



Caledonian Maritime Assets Limited
Municipal Buildings
Fore St
Port Glasgow PA14 5EQ

Tel: 01475 749920
Fax: 01475 745109

Richard Leonard MSP
Convener, Rural Public Audit Committee
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

by email only: publicaudit.committee@parliament.scot

23 November 2023

Dear Mr Leonard

New vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802

Thank you for your letter dated 30 October 2023 requesting a full formal response from CMAL to the conclusions in Barry Smith KC's report into the BBC Disclosure allegations (the 'Report'). This is set out below.

CMAL's Response

CMAL acknowledges, respects and welcomes the comprehensive consideration Barry Smith KC has given to the subject matter in the Report. CMAL does not dispute any of the Report findings.

We consider that the Report meets the obligation upon public bodies under the Scottish Public Finance Manual to conduct a thorough investigation into allegations of fraud. Barry Smith KC made findings in relation to eight key questions intended to test such allegations. Although the Report raises some issues with the procurement process, no evidence of alleged fraud was found:

'It is clear to me that just as there is no evidence of a fraud by any individual, or individuals acting in concert, there is equally no evidence of any fraud corporately.'

Based on the Report's findings, CMAL does not intend to instruct any further investigation into the issue of alleged fraud in the procurement of the vessels 801 and 802.

The Report also addresses each of the allegations made in the BBC Disclosure programme that the procurement process was "rigged". The ordinary meaning of "rigged" is "to arrange dishonestly for the result of something to be changed". The Report concludes that there was also no dishonesty on the part of any CMAL employee. Based on the Report's findings CMAL does not intend to instruct any further investigation into the issue of alleged rigging of the procurement of the vessels 801 and 802.



Report Findings

The Report is unequivocal in discharging any concern relating to the propriety of CMAL and its employees at all material times:

'I found no evidence that any CMAL employee had acted with dishonest or fraudulent intention. Of those CMAL employees and others who I interviewed, all impressed me as hard-working and dedicated professionals who were genuinely offended by the allegations which had been made.'

However, the Report raises and discusses relevant issues relating to the 2015 procurement process, including some items which in retrospect CMAL would do differently. Barry Smith KC draws attention to unclear drafting in the PQQ relating to the Minimum Mandatory Requirement. He also notes that Houlder were not retained under contract, and that an in-person meeting took place at FMEL's premises during the clarification stage of the ITT process.

CMAL has no intention of minimising the shortcomings identified in the Report, which we consider are fair. We do not consider however that these items had any material impact on the decision made by Scottish Ministers to award the contracts for 801 and 802 to FMEL.

CMAL's Procurement Processes in 2023

I wish to share with the Committee some of the improvements in the CMAL processes in the eight years since 2015. Over this period, CMAL has taken significant steps to mitigate risk in procurement and implemented robust quality controls as part of that.

Ship broking services, technical consultants, and financial advisory services all form part of the array of specialist third party support that now input into our tender processes. CMAL routinely expect to include external legal counsel in advising on the preparation, publication and evaluation of tenders. This methodical approach for any of our vessel Capital Projects was enhanced from 2020 and this diligence crosses over to port infrastructure as well.

The Committee can take comfort from the practical rewards of this approach. As we know, significant learning and improvement has resulted from the 801/802 contract process and I believe this improvement is best borne out for comparison by the four Cemre vessel contracts, beginning in 2021. Intense scrutiny was given to every stage of tenders for the four sister ships now under construction in Turkey. The limitations of the 801/802 processes noted in the Report are not replicated in the procurement of the Turkish vessels.

We will continue to look for ways to improve – there is always opportunity to further enhance the processes. I note that the Report does draw attention to mistakes made in the past. However, we believe the 2023 procurement process reflects current best practice in the market, which in turn delivers certainty and value for CMAL, the tendering yards and the stakeholders.

Yours sincerely
Kevin Hobbs
Chief Executive Officer
Caledonian Maritime Assets Limited