



issues backgrounder

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NSW Parliamentary Library Research Service

Public Private Partnerships in NSW: a timeline and key sources

Defining public private partnerships

Definitions of Public Private Partnerships (PPPs) vary widely.¹ The [National Public Private Partnership Guidelines](#) use the following definition:

A PPP is a long-term contract between the public and private sectors where government pays the private sector to deliver infrastructure and related services on behalf, or in support, of government's broader service responsibilities.²

In contrast, NSW uses PPP more broadly in reference to the engagement of the private sector in any form of public service delivery, and identifies Privately Financed Projects (PFP) as a particular type of PPP. The NSW [Working with Government Guidelines](#) outline the principal features of a PFP as follows:

- A service normally provided to the public by Government involving the creation of an asset through private sector financing and ownership control
- A contribution by Government through land, capital works, risk sharing, revenue diversion or other supporting mechanisms.³

Defining PPPs is further complicated by the different types of PPP in use.

Types

PPPs essentially lie on a continuum between government service delivery and private service delivery. A number of different PPP types exist, each involving different combinations of private and public involvement (see Table below). The activities that may be divided between the public and private sectors in a PPP include: planning; designing; constructing; operating; maintaining; providing the initial finance; and collecting the final payments through the life of the project.⁴

¹ G Hodge and C Greve, [Public-Private Partnerships: Governance Scheme or Language Game?](#) *The Australian Journal of Public Administration*, 69(S1):S8-S22, 2010

² Infrastructure Australia, [National Public Private Partnerships Guidelines: Overview](#), December 2008, p3

³ NSW Government, [Working with Government: Guidelines for Privately Financed Projects](#), 2006, p8

⁴ G Hodge and C Greve, [Public-Private Partnerships: Governance Scheme or Language Game?](#) *The Australian Journal of Public Administration*, 69(S1):S8-S22, 2010

Types of public private partnerships⁵

Contract type	Characteristics
Design Build (D&B)	The government specifies the asset it requires in terms of its functions and desired outcomes. The private sector is responsible for designing and building the asset and managing any related risks. The asset is transferred to the government to operate.
Operate Maintain (O&M)	An existing government-owned asset is managed by the private sector for a specified period. The private sector will be responsible for providing the services to the customer (retail or wholesale), maintaining the asset to a specified condition and ensuring that management practices are efficient.
Design Build Operate (DBO)	Effectively, this is a D&B and O&M contract rolled in together. The private sector is usually responsible for financing the project during the construction period. The government purchases the asset from the private sector for a pre-agreed price prior to (or immediately after) commissioning the asset and takes all ownership risks from that time on. The private sector retains the management function and related risks.
Build Own Operate Transfer (BOOT)	The private sector is responsible for design and construction, finance, operations, maintenance and all commercial risks associated with the project. It owns the project through the concession period and the asset is then transferred back to the government at the end of the term, often at no cost.
Build Own Operate (BOO)	Similar to BOOT projects, but the private sector retains ownership of the asset in perpetuity. The government also agrees to purchase the services produced by the asset for a fixed length of time.
Lease Own Operate (LOO)	Similar to BOO projects, but an existing asset is leased from the government for a specified period. The asset may require refurbishment or expansion but no 'new build' assets are necessary.
Alliance	An agreement between the private sector and the government to share the benefits or the costs associated with project risks. The parties agree to a benchmark price, time and service level. Any benefits (or costs) achieved are shared between the parties according to a pre-agreed formula.

Policy issues

PPPs are typically complex and involve high capital costs, lengthy contract periods involving long-term obligations and a sharing of risks and rewards between the private and public sectors. The issue of PPP complexity is widely noted in the literature. Consequently, the PPP policy debate has engaged with a wide range of topics. A brief summary of key policy topics follows.

Justification – value for money and the public sector comparator: Value for money (VFM) is a critical focus of PPP procurement. VFM is affected by factors such as: the allocation of risk; the long-term nature of projects; performance measurement and incentives; and private sector management skills.

The public sector comparator (PSC) is the key quantitative measure of VFM. The PSC estimates the hypothetical risk-adjusted cost if a project were to be financed, owned and implemented by government. Criticism of the PSC has centred on several issues, including the choice of government discount rate –

⁵ Productivity Commission, [Public Infrastructure Financing: An International Perspective](#), Staff Working Paper, March 2009, p145

higher discount rates favour PPP projects. The difficulties associated with using the PSC are widely acknowledged. Such difficulties place a significant caveat on drawing conclusions about the VFM of specific PPP projects.

Fiscal constraints: Australian Governments generally set fiscal policies that minimise debt in order to preserve credit-ratings. PPPs provide a source of finance for governments that enables them to build infrastructure without assuming debt that may compromise their credit rating.

Risk: PPPs aim to allocate risks to the party best able to manage them in order to achieve VFM. Attributing a price to risk as part of the process of calculating VFM is a complicated process that involves a number of assumptions. A variety of risks may be associated with a PPP project, including: financial risk; industrial relations risk; legislative and government policy risk; and asset ownership risk.

Accountability: Project financing and structuring PPPs are highly complex processes. Consequently, contractual complexity may be a significant impediment to ensuring public and parliamentary accountability. The use of commercial in confidence may also reduce the capacity of Parliament to hold government to account by limiting access to key information.

Accounting: The accounting for PPP projects is complex and often depends on the type of infrastructure involved. For example, most economic infrastructure projects are recorded 'off balance sheet'. Consequently, the debt associated with PPP projects is not recorded on the government's accounts in the year in which it was incurred by the private sector, but rather as a series of smaller annual recurrent payments. The level and cost of underlying public debt may therefore not be transparent to the public.

Taxation: Taxation considerations for PPP projects are complex and require careful and expert analysis throughout the procurement process. In 2007, the Commonwealth repealed section 51AD and Division 16D of the *Income Tax Assessment Act 1936* (Cth) and replaced it with Division 250 in the *Income Tax Assessment Act 1997* (Cth) to remove disincentives for private ownership of public infrastructure. The Commonwealth Government also recently committed to removing tax impediments to infrastructure investment in the 2011 Budget.

Cost of capital: Many critics of PPPs regularly draw attention to the lower borrowing costs of government compared with the private sector. On the other hand, proponents of PPPs argue that government issued debt is generally only cheaper because taxpayers effectively underwrite the risks associated with government borrowing.

Australian PPPs have produced mixed results. In reflecting on the Australian PPP experience, Hodge et al (2011) identified a number of strengths and weaknesses (see below).

Public private partnerships: strengths and weaknesses⁶

Strengths	Weaknesses
<p>PPPs do provide governments with a mega-credit card, and they can have advantages when properly monitored and managed</p>	<p>Public Sector Comparator (PSC) calculations have been manipulated (and treated as unduly robust) and discount rates in the PSC calculation have been too high (favouring PPP options)</p>
<p>Collaboration from both sectors can lead to new and innovative solutions to major infrastructure problems</p>	<p>Long-term equity is required to keep the banks focused on the long-term responsibilities of PPP deals</p>
<p>As a governance tool, bundling of multiple contracts through PPPs can raise the profile of an issue (which might otherwise get buried in public or political debate) and encourage policy support for much-needed infrastructure</p>	<p>The size and value of risks have been based on guesstimates and assumptions rather than any degree of science, with dubious risk calculations resulting</p>
<p>The requirement for sophisticated business cases may have had flow-on effects across both government and businesses, leading to more rational resource allocation in the context of infrastructure decision-making</p>	<p>Deal complexity has too often been used as a figleaf for governments to shelter behind instead of explaining and summarizing the deal to citizens</p>
<p>Either side of the partnership can take advantage of the other if negotiations are poor</p>	

Due to their complexity and long-term nature, PPPs in general pose a significant challenge for parliamentary oversight and public accountability. In relation to public accountability, in 2010 Hodge and Greve argued that:

... PPPs appear to have evolved as two-way government-business deals, and have failed to involve the community or any other independent accountability or representational bodies to protect the public interest. With the government itself facing multiple conflicts of interest, the potential for the interests of the advocating government and business partners to dominate over the public interest has been palpable.⁷

⁶ Adapted from: G Hodge and C Duffield, *The Australian PPP experience: observations and reflections*, in (eds) G Hodge, C Greve, A Boardman, [International Handbook on Public-Private Partnerships](#), Edward Elgar, Cheltenham, UK: pp399-438. See also: Productivity Commission, [Public Infrastructure Financing: An International Perspective](#), Staff Working Paper, March 2009, Chapter 8

⁷ G Hodge and C Greve, [Public-Private Partnerships: Governance Scheme or Language Game?](#) *The Australian Journal of Public Administration*, 69(S1):S8-S22, 2010, pS16

A timeline with key sources

In NSW, PPPs have been used for infrastructure procurement and construction over the past two decades. The Sydney Harbour Tunnel was the first of many privately financed infrastructure projects. As such, it required its own piece of legislation – the [Sydney Harbour Tunnel \(Private Joint Venture\) Act 1987](#). This was necessary due to the absence of a policy apparatus for PPP procurement.

This timeline charts the history of PPPs in NSW. It identifies key inquiries, audits, reports and Government policies, along with NSW PPP projects, NSW local government utilisation of PPPs and relevant Commonwealth Government developments. With these jurisdictional and other differences in mind, the timeline has been colour-coded according to the key below. Hyperlinks, where available, are also provided.

Key			
NSW	■	Projects	■
Commonwealth	■	Local government	■

A Timeline of Public Private Partnerships in NSW

1987	LEGISLATION: <i>Sydney Harbour Tunnel (Private Joint Venture) Act 1987</i> [link]
1988	PROJECT: Sydney Harbour Tunnel construction commences
1992	PROJECT: M4 Tollway completed
	PROJECT: M5 Tollway completed
1993	PARLIAMENTARY REPORT: Infrastructure Management and Financing in NSW – Volume 1: from concept to contract – management of infrastructure projects (Public Accounts Committee) [link]
1994	PARLIAMENTARY REPORT: Infrastructure Management and Financing in NSW – Volume 2: Public-Private Partnerships – risk & return in infrastructure financing (Public Accounts Committee) [link]
	AUDIT: Private participation in the provision of public infrastructure: the Roads and Traffic Authority (NSW Auditor-General) [link]
	PROJECT: Port Macquarie Base Hospital completed
1995	POLICY: Guidelines and principles for private sector participation in the provision of public infrastructure (NSW Premier's Department) [link]

	POLICY: Guidelines for private sector participation in the provision of public infrastructure (Dept of State and Regional Development) [link]
1996	PROJECT: Liverpool City Council commences the 'Oasis Project' PPP
	PARLIAMENTARY REPORT: Pioneers – progress but at a price: implementation of accrual accounting in the NSW public sector (Public Accounts Committee) [link]
1997	AUDIT: Review of Eastern Distributor (NSW Auditor-General) [link]
1999	PROJECT: Stadium Australia (now ANZ Stadium) completed
	PROJECT: Sydney Olympic Village completed
	PROJECT: Sydney SuperDome (now Acer Arena) completed
2000	PROJECT: Airport Rail Link completed
	PROJECT: Eastern Distributor completed [link]
	PARLIAMENTARY REPORT: Arrangements for the provision of public infrastructure by other entities: disclosure requirements – discussion paper (Public Accounts Committee) [link]
	POLICY: Green Paper: Working with Government – Private Financing of Infrastructure and Certain Government Services in NSW (NSW Government) [link]
2001	PARLIAMENTARY REPORT: Inquiry into the funding of capital projects by the NSW Government: Parramatta Rail Link pre-tender procurement – a case study (Public Accounts Committee) [link]
	PARLIAMENTARY REPORT: Submission to the Green Paper: Working with Government – Private Financing of Infrastructure and Certain Government Services in NSW (Public Accounts Committee) [link]
	POLICY: Working with Government: guidelines for privately financed projects (NSW Treasury) [link]
2002	POLICY: Private provision of public infrastructure and services (NSW Treasury) [link]
	PARLIAMENTARY REPORT: Case studies and issues in the private financing of public infrastructure and services (Public Accounts Committee) [link]

2003	MINISTERIAL INQUIRY: Ministerial inquiry into sustainable transport in NSW: a framework for the future [link]
2004	GOVERNMENT INQUIRY: Liverpool City Council Public Inquiry: Primary Findings and Interim Report (NSW Government) [link]
	GOVERNMENT INQUIRY: Liverpool City Council Public Inquiry Volume 2: Lessons from the Liverpool City Council Experience – Recommendations for Public-Private Partnerships in Local Government (NSW Government) [link]
	GOVERNMENT INQUIRY: Liverpool City Council Public Inquiry Volume 3: Final Report – Findings and Recommendations (NSW Government) [link]
	LEGISLATION: <i>Local Government Amendment (Public-Private Partnerships) Act 2004</i> [link]
2005	PROJECT: Eastern Creek Alternative Waste Treatment Facility completed [link]
	PROJECT: New Schools Project completed [link]
	PROJECT: Cross City Tunnel completed [link]
	POLICY: Guidelines on the procedures and processes to be followed by Local Government in Public-Private Partnerships (Department of Local Government) [link]
	GOVERNMENT INQUIRY: Review of future provision of motorways in NSW (Infrastructure Implementation Group, The Premier's Department) [link]
	PROJECT: New Schools Project 2 contract signed and construction commenced [link]
2006	PROJECT: Westlink M7 completed [link]
	POLICY: Australian Government policy principles for the use of public private partnerships (Department of Finance and Administration) [link]
	PARLIAMENTARY REPORT: Cross City Tunnel – First Report (Joint Select Committee on the Cross City Tunnel) [link]
	PROJECT: Parramatta Transport Interchange completed [link]
	AUDIT: The New Schools Private Financed Project (NSW Auditor-General) [link]

AUDIT: The Cross City Tunnel Project (NSW Auditor-General) [\[link\]](#)

PARLIAMENTARY REPORT: The Cross City Tunnel and Public Private Partnerships – Second Report (Joint Select Committee on the Cross City Tunnel) [\[link\]](#)

PARLIAMENTARY REPORT: Inquiry into Public Private Partnerships (Public Accounts Committee) [\[link\]](#)

POLICY: Accounting policy: Accounting for privately financed projects (NSW Treasury) [\[link\]](#)

PARLIAMENTARY REPORT: Lane Cove Tunnel – Third Report (Joint Select Committee on the Cross City Tunnel) [\[link\]](#)

POLICY: Working with Government: Guidelines for Privately Financed Projects (NSW Treasury) [\[link\]](#)

Updated to incorporate the findings of recent reviews and inquiries

PROJECT: Rolling Stock Public Private Partnership contract signed and construction commenced (Waratah trains) [\[link\]](#)

LEGISLATION: *Freedom of Information Amendment (Open Government - Disclosure of Contracts) Act 2006* (NSW) [\[link\]](#)

2007

LEGISLATION: *Tax Laws Amendment (2007 Measures No. 5) Act 2007* (Cth) [\[link\]](#)

This Act introduced Division 250 to the *Income Tax Assessment Act 1997* (Cth). Division 250 was introduced to remove disincentives for private ownership of public infrastructure.

REPORT: 2007 NSW Government five yearly infrastructure report to the Council of Australian Governments [\[link\]](#)

PROJECT: Bonnyrigg Living Communities Project contract signed and construction commenced [\[link\]](#)

POLICY: Working with Government: risk allocation and commercial principles (NSW Treasury) [\[link\]](#)

PROJECT: Newcastle Community Health Centre completed [\[link\]](#)

PROJECT: Orange Hospital Redevelopment and Associated Services contract signed and construction commenced [\[link\]](#)

	PROJECT: Port Botany Expansion summary of contracts released [link]
2008	REPORT: National PPP Forum – Benchmarking Study, Phase II: Report on the Performance of PPP projects in Australia (Infrastructure Australia) [link]
	PARLIAMENTARY REPORT: State Government Financial Management (Select Committee on State Government Financial Management) [link]
	PROJECT: Royal North Shore Hospital Stage 2 Redevelopment contract signed and construction commenced [link]
	POLICY: National Public Private Partnership policy and guidelines [link] Developed by Infrastructure Australia and endorsed by COAG
	PROJECT: Long Bay Prison and Forensic Hospitals completed [link]
	PARLIAMENTARY REPORT: Report into local government private partnerships for asset redevelopment (Standing Committee on Public Works) [link]
	PROJECT: Chatswood Transport Interchange completed [link]
2009	PROJECT: Colongra Gas Pipeline completed [link]
March	REPORT: Public infrastructure financing: an international perspective (Productivity Commission) [link]
March	REPORT: NSW Public Private Partnership policy – an evolution (NSW Treasury) [link]
June	PARLIAMENTARY REPORT: Inquiry into the privatisation of prisons and prison-related services (General Purpose Standing Committee No. 3) [link]
June	PROJECT: Newcastle Mater Hospital Redevelopment Stage 3 completed [link]
October	AUDIT: Handback of the M4 Tollway (NSW Auditor-General) [link]
November	PROJECT: M5 Corridor Expansion proposed [link]
2010	PROJECT: Sydney desalination plant completed [link]
January	
March	REPORT: M7 Motorway, Cross City Tunnel and Lane Cove Tunnel – Post Implementation Review (RTA) [link]

May	PROJECT: Public Transport Ticketing System contract signed [link]
May	REPORT: Barriers to competition and efficiency in the procurement of public private partnership projects (Infrastructure Australia) [link]
October	PROJECT: M2 Motorway widening project agreement signed [link]
2011	
February	PROJECT: Sydney Light Rail Extension planning approval granted [link]
July	PROJECT: Rosehill-Camellia Recycled Water Scheme expected completion date [link]
August	PARLIAMENTARY REPORT: Rail infrastructure project costing in NSW (General Purpose Standing Committee No. 3) [link]

Key Reports from Selected Jurisdictions

Victoria

Victorian Parliament

[Report on Private Investment in Public Infrastructure](#)

Public Accounts and Estimates Committee
October 2006

Partnerships Victoria

[Partnerships Victoria: Overview](#)

Partnerships Victoria
July 2006

Victorian Auditor-General

[Management of Prison Accommodation Using Public Private Partnerships](#)

Victorian Auditor-General
September 2010

[The New Royal Children's Hospital – A Public Private Partnership](#)

Victorian Auditor-General
May 2009

Commonwealth

Infrastructure Australia

Resources: Public Private Partnerships [publications](#) (includes international publications)

International

[Paving the Way: Maximizing the Value of Private Finance in Infrastructure](#)

World Economic Forum

August 2010

Canada

[Dispelling the Myths: A Pan-Canadian Assessment of Public-Private Partnerships for Infrastructure Investments](#)

The Conference Board of Canada

January 2010

[Understanding Public Private Partnerships in Canada](#)

Association of Consulting Engineering Companies Canada

2010

UK

[PFI in Housing and Hospitals](#)

House of Commons Committee of Public Accounts

January 2011

[Private Finance Projects and Off-Balance Sheet Debt](#)

House of Lords Select Committee on Economic Affairs

March 2010

[Private Finance Projects](#)

National Audit Office

October 2009

[Performance of PFI Construction](#)

National Audit Office

October 2009

USA

[Financial Analysis of Transportation-Related Public Private Partnerships](#)

US Department of Transportation, Office of Inspector General

July 2011

[Rethinking 21st-Century Government: Public-Private Partnerships and the National Infrastructure Bank](#)

Social Science Research Council

June 2011

[Public Sector Decision Making for Public-Private Partnerships](#)

Transportation Research Board of the National Academies
2009

Journal articles

[Harnessing Market Competition in PPP Procurement: The Importance of Periodically Taking a Strategic View](#)

Frank Mols; Australian Journal of Public Administration
June 2010

[Public-Private Partnerships: Governance Scheme or Language Game?](#)

Graeme Hodge and Carsten Greve; Australian Journal of Public Administration
March 2010

Additional articles can be found [here](#).

Media Coverage

[Financial strain over new trains made plain](#); 18 August 2011, SMH

[Prime land reclassified](#), 16 August 2011, Newcastle Herald

[Push for greater rail use](#), 11 August 2011, Australian Financial Review

Additional coverage can be found [here](#).

Press Releases

NSW Coalition Press Releases:

[Labor's Waratah Carriages Delayed Again](#) (February 2011)

[Labor's Blow To Western Sydney Commuters: Keneally's Failure on Train Lines Includes Carriages](#) (January 2011)

[Waratah Train Carriages: Yet Another Broken Labor Promise and More Incompetence](#) (November 2010)

NSW Labor Press Releases:

[NZ Housing Minister Visits Bonnyrigg](#) (October 2010)

[12 Year - \\$733 Million Renewal of Bonnyrigg: Stage 1 Complete](#) (September 2010)

[NSW Government Funding for Royal North Shore Tops \\$1 Billion](#) (June 2010)

NSW Greens Press Releases:

[New Troubled Waratah Test Trains Slow To Arrive](#) (May 2010)

[Another Transport PPP Disaster – Public Bears Costs in CityRail Power Shortage for New Carriages](#) (March 2009)

[Another Public Transport Blunder: NSW Govt Must Come Clean On Delays On New PPP](#) (February 2009)

Advocacy/Interest Groups

Infrastructure Interest Groups

[Infrastructure Partnerships Australia](#)

Research

[SMART Infrastructure Facility](#)

Blogs

[Public Private Partnerships Around the World](#)

Research Service Publications

[Infrastructure Funding and the Restart NSW Fund Bill 2011](#) (2011)

[Infrastructure NSW: Comparing Administrative Models](#) (2011)

[Freedom of Information – Issues and Recent Developments in NSW](#) (2007)

[Infrastructure](#) (2004)

Author: Daniel Montoya

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