

BETWEEN:

Rex Patrick

Applicant

AND:

**Secretary, Department of Industry,
Science and Resources**

Respondent

AFFIDAVIT OF TAL AVIRAM

On 14 December 2023, I, Tal Aviram of Level 10, 2 Phillip Law Street, Canberra, solicitor, affirm:

Background

1. I am a solicitor at Clayton Utz, which is the firm acting for the Respondent in these proceedings. Subject to the supervision of Caroline Bush, Partner, I have day-to-day carriage of these proceedings.
2. I depose this affidavit to provide relevant information to the Tribunal in its consideration of the request for confidentiality orders which has been made by the Respondent, and in particular about public communications Mr Patrick has made about the matter and the affidavit evidence filed by the Respondent in the substantive proceedings. The matters to which I depose are true to the best of my knowledge and belief.

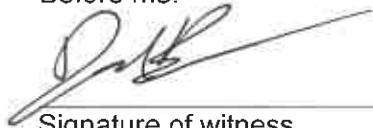
Public Communications by Mr Patrick about the proceedings

3. On or about 18 November 2023, I accessed the website "X", formerly known as Twitter. I opened the webpage belonging to an account with the handle "@MrRexPatrick". I understand that this account is operated by the Applicant. I observed that, at 11:08am on 18 November 2023, Mr Patrick had uploaded a post, which contained a hyperlink to an article on the website "michaelwest.com".
4. I also observed that Mr Patrick had uploaded a further post on 18 November 2023 at 11:13am.

5. Annexed hereto and marked "TA-1" is a copy of Mr Patrick's posts on X referred to at paragraphs [3] and [4] above, which I again accessed on 13 December 2023 and caused to be converted to pdf format.
6. On or about 18 November 2023, I clicked on the hyperlink contained in Mr Patrick's X post referred to at paragraph [3]. This took me to a web article available on the website "michaelwest.com.au" and authored by the Applicant.
7. Annexed hereto and marked "TA-2" is a copy of the web article available on "michaelwest.com.au", referred to at paragraph [6] above, which I again accessed on 13 December 2023 and caused to be converted to pdf format.
8. On or about 25 November 2023, I again accessed Mr Patrick's X account. I observed that Mr Patrick had made two posts as a "thread" on that website at 6:59 that morning.
9. Annexed hereto and marked "TA-3" is a copy of the posts referred to at paragraph [8] above, which I again accessed on 13 December 2023 and caused to be converted to pdf format.

Affirmed in Canberra
this 14th day of December 2023

Before me:



Signature of witness



Deponent

DAVID BLENCOWE, LAWYER.

Name and capacity of witness

Affidavit of Tal Aviram affirmed on 14 December 2023

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TA-1	Posts on "X" website	[5]	
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TA-3	Post on "X" website	[9]	

**Annexure Certificate
TA-1**

Administrative Appeals Tribunal
Melbourne Registry

2023/1812

Rex Patrick

Applicant

Secretary, Department of Industry, Science and Resources

Respondent

This is the Annexure marked "TA-1" referred to in the affidavit of Tal Aviram affirmed at Canberra on 14 December 2023

Before me:



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Witness

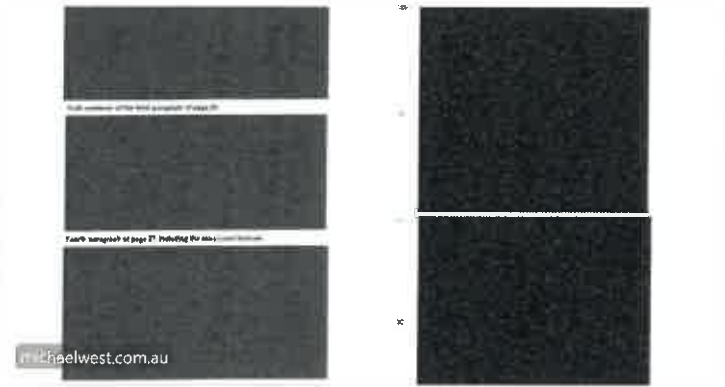
TA-1
X

Settings

Post

Rex Patrick
@MrRexPatrick

Them first, us last! 🇺🇸 Your Govt is in the AAT arguing you shouldn't have access to a paper exploring gas price reduction options for Aussie households/businesses because it may harm our relationship with countries we're supplying gas to. #auspol #FOI



11:08 am · 18 Nov 2023 · 18.7K Views

231 Reposts 11 Quotes 537 Likes 10 Bookmarks



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Rex Patrick
@MrRexPatrick

When I made my #FOI application to access gas reservation scheme documents, I didn't think I'd end up being involved in a fundamental battle for Australians' rights to engage in informed public policy debate when a foreign government might be listening. #auspol



11:13 am · 18 Nov 2023 · 1,483 Views

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**Annexure Certificate
TA-2**

Administrative Appeals Tribunal
Melbourne Registry

2023/1812

Rex Patrick

Applicant

Secretary, Department of Industry, Science and Resources

Respondent

This is the Annexure marked "TA-2" referred to in the affidavit of Tal Aviram affirmed at Canberra on 14 December 2023

Before me:



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Witness

**Annexure Certificate
TA-3**

TA-2



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Independent Journalists



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ME

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LATEST STORIES

WEST REPORT

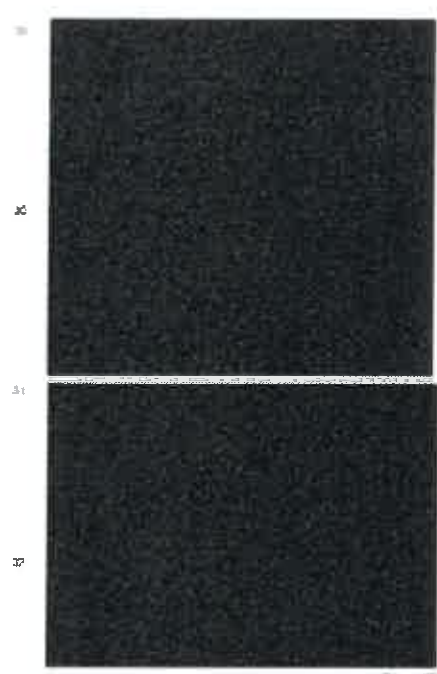
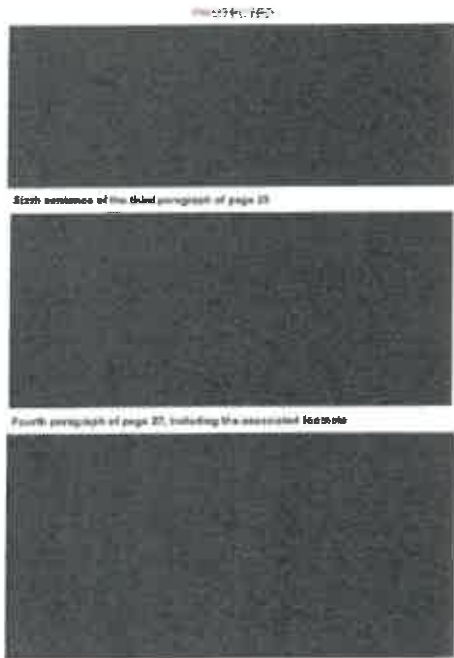
ABOUT US

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Redacted. Gas lobby in lock-step with Government on "secret" gas reservation options

by Rex Patrick | Nov 18, 2023 | Energy & Environment, Latest Posts



Document redactions to protect the gas cartel.

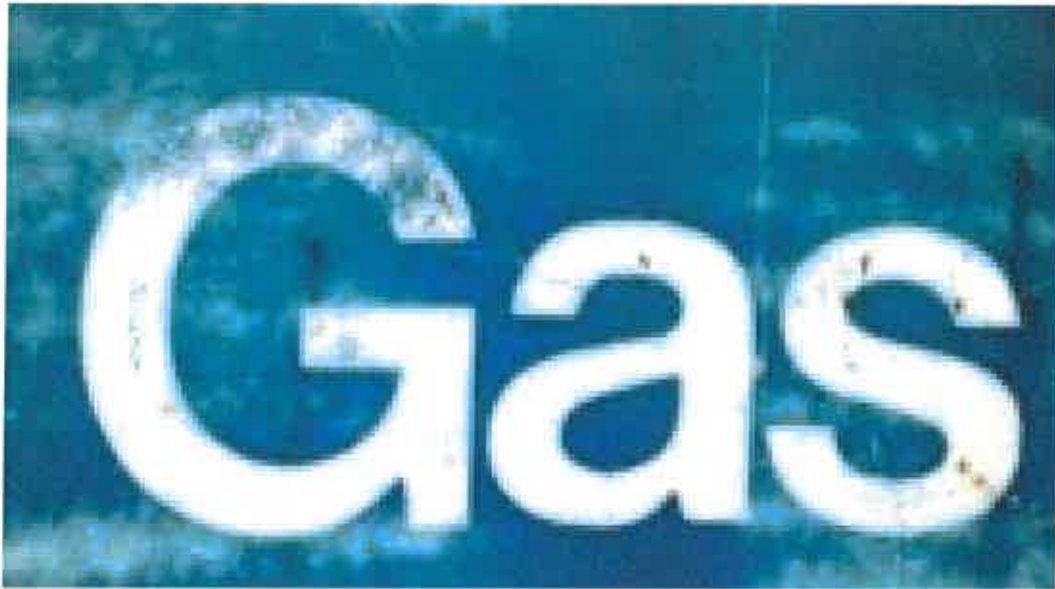


The Albanese Government is refusing to release details of six gas reservation scheme options that could make energy significantly cheaper, arguing for secrecy which serves the interests of multinational gas companies. Transparency warrior **Rex Patrick** with the story.

Almost 12 months ago, we were facing a domestic gas crisis. Of course, when you appreciate that Australia has an abundance of gas and export two-thirds of what we produce, it was an artificial crisis concocted by a price gouging profit maximising gas cartel, and decades or dumb government energy policy.

After much hesitation and equivocation, Prime Minister Albanese intervened in December

TA-2
prices was 'wet lettuce leaf' stuff when considering that Western Australia's gas price sits at around \$5 – \$7 per GJ.



It's a trap: mooted gas cap plays into the hands of the cartel, locks in high energy prices

National Cabinet is to consider capping the gas price at \$12 when National Cabinet meets Friday. At that high price, the government is gifting super profits to the gas cartel at the expense of Australians

M Michael West

Gas Reservation

WA has a gas reservation scheme. Gas producers are required to keep at least 15% of what they produce for local use. It's a policy that's been in place since 2006 and, despite the lies from the cartel that say such policies kill investment, has seen industry in WA boom.

Then WA Premier McGowan backed comments from one of his predecessors, Alan Carpenter, that it was 'ridiculous' and 'unfathomable' that a gas reservation scheme hadn't been adopted as a policy nationally.

In May last year, I requested access to a gas reservation policy options paper and a ministerial brief that had been produced by the Department of Industry in late 2021. The Department completely refused access to it and, in what *MWM* identified as a scam back then, engaged the big-charging law firm Clayton Utz to fight to keep the document from public release.

TA-2



Govt hires Clayton Utz to fight Rex Patrick, keep gas solution secret

A Morrison government report into the obvious solution to the gas crisis – a domestic gas reservation policy – is being hidden by Energy Minister Madeleine King's Energy Department. Rex Patrick has sought access to the document but now the government has hired big-charging law firm Clayton Utz to fight him.

M Michael West

Despite paying for the documents to be kept under wraps, most of it has been released under pressure of proceedings in the Administrative Appeals Tribunal (AAT). The Government is still trying to keep the remainder of the documents secret.

Them before us at the AAT

Things have got to the business end in the AAT now. And the Government's argument has been rolled out in legal submissions to the Tribunal.

The Government is arguing that the public should not have access to the full policy paper, a paper designed to explore options to reduce gas prices for Australian households and businesses, because doing so could harm our relationship with the countries we're supplying gas to.

In submissions, they stated that, "disclosure of passages in [the document] that describe particular policy options would, or could reasonably be expected to, cause damage to Australia's international relations."



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According to the Government, there can be no public argument that might suggest our trading partners gas might cost a bit more if the Australia Government took measures to safeguard domestic supplies and look after local prices. That might offend.

“ That’s right, we can’t talk about domestic economic policy because someone overseas might be listening. ”

It’s a freedom-of-speech twist I never thought I’d encounter.

The Government appears to be completely captured by the gas cartel and has surrendered our sovereignty over any domestic policy debate that risks disturbing foreign governments.

And to make matters worse, the Government is proposing to conduct their argument against disclosure using evidence they want kept secret from the public. That’s another fight I’m engaging in at the moment.

When I made my FOI application to access gas reservation scheme documents, I didn’t think I’d end up being involved in a fundamental battle for Australian’s rights to engage in informed public policy debate when a foreign government might be listening.

The matter will be heard in Adelaide on the 11th and 12th of January.

It’s not known whether the hearing will be open to the public.

TA-2



'Gas cartel shoots Australia in the head' – Origin to control imports too

As AusSuper plays chicken with Brookfield's \$20b bid for Origin Energy, lifting its blocking stake to 16.5%, investors are asking, where is the value? David Llewellyn Smith sees it in the expanding power of the gas cartel

M Michael West



Rex Patrick



Rex Patrick is a former Senator for South Australia and earlier a submariner in the armed forces. Best known as an anti-corruption and transparency crusader - www.transparencywarrior.com.au.

TA-2

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Rex Patrick


Applicant

Secretary, Department of Industry, Science and Resources

Respondent

This is the Annexure marked "TA-3" referred to in the affidavit of Tal Aviram affirmed at Canberra on 14 December 2023

Before me:



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Witness



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Post



Rex Patrick @MrRexPatrick

"It won't be our default position to keep things secret," says @MarkDreyfusKCMP. Yet I've just been given access to the Govt's secret arguments in an AAT matter and their secrecy claim is total overreach. I'm calling BS Mr Attorney-General. 1/2 #auspol



6:59 am · 25 Nov 2023 · 20.2K Views

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Rex Patrick
@MrRexPatrick

I'm subject to an interim non-publication/disclosure order so I can't unveil this outrageous Govt attack on open justice. But I'll now fight to have the interim order lifted so the public can see the default secrecy mode that @MarkDreyfusKCMP says does not exist. 2/2 #auspol



Administrative Appeals Tribunal

ADMINISTRATIVE APPEALS TRIBUNAL)
FREEDOM OF INFORMATION DIVISION) No: 2023/1812

Re: Rex Patrick
Applicant

And: Secretary, Department of Industry, Science and Resources
Respondent

TRIBUNAL: Deputy President Britten-Jones
DATE: 24 November 2023
PLACE: Adelaide

By consent of the parties and on an interim basis, the Tribunal DIRECTS that pursuant to section 35(4) of the Administrative Appeals Tribunal Act 1975:

- the publication or other disclosure of the matters contained in the portions of text in the affidavits affirmed by Mr Robert Jeremenko on 10 November 2023 (Jeremenko affidavit) and Mr Warren Hauck on 13 November 2023 (Hauck affidavit) listed in Part 1 below is prohibited, other than to:
 - members and staff of the Tribunal acting in the course of their duties; and
 - the respondent and its representatives instructed in these proceedings.
- subject to paragraph 3, the publication or other disclosure of the matters contained in the portions of text in the Jeremenko affidavit and Hauck affidavit listed in Part 2 below is prohibited, other than to:
 - members and staff of the Tribunal acting in the course of their duties;
 - the applicant and the person(s) that the applicant confirms in writing to be his legal representative(s) instructed in these proceedings (applicant's legal representative(s)); and
 - the respondent and its representatives instructed in these proceedings.

6:59 am · 25 Nov 2023 · 3,940 Views

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Rex Patrick
@MrRexPatrick

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