

# RECENTLY RELEASED LGOIMA RESPONSES:

## 5G - updated 14.06.2023

### Releases:

1. A copy of the Health and Safety Risk Assessment for 5g[,] A copy of the 5g Environmental Impact Analysis [and] A copy of the Insurance Policy for the 5g equipment that has been installed within Tasman district Council's jurisdiction – released on 12/01/2023 ..... 2
2. All locations of existing and currently planned 4G and 5G transmissions towers within the Tasman District. – released on 12/01/2023 ..... 2
3. Variety of questions in relation to a 5G tower in Wakefield – released on 30/05/2023 ..... 4
4. Can you confirm, is the Tasman District Council bound by the Health Act 1956? – released on 13/06/2023 ..... 4
5. therefore understand also by the response, there was no consultation done with the community under the LGA S82. Is this Correct? – released on 14/06/2023 ..... 5
6. I understand that a Resource Consent was issued by the council, what were the requirements that this land needed to meet for this RMC being issued? – released on 14/06/2023 ..... 5

1. A copy of the Health and Safety Risk Assessment for 5g[,] A copy of the 5g Environmental Impact Analysis [and] A copy of the Insurance Policy for the 5g equipment that has been installed within Tasman district Council's jurisdiction – released on 12/01/2023

We can advise that, from an information service and technology perspective, Council has no involvement in the placement, management and impact of 5G services and so individual documents falling under scope of your request are not held. However, we do hold resource consent applications that may include an assessment of environmental impacts and in some instances include health and safety aspects in broad terms. However, resource consents that are associated with 4G/5G installations are not held on any individual database and so cannot be readily retrieved as a dataset.

To provide the information requested would require a “keyword” search of Council's central database and then a manual retrieval/inspection of those individual application documents to determine if they are connected with a 4G/5G installation or relate to another type of application. We estimate that this work would take a staff member two full 8 hour days to complete and may produce limited results in terms of the information you seek.

We have an obligation, under section 17A of the Local Government Official Information and Meetings Act 1987 (LGOIMA), to consider whether raising a charge and/or extending the statutory timeframe would assist, where a request may otherwise be refused on administrative grounds under s.17(f) Local Government Official Information and Meetings Act 1987 (LGOIMA), if a response requires substantial collation and research. In this instance neither would be appropriate because resources are unlikely to be available in the foreseeable future and diverting staff time to the production of this information would unreasonably interfere with Council's other operational business. Unfortunately, we do not have any suggestions as to how your request may be modified so it is capable of being granted and still yield the information you seek.

Consequently, it is our decision to refuse your request on administrative grounds in reliance of the following sections of LGOIMA:

S.17(e) the specific documents requested are not held; and  
S.17(f) other information that may fall within scope of your request cannot be made available without substantial collation and research.  
Information may be more readily available directly from the individual telecommunications providers, if you have not approached them already.

2. All locations of existing and currently planned 4G and 5G transmissions towers within the Tasman District. – released on 12/01/2023

We can advise that, from an information service and technology perspective, Council has no involvement in the placement, management and impact of 4G/5G services. We do hold resource consent applications that may include the information you seek. However, resource consents that are associated with 4G/5G installations are not held

on any individual database and so cannot be readily retrieved as a dataset. To identify relevant information would require a “keyword” search of Council’s central database and then a manual retrieval/inspection of those individual application documents to determine if they are connected with a 4G/5G installation or relate to another type of application. We estimate that this work would take a staff member two full 8 hour days to complete and may produce limited results in terms of the information you seek.

We have an obligation, under section 17A of the Local Government Official Information and Meetings Act 1987 (LGOIMA), to consider whether raising a charge and/or extending the statutory timeframe would assist, where a request may otherwise be refused on administrative grounds under s.17(f) Local Government Official Information and Meetings Act 1987 (LGOIMA), ie. if a response requires substantial collation and research. In this instance neither would be appropriate because resources are unlikely to be available in the foreseeable future and diverting staff time to the production of this information would unreasonably interfere with Council’s other operational business. Unfortunately, we do not have any suggestions as to how your request may be modified so it is capable of being granted and still yield the information you seek.

Consequently, it is our decision to refuse your request on administrative grounds in reliance of S.17(f) LGOIMA – that the information requested cannot be made available without substantial collation and research.

Information may be more readily available directly from the individual telecommunications providers, if you have not approached them already.

3. [Variety of questions in relation to a 5G tower in Wakefield – released on 30/05/2023](#)

**Provide evidence with scientific peer reviewed data that SG towers will harm no people[,] Provide short, medium and long-term evidence requested in 1 [and] Provide Health and Safety information used in your SG tower decision processes.**

**We will agree to the SG Tower in Wakefield subject to:**

**- The above scientific data being robust, having consideration of a range of 5G studies and discussed and agreed with by the affected and interested community [LGA S82 (4) © see below]**

**- Provision to us, the undersigned, of your signed agreement (each community board member, councillor and CEO Janine Dowding and Leonie Rae [COO] that you will, in your private and unlimited commercial capacity, fully cover the cost of any harm and loss to any person or animal resulting from the effects of the SG Tower if it is erected as proposed. If there is no harm then you will have no problem agreeing to this. [No man must harm another]**

**- Provision of a signed agreement of just one doctor who will agree in their private and unlimited commercial capacity, to fully cover the cost of any harm and loss to any person or animal resulting from the effects of the SG Tower if it is erected as proposed.**

**- TDC showing where the Imperial Laws Application Act 1988 S5 principles of equity can be overridden and where in Schedule 1 the Imperial enactments in force in New Zealand can be overridden. Magna Carta c29 No freeman is to be taken or imprisoned or disseised of his free tenement or of his liberties or free customs, or outlawed or exiled or in any way ruined.**

**- TDC showing where the NZ Bill of Rights 1990 can be overridden which affirms the International Covenant on Civil and Political Rights Article 1 All peoples have the right to self determination, Article 5 (1) rights and freedoms Article 9 right to liberty and security of person – released on 30/05/2023**

The LGOIMA enables people to request official information from local government agencies, including Tasman District Council. However, the LGOIMA only applies to information that is already held by Council.

We can confirm that Council has granted a resource consent to Aotearoa Towers Group to construct a 15 metre high telecommunication pole on road reserve adjacent to 7 Pigeon Valley Road. However, the information you are seeking is not held by Council. As a result, I must refuse your request under section 17(g) of the LGOIMA.

4. [Can you confirm, is the Tasman District Council bound by the Health Act 1956? – released on 13/06/2023](#)

The Tasman District Council as a local authority has powers and duties under the Health Act 1956.

5. therefore understand also by the response, there was no consultation done with the community under the LGA S82. Is this Correct? – released on 14/06/2023

The resource consent was non-notified.

6. I understand that a Resource Consent was issued by the council, what were the requirements that this land needed to meet for this RMC being issued? – released on 14/06/2023

A copy of the resource consent decision is **attached**.

27 April 2023

Aotearoa Towers Group  
C/- Incite  
PO Box 3082  
Shortland Street  
Auckland 1140

Dear Aotearoa Towers Group

**Decision on Non-Notified Resource Consent Application RM230106 – Land use consent to construct a 15 metre high telecommunication pole on road reserve adjacent to 7 Pigeon Valley Road that does not comply with the Permitted Activity Regulations of the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF)**

Your application for resource consent has been granted. A copy of the Council's decision is attached. Please carefully read the conditions that have been attached to the consent and feel free to contact me if you have any questions about your consent or its conditions. My contact details are listed at the top of this letter.

Here are some matters that I need to highlight for you.

Section 357A of the Resource Management Act 1991 ("the Act") provides you with the right to lodge an objection with the Council against this decision including any of the conditions. Objections must be made in writing setting out the reasons for the objection together with a deposit fee of \$340.00 (GST inclusive), and must be lodged here within 15 working days of receiving this letter.

The final cost of processing your application has not been calculated yet. If the final cost exceeds the deposit already paid, then as we previously advised, you will be invoiced separately for the additional cost. If the final cost is less than the deposit already paid, then you will receive a refund. Where the costs are equal to the deposit already paid, no further action is required. You will receive a letter shortly about the final costs of processing your application.

Under Section 125 of the Act, your consent will lapse in 5 years unless you have given effect to it before then.

Yours sincerely



Bill Harrington  
Consultant Planner

Tasman District Council  
Email [info@tasman.govt.nz](mailto:info@tasman.govt.nz)  
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**Murchison**  
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Murchison 7007  
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Phone 03 528 2022  
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**Takaka**  
78 Commercial Street  
PO Box 74  
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New Zealand  
Phone 03 525 0020  
Fax 03 525 9972

## RESOURCE CONSENT DECISION

**Resource consent number:** RM230106

Pursuant to Section 104A of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants resource consent to:

***Aotearoa Towers Group***

(hereinafter referred to as “the Consent Holder”)

**Activity authorised:** Land use consent to install a 15m high telecommunication facility on road reserve adjacent to 7 Pigeon Valley Road in the Zone that does not comply with the NES TF.

**Location details:**

Address of property: Road Reserve adjacent to 7 Pigeon Valley Road  
Co-ordinates: Easting: 1603461 Northing: 5416294 (NZTM)

Pursuant to Sections 108 and 108AA of the Act, this consent is issued subject to the following conditions:

### CONDITIONS

#### General

- 1 The activity shall be in accordance with the application submitted, as shown on the approved plans marked Plan A-B RM230106 and dated 27 April 2023. Where there is any apparent conflict between the information provided with the application and any condition of this consent, the conditions shall prevail.

#### Height

- 2 The height of the telecommunications pole shall not exceed 15 metres. Height shall be measured in accordance with Regulation 7 of the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016.

#### Pole Colour

- 3 The exterior of the telecommunications pole shall be finished in unpainted galvanised steel and the antenna shroud shall be grey in colour.



## **ADVICE NOTES**

### **Council Regulations**

- 1 This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.

### **Other Tasman Resource Management Plan Provisions**

- 2 This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:  
1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate resource consent.

### **Consent Holder**

- 3 This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents "attach to the land" and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to "Consent Holder" in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent as there may be conditions that are required to be complied with on an ongoing basis.

### **Development Contributions**

- 4 The Consent Holder is liable to pay a development contribution in accordance with the Development Contributions Policy found in the Long Term Plan (LTP). The amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid.

Council will not issue a Code Compliance Certificate until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

### **Monitoring**

- 5 Monitoring of this resource consent will be undertaken by the Council as provided for by Section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

### **Cultural Heritage**

- 6 Council draws your attention to the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. In the event of discovering an archaeological find during the earthworks (eg, shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Heritage New Zealand Pouhere Taonga Act 2014 to cease the works immediately until, or unless, authority is obtained from Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014.



### **Construction Times and Noise from Construction Work**

- 7 Construction work may only take place between 7.30 am and 6.00 pm from Monday to Saturday. There shall be no works on Sundays or public holidays. The restriction on hours of works shall not apply to low noise-generating activities, such as site set-up or staff meetings, which may occur outside of these hours provided they are generally inaudible off-site. The noise from any construction work activity must be measured and assessed in accordance with the requirements of New Zealand Standard NZS6803:1999 Acoustics – Construction noise.

### **Corridor Access Request**

- 8 A Corridor Access Request will need to be made to the Council's Community Infrastructure Group to authorise the new works within the road reserve. Please contact the Council's Community Infrastructure Group for more information.

## **REASONS FOR THE DECISION**

### **Proposed Activity**

The application is to construct a 15 metre high telecommunications pole that does not meet the permitted criteria for pole height under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF).

### **Tasman Resource Management Plan ("TRMP") Zoning, Area, and Rules Affected**

According to the TRMP the following apply to the subject property:

Zoning: Rural 1 Zone  
Areas: Land Disturbance Area 1

The activity authorised by this resource consent is a Permitted Activity under the TRMP as it complies with Conditions (b) – (o) of Rule 16.6.2.1 of the TRMP.

### **Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF)**

The proposed cabinet is a Permitted Activity as it complies with Regulation 20(2) with an underground power supply; complies with Regulation 20(3)(a) as the cabinet height does not exceed 1.8 metres (1.6 metres) and footprint does not exceed 1.4m<sup>2</sup> (1.39m<sup>2</sup>); complies with the grouping rules in Regulation 22 as there are no other cabinets within 30 metres on the same side of road); and complies with the Regulation 24 noise limits as confirmed in the noise assessment supporting the application.

Earthworks associated with the proposal are a Permitted Activity under Regulation 54 of the NESTF.

Radiofrequency associated with the proposal is a Permitted Activity under Regulation 55 of the NESTF with the supporting Radiofrequency Assessment provided with the application dated 21/02/2023 and prepared in accordance with New Zealand Standard NZS2772.2.

Controlled Activity consent is required under Regulation 14 of the NESTF as the proposal does not comply with the Regulation 28 and Regulation 29 height standard, but the activity is a Permitted Activity under the TRMP. Control is reserved over the subject matter of the regulation that is not complied with (i.e., pole height).

Overall, resource consent is required for a **Controlled Activity** under the NESTF.

#### **Principal Issues (Actual and Potential Effects on the Environment)**

The principal issues associated with the proposed activity involve the actual and potential effects on the environment. For this application these were:

- (a) Effects of additional pole height.
- (b) Other matters – noise and radiofrequency.

I consider that the application is able to be granted for the following reasons:

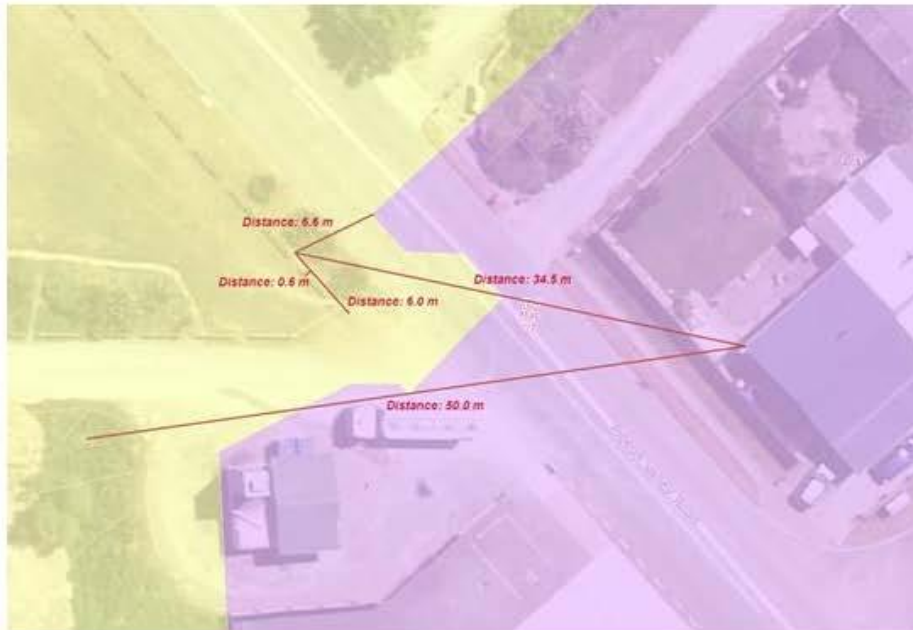
#### ***Effects of additional pole height***

- (a) Council control is limited to the subject matter of the NESTF regulation that is not complied with (i.e., pole height). In this instance a pole height of 15 metres is proposed where the NESTF permits a pole height of 12.11 metres.

The permitted baseline is relevant to this application and it is considered appropriate to take it into consideration. In this instance the proposal is a Permitted Activity under the TRMP which allows for a maximum height of 25 metres up to 10 metres from any dwelling and 3 metres from a Residential Zone boundary. Consequently, if the proposal was for a similar structure constructed by an applicant not regulated under the NESTF, then the proposal would be permitted and would not require resource consent. It is noted that to fall within this permitted baseline the activity would still have to be within the scope of a network utility (as defined in the TRMP) which includes Council servicing networks, electricity distribution networks, meteorological networks and street lighting.

Also of relevance is that a telecommunications pole up to 25 metres high would be permitted under both the TRMP and Regulation 34 of the NESTF if it was not located on the road reserve (e.g., it was located on the adjacent property in the Rural 1 Zone) and was 50 metres from the nearest residential dwelling. By way of comparison, the application is for a 15 metre high pole which is approximately 34.5 metres from the nearest residential dwelling. This means that a pole 10 metres higher could be constructed as a Permitted Activity approximately 16 metres further away and not in road reserve.

Note these setbacks differ from those identified in the application (including as shown in Figure 6 of the application) which is not correctly measured and does not align with the scaled site plan. As shown in the aerial photograph overleaf, the location as taken from the site plan is approximately 34.5 metres from the nearest dwelling. This has been checked and confirmed with the applicant.



The applicant has provided the following (summarised) assessment of visual effects arising from the additional pole height:

- The proposal is for the establishment of a new slimline pole structure with a narrow profile. While it may be visible from parts of the surrounding area, its slimline profile will minimise any adverse effects.
- The directly adjacent site is a Rural 1 Zone where a facility could be established as a permitted activity up to 25m high under both Regulation 34 of the NESTF (subject to 50m set back from nearest dwelling) and the TRMP. Therefore, its effects are considered to be no more than the permitted baseline of the immediately adjoining land.
- The additional 2.89m in height above the permitted NESTF envelope is very slimline and is considered to have a less than minor additional visual effect when assessed against the alternative fully NESTF compliant facility, and a permitted 25m high facility approximately 16m further away on the adjoining rural zoned land.
- Views along Pigeon Valley in each direction will be viewed in the context of there being other overhead electricity poles in the foreground and overall view corridor, along with adjacent trees which provide a sense of scale and mitigate the potential dominance of the pole on the streetscape. Houses to the south of the proposed site are generally screened by trees.
- The narrow profile of the pole and positioning will ensure any shading effects are less than minor.
- The use of a galvanised pole equivalent to a normal streetlight pole that will quickly weather to a dull grey finish, and a grey shroud covering the antennas, is an appropriate response to the colour treatment to minimise visibility.



- Overall, the slimline pole structure located in the road reserve, is assessed as having less than minor adverse effects when assessed against what can be established in the Rural 1 Zone as a permitted activity under the TRMP.

The above assessment is adopted, noting that the applicant has updated the distances to adjoining sites to be more accurate since the lodgement of this application. The activity is entirely permitted under the TRMP, and a Controlled Activity under the NESTF for which Council must grant consent. The TRMP provides for a range of activities and large structures including poles up to 25 metres high within the Rural 1 Zone where this activity is located. Overall visual effects will be less than minor compared to the permitted baseline.

#### **Other matters – noise and radiofrequency**

- (b) These matters are outside the scope of the matters of control for this application but are commented on for completeness to note the permitted aspects associated with this application.

The application has been reviewed by Council's Team Leader – Environmental Health, who has provided the following comments:

*I have reviewed the acoustic information by MDA in 2018 and referenced in the AEE dated 22 February 2023.*

*The application is for resource consent to install, operate and maintain a telecommunications facility in the road reserve of Pigeon Valley Road opposite 8 Pigeon Valley Road, Wakefield.*

*The applied noise limits in Table 1 of the AEE are incorrect. The AEE applies a noise limit of 60 dB  $L_{Aeq}$  for non-residential receivers. However, the closest receiver is 1937029203: 1 Windlesham Place, Wakefield which is Residential Zone. The correct noise limits are:*

**50 dB  $L_{Aeq}$  (5min) between 7:00 am and 10:00 pm (daytime), and 40 dB  $L_{Aeq}$  (5min) / 65 dB  $L_{AFmax}$  between 10:00 pm and 7:00 am (night-time), if the cabinet is located in a residential zone or an adjoining road reserve**

*The nearest dwelling is 40m to south east, on the other side of the Pigeon Valley Road. This distance is well within the required set-back distance of 6m to comply with the night time residential noise limit of 40 dB  $L_{Aeq}$ . No screening is required.*

The above assessment is adopted and confirms that the proposal complies with the noise limits.

The applicant has provided a Radio Frequency Assessment report confirming the development will comply with Australian/New Zealand Standard AS/NZS 2772.2.2016 in accordance with Regulation 55 of the NES-TF. This assessment is adopted.

#### **Relevant Statutory Provisions**

In considering this application, I had regard to the matters outlined in Section 104 of the Act. In particular, I had regard to the relevant provisions of the following planning documents:

- (a) the Tasman Regional Policy Statement (TRPS); and  
 (b) the Tasman Resource Management Plan (TRMP);

- (c) the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF).

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. The activity is considered to be consistent with the relevant objectives and policies contained in Chapters 5 (Site Amenity Effects), 7 (Rural Environment Effects), 9 (Landscape) and 15 (Strategic Infrastructure and Network Utilities) of the TRMP and the applicable regulations of the NESTF.

#### **Part II Matters**

I have taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as presented in Section 5.

#### **Notification and Affected Parties**

The adverse environmental effects of the activity are considered to be no more than minor. The Council's Principal Planner Resource Consents has, under the authority delegated to them, decided that the provisions of Section 95 of the Act have been met and therefore the application has been processed without notification.

#### **Conclusions and Recommendations**

The approval of this consent by non-notified procedures is therefore recommended for the reasons provided above and subject to the conditions in the resource consent to which this report is attached.



Bill Harrington  
Consultant Planner

#### **Decision**

The recommendation is accepted and this consent is granted on 27 April 2023 under delegated authority from the Tasman District Council by:

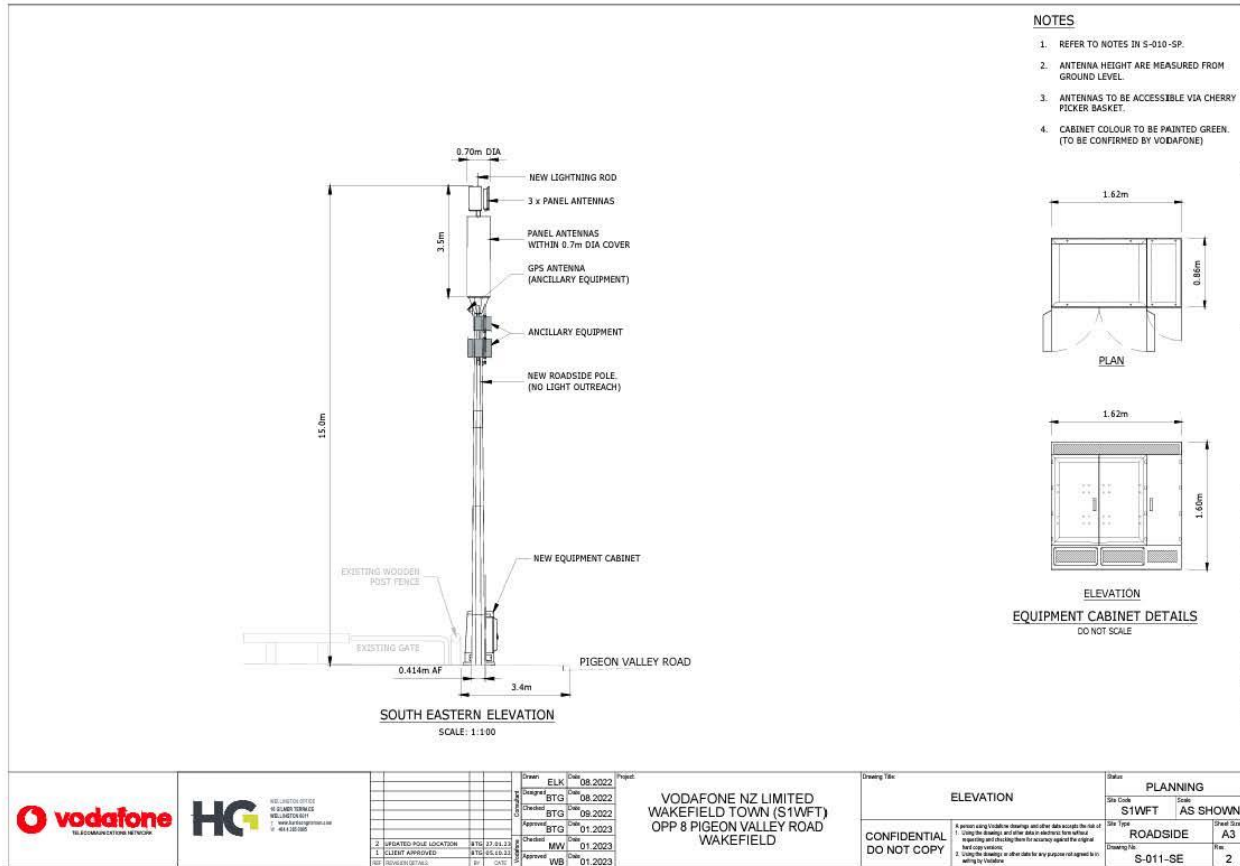


Paul Gibson  
Team Leader – Land Use Consents





Plan B RM230106 dated 27 April 2023



*Handwritten signature*



