

## Bushweb Regional Issues Committee

### Submission to the Australian Government 2011-12 Regional Telecommunications Review

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## Preface

New South Wales Young Lawyers is a division of the Law Society of New South Wales ('**NSW**'). Members include solicitors and barristers in their first 5 years of practise and/or under the age of 36 and law students. There are currently over 13,000 members.

The NSW Young Lawyers Bushweb Regional Issues Committee is responsible for providing and facilitating peer support for young lawyers members throughout NSW, particularly those in regional and rural areas. To overcome the tyranny of distance, Bushweb started as an idea to use the internet and technology to bridge physical distances and to connect young lawyers in regional and rural areas to others in their region and throughout NSW.

The Young Lawyers Bushweb Regional Issues Committee refers to the Regional Telecommunication Review Issues Paper 2011-12 produced by the Regional Telecommunications Independent Review Committee for the second legislated review. The purpose of this submission is to contribute views on:

1. the growing importance of telecommunications to the delivery of effective and efficient legal services and enabling lawyers to practise in regional and rural areas; and
2. identifying issues with current telecommunications and the proposed NBN roll out.

## NBN and Implications for Legal Service Provision in Regional NSW

The cessation of the Australian Broadband Guarantee on 30th June this year brought to an end the Federal Government's concerted effort to implement best practice broadband service provision to regional and rural Australia.<sup>1</sup> With the initial rollout of the National Broadband Network ('**NBN**') service and gradual uptake in connected regional cities, the opportunities for regional and rural Australia are touted as endless.

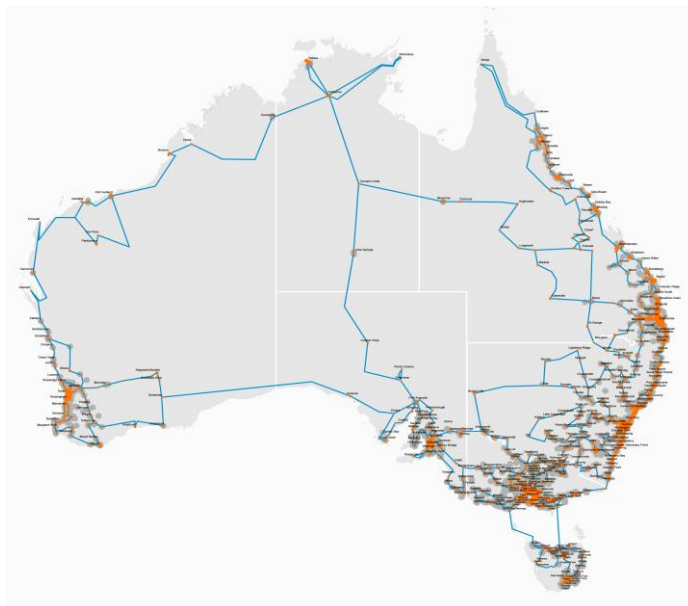
However, the switch on date for most of regional NSW is currently unknown. This lack of information hinders the abilities of people in regional and rural areas to plan for future information technology ('**IT**') needs. In the meantime, they must persevere with substandard broadband, or patchy satellite reception. This only serves to further downgrade their expectations of technology, and do a disservice to what many other Australians take for granted – digital connectivity.

### NBN

The dismantling of Telstra's copper wire network by the Federal Government and the gradual change over to the NBN will bring a previously unknown concept of choice to regional and rural Australians. It is essential that NBN servicing to these areas commences sooner rather than later, but the slow rollout and negative political endorsement has created a flawed public perception. Based on current Media Releases<sup>2</sup>, Penrith is the furthest west the NBN will reach in 2012.

As highlighted by the coverage maps below, in the Central West region of NSW, the NBN will pass through the Blue Mountains to Lithgow and Bathurst, and further to Orange, Cowra and surrounds. These communities will then have access to internet services far superior to those currently available to them. The fact remains however, that many people in regional NSW do not understand the NBN and are sceptical about the benefits it will deliver to their areas.

### NBN Future Coverage Map



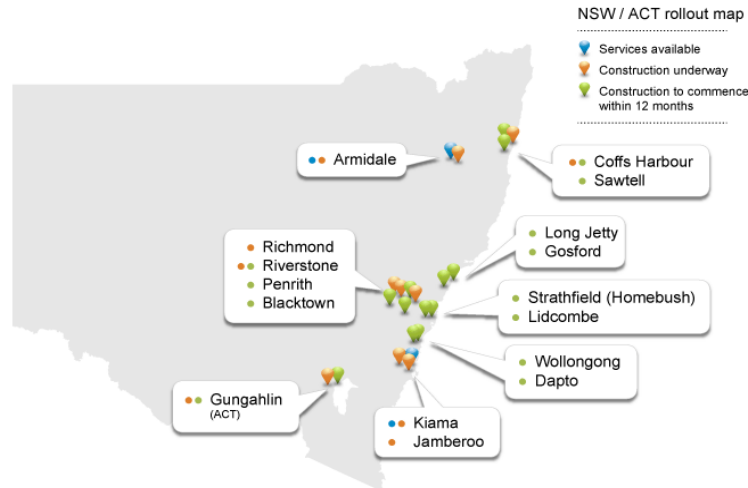
Source: NBN Co.

<sup>1</sup> Australian Broadband Guarantee, Department of Broadband, Communications and the Digital Economy, [http://www.dbcde.gov.au/broadband/australian\\_broadband\\_guarantee](http://www.dbcde.gov.au/broadband/australian_broadband_guarantee)

<sup>2</sup> NBN Rollout Plan Media Release dated 18 October 2011.

<http://www.nbnco.com.au/news-and-events/news/nbn-co-releases-12-month-national-rollout-plan.html>

## ACT/NSW Rollout for 2012



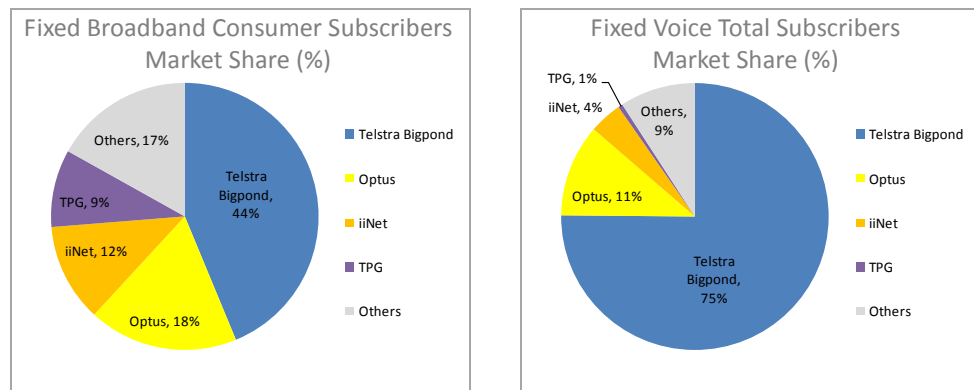
Source: NBN Co.

## Implications for Legal Service Provision

The NBN will provide greater access to internet and associated technologies across regional NSW for individuals and businesses alike. In the interim, however, various issues continue to plague the service, resulting in a limited and flawed delivery. This affects the provision of legal services and results in low client satisfaction.

To date, the ongoing reluctance by telecommunication providers to utilise the infrastructure of their opposition has been problematic (i.e. Optus not using Telstra's existing copper wire service in some regional towns due to high access charges). This reduces consumer choice to one or two providers at most, and affects both business and residential services. Minimal mobile service provision to regional communities is another casualty of this standoff.

Contributing to the lack of market diversity is Telstra's market domination in both the Broadband and Fixed Voice subscriber markets.



Source: Merrill Lynch; RBS; Company results; VHA estimations

Telstra's stranglehold on assets and high wholesale charges have historically made it difficult for new entrants to gain footing in the marketplace, as evident in Telstra's fixed broadband market share at 44% of a \$4.8b growing market (CAGR 8% 2010-2014).<sup>3</sup> This and their 69% total fixed broadband profit pool (including

<sup>3</sup> Merrill Lynch; RBS; Company results; VHA estimations, courtesy of Wendy Collins, NBN Trial Customer Experience Manager, Vodafone Hutchinson Australia.

wholesale market) present the competitors with little opportunity to gain traction.<sup>4</sup> Even greater is Telstra's fixed voice market share of 75%, and while it is a \$10.1b declining market (CAGR -7% 2010-2014), it still offers insight into Telstra's role as brand leader in the Australian telecommunications marketplace.<sup>5</sup>

## Political

It is anticipated that the gradual phasing out of the copper network will create a level playing field for NBN service provision, however the political uncertainty of the scheme is contributing to the lack of current take up.<sup>6</sup> The Federal Opposition has stated it will be disbanding the network should it come into power, something that has created confusion with business and residential consumers alike. Further clarification on sustainability of services is required to reassure regional businesses and residents that they will not be worse off in the event of a change of Federal government.

## Technology and the Legal Industry

NBN Company CEO Mike Quigley stated in his press release of 18 October, 2011 that:

*'Public education activity, to launch next year, will also explain what the rollout will mean for every Australian, how to connect to the network and why it is important that the nation upgrades its telecommunications infrastructure.'*<sup>7</sup>

For those who have worked extensively in regional law, it is apparent there is often a lack of comprehension of the technology required to maintain a competitive edge to legal service provision, both in house and within the greater legal community. Combine this with extremely unreliable internet service access, slow access to essential law services such as research databases, lodgement facilities etc. and service provision to all aspects of business begins to suffer.

*'While many small businesses have a connection to the internet, and an increasing number have a web presence, their use of information and communication technology is, for the most part, unsophisticated. In this respect, law firms in the Central West are no different to other small businesses'*

*David – Law Student and IT Professional, Central West NSW*

## 3G/Mobile Data

Mobile data service in regional NSW is quite sporadic in some areas but overall operates at an acceptable level. Geographical issues such as deep valleys/mountains/gorges, satellite black spots and limited mobile tower coverage, often reduce reception coverage to the main highways. In the era of the smart phone and tablet, this has implications for business operations. Operators are unable to rely on satellite and data services when staff members are travelling between towns for court attendance purposes, or client meetings, and need to retrieve important emails on the go.

With Australian data growth forecast to outstrip global demand, reliable data provision across regional NSW is a necessity for good business practice. Current

<sup>4</sup> Op. cit.

<sup>5</sup> Op. cit.3.

<sup>6</sup> 'Ultra Fast NBN has sluggish take-up', *The Australian*, 19 November 2011.

<http://www.theaustralian.com.au/australian-it/ultra-fast-nbn-has-slow-take-up-with-only-one-in-nine-connected/story-e6f9gax-1226199546472>

<sup>7</sup> NBN Rollout Plan Media Release dated 18 October 2011.

<http://www.nbnco.com.au/news-and-events/news/nbn-co-releases-12-month-national-rollout-plan.html>

forward estimates see increasing strong growth in smart devices with tablets forecast to reach 8% market penetration over the next year.<sup>8</sup> Seasonal volume trends due to iPhone/iPad release schedules also create heavy data demands on market resources.

- Australia's 3G market penetration in 2011 is expected to eclipse by 20 points that of the US, Western Europe and the UK; at 73% population usage this puts Australia on top of the global mobile ladder.<sup>9</sup>

Not only is this trend set to continue, it is set to outstrip current figures:

- an estimated 32-fold increase in mobile data usage between 2010-2015;<sup>10</sup>
- 2.4 mobile connected devices for every Australian in 2015 (56 million mobile-connect devices in total);<sup>11</sup> and
- Each device in 2015 will use an average **1,548MB up from 119MB and 41MB in 2010 and 2009** respectively.<sup>12</sup>

## Productivity

The modern regional law firm relies heavily on electronic communications such as Skype, VOIP and email to achieve a cost effective method of conducting business.

*'...having to attend meetings, a conference, Court or anything similar in Sydney requires an entire day out of the office, therefore as much as I can, I try to do things online'*

*David – Law Student and IT professional, Central West NSW*

Communication is obviously not limited to clients, but also includes barristers, other lawyers and government departments who are often located in Sydney or other centres. In these cases, meeting in person is not convenient and requires a reliable and quick communication method to ensure timely responses to pressing matters.

Regional law firms are subject to the same time constraints in all areas of law, but due to additional distance for postage items, are often offered a smaller window to achieve the same goals as their city counterparts. Therefore most regional firms rely heavily on efficient, reliable and fast speed internet in order to compete with their peers and efficiently conduct client matters.

## Continuing Legal Education

The *Legal Profession Act* and relevant regulations, require NSW lawyers who hold practising certificates to complete 10 units of 'Continuing Legal Education' ('CLE'). In order to meet these requirements, lawyers in regional areas often utilise video podcasts, DVDs and participate in online education programmes. For example, the Law Society of NSW online shop has online video podcasts that lawyers can purchase and view, provided that they have a reasonable internet speed for online streaming. Such initiatives are vital for enabling lawyers to practise in regional and rural areas of NSW, but also depend on access to high-speed and reliable internet services. Access to online content is essential for regional lawyers to have access to the same seminars updates and information as those in metropolitan areas. Without a reliable connection or a fast internet

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<sup>8</sup> Vodafone Hutchison Australia NBN Trial, courtesy of Wendy Collins, NBN Trial Customer Experience Manager, Vodafone Hutchinson Australia

<sup>9</sup> Op. cit.

<sup>10</sup> Op. cit.8

<sup>11</sup> Op. cit.8

<sup>12</sup> Op. cit.8

speed that could effectively deliver these seminars, regional lawyers and firms must travel to complete CLE requirements resulting in lost time and income.

## Consumer Issues

Current fixed wireless broadband leaves a great deal to be desired in regional NSW. Coverage is not necessarily always the issue. Many locations have ample coverage yet connection speeds are sub-standard and in many cases make these services essentially unusable. The root cause of this problem appears to be congestion across the network with the situation worsening over the last few years.

Service providers often promote fixed wireless broadband as an option for consumers who are unable to be provided with an ADSL broadband service. The price point of fixed wireless broadband has also made it an attractive alternative to satellite broadband, which many consumers have found to be unreliable and costly, even with the now defunct Australian Broadband Guarantee.

A combination of these two factors, has led to an increased usage of fixed wireless broadband services. However, there appears to have been no corresponding increase in the infrastructure required to make this a real alternative to fixed ADSL broadband. This does not just affect consumers who reside out-of-town. More frequently, in towns undergoing rapid development due to increases in mining activities, infrastructure in telephone exchanges has not kept pace, the result being that even consumers in town are unable to access fixed ADSL broadband.

## Demographic

The aging population in regional NSW has greater implications for technology uptake than in the high-density areas. In some cases, Partners/Senior Associates can be somewhat older than their younger, 'computer savvy' staff and do not necessarily understand the importance of reliable internet service to maintain practice communication standards and efficiency. Confusing talk of new technology such as the NBN when they have little grasp of what Broadband 1 or 2 is, can create reluctance to provide suitable IT infrastructure. For example:

*'Clients of both metropolitan and regional firms expect that law firms will have reliable and sufficient internet access and email facilities. Regional clients on farms for instance rely heavily on such telecommunications so it is imperative that such services exist.'*

*Penny – Lawyer, Southern Tablelands NSW*

Missing an email from a client on a particular day because of an unreliable service could be detrimental for the client and affect the ability of lawyers to give timely advice on urgent matters. It can mean the difference between a matter proceeding normally or due to server failure and/or line congestion, a glut of emails that escalates the matter urgently, thus increasing stress and workload for the firm's staff.

## Flexible working practices

Child-care in some regional areas is either unavailable or very expensive; therefore, some practitioners choose to do part-time or flexible working arrangements. This requires a reliable connection to enable them to have their work connection at their home office. Providing people with opportunities to engage in flexible working practices is enabling firms to retain skilled staff in circumstances where they would otherwise lose the staff member to home duties or position not requiring the technology.

## Future Proofing

Cloud computing is a new concept to Australian law firms yet one that has been utilised extensively in the United States. Despite some attempts by local firms, current operating speeds in regional NSW are prohibitive against utilising this highly accessible medium. Until these improve, the ability to download or upload your desktop/backup your entire firm's database will remain limited to USB keys and brick-like hard drives.

## Isolation

Lawyers in regional areas often experience isolation from others in the legal profession, which can contribute to problems with mental health and wellbeing. This is particularly an issue for young lawyers practising in regional areas who are often isolated from other young lawyers because of distance and the relatively small numbers of young lawyers practising in regional areas. Some lawyers in regional areas use phone and internet services for networking and to access support from other members of the legal profession. A call or email to a colleague can help alleviate stress, give lawyers access to a different point of view and contribute to maintaining mental health in high-pressure situations.

NSW Young Lawyers and the Young Lawyers Bushweb Regional Issues Committee have recently implemented the "*Creating Networks Initiative*" utilising telecommunications technologies, such as regional email lists and teleconferencing to establish networks in regions throughout NSW. This initiative is part of a broader aim to enable young lawyers to practise in regional areas and have access to peer support that has previously only been available to members in Sydney. In the short time since its implementation in July 2011, Creating Networks has already enabled young lawyers in some regional areas to meet each other and to connect with the support services available through NSW Young Lawyers. Thus, telecommunications technologies are becoming an essential service and Creating Networks could not exist effectively without reliable internet and telecommunications.

## Social media

These days there are many online forums available to the legal practitioner and a multitude of networking opportunities available on social media sites such as Twitter, Google+, etc. Some law firms utilise social media, such as having a company Facebook account used to advertise online to potential graduates and indeed, most initial aspects of recruitment are conducted online.

However, whilst this type of service provision is a given within city firms, regional law firms are often affected by website issues such as server errors, inability to load sites due to congested lines and poorly developed websites that do little to promote the firm's attributes positively to potential clients.

## National E-conveyancing – the future of conveyancing

As part of the general progress towards a seamless national economy, the National E-Conveyancing Platform (NECP) is being developed. The NECP will provide the ability for practitioners to settle conveyancing matters and lodge instruments electronically in any state or territory. It will benefit lawyers, conveyancers, financial institutions and consumers. It is intended to reduce costs overall for consumers.

On 19 August 2011, the Law Council of Australia in its response to an invitation from the Australian Competition and Consumer Commission to comment on the proposed acquisition of shares in the National E-Conveyancing Development Ltd, stated:

*An economic appraisal for the NSW Government in December 2008 found that costs savings would largely be realised by the removal of the requirement to physically arrange and attend settlement and lodgement, even though electronic conveyancing will involve some additional costs such as establishing compatible IT systems, paying user fees and undertaking some extra tasks to those required in the paper conveyancing system. The appraisal found that there would be annual net costs savings of \$50M in NSW with an average cost saving of \$170 per case.<sup>13</sup>*

Clearly if the availability of reliable, fast internet connections is not available, the transition to NECP and associated cost savings will be delayed.

## Conclusion

The current state of internet service provision to regional NSW offers few positives to lawyers keen to deliver efficient and cost effective legal services. With limited line access to exchanges, sluggish speeds and in many cases minimal comprehension of what constitutes "best practice", regional lawyers are severely disadvantaged compared to the internet services provided to their city counterparts.

Essential legal services, such as the Land and Property Information office (the old Land Titles office), Office of State Revenue, Office of Water and courts of all levels, continue to move to online document lodgement and related services. The opportunity for regional lawyers to utilise these technological advancements and other essential services, rapidly decreases with substandard internet services.

While the promise of the NBN is attractive to businesses and residents of most of regional NSW, lack of information about when the scheduled rollout of the NBN will occur in particular regions throughout NSW, only serves to fuel scepticism about what will be delivered and when. Not enough is being done to properly inform consumers about their options, giving those who are against such technological advancement justified reason for negative opinion.

Regional NSW is a fast growing, affordable option for many escaping the congestion of the city and such "tree-changers" expect the same services to be available. The mining boom has created a large number of jobs and a highly mobile population, with regular 'Fly-In-Fly-Out' staff travelling to and from their residence to their place of work in the region.

Flourishing regional economies are often the backbone of Australian resource sector and farming industry and deserve more than antiquated, unreliable internet services.

And finally, 'far from the school room we may be' but no doubt there has been many a lawyer who, in sheer frustration, has uttered the words 'the internet ate my homework!' For lawyers in regional NSW, the odds are that it probably did.

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Law Council of Australia, to Australian Competition and Consumer Commission, 19 August 2011, page 3, [http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file\\_uuid=1306B607-9802-E1F5-225D-5E0E471FA8FC&siteName=lca](http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=1306B607-9802-E1F5-225D-5E0E471FA8FC&siteName=lca) citing KPMG, Economic Appraisal of Conveyancing in NSW, Final Report for NSW Department of Lands, Dec 2008 at [http://necnsw.lpi.nsw.gov.au/data/assets/pdf\\_file/0006/143934/NECS\\_KPMG\\_final\\_report\\_Jan\\_2009.pdf](http://necnsw.lpi.nsw.gov.au/data/assets/pdf_file/0006/143934/NECS_KPMG_final_report_Jan_2009.pdf)