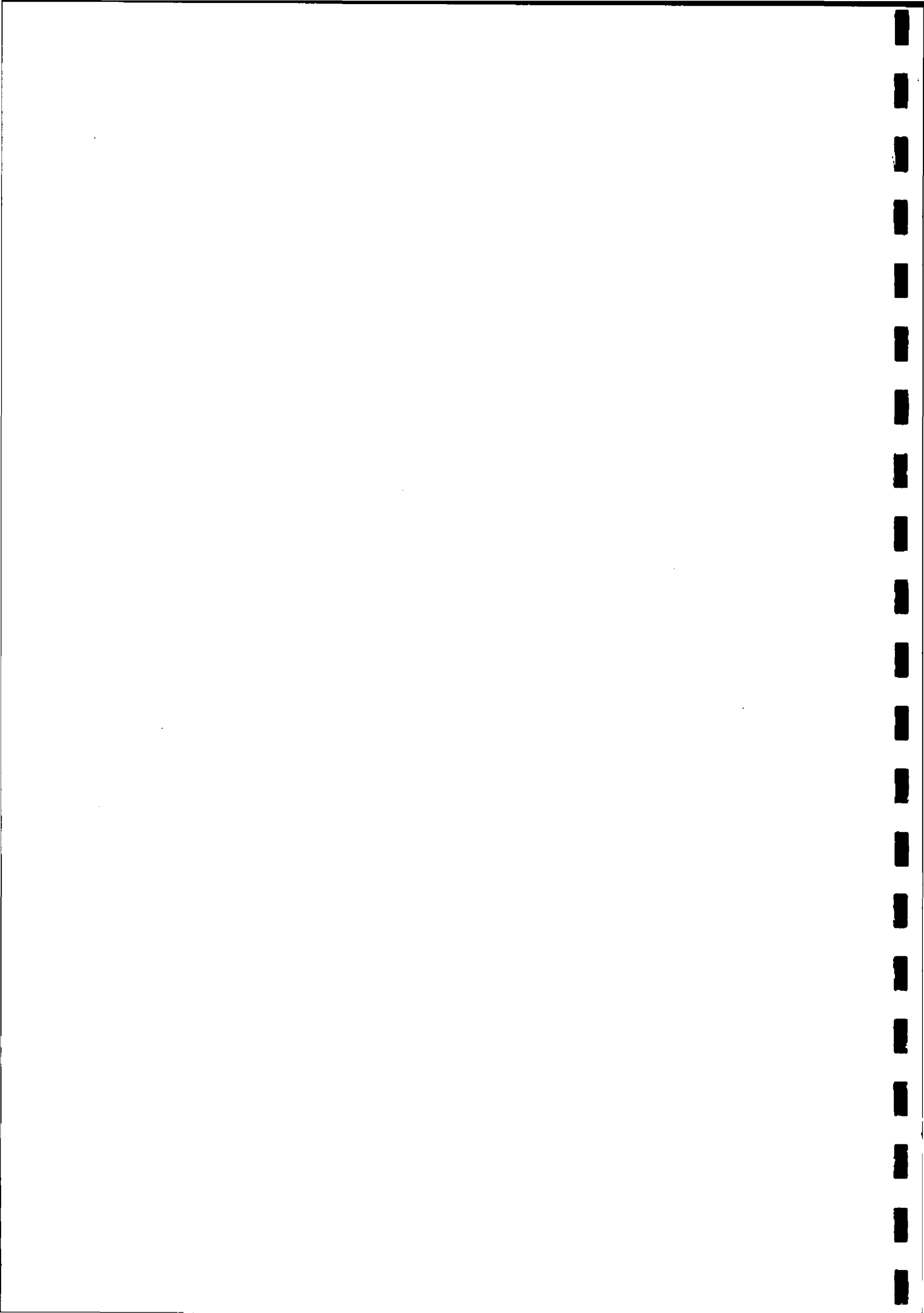




REPORT OF THE DELEGATION ON LANGNESS



DELEGATION OF TYNWALD

Mr J D Q Cannan (Michael) (Chairman)

Mr G D Cregeen MHK (Malew and Santon)

Mr W M Malarkey MHK (Douglas South)

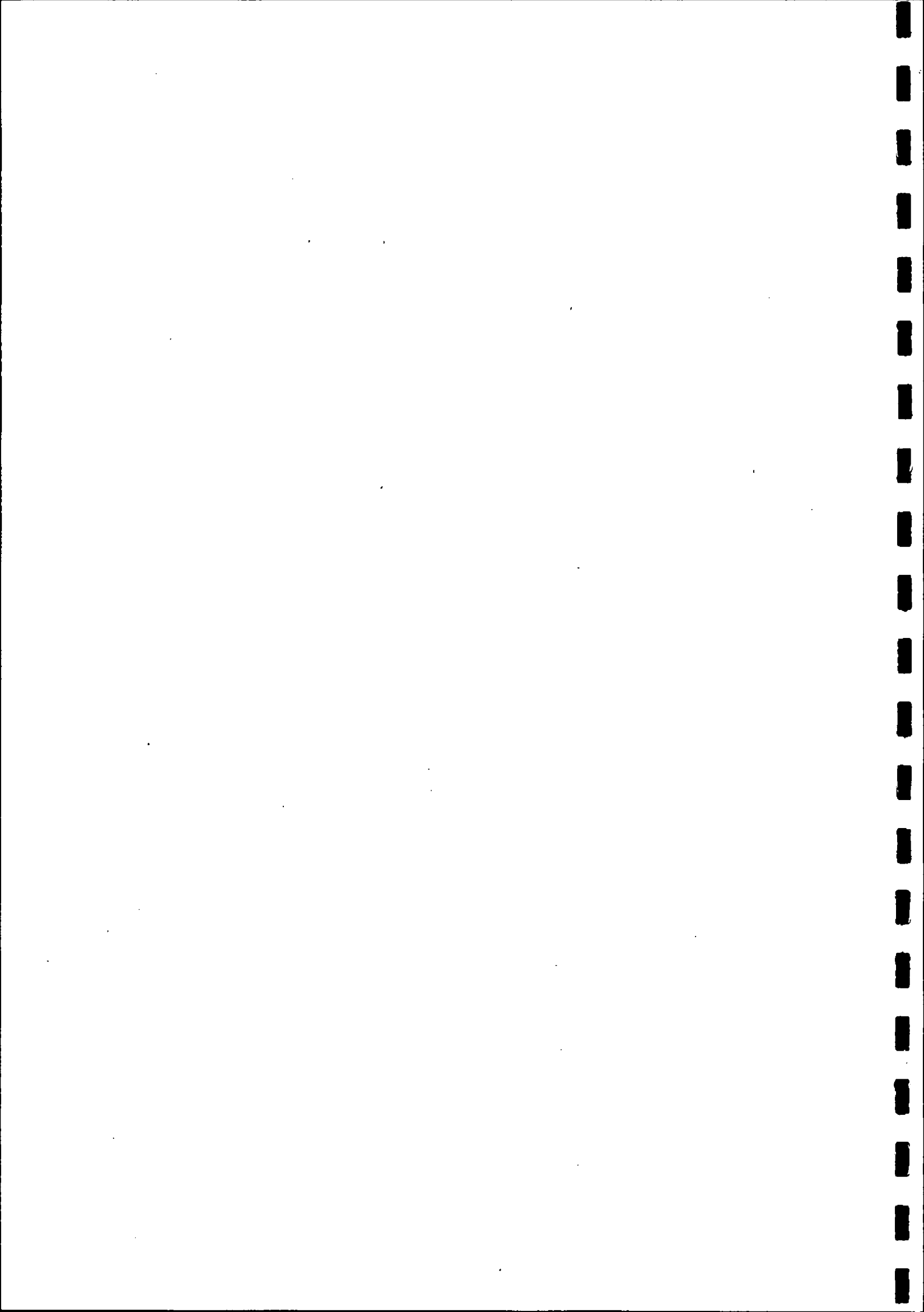
The Delegation's remit

At the sitting of Tynwald Court held on 16th January 2008 it was resolved:

That this debate be adjourned to the sitting of the Court in April 2008, and that a delegation of three Members, together with Her Majesty's Attorney General (or such member of his Chambers as he may nominate), should meet with those persons they deem appropriate in relation to the use by the public of the footpath proposed to be the subject of an Inquiry to ascertain whether the matter of the public's access can be satisfactorily resolved without the need for a statutory Inquiry, and to make recommendations to the sitting of the Court in April 2008 before this debate is resumed.

Copies of this Report may be obtained from the Tynwald Library, Legislative Buildings, Finch Road, Douglas IM1 3PW (Tel 01624 685516, Fax 01624 685522) or may be consulted at www.tynwald.org.im

All correspondence with regard to this Report should be addressed to the Clerk of Tynwald, Legislative Buildings, Finch Road, Douglas IM1 3PW.





To: The Honourable Noel Q Cringle OBE MLC, President of Tynwald, and the Honourable Members of the Council and Keys in Tynwald assembled

REPORT OF THE DELEGATION ON LANGNESS

BACKGROUND

The Delegation's remit

At the sitting of Tynwald Court held on 16th January 2008 it was resolved:

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The facts

Langness peninsula has long been used by members of the public for recreation. It is largely unfenced land on which sheep have been left to graze. Many people walk their dogs there and for many years it has been a favourite place for bird watching. The peninsula is widely regarded as an important part of the Manx National Heritage. A car park is maintained by the Department of Transport for the use of walkers. Paths lead from the car park around the edge of the peninsula and also

¹ For the motions in the Debate see Annex 1

along a roadway which leads to the Lighthouse at the end of the peninsula. The peninsula is privately owned: largely by Fort Island Limited in which Mr Ferguson-Lacey has an interest; the bottom part is owned by Mr and Mrs Jeremy Clarkson.

An Area of Special Scientific Interest (ASSI) stretches across the entire peninsula and particular parts of the land are fenced off to protect wildlife.

The Department of Transport maintains a record of public rights of way on the Isle of Man. None of the paths on the Langness peninsula is recorded as a right of way. There was, however, an agreement in 1976, 'brokered' by the then Attorney General, which was published in the local press. Under this agreement, the then landowner consented to allow the public access to his property by way of a road leading from the car park, which was owned by the Department of Transport's predecessors.

Mr and Mrs Jeremy Clarkson bought the Lighthouse on the end of the Langness peninsula with the surrounding ground (see map in Annex 2) on 13 December 2004. They took on a commitment to maintain an Area of Special Scientific Interest (an ASSI) and a pre-existing agreement with the Department of Agriculture, Fisheries and Forestry to maintain the land by keeping some sheep, for which they receive a small sum each year. The Clarksons use the Lighthouse as a holiday home for themselves and their children. Given the high-profile nature of Mr Clarkson's job as a television journalist, privacy for the Clarkson family is extremely important to them.

Problems have arisen as a result of some walkers behaving in an intrusive way. The Clarksons have been disturbed by people taking photographs (often using mobile phones) from part of a footpath which runs very close to the Lighthouse building, which is now converted into a dwelling. In addition, the Clarksons have complained that some dog walkers have not properly controlled their dogs. As a result, some of the sheep owned by the Clarksons have been harmed. In response to this, in about October 2005 the Clarksons fenced off a stretch of the footpath which runs around the seashore and close to the Lighthouse: partly to protect livestock and partly to ensure the privacy of the Clarkson family.

Although the members of the public can still pass to the north of the disputed area and continue along an alternative circular route over the Clarksons' property and then around the peninsula's coastline, this action caused considerable local resentment. People who for many years had been used to walking across the Langness peninsula now found themselves unable to do so with their customary freedom. Some people banded together to form an action group to combat the action of the Clarksons in stopping up this part of the footpaths; this action group is known as PROWL (Public Rights Of Way over Langness). The action group complained to the Department of Transport, as the responsible Government Department for oversight of rights of way. PROWL's view is that the public has the right to walk over all of the circular part including (but not limited to) the part of the path that was closed off by the Clarksons.

The legal arguments

A highway is a way over which there exists a public right of passage. At common law, a highway can be created by dedication by the landowner of a right of passage across his land by the public at large. The intention to dedicate a highway may be inferred where the public has long used the way as of right and where the landowner knew about that and acquiesced. Where a right of way is in dispute, most cases turn on the particular facts, but in the absence of anything to rebut the presumption of dedication established by long term use and where the use of the land by the public has been sufficiently long and of the right character, then dedication can be demonstrated. It is possible to create the right of way for recreational purposes, as in this case. It is not, however, possible to establish any "right to roam" either at common law or under statute. The Highways Act 1986, section 88 sets out the statutory basis for creating highways. This largely follows in a simplified form the common law position. As a result, public rights of way can be created by use of a footpath or of a roadway for 21 years without objection from the landowner. PROWL contends that this is what has happened in this particular case.

PROWL submitted 127 affidavits sworn by members of the public in support of this assertion. These affidavits, which are in a standard form, each containing an averment that the person has, for a period of time, freely walked a route around the Langness peninsula without permission ever having been requested or given. In

response, the Department was provided with an affidavit signed by Mr R G S Riggall, who sold the land to the Clarksons, which explained that as far as Mr Riggall was concerned there had been no rights of way over the land when he was its owner; the affidavit included details of actions which he took during that time which might be supportive of the position that no rights of way existed.

The January debate in Tynwald

This dispute rumbled on up to January 2008. As the Department responsible for footpaths, the Department of Transport attempted to settle the issue. At the sitting of Tynwald on 16th January 2008 the Minister for Transport, having determined to hold a Public Inquiry, moved a motion for the Public Inquiry to have powers under the Inquiries (Evidence) Act 2003. The Inquiry would establish the status of the footpath on the Langness peninsula which follows the route from the Department's car park around the coastline and passes to the seaward side of the Langness Lighthouse, and in particular whether the footpath may be presumed to have been dedicated as a highway under section 88 of the Act; and whether the Department should exercise its powers under section 39 of the Highways Act in respect of the footpath. The effect of this would be to establish whether the particular footpath was a public one, as a result of long usage, and, if so, whether the Department ought to make regulations in respect of it.

The Minister reported that he had met the two principal landowners at the Langness peninsula and representatives of PROWL in an attempt to resolve the Langness peninsula footpath issue without the need for an Inquiry. However, having met all parties he could see no likelihood of an agreement being reached. It was for this reason that he proposed to hold an Inquiry with the powers under the Inquiries (Evidence) Act 2003 to establish the status under the Highways Act 1986 of the footpath on the Langness peninsula which was the principal subject of concern – this would mean that the Inquiry Inspector would be able to summon witnesses and require them to give evidence under oath. Following on from this, the Inspector would report his findings to the Department and then the Department would make the ultimate decision.

An Amendment to the motion was moved by Mr Cregeen to appoint a Delegation of three Members and the Attorney General to settle the dispute by negotiating with interested parties.² This was partly to avoid the considerable cost of an Inquiry and partly to avoid any undue limitation of the use of the peninsula: in his view, there was a risk that defining a footpath would lead inevitably to greater restrictions on the use of the peninsula generally than if an agreement could be reached by all parties. He made the point that the footpath had not been entirely closed and that restrictions had been imposed only on the use of one part of the footpath which went very close to the Clarksons' dwelling (near to the kitchen window). His initial estimate was that this process would take three months and that he expected a Delegation to be able to reach a settlement and report back to Tynwald by April.

Mr Malarkey seconded the amendment. He had been to a meeting with PROWL, visited the area and spoken to many members of the public who lived locally. In common with Mr Cregeen, he was concerned at the risk of devoting a lot of public money to an Inquiry over a relatively small part of the footpath, which would not produce a satisfactory result for anyone, whatever the findings ultimately.

Another Amendment was moved by Mr Watterson (seconded by Mr Gill).³ Mr Watterson's aim was to extend the scope of any Inquiry to involve more than just the circular footpath, in order to avoid the possibility that other footpaths would be regarded as merely permissive and quite possibly closed off to public use.

After an extensive debate Mr Shimmin (seconded by Mr Crowe) successfully moved a motion to adjourn the debate, which established the Delegation.⁴ Subsequently a Delegation composed of Mr Cregeen, Mr Malarkey and Mr Cannan was selected and the Delegation, in turn, elected Mr Cannan as their Chairman.

² See Annex 1.

³ See Annex 1.

⁴ See Summary and Annex 1.

WORK OF THE DELEGATION

Meetings of the Delegation

The Delegation met on 13 occasions. The Clarksons' legal advisers maintained a continual correspondence with the Delegation and representatives of the Attorney General's Chambers as well as the previous and current Clerk of Tynwald. There were site visits to Langness on Friday, 1st February 2008 and on Monday, 4th February 2008. The Delegation, including their legal adviser, met two representatives from the Department of Transport, Mr T M Crookall MHK and Mr B Hannay, Director of Highways on site. A meeting was also held with representatives of PROWL (Mr I Costain and Mr J L Welsh) on site.

The original aim of the Delegation, expressly set out in the motion which established it, was that it should report to Tynwald in April 2008. Although considerable progress was made at an early stage, the Chairman of the Delegation was forced to make a Statement on behalf of the Delegation explaining that the Report of the Delegation would be delayed. Matters did not progress easily after that and the Chairman made further Statements in July and October explaining that the negotiations were continuing but remained in a difficult position. The Clarksons appointed new advocates at the end of the summer.

Matters at issue

At its first meeting the Delegation agreed that it would concentrate on the issue concerning the route of the customary footpath round Langness Lighthouse and that, since the remainder of the footpath was not a matter of immediate contention, it would not include it in the discussions that the Delegation would have with others; accordingly, it decided that it would not be necessary to speak to Mr Ferguson-Lacey, as representative of Fort Island Limited.

Since the situation was not, on the present state of the evidence, clearcut, some degree of negotiation to provide a pragmatic settlement was inevitable in the absence of a formal Inquiry to determine the legal position. The Delegation set itself the broad objective to ascertain whether a deviation to the customary route round the Lighthouse could be agreed with the landowners, so as to leave matters as close as possible to the position which had obtained hitherto.

The discussions centred on three main areas, which are the subject of this Report's recommendations:

- The line of the footpaths;
- Policing the footpaths; and
- Compensation payable to the Clarksons.

To resolve these issues the Delegation determined that a footpath set out in statute – Langness Footpaths Bill, set out in Annex 2 – was the appropriate method to give certainty: certainty to walkers that they would have a statutory footpath to walk the Langness peninsula; and certainty to the Clarksons and their successors that there was a statutory footpath and closure to all other claims of rights of way.

Line of the footpath

The original cause of the problem was the interruption to the line of the customary footpath by Mr and Mrs Clarkson erecting a fence to block off part of the land. As mentioned above, the reasons for the change were twofold: to ensure privacy for the Clarksons and their family; and to protect livestock grazing on the property.

A further complication is that a fenced off area, which is a specially protected part of the ASSI, stretches alongside the track which leads from the public car park across the land belonging to Mr and Mrs Clarkson to the gate of the Lighthouse compound on the north-western perimeter. Re-routing the footpath on the eastern side of the Lighthouse will mean that the footpath will go through part of the ASSI which is in the north-eastern side of the peninsula.

The Delegation has concluded that, in the circumstances, it is entirely reasonable for Mr and Mrs Clarkson to protect their enjoyment of their property. We are particularly mindful of their right to a private family life. Notwithstanding the fact that the re-routed path would go through part of the ASSI, we propose that the line of the footpath should be redefined on the eastern side of the Lighthouse to run straight from the coast to the front of the Lighthouse on the northern side and then run along the edge of the fenced off area of the ASSI to the west of the Lighthouse.

We propose that on the north-eastern side of the Lighthouse compound where the path runs north-east to the edge of the peninsula a single fence should be erected to protect livestock grazing on the pasture between the car park and the Lighthouse

compound. At present, the path runs parallel with the south-west facing wall of the compound and it is this part of the path which enables some walkers to behave intrusively - it is possible to photograph the interior of the Clarksons' dwelling from this point. The proposed new path would run several yards away from the wall and would at this point be double fenced to prevent walkers from approaching close to the compound wall. This would be the only double fenced part of the dedicated footpath.

The line of the new footpath is set out in the map as annexed to the draft Bill. We think that this is a minor change from the point of view of those wishing to enjoy walks on the peninsula but it is crucial from the point of view of Mr and Mrs Clarkson.

For the avoidance of doubt, the Bill makes it clear that all other footpaths are permissive only. Clause 6 extinguishes any claims to be public rights of way in relation to other footpaths based on past history or future actions. This Clause ensures that the status of the land and the footpaths on it is completely certain.

Policing the footpath

The draft Bill contains provisions for policing the footpath. The Department of Transport, which is generally responsible for the system of footpaths and highways, would be able to make bylaws which amend those contained in the draft Bill annexed to this Report.

Mr and Mrs Clarkson were keen for use of the footpaths to be adequately policed and for the bylaws to provide sufficient powers to enable this to be done. In particular, they have asked for powers to prevent:

- The reasonable prevention of nuisance and/or harassment
- The reasonable prevention of damage to flora and fauna
- The reasonable protection of the ASSI
- The control at all times of dogs or other animals brought onto the footpath
- The prevention of injury or distress to livestock
- The prohibition of push bikes or any motorised transport on any part of the dedicated path.

As can be seen from the text of the draft Bill, we have inserted provision to make bylaws to achieve these aims. These can be enforced by the Department, the local authority, the police or the landowner/occupier.

Mr and Mrs Clarkson made one further request: for a warden to be funded for at least two years from the date of dedication of the footpath to assist in and police the lawful use of the dedicated path. The warden would be able to ensure that members of the public were helped in understanding where they might go and what they might or might not do. This proposal was made at a very late stage and we have not had time to examine in detail the different potential ways of providing a warden.

Previously, the Department of Agriculture, Fisheries and Forestry had proposed that a warden be funded to protect the ASSI on Langness. It suggested that the annual cost of about £32,000 would be split equally between the Department of Agriculture, Fisheries and Forestry, Fort Island Limited and Mr and Mrs Clarkson (with perhaps Manx National Heritage which owns Fort Island picking up the remaining £2,000).

However this is achieved, we believe that it is in the public interest to fund a warden for two years - although it is likely that if the funding is for a warden to protect the ASSI, in practice this commitment will last much longer than that.

Compensation

In the course of the Delegation's Inquiry, the issue of compensation was raised on several occasions. There are two distinct views about this problem:

- The first view is that Mr and Mrs Clarkson are voluntarily surrendering some control over their property by consenting to have a footpath, which is defined in statute, when previously only permissive footpaths existed. Therefore, Mr and Mrs Clarkson are entitled to compensation - and this is an entitlement which would be recognised under the Human Rights Act 2001.
- The second view is that the position is far from clear as to the legal status of the footpaths over Langness. In view of the length of time during which people have (in their view) asserted a customary right to walk over the land it is highly arguable that a series of public rights of way over footpaths has been established. Mr and Mrs Clarkson purchased the land knowing that,

although no registered footpaths existed, there was a strong probability that there were established footpaths crisscrossing their land. The cost of settling whether the footpaths had more than a merely permissive status would be considerable and the result might go either way. The end result of this draft Bill will be to establish certainty where none existed before.

We wish to express no opinion either way about these contrary points of view. However, Mr and Mrs Clarkson have said that they are willing to forego any claim to compensation on the basis of the proposals put forward in this Report. The appointment of a warden as mentioned above was made an express condition by the Clarksons in return for which they would not seek any compensation for surrendering rights as a result of the Bill becoming law. There are, however, the following additional conditions, two of which involve costs to public funds:

- A one-off repair of the track from the car park to the Lighthouse compound gate, consisting of filling up of potholes.
- Payment of a contribution to Mr and Mrs Clarkson's legal fees of £20,000. The Delegation has agreed this compromise as a way of maintaining reasonable fairness to both sides. The payment is a considerably cheaper solution than a Public Inquiry.
- That Mr and Mrs Clarkson be permitted to make a statement as to why they have elected to forego any compensation. This statement is annexed to the Report (see Annex3).⁵ The Chairman of the Delegation will read this Statement to Tynwald.

The Department of Transport has made an initial estimate of the cost of repairing the track and erecting fences (the draft Bill makes maintenance of fences a responsibility of the Department to protect public safety) as being up to £4,000.

The draft Bill

We are pleased to be able to report that a final agreement has now been reached with the Clarksons, which we feel is one to which Tynwald can agree. The text of a draft Langness Footpath Bill is attached as Annex 2.

⁵ See Annex 3

The main points in relation to the Bill may be summarised as follows:

- The footpaths are defined and it is made clear that no other footpaths exist other than on a permissive basis.
- The Clarksons will not receive any compensation as a result of the draft Bill becoming law. They will, however, as mentioned above receive some compensation for their legal costs as result of the negotiations leading up to the settlement.
- Bylaws will be prepared. These will provide the Clarksons with reasonable security from interference in the enjoyment of their own property by those using the footpath designated in the Bill.
- The Clarksons will not be able to erect any fences on their property without the consent of the Attorney General, who will consult the relevant Government Department, and his consent will not be unreasonably withheld. The purpose of this is to ensure that the footpath in the Bill will not be double fenced except for the section between the Area of Special Scientific Interest and the Clarksons' residence (the Lighthouse).

Conclusion

We believe that we have achieved the Delegation's primary purpose, namely to reach an accommodation in such a way as to avoid the considerable expense which a Public Inquiry would involve. A further aim was to avoid the result whereby all public access to the southern part of the peninsula might be blocked off if no agreement could be reached between the various parties and no court action or other solution could determine the status of the various footpaths. We are confident that permission for access will continue as the Clarksons have made it clear that they have no intention of further restricting normal use of the footpaths.

We are aware that the solution that we have proposed will not please all of the people who are interested in this matter. There will have to be some readiness to compromise on all sides. In particular, if the solution is adopted, it will only work if there is sufficient goodwill to allow it to do so.

We would like to thank the Clarksons, PROWL, the residents in the vicinity of Langness and the Department of Transport and the Department of Agriculture, Fisheries and Forestry for their assistance in the long negotiations that have gone into the preparation of this final Report. We would particularly like to record our thanks to the Attorney General and Miss Michelle Norman of his Chambers who were responsible for drafting the eventual Bill and on whose legal advice we relied over the past months. Also, we express our thanks to the Clerks of Tynwald, Mr Malachy Cornwell-Kelly and latterly Mr Roger Phillips, for their valuable advice during the negotiations and in preparing this Report.

Recommendations

Accordingly the Delegation recommends:

- Recommendation 1 That the agreed settlement set out in the terms of this Report and the draft Langness Footpaths Bill annexed to this Report, including related expenditure out of public funds, be approved in principle.
- Recommendation 2 That the Statement by Mr and Mrs Jeremy Clarkson annexed to this Report be noted.

J D Q Cannan (Chairman)

G D Cregeen

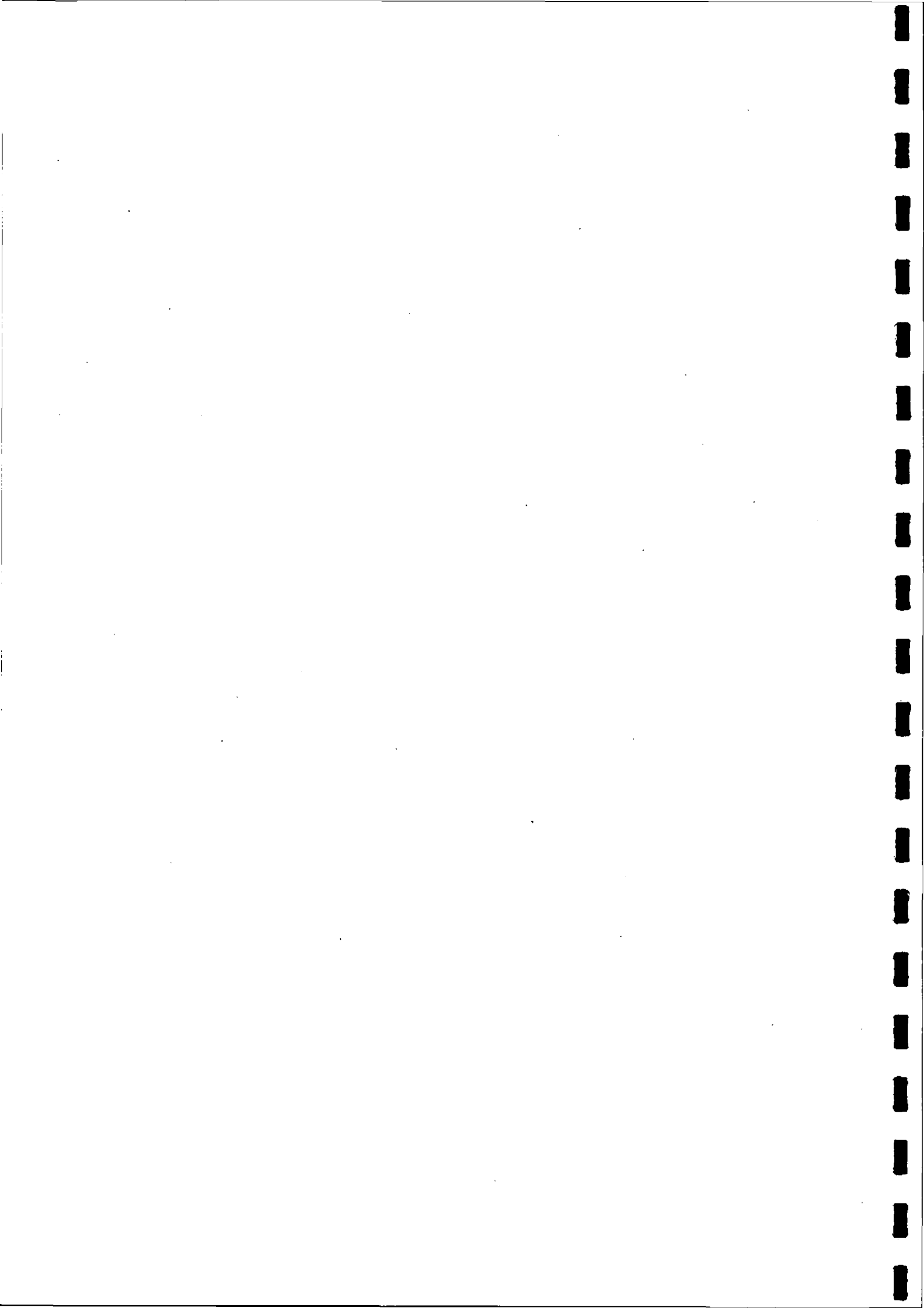
W M Malarkey

December 2008

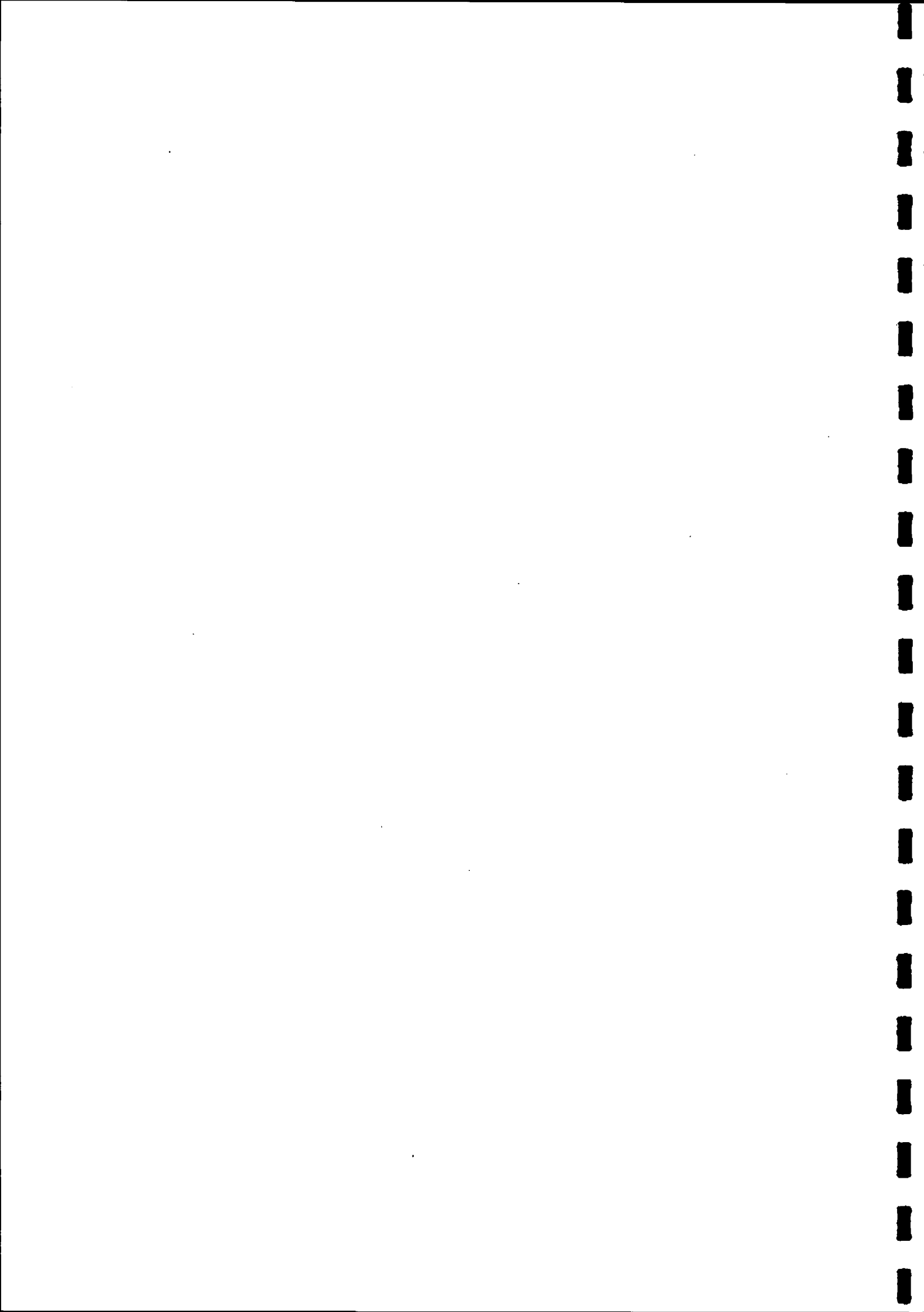
ANNEXES

List of Annexes to the Report

- Annex 1:** motions relating to the adjourned debate on the motion to establish a public inquiry in relation to a footpath on Langness.
- Annex 2:** Draft Langness Footpaths Bill 2009.
- Annex 3:** Statement by Mr and Mrs Clarkson



ANNEX 1



ANNEX 1

Motions (adjourned debate) moved in the debate on 16th January in Tynwald

The Minister for Transport (seconded by Mr Crookall) moved:

Whereas the Department of Transport has determined to hold an inquiry pursuant to section 117 of the Highways Act 1986:

(a) as to the status under that Act of a certain footpath on the Langness peninsula, namely that which follows the route from the Department's car park around the coastline and passes to the seaward side of the Langness Lighthouse, and in particular whether the said footpath may be presumed to have been dedicated as a highway under section 88 of the said Act;

(b) as to whether in the light of the findings of the said inquiry the Department should exercise its powers under section 39 of the said Act in respect of the said footpath;

Tynwald now resolves that the powers conferred by the Inquiries (Evidence) Act 2003 shall be exercisable in relation to the said inquiry.

An Amendment was moved by Mr Cregeen (seconded by Mr Malarkey) as follows:

Delete all the words after "Whereas" and insert:

"there is uncertainty in relation to the existence or otherwise of public rights of way over various footpaths on the Langness peninsula, and in particular that which follows the route from the Department's car park around the coastline and passes to the seaward side of Langness Lighthouse, Tynwald now appoints a delegation of three Members and directs that, together with Her Majesty's Attorney General (or such member of his Chambers as he may nominate), they should meet with those persons they deem appropriate in relation to the use by the public of the said footpath to ascertain whether the uncertainty regarding the public's access to that footpath can be satisfactorily resolved without the need for a statutory Inquiry, and to make recommendations to the sitting of the Court in April 2008."

Another Amendment was moved by Mr Watterson (seconded by Mr Gill):

(1) In the first line of the motion for "has determined" substitute "intends";

(2) After the word "of" in line 1 of paragraph (a) insert "(i)";

(3) After the words "Langness Lighthouse" in paragraph (a) insert _

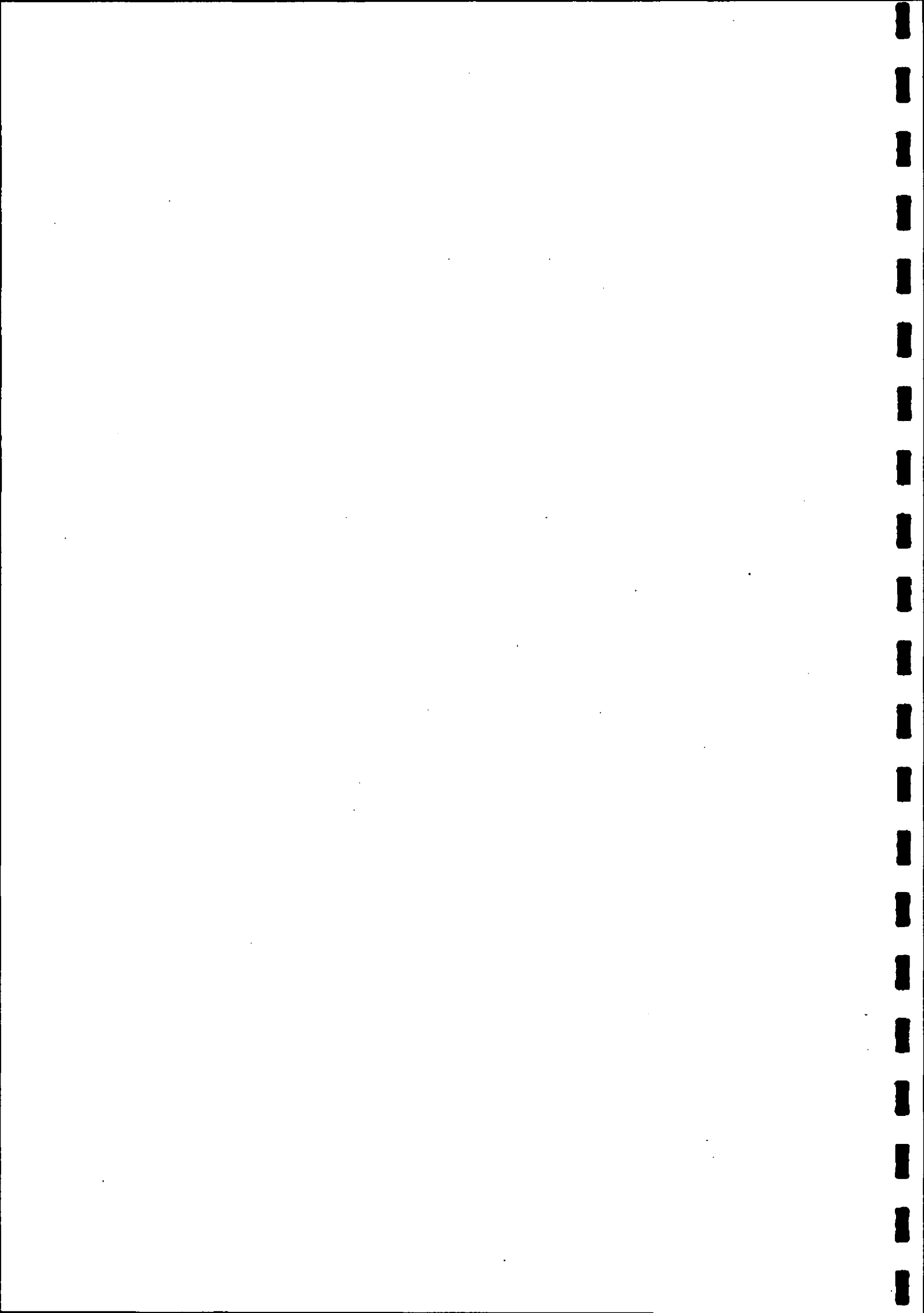
"(ii) a path departing from the circular footpath at the south-western side, leading to Langness point, (iii) the road from the car park to the Lighthouse perimeter wall, following the perimeter wall to the western side and joining the circular path, (iv) a path from the north gate of the Lighthouse perimeter wall, following a route east along the existing walkway to the coastal path, (v) a path running north-south from the circular footpath to the Herring Tower, (vi) a path running north-south from the herring tower to join the existing walkway in (iv) above, (vii) a path running due east from the herring tower along the route of the existing clear path to the coastal path, (viii) two further deviations from the circular footpath to the eastern side, the first passing to the south of the industrial archaeology, and the second as a continuation east of path (iv) above."

(4) For the words "said footpath" where they appear in paragraphs (a) and (b), substitute "said footpaths".

Motion by the Minister to adjourn the debate (seconded by Mr Crowe):

That this debate be adjourned to the sitting of the Court in April 2008, and that a delegation of three Members, together with Her Majesty's Attorney General (or such member of his Chambers as he may nominate), should meet with those persons they deem appropriate in relation to the use by the public of the footpath proposed to be the subject of an Inquiry to ascertain whether the matter of the public's access can be satisfactorily resolved without the need for a statutory Inquiry, and to make recommendations to the sitting of the Court in April 2008 before this debate is resumed.

ANNEX 2



Arrangement of Sections

1. Description of footpaths
2. Byelaws
3. Subordinate legislation
4. Closure of footpaths
5. Signage and fencing
6. Exemption from the operation of section 88 of the Highways Act 1986
7. Interpretation
8. Short title and commencement

SCHEDULES

SCHEDULE 1 – Matters in relation to which Byelaws may be made

SCHEDULE 2 – Description of the land

Part 1 – The blue land

Part 2 – The yellow land



A BILL

to provide for the creation of public footpaths on the Langness Peninsula; and for connected purposes

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

Description of footpaths

1. Save insofar as express provision is made to the contrary in this Act, the footpaths delineated in red on the deposited map shall be footpaths for the purposes of the 1986 Act.

Byelaws

2. (1) The Department shall make byelaws for regulating the conduct of the public while using any footpath.

(2) Without prejudice to the generality of the power conferred by subsection (1), the Department shall make byelaws in relation to the matters specified in Schedule 1.

(3) Byelaws made under this section may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding the sum of £2,500.

(4) Byelaws made under this section shall be enforceable in the name of and at the suit of any of the following, namely –

- (a) the Department;
- (b) the local authority for the district in which the land is situate;
- (c) the Chief Constable or any other police officer; or
- (d) the owner or occupier of the land.

Subordinate legislation

3. (1) This section applies to byelaws under section 2.

(2) An instrument to which this section applies shall not have effect unless it is approved by Tynwald.

(3) An instrument to which this section applies may make such consequential, incidental, supplemental and transitional provisions as appear to the Department to be necessary or expedient for the purposes of the instrument.

Closure of footpaths

[P2000/37/22, 25 & 26]

4. (1) The Department may by direction, on an application made by the owner or occupier of the land, close, or restrict the use by the public of, any, or any part of any, footpath during or for a specified period, if the Department is satisfied that such closure or restriction of use is necessary for any of the following purposes –

- (a) the management of land by the owner or occupier of the land;
- (b) fire prevention;
- (c) avoiding danger to the public;

(d) conserving flora, fauna or geological or physiological features of the land in question; or

(e) preserving any structure, site or area which is of historic, architectural or archaeological interest.

(2) Any direction under subsection (1) may be revoked or varied by a subsequent direction under that subsection.

(3) Part V of the 1986 Act (closure and diversion of highways) shall not apply to a footpath on the land.

(4) Nothing in this section affects or restricts the rights of the owner or occupier of the land to enforce all of their rights and entitlements under the Protection from Harassment Act 2000.

Signage and fencing

5. (1) The Department shall erect and maintain –

(a) signage identifying the footpaths; and

(b) so far as it appears to the Department to be reasonably necessary to facilitate the safe and lawful use of the footpaths by members of the public, all necessary and ancillary fencing, gates and stiles.

(2) No other fencing shall be erected on the land without the prior consent in writing of the Attorney General, which consent shall not be unreasonably withheld.

Exemption from the operation of section 88 of the Highways Act 1986

6. (1) Section 88 of the 1986 Act (presumption of dedication of a highway) shall not apply to the land.

Langness Footpaths Bill 2009

(2) In the case of any highway over the blue land or the yellow land which is deemed to have been dedicated through the operation of the said section 88 prior to the coming into operation of this Act, such highway is extinguished.

Interpretation

7. In this Act –

‘the 1986 Act’ means the Highways Act 1986

‘the blue land’ and **‘the yellow land’** mean the land described in Parts 1 and 2 respectively of Schedule 2

‘the Department’ means the Department of Transport;

‘the deposited map’ means the map marked ‘In the Keys – Map referred to in the Langness Footpaths Bill 2009’, signed by the Minister for Transport and deposited in the General Registry;

‘footpaths’ means the footpaths delineated in red on the blue land or on the yellow land on the deposited map and **“footpath”** shall be construed accordingly;

‘land’ means the blue land or the yellow land.

Short title and commencement

8. (1) This Act may be cited as the Langness Footpaths Act 2009.

(2) This Act shall come into force on such day as the Department may by order appoint and different days may be so appointed for different provisions and for different purposes.

Schedule 1

Section 3

Matters in relation to which Byelaws may be made

Byelaws under section 3 may include provision –

- (a) for the management and control of dogs or other animals;
- (b) for the control of dog fouling including the removal of faeces deposited by dogs;
- (c) for the method and materials of construction of any fences erected by the owner or occupier of the land to delineate the boundary of a footpath;
- (d) for the reasonable prevention of the causing of any nuisance to, or harassment of, the owner or occupier of the land by any member of the public;
- (e) for the reasonable prevention of damage to flora and fauna;
- (f) for the reasonable protection of any area of the land notified by the Department of Agriculture, Fisheries and Forestry as being of scientific interest pursuant to section 27 of the Wildlife Act 1990;
- (g) for the prevention of injury or distress to livestock;
- (h) for the prohibition of the use of bicycles or any mechanically propelled vehicle on any footpath.

Schedule 2

Section 7

Description of the land

PART 1

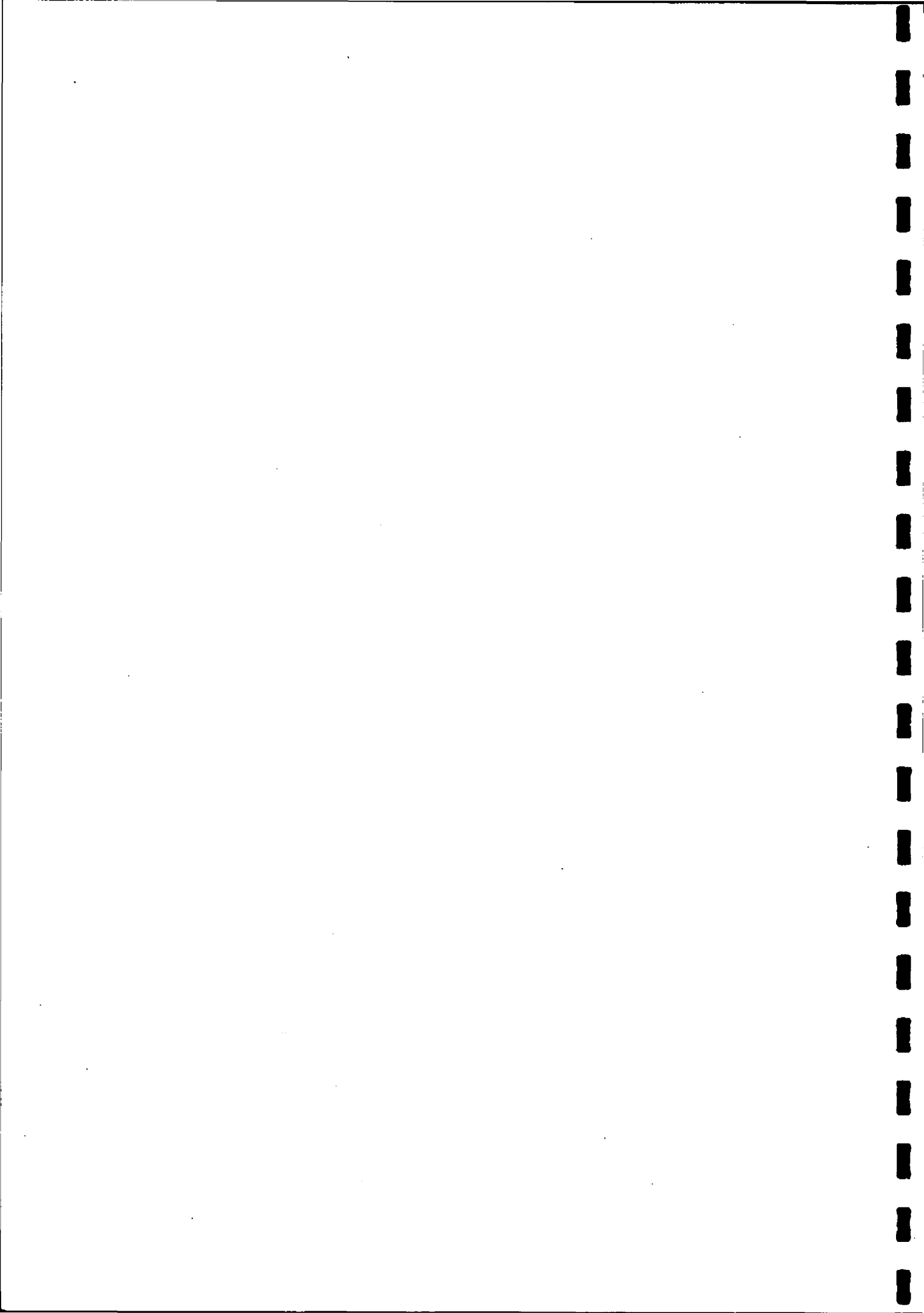
THE BLUE LAND

The parcel of land on the Langness Peninsula in the Parish of Malew shown edged with thick blue lines on the deposited map

PART 2






THE YELLOW LAND

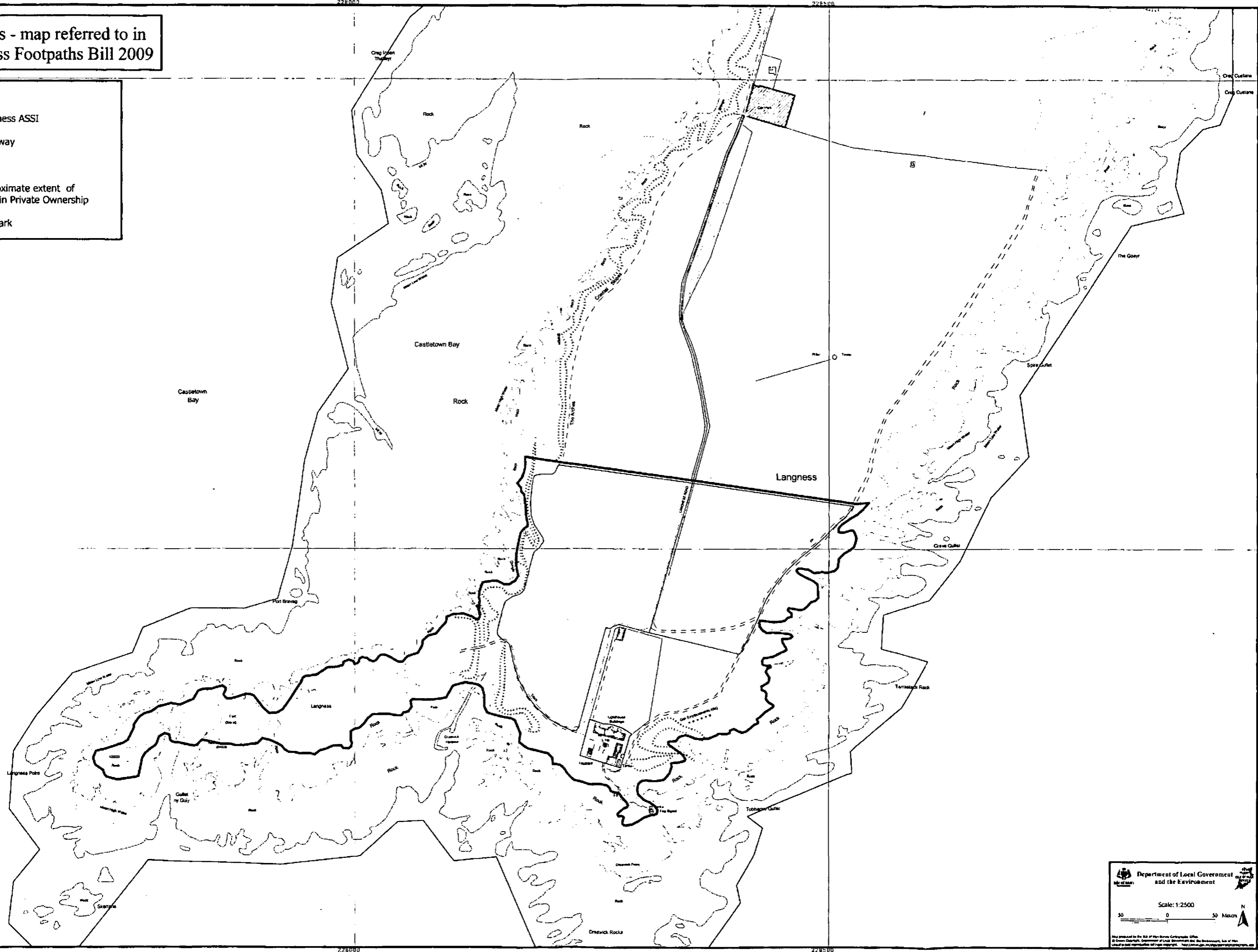
The roadway on the Langness Peninsula in the Parish of Malew leading from the car park belonging to the Department (delineated and edged pink on the deposited map) to the northern boundary of the blue land and coloured yellow on the deposited map



In the Keys - map referred to in the Langness Footpaths Bill 2009

Key to map


-  Langness ASSI
-  Roadway
-  Paths
-  Approximate extent of Land in Private Ownership
-  Car Park



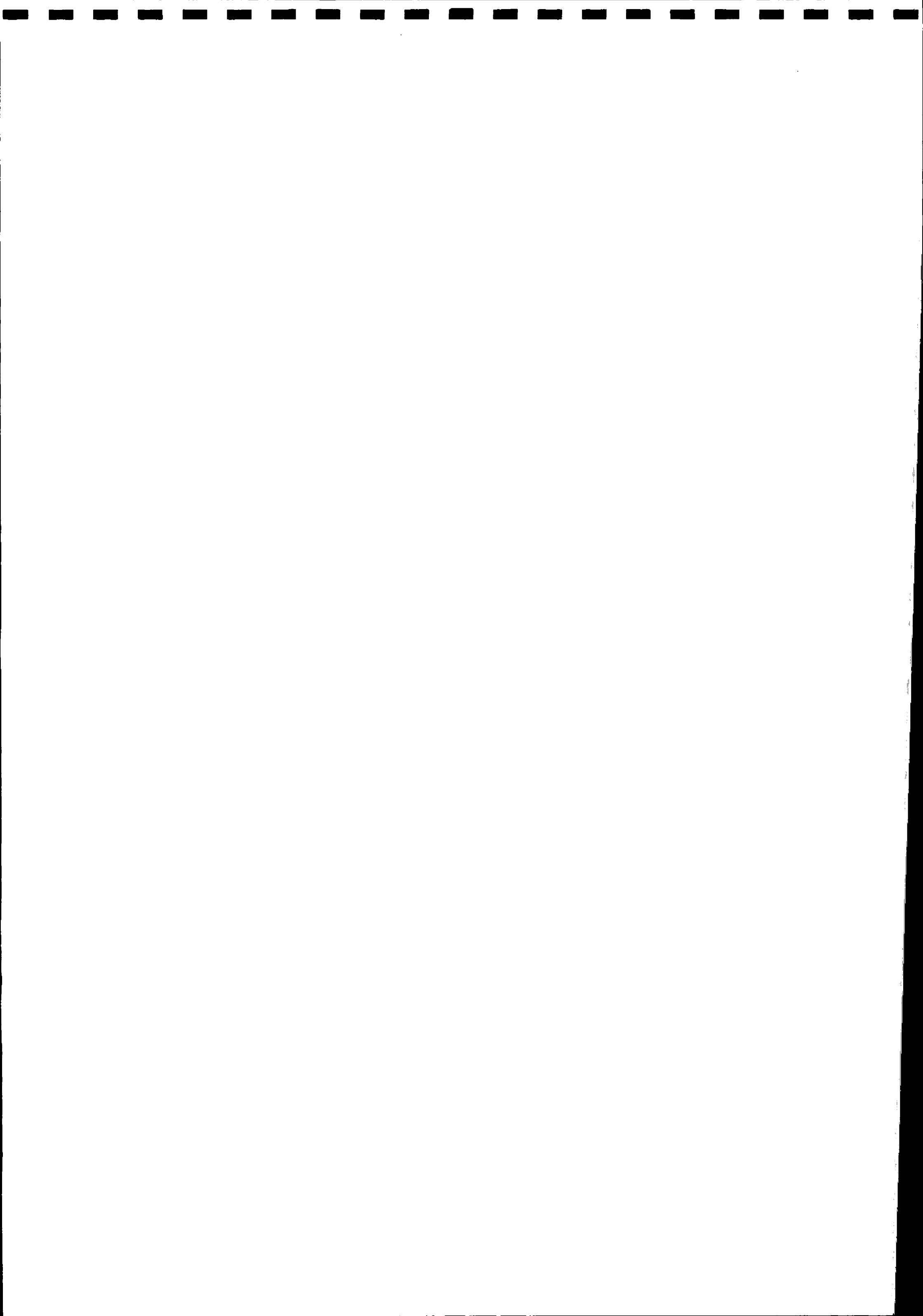
Department of Local Government and the Environment

Scale: 1:2500

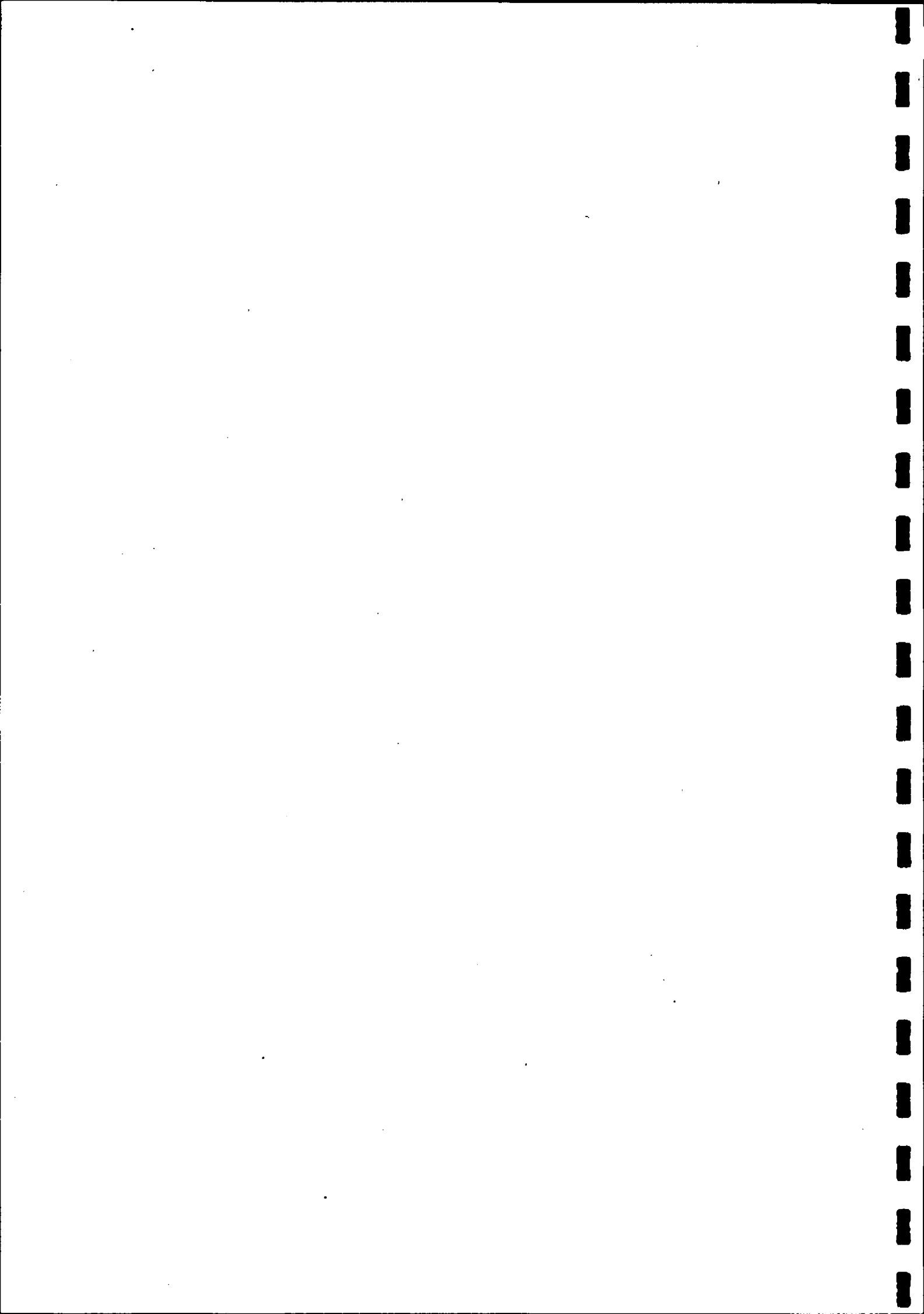
0 50 Meters



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ANNEX 3



MR AND MRS JEREMY CLARKSON

STATEMENT TO TYNWALD

DATE :

Mr President and Members of Tynwald,

Thank you Mr President for the time Tynwald has given to this Bill and for giving us the opportunity to place on record our thanks for the work done by the Tynwald Delegation and the Attorney General in helping to create this new public access on the Langness Peninsula.

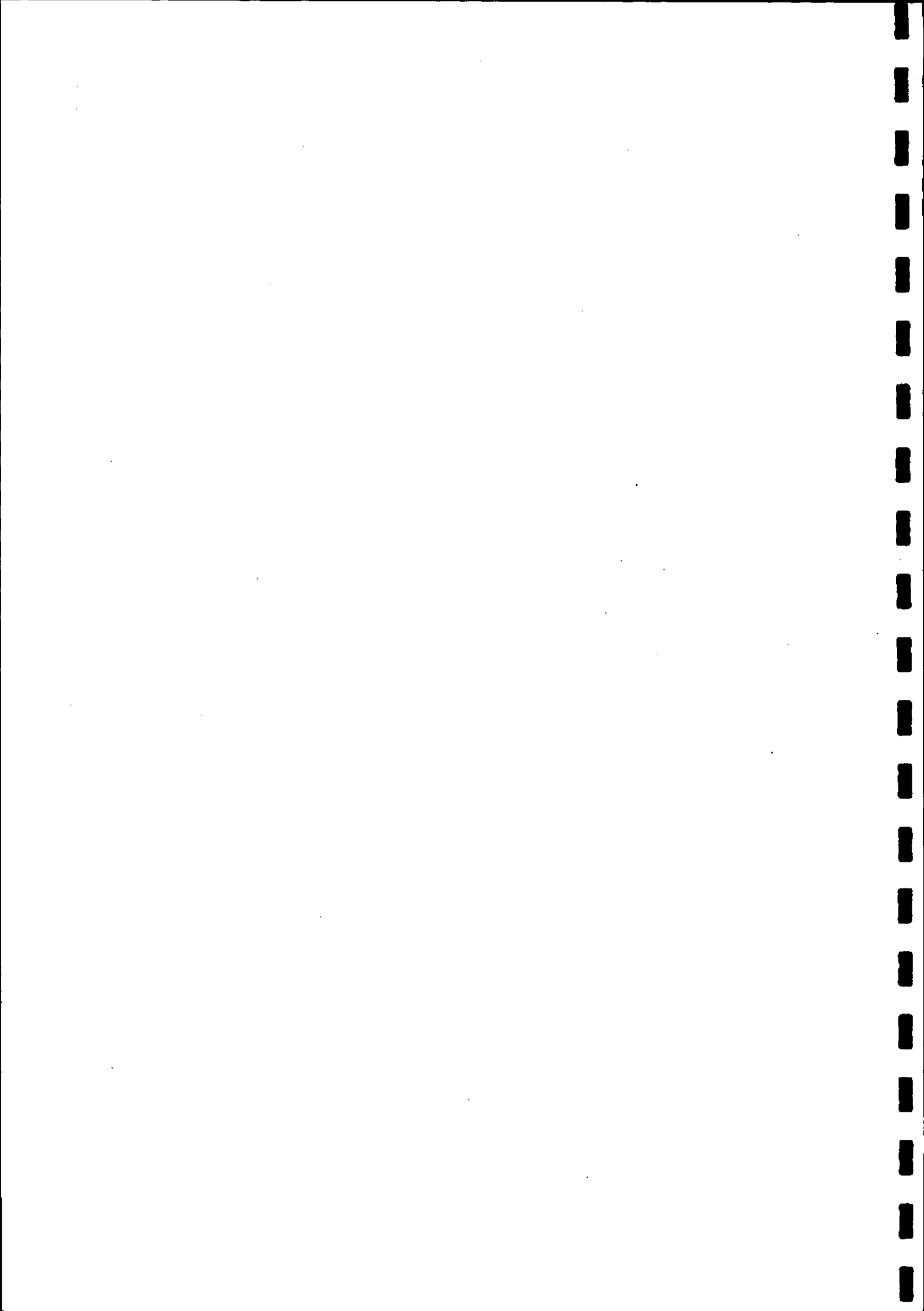
We bought our home at Langness because of my family's strong links to the Island. We did not know, and were never advised that the land around Langness Lighthouse was subject to claimed rights of way and no such rights of way were revealed to us by any of the searches carried out prior to our purchase.

After our purchase we had no objection to walkers using the land around our home but a minority became openly hostile; we would therefore be delighted if Tynwald would agree the principle of this Bill to create legal public access in perpetuity around the Langness Lighthouse and which will enable many generations of Manx citizens to enjoy the beauty of the Peninsula and help to protect the Island's priceless natural heritage.

We believe this Bill represents a sensible compromise which protects the interests of all and we look forward to working with Tynwald to ensure that all parties are able to enjoy the Langness Peninsula as the Bill intends.

In agreeing to rights of way over our home, and in giving up any right to claim compensation to which we would be entitled, we are pleased to have been able to make this contribution to public access on the Langness Peninsula and to the island's wider national heritage.

We look forward to working with the warden who will be in place for the first two years after the Bill becomes an Act.





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