

28 June 2024

Hon Peter Foster MLC  
Chair, Standing Committee on Environment and Public Affairs  
Harvest Terrace, Parliament House  
PERTH WA 6000  
By email: [env@parliament.wa.gov.au](mailto:env@parliament.wa.gov.au)

Dear Peter,

## **PETITION NO. 139 – PROTECT THE RIGHTS OF BIOLOGICAL FEMALES**

We refer to your letters dated 29 May 2024 requesting a written submission regarding this petition tabled on 27 May 2024. We have conferred and elected to lodge a joint submission as Principal Petitioner<sup>1</sup> and Tabling Member<sup>2</sup>. The genesis of this petition is the introduction of the *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024*.

Women and girls across Australia are increasingly expressing concerns about their rights being compromised by legislation which fast-tracks the ability for males to declare themselves as female. Such legislation, designed to support transgender rights, has sparked debate about the potential erosion of female-only spaces and services, such as bathrooms, locker rooms, sporting teams and shelters. Women have highlighted that such legislation could undermine their safety, privacy, and access to resources, as the inclusion of biological males may diminish the protection that these spaces were originally intended to provide.<sup>3</sup>

What's more, women are reluctant to speak out regarding this issue out of fear over being labelled as "Nazis" or "far right extremists" or having their employment threatened. It is disturbing that women feel compelled to stay silent over concerns regarding their rights and safety. We therefore sincerely thank the Committee for taking the time to thoughtfully consider the issues raised in this submission.

### **Potential for Abuse by Predators**

Sexual predators are capable of exploiting laws which allow men to self-identify as women and access female-only spaces, thus placing women in vulnerable situations at greater risk. The UN Special Rapporteur on violence against women and girls, in her letter addressed to the UK Government, highlighted concerns over this issue.<sup>4</sup> This letter was supported by a further letter addressed to the UK Parliament and signed by 28 organisations and individuals that promote women's rights.<sup>5</sup>

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<sup>1</sup> Bianca Cobby is a mother, former commercial lawyer and the Principal Petitioner who is passionate about research, education and public policy development on social, economic, health and cultural issues affecting women.

<sup>2</sup> Hon Nick Goiran is a father, former civil litigation lawyer, Member for the South Metropolitan Region and the Tabling Member.

<sup>3</sup> Women's Human Rights Campaign, 'Declaration on Women's Sex-based Rights' (2019) [https://www.womensdeclaration.com/documents/78/DECLARATION\\_-\\_FINAL\\_VERSION\\_AMENDED.pdf](https://www.womensdeclaration.com/documents/78/DECLARATION_-_FINAL_VERSION_AMENDED.pdf).

<sup>4</sup> Letter from the Mandate of the Special Rapporteur on violence against women and girls, its causes and consequences to the UK Government, 29 November 2022, UN Doc OL GBR 14/2022.

<sup>5</sup> Letter from Rachael Hamilton and Pam Gosal to the Convener of the Equalities, Human Rights and Civil Justice Committee, 8 December 2022.

For example, in the UK, Karen White, a male-bodied individual who self-identified as female, was placed in a women's prison and subsequently sexually assaulted multiple female inmates.<sup>6</sup> In Canada, Christopher Hambrook self-identified himself as female in order to access women's shelters in Toronto, where he assaulted female residents.<sup>7</sup> These incidents underscore the need to prevent predatory individuals from exploiting the system to infiltrate spaces designed to protect females.

It is understood that most violence in Australia is perpetrated by males.<sup>8</sup> Given the current discussions surrounding violence against women and the Federal Government's commitment to end violence against women and children in one generation, the potential for such legislation to expose women and girls to violence should be carefully considered.

### **Lack of Consultation by the Law Reform Commission of WA**

The Law Reform Commission of Western Australia's final report on Project 108 failed to adequately consult with any women's rights organisations, such as Women's Forum Australia. In contrast, the Commission consulted with LGBTQIA+ and trans advocacy associations. This leads us to believe that the perspectives of women and girls, especially regarding the implications of proposed legal reforms on female-only spaces, were not fully considered. This selective consultation process suggests a lack of balanced representation in the Commission's findings and recommendations.

### **Conclusion**

Given the significant number of signatories to this petition, it is clear there is considerable public interest in protecting the rights of biological females.

As such, we urge the Environment and Public Affairs Committee to:

1. inquire and satisfy itself of the potential for male perpetrators of violence against women to abuse these laws in order to access female-only safe spaces;
2. do more than merely write to the Government for a response to this petition. We urge the Committee to invite a representative from Women's Forum Australia to appear before the Committee in a public hearing and provide their expertise on matters raised in this petition.

We enclose a submission from Women's Forum Australia for your consideration.

We thank you for the opportunity to lodge this submission and make ourselves available to appear before the Committee to elaborate on any particular aspects.

Yours sincerely,

**Bianca Cobby**

**Hon Nick Goiran MLC**

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<sup>6</sup> Nazia Parveen, 'Transgender Prisoner Who Sexually Assaulted Inmates Jailed for Life' The Guardian (online, 12 October 2018) <https://www.theguardian.com/uk-news/2018/oct/11/transgender-prisoner-who-sexually-assaulted-inmates-jailed-for-life>.

<sup>7</sup> Toronto Sun, 'A Sex Predator's Sick Deception' (15 February 2014) <https://torontosun.com/2014/02/15/a-sex-predators-sick-deception>.

<sup>8</sup> 'Physical Violence 2021-22', Australian Bureau of Statistics (24 August 2022) <https://www.abs.gov.au/statistics/people/crime-and-justice/physical-violence/latest-release#prevalence-rates>.

## Submission to the Western Australian Legislative Council on Issues Raised in Petition No. 139 – Protect the Rights of Biological Females, June 2024

1. Women's Forum Australia is an independent think tank established in 2005 that undertakes research, education and public policy advocacy about economic, social and health issues affecting women and girls, with a particular focus on addressing behaviour and practices that are harmful and abusive to them.
2. We are a national organisation with supporters across Australia, including in Western Australia (WA), who are deeply concerned by the reforms proposed in the *Births, Deaths, Marriages Registration Amendment (Sex or Gender Changes) Bill 2024* (the Bill), and we echo the concerns outlined in the abovementioned petition to the Legislative Council tabled by the Hon. Nick Goiran MLC.
3. A mere three weeks after it was introduced, the Bill was rammed through the Legislative Assembly. It is deeply concerning that time has not been taken to consult with all relevant stakeholders on this far-reaching legislation.
4. The Bill will introduce sex self-ID into WA, which will allow anyone to change their legal sex (including children) with the bare minimum of safeguards (i.e. by self-declaration rather than a "reassignment procedure" as is the current law), and be treated as that sex for all intents and purposes under law. The implications for women and girls and WA society more broadly cannot be understated. We address some of implications these below.

### The Bill will eradicate female-only spaces

5. The importance of female-only spaces has long been recognised around the world. Yet the Bill will effectively eradicate female-only spaces, by allowing males to self-identify as female and access female-only activities, spaces, services and events, including bathrooms, changing rooms, fitting rooms, rape and domestic violence refuges, hospital wards, schools, accommodation, gyms, swimming pools, prisons, social apps and even lesbian events (like we've seen in Tasmania).<sup>1</sup>
6. However, women's relative physical vulnerability and male patterns of criminality do not dissipate simply because a man says he is a woman. Indeed, the UN Special Rapporteur on violence against women and girls recently highlighted the potential for sexual predators to abuse such laws.<sup>2</sup> In addition to research showing that 'transwomen' retain male patterns of criminality,<sup>3</sup> examples of women being harmed by them in (what should be) women-only spaces abound, including sexual assaults in women-only prisons,<sup>4</sup> refuges<sup>5</sup> and hospital wards.<sup>6</sup> In Victoria, which passed sex self-ID laws in 2019, female inmates are distraught by the presence of a biological male rapist who self-identifies as a woman and who is currently housed in Dame Phyllis Frost women's prison.<sup>7</sup>
7. The reality is that males are much more likely to be the perpetrators of sexual violence and females are far more likely to be victims. This does not change because the male perpetrator happens to be transgender. Gender identities do not rape women, male bodies do. This fact, coupled with females' inherent vulnerability when it comes to their smaller size and strength, is one of the key reasons men should not be allowed to identify into

<sup>1</sup> Matthew Denholm, 'Tribunal bans female-only lesbian events', The Australian, 28 November 2022. <https://amp.theaustralian.com.au/nation/tribunal-bans-female-only-lesbian-events/news-story/4aa6295b32c1b628e90be2d217fa9a85>

<sup>2</sup> Mandate of the Special Rapporteur on violence against women and girls, its causes and consequences, Ref.: OL GBR 14/2022, 29 November 2022.

<sup>3</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?qlid=27681>

<sup>4</sup> Dhejne, Cecilia et al. 'Long-term follow-up of transsexual persons undergoing sex reassignment surgery: cohort study in Sweden.' *PloS one* vol. 6,2 e16885. 22 Feb. 2011, doi:10.1371/journal.pone.0016885

<sup>5</sup> See our submission to the United Nations Subcommittee on the Prevention of Torture for more information on the harm posed by biological male inmates to female prisoners and prison staff: Women's Forum Australia, Joint submission to the United Nations Subcommittee on the Prevention of Torture: Housing men in women's prisons is a human rights violation, 2022.

<sup>6</sup> [https://assets.nationbuilder.com/wfa/pages/476/attachments/original/1666011210/Joint\\_submission\\_by\\_Australian\\_women's\\_advocates\\_to\\_UN\\_SPT\\_2022.pdf?1666011210](https://assets.nationbuilder.com/wfa/pages/476/attachments/original/1666011210/Joint_submission_by_Australian_women's_advocates_to_UN_SPT_2022.pdf?1666011210)

<sup>7</sup> Jennifer Sieland, 'Sex offender identifies as woman to access women's shelter, allegedly raped a female resident', Reduux, 18 October 2022. <https://reduxx.info/male-sex-offender-identified-as-woman-to-access-womens-shelter-allegedly-raped-a-female-resident/>

<sup>8</sup> Baroness Nicholson, UK Parliament debate on single-sex wards, 2022. [https://www.facebook.com/WomensForumAustralia/posts/pfbid0kUJjefMusBs7YovTjosC691QiqT8UCksinD82pTne2reQW4QC7JngSeaUzWF9XNel?notif\\_id=1673017764928523&notif\\_t=feedback\\_reaction\\_generic&ref=notif](https://www.facebook.com/WomensForumAustralia/posts/pfbid0kUJjefMusBs7YovTjosC691QiqT8UCksinD82pTne2reQW4QC7JngSeaUzWF9XNel?notif_id=1673017764928523&notif_t=feedback_reaction_generic&ref=notif)

<sup>9</sup> Mark Buttler and Kieran Rooney, 'Women inmates demand removal of trans prisoner guilty of attacking females while a man', Herald Sun, 11 August 2022. [www.heraldsun.com.au/truecrimeaustralia/police-courts-victoria/prisoners-fight-to-remove-transgender-inmate-with-history-of-sex-offences/news-story/f5bff0dc73ae0ce3af945c04eb38d7b7?amp](http://www.heraldsun.com.au/truecrimeaustralia/police-courts-victoria/prisoners-fight-to-remove-transgender-inmate-with-history-of-sex-offences/news-story/f5bff0dc73ae0ce3af945c04eb38d7b7?amp)

women's single-sex spaces and services, and why such spaces must be based on biological sex, not gender. The safety, dignity, and privacy of women and girls depends on it.

### **The Bill will undermine efforts to end violence against women**

8. Much attention has been given recently to the issue of male violence against women in Australia. In response to this, WA Labor Premier Roger Cook has said "no government is doing more than my government in relation to family and domestic violence." And yet, it is clear that self-ID laws and policies, both in Australia and overseas, have resulted in preventable catastrophic outcomes for women and girls by men who exploit them and are utterly incompatible with efforts to end violence against women and children.
9. Incredibly, the Bill would mean an end to dedicated safe spaces for women and children who are victims of violence. It is not difficult to understand why women who have suffered abuse at the hands of men, may need to access a women-only service for their trauma.
10. The high rates of violence against women and children are our national shame. The WA Government's efforts should focus on tightening loopholes abused by misogynistic opportunists rather than supporting reckless and irresponsible legislation to assist them further.

### **The Bill will undermine protections for female-only sport**

11. WA sporting bodies currently have the right to exclude trans-identifying males from female competitions under section 35AP of the *Equal Opportunity Act 1984*, if "the relevant sporting activity is a competitive sporting activity for members of the sex with which the person identifies; and the person would have a significant performance advantage as a result of his or her medical history." However, due to sporting policies, trans-identifying male athletes with a significant performance advantage are still competing in women's competitions and winning women's titles.<sup>8</sup> One prominent such athlete is trans-identified male surfer Sasha Jane Lowerson, who in 2022, won the Open Women's and Open Logger divisions in WA's State Championships. Just three years earlier in 2019, he won the men's state title in the same competition, as Ryan Egan.
12. As with female-only spaces and services, the Bill will undermine protections for female-only sports, by making it easier for males to legally identify as female, raising both fairness and safety concerns for female athletes of all levels. The fear instilled by 'trans inclusive' sporting policies means that rather than invoking the 35AP sporting exemption, female athletes are more likely to self-exclude, or even risk being injured in contact sports.<sup>9</sup>

### **Conclusion**

13. The Bill will ultimately erase women as a sex class along with all the corresponding protections and rights afforded to them on the basis of sex.
14. In addition:<sup>10</sup> it will enable the falsification of crucial sex-based data collection informing public policy and services;<sup>11</sup> it will adversely impact sex-appropriate health care provision; it will put at risk the freedoms of all WA residents who refuse to acknowledge a person's self-identified sex, whether in language or practice;<sup>12</sup> and it will allow vulnerable children and young people to concretise a transgender identity by legally changing their sex, encouraging them further down a process of 'social transitioning', towards the track of 'medical transitioning',<sup>13</sup> for which there is not adequate evidence and for which there is considerable risk of harm.<sup>14</sup>
15. For the reasons noted above, we are strongly opposed to the Bill and have called on Members of both Houses to reject it in its entirety. At the very minimum, we urge the Legislative Council to refer the Bill to the Standing Committee on Legislation for a public inquiry to ensure the sex-based rights of women and girls are protected rather than undermined or destroyed by the proposed reforms.

<sup>8</sup> 'Transgender surfer Sasha Jane Lowerson claims historic victory in WA Longboard Championships', News.com.au, 19 May 2022.

<https://www.news.com.au/sport/more-sports/transgender-surfer-sasha-jane-lowerson-claims-historic-victory-in-wa-longboard-championships/news-story/305dd76b3e65344d2cb8bdce45fb3824>

<sup>9</sup> Read more about how allowing biological males who identify as women to compete in female sporting events jeopardises the physical safety of women and girls, fairness in competition, and the full range of opportunities afforded by sport: Women's Forum Australia, A fair playing field: Protecting women's single-sex sport, 2022. [https://assets.nationbuilder.com/wfa/pages/261/attachments/original/1656632149/A\\_Fair\\_Playing\\_Field.pdf?1656632149](https://assets.nationbuilder.com/wfa/pages/261/attachments/original/1656632149/A_Fair_Playing_Field.pdf?1656632149)

<sup>10</sup> See our submission on Queensland's Births, Deaths and Marriages Registration Bill 2022 for further detail regarding the harmful impacts of sex self-ID laws: <https://documents.parliament.qld.gov.au/com/LASC-C96E/PPROLAB202-EF1C/submissions/00000304.pdf>

<sup>11</sup> Fair Play for Women, 'Data on sex is important so it needs to be accurate', 1 May 2021. <https://fairplayforwomen.com/data-on-sex-is-important-so-it-needs-to-be-accurate/>

<sup>12</sup> Female high school students in WA are already being forced to call trans-identifying male teachers 'Miss' and are being reprimanded if they 'misgender': Caroline Marcus, 'Gina Rinehart calls on families to take a stand to prevent Australian schools from introducing radical gender ideology into the curriculum', Sky News Australia, 5 June 2024. <https://www.skynews.com.au/australia-news/gina-rinehart-calls-on-families-to-take-a-stand-to-prevent-australian-schools-from-introducing-radical-gender-ideology-into-the-curriculum/news-story/13a11822df386a88935c7baa2c8330fb> And the CEO of Girl Guides WA was sacked for asking about the definition of 'woman' under Australian law: 'Girl Guides CEO sacked for asking about definition of 'woman' under Australian law, Women's Forum Australia, 21 February 2022. [https://www.womensforumaustralia.org/girl\\_guides\\_ceo\\_sacked\\_for\\_asking\\_about\\_definition\\_of\\_woman\\_under\\_australian\\_law](https://www.womensforumaustralia.org/girl_guides_ceo_sacked_for_asking_about_definition_of_woman_under_australian_law)

<sup>13</sup> Female detransitioners Courtney Coulson (from WA) and Chloe Cole (from the US) are currently touring Australia to call for an urgent inquiry into 'gender-affirming care' and the harms of medical transitioning: Sowaibah Hanife and Deanna Williams, 'Children as young as three being referred to gender clinics in South Australia', 7 News Australia, 27 June 2024. <https://7news.com.au/news/children-as-young-as-three-being-referred-to-gender-clinics-in-south-australia--c-15153886>

<sup>14</sup> See for example: Dr Hilary Cass, The Cass Review, 2024. <https://cass.independent-review.uk/home/publications/final-report/>