

## PUBLIC PRIVATE PARTNERSHIPS IN THE TERRITORY

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For a long time, Australian governments have been open to private sector involvement in the provision of public infrastructure. In Australia, these partnerships (PPPs) extend generally to partnerships between the public and private sectors, whether the infrastructure is publicly or privately funded. Traditionally however, PPPs have tended to be used in situations where a private sector operator works with the government in financing, creating and/or managing infrastructure.

Prior to the development of a coherent policy framework in the states and territories, the development of PPP strategies was ad hoc and piecemeal. The Territory Partnerships policy framework reflects a more directed Australia-wide approach that is consistent with the policies of the NSW and Victorian governments.

In the Northern Territory, PPPs include a range of contractual relationships between the public and private sectors to provide or maintain infrastructure or deliver a related ancillary, non-core service. The policy is flexible and the focus is on the Territory government contracting for services and outputs, rather than for physical assets and ownership/control of infrastructure. As a result there is no preferred contracting strategy, but the policy encourages clear specification of the required outputs. This allows bidders to compete in designing a project structure that delivers those goals in an innovative and efficient way.

Ultimately, the aim of the Territory Government is to find an approach that delivers value for money; taking into account public interest, the capabilities of the respective public and private sectors, appropriate risk allocation, the environment and commercial viability of the project.

This flexibility is illustrated by recent projects undertaken in partnership with the Northern Territory Government. The AustralAsia Railway was supported by the Northern Territory, South Australian and Commonwealth Governments. In this project, the governments provided an up-front payment to ensure the commercial viability of the project, then transferred construction and operating risks to the private sector. In contrast, another well known PPP is the Alice Springs Convention Centre. This was a publicly financed partnership, using a design, construct and maintain contract structure. It is clear that the Northern Territory PPP market is growing and the next major PPP, although still in the

tender stage, is the \$600 million Darwin City Waterfront Redevelopment project.

Infrastructure projects entered into under the Territory Partnerships policy will typically:

- be of sufficient size, generally with a whole of life value of \$20 million Net Present Value;
- lend themselves to a relatively long term commitment;
- have clearly definable and measurable outputs, so payment can be made for services delivered;
- allow appropriate risk allocation where the party responsible for a risk is the party best able to manage it;
- require innovative solutions; and
- be commercially viable.

Territory Partnerships offers opportunities for the private sector to actively work with Government in the delivery of infrastructure and services, and at the same time build their capacity for innovation, develop their expertise and expand their business. For the NT Government, partnerships encourage quality services (often payments are conditional on the private party reaching key performance) and allow the government to focus more on its core businesses, rather than the distraction of construction and management.

*Pictured below: The Corporate Team at Clayton Utz, Darwin*



*Doug Jones heads up the Major Projects team at Clayton Utz, which has offices throughout Australia including an established office in Darwin with 16 lawyers with expertise across all areas of commercial law and litigation. [www.claytonutz.com](http://www.claytonutz.com)*