

Cabinet Secretary for Wellbeing Economy, Fair Work
and Energy
Rùnaire a' Chaibineit airson Eaconamaidh do Mhath
Dhaoine, Obair Chothromach is Cumhachd
Neil Gray MSP
Niall Gray BPA



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T: 0300 244 4000

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee
Email: netzero.committee@parliament.scot

5 October 2023

Dear Edward,

During my appearance at the Net Zero, Transport and Energy Committee on 12th September 2023, I undertook to reply to you in writing on several points, and in particular in response to your letter to me of 20th September 2023.

I will address the points raised in your letter in turn. However, at the time of writing, please note that the Maritime and Coastguard Agency (MCA) has not yet completed the certification process for either vessel, and given its role as a statutory regulator, it would not be appropriate for me to comment on their certification process or timelines. I will however be able to provide some relevant detail based upon input from our technical advisors Caledonian Maritime Assets Ltd (CMAL).

1. Your understanding of which MCA regulations, guidance, etc constitute the “cargo ship rules” and when these came into force;

CMAL advised that the EU Directive 2009/45/EC of 6 May 2009 (as amended 15 Nov 2017) on Safety Rules and Standards for Passenger Ships ‘Class B’ are the applicable rules for the Vessels. This is implemented by Statutory Instrument SI 2020 No.1222, *The Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations 2020*, which came into force on 01 January 2021.

The Directive states that the widths, number and continuity of escapes shall be in accordance with the requirements of the International Maritime Organisation (IMO) Fire Safety Systems (FSS) Code. The FSS code was adopted by IMO with Resolution MSC.98(73), 05 December 2000.

Chapter 13 of the FSS Code, gives details of requirements for Passenger Ships (Section 2) and Cargo Ships (Section 3) regarding the Arrangement of Means of Escape.

2. What you mean by the MCA taking a “different approach” to the rules and when you first became aware of this being signalled;

On 26 June 2023, my Officials became aware that FMPG were in discussions with the MCA around what they reported as a “change in approach to certification”. The information available at this stage

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was set out in a submission to me on 28th June 2023, which set out the requirement for FMPG to install additional escapes in the upper deck areas.

A further submission to me on 14th July 2023 set out that the MCA had considered the means of escape from crew accommodation required to meet the minimum width requirements for FSS code Chapter 13, Section 2, for passenger ships CMAL indicated to my officials that previously the requirements of Chapter 13, Section 3 relating to cargo vessels had been accepted by the MCA for crew areas, however as on Glen Sannox the crew accommodation corridor could be used as a secondary escape by passengers, they had considered that the requirements of Chapter 13 Section 2 should be applied.

3. The implications of these rules (or any new “different approach” to the rules) for vessels in the Caledonian Maritime Assets Ltd (CMAL) fleet other than 801/802, or for vessels under construction;

CMAL have advised that there are no implications for other vessels in the CMAL fleet or for the vessels currently under construction.

4. The implications of these rules (or any new “different approach” to the rules) for warranties and insurance for hulls 801 and 802 or for any vessels in or under construction for the CMAL fleet;

CMAL have advised that there are no implications for other vessels in the CMAL or for the Vessels under construction.

5. Your current understanding of Hull 801’s completion costs. Please itemise this and set out estimates of the additional costs resulting from meeting the MCA’s requirements on crew exits and the “other approval issues”;

The CEO of FMPG has provided an update to the committee on the costs to complete 801 to the committee, and I would refer you to his letter of 29th September. The increase in cost attributed to the modifications required to meet the MCA certification requirements have not been fully calculated as this is an ongoing process.

6. The date or dates on which the MCA began to assess the final design and survey the construction of Hull 802;

CMAL have advised that the MCA are normally engaged by the shipyard shortly after the shipbuilding contract has been signed. As this happened whilst the yard was in the ownership of FMEL, we are not aware of the precise timing of the initial engagement, but we understand from CMAL advisors that this was sometime in late 2015. The design and certification of a vessel is an iterative process, and as such there is no single date on which the final design and certification of the vessel takes place.

7. The date when the MCA first advised Ferguson Marine that “the cargo ship rules” would apply to crew areas of Hull 802;

FMPG advised that they were instructed to submit an MSF 1261 application for exemption for crew areas in relation to door widths which were following FSS Code Chapter 13, Section 3, for Glen Sannox on 27th April 2023. Clarification on this was sought by the MCA local office on 8th July 2023, after the April application was rejected by the MCA at this time. CMAL are not aware of MCA advising FMPG to apply FSS Code Chapter 13 Section 3 to crew areas of Hull 802.

8. The date on which the MCA advised Ferguson Marine that an additional staircase and wider doorways would be required;

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CMAL have advised that MCA would not make a specific request for FMPG to install an additional staircase but would ask FMPG to provide a compliant escape plan. FMPG advised that the original non-compliance of the design was communicated to them by rejection of the MSF1261 application on 1st June 2023.

9. The date on which Ferguson Marine and the MCA agreed a revised design, following such advice. If not yet agreed, when is it expected?

FMPG advise that the final designs for all of the outstanding areas requiring certification is still to be agreed. The MCA have not indicated a timeframe for this process.

10. The date on which Ferguson Marine notified (a) CMAL and (b) Transport Scotland of the MCA's view on the need for significant design changes and (if different) the date on which either body was advised that this would mean more delays;

This is an operational matter for FMPG, but I can confirm that my Officials communicated with both CMAL and Transport Scotland on this issue following the update to me of 28th June.

11. The date when you were first made aware of the MCA's advice to Ferguson Marine about changes required under the "cargo ship rules" and (if different) the date on which you were informed that this would mean further cost and delay. (If it was another Minister who was first made aware, please set this out, and when);

I refer you to my answer to question 2.

12. Your understanding of what is meant by the "other approval issues" Mr. Tydeman mentions in his August letter, including where relevant, the date or dates when—
o the MCA first made Ferguson Marine of them;
o Ferguson Marine first notified (a) CMAL and (b) Transport Scotland of them;
o you were first notified of them. (If it was another Minister who was first notified, please set this out, and when).

As described above, the certification process for the vessel is an iterative one in which issues emerge and are resolved on an ongoing basis I receive regular updates from my officials who continue to meet weekly with FMPG to assess progress. I was first notified of issues around certification on 28th June 2023 and the last formal update I received was in my briefing for my appearance at the NZET committee on 12th September. CMAL and Transport Scotland are involved in the weekly meetings that have been established to review the progress on MV Glen Sannox and this enables them to monitor the progress of the build and the ongoing certification process.

I hope this is helpful and as I have previously stated, my continued focus, and that of my officials is on the delivery of these vessels.

Yours sincerely,

NEIL GRAY

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