

# Australia, China, and the Darwin Port Lease as a Public-Private Partnership

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ROBIN PELENYI, FEB 24 2024

As market-orientated instruments, PPPs are not adequately equipped to provide accountability for public values, particularly when these values are not held in common by all stakeholders. While they may demonstrate value for money (VfM) in individual projects, this emphasis on market accountability and individual responsibility limits the utility of PPPs, and prevents the development of strategic, long-term visions. In addition, the structure of PPP arrangements provides opportunities for blame-shifting when things do go wrong and limits the ability of governments to respond to crises. This essay is set out in three parts as follows. In part one, I present a brief background to the Darwin Port lease. In part two, I examine the reframing of the Australia-China relationship and its effect on the framing of the port lease. In part three, I evaluate the lease as a PPP in light of this reframing. I begin by demonstrating how PPPs and the Darwin Port lease are fundamentally orientated towards market values. Next, I investigate some of the accountability and strategic planning issues that arose with the divergence of values between stakeholders in the wake of the reframing. I end by looking at how the lease presented opportunities for buck-passing and limited the ability of the Australian government to respond to the emergence of national security as a newly salient public value. I conclude with some brief comments on the Port of Darwin case and perils of PPPs as governance mechanisms.

### Background to the lease

Darwin Port has been described as both a critical piece of infrastructure essential to the 'economic and social prosperity' of the Northern Territory (NT), and as 'Australia's most northern and strategically important deepwater port'.<sup>[2]</sup> The port is a busy export hub, a base for liquefied natural gas (LNG) operations, and a well-utilised dock for cruise ships and naval ships.<sup>[3]</sup> Darwin Port was owned by the NT government until 2015, when it was leased for 99 years to Chinese-owned company Landbridge for \$506 million.<sup>[4]</sup> As part of the deal, a 20 percent stake in the port would remain in Australian hands.<sup>[5]</sup> Landbridge would gain 100 percent operational control of the port facilities under the lease.<sup>[6]</sup> The deal was structured in a manner that bypassed Foreign Investment Review Board (FIRB) reviews and other safeguards.<sup>[7]</sup> Many stakeholders are involved in the use and operation of the port and port facilities including Landbridge, the NT Government, the Defence Department, the US Government, and private firms such as Japanese LNG company INPEX.<sup>[8]</sup>

### The Reframing of the Australia-China Relationship

From approximately 2017, just two years into Darwin Port's 99-year lease, a fundamental shift occurred in Australia-China relations.<sup>[9]</sup> This shift has been referred to as Australia's 'China reset'.<sup>[10]</sup> When the lease was signed in 2015, the geostrategic environment was markedly different.<sup>[11]</sup> The years 2014-15 have been described as the high-point of Australia-China relations, marked by Chinese President Xi Jinping's address to the Australian Parliament in 2014 on the day a free trade agreement between the two countries was announced.<sup>[12]</sup> The Darwin Port lease was signed amidst this atmosphere of unguarded optimism. By 2017, however, the Australia-China relationship was framed in starkly antagonistic terms, with national security considerations replacing long-held beliefs in the inevitable global spread of neoliberal values. Factors that contributed to the reframing included geostrategic concerns relating to China's growing assertiveness in the Indo-Pacific region, as well as revelations that Chinese Communist Party

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(CCP) influence and interference campaigns were being conducted in Australia.[13] This shift is clearly reflected in how the lease was framed in 2015 and how it was framed in 2017 and beyond.

## The Lease as an Economic Issue

An understanding that the Australia-China relationship is driven by mutual economic interests formed the main justification for the lease.[14] In 2015, the lease was framed by the NT Country Liberal Party (CLP) government as a purely economic issue, and as a means of getting 'off the teat of Canberra'. [15] From 2015 until its election defeat in the 2016, almost all NT government media releases focused on the supposed economic benefit the lease would bring to the Territory, and on the fostering of the China-Northern Territory relationship.[16] A similar framing was used at the federal level. Trade and Investment Minister Andrew Robb celebrated the deal as 'a powerful sign of the enhanced commercial relationship between Australia and China flowing from the China-Australia free trade agreement'. [17] In a sign that policymakers viewed this economic frame as undeniably dominant, opposing viewpoints were dismissed offhandedly.[18] A November 2015 media release from NT Chief Minister Adam Giles used strong language to condemn criticism of the lease as 'wildly inaccurate and xenophobic', existing 'on the fringes of public policy'. [19] Giles suggested that opponents should 'either develop a cultural understanding of the region or stay out of international relations'. [20] The Chief Minister was not wrong in characterising opponents of the lease as existing on the fringes at this time.[21] The lease was arguably a sound economic decision, and was in full keeping with the global neoliberal trend of market-driven privatisation.[22]

## The Lease as a National Security Issue

With the deterioration of the Australia-China relationship, the national security framing of the port lease came into prominence. Previously dismissed concerns became relevant. Media discussion of the lease focused on national security and strategic concerns in the context of CCP interference in Australia and renewed great power conflict.[23] This shift in the framing of the lease can be traced with reference to NT government media releases. The Giles CLP government was defeated in August 2016, with early backlash against the lease being cited as a contributing factor.[24] The incoming Labor government initially and somewhat cautiously employed similar language to that of the Giles government, describing the lease as 'good for the Territory economy'. [25] However, this did not last. After late 2016, no substantial positive media releases came from the NT Labor government on the port lease.[26] By 2018 it was clear that roles had reversed, with the economic framing of the lease now restricted to the fringe.[27]

## Evaluating the Darwin Port lease

Today, the Darwin Port lease appears as a relic of a bygone era. It was employed by the federal Labor opposition as a point of attack against the Morrison government in the 2022 federal election, serving to bolster Labor's national security credentials.[28] On winning government, Labor found itself saddled with the burden of the lease, with the same potential risks, and no easy solution.[29] The lease can reasonably be considered a policy failure, and much of this failure can be attributed to aspects of its governance structure that are common to all PPPs.

### *PPPs and market values*

PPPs as governance mechanisms are intrinsically market oriented.[30] The PPP is one of the signature policies of the market-orientated new public management (NPM) governance paradigm.[31] PPPs constitute 'a political tool, a technical phenomenon and a rhetorical framing device for governments'. [32] They serve as a governance mechanism to realise the ideological goal of transferring responsibility for public service delivery to the public sector.[33] As Bozeman notes, a key underlying value implicit in PPPs is an ideological view that government should play less of a role in society.[34] The rationale and ultimate benchmark for success for PPPs is achieving value for money (VfM).[35] Gleeson, Grimsey and Lewis found that VfM was the 'stated prime objective for every government in Australia that has adopted a PPP policy'. [36] To advocate for a PPP signifies an interest in efficiency and innovation, and a receptiveness to business influence.[37]

The Darwin Port PPP is part of this ideological struggle and wider trend towards privatisation.[38] In the 1990s in

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Australia, the commercialisation and privatisation of ports was driven by a desire to improve efficiency.[39] More recently, budgetary considerations on the part of state and territory governments have been a concern.[40] The Australian government encouraged state and territory governments to privatise existing infrastructure to fund new projects through initiatives such as the Asset Recycling Initiative .[41] Darwin Port was 'recycled' under this initiative, with the Australian government agreeing to pay the Territory government \$18.56 million if they would lease the port.[42]

## Accountability and Shared Public Values

A tension between market and public values is fundamental to PPP governance arrangements.[43] PPPs are expected to play two often conflicting roles, balancing efficiency and market performance with democratic accountability.[44] These conflicting values and responsibilities pose a problem for PPPs, complicating questions of accountability.[45] Shared values, according to Mulgan, foster accountability in collaborative partnerships.[46] In networked governance situations where members share values, objectives, and trust, members become more accountable to each other, and less reliant on external mechanisms of accountability.[47] This non-hierarchical form of accountability is most effective when there is a generally accepted set of values agreed upon by the network.[48]

Agreeing upon these values can be difficult, however. The concept of 'public value' can be of assistance. Public value is a nebulous concept.[49] At its most basic, public value can be defined simply as 'the things that a society cares about'.[50] Bozeman defines a society's public values as those that provide a normative consensus about issues such as 'the principles on which governments and polices should be based'.[51] Public values are also 'context dependent' and can change depending on dominant frames.[52] They can include concepts such as national security and social security nets.[53] Bozeman differentiates between economic values and public values, although he suggests that these values can overlap to some extent and in some circumstances.[54]

In response to concerns about the deficiencies of NPM governance strategies in catering to these public values, public value management (PVM) was developed.[55] Described as an alternate governance paradigm to the economic rationalism of NPM, PVM seeks to foster 'collaborative negotiation' between stakeholders in networked governance arrangements.[56] It achieves this by promoting public value as a shared goal and source of motivation for all stakeholders in PPPs. [57]

Issues arise when market-based governance mechanisms such as PPPs are expected to ensure accountability for public values.[58] Grossi and Thomasson question the extent to which PPPs can be held accountable for upholding public values when they 'operate partly in the market and partly in the public sector'. [59] PPPs are held accountable based on market accountability mechanisms, focusing on financial performance and shareholder interests rather than public and democratic values.[60] PPPs often focus on individual contracts and VFM as an evaluation metric, neglecting wider strategic and long-term perspectives.[61] Accountability in NPM-type arrangements emphasises individual responsibility rather than a 'collective stewardship' shared among all participants in a networked arrangement.[62]

A divergence of shared public values and a subsequent deficit in accountability, collaboration and long-term strategic vision is apparent in the Darwin Port case. After the 'China reset', the apparent unity of values and purpose that existed between stakeholders dramatically collapsed. The Australian government saw national security as the dominant public value with regards to the port. Others, such as the NT government and Landbridge, favoured the maintenance of a market-orientated approach.[63] This lack of shared public values prevented a coherent response to national security issues and prevented the development of a coherent strategy to address both economic and national security concerns. Today, large scale port infrastructure projects are being planned by the Defence Department, the NT government, by the US government, and by major private stakeholders such as INPEX.[64] However, these projects exhibit little joint vision or strategic direction.[65] The NT government's *2020-25 Darwin Harbor Strategy* is a prominent example of siloed thinking within the partnership.[66] It purports to provide a vision for the future development of the harbour, stating that '[t]he best way to achieve the goals of the Strategy is through collaborative partnerships'.[67] However, the strategy doesn't address strategic and economic interests on a national level.[68] Prominent stakeholders such as Defence and the US government are not mentioned in the strategy.[69]

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Similarly, the Australian government has reportedly failed to consult with the NT government regarding its plans.[70]

## Buck-passing

A subset of the accountability problem stemming from the divergence of shared public values is buck-passing.[71] Blame avoidance has been raised as a particular problem in PPPs and networked partnerships.[72] As Mulgan notes, members of a partnership who do not share values and goals are not incentivised to share responsibility for joint programs, particularly when they go wrong.[73] Bozeman similarly observed that the use of private contractors can result in 'no one being responsible for incomplete projects', providing an avenue for governments to avoid responsibility by bypassing traditional transparency and accountability mechanisms.[74] Blame-shifting can also occur in networked governance arrangements involving multiple levels of government where there is an absence of clear responsibility.[75]

In the Darwin Port case, the Australian and the NT governments engaged in buck-passing from the beginning.[76] In 2015, Defence Secretary Dennis Richardson told a Senate Committee that the Foreign Acquisitions and Takeovers Act would have prevented the Australian government from intervening, even if federal departments and agencies had objected to the lease.[77] Later, in early 2022, Prime Minister Scott Morrison incorrectly claimed that 'there was no authority for the federal government to reject, approve anything in relation to the leasing of that asset' and that 'the Australian government did not authorise it, did not approve it, did not have the power to approve it'.[78] The Morrison government deferred making a difficult decision on the port by repeatedly passing the buck to the Defence Department in actions that have been described as shirking the government's obligation to lead by 'hiding behind flawed bureaucratic advice'.[79] Morrison's decision to cancel an \$80 billion submarine contract in September 2021 was made without Defence approval, demonstrating that such an action is not unfeasible – when politically convenient.[80] Defence, for its part, has been accused of avoiding responsibility for its inaction on the lease in 2015 by providing recommendations reinforcing its original position.[81]

It has been suggested that this 'blame game' may be a result of the focus on individual responsibility that is common in PPPs.[82] Due to this aversion to collective accountability and its 'big government' implications, stakeholders possess a narrow understanding of their responsibility in terms of governance of the port.[83] This led to a situation where, driven by ideological fervour and bound to narrow concepts of individual accountability, none of the stakeholders considered themselves accountable for the national security outcomes of the lease. Consequentially, no accountability mechanisms were implemented or encouraged. When national security became an overwhelming policy imperative, the buck was passed without shame. As Shaoul, Stafford, and Stapleton note, the government bears the ultimate responsibility in PPP arrangements.[84] Public partners carry a far higher risk in PPP arrangements.[85] When things go wrong, the government, rather than the public partner, tend to bear the costs of failure.[86] This risk imbalance can be seen in the Darwin Port case, with the Australian government, rather than Landbridge, bearing responsibility for national security failures.[87]

## Lack of Responsiveness

PPPs have been criticised as limiting the ability of government to respond to unexpected change.[88] Changing external circumstances can render an agreement no longer fit for purpose.[89] Governments who have outsourced services to the private sector may find themselves constrained due to the nature of these contractual agreements, which do not easily allow for retrospective adjustments.[90] The benefits that result from the signing of long contracts are potentially bought at the cost of the ability to respond to the unexpected.[91] PPP arrangements create static systems of value generation that leave little room for correction when the rationale behind the original decision changes.[92] One of the benefits of the PVM approach is its ability to adapt to changing conditions.[93] Rather than simply striving to meet static targets, managers should engage in continuous evaluation, 'asking if their actions are bringing a net benefit to society'.[94] The Darwin Port case demonstrates a lack of responsiveness resulting from contractual obligations and static values. Stakeholders were unable to respond to changing circumstances and public values. Having committed to the framing of the port deal as an economic issue, both the NT and Australian governments found themselves locked in by an agreement that could not be broken without significant economic, political, diplomatic, and geostrategic repercussions.[95]

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## Conclusion

Through the example of the Darwin Port lease, this essay has demonstrated some of the flaws inherent in PPP governance arrangements. I have shown how the Darwin Port lease arrangement, like most PPPs, was built on an ideological foundation of neoliberal market fundamentalism that privileges market efficiency. This narrow focus escaped unnoticed when all stakeholders shared these values. Landbridge's CCP connections were dismissed amid an atmosphere of post-Cold War Western triumphalism that viewed the global dominance of free market capitalism and liberal democracy as inevitable. Less than two years into the 99-year lease, this euphoria gave way to alarm as public sector stakeholders realised that geopolitical circumstances were leading Australia down a different path. Notions of a 'commercial peace' gave way to discourses of renewed great power conflict.

Once the lease was reframed as a national security issue, it became apparent that there was no common understanding of public value among stakeholders and no common collective vision for the port or its future. There was no agreement on how to balance economic and national security concerns, or what that balance should be. Various stakeholders developed conflicting and overlapping plans for the port with little collaboration. The arrangement provided adequate market accountability mechanisms, which served well when market values were commensurate with public values. After the reframing, an 'accountability gap' became apparent. No sufficient accountability mechanisms were available from a national security perspective, and the Australian government was burdened with the costs of this failure. Although cancelling the lease or building a new port are technically feasible, these options are unpalatable for the Australian government. In response to this dilemma, the government sought to shirk its responsibility, using the opaque and horizontal nature of the PPP arrangement to pass the buck to the Territory government and Defence Department.

The Darwin Port case study shows how PPPs are ill-equipped to address complex policy issues. The lease was conceived and implemented as part of a neoliberal trend championing market efficiency and trade promotion. Concerns that extended beyond this narrow remit were dismissed as paranoia, xenophobia, and even parochial socialist protectionism. The Darwin Port lease should serve as a warning against the haphazard application of narrow-minded market-orientated governance mechanisms and public-private 'partnerships' that share profit, but not risk.

In 2015, the Australian government made a strategic error by implicitly approving the lease and failing to articulate and enforce public values with regards to national security. However, the failure of the lease as a policy is not just a failure of the Australian government; it is a failure of the PPP as a governance mechanism. Proponents of PPPs have argued that a successful PPP requires clear government articulation of processes, objectives, and outcomes.[96] However, as the Darwin Port case study has shown, government cannot plan for all contingencies. When the public values that underlie the operation of a PPP change radically, governments may find that their options for recourse are limited.

## Notes

[1] Giuseppe Grossi and Anna Thomasson, "Bridging the Accountability Gap in Hybrid Organizations: The Case of Copenhagen Malmö Port," *International Review of Administrative Sciences* 81, no. 3 (2015): 604–20, <https://doi.org/10.1177/0020852314548151>.

[2] John Coyne and Teagan Westendorf, *'Lead me to the harbour!' Plotting Darwin Harbour's future course* (Canberra: Australian Strategic Policy Institute, 2021), 11, <https://www.aspi.org.au/report/lead-me-harbour-plotting-darwin-harbours-future-course>.

[3] Coyne and Westendorf, *Lead me to the harbour*, 11.

[4] Leonie Wood, "Fact check: Scott Morrison says the government had no authority to reject or approve the leasing of the Port of Darwin to a Chinese company. Is that correct?" *ABC*, 8 March, 2022, <https://www.abc.net.au/news/2022-03-08/fact-check-scott-morrison-port-of-darwin-china-landbridge/100888740>.

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[5] The NT government initially intended to sell the 20 percent stake to private investors. However, in 2017, the newly elected NT Labor government announced they would retain the 20% stake in the port. See: Angela Macdonald-Smith and Jenny Wiggins, "Northern Territory govt to keep 20pc stake in Darwin port," *Australian Financial Review*, 4 July, 2017, <https://www.afr.com/companies/infrastructure/northern-territory-govt-to-keep-20pc-stake-in-darwin-port-20170704-gx41ct>; Office of the Chief Minister, "Northern Territory to Retain its 20% Stake in Darwin Port," media release, 3 July, 2017, <https://newsroom.nt.gov.au/article?id=23377>.

[6] Helen Davidson, "NT chief minister refuses to disclose Darwin port sale details," *Guardian*, 4 March, 2016, <https://www.theguardian.com/australia-news/2016/mar/04/nt-chief-minister-refuses-to-disclose-darwin-port-sale-details>.

[7] In 2016, largely because of the port lease, the Foreign Investment and Takeovers Regulation was amended to remove the loophole for Commonwealth, state and territory assets: Scott Morrison, "Critical asset sales to fall within foreign review net," media release, 18 March, 2016, <https://ministers.treasury.gov.au/ministers/scott-morrison-2015/media-releases/critical-asset-sales-fall-within-foreign-review-net>; Wood, "Fact check: Scott Morrison."

[8] Coyne and Westendorf, *Lead me to the harbour*, 20.

[9] Rory Medcalf, "Australia and China: Understanding the reality check," *Australian Journal of International Affairs* 73, no. 2 (2019): 109, <https://doi.org/10.1080/10357718.2018.1538315>.

[10] Patrick Köllner, "Australia and New Zealand recalibrate their China policies: Convergence and divergence," *The Pacific Review* 34, no. 3 (2021): 411, <https://doi.org/10.1080/09512748.2019.1683598>; John Garnaut, "Australia's China reset," *Monthly*, 1 August, 2018, <https://www.themonthly.com.au/issue/2018/august/1533045600/john-garnaut/australia-s-china-reset#mtr>.

[11] Köllner, 'Australia and New Zealand recalibrate,' 411-12.

[12] Emma Griffiths, "Xi Jinping in Australia: Chinese president tells MPs his nation is committed to peace, but ready to protect its interests," *ABC*, 17 November, 2014, <https://www.abc.net.au/news/2014-11-17/xi-peace/5897680>.

[13] Köllner, 'Australia and New Zealand recalibrate,' 411.

[14] Coyne and Westendorf, *Lead me to the harbour*, 6.

[15] Ben Smee and Christopher Walsh, "How the sale of Darwin port to the Chinese sparked a geopolitical brawl," *Guardian*, 18 December, 2017, <https://www.theguardian.com/australia-news/2016/dec/18/how-the-sale-of-darwin-port-to-the-chinese-sparked-a-geopolitical-brawl>; Jano Gibson, "Why did the Northern Territory lease Darwin Port to Chinese-owned company Landbridge?" *ABC*, 7 May, 2022, <https://www.abc.net.au/news/2022-05-07/darwin-port-lease-china/101040810>.

[16] See, for example: Office of the Chief Minister, "NT condemns Australian Strategic Policy Institute," media release, 13 November, 2015, <https://newsroom.nt.gov.au/article?id=21496>.

[17] Wood, 'Fact check: Scott Morrison.'

[18] Office of the Chief Minister, 'NT condemns Australian Strategic Policy Institute.'

[19] The Chief Minister claimed that 'the only other people [apart from the ASPI] on the fringes of public policy who seem obsessed with creating a climate of fear around our growing relations with China are the Australian Labor Party and the trade union movement': Office of the Chief Minister, "NT condemns Australian Strategic Policy Institute."

[20] Office of the Chief Minister, 'NT condemns Australian Strategic Policy Institute.'

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[21] Although it should be noted that some prominent critics existed at the time, including the US government: Coyne and Westendorf, *Lead me to the harbour*, 6.

[22] Coyne and Westendorf, *Lead me to the harbour*, 6.

[23] For an early example, see: Smee and Walsh, 'How the sale of Darwin port to the Chinese sparked a geopolitical brawl.'

[24] Smee and Walsh, 'How the sale of Darwin port to the Chinese sparked a geopolitical brawl.'

[25] Office of the Chief Minister, "New Business Park to be developed by Landbridge," media release, 4 November, 2016, <https://newsroom.nt.gov.au/article?id=21496>.

[26] In 2017, the only media releases directly addressing the port lease consisted of an announcement that the NT would retain a 20% stake in the port. See: Office of the Chief Minister, "Northern Territory to Retain its 20% Stake in Darwin Port," media release, 3 July, 2017, <https://newsroom.nt.gov.au/article?id=23377>.

[27] For an example of an argument in favour of the lease, see the following article from the controversial Australia-China Relations Institute: James Laurenceson, "Stormy seas surround the Port of Darwin," *Australia-China Relations Institute*, 29 July, 2021, <https://www.australiachinarelations.org/content/stormy-seas-surround-port-darwin>; Christine Barro, "The think tanks shaping Australia: The Australia-China Relations Institute," *The New Daily*, 13 June, 2019, <https://thenewdaily.com.au/news/national/2019/06/13/australia-china-relations-institute/>.

[28] Peter Jennings, "Handling of Darwin port lease a fiasco on both sides of politics," *The Strategist*, 10 May, 2022, <https://www.aspistrategist.org.au/handling-of-darwin-port-lease-a-fiasco-on-both-sides-of-politics/>.

[29] The incoming Albanese Labor government announced another review into the lease soon after the election: James Massola, "Port of Darwin lease to be reviewed: Anthony Albanese," *Sydney Morning Herald*, 8 June, 2022, <https://www.smh.com.au/politics/federal/port-of-darwin-lease-to-be-reviewed-anthony-albanese-20220608-p5as1e.html>.

[30] Graeme Hodge, Carsten Greve and Anthony Boardman, *International Handbook on Public-Private Partnerships* (Cheltenham: Edward Elgar Publishing, 2010), 4; Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 216.

[31] Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 216; Barry Bozeman, *Public Values and Public Interest: Counterbalancing Economic Individualism* (Washington: Georgetown University Press, 2007), 69-70.

[32] Hodge, Greve and Boardman, *International Handbook*, 4.

[33] Bozeman, *Public Values*, 71.

[34] Bozeman, *Public Values*, 71-2.

[35] Tristian Gleeson, Darrin Grimsey and Mervyn Lewis, "How Successful Has the PPP Model Been in Australia?" In *Public Private Partnerships: Construction, Protection, and Rehabilitation of Critical Infrastructure*, ed. Robert Clark and Simon Hakim (Cham: Springer, 2019), 186-7.

[36] Gleeson, Grimsey and Lewis, *How Successful*, 186-7.

[37] Bozeman, *Public Values*, 76.

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[38] Peggy Shu-Ling Chen, Hilary Pateman and Quazi Sakalayan, "The Latest Trend in Australian Port Privatisation: Drivers, Processes and Impacts," *Research in Transportation Business & Management* 22 (2017): 203, <https://doi.org/10.1016/j.rtbm.2016.10.005>.

[39] Chen, Pateman and Sakalayan, 'The Latest Trend,' 203.

[40] Chen, Pateman and Sakalayan, 'The Latest Trend,' 203.

[41] Chen, Pateman and Sakalayan, 'The Latest Trend,' 203.

[42] Consult Australia, *Re-building the social licence for asset recycling: The need for asset transfer conditions that focus on delivering real public benefits* (Sydney: Consult Australia, 2019), 20; Anthony Galloway, "Australian taxpayers paid almost \$20 million to sell the Port of Darwin," *Sydney Morning Herald*, 12 May, 2022, <https://www.smh.com.au/politics/federal/australian-taxpayers-paid-almost-20-million-to-sell-the-port-of-darwin-20220511-p5akc8.html>; Davidson, Helen, "NT government assets privatised without knowing where proceeds will go," *Guardian*, 16 December, 2015, <https://www.theguardian.com/australia-news/2015/dec/16/nt-government-assets-privatised-without-knowing-where-proceeds-will-go>.

[43] Grossi and Thomasson, 'Bridging the Accountability Gap,' 608; Tom Willems, "Democratic accountability in public-private partnerships: the curious case of Flemish school infrastructure," *Public Administration* 92, no. 2 (2014): 341, <https://doi.org/10.1111/padm.12064>; Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 218.

[44] Other manifestations include conflict between values of public openness and commercial confidentiality. Willems, 'Democratic accountability,' 341; Grossi and Thomasson, 'Bridging the Accountability Gap,' 608; Thomasson, Anna, "Exploring the ambiguity of hybrid organisations: a stakeholder approach," *Financial Accountability & Management* 25, no. 3 (2009): 354, <https://doi.org/10.1111/j.1468-0408.2009.00481.x>; Matti Siemiatycki, "What's the Secret?" *Journal of the American Planning Association* 73, no. 4 (2007): 388, <https://doi.org/10.1080/01944360708978520>.

[45] Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 216; Grossi and Thomasson, 'Bridging the Accountability Gap,' 608.

[46] Mulgan gives the example of not-for-profit charities and highly regulated professions such as doctors as examples of networks where shared values promote horizontal accountability. See: Richard Mulgan, "Accountability in Multi-level Governance: The Example of Australian Federalism," in *Multi-level governance: conceptual challenges and case studies from Australia*, ed. Katherine Daniell and Adrian Kay (Canberra: ANU Press, 2017), 86.

[47] Mulgan, 'Accountability in Multi-level Governance,' 85-6.

[48] Mike Smith, Mathur Navdeep and Chris Skelcher, "Corporate Governance in a Collaborative Environment: what happens when government, business and civil society work together?," *Corporate Governance: An International Review* 14, no. 3 (2006): 159-171, <https://doi.org/10.1111/j.1467-8683.2006.00496.x>; Mulgan, 'Accountability in Multi-level Governance,' 86.

[49] Anne-Marie Reynaers, "Public Values in Public-Private Partnerships," *Public Administration Review* 74, no. 1 (2014): 44, <https://doi.org/10.1111/puar.12137>; Gerry Stoker, "Public Value Management," *American Review of Public Administration* 36, no. 1 (2006): 44, <https://doi.org/10.1177/0275074005282583>; Stoker, 'Public Value Management', 44; Sarah Warner, Prudence Brown and Lorraine Cherney, "Public Values in Pluralistic and Complex Settings - Are Agonistic Ideas the Answer?" *International Journal of Public Administration* 44, no. 10 (2021): 858, <https://doi.org/10.1080/01900692.2021.1909620>.

[50] Stoker, 'Public Value Management', 44.



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[51] Bozeman, *Public Values*, 13.

[52] Prudence Brown, Lorraine Cherney and Sarah Warner, "Understanding Public Value – Why Does It Matter?" *International Journal of Public Administration* 44, no. 10 (2021): 804, <https://doi.org/10.1080/01900692.2021.1929558>; Stoker, 'Public Value Management', 50.

[53] Bozeman, *Public Values*, 181.

[54] Bozeman, *Public Values*, 126-7

[55] Stoker, 'Public Value Management', 41; Warner, Brown and Cherney, 'Public Values,' 858.

[56] Stoker, 'Public Value Management', 41; Warner, Brown and Cherney, 'Public Values,' 858.

[57] Warner, Brown and Cherney provide an alternative approach, arguing that embracing multiple competing public values might be more productive as opposed to seeking a single unified value. This approach appears suited to situations where value conflicts are intractable and equally valid, and the authors do not examine PPP contexts specifically. See: Warner, Brown and Cherney, 'Public Values,' 858.

[58] Grossi and Thomasson, 'Bridging the Accountability Gap,' 605.

[59] Grossi and Thomasson, 'Bridging the Accountability Gap,' 605.

[60] Grossi and Thomasson, 'Bridging the Accountability Gap,' 609; Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 218.

[61] Frank Mols, "Harnessing Market Competition in PPP Procurement: The Importance of Periodically Taking a Strategic View," *Australian Journal of Public Administration* 69, no. 2 (2010): 229, <https://doi.org/10.1111/j.1467-8500.2010.00681.x>.

[62] Malbon, Carey and Reeder draw attention to this issue, suggesting that mixed accountability, or a 'culture of democratic accountability' should be encouraged as opposed to viewing accountability as clearly delineated spheres of individual responsibility. Eleanor Malbon, Gemma Carey and Daniel Reeder, "Mixed Accountability Within New Public Governance: The Case of a Personalized Welfare Scheme in Early Implementation," *Social Policy & Administration* 53, no. 1 (2019): 156-69, <https://doi.org/10.1111/spol.12446>; Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 217.

[63] Landbridge has held to the economic frame while emphasising the legal basis for operation. See, for example: Prime Sarmiento and Yang Han, "Landbridge committed to developing Darwin Port," *China Daily*, 26 May, 2021, <http://www.chinadaily.com.cn/a/202105/26/WS60ae558ea31024ad0bac1a37.html>.

[64] John Coyne, "Budget funding doesn't make up for lack of a coherent Darwin Port strategy," *The Strategist*, 6 April, 2022, <https://www.aspistrategist.org.au/budget-funding-doesnt-make-up-for-lack-of-a-coherent-strategy-for-darwin-port/>.

[65] Coyne, 'Budget funding'.

[66] Darwin Harbour Advisory Committee, *2020-2025 Darwin Harbour Strategy* (Palmerston: Darwin Harbour Advisory Committee, 2020), i.

[67] Darwin Harbour Advisory Committee, *2020-2025 Darwin Harbour Strategy*, i.

[68] Coyne and Westendorf, *Lead me to the harbour*, 23.

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[69] Coyne and Westendorf, *Lead me to the harbour*, 23.

[70] Daniel Hurst, "NT in the dark over potential moves to cancel Chinese company's Darwin port lease amid security concerns," *Guardian*, 14 October, 2021, <https://www.theguardian.com/australia-news/2021/oct/14/nt-in-the-dark-over-potential-moves-to-cancel-chinese-companys-darwin-port-lease-amid-security-concerns>.

[71] As Mulgan has noted, where networks are not based on mutual trust and 'genuine commitment to the public interest', shirking and blame-avoidance can occur: Mulgan, 'Accountability in Multi-level Governance,' 86.

[72] Stephen Bell and Andrew Hindmoor, *Rethinking Governance: The Centrality of the State in Modern Society* (Cambridge: Cambridge University Press, 2009), 51-2; Mulgan, 'Accountability in Multi-level Governance,' 84, 95.

[73] Mulgan, 'Accountability in Multi-level Governance,' 88.

[74] Bozeman used the example of the use of military contractors by the US government during the Iraq war. Their use hid the true costs of the war, including casualty rates, and made it difficult to assess success or failure: Bozeman, *Public Values*, 31

[75] Mulgan, 'Accountability in Multi-level Governance,' 81-4.

[76] For example, when questioned on potential national security implications of the lease, Giles deferred to the FIRB and Defence Department vetting: Office of the Chief Minister, 'NT condemns Australian Strategic Policy Institute.'

[77] Wood, 'Fact check: Scott Morrison.'

[78] Wood, 'Fact check: Scott Morrison.'

[79] Jennings, 'Handling of Darwin port lease a fiasco'.

[80] Jennings, 'Handling of Darwin port lease a fiasco'; Laura Tingle. 'Leaked document shows Australian officials 'kept in dark' about French submarine cancellation,' *ABC*, 16 September, 2022, <https://www.abc.net.au/news/2022-09-16/leaked-document-officials-kept-in-dark-over-french-submarines/101445670>.

[81] Jennings, 'Handling of Darwin port lease a fiasco'.

[82] Reynaers, 'Public Values,' 44; Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 217.

[83] Reynaers, 'Public Values,' 44; Malbon, Carey and Reeder, 'Mixed Accountability,' 160.

[84] Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 218.

[85] Edwards and Shaoul, 'Partnerships,' 397.

[86] Edwards and Shaoul, 'Partnerships,' 397.

[87] Landbridge has claimed that, because it operated within the confines of the law and has done nothing to break the terms of its contract, it bears no further responsibility for national security concerns: Sarmiento and Yang, 'Landbridge committed to developing Darwin Port'.

[88] Reynaers, 'Public Values,' 43-4.

[89] Simon Domberger and Paul Jensen, "Contracting Out by the Public Sector: Theory, Evidence, Prospects," *Oxford Review of Economic Policy* 13, no. 4 (1997): 70, <https://doi.org/10.1093/oxrep/13.4.67>;

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Reynaers, 'Public Values,' 43-4.

[90] Domberger and Jensen, 'Contracting Out,' 70; Pamela Edwards and Jean Shaoul. "Partnerships: For Better, for Worse?" *Accounting, Auditing, & Accountability* 16, no. 3 (2003): 397, <https://doi.org/10.1108/09513570310482345>; Shaoul, Stafford and Stapleton, 'Accountability and Corporate Governance,' 218.

[91] Reynaers, "Public Values," 44

[92] Stoker, 'Public Value Management', 49.

[93] Stoker, 'Public Value Management', 49.

[94] Stoker, 'Public Value Management', 49.

[95] The options facing the Australian government are grim. Cancelling the lease could cost \$500m, pose a sovereign risk threat, and invite retaliation from China. Building a new port would be even more costly, as well as embarrassing. Coyne and Westendorf, *Lead me to the harbour*, 11; Tillett, 'Dumping Darwin Port'.

[96] Gleeson, Grimsey and Lewis, *How Successful*, 185.

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