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RESEARCH THESIS

PUBLIC PRIVATE PARTNERSHIPS

FOR

SUSTAINABLE MUNICIPAL INFRASTRUCTURE,

A SYSTEMS APPROACH

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ABSTRACT

This thesis investigates the potential that the private sector participation holds for increasing the public sector's capacity to deliver essential municipal infrastructure services in the developing world in a sustainable structure known as Public Private Partnerships (PPP).

The hypothesis that better levels of service delivery may be gained through utilising PPP, is tested by a theoretical analysis of existing literature and case studies. In addition, a theoretical systemic approach is used to build up a holistic model or enquiry framework. An analysis of two partnership regulatory frameworks, one from South Africa, and one from British Columbia, Canada is also undertaken. In general only current (post 1990) literature is reviewed. The main areas investigated included the role and performance of government and state owned enterprises in infrastructure and development, the role of privatisation in alternative service delivery options, and the structures and dynamics of partnerships for service delivery.

As far as possible summaries are shown in tabular form and chapter conclusions were identified and then utilised in the systems chapter. In the case of this chapter graphic models are constructed to highlight the elements of an enquiry framework. In addition, a comprehensive case study on the application of PPP in solid waste collection is included.

Major findings of the thesis highlight a number of facts :

1. Only government has the final responsibility to provide essential services. The reason for this is that its focus should be on the social well-being and welfare of its citizens. Due to past practices this responsibility was however not maintained at adequate levels and a huge backlog in service delivery developed, especially in the developing world.
2. The private sector, focused on commercial objectives, is able to use its business acumen to provide a solution that will, in the long run, benefit the end-user, or rate payer. It can ensure long term sustainability through skills transfer and job creation and may assist in increasing capacity of the government through a process of retraining.
3. An alternative to full government control, or outright privatisation may be found in PPP. Sustainability must be ensured by using the correct contractual arrangement available for a particular service. The different approaches of government and business may be used as checks and balances to ensure that no exploitation is allowed to take place.
4. If a PPP is viewed as a system it allows for a comprehensive, sustainable project management approach that will take into consideration all stakeholders that are part of infrastructure development and ensure that they are included in the process. It also highlights the fact that PPP may exhibit particular traits, not common to either of the partners.

5. South Africa is well in tune with global efforts in the field of partnerships. However when compared against a similar framework in a developed country such as Canada it is clear that there is a major difference in the way that alternative service delivery is viewed. In the case of South Africa the service delivery framework is structured along the lines of the Reconstruction and Development Program, whereas the Canadian model only allows PPP where a substantial saving to the end-user, as well as an innovative solution to a problem, may be gained. Clearly South Africa, with its high unemployment rate has different priorities. At the same time the current government structure realises the major potential available in this regard. A number of PPP projects are well underway.

The general conclusion is that PPP in the developing world hold much promise for increasing government capacity to lift its levels of service delivery to a new height and as such should be embraced.

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RESTRAINTS AND GENERAL COMMENTS

The following issues are worth commenting on as they may have some relevance on the information in this thesis :

The thesis was undertaken just after the issue of the draft document 'Framework Agreement on the Restructuring of Municipal Services'. This took place at the end of 1998 and at the beginning of 1999. Indications at that time was that the basic information in the agreement would form part of revised legislation, due to have been tabled sometime during 1999. As it turned out it took longer for this legislation to be tabled as ongoing revisions of the document took place. At this stage there is still substantial opposition to the concept of privatising municipal services on the side of organised labour. At the same time a number of cities undertook transformation plans to incorporate the principles of the Framework. One example of this is the Igoli 2000 project undertaken by the city of Johannesburg. Unfortunately there were no conclusive findings from this project at the time of printing this document.

Another interesting fact is that a vast volume of literature on Public Private Partnerships is available on the Internet. Unfortunately these are not always properly archived and as such presents difficulty to be included in a bibliography. Especially in the case of South Africa a number of institutions such as the Development Bank of South Africa loads current information and case studies on the Internet which are extremely valuable. In addition a number of 'chat groups' exists where information and experiences around PPP may be shared. These sources of information need to be investigated further.

Due to the very nature of leases and concessions which normally take place over a longer term, coupled with the fact that PPP in South Africa is at a relatively young stage, it presents the problem that most case studies need to be utilised from overseas sources. Their conclusions and recommendations may therefore not be relevant.

A number of similarities exist between development and municipal infrastructure. Where relevant, this thesis took the approach that it is the principles of PPP that need to be tested and as such, examples may be used from either source.

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1. Chapter 1 : Introduction

In any true democracy an understanding exists between a government and its citizens. The government imposes taxation on the citizen in the form of service charges, or rates, thereby gaining the revenue it needs to meet the obligations. In return, the citizens are entitled to receive the basic public services and goods that would normally be underwritten in the constitution of the country. It consists of elements such as potable water supply, sewage- and wastewater systems, solid waste collection and -treatment, electrical- and telecommunication reticulation as well as a roads network. These specific elements may be referred to as the **infrastructure** of a country. In addition to these physical elements a number of related social obligations such as education and medical services may form part of this understanding. These will however fall outside the scope of this document.

It may, however, happen that a government is no longer realistically able to meet these obligations. This would normally be the case if a government loses this ability to perform due to a decline in its capacity levels. This decline may be related to financial or logistical capacity problems, but the net result to the end-user is an unacceptable level of service delivery. This is particularly true for the developing world where limited financial resources are sometimes unable to meet the rapidly growing need for infrastructure services. This in turn leads to a backlog in the different elements of the physical infrastructure.

This thesis will propose the hypothesis that the developing world is indeed suffering from service levels that are unacceptably low and will then investigate alternative service delivery mechanisms. In particular it will investigate the potential that the private sector holds in assisting with service delivery by focusing on what could be called the middle ground - Public Private Partnerships (PPP). PPP are probably best defined by Domberger et al (1997 : 777) : "*Partnering refers to a close working relationship with a high level of trust and close co-operation between two parties that contract with each other to accomplish mutually beneficial outcomes*". The two parties referred to being the **private sector** (organised, commercial business) on the one hand, and the **public sector** (government) on the other. Although the approach starts off with a fairly wide consideration, the main focus of the thesis will be on **municipal infrastructure**.

The overall analysis will be structured as follows:

1. The role of government in infrastructure
2. Alternative service delivery options such as decentralisation and privatisation
3. Specific structures and arrangements of PPP
4. A systems approach to partnerships

When considering the *role of government* the focus will be on issues such as the traditional role and size of government in the developing world, a review of the performance of state owned enterprises, and a review of the requirement of sustainable infrastructure development. The approach in this particular chapter is to

investigate the reasons why government is experiencing capacity problems. This will be done by looking at the history of government efforts as well as the difference between central- and local government. The issue of sustainable development is one that is reflected in most current development frameworks as well as in the more recent literature. In essence, it may be defined as managing the present without compromising the future. It refers to the broader issues that may affect a community, or the well being of a country. As most development agencies qualify sustainability as a requirement, this thesis will use that specific context to analyse all the different aspects mentioned above.

Having done the needs analysis the next step in the thesis is to consider *decentralisation and privatisation* as alternative mechanisms for increasing levels of service delivery. This will be done by focusing on aspects such as decentralisation and development, the different contractual options available for private sector input in infrastructure, the specific role that the private sector may play as well as the importance of infrastructure in development and a country's overall well-being. The purpose of this chapter is to present a wide range of options, available to the public sector, to utilise the private sector in infrastructure development and maintenance.

Following on this will be the next chapter that presents a detailed look at *partnerships for service delivery*. The intention here is to make use of lessons learned in the past, and to update the body of knowledge surrounding the structures and dynamics of PPP. Issues under discussion will be the history of partnerships, globally as well as in South Africa, the mechanisms and dynamics of partnerships as well as some contractual arrangements available for structuring partnerships. The particular implication in this chapter is that the best chance of success may be obtained by structuring PPP along project management lines.

PPP may be described as different components working towards a common goal. This thesis suggests that for this very reason PPP should be viewed as a *complex system*. This allows for a systemic approach whereby a problem is in fact 'put together' rather than 'taken apart'. The reason for this is that the individual components may exhibit a specific behaviour only when it is part of the system. On a practical level it may be that commercial business, in a partnership will do things differently than the way they do their day-to-day business et cetera. This particular chapter will utilise a number of 'systems tools' to ultimately create a model that may be used as an enquiry framework into partnerships.

To test the theory of partnerships as developed in the main body, two applications are developed as part of the Appendices. The first is a *case study* of a service- or management contract for solid waste, and the second is an *analysis of a recent South African Framework for the restructuring of municipal services*. To check the relevance of this framework it is compared against a similar model, developed in Canada.

A conclusions chapter aims to define areas of commonalities within the chapters as well as across the overall thesis. Specific chapter conclusions are not shown after each chapter, but form part of the systemic investigation, thereby ensuring that the final model represents a comprehensive and holistic approach.

Where possible groups of data are assimilated and shown in tabular format. In the case of the systems chapter, it was found useful in the past to construct diagrams, depicting specific relationships or dynamics.

The thesis finally includes a bibliography of all sources that were consulted during the process that culminated in this document.

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2. Chapter 2 : Managing Infrastructure for Sustainable Development

2.1 Introduction

The term **Public Private Partnerships (PPP)** when used for Service Delivery implies an enterprise, created from individual parts, for a common objective. If the different aspects of the phrase are considered it is reasonably apparent what is meant with the **private sector**, that is an enterprise managed and run along commercial lines. The term **public sector** on the other hand is less clear. In the context of this thesis, it refers to the government authority responsible for revenue collection and supply of infrastructure- and social services. This may be at national- or central level, provincial- or local government (municipal) level. The relevance of each sector depends on a number of factors. These include, for example the extent to which they are able to directly influence the daily life of the communities receiving the service, as well as their capacity in delivering public services such as housing, water and sanitation and other physical infrastructure or social services, such as medical care and education.

This chapter focuses primarily on the role that government plays in development and service supply, within the context of **sustainable development**. The reason for this particular context is that most development- and service supply frameworks require public projects to take place in a sustainable way, mostly without defining exactly what is meant by this term. As this a complex field of study on its own, an attempt will be made to extract concepts that are relevant to the main focus of the thesis. The focus will return to the role of the private sector in later chapters. However, as the government of the day as an institution has a constitutional obligation to deliver certain services to the citizens of the country, this sector needs to be placed in the correct context.

The first section of this chapter analyses *the role of government in service delivery* and development projects. It starts off by considering the traditional role of government in the developing world and then moves on to the size and nature of government as reflected in national accounts. This is followed by a consideration of the changing role of government which is followed by a comparison of local and central/regional government. It then analyses the current situation of government in South Africa and finally cautions that there might be a need for government to intervene in the event of the private supply of public goods failing.

The second section narrows the focus on the role of government down to *the performance of State Owned Enterprises (SOE)*¹. This is required as SOE are the traditional structures for service delivery. It starts off with a critical review of SOE and their past performance and then propose certain reasons for the poor traditional performance of SOE. It then discusses potential solutions for dealing with poor performing SOE and finally highlights the renewed focus on SOE in South Africa.

The third and final section addresses the issue of *sustainable development and its relationship infrastructure*. Areas under discussion are the components of sustainable development, potential negative aspects of sustainable

¹ For the purpose of this section State Owned Enterprises will be defined as those entities with full or partial state ownership. It includes parastatals as well as the more traditional local and central government departments.

infrastructure and finally an agenda for sustainability is proposed. The section concludes with a proposed definition of *sustainable partnerships for municipal infrastructure supply and maintenance*.

Chapter conclusions will not be reflected as part of this section but will rather form an integral part of chapter 5, a systemic view of Partnerships for Service Delivery

2.2 The Role of Government in Development

2.2.1 Introduction

The following quote describes the sometimes paradoxical nature of government actions in its attitude to policy quite well : “In brief then, government policy involves an often unproductive struggle between the dominant priority to support business and the lesser goal, often passionately pursued by social movements, of social justice.” Gottdiener (1994 :330) or as quoted in Worpole (1993 : 93) “Private enterprise is good at getting things done, but not at choosing what to do.”

This gives a clear indication that government definitely has an important role to play in development and service delivery but suggests that there needs to be an evaluation of what that role is. The following section will consider this aspect by looking at:

- the traditional role of government in the developing world,
- the size and role of government in national accounts,
- the changing role of government and its environment,
- the position of central and local government in service delivery,
- the current situation and structure of government in South Africa and,
- the need for government to act to meet current needs.

2.2.2 The traditional role of Government in the developing world

The traditional view of government is not always very favourable. It is frequently viewed as an ineffective bureaucracy : “The bureaucracy remains the single largest development agency in Third World countries ... with its large numbers of officials it inspires little confidence. In spite of this it has to perform sensitive tasks with regard to development. In many Third World countries it creates the impression of inaccessibility, while it should be geared to creating a positive relationship with the people and at the same time, to promote an image of professionalism and efficiency” (Kotze 1997 : 38). This source continues by claiming that as long as development is viewed as purely a governmental function, people will actually make it difficult for the bureaucracy to be anything but authoritarian and paternalistic. This attitude could be called a ‘top-down’ approach to development.

The inherent danger in this status quo is that this type of government prioritises *control* rather than *development*. The government is unable to provide continued support for development as its need to increase control takes priority over the need to increase public welfare. “Ultimately, an excessive deployment of resources in the control

sector creates a shortage in the economic sector, which precipitates an economic down-turn at a time of rising need for expanding welfare.” (Saeed : 201). This statement appears to be validated if one considers the size of military and regulatory spending in developing countries where poverty and social injustice is rife.

However, government still has an important role to play in providing essential services. For, as Faulkner says, “Their involvement guarantees a degree of public accountability, preserves the public service ethos, ensures the protection of all sections of society, and underwrites the delivery of social and environmental, as well as economic benefits; that is, it meets sustainable development as well as purely financial goals” (Faulkner : 1998)

In summary it may be concluded that the traditional role of government in the developing world is not always viewed very positively. Although its role is necessary, it is often incorrectly focused and tends to be one of a regulatory rather than enabling nature.

2.2.3 The size and role of government in national accounts

It is also equally important, in this debate, to consider government spending and the way that public money is utilised in the stimulation of growth and development. For this will determine whether there is some room for improvement which might lead to more funds being available for social and infrastructure programs.

Weiss (1995 : 206 - 209) notes that an assumption is made in most of the early development literature that a high level of state involvement is required to ensure economic progress, due to widespread market failures and the absence of a dynamic private sector. He states that irrespective of this the fact is that state activity in developing countries is actually smaller (if measured as a proportion of national income), and different in nature than state activity in developed countries.

He explains this potential paradox by offering two different viewpoints :

1. The first is that there is a tendency for the share of government expenditure in national income to *rise* with income, due to the fact that there is an associated increased need for government regulatory and infrastructure activity as well as the provision of welfare and social services. He then shows that this share is lower in developing than developed countries.
2. Secondly, he claims that most developing countries can be classed as intermediate regimes, i.e. neither socialist or capitalist and that in these countries the private sector allows itself to be subjected to much greater control and interventions. These measures are normally inefficient in economic terms although they tended to sustain private sector profit levels artificially.

A table in this same source shows the share of public investment (as measured in 47 developing countries) has declined steadily from 1981 to 1991, from 43.6 % to 36.8 % if measured as a simple average or from 41.6 % down to 30.8 % when measured as a weighted average. Either measure shows a decline.

A further table (rather dated) in the same source (Weiss 1995 : 209) for the period 1974 - 1977 shows State Owned Enterprises (SOE) share in GDP as 9.6% for developed economies and 8.6 % for developing economies when measured as a weighted average. One aspect to this however, is that in developing countries the SOE operated with financial deficits that had to be covered by borrowing, or central government transfers with a percentage value of almost double that, of the same value for developed countries.

In summary it may be concluded that the size of government expenditure in national accounts of developing countries is not as high as one might expect, but that it tends to have been deployed rather inefficiently in the past in the application of deficit subsidies rather than the stimulation of economic growth.

2.2.4 The changing role of government

It is useful at this point to consider some changes and recent developments, pertaining to developed countries such as the USA and UK, in the role of government to determine what developing countries might be faced with once they reach a higher level of economic activity.

Some sources are critical of the current direction of federal urban policy in parts of the USA. Gottdiener (1994 : 330) claims that the "present direction of metropolitan policy involves the abandonment by the federal government of urban programmes with social goals and the boosting of partnerships in support of business growth." This source claims that development costs are being funded by the residents without the benefits of privatisation being realised in most cities. This could possibly be the case in developed countries where the private sector is seen as generators of economic progress.

Another view on the changing value system of governments is offered by Henderson (1993 : 80) where a comparison is made between the short view (i.e. the peaking of old values) vs. the long view (described as emerging values). In this comparison the *existing system* is described as hierarchical, dominating, debt ridden with the priority on armaments, whereas the *emerging system* is seen as having values such as being participatory, concerned with community and co-operation and investing in socially responsible issues with governments prioritising negotiations and conflict resolution.

In the UK the changing role of government is described by Worpole (1993 : 95). "The changes to and extensive limitation of powers of local government in recent decades have been characterised as a move from the role of direct provision to one of strategic and enabling authorities." Once again the conflict of interests are cited : the long term perspectives of government - the necessity to plan for the next generation - often are at odds with the short term commercial requirements of service providers.

In the South African scenario there seem to be understanding for government's role as enabler. As the Ministry of Constitutional Development puts it : "the ministry puts emphasis on establishing developmental local government, which is not about cutting grass verges in white suburbs, but about the front-line attack on poverty, about mobilising resources, both public and private, NGO and community, for the social upliftment of our people."

It may be concluded that governments and local authorities are experiencing a shift in attitude towards an understanding of their role as enablers of economic growth. This implies that there is an understanding for the potential role that the private sector might play, but the apparent conflict in interests between social responsibilities and commercial objectives needs to be addressed in the first place.

2.2.5 The position of central and local government in development and service delivery

In development and infrastructure provision it is necessary to understand how central and local government differ in their respective roles. This difference hinges around the revenue base of the different institutions and how effectively they can provide and maintain services.

When considering this aspect the following descriptions are suggested :

1. Local government would typically be a municipality (for a city) or a local substructure (for an area)
2. Central government can be either provincial (for example the Provincial Government of the Western Cape) or state wide (such as in the USA)

The specific description varies from country to country.

One view on this aspect is that the decisions made by central government in large measures determine the conditions under which urban residents live. There is a realisation that *central* government lays down broad ranges of policy in areas such as development and infrastructure investment and legislates it, but that it should be *local* governments and communities who should determine the priorities and implement projects that affect the nature of urban development (Elliott : 1994 :101). This source states that “the primary role of central governments should be to strengthen the capacity of local governments to find and carry through effective solutions to local urban problems and stimulate opportunities.”

For this to function local authorities are required to become agents of development by increasing their political, institutional and financial capacities.

It is important to realise that local government can only effectively achieve what is possible in the context of central government policy.(Worpole : 1993 : 93). This source further argues that it is the individual character of each local authority (good and bad) that makes democracy still so pertinent to local government, and which ensures local differentiation which gives each town, or area its own unique character.

This source further argues that it is exactly this individual character that will disappear if local governments pass their responsibility on to private suppliers of service. Worpole warns that “it is bad enough that every high street looks the same ; the prospect of every (social service) being developed and managed by the same national commercial company would dispense with local civic identities altogether.” (97)

One might argue that it is more important to address social upliftment and poverty than to try and retain local character. In a sense this uniqueness can be interwoven in the development process by ensuring that local communities have input in the decisions that affect the nature and character of developments affecting them.

Badshah (1996 : 27-28) argues that "local governments were set up to manage and maintain an urban system, not to develop a new one. [They apply existing laws and regulations to the routine maintenance, operation and incremental extension of urban services, and control and regulate certain activities within the city." This source continues by stating that urban development programmes need to resolve problems on the spot which calls for an organisation that is non-hierarchical, not burdened by regulations and open to a variety of participants. In conclusion "it calls for different technical and managerial skills than one normally finds in bureaucracies"

In conclusion there seems to be a clear understanding of the respective roles of national and local governments with the former laying down overall policy, while the latter is seen as being responsible for local implementation, maintenance and operation. Local government should be enabled by central government while maintaining its own unique character, yet operating within national guidelines. It is required that local government management style should evolve away from the purely bureaucratic.

2.2.6 The current situation and structure of government in South Africa

South Africa went through a major change in its political dispensation during the 1990's which provided the political legitimacy that was previously missing. The South African government has embarked on various programmes to address imbalances of the past and to meet current and future needs. As such the government is in the process of change to restructure itself towards this. A later section will do an analysis of the historic developments that led to the creation of legislation and administrative frameworks that are currently in use.

In an article in Finance Week (18 September 1998 : 39) Professor Esterhuysen comments on certain of (then) Deputy President Mbeki's speeches : He states that socio-economic justice can only be realised if there is economic growth and job creation. This is based on his (Mbeki's) view of the State. He recognises that it is natural for those who have been oppressed to now expect too much from the new government. Esterhuysen states that Mbeki rejects the concept of a 'Father Christmas' state where the individual is disempowered and reduced to a mere recipient who thinks he/she is entitled to receive and rather talks about a 'truly developmental State'.

Various frameworks currently proposed such as 'the White Paper on the ...Construction Industry' and other papers on social and economic upliftment realises this fact. These programmes typically see central government as a major (but definitely not the single) partner, acting as an enabler, together with business and communities in solving the multitude of South Africa's social and economical problems.

In general it may be concluded that South Africa is following international trends with central government providing the financial and constitutional focus, thereby enabling local government to meet its developmental goals.

2.2.7 The need for government to act to meet current needs and intervene in problems with private supply of services

In the case of developed countries that have been involved in the decentralisation of government services for longer than developing countries, some issues have come to the fore that provide useful indicators of what they might be faced with.

Gottdiener (1994 : 329) states that the Houston experience has shown that the cost of development was passed to the residents, in most cases these developments were of a non-infrastructure nature. This source states that "there is renewed pressure on federal government to intervene once more to stem the decline in community life (which) will come only with renewed debate on the philosophy of intervention."

The World Bank warns that "within a short period government will have to undertake an unusually large amount of public investment without having the assurance that they will be able to collect property taxes and user charges from beneficiaries." (World Bank Paper no. 8). This reference was to areas in the PWV in 1995, but it is still relevant.

In summary it is clear that where governments are experiencing capacity problems in service supply there is a potential of transferring this responsibility of service provision. Where this is done it should be realised that private commercial interests differ substantially, with the focus being on commercial, rather than social objectives.

2.3 A Review of the Performance of State Owned Enterprises (SOE)

2.3.1 Introduction

Organised labour in South Africa has made it clear that they would rather see the reform of government and SOE than any form of privatisation, participation included. Cowan (1990 : 3) puts another perspective on this issue by stating that "the growing number of state enterprises and their expansion into new fields of endeavour brought the governments of less developed countries to the realisation that they had created a monster that could devour them". Although this might put it a bit harshly, it is worth re-considering the role of SOE, as they are in many instances the institutions through which governments traditionally supply infrastructure and services, which might be open to alternative delivery mechanisms such as partnerships.

This section will consider the *historic performance* of SOE, possible *reasons for the poor performance* of SOE in South Africa, as well as the *current focus* and it will also investigate *potential solutions* in dealing with SOE.

2.3.2 A critical appraisal of SOE and their past performance

Two views are put forward by Weiss (1995 : 209), the first that SOE have been inefficient structures for development and the second that SOE are inherently less efficient than privately managed enterprise. He then suggests four reasons for the poor performance of SOE :

1. Governments set **multiple and conflicting targets** for SOE - they are required to achieve social as well as commercial goals
2. Managers do not have **autonomy to manage effectively** as they are sometimes restricted by regulations and controls. This limits their available choices and forces SOE to operate like civil service departments rather than commercial ventures.
3. SOE generally offer **poor incentive packages** and they therefore tend to be inadequately staffed, especially at management level.
4. **Corruption and nepotism** are still features of most SOE where jobs are allocated to certain political or ethnic groups.

He further cites a World Bank survey of 1992, claiming that both public and private enterprise can be placed on a performance spectrum, ranging from very good to very bad, but that the median point for private enterprise lies higher than that of public enterprise.

Weiss puts emphasis on the poorly management performance in the public sector. The tendency is for central government to 'step in' and rescue a poorly performing state enterprise. In the case of a private concern which is regulated by the capital markets, a poorly performing unit might be open to a hostile take-over. State enterprise cannot be 'taken over' and this market mechanism is therefore absent.

(A cost-benefit framework is suggested to evaluate private and public enterprises (Weiss : 213-215). The reason for this, according to Weiss, is that it is not always true that private enterprise performs better than public and that it should be based on numerical analysis rather than ideology. This aspect will not be explored in this thesis.)

A further cause for poor performance of SOE is the **monitoring and audit system** used to judge them. Thus Cowan argues that "there was often little firm information on the exact number of enterprises the government owned... the governments were also unaware of the extent of SOE indebtedness and...often unaware of the inherent dangers of this indebtedness which in many cases accounted for between 20% and 40 % of total domestic credit. SOE often had preferential access to domestic credit, often on highly concessional terms." (Cowan : 1990 :3-5). This source provides some answers to the causes, as being the result of the technological and political changes experienced in the 1980's as well as the depletion of foreign reserves, built up in the colonial times prior to independence of various countries.

In summary it may be concluded that the traditional poor performance of SOE, while having historical causes could mainly be due to :

- Contradicting and conflicting targets set by central government,
- Poor management of SOE in part due to the caliber of manager attracted by traditionally poor incentive packages,
- Lack of management autonomy,
- Corruption, nepotism and abuse of power,
- Poor auditing and monitoring mechanisms.

2.3.3 Possible reasons for the bad performance of SOE in South Africa

There can be little doubt that South Africa went through a period where a large number of SOE were created and artificially stimulated in order to provide some relief from the international isolation the country found itself in during the 1970-80's. These so-called 'white elephants' were then exposed to international market forces with the change in South Africa's political dispensation during the early 1990's.

It is necessary to have an understanding of the economical and political isolation that South Africa found itself in during the pre-Mandela years. The country had become increasingly isolated in the international economic community. SOE were one way of maintaining the illusion of internal growth and job creation. Unfortunately most of these enterprises were artificially stimulated and heavily subsidised through preferential treatment and favoured credit conditions. Langenhoven (1994 : 234-235) analyses the current problems in terms of past mistakes and highlights the following points :

- The legacy of apartheid and its associated rigid economic policies have deprived South Africans from increasing their standard of living
 - The previous dispensation thrived on the 'monopoly of the bureaucracy' which, in effect, amounted to a failure of the state
 - The domestic policies of the past "provoked international isolation which in turn elicited the 'fortress South African' style of economic policies". This led to impoverished labour and wasted capital resources
 - One area of tremendous waste was the policy of separate development. Bureaucratic functions had to be duplicated over and over again and "cost the country's taxpayers roughly a rand for every rand invested in these areas"
 - The result was a shift away from investment towards consumption expenditure - "South Africa embarked on an investment pattern (via parastatels) for 'strategic reasons' which proved so wasteful that some projects had a internal rate of return of minus 20 % over their life-cycle"
 - The international (dis)connection proved to be the downfall of South Africa in terms of economical growth.
- This source concludes that the lessons from the past highlights "the importance of designing a political system that will stimulate convergent instead of divergent forces in society."

The conclusion may be reached that a major factor in the poor performance of SOE stem from the fact that they *were established and indeed operated in a sheltered and subsidised economic environment*. SOE need to be exposed to true market conditions in order to be economically viable.

2.3.4 A potential solution to deal with poorly performing SOE

A necessary part of any analysis of SOE is to investigate potential ways and means to solve the traditional poor performance of these enterprises. The following section analyses various potential solutions offered by various sources.

Langenhoven (1994 : 236) takes a holistic view of economic growth. This source talks about government, SOE or parastatals in very much the same definition, i.e. as an enterprise that is neither private nor non-profit. He states that a large part of South Africa's problem originated from inappropriate delivery institutions and systems. Continuing, he notes that "no winning nation can succeed without the golden triangle of government, entrepreneur and labour, of which government should be the smallest part". The conclusion is that this source highlights the role played by the various parties, but emphasises the greater role of entrepreneurs and labour over that of government.

Thobani (1999) investigated the risks associated with privatisation. Some of the conclusions reached, when discussing how governments could avoid financial disasters by incorporating risk analysis in budgets and accounts are :

- Compile and publish **lists of contingent liabilities** and the maximum amounts that can potentially be lost. The intention is that a realistic forward projection should create a sense of what might happen to a SOE financially
- **Calculate expected losses** in monetary terms. The example used is where a government guarantees a \$ 10m payment by one of its SOE and there is a 10 % chance of default on payment the expected loss would be \$1m. This puts a government in the position where it can compare the cost of a guarantee with cash subsidies and make a decision on which will be more costly over the long term
- Once expected losses have been calculated these should be **incorporated into national budgets and accounts**. If these future expected losses are put in to present day values an informed decision can be taken.

It is clear that this source concentrates on a realistic budgeting and accounting system as a means of monitoring performance of SOE. In the case of South Africa the budget situation has partially been addressed when minister Manual initialised the three yearly, annual budget system. A more detailed consideration of risk analysis will be done in later chapters.

Weiss (1995 : 216 - 219) identified certain factors that are commonly under discussion when considering the reform of the public sector and SOE :

- clarification and simplification of objectives. The reference here is again to the conflicting social and commercial goals that SOE face.
- creating a balance between autonomy and accountability. The argument here is that SOE will not operate profitably unless managers are given the autonomy to react to risks and make decisions in response to the market place. This requires a freedom by managers to take operational decisions.

- establishing appropriate incentive and evaluation mechanisms. Managers should have adequate incentives to strive for increased performance.
- the establishment of a competitive market environment. SOE can for example be exposed to normal market conditions where central government will not automatically cover their losses.

A view on intervention in the affairs of SOE is put forward by Sik (1972 : 33) as follows : “One is bound to ask what serves the public interest best: To protect backward enterprises, to keep them in glasshouse conditions, to present as an achievement ... the artificially created profitability derived from artificial prices that saves firms from liquidation at the expense of lower living standards for the working people? Or to provide strict conditions under which economic pressure will impel enterprise to match the performance of leading firms elsewhere, making them get down to the job of closing the gap in productivity and production costs, and in the quality and structure of output, until they are capable of facing competitive markets ?”

Finally the World Development Report (1994 : 2) states that the causes of “past poor performance, and the source of improved performance, lie in the incentives facing providers”. This follows on its other main message that infrastructure development can be a provider of economic growth but that it should be delivered in an efficient manner.

In summary it may be concluded that the solutions offered by various sources have the following in common :

- The **share of government** in the economy should, at best, be limited and never larger than that of private enterprises
- Establish a **sound financial and budget system** that will assist with the making of informed financial decisions and explicitly report results
- **Simplify the goals** of SOE and ensure that there are no conflict of objectives
- **Managers should have the autonomy** to take operational decisions and incentives should be structured accordingly
- SOE should operate under **competitive market conditions** and forced to offer services efficiently.

2.3.5 The renewed focus on SOE in South Africa

The RDP document (1994 : 119) notes, as one of its problem statements that “the financing of development programmes under the apartheid state was wasteful, misdirected and mismanaged. There was corruption, and many state and development institutions carry over debts from the apartheid era with which the new government must deal.” Under section 5.11 [128] it states that (parastatels) should :

- be transparent and open in structure and decision making,
- statutory bodies should be independent of government and have an emphasis on creating long term stable policies,
- they should be run on full cost accounting. Subsidies paid or received should only be as a result of transparent decisionmaking.

The attitude of the current government on SOE and particularly their vision for the transformation of local governments includes the following :

- a country wide system of monitoring municipal finances in order to guide management. In addition, intervention, which has led to the establishment of a most comprehensive database on local government in South Africa,
- day-to-day intervention in the financial affairs of financially distressed municipalities aiming to build their capacity for financial sustainability,
- a radical reform of the system of inter-government grants leading to the creating of the equitable share for local government,
- a comprehensive review of the taxation and revenue systems of local government (Moosa 1999)

It may be concluded that there is indeed a renewed focus on fiscal and management strategy of SOE in South Africa. *Local government* is seen as one of the areas that can be improved drastically and certain programmes to ensure this are already in place and operating.

2.4 Sustainable Development and its Role in Municipal Infrastructure

2.4.1 Introduction

Various International, as well as local Development Agencies, are emphasising *sustainable development* in their infrastructure development project frameworks. This term also appears in most of the current (i.e. post 1990) literature that deals with municipal services supply by the private sector. In the South African context it is mentioned in National initiatives such as the RDP and the Framework for the Restructuring of Local Government. Institutions such as the Development Bank of South Africa incorporate it in most of its development frameworks and structures. In the context of PPP for the Supply and Maintenance of Municipal Infrastructure it is worth investigating, as it could be shown to be a critical requirement for successful ventures.

The term sustainable development came to the forefront during the Earth Summit in Rio in 1992 and has enjoyed increasing popularity internationally. There is however a very wide interpretation of the concept with most agencies adapting- and phrasing it for their own particular focus. The first step is to investigate a number of different interpretations. The sources, and their interpretation of the concept of sustainable development can be cited as follows :

Sustainable Development is development that meets the need of the present without compromising the ability of future generations to meet their own needs - *World Commission on Environment and Development, Our Common Future (Frequently referred to as the "Brundtland Report")*

- Sustainability is meeting the needs of all humans, being able to do so on a finite planet for generations to come while ensuring some degree of openness and flexibility to adapt to changing circumstances - *Jerry Strumer, Santa Barbara South Coast Community Indicators*.
- Sustainable Development is positive change which does not undermine the environmental or social systems on which we depend. It requires a co-ordinated approach to planning and policy making that involves public participation. Its success depends on widespread understanding of the critical relationship between people and their environment and the will to make the necessary changes - *Hamilton Wentworth Regional Council*.
- Sustainable Development involves the simultaneous pursuit of economic prosperity, environmental quality and social equity. Companies aiming for sustainability need to perform not against a single, financial bottom line but against the triple bottom line - *World Business Council on Sustainable Development*.
- Sustainable Development is the process of building equitable, productive and participatory structures to increase the economic empowerment of communities and their surrounding regions - *Interfaith Centre on Corporate Responsibility*.
- Sustainability is the long-term, cultural, economic and environmental health and vitality with emphasis on long-term, together with the importance of linking our social, financial, and environmental well-being - *Sustainable Seattle*.
- Improving the quality of human life while living within the carrying capacity of supporting eco-systems - *The World Conservation Union, United Nations Environment Programme, World Wide Fund for Nature*.
- Sustain - to cause to continue (as in existence or a certain state, or in force or intensity); to keep up, especially without interruption, diminution, flagging, etc.; to prolong - *Webster's New International Dictionary*.
- Sustainability does not mean that businesses never fail or that people never go hungry or that pollution never happens. Sustainable means that when a problem arise[sic], we look for solutions that take into account all three parts of the community instead of applying a quick fix in one area that causes problems in another. A sustainable community seeks to maintain and improve the economic, environmental and social characteristics of an area so its members can continue to lead healthy, productive, enjoyable lives there - *Hart Environmental Data*.
- Sustainable Development is seen to consist of four parts: a concern for the economic and social viability of future generations; local participation, planning and execution development; alleviation of poverty and a concern for social welfare; a positive impact on the environment and resource usage - *F Analoui, The Realities of Managing Development Projects*.
- An integral part of Sustainable Economic Development is that future costs are to be evaluated against current net benefits through a proper, weighted cost-benefit analysis - *C. Dinwiddi, Principles of cost-benefit analysis for developing countries*.
- When evaluating Sustainability the following four principles can be applied: polluter pays; user pays; the precautionary principle; the subsidiary principle - *E. Dommen, Fair Principles for Sustainable Development*.

The above sources, which are by no means exhaustive, highlight the fact that different interpretations, for different contexts, exist for the term Sustainable Development (SD). The topic of this thesis is Sustainable Infrastructure (SI), a subset of SD. The sources mentioned above may be of assistance in formulating performance parameters,

or critical success factors. The purpose of these parameters would be to ensure that PPP infrastructure initiatives are truly sustainable.

Based on the above these parameters may be described as follows: *PPP for sustainable construction- and maintenance of municipal infrastructure should be participatory structures that reflect the pursuit of economic, environmental, and social characteristics of a community, in a way that balances future and current needs within the carrying capacity of its surroundings. It should be flexible, in order to adapt to changing circumstances, and ultimately lead to the economic empowerment of the community. It should incorporate a realistic and transparent accounting- and management system that evaluates current and future costs of projects in terms of these three aspects of community life and should be able to appropriate responsibility for the incorrect use of resources.*

Some of these parameters were shown to be applicable in the case of the 'Billy Hattingh' Khayelitsha solid waste removal scheme (MIU: 2000). Although the scheme is relatively new, the initial feedback has been very positive.

This thesis will limit further expansion of both SD and SI, but will rather use the above principles to assist in the development of a generic model, on PPP as a system, in a later chapter.

3. Chapter 3 : Decentralisation, Privatisation and Municipal Infrastructure

3.1 Introduction

The previous chapter highlighted the fact that, mainly due to capacity problems, central government is no longer able to supply public services in a sustainable manner as well as to address the existing backlog.

The next step is therefore to consider decentralised, and indeed privatised, supply of public goods. The analysis will be around factors such as decentralisation and development, the forms and functions of privatised supply of public goods, the role of the private sector in municipal service delivery as well as the role of infrastructure in development.

The second section focuses on *decentralisation and development*. This is done by analysing criteria, different forms of decentralisation, affecting factors, as well as the advantages and historic results of decentralisation.

The first section of this chapter considers the *forms and functions* that private supply of goods can take. This will include aspects such as the reasons for-, and alternatives to private supply of public goods as well as a review of the available contractual options.

This is followed by a brief analysis of the *role that the private sector could play in municipal service delivery*. This particular section considers a number of viewpoints, pre-requisites, and myths associated with private supply. The idea is to highlight, and place into context, the exact role of the private sector.

The final section follows on this by determining *the role of infrastructure in development*. The intention is to determine the context and impact that infrastructure has in a sustainable development environment.

Conclusions reached in this chapter will form part of the systemic approach in chapter 5.

3.2 Decentralisation and Development

3.2.1 Introduction

Decentralisation is by definition a process of transferring responsibility from a central or national structure to those away from the center, i.e. local area government. As the IMF (1999) states: "Technological developments that diminish economics of scale and political pressures for decentralisation have led to increased subnational government participation in providing (services) ... the advantages of this are becoming more apparent: subnational governments are better positioned to identify local preferences for infrastructure technology or service quality, accountability is enhanced with local decisionmaking, and voters have more information on the price and quality of services, thereby increasing competition in the sector."

Kotze (1997 : 25) citing Conyers (1986) describes decentralisation that concentrates on development as "an approach in which decentralisation is seen as a process, and one which is instrumental in bringing about other forms of social, economic and political change."

One aspect of decentralisation that needs to be realised is that local government should be enabled, and must have, at least, some basic capacity to perform the duties that is required of it. In its response to the government's White Paper (on Local Government) the CDE (1999 : 23) argues that the focus should not be so much on local governments but rather on the role of big cities as drivers of development. The Department of Constitutional Development however sees the transformation and enabling of local government structures as first priority.

The concept of decentralisation is in itself a separate field that can be analysed in great detail. This section aims to briefly reflect on some aspects of decentralisation without necessarily taking a specific viewpoint. The areas that will be investigated are the criteria for- and the results of decentralisation, as well as factors that might affect its success.

3.2.2 Criteria for decentralisation of public services

Many of the larger and more influential financial and development organisations emphasise the economic rationale for decentralisation. This emphasis is normally linked to a perception of increased efficiency. The argument used is that decisions about budget allocations on public services should be left to those levels of government that is closer to a community. The reason is that this level of government will be more responsive to, and more likely to best reflect local needs, rather than some remote central government.

A potential benefit of decentralisation is cited as "that people are more willing to pay for services that are responsive to their priorities, especially if they have been involved in the decisionmaking process for the delivery of services" (IMF 1999). This source mentions a number of potential reasons for decentralisation :

- It is often an integral part of the democratisation process as discredited central governments are replaced by representative local ones,
- It can be in response to pressure from ethnic or regional groups for more control or participation,
- May be in place in the absence of any alternative central structures for service supply.

It finally suggests five conditions that may be important for successful decentralisation :

- Local politicians should be able to bear the costs of, and deliver on their promises - this requires that decentralisation should link local fiscal authority to local public service provision.
- Local communities should be informed about alternative service delivery options and the associated costs in order for them to make informed decisions.
- There should be mechanisms for expressing preferences in ways that are binding on politicians - this will create an incentive for participation.
- Communities should be enabled to effectively monitor the performance of local government and to react accordingly. This should be through a system of accountability that is transparent - this will ensure that public officials have an incentive to be responsive and responsible.
- The legal and institutional frameworks for decentralisation and the structures of service delivery must support the political objectives.

Badshah (1996 : 26 - 27) confirms this participatory view. The reference suggests that studies of decentralisation initiatives show that they often fail during implementation. The reason offered for this conclusion is that decentralisation needs the involvement of groups other than central government and local development agencies. A suggestion is investigated that central government should completely withdraw from service provision in order to allow communities to arrange these for themselves. It offers an answer to this by stating that in most case studies it was shown that the involvement of other groups (including the private sector) depends on central government being allowed to play a key role.

In summary it may be concluded that decentralisation occurs due to pressures applied by specific groups or due to problems with (or the absence of) central supply of services. The perception is that it leads to increased efficiency but it has the potential to fail if not enough attention is given to participation structures. Decisions on infrastructure budgets can best be undertaken by structures that are closer to the needs of the community to be served and it creates a situation where people are more willing to pay for services. This will normally happen if local communities are informed and allowed to identify their preferences and if local politicians are accountable to such a community through a system of monitoring.

Having established an outline of the criteria for decentralisation the next step is to consider the different forms of decentralisation.

3.2.3 Different forms of decentralisation

Different sources show a varied interpretation of the term decentralisation. Kotze (1997 : 25-26) compiled a useful list of concepts that describes the different forms of decentralisation. Rather than explore specific contractual arrangements this source discusses different 'constituent concepts' of decentralisation as follows :

- **Devolution** - Refers to a transfer of decision making powers to a subordinate authority operating within its own area of jurisdiction. The example given is that of a local authority that is responsible to the local population that duly elected it in the first instance. Such an institution is only indirectly subject to control by central- or provincial government.
- **Deconcentration** - Administrative authority and responsibility is handed over to lower levels within the central government organisation. This is usually followed by a shift of the workload, normally away from the administrative capital. This source notes however, that the placing of officials in numerous offices throughout the country does not imply decentralisation. It states that it is the degree to which responsibility and discretion is transferred to these offices that determines the degree of decentralisation.
- **Delegation** - In this case authority is transferred for the execution of specific tasks. It can be to officials within the same organisation, or indeed to other institutions. However, the final and ultimate responsibility for the performance of the delegated tasks remains with the authority that delegated it in the first place.
- **Privatisation** - This entails the transfer of responsibility for the performance of certain tasks to organisations in the private sector. This could include a wide range such as professional bodies, which regulate admission or control marketing of certain aspects, or the employment of the services of private consultants or firms which provides specialised services - such as planning, management and construction.

In conclusion it may be noted that varying degrees of decentralisation may exist. In essence the applicable structure chosen will depend on a particular situation. The degree of decentralisation is defined by the balance of responsibility and risk between private and public role players. The choice around this will depend on the required end-result as well as other factors that may affect decentralisation.

3.2.4 Factors affecting decentralisation

Developing Governments have traditionally displayed a somewhat negative attitude to decentralisation which in many cases reflected their suspicion of the dispersal of political power through devolution (Kotze 1997 : 26). This source states that such governments often blamed decentralisation for failures that might have had other causes such as corruption and misuse of authority.

Kotze (1997 : 28 - 30) then expands on the factors affecting decentralisation as follows :

- **Administrative tradition** - The tradition of decentralised control under colonial rule in Africa, and the subsequent lack of support for it under independence is mentioned.

- **Administrative capacity** - The change in post colonial dispensation meant that the capacity of local government was neglected and remained low and in fact indirectly contributed to centralisation.
- **Political culture** - Political cultures tended to be fragmented which required an authoritarian form of government. This in turn inhibited any efforts at decentralisation. It is also possible that the attitudes and behaviours of local officials, leaders and populations influence the success of decentralisation.
- **Central support for decentralisation** - Administrative, financial and technical resources must be placed at the disposal of local administrations. In reality competent local administrations often find a lack of supporting services from central government as well as a lack of authority to approve even the most simple financial expenses required for local development.
- **Policies and resources available for decentralisation** - Development institutions and donors often require decentralisation and participation for the implementation of projects. These sometimes ignore existing local power structures and relationships as well as the extent that participation is actually possible.

In summary it may be concluded that the historic attitude to decentralisation has been biased negatively due to a perception of loss of political control. Other factors affecting the successful implementation of decentralisation includes the centralised administrative tradition in the Developing World, the historic under-development of administrative capacity as well as authoritarian political cultures which led to fragmentation. Further requirements includes central support for decentralisation that enables local structures to develop their full capacity and local development policies and structures that support decentralisation initiatives.

3.2.5 The advantages and historic results of decentralisation

A wide range of opinions on the potential benefits of decentralisation exists. Most sources however take the viewpoint of 'either - or', that is total centralisation or decentralisation. One source that attempts to find a compromise between the two options is Kotze (1997 : 27-28). It states that "instead of maximum decentralisation, the ideal should be to optimise decentralisation by striking the correct balance between centralisation and decentralisation".

It then considers the potential *positive* side effects of decentralisation, keeping the above in mind, as follows :

- The serious **limitations of centrally controlled national planning** can be overcome by decentralisation. The intention is that local officials are empowered to design and plan development which is appropriate to the need of an area.
- The **overconcentration of power**, and its associated enormous amounts of bureaucratic red tape, usually found in centralised planning can be eliminated by decentralisation.
- Through a process of decentralising the functions of central government there will normally be an associated **rise in the expertise levels** of local officials involved in addressing local needs and problems.
- Decentralisation makes it possible to achieve a **more thorough application of solutions** to especially remote rural areas.
- It potentially creates a situation where a **wider diversity** of political, ethnic, religious and tribal expressions are possible which in turn might realise the objectives of equality in the allocation of government resources.

- **More effective management and administrative skills** can be developed by local government as well as the private sector. This could enable these institutions to effectively take over those functions where central government is showing poor performance.
- **Central government** should be **relieved of routine tasks** which could allow it to become more efficient where national issues are concerned.
- It can lead to the creation of structures that will allow **different central government functions to effectively link up** and communicate between themselves as well as with local institutions.
- It is a **critical requirement where local participation is required**. It provides the structures whereby local requirements are channelled.
- It can therefore **neutralise exclusive control** by a local elite where development issues are concerned.
- It may lead to a **more flexible, innovative and creative administration system**. The idea is that local structures could 'experiment' with ideas, and if it is shown to be a failure it will be localised to a limited area.
- Because local groups have structures which reflect and direct their opinions, it will **create a more stable political** situation nationally.

In a discussion on decentralisation and infrastructure, the IMF (1999) considers the potential effects of decentralisation. It notes that decentralisation could improve the supply of infrastructure to be more equitable as smaller, local structures gain more scope and funding for their own projects. It does warn however that *decentralisation does not guarantee improvements in the quality or distribution of infrastructure* as local performance are affected by the incentives facing the decisionmakers, which in turn depends on the environment in which it takes place.

This source concludes that it is not possible to provide a single answer when looking at the effects of decentralisation. It notes that performance indicators generally improved *slightly* or in fact stay the same when infrastructure is decentralised. A number of potentially negative effects are also shown although this is more in the case of decentralised electrical supply.

This trend is indicated by the performance indicators for decentralised roads infrastructure. Desirable effects are for example that the condition of unpaved roads improved, and that the overall performance of roads improves. Against this are set the neutral effects, namely that the conditions of paved roads remained unchanged, and that the share of paved roads in the total network is unchanged.

It is not too clear on what database these conclusions were drawn but it is worth considering that **decentralisation does not automatically increase standards of service**. One view on this is the triangular concept of national, provincial and local government as envisaged by South Africa's White Paper on the Restructuring of Local Government.

In summary it may be concluded that decentralisation itself will not guarantee better service delivery but rather that a correct mix of centralised and decentralised is required. Any decentralisation initiatives should be considered by

a careful analysis of key performance indicators. It is a critical requirement where participation is part of the development picture as local officials are in the best position to address the needs of an area and not to neglect remote rural areas. This input by a wide diversity further leads to equality in service supply thereby increasing overall political stability. Central government functions are then free to concentrate on issues of national development efficiency rather than routine matters. Decentralisation can eliminate the overconcentration of power and give rise to local expertise levels as better management and administrative skills are developed locally, leading to flexible, innovative local solutions to local problems and needs.

This section focused on decentralisation. The next step in the analysis is to concentrate on one of the 'higher' degrees of decentralisation, namely privatisation of municipal infrastructure.

3.3 Forms and Functions of Privatised Supply of Public Services

3.3.1 Introduction

Various definitions of privatisation exists from a wide range of sources. In essence it can be summarised by defining it as *the application of private sector objectives and disciplines in the operation and management of public enterprise, combined in the most cases with the transfer of commercial and financial risk, and return, to the private enterprise.*

This implies a transfer of certain rights, and responsibilities, from the public- to the private sector. These are :

- ownership rights
- operating rights
- development rights

This section will consider the issue of privatisation in brief by investigating the reasons for privatisation, alternatives to privatisation, as well as the forms of privatisation and the size of private investment in public goods.

3.3.2 Reasons for engaging the private sector

The perceptions surrounding privatisation issues depends, to a large extent on the profile and nature of the (previously) public owned enterprise or service. This is clear from the answers provided by Cowan (1990 : 10) as reasons for involving the private sector in public goods supply :

- **A growing awareness of the deficits** created by mounting subsidy costs that may be reaching a crisis point.
- Privatisation may be seen as **one way of increasing the government's revenue** through the sale of an asset.
- This is sometimes coupled with government income by an **intended reduction in tax revenues.**
- It may reflect a genuine interest, or purely a reluctant **response by government to external pressures.**
- **General dissatisfaction with the (inadequate) performance of SOE.**

Another view on the perceived lack of economic and administrative skills displayed by the public sector is noted by the Harvard Debate on Partnerships (1999) as “public officials should not play the development game unless they have, or can acquire, the necessary skills, at the same levels, as their private counterparts”

A slightly less adversarial stance is taken by Langenhoven (1994 : 236) in his statement that “experiences all over the world has shown that no winning nation, especially in the developing world, succeeded without having the ‘golden triangle’ (labour, entrepreneurs and government) working together to achieve success”. He further states that, of the three, government’s role should be the smallest. This implies a condition that is created, rather than enforced. Badshah (1996 : 28) argues that privatisation is sometimes due to institutions such as the World Bank and the Asian Development Bank pressurising governments to privatise as part of the overall structural reform.

Closer to home, the Water Research Commission (1995 : E 1) proposes the following reasons for engaging the private sector :

- rapid expansion of the areas of supply and responsibility
- too great a demand on existing resources
- a desire to improve the levels of service
- the need to reduce the cost of service
- the need to find additional sources of funding

This implies a need borne out of necessity, rather than choice. These sentiments are echoed by the Department of Water Affairs and Forestry (1996) when it states that private sector involvement is required to achieve greater management efficiency and the sharing of benefits, as well as the access to the financial capabilities provided by the private sector.

These claims are confirmed by the Development Bank of South Africa (1999) when it states that “the demonstration effect of successful private infrastructure projects around the world has also served as an important catalyst for significant international growth (of privatised provision) in recent years”. It also mentions possible reasons for engaging the private sector as :

- low productivity of capital and labour
- weak incentive structures
- neglect of timely maintenance
- budget constraints
- the absence of financial risk management

These aspects are emphasised in the wording of the Framework Agreement for the Restructuring of Municipal Services where it is stated that “private sector involvement should primarily be aimed at achieving improved and greater levels of service, and leveraging additional capacity and investment”.

From the above it may be summarised that a range of opinions exist on the reasons for engaging the private sector in service provision. It is useful to group these together into different areas as illustrated in Table 1 : Reasons for Engaging the Private Sector below.

Areas of Evaluation	Description
Performance of the Public Sector	<ul style="list-style-type: none"> • Growing awareness of deficits created by subsidies • General dissatisfaction with past performance of SOE • Lack of administrative, negotiating and management skills • Low plant and capital productivity • Weak incentive structures • Inadequate financial risk management
Potential Benefits that the Private Sector can offer	<ul style="list-style-type: none"> • Entrepreneurial skills • Source of additional funding and capacity • Source of management efficiency
Public Sector Capacity	<ul style="list-style-type: none"> • Capacity can be increased greatly by involving other role-players • Rapid expansion of areas of responsibilities • Desire to improve the levels, quality and cost of services • Potential increased maintenance capacity
Financial or Funding Constraints	<ul style="list-style-type: none"> • One way of increasing government revenues • Method of reducing tax revenue - political spin-off • Reflecting a need to reduce the cost of a service • Need for additional sources of funding
Institutional requirements	<ul style="list-style-type: none"> • Prescribed by international donor and funding institutions • Required by national development frameworks

Table 1 : Reasons for Engaging the Private Sector

3.3.3 Alternatives to privatisation or intermediate measure

The previous section implies that privatisation (of whatever grade) is an “either - or” situation. This approach is strongly contested by some sources, for example organised labour in South Africa. It is therefore useful to investigate the alternatives to privatisation in order to provide a thorough analysis.

One source that defines the various options clearly, is the United Nations Conference on Trade and Development (1995 : 63-81). It distinguishes between divestiture (outright sale or unburdening) and non-divestiture, where government retains some measure of control over a public enterprise. It is described as being an intermediate step towards full privatisation. It has however some implications for partnerships for municipal infrastructure that might well be considered.

The first area that this source considers is *restructuring and commercialisation*. In particular it describes the forms of restructuring and commercialisation as follows :

- **Organisational and Labour restructuring** - the public enterprise is reorganised into more rational and smaller units. Unnecessary labour is shed. Purpose is to increase the net value of the enterprise and to increase the sales value of it.
- **Financial restructuring** - Excess debt and accumulated losses are written off. Purpose is to place the enterprise on a sound financial footing and increase its sale value.
- **Operational restructuring** - New or additional investment in order to upgrade the capacity or technology of the enterprise. Here again the intention is to increase sale value. This source warns that it is better to let the 'buyer' decide what is suitable, rather than to try and guess what will be required.
- **Commercialisation** - Contract plans or performance agreements are negotiated to specify enterprise objectives in terms of production goals, quality of service to be produced, overall social impact. It will also indicate the physical, financial and social indicators by which the enterprise will be measured.
- **Corporatisation** - The public enterprise is converted into a legally and economically independent entity.

The next area considered by this source is the *privatisation of management*. This is stated to be either a means to an end or indeed an end in itself. The general intention is that a public enterprise's management skills are improved through the subsequent contact and interaction with the commercial sector. The different options available, which will be discussed in depth in the next section, are :

- **Management contracts** - A public enterprise contracts with a private firm for the operation of the enterprise's activities.
- **Leases** - A contractual arrangement whereby a public enterprise grants another party the right to use an asset and to benefit from it for a pre-agreed period. It may be operating-, capital-, or sale leases.
- **Concessions** - Operating and development rights is transferred from the public- to the private sector and may be granted at municipal, national or international level.

The third area under discussion is *contracting out*. A public authority contracts a private firm to perform a specific service or activity. It may be used when divestiture is not feasible for political or other reasons. It is normally associated with a process of competitive bidding. Certain factors which are critical for success will be dealt with later in the thesis.

The final non-divestiture option is *joint ventures*. This is moving closer to the main focus of this thesis, namely partnerships for municipal services. Joint ventures fall into two main categories :

- **Contractual ventures** - Temporary or single purpose arrangements.
- **Equity arrangements** - Jointly owned and managed firms that are formed to carry out commercial activities.

In the local context The South African Municipal Workers Union has voiced their opinion on privatisation of public utilities on various occasions. They reject the idea as being a threat to the rights and opportunities of

workers and proposes an alternative solution to the performance of public enterprise. SAMWU (1997) states that privatisation will lead to profit-taking and propose the following **alternative solutions** :

- Restructuring should mean “turning around” service delivery, not finding alternative service providers.
- Reorganising the workplace and the way that services are delivered.
- Building stronger accountability between municipalities and the communities they represent.
- Finding alternatives to local government financing.
- The ideological and practical implications of privatisation must be challenged.
- Reorganise budgets and consider cross-subsidies from rich to poor.

According to official sources (MIU : 2000) the “main thrust of the MSP Framework is to create a conducive environment for mobilising resources to meet the Reconstruction and Development programme objectives. The Framework does this within the context of principles of consultation, promoting universal access to services, improving service standards for all, openness and transparency in decision making.”

Further in the document it however cautions that “in assessing the appropriateness of service delivery mechanisms, the choice is not between public and private provision. Rather, the real issue facing each municipality is to find an appropriate combination of options, which effectively achieves their policy objectives.”

In summary it may be concluded that three alternatives exist when considering alternative service delivery mechanisms. The first is the reorganising and improvement of public enterprise to allow it to provide the services for which it is traditionally responsible, the second is to consider various options of non-divestiture which allows public enterprise to retain some form of control or as an intermediate step to full privatisation, and finally divestiture or full privatisation with all rights, responsibilities and privileges transferred to the private sector.

3.3.4 A review of contractual options for privatised supply of Public goods

Full privatisation or some form of it has been around for a considerable length of time. Privatised supply of public infrastructure and goods have also been around in some form for the past twenty or thirty years. During this time the different forms of privatised supply structures have been categorised in terms of its management and operating structures.

This section will consider the different existing structures in terms of definition, application, duration, allocation of responsibility and risk, advantages and disadvantages. This will be done through an analysis of some of the more important literature sources in this regard. The information will then be summarised in a tabular format.

The first structure through which private input can be directed is the *service contract*. The Department of Constitutional Development (DCD) (1999) defines it as follows : “Service contracting involves recruiting the private sector to carry out specific operations and maintenance activities, usually for a period of a few years”. The Water Research Commission (1995 : 5-4) defines it as “the simplest form of private sector participation, whereby

the local authority retains overall responsibility for the operation and maintenance of the system, except for specific, limited scope services that are contracted out or out-sourced". This is confirmed by the Municipal Infrastructure Investment Unit (1998) which states that a service contract occurs when "a municipality pays a fee to a private firm to provide a specific operational service". The United Nations Conference on Trade and Development (1995 : 79) depicts a service contract as one "where a public authority contracts a private firm to perform some specific service in the place of the public entity, or in competition with it". South African sources (SA Gov : 2000) suggest that it is an ideal type of arrangement to use as a starting point to involve NGO's and CBO's.

The next potential structure is the *management contract*. The UN (1995 : 73) defines it as an agreement whereby a public enterprise contracts with a private firm (or an individual) for the operation of a public entity. Cowan (1990 : 71) states that management contracting is seen as a way of rescuing SOE that are "chronic money losers" have been gaining favour as greater efficiency is demanded from the public sector and the awareness of the cost of subsidies increase. The World Bank (1988 : 37) defines the management contractor as an entity that "assumes responsibility under a contract to manage the enterprise for compensation. It is given full control and authority to manage (and) the operation is managed within the confines of a contract". The contractor is paid for its management and other skills. According to the Development Bank of South Africa (1999 : 1) a management agreement contracts out a service to a private firm for a pre-determined fee without the private firm financing the venture. The public sector finances both fixed and working capital. The DCD (1999) refines it further by stating that it can be distinguished from a service contract by the greater responsibility that it gives to the private sector. It moves beyond specific services to encompass a fuller range of operation and maintenance but still without financial risk to the private firm. The MIU (1998) adds that the private sector has freedom in making day-to-day decisions. Finally the Water Research Commission (WRC) (1995 : 5-5) defines it as the provision of assistance from the private sector for the provision of specific services for direct payment. This definition is also used by the White Paper on MSP" (2000).

The next structure under consideration is a *rental or lease agreement*. The WRC (1995 : 5-7) defines it as a contract that "provides local authorities with a mechanism of transferring responsibility for the operation of a system to the private sector whilst retaining control over investment and expansion of the system". The MIU states that a private firm rents facilities and assumes responsibility for operation and maintenance and finances working capital, but not fixed assets, which remains the responsibility of the municipality. The WDR (1994 : 109) calls it the delegation of responsibility together with the assumption of commercial risk. The DCD (1999) defines it as the operation and maintenance of government-owned enterprise at commercial risk with income derived directly from tariffs, with no obligation on the private firm to invest in infrastructure. The DBSA (1999) emphasises a specific duration. The World Bank (1988 : 37) expands the definition by stating that it normally implies "the conduct of business by the lessee, in his own name, the right to use specified facilities for a fixed period and the obligation to pay the owner (government or SOE) a fee for the use of its assets". This is emphasised by Cowan (1990 : 7) where it is stated that a lease "puts operations in the hands of outside groups while leaving ownership in government hands". The different parties to the contract are defined by the UN (1995 : 75) as the lessor (State) which grants-, and the lessee (the other party) that assumes the responsibility to use an asset for commercial purposes with the

main objective the interjection of life into an ailing enterprise. Once again the White Paper on MSP eventually made use of the DCD definition of this type of contractual arrangement (SA Gov : 2000).

Another potential structure to incorporate private input into public services is *concessions*. DCD (1999) describes it by stating that “the private operator manages the infrastructure facility, operates it at commercial risk, and accepts investment obligations, whether to build a new facility or to expand or rehabilitate it”. The UN (1995 : 78) confirms this by defining a concession as the transfer of operating and development rights from the State to the private sector. The DBSA (1999) expands the definition to incorporate agreements such as build-operate-transfer (BOT) and rehabilitate-operate-transfer (ROT) and emphasises that it is for a prescribed period only. According to the MIU a concession takes place when “a private firm handles operations and maintenance and finances investments (fixed assets) in addition to working capital”. This is confirmed by the WDR (1994 : 109) where it is stated that the state delegates the operation and maintenance as well as the responsibility for new investments to the private sector. The WRC defines a concession as an investment linked contract. The emphasis is here on the availability of investment without the need for a local government to obtain funds from their own funds or loans.

Some other options are *commercialisation or corporitasion, user- or community provision, full privatisation (outright sale of a government asset), municipal debt issuance, public private partnerships, management buy-outs and demonopolisation and new entries*. These structures can be defined as forms of slightly different forms of the main alternative structures as mentioned above.

When considering the application of the different contractual structures, sources provide a variety of answers. DCD (1999) suggests that *service contracts* could be used effectively for the operation and maintenance of public services such as standpipes, meter reading, billing and collection, collection of municipal waste, ticketing and cleaning. The UN (1995 : 79) mentions services that benefited from service contracts as asphalt overlaying, janitorial services and traffic signal maintenance. The WRC (1995 : 5-4) proposes that its application be focused on emergency operations, design of new works specific refurbishment items and operation of works.

In the case of *management contracts* the different sources agree that it involves only the transfer of operating rights and not the ownership of assets (UN 1995 : 73). This implies that it involves not only individual services but a wider range. According to the WRC (1995 : 5-5) this could typically be services such as the operation of a water works, training of staff of a water leakage control programme or similar.

When considering *leases* it is clear that a lessor-lessee agreement exists which is normally suitable for services such as water treatment works including the associated billing and revenue collection (WRC 1995 : 5-7). Other services suited for leases are urban water and sewage, electrical supply, ports, railways and solid waste collection (DCD 1999)

The most common application in the case of a *concession* is toll roads, airports and railways. This is due to the fact that a government desires private investment but does not want to relinquish rights of ownership in the long

term. The UN (1995 : 79) extends the application to issues such as municipal contracts, railways and telecommunications.

In the case of *demonopolisation* the DCD claims that it has been used successfully in telecommunications, energy utilities and airlines, but that the private ownership of core municipal infrastructure services does not seem to be appropriate in the South African sense. *Municipal debt issuance* will find an application wherever a municipality seeks to raise private funds for a new development or infrastructure project.

Most sources are in agreement when discussing the *duration* of the alternative service delivery options. The shortest duration is that of the service contract at typically 1 - 3 years, management contracts at 3 - 5 years, lease contracts at 5 - 10 years, concessions at 15 + years, debt issuance at 10 - 20 years and naturally no limit on full privatisation. The issues above as well as the allocation of risk, responsibility, potential pitfalls and requirements for success are shown in Table 2 : Contractual Structures Available for Engaging the Private Sector below. The table is not exhaustive but aims to summarise the indicators as noted by the main sources cited above.

	<i>Commercialisation or Corporatization</i>	<i>Service Contract</i>	<i>Management Contract</i>	<i>Lease</i>	<i>Concession</i>	<i>Joint Venture / Partnership</i>
Definition	Temporary transfer of SOE to private supplier	Contract with a private firm to carry out specific operational activities at agreed rates	Contract with a private firm for the overall management of a public entity for compensation	Private firm rents a SOE and benefits directly from the revenue generated by the asset	Operating and development rights transferred to the private sector	Collaboration in an enterprise with risks and benefits shared
Application	Sectors of the market such as public infrastructure, energy utilities	Limited operations such as asphalt work, meter reading	Solid waste collection, water supply	Urban waterworks, sanitation and infrastructure, solid waste facilities	Toll Roads, airlines, railways	No specific application
Duration	15 years +	1 - 3 years	3 - 5 years	5 - 10 years	10 - 20 years	N / A
Range of Activities	Normally a sector of a market	Single activities or operations	A range of activities	Normally a public utility	Public utilities or infrastructure areas	No limitation
Ownership of Fixed Assets	Public sector	Public sector	Public sector	Public sector	Private for the duration of the contract only	Depends on the partnership agreement
Ownership of working capital	Public sector	Public sector	Public sector	Private sector	Private sector	Depends on the partnership agreement
Operation and maintenance responsibility	Private sector	Private operator	Private operator	Private operator	Private operator	Depends on the partnership agreement
Collection of revenue	Private sector	Public sector	Public sector	Private operator	Private operator	Depends on the partnership agreement
Management authority	Private sector	Public sector	Public sector	Private operator	Private operator	Depends on the partnership agreement
Commercial risk	Private sector	Public sector	Public sector	Private operator	Private operator	Depends on the partnership agreement
Potential problems and disadvantages	Could be politically inappropriate	<ul style="list-style-type: none"> •Care to be taken to prevent collusive bidding •Monopolies •Lack of administrative or financial capacity •Practical difficulties in 	<ul style="list-style-type: none"> •Duality of pvt management and public ownership •Absence of equity tends to reduce commitment to performance •Private operator may further his interests 	<ul style="list-style-type: none"> •Potential conflict of interest due to separate ownership and responsibilities •Co-ordinating difficulties •Budget 	<ul style="list-style-type: none"> •Substantial investments are required which makes potential investors cautious about committing themselves in cases of high 	<ul style="list-style-type: none"> •Might be better to start from scratch rather than turn around a loss making public entity •Reluctance by the private sector to commit to

<p>Potential benefits</p>	<ul style="list-style-type: none"> • May help to improve the performance of a SOE • Present the opportunity to test SOE as a private function prior to privatisation 	<p>enforcing standards</p> <ul style="list-style-type: none"> • Administrative and managerial skills of the private sector is harvested for public good • Potential for skills transfer to communities 	<p>in conflict with the State</p> <ul style="list-style-type: none"> • Tends to lead to increased billing and collection costs <ul style="list-style-type: none"> • Attractive option when full privatisation not appropriate • Management contractor may improve the information about the enterprise 	<p>constraints may lead to deterioration in quality</p> <ul style="list-style-type: none"> • No incentive to improve the value of the leased asset <ul style="list-style-type: none"> • Lessee responsible for hiring personnel • Payment is made to the lessor (State) regardless of the enterprise's performance • Improved management and performance • Provides the State with a stable net income 	<p>political or economical risk</p> <ul style="list-style-type: none"> • Generally runs for a long period and allows private investor to recoup financial investment • Longer term forces the private operator to plan and manage the entity for economic success 	<p>unprofitable SOE</p> <ul style="list-style-type: none"> • Potential conflicts of interest can be addressed in a partnering charter • Flexibility of this arrangement makes it applicable to a wide range of enterprises
	<p>Commercialisation or Corporation</p>	<p>Service Contract</p>	<p>Management Contract</p>	<p>Lease</p>	<p>Concession</p>	<p>Joint Venture / Partnership</p>
<p>Critical success factors</p>	<ul style="list-style-type: none"> • Clarity on whether it is to be a competitive or complementary strategy • Decision on whether the ultimate goal is to be total divestiture 	<ul style="list-style-type: none"> • Duration should be such that it allows a private operator to write off capital assets acquired for the service contract • Contractor must demonstrate its ability to provide the service • Contract should clearly stipulate performance criteria, penalties and incentive details • A particular agency is nominated to monitor the contract • Contract can be revoked for non-performance 	<ul style="list-style-type: none"> • Clear agreement on objectives and degree of management authority • Should stipulate the scope and nature of services to be provided • The amount of the management fee and payment intervals • Criteria used to evaluate performance • The private operator's operating powers • Rules regarding labour force employment • There should be enough autonomy to implement commercial reforms as well as effective incentive structures 	<p>Lease contracts should stipulate:</p> <ul style="list-style-type: none"> • The degree of autonomy entrusted to the lessee • The nature of government regulations with regard to pricing, taxation, subsidies etc. • Responsibilities of each party w.r.t. severance pay, retirement, retraining of redundant personnel • Amount and interval of payments • Mechanisms to review the contract periodically 	<ul style="list-style-type: none"> • Choice of enterprise must be politically acceptable • Details of how and when the enterprise will be transferred back to the State • Regulations to prevent asset-stripping 	<ul style="list-style-type: none"> • Partnering charter that regulates the working relationship between the parties as well as a contract that defines the legal relationship
<p>Types of Contracts</p>	<ul style="list-style-type: none"> • Private entry 	<ul style="list-style-type: none"> • Specific services • Specific operations • Competitive bidding • Unsolicited bids 	<ul style="list-style-type: none"> • State formed management company • Private management contractor 	<ul style="list-style-type: none"> • Operating leases • Capital leases • Leaseback agreements • Build-Own-Operate • Build-Rehabilitate-Transfer • Build-Own-Transfer • Build-Transfer 	<ul style="list-style-type: none"> • Administrative Acts • Contract • Combination of Both 	<ul style="list-style-type: none"> • Contractual ventures established for a single or temporary purpose • Equity arrangements established to carry out regular or ongoing activities

Table 2 : Contractual Structures Available for Engaging the Private Sector

meet some sustainable objective, the world must be prepared to pay the private sector for costs it otherwise has no incentive to meet”.

Weiss (1995) emphasises the role of government in development as depicted in most early literature as “due to widespread market failures and externalities, combined often with the absence of a dynamic indigenous private sector, a high level of state involvement would be essential to generate economic progress”. The WDR (1994 : 73) on the other hand, states that commercial and competitive provision of services is possible but that there is a danger that public infrastructure will be undersupplied if the market alone is left to determine their provision.

These views highlight the main roles played by the private- and public sectors. The private sector aims to be commercially viable and deliver an acceptable rate of return to its investors. This statement does not require a full explanation as the principles of business, its objectives and goals are widely known. The public sector on the other hand needs to meet the social and welfare requirements imposed on it by the citizens of a country. These issues are constitutional rights that are very much a part of democratic governance. It would typically be written into a country’s constitution or development frameworks such as South Africa’s RDP.

At a local government level it is useful to look at some of the specific requirements for municipal government as suggested in the Government’s White Paper on the Restructuring of South African Local Government. **Local government is required, inter alia to :**

- represent communities and meet basic needs
- improve the quality of life of communities and promote social development
- be responsible for taking steps to ensure the overall economic and social conditions are conducive to the creation of employment
- empower marginalised groups to reach their full capacity
- undertake integrated development planning
- negotiate a public investment plan around all government investment in the municipal area
- institute key performance indicators for the municipality as a whole
- ensure environmental sustainability of development programmes

According to the Centre for Development and Enterprise (1997 : 16) this daunting list vastly overestimates the managerial, financial and administrative capacity of local government. It argues that while the White Paper’s objectives for local government are clearly justified, it is asking too much.

In summary it may be concluded that the private- and public sectors traditionally have different, and potentially conflicting objectives. The private sector, on one hand, have commercial goals and is responsible for providing acceptable returns for their stakeholders’ investment. The public sector has a constitutional obligation to meet social and welfare objectives. The meeting of these objectives are normally the responsibilities of the politicians that represent their electoral constituency. In the South African local government these social and welfare objectives are defined by the White Paper on the Restructuring of Local Government and proves to be potentially a

In summary it may be concluded that a wide range of institutional and contractual options exists when considering some degree of privatised public services supply. The main structures available are service contracts, management contracts, leases and concessions as well as the demonopolisation of market sectors. The choice of a structure depends on the details of ownership, allocation of risk and reward as well as potential advantages and disadvantages. Critical success factors need to be established if any particular structure is chosen. A final option that exists is joint ventures or partnerships that seem to be flexible enough to incorporate most private- and public sector requirements.

Having analysed the reasons for engaging the private sector as well as the main institutional and structural options for private supply the next section will focus on the issues that should be addressed when considering private collaboration.

3.4 The Role of the Private Sector in Municipal Service Delivery

3.4.1 Introduction

This section will move from the contractual options for incorporating private input in public service supply and maintenance to the application and relevance of such input. Cowan (1990 : 84) makes general statement by saying that there is evidence that *consumers are willing to pay more for an increase in the efficiency of a service but there is a limit to their ability to accept increased service charges* - a critical balance between higher service levels and the fear of exploitation needs to be maintained. This statement reflects the stand taken by most sources.

This section will investigate the role of the private sector by analysing the respective goals of the private- and public sectors, the pre-requisites and selection of private partners and the conditions under which private investment will take place, and will finally investigate some myths surrounding private sector participation.

3.4.2 Viewpoints on public and private roles and their respective goals

Different viewpoints, sometimes strongly voiced, exist on the respective roles of the private sector and the public sector in public service supply. This section will consider some of these viewpoints and finally attempt to summarise them into main areas.

An opening note is supplied by the Department of Constitutional Development (1999) when it states that “ *the municipality remains ultimately responsible for the provision for service provision. The municipality remains ultimately responsible whether this has been delegated to a third party or not. The municipality will always remain the regulator of the infrastructure and must monitor it closely* ”. Pearce (1998) puts it in more general terms by stating that “Private Investors do not have the social and natural environment as their primary concern. Rather, they are there to make an acceptable return to their shareholders. If the world wants those investments to

daunting task. The potential application of partnerships for service delivery lies in its ability to create structures that will accommodate the different public and private objectives. The next section will consider the environment that needs to be created, or in place to attract private investment or participation.

3.4.3 Pre-requisites, selection and negative effects of private service supply

Earlier chapters highlighted the elements of sustainable development and the role that the private sector can play in it. Pearce (1998) cautions that *private investment* will take place only when distortions, such as financial subsidies, taxing of revenue of exploitive industry at levels not high enough, and inadequate land tenure agreements are addressed and rectified. This source continues by stating that “the essential conclusion is that the private sector financing of sustainable development will not occur unless the context for investment is one in which the risks associated with investments are acceptable. In turn, that context has to be one where markets are liberalised, political governance is secure, and structural adjustment is occurring. Where risks remain international organisations can help by underwriting these risks”.

Linking private investment to sustainable development Pearce continues by stating that *if the world wants the private sector to meet some sustainable objective it must be prepared to pay for costs that the private sector would otherwise have no incentive to meet*. When considering subsidies it is stated that there are arguments in favour of it but that it should be clear which social or environmental benefits will be gained through it.

Panayotou (1997) suggests that in order to attract private capital and managerial talent, a series of economic, financial, legal and institutional reforms are required. Some of these are :

- prudent macro-economic management practices, including a stable currency
- institutional and legal frameworks to ensure enforcement of contracts
- demonopolised market niche sectors and extended private participation
- removal of subsidies and allowance for tariffs to reflect costs
- removal of barriers to foreign capital
- allowance for the repatriation of profits and encouragement of foreign participation
- strengthening of the local capital market and access to the international capital markets

Gomez-Echeverri (1997) warns that contributions from the private sector will not take place unless a pro-active programme exists to direct it. The elements of such a programme are typically :

- good local governance - this leads to assigned and clear roles for the public and private sectors
- a well informed society - the best guarantee of responsible behaviour by the private sector
- a conducive policy framework - should be a regulatory framework *as well as one in which a set of incentives give the right signals*
- strong supporting institutions - good performance is best achieved when there is support from local and national institutions

- adequate financial instruments - there must be an effective, transparent and reliable system of financial instruments to facilitate exchange and to provide resources for business operations and development
- a free and open trade system - no business will be interested in establishing itself if it cannot provide services for profit

The WRC's report of 1996 (E-3) confirms this in the policy principles laid down for guiding private investment:

- procedures for engaging the private sector must be transparent
- the performance of the service provider must be monitored
- the engagement of the private sector should provide for technology transfer and capacity building
- the service provider must follow sound environmental principles
- local authority personnel are not to be prejudiced by the engagement of the private sector
- the service provider must be accountable to the people they serve
- there should be free access to the market whilst ensuring that only contractors which have the necessary competence and capacity to carry out the work should be entrusted with the tasks
- the service provider should be responsive to the needs and problems of the end users
- the provision of the infrastructure should be in a manner that is sustainable

The above provides an intensive list of "rules and regulations" that could possibly regulate private investment and participation in infrastructure and services supply.

It is necessary to understand the view taken by organised labour and its understanding of the potential *negative effects of privatising public services*. COSATU (1997) notes that the effect of privatisation, measured at local government level in Britain was :

- job losses and work intensification
- worsening work conditions
- women carry the heaviest load - first to be retrenched
- quality of service is cut back
- trade unions find themselves in a less friendly environment after privatisation
- consumers of service no longer have a political right in terms of what they receive

In a SAMWU article Van Niekerk (1997) warns that especially in management contracts, there is a tendency for private firms to gain all benefits at the expense of others as they receive their fees from local government without tariffs collected properly, as in the case of areas where residents are not paying for services. This source calls it a clear win-win situation for the private sector.

Current case study material from the MIHU (2000) in the case of the Dolphin Coast project provides a positive picture. Not a single employee was retrenched and in most cases feel they are better off than before the shift from public to private supply. In addition the private supplier set up a number of mechanisms such as provident funds, pension plans and employee equity in the firm.

In summary it may be concluded that the right environment needs to exist before privatised supply of services will be possible. At a macro-economic level the institutional arrangements such as subsidies, tariff and taxation systems, capital markets and representative political dispensations must be conducive to the attraction of private investment. It must be realised that if the requirements of sustainable development are to be met there might be an associated extra-over cost for its implementation. At local governance level there should be structural frameworks in place, as well as good governance and a well informed society and an open, free trade system. In South Africa the current frameworks that direct private participation essentially requires the principles and policies of sustainable development to be met. Any consideration of privatised supply of public goods must realise the significance of perceptions regarding the role of labour in privatised supply.

Having considered the environment that needs to be in place for private input the next section will provide a critical review of the role of the private sector in service supply.

3.4.4 Myths surrounding privatised supply of services

According to Houskamp (World Bank : 2000) the poorest of the poor does not always necessarily benefit from private services supply. This sources questions the benefits of private supply which leads to this section which will highlight, and attempt to address, some of these concerns.

The analysis so far has made it clear that the role of the private sector is an “either-or” one and are mostly defined in those terms. One view on this is provided by Gomez-Echeverri (1998) where it is stated that “the private sector is neither saviour nor villain - as often attributed by policy makers - but rather is an important source of talents, skills, and resources to be tapped in support of sustainable development” This source then states that in order for the private sector to take its rightful place several myths about it should be addressed first. These “myths” and comments on it, shown in Table 3 : ‘Myths’ that exist regarding the Private Sector, as follows :

‘Myth’ Relating to the Private Sector	Comments
1. Globalisation and the technological information revolutions are resulting in a situation where government plays an increasingly marginalised role.	There is an urgent need for government to play a stronger, more responsible role to ensure that development is socially and environmentally equitable.
2. Private sectors are playing an increasingly bigger role, thereby proving that there is a lesser need for governments and Official Development Aid.	Biggest successes are where partnerships are in place with strong policies and regulations enforced by a strong government.
3. The exponential growth in the flow of funds from OECD countries to the South is proof that the private sector is the most important actor in development efforts today.	Most of this flow is to 5 % of developing countries only - the balance is simply by-passed or seen as a potential to be explored, but might never happen unless global attitudes change.
4. In cases where the private sector is involved in development it has been shown to care about people and the environment.	These are not the driving reasons - it may be more profitable for private companies, as well as enhance their image if they address sustainable requirements.
5. Companies around the world are gearing up for the new role that the private sector is playing.	Governments around the world are acting as if it is business as usual - communities are not seeing any benefits.

6. International organisations, such as those assisting developing countries are gearing up for the new, changing world.	Most international organisations are talking of major reform but few are acting on it.
7. Subsidies that distort the economy and affect the proper role that the private sector can play occurs exclusively in developing countries.	These attitudes occur in both developing and developed countries.
8. The potential role that the private sector can play is negatively affected by the traditional views on the roles, and responsibilities of government and business.	People's views on these matters vary greatly over time as well as geographically.
9. Investing in environmentally related projects is unprofitable and risky.	Environmental related funding is set to increase from \$ 100 billion to \$ 640 by 2025 - no way that governments can meet this without massive input from the private sector.
10. The main source for development funding in developing countries is external finance.	Studies have shown that internal finance contributes as much as seven times that of external finance.
11. The market mechanism on its own will ensure that financial flows become socially and environmentally sensitive.	Proper policies must be in place that include penalties for ignoring social and environmental requirements.
12. Given the market mechanisms, financial markets will automatically work in support of sustainable development.	Existing business ethics and accounting systems are not automatically conducive to sustainable development.
13. The private sector is for the most part reluctant to adopt sustainable development practices.	There is growing support from business leaders to move towards sustainable practices.

Table 3 : 'Myths' that exist regarding the Private Sector

In summary it may be concluded that extensive private participation will only occur when business becomes an ally, contributor and partner. This will require a change of mindset with policy-makers, development practitioners and business people around the world. The main issues are perception around the role of the private sector in sustainable development, as well as the incentives for business to participate in sustainable practices.

The last three sections investigated the progressive move away from central supply and maintenance of services by considering decentralisation, privatisation and the role of the private sector in this process. The final section in this chapter will focus on the 'goods' under consideration, namely infrastructure and its role in the development process.

3.5 Infrastructure and its Role in Development

3.5.1 Introduction

The World Development Report (1994 : 2) states in its introduction that "the adequacy of infrastructure helps determine one country's success and another's failure - in diversifying production, expanding trade, coping with population growth, reducing poverty, or improving environmental conditions. Good infrastructure raises productivity and lowers production costs, but it has to expand fast enough to accommodate growth".

The report continues by stating that although the exact link between infrastructure and development remains open to debate there is a direct correlation between capacity - a 1% increase in infrastructure stock is associated with a

1% increase in GDP. It further claims that public spending on infrastructure construction and maintenance are valuable policy tools to stimulate economic growth during times of recession.

In conclusion the WDR makes it clear that the improvement of infrastructure will only take place in a country with good governance structures.

3.5.2 The context and reasons for infrastructure and the WDR of 1994

The WDR (1994 : 2) focuses on economic infrastructure with technical and social features, such as public utilities (power, telecommunications, water and sanitation, solid waste collection), public works (roads, dams and canals) and other urban transport units such as railways, ports etc). It then supplies the main 'messages' as follows :

- **The role of infrastructure** - It can play a major role in economic growth, poverty alleviation and environmental sustainability, but only if it delivers services in a way that is efficiently responsive to effective demand. It argues that the level and quality of service delivered should be the key performance measurement. It warns that some countries have failed by making major investments in infrastructure and then not managing it properly. This leads to a situation where these assets are not generating the quantity or quality of service that it should, resulting in lost opportunities in poverty reduction and economic growth.
- **The role of incentives** for the suppliers of service - The WDR argues that the causes of past poor performance as well as potential improved performance is lodged in the incentives facing suppliers of infrastructure. It states that services should be delivered more efficiently by applications of commercial management, competition and stakeholder involvement. Added to this the roles of the private sector and public sector need to be transformed as well. It is also suggested that the roles of technological innovations and alternative supply methods are to be investigated.
- **The management of infrastructure** - The report argues that infrastructure should be managed like a business and not like a bureaucracy. This means it should be responsive to customer demand. This can be obtained by involving the private sector to ensure that its commercial skills are transferred to the public sector. Consumers, even the very poor are very willing to pay for services, provided that quality and cost standards are maintained.
- **The introduction of competition** in infrastructure - This will ensure that end-users are given the option to choose a supplier that best meets their particular needs. The WDR argues that the introduction of this competition can either be direct or indirect (e.g. competitive bidding)
- **The role of stakeholders and users** - These groups should be represented in the planning and regulation of infrastructure services. This involvement should give them real responsibility
- **The role of partnerships** - According to the WDR partnerships show real promise but cautions that countries should start with smaller, pilot projects
- **The role of government** - More than likely the role of government in infrastructure supply and maintenance will undergo a change, possibly to that of regulatory and administrative services rather than that of direct supplier of these goods.

The WDR (1994 : 19) then looks at the results of not spending / investing on infrastructure. It states that “when times are hard, capital spending on infrastructure is the first item to go, and operations and maintenance are often close behind. Despite the long-term economic costs of slashing infrastructure spending, governments find it less politically costly than reducing public employment or wages”. This is based on an evaluation of studies on fiscal adjustments and expenditure reduction. It concludes that capital, rather than current spending is normally cut, with capital spending on infrastructure normally taking the lead. A statement is made that initial cutbacks on spending is not necessarily bad as it could be part of a rationalisation process, but if operations and maintenance of infrastructure is affected, it is a potential problem as it is normally linked to a rapid deterioration in infrastructure. It cites the example of Costa Rica in the 1980’s where operations and maintenance fell from 1.6% of GDP to 0.3% with the result that the share of the country’s roads classified as poor to very poor rose to 70%.

In summary the WDR (1994 : 19) makes the point that infrastructure investment on its own might not be sufficient to generate sustained increases in growth. The demand for services are seen to be sensitive to economic growth in itself, the latter which is often difficult to predict. It is clear that the way infrastructure is acquired, managed and maintained that will be the driving force of economic growth. This hinges around the roles of the private- and public sectors, stakeholders and end-users as well as the institutional structures that should be in place.

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4. Chapter 4 : Public Private Partnerships

4.1 Introduction

The previous chapter established the value of private sector input into sustainable municipal service delivery. Various options and contractual arrangements available for this were discussed. The next stage is to narrow the focus to public private partnerships. On an introductory note it is worth quoting Domberger et al (1997 : 777) in its definition of partnerships : *Partnering refers to a close working relationship with a high level of trust and close co-operation between two parties that contract with each other to accomplish mutually beneficial outcomes.* In other words a so called win-win situation.

In South Africa the official view (SA Gov : 2000) is that PPP, or in this case MSP should be clearly viewed as being an additional, rather than optional alternative and that it should not be allowed to be a threat to reform initiatives undertaken by the public sector.

This sentiment is echoed in Borja and Castells (1996 : 130) where a partnership is defined as being a rational, flexible, voluntary and co-operative alternative decision making structure to augment the local state and the market to rehabilitate the civic tradition. This definition is essentially confirmed by the province of British Columbia's Best Practices Guide (1997) : "... a PPP is a partnership between the public and private sectors where there is a sharing of risk, responsibility and reward, and where there is a net benefit to the public"

These different definitions all describe some sort of relationship between the public and private sectors, as well as some form of resultant benefit to the public user. This dynamic will be the centre of this chapter and will be explored by considering a number of aspects related to the nature and structure of partnerships. The first aspect under investigation will be the history and development of partnerships, both internationally and locally. It will be placed in the context of the general requirements of sustainable development. The second part of the chapter will be about some of the dynamics of partnerships. This will be investigated through a suggestion of successful selection criteria. In addition, recognising the fact that these type of projects normally involve the use of public funds, there will be a brief consideration of risk analysis.

Following on this is a closer look at some of the contractual options available for partnership initiatives. This will be dealt with in detail in a number of appendices, one a service contract, and the other more of a management type municipal contract. Finally, a mechanism for administering a partnership along less adversarial lines will be considered.

As before, chapter conclusions will be reflected in the systemic approach to partnerships in chapter 5.

4.2 Partnerships - History and Development

4.2.1 Introduction

Partnership initiatives are starting to show some impact on addressing those aspects of municipal service backlogs that the public sector is unable to meet on their own. In the South African context partnerships are driven from central government circles as a means of enabling local authorities to meet their service demands. Some milestones have been reached recently with the signing of the Framework Agreement on the Restructuring of Local Government and the initiation of a number of pilot projects.

This section will attempt to put the development of partnerships into focus by considering the past five to seven years insofar as partnerships are concerned. This will be done by considering such aspects as the origins of partnerships via the UN, the need for partnerships, partnerships in relation to efforts by central government and development agencies, the historic performance of partnerships as well as partnerships in the South African context.

4.2.2 Origins of the partnership concept through the UN

The concept of partnerships between business and government has been around for a while. Some examples exist of partnerships that were created for specific purposes and later abandoned, after serving its purpose.

The formal focus on partnerships on a global scale started at the United Nations Conference on Environment and Development (the Rio Summit), 1992. The conference adopted Agenda 21, a fairly dramatic programme of reform in the areas of global economics, political and social systems (Faulkner 1997). One message from Rio was clear - the task ahead would simply be too much for governments to undertake it alone - conference participants made it clear that the private sector had to be engaged in making sustainable development possible.

This was made clear by the terms of Agenda 21 : "business and industry should be full participants", "the public and private sectors should strengthen partnerships to implement the principles and criteria for sustainable development", the public sector should establish procedures to allow an expanded role for the private sector". This insistence by UNCED paved the way for a completely different approach: the concept of public private partnerships (PPP). The next challenge was to move the concept of PPP into action.

UNCED's initiatives were channelled through the Business Council for Sustainable Development (BCSD). A decision was taken to concentrate on the areas of urban infrastructure problems, such as water supply and waste treatment in the developing world.

The next step was the creation of a Sustainable Project Management (SPM) unit within BCSD. This was created in 1994 and the unit worked with UNDP in developing pilot partnership projects in the area of urban infrastructure. The initial response was very positive and in 1995 the SPM became an independent, not-for-profit organisation. The experience that it has gained in more than 20 projects indicated that partnerships do indeed

work through a process by which management skills and technology are infused in addressing serious urban problems.

At around the same time various countries around the world initiated investigations into the feasibility of partnerships. One example of this is to be found in the pilot initiatives that took place in 1995 in British Columbia, Canada (Province of BC, 1998). Similar initiatives, mainly in bulk water supply were investigated in the middle 1990's.

In conclusion it is clear that formal efforts to analyse the feasibility of partnerships between the private sector and public sector originated out of Agenda 21, a product of the Rio Earth Summit, with various countries initialising programmes around 1995-6. It is clear that it is a relatively new concept that will more than likely go through a process of evolution as feedback is supplied on its practicalities.

The next section will move closer by focusing on the need for partnerships.

4.2.3 The need for partnerships

The previous chapter reached conclusions on the historic performance of government and State Owned Enterprises in the field of service delivery. Faulkner (1997) is prompted in asking the question - why not privatise ? The answer lies in the essential characteristics of both potential partners - "governments need to remain involved in providing essential services. This guarantees a degree of public accountability, preserves the public service ethos, ensures the protection of all sections of society, and underwrites the delivery of social and environmental, as well as economic benefits, that is, it meets sustainable development as well as purely financial goals".

In answering the question 'Why use MSP ?' the official answer (SA Gov : 2000) is that well structured MSP arrangements "can lead to significant improvements in the efficiency of service delivery. [This] greater efficiency means that significantly more services can be delivered while still remaining within the council's overall budget

Contracting a specialist service provider can have several advantages. In addition to providing specialist knowledge and expertise, such a service provider can often gain efficiency from economies of scale that may not be available to a municipal council. Over time municipal councils can save on the capital costs of infrastructure expansion and technology upgrades.

This source continues by stating that partnerships provide an alternative to both full privatisation and public sector monopolies - a compromise in other words. This confirms the findings of previous chapters. The private sector is commercially orientated while the public sector has social and welfare responsibilities. The intention with partnerships is that it brings together these characteristics in a common union with a single purpose. This relates to the introduction of this chapter where a definition was synthesised. In a sense it can be equated to purely private partnerships, commonly found in business circles. This is typically encountered where a person or entity realises that it can gain financially or strategically from incorporating the resources that comes with the introduction of a

partner in the venture. It also implies a distribution in ownership responsibility where total control is given up for an increase in output capacity.

This view highlights the essential need for partnerships - a combination of the essential characteristics of business and government in order to increase the capacity of government to fully meet its social responsibilities.

4.2.4 Partnerships, ODA² and global development agencies

Ever since the concept of partnerships have taken root since the mid 1990's there has been indications that development agencies and aid organisations were interested in its success. The reason for this lies in the link between sustainable development and the role that the private sector can play. It makes sense for a development agency to facilitate or be involved in efforts that ultimately is run along commercial lines, yet honours social objectives.

The International Development Conference sets out from a point of view that historic lessons show how capital markets in developed countries have aided social development through long term debt finance (1997). The IDC sees an important area for private participation in the financing of social development. It suggests a threefold approach :

- focusing on organising social programs for private finance
- using financial engineering to devise synergy between private and public finance
- promoting partnerships between the financial sector, governments and civil society.

According to the IDC this approach has the potential of "dramatically accelerating social development". Any development needs funding and it is important that this aspect forms part of successful partnerships for development.

Another view is provided by the Canadian International Development Conference (1999). CIDA's departure point is to stress the importance of involving the private sector by stating: "A vibrant private sector in developed and developing countries is a key contributor to economic growth, development and poverty reduction. The formal and informal private sectors represents the most significant source of sustainable livelihood in all developing societies". According to CIDA the private sector is also able to provide employment, training and infrastructure - activities with high social returns.

It continues by stating that "the key for donors ... is to establish a strong environment to allow private enterprise to function but also to increase governance capacities to ensure that resources gained through enhanced private participation in the economy are better mobilised to address inequities and poverty". This statement indicates that development agencies has a role as creators of the correct environment, as well watchdogs to ensure the correct application of resource gains towards social upliftment goals. The end result which is social upliftment is therefore gained through development of the private sector in the first place.

² ODA - In the context of this thesis it refers to Official Development Aid.

The United Nations Development programme puts it in simple terms: "... both municipalities and private companies meet their own objectives and city dwellers enjoy an enhanced quality of life". (1998).

According to the World Bank (Note 13 : 1999) problems may appear in areas that are suspect to natural monopoly features. It suggests that in these cases institutional support should be geared towards obtaining real competition through the application of project management principles. A positive step in this direction came from the World Bank Group Action Programme, designed to strengthen its ability to increase private participation in infrastructure in the context of its overall objective to *support poverty reduction and sustainable development*. (World Bank : 1997). In another Policy Research Working Paper the Bank (Dlamini : 1998) suggests a number of ways that governments could be of (official) assistance in emerging markets. It also moves from the conceptual to practical with its 'Toolkits' package (Brooke et al : 1997) in the fields of water and sanitation. This source is very much in line with the WRC initiatives.

In the South African context the main domestic funding body, The Development Bank of South Africa sees its role as 'a powerful catalyst in building partnerships'. The DBSA's mandate was adjusted during the mid 1990's to play a role in securing private sector participation, especially in areas where the borrower-operators were public entities. The Bank states its involvement as being providers of technical assistance, as well as the fulfilment of a financing role. In a sense this is an ideal situation - a development financing institution that is interested in creating partnerships while being in a position to supply the financial back-up.

In conclusion it is clear that global and domestic development agencies are very supportive of partnership action as it harnesses the full potential of the private sector. At the same time its role as protector of sustainable social goals through a process of facilitation is emphasised.

4.2.5 Partnerships vs. central government efforts

An important question is raised by Badshah (1996 : 27) where the continued role of government is questioned, given the poor track record of central authority in the provision of shelter and basic services. The question is whether communities should not be allowed to procure and manage basic services, such as housing, water and sanitation for themselves.

The question is indeed a valid one. Central government is normally elected on the basis of their election promises or intentions to provide specific social or development programs. These politically based intentions sometimes fail due to capacity problems at local municipal level. Badshah notes however that "in most countries any involvement of the private sector, NGO and local municipalities depend on the central government being allowed to play some key role". The reason for this is that political ideology, resource constraints and socio-cultural traditions are the creation of central governments, making their involvement a requisite of any partnership for service delivery initiatives.

The solution seems to be a situation where central government plays a facilitating role by initiating programs that can be implemented successfully at local level and ensure financial and resource capacities to make this possible. Appendix 1 will review one such national programme in the context of its applicability at local community or municipal level.

4.2.6 Historic performance of partnerships for service delivery

As discussed earlier, the concept of partnerships for development and service delivery is a relatively new one. It is therefore useful to consider its track record to date. On an opening note the World Development Report (1994 : 121) considered private participation in infrastructure delivery and maintenance to provide two potential benefits namely savings to be gained from (1) better pricing, and (2), an increase in efficiency due to improved operational management. Looking at the latter Table 4 : Savings from Increased Efficiency in (1994) billion US \$ below provides an indication of potential savings to be gained.

<i>Infrastructure Sector</i>	<i>Savings</i>	<i>Source of Inefficiency</i>
Roads	15	Annual investment requirements created by improper maintenance
Power	30	Transmission, distribution and generation losses
Water	4	Leakage
Railways	6	Excess fuel use, overstaffing, and locomotive unavailability
TOTAL	55	

Table 4 : Savings from Increased Efficiency in (1994) billion US \$

According to the WDR the above represents pure resource savings to the economy. It continues by commenting that the above savings can amount up to 1 % of a country's GDP, or indeed represents more than twice the amount allocated by development assistance to developing countries. In terms of the 1994 figures the WDR then estimated that, for example, utilising this saving over a period of three years could mean an additional 1 billion people could gain access to safe potable water. Although these estimates are in itself fairly dramatic the WDR expands on it by considering the potential spin-offs created by, for instance, better maintained roads and the resultant raise in living standards.

Faulkner (1997) cites three wide ranging partnership initiatives namely Manizales, Columbia (water supply related partnerships), Harare, Zimbabwe (eco-efficient energy supply partnerships), and Spisska Nova Ves, Slovak Republic (energy, housing and forestry related partnership) and draws conclusions based on their successes as follows :

- Official development aid is used to leverage private sector investment - this means that the initial risk for a country's government is small
- Links are established between investment and capacity building - The objectives of sustainable development are met through a process whereby the best investment practices of the private sector are linked with the experience of development practitioners, creating an enabling environment with supporting mechanisms in place.

- It tends to be of a sustainable project management nature by focusing on issues such as stakeholder participation, eco-efficiency and a more sustainable approach to development - it leads to different results as the priorities and focus are different.
- Technology transfer is accelerated - sustainable project management assists municipalities in identifying the choice of technology and then negotiates the transfer between the public and private sector.

Faulkner relates issues in terms of a project management approach by a development institution, but some of the conclusion has wider relevance.

On the other side of the coin a cautionary note is provided by Ingerson (1998) where savings to the end-user of a service, when provided by a partnership initiative, are not always reflective of the efficiency of the private partner. According to this source the public partner tends to minimise the financial risk to the private partner by providing subsidies, tax abatements, regulatory relief, low cost land, or an effective monopoly. It may also happen that private partners are exempted from costly requirements such as collective bargaining and certain environment standards. It is therefore important, in any evaluation of results of partnership initiatives to remove financial- or other distortions.

In conclusion the historic performance of partnership initiatives seem to be very positive. Major savings to a country's economy may be gained through better pricing methods and increased efficiency associated with private participation, as much as 1 % of GDP could be saved through the employment of partnership initiatives. The best results are apparently when a Sustainable Project Management approach is used. This links the best investment practices of the private sector with longer term, sustainable objectives and is normally facilitated by development practitioners. This in turn leads to accelerated technology transfer. Finally it is important to remove financial or other distortions when evaluating the perceived efficiency of the private sector in a partnership.

Finally, current sources note that private sector activity has fallen by 30% in 1999 (World Bank : Note 215) and cites the Asian financial crisis as one of the main reasons. This reference highlights the important fact that private suppliers will always be exposed to external market forces, even in the provision of public services.

4.2.7 The South African context

In terms of the United Nations Human Development Index for countries South Africa is clearly classified as a developing economy. As such it has been in tune with the International development regarding partnerships between business and the State and is indeed one of the few countries with a clearly stated programme or framework of implementation. It is valuable to do a brief overview of the local partnership developments and programmes.

For the purpose of this research the focus will be on the period post 1994 when the whole political and social environment went through a major change. Suffice it to say probably the only reality that originated with the previous dispensation was the roots of the current backlog in services as well as a marked difference in service standards in the (traditionally) white and black areas. The current government adopted the RDP as its election

manifesto and after coming into power it expanded the broad principles of this document into specific programmes. These were typically formulated in the same time period as the international developments discussed earlier.

The development of a framework that would allow for private sector participation in specifically the municipal infrastructure arena is briefly as follows :

<u>Year / Period</u>	<u>Programme / Initiative</u>	<u>Resources allocated / Policy Statements</u>	<u>Measures of Performance / Results achieved</u>
1994	Reconstruction and Development Programme (RDP)	Stated development vision of a democratic government	Commitment to supply basic services to all, especially the poor
1994	Municipal Infrastructure Investment Framework (MIIF)	Created in order to give effect to the RDP vision	
1994 / 1995	Municipal Infrastructure Programme (MIP)	R 750 m allocated from Government's RDP funds	Addressing municipal infrastructure backlogs
1995 / 1996	Extended Municipal Infrastructure Programme (EMIP)	An additional R 600 m allocated	
1994 to 1998	MIP and EMIP results :		<ul style="list-style-type: none"> • 1045 projects completed • 7 million people gained access to water, 5 million to sanitation, 2 million to roads, 500 000 to solid waste disposal, 300 000 to streetlights, 600 000 to health facilities • Contributed to accredited and non-accredited training of 100 and 300 thousand man days respectively • 180 000 person months employment opportunities created • Total of 1923 black owned SMME utilised on these projects
March 1998	Launch of Government's White Paper on Local Government	Provided the development framework within which MIP would be implemented in future	
1998 / 1999	Creation of the Consolidated Municipal Infrastructure Programme (CMIP)	CMIP collapsed the MIP and EMIP and became the new RDP flagship	
December 1998	Framework Agreement on the Restructuring of Municipal Services Partnerships	Agreement reached between organised labour (COSATU) and local government (SALGA)	Intention is to explore alternative service delivery options when municipalities cannot realistically supply it
May 1999	Final Draft of Municipal Services Partnership Policy presented for public comment	Draft Policy tabled at the conference on "Towards a Programme for Municipal Infrastructure in the 21 st century"	Allowed for gaining wider, public input in the process
April 2000	Publishing of White Paper in the Government Gazette	White Paper on Municipal Services Partnerships published in Gazette no. 21126	Process obtained legal and popular

Table 5 : Development of Partnership Framework for SA Municipal Infrastructure

Table 5 : Development of Partnership Framework for SA Municipal Infrastructure was adapted from an extract from Moosa's speech on 12 March 1999 and provides insight into the development towards a partnership framework over the past five years. In order to provide municipalities with a methodology on how to deal with potential partnerships, the Department of Constitutional Development also published a set of guidelines (DCD 1998). A critical review of both documents will be undertaken in a later chapter.

The importance of the partnership process and the associated official backing thereof may be seen in the light of the serious situation that the country finds itself in. According to official figures (SA Gov : 2000) the cumulative backlog in services may amount to R47 – R 53 billion, with an average annual backlog of about R 10.6 billion. This suggests that if the backlog is addressed through public sector resources, some communities will only have access to it by 2065.

A number of partnerships for infrastructure service delivery have been initiated in South Africa recently. The first one is in Nelspruit where a partnership, BiWater-Metsi a Sechaba will undertake the supply of water and sanitation services within the municipal area on behalf of the Nelspruit TLC. The second is in the Dolphin Coast where French company SAUR Services will be responsible for supplying water and sanitation. In both instances the municipalities were unable to meet the demands on their own. Other partnership projects where feasibility studies have been completed and are being evaluated are Nkadameng (rural water supply), Plettenberg Bay (water, sanitation and solid waste), Port Elizabeth (water and sanitation), Tzaneen (solid waste). In all cases the proposals are evaluated against the framework agreement's basic guidelines. (DCD 1999)

The Development Bank of South Africa is also playing a pivotal role in the implementation of partnerships for service delivery. As mentioned in an earlier section the Bank sees its role as a supplier of technical- and financial assistance. (DBSA 1999). It can safely be stated that there is general enthusiasm from government and development institutions for the implementation of partnerships as an alternative service delivery vehicle.

At the same time there is, however growing concern on the part of organised labour in South Africa on the potential negative effects of partnership initiatives. According to a DBSA publication (1999) the main concerns are as follows :

- Loss of sovereignty - the delegation of municipal functions means that responsibilities are handed over as well.
- Job security - partnerships are equated with privatisation, which in some instances, have led to a net loss in employment levels.
- 'Cherry picking' - there are concerns that private operators may exclude communities which will have difficulty in paying for basic services.
- Profiteering and corruption - Concerns have been raised that the award of service contracts to private companies may be open to corruptive practices.

It is important that these perceptions and fears are addressed. Although COSATU participated in the creation of the framework agreement there remains serious concerns on their part. The South African Municipal Workers

Union (SAMWU) takes a stance, which is reflected in certain COSATU literature, that public-private partnerships equals privatisation and fears that "this will bring our people untold hardships" (1999). This statement is emphasised by Van Niekerk (1997) where it is suggested that private companies will only supply services to the extent that it is profitable and that this supply might be withdrawn where people are unable to pay for it. The statement is clear : "We are against privatisation because contractors will always be there to make a profit. If they cannot make a profit they will be gone"

In an extensive address to the World Bank / NGO dialogue on privatisation Bond (1997) considers international experiences with privatisation, and its negative effects in Haiti and Britain. This document is used by organised labour as one source in their anti-privatisation campaign. This will be considered in greater detail later in this chapter.

In conclusion it may be stated that the development of partnerships for municipal infrastructure in South Africa have generally followed the international timetable with an important milestone reached with the framework agreement reached at the end of 1998. A number of projects, mainly in the water and sanitation bulk supply have been initiated and further projects are being evaluated. There is clear commitment and energy on the part of government to utilise partnerships to assist with dealing with the services backlog. At the same time organised labour has concerns about the potential negative side effects of partnership projects. The World Bank (Note 30) echoes this sentiment by asking whether PPP are not just another cycle of privatisation and nationalisation.

Over the past five years or so a number of issues surrounding the dynamics of partnerships have been identified. The next section will consider some of these aspects.

4.3 Mechanisms and Dynamics of Partnerships

4.3.1 Introduction

From international experience it is clear that one of the single most important factors in successful partnerships is the dynamics between the two partners. This section will investigate this issue by considering aspects such as whether partnerships are the best option, the different objectives of the partners, what makes partnerships successful as well as different partnership structures that are available. It also investigates the issue of risk in partnerships by looking at a number of different issues that should be allowed for.

4.3.2 Requirements and pre-requisites for effective partnerships

In a certain sense the requirements of effective partnership mechanisms and policies run parallel to that of decentralisation. This becomes clear as when described by Kotze (1997 : 41) where the relationship between local and central government is described as, ideally, a partnership action. This source claims that in order for this partnership to function efficiently the following should be in place: Clear policies that allow for the deconcentration of power, appointment of competent and committed personnel at operational level, the

development of participatory capacity among the parties taking part and, effective co-ordination structures and the flow of information. These principles are generally speaking, simply effective institutional arrangements that would have to be in place for any commercial or business partnership entity to be successful. This represents the basic requirements - sound business principles.

It needs to be stated up front that corruption will have a major negative influence when looking at the potential success, or failure of PPP initiatives. Rose Ackerman (World Bank : 1996) did an intensive investigation into the causes and consequences of corruption. She suggests that the two main areas where corruption is most apparent is in paying for benefits, or paying to avoid costs. According to this source the result of corruption is twofold: Inefficiency and unfairness, and the undermining of policy legitimacy. The nett result, according to this paper is that illegal payoffs may *increase the cost and lower the quality of public works projects by as much as 30% to 50%*. This is indeed a shocking statistic.

In areas where partnerships have been around for longer the definition of what exactly is required for partnerships to succeed, has become clearer. One example of this is the British Columbia Ministry for Employment and Investment in Canada (1998). According to its best practices guide, public private partnerships should be considered when:

- there is a potential for a significant and cost-effective transfer to the private sector
- there should be substantial scope for innovative design, construction or operation and use
- there must be an opportunity to generate revenue
- the partnership nature of the project must be supported by the general public
- there must be successful partnership precedents for the specific project.

The line taken by this source is clearly that in order for a partnership to be considered a project, it should be scrutinised to ensure that it has the correct structure and further that it will most likely succeed. It also implies that, as a pre-requisite it should be entrepreneurial in nature and in potential outcome.

These pre-requisites and requirements are also reflected in Atwood (1998). This source argues that in order for public private partnerships to succeed and indeed flourish it will require time, reciprocity as well as meaningful programs that will ensure a positive outcome. It continues by claiming that successful partnerships are built on mutual respect, responsive planning, constitutional commitments, a two way dialogue, use of the latest technologies and finally cultural sensitivity.

According to the official view (SA Gov : 2000) MSP are not intended to be a substitute for traditional methods of service delivery. Neither is the intention that they be viewed as an alternative to current, ongoing efforts to increase efficiency, accountability and other aspects as instituted by the public sector.

These four sources provide a wide range of issues that indicate some requirements and pre-requisites for effective partnerships. In summary, these may be grouped according to the issues that they cover, namely institutional and acceptability, contractual and operational arrangements, and the relationship between the parties. On the

institutional side partnerships need to have the required structures, legislative and administrative, in place that allows it to be utilised as a means of public service delivery. On the operational and contractual front it is pre-requisite that competent personnel will be available to drive the partnership initiative. It should further show positive net results such as increased levels of technology usage, innovation in design and application which ultimately will lead to positive commercial outcomes. The key aspect of a successful partnership is the relationship between the parties. This will be based on sufficient mechanisms to ensure a two way dialogue, the building of mutual trust as well as the projection of a positive image outwards that will allow positive support for a project from the general public.

4.3.3 The dynamics of partnerships between the private sector and government

A Aspects of successful partnerships

Sources vary on what exactly is required for a partnership to succeed. Faulkner (1997) in his analysis of the initial period of Sustainable Project Management through UNDP notes the lessons learned from public-private partnerships as follows :

- Choose the right project - This seems obvious, but Faulkner stresses that a chosen project must have support from both public and private sectors and this will be especially important where projects are the first of its kind in a country or region.
- Partnership projects need a champion - Faulkner suggests that a partnership project should indeed have two champions - one from each sector. These should be high profile people with strong commitment to success.
- A critical success factor is local support - This source notes NGO as the ideal instrument to direct local public support and further encourages the use of development officials to assist in a co-ordinating role.
- Partnership initiatives need "hand-holding all the time" - Due to the novelty of the partnership process there is the danger that the project could slip due to a number of reasons. Again the role of the co-ordinating institution is suggested as a means of achieving this. (A later argument is against this, as a true partnership - albeit with equal partners - has a better chance at success if it is limited to the two active partners who will be forced to manage the process themselves and building up a two way interaction, rather than through a third party.
- Partnership projects should be packaged properly - Without expanding this too much the idea is that each project should be marketed and "sold" individually, depending on size and nature. Factors that would influence this would be political impact, transaction costs and environmental issues.
- Partnerships take time - Faulkner makes it clear that there are no short-cuts with partnerships and that it must be understood that it is a lengthy process requiring proper planning and groundwork.
- Reconcile different cultures and build mutual trust - "administrative and entrepreneurial cultures are fundamentally different". This source suggest that there are no particular reason why the public sector cannot be as efficient as its private partner and that the partnership model is designed to arrive at the point where there is a mutual understanding of shared responsibility and the result of cost overruns and time delays.

- Platforms for policy change should be built - shared project experience can become a useful tool in becoming a platform for policy change. This leads to different views on issues such as public services revenue as well as costs.

According to the White Paper on MSP (SA Gov : 2000) the role of national and provincial spheres is to provide strategic direction. This will be obtained by them creating an environment that is conducive for facilitating alternative delivery options, provision of assistance, to councils, to develop the requisite capacity and, the establishment of implementation and monitoring frameworks.

B Risk analysis in partnerships

The importance of adequate risk analysis in partnerships is mentioned in various degrees of detail by most sources. It follows that this aspect needs to be considered to ensure a thorough analysis of the subject. This section will provide such an analysis by looking at some general objectives of risk analysis, followed by a listing of the most common categories and types of project risks, and finally a consideration of two methods of cost-benefit analysis.

According to Water and Sanitation SA the four specific aspects that are to be considered when deciding on whether a project is feasible are firstly that project risks have to be well perceived, *for the entire contract duration*, secondly that all risks must be well defined and accurately described to avoid subsequent misunderstanding, thirdly that risk must be clearly split between the different partners which should allow clear, defined contingency plans for the actual occurrence of an event, and finally there should be a clear understanding of the *capacity* of the different parties to bear the burden of a specific risk. This source suggests that these elements of risk analysis should be defined in the contractual project specifications.

These aspects are confirmed by the Province of British Columbia which suggests that risk analysis should be used to determine the merits of a partnership venture as opposed to a traditional contract for service delivery. This source mentions the objectives of risk analysis as being the identification of all significant risks, the estimation of the probability that each event will occur, the estimation of the impact of each event on the project, the determination of how best to avoid, manage, or pay for the consequences of each event and, a determination of whether risk transfer to the private sector is optimal. This source seem to take a realistic approach in so far as 'accepting' that certain risks will occur - then allowing for the occurrence in the analysis. It is also clear that it was written from the perspective of the public sector.

The White Paper on MSP (SA Gov : 2000) cautions against insolvency of private service providers as potentially the biggest risk to the success of PPP. It takes an interesting approach by noting the tendency by the Companies Act to favour liquidation, rather than re-organising, of insolvent companies. It continues by stating that as long as this is the application of the law councils should ensure 'step in' procedures in the event of the insolvency of a private service provider.

The World Bank (Note 69) is of important assistance in providing a checklist of techniques that are being used by private lenders to reduce their exposure in the article 'Mitigating Commercial Risk in Project Finance'. The MIIU,

in considering project risk in the case of the Nelspruit concession (MIU : 2000) states clearly that if the private supplier defaults the city of Nelspruit will have to step in. However, the city has made a contingency plan in that it will have immediate access to R 8million, these funds being put up through a financial institution guarantee, provided by the private supplier.

When looking at the specific risks that need to be considered there are a certain amount of overlap between the **Water and Sanitation Commission**, the **Water Research Commission**, and the **IMF** in their suggestions for dealing with various events. Table 6 : Summary of Risks Likely to be Encountered in Partnerships summarises these findings.

Risk Category	Typical Cause	Suggestion for dealing with the specific Risk
1. Construction Risks	<ul style="list-style-type: none"> • Delayed Completion resulting in service not provided in terms of quantity or quality • Failure to complete a Project due to default by contractor • Cost overruns resulting in costs too high in relation to revenue 	<ul style="list-style-type: none"> • Minimised through good project management with early warning systems • Can be provided for by means of a financial guarantee or surety • Construction activities need to be clearly defined with ideally a guaranteed fixed cost
2. Risk from Delayed Start	<ul style="list-style-type: none"> • Contractor unable to start delivery of service on time - leads to loss of revenue 	<ul style="list-style-type: none"> • Depends on how this type of risk is allocated in terms of the contract
3. Performance Risks	<ul style="list-style-type: none"> • Contractor unable to deliver required quantity or quality 	<ul style="list-style-type: none"> • One suggestion is to allow for a period of commissioning and testing to ensure that requirements are being met
4. Commercial Risks	<ul style="list-style-type: none"> • End user does not pay due to tariff collection • End user does not pay by choice 	<ul style="list-style-type: none"> • Contract to make provision for a review of tariffs by the public authority • Public partner might be forced to accept this risk by subsidising for the loss in revenue
5. Operational Risks	<ul style="list-style-type: none"> • Resulting from changed operating conditions 	<ul style="list-style-type: none"> • Normally carried by the private operator who has to make his own provisions
6. Political Risks	<ul style="list-style-type: none"> • Resulting from forces outside the contract 	<ul style="list-style-type: none"> • This largely depends on the nature of the event and whether it is insurable by the private partner
7. Legal Risks	<ul style="list-style-type: none"> • Resulting from the legal status of public authorities or change in contractual arrangements 	<ul style="list-style-type: none"> • Being of a legal nature this will be dealt with in terms of relevant legislation
8. Currency Exchange Risks	<ul style="list-style-type: none"> • Relevant when contract is with an overseas firm 	<ul style="list-style-type: none"> • Private partner takes the full risk and should make provision for it
9. Interest Rate Risks	<ul style="list-style-type: none"> • Resulting from interest fluctuations over the long term 	<ul style="list-style-type: none"> • One option is to stipulate an acceptable range with compensation payable should it move out of this range
10. Financial Risks	<ul style="list-style-type: none"> • Contract signed before financiers supply the funds 	<ul style="list-style-type: none"> • This type of risk is insurable by having it underwritten by an additional firm

Table 6 : Summary of Risks Likely to be Encountered in Partnerships

From the above it almost seems that an adversarial relationship is guaranteed if all risks are to be catered for. This seems to be directed against the spirit of a potential partnership. One way around this is to incorporate some form of partnering charter. This will be discussed in greater detail in a later section. One important aspect when evaluating risks is to do a cost-benefit analysis to decide whether the risk “is worth taking”. One useful approach to consider is the one taken by the Environmental Protection Agency’s Environmental Program (1997 : 2-3). They suggested a qualitative approach with the intention being to evaluate the risk/benefit outcome for the partnership as a whole. This was presented in tabular form, reproduced here as Figure 1: Matrix of Benefits & Risks in Partnerships. According to this source the ideal partnership situation would be situated in category A whereas category D presents a waste of time of the efforts of both partners. Categories B. and C. might be ideal in certain situations depending on how each partner views it. This of course sounds like a potentially conflicting idea, but with some unscrupulous private operators, should be considered.

BALANCING BENEFITS & RISKS FOR EACH PARTNER			
Public Benefits		HIGH	LOW
Private Benefits	HIGH	A : <i>EQUAL PARTNERSHIP</i>	C : <i>EXPLOITATION OF THE PUBLIC PARTNER</i>
	LOW	B : <i>PUBLIC ENTERPRISE (supported by taxes paid by private)</i>	D : <i>DEPRESSED URBAN ECONOMY</i>

Figure 1: Matrix of Benefits & Risks in Partnerships

Another source that suggest a quantitative analysis is Weiss (1995 : 213). A formula is suggested for evaluating privatisation alternatives as follows :

$$NSB_{PRIV} = (V_{PRIV} - V) - T$$

- where NSB_{PRIV} is the net social benefit of a privatisation initiative
- V_{PRIV} is the present value of social benefits from the enterprise after privatisation
- V is the present value of social benefits without privatisation reform
- T is the present value of the transaction and other costs associated with the privatisation

The above formula will not be tested here but is shown merely as an example of a typical quantitative approach.

4.4 Contractual Arrangements for Partnership Delivery of Services

4.4.1 Introduction

The previous sections established the need for partnerships as an alternative mechanism to supply the necessary municipal services. The next step is to consider certain contractual and relationship issues surrounding partnerships. This will be done by investigating how partnership initiatives can be structured along sustainable project management lines to ensure that all aspects of a project life-cycle is addressed. It will also briefly consider a specific contractual arrangement by referring to a case study. Based on information available it suggests the signing of an additional agreement, the Partnering Charter, to define the working relationship rather than the contractual one.

4.4.2 Project life cycle

According to the principles of project management a project can be broken down into various components which covers all aspects from planning through to construction. Some sources suggest that a similar approach be used when putting together a public private partnership. The benefit of this approach is that the principle of a partnership is interwoven into all aspects of a project. The potential down side is that due to wider consultation and the requirements of public fairness and accountability the process might take much longer or indeed never materialise. However if the principles of sustainability is to be honoured this approach seems to offer a feasible alternative.

This *sustainable project management approach* will be investigated through an analysis of three different sources which have already suggested certain actions that need to be taken during a project life cycle. Two of the sources, namely the Water Research Commission and the Department of Constitutional Development's Guidelines for Local Authorities are local and the third one, the Province of British Columbia provides a view from a developed country. The above three sources provide a comprehensive list of steps to be taken during a project life-cycle. In summary Table 7 : Project Life-Cycle below attempts to combine these in a organised format.

Project Life Cycle Stages	Principle Activity	Typical Details
Pre-planning Stage	<ul style="list-style-type: none"> • Preliminary assessment • Investigation of alternative service delivery methods 	<ul style="list-style-type: none"> • Financial (Service costs and status of tariffs) • Technical (Service standards, infrastructure and staffing details) • Legal and administrative • Principle decision to be taken • Check range of options and make selection

<p>Planning Stage</p>	<ul style="list-style-type: none"> • Appoint multi-disciplined professional team • Stakeholder Analysis • Principle decision on Competitive Bidding 	<ul style="list-style-type: none"> • Ensure that a holistic solution to a problem can be implemented • Determine who are the stakeholders • Determine the impact of the proposal on them • Attempt to resolve potential conflict between them • Advantages such as anti-corruption, equitable and ensures the best deal • Time restraints involved in competitive bidding may force unsolicited proposals
<p>Solicitation of Private Sector Involvement</p>	<ul style="list-style-type: none"> • Competitive bidding or Unsolicited proposal • Prepare tender documentation 	<ul style="list-style-type: none"> • Request for Expression of Interest or similar allows for pre-qualification • Followed by Request for Proposal which supplies details of the private bid • Include details of service standards required • Monitoring procedure • Alternative employment details
<p>Bid Evaluation</p>	<ul style="list-style-type: none"> • Tender or Bid evaluation • Risk Analysis 	<ul style="list-style-type: none"> • Evaluation by a selection panel • Provide a benchmark evaluation system • Set evaluation criteria • Ensure freedom of information • Determine cost/benefit/risk relationship
<p>Award</p>	<ul style="list-style-type: none"> • Contract award 	<ul style="list-style-type: none"> • Award criteria to be clearly defined • Publish details

Table 7 : Project Life-Cycle

4.4.3 Contractual arrangements

The previous section concentrated on all aspects in a project life cycle. From a private partner's point of view their interest is normally shown in the later stages, namely bid preparation, tender evaluation and project implementation. This is where the private partner aims to realise its commercial objectives in a meaningful way. In order to further explore this aspect, this section will analyse certain case study material.

The full range of potential contractual arrangements were discussed in greater detail in a previous chapter. In order to show some applications of these arrangements, use will be made of a relevant case study. Appendix 1 shows a management contract for refuse removal for the City of Cape Town.

What may be concluded from this case study is that service- and management contracts lend themselves to partnership arrangements. Most PPP are based in the long term concession and lease arrangements with sometimes limited benefits to the previously public entity, especially its workforce. It seems that the shorter term contractual type is far more flexible and will provide much more opportunity for social upliftment and skills transfer.

In note 62 (World Bank : 1999) the effect on the share price, of British Telecom, is scrutinised for signs of regulatory capture. This provides a current review of post-privatisation performance. The conclusion reached is that developing countries should move away from rate of returns and rather move to price capping.

The White Paper (SA Gov : 2000) encourages councils to make use of institutional support in the implementation of MSP, whichever contractual option is chosen. It notes that the Department of Planning and Local Government "will provide advisory, guidelines and other capacity enhancement activities to assist councils to establish satisfactory institutional arrangements for their MSP arrangements"

It then notes this assistance in the form of a number of institutional arrangements, namely:

- The Municipal Services Public Protector
- The Municipal Infrastructure Investment Unit
- Technical Assistance Co-ordination
- Information Dissemination
- Policy Monitoring and Evaluation

It is in this arena where the biggest challenge for the private sector lies. As a primary commercial concern it should embrace this responsibility by using its skills towards sustainable infrastructure construction and maintenance, thereby matching the above, comprehensive efforts from the public partner's side.

4.4.4 The Partnering Charter

A consideration of the various aspects related to partnerships shows clearly that it might be perceived as a potentially adversarial relationship. An interesting approach to this potential problem is suggested by Domberger et al (1997 : 777 - 787). Some of the important points are worth noting here.

In the introduction this source notes that partnering refers to a working relationship with a high level of trust and close co-operation between two parties that contract with each other to accomplish mutually beneficial outcomes. However it also suggests that the main benefit of public private sector partnerships are the flexibility to accommodate change when operating in an uncertain environment, improved communications, transparency and better dispute resolution. Partnering may at times be perceived as limiting competition and compromising public interest. The opportunities and appropriateness of partnering needs to be examined on a case-by-case basis.

Partnering is essentially a collection of good management principles, many of which can be incorporated into traditional contracts without violating the contract guidelines that operate in the public sector.

It argues that use should be made of a *partnering charter* that is established in addition to the normal contractual documentation. This partnering charter is not a contract and therefore not legally binding. It defines the **working relationship** while a contract defines the **legal relationship**. There is little in common between the two documents and they do not refer to each other. The partnering agreement is often operational long before the contract is agreed to. The former continues to evolve while the latter is more likely to be shelved until needed in an irreconcilable dispute.

A plan of action made up of six steps is proposed for the practise of a partnering agreement :

1. A search process by both parties
2. Identification of partnering outcomes
3. Workshop(s) to decide how to achieve outcomes
4. Signing off a 'partnering charter'
5. Regular meetings between parties
6. An open-book approach and review of outcomes

In conclusion it notes that partnering operates in three essential ways namely that it makes short term gains less attractive by emphasising *long term benefits*, it is conducive to the sharing of information such that opportunities for one-sided profit taking is minimised and, finally, that it gets the parties to recognise that the partnering agreement is a relationship that must endure and evolve.

This is clearly a fairly different approach to strict project-management principles. An important aspect is that a partnering agreement may be effected long before the project contract is signed. This may suggest a critical decision, the opposite of which is the appointment of a professional team to, essentially, safeguard the interests of the public partner. This fact will be explored in the final chapter of the thesis where it will form part of a systemic investigation into partnerships.

According to the White Paper on MSP (SA : 2000) one way of obtaining a better result, which in fact will assist with the implementation of the Partnering Charter, is through a process of pre-qualification of tenderers. It cautions against competitive bidding except for the most simple of applications. It suggest that the objective of pre-qualification should be to obtain the best value for money solution *over the long term*. The Partnering Charter should be very successful, if established very early in the contractual relationship.

5. Chapter 5 : A Systems Approach to Partnerships

5.1 Introduction

Chapters 2 to 4, and Appendix 2 provided an analytical approach to various aspects related to Public Private Partnerships. This was done by expanding on individual aspects followed by conclusions that was reached on those aspects. This method of analysing complex problems is generally used to get to the bottom of problems.

One effect of this type of analysis is that a complex problem is 'taken apart' rather than 'put together'. An alternative way of considering a complex organisation or situation is to approach it in a so-called *systemic way*. The idea is that aspects belonging to a common system should be considered in context within that particular system, rather than outside its parameters.

To quote Gleick (1990) : *"There are fundamental laws about complex systems. They are laws of structure and organisation and scale, and they simply vanish when you focus on the individual constituents of a complex system - just as the psychology of a lynch mob vanishes when you interview individual participants."*

This approach could prove to be very valuable in the case of PPP which, by definition, is a system put together from *different parts*, creating a *whole* that exhibits characteristics not *necessarily shown by the individual parts*.

5.2 Viewpoints on Partnerships

The intention with this section is to identify or highlight those aspects related to the elements, dynamics, and environment surrounding PPP.

These aspects will fall into different categories, namely : Those elements that make up the individual components as concluded in the preceding four chapters followed by a number of issues that may affect the 'success' of any potential partnership. PPP as a system will be described fully later, but at this stage it is worth noting that any system has essentially three basic elements : Input, Transformation, and Output. This indicates an active process whereby a given situation, process or system is moved from its initial stage by a transformation process to a different, or final situation, process or system.

This essential transformation may be affected by a number of issues. A common analogy is to use the concept of filters whereby a given condition (or filter) affects the way that a process or operation is viewed or indeed affected. This notion will become clear as the systems model unfolds.

5.3 Summary of Conclusions - Chapters 2 to 4, and Appendix 2

In order to view issues related to partnerships in a systemic or holistic way it is first necessary to identify all the components that formed part of the analysis so far. Generally speaking this can be achieved by focusing on the conclusions reached in the sections so far. Sections 5.3.1 through to 5.3.4 will list the conclusions. These will then be summarised diagrammatically in order to utilise the conclusion elements in the systemic model.

5.3.1 Conclusions - Chapter 2

Government, through State Owned Enterprises and other public institutions, has to meet its social responsibilities of supplying, and maintaining physical and social infrastructure. Current frameworks insist that this happen in a sustainable way. Based on the information in **chapter 2** the following conclusions may be drawn :

1. Government in the Developing World has a social responsibility to provide public services but has traditionally not been viewed positively, mainly due to the ineffective ways that its share in national accounts were employed. Government needs to solve a potential conflict between social responsibility and commercial interests when considering any form of privatisation. Local government is enabled by central government to fulfil its social responsibility.
2. State Owned Enterprises have traditionally been inefficient due to accounting and management malpractices as well as corruption and nepotism. In addition to this the actual monitoring and auditing systems sometimes failed to protect the interest of the tax-payer. Poor performance can only be addressed in a context of a representative political dispensation, which, in the case of South Africa leads to a renewed focus on the performance of SOE and is written into National Restructuring Frameworks.
3. Sustainable infrastructure development projects calls for community participation, which can be technical or political, in all aspects of the project life cycle and leads to the long term empowerment of the benefiting community. Projects need to respect the social, environmental and economical characteristics of a community and a realistic accounting and management system needs to be in place to minimise negative effects and ensure that a process of capacity building takes place.

5.3.2 Conclusions - Chapter 3

There is evidence of a global shift from centralised to decentralised and privatised supply of public services, particularly infrastructure. Based on the information in **chapter 3** the following conclusions on decentralisation, privatisation and infrastructure may be drawn :

1. The intention with decentralisation is that local structures are best equipped to address their (local) needs and problems. Decentralisation exists in different degrees, but has traditionally been viewed rather negatively due to historic and traditional government structures and capacity. The best solution for service supply is most likely to be gained through a mix of decentralised and centralised input as it incorporates the superior management and administrative skills of the private sector while honouring the social and welfare objectives required from the public sector.
2. The reasons for engaging the private sector in public service supply stems in part from the traditional poor performance and capacity of SOE, institutional requirements from international development organisations, as well as the potential managerial and administrative skills that the private sector can offer. Certain groups favour alternatives to privatisation such as reorganising and commercialisation of SOE but if privatisation is opted for, a range of contractual options are available. The most important structures are service contracts, management contracts, leases and concessions, and joint ventures. In general the choice of structure will depend on the particular service to be supplied.
3. The private sector aims to meet the commercial objectives of maximising returns for its shareholders while the public sector has social and welfare goals - these different objectives can potentially be conflictive and needs to be aligned if the private sector is to play a meaningful role. Private participation will only happen when institutional structures exist that support it, however these structures should aim to focus on incentives for participation rather than be regulatory. This could ensure that the private sector is seen as ally, contributor and partner but does require an adjustment in existing perceptions.
4. Infrastructure has a critical role to play in the development process and directly affects economic growth and stability. Critical success factors in the assessment of infrastructure initiatives are competition, private participation, stakeholder involvement as well as a correctly sized government role. Existing problems with infrastructure supply highlights public sector capacity problems, yet it must be realised that the private sector has different, commercial objectives. These different objectives should be properly balanced, especially in the allocation of risk and responsibility in all aspects of potential partnerships.

5.3.3 Conclusions - Chapter 4

Public Private Partnerships are one option when considering alternative service delivery mechanism. It may not always be the default solution but it certainly has some major benefits to offer. Based on the information in **chapter 4** the following conclusions may be drawn :

1. On an international scale partnerships for service delivery gained major momentum after the Earth Summit in Rio. This timetable was followed in South Africa with a major milestone the signing of

the framework agreement between organised labour and government at the end of 1998. Generally speaking there is a realisation that government alone cannot meet its service delivery commitments without some outside assistance and input as well as the fact that major benefits can be gained through the involvement of the private sector. This will only be realised if partnerships are structured in a way that ensures sustainable development.

2. Private and Public Partners have different objectives namely commercial and social/welfare. This fact should be incorporated and enhanced in the overall project objectives. Partnering projects, which can take many different forms, should be carefully selected and comprehensively risk-analysed to ensure long term, sustainable success.
3. Regardless of the particular contractual arrangements of a partnering project all stages in its life cycle should be formulated to ensure that sustainable project management principles are adhered to. In addition to this use can be made of a partnering charter that will define the working relationship-rather than the legal relationship between the parties in a partnership initiative.

5.3.4 Conclusions - Appendix 2

Based on the information reviewed in **Appendix 2** the following conclusions may be drawn :

1. **The Framework Agreement** represents a record of understanding between organised labour and organised local authority, whereas **The Guidelines for Private Sector Participation** can be viewed as an implementation manual.
2. Both documents are based on general RDP principles of social reconstruction, redistribution and upliftment. It is in general based on the theory of sustainable development as proposed in this thesis.
3. Due to the fact that these documents largely originated from within the public sector it tends to depict a mistrust of the private sector.
4. The Framework Document's overriding objective seems to be municipal restructuring rather than decentralisation, through a process of enabling of local authorities by the private sector. This is largely due to organised labour's objective of maintaining existing job structures.
5. On the positive side it reflects a genuine understanding on the part of government that it is unable to, on its own, meet increasing needs with its limited resources.
6. Based on a recent tender for management and service provision for the City of Cape Town it is clear that a huge potential exists to utilise the Framework Document to guide private sector participation in shorter term contracts. This was done in a way that allowed for the solicitation of proposals directly from the private sector without being too prescriptive.
7. If evaluated against a similar framework document in a developed country, Canada, a number of similarities are clear. These hinge around a realisation of needs versus available resources.

8. From the Canadian model it is clear that a differently structured document results from private sector involvement in the compilation of the framework. The result is that partnership initiatives are perceived as ways to generate innovative ideas and cost saving measures whilst always safeguarding the public's interest. In addition it is clear that strong central fiscal structures should be in place to govern the implementation of public-private partnerships.
9. The Canadian process allows a two stage proposal system of initially calling for *Expressions of Interest* as well as *Requests for Proposals*. This allows a process of pre-qualification and solicitation of ideas from the private sector.
10. In essence the difference between the Canadian and South African models are due to issues of social upliftment, job creation and empowerment versus the need for technology transfer, commercialisation and obtaining the best deal possible.

The above conclusions may be depicted in an abbreviated graphic form. Each block represents a conclusion reached in the preceding chapters. These elements represent a typical analysis of the subject in focus, based on a wide range of sources. The conclusions were reached through a process of dissecting information and searching for commonalities between these. As such they form the core elements relating to partnerships for municipal infrastructure.

In order to make the systemic approach relevant, these basic elements will be manipulated, together with the rest of the information in this chapter, in order to build up a comprehensive, holistic viewpoint. These are shown below.

An Analysis of Conclusions : Chapters 2 to 4 and Appendix 2

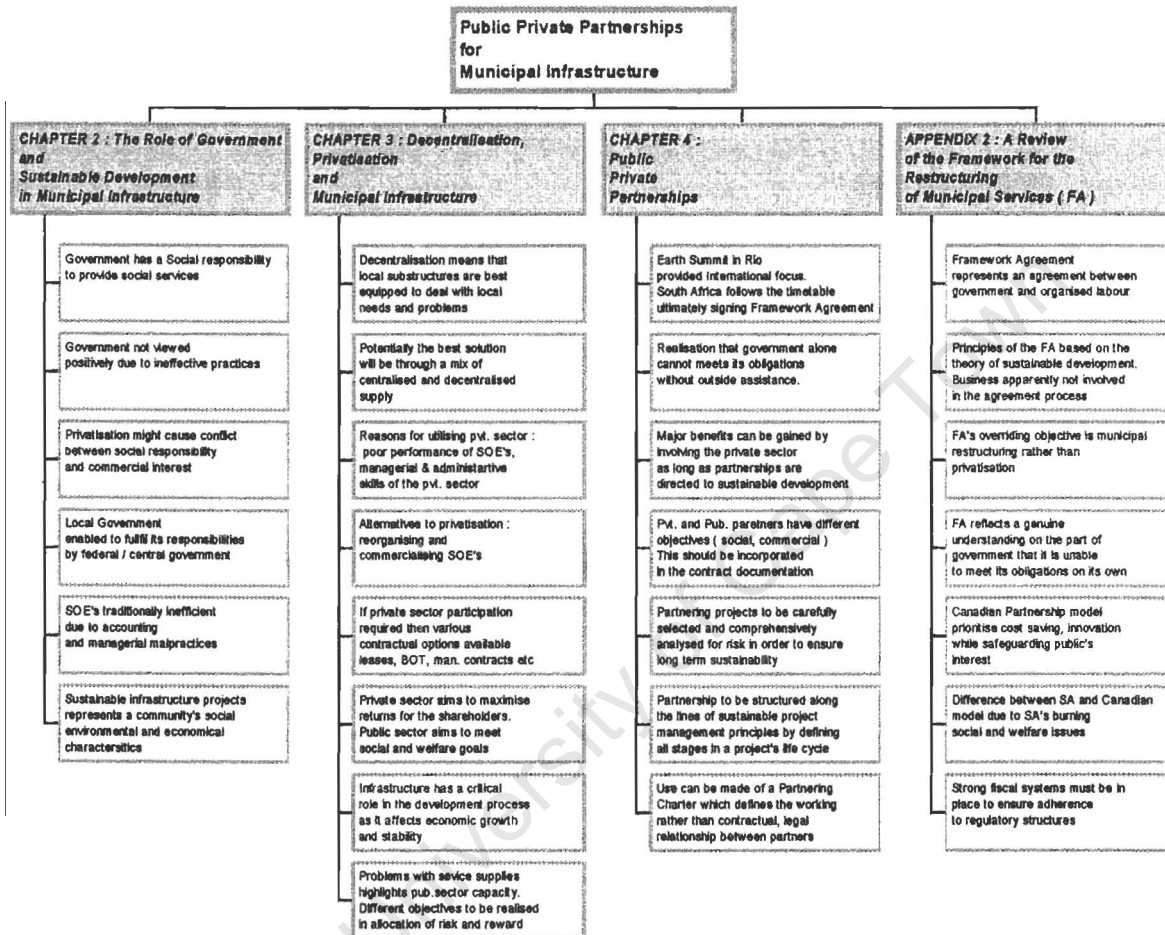


Figure 2 : Analysis of Conclusions, Previous Chapters

5.4 Other Sources

In addition to the above two other sources will be used to define a set of systemic parameters. These will both be current views as described internationally (through the Harvard Debate on Partnerships) as

well as local (latest views from the Head of the Municipal Infrastructure Investment Unit in South Africa)

5.4.1 Harvard Debates

A Introduction

The following section represents the viewpoints of a number of authorities on partnerships as part the Harvard University Institute for Cultural Landscapes (ICLS) Organisation. The discussion took place at the Arnold Arboretum on 23 September 1998. The round table discussion prompted ICLS staff to make significant revisions to key issues in partnerships.

The issues raised in this discussion proves to have relevance on issues discussed in this thesis. The reason for this is that partnerships for infrastructure- and other developments have been running in the USA since the early 1970's and during this period a number of valuable lessons have been learned. In a sense one can speak of 'second generation partnerships' in countries where partnership dynamics, and approaches to them have been adjusted and revised based on conclusions reached with the initial partnership actions. As such it is useful to see if any adjustments should be made to a strategy to implement partnerships in the local, developmental situation.

Although a larger number of issues were covered by the discussion panel, only a number of these will be covered here. If any of these points show direct relevance it will be included in the systems model later in this chapter.

B Retraining Government

This section acknowledges that a large number of writers tend to be very cynical about the capacity of the private sector to serve public purpose. These same writers agree on one positive spin-off, namely the retraining of government which happens as a result of the interaction.

It notes that "Anticipating or even steering market trends has long been a critical survival skill in the private sector. Transferring some of that skill to government may be the most important achievement of public-private partnerships."

The emphasis here seems to be the acquisition of long range marketing and strategising skills by the public sector through interaction with the public sector.

C Reconciling Public and Private Operating Standards

According to Macchiarola (1986 : 130) there is a tendency for private investors to view partnerships with suspicion due to their conviction that public officials believe in 'big' government and could shelve the partnership whenever it becomes financially or politically feasible.

In discussing this viewpoint Ingerson (1998) suggests that partnerships should be focused on building trust and co-operation in order to overcome significant differences in culture. The example used is the way that the two groups decide on *measures of performance*. Public agencies are used to tracking costs rather than returns while private partners may be used to tracking returns (as higher than expected returns can more than cover unexpected costs). This source suggests that accounting practices may have to be biased to satisfy the need of the partner with the highest standard in a particular case.

Another aspect noted by this source is that, as far as possible, turnover of human resources in the public partner's camp, even though it may reflect policy or voters preferences, should be kept as low as possible. This requirement is aimed at building long term partnerships on a personal level.

D Partnerships viewed as a means of Fund-raising

The aspect under consideration here is the way that partnerships are sometimes used by the government during tight budget years only. This leads to suspicion on the part of the private sector on the long term feasibility of interaction with a public partner and might indeed lead to short term profit taking. This source calls this type of arrangement an 'accidental partnership' and equates it to a means of fund-raising, rather than a long term strategy.

E Negotiating Equity and Fairness

According to McGraw (1984 : 57) the public tends to view a continued profitable private partner as receiving hand outs from the government while, if it loses money year after year, it is viewed as a drain on the public treasury.

Ingerson (1998) notes that some critics suggest that the difference in approach and goals of the different partners should not necessarily be overcome but rather used, as a way of ensuring that "checks and balances" are built into partnerships. This source warns that if detailed negotiations are not undertaken the public partner is at risk of giving up many of its rights and losing supervisory control over the private operator.

According to the MIU (2000) the best deal in terms of fairness and equity may be obtained through shorter term service contracts. This source suggests that the best results may be obtained when service contracts are legally binding, of a short duration, and concerned with the provision of a specific, well designed service. In addition a key strength of the approach is the ability to directly negotiate with local residents in service provision.

In conclusion this section notes that a true win-win situation might be impossible unless a detailed legal framework is established according to which the partnership will operate. If not “one side will ‘win’ the partnership’s cost and the other will ‘win’ only its benefits.”

F Some paradoxes of partnerships

According to Breckenridge (1998) public-private partnerships combine the capacity of private organisations to act flexibly and quickly with the government’s access to public funding and regulatory enforcement tools. This view was confirmed by Endicott (1998) who noted that partnerships can be motivational in the early phases of a project by creating an atmosphere of possibility, or provide a catalyst or a springboard.

On the other hand Peskin (1998) warns that partnerships are “sometimes just a polite way of getting out of things you don’t want to do”. This source suggests that public officials have two lists, and sometimes look to partnerships to address those issues on the list of things they cannot do.

Rodstrom (1998) uses the phrase “mission creep” to describe what happens to a partnership that starts doing things it was not set up to do. A further warning is that when a partnership becomes its own organisation with its own funding it can be difficult to reign in.

G Conclusions from the Harvard Debate

Based on the above the following filters may be identified as having the potential to affect the way that PPP as a system function :

1. Positive spin-off of PPP is that government is re-trained to become more efficient.
2. Public and private sectors have different operating standards which are reflected in their respective measures of performance.
3. Mistrust on the side of the private sector develops when PPP are used as a temporary relief of capacity pressures.
4. Detailed legal frameworks might be required to ensure that both parties have their cost/benefits balanced.
5. Partnerships might provide government with a means of ignoring their responsibilities.
6. PPP may be a way of generating a dynamic start to a project.
7. If PPP end up doing things outside of their intended scope, ‘mission creep’ may affect the overall performance.

These filters may be drawn diagrammatically in

Figure 3 : Filters Resulting from Current International Experience as follows :

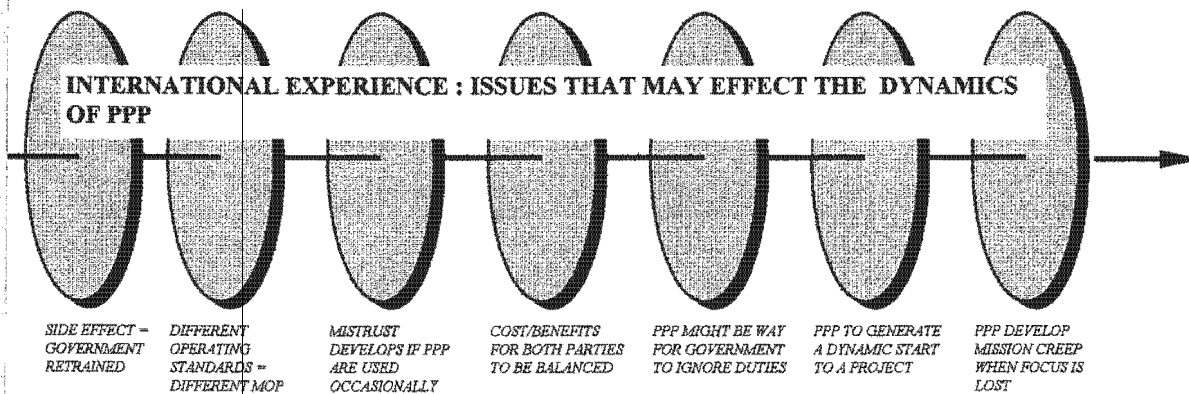


Figure 3 : Filters Resulting from Current International Experience

5.4.2 MIUJ and Current feedback

Public Private Partnerships are a relatively new field in contracting for traditionally public, services and goods. As discussed earlier in the analysis it has been in existence in South Africa for only the past five years.

It is therefore important to determine the current situation as a means of gauging the potential success of partnerships in South Africa and elsewhere. The first source to be cited is a article that appeared in the Finance Week of 28 January 2000. The article, called "Public Private Partnerships - Bright Lights Ahead", quotes Monhla Hlala of the MIU on partnerships for municipal services.

The following issues are mentioned in the article and are worth noting :

1. About 100 projects are in the pipeline. Of these only 2% are already underway. 12% in various advanced stages of contract negotiations, 19% of projects have been assessed for viability, and 67% of projects have had interest shown in them. (At a glance this does not appear too positive in the short term, but hold promise over the medium and longer term)
2. The intention is that a so-called Municipal Systems Bill should be tabled in the South African Parliament later this year. This Bill will provide the statutory framework for the regulation of partnerships between public and private sectors.
3. The essential ingredient for success is stated as "... a PPP must be designed in such a way that a local authority is convinced that a satisfactory service is provided and at a significant saving. Simultaneously, the private contractor must be able to earn a meaningful profit while delivering a satisfactory service."
4. Major problems that needs to be overcome is mentioned as :
 - Trade union concerns about job losses as a result of PPP.
 - Public officials fear that PPP will undermine their traditional roles as providers of a service.
 - Poor data on municipal infrastructure and badly trained staff.
 - No tradition of privatised supply, as is the case in France.

5. According to the White Paper on MSP (SA Gov : 2000) the following benefits are required for successful MSP initiatives:

- For municipal councils MSP should result in accessible, relevant, viable and beneficial service delivery options with well understood risk implications.
- For communities MSP must result in accessible, affordable and safe services, delivered to acceptable standards of quality.
- For society at large MSP should support the furtherance of social goals such as empowerment and sustainability
- For potential service providers it should be a worthwhile and feasible undertaking with risk management clearly detailed.

5.4.3 Conclusions from current South African experience

As used before this section provides a number of filters that may be used in the systems model later :

1. The trend locally and internationally is to formulate Partnership Frameworks or legislation to regulate PPP.
2. PPP should be structured in a way that provides an acceptable service standard, and at a cost saving to the end-user.
3. Fear of job losses and undermining of authority by organised labour and public officials.
4. Insufficient data on infrastructure systems may hamper the process.
5. A tradition of privatised supply of services may be required.

Using the filters diagram as before the current local partnership issues may be depicted as in Figure 4 :

Filters Resulting from Current South African Feedback as follows :

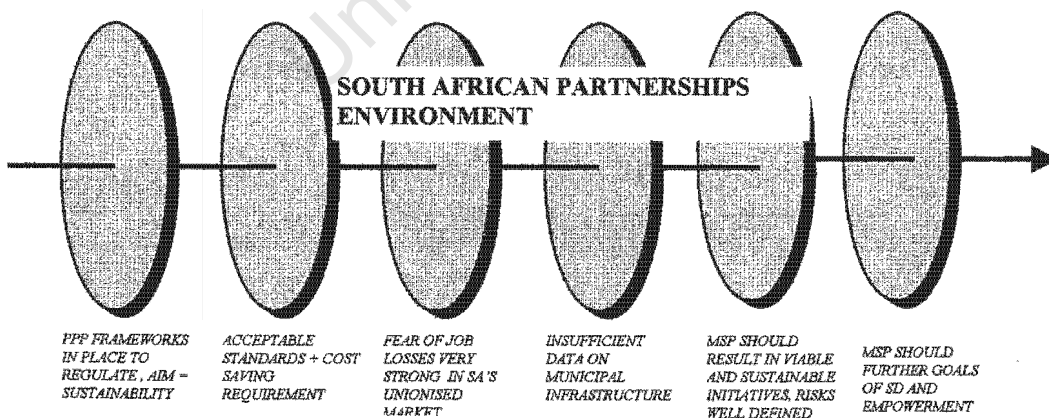


Figure 4 : Filters Resulting from Current South African Feedback

5.5 Basic Systems Description of PPP

5.5.1 Introduction

The use of systems methodology has proved to be useful in describing, and defining complex problems, situations or organisations. In the following two sections a number of criteria will be used to assist with the ultimate construction of a systems model for PPP.

Two basic sets of criteria will be used, systems questions and Churchman's appreciative questions. The latter is used to evaluate whether some situation or organisation can indeed be described as a system.

These two sets of criteria will identify, together with some of the other aspects (international and local experience) the basic building blocks of a systems description of PPP for municipal infrastructure.

This will be followed by the so-called cybernetic approach to systems which is used to determine the constraints or limits of a system.

5.5.2 Using Systems Questions

A Input, Transformation and Output.

Any system can be described simplistically by seeing it as an essential input that is transformed through a certain process to arrive at an output, this process taking part within a contained environment. If any of these three elements are removed, the systems description will not correspond to the process in question.

Using the conclusions of the preceding chapters as noted in

Figure 2 : Analysis of Conclusions, Previous Chapters the first requirement is to determine the essential input. This will be done by using an interrelationship diagram. These diagrams are sometimes used as a management tool to determine priorities between a wide range of issues. Each element is judged on whether it is a cause or indeed an effect in relation to all the other elements in question. This is shown by a single sided arrow. If the arrow points away from an element it means that the relationship is a 'cause' and if the arrow points towards an element it can be seen as being an 'effect'

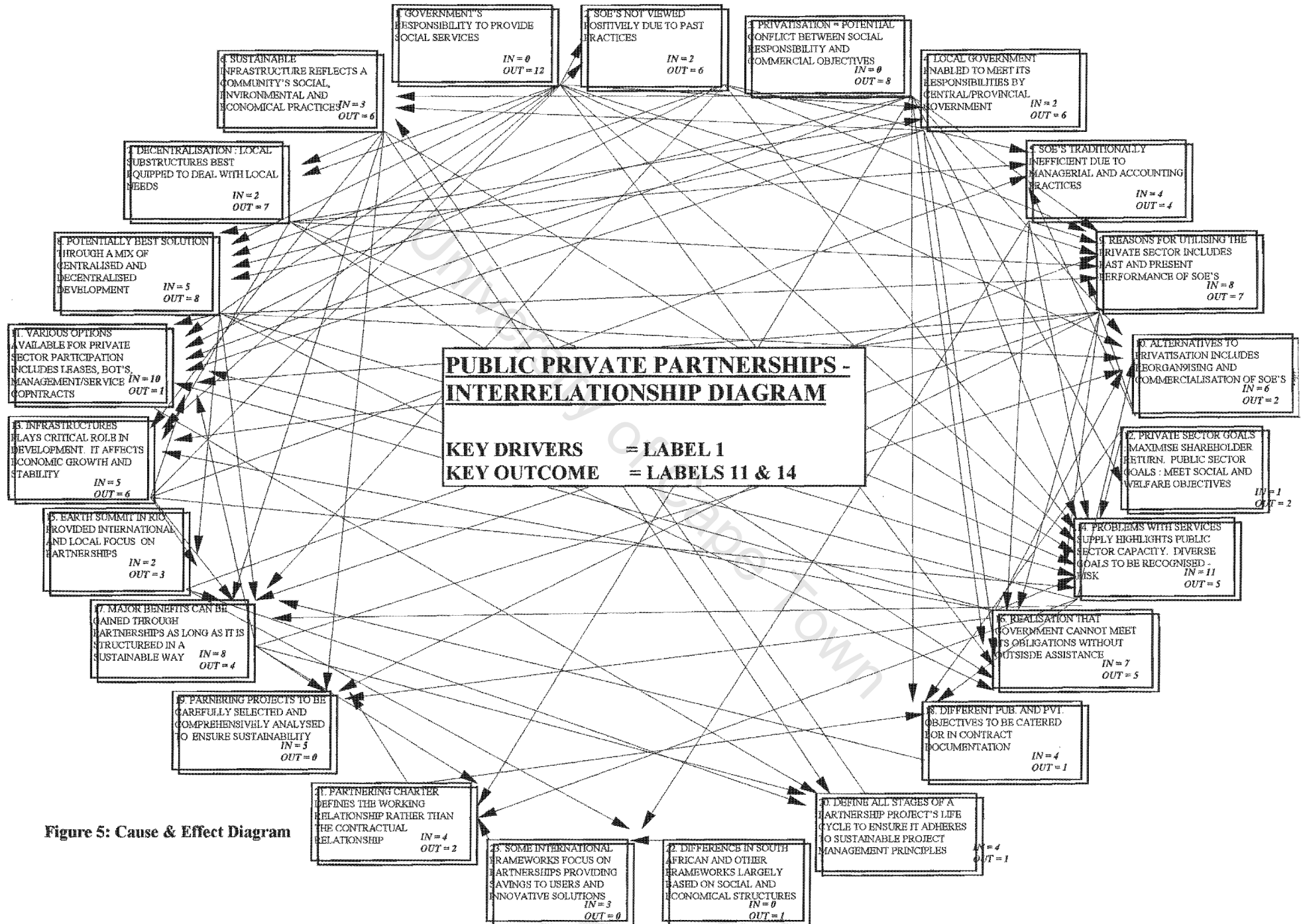


Figure 5: Cause & Effect Diagram

Figure 5: Cause & Effect Diagram depicts the cause/effect relationship between the conclusion elements of the preceding chapters. From this it is clear that the basic input can be described as *government's responsibility to provide essential services*.

Returning to the essential transformation later it may be suggested that the output of this system is the *delivery of acceptable standards of municipal infrastructure at a cost saving to the rate payer*.

The question can then be asked - what is the process that 'moves' the input, namely government's responsibility to provide services to an output of acceptable standards of service at a cost saving. It is suggested that it will entail *the application of innovative ideas in one of many possible contractual formats*.

B System vs. Environment

One problem that may be encountered when describing a situation, organisation or complex as a problem, is that of the so-called *environmental fallacy*. This happens when the difference between the actual system and its surrounding environment is not clear.

The basic rule of thumb that needs to be applied here is as follows: When making a decision about an element being part of the system, or the environment the question should be asked - will the removal of this particular element affect the overall input, transformation, or output? To use a simple explanation: Consider a drive-through, fast food outlet. The major elements, such as customers, providing fast food for the customers and, customers leaving satisfied make up the essential system. Elements such as adequate parking facilities, clean washrooms and balloons for the children, although part of the deal may be removed without affecting the essential building blocks of the system.

In the same way it is necessary that this rule be applied to PPP to determine the essential elements, without which it cannot be described as a system. As noted above the basic building blocks may be listed as follows :

- Input - Public Sector's responsibility to provide basic services (municipal infrastructure) to citizens.
- Transformation - PPP use innovative means and ideas in a range of contractual options to provide municipal services.
- Outputs - Acceptable standards of service are delivered at a saving to the consumer.

Diagrammatically this can be shown in Figure 6 : The Basic PPP Systems Elements as follows

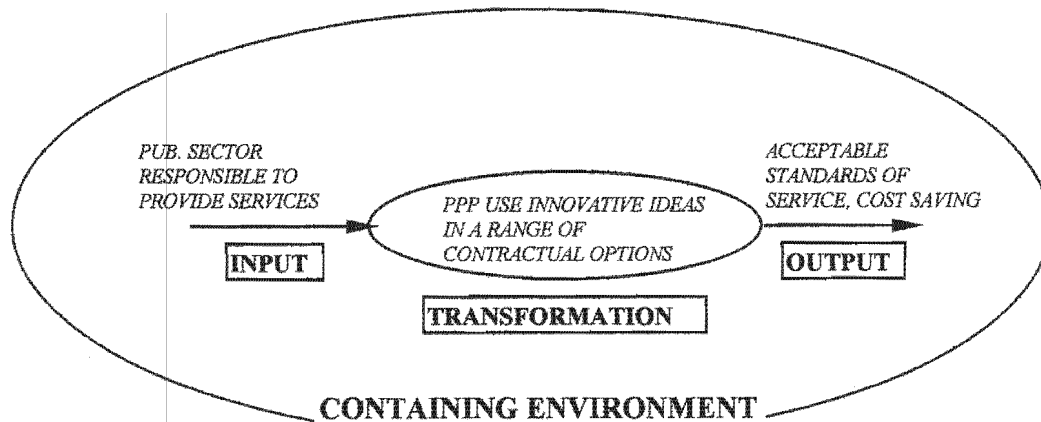


Figure 6 : The Basic PPP Systems Elements

This diagram will form the basis around which the systems model will be expanded.

C Stakeholders

This aspect is very important in any systems description. A systems perspective notes stakeholders as being "those who are influenced by, or can influence the situation". Without moving into an in-depth description stakeholder analysis requires at least the following descriptions of this group :

- Who are the stakeholders ?
- What are their interest in the system ?
- What output goals are required to satisfy the stakeholders ?
- What are the stakeholders' world view relative to the system in question ?
- What meta-language (call it a common language) may be developed such that stakeholders can assist in achieving the essential transformation ?

These question will not be answered or expanded on at this stage but will rather be depicted in the systems model later in this chapter.

D Constraints

This aspect of the systems description is closely linked to the environment above. The basic question here is one of what constraints are imposed on the system by the environment? Further expansion of these points lead to some of the following questions :

- What constraints are imposed on the system by the environment ?
- Are these real or perceived ?
- How do these constraints affect the output of the system ?
- Are these constraints avoidable ?

As above these questions will be posed through the generic systems model later.

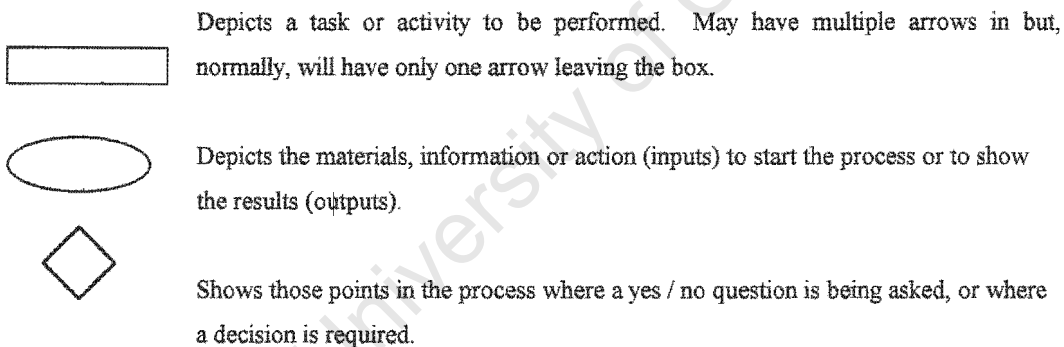
E Purpose of the System

This aspect in the systems description pulls together most of the previous elements. The focus here is on the system *within* its containing environment. Typical systems questions here would be around the actual purpose of the system as well as the following: Who is the owner of the system and who can stop it from operating ?

5.5.3 Churchman's Conditions for a System

Churchman provided a number of description which is useful in making sense of systems. These are in effect a modification on the previous section as it provides further conditions that need to be satisfied or understood for a successful systems description of PPP.

To incorporate these conditions into the systems model a flowchart will be used. The flowchart will provide a sequence of conditions or questions to be met to verify whether the aspect in question may be described as a system. The normal symbols to be used in this flowchart will be as follows :



A System is Teleological

A definition of this condition can be stated by saying that a system is something which has *parts* which co-produce the overall behaviour of the system in question through the way that the parts *interact*.

Using this description it is clear that PPP are indeed systems. The different parts may include the major components such as the public- and private partners, types of contractual arrangements, stakeholders to the process, service that is to be provided by the partnership and so on. The systems model later in this chapter will show the most relevant ones.

B Measure of performance

The measure of performance (MOP) may be defined as an indicator that provides feedback on the progress of the system. A MOP provides, to the monitor of a system, information on how effective the chosen strategy has proved. In a sense this could be compared to financial reports that a business enterprise routinely produces in order to provide feedback on performance to its investors.

In the case of PPP it is clearly critical to decide on a common measure of performance that will serve the partnership as a whole. It might turn out to be counter productive to use traditional or particular MOP such as financial ratio's or production data in isolation without considering whether this is a true reflection of the objectives of the venture. It might be required to establish a completely independent set of key performance indicators to assist in gauging the overall success. These could then incorporate issues such as sustainability, innovation and so forth.

According to the White Paper (SA Gov : 2000) councils historically requires assistance in increasing their capacity levels. A MOP that is realistic may therefore include defining standards of 'obtaining' this assistance. Areas suggested by this source includes governance-, facilitation-, management-, and administrative skills. This will allow the local councils to use all the alternative service delivery mechanisms to their fullest potential.

C System has a Client

Churchman describes the client as the group whose purposes, values, and interests are, or ought to be, served. Are there on the other hand, any that do not benefit, and have to live the consequences?

This is an important point. In the case of PPP for municipal infrastructure the client should clearly be the consumer. Each and every resident of a particular area has the right to basic public services. Of course there is also an obligation on the part of the recipient to pay for this privilege but the responsibility in the first instance is with government, national, regional or local to provide it.

Having stated this, it is very important that both partners realise that their interests are secondary to that of the end user. As suggested by Houskamp (World Bank : 2000) the poor does not always benefit from private supply. This realisation, of who the actual client is, is paramount to the economic, and moral success of a PPP initiative.

D System has components that co-produce the MOP

The description here is one of realising that only by aligning the different components will the overall system benefit. Each individual element has the ability to influence the overall outcome as manifested by the Measures of Performance.

E System has an Environment

Each system operates within an environment in the sense that it cannot be evaluated on its own, but has to be assessed in a certain context. At the same time it may be argued that every action takes place within an environment which in turn takes place within the context of a larger environment.

The important consideration is therefore a subjective one - take a decision on environmental boundaries and evaluate within those boundaries. In the case of PPP this might require a decision on municipal vs. regional boundaries or local requirements vs. national ones. This provides a means to search for local solutions within a local context. Of course overall development (i.e. RDP and GEAR programmes in the case of South Africa) policies cannot be ignored completely. Due to the nature of PPP they are more flexible and should be able to accommodate local conditions.

F Decisionmaker

According to Churchman the decision maker has authority due to the fact that they have authority over resources, they make decisions, and they manage change.

In the case of PPP this clearly needs to be a group, or person that is independent from either of the two partners and, rather, serves only the partnership as a whole. That way conflicts of interests can be avoided.

G Flowchart for Evaluating Churchman's Appreciative Conditions

Using the above aspects a flowchart may be used as follows in Figure 7 : Flowchart to Check if Process may be Described as a System

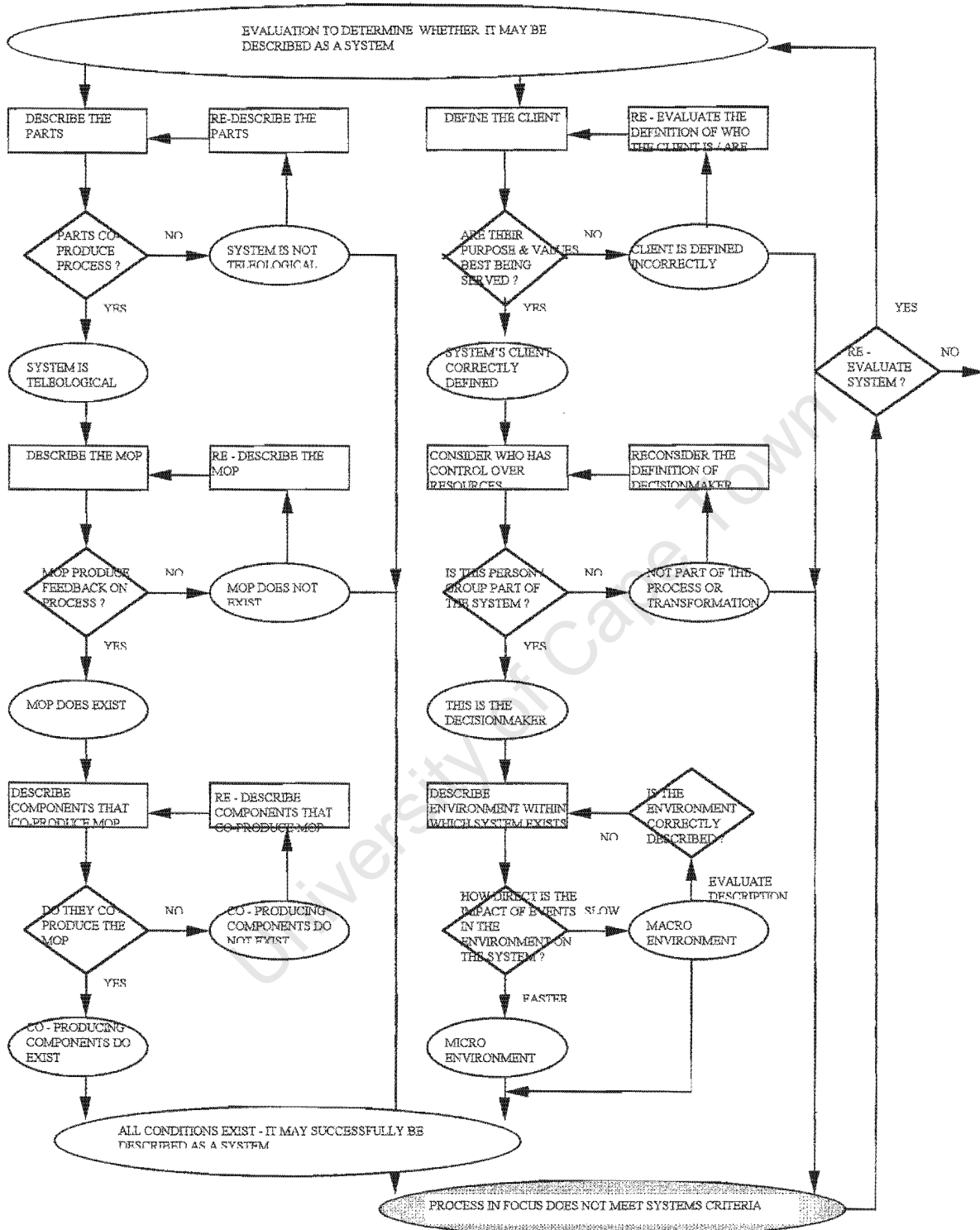


Figure 7 : Flowchart to Check if Process may be Described as a System

5.5.4 Cybernetic Approach

A Introduction

According to Barry Clemson "Management Cybernetics establishes the fundamental principles and provides limits on what is and what is not possible for organisations". This approach can be used successfully in synthesising the boundaries of PPP as a system to provide a hypothesis on how it may or may not work. The systems approach to the learning organisations has proved effective in dealing with so called 'soft issues' in the past. As the success of PPP will have to be gauged in terms that may not necessarily be 'measurable' in scientific terms the systems approach may be able to supply an additional set of performance measures.

The list below are called cybernetic laws. Each law is stated in its original form, followed by a managerial implication and finally the application to the dynamics of PPP. This section will once again provide a diagrammatic conclusion on these laws.

B System Holism Principle

Russel Ackoff describes this principle by stating that "a system has holistic properties possessed by none of its parts. Each of the system parts has properties not possessed by the system as a whole."

The managerial implication of this principle is that understanding of the system in question requires that both the holistic properties as well as the properties of the parts are to be recognised.

The implication for PPP can be stated as follows: In order to create a desirable and sustainable structure a partnership should be composed of functional parts, in a way that produces a functional whole. Rather than focus on the individual goals and aspirations of each partner more should be done to create a harmonious dynamic and working relationship within the partnership, which, in reality, should be viewed as having a completely new, independent character.

C Darkness Principle

According to WR Ashby "no system can be known completely"

The managerial implication of this principle is that an organisation must be managed effectively without full knowledge of the parts by the top managers.

Implications for PPP: In the case of accounting and administrative systems, as well as overall management, a clear understanding should be in place that this situation can, and will arise. Numerous examples are available in the business world of holding companies managing various subsidiary companies without knowing the details of day-to-day affairs. This frees up each component to focus on its particular area of expertise.

At the same time the overall management should be in a position to obtain the required feedback from various sections as and when it needs to. The typical structure that would satisfy these conditions can be structured along project management principles which allows overall control without detailed involvement.

D Eighty-Twenty Principle

Stafford Beer states that “in any large, complex system eighty percent of the output will be produced by only twenty percent of the system”.

The managerial implication of this principle could be defined by saying that in any large organisation eighty percent of the benefit will result from twenty percent of the effort.

The implications for PPP as follows: A thorough understanding, by management, is required of what exactly entails the partnership's core business and essential services. With the previous principles in mind it should be clear that a miss-alignment of objectives a partnership will have difficulty to survive.

E Complementary Law

G Weinberg notes that any two different perspectives about a system will reveal truths about the system that are neither independent nor entirely compatible.

The managerial implication of this principle seem to be that any management group will hold a variety of perspectives on the organisation which reveals truths about the organisation that are only partially independent and compatible.

Implications for PPP: It may be argued that management of a partnership might not be able to completely converge their views of a partnership's objectives. Keeping the previous principle in mind it might be useful to focus on the core activities and finding commonalities regarding them.

F Redundancy of Resources Principle

According to L von Bertalanfy the “maintenance of stability under conditions of disturbance requires redundancy of critical resources ”

The managerial implication of this principle is that maintenance of smooth internal operations under conditions of disturbance requires redundancy of critical human and material resources.

The implications for PPP as follows: The public services arena, with its multitude of stakeholders could very well prove to be a difficult, and indeed fairly unstable area of operations. These principles

require that a partnership should be adequately resourced, and that contingency plans should be in place for periods of disturbances. Typical disturbances, familiar to most South Africans might include work stoppages, service payment boycotts, runaway inflation, changes in the national- and local political structures, droughts, floods and other national disasters.

G Relaxation Time Principle

This principle is defined by A Iberal as follows: "System stability is possible only if the system's relaxation time is shorter than the mean time between disturbances"

The managerial implication of this principle is that too many changes at the same time can and often do destroy organisations, although each individual change may be perfectly justifiable.

Implications for PPP: This point is worth noting. It will typically affect a partnership's performance at the initial stages of the contractual arrangements. Sufficient time, and measures should be in place to ease the transition period from purely public- to a different service provider.

H Circular Casualty Principle

W Ross Ashby argues that "given positive feedback, radically different end states are possible from the same initial conditions."

The managerial implication of this principle is that any organisational unit or process with a positive feedback loop (i.e. a two part system in which each stimulates any initial change in the other) will be unstable and prone to catastrophic change.

The implications for PPP as follows: Two very different entities are required to work together in a comprehensive fashion to achieve a common goal. If the partnership is not structured in a way that prevents destructive feedback between the parties a situation might be created where the partnership will ultimately fail.

I Self Organising System Principle

Ashby defines this principle by stating that "complex systems organise themselves; the characteristic structural and behavioural patterns in a complex system are primarily a result of interactions among the system parts."

The managerial implication of this principle is that most patterns in an organisation is the result of interaction between parts and not the result of deliberate managerial actions.

The implications for PPP as follows: It is important to realise that a large amount of energy could easily be spent on the interaction between the different partners. This may have the effect of moving the partnership's focus away from its goals. Care should be taken to ensure that the focus and energy of a partnership remains in the correct place.

J Conclusions Diagram

The above cybernetic laws provide a useful measure of the limits of a PPP as a system by stating certain conditions that will affect it over its lifetime. Diagrammatically this can be depicted in

Figure 8 : The Application of Cybernetic Laws to PPP as follows.

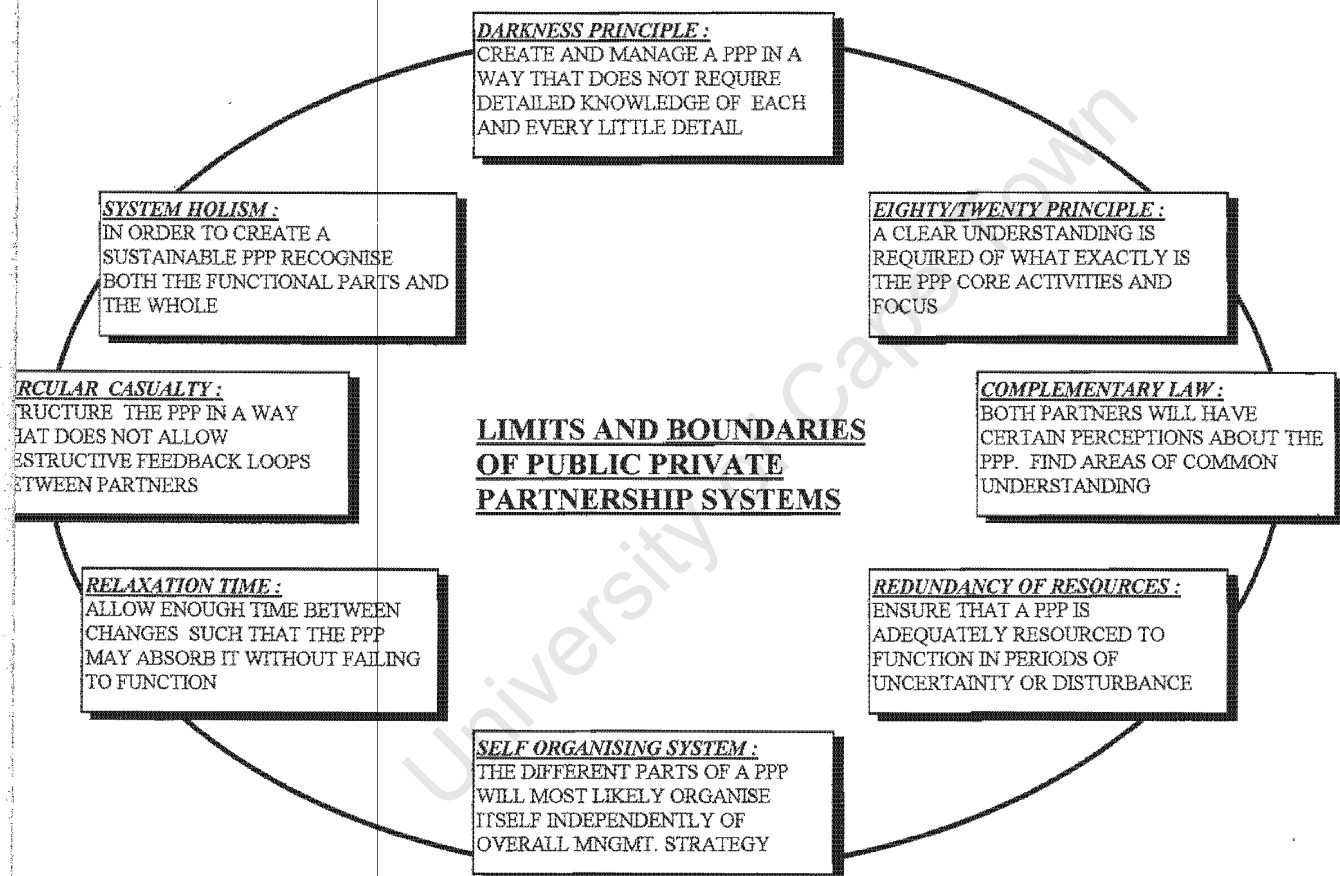
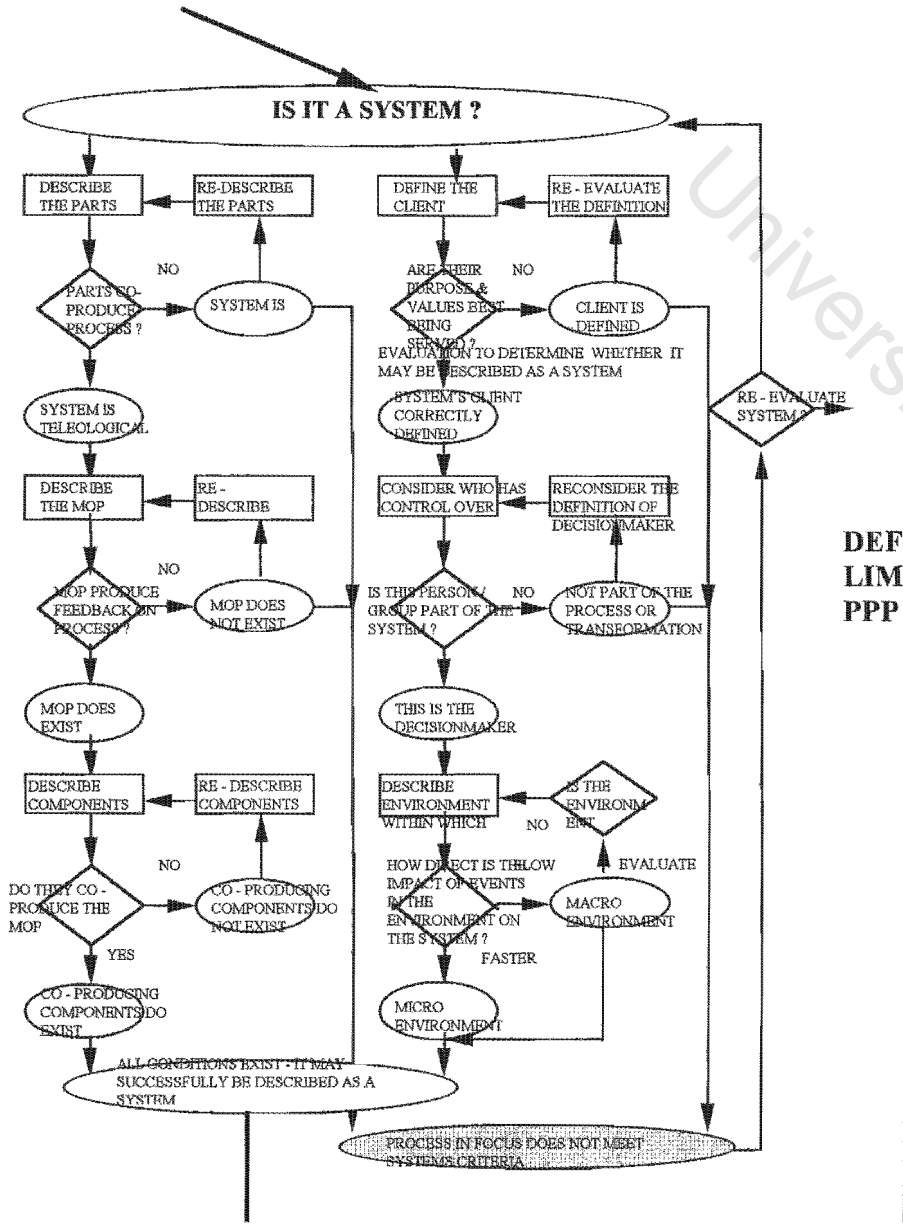


Figure 8 : The Application of Cybernetic Laws to PPP

5.5.5 Systems Approach Model - PPP for Municipal Infrastructure

Using the different systems tools as discussed in the previous sections the next step is to construct a generic systems model for evaluating PPP. The following two pages show a generic model that may be used for evaluating the feasibility of PPP for municipal infrastructure. It synthesises most of the different sections discussed so far in this chapter.

PUBLIC PRIVATE PARTNERSHIPS SYSTEM DESCRIPTION STARTS



DARKNESS PRINCIPLE:
CREATE AND MANAGE A PPP IN A WAY THAT DOES NOT REQUIRE DETAILED KNOWLEDGE OF EACH AND EVERY LITTLE DETAIL.

EIGHTY/TWENTY PRINCIPLE:
A CLEAR UNDERSTANDING IS REQUIRED OF WHAT EXACTLY THE PPP CORE ACTIVITIES AND FOCUS ARE

CIRCULAR CASUALTY:
STRUCTURE THE PPP IN A WAY THAT DOES NOT ALLOW DESTRUCTIVE FEEDBACK LOOPS BETWEEN PARTNERS

SYSTEM HOLISM:
IN ORDER TO CREATE A SUSTAINABLE PPP RECOGNISE BOTH THE FUNCTIONAL PARTS AND THE WHOLE

RELAXATION TIME:
ALLOW ENOUGH TIME BETWEEN CHANGES SUCH THAT THE PPP MAY ABSORB IT WITHOUT FAILING TO FUNCTION

SELF ORGANISING SYSTEM:
THE DIFFERENT PARTS OF A PPP WILL MOST LIKELY ORGANISE ITSELF INDEPENDENTLY OF OVERALL MNGMT. STRATEGY

REDUNDANCY OF RESOURCES:
ENSURE THAT A PPP IS ADEQUATELY RESOURCED TO FUNCTION IN PERIODS OF UNCERTAINTY OR DISTURBANCE

COMPLEMENTARY LAW:
BOTH PARTNERS WILL HAVE CERTAIN PERCEPTIONS ABOUT THE PPP. FIND AREAS OF COMMON UNDERSTANDING

MODEL CONTINUED ON

THE PUBLIC PARTNER

THE PRIVATE PARTNER

INFLUENCE : STAKEHOLDERS

- STAKEHOLDERS: COMMUNITIES, ORGANISED LABOUR, PARTNERS
- DEFINE EACH GROUP'S INTEREST IN THE PPP AS A SYSTEM
- AGREE WHAT OUTPUT/GOALS WILL SATISFY THEM & RECONCILE
- DEFINE WHAT OUTSIDE INFLUENCE MAY AFFECT THEIR VIEWS

INFLUENCE : CONSTRAINTS

- IDENTIFY THOSE ISSUES THAT MAY IMPOSE CONSTRAINTS ON A PPP
- ARE THESE CONSTRAINTS REAL, OR PERCEPTIONS ONLY?
- CHECK WHETHER THESE CONSTRAINTS WILL AFFECT THE PPP
- CHECK WHETHER THESE CONSTRAINTS ARE AVOIDABLE

CONTRACTUAL OPTIONS FOR PPP :

- SERVICE CONTRACTS
- MANAGEMENT CONTRACTS
- LEASES - LESS DIRECT BENEFITS

INTERNATIONAL EXPERIENCE : ISSUES THAT MAY EFFECT THE DYNAMICS OF PPP

SIDE EFFECT - DIFFERENT GOVERNMENT OPERATING STANDARDS - DIFFERENT MOP
 MISTRUST DEVELOPES IF IT'S FOR BOTH PARTIES TO OCCASIONALLY BE
 COST/BENEFIT BE WAY FOR GOVERNMENT TO IGNORE DUTIES
 PPP MIGHT BE WAY FOR GOVERNMENT TO IGNORE DUTIES
 PPP TO GENERATE A DYNAMIC START TO A PROJECT
 PPP DEVELOP MISSION CREEP WHEN FOCUS IS LOST

SOUTH AFRICAN PARTNERSHIPS ENVIRONMENT

PPP FRAMEWORKS IN PLACE TO REGULATE, AIM - SUSTAINABILITY
 ACCEPTABLE STANDARDS + COST SAVING REQUIREMENT
 FEAR OF JOB LOSSES VERY STRONG IN SA'S UNIONISED MKT
 INSUFFICIENT DATA ON MUNICIPAL INFRASTRUCTURE
 PPP SHOULD RESULT IN VIABLE AND SUSTAINABLE INITIATIVES, RISKS WELL DEFINED
 PPP SHOULD FURTHER THE GOALS OF SD AND EMPOWERMENT

ALIGNMENT OF OBJECTIVES :

- CREATING SHARED VALUES
- CREATE A PARTNERING CHARTER

PPP SYSTEM OUTPUT : ADEQUATE SERVICE LEVELS, COST SAVING

COST SAVING TO RATEPAYER, DELIVERED ON TIME

SYSTEM INPUT : GOVERNMENT'S RESPONSIBILITY TO PROVIDE MUNICIPAL SERVICES

PUBLIC PARTNER :

- SOCIAL RESPONSIBILITY
- CAPACITY NOT SUFFICIENT

PRIVATE PARTNER :

- COMMERCIAL OBJECTIVES
- SOURCE OF INNOVATION AND EFFICIENCY

INFLUENCE : CONTAINING ENVIRONMENT

- PLACE THE PPP IN NATIONAL CONTEXT
- DITTO IN LOCAL SUBSTRUCTURE CONTEXT

INFLUENCE : PURPOSE

- ENSURE THAT THE PURPOSE OF THE PPP IS TO SERVE THE CLIENT
- REALISE THAT ANY OTHER PURPOSE NEGATIVELY INFLUENCES THE SUCCESS OF THE PPP

ESSENTIAL TRANSFORMATION : PUBLIC AND PRIVATE OBJECTIVES ALIGNED TO CREATE A SUSTAINABLE METHOD OF PROVIDING MUNICIPAL SERVICES IN ONE OF A FEW CONTRACTUAL OPTIONS

6. Chapter 6 : Conclusions

Public Private Partnerships (PPP) hold tremendous potential for *increasing government's capacity* to meet its *responsibility* as the democratically elected *provider of sustainable public services*, and particularly municipal infrastructure. This may be achieved by entering into a *mutually beneficial* partnership with the *private sector* that should align commercial objectives and social responsibilities in a way that ultimately *benefits the end-user*, namely ratepayers and users of these public goods and services.

6.1 Government's Responsibility to Provide Sustainable Services

Government has been, and always should be, the ultimate authority and responsible structure that will provide these essential services. In a country such as South Africa, a new democracy in the context of a developing continent, this remains valid. However, the reality of limited resources and pressures on existing capacity causes a gap between public expectations and the actual level of service delivery. At the same time it is only government that is fortunate enough to be able to utilise and structure resources from three different groups: the private sector, state owned enterprises, and the actual communities that it should be serving. The first realisation that should be in place is that it is local government that should be enabled to address local needs as they clearly have more detailed knowledge about requirements in their particular area of jurisdiction.

The second current reality, which has its origins in the global development picture, is that development, and service provision must be undertaken in a sustainable fashion. This thesis essentially defined sustainability as meeting current needs without compromising the future. Some developing countries such as South Africa is fortunate to have these as underlying principles in its constitution and national development frameworks such as the Reconstruction and Development Programme.

As mentioned above, three main groups of stakeholders have interests in development and municipal infrastructure. Communities and ratepayers have expectations that should be addressed in a realistic fashion. This may entail cross subsidisation from richer to poorer communities. A sense of ownership and responsibility may successfully be installed by ensuring that communities benefit not only in the long run, but also during the development and maintenance of infrastructure and other services, through skills transfer and job creation.

The private sector is the group that holds the biggest potential to assist with these efforts. A number of instances in the past, where unscrupulous private business enriched themselves at the cost of the end-

user may however have caused mistrust on the parts of both public authorities and communities. This typically took place where no cognisance was taken of longer term sustainability.

State owned enterprises and local municipal authorities operates largely within a highly organised and unionised labour force. In the case of South Africa with its particular past it was organised labour that assisted in a major way with bringing about the required changes to the political dispensation. Unless some form of benefit or positive spin-off for organised labour is ensured it may be this group that could resist government's efforts to increase its capacity to deliver services.

6.2 The maintaining of adequate levels of infrastructure

Infrastructure and particularly municipal infrastructure, has been shown in this thesis to play a critical role in the development process in that it directly affects economic growth and stability. On a macro level this refers to national issues such as harbours, road networks, telecommunications and electricity. On a micro level infrastructure refers to the day-to-day components such as water reticulation, sewage, solid waste removal and municipal roads. Put in another way, those are the public services which a ratepayer 'buys'. In South Africa these goods, and minimum standards of it, are clearly defined in a number of development guidelines.

From a sustainable project management point of view, this indicates that services need to be delivered in a way that ensures optimum components of the macro components *quality, cost and time*. Not one of these may be allowed to be compromised, regardless of the way that service delivery is structured. On a micro level it indicates that cost, benefit and risk should be balanced when considering alternative service delivery options.

The *quality* of municipal services should be defined by national policies. This is one area where long term environmental sustainability must be a critical success factor. Global Development Agencies are continuously refining acceptable standards, but the realities of developing countries also need to be incorporated into these standards wherever possible. This may require that current design and operation specifications be reviewed, such as was courageously done by the City of Cape Town in recent tender documents for solid waste collection. In addition, standardisation within a country or a specific municipal region may ensure that national policies are adhered to. In this context the move to Uni-cities in South Africa should go a long way in assisting with this particular issue.

The *cost* of municipal services should be determined by market forces. This thesis has highlighted the problems that arose when state owned enterprises were managed and operated in artificial- and subsidised environments. As mentioned before it may be reasonable and fair to allow cross-subsidation from rich to poor in a particular area as long as area demarcation is done in a sensible and non-punitive

fashion. This reality of market forces is very much a part of the daily business of the private sector and it is this aspect that should be harvested by the public sector. In any transaction no consumer minds paying the required amount, as long as there is a feeling that value for money is being obtained. Another reality of course, is that a major backlog of services may exist and these need to be allowed for in cost-recovery mechanisms. Although this was not the particular focus of this thesis, it is obvious that infrastructure is only one aspect of the overall well-being of a community and issues such as housing, medical and education needs form part of the overall picture.

Nothing creates as much negativity as the incorrect *timing* of service delivery. The sequencing of specific components should be planned in a way that ensures continuity and a well defined strategy that clearly indicates to the ratepayer that its money is being spend wisely.

6.3 Setting up mutually beneficial partnerships for Infrastructure Delivery

This thesis considered in detail a number of options for increasing government's capacity to deliver and maintain municipal infrastructure. It analysed the need for firstly decentralising and secondly privatising some of the essential services. It came to the conclusion that the most suitable way would be situated somewhere in between and would consist of a partnership between government and private business.

This partnership can only take place if the correct legislation and agreements are in place. It is central government's responsibility to ensure that all role players are involved in the process that leads up to the structuring of a workable framework or agreement. It should further communicate and enable local structures to apply these principles.

These principles were shown to have been successfully implemented in a number of developed- as well as developing countries. In the South African context general agreement has been reached between parties on the feasibility of partnership principles and a number of contracts are indeed underway.

In South Africa these are largely limited to long term arrangements for bulk supply of goods such as water and solid waste handling and typically takes the form of *leases and concessions*. Due to the particular nature of these facilities the positive spin-off effects have largely not filtered down to the communities and ratepayers involved. This has potentially created a negative attitude on the side of organised labour that PPP are just another form of privatisation that will ultimately lead to job losses, or a transfer of employment from the public- to the private sector. This thesis highlighted the fact that the biggest potential for social upliftment, skills transfer and job-creation lies in *service- and management contracts*. It is in this area where local authorities have the most scope for creating sustainable service

delivery structures in a way that will ultimately provide the rate payer with a saving on the one hand, and an increase in service levels, on the other. This may be accomplished by viewing PPP in a holistic- and systemic way.

6.4 Redefining Public Private Partnerships as a System

Using partnerships as a means of increasing government capacity requires an understanding that it (PPP) is made up of different components that will co-produce an overall effect, which may not necessarily be the sum total of the individual parts. This indicates that PPP may hold tremendous potential, at a level even higher than what may be produced by either the public- or the private sector.

A number of systems writers have suggested that a better understanding of a complex system may be gained by constructing a model or 'picture' of the particular issue in focus. This thesis made an attempt by firstly posing the question of whether PPP could indeed be viewed as a system, followed by the construction of a holistic systems model.

Using the flowchart in Chapter 5 as a way of testing the system approach a number of conclusions may be drawn :

1. PPP are teleological. It has parts that may work together to produce a whole. In particular this means that the main components, namely the private sector and public sector works together to produce the overall input - acceptable standards of service delivery at a saving to the ratepayer.
2. A clear measure of performance exist. This may be defined for each different application but in general this would entail the ability of the PPP to meet the guidelines for service delivery as agreed at national level.
3. A client does exist. This should always be the benefitting community or ratepayer. PPP should serve the end-user, and not one or both partners.
4. It operates in a particular environment. This environment may be described as any issue that affects the system in question. On a practical level this may include issues such as local government structures as well as a communities' particular needs and aspirations.
5. PPP as a system has components that co-produce the measure of performance. This suggests that a situation may not be allowed to develop where one partner takes a leading role and the other sits back in complacency. It indicates that both should be working partners that continuously reviews and confirms that the PPP is on track towards its agreed goals and targets.
6. PPP should be structured in a way that ensures a decisionmaker exists. This is an area where development agencies such as the Development Bank (in the South African context) or national legislation should act as enablers and structures of reference to ensure that overall sustainability is ensured.

Based on the above it can safely be stated that PPP may indeed be viewed as a system.

PPP, and particularly in the developing world, is a relatively new alternative service delivery mechanism. A major factor in the potential success, or indeed failure, of PPP for municipal infrastructure in any developing country is vested in the perceived threat to the existing status quo. This may manifest itself in the attitude of organised labour to PPP, or in the reluctance with which some municipal managers attempt to initiate partnership projects.

A possible reason for this is that most of the pilot PPP are longer-term concessions and leases. This may be the case in a situation such as a bulk water supply scheme where the capital value, relative to the operational cost of labour & supervision, can be disproportionately high. The popular perception may then indeed be one of questioning whether the initiative will be of any direct benefit, or whether it constitutes asset stripping. Based on some of the current World Bank literature it would appear that the focus remains on the longer-term contracts rather than on service- and management contracts.

This thesis, and especially the chapter on PPP as a system, suggests that the biggest potential for achieving sustainability through municipal service delivery could be in the shorter term service- and management contracts. Given the particular needs of a developing community, coupled with the available expertise vested in the private sector, it is in these two areas where the biggest gains are available for all role players. However, as the systems chapter alluded to, this will only be successful if PPP for municipal infrastructure is viewed in a holistic, systemic way. This implies the fair allocation of risk and reward all round. Private companies should not be allowed to do business in a corrupt or non-sustainable way, but should realise their responsibilities in the overall social upliftment drive. At the same time the government of the day was shown to be most successful if they acted in a way that enables, rather than regulates PPP initiatives.

Based on the above it is difficult to bring this thesis to a direct conclusion, due to the on-going nature of PPP in the developing world. What was in fact possibly achieved was a number of 'departure points' worthy of further investigation and research. The following list is suggested as containing some of these ideas. (It does however not mean that this represents an exhaustive list of items). For ease of reading, these points will be shown in a numbered list format.

1. The construction of an *inquiry framework* into a systems description of PPP service contracts, with the aim of organising research in a way that will result in a comprehensive *systems model of PPP service contracts*. (See 5. below)
2. A critical inquiry into the incentives that a government of a developing country could allow to the private sector interested in engaging in PPP for municipal infrastructure. The point here is that as long as traditional procurement methods such as the open tender system is used, along with restrictive policies, the end user may not experience a net saving to his rates and taxes.

3. A suggestion for comprehensive pre-qualification of private suppliers of infrastructure. The idea here is to consider the establishment of a national data bank, which will guarantee certain minimum performance standards. Based on a system of complete transparency it would then allow individual authorities to negotiate the best possible deal with a private supplier in a way that suits its particular service contract needs. A case in point is the way that current public money allocation sometimes results in construction projects happening in the wrong season, to mention but one.
4. An investigation into ways and means of short-term private take-over of public workers in a way that remains fair. A potential area of investigation may be the way that financial institutions could underwrite existing pension schemes and other service related obligations (for the duration of the service- or management contract) in a way that will allow the potential private supplier to purely take over existing wage rates, rather than, for example, an accrued pension scheme of older workers.
5. The application of the systems model, as shown in the thesis, to a case study. The easiest would be to do this in a research paper. The suggested focus of this paper would be to try and formulate a model as described in 1. above”

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7. Bibliography

1. Ackoff R. 'Towards a System of System Concepts', *Management Science* 17 (11), July 1971
2. Badshah A A. *Our Urban Future. New Paradigms for Equity and Sustainability* (Karachi : Zed Books), 1996
3. Beer S. *The Heart of the Enterprise* (New York : Wiley), 1979
4. Bertalanffy L. *General Systems Theory*. Revised Edition (New York : Brazillier), 1968
5. Bonbright D, 'Through the Looking Glass : Building Institutional Partnerships in the New South Africa', *Development in the Transition : Opportunities and Challenges for NGO in South Africa*. Proceedings of the biennial conference of the Development Society of Southern Africa, held 9 - 11 September 1992. Styger P and Cameron M Eds. (Pretoria : The Development Society of Southern Africa), 1993
6. Bond P. *Privatisation, Protest and Participation : Citizen Opposition to the World Bank in Haiti and South Africa*. Paper presented to the World Bank/NGO Dialogue on Privatisation, Washington DC 21 October 1997.
7. Borja J, Castells M, *Local and Global. Management of Cities in the Information Age*. United Nations Centre for Human Settlements (Habitat), London : Earthscan Publications, 1996
8. Brassard M & Ritter D. *The Memory Jogger™ II - A Pocket Guide of Tools for Continuous Improvement & Effective Planning* First Edition 1994
9. British Columbia Ministry of Employment and Investment. *The Province of British Columbia's Best Practices Guide to Public-Private Partnerships*. First edition, January 1998
10. Canadian International Development Agency, *Draft. CIDA's Policy for Private Sector Development in Developing Countries*, March 1999
11. Center for Development and Enterprise (CDE) 'Response by CDE to the Government's White Paper on Local Government' 1998
12. Clemson B. *Cybernetics : A new Management Tool* (Kent : Abacus Press), 1984
13. COSATU, *A Guide to the Municipal Services Partnership Framework Agreement*, 1999
14. Cowan L G. *Privatisation in the Developing World* (New York : Praeger Publishers, 1990)
15. Department of Constitutional Development, South Africa (DCD). *Framework for the Restructuring of Municipal Services Provision, Signed by SALGA and COSATU on 11 December 1998*. DCD Publication
16. Development Bank of South Africa. 'Private Provision of Infrastructure : Making it Happen' in *DBSA's Role in Private Provision of Infrastructure* June 1997
17. Domberger S. , Farago S & Fernandez P. *Public and Private Sector Partnering : A Re-appraisal*, *Public Administration* 75 (4), 1997
18. Elliott J A. *An Introduction to Sustainable Development* (London : Routledge Publishers, 1994)
19. Esterhuysen W, 'Mbeki's truly developmental State'. *Finance Week*, (18 September 1998)
20. European Bank for Reconstruction and Development, 'The Private sector and Municipal Services in central and eastern Europe', in *Environments in Transition*, 1998

21. Faulkner J H, 'Engaging the Private Sector through Public-Private Partnerships', from *Bridges to Sustainability*, (abstracts), 1998
22. Gomez-Echeverri L 'The Private Sector as a Panacea and Other Myths' from *Bridges to Sustainability* UNDP 1998
23. Gottdiener M, *The New Urban Sociology*, ed. P A Butcher and B Greiner (McGraw-Hill, Inc 1994)
24. Henderson H. *Paradigms in Progress. Life Beyond Economics* (London : Admantine Press Ltd, 1993)
25. Hlahla M, 'Public Private Partnerships, Bright lights ahead'. *Finance Week*, (28 January 2000)
26. Iberal A. *Toward a General Science of Viable Systems* (New York : McGraw-Hill), 1972
27. Kok P, Gelderblom D, *Urbanisation. South Africa's Challenge* (Pretoria : HSRC Publishers), 1994
28. Kotze D A, Kellerman G E J, *Development administration and management, A holistic approach*, ed. Kotze D A (Pretoria : Van Schaik Publishers, 1997)
29. Langenhoven H, 'Enabling economics : a policy perspective', in *Democratic nation-building in South Africa*. Eds. Rhoodie N and Liebenberg I. (Pretoria : HSRC Publishers, 1994)
30. McKenna F, 'Frank advice on public-private partnerships from former New Brunswick premier' from speech on September 29, 1998 at the Ontario Club, in *For the Record*, newsletter of the Canadian Council for Public private Partnerships
31. Moosa V. *Budget Speech by Mr. V. Moosa, Minister for Provincial Affairs and Constitutional Development*. Speech in the National Assembly, 12 March 1999
32. *National Government Support for MSP*, 2000. MIU Partnerships – Looking to the future of Service Delivery
33. Panayotou T 'The Role of the Private Sector in Sustainable Infrastructure Development' from *Bridges to Sustainability* UNDP 1998
34. Parkinson M, Foley B and Judd D, eds. *Regenerating the cities. The UK crisis and the US experience* (London : Manchester University Press, 1988]
35. Pearce D, 'Incentives for Private Sector Financing of Sustainable Development', from *Bridges to Sustainability*, (abstracts), 1998
36. Pugh C Ed. *Sustainability, the Environment and Urbanisation* (London : Earthscan Publications), 1996
37. Quattara A D, 'An Agenda for the 21st Century', in *Finance and Development* (vol 36, 1) March 1999, International Monetary Fund
38. Ross Ashby W. *An Introduction to Cybernetics* (London : Chapham&Hall Publishers), 1964
39. RSA Government Gazette No. 21126, Vol. 418, April 2000 – *White Paper on Municipal Services Partnerships*
40. Saeed K. *Development Planning and Policy Design. A system dynamics approach*. (Hants : Avebury, 1994)

41. Serageldin I, *Making Development Sustainable : From Concepts to Action*, Environmentally Sustainable Development Occasional Paper Series no. 2, The World Bank (Washington : International Bank for Reconstruction and Development, 1994)
42. The Municipal Infrastructure Investment Unit (MIIU). Website at www.miiu.org.za
 - *The Solid Waste Removal Scheme in Khayelitsha, an evaluation by the NBI*. Pub. in MIIU Partnership, Vol. 5
 - *The Dolphin Coast Concession Contract after One Year, 2000*. Interview with the MIIU's mun. Fin. advisor, Dr. J Leigland.
 - *Will Nelspruit reach Financial Closure?*, 2000. Interview with M Hlahla of the MIIU
43. The World Bank Group. Houskamp M, *Infrastructure for Development: Private Solutions and the Poor. Conference London, May-June 2000*
44. The World Bank Note 13. *Financing Private Infrastructure Projects : Emerging Trends*, Bond & Carter
45. The World Bank Southern Africa Department, 'Financing the Metropolitan Areas of South Africa', in *Informal Discussion Papers on Aspects of the Economy of South Africa*, 1995
46. The World Bank. *Facilitating Private Involvement in Infrastructure: An Action Programme*. Prepared for the Development Committee and endorsed by the WB Executive Directors, August 1997
47. The World Bank. Public Policy for the Private Sector, Note 215. *Private Infrastructure 1999*
48. The World Bank. www.worldbank.org/html/fpd/notes
 - Note # 62 – Post-privatisation performance, Regulating Telecommunications in the UK
 - Note #30 – The potential in Infrastructure Privatisation
 - Note #69 – Mitigating Commercial Risk in Project Finance
49. Thobani M, 'Private Infrastructure, Public Risk'. *Finance and Development*, 36,1 (March 1999)
50. Tomlinson R, *Urban Development Planning, Lessons for the Economic Reconstruction of South Africa's Cities*, (Johannesburg : Witwatersrand University Press, 1994)
51. Triche T. *Increasing privatisation : A global phenomenon*. *Water & Wastewater International* 15 (1), February 2000
52. United Nations Conference on Trade and Development. *Comparative Experiences with Privatisation* New York : (United Nations, 1995)
53. United Nations Development Programme, PPP Programme, 'What are Public Private Partnerships', UNDP , 1999
54. Van Niekerk S. *Private gain, Public loss. Service Delivery in the New South Africa*. *South African Report* 12 (4), September 1997
55. Weinberg G. *Introduction to General Systems Thinking* (New York & London : Wiley Interscience), 1975
56. Weiss J. *Economic Policy in Developing Countries* (Hertfordshire : Prentice Hall, 1995)
57. World Bank Group. *Toolkits for Private Sector Participation in Water and Sanitation*.

58. World Bank Research Working Paper #1868. Dailami, Mansoor, Klein, 1998, Government support to *private infrastructure projects in emerging markets*
59. World Bank, The International Bank for Reconstruction and Development, World Development Report 1994, *Infrastructure for Development* (New York : Oxford University Press, 1994)
60. World Bank. Public Policy for the Private Sector. Note 74. *The Political Economy of Corruption -- Causes and Consequences*. Also available on www.worldbank.org
61. Worplole K. *Towns for People* (Buckingham : Open University Press), 1993

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8. Appendix 1: Case Study - PPP through Service- and Management Contracts.

8.1 Introduction

During the thesis chapters various contractual options for PPP were evaluated. A number of existing contractual arrangements were also considered. From this evaluation it is clear that most sectors see partnership action as being primarily focused in the areas of concessions and leases. There seems to be a reluctance to involve the private sector in the shorter term contractual arrangements such as service- and management contracts.

The City of Cape Town has taken a bold step in attempting to involve the private sector in municipal cleansing and solid waste collection. A number of service and management contracts were put out to tender during the first quarter of 2000. These were particularly for solid waste collection and disposal over a three year period in, mainly, previously disadvantaged areas in Cape Town.

What differentiates this project from normal contracts, and places it in an ideal context for a PPP is the user-friendly way in which the contract documents were put together. In addition, no pre-qualification of tenderers were called for. The only pre-condition for any person, group, or business interested in submitting a bid was that such a body had to be in good standing so far as payment of municipal rates and taxes were concerned. Accordingly the contract documents were written in plain, easily understandable language.

A requirement of the tender offers were sustainability. This was implied in the way that contract requirements were structured. Skills transfer, job creation and local focus were very much primary requirements. Tenderers were asked to submit provisional business plans for incorporating these aspects into their offer.

The following sections will evaluate a number of aspects of this tender and will also describe a typical unsolicited private offer that was submitted as part of a tender. Where relevant the actual figures have been crossed out.

8.2 Extract from City of Cape Town Cleansing Tender Specification

ZEBRA

BITUMINOUS SURFACING CC

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Hillstar Industria
Wetton 7780

BOX: 14335 Kenwyn 7790
TEL: (021) 761-3474
FAX: (021) 797-1151

CK 71/10188/07

**TENDER No. LPS 28/2000 : PROVISION OF SECURE WASTE
COLLECTION POINTS, LOADING, TRANSPORT AND
DISPOSAL OF ALL COLLECTED WASTE FROM INFORMAL
DWELLING AREAS WITHIN THE CITY OF CAPE TOWN'S
BOUNDARIES TO THE LEGAL LANDFILL SITES**

**A PARTNERSHIP ACTION BETWEEN ZEBRA AND THE CITY
OF CAPE TOWN WITH COMMUNITY PARTICIPATION**

29 FEBRUARY 2000

1 Unsolicited Private Sector Offer for inclusion in CCT Cleansing Tender

2 Contract Objectives

It is Zebra's intention to form a sustainable partnership between ourselves, the City of Cape Town and the affected communities in order to provide a lasting solution to the problem of waste collection and disposal in Cape Town's previously disadvantaged and informal housing areas.

This will be done in a way that ensures compliance with the primary objectives as stated in the tender document, namely :

- *To have waste, collected by Collection Contractors, transported, removed and disposed of in a legal and environmentally acceptable manner.*
- *To, if possible and in a practical way, use this as an empowerment and business opportunity for individuals who may have been previously disadvantaged.*

In order to manage this process we propose that a **Partnering Charter** be introduced as part of the contract documents, to guide the working-, rather than contractual relationship between the public-, private-, and community partners.

3 Specific Objectives in the Context of Existing Procedural Guidelines

Zebra is of the opinion that waste collection and handling can only be successfully implemented if it is done in a way that benefits the end-users and rate-payers, namely the relevant communities. These benefits should be in terms of quality and standards of service provided as well as positive spin-offs such as job creation and the creation of SMME which would be enabled to take over the management of waste collection in the medium and long term.

We therefore propose to establish and maintain collection facilities that will attempt to meet the **Key Performance Indicators** as required by the *Framework For the Restructuring of Municipal service Provision*³ :

- Number of Jobs Created
- Affirmative Business Enterprise
- Training provided
- Money retained in the community
- Introduction of community labour based construction methods
- Use of local labour and plant where possible
- Optimisation of the use of SMME in a project

³ Framework for the Restructuring of Municipal Service Provision, signed by SALGA and COSATU on 11 December 1998 - Section B : Municipal Service Regulatory Framework

- Maximisation of long term job creation
- Performance against RDP objectives

In addition to the above we intend formulating a business plan in close cooperation with the project committee to ensure compliance with the *Guidelines for Private Sector Participation in Municipal Service Provision*.

4 Contract Philosophy

a Introduction

We propose that a number of permanent waste collection facilities be erected in strategic points throughout the area and operated as business units with operating responsibility ultimately vesting largely in entrepreneurs from within the community. For the purpose of this document these facilities will be referred to as Refuse Transfer Points (RTP) placed in strategic points in the relevant areas. We estimate that at least twenty RTP will be required to cope with the estimated waste that will be generated.

Due to the extent of information available we had to make a number of assumptions in our analysis. We therefore suggest that the Project Team treat our financial proposal as budget figures to be finalised in negotiations at a later stage.

In addition to the establishment of the RTP we will enter into an additional partnership agreement with a collection, cartage and disposal contract with a suitable contractor. In this regard we are more than willing to consider any of the other businesses tendering on this particular contract.

Due to the specialised nature of waste disposal we decided to employ a technical consultant to provide a suitable technical design for the waste collection and disposal contract. We will use **Entech Consultants**, based in Stellenbosch. Details of their long involvement in waste disposal are attached.

b Reasons for the Establishment of Refuse Transfer Points (RTP)

We are of the opinion that the current state of waste collection and general untidy appearance of some of the informal areas could be due to the capacity of the existing system. To appoint a private operator merely to service the existing bins will not provide a true community based, long term solution.

We propose that the RTP be established as centers of excellence, with widespread involvement and support from the surrounding communities. The idea is to have these facilities as 'mini-factories' for waste transfer in ways that are environmentally and socially sustainable.

To this end we propose that permanent, durable facilities be constructed such that it provides a long term solution and be applied in other areas under the jurisdiction of Cape Town City Council and the surrounding substructures.

As we will replace the existing containers with new facilities we will require the Council to remove the existing facilities, pending an agreement on how the transition period will be dealt with.

c Financing the RTP

For the purpose of this tender we propose two alternative ways of financing the RTP. Both have a number of advantages and disadvantages which might be considered by the Project Team :

Alternative A : Capital Investment by the City of Cape Town

We suggest that at least twenty RTP be constructed in strategic points throughout the area. In all cases we will require the Council to supply suitable sections of land as well as exemption from rates, taxes and water charges on the relevant plots.

Our budget figures for construction of a RTP amounts to **R XXX-XX** per each RTP. At a proposed distribution of twenty over the area the total will be **R XXX-XX**

Under this alternative the Council retains ownership of the facilities. The main disadvantage is the up-front capital investment required as well as maintenance responsibilities.

Alternative B : Facilities leased from Zebra

Under this alternative, which will be for either three or five year periods Zebra will construct the RTP facilities and lease them to the Council at a monthly rate of **R XXX-XX per month per RTP over 60 months, or R XXX-XX over 36 months.**

The main advantage is that the scheme requires a strong financial commitment from a private firm and lease payments can be done from Council's operating- rather than capital budget. In addition, it is our intention to establish, train and equip suitable community entrepreneurs to take over partial operation responsibility after five years on a commercial basis. Zebra's long term objective is to continue managing the RTP after the three- or five year period together with the then established SMME.

As per Alternative A we will require suitable plots, and exemption from rates and water charges.

d Zebra's Tender Price

Based on the figures above we wish to submit our tender as follows :

Alternative A : (all prices exclude VAT at 14%)

- | | |
|----------------------------------|------------------------------|
| 1. Construction of RTP | - R XXX-XX each |
| 2. Management and Operation Fees | - R XXX-XX per RTP per month |

- | | |
|--|---|
| 3. Load, dispose waste to landfill (2250 m ³ loose) | - R XXX-XX per month - 3years |
| 4. Load, dispose waste to landfill (2250 m ³ loose) | - R XXX-XX per month - 5 years |
| 5. Extra over per m3 over 2250 m ³ | - R XXX-XX per m ³ - 3 years |
| 6. Extra over per m3 over 2250 m ³ | - R XXX-XX per m ³ - 5 years |

Alternative B : (all prices exclude VAT at 14%)

- | | |
|---|---|
| 1. Lease of a RTP from Zebra (over 60 months) | - R XXX-XX per RTP per month |
| Lease of a RTP from Zebra (over 36 months) | - R XXX-XX per RTP per month |
| 2. As above | - R XXX-XX per RTP per month |
| 3. As above | - R XXX-XX per RTP per month |
| 4. As above | - R XXX-XX per month - 3 years |
| 5. As above | - R XXX-XX per m ³ - 3 years |
| 6. As above | - R XXX-XX per m ³ - 5 years |

As stated before, amount 1. of the two alternatives should be treated as budget figures.

e The RTP as a Business Unit

As stated before, our offer is made up of two parts, the RTP, and the subsequent collection and disposal of waste from these points to legal landfill sites.

We see the main opportunity for the establishment of business units to center around the management of the RTP facilities. Each point will be the responsibility of a suitable entrepreneur from the relevant local area, identified and appointed in consultation with the local RDP forum or representative NGO. It is envisaged that twenty RTP entrepreneurs will be appointed to manage the facilities, situated in strategic points throughout the contract area.

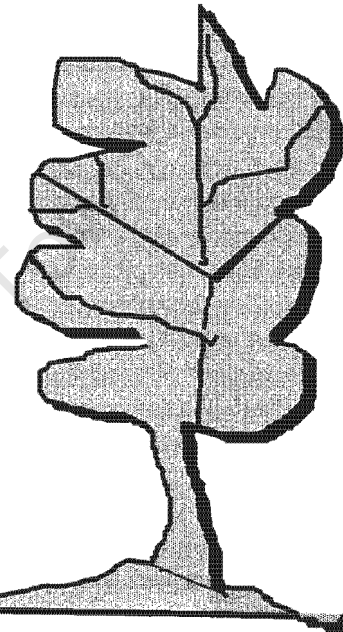
Each RTP entrepreneur will be appointed on a probation period to be extended to a minimum of a one year employment contract if found to have the qualities required to manage the facility to pre-agreed standards. Included in our management and operation fees is an amount of R 500-00 per RTP per month to be placed in a reserve fund, administered by the Project Team. Based on twenty RTP this amount of R 10 000-00 will be redistributed to the facility managers on a training and quality incentive scheme. This could be in a direct way through incentive bonuses, or indirectly through training and education sponsorships. Measure of Performance will include a composite grading made up factors such as compliance with standards of housekeeping, hygiene, timely collection of waste, social and nuisance impact on surrounding residents.

In addition to the above a space will be created at each RTP for the placement of waste recycling facilities. The cost for, and proceeds of the waste recycling process will be the responsibility of the RTP entrepreneur. Regular meetings with all RTP entrepreneurs will be held to allow for interaction

and exchanging of ideas. The combined report back system from the RTP will also provide an initial audit system to provide a check-and-balance auditing system to verify payment quantities claimed on weighbridge tickets under the contract. It is our intention to facilitate RTP entrepreneurial training in both business skills as well as labour legislation, WCA implementation and similar.

To provide each RTP with an identity as well as to make it visible to the community a dual language signboard will be erected outside each facility. Details will be finalised after wider consultation but could include the following :

COMMUNITY WASTE COLLECTION PARTNERSHIP : REFUSE TRANSFER POINT : <u>No. 13</u>	
AREA OF SERVICE : <u>KTC</u> DWELLINGS : <u>251 to 501</u>	MANAGER : <u>A TSOLO</u>
CURRENT SERVICE QUALITY GRADING : <u>72 %</u>	MONTH : <u>JUNE 2000</u> BAGS PROCESSED : <u>285</u>



f Social Upliftment

The next step will be the wider marketing of these points within the surrounding communities. To this end we propose an ongoing system of education and information in the form of regular talks and programmes at schools and other community institutions. This will be done in close liaison with the RDP forum and other relevant community forums. To establish a link between facility and community, local school children will be requested to assist with the painting of boundary walls depicting the community's role in waste disposal. In this way a shared identity can be established.

It should be clear that this tender will run in close cooperation with tender 26/2000. The two tenders will work together to make a visible and sustainable change to the way that solid waste collection is viewed and managed in a community.

g Capacity Building and Empowerment

Capacity building and empowerment will be interwoven into all aspects of this project. Some of these may include:

- Basic building skills training and job creation during RTP construction phase.

- Appointment and training of RTP managers as described above. In addition to operational skills we will facilitate business skills training in conjunction with organisations such as the Small Business Development Corporation.
- A possibility of the appointment of nightwatchmen at the RTP if budget allows.
- Driver training. Extensive waste cartage will have to be done during the contract. We will instruct the cartage contractor to train suitable candidates from the community.
- Community education and upliftment through interaction with the RTP management staff.
- Job creation through regular maintenance items such as routine painting and refurbishment at RTP.

5 Technical and Operational Details of the RTP

a Proposed Design and Construction Team

As discussed in an earlier section we will appoint Entech Consultants (Pty) Ltd to carry out the final design of Refuse Transfer Points. The project leader for Entech will be Mr. J.G. Palm. Included as Appendix 3 and Appendix 4, a resume of projects of a similar nature in which Entech Consultants were involved as the design and project management team. Also included is a current curriculum vitae of Mr. J.G. Palm which clearly highlights his personal involvement in solid waste management for a wide range of public clients and local municipalities.

b Technical Details and Layout

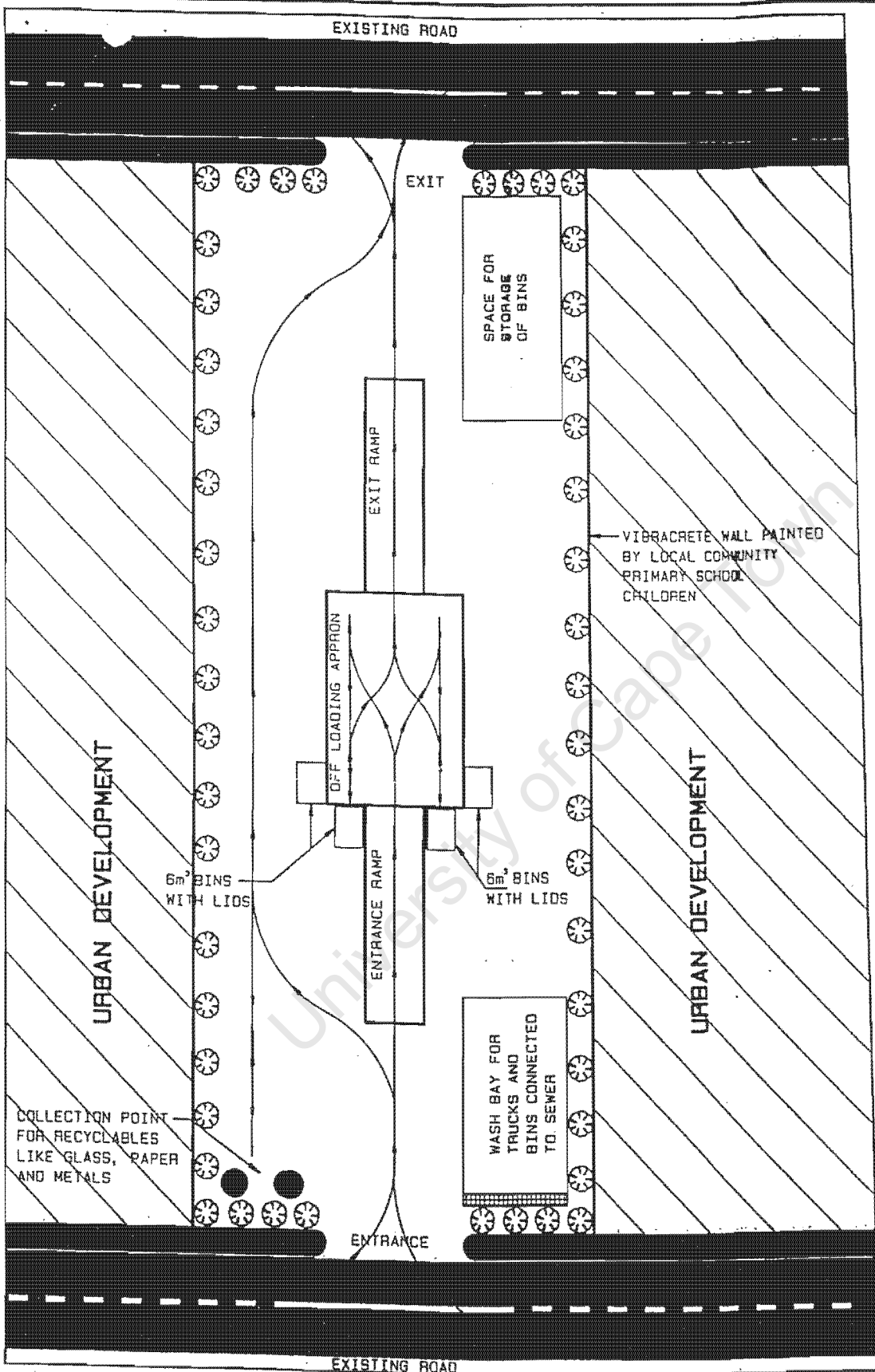
Based on our initial investigations and in consultation with Entech we propose to construct approximately twenty RTP strategically placed throughout the contract area. Our analysis shows the expected waste that will be generated by this area to be substantially higher than the tender volume of 2250m³ loose per month. All our monthly costs and figures are therefore based on a volume of 2250m³ loose per month although the RTP design will allow for the processing solid waste quantities up to double the tender volume.

Regardless of which alternative the Council decides on, the capital- or lease cost will be pre-determined for the extent of the contract and will not change in line with changes in waste volume. The variance in waste collected will only reflect in the cost per month of collecting and disposing from the individual RTP. On the technical side we propose a preliminary design as per the next three pages. Drawing 40000/A shows the vehicle movements for the Collection Contractors under tender no. 26, while drawing 40000/B depicts the vehicle movements for the disposal contractor under tender 28.

The main feature of the RTP is its raised platform which allows the Collection Contractors to deposit waste in the 6m³ bins without having to lift black bags from the ground to a substantial height. The facility is enclosed by a wall and secured on both ends with a double leaf gate. A water and sewer connection will ensure that vehicles and bins can be hosed down and cleaned at a washbay. Due to the fact that the bins will be supplied with lids it will meet the tender requirements of odour- and water

control. In addition to this we allowed for a manual odour control system such as the one used at Athlone's Refuse Transfer Station whereby an agent is sprayed on the collection points which minimises odour release. All aspects of the design, as well as the number of RTP and their placement can be finalised in later negotiations.

University of Cape Town



CLIENT **CAPE TOWN CITY COUNCIL**

PROJECT **WASTE COLLECTION POINTS**

DRG. TITLE **PROPOSED SMALL WASTE TRANSFER STATION - VEHICLE MOVEMENTS**

DESIGNED **P. C.**

DRAWN **J. E.**

CHECKED **JP**

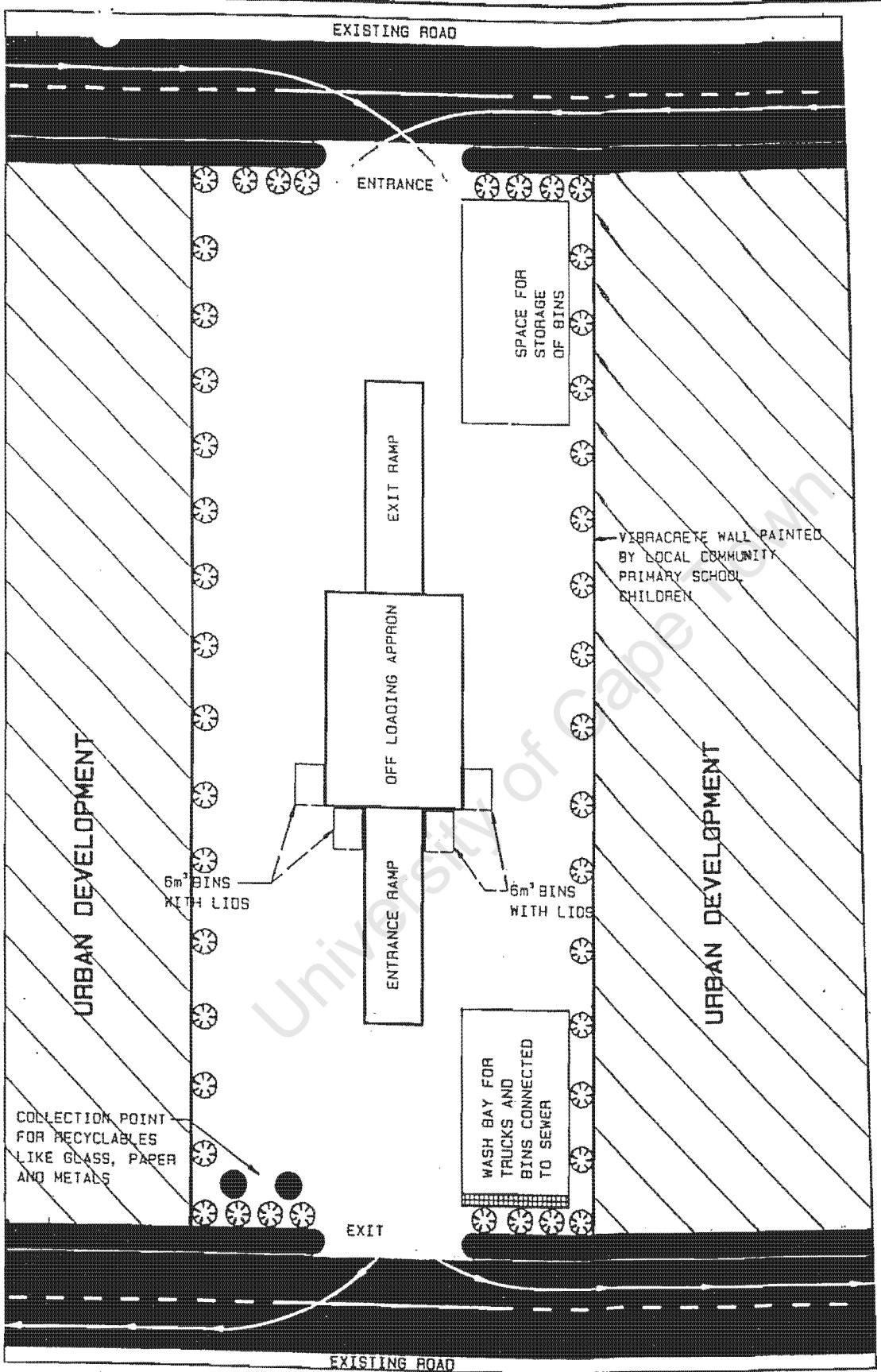
DATE **FEB 2000**


SCALE **N. T. S.**



ENTECH CONSULTANTS (PTY) LTD
SPECIALIST CONSULTING ENGINEERS
(REG. No. 85/08337/07)

DRAWING NO. **040000/A**



CLIENT	CAPE TOWN CITY COUNCIL	DESIGNED	P. C.	 ENTECH CONSULTANTS (PTY) LTD SPECIALIST CONSULTING ENGINEERS (REG. No. 95/08337/07)
PROJECT	WASTE COLLECTION POINTS	DRAWN	J. E.	
DWG. TITLE	PROPOSED SMALL WASTE TRANSFER STATION - REL MOVEMENTS	CHECKED	JP	
		DATE	FEB 2000	
		SCALE	N. T. S.	
				DRAWING NO. 040000/B

c Operational Details

In essence the RTP will be temporary holding stations for waste collected by the Collection Contractor. In order to minimise the time that waste is kept at the premises the overall system's operational parameters will be decided on in consultation with the Project Team. In this regard we would give the commitment that a 6m³ bin would be serviced within 24 hrs.

d RTP Entrepreneur Training and Incentive Scheme

This was referred to in an earlier section. A reserve fund would be established through a contribution of R XXX-XX per RTP per month for the duration of the contract. The main intention with this fund is to allow for business skills training and establishment of SMME. In addition to the training component a quality grading system will allocate points to each RTP on a monthly basis. The leading points earners for that month would then receive an incentive bonus for maintaining their facility to the highest standard. In order to ensure equity and fairness, a panel could be established to adjudicate this which would include members from the project team and the community.

A limit could be placed on the month's incentive bonus as well as the frequency of receiving a bonus during a year. The balance of the fund could be reinvested in the community through business skills training.

It might just be required in the long term that a small office be established in the area to assist with process administration which in itself will create more jobs.

6 Conclusion

We are confident that our proposal for the provision of secure waste collection points and the dispose of waste to legal landfills, is one that will offer a solution which aligns social responsibility with commercial objectives in a true partnership of a long-lasting, sustainable nature. We would like to emphasise that all aspects of our offer should be treated as provisional and budgetary until such time when they are agreed to by both parties.

7 Appendices

- Resume of Projects of a similar nature in which Entech Consultants were involved (5 pages).
- Curriculum Vitae of Mr. J.G. Palm, proposed project leader for Entech Consultants.

SIGNED _____

DATE _____

8.3 Conclusions

Based on the above information it is clear that the areas of service- and management contracts could easily be adapted for PPP applications. It will require a commitment from the local authority to venture into uncharted waters. It may also require the private partner to make some form of capital investment. The upside is that the principles of sustainable development may be successfully addressed in this type of project. Ultimately it can increase local government capacity and lead to community upliftment. These results could take place over a much shorter duration than a typical lease or concession period.

9. Appendix 2 : A Review of the Framework Agreement

9.1 Introduction

The Framework Agreement on the Restructuring of Local Government and Private Sector Participation in Public Service Delivery was agreed to by organised labour in the form of COSATU and organised local government through the South African Local Government Association (SALGA). The document represents a record of the agreement signed during December 1998 between the two groups.

The document covers aspects of municipal governance restructuring and privatised infrastructure maintenance and supply. As such it is a breakthrough in an area that has traditionally been viewed with distrust by certain sectors and groups in South Africa. In addition to the document a manual for the implementation of the Framework's guidelines were incorporated as part of the old Department of Constitutional Development's local government series.

Both these documents have been publicised to test their viability and applicability in municipal contracts. A further intention is the tabling of legislation later this year which will provide the legal structure for matters covered in both documents.

This chapter will investigate the Framework Agreement and Participation Guidelines document in the form of a review of their most important points. In addition a comparison with an overseas framework will be done and the application of the local documents will be tested against a case study.

The chapter starts off with a point-by-point review of key aspects of the two documents. It also provides comments by means of a general overview and draws conclusions. This is followed by the application of the framework to a current tender for service delivery in the field of solid waste collection and disposal in Cape Town (Appendix 1). Following on this section is a review of a Canadian framework, The Province of British Columbia's Best Practices Guide for the Implementation of Public-Private Partnerships. This review is done by a concise reproduction of the document and comments on certain aspects. In addition, it concludes with a comparison of some aspects common to the two countries' documents.

The chapter ends with conclusions on the Framework Agreement in the context of previous chapters of this thesis.

9.2 Review of the Framework Agreement and the Guidelines for Private Sector Participation

9.2.1 Introduction

A major milestone was reached at the end of 1998 in South Africa when an agreement was reached between organised labour (COSATU) and local government representation (SALGA) on the restructuring of municipal infrastructure and the private supply of public services.

This was reached after a lengthy process, as earlier described. The Framework Agreement represents a record of the written agreement reached between the two parties and as such aimed to satisfy both parties' objectives and strategies. It represents a very positive, and indeed bold, step towards private participation in the supply and maintenance of traditionally public goods.

This chapter intends reviewing this Agreement in the context of conclusions and recommendations reached in earlier chapters of the thesis. It will do this review of the Agreement, and its application document (Guidelines for Private Sector Participation) by firstly deciding on which issues are common to both and then proposing comments on these areas.

This section will first state the basis on which the review was done, thereby providing a general overview, followed by a review of individual aspects. Finally it will reach some conclusions on the suitability of this document in a wider context.

9.2.2 Structure of aspects that will be reviewed

The two main documents will be referred to as the Framework Agreement (FA) (1999) and Participation Guidelines (PG) (1998). The first is effectively a written record of the undertaking while the second is aimed at being an 'user manual'. Although written from slightly different perspectives, a number of issues are repeated in both documents.

In order to cater for this and avoid unnecessary duplication the information contained in both will be collated in a simpler, logical structure. The following table proposes a structure for analysing and reviewing the material. Relevant information or sections from each document is noted and the third column shows the new, but not necessary different section heading which will be used for the review.

Aspects as per Framework Agreement	Aspect as per Participation Guidelines	Suggested Review Section Heading
<u>The Restructuring Framework</u>		<u>Restructuring of Municipal Service Delivery</u>
Introduction to the Document	Objectives of the Document	1. Introduction
Introduction to the Principles of Service Delivery in context of the RDP and Constitution	Introduction to Service Delivery - social and commercial principles. Historical perspective	2. Service Delivery - Its history, and objectives in the context of the RDP and South Africa's Constitution
Need to transform municipalities to meet service delivery responsibilities	Alternative service delivery options through partnerships	3. The need for service delivery restructuring
Objectives of the restructuring process	Key issues to be considered in the restructuring process	4. Key objectives of municipal service delivery restructuring
Preferred method of service delivery	Municipal responsibility for service delivery	5. Municipal Responsibility
Minimum standards or measures of performance	Performance monitoring	6. Standards of service delivery
Batho Pele implementation guidelines	Implementation guidelines. Stakeholder Involvement	7. Implementation guidelines
Principles of and approaches to Public Sector Planning and Service Provision	Municipal Responsibility	covered in 6.
Motivation for Private Sector Services Provision		8. Reasons for Engaging the Private Sector
Guidelines for Private Sector Involvement		9. Guidelines for Private Sector Involvement
Guidelines for the Restructuring Process	Restructuring depends on capacity building	covered in 4.
Role of the Sectoral Forum		10. Role of the Sectoral Forum
<u>Partnership Regulatory Framework</u>		<u>The Partnership Regulatory Framework</u>
Tariff structure and minimum standards		11. Minimum standards and structure of tariffs
<u>Tariff Increases</u>		
Standards and Specifications of Service Delivery	Service Standards to ensure sustainability. Equitable coverage	12. Equability of service standards
Investment Requirements		13. Standards of Investment
Environmental Standards		14. Environmental Standards
Employment Conditions	Loss of employment or worker displacement	15. Employment regulations
Financial Administration	Competitiveness as a measure of success	16. Financial objectives
Monitoring		17. Monitoring regulations
Conflicts of Interests		18. Conflict resolution
Disputes		covered in 19.
Penalties		19. Penalty clauses
<u>Measures specific to Private Companies</u>		<u>Measures specific to Private Companies</u>
Ownership of Assets	Allocations of ownership, risk, operational and maintenance responsibilities	20. Ownership and responsibilities
Disqualification of companies		21. Disqualification
Regulation of financial returns		22. Limits of financial returns
Social Reinvestment	Sustainability. Capacity building.	23. Capacity building and sustainability
Investment obligations	Maximum development impact	24. Development objectives
Report back system		covered in 17.
Disclosure of information	Transparency during procurement of privatised supply	25. Transparency regulations
Company Guarantee		26. Guarantees and sureties
	Alternative contractual arrangements for municipal service delivery	27. Specific alternative service delivery options
	Project Life Cycle	28. Project life-cycle

Table 8 : Analysis of Key Elements from the Framework

9.2.3 General overview

In general the Framework Agreement (FA) reflects its status as a record of an agreement between two diverging viewpoints. As a application document on its own it fails to be an useful tool. It can be argued that the Partnership Guidelines document fulfills this role, but it is the former which receives much wider exposure.

At face value it represents most aspects incorporated in the requirements of sustainable development but it does this in a somewhat general fashion. It is not clear how much private interest will be sparked by consideration of the Agreement on its own. A number of very useful publications, originating from the previous Department of Constitutional Development, as well as organisations such as the Development Bank of South Africa, are trying to assist in creating a wider acceptance of the Framework Document.

At the same time business seems to be taking a less prominent part in the process. It is clearly important that a genuine understanding and interest on the part of business and private suppliers be generated. The Framework is written from a public sector viewpoint and seems to be taking the standpoint that private suppliers are at best tolerated, but always regulated and monitored. In this regard it will be shown later in the chapter how private participation, especially unsolicited initiatives can be interwoven successfully in regulatory frameworks in the case of the Province of British Columbia, Canada.

The Framework Agreement is to be commended in its approach to incorporate the main requirements of the RDP and public infrastructure related matters in the Constitution. The fact remains that South Africa is faced with historic inequalities in service delivery, limited resources and a huge back-log in infrastructure. This document at least shows central government understanding and actively supporting private participation in service delivery.

On the other hand it does very little to address one of the key issues, namely tariff collection and the culture of non-payment for services rendered. This could be the reason why private operators are reluctant to enter the services arena on a full commercial basis without government subsidies and guarantees. This leads to a lot of publicity in the case of long term leases and concessions where payment is assured. It will take more courage to address the more variable areas of shorter term service- and management contracts.

In general the document is to be commended for the potential that it creates. It will be largely up to the private sector to act in a responsible way that will create a wider awareness and acceptance on the part of organised labour as well as rate payers in general. These groups should feel the direct benefits of private sector participation otherwise they will at best remain neutral about its untapped potential.

Following is a detailed review of individual aspects of the *Framework Agreement* as well as the local government's *Guidelines for Private Sector Participation in Service Delivery (PG)*.

9.2.4 Review of individual aspects

Based on the information collated in Table 5 a review of the main sections in the two documents can now be done. Each section will briefly be dealt with by first summarising the information as it appears, followed by comments. These will in general be based on information presented in the thesis so far as well as chapter conclusions and appendices.

Where reference is made to conclusions reached in earlier chapters the referencing system will reflect this as follows :

For example a reference to Chapter 2 Section 2.1 [Ch 2 / 2.1]

A reference to Chapter 3.1 conclusions [Ch 3.1 / conc] etc.

For ease of reference the sections will be dealt with under the headings as per the above.

1. Introduction

FA - Introduces the document by providing a brief history of the process and emphasise that it was agreed to by both parties as a way of breaking an impasse, resulting from the NEDLAC process. States that the document is supposed to provide the basis for reaching an acceptable solution, and not a solution in itself. Finally it refers to the Constitution as the ultimate yardstick of any proposed action and states that the purpose of the framework is to test all current and future initiatives in order to test whether they comply with the provisions (of the framework) .

PG - Introduction by stating municipalities service delivery responsibilities within a context of limited resources and commercial viability. Then considers that alternative service options will have to be considered to meet this challenge.

Comments - From the two different introductions it is clear that each was written from a particular viewpoint and in a specific context. The FA is a broad policy statement and in actual fact records a record of agreement between different groups with diverging ideas and agendas. On the other hand the PG was written as an application document as part of the Local Economic Development series for Municipalities.

2. Service Delivery - History and objectives in context of the RDP and Constitution

FA - Statement on municipal responsibilities in terms of service delivery in the context of the services backlog and historical inequity in distribution as well as corruption and inefficiency. Basic services as defined by the RDP.

PG - Services historically through hierarchical departments, no clear objectives, little financial autonomy, no transparency. Lack of transparency ruled out the need for competitiveness, reliance on political pressures to force change.

Comments - Both of these aspects are expanded on in great detail in the opening chapters. Conclusions reached are that the traditional poor performance of SOE can be put down to factors such as conflicting social- and commercial objectives, poor management and lack of management autonomy, corruption, nepotism and failing auditing and monitoring systems [Ch 2 / Conclusions]. Another conclusion reached is that a renewed focus on SOE under umbrella programmes and actions such as the RDP has come into focus over the past couple of years.

A number of reasons are provided by Langenhoven [Ch 3] and Weiss [Ch 3] which confirms in general terms the views put forward by both documents. The statement on a basic level of service reflects the findings of publications such as the World Development Report of 1994.

3. The need for service delivery restructuring

FA - States that municipalities need to be transformed to meet their responsibilities. Requires coordinated effort to build municipal capacity. Implementation of performance management systems.

PG - One school of thought is that better service delivery can be obtained through involvement of the private sector rather than public sector restructuring.

Comments - The FA clearly concentrates on municipal restructuring in the first instance. This option is investigated under groupings such as organisational-, labour-, financial-, and operational restructuring [Ch 2] using both viewpoints from global development agencies as well organised labour in South Africa. It can be argued that, at least in the South African context, this aspect will receive considerable attention and support from central government in the near future.

At the same time a number of reasons for utilising the private sector for service delivery, rather than restructuring of the public sector, are considered [Ch 3]. Taking a holistic approach to the issue, it is argued that benefits are also related to issues such as capacity of both sectors, financial reasons, institutional requirements, and of course the historic performance of SOE in South Africa.

A suggestion in this regard is that the FA should make the point that service delivery should be addressed by a twofold approach of both restructuring, and private sector participation. This will be in line with some of the conclusions reached [Ch 3/conclusions] which argues that decentralisation does not guarantee better quality service delivery and that a mix of centralised-

and decentralised efforts might be the best option. In this way privatisation will not be packaged as an either/or solution

4. Key objectives of municipal restructuring

FA - Services to be delivered in ways that are sustainable, efficient, effective, affordable. Service levels should not be allowed to fall below a certain minimum. Preferred supplier of service is the public sector.

PG - Key issues in restructuring to include good governance, efficiency, protection of consumers, reliability, equitable coverage, transparency, involvement of stakeholders, risk management, performance monitoring.

Comments - As discovered earlier in the thesis the issue of sustainability leans itself to a number of different interpretations. It might be an idea to adopt a generally accepted definition of sustainable development and then apply it in policy documents and publications. In this regard the definition as adopted [Ch 2 - conclusions] covers most of the aspects as noted in the FA. At the same time it should be realised that there are a number of potential negative effects of the sustainability approach.

It could also be prudent to take a view on the statement that government should be the preferred supplier [Ch 2 - conclusions]. Unless government, central or local is able to change the way that it is perceived, it might very well become the second choice for service delivery. It will be energy spent in vain where a situation is allowed to develop where government and business are seen to compete for service delivery. It should be made clear that government will always represent the final responsibility for service delivery. This does not imply that they cannot fulfill this role as managers, rather than suppliers of municipal service.

This suggest that the FA should accept both government responsibility and shortcomings in dealing with the daunting task it faces. This is largely addressed by the PG which stipulates some measures of performance for the restructuring process.

5. Municipal Responsibilities

FA - Municipality has a responsibility to deliver services and remains the preferred supplier.

PG - Local government retains overall responsibility through implementation of system of checks and balances to ensure supply is equitable, quality acceptable and fair price.

Comments - As discussed earlier there are a number of alternatives to outright privatisation. As noted, [Ch 3] organised labour in South Africa suggests a specific course of action to ensure that the

public sector is enabled to remain the preferred supplier of services. In this regard it should be realised that the situation in terms of the backlog requires drastic action, action which can realistically only be taken by either business or the private sector.

At the same time there is concern that private operators are purely interested in the public services arena for commercial objectives [Ch 3]. In this regard the White Paper on Government requires local government to fulfill a very wide range of responsibilities which might potentially be outside their capacities to meet.

Conclusions are reached on the roles of the two sectors, public and private [Ch 3 - conclusions] which reflects the different objectives. In the South African context conclusions are reached in an attempt to align these diverging objectives, namely through participation [Ch 4 - conclusions]. Some opinions are expressed on the specific responsibilities that the public sector needs to meet [Ch 4].

6. Standards of Service Delivery

FA - Minimum service standards should include universal coverage, environmentally sustainable, all to receive lifeline of basic services, cross-subsidisation in order to make it affordable, democratic processes and accountability, effective use of resources, proper planning.

PG - Standards of service to be clearly defined, maintained and monitored.

Comments - This point is emphasised in the roles of the parties [Ch 4]. Concerns are that the private partner will not meet its obligations if it turns out to be less profitable than expected and that service supply to those most in need will not take place.

In this sense the two documents support each other. It is clearly absolutely critical that service standards and requirements be specified in great detail. This will allow the private bid to have enough information to ensure that his assessment of the potential risks are accurate. In this regard a project team should ensure at pre-planning stage that a detailed assessment is done of the standard- and type of service required [Ch 4 - table].

In the same section the comment is made that government should ensure that both the goals of sustainability and financial viability be met. Caution should be taken to maintain the public sector's rights in a partnership. It is important that the inherent distrust in private supply be addressed for partnership actions to be successful.

7. Implementation guidelines

FA - Refers to the Batho Pele principles for implementation. Includes aspects such as citizen consultation in service standards, information to be given about the level of service to be provided, universal access, citizens to be treated with courtesy, disclosure of information regarding service standards and financial positions, mechanisms to redress wrongs in service provision, value for money through capacity building within the service provider's organisation.

PG - Stakeholder involvement to ensure they all know why and how decisions will be implemented, use established tender procedures, clarity in award and operating procedures, municipal actions to be predictable in order to encourage investment.

Comments - In general the above represents an extensive list of requirements that a partnership document should include. In practice it might be very difficult to include all of these in a contract. One way around this is to ensure that most of the above are addressed in the pre-planning stage to the extent that the actual contract document can be simplified. The alternative to this is that private contractors might over-inflate their prices to allow for this perceived 'buggeration'. A process of pre-qualification might cater for this risk.

In conclusion it may be stated that the issues surrounding the implementation are essentially sound, but that care should be taken in the application not to leave these unspecified or unclear. Finally it might be an idea to stipulate longer term objectives, or required outcomes, such as long-term empowerment.

8. Reasons for engaging the private sector

FA - Municipalities to be developmental as per White Paper and ensure that its ability to meet obligations are strengthened. Private sector involvement can assist in bringing in investment, better coverage and quality services, but must be properly regulated. Private sector involvement not the only solution, should rather play a complementary role.

PG - Private sector involvement have major benefits, but do not provide an end solution. Risks should be considered.

Comments - Both of the above are in line with conclusion reached in various earlier sections. A number of reasons are expanded on in Table 1 [Ch 3]. Included in this table are a number of issues related to performance and capacity of the public sector. This is important if a full realisation of the need for private sector involvement is to be established. No single organisation enjoys having their weaknesses displayed in public, but a certain amount of courage should be shown in this regard.

9. Guidelines for private sector involvement

FA - Full costing exercise to be done to compare costs and benefits and should include social and environmental impacts, cost to consumers of private sector involvement. Also to include sundry costs such as bid preparation, employment of consultants, drawing up requests for proposals.

Comments - The above constitutes some of the aspects found in the sustainable project management approach [Ch 4 - table]. It is suggested that guidelines for private sector involvement be expanded to reflect the full project life cycle. This is covered to a certain extent in the PG but it could be useful from a marketing point of view to highlight the fact that it should be a full cycle approach. This will go a long way to allay fears of the public sector partner not getting the best deal.

10. Role of the Sectoral Forum

FA - Sectoral Forum essentially established in a coordinating and dispute resolution capacity.

Comments - An umbrella governing body is essential in initiatives of this nature. The exact structure of the Sectoral Forum is unclear but it might be useful to have private sector representation included in its executive branch.

In this regard the role of the Sectoral Forum could be expanded to review and evaluate the agreement of a Partnering Charter for each contract [Ch 4]. In addition, the Forum could consider issues of successful partnerships based on the UNDP sustainable project management approach [Ch 4]

11. Minimum standards and structure of tariffs

FA - Minimum standards of service to be determined for each area. Cross-subsidisation to ensure services affordable to all. Cost of services and tariff rates to comply with standards as per the Municipal Services Programme.

Comments - This aspect has to be agreed with in full. Although the extent of cross-subsidisation is largely still unclear, it address the RDP and Constitutional Requirements of basic life-line service standards for all. Various publications such as the World Development Reports have suggested minimum standards that could be used. In the local context clear definitions exist in areas such as water, sanitation, solid waste and roads as to what constitutes a minimum service level.

12. Equity in coverage and service standards

FA - Contract to stipulate issues such as description of work to be undertaken, method and frequency of work, response times between notification and action, standard of work, improvement in the service to be effected over time, security measures, cost effectiveness, performance indicators, equipment to be used, facilities to be provided.

In addition certain key performance indicators to be identified such as jobs created, affirmative procurement, training provided, money retained in the community, labour based construction techniques, SMME involvement, long term job creation, assessment against RDP objectives

PG - Service providers to be accountable to consumers, infrastructure to be sustainable, coverage to be equitable, capacity building and mitigation of negative social impacts.

Comments - With reference to this point some of the case study material will show how this can be included in a contract philosophy and documentation. Again, care has to be taken not to weigh a project down with too many requirements and thereby rendering it uneconomical.

13. Standards of Investment

FA - Requires that details of investment required should be developed and prioritised and should form part of the Integrated Development Plan.

PG - Suggests that public ownership and private operation can be achieved by delegating investment and operation responsibilities to the private sector.

Comments - In order to fully harvest the potential and creativity that the private sector might offer more use could be made of either unsolicited proposals or indeed pre-qualifications. In this regard the Canadian model makes this additional step part of the overall process [Ch 4]. One incorrect view is that private investment is normally possible only for long term contracts (15-20 year). Given the nature of most private sector business it should be clear that they are in a perfect position to formulate shorter term (3 - 5 year) business plans for areas such as water, sanitation, solid waste and electrical reticulation. As these areas are under the most pressure it should clearly be a priority to gain private investment in them.

14. Environmental Standards

FA - Requires that all service delivery be done in an environmentally sustainable way. Directs that a municipality should have an environmental component as part of their Integrated Development Plan and have the private partner identify how it will comply with this.

PG - States that service delivery should be done in a way that does not cause degeneration to the environment.

Comments - Unless environmental standards are clearly linked to the wider issue of sustainable development it might make very little impact. A number of recent municipal contracts includes an environmental criteria, but they are not very specific. On the other hand some very definite and elaborate environmental assessments are done for projects of a capital nature such as heavy

engineering, establishment and operation of mines as well as road construction. The Integrated Environmental Assessment should form part of the contract documentation. One could argue that it is not always warranted in small municipal projects, but unfortunately tends to be the very projects which create long term negative impact. One way around this is to require this during pre-qualification stage and then to make the extent of negative environmental impact part of the tender or bid adjudication. It will not be difficult to include and expand the current evaluation system to include this aspect in the same way as affirmative procurement is evaluated.

15. Employment Regulations

FA - Requires recognition of trade unions and the collective bargaining process, on-going training and skills development, transparent appointment procedures including affirmative action and, high health and safety standards.

PG - Suggests that displacement of municipal workers should be minimised and that a project should rather allow for incorporating these workers into the project

Comments - The application of these requirements might be easier in long term projects where a private partner can discount the cost of it over the contract period. It is clearly more difficult in short term service- and management contracts. Again it should be stated that partnerships should not be seen as to compete with government's efforts, but rather that it complements central and local public efforts.

Realistically there is a historic pattern of inefficiency with SOE [Ch 2]. This needs to be reconciled with the requirements of organised labour [Ch 3] which prioritise the maintaining of the existing status quo. In the same line the private sector should be encouraged to rid themselves of their ingrained perceptions regarding public sector employees. Individuals cannot be blamed for poor management practices. It will therefore require a paradigm shift, but again the business sector is used to employee transfer during take-overs and mergers. The final criteria should always be: what is the benefit to the end user of any particular action?

16. Financial objectives

FA - Complete transparency in all financial aspects relating to a contract. Should also comply to all legal structures and should allow for broad participation in determining budgets, which should be set out in terms of the Integrated Development Plan. Contracts should provide sufficient checks and balances.

PG - Suggests that municipality should ensure that they are getting the best deal possible by ensuring that competitiveness is introduced during the procurement period which allows market conditions to be established.

Comments - It is suggested that the dual approach is used in evaluation of cost versus benefits, namely qualitative and quantitative [Ch 4]. It can be stressed again that financial objectives on its own might not be quite enough if the goals of sustainability are to be met. A local authority could quite successfully establish a matrix of different factors that should form part of the evaluation and adjudication process. In this regard the case study material refers to a project where this is addressed in a logical fashion.

17. Monitoring regulations

FA - Municipalities should ensure that it is able to monitor, evaluate and review targets and processes. Also requires that a contract be subject to constant review, during and after the contract period.

PG - Proposes that service levels required should be clearly defined, maintained and monitored and that these results are to be published.

Comments - This is in line with normal project management principles. In this regard it is clear that the measures of performance and other regulations should be agreed on upfront. Once again private business, which is normally focused on quality in a competitive market economy could assist in providing suggested monitoring regulations. Performance indicators should also be linked to incentive and payment regulations. The review process should be easy to implement, yet allow for a range of issues to be monitored.

Overall constant review of a contract is to be encouraged as this will ensure that services are supplied at required levels which ensures that end users ultimately benefit from the process.

18. Conflict resolution

FA - Proposes that the code of conduct for councilors be used and that the Sectoral Forum will reach a conclusion in this regard.

Comments - A number of sections reflect the potential causes of conflict as the difference in objectives of the two partners [Ch 4]. Most potential conflicts can be avoided by a clear recognition of the two objectives.

Should conflict arise, a clear mechanism for dealing with- and resolving it should be stipulated. This is a normal part of most capital- and service contracts. The partnering charter [Ch 4] could include a suggestion on how to deal with potential conflicts without initiating litigation procedures which is ultimately very costly to the general public.

19. Penalty clauses

FA - Requires a system to deal with non-compliance to be developed within contracts.

Comments - This should be linked to the measure of performance and is an essential requirement to protect the public interest.

20. Ownership and responsibilities

FA - Requires municipalities to retain ownership of core services and allows for private 'ownership' during the contract with ultimate transfer back to the municipality. Also cautions against asset stripping and requires that assets should be returned in a good state at no cost to the municipality.

PG - Presents a range of ownership- and operating alternatives depending on the allocation of risk and reward between public and private sectors.

Comments - A comprehensive analysis of this is done in this thesis [Ch 3 - table]. It should be noted however that projects might not strictly fall into a specific category (as shown in the management contract case study). In these instances a project could be evaluated under more than one category. Regardless of the classification a project should be very clear on where the different ownership and operating responsibilities lie.

21. Disqualifications

FA - Allows for disqualification of companies contravening accepted standards and laws.

Comments - This should be strongly encouraged to ensure that unscrupulous private operators are not allowed to place a damper on the future of partnerships. The danger is that these operators will somehow gain a contract and then change their methods of operation once they are involved in the actual operations. This could be addressed by ensuring that the measures of performance are wide enough to flag non-performance early in a contract.

22. Limits on financial returns

FA - Requires a limit to be placed on the financial gains that a private contractor might make on a project.

Comments - This is a potentially thorny issue. It is in direct conflict with a free, competitive market economy and might be a stumbling block in the way of soliciting potential private suppliers. An alternative way would be to ensure that no collusion takes place between bidders during the pre-qualification period, and thereafter, to let market forces of supply and demand determine price levels.

In addition some contracts require a substantial risk for private contractors where they are locked into a contract for a fairly long term (say five years) at the same basic rate with an annual allowance for escalation. Some contracts stipulate a variable period, with constant review of performance parameters, to ensure that a municipality obtains the best deal over the long term.

At the same time it is vital that a municipality obtains a realistic, market related tariff for a service. As concluded earlier, it was this artificial price manipulation in the first instance that was in part due to the failure of SOE [Ch 2 - conclusions]. A project should rather be evaluated against a wide range of critical success factors rather than the private partner's profitability.

23. Capacity building and sustainability

FA - Suggests that a contract could be structured in a way that ensures a certain portion of the proceeds be reinvested back into the benefiting community.

Comments - Reinvestment in an economy lies at the heart of sustainable development and as such should be encouraged. The philosophy is one of meeting current needs without compromising future needs [Ch 2 - conclusions]. It would be helpful if the reason behind this reinvestment is expanded on. On a practical level these objectives can also be met through the establishment of local area businesses. Private suppliers can easily incorporate this aspect into their proposals as shown in the management contract case study.

24. Development objectives

PG - Requires that the development impact of a project should be maximised to ensure issues such as job creation, business development and skills transfer.

Comments - This aspect is reflected in the issues of sustainability above.

25. Transparency guidelines

Comments - This is commendable but should be structured in a way that does not compromise a private enterprise's market share. The transparency guidelines could however be incorporated in the working aspects of a contract. Wider participation and consultation should also form part of the planning and pre-planning stages in a way that creates a feeling of confidence and realism in the service expectations.

26. Guarantees and sureties

FA - Requires a private company to set aside a certain amount of money as a performance guarantee.

Comments - This is normal practice in construction contracts and normally range from 5-10% of contract value. It will take some creative thought on how it may be applied over a contract of longer duration. Regardless of the amount, the objective is to have a sum of money available

should the contractor be unable to meet his obligations and the client needs to take over control of the contract or project.

Guarantees are normally supplied by the private contractor's bank in the form of monies that are kept aside for a specific use only. The bank commits itself to supply the client with the money in the event of contractor's default or non-performance.

At the same time it should be remembered that private contractors will take the brunt of the financial risk and might well ask for payment guarantees from the public partner. This would be especially important of contracts over a longer term where a change in an area's political structure might completely remove those officials who reached agreement in the first place.

27. Specific alternative delivery options

Comments - This was discussed under 20. above.

28. Project life-cycle

Comments - Discussed in various sections above and in great detail in earlier chapters [Ch 4 - table].

9.3 Application of the Framework Agreement Principles to the Management Contract Tender Case study

A number of projects have been identified for structuring as partnership initiatives under the Framework Agreement. To assess the suitability of this document as a means of providing guidelines for structuring a project, use will be made of a different case study. The case study described in **Appendix 1: Private sector participation in solid waste disposal** will form the basis of this evaluation. It contains elements of competitive bidding as well as unsolicited propositioning, and in addition addresses a difficult area, management contracting.

Most of the current partnership proposals center around longer term contracts for bulk services supply, such as water schemes. In a sense these projects can be viewed as almost being full fledged privatisation initiatives. It is in the short-term, more dynamic arena of management and service contracts where the biggest promise, and indeed pitfalls lie. Day to day needs are not being addressed successfully and the public sector is under major pressure to perform in this area. Due to the short term nature of these contracts there are less likely to be long term negative impact surrounding issues such as job security, ownership of assets and private sector profit taking.

It is therefore very useful to be able to analyse the application of public-private partnership principles to a service- or management contract. The contract in question is City of Cape Town's potential answer to solid waste collection and disposal in informal housing areas. In this case the City put together a strong project team, which included an outside consultant to put together the structure, implement and oversee the contract. The contract itself is included in the appendix as mentioned above. Based on the Framework Agreement - *Section B : Municipal Service Partnership Regulatory Framework*, included as Appendix 2 the following can be noted.

1. Provision for a lifeline tariff - City of Cape Town has proposed a new tariff structure system that allows for cross subsidisation from rich to poor, as well as from commercial to private. Although not stated in the tender document it is reasonable to assume that tariff collection for this project will be done under this system (As it is a service contract private sector tariff collection is excluded from the process).
2. Standards and specification of work to be carried out - Except for one aspect, namely the improvement in service that must be effected over time, all other requirements are stated in the tender document. In addition to this all the *Key Performance Indicators* are included in the document.
3. Investment requirements - Being a service contract, rather than a lease or concession, this aspect is not directly included.
4. Environmental Standards - This aspect is noted strongly around the refuse transfer points management.
5. Employment Conditions - These are included comprehensively although collective bargaining is not referred to. Terms of employment (minimum duration) are also included.
6. Financial issues - Addresses the issue of checks and balances by way of requesting price levels to be fixed for either a three- or five year period. Also requires the proposal of a financial and management plan within the first month of appointing the private supplier. In addition it allows the municipality to 'take over' the contract in the case of non-performance by the private partner.
7. Monitoring - This aspect is covered in great detail and if implemented will allow the municipality enough information to assess whether contract requirements are indeed being met.
8. Dispute resolution and penalty clauses - All these aspects are covered. In addition, it allows the municipality to take over management responsibility in the case of non-performance by the successful bidder.
9. Social Reinvestment - Not referred to in this particular contract.
10. Reporting to the municipality - This aspect is specifically requested in the tender.

The contract team managed to produce a document that allows for inclusion in the competitive process of even relatively unskilled bidders. Documentation is written in a way that is clear and easy to understand. All aspects relating to the quality and standard of service to be rendered are clearly described. One example of this is the section that deals with the initial clean-up and street cleaning.

The document expands the standard of sweeping by describing the cleaning process as one in which “all particles too small to be collected are to be swept in heaps and then collected, in the case of paved roads”. In this way very little doubt can exist as to the exact requirements. All other aspects are described in similar fashion.

In addition to describing the service the document also opens the door for solicitation of ideas from the private sector when it requires the bidder to suggest ideas of how this project could be used to address issues such as empowerment, establishment of SMME and other. It also requires the successful bidder to present to the municipality, within a certain period of the start of the contract to submit a detailed plan of action for how the service will be supplied.

Although at the initial stages, this project presents a firm and courageous step in the direction of private sector participation in public service supply.

University of Cape Town

9.4 Similar Frameworks elsewhere - A Canadian perspective

9.4.1 Introduction

In order to provide a benchmark for the Framework Agreement Document it will be useful to evaluate a similar document elsewhere. The document chosen is the **Province of British Columbia's Best Practices Guide to Evaluate Public-Private Partnerships**. The first edition was compiled in January 1998 by the Ministry of Employment and Investment and as such provides a current model which can be used for comparison. This will be done by briefly reproducing the structure of the document and then expanding on a number of issues.

Finally a number of conclusions on the document and its relevance to the South African Framework will be reached. As before they will not be shown here but will rather form part of the systems chapter, Chapter 5.

9.4.2 The Best Practices Document

The basic structure of the Canadian document as well as expansion of selected sections as follows. To distinguish between the two **the sections are shown in one typeface** and **expansion or comments in another.**

I. Foreword

In the foreword this document states that it is an advisory guide to assist interested parties such as government *and potential private sector partners* throughout the planning, approval and implementation of public-private partnerships. It further states that partnerships are viewed as a means of providing public infrastructure with less public capital. To regulate matters, an Economic Partnership branch, similar to South Africa's Sectoral Forum was brought into being.

II. What is a Public-Private Partnership ?

A. Background

In the Canadian context the government of British Columbia established a **joint industry-government** Task Force to investigate the viability of PPP as a means of procuring public infrastructure in 1995. One of the tasks was to produce a framework document, which was done in 1998.

B. Defining a PPP

The definition adopted has been cited earlier in the thesis as *a partnership between the public and private sectors where there is a sharing of risk, responsibility and reward, and where there is a net benefit to the public*. This is then expanded to include activities

such as design, construction, financing, operation and maintenance and suggests that revenue may be through tariff collection of user fees.

C. The objective of the PPP Initiative

The document states that government is faced with demands on infrastructure that exceeds its ability to fund. *Through the use of alternative revenue and financing sources, PPP may offer government the ability to provide more infrastructure sooner, for less cost, and by incurring less taxpayer supported debt than with traditional methods.*

D. Expected Benefits from a PPP

It is stated that PPP are expected to provide substantial benefits to users and taxpayers. The Government specifically sees PPP as producing benefits that will:

- result in innovative designs and new approaches
- identify financing options resulting in less of a burden on taxpayers

III. **Determining whether a project is a good candidate for a PPP**

A. Criteria for a PPP

A number of critical success factors are required before a project can be structured as a PPP.

In particular the framework requires that :

- Value for money must be achieved through the lowest combination of capital, operating and maintenance costs over the duration of a project. Allocation of risk is an important factor in determining value for money.
- The public's interest must be protected. *All aspects of a PPP arrangements must be able to stand up to public scrutiny.*

B. Safeguarding the Public Interest

This aspect is put into a useful context in this document. It notes the government's role as being one of guardian of public interests, asset owner, enabler of partnerships, procurer of public infrastructure. It states that the public's interest in this context is of the utmost importance. It suggests that the government should under certain circumstances honour their primary obligations if, for example government control over public policy could be in jeopardy, if there is an overriding need for the government to provide a specific public service, if there is no prospect for transferring significant control or risk to the private sector, or, if a project is covered under existing contractual arrangements.

C. When to consider the PPP Method of Procurement

The document states that in general a project will be a candidate for a partnership arrangement if :

- there is potential for significant and *cost-effective* transfer to the private sector
- there is substantial scope for innovative design, construction, operation and use
- there is an opportunity to generate revenue
- the PPP nature of the project is supported by the public
- there are successful PPP precedents for the project

IV. How to Proceed with a Public Private Partnership

A. Step 1 : Pre-Planning, Planning and Approval

1. Needs Analysis / Strategic Planning
2. Treasury Board Approval of Long Term Capital Plans
3. Project Identification and Definition
4. Capital Project Request and Treasury Board Approval
5. Project Brief and Specific Project Approval

B. Step 2 : Requests for Proposals

1. One step and Two step Proponent Selection Process

As noted earlier in the thesis this two stage approach has the advantage of short listing the potential private partners as well as to assess technical, managerial, experience and capabilities of their project team. It may also be used *where there is a need to solicit ideas, innovations and creative solutions* for further development during the next stage.

2. *The Request for Expressions of Interest*

This document stipulates that a Request for Expression of Interest should at a minimum contain :

- details about the selection and adjudication process
- description of a project's physical details
- administrative requirements
- the specific roles that the private partner should play (financial, operational, managerial)
- details with regard to skills development and labour practices
- a section where private partners can describe their ideas, approach or innovations
- definitions of terminology used

3. *The Request for Proposals*

This second stage process should include details such as :

- the objectives of the government's request for proposals (RFP) process
- general requirements relating to the RFP
- an indication regarding transparency as well as privacy of information
- a 'base-case' with enough information to allow proposals to be based upon
- instructions as to how to prepare the RFP as well as evaluation criteria
- project requirements
- requirements for detailing the allocation of risk and reward
- government's expectations regarding project financing
- market assumptions to be used by all proposals

4. Setting Evaluation Criteria

One important aspect here is that evaluation criteria should be measurable.

5. Value for Money

Value for money is described by this framework as the procurement that produces the most cost-effective solution and/or produces the greatest economic and social benefits. In addition a project should state how long tax-payer supported debt will be required. Detailed risk allocation and financing structures is therefore critical.

6. Freedom of Information

The document requires full disclosure of information, but to address the potential compromising of private sector's market share it does not require information which might :

- significantly prejudice a private company's competitive position or interfere with a contractual arrangement
- contravene or harm public interest
- result in undue loss (or gain) to any person or organisation

7. Intellectual Property

Proposals become property of the province and private organisations should stipulate those aspects that should be protected in their own market interest.

C. Step 3 : Evaluating Proposals and Selecting a Proponent

1. Assembling a Proposal Selection Panel
2. Analysing and Assessing Proposals
3. Proposal Selection

D. Step 4 : Negotiation and Contract Award

1. Treasury Board Approval to Negotiate with the Successful Proponent
2. Final Contract Negotiations

During this stage no changes should be made to fundamentals of the request for proposal bids.

3. Contract Award

E. Step 5 : Project Implementation

1. Contract Management
2. Project Review

The intention is that the success (or not) of a PPP be evaluated towards the end of the project. At a minimum a report should be produced detailing aspects such as :

- an analysis of the project for all phases of its project life-cycle
- a project delivery timeline comparison with the base case
- a final project cost comparison with the base case

V. Unsolicited Proposals

A. What is an Unsolicited Proposal

This is a written submission from a private organisation not solicited through a formal request for proposal process, or the proposition of a business relationship for the procurement or operation of a public service.

B. Process for dealing with Unsolicited Proposals

This is an important aspect which public authorities might be faced with. In all cases it is suggested that the Treasury Board be contacted in the first instance to allow the project to be included on its list of capital projects (if not on already) and then either to initiate a competitive bidding process or, enter into negotiations with the private concern. In all cases correct procedures and disclosure of information guidelines are to be followed.