
The River in Flood by Tillian Reeves

DIRECTIONS 2023

Leading in turbulent times - is it time to swim hard or tread water?

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KING&WOOD MALLESONS
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CONTENTS

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1. KWM'S DIRECTIONS REPORT 2023

In 2023, many Australian businesses are at an inflection point. For some, the current environment presents opportunities to pursue profitable growth and to develop new business models, albeit with a disciplined approach to managing risk and capital allocation. For others, the current challenges and uncertainties are driving greater risk aversion and a pullback in investment.

General economic conditions and different sector and industry dynamics influence the perspective. This year, opportunity is in the eye of the beholder - many directors and senior leaders are asking themselves whether it is time to swim hard or to tread water in the hope that conditions will improve.

For most businesses, the labour shortages, supply chain issues and input shortages which were triggered by the COVID-19 pandemic-related shutdowns, and compounded by heightened geo-political tensions, have largely abated.

IS THE CURRENT ENVIRONMENT DRIVING A 'RISK ON' OR 'RISK OFF' MINDSET FOR YOUR ORGANISATION?

35.6%	28.8%	33.7%
Risk taking	Risk averse	Neutral

Businesses are now grappling with how best to move beyond the 'back to basics' re-connection and reset that defined the re-opening of economies in 2022.

However, the economy is delicately poised. High inflation and higher interest rates are pitched, at least for now, against near full employment, fuelling hopes of achieving a reasonably soft landing.

> *"The incumbent's dilemma is to work out how best to develop and evolve – identify your right to play, and convert your competitive advantage."*
>
> **Survey respondent**

This dissonance means different things to different businesses.

Our *2023 Directions Survey* was conducted in June 2023 against a backdrop of stubborn inflation, successive rounds of interest rate rises, and ongoing geo-political tensions continuing to impact trade and investment flows and commodity prices.

This year, the responses to our Directions Survey point to organisations either driving into opportunities for profitable growth and investing in new business models, or striving to manage cost pressures and risk, deferring investment and capital allocation decisions and generally 'hunkering down'.

These dynamics play out against the backdrop of increasing regulatory complexity, an evolving ESG landscape (including a hardened regulatory posture), uncertainty around energy transition and the rapid evolution of AI. Some recent high-profile corporate scandals and an increasing corporate awareness of socio-political issues underscore the ongoing importance of corporate culture – albeit there is an increasing sense amongst directors of the need for Boards and management to genuinely collaborate, and for directors to have their 'noses in; fingers out'.

It therefore comes as no surprise that some businesses are swimming ahead of the pack, while others are just trying to keep their heads above the water.

In addition to our review of what is 'top of mind' for directors and senior leaders, we explore the following key issues:

- The extent that the rapid evolution of potentially 'game-changing' technologies, including **generative AI**, is causing a re-think within businesses, as they look to better understand and unlock its potential, while at the same time work out who should take organisational responsibility, and the timing of material investment decisions.
- The way in which recent high profile **cyber** incidents are causing many senior leaders and businesses to re-assess what, how and why they collect and hold data, and their preparedness to respond to a cyber attack.
- How senior leaders and businesses are responding to ever-evolving **ESG** expectations and shaping their ESG governance and priorities.
- Whether businesses should take and advocate **public stances** on issues of socio-political significance.
- The fact businesses are calling for more clarity and guidance in relation to the energy transition and other areas for **reform**.

2. 'TOP OF MIND' IN 2023 – ALL ABOUT GETTING ON WITH BUSINESS

Short term (next 6 months)

67.6%
Pursuing and maintaining profitability (against the backdrop of market volatility and inflationary pressures)

53.2%
Managing cyber risks, including those from data breaches

48.9%
Attracting and retaining skilled labour

Medium term (next 3 - 5 years)

43.2%
Developing new business models to deliver products / services to customers and/or deliver business outcomes

42.4%
Managing cyber risks, including those from data breaches

33.1%
Maintaining an appropriate corporate culture

This year, the responses to our Directions Survey relating to the areas of greatest opportunity or concern in the short term (next 6 months) and medium term (next 3-5 years) show that ensuring ongoing business performance and profitability is the clear priority for directors and senior leaders.

Over the short term:

- pursuing and maintaining profitability (against the backdrop of market volatility and inflationary pressures) was the top-ranking issue (67.6% in 2023, compared to 46.9% in 2022);
- developing new business models to deliver products / services to customers and / or deliver business outcomes was the 4th top ranking issue (39.6% in 2023, compared to 46.2% in 2022); and
- containing costs and implementing cost cutting initiatives was the 6th top ranking concern (36.0%).

Directors and senior leaders are now far more concerned about the financial health of their businesses and prospects for growth and productivity improvements, compared to a year ago when attracting and retaining skilled labour was the clear top-ranking concern.

This year, that issue ranked 3rd over the short term (at 48.9% in 2023, compared to 79.2% in 2022), as challenges abate from wider labour market constraints and skills shortages, material / input shortages and supply chains.

Reinforcing this focus on business performance and profitability, over the medium term the top-ranking issue was developing new business models to deliver products / services to customers and / or deliver business outcomes (43.2% in 2023, compared to 34.9% in 2022) and the equal 4th ranking issues over the medium term were harnessing opportunities in digital ecosystems (e.g. digital platforms, digital assets and virtual assets) (30.2% in 2023, compared to 27.9% in 2022) and attracting and retaining skilled labour (30.2% in 2023, compared to the top ranking issue in 2022 at 44.2%).

The 2nd ranking issue for both the short term and the medium term was managing cyber risks, including those from data breaches, with survey respondents more concerned about managing cyber risks compared to last year over both the short and medium term. These results likely reflect an increased awareness about the prevalence of cyber attacks, and that the associated system disruptions and loss of data can significantly impact a business' customers, employees and operations, and lead to material reputational and brand damage.

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The 3rd top ranking issue for the medium term was maintaining an appropriate corporate culture (33.1% in 2023, compared to 38.8% in 2022 when it was the 2nd top ranking issue). This has been a top-ranking issue over 5 years alongside protecting brand and reputation, which was (only) the 6th ranking issue in 2023 (29.5%). By contrast, in our *2019 Directions Report*[1], maintaining an appropriate corporate culture was the top ranking issue (48.2%) and protecting brand and reputation was the 3rd ranking issue (42.7%). While a key sentiment from the *2019 Directions Report* endures – that *"Disrupt or be disrupted"* and *"innovate or die"* have been supplanted by a more cautious *"can we, should we?"* – businesses are now operating in a riskier environment, and facing a broad range of economic, market, technological and geopolitical challenges and uncertainties.

> *"There is a lot of uncertainty and the path ahead is less obvious now - the key question is how best to use this period of time to 'reset', and to prepare for more difficult times but also to be ready to take advantage of opportunities."*
>
> **Survey respondent**

1 The *2019 Directions Report* reported on our Directions Survey conducted in November 2019 after the final report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (**"Hayne Royal Commission"**), and built on the key findings from the *Directions Report 2018* which reported on the emergence of building trust as a top priority for Australian companies and boards, based on the increasing proportion of a business' value residing in intangible assets, and the impact of a trust deficit.

Other key themes emerging from the 'top of mind' survey results include:

- The opportunities and challenges presented by harnessing data and digital technologies within operations, including to offer new products and services, and to access markets and customers in different ways. Developing strategies to manage the organisation's data, including in relation to the use of advanced data analytics and risks relating to over collection, and retention of data and access to it, was both a short term priority (32.4%) and medium term priority (25.9%), and developing strategies for managing the use of AI (such as ChatGPT) was also a medium term priority (20.9%).

  Please refer to section 4 for our analysis of the technology and data-related issues arising from the 2023 Directions Survey.

- A change in emphasis in relation to managing ESG / sustainability-related issues, with (relatively) less focus on implementing ESG commitments in the short term (29.5% in 2023, compared to 43.1% in 2022) and only 6.5% of survey respondents indicating that addressing social commitments (e.g. inequality, diversity and inclusion, human rights, modern slavery) is a top area of focus over the medium term. Rather than illustrating a diminished focus on ESG / sustainability-related issues, we consider that these results reflect that ESG / sustainability-related issues:

  - have become increasingly embedded within organisations as a part of "business as usual" operations and a key aspect of corporate culture and protecting and managing brand and reputation; and

  - are increasingly being reflected in reporting and stakeholder engagements.

  Please refer to section 5 for our analysis of the ESG / sustainability-related issues arising from the 2023 Directions Survey.

- A renewed focus on responding to the regulatory environment and increasing compliance burdens. In March 2023, regulatory and government policy uncertainty topped the list of concerns in a poll of 600 businesses undertaken for The Australian Financial Review's Business Summit. Our survey responses reinforce this sentiment, with responses indicating there is increasing concern about responding to the regulatory environment, managing risk of compliance failure and excessive red tape. In particular:

  - 37.4% of respondents said that responding to changes in Federal and State government policy was an area of concern in the short term (next 6 months); and

  - over the medium term (next 3-5 years):

    - responding to and managing excessive regulation and red tape, including responding / adapting to the changing regulatory landscape (e.g. reporting obligations) was the 8th ranking concern (25.9% in 2023, compared to 14.7% in 2022); and

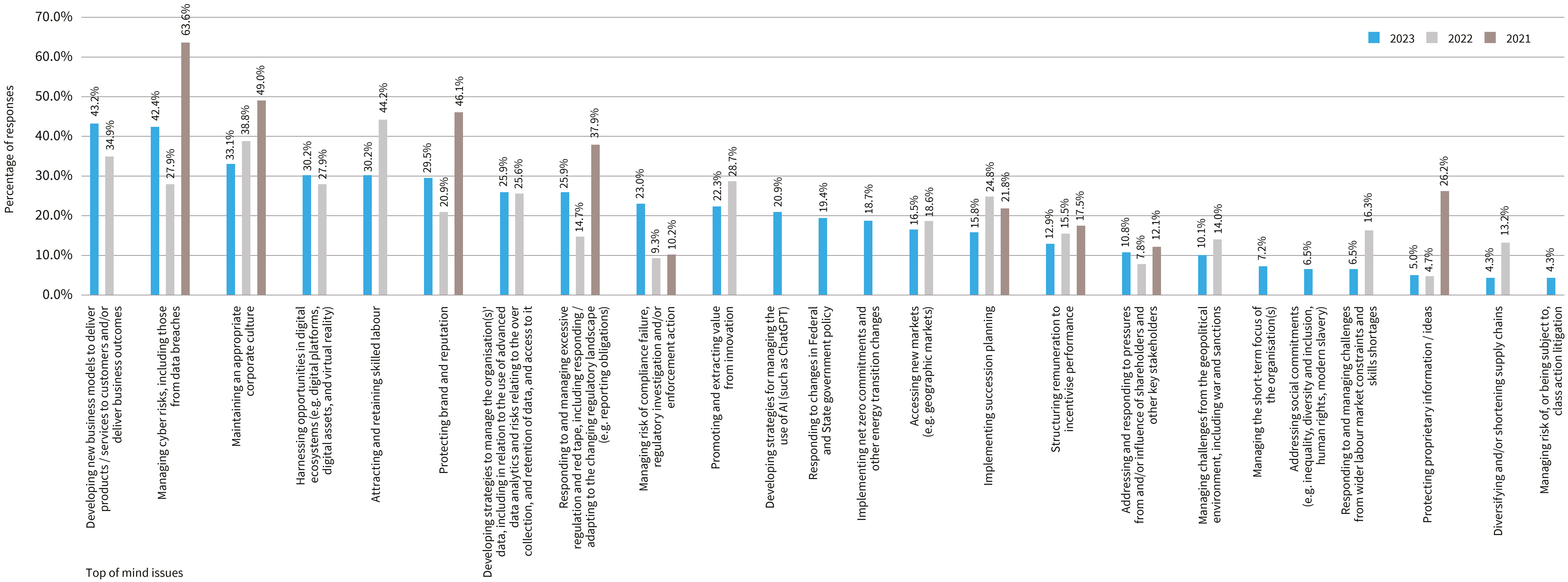
    - managing risk of compliance failure, regulatory investigation and / or enforcement action was the 9th ranking concern (23.0% in 2023, compared to 9.3% in 2022).

We consider that this reflects the breadth of legislative and policy changes that Federal and State Governments have proposed, particularly in the areas of industrial relations, additional reporting obligations and intervention in energy markets, and the increasingly hardened stances adopted by regulators in relation to intervention and compliance.

Our survey results indicate a desire amongst organisations for regulatory and policy certainty on the one hand (see our further discussion on Reform in section 6) and a heightened awareness of the impacts of regulatory oversight and enforcement activity on the other (see our discussion on 'greenwashing' for example, in section 5 and how this is affecting risk appetite in section 3).

Top of Mind Issues [medium term 3 - 5 years]

This chart represents items polled since 2021. The list is updated year-on-year to reflect current issues.



3. RISK APPETITES IN THE CURRENT ENVIRONMENT

‘Risk-on’ or ‘risk off’?

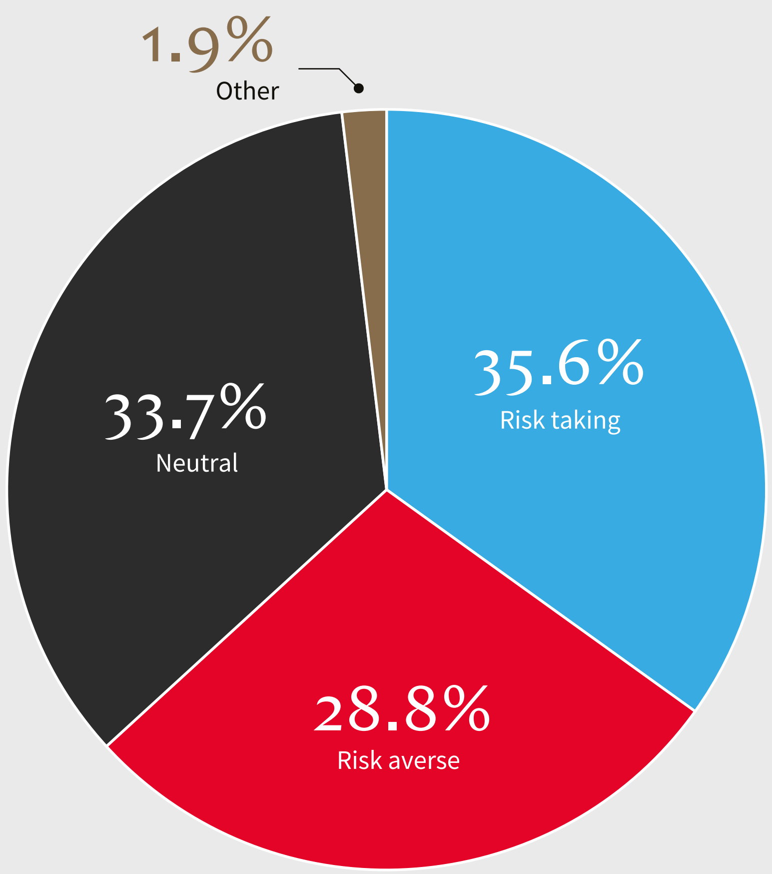
Different sector and industry dynamics across the economy are clearly influencing senior leaders and organisations’ attitudes and approaches to risk.

For some, the current environment presents an opportunity to pursue profitable growth, to develop new business models and to access new markets – they are ‘risk-on’, albeit with a disciplined approach to capital allocation. For others, the uncertainty is driving greater risk aversion and a ‘risk-off’ mindset.

The 3-way split in our survey responses bears this out, with 35.6% of respondents saying their organisations are risk taking, 28.8% saying their organisations are risk averse and 33.7% being neutral.

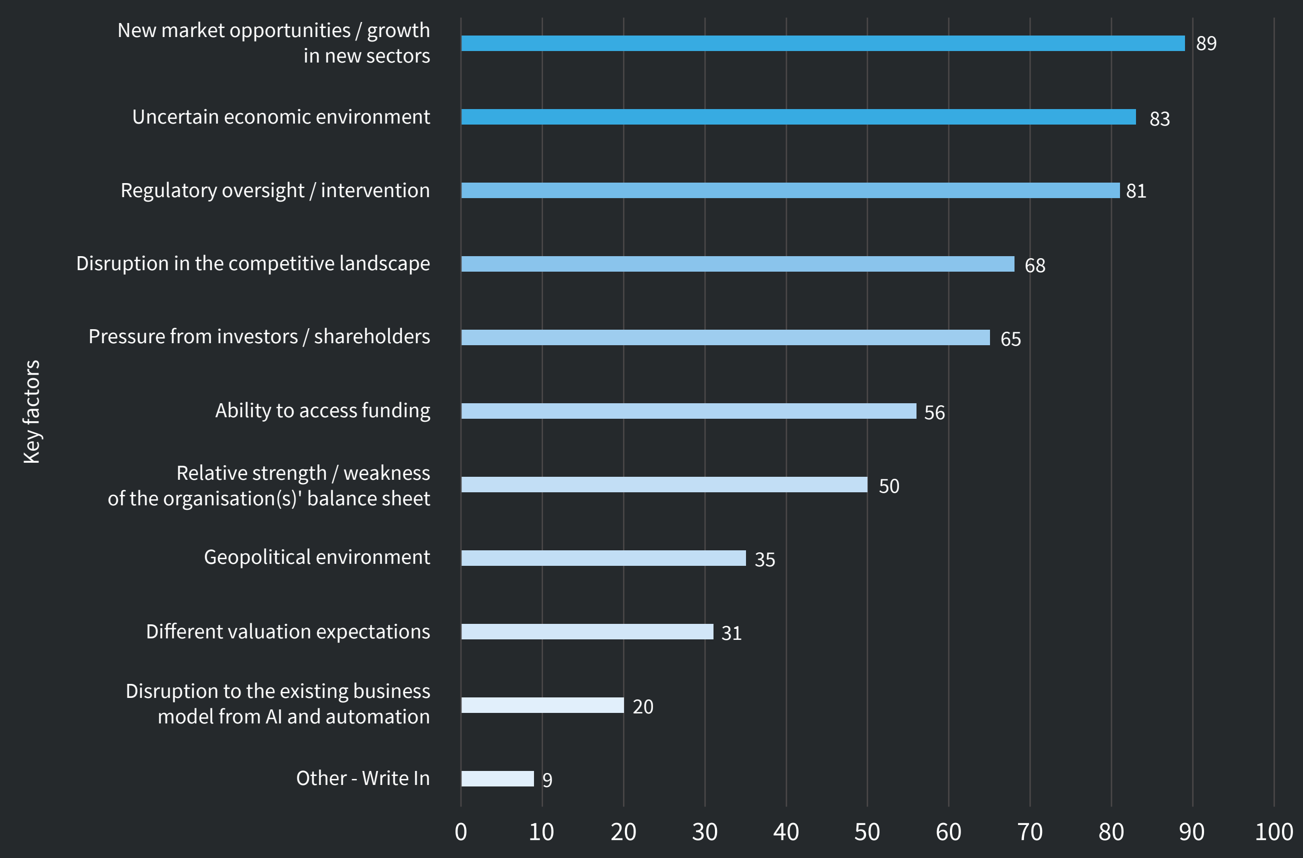
Our analysis reveals that an organisation’s risk appetite varies greatly depending on the sector in which it operates. The most ‘risk taking’ sector was Private Capital, followed by Energy / Resources, Real Estate and Projects / Infrastructure / Construction. Sectors that were most risk averse included Government, Hospitality / Tourism, Professional Services, Financial Services and Food / Agriculture.

Organisations' approach to risk in the current environment



2 Michael Reed, ‘Business fears Australian recession is imminent’, Australian Financial Review (online, 6 March 2023) <https://www.afr.com/business-summit/business-warns-australian-recession-is-imminent-20230306-p5cpr1?utm_content=albanese_to_face_businesses_that_worry_rate_rises_and_dithering_will_trigger_a_recession&list_name=4CC7DE0B-EBBE-4073-9A9C-F421CED270D0&promote_channel=edmail&utm_campaign=afr-need-to-know&utm_medium=email&utm_source=newsletter&utm_term=2023-03-06&mbnr=MzE0ODA5MjE&instance=2023-03-06-20-19-AEDT&jobid=29552700>.

Key factors driving approach to risk



The key factors driving an organisation’s approach to risk were:

- new market opportunities / growth in new sectors;
- uncertain economic environment; and
- regulatory oversight / intervention.

These factors closely align with 2 of the key themes emerging from the ‘top of mind’ survey results - an increased focus on business performance and profitability, and an increased concern about regulatory burdens and red tape.

The prominence of new market opportunities / growth in new sectors and uncertain economic environment as key indicators of risk appetite illustrates split approaches - with some taking risks and taking advantage of market opportunities and growth in new sectors, while others are taking a more cautious approach in response to the uncertain economic environment.

Clearly, businesses are also feeling the repercussions of increasing regulatory oversight / intervention, which is a recurring theme - with regulatory oversight / intervention cited as the 3rd biggest factor driving risk appetite.

A number of high-profile corporate scandals in recent times has certainly piqued the interest of directors on these issues. To what extent the increasingly complex regulatory landscape holds organisations back from taking risks and driving into new business models remains to be seen. This will likely be an issue of increasing importance as we face into a possibly weaker economic environment.

Other factors which feature prominently are disruption in the competitive landscape, pressure from investors and shareholders, the ability to access funding and the relative strength / weakness of the organisation’s balance sheet.

Factors which are less prominent include the geopolitical environment (re-affirming the point that these issues have largely abated, at least for Australian businesses, as compared to last year when the Russo-Ukraine war and trade tensions with China were more prominent concerns and supply chain pressures were more acute), different valuation expectations (despite this clearly being a factor in the slower M&A cycle) and disruption to the existing business model from AI and automation (it is too early to tell just how disruptive these technologies might be).

4. LEVERAGING TECHNOLOGY AND DATA

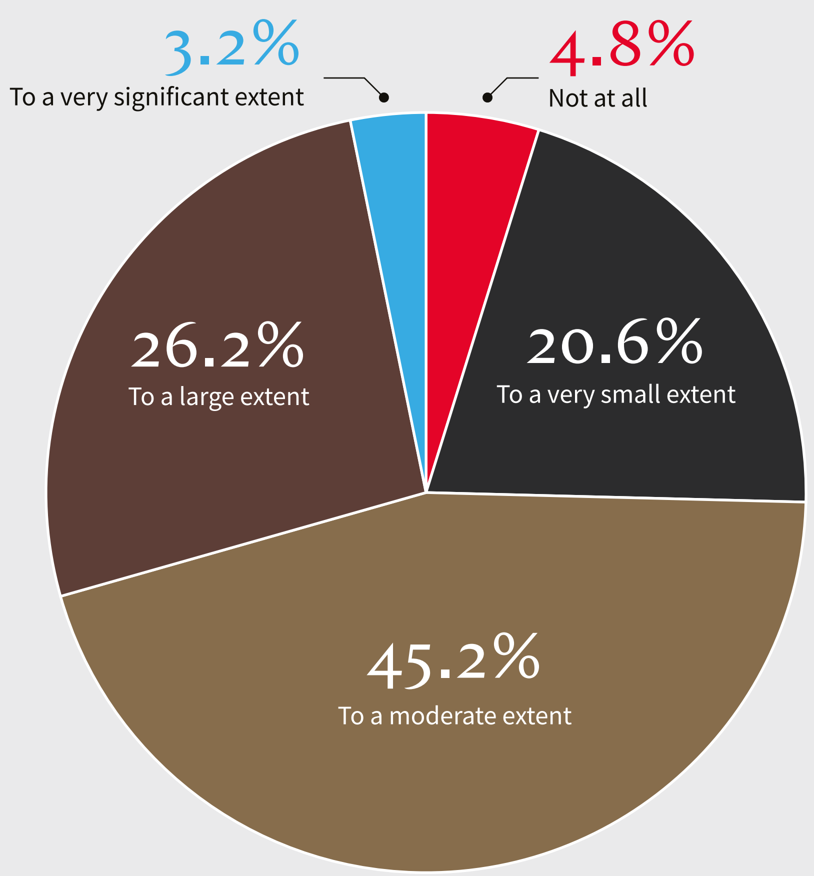
With the rapid evolution of generative AI such as ChatGPT, and businesses continuing to seek technology driven productivity, we wanted an early read as to whether directors and senior leaders think that generative AI will transform their businesses in the coming years. After all, nobody seems to be talking about the 'metaverse' in 2023.

GENERATIVE AI

Generative AI-induced transformation

When asked about the extent to which generative AI (such as ChatGPT) would transform the way their organisation(s) operate in the next 5 years, 45.2% of respondents said 'to a moderate extent', 26.2% said 'to a large extent' and 20.6% said 'to a very small extent'. Only 4.8% of respondents did not think generative AI would change the way their organisations operate over the next 5 years, while only 3.2% of respondents said it would transform their organisation(s) 'to a very significant extent'.

To what extent do you think generative AI (such as ChatGPT) will transform the way your organisation operates in the next 5 years?

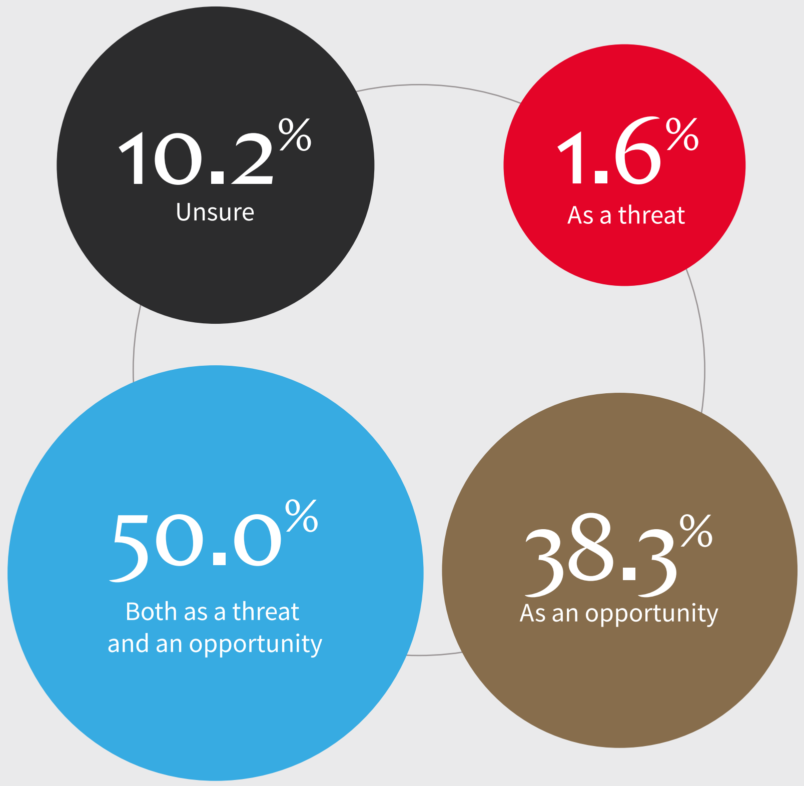


Impacts of generative AI

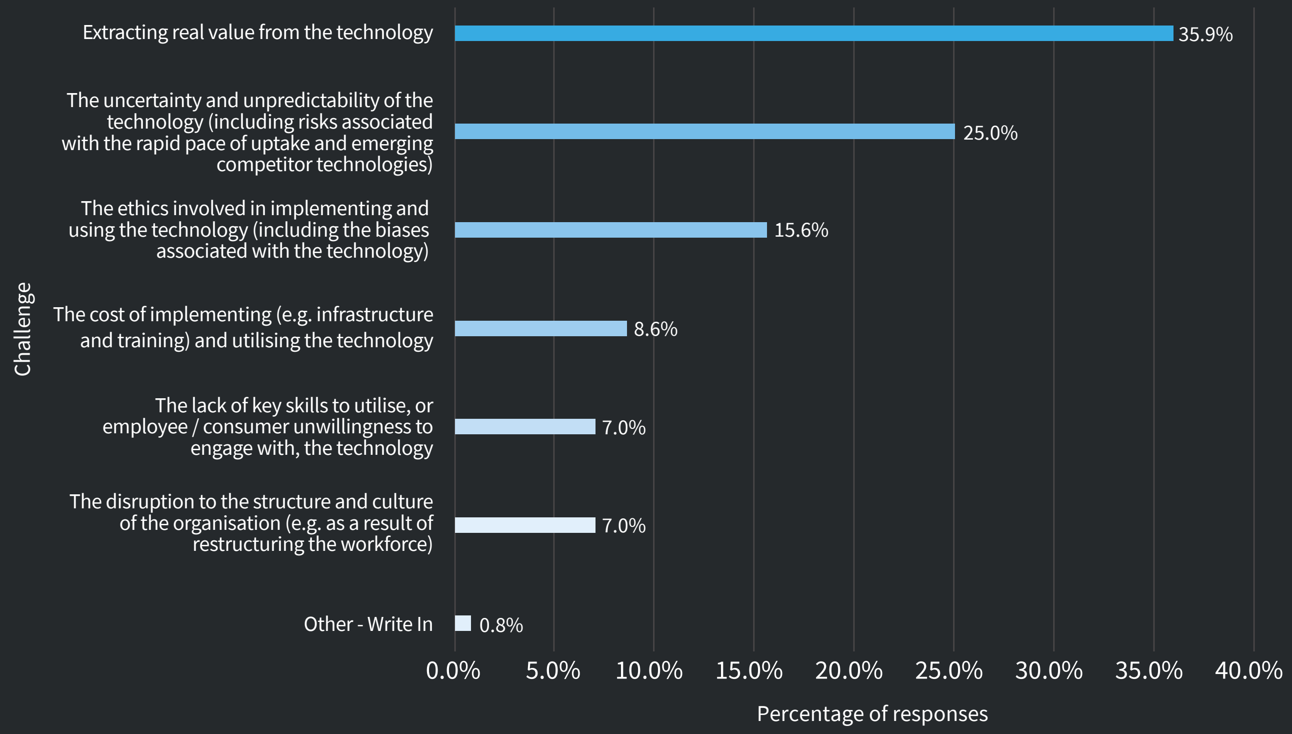
We also asked respondents how they view the prospective impacts of generative AI on their organisations' operations. 50.0% of respondents said that generative AI represented both a threat and an opportunity for their organisation(s). 38.3% of respondents viewed generative AI only as an opportunity, while 1.6% of respondents indicated that they viewed generative AI only as a threat.

> *"At this stage, it is hard to predict how AI will be useful, and where it belongs. We are still on the digitisation journey and AI is just one component of that strategy."*
>
> **Survey respondent**

How do you view the prospective impacts of generative AI on your organisation's operations?



Challenges with generative AI

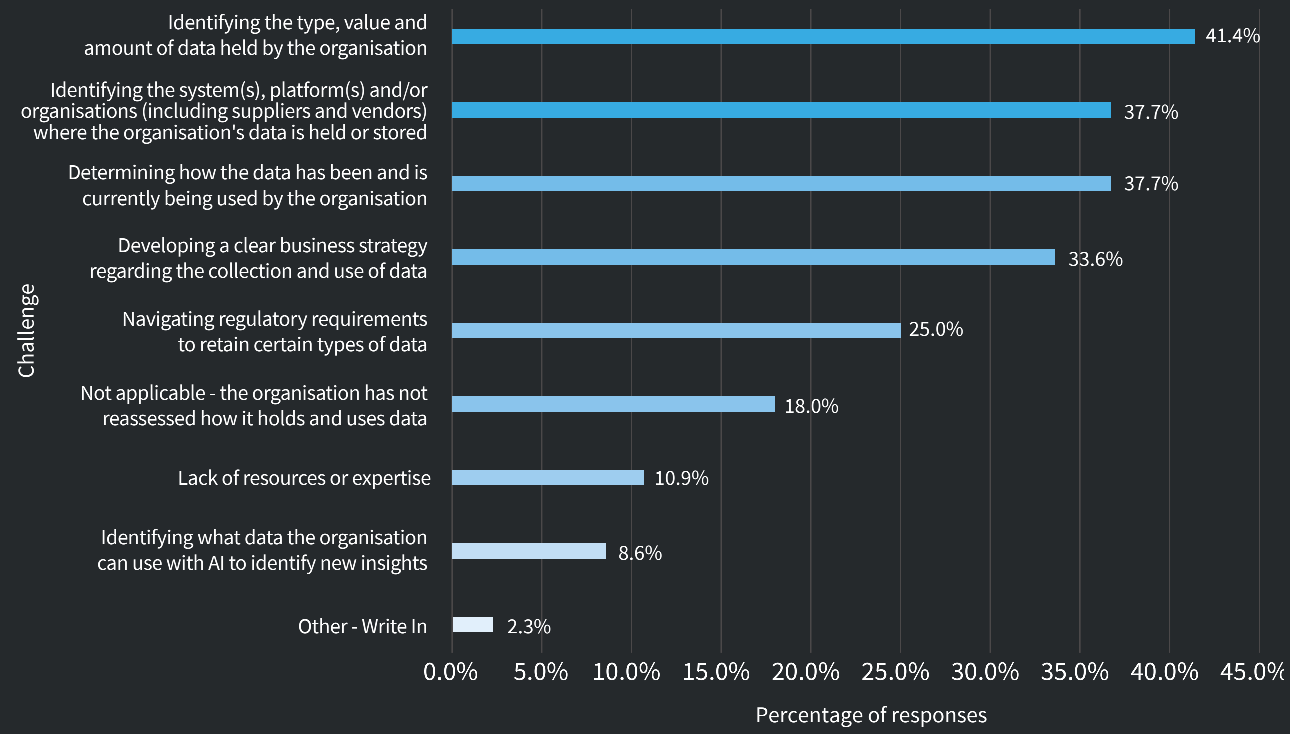


Respondents indicated that the most significant challenge faced by their organisations in implementing generative AI is extracting real value from the technology (35.9%), followed by the uncertainty and unpredictability of the technology (including risks associated with the rapid pace of uptake and emerging competitor technologies) (25.0%). These results suggest ongoing uncertainty about the potential benefits of generative AI - it is simply too early to tell whether the practical application of this technology will live up to the hype.

The 3rd ranking challenge in implementing generative AI relates to the ethics involved in implementing and using the technology (including the biases associated with the technology). This suggests that organisations are waiting for governments to set some clear regulatory guardrails before they fully commit to exploring the potential adoption and implementation of AI technologies – that is, given the risk for harm, directors and senior leaders may be seeking a form of 'permission' to proceed. This sentiment is reflected in the Australian Government's discussion paper on 'Safe and Responsible AI in Australia', released in June 2023, which notes that *"Proportionate and timely governance responses, regulatory or otherwise, will build the public trust needed for our economy and society to reap the full benefits of these productivity-enhancing technologies."*

> *"The lack of clarity in use cases, the tendencies to hallucinate, and the rapidity with which this technology continues to evolve are arguably major contributing factors towards organisations' increasing uncertainty around who should be responsible for the technology and how it should be incorporated into organisations to add value to existing business models."*
>
> **Cheng Lim**
> Partner and Sector Lead, Technology, Media, Entertainment & Communications

Challenges faced by organisations in reassessing how they hold data



Reassessment of how organisations hold data

Respondents were asked to identify the main challenges for their organisation(s) in reassessing how they hold data. The top 3 challenges identified were:

- Identifying the type, value and amount of data held by the organisation;
- Identifying the system(s), platform(s) and / or organisations (including suppliers and vendors) where the organisation's data is held or stored; and
- Determining how the data has been and is currently being used by the organisation.

All of these issues relate to the challenge of identifying what data is held, where it is being held, and why it is being held. This indicates that most organisations are still in the preparatory, rather than executory, stages of their data reassessments. It also suggests that data governance has not been high on the list of priorities to date, but that this is changing in light of recent high profile data breaches which have shone a spotlight on data usage and data retention practices.

However, developing a proper data retention strategy and implementing appropriate practices to support that strategy is not a trivial exercise. This is in part due to the need for organisations to navigate a complex patchwork of legislative and legal data retention requirements that apply to the data they hold and are dependent on the nature of their business and the industry that they are in.

> *"Overall, it remains essential for an organisation to have a clear picture of its current data landscape before it can develop a data strategy that can be successfully executed in practice. Accordingly, it is an exercise worthy of prioritisation."*
>
> **Michael Swinson**
> Partner, Technology, IP and Data Assets

5. PRIORITISING AND MANAGING ESG ISSUES

This year, we asked survey respondents to report on the current key ESG priorities for their organisation(s). Interestingly, the top three priorities for 2023 were the same as those reported in our *2022 Directions Report*. These were:

- Making and satisfying public ESG commitments[3]
- Building / improving sustainability capability
- Creating and maintaining a diverse and inclusive workforce (e.g. gender, ethnicity, age, sexual orientation)

53.7%
Making and satisfying public ESG commitments

48.0%
Building / improving sustainability capability

45.5%
Creating and maintaining a diverse and inclusive workforce (e.g. gender, ethnicity, age, sexual orientation)

However, there has been a re-ordering amongst those issues, and making and satisfying public ESG commitments is now the top ranking ESG priority (53.7% in 2023, as compared to 43.8% in 2022 when it was 3rd ranking). This result may reflect the ongoing urgency associated with addressing climate change, the increased regulatory focus and hardened enforcement stance on 'greenwashing', and the fact that interim target deadlines are drawing closer.

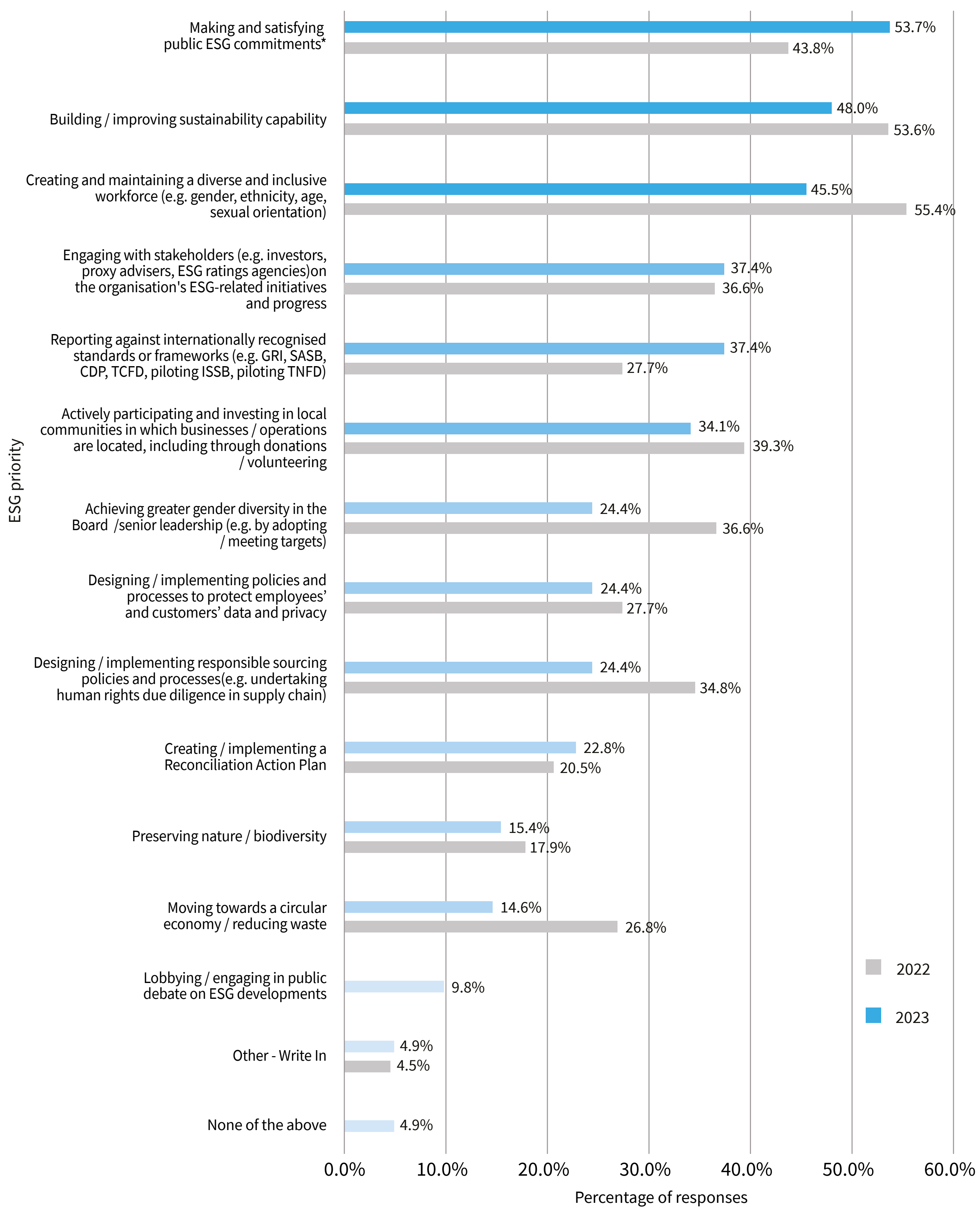
The 2nd ranking ESG priority remained as building / improving sustainability capability (48.0% in 2023, as compared to 53.6% in 2022). This suggests that businesses are still focussing on capability building when it comes to ESG, and may also reflect the frequent and complex developments occurring in the ESG space.

Finally, creating and maintaining a diverse and inclusive workforce was 3rd ranking, with 45.5% of respondents perceiving it as a high priority for their organisations. Although this ESG priority has dropped slightly from top ranking in last year's survey (at 55.4%), it remains front of mind for many organisations in 2023. We expect this to continue, with the ongoing focus on gender diversity at board levels and the ASX Corporate Governance Principles and Recommendations expected to be revised in the near future, including in relation to diversity.

Reporting against internationally recognised standards or frameworks also ranked highly amongst respondents' ESG priorities. This comes as no surprise given Treasury has completed a second round of consultation on a mandatory climate reporting regime, which is expected to be based on the International Sustainability Standards Board's (ISSB's) recently finalised standards.

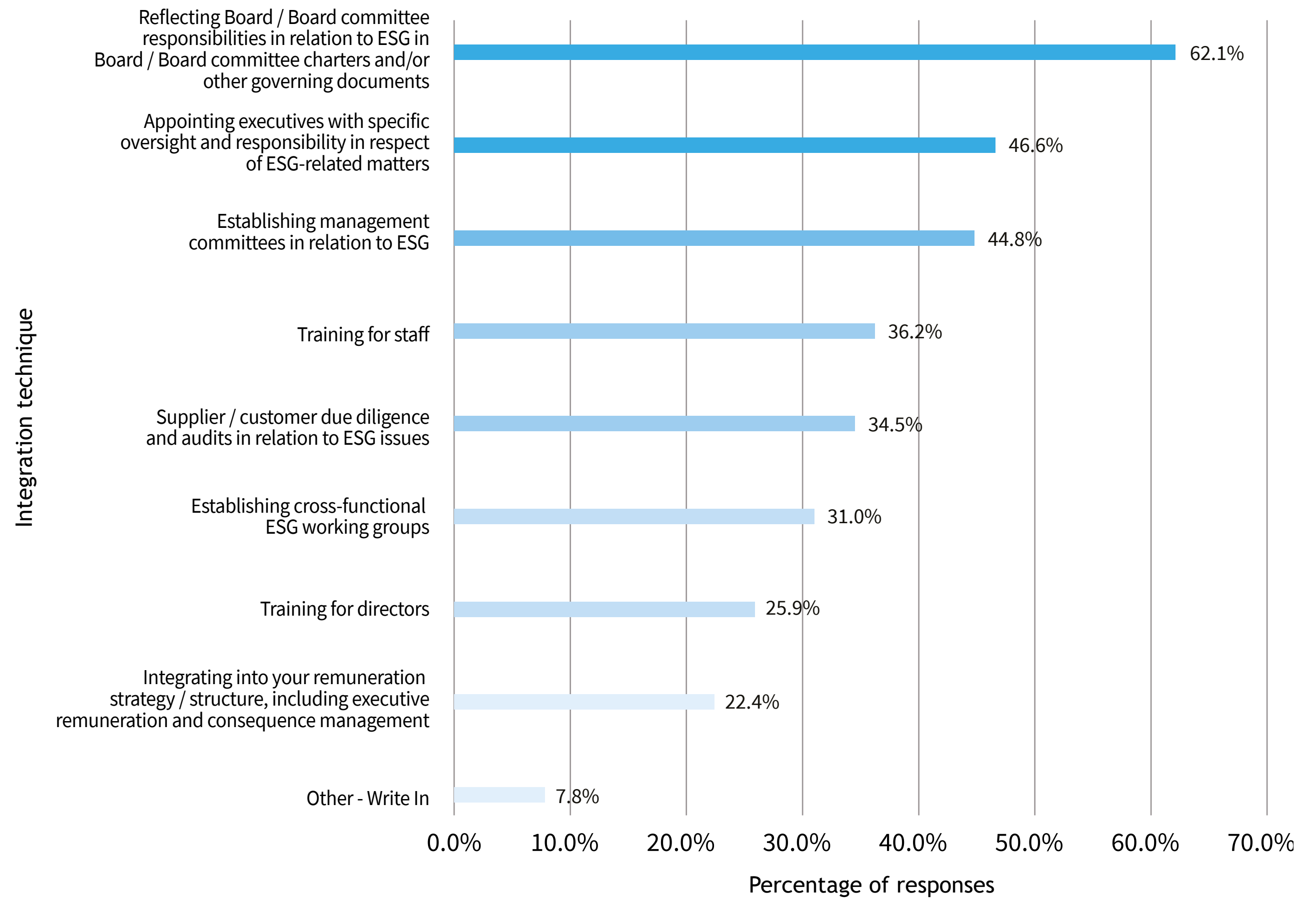
3 The 2022 Directions survey phrased this response as "making and satisfying public ESG commitments to address greenhouse gas emissions (e.g. net zero / carbon neutral / carbon negative)".

Key ESG priorities



* The 2022 Directions survey phrased this response as "making and satisfying public ESG commitments to address greenhouse gas emissions (e.g. net zero / carbon neutral / carbon negative)".

Integrating governance of ESG issues



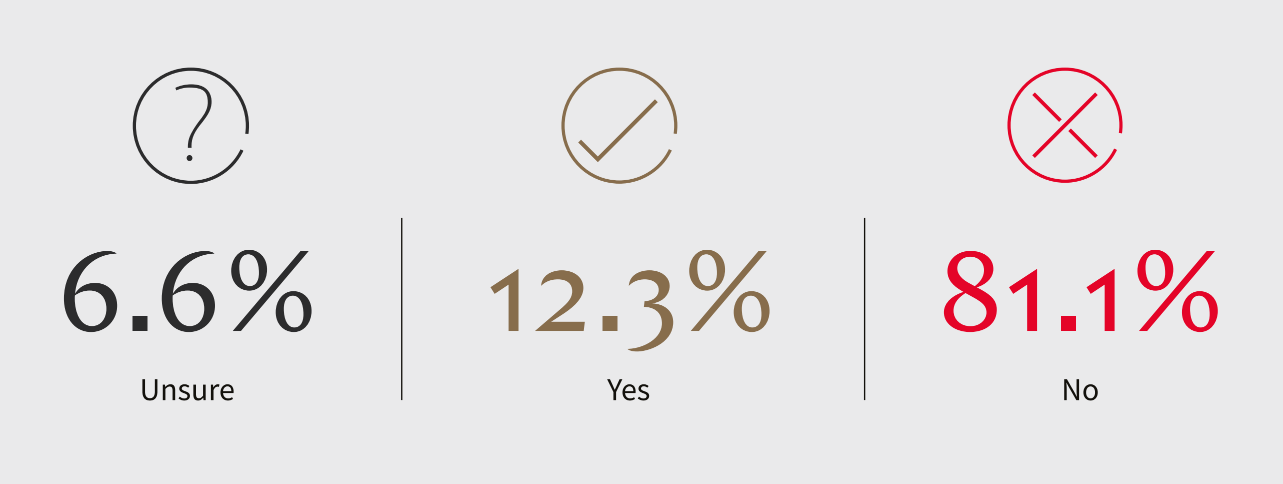
This year's survey posed the question: "How has your organisation integrated or is your organisation currently integrating governance of ESG issues?" Given the regulatory focus on greenwashing and upcoming mandatory reporting, we were interested to explore how organisations are responding, and to test whether they are adopting a proactive or reactive approach to ESG.

The results reveal that the organisations of most respondents (62.1%) have reflected Board / Board committee responsibilities in relation to ESG in Board / Board committee charters and / or other governing documents. This suggests many organisations are trying to be proactive, in advance of the requirement in the ISSB standards to disclose how ESG responsibilities are reflected in charters and other related policies - this is likely to become mandatory as part of the proposed Australian mandatory climate regime.

The 2nd ranking response was appointing executives with specific oversight and responsibility in respect of ESG-related matters. Notwithstanding that chief sustainability officers are a relatively recent phenomenon, 46.6% of respondents said that their organisations have now appointed an executive with specific oversight and responsibility in respect of ESG-related matters.

Responses relating to training for directors and staff were surprisingly low, with only 25.9% and 36.2% respectively saying that their organisations are training staff and directors as a means of integrating governance of ESG issues. To enable directors to satisfy their directors' duties, we would expect most organisations to provide support to their directors on ESG issues in the form of regular training / updates. And given the increasingly hardened regulatory stance on greenwashing, and pressure from a range of stakeholders on ESG, we would expect most organisations to focus on how they can embed ESG commitments and governance of ESG issues within the whole organisation, including training of relevant staff.

Re-assessing / walking back public ESG commitments



Given the hardened regulatory focus on greenwashing, we were interested to understand whether organisations have re-assessed or 'walked back' any of their public ESG-related commitments or disclosures. While 81.1% of respondents said they had not, 12.3% confirmed that their organisations had either re-assessed or 'walked back' public ESG-related commitments or disclosures.

> *"We would expect all organisations that have made ESG commitments to be regularly reviewing them in order to assess whether they continue to have reasonable grounds to support those commitments, and where relevant, to ensure ongoing compliance with their continuous disclosure obligations."*
>
> **Emma Newnham**
> Senior Associate, Climate & ESG and Mergers & Acquisitions

This demonstrates the challenges facing directors and senior leaders as they seek to discharge their duties in relation to disclosure and the management of climate risks, without falling foul of the law in relation to misleading and deceptive conduct.

To stance or not to stance, that is the question | Taking a 'house' stance on issues of socio-political significance

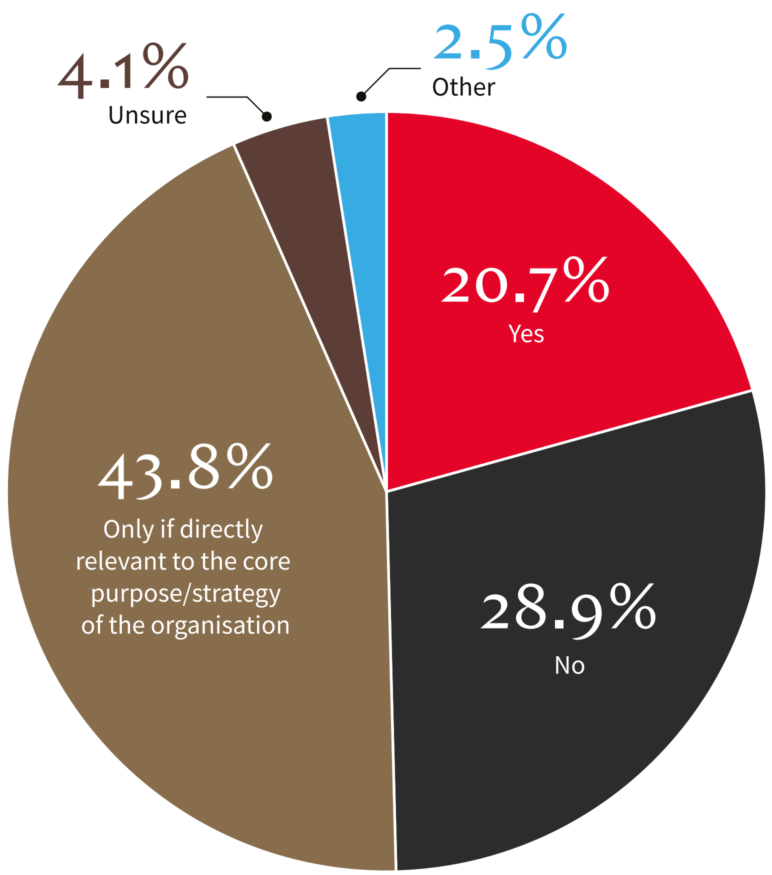
One issue of increasing prominence in 2023 has been whether organisations should take (and articulate) a 'house' stance on issues of socio-political significance, such as the Indigenous Voice to Parliament.

Anecdotally, this question has been getting significant airtime in boardrooms all around Australia. Directors and senior leaders are grappling with the dilemma inherent in taking an organisational position (and ostensibly demonstrating 'institutional leadership') on issues of socio-political significance which, by definition, are complex and multifaceted, and therefore subject to a range of diverse views and opinions.

Balancing the pressure to take a stance in the face of increasing stakeholder expectations (be it employees, customers, investors or those in positions of influence) and competitor positioning, against values which embrace diversity and freedom of thought and opinion, is clearly a vexed exercise.

It seems however that, off the back of several years of increased focus on corporate culture and a recognition that the 'tone is set from the top', this is an issue that many directors and senior leaders feel they must grapple with.

Do you think commercial organisations should take (and articulate) a 'house' stance on issues of socio-political significance (e.g. the Voice to Parliament?)



A recent survey by *The Australian Financial Review* found 14 of the current top 20 ASX-listed companies are publicly supporting the Voice.[4] This follows a wave of public support for the same sex marriage plebiscite in 2017. Despite this, our survey results indicate that this issue is a little more nuanced across the broader spectrum of corporate Australia.

43.8% of our respondents said that commercial organisations should take (and articulate) a 'house' stance on issues of social-political significance only if the relevant issue was directly relevant to the core purpose or strategy of the organisation.

Nearly 30% of respondents said that organisations should not take a stance at all. Only 20.7% of respondents said that organisations should take a position, irrespective of the core purpose or strategy of the organisation.

Interestingly, there seemed to be a greater propensity amongst C-suite management to take a public stance on these issues, potentially reflecting their increased proximity to the stakeholders asking the hard questions. Business owners and non-executive directors were generally less inclined to go there.

4 Tom McIlroy, 'Majority of ASX 20 companies publicly support Voice', Australian Financial Review (online, 15 June 2023) https://www.afr.com/politics/federal/majority-of-asx-20-companies-publicly-support-voice-20230612-p5dfwq.

6. REFORM WISHLIST

Key areas for reform

Respondents were asked to identify areas (if any) where they considered there to be a pressing need for reform. Energy transition (including consideration of nuclear) was top ranking (62.0%), followed by tax (52.1%) and use of data and AI (43.8%). Workplace / industrial relations and privacy also represent key areas requiring reform, having ranked 4th (38.8%) and 5th (24.8%).

We were not surprised to see respondents identify energy transition as the top ranking area for pressing reform. This could reflect recent reactive Government interventions in markets (for example, Commonwealth gas regulation) and / or a growing awareness of the magnitude of the challenge presented by the energy transition and the achievement of Government "net zero" targets.

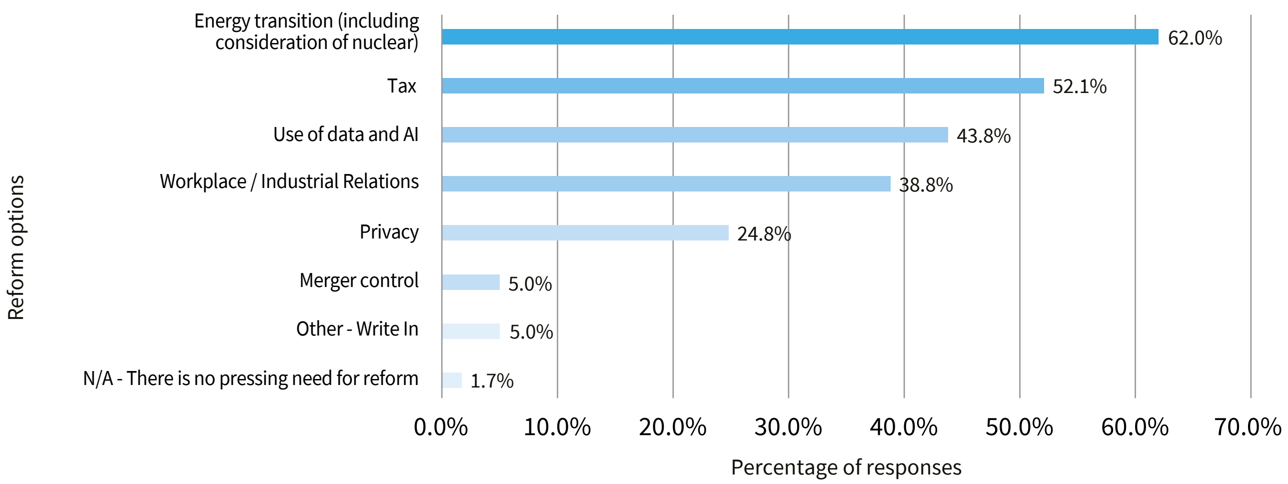
Anecdotally, there is an increasing corporate perception that Government needs to play a greater role in supporting the energy transition. In particular, there is a perception that Government, in addition to setting net zero targets, should take a more active role in co-ordinating the achievement of these targets. This could involve:

- implementing policies that provide market participants with longer term certainty as to the cost of carbon
- implementing policies that provide investors with greater long term certainty to encourage investment in new projects and technologies
- co-ordinating an orderly transition – for example, by managing a staggered exit of coal fired generators over time as new generation is ready to fill the gap, rather than having a disorderly exit ahead of new generation being ready.

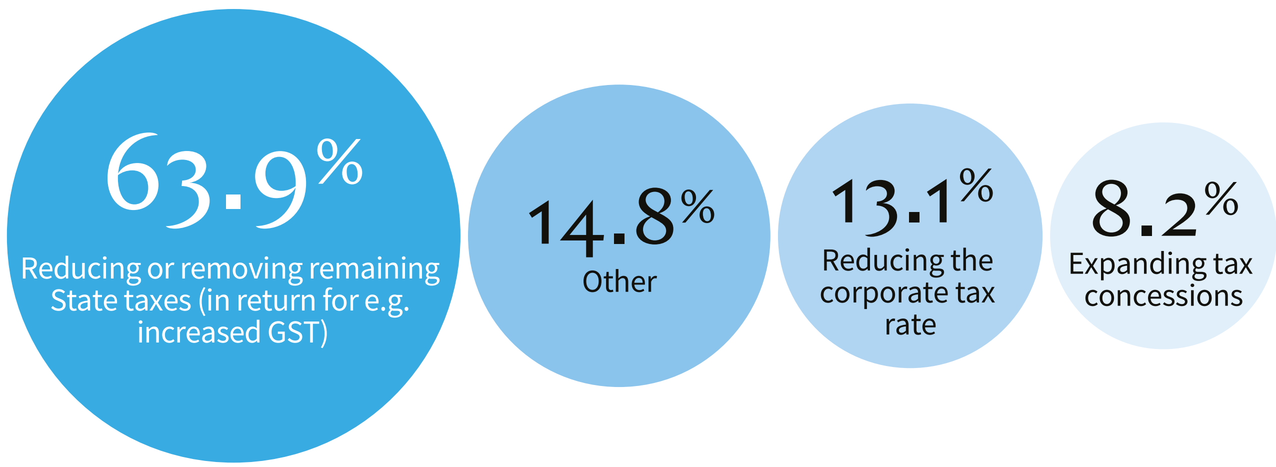
> *"While we have seen the Commonwealth and State governments progressively taking steps in this direction (such as the recent changes to the Safeguard Mechanism), there is still clearly scope for further policy reform that will provide business with much greater certainty as to the pathway to net zero and stimulate investment in the energy transition."*
>
> **Rod Smythe**
> Partner, Energy, Resources and Infrastructure

Respondents were also invited to make suggestions on key areas requiring reform. These suggestions included deregulation where markets are working well and increasing Australia's global competitiveness (raising living standards).

Areas with a pressing need for reform



Priorities for tax reform



The respondents who identified tax as an area in which there is a pressing need for reform were asked what taxation reform options they would most like to see implemented. 63.9% of respondents indicated that they would most like to see tax reforms in respect of reducing or removing remaining State taxes (in return for, for example, increased GST). This response is consistent with the views of industry groups such as the Business Council of Australia who have also been vocal about cutting inefficient taxes and replacing such taxes by raising the rate of GST. However, it appears that ambitious tax reform (which would require engagement at both the federal and state and territory levels of government) has been ruled out by the Albanese government, in favour of more bite-sized reform with political and budgetary difficulties given as the reason.

Respondents considered other reform options, namely reducing the corporate tax rate and expanding tax concessions, to be of lesser importance (with responses of 13.1% and 8.2% respectively).

Respondents are also interested in seeing other areas of taxation reform in relation to:

- dealing with inequity, including negative gearing and franking credits;
- supporting business and movement of employees;
- improving international and cross-border tax regulations and knowledge; and
- removing the ability for people to receive deductions / tax credits beyond the income they earn from investment properties and for excessive franking credits.

Consistent with general market sentiment and recent press reports, respondents also suggested broader taxation reform options, including by way of reducing complexity and overlap and improving efficiencies.

> *"The majority of responses identifying reform of inefficient taxes and inequities between taxpayers as key areas of pressing need is unsurprising. These concerns are consistent with the overarching theme of broader concern regarding increasing regulatory burdens on businesses."*
>
> **Judith Taylor**
> Partner, Tax

While harmonisation of State tax legislation has occurred in some areas (such as payroll tax), ensuring compliance with State taxes requires engagement with multiple revenue authorities. This often creates a drain on organisational resources relative to the revenue being collected. The discontent with State taxes is further compounded by economic inefficiencies arising from the burden imposed by many State taxes.

The 2nd ranking response was a reduction to the corporate tax rate. Former Federal Treasury boss Ken Henry has noted recently that Australia is unique in this regard as the only industrialised country that hasn't cut its corporate tax rate. This response indicates the continued focus of organisations operating in international markets on Australia's competitiveness, having regard to global tax rates around the world.

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About the Survey: King & Wood Mallesons' 2023 survey was conducted during June 2023. The results discussed in this report are drawn from the response of 190 director and senior executive / executive clients.

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