

The conference also noted Australia was already in an energy crisis prior to this year's gas price spike, that the AWU had been calling for action since 2014 to ensure affordable gas was available for manufacturers and households, and that without urgent action thousands of manufacturing jobs were at immediate risk.

In a subsequent letter to Prime Minister Anthony Albanese, the AWU warned action was needed immediately:

If the Government does not act now, when closures occur it will not be able to say it was not warned or that its hands were tied. Manufacturers today are not bluffing. They know they will not be able to afford gas, which they use as an energy source and, often, as a feedstock. They need relief.

In October, National Secretary Daniel Walton led a delegation of workers representing a range of energy-dependent industries to Canberra, to tell the Government how the energy crisis was affecting their employers and putting their jobs at risk. The delegation encouraged the Prime Minister and Cabinet ministers to act urgently, explaining that their employers could close if they are couldn't to get affordable long-term energy contracts.

Predictably, **the resources industry has mounted a histrionic attack on the Government for taking the side of manufacturing workers.** This attack is built on a number of false arguments about the proposed legislative and regulatory measures, dealt with fully below.

BOX 2: Myth-busting the gas industry's attack

Myth: The Government is imposing a permanent \$12/GJ price cap

Fact: The Government's proposal implements two separate measures: an emergency *temporary* cap on wholesale gas prices, and a mandatory code of conduct to regulate market behaviour in the longer-term. Treasury has stated in the Consultation Paper that, **“**As a price cap is a significant intervention, it must be constrained in time and scope to ensure a stable longer-term market. Spot prices will also be unaffected by the measure.

Myth: Requiring supply at 'reasonable pricing' is effectively nationalising the industry

Fact: Even without a globally significant war, the Government engages in price regulation across a range of sectors where a small number of market players can effectively set prices. Most directly relevant to gas is retail electricity pricing, where the ACCC sets a reference price cap. Contrary to claims of 'nationalisation', most Australian electricity infrastructure has been significantly liberalised over the past two decades. The Australian Government also sets limits on price increases for private health insurance, and even sets a minimum price

to be paid for milk. The vast majority of gas will continue to be exported on market terms with international buyers – the domestic price cap is a limited form of regulation for a limited part of the market.

Myth: The Government’s plan will stop new investment, prevent new supply coming on board and destroy Australia’s gas industry

Fact: New sources of supply are exempt from the cap. Australia does not have a shortage of available gas – we export three times our domestic needs. The ACCC determined the reference price by considering capital expenditure and costs of production for affected gas sources and explicitly providing for a return to producers – not driving them out of business. One major gas producer reported its production cost was \$3.50/GJ – offering them a 240% rate of return with the price cap in place. And just two days before the announcement of the policy subject to this consultation, Santos announced to the market that they would be targeting even higher shareholder returns in future. In Western Australia, where a gas reservation has been in place since 2006, a world-class LNG export industry operates while local gas users pay just \$5-6/GJ.

Myth: This is an unjustified intervention on a competitive market

Fact: The gas market has long failed to operate on competitive terms. The ACCC has identified that 85% of gas is produced by just five firms that regularly operate in coordinated behaviour.² The opportunity for earlier regulatory intervention has been missed through the Turnbull and Morrison government’s failed ADGSM, gas codes of conduct, heads of agreement and ‘gas-fired recovery’. The Russian invasion of Ukraine sent a shock through global gas supply – and as Australia has protected its own interests with rationing and price caps in past wars, it must do so now.

Myth: There has been no consultation with the gas industry

Fact: In the Federal Budget, the Government tasked the ACCC with consulting with stakeholders to improve the gas code of conduct with a view to making it mandatory. The ACCC has overseen and engaged with market for a long time and warned of its concerns about supply in its August gas inquiry report. All major gas producers had established relationships with the ACCC and were engaged to provide feedback. Despite a price cap being publicly floated by ministers for weeks prior to any announcement, gas companies failed to propose any reasonable alternative policy that would have an immediate impact on

² ACCC Gas Inquiry 2017-2022, interim report, August 2022.

domestic prices.

Myth: Prices could come down without regulatory intervention

Fact: Governments have tinkered at the edges of the gas market for over 5 years with no impact on prices – through introducing the ADGSM, the Heads of Agreement, new supply initiatives, and a voluntary code of conduct. Despite all of these policies, gas prices are regularly above what Australia’s export customers are paying. No currently-legislated policy measures are directly impacting prices, and the gas industry has failed to propose lighter-touch options to achieve price relief.

Myth: This is an anti-gas policy

Fact: The AWU and the Government recognise that affordable and secure energy – including gas and thermal coal – is critical for Australia’s manufacturing industries to operate. While anti-fossil fuel activists push to destroy demand by making gas and coal unaffordable, the Government’s measures instead ensure that energy is available to those who need it. Australia cannot have a green manufacturing industry if it does not have a manufacturing industry at all.

Responses to consultation questions

The AWU provides the following responses to the consultation questions proposed on the temporary gas price cap. The AWU will make further submissions on the mandatory code of conduct provisions prior to the close of that consultation.

Is \$12 per gigajoule the appropriate level for a cap on wholesale contracts offered by producers, for supply from existing fields?

The AWU has campaigned for the use of historical average gas prices – below \$10/GJ – as the reference point for a price cap. However, the AWU also understands the ACCC’s analysis underlying the setting of a \$12 price point:

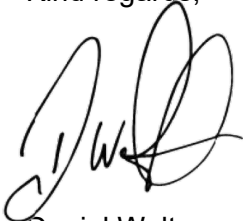
The ACCC advised that a \$12 per gigajoule price cap would be an appropriate level to set a temporary, emergency price cap on the wholesale gas contracts described above. This recommendation is supported by analysis of offers made in 2021 for supply in 2023, prior to international prices increases, and of the estimated costs of gas production of the east coast’s proven reserves. Of the 289 domestic offers made over this period, 96 per cent were below \$12 per gigajoule, and the average offer was \$9.20 per gigajoule.

Does the proposed model appropriately mitigate the risks associated with market intervention?

The avoidance of market intervention at all costs despite clear market failures is the cause of this crisis. Governments have tinkered at the edges of the gas market for over 5 years with no impact on prices – through introducing the ADGSM, the Heads of Agreement, new supply initiatives, and a voluntary code of conduct. Despite all of these policies, gas prices are regularly above what Australia’s export customers are paying. No currently-legislated policy measures are directly impacting prices, and the gas industry has failed to propose lighter-touch options to achieve price relief. The AWU believes that the “cost plus return” approach, co-regulation of coal prices, and initiatives to encourage new supply will adequately mitigate the risks of market intervention in this case.

The AWU has been at the forefront of the debate over gas for years and is willing to provide our experience and expertise to the Government throughout any further consultation on this critical measure.

Kind regards,

A handwritten signature in black ink, appearing to read 'D Walton', with a stylized flourish at the end.

Daniel Walton
NATIONAL SECRETARY