

**Further written submission from Jim McColl, Former Director, Ferguson Marine Engineering Limited, by email, 12 August 2022**

When questioned by Sharon Dowey , Kevin Hobbs stated that this was a fixed price contract - it was not a fixed price contract. The contract allowed for variations to contract. Initially CMAL agreed to several variations to the contract and the consequent increases in price. However, when they realised the cost impact of issues arising immediately after award of the contract, they became very defensive and refused to discuss the variations and the resultant impact on costs.

The major issues arising in the first 6 – 9 months of the contract: -

CMAL made a change to the draft of the vessel six months after contract award when they realised the conceptual design was unachievable  
They did not choose an engine until six months after contract award.  
Once CMAL had decided upon the engine specification FMEL should have progressed with the detailed propeller design, construction of a model and carrying out tank tests. However, it was unable to do this because CMAL was still considering two different propellers for hulls 801 and 802.

The propeller specification was of fundamental importance. Until it was selected by CMAL, the final lines of the hull could not be established. In particular the lines of the bow and stern blocks. It also affected the selection of gear boxes and layout of the engine room area.

CMAL did not decide on the propeller specification until 3rd of August 2016 nine months into the contract with some 30% of the contract elapsed.  
Subsequent model making, tank testing and yet further prevarication by CMAL meant that there were long delays to the start of fabrication of the stern and bow blocks. The fabrication of blocks one and two started only in April 2017, 50% of the way through the contract. These changes and delays by CMAL resulted in significant variations to contract. CMAL refused to discuss these variations and the impact they were having on costs and delivery of the vessels.

They refused to take part in a meaningful dispute resolution process despite Transport Scotland proposing an expert determination process and the government appointed expert Commodore Luc van Beek recommending arbitration. **This was not a fixed price contract.**

CMAL were perfectly aware of the design and construction activity which led to FMEL's claim for additional costs on the contracts. By mid-2017 the variations to contract had accumulated to a staggering £17m. CMAL stonewalled for months before the £17m claim was submitted, to avoid discussing a very uncomfortable topic. At every possible stage they dismissed all requests by FMEL to discuss additional costs, claiming that the contracts were "**fixed price**".

The design concept for the vessels had not been thoroughly developed by CMAL prior to the issue of the Invitation to Tender which has resulted in an unusually high number of variations. BCTQ, HKA and Commodore Luke van Beek have

documented and confirmed the extent of the variations and the unusually high number of changes being requested.

Kevin Hobbs also claimed that history was being rewritten by claims that CMAL were meddling in the design and build project. He stated “We don’t meddle” - again expert evidence contradicts this. Commodore van Beek testified to the RECC committee that he was surprised at the number of changes that were continuing to be made by CMAL after signing of the contract, and that they were causing ongoing problems with the construction of the vessels. Experts from BCTQ and HKA also confirmed the disruption caused by CMAL.

It was also stated during the evidence session that the comparison in price between the CMAL and Norwegian vessels recently placed on order with a Turkish shipyard was not a valid comparison. Mr Hobbs claimed that the specification was completely different. That is exactly the problem. In my opinion, CMAL do not appear to have the competence to specify the best vessels for the island communities they serve. How many informed professionals need to make this point before action is taken to stop CMAL’s egregious waste of taxpayers’ money? The recent submission<sup>1</sup> by the Chair of the Mull and Iona ferry committee, provides a very clear and accurate comparison of the CMAL and the Norwegian vessels, contradicting the information presented to the committee by Mr. Hobbs. The additional links at the end of the submission exposes further examples in my opinion of CMAL’s incompetence.

CBC was not the parent company of Ferguson; they were an investor. The reason CMAL were requesting a parent company guarantee from CBC is because they were aware that Ferguson could not provide a Bank Refund Guarantee. When they were told on 21<sup>st</sup> August 2015 that CBC would not be providing a guarantee they already knew about Ferguson’s inability to provide a Bank Refund Guarantee. Morag McNeil wrongly stated to the committee that it was after the announcement of Ferguson as the preferred bidder that they were aware that a BRG could not be provided. They knew before the government fanfare to announce the award of preferred bidder status to Ferguson and well before the order was signed.

Kevin Hobbs said that CMAL first started flagging problems in December 2015. What is not said in their internal reports to Transport Scotland is what caused these problems. I have explained earlier the challenges faced early in the contract by the change to the draft, the delay in selecting the engines and the delay on a decision for the propellers. This was all the consequence of an ill-thought-out specification. Inadequate consideration was given by CMAL to many of the fundamental issues required to establish the feasibility of the conceptual design, both in terms of accuracy and detail.

He also claimed that the quality of the build was not in question, it was a catastrophic failure of management. The comment about the management is inaccurate and grossly offensive. Ferguson had a very high calibre and capable management team. The team had been strengthened with highly qualified individuals from BAe, Babcock and Harland & Wolff. Ferguson had a very capable team. This is unfounded criticism.

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<sup>1</sup> [https://www.parliament.scot/-/media/files/committees/public-audit-committee/correspondence/2022/20220702\\_mr-reade\\_submission.pdf](https://www.parliament.scot/-/media/files/committees/public-audit-committee/correspondence/2022/20220702_mr-reade_submission.pdf)

Kevin Hobbs also stated that Units were being built in the shed which were being built at risk and when inspected had to be rebuilt. This is untrue in my opinion. As a result of the delays caused by CMAL early in the contract, FMEL were unable to start fabrication of stern blocks and had to start construction of midship blocks. This was important to keep work moving on the vessels and mitigate delays and costs. Drawings were approved by Lloyds before any work was started. The drawings were not signed off by CMAL but were approved by Lloyds. BCTQ, HKA and Commodore Luc van Beek commented on the negative impact of the length of time taken by CMAL to make decisions and sign off on drawings and changes, even when they agreed them.

Mr. Hobbs said that quality standards generally were good, but the yard started cutting corners and production of ships slowed down. The yard never cut corners in terms of the quality of work. This is a misleading statement. They did have to change strategy and work on midship blocks when the information from CMAL was not available to allow them to follow the original plan. Production slowed down because Ferguson had to manage the cashflow very carefully as a result of the huge increase in costs being incurred. CMAL refused to even discuss the variations and blocked all attempts at Dispute Resolution.

Kevin Hobbs also stated that the ships were not being built to normal shipbuilding practise. He gave the example of pipework. CMAL had asked not to use flexilock couplings on the pipes, they wanted flanges. Ferguson's chief Naval Architect informed CMAL that it was impossible to fit the number of pipes in with flanges because of space constraints. Also, from a maintenance point of view it would be difficult if not impossible to get to the bolts on the flanges. They were informed that Flexilock couplings were going to be fitted. CMAL claimed that this was not industry standard. Ferguson obtained confirmation from Lloyds, BAe and a large cruise ship owner, to demonstrate to CMAL that Flexilock were very much industry standard. They continued to raise this issue once the Scottish Government had confiscated the yard. Flexilocks were the correct engineering solution. Ferguson at all times adopted normal shipbuilding standards which were carefully monitored by Lloyds and the Marine and Coastguard Agency.