

**IN THE SUPREME COURT OF BERMUDA
COMMERCIAL COURT
2018: No. 249**

IN THE MATTER OF A JUDICIAL REVIEW

BETWEEN:

**BERMUDA ENVIRONMENTAL SUSTAINABILITY TASKFORCE
(a registered company limited by guarantee, also known as BEST)**

Applicant

- and -

**MINISTER OF PUBLIC WORKS
(in his capacity as the Minister responsible for Parks)**

Respondent

- and -

RUDOLPH HOLLIS

First Interested Party

- and -

BERMUDA NATIONAL TRUST

Second Interested Party

AFFIDAVIT OF DORCAS ROBERTS

I, DORCAS ROBERTS, of Waterville, 2 Pomander Road, Paget PG 06, HEREBY MAKE OATH AND SAY as follows:

1. I am the Director of Preservation for the Bermuda National Trust. I am duly authorized and do swear this affidavit in support of the Bermuda National Trust's application to intervene in this matter and in support of BEST's application for the judicial review of the Minister of Public Works' 16 March 2018 decision to award a license to the First Interested Party (the "Decision").
2. The facts and matters to which I depose are within my own knowledge and I verily believe them to be true. Where the facts and matters are not within my knowledge, they are true to the best of my information and belief.
3. There is now produced and shown to me and exhibited hereto a paginated bundle of documents marked "DR-1", which I believe to be true copies of the originals to which I refer below. References to page numbers herein are references to DR-1.

The Bermuda National Trust (“BNT”)

4. The BNT is interested in this case for the following primary reasons. BNT is a registered charity (Charity Number 81) whose principal objects under the Bermuda National Trust Act 1969 are:
 - a. to promote the permanent preservation for the benefit of Bermuda of lands and buildings of beauty or historical interest and, in the case of lands, the preservation (so far as possible) of their natural aspect features and animal and plant life;
 - b. to maintain and manage lands acquired by the Trust as open spaces or places of public resort and buildings so acquired for purposes of public recreation, resort or instruction;
 - c. to promote the preservation of buildings of public interest or architectural, historic or artistic interest and places of natural interest or beauty and the protection and augmentation of the amenities of such buildings and places and their surroundings;
 - d. to promote the access to and enjoyment of such lands, buildings, places, and chattels by the public
5. Under the Third Schedule of the Bermuda National Parks Act 1986 (“NPA”), the Bermuda National Trust is a member of Parks Commission.
6. BNT’s Gilbert Nature Reserve’s entire eastern boundary borders the Sandys’ railway trail -a section along which where all-terrain vehicles (ATV) tours are proposed. The property is also not far from the former bus depot where the tours propose making their base of operations. Gilbert Nature Reserve is a 5-acre nature reserve predominantly made up of mature woodland with walking trails that enter and exit onto the Railway Trail. It serves as an important natural habitat and a natural green pocket of land for public use in an otherwise densely populated residential area.
7. The decision to allow the use of ATVs and provide licences to ATV tours in our national parks goes against the spirit of the NPA. The NPA is the island’s primary legislation for the care and enhancement of the majority of the islands protected areas, historic sites and important public lands.
8. The purpose of the NPA is to create a system comprised of land, specified in the Act’s first and second schedule, declared as protected areas so as to protect, maintain and enhance their natural or historic features.
9. As such, an objective of the NPA is to safeguard and maintain plants and animals as well as geological, and other natural features. The risk of damage from erosion caused by ATVs in addition to the noise pollution, emissions, vibrations and visual impact of the vehicles is incompatible with this clause.
10. The BNT’s view is that our national parks are set aside to provide for the enjoyment and use of the areas in their natural state and with a minimum of commercial and mechanised activity.
11. The proposed ATV tours are motorised and will be operated as a private commercial enterprise, benefitting a few individuals. The tours are wholly dependent on the use of public land protected under the NPA. With the various risks to the public land in question

(mentioned above and discussed further below), the BNT finds it difficult to comprehend why a small private commercial enterprise will be allowed to benefit financially from public land to the detriment of both the public and the land itself.

Public Consultation

12. From October 30 - November 13, 2017, at the direction of the Minister of Public Works, the Department of Parks hosted a public consultation to collect comments on the entire proposal. The consultation resulted in a total of 628 submissions for consideration. Of these, 626 were in opposition, a whopping 99.6%, and only two were in support¹.
13. The BNT's position is that the Minister should respect public majority and that the results of the consultation cannot be overlooked. The land affected is public land. The tours benefit a private commercial enterprise and will actually hinder and, in some cases prevent, the public's use of the parks.
14. The results of the consultation process, a process required by legislation, is one which the BNT considers to be binding or, if not binding, they are a consideration that cannot and should not be arbitrarily disregarded. The BNT is of the view that the Minister has arbitrarily disregarded the results.
15. The BNT understands that the Minister may authorise an activity which would otherwise be prohibited in protected area where such activity is in the overriding public interest. However, this cannot be argued in this instance. Neither the public's enjoyment, Bermuda's tourism product or the conservation of these protected areas are in any way dependent, enhanced or reliant on the existence of these tours.

Impact on Other Users

16. The BNT does not believe that the ATVs will be compatible with the other users of the Parks and will actually prevent the public from carrying out some activities more aligned with the parks' purpose.
17. For example, Bird watchers and naturalists will not be able to continue to observe wildlife once disturbed by the vehicles.
18. Parks are also important sites for education. School groups, scouts, boys' brigades, and our own BNT education programme, use these parks as safe outdoor classrooms suitable for exploration for our children. The presence of multiple high-powered vehicles, many operated by novices, poses a risk to the children as bystanders. The impact of the noise on wildlife will also interfere with their learning about these natural settings and Bermuda's cultural heritage.
19. The ATV Tours will impact farming in certain parks as well. Farming in the parks is an historic use and is in some ways essential for the park's maintenance, character and accessibility. ATVs use of the farm tracts will not be compatible with farm vehicles (farm

¹ Pg. 1755 – Bermuda House of Assembly Official Hansard Report 16 March 2018 (see at **page 1 of DR-1**)
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vehicles only use the tracks intermittently for access to fields) as they will be unable to use the tracks at the same time. Erosion from ATV's use will make it more difficult for farm vehicles, which I believe do not have four-wheel drive capability, to traverse the tracks.

20. Erosion has been mentioned above and is, from the BNT's perspective, a very significant issue. Erosion from the ATVs may lead to uneven paths for members of the public walking or jogging through the parks, creating an increased risk of tripping and falling as roots are exposed and gullies created.

Quiet Enjoyment

21. Parks also serve as places of respite for the public. Bermuda is one of the most densely populated countries with a population density of 3,084 persons per square mile². Safe, open and natural spaces are essential to the public's wellbeing, especially under such exceptional conditions as we have in Bermuda. The physical presence, visual impact, noise and vibration caused by ATVs is not compatible with the public's quiet enjoyment of these spaces.

Railway Trail

22. The Railway trail is an important haven for runners and cyclists as a place to exercise that is safe, paved and free from traffic and pollution. Encountering a tour of ATVs will put them at risk, requiring them to either give way or correct course and will expose them to exhaust emissions.

Tourism

23. Our parks are important for Tourism³. For the same reasons listed above, introducing ATVs into scenic, historic and natural settings will detract from these spaces for most tourists that seek out the railway trail and parks for hiking, biking, sightseeing or simply rest.

Erosion

24. There is an obvious risk of irreversible erosion from ATV tours and remediation of the damage will be unachievable in areas. Ironically, any steps to correct the damage will most likely require paving which will intensify the man-made impact of these natural and historic sites.
25. In addition, given the workforce issues currently faced at the Department of Parks, monitoring of the damage and remediation of any kind is unlikely to be enforced and, if it were, the costs would be borne by the public purse and not the tour operator.

² Pg. 24 - 2016 Population and Housing Census Report – Government of Bermuda Department of Statistics (see at **page 2 of DR-1**)

³ <https://www.gotobermuda.com/article/the-bermuda-railway-trail-national-park> (See at **page 3 of DR-1**)

History Monuments

26. Fort Scaur is a Historic Protection Area (HPA) as per Section 31, Historic Areas, of the Development and Planning Act 1974 (DPA). The purpose of which is to protect the historic, architectural or cultural character or importance of these areas. The proposed plan outlines using certain parts of Fort Scaur which, in the BNT's view, are expressly protected. These parts include the moats and ruck cuts, which the ATVs would likely traverse leading to inevitable and potentially irreparable damage.

Planning Permission

27. Fort Scaur is also listed by Section 30 of the DPA as a building of special architectural and historical interest. Its designation as a Historic Monument recognises that its historical significance and structural interest makes it vitally important to Bermuda and it is integral to both the island's history and to its cultural tourism. The Bermuda Plan 2008 Planning Statement ("HSC") requires that any development impacting a listed building be strictly controlled to avoid any detrimental impact on the building and its setting.
28. The use of Fort Scaur's historic defensive moats/rock cuts for ATVs is such a significant move away from its current use, it is at odds with its designation as an HPA and will have a substantial impact, including potentially damaging the historic site. The BNT believes that this is undoubtedly a material change of use and requires planning permission.
29. The introduction of ATVs into Fort Scaur will undoubtedly cause detriment to the listed building and its setting. HSC.5 (1) requires that in determining an application that affects a Listed Building or its setting, the Development Applications Board (the "Board") shall ensure that the appearance, siting, layout, scale, design, materials and details of development preserve and enhance the quality and character of the special building and its setting in accordance with its listing grade. As planning permission was not sought in this matter, this cannot be said to have been done.
30. As part of being considered for Planning Permission, the Board is required to request comments and advice from the National Parks Commission regarding any development proposed within a Park protected under the Bermuda National Parks Act 1986 in accordance with policy DAB.10. The Parks Commission, of which the BNT is a member, did not support the use of ATVs in either Hog Bay Park or Fort Scaur as such use is not in accordance with 5(1) (b) of the NPA, the aim of which is to provide for the use of the area in its natural state and with a minimum of commercial activity.
31. The introduction of ATVs into Scaur Hill Fort Park and Fort Scaur itself will undoubtedly cause detriment to the character and appearance of this Historic Protection Area, as well as potentially damaging the fort's historic fabric.

Environmental Impact Statement ("EIS") and Environmental Impact Assessment ("EIA")

32. The Decision was made without the benefit of an EIS. For proposals involving particularly sensitive locations, such as national parks and HPAs or which involve complex and

potentially adverse environmental effects, the Board can require - and in our opinion would - the submission of an EIS.

33. An EIA helps to determine any potential problems or risks associated at the design stage. It also enables informed decisions to be made about whether a proposal should be permitted and what planning conditions are necessary in order to control the design, enhance the benefits of the scheme, and avoid or mitigate any adverse effects.
34. An EIS should include the results of the EIA, including a description of the alternative options considered (more suitable vehicles or sites for instance); the data necessary to identify and assess the main effects the proposal is likely to have on the natural and built environment; a description and quantification of the likely significant effects, direct and indirect, on the site and surrounding area, including the possible impact on humans; flora and fauna; soil; water, air; landscape and cultural heritage including historic protection areas, Listed Buildings and areas of historical and archaeological interest.
35. The BNT notes that the Department of Parks technical staff do not support the tours and recommended to the current Minister on October 10, 2017 (as noted in a Department of Parks Ministerial Approval Form. The BNT notes further that the Technical Officer's recommended to the Minister that an EIA be carried out.
36. In the absence of an EIA, we consulted Dr David Wingate, Bermuda's eminent conservationist, ornithologist and naturalist, and Government Conversation Officer from 1966 to 2000 to talk to the likely impacts on the natural environment of introducing ATVs to public parks and these parks specifically. Dr Wingate is best known for his work restoring natural habitats including Nonsuch Island and Walsingham and bringing back from near extinction the endemic Cahow.
37. As noted above, the proposal does not meet the provision of The 2008 Bermuda Plan which designates both Hog Bay Park and Scaur Hill Fort Park as a Park Conservation Base Zone. This reflects their designation as national parks under the NPA. The objective of this zoning under the Plan PAR (1) is to protect sufficient land as amenity parkland for the "*passive and active recreational enjoyment of the public*". The BNT does not believe that driving ATVs within any park constitutes the type of "active recreational enjoyment".

Historic Buildings Advisory Committee

38. In order to conserve buildings and areas of special architectural, historical or cultural importance or significance the Board shall apply the Planning Statement's Historic Environment policies which may, and in our opinion would in this instance, include seeking advice and comments from the Historic Buildings Advisory Committee. This is yet another layer of checks and balances with regard to the use of these sites that the Decision has evaded.

Safety in the Parks

39. The Minister responsible for parks is responsible for safety in the parks. The presence of 8 150cc four-wheeled vehicles in public parks poses a real danger to the public users of these

parks as well as the operators of the ATVs. ATVs are well-known to have poor lateral stability and due to their weight can cause severe injury and death to both bystanders and operators. We understand that most ATVs have a solid rear axle, which means that the rear wheels can't turn independently of one another as on a car with a differential. In reality this means the vehicle need to be under power to turn and that's where accidents can happen. If you shut the throttle and try and turn the quad, which is a natural reaction in an emergency or panic situation, it can be very sluggish to respond and that's what can cause accidents.

40. The Association of British Travel Agents (“ABTA”) on 1 August 2018 issued a warning to holidaymakers that they are putting themselves at risk by hiring quad bikes (see at **page 7 of DR-1**), an activity not covered by standard travel insurance policies. The ABTA statement lists the number of UK holiday makers who have suffered serious injuries or died as a result of quad bike incidents Their tips to anyone thinking of renting a quad bike include not using the vehicles on main roads and not to allow anyone to ride pillion.

The Bermuda National Parks Regulations (the “Regulations”)

41. The Regulations list what activities are prohibited in open spaces. This includes ride or drive a vehicle in a manner likely to cause danger to any other person; ride, drive or cause a vehicle to be ridden or driven at a speed greater than fifteen kilometres per hour (less than 10mph); and use in such area or a facility thereof for any purpose other than for the purpose for which it was designed or designated.
42. As noted above, we do not believe that it is credible that tours will remain at 10mph. Bermuda does not have the scale to provide for such activities. We do not believe that holidaymakers renting ATVs will be looking for a quiet nature culture/eco tour. In fact, given the noise, emission, the impact on wildlife etc., the two are mutually exclusive.
43. The problem of low staffing and poor equipment at the Parks Department has long been in the public eye. And sadly, the effect in our Parks has been noticeable. See the Minister of Public Works’ statement before the House of Assembly on 6 October 2017 stating that the Department of Parks were 30 people under strength⁴.
44. Given the staffing issues faced by the Department of Parks and the Bermuda Police Service it cannot be reasonably expected that the tours can be adequately monitored or policed. We anticipate, as is prevalent in jet ski tours, the visitors will be allowed to flout speed limits in the interest of their enjoyment and the tour operator’s success. The difference is that jet skis have comparably infinite space in which to operate away from other marine users, whereas the ATVs will be operating in the same space as children, elderly, horses, tourists, joggers, walkers etc.

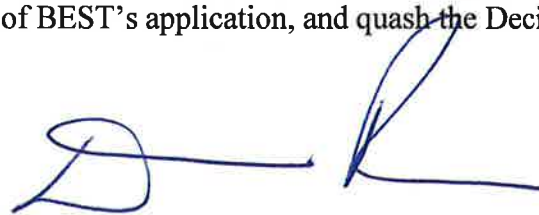
⁴ <http://parliament.bm/admin/uploads/hansards/eb6049122920686df19a4100c47417e6.pdf> (see at **page 10 of DR-1**)

45. Similarly, the police service staffing levels have also dropped from natural attrition. During the period from 2012 to 2017, the staffing level in the BPS fell from 460 to now 400⁵. This is a 13 percent reduction, a significant decline, in an organisation charged with keeping Bermuda safe for both residents and visitors.
46. Given the strain of these two vitally important bodies, with already massive responsibilities, we feel that it is unrealistic to add the extra responsibility of monitoring and enforcing the proposed ATV tours in the two parks and along the railway trail, the entire length of Somerset Island. Consequently, we cannot be confident that the tours will be adequately regulated. Meaning that there is scope for speeding, detours and potentially dangerous activities that may either go unnoticed or unreported.
47. In reality, monitoring the tours will most likely be carried out principally by the public. However, it is difficult to believe, given the manner in which the public's input concerning this matter was treated to date, that the public will continue to take ownership of such issues affecting these areas.
48. Given the wanton disregard of the consultation results, it would be understandable for the public to suffer apathy and it would be justified should they have a lack of confidence in the likelihood that their concerns or reports will be taken seriously, or given appropriate attention.
49. As the island's largest non-government landowner – specifically for preservation and conservation purposes - we can attest that the public's role is vital in maintaining and monitoring our sites. Who knows better or is so frequently in place to witness or experience any problems in these areas and is able to know when something is amiss, report illegal activity, report broken infrastructure etc.?
50. The BNT voted against this proposal the very first time it went before the Parks Commission, and that disapproval remains. The idea of ATVs being used for a slow paced eco tour is quite obviously counterintuitive. So obvious that the BNT cannot understand how any decision to allow it is reasonable.
51. In light of the above, the affidavit of Dr Wingate and the evidence submitted by BEST, the BNT beseech this Court to rule in favour of BEST's application, and quash the Decision.

Affirmed

SWORN by the above named
DORCAS ROBERTS
 in the City of Hamilton this
 1st day of November 2018

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BEFORE ME:

Sarah Sal
COMMISSIONER FOR OATHS

Samantha Saunders
 Barrister & Attorney of the
 Supreme Court of Bermuda
 Commissioner for Oaths
 ASW Law Limited
 Date: 1 November 2018
 (see at page 16 of DR-1)

⁵ <https://www.gov.bm/articles/appointment-new-commissioner-police>
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(in his capacity as the Minister responsible for Parks)**

Respondent

- and -

RUDOLPH HOLLIS

First Interested Party

- and -

BERMUDA NATIONAL TRUST

Second Interested Party

EXHIBIT DR-1

This is the Exhibit marked **DR-1** referred to in the Affidavit of Dorcas Roberts sworn before me this 1st day of November, 2018.


COMMISSIONER FOR OATHS

Samantha Saunders
Barrister & Attorney of the
Supreme Court of Bermuda
Commissioner for Oaths
ASW Law Limited
Date: 1 November 2018

The Speaker: We trust that, as they are here doing their theatrical parts, they will also take time out to enjoy our Island. And we look forward to your coming back on many more occasions and visiting our shores.
Good morning.

An Hon. Member: Will they sing for us, Mr. Speaker?

The Speaker: I beg your pardon?

An Hon. Member: Will they sing for us?

The Speaker: Would you like to sing for them?

An Hon. Member: No, no.

[Statements by Ministers, continuing]

The Speaker: Okay. All right.

We had a Member who, I thought he was offering to sing for you that time. But he declined it.

Good morning, Minister. You have the floor.

Lt. Col. Hon. David A. Burch: Good morning, Mr. Speaker. I am sure they will get some theatrical ideas from us, as well.

[Laughter]

ALL-TERRAIN VEHICLES (ATVs)

Lt. Col. Hon. David A. Burch: Mr. Speaker, I rise this morning to report further on the proposed ATV Tours for the West End of the Island. Before doing so, however, there is some merit in recapping how we got to this place.

Mr. Speaker, not surprisingly, the proposal generated considerable interest in the community amongst both environmental organisations and individuals [expressing their views]. This proposal predates this administration and, in fact, was approved of by the former Government without fully complying with the rules.

Some Hon. Members: Hmm!

Lt. Col. Hon. David A. Burch: After assuming office, an approach was made to the Ministry to present the proposal for our consideration. We set about following our own course of due diligence to assure ourselves that we had considered all the facts in this proposal, followed the law, and would not be influenced by a biased media campaign designed to discourage support.

Mr. Speaker, after consultation with the Attorney General's Chambers and the Department of Parks, we recognised that section 4 of the Bermuda National Parks Act 1986 required the Ministry to provide an opportunity for the general public to comment

on the proposal. That consultation occurred from the 1st to the 14th of November 2017, resulting in 628 valid responses—2 in favour and 626 against. The two largest number of reasons given by responders related to Danger, Traffic Congestion, and Safety (54 per cent); and Environmental Impact and Pollution (51 per cent).

Many of the objections, Mr. Speaker, were lodged without the full knowledge of all of the specifics of the operation, such as the following:

- the vehicles are not the ones seen on television and repeatedly highlighted in the print media as the ones proposed for this venture;
- the proposal is for guided cultural tours by qualified tour guides;
- permission to import a maximum of 10 vehicles has already been granted, but the current plan is for tours of eight persons—six customers and two tour guides . . .

I do not want to interrupt you, Mr. Speaker.

The Speaker: Go right ahead. Go right ahead. I have got two ears, Minister. I have got two ears.

Lt. Col. Hon. David A. Burch:

- the vehicles will not traverse any virgin land, but will utilise the paved Railway Trail and service roads;
- the operating hours of 10:00 am to 4:00 pm, Monday to Friday, are more than reasonable and will not impinge on many of the other users of the Trail.

Mr. Speaker, to be clear, in spite of my honest and frank publicly expressed views on the nature of some of the objections, as I indicated then, I did consider each and every submission before arriving at a decision. Public consultation is a valuable part of our democracy, and it is good to see Bermudians making their views known on a wide range of issues.

Mr. Speaker, on the 8th of February 2018, the Transport and Regulatory Affairs Minister and I visited the Beacon Hill Depot for a pre-arranged visit and inspection of the vehicles in question. We were also afforded an opportunity to ride them to gauge their functionality and speed. Needless to say, Mr. Speaker, the operation did not remotely resemble what has been portrayed in the local media. During that visit, the proprietors provided us with all of the necessary documentation and approvals from the various government and private agencies, the Department of Parks, the Transport Control Department (inclusive of insurance coverage for that very day), as well as confirmation of First Aid certification.

Mr. Speaker, this Government's view is that the Railway Trails can and should be for the use and enjoyment of the widest cross section of visitors and locals alike. And no one group should have exclusive rights to its use. The plan to have guided educational

Table 3
POPULATION BY PARISH AND MUNICIPALITY, 2016 AND 2010

Parish and Municipality	Number		Percentage Distribution		Percentage Point Change
	2016	2010	2016	2010	2010-2016
Total	63,779	64,237	100	100	
St. George's	5,659	6,422	9	10	-1
Town of St. George's	1,527	1,801	2	3	-1
Hamilton Parish	5,584	5,862	9	9	**
Smith's	5,984	5,406	9	8	+1
Devonshire	7,087	7,330	11	11	**
Pembroke	11,160	10,614	17	17	**
City of Hamilton	854	1,032	1	2	-1
Paget	5,899	5,702	9	9	**
Warwick	9,002	8,615	14	13	+1
Southampton	6,421	6,633	10	10	**
Sandys	6,983	7,653	11	12	-1

** Less than 1%.

Bermuda's population density was 3,084 persons per square mile in 2016 (Table 4). Map 1 provides a display of the population density by parish and municipality. Pembroke's population density of 5,314 persons per square mile was the highest by some distance. St. George's population density was 1,451 persons per square mile, considerably lower than any other parish. A factor in this much lower population density is that the airport is included in the total land area for St. George's.



ARTICLE

The Bermuda Railway Trail National Park

Experience Bermuda's landscapes by hiking or biking on this historic, scenic path. You'll find 18 miles of great views and natural wonders.

TOPICS // [THINGS TO DO](#) / [HIKING & BIKING](#) / [NATURE & NATURAL WONDERS](#)



Bailey's Bay Footbridge

Explore the Bermuda Railway Trail



Spanning the island from end to end, the [Railway Trail](#) follows an abandoned railbed that winds through tranquil landscapes and along stunning rocky coastlines. Eighteen peaceful miles of island history and breathtaking views are yours to explore by foot or pedal bike, but no motorized vehicles are allowed.

THE PATH'S ORIGINS



Bailey's Bay Railway Trail Walkway. Hamilton Parish

The trail's origins go back to a time when the Bermuda Railway was the primary means of transportation for islanders. The train, known as the "Old Rattle and Shake," operated from 1931 to 1948, running from St. George's Station in the east to Somerset Station in the west. In 1964, the remaining right of way was transformed into a trail for walkers and cyclists. The trail was designated as a National Park in 1986 and is maintained by the Bermuda Parks Department. [Learn more about the trail's history.](#)

Today, 18 of the railway's original 22 miles are accessible to the public, providing an unparalleled way to experience the island's natural beauty and serenity.

TRAIL BASICS & TIPS



Ride Bermuda's Railway Trail

The trail is divided into nine sections ranging between 1 mile and 3¼ miles long and traversing the parishes of Bermuda. You can start from either end or enter at various points along the way. The terrain varies, ranging from flat, paved stretches to sections with steeper slopes and bridges that make cycling more challenging.

By pedal bike, you can cover more of the Railway Trail, but be aware that the trail is not continuous. Some sections are interrupted by busy roadway intersections, and along the path itself you may encounter old bridges, steps and other features you'll have to navigate by foot.

As you plan your journey, be sure to leave plenty of time for meandering, and don't forget your camera. Hidden, photo-worthy gems along the way include intimate beaches, panoramic ocean views and an old drawbridge. Lush, fragrant trees, plants and flowers line the pathway.

Lush, fragrant TREES, PLANTS AND FLOWERS LINE
THE PATHWAY.

PLACES MENTIONED IN THIS *Article*



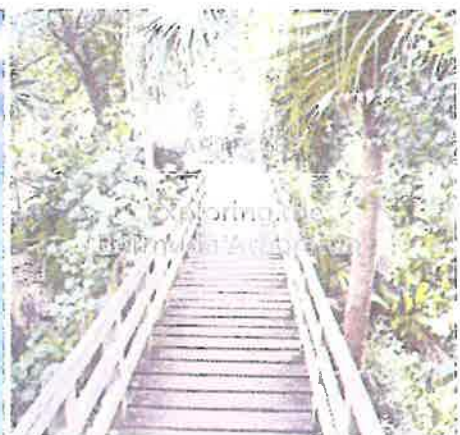
ROYAL NAVAL DOCKYARD

Royal Naval Dockyard, Sandys

ROYAL NAVAL DOCKYARD & THE WEST END | HISTORIC BUILDINGS &
LANDMARKS | GALLERIES & CRAFT STUDIOS | BOUTIQUES | TOURS |
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UPDATE

ABTA is the most trusted travel sch

[Home](#) » [Tips and advice](#) » [Staying safe on holiday](#) » Quad bike and moped safety

Quad bike and moped safety

ABTA is advising holidaymakers and other travellers to think twice before hiring mopeds whilst overseas, and to only ride quad bikes as part of an organised excursion.

People are being urged to remember that while these vehicles may be fun to drive, they can also leave riders very vulnerable on the road.

It's also important that holidaymakers are aware of the limitations and exclusions of standard travel insurance policies – many of which will not cover accidents from quad bikes and mopeds, leaving seriously injured holidaymakers facing unaffordable medical bills.

In 2017 ABTA Members reported 36 quad bikes accidents and seven moped accidents.

Here is ABTA's advice for staying safe on holiday this summer.

Top tips: quad bike safety

While quad bikes may be fun to drive, they are also powerful pieces of machinery that can be extremely dangerous.

1. Stick to enjoying quad biking as part of an organised off-road excursion and don't use a quad bike on main roads.
2. Check your insurance – you may not be covered to hire a quad bike.
3. Always wear a protective helmet.
4. Always wear appropriate clothing and footwear.
5. Make sure that you are provided with the appropriate training to operate the vehicle safely.
6. Check that the vehicle is in good condition – and do not ride it if you have any concerns.
7. Watch your speed.
8. Do not allow anyone to ride pillion.

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Be aware that standard travel insurance will not cover riding a moped.

Case study

32-year-old Melanie Simmonds suffered serious injuries, following a quad bike accident whilst on holiday in Greece in 2010. After a series of operations, it took 14 months for Melanie to recover from the injuries she suffered, and she is keen to share her experiences so that others are aware of, and can avoid, the potential dangers of riding quad bikes.

We spoke to Melanie about the incident which you can watch below, together with our Quad Bike Safety video.

ABTA Quad Bike Safety: Melanie Simmonds



Melanie's story

ABTA: Quad Bike Safety video

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Safety information if you're going quad biking on holiday as part of an organised off-road excursion.

ABTA is a leading travel trade association
and is committed to ensuring that
all its members are fully compliant with
the relevant health and safety legislation.

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the relevant health and safety legislation.

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This is a supplementary or a new question?

Hon. Patricia J. Gordon-Pamplin: Yes, a supplementary.

The Speaker: Supplementary.

SUPPLEMENTARY

Hon. Patricia J. Gordon-Pamplin: Just to say, Mr. Speaker, as a preface to the question that I have, that we are fully supportive of efforts to ensure that gun violence and gang violence are minimised.

With that said, the Minister, from his response . . . I just want to confirm that he is saying that the two positions, as mentioned, will be working in tandem with other . . . with specific responsibilities assigned to each. Will there be additional staffing that will come on board to enhance the availability to be able to tackle the problem outside of the two gentlemen that the Honourable Member has indicated?

The Speaker: Minister.

Hon. Wayne Caines: Try as they might, I thought I made it explicitly clear. But for the hearing impaired, there is an opportunity for both of these elements to work in tandem. There is a long-term strategy. The particular gang strategy, Mr. Speaker, it sees members of the police force, the DPP [Department of Public Prosecutions], the Customs Department, every element are helping in this, Mirrors . . . all of these are working in tandem to find a solution to the gang problem. If in the future we need to hire more personnel, this is a matter for the Premier and the Cabinet. But we will do whatever we have to, keeping in mind the restraints of the budget and keeping in mind what we need to do to make sure that we find a solution to gang violence, Mr. Speaker.

The Speaker: Thank you, Minister.

No further questions?

The next Statement that Members have indicated they have questions on will be the Statement from Minister Burch.

[Inaudible interjections]

The Speaker: Excuse me. I hear overtones. Please. Thank you. Thank you.

If the two leaders would like to have a discussion, you can take it outside. Not across the floor, please. Thank you.

[Inaudible interjections]

The Speaker: I have asked that you two take the comments outside if you want a conversation.

The next Statement is that of Minister Burch, in reference to the overgrowth. We have four Members who have indicated that they have got questions. And the first Member is the Honourable Member from constituency 26, the Honourable Member, Mr. Tyrrell.

Mr. Tyrrell, you have the floor.

QUESTION 1: OVERGROWTH ON HIGHWAYS AND VERGES

Mr. Neville S. Tyrrell: Thank you, Mr. Speaker.

Mr. Speaker, if the Honourable Minister could answer, is he aware of neighbourhood efforts across the Island to assist in the [control of] vegetation growth? Is he aware of that?

Lt. Col. Hon. David A. Burch: Mr. Speaker, the answer is yes. I think he is referring to Farmer Famous.

[Laughter]

Lt. Col. Hon. David A. Burch: Who, Mr. Speaker, started a campaign several weeks ago. I thought he was poking at me. He sent me a photograph of an overgrown piece of real estate in his district, and I asked him, *What do you want? I don't have anybody to send to cut it!* He said, *No, I'm asking for permission to cut it.* I said, *Go right ahead.* And he did. And he then sent me a picture of it being cut. And what he has done is to start a firestorm across the country, in that all across the country, I think, both Members of Parliament, but more importantly, members of communities have come together to assist in beautifying their own communities and the country at large.

The Speaker: Thank you.

Further question? Supplementary, Mr. Tyrrell? No, you are good?

Oh, supplementary? Okay.

The next Member who has indicated he has a question for you on this topic, Minister, is the Member from constituency 24.

The Honourable Member, Mr. Scott, you have the floor.

QUESTION 1: OVERGROWTH ON HIGHWAYS AND VERGES

Mr. W. Lawrence Scott: Thank you, Mr. Speaker.

Minister, did I hear correctly that there has been no weed-spraying since 2015? And can you explain why?

The Speaker: Minister.

Lt. Col. Hon. David A. Burch: Mr. Speaker, that is correct. And it is due to a combination of errors—the banning of glyphosate herbicide and the non-hiring of staff to replace those who either retired, were fired, or

quit from the Department of Parks, to the extent that that area is now 30 people under strength.

Some Hon. Members: Whoa! Whoa!

The Speaker: Thank you, Minister.
Supplementary?

SUPPLEMENTARY

Mr. W. Lawrence Scott: Supplementary, Mr. Speaker.

Minister, in your opinion, is that the basis for privatisation of that department?

Lt. Col. Hon. David A. Burch: You asked for my opinion? I mean, I think that, Mr. Speaker, one of the challenges with the Department of Parks is that it has, I would venture to say, certainly within this Ministry . . . the morale is at the lowest of any part of the Ministry. And, I would probably go so far as to say, the lowest of any area in government. And it has been suggested to me by members of that staff, and you could see by the lack of effort to provide them with the proper tools and equipment and staffing, that they seem to be on the path to privatisation, by stealth.

The Speaker: Supplementary? We recognise the Honourable Member from constituency 19.

The Honourable Member, Mrs. Atherden, you have the floor.

SUPPLEMENTARIES

Mrs. Jeanne J. Atherden: Minister, you have indicated in your Statement . . . and I see the MPW (and I presume that means the Ministry of Public Works) has started to implement several elements of the Integrated Vegetation Management [IVM] Plan. And that plan is dealing with utilising controlling the vegetation. And you have indicated that they have already implemented several elements that will be further developed. Now that, to me, when I hear "further developed," it means that there was something already in place. Could you indicate to me when this IVM plan was started?

The Speaker: Minister.

Lt. Col. Hon. David A. Burch: Mr. Speaker, I have no idea when it was started.

The Speaker: Thank you.
Supplementary?

Mrs. Jeanne J. Atherden: Supplementary.

Could you indicate whether this IVM programme was started before July 18th, 2017?

The Speaker: Minister.

Lt. Col. Hon. David A. Burch: All indications are that it was started before July 18th.

The Speaker: Thank you.
Supplementary?

SUPPLEMENTARY

Hon. Patricia J. Gordon-Pamplin: I do have a supplementary.

If the Honourable Member could advise, what is the replacement—

The Speaker: Sorry. I did not recognise the Honourable Opposition Leader.

Hon. Patricia J. Gordon-Pamplin: Oh, I am sorry.

The Speaker: You have the floor. Go ahead, for your supplementary.

Hon. Patricia J. Gordon-Pamplin: Thank you, Mr. Speaker.

Minister, what is the replacement chemical that will replace . . . what was outlawed was Roundup, because of its environmental impact. So is it going to be Roundup and just properly managed? Or is it going to be a replacement kind of chemical that is similar to Roundup, but something different?

Lt. Col. Hon. David A. Burch: Mr. Speaker, I do not know whether it is going to be Roundup. But essentially, it is going to be the same chemical herbicide that was used previously.

The Speaker: Thank you, Minister.
Supplementary? Supplementary.

Ms. Susan E. Jackson: Yes, good morning, Mr. Speaker. Yes, supplementary.

The Speaker: I recognise the Honourable Member from constituency 20.

Honourable Member Jackson, you have the floor.

SUPPLEMENTARIES

Ms. Susan E. Jackson: Thank you, Mr. Speaker.

I would like to ask the Minister, what is going to be done to protect our farmlands from, in particular, runoff of this weed killer and chemicals into our farmlands?

The Speaker: Thank you.
Minister.



GOVERNMENT OF BERMUDA

Appointment of New Commissioner of Police

Friday, June 1, 2018



Ministerial Statement by the Minister of National Security, The Hon. Wayne M. Caines, JP, MP

Mr. Speaker, on Wednesday May 30th, 2018, in accordance with Section 87 of the Bermuda Constitution Order 1968, which grants the Governor responsibility for any business of the Bermuda Police Service; His Excellency the Governor John Rankin announced that he has appointed Chief Superintendent Stephen Corbishley, to succeed Mr. Michael DeSilva as Bermuda's next Commissioner of Police.

Mr. Speaker, the Governor is responsible for operational policing. This means that he has direct managerial responsibility, oversight and operational control over the Bermuda Police Service. Therefore, His Excellency also has overall control of the Commissioner of Police.

Mr. Speaker, the appointment of the Commissioner of Police is the sole responsibility of the Governor and there is no requirement or obligation to consult the Government.

Mr. Speaker, this appointment was made following an open recruitment process in line with international best practice for selecting Chief Officers. There were 6 candidates. Of the 3 who were Bermudian, 1 was a Superintendent and 2 were Assistant Commissioners. There was a panel of 5 interviewers. The Governor granted my request to select 2 of the 5 people on the interview panel.

Mr. Speaker, to be clear, I am concerned that the Police Commissioner did not come from the rank and file of the Bermuda Police Service. Based on the lack of a suitably qualified Bermudian, we must challenge the Governor's oversight and management of the leadership of the BPS and this sentiment is not directed at the current Governor. There were also obviously failings by the current Commissioner and his Human Resources Manager, in the areas of leadership, talent management and succession planning.

Mr. Speaker, it must be noted that under the previous Government, during the period from 2012 until 2017, the Bermuda Police Service, like most other government departments, endured a season of significantly reduced resources and budget cuts. As with most Government departments, the first budget line that was sliced was training, which included overseas attachments and training. Because of the decrease in the budget, staffing levels were also reduced.

Mr. Speaker, during the period from 2012 to 2017, the staffing level in the BPS fell from 460 to now 400. This is a 13 percent reduction, a significant decline, in an organization charged with keeping Bermuda safe for both residents and visitors.

Mr. Speaker, you cannot expect stellar performance and development, without investment and training.

Mr. Speaker, I read the comments of the Shadow Minister for National Security with interest and noted their almost concurrent release with the Governor's announcement. The distinction between this Government and the One Bermuda Alliance is that we are determined to build capacity among our people. We cannot simply leave succession planning to chance. Our institutions require a deliberate approach and constructive ministerial leadership, to ensure that Bermudians are always equipped to assume these senior roles.

Mr. Speaker, every Government entity should have a succession plan where young Bermudians see real examples that prove that they can come into these organisations as apprentices or trainees, and over time grow and develop so well that one day they can hold the top job. Anything else is a failure!

Mr. Speaker, we believe that the Governor must make it a clear priority for the new Commissioner to identify, highlight, train and develop high fliers in the BPS and implement a comprehensive career development plan to ensure that at the end of his 5 year contract, in the summer of 2023; a Bermudian is ready to lead the BPS.

Mr. Speaker, the Bermuda Police Service is at a critical stage and an intervention is needed. 68% of the officers at the rank of inspector or above will reach the mandatory retirement age in the next 4 years, meaning by 2022.

Mr. Speaker, this is not the first time that a non-Bermudian has been appointed to this role. However, the appointment of a non-Bermudian Commissioner was not an issue for 14 years, following the appointment of Commissioner Frederick Bean in 1981. This matter sparked to life in late 1994 when COP Lennett Edwards announced his retirement and Mr. Colin Coxall (Thames Valley Police/City of London Police) was appointed as Commissioner in 1995. Between 1995 and late 2000 we had two non-Bermudian Police Commissioners. Since

then, we've had 18 uninterrupted years of Bermudian Commissioners - Johnathan Smith, George Jackson and Michael Desilva.

Mr. Speaker, any appointment of a non-Bermudian Commissioner is bound to be contentious. Some will support it; some will not. The fact is that as long as the appointment is vested solely with the Governor, per Section 87 of our Constitution, there is little influence anyone or any other statutory body can inject. The appointment is solely, I repeat solely, at the Governor's discretion.

Mr. Speaker, I would be remiss if I did not take this opportunity to thank the outgoing Commissioner of Police, Mr. Michael Desilva, for his 33 years of service to the people of Bermuda. We wish him Godspeed, good health and happiness as he enters the next chapter of his life.

Mr. Speaker, the BPS must now move forward and I will now highlight some of the exciting and encouraging plans that are already in place to help the new Commissioner achieve the goal of preparing and appointing a Bermudian Commissioner of Police by 2023.

Mr. Speaker, we are changing the paradigm of the BPS. There is a gap between operational and strategic planning. Many of the senior officers have not been given the opportunity to develop in the area of strategic leadership. Bermudians must be given the exposure to these disciplines so that in 5 years, they are ready to lead. This will must be accomplished by a combination of overseas attachments, training, courses and they must act in senior command positions, including strategic roles.

Mr. Speaker, the BPS has 5 police cadets who graduated from the Bermuda College and will be joined by 7 more recruits in September 2018. This will give the BPS a cadre of 12 police cadets who can start to develop into the next wave of constables, introducing new blood into the service.

Mr. Speaker, the BPS will also boost its ranks by taking on 25 new recruits in April 2019. The BPS will also soon introduce, for the first time, a number of Specialist Civilian Posts, in areas such as Crime Scene Investigators (CSI), Intelligence Officers and Financial Investigators. We will conduct a specialist police recruit course, where professionals in specific disciplines will be recruited for their areas of specialty.

Mr. Speaker, whilst the announcement of a new Commissioner is important; introducing a training, leadership and succession plan for high fliers in the BPS sets a clear expectation for the Governor; it gives the new Commissioner a clear mandate; and it sends a message to all officers from Police Cadet all the way up the ranks; that they can come into this organization, be well trained and one day hold the top job. Anything else is a failure.

Thank you, Mr. Speaker

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GOVERNMENT OF BERMUDA
Ministry of Finance

**IN THE SUPREME COURT OF BERMUDA
COMMERCIAL COURT
2018: No. 249**

IN THE MATTER OF A JUDICIAL REVIEW

BETWEEN:

**BERMUDA ENVIRONMENTAL SUSTAINABILITY TASKFORCE
(a registered company limited by guarantee, also known as BEST)**

Applicant

- and -

**MINISTER OF PUBLIC WORKS
(in his capacity as the Minister responsible for Parks)**

Respondent

- and -

RUDOLPH HOLLIS

First Interested Party

- and -

BERMUDA NATIONAL TRUST

Second Interested Party

EXHIBIT DR-1



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