

**Director, Aviation, Maritime, Freight & Canals**

Frances Pacitti  
Buchanan House | Glasgow | G4 0HF 0300  
244 1064 | 07855 000 655 |  
[frances.pacitti@transport.gov.scot](mailto:frances.pacitti@transport.gov.scot)



Our ref: FP/CW/AL

Date: 27 July 2020

Convener of the Rural Economy and Connectivity Committee  
By email only: [rec.committee@parliament.scot](mailto:rec.committee@parliament.scot)

Dear Mr Mountain,

**Inquiry into the construction and procurement of ferry vessels in Scotland Response to request for additional information**

With sincere apologies for not providing this submission earlier (it had been prepared in March but delayed as resources were pivoted to focus on the COVID 19 pandemic) I am now able to provide the additional information requested by e-mail from your clerk in March 2020, referring to issues raised by Transport Scotland officials in the course of oral evidence to the Committee's inquiry into the construction and procurement of ferry vessels in Scotland. Transport Scotland is committed to transparency in relation to the delivery of ferry services in Scotland and the delivery of vessels 801 and 802, and I welcome the opportunity to assist the committee with its enquiries.

Responding to each of the questions in your clerk's email of 4 March 2020 in turn:

**1. Details of milestone payments on the hybrid ferries contract – i.e. dates they were actually signed off / paid as compared with the payment schedule previously provided to the Committee by CMAL**

At Committee on 4 March 2020, I undertook to provide a list of payments made against the payment schedule and the dates on which payments had been made. This was done under reference to the proposed billing schedules dated 28 August 2015 attached to the letter from Addleshaw Goddard on behalf of CMAL to the Committee dated 24 February 2020.

The requested information has been provided for Glen Sannox (vessel 801) and hull 802 at appendices A and B to this letter respectively. I have provided the information in tabular form showing the scheduled performance milestones, dates and payment amounts as planned at 28 August 2015, against the actual performance milestones, dates and payment amounts. I have also provided information on the dates on which relevant instalments of the associated voted loan were drawn down by CMAL from Transport Scotland. I trust that this format will allow for ease of comparison.

## **2. The precise basis on which non-compliant bids for the hybrid ferries contract were rejected**

I have no recollection of having undertaken to provide additional information on the basis on which bids were rejected by CMAL, and can find no such reference in the Official Report of the inquiry session. I would reiterate the position stated in oral evidence, that Transport Scotland has no role in the procurement process. Transport Scotland did not assess any of the bids received by CMAL. The procurement was run by CMAL in its capacity as the procuring authority and ultimate owners of the vessels under construction. I would respectfully suggest that these enquiries should be directed to CMAL.

In asking this question, your clerk has directed me to the letter from Addleshaw Goddard on behalf of CMAL to the Committee dated 3 March 2020, a copy of which was provided to me shortly before the inquiry session on 4 March 2020. You asked for some clarification on this point, since the letter of 3 March “seems to indicate that 50 per cent of the yards had produced bids that were not compliant with the original specification.” Having now had an opportunity to read the letter more closely, there is nothing which would lead me to amend my oral evidence. The letter of 3 March 2020 confirms that only one of the tender returns (Shipyard C) did not meet the baseline requirements. My understanding remains that six of the bids received were compliant, indicating that their concept designs could meet the tender design requirements.

## **3. The contents of updates provided to Ministers which highlighted specific concerns of the Scottish Government-appointed assessor about the way the contract was progressing**

I indicated in oral evidence to the inquiry that the assessor role (described in the Management Statement/ Financial Memorandum relating to CMAL as a sponsor team function rather than an “assessor”) relates to matters of governance with regard to Scottish Ministers’ interests as CMAL’s shareholder. Although the assessor would have had general awareness of issues in relation to vessels 801 and 802, the assessor has no direct role in relation to project specific matters, and would have had no direct role in monitoring progress on vessels 801 and 802.

Minutes of all CMAL Board meetings are published on the CMAL website. For ease of reference, links to Board minutes have been provided at Appendix C to this letter.

It is a condition of the voted loan from Transport Scotland to CMAL to fund vessels 801 and 802 that CMAL keeps Scottish Ministers updated on progress to the vessels. CMAL keeps Scottish Ministers informed of progress on the two vessels by way of regular engagement with Transport Scotland officials and by written updates. Transport Scotland also receives regular updates on all ferry and port/harbour projects through the Network Strategy Group. Updates have already been proactively published on the Scottish Government website. For ease of reference, I have included links to relevant documents at Appendix C to this letter.

#### **4. Confirmation of the precise date that a revised payments schedule was published**

A revised payment schedule was agreed on 22 May 2017. This formed Addendum No2 to the shipbuilding contracts which have been proactively published on the Scottish Government website.

#### **5. An explanation in writing of perceived discrepancies in the timeline between the submission of a recommendation to Ministers to approve the contract award to FMEL ([20 August 2015](#)) and the formal agreement of the price and milestone payments for the two vessels ([dated 28 August 2015](#))**

A contract price of £48.5 million for each vessel was agreed between CMAL and FMEL, as reported in the submission to Ministers dated 20 August 2015. The information contained in the submission was based upon confirmation from CMAL of the parties' direct commercial discussions.

The letter from Addleshaw Goddard on behalf of CMAL to the Committee dated 24 February 2020 encloses agreed milestone payment schedule dated 28 August 2015. The letter describes conclusion of the parties' negotiation on price, consistent with the understanding at 20 August 2015, as was reflected in the concluded contracts. There is no inconsistency in the values reported, nor anything untoward to be inferred from the chronology of correspondence.

The First Minister announced on 31 August 2015 that FMEL had been identified as preferred bidder. That announcement was made at the FMEL yard, alongside and with the agreement of Mr McColl, in FMEL's knowledge of the contract price which had been accepted by CMAL.

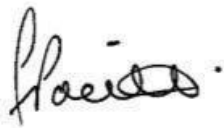
#### **6. A list of those Scottish Government Ministers who have been provided with written updates on the hybrid ferries contract since its award and dates when those updates were provided.**

A range of Ministerial portfolio interests have been engaged at various points in time since the award of contracts for vessels 801 and 802. Those include the First Minister, the Deputy First Minister (in both his current role as Deputy First Minister and previous role as Finance Secretary), the former Cabinet Secretary for Finance, Economy and Fair Work (in that role and in his previous role as Minister for Transport and the Islands), the former Minister for Transport and the Islands, the former Cabinet Secretary for Infrastructure, Investment and Cities, the current Cabinet Secretary for Transport and Infrastructure and the Minister for Energy, Connectivity and the Islands.

Links to project updates have been provided at Appendix C for ease of reference.

I trust that this information is helpful, but please let me know if I can provide any further assistance.

Yours sincerely,



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Frances Pacitti  
Director of Aviation, Maritime, Freight and Canals

**Appendix A – Payment schedule and dates – Glen Sannox (Vessel 801)**

Original Stage No. 16.10.2015 (contract cl.50)	Revised Stage No. 12.05.2017 (Addendum no.2)	Milestone Event at 16.10.2015 (contract cl.50)	Estimated milestone achievement date by FMEL at 28.08.15 (referred to in appendix to letter of 3 March 2020)	Estimated milestone achievement date by FMEL at 16.10.2015 (contract cl.50)	Revised milestone date Addendum no.2 12.05.2017	Actual Date Milestone Achieved	Actual payment date (CMAL to FMEL)	Contract Scheduled payment amount (CMAL to FMEL)	Actual payment amount (CMAL to FMEL)	Date of drawdown of voted loan from Transport Scotland
1	1	Receipt of Refund Guarantee	30/09/2015	30/10/2015	01/11/2015	13/11/2015	20/11/2015	£2,400,000	£2,400,000	24/11/2015
2	2	Procurement Deposits Long Lead Items (1)	30/10/2015	12/11/2015	14/12/2015	18/01/2016	19/01/2016	£12,100,000	£12,100,000	29/12/2015
3	3	Cutting of Steel	30/11/2015	15/12/2015	15/12/2015	15/12/2015	21/12/2015	£1,400,000	£1,400,000	22/12/2015
4	4	Procurement Deposits Long Lead Items (2)	31/12/2016	15/01/2016	15/01/2016	01/03/2016	14/03/2016	£1,000,000	£1,000,000	07/03/2016
5	5	10% Fabrication	31/03/2016	18/04/2016	10/06/2016	10/06/2016	21/06/2016	£2,400,000	£2,400,000	17/06/2016
6	6	25% Fabrication	31/05/2016	14/06/2016	10/08/2016	10/08/2016	17/08/2016	£3,650,000	£3,650,000	15/08/2016
7	7	35% Fabrication	30/07/2016	15/08/2016	07/10/2016	07/10/2016	20/10/2016	£3,650,000	£3,650,000	20/10/2016
8	8	50% Fabrication	30/09/2016	14/10/2016	09/12/2016	09/12/2016	15/12/2016	£2,400,000	£2,400,000	13/12/2016
9	9	Major equipment and Lock out items installations (Clause 50.2)	31/10/2016	14/11/2016	22/03/2017	22/03/2017	31/03/2017	£1,375,000	£750,000	30/03/2017
	13		31/10/2016	14/11/2016	14/06/2017	07/08/2017	14/08/2017		£625,000	29/06/2017
10	10	75% Fabrication	30/11/2016	15/12/2016	22/03/2017	22/03/2017	24/03/2017	£1,200,000	£1,200,000	17/03/2017
	11	See Clause 50.8			12/05/2017	13/05/2017	29/05/2017	£3,500,000	£3,500,000	19/05/2017

	12	See Clause 50.8			05/06/2017		06/06/2017 16/06/2017 23/06/2017 10/07/2017 01/08/2017 04/08/2017		£1,114,795 £304,826 £1,439,855 £464,029 £411,177 £40,317	
					05/06/2017			£3,775,000	£3,775,000	13/06/2017
11	14	100% Fabrication	30/12/2016	16/01/2017	10/07/2017	21/03/2018	29/03/2018	£1,200,000	£1,200,000	22/03/2018
12	16	Berth Join Up	28/02/2017	14/03/2017	15/08/2017	17/11/2017	22/11/2017	£1,200,000	£1,200,000	16/11/2017
13	15	Hull Inspection Prior to Paint	31/03/2017	17/04/2017	24/07/2017	18/08/2017	23/08/2017	£1,200,000	£1,200,000	17/08/2017
14	17	Launch	31/07/2017	14/08/2017	24/08/2017	21/11/2017	22/11/2017	£1,200,000	£1,200,000	16/11/2017
15	18	Delivery	28/02/2018	25/05/2018	25/05/2018			£4,850,000	£0	
		<b>Total Paid</b>						<b>£48,500,000</b>	<b>£43,650,000</b>	

**Appendix B – Payment schedule and dates – Hull 802**

Original Stage No. 16.10.2015 (contract cl.50)	Revised Stage No. 12.05.2017 (Addendum no.2)	Milestone Event at 16.10.2015 (contract cl.50)	Estimated milestone achievement date by FMEL at 28.08.15 (referred to in appendix to letter of 3 March 2020)	Estimated milestone achievement date by FMEL at 16.10.2015 (contract cl.50)	Revised milestone date Addendum no.2 12.05.2017	Actual Date Milestone Achieved	Actual payment date (CMAL to FMEL)	Scheduled payment amount (CMAL to FMEL)	Actual payment amount (CMAL to FMEL)	Date of drawdown of voted loan from Transport Scotland
1	1	Receipt of Refund Guarantee	30/09/2015	30/10/2015	01/11/2015	13/11/2015	20/11/2015	£2,400,000	£2,400,000	24/11/2015
2	2	Procurement Deposits Long Lead Items (1)	30/10/2015	12/11/2016	14/12/2015	18/01/2016	19/01/2016	£12,100,000	£12,100,000	29/12/2015
3	3	Cutting of Steel	30/11/2015	15/12/2015	15/12/2015	15/12/2015	21/12/2015	£1,400,000	£1,400,000	22/12/2015
4	4	Procurement Deposits Long Lead Items (2)	31/12/2016	15/01/2016	15/01/2016	01/03/2016	14/03/2016	£1,000,000	£1,000,000	07/03/2016
5	5	10% Fabrication	31/03/2016	18/04/2016	10/06/2016	10/06/2016	21/06/2016	£2,400,000	£2,400,000	17/06/2016
6	6	25% Fabrication	31/05/2016	14/06/2016	10/08/2016	10/08/2016	17/08/2016	£3,650,000	£3,650,000	15/08/2016
7	7	35% Fabrication	30/07/2016	15/08/2016	07/10/2016	07/10/2016	20/10/2016	£3,650,000	£3,650,000	20/10/2016
8	8	50% Fabrication	30/09/2016	14/10/2016	31/10/2016	13/01/2017	26/01/2017	£2,400,000	£2,400,000	18/01/2017
9a	9	Major equipment and Lock out items installations (Clause 50.2)	31/10/2016	14/11/2016	22/03/2017	22/03/2017	31/03/2017	£1,375,000	£750,000	30/03/2017
9b	14	Major equipment and Lock out items installations (Clause 50.2)	31/10/2016	14/11/2016	16/10/2017	15/06/2018	21/06/2018		£625,000	22/06/2018

10	12	75% Fabrication	30/11/2016	15/12/2016	22/09/2017	21/03/2018	26/03/2018	£1,200,000	£1,200,000	22/03/2018
	10	See Clause 50.8			12/05/2017	13/05/2017	29/05/2017	£3,500,000	£3,500,000	19/05/2017
	11	See Clause 50.8					06/06/2017 23/06/2017 15/06/2017 10/07/2017 28/07/2017 04/08/2017		£1,114,795 £1,439,855 £205,398 £464,029 £411,177 £139,745	
					05/06/2017			£3,775,000	£3,775,000	14/06/2017
11	13	100% Fabrication	30/12/2016	16/01/2017	13/10/2017		No Payment	£1,200,000		
12	16	Berth Join Up	28/02/2017	14/03/2017	10/11/2017		No Payment	£1,200,000		
13	15	Hull Inspection Prior to Paint	31/03/2017	17/04/2016	31/10/2017		No Payment	£1,200,000		
14	17	Launch	29/09/2017	12/10/2017	17/11/2017		No Payment	£1,200,000		
15	18	Delivery	30/04/2018	26/07/2018	26/07/2018		No Payment	£4,850,000		
		Total Paid						£48,500,000	£38,850,000	



## Appendix C – Contract monitoring and oversight – links to written project updates

2016

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2016/documents/ferguson-marine-cmalquarterly-progressreport-november-2015-to-january-2016---21-january-2019/ferguson-marinecmal-quarterlyprogress-report-november-2015-to-january-2016---21january2019/govscot%3Adocument/Ferguson%2BMarine%2B-%2BCMAL%2Bquarterly%2Bprogress%2Breport%2BNovember%2B2015%2Bto%2BJanuary%2B2016%2B-%2B21%2BJanuary%2B2016.pdf>

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2016/documents/ferguson-marine-cmalquarterly-progressreport-february-to-april-2016---1-april-2016/ferguson-marine-cmal-quarterlyprogress-reportfebruary-to-april-2016---1-april-2016/govscot%3Adocument/Ferguson%2BMarine%2B-%2BCMAL%2Bquarterly%2Bprogress%2Breport%2BFebruary%2Bto%2BApril%2B2016%2B%2B1%2BApril%2B2016.pdf>

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2016/documents/ferguson-marine---cmal-updateto-networkstrategy-meeting---14-november-2016/ferguson-marine---cmal-update-to-networkstrategymeeting---14-november-2016/govscot%3Adocument/Ferguson%2BMarine%2B-%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B14%2BNovember%2B2016.pdf>

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2016/documents/ferguson-marine-cmal-updateto-networkstrategy-meeting---10-december-2016/ferguson-marine-cmal-update-to-networkstrategymeeting---10-december-2016/govscot%3Adocument/Ferguson%2BMarine-%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B10%2BDecember%2B2016.pdf>

2017

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2017/documents/january-2017/ferguson-marinecmal-updateto-network-strategy-meeting---17-january-2017/ferguson-marine-cmal-update-tonetworkstrategy-meeting---17-january-2017/govscot%3Adocument/Ferguson%2BMarine-%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B17%2BJanuary%2B2017.pdf>

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2017/documents/february-2017/ferguson-marinecmalupdate-to-network-strategy-meeting---16-february-2017/ferguson-marine-cmal-updatetonetwork-strategy-meeting---16-february-2017/govscot%3Adocument/Ferguson%2BMarine%2B%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B16%2BFebruary%2B2017.pdf>

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2017/documents/april-2017/ferguson-marinecmal-update-tonetwork-strategy-meeting---20-april-2017/ferguson-marine-cmal-update-tonetwork-strategymeeting---20-april-2017/govscot%3Adocument/Ferguson%2BMarine%2B%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B20%2BApril%2B2017.pdf>

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<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2017/documents/july-2017/ferguson-marinecmal-update-tonetwork-strategy-meeting---20-july-2017/ferguson-marine-cmal-update-tonetwork-strategymeeting---20-july-2017/govscot%3Adocument/Ferguson%2BMarine-%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B20%2BJuly%2B2017.pdf>

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<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2017/documents/september-2017/fergusonmarine->

[cmalupdate-to-network-strategy-meeting---28-september-2017/ferguson-marine-cmalupdate-tonetwork-strategy-meeting---28september2017/govscot%3Adocument/Ferguson%2BMarine%2B-%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B28%2BSeptember%2B2017.pdf](https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2017/documents/october-2017/ferguson-marine-cmal-update-to-network-strategy-meeting---28-september-2017/ferguson-marine-cmal-update-to-network-strategy-meeting---28-september-2017/govscot%3Adocument/Ferguson%2BMarine%2B-%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B%25E2%2580%2593%2B28%2BSeptember%2B2017.pdf)

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2018

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<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2018/documents/may-2018/ferguson-marinecmal-update-tonetwork-strategy-meeting---24-may-2018/ferguson-marine-cmal-update-tonetwork-strategymeeting---24-may-2018/govscot%3Adocument/Ferguson%2BMarine%2B%2BCMAL%2Bupdate%2Bto%2Bnetwor k%2Bstrategy%2Bmeeting%2B- %2B24%2BMay%2B2018.pdf>

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparencydata/2019/12/ferguson-marine-key-documents-2018/documents/june-2018/ferguson-marinecmal-update-tonetwork-strategy-meeting---june-2018/ferguson-marine-cmal-update-to-networkstrategymeeting---june-2018/govscot%3Adocument/Ferguson%2BMarine%2B-%2BCMAL%2Bupdate%2Bto%2Bnetwork%2Bstrategy%2Bmeeting%2B-%2BJune%2B2018.pdf>

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## **CMAL Board minutes**

All CMAL Board minutes of various meetings which discussed the progress of the vessels can be found by using the undernoted link:-

<https://www.cmassets.co.uk/about-us/meeting-minutes/>