

# Local Government and the cables

David Tow, Planning Policy Officer, Local Government Association of NSW

**T**here has been a massive groundswell of public opposition to the exemptions and powers provided to carriers under the Telecommunications Act 1991 and the inadequate planning process implemented under Telecommunications National Code 1994 (TNC).

This has been most strongly expressed at the local level, where the environmental impact of facilities (particularly aerial cable) is felt and most strongly vocalised through local government. Opposition to aerial cabling is principally due to the severe impact it has on streetscapes and the widespread belief that duplication is unnecessary to facilitate competition in telecommunications.

The Local Government Association of NSW (LGA) has been asked by its members to co-ordinate legal, political and commercial action against all carriers who seek to place their commercial needs ahead of the impact of their infrastructure upon local areas.

The LGA believes that it is possible to establish an independent infrastructure management authority to deal with cabling in a manner which meets both the commercial needs of the carriers and the economic and environment needs of the nation.

It is our belief that the current framework, providing for facilities-based competition, is not delivering the highest standard technologies as was anticipated by the previous federal government. The carriers are racing suburb and street by street in urban markets across Australia to obtain a 'first-mover advantage'. To achieve this artificial competitive advantage, Optus Vision is building a network in a manner unanticipated by the policy makers and legislators of the previous federal government

and which is unlikely to deliver the benefits of interactivity except in the long-term. Telstra is now also effectively forced to go aerial, to maintain competitive parity.

The regulation of telecommunications in this country has been predicated on the philosophy that 'commercial considerations' should be the ultimate determinant of the type and pattern of telecommunications deployment. In virtually all instances the current TNC provides carriers with the opportunity to ignore public opinion, environmental impact or democratic intervention on the basis of ill-defined 'technical or economic considerations'. This is anathema to the strong democratic traditions of this nation.

The development of telecommunications in Australia is currently driven by the interests of carriers, rather than the interests of the nation, to the extent that multi-national corporations are effectively provided with a carte blanche to utilise our national assets and public spaces in a manner which best suits their commercial interests.

The economic interests of the industry and environmental interests of urban dwellers can best be jointly served through the separation of infrastructure deployment from service delivery. An independent infrastructure management authority could take ownership of all existing underground telecommunications ducting and provide equal and fair access to current and future carriers. The authority would be funded from access payments by carriers and would deliver the following benefits:

- reduce the aggregate cost to the nation of duplication in infrastructure;
- provide for enhanced product and service competition in the indus-

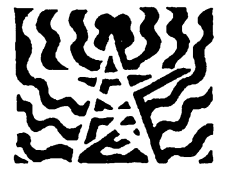
try by lowering entry costs and ensuring that all carriers have fair and equal access to national infrastructure;

- maximise the utilisation of the existing national infrastructure system;
- excise a major cost component of Telstra's budget, which could immediately become self-funding;
- allow carriers to maintain two separate systems if desired; and
- facilitate the undergrounding of cable over time in areas where it is already erected aerially.

It is arguable that the nation would be better served by a single cable, minimising the enormous waste caused by the duplication of infrastructure. The independent authority, however, would be able to facilitate either joint use of a single cable or separate cables co-located underground. The choice would remain a matter for the carriers.

Competition is currently being introduced to a large number of industries across the nation without the need for duplication of infrastructure, including gas, electricity, water and air transport. The sharing and upgrading of infrastructure by competitors in those industries does not appear to be hampering competition and there is no suggestion that the nation would benefit from two or more electricity grids or gas pipelines.

The LGA's solution would provide an opportunity for Optus to achieve its business plan and competitive strategies with greater certainty and without ongoing political, commercial and legal action and increasing community anger. It presents an opportunity for the federal government to rectify the most substantial flaw that currently exists in telecommunications policy. □



**Justin Napier, Communications Officer, Shire of Nillumbik, Melbourne**

**O**ne of the most difficult issues in local government currently is the question of overhead cabling.

The Shire of Nillumbik, an urban fringe municipality in Melbourne's north-east, has been closely involved with the issue since early this year.

Nillumbik was one of the first Councils to bring this matter to light and decided to approach the relevant stakeholders to discuss the issue.

In January this year, Nillumbik hosted meetings with Optus Vision and Telstra and invited representatives from the Municipal Association of Victoria and Austel (the industry regulator) to observe.

The purposes of the meeting were to:

- (1) define the current state-of-play across the industry;
- (2) outline Council's position on the issue of overhead cabling in the Shire; and
- (3) find common ground between the parties and in so doing achieve an outcome which was satisfactory to all parties.

The matter arose because cabling was about to commence in the Shire and Council had not been consulted. Council believed its planning powers had clearly been over-ridden by the then federal government's decision to allow the telecommunications companies to operate outside local planning codes.

How then could local government preserve the amenity of its community if the law permits telecommunications companies to operate in a fashion which denies the local authorities input into the decision-making process?

Another important issue, which remains unresolved, concerns the ownership of the public telecommunications infrastructure.

How could the federal government grant exclusive access to existing infrastructure, including underground ducting with capacity to service more than one companies' needs, to one company and not to their competitor?

Doesn't this translate into a substantial competitive advantage for that company and place its competitor in a detrimental position?

After all, wasn't this infrastructure funded by taxpayers and therefore a public (not private) asset?

Nillumbik Council took the view that this situation needed clarification for the benefit of all parties.

Having raised the issue, the Shire of Nillumbik managed to engage both parties and gain the following concessions from Optus Vision.

Optus Vision agreed to no tree cutting in heritage areas, to no overhead cabling in new estates and to only cut trees under Council supervision. A Council representative was to be consulted daily to ensure these terms were enforced.

Optus Vision also agreed to inform Council of its roll-out plans three months before the commencement of any works.

An agreement was reached between Telstra and Optus Vision for Telstra to provide the latter with details of where underground ducting capacity existed and a deal was to be negotiated between the parties to share this resource.

Whilst cabling is still under way in Nillumbik, Council and its residents have the satisfaction of knowing that their voices are being heard and their concerns addressed.

However, this is only a local solution to a national problem. Since January, Council has urged the federal government to sort out this impasse and in so doing restore local government planning powers. □

## Telstra goes overhead

**TELSTRA** advised in mid-April that its expects that up to 30 per cent of its cable roll-out will now be overhead cabling. This will potentially put Telstra in the same firing line currently being faced by Optus.

A recent audit by AUSTEL of Telstra's underground ducts reportedly found that the actual availability of space that could be shared with Optus is, on average, only 30 per cent. AUSTEL also confirmed that overhead cabling is significantly cheaper and quicker to roll-out than underground cable. AUSTEL's report is expected to be publicly released by the Minister for Communications and the Arts, Senator Richard Alston, in the near future.

The roll-out race is heating up in advance of the introduction of tighter rules under the Telecommunications National Code. Senator Alston has announced plans to place stricter controls on overhead cables and mobile telephone towers under a new code to be introduced from July. It is anticipated that the new code will eventually be replaced by a set of national planning arrangements to be administered by the states and local governments.

It has been reported that the new code will require environmental impact assessments to be conducted on new networks and will see AUSTEL establish an independent dispute resolution process to hear complaints.

The Department of Communications and the Arts is currently preparing a draft code for public comment. The Telecommunications Act requires that a public inquiry be held to receive and consider submissions on the draft code.

The Department is also in the process of preparing a draft Land Access Code for public comment. This code details the procedures to be followed by carriers and the owners and occupiers of land. □

*Sue Ferguson*