# UNIVERSITY OF KWAZULU-NATAL

# A STUDY OF THE PUBLIC-PRIVATE PARTNERSHIP BETWEEN THE DURBAN METROPOLITAN POLICE SERVICE AND THE VULULEKA-TMT CONSORTIUM

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**by**

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**DECLARATION**

I, Lawrence Christopher Chetty, declare that:

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ii. This case study has not been submitted for any degree or examination at any other university.
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Signature:

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**Date: 21 February, 2011**

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**ACRONYMS**

| | |
|---|---|
| DBSA | Development Bank of Southern Africa |
| DMPS | Durban Metropolitan Police Service |
| COSATU | Congress of South African Trade Unions |
| GEAR | Growth, Economic, and Redistribution |
| GDP | Gross Domestic Product |
| IMATU | Integrated Municipal Trade Union |
| KZN | KwaZulu-Natal |
| MSP | Municipal Service Partnership |
| PPP | Public-Private Partnership |
| RDP | Reconstruction and Development Programme |
| SAMWU | South African Municipal Workers Union |
| SOE | State Owned Enterprises |
| SACP | South African Communist Party |
| TMT | Transport Management and Training Specialists |

## DEFINITIONS

### Gross Domestic Product

The measure of an economy being the total market values of goods and services produced by workers and capital within a nation's borders during a given period (usually 1 year).

### Key Performance Indicators

Measures developed under a performance management regime to indicate how well specified performance targets are being realised.

### Logistics Cost

The cost associated with the transportation of goods such as road levies, toll fees and labour costs.

### Privatisation

Privatisation is described as:

- the sale of a public corporation to the private sector *in full*, and
- the handing over of a public sector activity to the private sector which means government withdraws completely from that activity.

### Public-Private Partnership (PPP)

Public-Private Partnership (PPP) can be described as a more or less sustainable co-operation between public and private actors in which joint products and/or services are developed and in which risks, costs and profits are shared (Klijn & Teisman, 2000: 85).

**Restructuring**

With reference to public corporations, restructuring relates to substantial changes that affects ownership, accountability, function and location in the public sector. This relates to joint ventures, strategic alliances, rules on sharing running costs and financing between the public and private sector.

**State-owned enterprises**

Such enterprises are also referred to as public enterprises or para-statals where the state is the main or sole shareholder.

**Transport costs**

Costs consisting of items such as fuel, lubricants, tyres, parts and so on.

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## ABSTRACT

Road and rail are the predominant means of freight transport in South Africa and generally contribute to approximately 99% of all logistics costs. While there exists a solid infrastructure of rail and road transportation, and with the latter being a cheaper option, the former is still the most preferred mode. This places tremendous pressure on South Africa's rapidly deteriorating roads network. Unfortunately the downside to this popularity is the enormous costs incurred in repairing the roads and the principal wrongdoers are the commercial carriers, especially heavy vehicles. The problem is exacerbated by overloaded vehicles intending to maximise profits. Law enforcement of this particular problem in the Durban Metropolitan region has been ineffective due to a lack of skilled personnel and proper equipment. A joint venture in the form of a public-private partnership (PPP) between the Durban Metropolitan Police Service and the Vululeka-TMT Consortium was created to combat this problem. There are various benefits in general where PPPs exist, such as private sector efficiencies, innovation and specialisation. However endemic to this PPP was the addition of accountability resulting in increased productivity and a 'watchdog' situation that certainly aided in the prevention of corruption.

# 1. INTRODUCTION

Globalisation and its concomitant economic reform and transformational force have compelled many countries around the world to rethink and revise their management approaches. South Africa (SA) is no exception. The constitutional change that led to the advent of democracy in 1994 directly impacted the public sector and led to the redefinition of public management with respect to service delivery, administrative functioning and reprioritisation of the strategic intent (Kroukamp, 2004: 17). The new government was faced with a huge debt and high deficits caused by the previous regime. This dilemma also included the servicing of a large all-inclusive population, albeit with limited resources driven by the growing demand for increased services and improvement in value and efficiency, against the certainty of financial and managerial constraints faced by all spheres of government (www.mbendi.co.za).

Since coming into power, the government of national unity pursued a social-welfare influenced policy known as the Reconstruction and Development Programme (RDP). Amongst other things, this policy provides for the restructuring of state assets, including state-owned enterprises (SOEs). Around this time, the first sign of a pervasive globalisation wave was starting to affect the economy. In 1996, government adopted the globalisation-friendly Growth, Economic, and Redistribution (GEAR) policy to run concurrently with the RDP. A trimming-down exercise had become paramount. A slimmer, more effective government would be able to divert its much required but scarce resources toward areas that necessitated a greater need.

The strategy of privatising or restructuring of public sector departments became an issue of national concern and not without controversy. While the critics, including governments alliance partner the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP), called it privatisation, government insisted that their aim was to form public-private partnerships (PPP) with the private sector by restructuring certain state-owned assets. Government would either sell off part of its assets to a private entity while remaining the major shareholder in the partnership, or sell the entire entity to the private sector. This would result in greater efficiency levels, equitable services of acceptable quality; fair pricing structures, injection of higher skills, technology and finances, and a more productive workforce.

Being a new government had its limitations. Economy, efficiency and effectiveness in government institutions needed re-dress. Wastage of scarce resources would inevitably place undue strain on a newly-restructured economy being managed by a government still in its infancy. A redefined and politicised stakeholder base consisting of its citizens, public servants, non-governmental groups and elected representatives, added a new dimension and increased expectations. Key issues that therefore needed consideration were good governance, efficiency, consumer protection, stakeholder involvement, proper risk management, and strict performance monitoring.

## 2. BACKGROUND AND CONTEXT OF CASE STUDY

KwaZulu-Natal (KZN) is the most populous province in South Africa. It is home to over 9 million people, accounting for 21% of South Africa's population. In terms of South Africa's Gross Domestic Product (GDP), KZN generated 15% of total output in 2001 and rates as the second largest contributor to South Africa's GDP together with the Western Cape, but is well below the leading province, Gauteng, which accounts for 40% of South Africa's GDP. Being southern Africa's trade gateway to the world, its economic performance has been impressive in the post-1994 period, with growth rates above the national level. Given its coastal location and resource endowments, it is home to South Africa's most important logistics platform for trade (Altman, 2002: 21).

The growth in transport and communication services especially is related to the dominance of logistics services in KZN, particularly around its two large ports; Durban and Richards Bay. The growth of this sector is largely attributed to the higher volumes of trade as a consequence of trade liberalisation. For example, exports from the manufacturing sector have increased from approximately R20-billion in 1993 to nearly R45-billion in 2001 (DTI, 2002: 45).

Road and rail are the predominant means of freight transport in South Africa and generally contribute to approximately 99% of all logistics costs (King & Ittmann, 2009: 24). While there exists a solid infrastructure of rail, and road transportation, the latter is the most preferred mode. This preferred mode places tremendous pressure on South Africa's roads network. Rail transportation is comparatively cheaper than road; however, additional costs incurred include interim storage fees, transportation costs from the rail storage area to the actual destination, and invariably, time delays. Rail transportation also takes longer to transport an article from point of departure to point of destination than its road counterpart. Additional risks include in-transit theft, and higher incidence of damage to goods.

The resultant impact on transport costs are factors such as logistics costs and inventory carrying costs, the cost of storing goods in order to satisfy demand. One of the contributors to increased inventory costs is the long transport distances in South Africa, which not only lead to higher than normal transport costs but also add to the time that inventory is delayed.

Another indirect cost to consider is vehicle maintenance. The potential effects that worsening road conditions can have on the broader transport costs are enormous; these include the vehicles tyres, suspension and mechanical systems.

Road maintenance costs increases as the volume of heavy vehicles increase. Damage to the road surface is further heightened by increased overloading. Not all of the offenders can be prosecuted due to enforcement limitations such as fewer police personnel on duty, not enough vehicles, and infrastructure such as equipment being unavailable.

Damaged roads in turn affect other road users and all of the above costs invariably increase the cost of goods or service provision, which ultimately affects the municipal customer.

Another factor for consideration is the economy. In South Africa, approximately 10 000 lives are lost annually due to road accidents, costing the country's economy an estimated R13.5 billion per annum. Not only do excessively loaded vehicles pose an increased safety risk on the road, they also raise the rate of deterioration of the road infrastructure and increase road maintenance costs, which in turn makes many of the roads dangerous for travel by other road users (CSIR, 2005: i).

Overloading also results in unjust competition between those operators that overload and those that function within the legal limits. The annual destruction to the network of provincial and national roads caused by illegal loading was estimated in 1995 to be R450 million per annum. At today's prices, this figure would be between R700 and R800 million per annum. However, this figure is now estimated to be far too low, as recent studies have shown that the South African heavy vehicle fleet has transformed over the past few years and now consists of an increased proportion of high payload vehicles, than in the past. In general, road conditions have declined to the extent that minimum overloading will still result in costly repairs. Overload management strategies are enforced by road and traffic law enforcement institutions around the country to overcome this serious economic dilemma. This can be quite costly and such strategies and programmes need to be appraised on a life-cycle cost basis (CSIR, 2005: i).

## 3. LEGISLATIVE FRAMEWORK REGULATING PUBLIC-PRIVATE PARTNERSHIPS (PPPs)

An inter-developmental task team, appointed by the South African cabinet in April 1997, was mandated to develop policies, legislation and institutional reforms that will facilitate an environment within which PPPs can operate and flourish. Pioneering PPP projects were undertaken between 1997 to 2000 by the SA National Roads Agency for the N3 and N4 toll roads, by the Departments of Public Works and Correctional Services for two maximum security prisons; by two municipalities for water services, and by SA National Parks for tourism concessions. Early lessons drawn from these projects and from international practice led to the endorsement of a Strategic Framework for PPPs by Cabinet in December 1999; in April 2000, Treasury Regulations for PPPs were first issued in terms of the Public Finance Management Act 1 of 1999 (http://www.ppp.gov.za).

In March 2004, the National Treasury published the Standardised PPP Provisions, also known as the 'Standardisation'. The objectives of this Standardisation included the following:

- *the promotion of a common understanding of the technical, operational and financial risks that are typically encountered in PPPs;*
- *a common understanding of how such risks must be transferred or shared among the parties involved in the delivery of PPPs;*
- *a consistent approach to risk transfer, risk sharing and value for money across PPPs falling within the same sector, and*
- *a reduction of the time and cost of negotiation of the parties involved in a PPP* (National Treasury, 2004: 7).

Municipal PPPs are governed in terms of the Municipal Finance Management Act (Act 53 of 2003). The regulations governing PPPs became effective in April 2004 and centre around two key principles: that any agreement between a private party and a municipality must provide value for money and be affordable to the municipality.

## 4. RATIONALE OF CASE STUDY

South Africa is regarded as a leader in the establishment of laws, policies and systems for public private partnerships. Our record in providing public service through PPPs in recent years has been enhanced, and our PPP project pipeline continues to grow, both in numbers and in the innovative value-for-money solutions achieved (http://www.ppp.gov.za).

This innovation is evident in the publication of the worlds first *PPP Manual* by the National Treasury. It is a systematic guideline that facilitates public and private parties through the phases of the regulated PPP project cycle for all levels of government, breaking down policy and providing procedural clarity in the process. It combines South African project experience and international best practice, without infringing on the jurisdiction of accounting officers and authorities. It sets strict risk-assessment standards enabling government to make affordable project choices that best leverage private investment for effective and efficient public service delivery. More importantly, the *PPP Manual* contains a code that will contribute to the achievement of broad-based black economic empowerment in PPPs, not only in the impartiality and management of the contracted private parties, but in their subcontracting and in the projects' local socio-economic impacts. Together with the *Standardised PPP Provisions*, the *PPP Manual* is a powerful means in the ongoing quest to tackle poverty and grow the South African economy. The transfer of financial and operating risk to a private partner through a PPP provides an affordable, cost-effective answer for effective and efficient service delivery (http://www.ppp.gov.za).

## 4.1 WHAT IS A PUBLIC-PRIVATE PARTNERSHIP (PPP)?

A PPP is a contract between a public sector institution or municipality and a private party, in which the private party assumes substantial financial, technical and operational risks of a project (National Treasury online: 2010). PPPs brings the efficiency of business to public service delivery and as mentioned above, avoided the politically controversial aspects of full privatisation. PPPs permits the government to retain ownership while binding the private sector to perform a specific task such as building, maintaining and operating infrastructure like roads and ports, or providing basic services like water and electricity. Both entities stand to gain from the contractual agreement. (SAIIA online: http://www.saiia.org.za/)

The increased use of PPPs reflect government's desire to develop and sustain close working relationships with the external market and confirms the realisation that public authorities and private companies should enter into a partnership for the management of safe, regular and reliable public services for its citizens (Domberger & Fernandez, 1999: 1).

By bringing in private sector investors who contribute their own capital, skills and experience, the public sector profits through commercial discipline, innovation and efficiencies. The result is not only increased quality of services, but also better value for money. The benchmark for success is therefore whether publicly funded services deliver their core purpose. The following key indicators can be identified as:

- Output-based conditions, where services are specified as outputs and payment is linked to the quality and timing of their delivery;
- The long-term contracts that will enable the private sector partner to develop different approaches to service delivery, to focus on life-cycle costing, and to recover the initial capital investment;
- Performance measurement and incentives, which will contribute to

securing the value for money proposition promised by the original deal;

- Competition, which makes it easier to express that value for money has been realised, and
- Private sector organisational skills, distribution of efficiencies and innovation in the financing, construction and operation of the total project.

Two types of PPPs are specifically defined in the South African legislation:

- *where the private party performs an institutional/municipal function, and*
- *where the private party acquires the use of state/municipal property for its own commercial purposes. A PPP may also be a hybrid of these types* (http://www.ppp.gov.za).

The definition clarifies that:

- A PPP is not a simple outsourcing of task where considerable financial, technical and operational risk is preserved by the institution;
- A PPP is not a bequest by a private party for a public good;
- A PPP is not the privatisation or releasing of state assets and/or liabilities
- A PPP is not the creation of a state-owned enterprise for financial gain, and
- A PPP is not a vehicle for borrowing by the state.

Payment in any situation entails one of three mechanisms:

- the institution paying the private party for the delivery of the service, or
- the private party retrieving fees or charges from users of the service, or
- a combination of the above (www.treasury.gov.za).

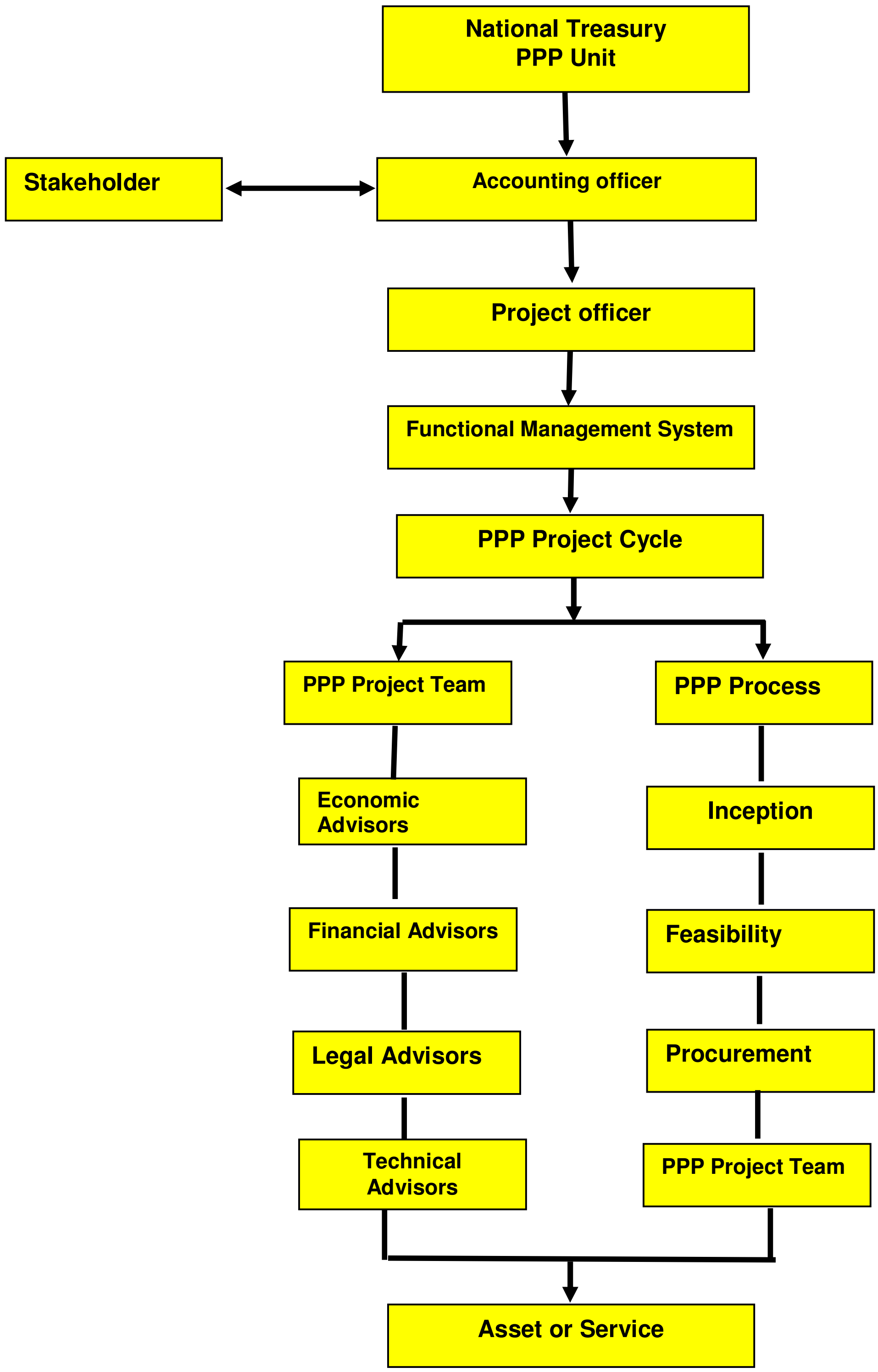


Figure 1.1: A Generic Model of PPP (Source: South African National Treasury)

The PPP model in Figure 1.1 is regulated by both the Public Finance Management Act (1999) and the Municipal Finance Management Act (2003). Currently, the National Treasury has developed a common PPP project life cycle for national, provincial and local governments and these PPP regulations guide the implementation of PPP projects. This existing model follows the approach developed by Grimsey and Lewis in 2004 (www.cib2007.com).

The PPP project cycle is the guide for the PPP process and the Manual. The project cycle covers the two most important periods of a PPP: the Preparation Period and the Project Term. The PPP Preparation Period covers the Inception, Feasibility Study and Procurement phases of the project cycle and concludes with the signing of the PPP agreement. The Project Term covers the Development, Delivery and Exit phases.

*National Treasury's PPP Manual* is primarily concerned with the Project Preparation phase. The PPP project cycle clearly specifies when approvals are required and which modules of the *PPP Manual* are pertinent for the distinct phases. The *PPP Manual* also gives direction on managing a PPP agreement, auditing PPPs, accounting treatment for PPPs and project finance.

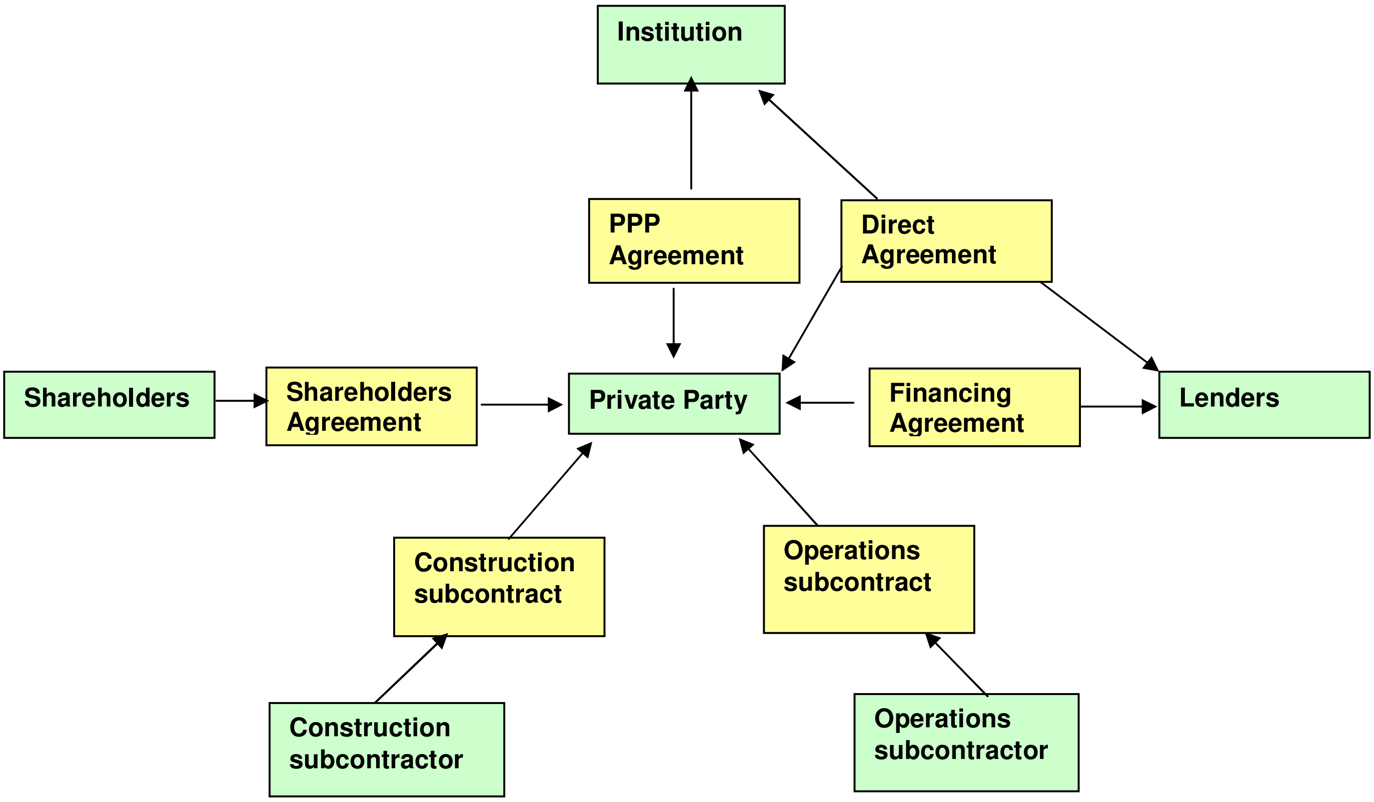


Figure 1.2: A Generic PPP Structure (Source: South African National Treasury)

The above assumptions indicate the basic funding composition for projects that are funded with limited-recourse obligation, that is, on a project finance basis, and are typical for projects that are very capital intensive and therefore involve funding sources with relatively modest costs. A project finance funding framework, however, will not be suitable for all PPPs. A different funding framework may be more suitable in projects which are not exceedingly capital intensive such as through capital contributions by institutions and/or other public sector bodies (www.treasury.gov.za).

According to Nyagwachi & Smallwood (2008: 4), the Treasury regulations which give policy direction for the execution does not make any reference to the following facets:

- Project management proficiency levels required for both the accounting officer, institution and officer accountable for implementing the PPP project;
- Selection of the project political champion;
- Appointment of a PPP project manager;
- Appointment of an autonomous PPP project auditor;
- The founding of the project management office and systems, and
- PPP education and training.

According to Browne, Nemoto, Visser and Whiteing (www.dbsa.org), the three fundamental reasons for taking on a PPP are as follows:

- *Efficiency* – optimal use of resources through operational competence, market-related incentives and rivalry,
- *Integration* – Effective convergence of public and private sector philosophies will produce benefits to both parties and the public.
- *Accountability* – Being able to clearly create PPPs to be accountable for their contracted delivery goals. This is normally accomplished by means of a process of regulatory oversight, a pre-identified monitoring and review process and the use of incentives and disincentives to encourage particular objectives in delivery that will provide a robust instrument of public accountability.

PPPs are viewed as an effective mechanism accessible to the public sector to enhance the provision of public infrastructure and service delivery. It must certainly not be viewed as a panacea for all of government's delivery problems. For PPPs to be successful in meeting service delivery objectives, they ought to be integrated in an inclusive strategic plan. They should be implemented in the regions where the greatest impact on service delivery is required. Clarity as to their role and function within this broader strategic vision is paramount for PPPs to be effective (www.dbsa.org). However, the key considerations for the construction of any public private partnership remain:

- Clarity of the objective of the project.
- Clarity of the role, responsibilities and input of government.
- Clarity of the role, responsibilities and input of the private sector.
- Clarity of the appropriate apportionment of risk.

Against this background, five usages of PPPs will be discussed.

## 4.2 USAGES OF PUBLIC-PRIVATE PARTNERSHIPS

There are at least five distinctive usages of the term *Public-Private Partnerships* (Kroukamp, 2004: 24-26):

### 4.2.1 PPPs AS MANAGEMENT REFORM

Partnerships as management reform are viewed as an innovative instrument that will change the way government operates, largely by leveraging off the discipline of the market. This requires a strong collaborative partnership between public and private managers; however, the collaboration reminds one more of a mentoring relationship than a cooperative undertaking. If successful, they will become increasingly entrepreneurial and adaptable, concentrating more on deal making and attracting capital instead of administrative procedures (Gratias & Boyd, http://www.cyberus.ca/~ppp/ccmd.html).

### 4.2.2 PPPs AS PROBLEM CONVERSION

PPPs from this standpoint are viewed not as a tool for transforming managerial practices, but as a universal fix for most problems regarding to public service delivery. Public sector managers refocus on structuring the problems they face in a way that will attract profit-seeking associates, thus inducing others to perform the tasks of government for less money. Consequently, private companies bring their knowledge, expertise and capital, while government eases the regulatory and tax burdens. The idea is therefore not to alter the public service ethic, or to revolutionise the way managers manage (Linder, 1999: 44).

### 4.2.3 PPPs AS MORAL REGENERATION

While the above perspectives depict partnerships as a medium for bringing government closer to the private sector, a more subtle distinction becomes noticeable when one reflects on the effects that partnerships have on the personnel involved. Inherent are features of government's obligation that convey official sanction, entitlement or worth, as opposed to issues mediated by money. This has a salutary moral effect on them. Incentives such as patriotism, self-reliance, initiative integrity and prudence, the so-called *non-monetary* incentives, can reinforce their character, and arouse their creative problem-solving skills (Bourgault & Gusella, 2000: 4).

### 4.2.4 PPPs AS RISK SHIFTING

The use of partnerships for risk shifting depicts partnering as a way of responding to monetary stringency on the part of government. Government's intention is to obtain private interests with the promise of profit potential, thus private investors accept the financial risks of ownership when the projects are complete. In effect, government is exhorted to do more with less.

### 4.2.5 PPPs AS POWER SHARING

Partnerships as power sharing can change business-government collaboration in fundamental ways. *Firstly,* a culture of cooperation and trust is substituted for an adversarial relationship endemic to command-and-control regulation. *Secondly,* most relationships between partners involve some mutually beneficial allotment of responsibility, knowledge or risk. In nearly all instances, each party contributes something of significance to be invested or exchanged. *Thirdly,* there is an anticipation of give-and-take among the partners, negotiating differences that were otherwise dealt with through legal avenues. Through power sharing, regulations can be made less rigid, leading to, *inter alia,* cost savings and technical assistance.

## 4.3 BENEFITS OF PPPs

- They are seen as "value for money" rather than reductions in debt.
- They are considered a contributor to growth, expansion and service delivery and as a vehicle to enhance local investment.
- They are viewed as a fundamental mechanism accessible to the public sector to improve the delivery of public infrastructure and services.
- They provide a formidable mechanism by making available facilities which continue in the public interest.
- The private sector is likely to be more innovative in the use and management of assets than the public sector and this reduces the cost requirement and increases competition.
- Infrastructural specification and construction is more efficient compared to the public sector.
- Advancing the completion of high priority projects by procuring services using innovative methods.
- The private sector provides greater benefits regarding the provision of specialised management know-how especially where large and complex programmes are concerned.
- They enable the delivery of innovative technology developed by private entities.
- They allow for the reduction in the size of public agencies and the substitution of private sector resources and personnel.
- PPPs have far-reaching broad-based BEE potential, creating an increased demand for black professionals as business advisors to both institutions and private parties in PPPs.
- Return on equity to the private party is competitive where risk is properly assumed.
- PPPs create jobs (www.dbsa.org).

### 4.4 DISADVANTAGES OF PPPs

- PPPs with inadequate business experience invariably increase the risk profile and lead to a fear of the unknown.
- Public sector entities lack fall short of the skills needed to manage PPPs, and public officials are prone to resist private sector involvement in trepidation surrounding loss of control, possible staff reduction or potential risk of failure.
- A lack of vision can lead to PPPs failing to meet the required service delivery standards.
- The PPP mode may not be appropriate for all delivery purposes and private entity involvement may be included in other delivery modes without necessarily needing a full-scale inclusive buy-out initiative.
- The reputation of PPPs and the concomitant delivery process are viewed in a bad light as in most instances PPPs raise tariffs to meet bigger spending needs for infrastructure and delivery services, notwithstanding a larger customer base and the fact that the customer will benefit from more efficient services (www.dbsa.org).

## 5. GENERAL CHALLENGES

PPPs have become an established collaboration between both public and private entities. Some of the common lessons emerging out of the partnership are listed below:

- There is no certainty regarding the time it takes to establish the partnership and yield results, if any.
- Objectives envisioned by policy-makers via the partnership must be clear and attainable. Misdirected objectives lead to wastage.
- Exploitation of the usual efficiency gains, proficiency and technology is paramount when developing the PPP model.

- It is critical that appropriate incentivised delivery schemes for the private sector are outlined in the contract right from the beginning.
- The PPP, being essentially a business collaboration, is also a learning process. Failure of some PPPs is unavoidable (www.dbsa.org).

## 6. ECONOMIC CORRIDORS

Gauteng is the economic hub of South Africa specifically and Africa in general. To achieve growth strategy, South Africa's most logical and practical solution is to prioritise transport corridors. Of South Africa's current fourteen corridors, five key corridors have been identified as the focus for immediate attention and investment. These five carry eighty percent of the freight to South Africa's ports and harbours. They are the KwaZulu-Natal Corridor, Richards Bay Corridor, Sishen-Saldanha Corridor, Western Cape Corridor and the Ngqura Corridor near Port Elizabeth (The Freelibrary Online, 2010). Even though transport corridors have existed for centuries, only in the preceding decades has their intrinsic value been acknowledged and, more importantly, the potential and value they can add in terms of economic growth as a mode of delivery and communication.

The three main economic corridors for Durban are:

- The Gauteng-Durban Corridor, including Johannesburg City Deep, Harrismith Hub and Durban Dube Trade Port.
- The Richards Bay Corridor, which stretches from Durban to the North Coast of KZN.
- The South Coast Corridor, which stretches from Durban to the Eastern Cape.

"Durban has become the de facto coastal 'gateway' to Southern Africa and Africa," said Professor Bonke Dumisa, Chief Executive of the Durban Chamber of Commerce and Industry. "It is the major port city on the African continent and is ideally located to access the international shipping routes between East and

West" (http://sharondavis.co.za). The Port of Durban is a bustling hub of economic activity and the biggest of South Africa's seven harbours. It manages in excess of 31.4 million tons of cargo per annum, with a value surpassing R100 billion per annum, which is approximately 65 percent of the value of all cargo passing through South African ports. In excess of R3 billion has been reserved for investment in Durban Port's infrastructure since 2002 for expansion and development, which includes broadening the harbour mouth and the building of cargo terminals (http://sharondavis.co.za).

Durban, the southern hemisphere's busiest port, is intended to become one of the world's largest container hubbing harbours. Globally, in marine terms, Durban is the heart of the southern hemisphere's maritime universe (Tom, 2009: 26). Given its commercial importance to important markets such as China, India, the Americas and Europe, Transnet, the para-statal that owns the harbour, is investing large sums of money to expand capacity, upgrade and promote the port not only as a key destination but for trans-shipment purposes.

## 7. DURBAN METROPOLITAN POLICE PPP AND THE CHALLENGES FACED

The International Labour Organisation estimated in 1995, that globally, more than 100 million people were working in state-owned enterprises, a number of which were in the process of evolving into PPPs. The report observed that while employers as well as policy legislators have been persuaded of the potential benefits from PPPs, trade unions have been primarily concerned about the erosion of job security and acquired constitutional rights (www.mbendi.co.za).

Unlike the private sector, public sector labour unions in South Africa are more vociferous in their approach. They tend to play a more participative and sometimes aggressive role than their private sector counterparts. Two major unions dominate the labour environment within the Durban Metropolitan Police Service. They are the South African Municipal Workers Union (SAMWU) and the Integrated Municipal Trade Union (IMATU). Membership within the Durban

Metropolitan Police Service is virtually split between these two unions. SAMWU and IMATU are considered major role-players within the eThekwini Council's policy-making and implementation process.

SAMWU, who are aligned with the ANC's tripartite political partner, Congress of South African Trade Unions (COSATU), have long been opposed in principle to private sector involvement because they fear that restructuring will, *inter alia,* threaten their interests and the workers' conditions of employment. The unions have expressed concern that their members may lose employment, have to be re-deployed somewhere else within the public service, transferred to a new company, lose job prospects and/or be subjected to different work processes. In addition, unions have also raised reservations about the future of their negotiating rights, their rights to representation in the work place in dealings with the private organisations and in wage negotiations. The alleged impact of PPPs on job security and to a lesser degree on bargaining rights, has increased opposition to PPPs (www.mbendi.co.za).

## 8. OPERATION OF THE DURBAN METROPOLITAN POLICE WEIGHBRIDGE PPP

Law enforcement ought to have, *inter alia,* the effect of reducing, eliminating, and/or providing alternatives to a criminal problem or issue. The scrutinisation and enforcement of errant freight vehicles on Durban's main roads and especially through its main economic corridors, is necessary for the following reasons:

- Primarily to provide a safe and secure environment for all road users;
- To prevent road damage and consequent loss to other road users, and
- To ensure minimal inconvenience by facilitating free traffic flow.

Historically, weighing of heavy vehicles in the Durban central hub has been the sole domain of the KZN Provincial Road Traffic Inspectorate (KZNRTI), as it was the only organisation that owned and operated weighing facilities. In order not to duplicate patrolling services within the Durban Metropolitan area, the KZNRTI patrols all of the national and main routes bordering the Durban Metropolitan area, while the Durban Metropolitan Police Service concentrates on the national, main and secondary routes within its area of jurisdiction. It must be noted that the KZNRTI has full jurisdictional authority over the entire KZN province, including the Durban Metropolitan area.

The DMPS forms one of the Emergency Service units within the eThekwini Metropolitan Council. Bayhead Road is a secondary road within the Durban Metropolitan area, and more importantly is a key point of entry and exit for all freight vehicles entering and leaving the Durban Harbour. The road has received numerous small upgrades over the years but since 2009, vehicular flow has been greatly increased with the completion of the Khangela Bridge that facilitates traffic across the M4 Freeway more rapidly.

Until November 2000, the DMPS enforced weighing offences by escorting freight vehicles to the Umbilo KZNRTI facilities (outside Clairwood) for weighing. This placed added pressure on the capacity of the existing facility and became a source of frustration to DMPS officers. The eThekwini Municipality entered into a joint venture with Vululeka-TMT Consortium, a private organisation specialising in weighbridge manning and management systems and built a dedicated weighbridge on Bayhead Road which opened for business in November 2000.

The facility operated on a three shift, 24 hour basis and comprised 4 full-time Consortium staff per shift responsible for the administration of the weighbridge, and 6 full time police officers per shift responsible for all legislated enforcement activities. A roving supervisor was responsible for the Consortium staff and a police sergeant supervised the DMPS police officers.

The DMPS responsibilities included:

- Identifying suspected errant vehicles;
- Pulling the vehicles over for inspection and weighing;
- Scrutinising the driver and his/her official documents such as drivers licence, professional driving permit, freight documentation, and
- Enforcement of any offences ascertained.

The Consortium's responsibilities included:

- Operating the weighing equipment;
- Ensuring that all the weighbridge equipment and facilities, including the communication control centre, were in working order;
- Coordinating all documentation pertaining to administration and enforcement, and
- Compilation of statistical and administrative reports.

Therefore, in effect, all of the administrative tasks amounting to approximately 50% of the weighbridge operational functions were conducted by the Consortium personnel, thus releasing more policing officials into the enforcement arena. However, this was not necessarily for weighbridge duties but elsewhere in the precinct.

For the personnel of both PPP parties, these were new functions, resulting in a constant need for training and development. This was attributed to the relatively short exposure period to staffing qualities of job skills, focussed commitment, meeting performance parameters, and motivation. Both PPP partners were actively involved in identifying and conducting the necessary training intervention which was attended to jointly. One of the advantages of a joint training session was that personnel from both sides were exposed to a holistic view of the operation. This prevented confusion and overlapping of functions.

In terms of assuring efficiency, the Consortium was given strict performance parameters, the achievement of which would regulate their fee payment. Failure to achieve the stipulated minimum standards of performance would also result in the termination of the contract. Therefore, contractual and job preservation would ensure the continued motivation of the Consortium personnel.

The combined efficiency also led to a sustained enforcement track. Whereas in a fully policed function, police personnel were prone to lapses in work ethos, the presence of private individuals who were tied to a performance parameter amongst them, ensured policing continuity. All activities were logged or recorded in the control centre; therefore, lapsed time and its explanation had to be logged with a corresponding explanation. For example, if the police personnel took an unauthorised extended lunch interval which caused the Consortium personnel to wait idly, such idleness was logged and the errant officers asked to forward an explanation.

Abuse of police vehicles is particularly prevalent due to a lack of effective control mechanisms. Combined efficiency also ensured that such abuse was curtailed by the logging of all activities within the weighbridge premises.
A further advantage of combined efficiency was the reduced potential for bribery and other illegal activities. Most private sector employment contracts stipulate immediate dismissal for dishonesty. Where dishonesty or bribery is suspected, even as circumstantial evidence, private sector companies can give the employee, at their discretion, an option to resign immediately in exchange for no prosecution. The end result is that the employee ultimately loses his/her job. As mentioned previously, the process of dismissal in the public sector is far more complex due to the strength of the labour unions.

This committed effort in overloading enforcement by dedicated officers trained specifically on the subject of freight abuse, resulted in expert evidence given in court and a sudden trend of extremely high fines being levied. The trend of high fines being levied by the courts quickly spread to other regions in KZN and as far as the Free State, resulting in a decrease in the number of vehicles prosecuted.

| Comparison of vehicle weighing statistics: 2000 to 2002 | | | | |
|---|---|---|---|---|
| | **2000** | **2001** | **2002** | **%Change 2001 to 2002** |
| No. of vehicles weighed | 138 367 | 147 113 | 187 961 | +28 |
| No. of vehicles overloaded | 46 883 | 42 291 | 47 961 | +13 |
| Percentage overloaded | 34 | 29 | 26 | -3 |
| No of vehicles charged | 18 117 | 12 496 | 10 386 | -17 |
| Percentage charged | 13 | 8 | 6 | -2 |

Table 1.1 Comparison statistics adapted from KZN Transport Annual Report 2003

Table 1.1 illustrates a decreasing trend in the number of vehicles weighed in the province of KZN from 13% to 6%, a positive difference of 7%.

In 2005, the eThekwini Municipality did not renew its PPP contract with Vululeka-TMT Consortium and the DMPS assumed full control of the weighbridge. All of the replacement staff consisted of active policemen; additional resources such as police vehicles and two-way radios were required.

Below are the statistics of prosecutions levied at the Bayhead Weighbridge for the year 2003 during the PPP period.

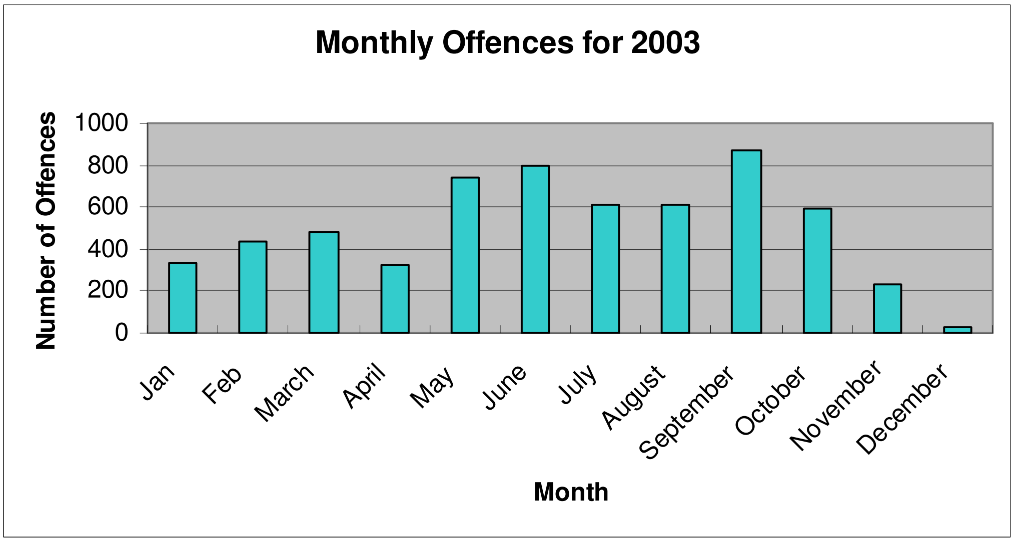


Figure 1.3: Monthly offences levied against freight vehicles in 2003

Figure 1.3 indicates the number of offences per month levied against freight vehicles from January to December 2003. These totals include both weight related and non-weight related offences, such as defects and moving offences. Examples of defect offences are defective lamps, tyres or windscreen wipers. Examples of moving offences are the use of a cellular phone while driving, and failure to indicate.

The average number of offences per month was 505 and the months from May to October recorded an above average number of charges levied. The reasons for this are as follows:

- The first quarter of the New Year is generally a low economic period.
- As the high demand periods such as Christmas and year end approaches, an increase in freight vehicular traffic is recorded.

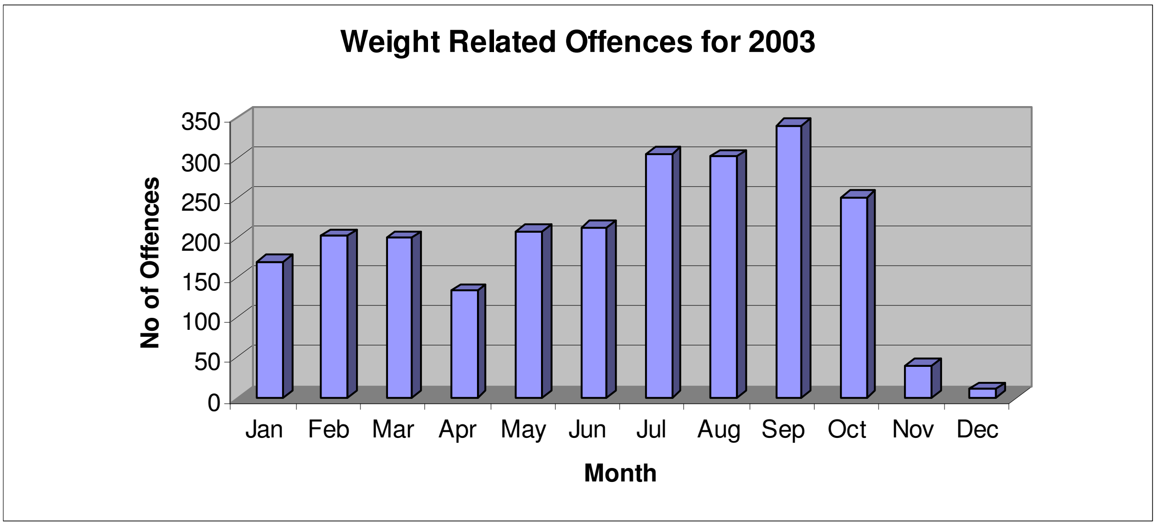


Figure 1.4: Weight related offences levied against freight vehicles in 2003

There were a total of 2375 charges levied in respect of weight related offences for the year 2003, equating to an average of 198 offences per month. Unlike Figure 1.3, this average was spread over a 9 month period from February to October, excluding the month of April which has many public holidays including Easter. Figures 1.3 and 1.4 do, however, indicate similar trends in terms of low and high demand periods.

| | **2003** | | |
|---|---|---|---|
| **Month** | **Weight related** | **Combined offences** | **%** |
| Jan | 170 | 329 | 52% |
| Feb | 202 | 436 | 46% |
| Mar | 200 | 479 | 42% |
| Apr | 134 | 328 | 41% |
| May | 208 | 743 | 28% |
| Jun | 213 | 794 | 27% |
| Jul | 305 | 613 | 50% |
| Aug | 301 | 608 | 50% |
| Sep | 341 | 875 | 39% |
| Oct | 250 | 594 | 42% |
| Nov | 40 | 228 | 18% |
| Dec | 11 | 32 | 34% |
| **Total** | **2375** | **6059** | **39%** |

Table 1.2: Comparative totals for 2003

According to Table 1.2, there were 6059 offences recorded, of which 2375 or 39% were weight related.

The following statistics pertain to the period after the termination of the Vululeka-TMT Consortium PPP contract. It must be noted that upon termination of the contract, the entire Bayhead Weighbridge operation was run by DMPS uniformed officers and a different operational strategy was used. These included shift and personnel changes. Every officer worked a four day/four night/four day off shift cycle, necessitating extra officers for its effective operation. Figures indicate that the number of officers committed to the area had increased three-fold while the supervisor received no additional assistance. As a result, enforcement officers with no proper training in the operation of the weighbridge equipment were transferred into the unit, some against their will. A de-motivated and untrained officer is more counterproductive to the unit. The following statistics are cited for comparative reasons.

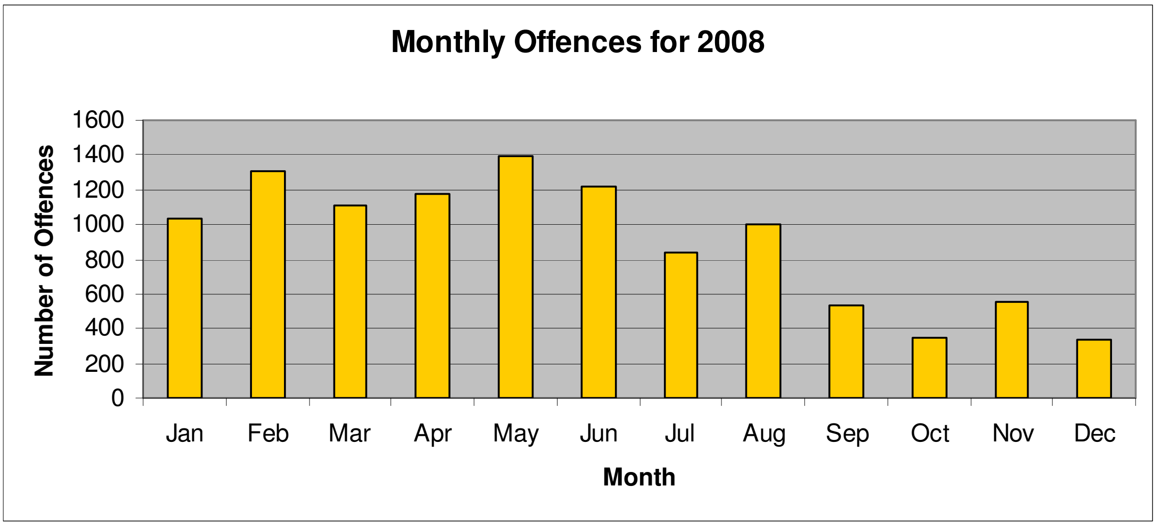


Figure 1.5: Monthly offences against freight vehicles in 2008

Figure 1.5 indicates the number of offences per month levied against freight vehicles for the period January to December 2008. These totals include both weight related and non-weight related offences. The above graph is in direct contrast to the corresponding graph for 2003, with the peak for 2008 in May, and the peak for 2003 in September. The reason for this can be seen in Figure 1.6 and Table 1.3.

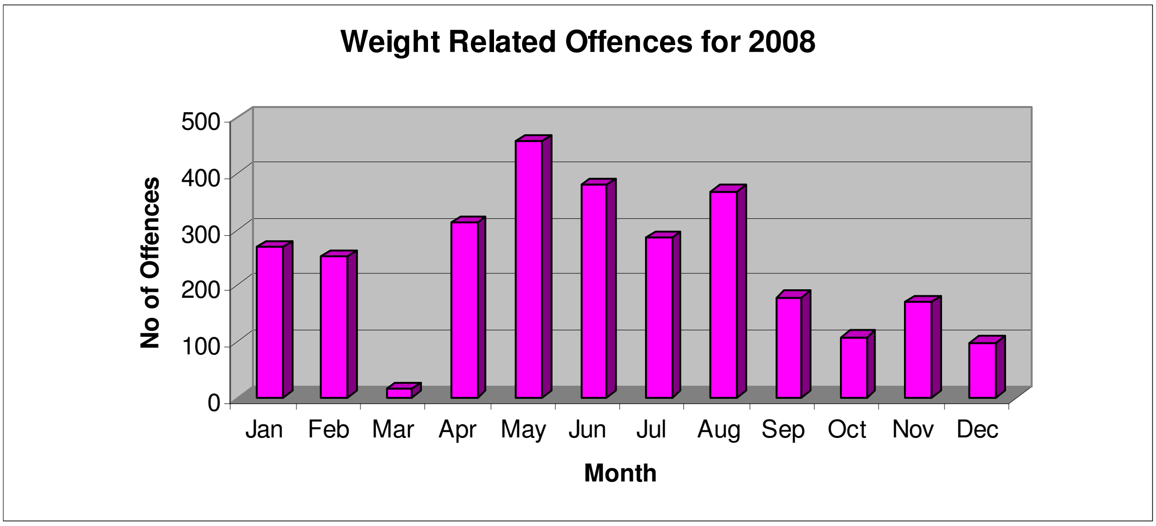


Figure 1.6: Weight related offences levied against freight vehicles in 2008

The trend for both Figure 1.5 and Figure 1.6 is similar from the month of April. The drastic drop in March in Figure 1.6 as compared to Figure 1.5 was due to an operational shutdown at the weighbridge station.

**2008**

| Month | Weight related | Combined offences | % |
|---|---|---|---|
| Jan | 269 | 1036 | 26% |
| Feb | 251 | 1304 | 19% |
| Mar | 16 | 1111 | 1% |
| Apr | 313 | 1178 | 27% |
| May | 457 | 1398 | 33% |
| Jun | 380 | 1222 | 31% |
| Jul | 286 | 843 | 34% |
| Aug | 368 | 997 | 37% |
| Sep | 179 | 528 | 34% |
| Oct | 109 | 351 | 31% |
| Nov | 171 | 557 | 31% |
| Dec | 98 | 338 | 29% |
| **Total** | **2897** | **10863** | **27%** |

Table 1.3: Comparative totals for 2008

The effect of the increase in enforcement officers post the PPP, resulted in a 44% increase in offences levied However, it is clear that more emphasis was placed on defect and moving offences as opposed to weight related offences. It is more convenient for an enforcement officer to levy a defect or moving offence charge, especially on a freight vehicle, as opposed to him or her stopping and enforcing a weight related offence, which is also time consuming. Table 1.2 compared to Table 1.3 indicates a drop of 12% for average weight related offences levied.

It could be argued that a trend of continuous enforcement could be the cause of the drop in freight related offences; however, the counter argument would be that a similar trend ought to be seen with the defect and moving offences category, as it would not make sense for freight companies to comply with the weight aspect and still risk time and financial loss through defect offence related delays.
The drop in weight related offences is also attributable to a lack of accountability that the existence of the PPP brought about. Even supervisory personnel had relaxed their vigilance due to the lack of the accountability component.

## 9. CONCLUSION

The enormous challenges inherited by a young and inexperienced South African democracy in 1994 during a period of global economic volatility, asked for rapid strategic solutions such as switching from an ideologically socialist RDP to the capitalist GEAR policy. This was necessary in achieving its major goals of social equilibrium through reconstruction and development, national reconciliation and nation building, community empowerment, and democratic involvement.

Whilst the national PPP strategy was necessary notwithstanding its detractors, it is still unclear how effective PPPs are. What is certain is its value in alleviating the historical crisis of underfunding in road infrastructure, and to this end it can be said that the DMPS model was successful. The existence of two independent parties working side by side towards a common goal engendered a culture of accountability, which resulted in an increase in weight related offences through the use of properly trained enforcement and civilian personnel, and a drop in corrupt activities. One can only surmise that its sudden termination was as a result of a political decision and certainly not through operational inefficiency, as can be seen in the comparative data above.

Specifically targeted offenders such as freight carriers suited the PPP model and its operational format demonstrated various advantages through combined efficiencies. Of particular relevance is the reduction of corruption and abuse of state resources, and an increase in efficiency. Overall, statistics also revealed a drop in prosecution and an inevitable increase in offenders once the PPP contract was terminated.

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