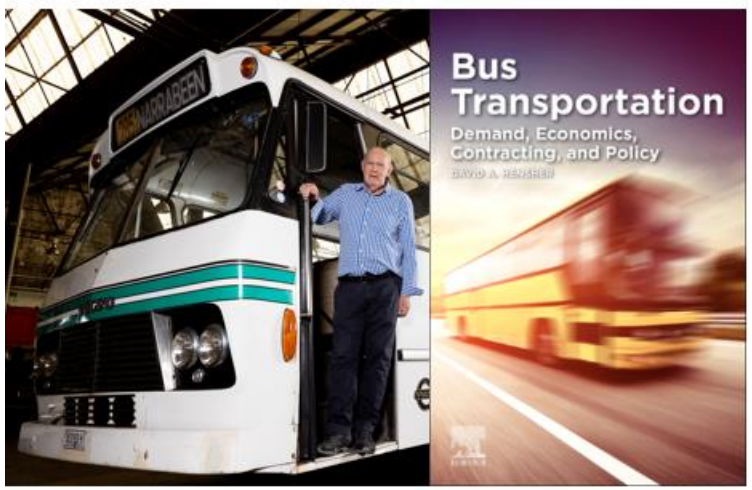
What a meaningful partnership means for public transport

David A. Hensher, AM, PhD, FASSA, FCILTA, FAITPM
Professor and Founding Director,
Institute of Transport and Logistics Studies (ITLS),
The University of Sydney Business School



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Six Contracting Elements: Features that Matter

A bigger picture mapping

Regulation	→	Governance
Disruptive technologies	→	Emerging mobility
Transport	→	Mobility
Technology	→	Service
Business models	→	Mobility ecosystem
Process goals	→	End goals
Finance/Funding	→	Optimal mobility

Best practice in contract design

What works:

- Alignment of expectations and objectives between the parties
- Reasonable flexibility to respond to the dynamic context of public transport
- Understand the environment and capabilities of the parties
  - Network-level incentives to promote integration needed
  - **Operator/workforce** relationship must not be neglected in contract transition debates

What does not work:

- Absence of a Trusting Partnership
- Lack of incentives/penalties
- Unrealistic expectations

Incompleteness and Clarity in Bus Contracts: Identifying the Nature of the *Ex ante* and *Ex post* Perceptual Divide

- Nature of Contracts – two main types:
  - Very precise, and strive for **completeness** OR
  - Very 'light-weight' and incomplete
- Ambiguity and Clarity (often linked to completeness – too much detail *ex ante*)
  - *Ex ante (While negotiating…)- Too much detail builds distrust*
  - *Ex post (Once contract is in place…)- Trust to discuss and resolve supports good outcomes*
- Growing discrepancy between the principal (Regulator) and the agents (Operators, Suppliers) perceived 'understanding' of contract obligations (even more problematic in transition to ZEBs)
- Implications for CT and Negotiated PBCs

Ex ante and *Ex post* perception Questions – what we see

- *Q1 Ex Ante* *Prior to you signing your current contract*, how did you perceive the contract in terms of its (i) completeness and (ii) clarity with respect to what you were being asked to do as a service provider.

- *Q2 Ex Post* *Since signing your current contract*, how do you now perceive the contract in terms of its (i) completeness and (ii) clarity with respect to what you are being asked to do as a service provider.

Response Scale:

- Indicate your views on a scale of 1-100 where 100 = totally complete/totally clear, and 1=very incomplete/very unclear:
- Completeness _____ Clarity_____

Comment on the Evidence from the Survey

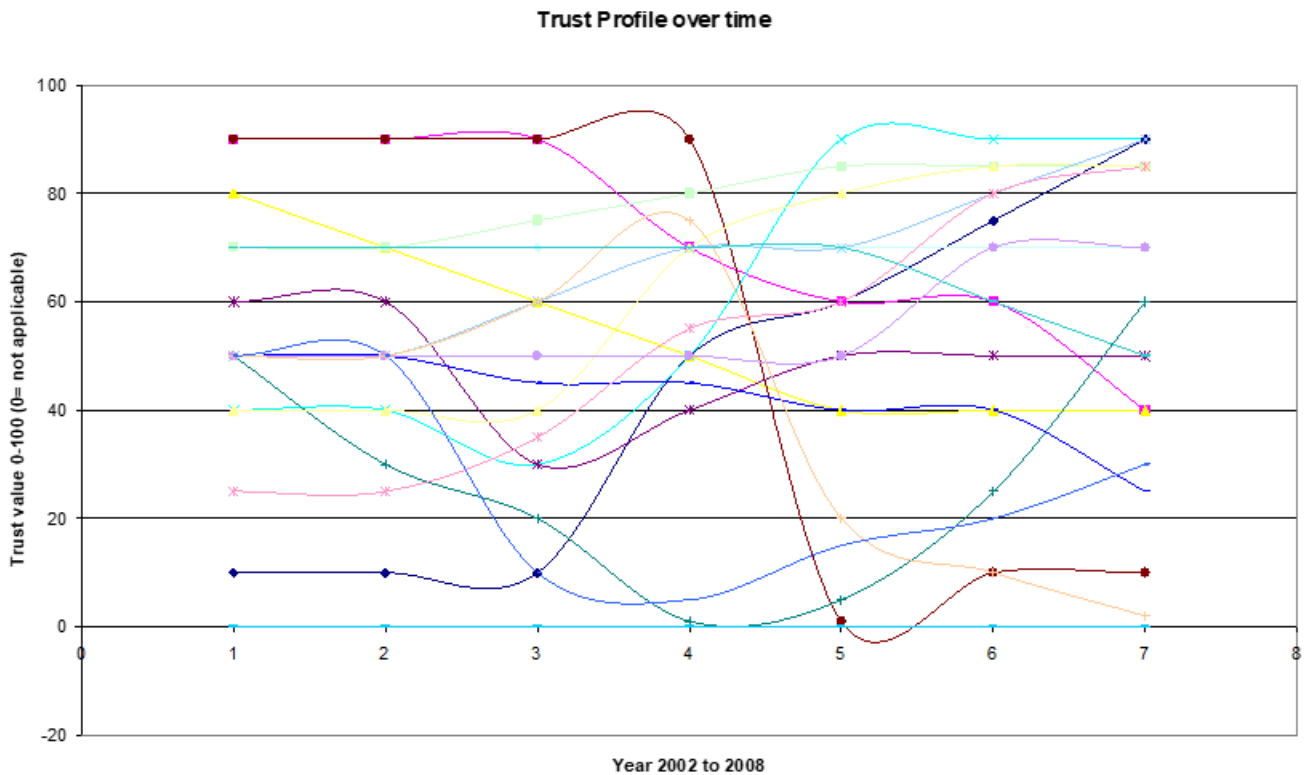
- There is often a high level of confusion associated with the contract specification, especially in respect of, for example,
  - 'additional kilometres and related services approvals',
  - 'compliance requirements in periodical performance reporting', and
  - 'agreements and obligations in respect of rights of operators in adjacent locations in joint service provision (integrated networks)'.
- However, the building of trust can contribute significantly in reducing the barriers to establishing a better appreciation of
  - the degree of contract completeness, and
  - clarity of contract specification and obligations.
- **Is this more likely to be achieved under Neg PBC with benchmarking or CT?**
- **Even worse under ZEB transition.**

Building Trusting Partnerships

- It is informative to look at the perceived degree of trust between the operator and the regulator, obtained from the following question:
- How would you describe the degree of trust that existed in previous years and today between your bus operation and the organisation that has awarded you a contract to provide bus services?

- Scale of 1-100 where 100 = complete trust and 1 = no trust.

Degree of trust and changing trust levels over the contract life – varies hugely between operators and over time



A Brief Overview of NPBCs and CT

- Tendering gives rise to:
  - Greater (relative) real and observed risk of incumbents tending to not commit to longer term investment in the industry (both physical and human resources) – there are always exceptions though
  - a negative impact of building and maintaining a trusting partnership
  - high transactions (including transitional) costs every time re-tendering is put in place.
- Tendering round 1 – public to private 30% windfall gain
- Tendering round 2 – small cost efficiency gains
- Tendering round 3 – no cost efficiency gains and service quality deterioration
  - So why not NPBCs? Performance-Based (PB) is critical – it is not NCs

A Brief Overview of NPBCs and CT

- Australian bus contracts have pioneered NPBCs, **founded on trusting partnerships:**
  - Contracts are re-negotiated with existing operators, subject to meeting certain conditions
  - The offer of the opportunity to work closely with efficient incumbents to grow trust and build patronage where possible (mindful of the realities of the market for public transport services) (Wallis *et al.* 2009).
- NPBCs reduces uncertainty where a very efficient incumbent operator can still lose the right to provide services, provided provisions to guard against regulatory capture are in place.
- Regardless of whether NPBCs or CT, we must ensure transparency and accountability through four conditions (Hensher and Stanley 2008):
  - **Performance benchmarking subject to independent verification** to ensure efficient and effective performance.
  - **An open book approach to costs, independently audited**
    - Operators with high costs must justify their numbers or face a cut in remuneration.
    - Operators with low costs have the opportunity to argue for an increase.
  - The **appointment of a probity auditor** to oversee the negotiation process.
  - **Public disclosure of the contract.**

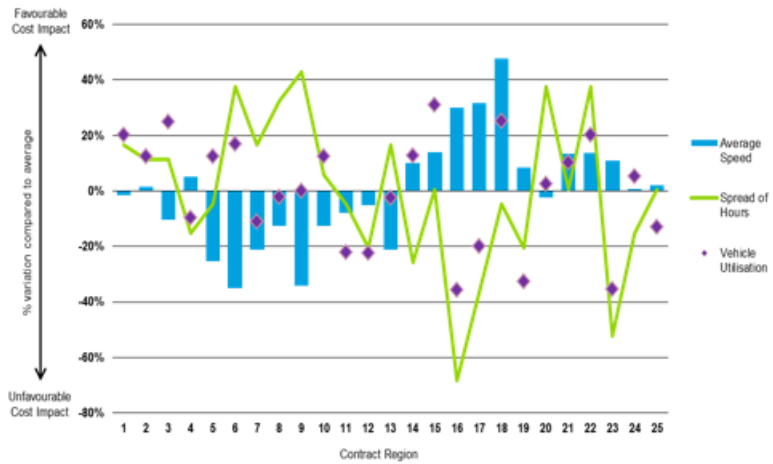
Benchmarking Cost Efficiency under NPBC and indeed CT

- For comparative measures of operator performance, we must distinguish those influences
  - under the control of the operator,
  - under the control of government (or the regulator),
  - determined by other (e.g., market) forces.
- Separating out the sources of control is a grey area and must depend on a 'reasonable amount of influence'.
- Controlling or standardising for influences not under the control of each operator enables
  - A comparison of operator performance of operators in their operating environment ,and
  - A comparison of CT and NPBC applications in a single context.

Benchmarking Normalisations for Metropolitan Services (Using CE but also applicable to network effectiveness)

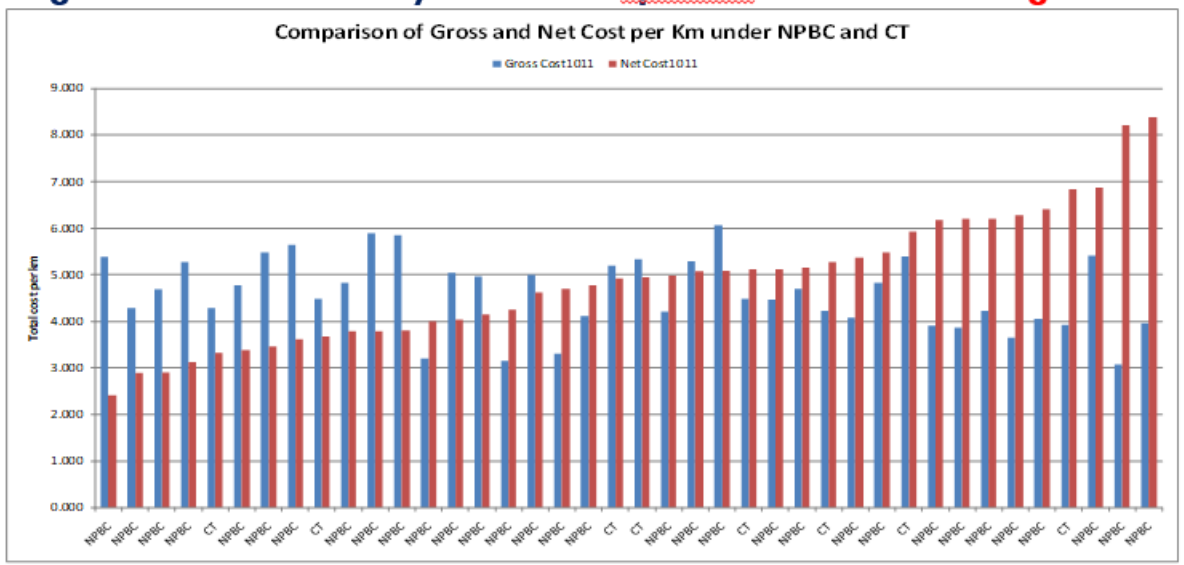
- **Normalising** the Cost Efficiency (CE) KPI for three adjustment factors **beyond the control of operators** which have a material cost impact:
  - ***Average speed.*** Slower average peak speed will typically increase driving time and operating costs (e.g., traffic congestion and/or an inefficient on-board fare payment system). Need to rethink on-time running penalties
  - ***Spread of operating hours.*** A higher ratio of timetabled operating hours during periods when penalty rates of labour pay apply (e.g., weekends and early in the morning on weekdays (e.g., before 7 am)), will typically increase operating costs.
  - ***Average bus utilisation.*** A higher number of annual service kilometres per peak bus, because of higher timetabled route frequencies, will typically lower unit costs through diluting fixed costs.

Variances in operating differences compared to industry average (MBSC, OBSC NSW) Year and operator redacted



Comparative Assessment of NPBC and CT in Australia

- The estimates of gross and net cost efficiency for each operator **in the full distribution** indicate that the outcome in favour of CT is far from definitive.
- 4 operators under NPBC outperform the best CT outcome, and then there are another 10 NPBC contracts before 2 more CT contracts appear.
- **The evidence shows that NPBC's, even before benchmarked targets are implemented through the negotiation process, offers a three percentage (3.6%) points gain in cost efficiency across all cpasital cities. This is significant.**



Hensher, D.A. (2015) Cost efficiency under negotiated performance-based contracts and benchmarking for urban bus contracts –are there any gains through competitive tendering in the absence of an incumbent public monopolist?, (presented at the *13th International Conference on Competition and Ownership of Land Passenger Transport* (Thredbo 13), Oxford September 15-19 2013) *Journal of Transport Economics and Policy*, 49, Part 1, January, 133–148.

Commentary

- Using data linking CT prices of successful bids to NPBC outcomes, the evidence suggests that *the gains from CT are often illusory (outside of the situation of an incumbent public operator).*
- The evidence *sends a strong message about the presumption that competitive tendering is necessarily the only way forward.*
  - *It may be more ideology than good sense?*
- Many governments suggest that CT ensures transparency, but *the practice of CT does not ensure such a claim is necessarily valid, as details of tender review and assessment are rarely published, and claims of cost savings cannot be verified.*

- ***These issues are even worse under a ZEB Transition***

Hensher, D.A. (2021) The compelling case for returning to or continuing with negotiated contracts under the transition to a green fleet *Transportation Research Part A*, 154, 255-269.
(see also https://www.ciltinternational.org/education-development/publications-articles/publication/the-compelling-case-for-returning-to-or-continuing-with-negotiated-contracts-under-the-transition-to-a-green-fleet-in-australia/)

Comments on Regulatory Framework

- Independent of the chosen procurement model, some specific underlying conditions are assumed in the comparisons presented. In particular, we assume:
  - a mature market of competent private operators (YES) who are available to both tender if required, or to purchase through acquisition an incumbent if the opportunity arises.
  - that the regulator has the skills (??) to ensure that all alternative procurement processes can be undertaken efficiently, and
  - that suitable monitoring of performance (often poor) is in place as a credible threat to non-compliance with the terms of a contract.
  - There is a commitment to building a trusting partnership (very much lacking in many jurisdictions but has not always been so)

Final Comment on Current Contracts

- The evidence suggests
  - that if an incumbent has built up a strong trusting partnership with the regulator (with arms length commercial and legal obligations), and
  - is subject to stringent actionable benchmarked obligation,
  - then the NPBC ***outcome is likely to deliver (in the long run) better value for money to society***

An important reminder:
The broad objective(s) of government might best be summarized as follows: to provide a good quality, integrated and continually improving transit service for a fair price, with reasonable return to operators that gives value for money under a regime of continuity. From an operator's point of view, there should be no argument with this, provided there is industry buy-in and confidence in the procurement and continuing funding procedures.

Hensher, D.A. (2007) Delivering Value for Money to Government through Efficient and Effective Public Transit Service Continuity: Some Thoughts, (including commentary of 8 respondents) *Transport Reviews* , 27 (4), 411-448.

Recommendations: A reform agenda for the new decade

1. **Coordinated industry voice** on preferred contract design/management specifications
2. **Certainty and transparency** from government on contracting model and tender evaluations
3. **Maintain value proposition** of bus and coach operators—control key risks and assets
4. **Diversify business model** of operators—explore new revenue streams and growth opportunities (e.g., MaaS)
5. **Clarity of purpose** on trial of new technologies—e.g., on demand, autonomous, electric
6. **Bigger picture thinking** amongst policymakers—from mode-specific to whole-of-mobility
7. **Ensure resilience** of service offering and financial viability of operators—important in case of 'black swan' events
8. **Ensure diverse governance** of the workforce—includes injecting talent from different industries and engaging academia through Thredbo and other mechanisms (BIC)

Agreement on a Quality Partnership

Collaborative Contracts: Why not?
Bring back Trust in Partnerships

- An essential part of unlocking greater service delivery productivity in Australia is increasing the government's appetite for risk by using collaborative contracting.
- How risks are identified and allocated between parties during procurement and contracting **have been ranked** as the greatest threats to market capacity.
- How risks are allocated and managed is at the core of the legal and commercial relationship established by its contract.
- Collaborative contracts are structured around a relationship of mutual trust and cooperation between contracted parties, rather than an adversarial one.
- They enable parties to share risks fairly and sustainably – and so share any savings or overspends.
- Using standardised collaborative contracts written in plain English for government contracts would reduce delays and expenses from contract disputes, and support more efficient procurement processes.

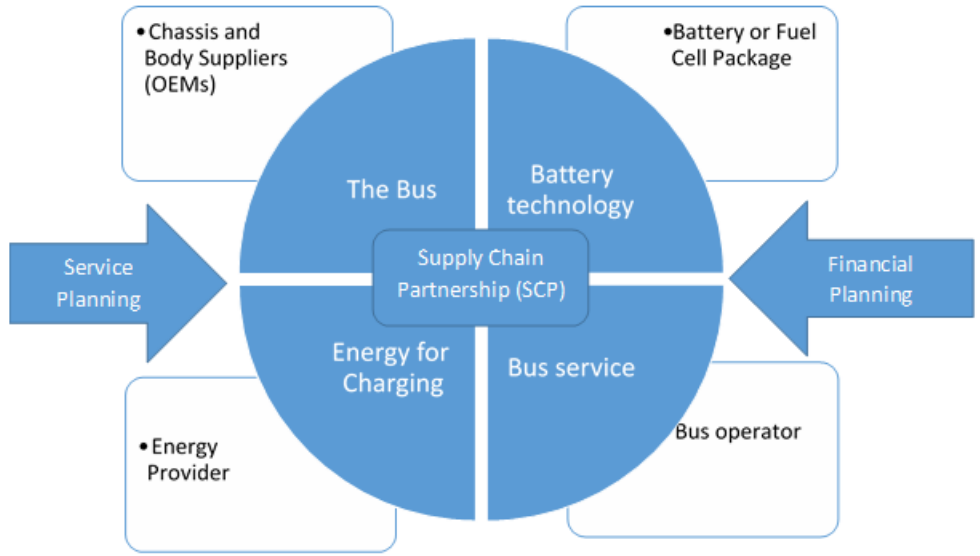
The Big 5 characteristics

- Goals
- Trust & Respect
- A seat at the table
- Time
- Renewal

A new procurement model (Tendered or Negotiated)

A Supply Chain representation of the Procurement model for Bus Contracts: Collaborative Contracting © David A Hensher

Supply Chain Partnership (SCP) – Similar to the idea of PPPs.



Hensher, D.A. (2021) The compelling case for returning to or continuing with negotiated contracts under the transition to a green fleet *Transportation Research Part A*, 154, 255-269.

Hensher, D.A. (2022) Is it time for a new bus contract procurement model under a zero-emissions bus setting? *Transportation Research Part A*, 163, 80-87.

Hensher, D.A., Wei, E. and Balbontin, C. (2022) Comparative Assessment of zero emission electric and hydrogen buses in Australia, *Transportation Research Part D, 102, 103130.*

Hensher, D.A. (2024) The greening of the passenger car might not deliver such positive sustainability news – so what do we have to do? *Transportation Research Part A*, 179, 103392.

A Modern Sleek Bus or a Tram? What is the difference?

The design and comfort of buses - why not set the standard as the train or better?

Finally, 5 powerful comments

- The bus sector tends to focus relatively too much on operational issues and less on strategy and positioning, especially at State level where most decisions are made.
  - Lobbying at Federal level often does not translate down to effective State impact.
- The need for smarter impactful promotion is crucial.
  - For example: the bus as a "green" mode as we move towards Electric and Hydrogen options and with electricity generation from renewables
  - Think of lifecycle costs and not just end-use costs
- The Bus sector is unduly conservative and often far too reactive than pro-active (certainly cf. rail) – possibly too dependent on subsidy (gross cost contracts).
- We see plenty of managers, a few leaders and no champions with rare exceptions like Brisbane Buses.
  - It took a champion to make the Brisbane Busway happen.
- The challenge is to continue, through evidence, to reinforce this position and hopefully to move away from un- and mis-informed blind commitment to sensible outcome-based decision making.

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Workshop 5: Governing emerging mobility services including rethinking MaaS

Workshop 6: Micromobility movement in urban transport

Workshop 7a,b: Sustainable transport systems designed to meet the needs of both users and residents

What a meaningful partnership means for public transport

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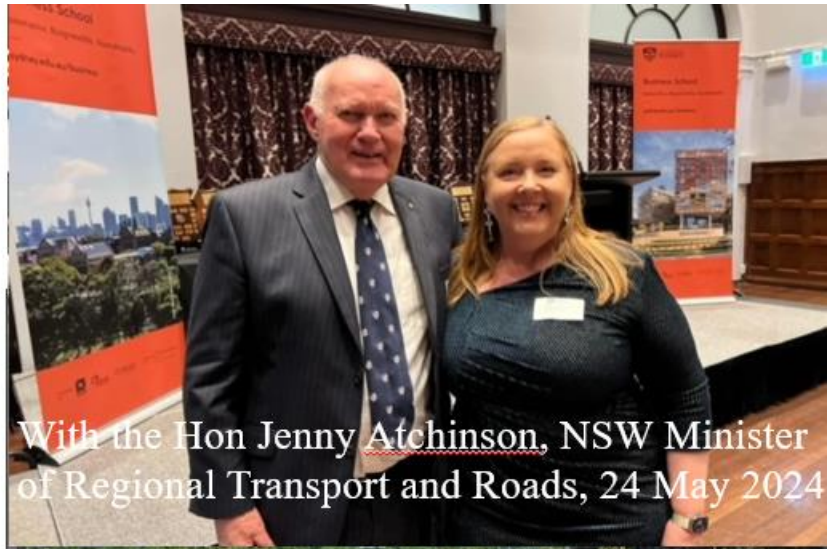
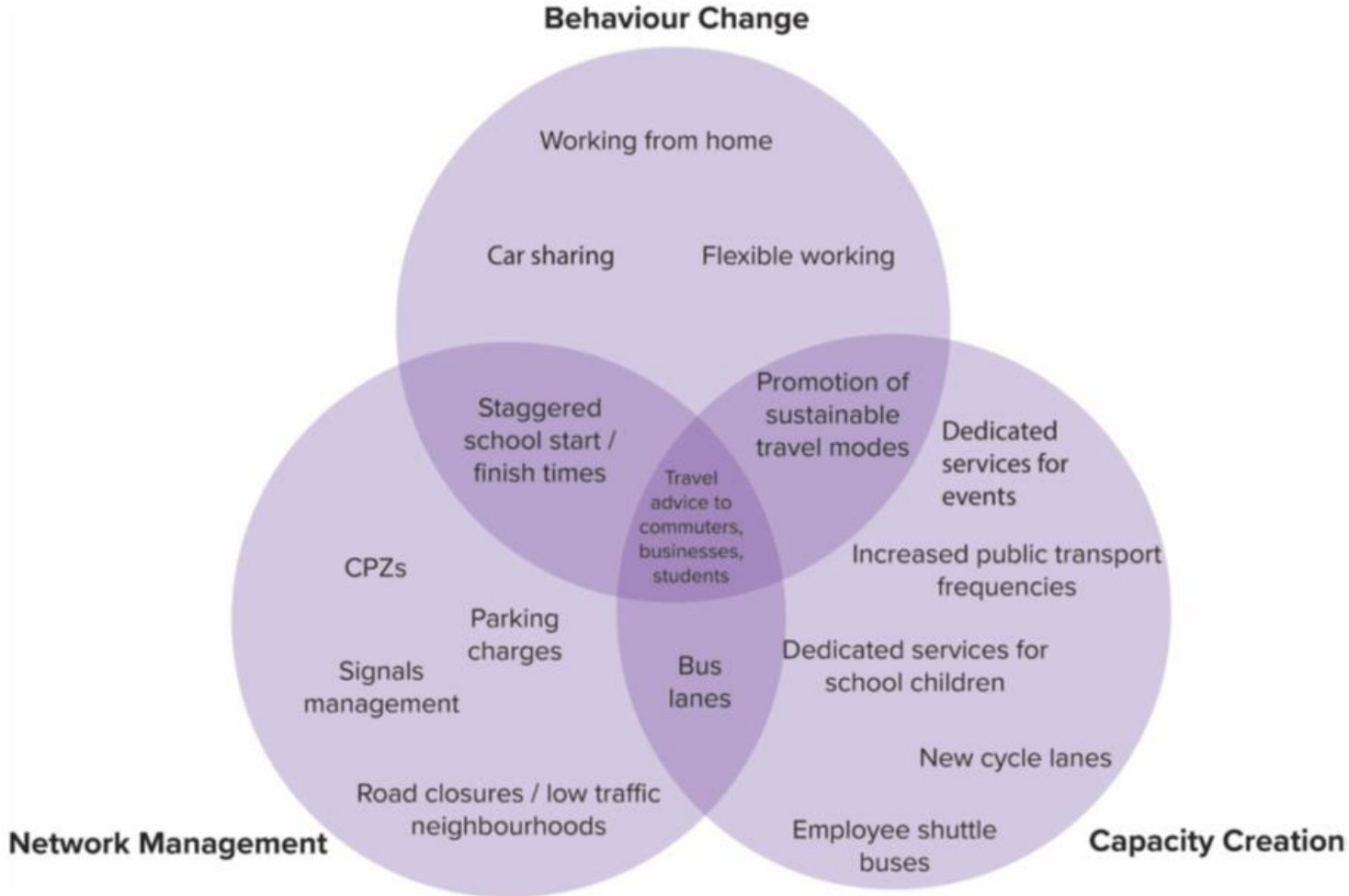


With the Hon Jenny Atchinson, NSW Minister of Regional Transport and Roads, 24 May 2024

Thredbo 1, May 1989

"It would be easy to attribute this solely to brilliant management, but more realistic to acknowledge that a number of factors has combined to create the necessary environment. Government policy at national level has supported an energetic and creative approach to the problems. The desire of the management to ensure that the product was demand-led enabled us to develop a strong demand, and need of the Trade Union to ensure that the maximum number of jobs was created at a time of high unemployment secured their co-operation." Harry Blundred, Devon General Ltd, UK

Structural Change and Policy Initiatives that can Impact Public Transport



Simplified Diagram on Governance Framework Options in 2nd generation MaaS © ITLS