

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

2024/ 562 MCA

Between

JOHN HEGARTY

and
Eugene Glendon
~~EUGENE~~ AND SYLVIA GLENDON

and

GEMMA DESMOND

Applicants

AND

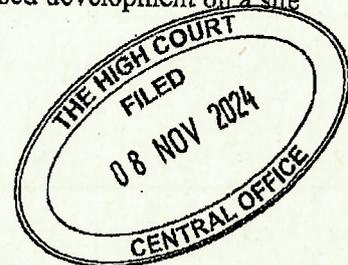
TOWERCOM LIMITED

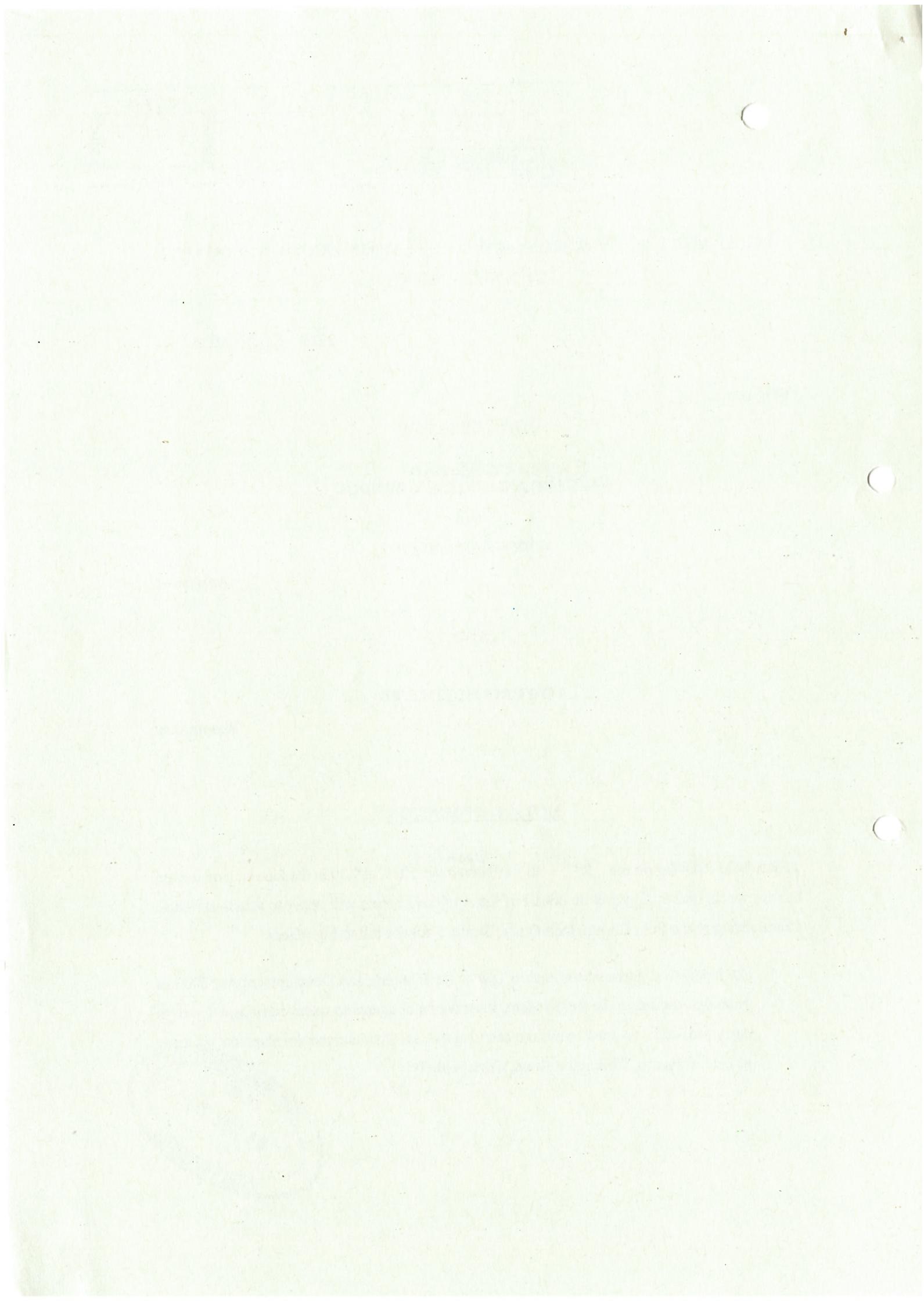
Respondent

NOTICE OF MOTION

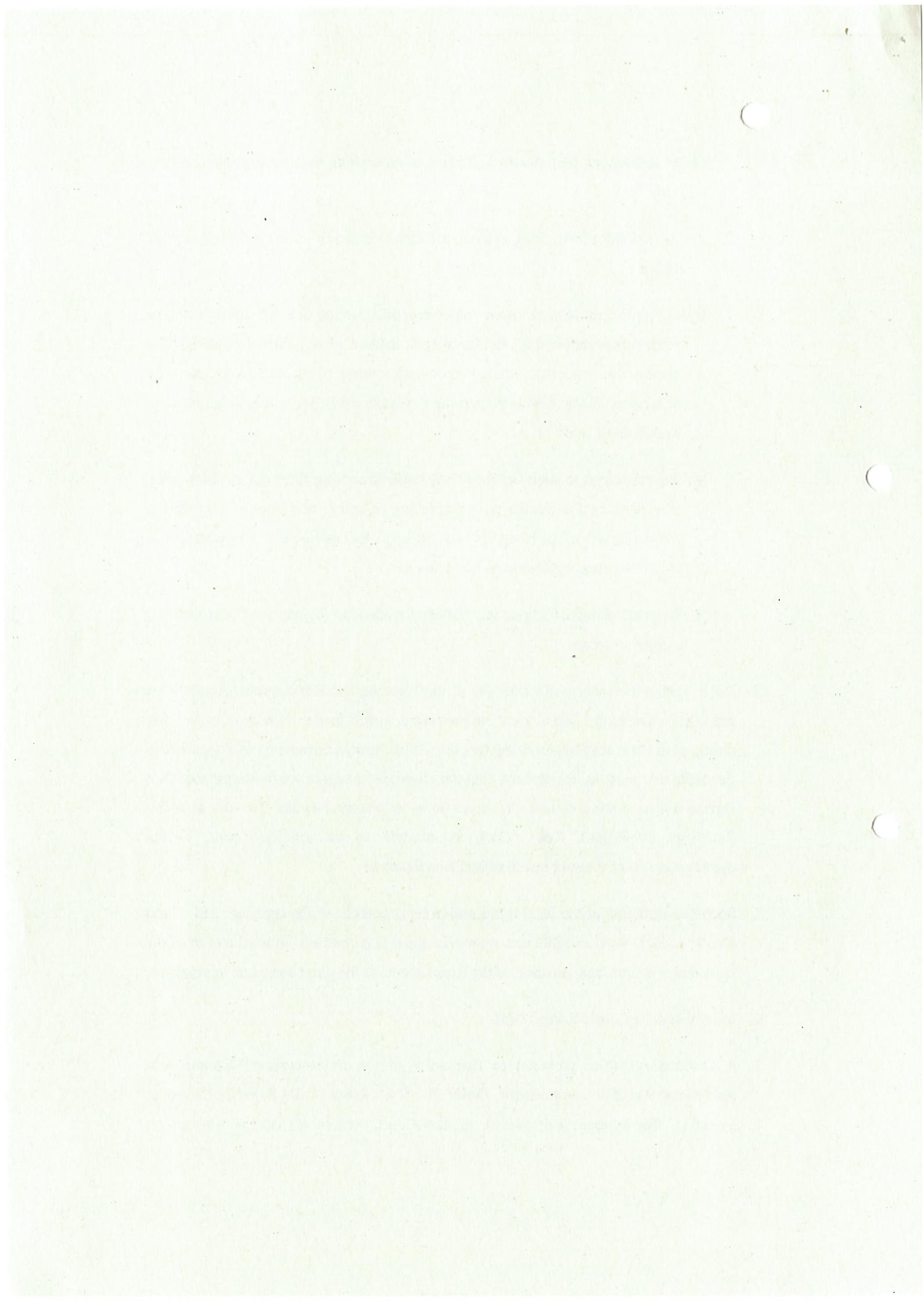
TAKE NOTICE that on the *2nd* day of *December* ~~November~~ 2024, at 9.30 in the forenoon or as soon as may be thereafter, Counsel on behalf of the Applicant herein will apply to this Honourable Court sitting at the Four Courts, Inns Quay, Dublin 7 for the following reliefs:

1. An Injunction pursuant to Section 160 of the Planning and Development Act 2000 as amended requiring the Respondent, its servants or agents to cease carrying out, not to carry out, and / or not to continue carrying out, an unauthorised development on a site at Eir Exchange, Wellington Road, Cork, namely:





- (a) an antenna support structure in place of an existing antenna support structure, and / or
 - (b) the erection of overhead telecommunications poles or other support structures, and / or
 - (c) the attachment to such pole or other support structure of any bracket, clamp or other fixture required for the carrying or support of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing, or required for the carrying or support of any device containing any such cable, wire, tube, pipe, duct or similar thing, and / or
 - (d) the attachment to such fixture of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing (including its casing or coating) or any device containing any of the foregoing, and / or any other equipment or apparatus used for telecommunications purposes, and / or
 - (e) the construction of any or any further foundations for any such pole or other support structure.
2. An injunction pursuant to Section 160 of the Planning and Development Act 2000 as amended requiring the Respondent, its servants or agents to do or not to do, or to cease doing, as the case may be, anything that the Court considers necessary and specifies in the order to ensure, as appropriate, that the aforesaid unauthorised development is not carried out or continued, and / or in so far as is practicable, that the land at at Eir Exchange, Wellington Road, Cork, is restored to its condition prior to the commencement of the said unauthorised development.
 3. Such declaration(s) of the legal rights and/or legal position of the applicant and (if and insofar as legally permissible and appropriate) persons similarly situated and/or of the legal duties and/or legal position of the Respondents as the court considers appropriate.
 4. Interim and / or interlocutory relief.
 5. A Declaratory Order pursuant to Section 7 of the Environment (Miscellaneous Provisions) Act 2011 as amended, Order 99 of the Rules of the Superior Courts as amended, the inherent jurisdiction of the Court, Article 47 of the Charter on



Fundamental Rights of the European Union, Articles 4(3) and 19(1) of the Treaty on European Union, and/ or Article 9 of the Convention on Access to Information, Public Participation In Decision-Making and Access to Justice In Environmental Matters done at Aarhus, Denmark, on 25 June 1998 (the Aarhus Convention), confirming that Sections 3 and 4 of the Environment (Miscellaneous Provisions) Act 2011 apply to the present proceedings.

6. Such further or other Order as may be appropriate to give effect to any finding of the Court herein.
7. Costs.

WHICH SAID APPLICATION shall be grounded upon this Notice of Motion, the Verifying Affidavit of John Hegarty sworn herein on the 7th November 2024, the nature of the case and the reasons to be offered.

Dated the 8th day of November 2024

FP Logue *FP Logue*
Solicitors for the Applicants
Lenin House
Great Strand Street
Dublin 1

To: The Chief Registrar,
The High Court,
Four Courts,
Dublin 7.

And to: Mr Gerard James
Partner
William Fry Solicitors
Solicitors for the Respondent
Gerard.James@williamfry.com

**HIGH COURT
PLANNING AND ENVIRONMENT**

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