RESEARCH ARTICLE

Rethinking the Theory of Quiet Politics:

Bad Corporate Behaviour and the Failure of Quiet Politics in the East Coast Gas Crisis in Australia, 2022.

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Abstract

The theory of quiet politics has two propositions; first, that business interests prefer to engage with governments in 'quiet' arenas shielded from the media and the day-to-day political fray, and second that business interests exert power over governments in quiet politics. We counter the second proposition, arguing that business generally exercises influence rather than power in quiet politics. One precondition for the successful exercise of influence is the acceptance by business of certain protocols of behaviour in interactions with governments. In this paper we underline the importance of such protocols by exploring the dynamics of a conflict between the east coast gas industry and the federal government in Australia amidst steep rises in domestic gas prices and supply restrictions in 2022. The gas industry behaved badly in the economy and in politics and did not abide by the relevant protocols of engagement with the government. The government responded aggressively and quiet politics failed. The paper underlines the importance of the behavioural pre-conditions for business influence in quiet politics and what can go wrong if this fails.

Introduction.[3]

This paper seeks to rethink the theory of quiet politics. In the field of business politics, this theory was articulated by Culpepper and essentially advances two main propositions.[4] First, quiet politics is the favoured arena for business interests in western democracies in their interactions with government and involves quiet behind the scenes lobbying by business on low salience issues away from the gaze of the media and the public. Second, the theory argues that business interests exert political power to achieve their aims in quiet politics. The literature on business power typically focusses on instrumental and structural power. The former is related to business's access to political elites and to lobbying capacity, while structural power relates to the capacity of business interests to withhold investment and thus threaten the economy on which democratic governments depend for their legitimacy and re-election.[5] Culpepper's theory does not focus on structural power dynamics and instead argues that business power in quiet politics stems from business's lobbying

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[4] Culpepper (2011).
[5] Fuchs and Lederer (2007). See Masooc (2020), for an alternative account presenting structural power as a facet of state capacity and the preference for national champions.

capacity, particularly through the use of specialised knowledge and information of use to governments.[6]

This paper argues that Culpepper's first proposition above is correct: business typically prefers quiet politics. However, the second proposition is usually incorrect, certainly in Australia. Quiet politics is not usually an arena in which business *power* is exerted but is one dominated instead by attempts by business to exert *influence*. Unlike the theory of quiet politics and the business politics literature more generally, this paper, and a related previous paper, makes a distinction between business power and business influence, arguing that quiet politics is mainly the preserve of the latter.[7] Whilst Culpepper (and many others use these terms interchangeably, they are different categories of business behaviour which have different dynamics and implications. Political power is about using coercive strategies to change the behaviour of target actors. Business is said to use some combination of instrumental and/or discursive and/or structural power for this purpose.[8] Influence, on the other hand, is about non-coercive persuasion, essentially relying on information, evidence, and persuasion to alter the behaviour of target agents in a voluntary fashion.[9] On this reasoning, what Culpepper takes to be business power in quiet politics, exercised through the deployment of specialised knowledge and information of use to governments, is better seen as a form of influence and not power. Culpepper does suggest that 'the power of managers in this context is the power to set the terms of the debate.'[10] This is suggestive of discursive power, but as we argue below influence is more likely the case. This is illustrated in our interview material with corporate government relations executives. This highlights a strong role for government agency and authority and a high degree of mutualism between business and government in setting the terms of debate. As this paper shows, this distinction between influence and power has important implications for business behaviour and lobbying success in quiet politics.

Current theory, with its focus on business power, leads us away from an analysis of the key conditions, relationships and agency that are necessary if business interests are to achieve influence with governments in quiet politics. Indeed, to understand and analyse how and if business influence operates we need to know much more about the key agents in question - business interests and government – and about the way they think and about the institutional settings and relationships that help shape their behaviour. The bulk of the business politics literature focusses on business power in its various forms. However, the literature gives insufficient attention to the agency of non-business players, especially within government. This latter gap has been partly filled by Bell who demonstrates the importance of the ideas and agency of government in mediating the structural power of business.[11] It is therefore crucial to see the interaction between business and government not only from a business power resources or a 'power over' perspective (if this is operative)

[6] Culpepper (2011, 4) accepts that business interests might fail in the quiet arena and be forced into open conflict in the 'noisy' arena of politics, but he argues, following Smith (2000), that business often losses in this latter arena due to electoral pressures in siding with government. The potential use of structural power by business is not discussed.
[7] Bell and Hindmoor (2024).
[8] Block (1977); Lindblom (1977); and Fuchs and Lederer (2007).
[9] Dowding (1991)
[10] Culpeper (2011, 9).
[11] Bell (2012).

but also in *relational* terms as detailed and structured interactions between resourceful and institutionalized actors. Several other scholars have pointed in this direction, with Marsh and Chesters arguing that 'the relationship between government and business is an exchange relationship; one which is not asymmetric', whilst Woll argues that 'even when business appears to lead the dance, it is more promising to look at resource distributions and the interdependence of both sides, instead of assuming the domination of business power over policy outcomes.'[12]

This relational perspective and the emphasis here on business influence strategies in quiet politics means that we need to fully understand how each party operates in such a context and especially the conditions and behaviour that are required if business is to be able to wield influence. In other words, there are normative and behavioural implications for business associated with influence strategies. Understanding the details of business-government relations in such terms can explain not only why business interests can succeed through quiet politics in securing influential relations with government, but also, and crucially in terms of this paper, why business sometimes losses due to 'inappropriate' behavior.

An important argument here, as illustrated empirically, is that business influence in quiet politics depends crucially on establishing cooperative, trust-based relations with government, which in turn requires certain cognitive constructs and certain norms and protocols of interaction and behaviour, especially on the part of business but also from government. In this paper, we examine a case where business influence and a cooperative relationship with government were not achieved, due largely to what we describe as 'bad' behaviour on the business side.

In 2022 the east coast Australian gas sector and the federal Australia government fought an intense and very public war or words over prices and investment. The sector is an oligopoly of large firms that steeply raised domestic gas prices off the back of the Ukraine war gas shortages and sharp international price rises in 2022, contributing, in doing so, to domestic gas shortages by diverting gas into booming international markets. The paper shows how the gas sector's influence and capacities in quiet politics were largely negated because of its 'bad' economic and political behavior that damaged its legitimacy and standing with the government (and the public). Economically, this was through anti-competitive behaviour, price gouging, and supply restrictions. Politically, it was through an aggressive stance and a failure to pursue compromise and a negotiated outcome with government. This was despite the outgoing former global head of oil and gas at Shell arguing in late 2022 that 'You cannot have markets that behave in such a way', and that 'one way or another government will intervene'.[13]

The paper proceeds by first outlining and critiquing the theory of quiet politics and advancing an alternative theory that emphasises influence strategies. Second, the east coast gas crisis and the gas sector's behaviour are described. Third, the paper covers the government's policy responses and the industry's reaction. Fourth, the paper shows how the gas sector failed in quiet politics due to its poor approach and 'bad' economic and

[12] Marsh and Chesters (2014, 629). Woll (2007, 57).
[13] 'If the Cap Fits'. *The Saturday Paper* (6 January).

political behavior that damaged its legitimacy and standing with the government. Hence, the sector did not proactively negotiate price moderation and supply issues with the government. This saw the government adopt an aggressive stance, ruling-out quiet politics and imposing a price cap on the sector. Overall, this case furthers our understanding of the mediating factors and limits of business power and influence in quiet politics, especially by highlighting the significance of the role of government and how the *behaviour* of a business sector in the economy and in politics can weaken it politically. As a postscript, the sector did then try to exert structural power through investment and supply threats, but this too failed.

Methods and Data

This research, funded by the Australian Research Council, is one of a number of related studies on business politics in Australia. Key data is presented from interviews with senior government relations executives in large firms in Australia. We approached a sample of 135 large firms, comprised of the largest 15 firms (by revenue in 2019) from 9 representative sectors (energy and mining, manufacturing and industrials, retail, healthcare, financials, communications and information technology, utilities, transport, banks). We allocated firms to these sectors based on the Global Industry Classification Standard Code. We also approached a number of firms (not in the sample above) who are members of the big business lobby group the Business Council of Australia. In late 2021 and 2022, twenty-five semi-structured interviews of about one hour were conducted with government relations professionals in a number of large companies in our sample. Many of these respondents also had experience working in government, in business associations, or as third-party lobbyists. It was agreed that firms and interviewees would remain anonymous. The paper also utilizers several interviews with experts on the east coast gas sector.

The interview material below underlines the utility of a micro-level and agency-focused approach to researching business-government relations. As James argues, 'a more fine-grained analysis of business agency is needed to explain how firms make credible … claims to policy makers.'[14] The executives who were interviewed act within institutional settings, operate within professional norms, and seek to influence government actors over time involving repeated interactions and the building of trust-based relational capital. The focus is on what business executives at the coal face of such interactions think and do and this is best observed through firsthand interview data. We found our interviewees to be both reflective and credible. They generally presented reasoned arguments in identifying a set of powerful and self-interested reasons to act appropriately with governments for reasons of maintaining access, longer term relations, credibility, and influence. The very strong commonality of responses across our interviewees underlines the veracity of the interview data.

Culpepper's Theory of Quiet Politics

As noted above, the theory of quiet politics has two main arguments. First, business interests much prefer to interact with government behind closed doors away from public

[14] James (2018, 1632).

and media attention in ‘quiet’ politics. This is especially so when compared to the risks if issues are fought out in the politicized ‘noisy’ arena of high salience open politics which may draw in the public and perhaps see the public side with the government and hence heighten the chances of business losing.[15] As Culpepper argues, ‘business power goes down as political salience goes up.’[16] Only if quiet politics fails might business consider moving into the open politicized ‘noisy’ political arena, which our business respondents saw as a risky last resort and one likely to erode business’s legitimacy and relational capital with government.

The business preference for quiet politics is well established by Culpepper’s empirical research and by our Australian interview data. Large firms universally say this is the most productive and least risky form of engagement with governments. As one corporate executive explained, ‘our company prefers a behind the scenes approach and the reason for that is because when you go public you draw a lot of attention to an issue.’ Another commented ‘I strongly believe that more is achieved behind closed doors. Going out in public is like hitting the nuclear button.’ Another executive argued, ‘I think you should always start quietly… if you’re being loud prematurely, and that won’t help the government, and that doesn’t build your relationship with them, then it’s counterproductive.’ Geoff Allen, the inaugural executive director of the Business Council of Australia, writes, from the business perspective, ‘the key to influence is to become a trusted authority on the business issues of interest to government, and, by doing so, to be a source of reliable and relevant information of value to government.’[17] This view was universally endorsed by our corporate interviewees.

So there is strong support for the argument that business prefers quiet politics, but as noted, it is the second proposition of the theory of quiet politics which is problematic. Here, Culpepper sees quiet politics as an arena where business wields power, and so uses the language of business power, conflict, and weapons to describe quiet politics. Morgan and Ibsen similarly posit a ’nexus between quiet politics and business power’.[18] Culpepper argues that his study of the corporate sector ‘offers a framework for understanding the sources of managerial power.’[19] He focusses on the politics of corporate control and argues that corporate ‘managers typically prevail in conflicts over corporate control… and the managerial weapons of choice in quiet politics are a strong lobbying capacity and the deference of legislators towards … managerial expertise’.[20] Indeed, ‘managerial lobbying often derives most of its strength from the *expertise* of managers… expertise is a preeminent power resource’.[21] It is true that firms and industries often have specialised knowledge and information relating to the details of their firms or sectors that can be useful to governments. Accordingly, James, like Culpepper, argues that there is an asymmetry

[15] Smith (2000). Vogel (1987).
[16] Culpepper (2011, 17).
[17] Allen (2012a, 1).
[18] Morgan and Ibsen (2021, 4). Also see Bernhagen and Mitchell (2009).
[19] Culpepper (2011, 4).
[20] Culpepper (2011, 4).
[21] Culpeper (2011, 9, 181).

that gives business a 'structural-informational advantage' and indeed that 'business power derives from a firm's capacity to transmit credible information signals to policymakers.'[22]

The key question here however is whether information and expertise translate into power or just influence? Having useful information or expertise may see invitations by government for talks or negotiations. This might be seen as privileged access, and it might aid in helping business gain influence. But it is a big step to claim that this equals business power, defined traditionally as 'A [has] power over B to the extent that A can get B to do something that B would not otherwise do'.[23] Such power can result from making conditional threats or offers which lead an actor to act in ways that they would not otherwise have chosen.[24]

An Alternative Influence Theory of Quiet Politics

It is true that business *might* try to wield power in quiet politics. An instrumental power threat of a public campaign against the government and or a structural power threat from business warning of disinvestment if a certain government policy goes ahead could well be delivered quietly. However, our interviews show that most of what happens in the arena of quiet politics in Australia is not about attempts to exert power but is instead about attempts to exert influence over governments. Influence here is defined as 'non-coercive persuasion' in which one actor seeks through the deployment of reasoned argument to suggest reasons why another actor *ought* to choose to change their course of preferred action and would be better-off by doing so in the absence of any conditional threats or offers. In Australia the dominant corporate strategy is thus to try to establish negotiated, cooperative relations with governments and provide the government with useful information and reasoned arguments in seeking win-win outcomes. This is not about power but about influence. As one interviewee remarked: 'the strategy is one of long-term relationship building … you've got to become credible in the eyes of the stakeholders and eventually earn their trust.' Another said: 'we operate from a strategic, long-term relational perspective, rather than just relying on narrow transactional advocacy … it's about building awareness and hopefully trust.'

The majority of large firms in Australia have in recent decades developed specialised in-house government relations functions run by senior executives.[25] This provides a key platform for the professionalisation and maturation of corporate government relations and is the institutional platform for corporate influence strategies. In pursuing influence strategies, we found that government relations executives thought that the best way to achieve influence and common ground with government was to recognise and abide by a number of behavioural norms and protocols. These are necessary to secure the institutional legitimacy of the government relations function both inside and outside the corporation and to support ongoing trust-based relationships with government.

The notion here of there being tacit 'rules of the game' to which actors have incentives to adhere to was initially developed within academic work seeking to explain

[22] James (2018: 1632).
[23] Dahl (1957, 202).
[24] Dowding (1991, 66-9).
[25] Bell, Hindmoor and Umashev (2023) and Bell (2022a).

the nature and stability of consociational democracies based on power-sharing.[26] In this context, the norms and protocols to which party leaders were seen to adhere were inclusion, proportionality, segmental autonomy, and mutual veto. The idea of there being norms and protocols of interaction was then picked-up in the late 1980s and 1990s within an extensive literature on 'policy networks' where the recognition of norms or protocols guiding behaviour was seen as one of the distinguishing features of tight-knit 'policy communities'.[27] More recently, in a series of papers on post-crisis financial reform, Elsa Masooc also highlights the importance, in the French context, of informal networks of sociologically similar politicians, senior state officials and bank executives animated by 'powerful norms of cooperation' and mutual trust and understanding which, 'with little concrete bargaining', nevertheless allow for the 'mutually beneficial long-term exchange of favours'.[28] The idea that there are interactive behavioural protocols and that these can form an important part of the explanation of business politics has been further highlighted by Christian Hendriksen in his account of the 'micro-dynamics' of business lobbying in international negotiations.

> Claims to authority—and subsequent influence on policy making— hinges on the ability to act in accordance with the dominant ideas about appropriate political conduct. A lack of adherence to these informal rules of appropriateness leads to a form of legitimacy incapacitation where claims to authority at decisive moments are met with negative legitimacy judgments by other[s]. This core dynamic shapes whether business actors are influential or not.[29]

Hendriksen therefore argues that 'the relative success of different business groups is almost entirely determined by their conduct during negotiations. Generalized theoretical explanations of business power can therefore miss a crucially important explanation of why some firms are winners and others are losers.'[30] But there is more to it than just negotiating *strategy*. In such contexts, both sides clearly and certainly in the first instance, face incentives to *behave* in a mutually acceptable way.

Our business executives in Australia were able to outline a number of such behavioural norms and protocols that structure lobbying engagements with governments.

First, they recognised that governments have a democratic mandate, usually set the overall direction of public policy, and have a degree of legitimacy and authority not typically shared by business. Governments thus loom large in the eyes of business lobbyists, with firms typically operating in the shadow of government hierarchy. This incentivises firms to operate with a degree of caution and deference in relation to governments. This creates a relational context for business that points to the advisability of winning support from government and not getting government offside if this can be avoided.

[26] Lijphart (1969).
[27] Rhodes and Marsh (1992, 10); Saward (1992); Bevir and Richards (2009, 6); and Rhodes, 2017, 203).
[28] Jabko and Masooc (2012, 563 and 567). Masooc (2022). Masooc (2021, 675).
[29] Hendriksen (2022, 83).
[30] Hendriksen (2022, 80).

This is important because it points to deficiencies in existing theories of business politics, namely, the lack in many cases of an adequate account and theory of the role and potential power and authority of governments. This is certainly true of the theory of quiet politics, one which gives insufficient agency to governments and that sees business expertise and information as a major *power* weapon in relation to governments. This view places little emphasis on the authority that governments can often wield and largely overlooks the fact that business can lack legitimacy in the eyes of government and the public. Also, what is often missing is recognition of the ways in which the agency and interpretations of government actors matter in their dealings with business, potentially shaping the relevance, influence, or power accorded to such business interests.[31] Business can present information or offer expertise, but whether government actors believe or fully accept such information is another matter. As Colin Crouch argues, there is 'always an area for discretion in the extent to which governments take seriously industry's [views] or complaints': not least because, as James emphasises, 'policymakers are embedded within institutional structures that provide valuable political and financial resources, which can be used to accumulate technical knowledge and expertise.' [32]

Second, within this basic framework, business will usually attempt to quietly influence policy, providing useful resources to government, including first-hand business information and opinions and options about policy. For most firms (though not for those studied in the case study in this paper) this also implies acting honestly, transparently, usefully, and in a non-threatening manner. The aim for most firms is to build long-term relations of mutual respect, credibility and trust. Importantly, most firms recognise the relational dynamics of repeated interactions with governments and tend to play the long game. The institutional and professional success and longevity of corporate government relations professionals depends on this.

Third, as part of such protocols, interviewees stressed that it was important in dealing with governments to avoid being seen as engaging in narrow corporate-centric lobbying or special pleading. The typical aim is to work positively with governments; to avoid overtly narrow corporate agendas; and, instead, to seek alignment between the firm's and government's positions.[33] This generally means framing corporate agendas in ways which are consistent with some version of wider government and/or public interest agendas. As one interviewee said, 'in our experience the government does not appreciate only narrow 'needs-driven' engagement'. Another said that their role was about building a 'trusted advisor role with the government... it's not about going to them just when we want something.' Another respondent said, 'it's just not plausible in this modern day to really

[31] Bell (2012).
[32] Crouch (1979, 43). James (2018, 1633).
[33] Above we have emphasised the importance of seeking alignment between business and broader public interest or government agendas as an important ingredient of an effective business lobbying strategy. But how does this align with evidence of corporate rent seeking in Australia? (See Wood and Griffiths (2018) and Edwards 2020)). Here, our 'accommodative' account of business-government relations suggests that rent seeking is often an outcome of *agreement* between business and government, with, for example, the management of water allocation under the previous Coalition government in Australia's largest river system being an example. See Bell (2022b).

be pushing things that aren't aligned with the public interest.' Another said, 'arguing your narrow self-interest, it becomes pretty obvious when you're doing so… seeing things from a broader view is, I think, certainly going to be a more productive way forward than simply arguing your own case.' Another remarked that the best lobbying approach was to tie arguments 'to the self-interest of politicians, and to the national interest…. if you can say this will improve productivity, this will improve economic activity, this will improve jobs… then you're going to have a much better time.'

Interviewees also consistently emphasized how their work and their relations with government (and the public) required them to frame their arguments in broader terms as being connected to and consistent with some version of the public interest. As one interviewee said, an important question when lobbying is: 'how do we align ourselves with the goals of the government of the day? How do we manage our messaging in a way that is not going to irritate?' Another argued that dealing with government required an understanding of 'where government was coming from … you need to understand from the government's perspective what motivates them, what drives them, what's important to them.' Every interviewee fully agreed with the following comment, made by Geoff Allen, that 'advocacy positions need to be evidence based and need to take into account the public interest.' As one respondent commented, 'that's absolutely the case… that's your job.'[34]

Fourth, our business respondents were at one in claiming that they saw their role primarily as one of attempting to persuade and exert influence in relation to governments, rather than attempting, certainty in the first instance, to exert power over governments. Any attempted 'power over' approach by business was seen as risky and dangerous, with the strong potential to use up hard won political capital and damage the relationship. One interviewee said 'in the majority of cases, the role of government relations/lobbying is performed in an attempt to exert influence on the government's thinking by posing arguments which support your position and setting out reasons that alternative approaches are bad policy or will have negative effects'. Another spoke of how, in their experience, 'business is striving to increase the government's understanding of (and hopefully its responsiveness to) its perspective. That's why I regard government relations as essentially relationship building. The concept of exercising "power'' is not analogous to relationship building.' Another executive said a cooperative, reasonable approach worked best. 'I've never raised my voice. I've never threatened people. I've experienced a number of people who have, and I've seen where it's got them personally and professionally, and it hasn't been helpful… in this business you take a long time to build up your capital, and you can destroy it very quickly.' Another interviewee said that publicly confronting governments was risky, 'because that's pretty much the end of those relationships that you have been cultivating. Once it goes public and becomes adversarial, there no way back from that. There's a winner and a loser, basically.'

Interviewees recognised that business has the option, if quiet politics had failed and the issue was a major one, of forsaking quiet politics and mounting a 'noisy' public campaign that aimed to change the government's position more aggressively. Interviewees recognised that public campaigns were one option here and that this could be backed by

[34] Geoff Allen (2012b, 153).

threats or offers to cut or increase investment depending on the policy adopted. Yet they also emphasised that the adoption of such a strategy is high-risk and the exception rather than the rule. As one respondent stated, 'in extreme cases when the stakes are high, attempts to influence government decisions may be performed in such a way that could be perceived as coercive… only the more extreme and high-profile cases would be described as coercive … nevertheless, such tactics are the exception rather than the norm.'

In summary, the protocols of appropriate business behaviour in dealings with government are widely (though not universally) recognised by large firms. 'Bad' behaviour occurs when, either intentionally or unintentionally, large firms break with one or more of the above norms and protocols. Therefore, whether or not business is in a position to successfully exercise influence will depend not only on the persuasiveness of its arguments but also on its respect for these norms and protocols. The case examined below offers an interesting take on these dynamics. True, the failure of quiet politics and the conflict and disagreement between the gas industry and the federal government initially stemmed from 'bad' behaviour by the sector in the economy around pricing and supply issues. So enraged was the government, as well as other sectors of industry and the public, that the government itself abandoned its side of the accepted norms and protocols of engagement and acted aggressively and unilaterally, allegedly without consulting the industry. The norms and protocols in question thus need to be accepted and operate effectively from both sides of the relationship. The result of the failures in this case stymied quiet politics and resulted in a noisy political dispute during which the government moved aggressively against the gas sector.

Market Failure and the East Coast Gas Crisis

The east coast gas industry in Australia is dominated by a few major firms: Shell QGC, Origin Energy, Conoco Phillips APLNG, and Santos's Liquid Natural Gas (LNG) venture. These major east coast gas producers and exporters control around 90 per cent of the market, whilst other firms such as Exon Mobil, Woodside, Cooper Energy, and others, also operate in the sector.

There are a number of reasons why the east coast gas sector has been marked by issues of pricing and supply. One is the anti-competitive nature of the domestic industry. The Australian Competition and Consumer Commission (ACCC) has argued that the major producers controlled close to 90 per cent of the proven and probable reserves in the east coast; that firms often engage in joint ventures in which the development of new fields can be delayed to boost profits and lead to exclusivity agreements which restrict the ability of domestic producers to supply gas on the domestic market; that mergers and acquisitions also restrict supply; and that, as a result, 'competition is posing little constraint on the behavior of producers'.[35] These market conditions 'increase the risk of coordinated conduct and increase the market power of the LNG exporters. This is concerning given… the reliance that will be placed on the LNG exporters to supply more gas to the domestic market'.[36] Moreover, on pricing, the ACCC concludes that 'the option for LNG producers to export into global LNG markets, and their market power on the east coast, means that

[35] ACCC (2022a, 14).
[36] ACCC (2022a, 15)

LNG prices have a strong influence on domestic price offers.'[37] Bruce Robertson, from the Institute for Energy Economics and Financial Analysis, argues the gas firms 'act exactly like a cartel. They control supply to keep the domestic market starved and prices high. They engage in anti-competitive practices that ensure they maintain an iron grip on prices.'[38]

One factor driving pricing and supply issues has been the global nature of the gas sector. In 2015 the industry made huge investments in gas liquefaction and port infrastructure in Queensland, using this as a platform to export large volumes of gas into export markets. This fundamentally changed the domestic market. The gas sector's export drive saw overcommitted forward sales to Asian markets which then saw pressure on domestic supplies, forcing up local prices. By 2017, with predicted shortfalls in the domestic gas market, the Liberal Party Prime Minister, Malcolm Turnbull, responded by introducing the Australian Domestic Gas Security Mechanism (ADGSM), which can be used to apply export controls on gas exporters if the resources minister sees a reasonable prospect of a supply shortage in the domestic market for the following calendar year. The ADGSM has never been invoked but is a weapon in the government's arsenal. However, instead of invoking the ADGSM in 2017, the government pursued a voluntary, negotiated agreement with the industry under a so-called Heads of Agreement process. This was a prior example of successful quiet politics where government loomed large, and the industry was cooperative. The former Chair of the ACCC, Rod Sims, recalls:

> It was the government demanding that industry do something when international prices were around $10a giga joule (GJ) and yet domestic prices were up to $20GJ. They were taking advantage of their market power. We were advising the government at the ACCC, and the government thought this was outrageous. So, the idea was to get them in and say you better fix this otherwise bad things will happen to you. That meeting was held, and they fixed it, with prices falling back to $10GJ (author interview 2/2/2023).

The Heads of Agreement was renewed by Turnbull's successor as Liberal Party leader and prime minister, Scott Morrison, in January 2021. However, by early 2022 high global gas demand and steep international prices rises due to the war in Ukraine *and* the anticompetitive behaviour of the domestic gas industry, together with growing problems and constraints on domestic coal-fired power generation, saw domestic gas prices rise broadly in-line with international ones to 'record highs'.[39] In 2017 domestic spot market prices had hovered in a range of between $5 and $10 per GJ. In 2022 domestic prices rose to $30 per GJ and in some cases much higher.[40] As a result, and according to Rob Sims, 'Australia [had] the highest, by far the highest, domestic gas prices of any gas exporting country' in the world.[41]

These drastic price increases stemmed from the global market perspective adopted by the corporate giants in the gas sector, which, according to the Australia Institute, is 96

[37] ACCC (2023a: 7).
[38] Robertson (2022).
[39] ACCC (2022a, 120)
[40] ACCC (2022b, 123)
[41] 'Wasted Energy'. *The Saturday Paper* (5 November 2022).

percent foreign owned.[42] Tony Wood, a former senior executive at Origin Energy and now an energy analyst at the Grattan Institute in Melbourne, argues, 'the whole east coast coal seam gas sector was created for exports. It is dominated by joint ventures and offshore dominated companies who are Korean or Japanese or Chinese or American companies and who are not that interested in supplying the domestic East Coast market' (author interview 14/2/2023). Wood continues:

> The issue is the export parity price; the view is that the LNG producers should be able to extract that same price from domestic customers. Now that was stabilised with the establishment of the Australian Domestic Gas Security Mechanism with Malcolm Turnbull in 2017. But it was completely destabilised last year in 2022. Whether they [the gas industry] should or could have seen it coming I don't know. I think they should have but they continued to run this argument that the international price is the one that matters and they're going to charge that domestically as well.

The former Chair of the ACCC, Rob Sims, characterizes the gas producers in the following way:

> The three main LNG exporters in Queensland…. have got about 90 per cent of the gas reserves down the East Coast and they export about 90 per cent of their gas. The issue is what they do with the remaining 10 per cent. Whatever you sell to the domestic market should be significantly below the war-inflated international price. They have chosen not to do that. They have chosen the profits that they get from selling internationally rather than domestically. For the three gas producers to behave this way I just find extraordinary. I don't think that they would even dare get away with it in any other country (author interview 2/2/2023).

High gas prices put intense pressure on domestic gas users, with a number of firms declaring bankruptcy as a result. Steritech, a medical sterilization firm, was paying 4 times the price for gas in 2022 that it had previously. As Steritech's general manager pointed out, 'The Australian community owns the gas in the ground, we license it out to gas companies to be able to extract it and deliver it to us, and you would expect that's going to be done at a fair price'.[43] The head of the Australian Industry Group commented that the pressure on industry was intense and that the situation 'is going to need governments to put their foot on the throat of the gas producers'.

Beyond pricing, gas supply to the domestic market has been a further issue. Tony Wood argues,

> There was always a bit of rumbling as to whether the domestic market was going to be met or not. But the companies always said it would be and the actual ADGSM trigger as it's called was never pulled because the market met the domestic demand… If it looked like it was going to be a shortfall and it was

[42] Australia Institute (2022).

[43] 'Gas Uses and Experts call for Federal Crackdown on East Coast ''Gas Cartel," *ABC News* (11 August 2022).

> not going to be met by the companies, then the minister could directly intervene. It was never necessary because the industry generally worked sensibly through this process (interview 14/2/2023).

This dynamic changed in 2022 with the surge in demand and high prices in the international gas market. In 2022 the ACCC highlighted 'concerns that some LNG exporters are not engaging with the domestic market in terms of the Heads of Agreement signed in early 2021.'[44] Given this concern, the Heads of Agreement was renewed again, following the May 2022 federal election, by the Labor Party leader and incoming Prime Minister, Anthony Albanese. As a part of this revised agreement, 'excess gas produced by the LNG exporters had to be offered to the domestic market for reasonable supply periods, with reasonable notice, on competitive market terms before being offered to the international market'.[45]

Domestic gas supply nevertheless remained tight. In January 2023, the ACCC predicted a significant shortfall in domestic supply and concluded that the LNG producers were 'net takers' from the domestic market, selling less gas from their own production (or that of their associates) back into the market than they were purchasing from it for exports.'[46] A key part of the problem was that high global prices for gas 'strengthened the incentive for producers to export LNG rather than supply the domestic market'.[47]

Energy analyst Bruce Mountain argues there is also another reason for supply pressures on domestic gas: the need for high volume throughput in the east coast LNG export processing plants.

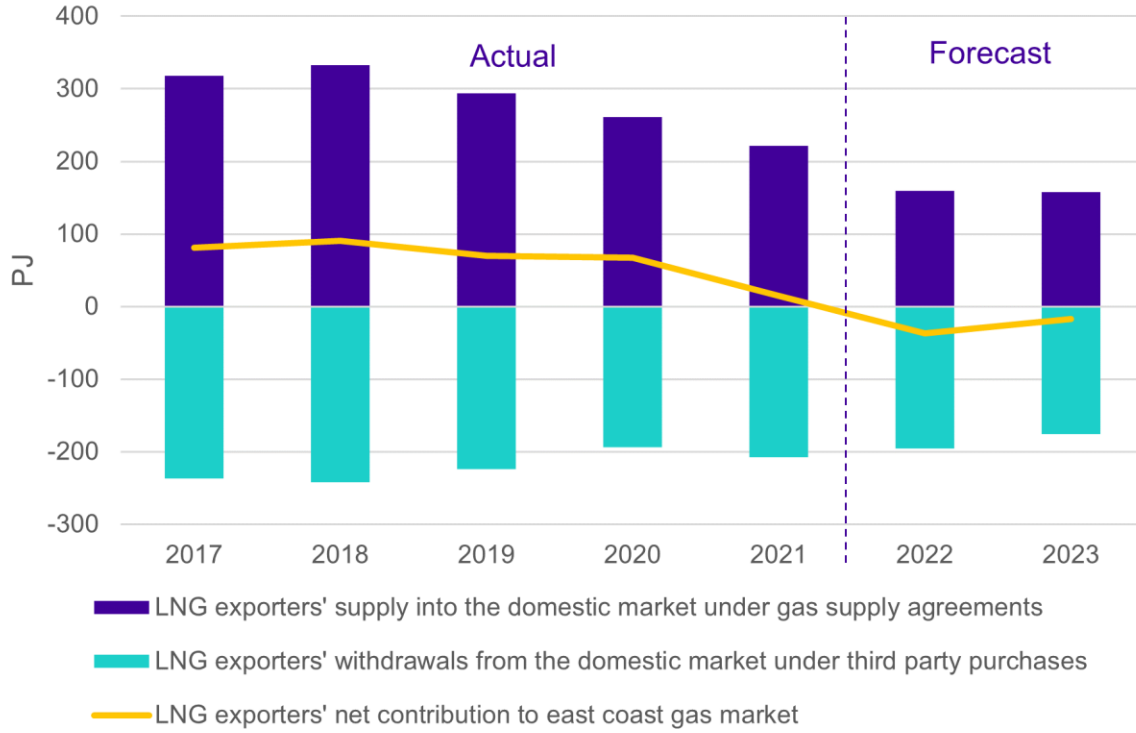
> Our export capability on the East Coast exceeds the level of reserves that the gas producers think that they can economically access… They can suck it out of Gippsland and if they exploited all their coal seam gas in Queensland they've got enough to supply their export facilities. But they are evidently not confident enough that that additional reserves are sufficient to keep their machines exporting at the volume that they need to amortise the huge loans and investments that they've got against these. These factories have got to be written down over 35 years or so. So, there is effectively a scarcity of gas on the east coast, and they prioritise keeping their big machines going for fear that if they don't the economics starts to diminish quite quickly. They thus have an incentive to get throughput into their factories so taking gas from domestic supply (interview 9/6/2023).

This trend of withdrawing more gas than is being supplied to the domestic market has been underway since 2021.[48] In January 2023 the ACCC Chair commented that the gas 'outlook remains uncertain as the LNG producers haven't yet committed sufficient volume under firm contracts to address the risk of a domestic shortfall'.[49] As Figure 1 illustrates,

[44] ACCC (2022b).
[45] ACCC (2023a, 1).
[46] ACCC (2023b, 10-11).
[47] ACCC (2022a, 124).
[48] ACCC (2022a: 10).
[49] ACCC (2023a).

the net contribution by LNG producers to the east coast gas market has been declining since 2017 and has been negative since 2021.

Figure 1: LNG producers' net contributions to the east coast gas market



Source: ACCC, Gas Inquiry 2017-2030: Interim Report (January).

Bad Behaviour and the Failure of Quiet Politics.

The seriousness of the market situation and pressure from industrial gas users and the community led the Labor government to conclude that the status quo, as embodied within the Heads of Agreement it had recently renewed, was not working. Prime Minister Albanese argued that 'there has been no increase in the cost of production here in Australia and yet there was massive, in some cases, a quadrupling of prices that were being offered to customers. That's unacceptable'.[50] Federal Industry Minister, Ed Husic, similarly argued,

> Some gas companies are pricing in a way that they would never do in the international market, simply to scare away local buyers and hive that off to the export market. And when you see a situation where three companies control roughly 90% of the market, government cannot sit by and let that distort the way that that impacts on business.[51]

[50] 'Gas Cap Won't Impact Investment: Albanese', *AAP* (23 December 2022).
[51] Interview, ABC Radio National (12 December 2022).

One option that was available to the government, following the lead of a range of overseas countries, including the UK, would have been to introduce a windfall profits tax on the sector. Such a tax might have raised up to $A40bn.[52] However, Australia already had a similar tax, the Petroleum Resource Rent Tax (PRRT), which imposes a 40 per cent super tax on profits but only on offshore gas production.[53] This is a crucial restriction because most of the east coast gas production is onshore. Yet instead of legislating to extend the reach of the PRRT, the government instead imposed a price cap on the industry of $12 a GJ during 2023 on new wholesale contracts. The government also announced the introduction of a mandatory code of conduct for the industry (the so-called Gas Market Code), to be administered by the ACCC. The ACCC argues the 'code is intended to facilitate a well-functioning domestic wholesale gas market with adequate supply at reasonable prices.'[54] The Code was fully implemented in September 2023.

Once it had become clear that the federal government intended to change the underlying policy framework, the relationship between the government and the gas industry, which was already highly strained, completely broke-down. This was not *simply* because the government was contemplating policies which the industry calculated would reduce its profits. After all, the industry had previously accepted and negotiated in relation to the details of ADGSM and the Heads of Agreement process which the incoming Labor Party had revised. What mattered more to the industry, beyond the commercial bottom-line, was a belief that the government was grandstanding and had ignored the established norms and protocols in allegedly failing to consult with it about how it was intending to act. In a submission to the government on the proposed mandatory code, the gas producer, Senex Energy stated that 'despite months of commentary, no genuine consultation was undertaken in advance of the suite of interventions proposed.'[55] Meg O'Neil, the CEO of Woodside, has also commented:

> It's very disappointing for us to see the government, really without consultation, propose this very significant market intervention that will have long lasting implications… What's been tabled is a 12-month price cap and then after that a change to the code of conduct where the minister will have the right to declare who a gas producer should sell gas to at what price and what terms. So, the minister is now in a position where they're going to be picking winners and losers. I think that's clearly not been consulted on.[56]

It is certainly true that the government could have chosen to renegotiate under its Heads of Agreement process in order to achieve its goals. One potential way of achieving

[52] Ogge (2022).
[53] A further limitation on the PRRT was that costs incurred during exploration and project construction can be offset against the tax. These factors have resulted in the tax raising very little revenue. The senior economist, Chris Richardson, argues that the tax 'became overly generous on deductions to collect an embarrassingly low amount of revenue for the government'. In May 2023 the government partly corrected this with an increase in the PRRT, though under law this only affects offshore producers, not the mainly onshore production in eastern Australia. 'Report to Inform Gas Tax Changes; Resources Revenue'. *Australian Financial Review* (1 April 2023).
[54] ACCC (2023c, 7).
[55] Sennex Energy (2023, 7).
[56] 'Interview with Woodside CEO'. *ABC Radio National Breakfast* (14 December 2022).

this might have been for the government to follow the advice of the ACCC's former Chair, Rob Sims, who proposed extracting concessions from the sector with the government holding a 'baseball bat in its knapsack' via the threat of export controls or a super profits tax over the sector as the cost of non-cooperation.[57] This is the velvet glove/iron fist approach that is consistent with the kind of regulatory hierarchy strategy advocated by scholars such as Ayres and Braithwaite.[58] Failing this, the government could have simply imposed a one-year price cap, subject to review. As the Grattan Institute argues, 'If the government had announced the 12-month price cap with a simple extension methodology, the industry would have probably found a way to acceptance. The government could even have made it clear that further action might be necessary without prescribing it'.[59] However, these opportunities for a negotiated 'quiet politics' approach were missed.

For its part, the government had clearly reached a view that the industry, in its words and deeds, both in the economy and subsequently in politics, was acting aggressively and unreasonably. This is part of a long history such behaviour by the mining sector which damaged the sector's reputation during the 1970s and 1980s. As a result, and in 2006, the Australian Mining Industry Council endorsed a reform package relating to its future behavior which included several important norms and protocols outlined above, including 'operating in a manner that is attuned to community expectations and which acknowledges that businesses have a shared responsibility with government'.[60] The current behaviour of the east coast gas sector represents a retreat back to a more aggressive past. In the words of the Industry and Science Minister Eric Husic, the sector was engaging in narrow rent-seeking behaviour and a 'glut of greed'.[61] Tony Wood however, has argued,

> I think there's a bit of guilt on both sides here. The global head of Shell at one point some months ago said look this is a problem, we are part of the problem, and we have to be part of working with the government to find a solution. What I don't understand is why the industry in Australia from the very beginning threatened Armageddon if the government did anything. Clearly, windfall profits resulting in the consequences of high prices are untenable politically, socially, and economically. The government had no choice but to act and the industry should have seen that was going to happen and they should have come up with their own solution. So, in some ways you could say they brought this on themselves…. They would say this is over the top and maybe you could argue the government's overreached.[62]

Hence, on top of its one-year price cap the government added a new mandatory code of conduct imposing an ongoing 'reasonable pricing' provision. This came in the form of an amendment to the *Competition and Consumer Act 2010* which states The Minister may make orders regulating the terms (including prices) on which 'gas is supplied or acquired.'

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[57] 'Show Gas Industry the Bat: Sims'. *Canberra Times* (5 December 2022).
[58] Ayers and Braithwaite (2022).
[59] Wood, Reeve and Suckling (2023, 3).
[60] Allen (2011, 5).
[61] 'Glut of Greed': Industry Minister Condemns Australian Gas Industry's Pursuit of Higher Prices'. The Guardian (3 November).
[62] 'Interview', The Money, ABC Radio National (15 December 2022).

This means the government can influence demand, supply, and price, and arbitrate in relation to particular contracts if needed. According to Tony Wood:

> The big factor which I think really led to the very sharp tension that emerged between the government and the industry was partly contributed to by the ACCC that has for quite a long time had a major concern that the wholesale gas industry is fundamentally anti-competitive. The ACCC said to the government, look you can do that [the price cap] but that doesn't fix the long-term systemic problem of this industry even if the Ukraine war finishes and international prices come down again. The fundamental anti-competitive position of this industry will remain and that then triggered what nobody saw coming; this idea of imposing a reasonable profit test under this new mandatory code of conduct which would sit alongside the Heads of Agreement and the domestic gas security mechanism. That's what really got the industry's back up (author interview 14/2/2023).

Once the Government announced that it intended to cap prices, the gas industry responded by launching a noisy campaign through the media and with the support of the Liberal/National coalition opposition party to seek to convince the public that the price cap was excessive, politically motivated and economically disastrous. With its attempts to influence the government having been negated, the industry instead resorted to a classic structural power strategy, threatening to cut investment in ways which would result in long-term price increases, reduced supply, and lower levels of employment.[63] The former head of the Australian Petroleum Production and Exploration Association stated, for example, that 'the draconian price caps,' will only deter 'desperately needed investment'.[64] Its then current head argued that the government's move 'amounts to a fundamental dismantling of the Australian gas market. It will do the opposite to what's needed and will destroy investor confidence in bringing on new supply and that's the key to bringing down prices'.[65] The CEO of Santos described the price cap as a 'Soviet Style' response which was evidence of Labor's 'ideological extremism'.[66]

The Government was unmoved and completely rejected these arguments. The Energy Minister, Chris Bowen, suggested that the industry's approach was 'not convincing in the slightest'.[67] He argued that available profits were such that the sector would continue to invest and that the structural power threat therefore lacked credibility. The Government's position was, in part, informed by memories of a previous battle in 2010 between the then Labor Government and the mining industry over the introduction of a super-profits tax, which the government lost, precipitating the resignation of the then Labor Prime Minister

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63 'Intervention: Gas Industry Digs in for More Battles Ahead'. *Australian Financial Review* (16 December 2022).

64 'Gas Lobby Chief Rips AGL, Origin, EA for Gouging Small Customers'. *Australian Financial Review* (8 November 2022).

65 'Wasted Energy,' *The Saturday Paper*, (5 November 2022).

66 'Intervention: Gas Industry Digs in for More Battles Ahead'. *Australian Financial Review* (16 December 2022).

67 'Energy Minister Chris Bowen Slams Gas Industry's Outcry Over Losing Record Profits as he Condemns Liberal leader Peter Dutton's Response to Market Intervention'. *Sky News* (11 December 2022).

Kevin Rudd.[68] This has done long-term damaged to the industry's political capital and relationship with the current Labor government. The government has also been annoyed by the mining and fossil fuel industry's strong support for the former Liberal/National coalition government and the current coalition Opposition which have worked closely with the industry to fend off strong emissions reductions and climate related policies.[69]

In 2010 the Labor Government had lost its battle with the mining industry in part because it lacked public support. The situation was very different in 2022. A poll by Resolve Political Monitor found 79 per cent of voters were in favour of gas price caps with a little over half of all respondents in favour of hitting the exporters with higher taxes.[70] The CEO of the Energy Users Association of Australia congratulated the government for 'standing up to the bullies of the gas industry, they bully governments, they bully their customers, they bully regulators and in its time someone stood up to them'.[71] The Grattan Institute argues that 'the industry refused to accept that the announced price outcomes were simply unacceptable for the government and seems to think they can win the public debate. They are probably wrong… The industry seems stuck in its own rhetoric that fails to recognise that political momentum and public sympathy are with the government.[72] The journalist Jennifer Hewett argues 'the government is confident the public is on side, given the industry's tarnished reputation, making it an easy target.'[73] The journalist Laura Tingle similarly argues the industry has big problems in the political arena.

> The huge windfall profits being made from soaring spot prices for gas don't exactly leave resources companies in a place where anyone feels sorry for them. They are sort of lucky that the government hasn't hit them with a windfall tax as many other nations have done. Equally, many see merit in the argument that these are 'our' natural resources, and we should not be having to pay exorbitant prices for them. So, the resources companies have quite a problem in terms of the value of their social license.[74]

As argued above, the capacity of a business sector to establish influence and cooperative, negotiated relations with governments is best supported when sector's display behaviour that is broadly acceptable to the government and the public and which follows acceptable norms and protocols of interaction. In this case, the gas sector's economic and political behaviour made achieving good relations with the government difficult, especially since the government was clearly angered by the sector's behaviour leading it to act aggressively and depart from conventional protocols of interaction itself. In the final analysis, the government has become publicly committed to the current path of policy and the gas sector remains locked into a policy framework set by the government which it dislikes intensely. The government has maintained its policy of a 'price anchor' in the

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[68] Bell and Hindmoor (2014).
[69] Wilkinson (2020). Brett (2020).
[70] 'Gas Giants Are Threatening to Decamp After a Move to Cap Prices — But to Where?' *ABC News* (17 December 2022).
[71] 'Emails Reveal Labor Caved into Santos'. *The Saturday Paper* (22 December 2023).
[72] Wood, Reeve and Suckling (2023, 2-3).
[73] 'Contradictions, Chaos in the Gas Industry'. Australian Financial Review (31 March 2023).
[74] 'Threat of Future Interventions Complicates Price Cap'. *Australian Financial Review* (17 December 2022).

system is needed and has put in place stronger arrangements over supply. The wash up from the policy changes is that producer prices offered between February and August 2023 for 2024 supply averaged $14.6 CJ, a 45 per cent decrease from the preceding six months. Moreover, the introduction of the price cap, from December 2022 to August 2023, saw producers selling gas at or under $12 CJ.[75] These price corrections highlight the fact that the gas sector brought upon itself a series of huge policy and political problems for the sake of chasing a short-sighted higher profit strategy in 2022.

Certainly, a better and more amicable policy framework may have been possible, but thus far the sector and the government have largely failed to achieve quiet politics, with the gas sector continuing to lack influence. The root cause of the failure of quiet politics and business influence in this case can be attributed to the sector's bad behaviour in the economy and in politics, which precluded it from exercising any influence in a context of government aggression.

Conclusion

In the last two decades, researchers have provided a rich account of the sources and variable nature of business power. However, this literature, including the theory of quiet politics, has not distinguished between business power and influence. This paper has shown that business interests prefer quiet politics, and importantly, contrary to established theory, seek to deploy influence rather than power as a first option in dealing with governments. The theory of quiet politics thus needs to be rethought. The prevailing literature has taken the focus away from understanding influence dynamics as the preferred and much more common form of interaction between business and government.

This paper has attempted to help correct this situation by focusing on quiet politics as an arena that is usually and mainly (though not always) about business influence and non-coercive persuasion. The paper has also attempted to outline the necessary conditions for effective quiet politics, pointing to the requirement for business to act within certain institutionally structured norms and protocols of behaviour. In the case examined, the paper has shown that 'bad' behaviour by business can undermine business credibility and standing with government and the public, ruining quiet politics, especially if governments react in an aggressive manner in the face of such business behaviour. The paper has thus argued that business success with government (or the lack of it) does not just reside in the usual focus on instrumental or structural power but more commonly resides in business influence strategies which in turn are shaped by the behaviour of firms or sectors that can potentially strengthen or weaken them politically. On this behavioral theme, the literature on business- government relations has tended to focus on business's *political* behaviour, but as shown here, the *economic* behaviour by firms and sectors can also shape political outcomes.

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[75] ACCC (2023c, 10).

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