



# MINERALS COUNCIL OF AUSTRALIA

## SUBMISSION TO THE REVIEW OF THE WORKPLACE GENDER EQUALITY ACT 2012

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26 NOVEMBER 2021

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## EXECUTIVE SUMMARY

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The Workplace Gender Equality Agency (WGEA) has acknowledged that the mining industry – along with industries like utilities and finance – are leading the way and driving change in terms of gender equality best practice.<sup>1</sup> The mining industry was recognised as most improved for following the best gender equity practices with an increase of 8.4 percentage points over the last five years.<sup>2</sup>

The mining industry consistently recorded high growth in the share of female managers across all tiers, with strong growth at the top, 4.0 and 5.1 percentage points respectively between 2015 and 2019.<sup>3</sup> Mining companies also offer relatively high rates of discretionary pay (up to 39% above base salary) for both male and female managers.<sup>4</sup>

In the seven years to 2020, the mining industry is one of two industries that has increased the share of women on boards by 10 percentage points. Translating to women comprising 20 per cent of board positions and 14 per cent of board chair positions.

Despite significant effort and progress to improve gender diversity in the mining industry, it is still one of the worst performing sectors for gender diversity due to historical gender inequality.<sup>5</sup>

Despite all of these efforts there are still not enough women leading companies or gender balance around the boardroom table and across the workforce and as at May 2021 the gender pay gap was 17.2 per cent.<sup>6</sup> There is a considerable challenge before the mining industry to achieve gender equality.

Several key issues influence achieving pay equity and gender equality, including by not limited to:

- Addressing structural conditions that disadvantage women in the workplace
- Sexism and sexual harassment
- The perpetuation of gendered stereotypes, gender discrimination and precarious working conditions
- Inappropriate/unsuitable personal protective equipment
- The perception that there are fewer advancement opportunities in comparison to male colleagues<sup>7</sup>
- Male dominated company culture and the lack of diversity, in both leadership and the workforce at large
- Structural elements, such as fly-in-fly-out (FIFO) work being less accessible for women or those with caring responsibilities.

With more career pathways than ever, Australia's world-class mining industry needs motivated people of all ages, genders and experience to remake the future of mining. Employing a diverse workforce has never been more important. To remain globally competitive and to attract the best and brightest, the mining industry needs the diversity of thought and experience that comes from employing people from different backgrounds.

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<sup>1</sup> WGEA, [Gender Equity Insights: 2021 Report](#), Australian Government, 2019, p 6, viewed 12 November 2021.

<sup>2</sup> WGEA, [Gender Equity Insights: 2021 Report](#), Australian Government, 2019, p 6, viewed 12 November 2021, and WGEA, [Over a quarter of a century until gender pay gap likely to close](#), Australian Government, 26 March 2021, Viewed 223 November 2021.

<sup>3</sup> WGEA, [Gender Equity Insights: 2019 Report](#), Australian Government, 2019, p 16, viewed 12 November 2021.

<sup>4</sup> WGEA, [Gender Equity Insights 2018 - Inside Australia's Gender Pay Gap](#), Australian Government, 2018, p 7, viewed 12 November 2021, and WGEA, [Australia's Gender Pay Gap](#), Australian Government, 2021, viewed 22 November 2021.

<sup>5</sup> WGEA, [Gender Equity Insights: 2019 Report](#), Australian Government, 2019, p 33, viewed 17 November 2021.

<sup>6</sup> WGEA, [Gender Equity Insights: 2021 Report](#), Australian Government, 2019, p 20, viewed 12 November 2021.

<sup>7</sup> H Ellix, K Farmer, L Kowalik, R Little, T Moonsamy, M Mussacalecam P Ruban and G Zapata, [Why Women are leaving the mining industry and what mining companies can do about it](#), McKinsey & Company, September 2021, viewed 12 November 2021.

The mining workforce also needs to reflect the communities in which miners live and work, and that means actively seeking a mix of people across age groups, caring responsibilities, cultural backgrounds, physical abilities, gender identity and sexual orientation.

As such, creating an environment in which everyone feels safe to bring their real and best selves to work is a priority for the industry. At the heart of this lies equality within the workplace and across the workforce. This is why the Workplace Gender Equality Act 2012 (the Act) and the work of the WGEA is so important.

While Australia has demonstrated its commitment to workplace gender equality reporting over the last forty years, and has placed first in women's education since 2014, the current rate of progress and reported decline in ranking - particularly for the economic participation of women from 14<sup>th</sup> to 70<sup>th</sup> - is alarming.<sup>8</sup>

As highlighted by WGEA in their submission to this review, at the current rate of progress/change, it will take 26 years to close the gender pay gap in Australia.<sup>9</sup> This suggests that something needs to be done differently in order to leverage on the profile and positioning of the Act and WGEA in order to accelerate outcomes for equality in Australian workplaces.

The Minerals Council of Australia welcomes the opportunity to make a submission to the targeted Review of the Workplace Gender Equality Act 2012 (the Act), including the power, tools and levers of the WGEA.

This submission has been prepared in consultation with the Australian mining industry.

### **Summary of recommendations**

1. Modernising the Employer of Choice for Gender Equality citation
2. Increased case studies and the inclusion of 'poor practice examples'
3. Greater collaboration between WGEA and industries, as well as across industries in the context of best practice, knowledge and resource-sharing
4. Inclusion of a company grouping option within the WGEA Data Explorer
5. Aligning ANZSCO codes to the occupational level
6. Expanding gender reporting to be inclusive for binary and non-binary people and reflect best practice
7. Public sector entities with more than 100 employees be required to report and voluntary reporting for employers with fewer than 100 employees and a regulatory impact statement for transitioning to mandatory reporting
8. Expansion of Gender Equality Indicator 4
9. Introducing voluntary reporting of intersectional data
10. Reporting of the remuneration gap at the organisational level – as a percentage
11. Placing primacy on sharing government data in the pursuit of reducing administrative and regulatory burden
12. Reforming minimum standards to require the inclusion of measurable and specific targets
13. Scoping out reward-based, incentivised or positive compliance approach
14. Forming a gender equality in STEM collaboration with the Women in STEM Ambassador to explore complementary action/strategies to increase women's participation in STEM.

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<sup>8</sup> M Glennie, A Medes Borges, and C Schmid, [Bridging the gap? An analysis of gender pay gap reporting in six countries](#), The Global Institute for Women's Leadership, 2021, p 20 and 51.

<sup>9</sup> R Cassells and A Duncan A, [Gender Equity Insights 2021: Making it a priority](#), BCEC and WGEA Gender Equity Series, Issue #6, March 2021, BCEC at Curtin University and WGEA, viewed 15 November 2021.

## **About the Minerals Council of Australia**

The MCA is the leading advocate for Australia's minerals industry, a strong and effective voice at the national and international level as well as through its divisions in the Northern Territory and Victoria.

The MCA's strategic objective is to advocate public policy and operational practice for a world-class industry that is safe, profitable, innovative, environmentally and socially responsible and attuned to community needs and expectations.

MCA member companies are signatories to Enduring Value – the Australian Minerals Industry Framework for Sustainable Development – and have a longstanding commitment to the effective and responsible management of Australia's water resources.

MCA member companies have also adopted Towards Sustainable Mining (TSM), an award-winning accountability framework that helps minerals companies evaluate, manage and communicate their sustainability performance.

Adopting the independently verified system will reinforce the sector's commitment to continuous improvement in safety, environmental and social governance.

MCA Member companies are also required to confirm their commitment to the elimination of sexual harassment in the industry and the National Industry Code on eliminating sexual harassment.

Australia's minerals industry is a global leader in providing the essential elements of modern life while growing the nation's economy and sustaining regional communities. Combined with its social contribution and responsible environmental management, the minerals industry plays a critical role in the modern world.

## 1. HOW EFFECTIVE IS WGEA IN PROMOTING AND IMPROVING GENDER EQUALITY?

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WGEA has established a globally recognised data collection, and it is important to understand why that data is important to progressing gender equality in Australian workplaces. In addition to providing an evidence base and dataset for exploration, it is a critical accountability mechanism and checkpoint for identifying gender equity gaps to activate change.

The functions of the WGEA are central to understanding gender inequality in Australian workplaces. During eight years of operation WGEA has clearly positioned itself as an authority on best practice in gender equality and demonstrated achievement against its key objectives through:

- Establishing a world-leading data set
- Making this data accessible to broader stakeholder groups through both the online data explorer and various reports and publications
- Creating a strong partnership with the Bankwest Curtin Economics Centre at Curtin University to deliver deeper analysis and insights (including insights into where progress is being made or not, and the best tools to tackle the gender pay gap).<sup>10</sup>

Limitations to the collection and presentation of data, thought leadership and compliance practices do however compromise the usefulness of the data and its application in closing the gap to gender equality in Australian workplaces.<sup>11</sup>

### Employer of choice citation

As an industry that is committed to inclusion, diversity and respect, companies are interested in collaborating/partnering with like-minded companies and making informed procurement selections, so the ability to identify statistics and confirm progress on gender equality through trusted sources is important.

One of the major opportunities identified is the potential to reposition the [Employer of Choice for Gender Equality](#) (EOCGE) citation as both a tool for positive action and a further source for rich data, case studies and increased profile of gender equality in Australian workplaces.<sup>12</sup>

The voluntary leading-practice recognition program offered by WGEA on a fee-for-service basis has a number of benefits and strengths, including:

- Overall design to encourage, recognise and promote organisations' active commitment to achieving gender equality in Australian workplaces
- Year on year addition of new criteria demonstrates the evolving expectations and provides companies with a good reference point
- Provides a point of distinction, particularly for smaller companies.

According to the Data Explorer, 4943 companies report to WGEA, with 119 companies holding 2019-21 citations and 17 companies holding 2020-22 citations.<sup>13</sup>

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<sup>10</sup> M Glennie, A Medes Borges, and C Schmid, [Bridging the gap? An analysis of gender pay gap reporting in six countries](#), The Global Institute for Women's Leadership, 2021, p 20, 47; and M Glennie, A von Reibnitz, J William, S Curtis and S Bordia, [Gender pay gap reporting in Australia – time for an upgrade](#), The Australian National University, Canberra, 2021, p 30..

<sup>11</sup> Key strategic objectives include WGEA as the primary source of workplace gender equality data in Australia; gender equality as a mainstream business issue; and, WGEA's dataset as contributing to the international dialogue on issues related to workplace gender equality. Source: WGEA, *Submission to the Review of the Workplace Gender Equality Act 2012*, p 6, viewed as part of WGEA Roundtable.

<sup>12</sup> WGEA, [Employer of Choice for Gender Equality Citation](#), Australian Government, 2021, viewed 12 November 2021.

<sup>13</sup> WGEA, [Data Explorer](#), Australian Government, 2021. Viewed 12 November 2021, and, WGEA, [EOCGE citation holders](#), Australian Government, 2021. Viewed 12 November 2021.

These figures suggest that the EOCGE is an offering that is significantly underutilised. A number of potential barriers may be contributing to the lack of greater uptake of the EOCGE citation including:

- Associated fees: not discounting the resourcing implications to assess applications for the citation, continuous fees may be misconstrued/viewed as purchased citation by some
- Scale of burden: the requirement for separate applications for each legal entity on a bi-annual basis – in addition to the existing reporting requirements, and with the potential increased scope of reporting required may be viewed as prohibitive by some companies
- Barriers for entry: lack of entry-level accreditation as a starter may be a significant deterrent
- Uniform citation: no scale of achievement/attainment within the citation to denote standard/level of citation does not drive
- Disconnect across reporting and citation: the citation is kept completely separate to the mandatory reporting and creates a new layer of burden – the questionnaire and survey are not linked to the citation.

The Australian Workplace Equality Index (AWEI) is the national benchmark on LGBTQ workplace inclusion and viewed as a point of competition and achievement for organisations to obtain.<sup>14</sup> The program is awards-based, and reflects levels of certification (bronze through to platinum) that an organisation has to earn through evidenced policy and practice.

### ***Recommendation 1***

Noting the recommendation to streamline reporting across government (see Recommendation 11), the MCA recommends that WGEA modernise the EOCGE citation to:

- Align with mandatory reporting, including the survey and questionnaire
- Develop (in consultation) and implement a ranking system/scale for citation to denote where a company is in terms of their gender equality
- Remove fee component of citation – this would require additional funding from government
- Establish a ‘name and fame’ system akin to the one employed in France.<sup>15</sup>

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<sup>14</sup> Aids Council of NSW, [Pride Inclusion Programs: Australian Workplace Equality Index \(AWEI\)](#), Pride in Diversity, 2019.

<sup>15</sup> M Glennie, A Medes Borges, and C Schmid, [Bridging the gap? An analysis of gender pay gap reporting in six countries](#), The Global Institute for Women’s Leadership, 2021, p 15.

## 2. WHAT WORKS TO IMPROVE GENDER EQUALITY IN WORKPLACES AND WHAT SHOULD BE THE AREAS OF FUTURE FOCUS FOR WGEA?

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Industry has identified a number of key areas that contribute to progress in gender equality, including:

- Leadership: at the board and executive level that it visible and strategic
- Target: setting, measuring and monitoring gender equality targets (for example, representation of women, women in leaderships, board representation, overall pay gap)
- Data analysis and reporting: on a regular basis to executive leadership team
- Reporting and benchmarking: both internally and externally
- Reward and recognition: diversity champions, leadership.

### Tools and resources

The tools and resources that WGEA develop to assist employers are particularly crucial for supporting positive action on gender equality in workplaces. For example, setting standards, benchmarking and traditional scorecards developed by WGEA are a useful tool for internal briefing, particularly to senior executives and company boards.

Other resources that would be useful, particularly for smaller employers include:

- Key talking points on various gender equality issues for both internal and external discussions/stakeholders
- More campaigns on specific areas, much like WGEA do with scorecards (e.g. parental leave/flexible working)
- Generic templates for action-based responses to closing the gap – for example, a simple guide to auditing and understanding organisational data, developing a score card, expanding the [Target setting toolkit](#) to include templates and guides on managing targets and measuring performance, and more guidance videos
- Examples to illustrate how companies can use the existing, world-leading data that WGEA currently holds to compare against other companies, set internal targets, forecast and develop projection models.

Case studies are also an important and powerful tool as they demonstrate best practice, provide inspiration and showcase transformation in like-businesses. Noting that there are 100 plus EOCGE citation holders, while the WGEA website contains some strong case studies, only 12 citation holders are showcased. Additionally, the most recent case study on the WGEA website was published in February 2020. The mining industry stands ready to provide case studies, noting the most recent mining industry case study on the WGEA website was published in July 2017.

### **Recommendation 2**

The MCA recommends an increase in the volume of case studies on the site, with the inclusion of examples where poor practice has been highlighted or penalised, whether through the system or through public sentiment/perceptions.

### **Recommendation 3**

The MCA also recommends greater collaboration – that in future, WGEA be more active within industries, partner with other consultative bodies, and share ideas between companies and adjacent industries based on research to expand the pool of resources available.

### **Reporting based on legal entities**

Currently companies are required to report separately at the legal entity level (with some limited but not necessarily useful grouping available).



While reporting in this fashion provides data users with the ability to examine the gender equality data at an industry subdivision or class level, there is no function on the WGEA data explorer to aggregate the data back up to the company level. Further, many of the entities are not easily reconcilable to a company, this particularly problematic for larger companies who may have many entities that have WGEA reporting requirements.

The importance of being able to examine and analyse the dataset at a company level is to provide that year-on-year comparison of a whole dataset that can increase accountability at an executive level – which can be key to driving change and action at a whole of company level. Some MCA members have indicated they have a preference to procure from or contract with companies that are industry leaders in gender equality. The WGEA data explorer would be an ideal single point of truth for a company's performance on gender equality.

The way in which the WGEA data is reported and presented makes it less useful where there are multiple legal entities, especially where those entities may change from one reporting period to another. For example, Pilbara Iron Ore was reporting under Rio Tinto Ltd until and including 2017, so the data year is not comparable. Additionally most people would not immediately recognise Pilbara Iron Ore as an entity associated with Rio Tinto Ltd.<sup>16</sup> This translates to lost opportunities for using the WGEA dataset, and particularly the data explorer to drive accountability and momentum at the company level.

#### **Recommendation 4**

The MCA strongly recommends that the data explorer include a company grouping option to allow for aggregation of legal entities into the company level.

#### **Occupational Coding**

While the Workplace Profile seeks information on the relevant Australian and New Zealand Standard Classification of Occupations (ANZSCO) occupational category (major level), it does not disaggregate down to the occupational level, which is four levels of detail below.<sup>17</sup> This results in data that is too high-level to provide an accurate workforce profile and gaps.

By linking with the Single Touch Payroll (STP) database through the Australian Taxation Office (ATO), this level of detail may not increase reporting burden but would increase the value of the data (see Recommendation 11).

#### **Recommendation 5**

The MCA recommends that WGEA reports requirements align the ANZSCO component to include levels from the Major Group (managers, professionals, technicians and trades etcetera), Sub-Major Group (chief executive officer and manager categories) and Occupation code.

The alignment would provide a more accurate workforce profile and contribute to a dataset that is consistent with other collections (e.g. skilled migration), and therefore and more broadly comparable.

This alignment could be rolled out alongside transition to accessing data through STP (see Recommendation 11) to obviate any additional reporting burden on companies.

#### **Gender**

WGEA included a Gender X field (for any non-binary person who identifies with a number of gender identities that sit within, outside of, across or between the spectrum of the male and female binary), however this data is voluntary and not being made public at this stage.<sup>18</sup>

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<sup>16</sup> WGEA, [WGEA Data Explorer: Organisation view - Pilbara Iron Ore](#), Australian Government, viewed 16 November 2021.

<sup>17</sup> WGEA, [How do I provide an ANZSCO 'Occupational Category' in the Workplace Profile?](#) Australian Government, viewed 12 November 2021, and Australian Bureau of Statistics and Stats NZ Tauranga Aotearoa, [1220.0 - ANZSCO - Australian and New Zealand Standard Classification of Occupations, 2013, Version 1.3](#), ABS, viewed 11 November 2021.

<sup>18</sup> WGEA, [New Voluntary Data Fields](#), Australian Government, viewed 10 November 2021.

### **Recommendation 6**

The MCA recommends expanding the gender fields for mandatory inclusive reporting for binary and non-binary people, to not only reflect contemporary Australian society, but to align with best practice as established by the Australian Bureau of Statistics).<sup>19</sup>

It is acknowledge that in line with WGEA's privacy policy:

[W]here information will only be collected and disclosed where the individual has consented to the disclosure of their information, an employee who does not wish to disclose their gender status is not included in WGEA's public dataset.<sup>20</sup>

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<sup>19</sup> Australian Bureau of Statistics, Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables, Australian Government, 2021. Viewed 15 November 2021.

<sup>20</sup> WGEA, *Submission to the Review of the Workplace Gender Equality Act 2012*, p 13, viewed as part of WGEA Roundtable.

### 3. SCOPE OF THE WORKPLACE GENDER EQUALITY ACT – WHICH EMPLOYERS SHOULD BE COVERED?

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The minerals industry supports recommendations from the Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces (Respect@Work Report) and was pleased to note that the Federal Government agreed with Recommendation 43 in the report to amend the Act to expand mandatory reporting to the public sector.<sup>21</sup> The industry also welcomed funding allocated through the 2021-22 budget.<sup>22</sup>

The mining industry supports WGEA's position that public sector reporting should be mandated across the whole public sector:

This includes the Australian Public Service as well as Commonwealth entities and Commonwealth companies as defined in the *Public Governance, Performance and Accountability Act 2013*, as well as state, territory and local governments.<sup>23</sup>

The key benefit of mandatory reporting by the public sector is the ability for public and private sector organisations to benchmark performance against each other in order to better understand their progress against key metrics of gender equality, including addressing workplace sexual harassment.<sup>24</sup>

The public sector is also a substantial employer with more than 2.1 million people employed in the public sector as at June 2021.<sup>25</sup> Public sector employees represent more than 16% of all employees in the labour market; as such the inclusion of their gender equality statistics will greatly enhance the WGEA database.

#### **Non-public sector employers with fewer than 100 employees**

Recognising that a significant portion of women in the workforce are represented in small business - often in casual or part-time employment - it would certainly be ideal if all employers were able to participate in the collection. However, it is critical to note that in its current composition WGEA reporting has placed significant burden on companies in meeting requirements (exclusive of the additional complexities and challenges of rolling out a new platform in 2021) and the relative burden on a smaller business must be taken into consideration before any changes are made.

If reporting is linked to the ATOs STP database (see Recommendation 11), this will reduce obligations and may translate to a more manageable burden on smaller companies.

#### **Recommendation 7**

The MCA recommends the Act be amended to impose a reporting obligation on public sector entities with more than 100 employees.

Further the MCA recommends reporting is open to employers with fewer than 100 employees on a voluntary basis and that WGEA prepares a regulatory impact statement for expanding relevant employer reporting obligations to include all public and private employers – irrespective of the number of employees.

Through this approach, WGEA could undertake consultation and work to simplify and scale reporting requirements to reflect employer size, and then test with voluntary reporters before confirming feasibility of expanding the definition of relevant employers and requiring mandatory reporting from all employers.

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<sup>21</sup> Attorney-General's Department, [A Roadmap for Respect: Preventing and Addressing Sexual Harassment in Australian Workplaces](#), Australian Government, 2021, p 17, viewed 4 November 2021.

<sup>22</sup> M Payne, A Ruston and J Hume, [Women's Budget Statement 2021-22](#), 2021, viewed 4 November 2021.

<sup>23</sup> WGEA, *Submission to the Review of the Workplace Gender Equality Act 2012*, p 11, viewed as part of WGEA Roundtable.

<sup>24</sup> M Payne, A Ruston and J Hume, [Women's Budget Statement 2021-22](#), 2021, viewed 4 November 2021.

<sup>25</sup> Australian Bureau of Statistics, [Employment and Earnings, Public Sector](#), released 11 November 2021, viewed 19 November 2021.

#### 4. SHOULD THE GENDER EQUALITY INDICATORS (GEIS) IN THE WORKPLACE GENDER EQUALITY ACT BE CHANGED?

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According to the WGEA Data Explorer, women make up 18% of the mining workforce in Australia. This is quite low in comparison to the 50.5% participation of the general workforce.<sup>26</sup> As such, workplace inequality issues present in every workplace can be amplified due to the disparity, compounded by industry specific challenges.

Notably, in technical fields, pay discrepancy is largely due to working overtime in technical trades, and these trades are under-represented by women. As such, the issue is more complex than a pay per hour discrepancy, but reflective of structural issues that less women may be able to work overtime. These issues, along with flexibility and part time employment are all important elements to discuss in regards to pay discrepancy.

Recent policy discussions focused on gender pay equity, the accessibility of paid parental leave and the lack of affordable childcare are contributing elements to the GEIs but are never explicitly discussed. While GEI 4 does allude to it, the scope does not accommodate the nuance needed to make structural change.<sup>27</sup>

For the mining industry in particular, it is vital that GEI's are understood within an industrial context, as the prevalence of high travel FIFO work, the gender imbalance and other challenges require proactive consideration of the gendered nature of work in order to make significant change. Key progress indicators such as the ones suggested by Our Watch would allow workplaces to gain a fuller understanding of the experiences of their workforce:

- Ratio of men to women in leadership and management positions, including board, executive, senior and middle management level (existing WGEA reporting requirement)
- Average salary gap between female and male staff members across organisation and department
- Comparison of male and female staff and managers who use flexible work arrangements
- Comparison of male and female staff who use and return from parental leave with continued employment for 12 months
- Changes in staff perception of workplace culture as measured by an annual staff survey or equivalent
- Reported incidence of sex-based discrimination and harassment.<sup>28</sup>

#### Recommendation 8

The MCA recommends that GEI 4 be expanded to include key progress indicators and accommodate the broader spectrum of employment conditions and how they might affect the gender pay gap.

The Respect@Work Report recommends WGEA work with the Respect@Work Council to consider how good practice indicators for measuring and monitoring sexual harassment prevalence, prevention and response may apply to reporting in relation to the act. It would be beneficial to have a clearer understanding of what this collaboration will look like and how it may be linked to GEI 6.<sup>29</sup>

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<sup>26</sup> WGEA, [Data Explorer: Mining and All industries](#), Australian Government, 2021. Viewed 12 November 2021

<sup>27</sup> GEI 4: Availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities

<sup>28</sup> Our Watch, *Workplace Equality Indicators*, 2021.

<sup>29</sup> Australian Humans Rights Commission, [Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces](#), AHRC, 2020, Recommendation 42, Viewed 17 November 2021.

## 5. SHOULD WGEA COLLECT OTHER DIVERSITY DATA IN ADDITION TO GENDER?

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The mining industry recognises the value and importance of intersectional data in understanding the experience of Australian women in the workplace. Gendered segregation in industry is a significant driver of pay inequality and is particularly notable in the mining industry. At an industry level, horizontal segregation, the concentration of a gender in particular sectors has occurred through gendered norms about 'appropriate' work, workplace culture and bias, leadership and experiences of bullying and harassment. This inequality only becomes more entrenched when analysed along cultural and linguistic diversity (CALD), disability, age and geographic diversity lines.

Particularly important for the mining industry, gender inequality is a primary power disparity that drives sexual harassment. Other drivers typical of the mining industry include being male dominated workplaces mostly in rural, regional and remote settings.<sup>30</sup> The ratio of females to males and pay equity are factors in control of most organisations, and as such, a focus on intersectionality in reporting could help to clarify and further understand these trends.

Several important indicators could be:

- Cultural and linguistic diversity
- Disability
- Indigenous identity
- Age breakdown
- Geographic location.

However, in considering the introduction of further data collection, consideration of logistics including the willingness of employees to self-identify, the additional resourcing implications for companies, and privacy issues/right of employers to seek the requested data is critical.

### ***Recommendation 9***

The MCA recommends that reporting of intersectional data is available on a voluntary basis whilst WGEA concurrently conduct a feasibility study addressing the privacy issues, resourcing implications and employee uptake provisions of expanding data collection.

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<sup>30</sup> Australian Humans Rights Commission, [Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces](#), AHRC, 2020

## 6. HOW COULD WGEA BETTER COLLECT AND USE DATA ON GENDER EQUALITY?

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As an industry that is closely monitoring and taking action to address gender parity, mining advocates for greater transparency at a company or organisational level.<sup>31</sup>

The mining industry supports transparency in reporting the gender pay gap as a percentage at the organisational level, however does not support releasing any specific remuneration data. The critical element to consider here is the quantum of the pay gap and the action that a company will take to address the identified gap.

Critically, any reporting on remuneration gaps (as a percentage) needs to be presented in conjunction with employment conditions to balance other contributing factors. For example, FIFO workers on roster in remote locations often receive higher remuneration than an employee working 9 am to 5pm in metropolitan areas.

### **Recommendations 10**

The MCA recommends that the remuneration gap is reported (as a percentage) at the organisational level, coupled with employment conditions.

### **Portal**

As the single access point for employers to upload their data, it is critical that the portal is functional and fit for purpose. Appreciating that the transition to any new operating system or platform presents unique challenges and glitches, the user experience for employers was significantly diminished in 2021, with some employers still unable to access the portal. This resulted in an already resource intensive exercise being more time consuming and laborious.

While companies noted that reporting thorough the new portal in 2021 was particularly cumbersome and somewhat confusing, positive feedback highlighted the responsiveness of WGEA in fielding queries and troubleshooting system glitches with the new portal. This is particularly impressive noting that WGEA recorded in excess of 25,000 support requests via phone, email, and online chat this year.<sup>32</sup>

### **Positive action**

Overall insights and observations that could be drawn from the data around performance, opportunities, best practice and where organisations are not doing enough could be significantly strengthened with the introduction of positive action in the pursuit of closing gender equality gaps across the prescribed indicators.

Furthermore, the agency reporting should capture data from workplaces who work to influence other workplaces culture. Such as unions, superannuation funds and other entities. This data would provide vital specific contributing factors that influence gender equality. For example, identifying and developing more inclusive and diverse unions, with an increased representation and active participation of women, would logically lead to the promotion of gender equality in collective bargaining and social dialogue.<sup>33</sup>

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<sup>31</sup> K Hilder and M Standen, [Eliminating Australia's gender pay gap? Report concludes that a 'level of apathy' has set in](#), MinterEllison, 31 March 2021, viewed 12 November 2021.

<sup>32</sup> Workplace Gender Equality Agency, *Submission to the Review of the Workplace Gender Equality Act 2012*, p 6, viewed as part of WGEA Roundtable.

<sup>33</sup> Industrial Global Union, [Women miners confronting gender inequality together](#), 28 May 2021, viewed 18 November 2021.

## 7. HOW COULD THE WORKPLACE GENDER EQUALITY ACT CHANGE TO REDUCE THE REGULATORY BURDEN ON EMPLOYERS?

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The WGEA reporting mechanisms are quite rigid and are not necessarily adaptable to an entities structure, often requiring additional data extrapolation or manipulation to fit. Across the mining industry, employers have made significant adjustments to accommodate these requirements.

Large companies have changed practices within data analytics teams and require greater translation of data into frame and format required. Smaller companies have designed their systems specifically to respond to WGEA requirements.

The mining industry welcomes and advocates for approaches that reduce the reporting burden, position WGEA to obtain meaningful data and allow them to analyse and present that data in more useful ways, that are an accurate reflection of the workplace composition and culture. For example, where a single person holds a role in a business, the data will show a 100% pay gap; this may not be a true picture of the workplace composition and diversity.

While companies have established internal systems to streamline reporting year-on-year (particularly small-to-medium enterprise who may not have data analytics teams and may not have had such reporting previously) a significant resourcing impact remains. Contributing factors include:

- Time spent retro-fitting data and working to categorise employees for the WGEA system
- Effort to split data to the entity level (with some limited groupings)
- Compiling information across multiple reports and formats.

### **Single Touch Payroll**

Given employers already provide significant data and information across a number of platforms, and noting significant overlap, some of the current requirements place an unnecessary burden where efforts could be better expended on data analysis activity and responding to identified gaps.

As such, the industry supports WGEA obtaining data from other sources, such as Single Touch Payroll (STP), instead of employers providing the same data to two Government agencies. STP data would allow examination of data at the granular level without compromising its integrity. This approach would also shift some of the burden to the Australian Taxation Office, increasing employer capacity to capture qualitative data or other, industry specific indicators.

If expanded, STP could include wages data, and data related to positions, categories and ANZSCO for every position. If this element was mandatory through STP, WGEA could use the ATO, allowing businesses to focus on qualitative and intersectional data. This approach would also automate monthly reporting and facilitate ongoing data analysis, rather than a singular annual report, further reducing the bureaucratic burden.

To facilitate this government would need to consider implementing a number of elements, including:

- Exploring expanding STP requirements to include any WGEA requirements not captured
- Consistency of terminology across datasets so they can be directly comparable
- Transparency on how government shares data amongst departments.

The industry would welcome further exploration of other government reporting/datasets that may capture data relevant to the WGEA collection.

### **Recommendations 11**

The MCA recommends placing primacy on sharing government data in the first instance (such as through Single Touch Payroll) in the pursuit of reducing administrative and regulatory burden.

## 8. HOW COULD THE MINIMUM STANDARDS BE REFORMED TO FAST-TRACK PRACTICAL CHANGES FOR GENDER EQUALITY?

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In their current form, the reporting requirements and obligations position mandatory reporting as merely a compliance exercise rather than a national mechanism for delivering tangible outcomes on gender equality in Australian workplaces.

Whilst the compliance for minimum standards in Australia is reportedly impressive, the impact of this compliance is significantly diminished by the ‘tick and flick’ nature of the exercise.<sup>34</sup> Currently there is no evidence required to demonstrate:

- Selected policies and strategies exist
- Quality of the policies and strategies
- Implementation and monitoring of the policies and strategies
- Analysis of how the policies and strategies are contributing to closing identified gender equality gaps within a company.

Furthermore, there is no action required to improve gender equality or address any gaps.

Identified as an industry that is closely monitoring and taking action to address gender parity, Australian mining advocates for positioning the system for positive and meaningful action.<sup>35</sup>

The insights and observations from data around performance, opportunities, best practice and where organisations are not doing enough could be significantly strengthened in the pursuit of closing gender equality gaps across the prescribed indicators if minimum standards moved beyond basic compliance to measurable action.

### ***Recommendation 12***

The MCA recommends that minimum standards are reformed to require the inclusion of measurable and specific targets in the minimum standard Gender Equality Indicators.

This approach would allow employers to establish targets that align with data that is already reported against, thus minimising burden, or establish targets that move beyond that.<sup>36</sup>

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<sup>34</sup>WGEA Review Team, [WGEA Review Consultation Paper](#), Department of Prime Minister and Cabinet, 2021.

<sup>35</sup> K Hilder and M Standen, [Eliminating Australia's gender pay gap? Report concludes that a 'level of apathy' has set in](#), MinterEllison, 31 March 2021, viewed 12 November 2021.

<sup>36</sup> WGEA, *Submission to the Review of the Workplace Gender Equality Act 2012*, p 33, viewed as part of WGEA Roundtable.



## 9. WHAT IS THE BEST WAY TO PROMOTE COMPLIANCE?

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Employers need to be invested in this as a system and have pride in getting the tick or being seen to be compliant under the Act in order for it to have value or power WGEA is an important accountability body and beyond the transparency of the information there are no preventative mechanisms or incentives.

The countries that are leading are those that have obligations and transparency with associated consequences where there is a failure to do so. For example, sanctions or being denied access to government procurement processes. While the Act does not specifically mandate sanctions, there is some flexibility that non-compliant entities may not be eligible for government contracts, and financial assistance from the commonwealth (such as grants). Recent audits found 31 non-compliant organisations received commonwealth grants in specific circumstances.<sup>37</sup>

While strengthened administrative controls would help prevent non-compliance, alternative, non-punitive actions may include:

- More visible application of existing levers
- Encouraging businesses to do the right thing and businesses working with other businesses and helping them to do the right thing
- Improvement orders with educational supports or links to companies who demonstrate best practice
- Incentivised compliance through the EOCGE citation and 'name and fame'
- Establishing a 'traffic light system' for performance, to quickly see and compare companies, and measure progress/performance against a given indicator
- Creating a continuous improvement compliance rubric that can foster a culture of accountability.

### **Recommendation 13**

The MCA recommends investigating reward-based, incentivised or positive compliance approaches.

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<sup>37</sup>Sydney Morning Herald, [Flouting discrimination rules no barrier to winning government contracts](#), SMH 2021, found in M Glennie, A von Reibnitz, J William, S Curtis and S Bordia, [Gender pay gap reporting in Australia – time for an upgrade](#), The Australian National University, Canberra, 2021, viewed 12 November 2021.

## 10. WOULD YOU LIKE TO COMMENT ON ANY OTHER ISSUE?

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### Women in STEM

Australia is ranked equal first with 26 other countries for Educational Attainment - which should be celebrated - however, women continue to be underrepresented in STEM fields and management roles; and have higher unemployment rates and lower incomes than men.<sup>38</sup>

More effort is required from government, industry and education providers to increase women's participation in STEM studies.<sup>39</sup>

In 2006, 27% of STEM university graduates in the labour force were women, increasing to 29% in 2016 but more action is required to achieve more representation of women in STEM given the rising demand for STEM skills due to the rapid adoption of digitalisation and automation, especially in mining.<sup>40</sup> The most substantial growth of women studying STEM was at universities.

A report from the Office of the Chief Scientist on Australia's STEM Workforce identified a number of barriers contributing to women's underrepresentation in STEM fields, including:

- Stereotypes and bias that deter girls from studying STEM subjects at school
- Lack of job security in workplaces
- Impact of career disruptions
- Social, and cultural barriers
- Gender discrimination
- Sexual harassment in STEM workplaces.

Given the growing demand for STEM roles in the future workforce, if the gender imbalance across STEM professions is not addressed more comprehensively, then achieving gender equity in the future workforce will be more difficult.

Australia's [Women in STEM Decadal Plan](#) provides a shared vision for the STEM ecosystem to attract, retain and progress girls and women in STEM education and careers.<sup>41</sup> The plan includes action, champions and an ambassador. Noting the shared vision for gender equality, there is an opportunity for collaborative action/attention to explore how to increase women's participation in STEM.

### **Recommendation 14**

The MCA recommends that WGEA form a gender equality in STEM collaboration with the Women in STEM Ambassador to explore complementary action/strategies to increase women's participation in STEM.

### **Respect@Work**

As an industry, mining is committed to improving inclusion, diversity and respect in its workplaces. Research shows the drivers of sexual harassment and assault are power imbalances and gender inequality in workplaces. The ultimate prevention for sexual harassment is for gender equality across every job at every level.

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<sup>38</sup>World Economic Forum, [Global Gender Gap Report: Insight Report - March 2021](#), viewed 16 November 2021.

<sup>39</sup>World Economic Forum, [Global Gender Gap Report: Insight Report - March 2021](#), viewed 16 November 2021; and, K Leigh, A Hellsing, P Smith, N Josifovski, E Johnston and P Leggett, [Australia's STEM Workforce: Science, Technology, Engineering & Mathematics](#) Office of the Chief Scientist, 2020. Viewed 16 November 2021.

<sup>40</sup>Office of the Chief Scientist, [Australia's STEM Workforce](#), 2020 Report, viewed 14 November 2021.

<sup>41</sup>Australian Academy of Science, [Women in STEM Decadal Plan](#), 2019, Australian Academy of Science.