



WOMEN'S VOICES

**Report from consultations on factors
influencing women's decisions on work-force
attachment, including tax and transfers**

Including technical analysis and recommendations

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PART 1: REPORT FROM CONSULTATIONS ON FACTORS INFLUENCING WOMEN'S DECISIONS ON WORK-FORCE ATTACHMENT, INCLUDING TAX AND TRANSFERS

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INTRODUCTION

Following the release of *Australia's future tax system*¹ (the Henry Report) the Commonwealth Office for Women had discussed with the National Foundation for Australian Women (NFAW) and the Equality Rights Alliance (ERA, formerly WomenSpeak) the possibility of further follow up work. (These organisations had previously been commissioned by the Office for Women to make a submission on gender issues to the review of the tax system²)

The NFAW and WomenSpeak/ERA, with valuable input from Professor Patricia Apps, independently held meetings to discuss the Henry Report at the University of Sydney through the Women and Work Research group, and at the University of Melbourne (Taxation Studies, Law School). We are indebted to Professor Marian Baird and Professor Miranda Stewart for their professional and financial support, and to Helen Hodgson (ATA, University of New South Wales) for her inputs to these meetings.

Subsequently, the Office for Women approved a project proposal by NFAW and ERA for community consultation on factors impacting women's decisions regarding work-force participation. This would involve consultations with women, with particular attention to younger women, an initial plain English report on these and a further technical report. Deliverables included these two reports, to be made available to the Office as drafts by 31 August 2011 and 30 September 2011 respectively³. After discussion with the Minister for Women, and the Office for Women, these have been combined into this single comprehensive report.

The short time-frame available for organising consultations has been an issue for the project, limiting the time available for local preparatory work to satisfactorily engage women and their organisations.

A Steering Committee for the project was established, chaired by Ruth Medd, a Director of the NFAW, and including Cathi Moore (YWCA), Dr Cassandra Goldie (ACoSS), and Sandra Cook (BPW, representing the Economic Security for Women Alliance). Marie Coleman was appointed Director for

¹ Australian Treasury, 'Australia's Future Tax System: Final Report' (Australian Treasury, 2010) <http://taxreview.treasury.gov.au/content/Content.aspx?doc=html/pubs_reports.htm>

² NFAW, 'Tax Reform, Targeting and the Tax Burden on Women' (National Foundation for Australian Women and WomenSpeak, 2009) <http://taxreview.treasury.gov.au/content/submissions/post_14_november_2008/National_Foundation_for_Australian_Women_Sub01_20090505.pdf>

³ Report 1 – a summary of the major concerns, as identified by the six National Women's Alliances and women during the consultations, about workforce participation, superannuation, and associated taxation and transfer issues.

Report 2 – an expert analysis of gender issues in workforce participation, superannuation and associated taxation and transfer issues, drawing on the issues identified during the consultations outlined in Report 1 and proposed changes announced in the Government report: *Australia's Future Tax System*. The report will identify key policy issues and challenges, including for tax-transfer reform. The report must include consideration of relevant Australian and international literature and identify policy options that take account of Australian social and taxation structures.

the project. Helen Hodgson (ATAX, University of New South Wales) was commissioned to write the technical report. Julia Perry was commissioned to write the Background Paper. Secretariat services were purchased from ERA. Helen Hodgson and Julia Perry participated in a number of the consultations.

The Background Paper⁴ or information document⁵ was made electronically available through the six national women's alliances and their affiliated organisations, thus reaching potentially more than two million women. The document invited comments and responses to specific policy questions. Each Alliance secretariat was asked to invite comments from their affiliates, collate these, and return them to the Project Manager.

Written responses were received from Economic Security for Women (eS4W). The eS4W comments drew attention to the issues facing women entrepreneurs, and small business owners, and made some specific recommendations around this. We are indebted to Sandra Cook of BPW Australia and eS4W for managing this process.

eS4W and WAVE have subsequently endorsed this consolidated report.

Notice of times and places of consultations were sent to each Alliance for the benefit of affiliates to encourage direct participation. A representative of the Immigrant and Refugee Women's Alliance attended the Canberra consultation and the consultation at The Ashfield Infants' Home.

Consultations were arranged in metropolitan and regional centres in New South Wales and Queensland, in Adelaide and in Canberra. These were advertised through media releases, flyers, and on the ERA web-site, as well as through the national women's alliance systems. The consultations were advertised as open to all. Some local media advance publicity was also possible, notably in Canberra, Albury, and Toowoomba. The Background Paper was distributed as a package with specific personal invitations to each individual consultation to numbers of individuals and organisations.

Time and resources did not permit a consultation in Tasmania, but a number of organisations and individuals were sent the discussion paper, and some comments received.⁶ These are at [Attachment A](#)

In addition, an on-line forum was established on the ERA web-site to assist comment by women unable to attend consultations. The summary from these is at [Attachment B](#).

As part of normal ERA/NFAW working practice, an undertaking was given that all participants in the face-to-face meetings would have the opportunity to comment on the draft notes of each meeting before these were posted to the ERA web-site, and also to see a draft of the proposed report to the Office for Women. (Similarly, those who commented on-line had the opportunity to comment on-line on a draft of the consultation element of this report.)

On 28 July 2011 the Treasurer announced the details of the Tax Forum to be held in Canberra on 4–5 October 2011⁷. The Equality Rights Alliance was one of the community organisations invited to

⁴ Julia Perry, Consultations concerning Women's Issues in Workforce Participation, Superannuation and Associated Taxation and Transfer Issues (2011) <http://equalityrightsalliance.org.au/tax>. See Appendix 2

⁵ We appreciate the courtesy extended by officers of FAHSCIA in commenting on the draft.

⁶ We are indebted to Cr Alwyn Freidersdorff

⁷ <http://www.futuretax.gov.au>

participate in the Forum. The Equality Rights Alliance invited the Chair of the NFAW's Social Policy Committee, Marie Coleman AO PSM, to be the ERA representative. NFAW nominated Helen Hodgson, who has also been invited to participate.

Since the discussion paper for the Tax Forum raises issues of taxation policy and housing, housing was raised at subsequent consultations, but there was no project background paper provided on housing and tax.

The first part of this report discusses the issues raised and takes into consideration the comments on the preliminary draft. Formal policy recommendations are in the second part of this report⁸. The technical report has been written by Helen Hodgson, in consultation with Ruth Medd and Marie Coleman. We are indebted to our scribes for the consultations (Dr Mary Crawford, Ruth Medd, Julia Perry and Emma Davidson) and to our hosts, including the Queensland Office for Women, Insight Accountants of Toowoomba, The University of South Australia, the University of Western Sydney, the City of Albury Conservatorium, Unions ACT, and the Ashfield Infants Home.

ERA with NFAW has prepared a submission to the Tax Forum separate from the required project reports to the Office for Women. Again, this submission was canvassed in draft with women and their organisations. As an element of this submission, we commissioned related research on tax policy and housing from The Australia Institute, and a paper on child care financing reform from National Centre for Social and Economic Modelling (NATSEM) at the University of Canberra. We also discussed other options for change with NATSEM.

SUMMARY OF THEMES FROM FACE-TO-FACE CONSULTATIONS AND ON-LINE POSTINGS

Overview and comments

As we found in developing submissions to the review of Australia's future tax system, a distressingly high proportion of women reported uncertainty and unwillingness to enter into discussions about taxation policy. Women (unless they have a professional background such as accountancy or law) simply do not relate to terms such as Effective Marginal Tax Rate (EMTR).

This is not to say that women do not make decisions about their workforce attachment which are effectively based on the decisions they reached about the possible loss of Family Tax Benefit (FTB), about potential child care costs, and net gain from working, which are essentially a recognition of effective tax rates. Rather, that the language of economists and policy makers is not the every-day language of most women at work or home.

There appear to be differences in attitudes to workforce attachment between women with professional or business careers who may take a longer term view of career prospects and accede to initial low net financial gains from their workforce attachment, and women with lower career aspirations and lower income earning capacity who must achieve immediate net financial gain from workforce participation.

⁸ See pages 33–35 of this report

The essential issues are that the tax and transfer systems are seen as opaque, and that trying to get information from official sources such as Centrelink and the Australian Taxation office (ATO) is seen as difficult, complex and unsatisfactory. Particular references were made in regional centres to the problems caused by using dial-up internet connections for Centrelink processes which required many key strokes and much preparatory information, with consequent drop-outs of connections. The view was offered that many women without computer skills, without good internet access, would simply not bother with Centrelink (unless of course they were dependent on Centrelink payments for income, in which case they had little option other than to try to visit an office.)

Better internet access through the National Broadband Network will be a boon to women in rural and regional Australia.

The overall picture emerging from these face-to-face discussions with a wide range of women from all ages (university students to retirees; women from professional backgrounds as well as women in child care, retail and hospitality; women from linguistically and culturally diverse backgrounds) is of:

- widespread under-employment, despite the wish to further engage in work
- surprisingly common reports of experience of sex, age and pregnancy discrimination in workplaces
- fear of financial insecurity in later life especially in the event of marriage breakdown
- lack of understanding of and dissatisfaction with superannuation
- lack of understanding of detailed tax and transfer interactions
- inability to easily access clear information on entitlements to child care benefits, together with worries about child care access and about appropriate quality standards in child care services
- minimal knowledge or information about the range of adult re-training programs available through Commonwealth and State funded systems.

Slightly different but still consistent responses came from the on-line responses. See [Attachment B](#).

The emphasis on child care availability, quality and costs is strong. So too is the connection between the double burden women carry, the lack of husbands' contribution to housework/child caring and women's need to take on lower paid and less demanding work. There is dismissal of incentives provided by the transfer system (by which respondents mean work tests) although there is some comment on the interaction between the means tests on income support and FTB and earned income (effective tax rates) making it not worthwhile for women to earn.

A clear line is established between time out of work (or in less demanding work) leading to lower pay leading to lower superannuation savings. There are several references to the reluctance of husbands to make contributions to their wives' superannuation, and the preference by husbands for women to make contributions towards the joint mortgage, rather than into their own superannuation.

In general, women's responses demonstrated under-capacity to analyse the solutions to their difficulties in engaging more effectively with work despite a desire to do so, and their dissatisfaction with the superannuation and tax and transfer systems. Women were adamant that the

superannuation system in particular should be characterised by clarity, transparency, and simple communication.

Specific issues

After the Treasurer's announcement of the Tax Forum, we asked the question: *What do you want to say to the Tax Forum?*

These are some of the responses:

I think education at school needs to prepare you for your job and your life. Education on superannuation at school level would help enormously.

Simplify Child Care Benefit and Family Tax Benefit Part A and B so it's easier for people to understand, not just for highly educated people. And keep the money in the pockets of the mums now, rather than them having to go to the trouble of claiming it back after. We need the money now, rather than having to wait for it. But make it easier and so that you can make the change at any time, give us some flexibility.

With super, no matter what job you work, no matter how many hours, you (should) get paid super. So if I've got three part-time jobs, I (should) get paid super for all of them. Everyone should get their super.

[For] people on the cusp of Centrelink benefits there need to be things that make their life easier, like rebate on their rents or electricity. Or if they owe mortgage, to have some benefits for them like renting.

Keep the whole system as simple as possible. Instead of assuming that people are trying to rip the system off, look at how we can support people who are carers or whatever. Make it simpler so people don't get bills for overpayment, the big bills at the end of the year worry people. [Talking about Family Tax Benefit and pensions.]

The tsunami of women in retirement age in the next few years requires support to keep women in the workforce longer if they choose to be.

And a catch up provision for women over fifty (with superannuation) is really important. But education is one of the best ways to improve it.

Keep it simple, and [provide] education [about superannuation]. There must be a simpler, better way of doing it.

Similar tax incentives for return to work such as in the UK and in the USA should be considered for lower income earners.

Superannuation

The summary below is taken from the Brisbane notes, and covers issues raised in slightly different words everywhere.

There was a general acknowledgement that women needed to be more engaged with the workforce and superannuation, as the ramifications were long lasting and led to poverty in later life. Indeed, current homelessness figures would tend to bear that out.

There was unanimous support for the view that the whole issue of superannuation had become very complex and there was a need for clear and precise information. All the attendees agreed that this had contributed to women's lack of understanding of the need to participate in superannuation at a very early age and one of the speakers suggested a targeted campaign for sixteen-year-old women to ensure they understood the full ramifications of not having superannuation.

Rule changes in superannuation further confused people.⁹ Few had knowledge of relevant information sites. Few knew that some companies provide a service to assist consolidation of superannuation accounts.

While the role of the ATO in its community consultations was highly commended and acclaimed as a very useful resource it was argued that this service should be extended to cope with the very high demand.

Even for women who had been in the workforce the issue of portability of superannuation was problematic. Since many women work part-time and/or casual, and have a fragmented work history, they accumulate a large number of accounts. The onus is then on the individual to keep track of these and/or ensure separate fund accounts are rationalised into a single fund. Having such a large number of funds increased risk factors and made vigilance almost impossible. Also the fund fees on small balances eroded the savings. All felt that the industry had failed to deliver.

Many suggested there was a need for a good reliable product for people to access. One participant cited her own case where she had tried to combine ten (10) accounts and to date, despite numerous requests and time, one retail fund was still not willing to release her funds to the nominated fund. Her story resonated with everybody at the meeting. It was noted that AMP had introduced an initiative to help people consolidate their superannuation funds into a single account.

It was noted that the Cooper Review¹⁰ had proposed using Tax File Numbers (TFNs) as a unique identifier for superannuation accounts, which would make it easier to track accounts from different employers. All agreed the use of the TFN would be one way in which such accounts could be tracked. All the women present thought this would expedite matters.

Of further concern was the way in which superannuation was not compulsory until people earned \$450 a month. The removal of this threshold and payment of superannuation contributions from the first dollar of earnings would also mean young people would build superannuation savings earlier as they participated from their first interaction with the workforce.

⁹ <http://www.ato.gov.au/super/content.aspx?doc=/content/60489.htm&page=2&H2>

¹⁰ Jeremy Cooper, 'Super System Review: Final Report' (Commonwealth of Australia, 2010)
<http://www.supersystemreview.gov.au/content/content.aspx?doc=html/final_report.htm>

Many employers reportedly used the \$450 threshold as a barrier to further work for employees and the women knew plenty of people who worked two or three jobs each paying under that amount but had no superannuation. The extension of the use of contractors and casual labour had further impacted on people's ability to become part of the superannuation scheme. Employment through labour hire companies meant that many were treated as contractors and exempt from the superannuation guarantee.

It was reported that employers did not inform employees about the possibility of salary sacrifice.

While the 'catch up' provisions for older workers were seen as 'good in theory' the women felt that the system was too complex and made them too dependent on financial advisers rather than developing economic independence. It also failed to take account of people on low incomes or low assets who could not afford to contribute. It was noted that later life contributions did not result in the benefits of long term compound interest/earnings.

Aboriginal women had less benefit from superannuation because of low life expectancy.

Migrant women were also particularly disadvantaged by a lack of information about their rights at work and about superannuation.

Divorce was a danger for women whose husbands had higher superannuation. Although superannuation can be taken into account in divorce settlements, many women were not aware of this. Financial settlements between the spouses did not always take superannuation into account, or under-valued it.

In short the women were adamant that the superannuation system should be characterised by clarity, transparency, and simple communication.

The eS4W commentator made these suggestions:

- Reduce the income ceiling for co-contribution payments. Once children have reached a certain age, 18+ women can often turn their attention to their career paths and begin to rebuild or consolidate their experience and take on more senior roles with higher salary. This provides them with an opportunity to start to build their super for retirement. However the a reduction the in co-contribution commences at \$31,920 (reduced by 3.33 cents for every dollar) and the total cut-off amount of \$61,920 per annum means they are unable to take up this opportunity at a point when they can actually afford to contribute.
- A further issue is the global economy where hard earned money added to superannuation is wiped out and it can feel safer to use a term deposit or other strategies.

Discussion

Resulting from the views put forward by women, the ERA/NFAW submission to the Tax Forum emphasises the need for Government and financial institutions to communicate better to women about the value to them of adequate superannuation savings, and the importance of taking an informed view of the investment policy of their preferred fund.

One extremely interesting comment came from a woman who is employed in the wealth creation industry:

The penny finally dropped for me when I got my first payslip after starting salary sacrifice – I had put \$1,000 into my super from the month's pay and yet my payslip showed I received approx \$600 less than normal for that month, not \$1000 less. It was a eureka moment about the power of pre-tax dollars. Ironic, that I work with wealth industry software but it took a personal experience to make it real.

Many women are risk-averse, and have some reservation about the nature of superannuation as being based on defined contributions rather than on defined benefits. Given that in Australia superannuation contributions are compulsory savings, mandated for all by legislation, there are grounds for arguing that Government could also provide some kind of guarantee that individuals will not see their contribution savings eroded through factors beyond their control.

The role of the Australian Prudential Regulation Authority¹¹ in enhancing the management capacity of superannuation funds is extremely important and should be given every support.

The Cooper Report on Superannuation Administration¹² produced many valuable recommendations about improved efficiency in the industry. Many lower income earning women will derive benefit from improved capacity for consolidation of funds, the development of the default My Super Fund, and the use of TFNs for tracking contributions. It seems that some small business enterprises can be lax about making contributions on behalf of their employees, and in advising employees of contributions made. Improving compliance will be of benefit to low income earners with multiple jobs.

The significant gender-wage gap between male and female earnings must be addressed to assist women to feel able to 'save' for retirement from a frequently inadequate income at a time of high living costs during family formation. The fact that employer contributions are in effect 'savings' from wages does mean that for many lower income women the proposed increase in the compulsory superannuation guarantee to 12 per cent will have a mixed outcome – they need the future savings for security in retirement, but they also need to maximise current income to meet daily needs.

The Henry Review proposals to tax contributions into funds at marginal tax rates, to provide a tax offset for all superannuation contributions up to \$25,000 a year and half the tax on fund earnings would go a long way to improving the benefits of superannuation for low income earners, including women. NFAW will support that recommendation at the Forum.

Women over fifty years of age with higher income earning capacity who return to work after a long period out, or at part-time rates, will benefit from lifting the cap of \$25,000 on superannuation contributions.

The numbers benefitting may not be large, but it would assist these women.

Low-earning women would benefit if the threshold of \$450 earnings before the compulsory superannuation guarantee is paid can be lowered or removed. This will assist those adult women

¹¹ <http://www.apra.gov.au/Pages/default.aspx>

¹² Above, note 10; NFAW submission to Cooper Review at: <http://www.nfaw.org.au/assets/Media/SUBMISSION-TO-Cooper.pdf>

working in multiple part-time or casual jobs; and will benefit younger women (and young men) who are studying and working part-time, allowing them to develop superannuation savings consistent with their actual weekly incomes.

We will strongly support to the Tax Forum the abolition of the \$450 threshold below which employer contributions are not mandatory. Far too many women have multiple employers, none or few of whom make any superannuation guarantee payments even though a women's total income from all sources may significantly exceed the threshold.

More must be done to assist the process of consolidation of multiple small funds into one. We noted the number of occasions when women reported recalcitrant funds unwilling to permit transfer and consolidation, and when individuals in a Government fund were unable to consolidate payments from an existing non-government fund.

Notwithstanding legislative changes, many women also reported current funds were charging excessive fees on small balances. We are not able to ascertain if some of these reports date from experiences before the legislative changes prohibiting this, or whether there are some funds which continue to make such charges. This may be an issue for the Australian Prudential Regulation Authority (APRA). The role of the Superannuation Complaints Tribunal¹³ may also need to be made better known.

There are strongly argued positions supporting the payment (by Government) of superannuation contributions during the period in which a woman is receiving payments under the National Paid Parental Leave Scheme. We see merit in this. However, the benefit from this would be only \$955 per period of parental leave, not enough to make a significant difference in retirement income.

It is hard to endorse these arguments without also considering the similar need for retirement income security of other women in receipt of Government benefits because they take significant periods out of the workforce, caring for children or adult family members. One concern about such an approach is that to take 9–12 per cent of these allowances as a contribution to superannuation would reduce the benefit of payments that already provide a very low level of subsistence. If Government were to increase spending to provide an extra 9–12 per cent for superannuation contributions it would be arguable that it would be better used to combat poverty at the time of receipt.

There were numbers of suggestions that the women felt may lead to a beneficial change.

There was a view that the current tax arrangements for superannuation contributions provide more benefit for incomes in higher tax brackets and thus advantage males whose earnings are higher than women. This supports the Henry Report recommendation that contributions be taxed according to the tax bracket of the individual rather than at a flat 15 per cent (see above).

Another suggestion was that a way should be found to encourage contributions from husbands into their wives' superannuation. This should be promoted with tax concessions and/or co-payments from the Government.

¹³ www.sct.gov.au

A further suggestion was to require small business owners and self-employed people to contribute to superannuation – there was a very strong feeling that many women who worked in small family businesses and on family farms for many years were financially disadvantaged.

An interesting suggestion which was put forward was tax expenditure to enable women to 'catch up' their Superannuation – e.g. 150 per cent co-payments.

Child care

The following notes are from the Canberra discussion, and similarly reflect comments from other consultations. Child care does seem to be more readily available in Canberra than in many other locations.

Child care was the most important factor mentioned in relation to women's ability to return to work. Issues included access to a child care place, quality of child care available and cost. Some placed greater emphasis on cost, some on quality.

One sole parent had had great difficulty finding child care, until she was put on a priority list because she was a single parent and a friend who ran a child care centre was able to find her a place.

Others who were better off financially were concerned about finding good quality child care. They were happy about the support through the child care rebate. The high turnover of staff (attributed to low pay) was a problem in that it was better for children to have stability in care givers. One mentioned the poor quality of care in a child care centre that she investigated for placing her child, and this then affected her decision to not place her child in that centre, and thereby not be able to return to work.

There was discussion on the value of grandparents in providing child care. One older woman provided unpaid child care for her daughter's children. This in turn affected her ability to return to work. Other women spoke of mothers who were not available as they were still working themselves, had disabilities or lived inter-state.

The wellbeing of the children was an issue. A woman who worked with culturally and linguistically diverse women said that they tended to want a 'culturally competent environment' such as family day care by a carer of the same ethnic/linguistic background. Others noted young children's desire to spend more time with their mothers.

Children with special needs were mentioned as another issue complicating child care access and suitability.

The cost of child care was reported as a disincentive to returning to work. One woman spoke of returning to work and having no net increase in income, because her net wages were cancelled out by loss of family payments and the out of pocket cost of child care. She asked herself why she was working when she would prefer to be caring for her children herself. But she had to take 'the long term view' that eventually there would be a net benefit and she could contribute to buying a house.

Another was planning to move to a different job with 'packaged' remuneration. Although her gross wages would drop by \$40,000 a year, the combination of 'packaged' payments, increased family payments and targeted child care would mean that her net income would fall by only \$1000.

Another mentioned the great assistance she had received as a sole parent through the JET child care scheme, which met her child care costs for six months when she returned to work.

Some women spoke of the difficulty in juggling full-time work and travel time and the standard child care hours. Child care time in excess of normal hours was extremely costly. One woman ran over time when she used the toilet at the child care centre and was charged an additional \$50 in penalty rate charges.

Vacation care was another difficult issue. As one woman said, school children have a minimum of 12 weeks school holidays a year while parents working full-time have four weeks: 12 into 4 won't go!

One woman said she took leave without pay during school holidays. Her hourly rate of pay forgone was far lower than the hourly rate of vacation care.

Another said she and her husband alternated their recreation leave entitlements to cover school holidays. This meant that the family could not share vacation time together.

In addition to normal vacation care costs, there was a range of school holiday programs and activities. These were very expensive and the hours were often not suitable for parents working standard hours.

Women spoke of the fatigue of children, who needed school holidays to rest or recuperate from the school term.

Discussion

ERA, eS4W and NFAW have previously commissioned from NATSEM some analysis of the possible models for financing child care which could be derived from the Henry Report.

We have now commissioned additional work which we will provide to the Tax Forum.

There is a dire need for greater simplicity in calculating entitlements to child care fee relief. Women felt strongly about the benefits of accessing fee relief at the time when payments needed to be made to service providers, rather than in a reconciliation at year's end through taxation.

There were complaints about the administrative rigidity at Centrelink around the cut-off date for nominating whether benefits could be paid direct to the child care provider, rather than coming to the parent.

Women were very concerned about quality issues, as well as about the low incomes of the (mainly women) staff working in the child care industry. At least one group (Ashfield) thought that CCB should cover the entire costs of child care.

There were some pressures for tax deductibility of child care costs. For most women who fall into the 30 to 40 per cent tax rate, the 50 per cent rebate is actually more than they would get as a tax deduction. Unless the parent is running up against the cap of \$7,500 per child, a parent could be out

of pocket by rather more dollars if the rebate were to be replaced by a tax deduction: this is not well understood. Given the costs of child care in some cities are now around \$80 per day, we see merit in increasing the threshold.

The question of Government subsidy for personal child care, or a nanny, has also been raised. We will address this in more detail in submissions to the Tax Forum, but in principle consider that subject to guarantees of suitable occupational health and safety provisions, of appropriate industrial conditions, and appropriate minimum skills levels, the policy could allow for such subsidy, subject to the same caps.

There are persistent reports from these and previous consultations of difficulties in accessing appropriate care, and in problems surrounding quality care out of school hours (OSHC) and during vacations for school age children. The difficulty of finding appropriate vacation and out of school hours care for children with a disability is a major concern for working parents.

The women's organisations consider that there is scope for early reforms to such care provisions. School vacation programs should be funded on an annual basis so that parents can secure a place for the entire year. Service providers should act as brokers so that older children in particular can access different programs which meet their particular interests (e.g. music, science, sport) but which are not able because of the length of the program each day to meet registration standards as a child care service.

We are not convinced that all such programs should be based at the same school facility that children attend during term. Some refreshing variety should be available to maintain the interest of school age children. However, there is merit in schools themselves playing a significant role in the organisation of OSHC and vacation programs, not least given the significant physical and personnel resources existing in schools systems.

Our final consultation at The Ashfield Infants Home (TAIH) was with management, staff and users of the child care services provided by the long established (1892) provider of services for children and families. This gave us valuable opportunity to hone-in on some of the child care topics raised in previous consultations. TAIH is a public benevolent institution, and as such is able to salary-package for employees, using Fringe Benefit Tax (FBT) provisions. It was drawn to our attention that without the use of FBT, they would have great difficulty attracting staff, as many other providers (local governments, pre-schools) pay higher salaries. The impact of high Sydney housing prices is a problem. We learned that the cost of housing in the mid-Western suburbs now meant that Family Day Care providers were no longer generally available in the area, although they had once been. Rents were pushing these home-care providers out into the Western suburbs.

The management drew attention to the fact that full-day care for under school age children is comparable in weekly cost to private school fees, and that access to appropriate subsidies is essential for working mothers. There was support for simplification and clarification of the method or providing subsidy, and strong support for the provision of frequent payments direct to the service. One mother said that since the change she was no longer in arrears with her fees. On the other hand, management wanted the payments from Centrelink to be in advance, rather than in arrears, given how tight the budgetary position is for service providers of high quality care.

Housing affordability

These are the voices of women from Albury. They resonate with the comments from Toowoomba, and from the capital cities. Housing affordability is clearly a very significant issue.

I think a lot of the women (coming into my shop saying they need to go back to work) it's not just housing, it's also the cost of living. Groceries and nappies and formula can cost \$300 a week. My wage each week from the shop just goes to groceries. So my husband has to support the rest of it. That's the reason why I went back to work, and I think a lot of other women too.

I was just talking to a woman who's about to have three children under five. If she had to put them in child care to work, it would be unaffordable, all her wage would go to child care. And she can't get a part-time job now, because she's pregnant, she won't get a job anywhere. It's discouraging for them to go out and get a job, especially if they're unskilled, it's easier to just get the dole and keep the kids at home than send them to child care.

Well her problem is she hasn't been working, she wasn't working in the last ten months. So there's nothing for her. If I was on paid parental leave, I'd still have to go straight back to work. It's the cost of living in general – housing, food, groceries, cost of electricity, just heating your home is ridiculous.

Single older women, if they have part-time income, are just outside the Centrelink test for rental assistance. They just aren't entitled to any other reductions or concessions and they're really impacted. That impacts a lot on single women because they get no concessions on anything, but they can't get any more work.

A woman in her fifties on Newstart Allowance got a part-time job, so because she earned enough income her public housing rent went sky high and she only got \$10 from working. It's when women are on the cusp of being better off, they have to ask am I better off working, or not trying? She ended up having to get food vouchers.

When I first moved here my husband wasn't working, I got Parenting Payment. And it was only for one payment, but it gave me 12 weeks of higher Child Care Benefit and Family Tax Benefit. It would be better for women on Newstart Allowance to have that kind of leeway for when things change.

The housing market is very tight here. Very few vacancies. And the real estate agents know it, and they treat you accordingly. I had owned my own home for a while, and before that the rental market was the other way around. You used to put in a bid for a lower amount and see if they accepted it, and now it's the other way around and I was amazed that I had to bid against thirty other people in Sydney. And it's exactly the same here in Albury, there's ten other people there at the same time and it's whoever is the highest bidder. They don't look at what kind of person you are, they just look at whoever can pay the highest amount.

I call a lot of the women now working-class poor. They're doing all the right things, but they're hammered by the different systems.

Some of the women in other consultations suggested that the current trends in homelessness for ageing women were directly linked to their lack of engagement in the workforce and lack of any superannuation. The observations from The Ashfield Infants' Home participants also stressed the desperate position of women in the rental market, and their view that they have no chance of saving for superannuation, paying weekly bills, and managing a mortgage.

One participant acknowledged that many women in marital breakups found themselves with neither a home nor superannuation at 50 years of age. One woman commented that many people take their superannuation early and use it to pay off a mortgage. (Note however that this seems to reflect a misunderstanding of the law – perhaps the issue is whether individuals at retirement take a lump sum instead of an income stream and use it to pay off the mortgage. On the other hand, where there is a situation of major stress it is possible for Funds to agree to a drawing down on superannuation balances.)

Another participant suggested that marital status often had a direct effect on superannuation savings with women who were often unequal partners to their spouses.

Banks remained reluctant to lend money to single women, especially those who were self-employed.

Participants believed that this information reinforced the need for young women to have a fuller understanding of the issues.

Discussion

The National Housing Supply Council's *Second state of supply report (2010)*¹⁴ found that:

- underlying demand grew by an estimated 205,900 households in 2008–09 (which was much higher than the Council projected in its first *State of Supply Report*)
- net additional housing supply grew by an estimated 127,100 occupied dwellings over the same period
- the gap between demand and supply increased from 99,500 dwellings at June 2008 to 178,400 dwellings at June 2009
- although state and territory data on land supply indicate scope for an additional 176,000 dwellings a year in 2009–10 and 2010–11, recent experience suggests that fewer dwellings will actually be built
- the global financial crisis has had a significant effect on residential development in 2008–09, and will continue to impact on dwelling completions in the next few years
- the federal government's and state governments' responses, including major investment in social housing and the First Home Owners Boost, continue to mitigate some of this impact
- the medium projection of underlying demand is 3.2 million additional households in the twenty years to 2029
- this level of growth would require 160,000 net additional occupied dwellings a year (or gross production of over 180,000 dwellings a year)
- ageing of the population is also affecting housing demand – households with residents aged over 65 years are projected to double from 1.6 million to 3.2 million households over the next two decades, indicating the increased demand for dwelling types better suited to the needs of older people
- increased housing supply (including within existing urban areas) would be assisted by reform of planning governance, clarity and consistency in the basis for developer charges, and mechanisms to ensure the implementation of urban strategic plans, including the delivery of infrastructure.¹⁵

¹⁴ NHSC, 'State of Supply Report 2010' (National Housing Supply Council, 2010)

<http://www.nhsc.org.au/state_of_supply/2009_ssr_rpt/stateofsupplyreport_2010.pdf>

¹⁵ Above <http://www.nhsc.org.au/state_of_supply/2009_ssr_rpt/sosr_keys_finding.html>

We consider there is demonstrable need for further Commonwealth attention to supply side policies, whilst noting that the existing Commonwealth Rent Assistance program is not pitched at adequate levels, and could usefully be reviewed.

There is consensus that housing affordability is a major issue nationally, both in the regions and in capital cities. Home ownership is essentially dependent on two incomes, and difficult to manage for sole parents or single women. There is a shortage of affordable housing for purchase. There is a shortage of affordable housing for rental.

The Commonwealth ought to develop new policies to promote private investment in affordable housing, through vehicles such as the National Rental Affordability Scheme. The Defence Housing Authority offers an interesting example of a Commonwealth authority with capacity to develop and maintain housing stock and attract private investment for this purpose.

Changes to the taxation treatment of housing investment are merited. NFAW and ERA with eS4W has commissioned from The Australia Institute a discussion paper on possible tax changes to stimulate investment in affordable rental housing, building on earlier work by these women's organisations on housing affordability.

Access to retraining and education

The following notes reflect the voices of women from Toowoomba.

There was general agreement that there needed to be more women participating in the labour market. This was seen as beneficial not only to the individual woman but also to the community as a whole.

There was a view that the government needed to make this a top priority particularly to raise productivity.

Many cited cases where the cost of child care was prohibitive.

Others suggested that a tax incentive should be available to employers who were willing to retrain and employ older (45 years+) staff.

One participant, who was an employer, fully staffed her company with flexible part-time workers but she said she was an exception. However, she had virtually no absenteeism and her productivity levels were very high. However, she had found, and this was supported by others, that there was resistance by male employers to part-time workers.

The prevailing view of all the women was that there were deeply held discriminatory views against employing women who might become pregnant. One participant noted that: *There is a resistance to employ women, young and old.*

Despite the government program for retraining adult people in apprenticeships¹⁶, there seemed little knowledge of the program and the women argued that apprenticeships were still thought of as

¹⁶ http://www.australianapprenticeships.gov.au/Info_Aus_Apps/Support.asp

being for young people. This further reinforced views that for older women there were few channels for retraining.

Another participant also pointed out that women were further disadvantaged in the job market because skills acquired through child rearing were not considered relevant or recognised by most employers.

A further disincentive to women's attempts to retrain was seen as the cost of retraining. Many women cited cases where women, particularly those who had experienced divorce, found they were unable to up skill by leaving a poorly paid, low-skilled job to retrain as they were unable to forego the income for the duration of the training. Women suggested there needed to be government support for such women to retrain if they were to achieve economic independence and reach their full potential.

A specific discussion of this issue was provided by Women in Vocational Education (WAVE) and eS4W. The full document is at Appendix 1, but the following quote from it is a key point:

To improve women's workforce participation, changes in career counselling and advice, from schools through to adulthood and mature age workers, labour market and VET related policies are required urgently to ensure they are all gender sensitive as a matter of course. Accessible sex disaggregated data published regularly is required urgently (and long overdue). Also required is a broad based societal and corporate cultural shift in gender stereotyping: the expectations and roles of women and men, and especially what comprises 'women's work' (and why). The above all encompass issues around the economics of care work, 'family friendly' workplaces and practices, comparable worth, and equal pay along with breaking down old stereotypes of what is women's work, what is men's work - how such work is valued financially and in career terms.

Discussion

While the Commonwealth has introduced many initiatives to encourage re-skilling adults, it is clear that for many women these remain unknown. Unless women are directly in the social security system and in receipt of income support payments they may never be in contact with Job Services agencies or with Centrelink.

The WAVE-eS4W comments and suggestions are worthy of further consideration by Government.

More innovative information distribution is required. Women who are formally caring for adults or children in the home ought to be a target to enable them to plan for their futures. The Carer's Association¹⁷ was suggested as a means of disseminating information.

Private enterprise recruiting firms could also be another means of promoting information about re-training more efficiently.

Information about tax and transfer systems

These notes reflect the voices from Brisbane.

There was general agreement that women found the tax and transfer system confusing, difficult, bureaucratic and not for the average person. However one participant did concede that those who were best able to use it were those who had experience of Centrelink and understood the processes.

¹⁷ <http://www.carersaustralia.com.au/>

Some participants suggested that the way the deductions worked sent a mixed message to women considering re-entering the workforce.

Participants raised questions around the fluctuations of income and its impact on Family Tax Benefit (FTB) payments. (FTB is paid under an estimate of annual income). They suggested there was the need for a public contact number to ensure that any changes could be made quickly rather than the longer process it often becomes. Women in rural areas and those with part-time jobs seemed to be particularly disadvantaged.

However, yet again, there was an acknowledgement of the need for clear and precise information.

Discussion

There is ample evidence of the difficulty many people have in calculating entitlements to FTB A and B, and adding in calculations about entitlement to assistance with the cost of child care.

There exists a mixture of measures which together produce disincentives to workforce attachment which might be desired by a second income earner, even if not conceptualised as 'effective marginal tax rates'.

We see scope for making these decisions much simpler, and will examine further in discussion with NATSEM and others the potential for consolidation of FTB into one payment as recommended by the Henry Report, and for the introduction of some form of working tax credits to assist lower income earners with their initial re-entry to the workforce.

Another issue raised was the difficult interaction between eligibility for FTB and payment of child support after separation or divorce. Women reported having FTB reduced because child support was awarded, but finding that the other partner was not making the payments, or making them only intermittently. One woman said she preferred not to have child support payments in preference to difficult interactions with Centrelink around this issue.

An eS4W contributor added this comment:

Actually I do have quite strong views on some of this and it certainly impacts my profession (Law) as I am finding very very talented young women not rejoining the work environment after many years home with the kids mainly because of the loss of family tax benefits

Other approaches to increasing women's workforce participation

It is worthwhile at this juncture to restate the conclusions in the 2009 Goldman Sachs JB Were, *Australia's hidden resource: the economic case for increasing female participation*¹⁸, on increasing female work-force attachment as well as productivity:

Governments could do much more to close the male-female employment gap including:

- i. Incentivising females at higher levels of education to move into courses and career paths beyond education, training, health and social services.

¹⁸ Tim Toohey, David Colosimo and Andrew Boak, 'Australia's Hidden Resource: The Economic Case For Increasing Female Participation' (Goldman Sachs JBWere Investment Research, 2009) <http://www.eowa.gov.au/Pay_Equity/Files/Australias_hidden_resource.pdf>

- ii. Incentivising employers to keep links with female employees who have left work on parental leave. For instance, topping up the new parental payment for undertaking employer sanctioned training.
- iii. Incentivising females to return to the workforce after child birth. Child care, flexible working hours, retraining programs are all important in this regard. Reducing direct child subsidies for those outside of the workforce could be used to fund these initiatives since these payments discourage female labour supply.
- iv. Funding educational programs within schools to break stereotypes of females choosing low pay, low hours, clerical or social service roles. Funding education programs in the workplace targeting discrimination, pay equality and reluctance to use flexible working entitlements.
- v. Provide a timetable for increased female participation in Australia's top 200 boards and executive teams with a minimum quota of 2 female positions per board and an audit on female representation at the executive level. We believe not only that better decisions may be reached but that the second round impacts on mentoring and visibility of females would encourage a lift in female participation in general and a more even distribution of females across the workforce.

Progress in this area would both significantly boost potential economic growth and help to solve the looming fiscal burden of the ageing problem.

There are echoes of these comments in the WAVE-eS4W documents in Appendix 1 (and its associated attachment) to this report. Some of these strategies have been identified already on numerous occasions, and a systematic approach by Government would be beneficial.

An interesting electronic comment came from one of the ERA young women's group:

I think this question has many layers to it; as mentioned in the description below the question [in the Background Report], many students are forced to enter the workplace in order to merely support themselves in their studies. This can often lead to large numbers of students getting jobs part-time in areas of work completely unrelated to their area of study or chosen career path under pursuit. One might wonder how students can be encouraged to enter fields of work more coherent with their fields of study, in order that experiences gained in action would actually complement the study being undertaken. Personally, I have never had a paying job, and am more engaged in areas of volunteer work and service. These opportunities have been afforded to me by two very supportive parents, however, more recently I've started to feel the pull of a desire for independence which in the previous 20 years of my life wasn't very strong at all. The desire to become more self-supporting and independent, I've come to realise, is also a very strong motivating factor in the choices of women (and, by the same token, men) to work. A conversation with a lady from Tonga furthered my understanding of this concept of independence, as she shared that in her culture, independence is a state of being more than as a result of what one is doing, or the money one is making. I wonder then if the issues surrounding the social constructs that provide us with our understanding of what independence is, such as the media and even the education system, lead us to find work as a means to an ends of getting paid and becoming independent. I wonder how different our approach to work would be if we saw it as a means to a different end, such as to serve humanity and contribute to the betterment of our society.

Another eS4W contributor made the following comments and recommendations:

Data needs

Firstly for government at all levels to recognise, monitor and measure the participation rates of women participating in small business as business-owners. The latest statistics from the Australian Bureau of Statistics (ABS) as at June 2004 show the following:

- *There are over 2 million small businesses in Australia.*
- *Women own 585,000 of the 2 million small businesses in Australia.*
- *The average age of women running these businesses are aged between 30–50 years (prime years for caring responsibilities – children, disabled and elderly).*
- *46 per cent of women run their businesses from home. There are over 780,000 home-based businesses in Australia. NSW is the only state with a dedicated program to recognise and support micro businesses.*
- *94 per cent of Australian businesses turn over less than AUD\$2 million dollars annually.*
- *65 per cent work between 35–50 hours per week. 30 per cent work between 51–75 hours per week.*

There does not appear to be any accessible data on the number of Australian women who are forced to enter entrepreneurship at pre-retirement and retirement ages, given limitations in the Australian job market as an employee. The International Women's Federation of Commerce and Industry (IWFCI) is keen and available to work with government departments and universities on such a research area.

Access to capital

It should also be noted that Australia has an under-developed venture capital environment, compared to its trading partners including the USA, Canada, the United Kingdom and South Africa. Venture capital is often a vital and sometimes the only source of funding outside of personal savings to establish and grow a business. Post the global financial crisis (GFC), Australia's banks have tightened lending practices and in several cases have increased the cost of business banking.

Global trends

Compared to Australia's trading partners from the developed world, Australia lags behind its identification and support of women as business owners. Other economies such as Taiwan, USA, Canada and the United Kingdom have dedicated government resources focused on women in business. For example, Taiwan has long had in place dedicated small business incubator centres for female start-up businesses.

New Zealand seems to be the only nearest economy that approved the establishment of the first 24 hour child care centre in Auckland, five years ago. This centre was specifically set up in recognition of the changing work patterns for many working parents including shift-work; exporting work and business related travel. To the author's knowledge, Australia has no such equivalent centre/centres.

For parents with non-traditional working hours, engaging a nanny is comparatively more expensive and attracts very little government subsidy (child care rebate) compared to child care offered normally at daytime (Monday to Friday).

In the United Kingdom, a child care voucher system is used. Some employers provide their staff with child care vouchers as part of their benefits package to assist them financially. The first 55 pounds a week is free from both tax and national insurance if the qualifying

conditions are met. Such an option could prove attractive to Australian employers and business owners who do not have the capacity to offer an onsite child care facility.

The British Government offers a range of support to encourage and strengthen the participation rate of women in entrepreneurship. This includes its 'Business Small Loans for Women' scheme.

Suggested recommendations

- Resources are redirected to the ABS and the Australian Securities and Investments Commission (ASIC) to work together in the annual identification and measurement of gender at the registration and re-registration stages of a business.*
- The Commonwealth Office for Women together with the Commonwealth Department of Innovation, Industry, Science & Research (DIISR) work with women business owners and organisations such as IWFCI and APEC Women's Leaders in tailored research and support for this demographic – women business owners.*
- That DIISR work with the business community and women's groups to encourage the exploration of venture capital / business angel programs.*
- That the child care rebate is extended to nannies and family day care that covers non-traditional working hours (Monday to Friday – 8am – 6pm) to allow greater choice of employment for families.*
- That the tax incentives afforded to big business to have onsite child care facilities be extended to other size businesses and that a voucher scheme is also considered.*

CONCLUSION: PART 1.

The process of seeking views has produced a range of suggestions for change from some women, not all of which reflect a complete understanding of current provisions, and some of which may have been based in part on 'old' experiences, rather than the current legal framework relating to Family Law, or Superannuation regulation or the Tax Act, for example. We have chosen in this part of our report to reflect those views, however, and did not seek to argue any particular proposition during consultations.

At the time of the consultations the Government had just announced significant imminent changes to taxation and transfers as part of the Clean Energy Future initiative.¹⁹ These provisions include measures to increase the tax free threshold and for many will remove the need to lodge a tax return, along with other increases in transfer payments. These changes will produce a significant improvement of the current disincentives for lower earning women. However, the details of these policy proposals were not well known or understood.

The following technical report from the project addresses in detail some of the issues surrounding tax and transfers, superannuation and child care and makes recommendations for Government.

In addition, our engagement in the Tax Forum will enable us to make these and some additional direct proposals for change.

Overall we have found that there is a clear need for greatly improved communication of current Government policy and programs, alongside the need for some policy and program changes.

¹⁹ <http://www.cleanenergyfuture.gov.au>

TASMANIAN WOMEN'S VOICES

Tasmanian comments on the first draft of this report and the discussion paper.

In regards to women's participation in the workforce in general, I believe that there are numerous factors which are influencing this and that individual circumstances and women's personal experiences certainly need to be considered. Consulting women and allowing for women's voices to be heard, as has been done for this report, may highlight the complexity of women's decision making around work in particular. Despite this complexity and the numerous different influences, however, recent research in Australia indicates that balancing children, relationships and work have a powerful impact on women's decision making around participation in the labour market. On a personal level, this is certainly the most significant influence on my decisions around work today and it has also been in the past. Being a good mother and giving our children the time they deserve is the most important thing for me, however, in saying this, to be a good mother, I also felt that I needed to work. So, how do women find that balance? For me it has been about part-time work, flexible work hours and having access to high standard child care services.

Up until we had our first child 9 and a half years ago, I had worked in a range of full-time permanent positions some of these being management positions. Balancing motherhood with relationships and work for me has meant not returning to the workforce on a full-time basis since having children and not returning to a management level position, as these positions typically require a full-time commitment and are lacking in flexibility.

Child care costs and standards of care were important considerations for us and they played a key part in whether or not I worked. There were times when I actually went to work and the income from this paid the child care fees, but we knew that if I didn't re-enter into the workforce that it may be more difficult to find work later and financially we could not afford for that to happen. Having more flexible workplaces that allowed my work hours to be contained to school hours and evenings helped me as the children started their primary schooling. In saying this, vacation care and after school care costs now play a big part in my decision making around work, even though these costs are lower than they have been for us in the past.

18 months ago I was successful in securing a tax free scholarship for 3 years to engage in further studies at university. This means that our joint income is still around the same amount as it has been in the past, however, the taxable amount is much lower. This, in effect, means that our after school care and vacation care costs are lower and our family allowance payments from Centrelink are substantially higher than in previous years. This is a big win for us on many levels. Perhaps we could advocate the advantages of tax-free scholarships to women all around Australia!

One other factor that has been very influential on my participation in the workforce has actually been my educational qualifications. Having a bachelor degree was definitely behind my success in securing a flexible, part-time position doing something I enjoyed on returning to work after having children. I believe that participation in higher education is important for all, but may be especially important for women if they are to have more choices in general and if they are to successfully balance family life and work life.

I don't know what to say about the balance between protection from poverty and incentives to work. This is a difficult question. Perhaps there needs to be some considerations around how to encourage women to engage in education if they require further training or skills and greater incentives for this. I see education as the stepping stone to increased workforce participation and a means of combating social exclusion.

As for superannuation, this has been something that I have given very little thought to over the last few years as other things have seemed more important – such as house payments, everyday living expenses and so forth. My husband, on the other hand, continually adds to his superannuation – which he calls 'our superannuation' and I am happy with this arrangement. In some ways, however, I see more sense in making additional payments on our home loan than putting more into superannuation.

So, concluding thoughts I guess on policy considerations:

- *Child Care Policies – what incentive is there for women to return to work or education/training when a large part of their income pays the child care bill? Something needs to be done here – tax breaks, child care allowance increases, lower child care costs etc etc*
- *Workplace Policies – there is definitely a need for policies around flexibility and equal pay*
- *Education Policies – there is a need for incentives to participate in higher education, to re-engage in training and education following children and and and!*

From another University teacher:

Here are the general comments I have: What I have read in the report seems to make sense in terms of the discussion points. I do agree with it. I am happy that it has been recognised that there is an information gap for those who are not on Centrelink but do not have significant incomes (perhaps advertising??). Further, many women miss out regarding super because of staying at home looking after children (I know I have!).

WOMEN'S VOICES ON-LINE

Summary of on-line responses.

<i>What is your understanding of your superannuation?</i>		
	Per cent	Count
I have no superannuation	0.0%	0
I have no understanding of my Superannuation	6.7%	1
I have some understanding of my superannuation	53.3%	8
I have a thorough understanding of my superannuation	40.0%	6
Answered question		15
Skipped question		06

<i>What is superannuation's relative importance compared with home ownership, savings and assets, having a disposable income?</i>		
	Per cent	Count
My superannuation has low priority	20.0%	3
My superannuation has mid priority	80.0%	12
My superannuation is my highest priority	0.0%	0
answered question		15
skipped question		9

<i>If you feel disengaged from your superannuation, what would assist you to feel more engaged?</i>		
	Per cent	Count
More information about my superannuation	23.1%	3
Continual lifetime contributions	30.8%	4
Increased percentage paid by employer	53.8%	7
A simpler superannuation system that I can understand	53.8%	7
Other (please specify) 4		
answered question		13
skipped question		2

Q1. How should we strike a balance between protection against poverty and maintaining the incentive to work?

1. Women who are looking for paid work are doing so because they want to, not because there is a threat of income support payments being taken away. Research on single mothers shows this, and I think for married women it's the same – if we're in paid work, it's because we find it rewarding and enjoyable, or we have financial needs that can't be met with income support payments alone. Perhaps government should worry less about income support payments as an incentive to work, and more about productivity on a national level, or valuing the role of carers in our community (especially unpaid carers), or the gaps in the safety net of income support that force some people to take on exploitative work (like sewing outworkers, or cash-in-hand jobs with no safety conditions).

2. Protection against poverty is a difficult thing. There are some people who are slipping through the cracks in our welfare system, and we need to fix that. But the incentive to work isn't coming from a motivation to avoid poverty. It's coming from a consumer culture that says a person is only as valuable as the commodities they can afford to buy. If we're looking at national productivity, we need to get the financially comfortable women, with high education levels, in the middle and upper classes back into the paid workforce too. Avoiding poverty isn't a motivator for those women, buying into consumer culture and having enjoyable work is their driving motivation.
3. There is little evidence to suggest that punitive measures to compel women to work are effective. For women experiencing domestic violence, financial autonomy is critical to establishing a life free of violence. Initiatives to support women leaving violent relationships to access education and work should be given higher priority in public policy, as should debt relief and financial counselling/mentoring programs.
4. Affordable child care. Affordable housing. Prevention of violence against women which makes them poor and causes barriers to workforce participation. Need family friendly conditions. Gendered work/women's work should be better remunerated ie pay equity case.
5. More funding to reduce child care costs so that it makes work more financially worthwhile.
6. Some factory workers and labourers are paid better than more highly stressed jobs – ie: community sector leaders/managers/workers, etc; and yet women generally don't aim for the factory worker jobs or labourers therefore community sector work – where the majority of staff are women must be given pay equity with other sectors – for instance government workers doing similar (but not as stressful) jobs!!
7. Remunerate work in the welfare sector appropriately, recognise that it is highly skilled, can be very stressful and carries high levels of responsibility. If remunerated appropriately, it would be possible to work part time and still have time for family commitments.
8. Currently income testing for people on pensions and benefits is too restrictive. I have a family member who is trying very hard to get part-time work that she can manage with her disability/chronic illness. However, the amount she 'loses' in Centrelink payment deductions is considerable when she earns above the fortnightly limit. Not only does she pay tax for the part time earnings, but she is slugged a further amount off her pension for amounts above the limit. In effect the amount Centrelink deducts is around 50 per cent – which if applied to normal earnings would cause outrage. Plus the cumulative effect of losing health care card entitlements etc.
9. Maintaining incentives to work do not mean that Government has to take the 'tough on welfare recipients' approach as this further compounds disadvantage and does not genuinely motivate people to enter the workforce. Protection against poverty should be the highest priority as we are a wealthy nation.
10. Single mothers fewer penalties for working. For me, work has always been an incentive of itself – it provides social interaction, daily structure, challenges etc. So, I am not sure that maintaining the incentive to work protects against poverty – this is consistent with the stories of many single mothers, and women with disabilities, who would love to work or maybe have part time work, but the work that they are able to get doesn't pay the bills. I think, but don't know, that

protecting against poverty has more to do with making workplaces more flexible (family care at the workplace, actively considering the disabled as members of the workforce). If the question is aimed at Social Security vs a wage, I would be interested to see what research has been done about the results of quarantining a proportion of social security for training and a decent diet – both seem so necessary to informing people of what opportunities exist in the workforce, obtaining the means to participate, and having the energy to do so.

11. Don't pay people to have children!!! A) the planet is overpopulated, b) the carbon tax would not be needed if people didn't have so many kids, c) It is unbelievable, gross and overt discrimination to PAY some people to make the LIFESTYLE choice to have kids. It is a CHOICE, not a RIGHT.
12. Tax wealth, not income, or at least strike a better balance. I've invested 10 years of my life into higher education by getting 3 post graduate degrees. That means I have lost 10 years of income-earning potential. I'm now highly skilled, but I've lost out in the house-bubble game because I invested in education and not property. Now that I can finally recoup my investment and earn a high salary, I find it all being progressively taxed away. There is more incentive to stay low-skilled in this country and buy negatively-g geared property, than there is to invest in your own skill sets through education. Little wonder that there is a skill shortage. If taxes increases further, I will leave the country because now I am employable anywhere.
13. I think child care needs to be more heavily subsidised for workers to make it a really viable and attractive option for women to work. Many women I know pay the major portion of their wage in child care fees.

Q2. What are the most important issues affecting your choices about your workforce participation and having a paid job?

1. I really enjoy my career and feel like I am a more sane and happy person when I can have some paid work as well as being a parent. I am miserable when I'm home full time as a parent.
2. I like having some income that is not dependent on my partner. Just so I don't feel like my marriage is a contract that provides for my housing security.
3. I would work more days per week, but full time child care doesn't work for my kids. They need some time at home with a parent, away from the stimulation of the school/care environment, and the older kids need to do homework which doesn't happen at after school care. As I'm the lower income earner, I am the one to do the reduced hours in paid work.
4. I'm trying to balance paid work in a career I really love with domestic responsibilities. I appreciate being able to have the right to be in paid work, but frankly if I don't deal with the kids and the housework, who else is going to do it? Child care isn't the simple answer people think it is. Someone has to be there to help the big kids with homework (after school care doesn't do homework supervision), help them solve the usual problems kids have with growing up, look after the babies who can't cope mentally with more than a few days a week in child care centres, keep the vermin from taking over the house, cook healthy food for everyone, wash clothes etc. I don't need a day-care centre, I need a wife. A good old fashioned 1950s wife who will do all the tedious stuff nobody wants to help me with, and not complain that she's not appreciated or paid for it. Having both parents work part time means we don't need more than a couple of days

child care. But my husband does bugger all housework on his day with the kids. Which means more work for me when I get home.

5. Flexible working arrangements to allow for a balance between work and family responsibilities. Child care, including availability of before and after school care. Work satisfaction. Good remuneration for what I put in. Flexibility. Autonomy. Career progression contributing to society enjoying my job -pay rates – although have taken a lesser paid job, to reduce stress and level of responsibility – location – leading to retirement.
6. Utilising my potential and using my skills in an effective way: money: enjoying a lifestyle where I have choices about how I spend my time; being part of the world where I can make a difference.
7. Being responsible for a child with special needs requires a certain income to support her adequately.
8. Impacts on Centrelink benefits.
9. Economic security for my family, access to quality child care. The type of employment matters as well as it needs to have some value to the community.
10. Sharing of domestic and child care responsibilities.
11. Challenge, respect, flexibility, pay.
12. I have absolutely no choice. I am not married, so I don't get PAID to stay home and watch Oprah. I don't have a paid wife at home to do half the work so I am at an extreme disadvantage to all those males who get paid to have a wife at home!!
13. Work-life balance. Being able to afford a home. Challenging work.
14. I like the balance and variety being in the workforce provides me with. It makes me a better person, and a better mother.

Q3. What is your understanding of 'effective marginal tax rates'?

1. I understand but take very little notice, child care costs are a much bigger concern. I don't have the headspace to deal with everything that's going on, so I deal with what's in front of me. Which are child care bills, worries about my future financial security if we're not investing wisely now, and having enough to pay the bills now.
2. That the lower income workers effectively pay a lower percentage of their income in tax. The problem is that when you're the second income earner, you may pay less income tax, but you lose Family Tax Benefit by being in paid work. So unless you're going to earn quite a decent salary by being in part time work, it's not worth losing the Family Tax Benefit.
3. The balance between income tax and tax offsets such as FTB etc...
4. There are various tax brackets, as your salary increases you pay more tax.
5. Don't know.

6. The more I earn, the less benefits I receive from the state.
7. Not sure – is it the highest tax rate payable???
8. Very little.
9. None.
10. That there are levels of earnings below which the earner is not required to pay tax.
11. That the harder you work, the more you are penalised. If you are single, you will get ABSOLUTELY NOTHING. If you are lucky enough to be married, or even more, have the choice to have kids, you will get paid all sorts of subsidies, tax cuts, days off work, (while those of us who have no families have to stay back and pick up the tab for your lifestyle choice). So, if you have a husband and a family to help you, you get lots of help. If you have NO family, you are completely alone, you get absolutely NOTHING. You are a forgotten member of society and just have to work twice as hard to be able to pay for help to do even everyday things in life. It's astonishing DISCRIMINATION.
12. The net, effective tax, when hidden taxes and welfare payments are taken into account.
13. I don't understand the term at all.

Q4. What are actions that you think the Government could take to increase women's workforce participation?

1. Make quality child care more accessible and affordable for ALL women. I had to quit a job with a \$100K salary when I had my third baby. Even though I would have earned a small amount after paying tax and child care and super, I couldn't get care in a long day care centre for three children on the same day (not much of a gap between my babies). I suppose I should be thankful that I was able to work after the first and second babies, if I'd been in a low-paid job it wouldn't have been financially worth it. I'm back in the workforce now that my older two are in school, but I mostly work for the privilege of working (after paying child care and after school care). If my work didn't give me a feeling of fulfilment, I wouldn't bother at all. I do love having a toilet break with the bathroom door shut, or having lunch with other people who don't eat with their hands, but there needs to be more than just that to motivate me to work. Not all jobs are as interesting as what I'm doing, so reducing child care costs is important if money is supposed to be the motivator (eg for low-paid jobs like retail and hospitality).

Community attitudes to my fertility and workforce participation really give me the shits. Everyone tells me what I should do, as if their opinion is somehow more valid than mine. Especially the assumption that I should be the one to make all these compromises. I earned more than my partner – who had no parental leave rights when our babies were born – when we started having kids, but after three years out of paid work, I might never again earn that kind of money. Just make sure there is plenty of child care available, and that there is one simple to understand child care subsidy that makes it easy for all women to go back to work – whether they've got one baby on a low income, or lots of kids on a higher income – and women will work.

2. Increase men's sense of responsibility for domestic work and show some appreciation for the caring role that women fulfil in our society. If I stay at home to look after the kids full time, I'm

not contributing to the household income and that's bad. If I work to earn income, I cause our family to have a child care bill that wipes out most of my income from work, and that's bad too. Plus if I work, nobody else cleans up the house or attends to the kids needs. No matter what I choose to do with my time, somebody is going to be annoyed with me. Unless men start taking genuine responsibility for the dirty jobs like washing dishes, wiping bums, picking up toys etc and don't expect to be elevated to god-like status for it, women won't have the time to do more paid work. So stop expecting us to contribute to the national economy without getting more support at home.

3. Improve quantity and quality of child care. Pre-school education (in my LGA only 50% of pre-school aged children can get a place in 4-year old kinder). NES provisions are great for promoting flexible working arrangements – but are the incentives for employers to provide flexibility strong enough? Family violence provisions in enterprise agreements and employee awards extended to the Fair Work Act. Promote responsibility of men in caring for children, tending to domestic sphere etc...
4. Bring back Affirmative Action. Pay the pay equity case. Do more to eliminate violence against women. Do more to break down gender roles and women's double/triple burden of voluntary caring work and household/child care work.
5. Increased funding to reduce child care costs for working women or larger rebates at the end of the tax year if you are a working mother. Reducing payments for non-working parents with children over a certain age to encourage them into the workforce (I believe this is already happening i.e. they need to work x hours to receive their child payments – I think this is a great step in the right direction). I know women that don't return to work as they are too lazy and because it will reduce the government benefits that they will receive. I don't agree with this – they shouldn't be relying on the government like this.
6. Pay equity, and parity with government workers – for general workforce.
7. Pay jobs that women are more likely to be attracted to at a decent rate! Support part time work opportunities with support for families.
8. Increased training and study subsidies and incentives – low cost child care options – relaxing the Centrelink income restrictions – perhaps the amount you can earn should be higher at first to help establish workforce patterns and build financial equity, then taper off whilst your workforce capacity increases with the potential to earn more etc.
9. Paid parental leave is a good start.
10. Support fathers to reduce hours and participate in child care and domestic care.
11. Leading by example in creating workplaces that display flexibility and respect; to make it a condition of tender that private employers seeking to do government work show that they have the same standards of flexibility and respect within the workplace (that is – show that it happens without discrimination, not just that the policies are in place).
12. A) Stop actively discriminating against those who are Single, and/or have no family to support them and/or do not have the LIFESTYLE choice of having as many kids as you want, despite the fact that there are millions of orphans and even more millions starving. Impose heavy fines on those who have more than one child. If they have more than 2 – they should be forced to pay to

support just as many starving people or orphans. Get the politicians to stop saying 'FAMILIES' and ignoring everyone else. We are the ones who get NOTHING.

13. A radical change in tax strategy, which still provides a safety net but is based more on wealth than income. This would be more fair on women (and people who invest in education not just houses), who often have large breaks in their working careers and are therefore unfairly tax burdened when only income is taken into consideration.
14. I'm disappointed that the studies make it seem as if women aren't valued by anyone unless they are in the workforce. I would like to see heavily subsidised child care for working parents, which I believe would provide women with more incentive, as they would be able to reap all the benefits of working –instead of receiving their pay in one hand, and paying the child care centres with the other.

Q5. If you feel disengaged from your superannuation, what would assist you to feel more engaged?

1. I have less super than my husband because he earns more and didn't take time out to have babies. A higher percentage of super being paid won't change this. But solving the equal pay problem for women, and ensuring super gets paid while women are on leave, would help a lot. Don't leave it up to men to pay our super for us voluntarily – they don't do it unless there's a tax break in it for them. On top of that, every dollar counts – paying more super might cost me my job. My husband won't let me keep my job if he thinks there's no money in it after child care and tax and super.
2. I know exactly how my superannuation works. But my balance is low because most of my working life was spent working my way up from entry level office jobs. By the time my career peaked and I was earning a high income, I'd got married and started having babies, and there goes five or six years of high super contributions while I was on maternity leave. And now I'm back in the paid workforce, but in a much lower paid job because I can't do a high paid, high responsibility job part time while caring for kids. On top of it all, my husband won't allow me to pay higher super contributions voluntarily now I'm back in paid work, and he didn't choose to contribute for me while I was out of paid work. He says it's more sensible to put all our income into the mortgage, and I understand that. But if he leaves me when I'm 50 and have saggy boobs and wrinkles, I know he won't be letting me touch his super fund in a property settlement. Which means I'm dependent on him for my long term financial security. He doesn't even think about it, but I do. I've already seen some of my friends go through this with their ex-husbands. Just because you're legally entitled to half his super in a property settlement doesn't mean you'll ask for it, especially if you're going through the trauma of divorce and there's children involved. What would help is a) making it easier to consolidate my multiple super funds b) having super contributions paid for me while I was on unpaid maternity leave c) getting my husband to understand that I don't want to be dependent on him for financial security in retirement.
3. Strategies and assistance of how you can make contributions and the difference that would make in the long term eg do I put extra cash into paying off the mortgage or do I put it into Super – what are the advantages and disadvantages?
4. Less tax on those who are single and have no one to help them – such as those who are married or have a family to support them.

PART 2: TECHNICAL REPORT AND RECOMMENDATIONS

Helen Hodgson, BBus (WAIT), GradDipBus (Business Law) (Curtin), MTax (UNSW), CPA, FTIA

EXECUTIVE SUMMARY

This report is the technical analysis of issues raised by women in the consultations undertaken by the Equality Rights Alliance and the National Foundation for Australian Women in August 2011 to establish issues of concern to women in the tax, transfer and superannuation systems; specifically in the context of workforce participation.

The consultations identified a range of issues of concern to women. Women with a stronger workplace attachment tended to accept that remaining in the workforce had benefits that outweighed the financial cost of child care and lost benefits. However women whose work experience was based on low paid, casual work showed lower levels of workplace attachment.

Within the tax transfer system women continue to identify child care as the most significant barrier to increased workforce participation. Although the overall system has improved, there are still regular reports of difficulties in accessing appropriate child care at an affordable cost. Although the changes to the child care rebate have reduced the out of pocket costs to parents, the annual \$7500 cap is seen as a significant barrier in locations where child care costs are higher. Government policy currently does not deal well with local variations in child care accessibility or costs.

The effect of work on family benefits is recognised by women. Although they do not relate to the technical term effective marginal tax rate, they well understand the reductions in benefits as work increases. However women are confused by the complexity of the system and the high withdrawal rates experienced by partnered women in low paid jobs is a factor in their workforce participation decisions. The recommendations of the Henry Report²⁰ suggest restructuring the Family Tax Benefit in a similar form to the Tax Credit system in the UK, excluding the working tax credit component. These recommendations at least partially address the two main concerns: reducing complexity and reducing the high withdrawal rate on women re-entering the workforce.

Few women in the consultations professed to understand the superannuation system. Many women expressed concern that they would not have adequate superannuation at retirement; and there was some dissatisfaction at the way in which their compulsory superannuation guarantee contributions were being managed. To this extent, our consultation showed similar findings to the Cooper Review²¹. However we note the concern, verging on fear, that women showed in relation to having enough superannuation and there is a case to be made to allow carers a catch-up mechanism if they are able to make voluntary contributions after returning to the workforce.

²⁰ Above note 1

²¹ Above note 10

Housing concerns are related to the issues of security in retirement, and the consultations confirmed many of the findings of the workshop that the Women's Alliances conducted in February 2011²². Women are overrepresented in social and affordable housing. There is also evidence that in a division of property on separation women tend to forego a share of their former partner's superannuation in exchange for the family home, which can lead to a lower income in retirement. ERA commissioned research from The Australia Institute, attached as Appendix 5 to this report, to identify changes to the tax system that would facilitate increased investment in social and affordable housing.

Some of the most significant issues of concern did not relate to the tax transfer system: specifically vocational training and workforce re-entry programs and discrimination that is still experienced by women in the workforce. We have attached a report from Women in Adult and Vocational Training (WAVE) that addresses these issues in some detail²³. ERA with NFAW endorses WAVE recommendations, based on the Agreed Conclusions from CSW55²⁴, to be incorporated in VET policy and programs to achieve substantive equality between men and women in Australia.

In relation to the issues of workplace discrimination, ERA, its predecessor WomenSpeak and its affiliated associations have worked continuously toward the elimination of workforce discrimination in all its forms. Most recently ERA has been engaging with the Attorney General's Office and with the community in relation to the current project to consolidate anti-discrimination legislation. This consolidation must be done in a way that improves and strengthens protection against gender discrimination. We have attached a submission from ERA to the Attorney General's Department²⁵ in relation to this project, and endorse the recommendations of that report.

It is of some concern that the issues raised by women in this consultation process are recurring issues that have been raised many times previously. Many of the recommendations in this report are based on previous findings. We believe that implementing these recommendations will help women to participate more fully in the workforce.

²² Equality Rights Alliance, 'Investment in Affordable and Accessible in Rental Housing: Women's Housing Security' (February 2011) <<http://www.equalityrightsalliance.org.au/projects/housing-policy-addresses-needs-women>>

²³ Attached as Appendix 1. We would like to thank WAVE for their contribution to this report

²⁴ UN Economic and Social Council Commission on the Status of Women Fifty Fifth Session, 2011

²⁵ Attached as Appendix 6.

Recommendations

1) Child care services

- a) We recommend
 - Parents using out of school care (OSCC) and vacation care services should be entitled to benefits on the same basis as approved child care services on condition that the person supervising the child(ren) holds appropriate qualifications and the daily cap should be adjusted to reflect the hours of care.
 - The Government should explore new approaches to expanding supply of services for school age children.
 - The programs offered in OSCC for older children (9–14) should be reviewed to ensure they are appropriate for the target age group.
- b) If the CCB is retained, the CCB rates should be reviewed to reflect the cost to a child care provider, less a co-contribution from parents that does not exceed 10%;
- c) Parents using child care services in the home should be entitled to benefits on the same basis as approved child care services on condition that the person caring for the child(ren) holds appropriate qualifications and immigration status, and that all relevant industrial relations and Occupational Health and Safety obligations are met;
- d) We recommend:
 - The current FBT exemption for child care be extended to include payments to approved child care providers outside the employer's premises, but the exemption be capped equivalent to CCR; or
 - Alternatively the existing FBT exemption should be removed (Henry Report, Recommendation 101).
- f) We endorse Recommendation 99 of the Henry Report, relating to the combination of CCB and CCR into a single benefit however we do not endorse the reduction of the base rate to the marginal tax rate as this would reduce the current level of assistance. This benefit should be:
 - Work tested, to prioritise access to families using child care to enable the parents to work, study or attend a training programme.
 - Means tested, to ensure that the contribution from low income families does not exceed 10% (refer to recommendation 100).
 - The base rate of assistance should not be reduced from the current rate of 50%, but the existing cap should be either abolished or increased. The value of the cap should be reviewed to determine the appropriate rate, having regard to local variations in the cost of child care.

2) Family Tax Benefits (FTBs)

- a) We endorse the general direction of Recommendations 90 to 96 of the Henry Report. Specifically:
 - Fringe Tax Benefit B (FTBB) should be abolished as a separate payment, and incorporated as a supplement to FTB.
 - This supplement should be reduced when all children of the family are over 6 years of age, consistent with requirements for Parenting Payment;

- Sole parents require particular consideration in setting the rates of FTB and appropriate supplements as their capacity to engage in the workforce is reduced; and
 - Combining the benefits into a single amount and applying the means test to the total benefit payable reduces the impact of the double means test on the income of the secondary earner in dual earner families.
- b) We further recommend that the operation of the maintenance income test on sole parents be reviewed.

3) Superannuation

- a) We recommend that the threshold below which employers are not required to make contributions, currently \$450, be removed. However this must be managed in a way that does not reduce the wages of these low paid workers but is affordable by employers.
- b) We endorse the proposals of the Cooper Review to simplify access to and lower the cost of the superannuation system, including the proposals to simplify amalgamation of accounts through using the Tax File Number system.
- c) We also support any proposals, including MySuper, that will protect small superannuation accounts, and assist women in understanding their superannuation.
- d) We recommend that superannuation funds become more gender aware and develop marketing and communication strategies targeting women to increase their engagement with and understanding of the long term benefits to them of superannuation, increasing the likelihood of women achieving adequate retirement income.
- e) We endorse Recommendation 18 of the Henry Report, recommending that superannuation be taxed at a taxpayer's marginal rate of tax less a rebate, as we believe that this will encourage couples to invest separately in the superannuation account of the lower income earner.
- f) We recommend that the Office for Women undertake further research to monitor the consequences of splitting superannuation on separation under the provisions of the Family Law Act and Superannuation Industry Supervision Act.
- g) We recommend that superannuation guarantee be payable in respect of paid parental leave; and parents returning to the workforce after parental leave be encouraged to make catch up contributions into superannuation, through an increased superannuation co-contribution and/or an increased concessional contributions cap; and that consideration be given to similar treatment in respect of other categories of carer payments.
- h) The spouse superannuation offset should be reviewed with a view to increasing its effectiveness in encouraging contributions for a spouse
- i) We endorse Recommendations 21 and 22 of the Henry Report to encourage superannuation funds to offer, and members to take up, annuities instead of lump sums on retirement.

4) Affordable Housing

- a) We recommend that the necessary funds be provided to ensure the continuation of the NRAS;
- b) We also support Recommendation 14 of the Henry Report to reduce the current capital gains tax exemption from 50% to no more than 40%; however the 50% concession should be retained in relation to investment in affordable and social housing, through approved entities.

5) Expansion and Better Promotion of Re-training Options

- a) We recommend allocation of funding to promote the range of vocational education and training and workforce re-entry programmes available to women returning to the workforce.
- b) That the Government considers and implements the recommendations of WAVE, in Appendix 1 to this report.

6) Equal Opportunity

- a) That the Government establish a pay equity unit within Fair Work Australia, as recommended by the Standing Committee on Employment and Workplace Relations in its 2009 Report: *Making It Fair*²⁶.
- b) That the other recommendations of the Standing Committee be considered for urgent implementation.
- c) That the Government adopt and implement the recommendations of the Senate Standing Committee on Legal and Constitutional affairs on the effectiveness of the Sex Discrimination Act 1984, which have been referred to the Consolidation Project.
- d) That the Government considers and implements the recommendations in relation to the consolidation project, in Appendix 6 to this report.

²⁶ Standing Committee on Employment and Workplace Relations '*Making it Fair*' (Parliament of Australia, 2009)
<<http://www.aph.gov.au/house/committee/ewr/payequity/report/front.pdf>>

BACKGROUND

This part of the report is the second item that is required to be delivered to the Office for Women under the terms of the project funded by the Commonwealth Office for Women.

The process followed and the findings of the consultation are reported separately in the first part of this report. This second part addresses and analyses the most significant themes to arise from that consultation. The consultation addressed the issues that women found to be barriers to work: either on entering the workforce or increasing their hours of participation. Superannuation was also specifically raised as an issue.

Prior to commencement of the consultation process a discussion paper was made available to participants (attached as Appendix 2), setting out the fundamentals of the tax transfer system including child care. An important function of the tax transfer system is the redistributive function. This redistributive function ensures that individuals and families receive an adequate income. While this is important in the overall design of the system, it is important to record that this was not the focus of this consultation, which was examining the system in the context of facilitating workforce participation. Accordingly this report does not examine the adequacy of income support payments or family tax benefits.

The factors that generated most discussion were, as reported in the first report (at page 5);

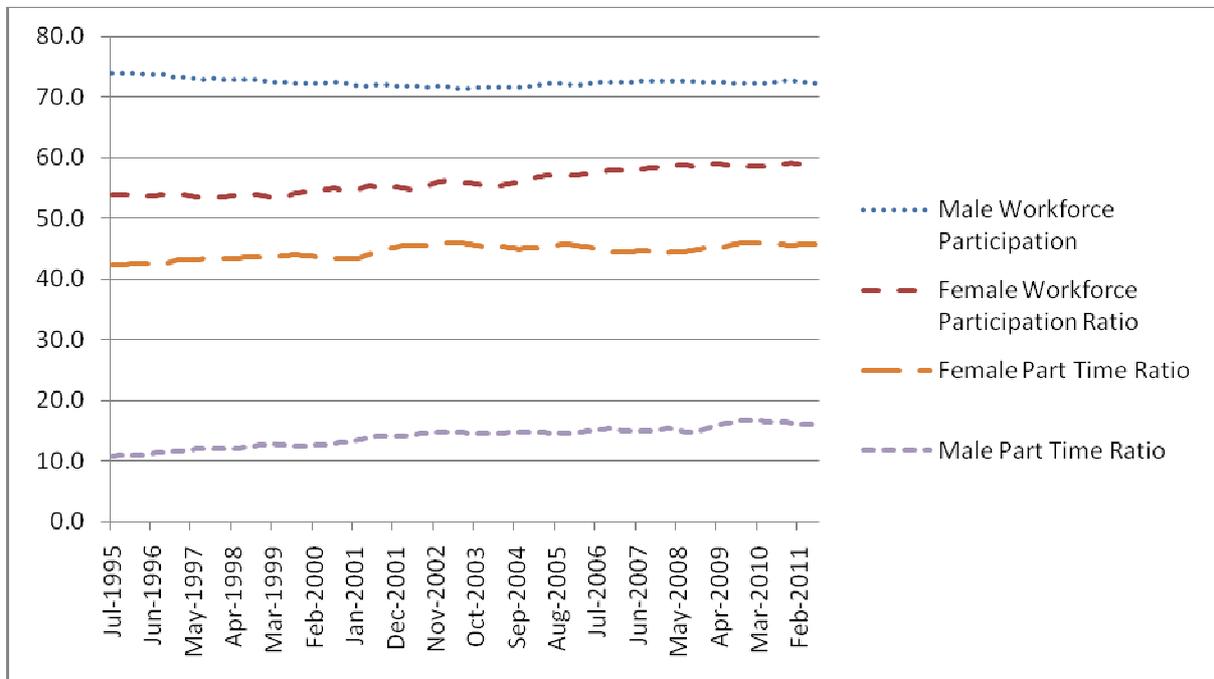
- widespread under-employment, despite the wish to further engage in work
- surprisingly common reports of experience of sex, age and pregnancy discrimination in workplaces
- fear of financial insecurity in later life especially in the event of marriage breakdown
- lack of understanding of and dissatisfaction with superannuation
- lack of understanding of detailed tax and transfer interactions
- inability to easily access clear information on entitlements to child care benefits, together with worries about child care access and about appropriate quality standards in child care services
- minimal knowledge or information about the range of adult re-training programs available through Commonwealth and State funded systems.

It was also apparent that women from different socio-economic backgrounds had different expectations, motivations and needs and this was reflected in the issues that were raised. These differences need to be respected within the overarching framework of government policy directions. In particular indigenous women and women from culturally and linguistically diverse backgrounds are likely to experience multiple barriers to work, however this project does not attempt to address the needs of these groups specifically.

WORKFORCE PARTICIPATION

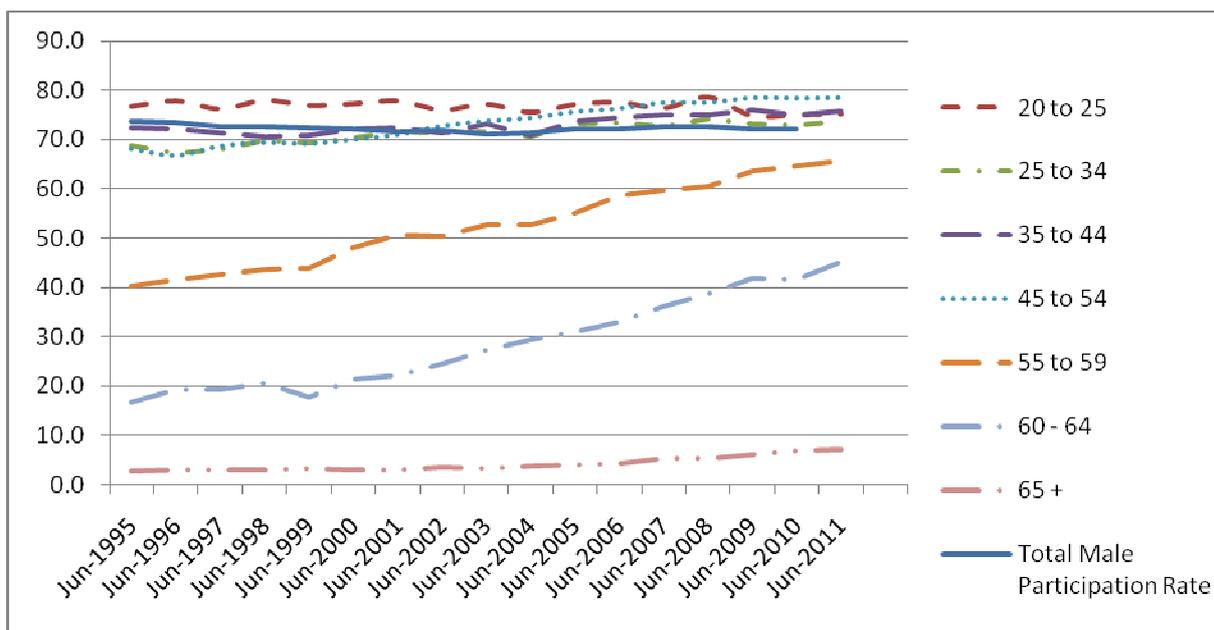
Women's participation in the workforce shows different characteristics to workforce participation by men. There are two key characteristics: the participation rate by women is significantly lower than the male workforce participation rate, and secondly more women than men are engaged in part time work. Female participation rates have increased slowly over the past 25 years, with an increase

of 5.2% over that period, but the part time work ratio has also increased by 3.5%, suggesting that many new entrants to the workplace are taking on part-time work. While male participation rates by men have decreased by 1.8% and more men are now in part time work with the male part time ratio increasing by 5.3% over this period there is still a marked difference between male and female employment patterns.



Data extracted from ABS 6202.0²⁷

Notably the most significant increase in female work participation rates is among older women, ie those over 55 years of age:



Data extracted from ABS 6291.0.55.0028

NB: This data does not reflect the extent of participation.

²⁷ Australian Bureau of Statistics, '6202.0 Labour Force Australia' <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0/>>

This may be because as the population ages, women entering this age bracket are more likely to have continued, or resumed, some level of work after marriage and child bearing. The significant change in women’s workforce participation from the 1970s is within the working life women who turned 55 in 2005, compared to previous generations. This is reflected in the lower participation rates for women over 55 in 1995, many of whom would have already married and left the workforce by 1970.

Participation rates for younger cohorts of women are similar to overall male participation rates, although this data does not reflect the part time work ratio, which is generally higher for women with young children.

There are a number of policy reasons to encourage workforce participation by women. The key reasons can be identified as:

1. Children in workless households are at greater risk of poverty²⁹;
2. Underemployment affects the ability of women to save for their retirement³⁰; and
3. Lower participation rates for women than men constitute a significant source of labour to maintain productivity in the Australian economy ³¹.

OECD statistics show that child poverty rates in Australia declined slightly over the decade from the mid 1990s, however there continues to be a strong correlation between worklessness in families and poverty rates³². Overall, in the mid 2000’s, 74.6% of Australians living in poverty³³ lived in workless households, while the poverty rate among two worker households was 4.4%: the second lowest rate in the OECD³⁴. The child poverty rate was 12%, which was comparable with the OECD average. However the relationship between worklessness and child poverty was stronger in Australia than the OECD average³⁵:

Household Structure	Single Parent		Couple Parent		
	None	One	None	One	Two
Australia	68	6	51	8	1
OECD Average	54	21	48	16	4

In 2007 Australia 14.8% of Australian children under 15 were living in jobless households, the fourth highest proportion in the OECD³⁶. In June 2010 52% of jobless households had been jobless for at

²⁸ Australian Bureau of Statistics, '6291.0.55.001 - Labour Force, Australia, Detailed ' <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6291.0.55.001>>

²⁹ OECD, 'Growing Unequal? Income Distribution and Poverty in OECD Countries' (OECD, 2008) <http://www.oecd-ilibrary.org/social-issues-migration-health/growing-unequal_9789264044197-en>; Peter Whiteford, 'Family Joblessness in Australia' (Social Inclusion Unit, Dept of Prime Minister & Cabinet, 2009)

<http://www.socialinclusion.gov.au/sites/www.socialinclusion.gov.au/files/publications/pdf/family_joblessness_Jan2009.pdf>

³⁰ Geoff Gilfillan and Les Andrews, 'Labour Force Participation of Women Over 45' (Productivity Commission, 2010)

<<http://www.pc.gov.au/research/staffworkingpaper/women-over-45>>, 154

³¹ Australian Treasury, 'Australia to 2050: Future Challenges' (Australian Treasury, 2010)

<http://www.treasury.gov.au/igr/igr2010/report/pdf/IGR_2010.pdf>, at 29; Above note 18

³² OECD, above note 29

³³ The OECD poverty measure is based on 50% of the median income of the population.

³⁴ OECD, above note 29, Figure 5.9

³⁵ OECD, above note 29, Table 5.2

³⁶ Australian Social Inclusion Board, 'Addressing barriers for jobless families' (Australian Social Inclusion Board, 2011)

<<http://www.socialinclusion.gov.au/sites/www.socialinclusion.gov.au/files/publications/pdf/addressing-barriers-for-jobless-families.pdf>>

least three years, a characteristic defined as 'persistent joblessness'³⁷. A further risk factor in family poverty is the loss of income associated with having very young children as parents adjust working patterns to the new family structure³⁸. This was a particular issue for Australian families prior to the introduction of paid parental leave earlier this year³⁹.

The two key policies available to address family poverty⁴⁰ are redistributive strategies and work strategies⁴¹. The introduction of the Family Tax Benefit in 2000 was effective in redistributing income to families with children, with the public spending on family benefits in 2007 being 2.7% of GDP, above the OECD average of 2.2%⁴². While this redistribution of income provides some protection against poverty, the most effective long term protection against poverty is to facilitate employment⁴³.

Longer term, poverty is also an issue among older women. There is evidence that single women experience lower standards of living in retirement⁴⁴. A higher proportion of women is single, in some case outliving their partners but in many cases as a result of divorce or never having partnered, and these women tend to have lower levels of wealth entering retirement. Women receive the age pension at significantly higher rates than men⁴⁵. However employment patterns are a significant factor in the accumulation of assets to fund retirement. Female labour supply is highly elastic, with women in their child raising years often choosing to reduce their levels of workforce participation during this period⁴⁶. This has an obvious effect on their lifetime earnings, with consequential impacts on the funding of retirement.

Australia has implemented a three pillar retirement income policy: mandatory superannuation; voluntary superannuation savings and the pension⁴⁷. Home ownership is sometimes referred to as the fourth pillar. As women generally have lower lifetime employment earnings⁴⁸, they do not accumulate assets in either the mandatory superannuation system (a theme to be explored later) or through voluntary savings.

Two aspects of public policy would improve retirement outcomes for women by improving lifetime earnings and the capacity to save: improved workforce participation and reduction of the gender

³⁷ Above, at 15

³⁸ OECD, 'Doing Better for Families' (OECD Publishing, 2011) <<http://dx.doi.org/10.1787/9789264098732-en>>, 73

³⁹ Above, at 77

⁴⁰ This paper does not address the more complex causes of multiple disadvantage such as disability

⁴¹ OECD, above note 29

⁴² OECD, *OECD Family Database* (2010) OECD <www.oecd.org/els/social/family/database>

⁴³ OECD, above note 38; Whiteford, above note 29

⁴⁴ Bruce Bradbury and Bina Gubhaju, 'Housing costs and living standards among the elderly' (FaHCSIA, 2010)

<<http://www.fahcsia.gov.au/about/publicationsarticles/research/occasional/Pages/op31.aspx>>; Jeff Harmer, 'Pension Review Report' (FaHCSIA, 2009)

<http://www.fahcsia.gov.au/about/publicationsarticles/corp/BudgetPAES/budget09_10/pension/Pages/PensionReviewReport.aspx>

⁴⁵ FaHCSIA, 'Statistical Paper no. 9: Income support customers: a statistical overview 2010' (Commonwealth of Australia, 2011)

<<http://www.fahcsia.gov.au/about/publicationsarticles/research/statistical/Documents/stps9/stps9.pdf>> Table 4

⁴⁶ Patricia Apps, 'Taxation and Labour Supply' (2007) 22(3) (September 2007) *Australian Tax Forum* 89

⁴⁷ Australian Treasury, 'Retirement Income Strategic Issues Paper' (Australian Treasury, 2009)

<http://taxreview.treasury.gov.au/content/Content.aspx?doc=html/pubs_reports.htm>

⁴⁸ Above note 18; Simon Kelly, 'Don't Stop Thinking About Tomorrow' (NATSEM, 2009)

<<https://www.amp.com.au/wps/portal/au/AMPAUMiniSite3C?vigurl=%2Fvgn-ext-templating%2Fv%2Findex.jsp%3Fvgnnextoid%3D67c93e8b696f1210VgnVCM10000083d20d0aRCRD>>

gap in pay, which continues to see women paid considerably less than men working at a similar level and experience⁴⁹.

The third significant public policy reason for encouraging increased workforce attachment is based on the under-employment that results from lower workforce participation by women. As the Australian population ages, productivity is expected to fall unless participation rates can be maintained or increased⁵⁰. As the population ages, society will face increasing costs in a number of areas including pensions and health. The Goldman Sachs report⁵¹ calculates that increasing female workforce participation rates could lift productivity in the Australian economy by 11%. Government policies have been introduced to increase the workforce participation rates of several sections of the community, including policies to encourage deferred retirement, improved child care support and paid parental leave⁵², however more needs to be done.

BARRIERS TO WORKFORCE PARTICIPATION:

The consultation identified a number of issues that impact on women's engagement in the workforce. These included⁵³ :

- widespread under-employment, despite the wish to further engage in work
- surprisingly common reports of experience of sex, age and pregnancy discrimination in workplaces
- fear of financial insecurity in later life especially in the event of marriage breakdown
- lack of understanding of and dissatisfaction with superannuation
- lack of understanding of detailed tax and transfer interactions
- inability to easily access clear information on entitlements to child care benefits, together with worries about child care access and about appropriate quality standards in child care services
- minimal knowledge or information about the range of adult re-training programs available through Commonwealth and State funded systems.

CHILD CARE

The issues raised by women in the consultation in relation to child care⁵⁴ were primarily:

- access to appropriate care
- variable quality of child care services
- understanding entitlements
- cost and tax deductibility of services.

⁴⁹ Above note 18, at 9; EOWA, *Gender workplace statistics at a glance* (EOWA <http://www.eowa.gov.au/Information_Centres/Resource_Centre/Statistics/gender%20stats%206-11_ONLINEversion.pdf>)

⁵⁰ Commonwealth of Australia, 'Intergenerational Report 2010' (2010) <<http://www.treasury.gov.au/contentitem.asp?ContentID=378&NavID=>>; Above note 18, at 14

⁵¹ Above note 18

⁵² Above note 50, Chapter 2

⁵³ Women's Voices, part 1

⁵⁴ It must be noted that women are also frequently caring for other dependants, particularly the aged or disabled. These two groups of dependants have recently been the subject of reports by the Productivity Commission, and accordingly have not been addressed specifically in this project.

The needs of women in relation to child care are diverse, and this was reflected in the consultations. For most women the issues of access and quality were among their core concerns, although the specific needs varied. For example many professional women work long hours extending past the normal hours of operation of child care services; whereas women who working shift or casual work, who are often lower paid, need access to services that are more flexible both in hours of operation and in accommodating changes in circumstances. Some women reported that the only way to accommodate their specific requirements was to engage an in-home carer (nanny), at a cost of up to \$80,000 per annum; others rely extensively on informal care to provide care for extended hours.

The issues of the relationship between child care and work, accessibility and affordability have been raised many times. The most recent reports include:

- The Taskforce on Care Costs (TOCC)⁵⁵
- House of Representatives Standing Committee on Family and Human Services (FHS)⁵⁶
- Human Rights and Equal Opportunity Commission⁵⁷
- The National Foundation for Australian Women⁵⁸.

Each of these reports contains the stories of women who are balancing work and care requirements, and the difficulties that they experience in obtaining appropriate care for their dependants.

The basis for the current child care subsidies has evolved from the EPAC recommendations of 1996⁵⁹. The policy drivers of the child care system at that time were stated as:

1. Ensuring the child care system is child and family-focused;
2. Affordable, high quality care should be available to all children and families;
3. The system should be flexible enough to respond to changing needs; and
4. Quality child care should be delivered at the best possible price⁶⁰.

Notably, EPAC did not include workforce participation rates in this list. However the current policy goals see child care as:

- a mechanism to support labour force participation
- as an important form of early learning and education⁶¹.

In accordance with these policy settings the universality of access for children under four has been deemphasised, with occasional care becoming harder to access. However the government has made a commitment to universal access for four year olds to preschool education, for 15 hours per week. We note that families with children attending preschool are frequently ineligible for child care funding, in spite of the commitment to universal access.

Although the focus of this report is on increasing workforce participation, we acknowledge the importance of early childhood care and education in the development of children. Accordingly it is

⁵⁵ Taskforce on Care Costs, 'Where to Now? 2006 Final Report' (16 October 2006) <<http://www.tocc.org.au/>>

⁵⁶ Standing Committee on Family and Human Services, 'Balancing Work and Family' (Parliament of Australia, 2006) <<http://www.aph.gov.au/house/committee/fhs/workandfamily/index.htm>>

⁵⁷ Human Rights and Equal Opportunity Commission, 'It's About Time: Men, Women, Work and Family' (HREOC, March 2007) <http://www.hreoc.gov.au/sex_discrimination/its_about_time/index.html>

⁵⁸ National Foundation for Australian Women, 'Barriers to Women's Employment Women and Recession Project: Executive Summary' (NFAW, 2010) <<http://nfaw.org/assets/Socialpolicy/Women-and-Work/Executive-Summary-FINAL31-Jan-2010.pdf>>

⁵⁹ Economic Planning Advisory Commission, 'Future Child Care Provision in Australia Task Force Final Report' (AGPS, Nov 1996)

⁶⁰ Above, at p 39.

⁶¹ Office of Early Childhood Education and Child Care, 'Report on the State of Child Care in Australia' (DEEWR, April 2010) <<http://www.deewr.gov.au/Earlychildhood/Resources/Documents/StateChildCareAus.pdf>> at 2

important that fully funded programmes for disadvantaged families be maintained, and that families that would not meet the work test continue to have access to early childhood care and education, at least to the extent of the universal commitment.

Accessibility

A theme that recurred throughout this consultation, as well as the reports referred to above, is the difficulties that families face in accessing care that is appropriate to their needs. Prior to 1990 fee relief was only available in respect of places in the non-profit sector and the Government implemented controls over the supply of child care places through the operational subsidy mechanism. However from 1990 the market has been increasingly opened to private child care providers, with governments exercising little control over the location of child care centres. Market forces are allowed to determine the location and cost of child care places, with the result that the number of private long day care services now providing 75% of the child care places. With the collapse of ABC Learning, resulting in the transfer of places to the community sector, in 2010 the community sector held about 34% of places⁶².

Women in the consultations still reported difficulties in accessing appropriate, affordable child care. The official statistics report that there is adequate capacity in the system, with 90% of centres reporting vacancies, and overall about 74% of places are filled⁶³. Reports of lack of places, including those we received in the consultation, may be a result of the preferences and specific needs of parents⁶⁴. The main complaints in relation to the supply of child care seem to be the availability of places in the preferred location and/or type of centre. Parents have reported issues with the quality or appropriateness of care. In particular CALD women may seek services that are culturally appropriate.

It must be noted that statistics detailing national averages should not be regarded as reflecting the individual experiences of women. Child care should not be regarded as a commodity where the standard model suits most consumers. We received reports of particular problems in accessing out of school and vacation care, although the statistics show that places are available⁶⁵ and historically places for young children have been harder to obtain, although the vacancy report does not provide specific detail.

Recommendation: *Parents using out of school care and vacation care services should be entitled to benefits on the same basis as approved child care services on condition that the person supervising the child(ren) holds appropriate qualifications and the daily cap should be adjusted to reflect the hours of care.*

The Government should explore new approaches to expanding supply of services for school age children.

The programs offered in OSCC for older children (9 –14) should be reviewed to ensure they are appropriate for the target age group.

⁶² Above, at 6

⁶³ Office of Early Childhood Education and Child Care, 'Child Care Vacancies Quarterly Snapshot: March 2011' (DEEWR, March 2011) <<http://www.deewr.gov.au/Earlychildhood/Resources/Documents/VacancyReport2011Mar.pdf>>

⁶⁴ Ian Davidoff, 'Evidence on the Childcare Market' (2007) Summer 2007 *Economic Roundup*

⁶⁵ Above note 63, tables 2, 5

Given that certain locations or centres are in high demand, making child care more affordable is likely to result in increased costs for care in the preferred centres, with the increased subsidy being effectively shared between the child care provider and the parent. From 1 July 2008 the CCR was increased from 30% to 50%. The result of this change was to decrease child care costs to parents by 20% in the subsequent quarter⁶⁶. Again, child care subsidies must be based on local conditions, as the cost varies substantially depending on location. It should not be assumed that parents paying more than the national average are accessing a premium service.

There are some forms of Government intervention that could help the market to operate more efficiently, in particular by providing planning assistance and facilitating the necessary approvals to set up a centres that offer particular services required by parents.

Forms of Relief

The Child Care Benefit (CCB)⁶⁷ was designed in accordance with the EPAC principles to ensure that all families with children had access to child care. The basic structure was not significantly changed with the introduction of the New Tax System in 2000. The means testing ensures that low income families, with income of less than \$39,785 (at July 2011), receive more assistance, while the work/training/study test provides a higher level of benefit to low income families where care is required as both parents are in work.

The rate payable depends on whether the provider is registered or approved, to ensure the quality of subsidised care. Quality issues are generally the responsibility of the states, however COAG has agreed a National Quality Framework to ensure consistency across the country⁶⁸. Changes required under the NQF have the potential to change the cost structure of registered child care centres, for example the requirement to increase the ratio of carers for young children, passing the additional costs on to parents - a matter of concern to parents. Although the rate is intended to ensure that parents contribute to the child care, currently the rate does not reflect the true cost of care, leaving the balance to be paid by the parent (subject to the CCR), or in cases of need subsidised by the child care provider.

Recommendation: *That if the CCB is retained, the CCB rates be reviewed to reflect the cost to a child care provider, less a co-contribution from parents that does not exceed 10%.*

The lack of understanding that many women have in relation to their CCB entitlement is not surprising. The calculation of CCB entitlement is extremely complex, requiring consideration of the income and work tests, the type of care, the number of children in care and whether the child is a school age child. While there is an on-line calculator available on the Centrelink website, it is very difficult for parents to independently verify the calculation.

Historically the Child Care Rebate (CCR) has been offered in a range of forms. Prior to 2000 a Child Care Cash Rebate was available. This was repealed in 2000 and subsequently reintroduced as the Child Care Tax Rebate in 2004. In its current form 50% of out of pocket costs is rebated to parents, who can claim fortnightly, quarterly or annually or nominate that it be paid directly to a registered

⁶⁶ Above note 61, at 9

⁶⁷ For a detailed description of the operation of CCB and CCR refer to Appendix 2.

⁶⁸ <http://www.ncac.gov.au>

child care provider⁶⁹. Note that as the rebate is based on out of pocket costs, the CCB is payable first and must be taken into account. Accordingly the complexity and uncertainty of the CCB calculation affects the calculation of CCR. Secondly, the CCR is capped at \$7,500 per child annually, which equates to about \$62.50 per day⁷⁰. As the cap is an annual cap, rather than an hourly rate, it particularly affects women working full time and/or using higher cost centres. It could be a significant barrier to a woman increasing her hours from part time to full time: a woman paying \$80 per day would be under the cap at four days per week, but the fifth day would increase her EMTR by 50%. There is evidence that a significant proportion of women tend to combine formal and informal care⁷¹

The alternative proposition to rebates and subsidies is tax deductibility for child care. Australian income tax law has never recognised child care as a tax deductible cost of work. In *Lodge's case*⁷² Ms Lodge worked from home as a legal costs clerk in order to care for her child, but found that she needed to place her child in day care in order to complete that work satisfactorily. The High Court held that the cost, while work related, was neither relevant nor incidental to her income earning activities. This decision was followed in *Martin's case*⁷³. Although the taxpayer tried to show (inconclusively) that the child care was a condition of employment, it was seen by the Full Federal Court as being a precondition of employment, and as such not deductible. Accordingly if tax deductibility was to be introduced for child care costs, it would need to be by way of a new statutory deduction provision.

Tax deductibility of expenses reduces the taxable income of the taxpayer. Therefore the net benefit to the taxpayer depends on the marginal tax rate payable by that person. This issue is not well understood by taxpayers, who often believe that tax deductibility will reimburse the full amount of the expense. Given that the highest rate of personal income tax is currently 45% (plus levies of a further 2.5%); and this rate applies to taxpayers earning more than \$180,000, the current CCR of 50% in fact gives a higher benefit than tax deductibility would give. Further, the impact of the progressive tax system is that high income earners benefit more from tax deductibility than lower income earners. A part time worker on a marginal tax rate of 15% would receive considerably less than a taxpayer on the highest marginal tax rate. While the CCB would make up part of that difference, this may not necessarily be the case as CCB is means tested against family income while income tax is assessed on personal income.

Administratively, a transfer payment also allows the timing of the benefit to be matched more closely to the payment of the fees, and payment directly to the child care provider. Tax deductibility defers the benefit until the end of the year⁷⁴. The matching of benefits with payment was a major criticism of the former Child Care Tax Rebate under which benefits were not received until up to two years after the expense was paid. Comments made in our consultation reinforced the importance of timing the subsidy contemporaneously with the expense.

⁶⁹ The ability to request payment to the child care provider, and fortnightly claiming are new provisions, available from 4 July 2011.

⁷⁰ Assuming that entitlement to CCB has exhausted.

⁷¹ Australian Bureau of Statistics, '6523.0 Household Income and Income Distribution, Australia, 2009–10' (<<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6523.0>> Table 8)

⁷² *Lodge v FC of T* High Court 72 ATC 4174

⁷³ *Martin v FCT* 84 ATC 4513

⁷⁴ Although a taxpayer may apply to vary PAYG withheld from salary payments in some circumstances.

Apart from the misunderstanding as to the impact of tax deductibility, the driver for change may be that the current cap of \$7,500 per child annually is seen as inadequate by women seeking care in higher cost centres. As the rebate must be matched by parental contributions, this means the rebate exhausts when out of pocket costs exceed \$15,000. If the child care provider charges \$100 per day, the effective rebate drops to about 31%. As noted previously, average child care costs in a particular location may exceed the national average.

In 2006 the Senate Standing Committee on Family and Human Services⁷⁵ conducted an enquiry that considered the issues surrounding child care. Among its recommendations⁷⁶ it recommended tax deductibility for child care expenses. The committee split in relation to this recommendation, which was not supported by the Labor members on the committee. Concurrently the Taskforce on Care Costs (TOCC)⁷⁷ independently undertook a review of the issue. The Government has implemented the key recommendation of the review which was to increase the child care rebate from 30% to 50%. TOCC did recommend a cap, but the recommendation of \$10,000 was implemented as \$7,500. It is worth noting that TOCC considered care in a broader context than child care, and recommended that the rebate also be available to people caring for the disabled and elderly⁷⁸. This recommendation has not been adopted by the government.

When discussing the need for flexible and appropriate care some women called for subsidisation of the cost of an in-home carer (nanny), which can cost up to \$80,000 pa. In-home care is classified as registered care, not approved care, and accordingly subsidies are limited. CCB is payable at the lower hourly rate applicable to registered care, although the means test does not apply to registered care, and the CCR is not payable for care that is not approved care. TOCC recognised this issue, calling for the CCB and CCR to be extended to registered care.⁷⁹

More controversially, the Committee Report recommended that:

- Nanny care be funded as approved care, subject to the nanny holding a Certificate II in child care, first aid certificate and police clearance.
- An au pair scheme being supported with a specific visa category.
- Other forms of registered care be funded as approved care.

The Labor members of the committee rejected this proposal, preferring to see an extension of the 'in-home care programme', which is available to families who cannot access other forms of child care due to illness or disability of the parent, their partner, or a child; the family lives in remote or rural regions; the parents hours of work are outside the hours of other services or where there are three or more children under school age. There are a limited number of places, and currently no new applications are being accepted⁸⁰. Notably this programme was not mentioned by any Participant in the consultation process.

⁷⁵ Above note 56

⁷⁶ Recommendation 17

⁷⁷ Above note 55. TOCC was established in 2003 to examine this issue and was made up of over 40 business, government and non-government stakeholders.

⁷⁸ Above note 55, Recommendation 3

⁷⁹ Above note 55, Recommendation 4

⁸⁰ <http://www.deewr.gov.au/Earlychildhood/Programs/ChildCareforServices/SupportforChildCareServices/Pages/InHomeCare.aspx#tofauihc>

The major issues of concern over the use of in-home carers (nannies) were whether the qualification proposal was adequate, the potential employment and immigration consequences of creating a visa class that would facilitate short stays by foreign nationals; and ensuring that the in-home carer (nanny) was adequately protected by occupational health and safety and industrial relations laws.

The issue of in-home (nanny) care highlights the competing principles in relation to child care, recognising the different needs of women of different socioeconomic backgrounds:

- Quality of care must not be compromised.
- Child care is important to all women, at all income levels, to facilitate the ability to work.
- Women earning high incomes generally work long and irregular hours, and usually partner with partners earning high incomes and working similar hours, known as assortive mating⁸¹, accordingly these households have a higher disposable income than families on average or minimum wages.
- However the additional income earned by a mother in an average income household has a significant impact on the living standard of that family, and the inability to pay for appropriate child care, for example while working shift work, may prevent that woman from working.
- There is a limited pool of funding available to subsidise all forms of child care.

In-home or nanny care is classified as informal care, and not segregated in Australian Bureau of Statistics reporting. However the Longitudinal Study of Australian Children incorporates questions that have allowed some data to be extracted. In 2004, in relation to infants (the I cohort), approximately 3.8% of couples in the survey used a nanny, and about 1.8% of single parents. The majority had a primary carer who worked more than 35 hours per week. In respect of the K cohort, 4 to 5 year olds, the percentage dropped to 3.2% and 1.4%⁸².

ERA with NFAW has heard the call for flexibility in funded child care. Women of all socioeconomic backgrounds should be assisted in funding child care to allow them to participate in the labour market. However it is also important that funding is distributed equitably among all groups and that standards be maintained. Accordingly we recommend that 'nanny' care be eligible for the same level of funding as approved care but on the same conditions as approved care:

- The qualification standard should be the same as that required under the NQF for child care workers who are left unsupervised in charge of children: currently family day carers are required to hold a Certificate III in child care.
- Foreign qualifications should meet the equivalent standard.
- Minimum wages and employment conditions should be set commensurate with that for family day care workers.
- Nannies should not receive special visa rights.
- Subsidies for nannies should be the same as those received by women using an approved child care centre: the same rate and caps should apply.

⁸¹ Above note 29, 87

⁸² Jennifer Baxter et al, 'Mothers and Fathers with Young Children: Paid employment, caring and wellbeing' (Australian Institute of Family Studies, 2007) <<http://www.fahcsia.gov.au/research/prp30/sprp30.pdf>> Tables 4.7 and 4.15

Recommendation: *Parents using child care services in the home should be entitled to benefits on the same basis as approved child care services on condition that the person caring for the child(ren) holds appropriate qualifications and immigration status and that all relevant industrial relations and occupational health and safety obligations are met.*

Fringe Benefits Tax

The availability of a Fringe Benefits Tax exemption for child care, facilitating salary sacrificing arrangements, have a distorting effect on the current child care system: both in terms of the extent of public subsidy and in the perceptions of women who do not have access to such schemes.

Under s.47 (2) of the Fringe Benefits Assessment Act 1986 (FBTAA), child care is an exempt fringe benefit, as long as it is provided on the business premises of the employer. There is very little legislative explanation for this provision. It was incorporated in the FBTAA as first enacted, although prior to 1987 it only applied to benefits available on a day on which the employee worked. The administrative history, however, shows a lack of coherent policy application.

Although the 1985 White Paper⁸³ rejected the notion of tax deductibility for child care in favour of subsidies, it is commonly understood that the child care exemption was included in the legislation to encourage employers to provide child care for employees; however this statement cannot be supported from the contemporary documentation. EPAC traced this understanding to a media statement by the Treasurer in February 1996 to that effect⁸⁴.

The FHS Report goes further, stating that:

The intention of the exemption, therefore, was to encourage employers to participate in solutions to their employees' child care needs. This would assist not only employees but contribute to the government's objectives for increased women's workforce participation.⁸⁵

Access to this FBT concession is restricted by the requirement that the child care be operated on the employer's (or related company's) business premises. Prior to 1999 this test was interpreted liberally by the ATO, which gave a number of private rulings facilitating such arrangements, on the basis that provision of child care was an important factor in employee recruitment and retention, thus a part of the business operations of the employer⁸⁶.

However, this ruling was withdrawn in 1999, to be replaced by a more restrictive interpretation. The ATO determined that where a third party operated child care facilities on premises owned by the employer, it could not be said to be on the employer's business premises, on the grounds that the employer no longer has the right to possession of the area occupied by the third party provider, and that the child care is now a part of the business operations of that person⁸⁷.

⁸³ Australian Treasury, 'Reform of the Australian Tax System - Draft White Paper' (June 1985)

⁸⁴ Above note 59, at 116

⁸⁵ Standing Committee on Family and Human Services, 'Balancing Work and Family' (Parliament of Australia, 2006) <<http://www.aph.gov.au/house/committee/fhs/workandfamily/index.htm>>, at 233

⁸⁶ TR 96/7, para 41 <www.ato.gov.au>

⁸⁷ TR 2000/4, paras 52 – 53, <www.ato.gov.au>

Few employers are prepared to take the direct responsibility for the management of child care as a part of their business operations. Some reasons given for this include regulatory requirements, safety and health issues, level of demand or simply that the employer does not have the commercial expertise. The policy goal of encouraging employers to facilitate child care for their employees could be applied by allowing the exemption where an employer enters into an agreement with a centre to support that centre – for example by co-sponsoring a centre in a particular location; guaranteeing places on an annual basis; or supporting extended operating hours,

The FHS Report⁸⁸ collated a list of the companies that at that time were able to offer salary sacrifice arrangements in relation to child care, and identified only four major public corporations, in addition to a number of universities and Federal Government agencies, that had the capacity to comply with the requirements. Note that employees in the public sector are able to take advantage of the related company criteria, which exempts payments by government departments and agencies as long as there are places available in centres operated by other government agencies.

Child care is an item that would not be traditionally borne by the employer, nor is it tax deductible, therefore it is particularly attractive as a salary packaging arrangement. The advantages have been reduced under changes to the CCR, first in 2008 to increase the rebate to 50%, which is generally higher than an employee's marginal tax rate, and most recently to allow payment directly to the provider or fortnightly, however the CCR cap of \$7500 is not applicable to salary sacrifice arrangements. Accordingly salary sacrificing arrangements currently do provide additional benefits to women who are spending more than the eligible cap.

The major inequities in the system are that it is not consistent to allow salary sacrificing arrangements in relation to a non-deductible expense; and it is also inequitable to allow an exemption in certain, very restrictive, circumstances while denying it to the majority of employees. This problem was identified by EPAC over a decade ago, when it recommended the abolition of the exemption. EPAC also noted that the cost of places through salary sacrificing was generally higher than through the (existing) Child Care Assistance scheme⁸⁹.

TOCC proposed (recommendation 2) that the salary sacrifice arrangement be an optional delivery mechanism for a capped subsidy, whether the child care is on or off site. Such a scheme would require payment to the child care provider by the employer, with the cost being deducted from the parent's wages partly before tax (up to the cap level) with the balance from after tax income. Many salary sacrificed car packages are constructed in this way.

There are, accordingly, two methods to ensure equity in relation to salary sacrificing arrangements:

1. Allow the exemption in relation to all child care expenses, whether on site or off site, where the employer enters into an agreement to support a particular centre, coupled with a cap equivalent to the CCR cap; or
2. Remove the FBT exemption, as recommended by the Henry Report and the EPAC Report.

⁸⁸ Above note 56, at 236

⁸⁹ Above note 59, at 122

Recommendation: *The current FBT exemption for child care be extended to include payments to approved child care providers outside the employer's premises, but the exemption be capped equivalent to CCR; or alternatively the existing FBT exemption should be removed (Henry Recommendation 101, see below).*

Henry Proposals

The Henry Report made the following proposals in relation to child care subsidies:

Recommendation 99: Child Care Benefit and Child Care Rebate should be combined into a single payment to parents (or to child care centres) in respect of each child based on a percentage of child care costs. The payment should have the following features:

(a) a high rate of subsidy for low-income families that covers most of the costs of child care (up to 90 per cent). This would involve a small co-payment for low-income families;

(b) a base rate of assistance for all families that use child care to facilitate parental engagement in the workforce. The base rate of assistance should be set as a proportion of child care costs, with reference to the marginal tax rate faced by the majority of taxpayers. (Based on the indicative personal income tax rates scale in Part Two Section A1, this would indicate a rate of assistance of 35 per cent);

(c) access to the base rate of assistance subject to a requirement that parents participate in work, education or training. Where parents are not participating, the maximum rate of assistance should be available for a limited number of hours. The number of hours subsidised without a participation requirement should be the same as the number of hours of universal access to pre-school (15 hours by 2013); and

(d) coverage of the full costs of child care for at-risk children and children facing multiple disadvantages, without participation requirements on parents.

Recommendation 100: The child care payment should be means tested down to the base rate of assistance based on family income and should have regard to the interaction with other means tested payments (income support and family payments) and marginal tax rates, to ensure that effective marginal rates of tax are not excessive.

Recommendation 101: The fringe benefits tax exemption for child care facilities provided on an employer's business premises for the benefit of employees should be removed.

The benefit structure recommended by the Henry Report has similar characteristics to the current system, but combines them into a single benefit. We see merit in this, as long as there is a genuine simplification in how the CCB is calculated and its relationship to CCR. The proposed structure continues to provide support above the base level to low income families, which will encourage increased workforce participation and the transition from welfare to work.

It is important to maintain the existing funding priorities for children that are at risk due to abuse or neglect, and that a base level of universal access is maintained, as identified in paragraphs (c) and (d) of recommendation 99.

Recommendation: *We endorse Recommendation 99 of the Henry Report, relating to the combination of CCB and CCR into a single benefit. This benefit should be*

- *Work tested, to prioritise access to families using child care to enable the parents to work, study or attend a training programme*
- *Means tested, to ensure that the contribution from low income families does not exceed 10% (refer to Henry Recommendation 100).*

The recommendations do not differentiate between registered and approved care, but do note that child care transfer payments will depend on developing the capacity and regulating the quality of child care services⁹⁰. Accordingly nanny care and other forms of registered care would be eligible for the subsidy. We agree with the principle behind this recommendation, but further recommend that appropriate regulations be put in place to regulate the qualifications and migration status and to ensure that occupational health and safety and industrial relations laws are met in relation to nannies.

The Henry Report recommends that rate of subsidy is the same as the rate of taxation that the majority of taxpayers pay. We note that this would result in a reduction of the rebate currently available to women who are currently below the cap. This includes women who work part time as well as women who use lower cost centres. We do not support this reduction in the rate, however we do recommend adjustments to the cap to increase the rate but apply it on a daily instead of an annual basis.

Recommendation: *We do not endorse the reduction of the base rate to the marginal tax rate as this would reduce the current level of assistance. This benefit should not be reduced from the current rate of 50%, but the existing cap should be either abolished or increased. The value of the cap should be reviewed to determine the appropriate rate, having regard to local variations in the cost of child care.*

FAMILY TAX BENEFITS AND EMTRS

Although there are many aspects of the tax-transfer system that may impact on the behaviour and choices of individuals as they interact with the system, the two most significant impacts identified in the family tax-transfer system are the effective marginal tax rates (EMTRs) that arise as a consequence of means testing and the consequential effect that the system has on participation in the workforce, particularly in relation to the second earner in the family⁹¹.

The effective marginal tax rate (EMTR) is the sum of the effects of tax payable by a person, including any levies or national insurance payable, and the withdrawal rate of transfer benefits as the income earned by that person increases. The concept acknowledges that the tax-transfer system operates as two aspects of the same system to redistribute income. As tax is collected from the community as a

⁹⁰ Above note 1, at xxv

⁹¹ Above note 46; Patricia Apps, 'Taxation and Labour Supply' (2007) 22(3) (September 2007) *Australian Tax Forum* 89; Patricia Apps, 'Labour Supply, Saving and Family Tax Reform' (2010) (21-23 June 2010) *Australia's Future Tax System: A Post Henry Review*; Whiteford, above note 13

whole, a proportion of that tax is redistributed to individuals in need through the transfer system. Where a person's benefits are reduced according to earnings it operates as an additional tax payable by that person.

Although it is clear from the consultations that women do not relate to the specific term, it is also clear that most taxpayers and benefit recipients are aware of the marginal rate of tax and the withdrawal rates of benefits based on increased earnings, and will use this information when making decisions. However in a progressive rate system the average (or participation) rate of tax is significantly lower than the marginal rate of tax and may be more relevant in making certain decisions, such as how many additional hours to work. Where the increased income is significant, as when a person moves from being out of work to entering the workforce, or from part time to full time work, the irregularities in the EMTR schedule level out, and overall there is usually a gain from working⁹². The focus on marginal rates tends to cloud this overall benefit.

The structure of the Family Tax Benefit (FTB) is outlined in Appendix 2. The complexity of the Family Tax Benefit system arises as a consequence of the multiple policy goals that the system is designed to address. The primary goals recognise that families face additional costs, and that low income families need additional assistance (FTBA); and to support families that choose to have the carer remain out of the workforce (FTBB). The complex structure of the Family Tax Benefit reflects these three primary policy purposes:

- The lower threshold of the FTBA income test allows families earning less than \$46,355 to claim the maximum rate of FTBA (means testing).
- The higher threshold, from \$94,316, allows FTBA to be targeted to low and middle income families, by ensuring that the base rate of FTBA is paid to families with incomes up to that level (affluence testing).
- The separate income threshold for FTBB limits that payment to families that are substantially single income earners.

However, the consequence of this structure is that families face multiple taper rates and points, depending on the income of the family and the secondary earner in the family. While FTBA is structured so that a family will face one of the two taper rates; the FTBB income test operates concurrently, with the result that where the income of the secondary earner lies in the relevant FTBB taper range, and the family income lies within one of the FTBA taper ranges, the family faces a withdrawal of both benefits, at a rate of up to 50%. This effect is compounded if the family is receiving other means tested benefits and is also paying child care fees.

The means testing of FTBA is an application of the principle of vertical equity, which requires that benefits should be targeted towards those in most need.

In the context of the tax-transfer system vertical equity and horizontal equity have been described as 'refinements of the ability to pay principle'⁹³. Horizontal equity requires that people in the same economic position pay the same tax, people in a different economic situation should be treated

⁹² Whiteford, above note 29

⁹³ Australian Treasury, 'Architecture of Australia's Tax and Transfer System' (Australian Government, August 2008) <<http://taxreview.treasury.gov.au/Content/Content.aspx?doc=html/home.htm>>, at 180

differently. The major difficulty is in determining what is meant by the 'same' or 'different' economic position.

Horizontal equity from a tax perspective implies that taxpayers in an equal situation should be taxed in an equal manner as they have the same ability to bear the tax burden. Horizontal equity then implies that the tax on a given level of total income should be the same regardless of how this income is composed (*e.g.* wage and pension income, fringe benefits or any form of capital income including imputed income from owner-occupied housing and capital gains on an accruals basis). However, the notion of 'an equal situation' can be ambiguous. Some tax systems consider, for instance, the number of children or the marital status as a relevant difference for tax purposes while other tax systems do not. Moreover, the notion of 'an equal situation' can be interpreted not only on the basis of income but also on the basis of taxpayer's welfare. The notion's meaning might change over time as well⁹⁴.

A universal benefit focuses on horizontal equity: all families are entitled to recognition of the additional costs that are borne by families with children. Introduction of a means test recognises that some families need assistance with the cost of raising children, but that some families do not require assistance – an application of vertical equity.

The tax policy objective of vertical equity prescribes that taxpayers with better circumstances should bear a larger part of the tax burden as a proportion of their income. Vertical equity then implies that the distribution of after-tax income should be narrower than the distribution of before-tax income, or that the average tax rate should be increasing in income.⁹⁵

Means testing is often justified on the grounds that the available funding can be more effectively used by increasing benefits to those in most need, and decreasing benefits to those who do not need them. Australia currently has one of the most targeted tax transfer systems in the OECD⁹⁶.

Means testing was progressively applied to Australian family benefits from November 1985 until 1997. Initially means testing was applied in respect of students over 18, then over 16, where family income exceeded the threshold. These income thresholds were 'sudden death' thresholds, with no taper rates. This means testing was broadened to become a general test that applied in respect of all children with effect from October 1987. However the income tests were more generous, with the income threshold being raised to \$50,000, (about 2 x average weekly earnings) and a taper test applying over that threshold, so that the Family Allowance was withdrawn by 25c for each \$ earned above \$50,000⁹⁷.

A further supplement was also payable to low income families in work: the Family Income Supplement introduced in 1983 was replaced by the Family Allowance Supplement from 1987. FIS was means tested at \$15,600, increased where the family had more than one child, (about 2/3

⁹⁴ OECD, 'OECD Tax Policy Studies No. 13: Fundamental Reform of Personal Income Tax' (2006)

<<http://oberon.sourceoecd.org.wwwproxy0.nun.unsw.edu.au/vl=13179847/cl=24/nw=1/rpsv/~6684/v2006n3/s1/p11>>, at 41

⁹⁵ Above note 94, at 41

⁹⁶ Peter Whiteford, 'The Australian Tax-Transfer System: Architecture and Outcomes' (2010) 86(275) *Economic Record* 528

⁹⁷ Bob Dapre, 'A Compendium of Legislative Changes in Social Security Part 1' (2006) No 13(Part 1) (29/11/2006) *FACSlA Occasional Paper Series*

average weekly earnings), and the taper rate was 50c for each \$ over the threshold⁹⁸. Accordingly from 1987 the structure of the Family Allowance was to provide a base amount with the Family Allowance Supplement (FAS) allowing an additional amount for low income families.

Although there have been changes to names and taper rates, and the benefits have been combined as a single benefit, this has remained the basic structure of the current FTBA: a two tiered benefit, with an increased amount payable to low income families and different taper rates for the two tiers.

The policy basis for FTBB stems from horizontal equity considerations: if a family is being supported on a single income, it is recognised as being in a different position to a family with two earners. When FTBB was introduced by the Howard Government in 2000 it was presented as allowing families the choice to have a parent act as a full time carer for the family⁹⁹.

FTBB has a different provenance to FTBA. FTBB is the remnant of the tax concessions that were available in the tax system for dependant spouses, available from the time the Federal Income Tax was introduced. These were allowed as deductions, then rebates, until 1984 when claimants had the option of taking the entitlement as a transfer payment directly to the carer: the Home Child Care Allowance. The means test applied in relation to these entitlements was intended to determine whether the spouse was a dependant. The test allowed a dependant spouse to earn a minimal income, \$282 when FTBB was introduced, then the entitlement was withdrawn by \$1 for every \$4 the spouse earned. Following the introduction of the FTBB in 2000 families were no longer entitled to this rebate but were instead entitled to FTBB, and the value of the entitlement and the thresholds were increased in the process. The dependant spouse rebate remained in relation to families without children, ensuring that it was available in respect of women who had left the workforce while raising children and had not rejoined it. Note that with effect from the current year the rebate will be limited to women over 40, or those who are acting as a carer¹⁰⁰.

The 2010 profile of recipients of the FTB is as follows¹⁰¹

	FTBA	FTBB	Both A & B *
Number of Families	1,737,520	1,381,250	1,309,167
Number of Children in those families	3,364,852	2,669,151	2,538,527
% on maximum benefit	35.2	67	
includes % on other income support	23.9	Not provided	
% on part benefit	31.4	33	
% on base Benefit	26.5	Not applicable	
% on tapered base rate	6.8	Not applicable	
% sole parents	35	43	

* Note that these totals refer to families entitled to both benefits. It is not the arithmetic total of FTBA & FTBB as some families receive one benefit without the other.

⁹⁸ Bob Dapre, 'A Compendium of Legislative Changes in Social Security Part 1' (2006) No 13(Part 1) (29/11/2006) *FACSA Occasional Paper Series*

⁹⁹ Bettina Cass and Deborah Brennan, 'Taxing Women: The Politics of Gender in the Tax/Transfer System' (2003) 1(1) (2003) *eJournal of Tax Research* 37

¹⁰⁰ Tax Laws Amendment (2011 Measures No. 5) Act 2011 (62 of 2011)

¹⁰¹ FaHCSIA, 'Statistical Paper no. 9: Income support customers: a statistical overview 2010' (Commonwealth of Australia, 2011) <<http://www.fahcsia.gov.au/about/publicationsarticles/research/statistical/Documents/stps9/stps9.pdf>> Tables 53 - 57

There are a number of striking features in these statistics:

- ABS Statistics indicate that there were 2,290,000 couples and 555,000 sole parent families with dependent children in 2009/10¹⁰², about 40% higher than the number of families claiming FTB.
- FTBA recipients were fairly evenly divided into those on maximum benefit (earning less than \$45,114 in 2010), those receiving the base rate (earning less than \$94,316 + \$3,796 for each additional child), and those on part benefit (earning more than \$45,114 but within the first taper range).
- A remarkably small number of FTBA recipients, 6.8%, were in the upper taper range, earning more than \$94,316.
- 43% (FTBB) and 35% (FTBA) of recipients were sole parents.
- 67% of FTBB recipients received the full rate of FTBB, however note that the 43% of recipients who were sole parents were not subject to means testing unless their income exceeds \$150,000.
- 23.9% of FTBA recipients receiving the maximum benefit were on other income support, including parenting payment.

If families in receipt of income support payments are disregarded, 69.2% of recipients qualified for the base level payment or more; which suggests that these families did not have two workers in full time employment. Similarly, the majority of the two parent families who qualified for FTBB qualified for a part payment, indicating that the secondary earner earned between \$4,891 and \$24,912 (or \$19,382 where the children are all over five years of age). The 40% gap between the number of families with dependent children, as reported by the ABS, and the number of families receiving FTB must be treated with caution, but it suggests that about 40% of families did not qualify for FTB.

These figures reflect the 1.5 worker household that is now the norm in Australia. In 2009/10 26% of mothers in two income families worked full time, with 34% working part time. Only 31% of families had a father as the only parent working¹⁰³.

Lone parents, of whom the majority are mothers, are entitled to FTBB without the application of a means test unless they earn more than \$150,000. 50% of sole parent families list government pensions or benefits as their main source of income¹⁰⁴. The intersection of child support and family payments creates particular problems for sole parents in relation to the means testing of family tax benefits. Under the Maintenance Income Test, child support that is payable to a recipient of FTB, whether in fact received or not, is taken into account when applying the income tests. The anomalies created by these 'claw back' amounts, which are known as the Maintenance Income Test, were identified in 2003, and the Committee recommended that the system be reviewed¹⁰⁵. These arrangements are unfavourable for single parent household when compared to that for two parent families.

The recommendations of the Henry Report in relation to Family Tax Benefit were as follows:

¹⁰² Australian Bureau of Statistics, '4442.0 Family Characteristics Survey' (<<http://www.abs.gov.au/ausstats/abs@.nsf/mf/4442.0>>

¹⁰³ Above note

¹⁰⁴ Australian Bureau of Statistics, '6523.0 Household Income and Income Distribution, Australia, 2009-10' (<<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6523.0>>

¹⁰⁵ Standing Committee on Family and Community Affairs, 'Every Picture Tells a Story' (Parliament of Australia, 2003) <<http://www.aph.gov.au/house/committee/fhs/workandfamily/index.htm>>Recommendations 25, 26

Recommendation 90: *Current family payments, including Family Tax Benefit Parts A and B, should be replaced by a single family payment. The new family payment should:*

(a) cover the direct costs of children in a low-income family (that is, the costs associated with food, clothing, housing, education expenses); and

(b) assist parents nurturing young children to balance work and family responsibilities.

Recommendation 91: *The direct cost of children component of family assistance should be a per child payment.*

(a) Rates of payment should increase with the age of the children to recognise the higher costs of older children. Three rates of payment should apply: for 0–11 year olds; 12–15 year olds and 16–18 year olds while in secondary school. These age bands would appropriately accommodate the increasing costs of children (this would require higher payments rates for 12, 16 and 17 year olds). The Baby Bonus should be abolished and a small supplementary payment, reflecting the direct costs of a new-born baby, should be paid over the first three months.

(b) A shared-care rate to recognise the higher costs of separated families should be considered, taking into account interactions with child support as well as other income support payments.

(c) Additional payments for larger families, including the Large Family Supplement, the Multiple Birth Allowance for children over one year, and higher thresholds for larger families should be reconsidered as the case for these payments is not strong.

Recommendation 92: *A supplement for parents nurturing young children (aged under six years) should be provided as a per-family payment, means tested on family income in addition to the recently announced Paid Parental Leave arrangements.*

(a) The maximum rate of the supplement should be set such that the total support for single parents wholly reliant on income support is equivalent to the maximum rate of pension.

Recommendation 93: *For single parents with children aged six or older, a parental supplement (which should be considerably smaller than under Recommendation 92), should be paid through the family payment system.*

Recommendation 94: *For couples with children aged six or older, a parental supplement at the same rate as for single parents should be paid through the income support system (See Part Two Section A1 Personal income tax).*

Recommendation 95: *Assistance for families should also recognise that there are specific circumstances, such as parents caring for disabled children and foster care children with higher needs, for which additional support beyond the early years is appropriate.*

Recommendation 96: *The total amount of family assistance should be withdrawn with a single means test to avoid cumulative withdrawal rates which create unnecessarily high*

disincentives for working. A single low withdrawal rate of 15–20 per cent would be appropriate to minimise workforce disincentives.

This structure is similar to the Tax Credit system applied in the UK¹⁰⁶, under which there is a basic entitlement, with additional components added to the base entitlement depending on the circumstances of a particular family. The credit is then withdrawn at a uniform rate. The most significant difference between the UK tax credit system and the Henry recommendations are that the UK system also includes a Working Tax Credit (WTC), based on participation in the workforce.

The UK Tax Credit system allows a base rate per family, with additional components for each child, infants¹⁰⁷ and disabled children. The WTC component, which is available if the parents work at least 15 hours per week and increased if the parent works more than 30 hours, includes a lone parent and couple component. There is evidence that the work test is subject to manipulation by employers, and EMTR distortions arise at the point where these credits become available, resulting in the proposed restructuring of the WTC to a Universal Credit.

	Henry	UK Tax Credits
Working Tax Credit	Not recommended	Based on 15/30 hours work
Family element	Recommendation 92 (child < 6)	available
Child Element	Recommendation 90, 91	Not age based
Baby Supplement	Recommendation 91	Prior to 2011
Disabled Child	Recommendation 95	+ 40% if severely disabled
Withdrawal Rate	Recommendation 96	41% Threshold depends on

In terms of workforce participation, the current structure of the Australian FTB has the following outcomes:

1. FTBB is frequently cited as a disincentive to work. Although the maximum entitlement is relatively low, it may be a disincentive to women seeking to enter the workforce on a part time basis
2. The application of two means tests against income earned by the secondary earner in a family may act as a disincentive to women entering the workforce.
3. The maintenance income test applied to FTB when a sole parent receives child support from a former partner and also receives earned income results in high withdrawal rates of the Family Tax Benefit.

Accordingly, in terms of workforce participation there seems to be little merit in continuing to pay FTBB in circumstances where a family has the capacity to increase engagement in the workforce. However sole parents and recipients of income support face particular challenges in entering the job market, and accordingly any loss of FTBB would need to be compensated through other payments.

¹⁰⁶ Note that the Tax Credit system is due to be replaced by the Universal tax credit, however this discussion is based on the system as it currently exists. The most significant difference between the current tax credit system and the proposed universal tax credit relates to the Working Tax Credit component, which is not relevant in this discussion.

¹⁰⁷ Although this component was withdrawn from April 2011

As part of the consultation a further proposal was developed¹⁰⁸ exploring the possibility of dividing FTB thresholds between both partners. However following modelling, we recommend adopting the approach set out in the Henry Report.

The Henry proposals address this issue through allowing a supplement to all families in addition to the child component, but increasing the rate paid to all families with a child under six. While consistent with the current FTBB, this does not differentiate between sole parent families and two parent families and it does recognise that parents of pre-school age children are less likely to participate in the workforce¹⁰⁹.

The Henry proposals address the issue of multiple means tests through the proposal to restructure benefits to a single benefit, withdrawing the benefits on a single means test. We note that the proposed structure does not incorporate the higher maximum rate currently paid to low income families. While this does considerably simplify the system, the rate structure would need to be set at rates that ensure that those currently receiving the maximum rate do not suffer a reduction in their disposable income. This may be addressed through adjustments to the rate of income support payments, but a significant minority of recipients are not receiving income support payments, and accordingly the preferred approach would be to maintain the level of family payments.

Recommendations: We endorse the general direction of Recommendations 90 to 96 of the Henry Report. Specifically:

- *FTBB should be abolished as a separate payment, and incorporated as a supplement to FTB.*
- *This supplement should be reduced when all children of the family are over 6 years of age, consistent with requirements for Parenting Payment.*
- *Sole parents require particular consideration in setting the rates of FTB and appropriate supplements as their capacity to engage in the workforce is reduced.*
- *Combining the benefits into a single amount and applying the means test to the total benefit payable reduces the impact of the double means test on the income of the secondary earner in dual earner families.*

We further recommend that the operation of the maintenance income test on sole parents be reviewed.

SUPERANNUATION

The consultations indicated that superannuation is not well understood, but women are concerned about not having sufficient superannuation to fund their retirement. This is consistent with the findings of both the Henry Report and the Cooper Review¹¹⁰. However it is worth noting that the

¹⁰⁸ Above note 4. See Appendix 2 this report.

¹⁰⁹ AIFS, 'Growing Up in Australia: The Longitudinal Study of Australian Children Annual statistical report 2010' (AIFS, 2011) <<http://www.aifs.gov.au/growingup/pubs/asr/2010/index.html>>, at 30

¹¹⁰ Above, at 21

Association of Superannuation Funds of Australia has undertaken research that indicates that members are increasingly engaging with their superannuation and that this is likely to increase as their account balances increase¹¹¹.

The Cooper Review has recommended the development of a new 'no-frills' superannuation product, MySuper, to reduce the costs of superannuation to members, also limiting the range of additional products incorporated in the members account. The government has announced that it will support the new product and is undertaking consultation in relation to the detail of the proposal.

The Australian retirement system is based on three pillars: compulsory superannuation contributions, voluntary savings into the superannuation system, and the age pension. Home ownership is sometimes regarded as a fourth pillar as it provides housing security in retirement.

The first pillar, compulsory superannuation contributions, is provided through the Superannuation Guarantee system. Since its introduction in 1992 the superannuation guarantee charge has been increased to 9% of earnings. The predecessor to the current system was introduced through the Accord during the 1980s in cooperation with the unions that agreed to moderate wage demands. Accordingly compulsory superannuation can be seen as a form of deferred remuneration, under which a proportion of current earnings are set aside until retirement. The Superannuation Guarantee Act requires employers to pay 9% of ordinary time earnings into a superannuation fund or approved deposit account, on behalf of each employee. Employees have the right to nominate the superannuation fund, however most employers will have a default arrangement with a superannuation fund that accepts payments on behalf of employees who do not exercise the right to make a nomination.

Employers are required to make contributions at least quarterly in respect of all employees earning more than \$450 in a month¹¹². The contribution is capped when an employee earns more than \$43820 per quarter¹¹³. 'Ordinary time earnings' is legislatively defined¹¹⁴, and may not be the same as take home pay.

There are a number of issues in terms of the coverage of the compulsory superannuation system.

Firstly, the system covers employees, which is based on the common law contractual employment relationship, although this is extended by statute to include people engaged primarily for their labour. Accordingly a number of groups of workers including contractors, part owners in family businesses, who may not be on the payroll as an employee, and other small business owners have no coverage. This was raised by women from rural areas who are part of a farming business, but they do not draw wages and, given the nature of a farming business, have no expectation of being able to access the capital value of the farm when they retire.

The position of small business owners, who may not be employed by their business and often do not accumulate assets outside the business, is currently recognised through a range of small business

¹¹¹ ASFA, 'Submission: on Super System Review - Cooper supplementary' (2010)
<http://www.supersystemreview.gov.au/content/submissions/downloads/ASFA_supplementary_100608.pdf>

¹¹² s.27(2) Superannuation Guarantee Administration Act 1992 (SGAA)

¹¹³ s.6(1) SGAA

¹¹⁴ Above note 113

Capital Gains Tax exemptions. In particular, the 15 year exemption¹¹⁵ ensures that the sale of a business that has been operated for more than 15 years is exempt from CGT, and the small business retirement exemption allows a person to disregard up to \$500,000 of capital gains if they are paid into a retirement account¹¹⁶. However these concessions are only available after sale of the asset. We note that the Henry Report recommended that the 15 year exemption be removed, and the small business retirement concession be aligned with the superannuation capital gains tax cap¹¹⁷. We agree with the second of these recommendations. We note that the first of these exemptions is restricted in its availability, and does not specifically encourage investment in retirement savings, and we would not oppose its repeal.

Secondly, women in the consultations have reported working for multiple employers who each manage their rostered hours to ensure that their total earnings in a month are less than \$450, and accordingly no superannuation is payable. This also seems to be an issue for other groups of low paid casual workers, including students. Accordingly we are calling for the threshold to be abolished. We note that this is in accordance with the 2009 recommendations of the Standing Committee on Employment and Workplace Relations¹¹⁸.

Recommendation: *We recommend that the threshold below which employers are not required to make contributions, currently \$450, be removed. However this must be managed in a way that does not reduce the wages of these low paid workers but is affordable by employers.*

Thirdly, many women who have multiple employers who pay contributions into a default fund have reported difficulties in the consolidation of accounts. This raises two issues: these women are apparently unaware of their right to nominate a preferred account, and secondly the funds are being uncooperative in facilitating the amalgamation process. We note that this evidence is consistent with that in the Cooper Report, which reported that:

When a member wishes to consolidate accounts, it is often a time-consuming and frustrating process. One provider reports that only 6 per cent of members who started a consolidation process actually completed it. Many small balance accounts are abandoned even if not lost, with the benefit being eroded due to fees and charges. This contrasts with consumers wishing to change banks or mobile phone providers, where the receiving entity is authorised to contact the former provider on the customer's behalf and implement the change.¹¹⁹

The Cooper report notes that some members choose to retain an inactive account, for example to retain insurance cover. However it recommends the use of the tax file number system (TFN) to assist the consolidation process:

Recommendation 9.14: *To facilitate consolidation of multiple accounts:*

¹¹⁵ Div 152 B Income Tax Assessment Act 97 (ITAA 97)

¹¹⁶ Div 152 D ITAA 97

¹¹⁷ Recommendation 17B

¹¹⁸ Above note 26, Recommendation 37

¹¹⁹ Above note 10, at 294

(a) procedures should be established between the ATO and administrators and clearing houses so that when an employer seeks to enrol a new member, the fund administrator (or clearing house if one is used) must validate the TFN provided with the ATO to ensure that it is the number for the individual named; and

(b) at the same time, the ATO should be required to check its data base to see whether it holds unclaimed money for that member. If so, it should advise the administrator and transfer the money. The ATO should also determine whether the member has more than one account. If the member has more than one account, the administrator of the new fund should be notified and then determine with the member whether they wish to consolidate their accounts.

Recommendation 9.15 *Relevant legislation should be amended to:*

(a) remove from super funds the current exemption from initial customer identification requirements under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 when a member exercises a choice to join that fund, or to roll into that fund the whole or part of a benefit from another fund. Risk-based customer identification would ordinarily be satisfied if the member has provided their TFN to the fund and the trustee has confirmed with the ATO that the TFN is correctly associated with the details for that member or the trustee has confirmation from its own records or another APRA-regulated fund that they have previously provided that level of identification;

(b) enable the trustee of an APRA-regulated fund, with the authority of a member, to initiate a rollover of all or part of that member's benefit from another fund as though the member had initiated the request to the exiting fund, without further proof of the member's identity being required;

(c) require the trustee of any fund receiving such a request to normally remit the member's balance electronically to the new fund within two clear business days, subject to a capacity for APRA to provide relief from this provision when prudential considerations require it;

(d) amend the choice of fund form to make it more user-friendly and to enable the member to tick a box requiring all super accounts to be consolidated, with the nominated APRA-regulated fund to action as above. In view of the greater engagement of most SMSF members, and risks identified in the use of SMSFs for illegal early release of superannuation, this facility should not be extended to the trustees of SMSFs at this stage; and

(e) override any provision in the governing rules of any fund with a defined contribution component that would otherwise prevent the consolidation of member accounts.

We note that these recommendations are consistent with the Henry Report¹²⁰, and that the Government agrees in principle with the overarching goal of these recommendations and is consulting with stakeholders. We support any moves that would assist members of multiple superannuation funds to keep track of their superannuation and to consolidate multiple accounts.

¹²⁰ Recommendation 23

Recommendation: *We endorse the proposals of the Cooper Review to simplify access to and lower the cost of the superannuation system, including the proposals to simplify amalgamation of accounts through using the Tax File Number system.*

Finally, and particularly in the context of the recent fluctuations in global markets, there is a significant concern among women in relation to the security of their superannuation savings. The shift away from defined benefit superannuation funds to accumulation funds has shifted the risk from employers to employees¹²¹. Although employees may contribute to a defined benefit fund, the risk of an unfunded pension liability rests on the fund, who may be entitled to require any associated employer to fund the shortfall. Conversely where a fund is an accumulation fund, the risk is borne by the member, whose benefits are determined by reference to the balance in their account. In times of market fluctuation, this is a cause of concern to members who may be approaching retirement.

Similarly, the erosion of low balances by fees is a concern. We received reports from some women that fees were being deducted from extremely low account balances. Under the SIS Regulations certain members, including those with account balances of less than \$1000 that receive superannuation guarantee payments, are required to be protected against certain events (Regulation 1:03; Part 5). In particular minimum balances are to be protected:

- Regulation 5.08 (1) For subsections 31 (1) and 32 (1) of the Act, it is a standard applicable to the operation of regulated superannuation funds and approved deposit funds that the trustee of a fund must ensure that a member's minimum benefits in the fund are maintained in the fund until the benefits are:
- (a) cashed as benefits of the member, other than for the purpose of the member's temporary incapacity; or
 - (b) rolled over or transferred as benefits of the member; or
 - (c) transferred, rolled over or allotted under Division 6.7.

Note that this merely requires preservation of the balance, which may take the form of ensuring that fees do not exceed the investment returns for the period. Secondly, it was not clear in the consultation whether women were referring to balances as low as \$1000. Accounts with balances over this amount are not protected. However we are concerned about these reports. A move to a low fee account such as MySuper, as discussed above, will provide an alternative to investors who are concerned about fee levels.

Recommendation: *We support any proposals, including MySuper, that will protect small superannuation accounts, and assist women in understanding their superannuation.*

We further recommend that superannuation funds become more gender aware and develop marketing and communication strategies targeting women to increase their engagement with and understanding of the long term benefits to them of superannuation, increasing the likelihood of women achieving adequate retirement income.

The second pillar of the retirement system is voluntary savings, particularly through additional superannuation contributions. It is important to note that many women are not in a financial

¹²¹ Above note 10, at 176

position to make additional contributions for much of their working life. During their caring years women are more often engaged in part time work, and a significant proportion of their earnings may be spent on child care. Even when engaged in full time work, the gender pay gap results in women earning lower salaries than men¹²². Accordingly they have a lower capacity to save, and frequently intra household expenditure patterns reinforce this¹²³.

In many two income households decisions about income and savings are gender based. Within the household some of the issues that impact on security for women in retirement are:

- The division of hours in the paid workforce: do both parents work full time, or does one or both parent(s) work part time?
- Who pays the household expenses, including child care costs?
- Does either parent have access to salary sacrificing arrangements, particularly in relation to superannuation?
- On divorce, women frequently trade off other assets in exchange for a split of their spouse's superannuation.

The usual pattern of work in Australian working households is the 1.5 worker model: one parent works full time while the other, usually the mother, works part time¹²⁴. The obvious outcome of this model is that the higher earner accumulates more superannuation through the superannuation guarantee charge. The higher earner also has more capacity to save through voluntary superannuation contributions. There is also evidence that mothers are more likely to pay household and child related expenditure, while the father's income is applied to discretionary expenditure and savings (including superannuation). Comments from women in the consultation confirmed these patterns.

Recommendation: *We endorse Recommendation 18 of the Henry Report, recommending that superannuation be taxed at a taxpayer's marginal rate of tax less a rebate, as we believe that this will encourage couples to invest separately in the superannuation account of the lower income earner.*

If a woman remains in a stable relationship, on retirement she can expect to share in the benefits from her partner's superannuation. However single women are the group most likely to face poverty in retirement¹²⁵. Prior to 2002 the division of superannuation entitlements on separation and divorce was problematic. Future superannuation benefits at law are not property that can be divided on separation, and to allow the benefit to be cashed out in order to divide it would be contrary to superannuation preservation policy. Accordingly the Family Law Act and Superannuation Industry Supervision Act were amended to provide a superannuation splitting regime. Under these laws a superannuation account may be split in one of three ways: the amount may be rolled over to another superannuation account; the amount may be held by the trustee as a separate interest from the original amount; or a lump sum may be paid if the spouse has satisfied a condition of release.

¹²² Above note 18

¹²³ Saba Waseem, 'Household Monies and Decision Making' (FACISIA, 2005) <<http://www.fahcsia.gov.au/research/prp23/PRP23.pdf>>

¹²⁴ Lyn Craig and Kilian Mullan, 'The policeman and the part-time sales assistant: household labour supply, family time and subjective time pressure in Australia 1997-2006' (2009) 40(4) *Journal of Comparative Family Studies* 545

¹²⁵ Above note 44

In the consultation a number of women commented that in a divorce the husband retained his superannuation and the wife got the house. The Adelaide consultation was attended by a practicing lawyer, and who indicated that superannuation splitting is now routinely considered in divorce settlements.

A recent study reviewed the effect of the superannuation splitting provisions on property settlements on divorce¹²⁶. This study interviewed 600 people who had been through a divorce, obtaining information about the property settlement. The findings included:

- Compared to ten years earlier, superannuation splitting is more common, however it is still less than 20%
- Separating couples are more aware of the ability to split superannuation as part of the property settlement, increasing from less than half to about 80%, although women were less well informed than men
- Although women are more likely to benefit from a share of their former spouse's superannuation, the proportion is still less than 20% with women often trading off their right to split superannuation for other assets, particularly the family home
- In cases where superannuation was split, the husband retained the home in 46% of cases and it was sold in a further 26% of cases.

The evidence from our consultations is consistent with these findings.

Recommendation: *We recommend that the Office for Women undertake further research to monitor the consequences of splitting superannuation on separation under the provisions of the Family Law Act and Superannuation Industry Supervision Act.*

One of the changes to the simplified superannuation scheme implemented in 2007 was the use of contribution caps to regulate overinvestment in superannuation. These replaced the former retirement benefit limits (RBLs) that restricted the amount that could be withdrawn from a superannuation fund: restricting inputs rather than outputs. There are two types of contributions. Concessional contributions are included in the income of the superannuation fund and are accordingly taxed at 15%¹²⁷. These amounts are generally tax deductible, either to an employer or to the individual if they are substantially self employed. It should be noted that superannuation guarantee amounts are included as concessional contributions. Other contributions are non concessional contributions¹²⁸. Generally these are from after tax income, and have accordingly been taxed at the personal marginal rate of tax.

Each type of contribution is subject to a different cap. Contributions above the caps are subject to penalties that effectively tax the amount at the top personal rate of tax¹²⁹. Currently the concessional caps are dependent on the age of the contributor. A person under 50 years of age can contribute \$25,000 in 2011/12, while a person over 50 years of age can contribute \$50,000, in order

¹²⁶ Grania Sheehan, April Chrzanowski and John Dewar, 'Superannuation and Divorce in Australia: An evaluation of post-reform practice and settlement outcomes' (2008) 22(2) (August 1, 2008) *International Journal of Law, Policy and the Family* 206

¹²⁷ ITAA 97 s.292-25

¹²⁸ ITAA 97 s.292-90

¹²⁹ ITAA s.292-15. Note that there are some anomalies in the way in which the penalties apply, however they are not relevant for this discussion.

to allow them to boost their account balance prior to retirement. The non concessional caps are \$150,000 for all contributors.

The concessional contribution cap for members over 50 is a transitional provision, due to expire on 30 June 2012. The Government has announced its intention to extend the provision in respect of members who are over 50 and have a fund balance up to \$500,000, and has entered into a consultation process in relation to this proposal¹³⁰. We agree with this proposal, on the grounds of equity for women. Few women have the ability to accumulate substantial retirement savings while they are raising children, due to the interruptions in their career¹³¹. We particularly support limiting access to the increased threshold to people with less than \$500,000 in their accounts, as it is these fund members who will be reliant on the age pension unless they increase their superannuation savings.

The introduction of paid parental leave from 2011 has focussed attention on superannuation where a person takes time out of the workforce. Typically a parent will withdraw from the workforce for a period after the birth of a child, and possibly for the next few years. Re-entry to the workforce is frequently on a part time basis. We note that other carers face similar issues as they reduce or cease work in order to care for a family member.

Carers spend significant periods of time out of the workforce or at lower income levels and accordingly are frequently unable to make substantial voluntary contributions. The consultation reinforced that in some cases partners discourage women from saving into superannuation. There is a case to say that people who have been out of the workforce caring for children should be able to access an increased contributions cap on a similar basis to workers over 50. Although many carers returning to work have a reduced capacity to save as a result of child care and other costs, providing an incentive for voluntary superannuation savings would increase the attractiveness of this as a savings vehicle. This could be structured as a rolling cap, an increased cap based either on the time that the carer was out of the workforce or years that no contribution was made on their behalf, and incorporate a restriction based on the account balance.

Recommendation: *That superannuation guarantee be payable in respect of paid parental leave.*

That parents returning to the workforce after parental leave be encouraged to make catch up contributions into superannuation, through an increased superannuation co-contribution and/or an increased concessional contributions cap.

That consideration be given to similar treatment in respect of other categories of carer payments.

Currently a tax offset is available where a taxpayer makes a contribution in respect of a non-working spouse¹³². This rebate is very limited: the spouse must earn less than \$13,800 pa, and the maximum contribution is limited to \$3,000, giving a maximum rebate of \$540. In the 2008/09 year 16,455

¹³⁰ Australian Treasury, 'Concessional superannuation contributions caps for individuals aged 50 and over' (Australian Treasury, February 2011) <http://www.treasury.gov.au/documents/1977/PDF/CP_Contribution_Caps_for_Older_Workers.pdf>

¹³¹ Above note 18

¹³² ITAA 97 s.290-230

claims were made, at a total cost of \$6,478,698, or an average of \$394¹³³, equating to about \$2,189 as the average contribution made to spouse superannuation accounts. It compares to 376,980 claims for a dependant spouse tax offset.

This offset is clearly only having a limited effect in encouraging contributions by a taxpayer on behalf of a non-working spouse. It should be restructured to encourage higher contribution rates. This could be achieved by:

- The means test applied to the spouse income in order to qualify for the offset, currently \$10,800 with a phase out to \$13,800, could be increased;
- The maximum amount of contributions rebated, currently \$3000, could be increased; and/or
- The rate of the rebate, currently 18%, could be increased.

Alternatively, the rebate should be repealed as being ineffective in achieving its purpose.

Recommendation: *The spouse superannuation offset should be reviewed to improve the effectiveness of the offset in encouraging people in work to make contributions to their spouse account.*

The third pillar of retirement policy is the age pension. The purpose of superannuation is to provide security in retirement, reducing the number of retirees relying on the age pension. There is a 'lump sum' culture among Australian retirees, under which taxpayers prefer to take accumulated superannuation benefits in preference to income streams. This is not discouraged under the current taxation requirements, which ensure that both lump sums and annuities are tax free if the retiree is over 60 years of age. While a lump sum may allow a retiree to pay out liabilities, including a mortgage, an income stream provides a more effective ongoing safeguard against poverty. Currently the private annuity market in Australia is very thin, with few products available.

Recommendation: *We endorse Recommendations 21 and 22 of the Henry Report to encourage superannuation funds to offer, and members to take up, annuities instead of lump sums on retirement.*

Although improvements in the superannuation regime will reduce reliance on the age pension, currently older women are overrepresented as age pension recipients. In June 2010 56.5% of age pension recipients were women. Adjusting to exclude women under 65, to ensure comparability with male age pension recipients, women still represent 55.4% of age pensioners. Women are also more likely to receive the maximum rate. Single women are also overrepresented as pension recipients, being nearly double the number of single men receiving pensions and more than half of all women receiving the age pension¹³⁴.

This trend is likely to continue as women continue to find it more difficult to accumulate superannuation through either compulsory or voluntary contributions. Accordingly the age pension must be maintained as a safety net to protect women in retirement.

¹³³ ATO, 'Taxation statistics 2008-09' (Australian Taxation Office, 2011)

<<http://www.ato.gov.au/corporate/content.aspx?menuid=0&doc=/content/00268761.htm&page=8&H8>>

¹³⁴ FaHCSIA, 'Statistical Paper no. 9: Income support customers: a statistical overview 2010' (Commonwealth of Australia, 2011)

<<http://www.fahcsia.gov.au/about/publicationsarticles/research/statistical/Documents/stps9/stps9.pdf#table 4>>

AFFORDABLE HOUSING

Participants in the consultations raised housing security as an issue of concern. In February 2011 a collaboration of women's advocates¹³⁵ hosted a high-level workshop to discuss investment in affordable and accessible rental housing, with a particular concern for women's housing security¹³⁶. Women's advocates see development of a new national policy on affordable rental housing as a top priority for the Commonwealth Government.

Data presented by Professor Judith Yates showed that women in private rental carry a significant burden of rental stress. The impact of the lack of affordable housing may be felt disproportionately by women because of the higher number of women in low paid jobs, women heading single parent families and the higher rates of poverty among older women living alone.

The two core housing challenges for Australia are the declining access to home ownership for middle income households and the inadequate supply of affordable and accessible rental housing for lower income and vulnerable households.

It is estimated that across Australia there was a shortage of 178,400 dwellings in July 2009, and that this gap will grow as completions do not meet underlying demand. Lack of supply of housing has contributed to price increases, which has led to decreasing home ownership among younger first home buyers. As interest rates have declined and house prices have risen, the amount that purchasers need to provide as a deposit has increased, and this has contributed to households remaining in the rental market longer.

The impact on the rental market has been to increase rental prices as there is more competition for properties, and higher income households remain in the rental market instead of buying a home. In 2007/08 86% of households in the first quintile and 61% of the lowest 40% of income earners reported being in rental stress. This is focussed on the private rental market, where there has been a marked decline in the number of properties available at less than \$300 per week. When affordability (at the 40th income percentile) and availability are taken into account, there was a shortage of 493,000 dwellings in 2007/08¹³⁷. In the social housing segment it is estimated that a further 90,000 dwellings will be required by 2012, and 150,000 by 2020.

The community housing sector in Australia, which encompasses both affordable and social housing, is growing. A significant driver for this growth is the National Rental Affordability Scheme (NRAS), which has allowed the sector to provide housing for 24,586 new households, of which 4178 were occupied by August 2011. Funding is allocated to approved projects for a ten year period, however, there is concern that funding for new NRAS projects is not guaranteed. The major challenges faced by the sector are:

- Maintaining growth: after the initial transfer of Nation Building stock, where is the funding to come from?

¹³⁵ The collaborating organisations are: Equality Rights Alliance, Economic Security for Women, National Foundation for Australian Women and National Rural Women's Coalition

¹³⁶ Equality Rights Alliance, 'Investment in Affordable and Accessible in Rental Housing: Women's Housing Security' (February 2011) <<http://www.equalityrightsalliance.org.au/projects/housing-policy-addresses-needs-women>>; attached as Appendix 4.

¹³⁷ NHSC, 'State of Supply Report 2010' (National Housing Supply Council, 2010) <<http://www.nhsc.org.au/supply.html>>

- Stock transfer and leveraging: some institutions place restrictions on the sector's ability to borrow.
- Accessing private investment: where funding cannot be obtained through borrowing other sources of funding are needed.

The sector needs long term secure capital funding and a national strategic housing plan. Regulations need to be consistent across jurisdictions, and the sector needs to continue to become more professional while maintaining its inherent social values. It needs to develop partnerships with other stakeholders, including Government. Affordable housing needs to be part of the social inclusion agenda, in the same way as health and education.

Some NGO's and other organisations are developing tools to measure a Social Return on Investment (SROI). It measures impact across social, economic and environmental aspects¹³⁸. To make the case for a Social Return on Investment the sector needs to investigate tenant outcomes, and attempt to quantify them. Some aspects that could be investigated further include:

- Stigma – how does the quality of a person's housing (social or affordable) impact on their standing in the community?
- Stability – does affordable housing help a tenant to put down roots in a community, and how long lasting is that effect?
- Changing Needs – how can affordable housing accommodate a person's changing needs over their lifecycle while allowing them to stay connected to their community?
- Economic outcomes – relationship between work and stable housing?
- Aspirational outcomes – can affordable (rental) housing be a step on the ladder to home ownership, and do tenants have home ownership as a goal?
- Sustainability – how can affordable housing developments link into the green and sustainable development movements?
- Gender impacts – is there a disproportionate social benefit (or cost) to providing affordable housing to women, sole parents or older women?

The final recommendations of the workshop included:

- 1) A national policy agenda on access to affordable rental housing is established through a designated Federal Minister for Housing.
- 2) The housing sector – community housing and housing providers – needs to work with State, Federal and Local Government re:
 - a) Funding sources
 - b) Consistency of the regulatory framework across state and local government boundaries
 - c) Local Planning rules to facilitate affordable developments (e.g. Australian Capital Territory initiatives)
- 3) Funding sources should be supported by governments through initiatives that allow flexibility to the housing developer while offering security to allow it to engage in a long term project.

¹³⁸ <http://www.sroi-uk.org>

- 4) Stimulation of non-government investment to respond to government incentives is key. Such funding proposals could include:
 - a) Grants should be made secure and long term through budget processes, and should be sheltered from cuts
 - b) Government backed guarantees may be a means of increasing the borrowing capacity of developers
 - c) Subsidies to address the gap between affordable rents and market rents, currently available through the tax system, could be paid in a manner that increases cash flow to developers, which will increase their repayment capacity.

- 5) Governments at all levels should explore means of developing suitable greenfields and brownfields 'land banks' for affordable housing development.
 - a) Further research is needed on:
 - b) developing a Social Return on Investment (SROI) in affordable housing development
 - c) the gender dimension of access to affordable rental housing
 - d) The compounded issues that women from diverse backgrounds and various life situations experience when attempting to secure affordable rental housing.

- 6) Women's advocates and housing developers need to work together to ensure developers address the needs women face in securing affordable rental housing.

To inform the debate on how such funding can be secured, the Equality Right Alliance has commissioned a paper on negative gearing for housing investments, and the impact that negative gearing has on the housing market¹³⁹.

The options presented in that paper can be classified as limiting access to negative gearing; quarantining losses from negative gearing; or, as recommended in the Henry Report, limiting the concessions on capital gains. We note that each reduction of 10% in the CGT concession would raise around \$1b per year that could fund affordable housing initiatives.

Recommendation: *That the necessary funds be provided to ensure the continuation of the NRAS scheme.*

We support Recommendation 14 of the Henry Report to reduce the current capital gains tax exemption from 50% to no more than 40%; however the 50% concession should be retained in relation to investment in affordable and social housing, through approved entities.

VOCATIONAL TRAINING

While the Commonwealth has introduced many initiatives to encourage re-skilling adults, it is clear from the recent consultations that for many women these remain unknown. Unless women are

¹³⁹ The Australia Institute, 2011(attached as Appendix 5)

directly in the social security system and in receipt of income support payments they may never be in contact with Job Services agencies or with Centrelink.

More innovative information distribution is required. Women who are formally caring for adults or children in the home ought to be a target to enable them to plan for their futures.

Recommendation: *We recommend allocation of funding to promote the range of vocational education and training and other workforce re-entry programmes available to women returning to the workforce.*

The issues that women face in re-entering the workforce and the economic benefits from encouraging them to do so are set out in the submission from WAVE, attached as Appendix 1.

The different learning needs of women must be recognised within vocational education and training policy, with particular attention being paid to the needs of women facing multiple causes of disadvantage in relation to access to training and workplace re-entry programmes. Women with special needs would include indigenous women, disabled women, women from culturally and linguistically diverse backgrounds, low socio economic status women and rural women.

One of the core issues facing women's participation in the workforce is the re-entry difficulty faced by women who have spent time out of the workforce, usually as a consequence of their caring responsibilities. At different stages of their life women will face different needs: young women need access to education and training to equip them with the necessary knowledge and skills to enter their chosen career; while women re-entering the workforce after raising a family, whether on a full time or a part time basis, need to update their workplace skills through pre-vocational or 'stepping stone' programmes. Older workers may need retraining to enable them to continue to work in a changing work environment. Accordingly programmes need to consider the needs that women face at different times in their life, acknowledging that they may differ from the needs of male workers, and that programmes need to be flexible enough to suit the specific needs of a diverse range of women, each of whom may have different needs¹⁴⁰. Such programmes need to be accessible at no, or low, cost.

In particular, career counselling offered to girls through the school system should be designed to broaden subject and course selection. In 2009 the majority of women were employed in two main industry sectors: education and training and health care and social assistance¹⁴¹. This is a significant contributor to the gender pay gap, as these industries are not highly paid – although even in those industries men are paid more than women¹⁴². Two policy initiatives that would dilute the concentration of women in these fields would be to increase the awareness of career options among young women in schools by funding gender aware career counselling, and providing incentives to women entering non-traditional fields of study on leaving school.

¹⁴⁰ Pocock B, Elton J, Green D, McMahon C, Pritchard S, 2011a, 'Juggling work, home and learning in low-paid occupations: a qualitative study'. 24th June 2011, NCVET <http://www.ncver.edu.au/publications/2369.html>;

Pocock B, Skinner N, McMahon C, Pritchard S, 2011b. 'Work, life and VET participation amongst lower-paid workers'. 28th June 2011 NCVET <http://www.ncver.edu.au/publications/2378.html>

¹⁴¹ Toohey, above note 18, at page 8.

¹⁴² Above, at page 9

There is also a need for women returning to the workforce to be able to access appropriate career training that broadens the range of career options available to them. Many women would welcome the opportunity to be employed in fields other than the care sector, but require timely and informed advice to expand their knowledge base and so widen choices about potential careers, along with access to appropriate training and support to equip them for a new career. In particular counsellors advising women who are required to seek work under the welfare to work programmes should have appropriate gender awareness training. Gender sensitive and informed counselling is not only needed for girls entering the workforce, but also for women, to expand and support them in their choices, to ensure that they lead to decent work, career pathways and better remuneration.

In recognition of the different needs of women at different life stages, employers should be encouraged to develop programs and work practices that assist women returning to the workforce, for example flexible working hours or the right to work from home. Government should engage with industry partners in designing employment schemes that facilitate women's participation in non-traditional careers. UN Women acknowledges the need for joint initiatives to improve outcomes for women¹⁴³. In particular initiatives that are designed to address the changing nature of the workplace, including reskilling workers to equip them for jobs where skill shortages exist or in new and emerging industries, should include measures, including targets and quotas, to address the gender segmentation currently existing in the workforce. In particular we note the recent announcement of the Critical Skills Investment Fund in relation to the resources industry which is dominated by male employment. Gender programs should be incorporated in programmes of this nature.

Women who do enter non-traditional careers also require further support to provide a safe and non-discriminatory workplace. Programmes need to be available to redress the masculinised nature of some work. Gender awareness training should be provided within apprenticeships, higher education and other educational and training programmes to ensure that men working with women in a workplace are aware of the issues that might be encountered. In particular this training should address preconceived ideas about the capabilities of women working in male dominated trades and professions.

In order to ensure that appropriate programs are designed, and to measure the effectiveness of those programs, a number of administrative steps need to be taken. Relevant advisory boards, including those that advise COAG, must include relevant gender expertise. Current inquiries, including those relating to Foundation Skills, Apprenticeships and Traineeships and Assessment and Teaching in VET would benefit from this expertise. Relevant data must be made available to these boards and inquiries, which would require disaggregation of data based on gender, allowing trends and issues to be identified and programmes developed to address them. Accountability mechanisms should be implemented that set key performance indicators, and monitor outcomes – particularly in relation to strategies that are established to address gender specific issues.

¹⁴³ UN Women Women's Empowerment Principles: Equality Means Business
http://www.unifem.org/partnerships/womens_empowerment_principles/ Accessed 26th August 2011

In recognition of the key theme for and Agreed Conclusions of CSW 55, ERA with NFAW endorses WAVE recommendations¹⁴⁴ as necessary for VET policy and programs to achieve substantive equality between men and women in Australia.

EQUAL OPPORTUNITY

It is clear from the consultation that women still frequently encounter discrimination in the workplace. This ranges from the gender pay gap¹⁴⁵ to direct discrimination.

ERA, WomenSpeak, and member organisations have a long record of supporting women's rights. The following submissions¹⁴⁶ have been made to enquiries specific to equal opportunity:

Human Rights Consultation Submission¹⁴⁷

In 2009, WomenSpeak prepared a submission as part of the national Human Rights Consultations, supporting the introduction of a national Human Rights Act. In focussing on the women's rights perspective, the submission addressed five key areas: addressing already-identified human rights problems; a Human Rights Act for Australia; the Sex Discrimination Act; integrating human rights principles into policy development and implementation by rejuvenating women's policy machinery.

The submission made a number of recommendations in respect of workplace discrimination, noting that existing legislation existed but that these areas needed continued attention. We note that a Paid Parental Leave Scheme, as recommended in the submission, has now been introduced. Other recommendations that require ongoing attention included reforms to the Equal Opportunity Act.

Pay Equity

In 2008, a number of WomenSpeak member organisations made submissions¹⁴⁸ to a parliamentary inquiry into pay equity and increasing female participation in the workforce. The report of the Committee *Making it Fair*, was released in November 2009¹⁴⁹.

The report details the evidence that shows that women still experience discrimination in the workplace, significantly through pay rates with women not receiving equal pay but also in areas of terms and conditions. The report identified that the dual responsibilities of work and care impact on women's workforce experience, as also identified in this consultation.

The recommendations of the committee report identified changes to the industrial relations legislation, the Equal Opportunities legislation and administrative responses that could reduce the gender pay gap, and reduce the discrimination experienced in the workplace by many women. In

¹⁴⁴ Attachment 1 to Appendix 1, at pages 85

¹⁴⁵ Above note 18; EOWA, *Gender workplace statistics at a glance* (EOWA

<http://www.eowa.gov.au/Information_Centres/Resource_Centre/Statistics/gender%20stats%206-11_ONLINEversion.pdf>

¹⁴⁶ Each of these documents is available on the ERA website: <<http://www.equalityrightsalliance.org.au>>

¹⁴⁷ Available at

<[http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/B80D9FE8BC438574CA257608001ACC9B/\\$file/womens_peak_alliance_AGWW-7SU3KM.pdf](http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/B80D9FE8BC438574CA257608001ACC9B/$file/womens_peak_alliance_AGWW-7SU3KM.pdf)>

¹⁴⁸ Available at <<http://www.aph.gov.au/house/committee/ewr/payequity/subs.htm>>

¹⁴⁹ Standing Committee on Employment and Workplace Relations, 'Making it Fair' (Parliament of Australia, 2009)

<<http://www.aph.gov.au/house/committee/ewr/payequity/report/front.pdf>>

particular, we note recommendations 22 to 32 that would establish a pay equity unit within Fair Work Australia.

Recommendation: *That the Government establish a pay equity unit within Fair Work Australia, as recommended by the Standing Committee on Employment and Workplace Relations in its 2009 Report: Making It Fair.*

That the other recommendations of the Standing Committee be considered for urgent implementation.

Review of the Sex Discrimination Act

In 2008, WomenSpeak prepared a submission as part of the inquiry¹⁵⁰ into the effectiveness of the Sex Discrimination Act¹⁵¹. The submission represents a collaborative vision for strengthening the equality framework in Australia, particularly through improvements to the *Sex Discrimination Act* (SDA). The submission considered discrimination within the framework of Australia's human rights obligations, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The submission particularly notes that CEDAW focuses on the discrimination women that women experience by virtue of being women and that this has a broad meaning including substantive equality as well as legal equality. It is clear from this consultation that many of the issues that women face in the workplace are issues of substantive equality, experienced because women's lives and workforce patterns are different to those of men.

ERA supports the changes made to the Sex Discrimination Act in May 2011. The changes will strengthen the Act by:

- prohibiting direct discrimination on the basis of family responsibilities for both men and women in all areas of employment
- establishing breastfeeding as a separate ground of discrimination, and allowing measures to be taken to accommodate the needs of breastfeeding mothers and
- bringing in new protections for students from sexual harassment, including over the internet or by text message.

The Bill also creates the new position of Age Discrimination Commissioner in the Australian Human Rights Commission. Susan Ryan AO was appointed to this position in August 2011.

ERA supported these amendments and welcomes their passage through Parliament. However it is disappointing that amendments to strengthen protections against indirect discrimination on the basis of family responsibilities were opposed in the Senate and did not pass. The Coalition moved amendments that succeeded in the removal of new protections against indirect discrimination on the basis of family responsibilities in all areas of work.

¹⁵⁰ Senate Legal and Constitutional Affairs Committee, 'Effectiveness of the Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality' (Parliament of Australia, 2008)

<http://www.aph.gov.au/senate/committee/legcon_ctte/sex_discrim/report/index.htm>

¹⁵¹ Available at <http://www.equalityrightsalliance.org.au/projects/womens-equality-law>

However we note that these amendments are only a partial response to the 2008 review, and that the remaining issues have been referred to the consolidation project for consideration.

The Consolidation Project

In April 2010 the Australian Government announced review of federal anti-discrimination legislation – the 'Consolidation Project', to harmonise and consolidate current laws into a single Commonwealth Act., with the intention of 'removing unnecessary regulatory overlap, addressing inconsistencies across existing Acts and making the system more user-friendly in order to reduce compliance costs for individuals and business'. The Government is also considering further the complaints handling processes and the related role and functions of the Australian Human Rights Commission.

Equality Rights Alliance has lodged a submission with the Attorney General's Department, based on a round table held in December 2010¹⁵². In this submission, ERA raised some concerns with the project, particularly in relation to the lack of formal consultation and the possibility that lessening regulation may weaken the protections incorporated in the legislation. Specifically, the submission draws attention to the recommendations of the Senate Inquiry¹⁵³ that have not yet been implemented.

ERA sees the consolidation project as an opportunity to strengthen and improve the protection provided to women by anti-discrimination laws.

Recommendation: *That the Government adopt and implement the recommendations of the Senate Standing Committee on Legal and Constitutional affairs on the effectiveness of the Sex Discrimination Act 1984, which have been referred to the Consolidation Project.*

Review of EOWAct

A review of the Equal Opportunity for Women in the Workforce Act was commenced in 2009, and a number of member organisations made submissions to the review¹⁵⁴. In March of 2011 the Minister announced a number of changes to the Act and the Equal Opportunity in the Workforce Agency. These changes included:

- revised reporting requirements, including outcomes based reporting; required reporting of the gender balance within the organisation and its governing boards; and employment conditions including flexible work practices;
- incorporating pay equity as a goal of the Act and including a reporting requirement to facilitate monitoring of the gender pay gap;
- granting the Agency new audit powers to ensure compliance with the Act;

¹⁵² Available at <<http://www.equalityrightsalliance.org.au/projects/womens-equality-law>>, and attached as appendix 6 to this report.

¹⁵³ Above note 150

¹⁵⁴ See, for example, ES4W Submission to Office for Women EOWW Act Review (2009) at <http://www.security4women.org.au/wp-content/uploads/S4W-Submission-EOWW-Act.pdf>

- renaming the Agency the Gender Equality Agency and
- granting the Agency \$11.2m funding (over 4 years) to fulfil its mandate.

ERA is generally supportive of these changes which will continue the work of assisting women to gain economic equality with men. A key theme of this report is that economic inequality is a significant cause of poverty experienced by women. Workforce participation is a pathway to facilitating economic independence for many women, accordingly we welcome any steps taken by Government to ensure that women are achieving equality.

CONCLUSIONS

Improved female workforce participation is an important social and economic goal. Workforce participation impacts on a woman's well being, and increased participation rates have an important impact on reaching Australia's economic goals.

The consultations show that women still experience significant barriers to workforce participation. The concerns are different, depending on their socio-economic background and the extent of their workplace attachment, however they identify a number of key issues:

- Child care was the most significant barrier. In particular women need to be able to access appropriate and affordable care. Child care subsidies need to be transparent and sufficiently flexible to allow women to obtain the type of need that is appropriate, in terms of location and the style of care.
- Family tax benefits are regarded as an important form of support to families, particularly sole parents, however the structure of the benefit does incorporate disincentives. It needs to be restructured to be more readily understood, and to remove the double means test that applies to the income when a partnered women returns to work.
- Superannuation is not well understood, but women are aware of the importance of accumulating adequate superannuation to support retirement. The main form of assistance that women need to increase superannuation balances is assistance to address the period(s) that she is not participating in the workforce.
- There is a need to ensure that women are aware of the programs available for vocational training and workforce re-entry; and there need to be more of such programs to assist women to re-enter the workforce.
- There are still issues of discrimination in the workplace, including the gender pay gap, that must be addressed to ensure that women are properly valued in the workforce.

The disturbing outcome of this report is that the issues raised in the consultation have been recurring in reports, consultations and reviews consistently for many years. Clearly there is a need to implement changes, as recommended in this and other reports, in order to address some of the systemic issues in relation to women's workforce participation rates.

APPENDICES

- Appendix 1 WAVE: Women's Issues in Workforce Participation: Education & Training and Links to Workforce Participation (August 2011)
- Appendix 2 Perry, Julia: Consultations concerning Women's Issues in Workforce Participation, Superannuation and Associated Taxation and Transfer Issues (2011)
- Appendix 3 Equality Rights Alliance: 'Investment in Affordable and Accessible in Rental Housing: Women's Housing Security' (February 2011)
- Appendix 4 Perry, Julia, Payments for Children and Effective Marginal Tax Rates (2011)
- Appendix 5 The Australia Institute, Negative Gearing for Housing Investments (2011)
- Appendix 6 Gender Equality Roundtable, Submission to the Consolidation Project (2010)



**NFAW/ERA CONSULTATIONS ON WOMEN'S ISSUES IN WORKFORCE
PARTICIPATION,
SUPERANNUATION AND ASSOCIATED TAXATION AND TRANSFER ISSUES**

August 2011

**Women's Issues In Workforce Participation: Education & Training and Links
To Workforce Participation**

This submission focuses on the links between education and training for women and their workforce participation. While acknowledging that the rate of women's participation in the Australian workforce continues to increase, we assert that this growth continues to reproduce rather than diminish the markedly gendered profile (horizontally across industry groupings and vertically – levels of appointment) that appears to be an enduring feature of the Australian labour force. In turn, we contend that this gendered profile is inter-related directly with statements in the NFAW/ERA Discussion paper; viz:

Despite significant increases in women's workforce participation, women continue to spend less time in the paid workforce than men, and to fare less well than men on a number of key indicators while at work. The nature of women's work is also quite different to men's¹.

Women are much less likely to work full-time than men (54.9 per cent compared to 84.1 per cent), and comprise over 70 per cent of the part-time workforce. ...

Taxes and transfers affect women in some different ways from men:

- Women on average earn less than men do, either because they work part-time or because their hourly earnings are lower.
- Women are therefore likely to be the lower income earner in a couple.
- Women are more likely to have primary responsibility for caring for children and to receive family payments.

¹ http://www.fahcsia.gov.au/sa/women/pubs/general/equal_opp_review/Pages/p2.aspx

- Women are more likely to receive pensions and allowances than men are.
- Women on average live longer than men do and yet have lower superannuation savings because their lifetime incomes are lower².

Broad based data illustrates that overall, girls and women are performing well in education in Australia. However, disaggregated education, training and employment data (where available and accessible) indicate this is not the case for all women. Poorer outcomes and/or non-engagement in training and decent work is the reality for many of those impacted by the intersectionality of gender with other 'markers' of disadvantage and disenfranchisement - still the lot of too many Australian women and girls, be they Indigenous, living with disability, from culturally and linguistically diverse backgrounds, from low socio economic backgrounds, living outside of capital cities or major regional centres, and/or young or aging.

Furthermore, an examination of women's fields of study (and outcomes) in higher education and in VET considered concurrently with the location and position of women in the Australian labour force illustrates the predominance of women in 'feminised' areas of study and in turn industries perceived as dominated by 'women's work' – much of it low paid, and casualised. This is in sharp contrast with the numbers of women employed in the key industries of existing, ongoing and emergent skills shortages in Australia, that are also characterised by better than average remuneration and career paths.

Of significance here are the industry groupings: Professional, Scientific and Technical; Mining & Construction. Although higher education enrolments in some male dominated professions such as law and medicine have improved significantly over the last three decades from very low bases to 50 – 60%, engineering enrolments over the same period have only increased to approximately 15%, with even lower participation rates for construction management.³ Similar gendered enrolment trends are replicated in 'blue collar' trades areas and apprenticeship enrolment in VET. In these areas, 'gender ... remains the "elephant in the ...classroom"'⁴, the associated industries and their workplaces.

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- In 2009 Toohey et al's report⁵ provided a compelling economic case for increasing female workforce participation. The report comments on the Australian Government's response to declining productivity and the lack of skilled labour by lifting international skilled migration levels and 'to boost training initiatives with a particular focus on apprenticeships for the industrial and building sectors' without implementing the right kind of policies to 'unlock' an obvious alternate source of labour supply-

² *Background Paper: Consultations On Women's Issues In Workforce Participation, Superannuation And Associated Taxation And Transfer Issues* 2nd August 2011 v1.5 <http://equalityrightsalliance.org.au/tax> Accessed 29/8/11

³ 'Tackling gender issues will increase the talent pool'. In *Focus. Professional Educator*. Vol 10, Issue 4, June 2011 pp 4-5.

⁴ Mills, J. June 2011 *Addressing gender equity issues in engineering*. <http://www.altc.edu.au/june2011-addressing-gender-equity-engineering>. Accessed 26th June 2011

⁵ Toohey T.; Colosimo D & Boak A, 2009, *Australia's hidden resource: The economic case for increasing female participation*. Goldman Sachs JBWere Investment Research 26th November 2009 http://www.eowa.gov.au/Pay_Equity/Files/Australias_hidden_resource.pdf Accessed 28th August 2011

women. They argued that while the increase in female employment rate since 1974 has already boosted economic activity by 22%, closing the gender gap would boost Australia's level of GDP by a further 11%,⁶ commenting further that:

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We refuse to believe that a female with the same educational and work experience as a male will be 50% less productive in a similar role. Instead, we find that an important element of gender equality is the dominance of females in low productivity sectors of the economy, particularly health care and training, a bias to clerical roles and a bias to working short hours.

Policies aimed at directing women joining the workforce into more productive sectors of the economy and retaining women in the workforce for longer would narrow or even eliminate the productivity gender gap. The impact upon the level of economic activity of such a change would be profound. On the assumption that females already in the workforce remain in their existing roles, then new female entrants exhibiting equal productivity gains as male workers would have the potential to boost the level of economic activity by over 20%.

Closing the male-female employment gap and boosting female productivity would also help to address the problem of pension sustainability via boosting employment among those of working age (thereby reducing the dependency ratio), lifting household saving rates and lifting taxation receipts for government⁷.
(Our emphasis)

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To improve women's workforce participation, changes in career counselling and advice, from schools through to adulthood and mature age workers, labour market and VET related policies are required urgently to ensure they are all gender sensitive as a matter of course. Accessible sex disaggregated data published regularly is required urgently (and long overdue). Also required is a broad based societal and corporate cultural shift in gender stereotyping: the expectations and roles of women and men, and especially what comprises 'women's work' (and why). The above all encompass issues around the economics of care work, 'family friendly' workplaces and practices, comparable worth, and equal pay along with breaking down old stereotypes of what is women's work, what is men's work - how such work is valued financially and in career terms.

The recommendations proffered by Toohey et al in 2009 (encouraging career paths in non-traditional industries; maintaining links with training and employers during parental leave; more flexible working hours and education programs; better directed subsidies for child care; and introducing quotas at a board level) remain highly relevant for implementation in 2011, viz:

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Governments could do much more to close the male-female employment gap including:

- i. Incentivising females at higher levels of education to move into courses and career

⁶ Op Cit p2

⁷ Op Cit p2

paths beyond education, training, health and social services.

- ii. Incentivising employers to keep links with female employees who have left work on parental leave. For instance, topping up the new parental payment for undertaking employer sanctioned training.
- iii. Incentivising females to return to the workforce after child birth. Child care, flexible working hours, retraining programs are all important in this regard. Reducing direct child subsidies for those outside of the workforce could be used to fund these initiatives since these payments discourage female labour supply.
- iv. Funding educational programs within schools to break stereotypes of females choosing low pay, low hours, clerical or social service roles. Funding education programs in the workplace targeting discrimination, pay equality and reluctance to use flexible working entitlements.
- v. Provide a timetable for increased female participation in Australia's top 200 boards and executive teams with a minimum quota of 2 female positions per board and an audit on female representation at the executive level. We believe not only that better decisions may be reached but that the second round impacts on mentoring and visibility of females would encourage a lift in female participation in general and a more even distribution of females across the workforce.

Progress in this area would both significantly boost potential economic growth and help to solve the looming fiscal burden of the ageing problem⁸.

The above recommendations resonate strongly with the Agreed Conclusions of the 55th Session of the UN Commission on the Status of Women (CSW55) held in New York City Feb-March 2011, in which Australia participated. The theme for CSW55 is: *Access and participation of women and girls to education, training, science and technology, including for the promotion of women's equal access to full employment and decent work*. The Agreed Conclusions Statement, directly relevant to this Consultation and agreed to by Australia, sets out a clear rationale and set of actions under five categories that, if implemented, would support and improve women's workforce participation and outcomes: -

- Strengthening national legislation, policies and programmes.
- Expanding access and participation to education (and training).
- Strengthening gender-sensitive quality education and training, including in the field of science and technology.
- Supporting the transition from education to full employment and decent work.
- Increasing retention and progression of women in science and technology employment⁹.

⁸ Op Cit p3

⁹ Commission on the Status of Women (CSW) 55 Agreed Conclusions 14 March 2011: <http://www.un.org/womenwatch/daw/csw/agreedconclusions.html>

Again, these are congruent with the 2009 recommendations of Toohey et al, detailed above, and even more urgent in 2011. Furthermore, WAVE submitted recommendations to Australian Government through the Office for Women following CSW55, relevant to VET in this country (See Att. One). What is required is the political will by Government and Industry to implement, resource and monitor gender sensitive and specific national and state/territory policies both to redress the outmoded gender stereotypes that continue to shape the labour force, training provision for women (and men) and so the lives of women and men in inequitable ways.

A small-scale study into the concept of ‘viable’ work recently completed by WAVE for economicSecurity4Women¹⁰ identified factors associated with viable work include the requirement that an industry &/or occupation will:

- have a good record of employment opportunities, supported by identifiable pathways to careers that evolve from such employment;
- recognise skills, and expertise in pay levels and work conditions and/or offer above average remuneration opportunities;
- expect growth or are sustaining themselves, and
- plan for and promote future needs that include women.¹¹

Using data available on Australia Government websites, the study found that the largest employment increases in the five years to 2014-15 are projected to occur in Professional, Scientific and Technical Services, Construction, Mining, Education and Training, Health Care and Social Assistance, and Retail Trade. Two thirds (66.2 per cent) of total employment growth is expected to occur in these six industries. The following table collates information from SkillsInfo2010¹² and illustrates both the potential signaled by Toohey et al and, despite specific initiatives by individual companies, the low level of initiatives to promote and support the increase of female participation in male dominated ‘non traditional’ industries:

Project Viability Indicators	Professional Scientific and Technical	Construction	Mining	Educational and Training	Health Care and Assistance	Retail
Employment opportunities	High	High	High	High	High	Moderate
Recognized skills by pay levels	High	High	High	High	Moderate	Low
Expected growth	High	High	High	High	High	High

¹⁰ eS4W/WAVE 2011 *Career pathways for women and girls: Emergent and non-traditional occupations and industries (Viable Work)* eS4W August 2011. Forthcoming <http://www.security4women.org.au/>

¹¹ Op Cit p7

¹² <http://www.skillsinfo.gov.au/> Information relating to this table is disused in detail in the above-mentioned report.

Planning and promotion to include women	Low	Low	Low	n/a	n/a	n/a
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- VET is utilised as a national and state/territory mechanism in micro economic reform, to address productivity requirements, labour market issues and skills shortages. Of significant relevance here is the current major reform agenda being implemented through COAG, along with ongoing consultations and policy initiatives relating to Australian Budget 2011, *Building Australia's Future Workforce*,¹³ Australian Apprenticeship Reform (especially as the latest figures indicate a fall in uptake of apprenticeships¹⁴, thus making the case for enhancing female participation ever more relevant), the *National Workforce Development Fund*,¹⁵ and the *National Resources Sector Workforce Strategy*,¹⁶ to name a few current initiatives. All offer the potential for policy design and implementation to grow and support female workforce participation in areas where their participation is dismally low in education, training (VET) and employment, and opportunities and wages are high.
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- National policies that focus on equity, and specifically acknowledge the complexity and challenges associated with gender and intersectionality have been sadly neglected (and in many cases disbanded) over the last decade and a half in Australia. There has been no national policy framework for women and girls in education since 1996, and the recently expired national policy in VET¹⁷ was never implemented. As well as advocating for the establishment of policy frameworks and national strategic plans for women and girls (acknowledging the diversity than is encapsulated in the word 'women') that in turn inform state/territory policies and resourcing decisions in VET¹⁸, WAVE continues to raise questions about equity and equity policy practices.
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- The current approach to equity in Australia is located under the 'social inclusion' umbrella, which does not implement gender analyses, and most often takes a gender-neutral stance rather than include gender as a factor of multiple disadvantage.¹⁹ After much lobbying, the NVEAC National VET *Equity Blueprint 2011- 2016*²⁰ now includes women in its list of groups for whom opportunities in VET have been poorer. While this reparation is welcome, what remains to be seen is if the workplan and activities of NVEAC will now include gender analyses as a matter of course, if national VET policy will include gender analyses and specific initiatives and incentives especially where they are under-represented, and if a national strategy will be implemented to ensure

¹³ See <http://www.australianapprenticeships.gov.au/Budget2011.asp>

¹⁴ Apprenticeships and trainees 2011: March quarter NCVER <http://www.ncver.edu.au/publications/2386.html>

¹⁵ See: <http://www.deewr.gov.au/Skills/Programs/SkillTraining/nwdf/Pages/default.aspx>

¹⁶ See <http://www.deewr.gov.au/Skills/Programs/National/ResourcesWorkforce/Pages/default.aspx>

¹⁷ Australian National Training Authority (ANTA), 2004 *Women: Shaping our future*. Brisbane, ANTA

¹⁸ e.g. eS4W/WAVE 2007, *Towards a sustainable economic future. Women & Vocational Education & Training*; eS4W/WAVE, 2010, *Women & Vocational Education & Training: Strategies for gender inclusive VET reform. A policy background paper*. <http://www.security4women.org.au/wp-content/uploads/Women-and-VET-Strat.pdf>

¹⁹ See for example: <http://www.socialinclusion.gov.au/Pages/default.aspx>; and

<http://www.socialinclusion.gov.au/FAQs/Pages/WhatDoWeMeanBy.aspx>

²⁰ See http://www.nveac.tvetaustralia.com.au/home/equity_blueprint

that women share equally in the benefits of Government initiatives in the VET and employment sectors.

- WAVE joins with and supports the stance by WEL that requests that the Australian Government incorporate in its national planning and advisory structures for education and training, objectives and targets which return gender equity as a core aim of all national strategic plans.

- WEL believes that fair policies are those that:

- *Ensure the costs and benefits are fairly distributed between women and men, as well as between different groups of women*
- *Value and reward fairly people's different skills, experiences and contributions*
- *Recognise the value of caring and supporting roles, whether paid or unpaid*
- *Recognise and rectify past and current inequalities and between men and women; and*
- *Enhance opportunities for both women and men to take on equal rights and responsibilities in all aspects of society: politics, community, employment and social life.*²¹

- The above requirements are in line with international obligations, such as those outlined through CSW55 and discussed previously, and those of CEDAW²², to which Australia is also a signatory. UN Women, through its Women's Empowerment Principles, contends that:

The private sector is a key partner in efforts to advance gender equality and empower women. Current research demonstrating that gender diversity helps business perform better signals that self-interest and common interest can come together. Yet, ensuring the inclusion of women's talents, skills and energies – from executive offices to the factory floor and the supply chain –

- requires intentional actions and deliberate policies.²³

- Principle 4 focuses on education, training and professional development for women, viz:

- a. Invest in workplace policies and programmes that open avenues for advancement of women at all levels and across all business areas, and encourage women to enter nontraditional job fields.
- b. Ensure equal access to all company-supported education and training programmes, including literacy classes, vocational and information technology training.
- c. Provide equal opportunities for formal and informal networking and mentoring.
- d. Offer opportunities to promote the business case for women's empowerment and the positive impact of inclusion for men as well as women.²⁴

²¹ <http://wel.org.au/index.php/the-issues/fair-feminist-framework/>

²² See: <http://www.un.org/womenwatch/daw/cedaw/>

²³ UN Women Women's Empowerment Principles: Equality Means Business
http://www.unifem.org/partnerships/womens_empowerment_principles/ Accessed 26th August 2011

²⁴ http://www.unifem.org/partnerships/womens_empowerment_principles/womens_empowerment_principles.php#wep4 Accessed 26th August 2011

- The VET system is national, industry driven, and highly regulated, with the core business to provide training for people seeking work, already in work, and pathways to paid work, including VET in schools. Training through the VET sector is focused on employment outcomes, and comprises industry endorsed training packages that are competency based, delivered by a plethora of training providers public (e.g. TAFE) and private; large and small. The system has difficulties in dealing with difference and complexity; it is often criticized for being market based, overly complicated and inflexible.
- Two recent studies provide an important overview and discussion of issues confronting low paid workers, many of them women, and detail associated challenges both for such workers but also importantly for the VET system and training providers, including the need to enhance training opportunities, the quality, accessibility, affordability of training and enhance employment outcomes for this diverse range of workers (Pocock et al 2011a; 2011b²⁵), illustrating well that one size or categorisation does not (as ever) fit all. For many seeking to gain or retain a job, to re-enter the labour force and/or to re-train, these studies show that the costs of participation in VET can be high, in cost, time and also effort, sometimes for little in the way of outcomes.
- Given recent changes to welfare related payments, and the increased imperative to move those receiving welfare into paid work through training, there are salutary lessons for those counselling and placing women into training for jobs, not the least is whether the jobs (and occupations) selected are viable in the long term for the women concerned. This is also an area where tax related implications loom large, including costs of child and out of school care, earning levels, affordability, and associated issues that arise where differing taxation regimes intersect.
- Similar attention is required in the adult community education (ACE) sector, which is often the first point of access to learning for many – for ‘second chance’ learners, for those wishing to extend on earlier school education; for those with low levels of literacy and numeracy skills; for new arrivals, and for a diverse range of people with a variety of motivations for learning, from gaining self confidence, pursuing a personal interest, for social, cultural contact and learning, and/or for activities that contribute to community development and participation. Increasingly over the last three decades the ACE sector has been funded through and so shaped by the VET sector, with the current initiatives indicating that lower level skills (1 & 2), and also Foundation Skills (delineated as ‘reading, writing, numeracy, oral communication along with employability and learning skills – ... critical for learning and for work’²⁶) may be ‘relocated’ to the ACE sector. It is highly debatable that increasing the pressure for programs offered through the ACE sector to conform to learning outcomes that are intrinsically linked to direct employment outcomes is a good thing. Historically, ACE has been a women friendly sector that has and continues to provide learning pathways for women (and men), many of whom do go on to paid work. However, it is also highly

²⁵ Pocock B, Elton J, Green D, McMahon C, Pritchard S, 2011a, 'Juggling work, home and learning in low-paid occupations: a qualitative study'. 24th June 2011, NCVET <http://www.ncvet.edu.au/publications/2369.html>; Pocock B, Skinner N, McMahon C, Pritchard S, 2011b. 'Work, life and VET participation amongst lower-paid workers'. 28th June 2011 NCVET <http://www.ncvet.edu.au/publications/2378.html>

²⁶ See: Foundation Skills http://www.21c.tvetaustralia.com.au/foundation_skills

possible that over regulation of the ACE sector through increased linking with VET imperatives has the potential to limit their learning opportunities and so their participation.

- Collectively, the above presents both a compelling business case and a moral obligation for the Australian Government to implement gender sensitive national policies, sustainable initiatives and incentives to enhance women's workforce participation. This includes increasing women's access to relevant affordable quality education and training in areas where they remain under represented; to equal access to multi million dollar Government initiatives to support employment in and development of industry sectors and occupations that in 2011, despite decades of Equal Employment Opportunity (EEO) legislation and numerous case studies and examples of best practice, are *still* perceived as 'non traditional' for women. It also points to the need to recognise that 'one size does not fit all' in the VET sector; that there are different pathways to learning, differing approaches and requirements for women in all their diversity. Provision of gender sensitive, accessible and affordable career advice and quality education and training, supported by relevant, timely and appropriate national policies and initiatives are the base requirements to increase women's workforce participation; the quality of their work and working lives, and economic wellbeing. Ultimately, this is the best interest of Australian women and girls, their families and communities as well as Australia as a nation, and the Australian economy.
- Following a lead article 27th August 2011 reporting on a new study by Toohey (Closing the Gap)²⁷, *The Age* ran a headline declaring 'A \$180bn reason to rethink women's work', stating:

GENDER equity has long been argued in terms of fairness; it has been understood as a moral issue. It still is, quite rightly, but Australia must confront the neglected economic costs of inequity. Given that slightly more than half the population is female, it should not surprise that the costs of constraints on women's workforce participation are anything but marginal. The latest estimates, reported in *The Saturday Age*, demand the attention of anyone concerned about skill shortages and productivity. . . .

Alarming, Australia slipped back in recent years. The pay gap is as wide as it was two decades ago. This cannot be explained by gaps in ability and education. Women are more likely than men to graduate from university. Australia leads the world in women's educational attainment, but is way down the rankings for workforce participation and gender equality. Much of the national investment in education and training is effectively wasted at a time when employers are crying out for skilled labour. ...

Australia must recognise the transformative potential of using the talent and training of women more widely. We tend, for instance, to think of careers in mining and construction as men's work, when higher-value skills require brains not brawn. We need to rethink the roles of women and men - in the home and at work - in conjunction with policies to promote and retain women in the workforce.

²⁷ Ferguson, A. 'A call to get more women working' *The Saturday Age* August 27 2011, p 1, 5.

This is a complex process, but other nations benefited from taking up the challenge. A nation that subscribes to the fair go should have applied it to women in the workplace. It is now an economic imperative.²⁸

This, then, is the challenge that confronts Australia and Australian policy makers in the areas of both employment and of education and training, to redress our gendered labour force profile, markedly improve employment outcomes for women, and so increase women's workforce participation in decent, well paid work with career paths and flexible work practices that enhance their wellbeing and reduce the juggle of unrealistic demands based on stereotypes well past their use-by dates.

²⁸ 'A \$180bn reason to rethink women's work' *The Age* 29th August 2011
<http://www.theage.com.au/opinion/editorial/a-180bn-reason-to-rethink-womens-work-20110828-1jgh8.html?skin=text-only>



SUBMISSION: Women in Adult & Vocational Education (WAVE)

**THE 55TH SESSION OF THE UN COMMISSION ON THE STATUS OF
WOMEN (CSW)**

Debrief 8th April 2011 Canberra.

RECOMMENDATIONS FOR ACTION

Preamble

Access to relevant quality education and training is widely recognized as a human right, and foundational to the empowerment of women and girls, including enhancement of their economic, social and political well-being.

WAVE welcomes the Agreed Conclusions from CSW55¹ and looks forward to working to promote and implement these not only for the benefit of women and girls in Australia, and elsewhere, but also as direct economic, social and cultural benefit for local communities and the wider Australian society. We note that:

The outcome of the Commission's consideration of the priority theme takes the form of agreed conclusions, negotiated by all States. These identify gaps and challenges in the implementation of previous commitments. They also provide action-oriented recommendations for all States, relevant non-governmental bodies, mechanisms and entities of the UN System and other relevant stakeholders, in order to accelerate implementation. The Commission on the Status of Women adopted agreed conclusions on the priority theme on 14 March 2011².

We are now at a moment in Australia where there is no current policy framework with a focus on women and girls in education and training in this country. Indeed, the last policy for girls in compulsory education was dated 1996. This signifies a serious gap in our collective knowledge of what is 'going on' for girls and women in

¹ UN Economic and Social Council Commission on the Status of Women Fifty-fifth Session 22 February-4 March *Draft agreed conclusions submitted by the Chair of the Commission on the Status of Women on the basis of informal consultations* E/CN.6/2011/L.6 8 March 2011 Available at: <http://www.un.org/womenwatch/daw/csw/55sess.htm#agreed>

² UN Women Commission on the Status of Women Agreed Conclusions <http://www.un.org/womenwatch/daw/csw/55sess.htm#agreed>

education and training other than relying on broad data sets that do not investigate underlying complexities associated with gender, diversities and so difference.

Historically the barriers to equity faced by women in VET and (to a lesser degree) employment have been addressed through national policy frameworks including the last VET national policy for women, *Women: Shaping our future*. This expired in 2010; moreover it was never implemented. Current national and state/territory policy approaches take a 'social inclusion' approach. For the most, this approach does not include gender analyses, is not gender sensitive, has no accountability in relation to gender let alone women and girls, and is most often 'gender neutral' in its language, strategies and implementation. It is timely that Australia reinstates gender sensitive policies and practices relevant to the demands of learning, living and working in C21st for women and girls in all their diversity.

In line with CSW 55 Conclusions and international obligations, including recognition of related global agreements identified in therein, WAVE seeks Australian Government commitment to implement education, training and employment policies based on gender analyses, including a new strategic framework for Australian women with a clear set of priorities and targets that take account of their diverse backgrounds, locations, life stages and needs.

The new framework must move beyond a gender-neutral stance to be based on gender analyses and be set in the context of key initiatives including the forthcoming COAG Reforms; the Skills Australia proposed reforms and the work of the National VET Equity Advisory Committee (NVEAC). The inter-related gap between VET and inequitable employment outcomes for women also requires urgent attention and structural change.

WAVE argues that:

- taking a gender neutral position is out of step with international human rights conventions and also with international Global Reporting Index (GRI), which has a committee addressing gender issues within its framework;
- taking a gender neutral position is out of step with the Australian Government's Office for Women, National Pay Equity Campaign and the considerable work being undertaken by the Australian Sex Discrimination Commissioner;
- taking a gender neutral position is out of step with the numerous Australian women's organisations clustered under the National Women's Alliances, all of who express their concern regarding the status of women in Australia, women's economic sustainability and the relevance of education to this position;
- NVEAC is in a powerful position to counter many of the misconceptions that have gained currency about the irrelevance of gender to conditions of employment, under employment and hidden unemployment. There is substantial evidence that women are still disadvantaged in relation to pay

equity, access to part time jobs of significance, that they are still disproportionately represented in low paid part time and casual employment with poor conditions and fail to be counted as part of unemployment figures as they are in unpaid carer roles within the family. When they do choose to return to work TAFE and other adult education offers them a pathway into further study and employment;

- young women and other women still study in gender segmented patterns in VET and VET in schools. This reproduces patterns of gendered employment and employment outcomes;
- a failure to acknowledge these structural flaws and address them now following CSW 55 and through planned reforms would be a wasted opportunity. Embedding indicators and building on existing capacity in relation to the provision of gender sensitive policies and programs for women and girls in VET is critical.

For improved sustainable outcomes for women and girls through reinvigorated gender sensitive education and VET, policies (including those based on social inclusion discourses) require:

- recognition that increased qualifications for women do not necessarily result in improved employment outcomes and that structural reforms are needed;
- promotion and provision of gender sensitive counseling, including career counseling, to result in broader subject selection (including science and technology) by women and by girls in schools to prevent the perpetuation of segmented fields of work and study;
- a reinstatement and re-commitment to the value of pre-vocational programs for women returning to work after raising children, caring or moving from income support; and
- promotion of industry and employment based training programs to women to address skills shortages, opportunities in emergent industries and occupations and viable career pathways to full employment and decent work.

RECOMMENDATIONS FOR ACTION

In recognition of the key theme for and Agreed Conclusions of CSW 55, WAVE recommends the following as necessary for VET policy and programs to achieve substantive equality between men and women in Australia.

We call on the Australian Government to:

- make women's learning needs central to all VET strategies and policies, including the forthcoming National Equity Blueprint. This requires an explicit recognition of women per se, to adequately redress issues of intersectionality

(indigenous women, women with disabilities, CALD women, low SES women, rural women and so on);

- implement strategies for VET based on gender analyses to inform a training framework able to provide opportunities for women at different stages of their life cycle and appropriate to their needs and circumstances. Again, such analyses must include attention to issues of intersectional issues and related disadvantage;
- ensure gender expertise on all national VET equity advisory committees & VET working groups;
- ensure gender analysis and provision for implications of such analyses informs all COAG consultations especially those relating to VET reform³;
- implement a VET strategic framework for women with clear priorities & accountability mechanisms, including linking VET funding arrangements to key performance indicators for women, especially those most disadvantaged (indigenous and disabled women and girls);
- collect, analyse and publish performance and outcome data that include trends over time and are disaggregated by gender and demographic characteristics. Such data will assist in the identification of trends and issues, development of strategies to address these, and ongoing monitoring;
- provide accessible gender sensitive career counseling (including VET in schools) to broaden subject and course selection by girls and women in schools and VET, to enhance career pathways and meaningful employment outcomes for women and girls as well as addressing Australia's gender segmented labour force;
- reinstate and recommit to the value of pre-vocational or 'stepping stone' programs for women returning to work after raising children, caring or from income support;
- develop, implement and monitor programs that promote women into non-traditional trades and professions, with particular attention to addressing preconceived ideas about the capabilities and attributes of women and the workplace cultures and requirements of such trades and professions;
- design and implement a national program in partnership with strategic corporate and industry partners to redress entrenched cultures in masculinised industries and occupations to increase enrolments in VET and higher education and so critical mass of women in such industries and occupations;
- ensure that employment creation programs and employer based incentives designed in response to skilling Australians for future employment opportunities, for skill shortages, emergent industries and occupations include initiatives that benefit women and girls, and include quotas &/or targets where necessary to address Australia's gender segmented labour force⁴;

³ Of high significance at the moment are Inquiries relating VET system reform including: Foundation Skills; Apprenticeships and Traineeships; Assessment in VET; Teaching in VET.

⁴ Of significance here for example is the recent announcement of \$200 million Critical Skills Investment Fund to improve skills in the resources sector – a heavily masculinised sector

- ensure provision of local, accessible, flexible and culturally sensitive training, at low or no cost, so that training related initiatives and policies benefit all who are currently outside the workforce or seeking to improve their existing employment status and security;
- promote industry and employment based training programs aimed at recruiting women into industries that value flexible work practices for men and women to enable caring responsibilities to be met.

CONSULTATIONS CONCERNING WOMEN'S ISSUES IN WORKFORCE PARTICIPATION, SUPERANNUATION AND ASSOCIATED TAXATION AND TRANSFER ISSUES

The Commonwealth Office for Women has asked the National Foundation for Australian Women and the Equality Rights Alliance to undertake consultations with women to assist in further policy considerations about these issues.

Community discussions will take place in Adelaide, Albury-Wodonga, Canberra and Region, Parramatta, Brisbane and Toowoomba. As well the views of women's organisations affiliated with all six of the national women's Alliances supported by the Commonwealth Office for Women will be sought. In all, this should mean direct or indirect contacts with well over a million women across the nation.

A report on the consultations will be published, and a further technical analysis of gender issues in relation to taxation and transfers will result from the project.

The purpose of this background paper is to assist in community discussion by outlining the current systems, and raising some questions for consideration.

WORKFORCE PARTICIPATION

Despite significant increases in women's workforce participation, women continue to spend less time in the paid workforce than men, and to fare less well than men on a number of key indicators while at work. The nature of women's work is also quite different to men's¹.

Women are much less likely to work full-time than men (54.9 per cent compared to 84.1 per cent), and comprise over 70 per cent of the part-time workforce

Workforce participation rates for women by age show a marked dip between the ages of 25 and 44, which is not evident for men. Australia also has a lower participation rate for mothers with young children than the OECD countries of Canada, Sweden, the United Kingdom and the United States.

These key indicators suggest that having children significantly impacts on Australian women's workforce participation, as well as their experiences while in paid work and their capacity to save for a financially secure retirement.

Sole mothers are less likely to be in paid work than partnered mothers. Sole mothers may also face additional barriers to workforce participation and job opportunities,

¹ http://www.fahcsia.gov.au/sa/women/pubs/general/equal_opp_review/Pages/p2.aspx

given the greater responsibilities and reduced flexibility often associated with parenting alone.

Indigenous women, women with disabilities, regional and rural women, and women from culturally and linguistically diverse backgrounds may also face distinct obstacles and challenges in the labour market and in the workplace.

Despite gains in participation rates over time, women's earnings remain persistently lower than men's.

Some economists consider that the tax and transfer systems represent additional disincentives for partnered women considering re-joining the workforce, especially where there are dependent children.

In 2008-9, wanting to identify issues for working women in the context of the Global Financial crisis, NFAW with the Economic Security for Women Alliance, WomenSpeak, and the YWCA of Australia conducted national discussions with women who were not counted in official unemployment statistics (the hidden unemployed) about the issues preventing them from working, or working to the extent they wished. Research was commissioned from The Australia Institute². The report was launched in 2010³. The detailed reports from individual consultations are also available⁴.

Some of the key problems identified then as hindering women seeking jobs but who were not being counted in official data, included: exclusion from funded re-training programs; problems accessing affordable child care including care for school aged children; problems in accessing affordable transport between home, child care and workplaces; problems accessing respite care for those caring for frail parents; and difficulties in obtaining enough hours of paid work (under-employment), often linked to deliberate employer policies of keeping hours low so as to avoid an obligation to pay employment related benefits such as superannuation contributions.

The position of women from migrant and refugee groups and of women from Aboriginal and Torres Strait Island groups was particularly vulnerable. This highlighted the need for greater investment in English language and other pre-formal re-training programs.

CURRENT REFORM DISCUSSIONS – ISSUES FOR WOMEN

Taxes and transfers affect women in some different ways from men:

² <http://nfaw.org/assets/Socialpolicy/Women-and-Work/TAI-Women-in-the-recession-final.pdf>

³ <http://nfaw.org/assets/Socialpolicy/Women-and-Work/Executive-Summary-FINAL31-Jan-2010.pdf>

⁴ <http://nfaw.org/women-and-recession-consultation-notes/>

- Women on average earn less than men do, either because they work part-time or because their hourly earnings are lower.
- Women are therefore likely to be the lower income earner in a couple.
- Women are more likely to have primary responsibility for caring for children and to receive family payments.
- Women are more likely to receive pensions and allowances than men are.
- Women on average live longer than men do and yet have lower superannuation savings because their lifetime incomes are lower.

The way tax is imposed between high and low income earners affects women's share as low income earners.

The value (rate) of family payments and pensions and benefits, and access to them, are critical to the welfare of low income women.

Government wishes to encourage female work-force participation as a means of increasing national productivity and maintaining the workforce overall as a proportion of the total population as the numbers of aged retired people increase.

There are difficult policy questions for Government to resolve in achieving an acceptable balance between competing policy objectives, while maintaining overall Government expenditure at an acceptable level.

We would value hearing from women about the factors affecting their own decisions about working, whether on a part or full time basis, or even deciding to withdraw from the workforce.

Some policy questions which it would be helpful to consider in the consultations are:

Q1: How should we strike a balance between protection against poverty and maintaining the incentive to work?

Q2: How much do the effective marginal tax rates create a disincentive to work? What is the best way to reduce them?

Q3: Which incentives are most important?

- Work tests
- Labour market programs
- Child care assistance
- Effective Marginal Tax Rates

Q4: What other actions could Government take to increase women's workforce participation?

Q5: What do women see as the most important issues affecting their own choices?

Q6: Superannuation:

- How do attendees think about super (if at all)
- What is super's relative importance compared with home ownership, disposable income etc
- If you are disengaged with super what would it take to get you engaged – understanding it better, continual lifetime contributions, increased percentage paid by employer,
- For older women; are you attracted to the catch up provisions (higher contributions post 50)

There is material in the following pages which will help in understanding the current system, and in thinking about some of the changes which have been proposed, most particularly in the Review of Australia's Future Tax System (known as the Henry Review). The paper has been prepared by Julia Perry.

Marie Coleman AO PSM

Chair

NFAW Social Policy Committee.

THE HENRY REVIEW OF TAXES AND TRANSFERS

This background paper concerns the labour force participation of women and the effects of tax and transfer⁵ systems on incentives to increase their labour force participation. In particular it addresses the recommendations of the Australia's Future Tax System Review (also known as the Henry Review of Taxes and Transfers), and the Federal Government's responses.

The tax-transfer system means the system of taxes paid by businesses and individuals and the payments to individuals and families through Centrelink and the Family Assistance Office.

[Australia's Future Tax System Review](#)

The Henry Review of taxes and transfer payments reported in December 2009. The Government will hold a tax forum in October this year to consider the review's findings. This paper is part of a process which will explore the impact of the tax-transfer system on Australian women's workforce participation and superannuation.

⁵ The term 'transfer payments' is used here to cover pensions, benefits, family payments, education allowances and child care assistance. These are sometimes called income support payments, social security, Centrelink payments, or family Assistance Office payments.

Table 1: Australia's Future Tax System Review – Terms of reference (summary)

To consider

The appropriate balance between taxation of the returns from work, investment and savings, consumption (excluding the GST) and the role to be played by environmental taxes;

Improvements to the tax and transfer payment system for individuals and working families, including those for retirees;

Enhancing the taxation of savings, assets and investments, including the role and structure of company taxation;

Enhancing the taxation arrangements on consumption (including excise taxes), property (including housing), and other forms of taxation collected primarily by the States;

Simplifying the tax system, including consideration of appropriate administrative arrangements across the Australian Federation; and

The interrelationships between these systems as well as the proposed emissions trading system (ETS).

<http://www.taxreview.treasury.gov.au/content/Content.aspx?doc=html/reference.htm> accessed 11 May 2011

The Review covered taxes of all kinds, superannuation, pensions, benefits and youth payments as well as issues such as child care, housing and labour force participation.

Issues for women

Taxes and transfers affect women in some different ways from men:

- Women on average earn less than men do, either because they work part-time or because their hourly earnings are lower.
- Women are therefore likely to be the lower income earner in a couple.
- Women are more likely to have primary responsibility for caring for children and to receive family payments.
- Women are more likely to receive pensions and allowances than men are.
- Women on average live longer than men do and yet have lower superannuation savings because their lifetime incomes are lower.

The way tax is imposed between high and low income earners affects women's share as low income earners. The amount of family payments and pensions and benefits, and access to them, are critical to the welfare of low income women.

Income taxes are based on the income of individuals, while transfers are typically based on joint income tests⁶. Where a woman is the second earner in a family, this can mean that her earnings can result in a loss of benefits.

Tax rates are between 15 and 45 cents in the dollar at various income levels, while transfers are reduced by 20 cents in the dollar of earned income for family payments, and 40, 50 or 60 cents in the dollar for pensions and allowances. This means that the net gain from each extra dollar of income can be very small for people affected by the transfer income tests, particularly if they are also paying tax.

The total amount that a person or family loses in tax, tax concessions and income tested transfers for each dollar of extra income is known as the *effective marginal tax rate*.

There are also costs associated with working in paid employment. These include work clothes and travel as well as loss of time for unpaid work. For women with young children, the cost of child care often presents a major barrier to working outside the home.

The costs of going to work and the low net gain because of tax and income tests (*effective marginal tax rate*) can mean that some partnered and single women, particularly those with children, will choose not to engage in paid work.

Joint income tests assume that spouses and de facto partners share their income equally. Where they do not, the one with no or low earnings may have no access to Government support. In many other countries eligibility for social security is on an individual basis, so either partner can claim benefits regardless of the other partner's earnings.

Current income tax arrangements for individuals

As noted above, income taxes are based on the individual's income, not the family income⁷. The tax rates increase with income – the first \$6,000 a year is tax free, the next \$31,000 is taxed at 15 per cent, the next \$43,000 at 30 per cent and so on, up to 45 per cent on income over \$180,000 (see Table 2).

⁶ 'Joint income tests' take into account the incomes of both members of a couple. They apply in different ways to pensions, benefits and Family Tax Benefit Part A. Family Tax Benefit Part B is income tested only on the recipient's income, unless the recipient's spouse or partner has income of \$150,000 or more.

⁷ In some cases the breadwinner can claim tax offsets for a dependent spouse, child or other dependant. The dependent spouse offset (\$2,286) will be phased out over coming years.

Table 2: Tax Rates 2010-2011	
Taxable Income	Tax Rate
\$0 – \$6,000	Nil
\$6,001 – \$37,000	15c for each \$1 over \$6,000
\$37,001 – \$80,000	30c for each \$1 over \$37,000
\$80,001 – \$180,000	37c for each \$1 over \$80,000
Over \$180,000	45c for each \$1 over \$180,000

Source: TaxCalc - <http://www.taxcalc.com.au/1011.html> accessed 10 May 11

The Government has just announced, as part of the Carbon Pollution tax, dramatic changes to the tax system from 1 July 2012. The tax free threshold will be raised from \$6,000 to \$18,200. The next two tiers will be 19 cents for each \$ from \$18,200 to \$37,000, and 32.5 cents for each \$ from \$37,000 to \$80,000. (see Table 2a). There will be a further rise in the tax free threshold in 2016-17.

Table 2a: Tax Rates 2012-2013	
Taxable Income	Tax Rate
\$0 – \$18,200	Nil
\$18,201 – \$37,000	19c for each \$1 over \$18,200
\$37,001 – \$80,000	32.5c for each \$1 over \$37,000
\$80,001 – \$180,000	37c for each \$1 over \$80,000
Over \$180,000	45c for each \$1 over \$180,000

In addition, taxpayers pay the Medicare levy of 1.5 per cent of their taxable income. Individuals with income under \$18,488 (different thresholds apply to families, seniors and pensioners) do not have to pay it. It shades in above the threshold, at 10 cents per dollar up to \$21,750. This adds 10 per cent to the effective tax rate per dollar over that income range⁸.

⁸ The Medicare levy exemption can also apply if family income is less than \$31,196 plus \$2,865 per dependent child.

Tax liability is reduced in three ways: income that is *non-taxable*, expenses that can be *deducted from income* before tax, and *tax offsets* – amounts that can be subtracted from the tax liability.

Various sources of income are *non-taxable*, for example Family Payments and Disability Support Pension⁹. Another is employer contributions to an employee’s superannuation, which are not counted as income for the employee but are taxed at 15 per cent in the fund it is paid into.

There are also many personal expenditures that can be *deducted* from taxable income, in particular those related to working. These do not include child care costs, nor travel to and from work.

Finally there are a number of *offsets*¹⁰, which are taken off tax liability (see Table 3). Some are fixed amounts and some are percentages of expenditure (for example the private health insurance offset). Some are income tested on the tax-payer’s income, for example the low income tax offset; while the spouse offset is withdrawn at 25 cents in the dollar the spouse earns over \$282 a year. This means that although the spouse is not actually paying tax, the family loses 25 per cent of her earnings, an effective marginal tax rate of 25 per cent for that small range of income.

The Low Income Tax Offset is withdrawn at 4 cents in the dollar of income over \$30,000 (adding 4 per cent to the effective marginal tax rate).

Table 3: Examples of tax offsets	
Offset	Maximum amount
Low income tax offset	\$1,500
Senior Australians tax offset (partnered/single)	\$1,602 / \$2,230
Spouse tax offset	\$2,286
Parent, spouse's parent or invalid relative tax offset	\$1,676
Superannuation spouse contribution offset	\$540
Mature age worker tax offset	\$500
Pension income tax offset (partnered/single)	\$1,781 / \$2,518
Beneficiary tax offset	15% of benefits over \$6,000
Medical expenses tax offset	20% of expenses over \$1,500
Private health insurance tax offset	30% of premium

⁹ for people under the age of 65

¹⁰ The term ‘tax offset’ is the same as a rebate – it is a flat rate reduction in tax.

The low income tax offset will be reduced from \$1,500 to \$445 in 2012-13 along with the tax cuts to low income people, but will be paid in full to people with incomes up to \$37,000 and withdrawn only at 1.5 cents in the dollar instead of 4 cents.

Transfers

Transfer payments can be seen as the inverse of income tax. That is, in principle, income tax should be levied according to a person's ability to pay after meeting their needs, while government cash payments should be paid according to a person's or family's shortfall in meeting their basic needs. Of course, in the real world, the tax scales and the rates of income support are set on a national basis, and every family's or individual's needs differ.

Payments are in three main categories: Income Support, Family Payments for families with children and supplementary payments such as Child Care Benefits (see Table 4). Most social security and family payments are based on the income of both members of a couple. Youth Allowance also takes parental income into account.

Table 4: Types of transfers		
Income Support	Family Payments	Supplements
Pensions	Family Tax Benefit A	Child Care Benefit
Allowances (Newstart etc)	Family Tax Benefit B	Child Care Rebate
Youth Allowance and Austudy	Baby Bonus , Paid Parental Leave payments	Rent Assistance
		Health Care Card

Transfer payments are intended to prevent poverty among individuals and families. Income Support payments are also based on specified workforce barriers: age, disability, caring responsibilities, unemployment or participation in education or training.

In the past dependent wives, some widows and mothers have not been required to be in the labour force. However, Government policy is changing – mothers are now expected to look for work when their children reach school age, people with less severe disabilities are expected to participate to some extent and the age pension age for both men and women is being raised.

Income Support Payments

Income Support are designed to provide a (very meagre) living allowance for an adult or young person. The income tests would generally preclude anyone who was in full-time or substantial part-time paid work.

Income Support payments (apart from Disability Support Pension for people of workforce age) are taxable. There are tax offsets that mean that those with little or no income apart from the Income Support do not have to pay tax.

The main payments are shown in Table 5.

Table 5: Pensions and Allowances			
Pensions (incl supplement)	rate \$ per fortnight		
	Single	Partnered	
Age Pension	729.30	549.70	
Disability Support Pension*	729.30	549.70	
Carer Pension	752.38	572.78	
Parenting Payment (Single)	646.30	NA	
Allowances**	Single	Single with child	Partnered
Newstart	474.90	513.80	428.70
Parenting Payment (Partnered)	NA	NA	428.70
Sickness Allowance	469.70	508.20	424.00

Source: <http://www.centrelink.gov.au/internet/internet.nsf/individuals/index.htm> accessed 13 May 2011

* Disability Support Pension rates are lower for those aged under 21, without children.

** Rates for Youth Allowance and Austudy are shown in Table 5

Note: All these rates are indexed for inflation.

From 2012-13 these rates will be increased. Pensioners and self-funded retirees will get up to \$338 extra per year if they are single and up to \$510 per year for couples, combined. Allowance recipients will get up to \$218 extra per year for singles, \$234 per year for single parents and \$390 per year for couples combined.

Pensions are paid at a significantly higher rate than allowances.

Income tests have a *free area*, an amount of non-Centrelink income that does not affect the amount payable. For those with income above the free area payment is reduced by a percentage of the excess income, the *taper rate*.

Pensioners have a free area of \$146 a fortnight (single) or \$256 a fortnight (couple combined) and the pension is withdrawn at 50 cents in the dollar¹¹ above these amounts. Parenting Payment (Single) has a free area of \$170.60 a fortnight and a taper rate of 40 cents in the dollar above this amount.

For Allowances the free area is \$62 a fortnight. The taper rate is 50 cents in the dollar up to \$250 of other income a fortnight and 60 cents in the dollar of income above this.

Parenting Payment

Parenting Payment (Single) is paid to sole parents¹² with a child under 8 years¹³. Those with a child aged 6 or over are expected to work or study at least 30 hours a fortnight, look for such work, accept suitable work offers or do activities as directed to improve their chances of finding work. When the youngest child reaches the age of 8 the parent must transfer to the less generous single rate of Newstart Allowance¹⁴.

Parenting Payment (Partnered) is paid to a partnered parent, grandparent or foster carer with a child under 6. Parents with a child aged 6 or over are eligible for Newstart Allowance, paid at the same partnered rate and income test.

Family Payments

Family Payments are for families with dependent children, to help with the costs of raising children. They are targeted to parents or guardians with low to medium income as well as to those living on pensions or benefits. The income tests are less steep than those for other transfers, but can often interact with income tax. Unlike most pensions and allowances, Family Payments are not taxable.

Family Tax Benefit A is paid for each child, subject to an income test. It is paid in full to a family with an income up to \$46,355 a year, and is reduced by 20 per cent of income over that limit, until it reaches the 'base rate'. The base rate is \$52.64 a fortnight (\$2,098.75 a year) for children aged under 18 years, and \$70.56 a fortnight

¹¹ 40 cents in the dollar for certain 'transitional' pensioners.

¹² 'Parent' includes parent or grandparent or foster carer with primary care of young children.

¹³ Some recipients who were already receiving Parenting Payment before the previous government's Welfare to Work changes in 2006 can receive it until their youngest child turns 16, subject to being required to seek work..

¹⁴ From January 2013, sole parents receiving Newstart will have their allowance reduced by 40 cents in the dollar of income over \$62 a fortnight, instead of 50 or 60 cents as at present..

(\$2,565.95 a year) for children aged 18 to 24 years. The base rate is reduced by 30 cents in the dollar over \$94,316 a year (plus \$3,796 for each Family Tax Benefit child after the first).

Under the newly announced changes, the maximum rate of Family Tax Benefit A will increase by \$110 per child per year, from 2012-13. Family Tax Benefit B will be increased by \$69 a year.

Family Tax Benefit Part B is paid to a family with children under 16, or under 18 if the child is a dependent full time student. In couple families, it is paid in full where the lower income parent earns up to \$4,891 and reduced by 20 cents in each dollar above that. It is not payable if the other parent earns over \$150,000. Sole parents are paid the maximum amount, unless their own income is over \$150,000.

The maximum amounts are shown in Table 7.

Table 7: Family Tax Benefit – maximum amounts		
FTB Part A		
For each child	Per fortnight	Per year*
Under 13 years	\$164.64	\$5,018.75
13–15 years	\$214.06	\$6,307.20
16–17 years [#]	\$52.64	\$2,098.75
18–24 years [#]	\$70.56	\$2,565.95
FTB Part B		
For each family		
with youngest child under 5	\$140.00	\$4,004.05
with youngest child 5 or over	\$97.58	\$2,898.10

* A supplement is paid annually at the end of the financial year. The end of year supplement for FTB Part A is \$726.35 per child, and the FTB Part B supplement is \$354.05 per family

[#] These are the current rates. However, from 1 January 2012 dependent full time secondary students living at home and aged 16-19 will receive the same rate of assistance as 13-15 year olds.

The Baby Bonus and its alternative, Paid Parental Leave, are available following the birth or adoption of a child. Baby Bonus is available to families with a combined income of \$75,000 or less in the six months from the date of birth or the child's entry into care. Paid Parental Leave is available for individuals with an income of \$150,000 or less in the previous financial year, and is subject to a work test.

Two payments of Maternity Immunisation Allowance of \$129.00 each are payable after children have met two stages of immunisation. Maternity Immunisation Allowance is not income tested.

Table 8 shows how the income tests operate for selected payments. Rates of income for pensions and allowances are actually measured fortnightly, but here they have been annualised to compare with tax rates and family payments.

Table 8: Income test thresholds and tapers (selected payments)			
	Annual income¹		Taper²
	Between	and cut	Loss per
	Threshold³	out	\$
Pensions			
Single	\$3,796	\$41,720	50 cents
Couple (combined)	\$6,656	\$63,825	50 cents
Parenting Payment (Single), 1 child	\$4,436	\$45,119	40 cents
Allowances			
Between \$1,612 and \$6,500 a year the allowance is cut by 50 cents in the dollar.			
	Between	and cut	Loss per
	Threshold³	out	\$
Single no children	\$6,500	\$23,006	60 cents
Single with child(ren)	\$6,500	\$24,691	60 cents
Partnered (each)	\$6,500	\$21,004	60 cents
Family Payments			
	Between	and cut	Loss per
	Threshold³	out	\$
Family Tax Benefit A (2 children, 1 under 12, 1 aged between 13 and 15)	\$98,112	\$113,661	0, 20 30 cents ⁴
Family Tax Benefit B (2nd earner only, child under 5)	\$4,891	\$24,912	20 cents

1. Annual earned or private income

2. Taper is the amount payment is reduced per \$ of other income

3. 'Threshold' is the amount of income (annually) that does not affect payment, while 'cut-out' is the income at which the last dollar of payment is withdrawn
4. FTB Part A generally has two tapers with a section in between (reducing from maximum rate to base rate and later reducing the base rate, with a section in between). See 'family payments' section on page 10.

Child Care Benefit and Rebate

Where children are in approved or registered care¹⁵, a family is eligible for Child Care Benefit (CCB) and/or Child Care Rebate (CCR). CCB for approved care is usually paid to the service and passed on in lower fees. Alternatively parents can claim it as a lump sum at the end of the year. CCB for registered care can only be claimed retrospectively.

Parents are eligible for up to 50 hours of CCB for approved child care per week if a sole parent or b of a couple work, train or study for at least 15 hours per week. Grandparents with primary care for the child are exempt from the work/training/study test. Parents who don't meet the 15 hour work test are able to claim the benefit for 24 hours a week.

The current approved care rate for a non-school child in up to 50 hours of care per week is \$3.78 per hour or \$189 per week. Payment rates for school children are 85% of the non-school rates.

The Australian Bureau of Statistics surveys child care every three years, last in 2008. At that time the average fees for 50 hours of below-school-aged child care were \$240 for Family Day Care and \$260 for Centre-based Care. However, the weekly median cost per child for long day care was \$53 after CCB and CCTR (as it was then). For other care types it was less. However, it is important to note that since the survey, the CCTR increased from 30 % to 50% of out of pocket costs, and can now be claimed fortnightly.

CCB for approved care is income tested on family income above \$39,785.

CCB for registered care is not income tested and is paid at a rate of \$0.632 per hour for up to 50 hours per week. It is only for parents who are working, studying or training at some point of each week.

¹⁵ Approved care is provided by a formal long-day care, family day care or outside school hours care service, although not all services of these types are approved for CCB. Registered care is that provided by nannies, relatives or individuals grandparents who are registered.

CCR is not income tested and covers 50 per cent of out of pocket expenses in approved child care up to \$7,500, subject to the passage of legislation. It is only for parents who are working, studying or training at some point of each week.

Henry Review Recommendations

The Henry Review made 138 recommendations. The discussion here selects only those related to personal taxation and transfer payments.

Income tax recommendations

On income tax it recommended that the tax free threshold (currently \$6,000 a year) be increased to \$25,000 a year and there be only two rates on income above that level (rates not specified). Many work related tax deductions would be abolished, with one general deduction for income from work.

Income tax would continue to be based on the individual and offsets for dependents would be available only for a dependent who is unable to work due to disability or carer responsibilities or has reached age pension age.

Transfer payments (Income Support, as well as Family Payments) would become non-taxable.

The Medicare levy and various tax offsets — the low income, senior Australians, pensioner and beneficiary tax offsets — would be removed as separate components of the system and incorporated into the personal income tax rates scale. If a health levy is to be retained, it would be applied as a proportion of the net tax payable by an individual. A number of other tax offsets, including the Mature Age Worker offset, would be abolished.

The offsets for medical expenses and private health insurance would be abolished with adjustment to the Medicare system and reduction in private health insurance premiums.

All forms of wages and salary for Australian resident taxpayers should be taxable on an equivalent basis and without exemptions, including fringe benefits that can be quantified at the individual level. Fringe benefits would be restricted. There would be a general deduction for expenses in earning income, which people could claim instead of detailing each deductible expense.

Individuals' 'savings income' from savings, rental property and capital gains would be discounted by 40 per cent. This might later be extended to other savings income.

Income support payments

The Review recommended retaining the three levels of income support:

- pensions for the aged, people with disability and carers;
- less generous 'participation allowances' for the unemployed, parents and those with temporary incapacity;
- still less generous youth and student assistance payments, where students of any age would receive the same rate as unemployed young people.

The single rate of pension is one-third higher than the partnered rate, reflecting the extra costs for singles. The Review suggests that the rate of allowances for single people with children be increased to one-third higher than the partnered rate. It is ambivalent as to whether the single-without-children rate should be raised to the same level.

Parents would be required to return to the labour force, at least part-time, when their youngest child turns 4. At present the age is 6.

The Review recommended retaining the same rate of Youth Allowance for students and unemployed young people to avoid any disincentive to study. However it did not recommend increasing Austudy for those aged 25 and over, to the level of Newstart.

The income test for students should facilitate part-time work at a level that does not compromise educational outcomes. They should be able to borrow to top up their student rate of income support to the level of the participation payment rate income-contingent loans.

Family Payments

Replacing Family Tax Benefit Part A, the review recommends 3 increasing rates of per child payment for 0–11 year olds; 12–15 year olds and 16–18 year olds in secondary school.

Family Tax Benefit Part B would be a Supplement with a higher rate for children aged under 6 than for those with youngest child 6 and over. The lower rate would be equal to the difference between the single pension rate and the single-with-child allowance rate. Couples and single parents would receive the same supplements, but the 6 and over supplement for couples would be paid through the Income Support system.

Parents caring for disabled children and foster care children with higher needs, aged 6 and over, would receive a higher rate.

The Baby Bonus would be replaced with a small supplement for babies under three months.

A single income test would be applied to the combined Family Payments, at a taper rate of 15 to 20 cents in the dollar.

Child care assistance

Child Care Benefit and Child Care Rebate would be combined into a single payment to parents (or to child care centres) in respect of each child, based on a percentage of child care costs.

The payment would have an income tested high rate for low-income families that covers most of the costs of child care (up to 90 per cent) and a non-income-tested base rate of assistance, covering perhaps 35 per cent of costs.

The base rate would be subject to parents' participation in work, education or training. Where parents are not participating, the higher rate of assistance should be available for a limited number of hours.

Government would meet the full costs of child care for at-risk children and children facing multiple disadvantages, without participation requirements on parents.

Issues for discussion

While the purpose of transfers is to prevent poverty, an inherent side-effect is to reduce the incentive to work.

- The availability of a payment itself is a disincentive. There is a tension between providing enough money to prevent poverty and discouraging work.
- The means-test reduces the net financial gain from work. There is a tension between targeting money to those in greatest need, and ensuring that there is a return from work.
- The combined effect of tax and income tests can reduce the net gain even more.

There is no conclusive evidence how much these factors actually affect incentives for people in different circumstances. However, there are a number of provisions to address these disincentives.

- Access to payments is tightened – for example tightening Parenting Payment to those with children under school age.
- Income tests allow a recipient to earn a certain amount of income before the payment is reduced, and payments are reduced by less than dollar for dollar.
- In return for payment, the Government requires people to look for work or participate in education or training (this does not apply to those with a legitimate reason such as old age, caring or severe disability).
- Family payments are paid to families who are in work with low to middle incomes as well as those who are not in work.
- Child care payments and some other benefits are designed to help with some of the costs of going to work.
- Labour market programs, training and the job network are intended to help people find jobs.

Adequacy vs incentives

There was a period in the 1970s when the rates were the same for all income support payments (one common partnered rate and one common single rate). This was regarded as the basic poverty line. Over time they have drifted apart in a long series of ad hoc decisions. There has been little recent policy focus on ensuring that the rates reflect relative needs of people without any other income.

For example, the amount that sole parents receive drops by \$132 a fortnight when the youngest child turns 7. They are also required to look for work from when the child turns 6. The fall in support is related to the work expectation, not any change in need: parents who can't find work become substantially poorer.

Q1: How should we strike a balance between protection against poverty and maintaining the incentive to work?

Effective marginal tax rates

As discussed earlier the actual tax rates as shown in Table 2 are not the only amount lost for each dollar of extra income.

First there is the extra tax effects: loss of Dependent Spouse Rebate (25 cents of dependent spouse's income), Medicare levy, Low Income Tax Offset, Pensioner and Allowee tax offsets and so on. These happen over various ranges of income and depend on circumstances.

Second there is the withdrawal of benefits as shown in Table 8.

The interaction between income tax rates, other tax measures and income tests for payments is extremely complex and depends on many circumstances.

The income tax rate is 15 per cent between \$6,000 and \$37,000, the range over which most income support payments are withdrawn. The Medicare Levy shades in (at 10 cents) in part of this range, the Low Income Tax Offset begins to taper out (4 cents), and the Pensioner and Beneficiary tax offsets taper out. The Family Tax Benefit B cuts out in this range of the second earner's income. This is the range over which the most severe effective marginal tax rates occur.¹⁶

Family Payment A begins to cut out in the 30 per cent income bracket (\$37,000 to \$80,000). As it cuts out at 20 cents in the dollar, this pushes the effective marginal tax rate to 50 per cent.

¹⁶ Professor Patricia Apps, in a paper for NFAW, has identified effective marginal tax rates for a second earner with 2 children at various levels of earned income. She found that with earnings in the range \$11,999 - \$40,000 she would lose the value of between 39 and 44 per cent of her total earnings, and the effective marginal tax rate between \$11,000 and \$22,000 was 57 per cent.

The Henry Review recommends raising the income level where tax starts to \$25,000 and making all payments tax free. This would remove the interaction between tax and income tests on Allowances, but not that between pensions and Family Payments.

Others have suggested removing the income tests on Family Payments.

While these suggestions would reduce the combinations of tax and income tests to some extent they would be extremely expensive.

Q2: How much do the effective marginal tax rates create a disincentive to work? What is the best way to reduce them?

Q3: Which incentives are most important?

- Work tests
- Labour market programs
- Child care assistance
- EMTRS

Q4: What other actions could Government take to increase women's workforce participation?

Q5: What do women see as the most important issues affecting their own choices?

Q6: Superannuation:

- How do attendees think about super (if at all)
- What is super's relative importance compared with home ownership, disposable income etc
- If you are disengaged with super what would it take to get you engaged – understanding it better, continual lifetime contributions, increased percentage paid by employer,
- For older women; are you attracted to the catch up provisions (higher contributions post 50)

Superannuation

Superannuation is money set aside over an individual's lifetime to provide for retirement. *The superannuation rules are very complex and the description that follows is a very general overview.*

Employers are required to make a contribution (the superannuation guarantee) of at least 9 per cent of ordinary time earnings (up to earnings of \$43,820 a quarter) for employees between 18 and 69 earning \$450 or more a month, and for those aged under 18 working at least 30 hours a week.

Employees and self employed people can also make contributions, and employees can 'salary sacrifice' by arranging with their employers to pay some of their earnings into superannuation instead of in the form of wages. Individuals can make contributions on behalf their spouses. This is supported by a tax rebate of \$540 a year for spouses who are not employed or have incomes under \$13,800 a year.

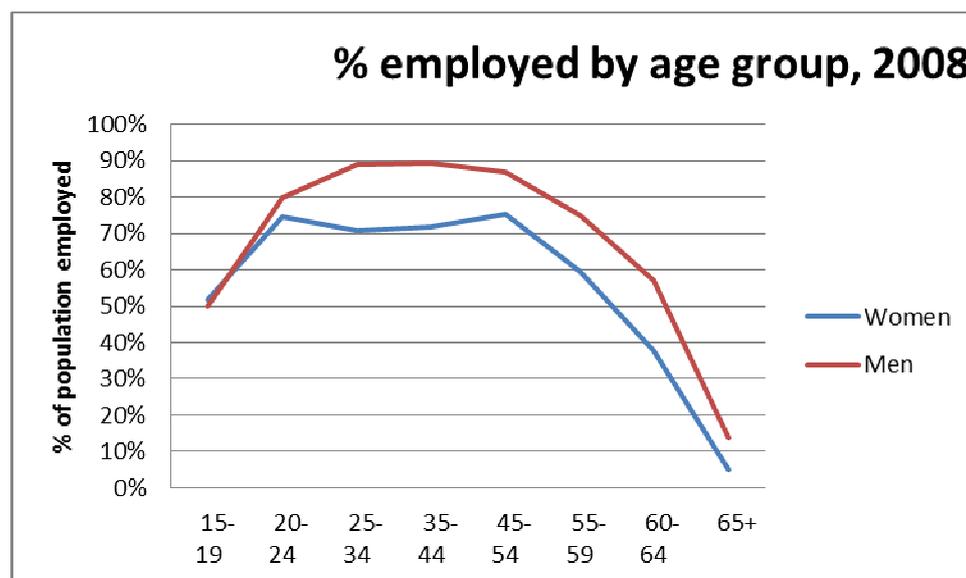
There are caps on the total contributions that can be made.

Contributions are taxed at 15 per cent in the fund, but not counted as taxable income for the individual employee, except payments that individuals make from after tax income. Super funds invest the money, for example in shares, property and managed funds. The earnings on this investment are taxed at 15 per cent.

This is lower than the marginal tax rates for individuals with incomes over \$37,000 a year, and much less than the marginal tax rate for those earning very high incomes, for example with a marginal tax rate of 45 per cent. For those earning less than \$37,000 a year the tax advantages are minimal.

For these low income earners the Government makes a matching co-contribution up to a maximum of \$1000 a year, for people who make a personal contribution. This applies in full to those earning less than \$31,920 and in part to those earning up to \$61,920.

Individuals can access their superannuation on retirement or partial retirement after the age of 55. From the age of 60 most superannuation pay-outs are tax free. They can be in the form of pensions, lump sums or various combinations.



The Henry Review recommendations.

The Henry Review recommended that employer superannuation contributions should be treated as income in the hands of the individual, taxed at marginal personal income tax rates and receive a flat-rate refundable tax offset. The tax on superannuation contributions in the fund would be abolished.

A tax offset should be provided for all contributions up to an annual cap of \$25,000. The cap should be doubled for people aged 50 or older. This would redistribute the tax concessions towards lower income earners. The offset should replace the superannuation co-contribution and superannuation spouse contribution tax offset.

Compulsory superannuation contributions made by employers should not reduce eligibility for income support or family assistance payments. They should also not form part of the calculation for child support.

The Henry Review recommended a gradual increase in the superannuation guarantee to 12 per cent by 2019-20. The government has announced that it will take up this recommendation.

The upper age for the superannuation guarantee would be increased from 70 to 75. The change is intended to encourage mature workers to remain in the workforce.

The Report also recommends a reduction in the tax on superannuation earnings rate from 15% to 7.5%.

DEVELOPING A NATIONAL POLICY AND PROGRAM AGENDA for Investment in Affordable and Accessible in Rental Housing: Women's Housing Security

Approximately one third of Australian households are renting. These households are concentrated in the bottom two income deciles regardless of family structure, and will also include young people pre-family formation, household units seeking mobility because of workforce requirements, and long-term single person units and retired persons.

Most housing supply data is not gender disaggregated, apart from those relevant to crisis accommodation. However, given women's generally lower incomes than those of men, women tend to be clustered in the lower income deciles, and presence in these is a feature of renters. Australia's (feminised) aging population also faces struggles in securing affordable rental properties.

Given the scale of the unmet demand for affordable, accessible rental housing, and the lack of gender analysis related to affordable housing, a collaborative project of women's advocates was launched to illuminate the position of women of all ages in the housing market. There is also a need to explore options to improve and expand the Commonwealth National Rental Affordability Scheme (and other schemes) to increase development of accessible affordable rental housing and lead to increased security for long term rental arrangements.

The housing project is a collaborative effort involving:

- *Equality Rights Alliance, a National Women's Alliance of 54 member organisations focusing on policy and advocacy to advance women's equality, leadership and support for women's diversity*
- *Economic Security for Women, a National Women's Alliance of 20 member organisations with a focus on national policy reform relevant to the lifelong economic well being for women*
- *National Foundation for Australian Women, dedicated to promoting and protecting the interests of Australian women*
- *National Rural Women's Coalition, a National Women's Alliance representing issues relevant to women from rural, remote and regional areas*

For more information visit <http://www.equalityrightsalliance.org.au/projects>

Or contact Equality Rights Alliance era@ywca.org.au, phone 02 6230 5152



DEVELOPING A NATIONAL POLICY AND PROGRAM AGENDA for Investment in Affordable and Accessible in Rental Housing: Women's Housing Security

In February 2011 a collaboration of women's advocates¹ hosted a high-level workshop to discuss investment in affordable and accessible rental housing, with a particular concern for women's housing security.

Women's advocates see development of a new national policy on affordable rental housing as a top priority for the Commonwealth Government. Key elements of our proposals for securing affordable rental housing for all people – women and men – are set out below.

The Australian Government must establish a National Policy Agenda for affordable rental housing

Past policies have privileged home ownership to the detriment of the third of all households who are renters. Rental Housing must be placed on Australia's national policy agenda as a key issue to address poverty. Access to affordable housing needs to be regarded in the same context as health and education as a means to escape from poverty. We need to get excitement into all levels of Government about affordable rental housing! We also need to establish an understanding of how housing insecurity and a lack of access to affordable housing have a different affect on women compared to men.

Some of the issues in working with Government are:

- The division of responsibility between Ministers at the Federal level;
- The division of responsibility between State and Federal governments;
- The lack of uniformity of regulations across states and territories.

Recommendations:

1. A national policy agenda on access to affordable rental housing is established through a designated Federal Minister for Housing.
2. The housing sector – community housing and housing providers – needs to work with State, Federal and Local Government re:
 - a. Funding sources
 - b. Consistency of the regulatory framework across state and local government boundaries
 - c. Local Planning rules to facilitate affordable developments (e.g. Australian Capital Territory initiatives)
3. Funding sources should be supported by governments through initiatives that allow flexibility to the housing developer while offering security to allow it to engage in a long term project.

¹The collaborating organisations are: Equality Rights Alliance, Economic Security for Women, National Foundation for Australian Women and National Rural Women's Coalition

4. Stimulation of non-government investment to respond to government incentives is key. Such funding proposals could include:
 - a. Grants should be made secure and long term through budget processes, and should be sheltered from cuts
 - b. Government backed guarantees may be a means of increasing the borrowing capacity of developers
 - c. Subsidies to address the gap between affordable rents and market rents, currently available through the tax system, could be paid in a manner that increases cash flow to developers, which will increase their repayment capacity.
5. Governments at all levels should explore means of developing suitable greenfields and brownfields 'land banks' for affordable housing development.

Ensure Gender Focus in a national agenda for affordable housing

Data presented by Professor Judith Yates shows women in private rental carry a significant burden of rental stress. The impact of the lack of affordable housing may be felt disproportionately by women because of the higher number of women in low paid jobs, women heading single parent families and the higher rates of poverty among older women living alone.

We need more data on the gender impacts of access to affordable housing. In particular, housing developers need to better understand the gender specific aspects of housing when developing their projects and determining the criteria for assistance. It may be possible to develop projects that are intended for a particular client group, which could then be marketed to a particular investor group.

Recommendations:

6. Further research is needed on:
 - a. developing a Social Return on Investment (SROI) in affordable housing development
 - b. the gender dimension of access to affordable rental housing
 - c. The compounded issues that women from diverse backgrounds and various life situations experience when attempting to secure affordable rental housing.
7. Women's advocates and housing developers need to work together to ensure developers address the needs women face in securing affordable rental housing.

Expand investment options for affordable housing

Financing affordable housing is one of the major problems facing the housing sector – from developers to community housing providers. Although the transfer of government held social housing stock to the community housing sector was intended to facilitate providers in obtaining finance, the reality has been that obtaining investment on the necessary scale is difficult. The affordable housing market over the next five years needs to be in the order of \$4-5 billion. Banks alone cannot provide that level of funding, and in the absence of institutional interest, where is the funding to come from?

Recommendations:

8. Alternative sources of market based funding need to be sourced. Some issues that need to be considered include:
 - a. Alternative investment products
 - b. Alternative legal structures for housing providers that may make investment more attractive to institutional investors
 - c. Packaging products that would match an investor to a particular development
 - d. Targeting the Ethical/Social investment market – for instance develop the Social Return on Investment (SROI) in housing
 - e. Restructuring taxation incentives for housing investors to give greater incentives to investment in affordable rental housing.

9. Develop pathways for occupants of affordable housing to build their capabilities: for example, from social to secure affordable rental housing.

Proceedings of February 2011 Housing Workshop

With Australian housing affordability in crisis, a high-level roundtable at Parliament House, Canberra, was convened to look for new solutions for affordable rental housing, with a particular focus on the issues facing women.

Held in February 2011, the invitation-only roundtable on *Investment in Affordable and Accessible Rental Housing: Women's Housing Security* was co-hosted by Equality Rights Alliance, Economic Security for Women, National Rural Women's Coalition and the National Foundation for Australian Women. Speakers at the event included:

- ACT Chief Minister Jon Stanhope MLA;
- Ian Gash, Head of Commercial Banking, ACT, Westpac;
- Jo O'Sullivan, Community Banking Manager, Members Equity Credit Union;
- Tony Winterbottom, Defence Housing Australia;
- Professor Judith Yates, leading academic on housing at University of Sydney; and
- Carol Croce, Executive Director, Community Housing Federation of Australia.

Welcome and Opening Remarks

Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke is currently responsible for Commonwealth policies and programs related to affordable housing. While Minister Burke was unable to attend the workshop, he was able to meet with a workshop delegation. Marie Coleman, National Foundation for Australian Women, reported that the delegation was able to brief Minister Burke on topics including the need to identify the women in most need of housing assistance, and recent developments with the National Rental Affordability Scheme (NRAS). Minister Burke stressed the need to avoid program underspend.

Session 1: Rental Supply and Housing Affordability: Gender Implications

Professor Judith Yates

Professor Judith Yates presented an overview of the issues in the housing market generally, before narrowing the focus to the gender related issues. The two core housing challenges for Australia are the declining access to home ownership for middle income households and the inadequate supply of affordable and accessible rental housing for lower income and vulnerable households.

Housing, like any other market commodity, is subject to issues of supply and demand and mismatch between the two creates housing pressure. This is a structural, not a cyclical problem. Demand for housing in Australia is increasing through increases in population, wealth and smaller household units. Supply side factors include problems in locating

housing where the demand exists due to urban form and provision of infrastructure. It is estimated that across Australia there was a shortage of 178,400 dwellings in July 2009, and that this gap will grow as completions do not meet underlying demand. Lack of supply of housing has contributed to price increases, which has led to decreasing home ownership among younger first home buyers. As interest rates have declined and house prices have risen, the amount that purchasers need to provide as a deposit has increased, and this has contributed to households remaining in the rental market longer.

The impact on the rental market has been to increase rental prices as there is more competition for properties, and higher income households remain in the rental market instead of buying a home. In 2007/08 86% of households in the first quintile and 61% of the lowest 40% of income earners reported being in rental stress. This is focussed on the private rental market, where there has been a marked decline in the number of properties available at less than \$300 per week. The 2010 National Housing Supply Council (NHSC) report shows that when affordability (at the 40th income percentile) and availability are taken into account, there was a shortage of 493,000 dwellings in 2007/08. In the social housing segment it is estimated that a further 90,000 dwellings will be required by 2012, and 150,000 by 2020.

Applying a gender analysis, female households are particularly vulnerable. Where the head of the household is a woman, private renters report a significantly higher level of housing stress than purchasers or social renters. More young women are in rental stress, but older women, although smaller in numbers, are reporting high levels of rental stress. Other problem groups include singles and couples with no children who are not eligible for Commonwealth Rent Assistance but still experience high rents.

Professor Yates drew the following conclusions:

- The private rental market has not produced an adequate supply of affordable rental housing for current needs;
- The demand for affordable rental housing will increase in the next few decades with female headed households being particularly vulnerable; and
- Current initiatives to address this problem have been either cyclical (SHI) or vulnerable to political change (NRAS).

Therefore what is needed is long term vision and funding.

Session 2: Community Housing — Challenges and achievements in providing access to affordable rental housing

Carol Croce, Community Housing Federation Australia

The community housing sector in Australia is growing. CHFA currently represents over 1000 community housing providers, managing over 46,000 dwellings. The size of providers ranges with 88% managing fewer than 50 dwellings and 5% managing more than 200 dwellings. The sector was boosted significantly when the community sector took over the management of social housing properties under the Nation Building Economic Stimulus Plan, so that it

now extends across the spectrum from social housing to affordable housing, managing about 9% of Australia's social housing. The transfer of social housing into the community sector was intended to build the assets of the sector, allowing these assets to be leveraged into borrowings for new dwellings. Expectations here have not been fully met as transfers of existing stock into the sector have been inconsistent and there have been issues in using these assets as security for loans for new developments.

The National Rental Affordability Scheme (NRAS) has allowed the sector to provide housing for 13,000 new households, of which two-thirds were assessed as being in the greatest need. Early rounds attracted more applications from non profit organisations, with more commercial providers applying in later rounds. It has also allowed the sector to become more professional in its management and organisational structures. However NRAS has presented a number of challenges to the sector. The initial targets were ambitious – 50,000 dwellings by 2012, and did not account for the time required to negotiate with the States in relation to their contribution to the program, and to obtain investment. This led to the program being vulnerable when these targets could not be met in the early rounds. Lessons from North America show that it will take time to build the sector.

The major challenges faced by the sector are:

- Maintaining growth: after the initial transfer of Nation Building stock, where is the funding to come from?
- Stock transfer and leveraging: some institutions place restrictions on the sector's ability to borrow; and
- Accessing private investment: where funding cannot be obtained through borrowing other sources of funding are needed.

The future of the sector could include:

- Larger providers will be looking for a more commercial model;
- Neighbourhood schemes to address issues of disconnect between large providers and the community;
- There will be a more diverse range of products for both investors (for example recognising the Social Return on Investment (SROI)) and renters (for example 'rent to buy' schemes); and
- Urban renewal projects and a focus on sustainable planning will facilitate community housing scheme.

But to achieve this, the sector needs long term secure capital funding and a national strategic housing plan. Regulations need to be consistent across jurisdictions, and the sector needs to continue to become more professional while maintaining its inherent social values. It needs to develop partnerships with other stakeholders, including Government. Affordable housing needs to be part of the social inclusion agenda, in the same way as health and education.

Session 3: NRAS: Current Federal Government Policy to Advance Affordable Rental Housing

Susan Finnegan, Dept of Environment and Sustainability

Susan Finnegan provided an overview of the operation and policy aims of the Federal Government's National Rental Affordability Scheme (NRAS). The scheme was established in July 2008 with three policy goals:

- To increase the supply of affordable rental dwellings;
- To reduce rental costs for low to moderate income earners; and
- To encourage new, large scale and innovative delivery of affordable housing.

The initial target of 50,000 dwellings by 2014 has been reduced to a more realistic 35,000 dwellings, and funding of \$2.9b has been allocated up to that year. The scheme supports the provision of accommodation at 20% below market rent to eligible occupants, for at least 10 years. Currently the funding amount is \$9140, provided through a combination of Commonwealth tax offsets or cash payments (to charities) (75%) and State initiatives (25%), which may be in cash or in kind. The fourth round for NRAS has just closed.

Eligible occupants are assessed on their income, based on the number of people in the household (refer to http://www.fahcsia.gov.au/sa/housing/pubs/housing/nras/Pages/dwellings_tenants.aspx). The income levels are set at a rate to ensure that low to moderate income earners who would not usually be eligible for social housing will be eligible. Longer leases are recommended to ensure security of tenure.

NRAS participants provide demographic information on tenants and dwellings. At 30 April 2010:

- 1,637 NRAS dwellings housed 3,507 occupants
- 1,225 occupants received Commonwealth Rent Assistance
- Most had previously rented privately (1,103)
- 1,279 occupants had some (not necessarily their main source) income from Government pensions or allowances, with the next largest group (653) earning private sector wages
- Most occupants are aged under 40: 26% aged 26 – 40 years, 19% 5 – 17 and 17% 18 – 25
- 13% occupants were sole parents and 14% occupants identified as couples;
- 8% occupants disclosed a disability
- 5% occupants identified as Indigenous or Torres Strait Islander
- Apartments (957) and townhouses (258) represent about 75% of the 1,637 NRAS dwellings.

Session 4: Experiences from the Australian Capital Territory

Jon Stanhope MLA, Chief Minister ACT

The ACT is currently experiencing a period of rapid population growth, which has increased stresses in the housing market. In 2011 the Government released 5000 units of land, which is more than 7 times the units released in 2004. The housing market in the ACT is different to most other capital cities, however the housing construction sector is an important part of the ACT economy. The public housing stock is 8.5%, which is double the national average. The average income in Canberra is about \$20,000 pa higher than other cities, further increasing housing stress for low to moderate income earners.

The ACT Government has been involved in a number of initiatives to assist with affordable housing, (see <http://www.actaffordablehousing.com.au/>). Note that these initiatives include access to home ownership as well as rental accommodation.

Under the first initiative discussed, the Government entered into a partnership with CHC Affordable Housing (more information available at: <http://www.chcaffordablehousing.com.au/>). CHC is a not for profit development company that develops affordable housing for sale and for rent. To ensure an understanding of the market it is operating in, the Chair and other board members are drawn from the building and development industry. The ACT government has provided a \$50m finance facility to CHC Affordable Housing to allow it to construct 1000 dwellings. Half of these were for sale, with the remainder for rent; and CHC is on track to meet the target. This initiative depended heavily on NRAS funding in addition to the ACT provision of finance.

The second initiative is a land rent scheme. Housing in the ACT is built on land that is leased from the government, with the owner purchasing a 99 year lease. Under this scheme the ACT government has released new land on an annual rental basis instead of requiring an upfront lease purchase. The standard rate is 4%pa but where the income of the household is under \$83,000pa the land rent is reduced to 2% pa of the unimproved value. This should increase affordability by reducing the amount that the purchaser needs to borrow to build on the land. Community CPS Australia is currently offering finance to build on land rent blocks. The lessee can purchase the lease at any time by paying the full unimproved value of the land. The property can be sold with the purchaser either continuing the land rent or paying out the unimproved value. Some 600 blocks have been released under land rent, of which CHC has taken up 100.

Thirdly, under the "Own Place" scheme the Government has been working with developers to increase the availability of affordable housing. The higher income level of the ACT population has led to a situation where housing is being built to a standard not affordable by low to moderate income earners. All greenfields developments are now required to have 20% of the lots set aside for affordable housing: currently set at a cost of less than \$348,000 for a house and land package. To date most developers are offering this through units or apartments, but the planning rules have been modified to facilitate the process. For example lot sizes and boundary requirements may be reduced. Purchasers must meet an income test, currently \$120,000 in the previous year (+ \$3330 per child).

Note that the recent auditor general's report: Residential Land Supply and Development Report No 2/2011 (http://www.audit.act.gov.au/auditreports/reports2011/Report_2-2011_Residential_Land_Supply_and_Development.pdf), without apparent reference to the policy goals, was critical of the financial risk that the ACT Government was taking on under these arrangements.

Session Five: Sponsored housing: lessons in creating value from a brand
Tony Winterbottom, Defence Housing Australia

The story of Defence Housing is a transition from a program to assist returning servicemen to the provision of appropriate housing for serving personnel. Prior to the 1980's housing provided was of very poor quality, and was described as "ghettos". This resulted in discrimination against the families of service personnel, and was a significant factor in retention rates.

Following an enquiry conducted by the Office for the Status of Women in the mid 1980's (Hamilton, *Supporting Service Families*, OSW, 1986) the Defence Housing Authority, a statutory body that can act commercially, was formed to provide and manage defence housing. It was formed with a housing stock of 23,000 housing units including 14,200 from state public housing, worth \$520m, and funding of \$750m over 10 years to build and upgrade the housing stock and disengage from public housing. The first stage of refurbishment used this one-off funding. DHA approached institutional investors for funding to continue the redevelopment program, but found resistance to the concept of investing in a statutory authority, which led to the development of the sale and lease back program.

The sale and leaseback program is based on small investors, ('Mums and Dads' investors), who buy a property and lease it back to DHA. DHA manages the property, installs the tenants and collects the rent. The head lease and the tenant leases are with the DHA so there is no direct relationship between the tenants and the owners of the property. At the end of the leaseback period the owners may choose to sell or use the property as they wish. This allows the DHA to continue to acquire properties as required to meet the needs of the portfolio. They have about 11,500 investors 30% of which are repeat investors. DHA is also proud to be able to offer appropriate housing to Defence families, who are now able to live in similar conditions to the rest of the community.

The lessons to be gained from the DHA story are:

- Separate the housing from the tenants and create a brand. DHA is the lessor, and it is a AAA investment. In the affordable housing context, there are different segments of a broader market represented – for example families seeking affordable housing, or older couples shifting to more accessible properties. Each of these groups of people has a positive story and a potential connection that can be made to investors.
- The economics have to be right. Owners will require a fair rate of return on their investment.
- The manager must bring together housing and related services.
- The provider must take responsibility end to end to relieve the owner of the burden of managing the property.
- Funding becomes a partnership between the provider and the investor.

Session Six: Finance

Jo O'Sullivan and Steven Lynch, MECU

Financing affordable housing is one of the major problems facing the sector. Although the transfer of housing stock to the community sector was intended to facilitate providers in obtaining finance, the reality has been that obtaining investment on the necessary scale is difficult.

MECU is a credit union providing banking to the community sector. It manages over \$2.5 b in assets and is one of Australia's largest credit unions. It has a socially responsible approach to banking – seeking social return on investment.

MECU has been involved in financing Community Housing projects for five years, working closely with housing providers to tailor a product to suit their needs. It has \$50m invested in affordable housing in Victoria, Tasmania, NSW and Western Australia. This has been through new construction or purchase of existing dwellings. MECU has assisted Victorian Women's Housing and Women's Housing Ltd to structure packages that facilitated access to state and commonwealth funding. The streamlined approval process that they developed was leveraged off Nation Building stock and they provided funds for 40 properties. It is also working with CHFA to look at how Social Returns on Investment can be taken into account in funding models.

Ian Gash, Westpac

Westpac is the largest housing lender in Australia. Ian raised a number of problems that the traditional banking sector has in developing models for funding affordable housing projects.

Firstly the frameworks and guidelines for affordable housing are different across state and territory borders, which requires local guidelines to be developed in each state based on an understanding of the applicable rules in that state. Applications could be streamlined if the rules were consistent, and the banks have made a submission to FaHCSIA regarding this aspect.

Secondly, while the Nation Building funding transferred housing stock, the banks still look at cash flow to determine the ability to repay borrowed funds. If a housing provider has low cash flow it can't fully leverage off those assets. Housing investment is traditionally a lower yield investment (3-5%) – small investors tend to rely on capital gains as a motivator – and this is exacerbated in the affordable housing segment. This low rate of return also makes it difficult to attract institutional interest.

The affordable housing market over the next five years needs to be in the order of \$4-5 bn. The banks cannot provide that level of funding, and in the absence of institutional interest, where is the funding to come from?

Finally, changes to the Consumer Protection Act have placed formal restrictions on the banks when lending to customers who may not have the capacity to repay a loan without

being placed in hardship. The reforms have introduced responsible lending requirements, which mean that lenders now have to assess an applicant's capacity to repay the loan, and if the borrower won't be able to repay without experiencing financial hardship then the capacity to repay test is applied. Under these new requirements lenders should be looking at the applicant's whole situation. For instance, a 55 year old may not have the capacity to repay after they retire but they might be planning to downsize at that time, or planning to pay it out with a lump sum from their superannuation.¹

Government believes that there is sufficient flexibility in the legislation for that to be taken into account. However there is concern that lenders are applying a blanket application in regards to the capacity to repay test. Subsequently, the Federal Assistant Treasurer has written to lending authorities to advise them against this interpretation. The Australian Securities and Investment Commission has taken similar action..

Concluding Session: Where to from here?

Facilitators: Professor Judith Yates; Carol Croce

It was agreed that during the workshop some great initiatives had been shared with the participants:

- NRAS has seen a substantial increase in the development of affordable housing projects. Although it got off to a slow start, and the targets were revised as a consequence, it has provided a stream of funding that has allowed the affordable housing sector to increase the stock of affordable housing, and to start to operate as a viable sector of the housing market, in its own right. However there are serious concerns about where ongoing funding will come from when NRAS funding runs out.
- There has been a substantial increase in the stock of affordable housing, coming from a combination of the NRAS and Nation Building funding. NRAS has facilitated the building of new affordable housing, while Nation Building Funding has increased the social housing stock (19,300 new homes), improved the quality of existing stock and enabled social housing to be upgraded. As at December 2010, 19,617 new social housing dwellings had been approved, of which 57% had been completed. Under the maintenance program, by March 2010 71,500 dwellings had been repaired including 9,300 dwellings that had been upgraded and returned to habitable condition <http://www.economicstimulusplan.gov.au/pages/dash.aspx>.
- The ACT Government has shown how partnerships between developers (e.g. CHC) and governments can provide incentives. The nature of land tenure in the ACT does give the ACT Government more ability to intervene proactively in the market, however the initiatives to increase the supply of land through land rent, and cutting red tape for developers to help them to meet the affordable housing targets are making a difference.
- The Defence Housing Association story showed how packaging the investment, and developing new products, can attract investment. By identifying a market and packaging the investment product to meet that market the DHA was able to overcome difficulties in obtaining finance from traditional sources.

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How do we keep the momentum going?

Nation Building Funding will run out in 2011-12, and NRAS in 2013-14. By then the two programs are expected to provide 19,500 new units of social housing and 50,000 units of affordable housing. The gap between the demand for and availability of social housing is estimated to be 90,000 units in 2014, and will then grow as NRAS stock reaches the 10 year holding limit (National Housing Supply Council, 2010).

Additional sources of funding will be required. Some sources that the sector should explore include:

- **Grants:** the current increase in housing stock can be directly attributed to grants provided through the two schemes. How can grant funding be made more secure, and programs of longer duration? Housing requires long term planning while governments tend to take a shorter term view. Note the lessons to be learned from the NRAS, which was threatened with a withdrawal of funding last year. Affordable housing must be recognised as an important part of social infrastructure, in the same class as access to education or health. It needs to be part of the social inclusion agenda and recognise the social return on investment.
- **Guarantees:** One of the limitations in accessing funds from conventional sources is the nature of affordable housing providers, often non-profit organisations with low cash flow, and a poor rate of return on capital invested. The sector needs to work with the financial industry to develop a product that allows a third party – whether Federal or State Government, developers or another interested third party – to back loans through guarantees or similar mechanisms.
- **Financial Products:** Different financial products and organisational structures could make it easier for investors to invest in affordable housing funds. We should explore the reasons why institutional investors (e.g. ethical superannuation funds) do not find the affordable housing sector attractive as an investment. Is it related to the investment and rate of return, or the security and structure of the organisation providing the housing? Note that the regulatory environment of the financial sector will shape the development of such products.
- **Gap Subsidies:** Funding is required to meet the difference between the rent that the tenant can afford to pay and the rent that the provider needs to receive (whether market or a lower rent). Currently the main source of funding is Commonwealth Rent Assistance, which is limited in its availability and does not fully fund the gap.

How do we get investors interested in the Affordable Housing Sector? Biases in the tax system are relevant:

- Institutional investors need an income stream, so they require a regular return on capital invested. They prefer returns that confer direct tax benefits – e.g. franked dividends. Capital gains are of limited value to institutional investors.
- Individual investors ('Mums and Dads') prefer capital gains. They are willing to accept a lower rate of return and negatively gear investments in the expectation of concessionally taxed capital gains in the longer term. However there may be a perception that tenants in affordable housing projects will not take care of the property, which would impact on the later resale value (stigma).

We need to advocate that affordable housing is an ethical issue, based on a social return on investment. Will this increase the likelihood that institutions with an ethical investment

bias, or individuals with a social conscience will see the sector as a viable investment? To what extent will such investors accept a lower rate of return – and should they have to?

The Tenant Base

The affordable housing sector needs to service low income (social) to middle income (affordable) housing markets. The reallocation of social housing through Nation Building means that the same providers will be operating across the whole sector. The need to earn a return for investors could push service providers to the affordable sector, leaving the lowest income earners with even less access to housing. Low income earners who are unable to get access to social housing will be competing with middle income earners in the affordable sector. Low income earners still need financial subsidies to pay their rent in this sector.

Sustainable housing needs to be regarded as a continuum from social housing to affordable housing and possibly home ownership (e.g. ACT programs). There is much work to be done to challenge attitudes so that any stigma attached to residents in social housing can be dispelled.

Different methods of subsidising housing costs include:

- CRA: Commonwealth Rent Assistance is a poor substitute for the provision of housing as the tenant must first obtain a suitable property, and this is dependent on the market. Access to CRA is also limited. In particular access is based on the tenant being entitled to income support or Family Tax Benefit. Young singles in particular are not likely to be eligible, and in discussion it was noted that the recent changes to rules in relation to share housing show how eligibility can be changed.
- Employer Subsidies: In the Defence Housing case study the employer subsidises the difference between the market rent – paid to the investor – and the amount that is paid by the employee. This model could be helpful in industries where housing allowances are paid under the employment contracts / awards.
- NRAS: The tax incentives are only available where the housing is provided at 20% less than market rent, so the subsidy is provided to the housing provider through indirect means.

There was little discussion in the workshop about tenant outcomes. The collection of data by FaHCSIA appears to be a good source of demographic data, but the data does not appear to include qualitative data about the impact of social housing on the lives of tenants.

Social Return on Investment

Some NGO's and other organisations are developing tools to measure a Social Return on Investment (SROI). It measures impact across social, economic and environmental aspects – see: <http://www.sroi-uk.org/> for more information.

To make the case for a Social Return on Investment the sector needs to investigate tenant outcomes. Can these outcomes be quantified? Some aspects that could be investigated further include:

- Stigma – how does the quality of a person's housing (social or affordable) impact on their standing in the community?

- Stability – does affordable housing help a tenant to put down roots in a community, and how long lasting is that effect?
- Changing Needs – how can affordable housing accommodate a person’s changing needs over their lifecycle while allowing them to stay connected to their community?
- Economic outcomes – relationship between work and stable housing?
- Aspirational outcomes – can affordable (rental) housing be a step on the ladder to home ownership, and do tenants have home ownership as a goal?
- Sustainability – how can affordable housing developments link into the green and sustainable development movements?
- Gender impacts – is there a disproportionate social benefit (or cost) to providing affordable housing to women, sole parents or older women?

Payments for children and Effective marginal tax rates

These notes concern Family Tax Benefit A and B, the Child Care Benefit and the Child Care Rebate.

Objectives

It is the role of parents to provide financially for their children. While most parents do this through participation in the labour force not all parents have sufficient income to support their children to an adequate standard. The primary objective of the Family Payment system is 'Adequacy' - to ensure that children have access to a basic acceptable standard of living. Family payments also have several other objectives, which are not always consistent and therefore require balancing, within the important considerations of simplicity and transparency.

The objectives of the Family Payment system are:

- Adequacy (poverty alleviation and social inclusion): protect children in families with and no or very limited resources/income from income poverty. Access to services and education should not be constrained by a family's financial circumstances.
- Horizontal equity: providing assistance to those with higher costs associated with children
- Vertical equity: targeting assistance to those with lower resources/income
- Workforce participation: recognise and support the role of parents as both carers and members of the workforce. Enabling/encouraging labour force participation, education and training.
- Child development: support child development from birth through to the completion of secondary school.
- De-commodification: providing additional assistance to parents who have reduced their labour force activity to care for children.

While these objectives are all important in providing security and equity for families, and providing public investment in the current wellbeing and future productivity of children, the 'Adequacy' objective must be seen as the primary objective and, as such, should not be traded-off against the other objectives.

Background

FTB A (higher rate) is intended to prevent poverty among low income families with children (vertical equity). FTB A (base rate) provides some assistance to most families with children to recognise the costs of children (horizontal equity).

FTB B was introduced in 2000 and incorporated Guardian Allowance, the Sole Parent Rebate, the basic rate of Parenting Payment and the Dependent Spouse Rebate (where there were also dependent children). Assistance to single parents addresses the additional costs of a child as the second member of a family (horizontal equity). FTB B is also intended to assist single earner/dependent spouse families with children (in a similar way as the Dependent Spouse Tax Offset in the tax system for couples without children), hence restricting it when the second partner begins to earn their own income via the application of the second-earner income test.

Child Care Benefit is paid for up to 24 hours of *approved care* for families that do not meet the work test (investment in children), and up to 50 hours a week where a single parent or both parents do meet the work test for a combined total of 30 hours a week (or 15 hours a week for a single parent) (workforce participation). Child Care Benefit is provided for *registered care* if parents have work related commitments for some time during the week. The maximum rate payable for approved care is \$3.78 per hour for children under school age and \$3.21 per hour for children of school age. The corresponding rates for registered care are \$0.63 per hour and \$0.54 per hour. The income test affects families with a combined income of \$39,785 a year.

Child Care Rebate was introduced as a non-income tested payment, responding to calls for tax deductibility for child care expenses for working parents. It provides a 50 per cent rebate for out of pocket expenses, net of Child Care Benefit. The Government has announced a cap of child care expenses for the Child Care Rebate of \$7,500 a year (subject to the passage of legislation).

Family Tax Benefit and Child Care Benefit are income tested on annual family adjusted taxable income in the financial year, in which they are received. Benefits are initially paid based on an estimate of income for the current year. The annual entitlement is reconciled when taxable income is assessed after the end of that year. Where income exceeded the estimate, this resulted in a retrospective adjustment and raising a debt against the family. The financial difficulty this caused many families led to the introduction of more flexible payment options that meant that more assistance is now received after the end of the year and the FTB supplements to provide some cushion against post-reconciliation reductions.

Issues

A partnered second-earner (generally mothers) encounters costs when they enter paid work, or increases their hours. These include the costs of child care, (plus transport, clothing etc) and the loss of the value of her time in unpaid domestic work and other economies associated with a parent being at home. This can mean, for example, loss of child caring time, food production, and housework leading to purchase of more prepared foods or the outsourcing of cleaning and laundry services etc (see various time-use studies). Alternatively it could lead to a greater sharing of unpaid domestic work between partners.

In addition to the costs of work are the high marginal tax rates faced by some families caused by the combined effect of the joint income test on FTB A and Child Care Benefit and the second earner income test on FTB B, on top of ordinary individual income tax rates where applicable.

- FTB B: Family loses 20 cents per dollar of 2nd earner income between \$4,891 and \$24,912 (youngest child aged under 5) or \$19,382 (child aged 5-18).
- FTB A: Family loses a further 20 cents per dollar of 2nd earner income if the 1st earner's (or family's combined) income is over \$46,355 (up to, say \$75,555, for a family with two children under 12).
- CCB: Family loses 10 to 35 cents per dollar of 2nd earner income (depending on the number of children in care) if the 1st earner's (or family's combined) income is over \$39,785 (up to, say, \$143,095 for 2 children in care). This is partly offset by child care rebate.

Thus a second earner whose income is in the FTB B withdrawal range, and whose partner's income is in the range over which FTB A and CCB are both withdrawn can cause the family to lose 50 to 75

cents of benefits per extra dollar she earns. Under the present income tax scales she would also be paying 15 cents tax (once her income exceeds \$16,000), facing EMTRs of up to 65 to 90 per cent, keeping only 10 to 35 cents per dollar.

Added to the costs of working, it is easy to see cases where the family has no net financial gain for the second earner's extra effort.

A single parent entering the labour force does not face the low income test on FTB B, but does face the income test on Parenting Payment Single, or Newstart Allowance if the youngest child is aged 8 or more. The income test for Parenting Payment Single reduces assistance by 40 cents for each dollar earned between \$4,592 and \$45,223 a year¹. Currently, Newstart Allowance is withdrawn at 50 cents in the dollar between \$1,612 and \$6,500 and 60 cents in the dollar of income between \$6,500 and \$24,691 (see footnote 1). In the 2011-12 Budget the Government announced that from 1 January 2013 Newstart Allowance for principal carer single parents would be withdrawn at 40 cents in the dollar once income exceeded \$1,612. A single parent receiving Parenting Payment Single can also qualify for a pensioner tax offset of \$2,796 a year if his or her assessed income is less than \$24,640. It is reduced at 12.5 per cent of income above that level.

Entitlement for Family Tax Benefit A and B and Child Care Benefit involves annual adjusted taxable income. This has long been problematic because of the difficulty in estimating and because it is not very responsive to changes during the year, such as income changes, parents changing their employment patterns, birth of a child, death of a parent or child, separation or other changes in family structure.

Ideas for reform

The announced increase in the tax free threshold is a very helpful reform in removing the high EMTRs for very low income earners.

The Henry Review recommended combining FTB A and B with a single income test. This would remove the stacking of income tests and the particularly onerous income test for the second earner in a couple.

In addition, we suggest that the income test be split between the parents with each parent having an income threshold of \$23,178. The payment would be withdrawn at 10 cents in the dollar of either parent's income above this amount. Each parent's income could reduce the payment to half the maximum rate. Single parents would continue to have the existing threshold of \$46,355 and a taper of 20 cents in the dollar. Alternatively, single parents could have a threshold of \$23,178 and a taper of 10 per cent. This would have consequences for families receiving parenting payment. It would be advisable to set the threshold at the cut off point for parenting payment to avoid overlap. This trades off the existing high effective marginal tax rates for reduced adequacy for some families. Single parents with incomes above the threshold would be losers as they would not have the almost unlimited FTB B component. Single income families with family income below \$46,355 would also be losers.

¹ These figures are shown here in annual terms (fortnightly amount x 26) but are in reality calculated on fortnightly income.

The number of losers would be reduced if the FTB B portion were combined with the base rate, and income tested at a higher income level.

The Henry Review also recommended combining Child Care Benefit and the Child Care Rebate into a two tier payment. The Review's proposals would increase the assistance to low income families but reduce assistance to high income families. The income tests for child care benefits and family payments would still stack under this proposal.

The differences in the work tests between CCB for approved care, CCB for registered care and CCR are overly complex. CCB alone is clearly inadequate to protect low income families from poverty, meeting about one-third of costs, and the cost of child care in relation to earnings was given in our consultations with women as the biggest work barrier for women with young children. The differences in rates between approved and registered care and between pre-school and school-aged children are hard to justify. The Henry Review proposals would be an improvement in simplification and equity.

It is worth considering splitting the income test for the proposed combined child care payment, as proposed for the combined family payment.

In terms of reducing the effect of stacked income tests, it might be worth deducting the net out-of-pocket child care expenses from income as assessed for the family payments income test.

We have not calculated the expenditure implications of these proposals nor have we analysed in detail the winners and losers.

These proposals preference the work incentive objectives over the de-commodification objectives. That is, they remove support for single income couples, while reducing the effective marginal tax rates for parents (particularly mothers) who participate in the work force.

We also believe that aligning the income tests for family payments and child care benefits with that used in the income support system (a 'current' income basis – that is, current ordinary income with payment fortnightly in arrears) would be desirable to make the system more immediately responsive to changes in circumstances and reduce the inherent uncertainty around over- and underpayment in the current system. The current income basis, with entitlement altering when family circumstances alter, and would not involve fortnightly reporting.

This would enable the existing FTB supplements to be abolished and used to increase the periodical rates during the year, if parents choose that payment option. It would increase equity and adequacy in times of need.

Negative gearing for housing investments

In 2008-09 Australia spent \$4.6 billion on negative gearing, a sum of money that could have been used for many other useful purposes, including the provision of more affordable housing.

How negative gearing works

The Australian Taxation Office describes negative gearing in the following terms:

A rental property is negatively geared if it is purchased with the assistance of borrowed funds and the net rental income, after deducting other expenses, is less than the interest on the borrowings (ATO, 2011).

Put simply, if the rent does not cover your interest and other costs you can deduct the excess interest costs against other income to generate a tax credit. In that way other taxpayers help the property investor meet the costs. In the meantime the investor is waiting on the lucrative capital gains that have been associated with residential investments.

Since the costs of producing an income are generally deductible against the taxpayers income, the taxpayer with a negatively geared property can effectively offset some of the interest expense against her other income. In other words the taxpayer makes a loss on property but that loss is tax-deductible against other income, including ordinary wages and salaries. Such losses are also tax-deductible in Canada and New Zealand.

Why would anyone go into a business deal that is expected to make a loss? Generally property investors know that their rental returns are going to fall short of their operating and funding costs but they expect property values will increase sufficiently so that their income losses will be more than offset by their capital gains when they eventually sell the property.

This type of gearing is more favourable to the taxpayer the higher the income of the taxpayer. For example, take a taxpayer with excess interest expenses of \$10,000. A taxpayer on a marginal tax rate of 15 cents in the dollar could use that as a loss and so reduce tax by \$1,500. But a taxpayer on the highest tax bracket pays 45 cents in the dollar. That taxpayer can reduce tax by \$4,500. So the benefits of gearing are higher the higher the relevant tax rate. Since the tax rate is higher for higher income earners, the strategy favours higher income earners (Valentine, 2007).

The ANZ bank currently advertises in the following terms:

If you've got money to invest, an option you may consider is negative gearing.

With correct financial advice and with the selection of the right property, negative gearing may be a tax efficient investment strategy. That's great if you're thinking about entering the property investment market for the first time or want to increase your investment portfolio (ANZ Bank, 2011).

While it is uncontroversial for business to offset losses in one part of their business with income in another part, negative gearing in relation to property it is controversial for two reasons. First

there is the suggestion that it is implicated in driving housing prices higher than they otherwise would have been. Second, it is seen as a way through which other taxpayers are subsidising property investors. These and related points are taken up below.

The value of negative gearing

Taxation Office figures show that in 2008-09 there were 2.351 million personal taxpayers who claimed loan interest expenses of \$18.90 billion relating to their property expenses on rental income properties. Interest expenses are 60 per cent of all the property expenses claimed by property owners, the next highest being council rates at \$1.90 billion (Australian Taxation Office, 2011). Overall, property expenses reported to the tax office are \$6.5 billion more than the rental income declared. However, many property investors who claim interest expenses would not be engaged in negative gearing. For example, people who rent out properties purchased many years ago would be earning modern rents but paying small interest expenses on old loans. Saul Eslake has estimated the cost of negative gearing at between \$4.8 to 5 billion (2011). This estimate is consistent with that of Schwab (2011) who estimated the value of negative gearing tax concessions to be around \$4 billion for 2008-09

History

Traditionally taxpayers have been allowed to negatively gear their investment properties. However, in 1983 the Victorian Deputy Commissioner of Taxation briefly denied Victorian real estate investors the deduction for interest in excess of the rental income. However that approach was quickly over-ruled by the federal tax commissioner (see Hanegbi, 2002).

Following the tax summit in July 1985 the Hawke/Keating government disallowed negative gearing interest expenses on properties bought after 17 July 1985. It meant that taxpayers could only offset interest expenses against rental income. It was no longer possible to obtain a tax deduction for that part of the interest expense that exceeded the net income from properties (that is rent less other expenses such as rates, maintenance, etc.). The left over interest costs could not be offset against other income. However, it could be carried forward to offset property income in later years.

Paul Keating, then Treasurer, made it clear that negative gearing did not necessarily encourage more investment when he said

The Leader of the Opposition would allow all the high income earners to run interest costs against their income, swapping flats on Bondi Beach which were built 40 years ago. That is not adding to the stock of housing or to the stock of rental accommodation, it is not really assisting families who need rental accommodation.

By contrast he pointed out that:

we have wiped out that outrageous rort and introduced accelerated depreciation for new buildings or major renovations in order to create more rental property and more opportunities for renters (Keating, 1985).

The Hawke government also felt that negative gearing was responsible for higher real estate prices with Minister Assisting the Treasurer and Minister for Immigration and Ethnic Affairs, Chris Hurford, stating:

Competition for the purchase of residential property between these investors has been reflected in increased prices to the detriment of ordinary homebuyers (cited in Hanegbi, 2002).

The impact of restrictions on negative gearing, along with the new capital gains tax regime introduced in September 1985²⁰⁶, generated fierce opposition from investment property owners. The political impact was perhaps inevitable.

Following the 1985 initiatives there were large increases in rents in parts of Sydney in particular and there were claims that the price increases resulted from the denial of negative gearing. However, the fact that the increases were confined to Sydney seems to suggest special factors other than the restrictions on negative gearing were to blame.

Nevertheless the result was that following the intense lobbying and the degree of concern with Sydney house prices the government reversed its decision and restored negative gearing under the old rules in September 1987. The lobbyists had claimed that the limits on negative gearing were responsible for a slowdown in the construction of dwellings. The government was able to make the excuse that it was possible to restore negative gearing because the government had reformed the tax system, especially with the introduction of the capital gains tax.

In addition to the changes in negative gearing and capital gains taxation, the depreciation allowance on residential building for property investors is also relevant when considering the support provided by the community to those with investment properties. Included among the allowable deductions is a depreciation allowance of 2½ per cent on new buildings. This had been introduced at 4 per cent in 1985 when the scope of negative gearing was reduced by quarantining the interest cost offset to rental income. The rate was lowered to 2½ per cent in 1987 when the quarantining was removed and full negative gearing restored. It could be argued that houses are an appreciating rather than depreciating asset, or that 2½ per cent overstates any physical depreciation (ie that the average house will last more than forty years) (Senate Select Committee on Housing Affordability in Australia, 2008).

[The link between capital gains tax and negative gearing](#)

While there is much discussion of negative gearing in the Australian tax reform debate the underlying problem is that capital gains are only lightly taxed. It is the light tax treatment of capital gains which in turn ensures that investors are encouraged into strategies that make losses in the short term but generate long run capital gains.

²⁰⁶ The capital gains tax quarantined all investments made before 1985, capital gains on assets purchased after that were included in assessable income.

That is, for a negatively geared property the vast majority of the return to the investor (who has, by definition, been incurring operating losses) most of the returns to residential investment come in the form of capital gains. Even before John Howard introduced a 50 per cent discount for tax paid on income from capital gains the Australian tax system was highly concessional. For example,

- Capital gains were only taxed on realisation. While that may have made sense on practical grounds it did mean that the government was effectively giving an interest-free loan to the taxpayer.
- More importantly the capital gains tax applied only to the inflation-adjusted gain yet the full interest payments were deductible, even though a large fraction of the interest payments just cover the inflation loss the lender would have otherwise incurred.

Arguably it is the concessions granted to income from capital gains tax that is the underlying driver of the growth in negative gearing in Australia. To that extent, limits on negative gearing have the potential to correct for the bias in the tax system that encourage investors to over-invest in rental property.

So long as capital gains are taxed more lightly than cash flows then there is a distortion in the system which seems to have the worst effects when it comes to property investment. Any reduction in the rate of the capital gains tax increases the incentive to over-invest in assets that yield most their income as capital gains (Fane and Richardson, 2005). At the moment realised capital gains are taxed at half the rate of other income which provides an incentive to:

- invest in assets that earn capital rather than ordinary incomes, and
- to disguise labour and other income to look like capital gains (L Burman and D White, 2010).

Any gearing of an asset is only useful if the return on the asset (capital gain and other investment income) exceeds the after-tax cost of borrowing. And that is more likely the higher the relevant tax rate. In other words and as we noted above, since the tax rate is higher for higher income earners, the strategy favours higher income earners (Valentine, 2007).

The impact of negative gearing on housing affordability

There is a strong argument to the effect that rather than necessarily increasing the supply of real estate negative gearing has the effect of increasing the prices of existing real estate. According to Eslake

[negative gearing] does nothing to increase the supply of housing, since the vast majority of landlords buy established properties. Precisely for that reason, it contributes to upward pressure on the prices of established dwellings, thereby diminishing housing affordability for would-be home buyers... The revenue forgone through negative gearing could alternatively be used to build nearly 20,000 new "affordable" homes each year, making substantial inroads into the massive shortage of affordable housing (Eslake, 2011).

Hanegbi makes the point that since negative gearing has the effect of increasing prices then it tends to redistribute wealth towards those who own real estate and away from those that do not.²⁰⁷ That of course favours the already wealthy at the expense of the already poor. That has the effect of worsening the distribution of wealth and resources in Australia.

Furthermore, investors are more likely to want to invest in the inner city areas, buying up old stock, as Keating put it 'swapping flats on Bondi beach'. That does nothing to increase the supply of inner city rental accommodation but increases all property prices. As property prices increase so do rents. By increasing house prices negative gearing also slows down the purchase of houses by owner-occupiers and many of the latter are forced to remain in the rental market for longer.

Of course any tax concession to higher income earners makes the income tax system less fair and negative gearing, in the context of lightly taxed capital gains has to be rated as one of the major inequities in the system.

Despite the views of Eslake and Hangebi some participants in the Australian tax reform debate have put the argument that negative gearing, to the extent that it increases the supply of housing may have the effect of reducing the market price of rents. While there is little empirical evidence to support such a conclusion it is important to note that there are of course much more direct ways of encouraging new housing stock if that is the aim of policy. That is, if the goal of government is to increase the stock of affordable housing then it is highly unlikely that the direct investment of \$5 billion per year towards that end would not achieve more noticeable results.

Overall it would seem that the impact of negative gearing is unlikely to add much to the rental housing stock but is likely to have a fairly strong impact on prices and rents.

²⁰⁷ R Nanegbi (2002) 'Negative gearing: Future directions', *Deakin Law Review*, vol 7, 349-65.

Policy options for reform

On Saul Eslake's figures a policy of denying negative gearing would generate revenue of around \$4.8 billion, but as Julian Disney has pointed out:

It would be political suicide to ... [limit negative gearing] tomorrow and not as part of a broader package. We've got an upside down and back-to-front tax system. It's more generous to rich people and others and it hurts you when you're trying to get into the market ... [you're] young and [you're] likely to have children. [the tax system] doesn't expect you to contribute in the way that you could, especially when you enjoy windfall gains(ABC Lateline, 2008).

There are a range of ways in which the Australian tax system could be reformed in order to both increase the equity of the tax system and boost the stock of affordable housing.

- 1) Rather than simply ban all negative gearing it would be possible to grandfather existing property arrangements but limit future access to negative gearing on subsequent transactions so that second hand purchases of property would no longer be eligible. That would limit negative gearing to newly constructed residential units which would help to ensure that policy was driving additions to the stock of Australian housing rather than driving additions to the price of the existing housing stock.
- 2) It would be possible to introduce a limit of, for example, one negatively geared property per investor and perhaps with a maximum permitted deductible loss on property. Those who already own investment properties would be prevented from negatively gearing any additional properties.
- 3) Restoring the tax on capital gains to 100 per cent of the gain (excluding gains on the family home) would have boosted tax revenue by \$5490 million in 2010-11 (ATO, 2011, Taxation Statistics). The Howard government provided no strong rationale for its decision to tax only half of the value of capital gains.
- 4) Alternatively, the capital gains tax concession could be reduced from 50 per cent to 40 per cent, or lower. Every 10 per cent reduction in the capital gains tax concession would raise around \$1 billion per year which could be invested in direct or indirect support for affordable housing.
- 5) The tax benefits of negative gearing could be both reduced, and made more equitable, by reducing the proportion of negative gearing losses that are deductible against other income as other income rises. Such an approach would ensure that the tax benefits of negatively gearing a property would be similar for someone earning \$60,000 and someone earning \$200,000 per annum. At present, the higher a person's income the greater the tax advantages associated with purchasing an investment property.

Incidentally, option 4 is consistent with the Henry Review²⁰⁸ which recommended a discount of 40 per cent on the tax applying to capital gains on investment housing. However, that recommendation was included in a complex package that involved similar discounts to apply to other individual investments and any associated interest deductions but would also involve changes to the rent assistance arrangements applying to low income earners. The Henry Review also suggested that the land tax system should apply to *all* land and tax more valuable land at a higher rate.

Expanding NRAS

Another possibility is the expansion of the National Rental Affordability Scheme, both the numbers involved as well as perhaps extending it to smaller development projects. At the moment the Commonwealth is planning to cease funding for the Housing Affordability Fund in 2012-13. Such measures directly contribute to the rental housing stock and so should help to address the high rents in the major cities.

²⁰⁸ *Australia's future tax system*, December 2009

References

- ABC Lateline (2008) 'Is negative gearing worsening housing affordability?' 3 March.
- ABS (1988) *Year Book Australia, 1988*. Cat no 1301.0, 1 January.
- ABS (2009) *Housing occupancy and costs, 2007-08*, Cat no 4130.0, 6 November.
- ANZ Bank (2011) About negative gearing at <http://www.anz.com/personal/home-loans/investing-property/negative-gearing/> accessed 3 August 2011.
- Australian Taxation Office (2011) *Rental properties 2010-11* at <http://www.ato.gov.au/individuals/content.aspx?menuid=0&doc=/content/00270214.htm&page=17> accessed 3 August 2011.
- Australian Taxation Office (2011) *Taxation Statistics*.
- L Burman* and D White (2010) 'The Henry review recommendations to reform taxation of capital gains in Australia', *Australia's Future Tax System: A Post-Henry Review* 21-23 June
- S Eslake (2011) 'Imagine a tax system that penalised work', *Sydney Morning Herald*, 30 March.
- G Fane and M Richardson (2005) 'Negative gearing and the taxation of capital gains in Australia' *the Economic Record*, vol 81, pp. 249-61.
- R Nanegbi (2002) 'Negative gearing: Future directions', *Deakin Law Review*, vol 7, 349-65.
- A Schwab (2011) 'Why abolishing negative gearing makes complete sense' *Crikey*, 10 May.
- Senate Select Committee on Housing Affordability in Australia (2008) *A good house is hard to find: Housing affordability in Australia* at http://www.aph.gov.au/senate/committee/hsaf_ctte/report/index.htm.
- T Valentine (2007) 'Gearing and negative gearing', *Journal of law and financial management*, Vol 6(1), June, pp. 24-9.

Gender Equality Roundtable Submission to the Consolidation Project

Introduction

On Tuesday 14 December 2010, Equality Rights Alliance (ERA)¹ hosted a roundtable event to discuss gender equality in the context of the Australian Government's project to review and harmonise Australia's four federal anti-discrimination Acts (known as the 'Consolidation Project'). The Consolidation Project is a joint departmental project involving the Attorney General's Department and the Department of Finance and Deregulation.

The ERA roundtable involved 15 representatives from non government organisations, academia, anti-discrimination practitioners and unions.² This submission is based on the key concerns and recommendations identified at the roundtable.

Recent international commentary

The Consolidation Project recently received international attention during the United Nations' Universal Periodic Review (UPR) of Australia in January 2011.

During Australia's UPR, concerns were raised that Australia's current anti-discrimination legislation regime does not fully incorporate Australia's international human rights obligations into domestic law and that the legislative protection of human rights is inadequate.

States made ten recommendations that specifically referenced the need for Australia to develop stronger equality protections. A number of recommendations specifically referred to the current Consolidation Project, including a recommendation that Australia ensures that its efforts to harmonise and consolidate Commonwealth anti-discrimination laws addresses all prohibited grounds of discrimination and *promote substantive equality* (recommendation 86.42, emphasis added).³

Following Australia's last review under the United Nations Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in July 2010, the CEDAW Committee also

¹ Equality Rights Alliance (ERA) is a national network of non government and not for profit organisations and social enterprises coming together to advocate for women's rights and gender equality. ERA is Australia's largest organisational network of women's advocates with 53 member organisations. ERA maintains a focus on gender equality, women's leadership and women's diversity. YWCA Australia is the lead agency and contract holder for ERA.

² Appendix Two lists the roundtable attendees.

³ A/HRC/WG.6/10/L. 8, *Draft report of the Working Group on the Universal Periodic Review – Australia*, 31 January 2011

urged Australia to strengthen the promotion and protection of human rights, including through the consolidation and harmonisation of federal anti-discrimination law into a single Act.⁴

The attention given to Australia's Consolidation Project during the UPR and the CEDAW review indicates the international expectation that Australia must address current gaps in its adherence to international human rights obligations. We urge the Australian Government to address the recommendations related to the Consolidation Project, both in its response to the recommendations of the UPR, and by addressing our concerns with the process undertaken for the Consolidation Project.

Concerns about the Consolidation Project

The Consolidation Project is a rare opportunity to introduce effective, modern equality laws that reflect current best practice and fully implement Australia's international human rights obligations, including obligations relating to gender equality. However, we have a number of concerns regarding the process the Government has adopted in its review of the current federal anti-discrimination Acts.

Consultation

We are concerned that, despite its significance and potential impact on equality in Australia, the Consolidation Project does not have a clear framework, terms of reference and/or public consultation process to guide the project. We note that recommendation 43 ('Sen Recom 43') of the Inquiry into the effectiveness of the *Commonwealth Sex Discrimination Act 1984* in eliminating discrimination and promoting gender equality ('Senate Inquiry'), was for a public inquiry to be held to examine the merits of replacing the existing federal anti-discrimination Acts with a single Equality Act. We are concerned that the process of the Consolidation Project has not fulfilled this recommendation.

Although we have been pleased to have had the opportunity to meet with officials from the Attorney-General's Department and the Department of Finance and Deregulation about the Consolidation Project, we are concerned about the ad-hoc nature of the Consolidation Project consultations. We understand that public comment on the process will be sought only when an exposure draft of the consolidated laws is released around April 2011. Our concern is that the laws will have essentially been determined in the exposure draft. In our view, this process is both highly unusual and extremely inadequate particularly given Sen Recom 43.

Gender perspective and recommendations of Senate Inquiry into the effectiveness of the Sex Discrimination Act

⁴ CEDAW/C/AUS/CO/7, *Concluding observations of the Committee on the Elimination of Discrimination against Women – Australia*, 30 July 2010, [25], available at <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-AUS-CO-7.pdf>

We are also concerned that the Consolidation Project, particularly with the lack of open consultation with stakeholders, may result in the loss of a gender perspective on equality and anti discrimination. We note that in its response to the Senate Inquiry's report, the Government stated that many Senate Inquiry recommendations would be dealt with as part of the Consolidation Project, including important recommendations about the definition of discrimination, the onus of proof and the powers of the Sex Discrimination Commissioner. We are concerned that many of the important recommendations that resulted from the Senate Inquiry will be ignored in the Consolidation Project.

We therefore call for a proper and transparent consultation process that **includes full consideration of all outstanding recommendations of the Senate Inquiry into the effectiveness of the Sex Discrimination Act** and which reports on how these recommendations have been reflected in any draft exposure for a consolidated Act.

Equality and the economy/productivity

We note that Government's aim with the Consolidation Project is to 'reduce the regulatory burden on and drive greater efficiencies and improved productivity outcomes by reducing compliance costs for individuals and business, particularly small business'⁵. Regulation that ensures a clear and less confusing process for industry, business and individuals does not need to have an antithetical outcome to improving capacity of the anti-discrimination laws to achieve substantive equality. We refer to the broad approach of the *Victorian Review into the Equal Opportunity Act 1995* which noted the economic loss to societies brought about by systemic discrimination and concluded that to better address systemic discrimination, additional mechanisms of protection are required⁶.

Recommendations to the Consolidation Project

1. Key principles

- 1.1. In the absence of a framework of principles or terms of reference for the harmonisation of federal anti-discrimination legislation, we recommend that any consolidation of Australia's current four federal anti discrimination Acts should result in a consolidated Act which:
 - Explicitly states that achieving the equality of all people regardless of sex or gender is a key principle underpinning the Act.
 - Fully implements all of Australia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and removes the qualification "so far as is possible" from the prohibition of discrimination.
 - Is inclusive and does not lose a gender perspective in its generality.

⁵ Media Release, Attorney-General and Minister for Finance and Deregulation, *Australia's Human Rights Framework*, 21 April 2010

⁶ An Equality Act for a Fairer Victoria: Equal Opportunity Review Final Report, 2008

- Provides an integrated system, including preventative measures and functions to monitor and measure performance.
- Ensures adequate funding and resourcing for education programs about human rights.
- Considers the proposed consolidation of federal anti-discrimination Acts in conjunction with other relevant government reviews, such as the review of the Equal Opportunity for Women in the Workplace Agency (EOWWA) and the findings of the National Human Rights Consultation.
- Removes permanent exceptions. The only exception contained in a consolidated Act should be a simple test of “proportionate means of achieving a legitimate end or purpose”, supplemented with guidelines and codes of practice.
- Strengthens the role of specialist commissioners, including an appropriately resourced Sex Discrimination Commissioner.

2. Recommendations

- 2.1. We call for a **legal right to substantive equality** (Sen Recom 9).
- 2.2. We call for **mechanisms to identify, target and address systemic discrimination**, with an integrated system of anti-discrimination law which includes:
 - 2.2.1. preventative measures and positive duties to eliminate sex discrimination, sexual harassment and promote gender equality (Sen Recom 40)
 - 2.2.2. a reversal of the onus of proof in discrimination cases (Sen Recom 22)
 - 2.2.3. effective enforcement measures (Sen Recoms 23, 24)
 - 2.2.4. own motion powers and monitoring roles for Commissioners (Sen Recoms 29, 30, 31, 32, 33, 37, 38)
 - 2.2.5. the capacity and resources to efficiently measure outcomes
 - 2.2.6. the capacity and resources for the Commissioners to play a significant educative role as modelled by the Fair Work Ombudsman (Sen Recom 34)
 - 2.2.7. performance improvement motions as modelled by the Fair Work Ombudsman with adequate funding (Sen Recoms 24, 34).
- 2.3. We reject a lowest common denominator approach. We call for **best practice and for levelling up** when considering the divergence and subsequent harmonisation of clauses across current anti-discrimination Acts.
- 2.4. We request the **removal of the distinction between direct and indirect discrimination**. Indirect discrimination is extremely complex, difficult to prove and very costly for the individual complainant in terms of time and financial and personal resources. *Women's disadvantaged position in the labour market tends to be accepted as*

the norm and therefore complex tests of indirect discrimination and reasonableness do not address systemic discrimination, such as the discrimination suffered by women working on casual and part-time basis (Sen Recom 5, 6).

- 2.5. **We reject a comparator test.** It is difficult to find an appropriate comparator and, for women in particular, their discrimination case may be lost as a result of the law being unduly technical. (Sen Recom 5). The behaviour which discrimination law seeks to address is discrimination (as defined in accordance with 3.1 below) *on the basis of a protected attribute*. It removes the need to define a comparator which distracts the courts from focusing on this issue. It would remain possible to use comparisons where appropriate as evidence as to the reason for the treatment complained of, but failure to provide a comparator (or the use of inappropriate comparators) would no longer of itself result in a claim failing. Comparators are further discussed below in relation to pregnancy and maternity leave discrimination at 2.10-2.11 below.
- 2.6. **We identify the failure to protect victims of domestic violence as a significant gap in law, including anti-discrimination law.** Adverse treatment on the basis of domestic violence victim status is an issue that severely affects a large number of women, especially in the workplace. Other regions (particularly New York State in the USA) have addressed this in their human rights legislation, incorporating domestic violence victim status as an attribute upon which discrimination is unlawful. We recommend that "domestic violence victim status" (or similar wording) be included in the list of attributes upon which it is unlawful to discriminate, as per the consolidated *Australian Human Rights Commission Act*.
- 2.7. We call for sexual orientation and gender identity to be included in a **non-exhaustive list of protected attributes**. The non-exhaustive list of protected attributes should also include additional grounds such as homelessness, socio-economic status and irrelevant criminal record. A consolidated Act should be modelled on the equality and non-discrimination provisions of the core treaties to which Australia is a party.
- 2.8. We support a broader definition of carer and family responsibilities to include domestic relationships and cultural understandings of family, including kinship groups. We also support broader coverage to include all areas of employment. (Sen Recoms 13, 14, 30).
- 2.9. We propose that a consolidated Act addresses the extensive **pregnancy and maternity leave discrimination** which Australian women face. Though considerably under researched compared with European jurisdictions,⁷ Charlesworth and MacDonald⁸ have summarised available Australian evidence and provided detailed qualitative data about how such discrimination occurs and its impact.

⁷ For example, UK Equal Opportunities Commission (2005). 'Greater Expectations: Summary final report EOC's investigation into pregnancy discrimination', EOC, Manchester; Lembrechts, L. and E. Valgaeren (2010). 'Pregnancy at Work: experiences and barriers encountered by women workers in Belgium' Institut pour l'Egalite des femmes et des Hommes, Brussels.

⁸ Charlesworth S. and P. McDonald (2007). *Hard Labour? Pregnancy, Discrimination and Workplace Rights*, A Report to the Office of the Workplace Rights Advocate, Melbourne.

- 2.10. ACT and Victorian discrimination laws no longer require a comparator in discrimination claims.⁹ For over a decade, the European Court of Justice has held that European Community laws provide that from the beginning of pregnancy until the end of maternity leave a woman must not be treated unfavourably at work because she is pregnant, about to take, is on or has taken maternity leave. No comparator is needed.¹⁰
- 2.11. Many jurisdictions in Europe provide more protection from pregnancy and maternity discrimination than simply removing the need for a comparator. We propose a similar approach is taken in Australia. Any dismissal or unfavourable treatment or discrimination as defined below during pregnancy, maternity leave and in the three months after returning to work should be regarded as having taken place because of pregnancy or maternity leave. It would therefore be unlawful sex discrimination. It would then be open for the employer to prove that pregnancy or maternity leave was in no way a reason for the treatment. Redundancy would only be permissible where an employer's operations are closed down.¹¹ A comparator would be unnecessary, it would be clear where the burden of proof lay, and the revised exception (see 2.15 below) impermissible in these cases.¹²
- 2.12. **Compounded or intersectional discrimination** must be recognised as a specific issue for women in any consolidated Act. We call for recognition of the difference between 'joining grounds' for discrimination in an action and intersectional discrimination. See also the proposed definition of intersectional discrimination at 3.2 below.
- 2.13. Each factor in compounded discrimination should be accounted for in legislation, together with an account for the combined impact of the multiple factors of discrimination. (Sen Recom 19). See also the proposed definition of intersectional discrimination at 3.2 below.
- 2.14. We recommend explicit steps should be taken in any consolidation of anti-discrimination laws to ensure that in a claim, the complainant need not identify which ground is the cause of the disadvantage provided they can establish that they were treated less favourably than a person who did not embody the same combination of characteristics.¹³
- 2.15. **There should be no exceptions in a consolidated Act.** The only exception contained in a consolidated Act should be a simple test of "proportionate means of achieving a legitimate end or purpose", supplemented with guidelines and codes of practice.
- 2.16. Exemptions in a consolidated Act should be **temporary and reviewable** (Sen Recoms 25, 28, 36, 42).

⁹ Discrimination Act 1991 (ACT); Equal Opportunity Act 2010 (Vic).

¹⁰ See e.g. Palmer, C. and J. Wade (2001). 'Maternity and Parental Rights', Legal Action Group, London (p28)

¹¹ Similar to for example provisions in Finland and Norway (which provide substantial protection than that available in Germany and the Netherlands).

¹² This provision would have similarities to the reversal of onus of proof provided for in s. 361 Fair Work Act 2009.

¹³ This wording has been taken from p.15 of the Collaborative Submission from leading women's organisations and women's equality specialists to the Inquiry into the Effectiveness of the Sex Discrimination Act

- 2.17. We are concerned that there is a hierarchy of grounds of discrimination such that race, disability and age are valued above sex, sexuality and marital status and that religion and religious belief is privileged.
- 2.18. Clear guidelines regarding exemptions are required, including the granting of exemptions **only in accordance with the aims and objective of the Act and in a transparent manner** that invites public submissions.
- 2.19. We believe there is a need for provision for **temporary special measures to promote equal opportunity**. We recommend that special measures be treated differently and separately.
- 2.20. We believe **contracting out** of the protection of the Act should be **explicitly prohibited**.
- 2.21. Women are less likely to have the necessary resources to pursue a discrimination matter through the courts. There should therefore be a **no costs jurisdiction in discrimination law matters**, with the exception of vexatious complaints. As it currently stands, there is a powerful disincentive in the federal jurisdiction for a complainant to take a discrimination matter to court due to the risk of an adverse costs order if the complainant is unsuccessful.
- 2.22. Anti-discrimination legislation should contain civil penalty provisions, similar to those in the Fair Work Act General Protections provisions. This can assist an Applicant with mitigating their costs in a no-costs jurisdiction, by way of Applicants applying for the penalty to be payable to themselves when filling out forms to refer the matter to hearing.
- 2.23. Effective representative complaints provisions are required to improve the accessibility and efficacy of the individual complaints process.

3. Specific definitions

3.1. Definition of discrimination

We refer to the discussion on p.6 of the *Discrimination Law Experts' Roundtable: Report on recommendations*, 29 November 2010 and support its recommend definition of discrimination (based on the International Labour Organization Convention 111 and CEDAW):

Discrimination includes any distinction, exclusion, preference, restriction or condition made on the basis of a protected attribute, which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal footing, of equality of opportunity or treatment.

As the Attorney General has commented, anti-discrimination protections should be "clear and easy to understand because people shouldn't need expensive legal advice to know their rights and obligations". A step towards this is a simplified definition of discrimination.

3.2. Definition of intersectional discrimination

Women's life experiences and identities, for example class, nationality, ethnicity or sexuality, can mean policies have differential impacts on them. While CEDAW focuses specifically on distinctions grounded in sex, recent debates have highlighted the limitation of a single factor analysis of discrimination. The term 'intersectional discrimination' recognises that some people experience discrimination on the basis of more than one aspect of their identity.¹⁴ Intersectional discrimination reveals 'both the structural and dynamic consequences of the interaction between two or more forms of discrimination or systems of subordination'.¹⁵ The CEDAW Committee has recognised the importance of an intersectional analysis in a general recommendation on temporary special measures:

certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compound negative impact on them.¹⁶

Intersectional discrimination recognises that a person may be subject to discrimination based on several aspects of their identity. As each woman's experience of life is different, a woman may simultaneously experience discrimination in one or more aspects of her life including gender, race, class, ethnicity, sexual orientation, ability, age, language, and religious beliefs. Intersectional discrimination acknowledges that discrimination can be experienced as a combination of many factors rather than one factor at a time. Intersectional discrimination cannot be distinguished as the sum of its parts, rather it is a compounded discrimination which is unique from discrimination based on a single factor.

A starting point for a legislative definition of intersectional discrimination may be to adapt the definition of 'Combined discrimination: dual characteristics' in section 14 of the United Kingdom's *Equality Act 2010*, making it relate to multiple rather than dual characteristics and adapting it in line with the list of protected attributes at 2.7 above. In simple terms, the definition may begin as follows:

(1) A person (A) discriminates against another (B) if, because of a combination of two or more relevant protected characteristics, A treats B less favourably than A treats or would treat a person who does not share those characteristics.

(2) The relevant protected characteristics are—

¹⁴ For an insightful discussion into intersectional discrimination see Kimberle Crenshaw, "Demarginalising the Intersection of Race and Sex: A Black Feminist Critique of Anti-Discrimination Doctrine, Feminist Theory and Anti-Racist Politics," in *Feminist Legal Theory: Foundations*, ed. D Kelly Weisberg (Philadelphia: Temple University Press, 1993).

¹⁵ UN Division for the Advancement of Women, *Gender and Racial Discrimination, Report of the Expert Group Meeting* No UN Document Number (New York: United Nations, 2000).

¹⁶ [www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)

- (a) age;
- (b) disability;
- (c) gender identity;
- (d) race
- (e) religion or belief;
- (f) sex;
- (g) sexual orientation.

(3) For the purposes of establishing a contravention of this Act by virtue of subsection (1), B need not show that A's treatment of B is direct discrimination because of each of the characteristics in the combination (taken separately).

4. Additional Reports

4.1. We recommend the following to the Australian Government:

- *Economics of equality: An investigation in to the economic benefits of equality*, Victorian Human Rights Commission, June 2010
- *Report on recommendations for a consolidated federal anti-discrimination law in Australia: Discrimination Law Experts' Roundtable*, 29 November 2010, including the bibliography
- Queensland Working Women's Services Inc, *Domestic violence discrimination in the workplace: Is statutory protection necessary? Our Work, Our Lives conference 2010*

Appendix 1: Endorsements

The submission is endorsed by:

- 1) 2020 women
- 2) Amnesty International Australia
- 3) Australia Women's Health Network
- 4) Australian Centre for Leadership for Women
- 5) Australian Council of Trade Unions (ACTU)
- 6) Australian Domestic and Family Violence Clearinghouse
- 7) Australian Education Union
- 8) Australian Federation of Graduate Women
- 9) Australian Immigrant and Refugee Women Alliance
- 10) Australian National Committee for UN Women
- 11) Australian Services Union
- 12) Australian Reproductive Health Alliance
- 13) Australian Womensport and Recreation Association
- 14) Business Professional Women Australia
- 15) Central Australia Women's Legal Service
- 16) Children by Choice
- 17) Donelle Wheeler,
UN Women Australia Board Member
- 18) Community and Public Sector Union
- 19) Dr Muriel Porter OAM
- 20) Dr Sara Charlesworth,
University of South Australia
- 21) Finance Sector Union
- 22) Economic Security4Women
- 23) Graduate Women of SA
- 24) Human Rights Law Resource Centre
- 25) Independent Education Union
- 26) JERA International
- 27) Jessie Street National Women's Library
- 28) Liberty Victoria
- 29) Maritime Union of Australia
- 30) Members of the Centres Against Sexual Assault Forum in Victoria
- 31) National Association of Community Legal Centres
- 32) National Council of Jewish Women of Australia
- 33) National Tertiary Education Union
- 34) National Union of Students' Women's Department
- 35) Network of Immigrant and Refugee Women of Australia
- 36) Professor Margaret Thornton
- 37) Professor Marian Sawer
- 38) Public Health Association of Australia (PHAA)
- 39) Queensland Working Women's Service

- 40) Sisters Inside
- 41) Soroptimists International Australia
- 42) Textiles, Clothing and Footwear Union of Australia
- 43) Vedna Jivan, Senior Lecturer, University of Technology Faculty of Law
- 44) Victoria Women Lawyers
- 45) Women with Disabilities
- 46) Women's Electoral Lobby Australia
- 47) Women's Legal Centre (ACT & Region)
- 48) Women's Legal Services NSW
- 49) Women's International League for Peace and Foundation
- 50) Women's Legal Services Australia
- 51) Working Women's Centre SA Inc
- 52) YWCA Australia

17th March, 2011

Dear Ms Richards,

Economic Security for Women (eS4W), on behalf of its member organisations, endorses the Equality Rights Alliance's (ERA) submission to the Consolidation Project on anti-discrimination laws.

eS4W is one of the six national women alliances given financial support by the Federal Government's Office for Women. As our name suggests, our member organisations coalesce around issues which impact on women's financial and economic well being at all stages of the life-cycle. eS4W advocates for equal opportunity and anti-discrimination laws that protect women's economic well being.

eS4W agrees with ERA's statement that "the Consolidation Project is a rare opportunity to introduce effective, modern equality laws that reflect current best practice and fully implement Australia's international human rights obligations, including obligations relating to gender equality." eS4W endorses ERA's concern regarding the process the Government has adopted in its review of the current federal anti-discrimination Acts and supports their recommendations as outlined in ERA's submission.

eS4W believes that lifelong economic wellbeing is a high priority for Australian women – it empowers women to make choices and live independently. eS4W alliance membership are peak bodies and state wide or national organisations that aim to advance the economic well being of women through training and education and provide services to enable all women to improve their economic status and to have access to training and legal services.

Yours sincerely,

Lorraine Gordon
Executive Director

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Appendix 2: Participants in *Gender Equality and the Consolidation Project Roundtable*, Tuesday 14 December 2010

Name	Organisation
Belinda Tkalcevic	ACTU
Ludo McFerran	Australian Domestic and Family Violence Clearinghouse
Alison Aggarwal	Australian Human Rights Commission
Margaret Thornton	Australian National University
Marian Sawer	Australian National University
Kathy Richards	Equality Rights Alliance
Alana Heffernan	Queensland Working Women's Service & Young Workers' Advisory Service
Lee Matahaere	Queensland Working Women's Service Inc & Young Workers' Advisory Service
Sara Charlesworth	RMIT, Melbourne
Sheila Byard	United Nations Association of Australia Status of Women Network
Prue Elletson	Victorian Women Lawyers Law Reform Committee
Akane Kanai	Victorian Women Lawyers Law Reform Committee
Liz Snell	Women's Legal Services NSW
Alison Laird	YWCA Australia