After The Ribbon-Cutting: Governing PPPs in the Medium to Long-term

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Acknowledgements

This research was supported by a competitive research grant from the Australian and New Zealand School of Government (ANZSoG).

Conflict of interest statement

The Authors declare that no conflict of interest exists.

Abstract

Much attention has gone towards 'up-front' processes when delivering infrastructure public-private partnerships (PPPs), but less on how to best govern after the ribbon is cut and the infrastructure built. This paper identifies the primary contractual and institutional governance challenges arising in the medium to long-term of PPP concession contracts and explores these governance challenges

This is the author manuscript accepted for publication and has undergone full peer review but has not been through the copyediting, typesetting, pagination and proofreading process, which may lead to differences between this version and the [Version of Record](#). Please cite this article as [doi: 10.1111/1467-8500.12239](#).

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through interviews with high-level PPP industry insiders. The paper presents new findings on the importance of good public administration for successful PPP operation, and on the interesting evolution of medium to long-term governance arrangements. It finds that although industry interviewees agreed PPP governance had improved significantly, they had differing views on how capable Australian states were and how well this task was being undertaken. They were also split on the adequacy of transparency, with half feeling satisfied with the current contractual arrangements, and the other half favouring greater transparency, because commercial confidentiality had alienated the public.

Keywords: public infrastructure; private finance initiative; megaproject; regulation; long-term contract.

Summary at a glance:

The long-term challenge of governing PPPs is explored by interviewing industry insiders. The article emphasizes good public administration and evolving governance arrangements. Interviewees agreed PPP governance had improved. But views differed on the capability and performance of Australian states in undertaking this task and on the adequacy of contractual transparency.

Practitioner Points:

1. Australian industry insiders believe that PPP governance has improved over recent decades, but they have mixed views on how capable governments are and how adequately they are currently governing these projects.
2. The up-front contract dominates long-term governance arrangements as well as presenting a challenge to renegotiate arrangements when circumstances change.
3. The biggest ongoing challenge for PPPs is to be seen as legitimate by citizens, and this requires greater transparency.
4. There were three general institutional approaches to governing PPPs in Australia, which often differed by sector. No single institutional model was dominant, indicating a wide variety of feasible options for policy makers.

1. Introduction

Infrastructure Public Private Partnerships (PPPs) continue to interest governments around the world,¹ although the frequency of their adoption has vacillated recently (Bovaird 2004; Kateja 2012).

Introduced alongside New Public Management (NPM) in the 1990s, PPPs in some jurisdictions became the preferred option for delivering large public infrastructure projects and were promoted as a way of enhancing effective public governance (Bovaird 2004; Brinkerhoff and Brinkerhoff 2011).

PPPs are said to create increased value (Klijn and Teisman 2000), with rationales including paying for high performance results (Garvin and Bosso 2008), increased efficiency, service quality, network expansion (Vining and Boardman 2008), and competition in monopolised markets (Marques and Berg 2011). PPPs also have the potential to mobilise resources beyond what is available to the public sector alone and can offer private sector solutions to complex problems (Brinkerhoff and Brinkerhoff 2011). They are as much a political entity as a procurement or managerial entity, however, and the worth of PPPs today remains strongly contested.

This paper focuses upon the medium to long-term governance of PPPs. It provides new insights into effective PPP management in the operation phase of long-term contracts; something under-explored in the PPP literature. The paper asks these research questions: (1) How is the medium to long-term governance organized, and what is the relationship between contracts and institutions? (2) How is effective PPP management in the operation phase interpreted by PPP professionals, and how well is the state doing this? The paper draws primarily on empirical evidence from senior managers as PPP professionals inside the PPP sector in Victoria, Australia, which has had a long history in this domain. We conducted interviews with 11 persons from both the public sector and the private sector. The Australian PPP professionals are important to interview because Australia has been a leading country for PPP projects and now has two decades of experience with PPPs.

This paper will argue, firstly, that tensions exist between our expectations of the state to govern democratically in the long-term public interest, and our expectations of the state to behave legally and maintain responsible commercial behaviour. These tensions are also inevitable. Consequently, debates are inevitable regarding the legitimacy of long-term contracts as governance tools as well as how the state might best govern such arrangements. Secondly, this paper will argue that there are several dimensions that are crucial to medium-term PPP governance and the state's ability to govern within these arrangements varies. Some appear to be manageable through more sophisticated contract arrangements, whilst others remain an inherent consequence of adopting this form of infrastructure provision. Thirdly, based on interviews held with senior 'insider' PPP officials from the public and private domain, this paper will conclude that there are differing views as to how well Australian states, such as Victoria, are governing PPPs in the medium to long-term.

For the purposes of this paper, 'governance' is defined as the management and oversight of PPPs, including the rules which prescribe accountability for conduct within the partnership and the way which that conduct should be exercised (Skelcher 2010).²

This paper progresses by firstly defining PPPs and discussing the importance of viewing long-term infrastructure contracts (LTICs) as a governance mechanism. It then focuses on some common medium to long-term governance matters that have been identified in the literature, before presenting a conceptual model which suggests that both democratic as well as commercial values are crucial to governance debates. Feedback is then gained from interviewees on the current

performance of governments and the efficacy of our current institutional arrangements is discussed. Conclusions on our research questions on governance and management are then presented.

2. The Meaning of a PPP

This paper examines the provision of public services through LTICs undertaken with the private sector and commonly labelled PPPs, or P3s.

Infrastructure PPP definitions vary between countries and between different public management systems (Bovaird 2004) as well as within jurisdictions (Siemiatycki 2013). The federal Australian government sees them as an infrastructure project procurement method comprising of 'a service contract between the public and private sectors, where the government pays the private sector to deliver an asset and related services over the long-term' (Department of Infrastructure and Transport 2012, p. 13). What is common to infrastructure PPP definitions is a preference for private finance to at least some degree, the purchasing of public services through LTICs, and complex bundled contract arrangements handled through a single consortium. These arrangements emphasise project implementation. The notion of superior value for money (VfM) has been central to Australian state government PPP procurement.

PPP arrangements in jurisdictions such as Australia have shifted significantly over recent decades. Whilst early PPP contracts favoured pushing as much risk and service provision onto the private sector as possible³, more recent contracts have built on the experience of these early projects. Not wanting to repeat the poor project performance and poor private sector financial returns⁴, both services and risk profiles between the partners have shifted. Recent projects have thus moved towards shared services in prisons and hospitals, for example; and towards roads being contracted on the basis of availability payments, rather than full demand transfer for traffic risks.⁵ Our early claims and assumptions around risk bearing have therefore evolved following some high profile PPP project failures and the advent of the global financial crisis.

3. Governing Through LTICs

Contract law has become central to governance in the post-regulatory state (Collins 2004), with contracts themselves being acknowledged as a governing tool. The question arises, therefore, of 'who governs when governments sign long-term contract deals?' (Hodge 2002). Clearly, the contract largely governs; but to what degree does this then fetter the capacity of future governments to make decisions in the public interest? Australian governments have increasingly engaged the private sector to provide public services through contracts (Benish 2014), and many individual ad-hoc contracts now largely govern public service provision (Hodge 2010). At a minimum, LTICs are recognised as governance mechanisms through which public policy is mediated (Skelcher 2010). The detailed terms and provisions of long-term contracts set the stage for governing in times ahead, along with how the state governs these contracts amid changing circumstances.

The efficacy of PPPs as both a service delivery mechanism and a governance tool has been strongly contested. Post operation VfM evaluation of contracts is rare because most are still in operation.⁶

The reality is that mixed VfM results have been found, with divergent claims.⁷ Moreover, the veracity of many reported claims has been low, as few independent and strong statistical studies have been completed.

On the performance of LTICs as a governing tool, there has also been an equal degree of speculation and criticism. Governments have claimed that PPPs encourage rigorous contracts, assessment, and scrutiny; but others remain sceptical. Concerns have centred around the secrecy and lack of transparency in the deals being made, alongside the lack of clarity in the complex risk sharing arrangements (Cruz and Marques 2013a). LTICs have largely failed to achieve democratic legitimacy (Hodge 2006). There is much to learn on the matter of LTICs as a governance tool and plenty of room for assessments to be made of the extent to which they yield public benefits and align with good governance principles (Brinkerhoff and Brinkerhoff 2011). The debate over PPPs will no doubt continue for some time yet.⁸

4. The Balance of Democratic and Commercial Expectations

Hodge and Greve (2007) noted a major division in debates between those who regarded PPP as a governance matter, and therefore a contractual and structural issue; and those who saw it as a 'language game', and as an inherent matter for consideration and debate in the democratic polity. Extending this observation further, we might posit that debates occur primarily around two fundamental domains: one, the formal institutional and contractual domain, and the other, the democratic domain. Our conceptual model of governing LTICs ought to therefore acknowledge two sets of expectations of government: they are expected to behave in a manner which protects and enhances the public interest (*democratic expectations*) as well as behaving in a commercial manner in partnering with the private sector (*commercial expectations*). Whilst we may have differing views on what constitutes these two sets of behaviours, there is little doubt that the confluence of these commercial and democratic behavioural expectations inevitably introduces a level of tension in governing PPPs. The balance between these two sets of values, inherent in such partnerships, will thus continue to be an enduring matter of interest (Brinkerhoff and Brinkerhoff 2011).

Of course, governments, as Van de Walle (2009, p. 45) said, are 'constantly dangling in an uneasy equilibrium between competing values' in their pursuit of the public interest. And whether governments pursue economic values or democratic values, they must always behave in a legal manner.

LTICs certainly fit modern governments like a glove; governments are already a contracting machine.⁹ Large government infrastructure contracts are an important commercial matter. Voters trust government to negotiate a good deal on behalf of citizens so that public services are provided efficiently. They also expect all parties to meet the agreed contract terms. In the event of a contract dispute and one party not adhering to the commercial agreement, it is assumed that all parties are equal before the courts.¹⁰ However, they are more than just a commercial arrangement. Major projects are inherently controversial in that they set a policy direction and also function as a tool of economic development. Citizens expect governments to be subject to legal regimes developed over the past centuries which guard against potentially arbitrary or poorly informed decision-making by

the public sector, or against shortfalls in due process through Administrative law. We also expect governments to behave fairly towards tenderers and for citizens to have access to information about what governments are doing in their name (through regulation such as Freedom of Information law).

We clearly, therefore, have two primary sets of expectations of government: to behave both commercially and according to the agreed contract, and to also behave democratically and act under the mandate of citizens. Both sets of expectations need to be met.¹¹ This is indicated in figure 1, below.

Figure 1: Policy Expectations of Government regarding PPP Infrastructure.

Conceptually, the suggestion in this figure is that our dual expectations of governments are probably met much of the time. However, there are also times when government may be viewed as behaving in a manner which is commercial, but democratically illegitimate. An example would be when contract details are claimed to be 'commercial-in-confidence' and are kept secret and away from public debate. There may also be times when government may behave in a democratic but commercially illegitimate manner. Such an instance may occur when a newly elected government announces, with widespread popularity, that it will 'rip up' the signed contract for an unpopular project before construction begins. In both of these instances, there is a risk that government will preference one set of values (either democratic or commercial) over the other.

5. The Governance of PPPs in the Medium to Long-term

This paper examines the governance of PPP contracts in the medium to long-term. It puts aside the interest and debate around the initial choice of project and LTIC delivery method as well as the initial period during which most construction risks become apparent and when demand for using the facility settles down. Much contemporary research interest has been in such ‘up-front’ matters, including risk management (Marques and Berg 2011), VfM (Tsamboulas, Verma and Moraiti 2013), negotiation of contracts (Ahadzi and Bowles 2004) and benefit sharing. Less attention has been given to the organisational relationships and institutional frameworks governing long-term PPP operation (Wilson, Pelham and Duffield 2010)¹². And while competent public administration has been identified as a significant general success factor, little examination of the specific factors contributing to good governance has taken place (Bloomfield 2006).

Formal audits of PPPs have identified several concerns, such as the ongoing monitoring and achievement of VfM for a number of Victorian PPPs (Victorian Auditor-General 2010; Victorian Auditor-General 2013). International scholarly research has also raised concerns, including the sufficiency of operating and maintenance standards, and the capability and experience of the public sector in overseeing long-term concession contracts and protecting the public interest (Ortiz and Buxbaum 2008). These concerns are perhaps the ‘other side of the coin’ in terms of the policy promises made for this technique. As Skelcher (2010) put it, the governance of these contracts is essential to ensuring that the public interest is maintained despite the delegation of public service authority to business.

Common Governance Challenges Arising in LTICs

In the light of the above observations, how is public infrastructure governed in the medium to long-term? Two sets of challenges arise: contractual and institutional. Contract clauses will be influential in how contracts are interpreted, how performance discussions between the state and the contractor proceed, and how new decisions are to be made when a degree of discretion exists within a contract. Additionally, public institutions oversee these long-term contracts. In other words, governing occurs through both the contract itself as well as the public institutions overseeing the contract. In this section, we articulate the contractual and institutional challenges that arise in the governance of LTICs.

Contractual Governance and Contract Clauses

PPPs are primarily governed by their contracts. They are therefore in one sense ‘self-steering’. As a concept, contracts are a promise or an obligation to perform a particular action in the future (Macneil 1977). The contract is central to managing risks and provides the basis for PPP management and operation (Hodge and Greve 2007; 2010). In this section, we focus on specific contract clauses, something that the literature does not always cover in detail.

A wide range of contractual arrangements are possible with LTICs. All aim to effectively deal with common issues arising in the medium to long-term. As shown in table 1, contracts generally address

issues and events around refinancing and banking, demand risk, price control, ensuring service quality and enforcement of KPIs and abatement regimes, project modification and upgrades, maintenance, renegotiations, and changes to contracts (including transferring or selling the asset). Table 1 draws on Australian PPP examples of particular contract clauses to illustrate these areas.

Table 1: Major contract clauses affecting medium to long-term governance.

Major contract clause areas	Comments	Examples
Refinancing and banking	More recent refinancing clauses generally require the consent of the state, with the state entitled to a percentage of the refinancing gain.	<i>Desalination Plant (Victoria)</i> - The agreement states that the Project Company must not refinance without the prior consent of the State (which will not be unreasonably withheld or delayed).
Demand risk	Demand risk provisions differ between various PPP agreements. Some transfer the demand risk to the private sector (e.g. toll roads) and others leave the demand risk with the public party (e.g. health and corrections PPPs).	<i>CityLink (Victoria)</i> - The agreement states that the company will accept all risks relating to the Project, including project costs, economic viability and revenues being less than estimates.
Price control	Price control is essential where the private sector has agreed to accept the demand risk for the provision of public services. CPI provisions are important where the demand risk stays with government and availability payments are made to the private party.	<i>Cross City Tunnel (CCT) (New South Wales)</i> - In 2004 the CCT contract was amended to allow the consortium (CCM) to increase the base toll by 15 cents to fund a further \$35 million of additional project costs.
Performance regimes: ensuring quality of service provision	PPP contracts will generally contain extensive key performance indicator (KPI) regimes which aim to allow the public sector to monitor performance with the KPIs and apply abatements where performance does not meet required standards.	<i>Royal Children's Hospital (Victoria)</i> - The project agreement specifies that the consortium provides services such as management and corporate activities, helpdesk, building management services, utilities, waste management, security, car parking, and grounds and garden maintenance during the operation phase. Each service has a 'minimum service specification' with which the operator must comply.
Project modification and upgrades	Project modification clauses vary widely across projects and sectors. They have become more sophisticated as the public sector has sought to increase the physical flexibility of LTICs.	<i>Desalination Plant</i> - The State has the right to propose (and must fund) modifications and the process for directing such orders is set out in the agreement.
Maintenance	Contracts will generally state an obligation for the consortium to maintain and repair as well as specifying a range of reporting requirements or a level of state oversight.	<i>CityLink</i> - The Company is responsible for operating, maintaining and repairing the Link, and will report every six months on all maintenance and repairs carried out.
Renegotiation and changes to contracts	LTICs contain various renegotiation clauses and will specify dispute resolution procedures where agreement cannot be reached.	<i>Southern Cross Station (Victoria)</i> - The performance regime was renegotiated for this project as an alternative to the contract manager enforcing potential abatements.
Change in control	Change in control and assignment clauses manage the possibility of a change to the private party. Such clauses generally specify the process for changing the control of the project or assigning the rights and interests under the LTIC to another party. Consent is usually required from the state for any changes.	<i>Remand Centre Facility Services Agreement (Victoria)</i> - The Contractor may not assign or transfer any of its rights, title or interest in or under any Transaction Document without the prior written consent of the State. Consent may be withheld in the State's absolute discretion.

What are the implications of these examples of contract clauses for medium-long term governance? Are PPP contracts good public policy or not? They can in reality be either – the agreed contract is

the contract. There is certainly a clear tension here with big contracts. On the one hand we desire a contract to be as detailed and as comprehensive as possible, because this provides a high level of 'fixity' and certainty. On the other hand, we may also have a desire for a degree of contract flexibility, so that future governments are not unduly constrained by legal clauses inside contracts signed in the distant past. This tension is not an academic whinge. Irrespective of the contract signed at some point in time, future governments may need to respond to a new technology. They may also wish to implement new initiatives in terms of town planning, or may even wish to alter the use of the infrastructure facility itself if new circumstances arise. Unnecessarily rigid contracts can stifle this. The flip side here, however, is that contract certainty does bring some benefits. It is commercially desirable because flexibility brings with it a price. The long term maintenance budget for the facility is also set, as well, rather than being subject to the vagaries of future political whims.

Of import here is the analysis of Ross and Yan (2015), who analysed the initial decision to choose either a PPP or traditional procurement. They suggested that this decision depended, inter alia, on the likelihood of changes being necessary and the relative bargaining power of government. To them, PPPs were probably more relevant to sectors such as roads and water, where the need for large changes to designs may be lower than in more dynamic areas such as healthcare and information technology.

The significant levels of unpredictability which occur beyond the first decade of operation suggest that a greater focus upon collaboration is needed, particularly where there are changes to constituent parties and renegotiations with regard to the scope of projects (McCann, Aranda-Mena and Edwards 2014). Poppo and Zenger (2002, p. 708) contend that formal contracts and legal contracting behaviour should function as a complement to relational governance as 'well-specified contracts may actually provide more cooperative, long-term, trusting exchange relationships', narrowing the scope and severity of risk. The contract can also provide sanctions for divergent behaviour.

A contract, though, cannot foresee the eventuality of every possible outcome (Johnston and Gudergan 2007) and as a general rule contracts are always incomplete, with some level of uncertainty (Spiller 2008). As a result, contracts need to be flexible enough to provide the framework for ongoing commercial collaboration and dispute resolution as well as including regular updates. Indeed, undertaking a purely legal contracting approach, with rigid and inflexible contracts, has the potential to promote conflict (Gaski 1984), defensive behaviour and inflexibility (Alam, Kabir and Chaudhri 2014).

One example of a contractual governance challenge is contract renegotiation. This has been examined in depth by Cruz and Marques (2013c), who investigated transport PPPs in Portugal. It is generally assumed that renegotiation is opportunistic, with the public party potentially at risk of the private party's opportunism (de Brux 2010). However, de Brux's analysis of transport concession contracts suggests otherwise. It shows that long-term cooperation and mutual benefits can be the main objective of renegotiation, depending upon whether parties believe that there will be future relationships and upon the quality of the current relationship. The probability of successfully undertaking renegotiations depends on the quality of a party's commitment and their capacity to

enforce the contract (Guasch and Straub 2006). The public sector must clearly have the capability and expertise to gain the benefits of renegotiation and ensure that opportunism does not occur.

Institutional Governance

In addition to contractual terms, institutional arrangements are critical for PPP success. PPPs can aim to be more than just service contracts, as well. [Alam, Kabir and Chaudhri \(2014\)](#) consider PPPs to be a long-term institutional arrangement that can potentially provide a collaborative advantage. Furthermore, according to [Cruz and Marques \(2013b\)](#), it is essential that once a project has entered into its operational phase, there is awareness of the benefits of maintaining a long-term collaborative relationship between the parties. Of course, in order to manage the complexity of PPP arrangements, the state requires the administrative and intellectual capacity to understand these complex arrangements, and the capacity and capability to monitor and manage them over the operating period (Hodge 2006). This ensures appropriate performance levels for service delivery and VfM outcomes (Edwards et al. 2004). Deficiencies in capability and expertise may result in exploitation by the private party (McCann, Aranda-Mena and Edwards 2014).

In Australia, PPPs governing institutional arrangements can be broadly categorised into three types, according to Wilson, Pelham and Duffield (2010). To them, projects may be governed:

- 1) Within a departmental structure, usually within a project management/delivery group;
- 2) Through a subset of a department or a specialist PPP team at 'arms-length' from the parent department or
- 3) Through a new authority created as a separate entity by legislation.

Regardless of the type of institution, organisational arrangements define the capacity, resources and transaction costs for managing long-term service delivery contracts, and effective oversight is necessary (Brown, Potoski and Van Slyke 2006).

Although we have improved our governance of PPPs in the medium to long-term over the past few decades, how well in absolute terms are we meeting the challenge at present? Our conceptual frame in addressing these questions is that of figure 1 (showing commercial and democratic values), along with the knowledge that these values may be enlivened through either contractual or institutional means. It is to these questions that we now turn.

How We Engaged on Governance: Notes on Interview Data

To gain deeper insights into governing LTICs, the authors interviewed senior professionals involved in the management and administration of PPPs in Australia. Eleven interviewees from both the public and private sectors were invited to participate via in-depth interviews. Interviewees were chosen on the basis of having either 'inside' PPP industry knowledge or being intimately connected with the sector. They included senior government executives overseeing projects, senior construction and contract managers, senior legal professionals, policy developers, and an academic. Public sector interviewees included members from central and line agencies as well as accountability/oversight agencies. Rather than seeking a comprehensive data set, these interviewees provided the authors with an opportunity to 'open Pandora's box' and gain some initial research insights. The interviews

followed a semi-structured interview questionnaire. In terms of the formal positions occupied by the interviewees, seven were public sector, three were private sector and one was an academic. However, noting the high level of consultants employed within government, we could equally characterize the interviewees as six private employees and five public employees. Just over one half of the interviewees had a qualification in law, with other disciplines covering engineering, management, project management, economics, commerce, accounting and business management. The interview data provided much needed knowledge about how experienced PPP professionals interpret and view governance and management of PPPs in the operations phase. As Australia is generally considered a leading PPP country in the world, this new knowledge about the Australian PPP professionals' interpretation is highly relevant to the literature on PPPs.

Governing PPPs in the Medium to Long-term: Interview Findings

In particular, interviewees were asked for their opinions on developments in the medium to long-term governance of PPPs over the past 25 years, the contractual dynamics for effective medium to long-term governance, the public institutional arrangements for the management of these contracts, the public capability and capacity in the oversight of PPPs, and whether the balance of transparency and accountability for PPPs was appropriate. Feedback from these interviewees is provided in the following sections before we discuss the findings and their implications, and then make conclusions.

How Well does the State Govern LTICs?

Project participants were asked their thoughts on the extent to which improvements in the governance of PPPs had occurred over the past 25 years. The overwhelming majority of participants believed that significant gains had been made. They particularly noted examples of improvements in accounting, service performance, and payment by results. Increasing standardisation of contract terms was also noted, along with increasing contractual sophistication leading to better oversight. One senior consultant engaged by the public sector commented that:

The real answer is experience. Department X has a significant level of experience now with social infrastructure projects, a complemented and expanded contract management team supported by advisors, and consultants as necessary. It's quite an educated client now. I think that's really the key. (Participant 8)

Whilst such positive views were the overwhelming response, not all participants agreed. Participant 11, a senior consultant engaged in various public and private roles, felt that the improvements varied:

Some road infrastructure that's been done as PPPs has been done well. They've put up statutory authorities, they've put up organisations that have had carriage of them, and once the work has been completed, contracts have been in place, some of these authorities have drifted away and then they're governed by their contractual arrangement with the State.... My sense is though, when politics get involved, things go awry. (Participant 11)

Moreover, not all interviewees felt that the improvements over the past 25 years had been substantial enough. One, for instance, said 'I think there's incremental improvements and changes,

but I don't think it's fundamental and I don't think it's adequate...I'd like to think that this system could be a learning experience' (Participant 10). Participant 10 likewise felt that this lack of improvement came down to an inherent power imbalance, arguing that:

What you've actually got as a dynamic is a well-resourced private sector, working with an under-resourced public sector. My view is that the private sector can usually have the public sector for dinner most of the time when it comes to wrapping them up in these kind[s] of commercial arrangements. There's too much compromise on the public sector perspective. (Participant 10)

Project participants were then asked a range of questions as to how the state currently manages LTICs. In managing public service delivery, the state needs to be able to effectively optimise value trade-offs and execute core management functions (DeLeon 1995; Van Slyke, Horne and Thomas 2005; Brown, Potoski and Van Slyke 2006). Interviewees were asked about the importance of *relationship management*, as well as whether the state had effective oversight and *management of PPP contract performance*, and whether it had the requisite expertise and capability to manage these contracts. They were also asked about the *management of contractual change*, the principles to be considered in renegotiations, and the *institutional arrangements* of state contract management units.

The Importance of Relationships to Medium and Long-Term Governance

Relational governance was identified as an essential part of governing LTICs. Interviewees were asked their thoughts on the importance of such relationships. Participant 8 noted that improvements had been made in this area, while Participant 2 stated that developing relationships and managing behaviour is essential from the beginning of a project:

There's a lot of behavioural management [that] needs to go on during that early delivery phase, and particularly over the construction period, to ensure that both parties understand the governance arrangements and the rights and obligations occurring. (Participant 2)

Another participant also highlighted the importance of dialogue, both formal and informal, in building and maintaining relationships and expressed the opinion that such dialogue was occurring in the majority of projects.

Managing Contract Performance

To gain insights into contract performance of PPPs in Australia, interviewees were asked their opinions as to whether the public sector provides effective oversight of LTICs; whether the public had the capability to ensure effective oversight, including whether the state could retain corporate knowledge effectively; and the role of performance and abatement regimes in facilitating PPP performance.

On effective state oversight, there were mixed responses. The majority of participants questioned felt that the state had adequate to good oversight of LTICs. Participant 3 considered most LTICs to be quite well-managed. Regarding road PPPs, they observed that:

Yeah they're pretty well-managed ... VicRoads effectively manages the CityLink interface ... VicRoads manages EastLink ... Where you've got a default body like VicRoads, then I think you do get that oversight, because obviously their job is to integrate that particular asset into the entire road network. (Participant 3)

Participant 6 (a contract manager from the roads sector) likewise noted that oversight of road PPPs was provided by market review meetings, reports received from the private party, verification of those reports, and assessment against key performance indicator (KPI) requirements. Participant 11 was positive, and even warned against 'over-governing' PPP assets. A director from the public sector (Participant 4) also responded positively, noting the importance of having the requisite senior resources managing PPPs in order to ensure oversight and financial accountability. Interviewees, however, noted that there were potential handover and oversight issues when specialised units handed over the management of contracts to departments after a project was completed.

The minority response from this question was that the state had poor oversight of LTICs. Participants 1 and 2 supported this more sceptical view of the standard of governance, saying that it was varied.

Mixed views were also elicited regarding the extent to which the state had sufficient capability and expertise for LTIC oversight. Participant 8 noted that public sector personnel involved in the management of PPPs in Australia generally included a mix of permanent and temporary internal employees, and private sector contractors (consultants and advisors) (see also McCann, Aranda-Mena and Edwards 2014). The majority view in response to this question was that the state did have sufficient expertise and capacity for LTIC oversight, but a strong minority view was that the state's expertise varied and that in some instances it was 'poor'.

Supporting the majority's positive view of state governing capacity and LTIC expertise, Participant 3 noted that expertise and capability did exist in government. He also concluded, though, that in the end this depended on specific individuals being around, saying:

You've actually got to look through any formal or institutional framework, but just by virtue of the fact that the same people have been working in the area, like me, for the last 20 years. (Participant 3)

Another participant from the private sector thought that the public sector had an appropriate level of capability, but questioned whether the resources could be better utilised.

Opposing this view, Participant 1 was highly critical of the public sector's capability and expertise to effectively manage PPPs, saying:

If we were ever to be critical of PPPs it's on this point, I think. Really, Government is committing to something that doesn't have the resources, the experience, anything to be able to anticipate and manage these contracts well. It's even a learning process;

we're a lot better than where we were 10 years ago, but still it's not optimal. I don't know whether it will be. (Participant 1)

Participant 4 believed that capability and expertise was often sufficient, but that it also varied. In their view, real cost constraints existed as to the level of expertise for the long-term management of PPPs. A further comment on the state's governing capacity was provided by a former senior member of the public sector and now consultant, who noted that the ratio of consultants and internal employees changes over the period of the LTIC:

What happens, and to be polite, is during the tender stage the government team will tend to both have advisors and personnel that will be called the 'A Team', you know? ... During construction the 'A Team' tends to come in from the government side, because you'll be bringing in people more familiar with the building of the particular asset that you're talking about... When you move into operations it may drop down to a Clerk 9/10 and only get raised up if there's an issue and a conflict. So in the government side, you've dropped down from senior professional executive people running the project, down to administrative clerks who are just looking at it from the point of view of processing invoices and ticking appropriate forms and so forth. (Participant 2)

Interestingly, discussions on the issue of corporate memory did not yield any majority view, and varied responses existed as to government's ability to retain corporate memory.

On the one hand, Participant 6 considered governments to be generally quite good at preserving corporate memory, but was somewhat concerned about the potential for loss of both records and continuity with institutional handover. Participant 11 agreed, saying that governments were fairly good at documenting change and record keeping. However, this interviewee also felt that 'interpretation is where things fall over. Therefore it's incumbent on everyone to document as much as they can at the appropriate time without having too much bunk¹³ in it.'

On the other hand, two other participants stated that governments did not preserve corporate memory effectively. Participant 2, for instance, noted:

The further on the project goes, the more continuity and corporate knowledge is lost, because people turnover, change, et cetera; and consequently maintaining that knowledge base going through is difficult on the government side... What's happening is, I think, that first generation are all hitting sort of baby boomer retirement age, and where's the knowledge going to be after that happens? (Participant 2)

Some participants noted the difficulty of maintaining corporate memory, particularly as there are internal departmental staff, and external advisors and consultants. Two participants argued that one of the key issues for medium to long-term governance was the need to ensure consistency, especially amidst high levels of turnover on the state side. These participants felt that there are regular re-interpretations occurring and only limited consistency between contract managers.

Participant 3 felt that there was better retention in the private sector:

I can see a role for this, of trying to actually institutionalise the understanding within government as to how you manage these contracts in the long-term.... [but] ...I say governments haven't been really effective at succession plan[ning]. (Participant 3)

Participants were asked about their thoughts on LTIC performance and abatement regimes. An important part of performance regimes was seen to be KPIs, which are a self-regulatory component of abatement regimes encouraging good behaviour (Participant 2). Participant 11 noted that performance regimes had improved; but Participant 3 commented bluntly that while there is a lot of discussion around KPIs, they are still not right. 'We tend to end up with some bizarre outcomes', they said.

Several participants identified issues with the management of performance and abatement regimes, and particularly noted enforcement as a concern. Performance indicators were identified as being not necessarily clear and enforceable, and possibly subjective from the view of either the private party or the state. This may be due to performance indicators being proxies for the aspect of performance being measured or else due to the information itself not always being available. Participant 2 noted the resource cost to the state where there is 'nit-picking' of the abatement regime, particularly as what is being measured may no longer be that important if the service has evolved.

Managing Contractual Change

An essential part of the medium to long-term governance challenge is the process of managing contractual change and renegotiation (see table 1). Differing views were again obtained from the participants on how well this aspect of PPPs was being handled. At one end of the spectrum, Participant 1 considered contract change to be very much determined by the up-front development of the contract, saying:

I think once two relatively well-informed and well-advised parties enter into a contract... they put in place the change mechanisms they think will deal with everything that's foreseeable, and then they sign the contract and they put it in place. I don't know how you can retrospectively change the contract.(Participant 1)

At the other end, Participant 6 had the opposite view, commenting:

You're in a perpetual state of renegotiation for however long the contract is because something won't quite be right, or some new technology will come along, or someone will think about a different way of doing it. (Participant 6)

Some participants' comments were unsurprising. One participant, for instance, noted that from the private sector's perspective, the biggest consideration in undertaking renegotiations was whether the renegotiations posed a risk to returns on equity. Other public sector participants stated that renegotiations should be guided by principles of ensuring VfM and consistency:

Ultimately you always want to make sure that the risk profile of the project doesn't inadvertently change. It's all about who manages what risk and so on. You need to

continually check and make sure that you are not, over time, finding that the private sector has worked out how to wind the deal back such that you find you have got a deal which is much less... attractive than it was. So that is a guiding principle at all times— making sure that the value proposition is still there. (Participant 8)

I think another guiding principle is ensuring consistency. So, for example, in Victoria we have a system of 13 or 14 prisons. Within that you have a range of different delivery models with various different contract types and parties involved alongside a range of public sector prisons. Over all of these you have the Commissioner who sets the service delivery obligations that apply to all prisons. A guiding principle is that consistency is required to apply to all. (Participant 7)

Surprisingly, this inflexibility was a significant concern for some participants. Participant 3, for example, argued that:

You don't have the same flexibility with PPP that you would have with a prison that was being operated by the government... [I]f you have a PPP model it is very much a black box. It's a set and forget for a period of time. You've got to be in a position where you understand that lack of flexibility is part of the model. Then you've got to balance that against the value for money you get by virtue of fact that usually, they are much cheaper to operate. (Participant 3)

Similarly, Participant 10 noted that this lack of flexibility and a commitment to long concession periods significantly fettered the discretion of future governments as to public service infrastructure investment, saying:

The discretionary dollar that's available to government is starting to shrink quite significantly because you have to make these... payments...I don't think anyone is keeping the score on how much money is actually being committed in advance against the public purse... What you've got is significant, ongoing obligations going out into the future, and not a great deal of detail about what they are and what they consist of and their net present value...So somehow the balance has got to be flexibility to adapt, with comprehensive information around how the project is going and whether or not what's being done is what's supposed to be done. That balance is rarely achieved. (Participant 10)

Institutional Arrangements for Contract Management

One important issue identified in the limited literature tackling medium to long-term PPP governance has been the formal institutional arrangement established (Wilson, Pelham and Duffield, 2010). Here, our interviewees put forward two major viewpoints: firstly, concerning the institutional arrangement; and secondly, the strong link between the up-front initial 'transaction' work and the effectiveness of later PPP governance. This section discusses the first point, whilst the next section covers the second.

Participants offered little commentary by way of model institutional arrangements. At the time of interviews, the Victorian government was in the process of canvassing the idea of a centralised administration unit to oversee PPP governance (contrasting the Partnerships Victoria role which mostly focuses on procurement), and this was supported by one private sector participant on the

basis that a common approach could potentially produce more consistent outcomes in managing PPP contracts.

Our own further research on institutional arrangements for seven PPP cases revealed a range of organisational configurations. These are shown in table 2, below.

The institutional arrangements uncovered were revealing. For a start, information regarding the institutional arrangements for governing PPPs was disappointingly obscure and difficult to determine. Progressing past this difficulty, however, two aspects were prominent. First was the evolutionary nature of the minority of governing institutions, compared to the relative stability of the institutional arrangements for governing the majority of PPP cases. Second was the central question of the range of institutional arrangements put in place to govern LTICs and the models considered most effective based on experience.

On the first question of changing institutional arrangements, the initial three case studies saw formal governance responsibilities changing significantly. They began initially as governing simply to ensure project delivery, but evolved over two decades to encompass the broader matter of governing ongoing arrangements. In the first two transport cases, for instance, governing bodies began life as statutory entities, evolved into departmental bodies, but then further evolved back into statutory entities. Their responsibility, however, changed from initially being solely focused on project delivery, to later having broader responsibility for all major roads or for all public transport, respectively. Likewise, the hospital case study governing arrangement transformed from originally being a Board oversighted by a project steering Committee, to later being a Board solely reporting to the Minister. Contrasting this, however, were the more stable arrangements employed by the latter four case studies. In each of these, the governing entity was a government Department and there was little formal change to the arrangements over time.

Table 2: Institutional arrangements for governing Australian PPP projects in the short and long-term.

Project	Initial governing arrangement		Intermediate governing arrangement		Med-long-term governing arrangement Type	
	Institution name	Type	Institution name	Type	Institution name	Type
CityLink	Melbourne CityLink Authority	Project delivery statutory entity	Department of Roads	Department body	VicRoads	Victorian roads management statutory entity
Royal Children's Hospital (RCH)	RCH Project Board, project steering committee and project control group.	Board reporting to the Minister	NA	-	RCH Operation Board	Board reporting to the Minister
Southern Cross Station	Southern Cross Station Authority	Statutory Authority	Secretary of the Department of Transport	Department Body	Public Transport Victoria (PTV)	Statutory authority
Melbourne Convention Centre	Major Projects Victoria (MPV) Department of Economic Development,	Department Branch			Contract administrator within the	Department team
S A M E						

	Jobs, Transport and Resources				Development, Jobs, Transport and Resources	
Prisons (Fulham Correctional Centre and Port Phillip Prison)	Corrections Victoria	Business unit of the	NA		Corrections Victoria	Business unit within
		SAME				
		Regulation.				
Desalination Plant	Department of Environment and Primary Industries Capital Works Division	Department			Department of	Department team
		SAME				
					Works Division	
Cross City Tunnel	The Roads and Traffic Authority (RTA) (plus Minister and four other public sector organisations).	The RTA was an amalgamation of the			Roads and Maritime Service	The RTA was merged with NSW Maritime to
		SAME				
		Department of Motor Transport, and the Traffic Authority.				Services in 2011.

On the question of typical institutional types employed to govern these Victorian and New South Wales PPPs, we identified three predominant institutional governance models: independent statutory authorities, department governance, and board governance. Statutory authorities were commonly observed in the transport sector.¹⁴ Department body governance arrangements for medium to long-term governance were observed particularly in one-off projects where a procurement team managed the project delivery before responsibility was transferred to the procuring department. For example, PPP prisons in Victoria were largely managed by a business unit within the Department of Justice which oversees both public and private prisons. Conversely, in the health sector case, a board was the governance arrangement.

Overall, this research indicated that there was no single dominant type of institutional arrangements for public governance of LTICs. Further, responsibility for LTICs and the formal institutional arrangements of the governing body of a PPP can change throughout the concession period, particularly after project delivery has been completed.

The Importance of the Up-front Process

The second viewpoint expressed strongly by participants concerned the link between the up-front transaction work and the effectiveness of later PPP governance. The participants noted 'a disproportionate level of investment in the up-front transaction, versus then what happens after', as Participant 4 expressed it. A number of other participants likewise noted the enduring impact and importance that the up-front process has on the medium to long-term governance of LTICs. Participant 10, for instance argued that:

A lot of what happens in the medium to long-term is actually impacted by what happened at the initial stages of a particular project - whether it's the quality of the people that are involved, it's the political dynamic which actually created the project and pushed it through, or whether it's the compromises and all the documentation that's actually made available in regard to value for money. (Participant 10)

Participant 11 reiterated this point in response to a question on whether government has the capability to manage LTICs:

It's what happens at the start of the process. How much time is there to get the specification right, get the scope right, get the frameworks right, get the risk allocation right, get the review mechanisms right. If the time goes into getting that right, then my sense is that there is a much better outcome in relation to the project and then in ongoing operations off it. (Participant 11)

Transparency

It has long been held that contracting for public services should be governed by normative principles of good governance such as equity, transparency, accountability, ethical behaviour and effectiveness (Bovaird 2004; Brinkerhoff and Brinkerhoff 2011). As the scope and scale of contracting-out public services has increased, so has the potential for such values to be undermined. To critics, any bureaucratic discretion in contract decision-making or administration has also opened up the possibility of weakening such values. Put bluntly, the concern is that private contractors are not subject to administrative law norms or other public sector requirements, with the result that traditional administrative justice principles may require a level of disclosure and accountability to the public greater than that offered through the private contract realm (Benish 2014).

Transparency is therefore fundamental in PPP governance. It is also fundamental in assuring public confidence in these long-term public service contracts, by showing that the state has acted both justly and efficiently. With a background of historical criticisms that PPP financial information has often been severely restricted on the grounds of commercial-in-confidence, interviewees were asked whether the balance of transparency in the governance of PPPs was currently appropriate.

Interestingly, participant responses to this question were split evenly, with half seeing the current balance as adequate and half saying that greater transparency was required. The first group supported the current balance and even saw PPPs as much more transparent than other forms of public service contract delivery, stating:

I think if you look at all the other forms of major project procurement available to Government at certain times it's still top of the tree. Is it optimal? Possibly—oh look, it's got to be pretty close. (Participant 1)

There's more oversight and scrutiny from the media, from independent regulators et cetera on PPPs than you will find for the delivery of a normal government asset with services associated with it. (Participant 2)

Those arguing for more transparency overwhelmingly adopted the logic that greater transparency was needed because there was a lack of public confidence in PPP delivery, saying:

I don't think we have the balance of transparency right if we recognise that there is still an inherent level of misunderstanding in the public about public private partnership contracts. So I think transparency can, or disclosure can, build a level of confidence and I don't think that that level of confidence... [is] there yet. (Participant 4)

One interviewee argued for more transparency and even felt that the private sector should forego commercial-in-confidence protections when contracting with the public sector:

I understand why there are commercial type issues included in there, but these are special kinds of contracted-out payments that are being made or being undertaken. They are services that are being delivered to the public...

I think when you deal with the public sector, I think this idea of commercial-in-confidence doesn't work. You actually should be declaring what's been paid over and what's been received for everything to be able to demonstrate value for money, and I can't see that happening. (Participant 10)

Participant 8 was less certain. They did not want to sit in either camp, but eventually conceded that greater transparency was needed to gain the confidence of citizens. They commented that:

I'm not too sure. It is a balance between the public's right to know and commercial-in-confidence, intellectual property ... but I suspect that we need to go further in terms of transparency because... the public doesn't have confidence. (Participant 8)

Discussion

How might we summarise the views of these expert industry participants and what can be learned from our interviews? There were some confirmations of views expressed in the literature and some surprises as well. There were also widely differing views as to how well Australian states are performing in terms of medium to long-term PPP governance. Seven lessons were evident.

Firstly, participants generally agreed that after two decades of experience, we are now managing and governing PPPs better; apart from one powerful outlier who, from the perspective of an overview body, argued that the private sector continued to take the public sector 'for a ride'. With most participants coming from inside the PPP 'industry', perhaps this view is not surprising, and is largely a confirmation of previous observations (Hodge and Duffield 2010). Participants also confirmed findings in the literature that the public sector requires high quality contract management skills to ensure satisfactory VfM outcomes and skilled contract managers to oversee PPP contracts (Edwards et al. 2004). Again, this was relatively unsurprising. What it does confirm again, however, is that our PPP practices are changing over time, particularly in respect to governance practices, and that evaluating PPP arrangements is a moving target (Hodge and Greve 2016).

Secondly, and more of a surprise, though, was the finding that participants' opinions varied as to whether the state was at present adequately overseeing, or was even capable of adequately overseeing, current contracts. Paradoxically, many interviewees argued that there was adequate oversight by the state, while at the same time commenting that the state's PPP contract managers did not have sufficient capability and expertise to do the task effectively - the concern being that the state provided an up-front 'A' team, but only a 'B' team to oversee operations later on. The ability to retain corporate knowledge was an additional concern. This again confirms the arguments of critics concerned with the capacity of the state to oversight the public interest. It also confirms that as PPP contracts become more complex and sophisticated, the 'A grade' skills required by the state for the up-front transaction are also needed for the whole-of-life time governing process.

Thirdly, interviewees were concerned about the effectiveness of KPIs as well as the enforcement of performance regimes. This was - in their words - despite a lot of discussion. So, whilst the general use of performance indicators as part of governing public sector work has been discussed for some time (Carter 1989, Hodge 1993), we still have some way to go in successfully adapting their use to the field of monitoring PPPs (Lawther and Martin, 2014). Perhaps we also have some way to go in accepting their limitations as a management and governance tool.

Fourthly, participants were evenly divided on the adequacy of transparency, with half arguing that the current regime provided an appropriate balance and half favouring greater transparency on the grounds that commercial confidentiality had alienated the public. Perhaps this is not particularly surprising considering that citizens plainly observe the inherent tension of commercial and democratic legitimacy in the public management of these LTICs, but the clear variation between personnel from within the PPP industry itself was fascinating. Such criticisms have been long held and widespread (Ortiz and Buxbaum 2008).

Fifthly, our research also showed that there was no single dominant type of institutional arrangement for the public governance of LTICs. Moreover, it noted that formal institutional arrangements governing PPPs sometimes changed markedly throughout the concession period, particularly after project delivery had been completed. As was indicated by Participant 6, handovers from one governing body risk the loss of corporate memory.

Sixthly, a number of participants also noted that many medium-term governance issues are determined by the up-front arrangements, and that the importance and influence of the initial arrangements cannot be overstated. This confirms views from the literature and indicates the inherent fundamental challenge of 'getting the contract right' initially (Hodge and Bowman 2004, 205).

Seventhly, a further element evident through these interviews was related to the broader policy question of the limited flexibility inherent in the PPP model. Participant comments on this matter verified views in the literature regarding this inherent inflexibility and, paradoxically, the inevitable need to renegotiate the contract in due course.

Such renegotiations pose a big challenge.

These seven discussion points and conclusions were sobering when viewed against Australian PPPs, which continue to be seen by many as if they were a 'depoliticised' project matter (Willems 2016). The evidence from this paper contrasts the claims of project financiers and policy advocates. Whilst not nearly as bad as some critics have suggested, the findings still presented some serious concerns for governments contemplating PPPs in today's turbulent economic climate. They are also sobering reflections in a policy world in which both finance market concerns and project finance advice are becoming louder over time, and risk being louder than the democratic concerns of citizens; Willems et al (2016).

6. Conclusions

Governing long-term infrastructure contracts is just as challenging as building public infrastructure in the first place. Our expectations of the state to govern democratically in the long-term public interest are clearly in tension with the need to maintain responsible commercial behaviour. As a consequence, debates will continue around the legitimacy of long-term contracts as a governance tool. Likewise, the management of the long term contract during the operation phase is also filled with challenges.

This paper asked two research questions about organizing medium to long-term governance, including contractual governance and institutions, and on the operations phase. The empirical basis included interviews with eleven PPP professionals in Australia, a country with a significant long-term experience with PPPs compared to others.

Our main findings are these: After two-and-a-half decades, expert opinion on Australia's experience is varied regarding the degree to which the state is capable of, and actually is, governing PPPs well. Interview respondents from inside the PPP sector argue, ironically, that the state is adequately overseeing LTICs, but at the same time that it does not have sufficient expertise to do the job. Interviewees were also divided equally on the adequacy of current transparency arrangements, with one half seeking greater transparency because it would improve the legitimacy of PPPs in the eyes of citizens. This was an important acknowledgment from the interviewed PPP professionals. Interestingly too, there are clearly multiple ways of establishing institutional arrangements to govern PPPs nowadays, and no single dominant model exists based on our interviews. We detected seven lessons that could be learned from the Australian experience with governance and management in the operations phase: (1) PPPs are governed and managed better after the state's long experience. (2) The capacity of oversight is to some extent considered sufficient, but paradoxically, the level of management skills was doubted. (3) The usefulness of KPI's for PPP governance may have been overestimated. (4) Transparency is still a hot issue, with some PPP professionals arguing that transparency has increased while others warn against commercial confidentiality clauses. (5) There is no single dominant type of institutional arrangement for LTICs. (6) Up-front arrangements and getting the contract right is important. (7) Flexibility and renegotiation continues to challenge PPP professionals.

The question is whether governments bringing reforms to PPP practices have been thinking sufficiently enough about medium to long-term governance issues and the challenges they present.

There are two final points to make here. Firstly, whilst a range of institutional governing arrangements have been adopted, these do not of themselves appear to greatly influence the long term operational outcomes of PPPs. Of far greater importance on the operational outcomes achieved in PPPs is the influence imposed by the expertise (or lack thereof) of contract administrators and the ongoing difficulty in prescribing and administering adequate KPIs.

Secondly, getting the initial contract right up-front remains crucial. The upfront drafting of the agreement establishes and directs the conditions for governing and managing in the longer-term and in the operations phase. Paradoxically, it also sets the groundwork for challenging renegotiations, given the inevitability of changing circumstances. As Weihe (2010) remarked with prescience, better resourcing for the management of PPP contracts over the entire concession period may even be required to ensure effective cooperative relationships in achieving long-term VfM.

Endnotes

1. In the US, PPPs may be one way a stretched infrastructure sector can be rescued, according to Geddes (2011).
2. Such rules may be either publicly or privately created.
3. Australian examples here include the CityLink (Melbourne) and M4 (Sydney) road projects where traffic demand was shifted to the private sector. The (former) Deer Park Metropolitan Women's Correctional Centre prison (core and ancillary prison services were provided), and the Latrobe Regional Hospital (patient demand as well as full medical services were provided) are examples where full service provision was provided by the private sector.
4. Examples of high profile Australian PPP 'failures' include the Deer Park Metropolitan Women's Correctional Centre prison (which returned to public ownership in 2000), the Latrobe Regional Hospital (which returned to public ownership over 2000-2002), the Sydney Cross City Tunnel (which went into administration in 2006 and 2013) and Brisbane's CLEM 7 Tunnel (which went into receivership in 2011).
5. Examples of such recent PPP availability payment arrangements include the Peninsula Link in Melbourne, Sydney's WestConnex, the Royal Children's and Royal Women's Hospitals in Melbourne, and the Hopkins correctional services in Victoria.
6. With PPP investments occurring mostly since the mid-1990s, and with concessions generally extending over 25 years, it will be some time until detailed evaluations can be conducted.
7. Two examples of opposing VfM studies suffice. At one end, Liu et al. (2014) present a handful of international assessments claiming up to an incredulous 50% cost saving over traditional delivery methods. At the other end, Shaoul (2005) reveals several UK refinancing scandals, a litany of VfM appraisal methodology biases, and the colourful accusation that highly profitable investments were being engineered for private companies with 'a post tax return on shareholders' funds of 86 per cent'.
8. Ng and Loosemore (2007) suggest that this controversy will continue until there has been a sufficient number of detailed studies examining the entire life-cycle of PPPs. Alternatively, Hodge and Greve (2015) argue that these debates are likely to remain with us for decades to come and are unlikely to ever be resolved. This is because performance itself is so multi-dimensional, because of the technical difficulty of evaluations in the first place, and because VfM has such a broad meaning – so as to almost be a personal judgement.
9. The Australian Commonwealth Government, for example, transacted on average over 67,000 contracts each year in the period from May 1993-January 2005 (Hodge and Mulgan 2008).

10. It is little surprise that LTICs will not be regarded as trustworthy investments in countries where citizens cannot take their government to court and win. As one anonymous London fund manager said, 'he wouldn't invest in Russia until someone demonstrates that a court case can be won against the government' (Alves 2009).
11. Using an alternative lens, governments are expected to act both legally, as well as meeting broader societal expectations and norms.
12. Chung (2016) is one impressive exception here. She reported success in the case of Sydney's M4 tollway concession cycle, when the asset was handed back the state. This was despite visible contract uncertainties. Limited progress on assessing VfM over the whole of asset life cycle, however, was also found.
13. Presumably meaning excessive documentation.
14. The Melbourne CityLink Authority was established to oversee the delivery of the CityLink road before the responsibility for the road was ultimately transferred to VicRoads. Southern Cross Station Authority was established to oversee the delivery and operation of the Southern Cross Station redevelopment before its functions were ultimately transferred to Public Transport Victoria.

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Title:

After the Ribbon Cutting: Governing PPPs in the Medium to Long Term

Date:

2017-09-01

Citation:

Hodge, G., Boulot, E., Duffield, C. & Greve, C. (2017). After the Ribbon Cutting: Governing PPPs in the Medium to Long Term. AUSTRALIAN JOURNAL OF PUBLIC ADMINISTRATION, 76 (3), pp.330-351. <https://doi.org/10.1111/1467-8500.12239>.

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