

Cabinet Secretary for Finance, Economy and Fair Work

## **FERGUSON MARINE AND CONSTRUCTION OF NEW FERRIES 801/802**

### **Purpose**

1. This briefing outlines the current position and potential timetable of future events relating to construction of Ferries at Ferguson shipyard.

### **Priority**

2. URGENT – First Minister requested an update prior to Cabinet Secretary's discussion with GMB union on Wednesday 24 April

### **Background**

3. In 2014, Fergusons entered administration again and was purchased by Clyde Blowers Capital (CBC). In 2015 when the company secured the £97 million contract to build two 100m ferries for CMAL.
4. Original delivery Timescales:-
  - i. MV Glen Sannox (801) April 2018
  - ii. Second vessel (802) October 2018
5. Revised Delivery Timescales :-

FMEL have not been able to provide CMAL with a formal revised programme although it is clear that the revised timescales will not be met. FMEL have informally suggested the dates will be Summer 2020 and early/mid 2021 for 801 and 802 respectively.
6. SG provided FMEL with a £15 million loan in 2017 and a further £30 million commercial loan in June 2018 which is now fully drawn down.
7. FMEL submitted a Contract Price Increase (CPI) claim for around £61 million in Dec 2018. CMAL responded in March 2019 indicating that it did not see any of the claim as valid. FMEL has not as yet moved to court proceedings on its claim.
8. FMEL have indicated that given the cash flow challenges they now face, the Directors are required to reduce expenditure to maintain the business as part of their fiduciary duties. They have indicated that this will result in redundancies by the end of the month.
9. Unions have been informed of this by FMEL. The company has advised that it would have to take this decision and advise the workforce on Friday 26 April.

## Options

10. Work has been commissioned by SG from PWC and MacRoberts to examine all the options available to ensure best value delivery of the vessels and the long term future of the shipyard at Port Glasgow. This initially identified 29 options to be considered.
11. The consultants have not been asked to take a view on the merits of the claim (as this is a matter for the contracting parties) but rather to focus on possible ways to move this situation forward.
12. This was narrowed to five main options being examined in detail to be set out in the final report -
  - i. Arbitration/Mediation to resolve the CPI claim
  - ii. Insolvency
  - iii. Nationalisation
  - iv. Quebec example (proposed by CBC/FMEL. The solution was a new special purpose vehicle being assigned the contract and completion through open book payments)
  - v. Retendering contract to complete both vessels (most likely in the FMEL Yard)
13. Further information on each of the options is provided in **Annex A**
14. Approaching key dates are outlined in **Annex B**
15. All scenarios require significant additional SG investment (£50-85m +) and carry some degree of risk. Each of the options would require time to put in place and cannot be finalised before the FMEL Directors take a decision on redundancies on Friday. Any decisions on redundancies is a matter for FMEL.
16. FMEL have been formally asked for revised programme and costs to deliver vessels as part of the final loan drawdown. This has not yet been received.
17. The relationship between both parties has continued to deteriorate, with both adopting the position that they do not see the issue being resolved through **any** option that includes the other remaining involved.

## Summary

18. The ongoing options work with PwC and MacRoberts will be discussed in a meeting with Cabinet secretary has been arranged on 24 April to discuss this further and further advice will be prepared following this meeting.

[Redacted]

23 April 2019

ANNEX A

<b>Option</b>	<b>Cost estimate (million)</b>	<b>Delivery Timescales*</b>	<b>Key Risks</b>
<b>Arbitration</b>	Unknown as current claim is only to issues prior to Aug 2018	Unknown as there is no provision in contract for arbitration.	Both parties would need to agree to arbitration There would be a wish to have any outcome to be binding on both parties. The outcome may be that the claim is invalid. If settled – additional claims may add to the overall costs.
<b>Insolvency</b>	£50-76m	0-1 month to plan an appoint administrators	Administrator doesn't agree build out of vessels
<b>Nationalisation</b>	£59-85m***	2-4 months to plan and complete nationalisation	CBC have indicated they will fight this option. Business may need additional support in longer term as it may not be viable without directly awarded ferry pipeline post 801/802 completion.
<b>Quebec example</b>	Unknown – open book contract. Quebec example was more than double original contract.	Unknown need time to appoint intermediary body circa 4 months	There are many differences to the Ferguson example including original procurement route and state aid legislation. CMAL may not wish to assign contract to intermediary body. Cost will be unknown until the build is completed (in Quebec final cost was three times the original budget.)
<b>Retendering</b>	£53-70m	8 months break in construction to retender	Co-operation from CMAL/FMEL Procurement and state aid challenge Delay to delivery

\* Without a programme from FMEL these are difficult to estimate but estimates are currently 9-12 months (from option selection) for 801 and 18-24 months for 802

\*\* settlement of claim would be paid by SG and may (or may not ) lead to repayment of SG loans

\*\*\* these figures include £15 million to support nationalised business over next 5 years

## ANNEX B

### Key future milestones

23 April 2019	Officials meeting with CBC
23 April 2019	Mr Mackay call SG independent adviser – Luke van Beek
24 April 2019	SG Meeting with Ministers - 11:30-12:30
24 April 2019	Mr Mackay meet GMB - 12:30-13:30
24 April 2019	Ministers meeting with advisers to discuss report
26 April 2019	FMEL announce Redundancies
	Work on vessels virtually stops
19 June 2019	CBC to invest further ■ Million
19 July 2019	Expiry of HCCI Refund guarantee for 801
Late 2019	Award of type 31 Frigates by MoD
30 April 2020	Expiry of HCCI Refund guarantee for 802

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cab Sec for Transport, Infrastructure and Connectivity, Minister for Energy, Connectivity and the Islands			X		
			X		

Transport Scotland Submission list	
Liz Ditchburn, Director General Economy	
Mary McAllan, Director for Economic Development	
Gordon Wales, Chief Financial Officer	
[Redacted]	
Richard Rollinson Deputy Director - Innovation, Industries and Investment	
[Redacted]	
Callum McCaig Special Adviser	
Stewart Maxwell Special Adviser	
[Redacted]	