

# Opinion & Analysis

LETTERS  
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## Canberra walks on \$958m bush broadband deal — and may be in for a fight

What's in store for regional Australia now the hybrid broadband partnership is axed?



government and the two groups signed last September has not been met, because the Optus-Elders "Opel" hybrid broadband network would not cover enough underserved areas in the bush. This is a claim the Opel consortium disputes, and may test in court.

The second hook is a less legalistic claim that the project might not be viable in the long term: it relies on project risk analysis by Opel that factors in the potential impact of the \$4.7 billion national broadband network that the Government itself is separately planning.

The \$958 million the Howard government promised to

contribute to the \$1.9 billion Opel broadband roll-out in the bush was more like a grant than a commercial investment. The government would not have been a financial investor in Opel, and did not plan to make an investment return. Risk assessments also tend to cover the waterfront: every possible risk is raised, and assessed.

But all governments have a responsibility to spend taxpayer money wisely, and Opel's risk-assessment analysis did conclude that Labor's national broadband network could have a "catastrophic" impact on the commercial viability of the Opel network. That's clearly an issue, because of the size of the Government's commitment, and because it raises the possibility that more financial support might be required in the future to keep the network running.

But the hook the Government is mainly relying on is the claim that the terms of the contract it inherited from the Howard government have not been met.

The contract allowed for two tests of coverage — one by the Government and one by Opel. Only one of them needed to succeed to keep the contract alive, and Optus and Futuris claim that their field tests confirmed that the network would hit the contracted target of 90% coverage of underserved premises in the bush. Communications Minister Stephen Conroy says that his department has checked the numbers, and Opel is well short of the mark, with coverage of only 72%.

Optus chief executive Paul O'Sullivan contends that the Government is benchmarking Opel's own results against

incorrect data in order to get the answer that it wants, and says Opel will examine all options, including legal ones.

But the bush project is dead. There is no way Opel is going to be able to legally force the Government back in, and without the Government financially supporting it, the

**4 The bush project is dead. There's no way Opel is going to be able to force the Government back in. 7**

project is uneconomic. If legal challenges are mounted, they will centre on claims for compensation, on the grounds that the coverage ratio was in fact met. Even then, the Government will fight.

Optus and Futuris have spent \$31 million on Opel so

far, and Conroy says they are only entitled to get \$2.5 million back.

Opel was created by the previous government, in part, to politically neutralise Labor's own \$4.7 billion plan for a national broadband network, and was badly undermined by Kevin Rudd's accession.

It was always problematic. The government's contribution was set initially at \$600 million and raised to \$958 million later, after Opel won the tender. The technology Opel was relying on was also questionable, because it relied, in part, on outdated fixed WiMAX wireless microwave signal propagation, along with some dollops of ADSL2+ copper wire technology and a bit of fibre — and Opel's network was going to cover ground that Telstra had already reached with its new Next G wireless network.

Opel would have boosted the level of competition for regional telecommunications business. But the suspicion was always that it amounted to an overly generous leg-up for Optus, which was launched with a silver spoon in its mouth in the early 1990s after being handed a satellite network and a medium-term duopoly with Telstra by the then Labor government.

Despite all that, the Government decision to axe a contract it legally inherited is risky and could backfire.

In the short term, the walkout frees up funds at a time when the Rudd Government is searching for budget savings. It also simplifies the planning of the Government's own \$4.7 billion national broadband network, by eliminating a potential overlap.

But the Government has

axed a project that aimed to deliver broadband services to regional Australia when it still has no firm blueprint for its own national broadband network in place.

The original idea was to sink \$4.7 billion in a joint-venture project. But the obvious builder, Telstra, says it will build a 100%-owned network, or not build one at all. Telstra will also fight against access regimes that push down its potential returns on a new network.

If Telstra continues its all-or-nothing strategy on the broadband project, the Government must look for alternative builders, and it must pressure Telstra. SingTel Optus is an obvious candidate but it is going to be wariar about dealing with the Government after its Opel experience.

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## Car tunnel will only ease a symptom

Traffic congestion is not the problem planners need to resolve, but Melburnians' dependence on motor vehicles, writes **Elliot Fishman**.

CONCERN over climate change and spiralling world oil prices have emerged as two of the most important challenges facing the globe, and Australia is particularly vulnerable to both.

Dr Mike Kelly, parliamentary secretary for defence support, made this clear in his maiden speech in Parliament earlier this year by arguing: "I believe the future of this country will largely be shaped by our response to the challenges posed by two liquids: water and oil."

At the same time, Sir Rod Eddington has delivered his \$5 million East West Needs Assessment into options for linking the east and west of Melbourne. The report has given the green light to a road tunnel from the Eastern Freeway to CityLink in the west. At a cost of \$9 billion and with a completion date of 2019, an east-west tunnel presents serious challenges to the Victorian Government's commitment to reduce greenhouse gas emissions and ease the burden of rising fuel costs.

Eddington argued yesterday that "improved vehicle technology" would provide an adequate response to climate change and continued high oil prices. Strong doubts, even within the motor industry, as to the ability of technology to overcome these challenges makes the tunnel a very expensive gamble.

Energy expert Dr Robert Hirsch has shown that it takes 15 years to renew the vehicle fleet, so even if ultra-low-emission/consumption technology becomes available, it will be almost a generation

before it filters through the market.

Even without this new road tunnel, the Department of Climate Change reports that transport emissions are expected to soar 67% above 1990 levels by 2020. Moreover, with no credible alternative fuels in sight, oil depletion raises serious questions about the appropriateness of new, large-scale road projects. With no sign of a drop in world oil prices, Melburnians may find it harder to continue their current car use patterns — proving a solution to congestion in itself.

Federal Finance Minister Lindsay Tanner, a long-time opponent of the road project, argues that there are better ways of using the money to meet our mobility needs, not to mention our response to climate change, oil depletion and liveability.

Many senior members of the Victorian Government and the road lobby have argued that new road links are needed to fight Melbourne's traffic congestion. If there are too many cars for a given space of road, it seems sensible to solve the problem by rolling out more bitumen.

Tanner, in his submission to the East West Needs Assessment notes: "Numerous studies have shown that increasing road capacity (by building more roads) merely increases demand, which re-congests the roads."

Professors Jeff Kenworthy and Peter Newman, of Curtin University, have conducted a global survey and found that road building has a poor track record in reducing congestion. It's akin to putting more holes in a belt

to solve an obesity problem.

Kenworthy argues that traffic ought to be viewed as a gas, rather than a liquid. Liquids typically hold their volume, regardless of the space provided. Transport planning theory views traffic as a liquid. Thus, the transport planner's job has been to simply provide the necessary volume of road space to achieve an efficient flow of traffic.

A clearer understanding treats traffic as a gas. A gas is able to expand and contract depending on the space provided. Viewed in this way, the transport planner's role is one in which a conversion to the most space-efficient modes of transport becomes the priority. A good transport planner looks to compress traffic by making space-efficient modes of transport more attractive. The tunnel will reward the most space-inefficient form of transport: the single-occupant motor vehicle.

Urban planning expert Jane Jacobs argues that officials often focus on symptoms and ignore causes. In this instance, the Victorian Government sees the problem as traffic congestion; so, the obvious solution is to widen the road. However, congestion is the symptom. Dependence on motor vehicles is the problem.

Moreover, only about 9% to 12% of traffic exiting the Eastern Freeway actually heads for the western suburbs. Why, then, spend \$9 billion facilitating a mobility pattern that people don't actually use?

Elliot Fishman is director of the Institute for Sensible Transport, which lobbies to reduce car use in urban areas.



## Telstra only one able to bring rural broadband

Is Stephen Conroy brave enough to confront problems in his policy, asks **Kevin Morgan**.

SIR Humphrey famously remarked in *Yes Minister* after Jim Hacker sought his advice: "Minister, if you really want to tell them that, you can, but it would be a very brave decision on your part."

Well, Communications Minister Stephen Conroy has been brave and canned the billion-dollar contract with Opel, the Optus-Elders joint venture that planned to deliver broadband in rural areas using fixed and wireless technologies.

The contract was awarded in the middle of last year by former minister Helen Coonan on departmental advice that Opel's ambitious plans, involving unproven WiMAX radio technology, could solve the problems of rural broadband access.

That Conroy has cancelled the contract should come as no surprise. It was awarded even before Opel had wireless spectrum and the network plans and coverage claimed can only be described as extraordinary.

Quite how Opel could have submitted a business plan that warranted \$1 billion in government subsidy when it didn't have spectrum and the necessary radio plans remains a mystery. It was only in January that Opel secured spectrum after paying Auster \$65 million for wireless licences that are not suited to widespread rural coverage.

In return for \$1 billion, Opel promised to match the funding, largely in kind, which meant Elders shop fronts and existing Optus mobile phone sites and towers. And it was questionable how much of the money was to be spent on delivering new rather than duplicate infrastructure, as part of the Opel funding seemed destined to replicate Telstra links that Optus now rents for commercial mobile phone services in rural areas.

With Telstra keeping the pressure on by pursuing the tender award through the courts, Conroy could no longer ignore Opel's fanciful claims, especially as they started to confront benchmarks for rolling out the network. Based on a departmental assessment in January, it appears Opel could only deliver 75% of their promised radio coverage.

Nor, given that the expert broadband panel has begun work on awarding the \$4.7 billion subsidy for a national fibre-optic high-speed network, could Conroy ignore the overlap between the Opel network and his own rural broadband plans.

But while Conroy might feel pleased that his earlier criticisms of Opel have been vindicated, he will have his own policy demons to confront as his expert group's work progresses. If the Opel plan was based on a fiction, that WiMAX operating at high frequencies could serve rural areas, his own broadband plans based on a competitive tender are also badly flawed.

Only Telstra can build a national network within the subsidy on offer. Quite how Conroy confronts the obvious contradictions and problems in his own policy will test the mettle of the Sir Humphreys in his own department and demonstrate just how brave the minister really is.

Kevin Morgan is an independent telecommunications consultant.

## Tunnel vision on solution to transport woes fed by an old mantra

Ministers and their minders have long believed that roads means votes, writes **Brian Buckley**.

THE orthodoxy that roads means votes has not escaped the overview of Sir Rod Eddington in his recommendation of a \$10-12 billion extension of the Eastern Freeway to the CityLink and Western Ring Road precincts.

The laudable intention is to ease congestion at the Eastern

Freeway exits, and to take pressure off the West Gate Bridge and surrounds.

There are three immediate problems:

- New freeways create more, not less, congestion over just a few years. They induce more traffic, and build up turbidity at exit ramps.

- More than 90% of the Eastern Freeway traffic goes to the central business district and nearby activity areas, not to the west.
- The State Government or tenderers will want to toll the freeway extension, which will lead to trucks and cars escaping before Hoddle Street into Kew, Balywin, Fairfield, Heidelberg and Clifton Hill, creating more congestion, and turning Kew Junction into a nightmare.
- There is a more serious medium-term problem.

The Federal Government has declared that emission targets will be set within a year or so, and carbon outputs will incur heavy financial costs.

Only a rail system from Doncaster to Clifton Hill and the environs of the CBD has any hope of meeting federal targets.

Eddington has come closer to the mark with the recommendation for new rail lines.

Unfortunately, the chief proposal is for an underground from Footscray to Caulfield. Lines

already connect these two stations. Why duplicate underground what already exists on the surface?

The first rail priority must be the upgrading of the signals, the tracks and the services on the existing lines.

The second priority is the extension of the existing lines to the growing outer suburbs such as South Morang and Rowville. Eddington also proposes a rail link from Werribee to Deer Park via Tarnet. But this will

work only if the tracks, the signalling and the overall services on the Newport and Sunshine lines are revitalised first.

The response of the Brumby cabinet will be worth watching. Tolls will only work if they cut off the exit points on the Eastern Freeway, which will be the source of great public irritation.

They will also be tempted to build several off-ramps into the CBD to maximise use of the freeway extension.

Nobody in the public service

believes this Government will want to outlay billions on a new underground rail where the voting dividend is dubious.

The first and most economic step to meet public demand and Rudd's emission targets is to upgrade and extend the existing mass rail system. The overriding question is: Do the Victorian Government and its political minders still believe the only transport votes are in roads?

Brian Buckley is a public policy consultant.

## Caveat emptor, but what of the regulators watching over Opes?

ASIC and ASX have taken some heat, but APRA has kept a low profile.



WE HAD a bloke on the phone, a 67-year-old client of Opes who had lost his life savings. He was contemplating ending it all, he said.

He had a share portfolio of \$1.8 million and a loan of \$332,000. All gone now. He was working on bringing his loan back to zero. ANZ and its receiver Deloitte are too busy to respond to him. He said he didn't know about the transfer of title on his Opes stock to ANZ. Didn't read the small print.

There was a flurry of desperate and angry email too — as there has been for days — blaming Opes, its principals,

to blame; there rarely is. ASIC and ASX have taken some heat — and they deserve it.

Did ASX, which regulates the brokers, ever check out Opes Prime? Unlikely.

What about ASIC, the corporate watchdog? Not until Opes had blown up. Even then, its first priority was to say it could say no more than it had revoked Opes boss Laurie Emin's passport.

Sexy ploy, play the man, create the villain. Though villain he may be, and that is not established yet, the fact remains that Opes was licensed. And with that licence it allowed its clients to borrow over anything except the mangiest greyhound at the track.

We are talking hundreds of tinpot stocks, and even options, many with the faintest hope of ever earning a cent in revenue.

We have a bunch of leaked client portfolios. Everyone knew

anyway. Tricom was in the press three years ago, care of this reporter, for margin lending over speculative shares. Chemeq to be precise. That went bust.

Still, the majority of Opes clients knew the risks, intellectually if not emotionally.

Then there are the banks. ANZ knew intimately what Opes was up to. Some 660 small stocks, most with no earnings. Were the banks reckless? And what other regulator might have known, should have known, and could have done something? Any guesses?

The Australian Prudential Regulatory Authority. Heard of them?

They try to keep a low profile. APRA regulates the banks. Its role is to get involved when it suspects reckless lending practices or risk of a systemic or specific bank failure.

So what have they been up?

Who knows: "We can't comment on specific cases."

But you did comment, issuing a slather of press releases on the specific case of the National Australia Bank \$360 million forex rogue trader scam . . .

A spokesman kindly directed us to comments made by APRA boss John Laker at a Senate Estimates committee in February: "It covers the issues."

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What issues? This descended into the usual Pythonesque PR exchange where they try to tell you nothing, hope that you won't write anything and pray that you don't ask to speak to the boss.

We did. Surely it would reassure the market? Couldn't

even come good with a "we are monitoring the situation".

Naturally John Laker wasn't available for comment.

We were directed to the old estimates speech again — you can probably dig it up on the website — but frankly have been a bit tied up with things like talking a bloke out of committing suicide.

To the leaked Opes documents that landed yesterday. They are a bit old, but useful. Colourful Melbourne identity Leo Khouri had a portfolio value last July of \$14 million in one account and another \$10.3 million in another. His loans were conservative at less than \$1 million and his LVR was fair dinkum stingy by Opes standards at 25%.

Sydney lawyer Chris Murphy, on the other hand, had LVRs of 95% across his handful of stocks and loans to the tune of \$168 million.

What was Opes thinking with its 95% LVRs? What were the banks thinking lending to Opes? What were the regulators thinking in their sleep?

It should be noted — in light of Opes clients' efforts to injunct the ANZ sale process in the courts — that the securities lending contracts at issue are as yet "unlitigated" or untested in courts in this country.

Although the banks appear to have title over Opes clients, ANZ did not have clear title or otherwise it would have received dividends and issued substantial shareholder notices for beneficial ownership.

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For more on the Opes/Tricom debacle, go to [businessday.com.au](http://businessday.com.au) through the day.