

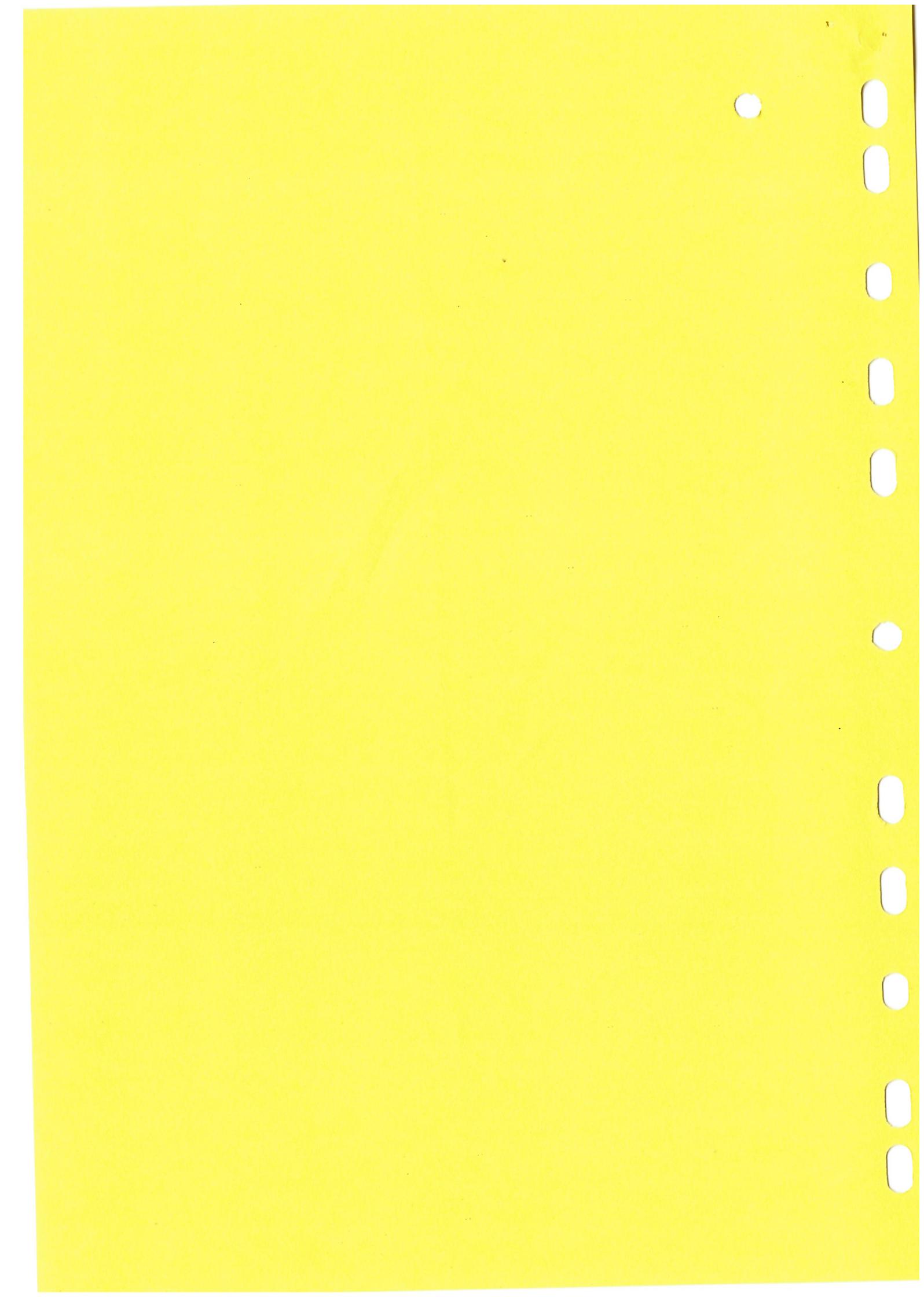


**PREMIER**

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THE HIGH COURT  
PLANNING AND ENVIRONMENT

Record No. 2024/562MCA

IN THE MATTER OF SECTION 160 OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS  
AMENDED)

BETWEEN:

JOHN HEGARTY, EUGENE GLENDON AND SYLVIA GLENDON AND GEMMA DESMOND

Applicants

-and-

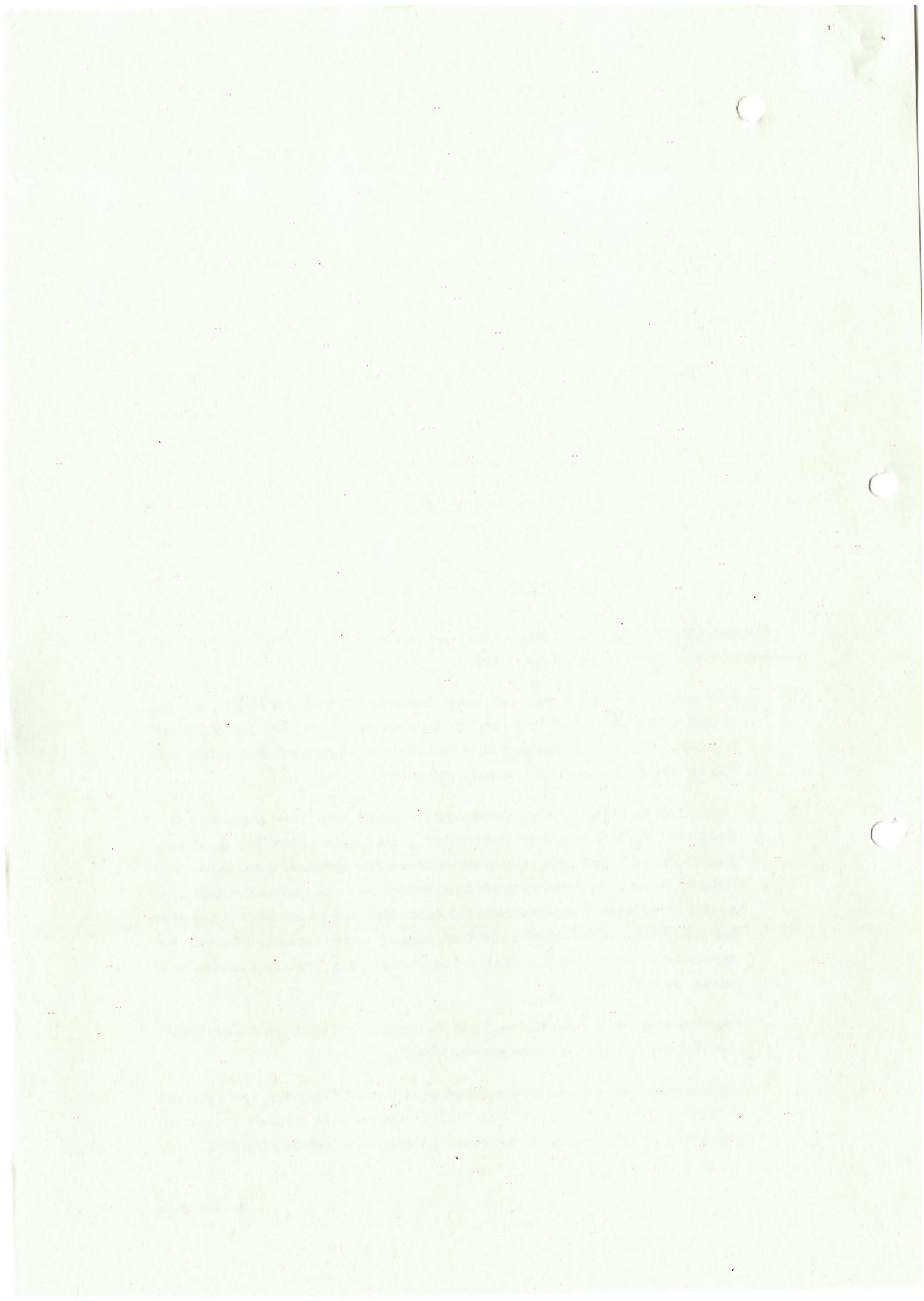
TOWERCOM LIMITED

Respondent

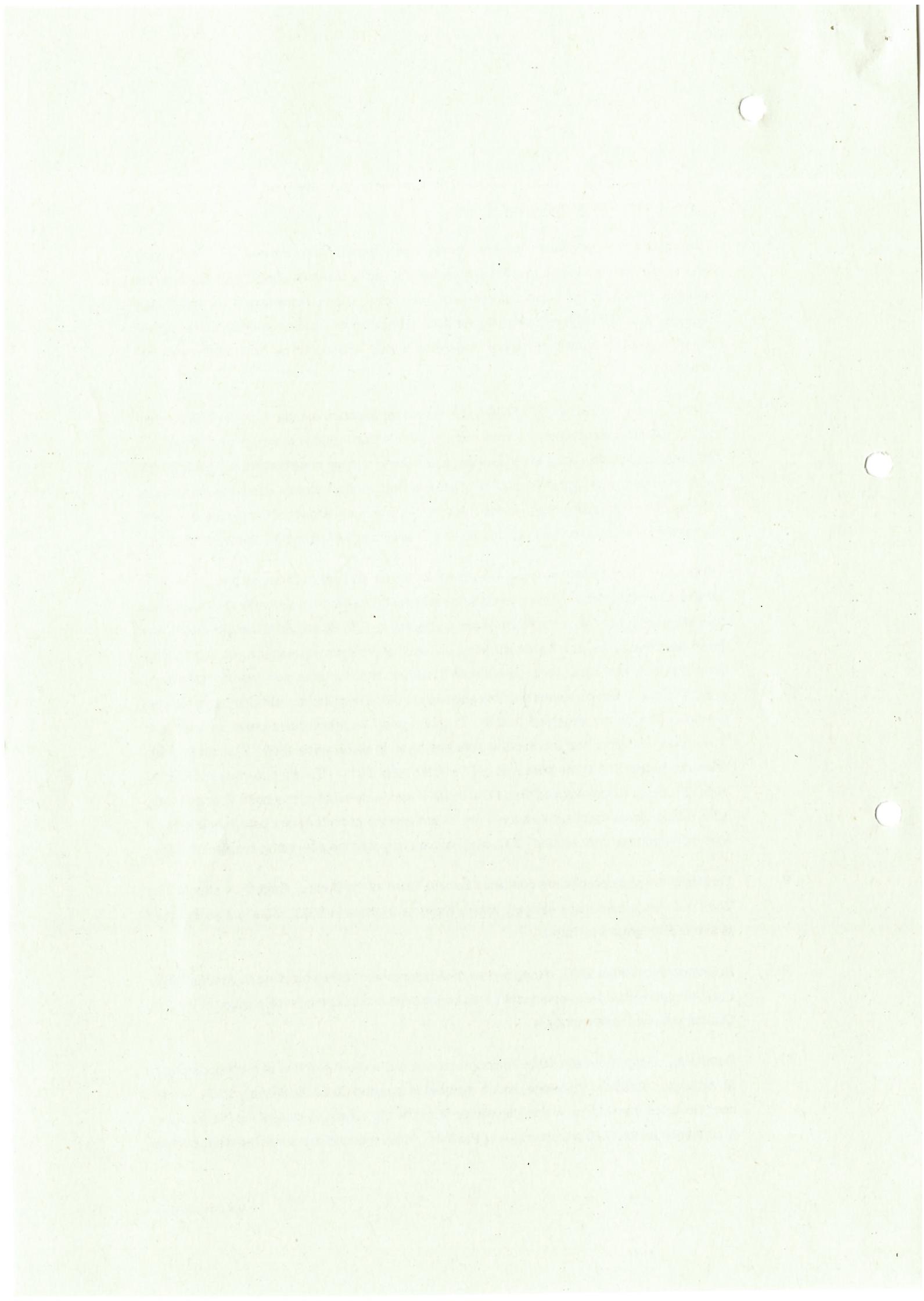
AFFIDAVIT OF SEAN BRADLEY

I, SEAN BRADLEY, Engineer of Usher House, Main St, Dundrum, Dublin 14 D14 N7Y8, aged eighteen years and upwards, **MAKE OATH** and say as follows:

1. I am a structural engineer employed by the Respondent ("Towercom") and I make this affidavit for and on behalf of Towercom from an examination of its books and records and from facts within my own knowledge save where otherwise appears and where so otherwise appears, I believe those facts to be true and accurate in every respect.
2. I beg to refer to the pleadings and proceedings had to date herein when produced. I have read the Notice of Motion and the affidavits of John Hegarty, Eugene Glendon and Eoin Brady grounding same. Towercom's replying affidavits have been prepared under considerable pressure. As such, responses are limited to addressing the critical issues with regard to the question of the status of the development in issue. My failure (or the failure of any other deponent on behalf of Towercom) to specifically address or refute any allegation or assertion made on behalf of the Applicants should not be taken as my or Towercom's acceptance of the validity of same.
3. I beg to refer to a Book of Exhibits relating to this affidavit, upon which and marked "SB1" I have endorsed my name prior to the swearing hereof.
4. I am a structural engineer holding the qualifications of BE(Hons) CEng MIEI. I am a graduate of Dublin Institute of Technology (now TUD) in 2011 with BE Honours in Structural Engineering. I obtained my chartered engineering title with Engineers Ireland in 2018.

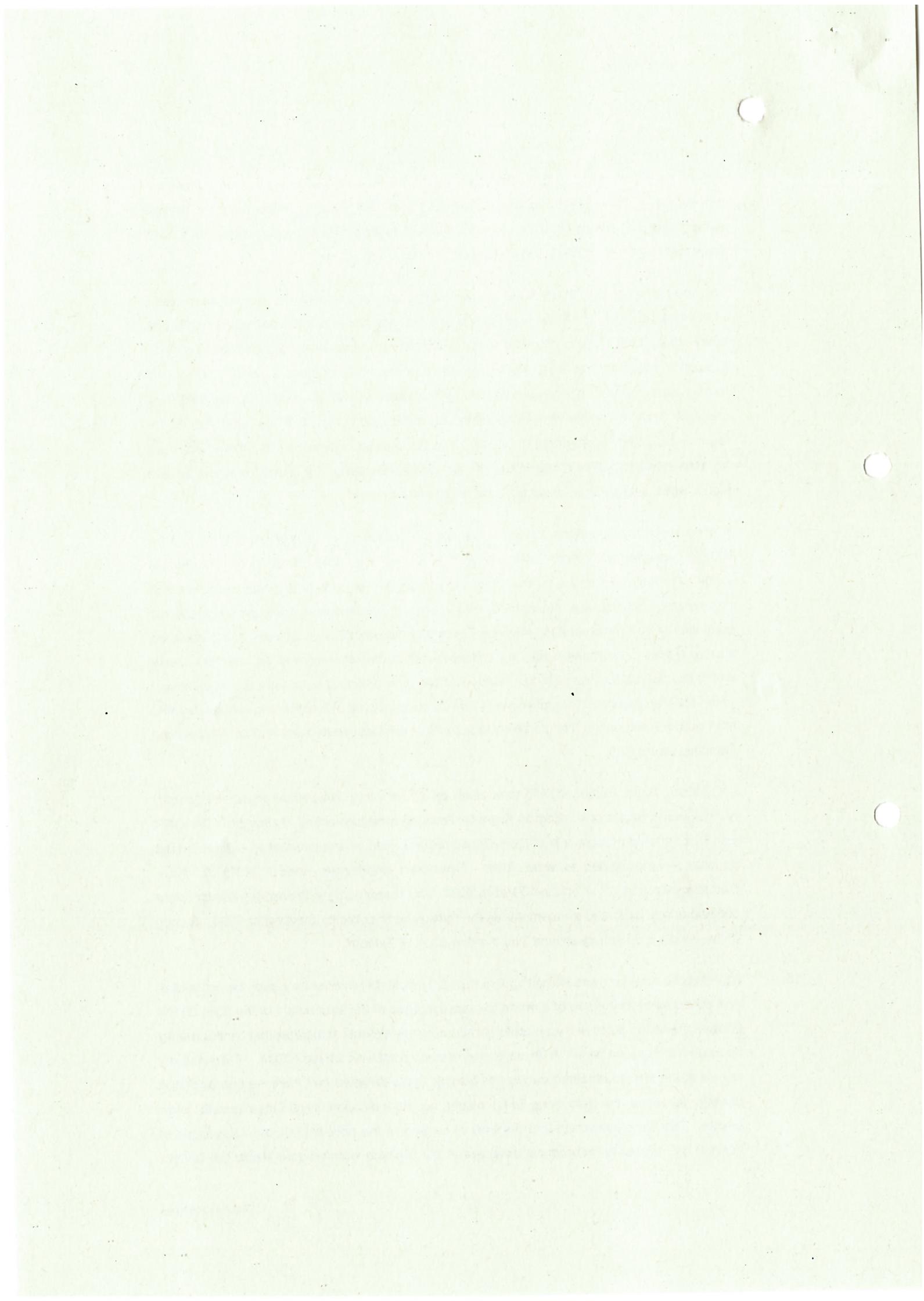


5. I joined Towercom in April 2012 following my graduation and have over 12 years' experience in telecoms and asset management.
6. Towercom is responsible for the repair and upkeep and maintenance of certain telecommunications structures throughout Ireland, as a result of contractual relationships between the owners of the structures and Towercom. Within Towercom, I am the Design Manager having design responsibility for such infrastructure assets, which includes sign-off on all structural related decisions regarding repair, maintenance and replacement of structures.
7. Towercom are certified to ISO 55001, the asset management standard, by an independent auditor. 55001 is about lifecycle asset management which includes amongst other things risk mitigation and control, long term planning and climate change considerations. This is all the more important with higher frequency of storms and weather events occurring because of climate change in recent years. I have been involved in every aspect of the design and asset management procedures and policies within Towercom since I joined the company in 2012.
8. In our asset management process, we undertake 2-yearly site inspections as best practice on all structures for which we have maintenance responsibility. Where we identify structures/sites that are at a higher risk, we perform yearly inspections. The Eir site on Wellington Road has been classified by me as a higher risk site as a result of previous site inspections. The findings from previous site inspections consistently identified that the pole was leaning with small cracks visible. This, combined with the age of the pole, meant that the structure was labelled as higher risk on my structural tracker. In this regard, Vodafone have provided a letter to Towercom indicating that the existing pole has been in place since 1999. Against this, Mr. Glendon suggests that the pole was only erected after 2011. The Pole is marked PDM 97 which indicates it was supplied from PDM in 1997 and likely installed the same year or shortly after during Eircell mobile network roll out. Photographs of the existing pole indicate that it was manufactured in or around 1997, which would tally with the pole being erected in 1999.
9. Copies of the photographs are contained behind **Tab 1** of the Book of Exhibits. I should also point out that google maps imagery shows the pole in place in 2009. This is also included with the photographs in **Tab 1**.
10. In October/November 2023, during review of structures and whilst compiling budget for 2024, the Wellington Road pole replacement was considered and included for discussion in the first Quarterly Asset Review of 2024.
11. Separately, Indigo (formally 4Site Telecom) carried out a site inspection of the wooden pole at Wellington Road for Vodafone, which resulted in a report dated 22 January 2024. I was sent the report from Indigo, which followed on from the site survey. A copy of the Indigo report is contained behind **Tab 2** of the Book of Exhibits. This report indicated that the wooden pole



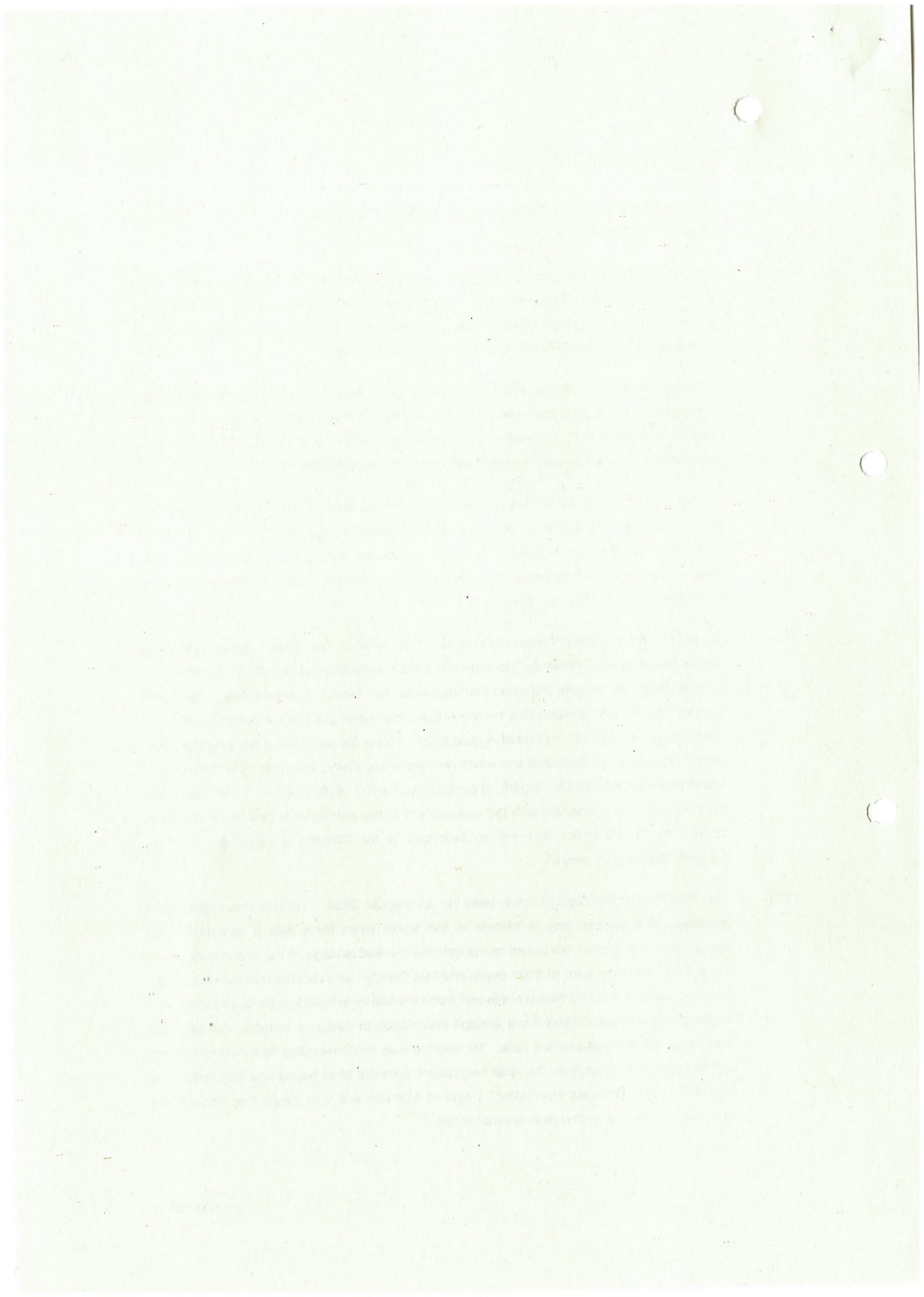
was no longer standing plumb, most likely due to subsidence of the soil around the base of the structure. The report indicated that the structural integrity of the timber pole was compromised. It advised that the structure had failed and could not accommodate any further equipment and should be decommissioned and taken away.

12. I replied to the report with follow up queries on the conclusions and requesting backup detail of those conclusions. Whilst I agreed with the fact that the pole was leaning, I did not agree that the structural integrity of the timber pole was compromised and requested back up detail to support this. I did not receive any response. In the circumstances, I carried out my own review based on the information supplied by Vodafone as well as information we held from previous Towercom site visits/inspection. My conclusion was that the pole should be recommended for replacement in 2024 prior to storm season (typically September/October). My view was that the pole was not under any immediate danger of failure but would be at a higher risk if a larger than expected wind event were to occur.
13. Having considered possible options, I formed the view that a replacement pole should be installed approximately three metres away from the existing pole (similar to current design) (option 1). A second option (option 2) was to replace the wooden pole in same location with a steel pole, but this was discounted. Option No. 1 was recommended as it would allow continuity of Vodafone service. I was confident that the proposal would work, and it would be safe to install. This option would not adversely affect the retaining wall as sufficient space would be allowed for dissipation of forces into the surrounding ground from the replacement pole. Having discussed the options with Towercom's internal planner, it was considered that both option 1 and option 2 could be undertaken as exempted development, thus not requiring planning permission.
14. A Quarterly Asset Review (QAR) took place on 29 February 2024 and I presented the two replacement options of Wellington Road to Towercom management. Action from the QAR was that I should prepare a Non-Compliance report based on the information we had on the structure. I proceeded to write, '009 - Towercom -Wellington Road - TCK5225 -Non-Compliance report\_V1.0' on the 13 March 2024. This report outlined the existing site structure conditions and indicated a recommendation to replace the pole by September 2024. A copy of this report is contained behind **Tab 3** of the Book of Exhibits.
15. At the same time as I was compiling this report, I requested that a site survey be completed and commissioned the use of a drone to record images of the total height of the pole. Drone photos of wooden poles are very useful in recording any defects in the pole that cannot readily be seen from ground level. A drone survey was complete on 24 April 2024. Following my review of the photos obtained during this survey, I was satisfied that there was no evidence of major issues on the pole along its full height, *i.e.*, no indication of rot, fungal growth, large cracks. The survey reported that the bottom section of the pole did not show any signs of internal rot. Typically, internal rot develops at the top of a wooden pole and/or the bottom



where it enters the ground. I was satisfied there was no immediate danger, but my recommendation was still that replacement works of the pole be carried out before the end of 2024 and 2024 storm season.

16. On 25 April 2024, a proposal drawing was completed in order to submit notification to Eir networks, the landlord of the site. This showed a replacement of the wooden pole with another steel pole in a new location approximately 3 metres north-east of the existing pole. A copy of this drawing is contained behind **Tab 4** of the Book of Exhibits.
17. The normal annual site inspection took place on 9 May 2024. It was undertaken by Towercom's construction manager, Tom Sexton. Results of this inspection showed that there was no change from the previous inspection complete in 2023. A copy of Mr. Sexton's inspection report is contained behind **Tab 5** of the Book of Exhibits.
18. During May and June 2024, I engaged with Delmec Engineering Limited for the procurement of a replacement steel pole for Wellington Road. I made it clear that Towercom needed to procure a 15m structure that would be similar in size and look of the existing wooden pole. Delmec indicated that they had a standard steel pole product that can be painted dark brown to match the existing wooden pole.
19. During this period, I asked Towercom's construction Manager, Tom Sexton, to instruct Priority Geotechnical Limited ("**Priority**") to complete a site investigation on the site to determine the ground conditions. Priority indicated that they were very busy in June and July coupled with the fact they were on annual leave in early August, this meant that the site investigation could not be programmed until the end of August 2024. This is the activity that Mr. Hegarty refers to at paragraph 6 of his affidavit and which resulted in complaints being made to the planning authority, as detailed by Mr. Hegarty at paragraphs 7 and 8 of his affidavit. To be absolutely clear, no works in connection with the replacement of the existing pole took place in August 2024. The August works were not, as described by Mr. Glendon at paragraph 19 of his affidavit, "*preparatory works*".
20. The Priority site investigation completed on 26 August 2024. Towercom's construction manager, Tom Sexton, was in charge of the works when there was a complaint from neighbours. Mr. Sexton contacted me to indicate the status/stage of the site investigation. He outlined that they were at 6.7m depth and that Priority had indicated that rock was likely found at just over 5.m into the borehole and that if the site investigation were to be terminated at that point, we would likely have enough information to design a suitable standard pad foundation for the replacement pole. Mr. Sexton was recommending terminating the site investigation at that stage as the local neighbours were not at all happy and that continuing the works would escalate the matter. I agreed with him and was happy that Priority had sufficient information to complete a suitable report.

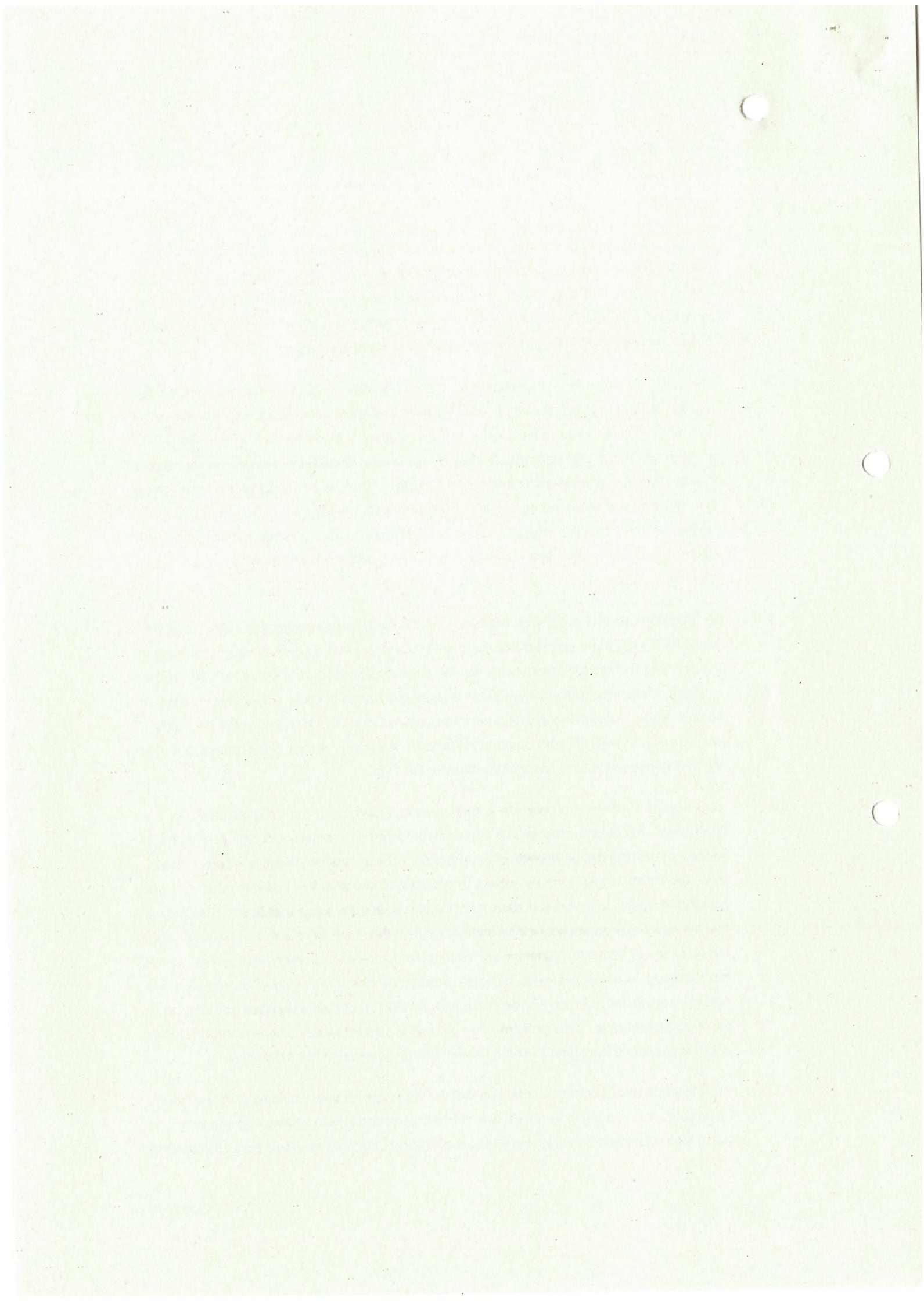


21. Towercom received the Priority Site Investigation Report on 10 September 2024. A copy of the Site Investigation Report is contained behind Tab 6 of the Book of Exhibits. I then instructed Delmec Engineering to start assessment of their standard 15m steel pole and to design a foundation using the Priority Site Investigation Report. I supplied loading information to Delmec to use in their assessment. As is Towercom standard practice with telecommunications structure we design, the loading information provided for the structural design exceeds the amount of equipment intended to be installed at the present time. This is to ensure that the structure design is capable of withstanding any climatic event and also to cater for upgrades in Technology into the future. As with all our structures, we design for minimum 100year + lifespan. This means we do not envisage any additional structural works will be required to the replacement pole or foundation for the next 100 years.
22. At paragraph 12 of Mr. Glendon's affidavit, he raises concerns that "[t]he retaining wall is strong enough to retain this earth, but is not necessarily constructed to withstand the structural load of a structure such as this mast with its foundation". This is why a site investigation was completed to determine the ground and groundwater conditions present at the site to allow for the design of the replacement pole foundations. The results of the site investigation conclude:
- "A suitable bearing strata is identified 1.5m bgl within the medium dense GRAVEL deposits. A presumed bearing resistance of 200kN/m<sup>2</sup> (kPa) to 600kPa is expected (BS8004, Code of practice for foundations, 1986)."*
- It was also determined that "[t]here is adequate resistance to shear failure for shallow foundations in this location".
23. At paragraph 13, Mr. Glendon states that "[t]hough the retaining wall at the site is newer, the carpark works have undoubtedly also weakened it, increasing the risk that the wall, and indeed the mast, may collapse. In this regard, the site investigation report confirms that the existing ground conditions in the location of the replacement pole is adequate to independently support the loading to the replacement pole. The new pole has no impact on the existing retaining wall as sufficient space has been left between them both, i.e., the depth of the excavation is a similar distance to the start of the retaining wall 1.7m
24. At paragraph 14, Mr. Glendon expresses concern that if the proposed new mast were to fall, due to failure of the retaining wall, it could fall onto the nearby property of Gemma Desmond or towards the church, potentially causing damage to the architectural heritage (apart from potential injury). In this regard, based on the site investigation results, the new pole has been designed for worst case scenario therefore will not fail due to wind loading.
25. Following the completion of the structure assessment and foundation design, the construction drawing was complete and approved by the internal Towercom team on 30 September 2024.



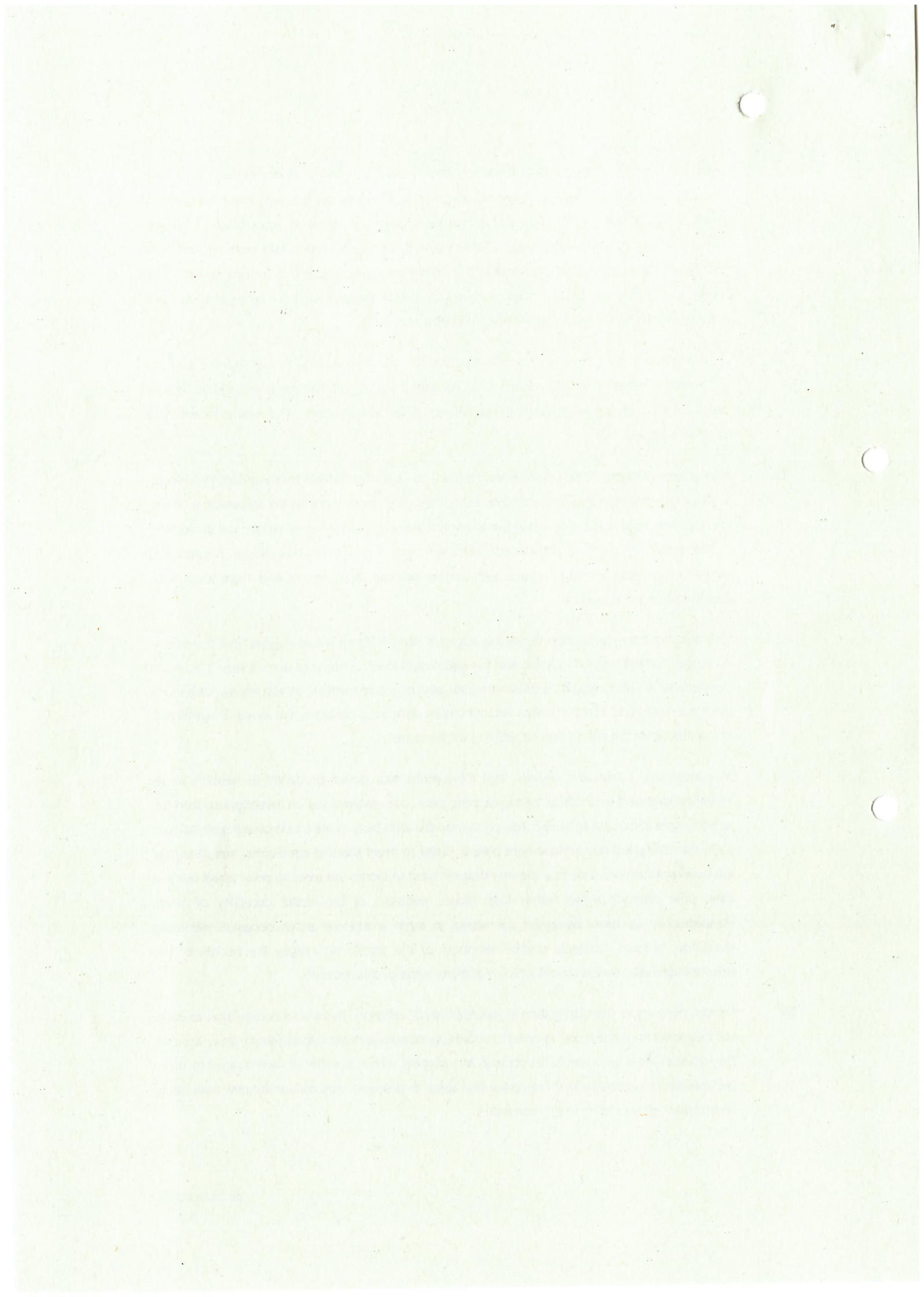
A copy of the approved construction drawing is contained behind **Tab 7** of the Book of Exhibits.

26. A Design and Construction Safety Plan was also completed and as per our agreement with Eir notification for completion of works was submitted. A copy of the Design and Construction Safety Plan is contained behind **Tab 8** of the Book of Exhibits. It might be noted that insofar as this refers to the site as "Bundoran", this is an error, as it clear from the balance of the document, which refers to the "Open Eir Wellington Road Exchange".
27. The civil works was then programmed for 6 and 7 November 2024. The works consisted of excavation of the foundation area, installation of the foundation steel rebar, installation of ducting for Vodafone's feeder cables and installation of concrete for the foundation. A minimum of 10 days is required between civil works and installation of the replacement pole to allow for setting/curing of the foundation concrete. Thus, as of 10 November 2024, when the Applicants obtained an interim injunction restraining further works in accordance with paragraph 1 of the Notice of Motion herein, the first stage of the works had ceased and would not have resumed in the interim between that the date and this case returning to Court on 18 November 2024.
28. Mr. Hegarty's affidavit states at paragraph 6 that during the site investigation works, the noise levels were significant and that vibrations were occurring that caused items to move within the neighbouring houses (presumably his own house). Subsequent to this, from 6 November onwards, Towercom had arranged to have noise monitoring in place at the site boundary in addition to the vibration monitoring equipment installed at locations on and in the Eir building, because of sensitivity of certain apparatus therein to vibrations. A copy of the noise monitoring report is contained behind **Tab 9** of the Book of Exhibits.
29. Normally, at 10 days, the concrete is tested using a sample of the concrete used for the foundation. This cube is crushed in a laboratory to determine/verify its strength. Once this is verified against the design strength of the concrete in the foundation design and I am satisfied, then Towercom would normally expect to proceed to program the installation of the new replacement pole. In the present case, what is planned is a 'hot swap' installation. This means that the new replacement pole will be installed and on the same day the existing wooden pole will be removed from site. Vodafone's network contractor is to be in attendance on the day of the hot swap in order to provide technical assistance in the removing of the existing live network equipment from the wooden pole and installation of new alternative antenna on to the replacement pole. New antenna are required in circumstances where previously used antenna cannot be transferred without the risk of significant technical difficulties.
30. At all times, it was Towercom's intention that the replacement pole would resemble as much as possible the one being removed, the only discernible difference being that the new one was a little more than 3 metres away from the existing one (but that would be well within the



20 metre limitation allowed for in the exemption under Class 31(j)). In this regard also, I note that Mr. Glendon expresses concern at paragraph 7 of his affidavit that replacement mast may have an additional 12 antennae for mobile telephony attached (not more than 8 of which antennae shall be of the dish type). To be clear, it is not intended to add more antennae, in fact less in total (proposed 3 panels and 2 dishes vs 5 antenna and 1 dish currently). The three new panels are slightly longer than existing panels attached, 1.5m long (new) vs 1.4m long (existing). Dishes will remain the same size at 0.3m.

31. At paragraph 8, Mr. Glendon is concerned that "*clearly the mast itself may be twice as wide as the existing mast*". In this regard, I can confirm that the replacement monopole will not be twice as wide as the existing, which is 320mm at its widest point. The new pole will be a uniform 508mm.
32. The photomontages which have been referred to in and exhibited to the affidavit of Morag Pollock demonstrate that the new pole will not result in any impact on the streetscape where it is located. I say and believe that the existing installation is not highly visible and discordant in the setting of the ACA, Protected Structures, including Trinity Presbyterian Church and similarly the replacement structure, with similar location, size, height and scale will not be highly visible in this setting.
33. The fact that the existing pole is leaning approximately 400mm would suggest that the pole is no longer suitable for the location and the equipment loading required on this site. The much greater risk to safety would be in allowing the status quo to remain. Whilst my investigations led me to conclude that there was little imminent danger of collapse, the longer it remains in place, the great the risk of this happening will become.
34. In conclusion, I say and believe that Towercom has acted prudently in relation to its investigations of the condition of the existing pole, has determined on investigation that the existing pole should be replaced, has confirmed the suitability of the site to take a replacement pole, has designed the replacement pole in order to meet the site conditions, has designed the new replacement pole in a manner that will best replicate the existing pole, albeit using a steel pole painted brown rather than wood, because of the better durability of steel. Furthermore, we have designed the works in such a manner as to occasion minimum disruption to local residents and/or members of the public who enjoy the benefit of the telecommunications equipment which Vodafone uses at this location.
35. Finally, contrary to the suggestion in the Applicants' affidavit, there was no intention to carry out the works in undue haste in order to avoid any subsequent complaint being made. Indeed, the fact that the works had to be done in two stages, with a number of weeks apart to allow the concrete foundations laid during the first stage to properly cure before the new pole could be installed, gives the lie to this assertion.



36. In the circumstances, I pray this Honourable Court to refuse the relief claimed in the Notice of Motion.

SWORN by **SEAN BRADLEY**

this day of 2024

at

in the City/County of Dublin

before me a Practising Solicitor/ Commissioner for

Oaths and [I personally know the Deponent.] OR

[the Deponent has been identified to me by

[ ] who is personally known to me and

who certifies that the Deponent is personally known to him/her.]

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Practising Solicitor/Commissioner for Oaths

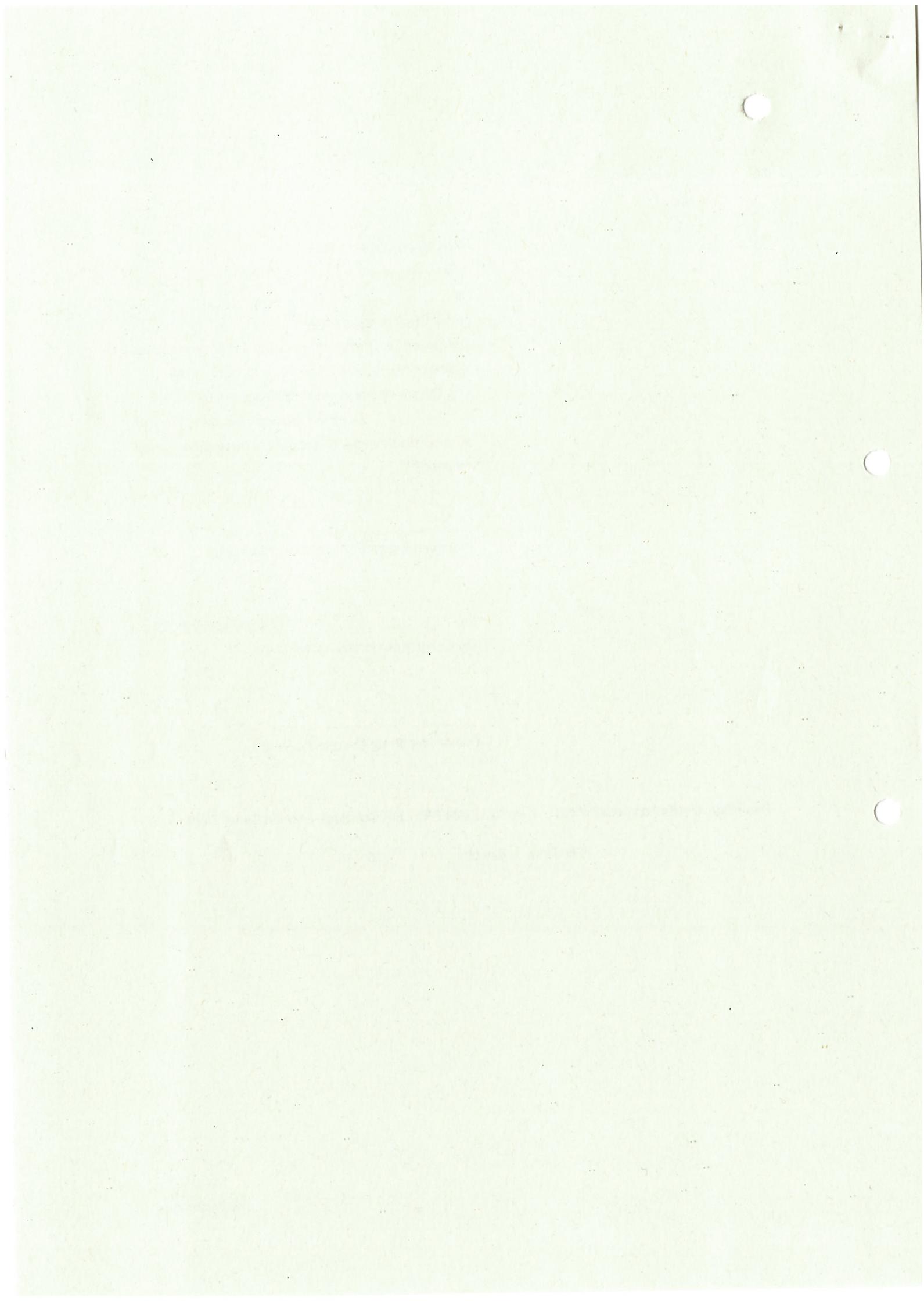
[I [ ] hereby certify that the Deponent is personally known to me.

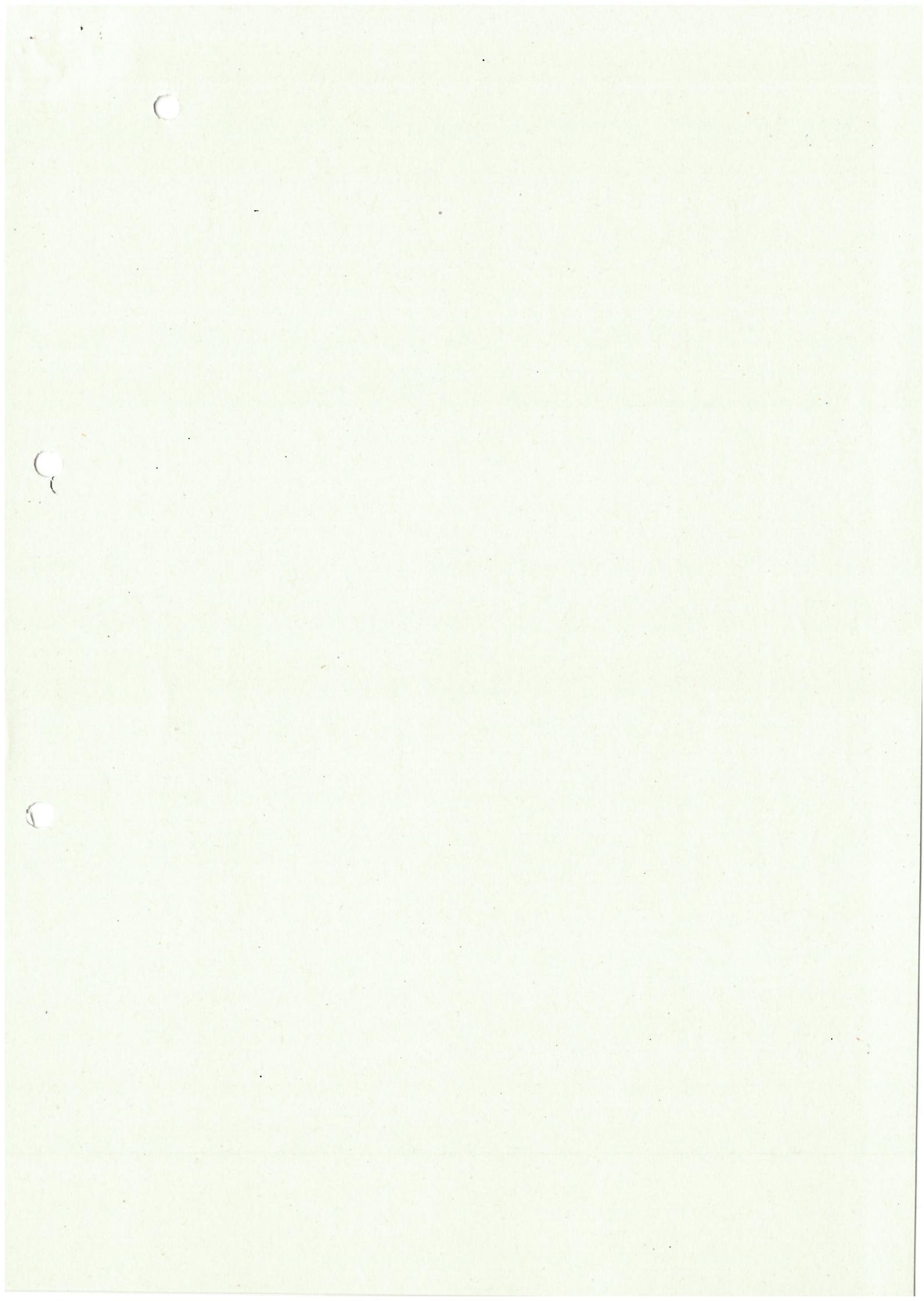
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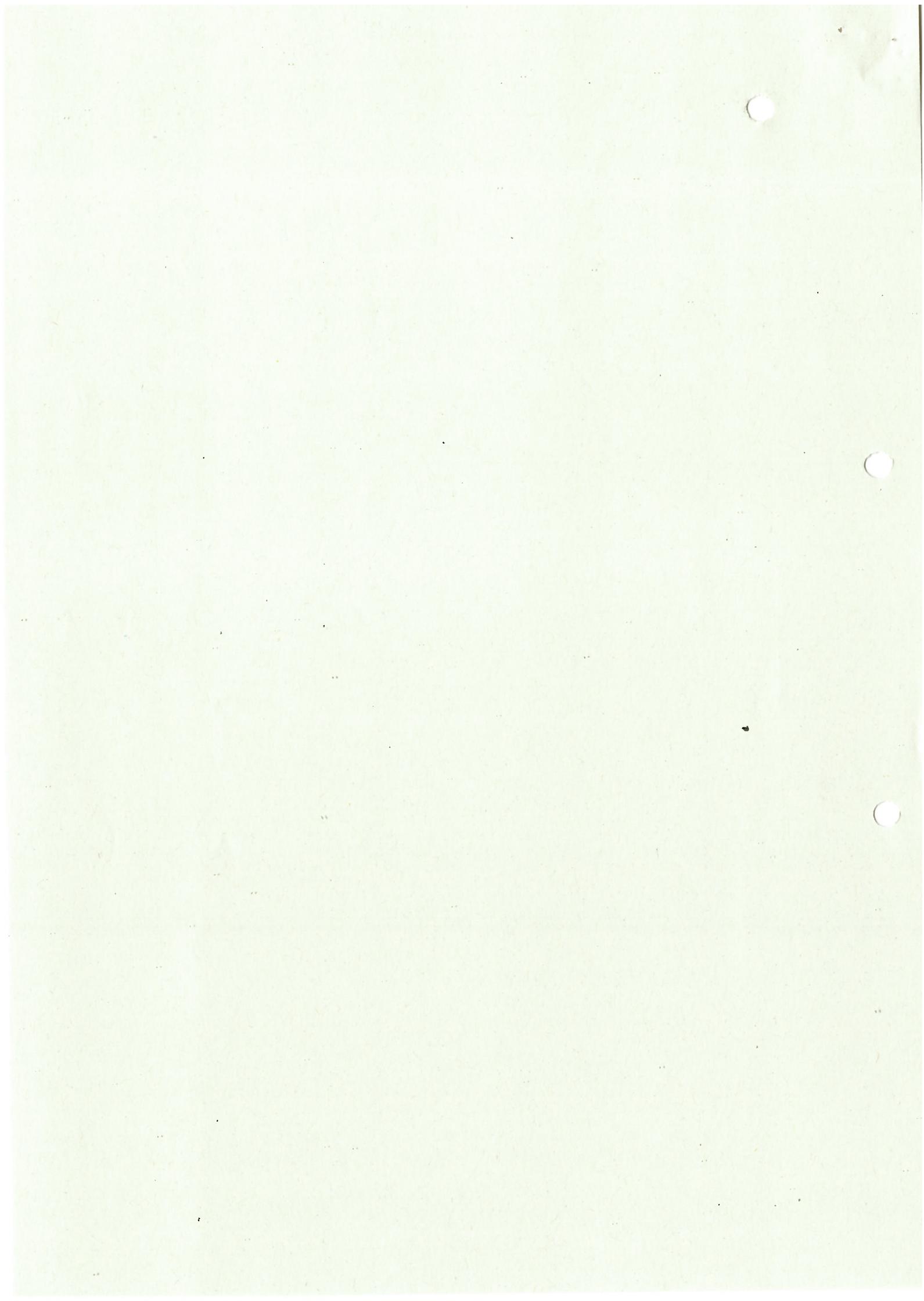
Person identifying Deponent ]

This Affidavit is filed on behalf of the by WILLIAM FRY LLP, Solicitors, 2 Grand Canal, Dublin 2.

Filed this day of 20 .







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Respondent

**AFFIDAVIT OF SEAN BRADLEY**

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