business offering guidance on how to empower women in the workforce. ¹¹³ The WEP were developed in collaboration with UN Women and the UN Global Compact and is based on real-life business practices and input gathered globally.	Wesfarmers is the only Australian company assessed in this research that has signed to the WEP.

¹⁰⁷ 'Home page', *UN Global Compact Network Australia*, <<http://www.unglobalcompact.org.au/>> [Accessed 29/05/2017].

¹⁰⁸ 'UN Global Compact', *UN Global Compact Network Australia*, <<http://www.unglobalcompact.org.au/about/un-global-compact/>> [Accessed 29/05/2017].

¹⁰⁹ 'Company Pledge Against Forced Labor in the Uzbek Cotton Sector', *Responsible Sourcing Network*, <<http://www.sourcingnetwork.org/the-cotton-pledge>> [Accessed 30/05/2017].

¹¹⁰ 'Companies and the Voluntary Principles on Security and Human Rights', *Voluntary Principles on Security and Human Rights*, <<http://www.voluntaryprinciples.org/for-companies/>> [Accessed 30/05/2017].

¹¹¹ 'Voluntary Principles on Security and Human Rights Factsheet', *Voluntary Principles on Security and Human Rights*, <<http://www.voluntaryprinciples.org/wp-content/uploads/2017/05/VPS - Fact Sheet - May 20171.pdf>> [Accessed 30/05/2017].

¹¹² 'Companies and the Voluntary Principles on Security and Human Right', *Voluntary Principles Website*, <http://www.voluntaryprinciples.org/wp-content/uploads/2013/03/VPS_Companies_Fact_Sheet_-_129742_v1_FHE-DC.pdf>

¹¹³ 'Overview', *The Women's Empowerment Principles* <<http://www.wepprinciples.org/Site/PrincipleOverview/>>.

APPENDIX 4: METHODOLOGY

4.1 - Select Assessment Methodology

The past decade has seen a rise in international metrics that look at the aspects of company policies and performance that relates to, or in some way overlaps with human rights. Many of these international reports benchmark listed companies in a manner that identifies leaders and laggards to stakeholders. The ACCR decided to draw from one of these international metrics in order to add value to existing research, rather than create an entirely new methodology to assess companies' human rights disclosures.

Table 2 explores recent international metrics that rank companies regarding human rights, or a related component of human rights.

Table 2 Human Rights-Related International Metrics

INTERNATIONAL METRIC	THEME	SCOPE	PUBLICATION	ORGANISATION LEADING
Behind the Brands ¹¹⁴	Agricultural sourcing policies and commitments	10 largest food and beverage sector companies	Benchmarking published in 2013 and 2015	Oxfam
Corporate Human Rights Benchmark	Human Rights in company operations and through company supply chains.	98 companies across the agricultural, apparel and extractive sectors. The methodology developed through global multi-stakeholder consultation and mapped to UN Guiding Principles.	Pilot Benchmark released in March 2017 accompanied by a Key Findings Report and individual company assessments	Business & Human Rights Resource Centre, Aviva Investors, Institute for Human Rights and Business, EIRIS Foundation, Calvert Investments and VBDO
Company Ranking on Conflict Minerals ¹¹⁵	Conflict minerals in company supply chains	24 electronic companies assessed on their policies, statements and actions. Jewellery retail companies published in 2014, and both electronic and jewellery retail to be assessed in 2017.	Ranking published in 2010 and 2012. Jewellery leaders review published in 2014. Next ranking to be published in 2017.	Enough Project
KnowTheChain ¹¹⁶	Forced labour and human trafficking in supply chains	60 largest global companies. Three different benchmarks cover the ICT sector, food and beverage industry and the apparel and footwear industry.	Pilot Benchmark released in June 2016 accompanied by a Key Findings Report	Humanity United
Mining the Disclosures ¹¹⁷	Conflict minerals	Over 200 companies across 25 different industries assessed on	The Mining the Disclosures report and rankings	Responsible Sourcing Network

¹¹⁴ 'Intro', *Oxfam Behind the Brands*, <<https://www.behindthebrands.org/about/>> [Accessed 16/07/2017].

¹¹⁵ '2017 Conflict Minerals Company Rankings', *Enough Project*, <<https://enoughproject.org/blog/2017-conflict-minerals-company-rankings>> [Accessed 16/07/2017].

¹¹⁶ 'About Us', *KnowTheChain website* <<https://knowthechain.org/about-us/>> [Accessed 16/07/2017].

¹¹⁷ 'Mining the Disclosures 2016', *Responsible Sourcing Network*, <<http://www.sourcingnetwork.org/mining-the-disclosures>> [Accessed 16/05/2017].

INTERNATIONAL METRIC	THEME	SCOPE	PUBLICATION	ORGANISATION LEADING
		their risk management, human rights impact and reporting quality. The methodology covers a wide range of industry sectors – including the healthcare, energy, communication services, and more.	published in 2014, 2015 and 2016	
Ranking Digital Rights Report¹¹⁸	Freedom of Expression and Privacy	22 internet and telecommunication companies were assessed on their public commitments and policies	Corporate accountability index published in 2015 and 2017	Ranking Digital Rights and the Open Technology Institute

Of the international metrics listed in the table above, the CHRb is the first global benchmark to cover the extractives sector, in addition to apparel and agricultural sector performance, based on a broad set of human rights indicators. The CHRb is also the first global human rights benchmark making its detailed scores and methodology available to the public. The accessibility of the raw scores and analyst information enables international comparisons. The ACCR was also attracted to using the CHRb for comparing Australian companies to their international peers, as it moves the conversation beyond specific thematic issues that are related to human rights – such as privacy or exposure to conflict minerals - towards mapping a whole range of human rights practices and disclosures associated with a company’s operations.

For the aforementioned reasons, the ACCR decided to utilise a subset of indicators from the CHRb methodology. The ACCR research, while not as exhaustive as the full CHRb pilot, aims to add value to the CHRb’s work, and to further the discourse on human rights in the Australian context. The ACCR has tried to remain consistent with the CHRb methodology by utilising the CHRb published methodology documents and associated addendums.

About the CHRb

The CHRb was developed through the CHRb Steering Committee, which composed of Aviva Investors, Business & Human Rights Resource Centre (BHRRC), Calvert Investments, Institute for Human Rights and Business (IHRB), VBDO and the EIRIS Foundation. The benchmark seeks to drive change, in a race to the top, for better practices and disclosure related to Human Rights. The methodology applied in assessing companies under the CHRb was developed following careful multi-stakeholder group consultation.

The implementation of the benchmark assessed 98 companies across the agricultural products, apparel and extractive industries. The 98 companies are listed in the United Kingdom, Belgium, France, Spain, Netherlands, Switzerland, Germany, Sweden, Canada, USA, Brazil, Mexico, South Africa, India, China, Hong Kong, Japan and Australia.

¹¹⁸ ‘Ranking Digital Rights’, *Ranking Digital Rights website* <<https://rankingdigitalrights.org/>>
2015 Ranking Digital Rights Corporate Accountability Index: <<https://rankingdigitalrights.org/index2015/>>
2017 Ranking Digital Rights Corporate Accountability Index: <<https://rankingdigitalrights.org/index2017/>>[Accessed 16/07/2017].

There have been announcements that these companies will be ranked again in 2018, and there are future plans to increase the ranking to cover 500 companies globally.¹¹⁹

CHRB Methodology

The CHRB methodology was developed in consultation with stakeholders from companies, governments, investors, legal experts and civil society. The methodology draws from the UN Guiding Principles on Business and Human Rights, as well as additional internationally recognised industry standards.¹²⁰

The CHRB chose to focus on the agricultural products, apparel and extractive industries, because these industries are highly exposed to human rights related risks. These three industries were also selected following multi-stakeholder consultation. In certain areas, the methodology for the agricultural products, apparel and extractive industries differ. This is because the key industry risks slightly vary. For example challenges in the agricultural industry include document confiscation and debt bondage. Furthermore, agricultural industry workers have a higher proportion of female workers than the extractives sector. Therefore, there are more questions that relate to women in the agricultural than the extractives sector. The apparel and agricultural products industries also focus on risks through the supply chain, whereas the extractives industry methodology focuses on business relationships with contractors, agents and joint ventures, as relevant to their respective industry operating models. Figure 12 provides a breakdown of the industry specific risks.

Figure 12 Industry specific risks



¹¹⁹ 'Why a Benchmark', *Corporate Human Rights Benchmark*, <<https://www.corporatebenchmark.org/why-benchmark>> [Accessed 01/05/2017].

¹²⁰ Other industry guidelines include, but are not limited to, the OECD Guidelines, the Women's Empowerment Principles, the ILO Declaration on Fundamental Principles and Rights at Work.

The full methodology of the CHRB included 6 different *Measurement Themes*. In the CHRB pilot each *Measurement Theme* was weighted as follows:

- A. – Governance and Policy Commitments – 10%
- B. – Embedding Respect and Human Rights Due Diligence – 25%
- C. – Remedies and Grievance Mechanisms – 15%
- D. – Performance: Company Human Rights Practices – 20%
- E. – Performance: Responses to Serious Allegations – 20%
- F. – Transparency (mapping to GRI tables) – 10%

The CHRB 2017 Key Findings report emphasised that a score of 0 on an individual indicator did not necessarily correspond with ‘bad practices’ or no company action in the issue.¹²¹ Rather, the results are a signifier for good human rights management and should not be taken as an absolute measurement of human rights performance.

As the specific elements of the methodology must be identified in public documentation to fulfil the CHRB methodology, a high scoring company does not necessarily equate to a company with a positive human rights record or an absence of human rights related violations. On the contrary, companies often put human rights policies and mechanisms in place following a reputational or operational crisis relating to human rights.

Detail of ACCR methodology

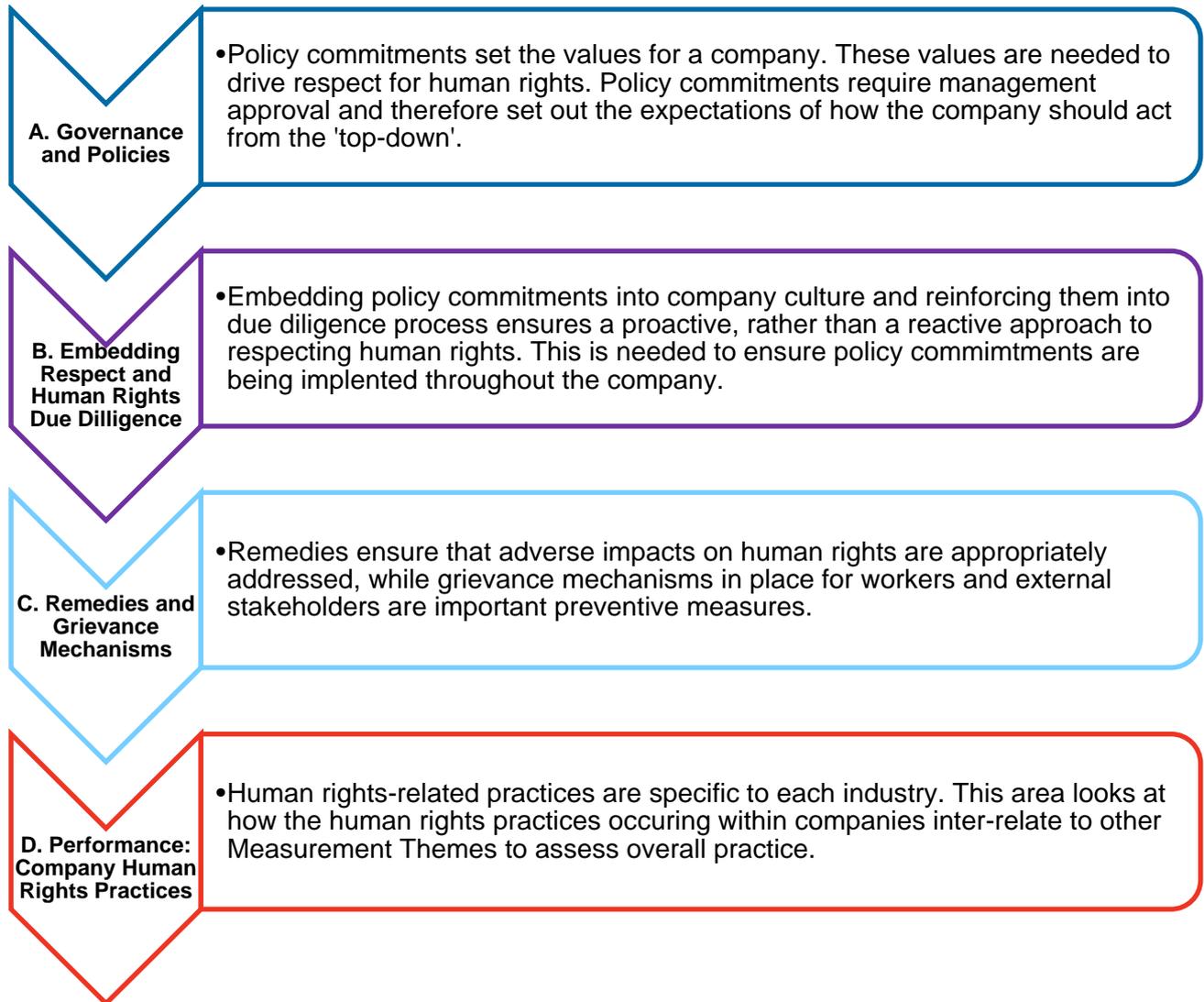
ACCR has utilised the subset of indicators from the CHRB methodology which enable a consistent comparison to the equivalent subset of global CHRB data. Each question assessed is scored out of 2 and a comprehensive description of what is required for each score is available in the CHRB Pilot Methodology document.¹²² Figure 13 breaks down the Measurement Themes the ACCR selected for review.

¹²¹ ‘Key Findings 2017’, *Corporate Human Rights Benchmark*, March 2017, p9

<<https://www.corporatebenchmark.org/sites/default/files/styles/thumbnail/public/2017-03/Key%20Findings%20Report/CHRB%20Key%20Findings%20report%20-%20May%202017.pdf>> [Accessed 01/05/2017].

¹²² ‘Pilot Methodology’, *Corporate Human Rights Benchmark*, <https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB_methodology_singles.pdf> [Accessed 01/05/2017].

Figure 13 Measurement Themes selected by ACCR



The subset of the methodology incorporated is as follows:

- A.** Governance and Policy Commitments – 3 questions
- B.** Embedding Respect and Human Rights Due Diligence – 2 questions
- C.** Remedies and Grievance Mechanisms – 2 questions
- D.** Performance: Company Human Rights Practices – complete set of questions

Each of the selected questions were applied in accordance with the industry specific methodology for agriculture, apparel and extractives.

A comprehensive table of the questions used in the subset of the methodology can be seen in *Appendix 2*. The criteria are broken down into three tables for each of the industry methodologies Subset 1 (agriculture), Subset 2 (apparel) and Subset 3 (extractives).¹²³

¹²³ The Addendum to the CHRB 2016 pilot methodology was also released in March 2017 to incorporate some of the changes that were made to the pilot methodology during the first iteration of the benchmark and have been considered in the ACCR analysis of companies. The Addendum can be found here: Addendum to the Pilot Methodology, *Corporate Human Rights Benchmark*, March 2017, <<https://www.corporatebenchmark.org/sites/default/files/2017-03/Methodology%20Addendum.pdf>> [Accessed 01/05/2017].

Two *Measurement Themes* applied in the CHBR were entirely left out from analysis. Measurement Theme E: Responses to Serious Allegations was not included as it requires extensive engagement with companies and an in-depth exploration of serious human rights-related allegations against a company. Measurement Theme F: Transparency maps company performance to the GRI (Global Reporting Initiative) tables for sustainability reporting. Many of these indicators overlapped with other indicators covered in other performance metrics of the methodology and were considered immaterial for this stage of the research. By choosing to cover all of *Measurement Theme D: Performance*, the research is focused heavily on looking at the actual practices occurring within companies. This is due to the aim of the ACCR to move the conversation beyond policies and commitments, and towards evident practices and reporting in place within companies. Table 3 highlights the difference in the size of the CHRB Pilot Methodology and the selected subset.

Table 3 Differences between CHRB Pilot Methodology and ACCR subset

MEASUREMENT THEME		CHRB PILOT METHODOLOGY	ACCR SUBSET
A: Governance and Policies		9	3
B: Embedding Respect and Human Rights Due Diligence		14	2
C: Remedies and Grievance Mechanisms		7	2
D: Performance: Company Human Rights Practices	EXT	8	8
	AP	9/16*	9/16*
	AG	11/19*	11/19*
E: Performance: Responses to Serious Allegations		3	0
F: Transparency		41 ¹²⁴	0

*Varying scores are applicable depending on the company’s exposure to either own agricultural/manufacturing operations and operations in the supply chain.

Total percentage scores are calculated by adding up the total score awarded for each company, and dividing this number by the highest possible scores that could be received. These scores are unweighted and therefore lean towards Measurement Theme D: Performance: Company Human Rights Practices. The average score for each *Measurement Theme* has also been calculated and compared across sectors.

Similar to the approach taken in the CHRB Pilot Methodology, the ACCR subset scores and company results are classified in ‘bands’. These bands are categorised in tens (0-9%, 10-19%, 20-29%, etc). Bands are utilised in the CHRB as a measurement of performance, rather than focusing on individual scores, because “*as with all measurements, and particularly one as new as the CHRB which is in its pilot phase, there is a reasonably wide margin of error*”

¹²⁴ Measurement Theme F: Transparency is mapped to CHRB indicators and GRI Tables – and therefore are not completely ‘new’ indicators. Theme F focuses on transparency on human rights, which comes in the form of additional ‘disclosure points’ awarded against individual indicators where a company has published related information against certain reporting standards. Therefore the 41 questions, which are only weighted at 10%, do not represent the most exhaustive part of the CHRB methodology.

possible in interpretation.” However, this report also discloses the individual scores companies received with the caveat that these scores do not reflect an absolute measure of human rights performance.

4.2 - Selecting Companies

Three Australian Stock Exchange (ASX) listed companies – Rio Tinto, BHP Billiton and Woolworths - were assessed in the Global CHRB. The ACCR set out to assess a further 20 ASX listed companies.

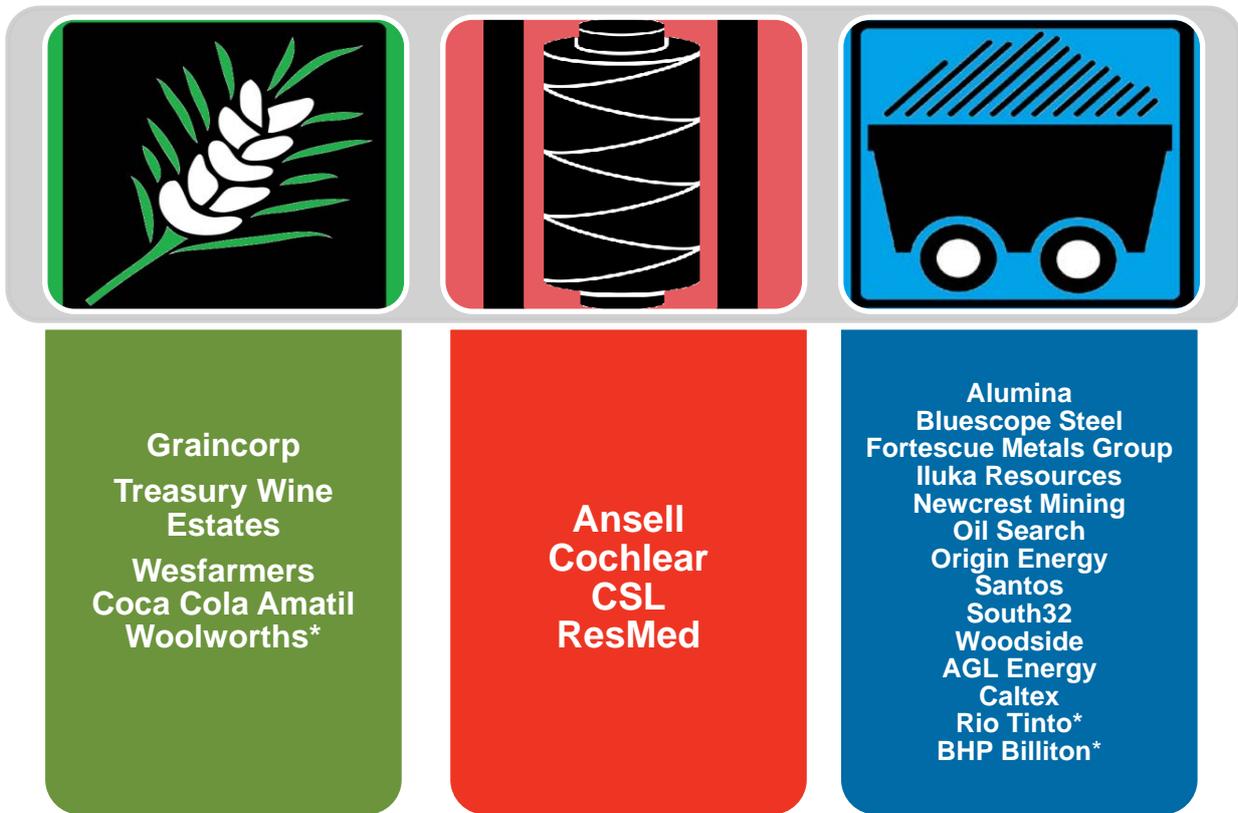
The ACCR went through a process of considering which Australian companies could be appropriately assessed using the associated sector breakdown for the extractives, apparel and agricultural sectors. This process took into consideration a company’s market capitalisation and business operations. Further consideration was taken into how the logic of the CHRB methodology for extractives, agricultural and apparel sectors can be utilised to look into broader issues facing Australian listed companies.

In this analysis, the ACCR has considered market capitalisation as a means to highlight the leaders across companies of relative size. Market capitalisation is factored into ranking the performance of companies’ human rights practices as, theoretically, companies with a larger market cap are expected to have greater capacity and resources to implement proper grievance mechanisms, internalise human rights practices within corporate structures, and afford better remedies.

A company’s business operations were also considered in order to ensure that the methodology was applicable. The CHRB implementation ensured that at least 20% of a company’s revenue was derived directly from activities relating to the apparel, extractive or agricultural industries. The ACCR also checked business operations, and the individual companies global supply chain. This information helped inform the applicable questions for Section D in each sector, and the human rights risks relative to the scale and nature of a company’s operations (see tables 3, 4 and 5 below).

Figure 14 lists the companies that were assessed using the subset methodology and classifies these companies into the Agricultural Products, Apparel or Extractive industries. The companies marked with an asterisk* were covered in the Pilot CHRB implementation.

Figure 14 Companies chosen by Industry¹²⁵



Agriculture

Table 4 breaks down the operations of the companies selected to be reviewed using the agricultural products methodology. Percentage of GDP generated from agriculture in Australia reached an all-time high in the last quarter of 2016, at AUD 11,606 million.¹²⁶ Australian companies, and individuals also still source products globally – such as coffee, tobacco, wine and chocolate.¹²⁷

It is important to note that some companies may not have agricultural operations, yet operate in the agricultural industry. In these circumstances a company has only been assessed for their exposed operations. Therefore, it is not relevant for every company to disclose indicators specifically related to ‘own’ production or manufacturing operations. In these cases, scores have been averaged to exclude the indicators which refer to ‘in own production or manufacturing operations’.

Table 4 Agricultural Products

COMPANY	AGRICULTURAL ACTIVITIES - OWN OPERATIONS	AGRICULTURAL ACTIVITIES - IN THE SUPPLY CHAIN	GLOBAL OPERATIONS & SOURCING
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¹²⁵ All images used in this report were sourced from the Noun Project. Images were then altered by CAER. Wheat by Nicole Portantiere from the Noun Project. Spool created by Juan Pablo Bravo from the Noun Project. James Fenton – Mining Cart.

¹²⁶ ‘Australia GDP from Agriculture’, *Trading Economics*, <<https://tradingeconomics.com/australia/gdp-from-agriculture>> [Accessed 05/05/2017].

¹²⁷ For a list of Australias top imports see: ‘Australia’, *OECD*, <<http://atlas.media.mit.edu/en/profile/country/aus/>> [Accessed 05/05/2017].

Coca-Cola Amatil	NO The company does not own or operate any agricultural land. The company bottles and distributes non-alcoholic beverages through its 'non-alcohol beverages business' segment (92.3% of revenue). The company also has an alcohol and coffee beverages business segment (6.5% of revenue). The company's, Food & Services division involves the distribution of various food (1.2% of revenue).	YES The company sources ingredients from the agricultural industry. The company sources ingredients such as sugar, malt and coffee. The company also sells canned fruit, jams and processed foods through their SPC, Goulburn Valley, Ardmona and IXL brands.	YES The company has around 14,000 employees working in Australia, Indonesia, New Zealand, Fiji, Papua New Guinea and Samoa. The company's products are sourced globally. ¹²⁸
Graincorp	YES, but limited The processes of storing and transporting grains has been considered 'own agricultural' as they have similar risks related to labour. The company's Malt and Oils segments generate 26.7% and 20.7% of revenue respectively. The company also employs workers seasonally during harvest time. ¹²⁹	YES The company purchases grain, malt and oils.	YES The company has operations globally – including locations in China, the United States, Germany, Canada and the UK. It is assumed that because the company has Malt business operations in these areas that the supplies are also sourced globally. ¹³⁰
Treasury Wine Estate	YES The company owns and operates 137 vineyards and 20 wineries globally. The company hires grape growers, wine makers and viticulturists. The company either owns or leases and operates hectares of land for wine-making.	YES The company also sources commercial wine on the bulk wine market. Therefore, they have agricultural operations in their supply chain.	YES The company is one of the largest global wine companies. The company has vineyards and wineries in Italy and the United States. The company has marketing offices in China and the U.K. ¹³¹
Wesfarmers	NO The company does not operate any agricultural operations.	YES The company sources agricultural products through their Coles division (59.4% of revenue). Coles is one of Australia's largest supermarket chains that sell food and grocery supplies.	YES Wesfarmers sources 96% of fresh fruit and vegetables from Australia. Frozen, dried & processed foods are sourced globally.
Woolworths	NO	YES	YES

¹²⁸ Coca Cola Amatil Annual Report, 2016, p5.

¹²⁹ 'Thousands of Harvest Roles up for grabs', Media Release, 17 July 2017.

¹³⁰ Graincorp Annual Report, 2016, p3.

¹³¹ Treasury Wine Estates Annual Report, 2016, p5.

<p>The company does not operate any agricultural operations.</p>	<p>The company sources agricultural products. Australian Food and Petrol (66.8% of revenue), involve the procurement of food and petroleum products in Australia. The New Zealand Supermarkets (9.45% of revenue) involve the procurement of food and liquor products for resale to customers in New Zealand. The Endeavour Drinks (12.8% of revenue) group involves the procurement of liquor products in Australia.</p>	<p>Woolworths sources 96% of the fresh fruit and vegetables it sells from Australia.¹³²</p> <p>The company sources frozen, dried & processed foods globally.</p>
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Apparel/Medical Supplies

Medical supplies companies were chosen for analysis using the apparel methodology because of similar risks of exploitation in the medical goods supply chain. The creation of devices such as rubber gloves, condoms, protective clothing and medical equipment components require similar labour, and therefore endure similar problems, as the apparel industry. Exploitation in the medical goods supply chain was recently explored in the March 2017 ‘Do No Harm: Procurement of Medical Goods by Australian Companies and Government’.¹³³ The report highlighted the high occurrence of labour and human rights abuses in the production of goods such as gloves, electronics, surgical instruments and protective clothing and footwear.

It should be noted that the application of the apparel methodology for the companies that create medical goods is unique to ACCR’s subset methodology and was not implemented by the Pilot CHRB. As Australia does not have any large listed apparel companies, and Australian Medical Supply companies have been in the media because of human rights issues in their supply chain, the ACCR decided to utilise the Apparel methodology to see whether the methodology is effective in bringing the issues applicable to the medical supply chains into further scrutiny.

To better understand how Australian listed companies in this sector manage human rights risks, the ACCR decided to research Cochlear, a medical device company that manufactures cochlear implant (hearing) devices; Resmed a company that manufactures products that treat sleep apnea and respiratory diseases; Ansell a gloves, protective clothing and medical supplies manufacturing company; and CSL a biotechnology company that manufactures products, such as diagnostics products, pharmaceuticals and vaccines, to treat a variety of illnesses. CSL was included on the basis that they have a global supply chain as part of their product manufacturing. Table 5 further breaks down these companies Australian and global operations and supply chain exposure.

¹³² ‘Australia’s Fresh Food Farmers’, *Woolworths Website*, <<https://www.woolworthsgroup.com.au/page/community-and-responsibility/partners/australias-fresh-food-farmers>> [Accessed 18/04/2017].

¹³³The report was commissioned by the Australian Nursing and Midwifery Federation and the Australian Institute and written by Martijn Boersma, ‘Do No Harm: Procurement of Medical Goods by Australian Companies and Government’ March 2017 <http://www.anmf.org.au/documents/Do_No_Harm_Report.pdf> [Accessed 18/04/2017].

Table 5 Apparel Products

COMPANY	MANUFACTURING OWN OPERATIONS	MANUFACTURING IN THE SUPPLY CHAIN	GLOBAL MANUFACTURING OPERATIONS
Ansell	YES Ansell’s Industrial, Healthcare and Sexual Wellness business segments manufacture products. The company owns and operates manufacturing facilities.	YES The company sources rubber, plastics, and other materials from suppliers.	YES The company has manufacturing facilities in Thailand, India, Malaysia, Brazil, Sri Lanka, Vietnam, China, Thailand, Korea, Lithuania and Portugal. ¹³⁴
CSL	YES CSL Behring (86% of revenue) manufacture, market and develop plasma therapies and Seqirus (11.9%) manufactures and distributes non-plasma biotherapeutic products. ¹³⁵	YES However, the company states that ‘CSL depends on a limited group of companies that supply our raw materials and supply and maintain our equipment’. The company also depends on plasma donors. However, the sourcing of materials such as blood is not covered by this study. ¹³⁶	YES The company has major facilities in Australia, Germany, Switzerland, United Kingdom and the US. CSL has more than 17,000 employees working in over 30 countries.
Cochlear	YES Manufacturing for the cochlear implant product range.	YES Cochlear uses third-party suppliers for the supply of ‘key materials’.	NO The bone conduction implant product range is manufactured in Sweden. The acoustic implant is manufactured in Australia, the US and Belgium ¹³⁷
Resmed	YES The company is the global manufacturer of sleep apnea devices. The company operates its own manufacturing operations.	YES The company sources different components for its devices from suppliers.	YES The company's own manufacturing plants are in Australia, Singapore, Paris, Germany, the United States and Malaysia. ¹³⁸

Extractives

Unsurprisingly for Australia, the largest cohort of companies relate to the extractives sector. The companies selected for analysis include mining and oil & gas companies, but also go further in exploring how human rights are addressed in companies that may not directly fall into the ‘extractives’ industry classification through the majority of their revenue generation, or where extractive activities are in the direct supply chain. Two of the companies selected as

¹³⁴ Ansell Annual Report, 2016, p31.

¹³⁵ CSL Financial Report, 2015, p8.

¹³⁶ Ibid, p4.

¹³⁷ Cochlear Annual Report, 2016, p20.

¹³⁸ Resmed ESG Report, 2015, p10.

‘extractives’, Origin Energy and AGL Energy, are energy utility companies. However, Origin Energy and AGL Energy have activities that directly relate to the extraction of resources. While the first CHRB ranking has only included companies with 20% or more of their business in a sector to include them in the benchmark, this report includes companies with lower involvement in extractives in order to create a larger comparison of Australian companies.

Caltex is classified under the ICB Oil & Gas Producers. Caltex is known for providing petrol stations around Australia and operates a store network of more than 765 owned or lease sites. Refined petroleum is Australia’s second largest import and Caltex is involved in the purchase, distribution and refining of petrol and other oil based products.¹³⁹ Although Caltex does not have any direct mining operations, the fact that Caltex operates refining operations, which have similar labour rights issues as extractive operations, and purchases oil means that Caltex has high human rights risk exposures throughout their supply chain. Therefore, Caltex was chosen to be included in the analysis. However, the assessment of their results should not be scrutinized to the same degree as the large international mining houses.

Table 6 illustrates the Australian and global operations, and the associated risk exposure, for the companies covered using the extractives methodology.

Table 6 Extractives

COMPANY	EXTRACTIVE ACTIVITY	AUSTRALASIAN OPERATIONS	GLOBAL OPERATIONS
AGL Energy	OTHER	YES	NO
	AGL is a utilities provider. However, the company’s activities involve mining.	While Energy Markets, (97.5% of revenue) focus on the retail side, AGL’s main operating activities involve thermal electricity-generations from gas or coal. Its power stations include AGL Torrens (the largest natural gas power station in Australia), Loy Yang power station and coal mine and AGL Macquarie (which produces approximately 13% of electricity for consumers in eastern Australia).	The core of AGL’s operations are in Australia.
Alumina	MINING HOLDING COMPANY	YES	YES
	The company is the non-operating partner for AWAC – the operating partner being Alcoa (60%).The company holds 40% investments in AWAC. ¹⁴⁰	Alumina Limited’s sole business undertaking is in the global bauxite, alumina and aluminum industry, which it conducts primarily through bauxite mining and alumina refining through the AWAC Partnership. AWAC operates Bauxite mines in Western Australia.	Through the AWAC partnership – the company has bauxite mines in Suriname, Brazil and Guinea. The company also has refineries globally. ¹⁴¹

¹³⁹ Refined Petroleum is Australia’s second largest import accounting for 6.85% of imports in 2015. ‘Australia’, *The Observatory of Economic Complexity*, <<http://atlas.media.mit.edu/en/profile/country/aus/>>, [Accessed 15/05/2017].

¹⁴⁰ Alumina Annual Report, 2016, p69.

¹⁴¹ ‘Global Operations’, *Alumina Website*, <<http://www.aluminalimited.com/global-operations/>>, [Accessed 15/05/2017].

Bluescope Steel	MINING AND STEEL PRODUCTION	NO	YES
	Australian Steel Products, which generates 46% of revenue, is involved in the production of steel products, which includes the mining process. ¹⁴²	The company operates the Waikato North Head iron sands mine in New Zealand. ¹⁴³ The company announced their decision to sell its Tahora iron sands business in April 2017. Therefore, the company's only mining operation currently operating is at Waikato North Head. However, at the time of publication the sale of Tahora iron sands has not been finalised.	The company has manufacturing operations in China, India, Indonesia, Thailand, Vietnam, Malaysia and North America. The company does not operate any mines outside of New Zealand.
BHP Billiton	MINING, OIL & GAS	YES	YES
	The company operates copper, iron ore, coal, nickel, zinc and potash mines. The company is also involved in oil and gas production.	The company's Minerals Australia asset group includes operated assets in Western Australia, Queensland, New South Wales and South Australia. The assets focus on copper, iron ore, coal and nickel.	Operated and non-operated projects in Canada, Chile, Peru, United States, Colombia, and Brazil. These assets focus on copper, zinc, iron ore, potash and coal. ¹⁴⁴ The company's Petroleum unit has gas operations, convention and unconventional oil exploration and development activities in the United States and Trinidad and Tobago.
Caltex	REFINING AND DISTRUBITING	YES	YES
	The company has no extractives operations. The company is only involved in the distribution and refining of crude oil.	The company owns and operates the Lytton Oil Refinery, located in Australia, which generates 0.4% of revenue.	Supply and Marketing, which generates 99.6% of revenue, sources crude oil and refined products on the international market and seals Caltex fuels, lubricants, specialty products and convenience store goods. ¹⁴⁵
Fortescue Metals Group	MINING	YES	YES
	The company is involved in iron ore mining.	The company is involved in the mining of iron ore and the associated supply chain logistics. The company has four mine sites in the Pilbara, Australia.	The company has no international mines. However, the company is currently assessing early stage exploration tenements in Ecuador. ¹⁴⁶
	MINING	YES	YES

¹⁴² Ibid, p4.

¹⁴³ Bluescope Steel Annual Report, 2016, p8.

¹⁴⁴ 'Our Business', BHP Website, <<http://www.bhp.com/our-businesses>> [Accessed 15/05/2017].

¹⁴⁵ Caltex Annual Report, 2016, p84.

¹⁴⁶ Fortescue Metals Group Annual Report, 2016, p15

Iluka Resources	The company is involved in mineral-sands mining.	The company has mineral sands mining and processing operations in Australia. The company also has royalties associated with BHP's Mining Area C iron ore operations in Western Australia. Iluka also produces zircon and titanium dioxide feedstocks. ¹⁴⁷	The company has mineral sands mining operations in Sierra Leone following the acquisition of Sierra Rutile Limited.
Newcrest Mining	MINING The company is involved in gold/copper mining.	YES The company operates two gold/copper mines in Australia – the Cadia Valley Operations in New South Wales, and Telfer in Western Australia.	YES Newcrest operates gold/copper mines in Indonesia (Gosowong), Papua New Guinea (Lihir) and Cote D'Ivoire (Bonkiro). ¹⁴⁸
Oil Search	OIL & GAS PRODUCTION The company operates oil fields and has interests in a LNG project.	NO The company currently has no Australian extractive operations.	YES The company operates all of Papua New Guinea's producing oilfields. The company also holds 29% interest in the PNG Liquid Natural Gas project operated by ExxonMobil PNG Limited.
Origin Energy	UTILITIES The company is an energy retailer and has no extractives operations. The company is involved in oil and gas exploration.	YES Energy Markets deals with energy retailing, power generation and LPG operations predominantly in Australia. It comprises of 92.5% of the total revenue and has LPG operations as a core component. Integrated Gas operating division focuses on gas and oil exploration and production in Australia and New Zealand. Contact Energy operating division. Contact Energy operates in New Zealand. ¹⁴⁹	NO The company currently has no global extractive operations.
Rio Tinto	MINING AND PROCESSING The company has interests and operates varying mining operations. The company also operates smelters globally.	YES The company operates the Argyle diamond mine in the East Kimberly region of Western Australia. The company operates the Weipa bauxite mine in Queensland. Rio Tinto Coal Australia has thermal and coking coal operations in the Hunter Valley and the Bowen Basin. Dampier Salt (68% interest) has	YES The company has mining interests in Brazil (Porto Trombetas Mine – bauxite), Canada (Diavik diamond mine 60% operating), Chile (Escondida copper 30% operating), Guinea (bauxite mine), India (Odisha Iron Ore), Indonesia (copper and gold mine), Madagascar

¹⁴⁷ Iluka Resources Limited Annual Report: Directors' and Statutory Information, 2016, p2.

¹⁴⁸ 'About us', *Newcrest Mining Website*, <<http://www.newcrest.com.au/about-us>> [Accessed 05/06/2017].

¹⁴⁹ New Zealand is assessed as having similar Human rights risks as Australia, and therefore if a company only has operations in New Zealand it is not considered to have a 'global supply chain' and is rather considered in the Australasian operations.

		operations across Australia. The company has additional interests across Australia.	(QIT Madagascar Minerals 80%), Mongolia (Oyu Tolgoi – copper and gold mine), Mozambique (titanium dioxide feedstock project), Namibia (uranium mine), Serbia (Jadar lithium-borate project) South Africa (Richards Bay Minerals 74% interest) and the United States (Boron open pit mine, the Resolution copper project, Bingham Canyon Mine). The company also has smelters in Canada, France, New Zealand, Iceland and Oman.
Santos	OIL & GAS PRODUCTION	YES	YES
	The company is involved in the extraction of gas. The company also has petroleum exploration licenses.	The company has interests in Northern Territory, New South Wales, Queensland, South Australia and Western Australia. For example, the company extracts natural gas from the Cooper Basin, Northern Australia and Western Australia. The company holds petroleum exploration licenses over the Gunnedah Basin. The company is waiting for approval for their Narrabri Gas Project from the government.	The company has a 13.5% interest in the PNG LNG Project operated by ExxonMobil in Papua New Guinea. The company also has exploration interests and licenses in Indonesia, Malaysia, Bangladesh and Vietnam. ¹⁵⁰
South32	MINING	YES	YES
	The company is involved in coal, manganese, silver and bauxite mining.	The company has extractive operations in Australia - mining Bauxite at Worsley Alumina (86%), mining manganese in NT (60%), Silver in Qld (100%), Illawarra Coal (100%)	The company has extractive operations in South Africa, Colombia and Brazil.
Woodside Petroleum	OIL & GAS PRODUCTION	YES	YES
	The company produces oil and gas and has exploration activities globally.	The company has exploration activities in Australian waters. The company also has a 13% interest in the Wheatstone Project and a 65% interest in the Julimar Project in WA's Pilbara Region. The company also holds in the Greater Sunrise Fields – between 150 kilometres south-east of Timor-Leste and 450 kilometres north-west of Darwin. The company produces oil from the	The company has exploration operations in Gabon, Myanmar, Senegal, Morocco, Ireland, and Peru. The company has developing extractive operations in Myanmar and Canada.

¹⁵⁰ 'What we do', Santos, <<https://www.santos.com/what-we-do/activities/asia/>> [Accessed 08/05/2017].

Companies with operations in multiple sectors

For this research, given its diversified operations Wesfarmers could fall into more than one sector. Wesfarmers has operations within the agricultural, apparel and extractives sectors. However, applying revenue measures to identifying major operations, the 'Coles' business segment generates around 60% of revenue. Department stores only accounted for 13% of revenue – for this reason it was deemed not necessary to apply the apparel sector methodology to Wesfarmers.¹⁵¹ Furthermore, Wesfarmers Resources division, which primarily gains its revenue from the Curragh and Bengala coal mines, which form part of the company's industrial segment. However, the industrials segment only generated 7% of the company's revenue.¹⁵² In a separate research project, Wesfarmers' different business segments may merit closer research under their respective sector methodologies.

Caltex is another example of a company that could be assessed under two different sectors. Caltex operates petrol stations that also operate as retail convenience stores through their 'Star Marts'.¹⁵³ Star Marts sell coffee, baked goods, bread, milk, snacks, take home meals and other grocery items. In the year ending 31 December 2016 Caltex had 533 Star convenience stores.¹⁵⁴ Caltex does not separately disclose the revenue generated from the food sold at the convenience stores. However, the company made AUD 177 million in 2016 from their 'non-fuel income', which includes convenience store income, franchise income, royalties, property, plant and equipment rentals and share of profits from distributor businesses.¹⁵⁵ In this iteration of research Caltex has only been assessed under the extractive framework. However, if Caltex's revenue generated from sales at their convenience stores increased the agricultural framework should be applied.

¹⁵¹ Wesfarmers Annual Report, 2016.

¹⁵² Ibid.

¹⁵³ 'Star Mart', *Caltex Company Website*, <<https://www.caltex.com.au/star-mart>> [Accessed 08/05/2017].

¹⁵⁴ Caltex Annual Report, 2016, p123.

¹⁵⁵ Ibid, p36.

APPENDIX 5: QUALITY CHECKS PROCESS

1. Analyst completed company Research Profiles
2. Three select company Research Profiles were reviewed by Research Project Manager
3. Research Profiles sent to the companies via email as a company Engagement Survey for feedback. Companies were given 3 weeks, which was extended to 6 weeks, to respond to Company Engagement Surveys
4. Two follow ups were sent to companies which did not engage
5. The returned Company Engagement Surveys assessed by Analyst
6. Research Project Manager reviewed each returned Company Engagement Surveys and corresponding changes
7. Reviewed Company Engagement Surveys returned to the company for comment
8. Company Research Profiles and final scores for each company assessed by Research Project Manager
9. Each indicator that received a score 2 was assessed again by a research analyst