

Public Audit Committee
Wednesday, 5 February 2025
5th Meeting, 2025 (Session 6)

The 2023/24 audit of Ferguson Marine Port Glasgow (Holdings) Limited

Introduction

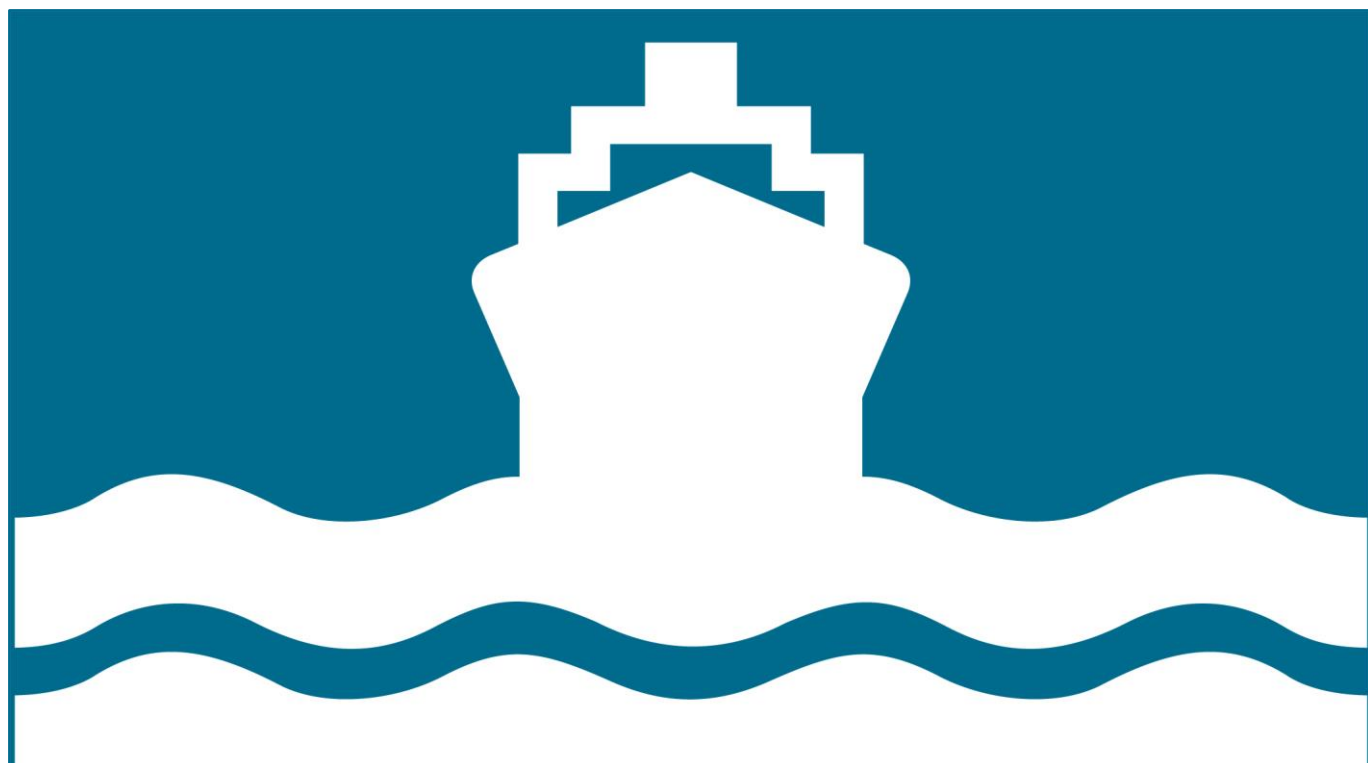
1. At its meeting today, the Public Audit Committee will take evidence from the Chief Financial Officer & Accountable Officer, Chair and Interim CEO, Ferguson Marine Port Glasgow (Holdings) Limited and the Director-General Economy, Scottish Government on the Auditor General for Scotland's (AGS) report, [The 2023/24 audit of Ferguson Marine Port Glasgow \(Holdings\) Limited](#), which was published on 17 December 2024. A copy of the report can be found at **Annexe A**.
2. The Committee previously heard evidence from the AGS on the report [at its meeting on 16 January 2024](#). The Committee received follow up correspondence from the AGS, this can be found in **Annexe B**. The Committee received a written submission from David Tydeman, former CEO of Ferguson Marine Port Glasgow (Holdings) Limited, this can be found at **Annexe C**.
3. The Committee will decide any further action it wishes to take following the evidence session today.

Clerks to the Committee
February 2025

Annexe A: The 2023/24 audit of Ferguson Marine Port Glasgow (Holdings) Limited

The 2023/24 audit of

Ferguson Marine Port Glasgow (Holdings) Limited



AUDITOR GENERAL 

Prepared for the Public Audit Committee by the Auditor General for Scotland
Made under section 22 of the Public Finance and Accountability (Scotland) Act 2000
December 2024

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Accessibility

You can find out more and read this report using assistive technology on our website www.audit.scot/accessibility.

Key messages

- 1** The auditor issued an unmodified opinion on the annual report and accounts of Ferguson Marine Port Glasgow (FMPG) for 2023/24. However, the auditor highlighted a material risk and uncertainty over FMPG's ability to continue as a going concern, for at least 12 months from the date of signing the accounts. This reflects concerns noted by FMPG management in the performance report. At the time of the annual audit, the Scottish Government had not agreed funding beyond 2024/25. It has now confirmed ongoing support for 2025/26, subject to parliamentary approval of the budget.
- 2** There are risks and uncertainty around FMPG's financial sustainability in the longer term. The Scottish Government has confirmed continued support for FMPG for at least a period of 12 months from the date of approval of the 2023/24 annual report and accounts. Although the Scottish Government has now agreed funding for 2025/26, FMPG has no contracted work beyond the completion of vessel 802 (MV Glen Rosa).
- 3** Significant change has taken place at a senior level with a new interim chief executive and chief financial officer (and accountable officer) appointed during 2023/24. In March 2024, the board terminated the previous chief executive's contract of employment. The interim chief executive was initially employed on a six-month appointment ending in September 2024. This has been extended until Easter 2025. FMPG hopes that a permanent chief executive will be in post by spring 2025.
- 4** While FMPG is not required to comply with public sector pay and conditions, it is the Scottish Government's expectation, under the revised framework agreement, that FMPG will align with the principles of public sector pay policy. During 2023/24, three exit packages were paid to FMPG employees with values for each above the £95,000 threshold set out in the Scottish Public Finance Manual (SPFM). Two of these payments were made without approval from the Scottish Government, deviating from the governance processes set out in the framework agreement and SPFM.
- 5** During 2023/24, an internal management investigation of contractor payments identified weaknesses in governance arrangements and

transparency of reporting to the board in relation to a secondee's contract and pay. FMPG must strengthen its internal control and governance arrangements. It is also important that management engages with internal audit to enable it to carry out its scrutiny function effectively and complete the work outlined in the internal audit plan.

Introduction

1. I have received the audited annual report and accounts including the independent auditor's report for Ferguson Marine Port Glasgow (Holdings) Limited (FMPG) for 2023/24. I am submitting these accounts and auditor's report under section 22(4) of the Public Finance and Accountability (Scotland) Act 2000, together with this report that I have prepared under section 22(3) of the Act.

2. My report brings to the Scottish Parliament's attention issues relating to:

- FMPG's financial sustainability and ability to operate as a going concern
- FMPG's governance arrangements and internal controls.

3. The auditor issued an unmodified opinion on the annual report and accounts of FMPG for 2023/24. The auditor does, however, highlight a material risk and uncertainty over FMPG's ability to continue as a going concern.

Background

4. In December 2019, the Scottish Government brought the Ferguson Marine shipyard in Port Glasgow into public ownership after it had been placed into administration. This created a new entity, Ferguson Marine (Port Glasgow) Holdings Limited (FMPG). FMPG is a Non-Departmental Public Body wholly owned by the Scottish Government. FMPG is the parent holding company of the wider FMPG group. FMPG holds 100 per cent of the share capital for each of the three subsidiary companies:

- Ferguson Marine (Port Glasgow) Limited
- Ferguson Marine (801-802) Limited
- Ferguson Marine (Commercial) Limited.

5. I previously highlighted issues relating to a lack of appropriate governance arrangements regarding the use of performance-related bonus payment and uncertainty about the long-term sustainability of FMPG in my report on the [2021/22 audit of Ferguson Marine Port Glasgow \(Holdings\) Limited](#).

The 2023/24 audit of Ferguson Marine Port Glasgow (Holdings) Limited

There continues to be significant uncertainty about FMPG's long-term financial sustainability

6. The auditor has considered FMPG's ability to operate as a going concern, for at least a 12-month period from the date of signing the 2023/24 annual report and accounts in October 2024. While the auditor's opinion on the accounts is unmodified, they do highlight a material risk around FMPG as a going concern, as noted by FMPG management in the performance report of the annual report and accounts.

7. In July 2024, the Scottish Government wrote to FMPG, confirming that it would continue to provide financial support for at least a period of 12 months from the date of approval of the 2023/24 annual report and accounts. This includes Under Recoveries funding, which covers the costs incurred by FMPG in relation to future developments and tenders that are not related to the completion of vessels 801 (MV Glen Sannox, completed and handed over in November 2024) and 802 (MV Glen Rosa) and any commercial contracts. As at April 2024, management forecast these costs to rise to approximately £1 million per month during 2024/25.

8. The Scottish Government announced its budget on 4 December 2024. It confirmed that it would continue to provide funding of £47.9 million to FMPG during 2025/26, subject to parliamentary approval. However, there continues to be significant doubt surrounding the long-term financial viability of FMPG beyond the contract for the completion of MV Glen Rosa. I highlighted similar in my previous Section 22 report on FMPG in 2022. Currently, FMPG's main source of income is Scottish Government funding to cover the costs to deliver MV Glen Rosa. It has secured limited work beyond these contracts, leading to uncertainty about future sources of revenue. While the Scottish Government has reaffirmed its commitment to support a sustainable future for FMPG, there remains risk and uncertainty surrounding remaining costs for the completion of MV Glen Rosa, the ability of FMPG to generate future revenue streams and the ongoing investment required.

The revised five-year business plan is based on the direct award of the Small Vessel Replacement Programme from the Scottish Government, but this has instead gone out to competitive tender

9. FMPG has produced a revised five-year business plan which was approved by the board in July 2024. It outlines the board's plan to deliver a 'sustainable, profitable, efficient, and competitive yard'. The business plan is based on the yard remaining under public ownership for at least the next five years.

10. In July 2024, the Scottish Government confirmed, subject to independent legal and commercial analysis, that it would provide capital funding of up to £14.2 million over two years, to support delivery of the plan. The business plan had also assumed the direct award of the contract for the Small Vessel Replacement Programme (SVRP) to FMPG, but following legal advice that a direct award would be in breach of the conditions set out in the UK Subsidy Control Act, the SVRP contract has gone out to competitive tender. FMPG has passed the pre-qualification stage and is one of six firms invited to bid for the contract, but there is no guarantee that it will secure the work.

11. FMPG will need to continue to work with the Scottish Government on how to achieve the outcomes set out in its revised business plan and ensure the financial viability of the yard in the longer term.

FMPG reviewed its financial monitoring arrangements to support the completion of MV Glen Sannox and MV Glen Rosa

12. FMPG reported a group pre-tax net deficit of £1.322 million for 2023/24 (2022/23 net deficit of £0.866 million). This is primarily a result of continued cost in investment and turnaround activity in the yard not covered through contracted income. The Scottish Government is providing support of under recoveries during 2024/25 through capital contributions.

13. The board considered a finance report in May 2024, which confirmed that the total cost to FMPG to complete as at May 2024 was £150 million (including contingency for risks of £3.8 million) in respect of MV Glen Sannox and £150 million (including contingency for risks of £14 million) in respect of MV Glen Rosa. The overall projections remain up to date as at October 2024. In addition to the direct costs of the delivery of the vessels, additional investment in the yard from the Scottish Government in the form of capital contributions are detailed in [Exhibit 1 \(page 8\)](#).

Exhibit 1

Scottish Government funding for FMPG

	801-802 costs £m	Other Investment £m	Total Scottish Government funding £m
Vessels costs invoiced to May 2024	219.1	-	219.1
FMPG total costs to complete	63.1	-	63.1
Contingency/risk factor	17.8	-	17.8
Capital Contributions to 31 March 2024	-	31.57	31.57
Total	300.0	31.57	331.57

Source: FMPG financial statements, financial forecasts May 2024 and financial projections

There have been significant changes to senior management and membership of the board during 2023/24

14. In March 2024, the board terminated the then chief executive's contract of employment, citing unsatisfactory performance. An interim chief executive was initially appointed on a six-month appointment ending in September 2024. This has been extended until Easter 2025. FMPG hopes that a permanent chief executive will be in post by spring 2025.

15. The previous chief financial officer was appointed on an interim basis and their contract ended in January 2024. A new interim chief financial officer was appointed for a period of 12 months in December 2023 to ensure a planned handover. In March 2024, this appointment was made on a permanent basis. Following the dismissal of the former chief executive, who was also accountable officer, the board decided to appoint the chief financial officer as accountable officer.

16. There has been significant change in board membership during 2023/24, with four new members joining the board. A review of the governance arrangements to improve the committee structure and the frequency of meetings was completed. While this review is welcome, FMPG should assess whether the existing cohort of board members provides sufficient capacity to support the updated committee structure.

Internal audit has not been able to provide assurance on FMPG's risk management, control and governance arrangements

17. FMPG appointed the accountancy firm BDO to undertake its internal audit function in May 2023. FMPG had not had an internal audit function prior to this. Its proposed programme of work for 2023/24 was approved by the Audit and Risk Committee in June 2023.

18. Internal audit presented its annual report for 2023/24, which includes the Annual Statement of Assurance, to the Audit and Risk Committee in September 2024. The report noted that there have been significant delays to the commencement and completion of reviews that were agreed within the 2023/24 internal audit plan. Internal audit highlighted that changes in senior management and the loss of key management personnel, as well as a focus on the delivery of vessels, have been contributing factors to the lack of progress in internal audit reviews. It also reported that management needs to ensure that internal audit actions are implemented in a timely manner to enhance the risk management, control and governance processes.

19. As a result, internal audit was unable to complete enough reviews to provide an opinion on the overall risk management, control and governance arrangements within FMPG. It was also unable to provide assurance over the implementation of its recommendations.

20. Internal audit plays a key role in providing independent assurance about an organisation's governance, risk management and internal control arrangements. It is important that FMPG management engages with internal audit, supports it to carry out its programme of work and acts on its recommendations.

FMPG should improve its governance arrangements

21. The appointed auditor reviewed FMPG's governance arrangements and concluded that there were areas where FMPG needs to improve its governance arrangements.

22. The auditor reviewed FMPG's financial controls and identified weaknesses within the payroll control environment. The auditor also found a number of weaknesses within the IT general control environment.

FMPG is not required to comply with public sector pay and conditions, but there is an expectation that FMPG will align with the principles of public sector pay policy

23. An updated framework agreement was approved by Scottish ministers in July 2024. This framework agreement sets out the broad framework within which the relationship will function and defines the key roles and responsibilities of FMPG and the Scottish Government's Strategic Commercial Assets Division (SCAD).

24. Under the framework agreement Scottish ministers, on the basis of evidence presented by officials and in line with the view of the Scottish Government Remuneration Group, have decided that FMPG should not be obligated to comply with public sector pay and conditions. There is an expectation, however, that FMPG will engage closely with the Scottish Government and will align with the guiding principles of public sector pay policy.

25. During 2023/24, FMPG paid three exit packages above the £95,000 threshold set out in the Scottish Public Finance Manual (SPFM). Only one of the exit package payments, for the former chief executive, received advanced approval from the Scottish Government.

26. FMPG subsequently notified SCAD of the other two exit packages, but the Scottish Government has not provided retrospective approval of these payments. The auditor has highlighted that this is a significant deviation from the expected governance processes as outlined in the SPFM.

27. FMPG has not been able to provide the auditor with any evidence documenting its decision-making in relation to employment termination and exit payments. As such, it is not possible to determine whether these decisions were made in line with the SPFM. For example, the SPFM is clear that settlement agreements should not be used to deal with poor performance or attendance.

28. The contracts of employment were held with one of the subsidiary companies and not the parent holding company, subject to audit by Audit Scotland. It is the external auditor's judgement therefore that this is not a regularity matter which impacts on the audit opinion. Nonetheless, the lack of compliance with the SPFM and absence of appropriate documentation are examples of poor governance and decision-making.

An internal management investigation identified a lack of segregation of duties and corporate governance weaknesses

29. During 2024, the chief financial officer carried out an internal management investigation of contractor payments. This identified weaknesses in the governance arrangements and transparency of reporting to the board. The investigation identified that the former chief executive approved the following payments without the knowledge of the board or the remuneration committee:

- A contract variation letter approving the appointment of a secondee from CMAL, onto the FMPG payroll, paying a salary of £36,000 (not including employer National Insurance and tax contributions).
- A revised contract variation letter, increasing the secondee's salary to £54,000.

- Agreeing a change in how the secondee was paid, from an employee of FMPG to payments being made to a limited company where the employee was the sole director.

30. The investigation confirmed that a total of £144,685 (£120,571 plus VAT) was invoiced by the limited company to FMPG in the period from February 2023 until March 2024. None of the invoices were approved by the FMPG board or the remuneration committee; they were unaware of the change from payroll to self-employed status. Following the termination of the former chief executive's contract in March 2024, no further invoices were paid.

31. The off-payroll working rules follow the principle that a worker (sometimes known as a contractor) should pay broadly the same income tax and National Insurance as an employee would. The rules apply if the worker who provides services to a client through their own intermediary would have been an employee if they were providing their services directly to that client. The rules are sometimes known as 'IR35'.

32. In most cases, the client will be responsible for determining the employment status of the worker. The former chief executive completed an IR35 HM Revenue & Customs (HMRC) toolkit which concluded that IR35 did not apply. However, the internal investigation concluded that a number of responses appear inaccurate.

33. Where an incorrect determination has been made, there is a requirement to make a voluntary disclosure to HMRC, explaining the error and calculating the income tax and National Insurance due. This will also result in interest on any late payments of tax, from the date they were originally due, until the date paid. HMRC may also charge a penalty on any underpaid taxes.

34. FMPG has calculated that an underpayment of £48,000 in respect of PAYE is payable to HMRC.

35. FMPG has recognised that arrangements need to be strengthened to ensure there is appropriate segregation of duties and improved transparency and reporting to the board. The auditor has recommended that FMPG consider whether it should commission an independent review of the revised arrangements, including consideration of the investigation process, to provide assurance that the weaknesses in governance arrangements have been addressed.

Conclusion

36. There continues to be considerable uncertainty about FMPG's ability to secure enough work beyond the delivery of MV Glen Rosa to ensure the long-term financial sustainability of the yard. It is important that FMPG continues to work closely with the Scottish Government to clarify ongoing financial support and how FMPG will be able to achieve the outcomes set out in its business plan.

37. In my previous statutory report, I highlighted a lack of transparency around the use of bonus payments and noted that FMPG should take action to ensure transparency and good governance in all its decision-making. The auditor has, however, identified a number of other areas where FMPG could improve its governance arrangements and internal controls to better manage risks to value for money.

38. While FMPG is not obliged to comply with public sector pay policy, under the terms of its revised framework agreement it should align with the principles of public sector pay policy. It should also be more transparent in its decision-making around pay and the use of exit packages.

39. FMPG recognises that it needs to strengthen its corporate governance arrangements in light of the issues identified through the internal management investigation into contractor payments. It is important that FMPG assures itself that revised arrangements have fully addressed these issues and improved reporting to the board.

40. Internal audit serves an important scrutiny function. While FMPG has made progress by establishing the provision of internal audit services, management must engage with internal audit to enable it to fulfil its function effectively. FMPG must also strengthen its internal control and governance arrangements to ensure that there is appropriate segregation of duties and that decisions are made in line with robust policies and processes.

41. I will continue to monitor progress with the issues highlighted in this report and will consider further reporting in public as necessary.

The 2023/24 audit of Ferguson Marine Port Glasgow (Holdings) Limited



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AUDITOR GENERAL 

31 January 2025

Richard Leonard MSP
Convenor
Public Audit Committee
Scottish Parliament

By email

Dear Convenor

The 2023/24 audit of Ferguson Marine Port Glasgow (Holdings) Limited

On 16 January 2025, I provided evidence to the Committee on my S22 report on the [2023/24 audit of Ferguson Marine Port Glasgow \(Holdings\) Limited](#). During the meeting, I agreed to come back to the Committee with details of the financial loss incurred due to the BAE contracts coming to an end. I can confirm that the overall loss reported for Ferguson Marine (Commercial) Limited in 2023/24 was £350,000. Of that, £130,096.69 was due to the BAE contracts ending.

I also agreed to confirm the number of Board members. As at 31 March 2024, there were eight members in total; two Executives and six non-Executive members.

Further to the Committee's questions about procurement for the Small Vessels Replacement Programme, I can also confirm that Caledonian Maritime Assets Ltd (CMAL) is the procuring body for this contract.

Yours sincerely

Stephen Boyle
Auditor General for Scotland

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David Tydeman
By Email

30th January '25

Richard Leonard
Convenor, Public Audit Committee, Scotland

Dear Richard

Further to the recent communications, I provide my comments on the Auditor General's (AG) Section 22 report, Dec '24.

In the first few months of my term as CEO of Ferguson Marine (FMPG) from Feb '22, the AG commented in his section 22 report of spring '22 that the ...framework agreement (between the government and the business) was generic and FMPG was 'far from generic'.... he also commented that FMPG had scope for 'interpretation'. In subsequent open discussions at that time, it was noted that the CFO and chairman also had serious issues with the agreement.

The Auditors recent report on FMPG comments that the revised framework was not approved by Scottish Ministers until July '24. This extensive timeframe across more than 2 years highlights the difficulties in defining "interpretation" and meeting broader governance expectations.

There were also many (all publicly known/available information) changes and continuity issues over this period:

- the chairman who recruited me stepped down unexpectedly in spring '22 for personal reasons, and one of the existing non-execs directors (NxD's) took up the role as interim chairman.
- the CFO employed from June '20 resigned as an exec director in Feb '23, he was a key figure in the early years' development of FMPG post nationalisation, interpreting the framework with the chairman and with the sponsoring team prior to my appointment. This framed the governance routines I worked with until the current chairman and new NxD's changed them later in '23.
- the current chairman was appointed as a director in Feb '23 on his return from Australia and I welcomed the opportunity to assist in the recruitment process during late '22.
- an interim CFO joined the business for Jan '23 to Feb '24, unusually not becoming a director (companies house).

- during '22, in addition to reporting to the board and NZET committee:
 - I reported to the finance minister (until her departure for maternity leave) working with the sponsoring directorate in SG (which changed from 'Cobra' to 'Economic Development' during '22),
 - then to the deputy first minister,
 - and then to subsequent ministers in '23/'24,
 - there were also many changes of staff in the sponsoring teams as these changes took place.
- two new NxD's joined the business in early summer '22 and three NxD's left the business during '23.
- two new NxD's joined in the second half of '23, taking up new roles with the Remuneration and Audit committees later in Q4 '23.
- annual reports at Companies House comment on the role of sub-committees - Audit and Risk, Health and Safety, Remuneration & Operations,
 - I welcomed the improved governance routines developing during the second half of '23 with the new NxD's.
- one new NxD joined in Jan '24.
- as previously noted in evidence to NZET committee and other public forums, there was very significant staff turnover – office, admin, technical and trade skills – over the years since FMPG was set up in 2019.
 - the departure of two senior managers during '23 noted by the AG should thus be seen in context of the change in work mix as Glen Sannox progressed, Glen Rosa continued towards launch and “under-recoveries¹” started to build up - and the overall need for reduction in staff costs increased:
 - the FMPG annual accounts filed at Companies House 9th January '25, identify:
 - the FY24 total payroll cost of £12.71m (for permanent employees - 276 ops, 20 admin, excluding directors),
 - down significantly from FY23² at £13.33m (305 ops, 18 admin & excluding directors).

¹ as explained by the CFO in NZET committee in Dec '24 – these are overhead, management and other costs of FMPG which can't be charged to the ferry contracts.

² In contrast, the FY22 figures, excluding directors, £11.93, 318 Ops, 14 admin, highlights the increases in staff, changes in staff mix and competence levels actioned by me and my team during my first twelve months.

- the 12-month secondment agreement between CMAL and FMPG was set up and announced in Feb/March '22 and approved by the chairman and CFO at the time.
 - a variation to the contract was agreed in late '22 with CMAL to extend the duration and to enable the secondee to be openly confirmed as 'Ship Director' for the build of Glen Sannox.
 - The short-term³ contract for his consultancy was set up at the same time, although this unexpectedly stretched to a longer term as Glen Sannox programme slipped.

As a final comment, my departure was under a simple termination letter and as publicly known, involved a contractual right for a payment in lieu of notice. There was no settlement agreement, nor a non-disclosure agreement relating to the termination.

Yours sincerely

David

David Tydeman

³ It is public record that in late '22 the forecast handover for Glen Sannox was May '23.