SUBMISSION BY THE
NSW NURSES AND MIDWIVES' ASSOCIATION

Regional Comprehensive Economic Partnership Agreement General Review

OCTOBER 2026

NSW NURSES AND MIDWIVES' ASSOCIATION
AUSTRALIAN NURSING AND MIDWIFERY FEDERATION NSW BRANCH

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Introduction

1. The New South Wales Nurses and Midwives' Association (NSWNMA) is the industrial and professional body for nurses, midwives and carers in New South Wales, representing over 85,000 members across the full spectrum of health care services in NSW, including public and private hospitals, midwifery, corrective services, aged care, disability, and community settings.

2. NSWNMA strives to be innovative in our advocacy to promote a world class, well-funded, integrated health system by being a professional advocate for the health system and our members. We are committed to improving the quality of all health and aged care services, whilst protecting and advancing the interests of nurses and midwives and their professions.

3. We work with our members to improve their ability to deliver safe and best practice care, fulfil their professional goals and achieve a healthy work/life balance.

4. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.

5. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

6. The NSWNMA thanks the Department of Foreign affairs and Trade for the opportunity to provide feedback on Regional Comprehensive Economic Partnership (RECP) Agreement.

Overview

7. NSWNMA supports international trade and views it as 'vital to Australia's long-term economic interests which can be a tool for economic growth, improved social conditions, environmental protection, and adherence to human rights conventions and democratic values'.[1] Unfortunately, modern free trade and investment agreements do not address these areas adequately and often undermine them.

8. The Regional Comprehensive Economic Partnership (RECP) Agreement is an international trade agreement between Australia, Brunei, China, Cambodia, Indonesia, Korea, Japan, Laos, Malaysia, Myanmar, New Zealand, Philippines, Singapore, Thailand, Vietnam[2]. The list of countries is inclusive of Australia's top 2 export partners (China and Japan respectively) and 4 of

[1] NSW Nurses and Midwives' Association, "Position Statement on Fair and Ethical Trade," Press release, 2024, accessed October 23, 2026, https://www.nswnma.asn.au/wp-content/uploads/2023/08/Position-Statement-on-Fair-and-Ethical-Trade.pdf.

[2] "Australian Border Force Website," Australian Border Force Website, n.d., Accessed 23-10-2026 https://www.abf.gov.au/importing-exporting-and-manufacturing/fta/free-trade-agreements/regional-comprehensive-economic-partnership-agreement.

the top 5 import partners (China, Japan, Singapore and Thailand) which should highlight the importance of this agreement.[3]

Summary of Recommendations

9. The Recommendations in this submission are as follows:

- No ISDS provision in RECP
- RECP should improve labour rights across the countries that are party to it and allow countries to hold each other to account. ILO standards must be enforceable through the trade agreements Australia is signatory to.
- RECP should include WHO standards for labour movement and consider the impact on the country that labour is being drawn from.
- RECP should include commitment ensure parties all working towards meeting the requirements in UN Convention on the Elimination of All Forms of Discrimination Against Women as a minimum standard
- RECP should include commitment ensure parties all working towards meeting the requirements in UN Declaration on the Rights of Indigenous Peoples as a minimum standard
- RECP should include enforceable standards to improve environmental standards in partner countries
- RCEP should recognise the growing role of AI in international trade while preserving the ability of signatory nations to regulate AI in the public interest.
- RCEP should ensure that digital trade provisions do not constrain measures to maintain public ownership and control of data, protect privacy and workers' rights, build sovereign capability, or uphold environmental standards.
- RECP explicitly exclude Aged Care regulation
- RECP should view government regulation as a line of defence and encouraged when warranted to provide better outcome for people
- Ensure there is transparency and future texts are released before agreements are finalised

[3] "International Trade: Supplementary Information, Calendar Year, 2025," Australian Bureau of Statistics, n.d., https://www.abs.gov.au/statistics/economy/international-trade/international-trade-supplementary-information-calendar-year/latest-release.

Investor State Dispute Settlement (ISDS)

10. Investor State Dispute Settlement (ISDS) is not currently featured in the RECP. This review should not allow ISDS or similar provisions to be introduced into the agreement. The NSWNMA's position is to oppose any rights to foreign investors to sue democratically elected governments.[4]

11. A cautionary tale of the costs of such clauses was demonstrated when the Australian Government legislated plain packaging for cigarettes in 2011. Tabacco giant Phillip Morris took legal action in Australian Courts and after losing in the High Court in 2012, rather than accepted the decision of the domestic legal process, mounted an ISDS challenge using the Australia-Hong Kong investment treaty.[5]

12. Australia, in December 2015 won again, but this time at significant cost, of $24 million in external costs.[6] As the actions by Phillip Morris are seen as an abuse of process, they were ordered to contribute half the cost, still leaving the Australian taxpayers $12 million out of pocket, not counting the internal costs of running such matters which would have been absorbed by the various departments involved. There would be numerous ways the Australian government could redirect such funds had it not been for ISDS provision in previous agreements.

13. Recommendation: No ISDS provision in RECP

Human Rights (Labour Rights/Women Rights & Indigenous rights)

14. Workers' rights must be protected, unions play a vital role in doing so, and the NSWNMA, its federal counterpart Australian Nursing and Midwifery Federation do this for Australian based Nurses, Midwives and carers. NSWNMA also supports work conducted by Public Services International in protecting the rights of workers. Governments must also play a role in protecting the rights of workers, both locally and internationally, and this should be reflected in the trade agreements to discourage a race to the bottom of workers' rights.

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[4] NSW Nurses and Midwives' Association, "Position Statement on Fair and Ethical Trade," Press release, 2024, accessed October 23, 2026, https://www.nswnma.asn.au/wp-content/uploads/2023/08/Position-Statement-on-Fair-and-Ethical-Trade.pdf.

[5] Patricia Ranald, "When Even Winning Is Losing. The Surprising Cost of Defeating Philip Morris Over Plain Packaging," *The Conversation*, March 26, 2019, Accessed 23-10-26 https://doi.org/10.64628/aa.74m7fq935.

[6] "Final Costs Details Are Released in Philip Morris V. Australia Following Request by IAReporter | Investment Arbitration Reporter," n.d., Accessed 23-10-26 https://www.iareporter.com/articles/final-costs-details-are-released-in-philip-morris-v-australia-following-request-by-iareporter/.

15. The International Trade Union Confederation - Asia Pacific notes that the 2026 Global Rights Index include Myanmar, which is a party to the RECP, as one of the 10 worst countries, while the Philippines has only just moved out of the worst 10 in the latest report and remains of concern.[7]

16. Including provisions requiring parties to RECP to abide by International Labour Organisation (ILO) conventions and assure labour rights can provide a level of safeguards. Contravention can then be subject to state-to-state dispute settlement should it be required. Omission of enforceable labour rights within trade agreements remains a fundamental flaw in Australia's position.

17. Myanmar's Government has been subject of significant criticism including from international community. This is including a Commission of Inquiry from the International Labour Organisation (ILO) confirming that there has been 'continuing systematic and widespread use of residents by the Myanmar military to perform a range of different types of forced labour'[8]. This is along with a number of other violations of the rights of workers to organise.

18. Most recently the Australian Foreign Minister has issued a joint statement, alongside India, Japan and the United States, noting that they 'remained concerned' about the events in Myanmar[9]. This is far short of what the international community expects from Australia as several international organisations have issued calls to not legitimise such regimes and called into question the 2025 elections in Myanmar[10].

19. An Australian Senate Foreign Affairs, Defence and Trade References Committee has raised additional concerns including the need to reject the 2025-2026 election and classify it as a 'sham'. [11] Recommending several measures that the Australian Government should take, including working with allies to aligning sanctions. NSWNMA would support the Australian

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[7] "2026 ITUC Global Rights Index: Asia-Pacific Remains Second-worst Globally as Arbitrary Arrests and Violence Against Workers Escalate | ITUC-Asia Pacific," n.d., Accessed 23-10-26 https://www.ituc-ap.org/news-and-updates/2026-ituc-global-rights-index-asia-pacific-remains-second-worst-globally-as-arrests-and-violence-escalate.

[8] International Labour Organisation, "Towards Freedom and Dignity in Myanmar," August 4, 2023, accessed October 28, 2026, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40relconf/documents/publication/wcms_894548.pdf. (pg. 11)

[9] Penny Wong, "Quad Foreign Ministers' Meeting Joint Statement," Press release, May 6, 2026, accessed October 28, 2026, https://www.foreignminister.gov.au/minister/penny-wong/media-release/quad-foreign-ministers-meeting-joint-statement.

[10] "Why Democracy in Myanmar Demands an Article 33 Resolution — Not Technical Cooperation | ITUC-Asia Pacific," n.d., https://www.ituc-ap.org/resources/why-democracy-in-myanmar-demands-an-article-33-resolution----not-technical-cooperation?fbclid=IwY2xjawKjMT9leHRuA2FlbQIxMABicmlkETFkWjFoVWthd2pxNFh1QXNtAR7ONK9aWYn4vHIm1IYH9-7IRBUHlaePJ_5KVDtDwus4YkUVonSBZg86KBczZA_aem_Jqsprpmvcf_pLciambCQLA.

[11] Australian Seante, "Foreign Affairs, Defence and Trade References Committee: Democracy and Human Rights in Myanmar," March 2026, accessed October 28, 2026, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000778/toc_pdf/DemocracyandhumanrightsinMyanmar.pdf.

Government in following the recommendation of the Senate Committee and the calls from the international community and not legitimise Myanmar's junta.

20. 'Australia is a Migrant Nation' as noted by the Australian Industry Group.[12] Trade agreements provide a mechanism to standardise the process and include required safeguards in an explicate manner.

21. Nursing and Midwifery remain listed as shortages in the Job Skills Australia Occupation Shortage List.[13] The labour force needed for aged and acute care will continue to rely on migration for the foreseeable future. The Australian government must act to ensure that the impact on the sending country's capacity to deliver their own health care needs are not impacted by the mass movement of trained health care providers. The lack of oversight and enforcement capacity by governments needs to be sufficient as to prevent the recent experience of Fiji which has seen public service provision hampered by the movement of trained workers from Fiji to New Zealand and Australia.

22. Trade agreements must ensure that international standards, such as the WHO Code of practice for international recruitment of health personnel, are abided to and are enforceable.[14]

23. The Australian Nursing and Midwifery Federation (ANMF) of which NSWNMA is a state counterpart has a clearly stated position on international recruitment.[15] This includes ensuring that international recruitment is not seen as the only answer and requires the Australian Government to implement strategies to plan and manage the domestic nursing and midwifery workforce.

24. RECP has no commitments to Women's rights of the rights of indigenous peoples.

25. Recommendation:

    - RECP should improve labour rights across the countries that are party to it and allow countries to hold each other to account. ILO standards must be enforceable through the trade agreements Australia is signatory to.

    - RECP should include WHO standards for labour movement and consider the impact on the country that labour is being drawn from.

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[12] "Skilled Migrants' Contribution to the Australian Workforce," Australian Industry Group, October 27, 2023, https://www.australianindustrygroup.com.au/resourcecentre/research-economics/economics-intelligence/2023/skilled-migrants-contribution-to-workforce/.

[13] Job Services Australia, "Occupation Shortage List 2026," October 21, 2026, accessed October 23, 2026, https://www.jobsandskills.gov.au/data/occupation-shortage.

[14] World Health Organization, "WHO Global Code of Practice on the International Recruitment of Health Personnel," May 20, 2010, https://www.who.int/publications/i/item/wha6316.

[15] Australian Nursing and Midwifery Federation, "International Recruitment of Nurses and Midwives," Press release, November 2023, accessed October 23, 2026, https://anmf.org.au/wp-content/uploads/2026/07/anmf-position-statement-international-recruitment-of-nurses-and-midwives.pdf.

- RECP should include commitment ensure parties all working towards meeting the requirements in UN Convention on the Elimination of All Forms of Discrimination Against Women as a minimum standard

- RECP should include commitment ensure parties all working towards meeting the requirements in UN Declaration on the Rights of Indigenous Peoples as a minimum standard

Environment protections

26. Part of the NSWNMA's position on environment we note the work of the World Health Organisation (WHO) in identifying that challenges of climate change and its impacts on health.[16]

27. The WHO clearly identifies that 'Climate change is the single biggest health threat facing humanity'.[17] Noting the impacts on health through air pollution, diseases, extreme weather events, forced displacement food insecurity and pressures on mental health. Protecting the environment is key to limiting the impacts of climate change.

28. Recommendation:

    - RECP should include enforceable standards to improve environmental standards in partner countries

Artificial Intelligence

29. Artificial intelligence (AI) is becoming increasingly relevant to international trade, including through digital services, data flows, and the infrastructure that supports them. However, trade agreements must not limit the ability of governments to regulate AI in the public interest. The RCEP General Review should ensure that governments retain the ability to respond to emerging risks and introduce stronger protections as the technology develops.

30. RCEP already provides protections in relation to public data. Chapter 12 excludes information held or processed by or on behalf of governments, and measures relating to that information, from the scope of the Electronic Commerce Chapter. This protection should be retained.

31. Public data has significant public value and should remain under public control. Publicly generated data should not be transferred into privately controlled AI products that governments must later license back from external providers. RCEP should not prevent governments from

[16] NSW Nurses and Midwives' Association, "Position Statement on the Climate Emergency," Press release, 2024, accessed October 23, 2026, https://www.nswnma.asn.au/wp-content/uploads/2023/08/Position-Statement-on-the-Climate-Emergency-1.pdf.

[17] World Health Organization: WHO, "Climate Change," October 12, 2023, https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health. – Fast Facts on climate change and health

maintaining public ownership and control of data or from placing restrictions on its commercial or secondary use.

32. Data sovereignty is broader than simply locating servers in Australia. Australian control requires the capacity to determine how sensitive information is accessed, processed, transferred, and reused. Governments must retain the ability to require public and sensitive data to be stored and processed within Australia where appropriate, and to invest in sovereign AI and computing capability. RCEP's digital trade provisions must not constrain governments from introducing or strengthening these requirements.

33. These issues are also closely connected to workers' rights. The increasing collection and commercial use of data via AI systems raises questions about who owns and controls worker data, how it can be used, and whether workers have a say in decisions that affect them. The privatisation and commercialisation of data should not come at the expense of workers' privacy, rights, or control over their personal and workplace information.

34. In Australia, the risks associated with inadequate safeguards for AI systems have already been demonstrated. In September 2026, OpenAI agents were reportedly able to access Medicare data, despite there being no malicious intent[18]. The incident demonstrates the need for strong safeguards governing access to sensitive public data and reinforces the importance of maintaining governments' ability to regulate AI in the public interest.

35. AI also has significant implications for workers. The NSWNMA supports meaningful consultation with workers and their unions before AI systems affecting their work are introduced, together with protections for job security, professional judgement, workload, and work health and safety. Workers should have rights to information, training and retraining, human review of AI-influenced decisions, and limits on the collection and use of worker data. RCEP should not constrain governments from introducing or strengthening these protections.

36. The growth of AI and data centres also creates environmental pressures through increased demand for energy and water. RCEP should preserve governments' ability to regulate these impacts, including energy and water use, emissions, and infrastructure demands, and to strengthen environmental and public health protections.

37. Recommendation:

    - RCEP should recognise the growing role of AI in international trade while preserving the ability of signatory nations to regulate AI in the public interest.

    - RCEP should ensure that digital trade provisions do not constrain measures to maintain public ownership and control of data, protect privacy and workers' rights, build sovereign capability, or uphold environmental standards.

[18] Stephanie Dalzell and Stephen Dziedzic, "What We Know About the Data Accessed in the OpenAI Medicare Hack," *ABC News*, September 24, 2026, https://www.abc.net.au/news/2026-09-24/what-we-know-about-the-openai-medicare-hack/107189452

Trades in services - Government Regulation - Transparency

38. As noted in the Australian Fair Trade and Investment Network's Submissions to this review, the trades in services chapter does not explicitly exclude Aged Care[19]. NSWNMA supports this position and wants to ensure that Aged Care is specifically listed as an area that can be regulated by the Australian Government.

39. Australia's population continues to age, and by 2066, 21% or 2.2 million of the population is expected to be aged over 85[20]. These changes will require Government regulation to be able to manage the transition and change in care that is required for this population, along with the workforce to support it.

40. The Royal Commission into aged care clearly demonstrated the need for greater regulation, and the experiences of NSWNMA members in the enforcement of those regulations suggest that greater regulation remains essential, as does the capacity for workers to hold employers accountable to regulatory requirements. Our member's lived experiences demonstrate the need for Aged Care regulation, and the rights of workers to be protected through our trade agreements.

41. Australia's current part government, part privately funded model may not cope with the dramatic change without adequate government support including appropriate regulation. The desire of this review to find 'opportunities to deepen liberalisation' may create a barrier for government to protect its people. [21]

42. The final report of the Royal Commission into Aged Care Quality and Safety relies heavily on the ability of the Australian Government to make laws when making recommendations having the first recommendation being that there be a new Act for Age Care.[22]

43. Opal HealthCare was Australia's largest aged care provider in 2025, having 11% growth in that year. Opal HealthCare is part owned by a Singapore based investment firm, meaning that the

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[19] Australian Fair Trade and Investment Network, "AFTINET Submission to the General Review of the Regional Comprehensive Economic Partnership (RCEP)," September 2026, accessed October 23, 2026, https://aftinet.org.au/sites/default/files/2026-09/260925%20AFTINET%20%20RCEP%20submission%20final.pdf.

[20] AIHW (Australian Institute of Health and Welfare) (2024) *Older Australians*, AIHW, Australian Government, accessed 23 October 2026.

[21] Department of Foreign Affairs and Trade, "RCEP General Review and Submissions," 2026, accessed October 23, 2026, https://www.dfat.gov.au/trade/agreements/in-force/rcep/submissions.

[22] Hon Tony Pagone QC and Lynelle Briggs AO, "Care, Dignity and Respect: Royal Commission Into Aged Care Quality and Safety," March 2021, accessed October 23, 2026, https://www.royalcommission.gov.au/aged-care/final-report.

regulations are effectively locked in as part of the RECP[2324]. The Australian Government should be able to regulate as needed without additional restrictions of regional trade agreements in this field.

44. Additionally, it should be noted that the evidence to verify that there are benefits to reducing regulation seem to be missing in most cases when the Productivity Commission undertook a review of Bilateral and Regional Trade Agreements[25]. It was specifically noted that

> "The Commission has received little evidence from business to indicate that bilateral agreements to date have provided substantial commercial benefits" (pg. xx – 'Key points')

45. As part of the same report the Productivity Commission states that the current process lacks transparency and tend to 'oversell' the likely benefits.

46. Government must not step away from regulation in a drive for trade liberalisation. The G20 in November 2008, when identifying the cause of the Global Financial Crisis and ways to avoid future instances observed that:

> "Regulation is first and foremost the responsibility of national regulators who constitute the first line of defence against market instability"[26]

47. The same principles should be applied to RECP and Government regulation should be used as a first line of defence against market instability and harm to people.

48. Transparency is paramount and any negations should have the text released and made available to the community before for consideration before agreements are made. Not taking these steps actively undermines our democratic processes.

49. Recommendation:

- RECP explicitly exclude Aged Care regulation
- RECP should view government regulation as a line of defence and encouraged when warranted to provide better outcome for people

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[23] "Australia's Top 10 Largest Residential Aged Care Providers in 2025 | Aged Care Online," n.d., Accessed 23-10-2026 https://agedcareonline.com.au/2025/11/Australia-s-Top-10-Largest-Residential-Aged-Care-Providers-in-2025.

[24] "Investments - G. K. Goh Holdings Pte. Ltd.," G. K. Goh Holdings Pte. Ltd., August 22, 2024, Accessed 23-10-2026 https://www.gkgoh.com/investments.

[25] Productivity Commission, "Bilateral and Regional Trade Agreements: Productivity Commission Research Report," November 2010, accessed October 23, 2026, https://assets.pc.gov.au/inquiries/completed/trade-agreements/report/trade-agreements-report.pdf.

[26] "Declaration of the Summit on Financial Markets and the World Economy," November 20, 2008, accessed October 23, 2026, https://georgewbush-whitehouse.archives.gov/news/releases/2008/11/20081115-1.html.

- Ensure there is transparency and future texts are released before agreements are finalised

Conclusion

50. We want to reiterate that NSWNMA views intentional and regional trade agreements as vital to Australia's long-term economic interest. These are complex systems which can have significant impacts and always need to place people and their rights over the rights of the ability to make profits. There also needs to be space for governments to fulfill their democratically elected roles of implementing laws which will protect people without having regard for the ongoing costs of drawn-out legal processes. Australia as a leader in the region also holds additional responsibilities to ensure that the agreements that are entered into are for the benefit of all parties rather than an extractive process.

51. NSWNMA thanks the Department of Foreign Affairs and Trade for its work in this area, the engagement with the community and the opportunity to provide this submission.