

Submission to the Review of the Workplace Gender Equality Act 2012

About the NRWC

The National Rural Women's Coalition is the largest organisation in Australia focussed on the issues of rural, regional, and remote women, girls, and their communities.

We provide a unique rural, regional & remote lens on information to Government, industry, and other stakeholders as part of our advocacy to improve gender equality and ensure that women living in rural, regional & remote Australia are a part of decision making on all levels. With strong focuses on women's leadership, health & communications along with long term economic security, workforce participation and women's safety.

The National Rural Women's Coalition builds capacity in women living in rural, regional, and remote Australia through a broad range of programs and webinars. We work to acknowledge and celebrate the wonderful diversity that is the cohort of RRR women by breaking down stereotypes, promoting positive and inclusive profiles of rural women living and working and doing the ordinary to the extraordinary.

As women, living in rural regional & remote Australia the National Rural Women's Coalition team have the lived experience of living and working in regional and rural towns and in remote places, including Australian islands and oceans. Through our member organisations and individuals, volunteers, and organisational networks we are able to engage with women, girls, and their communities at grassroot level and to exchange vital information, influence and educate.

We submit the following in response to your call for consultation in order to review of the Workplace Gender Equality Act 2012.

WGEA: What does it aim to do?

The Workplace Gender Equality Act outlines WGEA's role and functions. It should:
Advise and assist (all) employers (not just those required to report to the Agency) in promoting and improving gender equality in the workplace.

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rural, remote and regional communities throughout Australia*

WGEA aims to incentivise and monitor progress towards a more equitable workplace through data collected from all non-public service employers with more than 100 employees reporting against 6 gender equality indicators.

WGEA is the Federal Government's key agency for achieving greater gender equity in the workforce, across Australia, including women's workforce participation rates, pay-roll equity, and safety. In 2019-2020 its dataset was based on 4,943 reports covering 4.3million employees across Australia, or 40% of Australian employees. We do not know, however, the proportion of these employees who lived and worked in rural, regional, or remote Australia (RRR.).

The case for a WGEA

The business case for more senior women in the workplace is well established with evidence that greater gender diversity leads to better decision making, a reduced risk of fraudulent behaviour and increased social responsiveness.

In our opinion, the Act and the WGEA have tackled the problem of entrenched gender inequality in the Australian workforce in innovative ways and have significantly raised awareness of the persisting but diminishing gender pay gap. The international reputation of WGEA as a trail blazer is well deserved. However, much remains to be done, including closer engagement with RRR Australia.

Consultation Question One:

How effective is WGEA in promoting and improving gender equality in the workplace. Are the functions and powers of WGEA appropriate in achieving the Act's objectives?

WGEA reports that a total remuneration gender pay gap (GPG) on full time total earnings in Australia currently stands at 20.1%. The national GPG stands at 14.2%, across all industries including where women predominate.

While there have been some steady reductions in (GPG) in Australia's 100+ employee enterprises over the last 10 years, at the current rate it will take another 26 years for the full time GPG for total reimbursement to close.

Based on these metrics it is clear that despite the substantial efforts of WGEA, backed up by a plethora of anti-discrimination legislation in all jurisdictions, Australian women have not yet found pay equality with men, and the face of poverty in Australia is increasingly a single woman over the age of 50. On average she will need to depend on substantially less superannuation or savings, compared to men of the same age, given her stop-start work experience in Australia's highly gendered workforce and management culture.

The data suggests that there is a permanent income gap created by motherhood that does not equally apply to fatherhood. Women are significantly more likely to work parttime compared to men however there is a penalty associated with workplace flexibility. Jobs offering flexible working options tend to pay less.

Findings of the BCEC- WGEA “Gender Equity Insights 2021 review: Making it a Priority” reported “apathy” and slowed progress in many key indicators of progress towards achieving gender justice. The Workplace Gender Equality Agency Progress Report 2019-2020 referred to this as the “Action Gap” (p5) It is reported by WGEA that 45.5% of employers who conducted a pay-gap analysis took no action as a result. (p5) Clearly the compliance framework is effective in ensuring that most of the data is collected as required, but it appears not to be stimulating follow up “action” from management or boards.

The apathy identified has played out in the slower growth in the rate that enterprise pay audits are undertaken. It has dropped from approx. 3.7% growth per year to just 1.7% growth in 2021. The enterprises with the highest concentration of women employees (e.g., in education and training, health care and social assistance sectors) showed the least interest and activity in gender equity approaches in their workplaces. This apathy has been long standing and includes no pay gap reductions for non-managers and only a 1.4% reduction for managers in 2021. The most female dominated sector, Health Care, shows women are 71% of the workforce but represent only 51.9% in the top tier management. Growth among women in higher tier management is faster than in middle and lower management levels in health.

The male dominated industry sectors of Mining, Manufacturing, Utilities, Transport, Postal and Warehousing do now have similar proportions of women in their management positions relative to their share of the total workforce. The mining sector in particular has reduced their GPG but is also one of the employers with the smallest numbers of women on their pay roll. However, while only 15% of the sector’s workforce are women, 16% are key management personnel.

Unlike the Mining sector, the other male dominated industries such as Agriculture (including Agriculture, Forestry and Fisheries), Construction and Wholesale Trade all have substantially smaller numbers of women in management relative to their numbers in the total sector workforce.

The highest earning men in Australia are paid some \$162,000 more than the highest paid women. Women are most likely to be in the lowest management positions where they earn \$31,000 on average compared to their male counterparts.

At every management tier men have a much wider and higher spread of salaries available to them compared to women, and women’s managerial roles tend to be designated “Other”, related to day-to-day operations rather than planning and policy.

It is important to acknowledge the gains made by WGEA but to also acknowledge that a great deal remains to be done. It is now including the Australian Public Service in reporting for the 2020-21 reporting period, and that will do much to expand the breadth of enterprises covered. This inclusion does not, however address the concerns of the NRWC which does not believe that WGEA has disaggregated industry sector data by location of enterprise in order to compare RRR GPG with capital cities. This not only gives a false read of employee experience across the country, but it also makes it more difficult to shape targeted policies to address the inequalities found or to provide more targeted trainings.

The WGEA could capture more RRR enterprises in its data, making it more accurate, by lowering the threshold triggers for compliance. The unique challenges of workforce recruitment, promotion and retention could then be better identified for RRR enterprises. They too could then benefit from the greater values accruing to their businesses when more women are engaged and promoted to managerial status.

The strategies that help retain women in the workforce include additional Paid Parental Leave (PPL) i.e. PPL offered at full pay, with superannuation and for more weeks. However, less than half of all enterprises offer additional employer funded PPL. The higher the managerial status the more likely the access to employer paid PPL. This access to additional employer funded PPL reduces women workers rates of leaving the workforce substantially, but the comparative rates of employer PPL offered to RRR women is not known. Nor are the comparative rates of provision of workplace located childcare, which also boosts women's employment retention.,

Flexible work arrangements have been shown to increase part time female managers by 13.6%, although there is impact on pay rates. A conversation between WGEA and RRR enterprises about strategies to increase flexibility is less likely to occur however as enterprises are not captured in the reporting requirements that are mandated when workforces are over 100 employees.

NRWC Recommendation

- Disaggregate industry data by location of enterprise & compare RRR GPG with non- rural data
- Lower threshold triggers for WEGA reporting to capture more RRR enterprises

Consultation Question Two.

What would the NRWC like to see in the areas of future focus for WGEA to further promote and improve gender equality over the next ten years

Rural, Regional and Remote (RRR) Australian workplace challenges can include smaller economies of scale, greater exposure to and impacts of natural disasters, greater natural resource dependencies, higher costs of living (although cheaper housing) smaller populations of skilled and unskilled labour, higher costs of public and private transport, less access to affordable child care, less access to specialised or higher education and training, health, legal and other essential services, poorer mobile phone and internet connection.

Inequality in incomes between urban and RRR women and men has long been recognised but is significantly under-researched. Data shows however that 2015-16 disposable household income in capital cities was \$1,072 compared to outside capital cities where it was \$880, i.e., an 18% difference. 65% of indigenous Australians live outside major cities and their gross weekly household income is approximately half that of non-indigenous people. The 100 Local Government Areas with the lowest median household incomes are almost all in rural/regional areas. The same applies to Federal and State electorates.

RRR enterprises operate in environments that are physically and culturally different to those in experienced in metropolitan areas. And this difference usually extends beyond the impact of scale. WGEA thresholds for engagement pay little attention to these differences, using size of work force and (until recently) non-public service status as the major triggers for engagement, compliance, participation, and reporting.

Consequently, the WGEA reports make it hard to compare how the gender pay gap is trending in rural, regional, and remote (RRR) industry sectors compared to the rest of Australia. The data should therefore be disaggregated to help inform rural development policy and resourcing. It is important to know if the RRR woman's experience of the workplace is equivalent to that of a city counterpart with the same intersectionality including qualifications and experience? Is the WGEA engaging with the rural, remote, and regional employment sectors, providing in depth data collection and analysis, education and training advocacy and legislation relevance review, at a level equivalent to that requested by and/or provided to city-based enterprises.

One of the barriers to achieving fast track practical changes for gender equality in RRR areas is that fewer enterprises reach the threshold of 500 employees, the trigger for employers having to adopt one or more of the indicators found in section 5 (3) of the Minimum Standards Legislative instrument. (see also Consultation question 8). Apparently 99.2% of employers with 100-499 employees also comply with the minimum standards, so it is the advice of the NRWC that the numbers triggering the requirement of adoption of one or more of the minimum standards be reduced to 25 employees per enterprise.

Currently the threshold for becoming subject to the WGEA related regulations is a workforce over 100 employees. This rules out a far greater proportion of the workforce employed in RRR Australia. While many RRR workplaces are in franchised enterprises, it is not known to what extent these comply with WGEA best practice directives.

While mining enterprises are all to be found in non-Metropolitan Australia, and they can claim amongst the lowest GPG, they employ comparatively few women.

In one of the few specific references to RRR workforce, the data from the BCEC-WGEA-Gender-Equity-Insights-2019 report showed the share of women in management positions in Agriculture, Forestry and Fisheries had flatlined between 2013-14 and 2017-18. WGEA could do more to analyse the causes of the RRR glass ceilings blocking women's advancement in this sector.

The government document: "Australia's Gender Pay Gap Statistics" WGEA, published 27 August 2021, includes a Table 2 that identifies Full Time Adult Average Weekly Ordinary Time Earnings gender pay gap by industry, (May 2020 to May 2021.) Seventeen industry categories are listed but not agriculture, forestry, and fisheries. While this Table's data includes industry categories found in RRR, it cannot be assumed that workforces in these sectors experience the same workplace conditions and salaries irrespective of their location in a capital city or in, say, Tamworth or Katherine. Given WGEA data is drawn from statistics supplied by individual enterprises, it should not be too difficult to disaggregate the data collated according to location, when threshold size of workforce is lowered to say, 25.

Figure 5 in the same document (WGEA 27th Aug 2021) shows Gender Pay gaps by manager category and non-manager category 2019-2020. The data is aggregated to a national level. For example, women working as technicians or in trades on average experience 28,363 GPG but the GPG is only \$12,410 for machinery operators and drivers. It would be useful to know of any difference in the capital city GPG compared to RRR GPG in these sectors, given the chronic shortages of such workers in RRR Australia. WGEA does disaggregate data by State or Territory, but this does not serve the purpose of better targeting WGEAs information, incentivising and education effort in the workplace.

Without disaggregated data WGEA cannot identify how population size and location impacts on GPG in enterprises with the same sized workforce. For example, having fewer local job options may mean a woman is less competitive in negotiating a higher salary or promotion. Being a "trailing spouse" when a partner is relocated can mean a woman is prepared to accept lower wages and conditions in the new location if there are few other options.

The more conservative and patriarchal culture in some RRR communities may present different challenges to traditional gender roles and relations in the workplace

Analysing local impacts will better inform Australia's education and training, migration, housing, childcare, transport, telecommunication, and welfare support policy. Retention payment policies and other rural health workforce incentives would be better informed.

Data disaggregation into location within the industry sectors e.g., rural, regional, or remote retail, manufacturing, or transport etc with the GWG audits and other gender equality indicators collected from enterprises with 25 or so employees will help WGEA focus on the particular challenges of recruiting and maintaining a rural workforce, including management, when a very different set of factors may be in play in both initially attracting and retaining the employee.

Given WGEA has committed to "the design, development and build of our new data collection and management system" now is the time to refine it by adding RRR references.

NRWC notes that in the executive summary of the WGEA Progress Report 2019-2020 one of the areas that should be considered in this review is that "Relevant employers should be required to submit data on the primary work location of employees." In 2020-21 WEAGA called for voluntary reporting on location of employee (and their age). NRWC strongly supports this recommendation but restates that meaningful data in relation to GPG by will need to be coupled with a lowering of the size of workforce threshold of enterprises required to report, for the reasons described above.

NRWC Recommendations

- 25 employees be the trigger for enterprises to adopt the requirements of the Minimum Standards reporting
- WGEA to analyse the causes of the RRR glass ceilings blocking women's advancement in the Agriculture, Forestry & Fishery sector.

Consultation Question Three

Should the coverage of the WGEA be further changed?

The NRWC believes that the Workplace Gender Equality Act should be amended to include Commonwealth, State and Territory Public Service sectors. NRWC also strongly recommends that the Act include the Local Government sector in all States and Territories, including the Torres Straits Islands. As discussed in Question two, the NRWC is also committed to greater non-voluntary engagement with RRR employers and enterprises. This would require changing the current size of workforce thresholds. The workforce size trigger for mandated reporting should be decided after consultation with relevant RRR engagement.

The WGEA has a focus on reducing the burden of reporting for all organisations, as well as reducing potential duplication of data collection requested by other agencies. It is investing heavily in new employer education and training activities. It would be necessary to ensure that should smaller enterprises be engaged in WGEA reporting, that the advantages and benefits of this engagement were seen to outweigh the inconvenience. The fact that there is a strong causal link between having more women in leadership positions and improved company performance and profitability would need to be effectively communicated.

NRWC Recommendations

- WGEA include Commonwealth, State & Territory Public sectors
- Greater commitment to non-voluntary engagement with RRR enterprises

Consultation Question Four and Five

Should the data collection be diversified to indicate the workplace's diversity and inclusion?

Given the great diversity in the Australian population, including those with different abilities, it would be useful for WGEA to be able to identify through its data that community diversity is represented in the management at all levels and in the workforce in general.

Given the gender equality indicator (GEI) No. 6 objective is the prevention of sex-based harassment and discrimination in the workforce, it is important that the enterprise identifies, for its own strategizing, if the victim or perpetrator could be characterised by age, gender (including LGBTIQ+) disability, race, or ethnicity.

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If smaller workforces are required to be compliant with minimum WGEA standards in the future, some indigenous owned enterprises may become engaged, and this would be to their advantage, as it would be for all RRR enterprises. If Local Government workforces were to be included, both Aboriginal and Torres Straits Islanders would become engaged.

NRWC Recommendations

- Age, gender, disability, race, or ethnicity data to be collected as an objective to the prevention of sexual harassment and discrimination in the workforce

Consultation Question Six

How could data be better collected and/or used by WGEA to promote and improve gender equality? Should there be some form of pay transparency, should remuneration data in some form be made public.

The confidentiality agreements and lack of transparency perpetuates the GPG situation where women are often not aware of their smaller pay package compared to their male colleagues in the same roles with equivalent qualifications and experience. Portugal was a trail blazer in making salaries transparent with useful outcomes. We believe full disclosure would help women to bargain for more equitable treatment, exposing any GPG and to facilitate this the position and salary package in every enterprise for every position should be internally and publicly accessible, but without identifying the individual employee in a position. Confidentiality agreements should not be allowed.

NRWC Recommendation

- Expose GPG with identifying individuals, to assist women for be paid more equitably

Consultation Question Seven

How could the regulatory burden be reduced?

Smaller enterprises in particular cannot support a human resource department or additional staff time dedicated to meeting what is already a very heavy regulatory burden in Australia. Everything possible should be done to streamline the reporting process while retaining the timeliness and integrity of the data. Duplication of effort could be minimised with the use of Single Touch Payroll (STP) data.

NRWC Recommendation

- Use the STP data to stop duplication

Consultation Question Eight

Are the WGEA Minimum Standards sufficient to drive practical gender equality outcomes in the workplace. Should they be reformed? Should the minimum standards apply to all reporting employers, not just those with 500+ employees?

The WGEA compliance requirements for workplaces with 500 or more employees are not onerous. Policies or strategies for only one of the Minimum Standards needs to be in place, and policies and strategies do not necessarily equate to or indicate action. It comes as no surprise that 100% of the relevant employers with 500+ employees comply with the minimum standard and 99.2% with 100-499 employees also comply. Some qualitative assessment of the efficacy of the enterprise's strategies and policies would no doubt produce a different understanding about industry compliance and would help to account for the apathy observed and the persistence of the GPG.

NRWC has already argued in this submission that the current thresholds of 500+ and 100+ employees mean too few of the (typically smaller) RRR enterprises are engaged. This threshold should be lowered to embrace more enterprises in particular in RRR Australia.

For example, intergenerational family farms have often posed a challenge to women wishing to participate in the management or inherit the enterprise. Often the woman's off farm income is considered to be her most valuable contribution. While times are changing, women continue to face many barriers moving into management with commensurate pay and conditions in agribusiness "in your dreams". If WGEA and the Workplace Gender Equality Act are to deliver in all industry sectors, more attention should be paid to all forms of primary production business enterprise found throughout RRR including our Australian coastlines.

NRWC Recommendations

- 25 employees be the trigger for enterprises to adopt the requirements of the Minimum Standards reporting to ensure more primary production businesses are included

Consultation question number nine

Are the compliance mechanisms in the Act and noncompliance consequences adequate to improve gender equality?

As noted above (Q 8), there is 100% compliance with the Act for 500+ sized workforces and close to this for others required to respond. Compliance with the Act's mechanisms is not the problem maintaining the GPG, rather, it is the fact that the bar is so low and having a strategy or policy in place does not necessarily mean the workforce experiences a change of workplace culture. A new regime of reporting is needed that evaluates performance beyond the existence of documentation. As well, when minimal compliance is achieved, and with the payment of a (substantial) fee you are able to label yourself or your enterprise an exemplary employer. Being named and shamed as non-compliant does not appear to promote greater effort, and if the enterprise is not likely to be engaged in government procurement, the threat of being barred from a government tender is not concerning. Other non-compliant consequences need to be explored, as well as the current rewards for compliance mechanisms.

NRWC Recommendation

- Other non-compliant consequences need to be explored, as well as the current rewards for compliance mechanisms to take into account the scale of the enterprise.