APA Group

Changes to corporate business costs since 2006

March 2012

Contents

1 Executive Summary

1.1 Introduction and scope

Since 2006 a range of factors have affected the cost of doing business in Australia. Most of these factors are outside the control of the management decisions of businesses and must be absorbed by businesses in order for them to continue to operate. Many of the factors are also new, and together pose a significant challenge for business and the wider economy.

The onset of the Global Financial Crisis (GFC) late last decade, and regulatory and legislative changes at the federal and state government levels, are among the most important cost factors and, for many Australian companies, have been wide and intense in their incidence on the costs of doing business. Changing consumption patterns, new technologies and new consumer and social expectations have also posed new cost pressures and have affected how businesses operate in numerous important ways. In several cases, major new cost factors have had secondary consequences that have meant additional costs for businesses in responding to changes in the patterns of demand.

This report articulates some of the new or changing cost impositions on businesses since 2006. It will be used by the APA Group to provide the Australian Energy Regulator (AER) with independent evidence to assist it consider revisions to access arrangements proposed by the APA Group.

1.1.1 Engagement scope

The scope of this engagement was to identify a range of external and exogenous factors that have had an impact on the cost of doing business in Australia since 2006. These factors were included (but were not limited to):

- government imposed legislative and regulatory changes;
- changing market conditions and forces; and
- changing societal expectations and consumer expectations.

The report also sought to identify both positive and negative factors that have had an impact on the cost of doing business.

1.2 Key findings and conclusions

Table 1-1 below provides a list of the key exogenous factors that have had an impact on the costs of Australian businesses since 2006. Outlines of each factor and its impact on business costs are provided throughout this report. Also indicated is KPMG's view of which exogenous factors are most likely to have the greatest impact on a business such as the APA Group.

Table 1-1: Exogenous factors identified in this report

Cost origin	Exogenous factor	Significant impact on costs
Government costs	*Commonwealth National Greenhouse Energy Reporting Act 2007*	
	Clean Energy Future Package (carbon tax)	✓
	Commonwealth Model Work Health and Safety Act 2011	✓
	National Energy Customer Framework	✓
	Commonwealth Fair Work Act 2009	✓
	Paid Parental Leave Scheme	
	Minerals Resource Rent Tax	
	Petroleum Resource Rent Tax	
	Renewable Energy Target	✓
	National Pollutant Inventory	
	International Financial Reporting Standard (IFRS) Conversion	✓
	Extractive Industries Transparency Initiative	
	International Accounting Standards Board Extractive Industries (Discussion Paper)	
	United States Dodd Frank Wall Street Reform and Consumer Protection Act	
	IFRS 11 Joint Arrangements	
Macroeconomic or other factors	The Global Financial Crisis	✓
	Australian Dollar	
	Natural disasters	✓
	Oil prices	
	Labour market constraints (skills shortages)	✓
	Interest rates	
	Utility prices	✓
Changing consumer and societal expectations	Corporate social responsibility	
	Technological changes	
	Environment and heritage protection concerns	✓

For the purposes of this study, three of these factors were selected because they were deemed to have had the greatest impact on corporate costs for the APA Group. These three factors are:

- **Climate change and other environment related regulations and new legislation** – including the preparation for the implementation of a 'carbon tax' (the *Commonwealth Clean Energy Act 2011*), the implementation of National Greenhouse and Energy Reporting and the Renewable Energy Target and other associated international and state government regulations and compliance activities.

- **Human Resources related legislation and reform** – including WorkChoices, the *Fair Work Act 2009* and reforms to create a nationally consistent occupational health and safety regime (i.e. the *Model Work Health and Safety Act 2009*).
- Changes to **International Reporting Financial Standards**.

These costs and their impact to businesses, and specifically the APA Group are detailed further in section 7 of this report.

1.2.1 Conclusion

In preparing this report, it was found that all factors identified resulted in a likely increase to general corporate business costs. White some factors may result in a reduction in some corporate costs, these reductions appear to be relatively small and likely to be far outweighed by the additional costs from compliance, new regulations, policy changes and red tape, among other changes.

1.3 Historical factors impacting on corporate cost changes

In November 2007 Australia changed Government from a Liberal Government led by the Hon John Howard MP to a Labor Government led by the Hon Kevin Rudd MP. The former Howard Government had held office for 11 years.

The Rudd Government won the 2007 election with an 18-seat majority in the House of Representatives. After being initially well received in opinion polls, a significant drop in approval ratings and a loss of confidence in cabinet colleagues prompted the then Deputy Prime Minister, the Hon Julia Gillard to challenge Kevin Rudd to a caucus leadership ballot on 23 June 2010. The next day, the Prime Minister Kevin Rudd chose to stand down as Leader of the Labor Party and Prime Minister[1].

Following the change in Labor leadership, the Prime Minister called a Federal Election which was held on 21 August 2010. This was an incredibly close election and resulted in a hung parliament[2] with six cross-benchers holding the balance of power. In the end, four cross-benchers declared support for the Labor Party and two for the Coalition, allowing the Labor Party to form a minority government[3].

The change in Government in 2007 from Liberal to Labor combined with changes to the Labor Party leadership from Kevin Rudd to Julia Gillard have had similar disruptive changes on the course of policy in Australia. This constant state of change and the corresponding changes in policy, legislation and regulations have had a significant effect on the amount of changes Australian businesses have also had to deal with since that time.

1.3.1 Impact on Federal Government policy and legislative change

In the final years of the Howard Government the pace of policy reform and new legislation had slowed. In 2005, the Government enacted one of its final most significant economic reforms – the implementation of WorkChoices through the *Commonwealth Workplace Relations Amendment Act 2005*. This Act came into effect in March 2006. Other than this, there was not a significant amount of new legislation nor major economic reforms implemented or touted.

The election of the Rudd Labor Government in 2007 significantly changed the political landscape. The new Government moved quickly to enact significant changes and implement key election promises and polices. It also moved quickly to repeal or dismantle key platforms of the Howard Government such WorkChoices which was replaced by the *Fair Work Act 2009*. It also moved quickly to commission a

[1] Julia Gillard announced on 23 June 2010 that she would challenge the Prime Minister in a leadership caucus ballot the following day. Knowing that he would likely lose the ballot, Kevin Rudd stepped down as Party Leader and Prime Minister on the morning of the ballot.
[2] Both the Coalition (Liberal Party and the Nationals) and the Labor Party won 72 seats each (four seats clear of a majority).
[3] Rodgers, E. (2010) "Labor Day – Gillard retains grip on power", *ABC News*, 7 September 2010

number of major reviews of key policy areas. These included the *Garnaut Climate Change Review*, the *Henry Tax Review*, the *Bradley Review of Higher Education*, the *Gonski Review of Schools Funding*, a Defence White Paper, a review of the Health and Medical Research Sector and the *National Health and Hospitals Review*, among others. To an extent, these reviews slowed the initial pace of change and resulted in new legislation implemented in 2008 and 2009.

In 2010, Kevin Rudd moved to begin implementing many of the changes recommended in the reviews commissioned and completed. This included, for example, the Resources Super Profits Tax (RSPT) which was a recommendation of *the Henry Tax Review* and the Carbon Pollution Reduction Scheme (CPRS) which was a recommendation of the *Garnaut Climate Change Review*. It was in this implementation phase that Kevin Rudd was challenged by Julia Gillard for the Labor leadership and subsequently lost. Following this, many of these key policies were either deferred, dumped, dismantled or amended or came back in other guises – for example the Minerals Resource Rent Tax (MRRT) replacing the RSPT and the *Clean Energy Act 2011*.

1.3.2 The Global Financial Crisis

Amidst considerable changes from the Federal Government, Australian businesses also had to cope with the effects of the GFC. In Australia, this crisis followed several years of very stable and sustainable growth in the Australian economy. The effects of this crisis have impacted almost all areas of the economy and caused disruption to businesses as a result of a downturn in economic activity, new regulation and compliance, affected the availability of credit and the value of the Australian dollar and other currencies. All businesses in Australia have had to react, adapt or change significantly as a result of the crisis – a process that has had considerable time and cost implications.

1.3.3 Impact on businesses and corporate costs

This paper will articulate what these changes have been and their impact on business. It is however, important to note that the change in Federal Government (coupled with several changes of state governments in recent years) has had an incredible impact on the amount of change and thus costs businesses have had to deal with and absorb.

The process of legislative review followed by a period of change in policy and then a change of leader resulting in more changes has resulted in considerable disruption to businesses as they attempt to anticipate the changes, then adapt their processes and operations to respond to them.

While most major federal government reforms have been enacted or have come into effect recently, the amount of time and cost spent by businesses in the lead up to the enactment of new legislation in preparing for it, should not be dismissed. Indeed, considering many changes have significant penalties for non-compliance (i.e. the *Clean Energy Act 2011*), processes, procedures and entire business strategies have had to be adapted and changed well before the legislation passes through Parliament and it comes into effect.

1.3.4 The future

The pace of legislative and policy change at a federal and international level shows no signs of abating. Indeed, there is significant new legislation or policies that are currently being debated or amended and which are set to be implemented in the future. Some of those immediately on the table include:

- **Superannuation levy** - An increase in the compulsory superannuation levy paid by employers by three per cent[4].
- **Amendments to the *Commonwealth Equal Opportunity for Women in the Workplace Act 2000*** – New reporting requirements about women in the workplace[5] for medium to larger firms, requiring all

[4] This is currently included in the MRRT legislation which was recently passed and which will be implemented over the coming years.

private sector organisations with 100 employees or more to provide detailed information to a new government agency, as well as meeting 'minimum standards' by 2014 and beyond.

- **Review of the *Fair Work Act 2009*** – The Federal Government is in the process of reviewing the *Fair Work Act 2009*. Recommendations from this review are likely to result in future policy, legislative or regulatory changes in industrial relations.
- **Consolidation of Commonwealth anti-discrimination laws** – The Commonwealth is currently in the process of consolidating four separate pieces of legislation (the *Racial Discrimination Act 1975, Sex Discrimination Act 1984, Disability Discrimination Act 1992* and the *Australian Human Rights Commission Act 1986*). This may result in changes in regulations and reporting requirements required of businesses.
- **Review of Employer Sponsored Visa Categories** – Potential to affect future skilled migrations laws, regulation and compliance requirements by businesses.

Coupled with this, there will be another federal election by around the end of 2013[6]. If opinion polls as at March 2012 were reflected in the results at the next Federal Election it would be likely that the Coalition would form Government[7]. In recent years, new state governments have also been elected in Western Australia, Victoria, New South Wales and Queensland. All of these changes have changed the course of policy making and legislation and will continue to do so as new governments begin to implement their election commitments and put their own unique stamp on their terms in office. This indicates that there is likely to be further significant cost impositions as a result of changing and adapting government legislation and regulation in the future.

1.4 Disclaimer and limitations

Inherent Limitations

This report has been prepared as outlined in the Project Scope Section. The services provided in connection with this engagement comprise an advisory engagement, which is not subject to assurance or other standards issued by the Australian Auditing and Assurance Standards Board and, consequently no opinions or conclusions intended to convey assurance have been expressed.

The findings in this report are based on a qualitative study.

No warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by, APA Group consulted as part of the process.

KPMG have indicated within this report the sources of the information provided. We have not sought to independently verify those sources unless otherwise noted within the report.

KPMG is under no obligation in any circumstance to update this report, in either oral or written form, for events occurring after the report has been issued in final form.

The findings in this report have been formed on the above basis.

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[5] Australian Chamber of Commerce and Industry (2012) "Industry Support for Gender Equality Cautioned by Reporting Requirements", *Media Release*, March 2012
[6] The last Federal Election was held in August 2010, the next Federal Election must be held within three years and approximately 140 days of the house first sitting after an election.
[7] A Newspoll opinion survey as at 27 March 2012 showed that the Labor Party's primary support had dropped three percentage points to 28 per cent, while the Coalition's primary vote was 47 per cent. Source: Franklin, M (2012) "Federal Labor vote near Queensland Lows: Newspoll", *The Australian*, 27 March 2012

Third Party Reliance

This report is solely for the purpose set out in the Project Scope Section and for APA Group's information, and is not to be used for any other purpose without KPMG's prior written consent.

This report has been prepared at the request of APA Group in accordance with the terms of KPMG's engagement contract dated 27 February 2012. Other than our responsibility to APA Group neither KPMG nor any member or employee of KPMG undertakes responsibility arising in any way from reliance placed by a third party on this report. Any reliance placed is that party's sole responsibility

2 Introduction

2.1 Background and context

Since 2006 a range of exogenous factors have had both a positive and negative impact on the cost of doing business in Australia. These costs have arisen from a number of external causes and phenomena beyond the control of the management decisions of a business and are costs that must be absorbed by a business in order to continue in their ordinary course of business.

The onset of the GFC at the end of last decade, combined with federal and state government regulatory and legislative changes have all had an impact on the cost of doing business for a number of Australian companies. Changing consumption patterns, new technologies and new social expectations have also affected how businesses operate and have often meant additional costs to respond to changing patterns of demand.

This report articulates some of the new or changing cost impositions on businesses since 2006. It will be used by the APA Group to provide the AER with independent evidence to assist it consider revisions to access arrangements proposed by the APA Group.

2.1.1 The APA Group

The APA Group (APA) is Australia's largest natural gas infrastructure business, owning and/or operating approximately $9 billion of energy infrastructure assets. Comprised of the Australian Pipeline Trust and APT Investment Trust, it is listed on the Australian Stock Exchange (ASX) and has interests in energy infrastructure across Australia, including more than 12,800 kilometres of natural gas pipelines, gas storage facilities, and a part interest in each of DirectLink and MurrayLink[8], (electricity transmission interconnector assets), as well as a windfarm.

APA's principal activities relate to the ownership, management and operation of natural gas transmission and distribution assets. The company operates pipelines in every state and territory in mainland Australia and transports or distributes around half of the country's gas to markets. It also holds minority interests in energy infrastructure enterprises including Envestra, SEA Gas Pipeline, Energy Infrastructure Investments, EII2, Hastings Diversified Utilities Fund, the Ethane Pipeline Income Fund and Allgas Gas Network. Its involvement also extends to the provision of commercial, accounting and corporate operations and maintenance services to most of these companies or their operational assets.

APA has direct management and operational control over its assets and employs around 1,200 people across Australia. These employees provide services in a range of areas including commercial, regulatory, government and stakeholder relations as well as day-to-day operations and maintenance.

APA's customers are principally large energy retailers or producers including AGL Energy, Origin Energy, TRUenergy and Santos. The company also operates in mineral provinces and provides services to mining companies such as BHP Billiton, Xstrata and Rio Tinto. APA and Envestra also deliver gas to more than one million homes in eastern Australia through gas distribution networks.

2.2 Project scope

The objectives of this report include identifying a range of external and exogenous factors that have had an impact on the cost of doing business in Australia since 2006. These factors included:

- government imposed legislative and regulatory changes;
- changing market conditions and forces; and

[8] Murraylink is a High Voltage Direct Current electricity transmission line.

- changing societal expectations and consumer expectations.

The report identifies both positive (reduced cost) and negative (increased cost) factors that have had an impact on the cost of doing business.

Essentially, this report seeks to answer the following question:

> *"What are the exogenous forces and impositions that have had an impact on the costs of doing business since 2006?"*

The costs outlined in this report related to all businesses in Australia. The impact of these factors on the corporate costs of a business have been considered in light of the type of business the APA Group is and the industry in which it operates.

This report was not designed to quantify the exact impact of the factors on the APA group, but instead outlines their broad impact and note any broad costs to business identified in publicly available reports or data.

2.3 Approach

This engagement was conducted in two phases as outlined below.

- *Stage 1 – Initial identification and concise report on cost implications identified*

This stage involved information gathering to assess the breadth and scale of various exogenous factors and externalities on the operating costs of business. The various costs were identified and documented, with references to further information about the costs and their impact.

The aim of this stage was to provide concise information about each of the factors and an outline of the impact on the business. Reporting in this stage aimed for a sense of coverage and completeness, rather than depth. It sought to have coverage of all the anticipated exogenous implications, rather than in-depth explanations and their direct impact on costs.

The key deliverable of this stage was an interim report outlining the breadth of factors impacting on the costs to businesses that were identified.

- *Stage 2 – Detailed explanation of key cost implications to business and final report*

Following the initial report, KPMG sought information about which of the cost factors identified in stage one were of the greatest significance to APA.

Three key factors were then identified and explained and contextualised in further detail. The impact of the additional costs to the APA Group were also more specifically outlined.

The detail contained in this report was based on information provided by APA, publicly available information and reports, and consultation and information provided by KPMG's own internal subject matter experts in various sectors throughout KPMG.

The key deliverable of this stage was this final report, featuring the factors identified in stage one, along with three factors and their impact on business explained in greater detail (see section 7).

2.4 Report structure

The body of the report is structured according to the source or types of additional costs to business. These are:

1. Government costs – including federal government costs, some state government costs and international policies or regulations (Section 4);
2. Market or other external costs (Section 5);
3. Changing consumer and societal expectations (Section 6); and
4. Impact on the APA Group (section 7).

Definitions and acronyms used are listed in Section 3.

3 Definitions and acronyms

3.1 Definitions

Table 3-1 outlines definitions of some of the key terms used throughout this report and the context in which they are used for the purposes of this report.

Table 3-1: Definitions for the purposes of this report

Term	Definition (for the purpose of this report)
Exogenous factors	• Originating outside (or produced outside) the organisation (the APA Group)
Direct cost	• A cost that can be completely attributed to the production of specific goods and services. Direct costs refer to materials, labour and expenses related to the production of a product.
Indirect cost	• Costs that are not directly attributable to a particular function or product but that arise in a consequential or ancillary manner. In a business they may be expenses (for example, maintenance or security expenses) that must be incurred as a consequence of making a particular purchase.
Fixed indirect costs	• Indirect costs that are fixed for a particular project or activity (i.e. the costs do not increase or decrease as output increases or decreases).

3.2 Acronyms

Table 3-2 outlines the key acronyms used throughout this report.

Table 3-2: Acronyms used in this report

Acronym	Full title
AASB	Australian Accounting Standards Board
ABS	Australian Bureau of Statistics
ACCI	Australian Chamber of Commerce and Industry
AER	Australian Energy Regulator
A-IFRS	Australian equivalents to IFRS
AIRC	Australian Industrial Relations Commission
ASX	Australian Stock Exchange
AWA	Australian Workplace Agreement
COAG	Council of Australian Governments
CPI	Consumer Price Index
CPRS	Carbon Pollution Reduction Scheme
CSR	Corporate Social Responsibility
DCCEE	Department of Climate Change and Energy Efficiency
DEEWR	Department of Education, Employment and Workplace Relations
DRET	Department of Resources, Energy and Tourism
ED	Exposure Draft
EEO	Energy Efficiency Opportunities
EPBC	Environment Protection and Biodiversity Conservation
ETS	Emissions Trading Scheme
FWA	Fair Work Australia
FWO	Fair Work Ombudsman
GDP	Gross Domestic Product
GFC	Global Financial Crisis
HR	Human Resources
IAS	International Accounting Standard
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standards
LNG	Liquefied Natural Gas
MRRT	Minerals Resource Rent Tax
NECF	National Energy Customer Framework

Acronym	Full title
NGERS	National Greenhouse Energy Reporting System
NWS	North West Shelf
OHS	Occupational Health and Safety
OSCAR	Online System for Comprehensive Activity Reporting
PPL	Paid Parental Leave
PRRT	Petroleum Resource Rent Tax
RBA	Reserve Bank of Australia
RET	Renewable Energy Target
RSPT	Resource Super Profits Tax
UNFCCC	United Nations Framework Convention on Climate Change

4 Government costs

This section outlines costs to business that have evolved or originated as a result of government policy, legislation or regulation. It outlines both international exogenous factors (that have an impact on Australian businesses) as well as federal and state government costs.

All factors are outlined along with a brief explanation of the potential impact on business costs. A snapshot of whether the factor has resulted in an increased cost (+) or reduced cost (-) is then provided.

As noted in section 1.3.1, the change of government and also subsequent changes in leaderships has resulted in a significant amount of legislative and policy change at the Federal Government level. Due to the timing of the election and change of government, many of the policies that were being considered early in the Rudd Government's term in office are only being enacted now.

4.1 Federal Government cost imposts

***Commonwealth National Greenhouse and Energy Reporting Act 2007* (NGER Act)**

Details	Potential impact	+/-
• The *National Greenhouse and Energy Reporting Act 2007* is legislation that introduced a single national framework for the reporting and dissemination of information about the greenhouse gas emissions, greenhouse gas projects and energy use and production of businesses[9]. • Objectives of the Act were to underpin the introduction of an emissions trading scheme, inform government policy formulation, help meet Australia's international reporting obligations and avoid duplication of reporting requirements in other jurisdictions. • Businesses above an NGER threshold must report on their greenhouse gas emissions, energy consumption and other information. The first reporting commenced in July 2008. • An exemption was applied to NGERS reporting on the Energy Efficiency Opportunity (EEO) Scheme, however this will expire at June 2012. • All relevant businesses have had to apply for registration with the Greenhouse and Energy Data Officer if they are a constitutional corporation and meet a reporting threshold for greenhouse gases or energy use or production for a reporting (financial) year. Failure to register or report can result in significant penalties. • Some businesses are able to report their emissions using the Online System for Comprehensive Activity Reporting (OSCAR). This aims to reduce duplicative reporting for some businesses, but this is not always the case[10].	• Assessing the impact of the NGERS legislation on the business and determining a strategy for compliance, responding to drafts and preparing a strategy for response. • Cost of preparation of business processes, systems, reporting mechanisms, staff and documentation for NGERS reporting. • Cost associated with preparation of reports that will be able to be verifiable, comparable, complete and accurate and of an auditable standard to comply. • Costs associated with being involved in the consultation and lobbying process throughout the entire process of implementing EEO reporting over several years (including seeking to obtain exemptions). This includes consultations with stakeholders, submission to reviews, and participation in the exposure draft stage, associated lobbying and communications processes. • Implementation of new data collection processes to capture and record information as well present it in the format applicable.	$+

[9] Department of Climate Change and Energy Efficiency (2012) "National Greenhouse and Energy Reporting", *Department website*, retrieved on 3 March 2012 from http://www.climatechange.gov.au/reporting
[10] For example, the OSCAR System does not have interface with any other system meaning that offline analysis is required and numbers have to be manually put into the report to be able to be filed.

Clean Energy Future Package (Clean Energy Act 2011) – Carbon tax		
Details	Potential impact	+/-
• The *Clean Energy Act* 2011 was enacted in 2011 and will come into effect on 1 July 2012. It will involve having a carbon price of $23 being set and rising at 2.5 per cent each year in real terms. • On 1 July 2015, the carbon price will transition to a fully flexible price under and emissions trading scheme, with the price determined by the market. • A carbon price will not apply to household transport fuels, light vehicle business transport and off road fuel use by the agriculture, forestry and fishing industries. • An effective carbon price will be applied to domestic aviation, domestic shipping, rail transport and non-transport use of fuels. • The Clean Energy Future package includes a number of measures, including a Jobs and Competitiveness Program. It also includes a jobs and competitiveness program to provide support for jobs and protect the competitiveness of emissions-intensive, trade-exposed industries. • The *Clean Energy Bill 2011* replaced the former Carbon Pollution Reduction Scheme (CPRS) which was going to be introduced by the Rudd Government in 2010 but which was later shelved. • The CPRS was essentially the Emissions Trading Scheme (ETS) that both the incumbent Howard Government and then Labor Opposition promised to implement during the 2007 Federal Election.	• Costs associated with preparing a business for a potential carbon tax (as this has had several iterations and revisions since 2006). This would have involved attempting to adapt to several different types of legislation and proposed regulations, modelling difference scenarios and impacts on a business. • Costs associated with being involved in the consultation and lobbying process throughout the several iterations of the carbon tax policy and various pieces of legislation. This includes consultations with stakeholders, submission to reviews, participation in the exposure draft stage, associated lobbying and communications processes. • Costs associated with communicating the impact of the changes with employees, customers, shareholders and stakeholders. • Costs of adapting business strategies to respond to the legislation. • Costs of preparing to implement new systems, data collection mechanisms, internal training for staff and compliance obligations – which have changed over several iterations of the policy and legislation. • Costs associated with modelling and anticipating the direct and indirect costs to the business associated with the legislation's implementation. • Cash flow and carrying cost implications once the carbon market commences due to the company purchasing certificates in advance of surrendering them. In the first two years of the program, two transactions will be conducted at the same time (as there is only one place to buy and sell)[11].	$+

[11]Transaction information experience provided by the APA Group via email 27 March 2012.

Model Work Health and Safety Act 2011		
Details	**Potential Impact**	**+/-**
• The *Model Work Health and Safety Act 2011* is a new model national law that attempts to harmonise work health and safety laws. It also includes model codes of practice and a National Compliance and Enforcement Policy. This model law was enacted after a Council of Australian Government (COAG) agreement in 2008. • New national work health and safety laws in New South Wales (NSW), Queensland, the Australian Capital Territory (ACT) and Northern Territory which came into effect on 1 January 2012. • A model *Work Health and Safety Act 2011*, along with new model codes of practice and a National Compliance and Enforcement Policy. • Not all states and territories have enacted their own uniform laws as yet.	• Considerable costs associated with assessing the new laws (and associated regulatory changes) since they were announced four years ago. This includes being involved in the consultation and lobbying process throughout the several iterations of the legislation and changes to various state laws and regulations. This would have also included consultations with stakeholders, submission to reviews, and participation in the exposure draft stage, associated lobbying and communications campaigns. • Potential costs as a result of having to implement and adhere to different laws in different states as a result of some stages (i.e. Victoria and Western Australia) not yet enacting their own uniform laws. • Costs associated with preparing a business for the implementation of the model laws in some states (while also managing the separate occupational health and safety (OHS) policies and procedures enforce by the existing legislation). This would have involved implementing new systems and processes, retraining staff and communicating changes to employees and stakeholders. • Cost of amending workplace OHS policies and procedures to comply with the new legislation (in different states) to prepare for the implementation of the legislation.	$+

National Energy Customer Framework (NECF)

Details	Potential Impact	+/-
• The NECF involves developing a harmonised national consumer protection framework for the retail sale of electricity and gas and a range of related reforms to support the framework. • Its implementation involves the transfer of the current state and territory responsibilities into a single set of national laws, regulations and rules[12]. • The laws enacted as part of the framework include the *National Energy Retail Law (South Australia) Act 2011* (including the National Energy Retail Law) and *the Statues Amendment (National Energy Retail Law) Act 2011.* • A significant number of new regulations and rules have been created as a result of this Framework. New regulations include the National Energy Retail Regulations 2010 and the National Gas (South Australia) Variation Regulations. Around eight new rules are to be made as part of the framework.	• Cost of being involved with the Retail Policy Working Group and the NECF) including preparing for consultations, submissions and bulletins, liaising with the Joint Implementation Group and dealing with potential changes and stakeholders in all states and territories as well as the Federal Government. • Cost of changing systems, processes and business to deal with new regulation and new rules involved to comply in with the new Framework.	$+

Fair Work Act 2009

Details	Potential impact	+/-
• The *Fair Work Act 2009* was introduced by the Rudd Labor Government to replace and dismantle the former government's WorkChoices legislation. • The *Fair Work Act 2009* sets out a number of requirements and obligations for business. This includes legislation around the safety net of minimum employment conditions, enterprise bargaining, unfair dismissal laws, protections for employees and obligations for employers. • The legislation also establishes the Fair Work Ombudsman (FWO) and Fair Work Australia (FWA). • Fair Work Australia's function include the setting and varying of modern awards, minimum wage fixation, dispute resolution, the approval of enterprise agreements and handling claims for unfair dismissal. It is a successor to the Australian Industrial Relations Commission. • New bargaining arrangements under the *Fair Work Act 2009* became operational in 2010 and involved a stronger emphasis on enterprise based bargaining - away from the individual arrangements previously. It also removed individual Australian Workplace Agreements (AWA). • The *Fair Work Act 2009* increased the scope of enterprise agreements under the Act and widened the range of issues unions can bargain for (and strike over).	• Costs associated with repealing workplace agreements or employment contracts instigated with employees under the WorkChoices legislation. • Costs of updating contracts, human resources processes, system and frameworks to adapt to the changed employment contracts and process of enterprise bargaining. • Potentially greater costs as a result of longer enterprise bargaining negotiations and processes with employees.	$+

[12] Department of Resources, Energy and Tourism (2012) "National Energy Customer Framework", *Department website*, retrieved on 20 March 2012 from http://www.mce.gov.au/emr/rpwg/default.html

Paid Parental Leave Scheme (PPL)		
Details	**Potential Impact**	**+/-**
• A PPL scheme was introduced for new parents who are the primary carers of a child born or adopted on or after 1 January 2011. • All eligible persons receive taxable PPL payments at the level of the Federal Minimum Wage (currently $543.78 a week) for a minimum period of 18 weeks. In most cases, the payment is received through the employer. • To be eligible for the PPL scheme, the primary carer must be in paid work and have been engaged continuously for at least 10 of the 13 months prior to the expected birth or adopted child and undertaken at least 330 hours of paid work in the 10-month period. • The PPL covers all employees, including casual workers as well as contractors and the self-employed.	• Costs of additional administration with payments from the Family Assistance Office as employers responsible for making PPL payments to employees (if they have worked for 12 months continual service). • Costs involved in implementing systems that will allow for the scheme to be paid by the employer (i.e. completing necessary paperwork with employees and the relevant Federal Government agency). • Costs associated with preparing for the implementation of the legislation and catering for affected employees. • Potential to increase the length of leave taken by employed women after the birth of a child. • Additional costs associated with employing temporary/casual or other staff during a paid parental leave time and/or training other staff to take on a particular role or increasing duties (and pay). This also has flow on effects to other costs such as training, new systems and processes, costs of hiring new employees and direct salary costs.	$+

Minerals Resource Rent Tax (MRRT)

Details	Potential impact	+/-
• The MRRT will be implemented on 1 July 2012. It is a new tax on profits generated from non-renewable resources in Australia. It was the replacement to the proposed RSPT. • The tax will be levied on 30 per cent of profits from the mining of iron ore and coal and is proposed to be introduced on 1 July 2012. • Under the MRRT, the Federal Government will tax mining profits and allow miners to carry forward and uplift losses for later years. As it taxes profits from minerals that are commonly subject to state and territory royalties, it also provides a credit for royalties paid. • An eligible company will have to pay the tax when its annual profits reach $75 million. Around 320 companies will be potentially affected by the change. • The MRRT allowance is proposed to be set at the long-term government bond rate plus seven per cent (700 basis points). Projects will be eligible for a 25 per cent extraction allowance, which reduces the effective statutory tax rate to 22.5 per cent. State royalties will be deductible for MRRT purposes and MRRT payments will be deductible for company income tax purposes. • As part of the MRRT legislation, all businesses will receive a one per cent reduction in the company tax rate from 30 per cent to 29 per cent. This will apply to smaller businesses from 1 July 2012 and larger businesses from 1 July 2013.	• Costs to companies as a result of having to change financial reporting to comply with the legislation as well as the implementation of new end-to-end processes to capture the data required to calculate the MRRT. • Costs associated involved in being involved in the consultative processes during the various iterations of the policy and legislation, including lobbying, participation in exposure drafts, presenting submissions to parliamentary reviews. • Costs associated with communicating the impact of the new tax to shareholders, stakeholders and customers. • Costs associated with the provision of technical accounting and other advice to prepare for compliance requirements with the MRRT and other detailed modelling and scenario planning to assess the impact on the business. • Costs associated with preparing for additional reporting and compliance, including: - updating compliance processes and existing information capture and reporting processes; - considering tax accounting implications and implications any upcoming deals or transactions.; and - reviewing accounting and tax management procedures for implementation.	$+

Petroleum Resource Rent Tax (PRRT)		
Details	Potential impact	+/-
• In August 2011, the Federal Government released for comment Exposure Draft (ED) legislation for the extension of the PRRT to Australia's onshore oil and gas industries and the North West Shelf (NWS) Project. • The extended PRRT will be applicable from 1 July 2012. • The ED sets out the proposed amendments to the *Petroleum Resource Rent Tax Assessment Act 1987* (PRRTAA) required to extend the scope of the regime to the affected projects and petroleum commodities. The draft legislation also includes 'starting base' provisions aimed at providing transitional relief to the holders of interests in transitioning projects in recognition of past investment. • The PRRT regime has already been applied to the offshore oil and gas sector broadly since 1 July 1986. PRRT is imposed at a rate of 40 per cent on an entity's profits from a petroleum project. • As of 1 July 2012, the PRRT will apply to all Australian petroleum projects which produce petroleum and marketable petroleum commodities such as stabilised crude oil, sales gas, condensate, liquefied petroleum gas, ethane and shale oil.	• Costs to companies as a result of having to change financial reporting to comply with the legislation as well as the implementation of new end-to-end processes to capture the data required to calculate the PRRT. • Costs associated involved in being involved in the consultative processes during the various iterations of the policy and legislation, including lobbying, participation in exposure drafts, presenting submissions to parliamentary reviews. • Costs associated with communicating the impact of the new tax to shareholders, stakeholders and customers. • Costs associated with the provision of technical accounting and other advice to prepare for compliance requirements with the PRRT and other detailed modelling and scenario planning to assess the impact on the business. • Cost of increased compliance associated with the new tax including: - updating PRRT models; - updating compliance processes and existing information capture and reporting processes; - tax accounting implications and implications any upcoming deals or transactions; - new system to identify and record eligible interim expenditure incurred prior to 1 July 2012; - cost of reviewing accounting and tax management procedures for implementation; and - cost of the provision of technical accounting advice.	$+

Renewable Energy Target (RET)

Details	Potential Impact	+/-
• The Federal Government introduced the RET which is designed to deliver on the Government's commitment to ensure 20 per cent of Australia's electricity supply would come from renewable sources by 2020. It replaced the Mandatory Renewable Energy Target (MRET) introduced in 2001. • In June 2010, additional legislation was passed to separate the RET into two parts – the Large-scale Renewable Energy Target (LRET) and the Small-scale Renewable Energy Scheme (SRES). • The Office of the Renewable Energy Regulator oversees the implementation of the RET scheme. • The Clean Energy Finance Corporation enables the Australian Government to finance the private sector for renewable clean technology projects.	• Costs associated involved in being involved in the consultative processes during the various iterations of the policy and legislation, including lobbying, participation in exposure drafts, presenting submissions to parliamentary reviews. • Costs associated with reviewing strategies and business plans to ensure the business is equipped to meet its obligations under RET.	$+

National Pollutant Inventory (NPI)

Details	Potential impact	+/-
• Provides the community, industry and government with free information about substance emissions in Australia. • The National Environment Protection (National Pollutant Inventory) Measure (NPI NEPM) sets out agreed national objectives for protecting and managing aspects of the environment. • It has emission estimates for 93 toxic substances and the source and location of these.	• Cost of undertaking risk assessments to assess the impact of current and future developments and NPI reporting and compliance requirements. • Costs of considering and changing (if necessary) business processes, systems, investments and projects and well as considering changes in suppliers or materials used in production. • Costs associated with complying with the regulations, including data collecting, analysis and reporting to government.	$+

4.2 International legislative cost imposts

This section outlines some changes to international legislation or regulations that have been adopted in Australia or have flow on effects to Australian businesses.

International Financial Reporting Standards conversion

Details	Potential Impact	+/-
• IFRS are principles-based standards interpretations and the framework adopted by the International Accounting Standards Board (IASB). They are a single set of high quality, global accounting and financial reporting standards. • Most developed countries have converted to IFRS since 2006[13]. Some countries such as Canada and South Korea recently converted.	• The cost impact of IFRS implementation on the extractive activities sector has the potential to include costs related to: - Time spent reassessing financial reporting approaches. - The cost of conversion management processes. - Amendments to internal policies and procedures. - Changing the structure of group reporting. - Additional stakeholder engagement and corporate governance requirements - Changes to accounting and reporting systems and processes, people and the business (and auditing the change). - Considering the impact of the IFRS transition on the regulatory aspect of operations which can vary depending on state, federal, international, product, reporting and competitive requirements. - Amendments to financial reporting templates and revision and/or design and implementation of new templates for data gathering. - Changes to current system functionality, suitability, related new information technology system needs and period-end close contingency plans. - Process changes and training for employees (i.e. on IFRS technical topis, changes in processes and controls). - Revision of performance. - Impact on general business issues such as contractual	$+

[13] Australian Government (2009) *IFRS Adoption in Australia*, Australian Accounting Standards Board, September 2009

International Financial Reporting Standards conversion		
	- terms, treasury practices and risk management practices. - Increased burden and costs associated with capturing, analysing data to comply with requirements.	

Extractive Industries Transparency Initiative		
Details	Potential impact	+/-
• The US Government endorsed an industry-changing regulatory reform by signing the Dodd-Frank Wall Street Reform and *Consumer Protection Act*. • An aspect of this reform required companies in the oil, gas and mining industries that are publicly listed to report to the United States Securities and Exchange Commission (in their annual filings) payments they have made to governments.	• Additional compliance and reporting costs for companies in the oil, gas and mining sector that must report to the US SEC.	$+

International Accounting Standards Board (IASB) *Extractive Industries* Discussion paper		
Details	Potential impact	+/-
• The IASB issued a discussion paper *Extractive Industries* in April 2010. It outlined a revised framework for accounting for extractive activities. The objective of the discussion paper and research was to analyse the unique financial reporting issues applicable to extractive activities and to identify a basis on which a financial reporting model might be addressed[14]. • The IASB is currently in the process of considering responses to its Agenda Consultation and has the process.	• Could have future impacts on the type of future accounting for oil and gas operations under IFRS. • Potential flow on effects as a result of costs and changes to business customers (i.e. in the mining sector or gas users) which then affects demand and consumption for a product or services.	$+

[14] KPMG International (2011) *Impact of IFRS: Oil and Gas*, Thought Leadership material

Dodd Frank Wall Street Reform and Consumer Protection Act (United States)		
Details	**Potential impact**	**+/-**
• The US Government endorsed an industry-changing regulatory reform by signing the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. An aspect of this reform required companies in the oil, gas and mining industries that are publicly listed to report to the SEC (in their annual filings) payments they have made to governments. • This has no immediate or direct impact on Australian listed companies unless they report to the SEC as foreign registrants or are subsidiaries of US registrants.	• Additional costs of compliance and reporting for companies that engage in the commercial development of oil, natural gas or minerals will have to include in their annual report they file with the SEC (and on their website) additional information including the type and total amount of payments made to each government for the purpose of commercial development of oil, natural gas and minerals.	$+

International Financial Reporting Standards 11 Joint Arrangements		
Details	**Potential impact**	**+/-**
• IFRS 11 Joint Arrangements was issues to replace International Accounting Standard (IAS) 21 *Interests in Joint Ventures*. As well as changes to terminology, the new accounting standard brings some potentially significant accounting changes. • Changes to the accounting for joint arrangements (joint ventures) could affect key performance measures and ratios for companies[15]. • The changes will come into effect on 1 January 2013. • The changes may mean a potentially significant effect on the presentation of key line items in the financial statements and on important performance measures.	• Costs related to communication of changes in financial reporting to investors and other stakeholders. • May require analysis of the details of the legal and contractual arrangements as well as the substance of the arrangements which would be particularly time consuming. • The most time-consuming part of planning for transition will involve reviewing arrangements to determine the classification for accounting purposes. This will involve judgement and the consideration of more factors than under current requirements. • Cost of communications with lenders, shareholders, analysts, employees and other stakeholders. • Consolidation systems may need to be updated to reflect the new accounting cost. • Accountings systems may need to be updated for changes in approach.	$+

[15] KPMG International (2012) "Changes to Joint Venture Accounting", *Impact on Mining Companies*, Thought Leadership material, February 2012

5 Macroeconomic factors and other external factors

This section outlines some of the changes in costs that have affected businesses as a result of market-related forces. It also outlines the costs of other external factors such as changing consumer or societal preferences and demands.

The Global Financial Crisis (GFC)

Details	Potential impact	+/-
• Considered by many economists as to be the worst financial crisis since the Great Depression, the GFC resulted in the collapse of large financial institutions, the bailout of banks by national governments and downturns in stock markets around the world. • The GFC has had significant flow-on effects for the Australian economy including a slowdown in growth (and consequentially consumer demand). Growth in the economy slowed to around half a per cent and correspondingly the unemployment rate rose nearly two percentage points to around 5.75 per cent by November 2009[16]. • The GFC also wiped considerable value from the stock of many publicly listed companies. Between 2007 and 2009, the Australian stock market declined by 54 per cent. This was one of the largest declines on record[17]. • The GFC also made it increasingly difficult for businesses to ascertain appropriate credit to fund expansionary projects[18]. For many businesses borrowing costs have increased and access to credit has reduced. Annual growth in business credit has slowed from 14.5 per cent before the GFC to negative 2.2. per cent in 2011[19].	• The conditions of the GFC have made it increasingly difficult for businesses to access funds (i.e. from shareholders) and credit to keep the business operational and also to fund expansionary projects. This results in considerable time and costs spent in seeking to access credit (which may need to now be further ashore than Australia) as well as time spent negotiating debt refinancing for existing credit. Additional time and costs may also be spent dealing and negotiating with lenders and meeting associated compliance requirements. This is likely to be a considerable cost for the Treasury division of APA. • As the GFC has also resulted in increased national and international regulation around financial markets and reporting. This has increased costs in relation to compliance to regulations and also changed business processing and reporting. • The onset of the GFC and its sudden occurrence (and consequential downturn in demand and consumption) would also have required businesses to adapt their business plans and strategies to meet changing circumstances. This would have involved an investment in time and resources in changing businesses processes and strategies.	$+

[16] ABS (2009) "The Global Financial Crisis and its Impact on Australia", 1301.0 - *Year Book Australia*, 2009–10
[17] Reserve Bank of Australia (2009) *Some effects of the Global Financial Crisis on Australian Financial Markets*, 31 March 2009
[18] Treasurer of Australia (2011) "The 2011 Budget and a Tale of Two Booms", *Address to the Queensland Media Club*, 20 April 2011
[19] Ibid.

Oil prices		
Details	**Potential impact**	**+/-**
• Since the beginning of 2011, the price for a barrel of oil has remained over US$100 a barrel. Although it has still not reached its 2008 peak. Appendix A.1.2 outlines the base price oil over the past eight years. • The oil price is one of the most influential long-term factors on the world economy and businesses with the price of oil affecting many facets of production. • Political unrest in the Middle East and other factors caused the price of oil to increase over the last year.	• Indirect impact on the Consumer Price Index (CPI). • Increased costs of transportation (particularly airline and road freight) with flow on affects to the costs of all supplies. • Increased costs of managing an internal fleet of vehicles and potentially re-negotiating contracts for more efficient fleet management. • Additional cost associated with modelling the impact of higher transportation costs on the business and planning and adjusting business strategies to account for oil price impacts (and its associated impact on customer demand).	$+

Labour market constraints		
Details	**Potential impact**	**+/-**
• Australia's 'two speed economy' is leading to unemployment in some areas and sectors (i.e. manufacturing) yet significant skills shortages in other sectors (i.e. skilled labour in the mining industry). • As an example, there is forecast to be a shortage of 36,000 skilled tradespeople on major resource projects by 2015. • As a result of skills shortages, there has been a forecast growth in wages over the last two years, particularly in sectors where labour is in high demand. Federal Government Budget Papers forecast annual wage growth of four per cent in the 2011-12 financial year, rising to 4.25 per cent in the 12 months to July 2013 (compared with a forecast inflation rate of three per cent). Appendix A.1.2 shows wage price index growth since 2000 for both the public and private sector. • In the quarter leading up to December 2011, the Wage Price Index increased to 3.7 per cent[20]. • In 2011, employers filled 62 per cent of their vacancies and attracted 1.7 suitable applicants per vacancy[21]. • In 2011, recruitment was most difficult in Western Australia, the Northern Territory and the Australian Capital Territory (ACT).	• Costs associated with assessing the impact of a skills shortage on current and future projects and expansionary plans and adjusting business plans and strategy accordingly. • Costs associated with having to upskill or retrain existing staff to deal with the skills shortage. • Higher costs associated with higher wages and salaries for employees to attract them to work in the business and retain existing staff. • Costs associated with recruiting and hiring employees to fill labour shortages. • Costs associated with delaying projects as a result of a lack of skilled employees (or hiring temporary staff).	$+

[20] ABS (2012) *Labour Price Index*, Australia, December 2011, Cat 6345.0
[21] Department of Education, Employment and Workplace Relations (2012) *Skills Shortages – Summary* 2011

Interest rates

Details	Potential impact	+/-
• The official cash rate as at March 2012 is 4.25 per cent. • The cash rate peaked at a high of 7.25 per cent in March 2008 and a low of three per cent in April 2009[22]. • As demonstrated in the chart in Appendix A.1.3, the cash rate has been trending upwards at between 4-5 per cent since the beginning of 2010. • As the chart in Appendix 1 highlights, in comparison to other advanced economies, the cash rate is relatively high. In New Zealand, the United Kingdom, Canada and Sweden the cash rate is between 2-3 per cent.	• Increases in direct costs of business debt used for the business (capital, infrastructure). • Indirect costs as a result of increased costs passed on from suppliers and service providers for goods and services. • Positive aspect of helping to slow growth and then CPI increases. • Increases on commercial property mortgage rates or rental costs.	$+

Utility service prices

Details	Potential impact	+/-
• Utilities service[23] prices have been one of the fastest growing sub-groups of the CPI, with further large increases over the coming years[24]. • The prices of utilities have increased strongly in recent years with the pace of inflation reaching 15 per cent to the year June 2010. This followed subdued price rises during most of the 1990s. As utilities have an effective weight of more than four per cent in the CPI, the recent pick-up in utilities price inflation has had a significant impact on aggregate inflation[25]. • All capital cities in Australia have recorded strong increases in utilities prices over the past decade, with the largest increases in east coast capital cities.	• Cost of assessing and modelling the impact of changing (and increasing) utility prices on the business as well as the strategy and future projects and investments. This may include developing a strategy to determine changes to volume forecasts for changes in utility prices.	$+

[22] Reserve Bank of Australia (2012) Cash Rate Target, retrieved 9 March 2012 from http://www.rba.gov.au/statistics/cash-rate.html
[23] In CPI calculations, inflation comprises electricity, gas and other household fuels, water and sewerage.
[24] Plumb, M. & Davis, K. (2010) "Developments in Utilities Prices", *Bulletin December Quarter 2010*, Reserve Bank of Australia
[25] Ibid.

6 Changing consumer and societal expectations

This section outlines some of the cost imposts that have resulted from changing consumer preferences or demands as well as societal expectations.

Corporate social responsibility (CSR)

Details	Potential impact	+/-
• As a result of changing government policy and legislation (i.e. WorkCover legislation), as well as changing employee demands and preferences, information about workplace productivity and demands of consumers and company stakeholders, businesses are increasingly expected to act as a good corporate citizens and apply principles of CSR. • CSR is a form of corporate self-regulation integrated into a business model, with CSR functions acting as a self-regulating mechanism for a business to monitor and ensure active compliance with the law, ethical standards or international norms. • The goal of CSR is to embrace responsibility for a company's actions and encourage positive impact through its activities on the environment, consumers, employees, communities, stakeholders and other members of the public considered stakeholders. • Some examples of CSR could include company health and wellbeing programs for employees and their families, policies or procedures to reduce a company's environmental footprint (over and above what may be required by law), sponsorship and involvement with community groups and the not-for-profit sector (i.e. employee volunteering or workplace giving).	• Increases in direct costs of corporate social responsibility programs and compliance. • Is a cost to business in terms of time and some cash and other in-kind donations, but now considered necessary as part of a human resources and employee attraction program. • Increased costs as a result of additional sustainability reporting (to meet both external expectations or government regulations) as well as internal or annual reporting measures. • Costs associated with administering employee programs (such as work health programs) as well as employee giving or volunteering schemes.	$+

Technological changes

Details	Potential impact	+/-
• Rapid technological changes have revolutionised the way companies conduct business, but have also required continual upgrades in technology hardware, software and support to keep pace with both competitors and the demands of consumers.	• Direct costs of additional investment in technological infrastructure and supplies as well as appropriate support (i.e. broadband, technical support). • Costs as a result of time spent negotiating contracts with suppliers and service providers for technological infrastructure and support. • Productivity and gains to be expected from improved access to technology.	$+

Environmental and heritage protection concerns		
Details	Potential impact	+/-
• Societal changes and a greater focus on preserving the natural environment and protecting heritage coupled with increased legislative requirements to protect and conserve natural heritage have increased regulation and requirements for businesses that have an impact on the environment. • In Australia, the *Environmental Protection and Biodiversity Conservation Act 1999 (*EPBC Act) is the central piece of environmental legislation providing a legal framework to manage nationally and internationally important flora, fauna, ecological communities and heritages places or 'matters of natural environmental significance'[26]. • In August 2011, the Federal Minister for Sustainability, Environment, Water, Population and Communities announced a process of reform to the *EPBC Act* as part of a broad package of reforms for Australia's national environment law. These reforms are currently being consulted on. • In addition to the *EPBC Act*, the states and territories also have laws and regulations designed to help protect or restore the natural environment. This often results in overlap and duplication in complying with both state and federal legislation.	• Costs associated with being engaged in the consultation process for reform of the existing *EPBC Act*, including meetings, consultations, lobbying, preparing submissions for the federal review and participating in exposure drafts. • Costs associated with complying and managing adherence with duplicate sets of Federal and multiple state government laws (as sometimes also local council regulations). • Costs associated with managing all major projects to include an environmental assessment (to be undertaken internally or outsourced). • Costs as a result of projects being delayed due to environmental assessments determined by various levels of government. • Time and cost associated with waiting for approval from multiple parties and levels of government to commence projects. • Time and cost associated with consulting and communicating with local communities and stakeholders about the implications of any project which may impact on the natural environment.	$+

[26] Department of Sustainability, Environment, Water, Population and Communities (2012) "Environment Protection and Biodiversity Conservation Act", *Department website*, retrieved on 20 March from http://www.environment.gov.au/epbc/index.html

7 Impact of costs on the APA Group

This section of the report includes the findings of the second phase of this study, which involves explaining and detailing the impact of three major exogenous factors to the APA Group's corporate costs. These three factors were identified following the first phase of this study. They were determined by both KPMG and the APA Group as the factors having the greatest impact on the APA Group. The three identified for further discussion and detail are:

- **Climate change related legislation and regulation** - Including the *Clean Energy Bill 2011*, National Greenhouse and Energy Reporting and the Renewable Energy Target (and associated initiatives and programs). There are also various other state and federal government laws and regulations.
- Changes to **International Reporting Financial Standards**.
- **Employment legislation related changes**– including WorkChoices, the *Fair Work Act 2009* and reforms to create a nationally consistent occupational health and safety regime (i.e. the *Model Work Health and Safety Act 2011*).

These factors are discussed in further details in the sections below.

7.1 Climate change related regulation

7.1.1 Overview

As a result of an increase in societal and governmental awareness of environmental concerns and issues (for example, climate change) and a shift towards a greater desire to protect and conserve the natural environment and heritage, there has been a corresponding increase in the amount of environment related legislation and regulation. This is at all levels of government –from international treaties and agreements, federal government legislation and state and local government policies and regulations.

Changes in federal and state governments in Australia have also changed the course and nature of new environmental legislation and regulation and correspondingly the rules in which businesses have to abide by and comply with. Perhaps the most pervasive and consistently changing of these reforms has been the implementation of a carbon tax (the *Clean Energy Bill 2011*). This legislation is designed to encourage businesses to:

- use or generate renewable energy;
- reduce energy consumption;
- implement technologies that will improve energy efficiency; and
- invest in renewable energy such as solar and wind[27].

Carbon tax

The move towards a 'carbon tax' or 'emissions trading scheme' began in December 2006 when the former Howard Liberal Government announced the formation of a Prime Ministerial Task Group on Emissions Trading. In the lead up to the 2007 Federal Election, the Howard Government announced a new Carbon Trading Scheme which would be introduced in 2012. During the year, the Labor Government also announced its proposed cap-and-trade system of emissions trading for greenhouse gases – the CPRS to be introduced to in 2010. Having then won the 2007 Federal Election, the new Rudd Government then commissioned a Green Paper for discussion and comment, with the Federal Treasury

[27] Department of Climate Change and Energy Efficiency (2012) "Clean Energy legislation: the way ahead", *Department website*, retrieved March 2012 from http://www.climatechange.gov.au/en/government/clean-energy-future.aspx

modelling its financial and economic impacts. A final White Paper was then released in December 2008 and the Government announced new legislation would take effect in July 2010. This legislation however, failed to gain adequate support and was twice rejected in the Parliament. It was later deferred by the Rudd Government in 2010[28].

Following the defeat of leader Kevin Rudd and rise of Julia Gillard to the leadership of the Labor Party a Federal Election was called. During the 2010 election, Julia Gillard announced the supported pricing carbon[29], but then later stated that there would be "no carbon tax under the government I lead[30]". Following the hung parliament result and the need to secure the support of the Greens to form government, Julia Gillard formed a cross-party parliamentary committee to determine policy on climate change. This committee agreed on the introduction of a fixed-price carbon tax commencing 1 July 2012, transitioning to a cap and trade emissions trading scheme on 1 July 2015. In February 2011, the Government proposed the *Clean Energy Bill 2011* which was passed by both houses of Parliament by November 2011[31]. At this stage, the Federal Opposition (Coalition) has vowed to overturn the legislation if it is elected at the next Federal Election[32] expected to be held before the end of 2013.

National Greenhouse and Energy Reporting Act 2007

Amid preparing for the implementation of a carbon tax (in various forms), businesses have also had to meet regulations and comply with the reporting required under the *NGER Act 2007*. This legislation introduced a single, national framework for the reporting and dissemination of information about businesses' greenhouse gas emissions, greenhouse gas projects and energy use and production[33].

This legislation was designed to underpin the introduction of an emissions trading scheme, inform government policy formulation and help meet Australia's international reporting obligations and avoid the duplication of reporting requirements in other jurisdictions. Businesses above the NGER reporting threshold have to report on their greenhouse gas emissions, energy consumption and other information. The first reporting phase commenced in July 2008. Gas and electricity and distribution assets were exempt from NGERS reporting for four years, however this will be removed as at 1 July 2012. Failure to report adequately (i.e. to an auditable standard) can result in a significant penalty.

The Renewable Energy Target (RET)

This RET is designed to deliver on the Government's commitment to ensure 20 per cent of Australia's electricity supply would come from renewable sources by 2020. The RET replaced the MRET introduced in 2001. In July 2010, additional legislation was passed to separate the RET into two parts – the large scale Renewable Energy Target (L.RET) and the Small-scale Renewable Energy Scheme (SRES).

The Federal Government's *Clean Energy Act 2011* and associated Clean Energy Future package includes the Energy Efficiency Opportunities Program. This program encourages large energy-using businesses to improve their energy efficiency. It does this by requiring businesses to identify, evaluate and report publicly on cost effective energy savings opportunities[34]. At present, options papers are being developed for extensions to Greenfields and electricity and natural gas transmission and distribution

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[28] Australian Government (2010) "Carbon Pollution Reduction Scheme", *Media Release*, Australian Government Department of Climate of Change and Energy, 5 May 2010
[29] Sydney Morning Herald (2010) "Gillard cautious on climate change", *Sydney Morning Herald*, 24 June 2010
[30] Sydney Morning Herald (2010) "Gillard rules out imposing carbon tax", *Sydney Morning Herald*, 17 August 2010
[31] Johnston, M. (2011) "Carbon tax bills pass lower house of federal Parliament", *Herald Sun*, 12 October 2011
[32] Sydney Morning Herald (2011) "Opposition vows to repeal carbon tax", *Sydney Morning Herald*, 2 October 2011.
[33] Department of Climate Change and Energy Efficiency (2012) "National Greenhouse and Energy Reporting", *Department website*, retrieved on 3 March 2012 from http://www.climatechange.gov.au/reporting
[34] Department of Resources, Energy and Tourism (2012) "Energy Efficiency Opportunities", retrieved in March 2012 from http://www.ret.gov.au/energy/efficiency/eeo/pages/default.aspx

networks. There is a consultation process with the Government currently being undertaken on these options papers.

Other jurisdictions' legislation

In addition to federal government legislation and regulation in this area, national businesses also have to deal with specific legislation in each state. In relation to climate change legislation over and above the *Clean Energy Act 2011*, there is also:

- the *Climate Change and Greenhouse Emissions Reduction Act 2007 (South Australia)*;
- the *Electricity (Greenhouse Gas Emissions) Act 2004 (Australian Capital Territory);*
- the *Climate Change Act 2010 (Victoria).*

Australia is also signatory to a number of international treaties and agreements on climate change. These include:

- the *Kyoto Protocol* (an international and legally binding agreement that commits industrialised countries to reduce or limit their greenhouse gas emissions);
- United Nations climate change negotiation;
- The *United National Framework Convention on Climate Change* (whereby the Australian Government has committed to reduce Australia's emissions by five to 15 per cent below 2000 levels by 2020); and
- The *International Forest Carbon Initiative* (to help reduce emissions from deforestation in developing countries).

7.1.2 Impact on the APA Group

As a large, national business in the energy and infrastructure sector, all facets of the company's operations are impacted by the need to comply with various environmental and climate change related laws and regulations. While many of these laws will undoubtedly have an impact on the nature of the business (i.e. they will affect future demand and supply for services and production), simply complying, adhering and preparing for these changes have had a considerable impact on corporate costs for the business as well. Below outlines some of the costs of preparing for and adhering to changes in environment related legislation and policy.

National Greenhouse and Energy Reporting Act (NGERS)

In the lead up to the implementation of this legislation, the APA Group was involved in the following:

Participation in legislative process

- Extensive reviewing and critiquing of the draft *NGERS Act*, including assessing what it impact would be on the APA Group if the Act were to be implemented. This was undertaken by employees and lawyers in the organisation and was shared with senior management and the Board.
- Participation in consultation with the Federal Government department on the draft legislation and its implications for the APA Group and the broader industry.
- Reviewing of the final draft legislation (by employees and legal representatives for the business).
- Determination of asset boundaries and operational control under the draft legislation.

Planning

- Planning and preparation to collect the required NGERS data and then reporting on it to comply with the reporting requirements. This included:
  - discussions and preparation with asset managers;
  - development of new and appropriate data collection systems;
  - review of data collected;
  - sign-off on data by the APA Group's General Manager, Group Manager and CEO (requiring their time to review, discuss and amend all data collated); and
  - time spent preparing to update the Board on the reporting as well as time spent by the Board reviewing the reporting and its implications.

Implementation

- Numerous and extensive discussions and briefings with the Department of Climate Change and Energy Efficiency (DCCEE).
- Involvement in the internal audits undertaken by DDCEE.

Reviews

- Involvement in the review of the NGERS determination calculations, which included:
  - discussion within the APA Group regarding the appropriate calculation determinations;
  - involvement in discussions and determinations with industry bodies on NGERS calculation methods; and
  - involvement with the industry body which hired an external consultant to complete a calculation method review (which cost $70,000).

Internal resources

- Significant internal resources were committed to the implementation of NGERS reporting throughout the whole stage of the planning and implementation process of the legislation (as well as the review of calculations). This cost of labour resulted from the hiring of new employees to deal specifically with the implications of the Act, as well as the cost of diverting existing employees to tasks associated with the NGERS – and not other productive work. This included:
  - 10 employees spending at least 10 per cent of their time each year since 2007;
  - senior management time involved in all aspects of the Act; and
  - time of the Board being involved in briefings and reviews.

External consultants/contractors

- External consultant to the businesses were drawn on to provide specific advice for the implementation of the NGERS Act. This included:
  - external contractor hired to implement an IT project for the NGERS reporting (at a cost of $50,000);
  - external consultant (hired by industry body) to complete an NGERS calculation review; and
  - time of lawyers involved in the reviewing of the legislation and its implications.

New technology or infrastructure investments

- To comply with the law and collect relevant data and reporting, the APA Group had to invest in the design and implementation of an IT system to automate the data collection at a cost of $350,000.

Clean Energy Act 2011

Participation in legislative process

- Extensive reviewing and critiquing of the initial draft CPRS legislation as well as participation in consultation with stakeholders the DCCEE. Legal review (involving in-house lawyers and consultants) of all contracts and Access Arrangements with respect to carbon liability and ability to pass-through carbon-related costs.
- Extensive reviewing and critiquing of the initial draft *Clean Energy Bill* as well as participation in consultations with stakeholders and the DCCEE.
- Commitment of time of employees and senior management in the Clean Energy Reference Group.
- Extensive reviewing and critiquing of the finalised regulations. Legal review of all contracts (by both in-house lawyers and contractors) to assess all contracts and Access Arrangements with respect to carbon liability to pass-through carbon related costs.
- Numerous presentations on the implications of the Act to the senior leadership team and the Board.

Planning

- Preparation and collation of data and assessment of the financial impact of the Act and budgetary process. Legal review of all contracts (by both in-house lawyers and contractors) to assess all contracts and Access Arrangements with respect to carbon liability to pass-through carbon related costs.

Internal resources

- Significant internal resources were committed to the planning for a carbon tax and the eventual *Clean Energy Act 2011*. This cost of labour resulted from the hiring of new employees to deal specifically with the implications of the Act, as well as the cost of diverting existing employees to tasks associated with its future implementation – and not other productive work. This included:
  - one employee spending at least 33 per cent of their time per annum (over at least five years);
  - five employees spending at least 10 per cent of their time per annum (over the last five years);
  - significant senior management and Board time being involved in the preparation stage, including revising business plans and corporate strategies; and
  - senior management time involved in all aspects of the Act.

External consultants/contractors

- External consultants to the businesses were drawn on to provide specific advice for the implementation of the *Clean Energy Act 2011* (and previous iterations of the legislation): This included:
  - an external contractor employed to run the implementation of a new IT project for the Act costing $75,000; and
  - costs of external legal advice and fees to advise on contract negotiations for carbon pass through clauses.

New technology or infrastructure investments

- The APA Group had to be involved in the design and implementation of an IT system to apportion pass-through costs onto customer invoices, forecast carbon liability and pass through and manage the procurement and surrender of permits. This cost around $550,000.

Cash flow

- Cash flow and carrying cost implications are incurred once the carbon trading 'market' commences as the company may need to purchase certificates in advance of surrendering them. In the first two years of the scheme, the two transactions (to buy and to sell) will be considered at the same time as there is only one place to buy and sell.

Energy Efficiency Opportunities (EEO)

- The APA Group has been involved in the review of the draft EEO legislation and participation in consultation.
- To comply with the EEO which will come into effect on 1 July 2012, the APA Group has also had to undertake assessment planning and assessment reporting.
- The APA Group has also used external consultations (at a significant direct cost) to implement additional work.

7.2 International Financial Reporting Standards changes

7.2.1 Overview

The International Financial Reporting Standards are principles-based standards interpretations and the framework adopted by the International Accounting Standards Board (IASB). They are a single set of high quality, global accounting and financial reporting standards. They establish broad rules as well as specific treatments. They comprise:

- International Financial Reporting Standards (IFRS) – standards issued after 2001;
- International Accounting Standards (IAS) – standards issued before 2001;
- Standing interpretations Committee (SIC) – issued before 2001; and
- Conceptual framework for financial reporting – 2010.

Most developed countries have converted to IFRS. They are currently used in the European Union, India, Hong Kong, Australia, Malaysia, Pakistan, Russia, South Africa, Singapore and Turkey. As at August 2008, more than 113 countries around the world, including all of Europe, require or permit IFRS reporting and 85 require IFRS reporting for all domestic, listed companies according to the US Securities and Exchange Commission[35].

As a result of the GFC a number of enhancements or changes have occurred to IFRS as well as debate around whether the use of IFRS fair value accounting model contributed to the global credit crisis or exacerbated it. This signals that there is likely to be considerable change and reforms to IFRS in the future.

[35] International Accounting Standards Board (IASB) "Work Plan" *website*, retrieved March 2012 from http://www.iasb.org/Current+Projects/IASB+Projects/IASB+Work+Plan.htm

7.2.2 Australian implementation

Australia, as well as Europe, was one of the early adopters of IFRS for domestic purposes in the developed world. The Australian Accounting Standards Board (AASB) issued 'Australian equivalents to IFRS' (A-IFRS). Australian equivalents to SICs have also been issued along with a number of 'domestic' standards and interpretations. These standards replaced previous Australian accounting principles with effect from annual reporting periods beginning on or after 1 January 2005 (30 June 2006 was the first report prepared under IFRS-equivalent standards for June year-ends).

Reporting entities, which include all companies listed on the ASX were required to adopt IFRS complement. Other non-listed reporting entities also adopted IFRS (where there was a need to provide high quality financial information); this included large private companies and a number of large not-for-profit entities.

7.2.3 Cost of IFRS implementation

A major motivation for the implementation of IFRS in Australia was the "belief it would be a significant step to improve financial reporting[36]" and would help enhance Australian companies' access to global capital, reduce borrowing costs and bring simplification to global groups that had different accounting platforms. It is also generally accepted that IFRS is beneficial to investors and reduces the cost of comparing alternative investments and increases the quality of information[37].

Perhaps the greatest drawback of IFRS, however, has been the cost of both its implementation and the ongoing increased cost of preparing financial information[38]. Ball (2006) views the implementation of IFRS with some scepticism, particularly given its overall cost of implementation and the fact that regional differences in accounting can still become obscured behind a label[39]. Diehl (2010) also argues that "auditor charged fees could also increase because of the move to IFRS[40]". Others have argued that for small businesses, without the knowledge and software that IFRS requires the possibility of significant increases in cost have the potential to wipe out an entity entirely.

The Institute of Chartered Accountants for England and Wales conducted a survey of companies to determine the costs of implementing IFRS in these countries. It found that the cost of reporting for the first time under IFRS was 0.31 per cent of revenue for those with smaller companies (i.e. less than approximately $630 million) and 0.05 per cent of revenue for large companies with more than $630 million in revenue. The cost of reporting in subsequent years under IFRS was 0.06 per cent of revenue for smaller companies and 0.01 per cent of revenue for larger companies[41]. These costs did also not include the ongoing costs of increased audit, tax and other auditor charged fees[42]. The SEC in the United States estimated in 2008, US companies would spend between 0.125 per cent and 0.13 per cent of their revenue on making the transition to IFRS standards in their first year of filing. The SEC predicted that those companies would each incur about US $32 million in additional costs when the filed their first IFRS reports in 2010[43]. Other general criticisms of IFRS in a local context include the fact that the standards are not well understood, and that the reporting for financial instruments are too complex and the principles inconsistent.

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[36] Grant Thornton (2009) "IFRS Survey: Four years on, where to from here?" Grant Thornton, June 2009
[37] Ball, R. (2006) *International Financial Reporting Standards: Pros and cons for investors*, Accounting and Business Research, 2006
[38] Ibid.
[39] Ibid.
[40] Diehl, K. (2010) "The real cost of IFRS: The Relationship between IFRS Implementation and Audit, Tax and Other Auditor Fees", *International Research Journal of Finance and Economics*, Issue 37, 2010
[41] Institute of Chartered Accountants England and Wales (2007)
[42] Op. cit., Diehl (2010)
[43] Johnson, S. & Leone, M. (2008) "SEC: Early IFRS Adoption will cost firms $32 million", *CFO*, retrieved March 2012 from http://www.cfo.com/article.cfm/12625195

7.2.4 Impact on the APA Group

Along with other Australian businesses, the APA Group had to adapt to the change in financial reporting after 1 January 2005, with the first report prepared under IFRS standards at 30 June 2006. Along with this change in financial reporting, the APA Group has also had to adapt to continual enhancements and reforms to the standards from both the IASB and the AASB. There are expected to be greater financial reporting changes and greater compliance requirements as a result of the GFC and new reporting measures required of businesses, particularly any with exposure to the United States Stock Exchange. Some of costs associated with the transition and implementation of IFRS for a company in Australia are outlined below.

New technology or infrastructure investments

The implementation of IFRS involved companies' spending considerable time and resources assessing their existing capabilities and financial reporting systems. There were then costs associated with determining what new systems, software and capabilities would be required and implementing these. As Jones and Higgins (2006) argue, the technical implantation of IFRS in larger firms was likely to be more extensive and complex, largely because it requires system wide change throughout all aspects of the organisation[44]. Some of the costs associated with technological change for the implementation of IFRS included:

- Time spent assessing existing systems, capabilities and processing, and then determining gaps or instances where new software and systems would be required, as well as period-end close contingency plans.
- Implementation of changes to reporting and accounting systems and processes.
- Costs associated with the implementation of new software and new information technology systems.
- Additional burden and cost associated with capturing and analysing data to comply with requirements.
- Actual cost of implementing a new software system.

Board, senior management and executive time and resources

- The implementation of IFRS and change management process included briefings, information sessions and significant consultation with senior executives (the CEO), the Board of Directors and its associated committees, including the executive and remuneration committee

Financial reporting changes

- Time and costs associated with reassessing the company's financial reporting approaches.
- Time spent amending internal financial reporting policies and procedures.
- Time and labour costs associated with revising the APA's structure of its group reporting.
- Time and consultations required to assess the impact of IFRS transition on the company's other regulatory requirements.
- Cost of amending the company's financial reporting templates and then implementing new templates for appropriate data gathering.

[44] Jones, S. & Higgins, A. (2006) *Australia's switch to international financial reporting standards: a perspective from account preparers*, Accounting and Finance 46, University of Sydney, Australia, 2006

External contractors or consultants

- As IFRS implementation often required specialist advice or technical consulting, external resources or contractors were often required at an additional cost to the business. This may have been in relation to systems implementation advice, technical accounting, change management processes or technical taxation assessment and planning.

Legal related costs

- Legal costs associated with assessing the impact of the changes in financial reporting on contractual terms with other businesses.

Consultation with Federal Treasury and other key stakeholders

Implementing IFRS involved considerable briefings and information sessions with Federal Treasury and other groups such as industry representative bodies and professional associations. There was also considerable time and cost spent on informing investors, lenders and capital markets about the changes in financial reporting. This included:

- Consultations with the Department of Treasury on the implications and implementation of IFRS.
- Consultation and information briefing sessions with industry associations and professional associations on the implications and implementation of IFRS.
- Costs of communications, consultation and information briefing sessions with shareholders, investors, lenders and capital markets to explain and communicate the economic and financial reporting impacts of IFRS.

Internal resources

- The implementation of IFRS used significant time and resources of an internal accounting and finance function, as well as other resources used in the implementation of all aspects of IFRS.
- Costs for the Human Resources department associated with hiring new employees for the implementation of IFRS or shorter-term contractors and consultants.

Increase in auditor and tax accountant fees

- The implementation of IFRS resulted in an increase in external auditor and tax accountant fees as a result of changes to financial reporting and specialist advice, particularly for new assurance and verification processes.

Staff training and change management

- The implementation of IFRS often meant implementing significant change management processes (particularly while concurrent reporting systems were used until IFRS came into effect). This often meant that in the midst of converting companies had to essentially report twice.
- Costs associated with training, briefings and information sessions for all staff (including senior executives) as well as the Board.
- Costs associated with implementing changed corporate governance and reporting structures.

7.3 Employment legislation related changes

7.3.1 Overview

In 2005, the *Workplace Relations Amendment Act 2005* or ‘WorkChoices’ was passed by the Parliament and came into effect in 2006. This Act made many amendments to the former *Workplace Relations Act*

1996 and was one of the Howard Liberal Government's final major economic reforms. This reform was designed to help improve employment levels and national economic performance. It sought to do this by the removal of unfair dismissal laws for companies (of a certain size) as well as the removal of the 'no disadvantage test' which sought to ensure that employees were not left disadvantaged by changes in legislation. The implementation of WorkChoices also moved to extent the coverage of the federal industrial relations system to around 85 per cent of Australian employees. WorkChoices also restricted the ability for workers to legally strike and sought to restrict trade union activity and recruitment on a worksite.

A major issue of the 2007 Federal Election, the Labor Party vowed it would abolish WorkChoices should they come to office. It also vowed to phase out Australian Workplace Agreements (AWAs) and preference collective agreements and awards with an exclusion to those earning more than $100,000. In March 2008, a bill was passed in the Senate that prevented new AWAs from being made and also set up provisions for workers to be transferred from AWAs to intermediate agreements. Individual state (Labor) governments also opposed the changes, with some, such as the Victorian Government, introducing the Victorian Workplace Rights Advocate as a form of resistance to the changes.

In 2009, the Rudd Government introduced the *Fair Work Act 2009*. This Act created FWA (which replaced the Australian Industrial Relations Commission), which commenced operation on 1 July 2009. It also performs functions previously performed by the Workplace Authority and the Australian Fair Pay Commission. The *Fair Work Act 2009* marked a substantive change in the nature of bargaining arrangements in workplaces, with bargaining based collectively at the enterprise level. This contrasts to the emphasis on individual agreements encouraged under WorkChoices.

Fair Work Australia's functions include the setting and varying of modern awards, minimum wage fixation, dispute resolution and the approval of enterprise agreements and handling claims for unfair dismissal. The Act also established a new system of regulation that attempted to create a more national system for regulating industrial relations. Under the Act, each state has the discretion to hand over some or all of their industrial relations powers to the Commonwealth. So far, all states have referred their powers to the Commonwealth except Western Australia[45].

The *Fair Work Act 2009* is currently being reviewed by the Federal Government. This review will involve evaluating the past two years since the Act commenced and will examine whether the legislation is operating as intended in promoting:

- the creation of clear and stable framework of rights and obligations which is simple and easy to understand;
- enterprise level collective bargaining;
- fairness and representation at work;
- effective procedures to resolve grievances and disputes; and
- unfair dismissal protection.

The review is currently in the process of accepting submissions from businesses, the community and industry bodies.

The fact this review is being undertaken signals that there may be future changes in store for employment related legislation in the near future. Should a new party be elected at the next Federal Election (expected in 2013) it is likely there will be further significant changes to employee related legislation (although the extent of this is not yet known).

[45] Cooper, R. & Ellem, B. (2009) "Fair Work and the Re-regulation of Collective Bargaining" *Australian Journal of Labour Law* 22

7.3.2 Impact on the APA Group

The two major reforms to industrial relations in the past six years have meant considerable change for employers – particularly those with a diverse staff base and those with employees in several different states. Most of this change resulted in complexities associated with ensuring that employee contracts were compliant with legislation and revising employee contracts or adapting to changes for new employee contracts. Following the election of the Rudd Government, there was also a considerable amount of time when businesses knew there would be change to employment legislation – but were unsure about the extent and what would be put in place instead. Following the repeal of WorkChoices, many businesses were unsure about which corporations fell under the federal scheme, as opposed to state law[46]. Some of the costs to businesses such as the APA Group as a result of the uncertainty as well as the constant change to employee legislation are outlined below.

Participation in legislative process

- Involvement in consultations with the Department of Education, Employment and Workplace relations (including submissions to Inquiries) about the impact and implications of both WorkChoices and the *Fair Work Act 2009*.
- Participation in the current review of *the Fair Work Act 2009* through consultations and briefings with industry representative bodies.

Planning and implementation

- Time spent assessing the implications of WorkChoices on employee contracts, compliance and regulation then planning for its implementation in 2006.
- Time spent assessing the implications of the *Fair Work Act 2009* on employee contracts, compliance and regulation then planning for its implementation in 2009.
- Time spent working with FWA to understand the implications of the Act, the compliance required and the changes required to Awards and employee contracts.
- Time assessing and then revising all employee contracts (if required) under WorkChoices and then the *Fair Work Act 2009*.
- Costs associated with time spent interpreting the various components of legislation[47] (for example the *Fair Work Act 2009* is more than 650 pages long with regulations that are complex and highly prescriptive).
- Time and costs associated with determining which Awards employees (many of which are in different states and have very different roles) should be under and their assessing compliance with these Awards and making amendments as necessary.

Communications and briefings

- Time and costs associated with communicating changes and providing relevant information and publications to employees about both WorkChoices and the *Fair Work Act 2009* and their implications for employment contracts.
- Time and costs associated with communicating and explaining the changes (and consequential implications to the business) of the change from WorkChoices to the *Fair Work Act 2009* to stakeholders internal and external to the business including senior management, the Board, the Executive Pay and Remuneration Committee, relevant unions, investors and shareholders.
- Consultations and briefings with relevant industry bodies and other professional associations.

[46] Williams, G. (2009) "WorkChoices flaw lives on in industrial relations law", *The Sydney Morning Herald*, 20 May 2009
[47] The Fair Work Act is almost 650 pages in length.

- Time spent working with FWA to have further information provided or queries answered.

Legal and other specialist advice

- Requirements of specialist legal advice for employee contracts, interpretation of the legislation and applicability of it to the APA Group.
- Specialist legal advice for individual matters (i.e. unfair dismissal claims) that have to be dealt with under the legislation.
- Specialist legal advice required in drafting any new employee contracts, terms and conditions.
- Specialist legal advice to ascertain whether the business was subject to state or federal law under the new *Fair Work Act 2009* (and various uncertainties that may have arisen from having non-definitive answers) [48].

Internal resources

- Significant time, resources and costs of the internal Human Resources department having to deal with complex changes in the legislation and their impact on the APA Group.
- Significant time and resource costs associated with redrafting employment contracts, preparing for new enterprise bargaining agreements and dealing with new compliance and red tape.
- Consultations with industry bodies.
- Consultations, briefings and information workshops with key stakeholders including employees, the Board and senior management.
- Additional time of managers, staff and employees determining appropriate flexible work arrangements which can be legally requested by any employee under the *Fair Work Act 2009*.

Protracted enterprise bargaining decisions

- Additional administration costs as a result of changes in the unfair dismissal system which may result in protracted and costly legal disputes with employees[49], particularly if businesses are forced to spend time (and legal fees) defending often speculative claims.

Compliance costs

- Increased administrative and compliance costs as a result of having to keep employee records and pay records (of an adequate standard), which could at any time be accessed by Fair Work Australia.
- Consultations with industry bodies.

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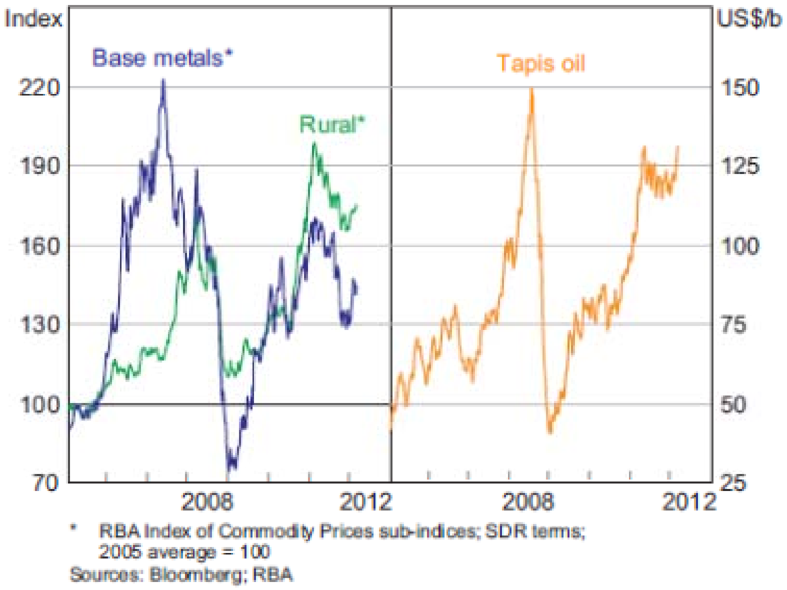
[48] Op. cit., Williams (2009)
[49] The Australian Hotels Association in its 2012 submission to the Review of the *Fair Work Act 2009* notes that the procedures for dealing with unfair dismissal are "neither quick, nor flexible, nor informal. Compliance is not easy, nor free of significant cost".

A Key economic indicators

A.1.1 Oil prices

Figure 1 shows the prices of oil (USD per barrel)[50], base metals and rural commodities.

Figure 1: Base metals, rural and oil prices

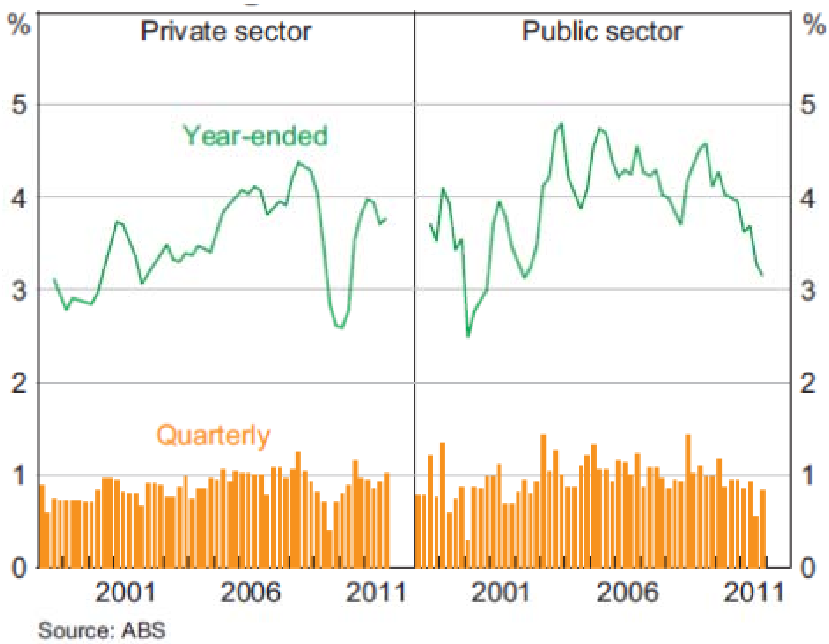


[50] Source: Reserve Bank of Australia (2012) *Chart Pack*, March 2012

A.1.2 Wage price index

Figure 2 shows the Wage Price Index Growth in recent years in Australia.

Figure 2: Wage Price Index Growth (private sector and public sector)[51]

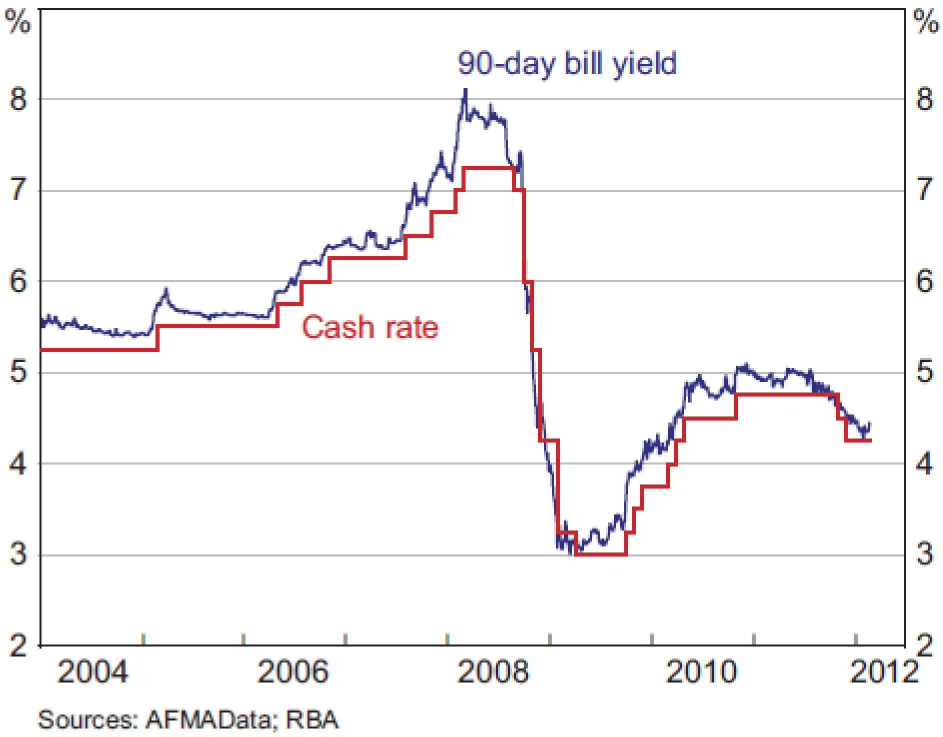


[51] Source: Reserve Bank of Australia (2012) Chart Pack, March 2012

A.1.3 Australian interest rates (cash rate)

Figure 3 shows the cash rate (real and nominal) in Australia since the 1990s.

Figure 3: Australian cash rate[52]



[52] Source: Reserve Bank of Australia (2012) Chart Pack, March 2012

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