



**STANDING COMMITTEE
OF
TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
BING VEAYN TINVAAL**

**PROCEEDINGS
DAALTYN**

**ENVIRONMENT AND INFRASTRUCTURE
POLICY REVIEW COMMITTEE**

DOUGLAS PROMENADE SCHEME

HANSARD

Douglas, Friday, 19th March 2021

PP2021/0079

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Members Present:

Chairman: Mrs C L Barber MHK
Mr C R Robertshaw MHK
Mr R J Mercer MLC
Mrs J P Poole-Wilson MLC
Mr M J Perkins MHK

Clerk:

Miss F Gale

Assistant Clerk:

Mr K Skehan

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Standing Committee of Tynwald on Environment and Infrastructure

Douglas Promenade Scheme

*The Council met virtually at 10.30 a.m.
Proceedings were conducted and broadcast live
from the Legislative Council Chamber.*

[Mrs BARBER *in the Chair*]

Procedural

The Chairman (Mrs Barber): Good morning and welcome to this virtual public meeting of the Environment and Infrastructure Policy Review Committee, a Standing Committee of Tynwald. I am Clare Barber, MHK and I chair this Committee. With me today, in cyberspace, are the other members of the Committee Chris Robertshaw, MHK and Rob Mercer, MLC, and we will also be
5 joined by Jane Poole-Wilson, MLC and Martyn Perkins, MHK for the first part of the hearing this morning.

Before we begin, please can we all ensure our mobile phones are off or on silent and, for the purposes of *Hansard*, I will be ensuring we do not have two people speaking at once. Please can we also make sure that our microphones are muted when we are not speaking?

10 Today we will be hearing from the Minister for Infrastructure and the CEO for the same Department. The first part of the hearing will focus on the Douglas Promenade Scheme, with the remainder focusing on matters related to the Road Transport Licensing Committee and Bus Vannin.

EVIDENCE OF

**Hon. Tim Baker MHK, Minister
and Mr Nick Black, Chief Executive,
Department of Infrastructure**

15 **Q247. The Chairman:** For the record, I would be grateful if you could both please state your name, job title and how long you have been in the role.

The Minister for Infrastructure (Mr Baker): Good morning, Chair. Tim Baker, Minister for Infrastructure, appointed 3rd June of last year, so just over nine months.

20 Thank you.

Mr Black: Good morning, Chairman, Members. Nick Black, Chief Executive Officer, Department of Infrastructure.

25 **Q248. The Chairman:** Thank you. If we could first start off with the recent announcements around the decision to put the future part of the promenade to Tynwald in November? And if you could perhaps outline, Minister, your reasoning for choosing that as the date?

The Minister: Thank you, Chair.

This is primarily around the piece of work which was descoped from the main contract back in the summer of last year, and principally relates to the extension of the horse tram track through the single line extension from Broadway down to the Sea Terminal.

Without repeating information we have already shared with the Committee, that was obviously descoped in order to achieve the objective of delivering the main scheme in a timely manner ahead of this summer's tourist season, which clearly has changed in terms of outlook, but nonetheless the commitment is still to deliver that scheme ahead of the tourists arriving on the Isle of Man. The key elements that were taken out in addition to the single-track horse tram extension were some roundels, which were effectively being delivered in a fit-for-purpose form as part of the main scheme, and potentially to then in due course come back and retrofit them back to the original design.

In terms of the horse tram track, the commitment was made to come back and deliver that as early as possible after the completion of the tourist season, following the completion of the main work, which was always going to be this coming winter. You will recall, right from my appointment last June, that I made a very public commitment on a number of occasions that I was committed to delivering the will of Tynwald that was stated right back at the early stage of this administration, which was to deliver a single track from the Broadway area down to the Sea Terminal. So nothing has changed from my point of view on that, it was always the intention to come back and do it in this coming winter.

Clearly in order to do that we need to go through a process around the price of that, obviously – the final design, the tendering, all the compliance with the financial regulations and to then get on with delivering it. You will recall, Chair and Members, that in Minister Cannan's Budget which was brought to Tynwald Court in February, there was funding for that piece of work earmarked within Column 3. So it is necessary for the Department to come back to Tynwald to seek approval for that funding, and that is something that we need to do. But in order to do that we need to have done those other things that I have already mentioned, and to have a pretty firm price to deliver that.

So looking at the work that is required, looking at the fact that the main scheme – which is our priority – has of course been delayed by not just the January lockdown but the current ongoing circuit breaker, with construction being closed, we need to focus on the main job and get that finished; and then do what we need to do to deliver the horse tram track element. We felt that November was the time that it would be feasible to do that with what was involved, and the fact that essentially many of the same people who are going to need to do that are engaged in the main scheme.

I think it would be helpful for the Chief Exec to add anything from his perspective, as the accountable officer. Thank you.

Mr Black: Chairman, I am happy to do that, but I can see that Mr Robertshaw has raised his little yellow electric hand so I am in your hands as to whether you want me to follow the Minister or await Mr Robertshaw's interjection?

The Chairman: Yes, perhaps if we bring Mr Robertshaw in and then you can respond first to that, Nick. That might be helpful.

Mr Black: As you wish.

Q249. Mr Robertshaw: Good morning, Tim; good morning, Nick.

I do not question the motives behind the original realignment of the promenade works, for one moment. I think it was well intentioned. At the time it was first raised with us I think, Tim, you will recall that the promenade hospitality sector did say, 'Well, yes, we get your good reasoning, but we would still be comfortable with it being pursued, because it is on the other side of the

80 promenade and will allow everything else to carry on' – *had* we been in a position that we had had a substantial season from, say, April onwards.

What I genuinely do not understand is where we are now; because, once it was clear that the world had changed yet again, why did we not just turn the whole issue of that final section of the tram track back on again, bearing in mind that it was always in the original programme and also it has been passed by Tynwald already, once? I am lost as to why we cannot just simply turn it back on again.

85 So whoever wants to answer that, I would be grateful.

The Minister: I think from an overview I will come in first, and then Mr Black can do some of the detail, Mr Robertshaw.

90 From my point of view, the very clear message that I heard when I took over as Minister for Infrastructure was a very clear expression, from the hospitality sector in particular, that they wanted to have as good a season as they possibly could in this 2021 year. Clearly, this has been a major strategic project, it has been a long-lasting project and it has been a disruptive project. We knew of course that the 2020 season had been hugely affected.

95 When I was appointed, it was literally as we were coming out the back end of the original lockdown on the Isle of Man in June, as I recall it. The pain of the businesses and the restaurateurs and the hoteliers was absolutely clear to see; and it was absolutely clear to me that we needed to get the job done and to get out of the way to allow those people to make the best of this year that they possibly could.

100 Clearly with the benefit of hindsight we have had quite a disrupted start to this current year, and you then look back and say does it matter to get the job done as quickly as we can? I still think it does. Certainly with the words of Mr Callister ringing in my ears, in terms of the debates in Tynwald earlier this week around hospitality and tourism and a late visitor season this year, I personally want to do absolutely everything I can to get out of the way and to let that happen.

105 Given that there is such a short difference now anyway, between whether we did it conjoined with the main scheme or whether we did it over the winter period as planned, I do not really see actually now that there would be any significant advantage in trying to link everything together – and it would also bring some additional complications as well. However, we did obviously hear the sentiment expressed by the Committee previously about making sure we did not make the temporary arrangements over that piece of the promenade too permanent, and not invest any more money than we needed to make it safe and visually acceptable, and we have reflected that in our plans.

110 So if I could perhaps hand over to the Chief Exec to add some detail on that.

115 **Mr Black:** Yes, thank you, Minister.

Chairman, I am happy to pick that up and to comment a little further.

The contract element has been changed. As the Minister said, this work has been descoped, so it needs to be put through a new contract and a new procurement. You will all have noticed from your Pink Book that the item is now in Column 3 and a vote of Tynwald is required; hence, of course, your question.

120 We have to prepare for that and we have to make sure that we are ready to get the best possible price. One of the challenges we have had is, as the Minister has said, it now looks like it was possible that we would have plenty of time to do it over the summer and, as you said, Mr Robertshaw, to simply go back to where we were and restart. Contractually, we cannot just do that because we have taken it out of one contract. I suspect you are right, we could negotiate to put it back in again, but there is an element around that.

125 Also, we have been somewhat – and I am not quite sure of the right term to describe this – it has been somewhat 'on then off', then on, then off. We thought we were doing well, then we had that surprise lockdown in January, now we are surprised to be finding one again. I have not got

130 the professional skill to know whether we will be facing this lockdown for a little longer, or
whether there will be yet another one.

But the Minister and the Department as a whole have made it very clear to us that if there is
any chance at all that tourists can come, then we are to support that to make their experience as
good as possible. So although we will I am sure come on to the issue of the finishing dates for the
promenade, now that the further lockdown has happened – and I would be surprised if you did
not ask about that today – then the reality is that we will be not ready yet. We are still hoping, if
the visitor season is September – and as you know we are also a tourism event provider through
our railway businesses, we are having enquiries for visits in November ... We do not usually get
enquiries for visits in November, but if there are people who feel that they could make a tour *pay*,
we would be very happy to make special arrangements to operate a late season. So we are very
much aware that anything we can do to help the visitor economy is going to be welcome at the
moment.

The price of steel has gone through the roof lately. That is a worry to me, and we are talking
about figures of over a 40% increase in steel. We *have* most of the rail so that should be okay, we
should be all right on that front. But there is some volatility around rail construction and rail pricing
with the border controls, etc., and the level of risk is quite high at the moment. So I think
operationally – and the Minister asked me to make a comment, as the accountable officer – *as*
the accountable officer obviously I need to take a view on risk and in this case, combining the two,
I think the Minister’s suggestion of November is absolutely the right one and one I fully support.

150 **Q250. Mr Robertshaw:** Bearing in mind the delays that have built on the promenade works, I
think my own personal anxiety over this is not so much whether it did or did not start in November.
I think I need to make this clear. It is the fact that the financial side was descope. Did that have
to happen?

155 It was all well and good postponing the final element of work of the tram track up to the Sea
Terminal, but I do not understand the need – and perhaps you can explain this to me – why it was
necessary to descope the financial side, which had already been voted through by Tynwald. We
will find ourselves – well, I will not be there, but the new House will find itself voting and debating
the whole matter again, which creates a massive amount of uncertainty.

160 Why was it necessary to take this financial element, which had already been voted through by
Tynwald, back out of the contract? Please explain that to me, if you would.

Mr Black: Mr Robertshaw, the best way I think I can answer your question is to say that you
have probably a better knowledge of this scheme than many other people and you will recall –
but I will make it clear for those who perhaps have not got your involvement and memory, and
for the people listening, if there are any – that the scheme was subject to a number of changes in
scope from the start.

170 So we, as you recall – and I remember you standing against our drawings in the Barrool Suite
when we were able to gather together there saying, ‘Why are you in front of hotels at this time of
year?’ Your challenges, as always, were fair and reasonable and properly put, but you challenged
us on that and we changed the scope. We changed the way we did the whole scheme.

175 The Minister has made it very clear to me from the start that this Department does not have
the universal answer to every problem. Even comments made by him yesterday remind us that
we do our best, we work hard, we slog on when sometimes we get tired, but we are keeping going
and we are getting this done.

180 You might remember that before the Minister and his predecessor took on this scheme, it was
advancing at a rate of 250 m per Minister in the DoI; and politically there was a lot of sense
because you only upset a few people at a time if you do 250 m. You only vote for a small amount.
And if you are only asking for, let’s say, £300,000 and you are over by £10,000, or £20,000 or
£30,000, it does not look like a massive problem. The decision that the previous Minister made –

rightly, in my view – was to say, ‘Let’s get the whole thing designed; let’s get the whole thing done in one –

185 **Q251. Mr Robertshaw:** Nick, I am going to speak over you, do forgive me, because with the greatest of respect, you are answering the wrong question.

The question I posed was why was the financing taken out, having already been voted by Tynwald? Because that and that alone created the biggest risk possible to ever completing it, bearing in mind, in the minds of some – and certainly not mine – it is a contentious issue and having the point at which you do the work is less important than losing the financing.

190 Please answer the question: why did you remove the financing from it? Please explain that.

Mr Black: When we rebalanced the scheme and we took account of the various changes in scope, we had to reach a settlement with our contractor. So, as you have noted in Committees before, the costs of this scheme are not finalised. So we had to spend some of the money necessary, if you like, out of the total to solve the claims that were related to the changing in scope, particularly around the seasonality of working and landside/seaside working. We settled those and we agreed with our contractors to move forward jointly in a partnership and move it on.

200 As you will have noticed from your Pink Book, and my copy is to hand, there is £1.2 million – I think the figure is £1.2million, in Column 3. I shall grab it quickly to double-check. And we have provision for moving that scheme forward. So, yes, £1.2 million is sitting there in Column 3.

Q252. The Chairman: Nick, whose decision was it to move it into Column 3?

205 **Mr Black:** We applied to Treasury for the funds we needed to complete the scheme. I do not need to remind you, or annoy Mr Robertshaw by being long-winded, that your Committee very clearly supported us that we should complete this element of the scheme, that the horse tramway all the way was really important to you. The Minister made a *very* strong commitment that he has never failed to remind me of. I have not for a second thought that that was some sort of political ploy to keep you off the track. He told me to build this out – *(Interjection by the Chairman)* We put into Treasury for the money. So the direct answer to your question is, Mrs Barber, it is not in the gift of a Department where Treasury places funding in the Pink Book.

215 **Q253. The Chairman:** Just to give confidence, Nick, I do not think any of us are *at all* questioning, Minister Baker’s integrity here. I think we absolutely understand that he is committed fully to this. I think there is an inherent risk, though, that once we move this to a decision post-election Minister Baker, potentially, depending on the gift of the next Chief Minister, whoever that may be, will not be the Minister of this Department. I think there is a fear – and certainly that is coming across loud and clear to me from people who are contacting me – that there will be a change of direction. That is the risk with pushing it to November.

220 So I think, just to be clear, it is absolutely nothing against Minister Baker.

Mr Black: Thank you, Mrs Barber.

225 I absolutely see that risk, and as I look at the screen before me now with only certainty ... Mrs Poole-Wilson has some certainty of tenure, so does Mr Mercer; and Mr Robertshaw has already told us what his certainty is. But, for the others, I may not be speaking to any of you and indeed you may not be speaking to me. But we have to wait and see.

230 The point we have made previously, though, is this scheme has suffered at the change of direction, and I absolutely see the risk, you are correct. We have had that risk before. What would worry me, as an officer – which is not a reason for any political decision – is that if we had started building it, then had the change of administration and then were told to stop. Now you might say, really, what sort of person would start building and then stop? But I have not got the confidence.

235 So I think there is a need to clearly make a decision. For me, talking as I have done about risk –
when we were talking before, Mr Robertshaw reminded me that I was perhaps very indirectly
answering his question ... With the certainty of funding, the vote of Tynwald, get on and do it in
the way it is designed, in the way it is on the planning drawings. Get on and do it. That is what we
want to do. I would perceive there to be greater certainty if the new administration reconfirms
that position, but I absolutely recognise your position as politicians that the new administration
might simply say, 'We are not doing it at all', or 'We are doing half of it', or 'We are doing it
240 differently'.

Absolutely, I have to agree.

Q254. The Chairman: Nick, can I just pick up then, one of the comments we have had from a
number of areas has been around the importance of engaging with the contractor very early, to
245 make sure that they are confident in terms of the measurements, the levelling ... We have seen
numerous examples in this first phase, if you call it that, I suppose, of things that have been carried
out that have then had to be dug back up. I *dread* to think what the quantities are of tarmac and
so on that have been poured and then dug out, as well as the latest thing which was the wall that
has had to be built – or two walls I think it was, that had been built and then deconstructed, with
250 the associated waste, which is a concern.

I appreciate you have said not a cost to the taxpayer, although it is an incredible cost to the
businesses who are affected by a delay. So I think there *is* a cost. It might not be direct to the
taxpayer but there is an indirect cost there that absolutely must be acknowledged.

255 I just wonder then, if it is a November Tynwald, when do you anticipate starting the work with
those contractors – the *pre*-application point – to make sure that absolutely at the point it is
agreed, you are ready to go?

Mr Black: Yes, that I can give you reassurance on, Chair. The Minister has already asked me to
make sure that we do all the work necessary so that when the vote of Tynwald is secured we can
260 get straight on.

You will know it is not unusual for us to place contracts that say 'subject to Tynwald votes'. We
have had, in my experience, schemes before where we have started the day after the Tynwald
vote, because everything is ready, even standby ready. So the Minister has asked me do I support
his view that we should construct it over the winter and that we should work from November right
265 through till March, and potentially into the early part of April to do it? And that is what we are
aiming to do.

So there is no suggestion at all that there will be a year lost. If Tynwald supports it, we will be
in the ground.

270 **Q255. The Chairman:** So just picking up on the second point that I made there, about that
damage to local businesses with the errors that are happening, and we are still seeing those
happening. I want to understand a bit more, because we are getting anecdotal information around
the tonnage. I have had figures of 11,000, 46,000 tonnes of temporary tarmac being laid in this
scheme and then dug back out. It just seems an inordinate amount. Then, as I say, these
275 deconstructed walls – and this is very far down the line with this scheme where these errors are
still happening.

I just want to try to understand a bit more about *how* that is happening; what we are doing to
mitigate; and what we are doing then to make sure that does not happen in phase 2. Because we
do not appear to be at that position just yet.

280 **Mr Black:** Mrs Barber, Chairman, there are a number of elements of exactly what you have
talked about that, believe it or not, are entirely intentional. The way that we have tried to provide
for two-way traffic, which was a benefit that we were not thinking we would originally secure,
was that we have laid a lot of temporary roadway. So you can see as you drive along it – and I fully

285 appreciate now that only essential journeys are being made, and you may well not have driven
along it for a while. We have moved traffic from part A to part B. We have moved it across
something. So if you look at the moment, now, there have been different ways of us moving traffic
around the bottom of the Broadway junction as it is being constructed in sections.

290 There was always going to be an element of laying large amounts of tarmac, and I understand
that you are quite right to identify that creates a waste material, it does, when we take that away
and wherever possible try and reprocess it. It is not always possible, but we try to do some
elements of recycling. So there has been material laid and indeed one of the things you talked
about, the design of the rail section – when the Minister said we are going to make it look okay
but not super-lovely, as we discussed at our previous Committee meeting – we are intending to
295 make sure that the base layers of that are fit for the final construction. So effectively we will lay
the soil on top of some elements of matting that we can then remove leaving the foundations
ready for us to pour concrete on to. So we are trying to minimise waste, but there is some essential
waste in the scheme because of the way we have handled the traffic management.

300 You are also right to say there have been some mistakes, that those are mistakes that have
been ... In the recent example you quoted they were all, contractually, not a problem for us. But
you are absolutely right also that potentially they create knock-on effects for the wider
community, which the Minister has been *very* keen to minimise and avoid. I know we could all
name some businesses that have had really quite difficult times because of the length of time the
works have been outside their premises. So we are very aware of those and, as you know, Karl
305 Millar has been our lead on trying to minimise the impact on those businesses, fighting for them
and representing them, and that has worked very well.

310 So in terms of some of the other things you have talked about, the rail element is one reference
you made. We had a completely unintended failure of the rail. That rail was not the Department's
rail, it was the contractor's rail. It was supplied to the contractor by a specialist firm, it was rolled
in a specialist mill. It was not bought from some unknown supply chain, it came from a European
mill run by one of Europe's leading steel mill operators, with quality control certification. I suspect
the rolling mill is now going through every batch because, whilst it might be a problem on our rail
with the horse trams, I seriously hope that it is not in any high-speed rail, because it came apart
when welding.

315 Now, again, there will be a claim. There will be a long series of claims around that. Again, there
is wastage, it has had to be dug out, as you correctly noticed, and indeed I remember you
contacted me very soon after it happened, and in our recent letter to you we have confirmed how
that has worked.

320 So, yes, there is waste. I suspect we have done everything we can. I *hope* we have done
everything we can to minimise that wastage, but some of that waste is intentional and
unfortunate, but it is just how we have tried to limit the impact on the business and the
community by moving traffic around as best we can.

Q256. Mr Robertshaw: Can I come in, Chair? Yes, thank you.

325 So, just to understand these two issues, which obviously jump out at everybody: this rail rip-
up and the loss of the wall. If you can take us through a little bit more detail?

330 It seems surprising that these rails were not tested before they arrived onsite, as it were. The
Committee would be grateful to understand how it got so late in the day. In other words laid,
fitted and presented before it was tested. That seems *really* peculiar. So if you can go through the
detail of that?

The second thing: what went wrong with this whole issue of laying foundations, building walls
and then ripping it all down again? What went wrong in both of those cases in more detail, please?
For the record, for the Committee.

335 **Mr Black:** Yes, absolutely, Mr Robertshaw, I am happy to give you as much detail as I have to
hand.

You will appreciate, but I think it is fair that I say for the record, I am not a permanent way engineer, I am not a civil engineer, so I will give you my best layman's explanations from my role in the contract. If I check those subsequently, if there is any error on my part, I will immediately write to you with a fuller technical understanding – and the Chair has been very tolerant of me being able to write to her in the past, so I hope that is going to be acceptable to you.

Let's start with the rail. I have seen photographs of the rail – the uninstalled rail from the same batch – and all I can see in a magnified blown-up photo is a *very* thin line in the web of the rail. So if you imagine the web in the rail and a cross-section, Chair, and Members, where it is sort of like a figure of eight. You have probably all seen tram rail many times, so there is the main section that it runs on and then there is a supporting web and then there is a bit that lies on the ground. In that supporting web there is a horizontal line that looks like there was some flaw in the rolling. Again, I am not an expert in how rail is rolled in steel mills in Europe.

So you will recall, Mr Robertshaw, perhaps, that I was in fact the railway inspector for some time for the Isle of Man. It is not something that I would ever have picked up myself, in my old safety job. The rail is welded by a thermite process, so the two ends are pushed together and some powders, that oxidise at such a rate that an immense temperature is released, are poured into a mould, and that is then ignited with a high-temperature torch, usually. The resulting massive burn welds and fuses the two ends together, and that obviously puts a lot of thermal stress, and at that point as the rail was cooling from its welding process a crack opened up. Literally a crack, horizontally through the rail, opened up. So it was clear as soon as the weld went in that it was failed.

The first time we thought that probably there may be some issue with the welding process, even though we used specialist rail welders. So the rail was shortened and it was tried again and the same thing happened. At that point it was clear there was something wider and the contractor arranged for specialist rail engineers to look at it. Obviously we have our own railway engineers, because of our operations, but it has now been sent back to the supplier with a request for a full examination.

So I really do not think, Mr Robertshaw, that anyone would have spotted that really tiny mark. If I can get you a section, Mr Robertshaw, I will have it delivered. But I think if you had run your hand or your nail over it, you probably would not have even ... It is a really fine line and I just do not think anyone would have spotted it. I can certainly tell you, as the person previously responsible for railway safety on the Island, I would not have spotted it. Now, you can take that as a failing on my part or as the general view. I do not think anyone laying that rail would have seen it. How would they have been so cavalier as to miss something that caused such a great problem?

So that is the answer I hope to that one, Mr Robertshaw. But, Mrs Barber, of course, if I have erred in any way, my apologies. I have done my best with my limited technical grasp, but I will send on anything further from professional engineering colleagues.

Moving on to the wall, I believe the answer there, Mr Robertshaw, is a setting-out error. The contractor certainly said to me, in my presence, they simply set it out wrong. They built the wall properly, but they built it in the wrong place. We have, as you can imagine, a clerk of works role, a supervising engineer on site. It was picked up as an error, raised with the contractor, and the contractor decided that even though it was a few centimetres ... We decided that even though it was a few centimetres, we had paid for it to be done right, so it needs to be done right.

It was not a great deal wrong, but it is going to be done right; and in fact of course it came down very quickly and it was rebuilt very quickly. I appreciate the Chair's comment about time. I can get you an effect on how many days that was, it was not a long period of time. You might think well, it is only 10 cm, or something in the order of a few tens of centimetres, it will not matter. But if it knocks out the whole cultural quarter's layout and design, which is incredibly complicated ...

I think we are all agreed the jewel, the very centrepiece of our promenade, will be the area outside the Gaiety Theatre and the Villa Marina. Why should the taxpayer put up with a

390 substandard job when we have put all our efforts, and a good chunk of our money, into getting that bit looking really lovely? That is the bit we are all proud of. I think that is the bit we are all waiting to sit down, with an ice cream from the purveyor onsite, and enjoy that area. So we do not want to compromise that area, we really do not. We are not going to accept second best there.

Mr Robertshaw: Thank you. I think the Committee needed to have that recorded, because 395 obviously this continuous process of faults and failures is agonising for the hospitality sector, for the businesses on the promenade, for our future concern about getting the promenade back open again. So it was important to have that on record.

And, as you have said, if there is anything else that you feel you have not said that needs to be said, or there are other elements in reporting processes that you think would be helpful for this 400 Committee to record, as it were, for posterity, then that would be fine.

So, Chair, back to you and on to the next one if you are happy.

Q257. Mr Perkins: Could I just come in, Chair? Thank you.

Mr Black, could you just give us assurance that the rest of the batch of those rails is okay? 405 Obviously you found *one* and, being an ex-engineer, the alarm bells are ringing that there could be other problems with the same batch.

Mr Black: Mr Perkins, you are absolutely right of course, and your background in engineering is well known to me. I think if I were running that rolling mill, I would be really worried about 410 where the rest of those rails in that batch have gone. I could give you the name, I do not think it is quite appropriate to give the name of the supplier to the Committee unless they want me to, but I am happy to say that it is a name you will recognise from the steel industry, Mr Perkins. They are a major European supplier. They have thorough quality controls and ISOs and all of the things I know you worked so hard to secure in your own businesses.

415 So we will not be using any more rails out of that batch, that is why that section of work was already stopped. Although we have stopped of course for the lockdown, you recall that we had stopped that section. We have decided to move on to highway work and we are going to come back to it in a few months' time. That is simply to get us more rail.

I think the Committee knows this but, Mr Perkins, if you do not mind, I will use it as an 420 opportunity to just stress that this is *not* the rail that the Department bought from the UK, from long-term store. This is brand-new rail supplied to the contractor by a specialist rail supplier, ultimately coming from a European mill, I think in either Luxembourg or Austria. But again I can confirm that Mr Perkins for you.

425 **Mr Perkins:** That is fine, as long as you can confirm that we are aware that there is nothing else that has been laid that may be risky. Thank you for that.

The Chairman: Mrs Poole-Wilson?

430 **Q258. Mrs Poole-Wilson:** Thank you, Chair.

Nick, earlier on you did say you would be surprised if you did not get a question from the Committee about the planned new end date, and we understand that there are uncertainties, i.e. the current lockdown. But can you give us your current best planning for the end of the project as 435 scoped currently, please?

Mr Black: Yes, Mrs Poole-Wilson, of course.

Before the current lockdown we were aiming to finish in July, and realistically we plan on losing at least one week for every week of lockdown and no activity. But there are confusing factors at play, because not only do you end up with having to make secure and then leave the site, it is not 440 like locking the door and walking away, there are elements of groundworks being covered and of

fencing to be erected. That is not a major issue, so we were still hoping that it would be the end of July, plus however many weeks.

445 However, the contractor has a significant number of issues with securing labour. So, for example, some of the labour the contractor has secured – and the contractor *had* secured all the labour needed to complete the works. Some of the gangs are from Romania and they have gone back to the UK currently to work. If they have to come back, they will have isolation processes to go through. They may choose not to come back. This is a complex scheme with complex specialist staff. Some of the subcontracts that have been placed for specialist equipment might also be delayed by the supply chain and local disruption to that. So I am afraid it is not as simple ...

450 The Minister had previously, I believe, made it clear that we were looking at finishing in July and it was probably towards the end of July, but we would be thinking now that ... We have had, what? Two weeks now? If we prudently assume to add a month at the moment, so we would be looking towards mid- to end-August at the moment.

455 We originally made it *very* clear we wanted to finish before the Grand Prix, the Festival of Motorcycling. I know now we will not have one, but we are still very much hoping for it to be done. So I will give you an update as soon as I can, Mrs Poole-Wilson, but effectively for each week we lose, we have to add a week plus some more.

Q259. Mrs Poole-Wilson: Thank you.

460 Just exploring the date a little more. When we spoke last time, in November, and the contract was re-scoped with a view to completing ahead of this summer, to what extent did you allow any ability to manoeuvre again, as it were, if need be, to try and deliver as quickly as possible, bearing in mind the levels of disruption that the longer the work takes, the ongoing disruption?

465 **Mr Black:** Yes, Mrs Poole-Wilson, you will recall that we took away a large number of the restrictions that we had imposed as a client, so we allowed for longer sections to be closed, we allowed the traffic lights to be on the promenade, whereas previously we had said no. We allowed for significant closures. We allowed for longer day working – some of which, I know, that those of you who have constituency members on the prom have had comment about. So we have had to allow earlier and later working.

470 We have had disruption that has affected the businesses, but with the aim of getting it done. So we took the gloves off and as the Minister I think would concur in January and February there was a real sense of drive and purpose, and the contractor was going, if I may say, great guns. I sign off the bills every month and the higher the bill, the better, because that means more work has been done. It is all measured by a quantity surveyor, of course. Do not worry, I am not suggesting that we are getting ripped off in any way. All the measured work is done. But the bigger the bill I sign, the more work has been done. And they were going really well, they were genuinely going really well. There was a real sense of purpose, the contract was fully resourced. My staff were telling me that they were positive. The contractor was engaged. Problems were being solved quickly. It was all going really well.

480 We have now lost momentum and it will take a while to get back. Again, if the contractor thinks there is anything we can do now to free that off again, to relax anything further ... but we have removed almost all the significant restrictions, so I am not sure what we will do.

485 What I want to do is get back to the position where we have got months, where each time the number of days worked onsite or hours worked onsite is climbing and more is done. We were hoping of course with this weather improving, that we would be getting longer days and more work done. So at least we are now into the good season.

Q260. The Chairman: Just a quick question on the back of that, Nick.

490 You have talked about people who are coming from other countries and working, but can you say what percentage of the workforce you think are people who are not based either from here or through companies where they are pretty established as providing workforces for here?

495 **Mr Black:** Mrs Barber, I think it would be perhaps better to ask the contractor if they would be willing to supply that information. We know that we are employing one company, which is Auldyn Construction Ltd; and we know, as you do of course, that that is a Manx company with Manx directors who I meet and know, and who come to our meetings. So how their contractors and indeed their subcontractors are recruiting, I know there are some people from Romania, I know there are some people from the UK, they are typically around the block-paving work. The rail welders came from the UK, as I suspect most people remember, and there are specialists from the UK. But the vast bulk I think is local.

500 Would it be okay if I wrote to you subsequently to ask the contractor to analyse the data for you and try to get you a useful estimate for that answer?

505 **Q261. The Chairman:** That would be great. It is almost to try and understand the risk register around the project, I suppose. But I do not know whether there is an updated risk register. (*Interjection*) Perhaps it could be shared with the Committee because that might help us understand some of these points you are making, a little better.

510 **Mr Black:** I am happy to undertake to do that –

The Chairman: Yes, thanks, Mr Black; that is very helpful. Yes, Chris and then the Minister.

515 **Q262. Mr Robertshaw:** This is not a question with an easy answer, but somehow or other we are going to have to find answers to it. And it is this: at Level 1 we have currently got the very broad-based exit strategy, and then above that we have got the overlay of the anticipated completion of the vaccine programme – albeit that there are one or two uncertainties there. Then on top of that we have got the need to start opening the hospitality sector by degrees, if you understand my phraseology. That then has to somehow be integrated with the availability or the capacity of hotels to open, bearing in mind the state of play in front of them.

520 So there are four factors there, each of which has a degree of fluidity. But hotels, for example, we would not want to see if an opportunity occurred again for an air bridge between ourselves and Guernsey to reopen before other elements of the border opened. One would not want to see the promenade hotels yet again denied access to that market. Because, as you will well recall, the bulk of that market last summer went out to out-of-town hotels.

525 So I am not necessarily looking for an answer this morning, but that issue needs to be considered very carefully and then a really detailed engagement entered into with regard to the hotels on the promenade, because we just have myriad uncertainties at the moment.

530 Do you appreciate my question, and would both you and Tim want to give me some initial answers on that one, please?

The Minister: Yes, Mr Robertshaw. I think I will come in on that.

535 Your point is absolutely right. We have got lots of moving parts here, some of which are within the control of the Department, some of which are perhaps within the control of the Council of Ministers, and the people of the Isle of Man, and some of which are outwith all those things – I am thinking of the position with the UK, and the global vaccine supply position as well, which clearly comes into this.

540 From my point of view, the critical thing is to get the job done and get out of the way of everybody as quickly as we can, and that has been my mantra right from day one. Coming back to a point made by Mrs Poole-Wilson earlier around whether there was any flex built into the programme, back in the time before these two lockdowns when we reset it and the answer is that we pushed the contractor really hard. I think if you had the opportunity to talk to the contractor, which of course you may or may not wish to do, I am sure they will tell you that this has not been

545 an easy life for them. It has been a huge and complex job played out in the full glare of the Manx public. We have pushed them hard. My stance from day one was let's just get this done, get out of the way, and let people crack on. I still think that is the right approach.

Clearly, you touched on the exit strategy and the vaccination programme and the borders. Those things are clearly material to the prognosis for the hospitality industry, as is the connectivity of flights which obviously were maintained through this period, and also the Steam Packet services. We do not know the answers, but we know the components to all that. But from my point of view, every time I think about this, the best thing that I can do with the team and the Department and with the contractor, is just drive it forward and get it done.

555 The sad thing is we were making really good progress. The Chief Exec mentioned the metric around the number of hours and days delivered by the contractor onsite, which drives the bills. I understand the February invoice was the second highest ever received on the project. Of course, we do have very extensive project management governance arrangements around all this, so things like risk registers and quantity surveyors' reports and such like, are all there.

560 Why is that level of spending in February so significant? Well, of course we all know that February has very short working winter days, and you will have seen the contractors pushing the boundaries of that with lighting in certain parts of the prom. But that was a fantastic achievement to be working within the constraints of those shorter days.

So in terms of how this might play out, the air bridge and the market opportunity for the prom hotels, I am absolutely in tune with you, Mr Robertshaw. I want those people to have the best opportunities that they can, and we want to make the Isle of Man the best proposition for visitors to come here. And whichever way I look at it, cracking on is the right approach.

Q263. Mr Robertshaw: Thank you, but before Nick comes in, if I could just make one particular point: the ability for a hotel to partially open against the opportunities of a certain limited market being able to access the Isle of Man before a broad-based market border-opening situation occurs, means that some hotels on the promenade *should* be in a position to engage with those markets in a way that they could not last summer.

575 So that is another level of complexity, but there needs to be an incredibly intense focus on this and an engagement with the hotels on a very regular basis. If I can just state the blindingly obvious, the sector survived one summer, but whether it can survive another closed-down summer or a summer of complete uncertainty is highly questionable, because staff are being lost and let down. It really is *very* important to partially open the sector if it is at all possible, and there needs to be an intense focus on that, bearing in mind all those variables that we have just been discussing.

It is a very serious situation.

580 **The Minister:** I fully recognise that, Mr Robertshaw.

You will be encouraged to know that myself and the Minister for Enterprise had a meeting only last week with one of the leading people in that sector, who is responsible for one of the major hotel groups and absolutely is embedded in the fortunes of the prom, and it was a very collaborative meeting, a very open and honest meeting – obviously it was done over Teams, as you would expect. There is an absolute desire to deliver. We are all part of the same community, Mr Robertshaw, and I want this prom to be seen as a major success.

590 There are obviously a number of reasons for that, but the most important one is that this is going to set the tone in our capital, in the built environment for the next – I don't know – 30, 40 or 50 years, by the investment that is going on here. I believe it is going to trigger lots of private sector investment coming in on the back of it. We have just seen, for example, the expression of interest process going on around the Villa Arcade. I am not close to the detail but I understand the aspirations there are around leveraging the cultural aspects of the cultural quarter and bringing arts and music and other creative organisations, media businesses perhaps. Whoever wants to come into that space and sees an affinity with it.

Of course we have got the very positive developments with the Development Agency, which I think again, now that is coming into place, will be boosted. I can see a very positive scenario opening up here but we have to be, not just investing, but securing ongoing revenue streams into the Isle of Man from doing this. My personal view is the hospitality sector is absolutely right at the heart of that. There is no doubt for me there is huge added value from having a strong visitor economy, because that underpins lots of the things that we as Island residents enjoy the benefits of all year round. It is quite clear that without that injection of spending power coming from elsewhere, even though it is very seasonal, many of the things that we take for granted and enjoy would either not exist or they would exist in reduced form.

So there is no fundamental opposition here, it is just that we have got to get through this difficult period of delivering what has been an incredibly challenging scheme for all involved. Incredibly complex and, despite the communication that has been done, not a particularly well-understood scheme by the general public, because the general public just sees it as a building site that has gone on for an awful long period of time, and does not understand the nature of the scheme is fundamentally laying the service infrastructure for the promenade and beyond for the next number of decades. It sees it as a highways project and does not necessarily recognise the other elements to it, which is where much of the cost and most of the complexity and risk has come, because of the legacy of a 100-year-old Victorian building site, essentially.

So I think we are in complete agreement, Mr Robertshaw, and I want to see those businesses be vibrant and taking advantage of opportunities, and I am sure the Minister for Enterprise and his team are very mindful and very well connected of course through the agency model to some of those key individuals and the sector. I think the support that the Economic Recovery Group has provided, which of course the Department for Enterprise and Treasury are integral to, has recognised the challenges that have come, which are generic from this COVID situation, but of course magnified by the prom situation for those particular located businesses.

The Chairman: Thank you.

Mrs Poole-Wilson, do you want to come in?

Q264. Mrs Poole-Wilson: Yes, thank you.

I think the Committee takes comfort from hearing about the collaborative work with the Department for Enterprise about how to enable as much as possible those businesses on the promenade. I think a concern would be, from everything you have said – and we recognise there are a number of moving parts, as you have mentioned, there are clearly a number of risk factors in terms of timing, availability of materials, cost, labour, etc.

I suppose the concern that I would express at this point is, given all of that variability, it sounds like even finishing Phase 1 of the prom could easily run into the autumn and be rapidly coming up against the planned timing for Phase 2, based on our earlier discussion. So I think when I was talking about flexibility earlier, I suppose if there is an intention even to try and have some sort of a late season and to try and enable businesses to be able to take on board any tourist traffic this year as that becomes possible, to what extent can you flex with the contractor to move within the confines of what you have already agreed to enable that?

I do not necessarily expect a full answer, because I recognise there is a lot of variability. I suppose the Committee would look for reassurance as to how this collaboration and agility will be continued and delivered in practice, and how you will keep the Committee and I suppose the businesses and the wider public informed of how you are adapting and flexing to deliver the best possible within an uncertain situation.

The Minister: Yes, thank you, Mrs Poole-Wilson. I think for some of the detail there I will bring the Chief Exec in.

But in terms of the big picture I am not for building in more slack. You are absolutely right, there is risk, there is complexity, but that is the whole nature of this. This is something that the

650 professional contractors and indeed the Department are very familiar dealing with. So my stance to the contractor is – and of course this is all underpinned by a contractual framework with the contractor – clearly we need to give them some allowance through the compensation event process for the fact they have been effectively barred from working for a period which currently is running at two weeks. It looks likely that is going to be more than two weeks, but precisely how long is that going to be? I do not know.

655 But certainly we were at the end of July and if we hypothesise that, say, we were to lose three or four weeks – and the Chief Exec has talked about the impact of just giving up and going down again – then maybe that is four or five weeks, maybe six at a push, that the contractor could look to a compensation event for. That has significant cost impact for the Department and obviously revenue impact for the contractor, but I find it very difficult to see that the contractual framework – and we do have professional advisers around this – would go much beyond that, 660 unless the lockdown ends up going in a very different position from where it is looking at the moment, where I think there are signs of cautious optimism in the patterns. So if we added six weeks to the end of July, that would take us to mid-September. If we have visitors who are flocking to the Isle of Man we have the ability to phase some of the remaining work.

665 One of the things that has been both a strength and perhaps a perceived weakness has been the fact that things *have* changed a lot. Well they had to, and that was always going to be the case because of the nature of the scheme and the challenges that it brings. But we are very integrated in terms of working with the contractors on a day-to-day basis – there is communication, there is collaborative working. Everybody’s interests here are to get this done.

670 So to answer very directly, I do not think these two schemes are going to run together. You use the language ‘Phase 1’ and ‘Phase 2’. I think that is a bit like saying running a marathon followed by a 400 m sprint, is Phase 1 and Phase 2. The marathon has been the main project, which will be delivered as I have just talked about. Whilst I understand the importance and the significance of the single tram extension, it is a road, it is a discrete element of the project, and it is relatively small. We talk about £1.2 million as being the Column 3 figure, and again something in the region 675 of £20-something million around the main scheme. So it is very different and I think I just want to put it on record that it is not really Phase 1 and Phase 2, it is the core scheme and then the additional bits.

680 So I am confident and I am committed, and I expect the contractor to be equally focused on this. And maybe if the Chief Exec might want to add anything to that?

Mr Black: Chair, I think there is not much I can add to the Minister’s very full and helpful reply to you. But I think one aspect, Mrs Poole-Wilson, that might be useful to you is if the Committee wished I could send some more information on phasing.

685 As the Minister said, it is not as simple as we do one thing and we move to another. In the case of the promenade the works will mean that sections of the promenade are released in order. So we were getting to a point when, for example, the north end of the promenade would be finished and done. We can actually show you, we actually have it as a PowerPoint presentation, but I am sure I can find a way either to send you that or to have it printed off so that you can see in different coloured blocks – and the dates are still the last dates from after the last lockdown – but I am sure 690 you would get the principle that there are some blocks moved at this speed, some bits are released early, some bits take longer.

695 We always said, and the Minister has made it clear before, the cultural quarter being the bit we do not want to rush and get wrong; and also the bit where, although there is still impact on some businesses, this is a quite clearly defined and narrow area we might be able to spend more time on. There may be some trade-offs if it is possible, if we have to. As Mr Robertshaw quite rightly said, some of these businesses may want to get open and going, and to take advantage of any opportunity they could. If we can tell people when we expect it, and if there is a need to trade areas around, there is a possibility that we could. We are very much up for it.

700 I think Mr Robertshaw has told me before that what businesses need is to know what is going
to happen, and they can plan for that then. So if we can say we think that your area of the
promenade in front of you and 200 m either side will be done in July, then they know it is July and
obviously we know we have to stick to those promises. But we have got a quite complex phasing
705 diagram that shows that whilst the end date might be July, or as the Minister said now into August,
or maybe on, that is only one bit. We are not going to cover the whole place in cones until the last
day. There will be huge sections that are done and finished and released.

So would it be of interest to you if I sent on some version of that phasing document, Mrs Poole-
Wilson?

710 **Q265. Mr Robertshaw:** Nick, this is *very* important. The comment you have just made is *key*
because it is the sixth layer of complexity that needs to be laid over the rest; and to some degree
it will help businesses try to make decisions about their future in the middle to latter part of the
season. So the more information that can be brought out in that way, the better, I would suggest.
That is a very important point you have made.

715 **Mr Black:** Okay, Mr Robertshaw, what I will do is send it first to the Committee; but I think
what you are also suggesting to me is that we should look to make sure that all the stakeholders
and maybe the public are informed in a suitable way. (**Mr Robertshaw:** Correct!) We will put some
visual together that does not look like a PowerPoint that only works if you are there pressing one
720 button after the other. We will try to put some visuals together.

As you can imagine, we are struggling to reach some of our stakeholders at the moment
because their businesses are closed or they are struggling, as you know, and you have said. So we
will do that, if that would be helpful. Thank you.

725 **Mr Robertshaw:** Thank you.

Mrs Poole-Wilson: Yes, thank you.

730 **The Chairman:** Mr Mercer, do you want to come in briefly, and then we will draw this part to
a close?

Q266. Mr Mercer: Yes, thank you.

I would just like to ask the Minister if he could give me an outline as to how the eventual
completion of the Promenade Scheme will then dovetail with the sea wall and walkway
replacement project. Is there going to be a gap between these two schemes, or are we looking at
735 further years of disruption on the prom?

The Minister: Yes, that is a very pertinent question.

Clearly there are a number of things going on here, which are all linked and the Department
needs to plan those through to make sure that delivery is co-ordinated. That is all part of the
740 challenge that the Department recognises. I think it is very fair to say that the schemes that are
still outstanding are very different in nature from the ones that have already been done. The sea
wall and the promenade refurbishment, the walkway, will be far less disruptive. Clearly they are
on discrete parts of the prom. They do need doing and the Department is committed to doing
those things.

745 The planning approval for the sea wall piece that was recently proposed, that is all done and
we are working towards delivering. Clearly in the same way as the COVID situation has impacted
the phasing of the prom, it has affected a number of the Department's other schemes, particularly
around key pieces of infrastructure.

750 So we are not looking at this being a running sore running through the heart of Douglas. What
we are looking at is, yes, there is more work to be done. It needs to be done and there is no way

of doing this type of work without having some impact. But it is a very different situation than what people have experienced to date.

I think in terms of some of the detail, maybe Nick might want to add his perspective on this.

755 **Mr Black:** They are physically separate schemes, Mr Mercer, as you noticed, they are entirely possible to be done independently. But clearly we have to bear in mind that the walkway is in use for some of our traffic management at the moment, and that clearly means a linkage. We are aware of the impact.

760 But again the Minister has stressed to me that if the promenade is available for visitors and tourism and to support the economy that is there, it needs not to be that we say, 'We have delivered Scheme A but, sorry, we forgot to tell you about Scheme B that makes a mess of it.'

765 So we are all on pause at the moment, as you know, because of our response to the lockdown, but we are absolutely making sure that those two schemes interact. It is important to do the sea wall because we have to protect what we have built, but it is also important to think about the impact on people. So we will be making a final decision on that soon, and I can send you some more information as to how the two will interact, after this meeting, if that meets the Chair's approval.

770 **Mr Mercer:** That is great, thank you very much.

Q267. The Chairman: Thank you.

775 Yes, I think we would appreciate any detail you can provide on that Nick, and how the timescales, timeframes and the planning will look, because I think early sight of that for businesses would also be helpful. So I would encourage that from the Department's position.

780 **Mr Black:** So what I will do, Mrs Barber, unless the Minister wishes otherwise, is I will get the latest position. I will perhaps just need to spend a little bit of time making sure that the impact of the lockdown and any delays are taken account of, and then I will send you something in a few weeks that is current and up to date, otherwise the information will perhaps be misleading, and I would not want that.

The Chairman: Thank you, that would be most helpful.

Mr Robertshaw, do you want to just come in to end this part?

785 **Mr Robertshaw:** No, thank you, Chair, I am happy with that.

The Chairman: Okay, so if we can thank Mrs Poole-Wilson and Mr Perkins for their contribution and then they can be released into the wild, free to do whatever they wish for the next half an hour or so, as we go through the RTLC and Bus Vannin points with the Minister and Mr Black.

790 Thank you very much.

Mrs Poole-Wilson: Thank you.

795 **Mr Perkins:** I would like to thank the Minister and the Chief Exec for their forthright answers today.

The Minister: Thank you, Mr Perkins.

The Committee hearing was suspended at 11.39 a.m.