

Re: Draft Braddan Local Plan Inquiry

**Submission of Baccarat Limited to the
Reconvened Inquiry to be held on
Monday 8th December 2003**

1. Introduction

- 1.0. Following the publication of "Part One Report of the Commission of Inquiry into Development Matters at Mount Murray" the Chief Secretary's Office wrote on the 14th July 2003 inviting Baccarat Limited ("Baccarat") and the other parties to the Braddan Plan Inquiry inviting them to make such further representations to the Inspector in respect of the findings and recommendations of the Commission of Inquiry into the Development Matters at Mount Murray as they wished. (see Appendix 1).
- 1.1. On the 31st July 2003 Baccarat through its Advocates Quinn Kneale wrote to the Chief Secretary's Office with its further representations to the Inspector in this respect. (see Appendix 2).
- 1.2. On the 8th September 2003 Baccarat received through its Advocates Quinn Kneale a letter dated 5th September 2003 from Braddan Parish Commissioners ("the Commissioners") with their comments on the letter of the 31st July 2003 addressed to the Chief Secretary's Office (see Appendix 3). Quinn Kneale on behalf of Baccarat responded to the Commissioners by letter dated the 2nd October 2003 (see Appendix 4). No response has been received from the Commissioners.
- 1.3. On the 2nd October 2003 Quinn Kneale on behalf of Baccarat wrote to the Chief Secretary's Office enclosing a copy of the said letter received from the Commissioners (see Appendix 5) with Baccarat's comments thereon. No response has been received from the Chief Secretary's Office.
- 1.4. Following the conclusion of the Public Inquiry into the Draft Braddan Local Plan ("the Draft Plan") Baccarat through Quinn Kneale corresponded with the Director of Planning of the Department of Local Government and the Environment (DOLGE) and copies of this correspondence is appended:

Appendix 6	Letter dated the 25 th June 2003 Quinn Kneale to the Director of Planning
Appendix 7	Letter dated the 8 th July 2003 Quinn Kneale to the Director of Planning
Appendix 8	Letter dated the 18 th July 2003 Director of Planning to Quinn Kneale

- Appendix 9 Letter dated the 6th August 2003 Quinn Kneale to the Director of Planning
- Appendix 10 Letter dated 9th September 2003 Quinn Kneale to the Director of Planning
- Appendix 11 Letter dated 11th September 2003 Quinn Kneale to the Director of Planning
- Appendix 12 Letter dated the 8th October 2003 Quinn Kneale to the Director of Planning
- Appendix 13 Letter dated the 13th October 2003 Director of Planning to Quinn Kneale

- 1.5 On the 17th October 2003 Baccarat received through Quinn Kneale a letter from the Chief Secretary's Office dated the 15th October 2003 advising of the Inspectors intention to reconvene the Inquiry on the 8th December 2003 and inviting further representations in respect of the findings and recommendations of the Stage One Report of the Commission of Inquiry as they relate to the references and proposals to the Mount Murray Area in the Draft Braddan Plan (see Appendix 14).
- 1.6 On the 23rd October 2003 Baccarat through Quinn Kneale responded to the Chief Secretary's letter of the 27th October 2003 (see Appendix 15).

2. Nature of Baccarat's Submission

- 2.1. Both of the Chief Secretary's letters of the 14th July 2003 and the 17th October 2003 invited representations on the findings and recommendations of the Stage One Report ("The Report") of the Commission of Inquiry "as they relate to the references and proposals to the Mount Murray Area in the Draft Braddan Plan" ("The Report").
- 2.2. The submissions made to the Inspector by Baccarat to date in response to the aforementioned letters and their further submissions contained herein do not focus directly on the actual references and proposals to the Mount Murray Area in the Draft Braddan Plan.

2.3. Baccarat is however concerned that the Inspector in his consideration of the Draft Plan and the submissions made to him in respect thereof ought to have regard to the lack of proper procedures adopted by the Planning Department of DOLGE, and the lack of transparency of the Planning Department, which the Report identified were failings of the Department and in respect whereof recommendations are made.

2.4. In asking the Inspector to consider its submissions Baccarat invites the Inspector to consider that the lack of proper procedures and lack of transparency on the part of the Planning Department of DOLGE and its

officers in its proposals with reference to the Draft Plan ought to lead the Inspector to conclude that to enable him to properly consider the Draft Plan he should commission on behalf of DOLGE independent assessments and studies of certain features of the Draft Plan proposals to enable the Inspector to reach a reasoned and informed decision in respect of the Draft Plan and that the Inspector should also require DOLGE and the Commissioners to disclose to him and the Inquiry generally full details of all the dealings and negotiations they have had with any land owner or party to the Inquiry in respect of any land which DOLGE and/or the Commissioners are promoting or supporting for development under the Draft Plan.

2.5 Baccarat's general submission is that unless the Inspector is provided with the information referred to in 2.4. above the Inspector will be unable to make a properly informed judgment of the various issues raised by the Draft Plan in support of this Baccarat invites the Inspector to consider the following:-

2.6. Report of the Commission of Inquiry into Development Matters at Mount Murray – Part One Report.

2.6.1. Part One Final Conclusion

2.6.1.1. At paragraph 20.6. (page 271)

“However, we do find that there was corruption of the system of government by reason of consistent maladministration and weakness, allied to wrong doing by officers, and the lack of transparency in government dealings.”

2.6.1.2. At paragraph 20.8 (page 272)

“This is because the weaknesses and failures by government in the handling of those matters continue in significant degree with a still present belief, in many areas of current influence, that there was really little wrong with the systems of government, and that there was simply negligence or misconduct by some limited number of individuals who were operating the systems. Such opinion are seriously misconceived.”

2.6.1.3. At paragraph 20.10 (page 272)

“Some steps of material benefit have been taken by government to seek to remedy the problems, but further significant steps, and in some ways more difficult steps, remain to be taken to rectify the continuing consequential effects, and to seek to ensure, so far as that is now possible, that like errors and filing do not recur.”

“There is similarly the need to provide the transparency which would have made responsible politicians, executives and members of the public aware of what was happening, possibly in time for the filings to have been prevented.”

2.6.2. Recommendations

2.6.2.1. Introduction

At paragraph 19.2 (page 253)

“Common to all these (sub-sections) however is our overriding concern with the need for transparency by which we mean openness at all levels of the planning decision making process. In paragraph 10.15 of our report we state that such process should be in the public interest and that it requires the necessary degrees of transparency which is not achievable if,, decision making is not open to public scrutiny. The process should ensure public awareness of development proposals at an early stage, and of the analysis and recommendations which officers make concerning their determination.”

2.6.2.2. Recommendation 1

“Government, in future, explicitly endorse the principle of transparency in the decision making process, and ensure that such a principle is carried forward by the Department of Local Government and the Environment with all procedures and systems for the determination of planning applications, and the documentation which underpins them.”

3.0. Baccarat asserts that there exists a Lack of proper procedures of DOLGE’S Planning Department (“the Department”) as evidenced by the findings of the Report and that such lack of proper procedures have prejudiced the proper formulation of the Draft Plan

3.1. Baccarat asserts that such lack of proper procedures is evidenced as follows:

- 3.1.1. the Department failed to procure any independent and expert studies that they could rely upon in the formulation of their proposals under the Draft Plan
- 3.1.2. the Department failed to have sufficient, if any, regard to the impact on the infrastructure, namely the roads and highway issues, drainage, water and essential services associated with or arising out of their proposals under the Draft Plan
- 3.1.3. the Department in formulating its proposals under the Draft Plan failed to have sufficient, if any, regard to certain of the existing and established policies of DOLGE and those of the Island’s Strategic Plan

- 3.1.4. the Department failed to ensure that the Planning Officer charged with the responsibility of advising the Department on its Draft Parish Plan proposals was independent
- 3.1.5. in formulating its proposals under the Draft Plan the Department afforded a party to the Inquiry preferred status namely the Commissioners when it knew or ought reasonably to have known that the Commissioners had themselves not had the benefit of any independent or expert advice as to its proposals as to the matters referred to in 3.1.2. above or otherwise
- 3.1.6. the Department in promoting areas for development under its Draft Plan proposals as Recreational Areas has had no survey or report prepared as their suitability
- 3.1.7. the Department in its formulation of its proposals under the Draft Plan relied upon or gave too much weight to public opinion when such public opinion was only evidenced in answers given to questionnaires rather than constructing its proposals by reference to Departmental policy and by reference to infrastructure availability and to planning criteria

3.2 The Department failed to procure any independent and expert studies that they could rely upon in the formulation of their proposals under the Draft Plan

- 3.2.1. The Braddan Parish District Written Statement Planning Circular 6/91 Adopted by Tynwald on the 10th July 1991 provides at paragraph 1.11 as the Department's policy as follows:

"IT SHOULD BE NOTED THAT THE RESPONSIBILITY FOR THE CONTENTS OF THE PREPARED PLAN RESTS FIRMLY WITH THE DEPARTMENT OF LOCAL GOVERNMENT AND THE ENVIRONMENT WHO MUST MAKE THEIR DECISIONS IN THE LIGHT OF THE INFORMATION AND ADVICE THEY RECEIVE"

- 3.2.2 Whereas the Department has clearly based its proposals on information received and on the personal knowledge of the Planning Officer concerned there is no evidence of them having taken any advice on the various issues their proposals raise where those issues require expert consideration.

- 3.2.3. At paragraph 5.6 of the said Planning Circular 6/91 it is provided as the Department's policy:-

"IT IS RECOGNISED THAT THERE MAY BE SOME SCOPE FOR THE CONSOLIDATION OF HAMLETS BY A LIMITED DEGREE OF INFILL, AND THAT DETAILED STUDIES, INCLUDING THE PROVISION OF SERVICES INFRASTRUCTURE, SHOULD BE INITIATED IN ORDER TO DETERMINE THE DESIRABILITY OR

OTHERWISE OF SUCH A POLICY. THE AREAS WHICH ARE PROPOSED FOR EXAMINATION ARE:

- i) Mount Rule/Ballamillaghyn
- ii) Strang
- iii) Union Mills
- iv) Oak Hill Cottages
- v) Quine's Hill
- vi) Ballaveare

NO DEVELOPMENT WILL BE PERMITTED IN SUCH AREAS UNTIL THE APPROPRIATE STUDIES HAVE BEEN COMPLETED. THESE STUDIES WILL INDICATE FIRSTLY WHETHER ANY DEVELOPMENT SHOULD IN FACT OCCUR AND SECONDLY, IF DEVELOPMENT IS TO OCCUR THEN THE MATTER IN WHICH IT MAY OCCUR WILL BE FIRMLY LAID DOWN BY THE DEPARTMENT. ANY INTERIM APPROVALS OTHER THAN THOSE WHICH THE DEPARTMENT CONSIDER WOULD NOT PREJUDICE SUCH STUDIES. WOULD BE SEEN TO BE IN CONFLICT WITH THIS CONCEPT."

3.2.4. The Department in breach of this policy has failed to undertake or to have undertaken the required detailed studies in particular with reference to the provision of services infrastructure.

3.2.5. At paragraph 8.3 of Planning Circular 6/91 it is provided as the Departments policy:-

"THE CREATION OF NEW DEVELOPMENT AREAS FOR USES SUCH AS RESIDENTIAL AND INDUSTRIAL PURPOSES WILL CLEARLY GENERATE ADDITIONAL TRAFFIC. IT IS THEREFORE RECOMMENDED THAT SUCH DEVELOPMENTS BE CONSIDERED IN THE PREPARATION OF ANY TRAFFIC MANAGEMENT OR ROAD IMPROVEMENT PROPOSALS WHICH COULD INCLUDE:

- i) THE COOIL ROAD BEYOND THE EXISTING INDUSTRIAL ESTATE
- ii) BRADDAN ROAD FROM BALLAFLETCHER TO BRADDAN BRIDGE
- iii) VICARAGE ROAD (ALREADY RECOMMENDED IN DOUGLAS PLAN)"

3.2.6. The Department failed in breach of this policy to undertake or have undertaken any traffic management report consequent upon its proposals under the Draft Plan and in the absence of such a report did not rely consistently on the DOT's opinions and statements of fact the only professional evidence available in the Draft Plan process.

3.3 The Department failed to have sufficient, if any, regard to the impact on the infrastructure, namely the roads and highway issues, drainage, water and essential services associated with or arising out of their proposals under the Draft Plan

3.3.1. as noted above the Department failed to commission a traffic management or road improvement report associated with or arising out of their proposals.

3.3.2. the Department whilst seeking the views of the Department of Transport (“DOT”) failed to have sufficient, or any, regard to the DOT’s views. The obvious example of this is the DOT’s advice of the requirement for a relief link-road through Areas 1,2,3 & 4 which advice the Department consistently disagreed, without the benefit of any expert report advising to the contrary.

3.3.3. the Department failed to agree with the Water Authority whether the sites which the Department promoted for development under its Draft Plan proposals were capable of being served by an adequate water supply. On the contrary the evidence of the Water Authority at the Inquiry was clear and unequivocal that many of the sites proposed under the Draft Plan were unlikely to be developable within the first five years of the lifetime of the Draft Plan because of a shortage of supply of potable water.

3.3.4. No evidence was submitted by the Department to demonstrate the ability of the sites which they promote under the Draft Plan to be adequately drained.

3.3.5. At paragraph 2.8 D.L.G.E/3 the Department when rebutting the evidence of Ti-Star Farms Limited in respect of Areas 13 and 14 confirms that it accepts there is presently a problem in terms of available sewerage particularly surface water pipework to accommodate the proposed developments. The Department then says:

“However, as with other sites within the plan, whilst availability of infrastructure may constrain the phasing and timing of the development, it should not preclude development where these constraints will eventually be overcome”

As noted above the Inspector was not provided with any evidence as to how or even if the existing restraints as a result of inadequate infrastructure will or indeed can be overcome or if such restraints can be overcome within the lifetime of the Draft Plan.

3.3.6 Section 2(3)(c) of the Town & Country Planning Act 1999 requires the Department in the Draft Plan to provide a reasoned justification of its proposals. Baccarat asserts that the Department is in breach of this Statutory provision.

3.3.7. In the absence of evidence being presented to the Inspector by the Department as to the impact on or adequacy of the infrastructure to serve the various sites proposed for development under the Draft Plan the Inspector is not in a position to reach an informed judgment as to whether the proposals made by the Department will meet the objectives of the Draft Plan within the life of the Plan which is between five and ten years.

3.4 The Department in formulating its proposals under the Draft Plan failed to have sufficient regard, if any, to certain of the existing and established policies of DOLGE and those of the Islands Strategic Plan

3.4.1. The draft Strategic Plan was published in July 2001 and although not as yet approved by Tynwald it provides the most up to date guidance to the Department for the preparation of development plans

3.4.2. The draft Strategic Plan establishes a single Strategic aim for town planning:-

“To plan for the efficient and effective provision of services and infrastructure and its direct and control of development and the use of land to meet the communities needs, whilst at the same time preserving, protecting and improving the quality of the environment, having particular regard to our uniquely Manx natural and built heritage”

3.4.3. As demonstrated above the Department has had no or no proper regard to the efficient and effective provision of services and infrastructure in formulating its proposals under the Draft Plan and accordingly is in breach of the strategic aim specified above.

3.4.4. As noted at paragraph 1.12 of the Departments Modified Written Statement in the Chief Minister’s Policy Report 2000-2001 he stated that in the formulation of the Departments proposals it was to also ensure that there is sufficient infrastructure to accommodate any development proposed. The Department is in breach of this policy.

3.4.5. The Department has also had little or no proper regard to the preservation of the uniquely Manx natural and built heritage in its formulation of its proposals under the Draft Plan.

3.4.6. The Isle of Man Planning Scheme (Development Plan) Order 1982 designated areas of the Parish of Braddan as areas of High Landscape Value and Scenic Significance. There is a presumption against any development in such areas and yet the Department in breach of its own policy in this respect proposes that Area 7 and Area 14 (which is so designated) be zoned for residential development under the Draft Plan.

3.4.7. The department itself acknowledges at paragraph 10.5. of the Modified Written Statement that it would wish to approach the question of the designation of areas of High Landscape Value and Scenic Significance on all Island-made basis and confirms:

“In the intervening period, the Department would reconfirm the provisions of the Isle of Man Planning Scheme (Development Plan) Order in terms of the areas of High Landscape Value and Scenic Significance with a presumption against development in areas not designated for development.”

3.4.8. As noted notwithstanding this confirmation the Department had no regard to this policy in proposing Area 7 and Area 14 for development as Area 7 and Area 14 are an area not designated for development but yet proposed for residential development under the Draft Plan even though they are designated as areas of High Landscape Value and Scenic Significance.

3.5. The Department failed to ensure that the Planning Officer charged with the responsibility of advising the Department with its Draft Plan proposals was independent.

3.5.1. Prior to commencement of the Inquiry hearing Baccarat expressed its concerns to the Director of Planning at the Department about the role which Miss Sarah Corlett a Planning Officer in the Department had played in the formulation of the Departments proposals. Baccarat's concerns are set out in the letter dated the 11th June 2003. (at Appendix 2).

3.5.2. Despite having brought these concerns to the attention of the Director of Planning Miss Corlett was allowed to continue to be involved in the process of the Draft Plan Inquiry.

3.5.3. Baccarat asserts that as a local resident in the study area of the Draft Plan Miss Corlett ought to have disqualified herself or have been disqualified from advising the Department on its proposals for the Draft Plan.

3.5.4. Baccarat asserts that Miss Corlett has adopted an inconsistent approach in the formulation of the Departments proposals under the Draft Plan as follows:-

- she has made use of arguments in support of certain sites and has then used the same arguments to discredit other sites (see examples at 3.5.5. below)
- she has in the Departments proposals under the Draft Plan expressed views which are clearly matters of her personal opinion (see example at 3.5.6. below)

- she has disregarded the opinions of professional people more expert than herself in certain areas of expertise and experience in favour of her own unqualified views and opinions (see examples at 3.5.7. below)
- in the Departments' submissions in respect of the Draft Plan she has singled out the Camlork Land (promoted by Baccarat) for particular and consistent adverse mention demonstrating her own particular and individual bias against Baccarat's proposals to the Inspector (see example at 3.5.8 below)

3.5.5. (i) At paragraph 4.36 of the Modified Written Statement the point is taken by the Department that it received a petition containing 441 signatures opposing the development of any of the Camlork site. The point is taken in support of the Department proposals to remove Area 3 from its initial proposal for residential development and to substitute Area 7. Yet Area 7 is part of Camlork.

(ii) At paragraph 4.37 of the modified Written Statement the point is taken by the Department against Baccarat and the inclusion of Areas 1,2,3 and 4 because of the impact of significant amounts of traffic having to negotiate the lower end of the Mount Rule Road where it is alleged significant levels of on street car parking would reduce road safety for pedestrians and the children which play close to the roadway. The same point is not made in respect of Area 7 the development of which would without doubt have a similar impact on traffic in this area.

3.5.6. At paragraph 3.2. of Document D.L.G.E./73 the Department responds to the Department of Transports submissions supporting the provision of a relief road across Areas 1,2,3, and 4. Miss Corlett on behalf of the Department expresses her concern detailed in this Document based on her local knowledge in opposition to the Department of Transports more informed and thus more educated assessment of the proposals.

3.5.7. (i) Baccarat in support of its submissions to the Inspector called expert evidence from Mr. Simon Webb, RPS Planning, Transport and the Government; Mr. Richard Watts, Michael Courcier & Partners Limited; and David Appleton, The Appleton Group. The Department did not produce any expert evidence to rebut the evidence of these experts save for the evidence of Miss Corlett on behalf of the Department.

(ii) In paragraph 2.9. of Document D.L.G.E/16.B the Department through Miss Corlett challenges Mr. Webb's expert view that the proposed access to Area 12 under the Draft Plan is deficient by simply relying upon an assumption that Mr. Webb's expert view is not shared by the DOT who had not raised an objection to the inclusion of Area 12 for residential development. The fact that the

DOT had not seen fit to comment on the inclusion of Area 12 for residential purpose is not in itself evidence that the DOT does not share Mr. Webb's expert opinion.

(iii) In paragraph 3.2. of Document D.L.G.E/16.B the Department through Miss Corlett challenges Mr. Webb's expert opinion as to highway difficulties associated with Areas 10,12,23, and 25/26 by simply saying that Mr. Webb's conclusions are not accepted. Miss Corlett is not qualified to reach this conclusion.

3.5.8 (i) At paragraph 3.2 of Document D.L.G.E/37 and again at paragraph 2.3 D.L.G.E/42 the department through Miss Corlett in rebutting the evidence of Mr & Mrs Jameson and Mr. A. Rowe (who are both totally unrelated to Baccarat) makes the point that if the Draft Plan were to under estimate the amount of housing required it would leave the Department with inadequate defence against the development of land which has been rejected under the Draft Plan. Miss Corlett in both cases singles out the Camlork land as an example.

(ii) Baccarat asserts that the Save Camlork Petition referred to on page 1 of the Modified Written Statement was misused and misquoted by Miss Corlett on behalf of the Department in her submissions made on the Departments behalf. The Save Camlork Petition referred to "the whole of Camlork Farm should remain 'Open Space/Agricultural and of High Landscape Value and Scenic Significance'. And yet the Departments case as evidenced in the Modified Written Statement and in its submissions to the Inspector was that this Save Camlork Petition supported their objection to Baccarat's Land Areas 1,2,3, and 4 but no mention is made of it opposing Area 7 or the area allocated as Recreational Land.

3.6 In formulating its proposals under the Draft Plan the Department afforded a party to the Inquiry preferred status namely the Commissioners when it knew or ought reasonably to have known that the Commissioners had themselves not had the benefit of any independent or expert advice as to its proposals as to the matters referred to in 3.1.2. above or otherwise

3.6.1. Paragraph 2.4. of the Modifications Document accompanying the Draft Plan confirms that the Commissioners were not required unlike all other parties to submit a formal response to the draft area plan issued in April 2001 for public consultation.

3.6.2 the Commissioners were afforded the opportunity not given to any other party of being able to comment in great detail directly to the Planning Office in respect of all the Plan.

3.6.3 The Commissioners demonstrably had an influence on the Department and in particular its Planning Officer Miss Corlett in her formulation of

its proposals and yet to the knowledge of the Department the Commissioners had undertaken no studies or provided any expert reports to support their submissions.

3.6.4. Baccarat considers that the Commissioners ought to have been required to make a formal response to the draft area plan of April 2001 so as to afford Baccarat and other parties to the Inquiry an opportunity of being able to consider the Commissioners views at that early stage.

3.6.5. Baccarat is not aware of any planning policy which enables the Department to afford preferred status to a party to the Inquiry.

3.7. The Department in promoting areas for development under the Draft Plan as Recreational Areas has had no survey or report prepared as to their suitability

3.7.1. Policy 3.33 of the Draft Plan provides:

"IN RESPECT OF THE DEMAND FOR ADDITIONAL SPORT AND RECREATION FACILITIES THE DEPARTMENT HAS IDENTIFIED FURTHER LAND FOR THESE PURPOSES AND THESE AREAS ARE:

1. LAND TO THE SOUTH OF THE EXISTING PUBLIC OPEN SPACE WEST OF CRONK GRIANAGH
2. LAND TO THE EAST OF STRANG CROSSROADS
3. LAND AT BALLAOATES
4. LAND OFF BALLAFLETCHER ROAD AND
5. LAND BETWEEN BALLAMILLAGHYN ESTATE AND THE STRANG.

THESE AREAS WILL BE RESERVED FOR SPORTS AND LEISURE USE ONLY (UNLESS OTHER USES HAVE BEEN IDENTIFIED BY THE DEPARTMENT IN THE PLAN) AND WILL NOT BE RELEASED FOR ANY OTHER FORM OF DEVELOPMENT. SUCH AREAS MUST REMAIN SUBSTANTIALLY FREE FROM BUILT STRUCTURES WITH BUILDINGS ONLY BEING PERMITTED WHERE THESE ARE REQUIRED IN CONJUNCTION WITH THE USE OF THE LAND FOR SPORTS OR RECREATIONAL PURPOSES."

3.7.2. No evidence has been produced to the Inspector as to the suitability of the areas specified in the above proposed policy statement.

3.8. The Department in its formulation of its proposals under the Draft Plan relied upon public opinion only evidenced in the answers given to

questionnaires rather than constructing its proposals by reference to Departmental policy and by reference to infrastructure availability and to planning criteria

3.8.1. Baccarat has already noted above how the Department in the formulation of its proposals under the Draft Plan failed to provide any evidence as to the availability or sufficiency of the infrastructure to support its proposals or as to the effect from a highway perception of its proposals.

3.8.2. Baccarat has already noted the misuse made by the Department of the Save Camlork Petition in respect of Areas 1,2,3 and 4 and the reliance placed thereon by the Department.

3.8.3. Questionnaires of the type circulated by the Commissioners on which the Department relied and the Save Camlork Petition and the responses to the Issues and Options document are by their very nature open to abuse

3.8.4. The Department by its own admission amended its original draft plan to accommodate the view submitted (see page 2 of the Modified Written Statement where it says:

“The Department has reviewed all of the policies, proposals and recommendations contained in the first draft in light of the comments received and has amended the draft accordingly”

3.8.5. The use made by the Department of the results of the questionnaire and thus public opinion is inconsistent. For example in paragraph 4.55 of the Modified Written Statement they rely upon the fact that Area 11 was the eleventh most popular site for residential development to support their continued objection but do not in the case of Area 7 make any reference to the fact that the Save Camlork Petition and the weight of its support objecting to the residential development of this site.

4.

4.0. Baccarat asserts that there has been a lack of transparency on the part of the Department and its officers in the formulation of its proposals with reference to the Draft Plan.

4.1. In the letter received from the Director of Planning dated 18th July 2003 (at Appendix 8) he confirms that submissions were made by the Commissioners and Heritage Homes in respect of Area 14 which the Department considered confidential with the result that the Inquiry is not privy to these submissions.

4.2. In the letter received from the Director of Planning dated the 9th September 2003 (at Appendix 10) he confirms that the initial submissions on the Draft Plan were treated on a confidential basis. With the result that the extent that any such submissions were relied

upon by the Department in the formulating of their proposals the Inquiry is not privy to such submissions.

- 4.3 At paragraph 2.4 of the Modifications Document accompanying the Draft Plan the Department confirms that the Commissioners did not and were not required to submit a formal response to the draft area plan published in April 2001 but nevertheless the Commissioners were able to make comments in great detail direct to the Planning Office in respect of all of the plan. No details of those submissions have been provided to the Inquiry with the result that to the extent that such submissions were relied upon by the Department in the formulation of their proposals the Inquiry is not privy to the same.
- 4.4. As noted in Baccarats letter of the 31st July 2003 (at Appendix 2) the Commissioners (as evidenced in the Braddan Parish Commissioners Summary Review year ended 31st March 2003) had been in negotiation to purchase land in Braddan to ensure the provision of public sector housing and had also negotiated informal agreements for Braddan residents to have the opportunity to buy first time buyer properties. None of the detail of these arrangements were disclosed to the Inquiry by the Department or the Commissioners with the result that the Inquiry was not privy to such negotiations and their impact or relevance to the Department and/or the Commissioners.
- 4.5. Baccarat is concerned that to the extent that the Commissioners may have an interest in the outcome of the Inquiry in respect of any land which they support for residential or indeed any other type of development that the Inquiry ought properly to have been advised of any such interest.
- 4.6 Baccarat has asked for disclosure of the submissions in respect of Area 14 as in the initial draft plan this site was promoted as being suitable for residential development to accommodate 10 housing units but in the Draft Plan the housing allocation had increased to 20. The Department by its own admissions had received confidential submissions in respect of Area 14 and on the basis that the Department may have relied upon such submissions to enable it to support the increased housing allocation these submissions ought to be disclosed to the Inquiry.
- 4.7. The manner in which the Department has treated Area 14 and the Departments support of its availability for residential development under the Draft Plan in itself warrants full disclosure as:
- (i) under previous planning applications for residential development on Area 14 the development was considered to be an intrusion into an agricultural area.
 - (ii) it was the 22nd most popular site for residential development

- 4.8. Baccarat is concerned that should the Department or the Commissioners have entered into any agreement with land owned in the Study Area of the Draft Plan that details of any such agreement should be disclosed to the Inquiry.
- 4.9. Had the enquiry hearing proceeded on the basis that Baccarat had been able to cross examine the Department and/or the Commissioners the issues in respect of Area 14 could have been tested. Baccarat would have also questioned the Commissioners as to whether its Clerk Mr. C. Lewin had had any interest in Area 14.

5. Conclusion

- 5.1 Baccarat is concerned that the lack of proper procedure in the Department which were identified in the Report have manifestedly resulted in the Department formulating its proposals under the Draft Plan in an unprofessional manner with the result that the Inspector does not have before him the necessary information and evidence to enable him to reach a balanced and informed view on areas of the Draft Plan.
- 5.2. Baccarat considers that the Inspector should require the Department and the Commissioners to disclose to the Inquiry all submissions received by them in respect of the Draft Plan to the extent that the Department and/or the Commissioners relied upon a submission or submissions in their proposals
- 5.3 Baccarat also considers that the Inspector should be provided with full disclosure by the Department and/or the Commissioners of any Agreement they have entered into with any Land Owner or potential developer concerning land in the study area under the Draft Plan.
- 5.4. Baccarat also considers that the Inspector should commission such studies and reports in respect of the infrastructure issues associated with the Departments proposals under the Draft Plan as the Inspector considers necessary
- 5.5. That details of the above submissions should be made available to the interested parties who should then be given an opportunity to make further submissions to the Inspector thereon.
- 5.6 In the premises the Inspector should in his consideration of the Draft Plan disregard all the rebuttals and views of Miss Sarah Corlett.
- 5.7 Baccarat has been completely open in all of its submissions and representations to both the Department and the Commissioners and to the Inquiry. Its submissions have been based on Government and Departmental Policies and formulated with the benefit of specialist

professional studies. It is with regret that Baccarat has found it necessary to bring some of the issues encompassed in this submission before the Inspector.

Quinn Kneale
Advocates
4th November 2003