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Senate Finance and Public Administration Legislation Committee  
Committee Secretariat  
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### **Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023**

This is the submission of the Minerals Council of Australia (MCA) to the [Workplace Gender Equality \(WGE\) Amendment \(Closing the Gender Pay Gap\) Bill 2023](#) (the Bill).

The MCA supports the measures in the Bill and recommends its swift passage by the Senate.

Greater economic participation and equal opportunities for women are not only critical to achieving gender equity, but also enhance the productive capacity of the economy.

The [Workplace Gender Equality Act 2012 Review Report](#) (the Report)<sup>1</sup> set out ten recommendations to drive changes needed to achieve gender equity. The measures in the Bill implement (in part of full) four out of the ten recommendations (2, 4, 5 and 9) of the Report.

These recommendations align with recommendations included in the Minerals Council of Australia (MCA) submission to the 2021.

The MCA also welcomes the Government's commitment to implement all recommendations of the Report – as expressed in the Explanatory Memorandum to the Bill.<sup>2</sup>

#### ***Mining industry approach to addressing gender inequality***

In the midst of the current skills and labour shortages, opportunities for highly rewarding, highly paid careers in the Australian mining industry continue to grow. The industry is actively committed to increasing the representation of women across its workforce.

Twenty years ago, Australian mining employed only 10,000 women. This figure had risen to 34,000 by 2018 and by 2022, to more than 55,000. However, this still represents only 20 per cent of the mining workforce.<sup>3</sup> In the last 15 years, the number of female managers in the mining industry has increased from 1,000 to 5,000, a fivefold increase.<sup>4</sup> In that same period, there has been an increase of almost 200 per cent in women in technical and trades roles, and a 174 per cent increase in women in operator roles.<sup>5</sup>

Despite this progress, there are still not enough women leading companies, nor is there sufficient gender balance around the boardroom table and across the workforce. Addressing this imbalance remains an ongoing industry priority.

Companies are improving organisational frameworks to advance opportunities for women and increase attraction and retention. Actions companies are taking to increase participation and improve opportunities for women include:

- Changing recruitment practices – including pathways, advertising, selection criteria, interview questions (values based versus technical) and formats (requiring diversity on panels)

- Mentoring, training and networking – establishing groups or specific support programs at different organisational levels
- Policy changes to address gender pay disparities – annual pay gap reviews; addressing disparities at time of recruitment
- Changing job role design – including the clothing and personal protective equipment, amenities as well as the task breakdown, requisite tools, etc
- Increasing representation of women in leadership positions and on boards to increase the representation of the interests of women in these forums
- Flexible work arrangements – more than 80 per cent of employers have a formal policy or strategy, including formal carers leave for managers and non-managers (100 per cent), flexible working hours for managers (93 per cent) and non-managers (94 per cent), and job sharing for managers (73 per cent) and non-managers (75 per cent)<sup>6</sup>
- Paid parental leave – 77 per cent of employers offer paid primary carer's leave and 66 per cent paid secondary carer's leave; many employers also paid a superannuation contribution of carer's leave (almost 72 per cent to primary carers and 56 per cent to secondary carer's)<sup>7</sup>
- Addressing workplace culture and safety issues – implementing respectful workplace strategies, policies and procedures
- Anonymous surveys and mechanisms for reporting
- Transition back to work supports – school-friendly hours, preferential parking.<sup>8</sup>

Case studies at **Appendix 1** highlight specific actions companies are taking to address gender inequality.

### ***Recommendations implemented through the Bill***

#### *Recommendation 2 of the Review*

The MCA supports measures in the Bill to enhance pay gap transparency through the Workplace Gender Equality Agency (WGEA) publishing employer-level gender pay gaps (mean and median) and workforce composition by quartiles.<sup>9</sup> Publishing gender pay gaps at an employer level will accelerate action to close them.

As at November 2022, the mining industry pay gap was 16.1 per cent.<sup>10</sup> Whilst this is well below the national gender pay gap is 22.8 per cent, considerable effort is required to address the key issues impacting on pay equity and gender equality across the industry.<sup>11</sup>

As highlighted in the MCA submission to the Review, these key issues include (but are not limited to):

- Structural conditions that disadvantage women in the workplace
- Perceptions of gender stereotypes, discrimination and precarious working conditions
- Inappropriate/unsuitable personal protective equipment
- Sexism and sexual harassment
- Impacts of gender segregation at an occupational level, particularly in technical fields
- Perceptions of fewer advancement opportunities for women compared to male colleagues<sup>12</sup>
- Male dominated company culture and lack of diversity in leadership and across the workforce
- Structural elements, such as fly-in-fly-out (FIFO) work being less accessible for women or those with caring responsibilities.<sup>13</sup>

As such, the MCA supports inclusion of the option for employers to include an explanatory statement to provide any context related to the gender pay gap and actions they are taking to address it.

### *Recommendation 3.1 of the Review*

The MCA strongly supports implementation of Recommendation 3.1, to 'bridge the action gap' to strengthen the existing minimum standards by amending the [Workplace Gender Equality \(Minimum Standards\) Instrument 2014](#), to require employers with 500 or more employees to:

- a) Commit to, achieve and report progress against specific targets
- b) Have policies or strategies that cover all six gender equality indicators
- c) Rename 'minimum standards' to 'gender equality standards.'

This will mark a significant shift beyond basic compliance to measurable action in addressing gender equality gaps across prescribed indicators.

The Bill does not implement Recommendation 3.1 in full. It omits Recommendations 3.1.a and 3.1.b, and only implements Recommendation 3.1.c to rename 'minimum standards' to 'gender equality standards' by amending all references in the [Workplace Gender Equality Act 2012](#) (the Act) accordingly.

The Explanatory Memorandum for the Bill notes the remaining elements of Recommendation 3.1 will be implemented through changes to the [Workplace Gender Equality \(Minimum Standards\) Instrument 2014](#), requiring employers with 500 or more employees to commit to, achieve and report progress against specific targets (3.1.a), and have policies or strategies that cover all six gender equality indicators (3.1.b)<sup>14</sup>

The Second Reading Speech for the Bill stated that further consultation by WGEA is necessary to determine the best way to implement the recommendation and a regulatory impact assessment should be conducted ahead of implementation and any further legislative amendments.<sup>15</sup>

The MCA supports each of these approaches to fully implementing Recommendation 3.1.

### *Recommendation 3.2 of the Review*

The Bill will amend the Act to require CEOs of relevant employers to provide governing bodies with Industry Benchmark and Executive Summary reports, consistent with Recommendation 3.2 of the Review.

Whilst compliance with reporting standards in Australia is ostensibly high, the Review found that the 'tick and flick' nature of the exercise to date diminished their impact.<sup>16</sup>

The implementation of Recommendation 3.2.b is intended to promote accountability for gender equality within organisations through:

- Providing governing bodies with greater insight and baselines
- Prompting further and/or alternative action.

### *Recommendation 5 of the Review*

To implement recommendation 5.1 of the Report, the Bill will amend the Act to make it consistent with its associated legislative instrument – [Workplace Gender Equality \(Matters in Relation to Gender Equality Indicators\) Instrument 2013 \(No. 1\)](#) – with regard to the collection of information on sexual harassment, harassment on the ground of sex or discrimination.

The MCA acknowledges this alignment does not change reporting obligations for relevant employers and will better support the implementation of *Respect@Work* to prevent and address workplace sex-based harassment and discrimination.

### *Recommendation 9 of the Review*

The Bill will enhance the clarity of the Act through measures to change the title of 'Director' of WGEA to 'Chief Executive Officer,' implementing Recommendation 9.2 of the Review.

This change will reduce confusion and improve alignment of the language of the Act and WGEA with the language of business.

## **Considerations during implementation and next steps**

### *Industry engagement and input during Recommendation 3.1 implementation consultation process*

Through further consultation to determine the best way to implement Recommendation 3.1, WGEA will identify the supports and mechanisms that will help:

- WGEA to successfully implement relevant measures (3.1.a and 3.1.b) to strengthen gender equality (including monitoring of progress)
- Relevant employers to transition to new obligations under 3.1.a (commit to, achieve and report progress against specific targets) and 3.1.b. (have policies or strategies that cover all six gender equality indicators).

The MCA advocates continued industry engagement and input during this process, promoting collaborative implementation and positive outcomes.

### *Tools and resources to support employer's meet new obligations under Recommendations 3.1*

The tools and resources WGEA currently develop to assist employers are highly beneficial for supporting positive action on gender equality in workplaces.<sup>17</sup>

When new obligations are placed on relevant employers (through implementation of Recommendations 3.1.a and 3.1.b.), the MCA recommends development of an expanded range of WGEA tools and resources, focused on target setting, achievement and evaluation, such as:

- Generic templates for action-based responses to closing the gap – guides 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
- More regular case studies demonstrating best practice, showcasing transformation in like-businesses and providing inspiration for action, as well as follow up case studies on employers after five years for comparison and progress.<sup>18</sup>

### *Remaining recommendations*

The MCA stands ready to contribute to the implementation of the remaining recommendations of the Report, in particular the full implementation of:

- Recommendation 1: *make it easier for employers to report to [WGEA] and improve collection and sharing of data*
- Recommendation 4: *reduce the regulatory burden on employers*
- Recommendation 7: *refine the gender equality indicators*
- Recommendation 8: *strengthen compliance and enforcement.*

### **Further information**

If you would like to discuss this submission, contact Karolina Szukalska, General Manager – Workforce and Innovation

Yours sincerely

**TANIA CONSTABLE PSM**  
**CHIEF EXECUTIVE OFFICER**

## APPENDIX 1: CASE STUDIES

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### St Barbara Limited

#### ***Leader in addressing gender equality and promoting women's advancement in the workplace***

In 2007, St Barbara recognised human resources practices were largely transactional with minimal linking of recruitment, retention and remuneration to core business strategy. Acknowledging workforce diversity as a critical component of future success, a goal to be an employer of choice for gender equality was set.

This launched St Barbara on a journey that would position the company as an Australian leader in the space, with company practice and performance today exceeding industry benchmarks.

St Barbara's approach to address gender equality was hard-wired to core business strategy, approved at Board level and supported across the leadership through a holistic, formalised strategy in 2010, which continues to evolve and deliver positive long-term outcomes.

St Barbara's programs and initiatives aim to remove barriers for women's workforce participation and embed women's empowerment, through:

- Focus on female recruitment: Innovative recruitment processes promoting gender equality, including campaigns to attract women into trades and technical roles, eliminating gender-specific language from job advertisements and sharing female employee success stories. Eliminating unconscious bias (discrimination based on hidden biases) has also been a key focus.
- Retaining female talent: Leading policies and practices, including paid parental leave, return-to-work incentives, flexible working arrangements, and paid leave for those experiencing domestic violence. Mentoring programs are in place and 100 per cent of women returned to work after paid parental leave between 2009 and 2021.<sup>19</sup>
- Career development pathways: Ensuring women attend training, can access mentoring opportunities and there is gender equity across succession plans. In 2022, women held 28 per cent of group management roles.<sup>20</sup>
- Addressing the gender pay gap: Targets, monthly organisation-wide pay gap analysis and annual like-for-like analysis to assess and understand changes in real time address inequities.<sup>21</sup> St Barbara has maintained a continuous nil gender pay gap in 'like-for-like' roles since 2013 and the organisation's overall pay gap was reduced from 43 per cent in 2007, to seven per cent in 2022.<sup>22</sup>

In 2022, St Barbara received the [Employer of Choice for Gender Equality](#) citation from the Workplace Gender Equality Agency for the eighth consecutive year. The only Australian Mining company to receive this citation to date.<sup>23</sup>

St Barbara was also included in the global 2022 [Bloomberg Gender-Equality Index](#) for the second year in a row. Recording a score of 77.7 per cent, eight per cent higher than 2021, St Barbara received a score of 100 percent on both transparency and their sexual harassment policies (compared to the average of 66 percent).<sup>24</sup>

### Whitehaven Coal Limited

#### ***Striving to be an industry leader in creating inclusive work environments and looking after its workforce***

Having recognised a diverse workforce is essential to achieving this goal, Whitehaven accelerated the adoption of a range of programs and initiatives designed to attract, support, and retain women, including:

- Paid parental leave policy: Increased from 18 weeks to an industry-leading 26 weeks for the primary caregiver, including superannuation contributions for paid and unpaid parental leave.
- Mentoring and development programs: Aspire (emerging talent) and Inspire (senior leaders) leadership development programs are based on performance psychology and behavioural

science. Delivered in conjunction with the Inkling Group, these programs support women in taking their careers to the next level.

- WIMnet mentoring: Pairs women seeking guidance and support with more experienced members of the industry who commit time to their professional development. Whitehaven is the only Platinum-level sponsor of the program.
- Flexible work arrangements: Based on individual circumstances, facilitating role and location changes to accommodate young families, as well as a 9-day fortnight across a number of operational roles.
- Domestic violence leave policy: 10 days paid leave offered to victims of domestic and family violence.
- Partnership with World of Work: Access to career discovery tools, practical workshops, and planning activities to help women restart or strengthen their career following a break.
- Official [WORK180](#) endorsement: Following a review of company gender equality standards – WORK180 recognised Whitehaven as a great workplace for women and endorsed them as an employer committed to diversity, equity, and inclusion.

Leveraging these strategies, Whitehaven continue to make progress with the percentage of women in their workforce increasing from 12 per cent to 15.3 per cent year on year, at the end of Financial Year 2022. Whitehaven have a goal of reaching 20 per cent women by Financial Year 2026.

Whitehaven's approach to ensuring gender pay equity is based on two broad principles:

- Regular review: including pre and post annual remuneration reviews embedded in organisational remuneration review process. Through this review, any anomalies are identified and addressed. Whitehaven gender pay equity analysis of roles with both women and men, shows there is pay equity within tolerance guidance of +/- 3 per cent, which accounts for variances in experience and responsibilities related to size and scope.<sup>25</sup>
- Representation of women: Increasing and retaining representation of women across all levels of the workforce, including senior and management levels, through to the Board. Increasing representation of women in leadership is important in addressing the gender pay gap; visibility of women in leadership also supported retention of existing and attraction of potential employees.

<sup>1</sup> Minerals Council of Australia, [Submission 148 to the 2021 Review of the WGE Act 2012](#), 26 November 2021.

<sup>2</sup> The Parliament of the Commonwealth of Australia, [Workplace Gender Equality Amendment \(Closing the Gender Pay Gap\) Bill 2023: Explanatory Memorandum](#), 2023-23, p 2.

<sup>3</sup> Australian Bureau of Statistics, [Labour Force, Australia, Detailed](#), November 2022, released 21 September 2022, table 6, MCA calculations, annual averages.

<sup>4</sup> Australian Bureau of Statistics, [Labour Force, Australia, Detailed](#), August 2022, released 21 September 2022, EQ06.

<sup>5</sup> *ibid*

<sup>6</sup> Workplace Gender Equality Agency, [WGEA Data Explorer: Industry selection – Mining](#), 2022.

<sup>7</sup> *ibid*.

<sup>8</sup> *op. cit.*, Minerals Council of Australia, 2021.

<sup>9</sup> The Parliament of the Commonwealth of Australia, [Workplace Gender Equality Amendment \(Closing the Gender Pay Gap\) Bill 2023: Explanatory Memorandum](#), 2023-23, pp. 5, 79.

<sup>10</sup> Workplace Gender Equality Agency, [National gender pay gap by industry](#), February 2023.

<sup>11</sup> WGEA, [Australia's Gender Equality Scorecard: Key results from the WGEA Employer Census 2021-22](#), December 2022.

<sup>12</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.

<sup>13</sup> *op. cit.*, Minerals Council of Australia, 2021. p. 3.

<sup>14</sup> *op. cit.*, The Parliament of the Commonwealth of Australia, p. 5.

<sup>15</sup> The Hon, Katy Gallagher, [Second Reading Speech](#), Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023, 8 February 2023, pp. 72-73.

<sup>16</sup> WGEA Review Team, [WGEA Review Consultation Paper](#), Department of Prime Minister and Cabinet, 2021.

<sup>17</sup> Minerals Council of Australia, [Submission 148 to the 2021 Review of the WGE Act 2012](#), 26 November 2021, p. 8.

<sup>18</sup> *ibid*.

<sup>19</sup> St Barbara Limited, [2021 Annual Report](#), 17 September 2021, p. xi.

<sup>20</sup> *ibid*, p. v.

<sup>21</sup> St Barbara Limited, [2020-21 Compliance Program](#), 21 August 2021, Workplace Gender Equality Act 2012 reporting, pp. 6-7.

<sup>22</sup> *op. cit.*, St Barbara Limited, September 2022, p. vii.

<sup>23</sup> *op. cit.*, St Barbara Limited, September 2022, p. vii.

<sup>24</sup> *op. cit.*, St Barbara Limited, September 2022, p. vii.

<sup>25</sup> Whitehaven Coal Limited, Maules Creek Coal Pty Ltd and Whitehaven Coal Mining Limited, [2020-21 Compliance Program](#), Workplace Gender Equality Act 2012 reporting, pp. 5-6.