



The Scottish Parliament
Pàrlamaid na h-Alba

Published 9 December 2020
SP Paper 879
12th Report, 2020 (Session 5)

Rural Economy and Connectivity Committee Comataidh Eaconomaidh Dùthchail is Co- cheangailteachd

Construction and procurement of ferry vessels in Scotland



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Rural Economy and Connectivity Committee

Remit: To consider and report on matters relating to the rural economy within the responsibility of the Cabinet Secretary for the Rural Economy and Tourism and matters falling within the responsibility of the Cabinet Secretary for Transport, Infrastructure and Connectivity.



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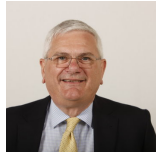
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Summary of conclusions and recommendations

Hybrid ferries contract: the procurement process

The Committee recognises that the established processes and structures for procuring new vessels to serve the Clyde and Hebrides ferries network have, in the past, resulted in new vessels being delivered on time and on budget. However, based on the extensive range of evidence it has received, the Committee believes that there has been a catastrophic failure in the management of the procurement of vessels 801 and 802, leading it to conclude that these processes and structures are no longer fit for purpose.

In particular, the Committee has the following concerns about the way in which this specific procurement process was run:

- Transport Scotland and CMAL applied inadequate due diligence in scrutinising and signing off the procurement process;
- The tender design requirements for this design and build contract initially lacked sufficient detail and development to enable a suitably robust assessment to be made of the capabilities of the bidders based on their submitted concept designs;
- Subsequent to contract award, insufficient work was undertaken by the contractor to develop and secure sign-off on the basic design prior to commencing construction of the vessels;
- Negotiations with the leading shipyard on detailed terms of the contract were not sufficiently far advanced before the contract award was officially announced;
- Insufficient due diligence was undertaken of the financial stability of bidders, including the winning bidder. This is particularly pertinent given the subsequent financial difficulties experienced by the winning bidder;
- There was an over-reliance, in assessing the bids, on the historic track record of the shortlisted shipyards and a lack of robust due diligence in assessing their current capabilities in areas such as project management and design;
- Commitments related to financial guarantees under the terms of the invitation to tender appear to have been open to renegotiation following contract award, suggesting that those commitments were lacking in legal enforceability at the point the contract was awarded.
- There was a lack of clarity and understanding by all parties to the contract concerning their respective roles and responsibilities and no clear processes to escalate matters quickly in the event that those roles and responsibilities were not being properly fulfilled.

- **The Scottish Government seems to have been willing to proceed despite apparent significant risks associated with awarding the contract to FMEL, as highlighted in particular by CMAL.**

The Committee therefore calls on the Scottish Government to commission an independent external review of the processes for public procurement of ferries to ensure appropriate lessons are learned for the future and to keep the Committee updated of its progress and conclusions. This review should consider in particular the extent and robustness of financial due diligence and detailed assessment of technical capabilities of bidders as part of any future exercise for the procurement of new ferry vessels.

Ferguson Marine capabilities

The Committee notes that, in the absence of any detailed stipulations concerning the capabilities of the shipyard and its management within the ferries contract itself, CMAL relied in assessing FMEL's bid on the shipyard's historic track record of building CalMac ferries despite the company having only very recently been established as a new legal entity and with an entirely new management team. On this basis, the Committee is concerned that, while CMAL may have been able to rely with a high degree of confidence on the historic skills and capabilities of the workforce at the shipyard, it could have had only limited confidence that the new management would have had suitable skills, experience and expertise to be able to manage and deliver successfully a contract of this nature.

The Committee considers that this lack of certainty regarding management capabilities at FMEL should have been considered as a much greater risk factor by CMAL and Transport Scotland than was the case when FMEL's bid to fulfil the ferries contract was being assessed.

Management of hybrid ferries contract

Design specifications and design process issues

The Committee has been particularly concerned to learn that, four years after the contract was originally awarded, 95% of sign-offs on the basic design of the vessels were still not completed, particularly with respect to those sign-offs provided by the Maritime and Coastguard Agency, which relate predominantly to safety aspects of the vessel design.

Based on the evidence it has received, the Committee is forced to conclude that, although the conceptual design of the vessels was clear, the original design specifications were insufficiently detailed and had not been agreed between FMEL and CMAL before construction of the vessels started.

There is also strong evidence to suggest that FMEL lacked the appropriate level of design capabilities and consequently failed to manage the design iteration

process effectively thereafter and proceeded to build the vessels before the design had been suitably developed and signed off.

The Committee questions why CMAL did not intervene to halt the process as soon as it became aware that FMEL was proceeding to build at risk without having secured sign-off on the basic design of the vessels and why Transport Scotland, as CMAL's sponsor, did not challenge CMAL as to why it did not intervene to prevent FMEL continuing with construction in these circumstances.

The Committee therefore calls for a review of the design development and sign-off process to investigate precisely how such a situation could have arisen and to ensure such errors are never repeated. In particular, the Committee believes stronger safeguards need to be put in place to ensure that, in relation to future contracts of this nature, construction cannot progress without proper agreement and sign-off on the vessel design.

Community and other stakeholder views on vessel design

The Committee notes the wide range of views expressed about the overall suitability of the chosen design of vessels 801 and 802 and the related impact on port infrastructure and considers it extremely important that, in future, considerations around impacts of specific design choices on port infrastructure need to be fully integrated into the ferry design process.

The Committee further notes the high level of dissatisfaction expressed by many community stakeholders regarding the extent to which their views have any meaningful impact on the design of new vessels. The Committee therefore considers that island communities and other community stakeholders must be given a much stronger role in providing input to the design of future new ferries.

The Committee acknowledges the natural trade-offs in designing smaller and larger vessels, the need to balance the needs and interests of island communities and those related to the wider economy including tourism and the equally important requirement to reinforce resilience across the Clyde and Hebrides ferries network. However, the Committee considers it essential that the Scottish Government communicates more clearly its wider vision for renewal of the fleet and how individual design choices fit into that vision.

Delays and cost overruns

The Committee has been appalled to learn that CMAL was legally bound to continue to make milestone payments on the ferries contract despite ongoing concerns about the performance of the contractor. The Committee also questions why CMAL continued to make milestone payments in a situation where the sign-off of the basic design of the vessels had not been secured from Class or Flag. Furthermore, there is strong evidence that the contractor deliberately proceeded to construct specific sections of the vessel either out of sequence or not

according to the proper specification purely as a means of triggering milestone payments on the contract.

The Committee considers that, when presented to CMAL in July 2017, the claim from FMEL for over £17 million in additional costs on the contract should have been viewed as an immediate red flag that should have triggered an immediate freeze on any further milestone payments.

The Committee therefore urges the Scottish Government to take the necessary action to ensure that such practices do not occur in relation to future contracts for the design and build of new ferry vessels. This action should ensure that future contracts achieve the most appropriate balance between cash flow and risk and include more robust safeguards to prevent payment for work that has been completed out of sequence or otherwise contrary to the agreed terms of the contract.

The Committee believes that the rapid escalation in additional costs associated with the contract points, among other things, to a fundamental failure of communication between CMAL as the procuring authority and FMEL as the contractor.

The Committee calls on the Scottish Government to draw appropriate lessons from other successful ferry procurement exercises in Scotland and elsewhere, where it appears to have been possible to procure new vessels more quickly and at significantly lower cost than has been the case using the practices applied for the procurement of vessels 801 and 802.

Given the significant cost overruns which will require to be met directly from public expenditure, the Committee strongly recommends that Audit Scotland should undertake and publish a full and detailed audit of the financial management of the ferries contract by CMAL. It is further recommended that Audit Scotland should also investigate the role played by Transport Scotland as part of this process, including any direct payments it may make to cover the additional costs incurred to ensure the contract is completed.

The Committee acknowledges that Audit Scotland would not ordinarily undertake audit activity whilst contracts are still in delivery mode. However, the Committee is of the view that, given that the ferries contract will not be completed until vessel 802 is delivered in February 2023 under current estimates, it would be in the public interest for this investigation to take place as soon as possible, subject to capacity within Audit Scotland's audit programme.

This work should be co-ordinated with the Committee's separate call for Audit Scotland to investigate the agreement and payment of commercial loans to FMEL by the Scottish Government.

Commercial loans

The Committee is concerned that the positive appraisal by the economic development directorate of the Scottish Government of FMEL's performance

against the ferries contract (and its consequent signing off of drawdowns on the Scottish Government loans) was entirely at odds with ongoing concerns from CMAL about progress on the contract. The Committee is further concerned that this was the source of additional tension between CMAL and FMEL which will have only served to exacerbate poor communication between the two parties.

The Committee is extremely concerned that, at a time when there were spiralling cost overruns and delays on the ferries contract, the relationship between CMAL and FMEL had deteriorated to the point of breaking down completely. The Scottish Government provided a multi-million pound loan facility to FMEL without communicating with CMAL or Transport Scotland. The Committee believes this approach to loan funding further exacerbated problems with the progression of the contract.

While acknowledging this may be established practice and is intended to avoid perceptions of a potential conflict of interest for the Scottish Government in fulfilling its respective roles, the Committee is concerned that the consequent lack of clarity around roles and responsibilities of all parties to the contract and poor or non-existent communication seriously undermined CMAL's role in managing the contract and was a further contributory factor to the associated delays and cost overruns.

The Committee therefore calls on the Scottish Government to reflect carefully on such practices and to introduce reforms to internal processes for the provision and management of loans.

In particular, the Committee is concerned about the complete lack of transparency surrounding the purpose, agreement and payment of these loans. It is also concerned that there was no effective monitoring or oversight of how the loans were subsequently spent by FMEL. Furthermore, it is particularly concerned, that when asked to describe the precise purposes for which the loans were granted by the Scottish Government to FMEL, the Cabinet Secretary for Economy, Fair Work and Culture was unable to provide a clear and categorical response.

The Committee therefore recommends that Audit Scotland should investigate and report on the processes followed by the Scottish Government in granting and administering these loans. As part of this work, Audit Scotland is invited to make recommendations as to how improved transparency and accountability with respect to the granting of commercial loans by the Scottish Government can be achieved in future, including making provision for such arrangements to be properly and systematically scrutinised by the Scottish Parliament.

Project planning and management

The Committee has been particularly concerned by the evidence of poor project planning and management at FMEL. While noting that the standard BIMCO contract used for this project does not typically stipulate anything around the project planning and management capabilities of the contractor, the Committee would argue that the extent of challenges encountered on this contract suggest that any future contract of this nature absolutely should.

Based on the evidence submitted to the inquiry, the Committee concludes that capabilities in project planning and management were fundamentally lacking at FMEL.

At the same time, the Committee further concludes that CMAL fundamentally failed in discharging its crucially important responsibility to scrutinise carefully the extent or otherwise of these capabilities when evaluating the bids.

The Committee is also concerned that CMAL, as part of its responsibility as contract owner to monitor and oversee the delivery of the project, did not identify and act upon project planning and management failings as these were emerging, particularly given their on-site presence at the shipyard.

The Committee is further concerned that Transport Scotland, as project sponsors, failed to intervene more quickly when these significant project planning and management problems became apparent.

Relationship between CMAL and FMEL

Evidence received by the Committee highlights that the problems experienced on the ferries contract were compounded over time by the rapidly deteriorating relationship between FMEL and CMAL, which at a certain point broke down completely.

The Committee believes that the Scottish Government could and should have taken action at an earlier stage to resolve these problems given that CMAL had expressed concerns to it as early as March 2016 that the contract was running behind schedule. In particular, the Committee is of the view that a process of mediation should have been pursued much earlier and more proactively by CMAL and the Scottish Government given both the strength of their concerns and their respective responsibilities as contract owner and project sponsor.

The Committee has been particularly concerned to learn that the first cumulative claim for additional costs on the contract, totalling £17 million, submitted by FMEL in July 2017 and subsequently disputed by CMAL, came as a complete shock to CMAL and considers that this points to a complete failure of communication between the two parties. The Committee questions how, given that it had a team based on-site at the shipyard, CMAL was apparently unaware of the design and construction activity which led to FMEL's claim for additional costs on the contract and was not in a position to intervene more quickly to halt work on the vessels until these matters had been resolved.

More generally, the Committee is concerned that the various dispute resolution mechanisms available under the terms of the contract were not exhaustively utilised. It calls for stronger provisions on the application and enforcement of dispute resolution mechanisms to be incorporated as a priority into any future contracts of this nature. These should ensure that there is an appropriate mechanism for a mediator to be appointed in cases where a dispute exists in relation to the selection of a mediator.

Workforce relations

The Committee pays tribute to the skills and dedication of the workforce at the Ferguson Marine shipyard throughout what has been a challenging period. It calls on the Scottish Government as new owners to continue to foster a positive relationship with the workforce; including their formal involvement in decision-making processes; and to ensure a culture of openness, transparency and mutual respect between the management and workforce into the future.

Given the extensive accrued skills, knowledge and experience of the workforce, the Committee is disappointed that CMAL failed to give greater credence to workforce concerns about the way in which the project was being managed.

Community impact of new vessel delays

The Committee is very concerned about the direct and indirect impacts the delays to delivery of vessels 801 and 802 are having on island communities throughout the Clyde and Hebrides network and across Scotland's wider ferry network, and the further negative contribution these delays and the associated reduction in network resilience are making to island depopulation, as well as undermining the objectives of the National Islands Plan, which the Committee very much supports.

In particular, the Committee calls on the Scottish Government to provide an urgent update on measures being taken to address capacity constraints on the routes affected and more widely across the network in the intervening time until vessels 801 and 802 enter into service.

While acknowledging the views expressed on the financial pressures for Scotland's ferries network associated with implementation of the Road Equivalent Tariff, the Committee also recognises the significant positive impact this policy has had in boosting island economies and tourism.

Alternative options for delivery of new vessels

Based on the evidence submitted to the inquiry, the Committee considers that, at an earlier stage of the process, halting construction, scrapping and revisiting the design and procurement of vessel 802 in particular would have been a feasible approach and one that could have resulted in lower costs and faster delivery than continuing with construction on the basis of the original contract. However, at this advanced stage of the process, the Committee recognises that scrapping one or both of the vessels would result in significant additional time delays and costs and would go against the urgent need for these vessels to be completed and entered into service as soon as is practically possible.

At the same time, the Committee is concerned by the significant amount of time that has elapsed since the contract for construction of these vessels was originally awarded and the outline design specification developed. The Committee therefore recommends that the Scottish Government commission a review of

vessel specifications to ensure that future design is appropriate to meet the needs of the network and, if necessary and in keeping with the objective of securing their delivery as quickly and cost-effectively as possible, to update those specifications in line with any relevant technical developments that may have occurred in the intervening period.

Vessel programme update - August 2020

The Committee notes the high level of ongoing uncertainty regarding the impact of COVID-19 on the costs and timeframe for delivery of vessels 801 and 802 but requests that the Scottish Government provide an immediate update if it is anticipated that the pandemic is going to have any further significant impact on costs or timetable beyond those identified by the August 2020 update.

From now until completion of the programme, the Committee further calls on the Scottish Government to provide it and its successor committee with a detailed quarterly written update on progress towards delivery of vessels 801 and 802, highlighting in particular any further changes to the programme timetable or costs and the reasons for these.

Recommendations for the future of Scotland's ferries network

Engagement with local communities

The Committee draws the Scottish Government's attention to the current high level of dissatisfaction expressed by all those local communities who gave evidence to the inquiry regarding the very limited extent to which they felt their views have any material impact on the design and delivery of new ferries to serve the Clyde and Hebrides network.

In this context, the Committee welcomes the Scottish Government's commitment to improve its engagement with local communities in relation to its future islands connectivity plan and looks forward to receiving more details as to how this new approach will address community dissatisfaction with current approaches to engagement.

This is a recurring theme that has been raised regularly with the Committee and its predecessors in previous Parliamentary sessions by those communities served by the ferries network. The Committee is of the view that engagement and consultation on proposals for new vessels needs to be meaningful and seen to have tangible outcomes which give communities confidence that they are being listened to and that their views are genuinely taken into account. The Committee also believes that local communities should be entitled to receive follow-up feedback that demonstrates how and to what extent specific issues or concerns raised during the engagement process have been addressed.

The Committee calls on the Scottish Government to take steps to ensure a better

balance in decision-making related to the procurement of new ferries between the respective needs and interests of those who live and work year-round on Scotland's islands and the seasonal demands of visiting tourists.

The Committee also recommends that future engagement plans should incorporate closer engagement with disabled passengers to ensure their needs are being suitably met through the detailed specification of new vessels.

The Committee also notes in particular the request by local communities, alongside improved engagement with CalMac Ferries Ltd. and CMAL, to be given the opportunity of more direct and meaningful engagement with the Scottish Government on these matters.

The Committee further recommends that the Scottish Government's new ferries stakeholder engagement strategy should make provision for regular updates to be provided to local communities regarding progress in delivering new vessels to the network.

Propulsion technologies

The Committee notes that the most significant benefit of LNG does not relate to its climate change impact since it is, like marine diesel, a fossil fuel that generates significant carbon emissions, but rather to its reduced impact on air quality.

The Committee has further noted concerns that lorry shipment of LNG for use on these vessels from the south of England could negate any environmental benefits of using this fuel or even result in its use having an overall negative environmental impact. To address these concerns, the Committee therefore calls on the Scottish Government to actively pursue opportunities to source LNG fuel supplies at locations within Scotland.

On this basis, the Committee considers that LNG can only ever be considered as a transition technology that will become obsolete as soon as alternative low and zero carbon propulsion technologies become viable for use in marine vessels of all sizes.

In this context, the Committee calls on the Scottish Government, as part of its new updated Islands Connectivity Plan, to undertake a detailed review of current and future propulsion technologies and, where appropriate, to consider a build strategy for future vessels that is flexible enough to enable retrofitting of vessels with more advanced, lower carbon propulsion systems as these become available. It is also of the view that clear objectives should be set for the future reduction of greenhouse gas emissions from ferries in the forthcoming update to the Scottish Government's Climate Change Plan.

Crew accommodation

The Committee recognises the respective advantages and disadvantages of either

basing crews onshore or on board vessels depending on the specific operational requirements of individual routes on the network. On this basis, the Committee is not in a position to make a specific recommendation on this matter.

Clyde & Hebrides network franchise

The Committee acknowledges the additional challenges for procurement of new vessels to serve the Clyde and Hebrides network that would be associated with splitting the franchise into smaller bundles of routes - particularly as this relates to potential redeployment of individual vessels to other routes in the future.

At the same time, the Committee also recognises the challenges to longer term planning, including for new vessel procurement and deployment, of the current relatively short length of the franchise contract. To address these challenges, the Committee calls on the Scottish Government to launch a discussion on potentially extending the next Clyde and Hebrides network franchise for a much longer period of time than is currently the case.

The Ferguson Marine shipyard

In taking the Ferguson Marine shipyard into public ownership, the Committee recognises the Scottish Government's intention to secure long-term shipbuilding capabilities and jobs in Scotland and the actions taken by the Scottish Government in support of that goal that relate to the contract for the design and build of vessels 801 and 802.

The Committee further believes that, whatever its long-term ownership status, the shipyard's overarching objective must be to secure a long-term pipeline of work and to safeguard its future as a going concern.

The Committee further requests that the Scottish Government keep the Committee regularly updated as regards the development and implementation of a future strategy for the Ferguson Marine shipyard that will enable it to compete successfully for future contracts across both the public and private sectors, including the development of appropriate in-house design capabilities.

Decision-making structure

The Committee believes that the experience of the ferries contract has exposed a cluttered decision-making landscape that lacks transparency and where there have been varying degrees of failure by all of those with decision-making responsibilities, including the Scottish Government. It is of the view that CMAL, in particular, and Transport Scotland both failed to discharge their respective responsibilities competently and effectively.

The Committee believes that the experience of the contract for delivery of vessels 801 and 802 has exposed serious failures in the current tripartite decision-making

structure. The Committee therefore concludes that a root and branch overhaul of current decision-making structures is urgently needed and that this should consider the relative roles and responsibilities of all bodies involved in decision-making around the procurement of new vessels and should also include an appraisal of whether each of these bodies should continue to exist or whether there is scope to streamline and simplify decision-making structures by merging or abolishing certain of them.

The Committee also calls on the Scottish Government to ensure that any new decision-making structure incorporates a reinforced role for the island and other communities affected by decisions on the procurement of new ferries and having due regard to the relevant provisions of the Islands (Scotland) Act 2018, in particular those relating to the preparation of island community impact assessments and the duty to consult island communities.

Procurement and construction strategy

The Committee is extremely concerned about the overall age profile of Scotland's ferry fleet with many vessels now operating significantly beyond their originally planned operational lifespan. It considers that this situation reflects a failure by successive administrations in Scotland to develop and implement an effective strategy for renewing the fleet and is further concerned about the significant compromises an ageing fleet imposes on decision-making around the procurement of individual new vessels.

Notwithstanding these challenges, the Committee is additionally concerned that the Scottish Government's approach to the procurement and construction of new vessels to serve Scotland's ferries network has been short-term, piecemeal and lacking in strategic direction.

The Committee also draws the Scottish Government's attention to representations it has received from a number of stakeholders outside the Clyde and Hebrides ferries network that the replacement to the current ferries plan must give equal emphasis to addressing the needs of those communities who rely on routes and vessels beyond the Clyde and Hebrides network.

With respect to other new vessel procurement processes currently underway, notably the procurement of a new vessel to serve the Islay route, the Committee calls on the Scottish Government to provide an urgent update on current status and progress, and an overview of precisely how procurement practices have been modified to reflect lessons learned from the issues experienced with the procurement of vessels 801 and 802.

The Committee looks forward to having early sight of the Scottish Government's planned future islands connectivity plan. Based on the evidence it has received on the issues associated with the procurement of vessels 801 and 802 and reflecting on previous work it has undertaken in relation to ferries strategy and funding, the Committee believes that this plan must not simply be a "business as usual", updated iteration of previous plans. It must set out a genuinely new

overarching strategic vision for all vessels serving Scotland's ferries network over at least the next 25 years and should specifically address the following:

- **An exhaustive preparatory appraisal and cost / benefit analysis of all available vessel design options for different routes across the network;**
- **Requirements for the upgrade of port infrastructure to be fully integrated into the future vessel design strategy, ensuring increasing standardisation and progressively improved interoperability over time;**
- **A realistic long-term financial strategy that, within the constraints of the existing fiscal framework, sets out the funding necessary to modernise Scotland's ferries network fleet over that time period;**
- **A comprehensive strategy for the refurbishment and, where necessary, phased retirement of existing vessels on the network;**
- **A correspondingly comprehensive strategy for the construction of new vessels underpinned by an overarching objective to replace the entire existing ferry fleet over the next 25 years;**
- **Progress towards a much greater level of standardisation and simplification in the design of new vessels while recognising the design constraints associated with particular routes and infrastructure across the network;**
- **Due consideration to be given to the through-life costs of operating vessels when developing those design parameters;**
- **More effective coordination between different port and harbour owners to ensure better mutual understanding and acceptance of respective management, maintenance and funding responsibilities across the network;**
- **In those specific cases where these can be demonstrated to be more efficient, cost-effective or environmentally friendly, a willingness to consider the replacement of ferry links with links that use alternative transport modes.**

In making these recommendations, the Committee makes due reference to the broadly similar conclusions previously reached as part of a pre-budget scrutiny exercise in 2018 on investment to support Clyde and Hebrides ferries services and, prior to that, in the 2008 report on ferry services published by its predecessor, the Transport, Infrastructure and Climate Change Committee.

Introduction

1. The Rural Economy and Connectivity (REC) Committee agreed to hold an inquiry into the construction and procurement of ferry vessels in Scotland at its meeting on 30 October 2019.
2. The membership of the Committee changed during the inquiry. Jamie Greene MSP was replaced by Rachael Hamilton MSP on 25 February 2020. Rachael Hamilton MSP was replaced by Oliver Mundell MSP on 20 August 2020.
3. It was agreed that the remit of the inquiry would be to identify and address current and future challenges and opportunities in the procurement of new vessels to support Scotland's ferries network.
4. As part of the inquiry, the Committee also agreed to consider the updated timetable and costs associated with the completion of two new ferries to serve the Clyde and Hebrides ferries network, set out in the Ferguson Marine Programme Review Board report, published by the Scottish Government on 18 December 2019¹.
5. As part of its inquiry, the Committee issued a call for written evidence which was launched on 20 December 2019 and officially closed on 7 February 2020. In total, the Committee received 49 individual submissions to the call for written evidence.
6. The Committee also took oral evidence from:
 - Representatives of the Ferguson Marine (Port Glasgow) Ltd. Programme Review Board (22 January 2020);
 - A panel of ferry experts and representatives of community/ferry user groups (29 January 2020);
 - Former independent adviser to the Scottish Government on shipbuilding, Commodore Luke van Beek (5 February 2020);
 - Representatives of the former management of Ferguson Marine Engineering Limited (FMEL) (5 February 2020);
 - Officials from Transport Scotland (4 March 2020);
 - Representatives of David MacBrayne Ltd (DML) and CalMac Ferries Ltd (CalMac) (4 March 2020);
 - Representatives of Caledonian Maritime Assets Limited (CMAL) (11 March 2020);
 - The Minister for Energy, Connectivity and the Islands (26 August 2020); and
 - The Cabinet Secretary for Economy, Fair Work and Culture (26 August 2020).
7. In addition, on 24 February 2020, members of the Committee undertook a site visit to the Ferguson Marine shipyard and to the warehouses at Westway Park where inventory for vessels 801 and 802 has been held in storage.

REC Committee visit to the Ferguson Marine shipyard, 24 February 2020



Source: Scottish Parliament Media Relations Office

8. As a result of the COVID-19 pandemic, the Committee was forced to pause work on its inquiry in March 2020 and only recommenced with concluding evidence sessions with Scottish Ministers at the end of August. During the intervening time, the Committee continued to receive and consider a number of additional written submissions to the inquiry.

Background

9. Caledonian Maritime Assets Ltd. (CMAL) placed orders for two new ferries with Ferguson Marine Engineering Ltd. (FMEL) in October 2015. The ferries were to be delivered on a fixed-price basis under a design and build contract, with a combined fixed-price of £97m. The vessels were to be powered by hybrid marine gas oil / Liquid Natural Gas engines.

10. In October 2017, Audit Scotland published the results of its audit of Transport Scotland's spending on ferry services "to determine whether it is value for money".

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11. This report indicated that Transport Scotland had made "significant progress against the commitments" contained in its Ferries Plan for 2013 to 2022 but noted that the plan "is focused on the Clyde and Hebrides network" and that "there is no Scotland-wide, long-term strategy which takes into account proposed developments to ferry operations, and the condition of about half the harbours used by Transport Scotland's ferry operators is unknown".

12. In October 2018, the Committee's pre-budget scrutiny on the strategic investment required to support Clyde and Hebrides Ferry Services (CHFS) called for an urgent review of the Scottish Government's Ferries Plan "to meet current and future needs" and argued that this should be "underpinned by a fully co-ordinated strategy for the staged, ongoing replacement and refurbishment of vessels". It should also be noted that broadly similar recommendations were made in 2008 by the Transport Infrastructure and Climate Change Committee in its *Ferry Services in Scotland* inquiry report.

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13. In his response to the Committee's pre-budget scrutiny, dated 20 December 2018, the Minister for Energy, Connectivity and the Islands indicated that work was underway to develop a "new long-term strategy which builds on the 2012 Ferries Plan", which would include "updated vessel and ports infrastructure investment plans", would be "costed, including estimates of the impact on operating costs and on subsidies to ferry operators" and would be "informed by the revised National Transport Strategy and the Islands Plan" and "developed as part of the Strategic Transport Projects Review".

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14. During the period when the shipyard was working on fulfilment of the design and build contract for vessels 801 and 802, the Scottish Government supported FMEL with the provision of two commercial loans, the first valued at £15 million provided in September 2017 ⁵ and the second, valued at £30 million, provided in June 2018 ⁶.

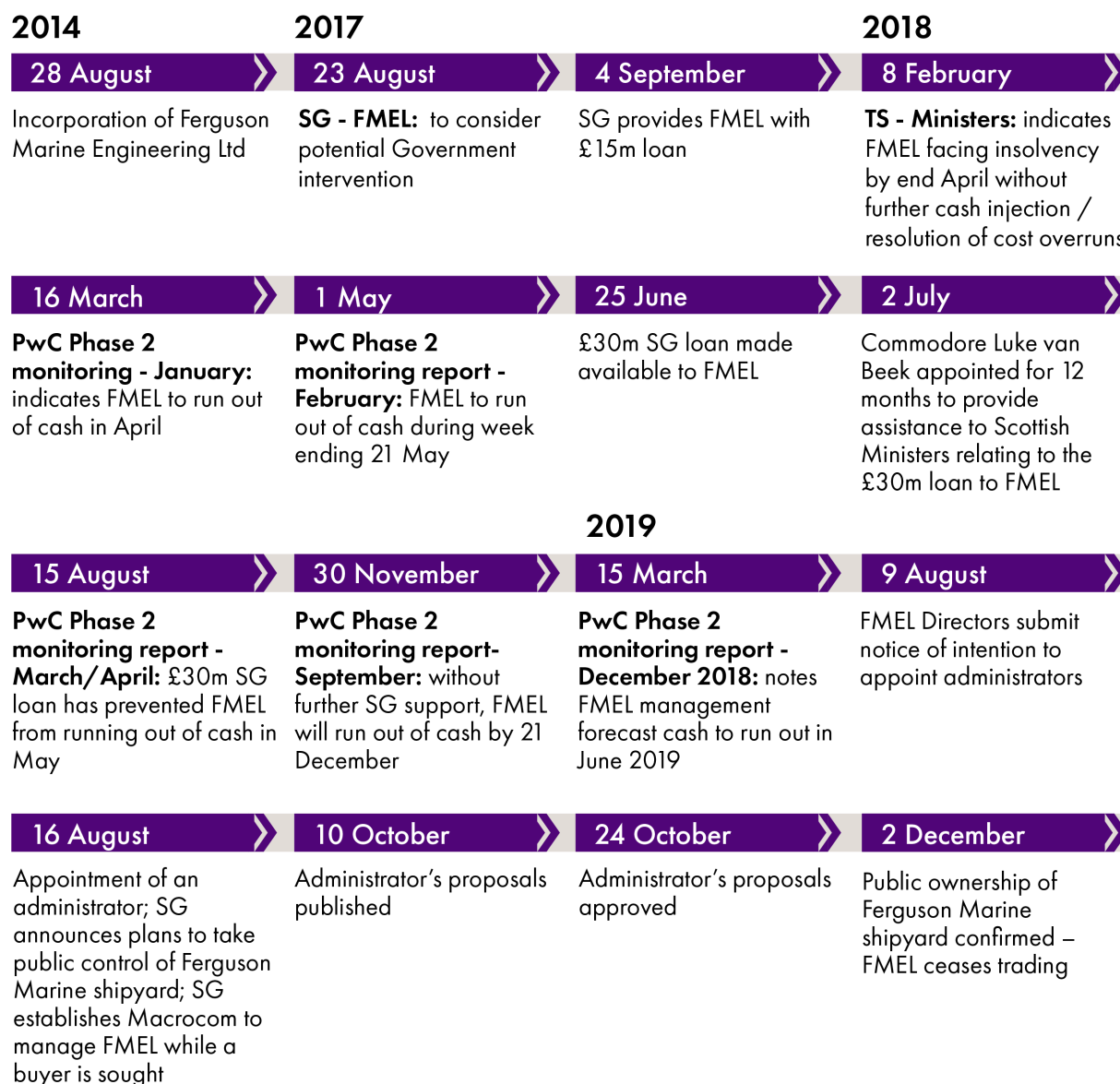
15. Commodore Luke van Beek Royal Navy (Retd) CBE was engaged by the Scottish Government to provide assistance in relation to the second of these loans in July 2018.

16. As part of the ferries contract awarded to FMEL in 2015, the first ferry (MV Glen Sannox) was originally due to be delivered in May 2018, with the second due for delivery in July of that same year. The Minister for Transport and the Islands wrote to the Committee on 9 November 2017 ⁷, highlighting a delay in the delivery of the ferries with the MV Glen Sannox delayed until Winter 2018/19 and the, as yet unnamed, hull 802 some time later.
17. The Cabinet Secretary wrote again to the Committee on 16 August 2018 to advise that:
 - ” ...the first vessel, the MV Glen Sannox, will be delivered during Summer 2019 and the second vessel in Spring 2020.

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18. The Minister for Energy, Connectivity and the Islands subsequently wrote to the Committee on 25 April 2019 ⁹ advising that he anticipated a further delay to the delivery of both vessels and that CMAL had rejected the basis of a claim for additional costs incurred by FMEL in the building of the vessels.
19. On 8 August 2019, the directors of FMEL filed a notice of intention to appoint administrators, effectively starting the process which would place the business in administration ¹⁰.
20. On 16 August 2019, the Scottish Government announced plans to take the Ferguson Marine shipyard into public control and, under a management agreement with the administrators, established Macrocom to manage FMEL whilst a buyer was sought ¹¹. Under the agreement, the Scottish Government confirmed its intention to acquire the company at the end of the yard sale process should no viable commercial offer be forthcoming.

Ferguson Marine: Key events leading up to administration and nationalisation



Source: SPICe data visualisation.

21. At this stage, Tim Hair was appointed to the role of Turnaround Director at the Ferguson Marine shipyard and a Programme Review Board was set up to oversee stabilisation of the business.
22. Also on 16 August 2019, HCCI, the major creditors to the business, formally appointed Deloitte to handle the administration¹². On 24 October 2019, following completion of the yard sale process, Deloitte concluded that:
 - ” ...none of the offers were either capable of being executed, in terms of the structure of the offers proposed or would have represented a better outcome for creditors than is expected from a sale of the business to Macrocom.

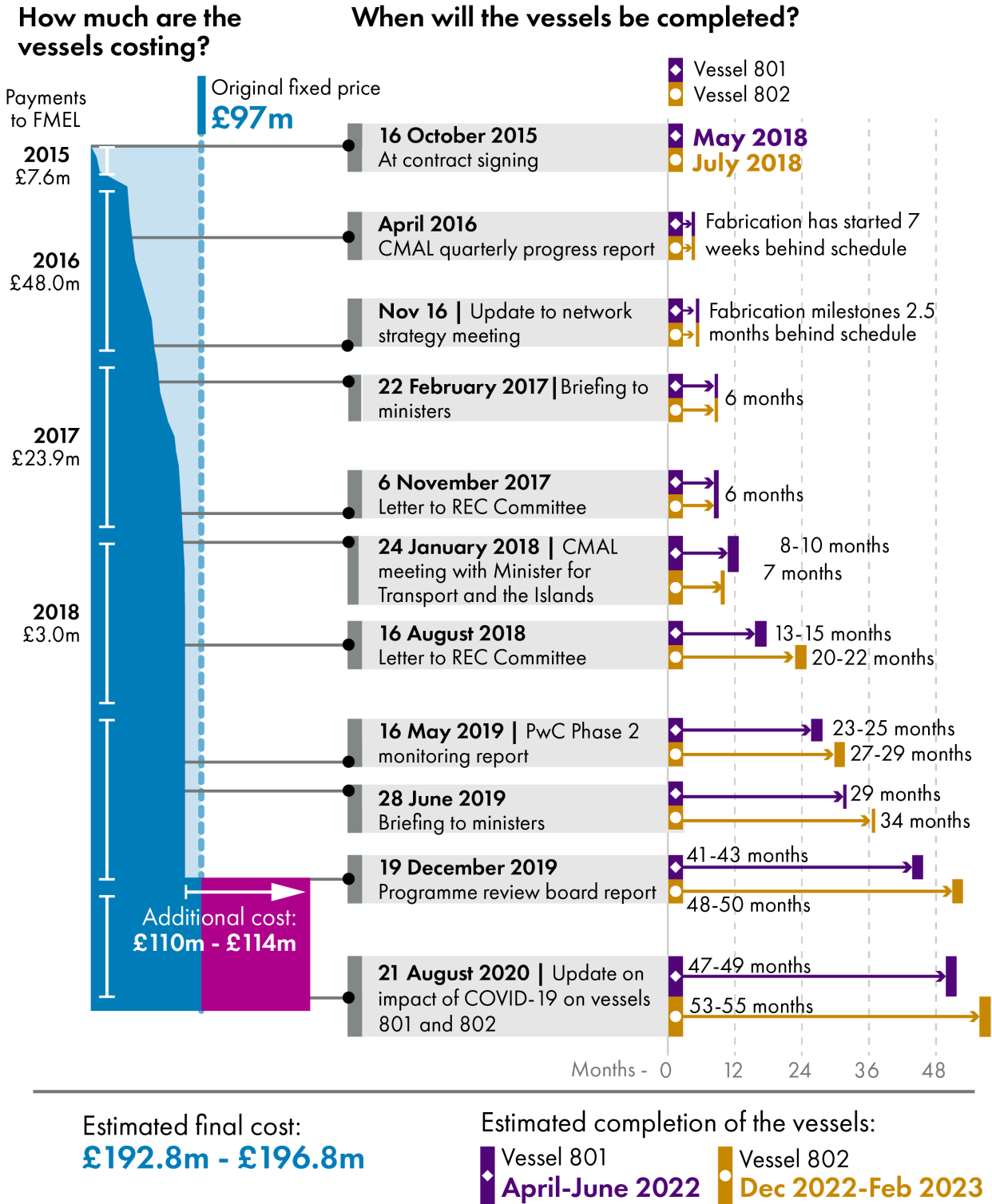
13

23. On 2 December 2019, the Scottish Government confirmed that it had taken the

Ferguson Marine shipyard into public ownership and that the administrators had agreed the final terms of the transaction with Scottish Ministers ¹⁴ .

24. On 18 December 2019, the Programme Review Board published a report outlining an updated estimate of costs and delivery dates of the two vessels ¹⁵ .
25. On 25 August 2020, the Scottish Government published an update on progress and the impact of COVID-19 on the programme for vessels 801 and 802. In addition to the sum of £82.5 million already paid to FMEL in milestone payments on the contract (85% of the original fixed price budget), this update estimates the cost range of completing the vessels at between £110.3 million and £114.3 million and a delivery range for vessel 801 of April to June 2022 (delayed from October to December 2021) and December 2022 to February 2023 for vessel 802 (delayed from July to October 2022). ¹⁶
26. Assuming no further increase in costs or slippage in delivery dates:
 - Compared to an original fixed price budget of £97 million, this takes the total estimated cost for the design and build of vessels 801 and 802 to between £192.8 million and £196.8 million;
 - Compared to the original contractually agreed delivery dates for the vessels, delivery of vessel 801 will have been delayed by between 47 and 49 months and delivery of vessel 802 will have been delayed by between 53 and 55 months.

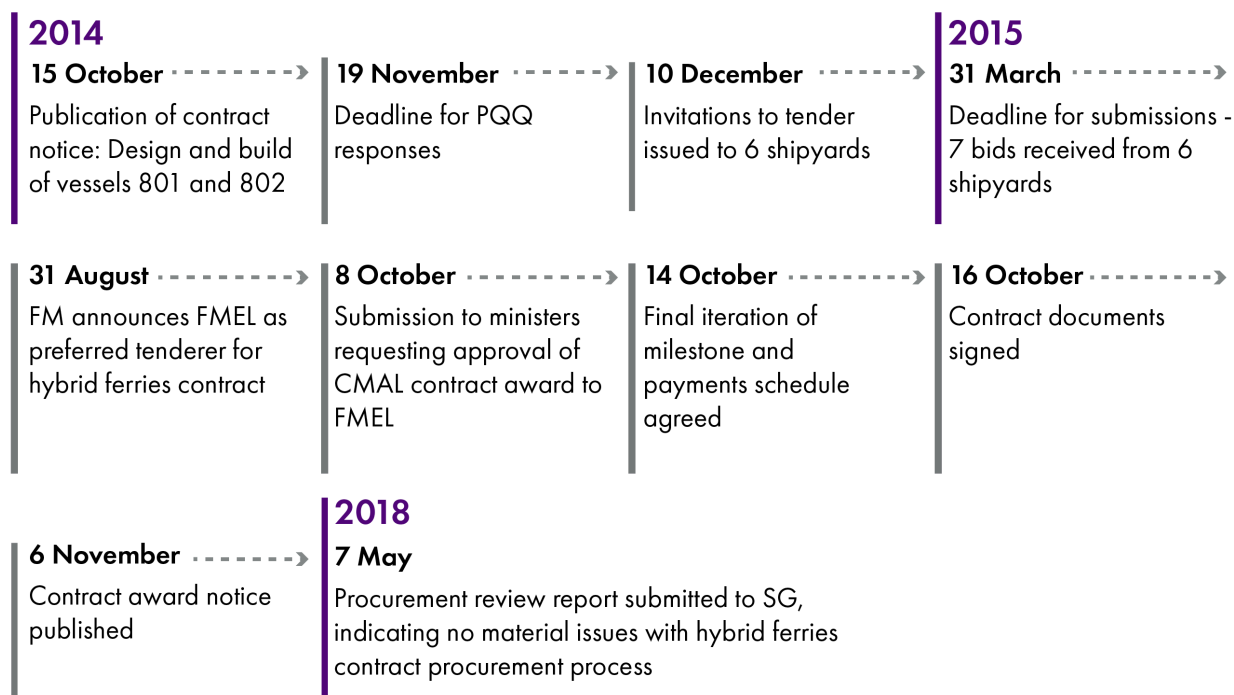
Design and build of vessels 801 and 802: Delays and cost overruns



Source: SPICe data visualisation.

Hybrid ferries contract: the procurement process

A summary of key events related to the process of procuring vessels 801 and 802.



Source: SPICe data visualisation.

27. A contract notice was originally published by CMAL on 15 October 2014 for:
- ” ...the detailed design, construction, testing, survey, equipping, completion and delivery of two ROPAX ferries of one hundred metres length overall.
- 17
28. The contract notice set a deadline of 19 November 2014 for the submission of completed pre-qualification questionnaires.
29. On 10 December 2014, six shipyards were issued with invitations to tender for the contract with a deadline of 31 March 2015 for the submission of tenders. By this deadline, five of the shipyards had each submitted one tender and the sixth shipyard had submitted two tenders.¹⁸
30. Information on the identity of the six shipyards tendering for the contract has been provided to the Committee as follows:
1. Cammell Laird, England
 2. Ferguson Marine, Scotland

3. Flensberger Schiffbau-Gesellschaft, Germany
4. Nordic Yards, Germany
5. Remontowa Shipbuilding, Poland
6. Sefine Shipyard, Turkey

19

31. The validity of the tenders received was originally due to expire on 30 June 2015 but this expiry date was subsequently extended to 31 August 2015 with the agreement of the tenderers.
32. In follow-up correspondence following his appearance before the Committee on 11 March 2020, Kevin Hobbs, Chief Executive Officer at CMAL, indicated the following proposed timescales for completion of the two vessels contained in each of the seven bids:

” In their tender submission, Shipyard A proposed to build the first vessel in 26 months and the second vessel in 32 months from contract award.

In their tender submission, Shipyard C proposed to build the first vessel in 24 months and the second vessel in 27 months from contract award.

In their tender submission, Shipyard D proposed to build the first vessel in 28 months and the second vessel in 34 months from contract award.

In their tender submissions, the yard that bid two designs – referred as Shipyard E and Shipyard F during the evaluation phase – proposed for both their designs to build the first vessel in 25 months and the second vessel in 27 months from contract award.

In their tender submission, Shipyard G proposed to build the first vessel in 30 months and the second vessel in 35 months from contract award.

20

33. In giving evidence to the Committee, Jim Anderson, Director of Vessels at CMAL, indicated that the bid from FMEL (Shipyard B) proposed a build time of 31 months for the two vessels.
34. While giving evidence to the Committee, Kevin Hobbs of CMAL was asked what due diligence had been undertaken of the financial stability of each of the shipyards bidding for the contract. Mr Hobbs responded:

” Financial stability is part of our assessment and, fairly obviously, if we believed that a shipyard was financially unstable, we would discount it. However, that was not the case for any of the bids that we saw.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 63²¹

35. An evaluation of the tenders was submitted to the Board of CMAL on 17 August 2015. Four of the submitted tenders were judged not to be potential candidates,

leaving three tenders, including that submitted by Ferguson Marine, to be considered.

36. On 20 August 2015, a submission to Scottish Ministers recommended approval of the award of the contract by CMAL to FMEL. The submission indicated that:

” FMEL was the highest quality bid received but also the highest price. Taken together, the FMEL tender achieved the highest overall evaluation score.

18

37. The same submission to Ministers included an assessment of the risk of unsuccessful bidders for the contract mounting a legal challenge to the decision to award the contract to FMEL and the prospects of any such legal challenge being successful, concluding:

” As with any procurement, a legal challenge from one of the unsuccessful shipyards cannot be discounted. CMAL have not identified any particular risks in this regard and, in any case, are confident that any challenge can be defended. That said, the relationship between Scottish Ministers and Ferguson's owner is well known.

18

38. Giving evidence to the Committee, Duncan Mackison of David MacBrayne Ltd (DML) outlined the limited role of DML and CalMac Ferries Ltd (CalMac), as end users of the ferries, at the start of the procurement process:

” Once the procurement exercise has started, we step back from the process, other than...supplying individuals who can provide technical expertise within the procurement function that is run by CMAL.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 16²²

39. Later during the same evidence session, Robbie Drummond of CalMac Ferries Ltd. (CalMac) outlined in further detail the role fulfilled by CalMac in assessing the bids:

” We provided support in relation to whether those bids met our operational requirements and how we would score those in terms of meeting the specifications.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 77²³

40. Mr Drummond later clarified that CalMac's involvement in the procurement process was limited to a technical assessment of the bid and that this would have been done at an anonymised level so the identity of the individual shipyards bidding for the contract would not have been known to CalMac's assessors.

41. In a joint response to a request for additional information following the appearance of their representatives before the Committee, DML and CalMac confirmed that the elimination of bids A, C, E and G from the tender process was performed by CMAL without the involvement of either DML or CalMac. However, the response also indicates that with respect to the three remaining bids, CalMac were invited by CMAL to:

- ” ...produce a report and comment on the potential candidates outlining areas where there is a shortfall in their expectations.

24

42. The joint response goes on to indicate that, during July and August 2015, CalMac (otherwise referred to as CFL) continued to provide technical input to the process of assessing the three shortlisted bids. In particular, the joint response indicates that, on 27 July 2015:

- ” CMAL formally confirmed to CFL that they had appointed Yard B as their *“leading yard”*.

24

43. During the inquiry, the Committee has sought to establish how many of the bids submitted to the invitation to tender were rejected by CMAL on the basis of having failed to meet the baseline requirements set out in the outline specification for the vessels. A letter submitted to the Committee on behalf of CMAL on 3 March 2020 indicates that four of the seven bids (all anonymised using the letters A to G) were judged not to be potential candidates for award of the contract for the following reasons:

- ” Shipyard A: Exceeds the maximum specified beam of 17m and the deadweight at 3.4m draft is less than the required deadweight of 900 tonnes.

Shipyard C: Does not meet requirements for: machinery arrangement (does not meet baseline requirements), environmental noise, station holding, and has least car carrying capacity.

Shipyard E: The propulsion power at service speed of 16.5 knots is over 1000 kW higher than the other designs and hence uses more fuel increasing emissions and gives higher operational costs.

Shipyard G: The lightship weight is significantly less than the other designs and other vessels in the Calmac fleet and considered to be underestimated and therefore gives very significant degree of concern and presents very high risk.

25

44. In follow-up correspondence with the Committee, Frances Pacitti, Director of Aviation, Maritime, Freight, Canals and Digital Connectivity at Transport Scotland, suggested that, although it was correct that four of the seven bids were judged by CMAL not to be potential candidates for award of the contract:

- ” ...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.

26

45. While gathering evidence as part of the inquiry, the Committee has sought to

establish how, as the highest, the price of FMEL's bid compared to other compliant bids. Kevin Hobbs of CMAL told the Committee that he was constrained from going into too much detail on the value of individual bids due to confidentiality clauses included in those bids but concluded:

” ...there were six compliant bids, and in a broad sense, the range was about 15 per cent from top to bottom. A couple of bids were extremely close.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 182²⁷

46. Dr Alf Baird, invited to give evidence to the Committee in his capacity as former Professor of Maritime Business at Edinburgh Napier University, suggested that Scotland's procurement authorities are unique internationally in their approach to public procurement in publishing the price they are willing to pay for a vessel in advance:

” No commercial ship owner would ever do that. They would want the best bids; they would never announce the budget that they had to spend on the ferries.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 93²⁸

47. Addressing the assertions made by Dr Baird, the statement on behalf of Scottish Ministers, submitted to the Committee on 12 August 2020, states:

” In keeping with the requirements of the OJEU process, information was made available on both a ceiling and floor price. This was a condition of the procurement process, does not prevent a bidder from departing above or below those prices and not, as has been suggested to the inquiry, an error or calculated move designed to alert bidders to the acceptable budget or price.

29

48. Roy Pedersen, who was invited to give evidence to the Committee in his capacity as an author and consultant, was asked why, in his view, as part of a procurement process where bids were assessed 50% on quality and 50% on price, a situation may have arisen whereby a bid that was the highest quality but also the highest price was successful. Mr Pedersen responded:

” I do not know the answer, but three things spring to mind. One is incompetence; another is vested interest; and the final one is corruption.

Source: Rural Economy and Connectivity Committee 29 January 2020, Roy Pedersen, contrib. 101³⁰

49. Asked directly whether the Scottish Government or Transport Scotland had ever applied pressure - either directly or indirectly - for CMAL to award the ferries contract to a particular bidder, Kevin Hobbs was categorical in his response that this had not happened and that the contract had been awarded to FMEL purely based on an evaluation of the quality and price of its bid and its past reputation.
50. In their own submission to the Committee's inquiry, Scottish Ministers have rejected Mr Pedersen's statement, concluding:

- ” The Scottish Ministers also refute the inference made to the inquiry that there had been political interference in the procurement process.

29

51. Evidence from Jim Anderson of CMAL suggests that the domestic location of the Ferguson Marine shipyard may have given it an additional advantage when bidding for the ferries contract, compared to competing bids received from shipyards located further away:

- ” When it comes to the cost, we look not only at the cost—or price—that is being offered by the yard, but at whatever location in the world the ship might be at, because we put in place a site team wherever the shipyard might be. ...

We also have all the costs of bringing a vessel home, depending on where that is from, including the crewing costs, the fuel costs, the storing—everything. Those aspects are all factored in with the quality, and it was a 50:50 split.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 54³¹

52. The submission to Ministers of 20 August 2015 stressed the relative urgency of reaching a decision on award of the contract and sought Ministerial approval in principle by Thursday 27 August on the basis that:

- ” Given procurement deadlines, Caledonian Maritime Assets Ltd (CMAL) are required to issue a notification of contract award letter to FMEL, and 'Alcatel' letters to the 5 unsuccessful bidders no later than Monday 31 August - after that date the tenders will no longer be valid...

53. On 31 August 2015, the Scottish Government announced that FMEL was confirmed as the preferred tenderer for the ferries contract. ³²

54. While giving evidence to the Committee, Jim McColl, the Chairman and CEO of Clyde Blowers Capital (CBC), former owners of the Ferguson Marine shipyard prior to its nationalisation, claimed that the First Minister had announced FMEL as the preferred tenderer at a time when negotiations were still ongoing to reduce the agreed price for delivery of the contract from around £105 million to £97 million, in particular with a view to agreeing that CMAL would take responsibility for the foreign exchange costs of purchasing equipment in euros. Mr McColl told the Committee that, at the point at which the First Minister made the announcement:

- ” CMAL then came back to us and said that it had been announced by the First Minister, so we would just have to accept it, and that it was not going to negotiate with us on the foreign exchange aspect.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 185³³

55. The claims made by Mr McColl were later refuted by CMAL, with CEO Kevin Hobbs telling the Committee:

- ” The final, negotiated, stamped payment schedule came in on 27 August... and the First Minister made the announcement on 31 August.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 84³⁴

56. Prior to Mr Hobbs' appearance before the Committee, CMAL submitted a payment schedule dated 27 August to support its account of events.³⁵
57. In follow-up correspondence with the Committee, Frances Pacitti of Transport Scotland supported CMAL's account of events and further pointed out that the announcement of FMEL as preferred bidder:
- ” ...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.

26

58. Correspondence from September 2015 indicates significant concerns on the part of CMAL with respect to the level of Builder's Refund Guarantee initially put in place by FMEL. The purpose of the Builder's Refund Guarantee is to refund the stage payments to the buyer should the shipyard fail or the vessels' performance fall below set standards. Correspondence exchanged during this period reflects CMAL's view that the level of refund guarantee initially proposed was not sufficient and therefore constituted an unacceptably high level of unsecured risk.³⁶
59. During further negotiations with FMEL, CMAL reportedly "secured some improvements in the terms of the refund guarantees to be provided by the shipyard", representing, in the view of CMAL "the best deal that can be negotiated given FMEL's financing structure". At the same time, the submission to Ministers further reported that:
- ” ...it is clear that the Board of CMAL are still concerned at the risks this contract basis presents in placing orders at FMEL without the full refund guarantees in place that were specified in the original tender documents.

36

60. Giving evidence to the Committee, Kevin Hobbs of CMAL, explained that, with vessel parts representing two thirds of the overall value of the contract, his organisation was able to close a potential £60 million risk gap and arrive at a position of being able to sign the contract in mid-October by reaching agreement with FMEL that, as equipment, materials and machinery for the vessels were delivered to the yard, CMAL would take ownership of them.
- ” Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 65³⁷
61. Responding to the concerns expressed by CMAL in relation to financial guarantees, Scottish Ministers submitted a letter to CMAL setting out their agreement to fund the two new 100m vessels to be built at FMEL, in which they also sought to provide assurance to CMAL that they:

- ” - are aware of the potential risks associated with this contract; and
- are content to give approval to CMAL to proceed.

36

62. On 13 October 2015, CMAL confirmed acceptance of the offer of voted loan from

Scottish Ministers, covering the cost of the ferries contract.³⁸

63. A final iteration of the milestones and payments schedule for the ferries contract was agreed between the parties on 14 October 2015.³⁹ The contract documents were then signed on 16 October 2015⁴⁰ and a contract award notice was subsequently published on 6 November 2015.⁴¹

64. Giving evidence to the Committee, Gerry Marshall, formerly the chief executive officer of FMEL claimed that, contrary to the yard's previous experience of working on other contracts directly with CalMac when it would typically spend around one year working on the initial specification of the vessel, all bidders to the design and build contract for vessels 801 and 802 were given insufficient time to develop their bids:

” ...we were given just eight weeks to work on the contract—not just us but everyone who was bidding for the contract at the time...

Source: Rural Economy and Connectivity Committee 05 February 2020, Gerry Marshall, contrib. 230⁴²

65. This version of events was strongly refuted by CMAL, with Chief Executive Officer Kevin Hobbs stating to the Committee that the detailed development of the design of the vessels should have taken place after the contract was awarded but before construction began:

” In a 30-month build programme for example, a normal shipyard would spend a year designing the ship to the nth degree. During that period, it would share those designs with us as the owners, with class, and with flag, which is the Maritime and Coastguard Agency. That is the normal process.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 313⁴³

66. Mr Hobbs went on to suggest that, instead of following the "normal process", FMEL had pursued an approach of "building at risk":

” Ferguson's were designing as it went along. It was sending drawings on to the shipyard floor for construction without sign-off by us or by Lloyd's. That is a major part of the failure.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 313⁴³

67. While giving evidence to the Committee, Jim McColl was asked why, given concerns about the contract being let too early, FMEL nonetheless signed it. Mr McColl responded:

” When we were making the bid, we were told, “Don't worry about the spec—we'll work together collaboratively on this.” I took a judgment that the management team could work with CMAL in a collaborative way. In addition, I was always of the view that we might have to take a bit of a loss on it, although I thought that it would be manageable.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 196⁴⁴

68. Giving evidence to the Committee, CMAL concluded that it did not have any regrets in relation to the running of the procurement process for the ferries contract, while Jim Anderson emphasised the quality of the bid FMEL originally submitted in

response to the tender:

” I have brought along the specification that was provided by Ferguson’s as part of its quality offer. It is 2,000 pages long; it is a substantial and compelling proposal. Neither we, as an organisation, nor I, in my individual lifetime, have ever seen anything with that level of detail for a bid. It was well put together.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 54³¹

69. On behalf of Transport Scotland, Frances Pacitti defended the role fulfilled by CMAL as procurement authority for the ferries contract:

” ...in 2018, we asked the Scottish Government’s procurement directorate to do an independent health check of the procurement process that had been undertaken. Its staff did that at arm’s length, without any kind of influence, and came back to say that they were comfortable that the process had been robust and that there had been no material issues with it. I am satisfied that CMAL is the correct procurement authority, in general and specifically in this case.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 308⁴⁵

70. The Committee recognises that the established processes and structures for procuring new vessels to serve the Clyde and Hebrides ferries network have, in the past, resulted in new vessels being delivered on time and on budget. However, based on the extensive range of evidence it has received, the Committee believes that there has been a catastrophic failure in the management of the procurement of vessels 801 and 802, leading it to conclude that these processes and structures are no longer fit for purpose.

71. In particular, the Committee has the following concerns about the way in which this specific procurement process was run:

- Transport Scotland and CMAL applied inadequate due diligence in scrutinising and signing off the procurement process;
- The tender design requirements for this design and build contract initially lacked sufficient detail and development to enable a suitably robust assessment to be made of the capabilities of the bidders based on their submitted concept designs;
- Subsequent to contract award, insufficient work was undertaken by the contractor to develop and secure sign-off on the basic design prior to commencing construction of the vessels;
- Negotiations with the leading shipyard on detailed terms of the contract were not sufficiently far advanced before the contract award was officially announced;
- Insufficient due diligence was undertaken of the financial stability of bidders, including the winning bidder. This is particularly pertinent given the subsequent financial difficulties experienced by the winning bidder;

- There was an over-reliance, in assessing the bids, on the historic track record of the shortlisted shipyards and a lack of robust due diligence in assessing their current capabilities in areas such as project management and design;
- Commitments related to financial guarantees under the terms of the invitation to tender appear to have been open to renegotiation following contract award, suggesting that those commitments were lacking in legal enforceability at the point the contract was awarded.
- There was a lack of clarity and understanding by all parties to the contract concerning their respective roles and responsibilities and no clear processes to escalate matters quickly in the event that those roles and responsibilities were not being properly fulfilled.
- The Scottish Government seems to have been willing to proceed despite apparent significant risks associated with awarding the contract to FMEL, as highlighted in particular by CMAL.

72. The Committee therefore calls on the Scottish Government to commission an independent external review of the processes for public procurement of ferries to ensure appropriate lessons are learned for the future and to keep the Committee updated of its progress and conclusions. This review should consider in particular the extent and robustness of financial due diligence and detailed assessment of technical capabilities of bidders as part of any future exercise for the procurement of new ferry vessels.

Ferguson Marine capabilities

73. Following award of the ferries contract, significant deficiencies in the capabilities of the former management of FMEL, particularly as these relate to its management of the contract have become progressively apparent - deficiencies that appear not to have been identified during the procurement process.

74. Giving evidence to the Committee on behalf of CMAL, Jim Anderson was happy to vouch for the capabilities of the Ferguson Marine shipyard based on previous recent work it had undertaken:

” The shipyard had a great history and a great pedigree in building CalMac ferries and many other types of ships. It had the capability to do this.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 135⁴⁶

75. At the same time, documents related to the ferries contract released by the Scottish Government in December 2019 suggest that this positive appraisal of Ferguson Marine was not necessarily universally shared within CMAL with the Chair of CMAL Erik Ostergaard referring to the company in an email dated 26 September 2015 as:

” ...a newly established shipyard with no track record at all of building ferries of this size...

47

76. During his appearance before the Committee, the Minister for Energy, Connectivity and the Islands Paul Wheelhouse also highlighted the extent of prior experience the Ferguson's shipyard had of building ferries to serve the Clyde and Hebrides network:

” ...of the 33 vessels that are in use in the network today—admittedly, all of them are pre-2000—11 were fabricated by Ferguson in Port Glasgow. Of the 10 major vessels that are now in the network, five were built by Ferguson.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 76⁴⁸

77. It is notable that, although the shipyard may have had an established track record with respect to the construction of new ferry vessels for the Clyde and Hebrides fleet, this experience predates the existence of FMEL, which was only incorporated on 28 August 2014 after Clyde Blowers Capital rescued the previous company from administration.

78. The Committee notes that, in the absence of any detailed stipulations concerning the capabilities of the shipyard and its management within the ferries contract itself, CMAL relied in assessing FMEL's bid on the shipyard's historic track record of building CalMac ferries despite the company having only very recently been established as a new legal entity and with an entirely new management team. On this basis, the Committee is concerned that, while CMAL may have been able to rely with a high degree of confidence on the historic skills and capabilities of the workforce at the shipyard, it could have had only limited confidence that the new management would have had suitable skills, experience and expertise to be able to manage and deliver successfully a contract of this nature.

79. The Committee considers that this lack of certainty regarding management capabilities at FMEL should have been considered as a much greater risk factor by CMAL and Transport Scotland than was the case when FMEL's bid to fulfil the ferries contract was being assessed.

Management of hybrid ferries contract

Design specification and design process issues

80. A key area of concern with respect to the fulfilment of the ferries contract has been the process of designing the vessels and whether the specific choice of vessel design is properly suited to the routes vessels 801 and 802 are intended to serve.
81. The Committee has heard a range of often conflicting evidence about problems encountered during the process of detailed design of vessels 801 and 802 following the award of the ferries contract to FMEL.
82. Giving evidence to the Committee on behalf of the former management of FMEL, Jim McColl expressed his view that the design specification for the vessels was far from being standard:

” ...the contract was a type that is standard in the industry; it is called a NEWBUILDCON. Such contracts are made for standard vessels, but it became clear that this vessel was a prototype vessel. We brought in some experts to review the contract who said that it was a prototype. Commodore Luke van Beek would view it as a prototype, our experts viewed it as a prototype and Lloyd’s viewed it as a prototype—it was definitely a prototype.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 241⁴⁹

83. Appearing alongside Mr McColl, Gerry Marshall, former CEO of FMEL, claimed that, during the construction phase of the contract, CMAL introduced significant changes to the design specification which was the basis on which the contract was originally awarded:

” When I went into the facility to take on the role in March 2017, and looked at both general arrangement drawings, hundreds of changes had happened from what we had bid against to what we were now working on.

Source: Rural Economy and Connectivity Committee 05 February 2020, Gerry Marshall (Former Chief Executive Officer, Ferguson Marine Engineering Ltd), contrib. 213⁵⁰

84. Mr Marshall later used a specific example to illustrate the knock-on impact on the overall build strategy of the significant changes he claimed CMAL was requesting to the design of the vessels:

” One of the big impacts was that the bunkering location on the ship was moved aft. In principle, from looking at a drawing, it was possible to move the bunkering location, but we also had to think about pipes and their declivity and how they got through bulkheads. We had also to think about the knock-on effects of that.

Source: Rural Economy and Connectivity Committee 05 February 2020, Gerry Marshall, contrib. 287⁵¹

85. FMEL's former Chief Naval Architect Chris Dunn used a change in the specification of the number of passengers to be carried by the new vessel as a further example of the wider impact on build strategy of certain design changes which the former management of FMEL claimed were requested by CMAL:

” The difference between 1,000 to 930 passengers is a big number, and it changes things: it moves galleys, bulkheads and pillars and all the things that need to be pinned down early in the process if we want to push forward.

Source: Rural Economy and Connectivity Committee 05 February 2020, Chris Dunn, contrib. 298⁵²

86. The characterisation of the design specification of the vessels as being prototypes, as suggested by the former management of FMEL, was strongly refuted by Jim Anderson who, on behalf of CMAL, told the Committee that the integration of LNG propulsion into the vessel design should have amounted to standard engineering:

” ...for the shipyard, it is about engines, pipes, ventilation, cables and a large tank. In its simplified form, that is no different from any other system that we would find on a ship. Yes, some safety studies have to be carried out on the tank, but fundamentally, LNG is straightforward.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 15⁵³

87. Also giving evidence on behalf of CMAL, Kevin Hobbs disputed the suggestion that, following contract award, CMAL had requested a large volume of changes to the design, as had been claimed by the former management of FMEL:

” ...the number of changes that we asked for and discussed formally with the yard throughout the contract was probably at about half the rate that we would normally expect. What Ferguson’s was describing was therefore its own mistakes.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 319⁵⁴

88. In its written submission to the inquiry, CMAL also refutes claims from FMEL (and set out in the report commissioned by FMEL from dispute resolution consultants HKA) that changes requested by CMAL resulted in a fundamental change to the assembly strategy for the vessels:

” It is alleged that, but for the alleged changes and interference by CMAL, the vessels would have been built stern-first. In truth, no change in the block sequence occurred – the vessels were always intended to be, and were in fact, assembled from mid-ships.

55

89. Evidence from Frances Pacitti of Transport Scotland supports Mr Hobbs account although Ms Pacitti went on to make a distinction between changes that were made to the high-level tender specification which she said were of the volume described by Mr Hobbs and changes instigated as part of the design iteration process where she said the level of change was less clear.

” Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 332⁵⁶

90. Ms Pacitti later concluded that, in retrospect, the evidence seemed to her to suggest that CMAL were being accurate in claiming that they had not requested changes to the design of the vessels to the extent that the former management of FMEL claimed:

” It was challenging for CMAL to present evidence to prove a negative—that it had not been requesting changes.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 364⁵⁷

91. Asked for his view on whether the problems that arose with delivery of the contract could be attributed to the volume of design changes requested by CMAL or to poor change management processes by FMEL, Commodore Luke van Beek indicated that, although he thought there was evidence that these processes had been poor at an earlier stage of the contract, these problems had been resolved by the time he was engaged. Commodore van Beek also expressed surprise at the number of changes to the design that were still being introduced at that stage and suggested that a failure by CMAL to sign off certain aspects of the design were causing ongoing problems with the construction of the vessels:

” The original idea... was to build the two ships side by side on the slipway, but that could not work because a number of the blocks were not finished in the right order... not because Ferguson Marine did not have a sensible plan but because CMAL had not agreed the specifications to enable the blocks to be built.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 50⁵⁸

92. Commodore van Beek went on to suggest that a key issue for the project was a lack of maturity in the design specification of the vessels at the point at which the contract was awarded and construction began:

” If you are going to put in place a design and build contract, you should have the specification almost complete when you let the contract. That was not what happened at all.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 56⁵⁹

On this basis, Commodore van Beek concluded:

” ...based on everything that I saw, which was late on in the process, I believe that the contract was let too early. I have no idea why Ferguson’s started building the ships having got a contract that was not specified enough.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 60⁶⁰

93. Jim McColl also expressed his view that the conceptual design specification was underdeveloped before being issued as part of the procurement process:

” We would normally expect the specification to be more fully fleshed out, with most of the risks taken care of beforehand. That is the way that it used to work when CalMac did the work directly, pre-CMAL. It would probably spend about a year with a consultant ironing out all the issues before issuing the specification.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 170⁶¹

94. In support of this view, Gerry Marshall argued that more time should have been taken before running the procurement process to test the design concept for the vessels more thoroughly and thereby, he argued, avoid unintended consequences for the construction of the vessels from a design concept that was, in his view,

underdeveloped:

” We should have gone through the whole concept and taken the time to prove it before launching into it. That applies to all parties.

Source: Rural Economy and Connectivity Committee 05 February 2020, Gerry Marshall, contrib. 294⁶²

95. Commodore van Beek also indicated that, at a certain point, he had proposed a freeze on design changes being proposed by CMAL but that this was ultimately not adhered to, a point of view which seems to support Jim McColl's claim that the design changes requested by CMAL were significant and numerous:

” CMAL initially agreed to the freeze but subsequently reneged on that and kept giving Ferguson design changes.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 95⁶³

96. The Committee has heard evidence that, although the conceptual design included in the original contract for construction of vessels 801 and 802 was clear, at the point at which the shipyard was nationalised in the latter part of 2019, the basic design of the vessels had still not been signed off. Specifically, Turnaround Director Tim Hair told the Committee that, with respect to sign-offs on the basic design, which he would normally have expected to have been completed within six to nine months of the contract being awarded:

” ...5 per cent of them were completed and 95 per cent were not completed when we took control of the yard in August 2019.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 65⁶⁴

97. Commodore Luke van Beek expressed surprise on having heard Tim Hair suggest that 95% of sign-offs on the basic design had not been achieved at the point at which the shipyard was nationalised and suggested :

” It seemed to me that the design, in the main, was well established and understood, but perhaps there were issues with the physical business of signing it off.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 46⁶⁵

98. Written evidence to the Committee, submitted anonymously by a naval architect, provides further insight into the process of developing the concept design into a basic and then a detailed design and the extent to which the design should be finalised before construction begins. Most notably, the evidence concludes that:

” ...particularly for complex passenger ships, it is not advisable to commence construction before final approval from the Class Society has been given (or at least substantially, and with a low risk of subsequent approvals having implications for parts already under construction).

66

99. The submitter goes on to highlight other cases internationally where issues have arisen due to a failure to finalise the vessel design before commencing construction:

- ” There have been a number of high profile passenger ship build failures over the years around the world where the common threads were commencing construction before final approval of the ship design, coupled with a higher than normal level of defects in the design work itself.

66

100. Programme Review Board member and Trade Union representative Alex Logan describe the challenges the lack of sign-off on the basic design created for the workforce at the shipyard, for instance in relation to the mooring decks, where the workforce knew that the thickness of the deck plates was not correct but were nonetheless required to press ahead with construction based on a flawed design:

- ” The unit has been built, but we know for a fact that it needs to be looked at again. The design was never in place; it was never signed off. About two weeks after building the unit, there was a change in the design. When it came back from Vera Navis in Portugal, we had to change the concept. Time and money were wasted building the unit, which will have to be scrapped and started again.

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 74⁶⁷

101. The Committee has been particularly concerned to learn that, four years after the contract was originally awarded, 95% of sign-offs on the basic design of the vessels were still not completed, particularly with respect to those sign-offs provided by the Maritime and Coastguard Agency, which relate predominantly to safety aspects of the vessel design.

102. Based on the evidence it has received, the Committee is forced to conclude that, although the conceptual design of the vessels was clear, the original design specifications were insufficiently detailed and had not been agreed between FMEL and CMAL before construction of the vessels started.

103. There is also strong evidence to suggest that FMEL lacked the appropriate level of design capabilities and consequently failed to manage the design iteration process effectively thereafter and proceeded to build the vessels before the design had been suitably developed and signed off.

104. The Committee questions why CMAL did not intervene to halt the process as soon as it became aware that FMEL was proceeding to build at risk without having secured sign-off on the basic design of the vessels and why Transport Scotland, as CMAL's sponsor, did not challenge CMAL as to why it did not intervene to prevent FMEL continuing with construction in these circumstances.

105. The Committee therefore calls for a review of the design development and sign-off process to investigate precisely how such a situation could have arisen and to

ensure such errors are never repeated. In particular, the Committee believes stronger safeguards need to be put in place to ensure that, in relation to future contracts of this nature, construction cannot progress without proper agreement and sign-off on the vessel design.

Community and other stakeholder views on vessel design

106. The Committee has heard a range of views regarding the design specifications for vessels 801 and 802 with some arguing that the design was overspecified, not suited to the requirements of the network or did not meet the expectations of the communities the vessels were intended to serve.
107. Giving evidence to the Committee, Dr Alf Baird expressed his view that a combination of a very high ratio of passengers to vehicles, the requirement for on-board living accommodation for the crew and the requirement to carry significant ballast due to poor stability of the hulls meant that vessels 801 and 802 were significantly overspecified and consequently very expensive to build (a view that has also been supported by certain written evidence to the inquiry, notably from the Mull and Iona Ferry Committee). Dr Baird concluded:
- ” The bottom line is that those who are specifying the ships have no incentive to look for lower-cost ships. They are specifying what is, in effect, a kind of mini-cruise vessel to run a utilitarian shuttle ferry—basically, a bus.
- Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 87⁶⁸
108. Supplementary evidence from the Mull and Iona Ferry Committee uses its own analysis of the Specification of Operational and Technical Requirements (SOTR) for vessels 801 and 802 and carrying records for the CalMac fleet covering the period October 2018 to September 2019 to make the case that the vessels' design specifications "fail to meet the requirements of the routes they serve" in three specific areas, namely the requirement to carry 1000 passengers which it argues imposes unnecessarily high costs, the requirement to carry 16 44 tonne heavy goods vehicles which it argues is excessive and imposes unnecessarily high demands on fuel consumption, and the stipulation that the vessels should have a maximum beam or width of 15.8 metres, which rules out the option of using a catamaran design which it argues would be more cost-effective.
- ” 69
109. At the same time, certain other stakeholders have offered an opposing view, arguing that the views expressed by Dr Baird, Mr Pedersen and the Mull and Iona Ferry Committee regarding vessel design are well rehearsed and do not offer a viable solution. For instance, the Sleat Transport Forum comments in its written submission:
- ” It is disappointing that some of those who have submitted papers are once again going over old ground, much of which has already been dismissed at the tripartite Network Strategy Group and the Ferry Industry Advisory Group.

110. Representing the CalMac Community Board, Chairman Angus Campbell told the Committee that the experience of vessels 801 and 802 has further heightened the frustration felt by many in the local island communities served by the Clyde and Hebrides ferries network that their views are not taken into account when designing ferry vessels and services. Mr Campbell concluded:

” We all know that we need a major investment in six to eight vessels over the next number of years, but there needs to be direct community feed-in to the process in a much clearer and more open way and in a way that actually has an impact.

Source: Rural Economy and Connectivity Committee 29 January 2020, Angus Campbell (CalMac Community Board), contrib. 9⁷¹

111. The important issue of engagement with local communities in relation to the ferry procurement and design process as a whole is explored in greater detail in a later section of this report.

112. Cllr Uisdean Robertson of Comhairle nan Eilean Siar claimed there was a complete lack of engagement with the local community as regards the design of vessel 802 and that island communities would have preferred to see the proven design of the existing MV Hebrides replicated:

” We argued, “Why spend £50 million upgrading three ports and building this expensive ferry when you could probably have done less upgrading of ports and at the same time built maybe four ferries like the Hebrides, which is a proven vessel?”

Source: Rural Economy and Connectivity Committee 29 January 2020, Councillor Robertson, contrib. 17⁷²

113. The Committee has received a large volume of evidence arguing the case for a more standardised approach to the design of ferries serving the Clyde and Hebrides network and for the construction of a larger number of comparatively smaller ferries as a means of improving network resilience, reducing costs and increasing the frequency of services. Many of those submitting evidence have also argued that greater account needs to be taken of the associated costs of adapting port infrastructure to accommodate specific ferry designs.

114. Dr Alf Baird was particularly critical of the lack of a standardised approach to the design of new vessels to serve the Clyde and Hebrides network:

” ...the CalMac specification is always unique: complex, overspecified, expensive, high powered and high emissions—it is non-standard. Every vessel in the CalMac system is different, so there are no economies of scale in production. Shipyards will always have to charge a high price for that type of product.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 93²⁸

115. Angus Campbell, Chair of the CalMac Community Board argued the case for a careful balance to be struck in determining the size of new vessels to be built to serve the Clyde and Hebrides ferries network:

- ” The feeling is that too small a ship is not going to work for long trips in heavy seas but that there are also issues with bigger vessels. There is probably an ideal size of ship that would work as long as we had the flexibility to increase the capacity when necessary.

Source: Rural Economy and Connectivity Committee 29 January 2020, Angus Campbell, contrib. 26⁷³

116. This point of view was supported by Robbie Drummond of Calmac, who pointed out the relative merits of smaller and larger vessels:

- ” There is always a trade-off between different priorities such as capacity, fuel utilisation and manoeuvrability. The characteristics of bigger vessels will be different from those of smaller vessels, but that does not mean to say that they are better—they are just different, depending on which of the priorities are taken up.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 147⁷⁴

117. Concerning the impact vessels 801 and 802, when delivered, would have on port infrastructure (the control and ownership of which, the Committee notes, resides with a multiplicity of both public and private sector organisations) and the associated requirement for this infrastructure to be upgraded to accommodate vessels of the size of 801 and 802, Cllr Uisdean Robertson of Comhairle nan Eilean Siar reiterated his view that building vessel 802 to a specification similar to that of the existing MV Hebrides would have a much reduced impact on port infrastructure:

- ” Although some infrastructure work would be needed, it would be nowhere near the order of the £50-odd million that is required now.

Source: Rural Economy and Connectivity Committee 29 January 2020, Councillor Robertson, contrib. 215⁷⁵

118. However, Duncan Mackison of DML suggested that there was a need to upgrade port infrastructure on certain routes irrespective of the vessels to be used in those routes and the proportion of those additional costs that could be directly attributed to the introduction of the new vessels was relatively modest:

- ” Some upgrades will be required, but those harbours require significant investment anyway.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 192⁷⁶

119. This view was echoed by the Minister for Energy, Connectivity and the Islands, Paul Wheelhouse, who argued that the costs of upgrading port infrastructure should be considered as being entirely separate from the costs of delivering vessels 801 and 802, while also disputing the suggestion that certain ports needed to be upgraded specifically to accommodate the two new vessels:

” Lots of these facilities would have faced additional costs irrespective of whether we commissioned the two new vessels 801 and 802. That is important. I therefore urge the committee not to consider the costs that would have been required for the renewal of harbour infrastructure as being linked to the ferries. Vessels 801 and 802 can fit into Ardrossan as things stand; that has already been verified.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 48⁷⁷

120. Giving evidence to the Committee on behalf of CalMac, Robbie Drummond indicated that the design and construction of vessels 801 and 802 were intended to be the first in a series of standardised vessels to serve the Clyde and Hebrides fleet:

” Of course, with any class, the first vessel is always going to be a new design, but the second, third and fourth vessels will match that design.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 151⁷⁸

121. As part of his evidence to the Committee, Robbie Drummond also indicated that CalMac had deliberately specified that vessels 801 and 802 should have relatively high passenger capacity since the main design constraint was maximising the vehicle carrying capacity on the car deck and maximising passenger capacity within that design constraint would increase flexibility and allow the vessels to be used on multiple routes and during different seasons across the network.

” Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 39⁷⁹

122. Jim Anderson of CMAL also argued the case in favour of building larger new vessels, arguing in particular that, when evaluating the option of providing one larger vessel compared to providing two smaller vessels to operate on the same route, it was important to recognise that larger vessels are, comparatively speaking, more fuel efficient and more suited to negotiating rougher seas.

” Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 52⁸⁰

123. The Committee notes the wide range of views expressed about the overall suitability of the chosen design of vessels 801 and 802 and the related impact on port infrastructure and considers it extremely important that, in future, considerations around impacts of specific design choices on port infrastructure need to be fully integrated into the ferry design process.

124. As explored in further detail later in this report, the Committee further notes the high level of dissatisfaction expressed by many community stakeholders regarding the extent to which their views have any meaningful impact on the design of new vessels. The Committee therefore considers that island communities and other community stakeholders must be given a much stronger role in providing input to the design of future new ferries.

125. As explored in further detail later in this report, the Committee acknowledges the natural trade-offs in designing smaller and larger vessels, the need to balance the needs and interests of island communities and those related to the wider economy including tourism and the equally important requirement to reinforce resilience across the Clyde and Hebrides ferries network. However, the Committee considers it essential that the Scottish Government communicates more clearly its wider vision for renewal of the fleet and how individual design choices fit into that vision.

Delays and cost overruns

126. The Quarterly Update Report for Transport Scotland covering the period November 2015 to January 2016 indicates early delays to the build schedule for the vessels. Specifically, the drawing approval and master construction schedules are recorded as having taken place 4 weeks later than planned, and dimensional analysis at ports as taking place 7 weeks later than planned. The report concludes:

” ...given recent progress and shipyard redevelopment there is the possibility that the next production milestone will not be achieved.

81

127. Covering the period February 2016 to April 2016, the subsequent Quarterly Update Report to Transport Scotland indicates that:

” Fabrication has commenced 7 weeks later than originally scheduled; this is due to the delay in the issue of the hull structure drawings by FMEL and the redevelopment of the shipyard

82

128. Giving evidence to the Committee, Jim Anderson of CMAL indicated that the original strategy for construction of the vessels, as set out in FMEL's original tender was:

” for the hulls to be built in the shipyard, and for the superstructure—everything above the vehicle deck, such as the site casings, the accommodation and the bridge—to be built at two other locations in the UK.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 188⁸³

129. As part of its evidence, CMAL further contended that, following award of the contract, FMEL changed its strategy and instead proceeded with a view to building both vessels in their entirety at the shipyard. On behalf of CMAL, Jim Anderson told the Committee that it had raised concerns as early as March 2016 that this new strategy would not work due to a lack of space at the shipyard. CMAL's written submission to the inquiry further suggests that this change in strategy and a lack of available space to build the two vessels alongside one another in the yard were key contributing factors to the increasing delays in construction.

” 55

130. In November 2016, an update to the Network Strategy Programme Steering Group, comprising representatives of Transport Scotland, CMAL and CalMac indicated that fabrication milestones for the ferries contract were, at that stage, 2 1/2 months behind schedule.⁸⁴

131. This same update also reported that the Head of Fabrication and Steelwork Manager were dismissed by FMEL on Thursday 3 November 2016.

132. On 22 February 2017, a submission to Ministers set out a likely case scenario for delivery of the vessels 801 and 802 under the contract as being:

- ” - the delivery of Vessel 801 in late autumn 2018 to early winter 2018/19 (compared to 25 May 2018 envisaged at contract signing), and
- the delivery of Vessel 802 in early 2019 (compared to 26 July 2018 envisaged at contract signing).

85

133. On 24 March 2017, Jim McColl, the Chairman and CEO of Clyde Blowers Capital wrote to CMAL indicating that, with respect to the ferries contract:

” ...the profile of the Milestone Payments and the security arrangements which have had to be put in place by the Company to allow the issuance of the two Refund Guarantees, is placing untenable working capital pressure upon the Company.

86

134. On this basis, the letter went on to request:

1. A reduction in the final milestone payment to 10% (£4.5m) per vessel and £15.55m of brought forward payments to be rescheduled as follows:
 - £5m payable in June 2017 against a new agreed milestone for each vessel;
 - an additional £5.0m milestone payment payable on the launch of vessel 801 (additional to the milestone payment already due on the launch of that vessel);
 - an additional £4.55m milestone payment payable on the launch of vessel 802 (additional to the milestone payment already due on the launch of that vessel).
2. In respect of the Refund Guarantees, either a full release or a replacement of current security arrangements provided by Clyde Blowers Capital with an underwrite of these Refund Guarantees by the Scottish Government.

86

135. Giving evidence to the Committee, Frances Pacitti indicated that Transport Scotland was unable to accede to all of FMEL's requests but outlined the steps it was able to take to address some of them:

” We encouraged CMAL to consider what flexibility it had as a responsible client in relation to milestones under the contract to assist with Ferguson's cash-flow issues to the extent that it could. That was undertaken in the summer of 2017... There was a revised milestone payment schedule, which was tied to clear performance delivery mechanisms, to assist with Ferguson's cash flow.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 359⁸⁷

136. In follow-up written correspondence with the Committee, Ms Pacitti confirmed that:

” A revised payment schedule was agreed on 22 May 2017.

26

137. At a meeting between the parties on 7 July 2017, FMEL presented CMAL with a spreadsheet claim for payment of £17,535,950 in additional costs related to the ferries contract.

138. Giving evidence to the Committee on behalf of CMAL, Jim Anderson said:

” In July 2017, we went from being told that everything was fine, and that the yard was on track and on budget, to suddenly being presented—out of nowhere—with a claim for just over £17 million.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 195⁸⁸

139. In its written submission to the Committee, the former management of FMEL gives the following account of these events:

” The CEO of FMEL, presented a detailed breakdown of the costs to date to CMAL as requested by the First Minister. In our view, this was met with hostility by CMAL and was followed by an [REDACTED] email from the CEO of CMAL, which we believe closed off any further discussions on the matter.

89

140. On 11 December 2017, FMEL engaged naval architects and marine engineering consultants Burness Corlett Three Quays Group (BCTQ) to carry out a review of the technical background of the contracts and the merits for a claim for the additional costs incurred. BCTQ issued its report on 14 March 2018.⁸⁹

141. In August 2018, FMEL engaged dispute resolution consultants HKA to assemble a detailed claim for additional costs incurred on the ferries contract. The HKA report resulting from this engagement, with an associated claim for additional costs on Hulls 801 and 802 totalling £60,932,321.22, was submitted by FMEL to CMAL on 20 December 2018.

90

142. CMAL subsequently responded at length to the claim for additional costs submitted

by FMEL on 20 December 2018 in a letter dated 4 March 2019, which concludes by dismissing the claim as "a retrospective and in some parts near fictitious attempt to reallocate blame for your own catalogue of failures to satisfy the essential requirements of the Specification", adding:

” Regrettably, the professed capabilities within your tender bid have been let down by mismanagement, insufficient resource and the physical limitations of your facility.

We believe that the Commercial Court will have no difficulty in reading the Claim for what it is – distraction and misdirection.

91

143. In April 2019, the Scottish Government sought an independent view of FMEL's claim for additional costs on the contract, to be undertaken by a senior QC. This opinion was provided to the Scottish Government in June 2019 and subsequently shared with FMEL. Since they remain confidential, the precise contents of the opinion are not known. However, the written submission from FMEL indicates that it was unhappy with the conclusions reached by Senior Counsel and a letter from the Economy Directorate of the Scottish Government dated 21 June concludes that:

” It is clearly for FMEL to determine whether they wish to pursue the claim through the courts.

92

144. The written submission to the inquiry from the former management of FMEL contends that, on 28 June 2019:

” ...Clyde Blowers made a proposal to the Scottish Government under which they and the Scottish Government would each share 50% of the additional cost to complete the ferries.

89

145. The written submission from the former management of FMEL and correspondence between the Scottish Government and Clyde Blowers Capital from that same timeframe and published by the Scottish Government in December 2019 indicates that the proposal from Clyde Blowers was subsequently turned down by the Scottish Government.

93

146. The events surrounding the two claims for additional payment on the ferries contract made by the former management of FMEL are explored further in the section of this report headed "[Relationship between CMAL and FMEL](#)".

147. Asked about the profile of payment milestones on the contract, Frances Pacitti emphasised that setting these milestones would have been the responsibility of CMAL but outlined the rationale that would have informed the setting of those milestones:

- ” Those payments can be structured in whatever manner you think provides the appropriate balance of cash flow and risk.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 488⁹⁴

148. On behalf of CMAL, Kevin Hobbs described the normal practice of dividing payments on a contract of this nature into five equal instalments over the period of fulfilment of the contract and the rationale that led them, on this occasion, to instead make provision for 15 milestone payments:

- ” We decided to slice it up in that different way in order to smooth the cash flow, which was, ultimately, a way of helping the shipyard. We would have done that for any shipyard, because it made no difference to our final payment price.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 82⁹⁵

149. In its written submission to the inquiry, CMAL provided further detail of the additional steps it took to assist FMEL with cashflow in the structuring of contract payments:

- ” CMAL agreed that Ferguson could receive significant payments (24.95% of the price) at a very early stage in the build programme, in order to allow orders for major equipment to be placed in Euros during 2015 and so to mitigate currency risk for the yard before the Brexit referendum in June 2016.

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150. Asked if the creation of 15 individual payment milestones on the contract had caused Transport Scotland any concerns, when normal practice would have been to set just five milestones, Frances Pacitti responded:

- ” I think that the balance was correct. Alongside the milestone payments, there were security provisions in place, with title vesting in CMAL at various points, so the appropriate mechanisms were in place to counteract that increased frequency of milestone.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 490⁹⁶

151. The Committee has heard evidence from CMAL that, at the point the yard was nationalised and the programme review board took over management, CMAL had paid 14 of the 15 milestone payments on hull 801 and 10 of the 15 milestone payments on hull 802, equivalent to £82.5 million of the total budget of £97 million for delivery of the two vessels. On behalf of CMAL, Kevin Hobbs argued that a significant proportion of those payments were tied up in the parts and equipment already purchased but yet to be fitted to the vessels:

- ” Do we have £82.5 million-worth of value? Absolutely not. However, I go back to a comment that we made earlier on. Through the vesting process, all the equipment, bar some very small parts, is either on site or at Westway. That amounts to about £64 million overall. We are probably £2 million shy of that at the moment. That is what we have in materials—unmade and made—and machinery and equipment. That is all on site and accounted for.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 239⁹⁷

152. In follow-up correspondence following the appearance by representatives of the organisation before the Committee, CMAL was asked to account for the large scale of additional costs calculated by the Programme Review Board as being required to complete the vessels, when its own evidence seemed to suggest that the cost of labour required to complete the vessels was nowhere near that amount. Kevin Hobbs responded in writing that the significant escalation in costs could be attributed, at least in part:

” ...to the extent of dismantling and re-work needed first to achieve a tolerable starting point before real forward progress in fabrication can begin. We consider that the estimate also includes a significant but prudent allowance for contingencies.

39

153. As part of his evidence to the Committee, Kevin Hobbs also indicated that, legally, CMAL were not in a position to refuse to make the milestone payments on the contract notwithstanding the concerns it had about FMEL's performance:

” ...our lawyers advised us that we had to make the payments. That was in the contract and we did not want to be in a position where we broke the contract.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 411⁹⁸

154. Giving evidence to the Committee, Commodore Luke van Beek was asked whether poor management of subcontractors by FMEL was a contributing factor to the delays and cost overruns on the ferries contract. Commodore van Beek responded:

” The lack of cash meant that the subcontractors waxed and waned in the amount of resource that they put into the ships, because they were nervous about whether they were going to be paid. Ferguson's deliberately slowed down some of that subcontracting. That was in November 2018, when we started to see significant slips in the programme, because that subcontract work was important—particularly the electrical subcontracting—to staying on programme. That did not happen; the subcontractors would not work because they were worried about being paid.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 66⁹⁹

155. Giving evidence to the Committee, Jim McColl suggested that part of the reason for the significant cost overruns on the contract was a lack of accountability on the part of CMAL for the cost implications of changes it sought to make to the design of the vessels:

” One of the problems that we have had is that there are people sitting on the other side who do not really care about the cost, or who are not responsible for the cost implications. They thought that they could just pass it all on to us.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 375¹⁰⁰

156. Giving evidence to the Committee, Scottish Ministers expressed a clear view that the primary cause of the delays and cost overruns experienced on the ferries contract was "contractor failure". The Minister for Energy, Connectivity and the Islands, Paul Wheelhouse, highlighted three separate sources of evidence to support this view:

” We attach weight to the independent assessment of FMEL’s claim against CMAL, which was undertaken on behalf of the Scottish ministers, and which concluded that there was no basis on which CMAL could have advanced further funds to FMEL. We also attach weight to the evidence of Tim Hair at Ferguson’s, and his findings on working practices at the yard generally and in relation to 801 and 802 specifically. Finally, we attach weight to the feedback that was provided by the workforce, who are important players in this. They told us about inefficient working practices that were evident at the yard.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 86¹⁰¹

157. Providing additional evidence alongside the Minister, Frances Pacitti of Transport Scotland addressed concerns expressed by members of the Committee that the profile of milestone payments may have resulted in the contractor progressing certain work on the vessels either incorrectly or out of sequence purely in order to trigger payments against the contract:

” There is an inherent risk that the contractor, as has been described, would be “chasing steel”ⁱ rather than performing against the contract... We have reflected on that and discussed with CMAL whether there should be greater specificity on drawdown dates in the future.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Fran Pacitti, contrib. 161¹⁰²

158. With respect to invoices submitted by FMEL to CMAL for payments related to progress on the ferries contract, the written statement to the Committee on behalf of Scottish Ministers also indicates that:

” Some invoices presented were rejected on the basis they related to other projects and not hulls 801 and 802.

103

159. The Minister for Energy, Connectivity and the Islands cited this as further evidence of the “contractor failure” which he identified to be the main underlying cause of the cost overruns and delays associated with the ferries contract, concluding that:

” Appropriate diligence was given to invoices to check whether they were relevant to the project and to refuse to pay ones that were not. As Frances Pacitti has said, there are areas where there are lessons that we can learn from.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 164¹⁰⁴

160. The Committee has been appalled to learn that CMAL was legally bound to

ⁱ In this context, the Committee understands the term “chasing steel” to refer to the practice of building a vessel in a way that is out of sequence, at odds with the design or the detailed terms of the contract or that lacks the proper approvals or sign-offs, as a means of triggering contractual payments.

continue to make milestone payments on the ferries contract despite ongoing concerns about the performance of the contractor. The Committee also questions why CMAL continued to make milestone payments in a situation where the sign-off of the basic design of the vessels had not been secured from Class or Flag. Furthermore, there is strong evidence that the contractor deliberately proceeded to construct specific sections of the vessel either out of sequence or not according to the proper specification purely as a means of triggering milestone payments on the contract.

161. The Committee considers that, when presented to CMAL in July 2017, the claim from FMEL for over £17 million in additional costs on the contract should have been viewed as an immediate red flag that should have triggered an immediate freeze on any further milestone payments.
162. The Committee therefore urges the Scottish Government to take the necessary action to ensure that such practices do not occur in relation to future contracts for the design and build of new ferry vessels. This action should ensure that future contracts achieve the most appropriate balance between cash flow and risk and include more robust safeguards to prevent payment for work that has been completed out of sequence or otherwise contrary to the agreed terms of the contract.
163. The Committee believes that the rapid escalation in additional costs associated with the contract points, among other things, to a fundamental failure of communication between CMAL as the procuring authority and FMEL as the contractor.
164. The Committee calls on the Scottish Government to draw appropriate lessons from other successful ferry procurement exercises in Scotland and elsewhere, where it appears to have been possible to procure new vessels more quickly and at significantly lower cost than has been the case using the practices applied for the procurement of vessels 801 and 802.
165. Given the significant cost overruns which will require to be met directly from public expenditure, the Committee strongly recommends that Audit Scotland should undertake and publish a full and detailed audit of the financial management of the ferries contract by CMAL. It is further recommended that Audit Scotland should also investigate the role played by Transport Scotland as part of this process, including any direct payments it may make to cover the additional costs incurred to ensure the contract is completed.
166. The Committee acknowledges that Audit Scotland would not ordinarily undertake audit activity whilst contracts are still in delivery mode. However, the Committee is of the view that, given that the ferries contract will not be completed until vessel 802 is delivered in February 2023 under current estimates, it would be in the public interest for this investigation to take place as soon as possible, subject to capacity within Audit Scotland's audit programme.
167. This work should be co-ordinated with the call for Audit Scotland to investigate the agreement and payment of commercial loans to FMEL by the Scottish

Government that is made in the next section of this report ([please see paragraph 191](#)).

Commercial loans

168. On 23 August 2017, representatives of the Scottish Government met with FMEL to consider the financial situation which existed at the shipyard at that time and options for potential Government intervention.¹⁰⁵

169. Discussions at this meeting culminated in a decision by the Scottish Government, on 4 September 2017, to provide a commercial loan of £15 million to FMEL:

” ...for the construction of vessels 801 and 802 in accordance with the Financial Model, payment of accounts payable outstanding at the date of this agreement, and otherwise for its working capital purposes and general cash flow requirements identified in the Business Plan and/or Financial Model.

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170. It should be noted that the Scottish Parliament was not made aware of the existence of this commercial loan until 24 April 2018 when the Cabinet Secretary for Finance and the Constitution wrote in confidence to that effect to the Convener of the Finance and Constitution Committee.¹⁰⁶

171. Giving evidence to the Committee, the Cabinet Secretary for Economy, Fair Work and Culture provided the following justification for the delay in notifying the Scottish Parliament in relation to the commercial loan:

” There is a written agreement between the Scottish ministers and the Finance and Constitution Committee that requires ministers to seek the approval of the committee when the Government’s proposed transaction gives a contingent liability—a guarantee. The loans did not give a contingent liability, so there was no requirement to let the Finance and Constitution Committee know.

However, in the interests of transparency, the then cabinet secretary wrote in confidence to the Finance and Constitution Committee on 24 April 2018 to highlight the £15 million loan to FMEL...

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Fiona Hyslop, contrib. 171¹⁰⁷

172. Under the terms of the commercial loan agreement, PricewaterhouseCoopers LLP were engaged to provide external commercial and legal advice and due diligence on the two loan agreements and post-completion advice and financial monitoring.

173. In the course of April and May 2018, discussions progressed between the Scottish Government's Economic Development Directorate and FMEL with a view to reviewing the five-year outlook for the company and to explore the potential basis for new commercial investment in the shipyard. This culminated in the conclusion,

on 25 June, of an agreement between The Scottish Ministers and FMEL to provide a commercial loan of £30 million:

” ...to fund FMEL to assist with the long term viability and enhanced capabilities of the businesses carried on at the Property, and for other general working capital purposes of FMEL, all as identified in the Business Plan and/or Financial Model.

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174. In July 2018, the Scottish Government engaged Commodore Luke van Beek Royal Navy (Retd) CBE to provide assistance to Scottish Ministers relating to the £30 million loan provided to FMEL in June 2018 and more specifically:

” ...to monitor FMEL's performance against its vessel delivery programme and resourcing plan in order to provide assurance that loan conditions and expectations are being met.

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175. The Committee has heard evidence that Commodore van Beek was originally engaged by Transport Scotland with a view to undertaking a "gateway review" of the design and build of vessels 801 and 802 and the increasing delays to construction of the vessels but that ultimately did not happen with Commodore van Beek subsequently engaged by the economic development department of the Scottish Government to monitor FMEL's compliance with conditions attached to the commercial loans. Chris Wilcock, Head of the Ferries Unit at Transport Scotland explained that, while there was initially an intention to undertake a more general peer review of work on the ferries contract, it was subsequently decided that there was a more pressing need to monitor performance against the terms of the loan agreement:

” ...the passage of time had taken us to a point at which the discussions were about the loans..., and there was a pressing need for someone to engage with economic development colleagues in relation to the loan certifications and the drawdown in that space. At that point, the decision was taken that that was a more pressing need, and Commodore van Beek was engaged by economic development colleagues to do that work.

Source: Rural Economy and Connectivity Committee 04 March 2020, Chris Wilcock, contrib. 454¹¹⁰

176. Giving evidence to the Committee, Commodore van Beek highlighted a particular issue with milestone payments on the contract that was creating cashflow issues for the shipyard which necessitated the provision of the commercial loans:

” There was undoubtedly a cash-flow problem. One of the interesting things about how the contract was set up was where the milestone payments were set. Unusually, they were set in a way that meant that a cash-flow problem was very likely... For example, there was a long gap between a milestone that was reached before I joined and the next milestone, which was the 801 operational date. Of course, as 801's date slipped further, the cash projections got worse, because that milestone had shifted.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 78¹¹¹

177. Giving evidence to the Committee, Frances Pacitti emphasised that Transport Scotland was not involved in the arrangement of the loans:

” That was quite deliberate, to avoid any perception or potential conflict of interest regarding our role as CMAL’s sponsor—CMAL being the client—and Ferguson’s interest as the contractor for the contracts for vessels 801 and 802.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 445¹¹²

178. Kevin Hobbs told the Committee that CMAL were not informed about the commercial loans being provided to FMEL by the Scottish Government. He also said that he had challenged Mr van Beek directly about his monitoring of FMEL’s performance against its vessel delivery programme and the resulting signing off of drawdowns on the loan:

” ...we said, “Well, the metrics that we’ve got in front of us would indicate that nothing has been done.” His answer to that was, “Oh yes it has. I’ve been told by the people in the shipyard that it has been done,” and we turned round and said, “Well, I suggest you get your overalls on and get out there and have a look, because not a single one of them has been done.”

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 275¹¹³

179. The Committee has received detailed evidence, submitted anonymously, which asserts that the terms of the loans provided to FMEL were not commercial:

” The two loan agreements contained clauses that allowed multi-year deferral, by FMEL, of interest due. FMEL paid no interest on the loans between when they were initially drawn down (starting from September 2017) until the company entered administration (in August 2019) – a period of almost two years...

Interest on the £30 million long-term loan ceased to accrue to Scottish Ministers when the loan was promptly converted to share warrants... This means that the total interest accrued on the £30 million loan when the company entered administration was reduced to just £0.6 million. Commercial interest at 13% per annum on a £30 million loan over the same period would be about £4.6 million. On this basis, there is an annual financial loss to Scottish Ministers (and saving to FMEL) from the conversion from a loan to share warrants, of about £4 million.

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180. The same submission further asserts that the terms of the loan agreement suggest that there was an expectation from the outset by the Scottish Government that FMEL would default on those terms:

” The interest chargeable on the £15 million loan was 15% per annum and the interest chargeable in the event of default was 17% - a default premium of just 2%. I assert that a rational arms-length loan arrangement should include a chargeable interest rate in the event of a default significantly above a standard interest rate in order to discourage default.

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181. While giving evidence to the Committee, the Cabinet Secretary for Economy, Fair Work and Culture was asked whether she could provide assurances that none of the monies loaned to FMEL under the two loan agreements in question were spent outside the company.

182. In follow-up correspondence with the Committee following her appearance before the Committee on 26 August 2020, the Cabinet Secretary for the Economy, Fair Work and Culture, provided the following additional information regarding the defined purpose of the £30 million loan provided to FMEL in June 2018:

” To be precise, the “Conditions of Utilisation” of the £30 million facility included:

i. no potential event of default or actual default unwaived;

ii. satisfaction that the cash balance held by the Group was at least the amount set out in the Minimum Cash Balance Schedule – this was to ensure cash was not drawn into the business at a rate faster than planned; and

iii. satisfactory assurance from the Scottish Ministers’ independent operational expert that progress of the build of the vessels known as 801 and 802 was proceeding in accordance with the overall resource program presented by FMEL on 28 and 29 May 2018 at Port Glasgow, taking account of factors that are outside FMEL’s control.

183. It is notable that the Cabinet Secretary's response did not directly address the question of whether any of the loan monies were spent outside the company. A further anonymous submission to the inquiry has asserted that, since FMEL accounts for 2017, 2018 and 2019 have, according to information published by Companies House, so far never been audited, it would be currently impossible to conclude with certainty whether or not any of these monies were spent outside the company.¹¹⁵

184. During her appearance before the Committee, the Cabinet Secretary for Economy, Fair Work and Culture was also asked why FMEL had not sought loan funding from commercial lenders rather than the Scottish Government. In a later exchange, the Cabinet Secretary responded:

” It is normal practice to ensure that companies pursue different funding avenues and not just the Scottish Government.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Fiona Hyslop, contrib. 232¹¹⁶

185. The same anonymous submission referred to above has further argued that, while there may be evidence on Companies House to show that FMEL had previously sought funding from a commercial lender, this funding was sought in 2016, prior to the period during which the Scottish Government loans were in play.¹¹⁵

186. The Committee is concerned that the positive appraisal by the economic development directorate of the Scottish Government of FMEL's performance against the ferries contract (and its consequent signing off of drawdowns on the Scottish Government loans) was entirely at odds with ongoing concerns from

CMAL about progress on the contract. The Committee is further concerned that this was the source of additional tension between CMAL and FMEL which will have only served to exacerbate poor communication between the two parties.

187. The Committee is extremely concerned that, at a time when there were spiralling cost overruns and delays on the ferries contract, the relationship between CMAL and FMEL had deteriorated to the point of breaking down completely. The Scottish Government provided a multi-million pound loan facility to FMEL without communicating with CMAL or Transport Scotland. The Committee believes this approach to loan funding further exacerbated problems with the progression of the contract.
188. While acknowledging this may be established practice and is intended to avoid perceptions of a potential conflict of interest for the Scottish Government in fulfilling its respective roles, the Committee is concerned that the consequent lack of clarity around roles and responsibilities of all parties to the contract and poor or non-existent communication seriously undermined CMAL's role in managing the contract and was a further contributory factor to the associated delays and cost overruns.
189. The Committee therefore calls on the Scottish Government to reflect carefully on such practices and to introduce reforms to internal processes for the provision and management of loans.

190. In particular, the Committee is concerned about the complete lack of transparency surrounding the purpose, agreement and payment of these loans. It is also concerned that there was no effective monitoring or oversight of how the loans were subsequently spent by FMEL. Furthermore, it is particularly concerned, that when asked to describe the precise purposes for which the loans were granted by the Scottish Government to FMEL, the Cabinet Secretary for Economy, Fair Work and Culture was unable to provide a clear and categorical response.
191. The Committee therefore recommends that Audit Scotland should investigate and report on the processes followed by the Scottish Government in granting and administering these loans. As part of this work, Audit Scotland is invited to make recommendations as to how improved transparency and accountability with respect to the granting of commercial loans by the Scottish Government can be achieved in future, including making provision for such arrangements to be properly and systematically scrutinised by the Scottish Parliament.

Project planning and management

192. In December 2019, following nationalisation of the shipyard, the Programme Review Board appointed by the Scottish Government reported that:

” The ferry project has suffered significant delays throughout the life of the contract. There have been a number of issues that have been the root cause of these delays. These include:

- lack of project management, particularly critical on 801/02 which are complex ships where no one person has understood and controlled the overall programme

- an absence of project planning and control systems has resulted in a lack of integrated working, out-of-sequence activities and no useful management information

- Engineering processes and controls are weak. Specifications from the customer were not fully understood before design work was carried out resulting in an incomplete design and causing significant rework

1

193. Asked about the extent to which, prior to nationalisation, the shipyard had in place effective project management tools for the construction of vessels 801 and 802, Turnaround Director Tim Hair told the Committee:

” I would have expected to find a project manager who had end-to-end responsibility for and knowledge of the project—a single senior individual who had oversight of the project in all its detail—but that role did not exist, and as far as I could make out, it had never existed.

As regards the planning system, there were some planning tools such as those that you described, but they were badly flawed. They were based on incomplete information and were produced by a planning organisation that had nowhere near enough people. Although there were people who were working diligently to plan activities, they did not have the right skills to be able to produce a plan.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 98¹¹⁷

194. Giving evidence to the Committee, Jim Anderson of CMAL argued that, although good project planning and management processes were in place at the shipyard at the start of the contract, the proper application of these processes was lacking:

” Ferguson’s yard set up a fantastic war room with Gantt charts, spreadsheets and everything that you could possibly imagine. The issue was putting that information into work packages. The failure lay in not getting that information to the people working on the vessel to allow them to build the ship efficiently...

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 178¹¹⁸

195. The claims of poor project management were strongly refuted by Jim McColl when he gave evidence to the Committee on behalf of the former management of FMEL:

” We had a very good project planning system in place. Since the Government moved in, it has, without a handover, got rid of all the senior staff who were involved in that... Gerry Marshall put a good system in place. It was probably one of the best systems that I have seen, and we have used it in a number of businesses.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 250¹¹⁹

196. Former CEO of FMEL Gerry Marshall also argued that FMEL had strong quality management systems in place and highlighted the positive results from past audits of these processes:

” I draw the committee’s attention to mention in our paper of the fact that we have been audited by CMAL. It had to audit certain areas, including our quality management system, and in both years in which it did that—it did not do so in 2018, because of where we were—we scored nearly 100 per cent.

Source: Rural Economy and Connectivity Committee 05 February 2020, Gerry Marshall, contrib. 251¹²⁰

197. Mr Marshall later outlined in greater detail the project planning and management processes FMEL had put in place in relation to the ferries contract:

” ...we created a war room in March 2017, in which we had daily meetings that were attended by ship managers, supervisors, people from Chris Dunn’s team, engineering, supply chain and finance. We had those meetings at least once and often twice a day. We used Gantt charts and breakdown structures and we introduced short interval control, because of the continual change that we were encountering.

Source: Rural Economy and Connectivity Committee 05 February 2020, Gerry Marshall, contrib. 253¹²¹

198. Jim Anderson of CMAL argued that the audit referred to by the former management of FMEL in its submission to the Committee was a superficial exercise and would not give an accurate picture of how the shipyard was performing on the contract:

” The audit that was done was not a full audit of the shipyard and its systems. That type of audit looks at the wider benefits of placing a contract with a supplier, for example—training opportunities, community benefits, apprenticeships and how the supplier manages its own sub-suppliers. It was not a full quality audit, although the report suggests that that was the case.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 208¹²²

199. Mr Anderson went on to suggest that a more accurate and robust assessment of the shipyard's performance on the contract could be found in his own monthly reports.

200. The Committee has also heard evidence that work on the vessels was completed out of sequence and before the design had been signed off. Turnaround Director Tim Hair indicated that his investigations had confirmed this to be the case and described to the Committee the corrective work that had to be undertaken following nationalisation as a consequence:

” ...if the design is correct but the work is done in the wrong sequence, that is as bad as doing it wrongly in the first place. We are settling the basic design and putting in place processes to do the detailed design in the right sequence, in a controlled way and with proper design controls so that, when we do physical work on the ships, we know that we are doing the right things in the right way and in the right sequence.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 148¹²³

201. Tim Hair also provided two specific examples of work on the vessels that would have to be redone as a result of having been completed in a way that was inconsistent with the original contract specification:

” Axilocks are a coupling mechanism for joining pieces of pipe. The contract specifically excluded them from being used in all but a narrowly defined set of circumstances... they were used extensively throughout the ship without CMAL’s agreement... it is likely to mean that almost every piece of pipework in the engine room will have to be removed... and then put back...

The bulbous bow for the Glen Sannox does not meet the specification. It was not approved as meeting the specification before the launch and... the vessel will need to be taken out of the water and have the first 6 feet of its bow cut off and replaced.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 163¹²⁴

202. Former FMEL CEO Gerry Marshall disputed the suggestion that the bulbous bow did not meet the specification but instead suggested that the management had taken a proactive decision to build a new bulbous bow for aesthetic reasons:

” I personally instructed that the new bulbous bow be built... It is perfect; it will look better aesthetically. The vessel was our class-leading vessel, and we wanted to ensure that it looked the best that it could. That was our decision; it was not forced on us.

Source: Rural Economy and Connectivity Committee 05 February 2020, Gerry Marshall, contrib. 306¹²⁵

203. This version of events was further disputed by CMAL, with Jim Anderson suggesting to the Committee that the real reason for changing the bulbous bow was that the steel used to construct it was not thick enough to meet the relevant regulations:

” There are rules and regulations that have been built up over hundreds of years on the structural strength of bow doors and bulbous bows, which is where the full impact of the waves is taken.... There is strict guidance about the calculations for those things...

I also heard in evidence that the bulbous bow was changed—it has been changed, but it has not been fitted yet—because it looked ugly... where is the bulbous bow? Underneath; below the water line, but we are spending thousands of pounds just because it does not look so good. I do not buy that.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 118¹²⁶

204. Former Chief Naval Architect at FMEL Chris Dunn told the Committee that a decision had been taken to use Axilock couplings instead of bolted flanges because of the number of pipes that needed to be installed and a shortage of available space in the engine room:

” We were faced with a problem where, in some cases, we had pipes six deep, with 1,500 pipes in the engine room. If we had put in bolted flanges—a bolted flange is typically twice the diameter of the pipe that is being bolted in—we would not have been able to put in six pipes in a row... The only sensible engineering solution was to use an industry-standard, perfectly safe and viable Axilock coupling and push on with the job.

Source: Rural Economy and Connectivity Committee 05 February 2020, Chris Dunn, contrib. 372¹²⁷

205. Turnaround Director Tim Hair's evidence also suggests serious failings in project planning and management processes at the shipyard around the process of developing the conceptual design into a basic and detailed design:

” The change register that applied to the process of creating the basic design, the detailed design and the working instructions to which a ship is built... was a mess. Some changes were properly recorded; many were not. Some drawings were updated; many were not, or were updated in the form of sketches rather than of formal engineering changes.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 108¹²⁸

206. While giving evidence to the Committee, Tim Hair was also asked whether, in his view, the issue of poor planning processes was an industry-wide issue or specific to the ferries contract. Mr Hair responded:

” ...the situation is unique to Ferguson but not unique to the two ferries that we are discussing... three other, smaller vessels are in process in the yard, and all the process shortcomings that I have described in relation to the two ferries apply equally to the three smaller vessels, albeit on a smaller scale because they are less complex projects... we are talking about a Ferguson-specific set of shortcomings that is not commonplace in the rest of the engineering industry.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 144¹²⁹

207. Parts of the design work on the ferries contract were subcontracted to Vera Navis, a vessel design consultancy based in Portugal. Former Chief Naval Architect at FMEL, Chris Dunn, explained the rationale for selecting Vera Navis to undertake this work:

” ...Vera Navis had a lot of experience of working on the detail of production design of ferries in Norway. One of the biggest elements was the software that we had elected to use at Ferguson's a year previously: Vera Navis is the European expert in deployment, training and management of the ShipConstructor software, and that fit in very well with our goals and ambitions—we had no doubts.

Source: Rural Economy and Connectivity Committee 05 February 2020, Chris Dunn (Former Chief Naval Architect, Ferguson Marine Engineering Ltd), contrib. 209¹³⁰

208. Tim Hair was asked by the Committee whether he thought that the fault for poor

project planning and management on the ferries contract lay with Vera Navis as design consultants on the project. Mr Hair responded:

” Although there are things that Vera Navis could have done better, my view is that the design process in front of, behind and on either side of the Vera Navis process was not properly controlled... It was a perfect “garbage in, garbage out” situation.

Vera Navis might have done some things better, but it was sitting in the middle of an overall design and engineering control process that was badly flawed and needed to be upgraded.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 152¹³¹

209. The Committee has also heard that a standard shipbuilding contract of the type concluded for the construction of vessels 801 and 802 would not normally include any stipulations around project planning and management processes. Tim Hair told the Committee that the contract:

” ...does not specify the project planning and management, the bill of materials or the other things that we have spoken about, because, frankly, the standard contract assumes that those engineering practices are things that shipyards would normally have in place in order to execute the contract and that, therefore, it is not necessary to specify them.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 154¹³²

210. Tim Hair also advised the Committee that, as a result of changes to the design, a significant amount of pipework for the vessels will have to be scrapped.

” Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 172¹³³

211. The Committee also heard that changes in workflows at the yard created an inefficient working environment and may have further contributed to delays in construction of the vessels. In particular, Trade Union representative Alex Logan told the Committee that the process for unloading and storing steel stock at the yard completely changed:

” Instead of a magnetic crane, they used a big suction machine and unloading a lorry took one craneman and four or five personnel about four or five hours instead of the 20 minutes that it used to take.

That all added to the cost of the steel stock. You had about 30 plates of 8mm each: to get the specific one you wanted, you had to go through them plate by plate, which would maybe take four people seven or eight hours to do.

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 176¹³⁴

212. Claims of a lack of competent management made by Tim Hair and reflected in the Programme Review Board report were disputed by Commodore Luke van Beek in subsequent evidence to the Committee:

- ” During the period when I was involved, I saw significant evidence of competent management. For at least the first three or four months of my engagement, I saw a plan that was being delivered to time and, according to PWC, to cost.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 32¹³⁵

213. The Committee has been particularly concerned by the evidence of poor project planning and management at FMEL. While noting that the standard BIMCO contract used for this project does not typically stipulate anything around the project planning and management capabilities of the contractor, the Committee would argue that the extent of challenges encountered on this contract suggest that any future contract of this nature absolutely should.

214. Based on the evidence submitted to the inquiry, the Committee concludes that capabilities in project planning and management were fundamentally lacking at FMEL.

215. At the same time, the Committee further concludes that CMAL fundamentally failed in discharging its crucially important responsibility to scrutinise carefully the extent or otherwise of these capabilities when evaluating the bids.

216. The Committee is also concerned that CMAL, as part of its responsibility as contract owner to monitor and oversee the delivery of the project, did not identify and act upon project planning and management failings as these were emerging, particularly given their on-site presence at the shipyard.

217. The Committee is further concerned that Transport Scotland, as project sponsors, failed to intervene more quickly when these significant project planning and management problems became apparent.

Relationship between CMAL and FMEL

218. Evidence from the former management of FMEL indicates that, from the outset, there was an expectation of a very close working relationship between CMAL and whichever shipyard was awarded the ferries contract. Jim McColl told the Committee that, in the original tender:

- ” It was recognised that new technology for CMAL was involved and that we would have to work in an “innovative and collaborative way”.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 160¹³⁶

219. During the construction phase of the ferries contract, the Committee has heard extensive evidence from multiple parties of a progressive breakdown in the relationship between CMAL as the client and FMEL as the contractor. Programme Review Board Member and Trade Union Representative Alex Logan described the situation as follows:

” ...the situation became one in which CMAL and our management team could not sit in the same building to have a constructive discussion, so things just came to a complete standstill.

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 126¹³⁷

220. Giving evidence to the Committee, Kevin Hobbs of CMAL provided the following insight into the point at which the relationship between CMAL and FMEL began to deteriorate:

” We kept on meeting regularly but, around the time of Easter 2017, that changed and things became a little bit difficult and fractious.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 349¹³⁸

221. Giving evidence to the Committee, Commodore Luke van Beek described the point at which he became aware of a deterioration in the relationship between CMAL and FMEL:

” ...by September 2018 it had become apparent to me that there was a difference of view between CMAL and Ferguson about what was possible and what would be achieved.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 95⁶³

222. Jim McColl told the Committee that the relationship between CMAL and FMEL first began to deteriorate at the point when Kevin Hobbs was appointed Managing Director of CMAL in April 2016:

” There was a change of managing director in CMAL, and very soon thereafter we found complete hostility and intransigence in discussing things...

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 180¹³⁹

223. Evidence provided by Turnaround Director Tim Hair suggests that the failure to achieve sign-off of the basic design of the vessels during the construction phase of the contract and consequently to make proper progress with the construction of the vessels was a direct result of the poor relationship between CMAL and FMEL:

” ...it got to a stage where some changes were agreed but not signed off because the relationship had broken down to the extent that... the parties were unable to sit in the same room.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 136¹⁴⁰

224. Evidence from CMAL suggests that the deterioration in relations between CMAL and FMEL may have come to a head at a meeting in July 2017, where FMEL presented CMAL with a claim for additional costs associated with the ferries contract totalling more than £17 million. Jim Anderson told the Committee:

” I will never forget that meeting. My projects director and I went in... The project manager and the chief naval architect could not even look at us. They knew what was coming and they could not look me in the eye.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 195⁸⁸

225. While giving evidence to the Committee, Jim McColl claimed that CMAL were resistant to any attempts by FMEL to resolve areas of disagreement between the two parties:

” Transport Scotland suggested that we should enter into an expert process... I requested that 14 times at the meeting with CMAL, and its chairman refused 14 times to get involved... We had previously applied for mediation, and CMAL refused to agree terms for that.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 324¹⁴¹

226. CMAL subsequently refuted Mr McColl's claim that it refused to engage in mediation in written evidence to the Committee which states that:

” In September 2017, CMAL agreed to submit to a mediation process; in October 2017, CMAL agreed with Ferguson the chosen Mediator. CMAL and Ferguson then jointly agreed a draft mediation contract and associated details including procedural rules, timescales for exchange of documents, the location of the meeting and the attendees for both parties. CMAL wanted the mediator to have experience of shipbuilding projects and our preferred candidate was unavailable for some time. The process did not continue only because Ferguson were unable to express legal reasons for payment to them beyond "unforeseen complexity".

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227. Commodore Luke van Beek supported the view expressed by Jim McColl that CMAL were unwilling to engage in a negotiated settlement of the dispute between it and FMEL, claiming that he himself (Commodore van Beek) had proposed such an approach to resolve matters but that this had been completely rejected by CMAL.

” Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 34¹⁴³

228. While giving evidence to the Committee, Kevin Hobbs provided a more detailed explanation of CMAL's response to the claims for additional costs submitted by FMEL in July 2017 and subsequently in December 2018, arguing that the size of the claim for additional costs was such that, in CMAL's view, the only reasonable mechanism for resolving the matter was through the courts:

” The claim went from £17 million to £28 million to £66 million, and £66 million took us only to the end of August 2018. Our projection at that stage was that the claim could be double that number by the end of the contract. We said to the shipyard, “If you believe this, please take us to court.” We almost pleaded with it to take us to court.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 349¹³⁸

229. Mr Hobbs went on to outline why, in his view, FMEL never took court action to resolve the dispute:

” That is because it knew that the claim had no validity either technically or in contractual law—end of story.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 349¹³⁸

230. Examination of documentation related to the ferries contract released by the Scottish Government in December 2019 shows the following course of events related to the pursuit of mediation between FMEL and CMAL:

- 31 August 2017: FMEL issues Notice of Mediation to CMAL
- 21 September 2017: CMAL accepts FMEL proposal for mediation and invites FMEL to propose a mediator
- 13 December 2017: CMAL questions lack of progress on mediation
- 15 December 2017: FMEL sends draft mediation agreement to CMAL

231. As part of his evidence to the Committee, Jim McColl claimed that, at a meeting held in mid-2018, where he asked the Cabinet Secretary for Finance, Economy and Fair Work to impose an independent expert witness process on CMAL to resolve the dispute between it and FMEL, the Cabinet Secretary:

” ...asked the officials to leave the room and then told me that he could not do that. When I asked, “Why?”, he said, “Because they have sent us a legal letter, and if I continue to unduly influence them, as an independent board, they will resign en masse and make it public as to why.”

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 443¹⁴⁴

232. Mr McColl's account of events was subsequently refuted by Kevin Hobbs of CMAL, who told the Committee:

” That absolutely did not happen. There was never any discussion about mass resignations. There was no such discussion because, as a board, we were very clear that we cannot be given a direction by the Scottish Government to do things that we do not want to do—and which, by the way, are illegal.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 351¹⁴⁵

233. The written submission from Scottish Ministers to the inquiry provides the following information with respect to the different dispute resolution mechanisms available to the parties through the ferries contract and the extent to which each of these mechanisms was utilised:

” The contracts provide for expert determination of disputes. FMEL was keen to pursue the option of expert determination in relation to its proposed CPI claim and outlined specific conditions under which this could be undertaken. However, CMAL's view based upon its own independent legal advice was that the quantum of the dispute rendered expert determination an inappropriate dispute resolution mechanism.

The contracts also provide for mediation. No agreement was reached on the terms of the mediation. The preferred mediator was not available within the required timescale.

The contracts make no provision for arbitration as an agreed dispute mechanism process. The contracting parties did not reach agreement on reference to arbitration.

234. The Minister for Energy, Connectivity and the Islands told the Committee that relations between CMAL and the shipyard have significantly improved since the shipyard was nationalised:

” ... I am heartened that things now appear to be a little easier, perhaps because Ferguson Marine (Port Glasgow) Ltd and CMAL are both effectively owned by the Government. Those companies are now working very well together.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 108¹⁴⁶

235. Evidence received by the Committee highlights that the problems experienced on the ferries contract were compounded over time by the rapidly deteriorating relationship between FMEL and CMAL, which at a certain point broke down completely.

236. The Committee believes that the Scottish Government could and should have taken action at an earlier stage to resolve these problems given that CMAL had expressed concerns to it as early as March 2016 that the contract was running behind schedule. In particular, the Committee is of the view that a process of mediation should have been pursued much earlier and more proactively by CMAL and the Scottish Government given both the strength of their concerns and their respective responsibilities as contract owner and project sponsor.

237. The Committee has been particularly concerned to learn that the first cumulative claim for additional costs on the contract, totalling £17 million, submitted by FMEL in July 2017 and subsequently disputed by CMAL, came as a complete shock to CMAL and considers that this points to a complete failure of communication between the two parties. The Committee questions how, given that it had a team based on-site at the shipyard, CMAL was apparently unaware of the design and construction activity which led to FMEL's claim for additional costs on the contract and was not in a position to intervene more quickly to halt work on the vessels until these matters had been resolved.

238. More generally, the Committee is concerned that the various dispute resolution mechanisms available under the terms of the contract were not exhaustively utilised. It calls for stronger provisions on the application and enforcement of dispute resolution mechanisms to be incorporated as a priority into any future contracts of this nature. These should ensure that there is an appropriate mechanism for a mediator to be appointed in cases where a dispute exists in relation to the selection of a mediator.

Workforce relations

239. The Committee has heard evidence that, at the start of work on the contract,

relations between the workforce and the management at Ferguson Marine were poor. Trade Union representative Alex Logan told the Committee:

” A bullying culture came in with the two managers who were put in place. With the director, the view was that we did not know anything. It was a case of being told, “Just do what we tell you to do or you’ll no be here.”

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 78¹⁴⁷

240. Alex Logan went on to provide more detail as to how the relationship between the workforce and management developed over time. He suggested that, when Clyde Blowers Capital acquired the yard, there was initially a good working relationship with the workforce but that relations with the management team that was subsequently put in place were difficult. He went on to explain:

” Once we had addressed the situation with Mr McColl, that management team was removed from the business, and Gerry Marshall was brought in—I think in 2017—as the head director. We started off with a good relationship with Gerry. He was more involved with the trade union and we had regular meetings with him. He kept us up to date with the changes from CMAL.

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 126¹³⁷

241. The Committee has heard evidence of challenges to workforce morale arising as a result of the employment of a large number of agency workers to work on the ferries contract. Alex Logan told the Committee:

” It did not help when the company decided to bring in agency workers. They were on a contract of 78 hours a week and were basically unsupervised. We started at a quarter to eight in the morning while they started at half past six, so by the time we got on site and the welders went to their jobs, there were no welding machines because they had all been taken by the agency workers.

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 132¹⁴⁸

Mr Logan continued:

” That was detrimental to the workforce that was already there, because we were not given jobs to do. Skilled welders and platers did not have jobs because all the machines were taken up by agency workers.

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 134¹⁴⁹

242. Jim McColl countered the claims previously made of a poor relationship between management and the workforce, arguing that action was quickly taken to address problems at the outset:

” ...when we first got into the yard, we had a very good operations manager, but he was a tough, old-school guy. The union came to me—Alex Logan was there—and said that the guy was just a bully, and we got rid of him. That was early on, and it was a one-off incident, which we took care of.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 345¹⁵⁰

243. Turnaround Director Tim Hair has emphasised the importance of rebuilding workforce engagement and confidence during the turnaround of the shipyard and

outlined the measures being taken to rebuild workforce morale following nationalisation of the shipyard in late 2019:

” Periodically, we have held all-hands briefings, so that the workforce finds out about changes in management before they are announced to the press...

...As part of the Transfer of Undertakings (Protection of Employment) Regulations process, we created a works council. It is not just an hourly-paid-staff consultative body, in which the union is the route, but a broader consultative body that relates to all the employees. We will maintain that as a way of providing a better communication link between management and the shop floor.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 215¹⁵¹

244. Trade Union representative Alex Logan welcomed the efforts made by the new management to build up the permanent workforce, which he said is helping to boost workforce morale, as well as speaking positively about the apprenticeship scheme being run at the yard:

” The first thing that Tim did was ensure that the company put workers with four years’ service on to permanent contracts. Workers with two years’ service are now being considered and are next in line to be made permanent...

Going forward, there will be times when we will have to have temporary workers, because there will be peaks and troughs, but we are trying to build up the core workforce...

Over the year, the apprenticeship scheme has also been going well... Our community and the shipbuilding industry both have an ageing workforce, so we need to encourage young people to come into the industry and to see a future in it.

Source: Rural Economy and Connectivity Committee 22 January 2020, Alex Logan, contrib. 216¹⁵²

245. Addressing the Committee, the Minister for Energy, Connectivity and the Islands emphasised the relative importance placed on ensuring fair working practices in the Scottish shipbuilding industry compared to other countries where future vessels might otherwise be sourced:

” There is a responsibility on Government, and on CMAL as our agency, to ensure, in delivering the vessels, that they are procured responsibly with appropriate regard given to the rights of workers, including their working conditions and ensuring that they are properly paid.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 127¹⁵³

REC Committee members talk to representatives of the Ferguson Marine workforce during their visit to the shipyard.



Source: Scottish Parliament Media Relations Office

246. The Committee pays tribute to the skills and dedication of the workforce at the Ferguson Marine shipyard throughout what has been a challenging period. It calls on the Scottish Government as new owners to continue to foster a positive relationship with the workforce; including their formal involvement in decision-making processes; and to ensure a culture of openness, transparency and mutual respect between the management and workforce into the future.

247. Given the extensive accrued skills, knowledge and experience of the workforce, the Committee is disappointed that CMAL failed to give greater credence to workforce concerns about the way in which the project was being managed.

Community impact of new vessels delays

248. As part of its inquiry, the Committee has received substantial evidence of the significant impact delays in the delivery of new vessels is having on local communities throughout the network.

249. Submissions from a variety of local community stakeholders have highlighted the multiple impacts on island communities of delays to delivery of vessels 801 and 802, both directly on the routes these vessels are destined to serve but also

indirectly in terms of reducing resilience of the Clyde and Hebrides network as a whole. Concerns have also been widely expressed regarding the knock-on impact the increased cost of delivering vessels 801 and 802 might have on future Scottish Government investment elsewhere on the ferries network.

250. Community organisations have also highlighted the broader impact of poor connectivity resulting from a failure to deliver new ferries on time and on budget on local business and community confidence and on island depopulation and the long-term sustainability of island communities.
251. Giving evidence to the Committee on behalf of Comhairle nan Eilean Siar, Cllr Uisdean Robertson explained the impact on the island communities affected of the delays to delivery of vessels 801 and 802:

” We should have had the two new ferries in 2018, and we should probably have been building an Islay ferry at the moment. The impact of the delay on our communities has been quite bad... The delays in getting food supplies into shops mean that products are at their sell-by date; there are also issues with medical supplies and so on. In the summer, we have major constraints on some of the routes and ferries are full, and they are now filling up on shoulder periods.

Source: Rural Economy and Connectivity Committee 29 January 2020, Councillor Uisdean Robertson (Comhairle nan Eilean Siar), contrib. 3¹⁵⁴

252. Angus Campbell of the CalMac Community Board emphasised the significant extent of the impact of the delays in delivering vessels 801 and 802 and increased frequency of cancelled sailings that have occurred as a result:

” ...the impact of ferries not sailing extends to all parts of life, from the lifeline services right down to people’s decisions about whether they can or will stay on islands.

Source: Rural Economy and Connectivity Committee 29 January 2020, Angus Campbell (CalMac Community Board), contrib. 9⁷¹

253. The written submission from Islay Community Council Ferry Committee illustrates the indirect impact of the delays in completion of vessels 801 and 802 on other island communities that are not due to be served directly by the new ferries, specifically as a result of a lack of spare vessel capacity and weakened resilience across the network:

” In the case of Kennacraig–Islay service this has meant that one of the two designated and timetabled vessels has on frequent occasions been removed from the service, either to provide relief elsewhere or during repairs, without compensating capacity being provided. Such instances have caused travellers to have to travel at different times (and sometimes days) than booked, causing disruption, additional expense, missed hospital appointments and loss of earnings and reputational damage for the tourism industry.

155

254. Using statistical evidence on the percentage of sailings on each of the Clyde and Hebrides network routes that departed full during August 2018 and August 2019, the written submission from the Mull and Iona Ferry Committee asserts that:

” The Oban – Craignure Route is the most congested in the entire CalMac network... The route most in need of additional capacity is therefore Oban-Craignure, and of all the islands, it is Mull and Iona that will be damaged most as a result of the late delivery of hulls 801 and 802.

156

255. Robbie Drummond of CalMac Ferries Ltd. outlined the extent to which the network is currently at full capacity and the associated impact of the delays in construction of vessels 801 and 802:

” In the summer, our fleet is 100 per cent deployed. There are no spare vessels and there is no space in the timetable to operate any additional sailings, and we operate at the maximum hours of rest. The same applies in winter, when we have to go through the overhaul process.

...Vessels 801 and 802 were designed to address some of those capacity issues, and they would have allowed us to cascade capacity through the fleet. In that way, they would have benefited routes other than simply the two routes in question...

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 230¹⁵⁷

256. The Arran Ferry Action Group has raised particular concerns about the financial impact of the Scottish Government's policy on Road Equivalent Tariff and that funding the policy could be diverting resources that might otherwise be used to invest in new vessels to serve the Clyde and Hebrides network. On this basis, it argues that the policy should be reformed.

” 158

257. The written submission from Outer Hebrides Tourism argues that, in the short term, the Scottish Government must give attention to the action needed:

” ...to alleviate the capacity constraints on travel to the Outer Hebrides while we are waiting for new vessels to be completed and enter service...

159

258. The Committee is very concerned about the direct and indirect impacts the delays to delivery of vessels 801 and 802 are having on island communities throughout the Clyde and Hebrides network and across Scotland's wider ferry network, and the further negative contribution these delays and the associated reduction in network resilience are making to island depopulation, as well as undermining the objectives of the National Islands Plan, which the Committee very much supports.

259. In particular, the Committee calls on the Scottish Government to provide an urgent update on measures being taken to address capacity constraints on the

routes affected and more widely across the network in the intervening time until vessels 801 and 802 enter into service.

260. While acknowledging the views expressed on the financial pressures for Scotland's ferries network associated with implementation of the Road Equivalent Tariff, the Committee also recognises the significant positive impact this policy has had in boosting island economies and tourism.

Alternative options for delivery of new vessels

261. The Committee has heard a range of evidence regarding the best course of action to be taken with a view to delivering the two new vessels to serve the Clyde and Hebrides network and mitigating the associated costs and delays.

262. On 19 February 2019, PricewaterhouseCoopers were engaged to undertake an options review for FMEL. The purpose of this review was to consider a long list of potential options available to Scottish Ministers should intervention by the Scottish Government to support FMEL be required. On 1 March 2019, PricewaterhouseCoopers published an interim report on its options review. This included an options matrix detailing a long list of 17 potential options for delivery of vessels 801 and 802. In assessing these options, the report concludes:

” If the CPI claim is not successful, and if CBC is not prepared to provide additional funding, and there are no significant new orders, then the viable commercial options available to SG are:

1. Insolvency,
2. Nationalisation, or
3. Re-tender

Contingency planning for a final report should focus on the potential scenarios associated with each of these options.¹⁶⁰

263. In his written submission to the inquiry, Roy Pedersen summarises his recommended approach to delivering the new vessels, which he also reiterated when giving oral evidence to the Committee, as follows:

” Scrap both vessels or complete the build of vessel 801 for eventual employment on the Stromness-Scrabster service, but scrap 802 and plan construction of two simpler vessels for the Little Minch services.

161

264. Dr Alf Baird suggested an alternative approach of simplifying and standardising the design of vessels 801 and 802 and completing them on that basis:

” I think that the only option is to strip the vessels down and build them as standard production units as much as possible, so as to reduce the cost, which I estimate could be halved.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 167¹⁶²

265. In response to Dr Baird's suggestion, Angus Campbell was at pains to argue the case for the vessels to be completed with an appropriate level of comfort that would meet the expectations of the local communities using them:

” ...the terms that are being used suggest that we could have a cheap form of transport that would give a very basic service. Some of the trips are long. All that I am saying is that there should be a conversation with the communities to ensure that, wherever we draw the line, an acceptable level of service is provided.

Source: Rural Economy and Connectivity Committee 29 January 2020, Angus Campbell, contrib. 172¹⁶³

266. Many local community groups have been critical of the fact that the Programme Review Board did not give serious consideration to the option of scrapping the vessels and starting again. In its written evidence to the Committee, the Arran Ferry Action Group argued:

” As the cost of completing these ships outweighs the procurement cost of alternative vessels better suited to their proposed routes, with very significantly lower whole-of-life costs and emissions..., one must ask why scrappage was not considered.

158

267. While giving evidence to the Committee, Turnaround Director Tim Hair was asked about the option of scrapping the partially completed vessels and starting again and the extent to which this was an option that the Programme Review Board had actively considered. Tim Hair responded that the Programme Review Board had looked in outline detail at the option of scrapping the vessels and starting again but concluded:

” ...that the outline cost of starting again would not be dramatically different from the cost of completing the vessels as they are.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 30¹⁶⁴

268. Tim Hair also highlighted the further time delay to delivery of the vessels that would be associated with scrapping the partially completed vessels and starting again:

” If we wanted to scrap the vessels and start again from scratch, it would take at least a year to get back to where we are now.

Source: Rural Economy and Connectivity Committee 22 January 2020, Tim Hair, contrib. 200¹⁶⁵

269. Chris Wilcock, Head of the Scottish Government's Ferries Unit, told the Committee that scrapping the ferries and restarting the procurement process would result in unacceptable delays to the new vessels entering into service on the network:

” ...there would be a number of years of delay in getting vessels on to the network and into service. From our perspective, that is not an option that we would countenance, given the impact that it would have on bringing a new vessel into the fleet.

Source: Rural Economy and Connectivity Committee 04 March 2020, Chris Wilcock, contrib. 378¹⁶⁶

270. Giving evidence to the Committee on behalf of the CalMac Community Board, Angus Campbell expressed a preference for seeing completed vessels delivered sooner rather than restarting the procurement process, even if restarting the process might result in vessels that were ultimately better designed to meet the needs of local communities:

” The timetable and seeing the ships completed is very important to the islands—albeit the ships that come out the other end might not be ideal...

at least people would be glad to see ships come on the list as that would help with the capacity issues.

Source: Rural Economy and Connectivity Committee 29 January 2020, Angus Campbell, contrib. 46¹⁶⁷

271. CMAL also provided evidence that it had considered exercising options to terminate the contract and retender it but then outlined the reasons why such options were ultimately not exercised:

” At the time...our professional view was that, after speaking to the shipyard, it would be better from the point of view of timescale to carry on with that shipyard than to start all over again with another shipyard.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 380¹⁶⁸

272. Certain evidence received by the Committee has highlighted a potential risk that the finished vessels might ultimately be rejected by the owner as a result of failing to meet the requirements stipulated in the contract related to speed and deadweight capacity.

273. In its written submission to the inquiry, CMAL asserts that proposals to reduce the deadweight capacity of the vessels by 300 tonnes, thereby reducing the cargo carrying capacity by a third, originated from FMEL:

” In the tender bid from Ferguson the shipyard confirmed they could achieve the deadweight of 900 tonnes at 3.4m draft but then 4½ months after contract signing said they could not.

55

274. CMAL's written submission goes on to assert that the change to deadweight capacity proposed by FMEL had the further effect that, until this was agreed, it was impossible to determine the power needed to achieve the contract speed. CMAL's submission also indicates that a more modest reduction to the deadweight capacity of 77 tonnes or 8% was ultimately agreed between the parties. CMAL is very clear in its account of events that these changes were instigated not by it but by FMEL.

275. Commodore Luke van Beek offered the following reflections on his reasons for

concluding that a negotiated settlement between CMAL and FMEL would have resulted in a better outcome than the shipyard going into administration:

” I said at the time that, as far as cost was concerned, a negotiated way forward would produce a better outcome, both in cost and time, than putting the yard into administration, which would cause significant delay, the loss of the lessons that were learned and a badly broken continuity of workforce.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 121¹⁶⁹

276. To support his argument, Commodore van Beek also pointed to a dispute over the award by the Quebec government in Canada of a contract to build two LNG-powered ferries to the Davie shipyard in Quebec City which was ultimately resolved via a negotiated settlement:

” ...the Davie case has a lot of similarities with the Ferguson Marine case. The parties that were involved in the former negotiated their way out of the situation, with a 30 per cent increase in cost and a year’s increase in time. The lesson is that a negotiated settlement can work.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 138¹⁷⁰

277. In its written submission to the inquiry, CMAL takes issue with Commodore Luke van Beek’s expressed view that arbitration would have been an appropriate dispute resolution mechanism under the ferries contract, which it argues:

” ...appears predicated on the assumption that the Ferguson claim had a legal basis. It did not. Arbitration would have been a distraction and a sticking-plaster for what CMAL contends were management failures which we believe the Project Review Board report describes in extremely measured terms.

278. Giving evidence on behalf of Transport Scotland, Head of the Ferries Unit Chris Wilcock disagreed with Commodore van Beek’s assessment that a negotiated settlement would have yielded a better outcome than the shipyard entering administration and ultimately being nationalised:

” We did not agree with that view at the time and, as has been borne out, we are not of the view that that would have resolved our difficulties regarding the quantum of work that is still to be done.

Source: Rural Economy and Connectivity Committee 04 March 2020, Chris Wilcock, contrib. 466¹⁷¹

279. Challenged on whether a mediated resolution of the dispute between CMAL and FMEL would have enabled the vessels to be completed by FMEL at a much lower cost than by nationalising the yard, the Minister for Energy, Connectivity and the Islands disagreed, arguing that, with respect to nationalisation of the shipyard:

” ...based on the information that was available to us, that was the best approach from a public interest perspective, to deliver the ferries, and to ensure that costs to the Government were minimised.

...we have done what we have done to protect the interests of communities that rely on the two ferries by ensuring that they are delivered as early as possible, and to protect jobs and the economy of Inverclyde.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 110¹⁷²

280. Based on the evidence submitted to the inquiry, the Committee considers that, at an earlier stage of the process, halting construction, scrapping and revisiting the design and procurement of vessel 802 in particular would have been a feasible approach and one that could have resulted in lower costs and faster delivery than continuing with construction on the basis of the original contract. However, at this advanced stage of the process, the Committee recognises that scrapping one or both of the vessels would result in significant additional time delays and costs and would go against the urgent need for these vessels to be completed and entered into service as soon as is practically possible.

281. At the same time, the Committee is concerned by the significant amount of time that has elapsed since the contract for construction of these vessels was originally awarded and the outline design specification developed. The Committee therefore recommends that the Scottish Government commission a review of vessel specifications to ensure that future design is appropriate to meet the needs of the network and, if necessary and in keeping with the objective of securing their delivery as quickly and cost-effectively as possible, to update those specifications in line with any relevant technical developments that may have occurred in the intervening period.

Vessel programme update - August 2020

282. On 21 August 2020, the Scottish Government published an update from the Ferguson Marine Programme Review Board on progress and the impact of COVID-19 on the programme for completion of vessels 801 and 802. ¹⁶

283. In relation to the impact of COVID-19 on the programme for delivery of vessels 801 and 802, the report concludes:

- ” Overall, the COVID lockdown will have left the yard closed for 3 months and on severely restricted working for at least 3 further months.

The cost related to the COVID lockdown is expected to be £3.3m and this will be treated as an exceptional item and not a project cost. This cost will be directly affected by the future course of the virus.

16

284. Regarding the most up-to-date anticipated timeline and costs for delivery of the vessels, the report concludes:

- ” The cost of the project to deliver the ferries is unchanged at £110.3m

The delivery of 801 is now planned for the range April 2022 to June 2022

The delivery of 802 is now planned for December 2022 to February 2023. 802 launch will occur in early May 2022.

16

285. The updated timeline represents a further six month delay to the delivery of both vessels compared to the projected delivery dates previously set out in the Programme Review Board's report published in December 2019.

286. The Committee notes the high level of ongoing uncertainty regarding the impact of COVID-19 on the costs and timeframe for delivery of vessels 801 and 802 but requests that the Scottish Government provide an immediate update if it is anticipated that the pandemic is going to have any further significant impact on costs or timetable beyond those identified by the August 2020 update.

287. From now until completion of the programme, the Committee further calls on the Scottish Government to provide it and its successor committee with a detailed quarterly written update on progress towards delivery of vessels 801 and 802, highlighting in particular any further changes to the programme timetable or costs and the reasons for these.

Recommendations for the future of Scotland's ferries network

Engagement with local communities

288. The impact of that delays in the delivery of vessels 801 and 802 is having on local communities throughout the network is covered earlier in this report. However, the Committee has also heard extensive criticism of the approach taken more generally by all decision-makers involved in the procurement of new ferries to engaging with the local communities affected by those decisions.

289. Local community stakeholders providing evidence to the inquiry have emphasised the need for decision-makers to engage in a far more meaningful way in future with the local communities affected with respect to the procurement and construction and new ferries.

290. On behalf of the CalMac Community Board, Angus Campbell argued that better engagement with local communities at the early stages would help to avoid problems when the new vessels enter into service and to save money longer term as a result:

” It is a question of having engagement in the early part of the process so that the problems can be solved, rather than of having the ship delivered and then having to say that it does not do everything that we want, which is quite common.

Source: Rural Economy and Connectivity Committee 29 January 2020, Angus Campbell, contrib. 18¹⁷³

291. Robbie Drummond of CalMac outlined the extensive level of engagement it currently undertakes with local communities, comprising hundreds of meetings per year with local ferry committees and ferry stakeholder groups. Outside formal structures for collecting community feedback, Mr Drummond added that:

” ...we go out and talk to stakeholders all the time about how they feel about the service that they are getting, their views on CalMac, and what we can do to improve the service. We listen intently to views on what we can do to change things.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 18¹⁷⁴

292. Providing evidence to the Committee on behalf of CMAL, Jim Anderson suggested that, as with the development and delivery of any new vessels to the Clyde and Hebrides network, CMAL's engagement with local communities had been extensive and that the design of vessels 801 and 802 was responsive to the needs and expectations of those local communities as a result. With specific reference to vessel 802, Mr Anderson argued:

” ...the communities are, by and large, getting the ship that they want. The ship is like the MV Hebrides and we know that they are very happy with the Hebrides. I would say that the ship will be Hebrides plus when it is finished.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 38¹⁷⁵

293. Providing written evidence to the inquiry, a range of local community groups have taken issue with claims variously made by CMAL, Transport Scotland and CalMac regarding the strength and depth of engagement they have undertaken with local communities and particularly the extent to which these communities feel that their views have ultimately been reflected in decisions relating to the design and procurement of new vessels to serve the Clyde and Hebrides network.

294. In its written submission to the inquiry, North Ayrshire Council argues that better communication and regular and timely updates on progress should be provided by key decision-makers directly to the local communities affected throughout the process of procuring and delivering new vessels for the network, rather than those communities receiving that information indirectly via media channels as, it contests, is the current experience.

” 176

295. In its written submission to the inquiry, Comhairle nan Eilean Siar has argued that, offering a vehicle deck capacity increase of around 25% compared to the vessel it is replacing, vessel 802 will, once completed, only partially alleviate capacity issues on the Uig triangle. It also suggests that the decision to provide the service with a single new vessel was contrary to the preference of the local community:

” A dedicated ferry on each of what are essentially two separate routes has been repeatedly called for by local stakeholders, yet the decision was taken to provide a relatively modest increase in capacity by ordering a single new ferry to continue the shared resource that has been in place for 55 years.

177

296. In their written submissions to the Committee, some local community representatives have suggested that the current strategy for the procurement of new vessels to support the Clyde and Hebrides network are driven more by the demands of tourists visiting the islands at certain peak times of the year, rather than the year-round needs of people actually living and working on the islands.

297. A range of evidence from local communities points to a strong desire for closer engagement between decision-makers and those communities from the start of, and throughout, the process of procuring new vessels to serve the Clyde and Hebrides ferries network. Eoin MacNeil of the CalMac Community Board told the Committee:

” We need a higher level of involvement. The CalMac community board is a good step towards that and it brings us a wee bit closer to CalMac, but CalMac has a contract, and, therefore, we should also have closer links to the Scottish Government.

Source: Rural Economy and Connectivity Committee 29 January 2020, Eoin MacNeil, contrib. 31¹⁷⁸

298. In written evidence to the inquiry, the Mobility and Access Committee for Scotland has highlighted that vessels are poorly equipped to accommodate the needs of disabled travellers and raises concerns that facilities for disabled passengers will not be given sufficient consideration in the procurement of new vessels either.

179

299. Duncan Mackison of DML outlined how the output from engagement with local communities should ideally be used:

” We should be trying to use the totality of that information and input to focus on a strategic planning exercise to develop a longer-term view, so that all those various factors can be seen to have been considered, and choices and decisions can be made on the back of that.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 178¹⁸⁰

300. In written evidence to the inquiry, the Scottish Islands Federation, suggested that island communities should be much more actively involved throughout the process of procuring, designing and constructing new vessels than is currently the case:

” ...we would argue that there is surely potential for multi million pound projects to actively engage with island community interests as collaborative partners throughout the development process, rather than consider us as passive beneficiaries of others' efforts to meet our needs...

181

301. The written submission to the inquiry, made on behalf of Scottish Ministers on 12 August 2020, includes the following specific commitments from the Scottish Government with respect to future community engagement:

” We will publish a ferries stakeholder engagement strategy, setting out the membership and purpose of each group and the specific policies or projects to which that consultation will contribute.

We will also continue to articulate where feedback received through consultation exercises has informed individual decisions.

103

302. Giving evidence to the Committee, the Minister for Energy, Connectivity and the Islands offered the following additional reflections on addressing dissatisfaction with the Scottish Government's current approach to local community engagement on ferries policy:

” We are already taking on board some of the messages that have come out, through the inquiry and before it, about how we engage with ferry committees and local stakeholders in developing our plans for vessels.

For example, ...we hope to put out the tender for the future Islay vessel in the first quarter of next year, and we have been very keen to engage with communities on that.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 74¹⁸²

303. The Committee draws the Scottish Government's attention to the current high level of dissatisfaction expressed by all those local communities who gave evidence to the inquiry regarding the very limited extent to which they felt their views have any material impact on the design and delivery of new ferries to serve the Clyde and Hebrides network.

304. In this context, the Committee welcomes the Scottish Government's commitment to improve its engagement with local communities in relation to its future islands connectivity plan and looks forward to receiving more details as to how this new approach will address community dissatisfaction with current approaches to engagement.

305. This is a recurring theme that has been raised regularly with the Committee and its predecessors in previous Parliamentary sessions by those communities served by the ferries network. The Committee is of the view that engagement and consultation on proposals for new vessels needs to be meaningful and seen to have tangible outcomes which give communities confidence that they are being listened to and that their views are genuinely taken into account. The Committee also believes that local communities should be entitled to receive follow-up feedback that demonstrates how and to what extent specific issues or concerns raised during the engagement process have been addressed.

306. The Committee calls on the Scottish Government to take steps to ensure a better balance in decision-making related to the procurement of new ferries between the respective needs and interests of those who live and work year-round on Scotland's islands and the seasonal demands of visiting tourists.

307. The Committee also recommends that future engagement plans should incorporate closer engagement with disabled passengers to ensure their needs are being suitably met through the detailed specification of new vessels.

308. The Committee also notes in particular the request by local communities, alongside improved engagement with CalMac Ferries Ltd. and CMAL, to be given the opportunity of more direct and meaningful engagement with the Scottish Government on these matters.

309. The Committee further recommends that the Scottish Government's new ferries stakeholder engagement strategy should make provision for regular updates to be provided to local communities regarding progress in delivering new vessels to the network.

Propulsion technologies

310. There has been a divergence of views expressed in the evidence received regarding the relative merits of different propulsion technologies to be deployed in new ferries designed and constructed to serve the Clyde and Hebrides network.

311. Dr Alf Baird expressed a view that, for most if not all routes on the Clyde and Hebrides network, LNG-powered vessels were not suitable and that, from an environmental point of view, hybrid electric propulsion would be a better solution:

” LNG is more attractive for very long, overnight North Sea ferry routes, routes across the Bay of Biscay and other such routes, but it is not attractive for short-range domestic ferry routes. They are within the realm of battery-powered ships or diesel-battery ships generally.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 129¹⁸³

312. Giving evidence to the Committee, Commodore Luke van Beek went as far as to indicate his belief that CalMac did not want vessels 801 and 802 to use LNG propulsion:

” I had a meeting with the previous chief executive of CalMac, during which he told me that the two ships 801 and 802 were not the ships that CalMac wanted. In particular, CalMac did not want LNG fuel.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 101¹⁸⁴

313. This was later refuted by CalMac with Robbie Drummond telling the Committee that LNG had been the company's initial preference as expressed in its outline specification for the vessels. He went on to argue the case in favour of LNG as the best propulsion solution currently available for vessels of the size of 801 and 802:

” At the time the decision was made, LNG was the only sensible choice to reduce emissions. If we were making the decision again today, it would remain the only choice to enable ferries of that size and duration to deliver reduced emissions.

Looking further into the future, we see that battery technology is becoming better and a lot of vessels are using that technology, but it is not yet suitable for larger vessels on journeys of more than 30 minutes' duration.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 118¹⁸⁵

314. The proposed use of LNG as purportedly a more environmentally friendly fuel than marine oil has also been criticised because it would currently have to be sourced from the south of England, thereby generating significant additional emissions

during its transport, most likely by lorry. Roy Pedersen told the Committee:

” I have not done the sums, but it is likely that hauling the fuel on that 1,000-mile trip will negate the relatively minor advantage of LNG.

Source: Rural Economy and Connectivity Committee 29 January 2020, Roy Pedersen, contrib. 153¹⁸⁶

315. The Committee has received evidence that the use of LNG fuel would entail significant costs in terms of additional port infrastructure required to accommodate the use of this fuel. However, Robbie Drummond of CalMac indicated that these costs would be relatively small:

” The vessels can be loaded direct from trucks, but if we want to speed up the process, we need some infrastructure to make it faster. There is some investment required there, but otherwise there is no increase in operational requirements.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 114¹⁸⁷

316. Commodore Luke van Beek indicated that, during his time working on the project, he had proposed shelving the installation of LNG on the vessels as a means of mitigating the delays in construction but that this proposal was rejected by CMAL.

” Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 95⁶³

317. Commodore van Beek further expanded on his rationale for recommending that the LNG system should not be commissioned, arguing that it posed both a design challenge and a commissioning challenge:

” In my view, that was unnecessary, because using LNG in the first year of the ferry's life would have been quite difficult...

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 97¹⁸⁸

318. The Minister for Energy, Connectivity and the Islands has told the Committee that the option of removing LNG propulsion from the vessels was never considered by the Scottish Government and that, contrary to Commodore van Beek's view, doing so midway through construction would have added further cost and delay.

” Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 132¹⁸⁹

319. During its inquiry, the Committee received evidence that vessels 801 and 802 would run on marine gas oil when leaving and entering harbour and for shorter routes, this could mean running on marine gas oil for most or virtually all of the crossing. This was countered by Robbie Drummond of CalMac who said:

” ...it is not a complex process to switch between fuels. The ship moves out of harbour, and when it is fully under way it can move straight to using LNG.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 67¹⁹⁰

320. The Committee also heard evidence from Duncan Mackison of DML that certain countries are looking to build interoperability of different propulsion technologies into the design and construction of new ferries:

- ” Some companies are building ships that give them the express ability to take out the propulsion unit that they are putting in at this stage, because they anticipate that the ship will change to a different mode in the future.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 121¹⁹¹

321. Duncan Mackison also argued the case for a longer term strategic approach to the use of propulsion technologies across the Clyde and Hebrides fleet but highlighted the particular challenges of integrating new vessels into an ageing fleet of existing vessels, which meant that, in his view, the choice of LNG was a logical one for these specific ferries:

- ” If we were starting with a blank sheet of paper today and designing CalMac’s future fleet, we would have the luxury of being able to design in the best solution for groups of vessels. We would probably end up with clutches of electric vessels on some routes. However, we are not in that position, because we are moving incrementally, so we have to go with solutions that give us flexibility.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 123¹⁹²

322. In its written submission to the inquiry, HITRANS questions the environmental sustainability of LNG as an alternative propulsion technology and argues for a more ambitious long-term strategy to reduce the environmental impact of vessels operating across Scotland’s ferries network, following the example of international best practice:

- ” These ferries are Dual Fossil Fuel ferries and by moving to this design we are, we would contend, simply continuing with current practice for the next 30 years rather than embracing a low carbon future. We believe that other countries – notably Norway and Denmark – are pioneering the electrification of ferry services.

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323. Offering a contrary view, the written submission from Orkney Islands Council suggests that, based on its experience, LNG is the most appropriate environmentally friendly fuel for larger ferries operating on longer crossings:

- ” For Orkney, the evidence held thus far with regards to its ferry requirements, the transition to low then zero carbon ferries and ports/harbours opportunities indicate that hydrogen and battery for very short routes is a realistic medium term aspiration but that for the longer routes, internal as well as external, LNG is the transition marine fuel for the next generation of shipping.

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324. The Minister for Energy, Connectivity and the Islands acknowledged the importance of considering a range of new technologies to reduce emissions from Scotland’s ferries fleet, including battery technology and hydrogen, but also highlighted the importance of hull form in improving the efficiency of vessels:

” There are other things that we can do to improve efficiency. For example, CMAL is looking to incorporate new hull forms and designs into the new Islay vessel. The hull form can potentially save up to 30 per cent in fuel costs...

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 134¹⁹⁵

325. The Committee notes that the most significant benefit of LNG does not relate to its climate change impact since it is, like marine diesel, a fossil fuel that generates significant carbon emissions, but rather to its reduced impact on air quality.
326. The Committee has further noted concerns that lorry shipment of LNG for use on these vessels from the south of England could negate any environmental benefits of using this fuel or even result in its use having an overall negative environmental impact. To address these concerns, the Committee therefore calls on the Scottish Government to actively pursue opportunities to source LNG fuel supplies at locations within Scotland.
327. On this basis, the Committee considers that LNG can only ever be considered as a transition technology that will become obsolete as soon as alternative low and zero carbon propulsion technologies become viable for use in marine vessels of all sizes.

328. In this context, the Committee calls on the Scottish Government, as part of its new updated Islands Connectivity Plan, to undertake a detailed review of current and future propulsion technologies and, where appropriate, to consider a build strategy for future vessels that is flexible enough to enable retrofitting of vessels with more advanced, lower carbon propulsion systems as these become available. It is also of the view that clear objectives should be set for the future reduction of greenhouse gas emissions from ferries in the forthcoming update to the Scottish Government's Climate Change Plan.

Crew accommodation

329. The Committee has received conflicting evidence about the merits or otherwise of accommodating crew either on board vessels or basing them on the islands.
330. Eoin MacNeil of the CalMac Community Board was strongly supportive of the idea of basing ferry crews on the islands:

” Having the vessel situated on our island would make a big difference, because she would be leaving, rather than coming to collect us to take us off the island... To have 30 or 40 crew living on the island would be a great boost to the economy.

Source: Rural Economy and Connectivity Committee 29 January 2020, Eoin MacNeil, contrib. 48¹⁹⁶

331. Roy Pedersen expressed his view that accommodating crew on board the vessel was an antiquated practice that makes services less efficient and argued that the efficiency of services could be improved by making provision for crews to live ashore:

” The terms and conditions and so on would obviously have to be negotiated and would have to be satisfactory, but I believe that the proposal could bring an improvement in working conditions for the personnel working on the ferries.

Source: Rural Economy and Connectivity Committee 29 January 2020, Roy Pedersen, contrib. 67¹⁹⁷

332. Mr Pedersen expands further on these points in his written submission to the inquiry, arguing that allowing crews to live ashore would reduce new vessel design costs and enable shift working patterns. He further argues that, as well as imposing additional design costs, the practice of accommodating crews on-board has a negative impact on flexibility due to the associated limitations on working hours and the additional constraints imposed by rest period regulations. Conversely, he suggests that allowing crews to live ashore would have important economic benefits:

” ...if a vessel’s home port were the island community served, then the live-ashore crews, their families and dependents would contribute to island life... Thus, island based crews with their families and dependents, on the basis described above, would add a total of some 1,200 persons to the populations of the islands involved. On Barra, for example, the effect would be a 10% population increase.

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333. Dr Alf Baird pointed to experience elsewhere in Scotland, where crews are already based on the islands as standard practice:

” ...for years now, in Orkney and Shetland, crews have had to live on the islands—that is one of the conditions of employment. The RMT already accepts that in many cases, so there is no reason why it should not accept it in the case of, for example, Arran or Mull.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 197¹⁹⁸

334. While pointing out that, with respect to 19 out of 33 vessels on the network, crews already live ashore, Robbie Drummond of CalMac Ferries Ltd. explained the rationale behind current practice of accommodating crew on board the larger vessels in the Clyde and Hebrides fleet and the issues that would arise if these crews were instead to be based onshore:

” In the event of any technical or weather issues, resilience across the wider network would be reduced because that vessel would not be able to support other islands or other routes—it would have to return home so that the crew could get back to their accommodation. Accommodation on board is provided for the purposes of wider resilience.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 163¹⁹⁹

335. Mr Drummond went on to highlight additional challenges with recruiting crews to be based onshore and challenges currently being encountered in this regard in

Norway:

- ” I am currently in discussion with a large ferry business that is looking at changing its 25-year strategy from an onshore strategy to a living-on-board strategy because it is struggling to recruit crews who are able to live locally and get on a vessel.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 163¹⁹⁹

336. The Committee recognises the respective advantages and disadvantages of either basing crews onshore or on board vessels depending on the specific operational requirements of individual routes on the network. On this basis, the Committee is not in a position to make a specific recommendation on this matter.

Clyde & Hebrides network franchise

337. Giving evidence to the Committee, Dr Alf Baird argued strongly for reforms to be made to the structure and operation of the Clyde and Hebrides network franchise:

- ” ...if the procurement process was more in the normal European vein, it would involve long-term concessions with small bundles of routes, with half a dozen or eight vessels per bundle and plenty of relief cover...

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 203²⁰⁰

338. The written submission from Robert Trythall also advocates the unbundling of ferry services on the Clyde and Hebrides network, which he argues would allow more effective targeting of available subsidies to certain lifeline routes:

- ” There is a very strong case for the Arran, Mull, Islay and possibly the Lewis-Uig triangle routes to be unbundled. This may attract alternative ferry operators into more competitive tenders, and in turn minimise the subsidy requirement.

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339. Duncan Mackison of DML also highlighted the impact of the current length of the franchise on the capacity for longer term strategic planning:

- ” ...our time horizon for delivering the service is limited to the length of the contract. We would welcome the ability to contribute to a longer-term debate that sets the strategy and gives us an opportunity to get into the details of those questions.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 134²⁰²

340. Robbie Drummond of CalMac outlined the potential pitfalls of breaking the current franchise into smaller bundles of routes or lots in terms of the overall resilience of the network and the cost of running it:

- ” A smaller lot would have only a certain number of vessels attached to it, and would therefore not provide resilience by enabling vessels to operate on different routes in the event of technical or weather disruption. It would also be more expensive, because operating five or six—or however many—different lots is more expensive than operating one, given that multiple asset-management teams, head-office teams and safety teams would be required.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 203²⁰³

341. Mr Drummond also echoed the comments made by Duncan Mackison regarding the impact of the current contract duration on the ability to plan long-term:

- ” At present, we can plan two years ahead, although there is potential for a two-year extension... There are other models in the industry in which operators have much longer contracts of up to 25 or 30 years, which allows them to engage in genuine planning.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 210²⁰⁴

342. The Committee acknowledges the additional challenges for procurement of new vessels to serve the Clyde and Hebrides network that would be associated with splitting the franchise into smaller bundles of routes - particularly as this relates to potential redeployment of individual vessels to other routes in the future.

343. At the same time, the Committee also recognises the challenges to longer term planning, including for new vessel procurement and deployment, of the current relatively short length of the franchise contract. To address these challenges, the Committee calls on the Scottish Government to launch a discussion on potentially extending the next Clyde and Hebrides network franchise for a much longer period of time than is currently the case.

The Ferguson Marine shipyard

344. Giving evidence to the Committee, Jim McColl described the significant business opportunities that he foresaw for Ferguson Marine when Clyde Blowers acquired the shipyard in 2014:

- ” Before we bought the yard out of administration and decided to make that investment, we undertook a market study of the opportunities and looked at the addressable market for sea-going vessels. I thought that, looking forward, there was an exceptionally strong market because of the age of the Scottish ferry fleet and the fishing vessels... I thought that there was a good business opportunity.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl (Former Director, Ferguson Marine Engineering Ltd), contrib. 154²⁰⁵

345. Asked for their assessment of the future prospects for the Ferguson Marine

shipyard following nationalisation, Dr Alf Baird and Roy Pedersen suggested that state ownership of shipyards was quite common internationally but emphasised the importance of Ferguson Marine having suitable in-house design expertise or an established partnership with a recognised high-class naval architect to assure its long-term future. Without such capabilities, Dr Baird argued:

” The long-term sustainability of the yard would be in doubt, as would be the advantage of the yard in providing top-class tonnage.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 182²⁰⁶

346. Dr Baird's written submission to the Committee casts serious doubt on the future prospects for the shipyard without a significant change in strategy:

” The global market reality is that the significant well publicised CMAL/FMEL problems means that ferry operators are unlikely to order any further ferries at FMEL. After the two CMAL ships are completed FMEL would therefore most likely close. This is unless the state starts to procure and produce standardised proven low-cost ferries at FMEL similar to those employed by private ferry operators and designed by proven specialist global designers.

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347. This view is further supported by Roy Pedersen who draws the following conclusion in his written submission to the inquiry:

” In considering the future of Ferguson Marine Engineering Ltd. (FMEL), a radical change in the management will be required... Options include FMEL forming strategic alliances with internationally successful ship designers and hull suppliers. A key element would be to import low cost ferry 'kits' from Asia for final assembly in Scotland. Many new ferries in Scotland (possibly as many as 100 valued at £2 billion or more (not just for CalMac) will be required over the next 15-20 years), which opportunity could be used as a lever to help Scotland develop new global shipbuilding competitiveness

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348. In its written submission to the Committee, the RMT Union takes issue with the 'off-the-shelf' design and procurement approach advocated as a way forward for the Ferguson Marine shipyard by Messrs Baird and Pedersen:

” This would leave the Scottish ferry industry reliant on pools of exploited workers in shipyards thousands of miles away and dodge the fundamental issues around Scotland's maritime skills capacity and economic independence that the CMAL contract for 801 and 802 inevitably raises.

208

349. Asked about the implications of nationalisation of the shipyard for future procurement of new vessels, Head of Transport Scotland's Ferries Unit Chris Wilcock referred to the new directorate set up within the Scottish Government to support the Ferguson Marine shipyard in public ownership and emphasised the role of that directorate in helping the shipyard to develop a future pipeline of work. At the same time, he indicated that, in the short-term at least, there would be no changes

to the approach of procuring new vessels for the network:

” In the immediate term, we will still have to tender for vessels, so the next vessel that we go for is likely to go out to the open market for tender.

Source: Rural Economy and Connectivity Committee 04 March 2020, Chris Wilcock, contrib. 473²⁰⁹

350. The Minister for Energy, Connectivity and the Islands has highlighted to the Committee the challenges to future prospects for the Ferguson Marine shipyard created by the high-profile issues encountered by the shipyard on the ferries contract but also said he has been encouraged by recent developments:

” ...it is a difficult space for a business to be in when it is trying to come out of difficulties. However, it is encouraging that there are signs of interest in commissioning Ferguson’s to do some work or at least give it the opportunity to tender.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 119²¹⁰

351. At the same time, the Minister acknowledged the work still to be completed on vessels 801 and 802 and that this was likely to limit the shipyard's capacity to take on additional major contracts over the next two to three years.

352. The Minister also indicated to the Committee that the Scottish Government is considering potential options to award future vessel construction contracts directly to the Ferguson Marine shipyard without competitive tender:

” Clearly, there is a lot of work to be done on state-aid competition policy and other matters. We need to understand what kind of structures are best placed to enable that and whether it is a desirable and feasible route to go down.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 119²¹⁰

353. Moves to allow contracts to be awarded directly to the Ferguson Marine shipyard have been supported by certain stakeholders submitting evidence to the inquiry, notably the RMT Union.

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354. Meanwhile, certain submissions to the inquiry have highlighted a perceived tension between, on the one hand, the goal of fostering domestic shipbuilding capabilities on the Clyde and, on the other hand, the goal of delivering new vessels in a timely and cost-effective manner to renew Scotland's ageing ferry fleet. The submission from the Arran Economic Group says:

” Demand for ships is now past critical. It must be the primary driver ahead of a well-meaning plan to create a local shipbuilding capability. In summary, use “local” competent capacity to supply Scotland’s ferry network, when it is available, not before.

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355. In a written submission to the inquiry, the Competition and Markets Authority has

raised specific concerns regarding the future prospect of the Scottish Government awarding contracts directly to the Ferguson Marine shipyard without competitive tender:

” Awarding Ferguson Marine newly commissioned work without a competitive tender process is unlikely to make it a commercially sustainable business. It may also have a negative impact on the wider industry.

212

356. The Competition and Markets Authority also highlights the "chilling effect" problems with the delivery of vessels 801 and 802 may have had on the market for procuring the construction of other new vessels in the future and the steps the Scottish Government may need to take to address this issue:

” ...it will be important for the Scottish Government to move quickly to indicate that – once this procurement is complete – there will be a focus on designing future procurement of ferries (and ferry services) that enables effective competition and encourages broad participation...

212

357. In taking the Ferguson Marine shipyard into public ownership, the Committee recognises the Scottish Government's intention to secure long-term shipbuilding capabilities and jobs in Scotland and the actions taken by the Scottish Government in support of that goal that relate to the contract for the design and build of vessels 801 and 802.

358. The Committee further believes that, whatever its long-term ownership status, the shipyard's overarching objective must be to secure a long-term pipeline of work and to safeguard its future as a going concern.

359. The Committee further requests that the Scottish Government keep the Committee regularly updated as regards the development and implementation of a future strategy for the Ferguson Marine shipyard that will enable it to compete successfully for future contracts across both the public and private sectors, including the development of appropriate in-house design capabilities.

Decision-making structure

360. The Committee has heard extensive evidence of a cluttered decision-making structure for the procurement and construction of new vessels to serve the Clyde and Hebrides ferries network and strong arguments for that structure to be reviewed and overhauled. Some submissions to the Committee have gone so far as to suggest that certain of the organisations currently involved in decision-making, most notably CMAL, should be disbanded entirely.

361. Giving evidence to the Committee, Frances Pacitti of Transport Scotland, outlined

the current decision-making structure as follows:

- ” Transport Scotland is responsible for setting the overall policy context for the delivery of ferries in Scotland...

Within the context of vessel design and procurement, CalMac Ferries Ltd is responsible for providing a statement of operator requirements. CMAL is responsible for taking those policy guidelines—the operator requirements—and developing them into a high-level tender design requirement that goes out to the market. CMAL is responsible for running the procurement process in its entirety, and it manages the contracts. Once CMAL takes ownership of the vessels, it charters those vessels, and CalMac is the current contractor for the Clyde and Hebrides contract.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti (Transport Scotland), contrib. 261²¹³

362. On behalf of CMAL, Jim Anderson expressed his view that the current tripartite decision-making structure works well:

- ” The way the three organisations work is healthy, because we work together, but we can ask questions, we can challenge and we can look at the options.

Source: Rural Economy and Connectivity Committee 11 March 2020, Jim Anderson, contrib. 150²¹⁴

363. Angus Campbell of the CalMac Community Board argued that a review of current decision-making structures was long overdue and that there should be a stronger role for local communities within a future revised decision-making process:

- ” There should be a mechanism for having some sort of project team that includes community involvement, so that we can work a new ferry proposal through from start to finish with the community view in the middle of that mix.

Source: Rural Economy and Connectivity Committee 29 January 2020, Angus Campbell, contrib. 38²¹⁵

364. In its written submission to the inquiry, Comhairle nan Eilean Siar argues for future decision-making on the procurement of new ferries to be decentralised, using the example of how decision-making is structured in Ireland, with closer involvement of the island communities directly affected by those decisions:

- ” A similar approach, with a new Government Department based in the Highlands and Islands, would bring air and ferry service development and specification closer to island communities, and ensure that these services are more responsive to the needs of island communities.

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365. Dr Alf Baird's written evidence to the Committee suggests that decision-making on the specification of new vessels is, in his view, excessively influenced by the interests of the maritime trade unions who he suggests hold "key managerial and operational positions within CalMac" ²⁰⁷. Giving oral evidence to the Committee, Dr Baird was highly critical of current decision-making structures and what he perceived to be a lack of appropriate knowledge and awareness to inform strategic thinking and a "bunker mentality" where the possibility of considering alternative approaches is constantly resisted.

” Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 91²¹⁶

366. Jim McColl suggested to the Committee that the decision-making structure had been more straightforward and had worked more effectively during the time before CMAL was created:

” In the CMAL era, we have had problems. Before that, when CalMac worked with experts and placed the orders, it was quite smooth.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 168²¹⁷

367. Mr McColl concluded by expressing his view that a future decision-making structure for the procurement and construction of ferries should do away with CMAL entirely:

” ...the elephant in the room is CMAL. You have heard that from island communities, from CalMac and from experts. We did not need CMAL to be involved. Before CMAL was involved, the yard worked perfectly well, with CalMac engaging with consultants who knew what they were doing. CMAL does not need to be there. I do not know why CMAL was set up—I think that it was because of issues to do with European procurement or something—but it is surplus to requirements.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 445²¹⁸

368. This view is also supported by the RMT Union which, in its written submission to the inquiry, argues that, in future, CalMac should be given direct responsibility for procuring new ferries.

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369. Responding to a suggestion that, with the UK having left the European Union, there was no longer a need to persist with the current decision-making structure for the procurement of new vessels in Scotland, Kevin Hobbs of CMAL countered:

” The issue of procurement has not gone away. We have to stick to procurement rules. Those rules, as well as the laws of Scotland and the UK that relate to European rules, have not been rescinded.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 383²¹⁹

370. Asked whether, following the UK's departure from the European Union, there was strong argument for winding up CMAL altogether and reverting to decision-making processes and structures that were in place before CMAL was established, Kevin Hobbs responded:

” If CMAL was not there, the work would have to be done by somebody else, and the type of expertise that we have does not grow on trees...

To put it simply, our view is that CMAL remains fit for purpose.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 394²²⁰

371. Giving evidence to the Committee, Paul Wheelhouse, Minister for Energy, Connectivity and the Islands acknowledged issues with perceptions of a lack of accountability and transparency in current decision-making structures:

” Although we have confidence in the system, it is clear that, as far as communities and wider stakeholders are concerned, there is a lack—or an apparent lack—of accountability in the process. We are very conscious of that—it is one of our takeaways from this exercise.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 63²²¹

372. In acknowledgement of this issue, a written statement issued by Scottish Ministers to the Committee as part of its inquiry makes a commitment to commission a study of the legal structures and governance arrangements which exist between the "tripartite group", the purpose of which will be:

” ...to ensure that the arrangements and roles which have been in place for some time, continue to reflect best practice in the circumstances which prevail at today's date, and can best equip Scottish Ministers to deliver their ambitions for efficient ferry services across the CHFS and Northern Isles networks.

103

373. The Committee believes that the experience of the ferries contract has exposed a cluttered decision-making landscape that lacks transparency and where there have been varying degrees of failure by all of those with decision-making responsibilities, including the Scottish Government. It is of the view that CMAL, in particular, and Transport Scotland both failed to discharge their respective responsibilities competently and effectively.

374. The Committee believes that the experience of the contract for delivery of vessels 801 and 802 has exposed serious failures in the current tripartite decision-making structure. The Committee therefore concludes that a root and branch overhaul of current decision-making structures is urgently needed and that this should consider the relative roles and responsibilities of all bodies involved in decision-making around the procurement of new vessels and should also include an appraisal of whether each of these bodies should continue to exist or whether there is scope to streamline and simplify decision-making structures by merging or abolishing certain of them.

375. The Committee also calls on the Scottish Government to ensure that any new decision-making structure incorporates a reinforced role for the island and other communities affected by decisions on the procurement of new ferries and having due regard to the relevant provisions of the Islands (Scotland) Act 2018, in particular those relating to the preparation of island community impact assessments and the duty to consult island communities.

Procurement and construction strategy

376. The Committee has heard evidence of the need for a substantial increase in the number of new vessels being built to serve the needs of Scotland's ferry network and progressively to replace an ageing ferry fleet. Dr Alf Baird's written submission to the Committee argues that, given the current average age of vessels in the fleet, there should be a plan in place to replace the entire Clyde and Hebrides ferry fleet within a timeframe of 10-15 years. Giving oral evidence to the Committee, Dr Baird further illustrated the scale of the challenge as he saw it:

” In essence, Scotland needs to produce at least five new ferries every year to even get close to what Norway provides. We are struggling to provide one every two years, or 10 per cent of what Norway is doing.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 210²²²

377. Duncan Mackison of DML indicated what he saw as being the root cause of current challenges with the procurement and construction of new ferries:

” It is perhaps the need to make choices on asset replacement on a short-term horizon that has led to some of the current challenges.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 159²²³

378. Giving evidence to the Committee, Dr Alf Baird argued the case for a step change in the future approach to procuring and constructing new vessels:

” There is a need to transform the system to bring it into the modern age... It is a case of not just replacing the fleet but upgrading and upsizing it to provide enough capacity to grow the economies that are being constrained because of the woeful lack of procurement capability.

Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 87⁶⁸

379. In written evidence to the Committee, Dr Baird also draws unfavourable comparisons between the cost and timescales of procuring new vessels via the public sector tripartite arrangement and new vessels recently procured by the private sector to serve certain routes on the Clyde and to the Northern Isles. Dr Baird argues that his analysis suggests that:

” ...new ferry deliveries for private operators tend to take 2 years or less whereas for CMAL/CalMac this is often double that, even 4 years or more...

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...and:

” ...in Scotland, the cost of commercial sector ferry procurement is only about one third that of state procurement, for both small and larger ferries, as reflected in ship capital cost per car space.

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380. Dr Baird also argued that having the right design expertise would be crucial to a

successful future strategy for the procurement and construction of vessels and specifically to enable these vessels to be built in Scotland, further arguing that, without that expertise, a Scottish shipyard would not be able to compete successfully in the global marketplace.

” Source: Rural Economy and Connectivity Committee 29 January 2020, Dr Baird, contrib. 146²²⁴

381. Dr Baird's written evidence to the Committee concludes by calling for a moratorium on the procurement of any further new vessels:

” ...pending the RECC inquiry and/or further detailed evaluation of the prevailing ferry procurement approach.

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382. In its written submission to the inquiry, Orkney Islands Council argues that, to maximise its effectiveness, any future strategy for the procurement and construction of new vessels needs to take an "all of Scotland" approach as well as considering the through life costs of operating vessels, concluding:

” This latter point is crucial as the risks surrounding through life costs over the in-service life of a ferry are invariably set at the design, procurement and construction stage.

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383. Written evidence from the Mull and Iona Ferry Committee highlights how the long lead-in times between new vessel procurement decisions being initially made and the eventual delivery of new vessels to the network can ultimately impact negatively on the suitability of those new vessels for their intended routes:

” 802 will not be in service until 2023 – some TEN YEARS after the decision was taken to build her. This procedural inertia inevitably leads to a lack of responsiveness and vessels being designed for and delivered to the wrong routes.

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384. Roy Pedersen has argued the importance in formulating any future strategy of taking a holistic view of the transport needs of Scotland's islands so as to achieve outcomes that are as environmentally friendly as possible:

” A ferry is a much less efficient way of moving vehicles than driving them along the road... so the shorter that one can make the ferry crossing, the better it is for the environment. We should look at opportunities to do that.

Source: Rural Economy and Connectivity Committee 29 January 2020, Roy Pedersen, contrib. 155²²⁵

385. Mr Pedersen also made the case that Scotland should look at international best practice to inform the formulation of a future strategy for the procurement and construction of ferry vessels:

” In a nutshell, the Norwegians and Australians do it very well. They take different approaches but, if we more or less copied either approach, we would get pretty close to what is required.

Source: Rural Economy and Connectivity Committee 29 January 2020, Roy Pedersen, contrib. 201²²⁶

386. While emphasising that the Scottish Government remains open-minded as regards considering different vessel designs, the Minister for Energy, Connectivity and the Islands highlighted to the Committee the potential shortcomings in drawing direct lessons for Scotland's ferries network from the approach taken in Australia or Norway:

” I can understand why people look at a vessel and think that it would work in Scotland, but the depth of the water is different here, and the weather conditions are quite often very different from those in Australia.

Norway is often cited as somewhere from which vessels could easily be lifted across to Scotland... However, ...the conditions are entirely different from those in some of our island harbours. Difficulty of approach is an issue, as is manoeuvrability.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 124²²⁷

387. Mr Pedersen outlined a particular model which he thought could be successfully applied to certain Scottish ferry routes with a view to streamlining the process of procuring, designing, building and delivering new vessels:

” You could develop a simple standard design for application on the shorter routes in Scotland and put out a contract to get those ships built using an accredited naval architect and designer in a joint venture.

Source: Rural Economy and Connectivity Committee 29 January 2020, Roy Pedersen, contrib. 209²²⁸

388. In written evidence to the inquiry, the CalMac Community Board emphasised the importance of ongoing engagement with local communities in any future ferries plan and the multiple benefits of this more inclusive approach to future policy development:

” A Ferries plan should be a live and ongoing process that has a place in it for continuous community input and influence... Examples of where this happens demonstrates benefits to all stakeholders and better use of public resources.

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389. Giving evidence to the Committee, Commodore Luke van Beek offered the following reflections on potential lessons to be learned from the ferries contract that might inform a future procurement and construction strategy for Scotland's ferries:

” ...if you are going to let a design and build contract, make sure that you have a pretty good specification before you let it, and not one that requires lots and lots of things to be sorted out subsequent to the contract being let.

...What seems to be lacking is an overall strategy that says, for example, that we need six big ships, six medium-sized ships and six small ships, because that is the way it is to work.

As I understand it, the ferries in Scotland are difficult to interoperate. Their crews are not trained in the same way, so interoperability is quite a challenge.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 112²³⁰

Commodore van Beek concluded:

” ...I do not think that the ships could all be the same. I am only saying that there needs to be a strategy that... says that there are different ports. It must also say that Scotland needs to be consistent in the way that it buys ferries in the future, so that either the ferries will fit in with that infrastructure or the infrastructure will be amended to make it consistent in as many places as it can be.

Source: Rural Economy and Connectivity Committee 05 February 2020, Luke van Beek, contrib. 114²³¹

390. Jim McColl also supported the views of others who argued the case for a more standardised approach in future to the design, procurement and construction of ferries in Scotland:

” Chris Dunn has designed three basic standards—at 35m, 50m and 80m. That reduces the costs significantly, allows you to plan ahead with a strategy for the replacement of vessels and makes it easier for crewing and crew training.

Source: Rural Economy and Connectivity Committee 05 February 2020, Jim McColl, contrib. 445²¹⁸

391. Duncan Mackison of DML emphasised the importance of long-term strategic planning in developing a more standardised approach to the design, procurement and construction of new vessels to serve Scotland's ferries network:

” Taking a longer-term view, with the ability to look beyond the short term and develop an asset replacement plan on a timescale that matches the age of some of the vessels—perhaps a 20 to 25-year plan—in addition to the ability to think about and slot in replacements, would enable us to take a standardised approach.

Source: Rural Economy and Connectivity Committee 04 March 2020, Duncan Mackison, contrib. 155²³²

392. Robbie Drummond of CalMac highlighted the economies of scale and operational benefits of procuring and running standardised classes of vessels:

” It is not only much more efficient to procure a class of vessel, because the design is done at the start so the second, third and fourth vessels are much cheaper; it is far more efficient for an operator to operate the same vessels, because there is a commonality of equipment, including safety equipment, and crews are able to operate between different vessels.

Source: Rural Economy and Connectivity Committee 04 March 2020, Robbie Drummond, contrib. 157²³³

393. Kevin Hobbs of CMAL also supported the idea of moving towards greater standardisation of vessels while pointing out the natural limitations on the extent to which individual vessels operating on different routes across the network could be the same:

” ...in future, we will, where possible, make sure that we do not build identical ships but, when it comes to the way that the bridge is laid out, the equipment and the inventory that we need—the engines and all the rest of it—we will make those things as common as possible.

Source: Rural Economy and Connectivity Committee 11 March 2020, Kevin Hobbs, contrib. 387²³⁴

394. Addressing the evidence received by the Committee, Frances Pacitti of Transport Scotland argued that, when introduced, the current ferries plan had been intended to be quite radical in setting out its outcomes but acknowledged there was scope to make further improvements to the future strategy for the procurement and construction of vessels:

” I am keen for the next iteration of the ferries plan, which we are developing now, to take a more holistic approach and to consider island connectivity in the round, rather than thinking about ferries on a mode-specific basis.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 469²³⁵

395. Ms Pacitti also outlined the challenges involved in striking an appropriate balance in developing a future strategy for the procurement and construction of new vessels and suggested that part of the solution lay in clearer communication of the reasoning behind specific decisions:

” I accept that the challenge for us lies in articulating where the balance is between the needs of an individual community versus interoperability, resilience and standardisation across the network as a whole. We need to get better at articulating that.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 469²³⁵

396. Certain written evidence to the Committee has made the case in favour of alternative ferry designs to the monohull design typically favoured by CalMac, CMAL and Transport Scotland as offering significant cost savings as well as increased reliability. Providing a direct comparison between these different design approaches, the written submission from the Mull and Iona Ferry Committee concludes:

” Whilst there will of course be variations from ship to ship, what is clear is that both the Norwegian and catamaran options offer huge saving potential, both in capital and running costs. Two catamarans or Norwegian bi-directionals could have been bought for less than the original contract price of 801/802, and these two ships would together have been cheaper to run than one 801/802, whilst offering double the service frequency and 60% more combined capacity.

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397. In written evidence to the inquiry, Dr Alf Baird indicated that an Australian design company, Sea Transport Solutions (STS), had previously approached FMEL to offer the shipyard the opportunity to build catamaran ferries under licence according to a

standardised design template but that this offer was ultimately rejected:

” ...primarily because Transport Scotland and its ferry agencies continue to specify their own unique and far more costly ferry ‘designs’.

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398. Asked about the approach made to Transport Scotland by Sea Transport Solutions, Frances Pacitti responded:

” I am aware that Transport Scotland was contacted by an Australian company with an interest in developing catamarans, and Transport Scotland referred that enquiry to CMAL, as the procuring authority.

I do not have a closed mind to what technology we deploy, but it has to work. We have looked at catamarans in general and on a route-specific basis, and there are challenges, on the west coast in particular, around those vessels not being suitable. However, we do not have a closed mind as to what the technology should be.

Source: Rural Economy and Connectivity Committee 04 March 2020, Fran Pacitti, contrib. 471²³⁶

399. In written evidence, HITRANS sets out what steps it believes should be taken to inform a new long-term strategy for the procurement and construction of ferry vessels in Scotland:

” HITRANS would advocate for an Independent Review of Ferry Service Specification and Delivery led by a recognised expert in the field who can draw on experience and examples of international best practice... The conclusions of this exercise should, in our view, be used to inform the direction of travel for Scottish Government funded ferry services as they will then be set out in Ferries Plan 2. We believe that this new approach should be fast tracked into a vessel replacement plan.

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400. Addressing the arguments made during the inquiry in favour of a future procurement and construction strategy that is refocused towards delivering a larger number of smaller vessels than hulls 801 and 802, the Minister for Energy, Connectivity and the Islands, Paul Wheelhouse told the Committee:

” We are trying to improve the resilience of the network as a whole, which means that the vessels are not tailored specifically to the communities that they serve but are tailored in a way that provides a wider role. A community might question why it needs a vessel with a capacity of up to 1,000 passengers, but that is to give us the maximum flexibility that we need so as to ensure resilience in the fleet.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 63²²¹

401. Mr Wheelhouse also acknowledged the need for a more holistic policy approach with a view to maintaining and enhancing connectivity across Scotland's islands and outlined how he believed that a future island connectivity plan would achieve this:

” I do not want to overplay this—there will be maybe only a few sites where this is suitable—but there is the potential for fixed links to replace ferry links, and we can take into account the role of aviation to provide regional connectivity in Scotland.

Source: Rural Economy and Connectivity Committee 26 August 2020 [Draft], Paul Wheelhouse, contrib. 102²³⁷

402. The Committee is extremely concerned about the overall age profile of Scotland's ferry fleet with many vessels now operating significantly beyond their originally planned operational lifespan. It considers that this situation reflects a failure by successive administrations in Scotland to develop and implement an effective strategy for renewing the fleet and is further concerned about the significant compromises an ageing fleet imposes on decision-making around the procurement of individual new vessels.

403. Notwithstanding these challenges, the Committee is additionally concerned that the Scottish Government's approach to the procurement and construction of new vessels to serve Scotland's ferries network has been short-term, piecemeal and lacking in strategic direction.

404. The Committee also draws the Scottish Government's attention to representations it has received from a number of stakeholders outside the Clyde and Hebrides ferries network that the replacement to the current ferries plan must give equal emphasis to addressing the needs of those communities who rely on routes and vessels beyond the Clyde and Hebrides network.

405. With respect to other new vessel procurement processes currently underway, notably the procurement of a new vessel to serve the Islay route, the Committee calls on the Scottish Government to provide an urgent update on current status and progress, and an overview of precisely how procurement practices have been modified to reflect lessons learned from the issues experienced with the procurement of vessels 801 and 802.

406. The Committee looks forward to having early sight of the Scottish Government's planned future islands connectivity plan. Based on the evidence it has received on the issues associated with the procurement of vessels 801 and 802 and reflecting on previous work it has undertaken in relation to ferries strategy and funding, the Committee believes that this plan must not simply be a "business as usual", updated iteration of previous plans. It must set out a genuinely new overarching strategic vision for all vessels serving Scotland's ferries network over at least the next 25 years and should specifically address the following:

- An exhaustive preparatory appraisal and cost / benefit analysis of all

available vessel design options for different routes across the network;

- Requirements for the upgrade of port infrastructure to be fully integrated into the future vessel design strategy, ensuring increasing standardisation and progressively improved interoperability over time;
- A realistic long-term financial strategy that, within the constraints of the existing fiscal framework, sets out the funding necessary to modernise Scotland's ferries network fleet over that time period;
- A comprehensive strategy for the refurbishment and, where necessary, phased retirement of existing vessels on the network;
- A correspondingly comprehensive strategy for the construction of new vessels underpinned by an overarching objective to replace the entire existing ferry fleet over the next 25 years;
- Progress towards a much greater level of standardisation and simplification in the design of new vessels while recognising the design constraints associated with particular routes and infrastructure across the network;
- Due consideration to be given to the through-life costs of operating vessels when developing those design parameters;
- More effective coordination between different port and harbour owners to ensure better mutual understanding and acceptance of respective management, maintenance and funding responsibilities across the network;
- In those specific cases where these can be demonstrated to be more efficient, cost-effective or environmentally friendly, a willingness to consider the replacement of ferry links with links that use alternative transport modes.

407. In making these recommendations, the Committee makes due reference to the broadly similar conclusions previously reached as part of a pre-budget scrutiny exercise in 2018 on investment to support Clyde and Hebrides ferries services and, prior to that, in the 2008 report on ferry services published by its predecessor, the Transport, Infrastructure and Climate Change Committee.

Glossary of Terms

‘Alcatel’ letter: A letter to be sent at the conclusion of a procurement to unsuccessful suppliers providing prescribed details of the tender evaluation scores.

Aft: At, near or towards the stern (or rear) of a vessel or aircraft.

Arbitration: A dispute resolution mechanism where an arbitrator or panel of arbitrators is appointed by the parties to the dispute to make a binding decision with limited grounds for subsequent challenge.

Audit Scotland: Body responsible for auditing 222 public bodies in Scotland and providing support to the Auditor General and the Accounts Commission.

Axilocks / Axilock couplings: A coupling mechanism for joining pieces of pipe, typically taking up less space than alternative bolted flange couplings.

Ballast: Heavy substance placed in the bilge of a vessel (or the area on the outer surface of the hull where the bottom curves to meet the vertical sides) to ensure its stability.

Beam: Width of a vessel.

Bimco: A standard form of contract used worldwide for shipbuilding and ship repair. See also NEWBUILDCON.

Bolted flanges: A heavy duty coupling for the connection of pieces of pipe, used as an alternative to Axilock couplings.

Builder’s Refund Guarantee: An arrangement typically set out in a shipbuilding contract whereby the builder’s bank undertakes that, in the event the purchaser ends the contract for good reason (for instance, if the builder becomes insolvent) and the builder fails to refund to the purchaser any instalments of the contract price already paid in advance, the bank will refund those instalments on the builder’s behalf.

Bulbous bow: A protruding bulb at the bow (or front) of a ship, located just below the waterline and designed to modify water flow around the hull, reducing drag and thereby increasing speed, range, fuel efficiency and stability.

Bulkhead: A dividing wall or barrier between separate compartments inside a vessel, aircraft or other vehicle.

Bunkering: Supply of fuel for use by a ship, including the onboard logistics of loading fuel and distributing it among available bunkering tanks.

Burnett Corlett Three Quays Group (BCTQ): Naval architects and marine engineering consultants appointed by FMEL in December 2017 to carry out a review of the technical background of the design and build contracts for vessels 801 and 802 and the merits of a claim for additional costs incurred by FMEL in fulfilling the contract.

Caledonian Maritime Assets Limited (CMAL): Wholly owned by Scottish Ministers and owners of ferries, ports, harbours and associated infrastructure for ferry services serving the Clyde and Hebrides network and the Northern Isles; Also responsible for managing procurement of new vessels to serve the Clyde and Hebrides ferry network.

CalMac Ferries Ltd (CalMac / CFL): Subsidiary of DML and current operator of the Clyde and Hebrides Ferry Services franchise.

Catamaran: A vessel with twin hulls in parallel to each other.

Change management: The process and procedures for managing and implementing changes to the design of a vessel during the design and build process.

“Chasing steel”: The practice of building a vessel in a way that is out of sequence, at odds with the design or the detailed terms of the contract or that lacks the proper approvals or sign-offs, as a means of triggering contractual payments.

Class Society: A non-governmental organisation responsible for establishing and maintaining technical standards for the construction and operation of ships and offshore structures.

Clyde and Hebrides Ferry Services (CHFS): Franchise contract for the provision of ferry services in the Clyde Estuary and to and from islands in the west of Scotland, currently comprising 28 routes.

Clyde Blowers Capital (CBC): Company which bought the Ferguson Marine shipyard out of administration in 2014.

Companies House: A government body which stores information relating to all limited companies and limited liability partnerships registered in the UK.

Concept / conceptual design: An early phase of the design process setting out the broad outlines of function and form. In the case of vessels 801 and 802, this will have been prepared by CMAL and would have formed part of the design and build contract.

Conditions of utilisation: Terms attached to the loan facility provided by the Scottish Government to FMEL and set out in the loan agreement.

COVID-19: Novel Coronavirus disease which emerged as a global pandemic during the course of 2020.

COVID lockdown: A period of time during 2020 when requirements for people to stay at home in order to stop the spread of the Coronavirus restricted on-site activities at workplaces such as the Ferguson Marine shipyard.

Currency risk: The risk of increased costs associated with purchasing equipment in Euros or other foreign currencies, due to fluctuating exchange rates.

David MacBrayne Ltd (DML): Parent company of CalMac Ferries Ltd (CalMac), wholly owned by Scottish Ministers.

“Davie case”: The case of a contract to build two LNG-powered ferries, awarded by the Quebec government in Canada to the Davie shipyard in Quebec City, where there was a dispute between the parties over increased costs and delays.

Deadweight / Deadweight capacity: The maximum carrying capacity of a vessel including cargo, stores, vehicles, passengers, fuel etc.

Deck plate: A metallic plate located at the edge of the deck of a vessel.

Deloitte: An international provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services, appointed as administrators when the Ferguson Marine shipyard went into administration in August 2019.

Design and build contract: A contract, in this context for the delivery of new ferry vessels, where the appointed contractor has responsibility for developing the detailed design as well as constructing the vessel or vessels in question.

Design iteration: A cyclical process whereby aspects of the design are prototyped, tested, analysed and refined over time.

Dispute resolution mechanisms: Agreed processes, as set out in a contract, that will enable the parties to that contract to resolve disputes between them during its fulfilment. These can include expert determination, mediation and arbitration.

Draft / draught: Defined as the distance between the keel of a vessel (the lowest point of its structure) and its waterline (the line where the surface of the water touches the hull).

Due diligence: A comprehensive appraisal of bidders to a contract to assess their overall suitability for being awarded that contract.

Expert determination: A means of resolving disputes between parties to a contract by means of appointing an independent expert to make a determination on the matter referred to it, which is then binding on the parties, unless otherwise agreed by those same parties.

Ferguson Marine Engineering Limited (FMEL): Company incorporated in August 2014 to manage the Ferguson Marine shipyard, which ceased trading following nationalisation of the shipyard in December 2019.

Ferguson Marine (Port Glasgow) Limited: Company now managing the Ferguson Marine shipyard following nationalisation in December 2019.

Ferry Industry Advisory Group: Formerly the Expert Ferry Group, a body run by Transport Scotland and chaired by the Director of Aviation, Maritime, Freight and Canals with a remit to provide Transport Scotland and Scottish Ministers with considered advice about strategic ferries related issues in Scotland.

Flag State: The jurisdiction under the laws of which a vessel is registered or licensed, also deemed the nationality of that vessel.

Gantt chart: A project management tool comprising a series of horizontal lines showing the amount of work completed on a project over a defined reference period of time.

Gateway review: An assurance mechanism designed to provide an objective view of the ability of a programme or project to be delivered on time and on budget.

HCCI: Major creditors to FMEL.

HKA: Dispute resolution consultants appointed by FMEL in August 2018 to assess cost overruns on the design and build contract for vessels 801 and 802.

Hybrid engines: An engine combining two different fuel or energy sources, for instance diesel and an electric battery or, in the case of vessels 801 and 802, MGO and LNG.

Hybrid ferries: Ferry vessels equipped with an engine powered by two different energy sources.

Hybrid propulsion: The process of propelling a vessel using two different energy sources.

Interoperability: The capability of a vessel to operate on multiple routes or to interface with multiple types of port infrastructure with differing technical requirements.

Islands Plan / Islands Connectivity Plan: A key outcome of the Islands (Scotland) Act 2018, intended to provide a framework for action to improve outcomes for Scotland's island communities.

Islands (Scotland) Act 2018: Legislation introduced by the Scottish Government and subsequently passed by the Scottish Parliament with the aim of introducing "measures to support and help meet" the needs of Scotland's islands and creating an "environment for sustainable growth and empowered communities".

Liquefied Natural Gas / Liquid Natural Gas (LNG): Natural gas, typically comprising a mixture of methane and ethane, cooled down to liquid form for use as a transport fuel.

Macrocom: Company wholly owned by Scottish Ministers, set up to manage the Ferguson Marine shipyard while a buyer was sought following its entry into administration in August 2019.

Marine Gas Oil (MGO): A marine transport fuel, similar to diesel but higher in density, consisting of a blend of distillates of crude oil.

Maritime and Coastguard Agency: An executive agency of the United Kingdom responsible for implementing and enforcing British and international maritime law and safety policy.

Mediation: Dispute resolution process whereby parties seek to resolve their disputes with the assistance of a suitably qualified impartial third party or mediator.

Mediation agreement: An agreement setting out the terms under which it has been agreed between contracting parties that mediation should take place.

Milestone payments: A series of lump sum payments to a contractor, typically made on the basis of a defined level of progress made in fulfilling the contract.

Monohull: A type of vessel having a single hull.

Motor Vessel (MV): Standard prefix assigned to a vessel propelled by an internal combustion engine.

National Islands Plan: See Islands Plan.

NEWBUILDCON: International standard shipbuilding contract designed for use in any jurisdiction and for any type of ship. See also Bimco.

Northern Isles ferries network: Network of ferry routes linking the Orkney Islands, the Shetland Islands and mainland Scotland.

Norwegian bi-directionals: Ferries typically operated on Norwegian routes and capable

of switching the direction of travel so the bow or front of the vessel becomes the stern or rear and vice versa.

Notice of Mediation: a formal notification between parties to a contract of the intention to use mediation as a means of resolving a dispute.

Payment schedule: A document setting out a proposed timetable for the payment of milestone payments on a contract.

PriceWaterhouseCoopers LLP (PWC): Global consultancy appointed by the Scottish Government to provide external commercial and legal advice and due diligence on the two loan agreements between the Scottish Government and FMEL as well as post-completion advice and financial monitoring.

Procurement authority: Body responsible for managing the procurement of new vessels, in the case of vessels 801 and 802, CMAL.

Programme Review Board: Set up to produce a report on revised delivery dates and costs for vessels 801 and 802 following nationalisation of the Ferguson Marine shipyard and with membership comprising representatives of Transport Scotland, CMAL, CalMac, Scottish Enterprise, the Scottish Government, Marine Scotland, the Trade Unions and the Ferguson Marine shipyard workforce and Turnaround Director Tim Hair.

Road Equivalent Tariff (RET): A distance-based fares structure, calculated using a combination of a fixed element (to ensure services remain sustainable and to cover fixed costs such as infrastructure and vessel maintenance) and a rate per mile, calculated by Transport Scotland using research from the RAC. This formula is reviewed annually by Transport Scotland. As set out in the current Ferries Plan, the stated purpose of the RET policy is “that ferry users will pay the same rate per mile, regardless of where they are travelling from and to by ferry”.

ROPAX: Passenger vessel with roll-on / roll-off facilities for the carriage of commercial vehicles and private cars.

Sea Transport Solutions (STS): Part of the Sea Transport Corporation group of companies, a provider of marine vessel design services with headquarters in Australia.

ShipConstructor: A make of software used in the design and construction of marine vessels.

Short interval control: A structured process for identifying and acting on opportunities to improve the effectiveness and efficiency of production.

Specification of Operational and Technical Requirements (SOTR): Document produced, in the case of vessels 801 and 802, by CalMac Ferries Ltd in August 2014 (prior to the commencement of the public procurement process for the vessels) “to give the Builder a guide as to the intent of the Buyers requirements for the vessel”.

Strategic Transport Projects Review (STPR): Published in December 2008, sets out the Scottish Government’s 29 transport investment priorities over the period to 2032.

Tripartite Group: Group comprising Transport Scotland, CMAL and CalMac with decision-making responsibilities related to the procurement and deployment of ferry vessels serving the Clyde and Hebrides ferries network, including the development and implementation of

a Vessel Replacement and Deployment Plan (VRDP).

Transition fuel / Transition technology: Fossil-based fuel source and associated propulsion technology envisaged to be used as a bridge to renewable, zero carbon sources of fuel.

Transport Scotland: The national transport agency for Scotland and an agency of the Scottish Government.

Uig triangle: Ferry services operating between Uig on the Isle of Skye, Tarbert on the Isle of Harris and Lochmaddy on the Isle of North Uist.

Vera Navis: Multidisciplinary marine design office, headquartered in Lisbon, Portugal.

Vessel 801: Car and passenger ferry otherwise named the MV Glen Sannox, currently under construction at the Ferguson Marine shipyard, and intended to serve the Ardrossan-Brodick route.

Vessel 802: Car and passenger ferry currently under construction at the Ferguson Marine shipyard and intended to serve the Uig triangle routes.

Westway Park: Warehouses located near Glasgow airport where inventory of equipment for vessels 801 and 802 has been stored.

Whole-of-life costs: Total cost of ownership of an asset over its lifetime.

Works council: A group of employees representing a workforce in discussions with its employers.

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