PUBLIC-PRIVATE MIXES AND PARTNERSHIPS:
SOME AUSTRALIAN CASE STUDIES

Roger Wettenhall
Centre for Research in Public Sector Management
University of Canberra

Abstract:

This paper is in a sense a sequel to the one presented at the EROPA General Assembly and Conference in Hanoi in October 2005 (Wettenhall 2005b). As a contribution towards thinking about mechanisms for achieving MDG goals, that paper questioned the widespread current use of the term Public-Private Partnership (PPP) and sought to identify the conditions that are necessary before a mix of public and private efforts and energies can become an effective PPP that provides fair protection for the interests of both public and private "partners".

The present paper briefly reviews the argument in the earlier paper, and then describes three Australian public-private mixing arrangements that appear to have been reasonably successful and to have avoided the main problems of the more usual private-funding-of-public-infrastructure contract arrangement. These cases are drawn from the service-delivery fields of railway construction and operation; provision of water, sewerage, electricity and gas services; and road safety promotion. The emphasis is on what makes these cases distinctive, and the paper seeks to answer the question whether they can be considered to be genuine partnerships. If so, it may be that they have model value for wider use.

Introduction: PP mixes versus PP partnerships

The argument presented in the 2005 paper was essentially that the term "public-private partnership" (or "PPP") has become hugely popular in international discourse about public sector management over the last decade, but that it is used with a high degree of imprecision.

The popularity stems from the circumstance that the older major public sector reform slogan words "nationalisation" and "privatisation" both attracted strong supporters and strong opponents, and that they had created a great deal of political and economic controversy. The first – leading to the creation of a huge public sector -- had become
discredited, and there was considerable evidence to suggest that the second – seeking to replace it with a huge private sector -- was losing its attractions too. Then came the powerful suggestion that we could take the best elements of both the public and the private sectors and put them together in "partnerships" that would not only have great value in discharging functions important for the development and ongoing operation of our states and communities but also take away the old political and economic controversies. The implication was that we were moving towards a new utopia!

But the historically minded among us were soon pointing out that, as with contracting out, public-private mixing had been around for at least 2000 years even if it had not previously been a dominating concept. So much so that there was already a massive experience, but it had been little studied (see Wettenhall 2003a, 2005a).

So the question whether all such mixes were partnerships had scarcely been identified. However it emerged forcibly when the mixing became a major creed of public policy reform, and governments in Britain, the Australian states and elsewhere came to the view that they could use private funding massively to establish new public infrastructure and/or maintain older public infrastructure. Thus, it seemed, they could avoid the funding themselves, anticipating that the revenues received would eventually repay the private firms for their investments, with the facilities reverting to the state at a later date when all this had been settled. Most of the risk would be assumed by the private firms because of the many advantages the scheme would bring to them, and the contracts involved would clearly define and delimit the responsibilities of government and the associated firms in a way that would be fair to both.

This was the rosy view of the process, and to be sure some such arrangements appear to be heading towards successful outcomes. But experience with others has led to a less rosy view. The doubts soon emerged, and we have been hearing them frequently and in a variety of contexts as the PPP practice has become better known and more widespread. It is argued, for example, that:

- governments do not have sufficient financial and commercial expertise to match the involved corporate enterprises in ensuring that the public sector is treated fairly in the very complex contract negotiations needed to get a project under way – in bigger projects, these enterprises are often consortiums associating merchant banks with experienced construction companies;
- when risks are analysed dispassionately, it often emerges that the public sector bears most of them, and has to bail out the private "partner" when costs escalate or less-than-expected revenues are earned;\(^1\)
- the big private "partners" have huge political clout so that processes designed to monitor their performance are compromised;
- though the facilities are notionally still "public", more traditional forms of accountability no longer operate.

This is not to deny that there are some successes, and much effort is being invested today in working out the criteria for effective use.\(^2\) Nonetheless the public record is littered with reports by auditors-general and academic analysts and general press comment drawing attention to weaknesses of the system both potential and actual. So observers come to question whether these arrangements really do constitute partnerships. Certainly they are mixes, but unless the arrangements focus on collaboration, mutuality and trust between the parties involved, rather than
competition for gain among those parties, they can hardly be partnerships. And for this to happen, as one strong critique suggests, they require a structure that gives "concrete expression" to the collaborative arrangement "through the creation of an organizational structure (such as) a partnership board or forum" (Lowndes & Skelcher 1998: 314). But usually they do not do this. Therefore the critics assert, for example, that most of these schemes simply represent "privatisation by stealth" (van der Wel 2004); the term PPP needs to be seen as a replacement for the old Thatcherite use of the word 'privatisation'. The vast majority of PPPs are not partnerships in any legal sense, but simply contractual relationships (Hall et al 2003: 2).

The work I have mostly been involved in has had a somewhat different base. It has moved from studies of public enterprise management through the privatising policies of many governments that have led to a fairly drastic reduction in the number of public enterprises around the world. A significant finding has been that the so-called privatising acts often lead not to clear-cut transfers from the public to the private sector but rather to public-private mixes of one kind or another. I have felt that these mixes require much deeper analysis than they have mostly received. And so, in common with critics such as those mentioned above, it now seems to me to be very important that we should, with so much experience both long-term and recent, ask seriously what conditions are necessary before we can conclude that a partnership has been established that brings mutual advantage to both sides of the equation.

As a contribution to this endeavour (see also Wettenhall 2003a, 2005a, 2005b, forthcoming), I now present case studies of three Australian public service delivery schemes that involve public-private mixes. While they differ greatly in type and scale of operations, all three seem to me to come closer to meeting such conditions than the vast majority of infrastructure deals that are commonly described as PPPs.

**Australian Case Studies**

**1. Railway Extension: The Alice Springs-to-Darwin Railway**

Australia now has two continent-spanning railway systems. The first, from east to west, was developed in the second decade of the 20th century. The second, from north to south, followed over 80 years later, as the 20th century turned into the 21st. In their conception and objectives they have much in common. However, in the methods of construction and operation they are worlds apart, demonstrating the vast distance our beliefs about infrastructure development have travelled over the intervening period.

The first was, for over 80 years of its existence, all public. The second displays a complex mix of public and private components, and provokes in full measure those questions about whether such a mix can be a partnership.
East-west

The first involved the carrying out of an unwritten promise made to the State of Western Australia at the time of Australian federation in 1901 – to connect it to the major Australian population centres in the east by a Transcontinental Railway. The Western Australian railway system then ran east from the state capital, Perth, to the mining town of Kalgoorlie, and the connected railway systems of the eastern States ran as far west as the South Australian town of Port Augusta. A new line 1,681 km long was required to connect Port Augusta and Kalgoorlie, over flat desert land with no mountains to climb, no valleys to bridge and no towns within it, called the Nullarbor Plain because of its treelessness: in one stretch described as "the long straight", the line as eventually constructed runs for 478 km without a curve. The work was undertaken during the World War I period by the Department of Works and Railways within the Commonwealth government, employing (and having to accommodate and feed because of the absence of existing settlements) 3,500 workmen making much use of camel teams for transporting necessary equipment and even ploughing the ground in preparation for the laying of sleepers. The minister heading the department made frequent personal supervisory trips to the various worksites, and it was financed from taxation revenues and loans raised by government. It was opened for traffic in October 1917, and in that year the Commonwealth parliament legislated to establish a statutory corporation under a single commissioner (the Commonwealth Railways Commissioner) to operate it. The corporation's charter soon extended to embrace new outback railways constructed to connect the then South Australian system with Alice Springs in the southern part of the Northern Territory, and a short line south from Darwin much further north. These were harbingers of a hoped-for north-south through connection, and the train on the Port Augusta-Alice Springs service was the original "Ghan", named after the Afghan camel-drivers who had been so important in the development of these outback connections.

This was classic developmental public enterprise. Given the sparse population of the areas served, it was never likely to be profitable, and it provided some early lessons about the need for owning governments to make compensatory payments to operating corporations responsible for functions that would later come to be described as "community service obligations" (Wettenhall 1966: 404-406). This corporation took quick advantage of the completion of a standard-gauge rail connection between Sydney and Perth in 1970 to open the Indo-Pacific through-train service. Then, in 1975, the Commonwealth government acquired the Tasmanian and non-metropolitan South Australian rail services and combined them with its own rail services in a new managing statutory corporation, the Australian National Railways Commission. Later still, as the privatisation movement built up around the world, some imaginative financial engineering enabled the owning government to sell this network to private interests in 1997.

North-south

As with the east-west connection, the idea of a northsouth connection had its source well back in Australia's European history. Darwin's early settlers were faced with a
coastal steamer trip from the main eastern Australian settlements of over 5000 miles, and the first proposal for a transcontinental line from Adelaide to the tropical north has been traced as far back as 1858. Self-governing since 1857, South Australia (SA) had just assumed control of the Northern Territory (NT), and before the end of the 19th century it had pushed its own railway enterprise northwards as far as Oodnadatta and, at the NT end, begun the south-from-Darwin line. But financial constraints always operated to postpone faster development, and the SA government opted rather for the construction an Overland Telegraph Line to link Australia with the undersea cable which arrived in Darwin from Java in 1872; this was said to be "the largest infrastructure development in Australia of its era" (A/ARC 2004a) and, like the early railway projects, it was heavily dependent on the work of Afghan cameleers.

Disillusioned by the costs of administering its "northern colony", SA transferred the NT to the Commonwealth government in 1911 and, as noted, the north-from-Port-Augusta and south-from-Darwin lines eventually became part of the Commonwealth rail corporation's network. The need to move troops and supplies during World War II produced new suggestions for closing the 1000km gap between Alice Springs and the southern end of the NT rail line – and so completing a north-south line – but instead the connecting road was sealed, leaving (in the words of the eventual rail supervising authority: A/ARC 2004a) "the legacy of a major infrastructure project to the Territory". 10

The NT itself became self-governing in 1979.11 Declining local business (and of course the absence of through-business) had already seen the closure of the south-from-Darwin line, with its tracks eventually pulled up. But suggestions for a through-line continued and, after completion of conversion-to-standard-gauge of the Adelaide to Alice Springs line in 1980 (it now separated from the east-west line at Tarcoola, west of Port Augusta), the NT Chief Minister complained bitterly about "the missing link". The Commonwealth now pledged A$10 million for preliminary work and design for an Alice Springs-Darwin connection. But deadlines set for construction were not honoured, and a serious cost-benefit evaluation in 1992 gave a pessimistic view.

Now, however, the NT's economy was growing steadily, its government was significantly improving port, road and other infrastructure, and the role of the Territory as Australia's gateway to Asia was being increasingly demonstrated – Darwin is closer to Singapore and Jakarta than to Sydney and Melbourne. In 1995 the NT government signed a memorandum of understanding with its counterpart in SA, establishing the basis of a joint governmental approach to advancing the cause of the railway connection. The Commonwealth, no doubt relieved that the sub-national governments were taking primary responsibility, agreed to make a significant financial contribution; it would soon establish a Federation Fund to finance projects that would help commemorate the centenary of federation in 2001, and that would become the source of its contribution (Fischer 2004: 38).

With these agreements in place, events moved swiftly. A 1996 statute of the NT Legislative Assembly, supported by complementary legislation of the SA Parliament, provided for creation of a statutory corporation to be known as the AustralAsia Railway Corporation (A/ARC), and the corporation was duly established in 1997.12 It operates under a board appointed by the relevant NT minister comprising two persons to represent the NT interest, two on the nomination of the counterpart SA minister to
represent the SA interest, not more than four others following agreement by the two ministers, and a chief executive officer (CEO) appointed by the board but only on the recommendation of the two ministers. The SA minister is also required to be consulted before a ministerial direction can be given to the board. The reservation on the board's power in relation to the selection of the CEO might suggest a fairly closely controlled statutory corporation, and the CEO chosen in fact doubles as Chief Executive of the NT Department of the Chief Minister. On the other hand, its separation from central government is entrenched by provisions (a) that it is to be staffed independently of the NT public service and (b) that its borrowings are not guaranteed by either of the involved governments.

Marking the major change from the full-public-ownership ideology under which the east-west railway was constructed, it was never intended that this corporation would construct or operate itself. A/ARC would hold title to the land corridor along which the new railway was to be constructed, manage the awarding of a build-own-operate-and-transfer-back (BOOT) concession, and enter into contractual arrangements with the successful consortium. The NT statute provided further that A/ARC would build the proposed Commonwealth contribution into the project, monitor construction and operation in accordance with stipulated requirements (eg on heritage, Aboriginal and environmental issues), and handle financial dealings between the consortium and the governments (such as grants and dividends). A/ARC's mission not only covered the new line from Alice Springs to Darwin but also extended to the lease and maintenance of the existing 830km line between Tarcoola and Alice Springs (A/ARC 2004b).

In June 1999 the Asia Pacific Transport Co., described as "a consortium of partners with vast experience in transport and related industries", won the commercial tender to design, construct and operate the railway. It then sub-contracted with other companies: ADrail as the design and construction contractor, and FreightLink as the operating arm for the freight business. Great Southern Railway Ltd became the passenger service operator.

The contractual structure was very complex, with over 300 documents and dozens of separate signatories required, including agreements between the three governments and between them and this supervising corporation, documents forming design and construction joint ventures between the various private parties within the consortium and regulating their investment in the project, and a variety of debt financing and operation and maintenance documents. Importantly, A/ARC has negotiated a detailed Concession Deed which seeks to deal with all risks identified as having the potential to arise during the project, and balance those risks by apportioning appropriate responsibility for them. The railway would transfer back to the NT and SA governments "as a public asset" after 50 years (A/ARC 2003a, 2003b; Martin 2004).

The 1420km Alice Springs-Darwin link took about two years to construct. The workforce of about 1500 benefited from technological aids not available to those involved in earlier generations of Australian railway construction; nevertheless they battled severe climatic conditions. As one reporter explained:

Out in the field, conditions are unforgiving. The men who have built 90 bridges and made 1500 culverts have had to contend with daylight temperatures of up to 50°C. In summer, track-laying started at 2am because the machinery became impossibly hot during the day. In the wet season, the northern crew downed tools for three months because their labours would have been washed
away by torrential downpours. [And further south:] Toiling in one of the driest regions on Earth, the men are forced to sink boreholes to obtain water. All year round, the dust is oppressive. It gets up the nose, in the ears, lies thick upon the tongue (Marks 2003).

Some of the land through which the railway passes is Aboriginal-owned, and the route design involved long and intricate negotiations to lease land and preserve sacred sites.

Construction was completed at the beginning of 2004, and the first 1.2km-long freight train rolled into Darwin on 17 January. The first passenger train arrived a couple of weeks later: it was now possible to travel all 2970km from Adelaide to Darwin without changing trains, and the service acquired the name “The Ghan” from the earlier Port Augusta-Alice Springs service. The cost of the project, described as Australia’s biggest infrastructure project since the building of the Snowy Mountains Hydro-Electric Scheme in the years after World War II (on which see Wettenhall 1987: ch.11), was reported as A$1.3bn.  

It is perhaps too early for serious evaluations of the project to emerge. Of course it has had its critics, such as economics professor and Melbourne Institute Director John Freebairn who is reported as having described it as an example of bad government investment (Freebairn 2006). But, for former Deputy Prime Minister Fischer (2004: 40), all the portents were good: it was an "economically defensible, freight expansionary, tourism enhancing, defence enabling, greenhouse friendly, culturally desirable and gauge sensible" project.

As indicated, there was a maze of contract documents preparing the way for the construction of this facility and the operation of services on it. This is not unusual in private-funding-of-public-infrastructure arrangements, but three factors differentiate this one very clearly from most of the others. The first is the establishment of a one-to-one relationship between an administering statutory corporation dedicated to this project alone and the relevant private constructing and operating consortium; the second the involvement of two other governments at some remove from the creating government; and the third the preparedness of this multi-party public side in the deal to contribute major set-up financing.

2. A Multi-Utility in the Australian Capital Territory: ActewAGL

My second case study describes how, after an unsuccessful privatisation attempt, a government-owned company providing electricity, water and sewerage services in the Australian Capital Territory (ACT) came together in a joint venture with a private firm providing natural gas services to establish what has been called a "multi-utility", with extensions into a range of telecommunications services.

Canberra developed very slowly as the Australian federal capital until a large-scale transfer of federal departments from Melbourne was orchestrated in the 1950s and 1960s, and in that early period such utility services as existed were provided by the Commonwealth department which had administrative responsibility for the capital territory. Reflecting the long-standing Australian liking for "hiving off" operational functions to non-departmental agencies, however, the provision of electric power moved to a statutory corporation, the ACT Electricity Authority (ACTEA), in 1961. After a long gestation period a system of self-government was installed in 1989, and
in the year before that change ACTEA assumed responsibility also for the provision of water and sewerage services. The new ACT government quickly followed a New Zealand and New South Wales (NSW) model in introducing a scheme for converting public enterprises to the government-owned company form (here to be called "territory-owned corporations"), and the ACT Electricity and Water Authority was duly converted in 1995, thereafter known as ACTEW Corporation Ltd.

This so-called "corporatisation" was a controversial issue in the Territory, but that controversy was as nothing compared with the bitter political battle that emerged a few years later when the minority Carnell Liberal government decided to privatise the enterprise. Eventually the Legislative Assembly refused to endorse that policy. But it was generally recognised that the ACT enterprise was too small to remain viable in the context of a nation-wide drive to create a competitive energy market, and so interest developed in merging it with another electricity supplier. The early candidate was Great Southern Energy, the NSW government-owned supplier serving areas of NSW adjacent to the ACT. But the NSW government showed no interest in that proposal.

A big Australian private firm that had been supplying coal-based gas services in NSW since the 1830s was heavily involved in the change to natural gas – a clean and efficient energy source – from the early 1970s. The firm was the Australian Gas Light Company (now usually AGL Ltd). By 1990 most of the gas-using NSW households had converted to natural gas, and the firm was extending to other parts of Australia. It moved easily into the ACT, and so was well-placed to enter the new public-private mixing arrangement that emerged after the collapse of the effort to privatise.

By December 1999, 29 expressions of interest in joining in some way with ACTEW Corporation had been received from Australia and overseas, and the ACTEW board determined that AGL was the only one worth pursuing. The Legislative Assembly passed an ACTEW/AGL Partnership Facilitation Act in March 2000, authorising various explorations needed before the envisaged deal could be completed and setting out conditions it would have to comply with. Action followed quickly, with Assembly committees, the boards of both organisations, the regulatory Australian Competition and Consumer Commission, independent valuers and auditors, and legal and financial advisers all involved. As with the Alice Springs-Darwin railway, many contracts were involved: both sides used national law firms, the legal fees on each side reached seven figures, and the contracts take up about 0.6 of a meter of shelf space. ACTEW's principal legal counsel commented:

法律家工作在基础上，如果合同足够广泛地覆盖任何可能的形式的恶作剧或事故，[他们]已经完成了他们的工作。无论是否所有都是甜蜜和平静，合同会积累灰尘（Macara 2006）

The documents establishing the ActewAGL joint venture were signed on 29 August 2000, and the ACT Treasurer then declared the vesting and cross-vesting of partner assets as required under the Facilitation Act. It is a complex organisational arrangement, with each of the joint venture partners (the public ACTEW Corporation and the private AGL) retaining its separate existence, discharging functions not connected with the joint venture and/or serving as a holding company for joint-venture-related activities, and reporting separately to its own stakeholders.
The joint venture is owned in equal parts by the ACT government and AGL Ltd, and it holds title to and operates the electricity and gas networks. It manages the water and sewerage services under a 50-year lease from ACTEW Corporation, which continues to hold title to them. It has also become intimately involved – there is now a joint management structure – with TransACT, a fully-connected interactive communications network in company form, developed in the 1990s on an ACTEW initiative, so extending its services into the telecommunications area. And, in part as a consequence of the integration with AGL, it has extended its area of operations into adjacent parts of the State of NSW. To facilitate establishment of the joint venture, AGL made an "equalisation payment" to the ACT government, and now dividends from its operations go equally to the ACT government and the AGL shareholders. Most of ACTEW Corporation's employees were seconded to serve the joint venture, a few remaining mainly to carry out holding company-type functions.

For the joint venture itself, there is a clear top-governance structure. Controlling authority is vested in an ActewAGL Joint Venture Board that meets regularly and reports separately to its stakeholders, the principal ones of course being AGL Ltd and the ACT government. This Joint Venture Board comprises three members each from AGL and ACTEW Corporation. Then each of the parties to the joint venture has put forward its own subsidiary companies, one retail and one distribution, to constitute two actual partnerships, known as ActewAGL Retail Partnership and ActewAGL Distribution Partnership.

Complementing all that, there are other subsidiary companies associated with one or the other of the partnerships within the joint venture, and with one or other of the parties operating outside the joint venture, to handle matters such as maintenance of the natural gas network, environmental and water resource consulting work in other parts of Australia and overseas, and dedicated activities in China.

### 3. Road Safety: The NRMA-Act Road Safety Trust

My third case study deals with a much smaller, though arguably a vital, community service, one that joins a territorial government with a long-standing civil-society organisation dedicated to promoting and protecting the interests of motorists throughout New South Wales and the ACT.

One of the parties to this mix is the ACT government, introduced in the previous case study. The other is the National Roads and Motorists' Association (NRMA), a road service organisation operating throughout New South Wales and the ACT, and the insurance organisation that grew out of it. Based in Sydney, NRMA was formed in 1920 as a lobby group with a few hundred members who campaigned for better roads. Organised as a mutual, it subsequently grew to become Australia's largest motoring body, with road service, advocacy and tourist/travel functions, also developing a motor insurance (later general insurance) business that eventually spread beyond NSW and the ACT into Victoria and Queensland. In the marketising, privatising environment of the 1980s and '90s, mutual organisations were as threatened as public enterprises, and huge pressure developed to convert NRMA into a standard commercial firm (or to "privatise" it, in the jargon of the time). After a highly destabilising struggle, the
insurance functions were broken off and demutualised, while the road service body remained in the mutual form (NRMA 1996). The insurance organisation became known formally as IAG (Insurance Australia Group) Ltd, which then expanded by absorbing other insurance operations; those it inherited from NRMA are now undertaken by a subsidiary known as NRMA Insurance Ltd.28

In 1992, before this break-up occurred, NRMA proposed to the ACT government that a trust should be formed, linking it with the ACT jurisdiction, to finance road safety initiatives for the benefit of the ACT's road-using community. NRMA would make a "settlement" of A$10m to create a fund to be invested, with interest earned financing a variety of research, investigation and education projects designed to further the principal objective, including assisting in the care and rehabilitation of persons traumatised as a result of road accidents. The ACT then legislated accordingly to create a charitable trust along these lines, the trust deed including the provision that the ACT government and the NRMA would both nominate two representatives to the trust, and that they would together nominate a fifth trustee to serve as chairperson.

Generally the Trust membership mixes people closely related to the two sponsoring organisations and persons not so related; the chairperson has always been independent in this sense. Importantly, there is no remuneration for service as trustee, and all members serve because they are strongly committed to the Trust's objectives. While the trustees are in frequent email contact, the Trust usually meets formally three times a year, around a cycle related to consideration of applications for grants and administration of the resulting grants.

The Trust employs a single official as secretary-manager; the current occupant of that position was formerly a public servant, and he actually occupies an office within the Canberra headquarters of what is now the ACT Department of Territory and Municipal Services. This proximity facilitates useful information exchanges with the government sponsor, and there is some disappointment that there is not a similar close relationship with the other, Sydney-based, sponsor. While this location may suggest a dependent role, however, no directions have ever been issued or received; at the most, the information exchanges assist the Trust in identifying projects for support that are likely to win wide acceptance.

NRMA was able to cover the initial grant to the Trust from surpluses resulting from lower-than-expected compulsory third-party claims against its insurance subsidiary in the 1980s. But that grant and interest earned on it were fully committed on projects embarked on after four or five years of operation, and the trust looked likely to be wound up. Then, however, the parties announced that a new funding source would become available to ensure the continuation of the Trust and its work. The new source was a $1.50 (later $2) Road Safety Contribution raised with each ACT motor vehicle registration, matched by a similar contribution from NRMA Insurance (ACT-NRMA Road Safety Trust 2000: 11).

From its 1992 establishment to early 2006, the Trust has allocated some A$16.3m to around 260 innovative road safety projects. It is not itself a research organisation, but it is able to commission relevant research projects and invites the community to submit funding proposals on an annual basis. Some of its projects have been aimed at groups like young drivers and their families, older drivers, non-English-speaking
drivers, drivers of bushfire brigade and emergency service vehicles, drivers with disabilities, users of gravel roads, and people recovering from accident-caused injury or illness or bereaved by road accidents; others have assisted in educational programs for bicyclists and learner-drivers in schools and colleges; yet others have evaluated the effectiveness of, or otherwise assisted in the improvement of, night-driving restrictions on novice drivers, a trial alcohol rehabilitation course promoted as a diversionary sentencing option for convicted drink drivers, breath-testing kits, speed cameras, and low-cost car first-aid kits. Not least, the Trust's media releases have assisted in keeping the ACT community aware of the need for constant vigilance by all road users (ACT-NRMA Road Safety Trust 2004, 2006).

The current chairman has indicated that he sees the Trust's strength, and therefore capability of doing valuable work, lying in the fact that it does have an organisational identity separate from that of its joint sponsors (Aitkin 2006). While it relates closely to the police and road traffic authorities and obviously accepts suggestions from them about its projects, it retains the capacity and the right to determine and publicise its own program. Of course it has an advantage denied many public-private mixes: it operates in a field where there is unlikely to be any serious argument about the value-adding nature of its work, it has a regular but unobtrusive source of income, and the private (or community-based) sponsor is not itself engaged in actual or potential competition with the public sector. So it has not been affected by the emotionally charged debates that surround many activities commonly described as PPPs.

Are they real partnerships?

The view that the collaborative nature of a real partnership needs to be given “concrete expression” through creation of an organisational structure such as a partnership board or forum has already been noted. This is, in my estimation, the top requirement that, if it exists, puts the stamp on the organisational arrangements. There are supplementary requirements that are also very important, but are unlikely to be achieved unless such a board or forum is in place. I constructed a list of these requirements from a consideration of the many existing critiques (including my own!) of the now-customary “private finance initiative” (PFI) arrangements that are so often called PPPs; the list is reproduced as an appendix. So how well are these requirements satisfied in the enterprises that form the subject of my three case studies?

This analysis begins, not surprisingly, with a consideration of the top interactive structures. In the two ACT-related cases, such structures clearly exist. In road safety, it is a simple trusteeship board made up of persons to represent the two parties but fairly clearly standing apart from them. It handles all the necessary decision-making, and works closely with (and to the extent necessary supervises) a single administrative officer. While it enjoys good and constructive relations with its sponsors, it is very conscious of its separate identity. In the multi-utility case, there is a top enterprise board made up of representatives of the parties to the joint venture, but again it stands separately from those parties, and it operates through further company structures, also separate from the parties to the joint venture, that constitute the real partnerships. In the north-south railway case, the arrangements are complex, with numerous contracts and organisations both public and private – even three governments—involved, and there are core structures on both the public and the
private sides: a regulatory authority dedicated to this particular enterprise and a core private company that manages that enterprise through several subsidiary and contracted firms. So it too is far from the vertical contractor-contractee arrangement that characterises the now much-more-usual relationships between sponsoring governments and private constructing and service delivery firms.

Because they have their own organisational identities separate from but associating closely with the collaborating parties, the two ACT-related enterprises can be seen as "multi-organisations" created to maintain and develop a subset of the broader interests of those parties in a focused manner that would not be possible if the uniting structure did not exist. This sort of arrangement has been described as a "symmetrical partnership", where individuals representing different organisations come together to pursue an agreed multi-organisational task, and are thus functionally distinguished from those who – outside the boundary of the shared task or agenda -- bear the central responsibility for the policies of the individual organisations (Friend 2006: 264-265, drawing on Stringer 1967). While there is no similar peak structure for the north-south railway, the collective structure of the enterprise is such that there can be no one dominant organisational force within that structure that can push its own interests to the detriment of the others.

These organisational features make it likely that the three enterprises represent collaborative, interactive forms of mixing; are capable of consensual decision-making; and can achieve synergies between the parties involved to the mutual advantage of all. It is not apparent that there is any serious internal competition between the parties, with one seeking to gain competitive advantage at the expense of another. While there will inevitably be a degree of subjectivity in verdicts about these matters, it is a matter of record that there have been few serious public complaints about the operations of any of them, and that – certainly in the case of the two ACT mixes – there is considerable evidence of pride and satisfaction in those operations by the staff discharging them. It is likely that all three work on the basis of mutual trust and respect among the parties, and that they therefore make a significant contribution to the stock of social capital in the communities they serve.

Final word

It is not possible to make positive judgments of this sort about many of the infrastructure schemes that are loosely described as PPPs today. There may be many other good PPPs, and it would be very valuable to identify them and examine what it is about them that makes the partnership dynamic more positive and mutually satisfying, all in the interests of better understanding this method of interactive enterprise organisation that commands so much attention today. More case studies like those of the three Australian schemes described in this paper should progress such understanding, and it may be that the design of those schemes will assist others involved in preparing schemes for the delivery of public services in the interactive public-private mode.
APPENDIX:

What is necessary for a public-private mix to become a public-private partnership?*

The real partnerships will:

• be genuinely collaborative, interacting forms of mixing,
• have horizontal, non-hierarchical relationships,
• involve consensual decision-making,
• have no single "superior" capable of invoking closure,
• have an organisational structure such as a partnership board or forum,
• operate on the basis of complementarity and collaboration,
• achieve synergies between involved persons and organisations,
• exploit respect and trust as forms of social capital.

Market-driven competition is unlikely to satisfy these conditions.

Only "relational contracts" are likely to do so.

The needs of the whole must come before those of the individual parties involved.


NOTES:

1. The analysis of one major so-called PPP project in the Australian State of Victoria suggests that, while the commercial risks in that project were mostly shifted away from government as promised in the advocacy rhetoric, huge related risks remained in "the governance domain": Hodge 2004.

2. For example, in Canada, where there has been a great deal of public scepticism, a just-released report has examined both problems and potential benefits, and proposed a set of criteria for establishing "a robust model for P3s", that being an abbreviated form of "public-private partnerships" (TD Economics, 2006).

3. Other such critiques are noted in Wettenhall 2005b. In another recent critical exercise, Weihe seeks to overcome the terminological problems by developing a classification of so-called PPPs. She begins by asserting that PPP is "a contested and ill-defined concept" and that there are "at least five qualitatively distinct approaches (to defining and understanding PPPs) in the literature". Her own approach is to suggest that, by separating out the various uses of the term, we will come to a better understanding of what is involved, and she sees "the infrastructure approach" (which includes all the BOOT – build-own-operate-transfer schemes and their variants, sale-and-lease-back arrangements and the like) as one that is heavily affected by financial considerations, with the implication that it easily loses sight of important organisational issues. In yet another recent treatment, Thynne (2006) sorts forms of "organizational interaction" into three groups: separation with cooperation, separation with cooperation and collaboration, and separation with cooperation, collaboration and conflation. For him, what conflation adds is the "fusion of state, market and/or civil society needs, goals, objectives, resources, capacity and so on", so that conflated organisations "genuinely straddle the public-private divide".

4. For further explanation and some references, see Wettenhall 2003: 67-69.

5. I use "public service" here to be consistent with the titles of this seminar (which uses "civil service") and seminar sub-theme. In many countries, however, responsibility for the sorts of services under
consideration is vested in non-departmental public bodies that may or may not be staffed as part of the civil/public service (rather than departments themselves), so that it might be more appropriate to think of "public sector".

6. Connected except for the tangle of different gauges requiring passengers to change trains frequently, not sorted out for another two generations! The map attached to this paper as a supplement shows the various railway connections described in stylised form, and also places the Australian Capital Territory in relation to the State of New South Wales, which is relevant to the other two case studies.

7. The story of the east-west Trans-Continental Railway has been related in several popular studies: the brief impressions here taken mostly from Adam Smith 1971 and 1973.

8. As noted further below, a newly constructed line extended the South Australian system northwards to Oodnadatta. However the Commonwealth Railways Commissioner took over the whole Port Augusta-Alice Springs service.

9. Facilitating this development, there was also a gradual loosening of the organisational connection between rail track ownership and rail operations.

10. This history is amplified in an entertaining book by former Australian Deputy Prime Minister and railway enthusiast Tim Fischer, written in part to celebrate the completion of the Alice Springs-to-Darwin railway. Part 3 of the book records the excitement of the arrival of the first trains in Darwin in January and February 2004, and Part 1 deals with the earlier history. That part records, for example, that, when Sir William Jervois, then South Australian Governor, turned the first sod of the north-from-Port Augusta extension in 1878, he remarked prophetically that the railway being commenced was not just to Darwin but also to "Java, India, Siam and China". It records also that South Australian Premier Tom Price "locked a north-south railway from Darwin to South Australia into the state surrender and federal acceptance legislation" (for the Northern Territory) in 1911; that 50 years later a South Australian government took the Commonwealth to the High Court for its failure to honour that promise; and that the High Court then ruled in favour of the Commonwealth on the ground that no starting date or timetable for completion had been included in the transfer legislation (Fischer 2004: 30, 33, 36-37).

11. With most of the governance functions of an Australian State, but not the constitutional status.

12. The NT statute is the creating Australasia Railway Corporation Act 1996. The complementary SA statute is the Alice Springs to Darwin Railway Act 1997, which ratifies the intergovernmental agreement, commits SA to pay its agreed share of the project expenses, and authorises the SA minister to exercise any powers conferred on him by a NT law relating to the statutory corporation to be established by that law.

13. A prominent South Australian businessman was appointed chairman.

14. It is, however, guaranteed in respect of its obligation to do certain things, or to pay certain amounts if and when they become payable.

15. The corporate position is in fact much more complex than this simple but commonly used listing suggests, and is worth spelling out as an indication of current trends (and reverse trends) in public-private mixing (details from relevant websites):

i. Asia Pacific Transport Company (APT): was previously the Asia Pacific Transport Consortium. Investors include the participants in ADrail and some others.

ii. ADrail, formally ADrail Joint Venture Company: established by several Australian private construction and financing firms (Halliburton/Kellogg Brown & Root, Barclay Mowlem, John Holland Group, and Macmahon Holdings).

iii. FreightLink, formally Freight Link Pty Ltd: described as "the operating company of APT", and claiming the ADrail parties as its sponsor partners, together with the Australian Railroad Group (ARG), a joint venture of Wesfarmers (a large WA private firm) and Genesee &
Wyoming Inc. (which owns or has interests in more than 20 railroads in the US, Canada, Mexico, Bolivia and Australia). ARG acquired the South Australian state freight rail business in 1997, described as "Australia's first rail privatisation", and subsequently also acquired the Western Australian state rail freight business; it also has some New South Wales operations. As recently as 1 June 2006, however, ARG's operations in WA and NSW were bought out by Queensland Rail, a corporation-managed public enterprise of the State of Queensland that had just celebrated its 140th anniversary: here, bucking all recent trends, was a decisive return to public ownership! As institutional partners (presumably investors), FreightLink claims National Asset Management, Colonial Investment Services and Perpetual Investments (all private) and the Northern Territory Government and the Northern and Central Aboriginal Investment Corporations (all public).

iv. Great Southern Railway Ltd (GSR): the successful bidder for the passenger rail business of the old Australian National Railways Commission when it was privatised in 1997. In 1999 it became a subsidiary of Serco Asia Pacific, a multi-industry sector facilities manager which also operates the Docklands Light Rail in London. GSR now operates the "Indian-Pacific" (Sydney-Adelaide-Perth) and the "Overland" (Melbourne-Adelaide) as well as "The Ghan" (Adelaide-Darwin).

16. Under agreements finalised in October 1999, the NT government provided A$165m, the SA government A$150m, and the Commonwealth came to the party with A$165m from its Federation Fund. Another A$79m in standby funding was provided by the three governments on commercial terms in January 2001. A later Commonwealth government compilation assessed the contributions as: Commonwealth, A$191.4; SA and NT, "up to A$367.8"; with "the rest of the estimated $1.3 billion cost ... being financed by the private sector": DOTARS 2006.

17. So camel transport was no longer needed. It is estimated that between 400,000 and 500,000 descendents of the early working camels now run wild in central and northern Australia, and there is a profitable trade in exporting some of them back to Saudi Arabia.

18. This figure was widely quoted in press reports of the arrival of the first train in Darwin on 17 January 2004 – see eg AAP 2004. See also note 16 above.

19. This section is based mostly on the Annual Reports of ActewAGL and its constituents, ACTEW Corporation and AGL, from press reports, and from correspondence with ActewAGL officials (my thanks particularly to Ian Macara, Legal Counsel and Board Secretary, ActewAGL). A fuller and more extensively referenced version of this case study is to be published soon in International Journal of Public Sector Management (Wettenhall, forthcoming).

20. The ACT is Australia's second internal self-governing territory, with a constitutional status broadly similar to that of the Northern Territory. The story of its creation in 1911, as an essential part of the Australian federal compact, and of the slow growth thereafter of the city of Canberra and movement towards self-government, is told in Grundy et al 1996.

21. Use of the word "corporatisation" in such a context was always confusing, for the enterprise was already a corporation in its statutory form. When New Zealand converted its big public enterprises to the state-owned company form and used that term, they were mostly trading departments. But when some Australian jurisdictions followed, they were mostly dealing with statutory corporations. So they were often "corporatising" existing corporations. See Wettenhall 1995 for discussion.

22. In NSW a Labor government and the conservative opposition seeking to replace it in government had both wanted to privatise the electricity industry, but the strength of public unhappiness with that proposal had led to its withdrawal. In that state, however, gas had always been privately provided. But in Victoria, a conservative government succeeded in privatising both electricity and gas, each previously provided by public authorities.

23. The ACT is effectively an "administrative island" surrounded entirely by the State of New South Wales, but the administrative boundary sits awkwardly against the mass of commercial and social communications across the border. For some relevant discussion, see Wettenhall 1998.
24. I am grateful to Professor Don Aitkin, Trust Chairman, and Eddie Wheeler, Trust Secretary-Manager, for discussing the work of the Trust with me, and for information contained in this section.

25. The title is indicative of the difficulty the Australian States have often had in fully accepting the demotion involved in the federal settlement of 1901. They saw themselves as embryo nations before that settlement, and from time to time after federation they have described their own State institutions as "national".

In the context of the argument in this paper, it is appropriate to note here that NRMA itself is sceptical about the value of what it calls "private financed project (PFP) arrangements" for new road infrastructure, its scepticism clearly based on major problems occurring with big projects in the Sydney metropolitan area. It is careful NOT to call them PPPs, and it explains that its "policy stance on how governments should finance public infrastructure is that in the current environment, where Australian governments have low levels of public debt, strong credit ratings and budget surpluses, public infrastructure should be financed using government sector borrowings in the first instance. This reflects a weight of economic analysis and opinion, indicating that the use of public sector debt to finance public infrastructure results in outcomes which are more efficient and equitable relevant to PPP arrangements and other means of infrastructure funding" (NRMA 2006: 42).

26. However the other States maintained their own mutual road service bodies known as Royal Automobile Clubs or Associations.

27. The place of the "mutual" form of organisation in evolving arrangements for ownership and management in the public sphere is considered in Wettenhall & Thynne 2005: 270-272.

28. IAG has also acquired several of the insurance operations previously undertaken by government-owned insurance enterprises in other Australian States and New Zealand.

REFERENCES:


Aitkin, Don (Chair, NRMA-ACT Road Safety Trust) 2006. Interview, 15 August.


Macara, Ian 2006. Personal communication, 11 April.


Martin, Clare (NT Chief Minister) 2003. Speech at function celebrating the joining of the new and existing lines at Alice Springs, quoted in *Canberra Times*, 19 September.

NRMA (National Roads and Motorists' Association) 1996. *Annual Report*, Sydney, NRMA. [This report doubled as the vehicle for presenting the “yes” and “no” cases for demutualisation.]


