

Richard Leonard MSP  
Convener  
Public Audit Committee  
Scottish Parliament

06 October 2022  
By email

Dear Convener

### **BBC Disclosure investigation into vessels 801 & 802**

Following the BBC's Disclosure investigation into the vessels 801 and 802 project, I would like to set out my response and the potential scope and timing of any audit work.

As you are aware, in December 2020, the Scottish Parliament's former Rural Economy and Connectivity Committee reported serious failures with the procurement of vessels 801 and 802. The recent BBC investigation however raises new concerns and makes several claims related to whether Caledonian Maritime Assets Limited (CMAL) followed due process.

My report earlier this year focused on events after Scottish ministers announced Ferguson Marine Engineering Limited (FMEL) as the preferred bidder for the vessel contracts in August 2015. I did not review any aspects of the procurement process before this point although my report included some information about the procurement arrangements for context.

I have considered the BBC's allegations, CMAL's written response to these, and other relevant information that Audit Scotland holds. Taking this into account, should I consider that future audit work is necessary, it would likely focus on:

- the circumstances that allowed FMEL to progress beyond the pre-qualification stage of the procurement, despite being unable to meet the mandatory requirements
- FMEL's access to restricted technical information about the vessels, and its use of this when preparing its bid for the contract
- CMAL's compliance with procurement rules (that apply to the Restricted Procedure) during the tender clarification and negotiation process.

I am conscious that the Public Audit Committee has yet to conclude its inquiry into the new vessels project. There remain several unanswered questions on the procurement, including the circumstances surrounding FMEL's inability to provide a refund guarantee, and I note that the committee has recently issued four separate written requests for further information. I will take the responses to these requests into account when deciding the scope of any audit work.

I will also consider the relevant public bodies' formal responses to the BBC allegations. Although CMAL is a company limited by shares under the Companies Act, it is classified as a public corporation and, as such, is required to comply with relevant sections of the Scottish Public Finance Manual (SPFM). In relation to fraud, the SPFM requires CMAL to undertake a thorough investigation and to take appropriate legal and/or disciplinary action where justified. It is further required to take appropriate disciplinary action where supervisory or management failures have occurred.

We have had initial discussions with CMAL and Transport Scotland (as CMAL's sponsor) about their duties to investigate. Both bodies will keep us informed about their planned actions and I will take this into account when considering the scope and timing of any audit work.

Any action that I ask Audit Scotland to take on this matter should be in addition to, and not in place of, the investigative work that the above bodies plan to do. I will of course monitor the progress of these investigations.

I hope that committee members find this information helpful.

Yours sincerely

**Stephen Boyle**  
**Auditor General for Scotland**