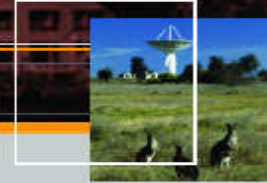




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# Corporate Governance ARC Project



## **Session 5: Governance in the Public Sector: Lessons from the Research ‘Preliminary Findings and Views’**

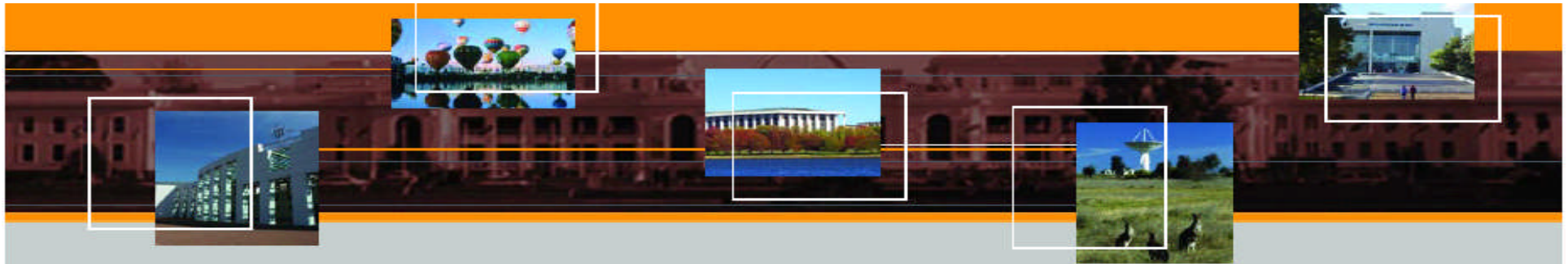
**Professor Bryan Horrigan  
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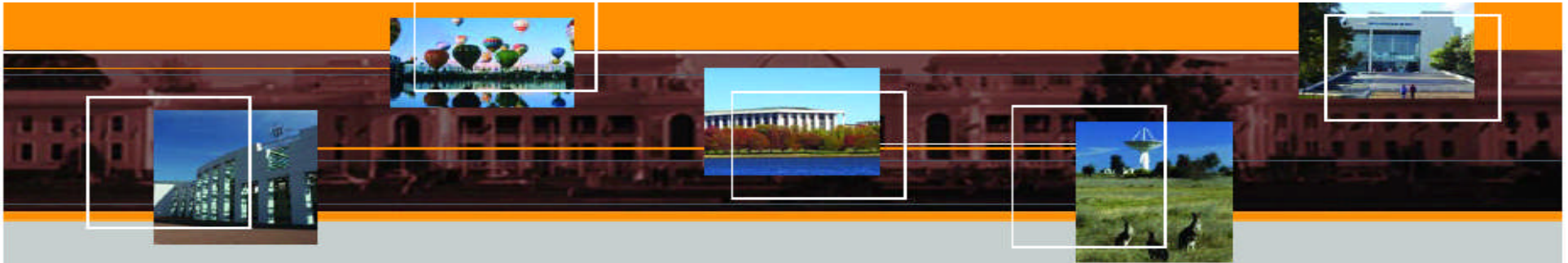
## Reported Conceptions of Corporate Governance

- Considerable appreciation (especially at departmental level) that corporate governance includes but is not limited to ‘hard’ governance elements (i.e. structures and processes)
- Nevertheless, still primary emphasis in discussion and examples on ‘hard’ rather than ‘soft’ governance, with both patchy and fuzzy reference to ‘soft’ governance elements
- Four layers of ‘corporate governance’ conceptions:
  - System of arrangements, structures, and processes to ensure accountability and responsibility in policy/service design and delivery (universal)
  - Core elements like (multi-faceted) accountability, compliance, performance (many)
  - Reference to governmental functions of service delivery, policy outcomes, legislative administration, statutory responsibilities, reporting lines, financial management (common)
  - Reference to ‘soft’ factors/values like transparency, trust, behaviour, ethics (occasional)



## Atypical ‘Soft’/Integrated Governance Orientation

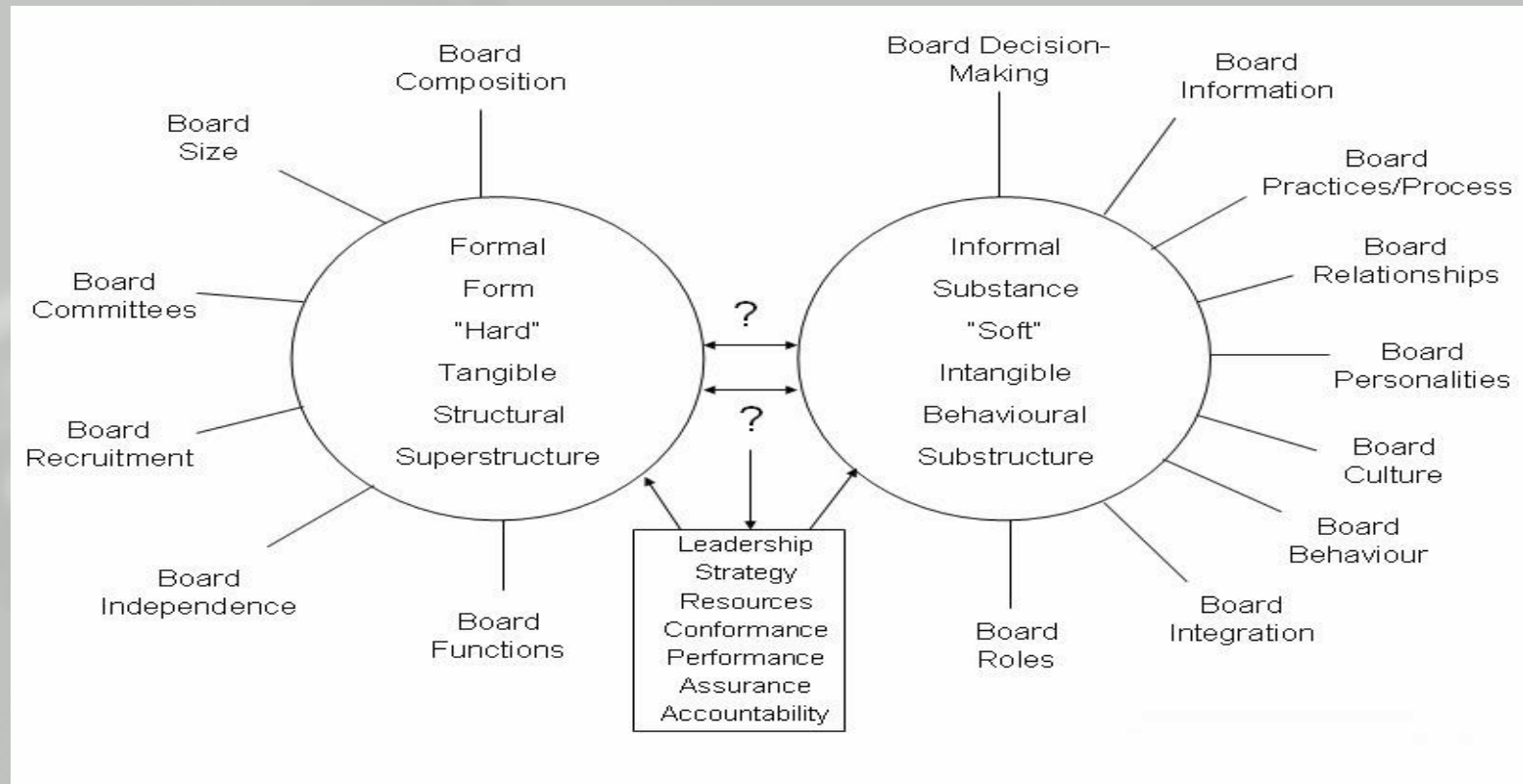
‘[Corporate governance] obviously forms around structures but I generally don’t like to start with structures. I think that corporate governance might start with a couple of softer concepts, including the culture of the place and the ethics and proprieties of the place about how things should be done. And then given the establishment of the sum of that, then we set out the systems and the structures that go together to make up the governance arrangements, processes, and systems of the [organisation].’



## Typical ‘Hard’ Governance Orientation

‘Governance is primarily about the compliance environment in which we operate. It’s about ensuring we implement the systems, processes and safeguards so that we are operating legally and appropriately within our remit ...’

# 'Hard' v 'Soft' Governance - Analysis





## Public v Private Sector Perceptions

- More common perception than not that:
  - Corporate governance in the public and private sectors IS different
  - Corporate governance in the public sector is more complex and has more layers and points of accountability than in the private sector



## Comment 1 on Public v Private

‘The letter you sent [for an interview] assumes there are some comparisons between public and private sectors. But there are huge differences ... No private sector organisation has the level of scrutiny that the public sector has ... The stark differences are too often overlooked.’



## Comment 2 on Public v Private

‘The public sector governance framework is more complex than private sector governance.’



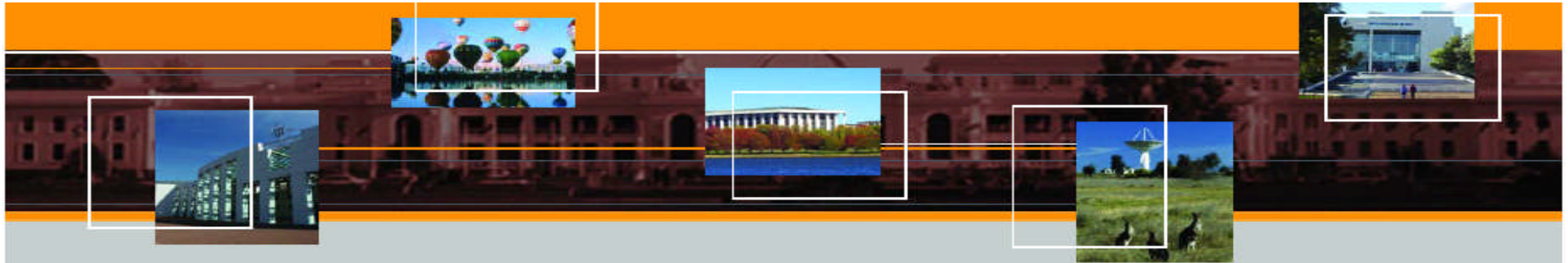
## Comment 3 on Public v Private

‘Accountability is the same, but the stakeholders are different. We are given autonomy to develop standards. We’re not accountable to shareholders. It is simpler in the private sector. In the public sector, there are a series of decision makers.’



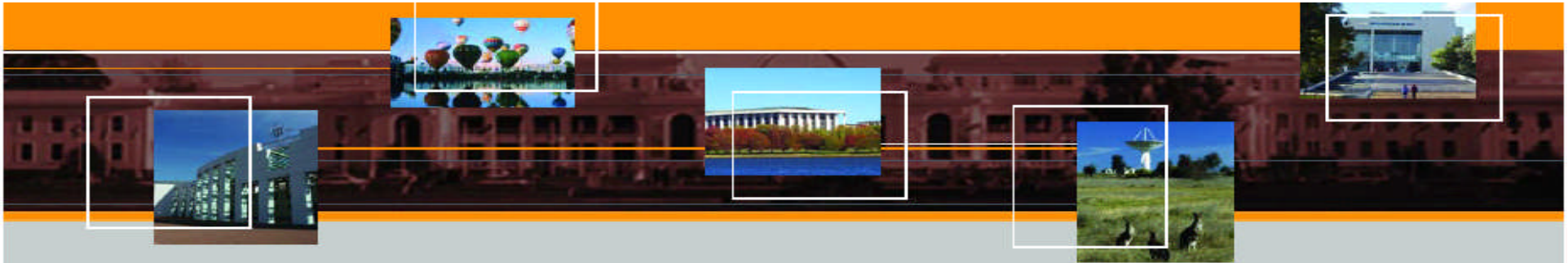
## Contrast – Comment 4 on Public v Private

‘I come from the private sector and I don’t see big differences between the private and public sectors. I see a lot more talk about corporate governance in the public sector. I think it’s a more risk averse approach in the public sector – corporate governance is driven by risk aversion rather than for more effective management.’



## Comment 5 – ‘Blended’ Perspective on Public v Private

‘[Corporate governance has] primarily the same context as [in] the private [sector]. Responsible directors. Obligations and responsibilities for overseeing good governance as a whole. There is a tension over what is your responsibility. There is a difference between bureaucratic and political expectations. The major difference with the private sector is the responsibility to shareholders.’



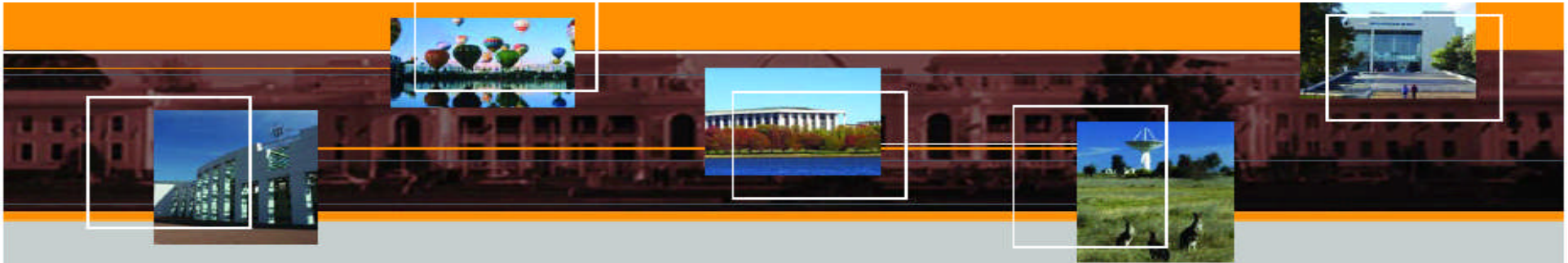
## Implications?

- Common community and political perception that the public sector can learn much from the private sector on corporate governance
- Comments suggest that there are limits on:
  - The commonality of elements, manifestations, and contexts for corporate governance across both sectors
  - What can usefully be applied from the private sector to the public sector, at least without significant modification
  - There are areas of public sector corporate governance where the private sector has nothing equivalent to offer
- So, a more complex model and level of understanding of public sector corporate governance is needed (see next ‘Conceptions of Governance’ slide)



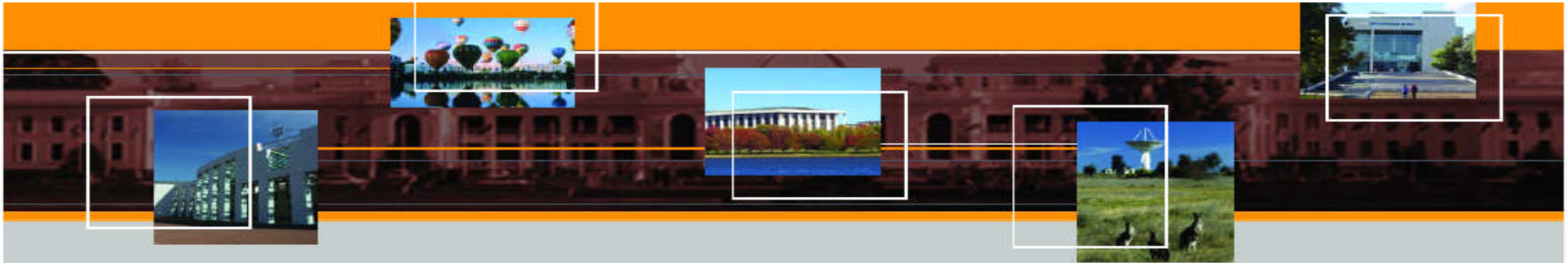
## Conceptions of Governance

- Compared to corporate governance in the private sector, corporate governance in the federal public sector has:
  - Unique connections to governance and public sector governance
  - Overlapping but also different groups of stakeholders (e.g. ‘multiple constituency’ problem for Uhrig entities – i.e. ‘wearing different hats’)
  - Many of the same core elements and dimensions of corporate governance (e.g. accountability, performance, conformance)
  - A different context (e.g. policy, service, regulatory design & delivery v market competition)
  - Manifestations in content and standards that vary along a ‘convergence-divergence’ spectrum according to context, including:
    - Different values (see Issues Paper 2)
    - Similarities and ‘borrowings’ (e.g. financial accountability & standard-setting)
    - Additional layers (e.g. ‘value for money’ in public sector tenders)
    - Customised ‘add-ons’ (e.g. CAC Act modifications of directors’ duties and ‘business judgment’ defences)
    - Divergent meanings and applications (e.g. ‘accountability to shareholding investors’ v ‘accountability to shareholding ministers’)



## Cited Issues - Samples

- High public sector turnover means:
  - Gaps in matching up governance sensitivity to organisational dynamics within and across agencies and geographical areas
  - Greater need for clearer and streamlined governance processes and requirements at lower levels of organisational hierarchies
- Heavy reporting burden, high level of scrutiny, and meeting non-coordinated central government information requirements
- Management and coordination of organisational governance across state, governmental, & regional boundaries, especially with large numbers of people involved internally or as key stakeholders (e.g. ‘governance down on organisation [and] acceptance down through a large organisation across [multiple] locations’)
- Necessary skill and experiential levels for effective governance throughout all organisational levels (including what is lost through losing a board)
- Whole-of-government coordination:
  - ‘Whole of government – how do people manage in an integrated way very complex governance arrangements’
  - ‘Whole-of-government demands sometimes lose sight of the fact that we are here to deliver other things as well. I am sick of whole-of-government data collecting. We are not resourced to do this collecting. And the data being collected is often not relevant to all organisations required to provide it.’
- Points of entry for communication between ministerial staff and departmental staff



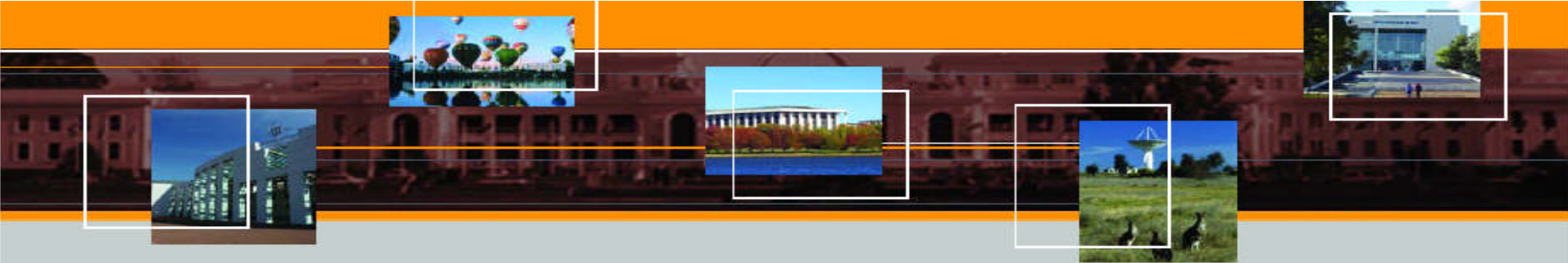
## Broad Satisfaction & Improvement Areas

- Broad satisfaction:

- Executive decision-making structures
- Nature and amount of data for those decision-making meetings
- External stakeholder consultation mechanisms
- Internal accountability and reporting culture and mechanisms

- Areas for improvement:

- Governance skills/awareness flow-through
- Financial skills and management
- Risk management
- Managing external stakeholder and cross-governmental relationships
- Protection and management of information



## Statements of Expectation/Intent – Perception as Prescription or Opportunity

- ‘The recommended statements of expectation and intent will be a watershed for [us] because it will make clearer to [our people] and everyone else what it is we do.’
- Parallel experience with major international organisation