

**From:** [REDACTED]@gov.scot>

**Sent:** Tuesday, November 14, 2023 12:04 AM

**To:** [REDACTED]@gov.scot>;

[REDACTED]@gov.scot>;[REDACTED]@gov.scot>;[REDACTED]@gov.scot>;

[REDACTED]<[REDACTED]@gov.scot>;[REDACTED] <[REDACTED]@gov.scot>

**Subject:** RE: Action - FMPG - Correspondence from the Public Audit Committee - Due COP 16 Nov

[REDACTED]

My suggested contributions on the FMI report and the NDA point. I've also added [REDACTED] and [REDACTED] to check that we now accept there was an NDA with Woodbank. Attached media line suggest yes but I want to triple check. [REDACTED] If Colin or Cab Sec needs background, [REDACTED]

“With regards to the request that Scottish Government publishes information from the commissioned reports on the productivity of FMPG and potential future investment in the shipyard, our position remains as previously stated. We do not intend to publish further information in relation to these reports at this time, noting the commercial sensitivities, but will continue to monitor this as part of our commitment to openness and transparency.”

And

“The Scottish Government has entered into 10 non-disclosure agreements (NDAs) with external private companies in relation to FMPG. In each case, these were necessary to protect commercial sensitivities of FMPG and the interests of the taxpayer, for example to enable the sharing of confidential information to inform a procurement process. We fundamentally remain committed to openness and transparency and will only use NDAs where appropriate.”

Thanks

[REDACTED]

**From:** [REDACTED]

**Sent:** Tuesday, October 31, 2023 8:56 PM

**To:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

<[REDACTED]@gov.scot>;[REDACTED]<[REDACTED]@gov.scot>;[REDACTED]

<[REDACTED]@gov.scot>

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Thanks [REDACTED].

For the FMI report (and the Chestnut reports presumably), [REDACTED]

On the NDA question below, I'll pick up with [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. I'll then provide draft lines.

“The Committee seeks further details of the Scottish Government’s use of NDAs including the number that have been entered into with external private companies regarding the future of Ferguson’s shipyard, Glen Sannox and/or Glen Rosa and how this may impact on the Scottish Government’s commitment to openness and transparency.”

Thanks

[REDACTED]

**From:** [REDACTED] <[REDACTED]@gov.scot>

**Sent:** 28 August 2023 16:53

**To:** Cabinet Secretary for Wellbeing Economy, Fair Work & Energy <[CabSecWEFWE@gov.scot](mailto:CabSecWEFWE@gov.scot)> **Cc:** Deputy First Minister and Cabinet Secretary for Finance <[DFMCSF@gov.scot](mailto:DFMCSF@gov.scot)>; Callum McCaig <[Callum.Mccaig@gov.scot](mailto:Callum.Mccaig@gov.scot)>; [REDACTED]<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@transport.gov.scot>; [REDACTED] <[REDACTED]@transport.gov.scot>; [REDACTED] <[REDACTED]@transport.gov.scot>; Roddy Macdonald <[REDACTED]@transport.gov.scot>; [REDACTED] [REDACTED]@transport.gov.scot>; Press Transport Scotland <[media@transport.gov.scot](mailto:media@transport.gov.scot)>; [REDACTED] <[REDACTED]@transport.gov.scot>; [REDACTED] [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Communications Wellbeing Economy, Fair Work and Energy <[CommunicationsWellbeingEconomyFairWorkAndenergy@gov.scot](mailto:CommunicationsWellbeingEconomyFairWorkAndenergy@gov.scot)>; [REDACTED] <[REDACTED]@gov.scot>

**Subject:** FOR CLEARANCE: Media query - Fergusons NDA

**PO/Cabinet Secretary for Wellbeing Economy, Fair Work & Energy,**  
**CC:** PO/Deputy First Minister,

Please see the below media query we have received from the Scotsman, it is related to a NDA that was signed with regards to Fergusons.

The below lines have been agreed with officials and SpAds – I'd be grateful for Mr Gray's clearance please.

Thanks,  
[REDACTED]

## LINE TO ISSUE

A Scottish Government spokesperson said:

“A non-disclosure agreement (NDA) was signed in preparation for confidential information to be shared ahead of a contract commissioning the due diligence report being awarded. The NDA did not extend to the completed report.

“As it transpired, the NDA was only finalised by all parties on the day the contract was signed, meaning it was immediately superseded.”

**From:** [REDACTED]<[REDACTED]@nationalworld.com>

**Sent:** 28 August 2023 12:21

**To:** [REDACTED] <[REDACTED]@gov.scot>

**Subject:** Ferguson's NDA

Hi[REDACTED]

As discussed, I'm looking for a response to the following.

Earlier this month, I wrote this story: <https://www.scotsman.com/news/politics/ferries-fiasco-scotland-ministers-agreed-nda-over-work-examining-costs-of-continuing-ferry-construction-4237094>

In it, the government said:

A Scottish Government spokesperson said:

**“The Scottish Government has not entered into any non-disclosure agreements.**

“We remain committed to being as open and transparent as possible in relation to decisions around Ferguson Marine (FMPG) and vessels 801 and 802.

“The Director General Economy wrote to the convenor of the Public Audit Committee on 15 June, confirming the Scottish Government's approach, however he also stated that the disclosure of reports would impact on FMPG's ability to compete for and win new business and therefore disclosure of the reports would jeopardise the commercial future of the shipyard.

“In setting out the decision to issue a written authority to enable work on vessel 802 to continue, there was clear, cross-party acknowledgement that this was the appropriate course of action – not least as it presents the fastest possible route to getting vital new lifeline services into service.”

However, in an FOI disclosure, I was sent the confidentiality agreement between Scot Gov, FMPG, Teneo, and Woodbank Marine. In addition to that, I have an email, copied in below, which was

initially redacted and then unredacted by the government, stating that "I have got Colin Cook sign it for Scottish Government" and expressly referring to it as an NDA.

From: [REDACTED]@gov.scot <[REDACTED]@gov.scot>  
Sent: 28 September 2022 16:48  
To: [andy@woodbankmarine.com](mailto:andy@woodbankmarine.com); [REDACTED]@teneo.com;  
[david.tydeman@fergusonmarine.com](mailto:david.tydeman@fergusonmarine.com)  
Cc: [REDACTED]@gov.scot; [Kate.Hall@gov.scot](mailto:Kate.Hall@gov.scot); [REDACTED]@gov.scot;  
[REDACTED]@gov.scot  
Subject: Project Chestnut - Version for signing by all parties - NDA (28.09.22 updated)(34455368.1)

Colleagues

As part of the ongoing work on Project Chestnut, while I await the completion of the contract with Woodbank Marine and Scottish Government to help with the information and discussions that are taking place I would like to get this Non-Disclosure agreement signed by all parties. I have got Colin Cook sign it for Scottish Government, I will provide everyone with a finalised PDF version once completed.

The documentation is a very standard but allows early engagement in the discussions to let you all work together on the best potential options.

Please get in touch if you need me to clarify anything.

Regards

**[REDACTED][REDACTED][REDACTED]**

Business Resilience Lead – Rapid Response Unit

**Strategic Commercial Assets Division**

Scottish Government

**During Covid-19 available only on e-mail, MSTeams or mobile [REDACTED] |**

Can the government explain why it said, "The Scottish Government has not entered into any non-disclosure agreements." when evidence shows the opposite?

**From:** [REDACTED] <[REDACTED]@gov.scot>

**Sent:** Wednesday, November 1, 2023 9:23 AM

**To:** [REDACTED] <[REDACTED]@gov.scot>

**Cc:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>

**Subject:** FW: Action - FMPG - Correspondence from the Public Audit Committee - Due COP 16 Nov

Hi [REDACTED],

Hope you're doing well. I know we discussed, before I went on Annual Leave, [REDACTED]. [REDACTED] Thanks.

Kind regards

[REDACTED]

**Benefits Realisation and Futures Unit  
Strategic Commercial Assets Division  
Directorate of Economic Development  
Scottish Government  
Mobile: 07[REDACTED]**