



# Auditor General's Report on the Sea Cows Bay Harbour Development Project



**Office of the Auditor General**

**Government of the Virgin Islands**

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## ■ Executive Summary

1. A Steering Committee was set up in 1992 to devise a plan for the Sea Cows Bay Harbour development to secure better planning and uniformity in the development of the coastline and to protect the marine environment and ecosystems within the area. The Committee developed guidelines for the development which included bulkheading of all future reclamations, preservation of the mangroves and environment and partnering with the government
2. A conceptual design for the Sea Cows Bay Harbour development prepared by Smith Arneborg Architects Ltd. was adopted by the Executive Council in October 2002. The Executive Council also approved for the Government to provide the bulkheads for the reclamation works.
3. AR Potter and Associates Ltd was contracted to provide detailed drawings and specifications for the development. The engineering and structural design for the development was provided by Systems Engineering Ltd.
4. Implementation of the project was controlled and advanced in a manner which lacked transparency in the government records. Contracts were issued for the bulkheading phase which was set to commence in 2011 without planning approval.
5. The Ministries ongoing challenges in securing conformity with developers and will likely impact the government's ability to recover sums invested.
6. A total of \$1,157,088 was expended from the accounts set up to finance the Sea Cows Bay Harbour Development Project. Approximately one third of this was spent on other district projects.
7. Implementation of the project raised issues of related party activity involving the former Minister of Communications & Works and the developer.



## ■ Background

1. Sea Cows Bay Harbour is located west of Road Town on the south side of Tortola. It is sheltered from hurricane wave attack by a reef on the eastern side and by Nanny Cay Marina on the west. The main ghut, Albion Ghut, empties into the northeastern corner of the bay where it forms a small delta of deposits. There is a large colony of red mangrove on the northern end, the western shoreline, and a mangrove island in the east-central section of the bay.
2. Over the years, the Sea Cows Bay coastline has been re-sculpted by arbitrary reclamation activity undertaken within the bay. Oftentimes without requisite approval from the Ministry. This resulted in an untidy layout and the endangerment of the existing ecosystems and fisheries in the area.
3. The Sea Cows Bay Harbour development was initiated in the early nineteen-nineties to enforce planning and uniformity in the development of the harbour and to protect the environment and ecosystems within the bay.
4. In November 1991 the Ministry of Natural Resources commissioned a steering committee comprising of members from Survey Department, Conservation & Fisheries, Town & Country Planning and the Ministry of Natural Resources & Labour to develop a reclamation plan for the area.
5. The Committee compiled an initial report “Sea Cows Bay Reclamation Plan Phase I Draft Report” dated July 1992 which addressed preliminary considerations for the project. After further review and a meeting with the residents in the Third District, the Committee in July 1993 established that the development should be limited to the western side of the bay, reclamation should be prohibited along the northern/eastern side to preserve the mangroves, and all reclamations should be bulkhead with land based fill.
6. In 2000 a scoping exercise sponsored by the OECS was performed by Smith Warner International (Coastal and Environmental engineers) who recommended that the development be carried out in a technically proper and environmentally sustainable manner. Subsequent to this various consultants and contractors were engaged to advance different aspects of the plan, but with limited progression of the project.





## ■ Audit Objective, Scope & Methodology

7. The purpose of this investigation is to provide independent information and advice on whether efficiency, economy and effectiveness were achieved in the development and implementation of this project.

8. The Audit was planned and performed in accordance with Government Auditing Standards for Performance Audits issued by the International Organisation of Supreme Audit Institutions (INTOSAI) and where applicable standards provided by the International Public Sector Accounting Standards Board (IPSASB).

9. The Audit focused primarily on events occurring during the period January 2002 to December 2011 although where applicable due consideration was given to events occurring either before or after this period. The expenditure for the project stated in the report included the years 1999 to 2011.

10. In carrying out our investigation we obtained information from:

- i. Interviews with key staff in the Conservation & Fisheries Department, the Ministry of Communication & Works, Ministry of Natural Resources & Labour, the Development Planning Unit and the Public Works Department;
- ii. Appropriate files, documents and records from the Conservation & Fisheries Department, Ministry of Natural Resources & Labor, Ministry of Communications & Works and the Public Works Department;
- iii. Relevant reports, documents and records;
- iv. Applicable legislation;
- v. Visit to the site.

11. The examination was hindered by the general absence of information regarding the development of this project. In particular, there were few public records relating to the period 2007 to 2011 where a substantial amount of public funds were applied. This limitation is discussed in more detail later in this report.



## ■ Establishing the Project

12. *The Smith Arneborg conceptual design for the development of the Sea Cows Bay Harbour was adopted by the Executive Council. The Executive Council also agreed for the Government to provide the bulkheads for the reclamation works.*

13. The guidelines provided by the Town and Country Planning Department to the Sea Cows Bay Harbour Development Steering Committee in 1992 outlined a process whereby a plan for the Harbour would be developed detailing the extent of reclamation, development guidelines, proposed land use designations and phasing of the development. This would then be submitted to the Development Control Authority for approval and forwarded to the Executive Council (Cabinet) for adoption and authorization.

14. No detailed plan was produced by the Steering Committee. However, coming out of this process the Committee established, among other things, that any further reclamation in the area should be bulkheaded to protect the environment and ensure uniformity.

15. The proposed bulkheading was considered cost prohibitive for local developers and a suggestion was made during a community meeting that this be done by the Government. A compromise was subsequently proposed by the Committee whereby the Government would work with developers to ensure that the bulkhead was constructed and the cost would be passed on to the developers in a subsequent lease (for the seabed) between the parties.

16. In September 2001 the Ministry of Natural Resources & Labour, under the administration of Hon Julian Fraser (Hon Fraser), engaged Smith Arneborg Architects Ltd, to produce a conceptual development plan of the Sea Cow's Bay Harbour. The resulting proposal consisted of a sketched arrangement of buildings in block footprint form and provided for roads, parking, boardwalks, pedestrian and servicing routes, docks and a public ferry wharf.

17. Hon Fraser, who was subsequently appointed Minister of Communications & Works in May 2002, presented the Smith Arneborg conceptual design to the Executive Council on 30 October 2002 where it was adopted by that body as the way forward for the Sea Cows Bay Harbour development.



18. During the same sitting, the Executive Council also agreed that:
- i. Tendering process was to be waived to allow the Ministry of Communications & Works to engage contractors to procure material for bulkheading the harbour at Sea Cows Bay;
  - ii. The Ministry of Communications & Works proceed to carry out further dredging and to bulkhead the harbour through a series of petty contracts; and if necessary, by major contract provided that the Executive Council's approval be sought before any major contract is awarded;
  - iii. Work to commence on this project immediately by use of funds already appropriated under the Ministry of Natural Resources & Labour, subhead 55104; Dredging Sea Cows Bay Harbour; and
  - iv. Further development of the harbour be done through funds to be provided under the Ministry of Communications & Works via 2003 Estimates, or by prior supplementary appropriations.

19. To advance the project, the Ministry of Natural Resources & Labour entered into a contract with A.R Potter & Associates Ltd in February 2003, to prepare the design development documents (architectural drawings, plans, elevations etc.) for the entire project and provide construction administration services for bulkheading the harbour. The contract was authorised by Hon Fraser as District Representative and signed by the Permanent Secretary, NR&L. The project construction cost was estimated at \$1,350,000 and AR Potter & Associates' fee was \$47,250.

20. AR Potter & Associates Ltd. submitted the design drawings for the development to the Ministry in July 2003. The Public Works Department assessed the completion as indicated below. A total of \$24,749.80 was paid on this contract.

Assignment	% complete
Site Design development (architectural drawing etc.)	80%
Construction documents (for the bulkhead)	75%
Bidding documents etc.	40%
Construction administration	25%

21. The bulkhead design was not completed as six test piles that had been driven into the harbour to assess the soil conditions had not achieved the resistance/refusal required to determine the design parameters. A full geotechnical study would be required.





## ■ Developing a Plan

22. *The absence of a completed plan resulted in deferral of the project in 2006. An eight step outline was developed for a structured implementation of the project.*

23. The government administration changed in June 2003 after territory wide general elections. The late Hon Paul Wattlely served as Minister of Communications & Works until July 2005 and was succeeded by the Hon Elmore Stoutt who served in this capacity until August 2007.

24. The Sea Cows Bay Development Plan was slated as one of the capital projects for advancement in 2006. As the Ministry prepared to commence the bulkheading phase of the project in January it was discovered that the design and engineering works for the bulkheads had not been completed. This would require a geological survey of the harbour. In addition, it was determined that a complete design was needed before engaging any activity on the project.

25. To ascertain the status of the project and requirements to move it forward, the Permanent Secretary in the Ministry of Communications & Works commissioned a meeting with the Director of Public Works and the Chief Planning Officer in July 2006. Coming out of this meeting, eight steps were identified as the way forward for the project. These comprised:

- i. Securing approval for the project from the Planning Authority;
- ii. Engaging a consultant to prepare detailed plans and specifications for the works;
- iii. Preparation of the plans in accordance with Planning Authority's approval;
- iv. Submitting said plans for approval to the requisite authorities;
- v. Engaging a project manager to oversee implementation of the project;
- vi. Engaging contractors to perform the work;
- vii. Execution of works; and
- viii. Closure and handover of completed project.

26. Terms of reference for a consultant to design the bulkheads were prepared by the Public Works Department in April 2006 and Geotech Associates Ltd of Trinidad was engaged on 16 November 2006 to conduct a geotechnical investigation of the bay to provide information needed for the bulkhead design.

27. No further progress was made on the project during this period and \$265,973 of the funds assigned for the project was used on roads paving and drainage works within the Third District.





## ■ Project Implementation

28. *Implementation of the project was controlled and advanced in a manner which provided little transparency in the government records. Contracts were issued for implementation of the bulkheading phase which was set to commence in 2011 without planning approval.*

29. The government administration again changed in August 2007 and the Representative for the Third District, Hon Julian Fraser, was appointed to the position of Minister of Communications and Works.

30. Two petty contracts were issued by the Ministry of Communications & Works to Systems Engineering Ltd in December 2009. The first to provide “Engineering services for the Sea Cows Bay Harbour Development” in the amount of \$68,100 and the second to provide “Structural Design Services for Sea Cows Bay Harbour” in the amount of \$27,500. A total of \$123,000 was paid to Systems Engineering on these contracts.

31. The works would build on the design details developed by AR Potter & Associates Ltd. which set out the bulkheading to be done in two phases. The first at the west side of the bay and the second eastward.

32. The bill of quantities produced for the project and dated September 2010 estimated the project cost at \$6,653,469.15.

33. During the period December 2010 to November 2011 two events related to the development unfolded concurrently. These were an application from Mr Earl Fraser of Hannah Reclamation Limited to lease the seabed on the western end of the harbour adjacent to Parcel 105 block 2736C, and the government’s engaging of seven petty contractors to provide bulkheading for the west side of Sea Cows Bay Harbour at the request of the Minister/District Representative, Hon Julian Fraser.

### **Hannah Reclamation Limited**

34. In December 2010 the Ministry of Natural Resources & Labour forwarded the application from Hannah Reclamation Limited to the Conservation & Fisheries Department for their assessment and advice. The property in question was located on 1.215 acres of reclaimed land, parcel 105 block 2736C, which had been leased to Earl Fraser by the Government on 21 October 2008.



35. Hannah Reclamation Limited was applying to construct two jetties, each 200 feet long, and install thirty commercial moorings on the property. The works would require further reclamation on parcel 105 to conform with the design that had been adopted for the Sea Cows Bay Harbour Development. Dredging would also be required to accommodate the jetties although this was not included in the application.

36. Cabinet approved the application on 18 May 2011 with 13 conditions. Among these were:

- a. Reclaimed land parcel 105 block 2736C must be bulkheaded;
- b. The jetties A and B were to be 12'X200' each with "T" on the end measuring 107'X10' and 347'X10' respectively;
- c. An environmental impact assessment would be required prior to any application for dredging or installation of a breakwater;
- d. Disposal of sewerage, waste and pollutants to be done in adherence of guidelines
- e. Mooring buoys were to be installed and controlled per instructions of the relevant government departments.
- f. Permission was to be sought from the Ministry of Natural Resources & Labour for any increase or decrease in the development.
- g. Hannah Reclamation Limited was to enter into a license agreement immediately with the Crown.

37. Cabinet's decision also required Hannah Reclamation Limited to complete the bulkhead and jetties works within two years of the approval.

38. Mr. Earl Fraser was informed of the decision and the associated conditions on 15 September 2011.

### **Bulkheading West Side of Sea Cows Bay Harbour**

39. At the same time that Hannah's Reclamation Limited's application was received by Conservation & Fisheries in December 2010, the Minister of Communications and Works, Hon Julian Fraser, was arranging for petty contracts to be issued on this project.



40. Between 20 December 2010 and 4 January 2011, seven petty contracts were issued by the Public Works Department to supply concrete sheet piles for bulkheading the west side of the Sea Cows Bay Harbour. The engineering drawings were provided by the firm Systems Engineering Ltd. which was named as the Engineer on the contracts.

41. The works were to commence in January 2011 and conclude three months later. The contracts details are summarized below.

Name Of Contractor	Contract #	Description Of Work	Contract Amount	Paid
Ira & Akeem Smith	164/2010	Supply 56 sheet piles Bulkhead West Side Part 1 (12' x 12")	97,023.78	9,702.38
Kenneth Fraser	165/2010	Supply 56 sheet piles Bulkhead West Side Part 2 (12' x 12")	97,023.78	9,702.38
Sugar Apple Group	166/2010	Supply 38 sheet piles Bulkhead West Side Part 4 (8'x11' 6")	96,666.70	9,666.67
No Limit Construction	167/2010	Supply 38 sheet piles Bulkhead West Side Part 5 (8'x11' 6")	96,666.70	9,666.67
Fraser Incorporate (Earl Fraser)	176/2010	Supply 38 Sheet piles Bulkhead West Side Part 2 (8' x 11' 6")	96,666.70	9,666.67
Shane Winter	13/2011	Supply 38 sheet piles Bulkhead West Side Part 1 (8'x11' 6")	96,666.70	96,666.70
E&K Concrete Pumping	14/2011	Supply 38 sheet piles Bulkhead West Side Part 3 (8'x11' 6")	96,666.70	96,666.70

42. All seven contractors were paid an initial 10% deposit of their respective contract amounts. Only two of these, E&K Concrete Pumping and Shane Winter, completed the job and were paid in full. Fabrication of the bulkheads was supervised by Systems Engineering Ltd.

43. In addition to the seven petty contracts above, day-workers (heavy equipment operators/truckers) were also engaged to prepare the staging area. This included fencing the reclaimed area owned/leased by Earl Fraser and James Fraser in Hannahs where the bulkhead slabs were fabricated. A total amount of \$335,706.30 was spent on contractors for the bulkheads and day workers in 2011 as shown in Appendix 4 of this report.

44. In moving forward with the project, there remained important omissions in the planning and approval process. Many involved requirements stipulated in the eight





step implementation outline that had been developed by the Ministry in 2006 as indicated below.

<b>Eight Step Implementation Outline</b>		<b>Status</b>
i.	Securing approval for the project from the Planning Authority;	Not Done
ii.	Engaging a consultant to prepare detailed plans and specifications for the works;	AR Potter & Associates Ltd. Plans 75% - 80% completed Systems Engineering Ltd.
iii.	Preparation of the plans in accordance with Planning Authority's approval;	Not Done
iv.	Submitting said plans for approval to the requisite authorities;	Not Done
v.	Engaging a project manager to oversee implementation of the project;	Not Done
vi.	Engaging contractors to perform the work;	Commenced
vii.	Execution of works;	Commenced
viii.	Closure and handover of completed project.	

45. The project still had not been submitted for (and thus has not received) approval of the Development Control Authority. Until this is done, any activity in the bay represents a violation of the Physical Planning Act, 2004.

46. Although the preliminary conceptual design and overall principle was approved by Executive Council (Cabinet) in 2002, the detailed plan has not been presented to this body for consideration and approval. This is essential as the estimated cost of the project has expanded to \$6,653,469 which is more than four times the 2011 budget for the project of \$1,489,450.

47. No recent public consultations have been undertaken with the residents of the Third District on this project.

48. With respect to the reclamation, certain details of the process were left unclear. While it was agreed that the Government would provide the bulkheading, it is not clear whether the Government would also be responsible for providing, transporting and placing the fill as well as providing other related ancillary works. The bill of quantities prepared for the project suggests the affirmative.





49. The implementation which sought to execute Executive Council's 2002 decision for the Government to bulkhead the harbour using petty contracts was being performed without required approval as stipulated by the Physical Planning Act and without an adequate budget or a Government appointed project manager to ensure that the public interest is safeguarded and public funds applied to the project are duly certified and performed within the scope of the project.

## ■ Reclamation Approval and Compliance

50. *The Ministries ongoing challenges in securing conformity with developers will likely impact the government's ability to recover sums invested.*

51. The seabed is owned by the Crown and permission must be had from the Government for any work that involves or encroaches on the shoreline.

52. Developers who are granted permission to reclaim the seabed are required to follow guidelines to protect the environment and must complete the reclamation to the correct size within a specified time. After the reclamation is completed the developer is required to sign a lease agreement with the Ministry of Natural Resources & Labour.

53. To promote the coordinated development of the Sea Cows Bay Harbour, Executive Council, on 12 February 2003, invited the Ministries of Natural Resources & Labour and Communications & Works to jointly review all existing applications in the context of the (Smith Arneborg design for the) Sea Cows Bay Development Plan, and make recommendations.

54. The records do not indicate whether this joint process ever took place, but no new approvals were recorded between this decision and May 2011 when Hannah Reclamation Limited's application was approved.

55. The approved reclamations for the Sea Cows Bay Harbour area as provided by the Ministry of Natural Resources & Labour are summarized in the table that follows and detailed further in Appendix 3 of this report.



NAME OF APPLICANT	Size of Development	EXCO/ Cabinet Approval
Heraldo Charles	0.5 acre	166/1978
Oliver Cills	0.43 acre	245/1981
Earl P. Fraser	1.215 acres	45/1977
James A. Fraser	1.5 acres	47/1986
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Glanville Fraser / James Fraser & Associates		68/1992
Clarence Mactavious	0.231 acre	131/1996
Ron Parsons	0.75 acre *	150/1986
Mark Simmonds	0.66 acre #	415/1997
Edwardo & Ira Smith	20,000 sq ft*	41/1986
Henderson Springette	424 sq ft	Letter 22 Dec 64
Henderson Springette	7,500 sq ft	Letter 15 Nov 75
Claudette Hodge Washington	0.26 acre	340/2012: 202/2014

\* Actual size not reported by developer

# Reclaimed area reported as .865 acres

56. In addition to the above, there are also areas reclaimed by the Government. The most significant was used for the Valarie O Thomas Community Center which accommodates organized community gatherings and serves as a hurricane shelter.

57. The development of the area still lacks adequate management and control. This is seen in the following:

- i. Persons continue to reclaim areas before securing approval. The Government has also been found guilty of this practice. In May 1998 the Ministry of Natural Resources & Labour demanded that PWD stop dumping soil into the bay.
- ii. Lease agreements are not pursued by persons who have completed reclamations and are actively using the property (James Fraser, Edward & Ira Smith).
- iii. Individuals fail to report and register the size of the area reclaimed. As a result there is no official record to show the size of the area reclaimed. (In 1986 Ron Parsons was granted permission to reclaim 0.75 acre and Edwardo and Ira Smith were granted permission to reclaim 20,000 sq ft.).



- iv. Individuals exceed authorized reclaimed areas without penalty or correction. (Mark Simmonds was authorized 0.66 acres and reclaimed 0.865 acres.)
- v. Applications are allowed to languish without adequate information and feedback to the applicants. (Claudette Hodge-Washington applied for permission to reclaim 2 acres in 2001. She was granted permission to reclaim 0.357 of an acre in 2014 after she registered a complaint with the Complaints Commissioner.)

58. Without effective management and controls the development will continue to have issues and the Government is unlikely to recover amounts invested.

## ■ Financing and Costs

59. A total of \$1,157,088 was expended from the accounts set up to finance the Sea Cows Bay Harbour Development Project.

60. The Executive Council in approving the conceptual design in October 2002 authorized the use of existing funds under the Ministry of Natural Resources & Labour’s capital head for “Dredging Sea Cows Bay Harbour” that had been established for “Sea Cows Bay Coastline development, consultancy and dredging as necessary.”

61. A separate capital provision for the “Sea Cows Bay Harbour Development” was established in December 2002 via Supplementary Appropriation 2 of 2002 under the Ministry of Communications & Works with a preliminary budget of \$575,000. By 2011 the budget for this subhead had increased to \$1,489,450.

62. In addition to the above provision, expenditure on the project was paid from other subheads, capital and recurrent, as indicated in the schedule that follows.

Payment Sourced From	Budget	Ministry	Actual Expenditure
55104 – Dredging Sea Cows Bay Harbour	Capital	NRL	126,749.80
85248 – Sea Cows Bay Harbour Development	Capital	C&W	708,409.23
85254 – Harbour Port Development	Capital	C&W	198,828.90
510-65100 – Consultancy *	Recurrent	C&W	123,100.00
			<b>1,157,087.93</b>

\* Payments to Systems Engineering Ltd made from this account





63. The use of multiple accounts across the recurrent and capital budgets will create challenges in determining the overall cost the project. This will be compounded by the fact that none of the accounts were used exclusively for this project. In 2007 the Sea Cows Bay Harbour Development account, created to facilitate and finance the project, was used for a retaining wall, sidewalks and road works within the Third District. Projects which had no direct association to the harbour development.

64. Adding to the issue of non-transparent accounting is the manner in which payments were recorded in the Ministry of Communications & Works expenditure records. Details of the expenditure were omitted from both the manual (vote book) and electronic (computerized) records that feed into the Treasury's accounting system. The amounts only referred to an invoice or contract number. This provided no ready information about how the funds were applied. This practice was observed throughout the stated audit period.

65. The expenditure for the project for the period 2002-2011 is summarized below and detailed further in Appendix 4 of this report.

<b>Description</b>	<b>Amount</b>
Project Design and Development	354,420.80
Bulkheading Phase 1	335,706.30
Other Harbour Works	103,424.50
District Works	363,536.33
	<b><u>1,157,087.93</u></b>





## ■ Management & Administration of the Development

66. *There was insufficient transparency in the management and execution of the project.*

67. The audit exercise was severely hampered by the absence of complete information regarding this project.

68. In particular, for the period 2007-2011 the Ministry of Communication & Works' files reflect little to no information regarding the development. The auditors were advised by Ministry's staff that the project was handled by the subject Minister, who liaised directly with the consultants, contractors and the Public Works Department on plans, contracts and progress. A schedule showing the status of the Ministry's projects in February 2010 listed the Sea Cows Bay Harbour Project as assigned to R George, who was a contracted consultant in the Ministry of Communications & Works.

69. Notwithstanding, the absence of information, the Finance Officer and Permanent Secretary in the Ministry facilitated and approved payments on this project in excess of three hundred thousand dollars in 2011.

70. Similarly, the file reviewed from the Public Works Department did not provide any details of the project or its progression during the implementation phase. There were no progress reports or correspondence related to the ongoing works. All of the contracts for this development were prepared by PWD and the works were assigned to specific staff members for supervision but much of the information related to this public project was not transferred to department's files submitted for audit examination. As a result, the information from the two agencies charged with managing this project was largely incomplete.

71. A copy of the report generated by the firm Systems Engineering Ltd (that the Ministry paid over \$130,000 for engineering and design work) was requested from the Ministry of Communications and Works. The Ministry was unable to produce this. This document/information was however used to generate publicly financed petty contracts for the bulkheads.

72. The project was being executed without any significant involvement of the Accounting Officer (the Permanent Secretary), who has ultimate responsibility, and can be held personally accountable for public expenditures applied from



accounts under his/her control. Without any real knowledge or involvement the Accounting Officer is not in a position to assert that the Ministry received value on the monies that were spent.

73. The manner in which the project was implemented, with a general absence of information in the Government's records and the substantive exclusion of the Accounting Officer from the process, created the impression of a private undertaking that was being financed by the Government. This is further exacerbated by related party issues that were present in the development.

## ■ Related Party Disclosure

### *International Public Sector Accounting Standard – IPSAS 5*

74. The project was adopted by, and progressed under the direction of, the former Minister/ current Third District Representative Hon Julian Fraser, who headed the Ministry of Communications & Works from May 2002 to July 2003 and August 2007 to November 2011 and the Ministry of Natural Resources & Labour from May 1999 to May 2002.

75. The activity on the project during 2010-2011 to develop the western end of the harbour presents particular issues that require disclosure.

76. During the implementation period, the project activity was being controlled by the Minister Hon Julian Fraser. All of the funds applied in 2011 (\$335,706.30) were focused on bulkheading the west end of the harbour, which included but was not limited to, an area owned/leased by Mr. Earl Fraser of Hannah's Reclamation.

77. The contractors who were engaged to provide the bulkheads included Mr Kenneth Fraser and Fraser Incorporated (a company owned by Mr Earl Fraser). Both contractors are brothers of the Minister. Both received a 10% deposit prior to commencement and neither completed the task.

78. The records indicate that in two prior instances where Cabinet considered applications made by Hannah Reclamation Limited/Mr Earl Fraser for leasing of the seabed (on 11 June 2008 and 18 June 2008) the Hon Julian Fraser declared his interest and recused himself from the matter. Cabinet Extract for the 18 May 2011 does not indicate whether the same occurred when Hannah Reclamation Limited's application to lease the seabed for Jetties and Moorings in 2011 was considered and approved.



79. The above transactions, because of their materiality and the relationship between Mr. Earl Fraser, Mr. Kenneth Fraser and Hon Julian Fraser, represent related party transactions as defined by IPSAS 20 5.(c) and accordingly require disclosure.

## ■ Conclusion

80. The Sea Cows Bay Harbour Development Project was initiated to ensure that the shoreline and its immediate environment were not adversely and irreparably impacted by ongoing, uncoordinated reclamation in the area.

81. The development was however never approved by the Planning Authority, nor was the Government's role in the project fully or adequately defined. This has led to expanding project costs that have neither been reviewed nor approved by Cabinet.

82. An attempt to implement the project without satisfying preliminary planning requirements resulted in public expenditure in excess of three hundred thousand dollars and incomplete works.

83. At the time of writing the project was at a standstill. The sheet piles that had been prepared in 2011 remained on the property owned/leased by Hannah Reclamation Ltd and there is no record that the deposits paid to the five petty contractors who did not provide bulkheads were recovered.





## ■ Recommendations

1. The Sea Cows Bay Development Plan should be completed and submitted for planning approval. The work done by AR Potter and Associates Ltd and Systems Engineering Ltd should be assessed and if satisfactory adopted and where necessary expanded upon. Any reports generated by Systems Engineering on this project should be submitted to the Permanent Secretary in the Ministry. An environmental assessment study for the overall project should be commissioned.
2. The Government needs to decide on the extent of its involvement. Where a decision is taken to finance or execute any part of the project consideration must also be given to securing cost recovery in signed leases that have been adjusted to account for the relevant costs.
3. Individual applications for development of the seabed should be submitted for planning approval before forwarding to Cabinet for consideration.
4. Lease agreements with the developers should be put in place upon approval of the reclamation to become active at the stated date that the development is due to be completed.
5. Where developers fail to report the size of the area reclaimed the Government should undertake a survey of the completed property and arrange for the cost to be passed on to the developer in the lease agreement.
6. Unauthorised reclamations result in the creation of property that is owned by the Crown. Developers who engage in this practice should be prevented from using this property or otherwise benefiting from their unauthorised activity.
7. There needs to be broader involvement and consultation of the community in the proposed Sea Cows Bay Harbour Development.
8. Permanent Secretaries should not accept responsibility for projects that they have not been involved in. This means refusing to cover costs for projects that are executed outside of their control.
9. Full disclosure of all related parties transactions should be made mandatory for all public officers and officials to avoid compromise of the process.



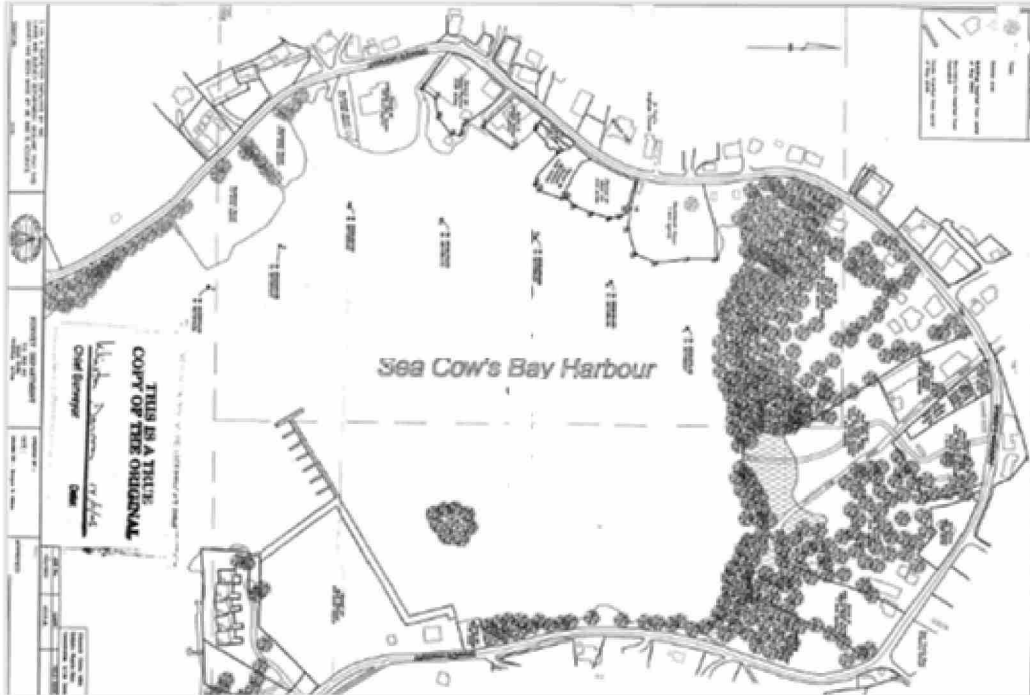
10. Record keeping for public projects and public expenditure should be fully transparent and adequately supported with the requisite documents and details where necessary to allow for succession, review and to support the legitimacy of public expenditure.
  
11. Government must take steps to recover sums issued to the five petty contractors who did not complete work under the bulkheading contract.

Sonia M Webster  
Auditor General  
27 August 2014



**APPENDIX 1**

**Sea Cows Bay Existing Shoreline  
Before Development**

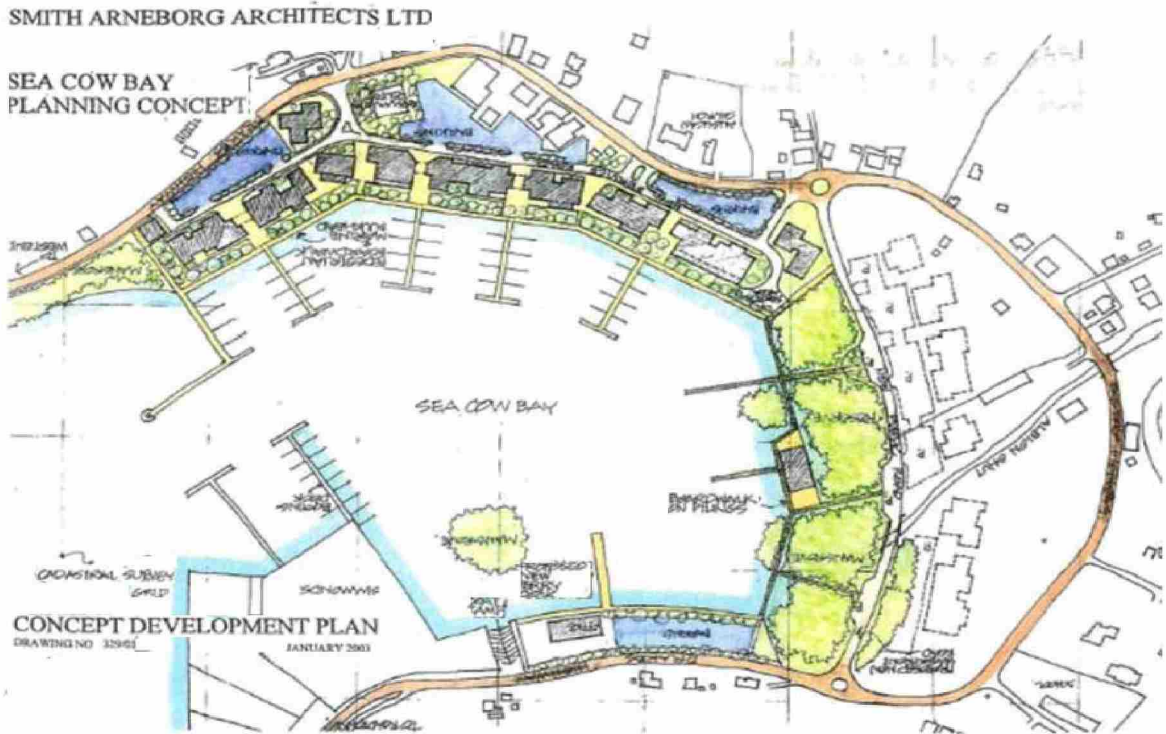






**APPENDIX 2**

**Proposed Sea Cows Bay Development  
Smith Arneborg Architects Limited - Sea Cows Bay Planning Concept**





**APPENDIX 3**

**APPROVED RECLAMATIONS – SEA COWS BAY HARBOUR**

NAME OF APPLICANT	EXCO/ Cabinet Approval	Size Of Development	Block #	Parcel #	Date Completed	Date of Lease Duration	Lease Instrument Number
Henderson Springette	Letter dated 22 Dec 1964	424 sf	2736C	57/1	8 <sup>th</sup> Nov 1976	8 <sup>th</sup> Nov 1976 99 years	755/1996
Henderson Springette	Letter dated 15 Nov 1975	7,500 sf	2736C	31	1 <sup>st</sup> Oct 1968	1 <sup>st</sup> Oct 1968 99 years	589/1968
Earl P. Fraser	45/1977	1.215 acres	2736C	#105	1 <sup>st</sup> Jul 2003	1 <sup>st</sup> Jul 2003 99 years	2543/2008
Heraldo Charles	166/1978	0.5 acre	2736C	*16			
Oliver Cills	245/1981	0.43 acre	2736C	94	30 <sup>th</sup> Nov 1996	1 <sup>st</sup> Apr 1998 99 years	942/1998
Edwardo & Ira Smith	41/1986	20,0000 sf	2736C	*96			
James A. Fraser -- Glanville Fraser , James Fraser & Associates	47/1986  68/1992	1.5 acres	2736C	*53  *105			
Ron Parsons	150/1986	375 acre	2736C	*56			
Clarence Mactavious	131/1996	0.231 acre	2736C	95	30 <sup>th</sup> Apr 1999	14 <sup>th</sup> Dec 1999 99 years	2354/1999
Mark Simmonds	415/1997	0.66 acre	2736B	329	1 <sup>st</sup> Sep 2001		
Claudette Hodge- Washington	340/2012 202/2014	0.26 acre	2736C	*83			
				* Adjacent to parcel			

Source: Ministry of Natural resources & Labour  
(The above table does not include unauthorised reclamations)



**APPENDIX 4**

**Sea Cows Bay Development Harbour  
Schedule of Expenditure 1993-2011**

<b>Vendor</b>	<b>Classification</b>	<b>Actual</b>
<b>Project Design and Development</b>		
Smith Arneborg Architects Ltd.	Conceptual Design	25,495.50
A.R. Potter And Associates Ltd.	Design Details, plans, drawings etc.	24,749.80
Systems Engineering Ltd.	Engineering & Structural Design	123,100.00
Geotech Associates Ltd.	Geotechnical Survey	124,450.00
Shanty Maritime Services Ltd.	Geotechnical Survey support Equip	44,625.50
Aqua Construction Limited	Test Piles for soil investigation	12,000.00
<b>Subtotal - Project Design and Development</b>		<b>354,420.80</b>
<b>Bulkheading Phase 1</b>		
Shane Winter	Site Preparation - Supervision	8,590.84
Bee's Equipment Rental	Site Preparation	51,128.21
Florencio Matthias	Site Preparation	7,429.00
Fraser, Cecil	Site Preparation	8,591.08
H F Construction	Site Preparation	7,429.00
Khoy Stoutt	Site Preparation	4,800.00
Verne Forbes	Site Preparation	6,000.00
E & K Concrete Pumping	Provide 38 Sheet Piles Bulkhead	96,666.70
Shane Winter	Provide 38 Sheet Piles Bulkhead	96,666.70
Fraser Inc.	Provide 38 Sheet Piles Bulkhead	9,666.67
Ira Smith or Akeem Smith	Provide 56 Sheet Piles Bulkhead	9,702.38
Kenneth Fraser	Provide 56 Sheet Piles Bulkhead	9,702.38
No Limit Construction	Provide 38 Sheet Piles Bulkhead	9,666.67
Sugar Apple Group Ltd	Provide 38 Sheet Piles Bulkhead	9,666.67
<b>Subtotal – Bulkheading Phase 1</b>		<b>335,706.30</b>
<b>Other Harbour Works</b>		
Bert Smith Trucking & Heavy Equipment	Cleaning Ramp	21,424.50
B.V.I. Dredging Development	Dredging for Hurricane Shelter	82,000.00
<b>Subtotal - Other Harbour Works</b>		<b>103,424.50</b>
<b>District Works</b>		





Vendor	Classification	Actual
Ronald Beazer	Culvert installation with manholes	30,061.11
Shane Winter	Road Paving & Drainage Solution	29,758.69
Blyden, Claudius	Road Paving & Drainage Solution	35,518.81
Milford Todman	Road Paving & Drainage Solution	6,880.04
Sugar Apple Group Ltd	Road Paving & Drainage Solution	26,611.46
Fraser Inc.	Road Paving & Drainage Solution	45,055.82
Kenneth Fraser	Road Paving & Drainage Solution	43,304.37
Williams & Williams Enterprise	Supply and Deliver Concrete	17,863.10
Dereck Selvin Christopher	Not Defined	30,745.48
Benjamin, Paul	Miscellaneous	175.00
	<b>Jan –July 2007</b>	<b>265,973.88</b>
Shane Winter	Retaining Wall and Fencing	24,711.80
Milford Todman	Road Paving & Drainage Solution	30,366.90
No Limit Construction	Road Paving & Drainage Solution	28,898.75
Fraser Inc.	Road Paving & Drainage Solution	13,585.00
	<b>Aug – Dec 2007</b>	<b>97,562.45</b>
<b>Total District Works</b>		<b>363,536.33</b>
	<b>Total Expenditure</b>	<b>1,157,087.93</b>

### Summary of Actual Expenditure By Year

Year	Actual Expenditure
1999	82,000.00
2001	10,000.00
2002	10,000.00
2003	36,749.80
2006	65,275.50
2007	463,261.03
2008	30,995.30
2009	95,600.00
2010	27,500.00
2011	335,706.30
<b>Total</b>	<b>1,157,087.93</b>

