

From: Kate Hall  
**Directorate of Economic Development**  
12 May 2023

**FIRST MINISTER**

**DEPUTY FIRST MINISTER AND CABINET SECRETARY FOR FINANCE**

**CABINET SECRETARY FOR WELLBEING ECONOMY, FAIR WORK AND ENERGY**

**FERGUSON MARINE: OVERVIEW OF FORTHCOMING STRATEGIC DECISIONS AND NEXT STEPS**

### **Priority and Purpose**

1. Immediate. To provide final advice on the decisions required to continue the delivery of vessels 801 and 802 at Ferguson Marine Port Glasgow (FMPG). This follows advice on 10 May 2023 and 21 April.

### **Recommendation**

2. To consider and review the content of this submission and provide a response on the letter sent from the Accountable Officer (AO) on 12 May 2023 (Annex A). A draft is provided in Annex C. Also, to provide a view on choreography and timing of Parliamentary handling and stakeholder engagement.

### **Background**

3. The strategic outcomes sought when FMPG was taken into public ownership were to ensure completion of new lifeline ferry services (vessels 801 and 802) and secure a sustainable future for the shipyard, thereby retaining jobs and key commercial shipbuilding skills in Scotland and strengthening national resilience. Whilst the delivery of vessels 801 and 802 has been hampered by delays and budget overruns, their importance in terms of essential service and network resilience remains extant and has arguably strengthened given the increasingly ageing ferry fleet and well publicised challenges in securing temporary replacement vessels (cost and uncertainty).
4. In September 2022, the CEO of FMPG provided the NZET Committee and Ministers with an updated forecast of costs to complete 801 and 802. Ministers advised the Parliament at the time that we would undertake independent due diligence of the CEO's cost estimates to complete the vessels to ensure the highest degree of accountability and assurance in the use of public funds.
5. Whilst this due diligence was completing, the CEO of FMPG wrote to the NZET committee on 16 March 2023 with revised dates for the delivery of both vessels with an Autumn handover for 801 (with contractual backstop of end Dec 2023), and mid 2024 for 802 (with contractual backstop of Dec 2024). Ministers have not agreed to these revised delivery dates, but it will be necessary to formally respond to provide FMPG with contractual assurance.

## Value for Money Analysis

6. The CEO's September 2022 update presented revised cost estimates for the completion of vessels 801 and 802 within the shipyard. This suggested that the cost to complete both vessels was an additional £80.5m (plus warranties) compared to the previous forecast total of £122 million provided in March 2022. This provided a total cost estimate for completing both vessels since public ownership of £202.5 million (plus warranties). Given historic concerns about the accuracy of forecasts, these numbers have been interrogated rigorously both by officials and external commercial experts (Teneo).
7. The conclusion of this due diligence work now assesses that the overall cost to complete is currently estimated at [REDACTED] (including contingencies) which is an increase of [REDACTED] compared to the forecast provided by FMPG in September 2022.
8. The submission on 10 May 2023 set out the details of the value for money assessment (previous submissions detailed it also). In summary;
  - a. given the advanced stage of completion of vessel 801 and with remaining costs to complete the vessel of [REDACTED] the case for completion is easily made even on the narrow value for money assessment.
  - b. Given the less developed build stage for vessel 802 and the scheduled delivery date (backstop end 2024) the equivalent value for money judgement cannot be made in respect of this vessel and the vfm gap is assessed as [REDACTED] Teneo also consider that based on FMPG's track record there is a potential for this gap to widen further in the months ahead.

## Financial Overview and Written Authority

9. A decision on the full funding amount is now urgent for two reasons. First, now that the due diligence assessment is complete and we have all the data required on which to make a decision. There would therefore be justifiable criticism if Scottish Ministers and AOs did not consider the advice in an appropriate timeframe and took action to avoid a decision by default (by continued spend). Second FMPG has incurred costs on spend for April and there is currently no Ministerial approval for such expenditure pending this decision on funding. The payment to FMPG is due to be made on 15 May and it is therefore necessary to have secured AO approval by that point. Parliament must also be advised of this decision.
10. There is sufficient evidence from the due diligence process now to support a decision for the AO. In summary, the position is that 801 can continue to be funded but 802 is not value for money and will require a written authority if it is to continue to be funded.
11. Section 15 of the Public Finance and Accountability (Scotland) Act 2000 (see Annex E) sets out the principal duties of AOs and the circumstances in which written authority must be obtained. AOs are under a statutory duty to

obtain written authority from the relevant Minister where they consider that any action they are required to take would be inconsistent with the proper performance of their functions. Those functions include ensuring the propriety and regularity of finances and ensuring that relevant resources are used economically, efficiently and effectively. As regards decisions on expenditure, the discharge of those functions is essentially encompassed in the application of the “value for money” assessment required by the SPFM. This approach shows Scottish Government's commitment to good governance, transparency and a robust due diligence. The AO has sent a request for written authority on 12 May (Annex A).

12. It is advised that there is no specific number allocated in the request given the uncertainties of the potential final cost. However we believe it is important that there is no “blank cheque” for the vessels and therefore, as part of the correspondence, we have set out a strengthened approach to the monitoring and control of costs and delivery schedules with external commercial advisers providing quarterly reports on progress and projections. This would sit alongside the structure with CMAL as technical advisers and ensure that Ministers are sighted on the ongoing financial position and if any previous agreement, such as the written authority, had to be revisited.
13. Whilst the vfm calculation described above forms the basis of the AO assessment Ministers are able to take wider considerations and implications into account when arriving at a decision on how to proceed with the delivery of vessel 802. These would include:
  - the potential impact on island communities from the new delivery timetable and the uncertainties of a new procurement process;
  - the impact that terminating the contract might have on our ability to secure a long-term future for the shipyard in line with original Ministerial objectives;
  - the loss of valuable skills and capabilities in commercial shipbuilding.
14. I have attached a narrative that sets out these considerations in more detail (Annex B) and this forms part of a draft response for you to consider (Annex C). This response will be required in order for the AO to approve the release of funds on Monday 15 May to FMPG.

### **Parliamentary Handling & Choreography**

15. Ministers have committed to transparency in relation to significant decisions on FMPG and have said that updates would be provided once the due diligence concluded. Furthermore, the written authority process set out in the SPFM (which incorporates the statutory requirements) sets out that once a response is received, the AO must pass copies of the request for the authority and the authority to the Auditor General and the Public Audit Committee. Once these are provided to the Public Audit Committee then they would be in the public domain.
16. Once the written authority has been provided, we would recommend that Cabinet is informed on Tuesday 16 May with the proposal to either deliver a Statement or Debate in Parliament later that week (earlier if required). This could be agreed

with the Business Bureau on 15/16 May (earlier if required) to ensure an appropriate slot as soon as possible that week. The timing of sending the correspondence required to Audit Scotland and the Parliament by DG Economy would be aligned to this schedule.

17. Ministers will wish to note that the Deputy First Minister is attending the Finance and Public Administration on the morning of 16 May which would be ahead of any possible Chamber announcement relating to the funding. This FPAC meeting will be focusing on the topic of Effective Scottish Government decision-making but there is always the possibility of questions on FMPG being tabled.
18. Should an announcement of a Statement or Debate have been made by that time the DFM may refer to that as a means of setting out the Government's decision. There could be a risk of criticism by the Presiding Officer should the DFM formally announce the Written Authority ahead of the Cabinet Secretary doing so to the full Parliament. Ministers will therefore wish to consider their preferences for this sequencing.
19. A Statement or Debate could be tabled for Tuesday afternoon and the letters published at the start of that. A Debate would clearly leave open the topic straying to much broader areas, whereas a Statement would be a shorter and more narrowly defined parliamentary process which would still provide for the necessary transparency and oversight. The Cabinet Secretary could provide a letter to Parliament on Monday once the payment has been made notifying of the decision but this would likely attract criticism of not offering sufficient transparency or opportunity for Parliamentarians to engage and could attract criticism from the Presiding Officer given the importance of the announcement.
20. On balance therefore a Statement or Debate would be optimal. With Parliament informed of the title, the DFM could refer to the plans should she be asked about FMPG at FPAC. I have set out a timeline in Annex D with a list of stakeholders that would be engaged.

### **Quality Control**

21. This submission has been approved by Director of Economic Development.

### **Conclusions and next Steps**

22. Ministers are asked to note that a decision is required this week on the funding for vessels 801 and 802, that the due diligence around the latest cost projections has been completed and that a written authority is requested to continue with the delivery of vessel 802 by FMPG (Annex A). This authority could be based on the wider benefits from such a decision that are set out in Annex B. A draft response is included in Annex C.
23. Ministers are asked to note and provide views around the options for Parliamentary handling.

24. Officials would welcome the opportunity of meeting to discuss any aspect of this advice.

Kate Hall  
**Directorate of Economic Development**

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
First Minister	X			
Deputy First Minister	X			
Cabinet Secretary for Wellbeing Economy, Fair Work and Energy	X			
Minister for Parliamentary Business		X		
Minister for Transport		X		
Permanent Secretary				
Lord Advocate				
Solicitor General				
DG Economy				
Director Economic				
Development				
Chief Financial Officer				
Legal Secretariat to the Lord				
Advocate				
Andrew Bruce				
Kate Hall				
[REDACTED]				
[REDACTED]				
[REDACTED]				
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[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
Callum McCaig				

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Colin MacAllister [REDACTED]				

**Request for Written Authority**



DGE - FMFG -  
Written Authority re

**Policy Narrative**



Project Chestnut -  
Sustainability Narrat



**Draft Written Authority from Cabinet Secretary**



Project Chestnut -  
DRAFT WA reply fro

**ANNEX D**

**Timeline**

Activity	Date
Update Submission to Ministers on draft material on written authority	10/05
AO Submission (subject to views) sent to Cabinet Secretary, DFM and FM from DG setting out the rationale and subject to the views of Ministers whether there is a requirement for Written Authority (see graphic below)	12/05
Report from commercial advisers on Capex Assessment and whether it would meet value for money and subsidy control requirements	w/c 15/05
Cabinet Secretary, FM and DFM response to AO Request	15/05
AO Assessment concluded and payment able to be made	15/05
DFM at FPAC Committee	16/05
Parliamentary Bureau Discussion	15 or 16/05
Parliamentary Handling (Statement or Debate)	TBC 16/05 – 18/05
Publication/Sending of Letters	Same time as Parliament
Stakeholder Engagement: <ul style="list-style-type: none"> <li>• Unions (SCAD)</li> <li>• FMPG (SCAD)</li> <li>• Auditor General (DG Economy &amp; CFO)</li> <li>• Arran Ferry Committee (TS)</li> <li>• CMAL (SCAD)</li> <li>• Calmac (TS)</li> </ul>	Post Parliamentary Engagement

**Public Finance and Accountability (Scotland) Act 2000 – Section 15 –  
Accountable Officers**

**15 Accountable officers**

(1) The principal accountable officer for the Scottish Administration is to designate members of the staff of the Scottish Administration as accountable officers for such parts of the Administration as the principal accountable officer may specify.

(2) There may, by virtue of subsection (1), be more than one accountable officer having functions in relation to any particular part of the Scottish Administration.

(3) The principal accountable officer for the Scottish Administration may designate a member of the staff of any body or office-holder to whom subsection (4) applies as its accountable officer.

(4) This subsection applies to any body or office-holder (other than an office-holder in the Scottish Administration) any account of whom is an account in relation to which [sections 21 and 22](#) apply.

(5) Subsection (3) does not apply in relation to the Parliamentary corporation, Audit Scotland or any other body or office-holder in relation to whom provision for the appointment of an accountable officer is made by virtue of any enactment.

(6) The functions of accountable officer designated under subsection (1) or (3) are–

(a) those determined by the principal accountable officer for the Scottish Administration, and

(b) the duty set out in subsection (8);

and the accountable officers are answerable to the Parliament for the exercise of those functions.

(7) The functions which may be determined under subsection (6)(a) include, in particular–

(a) signing the accounts of the expenditure and receipts of the part of the Scottish Administration, or body or office-holder, in question,

(b) ensuring the propriety and regularity of the finances of that part, body or office-holder,

(c) ensuring that the resources of that part, body or office-holder are used economically, efficiently and effectively.

(8) The duty referred to in subsection (6)(b) is a duty, where the accountable officer in question considers that any action which the officer is required to take is inconsistent with the proper performance of the functions determined under subsection (6)(a), to–

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- (a) obtain written authority from, as the case may be, the Scottish Ministers, the Lord Advocate or the body or office-holder in question before taking the action, and
- (b) send a copy of the authority to the Auditor General as soon as possible.

From: Kate Hall  
Directorate of Economic Development  
13 May 2023

**FIRST MINISTER**

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**CABINET SECRETARY FOR WELLBEING ECONOMY, FAIR WORK AND ENERGY**

**FERGUSON MARINE: OVERVIEW OF FORTHCOMING STRATEGIC DECISIONS AND NEXT STEPS**

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1. Immediate. To provide final advice on the decisions required to continue the delivery of vessels 801 and 802 at Ferguson Marine Port Glasgow (FMPG). This follows advice on 10 May 2023 and 21 April 2023.

### **Recommendation**

2. To consider and review the content of this submission and provide a response on the letter sent from the Accountable Officer (AO) on 13 May 2023 (Annex A). A draft is provided in Annex C. Also, to provide a view on choreography and timing of Parliamentary handling and stakeholder engagement.

### **Background**

3. The strategic outcomes sought when FMPG was taken into public ownership were to ensure completion of new lifeline ferry services (vessels 801 and 802) and secure a sustainable future for the shipyard, thereby retaining jobs and key commercial shipbuilding skills in Scotland and strengthening national resilience. Whilst the delivery of vessels 801 and 802 has been hampered by delays and budget overruns, their importance in terms of essential service and network resilience remains extant and has arguably strengthened given the increasingly ageing ferry fleet and well publicised challenges in securing temporary replacement vessels (cost and uncertainty).
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## **Value for Money Analysis**

[REDACTED]

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## **Financial Overview and Written Authority**

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### **Parliamentary Handling & Choreography**

[REDACTED]

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Development				
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DGE - FMPG -  
Written Authority re

## Policy Narrative



Project Chestnut -  
Sustainability Narrat

**Draft Written Authority from Cabinet Secretary**



Project Chestnut -  
DRAFT WA reply fro

**Timeline**

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(a) signing the accounts of the expenditure and receipts of the part of the Scottish Administration, or body or office-holder, in question,

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- (a) obtain written authority from, as the case may be, the Scottish Ministers, the Lord Advocate or the body or office-holder in question before taking the action, and
- (b) send a copy of the authority to the Auditor General as soon as possible.



From: Kate Hall  
Directorate of Economic Development  
15 May 2023

**FIRST MINISTER**

**DEPUTY FIRST MINISTER AND CABINET SECRETARY FOR FINANCE**

**CABINET SECRETARY FOR WELLBEING ECONOMY, FAIR WORK AND ENERGY**

**FERGUSON MARINE: FURTHER ADVICE AND HANDLING FOR PARLIAMENTARY STATEMENT ON 16 MAY**

### **Priority and Purpose**

1. Immediate. To provide additional advice to Ministers following the meeting with officials on 14 May and subsequent Written Authority provided by the Cabinet Secretary on 14 May, including on handling and choreography for the statement planned for 16 May. I also provide further information on the value for money assessment (in Annex A) and on written authorities.

### **Recommendation**

2. To note and provide views on the choreography of the statement.

### **Background**

3. Submissions have been provided on 21 April, 10 May and 13 May to Ministers setting out that a decision was required on the funding for vessels 801 and 802 given the due diligence around the latest cost projections has been completed. A Written Authority was requested to continue with the delivery of vessel 802 by FMPG and was provided by the Cabinet Secretary on 14 May to DG Economy with agreement from the FM and DFM.

### **Written Authority**

4. Section 15, subsection 8 of the Public Finance and Accountability (Scotland) Act 2000 sets out the duty of an accountable officer to obtain the Written Authority of the Scottish Ministers, where a proposed action is inconsistent with the Scottish Public Finance Manual; which sets out guidance to the Scottish Government on the proper handling and reporting of public funds. The PFA Act sets out the rules and the Manual sets out guidance for how these rules should be applied in practice.
5. In circumstances, such as in the case of funding for vessel 802, where Ministers believe the benefit to our communities is too important to be outweighed by the economic and efficiency tests, which underpin public spending, a written authority can be granted to allow Scottish Government to progress.

6. The use of a Written Authority is not new. The UK Government exercise their alternative on a regular basis. Since 2015, UKG have stated that 53 ministerial directions have been provided and published the correspondence in relation to them ([Ministerial Directions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/ministerial-directions)). Their most recent, published on 5 May 2023 relates to their NHS Pay Settlement, which they describe as not in compliance with their version of the Scottish Public Finance Manual, entitled “Managing Public Money”. Their Permanent Secretary described the NHS pay settlement action as “breach of Parliamentary financial controls”.
7. In Scotland successive Administrations have used Written Authorities in Scotland. A Labour Government used a Written Authority for the Campbeltown to Ballycastle ferry service due to “the project representing very poor value for money in terms of the probable costs and economic benefits”. The 5 Written Authorities provided since 1999 have been published through an FOI on the Scottish Government website and set out below.

**Table 1:** Written Authorities from Ministers to Accountable Officers: From 1 July 1999 (Scotland)

Desc.	Background	AO	Minister	Date
Campbeltown to Ballycastle Ferry Service	In the light of the financial and economic appraisals that were carried out officials had advised Ministers that, with a high anticipated subsidy requirement and a low level of forecast employment creation, the project represented very poor value for money in terms of the probable costs and economic benefits.	Nicola Munro	Wendy Alexander	29/01/02
Lifeline Air Services Glasgow & Barra	Officials advised Ministers that the savings from the withdrawal of air services out of Barra would have a positive NPV for the Sound of Barra vessel. A written authority was therefore sought to act on the Ministers' decision to continue the Glasgow - Barra air service.	Nicola Munro	Iain Gray	19/3/03
Relocation of Scottish Natural Heritage	SNH were subject to a relocation review in pursuance of the Executive's relocation policy. Their main headquarters functions are at present housed in two buildings in Edinburgh. The option appraisal showed that a move to anywhere outside Edinburgh would be significantly more expensive than the status quo.	John Graham	Ross Finnie	26/3/03
Campbeltown to Ballycastle Ferry Service	In light of the financial and economic appraisals that had been carried out officials had advised Ministers that, with a high subsidy requirement and a low level of forecast employment creation, the project did not pass the value for money appraisals applied to such proposals. (The 2002 written authority did not cover this tendering exercise – it was effectively spent at the conclusion of that tendering exercise.)	Eddie Frizzell	Nichol Stephen	30/3/05
HMP Bishopbriggs	The Accountable Officer was concerned that cancelling the competition for a PFI design, build and operate contract and beginning a new competition to design and build a prison for public sector operation would result in significant additional expenditure (because of the gap in cost efficiency between public	Mike Ewart	Kenny MacAskill	22/08/07

	and private operation) and import significant delay into the project (because the procurement process would effectively go back to start).			
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### **Parliamentary Handling and Messaging**

8. The Deputy First Minister is attending the Finance and Public Administration on the morning of 16 May ahead of the Statement planned for 1420 on 16 May. The business slot and title of the Statement will have been published on the Business Bulletin before the FPA Committee. It would therefore be appropriate for the DFM to point towards the Cabinet Secretary's Statement later in the day and not provide any further comment on current funding matters given that the title of the Statement refers to resourcing. Officials will work with special advisors and provide a line to DFM today for clearance.

### **Notifications**

9. Ministers have committed to transparency in relation to significant decisions on FMPG and have said that updates would be provided once the due diligence concluded. Furthermore, the Written Authority process set out in the SPFM (which incorporates the statutory requirements) sets out that once a response is received, the AO must pass copies of the request for the authority and the authority to the Auditor General and the Public Audit Committee without undue delay. Once these are provided to the Public Audit Committee then they would be in the public domain.
10. Comms colleagues advise that the request for the Written Authority and the response should be published at the time of Statement in order to ensure there is a strong messaging put in the public domain. In accordance with Parliamentary rules, the correspondence alongside the Statement would be provided to Opposition members approximately one hour ahead of the Statement on 16 May.
11. The Statement will have consistent language to the Written Authority as would the news release to ensure consistent and clear messages. The Statement also provides the opportunity to agree the FMPG CEO proposed revised delivery dates which he set out in a letter of 16 March 2023. These dates are 801 – Autumn 2023 with a backstop of end December 2023 and 802 – late Summer 2024 with a backstop of December 2024. As other funding has also been separately agreed in previous advice for improvements for FMPG for cyber security, internal audit and engineering analysis for potential future productivity improvements we propose these are also included in the Statement to Parliament to avoid the need for separate and subsequent notification.

[REDACTED]

[REDACTED]

## Choreography

13. As set out in the PFA Act, the AO must provide the exchange of letters relating to the Written Authority “as soon as possible”. [REDACTED]

14. Apart from the Statement title, no further details will be provided externally other than as set out above and until the Statement and correspondence is shared with Opposition Members immediately prior to the Statement in the usual way. The CFO will also share in confidence the position with the relevant contact in HM Treasury at 1320.

15. Once the Statement has concluded, the exchange of letters will be published on the SG website. The AO will also send the letters to the Public Audit Committee to meet the conditions under the SPFM. I have set out a timeline in Annex B with a list of stakeholders that would be engaged and when.

16. The Cabinet Secretary will also be provided draft correspondence to send to the NZET and PAC Committees to set out the position and the agreement on the new delivery dates. A draft will also be provided for the CEO of FMPG to set out the position and to reinforce messaging around minimising cost escalation and delivery slippage of the vessels.

## Quality Control

17. This submission has been approved by Director of Economic Development and DG Economy.

## Conclusions and next Steps

18. Ministers are asked to note the handling advice and to confirm if they are content with what is proposed.

Kate Hall  
Deputy Director  
**Directorate of Economic Development**

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
First Minister	X			
Deputy First Minister	X			
Cabinet Secretary for	X			
Wellbeing Economy, Fair				
Work and Energy				
Minister for Parliamentary		X		
Business				
Minister for Transport		X		
Permanent Secretary				
Lord Advocate				
Solicitor General				
DG Economy				
Director Economic				
Development				
Chief Financial Officer				
Legal Secretariat to the Lord				
Advocate				
Andrew Bruce				
Kate Hall				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
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[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
Callum McCaig				
Colin MacAllister				
[REDACTED]				

**Value for Money Analysis**

In September 2022, the CEO of Ferguson Marine Port Glasgow (FMPG) presented revised cost estimates for the completion of vessels 801 and 802 within the shipyard. This suggested that the cost to complete the vessels was an additional £80.5million (plus warranties) compared to the previous forecasts provided in March 2022 (Table 1). This put the costs to complete the vessels from that point to £30 million for 801 and £73.5 million for 802, of which they had existing budget cover for £23.1 million.

**Table 1: September 2022 request for additional funding**

FMPG position at September 2022	
<b>Vessel Build Costs</b> Cost incurred to Sept 2022 FCTC (including management contingency)	[REDACTED]
<b>Cost to complete as at Sept 2022</b>	
<i>Approved cost to complete assessment March 2022</i>	
<b>VFM assessment at Sept 2022</b>	

FMPG revised their forecasts in March 2023 but given historic concerns about the accuracy of such forecasts, these numbers have been interrogated rigorously both by officials and external commercial experts (Teneo). [REDACTED]

Based on this, [REDACTED]

The value for money analysis of these costs includes a comparison between completing both vessels at FMPG and the alternative option of procuring like for like vessels from an alternative source. [REDACTED]

This assessment is supported by further stress testing carried out by Teneo in March 2023.

Given the advanced stage of completion of vessel 801 and with current costs to complete the vessel of [REDACTED], the case for completion is easily made even on

the narrow value for money assessment. However, given the less developed build stage for vessel 802 and the scheduled delivery date (backstop end 2024) the equivalent value for money judgement cannot be made in respect of this vessel.

As set out in Table 2, even when the costs and delays of running a procurement for a new vessel and consequent disruption of this delay are taken into account, a financial [REDACTED] remains in respect of vessel 802.

**Table 2: Value for Money Analysis**

Options Appraisal - Financial Cost to Government			
	802	[REDACTED]	[REDACTED]
	Delivered		
<b>Vessel Build Costs</b>			
801 Cost to Complete	(22.8)		
802/Alt Cost to Complete	(76.5)		
<i>Delivery Estimate</i>	<i>Dec-24</i>		
Cost of Delayed Delivery	-		-
<b>Vessel Build/Reprocure Costs</b>	<b>(99.3)</b>		-
Net (costs)/benefits (direct only) of delivery of the vessels	[REDACTED]		
Net (costs)/benefits (indirect) of delivery of the vessels			

The HMT Green Book only allows the direct benefits (e.g. the economic benefits from delivery of the vessels in the yard) to be included in the vfm calculation. [REDACTED]

More detail on these calculations is included in the attached *Workstream 2: Draft Discussion Document* dated 18<sup>th</sup> April 2023 prepared by Teneo. This builds on and updates the figures in the fuller financial analysis included in the second document *Project Chestnut: Financial Analysis Workstream 1*, which is attached for completeness and additional background. Teneo's analysis has been carried out over an eight month period.

**ANNEX B**

**Timeline**

Activity	Date
AO Assessment concluded and payment able to be made following receipt of Written Authority for vessel 802 and confirmation from Ministers that they agree to progress with funding for 801 where a vfm case is made.	15/05
AO informs Auditor General (oral)	15/05 (1300)
DED updates FMPG CEO on BACs payment being made and Statement on 16/5 – ‘Ferguson Marine Due Diligence Update’	15/05 (TBC)
DFM and Permanent Secretary at FPAC Committee	16/05 (0930)
Statement and correspondence provided to Opposition by Minister for Parliamentary Business  CFO to inform HM Treasury in confidence  AO sends letters to Audit Scotland	16/05 (1320)
Statement	16/05 (1420)
Publication of Correspondence on website	16/05 (1430)
News Release	16/05 (1430)
AO sends letter to PAC	16/05 (1430)
Stakeholder Engagement: <ul style="list-style-type: none"> <li>• Unions (SCAD)</li> <li>• FMPG (SCAD)</li> <li>• Arran Ferry Committee (TS)</li> <li>• CMAL (SCAD)</li> <li>• Calmac (TS)</li> </ul>	Post Parliamentary Engagement



**CABINET SECRETARY FOR WELLBEING ECONOMY, FAIR WORK AND ENERGY**  
**Briefing for – Parliamentary Statement: Ferguson Marine Update**

<b>What</b>	Parliamentary Statement - Ferguson Marine Due Diligence Update
<b>When</b>	Tuesday 16 May 2023, 14:20
<b>Key messages</b>	<ul style="list-style-type: none"> <li>To set out to Parliament that Scottish Ministers continue to be committed to the delivery of two lifeline ferries at Ferguson Marine Port Glasgow. Ministers had agreed previously to updating Parliament once due diligence around the cost estimates had been completed and we have now reached that position. There is a clear value for money case to continue with 801, but the narrow value for money assessment for continuing to build 802 in the yard is not clear. However, Ministers are able to take wider economic and social benefits into account when deciding on a way forward and on the basis of these considerations have decided that a Written Authority should be given to complete vessel 802 at FMPG. In doing, Ministers considered the potential impact on island communities that would come from the delays involved in re-procurement; the impact that terminating the contract might have on our ability to secure a long-term future for the shipyard in line with original Ministerial objectives; and the loss of valuable skills and capabilities in commercial shipbuilding.</li> </ul>
<b>Official support</b>	Kate Hall, SCAD [REDACTED]
<b>Comms Activity</b>	Likely be significant media interest. Comms handling and lines are being drafted and will follow.

	Page	Annex	Description
<b>Briefing Contents</b>	1		Questions and Answers Contents
	3 - 19	A	Lines to Take - Q&A
	19	B	Summary Pages – Key Lines
	23	C	Summary Pages – Background NOT FOR PUBLIC DOMAIN
	24	D	Ferguson’s FMQ as at 10 May 2023
	32	E	Written Authority
	35	F	Policy Narrative
	42	G	Bonus Payments to FMPG Senior Management Team
	45	H	Audit Scotland Areas of Challenge – Section 22 Report
	54	I	Future Work and Pathway to Productivity
	56	J	First Marine International productivity study
	67	K	Submission to Ministers on Direct Award
	62	L	Recent Correspondence
	64	M	Submission to Ministers on Additional £6m
	68	N	Submission to Ministers on Additional £15m
	71	O	Submission to Ministers on Working Capital Loan to support BAE work
	73	P	Supplementary Information
	76	Q	Improvements to Public Body Sponsorship

## **Questions and Answers Contents**

### **1. Financial**

- Costs and Spending
- Cost Evolution Since Public Ownership
- Total Cost to Date of Two Vessels 801 and 802 – Pre and Post Nationalisation

### **2. Due Diligence**

- Length of Time to Complete
- Value for Money

### **3. Written Authority**

### **4. Delivery Timescales for 801 and 802**

- Confidence Levels
- Conflict with BAE Work
- Rumours of 801 and 802 Never Sailing
- Supporting Island Communities
- Alternative Vessels
- Vessel Constructed in Turkey
- Dual Fuel

### **5. Non-Disclosure Agreement**

- Confusion over two reports
- What was the research about and who commissioned what?
- Who requested the NDA?
- Governance and sharing the report

### **6. Bonus Payments to FMPG Senior Management Team**

### **7. Pathway to a Productive Future**

### **8. Transport Scotland**

- Inquiry into Contract Award
- Background to History on Intervention
- Cancellations
- Assessment of New Vessel Types

### **9. Project Neptune**

### **10. New Vessels**

### **11. Local Authority Ferries**

### **12. Scottish Shipbuilding Strategy**

## Questions and Answers

### 1. Financial

#### Costs and Spending

**Q: How much has this Parliament Committed to this failing shipyard to date?**

- Prior to 16 May 2023, Ministers have committed in Parliament to £143m since nationalisation. This is made up of:
  - £122m – FMPG March 2022 update cost to complete
  - £15m – December 2022 further contingency budget
  - £6m – March 2023 to cover costs incurred by the CEO for spend in 2022-23
  
- *[FMPG overspend by c£2m for FY22/23 based on their current forecast position.]*

**Q: Are there any other additional monies we should know about?**

- I mentioned in my Statement that, in the interests of continuing to support the business towards a sustainable future, we have provided funding of £120,000 for FMPG to invest in civil engineering works, internal audit service and cyber security upgrades.

**Q: Just how much has this project to build 2 Ferries evolved since Public Ownership?**

#### Cost Evolution since Public Ownership

	December 2019	August 2020	June 2021	March 2022	September 2022
801 Delivery	Oct to Dec 2021	April to June 2022	July to Sept 2022	March to May 2023	March to May 2023
802 Delivery	July to Oct 2022	Dec 2022 to Feb 2023	April to July 2023	Oct to Dec 2023	Dec 2023 to Jan 2024
Cost to complete	£110.3-£114.3m	£110.3-£114.3m	£110.3-£114.3m	£118-£122m	c£202.6m*

\*Including £6.2m contingency as set out in the NZET update letter from FMPG CEO on 22 Sept 2022.

#### Total Cost to Date of 801 and 802

##### Post Nationalisation

- The project costs to complete are currently estimated to be £202.6 million including contingency as set out by the FMPG CEO to Parliament in September 2022.
- The cost over-runs and the delay in construction of the ferries are unacceptable and we continue to ask FMPG to do all it can to bring down costs and meet the agreed delivery schedule.

##### Pre-Nationalisation:

- £83.25 million was paid by CMAL to Ferguson Marine Engineering Limited (FMEL) under the contracts of 801 and 802
- £45 million was paid in loans from Scottish Government to FMEL - £7.5m of which was used to purchase the business when bringing into public ownership

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- Scottish Government provided £6.1 million for the administration of FMEL.

**Q: The figures you provide are different to that provided to the Public Audit Committee on 22 December of 2022**

- The £277 million figure as provided to the PAC on 22 December 2022 from the CEO of FMPG is made up of:
  - £83 million in contractual payments made to Ferguson Marine Engineering Limited (FMEL) prior to public ownership
  - £122 million for completion as set out to Parliament in March 2022
  - £72 million additional request by Ferguson Marine in September 2022 to complete both vessels

**Supplementary Information**

Revised Costs to Complete 801/802							Increase
	Mar-22			Sep-22			
	Costs to Date	Costs to Complete	Total	Costs to Date	Costs to Complete	Total	March to Sept
<b>801</b>							
Direct Labour	11	2	13	14	5	18.5	5.5
Sub-contract/Materials	25	7	32	36	19	54.6	22.6
Overhead	9	2	11	13	4	16.9	5.9
SG&A	3	-	3	4	1	4.8	1.8
<b>Total</b>	<b>48</b>	<b>11</b>	<b>59</b>	<b>67</b>	<b>28</b>	<b>94.8</b>	<b>35.8</b>
<b>802</b>							
Direct Labour	6	10	16	6	14	19.8	3.8
Sub-contract/Materials	12	17	29	14	45	59.0	30.0
Overhead	6	6	12	8	9	16.7	4.7
SG&A	3	3	6	4	3	6.1	0.1
<b>Total</b>	<b>27</b>	<b>36</b>	<b>63</b>	<b>32</b>	<b>70</b>	<b>101.6</b>	<b>38.6</b>
<b>801 + 802</b>	<b>75</b>	<b>47</b>	<b>122</b>	<b>99</b>	<b>99</b>	<b>196.4</b>	<b>74.4</b>
<b>Contingency</b>							
801 contingency	0		0			2.7	2.7
802 contingency	0		0			3.5	3.5
<b>Total Programme Cost</b>	<b>75</b>	<b>47</b>	<b>122</b>	<b>99</b>	<b>99</b>	<b>202.6</b>	<b>80.6</b>

Summary		
	801	802
Build costs	94.8	101.6
Contingency	2.7	3.5
	97.5	105.1
Warranty	3.5	3.5
Total costs	101.0	108.6

Project
196.4
6.2
202.6
7.0
209.6

## **2. Due Diligence**

### **Q) What was the value for money gap for 802?**

- The value for money gap is based on an assessment of the difference between completing the vessels at FMPG and re-procuring a like for like vessel. The calculation made is based on the projections provided by FMPG, along with anticipated inflationary pressures and other legacy issues within FMPG. On the basis of this assessment, the Accountable Officer has been unable to conclude that there is a value for money case for continuing to build 802 at FMPG. I have therefore provided a Written Authority to enable completion for 802. I have asked him to review the position on an ongoing basis with the CEO of FMPG to test assumptions and challenge emerging costs, but in the interest of transparency and to provide clarity to the yard and its workforce I have issued a written authority at this stage.
- Therefore, in order to support island communities and improve the resilience of Scotland's ageing ferry fleet; retain jobs in Inverclyde, and support the future of commercial shipbuilding on the Clyde, I have issued a Written Authority to support completion of vessel 802

### **Q) will you publish it?**

- This Government continues to be committed to an open and transparent approach to our decision making process. That is why we have made this statement at the earliest possible opportunity. The Accountable Officer has discussed this with the Auditor General and we will consider what outputs we could provide to Parliament subject to commercial sensitivities. The CEO of FMPG will continue to provide quarterly updates on progress to the NZET committee.

### **Q) Will there be further cost increases above the £57.6m?**

- Our due diligence suggests that there are risks given the economic outlook and ongoing legacy design issues. This is why we have decided to issue a written authority. The CEO is undertaking a detailed review on cost to complete and will update Parliament in due course. It is critical that we focus on minimising the costs of these and we will work with FMPG on that as well as focussing on the delivery windows to ensure the vessels are delivered as quickly as possible for island communities.

### **Q. Why did due diligence taken so long?**

- This is a complex assessment and we were determined that it would be informed by the best available external advice
- Despite Ferguson Marine's core business being shipbuilding, its enterprise is funded by public money. It was therefore in the public interest for Scottish Government to undertake a thorough and detailed assessment of the revised cost estimates for delivery of the vessels.
- Teneo, a well-known expert consultancy, were commissioned in December 2022 to undertake a review to test and challenge the revised cost estimates. Woodbank Marine Limited were also appointed as technical experts to offer challenge from a maritime sector professional perspective.
- This is a complex piece of work that has drawn on a range of different commercial, technical and project management skills as well as working with a relatively new management team.
- The complex nature of the contrasting drivers between that of a public and a commercial entity, with Ferguson Marine assuming both these roles, careful consideration from range

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of advisors from a different sectors from commercial ship building and financial accounting to project management.

- **Q: Will the Results of the due diligence study be published?**
- The study is a thorough and detailed one and includes a lot of detail that is highly commercially sensitive. The Scottish Government are therefore content that it is right for the full report to remain commercially sensitive and not published in full.
- The Scottish Government is doing the right thing in protecting the sensitive contents of the report in line with the principles of the Freedom of Information Act. Section 30.c of the Act includes a provision to protect any future commercial opportunities. The release of the full report would disclose market information and place these businesses at a clear disadvantage.

**Q: Has due diligence proven that Ferguson Marine deliver value for money for Scotland?**

- Due diligence is a forensic analysis carried out by a range of financial and other technical experts to provide essential insight and understanding of risks, compliance issues and other factors essential to good decision making.
- The results of due diligence do not offer definitive answers, but rather offer insight into the risks, benefits and potential impacts of options.
- The results of the due diligence study have not altered Scottish Ministers' commitment to supporting Scotland's ship building industry on the Clyde in delivering the lifeline ferries our island communities so heavily rely on.

**Q. The 2023/24 Budget in Scotland has been under unprecedented pressures caused by the ongoing cost of living crisis. Why has a failing ship building year been awarded another tranche of millions of pounds (£57.6M ) of public money?**

- Our island communities rely on ferries for their lifeline services in the same way people on our mainland rely on the road infrastructure. The Scottish Government remain committed to delivering this essential transport infrastructure to our island communities.
- The Scottish Government is committed to the completion of the 2 vessels under construction at Ferguson Marine Port Glasgow as part of our commitment to develop a sustainable future for ship building in Scotland and on the Clyde.
- The overall financial investment made by SG in both vessels has been significant. It is now even more important that public bodies remain within allocated budgets.
- There is no blank cheque. That is why we have completed a thorough due diligence exercise and it is why we will continue to work with FMPG to monitor and challenge the expenditure and the financial forecasts of the business
- FMPG management are fully aware of the financial limitations we have in Government.

### **3. Ministerial Direction under Written Authority in accordance with the Public Finance and Accountability (Scotland) Act 2000**

**Q: Why does the Minister propose that work on Vessel 802 continues at Ferguson Marine, despite their poor record?**

- Vessel 801 is at a very advanced stage and the value for money case for finishing the vessel in FMPG is clear cut.
- We remain committed to delivery of both vessels 801 and 802 to our island communities and that is why we have granted the written authority to allow the Scottish Government to proceed with acceptance of the revised delivery dates and estimated total costs to complete for Hull 802.
- The alternatives, such as sourcing a new vessel through a fresh procurement exercise would guarantee considerable delays to island communities enjoying an improved lifeline ferry service.
- Furthermore, we must not forget the community where the ship yard resides, its diverse workforce and the local services which support the yard. Our continued commitment to supporting the delivery of the vessels is testament to our support for Scotland's shipyard sector in Inverclyde through developing a sustainable future for the yard. Work on vessel 802 maintains key skills and can provide a bridge to that sustainable future. .

**Q: What is a Written Authority?**

- Section 15, subsection 8 of the Public Finance and Accountability (Scotland) Act 2000 sets out the duty of an accountable officer to obtain the Written Authority of the Scottish Ministers, where a proposed action is inconsistent with the Scottish Public Finance Manual; which sets out guidance to the Scottish Government on the proper handling and reporting of public funds. The Act sets out the rules and the manual sets out guidance for how these rules should be applied in practice.
- In circumstances where Ministers believe the benefit to our communities is too important to be outweighed by the economic and efficiency tests, which underpin public spending, a Written Authority can be granted to allow Scottish Government to progress.
- The use of a Written Authority is not new, although, today is the first time since 2007 that a Written Authority has been awarded and only the second of this SNP Government. Labour used a Written Authority in 2002 to protect the Campbeltown to Ballycastle ferry service due to "the project representing very poor value for money in terms of the probable costs and economic benefits".
- The UK government exercise the use of a Written Authority equivalent process more frequently. Their most recent, published on 5 May 2023 relates to their NHS Pay Settlement, which they describe as not in compliance with their version of the Scottish Public Finance Manual, entitled "Managing Public Money". Their Permanent Secretary described the NHS pay settlement action as "breach of Parliamentary financial controls".

## **Delivery Timescales for 801 and 802**

### **Q. What are the timescales for 801 / 802?**

- The CEO's update to the NZET committee on 16 March FMPG's set out the following proposed delivery dates:
  - 801 delivery now expected **Autumn 2023** with backstop contract date of 31 Dec 2023 with trials over the summer months.
  - 802 delivery **Autumn 2024** with backstop contract date expected by 31 Dec 2024.

### **Q. What is your confidence levels in the delivery timescales?**

- We expect these milestones can be achieved through the hard work of Ferguson's Senior Management Team and their dedicated workforce with CMAL, CalMac and the Scottish Government's sponsorship team in support.
- I confirmed in my Statement today our acceptance of these timeframes and I will write to the CEO to confirm this.

### **Q. Will the work that Ferguson Marine is doing with BAE Systems affect the timeline for completion of 801/802?**

- No. The CEO of FMPG has assured us that the work for BAE will not affect the delivery timeline of the ferries. Delivery of the ferries remains the top priority of Scottish Government and Ferguson Marine.

### **Q. Is the Government delaying the inevitable, there's been rumours that both these boats will never sail. How can you reassure islanders that they will not be left marooned?**

- We have assured the Scottish public since we took control of Ferguson Marine that we will provide the lifeline ferries that are so desperately needed. We know the workforce at FMPG want this too, it is up to us all to get behind the workforce, the Island communities and deliver these vessels.
- Calmac teams are already on site at Port Glasgow working alongside Transport Scotland and CMAL planning for the vessel coming into service on the Arran route – initially operating out of Troon.

### **Q. Given these delays, what are Scottish Ministers doing to support Island Communities in the meantime?**

- We are delivering 6 new major vessels in the life of this Parliament as well as the purchase of the MV Loch Frisa that has been in service on the Mull route since last summer.
- We are investing almost £700m to support the improvement in the fleet and this will also allow investment in the small vessel replacement programme.
- Whilst I recognise that these vessels will take time to deliver, we are also investing in resilience funding of at least £4m per year for each of the CHFS and NIFS services to maintain the existing fleet and continue the search for additional tonnage that can be chartered in the short term.
- Transport Scotland and Calmac are also looking at opportunities to potentially offer greater access to those with essential travel needs to our islands that should help aid those more pressured routes at peak times.



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**Q. Can the Minister confirm what vessels are being considered for potential charter to aid the current situation? Will the MV Pentalina be made available as soon as possible?**

- I have been clear that we will seek opportunities to charter additional tonnage and I would assure the chamber that work is ongoing in this area as a matter of priority.
- Whilst I realise there is a lot of talk about the potential options, I cannot provide specific details on what are commercial negotiations. I would however note that I expect these to conclude imminently, and we will provide further details on this as soon as possible.

**Q. Does this mean 802 will be delivered after the first of the new vessels coming from Turkey?**

- It is important to note that the dates given by the yard are the latest contractual dates for delivery and that all efforts are being made to better this where possible.
- However, based on the current projected dates for the delivery of the first Islay Class Vessel from Cemre in October next year.

**Q. Is the CMAL/Calmac preference that the vessel enters service as Dual Fuel adding to the delays in the vessel being delivered?**

- No, this is not the case. The letter from the Ferguson Marine CEO cites a number of reasons for the change in vessel delivery dates – including dealing with legacy design issues and allowing an extensive testing and trials programme to give added confidence in the project.
- This also avoids a scenario where the vessel would then need to be taken out of service at a later date for installation causing disruption to communities.

## **4. Pathway to a Productive Future for Ferguson Marine**

### **Q. Does Ferguson Marine have a business plan?**

- Since public ownership of the Shipyard, the Management team and workforce have rightly focused on the delivery of 801 and 802. The challenges of building two new design ferries are well documented. In recent months the yard has won work to support the fabrication of the naval vessels under construction at BAE systems. This is developing workforce skills to support future productivity and is part of the business plan.
- In 2022, Scottish Government commissioned a study from First Marine International about the yard. This provided recommendations on areas of improvement that could increase the yard's competitiveness when bidding on future work. We understand that the recommendations within this study informed the development of Ferguson Marine's business plan.
- The Scottish Government have now been given sight of Ferguson Marine's draft business plan, which we are considering.

### **Q. Has Ferguson Marine requested CapEx spending as part of its business plan?**

- Ferguson Marine has provided Scottish Government with a formal request for capital investment as part of its plan to make the shipyard more competitive. This request is currently being evaluated.
- Any request for funding will of course be subject to assessment of value for money and subsidy control impacts and Parliament would be updated in due course.

### **Q. Scottish Government Ministers have indicated that they want a sustainable future for Ferguson Marine. How does the Government expect the yard will achieve this?**

- Our priority is for 801 and 802 to be delivered and that is why we are directing Parliament that the latest delivery dates and cost estimates be contractually agreed by Ministers.
- No decisions have been made regarding the long-term future of the yard. This will depend on a number of factors, including how its future order book evolves.
- We continue to work with the yard to do everything we can as shareholder to ensure that Ferguson Marine has a sustainable order book and future.
- We know that the shipyard is actively pursuing many streams of future work and we will continue to support them in any way we can to secure new contracts and a sustainable future for commercial shipbuilding in Scotland.

### **Q. Why not directly award vessel contracts to Ferguson Marine? Doesn't Scottish Government's failure to do so indicate that it does not believe in the yard?**

- Direct award is only possible in limited circumstances under procurement rules.
- Breaching these rules could lead to legal challenge costing the taxpayer and causing delay.
- We will consider future vessel contracts from public agencies on a case-by-case basis and whether any might be legally open to direct awards.
- The best way for Ferguson Marine to win future work, whether through commercial or public sector routes, is to improve its competitiveness.
- We continue to work with the yard to do everything we can as shareholder to ensure that Ferguson Marine has a sustainable order book and future.

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**Q. The Cabinet Secretary for Wellbeing commented to Committee on 10 May that he wanted FMPG to return to the private sector “as quickly as possible”. Is this just the Scottish Government cutting and running when the going gets tough?**

- It has always been the intention of the Scottish Government to return Ferguson Marine to private ownership – indeed, this was made clear when we announced that the yard was to be taken into public ownership.
- We are committed to securing a sustainable future for the yard and any deal would need to work for the yard’s employees and the taxpayer.
- Any decisions around future ownership would be based upon circumstances at the time, including how Ferguson Marine’s order book evolves.
- We are aware of the concerns raised by the GMB union and continue to stand behind the Ferguson Marine workforce.

## **5. Ferguson Marine’s Non-Disclosure Agreement with First Marine International**

- There was no non-disclosure agreement entered into between Scottish Government and First Marine International (FMI) with regards to the FMI report on Ferguson Marine commissioned in 2022.
- A public interest test, undertaken as part of a Freedom of Information request, concluded that disclosure of the report would be likely to substantially prejudice the commercial interests of FMI and Ferguson Marine.
- The FOI exemption applied to this work is due to the commercial sensitivity of a business that was contracted by Scottish Government to provide a commercial study into potential productivity and efficiency investments. The company involved is a global shipyard consultancy and the information they provide is protected by their own intellectual property.
- Scottish Government did not sign an NDA, and we were the contracting authority of the second report.
- Scottish Government is aware of a previous report, which Ferguson Marine (not SG) commissioned First Marine International to write in 2020-2021. For the avoidance of confusion, Scottish Government did not sign an NDA in relation to this first report either.

### **Q: Scottish Government and FMPG seem to be at different positions on the same work, does anyone know what is happening?**

- Scottish Government contracted with FMI. The discussion released in the FOI response relates to a contract implementation meeting where the use of an NDA was discussed. Government officials were content with our use of FOI exemptions to protect commercial sensitive information whilst conforming to all other parts of the FOI legislation.

### **Q: What was the research commissioned about?**

- The report is focused on identifying actions that could be taken by FMPG to support productivity gains.

### **Q: Who asked for the NDA and why?**

- The NDA which has been raised in the media was between Ferguson Marine and First Marine International, despite the contract being between the Scottish Government and First Marine International. We therefore cannot answer who asked for the NDA as the agreement appears to be between FMPG and FMI.

### **Q. Governance around signing off on it within Fergusons.**

- Again, we were only made aware of the NDA on 26 April and as the agreement was signed between FMPG and FMI so we did not have knowledge of what governance arrangements were considered by FMPG before this was agreed. The Scottish Government were not consulted.

### **Q: Does this really show that Scottish Government does not respect the public interest test?**

- On the contrary, Scottish Government were more than comfortable with the regulation of the information. We have provided as much detail as is appropriate at this time. We continue to support the work of the office of the Scottish Information Commissioner.

## **6. Bonus Payments to FMPG Senior Management Team**

### **Q. Are Ministers concerned that Bonuses worth £87k in 2022 and then a further £23k was given out in taxpayers money to Ferguson’s Senior Management Team?**

- The bonus structure of Directors and the Senior Management Team at Ferguson Marine is a matter for the CEO who has responsibility for the pay structure of staff, recognising they operate in a commercial environment and balancing this with being able to deliver the company’s remit economically, efficiently and effectively within the resources he has available.
- Scottish Government officials are working with the Chair of FMPG Board who is leading a review of governance structures in FMPG, which includes a review of remuneration packages for the senior management team. This review is designed to address concerns raised by Audit Scotland.
- As Ferguson Marine is a public Body, there is guidance to support them regarding pay and remuneration for staff. It is concerning however, that the Scottish Government was not consulted before performance bonuses were previously set for senior managers. We are confident that Ferguson Marine do now understand what is required in this regard.
- The bonus structure for the CEO was reviewed by the Scottish Government prior to his appointment, informed by a robust market analysis to ensure that his remuneration package was reasonable for a commercial appointment.
- The Framework Agreement overall remuneration package for the CEO is reviewed annually by the Scottish Government with the recognition that as commercial shipbuilder remuneration rates are likely to differ from usual public sector appointments.

### **Q: Are Ministers concerned that further bonuses have been given out in taxpayers money to eight Senior Management Team personnel. What is being done to address this issue?**

- Yes. As John Swinney made clear in his statement to Parliament in March, we don’t think these bonuses are appropriate. Indeed he called them “reprehensible”. He was right.
- Ministers have made that clear to Ferguson’s and, as John Swinney again made clear in March, work was initiated then to assess what actions we could take to address this situation.
  - **[If needed,** John Swinney told Parliament in his statement on the bonuses: “I find them reprehensible, and we are assessing what actions we can take in that respect.” *John Swinney, Official Report, 16 March*]
- The Chair of FMPG, who only took up post in December last year, is leading work to implement more appropriate pay and governance arrangements. In doing so, he will respect the requirements of operating within the public sector and the need to lead an Organisation that looks to compete for talent in a commercial environment.
- That work is progressing and we are confident that no future commitment to bonuses will be made.

### **Q. The Former Deputy First Minister (Mr. Swinney) was clear in his language to Parliament on 16 March that he found bonuses to be unacceptable, and that the Scottish Government was working to ensure such an eventuality did not arise in future years. Why have further payments now been made?**

- John Swinney was clear that work was underway to make sure no further commitments to inappropriate bonuses was made. He told Parliament explicitly, “we are assessing what actions we can take in that respect.” That work is nearing completion.
- As everyone knows, however, government cannot breach people’s employment contracts, no matter how much we wish the commitment to bonuses had not been made..

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- What we can and are doing – as John Swinney made clear to Parliament – is we will not agree to new commitments to be made.
- The payments made in April and this coming June are legacy contractual entitlements made in November 2022 without Ministerial knowledge and form part of the same bonus structures previously in place. They cannot legally be avoided. We have looked at every possible option but the simple truth is the payment of bonuses for 2022/23 is contractually unavoidable.
- I am confident that the Chair is clear about Ministers' views in setting out his plans for the future remuneration of staff and this process has already commenced.

**Q. When did the Scottish Government find out about bonus payments in relation to 2022/23?**

- In February 2023 in the context of preparation by the auditors for the 21-22 Annual audit report and after a contractual commitment had been made by Ferguson's.

The following bonus have been paid out [broken down per year, since 2018

18/19	1 staff member	£48.8k
19/20	9 staff members	£135k
20/21	0 staff member	£0
21/22	6 staff members	£87.9k
22/23	8 staff members	£47,218*

\*Paid in 2 instalments in April and June

**Q. The vessels are well overdue with the 801 only being delivered at the earliest, by the end of 2023. Why have these payments been made when the vessels are overdue and not yet complete?**

- Despite every effort being made to ensure that no bonuses were paid in 2022/23, the payment of bonuses for 2022/23 is contractually unavoidable.
- The basis of bonus payments to senior management were agreed in November 2022 by Ferguson's without consultation with the Scottish Government.
- Staff were then advised and this created a legally binding commitment.
- We would have expected to have been consulted prior to this decision being taken by Ferguson's in November 2022, in accordance with good governance practice.

**Q. The former FM indicated that a stop was being put on bonuses so what action has been taken to ensure such payments can't happen from 23-24 onwards?**

- The Chair has is leading a programme of work within FMPG to put in place new arrangements for the future. to .
- I am confident that the Chair is clear on Ministers' views of this in setting out his plans for the future remuneration of staff and this process has already commenced.

**Q. Did SG agree/have sight of the employment contracts that have led to the contractually unavoidable bonuses?**

- The bonus structure of the CEOs Senior Management Team at Ferguson Marine is a matter for the CEO who has responsibility for the pay structure of staff, recognising they operate in a commercial environment and balancing this with being able to deliver the companies remit economically, efficiently and effectively within the resources he has available.
- The bonus structure for the CEO was reviewed by the Scottish Government prior to his appointment and agreed with Ministers. The package informed by a robust market analysis to ensure that his remuneration package was reasonable for a commercial appointment.

## **7. Transport Scotland**

### **Inquiry into the contract award**

- Transport Scotland/Scottish Government continue to support the work of the Public Audit Committee in its Inquiry into New Vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802.
- We will consider and respond to the Committee's final report once available – which we understand will be some time next month.
- CMAL has appointed a KC to undertake its own investigation into the Disclosure Scotland allegations and this work is underway – we don't currently have a timeframe for completion of this work but CMAL is keen to complete this as soon as possible given seriousness of the allegations.
- Transport Scotland is undertaking its own internal review of its paperwork around the time of the procurement to establish whether there is any relevant material on this matter – noting the CMAL was the procuring authority and TS did not have a direct role in the procurement.

### **Background on the history of the intervention.**

- In 2015 FMEL bid for and are awarded a £98.5m contract by Caledonian Maritime Assets Limited (CMAL) for two ferries referred to as Hull No 801 (the MV Glen Sannox), and 802
- The initial contracted delivery dates for 801 and 802 were May 2018, and July 2018.
- FMEL suffer from financial difficulty and entered into administration in August 2019.
- Ferguson Marine (Port Glasgow) Holdings Ltd (FMPG), was then formed, Ferguson Marine (Port Glasgow) Limited took management control of the shipyard on behalf of the Administrators on 16 August 2019. During this period the decision was taken to nationalise the shipyard with FMPG now wholly owned by Scottish Ministers.
- The Scottish Government's intervention saved Ferguson Marine from closure, rescued more than 300 jobs and ensured the 2 vessels under construction will be completed
- The build programme is a "first of class" design which has contributed to a catalogue of design flaws and build inefficiencies. This has continued to result in further cost and timetable challenges in the post nationalisation period.
- To support the assurance process of the build Scottish Ministers are also supported by CMAL who act as our technical advisors and have highlighted how the build status of the vessels have historically been overstated.
- In February 2022 David Tydeman (DT), was appointed as Chief Executive Officer (CEO), of FMPG following the resignation of the previous CEO, Tim Hair, who was appointed after the administration in 2019.
- During the new CEO's tenure he has been able to conduct a thorough review of the business which has resulted in the strengthening of the senior management team, an improved operational reporting process, increased accountability and has reviewed the assumptions made on the total cost to complete (TCTC), and planned delivery dates for 801 and 802.

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**Ongoing technical issues with vessels resulting in cancellation of sailings.**

- We recognise that every cancelled sailing can have a significant impact and continue to work with operators and CMAL to improve reliability and resilience across our networks.
- This is not just about transport performance in itself. It's about delivering the confidence needed to sustain island populations.
- In 2022 there were over 170,000 scheduled sailings across the CHFS network and 11,301, around 6.6%, of these were cancelled. Over half of the cancelled sailings were due to weather related issues. Around 16% of the cancelled sailings (1.1% of the total scheduled sailings) were due to technical issues with vessels.
- Regrettably there are communities who have been more greatly impacted than these average figures show and we fully recognise the need to improve reliability and confidence in services.

**Assessment of new vessel options for routes across our networks is led by CMAL, Transport Scotland and the relevant operator.**

- I have no fixed view on the size or type of vessels.
- Decisions on the procurement of new and second-hand tonnage has to take account of a number of issues, balancing the needs of individual routes with the needs of the networks as a whole – including the inter-operability of vessels and ports.
- As part of the design process CMAL appoint naval architects and technical consultants to consider and advise on vessel and route specific issues.
- Various hull forms, propulsion options, fuel types, and onboard arrangements are considered and assessed as part of the design process.
- Engagement with communities, businesses and representative groups is essential, and it is maintained throughout the process.
- Regular engagement and public webinars, including Q&A sessions, are used to be as transparent and open as possible to community and stakeholder views.
- The Ferries Communities Board previously highlighted to the Rural Economy & Connectivity Committee that the Islay consultation process was a model that should be built upon moving forward. This view has been echoed by Islay's own Ferry Committee.



## **8. Project Neptune**

- The purpose of Project Neptune was to reflect on the governance arrangements between these organisations, having regard to the overarching objective of effective, efficient and economic delivery of lifeline ferry services to enhance passenger experience and support the local island economies. Although focused on the Clyde and Hebrides Ferry Services (CHFS), there are potential implications for the Northern Isles Ferry Services (NIFS) and these will be considered in the options.
- The report presented by the independent consultant sets out a range of longer term options and no decision has been taken on these, other than those already ruled out around privatisation or unbundling of the Clyde & Hebrides network.
- Community engagement on the report is currently being undertaken by Angus Campbell, currently chair of the Ferries Communities Board for the Clyde & Hebrides. He has already visited Bute, Cumbrae and Arran and I was able to join him for meetings on Islay recently.
- The Transport Minister recently arrange a presentation of the report to members by the consultants and would welcome any reflections from the Committee today and in its final report.

## **9. New Vessels**

### **Accelerating replacement of major vessels in the ferry fleet.**

- CMAL announced the contract signing with Cemre Marin Endustri.
- These ferries are intended for deployment on the Skye triangle routes to Lochmaddy and Tarbert, delivering dedicated services to communities in the peak season rather than the shared vessel operation currently in place.
- This will create the opportunity for significantly increased capacity and resilience for the communities of the Western Isles throughout the year.
- The new vessels will also allow consideration of options to deploy Vessel 802 on an alternative route, including potentially alongside her sister ship, the MV Glen Sannox, to provide additional capacity to and from Arran in the peak season.

## **10. Local Authority Ferries**

### **Revenue Funding:**

- As confirmed by the Deputy First Minister in his Budget speech, the Scottish Government has committed to continue fully funding the operation of local authority ferries in 2023-24.
- I recognise the challenge for local authorities that have responsibility for ferries. The Scottish Government has provided more than £136m over the last 5 years to support the running of these services.

### **Capital Funding:**

- The Deputy First Minister has set up a Task Force to progress the process for replacing Orkney Island Council's own ferry fleet.
- I attended the first meeting of the Task Force last month – this was a constructive discussion and I look forward to the next meeting in April.
- Officials from Scottish Government and Orkney Islands Council are also meeting at least monthly to progress actions.
- DFM has also offered to meet with Shetland Islands Council to discuss its ferry fleet and will meet with delegates from Shetland in March.

## **11. Scottish Shipbuilding Strategy**

**Q: Why does the SG not have a dedicated strategy for re-invigorating shipbuilding in Scotland?**

- We already have the National Strategy for Economic Transformation which sets our direction for the next ten years in manufacturing as part of a commitment to growing the wellbeing economy.
- Our focus is on delivering the actions flowing from that, rather than the development of what business might term as “yet another strategy”.
- If there is a genuine appetite on the part of the industry in Scotland for a dedicated Scottish shipbuilding industry, then, of course, we would always be open to exploring that with them. However, members will be of course aware that the UK Government published the refresh to its National Shipbuilding Strategy a year ago. The mood of the industry is currently that they do not wish another addition to the strategy landscape whilst one is already running. I would, therefore, in this instance be inclined to listen to the wishes of business. But we will be monitoring the progress of that strategy closely.

## **SUMMARY PAGES**

### **Key Lines**

#### **Scottish Ministers' Strategic Objectives**

- We are committed to the completion of MV Glen Sannox (801) and Hull 802; to securing a sustainable future for the yard and supporting our island communities that rely on this type of vessel on a daily basis.

#### **Written Authority to Proceed with Hull 802**

- Due diligence has been conducted upon the revised estimated delivery timescales and estimated total costs to complete for vessels 801 and 802
- The latest estimated timescales and estimated total costs to complete MV Glen Sannox (801) are accepted by Ministers and we look forward to welcoming our island community residents on board very soon.
- I am satisfied of the regularity and propriety of completing vessel 802 in line with the existing contract
- However, our due diligence work on the projected costs from now until the completion of vessel 802 compared to the alternative of re-procuring the vessel from elsewhere makes it difficult to gain sufficient assurance that value for money, as determined by the PFA Act, can be achieved. A range of inflationary pressures, supply chain issues and an uncertain economic outlook have been considered as part of this work.
- Scottish Minister's judgment is that maintaining our commitment to island communities to deliver both the lifeline ferries satisfies the public interest test where the value of the efficiency, effectiveness and the economic benefit of use of resources is challengeable
- Ministers have therefore granted the written authority dated 14 May to accept the revised timescales and costs for the delivery of Hull 802.

**FMPG returning to the private sector**– noting Cabinet Secretary for Wellbeing's comments to Committee on 10 May that this would happen "as quickly as possible".

- It has always been the intention of the Scottish Government to return Ferguson Marine to private ownership – indeed, this was made clear when we announced that the yard was to be taken into public ownership.
- We are committed to securing a sustainable future for the yard and any deal would need to work for the yard's employees and the taxpayer.
- Any decisions around future ownership would be based upon circumstances at the time, including how Ferguson Marine's order book evolves.
- We are aware of the concerns raised by the GMB union and continue to stand behind the Ferguson Marine workforce.

#### **Value for Money**

- The Scottish Government has concluded due diligence on the delivery of 801 and 802, based on the £57.6m Ferguson Marine forecast spend for 2023/24. Our assessment has drawn on expert commercial and technical advice and considered a range of inflationary, supply chain and other pressures. The results of this work have informed Ministers' decision to issue the necessary authority to continue to build vessel 802 at FMPG.

# **CABINET SECRETARY FOR WELLBEING ECONOMY, FAIR WORK AND ENERGY**

## **Briefing for – Parliamentary Statement: Ferguson Marine Update**

### **Delays and Cost**

- The completion of MV Glen Sannox (801) and Hull 802 have been beset with ongoing delays and increased costs.
- The current longstop dates are December 2023 for 801 and December 2024 for 802.
- Current estimate of total cost to complete is £202.6 million.

### **Governance Improvements**

- Scottish Government officials are working in partnership with FMPG to refresh the Framework Document and developing standard operating procedures and protocols as tools in increasing clarity on ways of working – setting expectations between the parties. Strategic Assets Review Group (SARG) will be used to channel decision making around governance protocols and procedures.
- SARG was set up in May last year to increase Scottish Government's scrutiny and assurance to drive up delivery confidence and better manage financial interests in our strategic commercial assets. Its membership includes and Senior Officials, including the Permanent Secretary.
- SARG will also be used in the development of policy around the governance improvement programme in relation to strengthening the network of relationships between the sponsorship team, FMPG, CMAL and CalMac.
- The recent appointments to the FMPG Senior Management Team are a welcome introduction of relevant talent both from commercial shipbuilding sector as well as the public sector landscape.
- Action is being taken to replace the Non Executive Directors who have recently resigned. The recruitment exercise will target talent with experience in the public sector as well as commercial industry.

### **Bonus Payments to Senior Management Team**

- Audit Scotland highlighted the process surrounding payment of bonuses to FMPG senior management team in 2021/22 as an issue in their Section 22 Report published in March 2023.
- The report confirmed that the Scottish Government was not consulted prior to decisions made by the FMPG Remuneration Committee and commented that good governance practice would have expected that they should have.

### **Public Sector Pay Policy**

- Whilst, the Public Sector Pay Policy does not formally apply to Ferguson Marine Port Glasgow Ltd (FMPG), there is an expectation from Ministers that FMPG will align their remuneration policies with the Scottish Public Finance Manual (SPFM) and notify the Scottish Government of any potential deviations from the SPFM.
- The Chair of FMPG is leading a programme of work to review remuneration packages for all senior management, including the CEO applicable from 2023/24.
- It is recognised that the commercial nature of ship building needs to be reflected in how senior staff are remunerated and their skills retained. We are confident that the Chair will ensure he is mindful of this in setting out his plans for the future remuneration of staff.

### **Transparency of Public Body**

- The Scottish Government is committed to transparency and has proactively published more than 200 documents on its website.

**BACKGROUND PAGES – NOT FOR PUBLIC DOMAIN**

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**10 May:** STV News/GMB writes to CabSec following his report during EFWC that Scottish Ministers intend to return FMPG to private ownership.

**1 May:** Daily Mail reports confusion on whether FMPG, CMAL or SG funds £1.6m bill for crew costs for 801/802 despite these vessels never having set sail.

**27 April:** DFM to NZET updating around progress made in improving governance around remuneration at FMPG following issue of bonuses raised in S22 Report published 14/03.

- The CEO has foregone his bonus payment of £39,344 for 2022/23 pending a review of his remuneration package.
- Remuneration packages from 2023/24 aim to exclude any performance related bonuses linked to delivery of vessels MV Glen Sannox (801) and Hull 802.
- PAC take evidence from AGS on his S22 report, 2021/22 audit of FMPG.
- DG Economy and CEO FMPG called to provide evidence to PAC on 1 June.

**26 Apr:** Scotsman reports on a non-disclosure agreement between FMPG and First Marine International (FMI) around a productivity study of the yard. A public interest test concluded that disclosure of the report would likely prejudice the commercial interests of FMI and FMPG.

- The Times (Scotland) 37 convener of PAC asked if review of future options for the Ferguson Marine is the same review, subject to a non-disclosure agreement, commissioned by the shipyard's board from the private sector. Two separate reports commissioned separately.

**22 Mar:** Publication of Public Audit Committee Report on arrangements to deliver vessels 801 and 802 (see Annex A for recommendations)

**21 Mar:** The Scotsman reports that the MV Glen Sannox will require two months of 'familiarisation and network trials' creating further delays.

**16 Mar:** Significant media attention following DFM Statement on FMPG, with emphasis on payment of bonuses and delays to 801/802. DFM statement

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## **BONUS PAYMENTS TO FMPG SENIOR MANAGEMENT TEAM**

### **Background**

- bonuses paid to date prior to 22-23 and post government ownership bonus payments have totalled just over £600k.
- For the Financial year of 2021-22 bonuses of £87k have been paid to senior managers.
- For the current Financial Year, 2022-23 bonuses of £95k (in total), have been communicated to staff with payments due in April and June 2023.
- These are based on contracted arrangements.
- Since the new Chair of the Board has been appointed, he is reconstituting the remuneration committee and will be engaging with SG going forward to avoid a repeat of this situation.

### **Lines**

- Following the Former Deputy Ministers Statement on the 16 March 2023, officials have had regular dialogue with the Chair of the Ferguson Marine Board on future bonus arrangements.
- During the course of these discussions, the Scottish Government were made aware of the proposed level of remuneration 2022/23 bonus arrangements for 9 members of Senior Staff, which included the CEO of Ferguson Marine.
- From this engagement, officials learnt that out of a possible 7 metrics applicable to vessels 801 and 802, only the metric relating to dry dock work or basin trials for 801 is considered achieved.
- The total bonus payments include £5,258 associated with a target around a successful dry docking of vessel 801.
- Confirmation that the CEO did not receive a bonus during April payment has been received whilst his overall Remuneration Package is currently under consideration.
- Ministers expressed significant concern at any bonus payments being made and are clear that payments of bonuses in relation to progress on 801 and 802 are in principle indefensible, however understand the legal constraints due to contractual obligations.
- The Chair has indicated that he plans to seek to engage with the remainder of the SMT on future arrangements.

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**AUDIT SCOTLAND SECTION 22 REPORT FMPG AUDIT OF ACCOUNTS  
2021/22**

**PREVIOUS ADVICE TO MINISTERS**

[REDACTED]

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## FUTURE WORK & PATHWAY TO PRODUCTIVITY

### Top Lines

- The yard has already delivered improvements across the business, including new processes and systems and a more experienced and skilled team.
- We will continue to work with the yard to understand what potential opportunities there are to make efficiency improvements in both the short and long term to increase competitiveness.
- Ferguson Marine has been on a turnaround journey since Scottish Government saved the yard and we recognise that investment considerations are part of that journey.
- All Scottish Government investment is subject to subsidy control rules and needs to demonstrate value for money.
- Operational decisions on which vessel opportunities to pursue are for the Ferguson management team and Board of Directors. SG will do all we can as Ferguson Marine shareholder to help the yard secure those opportunities.
- Given the scale of the Scottish Government's long term investment programme for new ferries and infrastructure, supported in the first 5 years by £580 million, there will be future opportunities for the yard to bid for vessels for CMAL.
- Scottish Government will do all it can within the constraints of procurement law and subsidy control to support the business to be successful and maintain its proud tradition.

### **In line with recommendations from Audit Scotland, we commissioned an independent assessment of Ferguson Marine's productivity to inform a business case for capital investment.**

- The assessment evaluated what possible improvements can be made for the yard to be more efficient, competitive and to win contracts on merit.
- The assessment was undertaken by shipyard industry experts, First Marine International, and reported back to Scottish Government in December 2022.
- This report will inform future decisions about further investment in the yard.
- Any decisions around potential investment at the yard will be subject to subsidy control rules, need to demonstrate value for money and of course be open to Parliamentary scrutiny.

### **Direct award is only possible in limited circumstances under procurement rules.**

- Breaching these rules could lead to legal challenge costing the taxpayer and causing delay.
- We will consider future vessel contracts from public agencies on a case-by-case basis and whether any might be legally open to direct awards.
- The best way for Ferguson Marine to win future work, whether through commercial or public sector routes, is to improve its competitiveness.

### **BAE Work:**

- FMPG have negotiated an agreement with BAE Systems to second workers to BAE Govan to work on the Type 26 frigate programme. Seconded numbers are around 20. This work is expected to last until 30 June 2023.

- Ferguson Marine recently commenced a larger scale phase of work for BAE involving the fabrication of three steel units at Port Glasgow, again in support of the Type 26 programme.
- We welcome the securing of these projects which show that Ferguson Marine is back to being a serious contender for future work. Such diversification helps to support the knowledge transfer and upskilling of the workforce across the industry. That is an important factor to ensure that those skills support the shipyard to be competitive in aspiring to future contracts.

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## Correspondence

<b>Request for Written Authority from DG Economy 13 May 2023</b>	 DGE - FMPG - Written Authority rec
<b>Letters from FMPG CEO to NZET Committee</b>	
<b>23 March 2022</b>	 23 March 2022 FMPG CEO to NZET C
<b>28 September 2022</b>	 28 September 2022 FMPG CEO to NZET C
<b>22 December 2022</b>	 22 December 2022 FMPG CEO to NZET C
<b>16 March 2023</b>	 16 March 2023 FMPG CEO to NZET C
<b>Letters of Comfort</b>	
<b>From former DFM to NZET 15 December 2022</b>	 Letter to Convener NZET Committee 151
<b>From to Former DFM to FMPG CEO 16 December 2022</b>	 Letter to David Tydeman CEO FMPG

## Letter from FMPG CEO to Scottish Government 2 March 2023



Newark Works  
Castle Road  
Port Glasgow  
Renfrewshire, PA14 5NG  
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E. [info@fergusonmarine.com](mailto:info@fergusonmarine.com)  
[www.fergusonmarine.com](http://www.fergusonmarine.com)

THE SCOTTISH MINISTERS  
VICTORIA QUAY,  
LEITH,  
EDINBURGH  
EH6 6QQ

2 March, 2023

Dear Sirs

New Build Shipbuilding Contract for "Hull 802", dated 22 March 2021

I refer to the Shipbuilding Contract for "Hull 802" dated 22 March 2021, between Scottish Ministers and Ferguson Marine (801-802) Limited (FMPG).

The Contractual Date of Delivery stipulated in Box 10 of that Contract is stated as being 8<sup>th</sup> December 2022 and was amended to 31<sup>st</sup> March '24 in accordance with Clause 39 (a) of that contract and made public, following a board meeting 22<sup>nd</sup> Sept '22, by letter to the NZET Committee 28<sup>th</sup> Sept '22, and in reports and letter to yourselves 23<sup>rd</sup> Sept '22 and 8<sup>th</sup> Dec '22.

Following a meeting of the board of FMPG today, 2<sup>nd</sup> March 23, meetings with yourselves & CMAL, together with a review of the programme necessary to achieve handover of Glen Sannox with a dual-fuel capability in accordance with the specification, FMPG set outs a revised estimated latest delivery date for Hull 802 of 31<sup>st</sup> December '24.

This new delivery date is a reasonable estimate by Ferguson Marine (801-802) Limited of the date when the Vessel will be ready for delivery, and given no objections have been received within the stipulated 15 days within the contract, we are proceeding on the basis that the new estimated delivery date is agreed by you as the 'Buyer', and the new date of latest 31<sup>st</sup> December '24 replaces the amended contract date of 31<sup>st</sup> March '24 set out to you during Sept-Dec '22.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Tydeman', written over a horizontal line.

David Tydeman  
CEO



Registered in Scotland No. SC638508  
Registered office: Ferguson Marine (801-802) Ltd.  
Newark Works, Castle Road  
Port Glasgow, Renfrewshire, PA14 5NG

## PREVIOUS ADVICE TO MINISTERS

### SUBMISSION OF £6 MILLION CAPITAL FUNDING FOR 2022/2023 FY

#### FERGUSON MARINE PORT GLASGOW - £6 MILLION CAPITAL FUNDING REQUIRED TO COVER FERGUSON MARINE CAPITAL SPEND ON VESSELS 801 AND 802 UNTIL THE END OF THE FINANCIAL YEAR 31 MARCH 2023 AND ASSOCIATED PARLIAMENTARY HANDLING

#### PRIORITY AND PURPOSE

1. **IMMEDIATE:** This submission seeks the Deputy First Minister's views and agreement to £6 million capital funding to cover Ferguson Marine capital spend on vessels 801 and 802 until the end of the financial year ending 31 March 2023. This is in addition to the £15 million contingency spend, which has already been approved and announced by the DFM on 15 December 2022 in the 2023-24 Budget Statement.
2. The submission seeks agreement to the £6 million capital funding spend and associated handling of this announcement.

#### RECOMMENDATIONS

3. To approve the spend of £6 million capital funding for FMPG, for the remainder of 2022-23 financial year.
4. To agree that parliament is made aware by way of a Ministerial Statement on Thursday 16 March at between 14:25 and 14:55, further to this a letter to the NZET Committee (copied to FPAC) will also be sent. The letter would be sent to the Committees on the same day the statement is made on 16 Mar.
5. Concurrently the Chief Executive Officer (CEO), of FMPG is also due to send his update letter on the delay to the delivery of 801, 802 on Thu 16 Mar prior to the Ministerial statement although embargoed until the statement time.
6. On Tuesday 14 Mar there is the planned publication and laying at Parliament of the Ferguson Marine Annual Accounts for 2021-22 and subsequent publication of Audit Scotland's' section 22 report on these accounts due to take place as previously agreed. Currently these are due to be laid at 14:00hrs. Audit Scotland will be informed when this is completed, and their report will then be published.
7. To support planning and preparation of comms material it would be helpful to have a response to these handing arrangements **by Wednesday 15 March.**

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**PREVIOUS ADVICE TO MINISTERS**

**SUBMISSION ON £15 MILLION INTERIM IN YEAR FUNDING (DEC 2022)**

**Deputy First Minister and Cabinet Secretary for Covid Recovery**

**FERGUSON MARINE PORT GLASGOW – INTERIM IN YEAR FUNDING REQUEST FOR 801 AND 802**

**Priority and Purpose**

1. Routine. This submission seeks the Deputy First Minister’s views and agreement to additional interim CDEL required to support in-year cash flow at Ferguson Marine Port Glasgow (FMPG) in order to continue the build of vessels 801 and 802 prior to final decisions around the revised cost estimates for this work. This proposal was referenced in my submission of 15 November 2022.

**Recommendation**

2. To approve the additional £15m funding requirement and to inform Parliament of this decision. As required for this funding of this level, this has been approved by the Permanent Secretary, DG Economy and Chief Financial Officer. The AO template is attached alongside this submission and includes comments from the Chief Financial Officer.

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## SPONSORSHIP

### BACKGROUND

Strategic Sponsorship continues to look at ways in which we can further improve sponsorship across the Scottish Government.

#### Background

##### **Sponsorship Across SG**

- Effective sponsorship is essential due to the significant contribution Public Bodies make to the delivery of public services.

Ministers have an agreed an approach to sponsorship based on the following elements:

- supportive, trusting relationships;
- an appropriate place for SG in the accountability chain;
- a focus on strengthening Boards and Accountable Officers;
- proportionate arrangements for safeguarding funds;
- 'family groupings' across portfolios; and
- an empowering approach.

The Scottish Government will designate a Director/Deputy Director from the relevant policy area as either the Sponsor Director/Deputy Director or Scottish Government Lead Contact for a public body.

##### **Role of Scottish Government Sponsor Director/Deputy Director**

Scottish Government Sponsor Directors and Deputy Directors have responsibility for:

- overseeing and ensuring effective relationships between the SG and the public body;
- supporting the alignment of the business to the NPF's Purpose and national outcomes;
- accountability to the Portfolio Accountable Officer;
- maintaining a critical role in developing and maintaining positive relationships that are characterised by openness, trust, respect and mutual support;
- regular meetings with the public body Chief Executive and Board;
- ensuring there is effective continuous assessment and annual appraisal of the Chair of the Board.

##### **Role of Sponsor Teams**

Sponsorship teams play a critical role in ensuring that Scottish Ministers priorities are delivered. The Scottish Government and NDPBs have a shared responsibility to ensure that joint strategic business planning is the norm and that their respective plans, objectives and business processes are aligned in order to maximise the contribution to the national outcomes set out in the National Performance Framework. These themes flow into the sponsorship improvement work that has been ongoing, particularly since 2015 with the Smarter Sponsorship review.

Sponsor teams are the primary source of advice between the public body and the Scottish Government. Sponsor teams:

- provide advice, help and support to public bodies and advise on accountability, governance and performance to Ministers and Portfolio Accountable Officers;
- discharge responsibilities in line with agreed principles and framework, whilst being flexible, proportionate and responsive both to the needs of the public bodies they sponsor, in addition to Ministers;
- ensuring that appointments to the Board are made timeously, in line with guidance and advice from the public appointments team (if appropriate);
- proportionate monitoring of the activities of the public body through timely flow of appropriate information;
- act as a conduit for information in ensuring relevant SG policy is advised in a timely manner;
- seek to facilitate positive relationships between the body and the Scottish Government at all levels

## **Additional Document – FMPG – Statement**

Asks he will get on publishing Teneo's work or the AO Assessment

- *Our commercial advisers, have carried out a thorough analysis of the costs set out by the CEO of FMPG in September 2022. There are a number of commercial sensitivities in this work that we would need to consider.*
- *This Government continues to be committed to an open and transparent approach to our decision making process. That is why we have made this statement at the earliest possible opportunity. The Accountable Officer has discussed this with the Auditor General and we will provide as much information as possible to Parliament subject to commercial sensitivities and we will do this within the coming weeks. The CEO of FMPG will continue to provide quarterly updates on progress to the NZET committee.*

Cost increases – if asked 'what now is the cost increase', [REDACTED]

- *Ministers have been very clear over a long period of time that every effort must be made by FMPG to deliver the vessels in the most cost-effective way possible. There are always risks around the delivery of first-in-class vessels and that FMPG continue to incur costs related to design decisions taken some time ago and under previous ownership. I am also conscious of the impact that inflationary pressures in the wider economy have had upon capital and operational costs.*
- *Our due diligence work has identified a number of these inflationary and other significant pressures such as design gaps and deficiencies that could increase the cost to complete. As part of our ongoing control and scrutiny, the CEO will undertake a detailed review on remaining costs in the light of this due diligence and I have asked him today to update Parliament in due course.*