



EMPIRE'S BEETALOO ASSETS NOT SUBJECT TO AUSTRALIAN DOMESTIC GAS PRICE CAP

12 DECEMBER 2022

HIGHLIGHTS

- On 9 December 2022, Australian Treasurer Hon Dr Jim Chalmers MP announced a temporary gas price cap of \$12 / GJ for new domestic wholesale gas contracts for 12 months
- Gas from undeveloped fields is NOT subject to the price cap
- Empire's Beetaloo Sub-basin assets are NOT subject to the price cap
- More detail needed on 'reasonable pricing provisions'

On 9 December 2022, the Australian Treasurer, in a joint media release with the Minister for Climate Change and Energy, the Minister for Resources and the Minister for Industry and Science ("**the Ministers' Joint Media Release**"), announced measures to limit the impact of high gas prices on Australian consumers. The measures include a temporary price cap of \$12 / GJ for new domestic wholesale gas contracts by east coast producers for 12 months for gas sourced from current operational fields. A voluntary code of conduct for the gas market will become mandatory, and a reasonable pricing provision will be included.

The gas price cap does not apply to gas from undeveloped fields. In relation to this exemption, the Treasurer stated: "*New sources of supply from undeveloped fields will be exempted from the cap, and instead be covered by the reasonable pricing provision, to ensure incentives to invest in new supply are maintained.*"

A consultation period for the mandatory code of conduct, including the reasonable pricing provision, will be open until 7 February 2023. Clarity on the detail and intended function of the reasonable pricing provision will be critical in determining future investment decisions on supply of gas into the domestic market. Empire intends to make submissions during the consultation period to highlight the important role that the company's Beetaloo Basin gas resources can have in providing material additional supply to the critically short east coast gas market in years ahead while generating broad economic benefits for the people of the Northern Territory and Australia.

The full text of the Ministers' Joint Media Release can be found at Appendix A.

Appendix A: Full text of Ministers' Joint Media Release

<https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/responsible-and-meaningful-action-gas-prices>

9 December 2022

Responsible and meaningful action on gas prices

Joint media release with

**The Hon Chris Bowen MP
Minister for Climate Change and Energy**

**The Hon Madeleine King MP
Minister for Resources**

**The Hon Ed Husic MP
Minister for Industry and Science**

The Albanese Government is taking action to limit the worst impacts of the forecast gas price increases in order to protect Australian households, industry and manufacturers, save jobs, and ensure a stable and well-functioning wholesale gas market with adequate domestic supply at reasonable prices.

The Government will:

1. Implement an emergency, temporary price cap on new domestic wholesale gas contracts by east coast producers for 12 months.
2. Improve the existing voluntary code of conduct for the gas market and make it mandatory.
3. As part of the mandatory code of conduct, introduce a provision to ensure reasonable pricing for relevant domestic wholesale gas contracts with producers.
4. Fast-track the implementation of the improved Australian Domestic Gas Security Mechanism (ADGSM) so that quarterly consideration of activation is in place by 1 April 2023.
5. Bolster the ACCC's resources by \$12.5 million over the forward estimates, to enhance gas market monitoring, administer and enforce the mandatory code, and accelerate implementation of reforms to the ADGSM.

Russia's war in Ukraine has been the primary cause of sharp gas and electricity prices for households and businesses, but these pressures have been exacerbated by a decade of energy policy chaos that has left Australia more exposed than it needs to be to global energy shocks.

While we invest in cleaner and cheaper energy for the future, targeted intervention is needed now to support Australians. Without action, retail gas prices are expected to increase by 20 per cent in both 2022-23 and 2023-24, with the majority of the gas price increase for this year having already occurred due to global energy shocks.

We are taking action now because doing nothing is not an option. With these policy interventions, Treasury now forecasts that retail gas prices would rise by around 18 per cent this financial year, with most of this increase having already occurred, and by around

4 per cent in 2023-24 – rather than 20 per cent in each year.

Emergency Temporary Gas Price Cap

Informed by the advice of the ACCC, an emergency, temporary price cap on new domestic wholesale gas sales by east coast producers will be implemented for 12 months to help keep wholesale gas contract prices under control. Subject to a short period of consultation, the Government intends to set this cap at \$12/GJ.

The ACCC considers \$12/GJ to be a reasonable price allowing for the key costs of domestic supply, including a reasonable return on capital, for gas sourced from currently operational fields.

The ACCC conducted analysis of pre-war offers on the east-coast in 2021 for supply in 2023, and analysis of data on costs of production. Of the 289 domestic offers made over this period, 96 per cent were below \$12/GJ, and the average offer was \$9.20/GJ.

The cap will apply to new wholesale contracts with east coast gas producers for 12 months from December 2022, with a review by mid-2023. Gas from undeveloped fields and gas sold through the Short Term Trading Markets and the Victorian Declared Wholesale Gas Market will be exempted from the cap, minimising the impact on supply incentives and short term price signals in these important balancing markets. However, any diversion of gas to the spot markets that the ACCC determines is intended to circumvent the price cap will be subject to potential enforcement action under the legislation's anti-avoidance provisions.

Agreements reached through the Gas Supply Hub (Wallumbilla and Moomba) will be within scope of the price cap as trades completed through the hub are bilateral transactions and can be for weeks or months, whereas trades through the balancing spot markets operate through a pool where price signals play a much more important role in encouraging immediate supply.

New sources of supply from undeveloped fields will be exempted from the cap, and instead be covered by the reasonable pricing provision, to ensure incentives to invest in new supply are maintained.

For wholesale gas contracted for delivery beyond 2023, producers will be required to offer reasonable prices consistent with the mandatory code. While the cap is in place, all contracts up to the price cap will be considered to meet the reasonable pricing requirement, for gas contracts within the scope of the price cap. Excessive prices will be subject to potential enforcement action by the ACCC.

The price cap and code of conduct apply to relevant domestic contracts and have been carefully designed not to impact contracted sales under existing and long-term foundational contracts with our international trading partners.

Mandatory Code of Conduct

A mandatory code of conduct will ensure Australians in the east coast gas market have access to Australian gas at reasonable prices and on reasonable terms. It will address systemic issues within the wholesale gas market, including insufficient competitive pressure and bargaining power imbalances.

It will be a mandatory and enhanced version of the existing voluntary code of conduct,

strengthening requirements related to transparency, reporting, pricing, and timeframes for negotiating. The Code will also include a formal dispute resolution process, with binding arbitration, for the resolution of pre-contractual disputes.

The code will apply to contracts between gas producers and their customers in the east coast market, and the Government will undertake consultation on the scope of the code and whether it should be expanded to wholesale contracts sold by other market participants. The ACCC will continue to closely monitor and report on the behaviour of all market participants, including energy retailers, and take enforcement action where required to ensure competition across the market.

The code will include a provision for reasonable pricing. This will provide a basis for producers and buyers to negotiate domestic wholesale gas contracts based on guidance on reasonable pricing from the ACCC, which will reflect the long-run costs of domestic production and an appropriate return on capital. If producers and buyers are unable to agree, they may seek a binding arbitration determination.

The Government is boosting the ACCC's resources by \$12.5 million over the forward estimates to enhance gas market monitoring, administer and enforce the mandatory code, and accelerate implementation of reforms to the ADGSM.

Fast-track reform of the Australian Domestic Gas Security Mechanism

The Government's reform of the ADGSM will deliver more flexibility and will mean that decisions to activate the ADGSM can be made every quarter ahead of peak seasonal demand periods, rather than only once a year under the old regulations. The Government's reforms will result in a stronger "gas trigger" to protect domestic supply.

The Government will fast-track these important reforms so that quarterly consideration of activating the mechanism is available to Government by 1 April 2023. The Government is consulting with industry on the detailed design of these planned reforms ahead of their implementation.

Next Steps

The Government has today released a consultation paper setting out these measures in greater detail, and seeking feedback from industry and other stakeholders to inform final design prior to implementation.

Feedback is also sought on the draft Competition and Consumer Amendment (Gas Market) Bill 2022 and Explanatory Memorandum. If passed, the Bill will establish a new Part IVBB within the Competition and Consumer Act 2010, creating an enabling framework for implementation of the mandatory code and price cap.

The consultation paper, draft Bill and Explanatory Memorandum are available on the Treasury website¹.

The Government intends to introduce primary legislation this year to put in place a strong enforcement framework for the mandatory code and price cap.

¹ Treasury website: <https://treasury.gov.au/consultation/c2022-343998>

Consultation on the price cap (including the draft order) will close on 15 December 2022, reflecting the urgent and temporary nature of this intervention. Subject to the outcomes of the consultation, it will be implemented promptly via regulation before the end of the year.

Consultation on the mandatory code, including the reasonable pricing provision, will remain open until 7 February 2023, and it will be implemented via regulation in early 2023.

There will be a review of the price cap by mid-2023 and a review of the code, including the reasonable pricing provision, after 12 months. These reviews will provide an opportunity to assess whether these measures are operating as intended, and to make any necessary refinements.

Media Release ends

This ASX release has been authorised by the Managing Director

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