

**STANDARD TERMS FOR THE CO-LOCATION ON
CELLULAR MOBILE TRANSMISSION SITES
SERVICE**

**SCHEDULE 8
RAPID MULTI ACCESS PERIOD (“R-MAP”)
ACCESS TERMS
RMAP- ACCESS TERMS
PUBLIC VERSION**

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The Purpose of this Document

This is the schedule 8 of the NZCL comments on the Vodafone STD co location document this appendix 8 (the RMAP) , is intended to be a short form instructive code to facilitate rapid multi access co location during the initial 2 year build period

ACCESS TERMS

1 Definitions

1.1 Except where expressly provided otherwise, in the Access Terms:

Access Seeker Equipment	means any cellular mobile telephone network transmission and reception equipment (including any necessary supporting equipment) of the Access Seeker located, or to be located, on or with the Relevant Facilities of an Access Provider pursuant to the Mobile Co-location Terms.
Agreed degradation and service differential	this is the agreed industry protocol for degradation as adjudicated by the Commerce Commission with a different ratio for a <ul style="list-style-type: none">(i) inner city sites(ii) city sites(iii) suburban sites(iv) rural sites
Antenna Minimisation Technology	the facility of using modern antennas to shrink the infrastructure envelope on cell towers thereby alleviating headframe space and enabling more space for new entrants and access seekers
Authority	includes a government, statutory or regulatory authority
as built drawings	Engineering drawings which show the layout of the tower and relevant facilities which were used by the council and construction company to approve the RMA and build the original tower.
Database	this is the document which must be prepared by access seekers and sanctioned by the Commerce Commission before the STP is approved. It covers all Access Provider monopolies and covers off a large list of requirements (see Appendix)
Dedicated Co-location Wholesale Manager	this is the access provider dedicated co location manager and point of contact who has delegated authority to deliver the service and make day to day operating decisions. He/she is solely responsible for this function and has a specific level of delegated authority by the access provider to make day to day decisions. There remuneration is a function of how many sites are built .
Footprint	has the same meaning as set out in the Mobile Co-location Service Description
Horizontal separation	This is the concept of enabling "like for like" coverage by facilitating Access Seeker facilities at the same height of that of the Access Provider. An engineering protocol is agreed by the Commerce Commission to assist with antenna minimisation to enable this service
HSE Act	means the Health and Safety in Employment Act 1992
Invitee	includes any employee, agent, contractor, subcontractor or visitor

Lease	Means the relevant lease, sub-lease, licence, sub-licence or other right to occupy in relation to any leasehold . Wherever possible the access provider will be obliged to facilitate a sub lease to the access seeker
Landlord	means: (a) the grantor of the relevant Lease; and (b) any other person whose consent is required order to obtain the necessary rights to carry on the Permitted Use on the Site (which may include without limitation the head lessor or head licensee in the case of a sub-lease or sub-licence respectively, or a mortgagee)
Like for like Co location basis	the concept of the access seekers coverage capability being the same as the Access Provider's coverage capability from that particular cell site
Mast	this is the steel pole which antennas are attached to
Mobile Co-location Service	Means the service supplied pursuant to the standard terms determination made by the Commission under section 30M of the Act in relation to the Access Provider's cellular mobile transmission sites service. This means doing everything possible associated with the facilities access for the access seeker to enable the access seeker to commence transmitting from a co location site. It includes – reasonable RMA help, database provision, Rapid multi access approvals, site access arrangements, engineering liaison, and service delivery comparable to any wholesale product delivered by Telecom Wholesale, under the Wholesale Charter. The service includes all activity from first request until the site is being successfully used
Built co location cell sites	This is a built and operating and transmitting cell tower working successfully as a co location, For clarity , its not a meeting , email , workshop , conference call ,facilities meeting , or group meeting .its an access seekers equipment working on a commercial basis on a co located cell tower mast .
Notice	means a notice in writing provided in accordance with section 46 of the Mobile Co-location General Terms
Penalty	The sum of money payable from the Access Provider to the Access Seeker (or Commerce Commission) as a consequence of failing to deliver "built cell sites" within a reasonable time. This may involve a payment in cash or a temporary alteration in interconnect or roaming rates
Permitted Use	means operating and installing, maintaining, repairing, altering, removing and/or replacing the Access Seeker Equipment exclusively for the purpose of using the Mobile Co-location Service]

Qualifying mobile phone infrastructure builder	This is an organisation who qualifies for national roaming as per the 2001 Telecommunications Act. It must be a mobile phone operator who is building or who has built over 100 cell towers and is intending to build 65% or greater coverage in New Zealand (measured by population coverage)
Rapid multiple access	The block approval by an access provider of 30 or more sites simultaneously as a consequence of same or substantially similar cell tower types. The process enables a new operator to rapidly deploy a network infrastructure to quickly remove the cost burden of roaming and assist in extinguishing the problem of getting RMA approvals in premium suburban areas. Within the 30 sites at least 10 or more must be of a similar tower type and multiple approvals must be effected as a consequence of this similar engineering standard and solution
Relevant facilities	This means cellular tower, mast, building, cabinet space , cable ducts , roof top , any location where transmitting equipment is held
RMA	Resource Management Act of New Zealand relating to a local body approval of the right to erect facilities
Requirement to accept a level of degradation	A requirement for an access provider to accept a pre agreed level of service differential as a consequence of co location of cell towers. there shall be 4 levels <ul style="list-style-type: none">• Inner city sites• City sites• Suburban sites• Rural sites
RMA Assistance	reasonable assistance, help, guidance, co-ordination, liaison, instruction, whereby the access provider understands the requirement for RMA approval and commits on a timely basis to doing everything reasonably possible to assist in achieving such an approval for an access seeker
Service description	Description of the service required to be offered by the incumbent or the access provider to facilitate a commercially working cell tower
Similar Site Types	a type of site that has similar characteristics whereby a block approval can be given for a access seeker engineering a protocol over an entire range of sites
Site	[the same meaning as set out in the Mobile Co-location Service Description.
Target	the number of built sites by the access provider on a given date. The number by which the RMAP will be judge a success or not

2 Interpretation

- 2.1 References to clauses or sections are references to clauses or sections in the Access Terms unless expressly provided otherwise.

3 General

- 3.1 R-MAP access terms sets out definitions and procedures for the rapid multi access period (RMAP) when the new entrant is establishing their network. The purpose of this period is I an infrastructure catch up construction period, whereby an intense build period is taking place rather than routine individual cell site capacity upgrades are taking place. It is a 2 year period from when the service is first launched.
- 3.2 The R-MAP Access Terms apply in addition to the Mobile Co-location General Terms. If there is any conflict between the RMAP Access Terms and the Mobile Co-location General Terms, the R-MAP ACCESS Terms will prevail.
- 3.3 The R-MAP Access Terms are drafted in the singular but apply equally and severally to each supply of the Mobile Co-location Service or multi site type access arrangement.
- 3.4 Intention** This RMAP Access terms is designed to set out the terms in which the access provider will supply rapid multi access co location terms to an access seeker . This service is designed to deliver multiple approvals for pre approved standard cell tower types.
- 3.5 The database set up period will agree on standard type names for access providers towers (80-% of all towers must be 4 standard types) (see appendix to this document) and then a standard engineering protocol shall be agreed for each tower type .This agreement will then facilitate an agreement between the parties to agree in simple terms the cost and scope of engineering. The access seeker shall then be permitted to capture an agreement for multiple site types and proceed to seek RMA (Resource Management Act) approval from local councils.

4 Basic rights and obligations

- 4.1 For the time that the Access Seeker has booked the facilities with the access provider the access Seeker has a exclusive right to gain access to the [Relevant Facilities/Site] for the purposes of the Permitted Use on the [Footprint/Site]. On the basis that the access seeker is an qualifying mobile phone infrastructure builder.
- 4.2 For the time that the Access Seeker is supplied with the Mobile Co-location Service under the Mobile Co-location Terms, the Access Seeker also has a non-exclusive right to:
- 4.2.1 Upon reserving a tower, the Access seeker has an 18 month window to install their equipment on the tower on a like for like basis.
- 4.3 The Access Seeker's right under the Access Terms is subject to:
- 4.3.1 The rights set out in the R-MAP access terms
- 4.3.2 Whatever determination the Commerce Commission make
- 4.3.3 The terms which are agreed with the site provider.
- 4.4 The Access Terms do not:
- 4.4.1 give the Access Seeker any interest or estate in the [Footprint] or the [Relevant Facilities/Site];
- 4.4.2 confer on the Access Seeker any right to the exclusive possession of any part of the [Relevant Facilities]; or
- 4.4.3 make the Access Provider responsible in any way for the Access Seeker's business.
- 4.5 The Access Provider is entitled to grant additional rights in connection with the [Relevant Facilities] to any third parties. only after the 18 months R-MAP period is up.

Use of the Relevant Facilities

- 4.6 The Access Seeker will access the [Relevant Facilities] and use the [Footprint] on the [Relevant Facilities/Site] for the Permitted Use and for no other purposes.
- 4.7 The Access Seeker will ensure that any access to the [Relevant Facilities/Site] by the Access Seeker or its Invitees is in accordance with the access and security procedures set out in the R-MAP Mobile Co-location Operations Manual (an Appendix of the R-MAP Access terms) and in compliance with any additional reasonable request and direction of the Access Provider.

5 Things the Access Seeker must not do

- 5.1 The Access Seeker must not and will ensure that its Invitees will not do any of the following:
 - 5.1.1 use the [Relevant Facilities] for any purpose other than the Permitted Use;
 - 5.1.2 impede or interfere with the Access Provider's rights of possession and control of the [Footprint] or the [Relevant Facilities];
 - 5.1.3 obstruct or interfere with the Access Provider's Network or the operation of the Access Provider's Network on the [Relevant Facilities]; (except within the limits of the pre agreed degradation level for the relevant site)
 - 5.1.4 access any part of the [Relevant Facilities] not strictly necessary for the Permitted Use; or
 - 5.1.5 interfere with any third party's use, occupation or enjoyment of the [Relevant Facilities].

6 Things the Access Seeker must do

- 6.1 The Access Seeker must do and ensure its Invitees do all of the following at the Access Seeker's own expense:

Installation and maintenance

- 6.1.1 Carry out any installation, maintenance, repair, alteration, removal and/or replacement of the Access Seeker Equipment in accordance with the Mobile Co-location Operations Manual or pre agreed access provider protocol
- 6.1.2 To the reasonable satisfaction of the Access Provider, maintain any Access Seeker Equipment installed in the [Footprint] in good and proper repair and working order and employing suitably qualified people to do so.
- 6.1.3 Maintain a direct relationship with the Dedicated co location wholesale manager
- 6.1.4 Work together with the access provider to ensure that the mobile phone industry does nothing to harm its reputation with local councils and local authorities .

No danger to others

- 6.1.5 Take all reasonable steps to ensure that no part of the Access Seeker Equipment becomes a danger to the safety of the Access Provider, the Access Provider's Invitees or third parties to whom the Access Provider has granted similar rights.
- 6.1.6 At all times take all practical and proper precautions to the reasonable satisfaction of the Access Provider for the prevention of risks at the [Relevant Facilities].

Rubbish

- 6.1.7 Remove all rubbish from the [Relevant Facilities] resulting from the Access Seeker's use of the [Relevant Facilities].

Compliance

- 6.1.8 Comply in all respects with:

- (a) any law or requirement of any Authority that applies in relation to anything that is done or to be done by the Access Seeker (including the Resource Management Act 1991), or its Invitees, under the Access Terms, or that relates to the Access Seeker's or the Access Seeker's Invitees' use of the Relevant Facilities;
 - (b) the Resource Management Act 1991, and any relevant district plan or regional plan and the terms of any resource consent and any other applicable law;
 - (c) the Mobile Co-location Terms; and
 - (d) the Access Terms.
- 6.1.9 Co-operate with any reasonable request made by the Access Provider in relation to inspections, maintenance of the Access Provider's Network, and general repairs and maintenance undertaken in connection with the [Relevant Facilities].

Consents and permits

- 6.1.10 As well as complying with its obligations under clause 8, obtain and comply with any other additional consent or permit required for the installation, operation and use of the Access Seeker Equipment on the [Relevant Facilities].

Access Seeker Equipment

- 6.1.11 Ensure that the Access Seeker Equipment complies in all respects with the Mobile Co-location Operations Manual.

Notice

- 6.1.12 The Access Seeker will promptly advise the Access Provider in writing on becoming aware of any:
- (a) material damage to the Relevant Facilities, the Access Provider's Network, or any property of any third party on the [Relevant Facilities];
 - (b) accident or serious harm to any person caused by the condition of the [Relevant Facilities] or the Access Provider's Network; or
 - (c) potential hazards, safety issues or other matters likely to affect the integrity or security of the [Relevant Facilities] or the Access Provider's Network.

Health and safety

- 6.2 The Access Seeker must comply with its obligations under the HSE Act and all approved codes of practice under the HSE Act. In particular, the Access Seeker must establish procedures to ensure compliance with the HSE Act for anything it does and/or allows to be done on the Relevant Facilities. If the Access Provider asks, the Access Seeker must give the Access Provider details of those procedures and of how they are being implemented.
- 6.3 Any access to the [Relevant Facilities] by Invitees of the Access Seeker is at the sole risk of the Access Seeker and the Access Seeker has the sole responsibility for identifying and advising its Invitees of all existing and potential hazards on the [Relevant Facilities] which its Invitees could encounter.

7 Things Access Provider may do or will do

- 7.1 The Access Provider will:
- 7.1.1 deliver a comprehensive database to the access seeker who must be qualifying mobile infrastructure provider;
 - 7.1.2 Appoint a "***dedicated Co location wholesale manager***" who is an allocated dedicated wholesale resource to process and control rapid multi access arrangements. This person will be a fulltime access provider co-location expert with no conflict of interest

- who works in the wholesale supply function of the access provider. This executive will have authority to approve co-locations and make decisions for the access provider
- 7.1.3 agree a standard cell tower type for 80% of the access providers universe of cell sites prior to the STP becoming a determination. This will require the access provider to label each of its cell towers to a specific "type name". This will enable bulk approvals for similar cell tower types; (see appendix 5)
- 7.1.4 agree a antenna minimisation protocol for sites whereby there is insufficient tower strength to hold a new equipment, this must be completed prior to STP agreement (may have to be supported by independent commission experts);
- 7.1.5 agree a horizontal separation protocol prior to the STP being complete (may have to be supported by independent com com expert);
- 7.1.6 within 30 working days of the STP being agreed an agreement will take place to co-locate on a 100 cell towers from each access provider;
- 7.1.7 provide "as built drawings" for relevant cell towers on request;
- 7.1.8 agree a formula which is suitable for interference management and separation procedures for all standard tower types in conjunction with independent com com engineers prior to the STP being approved;
- 7.1.9 provide land lord and relevant property details for a 100 sites within 30 days of the STD being approved
- 7.1.10 not interfere with any Access Seeker Equipment or the operation of any Access Seeker Equipment except where specifically permitted under the Mobile Co-location Terms;
- 7.1.11 ensure that no co location data is passed to retail parts of the organisation
- 7.1.12 where necessary, provide the Access Seeker with reasonable assistance in obtaining any third party authorisation, licence or consent necessary or prudent for the occasion to be supplied with the Mobile Co-location Service (such as resource management or building consents) other than authorisations, licences or consents required generally by the Access Seeker to operate its network; and behave like a wholesale agency delivering a product.
- 7.1.13 The access provider will do everything possible to ensure rapid multi access applications are standardised and are processes and agreed in blocks of 10 to 30 , wherever possible . All drawings and engineering practises shall reference the standard site reference name and the pre agreed engineering protocol
- 7.1.14 promptly advise the Access Seeker in writing on becoming aware of any:
- (a) material damage to the [Relevant Facilities], the Access Seekers' Equipment, or any property of any third party on the [Relevant Facilitany ies];
 - (b) accident or serious harm to any person caused by the condition of the [Relevant Facilities] or Access Seekers' Equipment; or
 - (c) potential hazards, safety issues or other matters likely to affect the integrity or security of the [Relevant Facilities] or Access Seekers' Equipment.
 - (d)
- 7.2 The Access Provider shall give not less than 1 calendar month's Notice to the Access Seeker of its intention to undertake any of the following actions if those actions are likely to have any material effect on the Access Seeker's rights under the Access Terms:
- 7.2.1 complying with any law or any requirement of any Authority;
- 7.2.2 viewing the state of repair of the [Relevant Facilities];
- 7.2.3 maintaining and repairing the [Relevant Facilities]; and
- 7.2.4 modifying, expanding or altering the [Relevant Facilities].

8 Leases

- 8.1 Where:
- 8.1.1 the access provider shall at all times be required to reasonably assist and facilitating subleases to the cell towers;
 - 8.1.2 the access provider shall provide details of the lease arrangements the landlords and any other relevant property information;
 - 8.1.3 the access provider shall provide details of relevant exchange leasing costs (where telephone exchanges are subleased the telephone exchange owner shall provide explanations of pro rata (i.e. whereby a d-slam is installed the access provider shall pay the same rent as on a pro rata basis);
 - 8.1.4 the Access Seeker requests access to the [Relevant Facilities] in relation to the installation, repair, testing, operation, maintenance or removal of Access Seeker Equipment; and
 - 8.1.5 the [Relevant Facilities] are located on land that is subject to a Lease, the Access Seeker must, as soon as reasonably practicable:
 - 8.1.6 obtain the written consent of the Landlord where it is necessary pursuant to the terms of the Lease to obtain such consent in relation to the installation, repair, testing, operation, maintenance or removal of Access Seeker Equipment;
 - 8.1.7 bear all costs arising in obtaining such consent; and
 - 8.1.8 provide a copy of such consent to the Access Provider.
- 8.2 In the case of a request by the Access Seeker for the installation, repair, testing, operation, maintenance or removal of Access Seeker Equipment on or with the [Relevant Facilities], if the consent of the Landlord cannot be obtained by the Access Seeker, then the Access Seeker must not install, repair, test, operate, maintain or remove the Access Seeker Equipment on those [Relevant Facilities].
- 8.3 The Access Provider must provide such reasonable cooperation which the Access Seeker reasonably requires for obtaining the consent of the Landlord, where the consent of the Landlord is necessary.
- 8.4 If any of the [Relevant Facilities] is located on land that is subject to a Lease, then the Access Provider will:
 - 8.4.1 if required, provide the Access Seeker with a copy of the Lease (excluding any terms that the Access Provider determines are confidential between the Access Provider and the Landlord);
 - 8.4.2 observe and perform all the covenants as tenant under the Lease; and
 - 8.4.3 if the Access Provider believes that a copy of the Lease is not required, or particular terms are confidential between the Access Provider and the Landlord, it will notify the Access Seeker in writing to explain why.
- 8.5 In respect of any [Relevant Facilities] that is located on land that is subject to a Lease, the Access Seeker will not and will ensure that its Invitees do not permit or do any act or thing on or in relation to the [Relevant Facilities] which would or may cause the Access Provider to be in breach of its covenants as tenant or the conditions contained in the Lease or which if done by the Access Provider would or may constitute a breach of the Lease.

9 Queuing policy

- 9.1 The Access Provider must have and apply a queuing policy for multiple applications for the Mobile Co-location Service for the same Site that:
- 9.1.1 conforms with the standard access principles, and subject to the limits on the standard access principles, in Part 1 of Schedule 1 of the Act;
 - 9.1.2 must be disclosed to the Commerce Commission and the Access Seeker prior to the STP procedure being agreed;
 - 9.1.3 only a qualified mobile phone infrastructure operators may reserve space; within the R-MAP period
 - 9.1.4 only 18 month forward reservations are available to incumbent;
 - 9.1.5 all reservation must be accompanied by a best practice agreed antenna minimisation plan;
 - 9.1.6 allows Access Seekers to determine the relative priority of applications they may submit simultaneously;
 - 9.1.7 addresses the conditions under which a request to co-locate lapses;
 - 9.1.8 determines the basis on which priority is decided; and,
 - 9.1.9 states how it will apply to the Access Provider's own proposals to use its Relevant Facilities.

10 Replacement mast

[Operating principal: *Access Providers must agree to an horizontal separation using antenna minimisation technology to prevent a new poll being required. The principals surround this protocol are to be agreed by the Commerce Commission.*]

- 10.1 This clause applies only in circumstance where, for any reasonable reason, the construction of a replacement Mast is required to accommodate the Access Seeker's requirements for provision of the Mobile Co-location Service at a Site.
- 10.2 Before a poll can be agreed to be replaced the Access Seeker can pay for the antennas of the access provider to be swapped out using antenna minimisation technology to prevent a poll swap out. The Access provider will be obliged to get an independent engineering expert to verify the liability of this approach.

Property Rights

- 10.3 Where the Access Seeker is to construct a replacement Mast:
- 10.3.1 the replacement Mast will be the property of the Access Provider;
 - 10.3.2 the original mask will become the property of the Access Seeker should a poll be replaced;
 - 10.3.3 where a poll to be replaced a reasonable downtime will be permitted; and
 - 10.3.4 the Access Seeker Equipment will remain the property of the Access Seeker.

Parties' Rights and Obligations

- 10.4 Unless the parties otherwise agrees:
- 10.4.1 the Access Seeker is responsible for designing and undertaking all the work necessary for the construction of the replacement Mast ("**Necessary Work**"), and responsibility for ensuring that temporary sites are established where required to ensure that the interruption of the Access Provider is minimised; and
 - (a) the Access Provider must within 3 working days provide all cooperation that the Access Seeker reasonably requires in undertaking the Necessary Work; and
 - (b) the Access Seeker must bear the costs of designing and constructing the replacement Mast, including all the costs of obtaining appropriate statutory, regulatory or other consents, any costs associated with the provision of temporary sites, and all the Necessary Work and all things required by these Access Terms (the Access Provider will be responsible for the cost of the independent experts report explaining why a antenna minimisation strategy will not work on that tower);
 - 10.4.2 In carrying out the Necessary Work, the Access Seeker must take all reasonable steps to ensure that all such work is carried out, so far as is practicable, within the construction timetable notified by the Access Seeker to the Access Provider prior to the commencement of the Necessary Work, and must notify the Access Provider of any delays which it anticipates as soon as practicable after becoming aware that such delays will occur.
 - 10.4.3 The Access Seeker shall be entitled to carry out build deployments so multiple similar sites can be built simultaneously (RMAP Construction).
- 10.5 The Access Seeker shall be entitled to a reasonable share of any subsequent co-location rental revenues or alternatively a reasonable abatement of its own rental ("**Apportionment**"), calculated by reference to:
- 10.5.1 the Access Seeker's level of capital contribution; and
 - 10.5.2 the costs incurred by the Access Provider, including but to limited to:
 - (a) the costs of administering the Apportionment; and
 - (b) the costs incurred by the Access Provider in setting up the original Mast, including but not limited to site acquisition costs, the costs of obtaining appropriate statutory regulatory or other consents, development, design and construction costs, legal costs and any other reasonable costs.
- 10.6 In the event that another Access Seeker subsequently constructs a further replacement Mast in accordance with this clause, the rental revenues or abatements shall be apportioned between the Access Provider and the Access Seekers who have constructed replacement Masts, in accordance with clause 10.4.
- 10.7 Any unresolved disputes arising between the Access Provider and Access Seeker shall be settled in accordance with reference to a Commerce Commission deployment expert.

Construction and Work Plan

Before a replacement mast is required the access provider shall at have an independent engineer appointed by the ComCom , prepare a study of why antenna minimisation will not work on that type of tower. This Study shall be done at the cost of the access provider.

- 10.8 Unless the parties otherwise agree, within ten Working Days of receiving advice that co-location involving the construction of a replacement Mast has been accepted, the Access Seeker must submit to the Access Provider a list of requirements ("**Requirements List**") and other information relating to the Access Seeker Equipment it proposes to install on the replacement Mast, including the following:

- 10.8.1 all relevant technical and design specifications, dimensions, load factors and radio communications characteristics of the Access Seeker Equipment; and
- 10.8.2 construction timetable and work plan for the installation of the Access Seeker Equipment and the replacement Mast.
- 10.9 The draft construction timetable and work plan must include a structural and electro-magnetic radiation analysis and follow the carrying out of physical inspections. These shall only be required for standard cell types. These will be agreed as part of the RMAP process
- 10.10 The Access Seeker must design the replacement Mast to accommodate the Access Seeker Equipment and the Access Provider Equipment and must not unreasonably refuse to accommodate the Access Provider's reasonable requirements as to its future equipment.
- 10.11 The draft construction and work plan is subject to acceptance by the Access Provider, which is not to be unreasonably withheld, and the Access Seeker must give reasonable consideration to any amendments to that plan that the Access Provider may request.
- 10.12 Unless the Access Provider notifies the Access Seeker in writing within twenty five Working Days of the receipt of the draft construction and work plan that it does not wish to proceed on the basis of that work plan, it will be deemed to have accepted the draft construction and work plan and the draft construction and work plan will become the final construction and work plan.
- 10.13 If the draft construction and work plan is rejected, the Access Provider must give its reasons for such rejection and the Access Seeker may revise the draft construction and work plan and resubmit it under this clause to respect the process.
- 10.14 The Access Provider may reject the draft construction and work plan only if:
 - 10.14.1 it is inconsistent with the proposal or plans provided as part of the Access Seeker's initial request for co-location; or
 - 10.14.2 the plan is not prepared in accordance with standard industry practices and/or standards, or, if the Access Provider has higher standards or practices which it applies to itself and which are reasonable, in accordance with the Access Provider's standards or practices; or
 - 10.14.3 it was not prepared by a suitable qualified and experienced engineer.
- 10.15 In the event that agreement cannot be reached between the Access Provider and the Access Seeker on the draft construction and work plan, the parties must engage in a deployment resolution with the Commerce Commission and will only be able to escalate the procedure once a 100 cell towers have been co-located.
- 10.16 As part of the formulation of the final construction and work plan, the parties must agree on assigned places on the replacement Mast and/or Site for each of the parties to locate its own equipment and a timetable for the installation of equipment.

Implementation of the Construction and Work Plan

- 10.17 Subject to sub-clause 10.17, the Access Seeker must carry out the Necessary Work in accordance with the agreed construction and work plan and promptly provide to the Access Provider a copy of diagrams depicting the new or replacement Mast and the location of the Access Seeker Equipment (as installed).
- 10.18 If, after the commencement of the Necessary Work, the Access Seeker determines that it must depart from the final construction and work plan, then it may do so, providing it has secured the prior written agreement of the Access Provider (not to be unreasonably withheld) that such a departure would not have a material impact on the Access Provider's future use of the Mast and/or Site.
- 10.19 Upon completion of the replacement Mast, which is deemed to be when the replacement Mast is reasonably capable of bearing the equipment of the Access Seeker and the Access Provider, the Access Seeker must give written notice of its completion to the Access Provider.
- 10.20 Each of the parties will be responsible for the installation of its own equipment on the replacement Mast once completed.

- 10.21 Unless the parties otherwise agree, all the [Equipment] installed on an existing Mast must be transferred to the replacement Mast in a manner that:
- 10.21.1 to the extent reasonably practicable, avoids; or
 - 10.21.2 in unavoidable, to the extent reasonably practicable, minimises;
- any outage in transferring the equipment to the replacement Mast. To minimise the impact of any outage, the parties must schedule the transference of the equipment at a time when, in the reasonably formed view of the Access Provider, that equipment in carrying the least traffic but also at a time that is reasonably practical to do that work.
- 10.22 Once the location of the Access Provider's Equipment upon the replacement Mast has been determined, and any part of it is installed, the Access Seeker must not (except with the prior written consent of the Access Provider, which must not be unreasonably withheld) require that it be relocated elsewhere upon the replacement Mast. An Access Provider is not required to consent to the further relocation of its equipment unless the Access Seeker pays the reasonable cost of such relocation and the location to which the equipment is relocated does not result in a material reduction of amenity in its use.
- 10.23 In the event that either party does not consider that the other has met its obligations under this clause 10, then the parties must engage in dispute resolution, as set out in clause 39 of the Mobile Co-location General Terms.

Completion Inspection

- 10.24 Unless the parties otherwise agree, upon completion of the installation work by the Access Seeker, there must be a joint on-site inspection between the Access Provider and Access Seeker to ensure that the Necessary Work and installation work have been satisfactorily completed and that facilities access and installation work have been satisfactorily completed and that facilities access and installed [Equipment] are in accordance with the details of the approved final construction and work plan. Both parties must act reasonably in this regard.
- 10.25 The scope of the completion inspection must be agreed between the parties.

11 Decommissioning

- 11.1 In relation to Relevant Facilities that are located on land that is subject to a Lease, if:
- 11.1.1 the Access Provider intends to decommission the [Relevant Facilities]; and
 - 11.1.2 the Access Seeker wishes to continue to use the [Relevant Facilities],
- then the Access Provider must:
- 11.1.3 release the Access Seeker from the [sub-lease agreement], and following vacation of the Relevant Facilities by the Access Provider, release the Access Seeker from all obligations (except for any accrued liabilities) under the Mobile Co-location Terms in relation to those Relevant Facilities;
 - 11.1.4 where there is more than one Access Seeker sharing the Relevant Facilities, assign or novate to the Access Seeker that was the first Access Seeker to share the Relevant Facilities (where permitted to do so under the Lease) the [sub-lease agreement] entered into between the Access Provider and Access Seeker that was the second Access Seeker to share the Relevant Facilities;
 - 11.1.5 indemnify the Access Seeker against any claims by the Landlord in respect of the Access Provider's use of the Relevant Facilities; and
 - 11.1.6 use reasonable endeavours to incorporate this clause 11.1 into any negotiations with the Landlord relating to the execution or re-negotiation of the Lease.

12 Suspension

- 12.1 Where the Access Provider suspends supply of the Mobile Co-location Service under the Mobile Co-location General Terms (which may be on a Site-by-Site basis), the Access Seeker's rights under the Access Terms in relation to the Site or Sites are extinguished for the duration of that suspension, and, for the same duration in relation to the Site or Sites:
- 12.1.1 the Access Seeker ceases to have any right to use the Access Seeker Equipment to provide services to Access Seeker Customers;
 - 12.1.2 the Access Seeker must allow and facilitate the Access Provider to disable the power supply to Access Seeker Equipment so that it cannot be used to provide services to Access Seeker Customers; and
 - 12.1.3 the Access Provider will allow the Access Seeker reasonable escorted access on the [Relevant Facilities] for the purpose of remedying the Access Seeker's default.

13 Relocation

- 13.1 Where the Access Provider's own requirements for expansion of its network or building services infrastructure require the relocation of the Access Seeker Equipment, the Access Provider must give the Access Seeker three calendar months' Notice of the requirement to relocate the Access Seeker Equipment from its existing [Footprint] to a different [Footprint], provided that:
- 13.1.1 the Access Provider makes available to the Access Seeker another [Footprint] which is as near as reasonably possible to being equally suitable for the installation and operation of the Access Seeker Equipment;
 - 13.1.2 the Access Provider ensures that the relocation has no material impact on the operation or performance of the Access Seeker;
 - 13.1.3 the Access Provider pays the Access Seeker's reasonable costs associated with the relocation; and
 - 13.1.4 the Access Provider's network or building services infrastructure expansion will only require the relocation of the Access Seeker Equipment if the technical requirements of the expansion are such that it must use space that either is:
 - (a) wholly or partially occupied by the Access Seeker Equipment; or
 - (b) in a position that would have a negative operational impact upon the Access Seeker Equipment.

14 Termination

Termination under the Mobile Co-location General Terms

- 14.1 Where the Access Seeker or Access Provider terminates supply of the Mobile Co-location Service under the Mobile Co-location General Terms (other than pursuant to clause 15.4), or the Mobile Co-location Terms come to an end:
- 14.1.1 the Access Seeker will allow the Access Provider to take the [Footprint] over; and
 - 14.1.2 the Access Seeker will, within 90 Working Days of the date the Mobile Co-location Service is terminated or the Mobile Co-location Terms come to an end, at the Access Seeker's cost and to the Access Provider's satisfaction:
 - (a) remove the Access Seeker Equipment from the [Relevant Facilities];
 - (b) make good any damage resulting from that removal; and
 - (c) leave the [Relevant Facilities] in good clean order, repair and condition.

- (d) reinstate the affected parts of the [Relevant Facilities] as near as reasonably possible to their condition as at the first day the Access Seeker gained access to the [Relevant Facilities] under the Mobile Co-location Terms, fair wear and tear excepted.

and for these purposes the access rights in these Access Terms continue to apply.

- 14.2 If the Access Seeker has not removed the Access Seeker Equipment from the [Relevant Facilities] within 120 Working Days from the date the Mobile Co-location Service is terminated or the Mobile Co-location Terms come to and end, the Access Provider will be entitled to treat the Access Seeker Equipment as its own and may retain or dispose of all or any part of it as the Access Provider sees fit.
- 14.3 The Access Seeker will reimburse the Access Provider for any reasonable cost the Access Provider incurs in removing and disposing of all or any part of the Access Seeker Equipment the Access Seeker leaves behind including the cost of making good any damage resulting from that removal. The Access Provider will not be liable for any loss as a result.

Early termination

- 14.4 If at any time any of the following events occur:
 - 14.4.1 the Access Provider at any time becomes under notice to quit the [Relevant Facilities] pursuant to any Lease and the Access Provider is unable to renew or extend the Lease on [reasonable commercial terms];
 - 14.4.2 the [Relevant Facilities] or the use of the [Relevant Facilities] is rendered unlawful by any competent Authority;
 - 14.4.3 the [Relevant Facilities] or any substantial part of the [Relevant Facilities] is destroyed or so materially damaged by fire, earthquake or other cause as to require reconstruction or as to be rendered unfit for use and occupation and the Access Provider does not intend in its discretion to reinstate the [Relevant Facilities];
 - 14.4.4 the Access Provider's legal interest in the [Relevant Facilities] is materially affected by any other event or circumstance beyond the Access Provider's reasonable control,then the Access Provider will advise the Access Seeker at the earliest practical date and may terminate the Mobile Co-location Service at the affected [Relevant Facilities] by giving Notice to the Access Seeker, in which case the Access Provider will use its all reasonable endeavours to give not less than three calendar months' prior Notice of the date of termination. Such Notice will not discharge the Access Seeker from any liability under the Mobile Co-location Standard Terms accrued up to the date that the Access Seeker vacates the [Footprint].
- 14.5 Where the Mobile Co-location Service is terminated under clause 15.4, the Access Seeker must allow the Access Provider to take the [Footprint] over and clause 15.3 applies.
- 14.6 Subject to section 20 of the Mobile Co-location General Terms, the Access Provider shall be liable to the Access Seeker for any cost, liability, loss, damage or expense that the Access Seeker incurs or suffers as a direct result of the termination of the Mobile Co-location Service by the Access Provider pursuant to clause 15.4, where the termination is a result of:
 - 14.6.1 a breach by the Access Provider of the Lease; and/or
 - 14.6.2 any other unlawful act by the Access Provider which resulted in the termination of the Lease.

15 Decisions the Commerce Commission must make to facilitate co location- Resolution of the MUIL (Major Undecided Issues List)

- 15.1 Co location is a regulated service, from an international perspective all co location environments are bespoke situations a function of Environment planning laws, local council laws, neighbourhood concerns and the landscape of the country . The following MUIL items shall be resolved to enable co location to be completed in NZ .
- 15.2 Most countries have had central government intervention to facilitate co location
- 15.3 The MUIL list highlights the areas where NZCL believes in its 7 years of experience in negotiation co location and studying international codes Commerce Commission decisions are needed to unblock negotiations.

No	Issue	Comment	Pathway to Resolution
1	Standard cell tower types	There are approximately 3000 cell towers in NZ . 80% of them are approximately 6 standard designed .The TCF meeting illustrated the failure for the industry to decide on what was a "similar tower type" to facilitate rapid multi access	The ComCom engage an independent engineer to decide upon standard cell tower types. This will help bulk engineering protocols be agreed and speed up rapid multi access
2	Databases	Databases need to be available simultaneously to the STD being decided upon by the ComCom . the breath and width of this are critical	The ComCom reference international databases from a international tower owning company ,and consider making it a conditions precedent that the Access providers deliver similar databases to the ComCom for their inspection. See appendix for what should be in the database
3	Requirement to use antenna minimisation technology	There is no agreement on this issue , access seekers want access providers to be forced to use modern antennas as it frees up space on the communities existing cell towers and makes the "future use " issue less of a problem . This is stalling access seekers building co locations without pole replacements which then make the process uneconomic	The Com Com engage their independent engineer who liaises with international tower owning companies. They review international jurisdictions and make a decision on when an access seeker can (at the access seekers cost) require an access provider to use the latest technology to facilitate a more efficient use of natural resources.
4	Requirement to accept a level of degradation	There is no agreement by the industry on what the degradation should be , it's a new concept in NZ , because co location is new . It's similar to making compromises on not having the entire spectrum. Degradation is s common international concept associated with co location	We believe the ComCom's engineers should look at the international precedent and then review the different levels for 15.4 City sites 15.5 Suburban sites 15.6 Rural sites Then make a industry std for NZ
5	Requirement to set targets	Access seekers want "number of sites built as targets" not "number of meetings held " 15.7 a date on which 100 sites should be built needs to be issued	Targets and penalties (Incentives) are the most important guidance the Commission can give the access providers. Most countries have about 1/3 of cell sites co located, NZCL has budgeted for 1/3 , Everyone knows how many cell sites are required to deliver "Like for like coverage" – the target must be" <i>built and operating co locations</i> "

6	Requirements to set penalties	Penalties these must be real, the access providers make \$5million dollars a day in revenue. If targets fail then roaming should be discounted and severe penalties in proportion to the dominance of the incumbents must exist. NZCL feels 5 to 10% of daily Revenue, is a penalty which would create an incentive to co locate	Mobile is more profitable than the land line, and broadband, penalties should reflect the economic impact of co location failures, Colocation penalties should be intellectually correct. 15.8 Penalties/incentives must be set for the entire RMAP 500 sites . 15.9 The threat of Regulated TSLRIC MVNO's is another incentive
7	Vertical versus horizontal separation	Co location is meaningless unless its on a like for like basis, mounting antennas ½ way down a pole, does not give adequate coverage.	The ComCom independent engineers need to make judgement on when antenna minimisation can be used to facilitate horizontal separation and hence like for like coverage
8	Rapid multi access approval systems	An access seeker is required to build a network, if they don't cover 65% of the population then the roaming agreement will be switched off ,. It's not any cheaper to co locate, but its quicker and more environmentally friendly and community friendly.	Targets must incentive rapid multi access .Some application to the process must be sanctioned by the ComCom engineers, specifically standard cell tower types, as this is the key bottleneck to this process. 15.10 Rapid multi access is forced by aggressive targets
9	Requirement to reasonably assist with landlords and RMA	RMA is the issue for new entrants in NZ . As a developed economy with tight environmental standards it's the major road block to construction , experience has shown communities don't want their landscape littered with too many towers	Co location is being advocated by access seekers not as a formula to save money , but as a way to save time and RMA problems , 15.11 The language to help RMA needs to be comprehensive
10	Requirement for access providers to have a dedicated wholesale co location manager	Telecommunications network companies are large by the very nature of the type industry. Large companies can use their size to "play games" with smaller entrants. Regulating (similar to LLU) to ensure that a person with delegated authority can manage every aspect of a regulated service is constructive. Because NZCL has dealt with a circus of different executives it wants to stop the buck passing on important issues	In the LLU process access providers are required to have senior independent executives whose sole purpose is to service wholesale clients on an independent basis. 15.12 The Com Com need to state the job specification of the DWCM

16 Rapid Multi access protocol

- 16.1 This R-MAP schedule 8 documents is designed to simplify the entire 600 pages of paper written about co location, by simply inserting an large penalty, thereby creating some urgency and incentive to complete some applications:
- 16.1.1 A meaningful penalty would speed the process along and un block a 7 year jam on the issue
- 16.1.2 This would save a continual writing of endless process documents, but human initiative would sort the problems
- 16.1.3 Simply put the process for R-MAP is
- (a) **Set targets** – which are “built and operating sites “
 - (b) **Set penalties** which are meaningful in the context of the revenue base of the access provider
 - (c) **Set standard cell types**
 - (d) **Agree data bases**
 - (e) **Agree antenna minimisation use**
 - (f) **Agree degradation**
 - (g) **Appoint Dedicated resource**
 - (h) **Agree horizontal separation**

Appendix for RMAP

- 1 **Commercial terms**
 - 2 **Targets**
 - 3 **Job Specification “dedicated Co location wholesale manager “**
 - 4 **When Antenna minimisation technology must be used**
 - 5 **What is required in the database**
 - 6 **Standard cell tower types (Scud 1-4) and Type 1-3)**
-

Commercial terms

1 Appendix – Commercial terms

- 1.1 The Access Seeker is dealing with the DWCM (dedicated wholesale co location manager) who will only charge the access seeker upon a successful co location build
- 1.2 Bills will be monthly
- 1.3 There will be one bill (covering all aspects of the wholesale service)
- 1.4 No database fees will be payable
- 1.5 Security will be available as per \$100,000 for the entire relationship
- 1.6 Costs will be tower rental cost, and land lord costs, as a commercial service from a wholesale division ,trivial costs of sale will be born by the access provider as normal costs of business

2 Appendix – Targets

No	Item	Acceptable date for delivery	Comment
	Database preparation	Same date as STD is approved by ComCom – July 20 th	NZCL is expecting to see this data available within the coming weeks, there is no reason why this can not be available on a soft launch basis
	Standard cell tower types	Same date as STD is approved by ComCom – July 20 th	This should be decided by the Com.Com or agreed by the industry in the next few weeks. It should be part of soft launch
	Access for initial drawings	Now	It should be part of soft launch
	Turnaround on initial approvals	5 working days	5 working days , because there is a dedicated wholesale Co Lo manager
	Soft launch built 75 Sites	The STD process will take another 2 or 3 mths , in this time there is plenty of time to prepare drawings capture RMA approvals and commence a soft launch build , the issue is motivation. Starting now	This number is the same pro rata number as the amount of co locations Vodafone benefited from in the ULL on a pro rata basis of exchanges for cell tower bases
	First 100 Co locations built – Telecom	By 31 st December 2008. The power of a “ <i>actually built</i> ” site is more meaningful than a “ <i>have a meeting target</i> ” it is the most important way of simplifying the process	This is a possible date , with an incentive this can be done, the issue is that it will impact positively launch date which will impact negatively profits from access providers
	First 100 co locations built – Vodafone	By 31 st December 2008	This is a possible date , with an incentive this can be done, the issue is that it will impact positively launch date which will impact negatively profits from access providers

Penalties

3 Appendix – Job specification “dedicated Co location wholesale manager

- 3.1 This shall be an autonomous senior role reporting directly to Head of Wholesale, this manager shall have the authority to make decisions on every level of co location and shall be able to authorise base radio issues, site management issues, negotiate pricing. He/she be not required to pass any information to the marketing department and shall be required for the entire period of the RMAP
- 3.2 Reporting to the head of wholesale and the CEO :
 - 3.2.1 Have a background in radio and construction
 - 3.2.2 Must not be a lawyer
 - 3.2.3 Must work for the Wholesale division of the Access provider.
- 3.3 Must be positively incentivised by how many co locations are built (i.e. bonuses for delivery not for delay) :
 - 3.3.1 Must be required to deliver monthly reports to the ComCom until 100 sites are built
 - 3.3.2 Must be free to travel
 - 3.3.3 Must understand RMA

4 Appendix –When Antenna minimisation technology must be used

- 4.1 Where- ever the access seeker needs it to facilitate:”like for like co location “and is willing to pay for it .
- 4.2 Antenna swap outs need to be subject to a series of conditions as to the physical process and the type of antennas that are required
- 4.3 This is the process of replacing a large big old antenna with a modern slim line antenna to facilitate competition but also to prevent incumbents from using the reasonably future requirement booking rule from blocking the access to cell tower co locations
- 4.4 Before any access provider is entitled to refuse access without a pole replacement , (the access provider must provide a report prepared by an independent engineer as to why antenna minimisation will not work

5 Appendix –What is required in the database

- **Sites code**
- **Site address**
- **Site co ordinations**
- **Antenna description**
- **Property title**
- **Site type (as per one of 4 standard types)**
- **Land lord**
- **Lease arrangements**
- **Lease expiry**
- **Rent**
- **Sublease details**
- **Land area**
- **Dimensions**
- **Notes**
- **Picture**
- **Height**
- **Regions**
- **Address**
- **Easting/Northing**
- **Leases commenced**
- **Initial rent**

6 Appendix –Vodafone & Telecom – standard cell tower types

To facilitate multi access rapid co-location it is necessary to classify all towers into one of several categories as this will simplify the application process.

In reality all cellular towers have two major components that impact co-location antenna placement.

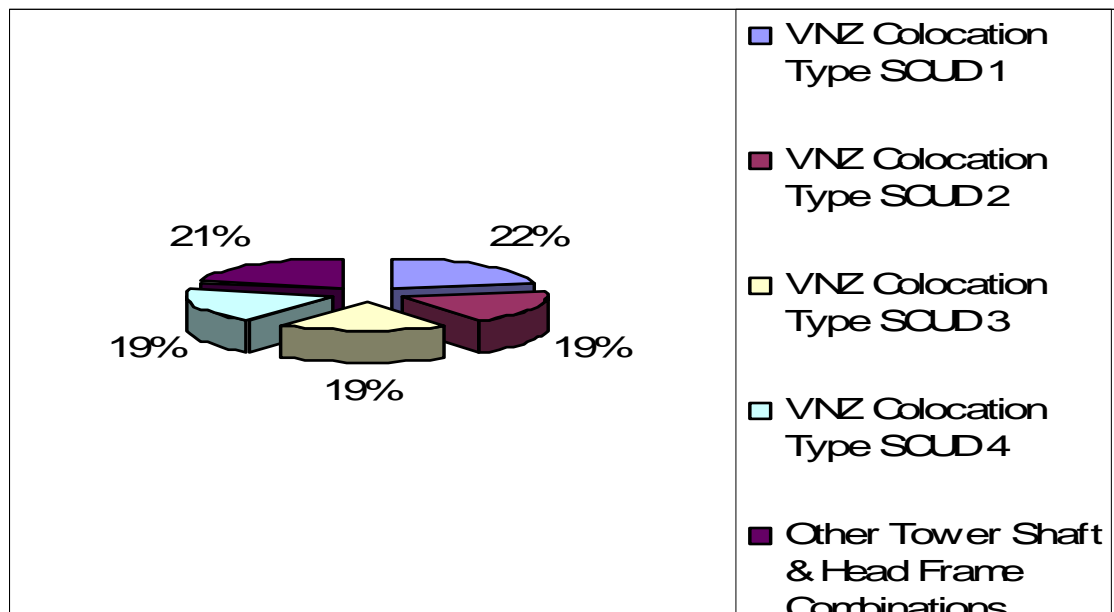
1. The tower shaft – the structural part of the tower.
2. The head frame – the part of the tower to which the antenna are attached.

The data in this report is sourced from a survey of VNZ towers in Auckland and Manukau City.

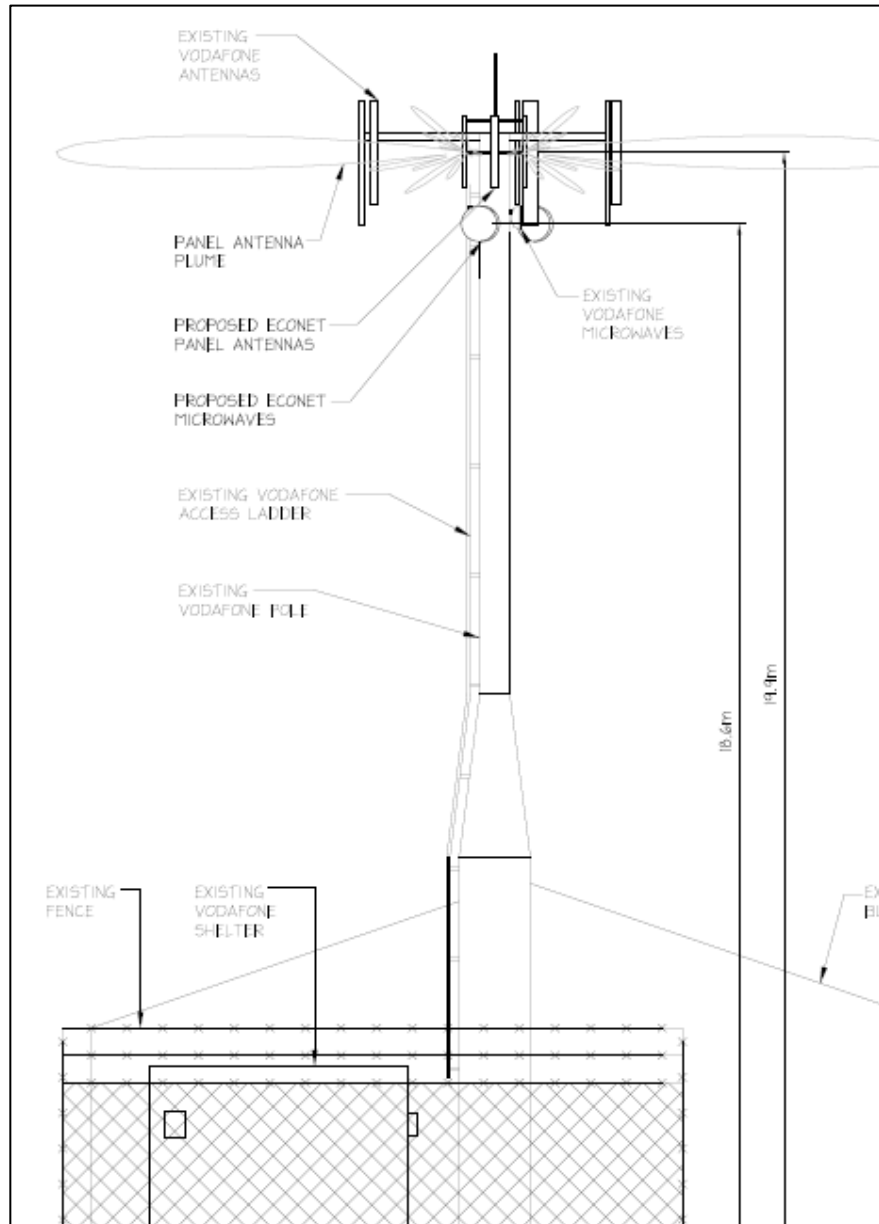
- **VNZ Co-Location Types**

(NZCL analysis of standard cell tower types)

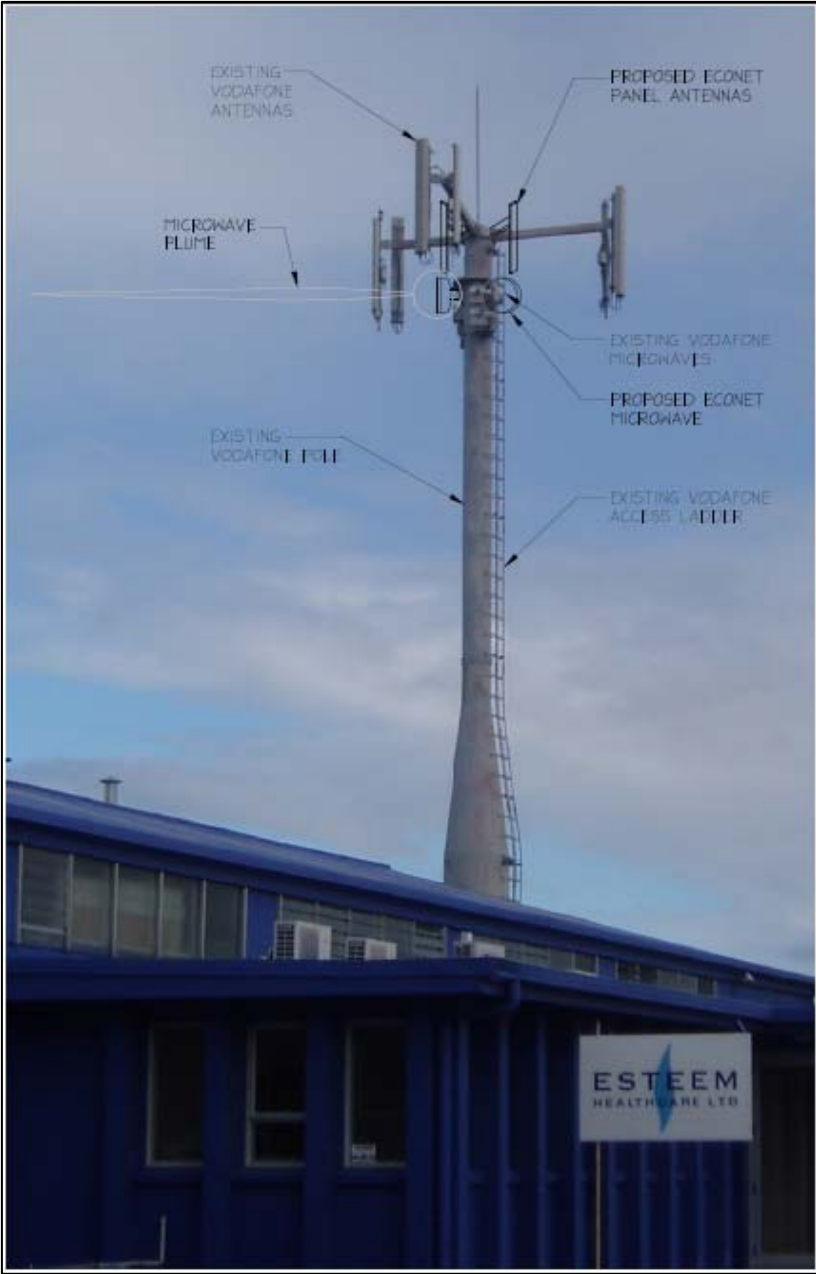
(these documents were submitted in the Co location working parties to the TCF in 2004,2005 & 2006, before Econet changed its name to NZ Communications Ltd)



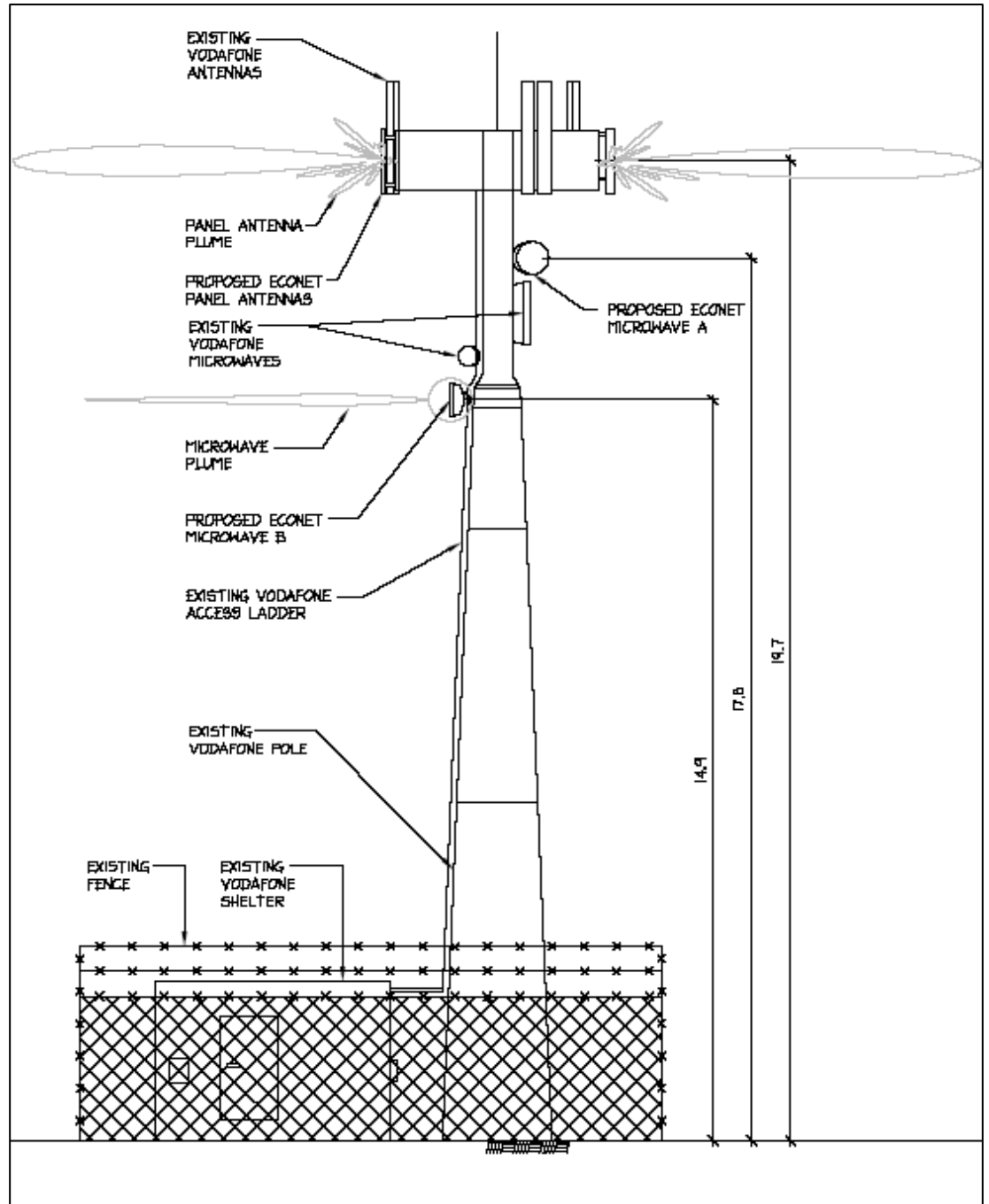
VNZ Tower Type SCUD 1– 22% of Sites

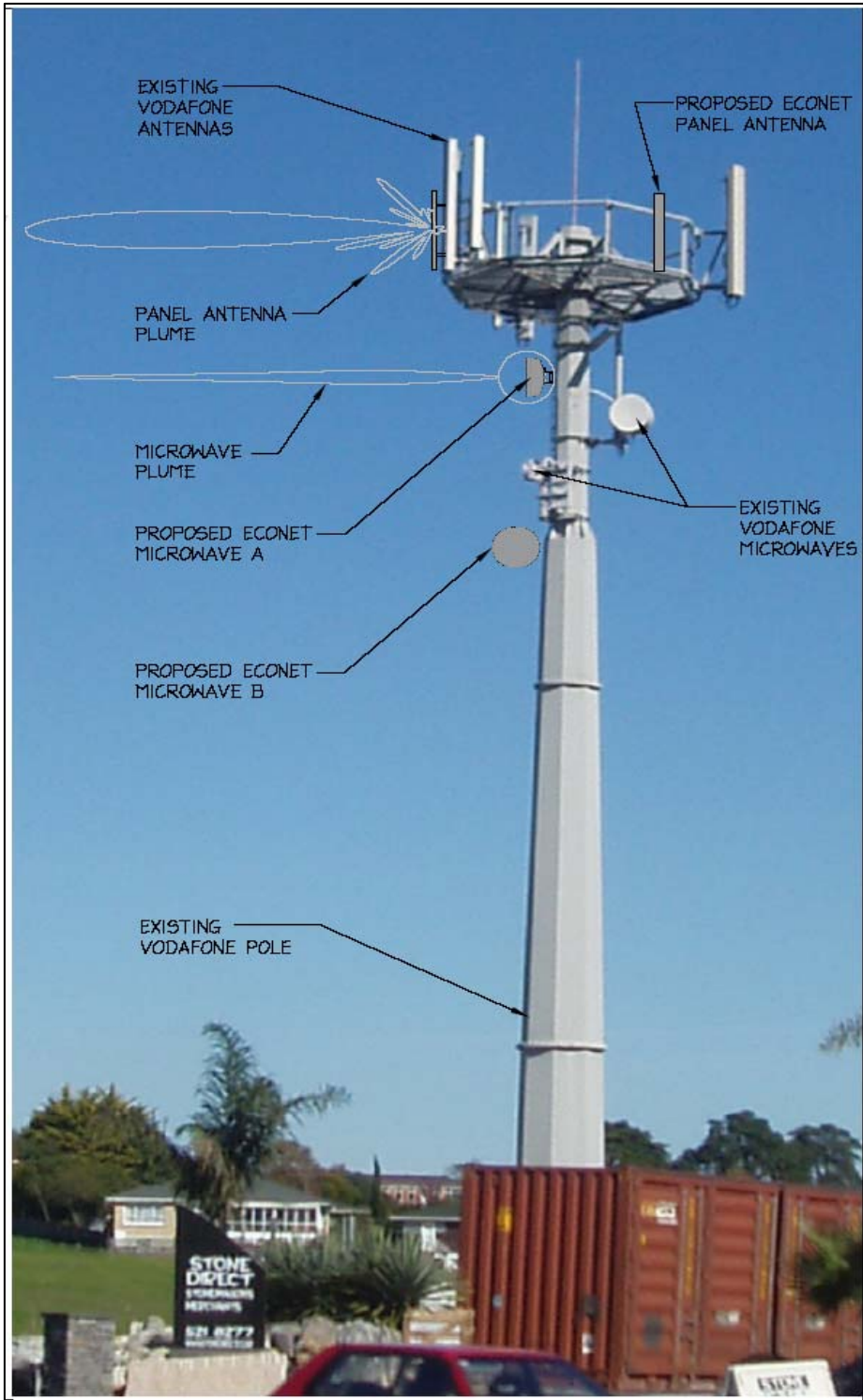


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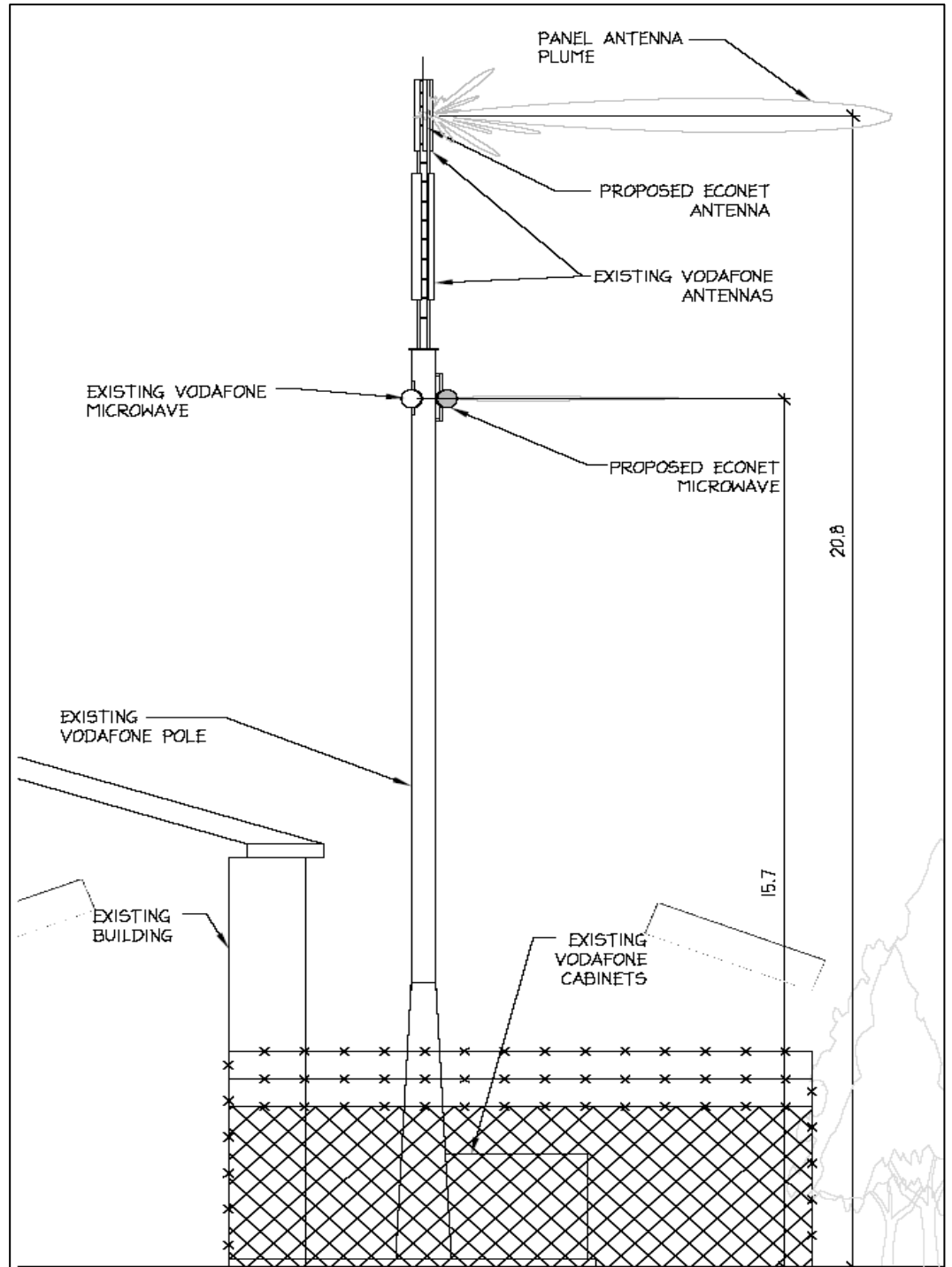


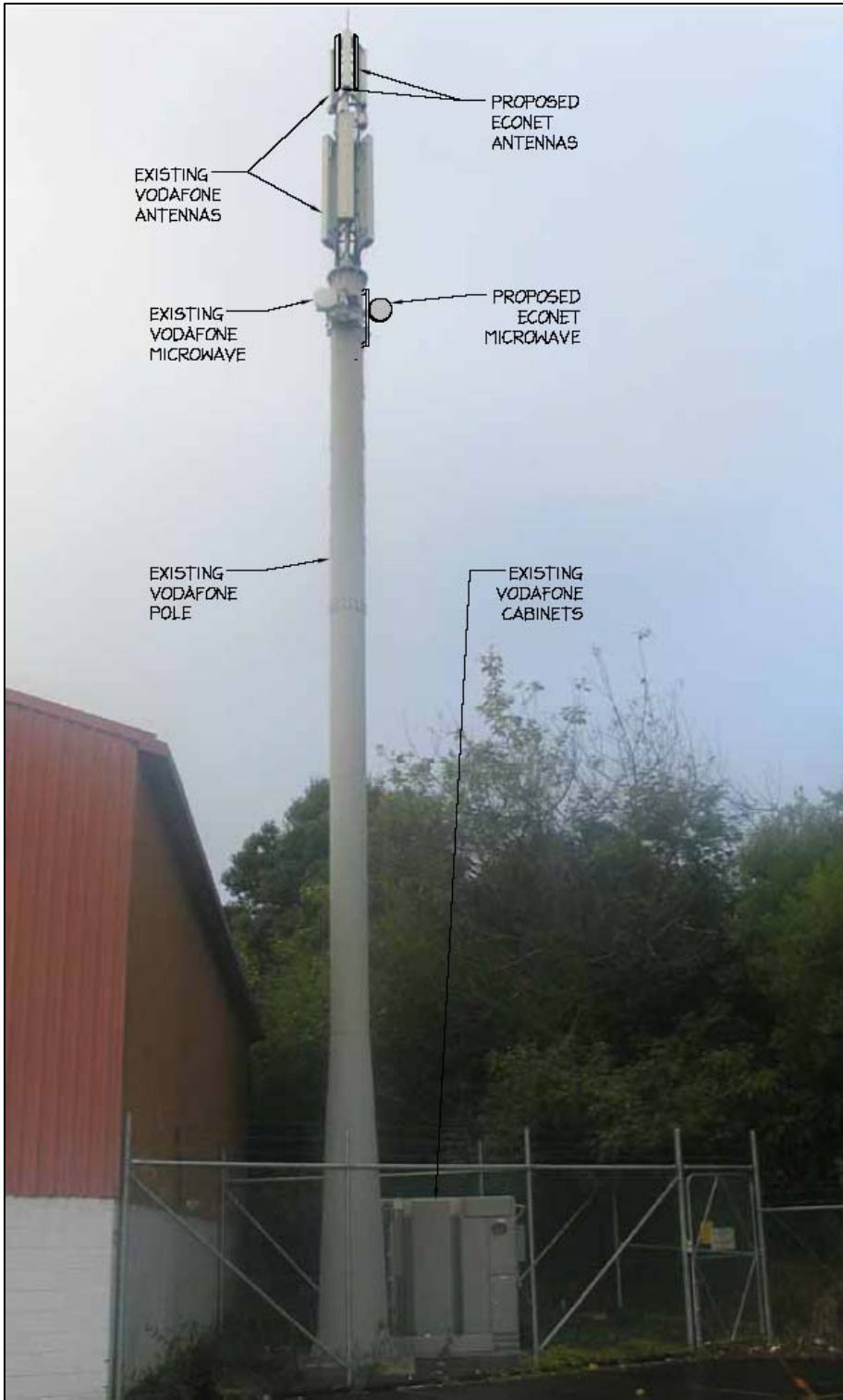
- VNZ Tower Type SCUD 2 – 19% of Sites



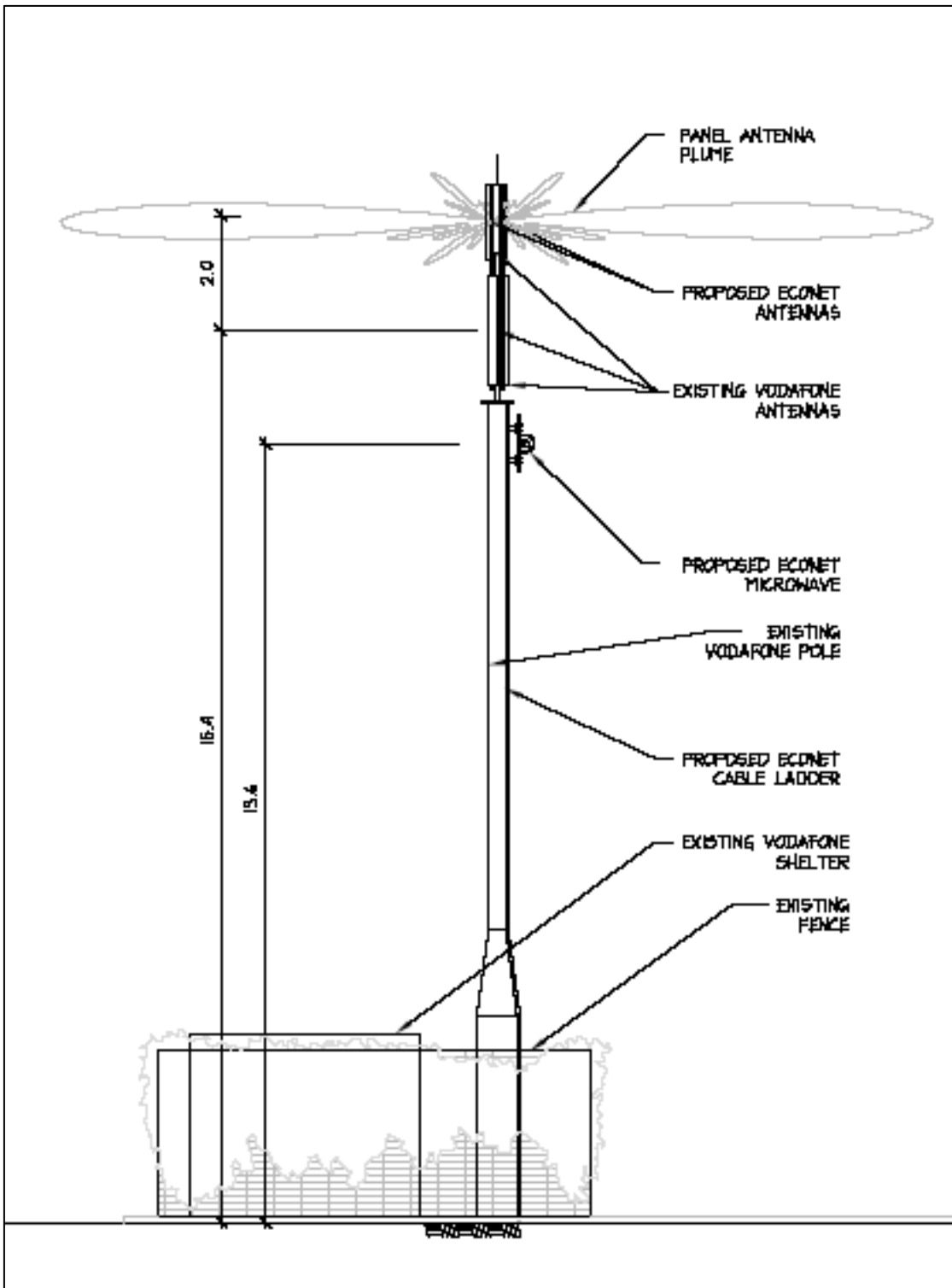


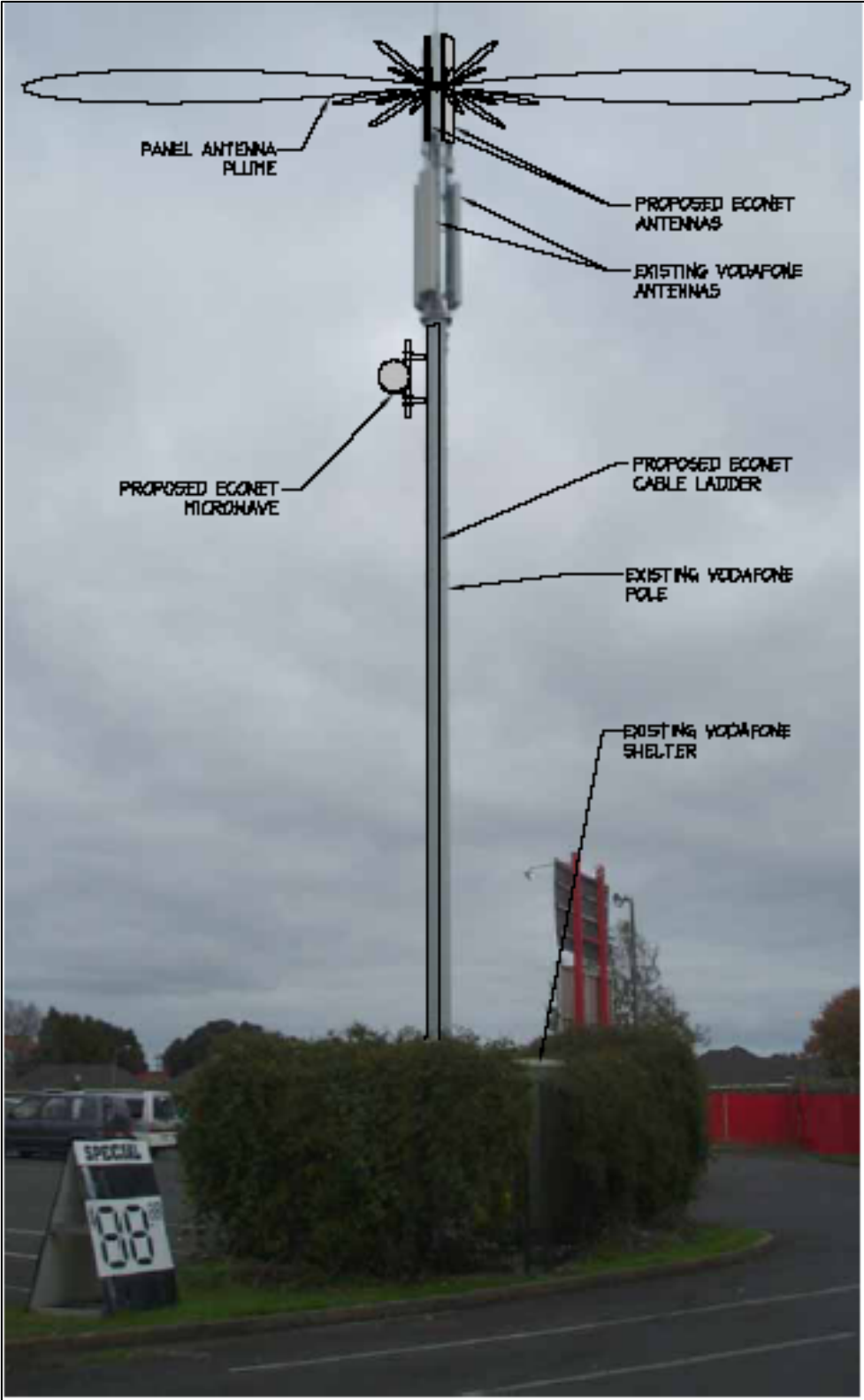
- **VNZ Tower Type SCUD 3 – 19% of Sites**





- **VNZ Tower Type SCUD 4 – 19% of Sites**





Telecom Co-Location Standard Types (NZCL analysis of standard cell tower types)

(these documents were submitted in the Co location working parties to the TCF in 2004,2005 & 2006, before Econet changed its name to NZ Communications Ltd)

- **Introduction**

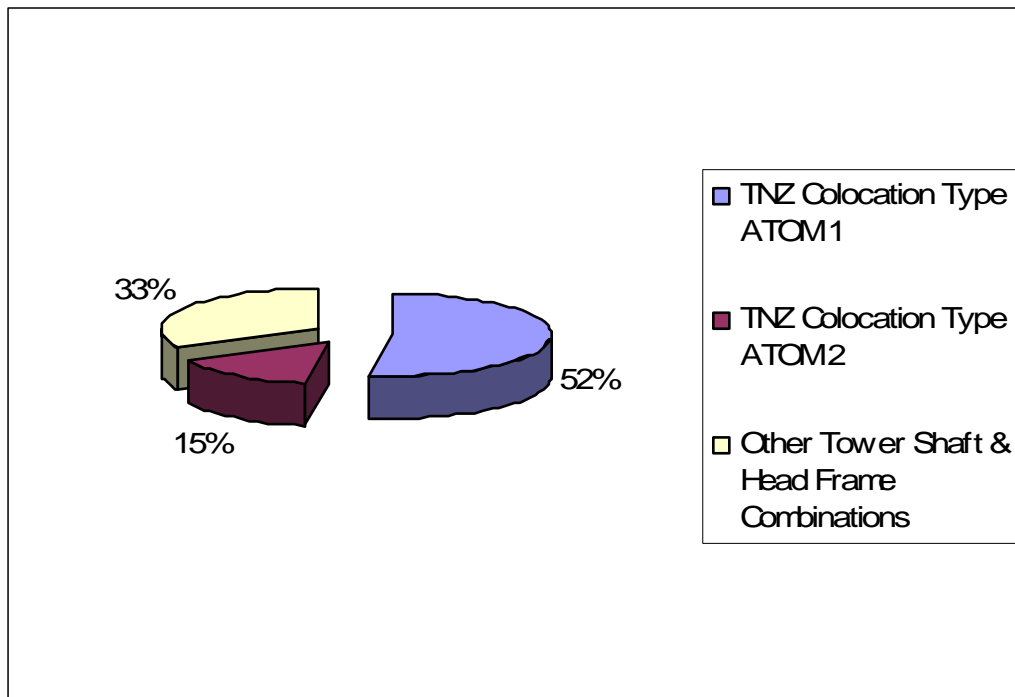
To facilitate multi access rapid co-location it is necessary to classify all towers into one of several categories as this will simplify the application process.

In reality all cellular towers have two major components that impact co-location antenna placement.

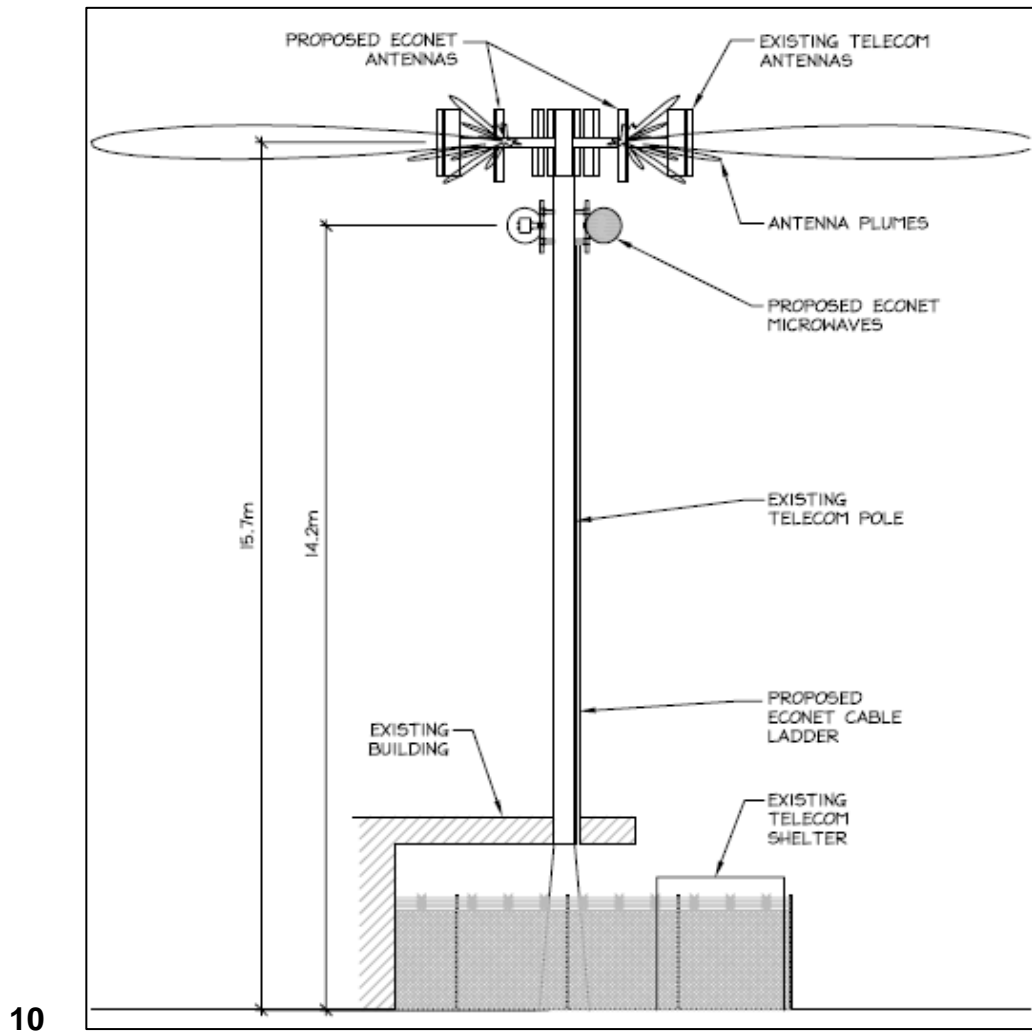
3. The tower shaft – the structural part of the tower.
4. The head frame – the part of the tower to which the antenna are attached.

The data in this report is sourced from a survey of TNZ towers in Auckland and Manukau City.

- **TNZ Co-Location Types**



- TNZ Tower Type ATOM 1 – 52% of Sites



10



- TNZ Co-Location Type ATOM 2 – 15% of Sites

