

#### **4. REMIT OF COMMISSION**

##### **i) Terms of Reference**

4.1 The Tynwald resolution of 19<sup>th</sup> February 2002 requesting the Lieutenant Governor to appoint this Commission and identifying what it was that the Commission should investigate and report upon, and make appropriate recommendations upon, is set out in paragraph 1.5 above.

4.2 The matter which Tynwald resolved on 19<sup>th</sup> March 2002 that the Commission should investigate is set out in the same paragraph, 1.5 above.

4.3 Professor Crow's terms of reference are set out at paragraph 1.4 above.

##### **ii) The Commission's Interpretation of its Terms of Reference - Irregularities**

4.4 The substantive essence of the Tynwald resolutions is: (a) to investigate and report upon the government's handling of the irregularities occurring at Mount Murray referred to in Professor Crow's report into Planning and Development and other matters, (b) to investigate and report on the allegations of corruption made in the Tynwald debate on 19<sup>th</sup> February 2002, and (c) to make any appropriate recommendations on (a) and (b). The 19<sup>th</sup> March 2002 resolution does not specifically refer to making any appropriate recommendations, but the underlying subject matters of both resolutions are so closely bound up that it is reasonable to take the view that if the Commission does have any appropriate recommendations in respect of (b) then such recommendations should be put forward. In the event the Commission has not found it necessary or relevant to specify whether its various recommendations fall under resolutions (a) or (b).

4.5 In looking to "the irregularities occurring at Mount Murray referred to in Professor Crow's Report into Planning and Development and other matters" it is appropriate for the Commission to look at Professor Crow's terms of reference, which were to look at the planning and development history at Mount Murray and also to report on residential aspects with particular regard to specified matters, and then for the Commission to look at the irregularities which Professor Crow did report upon. In this regard the section headings of Professor Crow's published report give broad indicators of grouping of those irregularities. We have made a broad analysis and identification of irregularities referred to by Professor Crow in his various groupings at sub-section 3 (xi) above.

4.6 It is to be noted that the requirement is to investigate the handling of irregularities by the government as a whole, and not the handling by a specific department (or any specific departments).

4.7 In order to investigate the government handling of the irregularities there must necessarily be an examination and understanding of the circumstances surrounding and leading up to the irregularities, and why they came about. Any examination of the government's handling of the irregularities cannot be achieved without such an understanding. We return to this point in the next section.

4.8 It also follows as a matter of logic and sense that the Tynwald resolutions required us to look at government handling at the time those irregularities took place, as well as the position after Professor Crow had reported. There is no restriction in the wide

wording of the resolutions which would indicate otherwise. Furthermore, the words themselves indicate the approach we have followed. The words “the Government’s handling of the irregularities occurring at Mount Murray referred to in the Report...” are sensibly to be construed as including the handling of the irregularities as they occurred rather than following any constrained meaning which limited our investigations to government handling of these matters many years after events. Our interpretation is also consistent with the tenor of the debate preceding the 19<sup>th</sup> February 2002, an extract from which is set out at paragraph 3.108 above.

- 4.9 Professor Crow’s report identified a number of irregularities and his report particularly focuses on planning permissions, Planning Committee decisions, and correspondence by which, as is seen in more detail in section 3 above, a planning permission issued in March 1991 for hotel, tourism and leisure built development upon 18 acres (7.29 hectares) of land zoned for tourism development progressed into planning permissions for built development on 42 acres (17 hectares) of land (including 24 acres (9.71 hectares) which were not zoned for development but were designated as being of landscape and scenic quality) including 150 homes (later increased to 175) which could be used as permanent homes or for tourism. Professor Crow considered that the Planning Committee was unaware of the changes which allowed the houses to be used for permanent homes until it was too late. Professor Crow focused his report on these matters, as we do, but he reported on other consequential, sequential or otherwise related matters, as his section topics indicate, which matters we also consider in greater or lesser degree.

iii) **The Commission’s Interpretation of its Terms of Reference - Corruption**

- 4.10 Quite apart from the irregularities referred to by Professor Crow we have been required to investigate the allegations of corruption made in Tynwald in February 2002. These matters do not necessarily coincide overall with the irregularities as referred to by Professor Crow.
- 4.11 We consider the detail of the allegations of corruption in section 6 below, but it is helpful to refer to them in short form here as well, and to note that they were made in general terms.
- 4.12 The nature of the corruption being alleged was clarified in evidence before us by Mr Karran<sup>1</sup> and by Mr R E Quine MHK, the seconder of the resolution on 19<sup>th</sup> February. Mr Karran referred to corruption of the relevant system of government in the form of maladministration<sup>2</sup> and Mr Quine said: “that on the basis of what happened in this case we have had a corruption of our planning procedures, of our planning system”.<sup>3</sup>
- 4.13 It is thus apparent that the reference to corruption included corruption of the systems of government on the Isle of Man in the sense that those systems did not operate as they should have, and in particular raised the question as to whether they failed to resist the manipulations and pressures to which they were said to be subjected by the developer and his various agents and associates.
- 4.14 In the light of this, and of the resolution and the preceding debate in Tynwald on 19<sup>th</sup> March 2002, we consider it appropriate to our remit to investigate corruption in the more familiar sense of the term, that is whether there was some improper action taken in return for some material gain, that is, for example, any money, gift or other

---

<sup>1</sup> Evidence of Mr Karran P1 Notes Day 1 pages 8 seq

<sup>2</sup> Evidence of Mr Karran P1 Notes Day 1 page 11

<sup>3</sup> Evidence of Mr Quine P2 Notes Day 1 page 89

consideration paid or given,<sup>4</sup> and also in the wider sense as exemplified in paragraphs 4.12 and 4.13 above.

iv) **Summary**

4.15 Accordingly the issues for our consideration include:

- a) The basis for, and substance to, the allegations of corruption
- b) The fundamental cause of irregularities occurring at Mount Murray, which include those specifically referred to in the Crow Report, with particular reference to
  - The procedural, professional and other weaknesses revealed by the planning and development history
  - The adequacy of the planning approvals and their associated conditions as a basis for controlling implementation
  - The causes of the subsequent concerns regarding infrastructure, design and amenities
  - The adequacy of title of those who have purchased, and related matters.
- c) The extent to which systems, procedures, regulations or policies need to be reviewed and incorporated in appropriate recommendations as a means of addressing matters in (a) or (b) above.

4.16 Our reading of the relevant resolutions and debates in Tynwald has resulted in us concentrating on the first two bullet points in paragraph 4.15 (b) above. We have also considered the third and fourth bullet points in 4.15 (b) above, but these are a consequential result of the first two issues.

End of Section 4

---

<sup>4</sup> Corruption Act 1986, Section 2

