

**The environmental implications
of the local-state antinomy
in Australia**

by
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Centre for Resource and Environmental Studies

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Declaration

This thesis represents independent and original research except as indicated below. This information is also provided in relevant sections of the acknowledgments and text.

Several sections of Chapter 2 expand on my ‘Local Government’ chapter in a refereed book, on *Australian Experiences in Processes and Institutional Arrangements for Resource and Environment*. Land and Water Australia funded that project (Dovers and Wild River (eds), forthcoming, 2002).

All of the maps included in the thesis were designed by the author, but produced by Jane Lawson and Alex Russell from Sinclair-Knight Merz (Canberra). Permission to produce the maps, and present them in the thesis and on the CD-Roms was obtained from state government departments holding the copyright of the original maps.

Chapter 5 includes much work that has been presented or published elsewhere. Academic papers that have included some of this material include Wild River, S. 2001. “Comparative environmental risk assessment: a practical and applied method” *Australian Journal of Environmental Management*, and Wild River, S. 2001. “Tackling corporate environmental risk: a practical and applied approach”. *Paper at ATEM/AAPPA. Conference*. This author was the main author of each of these documents, but others also need to be acknowledged for aspects of the method development. Ian Christesen of BCC was an early initiator of this work. Several BCC officers assisted by confirming the practical validity of the environmental risk ratings. Laura Hahn, formerly of Mary Maher and Associates helped to develop the generic risk assessment method from an industry-specific approach, as part of a project undertaken for the Queensland Department of Environment (now the Queensland Environmental Protection Agency). Ross Cunningham provided insight and practical suggestions for translating the quantitative method into useful analysis and findings.

Chapter 6 presents data gathered for the Brisbane and Queensland Benchmarking Studies. The former was entirely undertaken by this author and funded by the Brisbane City Council. The latter incorporated the Brisbane Benchmarking Study data and was funded by the Queensland Department of Environment. In all, Su Wild River undertook 238 of the 410 site inspections and interviews included in the Queensland study dataset, and was the project manager for that work. Laura Hahn undertook 63 site inspections, Greg Miller 56 and Geoff Renouf 53. The data, methods and reports from that project

are referred to in the thesis and presented on the accompanying CD-Rom under a Deed of Agreement (219917pt2) between the State of Queensland and Su Wild River.

All statistical analysis was performed by Ross Cunningham and Christine Donnelly of the Australian National University Statistical Consulting Unit. This included statistical sampling of participants in environmental risk studies, analysis of results, and the analysis of local government population data from the *Australian Local Government Guide* (Information Australia 2000).

Most of the 34 case studies of local government attempts to deliver beneficial environmental outcomes (provided in Appendix 4) were jointly authored. This researcher developed the format and initiated the compilation of all case studies, and is recognised as the first author in each case. Other authors are indicated on each case study.

Su Wild River

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Table of Contents

Declaration	i
Acknowledgments	iii
Table of Contents	v
List of Figures	viii
List of Tables	xi
Abstract	1
Author's Preface	3
CHAPTER 1. INTRODUCTION	7
1.1 Introduction	7
1.2 Key concepts and categories	9
1.3 Major research questions	11
1.4 Research principles	12
1.5 Thesis structure	14
1.6 The end of the beginning	15
PART 1. THESIS FOUNDATIONS	
CHAPTER 2. AN INTRODUCTION TO AUSTRALIAN LOCAL GOVERNMENT	19
2.1 Introduction	19
2.2 Statutory basis of the local-state antinomy	21
2.3 Local government in statutory and historical context	27
2.4 Local Government Reforms	34
2.5 Indigenous Local Government	39
2.6 Local government and regional dissonance	41
2.7 An intergovernmental typology of local governments	48
2.8 Analysing Local Government Policy Processes	57
2.9 Conclusion	62
CHAPTER 3. AUSTRALIAN LOCAL GOVERNMENT AND THE ENVIRONMENT	63
3.1 Introduction	63
3.2 Spheres of understanding	64
3.3 Financing, framing and focusing	70
3.4 Environmental planning	75
3.5 Environmental Management	81
3.6 Environmental protection	84
3.7 Conclusion	89
CHAPTER 4. RESEARCH PROCESSES AND METHODS	91
4.1 Introduction	91
4.2 Methods overview	91
4.3 Scientific inquiry	95
4.4 Grounded theory methods	99
4.5 The antinomy of local government as symbolic interaction	103
4.6 Action research processes and products	108
The environmental implications of the local-state antinomy in Australia	

4.7 Contrasts and commonalities.....	112
4.8 Conclusions	114

PART 2. METHODS AND FINDINGS FROM TWO STUDIES

CHAPTER 5. ENVIRONMENTAL RISK STUDY METHODS	115
5.1 Introduction	115
5.2 Outside-in perspective: background to the Queensland Environmental Protection Act 1994	116
Commencement problems	120
5.3 Inside-out perspectives: local government issues and state government responses	124
5.4 Benchmarking study overview	128
5.5 Obtaining and stratified random sample	130
5.6 Developing the Comparative Environmental Risk Assessment Method.....	137
5.7 Lessons from other approaches to environmental risk assessment	144
5.8 Assessing other outcomes	145
5.9 From assessment to management	149
5.2 Conclusions	150
CHAPTER 6. ENVIRONMENTAL RISK STUDY FINDINGS	151
6.1 Introduction	151
6.2 Local government leading and responding to the community	154
6.3 Resource shortages	158
6.4 The potential for partnerships between state and local governments... ..	165
6.5 Efficiency and effectiveness of service delivery	168
6.6 The politics of local government institutions	174
6.7 The diversity between local governments	175
6.8 The knowledge base of both spheres.....	180
6.9 The integration of policy that occurs in local governments	182
6.10 Conclusions	184
CHAPTER 7. COMPARATIVE CASE STUDY METHODS	187
7.1 Introduction	187
7.2 Defining features of the comparative case study research	189
7.3 Developing and applying case study components.....	191
Story	191
Model.....	193
Graphs	196
7.4 Selecting case studies and interviewees	200
Developing and using the categories for perspective, role, LG type and environmental focus area.....	203
Describing the sample using perspective, role, LG type and focus area.....	205
7.5 Environmental Strategists.....	209
7.6 Accountability, accuracy and partnerships.....	210
7.7 Coding and emergent analytical categories.....	211
7.8 Conclusion.....	216

8. COMPARATIVE CASE STUDY FINDINGS	217
8.1 Introduction	217
8.2 Local government responsiveness to the community.....	220
8.3 Resource shortages	224
8.4 The potential for state/local government partnerships	228
8.5 Efficiency and effectiveness of service delivery	232
8.6 Local government leading the community	235
8.7 The politics of local and state government institutions.....	240
8.8 The diversity between local governments	242
8.9 The knowledge base of both spheres.....	244
8.10 The integration of policy that occurs in local government.....	246
8.11 Conclusions	248
CHAPTER 9: CONCLUSIONS	251
9.1 Introduction	251
9.2 Reflections on the local-state antinomy	252
9.3 How Australian LG capacity to deliver beneficial environmental outcomes can be understood.....	259
9.4 The nature of environmental outcomes being achieved by local governments.....	261
9.5 Improving local government environmental capacity	265
9.6 Conclusions	268

LIST OF FIGURES

Figure 1.1 Thesis structure	17
Figure 2.1 Australian spheres of community and government	24
Figure 2.2 Regions including Noosa Shire.....	44-47
a) Moreton Region - ABS	44
b) Sunshine Coast - Regional Development Organisation	44
c) North and Wide Bay Burnett Team - SEQ Planning Division, Planning Services, Queensland Department of Local Government and Planning.....	44
d) Sunshine Coast District - Queensland Environmental Protection Agency	44
e) Wide Bay Burnett District - Queensland Environmental Protection Agency	45
f) South East Queensland Branch - Local Government Managers	45
g) Sunshine Coast/ Wide Bay Group - Australian Institute of Environmental Health.....	45
h) Sunshine Coast Branch - Royal Australian Planning Institute	45
i) South East Branch - Local Government Services.....	46
j) South East Queensland Regional Organisation of Councils....	46
k) Northern Regional Organisation of Councils (NORSROC)...	46
l) South East District - Local Government Association of Queensland	46
m) Urban Local Government Association - Local Government Association of Queensland.....	47
n) Northeast region Aboriginal language group.....	47
o) Bio-diversity Areas	47
p) North east coast drainage division	47
Figure 2.3 Map of an intergovernmental typology of local government	insert
Figure 2.4 Graphs of local government statistics.....	54-55
a) Local government population by area.....	54
b) Local government area by expenditure.....	54
c) Local government population by expenditure.....	55
d) Local government area by population and expenditure	55
Figure 3.1a Total government expenditure by sphere.....	72
Figure 3.1b Government environment expenditure by sphere	72
Figure 3.2 Analytical categories for LG environmental work	74
Figure 4.1 Action research cycles	93
Figure 4.2 Relationships between research methods.....	94
Figure 5.1 Timeline of key events in development and early implementation of the Queensland Environmental Protection Act 1994...	123
Figure 5.2a Sampled local governments, population by area.....	132
Figure 5.2b Sampled local governments, area by expenditure.....	132
Figure 5.2c Sampled local governments, population by expenditure	133
Figure 5.2d Sampled local governments, area by population and expenditure	133

Figure 5.3 Queensland Environment Protection Act statewide benchmarking study: participating local governments.....	insert
Figure 5.4 Process for sampling and establishing explanatory variables.....	136
Figure 5.5 Inherent and residual environmental risk and risk reduction through bundling.....	140
Figure 6.1 Environmental risk by Environmentally Relevant Activity.....	155
Figure 6.2 Operator open-ended comments about observed non-compliance	156
Figure 6.3. Environmental risk by sector.	157
Figure 6.4 Environmental risk by licence type.....	160
Figure 6.5 Relationships between cost and risk for different industry sectors.....	162
Figure 6.6 Operator comments about the costs of environmental protection.....	164
Figure 6.7 Environmental risk by region.....	166
Figure 6.8 Operator views on the importance and effectiveness of all initiatives	169
Figure 6.9 Operator comments about enforcement	171
Figure 6.10 Operator comments about reasons to not pollute.....	172
Figure 6.11 Environmental risk by local government type (intergovernmental typology).....	177
Figure 6.12 Compliant bundling in different environmental contexts	179
Figure 6.13 Operator views on importance and effectiveness of information from industry associations (members only).....	181
Figure 6.14 Operator views on importance and effectiveness of inspections as a source of pollution prevention information... ..	181
Figure 6.15 Operator views on importance and effectiveness of written guidelines as a source of information about pollution prevention	181
Figure 6.16 Comments about sources of information	182
Figure 6.17 Automotive repair shop facing compliance problems from the integration of Planning and Environmental Protection Acts.	184
Figure 7.1 Local government areas in which case studies are located.....	191
Figure 7.2 Elements of comparative case studies method.....	191
Figure 7.3 Ecological values graph from Case Study Q7: Developing the Johnstone Plan	197
Figure 7.4 Ecological values graph from Case Study Q10: Cairns City Council Environment Plan.....	199
Figure 7.5a Case study local governments, by population and area	207
Figure 7.5b Case study local governments, by area and expenditure	207
Figure 7.5c Case study local governments, by population and expenditure	208
Figure 7.5d Case study local governments, by area, population and expenditure	208
Figure 7.6 How the coding was applied to the models and graphs	212

Figure 8.1 Four broad driver and constraint categories and attempt origins and impacts.....	221
Figure 8.2 Attempt components and attempt origins and impacts.....	221
Figure 8.3 Subcategories of initiatives, beliefs and commitments as drivers and constraints.....	222
Figure 8.4 Broad driver and constraint categories as drivers and constraints.....	225
Figure 8.5 Broad driver and constraint categories as key drivers and key constraints.....	226
Figure 8.6 Subcategories of practical resources as drivers and constraints.....	227
Figure 8.7 Subcategories of institutions as drivers and constraints.....	229
Figure 8.8 Driver and constraint categories in environmental planning case studies.....	238
Figure 8.9 Driver and constraint categories in environmental management case studies.....	238
Figure 8.10 Driver and constraint categories in environmental protection case studies.....	238
Figure 8.11 Subcategories of rights and responsibilities as drivers and constraints.....	239
Figure 8.12 Action categories as components of attempts.....	245

LIST OF TABLES

Table 1.1	Elements of the antinomy.....	10
Table 1.2	Categories for local government, theories and environment.....	11
Table 2.1	Analytical categories for perspectives on LG issues.....	25
Table 2.2	Analytical categories for forces affecting the local-state antinomy.....	26
Table 2.3	Analytical categories for LG roles.....	29
Table 2.4	Local Government Legislation.....	32
Table 2.5	Australian Local Governments by State, 1910-97.....	36
Table 2.6:	Analytical categories for types of impacts.....	38
Table 2.7:	Analytical categories for the intergovernmental typology of LG49	
Table 2.8:	Australian Classification of LGs and Intergovernmental Typology.....	50
Table 2.9:	Analytical categories to describe types of local governments	53
Table 3.1 Analytical categories for environmental planning, management and protection.....	75
Table 3.2	Planning Legislation in Australia.....	78
Table 3.3	Environmental Protection Legislation in Australia.....	88
Table 4.1	Addressing criteria for empirical grounding of the thesis study	101
Table 4.2	Elements of the antinomy of local government.....	107
Table 4.3	Action research cycles in thesis research.....	110
Table 4.4	Contrasting the environmental risk assessment and case study analysis.....	113
Table 5.1a	Population of licensed non-devolved ERAs by region.....	119
Table 5.1b	Population of licensed devolved ERAs by region.....	119
Table 5.2	Local Government Selection.....	131
Table 5.3	Population and Sample Characteristics by Characterising Variables.....	135
Table 5.4	Categories for environmental risk.....	138
Table 5.5	CERAM Environmental Risk Table.....	141
Table 5.6	Likelihood and Consequence Definitions and Ratings.....	141
Table 5.7	Categories and examples for environmental risk areas.....	143
Table 5.8	Response to initiatives questions.....	148
Table 6.1	Environmental Protection Act - best and worst things for administering authorities.....	152
Table 6.2	Environmental Investment and Budget Due to EPA.....	159
Table 6.3	Patterns of Local Government Licence Fee Reductions.....	163
Table 6.4	Summary of EPA prosecutions to June 1998.....	170
Table 6.5	Benefits and costs to LGs of the IEMS licence arrangements ..	174
Table 7.1	Analytical categories in the comparative case study model.....	194
Table 7.2	Environmental values, used in comparative case study graphs..	198
Tables 7.3a	Perspectives, roles and LG types represented in the case studies.....	206
Table 7.3b	Perspective, roles, LG type and environmental focus	

area by state	206
Table 7.4 Core driver and constraint categories.....	213
Table 7.5 Categories for local-state antinomy force origins and impacts	214
Table 7.6 Categories for actions involved in attempts	214
Table 7.7 Categories for degree of beneficial outcomes	215
Table 7.8 Categories identifying specific impacts of attempts	216
Table 8.1 Summary of the variables used to analyse each antinomy element	218
Table 8.2 Examples of initiatives/beliefs and commitments as drivers and constraints, by differing degrees of flexibility.	223
Table 8.3 Generalised features of initiatives/beliefs/commitments as drivers and constraints	223
Table 8.4 Patterns of environmental outcomes by environmental focus areas	234
Table 8.5 Analytical categories for empowered and disempowered local governments.....	235
Table 9.1 Summary of key findings from the two thesis studies	254

Abstract

An antinomy is a contradiction between a principle and its opposite, where there is a compelling case for accepting both. This thesis adopts the antinomy of local-state government in Australia as its central conceptual theme, describing it with the following defensible, but contradictory principles that:

- Australian local governments are statutory agencies of Australia's state governments, with no power or authority beyond that which is ascribed to them by the states (the *outside-in* principle); and
- Local governments in Australia are independent agencies whose authority and interests transcend their regulatory powers by nature of their attachment to their local area (the *inside-out* principle).

The central conceptual theme of the antinomy of local-state government shapes the overall thesis, as well as providing the focus for its introduction and conclusion. The thesis induces elements of the antinomy and structures much of its discussion around these key issues. It does not try to prove or resolve the antinomy. Instead the thesis uses the concept to explore and develop its second complex theme - the practical and applied experience of Australian local governments (LGs) as they attempt to deliver beneficial environmental outcomes. The great bulk of the substantive work presented in the thesis focuses on descriptions and analyses of LGs' environmental work and the contexts within which they do it. The thesis contends that the local-state antinomy underpins many problems facing Australian LGs as they attempt to deliver beneficial environmental outcomes.

Four research questions are addressed. They are:

- How can Australian LG capacity to deliver beneficial environmental outcomes be understood?
- Within this capacity, what are the environmental outcomes now being achieved by Australian LGs?
- How can Australian local government extend its capacity to deliver beneficial environmental outcomes? and
- What are the implications of the local-state antinomy on Australian LG capacity to deliver beneficial environmental outcomes?

This thesis reviews literature on Australian LG, LG environmental work, and the methods that are appropriate in investigating these questions. The overall thesis uses scientific, grounded theory and action research methods and draws on ideas from symbolic interactionism. Parts of the thesis also use environmental risk assessment, gap analysis techniques, case study and comparative analysis. The goal of generating grounded theories led to a strong focus on the development and exploration of analytical categories and the relationships between them. One such category summarises the relationship between LG and state government (SG), whereby LGs are identified as the *inside* sphere of government, while the SG is one of several *outside* spheres. Environmental efforts that impact between the spheres are described in relation to their source and impact, using this terminology, so that *inside-out* initiatives are driven by LGs but impact more broadly, and *outside-in* initiatives are driven by states but impact on local areas.

Two extensive studies are presented, each stemming primarily from one side of the local-state antinomy. The first is a quantitative, statewide study of local (and state) government implementation of the Queensland Environmental Protection Act. That process is considered a predominantly *outside-in* environmental initiative, in that LG interest and authority for that work stem directly from a SG statute. For simplicity, this is referred to as an outside-in study. That study involved the development and application of the Comparative Environmental Risk Assessment Method, that enabled the assessment of the environmental and other outcomes from the Queensland legislation.

The outside-in study is complimented by comparative case studies that mostly reflect inside-out environmental initiatives as they are defined and described by LGs. Again, this required the development of innovative research methods, specifically a comparative case study method. 34 case studies gathered from different types of LGs across Australia are presented, each representing an attempt by LG to deliver beneficial environmental outcomes.

In answer to the research questions, LG capacity to deliver environmental outcomes can be understood when the antinomy is examined through the research methods and analytical categories developed and presented here. LGs are delivering significant beneficial environmental outcomes, both as agents of SGs and through their own initiatives. Improving LG capacity to deliver environmental outcomes primarily requires a respect for LG perspectives, and for LG priorities, which inherently include a focus on their own local areas. State governments can build effective partnerships between the spheres and enhance LG environmental capacity by recognising and supporting LG's own priorities, while assisting their engagement with broader strategic objectives.

Author's Preface

This Preface tells my story, and summarises how I came to embark on this research project, and how the research and my own understanding of issues have grown together.

My professional work has been dedicated to seeking solutions to environmental problems. I completed a degree in environmental studies at Griffith University, Brisbane in 1993, having majored in various social science disciplines. Those studies taught me that environmental problems are usually human problems, and their solutions lie in social and institutional change. My honours thesis was an interdisciplinary analysis of Australia's *National Strategy for Ecologically Sustainable Development*. I was disturbed to find during that research, that in essence, the national strategy had recommended that Australia follow its existing unsustainable trajectory for environmental management, making very few changes beyond those that could be justified on purely economically rational grounds (Wild River. 1993. Unpublished).

I moved into work for Mary Maher & Associates (MM&A), which was a small, new, Brisbane-based environmental consulting agency. The Director had a background and interest in LG environmental work, and local issues became MM&A's focus, and that of my work there. My last major project for MM&A was to develop the training course for the initial implementation of Queensland's proposed *Environmental Protection Act* (EP Act), which was pitched at both LG and SG officers who would be implementing the Act. From there, I became the LG Liaison Officer in the Policy Coordination Section of the Queensland Department of Environment and Heritage, which was responsible for developing the EP Act. I conceived my role as requiring me to understand DEH's expectations of LG, diligently informing LG of those expectations, listening to LG responses to them, and negotiating within DEH¹ for more workable policy directions. In this position, I worked closely with LG officers, managers, and councillors throughout Queensland and Australia, the Local Government Association of Queensland and many other LG stakeholders.

¹ Note that for the remainder of this Thesis, this Department is referred to by its current title of the Queensland Environmental Protection Agency. This is despite several changes of name since the start of this research. It has also twice been known as the Queensland Department of Environment and Heritage, and once as the Queensland Department of Environment.

During my three years as LG Liaison Officer, I became increasingly frustrated at what I saw as the failure of SG to understand the situations, issues and processes that affected LG capacity to implement the EP Act. At the same time, I was struck by the very tangible outcomes that were being achieved by LGs as a result of the EP Act. This fascinated me, since much of the substance of the EP Act derived from the National Strategy for Ecologically Sustainable Development, and other Commonwealth initiatives that had seemed to me unlikely to drive tangible environmental outcomes. I searched, and found little in the academic literature to help me better understand the flawed relationships between LG and the other spheres, or to link what seemed to be bland Commonwealth policy directions with practical outcomes at the local level. My honours grades had given me the opportunity to obtain a scholarship to study for a Doctor of Philosophy, and I decided to tackle these issues myself.

One implication of this professional background, is that it places me in rather strange territory, somewhere between being an insider, and an outsider to LG environmental issues. This is because although I have always worked with LG and as an advocate of LG issues, I have never been employed by a LG (other than as a consultant while researching for this thesis). I consider that, although incomplete, this perspective has provided the opportunity for many worthwhile insights into a range of LG issues, problems and strategies.

The key research questions I was interested in seemed broader than the 'brown' pollution prevention goals incorporated into the EP Act. I decided to extend the scope of the research across any LG environmental issue. I was also familiar with and interested in Queensland's new *Integrated Planning Act 1997* that had been concurrently developed. The *Integrated Planning Act* also had significant implications for LGs' environmental roles and seemed likely to present some similar and some contrasting implementation challenges, that would ultimately be sorted out at the local level, rather than through SG policy development.

My years spent as a consultant and working as a LG liaison officer provided me with contacts within and ideas about LG institutions. I drew on these throughout the research process, conducting pilot interviews with individuals I had worked with previously, and working with LG Associations to identify environmentally proactive LGs to include in my research.

The thesis' primary goal of producing research that would be useful to LG environmental practitioners derived from the interviews I conducted during the pilot stage of the project. I was surprised and pleased to realise that this goal could readily be

incorporated into the grounded theory research process. This goal has underpinned all of the research, and has proven to be a clarifying and rewarding approach to postgraduate studies. I would recommend such an applied approach to most students undertaking environmental research.

During the pilot interviews, many of my former colleagues expressed a pressing need to assess the environmental and other outcomes from the *Queensland EP Act*. My previous experiences with the EP Act enabled me to lodge successful consultancy bids to make such assessments throughout Brisbane, and later across all of Queensland. These projects were undertaken in partnership with the Australian National University (ANU) Statistical Consulting Unit, which played a significant part in all of the quantitative analysis presented in this thesis. A key benefit of the environmental risk studies was the opportunity for me to visit over 250 sites where EP Act licences had been issued, to assess environmental risk reductions resulting from the Act, and the responses of individuals to the new environmental requirements. This certainly lent a practical reality to my consideration and analysis of environmental issues and outcomes.

The environmental risk assessment consultancies also provided most of the funding for the other major research effort. This was undertaken during a field trip around Australia, which I made in my 1974 Kombi campervan, along with my (then) partner and Dalmatian dog. Together, we presented as a most unthreatening team, and were welcomed into many diverse local settings, in both personal and professional contexts. LG officials were typically fascinated to hear the stories I had to tell of environmental initiatives in other places.

I bought a digital camera and projector with some of the profits from the risk assessments, and used these in retelling the stories of local environmental work. This approach was also welcomed in many settings, and provided colour, technical details of environmental initiatives, and encouraged others to share their own stories. Many of the photographs are presented in the thesis and appendices, but they were not used as an analytical tool in this research. Because of this, they are not specifically discussed in the thesis, which already has enough to report on.

But by far the most moving experiences I have had during this research have been the opportunities to meet and stay with Aboriginal Australians, in their own local areas and settings. I used contacts provided by a thesis supervisor to stay for a week at Hall's Creek in the Kimberley region of Western Australia with an Aboriginal matriarch and her family. I protested for a week against uranium mining at Jabiluka, following the rules laid down by the Mirrar people for respecting their country and their

environmental campaign. I stayed with several Yamatji families at Carnarvon on the central coast of Western Australia, after simply stopping for lunch in a scrubby park, and sharing it with a passerby. I made serendipitous contacts such as these in small Aboriginal towns across Australia, simply by wearing Aboriginal colours (red, yellow and black), allowing children to play with my dog, offering transport to those who asked, and sharing food when the opportunity presented. These experiences enabled me to glimpse some of modern Aboriginal Australia from close at hand. Unfortunately (as was mentioned above), the space needed to do justice to these issues in this thesis is simply not available.

The research process has been both inspiring and depressing, since the many successful environmental outcomes delivered by LG are balanced by the significant constraints they face, as well as by their widespread reluctance to make attempts. Another striking feature was the incorrect, but almost universal belief among LG outsiders, that LGs cannot, will not and do not attempt or succeed with environmental goals. The great number of case studies of environmental attempts are presented to clearly demonstrate the flaw in this thinking. I consider the research process, stories and analytical conclusions to be inherently interesting, as well as important for Australia's environmental future.

As I progressed through the research, the local-state antinomy became increasingly apparent to me. I realised that the frustration I had initially felt while working as a LG advocate within a SG agency reflected an apparently universal tension between the spheres which was worthy of detailed attention. After reading some philosophical texts about paradoxes, antinomies, oxymorons and other contradictions, I concluded that this problem was best described as an antinomy. However its articulation as such was more a vehicle for exploring pragmatic issues than one for debating philosophy, so I made the decision to use the antinomy as a guiding concept, rather than to attempt its resolution. I have since described the antinomy to many people with experience in LG, SG or the FG and have found it to resonate strongly for many people. I feel that this is a concept that could assist understanding and cooperation between spheres, and it has been exciting to explore it with that in mind.