

**National Policy Implementation in Queensland:
the Politics of National Competition Policy
in the 1990s.**

**Thesis re-submitted by
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Abstract

This is a thesis that focuses on the implementation of a national policy platform – the National Competition Policy – by the Queensland Government. NCP involved difficult government decisions, and the policy often became regarded – and often wrongly - as epitomising a broad range of unpalatable and controversial socio-economic changes. In this context, this thesis proposes an analysis of how implementation succeeded, almost against the odds. The overall argument is that a broad-ranging, national policy, derived from a collaborative forum of Australian heads of government, and overseen by a new intergovernmental watchdog, *can* be implemented successfully in a State, even during politically volatile times.

The agreement on NCP was without peer or precedent. It encompassed a wide array of reform initiatives spanning a ten-year implementation horizon. It also required the coordination of all tiers of Australian government to meet agreed milestones set in the original agreement. The creation of an independent implementation watchdog in the form of the National Competition Council (NCC) was a key component of the institutional arrangements that accompanied the reform effort.

NCP implementation coincided with a period of significant political volatility in Queensland, which led to leaders of major political parties adopting inaccurate rhetorical positions on NCP in public forums. As a result, the NCC and the Queensland government were brought into conflict on a regular basis. The analysis provided in this thesis shows that NCP had important structural features that served to buffer implementation from populist political attack. These features included: a symbolic union between the leaders of Australian governments, achieved through the signing of formal NCP documentation; the creation of an independent oversight body in the NCC, designed to monitor implementation and to insure against goal displacement; and the establishment of a financial incentive package tied to the achievement of key milestones.

This thesis also shows that a key failing of the NCP agreement was the lack of ongoing engagement with the heads of Australian governments, acting as a collective, as the implementation process moved forward. This flaw isolated the NCC from political support and, as a consequence, left it - and NCP generally - without a visible source of political leadership. Ironically, this arrangement assisted Queensland to implement NCP as successive governments were able to distance themselves from the policy by blaming the reform effort on the NCC.

The persistent parochialism of Queensland politics presents important implications for the implementation of national policies, not only NCP. If they are to be successfully implemented, policies must withstand the likely political barrage they will receive in political environments such as that which existed in Queensland in the mid to late 1990s. The key is to design mechanisms that will buffer, and in fact enable, the politics to be played out, while at the same time give shelter to the implementation effort.

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Abbreviations

ACCC	Australian Competition and Consumer Commission
ADIC	Australian Dairy Industry Council
ALGA	Australian Local Government Association
ALP	Australian Labor Party
BIE	Bureau of Industry Economics
CBRC	Cabinet Budget Review Committee
CCA	Conduct Code Agreement
CCAQ	City-Country Alliance Queensland
COAG	Council of Australian Governments
CPA	Competition Principles Agreement
DLGP	Department of Local Government and Planning
DNR	Department of Natural Resources
EPAC	Economic Planning Advisory Council
GBE	Government Business Enterprise
GDP	Gross Domestic Product
GSP	Gross State Product
IC	Industry Commission
LDG	Legislation Drafting Group
LGAQ	Local Government Association of Queensland
MRG	Microeconomic Reform Group
NCC	National Competition Council
NCP	National Competition Policy
NSW	New South Wales
ONP	One Nation Party
PBT	Public Benefit Test

PC	Productivity Commission
PSMC	Public Sector Management Commission
QCA	Queensland Competition Authority
QCOA	Queensland Commission of Audit
QDO	Queensland Dairy Organisation
Qld	Queensland
SPC	Special Premiers' Conference
SPSFQ	State Public Sector Federation, Queensland
TPA	Trade Practices Act
VFI	Vertical Fiscal Imbalance

Chapter One – The Introduction

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Introduction

In Queensland, Canberra-bashing is a favourite past time for State political figures. As parliament drew to a close in November 2000, the Premier Peter Beattie, claimed:

If Graeme Samuel [the head of the National Competition Council - NCC] and his other Canberra appointees want to run this State, they are more than welcome to contest a seat in this Parliament at the next State election. It is Parliament, and only the Parliament, that represents the proper democratic expression of the will of the people of Queensland.¹

This was not a simple case of the Premier making passing comment about an important intergovernmental body. It was more than that; he wanted to make political capital out of lambasting the NCC and its leader. But, why would he want to do this? After all, the Council was a creature of the States' and Commonwealth's own making.² Everyone knew that it was set up to monitor the implementation of the National Competition Policy (NCP) agreement struck some five years prior to the Premier's outburst. Given that all governments went into the deal with their eyes wide open, what was behind the Premier's heated attack?

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This thesis analyses the implementation of NCP and the role of the NCC from the perspective of a mainland State - Queensland. It provides a detailed account of how a national policy is implemented at State level, within Australia's complex federal compact. Moreover, it highlights the political manoeuvring that accompanied a far-reaching policy agenda which was designed to take at least a decade to complete – a relatively long timeframe given the political volatility associated with three-year electoral cycles of both the Federal and Queensland parliaments.

NCP involved difficult government decisions, and the policy often became regarded – and often wrongly - as epitomising a broad range of unpalatable and controversial socio-economic changes. In this context, this thesis proposes an analysis of how implementation succeeded, almost against the odds. The overall hypothesis is that a broad-ranging, national policy, derived from a collaborative forum of Australian heads

¹ *Queensland Parliamentary Hansard*, 8 November 2000, p. 4029.

of government, and overseen by a new intergovernmental watchdog, *can* be implemented successfully in a State, even during politically volatile times.

This is not a thesis about high-level political relationships between the Executives of the Commonwealth and the State of Queensland. Rather, it is a study of the relationship between an intergovernmental body, and an Australian government. As will be demonstrated later in this chapter, the study of intergovernmental relations in Australia is still a developing field, and as such this thesis aims to address emerging issues in the research as it currently stands.

The thesis focuses on policy implementation – the stage of the policy cycle where the hard work of change begins. While much has been written about policy formation, particularly during the period of collaborative federalism in Australia during the 1990s, national policy implementation has been largely neglected by researchers in the field. As will be highlighted in this study, this situation has created a void between what Australian governments have “decided to do,” on the one hand, and what “actually happens,” on the other. While there is usually much fanfare associated with announcements of national policies negotiated through intergovernmental fora such as COAG, not much is said about the detailed work of policy implementation, nor how parties to an intergovernmental agreement coordinate their activities and resolve conflicts that arise from time to time as the policy clock ticks forward.

The analysis of NCP implementation in Queensland is presented in four parts. The first part, the Introduction, deals with key themes emanating from the literature on intergovernmental relations in Australia, as well as detailing theoretical concepts in the fields of policy coordination, implementation and conflict resolution. Detailed consideration of these concepts is necessary due to the limited theoretical base from which to study Australian intergovernmental relations in the context of implementing national policy platforms. A set of specific research questions is drawn from the literature to examine the hypothesis outlined above. Part one also provides a justification of the research strategy and data analysis methods utilised in subsequent sections.

² Throughout this thesis the word State, or States, is used to describe the State and Territory governments of Australia.

Part two focuses on the important contextual factors that influenced the political and administrative behaviours of the key actors identified in the research, and explains how these factors impact on NCP coordination and implementation. This section contains two chapters, which deal with the political, social, economic and policy environments in Queensland and how they shaped the behaviour of the Queensland government, in terms of NCP implementation, in the period between April 1995 and November 2000.³

Part three deals with case study examples of where NCP implementation created significant conflict in the community and how this affected the relationship between the NCC and the Queensland government. Finally, part four outlines the key findings of the study and the conclusions drawn from the overall analysis.

Federalism: the context of national policy development in Australia

National policy development is difficult in a federal country like Australia. Bringing NCP to life was fraught with political problems. In a range of policy arenas, including competition policy, federalism sees a number of jurisdictions and administrative agents compete over policy control, contesting both the development and implementation of policy solutions. In this environment, duly elected Commonwealth and State governments squabble over policy turf, each claiming that they speak on behalf of the electorate. In addition, federal institutions attempt to coordinate the joint action of governments – institutions that can easily become the “meat in the sandwich” for bickering governments.

The tensions in inter-group coordination and policy implementation, as examined in this thesis, originate in the structure of government in Australia. Australians elect two parliaments, each with powerful executive branches. Its dual constitutional culture has been a defining influence on the way federalism has developed in this nation.⁴

³ This is the period between the signing of the original NCP agreement and the handing-down of the first review.

⁴ Galligan, B. and Walsh, C. “Australian federalism: developments and prospects,” *Publius: The Journal of Federalism* 20 (4) 1990: 1-18.

The structure of federal compacts, such as the one that exists in Australia today, owes much to the drafting of Constitution of the United States of America in 1787-88.⁵ Australia was just one nation where adaptations of this particular form of national government took hold. Others included Canada, Germany and Switzerland.

By the late twentieth century, there were nineteen nation states structured along federalist lines. These countries contained around forty percent of the world's population.⁶ As the new millennium approached, Australia was one country among many that was grappling with multi-level policy development processes that are intrinsic to federalist nations.

Overlaying Australia's federalist structure are its Westminster traditions, including the principle of responsible government (in particular the notion of ministerial responsibility); a popularly elected parliament with specific legislative powers, and a separate judiciary. With an executive drawn from the parliament, Australia's style of federalism was somewhat different to other federated nations, particularly the United States.⁷

Defining federalism is difficult. In his book *Modern Federalism*, published in 1969, Sawyer wrote that attempts to define federalism were virtually impossible and fraught with misunderstandings.⁸ On this issue he noted, "It is desirable to say here, in the present book, no "definition" of federalism will be presented, because the author considers that attempts at defining either the word or the thing are likely to be futile."⁹

Emy and Hughes reinforced Sawyer's view when they also noted that there was no one correct definition of federalism.¹⁰ Instead, they proposed a set of criteria which represented the main features of federalism:

⁵ Sawyer, G. *Modern Federalism*, CA Watts & Co, London, 1969: p. 1.

⁶ Elazar, D. *Exploring Federalism*, University of Alabama Press, Tuscaloosa, 1987: p. 42.

⁷ Bridgman, P. and Davis, G. *Australian Public Policy Handbook*, Allen & Unwin, 1998: pp. 8-9.

⁸ Notwithstanding the preponderance of federalism in modern societies, the theoretical underpinnings of federalism were not analysed to any great extent until after the Second World War. From the early 1940s onwards, political scientists began focusing on a descriptive analysis of the foundations of federalism.

⁹ Sawyer, *Modern Federalism*: p. 2.

¹⁰ Emy, H.V. and Hughes, O.E. *Australian Politics: Realities in Conflict*, Second Edition, Melbourne, Macmillan, 1991: pp. 304-335.

Power-sharing between the two levels or tiers of government, each enjoying some degree of autonomy from the other; and placing limits on the powers of one or other levels of government by means of a written constitution.¹¹

Riker described a federation as two levels of government, “each of which has at least one area of action in which it is autonomous, and of which has some guarantee ... of its continued autonomy within its sphere.”¹² Rather than providing a normative justification for the use of federal systems, Riker was more interested in the political aspects of the union of states. To Riker, states were brought together in federation to serve the political interests of individual sovereign governments, such as to help prepare for a war effort, to enhance national security, or to forge closer economic ties.¹³

To researchers such as Sawyer and Riker, it was as if federalism was more than a simple constitutional (or contractual) arrangement between sovereign states. It was more a case of sovereign governments making a statement of their willingness to join as a nation, to present a unified face to the world. On this point, Chapman noted that it was more than words that held a federation together, it was the willingness of all participants to maintain the federal compact – to see a nation grow.¹⁴ This mostly unwritten commitment places boundaries on the actions of the institutional players. Governments will know that they can only push these boundaries so far without wrecking the whole federal foundation. Ultimately, it means that both the centre and the periphery will willingly give up some independence for the common good of the nation as a whole.

Fletcher notes that it has taken some time for Australia to come to terms with the stubbornness of federalism. The ideas of Greenwood and Laski, for instance, dominated academic thought for much of the 1940s, 50s and 60s. They focused heavily on building theories around national parliament supremacy, pressing for the transition towards a unitary State, or at least one that saw the States very much subservant to the

¹¹ *Ibid.*, 306.

¹² As cited in Birch, A.H. “Approaches to the study of federalism,” *Political Studies* 14 (1) 1966: p. 20.

¹³ Riker, W.H. *Federalism: Origin, Operation, Significance*, Boston, Little, Brown and Co., 1964: pp. 1-30.

¹⁴ Chapman.R “Australian public policy, federalism and intergovernmental relations: The federal factor,” *Publius: The Journal of Federalism* 20 (4) 1990: 69-84.

Commonwealth.¹⁵ Very few academics of this time questioned the thesis being developed, with the only possible exception being JDB Miller.¹⁶

As a consequence of this long-held – and in hindsight, misplaced – belief that Australia was in a simple transition towards unitary government, there was a lack of understanding about the true nature of Australian federalism, in particular the interpretation of the division of powers specified in the constitution. As Fletcher argues, “misleading concepts as to how the system actually works have endured for a much longer period in Australia than was the case in the United States”.¹⁷ The normative debates on federalism have led to a focus on issues such as the abolition of the States and the establishment of regional governance structures – points of abstraction when considering the practicalities of such wholesale constitutional change.

This focus on developing a unitary system, or something quite like it, has worked to divert attention away from the more pragmatic questions about improving the existing system in incremental terms, as pointed out by former Premier of Queensland, Wayne Goss.¹⁸ In an interview conducted with Goss in August 1998, he expressed the view that his goal, and that of other State Premiers in the first half of the 1990s, was to set in train processes that brought the States to the negotiation table as equal partners with the Commonwealth. This was “supra-constitutional” in that these arrangements were outside the formal parameters set in the Australian constitution – a document that was largely silent on the institutions which facilitated collaborative efforts of Australian government leaders.

¹⁵ Greenwood, G. *The Future of Australian Federalism*, Melbourne University Press, Melbourne, 1946; Greenwood, G. “The case for extended Commonwealth powers,” in Australian Institute of Political Science, *Federalism in Australia*, FW Cheshire, Melbourne, 1949; Laski, H.J. “The obsolescence of federalism,” *New Republic* 3, May, 1939, pp. 367-9; Galligan, B. *A Federal Republic: Australia’s Constitutional System of Government*, Cambridge University Press, Cambridge, 1995, p. 59; Brown, H.P. “Some aspects of Federal-State Financial Relations (Australia)” in G Sawyer (ed) *Federalism: An Australian Jubilee Study*, FW Cheshire, Melbourne, 1952: p. 60; Partridge, “The politics of Federalism” in G Sawyer (ed) *Federalism: An Australian Jubilee Study*, p. 187.

¹⁶ Miller, JDB *Australian Government and Politics: An Introductory Survey*, Gerald Duckworth & Co., London, 1954, pp. 43, 104.

¹⁷ Fletcher, C. “Rediscovering Australian Federalism by Resurrecting Old Ideas,” *Australian Journal of Political Science*, 26 (1) 1991, p. 81.

¹⁸ Goss, W. *Restoring the Balance: The Future of the Australian Federation*, Federalism Research Centre, Australian National University, Canberra, 1995.

The leaders were not looking for radical reform of the constitution. With Australia's chequered history of constitutional reform, it was quite evident that the citizenry was not about to vote for wholesale change in the immediate future – not the abolition of the States and the formation of regional governance structures, in any case. To Goss, if the goal was “better government” the solution had to be found within the current power structures.¹⁹ A more pragmatic approach to national policy development, as articulated by Goss, led to a new era of Australian federalism; a time when leaders of national governments came together to engage in policy development from a national perspective (to be discussed in further detail later).²⁰

The political leaders of Australian governments during the 1990s seemed to be coming to terms with fact that federalism was here to stay. There was an acceptance that in a federation, no one level of government is omnipotent. While in some policy areas a particular level of government might control the agenda, in many policy arenas, both Commonwealth and State levels of government will need to agree on policy solutions if truly national policy positions are to unfold. The potential for national policy development will depend largely on the nature of the relationship between governments – the stronger the links, the more likely that joint decision-making processes will arise.

The relationship between different levels of government within a federal compact can be described in a number of ways. Painter places the relationships in a federalist structure into three categories: cooperative, collaborative and competitive.²¹

Cooperative federalism is characterised by joint action between federal and state actors, with a focus on policy coordination and multi-level implementation. Sometimes joint administrative mechanisms are established to promote seamless policy design and implementation across jurisdictional boundaries.²² In other words, governments form

¹⁹ Interview with Wayne Goss, 8 August 1998.

²⁰ The “renaissance of the States” in Australian federalism gathered momentum from the late 1980s to the early 1990s (Birrell, M. *The Australian States: Towards a Renaissance*, Longman Cheshire, Melbourne, 1987; Parkin, A. and Summers, J. “The States, South Australia and the Australian Federal System,” in A. Parkin (ed) *South Australia, Federalism and Public Policy*, Federalism Research Centre, Australian National University, Canberra, 1996).

²¹ Painter, M. *The Council of Australian Governments and Intergovernmental Cooperation - Competitive or Collaborative Federalism?* Federalism Research Centre, Australian National University, Canberra, 1995: pp. 5-7; Painter, M. “Canada,” in Galligan, B., Hughes O. and Walsh C. (eds), *Intergovernmental Relations and Public Policy*, Allen & Unwin, Sydney, 1991.

²² Painter, *The Council of Australian Governments and Intergovernmental Cooperation*, pp. 3-6; Sturgess, G. “Untidy Federations: The Impact of Internationalisation on the Australian Federal System,”

partnerships in the implementation of policy reforms – staying “joined-up” in the delivery process. The existence of cooperative arrangements depends on many factors: a federal nation’s governmental traditions; the amount of overlap in issues which cross jurisdictional borders; and the level of “bargaining capacity” enjoyed by each tier of government.²³

Painter’s collaborative federalism is a variant of cooperative relationships. Where cooperative federalism emphasises joint action, collaborative federalism emphasises jurisdictional disentanglement. It is generally accompanied by managerialist practices that emphasise the removal of duplication and overlap in administrative systems. It also has a strategic planning focus, where governments agree to a joint action plan, and go about dutifully implementing it. The “joining-up” of government in service delivery is kept to a minimum – each level has its own sphere of competence. Implementation is often accompanied by joint Commonwealth-State coordinating agencies, Ministerial Councils and financial incentives.²⁴ These bodies or agencies monitor the implementation process to ensure joint-action plans are ultimately implemented.

Proponents of competitive relationships take a different view of federalism. Generally, they are suspicious of close working relationships between the centre and periphery – whether the relationship is driven by cooperative or collaborative ventures. In a competitive relationship, governments interact at arm’s length with little scope for policy harmonisation through consultative mechanisms. Competitive federalism emphasises independence and autonomy. This characterisation of the relationship between tiers of government imports competitive market concepts – economic theories - into the management of federal relations. This model also advocates rivalry between and within tiers in order to place limits on governmental power - one tier of government places the brakes on the unilateral actions of others.²⁵

Conference paper prepared for presentation at the Conference on Australian Federalism: Future Directions, 14-15 July 1994.

²³ Sawyer, *Modern Federalism*, pp. 122-124.

²⁴ Painter, *The Council of Australian Governments and Intergovernmental Cooperation*, p. 5. Cooperative federalism implies that governments stay “entwined” in the delivery of services – each level doing its part in the delivery of various outputs. Whereas collaborative federalism emphasises a “dis-entwinement” of service delivery – giving service delivery responsibility to a particular sphere of government. In both models, all levels of government progress plans together as a cohesive unit, it’s just the delivery mechanism that varies. In the case of NCP, governments collaborated in policy development, but it was up to each participant government to implement the reforms.

²⁵ *Ibid.*, pp. 6-7.

To Painter's three categories of federalism, can be added a fourth; coercive federalism. This form of federalism is also referred to as organic federalism.²⁶ Organic federalism is characterised by the dominant role played by one tier of government in the federal compact, usually the centre. Sawyer summarises this form as,

... federalism in which the centre has such extensive powers, and gives such a strong lead to regions in the most important areas of their individual as well as their cooperative activities, that the political taxonomist may hesitate to describe the result as federal at all.²⁷

The period studied in this thesis is more closely aligned with the collaborative variant of federalism. It grew out of the realisation by the heads of Australian governments in the early 1990s, as articulated by Goss, that a different approach to national policy development was needed if Australia was going to present a more coherent, integrated, policy framework to the rest of the world.²⁸ New intergovernmental bodies were established to facilitate the collaborative efforts of governments, such as a routine meeting of the heads of every government executive, first under the banner of the Special Premiers Conference (SPC), then under the Council of Australian Governments (COAG). It was in these fora that NCP was given life.

Constitutional interpretations of federalism

Interpretations of the relationships between governments in a federation also depend on the assumptions made about the actual purpose of the federal compact. Researchers tend to adopt one of two viewpoints about the nature of federal compacts: a coordinate, or a concurrent view.²⁹ Advocates of coordinate models conceptualise federal structures as separate layers, each with clear areas of responsibility and accountability. In coordinate models, no one level of government is subject to the direction of another. On this point Sawyer stated that,

²⁶ Sawyer, *Modern Federalism*, p. 125; Emy and Hughes, *Australian Politics*, p. 308.

²⁷ Sawyer, *Modern Federalism*, p. 125.

²⁸ Keating, M. & Wanna, J. "Remaking Federalism" in M. Keating, J. Wanna, & P. Weller (eds) *Institutions on the Edge? Capacity for Governance*, Allen & Unwin, 2000: pp. 149-151.

²⁹ Emy & Hughes, *Australian Politics*, pp. 308-313; Galligan, B. "Australian Federalism: Perceptions and Issues," in Galligan B. (ed), *Australian Federalism*, Longman Cheshire, Melbourne, 1989: p.11; Galligan, *A Federal Republic*, pp. 189-191; Fletcher, "Rediscovering Australian Federalism by Resurrecting Old Ideas," pp. 79-94; Wiltshire, K. "Australia's New Federalism: Recipes for Marble Cakes," *Publius*, 22 (3) 1992, pp. 165-180.

Co-ordinate federalism is usually thought of as involving the notion of a level of equality between the units, not in the sense of material equality, but in the sense of formal equality employed in the saying that all men are equal “before the law” or “in the sight of God”.... In the federal case, it marks particularly the absence of formal subordination of the units one to another.³⁰

It also implies that there are no points of overlap between the spheres of government – each has quite discrete responsibilities.³¹

Advocates of concurrent models of federalism, on the other hand, still emphasise the “equality” aspect, but they conceptualise governments as having overlapping and shared responsibilities. Instead of having discrete areas of interests in a variety of policy arenas, advocates of concurrent models assert that it is a legitimate function of federalism for governments to have dual policy responsibilities. This, obviously, leads to a much more contestable policy making environment than the coordinate variant. In concurrent models, governments have to explore cooperative ventures in order to develop a comprehensive national policy position – no one level can afford to “go it alone”.³²

The literature on Australian federalism points to a preoccupation with a coordinate model and as a consequence, has focused sharply on analyses of jurisdictional responsibilities, as if roles and responsibilities could be neatly compartmentalised through legislative or administrative means.³³ Much attention has been paid to the entangled nature of government responsibility and the processes used to remove overlap and duplication. On this issue Fletcher argues, “this (the study of federal processes in coordinate terms) leaves a rich political landscape of government organisation virtually untouched.”³⁴

Galligan raises the same point: “There has been a widespread presumption of the primacy of a coordinate model of federalism and intergovernmental relations.”³⁵ To authors such as Galligan and Fletcher, this preoccupation with jurisdictional

³⁰ Sawyer, *Modern Federalism*, p. 117.

³¹ *Ibid.*

³² Galligan, *A Federal Republic*, pp. 189-191.

³³ Most often the main focus of dialogue was on “States rights” versus “centralist” control.

³⁴ Fletcher, “Rediscovering Australian Federalism by Resurrecting Old Ideas,” p. 79.

³⁵ Galligan, *A Federal Republic*, p. 191.

responsibilities - and resultant legalistic notions of policy-making - has placed limits on the theoretical development of federalism in Australia.

At this point, the literature in Australia differs markedly from that of overseas studies. In his paper on "Intergovernmental relations in the United States" (commissioned by the Commonwealth-sponsored Advisory Council for Inter-government Relations) Haskell discussed the transition from coordinate concepts to concurrent ones in the American system.³⁶ He noted that until the 1930s federalism in the United States was also consumed by the coordinate perspective.

Changes to the Supreme Court and greater intervention by the federal government in the economy in the three decades immediately following World War two, altered interpretations of federal-state relations in the United States. Haskell believed that from the 1960s onwards concurrent models of federalism became the norm.³⁷ In other words, it was a legitimate exercise to study the deliberate points of overlap and duplication inherent in federal systems of government. Overlap was not seen as an aberration; it was a defining aspect of federalism.³⁸

It was at about this time that a greater emphasis was placed on intergovernmental relations as a discrete academic discipline in United States universities.³⁹ The focus on concurrent models in academic literature in America seemed to correlate to the era of central government expansionism in the 1950s and 60s.⁴⁰ The remodelling of federal thought along concurrent lines during this era earned the label "New Federalism." In discussing the situation in the U.S, Haskell noted that,

³⁶ Haskell, M.A. *Intergovernmental Relations in the United States*, Advisory Council for Inter-government Relations, Information Paper No. 3, Australian Government Publishing Service, Canberra, 1979: pp. 3-11.

³⁷ *Ibid.*, p. 5.

³⁸ See Chapman, R. "Australian Public Policy, Federalism and Intergovernmental Relations: The Federal Factor," *Publius*, 20 (4), p. 70.

³⁹ McDowell, B.D. "Advisory Commission on Intergovernmental Relations in 1996: The End of an Era," *Publius*, 27 (2) Spring 1997, p. 114.

⁴⁰ Haskell, *Intergovernmental Relations in the United States*, pp. 3-11.

New federalism is better referred to as intergovernmental relations - both because the phrase alerts us to the changed meaning of the concept, and because the cutting edge of federalism lies in the actual relationships between levels of government as they share in the performance of expanding government functions. It no longer makes sense to conceptualise federalism as a wall separating the national and State levels of government.⁴¹

Concurrency also emphasised the resolution of conflict between levels of government via political means as opposed to legal means. Wiltshire believes that a similar shift in the understanding of Australian federalism occurred in the late 1980s to early 1990s.⁴² In the process of re-conceptualising federal structures in terms of concurrent models, intergovernmental relations became the focal point for discussing policy problems in Australia during the later part of the twentieth century.

In effect, the decision of Australian governments to form SPC and COAG was a formal recognition that concurrency was a defining feature of Australian governmental structure. Acceptance of this fact helped underline the importance of creating collaborative structures to facilitate integrated national policy development – the institutional arrangements associated with NCP stem from this form of conceptualisation of Australian government.

Even acknowledging that institutions have been recently put in place to develop more of a comprehensive approach to national policy development, there is a risk of assuming that these aspects will remain in place forever more. Institutions like COAG only exist while there is a political imperative to maintain them. They have no constitutional backing of their own, and their prominence as a policy-making body is at the whim of the government leaders of the day. This serves to highlight that the type of relationship enjoyed by federal partners can, and will, change over time in response to a range of internal and external pressures. A collaborative relationship today, may yield to a more competitive one tomorrow.

⁴¹ Haskell, *Intergovernmental Relations in the United States*, p.6.

⁴² Wiltshire, “Australia’s New Federalism: Recipes for Marble Cakes,” p. 166-169. As we will see, however, the extent of this shift was comparatively limited.

Intergovernmental Relations in Australia

The literature suggests that the study of intergovernmental relations in Australia is incomplete. Galligan highlighted this point in 1995 when he stated that, “Despite their significance for Australian politics and public policy, intergovernmental relations have been relatively neglected by those studying Australian Federalism.”⁴³

Galligan believed that the Australian academic Rufus Davis was the only possible exception to the rule. His doctorate on intergovernmental relations - completed in the early 1950s - had the potential to open up debate about the processes by which tiers of government use to implement public policy, but was passed over by the academic world. Galligan made his point by comparing the study of intergovernmental relations in the United States to that of Australia, and concluded that Australia had a long way to go before it could boast the same understanding of domestic intergovernmentalism as existed in overseas countries.⁴⁴

In a major study of government and politics over the period from the early 1970s to the mid-1990s, Russell Mathews and Bhajan Grewal made a tentative start towards addressing the research gaps highlighted by Galligan.⁴⁵ They provided a detailed account of the financial nature of intergovernmental relations over the past twenty-five years. However, their work fails to provide the same level of analysis on a range of parallel issues, such as policy-making processes used by the Commonwealth and the States; and the key institutional players and their impact on policy choice during the timeframe covered by the text. Further, it does not cover the implementation processes of intergovernmental agreements, particularly those of Australia’s “New Federalism” period of the 1990s, including NCP.

In 1998, Martin Painter’s seminal contribution to the study of Australian intergovernmentalism appeared. The main focus of *Collaborative Federalism* was the operations of peak intergovernmental bodies established during the 1990s (particularly

⁴³ Galligan, *A Federal Republic*, p. 189. His comments echo those he made in 1989: “... intergovernmental relations are probably the more significant but least studied area of contemporary Australian politics.” (Galligan, *Australian Federalism*, p. 11).

⁴⁴ On this issue, Galligan noted that, “The dearth of Australian scholarship on intergovernmental relations is highlighted by comparison with a rich tradition in the United States.” (Galligan, *A Federal Republic*, p. 190).

the Hawke-Keating era), namely the Special Premiers Conference (SPC) and Council of Australian Governments (COAG) initiatives.⁴⁶ While providing a comprehensive account of the prominent intergovernmental arrangements during the period, in a detailed narrative format, Painter did not address the many and various implementation issues stemming from them.⁴⁷ For instance, on the topic of NCP, his analysis concludes with the signing of the intergovernmental agreement in 1995.⁴⁸

Yet Painter successfully sketched the unique environment of intergovernmental relations in the 1990s. As he described it, his role was to shed light on the “spider’s web” of intergovernmental practices during this era. In doing so, he broke new ground in the study of this component of Australian federalism.

The critical gap in research on intergovernmental relations in Australia appears to be the implementation of national agreements. Uncovering the details of implementation is a missing link in the discussion of intergovernmental policy-making in the era of collaborative federalism. The importance of this link cannot be underestimated. In the celebrated case study of national policy implementation in the American setting, Pressman and Wildavsky suggest,

Few programs could be undertaken if all participants had to be specified in advance, all future differences resolved at the outset, and future bargains made under yesterday’s conditions. Something has to be left to the unfolding of events ... the federal agency may discover that its funding recipients are not willing to abide by initial agreements, or the recipients may interpret the agreements in ways that conflict with federal interpretations ... The apparent solidarity of original aims and understandings gives way as people, organisations and circumstances change.⁴⁹

⁴⁵ Mathews, R. & Grewal, B. *The Public Sector in Jeopardy: Australian Fiscal Federalism from Whitlam to Keating*, Melbourne, 1997.

⁴⁶ Painter, M. *Collaborative Federalism: Economic Reform in Australia in the 1990s*, Cambridge University Press, 1998: p. 3-10.

⁴⁷ Painter’s work was more about mapping out the institutional frameworks of “collaborative federalism” in Australia in the 1990s, not the implementation of policies stemming from them. With the book published in 1998, and research conducted much earlier, it would have been impossible for Painter to examine the implementation of NCP – many of the implementation issues were still being worked through by the NCC and the States.

⁴⁸ Painter’s work provides an important reference for the antecedents of NCP reforms discussed in this thesis, as demonstrated in the background sections covered in chapter two.

⁴⁹ Pressman, J. and Wildavsky, A. *Implementation*, 3rd Edition, Berkeley, University of California Press, 1984: pp. 91-92. This case study marked a break-through in the research on policy implementation. The analysis was of an employment and race-relations program - The Oakland Project - initiated by the United States Government in the 1960s. On the surface at least, the program had every change of success. It was well funded, targeted and had strong institutional backing. However, it failed dismally. The keys to the failure of the program were not of the “high level” nature, often assumed to be the case when things go

The failure of research in this field to fully uncover the internal workings of intergovernmental relations in Australia leaves many of these implementation issues unresolved. Intergovernmental relations in Australia remains what Galligan has described as the “shadowy ‘fourth branch’ of government that requires more intensive monitoring and critical scrutiny.”⁵⁰

Some guidance can be found in research undertaken on other federal systems. However, care must be taken in interpreting and applying the research to the Australian context, as there are significant differences in structure and relative power resources of each tier of government, even though the national political landscape is still classified as federal. Noting this limitation, Simeon, in a study of Canadian intergovernmental relations in the 1970s,⁵¹ nevertheless argued that there were several parallels between Canadian and Australian systems of federalism. But, he pointed to one key difference, the unequal power resources of the Australian State governments compared to their Canadian counterparts, the provinces. Specifically, Simeon observed that intergovernmental relations in Australia,

takes place largely through the Conference of Commonwealth and State Ministers and other Commonwealth-state bodies, in a form strikingly like the Canadian pattern ... though most observers agree that [in] negotiations the federal government has the upper hand, and the state influence appears to be less than in Canada.⁵²

Simeon’s research was conducted before the period of “New Federalism” of the 1990s, and as a consequence much of his insights into Australian intergovernmental relations are now dated. Much of the intergovernmental infrastructure discussed in this thesis is a relatively recent phenomenon in the Australian context, and as a consequence, Simeon’s observations need to be heavily qualified. Even so, the observation that the

wrong. The issues were far more prosaic, including regular changes to key stakeholder representatives, diverse perspectives and complicated decision-making processes which all ground the program to a standstill. In addition, it was “over-sold” at the beginning, creating unreal expectations of what could actually be delivered on the ground. By the time perspectives were brought into line, it was too late – the program had been unable to deliver on virtually any of its promises.

⁵⁰ Galligan, *A Federal Republic*, p. 12.

⁵¹ Simeon described his research as a study of when governments, “try to coordinate their policies, resolve disagreements, and reach mutually desired goals through direct relations with each other.” (Simeon, R. *Federal-Provincial Diplomacy: The making of recent policy in Canada*, University of Toronto Press, Toronto, 1972: p. 4).

⁵² Simeon, *Federal-Provincial Diplomacy*, p. 302.

Commonwealth government held the upper hand in the 1970s may still ring true in the 1990s.⁵³

Further to Simeon's work, more recent research on the operation of federal structures in Germany suggests that a growing "intergovernmental problem" in national policy is the separation of policy design from implementation. Researchers argue that Germany has seen a growing trend of policy direction-setting at one level of government, yet implementation responsibility being left to another level.⁵⁴ This serves to separate the policy developers from the "on-the-ground" implementers, furthering the gap between policy intention and final outcome.⁵⁵

What sets Australia apart from other federal systems is the deliberate overlaying of jurisdictional responsibilities, creating a much more "tangled web" of relationships in policy and service delivery than is the case elsewhere. As discussed earlier, power structures in the Australian federal compact were purposefully designed to provide a greater level of concurrency. Further, unlike Germany for instance, there are few ritualised processes to coordinate the levels of government, making the nature of intergovernmental relations more fluid, and subject to the vagaries of political actors that inhabit a particular space at a particular time in the nation's development.

⁵³ The Commonwealth's power over the States stems as much from its fiscal dominance as its constitutional position. Through the use of tied grants, the Commonwealth has been able to direct policy approaches in several arenas, even though its constitutional position has been relatively weak.

⁵⁴ Leonardy, U. "The Institutional Structures of German Federalism," in Jeffery, C. (ed) *Recasting German Federalism: The Legacies of Unification*, Pinter, London, 1999: pp. 3-22. Leonardy points out that the intergovernmental arrangements in Germany are quite strong, with specific institutional responses to policy coordination ritualised through a variety of constitutional and non-constitutional mechanisms. Of particular import is the Bundesrat, which is the second chamber of the German federal government, and is comprised of representatives from the governments of the sixteen states (or Länder). A routine meeting of the heads of all the federal governments, similar to the COAG process, occurs on a quarterly basis. In comparison, the periphery has enjoyed much more say in national policy making in Germany than is the case in Australia. With the advent of German unification and closer ties with European neighbours (via the Maastricht Treaty) in the early 1990s, the Federal parliament assumed a greater control over policy-making than was the case since the end of World War Two. Key issues of policy alignment and economic restructuring of the former communist states meant that a lot more policy control was exerted from the centre. This led to some states to call for an abandonment of cooperative federalism structures, and adopt a more competitive structure instead, something that one author described as the "Sinatra Doctrine" (reflecting, Frank Sinatra's "signature tune "I did it my way"). The point being peripheral governments wanted to do things "their way", and not be bound by cooperative agreements or processes (Jeffery C. "From Cooperative Federalism to a 'Sinatra Doctrine' of the Lander?" in Jeffery, C. (ed) *Recasting German Federalism: The Legacies of Unification*, Pinter, London, 1999: pp. 329-342).

⁵⁵ The issue of policy separation is discussed further in a latter section of this chapter – see the section on Implementation on page 35 onwards.

By and large, in Australia, as in Canada, it is State governments that represent regional policy positions, deriving electoral support by appealing to the “uniqueness” of their regional centres. For example, in Queensland, State Premiers and Ministers frequently argue that because the State is the most decentralised in Australia, national policy objectives need to support the specific aspirations of Queensland’s regional, remote and rural centres in order to be successfully implemented.

As such, State political leaders are quick to point out the perceived inadequacies of policies that might make sense from the national perspective, but not necessary supported by specific communities of interests in regional areas. But, unlike Canada, the Australian States are not afforded the same level of constitutional independence as the provinces.

This is not meant to imply that State leaders lack power resources – far from it. In Australia, the public position of State leaders is underpinned by political and media institutions, which are, by and large, state-based organisations.⁵⁶ All the major political parties are confederated organisational units, with the power of party administration (and party nomination processes) held by State-based organisations, even over the process for contesting seats in the Commonwealth parliament. Likewise, media units largely aligned with State boundaries, prioritise their reporting towards State-based events (and interpreting national events from the position of the State).

When the Premier speaks to the *Courier-Mail* (Queensland’s daily broadsheet) about national policies, he carries both the mantle of the leader of the parliamentary wing of his State-based political administration, as well as the opinion of the government of the “State of Queensland”. As Parkin points out, “(in making statements to the media) it is common for the State government and State premier to be interpreted as representing ‘our’ interests in negotiations with other governments.”⁵⁷ These interests rarely align with the State’s jurisdictional responsibilities, but rather, are more likely to reflect the political interests of the leader of the day.

⁵⁶ Parkin, A. “The States, Federalism, and Political Science: A Fifty-year Appraisal,” *Australian Journal of Public Administration*, vol. 62, no. 2, June 2003, pp.106-107.

⁵⁷: *Ibid.*, p.101.

The institutional power of the State is a counter-balance to the interests of national government agendas. This natural tension is part and parcel of the federal compact, as Sharman notes, “The whole point about federalism is to have several governments that distrust each other in a way that produces enough tension and competition to make the system work properly ... a system of government in which ambition fights ambition.”⁵⁸

In Sharman’s view, equally divided power resources between the levels of government, ensures that arbitrary policy decisions are kept in check, and policy ultimately reflects the preference of unique regional constitutencies.⁵⁹ However, Sharman believes that in Australia, the federal system of checks and balances has been corrupted by two key factors.⁶⁰ First, successive High Court decisions in relation to the application of current powers have ruled in favour of the Commonwealth, through the “centralist” interpretation of S. 109 of the constitution. This has served to swing the balance of power towards the Commonwealth in a number of key policy arenas. Instead of negotiated solutions, which take into account regional preferences, the centre imposes uniformity across all regional settings.

Second, the imbalance in revenue raising powers and expenditure responsibilities (and the timidity of the States to actively confront the issue) has resulted in the Commonwealth being able to exercise policy control over the States through grant conditions tied to funding agreements. The States are obliged to take the Commonwealth money “with strings attached.” The power imbalance is tempered somewhat by the ability of the States to out-manoeuvre the Commonwealth by tinkering with the policy during implementation, “undermining the agreement by administrative deception.”⁶¹ This factor is brought into sharp relief by the States comparatively superior administrative and service delivery capacity in regional areas – the Commonwealth simply cannot match the State in terms of service delivery infrastructure, and to a significant extent, is reliant on the State to implement funding agreements as intended. As Parkin notes: “Commonwealth involvement in areas of state jurisdiction typically involves a large measure of negotiation with and concessions

⁵⁸ Sharman, C. “Working together: Towards an inclusive federalism?” *Agenda*, vol. 5, no. 3, 1998: p. 267.

⁵⁹ Institutional design is discussed in more detail later in this Chapter.

⁶⁰ Sharman, C. “Working Together,” pp. 269-273.

⁶¹ *Ibid.*, p. 272.

to state-level actors through formal agreements and cooperative arrangements in a complex system of intergovernmental management.”⁶²

In such circumstances, the Commonwealth is confronted with a classic principal-agent problem. To combat possible State government goal displacement during policy implementation, the Commonwealth government is forced to establish elaborate checking and reporting mechanisms, which in turn consume significant levels of resources to maintain. Here, Sharman argues, the States are simply using their superior administrative competence to shape national policy to suit the specific needs of their regional constituencies.⁶³

Deception and minor administrative adjustments are not the only tactics available to the States in attempting to modify Commonwealth policy approaches. In policy arenas where access to funding is not of paramount importance and the Constitution does not provide the Commonwealth with a sufficient head of power, the States are in a much stronger position to negotiate on equal terms. Sharman points to national uniform gun control laws, negotiated through COAG in 1996, as an example. Here, the Commonwealth could not compel the States to adopt a uniform gun control code through either tied funding arrangements or legislative coercion – a negotiated solution was the only viable option.⁶⁴

Sharman, however, may have overplayed the importance of funding and legislative competence in determining “the health” of Australia’s federal compact. Irrespective of their constitutional position, and the level of their financial dependence Commonwealth finance, the States still possess considerable political clout in their own right. As an example of this, and seeming to qualify his argument that the States had little power in areas where they lacked financial independence and/or clear constitutional authority, Sharman notes that the views of State political leaders have a significant impact on

⁶² Parkin, “The States, Federalism, and Political Science,” p.107; Parkin’s views are also supported by Sharman, C. “Working Together,” pp. 269-273; Galligan, B., Hughes, O., Walsh, C. “Perspectives and Issues,” in Galligan, Hughes and Walsh (eds) *Intergovernmental Relations and Public Policy*, Sydney, Allen & Unwin, 1991: pp. 3-4; Sharman, C. “Australia as a compound republic”, *Politics*, vol. 25, no. 1, 1990, pp. 1-5; Sharman, C. “Ideas and change in the Australian federal system”, *Australian Journal of Political Science*, Vol. 27 (Special edition), 1992: pp. 7-18.

⁶³ Sharman, “Working Together,” p. 271.

⁶⁴ Sharman, “Working Together,” p. 272. Though, Sharman laments that these policy arenas are shrinking in number.

voting intentions in Constitutional referenda.⁶⁵ On questions of constitutional reform, the opinions of the State political leaders seem to be more closely followed than those of their Canberra-based counterparts. It would seem logical that similar weight is given to the views of State leaders on other policy matters as well.

The power of “strong man” State Premiers to shape public opinion on national policy positions was noted by Galligan, Hughes and Walsh.⁶⁶ In analysing the politics of annual Premiers’ Conferences (the precursor to Special Premiers’ Conferences and the Council of Australian Governments of the 1990s) they posited that the high level nature of these meetings provided State political leaders with a unique opportunity to present partisan policy positions to their home electorates, via the media. State and Commonwealth leaders used these events to “play each other off” in order to secure electoral appeal. In this heady environment, the statements of State Premiers are often described as “Canberra bashing.” Further the authors noted that the political high-jinks often occurred while at the very same time, officials were working behind the scenes in a cordial and constructive manner.⁶⁷

In the end, State political leaders have three main weapons at their disposal when attempting to shape national policy agendas. First, as noted earlier, in a number of policy fields (health, education, land administration, for example), the States have superior administrative capacity relative to the Commonwealth, and can use their relative superiority to out-manoeuvre the Commonwealth as policy is debated, interpreted and then, potentially re-designed during implementation.

Second, State political leaders often use the media to appeal directly to voters, embarrassing the Commonwealth into changing policy tack on policy agendas. Finally, there are several areas of constitutional responsibility where the States have at least equal power to the Commonwealth, and certain areas where they have sole jurisdiction, for example in the harvesting of water from creeks and river systems. In these areas, the Commonwealth has little choice but to seek negotiated solutions – options for unilateral action in these circumstances are limited.

⁶⁵ Sharman, C. “Patterns of State voting in the national referendums,” *Politics*, 16 (2), 1981: p. 261.

⁶⁶ Galligan, Hughes, Walsh, “Perspectives and Issues,” p. 16.

⁶⁷ *Ibid.*

Underlying the high level political salience of State and Commonwealth leaders, is the power provided to them by the position they hold within their respective parliaments. Parliaments, controlled by their respective executives, bring a corporatist appearance to the negotiation of national policy – the views of Premiers and Prime Ministers are taken as the views of their democratically elected parliaments. They are seen as “in control” of their respective policy responsibilities, sidelining any need to negotiate policy with their legislatures.

As Sharman notes, “contemporary parliamentary government, however, presumes the concentration of power in the executive branch. The executive dominates the parliamentary process through the medium of party discipline ...”.⁶⁸ As a result, intergovernmental politics is channelled into interactions between elected and appointed officials of the government of the day, marginalizing the role played by the nations’ parliaments.⁶⁹ Sharman believes that this has made intergovernmental relations in Australia “inherently closed, bureaucratic and collusive.”⁷⁰

Further, the power of the leaders of Australian governments is enhanced by the evolution of the machinery of government of Westminster systems. The growth of central agencies in contemporary government structures, such as Cabinet Offices and the Office of the Prime Minister and Cabinet, provide political leaders with the necessary clout to negotiate whole-of-government policy positions at the national level. On returning to their domestic duties, these central agencies ensure that these policy positions are followed by their bureaucracies.⁷¹ In this sense, national policy making by the executive is underpinned by strong central agency support, particularly so in the late 1980s to mid 1990s when the competency of these agencies grew quite substantially.⁷²

⁶⁸ Sharman, C. “Executive Federalism”, in Galligan, Hughes, and Walsh (eds), *Intergovernmental Relations and Public Policy*, Sydney, Allen and Unwin, 1991: p. 24.

⁶⁹ *Ibid.* p. 24.

⁷⁰ *Ibid.* p. 36. This gives further weight to this study, in its attempt to lift the veil of secrecy associated with NCP implementation in Queensland.

⁷¹ Painter, M. “Canada” in Galligan, Hughes, and Walsh (eds), *Intergovernmental Relations and Public Policy*, Sydney, Allen and Unwin, 1991: p. 91. A similar phenomenon was recorded by Painter in his analysis of Canadian federalism, where the increase in power of central agencies coincided with the growth of Executive Federalism. This point was taken up further by Painter in his analysis of contemporary national policy making (Painter, M. “Multi-level governance and the emergence of collaborative federal institutions in Australia,” *Policy & Politics*, vol. 29, no. 2, 2002: pp. 137-150).

⁷² Painter, M. “Multi-level governance and the emergence of collaborative federal institutions in Australia,” *Policy & Politics*, vol. 29, no. 2, p. 138.

The modernisation of state-based central agencies is a relatively new innovation in public administration in Australia, and their ability to shape State-based implementation of national policy agendas has received little attention by researchers.⁷³ This is particularly the case in Queensland, where the modernisation process came after the other more populated states, and was largely undertaken in the early 1990s under the Goss Labor Government (discussed in further detail in Chapter 3).

Painter takes executive federalism and the role of central agency development one step further, arguing that contemporary intergovernmental relations in Australia should be studied from the perspective of “multi-level governance” – a system of networks and political interactions of government leaders and senior public servants, which span jurisdictional boundaries. These networks challenge the very institutional foundations upon which the Australian Constitution was built.⁷⁴

Painter likens the situation to the relationships between sovereign governments in the European Union, where institutional evolution has created a policy making forum which can transcend national boundaries. As he points out, in such circumstances, “Governments must surrender autonomy, parliaments must compromise their sovereignty, and actors must look to new ways of accounting for their actions to relevant publics.”⁷⁵ In effect, these new networks deal with policy issues that know no borders, and as a result, address the issues that traditional institutions have found difficult to confront.

In Australia, the growth of central agency competence of the 1990s provided a new focus for policy making. This phenomenon was combined with “new style” of political leadership which Painter described as, “... more cosmopolitan, less parochial, and fired more by commitment to managerial generalities of good governance and the needs of policy reform than by sectorial or jurisdictional concerns to protect the status quo.”⁷⁶ The “New Federalism” push saw a number of complex policy problems confronted by Australian governments, as the nation moved away from the “arms length” transactions

⁷³ Parkin, “The States, Federalism, and Political Science,” p. 106.

⁷⁴ *Ibid.*, pp. 138- 149.

⁷⁵ *Ibid.*, p. 139.

⁷⁶ *Ibid.*, p. 143.

between States and the Commonwealth, to more collaborative decision-making style. The new “central agency club” provided national leaders the wherewithal to seal national policy deals, and then see them through back in their domestic agencies.

Rather than Heads of Government coming together as “teams of more or less unruly players,”⁷⁷ at yearly Premiers’ Conferences, the era of New Federalism under Hawke, then Keating, saw leaders adopt a collegiate, national perspective on policy problems.⁷⁸ The collaborative decision-making forums were facilitated (or oiled, as Painter puts it) by a network of senior central agency officials. As Painter states, they were the “Premiers’ fixers” – often speaking on behalf of their political masters, in behind the scenes negotiations, where the “real business” was done.⁷⁹

This is not meant to imply there were no differences of opinion. Rather than allowing tensions to “spill-over” into public announcements, as was the case for decades earlier in Premiers’ conferences, there was a commitment to “work things through” behind the scenes, relying on the central agency officials to broker an outcome suitable to all leaders.⁸⁰

Even in the presence of executive federalism and strong central agency support, coordination of joint action initiatives in Australian federal systems is notoriously difficult. Painter points to three key risks to the policy making and implementation. First, the leader “making the deal” may not have the necessary political and party-room support to represent a whole-of-government position, and even if s/he does, s/he might not have wherewithal to maintain this support during the implementation phase of the policy. Second, it is highly likely that key personnel associated with the original policy development will change over the life of the agreement, and as a result momentum could stall down the track. And, finally, the leaders may not have the necessary

⁷⁷ Sharman, “Executive Federalism,” p. 26.

⁷⁸ This perspective was most notable in Hawke’s address to the press club on 19 July 1990, where the SPC initiative took hold. Here, Hawke drew parallels between the Balkans and the Australian federation, calling on all Australian governments to come together to create a nation policy arena, instead of leaving important national policy issues such as the development of common competition laws to individual State jurisdictional demands. It was here, that Hawke noted that the Australian system of government had become “Balkanised” (Hawke, R.J. “Towards a Closer Partnership,” National Press Club, 19 July 1990).

⁷⁹ Painter, “Multi-level governance and the emergence of collaborative federal institutions in Australia,” p. 143.

⁸⁰ *Ibid.*, p. 145..

mandate in parliament to enable all aspects of the policy to proceed, and then ensure continuity of the nationally agreed policy position as time goes by.⁸¹

Coordination of national policies

For NCP to meet its goals, the parties to the agreement would need to develop systems or conventions, for coordinating their activities. The challenge for policy designers in this circumstance was to develop institutional arrangements which helped to align the actions of independently constituted organisations (governments and intergovernmental bodies, in this case) so that each component unit could understand and respond to the needs of the system as a whole.

Several disciplines analyse the topic of coordinating the joint action processes of independent actors. Ideas emanate from diverse fields such as international diplomacy, psychology, economics, political science and public administration. As a consequence, a rich tapestry of academic thought emerges.

Chisholm defines coordination as, "... to place or arrange things in proper position relative to each other and to the system of which they form parts – to bring into proper combined order as parts of a whole."⁸² If independent actors are to achieve successful coordination, Chisholm notes that there are four main components to consider: a plan of action must be developed; the plan of action must be communicated to the parties who will carry it out; the details of the plan must be accepted by those parties; and pertinent information must be acquired through research and intelligence.⁸³

It is important to note that Chisholm's advice does not include the establishment of a central agency to coordinate the activities of the various groups involved in a joint action project. In fact, Chisholm argues that coordination can be achieved without centralisation, preferring to use loosely coupled systems and informal inter-group mechanisms to achieve optimal performance. If groups are committed to their shared

⁸¹ Painter, M. *Collaborative Federalism*, p. 97.

⁸² Chisholm, D. *Coordination Without Hierarchy: Informal Structures in Multiorganizational Systems*, University of California Press, 1989: p. 13.

⁸³ *Ibid.*, p. 29.

goals, and communicate effectively, they will coordinate their activities without the need for a centralised policing function.⁸⁴

On this point, Pressman and Wildavsky note that the call for coordination is often used to soften a much harsher message: the demand for greater centralised control over policy implementation.⁸⁵ In most cases, “better coordination” is shorthand for bringing in someone to “call the shots,” to tell others what to do, to pull the recalcitrants into line. As the authors point out, “everyone wants coordination – on his own terms.”⁸⁶ In other cases, better coordination can also mean gaining everyone’s “fingerprints” on the decision – achieving consent, in other words. Here the goal of the coordinating agent is to diffuse responsibility for the final decision amongst a number of players, that way no one individual can be singled out as the “originator” of the idea or action.⁸⁷

Other authors are similarly circumspect when discussing the assumed merits of coordination. Bardach describes it as a “slippery word” – a virtue like “motherhood” and “apple pie” - which rarely is as straight-forward as the writer implies.⁸⁸ He notes that coordination seems such a logical thing to achieve, all that is necessary is, “common sense, good will and opportunities for those whose activities are to be coordinated to confer regularly.”⁸⁹ In practice, coordination is seldom this easy.⁹⁰

But, why is this the case, particularly when the goal of coordination, at face value, seems so simple? Part of the problem lies with the nature of coordination in a multi-

⁸⁴ *Ibid.*, pp. 1-19.

⁸⁵ Pressman and Wildavsky, *Implementation*, p. 134.

⁸⁶ *Ibid.*

⁸⁷ Pressman and Wildavsky were able to demonstrate that there is a direct relationship to the number of clearance points and the likelihood of policy failure. In the Oakland case study, the coordination of a decision in one infrastructure project required no fewer than 30 key decision points, with over double that amount of secondary “clearance actions.” By using an estimate of an 80 percent chance of obtaining the necessary approvals in the chain of decision-making, the overall chance of securing a decision was one in a million. To get to a fifty-fifty chance of success, each approval step would require a ninety-nine percent chance of getting through – a highly unlikely occurrence. For clarification, a decision point is where a certified agreement between parties is required in order for the project to continue, and a clearance is something that requires a stakeholder to give his/her consent before action can continue (Pressman, and Wildavsky, *Implementation*, pp. 102-110).

⁸⁸ Bardach, E. *The Implementation Game: What Happens After a Bill Becomes Law*, The MIT Press, Massachusetts, 1977: p. 132-133.

⁸⁹ *Ibid.*, p. 133.

⁹⁰ Ostrom prefers to use the word “organisation” rather than coordination. She notes that the key problem for collective action is the issue of organisation – who is to do what, by when, including how they are to do it (Ostrom, E. *Governing the Commons: The evolution of institutions of collective action*, Cambridge University Press, Cambridge, 1990: p. 39).

governmental system such as federalism. By way of comparison, within an individual government, the focus of coordination is generally on the development of routines which institutionalise the necessary steps to develop and implement robust public policy.⁹¹ However, these rules do not fit well with policies that require coordination across many governments.

The key issue appears to be the lack of a responsible executive to act as a locus of institutional control. In federalism, for many policy problems there is no supra-coordinating agency with the mandated responsibility to seek cooperative arrangements and enforce agreements between governments. Coordination, in the federal setting, needs to develop a different focus to that of policy coordination within a specific tier of government. To a large extent, coordination within federal structures needs to occur “without hierarchy.”

In his study of Canadian federalism, Simeon identifies key aspects to the successful coordination of governments within a federal system.⁹² First, there must be a recognition on the part of all parties that some form of coordinated effort is required, and as a result parties must be willing to forgo some level of power or control to ensure a national approach is adopted. Second, the desire for a coordinated response needs to be supported by the establishment of appropriate intergovernmental bodies. The purpose of these bodies is to bring governments into closer alignment and improve communication. Third, governments need to be sufficiently “connected.” They need to be working on their common interests, creating the perception that they are “all in this together.”

Fourth, the governments that seek a deal must have the authority to act. This factor highlights an important parallel between the Australian and Canadian systems of government – both are formed along Westminster lines, with the executive drawn from the parliament. In these circumstances, the executive usually has the capacity to

⁹¹ Davis, G. *A Government of Routines: Executive Coordination in an Australian State*, Macmillan, Melbourne, 1995: pp. 7-31.

⁹² Simeon, *Federal-Provincial Diplomacy*, pp. 310-313.

translate any deal into legislative and administrative reality (except in the case of some policy issues confronted by minority governments).⁹³

Fifth, there needs to be some agreement about decision-making rules and other institutional aspects to assist the process of coordination. Parties need to know the benefits of joint action as well as the punishment for non-compliance. Sixth, intergovernmental agreements are likely to take hold when there are bodies, or intermediaries, charged with the responsibility of facilitating joint-action. These bodies can help to mediate conflict and promote compromise.

Finally, Simeon notes that intergovernmental agreements are unlikely to be successfully coordinated if parties fail to show goodwill. There needs to be a spirit of reciprocity and trust if governments are going to “go out on a limb” and back a deal in which part of their autonomy has been sacrificed in order to achieve a united outcome.⁹⁴

In attempting to deal with the issue of intergovernmental coordination, Australian governments have adopted a variety of institutions. Ministerial Councils, Premiers’ Conferences, and Joint Commissions have attempted to provide a point of coordination for national policy initiatives. In terms of administrative agencies of joint action, Australian intergovernmental relations have produced bodies such as the Snowy Mountains Authority, the Great Barrier Reef Marine Park Authority and the Murray-Darling Basin Commission. These mechanisms are often seen as the working arrangements of intergovernmental relations in a day-to-day sense.

In addition, governments have resorted to the High Court in order, not so much to explore joint policy arrangements, but to assert their complete policy dominance in certain jurisdictions. Here, coordination thus becomes a centralised responsibility – negotiation and compromise in the formulation of policy are limited.⁹⁵

⁹³ Simeon says that the existence of Executive Federalism in Canada has allowed intergovernmental deal-making to take hold. A similar situation exists in Australia.

⁹⁴ The point about reciprocity will be raised in a variety of contexts within this thesis. Game theory and Institutionalism (discussed later) both emphasise the need for mutual respect and a pattern of reciprocal gains.

⁹⁵ Bardach notes that governments with dominance at the formulation stage are able to deliver a “mandated” policy prescription, though often this will be derailed by “implementation games” down the line. The point here is dominance in a policy arena does not necessarily translate to smooth, coordinated action (Bardach, *The Implementation Game*, pp. 1-8).

The institutions of intergovernmental relations attempt policy coordination in areas where governments need to cooperate to achieve their common interests. But, even when the direction has been set through overall policy statements emanating from intergovernmental fora, there are still many issues to be sorted out during implementation. Government may squabble over the purpose of specific goals articulated in intergovernmental agreements, or have different opinions on the interpretation of specific clauses therein. Hence, coordination during the implementation stage can be extremely problematic.⁹⁶

There are some good reasons why independent actors, like separate governments and various intergovernmental institutions, cooperate during the implementation of agreements, even when there is no real compulsion for them to do so. This drive to forge an agreement and then implement it, even in the absence of external compulsion, is often seen in international settings, requiring specific diplomatic endeavours such as the resolution of armed conflict, agreements on trade and the provision of humanitarian services. So too in a federation, as per Simeon's views outlined above.

A case in point is where sovereign powers or groups negotiate over the use of common pool resources and apply those rules to their day-to-day behaviours. Governments and/or communities agree to use natural resources in a certain way in order to ensure the ongoing viability of the resource pool. Treaties, or agreements, on issues such as fishing, environmental protection and water-use are examples.

Ostrom notes that institutional arrangements to solve joint action problems are not uncommon.⁹⁷ The word "institution", or the term "new institutionalism" in the literature, is not meant to imply a physical structure or organisation. Rather, it is the framework within which independent actors go about coordinating their activities in

⁹⁶ Sturgess, G. *The Great Barrier Reef Partnership: Cooperation in the Management of a World Heritage Area*, Queensland Government, 2000: p. 30. Attempting coordination when goals are in dispute can also often lead to coercion, as the body responsible for coordination tries to assert its power over other participants. As Pressman and Wildavsky point out if A and B disagree with goal C, they can only be 'coordinated' by being told what to do and doing it. Coordination thus becomes a form of power. To avoid coercive action in such circumstances, acknowledging difference and actively seeking reconciliation becomes an important process consideration, as does documenting the shared interests between the interested parties.

certain settings. It relies on cultural norms as much as more tangible aspects such as formal agreements and contracts:

Institutions can be defined as a the set of working rules that are used to determine who is eligible to make decisions in some arena, what actions are allowed or constrained, what aggregation rules will be used, what procedures must be followed, what information must or must not be provided, and what pay offs will be assigned to individuals dependent on their actions.⁹⁸

Ostrom's framework for defining institutions can be used to inform the processes of intergovernmental relations, particularly when analysing intergovernmental agreements and fora.⁹⁹ As Painter states in regard to intergovernmental relations in Australia, "any collection of actors intent on solving a coordination problem ... will need to engineer an appropriate, workable set of rules so as to provide incentives of cooperation and/or sanctions that prevent defection."¹⁰⁰ He indicates that the application of Ostrom's insights into group behaviour and institutional structures are very useful in this regard.

While the simple statement of "rules" might suffice in some instances, often an independent arbiter is used to ensure the rules are complied with.¹⁰¹ Here, the arbiter can mediate between groups in dispute, provide solutions to conflicting agendas, as well as police the original terms and conditions of the joint action agreement.

March and Olsen have also reignited the theoretical importance of institutions in shaping policy direction and ongoing coordination.¹⁰² The authors argue that coordination is something that stems from entities and institutional settings, not something that is imposed by a person or persons. It is an attribute that is generated just as much from "non-rational" means (eg. the values of actors involved in policy implementation) as it is from the deliberate, more rational, design imperatives articulate through established structures and systems.

⁹⁷ Ostrom, E. *Governing the Commons: The evolution of institutions of collective action*, Cambridge University Press, Cambridge, 1990: pp. 1-23.

⁹⁸ *Ibid.*, p. 51.

⁹⁹ Painter, *Collaborative Federalism*, p. 95.

¹⁰⁰ *Ibid.*

¹⁰¹ Ostrom, *Governing the Commons*: p. 39.

¹⁰² March, J.G. and Olsen, J.P., *Rediscovering Institutions: The Organisational Basis of Politics*, The Free Press, New York, 1989: pp. 1-20.

This view of institutionalism was used recently by Stewart to form four basic characterisations of coordination in a public policy sense. First, *traditional coordination* involves interdepartmental committees and other recognised multi-agency public sector bodies. This form of coordination is the “stock and trade” of Westminster-style governments. It usually involves the formation of standing and *ad hoc* committees to address issues that span across departmental boundaries. The institution of Cabinet is another example of *traditional coordination*.

Second, the process of *strategic coordination* is where separate bodies align their activities based on their common commitment to observe a jointly developed strategy. However, Stewart notes that this form of coordination is not as robust as other forms, as it is difficult to maintain momentum behind the strategy as time goes by. The parties often tire of the strategic direction in a relatively short period after the euphoria of policy announcement stage, and the strategy often fades from view.

Third, Stewart stresses the importance of *ideas* as a coordinating mechanism. Here she uses the ideology of economic rationalism to demonstrate how powerful a philosophy or concept can be when driving public sector activity. Stewart believes that economic rationalism has been a dominant philosophical approach of governments over the past ten to fifteen years, much to the detriment of social service provision.

Finally, Stewart discusses *network coordination* to describe a loose collection of bodies that choose to align their activities on an *ad hoc* basis, based on their individual needs to form long or short-term alliances.¹⁰³ Actors come together and disperse based on their perception of how they can help each other to achieve a common goal. This type of coordination exists around more formal hierarchies – people finding their own means to “get the job done.”

Stewart, like Pressman and Wildavsky, warns not to confuse centralised control (or coercion) with coordination. Coordination involves the voluntary participation of individuals towards agreed joint action objectives. Centralised control avoids the need

¹⁰³ Stewart, J. “Horizontal coordination: The Australian Experience,” in Edwards, M. and Langford, J. (eds), *New Players, Partners and Processes: A Public Sector without Boundaries*, National Institute of Governance, University of Canberra, Canberra, 2002: pp. 145-152.

for coordination altogether, as it elevates the requirements of one body over those of another.¹⁰⁴

Along with institutionalism, game theory – a term used in economics, psychology and political science – is also used to explain (and predict) the behaviours of independent actors when seeking to coordinate their activities. Game theory tells us that individual players will react to the actions of others, based on their pre-conceived view of the other party's motives. One of the basic assumptions behind the theory is the belief that decision-makers are motivated by their own self-interest, and will act in pursuit of well-defined objectives.¹⁰⁵

Game theory has been applied to explain various decision-making processes including the analysis of potential strategies available to the “super-powers” during the Cold-war era and the bargaining process in industrial relations.¹⁰⁶ Out of this theory come concepts such as “the prisoner’s dilemma” and “the tragedy of the commons.”¹⁰⁷ In all cases, games are played in order to secure an advantage over an opponent. This tells us some vital facts about the nature of coordination.

¹⁰⁴ *Ibid.*, p. 145.

¹⁰⁵ Hardin, G. “The Tragedy of the Commons,” *Science*, Vol. 162, 13 December 1968, pp. 1243-1248. Some authors challenge this “deterministic” perspective of game theory, pointing out that individuals and groups are not as powerless and self-centred as the theory implies. For instance, Ostrom argues that people can, and do, control the game, and as a consequence are not simply pawns in the process. Ostrom warns policy analysts not to use the metaphors developed through game theory (such as the “tragedy of the commons” and “the prisoner’s dilemma”) as models. She notes that “Public officials sometimes do no more than evoke grim images by briefly alluding to the popularised versions of the models, presuming, as self-evident, that the same processes occur in all natural settings.” (Ostrom, *Governing the Commons*: p.8) Ostrom points out that the actors are often not as “helpless” as the metaphorical use of game theory suggests.

¹⁰⁶ Kline, J. “Basic Game Theory,” *The Australian Economic Review*, December 2000: pp. 381-382.

Game theory is different to what this thesis refers to as game playing. The latter is a description of the behavioural trait of the individual or group designed to achieve a desired outcome.

¹⁰⁷ The tragedy of the commons was popularised by Garrett Hardin in an article published in *Science* in 1968. The term became short-hand for the perceived over-exploitation of scarce resources that would inevitably flow from unconstrained world population growth. In the tragedy of the commons, the game is played where two or more “competitors” deplete a commonly shared resource until it is gone. The example often used is that of two or more herders relying on the same common pasture. The game is played where one herder will try to “out-stock” others, creating retaliatory action. The situation escalates until the common pasture is depleted to zero – a situation where nobody wins. In the prisoner’s dilemma, the scenario is played out where a criminal does not know whether his accomplice has “put them in” to the authorities. Interrogators play on the self-interest of the criminal, forcing them to admit to crimes, or turn in their partner, or both, in order to reduce their likely sentence. However, the only way that two or more prisoners can avoid imprisonment is to ensure that neither confesses (or puts the other in) to the crimes that they are accused of committing. It takes several “plays” of this game for the prisoners to realise that this option is their best choice.

In a study of intergovernmental relations and the Great Barrier Reef Marine Park Authority, Gary Sturgess mapped out several lessons from the application of game theory to federalism.¹⁰⁸ First, to obtain meaningful outcomes, the parties (including intergovernmental bodies) need to share a common sense of crisis. If parties do not believe that urgent, coordinated action is required, an agreement will be unlikely. A heightened level of awareness on the need for urgent action can be achieved through jointly commissioned research which, in turn, helps to define issues and potential resolution strategies. In this fashion, the information base is shared, or owned, by all participants, which facilitates a common perception of the nature of the problem. The sharing of information already collected on the subject also creates a common reference point for all stakeholders in future discussions or negotiations.¹⁰⁹

Second, game theory suggests that cooperative outcomes are more prevalent when parties are in regular contact. The knowledge that parties will continue to meet (and will, presumably, be able to continue to play games) decreases the level of anxiety over what is being offered up in any specific agreement. If these are regular meetings, parties have the knowledge that should things go bad, there will be future opportunities to either rectify problems, or perhaps even the score.¹¹⁰

Also, regular meetings allow group norms to form, serving to moderate aberrant behaviours. The knowledge that there is likely to be group retaliation for behaviour that is deemed to be unhelpful to achieving a collective outcome, makes participants think twice about what they are about to do. Examples of group behaviours that are used to discipline deviants include shunning from social interactions and exclusion from vital information or future deals.¹¹¹

Third, it is hard to secure a collective response to a policy problem when parties do not share the benefits in the same proportion as the costs of implementing an appropriate solution.¹¹² This occurs when one party enjoys the benefits of a collective response, but

¹⁰⁸ Sturgess, *The Great Barrier Reef Partnership*, pp. 27-41.

¹⁰⁹ *Ibid.*, p.34.

¹¹⁰ *Ibid.*, p. 31.

¹¹¹ *Ibid.*, p. 37. Also, Goodin, R. "Institutional Gaming," *Governance*, vol. 13, no. 4, October 2000: pp.523-533.

¹¹² Coordination efforts are assisted when there is sufficient "compliance incentives" for semiautonomous agents to stay in the process. The reward needs to be perceived as sufficient enough to secure the desired

another party has to shoulder most of the burden of implementation. The burden can come in a variety of forms, including social, economic and political costs.¹¹³ The point here is that costs are not necessarily expressed in dollar terms.

In the political arena, for example, this can be seen in a federal context when Government A has to institute legislative changes that result in intense political reactions from vocal elements of the community. At the same time, Government B is able to remain completely aloof, or one step away from the odium of change. In this situation, voter disenchantment with the level of government seen to be endorsing the reform program is often taken out at the ballot box. This will usually lead to a breakdown in the implementation of the collective agreement as Government A will perceive that Government B is enjoying all the rewards of reform, while not bearing the associated political costs.¹¹⁴

Conversely, solutions that allow all parties to benefit from developing and abiding by a set policy direction, are likely to be successful. This is often described as a “win-win” outcome – “you get something, and so do I.”¹¹⁵ This insight generated by the application of game theory to inter-group behaviour was popularised by Robert Axelrod in his ground-breaking study of coordination in the 1970s. Axelrod’s main thesis was that reciprocity enables individuals and groups to coordinate their activities in situations where there is no compulsion for them to do so. Reciprocity was found to exist in a variety of inter-group activity, from trench warfare to the playing of a simple game of tic-tac-toe. People and groups were found to develop behaviours, and consequently conventions, which allowed them to achieve what they needed to achieve in order to protect and enhance their interests.¹¹⁶

behavioural change (Mazmanian, D. and Sabatier, P. *Implementation and Public Policy*, Scott, Foresman and Company, Glenview Illinois, 1983: p. 27).

¹¹³ This is often described as the “free-rider” problem. If an actor can gain all the benefits associated with a particular course of action, but doesn’t have to do anything to get there, it will have no incentive to contribute to the action. As noted by Olsen, “Unless the number of individuals is quite small, or unless there is coercion or some other special device to make individuals act in their common interest, rational, self-interested individuals will not act to achieve their common or group interest” (Olsen, M. *The Logic of Collective Action: Public Goods and the Theory of Groups*, Harvard University Press, Cambridge, 1965: p.2).

¹¹⁴ Sturgess, *The Great Barrier Reef Partnership*, pp. 31-32.

¹¹⁵ *Ibid.*, p. 33.

¹¹⁶ Axelrod, R. *The Evolution of Co-operation*, Penguin Books, New York, 1984: pp. 169-190. As noted earlier, Simeon also pointed to the importance of reciprocity in intergovernmental relations when analysing the subject in Canada.

Fourth, joint action is likely to be successful if those affected by the proposal sense that they share the same level of power. In a group context, one way of achieving this is to have rotating chairs, or to acknowledge in some way that the parties are all of the same status.¹¹⁷ Circulating information, and providing a right to comment, also encourages participation and a sense of ownership of the potential solution.

Both game theory and new institutionalism tell us that the coordination of independent actors can be achieved, if there is enough commitment and goodwill, and certain ground rules are followed. The ongoing issue for people seeking to act collectively is the development of rules, structures and behaviours that ensure things stay on track, even when the temptation to “free-ride, shirk or otherwise act opportunistically” is all apparent.¹¹⁸

In terms of the focus of this study, the Queensland Government’s reaction to NCP implementation, coordination plays a critical role, particularly in relation to the government’s interactions with the NCC. However, the behaviour of the NCC’s and governments participating in NCP has largely been hidden from public view. Details emerge from time to time as skirmishes erupt between actors with a stake in the implementation process. But, overall, focused study of coordination in this arena is non-existent. The case study material in part three of this thesis, together with the contextual information provided in part two, addresses an important research gap in the literature currently available on NCP, and on intergovernmental relations in general.

Implementation

Coordination is an integral part of policy implementation. However, implementation is more than simply coordination alone. Policies will need interpretation, disparate interests will need to reconcile differences, implementation agents will try to tip the balance of benefits in their favour, and groups will seek to modify parts of agreements that are simply not working in practice. Implementation is a fickle business. Bardach

¹¹⁷ Sturgess, *The Great Barrier Reef Partnership*, p. 36.

¹¹⁸ Ostrom, *Governing the Commons*, pp. 29-36. Ostrom defines opportunistic behaviour as “self-interest with guile.” (p. 29). She also notes that, “in every group there will be individuals who will ignore norms and act opportunistically when given a chance.” (p. 36). Here, Ostrom is offering an alternative definition of what we will refer to as “game playing.”

confirms this view when he states, "... it is easy to think of ways to subvert implementation, but it is quite challenging to reckon means of making the implementation process succeed."¹¹⁹

Pressman and Wildavsky advise that successful national policy implementation in federal systems of government is particularly precarious.¹²⁰ Bridgman and Davis also make this point. They warn that policy implementation must be designed to accommodate federal institutions, warning policy practitioners to be tolerant of the inconsistency and overlap that is part and parcel of every federal compact.¹²¹

Implementation as a concept in public policy, can be differentiated from other aspects of policy development. The literature clearly sees it as a stage in the policy process that occurs after the policy direction has been set. For instance, Mazmanian and Sabatier describe implementation as,

... the carrying out of a basic policy decision, usually incorporated in a statute but which can also take the form of important executive orders or court decisions. Ideally, that decision identifies the problem(s) to be addressed, stipulates the objective(s) to be pursued, and, in a variety of ways, 'structures' the implementation process.¹²²

Edwards offers a similar definition, describing implementation in global terms, as the "stage of policymaking between the establishment of a policy ... and the consequences of the policy for the people whom it affects."¹²³ Van Horn takes this concept further to clarify the purpose of studying policy implementation, when he posits that,

Policy implementation encompasses actions by public and private individuals or groups that affect the achievement of objectives set forth in prior policy decisions. The student of policy implementation examines the process of putting policy statements into public services through federal, state and local administrative agencies.¹²⁴

In reality, the implementation process is not as linear as the authors cited above suggest. As will be discussed later in this section, the implementation process is much more

¹¹⁹ Bardach, *The Implementation Game*, p. 313.

¹²⁰ Pressman and Wildavsky, *Implementation*, p. xiii.

¹²¹ Bridgman, and Davis, *Australian Policy Handbook*, p. 111.

¹²² Mazmanian and Sabatier, *Implementation and Public Policy*: p. 20.

¹²³ Edwards, G.C. "Introduction," in G.C. Edwards (ed) *Public Policy Implementation*, JAI Press Inc., Connecticut, 1984: p. (ix).

¹²⁴ Van Horn, C.E. *Policy Implementation in the Federal System: National Goals and Local Implementors*, Lexington Books, Massachusetts, 1979: p. 9.

iterative and circular – it is not a simple process of actioning the “commands” given from on-high. Much of the policy detail will develop as implementation proceeds; policy directions will be modified on the basis of problems encountered when policies developed in the abstract meet the harshness of the real world. Nevertheless, in terms of a policy cycle, implementation is different to other aspects such as policy design and evaluation. Implementation is the “doing” part of the cycle.

Colebatch prefers to avoid using the term implementation when describing the acts of government after a policy direction is announced, preferring to describe the policy process as one continuously linked chain. He notes that various actors will continue to hold differing perspectives or positions, even after a policy announcement has been made. As such, the policy process becomes more like peeling off the layers of an onion skin, than a logical progression between direction setting, then dutiful implementation (then on to evaluation, and so forth).¹²⁵ Here, he argues that all that a policy announcement does is “... frame the action in a particular way. It highlights some things rather than others, and defines people and processes in relation to the policy under consideration.”¹²⁶

Colebatch also notes that the literature on implementation is overly “top-down” focused, as if the whole state of policy implementation can be predetermined. On this issue, Colebatch contends that all policy announcements do is outline some general principles, which are explored in further depth in the implementation process. More importantly, Colebatch prefers to see the implementation conceptualised as a process of negotiation, where the perspectives of political actors involved in the setting policy direction are argued out in further detail.¹²⁷

Pollitt and Bouckaert also note that developing and implementing successful policy reform¹²⁸ is fraught with danger, particularly for reform programs that require long

¹²⁵ Colebatch, H.K. *Policy*, Open University Press, Buckingham, 2002: pp. 51-56.

¹²⁶ *Ibid.*, p. 54.

¹²⁷ *Ibid.*, p. 53.

¹²⁸ Pollitt and Bouckaert believe that, in the field of public management reform, there is a lot of “post-event” rationalisation of what the reform program was meant to cover. In the ten countries studied, they found that public management reforms were often identified as such after implementation started. To them, they were “an idealisation, or post hoc rationalisation of a set of processes which tend to be partial, reactive and of unstable priority” (Pollitt, C. & Bouckaert, G. *Public Management Reform: A Comparative Analysis*, Oxford University Press, Oxford, 2000: p. 186). This is a major point of

implementation timeframes (five years or more).¹²⁹ While their research only focuses on a comparative study of public management reforms, and not policy reform in general, it still offers several clues to the conditions required for successful implementation.

To the authors, the key conditions for the successful development and implementation of government reform programs are: a single authority or a set of key players that can set a common agenda and maintain consensus over a sufficient implementation timeframe; informed leadership at the political and administrative levels; considerable organisational capacity to “get the job done;” and public acceptance of the need for reform (or at least public ambivalence).¹³⁰

Like Pressman and Wildavsky, Pollitt and Bouckaert lament the possibility of getting the planets to align to such an extent to permit a comprehensive reform program to take hold. Even when conditions are favourable at the start of a reform program, they are unlikely to stay the same throughout. Ultimately, compromises will be made along the way, or the program will be ditched altogether. Pollitt and Bouckaert note that in the case of public management reforms, issues that often derail the reform effort include: changes in the political make-up of the government; “crowding out” by more politically urgent matters; the government losing interest; and insufficient implementation capacity.¹³¹

Pollitt and Bouckaert’s research points to many of the macro issues that impact on implementation. At the micro level, Bardach also notes that implementation has to run the gauntlet of government bureaucracy and other organisational groups if it is going to

difference with the issue under research in this thesis. NCP was a comprehensive strategy for reform. While agencies such as the NCC were charged with “filling in the gaps,” the intent and direction of the reform process was clearly articulated by COAG at the outset.

¹²⁹ Pollitt and Bouckaert *Public Management Reform*, p. 185.

¹³⁰ *Ibid.* Howlett and Ramesh also highlight the last point made by Pollitt and Bouckaert, noting that the level of public support will affect how a policy is implemented, but more from the point of view of keeping things on track. They state that, “Many policies witness a decline in support after the policy has been adopted, giving greater opportunity to implementors to vary the original intent” (Howlett, M. and Ramesh, M. *Studying Public Policy: Policy Cycles and Policy Subsystems*, Oxford University Press, 1995: p. 156).

¹³¹ Pollitt and Bouckaert *Public Management Reform*, pp. 185-186.

be successful.¹³² These agencies have their own interests to attend to. Their organisational goals and objectives may be supportive of the policy mandate, or may run counter to it. Consequently, it is important to secure a policy against potential buffeting from institutional inertia. This is the heart of what Bardach describes as the *implementation problem* of public policy.

To Bardach, the *implementation problem* is directly related to the issue of control – how to keep the process on track when the policy cycle moves from the concentrated efforts of development and direction setting, to the more dispersed process of making things happen on the ground:¹³³

... the ‘implementation problem’ is a control problem ... however, that one person’s problem asserting control may be another person’s problem escaping it. All parties in the implementation process are involved, in some degree, both in trying to control others and in trying to avoid being controlled by them.¹³⁴

While some players may act altruistically, others will endeavour to seek advantage for themselves or their client groups through more covert means. No matter how clear the policy direction is at the start, actors in the implementation stage can still manipulate and subvert the process. Winter reinforces this point:

Implementation is seen as a continuation of the political games played out in the formulation of policy, albeit in another arena and also to some extent involving different actors.¹³⁵

The games played by actors during the implementation stage are different – they are constrained by the parameters set when the policy direction was formulated. As Bardach opines,

¹³² Bardach notes that, “a single government strategy may involve the complex and interrelated activities of several levels of governmental bureaus and agencies, private organisations, professional associations, interest groups, and clientele populations (Bardach, *The Implementation Game*, p. 5).

¹³³ Bardach, *The Implementation Game*: pp. 310-313. The separation of policy development from implementation is also problematic. Many academics point to how the two are intertwined – there is no beginning and end (eg. Lindblom, C. & Woodhouse, E. *The Policy-Making Process*, 3rd Edition, Prentice Hall, New Jersey, 1993: pp. 1-23). While I acknowledge this for the purpose of this study, it is helpful to conceptualise a “policy formulation stage” as being separate from the implementation process.

¹³⁴ Bardach, *The Implementation Game*: p. 312.

¹³⁵ Winter, S. “Integrating Implementation Research,” in Palumbo, D.J. and Calista, D.J. *Implementation and the Policy Process: Opening up the Black Box*, Greenwood Press, Connecticut, 1990: p. 27.

... implementation politics is, I believe, a special kind of politics. It is a form of politics in which the very existence of an already defined policy mandate, legally and legitimately authorised in some prior political process, affects the strategy and tactics of the struggle. The dominant effect is to make the politics of the implementation process highly defensive. A great deal of energy goes into manoeuvring to avoid responsibility, scrutiny and blame.¹³⁶

The political games played by implementation agents are not the only reason why policies fail to move forward as originally intended.¹³⁷ Sometimes, modifications need to be made to policies to take account of the problems encountered during implementation. One of the keys to successful implementation is to create a process where policies can adapt. As Pressman and Wildavsky state,

The great problem, as we understand it, is to make the difficulties of implementation a part of the initial formulation of policy. Implementation must not be conceived as a process that takes place after, and independent of, the design of policy. Means and ends can be brought into somewhat closer correspondence only by making each partially dependent on the other.¹³⁸

The chances of policy success are maximised when a continuous learning cycle is built into the system – a constant cycle of development, implementation, evaluation, modification, and so on. This is in addition to the need to thoroughly think through the implementation process when setting an overall policy direction.

In response to a perceived need to codify the critical factors associated with successful implementation, Gunn developed a ten-point checklist for “perfect implementation”¹³⁹ (see Table 1.1). Gunn’s second point, the availability of sufficient time, appears to require some qualification, given Pollit and Bouckaert’s observation that long implementation time-lines can also be the failing of some policy reforms. There needs to be a balance struck between sufficient time to implement, and time-lines that can accommodate the demands of participants, bearing in mind that there is a high

¹³⁶ Bardach, *The Implementation Game*: p. 37. Bardach manages to develop his thesis without any direct application of game theory, even though his focus is on the games played out during implementation.

¹³⁷ To counteract game players, Bardach advocates installing a “fixer” into the implementation process – someone or something that has the power to bring the process back on track (Bardach, *The Implementation Game*: pp. 5-6).

¹³⁸ Pressman and Wildavsky, *Implementation*, p. 135.

¹³⁹ Gunn, L.A. "Why is Implementation so Difficult?" *Management Services in Government*, 33, 1978: 169-176. Gunn states that his concept of “perfect implementation” is borrowed from similar concepts in public administration and economics, such as “perfect administration” and “perfect competition.” Perfect implementation can only be achieved in the abstract; the “real world” of public policy will temper the achievement of true “perfection.” Nevertheless, concepts of ideals serve as a useful rhetorical point to measure the “implementability” of policy initiatives.

likelihood that agreements will unravel over time as political circumstances change.¹⁴⁰ Gunn attempts to deal with this issue of “maintenance” in item seven of the check-list, which states that for conditions of perfect implementation to be met, policy direction must be clearly established and commitment maintained throughout the life of the implementation process. Also, Gunn fails to cover Pressman and Wildavsky’s point about the need to build flexibility into the implementation process so that sufficient adaptation can take place.

Item	Preconditions for perfect implementation	Comments
1	Circumstances external to the implementing agency do not impose crippling constraints.	These are matters outside the control of the implementors. Examples include, interest group capture of the political process, and natural disasters.
2	Adequate time and sufficient resources are made available.	Financial and other resources need to be allocated in the right amount at the right time.
3	Resources are available at each stage in the implementation process, in the right combination.	Bottlenecks in the allocation of resources should not occur.
4	The policy is based on a correct assumption about cause and effect.	Poor policy design causes activities to focus on inappropriate issues.
5	The number of links in the decision-making chain are kept to a minimum.	The more links in the decision-making chain the higher the odds of implementation breakdown.
6	The number of implementing agencies is kept to a minimum, with preference for a single agency with authority to make decisions	The more people involved, the greater the game playing, and the more “veto” points introduced. Coordination and communication also becomes more difficult.
7	There is an agreement between all stakeholders about policy objectives, and this is maintained throughout implementation.	Often the objectives of a given policy are not made perfectly clear. The “unofficial goals” of interest groups involved in implementation can often permeate the process.
8	There are strong project management practices in place so that tasks are clearly allocated to various players.	Task allocation is made clear and actions are coordinated through professional project management techniques.
9	There is perfect communication and coordination between all key players.	Information flows freely between implementation agents – and they coordinate their activities in a true spirit of collaboration.
10	The players responsible for implementing actions can command perfect obedience.	People in the implementation chain obey the commands of the “perfectly coordinated” decision-makers.

Table 1.1 – Checklist for “perfect implementation.”¹⁴¹

¹⁴⁰ Pressman and Wildavsky refer to this phenomenon as the “slow dissolution of agreement.” (see Pressman and Wildavsky, *Implementation*: p. 92). Ostrom also sheds light on this when she notes that there is a time-value equation associated with a person’s willingness to accept constraints in order to gain future benefits. As with a similar concept used in economics, the time-value of money, Ostrom argues that the further away the benefits, the less likely a person will want to commit to restrictions on their “self-interest” (Ostrom, *Governing the Commons*: p. 34).

¹⁴¹ Gunn, "Why is Implementation so Difficult?" pp. 169-176.

Rather than espousing a checklist, Mazmanian and Sabatier suggest that there are six conditions for enhancing the likelihood of successful implementation. First, the policy objectives espoused by government or parliament must be clear and consistent, or at least provide a process for resolving conflict when goals are in dispute. This adds to the condition outlined in point seven of Gunn's checklist, but expands the point to include the possibility of dispute resolution procedures, should parties disagree over goals during the implementation process. Second, the policy direction must be based on a sound theory of cause and effect. This condition supports Gunn's item number four.

Third, the policy direction must provide sufficient structure to enable implementing agencies to function in accordance with the intentions of the direction-setter, and ensures target groups develop the desired behavioural responses. This requires the policy to be implemented by agencies sympathetic with the policy mandate that have sufficient resources for the task and able to develop decision rules that support the intent of the policy. This condition is encompassed in points two, three and eight of Gunn's checklist.

Fourth, the leaders of the key implementation agencies have the managerial and political skill to implement the policy direction, and are committed to doing so. While possibly implicit to some of Gunn's points, this condition is lacking from his list. The key appears to be related to the political skill of the implementing agencies. While Gunn's list covers things like project management, resource allocation and communication – all essential managerial traits – it is silent on the point of political skill.

Fifth, there needs to be a critical mass of support for the policy direction by interest groups, influential political agents and senior civil servants. This condition neatly summarises point one and seven of Gunn's checklist. It is also highly consistent with the point made by Pollit and Bouckaert that for any reform process to be successful, political interest must stay behind the process.

Finally, Mazmanian and Sabatier stipulate that the policy direction is not eroded over time by conflicting public policies, or rapidly changing political or social circumstances. This picks up on point seven in Gunn's list also. However, it provides more of a

contextual description, by identifying the factors that can lead to the stakeholders falling out of agreement.¹⁴²

Both Gunn's checklist and Sabatier and Mazmanian's six conditions can be criticised for being overly "top-down" driven, in that the researchers take the point of view of a policy being enacted from the legislature, through the bureaucracy, to the recipients. Their goal is to provide students with a recipe for how to implement a statute, as if this is the only legitimate way public policy can be structured.

Researchers in the field of implementation in the 1980s were highly critical of the "top-down" assumption that seemed to pervade studies of implementation in the 1970s and early 1980s. To these researchers, it was as if implementation was just a technical process of actioning a given policy mandate of the government-of-the-day. This assumption blinded researchers to the true nature of implementation, particularly the fact that policy-making still occurs well after a mandate has been given from on-high. Palumbo and Calista refer to the implementation process as the "black-box" of policy-making, noting that implementation research of the 1980s, opened the box: it changed the way that implementation was perceived by researchers in the field.¹⁴³

The key implication of the "black-box" insight for this study is the realisation that politics does not stop after a policy position has been formulated, in fact, the political wars may intensify as actors attempt to claw-back some lost ground, and arguments rage about how policy principles should be interpreted. As Palumbo and Calista maintain, implementation is a "political rather than a technical process, and similar to all political processes, it is a matter of power and conflicting interests."¹⁴⁴

Thompson has developed a four-part typology to describe the implementation processes that should accompany policy mandates of government. Here, Thompson takes on the normative assumption that in a democracy it is the government that has the right to set policy direction and control implementation processes to ensure policy goals are

¹⁴² Mazmanian and Sabatier, *Implementation and Public Policy*, pp. 41-42.

¹⁴³ Palumbo, D.J. and Calista, D.J. "Opening up the Black Box: Implementation and the Policy Process" in Palumbo, D.J. and Calista, D.J. *Implementation and the Policy Process: Opening up the Black Box*, Greenwood Press, Connecticut, 1990: pp. 3-18.

¹⁴⁴ *Ibid.*, p. 17.

translated into action. Yet, he still recognises that policy making occurs during the implementation process as well as the policy formulation stage.¹⁴⁵

First, Thompson discusses a particular characterisation of implementation, referred to as *controlled implementation*.¹⁴⁶ Under this type of mandate, the policy direction is specified to minute detail, along with the resultant implementation plan. Government stays in close contact with implementation as the process moves on. In order to achieve optimal implementation outcomes, there needs to be a fair degree of stability in the policy-making environment and the government needs to keep a close watching brief on how implementation develops. It is usually chosen when there is not a lot of faith in the bureaucracy to implement the policy as intended by the government of the day, and/or the public service needs to be protected from “politic games” being played out in the public arena.

Second, Thompson describes what he calls *prophylactic implementation*.¹⁴⁷ Here, government sets the policy intent and implementation process in significant detail, but elects to play a relatively “hands-off” approach during implementation – letting the bureaucracy negotiate the finer points of implementation. Thompson suggests that an highly specified and prescribed, top-down approach to implementation might be necessary at times, particularly when the overall commitment from implementing agencies is likely to be low. However, the policy setters are disengaged from implementation, there are no readily available “fixers” (in Bardach’s terms) to intervene should implementation meander from the original policy intent. A complicating factor in this type of policy design is that it requires policy actors at the direction-setting stage to have an extraordinary capacity to understand the complexity of the policy problem, in order to develop a robust implementation plan capable of resisting goal displacement.

¹⁴⁵ Thompson, F.J. “Policy Implementation and Overhead Control,” in G.C. Edwards, III (ed) *Public Policy Implementation*, JAI Press Inc., Greenwich Connecticut, 1984: pp. 3-24. It is important to emphasise that Thompson’s point is that governments can design policy directives that have varying degrees of “central control” over implementation. Thompson refers to this factor as a process of “overhead control” – meaning the actors who set the policy mandate (usually governments, or the legislature) will exert differing degrees of control/influence over the implementation process. The way the policy mandate is designed will determine the degree of this on-going control/influence.

¹⁴⁶ *Ibid.*, pp. 6-14.

¹⁴⁷ *Ibid.*, pp. 14-15.

The third type of policy design is what Thompson describes as *up-for-grabs implementation*.¹⁴⁸ Here, the policy direction is generally imprecise and open for considerable interpretation during implementation. To balance this, policy-setters remain engaged in the implementation process, bargaining out implementation processes and policy outcomes as implementation evolves. Thompson describes this as implementation through a “disorderly learning process.” It, more than other types of implementation processes, requires “fixers” at the political level to stay close to the action – a system, or person, needs to keep the process on the rails, so that actors do not wander too far away from the intent of the policy direction. Maintaining the interests of “fixers” for the duration of the policy process is a key difficulty of this type of implementation process.

Finally, Thompson refers to *buffered implementation*.¹⁴⁹ Here, the policy direction is imprecise, like *up-for-grabs*, but there are little opportunities for “fixers” from the policy setting arena to become involved. As a result, policy intent can often be lost, as the implementation causes the original policy direction to meander depending on the activities of interest groups and the skill and motivation of the bureaucratic agents.

This situation requires bureaucrats, as opposed to politicians, to have extraordinary skill in detecting and rectifying implementation problems. In turn, this process requires players within the bureaucracy to be of like mind, or “on-song” with the intent of the policy, otherwise an inordinate amount of time can be spent in bureaucratic in-fighting over appropriate goals and objectives. The lack of political engagement during the implementation process can leave agencies and individual bureaucrats exposed, should political pressures mount against the policy direction. In this scenario, it is the bureaucrat, and not the politician, who tends to take the blame for political problems encountered during implementation.

As highlighted in the research discussed above, theories that attempt to separate policy from administration are asking policy analysts and other interested parties to accept an unreal world. Acknowledging the interdependency of policy and administration, Thompson’s four-part typology attempts to deal with the level of policy-making that

¹⁴⁸ *Ibid.*, pp. 15-18.

¹⁴⁹ *Ibid.*, pp. 18-20.

occurs at the implementation stage. The levels range from minimal policy-making in *controlled implementation*, to virtually unlimited policy scope in *buffered implementation*.

The fact that policy-making continues well after the original policy setting has been made serves to highlight another important research gap in Australian intergovernmental relations in general, and NCP in particular. While Painter stands out as the major contributor in the field of intergovernmental relations in the 1990s, his work is largely silent on policy making during the implementation stages.

The literature on implementation points to the strong likelihood that policy-making will continue long after the fanfare of the original policy announcement dies down. In this stage of policy-making known as implementation, political actors will continue to exert a degree of influence over the process, depending on how the policy mandate was designed and the degree of on-going interest group activity associated with it.

On a final note, the literature tells us that implementation is an extremely difficult process to master – an occupation that governments, in a variety of settings, have had problems in coming to terms with for a very long time. As a result, it is hardly surprising that NCP encountered its fair share of implementation problems as the policy was rolled out. These problems form the crux of the analysis in parts two and three of the thesis.

Conflict resolution and political behaviour

When governments form a joint plan of action in response to a national policy position, it is conceivable that conflict over goals and specific implementation actions will arise. It is likely that people and groups will protest about how a particular policy was developed and implemented, particularly if the time devoted to debating the pros and cons of a particular policy choice has been truncated. As Gunn notes,

When implementation involves, as it often does, innovation and the management of change, then there is a particularly high probability of suspicion, recalcitrance or outright resistance from affected individuals, groups and interests, especially if insufficient time has been allowed for explanation and consultation or if any of the previous experience of change has been unfortunate.¹⁵⁰

Lindblom and Woodhouse argue that, when in conflict, participants in the political process will use one or more of the following three tactics to resolve differences:

1. Non-rational and irrational persuasion, as via propaganda campaigns or symbolic rhetoric;
2. Logrolling, vetoes, bribery, or other interpersonal means of inducing acquiescence without actually persuading on the merits;
3. Informed and reasoned persuasion.¹⁵¹

The authors suggest that more sustainable policy responses emanate from the third response to conflict. Persuasion, as used here, is meant to imply “the use of information and thought to move people closer to reasoned and voluntary agreement.”¹⁵² In other words, deliberation that focuses on rational debate.

Here, March and Olsen caution against thinking that conflict can be avoided permanently through agreement, or a form of contract (either written or spoken) between the parties after a specific event or point of negotiation. Parties will fall in and out of conflict at various stages in policy implementation.¹⁵³ If conflict could be avoided through contractual means then the only problems left for implementation would be inter-party coordination and information provision. But, the authors note that, “such problems are confounded by the complications of unresolved conflict.”¹⁵⁴

They go on to note:

One complication in control is that any system of accounts is a roadmap to cheating on them. As a result, control systems can be seen as an infinite game between controllers and the controlled in which advantage lies with relatively full-time players having direct personal interest in the outcomes.¹⁵⁵

In the view of March and Olsen, this “game playing” leads people to attempt to revise agreements unilaterally, as each attempt to escape the confines of her/his previous

¹⁵⁰ Gunn, "Why is Implementation so Difficult?" pp. 169-175.

¹⁵¹ Lindblom and Woodhouse, *The Policy-Making Process*, pp. 128-129.

¹⁵² *Ibid.*, p. 129.

¹⁵³ March and Olsen, *Rediscovering Institutions*, p. 11.

¹⁵⁴ *Ibid.*

commitments. They conclude that, "... promises of uncertain future support are easily made worthless in the absence of some network of reciprocal favours."¹⁵⁶ The parties achieve ongoing alignment through continued contact and support.

Theories about the resolution of inter-group conflict from the field of psychology also shed light on possible ways to resolve conflict in an intergovernmental setting.

However, it is important to note that the political process will often militate against these initiatives, as political parties attempt to exploit weakness in the policy positions of their rivals, and as a consequence avoid entering into relationships that would otherwise be open to rational actors in other settings.¹⁵⁷ For example, the purely partisan activities of a State government against the policy position of the Commonwealth, might render constructive conflict resolution techniques useless.¹⁵⁸ From the perspective of the State, the purpose of the behaviour is to score a point on its opponent. Nevertheless, conflict resolution is an important consideration during policy implementation, even if partisan political game playing will sometimes get in the way.

Dunphy believes that there are two categories of behaviours that may be used to resolve personal and inter-group conflict.¹⁵⁹ The first category involves "low-profile methods." These include: avoiding and denying, smoothing, accommodating and appealing. The second category of techniques provides a far more assertive range of methods for resolving inter-group conflict. These include: negotiating and compromising, persuading, competing, indoctrinating, commanding and confronting.

Assertive inter-group conflict resolution techniques are more robust, and, if used appropriately, stand a better chance of achieving long-term outcomes than the first category of methods. Allowing for the vagaries of politics, it would be a reasonable assumption that the methods in the second category of conflict resolution techniques would also lead to sustainable outcomes in the intergovernmental context.

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.* Yet again, the concept of reciprocity appears, this time in the context of conflict resolution.

¹⁵⁷ In intergovernmental settings, Simeon refers to this dynamic as "status seeking" (Simeon, *Federal-Provincial Diplomacy*, p. 186).

¹⁵⁸ Simeon claims that conflict such as this makes coordination and implementation of national policies in federal settings extremely difficult. Political games often get in the way of what would normally be considered "rational" decisions (Simeon, *Federal-Provincial Diplomacy*, p. 186).

¹⁵⁹ Dunphy, D. (in collaboration with Bob Dick), *Organisational Change by Choice*, McGraw-Hill, Sydney, 1981: pp. 292-303.

Often, conflict is confused with hostile, explosive behaviour. If a group is obviously “angry” conflict must exist. This view fails to recognise that conflict can manifest in passive forms of behaviour, such as silence or avoidance. Some of the signs of inter-group conflict include: withdrawal, delays in project completion times, misinformation, gossip, misunderstanding the motives of others, subversion, threats, intimidation, and sabotage.

The research for this thesis analyses the conflict between the NCC and the Queensland government during the first five-and-a-half years of the NCP agreement. It will draw significantly from the taxonomy of conflict resolution techniques described above.

Taking the issue of conflict further, Matland has developed a model to explain the role conflict plays in the implementation of public policy.¹⁶⁰ The model describes what Matland refers to as “the four main paradigms of policy implementation.” The concept is outlined in Figure 1.1 below.



Figure 1.1: Matland’s Ambiguity-Conflict Matrix.¹⁶¹

¹⁶⁰ Matland, R.E. “Synthesizing the Implementation Literature: The Ambiguity-Conflict Model of policy implementation,” *Journal of Public Administration Research and Theory*, 1995: pp. 145-174.

¹⁶¹ *Ibid.*, p. 160.

First, Matland describes the paradigm of *administrative implementation*. Here, there is little conflict between parties over policy goals or the means of achieving them. The purpose of the program, or project, is quite specific and unambiguous; all that is needed is competent coordination and administration for the implementation process to be successful. Implementation tends to adopt a “resource focus” – getting the right resources in the right place, at the right time, is the major challenge.¹⁶²

The second paradigm in Matland’s matrix deals with a policy environment where policy goals are clear, but there is a high degree of conflict over either the purpose of the policy, or the means by which the policy is to be implemented. Matland describes this as *political implementation*. It is here that we find heated battles arising during the implementation process, and implementation problems are decided on the basis of power. Political bargaining abounds, as parties try to form coalitions, or seek to explore the middle ground. In order to achieve outcomes, recalcitrant parties are often bought out or coerced into following a particular policy line. The political conflict occurs at the centre, and rarely spills over to the local level, as local level actors have little ability to influence policy direction. It is the paradigm of big “P” political battles.¹⁶³

Third, Matland outlines the paradigm of *experimental implementation*. Here, the policy goals are quite ambiguous, but the conflict level at both the centre and the local level is low. This is often found in policy areas that attempt to resolve “wicked problems” – issues that are often seen as somewhat intractable, but nevertheless important for government to tackle. The overall goals of the policy are usually specified in global terms (eg. to fight poverty), but the means to get there are left blank. The focus of this type of implementation is at the local level. If partnerships and community attitudes facilitate informed decision-making, and sufficient expertise and resources are devoted to the problem, answers will be found. The flexibility inherent in localised implementation allows a high degree of experimentation to occur.¹⁶⁴

¹⁶² *Ibid.*, pp. 160-163.

¹⁶³ *Ibid.*, pp. 163-165.

¹⁶⁴ *Ibid.*, pp. 165-168.

Finally, Matland describes the paradigm of *symbolic implementation*. It is here that we see those policy announcements of government that have great rhetorical appeal, but bear little substance in terms of “implementability.” The policy environment is likely to be characterised by a high degree of conflict, and government’s choose to make grand announcements, in ambiguous forms, to underline their philosophical position on certain issues. The focus of the conflict in this paradigm is largely at the local level. The ability of interest groups to form coalitions to either support or resist the policy thrust of the government will determine the outcomes of policy implementation.¹⁶⁵

As will be demonstrated in subsequent chapters, the environment that NCP was implemented in Queensland was most aptly described by Matland’s second paradigm, the paradigm of *political implementation*. However, as will be demonstrated in the next chapter, the NCP agreement was struck in an environment more closely aligned to that of *administrative implementation*, reflecting the degree of consensus on micro-economic reform amongst government leaders in Australia at the time of signing.

The analysis presented in this study will show that conflict over policy implementation was largely centred at the political level. The environmental shift from *administrative* to *political implementation* was rapid and reflected a significant change in the political landscape in Queensland during the mid-to-late 1990s, most clearly identified through the emergence of the One Nation Party.¹⁶⁶ A policy that was designed with a clear emphasis on the political nature of implementation, instead of purely administrative, may have resulted in a different set of structural arrangements and decision-making processes than what finally appeared in the initial NCP agreement.¹⁶⁷ Nevertheless, NCP continued through implementation as COAG originally intended. How it coped with the change in the implementation environment will be a major focus of the analysis in subsequent chapters.

¹⁶⁵ *Ibid.*, pp. 168-170.

¹⁶⁶ This change in the political operating environment is discussed further in Chapter three.

¹⁶⁷ The structural arrangements inherent in NCP will be discussed in Chapter two.

As will be demonstrated in the next chapter, the goals of NCP, and the milestones for States to achieve, were explicit and unambiguous, with State compliance purchased through a generous funding package. However, the means of achieving policy outcomes were not specified in the base NCP agreements – it would be up to each State to decide how it would achieve policy goals. Virtually right from the start, a policy battle was looming, pitting States against the key agent in policy interpretation, the NCC. This conflict will be analysed in detail in the third and fourth parts of this thesis.

Research Strategy

This thesis relies upon the case study research method¹⁶⁸ as a primary means of data collection, analysis and presentation. It was chosen because the basic issues under consideration are best explored through detailed, multi-level analysis from a range of source material including policy statements and information papers, annual reports, newspaper clippings, parliamentary and ministerial statements, press releases and supporting interviews. A recognised strength of the case study method is its ability to examine evidence derived from these sources.¹⁶⁹

In addition, case study research is best suited to assignments that call on the researcher to answer “how” or “why” type questions.¹⁷⁰ Other research strategies using experiments, surveys, archival analysis and histories, for example, do not provide the researcher with the same level of flexibility to explore all of the issues raised when “how” and “why” questions are being asked. This is particularly the case when the subject matter is only just emerging and the researcher has little or no control over the

¹⁶⁸ The case study method is an, empirical inquiry that:

- Investigates a contemporary phenomenon within its real-life context; when
- The boundaries between the phenomenon and context are not clearly evident; and in which
- Multiple sources of evidence are used. (Yin, R.K. *Case Study Research: Design and Methods*, Sage Publications, California, 1984: p. 23)

Later, Yin revised his definition to add the following points:

- Copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as a result
- Relies on multiple sources of evidence, with data needing to converge in a triangulating fashion, and as a result
- Benefits from the prior development of theoretical propositions to guide data collection and analysis (Yin, R.K. *Case Study Research: Design and Methods*, Second Edition, Sage Publications, California, 1994: p. 13).

¹⁶⁹ Yin, R.K. *Case Study Research: Design and Methods*, Second Edition, Sage Publications, California, 1994: p. 80.

¹⁷⁰ *Ibid.*, pp. 4-9.

behavioural events under analysis.¹⁷¹ The contemporaneous nature of NCP as an intergovernmental agreement arising out of the “New Federalism” of the 1990s, and the political response to it as implementation took place, are consistent with the conditions necessary to undertake a successful case study analysis.

The case study research method is often criticised for its perceived lack of robustness, leading some researchers to shun it as a form of valid academic inquiry.¹⁷² While this criticism is unjustified, it is nevertheless important to be explicit about how the research method used in this case study deals with these generic criticisms.¹⁷³ To this end, the case study presented here uses multiple sources of evidence (mainly document searches, parliamentary records and journalistic accounts) to identify key issues in NCP implementation in Queensland and the associated political responses to it. Informants critically reviewed the analysis in the early draft stage, and their comments have been incorporated in the final document.

Yin, a leading authority on case study research, says that the case study method is like historical research, but uses more contemporary source material to analysis events that are unfolding, or have just recently unfolded.¹⁷⁴ Consistent with this approach, the data for this study was collected via a variety of means, focusing on document analysis and journalistic accounts, and supported by some interview material with key political figures and public servants (used to clarify material discovered through document searches). It also relied upon observations of the NCP process in Queensland while the researcher worked in a variety of jobs in State and Local Governments.¹⁷⁵

¹⁷¹ *Ibid.*, p. 9.

¹⁷² Yin, *Case Study Research*, 1994: pp. 33-38. Yin argues that this perception is unjustified, and goes on to suggest ways to ensure a case study design is rigorous and beyond reproach.

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*, p. 8. In this respect, Yin argues that the method should not be confused with qualitative and quantitative research styles, as most research methods, including case studies, can use a mixture of data sources and analysis techniques.

¹⁷⁵ I was a political adviser in the Goss Labor Government at the time NCP was negotiated (though I had no direct involvement in it). Later, as a senior manager in a large local government authority in Queensland, I was part of a Local Government Association of Queensland (LGAQ) negotiating team that handled funding arrangements with the State Government for the implementation of NCP at the local government level. In addition, I have worked in community consultation roles for the Queensland government in regional development and community capacity building. A recurrent issue of concern raised in the community consultations I was involved in was the perceived impact of NCP on regional communities in the State.

This case study is both descriptive and explanatory.¹⁷⁶ It goes beyond the simple identification of issues for further, more in-depth, studies, as in an exploratory case study. It describes the strategies used by the Queensland Government to implement NCP, using examples in water reform and dairy deregulation to highlight key philosophical approaches to the policy program. The study also offers explanations as to why the Queensland Government adopted various policy positions and political strategies to manage the implementation process.

Implementation of NCP in Queensland, as a single case study, was selected due to the uniqueness of the subject matter. A different research strategy, for example, may have used a comparative analysis of multiple case studies to identify key strengths and weaknesses of the implementation process.¹⁷⁷ However, a similar case to NCP policy in Queensland would have been difficult to isolate, and treating the issue as a standard intergovernmental agreement would have glossed over the intricate policy and institutional structures that accompanied NCP.

No other intergovernmental agreement in Australia's post-war history involved such an array of funding and policy arrangements.¹⁷⁸ It also created an independent assessment body called the National Competition Council; a set of financial payments based on performance criteria which were link to set milestone dates; and a timeframe for implementation that would span several different State and Federal governments – all relatively unique features in contemporary Australian intergovernmental relations. Further, it was set in atmosphere of national policy-making seldom witnessed in

¹⁷⁶ Yin, *Case Study Research*, 1994: pp. 4-5. A case study can be used to explore, describe, or explain a phenomenon being researched. An exploratory case study attempts to highlight the key issues arising from an incident or series of events so further research can be conducted. On the other hand, a descriptive case study aims to trace events over a period of time, describe in detail many of the issues that arise over the course of the research, and discover key facts about the subject matter that were previously unknown. An explanatory case study is similar to the research conducted by Allison on the Cuban missile crisis, where he used the study to posit theories as to why the government of the United States of America responded to a nuclear threat in the way it did. He also used the study to predict other circumstances where the government was likely to react in a similar fashion. As demonstrated in this piece of research, a researcher's objective in an explanatory case study is to, "pose competing explanations for the same set of events and to indicate how such explanations may apply to other situations."

¹⁷⁷ Yin argues that researchers using the case study method should have a sound rationale for selecting either a single or multiple case study research strategy. Some of the justifications used to support the selection of a single case study approach include, the relative uniqueness of the subject matter, the ability of the case to test established theories in the field, and the ability of the case study to reveal insights not previously documented by researchers (see Yin, *Case Study Research*, 1994: pp. 38-52).

¹⁷⁸ Keating, M. and Wanna, J. "Remaking Federalism," in M. Keating, J. Wanna and P. Wellner, *Institutions on the Edge? Capacity for Governance*, Allen and Unwin, New York, 2000: pp. 139- 140.

Australia's post-war history. These factors make it an agreement without peer, and worthy of independent assessment.

Even so, it might be argued that this case study should compare the implementation process in Queensland to that in other States. Again, the uniqueness of the Queensland political environment at the time of implementation enables the case to stand-alone. As such, describing and mapping the political intricacies of NCP implementation in a single State is a worthwhile endeavour in its own right. The comparison of the implementation process in Queensland to other States can reasonably be left to a separate research effort, with this study providing an important reference point.

This case study builds on the emerging work in the study of intergovernmental relations in Australia. As pointed out earlier, it takes previous research a step further along the track of the policy-making process to examine specific issues in policy coordination, implementation and conflict resolution – issues lacking a strong empirical base in the Australian context. Specifically, using the theoretical concepts introduced earlier in the discussion of policy coordination, implementation and conflict resolution, the thesis uses the following conceptual framework to analyse NCP implementation in Queensland (see Table 1.2 – Conceptual framework of analysis).

Theory	Research Questions or Propositions	Author/s
Coordination	Was a plan of action developed which was accepted by all parties?	Chisholm
	Was there a sense of common crisis and did the Queensland Government share in it to the same extent as the rest of COAG?	Sturgess
	How committed are/were successive Queensland Governments to the shared goals in the plan?	Chisholm
	How much “power” was the Queensland Government willing to give up for the sake of a coordinated approach?	Simeon
	Were the Queensland Government and the NCC in regular contact? What about COAG as a whole?	Sturgess
	Were intergovernmental bodies created and did they bring governments into closer alignment and improve communication?	Simeon
	Did NCP spell out decision-making rules, and were there sufficient incentives and sanctions in place to keep parties engaged?	Ostrom Simeon Sturgess
	Was reciprocity present and how did it moderate the behaviour of both the NCC and the Queensland Government?	Simeon Axelrod
	In terms of Stewart’s four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?	Stewart
Implementation	Was there a single authority or set of key players in Queensland that set, then maintained, a common agenda as implementation progressed?	Pollit & Bouckaert
	Was there informed leadership at the administrative and political levels in Queensland?	Pollit & Bouckaert
	Was there sufficient organisational capacity within the Queensland Government to “get the job done”?	Pollit & Bouckaert
	Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?	Pollit & Bouckaert Mazmanian & Sabatier
	What was the level of flexibility, once implementation commenced, to learn and adapt the policy?	Pressman & Wildavsky

Theory	Research Questions or Propositions	Author/s
	Was the policy mandate unambiguous, and provided a means to mediate disputes once implementation began (also has a link to conflict resolution)?	Pressman & Wildavsky; Gunn; Mazmanian & Sabatier
	Did the policy mandate provide sufficient structure and direction to the Queensland Government and the NCC?	Mazmanian & Sabatier
	Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?	Mazmanian & Sabatier
	Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?	Bardach
	In terms of the structure of the NCP agreement, what was the level of overhead (political) control, and consequently, what level of bureaucratic expertise would be necessary for successful implementation (and what was the demonstrated expertise by the Queensland Government during implementation)?	Thompson
Conflict Resolution	How was conflict between the NCC and the Queensland Government brought to the surface and dealt with during implementation?	March & Olsen
	In terms of Matland’s typology, what was the policy environment like, and how did the level of conflict impact on implementation efforts in Queensland?	Matland
	Were there intergovernmental bodies created to mediate conflict and how did the Queensland Government engage with them?	Ostrom Simeon
	How was conflict managed by the Queensland Government?	Lindblom Dunphy

Table 1.2 – Conceptual framework of analysis

No other research effort has attempted to collate and analyse the extensive material on the politics of implementing NCP in Queensland. As will be demonstrated in the chapters that follow, Queensland was at the forefront of the political reaction to NCP and the role of the National Competition Council.¹⁷⁹ As an article in *The Australian Financial Review* claimed:

¹⁷⁹ *The Australian Financial Review*, “Competition reforms boost regional growth,” 15 October 1999: p. 7; *The Courier-Mail*, “Unmasking a monster,” 17 April 1999: p. 28.

[Queensland National Party Senator] Boswell, backed by the entire Queensland State Parliament, wants the competition tribunal brought into line. While the NCC's president, Graeme Samuel, a few months ago, described the One Nation-inspired competition backlash as largely 'hysterical', the hysteria from up north is showing no signs of abating, and is in fact looking increasingly bipartisan.¹⁸⁰

An editorial in the same paper remarked, "States such as Queensland and NSW were quick to shift blame to the National Competition Council ... but, after all [it] is only implementing the law created by its staunchest political critics."¹⁸¹ Though New South Wales was mentioned, its parliament had not resorted to the same bipartisan attack as Queensland's.¹⁸²

Once again, in national policy positions Queensland was proving to be different.¹⁸³ The government's policy position on NCP, and parliament for that matter, was more parochial, reflecting the "home spun" understanding of the reform process. Political leaders were more willing to proclaim the perceived impacts of NCP in parliamentary and media debates, even though many of the lines used were inaccurate and without substance (as will be shown in chapters four and five).

This represents a further justification of a single case study approach - the strength of this technique to reveal hitherto little known facts about the subject matter under review.¹⁸⁴ The implementation of NCP in Queensland and the intergovernmental issues raised in the process, are yet to be documented as part of a single academic endeavour. This, in combination with the author's access to high-level bureaucrats and politicians, enabled the collection of material that other researchers would find difficult to obtain.

¹⁸⁰ *The Australian Financial Review*, "Losing that competitive edge," 25 November 1998: p. 16.

¹⁸¹ *The Australian Financial Review*, "Competing vs extremism," 11 January 1999: p. 16.

¹⁸² The reference in the editorial appeared to be prompted by the New South Wales government's difficulties in implementing irrigation reforms in cotton growing regions in the north west of the State.

¹⁸³ This recalls the political science debates in the 1970s which labelled Queensland as "different" to other mainland States. *The Courier-Mail* picked up on the same theme in the context of the NCP debate within the State, with political correspondent noting that the Premier and Treasurer, "realised that many of the one in five Queenslanders that voted for One Nation last year [ie. in the 1998 State election] were victims of reform and are happy to blame Canberra. Their new politics are designed to tug at the emotions of the disenchanted. While Labor cannot adopt all of the ratbaggery of One Nation, it can adopt the style of posturing that worked so well for Bjelke Petersen" (Franklin, M. "Politics go back to the '70s - but don't you worry about that," *The Courier-Mail*, 17 April 1999: p. 28).

¹⁸⁴ Yin, *Case Study Research*, 1994: p. 39.

Data collection and analysis

Study of the development of a policy position is relatively uncomplicated compared to the analysis of the implementation of that policy.¹⁸⁵ The literature points out that the examination of a certain policy position was adopted into legislation, for instance, can focus on the various political influences of the time and arrive at a conclusion as to why a policy was enacted in the way it was. The actions of key players are centred around the activity of policy formation – the focus is on the development of legislation, in this example.

The focus changes, however, during the implementation stage, and the analysis becomes more complicated.¹⁸⁶ Bardach notes that, ‘... instead of becoming concentrated in one place, it [implementation] gets dispersed to every place.’¹⁸⁷ By its very nature, implementation requires dispersal, where policy formulation implies centralisation. Implementation has a myriad of players, compared to the relative few responsible for formulating policy. With NCP development, the concentration of effort was centred round COAG; then the policy was dispersed throughout State and local government agencies for implementation.

While this is a study of implementation, it is not an evaluation of the successes or otherwise of NCP. It is an examination of the political and administrative issues surrounding policy implementation. As implementation research often involves evaluation methodologies and the numbers of players in implementation are likely to be numerous, a decision was made to focus the research on the relationship between the NCC and the Queensland Government, while data collected from publications and news clippings informed the conclusions on the broader issues associated with implementation.

Obviously, key figures in the Queensland Government and the NCC were only one subset of the potential actors in the implementation process. The methodology excludes a number of other actors, such as unions (who campaigned against opening public sector jobs to competition); professional groups (who advocated continued protection of

¹⁸⁵ Bardach, *The Implementation Game*: pp. 310-311.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*, p. 311.

restrictive trade practices); and other interest groups such as the consumer lobby and social welfare agencies. As such, by focusing the research effort on the relationship between the government and the NCC, the “dispersal” issue identified by Bardach was simplified significantly.

The primary data source was printed material, namely newspaper reports, official government policy documents, ministerial statements and Parliamentary Hansard records. A small collection of interviews enabled this data to be explored further, providing further insight to the facts elicited from the reams of paper gathered through the document search process. The interview material was used to support issues and facts that were already detected through document searches, and as such, could only be considered as a secondary source of data.¹⁸⁸ This research strategy is similar to that used by others in the field. For instance, Painter notes in his study of collaborative federalism in Australia during the 1990s, “the bulk of the material that has been drawn on for this book is on the public record in some form ...”.¹⁸⁹ As such, an over-reliance on interview material was not necessary. What was necessary, however, was the detailed analysis of what was already on the public record.¹⁹⁰

Interpreting the data, such as quotations in newspaper reports and volumes of speeches recorded in Hansard - as well as the supporting information collected through interviews - required detailed sifting until key themes emerged. These themes form the basis of the research findings. One criticism of this type of analysis is that there is little confirming evidence that the interpretation of the case study data represents the “truth.”¹⁹¹ Putting aside arguments about what constitutes truth, there are several ways to improve the validity of the key findings in qualitative research methods such as the one used in this study.

¹⁸⁸ A number of key political and public service figures in Queensland and the NCC, for example the former Treasurer David Hamill, Ed Willett – Executive Director of the National Competition Council, and Deborah Cope, former senior policy advisor also with the Council, refused to be interviewed, directing the researcher to parliamentary statements, transcripts of speeches, and media releases instead.

¹⁸⁹ Painter, *Collaborative Federalism*, p. x.

¹⁹⁰ Painter’s study of collaborative federalism in the 1990s calls upon only a handful of interview quotes, most noted as “personal communications,” with no further referencing.

¹⁹¹ Devine, F. “Qualitative Analysis,” in Marsh, D. and Stoker, G. (eds), *Theory and Methods in Political Science*, MacMillan, London, 1995: p. 145.

Two main strategies were used here. First, the study findings were circulated to four informants for their critical review.¹⁹² Where necessary, their comments on the findings were included in the body of the thesis. Second, the findings were compared with the key issues identified in the literature on inter-group coordination, policy implementation and conflict resolution, in order to gauge whether the results of the research were consistent with the theories developed in other academic works, and that any inconsistencies were justified by the data.¹⁹³

Conclusion

On a visit to China several decades ago, the then President of the United States of America, Richard Nixon offered the following remark to an official gathering hosted by one of the twentieth century's most notable autocrats, Chairman Mao Tse-tung. In true diplomatic style, President Nixon said, "The Chairman's writings moved a nation and have changed the world." Mao was alleged to have replied, "I have not been able to change it. I have only been able to change a few places in the vicinity of Peking."¹⁹⁴

Even autocrats encounter implementation problems. But, if Mao found implementation frustrating, with his detailed manifesto for social reform and significant institutional power, what hope does a supra-constitutional body like COAG have in finding success with its implementation plans, across such a wide array of institutional settings?

By design, Australia, a polity constructed along federalist lines, dilutes power across a number of political actors. Adding further complexity to the power-sharing arrangements, was the relatively recent development of wide-ranging, national policy-making through new and unproven institutional frameworks. No-one was quite sure whether these frameworks would be maintained in the longer term, nor whether they would take a consistent approach to policy formulation.

¹⁹² The approach is advocated by Yin (Yin, *Case Study Research*, 1994: pp. 43-45).

¹⁹³ This process of validation is advocated by Devine (Devine, "Qualitative Analysis," in *Theory and Methods in Political Science*, p. 145).

¹⁹⁴ Kissinger, H. *White House Years*, Little, Brown, Boston, 1979: p. 1063.

COAG, as Australia's pre-eminent intergovernmental forum of the 1990s, existed purely at the whim of the leaders of Australian governments. It undertook reform agendas with long lead times, binding future governments to the mind-sets and policy directions of the current stock of political actors.

It is in this context that I have chosen to embark on a study of the implementation of National Competition Policy - a complex national policy regime with a ten-year implementation horizon, designed by COAG in the mid-1990s. The analysis is grounded in the perspective of a mainland Australian State, Queensland. It focuses on the implementation problems that arose in the first five and a half years of the policy – a period well after the grand announcement of the new government agenda. These implementation problems are further bounded by the study's primary focus on the interface between the Queensland Government and the NCC.

As such, this is not a study of high-level intergovernmental relations – the type that is played out between the heads of State governments and the Prime Minister. The goal here is more modest – it is a detailed account of the relationship between an Australian government and an important intergovernmental body, the National Competition Council. Further, the study is not an analysis of policy formation. It examines the period of implementation after the grand announcement of policy direction. It focuses on the point where articulated policy “hits the road” – a stage in the policy cycle often looked-over by researchers studying national policy development in Australia.

Further, as has been argued in this chapter, the study of intergovernmental relations, particularly relationships during the implementation of national policies, is under-done in the Australian context. To remedy this deficiency, theoretical perspectives from the study of policy implementation, coordination and conflict resolution, are used to develop a conceptual base to the analysis of the empirical data that follows in subsequent chapters. This conceptual base, in the form of a series of research questions, is shaped by what has been written about the nature of Australian federalism, and in particular its evolution in the early 1990s. Implementation occurs in the context of Australia's evolving federal compact.

As Mao suggested to Nixon, the glory of announcing a grand plan is one thing; making it work is another. The challenges presented by NCP were great - probably not as daunting as the creation of a “grand society”, as in Mao’s case, but nevertheless still an uphill battle to implement. However, one thing remains the same: COAG was not content to change just a “few places in the vicinity of Canberra.”

To move forward with a national policy reform program in a federation requires governments to collaborate. Not only do they need to collaborate over the broad objectives of the policy, but they also need to stay together during the implementation process. All this is extremely difficult in a multi-level political environment that results in implementation agents with different political agendas, and where the regular cycle of elections rarely returns Commonwealth and State governments with the same partisan interests. Even when the teams of the same “political colours” align, there is no guarantee that the federal partners will see eye-to-eye on all policy initiatives. It is in the implementation stage that we will see the true detail of NCP emerging – the announcement of a national policy on competition in 1995 simply sketched the outline, the complexity of the policy process emerges much later. It is here that we start our journey.

Chapter Two – The Policy Environment

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Introduction

In rapidly changing times, when economic forces drive people to despair, the people feeling the brunt of changes often seek out someone, or something, to blame. In the classic Steinbeck novel on the Great Depression era in America, *The Grapes of Wrath*, a tractor driver was sent by the bank to take over an unprofitable rural property that was formerly run by a family-based share farmer. Symbolically, as part of the eviction process, the tractor driver was to knock down the shack that the farmer was living in. In the heat of an argument about the rights of the banks to take such action, the farmer threatens to draw his rifle at the tractor driver. The following passage captures the interaction between the two people.

(Tractor Driver) ‘It’s not me. There’s nothing I can do. I’ll lose my job if I don’t do it ... you’re not killing the right guy.’
‘That’s so,’ the tenant said. ‘who gave the orders? I’ll go after him. He’s the one to kill.’
‘You’re wrong. He got his orders from the bank. The bank told him, “Clear those people out for it’s your job.”
‘Well, there’s the president of the bank. There’s a board of directors. I’ll fill up the magazine of the rifle and go into the bank.’
‘Fellow was telling me the bank gets orders from the east. The orders were: “Make the land show profit or we’ll close you up.”
‘But where does it stop? Who can we shoot? I don’t aim to starve to death before I kill the man that’s starving me.’¹

A letter to the editor in *The Australian* in early 2000 provides a modern-day parallel to the struggling farmer portrayed in the Steinbeck classic. Complaining about the deregulation of the dairy industry (a policy that was linked to the NCP process), Pamela Carr of Brunswick, Victoria wrote,

The super dairy [in Steinbeck’s terms – the bank-run farms] at Balranoid with its 5,000 cows ... will see global corporations gobbling up the profits which used to flow into the rural towns throughout Australia. Instead they will disappear offshore into some tax haven or into the bank accounts of shareholders who will never know the feel of a cow’s udder. Thousands of family-run dairy farms will close down leaving a legacy of unemployment, depopulation of small towns along with the loss of schools, hospitals and services which exist in cities as essential services. Once again government policy [NCP and deregulation] is taking the wealth of this country away from the people and ensuring the further pauperisation of country Australia, leaving people impoverished and alienated.²

¹ Steinbeck, J. *The Grapes of Wrath*, William Heinemann Limited, London, 1939: p. 38.

² *The Australian*, 26 January 2000, p. 12.

For many people in Australia in the 1990s, particularly in rural areas, life was not meeting their expectations. “Turning the rifle” on NCP seemed a reasonable way to express their frustrations.

NCP wore the blame for just about every unwanted societal change in rural and regional Australia at the time. The reform process was linked to large-scale changes in the economy, such as the downturn in commodity prices, and demographic preferences including the drift of people from the country to larger centres. At yet another level, many believed the reforms were behind State and Commonwealth privatisations, the contracting-out of in-house government services, and the closure of rail lines and courthouses. To many, NCP was the symbol of economic rationalism – governments caring only about money and not people.

This chapter examines the antecedents of NCP, along with the detail of the policy instruments endorsed by all Australian governments to implement it. Together with the next two chapters, the political environment in Queensland and the role played by the National Competition Council, some conclusions can be made about the accuracy of commonly-held perceptions of the impact of the policy. However, the core purpose of this chapter is to highlight the detailed arrangements specified in NCP and to see how they stand against the conceptual framework on coordination, implementation and conflict resolution generated in the previous chapter.

The Political Environment Leading to NCP

After a hard fought election battle in 1993, the Federal Labor Government was returned to office. It won another term on the back of a largely negative campaign targeted at the Liberal Party’s “*Fightback*” election manifesto, in which economic reform, in particular a goods and services tax, was a significant feature. During Keating’s first term as leader, including the lead-up to the 1993 election campaign, business interests had questioned the Keating Government’s capacity for reform, attempting to paint it as a tired and weary administration.

In addressing this perception, the Keating administration ran hard on several “big picture” issues – one of them being micro-economic reform. A key component of this agenda was competition policy. Here, reform was first mooted by the Keating

administration in the *One Nation* white paper released in February 1992.³ Keating's recognition of the need for fundamental micro-economic reform of the Australian economy pre-dated this, perhaps beginning with his "Banana Republic" comment while Commonwealth Treasurer in 1986, and further fuelled by his internal party rival, Prime Minister Bob Hawke's *New Federalism* push in the early '90s.⁴

Competition Policy, in the context of Australian public policy in the 1990s, was a component of this broader microeconomic reform agenda. The Economic Planning Advisory Council (EPAC) believed that the aim was to, "boost productivity growth by creating an environment in which resources are allocated to their most productive uses and firms use the most efficient methods of production."⁵

Microeconomic reform focuses on improving the efficiency of markets by removing impediments to competition and flexibility. The theory asserts that improvements to the operation of markets, in turn, will result in improved productivity, employment opportunities, higher real incomes and business profits.⁶ As an aspect of microeconomic reform, competition policy works from the theory that two or more producers competing for customers will have more incentive to improve efficiency, reduce costs, and offer a greater range of products or services, than monopoly or near monopoly suppliers. Through lower prices and improved services, consumers gain increased disposable income and greater choice. Lower costs also enable producers to improve competitiveness against international rivals, improving the nation's ability to compete on the world stage.⁷

³ Keating, P.J. *One Nation: Statement by the Prime Minister*, Commonwealth Government, 26 February 1992, pp. 61-68.

⁴ The era of "New Federalism" was marked by Prime Minister Hawke in a speech to the National Press Club on 19 July 1990. Here, Hawke noted that there was less impediment to trade in the European Union than between the States of Australia. He formed the conclusion that the domestic economy had become "balkanised" and was in need of significant restructuring (Hawke, R. *Towards a Closer Partnership*, Address to the National Press Club, Canberra, 19 July 1990).

⁵ Filmer, R. and Dao, D. *Economic Effects of Microeconomic Reform*, Background Paper No.38, EPAC, Australian Government Publishing Service, Canberra, 1994: p.vii. EPAC was established in 1983 by the Hawke Government to provide independent economic advice to the Commonwealth Government.

⁶ BIE, *Micro-economic Reform and the Structure of Industry*, Discussion Paper 9, BIE, Australian Government Publishing Service, Canberra, 1990: p.1.

⁷ National Competition Council, *National Competition Policy: Some Impacts on Society and the Economy*, Australian Government Publishing Service, Canberra, January 1999: pp. 5-6.

Australia's first step along the path of microeconomic reform was heralded with the passing of the Trade Practices Act in 1974.⁸ Further reforms were pursued in the 1970s under the Whitlam Labor Government, such as tariff reductions and the abolition of import quotas. This was followed by other microeconomic reforms in the early to mid 1980s such as the deregulation of the domestic airline industry, reforms to the higher education sector, and increased competition in the telecommunication and banking sectors.⁹

Competition policy became one of the politically sensitive elements of microeconomic reform, gaining prominence in the early 1990s. NCP focused on four main areas of the overall microeconomic reform agenda, including: extending the reach of the Trade Practices Act; improving the performance of major infrastructure bodies delivering services in gas, electricity, water and roads; the review of legislation which restricted competition, and structural reform of government business enterprises to ensure improved efficiency. In the main, NCP endeavoured to promote a coordinated approach to economic reform which, in turn, would develop a national, single market for the trade in goods and services.¹⁰

The path towards NCP was convoluted. It commenced in October 1992 when the Commonwealth government established an independent committee of inquiry, chaired by Professor Fred Hilmer,¹¹ to report on a national scheme for competition policy reform.¹² Two committee members were appointed to assist Professor Hilmer in preparing the report; Geoff Taperell¹³ and Mark Reyner.¹⁴

⁸ *Ibid.*, p. 3.

⁹ *Ibid.*

¹⁰ *Ibid.*, p. 4.

¹¹ At the time of the Committee's review, Hilmer was a Professor of Management at the Australian Graduate School of Management, University of New South Wales. He also held several private and public sector board positions, and in 1998 became Chief Executive Officer of John Fairfax Holdings Limited, publisher of significant newspapers in Australia including the *Australian Financial Review* and *The Sydney Morning Herald*. His undergraduate qualification was in law, and he undertook post-graduate studies in business administration (Herd, M. (ed) *Who's Who in Australia - 2001*, Information Australia, Melbourne, 2000: p. 869).

¹² The inquiry was commissioned by Paul Keating, in his own name, as Prime Minister of Australia. He noted that he had "regard to" the agreement between the Commonwealth and the States to explore avenues for national competition policy and accompanying legal mechanisms (*National Competition Policy: Report by the Independent Committee of Inquiry*, AGPS, August 1993, p. 361).

¹³ Taperell was a commercial lawyer who had published widely on anti-competitive conduct rules (for instance, Taperell, G. and Dammery, R. "Anti competitive conduct in telecommunications: are supplementary rules required?" *Competition & Consumer Law Journal*, v.4, no.1, August, 1996: pp.36-68). He was later involved in a scandal involving horse-breeding syndicates, which saw him resign his

The preamble to the Terms of Reference for the Committee of Inquiry acknowledged prior discussion of competition policy with State and Territory leaders, but did not indicate their support for the inquiry process. While competition policy reform may have been discussed at COAG meetings and other intergovernmental fora, the formation of the Committee and the development of its charter were not discussed with State government leaders. In fact, the States had refused to participate in a national review of competition policy when the Keating Government first raised it in early 1992.¹⁵

The Terms of Reference for the Hilmer committee set out two main tasks:

- (i) to develop an open, integrated domestic market for goods and services by removing unnecessary barriers to trade and competition; and
- (ii) in recognition of the increasingly national operation of markets, to reduce complexity and eliminate administrative duplication.¹⁶

The major focus of the inquiry was the Trade Practices Act (TPA). Price regulation and the impact of legislative mechanisms outside the TPA, including State-based laws, were considered as well. The initial date for tabling the report was May 1993, but the Commission's timeframe was subsequently extended to August, to allow for more thorough consultation with the States.¹⁷

The timing of the Hilmer review process, from initiation to final report, reflected the changing political context within which the policy was being developed. By commissioning the review prior to the 1993 election, Keating was able to demonstrate to the electorate, and more importantly to powerful opinion leaders in the business lobby, that his government had not "run out of puff." This enabled the leader to project an image that the government was invigorated, and reformist, and thus tackled head-on the perception that it had no coherent economic policy agenda.

partnership position at a leading Sydney law firm (*The Age*, "Six law partners resign after horse flap," 4 May 1994, p. 7).

¹⁴ Reyner was a chemical engineer who had made his way into the boardrooms of some of Australia's leading banks, construction and mining companies. At the time of the review, he was Deputy Chairman of Comalco and a director of CRA, both significant companies in the resources sector of the Australian economy (Herd, M. (ed) *Who's Who in Australia - 2000*, Information Australia, Melbourne, 2000: p. 1485).

¹⁵ Painter, *Collaborative Federalism*, p. 45.

¹⁶ *National Competition Policy: Report by the Independent Committee of Inquiry*, AGPS, August 1993, p. 361.

Keating could not afford to have his agenda derailed by the States. This may well explain his reluctance to involve the States in establishing the Hilmer Inquiry. Yet the Commonwealth had to find a way for State involvement, if it was to avoid a messy public policy debate that could have potentially eroded its moral authority – and consequently, its electoral support – on the subject. The Commonwealth realised that unilateral action on its part was fraught with danger.¹⁸ It would have undoubtedly faced constitutional challenge from the States, bogging down the reform process and exposing weaknesses in the Commonwealth's ability to lead reform program.¹⁹

In August 1993, the Hilmer committee provided the Prime Minister with its report, together with a series of recommendations for reform.²⁰ The recommendations included proposals to develop a uniform national scheme for the application of Part IV of the Trade Practices Act (TPA); a systematic review of Commonwealth and State laws to identify and remove unjustified barriers to competition; third party access to important economic infrastructure; competitive neutrality for all public sector agencies that compete in open markets; and the application of structural, pricing and regulatory reforms to major public utilities, namely those operating in the fields of transport, electricity, water and gas.²¹

The Hilmer Report preferred a centralised system of competition policy reform, with the Commonwealth having direct control over the reform process, particularly the application of the TPA to hitherto sheltered areas of economic activity, such as the professions (eg. lawyers, doctors, accountants).²² It also advocated the creation of the

¹⁷ *Ibid.*, p. 362.

¹⁸ The Commonwealth was given legal opinion that it had the option of using its corporations and/or external affairs powers to introduce over-riding national legislation (Painter, *Collaborative Federalism*, p. 82).

¹⁹ Painter, *Collaborative Federalism*, p. 45.

²⁰ The Committee's report will be referred to from here on as the Hilmer Report.

²¹ *National Competition Policy: Report by the Independent Committee of Inquiry*: pp. xxi-xxxix.

²² The COAG agreement on NCP did not take up this option, preferring instead to place a large section of implementation control under an independent body, the National Competition Council. Aspects of the reform that were focused purely on the Trade Practices Act, remained under the Commonwealth's direct control, through a newly form Trade Practices Commission, the Australian Competition and Consumer Commission.

Australian Competition Commission (ACC),²³ via a merger of the Trade Practices Commission and the Prices Surveillance Authority.²⁴

Negotiating NCP through COAG

The Hilmer Report was considered by COAG at Hobart in February 1994, when State and Territory leaders gave it their “in principle” support.²⁵ However, COAG required more information on two key areas to enable it to develop a detailed implementation plan. First, it required information on the practical implications of exposing State-owned enterprises and unincorporated bodies to Part IV of the TPA, including an analysis of the financial consequences on State budgets. Initially, State Governments were concerned that introducing more competition in State markets would erode economic rents taken from monopoly State-owned enterprises. Second, COAG required draft legislation and intergovernmental agreements to operationalise the reform package. Here, the States wanted to see the full detail of what the Commonwealth had on offer before providing their unconditional support.

A committee of senior officers – known as the Microeconomic Reform Group (MRG) - was given the responsibility to conduct the necessary research and drafting exercises.²⁶

²³ Later to become the Australian Competition and Consumer Commission (ACCC) when implemented through NCP in 1995.

²⁴ The Hilmer Report envisaged a more interventionist role for the ACC, particularly in the supervision of pricing policies of government monopolies, and the supervision of third-party access rights to essential economic infrastructure.

²⁵ In the meeting communiqué, COAG expressed six points of general agreement:

1. any recommendation or legislation arising from the Hilmer Report would be applicable to all bodies, including Commonwealth and State government agencies and authorities;
2. the Trade Practices Commission and the Prices Surveillance Authority be merged to form the basis for the Australian Competition Commission. Commonwealth, State and Territory Governments were to develop the detailed arrangements for the establishment of this body;
3. Governments were to commence work jointly on the new legislation with the aim of considering it in August 1994;
4. Governments would report to the next Council meeting (in August 1994) on the practicalities of applying the Hilmer Report;
5. the Commonwealth would consider assistance to the States and Territories for loss of monopoly rents and the process for managing adjustment; and
6. it was recognised that the broadened application of the Act would require changes to some existing State and Territory regulatory arrangements and business practices. A two-year transitional period was recommended by the Hilmer Report, and officials were to explore how to provide the States and Territories with a capacity beyond this period to authorise or exempt, temporarily, particular conduct, practices or arrangements on a case by case basis (COAG Communiqué 25 February 1994).

²⁶ The group of senior officials was first set in June 1993 to assist COAG in a wide-range of micro-economic reform initiatives (see COAG Communiqué 8-9 June 1993).

It comprised the heads of key Commonwealth and State central agencies, with the Secretary of the Department of the Prime Minister and Cabinet chairing the group.²⁷

The first area of contention - the study of the practical implications of exposing State-owned enterprises and unincorporated bodies to the TPA - progressed smoothly and passed through the MRG and COAG processes with relatively little controversy. This was probably due to the fact that the States realised early in the research task that the implications of exposing agencies to the TPA were only minor, and that most of them – particularly those that traded across State boundaries – were already exposed to the Act in any case.

In addition, there appeared to be a growing realisation that instead of threatening State-based revenue – derived from the monopoly rents earned from some government business enterprises – there was likely to be a net financial gain to the States by implementing the Hilmer reform agenda. Many of the reforms advocated in the report also blended with the managerialist reforms already pursued by State administrations.²⁸ As such, there was broad acceptance of the reform path advocated by Hilmer.

On the second point - the process of drafting legislation and intergovernmental agreements – the States appeared more agitated. A Legislation Drafting Group (LDG) was established to progress the drafting of agreements and model legislation, with secretariat services provided by Commonwealth Treasury.²⁹ The LDG reported to the MRG. What seemed, at first blush, to be a simple drafting task for the LDG, soon became a complex process of negotiation and compromise. Reports from insiders in the negotiations suggest that the advisors to the Premiers were getting too far ahead of their political masters.³⁰ While the MRG and LDG comprised senior public servants, most of whom were heads of powerful central agencies, the drafting process lacked direct political oversight. It seemed as though the complexity of negotiations at officer level

²⁷ Churchman, S. “National Competition Policy – Its evolution and implementation: A study in intergovernmental relations,” *Australian Journal of Public Administration*, 55 (2), June 1996: p. 97. In an interview with Roger Beale on 16 October 2000, he stated that he often chaired MRG meetings, as Assistant Secretary, instead of the departmental secretary, Michael Keating.

²⁸ Many State governments had been pursuing GBE reform for several years prior to the floating of NCP. In general, the reforms were pursued in order to liberate increased dividends, which in turn were ploughed back into government spending programs.

²⁹ Churchman, “National Competition Policy”, p. 97. The LDG reported to the MRG.

made it difficult for senior officials to provide their Premiers with comprehensive briefings on the substance of the documents being presented to COAG.

In the end, the Premiers were asked by their advisors to take the matter on trust. As a consequence, there was a general lack of political commitment to – and understanding of – the process emanating from the MRG. This proved to be a major stumbling-block for the progression of NCP through COAG.³¹ Adding to the tension was the realisation by Premiers that by “holding out” on the signing of the implementation process agreements, they might have been able to negotiate a better funding deal from the Commonwealth.

In the background, rhetoric from the Keating Administration, designed to appease State interests and to encourage greater cooperation in microeconomic reform, was emerging in Commonwealth policy documents. The *Working Nation* white paper, released in May 1994, pointed to the need to develop cooperative structures between the Commonwealth and the States to optimise the perceived benefits of micro-economic reform.³²

The Commonwealth was sending a message to the States that it was willing to compromise on competition policy, and the State Premiers wanted to take full advantage of it.³³ This happened independently of the MRG’s work, and as a result it may have been difficult for the bureaucrats to completely understand the political motives behind the move by the State Premiers to “grandstand” on the development of the agreement.

COAG considered the package of agreements and legislation developed by the LDG at its Darwin meeting in August 1994, twelve months after the Hilmer report was handed

³⁰ Interviews conducted with two former senior officers in the Department of the Prime Minister and Cabinet; Roger Beale (16 October 2000) and Meredith Edwards (29 September 2000).

³¹ Painter, *Collaborative Federalism*, p. 98.

³² Keating, P.J. *Working Nation*, AGPS, 4 May 1994: pp. 38-40.

³³ However, Keating still used the media to “brow-beat” State Governments. The political debate at the time was not as subdued as the official policy statements of the Commonwealth Government might suggest. Wayne Goss noted that Keating would often try to belittle State Premiers at COAG meetings if they questioned Commonwealth reform objectives (Interview with Wayne Goss, conducted 8 August 1998).

down. State leaders reacted negatively towards the details expressed in the draft documents, catching many of the senior officials in the LDG and MRG by surprise.³⁴

Roger Beale, a key COAG adviser at the Commonwealth level, noted that one Premier in particular seemed to harbour the greatest concerns over the direction of NCP. Beale stated:

It was Kennett who was the principal stumbling block in Darwin, which surprised us all because Kennett had earlier been quite a strong supporter. It was not clear whether this is the result of lobbying, particularly from the legal profession [a professional group that was worried about the potential impact of NCP on its trading arrangements], or whether it was Kennett forming the view that this could be an important bargaining lever in the overall State-Commonwealth financial arrangements.³⁵

In substance, the State Leaders harboured two main concerns. First, they believed that insufficient attention was paid to the distribution of the increased Commonwealth revenue occasioned by the reform process – a matter of no direct concern to the technical aspects of the drafting task, but of crucial importance to the substance of the agreement put before COAG. The States believed that while they were required to shoulder much of the reform effort – and as a result likely to attract the potential negative political fallout from the implementation of the proposed changes – the Commonwealth Treasury was going to reap the lion’s share of the increased revenue generated by competition policy reform.³⁶

Second, the States were not comfortable with the proposed mechanism for amending the Competition Code.³⁷ There was a general feeling amongst State leaders that the Commonwealth would be able to modify the Code with little reference to the States.

³⁴ Churchman, “National Competition Policy,” p. 97.

³⁵ Interview conducted on 16 October 2000. At the time of interview, Mr Beale was the Secretary of Environment Australia (a Commonwealth Department). Meredith Edwards, another senior Commonwealth official working with COAG at the time, agreed: “the officials would have said that they had it [the NCP agreement] tied up and even Baxter, who was advising Kennett, would have thought that he had it tied up. So there was a lot of due process around the bureaucratic meetings that led up to the Darwin meeting. So it was totally by surprise. What happened was that Kennett balked. He was the main one to balk. What we were fed with at the time was he had been influenced late in the piece by, I think it was lawyers, who did not want the legal profession to come under the Competition Policy” (interview conducted on 29 September 2000).

³⁶ Churchman, “National Competition Policy,” p. 99. Modelling by the Industry Commission indicated that NCP would significantly increase State and Commonwealth revenues by facilitating greater economic growth. The greater the economic growth, the higher the government revenue take.

They believed that once their powers were formally ceded to the Commonwealth, they would have little opportunity to alter proposed amendments. To solve this dilemma the State Premiers looked to a system of voting rights that would enable them to veto future Commonwealth changes to the Competition Code.³⁸

The Darwin meeting of COAG ended in acrimony. There was to be no deal on a national approach to competition policy without addressing the concerns of State Premiers. COAG decided to defer consideration of the MRG and LDG's work until its next meeting. In addition, COAG agreed to have the Industry Commission model the economic and financial effects of the reform agenda so that a clearer picture could develop on the likely implications for State and Commonwealth revenues.

State and Territory leaders met in Adelaide on 24 February 1995 and confirmed their preferred stance on competition policy. The communiqué from the meeting claimed that the leaders strongly supported a cooperative national approach to policy development. It also noted that the States had achieved much in the implementation of competitive reforms within their own jurisdictions prior to the tabling of the Hilmer Report. In terms of the Trade Practices Act, a key demand made by the States was a voting system for Competition Code amendments that provided each jurisdiction with one vote.³⁹

The leaders also stated that the States were not seeking compensation for the implementation of competition reforms, but rather a larger stake in the dividends flowing from the reform agenda. The States' initial view that the Commonwealth compensate them for the loss of monopoly rents, had moved to one of "sharing the gains" emanating from the reform process.⁴⁰

³⁷ The term "Competition Code" was used by the LDG to describe the process by which Part IV of the Trade Practices Act would be expanded. This was later reflected in the structure of the NCP package ultimately agreed to by COAG in April 1995.

³⁸ Churchman, "National Competition Policy," p. 99.

³⁹ Leaders' Forum Communiqué, 24 February 1995, www.premiers.qld.gov.au/about/igr/ldrs24295.htm, accessed on 14 March 2000.

⁴⁰ *Ibid.* The Leaders noted the progress that had been made since the last COAG meeting in Darwin, particularly the agreements already reached on many of the remaining technical issues such as the extension of Part IV of the Trade Practices Act; the creation of a third-party access regime; the creation of two "pro-Competition national bodies" to oversee the reform process – the National Competition Council and the Australian Competition and Consumer Commission; and an intergovernmental agreement on competition conduct rules covering issues such as competitive neutrality, prices oversight, and the structural reform of public monopolies.

The shift in rhetoric was significant. A unanimous belief that NCP would increase overall government revenue underpinned what was later described as the “competition payment scheme” in the final NCP package. The scheme amounted to an incentive-based program for revenue distribution to the States.

The leaders were eager to present a united front to the Commonwealth before the next COAG meeting, due in April 1995. The Leaders’ communiqué concluded that the only items yet to be resolved with the Commonwealth could be agreed upon if the latter showed some “goodwill” in future negotiations.⁴¹ Goodwill was, of course, a euphemism for more money and a greater say in the amendment of Part IV of the TPA.

The Industry Commission (IC) report into the growth and revenue implications of the reform agenda added further weight to the State Leaders’ negotiating position. The final draft of the report was released in March 1995, just weeks before the April COAG.

It trumpeted the potential benefits of the reform agenda. Key findings were:

- an increase in real GDP of around 5.5 per cent or \$23 billion each year;
- greater consumption possibilities of \$9 billion or \$1,500 per household each year;
- real wages 3 percent higher; and
- approximately 30,000 additional jobs.⁴²

There were four broad messages stemming from the IC’s analysis. First, the Australian economy would be better off under the Hilmer and related reforms. Second, the benefits from the reforms would be widely spread across all sectors of the economy. Third, governments would see more revenue coming into their coffers as a result of the higher economic growth occasioned by the reform process. And, finally, the contribution to the reform effort by each level of government would vary, with the lion’s share of the increased revenue accruing to the Commonwealth.⁴³

⁴¹ *Ibid.*

⁴² Industry Commission, *The Growth and Revenue Implications of Hilmer and Related Reforms: A report by the Industry Commission to the Council of Australian Governments*, March 1995: p. 53.

⁴³ Scales, B. “National Competition Policy,” *Australian Journal of Public Administration*, 55 (2), June 1996, p 71-72.

Although the IC emphasised significant qualifications to the reliability of its model,⁴⁴ these caveats were soon lost in the clamber for news coverage. The coverage of the report raised community expectations that the reform process was a necessity, thereby providing governments the room to move forward without strong political resistance, at least in the immediate future.⁴⁵

Another reason why the IC's work was not properly explained to the public was its apparent consistency with other studies conducted around the same time. For instance, the IC findings were also supported by independent research commissioned by a joint business and industry forum in late 1994.⁴⁶ The joint business and industry forum was made up of representatives from the Australian Chamber of Commerce and Industry, Australian Mining Industry Council, Chamber of Manufacturers of New South Wales, Metal Trades Industry Association, Australian Chamber of Manufacturers, Business Council of Australia, Steel Institute of Australia, Victorian Employers' Chamber of Commerce and Industry, and National Farmers Federation. The study was timed to coincide with COAG's assessment of NCP, ensuring that their interests were clearly understood by policy-makers.

The scene was now set for COAG to reconsider NCP, and leave the acrimonious negotiations of the Darwin meeting behind it. At its meeting of 11 April 1995, NCP was the only major agenda item. Prior to the meeting, Kennett and Goss met with

⁴⁴ The Commission was forced to complete its work within tight timeframes, and as a result put several caveats on its findings. First, was the claim that the model used to assess the economic impacts and other distributional effects was not the most suitable tool to conduct the analysis. The IC used the ORANI model of the Australian economy, modifying it to cope with the analysis required by COAG. Ideally, the IC would preferred to have made significant modifications to the ORANI model to accommodate the Hilmer reforms and COAG requirements, but time restrictions did not allow this to happen. The Chairman of the IC, Bill Scales, was also eager to point out that the Commission's study was not absolute, and with the level of uncertainty associated with the implementation process, it was difficult for the body to predict the total level of gains from the reform agenda. Scales stated that no modelling exercise can, "manufacture certainty out of the unknown," and the findings were sensitive to a range of assumptions – see Scales, "National Competition Policy," p. 71.

⁴⁵ The IC report was never supposed to provide a precise account of the implications of the reform process. Rather, it provided COAG with a thumb-nail sketch of the likely economic impacts. As Scales, commented, "the exercise was influential in resolving the log-jam that had occurred in COAG" (*Ibid.*). In this sense, the IC had accomplished its mission. The report also shifted the rhetoric of the States from "compensation" to "dividends," it provided clear evidence to support the arguments advanced by the States at the Darwin COAG meeting, and provided legitimacy to the development of competition policy.

⁴⁶ Madden, J. "Implementing Hilmer Reforms: The effects on the National and State economies," *Business Council Bulletin, Competition Policy Supplement*, March 1995: pp. 14-19. Dr Madden was the Director, Centre for Regional Economic Analysis, University of Tasmania.

Keating to iron out the final wording of the competition agreements.⁴⁷ A compromise was struck on the voting rights associated with amendments to the TPA, with the Commonwealth given two votes and a casting vote, and the States having one vote each, resolving one of the outstanding issues from the Darwin meeting. In addition, the Premiers secured access to \$4.2bn worth of Commonwealth competition payments.⁴⁸ The formal COAG meeting later in the day ratified the deal mapped out by Kennett, Goss and Keating. The Premiers got what they were after.

The Structure of the NCP package

The NCP package presented to COAG comprised three parts: a Competition Principles Agreement; a Competition Code Agreement, and an “agreement to implement.” The Competition Principles Agreement (CPA) spelt out the major areas of NCP reform, including: prices oversight of Government Business Enterprises (GBEs); competitive neutrality; structural reform of public monopolies; legislation review; access to significant infrastructure facilities; and the application of NCP principles to local government.

The CPA also specified the working arrangements for the National Competition Council (NCC),⁴⁹ a body set up to assess government progress in implementing the intergovernmental agreement. The Council was to be funded by the Commonwealth.⁵⁰ Other than its specified role in undertaking assessment reviews and determining certain access provisions to significant infrastructure, the work of the NCC was somewhat open-ended, with the Council able to research and report on matters referred to it by the Commonwealth and the States.

Appointments to the governing body of the NCC were to be agreed to by a majority of States.⁵¹ The Commonwealth was to nominate all potential appointees, based on

⁴⁷ Painter, *Collaborative Federalism*, p. 86. Again, Beale noted that the role played by Goss was critical in securing the final deal. By strongly supporting Commonwealth reforms in other areas, particularly rail, Beale believed that Goss had established his economic reform credentials with Keating. Hence, Goss could face Keating in the full knowledge that he had already “proven himself” in the leadership of micro-economic reform.

⁴⁸ Council of Australian Governments Meeting Communiqué, 11 April 1995, p.3.

⁴⁹ Clauses 8-11 Competition Principles Agreement.

⁵⁰ Clause 8 Competition Principles Agreement.

⁵¹ Clause 9 (4) Competition Principles Agreement.

suggestions put forward by the Premiers.⁵² The operation of the NCC was to be reviewed after a period of five years.⁵³

The CPA also set out the timeframe for the review of the whole agreement (to coincide with the review of the NCC).⁵⁴ The agreement allowed for the voluntary withdrawal of parties during implementation, underlining the fact that there was no compulsion for States to participate in the NCP process if it compromised their political position.⁵⁵

The agreement would see the States receive an extra \$4.2 billion of untied grants from the Commonwealth over a ten-year period, based on the achievement of reform targets. In addition, the Commonwealth agreed to maintain the real per capita value of financial assistance grants for a period of three years. This added a further \$8.3 billion to the grants pool by the financial year 2005-2006.⁵⁶

The negotiating process was not without its surprises. At the last minute, the Commonwealth insisted that the financial component of the deal be tied to the achievement of minimum implementation benchmarks.⁵⁷ The NCC would assess progress towards these minimum benchmarks at three intervals during the implementation process, and report its findings to the Commonwealth Treasurer. The Commonwealth Treasurer would take the NCC's findings into account when distributing the competition payments. The funding package ratcheted-up the outlays to the States, creating a payment schedule with three separate tranches (see Table 2.1 – Estimated NCP Payments). The Queensland government's share of Competition Payments was estimated to be \$756m.⁵⁸

⁵² Clause 9 (1) Competition Principles Agreement. Note that the Commonwealth still exercised agenda control. There was no obligation on the Commonwealth to put forward for appointment a person nominated by a State, or even a majority of States for that matter.

⁵³ Clause 11 Competition Principles Agreement reads: "The Parties will review the need for, and the operation of, the Council after it has been in existence for five years."

⁵⁴ Clause 15 Competition Principles Agreement.

⁵⁵ Clause 13 Competition Principles Agreement. A similar clause was located in Clause 8 of the Conduct Code Agreement.

⁵⁶ *Ibid.* This figure was quoted in the body of the "Agreement to Implement NCP reforms". In total, the package would add around \$12.5 billion (in 1994-95 prices) to Commonwealth Government outlays. In press releases, the NCC often refers to a \$16 billion package. This figure was arrived at by adjusting the cashflows to allow for inflation. The \$16 billion was considered by the NCC to be a legitimate claim, as the NCP agreement specified that yearly payments would be adjusted for inflationary impacts (confirmed by e-mail correspondence from Ross Campbell, Policy Officer, NCC, 31 May 2000).

⁵⁷ Painter, *Collaborative Federalism*, p. 88.

⁵⁸ *Queensland Parliamentary Hansard*, 1 May 1997: p. 1258.

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Source: National Competition Council, "Compendium of National Competition Policy Agreements," Second Edition, June 1998: p. 38.

Table 2.1: Estimated NCP Payments⁶⁰

There was a general agreement among Premiers that they would achieve some degree of financial independence through agreeing to NCP.⁶¹ However, the States improved fiscal independence may have been bought with policy autonomy. The NCP agreement required States to "jump through several hoops" in order to receive financial rewards, requiring them to trade off policy flexibility for financial gain. The agreement also brought a new intergovernmental body into the picture, the NCC, giving it a pivotal role in distributing financial rewards for compliance.

Another important aspect of the CPA was the requirement for participating jurisdictions to consider a broad range of policy issues as part of the NCP implementation process. Specifically, Clause 1(3) of the agreement stipulated:

Without limiting the matters that may be taken into account, where this Agreement calls:

- (a) for the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or
- (b) for the merits or appropriateness of a particular policy or course of action to be determined; or
- (c) for an assessment of the most effective means of achieving a policy objective;

The following matters shall, where relevant, be taken into account:

⁵⁹ Figures based on estimated population growth of 1.1% from 1997-98 onwards.

⁶⁰ Figures represented in the table are in 1994-95 dollars. Values expressed in millions.

⁶¹ Painter, *Collaborative Federalism*, p.88. The degree of reliance on Commonwealth revenue for State government expenditure programs is significant. Queensland, for example, derives around 48% of its revenue from Commonwealth sources, a significant proportion of which relate to specific purpose payments (Queensland Government, *State Budget Highlights*, Budget Paper No. 6, 2000: p. 20). The imbalance in spending requirements and revenue raising abilities is referred to as Vertical Fiscal Imbalance (VFI).

- (d) government legislation and policies relating to ecologically sustainable development;
- (e) social welfare and equity considerations, including community service obligations;
- (f) government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- (g) economic and regional development, including employment and investment growth;
- (h) the interests of consumers generally or a class of consumers;
- (i) the competitiveness of Australian businesses; and
- (j) the efficient allocation of resources.⁶²

These policy considerations were incorporated into the assessment process under the banner of the “public interest test.” This aspect of the CPA was included to ensure State-based NCP reviews balanced a range of competing views/perspectives when arriving at a final decision on reform options. It was a significant inclusion in the light of later claims that the NCC, and NCP generally, was dominated by economic considerations only (to be discussed in further detail in chapters four and five).

The second aspect of the three-part NCP package was the Conduct Code Agreement (CCA). The main purpose of the CCA was to bind all participating jurisdictions to the application of Part IV of the Trade Practices Act (TPA), and to extend the reach of the Australian Competition and Consumer Commission (ACCC) to cover state-owned business enterprises and unincorporated bodies.

Outside the technical issues that ensured the full application of Part IV of the TPA, there were two matters covered in the CCA to appease the States. The first related to the granting of exemptions from Trade Practices Law.⁶³ Section 51 of the model Competition Law⁶⁴ allowed States to authorise anti-competitive behaviour that would normally be policed by the ACCC, by enabling States to seek exemptions through legislative means.⁶⁵

⁶² Clause 11(3) Competition Policy Agreement.

⁶³ Clause 2 Conduct Code Agreement.

⁶⁴ Essentially, an application of Part IV of the TPA to State jurisdictions, referred to as the “Competition Code.”

⁶⁵ Clause 2(1) Conduct Code Agreement. The process stipulated that the jurisdiction attempting to rely on a section 51 exemption would have to provide written notice to the ACCC within 30 days of enacting anti-competitive legislation. Under the agreement, the Commonwealth Treasurer was only permitted to secure TPA amendments authorising the proposed anti-competitive legislation after tabling a thorough assessment in parliament. The assessment was to be undertaken by the NCC which was to advise on three matters: whether the benefits of restricting competition outweighed the costs; whether there were alternatives available other than legislative protections; and if – on balance – the Commonwealth

The second compromise granted by the Commonwealth related to future amendments of Part IV of the TPA. States were concerned that once they were committed to the implementation of Part IV the Commonwealth would amend the Act without further reference to the States. Clauses 6 and 7 of the CCA reflected the outcome of the Commonwealth's negotiations with the States, essentially establishing a consultation process that the Commonwealth was required to follow.⁶⁶

The third agreement in the NCP package of reforms was an "Agreement to Implement the National Competition Policy and Related Reforms."⁶⁷ It was the vehicle used by COAG to spell out the financial incentives package and performance milestones that would accompany NCP.⁶⁸ At the outset, the agreement made it apparent that the provision of financial assistance by the Commonwealth would be contingent on satisfactory performance in the implementation of the reform agenda. The Commonwealth was keen to ensure that the States stuck to the deal. If payment was to be made, the States needed to ensure that the agreement would be implemented as intended, including past microeconomic reforms endorsed by COAG (the so-called related reforms). As Roger Beale related:

We [the Commonwealth] made it very clear that if we were going to fork out this sort of money over this sort of time frame, we would want them to honour their existing commitments. It would be very hard for any of the States - even those who expressed in-principle support – that we didn't really mean that we were going to implement that agreement. But politically, they were in a difficult position in terms of backing off agreements that have been already made. Consciously, we were ratcheting up the significance of those agreements because we regarded them all as essential if you were going to underpin the move to a more efficient and more sustainable economy. Sustainable in the environmental sense.⁶⁹

Parliament should support amendments to the TPA to allow the State proposal. The Commonwealth Treasurer had the right to reject the State-based legislation, based on the findings of the NCC's report.⁶⁶ Clause 7, Competition Code Agreement. The amendment process allowed each State one vote, with the Commonwealth having two, as well as a casting vote. The Commonwealth agreed that it would not put forward, for parliamentary consideration, any amendment that did not receive a majority of votes. The process marked a significant win for the States, with the Commonwealth granting concessions to its law making powers rarely seen in Commonwealth-State relations.

⁶⁷ Referred to as the "Implementation Agreement."

⁶⁸ Agreement to Implement the National Competition Policy and Related Reforms," 11 April 1995. It formed the third agreement of the three-part NCP package.

⁶⁹ Interview conducted 16 October 2000.

The initial preamble of the implementation agreement also quarantined the Competition Payments from other payments made by the Commonwealth to the States, particularly those recommended by the Commonwealth Grants Commission. Assessments of reform progress were to be conducted by the NCC prior to 1 July in the years 1997, 1999, and 2001.⁷⁰ As such, the implementation process was concentrated in the first six years of the agreement, even though the agreement, and payment schedule, spanned a ten-year timeframe.⁷¹

Assessment milestones

The three stage assessment process of State performance was an integral part of the NCP package. It was designed to intensify the process of implementation, with the initial stages of the assessment scheme focused on the development of policy settings and the latter stages linking payment to reform outcomes. The first tranche of payments was linked to an assessment of each State's performance in "giving effect to NCP," particularly the achievement of deadlines in relation to regulatory review and competitive neutrality reforms as stipulated in the CPA. In order to receive payments under the first tranche, each State was to have:

- Signed the CPA and Conduct Code Agreements; and passed necessary legislation to apply a uniform competition code;⁷²
- Applied competitive neutrality principles to significant, government-owned business enterprises, including publishing a policy statement on the application of competitive neutrality to State and Local Government business enterprises by June 1996;
- By June 1996, developed a timetable for the review of all existing State legislation that may restrict competition;⁷³
- Implemented an interim national electricity market as per the SPC agreement of July 1991;
- Implemented the COAG agreement on free and fair trading in gas, as struck at the COAG meeting in February 1994; and
- Observance of the agreed package of road transport reforms.⁷⁴

⁷⁰ Implementation Agreement, 1995: p. 2.

⁷¹ With the concurrence of the Commonwealth Treasurer, the NCC extended its review time-line well beyond the dates specified in the original agreement in order to provide the States more time to implement the reforms. This issue is discussed further in chapter five.

⁷² Model legislation was drafted by the New South Wales Government.

⁷³ All reviews were to be completed by the year 2000.

⁷⁴ The Agreement to Implement the National Competition Policy and Related Reforms, as reproduced in National Competition Council, *Compendium of National Competition Policy Agreements – Second Edition*, June 1998, pp. 39-40. Transport reforms will not be discussed in this thesis. They were designed to "harmonise" the regulatory framework for licensing and road rules.

Assessments under the second tranche of payments, effective from July 1999, were more onerous. Added to the list of milestones set out in the first tranche was the requirement for the States to have implemented the strategic framework for the effective implementation of the COAG agreement on water reforms.⁷⁵ Finally, the third tranche assessment, due in July 2001, required full implementation and continued observance of all COAG agreements on NCP and related reforms.⁷⁶ The main emphasis in the third tranche was the completion of the legislative review program for participating jurisdictions.

The Implementation Agreement gave COAG the opportunity to link payments to the implementation of other micro-economic reforms. These so-called “related reforms” included agreements on electricity, gas, water resources, and road transport. These were struck prior to NCP, with some – the agreements on road transport and a national electricity market - originating from discussions held at SPCs when Hawke was Prime Minister. Tying in several previous COAG decisions in relation to microeconomic reform issues enabled the Commonwealth to exert pressure on the States to follow specified reform objectives.

The most controversial “related reforms” were the ones relating to electricity and water resources. The goal of the electricity reforms was to create an efficient national market in the generation, reticulation and sale of electricity. It had its origins in the first SPC held in Brisbane in October 1990, where a working group of senior officials was set up to explore the feasibility of a national electricity market.⁷⁷ This was followed by an agreement at SPC to establish a National Grid Management Council to oversee the

⁷⁵ As with the first tranche, specific milestones were spelt out in the agreement, including:

- Continued application of the CPA and Conduct Code Agreements;
- By July 1999, achieved full transition to a national electricity market; and
- Implementation of the strategic framework for the efficient and sustainable reform of the Australian Water Industry, as agreed to at the COAG meeting in February 1994.

⁷⁶ Related reforms are those specified in COAG agreements on Electricity Industry, Gas, Water, Road Transport reforms. Added to the list of requirements specified in the first and second tranche were:

- The extent of compliance with the CPA, including the review and reform of legislation that restricts competition; and
- Application of a regime of national standards in accordance with the Principles and Guidelines for National Standard Setting and Regulatory Action as published by the Commonwealth Office of Regulation Review.

⁷⁷ Communiqué, Special Premiers Conference, 30-31 October 1990.

establishment of an integrated electricity market for the eastern States, Tasmania, and South Australia.⁷⁸

In later intergovernmental meetings, the States agreed to introduce significant structural reforms to the industry, involving the separation of the generation and transmission elements, and the development of pricing and pooling arrangements to facilitate efficient and effective markets.⁷⁹ An overall agreement on electricity reforms culminated at the COAG meeting in June 1993, when the Prime Minister, and the Premiers of the eastern States and South Australia,⁸⁰ agreed to have the necessary structural arrangements in place to facilitate a competitive market in electricity from 1 July 1995.⁸¹

Water reform had a similar genesis. It first appeared at heads of government meetings very early in Keating's first term in office, at the first meeting of COAG in December 1992. At this meeting, COAG recognised that water resource management was a national priority and agreed to conduct further analysis.⁸² COAG considered the issue at subsequent meetings, culminating in the endorsement of a strategic framework for the future management of water resource at the COAG meeting of February 1994. COAG believed that the water industry suffered from five key problems:

- Approaches to charging that resulted in commercial and industrial users paying more than the cost of service provision;
- Lack of cost recovery in rural areas leading to shortfalls in major asset refurbishment;
- Impediments to transferring water entitlements from low value agricultural uses to higher value areas;
- Serious deficiencies in service delivery; and
- Confusion over the roles and responsibilities of agencies involved in the provision of water services.⁸³

The report also noted that there were significant environmental problems associated with the way water was harvested and used, leading to widespread land degradation in many rural areas. COAG agreed with the details of the report, albeit with strong

⁷⁸ Communiqué, Special Premiers Conference, 30 July 1991.

⁷⁹ Communiqué, Heads of Government, 11 May 1992; Communiqué, COAG Meeting, 7 December 1992; Communiqué COAG Meeting, 8-9 June 1993.

⁸⁰ Tasmania had withdrawn from the process by this stage.

⁸¹ Communiqué, COAG Meeting, 8-9 June 1993.

⁸² Communiqué, COAG Meeting, 7 December 1992.

⁸³ Communiqué, COAG Meeting, 25 February 1994.

reservations expressed by some States to the prescribed method of addressing the issues raised.⁸⁴

The report advocated the development of a strategic framework which included measures such as consumption-based pricing, full cost recovery, the reduction or elimination of cross-subsidies,⁸⁵ clarification of property rights, environmental flow requirements, adoption of water trading rights, and the structural reform of service delivery and regulatory agencies. Due to the complexity of the reform task, COAG decided that a five to seven year implementation plan was necessary.⁸⁶

Several of the water reform measures would prove controversial during the implementation stage. For urban areas, the adoption of consumption based pricing, identification of cross subsidies, and full-cost recovery caused significant community unrest. For rural areas, tradable water allocations, full-cost recovery, allocations for environmental flows, and the requirement for thorough feasibility studies for the creation and augmentation of water storage facilities (i.e. dams and weirs) proved to be highly emotive.⁸⁷

The NCP agreement and the conceptual framework for coordination, implementation and conflict resolution

The NCP package provided structure to the implementation process – it spelt out the basic parameters for the parties to operate within. However, much of the detail was left to the NCC and the States to figure out – very few hard and fast rules were set in place. Instead, much of the implementation detail was to be developed by the States themselves (and approved by the NCC), in the first twelve months of the

⁸⁴ Queensland, South Australia and Tasmania agreed to the broad principles outlined in the report, but had concerns about the practical application of the strategic framework.

⁸⁵ Including the transparent reporting of remaining cross-subsidies.

⁸⁶ Communiqué, COAG Meeting, 25 February 1994. Two ministerial councils (the Agriculture and Resource Management Council of Australia and New Zealand – ARMCANZ, and the Australian and New Zealand Environment and Conservation Council – ANZECC) were given significant responsibilities in developing the strategic framework. These responsibilities were strengthened in 1997, when Prime Minister Howard reaffirmed ARMCANZ's continuing role in the reform process. These Ministerial Councils continued to receive technical working papers from experts in water resource management, making recommendations to COAG and other stakeholders, on an as-needs basis (Prime Minister's letter to Premiers and Chief Ministers, 10 February 1997).

⁸⁷ This specific issue is examined more closely in the case study material in chapter six.

implementation process. Further, the implementation process would have to work through various levels of policy detail for years to come.

In terms of the conceptual framework for coordination, implementation and conflict resolution developed in chapter one, specific observations can be made about the terms and conditions of NCP, from the framework provided by the initial written agreement. The analysis below takes each aspect of the conceptual framework in turn, starting with coordination. This will enable the remainder of the thesis to focus on the gaps and puzzles in the relationship between the NCC and the Queensland Government, as prompted by the literature on coordination, implementation and conflict resolution.

Coordination

The specific research questions generated in chapter one, will be analysed here to identify the coordination matters that were dealt with in the “headline agreement” on NCP, and what coordination issues were left for the implementation process to deal with. The exploration of the gaps in this analysis of NCP coordination, as they relate to the relationship between the Queensland Government and the NCC, will be the primary purpose of subsequent chapters of the thesis.

Was a plan of action developed which was accepted by all parties?

NCP received a chequered passage through COAG, largely due to the State’s position on “sharing the benefits” of reform. Strategically, the States wanted to position themselves to receive financial (and decision-making) benefits out of the Commonwealth’s desire to set a national policy platform for competition. Nevertheless, the States were, by and large, of a similar mindset to the Commonwealth, believing that competition reform provided their constituents with significant benefits.

Ultimately, the final agreement met the expectation of State leaders, and all parties went willingly into the long-ranging reform process. Structurally, the agreement provided the States with sufficient flexibility to design implementation processes that met the specified milestones. However, the ability of the States to interpret the agreement as they saw fit, opened up the possibility of significant goal displacement during implementation, as the States could use this step (where they designed their own implementation responses based on the agreement parameters) to dilute the original

intentions of the reform process. Likewise, as implementation progressed, there would be further opportunities for the States to mould NCP actions to suit political imperatives of the time.

The flexibility inherent in the agreement was exemplified by the legislative review process not specifying the steps necessary for a full and open review of any industry potentially benefiting from government protection. As a result, the States, if they so desired, could design a review process that could be captured by specific interest groups, such as the farm lobby or trade unions. The issue of determining “a properly constituted review” had the potential to place the States in direct conflict with the NCC. Even at this early point in the implementation process, it was not difficult to contemplate a scenario where the legislative review process could be “stacked” to get the result a specific lobby group was looking for. If the NCC chose to highlight this in its assessment process, the States would respond with claims of bias on the part of the Council.⁸⁸ This is an issue that will receive further analysis in chapter five, when case study examples of legislative review processes in Queensland are discussed in detail.

Moreover, conflict with the NCC over interpretation issues had the potential to place the newly formed intergovernmental body in direct conflict with democratically-elected Australian governments. As such, any dispute between the parties would challenge the Council’s “institutional legitimacy” as powerful political actors at the State level questioned its role. The strategies used by the NCC and the Queensland Government to contend with conflict over interpretation issues will be explored in detail in chapters four, five and six.

Was there a sense of common crisis and did the Queensland Government share in it to the same extent as the rest of COAG?

It is difficult to gauge the level of “crisis” associated with NCP – it was probably more a feeling of “why not; it is consistent with what we are doing any way,” it. It is true to say that a number of State governments were pursuing market-based reforms within

⁸⁸ This concern about goal displacement during implementation and the power of the States to “bend agreements” to suit their desires is in line with Sharman’s analysis of the methods with which the States use their significant administrative resources to adapt Commonwealth-State agreements in a number of national policy arenas. This has been an enduring feature of Australian intergovernmental relations (see Sharman, C. “Working Together,” p. 272).

their own jurisdictions, and NCP was simply an extension of this policy trend. Here, the market-based reforms adopted in Queensland are discussed in further detail in the next chapter, chapter three.

Further, the level of engagement over policy detail by the heads of government, particularly at the Darwin COAG meeting – which immediately preceded the meeting where NCP was ultimately ratified – was particularly strong, and somewhat heated. Though, the concerns did not seem to be about overall philosophical commitment to competition reform, rather the specific details of implementation, the degree of autonomy given to the States when designing responses to the policy direction, and the distribution of the benefits of the reform process (in the form of increased taxation receipts).

A “sleeper” in the NCP agreement was the treatment of related reforms that fell under its head of power. The level of commitment to reforms in water, electricity and transport, as discussed at previous SPC and COAG meetings, was possibly not as strong as the governments’ overall commitment to NCP. For instance, when water reform was discussed at COAG, the Queensland Government (along with a number of other governments) was only willing to give strategic reform objectives its “in principle” support.⁸⁹ The NCP agreement seemed to make absolute a level of policy “sign on” that was only ambiguously agreed to in previous heads of government meetings. How this issue was confronted during implementation will be discussed in chapter five.

How committed are/were successive Queensland Governments to the shared goals in the plan?

Premier Goss was noted as one of the two State leaders who confronted Keating, to put to him the broad “heads of agreement” on NCP. This would indicate a strong level of support for the thrust of NCP by the Queensland Government. The NCP agreements’ lengthy implementation timeline would expose the process to different political actors as implementation progressed. How the policy contended with political change in Queensland will be the focus of chapters five and six of the thesis.

⁸⁹ COAG Communique, Hobart, 25 February 1994.

How much “power” was the Queensland Government willing to give up for the sake of a coordinated approach?

While the parties to the agreement were willing to offer up some degree of policy freedom for the sake of a coordinated response to competition policy, it is difficult to establish how much of this was purchased through the incentives package offered by the Commonwealth. However, the application of institutionalism, particularly the work of Ostrom, shows that incentives and cost sharing are important factors in achieving inter-group coordination.⁹⁰ As a result, an overly cynical view of the incentives package is probably not warranted, as it would have been a reasonable expectation that any benefits derived from the policy would be shared amongst the participants.

The Industry Commission’s modelling of the impact of NCP clearly established the expectation that economic growth, and consequently tax revenue, would blossom from the reform process.⁹¹ The incentives package agreed to by COAG was simply a process of sharing these rewards equally, amongst all participants.

The agreement was structured to provide the States with significant flexibility in responding to the direction of the reform process. While the agreement did not specify how the reforms should be implemented at the State level, it did provide for an implementation watchdog, in the form of the NCC. The NCC was wedged in-between COAG and individual member States, with a clear mandate to ensure that the States honoured their part in NCP implementation.

The States could elect to withdraw from the agreement, or deviate from it when they wanted to. However, this would be at a financial cost, as the States would then miss out on the distribution of the benefits of the reform process. An individual State wanting to opt out of the reform process, or part of it, would have to weigh up the potential loss of competition payments against the potential benefits of retaining protective structures – with the latter likely to be expressed more in terms of electoral support, than monetary benefits. Ultimately, the decision to reform an industry would be a political one.

⁹⁰ Ostrom, *Governing the Commons*, p. 39.

⁹¹ Though, as will be discussed in chapter three, some researchers questioned the quantum of economic growth published by the Industry Commission. Nevertheless, the IC study was the best information available at the time on the growth implications for the policy, and as a consequence influenced the thinking of Australian governmental leaders.

The tension between collecting the competition payments, on the one hand, and responding to the political priorities (promoted by sectoral interests) on the other, provided the States with several challenges. Chapters four and five provide specific examples of the political manoeuvring that occurred when the Queensland Government tried to achieve political outcomes to suit sectional interests, while at the same time maximising its chances of collecting competition payments.

In addition, the distribution of competition payments also raised the issue of “penalties” for non-compliance. How would the NCC calculate a financial deduction for failure to comply with a specific competition principle? What factors would it bring into account, and how would these factors shape the political rhetoric of the Queensland Government on competition reform? Again, these issues are analysed later, in chapters four and five of the thesis.

Were the Queensland Government and the NCC in regular contact? What about COAG as a whole?

Other than the broad structure of the three-stage assessment of performance (in the form of tranches), the NCP agreement was silent about the routines that the NCC and the individual State governments would enter into during implementation. It seemed that COAG was comfortable with this aspect to be left to the unfolding of events. At the very minimum, it would require a great degree of skill within the NCC when handling sensitive issues in partnership with State governments confronting implementation problems. The processes adopted by the NCC to coordinate its activities with the States will be discussed in chapter four.

What is clear at this stage of the analysis, however, is the disengagement of COAG from the implementation process. The only role specified for this important intergovernmental body was for it to consider the outcomes of a review process, to occur five years hence. NCP was cast adrift during implementation, left to the NCC and individual States (on a bi-lateral basis) to coordinate.

The agreement disengaged NCP from the high-level, national policy leadership provided by COAG, exposing the NCC as the key body responsible for ongoing oversight of the reform process. As implementation progressed, the Council would not be afforded any cover from Australia's pre-eminent intergovernmental forum. The interplay between the NCC and the Queensland Government, in an environment of diminished national, high-level political leadership, is the focus of discussion in the remaining chapters, and provides the backdrop to the conclusions reached in chapter six.

Were intergovernmental bodies created and did they bring governments into closer alignment and improve communication?

The National Competition Council was pivotal in the implementation of NCP. The creation of the Council was a bold new experiment in intergovernmental relations in Australia, and reflected the collaborative spirit of national policy making at the time NCP was created. The Council was tasked with the responsibility of monitoring COAG members' performance in meeting the milestones set in NCP. As a consequence, the agreement placed a significant amount of power with the Council, especially in its role in making recommendations to the Commonwealth Treasurer on the distribution of periodic competition payments.

Moreover, the creation of the body also served to disengage COAG from any formal role in sorting out problems during implementation. This was either a sign that COAG members believed the implementation process was a relatively simple administrative exercise that would encounter few complications, or, in fact, the exact opposite. COAG may have been of the mind that the implementation process was fraught with difficulty and potential political problems - something that government leaders needed to be insulated from. The creation of a separate body, with no direct link back to COAG, provided this insulation.

In reality, the decision-making process around the creation of the NCC was probably not as rational as the analysis above suggests. The NCC was a key feature of the report by the Independent Committee of Inquiry into National Competition Policy (the Hilmer Report). It was likely that the need for the NCC was taken as read. It was part and

parcel of implementing competition reform, and did not receive detailed consideration by COAG.

Further, the structure of the reporting arrangements associated with the agreement meant that the relationship between the NCC and individual COAG member governments would be bilateral. The agreement gave little scope to drive the implementation process on a multi-lateral basis, though the "federal nature" of the directors of the Council indicated that there was at least some consideration of multi-jurisdictional responses to implementation issues. Even so, the appointed directors were not part of the Executive of State governments, and as a result, not in a position to influence the day-to-day political and administrative strategies within governments. The link between the governance structures of the NCC and an individual State government were only indirect.

The NCC – a somewhat independent body – was introduced into the political mix of NCP implementation through the NCP agreement. How it went about negotiating the terrain of NCP implementation, in a robust political environment within Queensland, will be the focus of chapters four and five of the thesis.

Did NCP spell out decision-making rules, and were there sufficient incentives and sanctions in place to keep parties engaged?

The agreement did not spell out the decision-making rules associated with implementing competition principles - this would be left to the individual States to decide, in their response to the agreement. Further, decisions over compliance with these principles would be in the domain of the NCC, as implementation progressed over the subsequent ten-year period. As noted earlier, this opened up the potential for the States to manipulate the implementation process to avoid addressing some of the key aspects of the agreement, or at least, not addressing them in a wholehearted way, based on the findings of the Hilmer Report, and the symbolic agreement reached at COAG.

How would the Queensland Government go about implementing the agreement, and would it follow the script set by previous engagement over competition policy at the national level? Further, how would the NCC judge compliance with the agreement, and

how would it negotiate its way through the assessment/compliance process with the State? These questions will be addressed in chapters four and five of the thesis.

The NCP agreement focused on incentives, as opposed to sanctions. It is important here to note the change in perspective of the State leaders in late 1994 and early 1995, as their philosophy on competition reform switched from one of "being compensated" by the Commonwealth for the costs of implementation (largely for the loss of monopoly rents from the reform of State-owned business enterprises) to "sharing the gains" of NCP implementation.

At the signing of NCP, there was a clear expectation amongst State leaders that economic growth would eventuate from full implementation, with increased taxation revenue accruing to all levels of government, but predominantly to the Commonwealth. The creation of an incentive package based on this assumption was a key final ingredient in securing unanimous support from COAG members for the implementation of the package. State governments stood to gain significant resources, based on a "reward for implementation" system. The package was formulated on the basis of sharing increased taxation revenues across COAG members, mainly the increase taxation revenues accruing to the Commonwealth.

As implementation progresses it would be useful to test whether this perspective of the competition payments - a distribution of benefits, based on performance - would remain as governments changed in Queensland, or would it alter, to become more of a "sanction" (or penalty) for non-performance. This will be explored in the next chapter, and in chapter five.

In addition, it would be interesting to assess how consistent the NCP process was with other reforms being pursued within Queensland at the same time. If it was consistent with the reform tangent being pursued, the NCP incentive payments would simply be "money for jam", as in all likelihood the government of the day would be implementing the reforms in any case, even without the presence of the Commonwealth package. This issue is examined in the next chapter.

Was reciprocity present and how did it moderate the behaviour of both the NCC and the Queensland Government?

A further point in the literature on coordination involved the issue of reciprocity. Both Simeon and Axelrod posit that parties must exhibit reciprocity for coordinated action to thrive.⁹² Likewise, game theory highlighted the issue of power sharing to emphasise the point of equity and “togetherness” in inter-group dealings in order for people to feel comfortable with coordinating their efforts.

The application of these principles in NCP coordination may have appeared questionable at the initial stages of NCP formation, as indicated by the acrimony of the Darwin COAG meeting in August 1994. However, in the final analysis, the NCP agreement represented a landmark document in Australian federalism. It typified the era of collaborative federalism – Australian governments coming together to endorse a comprehensive national reform program that would have been virtually impossible to contemplate in any other period, outside times of war or other national calamities. This outcome could not have been contemplated without some sense of goodwill or common purpose.

Australian governments willingly signed up to the reform process; its gestation was long, and negotiations required leaders to come to terms with an incredible amount of detail. In addition, government leaders were able to pass supporting legislation through their parliaments to enable implementation of the agreement within their respective jurisdictions. The voting processes on TPA amendments and the specification of progress milestones also underpinned the decision-making rules inherent in the policy direction. It was too early to tell whether this level of goodwill and collaborative spirit generated by political leaders would transfer to the NCC.

NCP arose from a collaborative environment seldom witnessed in Australia's federal history. While there is no indication that this issue was discussed, there may have been an assumption within COAG that this air of collaborative spirit would extend to the newly formed intergovernmental body, the NCC. The multi-jurisdictional

⁹² Axelrod, R. *The Evolution of Co-operation*, Penguin Books, New York, 1984: pp. 169-190; Simeon, *Federal-Provincial Diplomacy*, pp. 310-313.

representation on the governing board of the Council may have been an indicator of this belief.

The relationship – and consequently the level of reciprocity – between the NCC and the Queensland Government forms the backbone of this thesis, and will be the subject of close scrutiny in the chapters that follow – most important of which will be chapter five, where the interplay between the NCC and the Queensland Government is explored through a series of case study examples.

In terms of Stewart's four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?

In terms of ongoing coordination between governments, institutionalism was used by Stewart to form four basic characterisations of intergovernmental coordination. Specifically, Stewart posited that coordination could be achieved through traditional structures, strategic plans, ideas and networks.⁹³ In fact, Stewart offered NCP as an example of coordination through strategy. She also noted, however, that this form of coordination, by itself, was not particularly robust as groups tended to lose interest in strategic directions as time moved on. As a consequence, Stewart argued that it was difficult to maintain momentum behind a generalised strategy, on a sustainable, long-term basis.⁹⁴

It would seem, based on Stewart's insight, that if NCP relied solely on the motivating efforts that accompany the development of a jointly commissioned strategy, it was destined to fail. In light of this apparent design flaw in the original NCP arrangements, what other forms of coordination were applied in order for coordination to continue? Stewart's analysis suggests we look for other coordination factors, such as networks, to explain coordination success. To this end, in chapter five we seek to identify the presence and significance of other coordination factors in accounting for coordination successes and failures.

⁹³ Stewart, "Horizontal coordination: The Australian Experience," pp. 145-152.

⁹⁴ *Ibid.*, p. 147.

Summary of Coordination Issues

Table 2.2 provides an excerpt from the conceptual framework developed in chapter one, together with a summary of points discussed above. As the discussion so far demonstrates, some of the coordination issues identified in the literature were given sufficient attention in the original NCP agreement. Even so, there were still a significant number of gaps that require further inquiry to adequately respond to the research questions/propositions emanating from the literature.

Prominent amongst the issues identified in the assessment of the initial agreement, is the ambiguity about the ongoing commitment to the NCP arrangements. The Goss Labor Government was the signatory to the deal, but it would be up to other administrations to implement it. Further analysis in subsequent chapters will map out the resilience of NCP in Queensland, once key players from the policy formulation stage exited from the scene, leaving the implementation process to a new set of political and administrative actors.

Nevertheless, the signing of the NCP agreement was a clear indication that the leaders of Australian governments shared the view that the domestic economy needed to become more competitive in order to maintain national living standards. While there was some consternation about the prescribed responses in specific areas – Queensland apprehensiveness about water reforms, for example – there was little debate about the diagnosis. There appeared to be a broad philosophical commitment from the leaders of Australian governments to the need for fundamental economic reform. The NCP agreement simply confirmed COAG’s willingness to achieve a coordinated response to the issue.

Another key theme from the literature concerned the creation and maintenance of accepted institutional arrangements. As outlined earlier, the structure of the NCP agreement was quite detailed, focused around the achievement of strategic objectives. The agreement placed the NCC at the centre of the coordination process, providing it with broad ranging powers to monitor the performance of the States against the agreed milestones. Further, the NCC was to operate at arms-length from COAG.

There may have been some comfort given to the parties by allowing the States to vet representatives appointed to the Council. But, these appointees would not be directly responsible to the governments that appointed them, and as a consequence would not necessarily reflect their goals and aspirations when directing the operations of the administrative arm of the NCC.

There was no on-going supervision of the reform process by a semi-permanent Ministerial Council, or even a process for regular updates to COAG.⁹⁵ It seemed that government leaders – meeting as a collective under the banner of COAG - wanted no further direct role in the implementation process, except for a scheduled review after five years of implementation.

The NCC was given wide-ranging powers in the NCP agreement. It was charged with making both assessments on State's implementation performance, as well as recommendations to the Commonwealth Treasurer on the distribution of competition payments. Significant sums of money hung on the Council's assessment process, and as a result, political interest was bound to focus on its work. At the time NCP was struck, it seemed that the States were comfortable with these arrangements, only focusing on “voting rights” in the most general sense, and even then, only worrying about the decision-making rules for future amendments to the TPA.

⁹⁵ The possible exception to this rule is the water reforms that were incorporated into NCP. Even here, COAG did not play an active role in policy coordination, preferring to receive reports from a ministerial council, on an *ad hoc* basis.

Research Questions or Propositions	Position at NCP signing	Gaps and issues requiring further analysis
Was a plan of action developed which was accepted by all parties?	Yes – NCP provided a clear timeline with specified outcome measures. Initial disagreement was resolved once concessions were made to the States.	The action plan was very general and “high-level”, leaving a number of policy issues to be resolved between the Queensland Government and the NCC. How the “micro” aspects of policy were developed receives further analysis in subsequent chapters.
Was there a sense of common crisis and did the Queensland Government share in it to the same extent as the rest of COAG?	COAG shared a common view on the need for fundamental competition reform. Goss played a key role in the negotiation process.	The implications of including the “related reforms” in the NCP financial package may not have been fully understood by the Queensland Government. For instance, it only gave in-principle support to the water reform process. How these aspects were negotiated is considered in chapter five.
How committed are/were successive Queensland Governments to the shared goals in the plan?	Initial commitment appeared strong.	Evaluation of on-going commitment is the major focus of chapters three, five and six.
How much “power” was the Queensland Government willing to give up for the sake of a coordinated approach?	The Queensland government retained total control over the implementation process. It would decide how the NCP principles would be implemented, and could opt out of the process, or parts of it, if it so desired (but, forgoing competition incentive payments).	With States wanting to maximise their access to financial incentives, conflict with the NCC could be envisaged. This would prove to be the “ultimate test of power” of the NCC and the Queensland Government. Further analysis is provided in chapter five.
Were the Queensland Government and the NCC in regular contact? What about COAG as a whole?	The agreement provided minimal specification on the routines that the NCC and the Queensland government would enter into. Further, there was no specified on-going role for COAG during the implementation process.	The ambiguity of the reporting relationships, and a disengaged COAG, generates questions about the resolution of conflict and the ability to maintain high-level political commitment towards the policy. These aspects are discussed in chapter five.

Research Questions or Propositions	Position at NCP signing	Gaps and issues requiring further analysis
Were intergovernmental bodies created and did they bring governments into closer alignment and improve communication?	There were new bodies created (the NCC and the ACCC).	The ability of these bodies (the NCC in particular) to bring the parties to the agreement into closer alignment would need to be tested over the life of NCP. The NCC was established to “police implementation”. It was given no mandate to change the agreement or lead a process for change.
Did NCP spell out decision-making rules, and were there sufficient incentives and sanctions in place to keep parties engaged?	The decision-making rules were loose – little guidance was provided in the initial agreement. However, the financial incentives package provided the rewards sought by the States.	While the decision-making timelines were spelt out, there was still significant scope in interpreting what was required. This put the NCC in a very powerful position, as it would be required to develop “appropriate policy implementation.” How it used this power is analysed in chapters four and five.
Was reciprocity present and how did it moderate the behaviour of both the NCC and the Queensland Government?	The early to mid 1990s saw strong collaborative structures develop between Australian government heads. Whether this commitment and goodwill would translate to the NCC, and be maintained remains to be seen.	The interactions between the NCC and the Queensland government are yet to be assessed. Chapters four, five and six provide further insight into the level of reciprocity between the two institutions.
In terms of Stewart’s four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?	Strong commitment to the NCP strategy was apparent at COAG. But, as Stewart notes strategic coordination, by itself, is unlikely to maintain momentum over long implementation timeframes.	Given Stewart’s concerns, the strategic coordination capacity of NCP is likely to be buttressed by other forms of coordination, such as networks – explored further in chapter five.

Table 2.2 – Conceptual Framework for coordination

COAG was not in the position to either give guidance to the NCC on the distribution of incentive payments, or how to interpret the agreement it created. While a general power of “work plan approval” was provided to participating jurisdictions, no other control mechanisms were put in place. The NCC was given considerable scope in establishing its own work practices, including review methodologies and consultation mechanisms. COAG was effectively disengaged from the coordination process.

The literature on coordination also emphasises the requirement for thorough research, intelligence gathering and information sharing. It is here that the assessment process undertaken by the NCC, with its highly detailed reporting structure, played an important role in the coordination process. It would provide individual government heads with comprehensive information about the achievements of their administration, as well as those of other jurisdictions. In doing so, NCC performance reports provided governments with the ability to map their performance against others, as well as identify the reform issues that could be handled on a multi-jurisdictional basis.

Overall, the agreement showed that the people responsible for drafting it took great care in creating the necessary institutional arrangements to ensure the policy commitment stayed on track. However, a key weakness in these institutional arrangements appeared to be the lack of any ongoing linkage with COAG, or any other means of political interface for that matter. NCP was a national policy initiative with no apparent means of ensuring ongoing political support from the heads of Australian governments. Without overt support from political leaders, the policy risked losing legitimacy as the long implementation process rolled out.

Implementation

Through the NCP agreement, the Commonwealth and States embarked on an ambitious reform program, with an implementation horizon of ten years. The parameters defined through the policy instruments signed by the Premiers and the Prime Minister would codify the ground-rules for interaction between the NCC and the Queensland Government over that period. These ground rules provide structure to the implementation process. The analysis provided below (including a summary table –

Table 2.3) considers each question in the conceptual framework of analysis developed in chapter one, as they relate to implementation. As will be demonstrated, the agreement addressed some of the theoretical concepts identified in the conceptual framework, but nevertheless, critical questions remain – questions that cannot be answered until further empirical enquiry is provided (the purpose of the chapters which follow).

Was there a single authority or set of key players in Queensland that set, then maintained, a common agenda as implementation progressed?

Pollitt and Bouckaert noted that implementation efforts often fail if there is insufficient centralised control of the process – leaving the policy to drift under the political vagaries of the government of the day.⁹⁶ As a potential remedy to this problem, the NCC (a central authority) was given the responsibility to monitor the implementation efforts of individual State governments. This gave the reform process a stable “centre” from which to work from. However, the agreement did not specify how implementation was to be conducted at the State-level. It would be up to the Queensland Government to design its implementation process in response to the objectives set in the agreement.

With such long lead times, how the implementation effort was structured in Queensland was of paramount importance to the effectiveness of the process. During the elongated implementation time span, it was highly likely that governments in Queensland would change, and key public servants would move to other posts. The people who were at the centre of NCP formation at COAG would not necessarily be there to hear the final siren on the reform process. This raises issues about goal displacement and administrative slippage as the baton of power was handed from one administration to another. The method with which the Queensland Government managed implementation will be explored further in the next chapter, and in chapter five’s case examples.

Was there informed leadership at the administrative and political levels in Queensland?

Aligning all the heads of government behind a specific policy front is no small feat, and with the role played by Goss, it seemed that Queensland was at the forefront of bringing NCP to life. Further, NCP could not have been contemplated if the policy did not suit

⁹⁶ Pollitt and Bouckaert *Public Management Reform*, pp. 185-186.

the political environment of the time.⁹⁷ To be sure, the structure of the agreement made it somewhat easier to achieve political support, facilitated by a generous incentive program and a general lack of specification about “how to get there.” The detailed plan of how to reach the reform targets was left to each participating jurisdiction to decide, as long as their actions could be justified under the policy direction set by COAG. Again, it would be the NCC that would decide whether the States were being true to the policy commitment.

The political leadership, as well as senior Commonwealth and State officials, were closely entwined in the policy process, as evidenced by the establishment of working groups and the nature of COAG discussions up until the signing of the agreement. Each participating jurisdiction was committed to implementing the policy and devoting the necessary administrative resources to making it happen.

NCP started with a great deal of political consensus behind it. This was facilitated by the intergovernmental working groups of senior officers that assisted in the policy development, as well as a clear policy direction set through the Hilmer review process. However, the apparent policy consensus may have led the leaders of Australian governments to believe that the implementation process was a technical one, with little need of on-going political oversight by COAG. As noted in the previous section, NCP was set adrift by Australia’s pre-eminent intergovernmental coordination body, placing much of the coordination responsibility on the NCC.

As governments changed in Queensland, how would a body like the NCC, headed by appointed officials, deal with administrations that decided to play “fast and loose” with the reform process? This is a question that will receive further analysis in chapter five.

Was there sufficient organisational capacity within the Queensland Government to “get the job done”?

The government’s commitment to implement the NCP agreement provides little evidence of its capacity to get the job done: signing on to a policy or strategy does not, by itself, make it implementable. Resources need to be brought to the task, decisions

⁹⁷ Though, this support waned as implementation progressed, as subsequent chapters will identify, particularly the next chapter.

have to be made, interest groups need to be consulted, a whole raft of legislation needs amendment, and so on. Did the Queensland Government have the wherewithal to bring NCP to life? This question will be further examined in subsequent chapters, particularly chapters three and five.

Suffice to say at this point, the level of commitment from the Queensland Government at the time of signing NCP was strong. There were significant resources attached to the implementation process, due to the incentive package negotiated by the States. The implementation stakes were high, and the government's ability to implement the reform program would be surely tested over the long timeline.

Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?

At the time of the signing there appeared to be strong political support, encouraged by lobbying efforts of business and large agricultural lobby groups like the National Farmers' Federation. The policy also received endorsement from researchers and academic and other economists. The widespread media reporting of COAG's reform agenda provided the backdrop to move to implementation. As already mention, the leader of the Queensland Government at the time, was instrumental in securing the arrangements. Whether these factors could stay in place over the life of the reform program is too early to tell – further empirical enquiry is required. Chapters three and five provide a rich source of material to analyse the government's ongoing commitment.

What was the level of flexibility, once implementation commenced, to learn and adapt the policy?

Pressman and Wildavsky highlight the need to allow enough room for policies to adapt as implementation unfolds – learning and remodelling as the process evolves.⁹⁸ With NCP's structure, could it last the test of time? As already noted, no enduring mechanisms were provided to adapt and change NCP on an incremental basis. Other than the review process after five years of operation,⁹⁹ there were no opportunities to adapt the policy. The policy was set off, somewhat rigidly, along a linear reform path.

⁹⁸ Pressman and Wildavsky, *Implementation*, p. 135.

⁹⁹ NCP outlined two reviews to be held after 5 years of operation of the policy. One for the policy in general, and the other for the operation of the NCC (see Clauses 11 and 15, Competition Principles Agreement).

The risk was, if NCP was found to be too uncompromising, in the face of legitimate implementation problems, political support for the program was likely to diminish – potentially scuttling the reform process.

The way the NCC interpreted various sections of the agreement provided the only apparent means of adaptation and flexibility. The level of flexibility shown by the NCC in moulding the policy to the needs of participating jurisdictions is considered in chapter four.

Was the policy mandate unambiguous, and provide a means to mediate disputes once implementation began?

Mazmanian and Sabatier note the importance of setting unambiguous policy directions when designing new reform programs.¹⁰⁰ On this point, it appears NCP performed particularly well. The agreement clearly laid out what was to be achieved and the timeframes for completion. The policy also seemed to be based on a sound theory of cause and effect, given the nature of economic discourse at the time.¹⁰¹ A key missing-ingredient in the agreement was a dispute resolution procedure.

Did the policy mandate provide sufficient structure and direction to the Queensland Government and the NCC?

While the agreement provided the key implementation milestones, it provided no guidance to participating jurisdictions on “how to get there.” In fact, it was a conscious decision in the drafting process, to leave this aspect of implementation process to individual governments to decide. The milestones associated with NCP payments provided targets. While the process of “how to get there” was left unspecified, the destination was clear.

¹⁰⁰ Mazmanian and Sabatier, *Implementation and Public Policy*, pp. 41-42.

¹⁰¹ Competition policy has been shrouded in debate in some areas of academia since its adoption, most notably in the criticism provided by John Quiggin. An analysis of the economic arguments provided by Quiggin is provided in the next chapter, when the key themes in the NCP debate are explored further. The consensus in the debate appears to be that NCP has a positive outcome for the economy, though at times its benefits may have been overstated.

It is important to note that the NCC stood at the centre of the implementation process. How it managed its responsibilities, including the politics of implementation, would prove crucial in determining the success or otherwise of NCP. This factor is examined in detail in chapters four and five.

As noted above, Sharman identifies “administrative deception” as an important weapon in a State government’s arsenal when attempting to shape national policy responses to suit the needs of its regional constituencies.¹⁰² The Queensland Government’s “shaping” of the agreement during implementation, countered by the NCC’s “purist” interpretation, provides the stage on which this thesis is acted out.

Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?

A detailed analysis of managerial and political skills of the implementing agents will be the ongoing focus of the thesis – with the case study examples in chapter five providing insight into these issues.

Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?

As discussed in chapter one, Bardach provides yet another perspective on policy implementation.¹⁰³ He emphasised the need for a “fixer” to guard against bureaucratic inertia and goal displacement during implementation. Bardach believed that for implementation to be successful, the fixer must stay engaged in the full policy cycle, from agenda-setting to completion.

As the analysis of the policy design has shown, COAG disengaged from NCP post-policy design. The policy did not allow for COAG, as a collective, to play a “fixing” role throughout the period of implementation. If anything, the NCP agreement made the NCC the “fixer”. Its assessment process was clearly designed to identify implementation problems, and in the process, provide advice on the distribution of NCP incentive payments. However, as the NCC was a creature of NCP, it played no part in

¹⁰² Sharman, “Working Together,” p. 272.

¹⁰³ Bardach, *The Implementation Game*: pp. 310-313.

the agenda-setting process. It could only interpret COAG's agenda well after the intense negotiations that informed the policy design had dissipated.

The NCC had no authority to alter the policy settings specified by COAG. Moreover, the policy pitted the NCC against the States. Subjecting the ongoing decisions of elected parliamentarians to review by an independent agency was going to present obvious difficulties. How the NCC went about its task of "fixing" implementation problems, in a highly politicised environment, is discussed in chapters four and five.

In terms of the structure of the NCP agreement, what was the level of overhead (political) control, and consequently, what level of bureaucratic expertise would be necessary for successful implementation (and what was the demonstrated expertise by the Queensland Government during implementation)?

As discussed in chapter one, Thompson's typology of policy design provided an analytical framework to assess the level of political control of the implementation process in the originating policy instruments – in this case the intergovernmental agreements on NCP. Thompson's typology ranged from tight political management under the title of *controlled implementation*, to the more loosely coupled arrangements under *buffered implementation*.¹⁰⁴

The structure of the NCP agreement bore a striking resemblance to Thompson's notion of buffered implementation. Due to the lack of political direction, buffered implementation can suffer from an inordinate amount of bureaucratic in-fighting over goals and objectives. There is no clearing-house or supreme adjudicator to resolve disputes, particularly when specific clauses are interpreted differently by parties to an agreement. Also, the lack of ongoing involvement by those who set the policy direction in the first place may cause the implementation process to drift and take on new agendas, ones not initially envisaged by the original agenda-setters.

Here, the level of ongoing COAG engagement with NCP was a critical omission (or, alternatively, a deliberate ploy) in the drafting process. For NCP implementation to be successful, this type of policy design would require an extraordinary amount of skill on

¹⁰⁴ Thompson, F.J. "Policy Implementation and Overhead Control," in G.C. Edwards, III (ed) *Public Policy Implementation*, JAI Press Inc., Greenwich Connecticut, 1984: pp. 3-24.

the part of both the NCC and the individual State administrations to manage the political implications of the decisions they made. In this type of implementation strategy, when things go astray, it is the implementation agents – the NCC or the Queensland Government – that would receive public criticism, as COAG itself remained aloof from the process.

By leaving NCP implementation largely up to the NCC and each jurisdiction to sort out - through bi-lateral negotiations between the parties, not through collective mechanisms such as COAG or Ministerial Councils – the process was exposed to inherent risk. The ability of the NCC to contend with such an open structure generated by the initial NCP agreement is likely to place significant political pressure on the organisation. An analysis of how the NCC dealt with its responsibilities here is provided in chapters four and five.

Research Questions or Propositions	Position at NCP signing	Gaps and issues requiring further analysis
Was there a single authority or set of key players in Queensland that set, then maintained, a common agenda as implementation progressed?	The NCC was placed at the centre of the NCP implementation process. At the State level, it was up to each jurisdiction to decide how it would address NCP.	Implementation in Queensland is considered in the next chapter, and again in chapter five, when specific case study material on NCP is examined in depth.
Was there informed leadership at the administrative and political levels in Queensland?	At the start of the process, there was a high level of political awareness and commitment, given the protracted negotiation process.	Chapters three and five examine the nature of political leadership in Queensland, as implementation progressed.
Was there sufficient organisational capacity within the Queensland Government to “get the job done”?	Strong political leadership was apparent at commencement of NCP.	The capacity of the Queensland Government to “get the job done” is examined in subsequent chapters.
Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?	There was strong commitment to the micro-economic reform process in Queensland.	The level of commitment during implementation is yet to be examined – covered in the following chapters, particularly chapters three and five.
What was the level of flexibility, once implementation commenced, to learn and adapt the policy?	The NCP agreement was rigid. A review date was provided after five years. While details on how the agreement was to be implemented were limited, outcome milestones and timelines were quite specific.	How the Queensland Government and the NCC negotiated this terrain is the key focus of this thesis.
Was the policy mandate unambiguous, and provided a means to mediate disputes once implementation began (also has a link to conflict resolution)?	The policy direction was explicit. There was no specification of a dispute resolution procedure.	With COAG disengaged from the implementation process, the NCC would need to demonstrate a high-level of skill in settling disputes. This issue is further examined in the context of the conceptual framework as it relates to conflict resolution.

Research Questions or Propositions	Position at NCP signing	Gaps and issues requiring further analysis
Did the policy mandate provide sufficient structure and direction to the Queensland Government and the NCC?	Milestones and timelines were clear. However, there was no specification provided to the States on “how to get there.”	The lack of specification and the strategic position of the NCC in interpreting the implementation requirements of the agreement opened the possibility for future conflict. The issues confronted in the implementation stages are analysed in chapters four, five and six.
Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?	A high-level of political skill was shown during the negotiation process. This does not mean, however, that the same level of skill would be applied to the implementation process.	The Queensland Government’s handling of NCP implementation is the subject of further analysis, particularly chapters five and six.
Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?	The NCC was installed as the “fixer”. It was given the mandate to ensure goal displacement did not occur during the implementation phase.	Unlike Bardach’s notion of a “fixer” located in the legislature, the NCP agreement created a separate institution to supervise implementation. How the NCC went about this task is detailed in chapters four and five.
In terms of the structure of the NCP agreement, what was the level of overhead (political) control, and consequently, what level of bureaucratic expertise would be necessary for successful implementation (and what was the demonstrated expertise by the Queensland Government during implementation)?	The level of political control over NCP was weak, due to the disengagement of COAG. This concentrated institutional power in the NCC, raising the need for this agency to possess a high-level of bureaucratic expertise.	The NCC was a new, untested, instrumentality. How it managed the implementation process with low levels of political leadership is the focus of chapters four and five.

Table 2.3 – Conceptual Framework for implementation

Summary of Implementation Issues

There was much fanfare at the announcement of NCP, after the COAG meeting in April 1995. A key feature of the agreement on NCP was the creation of the NCC – a watchdog that would ensure that the policy commitments of participating jurisdictions would be honoured. While the level of consensus at the political level was high at this point, there was no assurance that it would remain this way throughout the ten-year implementation timeline.

The agreement gave the reform process a rigid framework. COAG was disengaged from any further ongoing oversight role, delegating this responsibility to the NCC. The NCC would have to possess significant political skill in managing its relationships with political leaders of State administrations, especially when the reform process was encountering difficulties.

Further, the NCP agreement enabled the States to design their own processes of “how to get to” the rigid reform targets. As Sharman notes, States can be creative when given the opportunity to mould national policy responses. It would be up to the NCC to “blow the whistle” on any State government not honouring the intent of NCP. How the Queensland Government and the NCC engaged over the details of implementation will be the on-going theme of this thesis.

Conflict Resolution

As with coordination and implementation, the original NCP agreement set a somewhat rudimentary framework within which the parties would attempt to resolve their disputes. If the policy process continues to play out during the implementation of the agreement, as argued above and in chapter one, the situation is bound to arise where the Queensland Government and the NCC have differing opinions on how a disputed matter should be dealt with. The literature on resolving inter-group conflict provides guidance on what to look for when assessing conflict resolution process or traits. Table 2.4 provides a summary of the initial response to the questions generated in chapter one, based on these theoretical concepts. These issues are now discussed below.

How was conflict between the NCC and the Queensland Government brought to the surface and dealt with during implementation?

Obviously, it is too early to assess this aspect of the reform process - further empirical enquiry is provided later in the thesis. Though, it is important to note at this juncture that the NCP agreement provided little guidance on how to resolve disputes between governments and the NCC – it would be left to the unfolding of events to determine the processes to be followed when the parties had differing policy positions.

In terms of Matland's typology, what was the policy environment like, and how did the level of conflict impact on implementation efforts in Queensland?

As identified earlier, the critical design issue of on-going engagement from COAG represents a significant problem for the resolution of conflict during the implementation of NCP. The policy environment at the time of NCP creation was one of low conflict and low ambiguity¹⁰⁵ – mirroring the collaborative federalism of the mid-1990s.

With the NCC at the centre of the implementation process, any change in policy environment was likely to place significant pressure on the capacity of the organisation to resolve conflict. Moreover, the NCC was provided with little guidance on how to manage conflict when the goals of NCP were in dispute. It was disengaged from direct political oversight, and there were no mechanisms to have disputes reviewed or mediated by outside parties. How the NCC dealt with this operational environment will be considered in chapters four and five.

Were there intergovernmental bodies created to mediate conflict and how did the Queensland Government engage with them?

The agreement did not create any specific body to sort through matters in dispute during implementation. The NCC would have to occupy this territory, in addition to its role in assessing government performance in implementing the agreement. Obviously, the role of assessor would impinge on the Council's ability to play an "honest broker" role in resolving disputes. Again, this aspect of the NCC's role will be assessed in chapters four and five.

¹⁰⁵ Matland, R.E. "Synthesizing the Implementation Literature: The Ambiguity-Conflict Model of policy implementation," *Journal of Public Administration Research and Theory*, 1995: pp. 145-174.

How was conflict managed by the Queensland Government?

This is a question that can only be answered as the thesis unfolds. As Lindblom and Woodhouse state, in times of policy conflict, political leaders will endeavour to assert their views through three avenues: non-rational and irrational persuasion, as via propaganda campaigns or symbolic rhetoric; logrolling, vetoes, bribery, or other interpersonal means of inducing acquiescence without actually persuading on the merits; or, finally, informed and reasoned persuasion.¹⁰⁶ Their views parallel those of Galligan, Hughes and Walsh who note that political leaders of State governments will often use exaggerated claims in the media and public sentiment to achieve policy change at a national level.¹⁰⁷ During implementation, the NCC would be dealing with hardened political players, with direct access to the media. Again, how the NCC contended with this political environment will be the focus of subsequent chapters.

Summary of Conflict Resolution issues

As there was no conflict resolution process built into the original agreement, there were no officially-sanctioned means to mediate differences within the confines of the policy process. In the absence of an explicit conflict resolution process, an obvious way open to the Queensland Government to assert its opinion over the NCC was to resort to political avenues – the use of media pressure and political argument to change policy settings.¹⁰⁸

¹⁰⁶ Lindblom and Woodhouse, *The Policy-Making Process*, pp. 128-129.

¹⁰⁷ Galligan, Hughes, Walsh, "Perspectives and Issues," p. 16.

¹⁰⁸ *Ibid.* ; Sharman, C. "Patterns of State voting in the national referendums," *Politics*, 16 (2), 1981: p. 261.

Research Questions or Propositions	Position at NCP signing	Gaps and issues requiring further analysis
How was conflict between the NCC and the Queensland Government brought to the surface and dealt with during implementation?	The NCP agreement lacked a conflict resolution procedure. There were no mechanisms to have disputes with the NCC reviewed or mediated by outside parties.	The process for resolving disputes was left open. How the parties dealt with “issues in dispute,” is examined in chapters four and five.
In terms of Matland’s typology, what was the policy environment like, and how did the level of conflict impact on implementation efforts in Queensland?	At the time of signing, there was a high level of consensus amongst political actors about the direction of NCP reform. This provided an environment of low conflict and low policy ambiguity, characterised by Matland’s <i>Administrative Implementation</i> .	The ability of this consensus to hold together needs to be examined further. The implementation process could become complicated if there is a shift in the implementation environment. Subsequent chapters examine whether any shift occurred and the consequences if it did.
Were there intergovernmental bodies created to mediate conflict and how did the Queensland Government engage with them?	The agreement did not create specific mediation bodies. It was up to the NCC to consult with the Government about its findings, and seek compromise and agreement.	The processes adopted by the NCC when engaging with governments are analysed in Chapter four. Chapter five examines specific incidents with the Queensland Government
How was conflict managed by the Queensland Government?	The NCP agreement did not specify a procedure. The parties would have to develop their own processes as implementation progressed.	Subsequent chapters (particularly chapter five) will reveal how the NCC and the Queensland Government dealt with conflict in the process of implementation.

Table 2.4 – Conceptual Framework for conflict resolution

Another option for the States was to withdraw from the NCP process, thereby leaving behind some of the political difficulties, but also forgoing the significant bonus payments for implementing the reform program. The States could also choose to ignore the NCC's interpretations, and suffer financial penalties for non-compliance. On any scale, an "all or nothing" approach to resolving conflict inherent in the policy agreements was a very blunt instrument to employ. Once again, the issues at the heart of conflict would remain unresolved.

In terms of policy design, the findings of the NCC were beyond review. It was made both judge and jury in determining how the implementation process was managed by each State. The only moderating force on the NCC was the potential for negative political reaction to its work. If it could not find ways to maintain political support, or at least the support of the majority of COAG members, it would risk sinking the whole reform program.

Conclusion

The initiation of NCP by COAG marked a high point in Australia's collaborative federalism of the 1990s. The substance of the agreement reflected the level of political consensus over the direction of micro-economic reform at that time. It was clear at the outset that many of the measures included in the ten-year long reform program were going to result in some form of political fallout. Political leadership of the reform program was bound to be tested along the way.

By design, the NCC provided a central coordinating mechanism for the implementation of NCP. It was a conscious decision by the heads of all Australian governments, meeting under the banner of COAG, to create a powerful central agency to direct the reform agenda. Direct political control was ceded to an independent bureaucratic body. How would it react to the problems that were to come along as implementation progressed? What sort of political support would it receive from the governments that conceived it?

Whether COAG was blinded by the degree of consensus at the time, or whether it was a purely an oversight in policy design, NCP was given a rigid structure. There were few avenues to adapt the policy, on an incremental basis, as it was rolled out along its long implementation time-line. The policy was designed not to be tinkered with. Reinforcing this rigidity, the integrity of the original COAG deal was to be guarded by the NCC.

As research shows, it is dangerous to divorce policy direction from implementation. Much of the decision-making on policy matters occurs when a policy decision is put into action. In the case of NCP, the policy-making that occurred during implementation was taken out of the purview of COAG. The NCC was given the task of brokering policy deals through implementation, on the basis of bilateral negotiations with each participating jurisdiction. Conflict was bound to arise. When it did, however, the NCC was given no policy guidance by COAG as to the preferred method to resolve it.

The analysis in this chapter provides the backdrop for further empirical enquiry into the relationship between the NCC and the Queensland Government. It has highlighted the likely points of tension in the relationship, pointing the way for the remainder of the thesis to follow.

Chapter Three –

The changing context of NCP Implementation in Queensland

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Introduction

The 1990s were a period of significant political and institutional change in Queensland. A month before the start of the decade, a Labor Government came to power - ending thirty-two consecutive years of conservative rule. The government would change two more times in the following ten years – from Labor, back to conservative, then again to Labor. This period of substantial political upheaval would see two separate periods of minority government – an unheard of situation for most of the State’s 3.5 million residents.

Prior to 1989, Queensland had only seen one change of Government in fifty-seven years. The Goss Labor government was removed from power in February 1996 in controversial circumstances following a by-election loss. The National-Liberal coalition then held power for twenty-eight months, only to lose it again to a minority Labor government led by Peter Beattie. It seemed that within the space of a few short years Queensland went from a stable - if not predictable - political environment, to one that was in a perpetual state of change.

The political environment caused much vacillation on the implementation of NCP. In late 1998 – just three and a half years after the NCP agreement was struck – the Queensland Government demanded fundamental changes to the way the policy was being implemented. The Queensland parliament expressed, by resolution, the level of disdain felt by elected representatives for certain aspects of NCP at the time:

... the House condemns the views emanating from the National Competition Council and calls on the Federal Government to constrain the powers of this unelected body in order that it is not able to slash millions of dollars from State Government budgets with potentially devastating effects on employment and services, particularly in rural and regional areas; and calls upon the Government to negotiate changes to the administration of the National Competition Policy to take into greater account the adverse social implications of these policies and that furthermore, responsibility for the administration of National Competition Policy be transferred from the National Competition Council to the Council of Australian Governments.¹

¹ *Queensland Parliamentary Hansard*, 11 November 1998, p. 3030. Other parts of the motion omitted from this quote include: “This House considers that this test [the public benefit test] must give full weight to issues including jobs and job security, social welfare and equity considerations, health and safety and regional development as well as the interests of consumers. Further, the House supports the use of Community Service Payments to ensure the maintenance of quality services to people in regional

This motion was introduced by the One Nation Party and further amended by the ALP and the National-Liberal Coalition.² It was carried without objection. Media statements and press conferences followed the parliamentary declaration. The morning papers prominently reported the events of the previous evening. The debate was not confined to the rarefied atmosphere of the House – it received the full glare of the public spotlight.

Six months later the debate still raged. At the ALP State Conference in June 1999, then Queensland Treasurer, David Hamill moved:

That this Conference endorses the Beattie Government's significant efforts to reform the administration of the National Competition Policy in Australia. Specifically, that the Conference endorses the Beattie Government's call for:

The abolition of the National Competition Council and the transfer of its responsibilities to the democratically elected Governments through the Council of Australian Governments.

Full responsibility for the implementation of National Competition Policy reforms be devolved from COAG to individual States and Territory Governments from 2001.

Competition reforms to be undertaken only where there is a clear public benefit and that the payment of competition payments to the States and Territories be "untied" from the arbitrary assessment as undertaken by the National Competition Council.³

The Premier, Peter Beattie, seconded the motion. The resolution followed the sentiments of the resolution passed by the Queensland parliament. Not only was a policy change called for by the government and its party machine, it had the unanimous support of the Parliament of Queensland. By the late 1990s, the NCP agreement was under enormous political pressure.

This chapter unveils some of the underlying motivations of key Queensland political actors in relation to NCP during the first five and a half years of policy implementation. It also explores the factors that served to weaken or destabilise the implementation environment, as well as the factors that supported policy continuity. It is an important

areas and the right of the State Government to identify and determine such Community Service Obligations."

² The original motion by the One Nation Party was rejected by amendment, replaced by a motion drafted by the ALP, and further amended by the Coalition. The process was not questioned or ruled out of order by the Speaker of the House, even though it did not strictly follow the normal rules of debate.

contextual analysis that will be used in conjunction with chapter five to outline the NCP implementation strategies used by the Queensland Government.

As the analysis in the previous chapter showed, successful NCP implementation in Queensland hinges on the capacity of the government to manage the long-range reform process. This chapter provides an assessment of the government's ability to do this. As the literature on implementation clearly indicates, it is one thing to announce a policy direction, it is another to actually bring the policy to fruition. The road of public policy is littered with examples of initiatives that simply did not reach their destination. The capacity of the Queensland Government to manage the implementation process will prove critical to the longevity of NCP. Moreover, the government's implementation tactics are likely to have important implications in terms of its relationship with the NCC.

As political administrations change, so do the personnel that would have dealt with the original policy agreement – would their commitment be the same as those who came before them? Further, NCP was being implemented during turbulent political times in Queensland – was the policy solid enough to endure political attack, as the major parties lurched to populist sentiments in an endeavour to shore up their political support base? These questions draw on the conceptual framework for policy coordination, implementation and conflict resolution, as developed in chapter one, and applied to the policy direction enunciated in the original NCP agreement, as in the previous chapter.

Specifically, this chapter sheds further light on five research questions contained within the conceptual framework, as outline in Table 3.1 below.

³ *Queensland Labor Times*, June 1999, p. 8.

Theory	Research Questions
Implementation	Was there informed leadership at the administrative and political levels in Queensland?
	Was there sufficient organisational capacity within the Queensland Government to “get the job done”?
	Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?
	Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?
Conflict Resolution	In terms of Matland’s typology, what was the policy environment like, and how did the level of conflict impact on implementation efforts in Queensland?

Table 3.1 – Key questions from the Conceptual Framework

Overall, the analysis in this chapter provides a critical insight into the wherewithal of the Queensland Government to manage the policy implementation process – an important missing element of the analysis provided so far. This chapter and the next (a similar analysis of the administrative processes of the NCC), provide the context within which the relationship between the Queensland Government and the NCC is explored in chapters five and six.

This chapter is divided into five parts, which together paint the backdrop to the changing political and administrative systems impacting on NCP implementation in Queensland. The next part focuses on the changing Queensland political environment surrounding NCP implementation in the mid-to-late 1990s, and how political rhetoric impacted on the reform agenda within the State. The third part deals with changes in the administrative context of the State Government, together with the budgetary pressures of the time. Fourth, is a section on the changing intergovernmental scene and how the Queensland Government positioned itself in terms of NCP reform. And,

finally, the chapter closes with an analysis of the factors for policy continuity and change, based on the arguments presented in the preceding sections, and how these factors impacted on the key research questions highlighted above.

The changing political environment

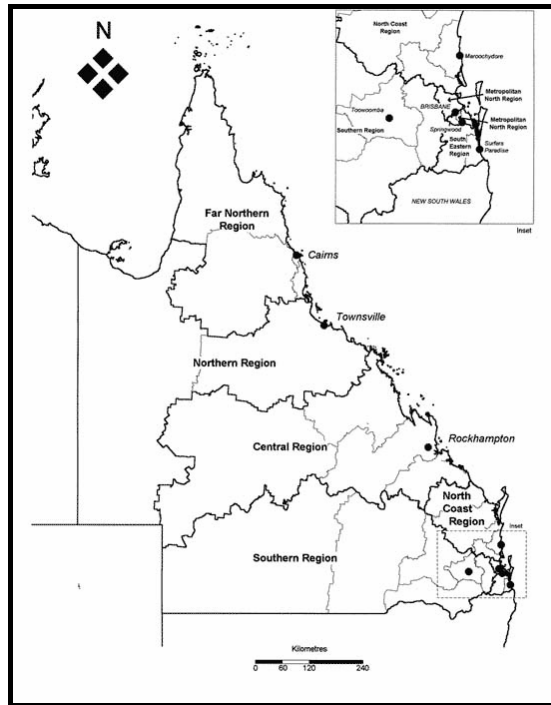
As noted in the introduction, the political environment in Queensland during the mid to late 1990s was particularly turbulent. This political instability coincided with the critical early stages of the NCP implementation process. Analysis of this electoral context is necessary to make sense of the political responses to NCP implementation in Queensland as discussed later.

Electoral reforms ushered in by the Goss Labor Government in the early 1990s effectively returned Queensland to a “one vote, one value” system, dismantling the electoral gerrymander that cemented the rural-based National Party in power for thirty-two consecutive years.⁴ The new electoral system heightened the importance of densely populated areas of the State, particularly the south-east corner and major regional centres (largely located) along the coast.

By the mid 1990s most of the State’s population (64%) was concentrated in the south-east corner, around the State’s capital, Brisbane.⁵ Even so, Queensland was still the most decentralised state in the nation. Major population and employment centres, remote from the south-east, included Rockhampton, Mackay, Mt Isa, Townsville, and Cairns (see Map 3.1).

⁴ Stevens, B. and Wanna, J. “The Goss Government: An Agenda for Reform,” in Stevens & Wanna (eds) *The Goss Government: Promise and Performance of Labor in Queensland*, 1993: p.2; Coaldrake, P. *Working the System*, pp. 35-40. Coaldrake noted that even as late as the mid 1980s, the Nationals were able to hold government with only thirty-nine percent of the State primary vote, compared to the ALP vote of forty-one percent.

⁵ Government Statistician’s Office, *Queensland Past and Present*: p. 127.



Map 3.1 – Regional Queensland

Table 3.2 shows the distribution of seats at the end of the 90s, based on the classification system used by the Queensland Electoral Commission.

Geographical Classification	Number of seats
Inner Metropolitan	10
Outer Metropolitan	26
Provincial	29
Rural	24
Total	89

Table 3.2 – Distribution of seats – Queensland Parliament⁶

Factoring in adjustments to take into account the more densely populated areas of the south-east, approximately thirty-eight (38) percent of the seats in Queensland Parliament were “outside” the Gold Coast – Brisbane – Sunshine Coast axis (see Table

3.3 – south-east corner vs regional and rural based seats). Even without the electoral gerrymander (which weighted rural/regional seats above metropolitan ones), a large number of parliamentary seats were still located outside of the major capital city.⁷

Geographical Classification	Number of seats
South-east corner	55
Regional and Rural	34
Total	89

Table 3.3 – South-east corner vs regional and rural-based seats⁸

In summary, the electoral framework of the State comprised two components – a metropolitan centre, with a widely dispersed regional/rural periphery. The ability to appeal to both components would prove critical to the electoral success of the major political parties in the mid-to-late 1990s.

Table 3.4 maps the electoral results from the mid 1970s through to the 2001 election. The 1970s and most of the 80s indicate the dominance of conservative political forces in the State. The Goss Labor Government held government from December 1989 until February 1996, when it lost power to a minority National-Liberal Coalition on the basis of support from a conservative-leaning independent (after the government lost a crucial by-election in the same month). The Borbidge Government then lost power after a general election in June 1998, this time to a minority Labor Government, led by Peter

⁶ Source: Statistical Profiles: *Queensland State Electoral Districts – 2000*, Electoral Commission Queensland. The definition used by the Commission for Metropolitan, aligns these seats to the Greater Brisbane area only, effectively excluding the densely populated areas of the Gold and Sunshine Coasts.

⁷ These regional centres were important politically, particularly for the Queensland branch of the Australian Labor Party (ALP). The ALP was founded in outback Queensland in 1891. The origins of the Party lay in the agricultural and mining industries, whose labour pools were located in regional centres. This led to several provincial Queensland towns becoming Labor strongholds. For example, the State seat of Cairns has always been held by a Labor, or Labor aligned member, in its one hundred year history. It also meant that the Labor Party in Queensland tended to be more “agrarian” in nature in comparison to the movement in other mainland States (Fitzgerald, R. & Thornton H. *Labor in Queensland: From the 1880s to 1988*, University of Queensland Press, Brisbane, 1989: pp. 1-10).

⁸ Source: Statistical Profiles: *Queensland State Electoral Districts – 2000*, Electoral Commission Queensland.

Beattie. Beattie would remain in power for the remainder of the time-frame covered by this thesis.

In the background, a new political threat was emerging for the major political parties in Queensland. The 1996 federal election campaign saw a new political force emerge, around the political persona of an independent named Pauline Hanson. Dumped by the Queensland Liberal Party in the lead up to the election for her controversial views on multiculturalism, immigration, economic rationalism and race relations, Hanson campaigned as an independent in the Queensland outer-metropolitan seat of Ipswich. A former fish and chip shop owner, she rode a wave of popular support into the Federal parliament, where she proceeded to cultivate an ultra-conservative political following.

Out of her personal following came a new party of “anti-politicians”, known as Pauline Hanson’s One Nation Party (ONP). The party developed a strong following in the lead up to the Queensland general election of 1998, particularly in regional and rural areas, and outer metropolitan centres such as Ipswich and Caboolture.⁹

⁹ Leach, M., Stokes, G. and Ward, I. *The Rise and Fall of One Nation*, University of Queensland Press, Brisbane, 2000: pp2-25; Kingston, M. *Off the Rails: The Pauline Hanson Trip*, Allen and Unwin, Sydney, 1999: pp. 5-16; Lanskey, N. *Crucibles of Change: Third Parties in Queensland*, PhD thesis, James Cook University, 2000: pp. 2-10.

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Table 3.4 - Comparison of relevant party performances in Queensland State Elections 1977-2001¹⁰

¹⁰ Source: Queensland Parliamentary website, www.parliament.qld.gov.au accessed on 23 April 2004.

The June 1998 State election saw ONP win eleven seats; six from Labor and five from the National/Liberal coalition. The parliament yet again hung in the balance, with the major parties unable to command a majority in their own right. This time, a recently elected independent from the Sunshine Coast seat of Nicklin, Peter Wellington, used his parliamentary vote to install the Beattie Labor team in power. A by-election in the far northern provincial seat of Mulgrave in December 1998 (following the resignation of the One Nation incumbent) gave Labor its forty-fifth seat and a parliamentary majority of one. It would maintain this status until the State election in February 2001, when Beattie was returned with a huge majority of twenty-one seats.¹¹

Both in opposition and in government, Labor leader, Beattie, cultivated an image of the Atherton boy made good.¹² He was affable and could relate easily to the so-called average-person. Underlining his common touch, Beattie once described himself as an “amiable boofhead.”¹³ A self-confessed “media tart” he found significant political mileage in taking a populist line to controversial policy issues. He seemed to be the leader for the times, and his ringing endorsement in the 2001 State election was further confirmation that his leadership style struck a chord with the Queensland public.

The words populism and populist will be used often in this thesis to describe the type of behaviour demonstrated by political leaders in Queensland when dealing with NCP issues in the late 1990s. Fenna describes populism as:

A way of treating ideas and a way of appealing to the public... The essence of populism as a style of politics lies in its homely simplification of complex issues, its appeal to broad prejudices, fears and narrowly-defined self-interest, and the celebration of the ordinary person, the mainstream, the silent majority.¹⁴

¹¹ The Beattie-led Labor Party received a primary swing of around 10% (see Electoral Commission of Queensland, *2001 State General Election Summary*, Brisbane, 2001: <http://www.ecq.gov.au> accessed 28 March 2001). The win was even more remarkable considering the controversy surrounding the State Labor Party in the lead-up to the election. Allegations of electoral fraud in pre-selection processes saw the resignation of three Labor MPs in late 2000, one being Beattie’s deputy and right-wing factional heavy, Jim Elder, and another the former State secretary of the party, Mike Kaiser. A key component of Beattie’s campaign strategy was to embark on a “listening tour” of regional and rural Queensland prior to the election being called. His pitch was to talk to the “forgotten people of the bush”.

¹² Atherton is a small country town to the west of Cairns. Beattie grew up there, under the care of his grandparents. Atherton was the typical rural Queensland town that had lost, or was in the process of losing, most of its traditional industries – in this case timber logging, mining and horticulture.

¹³ *The Weekend Australian*, 17-18 February 2000, p. 5.

¹⁴ Fenna, A. *Australian Public Policy*, 2nd edition, Pearson Education, Sydney, 2004: p. 57.

Fenna also notes that there is both a left and a right wing stream to populist politics in Australia, with the former focused on trade liberalisation, globalisation and democratic ideals, and the latter identifying more with attacks on “elites” and marginalised groups such as immigrants and Aborigines.¹⁵ Melleuish picks up on the right wing element of populism, describing it as “conservative populism”. He, as does Fenna, associates this group of political leaders with the emergence of Pauline Hanson’s One Nation Party.¹⁶

Melleuish argues that the type of conservative populism that arose in Australia in the 1990s was a reaction to a commonly-held perception that the nation’s moral and civil orders were changing. Conservative populist political leaders levelled the blame for these changes on two broad policy shifts: economic liberalism (or economic rationalism) and policies that emphasised cultural diversity. These policies were seen by populists as pandering to the interests of certain “elites” within society, leaving behind the interests of the “average decent (white) Australian”.¹⁷ In addressing these perceptions, conservative populists campaigned on three themes: opposition to “new class” elitism; defence of Australia’s past (appealing to the decency of the average (white) Australian); and advocacy of direct democracy (allowing “the people” to decide the basis of sound moral and civic orders).¹⁸

Populism in Queensland politics was not new – in fact, it might be seen as a constant for much of the post-war history of the State. The emergence of One Nation in Queensland could be seen as a continuation of a certain brand of political culture deeply embedded in the State. Political biographies of the Premiers of Queensland point to their common populist traits – Bjelke-Petersen and Beattie in particular.¹⁹ On the leadership style of the latter, Preston notes:

¹⁵ *Ibid.*

¹⁶ Melleuish, G. “Populism and conservatism in Australian political thought,” in P. Boreham, G. Stokes, and R. Hall (eds), *The Politics of Australian Society: Political issues for the New Century*, Longman, Sydney: 2000: pp. 51-64.

¹⁷ *Ibid.*, pp 54-55.

¹⁸ *Ibid.*, p. 55.

¹⁹ Walter, J. “Johannes Bjelke-Petersen: the populist autocrat” and Preston, N. “Peter Douglas Beattie: the inclusive populist,” in D. Murphy, R. Joyce, M. Cribb, and R. Wear (eds), *The Premiers of Queensland*, University of Queensland Press, Brisbane, 2003.

Some charge that he [Peter Beattie] was too ready to speak on too many topics. A populist approach may suit times when the governed feel alienated from government, but in Beattie's case it is also his authentic political style. As with many previous Queensland premiers, this populism includes an element of 'Canberra bashing.' In its contemporary form it calls for a shift from so-called economic rationalist policies to what Beattie has termed 'social rationalism.'²⁰

The Queensland parliament during the six years from 1995 to 2001 was in a continual state of flux, with a succession of governments with either paper-thin majorities, or governing from a minority position. From the final years of the Goss government to the end of the first term of the Beattie administration, governments found it increasingly difficult to push forward with difficult reform agendas, NCP included.

The political environment, especially the emergence of the ONP as a significant political force, made the major parties extremely sensitive to popular opinion, particularly in rural and regional seats. In searching for a defining characteristic, or something to set them apart from the other, the major parties chose to explore various policy positions in the media. For the Labor Party, a priority campaign tool was to continually portray Beattie as a different type of leader to Goss.²¹ Goss's uncompromising, professional/managerial style, was contrasted with Beattie's consensus leadership qualities - the message being that Beattie was the "listening" Premier; a man of the people.

Whether it was a case of being constrained by the political circumstances of the time, or whether it was Beattie's preferred leadership style, he was very comfortable with the playing for votes routine – much more so than Goss. However, Beattie did not

²⁰ Preston, N. "Peter Douglas Beattie: the inclusive populist," in D. Murphy, R. Joyce, M. Cribb, and R. Wear (eds), *The Premiers of Queensland*, University of Queensland Press, Brisbane, 2003: pp. 405-406. Preston notes other populist acts from Beattie, besides his approach to NCP, including: a 5% jobless target (with no coherent plan, and when the State had little control over the macroeconomic circumstances impacting on the unemployment rate); a "smart state" slogan (again not supported by a coherent policy platform); and an on-again-off-again fuel tax (here, Beattie attempted to sheet the blame for the tax on the Commonwealth – or the High Court – but when the falsehood of the argument was exposed in the media, he backed away from the tax, leaving his Treasurer, Hamill, to take responsibility).

²¹ In addition, the Labor Party's 2001 election campaign focused on the alleged "disunity" of the coalition forces – projecting Beattie as the only leader who could reasonably form a majority on the floor of parliament, and lead the State with "certainty and strength."

necessarily like journalists pointing out the different leadership qualities of the two Labor men.

A relatively insignificant *Courier-Mail* story in May 1997 by former Goss media advisor, Denis Atkins, and the subsequent debate in parliament, provides an insight into Beattie's sensitivities surrounding his leadership strategy (the incident also provides an insight into the leadership styles of Goss and Beattie on NCP). Atkins stated that, "Trying to discern the position of the Labor Party on the Hilmer competition reforms is not easy these days as they try to work out which stance attracts the most votes."²²

In a speech to parliament Beattie (then in opposition) addressed the issue head-on. After taking Atkins to task for suggesting he was a populist, Beattie used the opportunity to point out that under his leadership, Labor was focused on protecting regional jobs - implying that it was different to Labor under Goss and if he was able to gain power, his government would shelter regional and rural Queensland from the perceived impacts of NCP.²³

The Atkins article also mentioned a remark made in the House a few days earlier by National Party Local Government Minister, Di McCauley.²⁴ In response to a "Dorothy Dix" question, McCauley pointed out what she believed was a case of "breath-taking case of hypocrisy" on the part of Beattie when representing Labor Party policy to local government.²⁵ McCauley said that it had been brought to her attention that Beattie had written to all Queensland councils pointing out his concern about the potential impacts of NCP on council workforces. She quoted a section of the letter, which read,

Labor believes there is scope within the processes outlined under the National Competition Policy to properly consider the community impact of such reforms, chiefly through a vigorous application of the Public Benefit Test in any review of current arrangements.²⁶

²² *The Courier-Mail*, Bottom Line, 9 May 1997, p.14. Beattie was often criticised by the media as being a populist who often ignored policy substance to secure a greater public profile on issues (see, for instance, *The Courier-Mail*, "Beattie's power politics don't fit the bill," 20 October 2001, p. 30).

²³ *Queensland Parliamentary Hansard*, 9 May 1997, pp. 1684-1728.

²⁴ Minister McCauley (Mrs) stated that "If anyone can make sense of this, then he is a better man than I am because it doesn't make sense." (*Queensland Parliamentary Hansard*, 7 May 1997, p. 1501).

²⁵ *Queensland Parliamentary Hansard*, 7 May 1997, pp. 1499-1501.

²⁶ *Ibid.*, p. 1500.

McCauley stated that the Public Benefit Test was already part of NCP, and that it had always been a condition of the application of the reform agenda. To her, Beattie was trying to put a new slant on something that was already part of the NCP process.²⁷ The level of media spin about NCP implementation will be a constant theme discussed in this thesis. Beattie, while in opposition and as Premier, worked from populist themes to denigrate the policy platform in public, while at the same time progressed many of its elements through State administrative systems (as will be discussed below).

NCP and the reaction of Queensland Parliament

The scuffle over perceived leadership styles (Goss vs Beattie) was part of a general progression towards populist politics in Queensland during the mid to late 1990s. As one of the key policy initiatives of the time, NCP became embroiled in the political posturing of the major parties – all eager to make up on ground lost to One Nation. In endeavouring to make a pitch to disaffected voters in rural and regional seats, all political groupings adopted an aggressive stance towards the policy. The level of emotion was most passionately expressed by members of the newly formed One Nation Party. A motion by Dr Kingston²⁸ reflected the party's core beliefs about NCP:

That, given the fact that the National Competition Policy is the domestic extension of the economic rationalism, and the international history of the economic chaos produced by the adoption of the so-called level playing field ... this House determines to severely dilute the NCP before it costs Queensland more economic growth, more jobs, more welfare recipients, the total collapse of our rural communities, the loss of more industries, an ever-widening gap between the privileged and the rest, the loss of the Australian way of life and, eventually, depression. The indicators of economic malaise are already evident to all Queenslanders.²⁹

Kingston's parliamentary speech serves to highlight some of the key beliefs that were circulating in parliament - and Queensland regional communities – during the time. Comments such as these were reflected several times over by other parliamentarians, not just from the One Nation Party, but also from Labor and National Party ranks.³⁰

²⁷ McCauley described Beattie as: “an absolute fraud and a charlatan.” She later withdrew the remark.

²⁸ Dr Kingston was the Member for Maryborough, a seat held by Labor immediately prior to the 1998 election.

²⁹ *Queensland Parliamentary Hansard*, 11 November 1998, p. 3025. The motion was ultimately changed through amendment and passed unanimously.

³⁰ Liberal Party members (the junior partner in the National-Liberal Coalition) did not join other major political parties in attacking NCP in parliament. In fact, parliamentary leaders such as Watson and Sheldon were sometimes advocates of the reform process, setting them apart from their coalition colleagues, the National Party. Emphasising this point, in the vote on the Competition Reform (Repeal)

Parliamentary attacks on NCP were particularly vociferous during the term of the Borbidge-Sheldon National/Liberal Coalition and the first term of the Beattie Labor Government (ie. from February 1996 to February 2001).³¹

A confluence of circumstances saw parliament take a more populist approach to economic reform. The external influences included: a knife-edge parliament (both Borbidge and Beattie led minority governments), the electoral popularity of newly formed populist parties such as One Nation³², and the (at least rhetorical) recanting of public sector management strategies pursued by managerialist-type governments such as the one led by Goss.

The power of executive government in the State combined with effective party discipline, sidelined much of Queensland parliament's ability to directly influence the NCP process in the lead up to its signing at COAG in 1995. Nevertheless, parliament still played an important role in shaping public perception of the policy, largely through the parliamentary debates associated with NCP-led legislative amendments, as well as utterances in the press. Queensland parliamentarians were thus provided with ample opportunity to express their views about the policy as implementation progressed.

In terms of public perception, neither major political grouping wanted to be closely associated with NCP implementation.³³ Both the Borbidge and Beattie administrations adopted a "double game" of publicly voicing their displeasure with the policy, while continuing to implement the reforms behind the scenes.³⁴ Beattie, while in opposition,

Bill in May 2000 – a Bill introduced by the One Nation Party in an attempt to underline its strong "philosophical" opposition to NCP - the Liberals voted against their coalition partners, siding with the Labor Party. By crossing the floor, the Liberals gave Labor the numbers to vote the Bill down – 47 to 33 (*Queensland Parliamentary Hansard*, 31 May 2000, p. 1496).

³¹ In other words, the terms of the 48th and 49th parliaments. The term completed by Beattie in February 2001, extends beyond the period of research targeted in this thesis (ie. from April 1995 to November 2000). This time over-run has been accommodated in the research by referencing material only up to the NCP/NCC review date of November. In any case, there was no parliamentary debate on NCP between the completion of the review and the formation of the 50th parliament in early 2001.

³² Including the off-shoot of One Nation that formed in 1998 called the City-Country Alliance Queensland (CCAQ).

³³ Even though the Liberal Party was an advocate of the reform process, it was very much a "junior partner" in the coalition with the National Party. Hence, the views of the Liberal parliamentarians were diluted significantly amidst the overall rhetorical approach of the Coalition.

³⁴ For example, even though National Party parliamentarians took an increasingly critical approach to NCP implementation during the late 1990s, the party's official policy platform remained highly supportive of it, a point raised by several ALP members during parliamentary debates. The National

promoted the idea of adopting a more thorough approach to the public benefit test as a means to soften the perceived impacts of the policy.³⁵ Later in government, he pushed for the withdrawal of the NCC from the decision-making process associated with competition payments. His counterpart, Rob Borbidge, even suggested that his party would examine the consequences of withdrawing from NCP altogether.³⁶

With the major political groupings adopting a hostile political campaign against NCP, a number of parliamentary debates in the late 1990s and the year 2000 tended to spiral out of control, as parliamentarians attempted to outdo and out-claim each another. Several key themes – all rhetorical positions of questionable validity – emerged in parliamentary debate during this time. These themes were repeated constantly in debates on NCP, as will be highlighted in the case study material presented in chapter five.

Theme 1 – NCP requires privatisation.

The first theme relates to ownership of public assets. Many Queensland parliamentarians believed NCP required governments to sell-off, or privatise, publicly-owned business operations such as rail lines, electricity supplies and ports. Linked to this belief was the perceived requirement for public agencies, including shire councils, to contract-out certain parts of their operations, such as road construction and park maintenance.

Party's policy platform stated that the Party, "... recognises that the National Competition Policy offers a sensible and pragmatic policy tool for improving the State's competitiveness while protecting the legitimate provision of social services" (*Queensland Parliamentary Hansard*, 31 May 2000, p. 1408).

³⁵ Beattie insisted on a public benefit test as a mechanism to improve the thoroughness of NCP assessments, even though the requirement for it was already in the original NCP agreement. He emphasised the need for the State to provide comprehensive guidelines on how to undertake the public benefit test, not the perceived need to change the intergovernmental agreement. Beattie delivered on his election promise when, sixteen months after attaining office in June 1998, the government finally published a detailed document on how to undertake public benefit tests for legislative reviews (*Queensland Government, Approach to Undertaking Public Benefit Test Assessments for Legislation Reviews under National Competition Policy*, Queensland Treasury, October 1999).

³⁶ Recognition of the incongruity between rhetorical condemnation and official support saw the National Party in October 1999 pass a resolution to examine the implications for the State in withdrawing from the intergovernmental agreement on NCP (*The Courier Mail*, "Nats may skip competition policy," 25 October 1999, p. 2). The National Party committee charged with this responsibility failed to finish the task prior to the 2001 State election, and the resolution was not followed through or incorporated into official party policy.

These beliefs held firm even though the actual NCP agreement itself was quite explicit about ownership structures. Clause 1(5) of the Competition Principles Agreement stated, “This Agreement is neutral with respect to the nature and form of ownership of business enterprises. It is not intended to promote public or private ownership.”³⁷ To continue to imply that NCP was “pro-privatisation” stood in clear contrast to the contractual obligations of the State under the intergovernmental agreement signed in April 1995.

Nevertheless, Queensland parliamentarians adopted a tack that no matter what the NCP agreement actually said, the underlying tenet was about forcing public sector agencies to privatise and contract out. Jim Fouras’s (Labor) 1998 comment in the House best sums up the position of parliamentarians relying on the privatisation theme. In responding to a One Nation Party motion calling for the abandonment of NCP, Fouras claimed:

In the industrial world, groups representing industries such as the Business Council of Australia increasingly extol a trilogy of economic “truths”: firstly, competition policy must be pursued at all times as the only means of securing jobs and economic growth; secondly, the provision of goods and services by the public sector leads to gross inefficiencies and the answer rests in outsourcing and privatisation; and thirdly, our economic well-being will be enhanced by the sale of public utilities such as Telstra. Blind adherence to this corporate agenda is not in the interests of the overwhelming majority of our citizens.³⁸

The belief that NCP required privatisation gained traction for two main reasons. First, several years prior to the signing of NCP, public sector unions campaigned stridently against the corporatisation and commercialisation of government enterprises. Their central campaign thrust was that these reforms were really just precursors to full privatisation – the logic being that once a government entity was made more business-like, governments would become attracted to the idea of selling it outright. So, for parliamentarians convinced by this type of logic, particularly those from the ALP with a union background, any type of commercial reform of government enterprises was

³⁷ National Competition Council, Competition Principles Agreement, *Compendium of National Competition Policy Agreements*, Second Edition, June 1998: p. 15.

³⁸ *Queensland Parliamentary Hansard*, 11 November 1998: p. 3033. Jim Fouras was the Parliamentary Speaker during the term of the Goss Labor government. He was overlooked for the position when Labor returned to power in June 1998.

treated with suspicion, irrespective of whether privatisation was the ultimate reform goal.

Second, managerialist-type reforms in other jurisdictions, particularly those undertaken by the Kennett Liberal Government of Victoria in the mid 1990s, included a comprehensive program of privatising State-owned assets.³⁹ Again, many Queensland politicians were highly suspicious of the “Kennett-type” reform agenda.

In the end, NCP simply became a type of shorthand for politicians attempting to describe a range of public sector reforms targeted at either making government enterprises more efficient, or reducing government asset ownership. This script was given further amplification by public sector unions, particularly those in the rail and electricity utility sectors,⁴⁰ when mounting campaigns about job security. These unions were key constituency groups of the Australian Labor Party, and as a result had privileged access to a number of Labor Party politicians in Queensland. This served to reinforce the belief system gaining currency in the House.

The perceived requirement to contract-out government services, particularly council road operations, probably stemmed from the policies of the Kennett government as well. Contributing to this false perception, was the NCP requirement for councils to adopt a “code of competitive conduct” when competing for contracts on the open market. This policy was endorsed by the road construction industry as a means to ensure public agencies included all of their costs when bidding for Queensland Department of Main Roads contracts. The private road construction industry was concerned that some Councils were undercutting them for main roads work by not including all of their costs when submitting tenders. The code did not require councils to contract out their in-house services, just promote a fair system of tendering for already contracted services.⁴¹

³⁹ Costar, B. J. and Economou, N. M. *The Kennett revolution: Victorian politics in the 1990s*, UNSW Press, Sydney, 1999: pp. 2-11.

⁴⁰ Many Queensland ALP parliamentarians maintained close links to the union movement. Several advanced careers in the industrial wing of the Labor movement prior to entering parliament. For instance, Beattie was an industrial advocate for the Stationmasters Union.

A policy of releasing main roads work on the competitive market (as an efficiency measure by both the Goss Labor and Borbidge National Party Governments⁴²) also gave the impression that the contracting process was being driven by NCP. But, as with other reform processes, the policy was simply consistent with the purpose of NCP, not a requirement of it.⁴³

Notwithstanding this, many shire councils expected to receive main roads work as a matter of course. As a result, the State government's contracting decision potentially threatened what was previously considered council guaranteed work.⁴⁴ As NCP was being implemented at the same time, it was difficult for local government politicians to understand the subtle differences, and as a result the Main Roads policy was simply lumped in with NCP.

Theme 2 – NCP is an extension of Australia's free trade policy

The second theme often referred to by Queensland parliamentarians equated NCP with a national free trade policy. Considering that many communities in regional and rural areas felt threatened by changes to world trading patterns, it was not unusual for this concern to be raised in parliament. As former Premier and National Party minister, Russell Cooper remarked:

Over the past 10 years or more, we have seen many so-called reforms that we have been told will be good for us – National Competition Policy, economic rationalism, trade reform, level playing field and political correctness. We have had the lot and we have had a gutful, because we have not been in control of our own destiny. That has worried our people.⁴⁵

⁴¹ Queensland Government, *National Competition Policy: Local Government in Queensland Code of Competitive Behaviour*, November 1996 (internal policy document of government).

⁴² Efficiency was more than simply achieving “cost savings.” Efficiency, as used here, is meant to imply increased output when measured against resources consumed. For example, greater output (eg. more bitumen roads), as opposed to overall cost savings. Also, roads are classified into two main groups: Main roads, which are the responsibility of the State, and local roads, which are the responsibility of local government.

⁴³ In fact, the President of the NCC, Graeme Samuel, would often cite decisions made by Local Authorities to contract-out services as examples of administrative stupidity, particularly in areas where competitive pressures were low, or economies of scale meant that competitive markets would soon evaporate (Samuel, G. *National Competition Policy: The Public Interest*, speech to the National Press Club, 15 May 2001).

⁴⁴ Owing to political lobbying by the smaller shire councils, the State government retreated to a “zonal policy” of road contracting, where councils west of the Great Dividing Range were once again “given” main roads work. However, these councils were required to meet negotiated performance standards with the department. In any case, the decision to contract out main roads work was one for the government-of-the-day, not something dictated by either NCP or the NCC.

Linking trade policy to NCP, however, required a significant leap of logic. Presumably, with or without a domestic policy on competition, a nation could pursue whatever trade policy it deemed necessary at the time. It is difficult to see the direct link between the two policy arenas, except to acknowledge that many farm producers were concerned about input costs. NCP held the promise of reducing these costs, hence making their operations more competitive on the world stage.⁴⁶

Nevertheless, the links were made. As the Leader of the One Nation Party (and then the CCAQ) pronounced:

There is no legislation more soul destroying for the average Queenslander than that which implements the idiocy of the National Competition Policy ... National Competition Policy wreaks absolute havoc among farmers, the workers and the small business operators ... “the free market will provide competition and efficiencies which flow to the consumer,” say the simpletons who promote this puerile dogma ... the level playing field of laissez faire economic theory had all but destroyed the Australian beef industry ... [and finally] Professor Hilmer and his tunnel vision followers have been dazzled by perceptions. Free trade sounds good. Regulation sounds bad.⁴⁷

There was yet another angle to the “free trade” argument. Significant competitive pressure was being applied to farmers in regional and rural areas from low-cost producers located in southern States, particularly in the supply of staple items such as milk and eggs.⁴⁸ In this respect, parliamentarians using the so-called “free trade” policy allegedly promoted by NCP could have been attempting to slate inter-state trading pressures. However, relying solely on this argument was somewhat problematic, as the Australian constitution enshrines free trade between the States. In fact, it was one of the key reasons why the States federated in the first place.⁴⁹

Also linked to the notion of “free-trade” between the States, was the process of statutory marketing reform pursued by Queensland (and other States) from the late 1980s onwards. Here, many of the anti-competitive arrangements supported by State legislation were being progressively withdrawn, in consultation with industry groups. Essentially, rural producers were required to market their produce like any other good or

⁴⁵ *Queensland Parliamentary Hansard*, 31 May 2000, p. 1478.

⁴⁶ This was the main reason why the National Farmers Federation was a strong advocate of NCP, seeming to contradict the views of their constituency groups in rural areas.

⁴⁷ *Queensland Parliamentary Hansard*, 31 May 2000, pp. 1491-1493.

⁴⁸ An analysis of NCP and its impact on the Queensland milk industry is presented in chapter five.

service, without government intervention in areas such as price setting and producer number restrictions.

Whatever the specific merits of statutory market reform, the process had been occurring well before NCP was created. However, the implementation of NCP may have hastened the reform process for some agri-business sectors, thrusting the policy into centre stage, so it seemed.⁵⁰ Whatever the exact motivation of parliamentarians, a “free-trade” argument may have been used as a means to protest about a growing government reticence to intervene in the marketing arrangements for rural produce.

Finally, the “free-trade” rhetoric was linked to the role played by multi-national firms, particularly the large supermarket chains, in “crushing small business” and exerting cost pressures on family-run rural enterprises. As Mr Knuth, formerly of the One Nation Party but then of the splinter group CCAQ, asserted: “... small business and rural Australia are clearly being hijacked ... clearly big business and the multi-nationals are behind National Competition Policy ... they are the ones running the show.”⁵¹

The legislative review process that accompanied NCP required governments to examine legislation that restricted competition to assess whether the restrictions were necessary. The review process was to apply what was referred to as the “public benefit test.” As defined by Clause 1(3) of the Competition Principles Agreement, the test was to include qualitative as well as quantitative methodologies so as to assess a range of non-economic criteria such as potential regional employment and environmental impacts. However, the simple prospect of reviewing anti-competitive restrictions caused significant concern to various protected industries, especially small to medium sized businesses such as newsagents, pharmacies and liquor outlets.⁵²

⁴⁹ Section 92, Commonwealth of Australia Constitution Act.

⁵⁰ Even here, the role of NCP was largely misunderstood by a number of politicians. Put simply, NCP required governments to review industry practices. The decision to reform the industry was one for the government. Again, governments needed to weigh the reform decision against other issues, such as the potential forfeiture of NCP incentive payments, or the practical implications of the requirement for free-trade between the States as mandated by the Australian constitution (as was the case with the Queensland dairy industry, discussed in more detail in chapter six).

⁵¹ *Queensland Parliamentary Hansard*, 15 March 2000, p. 488.

⁵² To highlight the flexibility inherent in the review process, the review conducted into the *Liquor Act*, found that deregulation of supply (ie. sale through supermarkets) could not be justified (*Queensland Parliamentary Hansard*, 22 March 2001, p. 85). Similarly, based on a national review, pharmacy

The fear was that the large supermarket chains would take over, if these markets were deregulated. The reaction in parliament was based on a pessimistic view of what the legislative assessment process would recommend and the decisions ultimately implemented by government. Once completed the reviews rarely recommended wholesale deregulation.

Irrespective of the actual driving force behind economic change, rural producers and small business were feeling insecure about the future of their industries. The certainty provided by government-protected marketing arrangements, albeit at some cost in terms of economic efficiency, provided small to medium size operations with predictable cash flows and stable production schedules.

Changing the system to adopt a more business-like approach to the marketing of rural produce required significant cultural change within a number of agri-business sectors, all with a strong regional presence, even though these changes had been signalled many years in advance of the creation of NCP.⁵³ As is often the case with cultural change, with it came uncertainty, and with uncertainty came insecurity. NCP debates in parliament simply presented a good opportunity for regionally-based politicians to express the deeply-held concerns of a number of their local constituents.

Theme 3 – NCP requires government to reduce services

The third theme concerned the provision of government services. During parliamentary debates in the late 1990s, several Queensland parliamentarians asserted that NCP implementation led to a reduction in government services in regional and rural areas. Specific reference was made to the closure of courthouses and rail-lines in many bush towns. The inference was that NCP required governments to withdraw community service obligations. The views of the Independent (originally One Nation) member for Barambah, Dorothy Pratt, best sums up the concern:

deregulation was ruled inappropriate as well (NCC, *NCP Legislative Review Compendium*, 4th Ed, 2002: p. 182). The review of newsagent practices was not as straight forward, in that it is not government legislation that restricts competition, rather an industry practice known as “zoning”. This put the issue in the court of the ACCC (as it was a restrictive trade practice), rather than the NCC and the legislative review process. Nevertheless the Commonwealth government exempted newsagents from review (as raised in debate, *Queensland Parliamentary Hansard*, 17 May 2000: p. 1168).

The detrimental effects of NCP on small rural towns such as those in the Barambah electorate are very evident. These towns are too small to absorb the blows that NCP throws their way, resulting in a domino effect which impacts on every business, every individual and every facility in the town ... because of the transfer of population, the school suffers for want of numbers ... so it was threatened with closure.⁵⁴

In relation to the funding of government services, there may have been some “buck-passing” going on in political circles, with NCP used as an excuse for implementing tough budgetary decisions. The Productivity Commission (PC) addressed this issue in its 1999 inquiry into NCP. The PC suspected that much of the community reaction to NCP in small towns was fuelled by inaccurate perceptions about the role of NCP in government decision-making processes, particularly its potential impact on government-funded activities like schools, courthouses and rail-lines. In its report the Commission argued:

The provision of community service obligations reflects political judgements about the equitable provision of services to people throughout Australia. The Commission’s recommendations relating to better provision of information about NCP should help to ensure that governments do not abrogate their responsibilities to provide an ‘adequate’ level of services to communities in country Australia by claiming that cost-cutting measures are dictated by NCP.⁵⁵

To suggest that NCP required government to withdraw community service obligations was simply incorrect. The debate about NCP, however, enabled parliamentarians from rural and regional areas to express the concerns felt by their constituents about the future of their communities. While the changes that were occurring stemmed from much broader economic, budgetary and social influences, NCP debates provided politicians with an avenue to articulate the problems experienced by their constituents, and have these concerns registered on the public record (ie. Hansard).

Theme 4 – The NCC slashes State budgets

The fourth theme relates to the power of the NCC and its alleged ability to arbitrarily reduce Commonwealth financial assistance grants to State governments. This particular argument was used on a regular basis by Treasurers and Premiers - particularly the Treasurer in the Beattie Labor Government, David Hamill, (as well as Beattie himself)

⁵³ Discussed in chapter five where the changes in the Dairy Industry are analysed in detail.

⁵⁴ *Queensland Parliamentary Hansard*, 12 April 2000, p. 853.

but also Borbidge and some of his more senior ministers. Central to this argument was the notion that the NCC was usurping the sovereign powers of a duly elected government.

During the late 1990s, it was clear that the executive government of Queensland was increasingly frustrated with the role played by the NCC when assessing State performance against agreed NCP benchmarks. Through a series of assessments and reports published by the NCC, Queensland was targeted for its apparent tardiness in implementing the reform program, largely in relation to the implementation of the COAG water reform agenda.⁵⁶ The political implications of the reform program were most acute for members sitting on the Treasury benches. They were caught between the need to access incentive payments associated with implementing the reform program, and the need to appease key constituency groups pressing for continued industry protection or special government assistance.

The executive needed to introduce some level of political decision-making into the assessment process, otherwise risk the loss of incentive payments from the Commonwealth. In short, they chose to mount a political campaign against the NCC with the view to curbing its independence and bringing resource allocation decisions back to more political bodies such as COAG.

A key component of this campaign was the assertion that the NCC was usurping the role of democratically-elected governments when advising the Commonwealth Treasurer on the distribution of NCP incentive payments. The resolutions led by former Treasurer Hamill quoted at the start of the previous chapter highlighted the persuasiveness of this theme in parliamentary and party-room debate. In the same vein, ALP backbencher, Neil Roberts adopted the following tack:

⁵⁵ Productivity Commission, *Impact of Competition Policy Reforms on Rural and Regional Australia*, Report No. 8, AusInfo, Canberra, 1999, p. 345.

⁵⁶ The specifics of this area of the reform program are discussed in chapter five.

... there is a need for the sovereignty of elected governments to be respected in terms of decisions about exempting certain activities from competition laws and the application and use of community service obligations. I believe that ... decision should not attract penalties such as those that currently are being threatened and implied in the implementation of National Competition Policy by bodies such as the National Competition Council.⁵⁷

The assertion was spurious on two counts. First, the NCP payment structure was designed to distribute funds accruing to the Commonwealth's taxation base as a result of the reform process. The payments were incentives for performance towards agreed implementation milestones, and consequently, governments should not have expected to receive full payments if they were unwilling to implement aspects of the reform agenda. NCP payments were never designed to be guaranteed, up-front financial assistance grants, and should not have been factored into State budgets as such.

Second, the decision to implement the reform process was for the State alone. It could not be forced by the NCC to undertake reforms it found unreasonable or objectionable. If it chose to ignore the process in full or in part, it could do so of its own free-will. Arguments that the process attacked the sovereignty of State parliaments simply do not stand up to close examination. There were obvious consequences for not taking on the reforms, largely related to incentive pool payments – a situation that political leaders found extremely uncomfortable due to the deteriorating budget position of the State in the late 1990s. It seemed that the complaints by incumbent governments over sovereignty rights were more about rejecting the oversight role set out for the NCC in the original NCP agreement, than any real limitations to government's capacity to set policy direction.⁵⁸

There was, however, an issue with how the NCP agreement was interpreted by the NCC. The NCC seemed to adopt a rather doctrinaire approach to the interpretation of specific clauses in the agreement, and at times, may have over-extended the intended purpose of the policy.⁵⁹ As highlighted in chapter two, there were no appeal rights in the NCP agreement, meaning that it was difficult for participating jurisdictions to dispute the NCC interpretation of specific aspects of the policy. This situation tended to

⁵⁷ *Queensland Parliamentary Hansard*, 15 March 2000, p. 496.

⁵⁸ The only possible exception would be the potential exposure of certain sections of the economy to the Commonwealth's Trades Practices Act.

leave incumbent governments with no option but to use political means to resolve matters in dispute. This served to politicise much of the NCC's work.

The claim that the NCC was usurping the role of democratically-elected governments by "penalising" State governments in the distribution of NCP incentive payments, was very likely a means to draw attention to differing perspectives on various clauses in the actual NCP agreement. Nevertheless, the statement gave an inaccurate picture of the true position on NCP and the role of the NCC.

Theme 5 – NCP has an overall negative effect on the economy

The economic argument surrounding NCP implementation requires special attention, as, on the surface at least, it legitimised many of the assertions made by Queensland parliamentarians. The rhetoric on the subject was colourful, as the following quote from One Nation, turned CCAQ member, Dr Prenzler shows:

They [the NCP incentive payment scheme and the NCP agreement itself] are the tactics used to force all Australian governments to public embrace the aberration of economic theory known as economic rationalism and its bastard child the National Competition Policy ... because as surely as a child is the product of the union between a man and a woman so is National Competition Policy the product of the unholy union between globalisation and economic rationalism ... the net effect of this crazy National Competition Policy experiment is negative in almost every respect in virtually every single region of Queensland ... [It] has devastated many rural areas and devastated the work force of many rural councils. And what for? Just to satisfy the crazy dreams of a mad economic rationalist called Hilmer!⁶⁰

Of particular interest to parliamentarians were the arguments presented by Queensland-based academic, Professor John Quiggin. Quiggin, a high profile academic from the Australian National and James Cook Universities, was a lone voice among mainstream economists. He decried the conclusions of a number of economic reports on micro-economic reform, most notably the Industry Commission (IC) study used by COAG to conclude NCP negotiations in 1995. Through a series of newspaper articles and a book on the subject, Quiggin gave the impression that NCP was a highly inappropriate policy choice for the times.⁶¹

⁵⁹ Discussed in further detail in chapter four.

⁶⁰ *Queensland Parliamentary Hansard*, 15 March 2000, p. 487.

⁶¹ Quiggin's work in the area of competition policy and microeconomic reform included: *Great Expectations: Microeconomic Reform and Australia*, Allen & Unwin, Sydney, 1996; "Estimating the benefits of Hilmer and related reforms," *Australian Economic Review*, 30(3), 1997: pp. 256-72; "Social

Acknowledging – indeed, gratefully seizing upon – Quiggin’s work, the Beattie Labor Government appointed him to the Queensland Competition Authority – a body established to arbitrate on infrastructure access provisions and monitor the implementation performance of statutory bodies and local authorities – claiming that he “would bring some sense” to the implementation of NCP in the State.⁶²

Quiggin’s attacks on NCP were targeted at three areas. First, he questioned the validity of the assumptions made by the IC when estimating productivity improvements. Second, he questioned the adequacy of the ORANI model used by the IC to predict likely economic impacts on the Australian economy. Finally, he questioned the normative assumptions behind competition policy itself – bundled loosely together as a critique of policy makers who either relied too heavily on “economic fundamentalism,” or were part of a policy elite advocating urgent micro-economic reforms to further their own interests. A full analysis of Quiggins assertions in these areas is provided in Appendix 1. Suffice to say here, his claims about NCP could not withstand close scrutiny.

Nevertheless, Queensland political leaders continued to portray Quiggin as a “saviour” to their cause. Treasurer Hamill described him as:

... internationally recognised as a strong critic of economic rationalism and he brings a great deal of knowledge about the social impacts of micro-economic reform [to the Queensland government in his role on the Queensland Competition Authority]. I believe that Professor Quiggin has been asking the pertinent question: what are the real costs to our community of the proposed reforms.⁶³

Overall, Quiggin’s foray into the public debate on NCP gave the appearance that the reform process was flawed, even though his own research was not saying that at all. Queensland politicians were quick to latch on to Quiggin’s public persona, as a

democracy and market reform in Australia and New Zealand,” *Oxford Review of Economic Policy*, 14(1), 1998: pp. 76-95; “Competition hang-ups,” *Eureka Street*, 8(4), 1998: pp. 23-24; “Micro gains from micro reform,” *Economic Analysis & Policy*, 28 (1), 1998, pp. 12-16; *The Australian Financial Review*, “Micro benefits of reform,” 18 June 1997, p. 15; *The Australian Financial Review*, “A lesson for microeconomists,” 2 January 1998, p. 9; *The Australian Financial Review*, “Labor right to reject reform,” 22 January 1998, p. 11; *The Australian Financial Review*, “Competition policy the chief culprit,” 18 June 1998, p. 8.

⁶² *Queensland Parliamentary Hansard*, 1 March 2000, p.169.

⁶³ *Queensland Parliamentary Hansard*, 1 March 2000, p. 169.

justification for their own stance on NCP. Meanwhile, the consensus amongst economists, Quiggin included, was that while the economic benefits of NCP had been overstated by the IC model provided to COAG in 1995, the reform program was nevertheless worthwhile and should continue.

Patterns of “theme use” in Parliament

Queensland political leaders relied heavily on the five themes outlined above when debating the virtues of NCP in parliament in the late 1990s. Tables 4.2 to 4.4 provide lists of politicians who relied on them, based on three categories of political groupings. The rhetorical points were adopted during NCP-related parliamentary debates in the first five and a half years of NCP implementation.⁶⁴

⁶⁴ The analysis examines major rhetorical points only, as raised during parliamentary debates on enabling legislation, private members statements and motions on notice, during the five years after the State signed the NCP agreement. The legislative debates involved: The Competition Policy Reform (Queensland) Bill 1995 and 1996; The Queensland Competition Authority Bills (including amendment bills), various amendment bills to the Local Government Act; Dairy Industry (Implementation of National Adjustment Arrangements) Amendment Bill; The Water Bill; and the Competition Policy Reform (Queensland) Repeal Bill. The analysis is not meant to imply that all parliamentarians adopted a common theme; far from it. Parliamentarians such as Neil Roberts undertook a considerable amount of research before making his contribution. As a result, his comments were more informed and nuanced than other parliamentarians. For example, when discussing NCP and privatisation, Roberts consistently noted that NCP “in the wrong hands” could promote the selling-off of State-owned assets. Other parliamentarians appeared less prepared to comment authoritatively on either NCP or economic reform in general.

Parliamentarian	Date/s	Theme relied upon during debate ⁶⁵				
		1	2	3	4	5
Clem Campbell	10/7/96; 9/5/97	4				4
Tony McGrady	10/7/96	4				
Ken McElligott	10/7/96	4	4	4		4
Neil Roberts	9/5/97; 11/11/98; 15/3/00	4			4	
Len Ardill	9/5/97	4				4
Jim Fouras	9/5/97; 11/11/98	4		4		4
David Hamill	11/11/98; 1/3/00			4	4	
Peter Beattie	11/11/98			4	4	
Terry Mackenroth	9/5/97				4	4
Grant Musgrove	15/3/00; 12/4/00				4	4
Pat Purcell	17/5/00	4				4

Table 3.5 - The use of NCP themes by Queensland parliamentarians from the Australian Labor Party.

⁶⁵ Legend is as follows: Theme 1: NCP requires privatisation; Theme 2: NCP is an extension of Australia's "free trade" policy; Theme 3: NCP requires governments to reduce services; Theme 4: The NCC slashes State budgets; Theme 5: NCP had an overall negative effect on the economy.

Parliamentarian	Date/s	Theme relied upon during debate				
		1	2	3	4	5
Lawrence Springborg	9/5/97; 15/3/00				4	
Fiona Simpson	10/7/96				4	
Rob Borbidge	11/11/98; 1/3/00			4	4	4
Vaughan Johnson	15/3/00	4				
Mike Horan	12/4/00	4		4	4	4
Mark Rowell	12/4/00; 17/5/00	4			4	4
Rob Mitchell	17/5/00	4		4		4
Graham Healy	17/5/00					4
Howard Hobbs	17/5/00	4				4
Mick Veivers	17/5/00					4
Vince Lester	17/5/00					4
Russell Cooper	17/5/00; 31/5/00					4
Doug Slack	31/5/00					4
Ted Malone	31/5/00		4			4

Table 3.6 - The use of NCP themes by Queensland parliamentarians from the National Party.

Parliamentarian	Date/s	Theme relied upon during debate				
		1	2	3	4	5
Jeff Knuth	11/11/98; 15/3/00	4	4	4		4
Dr Peter Preznler	19/11/98; 25/3/99; 1/3/00; 15/3/00	4	4	4	4	4
Bill Feldman	19/11/98; 15/4/99; 31/5/00; 18/5/00	4	4	4	4	4
Liz Cunningham	9/5/97; 15/3/00	4		4	4	4
Dr John Kingston	11/11/98; 31/5/00	4	4	4		4
Shaun Nelson	11/11/98; 1/3/00	4	4	4		4
Harry Black	1/3/00	4	4	4		4
Jack Paff	1/3/00	4	4	4		4
Dorothy Pratt	12/4/00; 31/5/00					4

Table 3.7 – The use of NCP themes by Queensland parliamentarians from the One Nation and CCAQ parties, and Independents.

To members of the small communities suffering the negative consequences of economic change, NCP was viewed as another policy measure working against them. As noted, protests by politicians against the alleged negative impacts of NCP may have been a surrogate for the general economic malaise experienced by struggling regional towns, rather than the specifics of the policy itself.

As such, the timing of the NCP reform process was poor from the perspective of people living in bush towns. It came at a time when rural areas were looking for assistance to manage structural change largely caused by external forces such as globalisation, life-style choices and mechanisation.⁶⁶ Instead of offering hope, NCP was seen as just another issue that struggling communities had to contend with.

Structural change, even if the community was going to be better off in the end (in aggregate terms), had obvious political consequences. Once strong farming communities were turning their hands to tourism and aquaculture ventures – changing the nature of the community elites, and to some extent the community's joint identity. Significant social change was embroiled in the economic adjustment that was taking place.

The combined forces of economic and social change, coupled with the over-inflated expectations of what could be achieved through a reform program like NCP from the trumpeting of the IC report in 1995, fuelled the discontent felt in rural and regional Queensland. Politicians were simply reflecting these views when engaging in public and parliamentary debate. In this sense, the mythology around NCP became a simple short-hand script for the level of despair emanating from the communities they represented.

⁶⁶ The most telling factor of change for rural areas was the declining terms of trade for the agricultural and mining sectors, followed by technological advancements and productivity improvements in traditional industries. These forces, coupled with demographic trends, more comprehensive environmental controls, and increased economic activity in the services sector of the economy – particularly tourism, meant that NCP was attracted some unwarranted criticism. From the PC's point of view at least, NCP had become the scapegoat for broader economic change that had been occurring in Australia for some time.

Queensland public sector reform in the 1990s

As discussed in the section on policy implementation in chapter one, Politt and Bouckaert emphasise the need for informed leadership at the administrative level, as well as the organisational capacity to get the job done.⁶⁷ A brief analysis of the administrative reforms in Queensland during the 1990s provides an assessment of these important aspects of the conceptual framework developed in chapter one.

The early 1990s ushered in a series of administrative and policy development reforms within the Queensland public sector. Reform in these areas provided the Premier with the ability to strike agreements in forums like COAG, as well as the strategic capacity to swing the apparatus of the state behind a negotiated national policy outcome. The changes in Queensland public administration fall into two categories: reforms to the policy coordination structures of government, and reforms to the public sector proper.

Reforms to policy coordination structures

The election of the Goss Labor Government in December 1989 marked the re-configuration of policy coordination processes within the State. Primary amongst these were the coordination mechanisms established within the Premier's Department, designed to draw together disparate policy development functions of line departments and to provide newly elected government with the strategic capacity to manage its reform agenda.⁶⁸ The Policy Coordination Division, as it was then known, was led by academic policy analyst, Brian Head.⁶⁹ Responsibilities of the Division included coordination of social and economic policy processes, and intergovernmental relations. It had a strong call on the policy expertise of line departments, but was very much the master of its own destiny. As can be expected when power relations with the public sector are altered, line departments tended to resent the independence and influence of the new division.

⁶⁷ Pollitt, C. & Bouckaert, G. *Public Management Reform: A Comparative Analysis*, Oxford University Press, Oxford, 2000: p. 186.

⁶⁸ Head, B. "Central Agency Policy Coordination" in A. Hede and S. Prasser (eds) *Policy Making in Volatile Times*, Hale and Iremonger, Melbourne, 1993: pp. 162-163.

⁶⁹ Dr Head was Associate Professor of Public Policy at Griffith University immediately prior to taking up his role in Government. His research interests covered intergovernmental relations, human resource management and public policy (Davis, *Government of Routines*: p 92; Hede and Prasser (eds) *Policy Making in Volatile Times*: p 8).

The policy advice from line departments lost status to the new central agency. This new contestability in policy matters was not received warmly within the bureaucracy, particularly in large budget agencies such as Health, Education and Transport. To these departments, coordination meant constraints on their independence.⁷⁰ The NCP reform agenda had significant impacts on large line departments, necessitating considerable interplay between the staff of the coordination unit and specialist departmental policy advisors when the policy was being developed through COAG.

The establishment of the Policy Coordination Division was of critical importance to the management of intergovernmental relations in Queensland. Until then, the Premier and Cabinet lacked the necessary levers to exert strategic command over the State's policy agenda. While "strong-arm" Premiers such as Bjelke-Petersen and Forgan Smith were able to impose policy responses, it was done largely on an arbitrary - if not idiosyncratic - basis; it never amounted to overall strategic control of the public sector.⁷¹

On 1 July 1991, the Policy Coordination Division in the Premier's Department evolved into the Office of the Cabinet. Through his contact with other State leaders, Premier Goss was able to observe the role played by high powered central agencies in other jurisdictions. He was most impressed by the workings of the Cabinet Office in New South Wales, headed by Nick Greiner's advisor, Gary Sturgess.⁷² With a separate Cabinet Office - with its own Director-General - Greiner was able to exert greater management control over line departments than Goss was able to achieve through a much smaller and less substantive coordination unit within the Premier's Department. The heads of these central agencies blended the administrative with the political -

⁷⁰ Davis, "Executive and Policy Co-ordination": p. 41.

⁷¹ *Ibid.*, The formation of "megadepartments" under the Goss regime also provided a positive influence on policy coordination. Learning from the processes of departmental amalgamation in other States and at the Commonwealth level, the Goss government combined the functions of several line departments, reducing the number of portfolios from 26 to 18. The amalgamations were designed to increase the level of responsibility held by each minister, essentially internalising much of the conflict within larger departmental groupings. It also meant that government could liberate budget savings by combining the corporate service functions of line departments.

⁷² Davis, "Carving Out Policy Space for State Government," p. 157.

extending the reach of their premier and ensuring the policy agenda of government was followed.⁷³

The Queensland version of the Cabinet Office was provided with an initial staff establishment of 81 and a budget of \$5.9 million. Its first departmental head was Kevin Rudd, Goss's former Private Secretary. It controlled Cabinet's forward agenda, coordinated multi-agency policy development, ensured that the priorities of the government were adhered to, and provided the administrative support to the Premier on all intergovernmental matters.⁷⁴ The Office soon became a major player in the management of government business, exerting its influence across line departments on a number of key policy fronts. In addition, staff from the Office of the Cabinet represented Queensland in COAG working parties and Ministerial Coordinating Councils.⁷⁵ It became the fulcrum around which the business of government was organised, particular the strategies used by the State in intergovernmental negotiations.

The move from private secretary to Director-General of the Office of the Cabinet cemented Rudd's position at the centre of the strategic management processes of the Goss administration. Some ministers complained bitterly - albeit largely in private - that Rudd and his senior staff members exerted too much control over policy matters, effectively usurping the role of line departments in the decision-making processes of government.⁷⁶ Resenting this, and on many occasions genuinely feeling that the policy direction of the Cabinet Office was ill-advised, many officers in line departments were unlikely to provide much support for the central agency when providing briefings to their respective ministers.

Under the stewardship of Goss and Rudd, the government was able to shift from the rather loose system of public administration it inherited from the Nationals to a centrally controlled, strategically driven form of public sector management. The tight coordination of policy achieved via, first, the policy coordination division and, then,

⁷³ Davis, *Government of Routines*: pp. 74-76. This example highlights the relationships that developed between government leaders during the era of collaborative federalism. Though from different political parties, Goss and Greiner shared views on a number of issues, public administrative practice being one of them. Rudd and Sturgess also worked closely together, on similar reform paths.

⁷⁴ Davis, "Executive and Policy Co-ordination," p. 41.

⁷⁵ Davis, "Carving Out Policy Space for State Government," p. 157.

through the Office of the Cabinet, gave the Premier a stronger hold on the policy agenda of government. These reforms coincided with a surge towards collaborative federalism at the national level under Hawke and Keating, evidenced in the creation of SPCs and COAG.

If a premier is to strike agreements with other heads of government at collaborative forums such as COAG, he or she needs to have the capacity to see the deals through. Rudd and the Office of the Cabinet gave Goss the leverage required to approach forums, fully briefed and ready to negotiate on a whole-of-government basis. In terms of NCP, it was Rudd who stood beside the Premier during NCP negotiations at the Darwin meeting of COAG in 1994, and continued to work as an advisor to the Goss government on the issue in the months after the signing of the NCP up until the loss of power in early 1996.⁷⁷

The centralised process of intergovernmental relations, along with other centralised policy development activities, did not sit well with line departments. Seeing an opportunity for political advantage, the Borbidge-led Coalition Party – lobbied by the public sector unions and probably too by senior public servants – vowed to review the need for centralised policy mechanisms if it won office.⁷⁸ With the fall of the Goss Government – just ten months after the signing of the NCP agreement at COAG - the Office of the Cabinet was disbanded, and the State once again returned to a more fluid system of policy coordination. Neither Borbidge nor Beattie fully revived the Office, though many of its intergovernmental support roles remained within the Premier's Department.

During the Borbidge term of office, instead of providing policy coordination through the Office of Cabinet, Peter Ellis (Director General of the Premier's Department 1996-98) established a CEO's committee that met weekly - then later on a fortnightly basis -

⁷⁶ Davis, *Government of Routines*: pp. 81-82.

⁷⁷ Rudd left the Office of Cabinet posting after he won pre-selection for the Labor Party to run in the inner Brisbane Federal seat of Griffith in late 1994 (Scott, J., Laurie, R., Stevens, B. and Weller, P. *The Engine Room of Government: The Queensland Premier's Department 1859-2001*, University of Queensland Press, Brisbane, 2001: p. 183). He retained his interest in NCP, working as an advisor to government on the issue (Interview with Steve Edwell, 26 February 2002).

⁷⁸ Scott, Laurie, Stevens and Weller, *The Engine Room of Government*: pp. 185-187.

to provide strategic direction to the public service proper.⁷⁹ The initiative lacked the dedicated staffing of the Office of Cabinet; nevertheless it provided at least some degree of inter-departmental coordination.

Ellis was replaced by Glyn Davis with the return of the Labor government in 1998. Davis was a leading public policy academic and former head of the Office of Cabinet (after Rudd's resignation from the position in late 1994).⁸⁰ Davis once again raised the Premier's department's ability to coordinate policy advice to Cabinet through the re-establishment of the Policy Coordination Division, though the resurrection of the Office of the Cabinet was not entertained.⁸¹

The policy coordination role played by the department would reflect the Premier Beattie's desire for a more collaborative and consensus style of decision-making. Beattie was keen to avoid the practices of the old Office of Cabinet, which he felt often "ambushed" ministers in Cabinet by providing alternative advice to Premier Goss without first discussing options with line departments.⁸² Nevertheless, the return of Davis and the subtle changes to the policy coordination unit of Premiers partially returned the Premier's strategic grip over the operations of the public sector.

The key point to note in the changes to administrative systems in the State is that within a relatively short period of time from the creation of NCP, not only did the Queensland see a change in political leadership, it also lost the centralised control mechanism that played a key role in putting the policy in place. While the incoming Borbidge administration supported the continued implementation of NCP, due to the loss of key advisory personnel in the closure of the Office of the Cabinet, it may have been unaware of the context in which the policy was developed and the negotiations that took place to manage and shape the implementation process.

Given the nature of the institutional changes pursued by the incoming governments, some of the finer points on the interpretation of various clauses in the NCP agreement

⁷⁹ *Ibid.*, p. 189.

⁸⁰ *Ibid.*, p. 183.

⁸¹ *Ibid.*, p. 195.

⁸² *Ibid.*, p. 196.

were bound to be lost in the transition to power. The return of Davis under the Beattie regime may have reinstated some of this institutional knowledge. Nevertheless, the rapid changes in government opened up the possibility for significant goal displacement and policy drift during the implementation process. Rapid changes in policy coordination structures within the State placed successful NCP implementation under significant strain.

Reforms to Public Sector Administration

At the administrative level, the election of the Goss Labor Government saw the creation of a new central agency known as the Public Sector Management Commission (PSMC). It was tasked with the responsibility to undertake a systematic review of the public sector, with the objective of rationalising public sector services and removing unnecessary duplication and overlap. It was headed by Dr Peter Coaldrake, an academic and tertiary education administrator.⁸³

Within the central agency, a special unit was established to conduct a rolling program of reviews of line departments. While the savings achieved through the review program were not quantified across the board, the process improved Cabinet's overall understanding of the public service. As a result, the government was in a strong position to assess program performance, and to re-prioritise expenditure. This knowledge dovetailed with other planning processes of government such as the budget process undertaken by CBRC and Treasury.

Other important sources of internally-generated funds came from efficiency dividends and reductions in debt interest payments. A 1.5% efficiency (or productivity) dividend was placed on all non-labour costs of line departments, with the goal of returning savings to government, which in turn could be used to finance new or enhanced programs.⁸⁴ This type of financial instrument was used to great effect by the Commonwealth government under Hawke and Keating. Campbell and Halligan described it as a "slow burning reform process" that achieved significant improvements

⁸³ Coaldrake, *Working the System*, p. i.

⁸⁴ Queensland Government, *Budget Speech 1990-91*, 1990, Queensland Government Printer, Brisbane.

in productivity and enhanced cost-consciousness within the Commonwealth bureaucracy.⁸⁵

Proceeds from Government Business Enterprises (GBEs) were another source of extra income for the Government. Strong and steady increases in GBE returns, in the form of dividends and other payments, saw this particular source of funds increase from \$96 million in the Goss Labor Government's first budget, to \$189 million in the 1992-93 election budget - an increase of almost 100%.⁸⁶ In the last budget of the Goss Labor Government (the 1995-96 year), the return from GBEs was \$358 million, or six percent of the own-source revenue.⁸⁷

Considered in the context of overall budget revenues, the income from GBEs was significant. Dividends from these agencies provided an unencumbered revenue source that the government could use to fund programs of its own choosing. In other words, it came with no strings attached, unlike specific purpose payments (SPPs) received from the Commonwealth Government. In an environment where state-sourced revenue streams were shrinking, it was beneficial to find a stream of self-sourced funds that was actually growing.

Another distinct advantage was the hidden nature of the revenue stream. Unlike other forms of taxes and charges such as land, payroll and bank account debits taxes; returns from GBEs were not levied directly against the tax-payer, softening the electoral mood against their collection. From a political point of view, it represented significant revenue gain without a lot of electoral fall-out.

The revenue streams were important to the State budget. By the late 1990s, the State budget position had eroded quite remarkably. For decades, successive Queensland Governments trumpeted the financial strength of the State, compared to other jurisdictions – it was the reason why Queensland was known as the “low tax State”.

⁸⁵ Campbell C. and Halligan J. *Political Leadership in an age of Constraint: Bureaucratic politics under Hawke and Keating*, Allen & Unwin, Sydney, 1992: p. 227.

⁸⁶ *Queensland Government, Budget Speech 1990-91*, 1990, Queensland Government Printer, Brisbane; *Queensland Government, Budget Speech 1992-93*, 1992, Queensland Government Printer, Brisbane, p.10.

⁸⁷ FitzGerald et. al., *Queensland Commission of Audit*, Queensland Government Printer, Brisbane, 1996: p. 169.

However, by the mid 1990s the budget position of the State was starting to turn. By 1996, the Queensland budget was believed to have an “underlying” deficit of \$200-\$250m per year. If left unchecked this deficit would accumulate to \$2.7bn over the next ten years.⁸⁸

For the general government sector⁸⁹ commercialisation, rather than corporatisation, was seen as a viable method of improving public sector efficiency and consequential improved expenditure flexibility within the general government sector.

Commercialisation, like corporatisation, involved the application of private sector management principles to the public sector. But unlike corporatisation, commercialisation aimed to instil cost-consciousness and corporate discipline without removing the agency from direct departmental control. Areas that were considered “internal service providers” were selected as potential targets for commercialisation. These included public works, fleet management, government printing, road maintenance and construction, and the hotel services areas of hospital services such as catering, cleaning and laundries.

Moreover, these reforms were a central component of the NCP agenda. The Queensland Government was already well along the reform path in this particular area, before the NCP agreement was actually hatched in COAG. Further, the competition payments that implementing the reforms would attract, would help to alleviate the budget pressure the State was under.

Neither corporatisation nor commercialisation reforms were unique to Queensland. In fact, they were a common set of principles applied to many public sector management changes pursued by western democracies during the 1980s and early 90s.⁹⁰ In general terms, government was of the opinion that outcomes would improve and efficiency

⁸⁸ *Queensland Commission of Audit, Executive Overview*, Queensland Government Printer, June 1996: p. 5. The calculations used accounting rules new to Queensland, and as a result, may have over-stated the true nature of the deficit, compared to previous budget calculations. Nevertheless, the Commission’s findings underpinned a perspective that the Queensland budget was under serious pressure – increased revenue and/or decreased expenditure would be needed to address funding shortfalls.

⁸⁹ This is the term used by the Australian Bureau of Statistics (ABS) to describe the area of government that does not trade in goods and services. It incorporates education, health and law and order expenditure.

⁹⁰ Wanna, J., O’Faircheallaigh, C. and Weller, P. *Public Sector Management in Australia*, Macmillan, Melbourne, 1992: pp. 70-73.

enhanced if government agencies were made more business-like. These reform objectives were also consistent with other budgetary and management reforms being pursued in the Queensland bureaucracy, such as program budgeting and corporate management. Such reforms relied heavily on strategic and operational planning processes that were broadly consistent with some of the management practices central to corporatisation and commercialisation.⁹¹

The public sector union movement was suspicious of many of these reforms. To it, the reforms were aimed at undermining the notion of public ownership. The State Public Sector Federation, Queensland (SPSFQ) pointed to privatisation reforms in other jurisdictions as the logical “end-game” in government’s pursuit of commercial objectives.⁹² The Government denied the link, arguing that commercial reforms reaffirmed its commitment to public ownership.

The public sector reform agenda, commenced by Goss and later endorsed by Borbidge, remained in place for the first term of the Beattie Labor government. No matter what the political persuasion of the government-of-the-day, it seemed that the public sector aspects of the NCP reform agenda were here to stay. The inconsistency with the political rhetoric of the time was never reconciled by political leaders.

The motivation to make the public sector more efficient meant that certain aspects of the NCP agenda were more acceptable to incumbent governments than others. Moreover, the Queensland Government would attract NCP competition payments for activities it was undertaking in any case. In effect, it also represented a “double dip” in terms of internal government revenue, with increased dividends from GBEs (and improved efficiency in the general government sector), coming on top of the competition payments endorsed by the NCC.

⁹¹ *Ibid.*, pp. 80-91.

⁹² Heade, A. “Managerial and Equity Reform of the Public Sector,” in Stevens and Wanna (eds) *The Goss Government*, p. 99.

Changes to Intergovernmental Relations and the impact on NCP implementation in Queensland

As discussed in chapter one, the early to mid 1990s saw a significant change in the collaborative national policy making structures in Australian federalism. Several key factors emerged out of this analysis. First, in terms of Australia's federal structure of governance, the relative political power of State leaders remained strong, despite concerns about the erosion of State-based jurisdictional responsibilities. This was largely due to three structural constants: regionally-based media outlets; enduring State jurisdictional competencies, particularly in health, education and land administration; and the confederate structures of the major political parties. Ultimately, these factors helped cement the political power structures around State governments, and more particularly, the Premier.

Second, the 1990s saw growth in central agency capacity to exert strategic control over policy settings and public sector operations. Central agencies also gave Premiers the capacity to deal in national policy agendas on a multi-portfolio basis, giving them the necessary degree of independence from their Ministers and their respective bureaucracies to set policy direction. In Queensland, the public sector witnessed the emergence (and then abolition) of the powerful Office of the Cabinet, with broad ranging strategic policy responsibilities, reporting directly to the Premier.

In terms of intergovernmental relations, the early 1990s was the era of the "central agency club" – a network of central agency heads that operated outside of traditional bureaucratic structures to design innovative and far reaching national policy agendas. The domestic power of these agencies was underpinned by other reforms focused on improving the strategic and operational management practices of the public sector – reforms such as program budgeting, commercialisation, and the development of a contracted senior executive service. These reforms gave further leverage to the centre of Australian governments (Office of Cabinets) in their efforts to control the periphery (line departments).

Third, the era of “new federalism”, led by networks of political leaders and central agency heads, saw the growth of collaborative policy initiatives covering a broad range of topics, which crossed national and state jurisdictional divides. In order to manage policy implementation, new, untried intergovernmental arrangements and structures were established, such as independent bodies like the National Competition Council with the power to audit the policy implementation efforts of State governments.

Finally, the “new federalism” of the early 1990s threatened traditional institutions, particularly parliaments, as Premiers made national policy deals through vehicles such as COAG, with little to no reference to their legislatures. With party discipline cementing the power of the executive (especially the Premier and Prime Minister), it was unlikely that these new intergovernmental arrangements were going to receive much scrutiny from Australian parliaments, at least in the formative stages.

Unlike the environment of collaborative relationships that gave rise to NCP, the engagement of Australian governments, as a collective, during the implementation process during the mid to late 1990s was non-existent. As highlighted in the previous chapter, the NCP agreements did not specify an ongoing role for COAG, or the “central agency club”, during the ten-year long implementation process, with the exception of an agreed review date, five years after the commencement of the agreement. Coordination of the implementation process was ceded to the NCC, with COAG (the Commonwealth Government included) playing a “hands off” role.

At the Commonwealth level, as in Queensland, political changes during the mid 1990s also led to key personnel changes in central agencies. With the election of the Howard Liberal Government in early 1996, much of the collaborative decision-making infrastructure developed over the five years prior fell into disarray. As Painter points out, ‘Howard saw COAG as a creation of his predecessor, which alone was enough to condemn it in his eyes. It continued to meet, but as a pale shadow.’⁹³

⁹³ Painter, *Multi-level governance and the emergence of collaborative federal institutions in Australia*, p. 148.

The routines that accompanied the regular meetings of COAG were less intense, as the managerialist processes of the past gave way to *ad hoc* agenda setting, reminiscent of Premiers' Conferences of ten years earlier (rather than meeting at regular intervals of at least six months duration, COAG would meet on an "as needs basis"). COAG agreements struck prior to Howard continued, but lacked the clear political leadership that shepherded them through the national policy-making process in the first place. Policy-making became more opportunistic as the grand, national agenda of policy reform yielded to more immediate, poll-driven policy priorities.

Max Moore-Wilton, Howard's appointment to the senior position of Secretary, Department of Prime Minister and Cabinet, emphasised the emerging deconstruction of COAG's role in federal policy making under the Commonwealth Coalition government. Moore-Wilton stated:

... it is envisaged that COAG will meet in the future at least once a year. The timing of these meetings will continue to be driven by the requirement that there be sufficient issues of appropriate significance to require a meeting ... I would add a note of caution here. It is difficult to see the Commonwealth agreeing to hold a COAG meeting unless it is convinced that such a meeting would produce constructive outcomes. In practice, this means that there needs to be a reasonable expectation that governments can reach agreement on the major issues for that meeting.⁹⁴

While the Office of the Prime Minister and Cabinet was retained, along with meetings of central agency heads, key personnel changes meant that the collaborative relationships developed with counterparts in State agencies during NCP development all but evaporated. Even though political leaders in Queensland were actively challenging NCP implementation, with the government endeavouring to re-engage COAG (as evidenced in the resolutions quoted at the start of this chapter), *ad hoc* meetings of COAG failed to list the policy for discussion.

This served to insulate individual members of COAG, particularly the Commonwealth, from on-going political controversy about policy direction (either perceived or actual).

⁹⁴ Moore-Wilton, M. The State of Inter-governmental Relations, *The Public Interest*, December 1999, p.16.

The NCC was firmly wedged between COAG and member governments, raising the intensity of political engagement with the new intergovernmental institution.⁹⁵

Moreover, the absence of a regular routine of COAG meetings provided Queensland political leaders with the space to criticise the NCC (and the Commonwealth Government for that matter), as well as the direction of NCP generally, without having to confront or explain their positions to their inter-state counterparts. It opened the door to the “Canberra bashing” routines of the “old” Queensland intergovernmental relations management. The lack of engagement by COAG in national policy setting meant that a degree of reciprocity, developed under Hawke (and then Keating) with Goss, was lost.

The lurch to populist politics in Queensland during the mid-to-late 1990s coincided with the disengagement of COAG from the national policy-setting scene. This served to further underpin the populist rhetoric on NCP emanating from the Queensland parliament, as there was little to no disciplining (or at least questioning) of popular thought on the subject. The Premier of Queensland was given the freedom to play an elaborate double game on NCP – one where he could be as populist as his parliamentary colleagues when debating NCP implementation in the House, while at the same time, not having to declare his position on NCP implementation to COAG or any other intergovernmental body, for that matter.

The forces for NCP continuity and change.

The loosening of central policy coordination devices in Queensland occurred at the same time as the national policy making role of COAG was being diluted. The collaborative and managerialist political environment that created NCP had given way to a more diverse, loosely coupled political environment during implementation. Concurrently, major political parties in Queensland were trying to fend off the emergence of a new political force in the form of the One Nation Party - all in all, quite a significant shift in the political and administrative environment of NCP implementation.

⁹⁵ An analysis of the NCC’s capacity to deal with this intense political attention is provided in the next chapter.

The issues discussed in this chapter fall into two categories – factors that support the ongoing implementation of NCP, and factors that work against it. Expressed in terms of forces for policy continuity and change the two sets of factors can be represented in tabular form, as in Table 4.5.

Forces for policy continuity	Forces for policy change
Continued reliance on public sector reform to improve State budget position (eg. commercialisation/corporatisation).	Political instability in Queensland during the mid-to-late 1990s and the emergence of One Nation.
State budget position required NCP revenue (from competition payments).	Weakened policy knowledge due to administrative changes at central policy level.
	Decreased capacity of central-agency policy control during implementation.
	Dilution of collaborative, national, policy making vehicles (eg. COAG) by the Howard Commonwealth Government.

Table 3.8 – Forces for policy continuity and change

In terms of the five research questions from the conceptual analysis, as listed at the start of this chapter, the forces for and against policy continuity provide the following answers.

Was there informed leadership at the administrative and political levels in Queensland?

The analysis shows that NCP was made to carry the load of regional/rural discontent in Queensland. The perception that NCP was to blame for the economic woes of regional economies was firmly anchored in the political class. If the views of Pollitt and Bouckaert on policy implementation are accurate⁹⁶, the lack of informed leadership at the political level, together with the apparent lack of political acceptance of the need to reform, was likely to scuttle the NCP implementation effort in Queensland. If political

⁹⁶ Pollitt, C. & Bouckaert, G. *Public Management Reform: A Comparative Analysis*, Oxford University Press, Oxford, 2000: p. 186.

leadership was at such a low ebb, and policy implementation continued, factors other than political leadership must have played a greater role in successful policy implementation – the authors may have over-stated the importance of informed political leadership in policy implementation.

Alternatively, the changing intergovernmental context that coincided with the populist policy rhetoric of Borbidge and Beattie, may have been a telling factor in the political strategy used by incumbent governments to manage the reform agenda and minimise electoral backlashes. Leaders of Australian governments, coming together under the banner of COAG bring a certain type of collegiate response to national policy issues. In short, the disengaged COAG under Howard enabled Queensland leaders to make wild claims about NCP implementation, as there was no internal disciplining force to make them argue for policy change at a rational level, with their peers. Queensland was simply using a tried and true tactic of old – “Canberra bashing” – in order to weave a way out of the domestic political consequences of implementing necessary micro-economic reform. Chapter five explores this research question in further detail, through case study material on the implementation of a number of NCP reforms in Queensland. The next chapter (chapter four) also considers this issue of “Canberra bashing” when assessing the Queensland Government’s rhetorical position on the outcomes of the NCP (and NCC) five-year review.

Was there sufficient organisational capacity within the Queensland Government to “get the job done”?

In the area of public sector efficiency reforms, the Queensland Government had shown that it was a capable and willing reformer. While these aspects of internal administrative reform were part of the overall NCP reform agenda, it was yet to be seen whether the Queensland Government had the wherewithal to pursue other implementation aspects of the policy – particularly in areas that would risk electoral backlashes in regional and rural electorates.

With successive hung parliaments, and the emergence of the political threat of One Nation, the major political parties were going to find it increasingly difficult to progress legislative change. The government of the day would require significant political skill

to generate sufficient parliamentary (and public) support for NCP-inspired policy change, particularly when parliamentary debates on NCP issues were already spiralling out of control.

The precarious parliamentary support, combined with decreased institutional knowledge of the principles behind the reform process, was a direct threat to the ongoing survival of NCP in the State. Again, this question will be reassessed through the analysis of case study material in chapter five.

Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?

Within a few short years from signing the intergovernmental agreements on NCP, parliamentary support for the policy was on the wane. The discontinuity of political and administrative leadership within Queensland was threatening to scuttle the reform process. NCP was becoming the “whipping boy” for a number of global changes affecting key constituency groups in marginal rural and region seats. Parliamentarians were reflecting community discontent in speeches and representations in the media.

By the end of the decade, public perception of the reform process was turning decidedly bleak, even if much of what was being projected onto NCP was misinformed or simply inaccurate. Even still, successive Queensland Governments seemed prepared to soldier on with the reform program – the forces for continuity in policy direction seemed to be holding sway. At this point in the analysis it is difficult to say why this was the case. Though, the NCP incentive payment scheme and the deteriorating State budget position may have been the deciding factor.

Continued support for the policy thrust of NCP from political leaders could have been another explanation for perseverance. Could political leaders have accepted that NCP was the right policy prescription for the times, but were not willing to declare this publicly, for the risk of receiving harsh electoral treatment at the ballot box? Further analysis of this issue is provided in chapters four and five.

Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?

In terms of political skill, the unstable political environment of the time increased the salience of this research question. Given the tight parliamentary margins during the crucial early stages of implementation, nimble political skills would be needed to progress the reform agenda. If the reform program was to continue, political leaders were faced with two options: either to stand beside the reform agenda and argue for its continued implementation on rational grounds; or find a way to move ahead without being held responsible for the (real or perceived) impacts of policy change. Again, the case study material in chapter five will reveal more about the political motivations and relative skill levels of government leaders to manage the reform program in Queensland.

In terms of managerial skill, it is still too early to make a judgement of the administrative competence of the government, except to note, as pointed out earlier, that the Queensland Government had already shown that it was capable of public sector reforms integral to the NCP agenda. The drift which occurred in the strategic management capability of central government has already been identified as a risk factor in the implementation of reform. Again, chapter five will reveal more about how this impacted on the reform process in the State.

In terms of Matland's typology, what was the policy environment like, and how did the level of conflict impact on implementation efforts in Queensland?

As discussed in chapter one, Matland developed a four-part typology to map out the consequences of conflict and ambiguity in policy implementation.⁹⁷ As discussed in chapter two, due to the nature of intergovernmental relations at the time, and the level of consensus within the central agency club and political leaders meeting as COAG, NCP was designed for *administrative implementation*, in terms of Matland's typology. Here, there is little conflict between parties over policy goals or the means of achieving them. The purpose of the program, or project, is quite specific and unambiguous; all that is needed is competent coordination and administration for the implementation process to

⁹⁷ Matland, R.E. "Synthesizing the Implementation Literature: The Ambiguity-Conflict Model of policy implementation," *Journal of Public Administration Research and Theory*, 1995: pp. 145-174.

be successful. Implementation tends to adopt a “resource focus” – getting the right resources in the right place, at the right time, is the major challenge.

The rapid changes in political leadership in the latter part of the decade saw the implementation environment shift to one of *political implementation* - the second paradigm in Matland’s matrix. Here, policy goals are clear, but there is a high degree of conflict over either the purpose of the policy, or the means by which the policy is to be implemented. In this environment we find heated battles arising during the implementation process, and implementation problems are decided on the basis of power. Political bargaining abounds, as parties try to form coalitions, to seek to influence policy choice.

NCP was a policy designed in a completely different political environment to the one in which it was being implemented in. It is yet to be seen whether the policy was robust enough to accommodate the shift – this will be explored in chapter five.

Conclusion

NCP in Queensland was implemented in extremely politically volatile times. Egged on by political over-reaction, successive Queensland Premiers led populist attacks against the policy relatively early in the implementation process. Within three years of NCP being signed off at COAG, the policy seemed to be under significant threat.

During this time, public sector administration in Queensland drifted from tight policy coordination under the Office of Cabinet, to a more loosely coupled process under the twenty-eight months of coalition government, with a reinstatement of a comparatively “light-handed” coordination routine with the return of a Labor Government towards the end of the decade. The “central agency club” which was critical to the creation of NCP, was not there to lead the implementation process in Queensland.

The multi-level policy making process which created NCP obviously alienated parliament, underlining the view that the new collaborative federalism contained a number of inherent challenges for traditional institutions. Lindblom and Woodhouse warn that often the political process uses “non-rational and irrational persuasion, as via

propaganda campaigns or symbolic rhetoric” to resolve policy conflict.⁹⁸ With the Queensland parliament taking an increasingly hostile approach to NCP implementation in the late 1990s and early 2000s, many questionable themes about the policy emerged. These themes were so often repeated in parliament, their veracity were never analysed.

The stories about the perceived impacts of NCP had political resonance, particularly in rural and regional electorates – key battle-grounds for the major political parties. As a result, the use of rhetorical themes was not only limited to a few backbenchers in the Queensland parliament, it spilt over to the executive, making the environment of rational conflict resolution on NCP difficult, if not impossible.

In politics the policy landscape rarely remains static. Governments and oppositions search for new policy positions to win votes and develop new political constituencies. In Queensland, the NCP reform process brought with it a new set of political problems. Ideas that seemed credible in the abstract, created significant political ramifications in the real world of implementation. By the end of the 1990s, the collaborative environment of the earlier part of the decade that saw the creation of NCP had given way to intense political bickering and grandstanding in Queensland.

With the NCC oversighting the reform process, it was difficult for States like Queensland to introduce political imperatives into the distribution of NCP incentive payments. As each stage of the reform process required incumbent State governments to address sensitive policy issues, State-level commitment started to wane. By the end of the decade, Queensland could no longer afford to just do the bare minimum in the implementation of the reform process and expect to receive NCP incentive payments – funds that had already been added into forward budget estimates.

Successive Queensland governments and parliaments used political rhetoric to militate against the electoral ramifications associated with the perceived impact of NCP. At the same time, key members of the executive, including the Premier and Treasurer, attempted to find a political resolution to the increasingly pressing need to access NCP

⁹⁸ Lindblom and Woodhouse, *The Policy-Making Process*, p. 128. See chapter one for a detailed discussion of their perspective of political conflict.

bonus payments. By the end of the decade, it was clear that NCP lacked a champion in the Queensland parliament, creating tangible risk to the on-going implementation process.

The next chapter examines how the other partner in the NCP implementation process, the NCC, managed political reactions in Queensland. The analysis provided in this chapter, together with the next, provide the data for further exploration of the questions and issues identified in the conceptual framework developed in chapter one. This analysis will be provided in chapter five where specific case studies in NCP implementation are explored in depth.

Chapter Four –

The National Competition Council and the implementation of NCP

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Introduction

The NCC was vehemently criticised for its role in the NCP process, particularly by State governments that were attempting to step away from the political realities of implementing NCP. One senior politician from Queensland described the NCC as, “a *de facto* house of parliament...in the best traditions of the House of Lords, they never get elected and you can’t sack them.”¹ Other States were critical as well, with the South Australian Government submitting that:

The NCC brings its own ideological position to consideration of policy outcomes and should not seek to dictate those outcomes to Governments, particularly in legislative review where the final decisions on reform outcomes must rest with elected Governments.²

The NCC countered criticisms such as these with gusto, actively challenging political actors to continue the debate on substantive grounds. To the NCC, it was simply a case of politicians avoiding accountability, as the President of the NCC, Graeme Samuel, pointed out in a 1998 speech to the Economics Society of Queensland,

Competition Policy ... involves a greater element of public scrutiny and thus makes it more difficult for governments to provide favours for ‘friendly’ business groups or to strike deals behind closed doors.³

Yet with all the controversy, it was State Governments themselves, through COAG, that created the NCC and gave it a charter to supervise the implementation of NCP.

This chapter delves inside the NCC, providing an insight into how it went about assessing State performance and how it handled the unfolding political reaction to NCP. The analysis draws upon several examples of the relationship between the Queensland Government and the Council – many relayed in media accounts, parliamentary records, press releases and interviews with senior Queensland public officials. In terms of the conceptual framework developed in chapter one, this chapter maps out the answers to ten research questions with specific reference to the analysis provided in this chapter. These questions are outlined in Table 4.1, and are revisited towards the end of the chapter, when the empirical evidence is analysed in further depth.

¹ Heywood, L. and Collie, G. *The Courier-Mail*, “Funding for dam dries up,” 28 July 1999, p.10.

² Productivity Commission, *Impact of Competition Policy Reforms on Rural and Regional Australia*, Inquiry Report, Report No.8, 8 September 1999: p. 339.

³ Samuel, G. “The debate about competition policy,” Speech to the Economics Society of Queensland – debate with Professor John Quiggin, Brisbane, 25 November 1998: p. 4.

Theory	Research Questions or Propositions
Coordination	Were the Queensland Government and the NCC in regular contact? What about COAG as a whole?
	Were intergovernmental bodies created and did they bring governments into closer alignment and improve communication?
	Did NCP spell out decision-making rules, and were there sufficient incentives and sanctions in place to keep parties engaged?
	Was reciprocity present and how did it moderate the behaviour of both the NCC and the Queensland Government?
Implementation	Was the policy mandate unambiguous, and provided a means to mediate disputes once implementation began?
	Did the policy mandate provide sufficient structure and direction to the Queensland Government and the NCC?
	Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?
	In terms of the structure of the NCP agreement, what was the level of overhead (political) control, and consequently, what level of bureaucratic expertise would be necessary for successful implementation (and what was the demonstrated expertise by the Queensland Government during implementation)?
Conflict Resolution	How was conflict between the NCC and the Queensland Government brought to the surface and dealt with during implementation?
	Were there intergovernmental bodies created to mediate conflict and how did the Queensland Government engage with them?

Table 4.1 – Key questions from the Conceptual Framework

The structure and processes of the NCC

The NCC commenced operation in November 1995, setting up its office in Melbourne.⁴ The governance arrangement, or Council, consisted of five appointees, selected through a consultative process between the Commonwealth and the States. The initial appointment process ran smoothly, with no debate recorded in the media over the selection of the Councillors.

⁴ National Competition Council, *Annual Report 1995-96*, Australian Government Publishing Service, 1996, pp. 89-90.

The inaugural set of Councillors had a distinguished background in business and academia. The President, Tony Daniels,⁵ was a former Managing Director of one of the largest steel fabricators in Australia – Tubemakers Australia Ltd – and held directorships with several national companies in the areas of banking, resource management and manufacturing.

Other representatives included Michael Easson, an Adjunct Professor with the Australian Graduate School of Management, University of New South Wales;⁶ Stuart Hohnen, management consultant to the resource sector and former senior executive in the Western Australian State public service; Elizabeth Nosworthy, a business woman, company director, and former senior lawyer with several major national legal firms; and Graeme Samuel, another senior lawyer from a national law firm, former director of a large merchant bank, and member of several boards in the public, non-government⁷ and private sectors.⁸ Daniels and Easson resided in Sydney, Hohnen in Perth, Nosworthy in Brisbane, and Samuel in Melbourne.⁹ The spread of domiciles gave a “federal flavour” to the board structure.

High profile appointments to the governing board continued throughout the life of the Council. By the end of 2000, Samuel was the only original appointee left. The vacancy at Councillor level created by the resignation of the then President Daniels in 1997, which subsequently elevated Samuel to the head of the NCC, was filled by Dr Paul Moy, a former senior public servant in the New South Wales Government and investment banker.¹⁰ Moy was later replaced (in December 2000) by former Executive Director of the National Farmers’ Federation, Dr Wendy Craik.¹¹

⁵ Daniels was later replaced by Graeme Samuel, one of the original Councillors on the NCC. Samuel would prove to be a strong proponent of the NCP, occupying a much higher public profile than his predecessor, as this chapter will show.

⁶ Easson also had a strong association with the Labor movement, including ten years as an official of the New South Wales Labor Council, and had published several articles on industrial relations in Australia. He was on several boards during the term of New South Wales Labor Governments in the early 1980s (Herd, M. (ed) *Who’s Who in Australia – 2001*, p. 579).

⁷ Samuel was a significant figure in the Australian Football League, holding the position of Commissioner. He also held trusteeships with major sporting grounds including the Melbourne Cricket Ground Trust.

⁸ National Competition Council, *Annual Report 1995-96*, pp. 41-43.

⁹ *Ibid.*, p. 41.

¹⁰ Commonwealth Treasurer, “National Competition Council Appointment,” press release, 22 June 1998.

Other new appointments were Robert Fitzgerald, former National President of the Council of Social Services, and corporate solicitor; and David Crawford, former mining and agricultural industries executive, and company director.¹² Former Bond University Professor of Economics and Under-Treasurer in the Borbidge administration, and then Queensland Investment Corporation CEO, Doug McTaggart, replaced Nosworthy in late 2000.¹³ Again, the appointment processes ran smoothly, with no sign of political controversy. The geographic dispersal of Council members remained in place for the period examined in this thesis.¹⁴

The secretariat function of the NCC largely comprised staff drawn from the Industry Commission (IC) and Commonwealth Treasury, with Ed Willet as Executive Director. A permanent structure of thirteen staff was identified in the NCC's first Annual Report.¹⁵ The establishment grew to twenty by the end of the decade.¹⁶ In addition, the NCC used secondment arrangements and consultancies for short-term assignments.¹⁷ In the first full year of operation, the NCC expended \$1.91 million.¹⁸ The Council's expenditure levels rose to \$2.92 million by the end of the 1998-99 financial year,¹⁹ a 52% increase on its original budget.²⁰ Even so, the budget (and staffing level) was modest, given the responsibilities of the NCC.

¹¹ Commonwealth Treasurer, "Treasurer announces National Competition Council Appointments," press release, 15 December 2000.

¹² Commonwealth Minister for Financial Service and Regulation, "Appointments to the National Competition Council," press release, 4 February 1999; National Competition Council, *Annual Report 1998-1999*, Australian Government Printing Service, 1999, pp. 130-133.

¹³ Commonwealth Treasurer, "Treasurer announces National Competition Council Appointments," press release, 15 December 2000. McTaggart asserted that the selection process to join the Council was extremely rigorous. The Commonwealth put forward his name for the States to consider. He was only appointed after receiving the approval of the Beattie Labor government (Interview with Doug McTaggart, 12 March 2002). Beattie agreed to the appointment even though it was known that McTaggart was a strong supporter of the Liberal Party.

¹⁴ National Competition Council, *Annual Report 1998-1999*, Australian Government Printing Service, 1999, p. 130. At this stage, the Council was made up of councillors from Melbourne, Perth, Sydney (x2) and Brisbane.

¹⁵ Five of the staff were female, occupying senior as well as junior positions within the organisation, indicating a strong focus on gender balance in Council appointments.

¹⁶ National Competition Council, *Annual Report 1999-2000*, p. 117.

¹⁷ National Competition Council, *Annual Report 1998-1999*, p. 130.

¹⁸ National Competition Council, *Annual Report 1996-97*, Australian Government Publishing Service, 1997, p.250. The Council had an expenditure budget of \$1.46 million in its first year of operation, but this was only for seven months of service as the Council was established well into the 1995-96 financial year (National Competition Council, *Annual Report 1995-96*, Australian Government Publishing Service, 1996, p.108).

¹⁹ National Competition Council, *Annual Report 1998-99*, p.169.

²⁰ In nominal terms (i.e. without making allowances for inflation).

The Council met (face to face) on a monthly basis, with the majority of meetings held in Melbourne. It also convened meetings in all capital cities, enabling Councillors and senior staff members the opportunity to consult with representatives of State and Local governments.²¹ The Council also conducted regular telephone conferences. On average, Councillors conversed about official NCC business on a fortnightly basis.²²

The NCC derived its mandate from three sources; two were legislative and the third emanated from the NCP intergovernmental agreement itself. The NCC's legislative head of power was sourced from Part IIIA of the Trade Practices Act – namely its responsibility for determining third party access rights – and the Prices Surveillance Act where it was charged with the responsibility for determining whether government business enterprises should be subjected to official price surveillance. The intergovernmental agreement on NCP defined other roles for the NCC, namely monitoring the performance of participating jurisdictions in implementing their commitments, and the conduct of legislative reviews, when required.

These legislative and agreement-based arrangements gave the NCC three key roles in the NCP process. First, was the development of regimes to provide both third party access to key pieces of infrastructure - particularly in the areas of rail, electricity and gas - and prices oversight for major government business enterprises.²³ These processes were highly technical in nature, and in most cases, were only required if State Governments chose not to establish their own separate oversight bodies, or had major structural flaws in the methodology for determining access and prices oversight, or elected to use the NCC as their official arbitrator.²⁴ As a consequence, this part of the NCC's function did not prove controversial during the implementation stage of NCP.

²¹ National Competition Council, *Annual Report 1995-96*, p.44.

²² Interview with Doug McTaggart, 12 March 2002.

²³ The NCC's role in prices surveillance was targeted towards certification of State-based surveillance mechanisms. The actual activity of price surveillance fell under the responsibility of the ACCC.

²⁴ The NCC was to also advise the Commonwealth Treasurer of any requirement to "declare" public or private agencies. Through this role, the NCC had the power to report to the Treasurer that an agency be subjected to price surveillance under the Prices Surveillance Act 1983. The actual activity of price monitoring was undertaken by the ACCC. The Council would not "declare" an agency if it was satisfied an appropriate prices surveillance system was already in place, or if the agency did not have a "significant impact" on interstate or constitutional trade or commerce (National Competition Council, *Annual Report 1995-96*, p. 67).

The second role of the NCC was to conduct reviews of anti-competitive legislation on behalf of the Commonwealth Government and other participating jurisdictions, upon referral. For the States, most legislative reviews were completed through their own agencies, preferring only to use the NCC to review specific legislative restrictions that were consistent across a number of jurisdictions.²⁵ As a result, the NCC's review function was mainly focused on Commonwealth legislation. The review of regulatory responsibilities of the Australian Wheat Board and the operations of Australia Post were examples of the type of reviews conducted by the Council.²⁶

The third role of the NCC was to monitor the progress of governments in the implementation of the competition reforms.²⁷ Due to the nature of the competition payments system and the requirements it placed on participating jurisdictions to meet implementation milestones, this process was far more controversial than any other of the Council's roles and responsibilities.

To these COAG and government sanctioned roles and responsibilities, the NCC also undertook to promote NCP within society.²⁸ Here, the NCC believed that it needed to improve community understanding of the benefits of competition reform in order for the reform program to move ahead on a sustainable footing. This belief could also have stemmed from a fear within the NCC that some State governments were either incapable or unwilling to promote NCP within their own jurisdictions. The increasing frequency of attacks on competition policy in the media, particularly from populist ultra-conservative parties such as One Nation, probably drove this fear. On the issue of promoting NCP, the Council pointed out that,

²⁵ This was the case for the review of anti-competitive practices of pharmacists, for example. NCC reviews of State-based legislation were rare.

²⁶ The Productivity Commission's (PC's) inquiry into NCP, handed down in September 1999, found that the NCC should no longer be asked to conduct legislative reviews. The PC believed that it posed a conflict of interest with the Council's responsibilities to assess the legislative review programs of participating jurisdictions (Productivity Commission, *Impact of Competition Policy Reforms on Rural and Regional Australia*, 8 September 1999, pp. 340-341). The finding was endorsed by COAG in its November 2000 review of the NCC, probably due to the fact that the NCC rarely conducted these types of reviews.

²⁷ National Competition Council, *Annual Report 1995-96*, p. 1.

²⁸ The NCC received a special grant of \$200,000 from the Commonwealth Government to undertake promotional/educational activities – a figure which Graeme Samuel believed was woefully inadequate to the task (Interview with Graeme Samuel, 8 April 2002).

Unless the National Competition Policy reforms and their benefits are understood widely in the community, there is a high risk that people will equate competition reform with job loss in particular sectors [of the economy], rather than see key benefits such as increased employment opportunities overall arising from a growing economy.²⁹

The dual responsibilities of educating the public about the benefits of the reform agenda, and “policing” State government performance against reform milestones created some unintended consequences. Most prominent, was the perception that the NCC was becoming both the standard setter and compliance assessor in the performance monitoring process associated with the reform agenda. Again, quite early in the reform process, the NCC recognised this potential problem:

The combination of our duty to support, promote and advise [on NCP matters] with that of assessing progress for transfers of money brings up a natural tension. Our job is to make this a constructive factor, and we are confident that our combination of roles will bring benefits for Australia.³⁰

The NCC’s position would prove problematic. The NCC gave the impression that it was setting itself up as the lynch-pin for the whole NCP reform process. With this viewpoint in mind, it was also becoming increasingly evident that political leadership of the reform process was on the wane (as discussed in the previous chapter). COAG had essentially severed its ties with the body, and there was no Ministerial Council to hand responsibility to. The NCC was left as the only institution rebutting politically motivated attacks on NCP in the media and in parliaments.

By the end of the 1990s, political leaders, whether at the national or State levels, were becoming increasingly uncomfortable advocating competition reform, leaving the public relations exercise for NCP largely to the NCC.³¹ The dual roles of “educator” and “assessor” created the impression – deserved or not – that the NCC was running its own agenda on the reform process, and was out to usurp the policy-setting role of democratically elected governments. Without a visible political leader to support the Council, it was exposed and vulnerable.

²⁹ National Competition Council, *Annual Report 1995-96*, p. 1.

³⁰ *Ibid.*, p.2.

³¹ *The Australian Financial Review*, “Wanted: a leader for competition reform,” 4 August 1999, p. 15; and *The Courier-Mail*, “Pandering to ignorance on competition policy,” 2 August 2000, p. 12.

As the NCC discovered, there was a fine line between advocating reform, and providing information. The former requires a strong media presence and salesman-like ability; the latter is much more benign and passive. Later, Graeme Samuel's apparent willingness to engage political leaders in public debate over the direction of competition reforms led the NCC into uncharted waters. As will be seen, Samuel stumbled head-on into the field of politics, tackling hardened political players like Beattie and Borbidge – people accustomed to playing the media and influencing community sentiment on a daily basis.

In this context, State governments found it easy to spin the message that the problems experienced by long-established, yet globally uncompetitive, Australian industries stemmed from economic reform initiatives promoted by bodies such as the NCC. Governments did this even though they were willing to accept competition payments, and in some cases, the State Premiers were actual signatories to the original NCP deal. The NCC's media push on the benefits of NCP seemed to confirm the lines of the government "spin doctors". By continuing to push positive images of the reform agenda - and challenging elected politicians to "put up or shut up" - the NCC played right into the hands of State governments wanting to avoid blame for much-needed reform. The interplay through the media and in parliament enabled the States to take the NCP incentive payments, while at the same time sheet home economic and societal change to the "unelected economic rationalists" inside the NCC.

When advocating the benefits of NCP, the Council demonstrated poor understanding of the political realities underlying the reform process. The leadership of the NCC seemed to be of the impression that it alone could champion the cause, not realising the degree to which public acceptance of the reform agenda could be manipulated by powerful political actors at the State and Commonwealth levels. Statements in public reports such as, "We believe that major areas of change will create a 'pull-through' that will ensure lasting cultural changes, which is really the task that governments have set for themselves,"³² highlighted the moral overtones, even evangelistic attitudes, of some senior staff within the NCC.³³

³² National Competition Council, *Annual Report 1995-96*, p.3.

³³ It was not up to the NCC to make assumptions about the motives of elected governments in pursuing NCP. In all likelihood, governments were not attempting a "pull-through" at all, at least consciously anyway. To some States, NCP was the medicine that they had to take in order to receive unencumbered financial assistance grants. To others, the reform agenda was consistent with political ideologies that they

But, simply projecting beliefs onto State governments, many of which were uncomfortable with “selling” NCP, and openly hostile towards the NCC, was a risky strategy for the Council. Governments holding office on slim margins were always going to be more interested in their own political survival than some “pull through” effect on the economy. The NCC’s pronouncements were used by political actors to prove a point: the NCC was out of touch and out of control.

The NCC and the assessment process

In this political context, the NCC went about its task of assessing performance against the NCP agreement. While States were cautious about the role the NCC would play in the reform process, little political criticism was aimed at the Council during the first two years of NCP implementation. During this period the NCC endeavoured to develop a close working relationship with the States, giving some jurisdictions extra time to address key reform objectives before recommending to the Commonwealth Treasurer suspension or cancellation of competition payments. In addition, the NCC used its first assessment report to spell out where it felt individual States would have difficulty in meeting future reform milestones, giving them as much time as possible to rectify potential problems.

The NCC policy of providing an early warning system was designed to avoid disagreements as the reform process geared-up. While a good idea in theory, it seemed to have little effect on the political behaviour of participating jurisdictions. Some States ignored the warnings entirely or failed to fully appreciate the consequences of continuing with existing implementation strategies. Queensland, for example, failed to recognise the NCC’s warnings on its application of water reforms to local government, with the State Treasurer acknowledging only that further work may be needed on the Government’s implementation strategy some twelve months after it was first mentioned by the NCC in its assessment documents.³⁴

were already pursuing within their own jurisdictions, and as a result, they did not see the relevance of the NCC’s mandate.

³⁴ Discussed in chapter five.

While it took some time for the political process to turn on the NCC, the criticisms of State government approaches to the reform agenda were evident in the Council's first assessment report. All jurisdictions received some form of warning. The Western Australian government was singled out for its apparent tardiness in applying a code of competitive conduct to its business enterprises; Queensland received a dishonourable mention for letting political imperatives get in the way of establishing a suitable electricity inter-connector with New South Wales; and South Australia was strongly criticised for not ensuring speedy application of the intergovernmental agreement on free and fair trade in gas. New South Wales was also mentioned for not deregulating its domestic rice marketing arrangements; so too the ACT for restricting retail trading hours.³⁵ The Commonwealth attracted negative comments as well, with the NCC noting its disappointment with delays to the review of wheat marketing arrangements.³⁶

Across the whole assessment process, the NCC expressed disappointment with State and Commonwealth approaches to their individual programs of legislative review. The Council noted that participating jurisdictions were loath to review certain acts and regulations that were likely to create political problems, choosing to delay these reviews to late in the review program.³⁷ The NCC argued that all participating jurisdictions were required to do was review, not necessarily reform, anti-competitive legislation, and as a result, it was difficult to understand the reluctance of some jurisdictions to schedule reviews earlier in the cycle.

To the NCC, the review process was a simple rational assessment of whether the benefits of restricting competition through legislative means outweighed the costs. If the benefits could be articulated, then the legislation did not need amendment or

³⁵ National Competition Council, "Assessment of First Tranche State and Territory Progress with Implementing National Competition Policy and Related Reforms," 30 June 1997: pp. 13-15.

³⁶ National Competition Council, *Annual Report 1995-96*, pp. 1-19. The "stick and carrot" approach used on the States did not work on the Commonwealth. Potential sanctions against the Commonwealth were limited, as it was outside the competition payment schedule. The only threat was the erosion of its moral authority in stipulating economic reform outcomes. The Commonwealth Treasurer, and the government as a whole, could expect strong criticism if they accepted a recommendation to suspend competition payments to a State, when the Commonwealth itself was not meeting its reform targets.

³⁷ Initially, participating jurisdictions had until the end of the year 2000 to complete their legislative reviews. Many - the Commonwealth and its delay of the review of the *Wheat Marketing Act 1989*, for example - scheduled reviews for the final reporting year. The NCC thought that many of the reviews should have been scheduled much earlier, considering that the review program had over four years to run, and it was logical to prioritise those reviews that had the greatest potential to make significant economic gains. Governments had other priorities, obviously.

recision. Further, the NCC argued that the community would think highly of governments that removed “unnecessarily restrictive” legislation from the statute books.³⁸

Again, the attitude of the NCC towards legislative reviews seemed naïve and out of step with the political realities facing Australian governments – all governments in liberal democratic societies for that matter. Much of the legislation targeted by the NCC review process had developed over decades of constitutional government. The complex web of legislative restrictions provided privilege to certain sections of society – privileges that were not going to be given up easily. Institutions, ways of life even, were built around the certainty afforded by these laws.

Whether it was an issue of limiting the ownership structures available to pharmacists, the corraling of certain types of legal transactions – such as conveyancing – solely for registered lawyers, or restricting marketing arrangements in order to provide economic rents to certain primary producers, governments needed to tackle an array of powerful vested interests before changes could be successfully implemented. The review process itself was likely to attract a strong lobbying campaign in the community, as powerful vested interests manoeuvred to ensure their legislated privileges were not laid bare in a full public review.

The Council wanted governments to abide by the principles behind the review process, prioritising high impact reviews before less important options. As an example of the Council’s approach, it believed that publishing a compendium of all the State and Commonwealth reviews would enable governments to share their “learning” as reviews progressed.³⁹ While from an administrative point of view, this made a lot of sense, the NCC seemed puzzled why the States were lukewarm over the idea. To the surprise of the NCC, increased institution learning during the review process did not rate as a high priority for participating jurisdictions. It was far more compelling for governments to “let sleeping dogs lie” and delay the more politically complicated reviews to late in the process – maybe then, the review process could be avoided altogether, if political circumstances changed.

³⁸ *Ibid.*, pp. 3-4. Yet another example of NCC “moralising” to elected governments.

³⁹ *Ibid.*, p. 4.

To provide a degree of balance to its reports, and to try to coach State governments along the reform path, the NCC praised them when it came across exemplary behaviour. It praised the Queensland Government for developing a financial incentives package for local government, providing the third tier of community governance with a share of bonus pool monies flowing from the Commonwealth.⁴⁰ The Council also acknowledged New South Wales for its professionalism in negotiations over the loss of incentive payments for refusing to implement certain reform objectives.⁴¹ By praising exemplary behaviour, and not just pointing out areas of concern, the NCC hoped to encourage States to follow the spirit of the reform process.

To the NCC, the principle was simple. It believed all governments were willing to advocate the positive nature of the reform process when the NCP agreement was signed, and that the same level of commitment would flow through during the implementation stage. To an institution responsible for upholding the principles of NCP, this was probably an appropriate assumption to make. However, the long implementation timeframes meant that there was little room for policy flexibility in order to accommodate changing political imperatives of incumbent governments. The Queensland Government went through a number of changes soon after the implementation process geared up, particularly in terms of its political leadership and administrative routines. It would be difficult for the new administrations to fully appreciate the policy direction being advocated by the NCC.

It also meant that new governments with different political motives would be held responsible for a policy platform developed by a predecessor. Further, the rigidity of the reform process did not allow governments – more specifically, political parties – enough room to re-make competition policy in order to enhance their electoral appeal.

⁴⁰ *Ibid.*, p.5.

⁴¹ National Competition Council, *Assessment of State and Territory Progress with Implementing National Competition Policy and Related Reforms*, June 1997, p. iv. Though, the NCC was highly critical of the argument presented by New South Wales when endeavouring to avoid financial sanctions as a result of its decision to protect domestic rice marketing arrangements, it still praised the government for the “up front” nature. To the NCC, it was an example of a State government choosing to take a political position on one aspect of the reform process – exercising its sovereign rights. Negotiations were about limiting the financial penalty, not avoiding it altogether (National Competition Council, *Annual Report 1996-97*, p. 75).

It seemed that the process of governing in a modern political democracy was much more complicated than the NCC was either able or willing to accommodate.

In the end, the NCC could only point to the signatures on the original NCP agreement as a marker for its actions. Without direct political oversight, the NCC had no other suitable reference point to legitimise its actions. If it started to recognise political influences, weighing up a State's general attitude to the reform process with technical breaches based on political considerations, it was bound to attract strong and ongoing lobbying from other State political leaders. More importantly, it would be left with no transparent decision-making rules within the assessment process itself, leaving the NCC open to what it called a "horse-trading" approach. It was not up to the NCC to make allowances for governments that struck implementation snags, particularly when political problems arose.

As time went by, the tension created by the lack of flexibility in the NCP agreement, and the lack of on-going political engagement in the oversight of the implementation process, would lead to a marked deterioration in the relationship between it and participating jurisdictions, particularly the Queensland government.

The enforcement policies of the NCC.

The Council adopted a four-step process for dealing with State non-compliance with performance targets.⁴² First, where a State government agreed to rectify a specific problem, the matter would be deferred to a subsequent assessment, usually scheduled for some time within twelve months of the original review date. Competition payments would flow in the first year, with the outcome of the subsequent review determining payments in future years.

Second, where negotiations between the NCC and a State were under way, with resolution likely to be found shortly after the review date, the NCC would recommend to the Commonwealth Treasurer that a portion of the review year's competition

⁴² Initially, the NCC adopted a three-step process (National Competition Council, "National Competition Policy: First Tranche Assessment of Commonwealth, State and Territory Progress," April 1999, pp. 47-48). Later, it adopted the fourth step (National Competition Council, *Second Tranche Assessment of Governments' Progress with Implementing National Competition Policy and Related Reforms*, 30 June 1999, p.31).

payments be suspended. Once agreement was achieved, the suspension would be lifted and the payment would flow to the State in question. The NCC believed that this was a very useful mechanism, particularly in cases where State governments were on the brink of agreeing to a course of action, but required more time to negotiate policy through Cabinet and/or parliament.⁴³

Third, if the matter of non-compliance was unlikely to be resolved in the short term, and the problem was more to do with unforeseen circumstances than the “obstinance” of State governments, it would recommend that the issue be deferred until the next tranche assessment. This mechanism was used when areas of the reform program were more complex and technically difficult than first envisaged in the NCP agreement. For instance, if the issue related to a matter that was being held up because it was part of a national review process, then deferral was seen by the NCC as the only fair option to take.⁴⁴

Finally, if an area of dispute between the NCC and a State could not be resolved, and it was unlikely that a resolution would be found in the foreseeable future (because of State government intransigence, for example), the NCC would recommend a permanent deduction in competition payments. The deduction could be lifted in future assessments if progress was made on the point of concern. However, reimbursement of past payments would not be recommended to the Commonwealth Treasurer.⁴⁵

In the early stages of the assessment process, the Council pointed out that it had considerable difficulty in deciding on a suitable penalty for not observing NCP principles. This was particularly acute in the rice marketing issue in New South Wales, given the government’s overall positive commitment to the implementation of NCP. The NCC noted that it was “tempted to overlook deficiencies in domestic rice reform on these grounds [i.e. The New South Wales Government’s overall commitment to implement NCP in the spirit it was intended].”⁴⁶

⁴³ *Ibid.*, p.31.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

Ultimately, however, the NCC was not willing to enter into horse-trading over the implementation of NCP by balancing leading-edge performance in some areas against poor performance in others.⁴⁷ In the end, New South Wales was penalised \$10 million, though it was able to strike a compromise arrangement with the Commonwealth Government and the NCC several years after the initial deduction was proposed.⁴⁸

To the NCC's reasoning, the approach in the New South Wales rice case sent a clear signal to participating jurisdictions that the NCP reform agenda had to be implemented in full. Further, the implementation process had to be applied in a systematic and comprehensive fashion. Financial deductions for non-observance would be applied, even if the alleged indiscretions were insignificant in the overall application of NCP. In this context, many of the States must have felt that the penalties did not fit the crime, especially given the scope and complexity of the NCP reform agenda that they were required to manage. For the legislative review aspect of NCP alone, close to 1,700 pieces of legislation had to be evaluated, nation-wide. Some States had scheduled over 300 reviews in what was essentially a five-year timeframe.⁴⁹

The nature of the reform process and the NCC's interpretation of deductions for non-performance also meant that the States had little flexibility in blending political demands with the technical application of the reform process. No matter how insignificant the breach, a deduction would be forthcoming, with flow-on effects to forward budgets and consequently, spending priorities of the State.

The calculation of deductions - or non-allocation of competition incentive payments, depending on one's perspective - was naturally of concern to the States. The NCC's methodology was based on the estimated net economic impact of restricting competition. However, on face value, this approach appeared excessive. The review

⁴⁷ *Ibid.*

⁴⁸ The compromise involved establishing a separate Commonwealth statutory authority to issue rice export licences, which did not require domestic vesting rights. The arrangement met NCP principles, allowing the penalty to be lifted (NCC, *Annual Report 1998-99*, August 1999, p. 60; Commonwealth Treasurer, "National Competition Policy Payments – Treasurer offers NSW Premier an option on \$10M penalty over domestic rice marketing," press release, 17 February 1999; and NCC, *Second Tranche Assessment of Governments' Progress with Implementing National Competition Policy and Related Reforms*, 30 June 1999: pp. 99-109). However, the time delay in lifting the deduction deprived the State of the funding while the dispute was settled, in effect a substantial penalty in its own right.

⁴⁹ NCC, *Annual Report 1998-99*, p. 54.

agenda was quite extensive, with the bureaucratic compliance effort of each State drawing resources away from other activities. The workload of each piece of reform varied depending on the complexity of the area under review. In the legislative review area, some acts and regulations could be reviewed quite easily, while others were much more complicated, particularly the reviews requiring significant industry and community consultation.

The complexity did not necessarily match the likely economic impact of changes to anti-competitive practices. For instance, a specific component of the reform process in a particular State could amount to ten percent of its “overall reform effort,” and have a relatively minor impact on the State economy, less than, say, one percent of Gross State Product. However, when the NCC conducted its review, it could recommend to the Commonwealth Treasurer that the deduction for non-compliance be in the order of thirty percent of the State’s yearly allocation of competition payments. Clearly, the penalty was out of proportion to the non-compliance behaviour of the State.

The deduction made for non-compliance with the reform agenda in New South Wales rice marketing is a case in point. While the likely impact of the anti-competitive behaviour was less than 0.01 percent of Gross State Product, the deduction amounted to around fourteen percent of the competition payments to the State in that particular year.⁵⁰ The review was just one item in a program covering over one hundred and seventy pieces of legislation.⁵¹ From whatever way the deduction was examined, it was difficult for the State to accept that it was in proportion to the infringement of NCP principles. If the precedent created in the New South Wales rice marketing decision was followed elsewhere, it was technically feasible for a State to lose its entire allocation of competition payments for non-compliance in only a few areas.⁵²

⁵⁰ As calculated from the list of competition payments for the 1997-98 financial year and ABS statistics on Gross State Product (National Competition Council, *Compendium of National Competition Policy Agreements, Second Edition*, June 1998: p.7; Australian Bureau of Statistics, *Australian National Accounts: State Accounts*, Publication 5220.0, p.9).

⁵¹ NCC, *Annual Report 1998-99*, p. 54.

⁵² The point being made here about deduction calculations was reinforced in an interview with Graeme Samuel (8 April 2002). While discussing legislative review practices and his dealings with the Tasmanian government and legislative council, Samuel remarked: “To get a 100 % of dividends, as the dividends paid by the Commonwealth relate to 100% performance. If you perform to 95% you should lose some dividends. If you perform to 50% you lose more dividends. As I said in Tasmania, the other day, it might well be that a 10% fail, if you can measure it. I’m not sure how you measure these things. But, a 10% fail or a 30% fail could lead to losing 100% of your dividends. The rest is going for nothing.”

The methodology used by the NCC was also out of step with the logic behind the original competition payment incentive scheme. As highlighted in chapter two, the scheme was introduced to distribute the extra tax revenue accruing to the Commonwealth from the increase in economic growth occasioned by the reform process. As a result it would have been more appropriate to calculate the deductions on the basis of the Commonwealth revenue foregone, rather than the full economic impact of the decision. The method used by the NCC served to increase the financial impact of the political decisions faced by the States, and consequently, heightened the level of political attention given to the NCC's work.

Nevertheless, the NCC stressed that the deduction of competition payments was the last resort. Its role was to assist the States, not penalise them.⁵³ It believed that it always attempted to find ways around problematic issues before recommending deductions.⁵⁴ To emphasise this point, the Council stressed the importance of bi-lateral negotiations between it and the participating jurisdiction experiencing problems, usually at a President-to-Senior Minister level.⁵⁵ Here, the President of the NCC met with the Premiers and/or Treasurers of every State, sometimes twice, before the announcement of the second tranche assessment.⁵⁶ The NCC believed that any reduction in payments would be well and truly telegraphed before a judgement was ultimately handed down.

A process of "supplementary reviews" added another consultative mechanism to the NCC's assessment process. It was a creative way to extend implementation deadlines without going outside the original terms of the NCP agreement. The original NCP agreement envisaged only three reviews, one conducted prior to the payment of each tranche of the funding timetable. While the agreement did not sanction the process of supplementary reviews specifically, it failed to rule it out either. The NCC's innovation in this respect made the assessment process more interactive, allowing it to point out areas of concern, and invite States to respond to the assessment before the

⁵³ The NCC may have wanted to project this image, but in reality, the States found the Council to be a thorn in their side. Providing assistance through the narrow scope of NCP was not essentially what the States were looking for. Most were eager for the NCC to understand the political implications of some of the reform processes that it was insisting on - the application of two-part tariffs to domestic water use in Queensland for small to medium sized Councils, for instance (as discussed in the next chapter).

⁵⁴ NCC, *Annual Report 1998-99*, p.28.

⁵⁵ *Ibid.*

supplementary report was issued. By scheduling intermediate reviews, the NCC endeavoured to give State governments more time to achieve their reform targets, as well as giving the impression that it was, to some extent, willing to accommodate the needs of individual jurisdictions.

In certain cases – the treatment of dairy deregulation for example (discussed in detail in the next chapter) – supplementary reviews gave the NCC enough time for particular reforms to proceed at their own pace, without making the Council look as though it was pushing the States to change legislative regimes in politically sensitive areas. When done successfully, this took the NCC out of the political spotlight, instead letting it fall on the governments and lobby groups that were either encouraging or resisting legislative change.⁵⁷

Within the bounds of the NCP agreement, the NCC was prepared to accommodate changes in priorities and timelines, as long as the States demonstrated that they were willing to uphold the principles articulated in the document. Before recommending to the Commonwealth Treasurer that a financial deduction be instituted, the NCC's usual course of action was to grant the jurisdiction an extension of time to address outstanding items. This was evident in the first assessment, when the NCC recommended that a subsequent review be instituted within twelve months of the initial assessment to allow States enough time to comply with outstanding issues and hence continue to receive their full entitlements under the competition payments scheme.

Despite the approach taken to its assessment process, by the third year of the reform process – the second tranche assessment stage - relationships between the NCC and several participating jurisdictions had deteriorated markedly. A few years down the implementation track, the stakes were much higher than in the initial stages of NCP reform, which in turn probably led to increased conflict over the direction of the reform process. In the second tranche assessment stage, competition payments rose significantly, legislative reviews started to question certain privileges granted to sectors of the economy, and popular perception of the impact of NCP turned decidedly

⁵⁶ *Ibid.*, p.30.

⁵⁷ Discussed in further detail in chapter five.

negative. All in all, a heady political mix for both the NCC and Australian governments to manage.

Another crucial aspect of the tension surrounding the second tranche assessment was the gearing up of COAG water reforms, targeting the pricing, investment and structural arrangements of urban and rural water supplies. This area was particularly controversial as it was targeted towards addressing long-term subsidies that underpinned many rural industries. Lobby groups from the farming and local government sectors were particularly vocal during this period – adding further pressure on the NCC and State governments.⁵⁸

The changes to the political leadership since the signing of the original NCP agreement added another layer of political tension. Three years after the signing of NCP, the only signatories to remain members of COAG were three State premiers: Jeff Kennett (Vic), Richard Court (WA), and Bob Carr (NSW).⁵⁹ The changes in political leadership allowed some jurisdictions to re-mould their approach to NCP. Queensland under the National-Liberal Party in the mid-1990s attempted to make political mileage out of the changes, continually referring to the NCP agreement in State parliament as a plan designed by the Labor Governments of Keating and Goss.⁶⁰ Leaders like Borbidge tried to shift the odium of economic change on to their predecessors.

Yet, despite the rhetoric of some State governments in the late 1990s, there was little evidence of a willingness to walk away from the reform agenda completely. Needing the money, but not the reputation as a reformist government, political leaders sought to

⁵⁸ Again, this issue is discussed further in the next chapter.

⁵⁹ Painter, *Collaborative Federalism: Economic Reform in Australia in the 1990s*, p. 46.

⁶⁰ National/Liberal Party figures who attempted to link NCP with former Labor leaders Keating and Goss included, former National Party Minister for Transport, Vaughan Johnson, in a parliamentary debate in early 2000 (*Queensland Parliamentary Hansard*, 15 March 2000, pp. 502-3); Former National Party Natural Resources Minister Howard Hobbs (*Queensland Parliamentary Hansard*, 25 March 2000, p. 907 – responding to an interjection from Liberal Denver Beanland, “Who signed this National Competition Policy?”); Former National Party Minister for Health, Mike Horan, (*Queensland Parliamentary Hansard*, 12 April 2000, p. 848); Shadow Primary Industries Spokesperson Marc Rowell (*Queensland Parliamentary Hansard*, 12 April 2000, p. 858. Rowell was probably the most direct in his attack on Keating and Goss, stating that “ history will always show that it was the Goss Labor Government and the Keating Labor Government that signed Queensland up for National Competition Policy.” He continually referred to NCP agreement as the Goss/Keating agreement. Former National Party Premier, Rob Borbidge also used the same retort (*Queensland Parliamentary Hansard*, 11 November 1998, p. 3031). As noted in the previous chapter, the Queensland Nationals used this rhetorical position, even though their official party platform acknowledged their commitment to NCP.

deflect blame for legislative changes onto both the NCC and former State administrations.

The NCC and the political process.

As the reform process gathered speed, legislative reviews threatened many social, political and economic institutions, particularly those with links to the rural sector. Many of the legislative arrangements targeted for review were closely guarded by political and agricultural lobby groups, ensuring that any proposed reforms emanating from the review process received rough passage through cabinet and parliament.⁶¹ In the face of political unrest over NCP, the NCC argued that each State needed to show political leadership, and not be swayed by “small, vocal (and often well resourced) groups who currently benefit from ... protection.”⁶²

In the mid to late 1990s, the Council demonstrated an eagerness to enter into political debate, not only through its published reports, but also via the media, a trait rarely seen from intergovernmental bodies. The One Nation-inspired political attacks on NCP in Queensland during the late 1990s, provide a case in point. While the parliament was debating a resolution moved by One Nation member Dr Kingston over the alleged social malaise created by NCP, the Council, through its President, Graeme Samuel, issued a press release attacking the substance of the argument provided in the House. In an aggressive tone, Samuel stated,

... competition policy does not require privatisation, blanket deregulation, free markets, ‘laissez faire’ economics, welfare cutbacks, contracting out ... or reduced community services ... Where governments choose to do any of those things, it reflects a policy decision of the government in question – not a requirement of competition policy.

He proceeded:

I understand that it is useful to have a whipping boy to blame for peoples’ woes, but it is time that the people of Queensland were given the facts ... I suggest that anyone wanting the true picture of what competition policy is about, and the benefits it offers, should get a hold of our [annual] report.

And, concluded:

⁶¹ The political debate surrounding the deregulation of the dairy industry is a case in point. This will be discussed further in chapter six.

⁶² National Competition Council, *Second Tranche Assessment*, p.1.

The states knew all this [ie. the requirements of the NCP process] before they agreed to implement competition policy ... They should not blame us now for doing the job they gave us in the first place.⁶³

Samuel used speeches at public forums to drive his point home. In a public debate with John Quiggin - sponsored by the Economic Society of Queensland – he continued his attack on the political process. He noted how some State governments continued to protect elite professions, such as lawyers, from competition even though this resulted in higher costs for consumers. A case in point was the legislative restrictions placed on conveyancing. He noted that the New South Wales Government’s decision to open conveyancing to competition had resulted in a drop in legal fees of around seventeen percent, saving consumers in that State almost \$86 million a year. However, Samuel lamented that for some governments the motivation to bring cost savings to consumers had been tempered by deals done behind “closed doors.” In summary, he remarked,

At present, some groups do business from behind anti-competitive arrangements, while other people are not afforded the same privileges and, in fact, can end up paying for them.⁶⁴

Through the public responses to political criticisms levelled at the NCC, Samuel sounded a warning - the NCC was not going to be bullied by political attacks, particular those emanating from the Queensland parliament. However, at the same time, he also sent the message that the NCC was somehow outside the political process, and not reliant on political patronage for its continued survival. While some may see this as a courageous sign of independence, others saw it as a maverick act of an intergovernmental body out of control. Samuel’s public criticism of governments was thus used as a reason to place him, and the NCC, under greater political oversight.

Political actors in Queensland had the NCC in their sights, intent on bringing the Council to heel. Samuel seemed to be aware of this and issued a challenge to the governments – if you don’t like the policy, and in particular the NCC’s involvement in policing it, change NCP. Until then, Samuel was adamant that the NCC’s role was to keep the original agreement on track:

⁶³ NCC, “One Nation attack on competition policy unfounded,” press release, 12 November 1998.

⁶⁴ Samuel, G. “The debate about competition policy,” p. 4.

If governments do not like our advice, it is open for them to tell us why we are wrong and so seek to persuade us to change it, or to change the NCP and related agreements through the COAG, or cease being parties to those agreements. Australia's governments set up the Competition Council and gave us our advisory role. It is simply wrong to imply that, in exercising that role, we over-ride their powers.⁶⁵

The NCC stood firm. Whether it was driven by a somewhat naïve view of politics – for instance, a belief that governments could stick to a ten-year reform process and not want to deviate because of localised political imperatives - or a firm ideological belief in the benefits of competition, the result was the same. The NCC had marked out its territory, and it was now up to the States to take action through COAG to secure change.

Samuel's style was his own. He seemed to delight in challenging government thinking, no matter what the policy field. This was demonstrated in an interview on the ABC's Lateline program in early 2000. While the topic did not relate directly to NCP – the focus of discussion was on the lack of transparency in industry assistance packages – Samuel still pushed the line for transparency and rational decision making in the allocation of public resources. As with NCP, he believed that governments, no matter what their political persuasion, were uncomfortable with open, transparent decision making. In response to a question on perceived weaknesses in the way industry assistance packages were put together in Australia, Samuel remarked,

There ought to be a very rigorous analysis of both the social and economic costs and benefits associated with the expenditure ... then there ought to be complete transparency so that there is accountability to us, the taxpayers, that what has been taken into account is the social and economic costs and benefits rather than, if I can put it this way, political opportunism, which so often is the overwhelming motivation.⁶⁶

Later in the interview he went on to say,

As a private investor – and after all, as a taxpayer, I am an investor in this particular project, as you and every one of your viewers tonight is – I'd expect to get an internal rate of return on that investment of about 20 percent ... If we don't get that internal rate of return, then I guess I'd rather see the money put into hospitals, schools, health education and perhaps assisting those who are disadvantaged in society.⁶⁷

⁶⁵ Samuel, G. "Competition Reform, Equity and Policy Leadership," Speech to the Business Leaders Forum, Brisbane, 19 November 1998: pp. 2-3.

⁶⁶ *Lateline*, "The Corporate Dole," TV Program Transcript, Australian Broadcasting Corporation, <http://www.abc.net.au/lateline/archives/s121809.htm>, 27 April 2000 accessed on 27 June 2000.

⁶⁷ *Ibid.*

In an ideal world, Samuel may have had an argument. But, in reality, political decision-making will focus on more than just the “rational”. Factors such as public perception of government’s ability to create business opportunities, the location of a new venture and whether it is in a marginal electorate, and the political networks of the proponent will come into play when governments make decisions about resource allocation. It was obvious that Samuel felt there was little room for such “political interference” when allocating tax-payer resources. As Davis *et al* note, politics can be the “great wrecker” of sound policy decisions – Samuel seemed to be oblivious to this truism of political science.⁶⁸

Samuel’s personal views about the decision-making processes of political governance structures were evident in other media comments and press releases. In an interview with John Stanley on Sydney radio station 2UE, Samuel remarked that NCP was much maligned, but its sole purpose was to make government decision-making more transparent. To emphasise, he stated, “See, National Competition Policy is actually a bit of a misnomer because it is really ‘National Public Interest Policy’ – the policy is founded on the public interest.”⁶⁹

To Samuel, NCP was about “taking on the powerful vested interests.” In the same radio interview, he remarked:

It is about removing privilege, it is about saying, ‘your privileges that you have had for the past twenty five years that the rest of us haven’t been able to enjoy in terms of protection from competition – they must now be subject to a rigorous public interest test – are they in the public interest or not? Now you can imagine that when you are removing privileges there is an awful lot of people that say, ‘hey hold on, I have had those for years, I have been able to secure them by lobbying with governments and I want to keep on securing them’.

Samuel’s statements provide an insight into his way of interpreting the world of political lobbying. Given his value base, it was not surprising that Samuel demonstrated little tolerance when assessing State performance against NCP milestones, especially those States (like Queensland) which showed some reluctance in taking on “those powerful vested interests”. Moreover, with such a high profile President, the NCC was

⁶⁸ Davis, G., Wanna, J. Warhurst, J. and P. Weller, P. *Public Policy in Australia*. 2nd edn, Allen & Unwin, North Sydney, 1993, p. 7.

sure to obtain a strong media profile – thrusting it in the public spotlight on a regular basis.

Nonetheless, having the benefit of several years of lobbying experience in his roles in private industry, he was surely aware of the political process and the priorities of major political parties. In an interview conducted in early 2002, Samuel noted that around the close of the 1990s, he realised that he and the NCC were testing the tolerance of incumbent government leaders by openly challenging them in the media. He admitted is strategic mistake:

What we did then was endeavour, as lone rangers, to talk about Competition Policy, and I think that took us down the wrong track, because what happened was we were fighting governments and politicians all over the country. We really should have been working a lot more quietly with them, to help them through the implementation processes of NCP. So, that's a long way of saying, if I had my time over again, I would go a lot quieter, I would work a lot more quietly with Governments. Which is exactly what we have been doing over the last twelve months or eighteen months.

I wouldn't be taking on all the various interest groups myself. We don't have the resources to do that. I think that's for Governments to do. I will be trying to help Governments through the reform process, but keeping in mind we have certain obligations, certain mandates if you like. I see mandates as not being authorities, but obligations imposed on us by COAG.⁷⁰

Samuel credits the NCC with changing its approach to “selling” reform well before the COAG review was handed down. It was a conscious decision that the Council was switching to a strategy of “working behind the scenes.” While it would continue to promote the benefits of the reform agenda, it would pay far less attention to media confrontations with politicians.

⁶⁹ *Please Explain: National Competition Policy*, Interview with John Stanley, Radio 2UE, 21 February 2001.

⁷⁰ Interview with Graeme Samuel, 8 April 2002. This change in tack was also noted in the press (*The Australian Financial Review*, “Competition advisor moves to soften policy image,” 21 October 1999, p. 4). Though, it seems that Samuel underestimated the length of time since the change in emphasis. The *AFR* article was some two and half years before the interview, not twelve to eighteen months as noted by Samuel in the interview.

Reviewing the NCC

The Queensland government was clearly uncomfortable with the high-profile, interventionist role played by the NCC. In mid-1999, the Beattie Labor government decided to move on the Council.⁷¹ Premier Beattie informed the House that:

All the States are concerned that the National Competition Council is exceeding its brief. This State in particular certainly is. Queensland will be arguing very strongly [at a Leaders Forum in Sydney on 23 July 1999] that the council be abolished and replaced by a truly representative body – under the control of the Council of Australian Governments. This is about having the elected representatives of the people make those decisions. This is about restoring some democracy to competition in this country.⁷²

Beattie was able to enlist the support of the New South Wales and South Australian governments to embark on a review of the role of the Council. However, the review process failed to gain momentum – probably due to the fact that other States and Territories were unwilling to support it - and simply vanished without the governments even tabling a report.⁷³

Three other, more substantive, reviews of the NCC's role, and NCP in general, were conducted around the same time – one commissioned by the Commonwealth Government and conducted by the Productivity Commission in late 1999, another by a Senate select committee on the socio-economic consequences of the National Competition Policy early in 2000, and the final auspiced by the Council of Australian Governments as part of the required five-year review of NCP and the NCC (as foreshadowed in the original NCP agreement).⁷⁴ The COAG review was an important milestone in NCP, as it was the point at which COAG was able to pass judgement on the reform process in general, and the role of the NCC in particular.⁷⁵

⁷¹ *Queensland Parliamentary Hansard*, 22 July 1999, pp. 2873-2874; *Queensland Labor Times*, "Urgency motions passed at conference," June 1999, p. 8.

⁷² *Queensland Parliamentary Hansard*, 22 July 1999, p. 2873.

⁷³ In any case both NCP and the NCC were up for review in another twelve months, as stipulated in the original NCP agreement.

⁷⁴ As outlined earlier, the release of the official five-year COAG review marks the end of the specific focus of this thesis (ie. the first five and a half years of NCP implementation).

⁷⁵ It would be highly unlikely that COAG would change its position on competition policy after such a wide-ranging and officially-sanctioned review such as this. As a result, the direction set in the review process was likely to stay in place for the remainder of the ten-year implementation period.

The results of the first two reviews, particularly the work undertaken by the Productivity Commission, have been utilised elsewhere in this study, and there is no intention to analyse them here, except to note that the COAG review would have used these reports for reference purposes. As such the COAG review was a synthesis of the reviews conducted before it. More importantly, it was used by COAG at its meeting of 3 November 2000 to set the direction for NCP reform for the remainder of the implementation timeline. To Beattie, it was his only real chance to secure permanent changes to the way NCP was being managed, and more specifically, to the role played by the NCC.

At roughly the same time the review was to be tabled at COAG, the Commonwealth was in the process of making appointments to two vacant Councillor positions and the role of President. Samuel's term had expired. If Queensland wanted a new NCC head, as well as an altered NCP process, now was the time to act.

Though, when given the chance, the States were comfortable with leaving Samuel where he was. On 15 December 2000, Samuel was re-appointed to the position of President for a further three years – virtually to the end of the ten-year reform program.⁷⁶ This should have represented a significant loss of face for Beattie, given the nature of the political attacks he levelled at the NCC and its President, both in parliament and the media in the three years prior to the announcement. However, in public, Beattie was mute on the issue, instead focusing on other matters associated with COAG's review.⁷⁷

The COAG communiqué on the NCP review announced five major changes to the NCC's role and governance practices. First, COAG provided the NCC with guidance over how it should conduct assessments of State performance in applying the public benefit test to their review program. Here, COAG stated that the NCC should,

⁷⁶ Costello, P. "Treasurer announces National Competition Council appointments," press release, 15 December 2000. Beattie was reported as being the only State Premier refusing to ratify Samuel's reappointment (*The Australian Financial Review*, "Politicians deem Samuel devil incarnate," 19 February 2001: p. 10).

⁷⁷ Though, the timing of the COAG review and the announcement of Samuel's re-appointment separated the two issues in parliamentary and media assessments. The NCC appointment was announced five weeks after the COAG meeting of 3 November.

... consider whether the conclusion reached in the report [of legislative restriction conducted by a participating jurisdiction] is within a range of outcomes that could reasonably be reached based on the information available to a properly constituted review process. Within the range of outcomes that could reasonably be reached, it is a matter for Government to determine what policy is in the public interest.⁷⁸

Further, when documenting the outcomes of public benefit test reviews, governments needed to outline the “public interest reasons” that supported their positions. These reasons needed to be publicly available so that the community could make its own judgement about the government’s motives in each particular case.

This particular COAG review finding seemed to keep open the potential for on-going disputes over the outcomes of legislative reviews. A statement such as: “within the range of outcomes that could reasonably be reached ...” was hardly definitive. The States were not given the latitude to make their own minds up about the outcomes of reviews – there was a clear requirement for a rigorous assessment of all options. In addition, the NCC would still have considerable scope to pass judgement on the adequacy of State review outcomes, and hence, continue to recommend deductions for non-compliance.

Second, the COAG review found that the work program of the NCC needed to be more tightly controlled by the senior officials’ working group of COAG (basically, the heads of all participating jurisdictions’ central agencies). The intention here was not to provide day-to-day guidance to the management of the Council, rather a more general oversight of the operational plan of the organization. Importantly, the senior official working group was to provide the NCC with “greater assistance” when interpreting specific clauses of the NCP agreement, including “appropriate assessment benchmarks.”⁷⁹

Third, the deadline for the completion of the legislative review component of the reform package was extended from July 2001 to 30 June 2002, giving governments more time to consider review options.⁸⁰ Simply, this finding was an acceptance by COAG that the

⁷⁸ COAG Communique, 3 November 2000, Attachment B.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.* There was some “extra flexibility” provided here, with governments able to extend the June 2002 deadline if they could show that they had a “firm transitional arrangement” in place.

review process was far more complicated than originally envisaged when NCP was created.

Fourth, COAG provided the NCC with a clear policy on determining penalties for non-compliance with NCP objectives. Specifically, COAG required the NCC to observe the following statement:

When assessing the nature and level of any financial penalty or suspension, the NCC must take into account:

The extent of overall commitment to the implementation of NCP by the relevant jurisdiction;

The effect of one jurisdiction's reform efforts on other jurisdictions; and
*The impact of failure to undertake a particular reform.*⁸¹

Finally, COAG provided guidance to the NCC over how it should interpret community service obligations (CSOs) when assessing State performance in the application of competitive neutrality principles. Specifically, it required the NCC to allow the States to use a variety of “full cost attribution methodologies” when calculating CSOs, and for governments to determine their own way of disclosing this information in annual reports and other documents. In addition, COAG specified that CSOs could be provided by governments without going through a “competitive process.”⁸²

Less substantial than the amendments outlined above, but nonetheless of some import to the arguments presented in this chapter, was a one-line statement listed in the first section of the COAG communiqué, which read: “COAG [is to] undertake an enhanced role in guiding the NCC in relation to its role in explaining and promoting NCP policy in the community.” There was no supporting information on how this objective was to be operationalised by COAG, but it was clearly targeted at addressing the NCC’s, and more specifically Graeme Samuel’s, “public relations” role. Though, it was difficult to say whether COAG’s intent was to silence the NCC, and its controversial leader, or simply support it in its endeavours to promote greater understanding of NCP in the community. Graeme Samuel’s continued media presence after the November COAG meeting – albeit, more subdued than his earlier comments – suggests that the statement was more to do with the latter objective (or at least this was the way Samuel chose to interpret the events, as discussed below).

⁸¹ *Ibid.* Italics used in original document.

⁸² *Ibid.*

The Commonwealth Treasurer released the second tranche competition payments on the same day as the COAG meeting, providing a nuance of political intrigue to the COAG deliberations. The Treasurer noted that all States and Territories, with the exception of Queensland and the Northern Territory, would receive their full allocation of payments. On the recommendation of the NCC, Queensland received suspensions of \$12.9m (15% of the total available allocation) for insufficient progress in implementing urban water reforms, and for failing to provide Queensland Rail with a community service obligation framework to address competitive neutrality concerns.⁸³

The NCC and the Queensland Government both developed their own “spin” on the COAG review findings. The NCC described them as simple “fine tuning”, reaffirming the policy position originally adopted by COAG in 1995. To Samuel, the review simply legitimised what the NCC was already doing – a ringing endorsement of the Council’s work, even. Specifically,

I have to tell you that all this was doing was putting into practice, or putting into print, what was already being done in practice. We don’t just sit here in an ivory tower in Melbourne and issue judgement every twelve months.

There was no element of the final product that we had any concern with at all. We were really pleased with it. What the final product did was to recognise some political concerns, in terms of the requirement in the public interest test should take account of, or not so much takes account of, but should reflect upon the impacts on certain communities and the structural adjustment cost and the like.

We have always thought that was the case. The review started off by the PC strongly reaffirming the support for the benefits of competition policy, both in terms of the Australian economy and the Australian public. Then it when on to actually look into the COAG process.

Some elements we have been pushing for some time, which related to the propriety of reviews, that is, the way they should be handled. They [the States and Territories] should have proper review processes.⁸⁴

⁸³ Commonwealth Treasurer, “Commonwealth competition reform payments to States and Territories amount to approximately \$450m,” press release, 3 November 2000. The press release also stated that, “The Treasurer noted a number of the competition reform areas are highly complex, with a wide range of economic and social factors to be considered. All Governments, however, recognised the benefits to Australia as a whole inherent in the National Competition Policy agenda.”

⁸⁴ Interview with Graeme Samuel, 8 April 2002.

Understandably, Beattie held a different perspective, crowing in parliament in the week after the COAG meeting that his government was able to secure wholesale change to the way NCP was being implemented. Specifically, Beattie stated that he was,

... delighted to inform the House of another major reform and breakthrough at COAG – that is, a major reform in National Competition Policy that will result in thousands of Queensland jobs no longer being threatened needlessly by competition reforms.⁸⁵

He went on to slight the NCC, saying, “Unelected bureaucrats in Melbourne will in future have much less power in deciding the fate of jobs and our way of life in Queensland.”⁸⁶ Beattie made specific reference to the public benefits test, asserting it was now up to governments to decide what was in the public interest, not “Graeme Samuel and his other Canberra appointees.” Beattie gloated in a press release tabled in parliament that his government had led “the push for change as part of a COAG working party review of the policy.”⁸⁷

In the end, both the NCC and the Queensland government overstated their respective positions. The NCC was going to receive much greater guidance when interpreting sections of the NCP agreement, having the senior officials working group looking over its shoulder. In addition, it was also required to consider what it previously described as a “horse trading approach” by COAG’s finding that the NCC had to take into account a jurisdiction’s overall commitment to reform when deciding the level of recommended deductions. Finally, it was provided with instructions – albeit somewhat obscure - about how it was to assess public benefit requirements associated with State review processes.

For the Queensland Government the result was far less convincing than the Premier made out in parliament. In particular, the riding instructions provided by COAG for future public benefit test reviews were not as clear-cut as the Premier implied. Governments were not able to “make their own minds up” about the outcomes of public benefit tests, as inferred by Beattie. The review process still had to pass “the reasonable

⁸⁵ *Queensland Parliamentary Hansard*, 8 November 2000, p. 4028.

⁸⁶ *Ibid.*

⁸⁷ Beattie, P. “Change in Competition Policy a Major Win for QLD jobs,” press release, 3 November 2000.

person test” – providing the NCC with a continued scope to pass judgement on the thoroughness of the government’s review initiatives.

Even the requirement for the senior officials working group (subsequently referred to as the Senior Officers’ Group) to provide guidance on the interpretation of the NCP agreement fell well short of Beattie’s stated desire for greater COAG control over the implementation of NCP. Bureaucrats, not elected politicians, would provide this general oversight role – COAG, nor any other ministerial body for that matter, played no direct role in the interpretation process. Beattie’s goal of “returning NCP to democratically elected governments” was still a long way off. The Commonwealth Treasurer’s announcement about competition payments on the same day as the COAG meeting,⁸⁸ and the reappointment of Graeme Samuel as NCC President a few weeks later, were further setbacks in the Beattie government’s agenda to tame the Council.

The Queensland Government, however, could claim some credit in having COAG endorse amendments to NCP that made it clear that CSOs were not required to be “put out” on a competitive basis. For some time, the Queensland government had been arguing with the NCC about its interpretation of the CSOs provided to Queensland Rail to service the newly constructed Gold Coast to Brisbane rail line. The Council adopted a position that the CSO provided to Queensland Rail to operate the service should be put out to tender, as the subsidy provided a disincentive to travel by bus. To the NCC, if rail commuters were provided a subsidy, so should the bus users, or at least the two modes should be made to compete for government resources. However, the COAG finding clearly stated that it was up to government to decide how to allocate CSOs, and the NCC had no role to play in the decision-making process, other than to ensure that governments made CSO payments transparent in their public accounts.

As a final point – if to state the obvious - the review process failed to deliver on the previously stated goal of the Beattie government to “abolish the NCC.” While this position was well recorded both in parliament and the media, the Beattie government

⁸⁸ The apparent contradiction inherent in the two issues – on the one hand Beattie claiming that he had a major win for Queensland, and on the other his government being penalised for non-compliance with reform objectives – was not explored by either the opposition or independent members of parliament.

was not questioned on the matter by journalists or parliamentarians. In boxing parlance, it seemed that Graeme Samuel had won on a points decision.

Assessment of the political interaction between Beattie and Samuel implies that the game played out in public by the two combatants was reflected behind the scenes. Sometimes, aggressive tactics in public statements can belie the true nature of the relationship parties. When questioned about the apparent conflict with the Beattie government, Samuel remarked:

I mean Peter Beattie and I get on very well, and I don't take too much of what they say in the public arena to heart. He told me, "don't take it personally. But it is part of the political rhetoric."⁸⁹

Later, Samuel went on to say,

I had a meeting with him [Beattie], and I said, 'look, you know, we actually might get on a lot better if we work with each other rather than against each other in the public sense. So I am not going to be critical of you, there are a few things, we have to do.' And, actually I worked on a few problem areas with him. He had difficult areas in dealing with the reform that he wanted to do, but didn't quite know how to do it. We helped him through that process. In Queensland we are getting on very, very well at the moment. But it is all part of the process of personal relationships, making sure we are working towards the same objective.⁹⁰

As far as Samuel was concerned, the NCC was much better off dealing with a State leader who entered into discussions behind the scenes, yet played politics in public, than a leader who refused to engage. In discussing his relationships with various Queensland Premiers, Samuel noted,

Borbidge on the other hand - I met with him, it was very hard. I actually didn't have much to do with him, as he wasn't around long enough. But he was strongly opposed to everything.⁹¹

Samuel's comments also point to the sometimes fickle nature of politics, where politicians utter "moral outrage" at points of community discontent, but at the same time continue to support policy initiatives in an administrative sense. It was an admission that State leaders had to say certain things in order to maintain electoral popularity, but could still enter into detailed, rational discussions about points of substance when required.

⁸⁹ Interview with Graeme Samuel, 8 April 2002.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

As far as Samuel was concerned, the public stoushes between the NCC and the Queensland Government did not stop the reform process from moving ahead – they were more about “political theatre” than anything else. Samuel may have oversold his viewpoint in order to cover up some underlying hostilities. Nevertheless, he was able to pinpoint the fact that while the Queensland Government made a lot of noise about how NCP was being managed by the NCC, the two bodies were still able to move ahead with the reform process. Yet, it does beg the question: “how much was pure political play acting, and how much was for real?” The truth will always be difficult to decipher.

The relationship between the NCC and the Queensland Government

The narrative provided above provides an account of the key behavioural patterns of the NCC when attempting to police the implementation of the NCP agreement. It also sketches out the areas where the Queensland Government chose to focus its political attacks in the mid to late 1990s. From this information, together with the analysis provided in the previous chapter, some general observations can be made about the nature of the relationship between the two institutions.

The relationship between the Queensland Government and the NCC, draws upon the questions raised in the conceptual framework developed in chapter one. In answering these questions – the ones that drive to the heart of the relationship between the two bodies – the angle of Queensland Government’s attack on the NCC becomes clear. Successive Queensland Governments, namely Borbidge and Beattie administrations, became highly skilled in painting the NCC as the “boogie man”, and in doing so, deflecting much of the community discontent with economic and social change away from their respective political parties. The relevant research questions (as listed at the start of the chapter) are discussed below.

Were the Queensland Government and the NCC in regular contact?

The NCC and senior Queensland political and administrative operatives were in regular contact, both through face-to-face meetings and written correspondence. From Graeme Samuel’s disclosure it was also apparent that there were opportunities for informal discussions between the head of the NCC and the State Premier. However, there was little opportunity for the leaders of Australian governments to engage with the Council

on a multi-lateral basis, as has been highlighted above (and in chapter two, when examining the structure of NCP agreements).

Beattie's contact with the NCC appeared to be decidedly different to that of Borbidge. If the statements made by Samuel are taken on face value, Beattie was more accustomed to playing the "double game" of decrying the intervention of the NCC in public, while working through implementation issues at the officer level, behind the scenes. This was further supported by the statements made by senior officers of the Queensland Government, who described their relationship with the Council as positive, and workman-like. Borbidge on the other hand, seemed to despise the Council, and had limited engagement with it. Though, again, officers continued to engage with the newly formed Council on substantive grounds, even without the presence of informed political leadership from the Premier.

Were intergovernmental bodies created and did they bring governments into closer alignment and improve communication?

The NCC was the key intergovernmental body in the NCP reform process. The Council's reporting cycle (as well as public statements, press releases and information papers) enabled it to distribute substantial amounts of information about governmental progress in implementing the reforms (together with a rationale behind the reform agenda, or parts of it). This enabled some comparison to be made of the differential progress of the participating jurisdictions. The face-to-face discussions at Council to government level also helped to reinforce the messages being communicated in print form. These meetings were important, as it was unlikely that political leaders (and the media, for that matter) would be in a position to digest the amount of information being produced by the Council, and some form of summary discussion was necessary to help distil the potential problem areas for the Queensland Government.

But, as discussed elsewhere in this thesis, the engagement between the NCC and participating jurisdictions was largely on a bi-lateral basis – there was little opportunity for governments to act collectively on reform objectives. The next chapter discusses a reform initiative that bucked the trend of bi-lateral discussions, opening up policy options that could not be achieved by one State acting alone. Even so, the lack of multi-

lateral engagement over NCP implementation was a key, limiting factor in the reform process.

The case studies in the next chapter also highlight some significant communication problems that occurred in the implementation of urban water reforms. As will be demonstrated later, communication difficulties may not necessarily be related to the structure of NCP implementation, but more to the level of political and administrative upheaval in Queensland during the important early stages of the reform process.

Did NCP spell out decision-making rules, and were there sufficient incentives and sanctions in place to keep parties engaged?

As noted in chapter two, the NCP agreements left substantial latitude to State governments to map out how the reform objectives were to be implemented within their respective jurisdictions. Further, the agreement gave little guidance to the NCC in deciding compliance with the reform objectives, and, moreover, the sanction to be imposed if State governments were deemed to be in non-compliance with these objectives.

This chapter has highlighted a significant problem with the way that sanctions were calculated by the NCC. The deduction of NCP incentive payments seemed to be out of kilter with the reform effort of State governments – a relatively small indiscretion was dealt with harshly, when compared to the overall commitment of a State government to implementing the reform process.

The NCC was of the opinion that it could not “horse trade” on the reform agenda – its role was to see that all reform objectives were met, in all industry and governmental areas. It was not prepared to overlook poor performance in one area, against spectacular achievements in another (as evidenced in the NCC’s commentary on the NSW rice marketing case). But, to the States, this attitude was seen as heavy-handed, and not in balance with their overall achievements in terms of competition reform.

The Queensland Government, when exercising its right to make decisions not in accordance with the NCP agreements, would face hefty deductions from their incentive payments, as a consequence. As discussed in the previous chapter, the Queensland

State budget position was deteriorating, and such a sacrifice of “unencumbered” revenue would be a difficult pill to swallow, no matter how committed the State was to protect an area of its jurisdictional responsibilities from reform.

If COAG, or a body engaged under its mandate, was constantly enmeshed with reform implementation, policy conflict such as this (remembering policy decisions will occur at a number of levels, even after broad directional policy has been set, in this case, through the intergovernmental agreements on NCP) could be resolved rationally, through informed debate. The reforms announced in November 2000, went some way to addressing this problem, through the continual engagement of the Senior Officers’ Group (the heads of central agencies) in the implementation process, and the introduction of “horse trading” rules in the calculation of sanctions. In terms of the latter, there was no guidance on how to weigh up the relevant contributing factors – presumably this would be something that the NCC would seek guidance on from the Senior Officers’ Group.

Was reciprocity present and how did it moderate the behaviour of both the NCC and the Queensland Government?

The engagement between the NCC and the Queensland Government, behind the scenes, was robust and in character with a relationship that respected each other’s roles and responsibilities. The relationship with Beattie and Samuel appeared decidedly candid – each knew what role they had to play to ensure reforms went ahead as intended.

Publicly, the relationship appeared horrid. Both Samuel and Beattie would use public forums and the media to launch arguments and political attacks on the role and purpose of the NCC (and NCP in general). Samuel seemed resigned to the fact that this was the “way it was going to be,” and if the reform process was to succeed, political actors needed to have a scapegoat. Rather than reciprocity, it seemed that there was a begrudging acceptance of the other party.

Samuel’s expectation that the reform process would somehow be handled in a “non-political” way, with State leaders debating reform objectives on rational grounds, was somewhat naïve. It was not until the future of the reform process was under significant threat, Samuel decided to play a “low-key” role in advocating reform, particularly in the

presence of outright political hostility (largely ill-informed, but nonetheless publicly appealing) against some of the reform objectives.

Was the policy mandate unambiguous, and provided a means to mediate disputes once implementation began?

As stated in chapter two, the NCP agreements provided no means of resolving disputes, if issues of policy interpretation arose during the implementation process. This left the NCC open to claims that it was acting as both “judge and juror” when assessing the implementation progress of governments. The engagement of the Senior Officers’ Group in overseeing the NCC was a key intervention in the 2000 review of the Council, presumably, in part, to help separate the issue of policy governance from the assessment of government performance.

Up until the 2000 review, the NCC was given little latitude to bend NCP to suit changing policy conditions. As noted in chapter two, NCP was set along a rigid, linear implementation pathway. The NCC attempted to introduce some flexibility, through a creative interpretation of its assessment process, by utilising supplementary assessments between tranche assessment years. In essence, these assessments were used to enable governments to buy time in order to reach implementation milestones. As such, it did not change the policy goals, just gave participating jurisdictions more time to contend with the sometimes complex policy and institutional change occasioned by the reform agenda.

The inclusion of a disputes resolution procedure in the original NCP agreement would have averted much of the conflict associated with policy interpretation. Though, it would be highly likely that the creation of such a vehicle would have brought with it other (unintended) consequences. For one, it would have opened up an avenue for States to draw out assessment outcomes, by tying matters up in a formal dispute resolution procedure (with consequential cost impacts as well). Nevertheless, it would have made States engage in policy debate on substantive grounds, instead of hiding behind questionable political rhetoric, as was the case with many of the NCP debates at the political level in Queensland.

Did the policy mandate provide sufficient structure and direction to the Queensland Government and the NCC?

Again, as discussed in chapter two, the NCP agreement provided all parties with explicit reform targets, with specific timelines for implementation. What it did not do was provide a “road map” to get there – this was up to each participating jurisdiction to work out.

If anything, the structure of the original policy agreement was too restrictive for the Queensland Government – it wanted to introduce some flexibility in the process to help it deal with the political circumstances of the time. Much of the political argument was mis-informed, and targeted at securing votes in margin rural and regional Queensland electorates. Further, this chapter has highlighted the “double-level” game being played out by government leaders, particularly Beattie. He new instinctively that the reform process would stall in Queensland, if the government of the day was not provided with a means to avoid being seen as responsible for the outcomes of change, however necessary the policy choices were for the economic future of the State.

Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?

There is little doubt that the NCC was set up by COAG, through the intergovernmental agreements on NCP, to be the “fixer” in the reform process.⁹² The Queensland Government found it increasingly difficult to escape from the NCC’s gaze, resorting to political means in an attempt to silence the reform watchdog. The 2000 review endorsed the continued role of the NCC, albeit with a greater level of oversight by the heads of central agencies. The review steered clear of introducing COAG as an oversight body for the NCC, possibly reflecting the changed role of COAG under Howard, as well as the realisation that continued politicisation of the reform process was likely to mean its end, and that the objectives set in the original agreement would have been lost.

⁹² Bardach, *The Implementation Game*: p. 312.

The NCC saw itself as the “protector” of NCP; claiming the high-moral ground in the implementation process – in some senses fulfilling the “fixer” role advocated by Bardach in his studies of policy implementation.⁹³ However, in the case of NCP - unlike Bardach’s research - the “fixer” was not in the legislature, but rather outside government and parliament, in an intergovernmental coordination body.

In playing this role of “fixer”, the Council stepped into the political arena, engaging political actors in public debate about the pros and cons of the NCP reforms. In doing so, the NCC took on seasoned political campaigners in an emotion-charged environment where rational debate was the last thing senior representatives of political parties had on their minds. Populist politics had made its mark on the Queensland political landscape of the 1990s – it seemed the time for strong economic leadership had passed, especially for those parties surviving in office on slender margins. The NCC was left “riding shotgun” for a reform process that was being implemented in a totally different political environment to which it was conceived.

In terms of the structure of the NCP agreement, what was the level of overhead (political) control, and consequently, what level of bureaucratic expertise would be necessary for successful implementation (and what was the demonstrated expertise by the Queensland Government during implementation)?

While the question of the expertise of the Queensland Government is dealt with in the analysis of case study material in the next chapter, some observations about the impact of the policy design can be made, as it relates to the NCC. As concluded in chapter two, the policy implementation strategy used in the formation of NCP closely resembled Thompson’s description of buffered implementation.⁹⁴

As noted in chapter one, buffered implementation requires bureaucrats, as opposed to politicians, to have extraordinary skill in detecting and rectifying implementation problems. In turn, this process requires players within the bureaucracy to be of like mind, or “on-song” with the intent of the policy, otherwise an inordinate amount of time can be spent in bureaucratic in-fighting over appropriate goals and objectives. The lack

⁹³ See chapter one for more detail on the implementation research conducted by Bardach.

⁹⁴ Thompson, F.J. “Policy Implementation and Overhead Control,” in G.C. Edwards, III (ed) *Public Policy Implementation*, JAI Press Inc., Greenwich Connecticut, 1984: pp. 18-20.

of political engagement during the implementation process can leave agencies and individual bureaucrats exposed, should political pressures mount against the policy direction. In this scenario, it is the bureaucrat, and not the politician, who tends to take the blame for political problems encountered during implementation.

As demonstrated in the previous chapter, and reinforced here, the government found increasing political return in painting the NCC as the “villain” in the reform process – this was understandable, given the political circumstances of the time. The empirical evidence presented so far strongly supports Thompson’s typology of policy implementation – it seems to have predicted, quite accurately, the likely outcome of adopting a type of implementation strategy which has minimal to no direct political oversight or day-to-day leadership.

Yet, rather than being a detriment to achieving policy goals, in fact, the policy implementation strategy for NCP may have been a master-stroke. It was extremely doubtful that a strategy which involved a greater degree of ongoing political involvement, in a day to day sense, would have been feasible in the tight electoral conditions in Queensland during the mid to late 1990s. Political leaders found great value in deflecting criticism over the reform process towards Graeme Samuel and the NCC. The Council provided the necessary “buffer” to shelter the reform process, allowing it to continue towards the reform outcomes articulated in the original policy agreements.

How was conflict between the NCC and the Queensland Government brought to the surface and dealt with during implementation?

This chapter has highlighted a particular pattern in the way that the government and the NCC related. It seemed that the government could attract the attention of the NCC through publicly goading them – a tactic that would usually see the President of the NCC engage in open debate over the direction of the reform program as well as the policy detail. It was a difficult arena for Samuel. He was taking on accomplished political actors, over a policy that tended to be viewed pejoratively by the general public.

It took Samuel several years to learn that he was likely to come out the loser in any battle undertaken in public. In fact, by his own admission, he was risking the whole reform process by openly questioning the behaviour of political leaders. Interestingly, Samuel appeared comfortable with the “Beattie-tactic” of berating him in public, yet getting on with the reform process behind the scenes. If NCP needed a martyr in order for the policy to be successfully implemented, Samuel was willing to play the role.

For Queensland politicians, it was a case of playing to the crowd – there was little to no political advantage in discussing the substantive issues involved in NCP implementation. Moreover, political leaders who were seen as “anti-competition policy,” were also likely to be seen as championing the cause of disaffected voters in marginal rural and regional electorates – they could claim that they were “one with the people.” For the NCC, and its public face, Samuel, it was a case of the “unelected bureaucrat” attempting to take to task a political leader who was simply representing the views of his/her electorate.

As already noted, the lack of a disputes mechanism, or some type of appeal system, meant that political leaders did not have to engage on substantive grounds – they could continue to misrepresent NCP in public, without having to back up their views with rational argument. The 2000 review stood to change the nature of this type of engagement. Now, heads of central agencies could negotiate the pros and cons of various reform options behind the scenes, negating the need to elevate relatively minor issues into the public forum in order to secure an agreed outcome. Obviously, debating issues on substantive grounds may involve an element of risk, particularly when trying to avoid options that other States have already implemented. It would be difficult to see how one State would be willing to let another off the hook, and receive competition policy incentive payments without going through a rational and objective assessment process.

Were there intergovernmental bodies created to mediate conflict and how did the Queensland Government engage with them?

The NCC was not in a position to both enforce standards on competition reform, and mediate conflict at the same time – it was an obvious conflict of interest. It was probably never the intent, in any case, to have the NCC as a conflict resolution body –

it's focus was more on assessing performance and reporting to the Commonwealth on outcomes (and consequentially, the distribution of NCP incentive payments). A separate body was needed, aimed at brokering outcomes when issues were in dispute. However, this would have come at a cost, as already noted – both in terms of administrative resources, and slowing the reform process while disputes were resolved.

The establishment of the Senior Officers' Group at the centre of the reform process – buffering the NCC from political attacks – was an initiative of the 2000 NCC review. The existence of this forum holds some hope of restoring rational debate on the NCP implementation, and should depoliticise the role of the NCC to a large extent.⁹⁵ At the very least, the Queensland Government would find it difficult to argue that its views were not listened to in deciding policy direction during implementation, when the Director-General of the Premiers Department was given the opportunity to debate the government's position with his peers at Senior Officers' Group meetings.

Summary of answers to specific research questions

The creation of the NCC carved out new ground in intergovernmental relations. It was born in an environment where leaders of Australian governments were institutionalising new routines of collaborative policy making. However, as implementation of NCP progressed, certain flaws started to emerge in the original agreement – problems that the drafters never envisaged. With the political decision makers disengaged from implementation, combined with the down-playing of the collaborative policy processes of COAG under Howard Commonwealth Government, the NCC was an easy mark for experienced, populist, political actors. The method with which the NCC calculated NCP payment deductions added further tension to an already strained relationship between it and the Queensland Government.

The analysis provided in Table 4.2 outlines a set of preliminary responses to the conceptual framework questions that focus on relationship issues. The next chapter looks at these questions in further depth, to enable a more detailed picture of the relationship between the two bodies. For instance, the question: “How was conflict between the NCC and the Queensland Government brought to the surface and dealt with

⁹⁵ NCP implementation beyond the announcement of the review outcomes in November 2000 is beyond the scope of this thesis.

during implementation?” is explored through the use of specific case studies in NCP implementation in Queensland.

Theory	Research Questions or Propositions	Observations about the Nature of the Relationship between the NCC and the Queensland Government
Coordination	Were the Queensland Government and the NCC in regular contact?	The Government and the NCC were in regular communication, through both meetings between Senior NCC staff and government leaders, and correspondence. COAG played no formal role in coordinating implementation.
	Were intergovernmental bodies created and did they bring governments into closer alignment and improve communication?	A key role of the NCC was to bring governments into closer alignment, not so much with each other, rather alignment with the original NCP agreement. Generally, negotiations with participating jurisdictions were on a bi-lateral basis (a case study in the next chapter will highlight a multi-agency/government negotiation, over water reform).
	Did NCP spell out decision-making rules, and were there sufficient incentives and sanctions in place to keep parties engaged?	Detailed decision-making rules were absent from the agreement. The way the NCC calculated deductions in NCP incentive payments, seemed to over-penalise defaulting behaviour.
	Was reciprocity present and how did it moderate the behaviour of both the NCC and the Queensland Government?	The level of reciprocity was difficult to gauge – begrudging acceptance of each other’s position on reform is an appropriate description. The presence of the NCC gave political leaders an opportunity to project blame for necessary reforms onto an outside body, minimising the political damage on their party,
Implementation	Was the policy mandate unambiguous, and provided a means to mediate disputes once implementation began?	The policy objectives were clear. At times it seems that the NCC was inflexible and rigid, yet it allowed governments more time to respond to reform obligations. The NCP agreement provided no dispute resolution procedures.
	Did the policy mandate provide sufficient structure and direction to the Queensland Government and the NCC?	The reform target milestones were explicit. However, the structure of the agreement was quite rigid, and without a dispute resolution process, tensions between the Queensland Government and the NCC were elevated to the political stage.

Theory	Research Questions or Propositions	Observations about the Nature of the Relationship between the NCC and the Queensland Government
Implementation (Con't)	Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?	The NCC played the “fixer” role. But, without political leadership over implementation in Queensland, the NCC became isolated, and questions about its legitimacy were raised.
	In terms of the structure of the NCP agreement, what was the level of overhead (political) control, and consequently, what level of bureaucratic expertise would be necessary for successful implementation (and what was the demonstrated expertise by the Queensland Government during implementation)?	In terms of Thompson’s typology of implementation strategies, the chosen design of buffered implementation was highly successful. It allowed politicians to be one step away from the odium of change, directing community discontent with economic reform towards the NCC. This factor appears to be a major ingredient in the longevity of the reform process.
Conflict Resolution	How was conflict between the NCC and the Queensland Government brought to the surface and dealt with during implementation?	Conflict over implementation was elevated to a political level, due to the lack of an alternative mechanism to broker solutions to implementation problems.
	Were there intergovernmental bodies created to mediate conflict and how did the Queensland Government engage with them?	The NCC attempted to mediate conflict. However, it’s role as assessor appeared to be at odds with this objective. Further, the rigid structure of NCP gave little flexibility to the NCC in negotiations. The Queensland Government preferred to engage the NCC at a political level.

Table 4.2 – The relationship between the Queensland Government and the NCC.

Conclusion

This chapter has demonstrated that, in stark contrast to the collegiate approach of COAG at the commencement of NCP, there was no “pressure valve release” of a multi-governmental forum to discuss implementation issues in the years following policy announcement. With the original NCP agreement negotiations, multi-lateral government negotiations resulted in a fair degree of consensus building, moderating the more parochial views of some State leaders. However, during the implementation stage it was up to the NCC to act as the sole point of government integration. But, the Council could only mediate conflict on a bi-lateral basis – multi-lateral discussions were rare (but not impossible, as will be seen in the next chapter). Consequently, governments tended to operate in isolation – there was little opportunity to work as a collective, except at officer level.

As a result, the NCC could afford to be somewhat belligerent in its attitude to NCP implementation, as it had no on-going, direct political oversight. COAG could only tune in to the NCC’s operations on an *ad hoc* basis, leaving much of its interventions to “strategic reviews” of the policy and intergovernmental arrangements therein. Without direct political supervision, there were no official processes open to State leaders to challenge the way the NCC was undertaking its business, other than through the media.

During the late 1990s, the dual roles of assessing and promoting NCP created the public perception that the NCC was championing the reform process by itself. It seemed to be a long way in front of the political leadership in Queensland, at least. With NCP attracting attack from populist politicians, the public confusion created by these dual functions diminished overall political support for the Council. With no vocal support base within mainstream politics, the NCC was used by political actors as the “scapegoat” for many unpopular – if necessary - decisions. For much of the reform process, the NCC was painted as the villain, while Governments attempted to distance themselves from potential electoral backlashes associated with structural economic change.

In a Machiavellian sense, this may have suited governments. By using the NCC as a “whipping boy” it allowed them to avoid direct responsibility for the reform process in public, while at the same time they could still facilitate reform efforts behind the scenes. In the same vein, the separateness of the NCC-State negotiations would have given some degree of comfort to governments, particularly the Commonwealth.

By pushing the reform agenda at a time where the community was suffering reform fatigue, the NCC was easily typecast as a collection of economic rationalists. Even though economic evidence supported the NCC’s claims for NCP, and many of the political arguments misrepresented the policy, the Council was unable to win the public relations war. Up until fairly late in the implementation process, the Council failed to recognise that the public debate was not about substance, it was focused on the emotions emanating from changing social and economic circumstances. Without actively cultivating political support – in fact, doing quite the opposite in some cases – the NCC was exposed and vulnerable. Samuel realised this in late 1999, winding back his public profile of challenging governments to implement contentious reforms.

With the benefit of hindsight, a better appreciation of the political environment early in the implementation process may have enabled the Council to avoid many of the attacks levelled at it by the Queensland Government. The highly rational assumptions used by the NCC to justify reform objectives were lost on the battlefield of politics.

This chapter also highlights that the politicians and political commentators who argued that the NCC was simply pursuing some sort of dry, economic rationalist agenda missed the mark. In making this assessment, these observers leapt to an easy option – putting the conflict entirely down to economic ideology. The substance of the conflict between the NCC and State governments was never thoroughly explored.

Overall, the NCC was courageous in its policing of the original NCP agreement, exercising a degree of independence from both Commonwealth and State governments rarely seen in Australian public administration, particularly from intergovernmental bodies that dealt with sensitive policy matters in a highly politicised environment. Governments are likely to take into account the NCC’s actions when designing future intergovernmental bodies to monitor national policies. “Remember what happened

when we created the NCC,” may be the retort to any suggestion of creating the next independent policy policing authority. Australian governments will learn from the NCC experiment, long after NCP has left the political stage.

Chapter Five – Case Study Examples

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Introduction

Previous chapters have outlined the relationship between the Queensland Government and the NCC at the macro level, while at the same time placing the activities of both institutions in the context of the political and policy environment of the mid to late 1990s. This chapter aims to drill further, analysing the interactions between the two bodies over specific NCP initiatives involving dairy deregulation, and urban water and rural irrigation reforms.

The examples chosen highlight specific points of tension with NCP compliance in Queensland during the first five and a half years of policy implementation. All had some impact on rural and regional constituency groups, and, consequently, attained significant political attention during the period of government instability in the mid to late 1990s. The management of the policy issues arising out of the reform process in these areas was of critical importance to the aspirations of the major political parties.

Meanwhile, and possibly because of the political uncertainty within the State, the NCC was under sustained attack, with its leader Graeme Samuel at one stage being described as the “devil incarnate.”¹ In this environment, it was easy for politicians from all parties to typecast the NCP watchdog as a collection of “economic rationalists” imposing their own agenda on the democratically elected government. As argued here and elsewhere in the thesis, the political rhetoric reflected the dominant belief system of the day. The rhetoric served to mask the underlying nature of the tensions experienced with NCP implementation.

This chapter goes behind the mask to examine what really happened when the Queensland Government was confronted with difficult NCP implementation issues. Instead of explaining relationships through the lens of economic ideology, the analysis presented in this chapter delves into the real intergovernmental relationships of the time. With a specific focus on the questions raised in the conceptual framework for data analysis developed in chapter one, this chapter aims to provide a richer policy analysis than has been presented in the literature on NCP implementation to date.

1: Reform of the Dairy Industry.

The policy environment

Reforms to the Queensland dairy industry came under the ambit of legislative reform proposed by the original National Competition Policy framework in 1995. Under Clause 5 of the *Competition Principles Agreement*, each participating jurisdiction was to review any potentially anti-competitive legislation by the year 2000² to assess whether the benefits of continued legislative restriction outweighed the costs. The *Dairy Industry Act* was one piece of legislation among 137 Queensland Acts and regulations that required a full independent review.³

Even in the absence of the NCP agenda, a full review of the farm-gate supply management schemes in Queensland was needed to comply with internal legislative requirements. The de-regulation of the distribution and processing elements of the supply chain had been progressively staged over the five years prior to 1998, through amendments to the *Dairy Industry Act* made by the Goss Labor Government in 1993.⁴ The Goss amendments provided a five-year review point to examine the deregulation of the remaining elements of the supply chain. The requirement to review anti-competitive legislative practices under NCP simply added further political pressure to an already targeted review process.

By the end of the 1990s, Queensland's 1,600 dairy farmers produced 377 million litres of milk a year, with a wholesale value of around \$750 million.⁵ Australia-wide, dairying was

¹ *The Australian Financial Review*, "Politicians deem Samuel devil incarnate," 19 February 2001: p. 10.

² This date was later extended to June 2002 as a result of the NCC/NCP review provided to COAG in November 2000.

³ NCC, *Annual Report 1998-99*: p. 54.

⁴ *Queensland Parliamentary Hansard*, 19 November 1998, p. 3397. All other States deregulated their "post farm-gate" part of the supply chain well before Queensland (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*, Senate Printing Unit, Parliament House, October 1999: pp. xii & 6). The purpose of the 1993 reforms was to bring the Queensland industry into line with other States, and to prepare for nation-wide reform of the manufactured milk market by 2000. The aim was to modernise milk marketing systems across the nation, making it more efficient and better focused on export and value-added markets. There were also concerns expressed in parliament about alleged "cronism" in the allocation of supply arrangements due to the lack of transparency in the process. The 1993 reforms in Queensland were supported by the major parties (*Queensland Parliamentary Hansard*, 13 May 1993, pp. 2802-2805 and 20 May 1993, pp. 3210-3215).

⁵ *Queensland Parliamentary Hansard*, 19 November 1998, p. 3396-3423.

Australia's third largest rural industry, with a wholesale value of around \$7 billion. The industry employed about 60,000 people nationally, 13,500 being dairy farm owners, with the other jobs located at the processing and distribution levels. Some eighty percent of all dairy farmers supplied the manufactured milk market (butter, cheese, yoghurt, and milk powder), with the remaining twenty percent focused on the supply of market milk (fresh milk).⁶ Despite being the third largest producer State, Queensland was still a relatively small player on the national scene, with only about nine percent of the national producer market.

A system of legislated supply arrangements (or quotas) dating back to colonial times, and poor transport infrastructure links, resulted in a highly disaggregated industry, with each Queensland region having its own, generally small-scale, dairy operation largely focused on the supply of fresh milk to the immediate local area.⁷ Until World War II, the Queensland industry was larger than the combined efforts of its Victorian and New South Wales counterparts. During this era, the Queensland industry concentrated on butter and cheese production (manufactured milk products) with significant exports to the United Kingdom. With Britain's entry into the European Common Market and other changes in the export market, the industry moved away from manufactured products, focusing on the supply of market milk instead. This saw the Queensland segment of the industry contract over the 1950s to 1970s, relative to the nationwide industry.⁸

⁶ Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. xi. Market milk was usually sold at a premium when compared to manufactured milk, which, in turn, increased the profit margin to farmers with relatively large components of market milk sales (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. 60-61). The premium was justified on the basis that the farmers were expected to supply local markets, "seven days a week, fifty-two weeks a year" (Queensland Dairy Legislation Review Committee, 1998, p. vii).

⁷ *Queensland Parliamentary Hansard*, 19 November 1998, p. 3396. The quota system also served to build further rigidities in the supply of milk, with producers "banking" their quotas to realise their net economic worth. For instance, the value of quota, or milk entitlement, was worth \$300/litre by the end of the 1990s (Questions on Notice, *Queensland Parliamentary Hansard*, 30 May 2000, p. 1297). The Senate's investigation into the deregulation of the dairy industry found that, on average, individual farmers had in the order of \$200,000 to \$1m invested in quotas. Total market capitalisation of quotas was estimated at \$270m (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: pp. xv & 28). In effect, the quota system was used by producers as a "paper based" asset accumulation strategy, as is the case with other government-sponsored supply arrangement such as fishing and taxi licences.

With the decentralised nature of the industry in Queensland came the spread of political influence as regional towns, reliant on local milk production, jealously guarded the industry from micro-economic reform. The Queensland industry was located in three main areas – the Atherton tablelands in Far North Queensland (Premier Beattie’s home town), the central Queensland region around Mackay/Rockhampton, and the south-east corner from Gympie to Southport and west to Toowoomba.⁹ All these regions contained several marginal seats, making the deregulation issue highly emotive, politically.¹⁰

The legislative review processes associated with NCP and the 1993 mandated review of the Act were not the only driving forces behind the push to restructure. The industry, organically, was going through a period of significant reduction in producer numbers - a process that had been going on for decades, without any direct government intervention. By the 1990s, conditions were such that continued government protection in the dairy industry was becoming unsustainable.¹¹ Improvements in farm productivity (resulting in a significant decline in producer numbers, while at the same time achieving greater output¹²), improved processing and transport systems, the threat of competition from low-cost interstate producers, and the general reluctance of the industry to maximise opportunities in

⁸ *Queensland Parliamentary Hansard*, 19 November 1998, p. 3403.

⁹ Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*, 1999: p. 16.

¹⁰ Queensland politicians were acutely aware of the significance of protected industry structures in regional areas. Beattie himself grew up in Atherton, a small town that relied heavily on its local dairy industry and regional market milk supply arrangements.

¹¹ Federally, the “Kerin Plan” started the industry restructuring process in the mid 1980s. By then, the industry as a whole had realised that heavy government-based protection had “shielded local producers from market signals and international prices. In doing so they discouraged local firms from adopting leading edge production and marketing practices, or from making appropriate product mix adjustments to meet changing demand” (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. 5).

¹² As an example of the organic changes that were happening within the industry for some time, in 1965 the Dayboro area (a rural area about 200 km north-west of Brisbane) there were 105 dairy farms producing 18,000 litres of milk. By 1998, there were only one third the number of farmers, producing three times the quantity of milk (*Queensland Parliamentary Hansard*, 19 November 1998, p. 3406). Nationally, over the same period, farm output doubled (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. xi). Australia-wide, farmer numbers dropped from over 30,000 in 1975 to around 13,500 by the end of the century. Producer numbers in Queensland dropped from 9,500 to 1,600 over roughly the same period (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*, 1999: p. 3-17).

high valued-added production,¹³ presented all Australian governments with increasingly limited scope to protect their State-based domestic producers.¹⁴

The Queensland Government's policy position.

The dairy deregulation issue did not appear on the NCP legislative review agenda until the late 1990s. On coming to government in June 1998, the minority Beattie Labor government set about putting in place an election commitment not to deregulate the State's farm-gate milk price or quota system. According to the Minister for Primary Industries, Hon. Henry Palaszczuk,

The Government has made it clear from the start that it was not prepared simply to deregulate the Queensland dairy industry and leave it to fend for itself against the prevailing market forces.¹⁵

In November 1998, the Beattie Labor government introduced legislation to continue the legislative protection of farm-gate milk prices and quota system for a further five years, when, yet again, it would be reviewed. The legislation had the full support of all major parties, as well as the One Nation Party, and consequently passed through the House without objection.

Parliamentary support was guaranteed early in the review process, with the Beattie government in July 1998 accepting the findings of a NCP legislative review process commissioned by the Borbidge administration.¹⁶ The central review finding was that

¹³ In the ten years to 1998, dairy exports rose from \$200m to \$2bn – one of the most impressive export performances of the rural sector during this period. Most of this growth occurred in Victoria (*Queensland Parliamentary Hansard*, 19 November 1998, p. 3402). By the late 1990s, Australia was the third largest exporter of dairy products (12% of world trade), with approximately 50% of the annual milk production winding up in export products (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*, 1999: p. 3).

¹⁴ Confirmed in the findings of the all party Senate report into dairy deregulation (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. xvii).

¹⁵ *Ibid.*, p. 3422.

¹⁶ The review team was chaired by former Bjelke-Petersen minister, Liberal Sam Doumany and comprised six other members, including the Chairperson of the Queensland Dairy Industry, Pat Rowley (By 1998, Rowley chaired the Australian Dairy Industry Council, the Australian Dairy Farmers' Federation, as well as the Queensland Dairy Organisation (QDO) - Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. 11). Similar bi-partisan support for a five-year sunset clause was recommended by the New South Wales parliament after the consideration of the findings of its review process (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. 90).

while, in aggregate terms, a case of full deregulation could be argued, the State-wide figures masked the likely impact on some small Queensland regional towns:¹⁷

Economic analysis suggests that, in most scenarios, deregulation is likely to have little overall impact on the Queensland economy. However, the Committee considers that regional impacts from deregulation are likely to be very significant. Producers with low equity and high indebtedness and/or located in marginal dairying areas distant from processing plants would be at greatest risk. Attendant consequences for regional communities in terms of job losses and a reduction in business activity would be substantial.

Further,

... that, while retention of a regulated farm-gate price would appear to be justified by PBT [public benefit test] results and the need to manage impacts of adjustment for industry and regions, it is unlikely this arrangement could be sustained under commercial pressure in the medium to longer term. Therefore, the Committee believes ultimate deregulation of the market milk component of the Australian dairy industry is inevitable.¹⁸

While there may have been strong bi-partisan support for the legislative amendments, parliamentary debate on the 1998 amendment Bill highlighted several differing perspectives on the future of the State's dairy industry.¹⁹ The Labor members noted that potential changes to the industry were the result of intrinsic market forces, and while the legislation before the House would hopefully stave-off "unfair" competition, the industry would still need to address structural and marketing problems if it was to secure a long-term future in the State.

Coalition members (led by the Primary Industries spokesperson and former minister, Russell Cooper), looked upon the five-year deregulation deferral as an opportunity to "find new ways" to protect the Queensland industry – seeming to accept that underlying economic conditions were forcing irrevocable changes upon dairy farmers. Qualifying this

¹⁷ Queensland Dairy Legislation Review Committee, p. 4.

¹⁸ *Ibid.*, pp. viii-ix.

¹⁹ *Queensland Parliamentary Hansard*, 19 November 1998, pp. 3396-3424. The Second Reading Debate involved: the Labor members, Henry Palaszczuk (Minister for Primary Industries), John Mickel, Linda Lavarch, Grant Musgrove and Jim Pearce; the Coalition members, Russell Cooper (former Minister for Primary Industries), Lawrence Springborg, Ted Elliot, Mick Veivers, Mike Horan; One Nation members, Bill Feldman, Jeff Penzler; and Independent member, Peter Wellington.

belief was a view that, given enough time, negotiation and research, government could still provide innovative policy mechanisms in order to provide continued shelter to the industry.

A key recurring theme in the speeches of National Party members was the likely transfer of economic returns from the “bush to the city” if the deregulation of farm-gate milk prices took place. In addition, National Party members expressed concern over the perceived purchasing power of processors²⁰ and retailers (ie. the major supermarket chains of Woolworths and Coles) with the possibility that they could use their market power to exert downward pressure on the prices paid to producers. In short, the National Party argued that government intervention was needed to protect small regional farmers from the power held by other participants in the supply chain.

In turn, One Nation Party members used the debate on the 1998 Bill as an opportunity to attack “rampant economic rationalism” in general, and NCP in particular.²¹ Many of the arguments raised by National Party members, particularly the perceived power of processors and supermarkets, were also strongly advocated by One Nation.

The argument about deregulation in Queensland was a “tale of two industries.” On the one hand, there was the regional dairy industry, largely made up of small family-based farmers, supplying market milk to nearby larger centres. On the other, was the industry focused on export markets and value-added products, supplied by large “business-focused” producers.²²

²⁰ The number of factories processing milk decreased in the five years to 1998 from sixteen to eight, even though milk production increased by around 30% over the same time period (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. 8). The rapid concentration in the processing sector of the industry was making producers anxious, even though the misuse of market power could not be evidenced at the time of the Senate Committee review. It seemed to be a fear within the industry that this market power could be abused, as opposed to an evidenced-based assumption. In any case, other options for countervailing the perceived power of processors (such as collective bargaining arrangements), as opposed to direct government intervention, were not countenanced.

²¹ One Nation used the generalised arguments about NCP, largely focused on the themes referred to in chapter three.

²² This is not meant to imply that large corporations were starting to invest in dairy farms. Rather, that the focus of dairying was changing, leaving the smaller operations with an uncertain future. In fact, around 98% of dairy farms have some form of family ownership structure (Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*: p. 132).

To the larger producers, the system of legislative protection was stifling the export-focus of the industry by cross-subsidising inefficient suppliers, and as a consequence, forcing up input costs. Reflecting the magnitude of the cross-subsidies with the industry, studies conducted by the Queensland Department of Primary Industries indicated that market milk prices could fall to thirty-five cents per litre after deregulation, from a regulated farm gate price of fifty-nine cents.²³ The ramifications of such a price drop were enormous, particularly for the small-scale producers reliant on small regional cooperatives for the processing and wholesaling of fresh milk.

The “tale of two industries” was brought home in the Victorian State election held in late 1999. In this election, political campaigns centred on the issue of dairy deregulation were successfully exploited by the Victorian Labor Party and several independents in key marginal seats. The result was that long-held National Party seats with small “market milk” suppliers were lost, providing the opportunity for the Labor Party to take power with the support of three key independents. The defeat of Kennett, particularly the loss of the rural-seats, was trumpeted in the press as a rejection of “economic rationalism” in the bush.²⁴ However, the events immediately after the election tell a different story.

Seeming to run counter to the rhetoric of the election campaign, the newly formed minority Bracks Labor Government moved swiftly to deregulate the Victorian dairy industry. The opportunity to apparently change tack on the deregulation issue came within the first few months of the new government.

Whether through good political management, or sheer good luck, during the 1999 election campaign, the Victorian Labor Party had only agreed to hold a plebiscite of all dairy farmers on the issue of deregulation (unlike the promise in Queensland from the Beattie government – to protect the industry, no matter what – in 1998). This enabled the party to create the impression during the campaign proper that it was willing to put a halt to the reform process.

²³ *The Courier-Mail*, “Milk shake-up set for 2000,” 22 December 1999, p. 10.

²⁴ *The Australian Financial Review*, “Reform, like Kennett, may be well and truly bushed,” 21 September 1999, p. 21; and *News Weekly*, “Crunch time for dairy industry deregulation,” 9 October 1999, pp. 6 & 16.

True to its word, the Labor Government held the plebiscite, the result being that around ninety percent of all Victorian dairy farmers voted in favour of full deregulation.²⁵ Linked to the plebiscite was a Commonwealth proposal to provide (nationally) a \$1.7bn industry adjustment scheme, funded by a levy on retail milk sales.²⁶ In the end, the Bracks government was able to use the plebiscite result to justify the pursuit of full industry reform, even though his party may have given the electorate a different impression during the election campaign just months earlier.

The Victorian dairy farmer example shows that the potential “losers” in the reform process may have been given disproportionate attention in the media during the 1999 election campaign – the tale of the small end of the industry was possibly oversold in the public forum. Yet, there was another story to tell, that of the larger farmers wanting to expand their operations and to enter other markets, either by way of inter-state trade or through the export of value-added products such as cheese and milk powder.

By the end of the 1990s, the Victorian dairy industry accounted for more than sixty percent of all milk produced in Australia. As noted, the Queensland dairy industry accounted for nine percent.²⁷ With higher volumes and lower cost structures, any change to the supply arrangements in Victoria was likely to have significant implications for Queensland producers. After full deregulation in Victoria, the benchmark for the price paid by processors would be the Victorian producers’ sale price, plus transport costs to Queensland.²⁸ Even though transport distances were large, it was unlikely that all of the

²⁵ *The Courier-Mail*, “Milk shake-up set for 2000.” There was some argument from smaller Victorian farmers that the plebiscite was “rigged” in that it asked a somewhat loaded question. The question put to Victorian dairy farmers was: “Should Victorian dairy farmers accept the \$1.7 billion dairy industry adjustment package proposed by the Commonwealth Government and agree to repeal the Victorian legislation controlling the farm gate price and supply of milk?” Some believed that the reference to the government restructure package clouded the thinking of some respondents (*Queensland Country Life*, “Deregulation depends on more than the ballot,” December 9, 1999: p. 37).

²⁶ Truss, W. “Dairy Industry restructure package,” media release, 26 September 1999.

²⁷ NCP Second Tranche Assessment, National Competition Council, 1999, pp. 98-99.

²⁸ Senate Rural and Regional Affairs and Transport Legislation Committee, *Deregulation of the Australian Dairy Industry*, 1999: p. 46. Industry “experts” were advising Queensland dairy farmers to prepare for reform. As one advisor noted, “So the only choices are deregulation plus a restructuring package, or just deregulation. Milk prices will be the same either way” (*Queensland Dairy Farmer*, “Deregulation – a commercial reality,” November 14, 1999: p. 1). Some Queensland dairy farmers were also advising their

Queensland producers would meet this new price floor, and still be able to make a sufficient profit – the industry had no option but to reduce its cost structures.

The plebiscite, and subsequent move to deregulate, telegraphed that the powerful Victorian industry was about to move on inter-state markets. Previously, the Australian dairy industry worked on a “gentleman’s agreement” that producers in each State would focus on their own domestic markets. This was an unsustainable position in the long term, given that section 92 of the Australian Constitution guaranteed free trade between the States.

As a result of the changing market, the Queensland Government’s 1998 amendments to the *Dairy Industry Act* were short lived. The five-year review clause was effectively reduced to eighteen months, as the dairy industry, nation-wide, scrambled to come to terms with the position taken by Victorian farmers. Once the Victorian market was deregulated, other State administrations had no real choice but to follow suit, or risk losing efficient producers within their own jurisdictions. Facing this inevitability, the Australian Dairy Industry Council (ADIC) nominated 1 July 2000 as the target date for full deregulation, nationwide.²⁹

By June 2000, the State agriculture ministers, together with their Federal counterpart, agreed to deregulate by the date nominated by the ADIC. The Queensland parliament passed the necessary enabling legislation in the same month.³⁰ A national scheme designed to buy out those producers wishing to leave the industry and to help remaining farmers to restructure their operations, was funded from an eleven cent per litre levy on retail milk. The levy was to remain in place for a period of eight years.³¹ The resulting restructure in

colleagues to accept deregulation, as a “fifth generation” from Gympie noted: “All farmers need to acknowledge and thank our industry leaders who have achieved what seemed impossible – a billion dollar restructure package for dairy farmers ... Farmers who argue that somehow we’re paying for our own demise have not realised that – whether there is a package or not – we are likely to lose more than 11 cents per litre with deregulation” (*Queensland Dairy Farmer*, “Farmers thank leaders for achieving the impossible,” October 10, 1999: p. 1).

²⁹ *The Courier-Mail*, “Milk shake-up set for 2000,” 22 December 1999, p. 10.

³⁰ *Queensland Parliamentary Hansard*, 22 June 2000, pp. 1951-1988.

³¹ Truss, W. “Dairy Industry restructure package,” media release, 26 September 1999.

the Queensland industry was likely to see around one third of existing farmers leave the industry, with farms either sold or amalgamated into larger lots.³²

On the political management of dairy deregulation, the Queensland Primary Industry minister, Henry Palaszczuk, did the best he could to avoid being seen to support deregulation. He consistently argued that the Queensland Government was against the national restructuring scheme, and preferred the industry to remain regulated, consistent with the State's amendments in 1998 to the *Dairy Industry Act*. To Palaszczuk, the State had no option but to accept the Commonwealth scheme, or risk denying Queensland dairy farmers access to restructuring funds.³³ On the face of it, there was no apparent motivation for the State minister to endorse deregulation; the odium of change could be easily sheeted home to other parties, namely the Victorian dairy industry and the Commonwealth.

Palaszczuk's position was articulated in a tense political environment, providing another significant disincentive to be seen as a reform leader. Disgruntled dairy farmers were marching on Parliament House, and non-government members were continually fanning the flames of discontent. At the height of farmer protests on parliament, ex-One Nation parliamentarians, Shaun Nelson from the Far North Queensland seat of Tablelands and Dorothy Pratt from the agriculturally-based seat of Kingaroy, poured a pail of milk over the steps of the House as a symbolic gesture of support for the dairy industry. Their actions gained widespread media attention and earned them a one month suspension from parliament.³⁴

Not only did the stance by the Queensland Minister help him to avoid taking political responsibility for deregulation, it also enabled him to continue to hound the Commonwealth on behalf of regional communities – a tactic which contributed to the Commonwealth

³² *News Weekly*, 'Crunch time for dairy industry deregulation,' October 9 1999: p. 6. Some Queensland farmers believed that the contraction of producer numbers would have occurred even without full deregulation, simply based on the trends in the industry over the past thirty years (*Queensland Dairy Farmer*, 'Readers have their say,' October 7, 1999: p. 11).

³³ Palaszczuk, H. "Qld Govt does not support dairy deregulation, but package needed," media release, 30 May 2000.

³⁴ AAP, "Qld: Big kids cry over spilt milk at parliament," 2 June 2000 (accessed on 14 May 2002 from AAP news archive).

expanding its restructuring package to include specific initiatives targeted at assisting farm workers and support industries.³⁵ In addition, the Queensland Government used the resources of its line departments to provide further assistance to struggling communities, with specialised services in farm financial counselling, personal assistance (in the form of psychological counselling), and family support.³⁶ The Queensland Government was occupying a “caring” position in its home constituency, in the face of what was perceived to be a harsh reform process at the national level.

The dairy deregulation issue also opened up debate about the nature of competition payments to the States. The National Party opposition attempted to frame the payments as “compensation” to the States for implementing reform, rather than the stated intent of COAG as a dividend for improved economic growth. In a question on notice, National Party frontbencher Marc Rowell asked the Minister for Primary Industries whether the \$98 million mentioned by the NCC as a potential “penalty” for what he described as “the mismanagement of dairy deregulation in Queensland,” prior to the final resolution of the problem, could be used to provide further compensation to regional dairy producers. The minister’s reply was: “The Honourable Member’s assertion is incorrect. Queensland will receive no competition payments associated with the dairy industry.”³⁷ When it suited it, the Beattie government was willing to accept that the competition payments scheme was incentive based.

The NCC’s position.

The 1998 amendments to the Dairy Industry Act – the initial amendments that effectively deferred farm-gate price deregulation and quotas until 2003 – put the State government on a collision course with the NCC. The Council was particularly concerned about the quality of the review process commissioned by the Borbidge government and received by the Beattie administration. The Queensland Government, like its New South Wales counterpart, had used its internal review to substantiate its position to extend price and

³⁵ Truss, W. “Dairy communities benefit under regional package,” press release, 14 March 2000; Hon Henry Palaszczuk MP, “Minister welcomes Canberra backflip on dairy funding,” media release, 15 March 2000.

³⁶ Hon Henry Palaszczuk MP, “Qld Govt does not support dairy deregulation, but package needed,” media release, 30 May 2000; and “Qld Govt programs to assist dairy industry,” 23 June 2000.

³⁷ Questions on Notice, *Queensland Parliamentary Hansard*, 30 May 2000, p. 1297.

market controls for milk producers until at least 2003. The NCC believed that the process lacked objectivity – inferring that it was simply an exercise to justify the political stance taken by the ALP in the 1998 Queensland State election campaign.

In its second tranche review in July 1999, the NCC warned the Queensland Government that its continued price regulation of the dairy industry had not been justified through a “properly constituted” public benefit test, and that future competition payments could be suspended or withdrawn if the government refused to re-examine the matter. Specifically, the NCC stated,

Each of the reviews [Queensland and New South Wales] expressed the view that deregulation is inevitable, with market arrangements becoming increasingly difficult to sustain due to domestic and external commercial pressures – the most immediate being the outcome of the Victorian review. Each review expressed concern that reform should be introduced in a manner sensitive to expected social and economic impacts on producers and rural communities.

Contrary to these sentiments, the reviews have largely recommended retention of existing market arrangements without incorporating transitional arrangements either in terms of staged reform implementation or structural assistance. The approach taken by New South Wales and Queensland ... has the potential to exacerbate any industry dislocation. Such an approach provides no impetus or incentive for the dairy industry to prepare for, and respond to, expected change.³⁸

As noted above, the potential loss to Queensland in competition payments, by continuing with its strategy of deferring further deregulation until 2003, was in the order of \$98 million. In light of these problems, the NCC recommended to the Commonwealth Treasurer that the Queensland Government’s share of competition payments be re-examined in a supplementary review to be conducted in June 2000.³⁹ While there was no financial deduction at this stage, the NCC had kept its options open. In any case, the entire legislative review program was not scheduled for completion until that time, and as a consequence, the government still had sufficient opportunity to re-examine approaches to legislative reform based on the assessment report of the Council.

³⁸ NCC, *Second Tranche Assessment*, July 1999, p. 104.

³⁹ *The Australian Financial Review*, “Competition: the \$700 million threat,” 22 July 1999, pp. 1 & 10.

The NCC's stance on dairy deregulation payments was reported in the press as a clever tactical manoeuvre, deflecting much of the controversy away from the Council and placing it firmly in the hands of State and Federal ministers.⁴⁰ By the time the supplementary review was required, the decision on deregulating the Victorian milk supply market would have been finalised, essentially forcing the hand of the Queensland and New South Wales governments. The NCC effectively took itself out of the firing line. The underlying commercial realities of the situation were dictating a deregulated outcome.

The dairy industry restructuring package agreed to by the Commonwealth and the States in 2000 enabled regional producers to be compensated for the loss of local production, and significantly reduced the potential for sustained community backlash against industry changes. In addition, with the full deregulation of the Queensland dairy industry on the acceptance of the Commonwealth restructure package, the NCC's threat to reduce competition payments was removed and the Queensland Government maximised its access to NCP funds.

The NCC's decision to defer its assessment process was not its sole tactic. Unlike reform in other industry areas, the NCC played a "low-key" approach with the media. Its President, Graeme Samuel, refrained from goading State leaders in the press and through public speeches.

The management of the dairy deregulation issue highlighted a growing sense of political awareness within the Council. As noted in the previous chapter, the timing of the dairy deregulation process coincided with greater cognisance within the Council of the negative public perception of its role. In the dairy industry scenario, the NCC did not need to continually push a position through the media. In short, it seemed that the Council was learning to "pick its fights" more carefully.

⁴⁰ *Ibid.*

Dairy and the conceptual framework for data analysis

The case study of dairy reform provides further depth to a number of research questions in the conceptual framework for data analysis developed in chapter one, and applied to the empirical evidence provided in previous chapters. Specifically, dairy deregulation provides further insight into the research questions listed in Table 5.1.

Theory	Research Questions
Coordination	Was there a sense of common crisis and did the Queensland Government share it to the same extent as the rest of COAG?
	How committed were successive Queensland Governments to the shared goals in the plan?
	In terms of Stewart's four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?
Implementation	Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?
	Was the policy mandate unambiguous, and provide a means to mediate disputes once implementation began?
	Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?
Conflict resolution	How was conflict managed by the Queensland Government?

Table 5.1 – Key research questions relating to dairy deregulation

Was there a sense of common crisis and did the Queensland Government share it to the same extent as the rest of COAG?

This question has been assessed previously in terms of the overall agreement on competition reform. However, viewing the question through the prism of dairy deregulation highlights some interesting facets of collective policy action across State boundaries. It was clear that Victorian deregulation precipitated action in other States (and the Commonwealth also, through the introduction of the industry restructuring assistance scheme). The shared sense of crisis stemmed from the unilateral decision in a sole

(industry dominant) mainland State. Until the decision to deregulate the Victorian farm-gate milk price, the States, particularly Queensland, were prepared to side-step difficult reform decisions. The Queensland Government had accepted that farm-gate milk price deregulation was inevitable, but could not muster the political fortitude to take the necessary steps to move the industry forward.

This stance might seem puzzling, given that Queensland had shown (well before NCP was entered into) it was a willing industry reformer in other aspects of the supply chain. In 1998, however, the political cost of being seen as a reform leader was something that the government was not willing to bear. The legislative review indicated the reason behind the intransigence – the likely impact on rural and regional areas where the industry was particularly weak. Electorates in these areas were crucial to the political survival of incumbent governments.

Once the decision was made in Victoria, Queensland was given no other option but to follow suit. A “common sense of crisis” swept the nation, drawing in the Commonwealth government as well. Still, the Queensland approach to addressing the crisis was perfunctory. There was no admission that reform was inevitable – the approach was one of support and assistance, in a “disaster recovery” type mode. There was no attempt by Queensland political leaders to debate the issue on substantive grounds, or introduce the compelling logic behind the sustainability of the existing industry structure.

How committed were successive Queensland Governments to the shared goals in the plan?

The dairy example highlights a lack of support from Queensland Governments to aspects of industry restructuring, remembering that governments had already reformed most other areas of the milk supply chain. As would be expected, commitment to NCP principles of legislative review (and reform) was not going to supersede the political imperatives of the day.

Without the Victorian decision, it was highly likely that the Queensland Government would have maintained farm-gate regulated milk prices. It was likely to come at a loss of competition policy incentive payments, but it would have meant ongoing political survival. With issues such as this bubbling away in the background, the political tactic of trying to remove the NCC from its performance assessment role was highly salient. The Queensland Government needed to introduce a level of political decision-making into the allocation of incentive payments, if it was going to maximise its access to NCP incentives, while at the same time minimise electoral losses.

In terms of Stewart's four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?

In terms of Stewart's arguments about inter-group coordination, dairy deregulation highlights how alignment can be achieved through commitment to an idea, or frame of reference.⁴¹ At face value, the decision to deregulate farm-gate milk prices stems from an overall commitment to "economic rationalism."

While using this argument to make sense of all policy choices has its limitations, which have been discussed in previous chapters, the notion that industries should be efficient and operate at least cost production, would stem from the dominant economic logic. Industry inefficiencies, no matter the cost, could also be justified on the basis of community stability and tradition, other important factors in policy choice. The notion that farm gate milk prices had to be deregulated, because of the apparent benefits to the national economy (and particularly the Victorian economy) underlies the primacy of economic logic in policy choice, particularly in recent times.

⁴¹ Stewart, J. "Horizontal coordination: The Australian Experience," in Edwards, M. and Langford, J. (eds), *New Players, Partners and Processes: A Public Sector without Boundaries*, National Institute of Governance, University of Canberra, Canberra, 2002: pp. 145-152.

Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?

Eventually, political acceptance of the deregulation of farm-gate milk prices arrived, but not a fulsome acceptance as would be implied in the theory put forward by Pollitt and Bouckaert, and Mazmanian and Sabatier.⁴² If anything, Queensland political leaders reluctantly accepted the need to reform, and only after leadership was shown in other States and by the Commonwealth (and the ADIC itself). The ability to avoid responsibility for change, and advocate further industry assistance from the Commonwealth, was reminiscent of the traditional “Canberra bashing” approach to national policy making – the approach generally the norm prior to the collaborative federalist approach of the early 1990s.⁴³

Was the policy mandate unambiguous, and provided a means to mediate disputes once implementation began?

Up until the decision to deregulate in Victorian, the agreement on NCP highlighted crucial, often misunderstood, aspects of the reform process. The Queensland Government was destined to reject farm-gate deregulation, not on economic grounds, but on the likely impact on regional and rural towns. The decision whether to deregulate farm-gate milk prices rested with the Queensland Government, though it may have attracted a deduction in competition payments as a result. It highlights the false arguments that abound (which were highlighted in chapter three in the discussion on the “key themes in the NCP debate”), that the NCC could make legislative review decisions on behalf of elected governments. While the threat of financial loss would weigh heavily on the mind of policy makers, the process reinforced the fundamental tenet of the NCP agreement, that participating jurisdictions would make the decisions on reform options, not the NCC.

The 2000 NCC review recommendations clarified roles and responsibilities in legislative reviews, as well as decisions on the distribution of competition incentive payments.

Namely, it underlined the requirement for States to conduct open and transparent industry

⁴² Pollitt and Bouckaert, *Public Management Reform*, p. 185; Mazmanian and Sabatier, *Implementation and Public Policy*, pp. 41-42.

⁴³ Parkin, A. “The States, Federalism, and Political Science: A Fifty-year Appraisal,” *Australian Journal of Public Administration*, vol. 62, no. 2, June 2003, pp.106-107; Sharman, C. “Working together: Towards an inclusive federalism?” *Agenda*, vol. 5, no. 3, 1998: p. 267.

reviews. The review recommendations would not put to end the need for State governments to face up to industry reform, and to lay bare the circumstances behind industry regulatory protection.

As pointed out in chapter two, the NCP agreement provided on procedure for the mediation of disputes between participating jurisdictions and the NCC. If it was not for the Victorian deregulation decision, the government and the review body were destined to engage in a public row.

Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?

The tactic of letting others bear the odium of change, while the government advocated greater (Commonwealth) government assistance, served the Queensland Government well. In doing so, it could side with struggling rural and regional communities, and project itself as a caring and compassionate government. In the tight electoral environment of the time, other options were probably not viable. It could be argued that the Queensland Government exercised considerable political skill in achieving reform targets.

In all likelihood, however, the reforms were achieved despite the Queensland Government's best efforts. Achievements in industry reform in this case could be attributed more to good luck than good management – there was little leadership shown by the Queensland Government.

How was conflict managed by the Queensland Government?

The game plan used by the Queensland Government was one of political elevation (avoidance, in other words). It would have been interesting to see the outcome of their policy position if the Victorian decision was not made. In all likelihood, the Queensland Government would have used the issue to underpin its continued rhetorical attack on the NCC – calling for COAG to take over the distribution of NCP incentive payments. The government would then have had an incentive to escalate conflict over the issue, to prove a

point that the “NCC was out of control” and needed to be stripped of its power to make recommendations on the distribution of NCP payments.

The NCC’s tactic of “going cold” on the issue, and letting the ramifications of the Victorian decision run its course meant that it was kept out of the public spotlight. All sides of the argument were aware that the farm-gate milk price had to be deregulated sometime in the future. As argued in previous chapters, the existence of some form of appeals body would have required the Queensland Government and the NCC to present their arguments for and against reform on rational grounds, minimising the need for government to use political means to resolve issues (at least until all avenues of appeal were exhausted).

Summary of answers to key research questions

Overall, the analysis of the dairy reforms shows that deregulation of the farm-gate milk price in Queensland lacked political leadership within the State (Table 5.2 provides a summary of answers to the relevant research questions). Nevertheless, reform went ahead, largely due to two factors – the decision to deregulate prices in Victoria, and the industry restructuring package developed by the Commonwealth. Once the dominant Victorian industry chose to move forward with reform, there was little the other States could do to protect their domestic suppliers. The Commonwealth’s assistance package helped farmers deal with the financial practicalities of the reform process.

The highly volatile Queensland political environment of the time meant that no political party wanted to be associated with the reform process. Instead, they argued for financial assistance, adopting a “disaster recovery” political stance. The goal of the Queensland Government was to maximise the financial incentives available to the industry (through political posturing with the Commonwealth), and to provide practical assistance to those affected by the decision (through financial and psychological counselling).

Theory	Research Questions or Propositions	Analysis of Dairy Reforms
Coordination	Was there a sense of common crisis and did the Queensland Government share it to the same extent as the rest of COAG?	The government appeared more interested in the crisis in electoral support, than industry reform.
	How committed were successive Queensland Governments to the shared goals in the plan?	There was little commitment to implementing farm-gate price deregulation. It was not NCP driving the agenda, rather the Victorian deregulation decision.
	In terms of Stewart’s four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?	Ideas placing primacy in industry efficiency above community sentiment, were the underlying assumptions behind reform.
Implementation	Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?	Reform of the dairy industry was politically unpalatable. The government used political rhetoric to distance itself from the reform decision.
	Was the policy mandate unambiguous, and provided a means to mediate disputes once implementation began?	The NCC and the government were headed for conflict – the Victorian decision averted this. An appeals mechanism would have introduced a greater degree of rationality into the reform debate.
	Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?	The government showed considerable political skill in avoiding the “odium of change.”
Conflict Resolution	How was conflict managed by the Queensland Government?	The government used “avoidance” as a means to manage conflict. It was not until its hand was forced, that the government responded to reform needs.

Table 5.2 – Summary of answers to key research questions (Dairy Deregulation)

2: Reform of the Rural Water Industry.

The policy environment

Another area of tension between the NCC and the Queensland Government involved rural water reforms. Water reform gained prominence at early COAG meetings, culminating in the development of a national strategy in February 1994 – over twelve months before the signing of the NCP reform package. It became what was to be known as a “Related Reform” and entered the NCP process via COAG’s decision to link several micro-economic reform initiatives to the competition payment scheme. Under the 1995 NCP agreement, the NCC was charged with the responsibility of assessing State compliance with the water reform agenda in its second and third tranche assessment processes, due in July 1999 and July 2001, respectively.⁴⁴

The origins of the reform initiative were important, as the Queensland Government would later rely upon the wording of the 1994 COAG agreement as a lever to secure changes to the original implementation timetable in rural water reform areas. The negotiating “lever” was simple. At the 1994 COAG when the water reforms were discussed, the then Labor Premier, Wayne Goss, only gave “in-principle” support to the national water reform agenda. He was not alone. The Premiers of South Australia and Tasmania were equally cautious.⁴⁵

Goss’s qualified acceptance was based on the Queensland Government’s unease over the likely impact of the reform agenda on rural and regional constituencies. Of particular concern was the potential effect of consumption-based pricing, full cost-recovery, and the desirability to remove cross-subsidies in both urban and rural areas. Here, the three

⁴⁴ NCC, *Compendium of National Competition Policy Agreements – second edition*, June 1998: p. 99.

⁴⁵ The Commonwealth had to deal with the States in order to secure water reform, as section 100 of the Australian Constitution provides the States with jurisdictional competence to regulate water systems: “The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.”

governments were noted to have, "... endorsed these pricing principles but have concerns on the detail of the recommendations."⁴⁶

With the qualified support of some States, COAG issued the "Strategic framework for the reform of the Australian Water Industry." This was based on a detailed study commissioned by COAG in 1993. The study - chaired by Sir Eric Neal and comprising members of an intergovernmental working party of officials from State and Commonwealth governments – found the following problems with the water industry:

Approaches to charging that often result in commercial and industrial users of water services, in particular, paying more than the costs of service provision;

Major asset refurbishment needs in rural areas for which, in general, adequate financial provision has not been made;

Impediments to irrigation water being transferred from low value broad-acre agriculture to higher value uses in horticulture, crop production and dairying;

Service delivery inefficiencies; and

A lack of clear definition concerning the role and responsibilities of a number of institutions involved in the industry.⁴⁷

A NCC information paper summarised the rural water reforms in six key principles: ensuring the price of water reflected the cost of delivery; applying responsible decision making criteria to the establishment of new water infrastructure (ie. the building of dams and weirs); establishing systems to allow the trading of water entitlements; increasing the accountability of institutions providing water services; improving the management of water catchments; and recognising environmental needs when allocating water entitlements.⁴⁸

The agricultural focus of the developing Queensland economy in the nineteen and twentieth centuries, meant that irrigation water supplies were a key infrastructure component of developing rural communities. Large irrigation supply schemes blossomed, covering vast areas of the State.

⁴⁶ COAG Communique, Hobart, 25 February 1994.

⁴⁷ *Ibid.*

⁴⁸ NCC, *Rural Water Reform*, Community Information Paper, 2000.

Towards the end of the twentieth century, the Queensland water industry comprised a State government Water Resources Commission, over 120 local authority water supply agencies, four urban water boards, thirty-four irrigation boards, and a number of small rural water and drainage authorities. At the same time, the Queensland Government was starting to explore public-private partnerships for the development of new water infrastructure.⁴⁹

Two aspects of the rural water reform agenda became extremely controversial in Queensland, namely the requirement to apply a fully transparent assessment process to the establishment of new water infrastructure such as dams and weirs, and the need to recoup the full cost of service delivery from the charges levied by existing irrigation boards. Under the COAG agreement, the assessment process for new infrastructure was required by 1999, and full cost recovery for rural schemes was to be in place by 2001.⁵⁰

These aspects of the reform agenda threatened to turn decades of State government policy on its head. The COAG water reform agreement required States to conduct rigorous environmental and economic assessments of proposals to establish, or augment, water supplies.⁵¹

Jurisdictions are to conduct robust independent appraisal processes to determine economic viability and ecological sustainability prior to investment in new rural schemes and dam construction. Jurisdictions are to assess the impact on the environment of river systems before harvesting water.⁵²

In the past, governments had allocated water infrastructure for “regional economic development” reasons, with the resulting water schemes charging well under the cost of service delivery.⁵³ In order to address the COAG water reform agenda, price “triggers”

⁴⁹ NCC, *Second Tranche Assessment*, “Queensland Government – Third Annual Report to the National Competition Council,” June 1999: p. 39.

⁵⁰ NCC, *Compendium of National Competition Policy Agreements* – second edition, June 1998: p. 104.

⁵¹ Other issues considered under COAG water reforms included, resource management and regulation, including legislative reform, Water Allocation and Management Plans (WAMPs) or Water Management Plans (WMPs); pricing mechanisms for both irrigation and town water supplies; systems for efficient water trading regimes; and institutional reform such as the separation of regulatory and service delivery functions.

⁵² *Second Tranche Assessment*, National Competition Council, July 1999, p. 469.

⁵³ Even by 1998, the average cost recovery of rural water supply schemes was only around 78% (NCC, *Second Tranche Assessment*, “Queensland Government – Third Annual Report to the National Competition

were required that represented the true cost of water, and hence would promote a more sustainable use of the resource.

The COAG agreement aimed to change the philosophy of water industry development to address the “twin evils” of environmental degradation and poor cost recovery. As with the dairy industry reforms, it was highly likely that small rural and regional towns would wear the brunt of any policy change.

The Queensland Government’s policy position.

As noted above, the two main problem areas in rural water reform in Queensland related to the assessment of new water infrastructure, and achieving cost recovery from existing irrigation schemes. The former was exemplified by the government’s proposal to build a dam in St George, during the late 1990s (just when the COAG water reform agenda was gaining momentum). The dam was proposed to address a “relatively” low level of reliability of existing allocations since 1994, arising from the siltation of a nearby dam (the Beardmore Dam), and the over allocation of water harvesting rights to farmers.

The St George dam proposal was initially costed at \$15 million. It was not the only option available to government. Departmental engineers had identified a cheaper and less environmentally threatening alternative, but it was deemed to be inappropriate by the executive.⁵⁴

The NCC intended to levy a \$15m suspension of competition payments sparking an intense political reaction in Queensland. To the Premier it was “economic rationalisation gone mad and [showed that] the NCC [was] out of control.”⁵⁵ In a rare display of political solidarity in the closely contested parliaments of the mid to late 1990s, Opposition Leader

Council,” June 1999: p. 47). The “pro-development” nature of water irrigations system development was not questioned in a policy sense, right up to the 1980s (Smith, D. *Water in Australia: Resources and Management*, Oxford University Press, Melbourne, 1998: p. 192).

⁵⁴ *Water Reforms: Second Tranche Assessment*, National Competition Council, July 1999, pp. 471-472.

⁵⁵ *The Australian Financial Review*, “Beattie demands NCC coughs up,” 3-4 July 1999, p.6.

Borbidge also slammed the NCC, describing it as a collection of non-elected officials telling a duly-elected State government what it could and could not do.⁵⁶

Notwithstanding this reaction, the actual problem was resolved relatively quickly. By late 1999 the Queensland Government decided to scrap the dam and engage in a \$6 million buy-back of water allocations in the St George area; on the advice of the NCC, the Commonwealth Government subsequently lifted the suspension of payments in early 2000.⁵⁷ The reason for the low-key resolution to what appeared to be a highly emotive issue is discussed later.

The achievement of full cost recovery from irrigation supply schemes was the other area of rural water reform that presented Queensland with significant implementation difficulties. By the late 1990s, the NCP implementation deadline was looming and the 34 rural irrigation schemes still had limited capacity to recoup the full cost of their operation. Little had been done to reform the schemes until mid 1998, even though the COAG reform agenda was agreed to some four years prior. The lack of progress in implementation stemmed from government's avoidance of the issue – reflecting the political interests associated with reform decisions in this policy arena.

In order to move the reform agenda along, the Beattie government established a “stand alone” unit within the Department of Natural Resources (DNR) in 1998 to manage the rural components of the water reform process, on a whole of government basis. The water reform unit was to develop: a system of tradeable water rights; a new pricing path for rural water supplies (based on full-cost pricing); institutional reform of State government functions and urban water boards; improved private sector involvement in water infrastructure provision; and public consultation on the water reform agenda.⁵⁸

⁵⁶ *The Courier-Mail*, “St George dam in murky waters,” 31 July 1999, p.22.

⁵⁷ *The Australian Financial Review*, “Queensland wins back \$15m aid,” 23 February 2000, p.5.

⁵⁸ NCC, *Second Tranche Assessment*, “Queensland Government – Third Annual Report to the National Competition Council,” June 1999: pp. 39-41.

To support the reform initiative and to accelerate implementation (which was now desperately needed, given the looming reform deadline), the water reform unit established an interdepartmental committee comprising the CEOs of the major line departments with interests in rural water infrastructure, which met on a monthly basis. The unit also provided Cabinet with regular submissions on the implementation of the reforms. Community engagement was enhanced by the establishment of a reference group comprising the major user groups and peak industry bodies.⁵⁹

In finally addressing the issue in the late 1990s, the Queensland Government aimed to achieve cost recovery over a much longer timeframe than envisaged in the original COAG agreement, balancing the need to improve the financial performance of irrigation schemes with the aim of minimising potential hardships on small, relatively unprofitable, industry sectors. As stated in its report to the NCC on the second tranche assessment:

The Queensland Government has adopted a pragmatic approach to the implementation of the COAG pricing target. The policy approach is that water prices should be set at a level to achieve long term financial viability. The rate at which this target is achieved reflects an assessment of the level of cost recovery currently being achieved by individual schemes and a desire to encourage long term sustainable use of the resource without significant adverse economic and social impacts.⁶⁰

The water reform unit designed a three-part reform program, which focused on achieving cost recovery in the larger irrigation schemes before moving onto others. The so-called “category one schemes” incorporated around eighty-five percent of the water to irrigators in Queensland. These schemes targeted cost recovery before 2001. Category two schemes – covering around eleven percent of water allocations – were to achieve cost recovery by 2004, and category three schemes – reflecting five percent of allocations – would achieve cost recovery over a non-specified term.⁶¹ While the Queensland Government’s preferred process met water reform targets for the majority of irrigators, it still left a sizeable proportion outside the original parameters set by COAG. In order to avoid competition

⁵⁹ Interview conducted with Steve Edwell, Former head of the Qld. Water Reform Unit NRM, 26 February 2002.

⁶⁰ NCC, *Second Tranche Assessment*, “Queensland Government – Third Annual Report to the National Competition Council,” June 1999: p. 47.

payment deductions, the Queensland Government would need to secure some form of dispensation from the NCC.

The government's strategy of placing the schemes into three categories reflected its belief that if all irrigation schemes were treated in the same fashion, farmers serviced by the smaller, less viable, schemes would simply go out of business, with little likelihood of being replaced by alternative users. Ultimately, this would mean that the smaller schemes would collect even less revenue and financial returns would diminish even further.⁶²

The policy position of the State was initially rejected by the NCC. In bi-lateral negotiations, the NCC signalled that a penalty was imminent if the government did not develop a more comprehensive approach to water reform, together with a "responsive" timeline. The head of the water reform unit at the time of the second tranche assessment, Steve Edwell, noted:

With water, virtually no-one in the State, certainly in the agricultural usage of water, was paying the full cost of water. That meant that unless Government continued to subsidise water prices, which was outlawed under the NCP arrangements, the prices had to go up.

The first thing we did on water was we looked at the extent to which water prices would need to increase and we ended up putting an argument to the National Competition Council for a more pragmatic implementation [strategy].⁶³

The lever to renegotiate the reform timeline came from the Queensland Government's position on water reform when it was endorsed at COAG in 1994. At the time, the State only gave its "in-principle" support to the reform program, noting the potential implementation (and political) difficulties. Edwell was able to successfully argue that the

⁶¹ *Ibid.*

⁶² Interview conducted with Steve Edwell, 26 February 2002.

⁶³ *Ibid.* Edwell was brought in by Minister Welford to head the rural water reform process. As noted by the NCC, and realised by the Queensland government, the State had done little to progress the reform agenda while the National Party government was in power from February 1996 to June 1998. By the time Edwell was appointed, the State had around twenty-one months to develop policy frameworks and begin the implementation process, if it was going to avoid compensation payment deductions. The water reform unit in DNR comprised around ten staff, seconded from within the department and/or Treasury. During the Goss government, Edwell was an Assistant Under-Treasurer – a senior officer rank within Treasury. He was a key

“in-principle” agreement achieved in 1994, only committed the Queensland Government to adopting the “thrust” of the reform initiative, not the detail, such as the time-lines and scope of the policy.

The government believed that the only feasible way to implement the reform program was through the staged process outlined earlier. However, convincing the NCC of the need to follow such a process was somewhat problematic, and it was not until Queensland convened a multi-government forum in November 1998 – in the lead up to the NCC finalising its second tranche review - that the NCC’s program was altered. As Edwell related:

We put the argument to them – what we did was we got together the other States because we wanted to get a more pragmatic implementation of NCP when it came to water. So Queensland managed the politics of NCP and water. It actually played a fairly major role, with the support of the other States, in arguing to the Commonwealth and to the NCC that if you religiously go about implementing this policy, as it’s written, then we’re going to have such a political upheaval that it’s going to be counter productive.

The big thing we were able to put together, or marshal, was support of the other States. All of whom had similar problems, or problems around a common theme. So, we wrote a paper and put it to the Commonwealth. We were successful in convening a meeting between all of the States, the Commonwealth, and the NCC and there were a number of items on the agenda and we all took turns, States took turns in terms of pushing certain agenda items and the one that Queensland took the front running on was certainly the issue of water pricing.⁶⁴

The States, led by Queensland, convinced the NCC that it would be in the best interests of the overall reform program, for the implementation process to be staged over a much longer timeframe than originally envisaged by COAG. By the time the second tranche assessment was released, the NCC had adopted the Queensland Government’s approach to the pricing of rural water, and further conflict between the two bodies was avoided.⁶⁵

advisor to Rudd when negotiating the NCP agreement in 1995 and continued this role during the initial stages of the implementation plan.

⁶⁴ *Ibid.*

⁶⁵ *Water Reforms: Second Tranche Assessment*, National Competition Council, July 1999, pp. 467-468. Specifically, the NCC stated in the assessment: “The Council will assess jurisdictions as having complied with the pricing principles applicable to rural water supply where jurisdictions:

- have achieved full cost recovery; or

In getting its way, the Queensland Government was almost mute on the subject in the media – in stark contrast to the way the St George dam proposal was managed (as well as other NCP problem areas in Queensland). Edwell remarked:

It was an officials' meeting [that negotiated the changes]; it wasn't a ministerial meeting. So, it was attended by departmental heads. Most of the States had their Cabinet Office people there, and I was there as an adviser to the Queensland Government. So it was a very senior meeting. But ministers didn't attend. Now what happened was obviously the NCC was very keen that it wasn't seen as relenting on the reform agenda or being dumped on.

The States, particularly Queensland, were obviously, politically, wanting to gloat and have some sort of message go out that they had really taken the tiger here. There were some press releases at the time but I can recall they were more low-key than maybe the minister would have liked. It was a controlled environment. But, the strategy was: "look we got this meeting together, we want to give the impression that we have a coordinated approach to the way in which we communicate this out to the public." Whilst each of the States in various ways put their own nuance on it, it was a fairly controlled-type response.

Queensland had taken the front running in pushing back the hard line approach that the NCC would have otherwise put in place. We used that to fairly good affect in our meetings with the various stakeholders up and down the State. So it wasn't just the one press release thing, it kept coming up in our negotiations and matters in writing with various stakeholders, local governments and irrigation users in particular.⁶⁶

The Queensland officials realised that a vigorous media approach, designed to embarrass the NCC, would have been counter-productive to the reform agenda – "wild" media statements at this point would have damaged the chance of this type of negotiation process taking hold in the future. Discretion became the better part of valour. It was much better to allow the NCC to save face and reflect on the negotiation process.

While it is difficult to separate cause from effect, the success of this negotiation at officials level may have influenced the recommendations in the November 2000 review of the NCC.

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- have established a price path to achieve full cost recovery beyond 2001 with transitional CSOs made transparent; or
 - for the schemes where full cost recovery is unlikely to be achieved in the long term, that the CSO required to support the scheme is transparent; and
 - cross-subsidies have been made transparent."

The requirement for the NCC to convene regular meetings of the senior officials group may have stemmed from the positive (collaborative) result achieved in the rural irrigation case, or cases like it. It proved the worth of the States negotiating on substantive grounds, away from the glare of the media and parliament.

The NCC's position.

In the lead up to the 1999 second tranche assessment report, Graeme Samuel used speaking engagements to explain the NCC's policy position on irrigation reform. Highlighting the importance of water reform to the relationship between the NCC and the Queensland Government, at one point Samuel remarked that the government did not have a problem so much with implementing NCP generally, it had a major problem with water reform implementation.⁶⁷

Unlike the position taken in dairy industry reform, the NCC could not afford to gamble on outside influences helping them to ensure compliance with NCP principles. While a significant constituency for reform initiatives existed in the form of the environment movement, this lobby group's influence over the policy position of the State was rather inconsistent and uncertain.⁶⁸ The NCC could not afford to sit back and let the environmental movement push the reform objectives by itself and consequently decided to engage the government in public debate, especially over the State's position on new water infrastructure.

The NCP water reforms were as much about environmental issues as they were about economic reform – a message that Graeme Samuel reminded the community about in virtually every public utterance on the subject. Here, Samuel hoped that it would be difficult for people opposed to the reform process to attack a “green economic rationalist,”

⁶⁶ Interview conducted with Steve Edwell, 26 February 2002.

⁶⁷ Samuel, G. “The debate about competition policy,” Economics Society of Queensland debate with Professor John Quiggin, Brisbane, 25 November 1998.

⁶⁸ It should be pointed out that the then Minister for the Environment and Minister for Natural Resources, Rod Welford MP, was perceived to be very supportive of environmental causes (highlighted in interviews conducted with senior Queensland public servants and politicians conducted in research for this thesis).

and thus ventured into the public forum on a much firmer footing than in some other areas of the NCP reform agenda.⁶⁹

In regard to the first issue in rural water reform, the building of the St George dam, the NCC adopted a high public profile. It appeared that from a number of potential solutions to the water storage problem, the government's preferred option was the one with the greatest economic "dis-benefit" and the least environmental support.⁷⁰ The NCC expressed the generalised concern that,

... water storages may have been built which have not been demonstrated to be both economically viable and ecologically sustainable. These matters go to the heart of the water reform agenda which governments, including Queensland, re-confirmed their support for earlier this year.⁷¹

The NCC therefore recommended that part of Queensland's NCP competition payment be suspended. The Commonwealth Treasurer accepted the NCC's advice and levied a total suspension of \$15 million in competition payments (or twenty-five percent of the State's entitlements for that year), the same value as the estimated construction cost of the dam. Yet, the NCC pointed out that it would re-assess progress on Queensland reforms later in the year to see if the suspension could be lifted.⁷²

A report in *The Courier-Mail* alleged that while Beattie and Hamill were wringing their hands over the intervention of the NCC in the construction of the dam, secretly they were supportive of the NCC's rejection of the proposal. The article claimed that the NCC had become a scapegoat, creating the political environment where the Beattie Government could exit the dam proposal while sheeting the responsibility for the decision back to the Council. This scenario supposedly explained why Queensland chose the least cost effective

⁶⁹ However, arguments are beginning to emerge which suggest the water reform agenda of COAG was far too limited in scope, and overly reliant on market mechanisms to achieve environmental gains. Some authors believe that a much more comprehensive strategy is required, if water resource management is to become more sustainable in Australia. Key aspects of this enhanced strategy could include tighter regulatory controls, continued institutional reform, adjustment packages for industry and improved community engagement practices - Isaac, M. "The Political Economy of Water Reform Feasibility in Australia," *Paper delivered to the Enviro 2002 Conference*, Melbourne, May 2002.

⁷⁰ *Second Tranche Assessment*, National Competition Council, July 1999, p. 475.

⁷¹ NCC, "Competition policy reform: much achieved, more to be done," media release, 26 July 1999.

option for construction. A spokesperson for the Premier denied the claims of political high-jinks, and further deflecting criticism back to the NCC, noting that, “if dams were chosen on the advice of accountants and economists, very few would be built.”⁷³

Irrespective of the claims of propriety, such a political strategy was surely discussed at the most senior level of government. This would have secured the suspended \$15 million in competition payments, as well as deferring the construction cost of the dam itself, saving a further \$15 million – a budget turnaround of \$54 million dollars, after the \$6m buy-back of water allocations was factored in.⁷⁴ In addition, the Government was able to avoid a clash with environmental groups opposed to the dam.⁷⁵ All this, while at the same time, the government could blame the incident on the NCC – a political outcome of “Yes Minister” proportions.

The suggestion raised by *The Courier-Mail* seemed to carry some weight, not only because of the political attractiveness of the strategy, but also in light of the rhetorical position taken by the Beattie Government. For the six month life of the St George dam proposal in the public forum, the Queensland Government was focused on the internal divisions within the National Party – the Labor government’s chief opposition in the State. Treasurer Hamill drew the Commonwealth Government into the fray at every opportunity:

Now the people who lose out... are those growers in the St George district who, all they want to see is secure access to water ... What we have here is the Federal Government really giving a kick to its own supporters in the bush.⁷⁶

Federal National Party Leader and Deputy Prime Minister, John Anderson, countered with the observation that nothing was preventing the State Government from proceeding with

⁷² NCC, *Second Tranche Assessment*, p. 449.

⁷³ *The Courier-Mail*, “St George dam in murky waters,” 31 July 1999: p. 22.

⁷⁴ This figure was calculated as follows: \$30 million in lost competition payments and construction costs if the dam proposal went ahead, plus the \$30 million in competition payments and infrastructure cost savings if it didn’t, less the \$6 million buy-back. An economic turnaround of \$54 million, from Treasury’s point of view.

⁷⁵ *The Australian Financial Review* reported that conservation groups welcomed the NCC ruling, and hoped Queensland would now scuttle the project (*The Australian Financial Review*, “Productivity Commission to review States’ CTP monopoly,” 27 February 1999, p.4).

⁷⁶ *The Courier-Mail*, “Funding for dam dries up,” 28 July 1999, p.10.

the dam. The NCC did not have the power to stop the project. Obviously, the State would lose competition payments, but that was something the State had to weigh up for itself. To Anderson, the NCP process was “payment for performance,” and the competition payments were bonuses, not entitlements.

Anderson also noted that the New South Wales Government had entered into negotiations with the NCC to minimise the extent to which competition payments were lost due to its decision to continue with single desk selling arrangements for rice marketing. Anderson asserted that the New South Wales approach to dealing with the NCC stood in stark contrast to the confrontationalist style taken in Queensland. He also claimed that in relation to the St George dam, the NCC had simply asked for an explanation about the decision-making process, and that the Queensland Government had over-reacted.⁷⁷ If the decision could be justified, the \$15m suspension would be lifted.

A few months after his initial attack on the National Party, Hamill issued another press release calling on the Federal Nationals to support the State Government in its bid to have the project approved by the NCC.⁷⁸ Here, the Government was trying to link the failure to proceed with the project not only to the intervention of the NCC, but also to the lack of National Party support. In political parlance, it was simply a case of “stirring the possum” – getting the Queensland National Party into a public fight with their federal colleagues.

The likelihood of the Beattie Labor government wanting to construct the St George dam was thrown into further doubt when the proposal was considered in the context of the government’s overall management of the water reform agenda. As outlined earlier, DNR was the agency responsible for implementing the water reform agenda. Its minister at the time was Rod Welford. Interviewees from the water reform unit pointed out that the Minister was a strong supporter of water reform, largely on the basis of its positive impact on environmental outcomes. One noted:

⁷⁷ *The Courier-Mail*, “St George dam in murky waters,” 31 July 1999, p. 22.

⁷⁸ Hamill, D. “Borbidge ducks fight with Anderson on NCP issues,” press release, 14 October 1999.

While it was convenient to blame the NCC, you can't escape the fact that water reform was simply good policy – governments needed to face up to it ... We had regular meetings with our minister – Minister Welford. He was outstanding. He was across all the issues. Understood the need for reform. He was more interested in the merits rather than the NCC issues – more interested in the policy merits than the politics. All the things that NCP was about in water reform, were high on his priorities any way. So he was happy to see things move ahead.⁷⁹

His views were supported by another senior public servant, who was working on water reform during the time of Welford's tenure:

Welford was very focused on the environmental type issues and a major aspect of the water framework was promoting sustainable development of water resources and that was "the upside" that Welford saw in the framework.⁸⁰

Based on these views, it is difficult to believe that the minister would have advocated the building of a dam with significant environmental impacts. The fact that Hamill did "the running" on the issue also adds weight to the argument that Welford was not a strong supporter of the project. In any case, the Queensland Government's decision to ultimately withdraw the St George dam proposal, and instigate a buy-back of water entitlements, signalled the end of the issue, and the suspended competition payments were reinstated.

The second area of controversy in the reform of rural water reforms – the reform of irrigation schemes – saw the NCC and the Queensland Government engage in a more robust, less media grabbing, way. As outlined above, the NCC's policy stance on the pricing and costing regimes of established irrigation schemes was altered significantly as a result of officer-level negotiation between the Council and the government. While initially doctrinaire, the NCC's approach softened once the States negotiated with it on a collective basis. The States achieved their objectives with minimal outcry in the media, again contrasting with the way the NCC was engaged in other policy arenas.

⁷⁹ Interview conducted with Seamus Parker, Former Project officer in the Qld. Water Reform Unit NRM, 18 December 2001.

⁸⁰ Interview conducted with Steve Edwell, 26 February 2002.

Rural water reform and the conceptual framework for data analysis

The case study material can be analysed in further depth by examining the dynamics of the cases in terms of the research questions developed in chapter one. Table 5.3 outlines the relevant questions.

Theory	Research Questions
Coordination	Was a plan of action developed which was accepted by all parties?
	How committed were successive Queensland Governments to the shared goals in the plan?
	Were the Queensland Government and the NCC in regular contact? What about COAG as a whole?
	In terms of Stewart’s four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?
Implementation	Was there informed leadership at the administrative and political levels in Queensland?
	What was the level of flexibility, once implementation commenced, to adapt the policy?
	Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?
	Was there a “fixer” associated with the implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?
Conflict Resolution	How was conflict managed by the Queensland Government?

Table 5.3 – Key research questions relating to Rural Water Reform

Was a plan of action developed which was accepted by all parties?

As noted in chapter one, Chisholm argues that in order to achieve coordinated action amongst independent actors, an action plan must be developed that all parties are committed to implement.⁸¹ In terms of rural water reform, the level of commitment to a joint action plan was somewhat ambiguous, given the Queensland Government’s cautious approach to COAG’s water reform strategy in 1994. Queensland’s then “in-principle” support gave it considerable scope later in the reform cycle, to secure substantial changes

when the implementation process geared up, some four years later. However, the willingness of the government to engage with the NCC on substantive grounds was more evident in the reform of existing irrigation schemes than the investment in new water infrastructure. For the latter, the Government seemed more intent on opening wounds within the National Party (along the lines of the intergovernmental tactics of “Canberra bashing” of old) than defying the policy principles negotiated through COAG. When the decision whether to invest in the St George dam came about, the Queensland Government fell into line, but not without first exploiting potential conflict at the Commonwealth level, for base-level political gain.

Moreover, the case study material above highlights the difficulty in assessing the overall commitment of a government to policy positions taken through COAG and endorsed through symbolic national policy programs such as NCP. In particular, the study has highlighted that caution should be applied when assessing government’s policy commitment through public utterances in the media. The political rhetoric may be driven by imperatives other than the policy substance being discussed. At times, the outward political motivation of government leaders will belie their underlying commitment to policy change. In the rural water infrastructure case, the theatre of interaction between the NCC, the Federal National Party and the Queensland Government was more important to political leaders than the substance of the policy being discussed. Meanwhile, a noted “environmentalist” Minister, Welford, was progressing the reform agenda within Queensland – quietly, behind the scenes.

How committed were successive Queensland Governments to the shared goals in the plan?

Chisholm also argues that in order for a policy to navigate complex implementation arrangements that span a number of independent actors, considerable psychological commitment is necessary, by a whole host of interested parties, to the reform objectives.⁸² The case study demonstrates the strong commitment of a particular Minister at the State level (Welford) to the objectives of COAG/NCP water reform, indicating that those objectives received considerable carriage in Cabinet. The manner with which another

⁸¹ Chisholm, *Coordination Without Hierarchy*: p. 13.

senior Minister, the Treasurer, David Hamill, engaged in the water reform debate also indicated that the Government was not adverse to the policy direction, but more interested in creating internal division within the opposition ranks, and engaging the Commonwealth in the decision-making process.

It was evident that the rural water reform process received considerable support within the Executive. In contrast to the “perfunctory implementation” of reform in the dairy case study, the rural water reforms were led by a reformist State Minister, intent on reaping the environmental benefits associated with the reform process.

Moreover, the commitment to implementing the reforms spanned a number of governments. While largely dormant under the twenty-eight month rule of the Borbidge Government, it was picked up again by the Beattie Administration, under Minister Welford. Welford brought in a senior, capable, public servant in Edwell, who had direct experience in NCP development back in 1995, to assist the reform process. While the Queensland Government did not loudly proclaim its commitment to rural water reform, it was nonetheless willing to commit significant implementation capacity in order to steer the reform process through to completion.

Were the Queensland Government and the NCC in regular contact?

The nature of the engagement between the government and the NCC over rural water reform, while professional and regular, appeared remote and calculative. – possibly reflecting the broader acrimonious nature of official communication between the two bodies. Judging from the speeches made by Samuel towards the end of the decade, it seemed that the NCC was preparing for yet another fulsome engagement with the Queensland Government. In terms of rural water infrastructure reforms, the NCC was used as a vehicle for the Queensland Government to avoid blame for the scrapping of the St George dam proposal (and a mechanism to draw the Federal National Party into the debate).

⁸² *Ibid.*, pp. 17-19.

It is highly doubtful that the Queensland Government was ever going to build the dam, but it needed a convenient exit strategy to maximise its political advantage. Engaging the Commonwealth (through the junior federal coalition party) over the perceived role played by the NCC (ie. stopping the project from going ahead) was an electoral bonus. The media tactics used here were reminiscent of the acrimonious Commonwealth-State relations of old – “Canberra-bashing” revisited.

As already noted, the nature of the Queensland Government’s engagement with the NCC over infrastructure development, contrasted with the way it managed policy change in irrigation reform. In that case, the government adopted a “behind the scenes” approach to securing policy change – indicating not only a commitment to the objectives of the policy, but a far less politicised approach to problem solving. The collaborative policy development approach to extracting key, practical, changes to the implementation of irrigation reforms, showed a continuation of the collaborative style of federalism sparked through SPCs and COAG in the early to mid 1990s. As highlighted above, the ability for senior public servants to meet as a collective to map out national policy approaches, such as in the irrigation reforms, was a precursor to the changes to NCP (and NCC) routines announced through COAG’s review of the policy in November 2000.

In terms of Stewart’s four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?

As noted in chapter two, the whole-of-nation coordination routines of the NCP agreements were rather loose, relying on ongoing commitment to the NCP strategy and financial incentives to carry the reform process forward for the ten year life of the agreement (a problem which was rectified in the 2000 review, through the coordination role given to the Senior Officers’ Group). In terms of Stewart’s four-part typology of coordination, NCP was considered to be a mechanism of “coordination through strategy.” And, as initially appealing a fully articulated strategy may be, Stewart notes that this form of coordination usually “runs out of puff” relatively soon after the ceremonial signing of the multi-agency agreement.⁸³ In essence, Stewart argues that it is a relatively weak form of coordination,

⁸³ Stewart, “Horizontal coordination: The Australian Experience,” pp. 145-152.

particularly when sustained action, over a long implementation period, is required – as was the case with the ten-year implementation horizon of NCP.

In the reform of irrigation supplies, we see other forms of coordination taking hold, most notably coordination through networks. The ability of the States to engage with the NCC and the Commonwealth Government in a substantive way – convincing their counterparts through well-reasoned argument – had a huge impact on the direction of the reform process. It was the network of public officials, led by the Queensland Government, which achieved a coordinated policy approach at the national level. The continued engagement of this network during policy implementation highlighted the level of commitment to implementing water reforms.

Moreover, it signalled that for implementation to be successful, it needed to adapt to the political and institutional realities of the time, requiring a degree of flexibility not apparent in the initial design of NCP. The ability of a multi-jurisdictional network to form during policy implementation was critical to the ongoing survival of this particular aspect of policy reform. The network also formed a rational basis for the ongoing, orderly, progression of reform implementation, reducing the level of politicisation and “irrational” debate on reform objectives.

Was there informed leadership at the administrative and political levels in Queensland?

The rural water reform example highlights two extremes in terms of political and administrative leadership. In the rural water infrastructure matter, the Queensland Government was able to create significant political advantage out of a policy decision that it was likely to have had to implement any way (due to financial considerations). It also highlighted the rather superficial understanding of the reforms by some of the more senior members of Cabinet (notably Hamill). It appeared that the Queensland Government’s incentive for engaging in the debate of the St George Dam was based on the obvious political game playing that could be created, not the policy substance of the issue.

At the other end of the spectrum almost, the irrigation reforms highlighted the leadership role played by the Minister and senior officers in securing a more pragmatic implementation process from the NCC. These reforms were negotiated behind the scenes, and without media coverage.

It was almost as though the Queensland Government was “running the ruler” over each reform objective to see what political advantage it could extract from the process, before engaging on the topic. It was unlikely that the process was so calculated. But, when it suited the government, to embarrass the opposition or avoid blame for policy, it adopted a highly public position. And, when the reform program was consistent with its objectives (Welford’s environmental objectives in the case of the irrigation reforms) the reform process was less likely to be “politicised” through gamesmanship in the media.

What was the level of flexibility, once implementation commenced, to adapt the policy?

Previous chapters have highlighted the rigidity of the original NCP agreement. The negotiated outcome achieved in the rural irrigation reforms stands in contrast to the NCC’s rather doctrinaire approach to reform targets in other areas. This case study suggests that given the right circumstances, significant changes to policy direction still could be achieved, even though the reform milestones and targets were quite specific. The lever to negotiate policy change stemmed from the Queensland Government’s equivocal commitment to COAG water reforms in 1994.

Further, the ability of the Queensland Government to build a coalition of support with other States was another crucial element in achieving policy change. Rather than elevating conflict to the political stage where little leeway was achieved, the strategy of engaging with the NCC at officer level, on substantive grounds, was shown to be highly effective in achieving policy change. This study indicated that successful policy change in such a complex policy package as NCP, was more likely to be achieved through reasoned discussion, than through high-level political engagement through the media.

Of course, as highlighted here and elsewhere in this thesis, there may have been other motives behind much of the political engagement with the NCC, most notably blame shifting and political game playing. This form of engagement (ie. open public debate through the media) provided governments with the opportunity to continue with the reform process in a very difficult electoral environment in Queensland. In a perverse way, it enabled the government to be populist, while at the same time, allowing rational policy objectives to proceed relatively unencumbered.

As noted in the previous chapter, politics can be the “great wrecker” of rational policy design.⁸⁴ The structure of the NCP agreement in the rural water reform case created an environment where politics could be played out, while at the same time allowing worthwhile reforms to continue, without the imminent threat of withdrawal, or possibly more importantly, policy reversal. It was highly doubtful that such sophistication was deliberately built into the original NCP agreement, but nevertheless, the net positive impact on policy continuity by the creating of an external body (like the NCC) to “accept blame” is worthy of imitation in other intergovernmental agreements in the future. Further, when engaged on substantive grounds, an intergovernmental coordination agency, such as the NCC, can broker logical policy changes, aimed at addressing obvious shortfalls in the original policy direction. Whether for political or substantive policy reasons, the NCC acted as an effective buffer, ensuring ongoing policy continuity even when faced with significant political unrest within the implementation environment at the time.

Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?

Rural water reform reveals some remarkable political and managerial skills applied by the Queensland Government through the implementation process. In the infrastructure case, the existence of the NCC and the government’s obligations under the NCP agreement enabled Beattie and Hamill to manufacture the perception that the St George dam was being stopped by outside (Canberra-based) forces. As such, the popular perception that the NCC could over-rule the government on policy decisions was used to enable the

government to avoid taking responsibility for the decision to withdraw from the project. Judging from the evidence, it was highly unlikely that the government was ever committed to building the dam, in any case. Nevertheless, the ability to blame the NCC gave it the degree of political comfort to withdraw from the project with minimal electoral damage. For Beattie and Hamill, it had the added bonus of attracting State and Federal wings of the National Party opposition into policy conflict – an interesting side-show to the main action at the time.

In the second case, rural irrigation supplies, the normal inclination of the Queensland Government to draw the NCC into open public debate over policy direction was tempered, to enable a negotiated solution to be found, at officer level. The two studies show that the Queensland Government did not take a “one size fits all” approach to managing conflict with the NCC. Its approach, as argued above, seemed to be linked to three factors: the level of internal governmental support for the particular policy objectives sought, the electoral significance of the issues, and the level of political mischief that could be created.

Was there a “fixer” associated with the implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?

Bardach emphasises the benefits of having a “fixer” within the legislature, to guide stated policy objectives over implementation hurdles that may arise at the political level.⁸⁵

Though based on the governance system of the United States of America, this idea has some resonance in the cases discussed above. Previous chapters have emphasised the role of the NCC as a “fixer” (though not in the same sense as Bardach). In the case material discussed above, we see operatives within the Queensland Government itself (Minister Welford supported by experienced public servants such as Edwell) playing a “fixing” role during the implementation process.

⁸⁴ Davis, G., Wanna, J. Warhurst, J. and P. Weller, P. *Public Policy in Australia*. 2nd edn, Allen & Unwin, North Sydney, 1993, p. 7.

⁸⁵ Bardach, *The Implementation Game*: pp. 310-313.

The objectives of COAG water reform supported Welford's environmental protection objectives, and as a consequence found a strong supporter for the reform process in the Queensland Cabinet. The Queensland Government's ability to articulate an alternative process to achieve the reform objectives in irrigation reform, and to bring other States with it, was a key determinant in swaying the NCC to change its interpretation of the policy.

How was conflict managed by the Queensland Government?

As already discussed in the answers to the key research questions, the rural water reforms demonstrate policy conflict being managed at two levels. In the first case, the conflict was brought to the surface through open public debate through the media. In the second, it was handled through rational discussion, at officer level. As argued above, the two methods probably illustrate the government's management of political circumstances at the time, rather than its overall commitment to reform objectives. The government appeared to select its conflict resolution strategy on the basis of the apparent electoral advantage it could secure, as well as its overall level of policy commitment to the component of the NCP process being considered at the time.

Summary of answers to key research questions

The COAG and NCP reform of rural water supplies in Queensland highlights several important points in relation to the theoretical questions developed in chapter one. Of particular significance was the coordination of pricing reforms for rural irrigation schemes. As noted in the discussion of research questions above, the negotiated outcome in irrigation reform already differed from the outcomes in other contested policy arenas of NCP.

The case highlighted the flexibility that could be achieved within the confines of the original agreement – a type of policy learning that Pressman and Wildavsky call for in their analysis of policy implementation.⁸⁶ Further, the success of this engagement may have influenced the findings of the COAG review into NCP and the NCP in 2000.

⁸⁶ Pressman and Wildavsky, *Implementation*, p. 135.

In the St George dam matter, the structure of the NCP deal, and the institutional environment it created, enabled the Queensland Government to manipulate an outcome that was still in accordance with the NCP agreement, without the need to endure the political pain of being seen to be leading on a particular reform decision. In fact, the presence of the NCC actually helped the government navigate its way through a very sensitive issue, at a time of high political volatility within the State.

Theory	Research Questions or Propositions	Analysis of Rural Water Reform
Coordination	Was a plan of action developed which was accepted by all parties?	While the NCP agreement called up the “related reforms”, it did not address them in detail. Queensland pointed to resolutions that committed the government only to “in-principle support” for water reform. The plan of action was not accepted by all parties, and the Queensland Government was able to achieve certain concessions in the implementation process.
	How committed were successive Queensland Governments to the shared goals in the plan?	The Beattie Labor Government claimed that it was committed to water reform, as was the Goss Labor Government, with “in-principle support” the key.
	Were the Queensland Government and the NCC in regular contact?	In the irrigation case, the level of contact was significant. Moreover, the primary contact was through bureaucratic channels, rather than through political operatives and the NCC Chairperson.
	In terms of Stewart’s four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?	The findings of this case study are particularly significant. The presence of a strong network at officer level, enabled the government to lead a process of negotiation, and obtain significant modifications to the direction of the policy. In this instance, NCP goes beyond coordination through strategy, fitting more comfortably with Stewart’s notion of coordination through networks.

Theory	Research Questions or Propositions	Analysis of Rural Water Reform
Implementation	Was there informed leadership at the administrative and political levels in Queensland?	At the administrative level, awareness of policy direction in irrigation reform was strong. The government was able to articulate a well-argued case for modification to rural water reform. Minister Welford was attracted to the environmental benefits of the policy.
	What was the level of flexibility, once implementation commenced, to adapt the policy?	The irrigation case study clearly showed that there was policy flexibility during implementation, if sufficient leadership was present.
	Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?	The St George dam case shows that the government could use NCP adroitly in political maneuvers. Administrative management of the irrigation reforms was of the highest order.
	Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?	In terms of irrigation, Minister Welford’s support of the process fits with Bardach’s notion of a “fixer” in the legislature.
Conflict Resolution	How was conflict managed by the Queensland Government?	In the St George case, conflict was manipulated for political gain. However, in the irrigation matter, the government engaged at a substantive level, working through policy implementation difficulties at a rational level.

Table 5.4 – Summary of answers to key research questions (Rural Water Reform)

3: Urban Water Reform

The policy environment

The structure of urban supply schemes in Queensland was substantially different to other States. In Queensland, the responsibility of reticulated water supplies fell to local councils. Elsewhere, water services were delivered by State-owned business enterprises. The Queensland structure introduced another layer of political involvement in decision-making on water reform as the elected councillors of the 125 local government areas within the State attempted to exert control over the direction of “their” water supplies.

Again, the majority of these councils were outside the major population centres of South East Queensland, promoting a distinct regional theme to the arguments utilised by peak local government bodies, such as the Local Government Association of Queensland (LGAQ). The State government needed to take regionalism into account, as local government commitment to the reforms would be essential to the State’s ability to access competition payments, while at the same time avoiding a political backlash in regional areas – key electorates in the fortunes of any political party aspiring to government.

The overall impact of NCP reform for local government was enormous, with water being only one aspect of the agenda under their control. Local governments were expected to undertake a range of other reform initiatives including: a review of local laws to ensure that anti-competitive restrictions were justified on a public benefit basis; application of structural change to major business aspects of council operations; and application of competitive behaviour codes to ensure that councils were competing with private sector firms on an equal basis when bidding for external tenders.⁸⁷ It would have been easy for some local governments to think that a major part of their activities during the mid to late 1990s was to service the needs of NCP. This factor, together with the growing mythology about NCP within the political class at the State and Federal levels, meant that there was far from a strong level of support for NCP reforms at the local government level.

⁸⁷ Queensland Government, *National Competition Policy and Queensland Local Government*: pp. 7-9.

With the reforms of local government-run urban water supplies, the main focus was on changing the way water was priced, including the development of two-part tariffs and full cost pricing – a user-pays system of water provision.⁸⁸ Other reform initiatives included the restructuring of water authorities along commercial lines (through the use of “commercialisation” or “corporatisation” models), the identification of cross subsidies and community service obligations, and improved resource assessment guidelines.⁸⁹ All in all, the reforms were introduced two key cultural influences into the operations of local government water supplies: user pays charging, and private sector-like business models. These were an anathema to some councils, particularly those in regional and rural settings, where a less business-oriented approach was the norm.

The Queensland Government chose to focus the water reforms on the “Big 17” councils, developing legislation and other policy instruments on the introduction of consumption-based pricing and institutional reform to make council operations more business-like. These seventeen councils accounted for the vast majority of urban water services and the government believed that by focusing efforts here, it would maximise the benefits of the reform process while at the same time spare the smaller councils the administrative burden of undertaking a complicated review process. Politically, it also meant that the government was not taking on all of the local authorities in Queensland, and risking a political backlash from the LGAQ. Backing its argument, the Queensland Government noted that the seventeen largest councils accounted for 80 percent of the current expenditure on water activities, and 84 percent of the annual revenue from fees and charges.⁹⁰

⁸⁸ A two part tariff is a user charge comprised of an access amount (a flat rate charge), plus a per unit charge. For instance, a two part tariff might be: \$150 per year access, plus \$0.50 per kilolitre usage charge. Full cost pricing was a requirement for local councils to make sufficient revenue out of water charges to cover the cost of service provision, including depreciation of assets, direct operating costs, tax equivalents and competitive neutrality adjustments, and a return on assets employed in the water business. The charging regime still allows governments to subsidise the service, as long as this subsidy (or community service obligation) is made transparent (Queensland Government, Department of Local Government and Planning, *COAG Urban Water Resource Policy Reform*, February 1997: p. 9).

⁸⁹ NCC, *Urban Water Reform*, Community Information Paper, 2000.

⁹⁰ *Ibid.*

Prior to the reforms implemented under NCP, the vast majority of councils charged one flat fee, calculated on the basis of a yearly “allocation” of water. In areas where meters already existed, consumers who used more than their allocated quantity of water were charged an “excess,” usually at a significant penalty. The urban water reforms were predicated on the basis that these traditional charging practices did little to encourage users to conserve water. Dwellings were charged for the full allocation, whether they used it or not. On the other hand, charges based on actual consumption were believed to reduce the demand for water remarkably, resulting in significant water conservation outcomes.⁹¹

The change in charging practices for domestic water supplies was resisted by communities and some local governments, which perceived the reforms purely as a government “money grab.”⁹² The idea of a user-pays system for water charging was politically unpalatable in regional areas, with some larger regional Queensland councils such as Rockhampton City, Townsville City and Thuringowa Shire Councils initially refusing to countenance the switch to the new pricing method.⁹³

⁹¹ Queensland Government, Department of Local Government and Planning, *COAG Urban Water Resource Policy Reform*: p. 41. The Brisbane City Council found that water consumption dropped by 13% on the introduction of consumption-based pricing. Cairns City Council achieved a drop of around 20%. In both cases, the fall in consumption served to defer significant infrastructure investments. The Cairns City Council was projected to save around \$15m in infrastructure costs over a twenty-year period through improved demand management occasioned by the reform process. The benefits for the environment through such demand reduction are obvious (Cairns City Council, *Cost effectiveness study on two part tariffs*, February 1998: p. 15).

⁹² This belief held firm, even though a significant number of consumers were paying less for their water on a yearly basis after the introduction of user-pay systems (NCC, *Urban Water Reform*, Community Information Paper, 2000).

⁹³ In the end, only the Townsville City Council continued its stance against the reform process. In the 2001 assessment (which is outside the scope of this thesis) the NCC levied a \$270,000 suspension of competition payments as a result of Townsville’s continued resistance to following the reform guidelines (NCC, *Assessment of Governments’ Progress in Implementing the National Competition Policy and Related Reforms: Queensland Water Reforms*, June 2001: pp. 3-4).

The Queensland Government's policy position.

The first sign of a position on urban water reform came in July 1996 when the Queensland Government released a policy paper on the application of NCP to local government.⁹⁴ The paper was developed in consultation with the Brisbane City Council and the LGAQ.⁹⁵ The “clause 7” statement⁹⁶ went into significant detail about most aspects of NCP and its relationship to local government, particularly in relation to the application of competitive neutrality reforms. However, only one page in the forty-eight page document was devoted to COAG urban water reforms. It simply noted that the government had not been able to negotiate a position with local government as yet, but would do so over the next twelve months.⁹⁷

A more comprehensive policy response was signalled some seven months later,⁹⁸ with the release of a discussion paper on urban water resource management.⁹⁹ This provided the detail that was missing from the Clause 7 statement. The original concerns expressed by the Queensland government back in 1994 – which led Wayne Goss to agree to the water

⁹⁴ Queensland Government, *National Competition Policy and Queensland Local Government: A Queensland Government Policy Statement*, July 1996. The requirement to have a specific policy on the application of NCP to local government was stipulated in Clause 7 of the Competition Principles Agreement. The Clause stated:

- 7.(1) The principles set out in this Agreement will apply to local government, even though local governments are not Parties to this Agreement. Each State and Territory Party is responsible for applying those principles to local government.
- (2) Subject to subclause (3), where clauses 3, 4, and 5 permit each Party to determine its own agenda for the implementation of the principles set out in those clauses, each State and Territory Party will publish a statement by June 1996:
 - (a) which is prepared in consultation with local government; and
 - (b) which specifies the application of the principles to particular local government activities and functions.
- (3) Where a State or Territory becomes a Party at a date later than December 1995, that Party will publish its statement within six months of becoming a Party.

⁹⁵ The policy platform was released just five months into the term of the Borbidge/Sheldon Coalition Government.

⁹⁶ Named after the clause in the Competition Policy Agreement which demanded the policy statement.

⁹⁷ The lack of any detailed policy articulation in Queensland government's response to the requirements spelt out in Clause 7 of the CPA in relation to water reforms would haunt the State. As discussed below, several years into the implementation process the Government attempted to argue that its policy was clearly articulated in 1996 in its “clause 7” response. The document clearly shows that this was not the case.

⁹⁸ The discussion paper was released twelve months after the change of Government, allowing sufficient time for the Coalition to exert its policy approach on the reform agenda. As with the original Clause 7 policy response of July 1996, the discussion paper was also developed in consultation with the Brisbane City Council and the LGAQ.

⁹⁹ Queensland Government, *Discussion Paper on COAG Urban Water Resource Policy Reform*, February 1997.

reforms only on an “in principle basis” - were aired once again, though the new Borbidge government gave no indication that it wanted to retreat from the reform agenda.¹⁰⁰

The discussion paper focused the reform efforts on the seventeen major councils in Queensland, an approach consistent with competitive neutrality initiatives of NCP articulated in the July 1996 policy document.¹⁰¹ The government finally translated its position into law with amendments to the *Local Government Act* in early May 1997 – almost twelve months after the “Clause 7” statement was submitted to the NCC.¹⁰²

In urban water reform, the vesting of water responsibilities in local government, unlike arrangements in other States, meant that the Queensland Government had no direct control over the operations of individual service providers. As an indication of estimated size of the services under local government control, the government reported that over \$15 billion worth of assets were employed across the State, residing in councils the size of Brisbane (the largest local authority in Australia) to small country towns such as Atherton in the Far North of the State.¹⁰³ In attempting to reform water supply services, the State needed to deal with a diverse network of community run operations with a long history of planning and financing water schemes. The driving force behind the development of these schemes was similar to rural water supplies – it was the motivation to expand development that drove the investments – not the efficient business management practices which seemed to be driving COAG water reforms.

The primary source for the legislative changes to support the reform effort was through amendments to the *Local Government Act* and the *Local Government Finance Standard*.¹⁰⁴ Assessment of local government compliance with the Queensland scheme was through the

¹⁰⁰ *Ibid.*, p. 2.

¹⁰¹ *Ibid.*, p. 1.

¹⁰² *Queensland Parliamentary Hansard*, 9 May 1997: pp. 1673-1681.

¹⁰³ NCC, *Second Tranche Assessment*, “Queensland Government – Third Annual Report to the National Competition Council,” June 1999: p. 40. The “Big 17” councils were: Brisbane, Caboolture, Cairns, Caloundra, Gold Coast, Hervey Bay, Ipswich, Logan, Maroochydore, Mackay, Noosa, Pine Rivers, Redlands, Rockhampton, Thuringowa, Toowoomba, and Townsville.

¹⁰⁴ *Ibid.*

Queensland Competition Authority (QCA) – a state-based instrumentality used by the Queensland Government to monitor various aspects of the NCP reform agenda.¹⁰⁵

In an attempt to provide local government with appropriate incentives to implement NCP, including the water reforms, the Queensland Government employed a financial incentives package for local government, working on similar lines to the Commonwealth-State arrangement. \$150 million of the \$756 million that was likely to come to the State in Commonwealth competition payments, was made available to local authorities implementing NCP, with a large component of this targeted towards the water reform process. Councils outside the “Big 17” were also allowed to compete for a share of the bonus pool if they chose to participate in the water reform process voluntarily.

In converting the COAG water policy into law, the Queensland Government made several concessions to local government, particularly in relation to the decision-making processes within the reform framework. The legislation granted significant discretion to local councils in deciding whether to take on the water reforms. For example, upon consideration of an independent report on the implementation of two-part tariffs, councils were to pass a resolution as to whether the reforms would apply to their local area.¹⁰⁶

Where an independent report found the two-part tariff to be an effective policy mechanism, councils choosing not to implement were required to reconsider their position within three years.¹⁰⁷

¹⁰⁵ *Ibid.*, p. 42. The QCA’s roles and responsibilities mirrored those of the NCC. Its main interaction with local government was to assess implementation performance and make recommendations to the Queensland Treasurer on the distribution of competition payments to councils. Other roles performed by the Council included monopoly prices oversight, oversight of the implementation of competitive neutrality within the Queensland Government, third party access to essential infrastructure, and other matters referred to it by State Treasurer. The QCA had a staffing structure approximately 50% larger than that of the NCC (33 staff in all), and a recurrent budget slightly higher than its national counterpart - \$6.2m in total. The QCA had an independent board of directors, chaired by Rod Wylie. As noted earlier, Professor John Quiggin was also a board member, along with consumer advocate Jan Taylor, and commercial lawyer Darryl McDonough (QCA, *Annual Report 2000-01*, Brisbane, July 2001: pp. 2-19). McDonough was also mentioned earlier for his role as Commissioner in the Queensland Commission of Audit. As a separate point, while successive Queensland Governments complained about the role played by the NCC in determining competition payments, they had no problem with erecting the same scheme for local governments in Queensland.

¹⁰⁶ Section 780 *Local Government Act 1993*.

¹⁰⁷ Section 776 *Local Government Act 1993*.

A similar process applied to the structural reforms of water businesses. Councils could choose to apply a wide range of reform initiatives from full-cost pricing to corporatisation. Councils could also elect to “do nothing” and continue with existing structures and methods of operation.¹⁰⁸ As such the amendments to the *Local Government Act* effectively established a veto point” for the water reform process – a veto right that the State had little control over. This policy decision would prove a major stumbling block when the State attempted to protect itself from competition payment deductions.

In another concession to local government, the State also extended the timelines beyond the implementation dates set in the original COAG water reform agreement of 1994. Under this agreement, two-part tariffs were to be introduced by 1998.¹⁰⁹ The Queensland policy gave councils until June 2000 to comply – two and a half years longer than originally agreed to through COAG.¹¹⁰

Overall, the State’s approach to local government and NCP reform focused on cajoling, rather than directing, councils along the reform path. It developed a policy process that held individual councils, not the State, accountable for reform decisions. Such a process suited local government, underpinning its perceived right to set its own destiny in relation to matters under its direct jurisdictional control. But, as noted earlier it provided insufficient scope of the State to exert policy control over implementation.

The Queensland Government was not having much success in convincing the NCC that urban water policies met the principles set by COAG in 1994. In order to have its policy position endorsed, the State Treasurer, David Hamill, decided to attack the NCC in mid 2000. In a statement to parliament, Hamill claimed:

¹⁰⁸ Section 563 *Local Government Act 1993*.

¹⁰⁹ COAG Communique, 25 February 1994, Attachment A.

¹¹⁰ Queensland Government, *Discussion Paper on COAG Urban Water Resource Policy Reform*, February 1997: p. 2.

Since 1996, the Queensland Government has proceeded on the clear understanding that water reform would be voluntary for all local governments with a program of incentives attached, and that only the “Big 18” (*sic*) local governments would be compulsorily required to consider adoption of water reforms ... The NCC has never challenged this – not until now.

He went on:

The NCC is now threatening to financially penalise the Queensland Government ... Local Governments deserve an explanation from the NCC as to why back in 1996 when the Queensland policy was adopted and before local governments had started down the path outlined by the Queensland Government and the LGAQ ... The Queensland Government and the LGAQ are demanding that the NCC reconsider its plan to financially penalise the Queensland Government and, by extension, local governments because it has moved the goalposts.

And finished his statement with,

I would urge all members on both sides of the Chamber who are concerned that the NCC has again gone too far to make direct representations on this issue. Members opposite would be well advised to stand up for rural and regional Queensland by lobbying their Federal coalition colleagues, who appear to be silent accomplices in the NCC’s attack on Queensland’s local governments.¹¹¹

While Hamill’s passion for attacking the NCC was all apparent, his arguments in this case were flawed on two counts. First, he asserted that until June 2000, the NCC had not challenged Queensland on its policy response. Patently, this was incorrect. Publicly released assessment documents, dating back to June 1999 – in the NCC second tranche assessment report, for instance - clearly indicated the Council concerns about the adequacy of the government’s actions.

Second, Hamill’s assertion that the Queensland Government articulated its policy response in 1996, presumably in its “clause 7” policy statement, was also incorrect. The Queensland Government did not make a policy statement on urban water reform until early 1997 in the

¹¹¹ *Queensland Parliamentary Hansard*, 21 June 2000, pp, 1724-1725. Later that day, in Question time, Hamill continued his attack. In response to a “Dorothy Dixier” from a Labor backbencher, he reinforced his rhetorical position by sledging the Leader of the Opposition for not “doing more” to lobby his federal

form of a discussion paper, and did not have its final position reflected in law until the middle of that year. As mentioned, the only substantive reference to the COAG water reforms in the “clause 7” policy statement was confined to one page, committing the government to undertake further policy development work. No mention was made of limiting the water reform agenda to the larger councils.

It is difficult to believe that such a misrepresentation of the policy development process was deliberate, or that the Treasurer would intentionally mislead the House over such a relatively minor issue.¹¹² Considering that he was in opposition at the time the COAG water reforms were interpreted by the Queensland Government and put into law, he might perhaps be excused for an inaccurate perception of how the policy process was managed. In addition, several senior bureaucrats, including the Under Treasurer, were removed from office at the change of government in 1998, and some institutional knowledge may have been lost in the changeover (just as in the changeover from Goss to Borbidge in 1996).

Hamill may have been better advised to leave the parliamentary attack to his ministerial and factional colleague, Terry Mackenroth.¹¹³ As minister responsible for local government, it was Mackenroth’s department, not Treasury, which was best informed on the way NCP was applied to councils. Further, it was officers from Mackenroth’s department, not

counterparts to reduce the power of the NCC to recommend financial penalties (*Queensland Parliamentary Hansard*, 21 June 2000, pp. 1739-1740).

¹¹² When questioned about this incident in an interview, a senior Treasury official put the situation down to a “simple misunderstanding” (Interview with Tania Homan, Senior Treasury Office, 26 July 2002).

Unfortunately, David Hamill declined an offer to be interviewed on the subject. Nevertheless, it was clear that Hamill was highly sensitive about the image he was projecting at the time he raised his concerns about COAG water reforms. He was under scrutiny by the opposition and the media on a range of issues, the most controversial of which was the letting of an internet gambling licence to a firm with Labor Party connections. He was also involved in the floating of a policy option which would have seen the removal of petrol subsidies in Queensland. After a strong community backlash against the idea, the proposal was dropped.

¹¹³ Mackenroth was senior in Cabinet to Hamill. Mackenroth was the Minister responsible for local government in the Goss Labor Government, and as a result, he commenced the negotiation process over the Queensland Government’s “clause 7” policy statement. A change in government in February 1996, meant that it was the Coalition that finalised the policy statement and forwarded it to the Commonwealth. Mackenroth was also Opposition spokesperson for Local Government during the Coalition’s term in office, requiring him to participate in parliamentary debates over amendments to the Local Government Act that were designed to accommodate urban water reform (for instance, *Queensland Parliamentary Hansard*, 9 May 1997: pp. 1673-1675). Further, Mackenroth resumed ministerial responsibilities for local government on returning to office in the Beattie Labor Government. Thus, Mackenroth would have been much better briefed on the background of water reforms than Hamill.

Treasury, who led negotiations with the LGAQ and Brisbane City Council on NCP reform in local government.

There was little doubt that Hamill disliked the NCC. From the moment he took on the Treasury portfolio, through a series of ministerial statements and press releases, Hamill had made it quite clear he was “gunning for” the NCP watchdog - wanting it stripped of its power to make recommendations to the Commonwealth Treasurer on the distribution of competition payments. His eagerness to discredit the NCC may have clouded his judgement in this particular case.

Hamill’s approach also constrained his ability to make partisan political capital out of the situation. By choosing a strategy of attacking the NCC over an alleged failure to notify Queensland of its policy problems in the area of water reform, Hamill missed an opportunity to lay the blame for the potential loss of competition payments at the feet of the former Coalition government. He could well have presented a case to parliament and the media that the Coalition had botched the policy development process, and as a result cost the State millions of dollars in lost revenue from the Commonwealth. An opportunity to embarrass the Coalition was lost.

The continued resistance from local governments to new water-charging regimes put the State under further pressure. As far as the NCC was concerned, the State was responsible for the implementation of the reforms, irrespective of the policy positions taken by individual councils. The State government received a \$4m suspension in competition payment for its failure to implement the urban water reforms adequately.¹¹⁴ The blow was softened somewhat by the fact the State could pass these deductions directly on to local government (through its own NCP-inspired incentive scheme policed by its own NCC, the

¹¹⁴ The deduction was confirmed in a media release from the Commonwealth Treasurer on the day that COAG announced its changes to NCP in November 2000 (Costello, P. “Commonwealth competition reform payments to States and Territories amount to approximately \$450m,” media release, 3 November 2000). Though, the \$4m suspension was subsequently lifted once the policy position of the State was broadened to include sizeable councils outside the “Big 17” (Costello, P. “Commonwealth National Competition Policy payments to the States and Territories for 2001-02,” media release, 14 December 2001).

QCA), but as Hamill's statements suggest, the government was not about to take potential deductions lightly.

The NCC's position

On urban water reform, the NCC's second tranche assessment in June 1999 was the first time Queensland's policy approach to urban water resource management received critical review. The NCC chose to use the assessment to sound a warning, in effect putting Queensland on notice that it had to address outstanding matters or face the consequences. Progress would be assessed in supplementary reviews scheduled for December 1999 and June 2000.

To the NCC, the Queensland Government was attempting to do the bare minimum in urban water reform to obtain competition payments. It also questioned the State's strategy of placating local government by limiting the scope of the reforms and granting it substantial discretionary powers in the application of the reform agenda. From the NCC's perspective, either local government was brought into line with how the policy was being applied in other States, or the government would suffer financial deductions in future competition payments.

The NCC noted the government's argument that it was focusing its reform efforts on the "Big 17" councils to net over eighty percent of water operations in the State.¹¹⁵ However, the NCC also noted that if the next ten local authorities were added to the first seventeen, over ninety percent of activity would be covered.¹¹⁶ The Council questioned the arbitrary nature of government's decision. A much more comprehensive approach could be achieved by simply changing one policy parameter.

By waiting until its second tranche assessment, of June 1999, to assess Queensland's approach to urban water reforms, the NCC missed an opportunity to play a more proactive role in the State's policy development process. Technically, the NCC was entitled to wait

¹¹⁵ By this time, the Beattie Labor Government was in power. It did not alter the policy framework on COAG urban water reforms set by the previous National/Liberal Coalition Government.

¹¹⁶ NCC, *NCP second tranche assessment*, 30 June 1999: p. 458.

until 1999, as this was the scheduled date of review in the “Agreement to Implement NCP.”¹¹⁷ However, given the unique circumstances of the Queensland water industry, which introduced a level of political intervention not experienced in other States, and the fact that the State voiced its concerns about the application of the reforms prior to signing the NCP agreement, the NCC should have predicted a rocky passage through the policy process. It should have paid closer attention to what was happening in the State in the lead up to the second tranche assessment.

The failure of the State to articulate a policy approach in its “clause 7” policy paper on the application of NCP to local government, should have served as a further warning that problems could arise in this particular area of NCP reform in Queensland. Accordingly, the NCC shares some culpability for the State-based policy approach not meeting its reform targets.

The Queensland policy approach was not finalised until May 1997, thus allowing the NCC insufficient time to comment on the policy design by the June 30 deadline for its first tranche review. Even so, the NCC might have canvassed its concerns much earlier than in its 1999 second tranche assessment. The policy had then been operational for over two years before the Queensland Government was officially advised of the limitations of its policy. Ideally, it would have been better to involve the NCC right from the start, before local government was able to develop the expectation that the reforms could be ring-fenced to only a small proportion of Queensland councils. Ultimately, the Government was forced to amend its policy approach in order to access competition payment deductions – an amendment that was blamed on the NCC.

¹¹⁷ As noted in chapter two, the *Agreement to Implement* was one of three documents that, in total made up what is commonly referred to as NCP. Unlike the other two agreements, the agreement to implement was not codified using clause numbers, making referencing difficult. Under the heading, “Conditions for payments to States,” the agreement specifies that the second tranche assessment would consider, amongst other things, “the strategic framework for the efficient and sustainable reform of the Australian water industry.” This item was not included in the list of issues to be considered in the first tranche assessment process (see *Agreement to Implement the National Competition Policy and Related Reforms*, COAG, 11 April, 1995).

As discussed in chapter four, if the NCC had one failing – at least early in its operation - it was a tendency to misread or underestimate the political implications of NCP implementation. The political environment in Queensland - with tight parliamentary margins, a volatile electorate, and the inherent power of local government in water supply - should have resulted in NCC adopting a much closer watching brief on how the reforms were being applied in the State.

Urban water reform and the conceptual framework for data analysis

As with the two previous case study examples, urban water reform in Queensland reveals certain facts in relation to the research questions generated from the theory on coordination, implementation and conflict resolution discussed in chapter one. Table 5.5 reiterates five key questions from chapter one’s conceptual framework for data analysis that have specific application to the urban water reforms.

Theory	Research Questions
Coordination	Was a plan of action developed which was accepted by all parties?
	Were the Queensland Government and the NCC in regular contact?
	In terms of Stewart’s four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland?
Implementation	Was there a single authority or set of key players in Queensland that set, then maintained, a common agenda as implementation progressed?
	Was there informed leadership at the administrative and political levels in Queensland?
Conflict resolution	How was conflict managed by the Queensland Government?

Table 5.5 – Key research questions relating to urban water reform

Was a plan of action developed which was accepted by all parties?

The tension between the NCC and the Queensland Government over urban water reform stemmed from confusion over policy direction. The government thought that it had articulated a plan to the NCC on the reform of local government water supplies, but clearly it had not. It appeared that the government had confused two separate reform initiatives – the competitive neutrality reforms to council business operations and the COAG water reform agenda. While there was some commonality between the two reform elements, the former only dealt with the business structures of government, while the latter dealt with broader reform issues such as the tariff structure of water charges and investment criteria for infrastructure development.

By the time the NCC detected a problem with the government's implementation strategies, the reform process was already in full swing. Moreover, given that the Queensland Government had to implement the reforms through local authorities (thereby introducing another level of political interest), facing up to the implementation problems meant that it had to reorientate the sector mid-way through the process. The government was caught in an embarrassing situation. It had given local authorities a false impression of the scope of the reform process. If a common plan of action was developed between the NCC and the Queensland Government earlier in the implementation process, much of the conflict between the two institutions could have been avoided.

The lack of clarity over the reform process was probably due to the rapidly changing political leadership within the State during the mid 1990s. The "clause 7" statement to the NCC – where a range of government NCP implementation strategies within local authorities were articulated – was released by the Borbidge Government only four months into their twenty-eight month term of office. The preparatory work on the policy framework was done by the Goss administration. Then, it was the Beattie Government that endeavoured to implement the policy commitments. Given changes in political leadership, the NCC might have paid closer attention to how the urban water reforms were evolving, and intervened much earlier than it did.

Were the Queensland Government and the NCC in regular contact?

The conflict over the direction of urban water reform stemmed from a communication breakdown between the NCC and the Queensland Government. A more open and engaging relationship between the two institutions may have enabled the problem to be detected much earlier, and hence Queensland councils could have had their expectations managed much more effectively.

Even so, the NCC did inform the Queensland Government of the inadequacies of its reform strategy some twelve months before the government realised that it had a problem – indicating that the method of communication between the two bodies was flawed. By focusing on written communication through assessment reports, the NCC expected the State to comprehend every nuance of what was being said – there was no follow up to the written reports. Given the size and complexity of the reform program underway within the State, it was understandable that some slip-ups would have happened, irrespective of the complications introduced through the rapidly changing political leadership. If the NCC was more appreciative of the operational difficulties of such a wide-ranging reform effort, it may have been more involved in influencing the State's policy responses.

The breakdown in communication between the two institutions reflected a general malaise within the relationship. As discussed in the previous chapter, Graeme Samuel later spoke positively about the Council's relationship with the Queensland Government. But, in reality, the State begrudgingly accepted the NCC's role – seeing it not so much as a partner in the reform process, but as an external inquisitor. The Borbidge and Beattie administrations did not place the same significance on micro-economic reform as the Goss administration. Managing the tight political environment of the time seemed to be of greater importance than economic reform in the second half of the 1990s.

Was there a single authority or set of key players in Queensland that set, then maintained, a common agenda as implementation progressed?

Rapid succession in political leadership induced significant flaws in the State's implementation urban water reform strategy. The changes probably led to the false belief that the government had settled on a reform strategy with the NCC, where it clearly had failed to do so. Hamill's attack on the NCC, even though based on spurious grounds, met with strong political acceptance with the Queensland parliament. After all, the statements reflected a growing resentment of the NCC and the role it played in keeping the reform process on track. There was little incentive within ministerial ranks and parliament to examine the issue on substantive grounds.

Was there informed leadership at the administrative and political levels in Queensland?

This case study uncovers the shortcomings of political leadership in this particular aspect of the reform process. However, despite the political machinations, the reform continued and the Queensland Government rectified the problems with its implementation strategy, demonstrating the resilience of the reform program. Even when senior political leaders were somewhat misinformed on the subject, the reform process could continue, highlighting the importance of the incentives associated with successful implementation (in the form of competition payments).¹¹⁸ In fairness, however, it appeared that the Beattie administration did not have a problem with the direction of the reforms and the benefits of improved water use, it was the perceived interference from the NCC that it despised. It was easier to blame the NCC for policy changes, and maintain a positive relationship with local authorities, than accept that there were significant short-comings with the policy design developed by successive Queensland Governments.

¹¹⁸ This finding supports Ostrom's theories on institutionalism, which highlighted the importance of incentives to ensure compliance with the joint action plans developed by independently constituted groups (Ostrom, E. *Governing the Commons: The evolution of institutions of collective action*, Cambridge University Press, Cambridge, 1990: pp. 1-23).

How was conflict managed by the Queensland Government?

In this case example we see the Queensland Government elevating issues to a political level in order to embarrass the NCC, rather than seek a policy change. This incident reflects a general pattern when confronting implementation difficulties. The government was particularly eager to engage the NCC in public debate, choosing to ridicule it whenever possible. There was strong political interest in doing so, of course. Any controversy that could be sheeted home to the Council enabled the Queensland Government to deflect the responsibility for implementing competition reforms.

In intergovernmental relations prior to the collaborative era that briefly took hold in the early to mid 1990s, this practice was commonplace.¹¹⁹ As noted in chapter, it is the stock in trade of State governments to blame “Canberra” for perceived problems, while taking the credit for any policy response that was popularly received by the media and the general community. Of course, “Canberra bashing” was more about deflecting blame to the Commonwealth Government. In the case of NCP, it was the NCC that stood in the shoes of the Commonwealth, but nevertheless, the outcome was the same. Reform could continue, while State leaders could play populist politics within their home States.

Summary of answers to key research questions

The overall commitment to micro-economic reform within Queensland waned during the later 1990s, as political leaders clambered to secure advantage in a tightly contested electoral environment. Further, the fragmentation of collaborative federalism that occurred under the Howard Commonwealth Government during the same period meant that there was little focus within Queensland on leading national reform programs. Both Borbidge and Beattie were saddled with NCP water reforms and the NCC – it was something that was not made in their vision; something that had to be serviced, but not led.

The government’s management of the urban water reform highlights the perfunctory approach taken to reform implementation – a “do just what you have to do” approach, which highlighted the financial incentives of reform implementation over the substance of

¹¹⁹ Sharman, C. “Working together: Towards an inclusive federalism?” *Agenda*, vol. 5, no. 3, 1998: p. 267.

the policy initiatives. This was the situation with dairy deregulation as well. A comprehensive engagement over the implementation of urban water reforms, as took place in rural irrigation, would have averted the implementation problems encountered by the government. Table 5.6 provides a summary of the key research questions discussed above.

Theory	Research Questions	Analysis of Urban Water Reforms
Coordination	Was a plan of action developed which was accepted by all parties?	No – The government failed to articulate an implementation strategy in its “clause 7” response. Its strategy was not negotiated and agreed to with the NCC, and as a result implementation problems occurred.
	Were the Queensland Government and the NCC in regular contact?	Only through the normal assessment process. The relationship between the two institutions lacked substance. There was no partnership in the reform process.
Implementation	Was there a single authority or set of key players in Queensland that set, then maintained, a common agenda as implementation progressed?	Rapid changes in political leadership in the mid to late 1990s caused gaps in the implementation agenda.
	Was there informed leadership at the administrative and political levels in Queensland?	No – Hamill in particular lacked policy understanding. Senior public servants attributed the implementation problems to a “communication issue” with the NCC.
Conflict Resolution	How was conflict managed by the Queensland Government?	The government chose to use political attacks on the NCC, unlike its approach to implementation problems encountered with rural irrigation reforms.

Table 5.6 – Summary of answers to key research questions (Urban Water Reform)

Case study examples and the insights into Coordination, Implementation and Conflict Resolution

The individual case study examples above answer a number of the twenty-three research questions in the conceptual framework for data analysis developed in chapter one, and examined throughout the thesis so far. The purpose of this section is to compare and contrast the responses to the key research questions discussed so far, in terms of the general headings of coordination, implementation and conflict resolution.

Coordination

As discussed in chapter one, a critical element in achieving coordination is to ensure that there is a commonly accepted action plan that all interested parties commit to.¹²⁰ It is a potent signal that everyone is agreeing to head in a common direction and focus on the same things.

The examples demonstrated certain limitations of the original NCP agreements, and their capacity to coordinate action across a number of players, over an extended period of time. Such a broad agreement, covering a wide array of public interest was never going to specify action in minute detail – this would have to be left to the unfolding of events as implementation progressed. The interpretation of various clauses of the agreement by the NCC and the Queensland Government would prove crucial to the effectiveness of the policy reform effort.

In the dairy deregulation case, the NCC pushed the government to consider the principles of reform, and to consider options rationally, without biasing review outcomes. The Council criticized the government's review efforts, which it believed were designed to achieve political objectives, not what was best for the long-term interests of the industry. In the end, external influences, beyond the principles announced in the NCP, drove the

¹²⁰ Chisholm, D. *Coordination Without Hierarchy: Informal Structures in Multiorganizational Systems*, University of California Press, 1989: p. 29.

final policy position of the government. In substance, the government showed that it was not committed to the action plan of NCP, as developed by COAG.

In the rural water example, the Queensland Government showed that it was a capable and willing reformer, but required some modifications to the way the COAG water reforms were interpreted by the NCC in order to achieve successful implementation. There was some political point-scoring along the way, something that is expected in a tight electoral environment. The substance of the reforms was never in question, and the plans developed by COAG were actively led by the government of the day.

In contrast, urban water reform was a shambles. There was never an agreed action plan in place, which the Queensland Government only realised well into the implementation process. An added complication was the need to involve local government in the decision-making process, creating an extra level of political interest that was not apparent in the other cases.

Overall, the high degree of variation in coordinated effort was influenced by a number of factors. First, the rapid succession of governments in Queensland during the mid to late 1990s meant that significant goal displacement was likely to occur, as a new government, without experiencing the detail of policy development was asked to implement a complex and politically volatile reform program. The success of the rural water reforms compared to the other two cases signifies the incumbent government's ongoing commitment to the principles behind it, and hence the continued momentum to achieve the reforms.

In comparison, the two other to reform areas received tacit support – more along the lines of “NCP says we have to do this.” There was little political leadership of the reform process. Commitment to a common agenda was probably purchased through the NCP incentive payment scheme in the urban water case, and commercial realities in the dairy deregulation matter. Financial and commercial incentives were not the only issues influencing decisions on reform options. The ability of the Queensland Government to lead a strong and vibrant economy was another important (but often understated) policy

driver. Tom Gilmore, a senior National Party Minister in the Borbidge Government, acknowledged this influence when introducing NCP-inspired legislative amendments to the *Local Government Act* in 1997:

The NCP reforms are being implemented throughout Australia to generate a more productive and stronger economy. The ultimate aim is to create higher living standards and real sustainable jobs in the private and public sectors. The reforms cannot be ignored by Queensland because other parts of Australia will use them to gain a competitive advantage and attract new trade and investment away from this State.¹²¹

The Queensland Government was not keen to be seen as the economic laggard of Australian States. At times, this seemed to run counter to its other rhetorical position of being anti-competition policy. This dichotomy was never truly reconciled, not at least in public statements by the government.

Second, NCP was a broad plan of action, policy detail was developed only as the reform agenda proceeded. In such a broad reform program, there were bound to be misunderstandings about how various aspects were supposed to be implemented, even in the absence of political leadership changes. It was impossible for NCP to specify action in every area of reform, and deeper layers of policy direction were required as the reform process rolled out.

As Colebatch points out, policy-making does not stop with the grand announcement of an intergovernmental agreement.¹²² There will be varying perspectives on the purpose of the policy direction, and how various aspects should be interpreted. Here, there was no independent body to provide guidance on the direction set by COAG – the NCC played both a “judge and jury” role.

The third and final area relates to the changing federal environment after the election of the Howard Liberal Government in 1996, less than twelve months after the historic signing of NCP at COAG. As Painter indicates, COAG became a pale shadow of its

¹²¹ *Queensland Parliamentary Hansard*, 1 May 1997, p. 1258.

¹²² Colebatch, H.K. *Policy*, Open University Press, Buckingham, 2002: pp. 51-56.

former self under the Howard Government's intergovernmental management.¹²³ Without the discipline of collective decision-making processes associated with regular COAG meetings, populist State governments like the ones led by Borbidge and Beattie were essentially "cut loose" to behave in a head-line grabbing way. There were insufficient institutional structures to bring deliberate politicking back to rational discussion of national policy options.

Moreover, there were no symbolic routines to tie new State governments into the plans of their predecessors. Without forming a common philosophical approach to national reform programs such as NCP, on an ongoing basis, populist leaders were able to manufacture their position on specific NCP issues in isolation, without an overall declaration of the principles behind their decision-making approaches. At least the signatories to the original NCP agreement could say that they were all headed in the same direction. The same could not be said for the leaders that came after them.

In terms of government commitment, the contrast between the reform initiatives discussed above could not have been greater. In dairy deregulation, the government was faced with the clear conclusion that industry reform was inevitable, but chose to continue to regulate farm-gate milk prices regardless. The decision to deregulate the Victorian market forced the government to come to terms with the reform agenda. The role played by the Queensland Government was one of a concerned bystander as the reform of the industry took on national prominence.

In the rural water example, and particularly in irrigation reform, the reform agenda secured strong policy leadership from within the Queensland Cabinet, and as a consequence, was given prominence in the NCP reform process. The inclusion of competent public servants, with a background in NCP policy development, was critical to the implementation effort of the government in this case. It also emphasised the level of importance the government placed on reform objectives.

¹²³ Painter, *Multi-level governance and the emergence of collaborative federal institutions in Australia*, p. 148.

The examples demonstrate that the level of commitment varied, depending on whether the specific aspect of NCP reform met with the priorities of the government of the day. If it did, then the reform process received prominence. If it did not, the government made a perfunctory application of reform objectives, doing whatever was the bare minimum in order to access competition payments. More importantly, the government showed little policy leadership in public forums, preferring to sheet the blame for reform back to external parties.

The varying commitment level could be linked to the effectiveness of the communication between the NCC and the government. In rural water reform, where the government showed an overarching commitment to reform, the engagement was professional, and at officer level. In contrast, in the urban equivalent, the Queensland Government kept the NCC at arms-length, focusing its policy development efforts in negotiations with local government. When it was subsequently caught in a bind, the government launched a political attack on the NCC, unlike the rural water example where tensions over policy direction were solved quietly, behind the scenes.

As already argued, the existence of some sort of routine at the heads of government level to recommit to the principles of NCP, particularly when governments changed, may have depoliticised much of the debate about the NCC's role. Such a process may have dealt the NCC into being a partner in the reform process rather than an inquiring outsider, which continually asked incumbent Queensland Government difficult questions, calling them to account for policy decisions that fell under the ambit of NCP.

Finally, the analysis of the coordination efforts of the NCC and the government generated insights into the types of coordination present during implementation. In the dairy deregulation example, Stewart's notion of "coordination through ideas" was used to explain the factors that were given prominence in the reform effort.¹²⁴ On the surface at

¹²⁴ Stewart, J. "Horizontal coordination: The Australian Experience," in Edwards, M. and Langford, J. (eds), *New Players, Partners and Processes: A Public Sector without Boundaries*, National Institute of Governance, University of Canberra, Canberra, 2002: pp. 145-152.

least, it appeared that the goals of economic efficiency took on higher importance than other ideas such as community stability and tradition. This phenomenon could be explained in terms of the dominant policy ideology of the time – that of economic rationalism. However, such a policy ideology does little to explain the reasons why Queensland fell in with the other States, and reformed the last aspect of dairy regulation, given it was an avid opponent of “economic rationalism.” The real issue for Queensland in the end was how to most effectively deal with the imminent arrival of cheaper dairy imports from Victoria, considering the Australian Constitution underpinned the State’s right to free trade. The decision to reform was a pragmatic one, albeit implemented reluctantly by the Queensland Government.

Stewart’s notion of coordination through networks provided a more practical explanation of behaviours in the rural water case.¹²⁵ Here, the Queensland Government’s ability to lead a coalition of State bureaucracies in substantive policy debate over the interpretation of COAG’s water reform agenda, meant that it was able to secure significant concessions from the NCC (and the Commonwealth).

As raised in chapter two, when considering this research question in relation to the NCP agreements as whole, the national policy agenda on competition reform relied heavily on strategy as a coordination mechanism, another aspect of Stewart’s typology.¹²⁶ Stewart argued that this form of coordination, by itself, was weak, as the strategy often waned soon after the emotions associated with a symbolic signing ceremony subsided. The support provided through other coordination mechanisms, in this case the primacy of economic rationalism and existence of policy networks provided extra support to the implementation of NCP in Queensland.

As argued elsewhere, coordination would have been enhanced if there was some form of traditional coordination mechanism present, the fourth and final aspect of Stewart’s four-part coordination typology.¹²⁷ This gap was addressed in the November 2000 NCP

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

amendments. An ongoing role for COAG, or (as was the case after the 2000 NCP review) a Senior Officers' Group, would have enhanced the coordination effort associated with policy implementation.

Implementation

As with coordination, the case study examples also generate several insights into the implementation of national agreements. As discussed in chapter one, Pollitt and Bouckaert emphasise the need for informed leadership at the political and administrative levels if a reform agenda is to be implemented successfully.¹²⁸ The two case study examples that considered this point – rural and urban water reforms – highlighted shortcomings in this theoretical perspective. The urban water example indicated that the reform effort could proceed, even in the absence of competent and informed political leadership. The incentives which accompanied the reform package seemed to have worked as a counterbalance here, as political leaders did whatever was necessary to access competition incentive payments.

In the rural water reform example, political hi-jinks excluded, competent leadership at the political and administrative levels provided a solid platform for the reform process to move ahead, with minimal disruption, even in the face of significant implementation difficulties. Overall, the case study examples show that Pollitt and Bouckaert might have over-emphasised the importance of informed leadership when prescribing the essential ingredients to success reform implementation. The case studies show that sufficient incentives and sanctions serve to bolster or reinforce the reform effort to assist it through periods of un-interested or ill-informed leadership.

Mazmanian and Sabatier highlight the importance of political and managerial skills to successful policy reform.¹²⁹ The dairy deregulation and the rural water reforms provided strong evidence to support this view. Politically, the Queensland Government was acutely aware that it could not be seen to be leading on the micro-economic reform front,

¹²⁸ Pollitt and Bouckaert *Public Management Reform*, p. 185.

¹²⁹ Mazmanian and Sabatier, *Implementation and Public Policy*, pp. 41-42.

or risk an electoral backlash as voters amassed behind a new (anti-reformist) political force in Queensland, under the banner of the One Nation Party. For the reform agenda to continue, tough reform decisions had to be sheered home to outside institutions, namely the NCC. In addition, the government's management of the rural water reforms was exemplary, with strong policy leadership articulated in most cases. To move forward with such a broad-ranging reform agenda, in politically volatile times, required significant political and administrative skills. While many of the government's forays into the media were on spurious grounds, it was able to create the impression that it was at one with the people – fighting the need to reform at every opportunity. Nevertheless, reform continued, largely due to the existence of a whipping boy in the form of the NCC.

Conflict Resolution

This particular research area demonstrated how conflict between the Queensland Government and an intergovernmental body, the NCC was managed. Of particular note was the highly politicised nature of the resolution process, in most cases. Here, Lindblom and Woodhouse's argue that politicians will attempt to resolve conflict in one of three ways. Political leaders will either use: non-rational and irrational persuasion, via propaganda campaigns or symbolic rhetoric; logrolling, vetoes, bribery, or other interpersonal means of inducing acquiescence without actually persuading on the merits; or, finally, informed and reasoned persuasion.¹³⁰ The goal for the authors is to structure public policy debate so that the third form of conflict resolution forms the basis of decision-making.

In all three case studies we see political leaders within Queensland resorting to the first option of conflict resolution, non-rational and irrational persuasion – relying heavily on the rhetorical themes discussed in chapter three. As highlighted in the discussion in this section, the disengagement of a policy forum where government leaders had to argue their case on policy merits, largely through the dilution of COAG under the Howard Government, enabled Queensland political leaders to adopt various rhetorical positions on policy reform with relative impunity. The NCC attempted to place many of the

¹³⁰ Lindblom and Woodhouse, *The Policy-Making Process*, pp. 128-129.

debates on more rational terms, but was marginalised through political attacks aimed at its “unelected stature.”

The handling of the rural water reforms, particularly the irrigation aspects stood in sharp contrast to the management of conflict in the other case studies. Here, the willingness of the Queensland Government to engage with the NCC in rational debate, out of the public spotlight, probably reflected the government’s ongoing commitment to this aspect of the NCP reform process. There was no political advantage in discussing the government’s successes in re-shaping the reform agenda, as the message would have run counter to its “anti-economic reform” rhetoric.

Conclusion

The cases examined in this chapter show how the interactions between the NCC and the Queensland Government changed given the nature of the policy issues being confronted. They also highlight the implementation game played out between the NCC and the Queensland Government. Rather than being uniform and predictable, the analysis shows that arguments over implementation were discontinuous and highly reliant on the environment within which the specific reform initiative was being implemented.

The examples show that for the NCC, a tactical retreat was sometimes more effective than a full force attack. At other times, the NCC found it necessary to push the government into taking a policy position, either through the threat of incurring a financial deduction, or through engaging the government in open public debate through the media. Likewise, the Queensland Government also picked its mark, engaging the NCC in a way to maximise the likelihood of achieving its political objectives. Here, the government found it was possible to make substantive changes to the way the implementation process was being managed, without the need to place competition payments under threat, or to draw the NCC into a public slanging match.

The studies demonstrate two critical global issues with NCP implementation. First, the political antics surrounding the nature of the reform program often belie the true nature of the implementation problems being experienced. Style is often different to substance. Politicians might have blamed NCP - or more specifically, the “unelected bureaucrats in the NCC” - for things such as the refusal to build the St George dam, changes in urban water prices, and even dairy deregulation, but the truth was much more complicated.

In reality, the changes blamed on NCP were the result of a range of issues including: government’s inability to translate COAG agreements into policy (urban water reform); government’s failure to manage expectations (urban water reform, particularly in relation to local government); pursuit of other policy objectives such as environmental sustainability (rural water reform); simple commercial realities (dairy deregulation); or a combination of these factors. However, accepting the ability to control these issues would have left the Queensland Government open to ongoing political attack in an increasingly hostile political environment. Blaming the NCC was more about political opportunism than anything else.

Second, the effectiveness of NCP implementation, once disaggregated and broken down into its constituent parts, seemed to be highly reliant on the political leadership of the minister responsible for the reform, together with the competence of the administrative machine beneath him or her. In the rural irrigation case, a committed and competent minister was supported by an equally focused administrative unit, and as a consequence, the reform process proceeded smoothly (and even won concessions from the NCC). In contrast, the urban water reforms were managed in a haphazard way, by a series of ministers, none of whom showed much interest in championing reform. Their dealing with the process became purely perfunctory.

Irrespective of these problems, the reform process moved forward; the only variable was the level of political noise associated with implementation. Sometimes this noise was about scoring points in a partisan political sense, at other times it was a case of the government being confronted with reform options that were simply too hot to handle in the tightly contested political environment of the mid to late 1990s.

Chapter Six – Key findings and Conclusions

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Introduction

The Premier of Queensland, Peter Beattie, exuded a distinct air of triumph as he rose to inform parliament of the changes his government had secured to National Competition Policy and the operations of the National Competition Council. It was just before question time on 8 November 2000 – five years, six months and twenty-seven days after the documents that gave rise to NCP were signed by all Australian governments.

It was a jovial Premier who greeted the opposition benches. His government, so he stated, had achieved a major coup. After talking about petrol prices and soil salinity, the Premier turned to NCP:

I am delighted to inform the House of another major reform and breakthrough at COAG – that is, a major reform in National Competition Policy that will result in thousands of Queensland jobs no longer being threatened needlessly by competition reforms ... It means my government has won the long battle to protect jobs against reforms which are clearly not in Queensland's interests. It means that the National Competition Council is no longer judge, jury and executioner in deciding which reforms must be implemented.¹

On his own account, Beattie had done what no other leader had been able – he had taken on the NCC and won. According to the Premier, he was able to convince most other Australian government heads to follow his lead and emasculate the NCC.

Twenty minutes after the self-congratulatory remarks of the Premier, his Treasurer rose to tell parliament that the Commonwealth had accepted the findings of the latest NCC assessment report, and would be suspending \$12.9 million in competition payments to the Queensland Government as a result.² The Treasurer's admission was hardly a sign of a tamed NCC. The opposition did not pick up the obvious contradiction; neither did the media.

¹ *Queensland Parliamentary Hansard*, 8 November 2000, p. 4028.

² *Queensland Parliamentary Hansard*, 8 November 2000, pp. 4030-4031. The details of the deduction related to the Queensland Government's failure to observe COAG water reforms – the urban water reform issue discussed in chapter five – and its refusal to develop a policy framework for the distribution of community service obligations in transport. The latter issue, while mentioned in chapter three, was not a specific case study example in this thesis.

No matter what political spin the Beattie put on it, the NCC, and NCP for that matter, was here to stay. Five and a half years after the original NCP deal was signed – and several attacks from leaders of Queensland Governments later - implementation continued.

When the heads of Australian governments decided to explore the development of a national policy on competition, they were presented with the dilemma of how to institutionalise the values of competition over a long implementation timeline; they needed to work out how to make the ethos of competition enduring. Central to the institutional arrangements to underpin this value system was the National Competition Council.

The establishment of this new form of intergovernmental authority, charged with calling Australian governments to account on how they were implementing NCP, was bound to create tensions between it and incumbent governments. This thesis has explored the implementation of NCP from the perspective of the Queensland Government, focusing on the relationship it had with the NCC during the first five and half years of the policy.

The purpose of this chapter is to summarise the key findings of the research and to assess how the relationship between the Queensland Government and the NCC maps against the key research questions introduced in chapter one: questions dealing with policy coordination, implementation and the resolution of conflict. Importantly, the relationship with the new intergovernmental body existed within a changing framework of intergovernmental relations, as Australian federalism receded from its collaborative policy making focus of the early 1990s.

Coordination

The discussion in chapter one found that coordination is a slippery concept. It is often used as a euphemism for greater centralised control, or coercion. While coordination can clearly be achieved through tight controls and authoritarian organisational structures, it is not the type of coordination examined in this thesis. Rather, coordination refers to the alignment of groups without coercion, in order to achieve common goals and objectives.

This situation best equates with the coordination issues facing the NCC and the Queensland Government. Based on this theoretical perspective, the discussion in chapter one distilled nine key research questions – questions that have appeared, either in total or in part, in every chapter of this thesis, as the various layers of the relationship between the Queensland Government and the NCC were examined in depth. Each research question and the discoveries made in the previous chapters, together with key learnings about the implementation of intergovernmental agreements, are discussed below.

Was a plan of action developed which was accepted by all parties?

The implementation effort of the Queensland Government was framed by the policy direction set in the intergovernmental agreements on NCP struck in 1995. As chapter two demonstrated, given the broad scope of the reform program, made even more substantial through the inclusion of “related reforms” considered at COAG prior to the signing of NCP, it was nigh impossible to specify the implementation process in any detail at the time of signing. Instead, COAG adopted a layered implementation process, which required each State to specify its implementation plan based on the milestones and targets set in the overarching NCP agreements. Much of the detail of policy development was left to the unfolding of events. Moreover, it was left to each participating jurisdiction to negotiate with the NCC.

As demonstrated in chapters three, four and five, the development of detailed policy responses from the Queensland Government was undertaken in an increasingly acrimonious relationship between it and the competition watchdog, the NCC. The deterioration in the relationship was the net result of a number of influences including a particularly volatile Queensland electoral environment during the mid to late 1990s – and the consequential lurch to populist politics, as considered in chapter three – and the weakening of the collaborative federalist arrangements under the Howard Commonwealth government.

Further, other domestic issues influenced the outlook of the Queensland Government towards NCP implementation, including a deteriorating budget position (which heightened the State’s need to access competition incentive payments) and internal changes to the administration of the State in response to the rapid succession of political

leadership at the time. These factors caused counterbalancing pressures – the State’s budget position pulling the government towards continued implementation of competition reforms – that the lack of institutional capacity creating goal displacement and policy drift as a series of new players, in close succession, were introduced to NCP.

Within this confluence of external influences, the Queensland Government was expected to develop a coherent strategy on NCP implementation, which covered a range of policy arenas. As discussed in the case study examples, successive governments were found wanting when developing detailed policy consistent with the overall objectives set within the framework of NCP. The exception to this rule was the government’s achievements in rural water reform, particularly irrigation reform, where the government was able to extract significant concessions to the NCC’s preferred implementation method. Here, the policy implementation process was led by a reformist Minister, supported by a capable team of senior public servants, the leader of which was an integral player in the formation of NCP when it was being negotiated through COAG.

Specifically, this thesis has shown that in most cases, the plan articulated in the NCP agreements was insufficient to guide the government through implementation – it could not cover the depth and breadth of the reform program. A joint plan of action was only agreed at the highest level. When it came to the detail, the government and, by this stage in the policy implementation process, the NCC had varying perspectives on how the policy should progress.

As demonstrated in chapters three and five, negotiating an agreed plan of action was difficult for the government, as discussion tended to involve a high degree of exaggeration, designed to corner the NCC on the distribution of competition payments. The Queensland Government showed little interest in rational engagement with the NCC on the substance of policy options, with the exception of the irrigation reforms. This particular case study example showed, that when the government and the NCC engaged over substance, significant policy concessions were gained.

In terms of this research question, the thesis has identified a key weakness in the original NCP agreement – it lacked a forum for participating jurisdictions to work

through policy differences with the NCC during the implementation of the reforms. While the symbolic signing of NCP at its inception in 1995 was an important outward expression of the joint commitment of all Australian governments to the policy direction, there was no enduring mechanism in the original policy design to continue to reinforce this message over the subsequent ten-years of implementation.

The review of NCP in November 2000 responded to this issue, through the creation of a Senior Officers' Group to work on policy responses during the life of the agreement. Such a body also served to buttress the diminishing collaborative environment at the heads of government level. At least the heads of central agencies were able to stay together as a collaborative unit, taking a national perspective to their domestic responsibilities. Future intergovernmental dealings over agreements on complex national policy issues will need to be wary of this shortcoming, and build in ongoing multi-government coordinating structures to guide the implementation process through to completion.

Was there a sense of common crisis and did the Queensland Government share in it to the same extent as the rest of COAG?

Chapter two highlighted the key role the then Premier of Queensland, Wayne Goss, played in negotiating NCP through COAG in 1995. He shared the same objectives on competition reform with other Australian government leaders, and was willing to adopt a national approach to resolving obvious policy problems. Within twelve months of signing the agreement, Goss was out of office. In the five and half years of NCP implementation considered in this thesis, the political leadership of the Queensland Government would change again. The governments after Goss largely existed on tight parliamentary majorities, and for a number of years in minority positions supported by independents.

Added to this political volatility, or possibly central to it, was the formation of a new force within Queensland politics, built around the ultra-conservative and reactionary views of a federal Queensland politician, Pauline Hanson. In the 1998 State election, Pauline Hanson's One Nation Party was able to secure 11 seats in parliament.

For the Queensland Governments of the mid to late 1990s, the focus was off national policy development, and more on populist politics, as they attempted to make up ground lost to One Nation. As chapter three highlighted, NCP was caught up in the political melee, as the major parties attempted to design policy that reflected the populist rhetoric that underpinned Pauline Hanson's electoral support. By the late 1990s, the common sense of crisis that led Australian governments to adopt a national position on competition policy was evaporating, with Queensland politicians leading the charge to neutralise the policy prescriptions of the collaborative federalist era of the early to mid 1990s.

Even with this deteriorating sense of urgency NCP travelled forward – highlighting, once again, the resilience of the policy design. This thesis has identified a number of factors that contributed to this resilience. In the assessment of the policy design, chapter two highlighted the importance of the incentive payment structure that came with the implementation of NCP. The payment structure would serve to purchase a level of compliance with the intent of the policy, albeit in a minimalist sense, as was the case in Queensland with urban water reforms and dairy deregulation (considered in chapter five). Here, implementation was perfunctory – a “do whatever you need to get the money” type of approach. Nevertheless, the payment structure was an important design principle in enshrining an institutional response to the values of competition.

Almost paradoxically, the actual creation of “someone else to blame,” in the form of the NCC, was another important design feature. It was highly unlikely that NCP could have continued on, through such politically volatile times in Queensland, if the government of the day did not have an outside body that it could project blame on. As the President of the NCC noted (see chapter four), this arrangement suited the Premier of Queensland well, and if it meant that competition reform could continue, the NCC was willing to become the “whipping boy.”

As noted in the previous chapter, there was also a perception of not wanting to be the “economic laggard” that kept the State rolling forward with the implementation program. This served as another possible reason for the Queensland Government falling in behind a common, national, approach to competition policy.

Finally, while the Queensland Government may not have provided much moral leadership of competition reform during the late 1990s, there were certain aspects of the reform process that met its stated policy goals, particularly in relation to environmental protection. The rural water case study example showed that the government was willing to provide strong policy leadership to NCP when it coincided with policy priorities on its own agenda.

Moreover the analysis presented in this thesis has shown that if institutional design is carefully considered at the outset of a national policy approach, implementation can continue even through periods where participating jurisdictions do not share a common, deep-seated need to reform policy. Further, good institutional design can overcome situations where participating jurisdictions show a reluctance to confront difficult reform issues. Important features of good institutional design in national policy agreements include: an incentive structure linked to implementation milestones; the inclusion of independent intergovernmental bodies to monitor implementation performance; and an ability to broker changes to implementation objectives, based on sound, reasoned, policy problems.

How committed were successive Queensland Governments to the shared goals in the plan?

The overall commitment of the Queensland Government to the shared goals in the plan was highly variable. During implementation, and after the Goss Government and its machinery of government departed early in 1996, governmental commitment to the reform process ranged from the perfunctory to the well versed. As with the response to the previous research question, the government was prepared to lead on the reform agenda when it was consistent with its own policy goals.

Chapter two highlighted the lack of an ongoing role for COAG in the implementation process as a significant omission from the original policy design. This admission was rectified in the November 2000 review with the instillation of the Senior Officers' Group as a multi-agency coordinating mechanism. Nonetheless, during the first few years of the implementation process, such a coordinating body was sorely needed. The case study examples in chapter five (and the macro-political influences discussed in chapter three) showed that if successive Queensland Governments were forced to

engage over policy differences with the NCC, on a substantive level, much of the “hot air” associated with the policy would have dissipated.

The increasingly non-rational approaches to policy advocacy from political leaders (as discussed in chapter three), would have been difficult to maintain if the same operatives were required to debate their points of view with their colleagues through some form of enduring, national, forum. The constant repetition of dubious NCP themes served to undermine the public legitimacy of policy implementation, and as a result, the Queensland public was not fully informed of the benefits of policy reform.

How much “power” was the Queensland Government willing to give up for the sake of a coordinated approach?

The analysis of the original NCP agreements in chapter two emphasised (or debunk) the misconception that NCP attacked the sovereignty of the State government of Queensland. Despite theoretical limitations to the view of the sovereignty of Australian States,³ the NCP agreement was clearly shown not to have limited policy options of participating jurisdictions.

The Queensland Government was free at any time to withdraw from the agreement, or chose not to implement aspects of it. Of course, this course of action could result in the State missing out on competition incentive payments, which was a major disincentive to operating in this unilateral way. And, as highlighted above, the move to distance the State from reform objectives may have sent signals to business investors that the State was uninterested in economic reform, and hence limited its economic (and hence job) growth potential. Ostrom cautions against taking a cynical view of incentives (discussed in chapter one), as they are often an important factor in achieving coordination amongst independent actors.⁴ As highlighted in the response to the initial research question on coordination above, the NCP incentive payment process was an important design feature of the original agreement, and without it, it was highly unlikely that the reform process would have survived, particularly in Queensland.

³ Galligan, *A Federal Republic*, pp. 189-191. Galligan argues that Australia was constituted as a federal republic, and as such the notion of State sovereignty, in a Westminster sense, is a nonsense.

⁴ Ostrom, E. *Governing the Commons*: pp. 1-23.

Further, the discussion in chapter three and the case study examples in chapter five have shown that much of the Queensland Government's posturing on "sovereignty issues" was about positioning – creating the impression that the policy decisions were being made by someone else, not by them. The ability to deflect blame enabled policy continuity during periods of significant political volatility in Queensland, and as such the NCC was probably inadvertent design strength of the institutional arrangements created through NCP.

Were the Queensland Government and the NCC in regular contact? What about COAG as a whole?

While the political rhetoric highlighted in chapters three, four and five suggested that there were significant problems with the coordination of NCP, in fact, the activities of the Queensland Government and the NCC were highly synchronised. If the testimony of Samuel can be relied upon, and the circumstantial evidence suggests that it can, there seemed to be an arrangement in place whereby the government, particularly Beattie, could lambast the Council for political purposes, but work behind the scenes with the same body in order to implement the reform agenda. Beattie encouraged Samuel not to take his political antics to heart – it was something he had to do in order to remain popular with Queensland voters. Each learned to accommodate the needs of the other, in order to achieve their mutual goals.

The lesson seemed a difficult one for Samuel to learn. It was not until quite late in his first term as NCC president when he realised that there was little benefit in arguing with political leaders through the media. Selling the reform agenda to a highly sceptical electorate was never Samuel's forte. His decision to "go quiet" on the reform process in late 1999 was an acknowledgement that his activities were threatening the ongoing viability of NCP (and possibly his tenure as NCC head as well). Working behind the scenes now seemed a far more productive way to manage implementation, from Samuel's perspective.

A forum may such as the post-2000 Senior Officials' Group have averted the problems encountered in urban water reform, where the government and the NCC were not on the same page – both having differing perspectives on what comprised "sufficient reform scope." The NCC's reliance on assessment reports as a mechanism for communicating

its concerns was shown to be ineffective in this particular case. A more robust relationship between the NCC and the Queensland Government, where the Council was seen as a reform partner rather than an “outsider”, may have averted this communication problem.

The incorporation of the Senior Officers’ Group into the “second half” of the reform process, holds the promise of minimising this type of communication difficulty in the future. In terms of this research question, the group has the ability to stand in the place of COAG, keeping participating jurisdictions entwined in the policy decisions made during the implementation of NCP.

In fairness, the original drafters of NCP might have thought that the independent board of the NCC, comprised of representatives from the mainland States, would provide a sufficient link with participating jurisdictions. As discussed in chapter four, the board members were not part of the executive, therefore the link with governments was indirect. There was no certainty – or even probability – that board members would represent the interests of their home States. Moreover, there was no stated requirement for board members to act as governmental representatives – their concern was more about governance issues, than policy approaches.

Were intergovernmental bodies created and did they bring governments into closer alignment and improve communication?

As discussed in chapter four, the assessment reports of the NCC – the key intergovernmental body created out of NCP – sharpened the attention of State governments on reform objectives. The NCC’s routine of reporting, linked to the distribution of competition incentive payments, served as an important institutional routine to achieve alignment of State government activities with the stated goals of NCP. However, the quality of communication could have been better.

As was shown in chapter five, the failure to communicate effectively over the scope of urban water reforms was central to the political skirmish between the Treasurer of Queensland, David Hamill, and the NCC. It was clear that both parties spent an inordinate amount of time working from differing points of view. If a shared perspective developed much earlier, the conflict between the NCC and the State, in this

case, may have been avoided altogether. Alignment in policy direction did not occur for several years after implementation commenced.

There were mitigating circumstances for the malalignment in policy process in urban water including: the loss of institutional knowledge within the Queensland Government due to the rapid change of administrations (and senior public servants) in the mid to late 1990s; Hamill's eagerness to attack the NCC at every opportunity; a general lack of awareness of the likely political implications of the reform program within the leadership of the NCC; and the convoluted decision-making processes which accompanied the reform process within the State due to the need to appease local government interests.

Did NCP spell out decision-making rules, and were there sufficient incentives and sanctions in place to keep parties engaged?

The response to the first research question on coordination pointed out the broad, high-level nature of the intergovernmental agreements on NCP. While the headline arrangements under the NCP agreements spelt out the decision-making rules around access to incentive payments, and implementation responsibilities, they did not define dispute resolution processes, particularly when the NCC and individual State governments disagreed on the interpretation of aspects of policy development during implementation.

Was reciprocity present and how did it moderate the behaviour of both the NCC and the Queensland Government?

Theories on inter-group coordination, as discussed in chapter one, emphasise the need for reciprocity – it is the glue that helped bond independent actors together. Bringing people and things into alignment relied heavily on the behaviours, and consequently conventions, which allowed parties to achieve what they needed to achieve in order to protect or enhance their interests. Reciprocity facilitates coordination - a key point of the public policy research conducted by Axelrod in the 1970s and 80s.⁵ It was also

⁵ Axelrod, *The Evolution of Co-operation*, pp. 112-120.

emphasised by March and Olsen in their study of institutional responses to policy implementation and Simeon in his study of Canadian federalism.⁶

In terms of this study, the relationship between the NCC and the Queensland Government was one of begrudging acceptance. Other than their engagement over irrigation reform, the two bodies did not share a common sense of trust. If anything, reciprocity was apparent in a negative form, where the Queensland political leaders required the NCC to shoulder the burden of leading the reform process, in order for the government to garner electoral support. Public ridicule of the NCC and its President, Graeme Samuel, was an odd sign of reciprocity, but nonetheless a form of mutual acceptance of the role the NCC and the government were required to play in order to achieve implementation success. Beattie's comment to Samuel "not to take it seriously" would have provided little comfort to the leader of the national intergovernmental agency responsible for NCP coordination.

Given the highly political nature of the relationship, it was not surprising that the NCC became "hypersensitive" to the Queensland Government's avoidance of reform responsibilities. The Council must have tired of the Government's somewhat petulant, non-rational behaviour towards it – it was hardly the attitude of an active partner in the reform process. The government's preferred method of relating to the Council was the likely cause of the communication difficulties encountered with the implementation of the urban water reforms.

A more open, engaging relationship may have resulted in the policy design flaws of the Queensland Government's approach to urban water reform being detected and rectified much earlier, and hence, the expectations of Queensland local government could have been managed more effectively. The government's choice not to involve the NCC in the policy development process with local government water reform was an indicator that it did not see the Council as a valid partner in the reform process. Again, the installation of the Senior Officers' Group may address these fundamental relationship issues, through greater engagement of participating jurisdictions in setting policy direction during implementation.

⁶ March and Olsen. *Rediscovering Institutions*, pp. 11- 29; Simeon, *Federal-Provincial Diplomacy*: pp. 310-313.

In terms of Stewart's four characterisations of coordination (ie. traditional, strategic, ideas, networks) what were the dominant features in NCP coordination in Queensland? Stewart categorised four types of coordination in public policy implementation – strategic coordination, coordination through ideas, network coordination and traditional methods of coordinating public policy responses. Indeed, she cited NCP as an example of how strategic policy initiatives could be used to achieve alignment (or coordination) in government activities.⁷ However, she cautioned against relying on this form of coordinative mechanism by itself, as it often suffers from “strategy fatigue”, particularly if the implementation timeframes are elongated. The participants simply lose interest in the policy before it has sufficient time to take hold. As a result, the momentum behind implementation wanes as time goes by. Given the relatively weak nature of coordination of strategy, chapter two asked the supplementary question: “what other forms of coordination were present to support coordination through strategy?”

In answering this question, a key discovery was made in terms of network coordination. Networks rely on relationships. It is the quality of the relationship between individuals participating in a system that will determine the success or otherwise of an inter-group joint action plan. As demonstrated in rural water case, the network of policy officials across a number of governments made significant changes to the way the policy was interpreted by the NCC. The policy implementation process was likely to have failed if this network did not take a leadership position. Here, practical amendments ensured policy continuity, and the strategic intent of the policy direction was not lost.

This case also serves to highlight that when analysing coordination, researchers tend to direct their attention towards the issue of centralisation versus decentralisation of policy making – there seems to be little faith in loosely coupled networks to drive a national policy approach. Painter is the possible exception, with his early work on multilevel governance and the role played by central agency heads in national policy development, as discussed in chapter one.⁸ Yet, Painter does not delve into the subject of policy development during implementation, preferring to anchor his analysis in the formation

⁷ Stewart, “Horizontal coordination: The Australian Experience,” pp. 145-152.

⁸ Painter, “Multi-level governance and the emergence of collaborative federal institutions in Australia,” p. 143.

of national policy frameworks. This thesis extends Painters work, to examine national policy networks during the implementation of national agreements.

This thesis suggests that much fertile ground has been left unturned in Australian intergovernmental relations by overlooking the role networks play in coordinating national policy implementation. Specifically, this thesis suggests that strategic coordination processes associated with national policy approaches are buttressed by the ability to form and maintain active networks that span jurisdictional boundaries, during implementation.

Here, the success of policy implementation seems to be highly dependant on the ability of public servants to work across organisational boundaries, build coalitions of support, and then drive activities on a unified front. The work done by Steve Edwell and his team in the water reform unit of DNR demonstrates these qualities. Through their efforts, the Queensland Government was able to make significant changes to the policy parameters, and consequently, build a coalition of support for the reform program both within and outside of government.

The creation of the Senior Officers' Group as a result of the review of NCP in November 2000 provides a further coordination mechanism (based on the network notion discussed above) to support the ongoing implementation of the reform agenda. In fact, under Stewart's typology, such a group could be considered a form of traditional coordination, due to the routine nature of its meetings. The lack of such a mechanism in the original policy design led to significant tensions between the NCC and the Queensland Government during the implementation of NCP.

The discussion above shows that Stewart's typology is a powerful analytical tool when researching coordination issues in the Australian intergovernmental context. It also provides policy analysts with a useful "checklist" when designing initiatives that require strong coordination routines that need to span organisational boundaries.

Implementation

The literature on implementation theory paints a bleak picture of the likelihood of a policy direction translating into practice. Researchers suggest that the odds are stacked heavily against success, especially in relation to a national policy platform in a federal system of government.⁹ Seeming to counter this generalisation in the literature, this thesis has highlighted the remarkable resilience of the national policy reform program designed by COAG in 1995.

National Competition Policy was conceived during an era of unprecedented Commonwealth and State policy collaboration. It was an ambitious program, designed to span a ten-year implementation timeframe. In order to implement the reform program successfully, careful consideration was given to its policy design features. These features were considered in detail in chapter two. Critical amongst them were three factors: the specification of a series of reform milestones, or targets, complete with due dates for completion; the creation of a policy reform watchdog in the form of the National Competition Council to monitor the performance of participating jurisdictions in meeting reform targets; and an incentive payment structure designed to distribute the increased taxation revenue accruing to the Commonwealth, as a result of improved economic performance occasioned by the reform process, to the States.

A series of research questions based on the literature on policy implementation were developed in chapter one. The empirical evidence collected in this thesis has been analysed against the research questions on implementation, as presented in preceding chapters. The key findings of the study, mapped against the research questions, are discussed below.

Was there a single authority or set of key players in Queensland that set, then maintained, a common agenda as implementation progressed?

As discussed in the section on implementation theory in chapter one, Pollitt and Bouckaert asserted that in order for a reform program to be successfully implemented, it was highly desirable that it be led by a single authority, the membership of which

⁹ Pressman and Wildavsky, *Implementation*, p. xiii; Bridgman and Davis, *Australian Policy Handbook*, p. 111.

should remain relatively constant over the period of the reform program.¹⁰ The analysis provided in this thesis suggests that Pollitt and Bouckaert's views do not hold true in relation to NCP implementation in Queensland. NCP survived changes in political make-up at both the Commonwealth and State levels, even though governments were confronted with other pressing political problems. Implementation marched on in Queensland, even though it confronted significant political resistance (as discussed in chapter three). As demonstrated in chapter three, the themes used by political leaders in Queensland had little substance, all designed to distance themselves from being seen as economic reformers.

The analysis provided in this thesis suggests that the generalisations made by Pollitt and Bouckaert may have little explanatory worth beyond the area specifically targeted in their research.¹¹ In its place, the thesis has highlighted the strengths of the policy design as originally conceived by COAG (with the exception of disputes resolution). As stated earlier, COAG's goal of institutionalising the values of competition in State and Federal policies was remarkably successful. The strong institutional design of NCP was found to compensate for changes in implementation agents at the State government level.

Was there informed leadership at the administrative and political levels in Queensland?

The degree of slippage in policy leadership from Goss, through Borbidge to Beattie, was distinct. As discussed in chapter two, Goss was one of two State Premiers who confronted the then Prime Minister Keating, to secure the final negotiating parameters that led to the endorsement of NCP at COAG. Within twelve months of Queensland's commitment to implement NCP, Goss was gone. The analysis in chapter three showed that there were significant changes at the bureaucratic level as well, further destabilising policy leadership within Queensland. The Queensland Government's contribution to the "central agency club," which was so critical to the multi-level policy leadership of reform initiatives through COAG in the early 1990s, was no longer a State priority. In fact, the centralisation of policy coordination under the Queensland Government's Office of the Cabinet was seen as an electoral liability by political leaders.

¹⁰ Pollitt, C. & Bouckaert, G. *Public Management Reform: A Comparative Analysis*, Oxford University Press, Oxford, 2000: p. 186.

¹¹ Pollitt and Bouckaert's research focused on a comparative study of public sector reforms undertaken during the 1990s, in ten liberal-democratic nations.

More importantly, and as again demonstrated in chapter three, the political environment in Queensland during the mid to late 1990s became increasingly fluid. In an effort to secure electoral advantage, and to ward off inroads made by a new, ultra-conservative political force in Queensland, the major parties took a more populist angle to microeconomic reform. NCP was vehemently attacked in Queensland parliament (as discussed in chapter three).

From 1996, informed leadership on NCP at the political and administrative levels was shown to be wanting. The case study examples in chapter five highlighted the reluctance of Queensland political leaders to move forward with policy reform, and when they did, the breadth of the reform program was minimised. The intent of microeconomic reform seemed lost on the Borbidge and Beattie governments, preferring to adopt a “whatever it takes” approach to NCP reform objects, in order to receive incentive payments.

The exception to this rule was in rural water reform, where the microeconomic reform objectives met the environmental protection priorities of an activist Minister. Here, the Queensland Government showed it was prepared to lead policy reform, and play an active role in ensuring reform objectives were successfully implemented.

As with the previous research question, Pollitt and Bouckaert’s view of the necessity of informed leadership at the political and administrative levels is questionable.¹² The institutional settings of the original NCP agreement were able to insulate the policy reform from populist politics. Again, the researchers’ views might have currency only in the types of reform programs studied by them. In national reform programs that are supported by well-designed policy agreements, implementation can proceed even in the absence of informed political and administrative leadership.

This thesis has shown that the creation of an oversight body (the NCC) assisted policy implementation in Queensland during politically volatile times, in that it gave the government someone else to blame for policy reform. As demonstrated in chapters three and five, Borbidge and Beattie seemed only interested in the political ramifications of being seen as a supporter of NCP. In the political environment they

were working within, this approach was understandable. The existence of the NCC meant that incumbent governments did not have to accept responsibility for reform decisions – this could be easily sheeted home to an outside body. Reform could move ahead without fear of electoral damage.

This form of State government policy avoidance was reminiscent of the “Canberra-bashing” federal politics of old.¹³ Instead of the Commonwealth Government bearing the brunt of the rhetorical attacks from populist State political figures, the NCC stood in its place. Here, the design of the NCP agreement allowed “old-style” intergovernmental politics to be played out. The messages sent out to the electorate by Queensland political leaders were consistent with those heard in a different era – once again, the public was being reassured that they had leaders that were “taking up the fight” against those “shady government officials” in Canberra, or in NCP’s case, Melbourne. It was a classic case of Queensland parochialism.

Was there sufficient organisational capacity within the Queensland Government to “get the job done”?

The answer to this particular research question was (a somewhat surprising) yes. Outwardly, the government’s management of the NCP reform agenda, after the departure of Goss in 1996, could be described as a mess. The government’s response to NCP lacked a coherent policy focus, as well as strong political and administrative leadership. Nevertheless, the Queensland Government did show the capacity to bring resources to bear in order to implement their reform targets, albeit with a large degree of tension between it and the NCC over a number of policy issues.

Critical to “getting the job done” was the political skill of the Beattie government. Its management of the politics of NCP was masterful, even though the political spin used by it often lacked substance. The ability of the government to play a double game of outwardly decrying NCP, yet behind the scenes doing whatever was necessary to meet its reform targets, enabled the policy to move forward during the difficult political environment of the late 1990s. For NCP’s sake, however, it was fortunate that the

¹² Pollitt, C. & Bouckaert, G. *Public Management Reform*: p. 186.

¹³ Parkin, A. “The States, Federalism, and Political Science: A Fifty-year Appraisal,” *Australian Journal of Public Administration*, vol. 62, no. 2, June 2003, pp.106-107; Sharman, C. “Working together: Towards an inclusive federalism?” *Agenda*, vol. 5, no. 3, 1998: p. 267.

national policy platform was struck prior to Borbidge and Beattie coming to power. It would be difficult to imagine a scenario where political opportunists of the calibre of these would have committed to such an ambitious, national, reform program. Almost paradoxically, they may have been the right type of leader for policy implementation in politically volatile times. Their willingness to return to Queensland's parochial political history to appeal to voters insecure about economic and social change, enabled them to appear "as one" with the electorate – there was never going to be any grand statements from these leaders about the need for reform, at least not while the electoral situation in Queensland was so tight.

Was there sufficient public and political acceptance of (or at least ambivalence for) the need to reform in Queensland?

Again, outwardly, the signs were that NCP lacked sufficient public and political support in Queensland during most of the first five and a half years of policy implementation. Importantly, as discussed in chapter two, the policy received strong support when it was formulated in 1995. As such, this research question highlights a timing issue. The thesis has shown that if an intergovernmental agreement receives support when its formulated, and the institutional arrangements that support it are well thought through, it is possible to continue with reform, even in the absence of political and public support during periods of implementation.

There may be some caveats to this finding. This thesis has not explored NCP implementation in other States. Further research in this area could assess the level of policy support received for NCP implementation, nation-wide, and how this level of support impacted on policy positions taken by political leaders of individual States. For instance, if the level of political unrest experienced in Queensland was also reflected (to the same extent) in other States, it would be difficult to imagine how the policy reform process could have survived. Confronted with a widespread, national, campaign policy implementation may have wilted. Interestingly, this was an argument used by Queensland when it confronted the NCC, supported by the other States, over amendments to rural water reform.

Taking this notion of federal policy leadership further, policy continuity in this particular case might also be explained by Queensland being "different" to the other

States. As argued in chapter two, the relatively decentralised nature of Queensland heightens political interest over regional and rural issues – areas where the reform process was likely to hit the hardest (or where broader economic and social interests were already at play). And, in the scramble for electoral support in the mid to late 1990s, the political rhetoric in Queensland was designed to win seats in marginal regional and rural areas. These pressures were not necessarily felt, to the same extent at least, in other States, particularly the more industrial States of New South Wales and Victoria.

The decision to deregulate farm gate milk prices (and the political machinations surrounding the decision, particularly the “clever” political tactic by the then Bracks Labor Opposition to call for a plebiscite on reform may indicate support for this theory. In Queensland, the then Beattie Labor Opposition took the absolute policy position, stating that deregulation of farm-gate milk prices would not go ahead. State interests over milk supply did not seem to align, unlike that of rural water reform. The latter case showed that the States did share a common interest with Queensland, and as a result, the Queensland government was able to out-manoeuvre the NCC. These examples highlight the “patchiness” of rural and regional policy issues across the nation, with the Queensland Government seeming to feel a greater degree of political pressure from rural lobby groups compared to other States. In any case, this is an area of national policy implementation worthy of further research.

What was the level of flexibility, once implementation commenced to adapt the policy?

As outlined in chapter two, NCP was set off on a rather rigid implementation path. Further, COAG was disengaged from the implementation process, making it difficult to resolve policy issues, particularly around the interpretation of policy objectives. As discussed in chapter four, this served to raise the level of political interest in the NCC’s performance assessment role.

The rural water reform reforms provided a case where NCP objectives could be adapted, based on the implementation realities of the time. However, this was very much the exception, rather than the rule. The establishment of the Senior Officers’ Group should rectify this design flaw and allow policy adaptation, as in the rural water reform case, to take place.

Again, further research, which builds on the findings of this study, would be required, in order to assess the level of policy adaptation as a result of the Senior Officers' Group role in monitoring implementation. An important aspect of this research would need to be an assessment of the national policy making focus of such a group. Would the group bring with it the collaborative spirit of the former "central agency club" which existed in the early 1990s, or would it reduce down to the specific (more parochial) interests of individual States. It's yet to be seen if this group can lift its sights and operate from a truly national perspective.

Contemplating the role of national leadership, even if it is solely at the level of central agency heads, opens up the possibility that the time for national policy leadership may have passed. What was achieved through COAG in 1990s might have just reflected the unique circumstances of the time – a time when there were like-minded Government leaders, supported by strong central agency heads, all prepared to lead policy reform on a multi-level basis. The political circumstances of the late 1990s, at least in Queensland's case, and the lack of a consistent federalist approach under the Howard Commonwealth Government, pushed political leaders (and bureaucracies) away from such a unified approach. Collaborative national policy making in the Australian context might always remain temporal, without a strong ethos, or constitutional arrangement, backing it.

Was the policy mandate unambiguous, and provide a means to mediate disputes once implementation began?

The discussion in chapter two highlighted the intergovernmental (and institutional) arrangements that gave life to NCP. The agreement focused more on outcomes, providing clear milestones (or targets) for participating jurisdictions to meet. The "how to get there" was left to the States, with the adequacy of their reform programs left to the NCC to assess. As such, the original NCP agreement left several layers of policy open for further development. The intent of the policy framework was unambiguous, it was the micro details that caused tensions between the NCC and the Queensland Government.

The headline agreement on NCP gave no guidance to the participants on how disputes should be mediated. There was no independent body that participating jurisdictions could appeal to if they disagreed with the NCC's findings. This earned the NCC of the tag of being both "judge and jury" in the NCP reform process (along with a host of other jibes). Though, even in the absence of a specified disputes resolution procedure, the parties themselves developed ways to modify the agreement, or to work around it, in order to seek a resolution.

The NCC used the tactic of deferring matters to a supplementary review. Sometimes this was used to enable participating jurisdictions enough time to remove implementation obstacles, and implement the reform successfully. In other circumstances, such as with dairy deregulation, it gave the NCC the necessary breathing space to let other influences drive the reform process (in this case, the deregulation decision in Victoria).

The States had non-specified mediation options available also. The primary example uncovered in this thesis was the discussion over rural water reform (the irrigation component of it in particular). Here, discussion at officer level, on substantive policy issues was able to secure significant concessions from the NCC. In any case, it would be encouraging to know that the creation of the Senior Officers' Group was driven by the desire to engage over policy detail, as was the case in the Queensland-led negotiations in this case. The substance of this group has to be tested.

The thesis has discussed the need for a permanent disputes resolution procedure to accompany broad-ranging, national reform programs such as NCP. Such a procedure may well depoliticise the implementation process, by forcing parties to debate policy alternatives on rational grounds. The obvious disadvantage would be the ability of participating jurisdictions to tie up matters in appeals and so forth, as a way of avoiding (or deferring) a decision on a particular reform option. Here again, the Senior Officers' Group has the potential to provide a relatively low cost (and timely) avenue to resolve policy conflict between the NCC and participating jurisdictions.

Did the policy mandate provide sufficient structure and direction to the Queensland Government and the NCC?

The policy mandate provided by COAG in 1995 provided a clear direction for policy implementation. The creation of a new intergovernmental institution in the form of the NCC was part of a comprehensive set of institutional responses to support the ten-year reform process. The original NCP agreements mapped out the field on which policy reform was to be played out. Also, as has been argued in the responses to the research questions above, the policy mandate required the government to develop further layers of policy in order to reach reform targets. It was here that the government and the NCC struck the greatest degree of difficulty.

The Queensland Government's commitment to microeconomic reform in the late 1990s was significantly less than that of the Goss government of the earlier part of the decade. Yet, the reform process was able to move forward, even in the absence of strong political leadership within the State.

Did the Queensland Government possess the necessary political and managerial skills to implement the policy successfully?

As discussed above, the political management of the reform agenda by the government, during politically volatile times was exemplary. While it did nothing for the public credibility of the reform program, the political hi-jinks associated with reform decisions meant that successive governments implemented the vast majority of its reform objectives without suffering a significant political backlash. Government leaders managed the politics of reform by essentially shunning the reform process (rhetorically) and adopting popular opinion on reform issues. The Queensland Government had no inclination to lead reform objectives on substantive grounds, with the exception of the irrigation aspects of rural water reform.

The detailed policy implementation process, however, was managed less than optimally, as highlighted in urban water reform. Here, the government lacked a coherent implementation plan that met the requirements of the NCP agreement. It seemed unaware of the material problems in the policy design steps it followed. This matter was further complicated by the management structure of urban water supplies, which

placed significant political power with local authorities, something unique to Queensland. Policy frameworks were set without consultation with the NCC, and even when the Council alerted the government to the issues through its assessment report, the Queensland bureaucracy failed to detect the issue until some twelve months later. The reform program nevertheless moved ahead, demonstrating an ability within the public sector to assign the necessary policy and implementation resources.

Was there a “fixer” associated with the on-going implementation process, to ensure the policy was implemented as intended and that unnecessary obstacles were removed?

As argued in chapter three, in terms of Bardach’s research on implementation, the NCC performed the role of “fixer.” While Bardach was referring to someone within the legislature who kept the implementation process on track, in the context of this thesis, his findings sit equally well with the role played by the NCC. As Bardach points out, the problem with implementation is one of control, or in his words, “All parties in the implementation process are involved, in some degree, both in trying to control others and in trying to avoid being controlled by them.”¹⁴ The role of the “fixer” is to ensure that all parties adhere to principles articulated in the original policy direction.

This thesis also highlighted the work of other “fixers” in implementation, such as the policy leadership role played by Minister Welford in the implementation of rural water reforms in Queensland. Here, the role played by Welford aligned more closely with Bardach’s findings of policy implementation in an American State. Nevertheless, strong political leadership of the reform process in Queensland was the exception rather than the rule, as a series of politicians scrambled to take a populist position against NCP in the mid-to-late 1990s.

In terms of the structure of the NCP agreement, what was the level of overhead (political) control, and consequently, what level of bureaucratic expertise would be necessary for successful implementation (and what was the demonstrated expertise by the Queensland Government during implementation)?

In putting NCP together, COAG chose to play a hands-off role during implementation, leaving the reform effort up to individual jurisdictions and the NCC (largely through bi-lateral discussions). As noted in chapters one and two, this form of policy design lends

itself to what Thompson refers to as *buffered implementation*.¹⁵ This form of implementation requires a high level of skill within the bureaucracy to manage implementation problems as they arise. It also requires a sound understanding amongst implementation agents about the intent of the policy direction. Thompson also believed that this type of process exposed the bureaucracy to “political attack” if and/or when difficult policy issues arose during implementation.

The strategy adopted by COAG in mapping out an implementation plan for NCP placed an enormous degree of faith in the NCC. As Thompson predicted in his model, the bureaucratic agents, in this case the NCC, were blamed when political problems arose. Nevertheless, the policy design of the original agreement allowed implementation to proceed even when there was no obvious political leadership of the reform agenda.

The incorporation of regular meetings of the Senior Officers’ Group may be a viable compromise solution, as long as the meeting process is supplemented by common briefing schedules to government leaders. As was demonstrated in chapter two, the initial negotiations at COAG in the lead up to NCP saw the heads of central agencies get too far in front of their political masters, and as a consequence lost their support, albeit only momentarily – negotiations were soon back on track. The success, or otherwise, of the Senior Officers’ Group to coordinate multi-level implementation efforts remains untested – an area that could be explored through further research, as argued above.

The structure and powers of the NCC, together with the high-profile media role of its President, Graeme Samuel, saw this innovation in intergovernmental relations brought into regular public debates with Queensland political figures. Samuel played this media role from a position of weakness relative to hardened politicians such as Beattie, Borbidge and Hamill. The often-used line that the NCC was an unelected body telling governments what to do, irrespective of the somewhat disingenuous intent of these remarks, drove to the heart of the Council’s legitimacy.

¹⁴ Bardach, E. *The Implementation Game*, p. 312.

¹⁵ Thompson, “Policy Implementation and Overhead Control,” pp. 18-20.

The government's political statements overstated its position on NCP. There was a large degree of duplicity in the government's position on the reform effort. Reforms were still being implemented in Queensland even though political leaders were making electoral capital out of their heart-felt disdain for NCP.

This "say one thing, do another" attitude to implementation was acknowledged by Graeme Samuel when he mentioned that Beattie joked with him that in order to implement NCP, the government needed to "get stuck into" the NCC.¹⁶ The government's continued observance of reform targets, despite its stated disapproval of NCP, appears to support Samuel's claim.

Conflict resolution.

The final area of theory used to analyse the relationship between the NCC and the Queensland Government related to the resolution of inter-group conflict. Four research questions were generated out of this area. The key findings to each research question, as discussed in previous chapters, is presented below.

How was conflict between the NCC and the Queensland Government brought to the surface and dealt with during implementation?

As argued throughout this thesis, the lack of an agreed conflict resolution procedure in the original NCP agreement meant that much of the conflict between the NCC and the Queensland Government was handled in a very public way. At times, this suited Queensland political leaders, as their constant media forays against "southerners" in the NCC was a key rhetorical theme used to secure electoral popularity.

Nevertheless, the inability to work through the substance of disagreements over policy during implementation was a key weakness of the original NCP agreements – something that should be remembered when designing future national policy agreements, particularly covering complex implementation agendas, such as those encountered through NCP. Such a vehicle may not have stopped the political rhetoric emanating from Queensland, but it would have enabled key actors to engage over substantive issues, to have them sorted out, without the need to resort so liberally to the media to work through implementation problems.

In terms of Matland's typology, what was the policy environment like, and how did the level of conflict impact on implementation efforts in Queensland?

As discussed in chapter three, the political environment in Queensland changed soon after the signing of NCP in April 1995. The degree of separation from policy direction to implementation was pronounced. Once a consensus was achieved on NCP policy direction in 1995, a strategic implementation plan took hold. It was based on the achievement of key milestones and linked to an incentive payment scheme.

At the time NCP was signed, there was little ambiguity over the responsibilities of respective governments in implementing the policy. The conflict associated with achieving the final policy package had dissipated and the process of detailed implementation planning proceeded without any overt problems. This stage aligned closely with what Matland refers to as *Administrative Implementation*. In this environment, the goal for implementers is to adopt sound project management practices, and then to follow through with the policy direction articulated in the agreement in an almost “engineering-like” manner.¹⁷

Within twelve months of the policy direction being set, there were significant changes to the political environment in Queensland. In February 1996, the Goss Labor government lost power in a State by-election, after barely forming a majority in the July 1995 general election. By mid 1998, at a time when difficult implementation issues were being confronted by the government, further political instability arose with the strong showing by One Nation in the general State election.

The implementation environment shifted rapidly from low to high conflict, catching key national policy initiatives like NCP in its wake. The implementation process soon became highly politicised, as the environment shifted to align more closely with Matland's typology of *Political Implementation*. Here, Matland notes that implementation attracts “Big P” political battles, as political parties and lobby groups attempt to secure electoral advantage out the volatile political situation.¹⁸

¹⁶ Interview with Graeme Samuel, 8 April 2002.

¹⁷ Matland, “Synthesizing the Implementation Literature,” pp. 160-163.

¹⁸ *Ibid.*, pp. 163-165.

As argued above, the shift in the environment within which the NCP was being implemented indicated a major flaw in the original policy: it lacked a mechanism to resolve disputes between the NCC and State governments. The bi-lateral nature of negotiations between the NCC and the Queensland Government over the interpretation of NCP principles required some form of disputes resolution procedure to reconcile differences. As there was no such mechanism available, a number of disputes between the two bodies was elevated to the political level, through the media, as the Queensland Government attempted to secure its position in a very public way.

Were there intergovernmental bodies created to mediate conflict and how did the Queensland Government engage with them?

As demonstrated in the rural water reforms associated with irrigated farming land, significant concessions could be gained from the NCC when the government chose to engage in open negotiations, backed by a strong and reasoned policy position. The political skills of senior State government officials were crucial in achieving the outcome desired by the government in this case, together with strong support for the thrust of the overall policy direction from the responsible Minister. The Minister wanted water reform, he just required some practical amendments to the policy position in order to implement it.

This example served to highlight the importance of including an enduring intergovernmental coordination mechanism to manage the implementation process when designing intergovernmental agreements dealing with complex national policy reform. As already suggested, the Senior Officers' Group offers such a coordination mechanism for NCP. The structure of the group, with central agency heads rather than political leaders, also holds the hope of dealing with future NCP implementation problems at a rational level, without the need to resort to political overstatement to achieve policy change.

How was conflict managed by the Queensland Government?

As noted above, the ability to play a “double game” of mocking outrage in public, but supporting implementation behind the scenes, may have actually assisted the implementation process in Queensland. A dispute resolution procedure that required

the Queensland Government to structure rational arguments, particularly if this was done in a publicly accessible way, would have limited its opportunities to play populist politics, and, may, in fact, have inhibited the political management of NCP implementation in the State.

To be sure, a dispute resolution procedure in the NCP agreement might not have prevented the political attacks by the Queensland Government on the NCC. As noted earlier, there was significant political capital in “bashing” the NCC, irrespective of the government’s true policy position. In addition, the Queensland Labor government often used the policy to create divisions between the national and State branches of the National Party – political mischief making, in other words.¹⁹ As a result, there is an inherent danger in taking the political rhetoric of the Queensland Government seriously. It was often difficult to determine if the lines were used in the media as a form of political sport, or there were substantive issues with the way the NCC was undertaking its assessment role.

Nevertheless, a dispute resolution procedure involving an independent assessment of the arguments put forward by both bodies would have added legitimacy to the implementation process. Moreover, such a process would have required the Queensland government to use what Lindblom and Woodhouse refer to as “informed and reasoned persuasion” to prosecute its case, instead of the “non-rational and irrational persuasion,” it often resorted to in the media.²⁰

As chapter three demonstrated, Queensland political figures used a number of key themes to discredit the NCC and the substance of national competition policy, all of questionable validity. However, there was no political incentive in correcting popular misconceptions about the policy, and as a result, debate often spiralled out of control as the major political groupings rushed to express their disdain for either the Council or NCP. Almost paradoxically, this thesis has argued that this form of political venting may have been the necessary price to pay to enable policy implementation to take hold in Queensland during the mid to late 1990s.

¹⁹ As demonstrated in the rural water reform case and the St George dam issue.

²⁰ Lindblom and Woodhouse. *The Policy-Making Process*: pp. 128-129.

The resolution of conflict between the Queensland government and the NCC in the irrigation example highlighted the benefits of persuading others on the basis of substantive argument. Of particular note was the reluctance of the political leadership to make mileage out of the concessions granted by the NCC. According to inside observers, there was a realisation by the Minister at least, that if the government paid respect to the NCC over its behaviour in this matter, the government might have been able to engage the Council in a similar fashion on other implementation problems.

Though, promoting such a constructive process for resolving differences between the government and the NCC, in public, would have worked against the government's overriding media position on NCP. By admitting that the government entered into constructive discussions with the NCC over policy implementation, it may have been seen to be overtly supporting the policy – a possible political liability. However, senior officials noted that the ability to win concessions from the NCC was used by the government in discussions with irrigators, emphasising the government's willingness to advocate for Queensland farmers, and demonstrating some empathy for the position taken by rural lobby groups. The NCC, once again, became the common foe.

The administrative practices of the NCC (an area not specified in the NCP agreements) also heightened the propensity for conflict between it and the Queensland Government. Chapter four showed that the method for calculating deductions in competition payments for non-compliance with the reform agenda was incongruent with the logic that established the incentive scheme. The COAG negotiations leading up to NCP being formally adopted in April 1995 stressed the likely growth implications of progressing the reform agenda. This growth would fuel increased government revenues, the lion's share of which would accrue to the Commonwealth, even though the States were required to shoulder most of the reform effort. The incentive pool was designed to redistribute these funds so that the States ended up with the resources occasioned by their decisions to implement competition reforms.

The methodology for calculating the deductions when States were in default of the NCP agreement over reacted to the political decisions made by States when confronting specific reform decisions. The NCC would calculate the deduction on the basis of the

likely economic impact of failing to observe reform principles, instead of the likely government revenue implications.

This served to heighten the level of tension with the NCC when governments were confronted with decisions to refuse reform objectives to meet their political needs. An individual State could miss out on substantial amounts of incentive payments just for non-compliance in only a few, relatively inconsequential, areas. If the deductions were in line with the original logic behind the creation of the pool, the Queensland Government may have been more ambivalent about the potential loss of funds by choosing to implement more politically palatable, yet less economically rational, decisions. This, in turn, may have dampened much of the inaccurate political rhetoric emanating from Queensland political figures in the latter part of the 1990s.

Overall, the analysis provided in this thesis highlights the need for future intergovernmental agreements to specify the sanctions for non-compliance, and to ensure that the internal logic of these sanctions is consistent with that used in other areas of the agreement. As has been shown here, a deduction system that was consistent with the implementation effort associated may have taken much of the political tension out of decisions whether or not to implement reform options.

Conclusion

In April 1995, the heads of Australian governments, meeting as COAG, agreed to a ten-year program designed to institutionalise the principles of competition in government policy making. This thesis has steered clear of making value judgements about the rights and wrongs of such an objective, instead focusing on the intergovernmental arrangements occasioned by competition policy reform. The thesis has been driven by a common, over-riding aim – if the heads of Australian governments decide to adopt a given national policy direction, how can it be implemented effectively at the State Government level?

This thesis has examined the relationship between a new, untried intergovernmental body (the National Competition Council) and a State government (Queensland) over the implementation of national competition policy, to provide empirical data and theoretical analysis on three things:

1. How an intergovernmental body and a State government coordinated their interactions in response to a national policy program (National Competition Policy);
2. How a national policy program is implemented at the State level, particularly during political volatile times; and
3. How conflict between an intergovernmental body and a State government over national policy interpretation can be managed effectively.

Theories on policy coordination, implementation and conflict resolution were used to develop a conceptual framework for data analysis, consisting of twenty-three research questions. Further, the context of the analysis was framed by a detailed analysis of the intergovernmental relations in Australia, and the political and public administration environment within which the Queensland Government and the NCC engaged over policy detail.

There are several other aspects of national policy implementation available for further detailed examination, including: national policy implementation in Queensland local government and statutory authorities; the role of interest groups in shaping policy implementation; and the much broader question of the impact of national policy approaches (particularly NCP) in economic and social terms. These are research questions left to others to explore.

The thesis has stressed the importance of strong institutional design in the establishment of the policy direction. From this analysis, it is possible to distil some key features of “implementable” national policies. As a bare minimum, the essential ingredients of resilient intergovernmental agreements should include: a “symbolic union” between the leaders of Australian governments, achieved through open public events like the signing of formal documentation; the creation of an independent oversight body, designed to monitor implementation and to insure against goal displacement; and the establishment of a financial incentive package tied to the achievement of key implementation milestones.

In addition, the analysis provided in this thesis suggests that well-designed national policy initiatives should also consider a conflict, or dispute, resolution procedure, and a forum for continued engagement of intergovernmental partners during the implementation of the national policy framework. The latter is linked to the maintenance of a network of implementers to work in a collegiate fashion across institutional boundaries to support implementation outcomes.

Further, the thesis has shown that sanctions associated with policy non-compliance need to be specified in the intergovernmental agreement, and considered in proportion of implementation effort. The NCC's policy of levying competition payment deductions on the basis of economic impact, rather than the relative implementation workload served to over-state the importance of relatively insignificant policy choices made by State government. This also served to "ramp up" the level of political engagement over NCP policy decisions, elevating relatively minor issues onto the political stage, where the NCC was seen to be in direct conflict with the State.

NCP implementation in Queensland had to contend with significant political volatility. The thesis shows that there were important institutional arrangements in the original agreement that served to buffer the policy from political attack. First amongst these was the role played by the independent oversight body of the NCP agreement, the NCC. The Council allowed the Queensland political leaders to remove themselves from the need to be advocates for the policy direction. Implementation could proceed irrespective of the rhetorical position taken by Queensland politicians – any perceived difficulty could be blamed on the NCC.

Queensland political figures could easily conjure up suspicions about the motives of "southerners", typical of traditional intergovernmental engagement in the State. The receding commitment to collaborative national policy development under the Howard Commonwealth government supported this strategy in Queensland. The commitment of heads of Australian governments to a national approach to policy design was on the wane.

The downside of this strategy was that it allowed some political representatives, particularly those in government, to occupy highly inconsistent and sometimes

inaccurate positions on the policy simply because they were either not across the policy detail, or it suited their political objectives at the time. This created an ever-increasing divide between the political rhetoric (designed to appeal to marginal regional Queensland seats) and the reality of national policy implementation on the ground.

One factor can be taken as certain: implementation of NCP in Queensland will continue to provide a rich research environment for many years to come. NCP continued to occupy centre stage in the early 2000s. Beattie was still using it as a rhetorical tool to give “cover” to other motives. In addition, he continued to use the policy to drive a wedge between State and Federal Coalition parties. This thesis concludes with one such example.

In mid-July 2002, Beattie alleged that the NCC was threatening to advise the Commonwealth to levy \$128m in competition payment deductions if the State did not purchase a cotton farm, Cubbie Station, in South-west Queensland. The Queensland government claimed that the purchase would reduce the demand on water in the Condamine-Balonne river system and as a result help the State meet its rural water reform targets. Cubbie Station was in the St George-Dirranbandi region, the area where the government engaged in an “NCP-inspired” political battle over a proposed dam, just a few years earlier.

Beattie’s strategy was to back the Commonwealth into a corner so that it would contribute funds towards the buy-out. This drew strong opposition from the Federal National Party, with its leader, John Anderson, describing the Cubbie plan as a nonsense.

Matthew Franklin, a *Courier-Mail* journalist analysed the true nature of the NCC’s involvement and the government’s policy response, and found there was no such link – the \$128m competition payment penalty was pure fiction. When questioned by Franklin, the Premier admitted that the NCC was yet to make a determination, and, in any case, \$128m was an unlikely deduction in competition payments – it would be less than a quarter of this amount, if a deduction was forthcoming at all. In any case, there

were a number of options available to the State – the purchase of Cubbie Station was simply one alternative. Franklin described the Premier’s tactics as “travelling dangerously close to overspin” and that “Beattie made himself look like a dill in his desperate PR war with the Federal Government.”²¹

Ironically, it is somewhat reassuring to know that the political wrangling over NCP still continues some seven years after it was agreed to at COAG.

²¹ Franklin, M. “Beattie: What’s his salt worth,” *The Courier-Mail*, 27 July 2002, p. 25.

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Analysis of arguments presented by John Quiggin

Chapter three discusses the use of Quiggin's arguments by Queensland parliamentarians. Here, it was noted that Quiggin used three points of attack when discussing NCP and microeconomic reform in general. In summary, he questioned: the validity of the assumptions made by the IC when estimating productivity improvements; the adequacy of the ORANI model used by the IC to predict likely economic impacts on the Australian economy; the normative assumptions behind competition policy itself.

On the first count – dismantling the assumptions made by the IC when assessing the likely implications of the NCP reforms – Quiggin systematically addressed the key findings of the IC on the estimated productivity improvements in the various segments of the economy. He argued that the IC was overly optimistic in assigning productivity improvements, which led to an inflated prediction of the overall benefits stemming from the reform process.¹ He strongly criticised several areas of the IC's methodology, particularly in relation to the benchmarking and counterfactual assumptions made by it.²

Quiggin further questioned the IC's tendency to ignore counterfactual arguments when assessing productivity. He argued that the IC's methodology attributed all of the estimated productivity gains to the reform process, even though productivity improvements had been made in the industry without the reform initiative. To Quiggin, this methodological problem tended to inflate the estimated positive outcomes of reform by a factor of 50% or more in some cases.³

¹ Quiggin, J. "Estimating the benefits of Hilmer and related reforms," *Australian Economic Review* 30(3), p. 257.

² *Ibid.*, pp. 257-267.

³ *Ibid.* To underline his point, Quiggin noted that Australia Post predicted that it would be able to improve labour productivity by 2.5%, well before the NCP reforms were touted by COAG. However, the IC assumed a labour productivity jump of 3%, counting the whole margin against the NCP proposals. Quiggin argued that the true level of productivity improvement caused by NCP should have been recorded as 0.5%, the differential between the likely productivity improvements in the absence of micro-economic reform, and the improvements predicted under the IC model.

In his second major area of criticism of the IC's 1995 report, Quiggin questioned the assumption used in the ORANI model that governments would not choose to increase government expenditure or provide tax cuts as a result of the predicted gains in revenue flowing from the reform process. He believed that this assumption served to artificially heighten the estimates of economic improvements occasioned by the reform process, particularly in the mining sector. It also led to an over-estimation of the likely capital investment to support the predicted growth in GDP – investment that could only be funded through significant increases in savings or foreign debt. To Quiggin, these options were highly unlikely to occur, given the nation's poor savings record and a perception in political circles that the national foreign debt was already too high.

After taking all of these limitations into account, Quiggin asserted that the benefits from Hilmer reforms were likely to amount to around a 0.67% improvement in GDP, well short of the 5.5% claimed by the IC.⁴ Quiggin then made mileage out of his assessment, claiming that there were only “micro gains” to be had from “micro reform.”

Finally, Quiggin criticised the socio-political circumstances surrounding the reform agenda. Here he found himself on less stable ground. Using his economic analysis of the Hilmer reforms as a foundation, Quiggin published *Great Expectations: MicroEconomic Reform and Australia*. This was highly critical of what he described as the “policy elite” that had high-jacked debate on economic policy, and systematically excluded the more analytical – and possibly more pragmatic – policy analysts from crucial decision-making processes within government.⁵ To Quiggin, this “policy capture” led to a “substitution of dogmatic pre-commitment for objective analysis.” He steered away from the pejorative “economic rationalists” in attempting to describe the policy elite, preferring to argue that the problem was not economics, but the adherence to market-based economic solutions above all else.

⁴ *Ibid.*, p.259. Quiggin also questioned the appropriateness of using changes in GDP as a surrogate for welfare gains, particularly when economic modelling was assuming that much of the GDP growth would be fuelled by making the economy more “capital intensive.”

⁵ Quiggin, *Great Expectations*: pp. 1-10.

As he progressed through his critique on micro-economic reform, Quiggin became isolated from his peers.⁶ Probably, the most telling criticism of Quiggin's work came from his former mentor, Professor Fred Gruen of the Australian National University.⁷ While Gruen pointed out in his introduction that Quiggin was an "able and informed" economist who had courageously attacked the conventional wisdom of modern-day policy analysts, he nevertheless took Quiggin to task over his assessment of micro-economic reform in Australia.⁸

Gruen noted several flaws in the analysis in *Great Expectations*.⁹ Of particular concern was Quiggin's lack of analysis of the counterfactual; especially telling considering Quiggin himself was critical of the IC for such an indiscretion. Gruen noted that Quiggin failed to detail his case outlining the likely outcomes for the Australian economy if microeconomic reform had not taken place.¹⁰ In particular Gruen was concerned that Quiggin was reluctant to use international comparisons in his work, and was too "mechanical" in the application of past trends in industry productivity improvements.¹¹ This led to inappropriate assumptions, which in turn led to inaccurate projections, which finally fed into incorrect findings.

Gruen's views were supported by Peter Forsyth.¹² Forsyth described Quiggin's work as "rather one sided and often passionate,"¹³ and that the book followed a constant theme,

⁶ By the end of the 1990s, the initial rush of journal articles on NCP slowed, and Quiggin's academic attention turned more to employment policy. However, he continued his attack on microeconomic reform, mainly through articles in *The Australian Financial Review*.

⁷ Quiggin had a long association with Gruen, who he obviously admired. He wrote a tribute to Gruen inside the front cover of Chapman, B. (ed) *Australian Economic Growth: Essays in Honour of Fred H. Gruen*, Macmillan, Melbourne, 1989 – in the form of a poem written with the same verse structure as "Across the Western Plains."

⁸ Gruen, "Irrational Expectations?": pp. 197-208.

⁹ Quiggin's, *Great Expectations*, covered topics from a broad range of microeconomic reform initiatives, only some of which related directly to the NCP process. However, Gruen's critique does apply to Quiggin's specific analysis of NCP, along with articles Quiggin produced before and immediately following the release of his book.

¹⁰ Gruen, "Irrational Expectations?": p. 198.

¹¹ *Ibid.*, pp. 199-203. Gruen was also concerned about the level of "casual empiricism" shown by Quiggin, especially when making assertions about the impacts of free trade and economic efficiency gains from innovation and new technology. He believed that Quiggin might have even lapsed into "shonky quantification" at times in an attempt to prove his point.

¹² At the time, Peter Forsyth was a Professor of Economics at Monash University.

¹³ Forsyth, P. "Great Expectations or Hard Times?" *Policy*, Autumn, 1997: p.40.

Invariably it is concluded that the gains are very minor, or even negative, sometimes on the basis of empirical evidence, but often on the basis of back of envelope calculations, or even guess work combined with assertion.¹⁴

Even though Forsyth was very critical of Quiggin's work, he acknowledged that, "... although the benefits of microeconomic reform have been systematically overstated, they are still positive and significant in many, perhaps most, cases."¹⁵

While Quiggin was concerned about the apparent sloppiness of the work of the IC, and the degree of policy capture exerted by "economic fundamentalists," he did not mount an argument to scrap the microeconomic reform objectives altogether. He was unwilling to state that microeconomic reform should have been avoided. Nor was he willing to support the claims of political detractors that NCP was linked to a drop in social welfare payments, or significant increases in unemployment levels.¹⁶ The best he could offer was the view that the benefits from microeconomic reform had been consistently overstated in some quarters.

The final blow to Quiggin's dissenting argument on NCP was struck in late 1999 with the release of a detailed analysis of NCP, conducted by the Productivity Commission (PC) – the IC's successor.¹⁷ The PC methodology focused on qualitative as well as quantitative factors, drawing on information provided by the public and various interest groups in its analysis.¹⁸

¹⁴ *Ibid.*

¹⁵ Quiggin, J. *Great Expectations: Microeconomic Reform and Australia*, p. 222.

¹⁶ Forsyth, "Great Expectations or Hard Times?": pp. 41-42.

¹⁷ The Productivity Commission was created by the Howard Liberal/National Government in 1998. It represented a merger of three separate economic advisory bodies - the Economic Planning Advisory Council, the Bureau of Industry Economics, and the Industry Commission.

¹⁸ As well as detailed economic modelling, the Productivity Commission's inquiry assessed over 300 written submissions and over 1,000 formal discussions with individuals were conducted. The draft report was assessed by over 100 participants at public hearings convened by the Commission in early to mid 1999 (Productivity Commission, *Impact of Competition Policy Reforms on Rural and Regional Australia*, Report No. 8, AusInfo, Canberra, 1999: p. xxiii). The PC's job was made easier, in comparison to the IC's earlier work, by the longer time line within which it had to work (twelve months instead of six). The PC also benefited from a more clearly defined set of reform principles, enabling it to focus on the actual impacts of NCP, not having to rely on "general microeconomic reform" as a surrogate, as was the case for the IC study.

The PC's intervention was partly political in nature. The Howard Federal government wanted to quell the incessant debate about the intent and purpose of NCP, and believed that an independent inquiry would set the record straight. The appointment of Ray Braithwaite – a former federal National Party member in Federal Parliament - as one of the three Commissioners conducting the inquiry was thought to provide the level of independence desired by NCP detractors from within the Federal Coalition.

In terms of its quantitative analysis, the PC was well aware of the criticisms levelled at the IC by Quiggin and was keen to ensure that similar controversy was avoided in its work.¹⁹ It made a point of opening-up its modelling process - exposing it to outside critical review, workshops and peer assessment - to ensure its final conclusions were authoritative and would not bog down in endless rounds of argument about process.

The key findings of the PC inquiry were:

- Communities in rural and regional Australia are being affected by a range of beneficial and adverse influences, of which National Competition Policy (NCP) is one.
- Most of these influences are of a long-term nature and largely beyond government control (eg, declining terms of trade for agriculture, changes in technology and in consumer tastes).
- Such long-term factors are mainly responsible for the declining share of primary industries in Australia's economy and the associated drift of population away from inland country areas.
- NCP has become a scapegoat for some of the effects of these broader influences.
- Governments should take steps to improve community understanding of NCP, including clarification of how matters of wider public interest, and social considerations in particular, are to be taken into account in its implementation.
- While there are costs associated with implementing NCP, it will bring net benefits to the nation, and to rural and regional Australia as a whole over the medium term. That said, the early effects have favoured metropolitan areas more than rural and regional areas.
- There is likely to be more variation in the incidence of benefits and costs of NCP among country regions than in metropolitan areas.
- Where adjustment pressures develop rapidly and are regionally concentrated, governments may need to consider whether, in addition to

¹⁹ Productivity Commission, *Impact of Competition Policy Reforms on Rural and Regional Australia*, Report No. 8, AusInfo, Canberra, 1999: p. 294.

generally available assistance measures, specific forms of adjustment assistance are warranted for some people in adversely affected regions.²⁰

Campaigns from public sector unions and the public perception of Quiggin's work, amplified the view that NCP (and microeconomic reform in general) would result in significant job shedding in publicly-owned infrastructure utilities such as those in the largely regionally-based electricity and water industries. Here, the PC estimated that overall, economic reform in the ten-year period prior to 1997 had resulted in a loss of around 114,000 jobs, or thirty-three percent of all jobs available, in public sector infrastructure entities. While much of this job shedding was occurring well before NCP implementation, the policy was likely to accelerate the losses. However, off-setting these losses was jobs growth in the private sector infrastructure areas – particularly in the telecommunications industry – creating an overall net increase in jobs of around six percent, or 20,000 jobs.²¹

This weakness in jobs data enabled political actors to focus on the perceived “losers” – the government employees in utility businesses campaigning against the reform process. Jobs growth in other areas was either ignored or down-played. The campaign was particularly relevant in the late 1990s, when stubbornly high unemployment statistics in most States made employment policy a significant campaign issue.²² On the surface, at least, it was

²⁰ *Ibid.*, p. xxii. The PC used a different economic model than the IC, namely a derivative of the Monash economic model – MONASH-RR. In contrast to ORANI, MONASH-RR disaggregated national data into regional segments, allowing policy makers to gain a window into how reform might impact at both the regional and national levels. MONASH-RR examined the likely impacts of NCP reforms on fifty-seven regions, broken-up on the basis of ABS statistical areas. The model showed that in all but one region – Gippsland, Victoria – NCP would lead to higher economic output and improved income per capita. Some regions would benefit significantly, recording medium term growth rates of over four percentage points above base-line Gross Regional Product (GRP) growth. Most regions recorded modest growth prospects of somewhere between two and three percent.²⁰ Overall, the model showed a national GDP growth rate of 2.5 percent, down on the IC result of 5.5 percent. The States that would benefit most from the reforms were Queensland and Western Australia, with average GRP growth rates of 2.9 and 3.3 percent, respectively. (*Ibid.*, pp. 300-302).

²¹ Productivity Commission, *Impact of Competition Policy Reforms on Rural and Regional Australia*, pp. 292-293.

²² A major plank in the Beattie Queensland Labor Party's 1998 election campaign was an unemployment target of 5% by 2003. Beattie used the mantra “jobs, jobs, jobs” to emphasise his party's campaign priority. To date, this target has been unattainable. Unemployment in Queensland in 2002 was predicted to average 7.5% (*Queensland Parliamentary Hansard*, 18 June 2002: p. 1857).

relatively easy to make NCP look like it was working at odds with jobs growth – a rhetorical argument used to great effect by Quiggin.

The argument presented by Quiggin was one of moderation, not abolition. At best, he questioned the level of revenue predicted to flow to the Commonwealth as a result of the reforms, and as a result the Federal government at the time may have been overly generous in calculating the overall size of the revenue pool dedicated to the competition payment scheme.

If the IC misled COAG, it was the Commonwealth that was paying the price, not the States. This would not have been welcome news for Queensland parliamentarians, particularly the State Treasurer, Hamill, if from this argument about economic modelling, the Commonwealth decided to revisit its funding formula and reduce the amount of funds dedicated to incentive payments.