

MORAY FIRTH REGIONAL ADVISORY GROUP

Background

These Terms of Reference (ToR) relate to the Moray Firth Regional Advisory Group (MFRAG) set up to meet the requirements of the section 36 and associated marine licence conditions attached to consents granted for offshore wind farms in the Moray Firth. The section 36/ marine licence conditions require that offshore wind farm developers in the Moray Firth region must participate in the MFRAG. The MFRAG has been established by the Scottish Ministers to provide advice on research, monitoring and mitigation for receptors including birds, marine mammals, diadromous fish, marine fish and benthic ecology. The MFRAG may also establish sub-groups for the purpose of addressing specific work packages to discharge consent conditions.

Consents were granted by the Scottish Ministers in March 2014 under section 36 of the Electricity Act 1989 to construct and operate the Beatrice Offshore Wind Farm (BOWL) Electricity Generating Station with a maximum generating capacity of 750 MW, and for the Telford, Stevenson and MacColl Offshore Wind Farm Electricity Generating Stations in the Outer Moray Firth (Moray Offshore Windfarm (East) Limited also referred to as Moray East) with a combined maximum generating capacity of 1116 MW. The Moray East s.36 consents were varied in March 2018 to increase the maximum capacity at the MacColl site to 500 MW (with no increase in the overall capacity of 1116 MW, and to increase the maximum individual turbine capacity at all three sites from 8 MW to 10 MW).

Consent was granted by the Scottish Ministers in June 2019 under section 36 of the Electricity Act 1989 to construct and operate the Moray West Offshore Wind Farm in the Outer Moray Firth with a generating capacity of around 850 MW.

Post-consent monitoring requirements are incorporated into licence conditions in order to:

- a. Validate, or reduce uncertainty in predictions on environmental impacts recorded in supporting Environment Impact Assessments (EIA) and Habitats Regulation Assessments (HRA).
- b. Provide evidence on the effectiveness of mitigation measures.
- c. Allow identification of any unforeseen impacts.

The conditions relevant to the MFRAG are those relating to the Project Environmental Monitoring Programme (PEMP) and the Environmental Management Plan (EMP).

The conditions relating to the individual developments can be found on the Scottish Government website using the links below:

[Beatrice Offshore Wind Farm](#)

[Moray East Offshore Wind Farm](#)

[Moray West Offshore Wind Farm](#)

MFRAG may consider the following areas of collaborative work between developers:

- Benthic Ecology, Marine Mammals, Ornithology, Fish Biology and other environmental work-streams as required.

Aims and Objectives of the MFRAG

- To facilitate compliance with relevant conditions within the consents and licences of developments in the Moray Firth.
- Ensure that appropriate and effective monitoring of the impacts of the developments in the Moray Firth is undertaken to satisfy the requirements of the section 36 and marine licence conditions.
- To enable developers to collaborate with their monitoring programmes to provide more strategic outputs and potential cost savings.
- Provide a forum for identifying, reviewing and advising on:
 - the monitoring activities to be included in the individual development's PEMP to enable the discharge of relevant consent and licence conditions and ensure consistency between individual projects.
 - the scope of monitoring activities for all Moray Firth PEMPs to ensure proportionate, targeted and risk-based post consent monitoring across the Moray Firth developments.
 - EMP drafting and amendments focusing on but not necessarily limited to, marine mammals, birds and migratory fish as required.

- reviews of the PEMP monitoring outputs for incorporation into amendments of the EMP where required and updating of the PEMP as required in terms of the consents.
- To clearly identify elements of the monitoring programmes which should be independently peer reviewed, where expertise is not available from within the MFRAG group. To disseminate the outcomes of any such reviews along with other elements of the PEMPs and EMPs.
- Advise Scottish Ministers on the closure and sign-off of components of PEMPs and EMPs, with recognition that final responsibility for sign-off rests with Scottish Ministers.
- To advise whether the monitoring activities are aligned with Scottish Government and academic research in marine renewables and other relevant areas. This should be achieved through liaison with Scottish Marine Energy Research (ScotMER) (previously referred to as Scottish Offshore Renewables Research Framework, (SpORRAn)).
- To identify relevant strategic opportunities and proposals for additional monitoring/research activities associated with the Moray Firth developments beyond the immediate requirements of the individual developments PEMPs and EMPs. To make recommendations regarding these opportunities and proposals to ScotMER.
- Identify and promulgate lessons learned and good practice with regard to contract / procurement issues; setting monitoring questions, obtaining and analysing data, reviewing monitoring results in answering questions, other aspects that may come to light during MFRAG discussions.
- Engage with other relevant groups when necessary.

Terms of Reference

1. A quorum of 50% of the membership must be present to conduct the business of the group and for any decisions to be passed.
2. The group does not exist in isolation. It will make full use of links with other groups that deal with related issues; and where required, refer matters arising to other groups for attention. The group will enter into dialogue with, and consider the perspective of, other stakeholders including Crown Estate Scotland, other regional advisory and environmental groups where necessary
3. The group will promote structured and proactive pre, during and post-consent processes.
4. The group will feedback information and results to ScotMER when necessary to enable a strategic overview on relevant research, monitoring and mitigation programmes to be planned at a Scottish level.
5. The group will operate flexibly with participants' attendance reflecting topics that are being considered and may invite other experts, subject to the agreement of members of the group to discuss developments.
6. The group will, from time to time, discuss matters on a commercial and in confidence, basis and will retain such information on that basis. The group will as far as possible comply with any non-disclosure requirements of the Developers/Owners/Operators, recognising the requirements for public bodies under Freedom of Information and Environmental Information Regulations.
7. Agreement with the MFRAG must be sought prior to any information being passed to a third party to ensure information of a sensitive nature is not knowingly released.

8. The group will elect an appropriate chair. In case the chair is not able to attend a meeting(s), then an appropriate temporary chair will be agreed with the group in advance of the meeting(s).
9. Members of MFRAG should make all reasonable efforts to attend meetings. Where a member fails to attend more than 3 relevant meetings in succession s/he will be asked to step down and if necessary, a replacement sought.
10. Where an existing member resigns from MFRAG, the chair may invite a replacement from the appropriate sectoral body.
11. The Secretariat for the group shall be provided by the developer(s).
12. Recommendations in terms of monitoring, methodologies, best practice and mitigation shall be reached by MFRAG, where possible by consensus to advise the Scottish Ministers. If consensus cannot be agreed Scottish Ministers will be advised of the majority and minority views (and which members hold these views) in a detailed report, submitted by the secretariat within two weeks of the issue arising. The report should include the different proposed recommendations with justification for the different options. Where issues of adverse impact are likely, then potential solutions or mitigation should be identified within the report. Scottish Ministers will advise on which of the recommendations are to be followed within agreed timescales of receiving any report(s) from the secretariat. MSS will not be involved in the writing of the report(s) as they are advisors to Scottish Ministers.
13. The terms of reference and focus of the group will be subject to review on a regular basis by agreement of the members.
14. MFRAG may amend these terms of reference at any time providing it has been decided by consensus. In the event that a consensus cannot be achieved, a decision shall be taken by vote and carried if it is supported by over 50% of the membership present. Before the terms of reference can be formally accepted

MFRAG must have sought and received the Scottish Ministers approval in writing.

15. Whenever a vote is required (e.g. to change terms of reference or to elect a chair) each member organisation will have one vote. Marine Scotland representatives will not have a vote as they act on behalf of Scottish Ministers.

16. If MS-LOT are not present at these meetings, copies of the minutes and any relevant documents and reports should still be circulated to MS-LOT for awareness and for uploading onto the Scottish Government website

Membership and Frequency

MFRAG will comprise no more than two representatives from each of the named organisations, unless otherwise agreed with the group. The developers may also have their Ecological Clerk of Works (ECoW's) and specialist consultants / advisors with them at the meetings to provide expert advice depending on the subject(s) of discussion.

Meeting Frequency

- Frequency to be determined by members of MFRAG – aimed at a minimum of two meetings per year.
- Dial in details will be available to those unable to attend in person.

Members include:

- 1) Chairperson: Prof. Ben Wilson (Scottish Association for Marine Science, SAMS).
- 2) Secretariat: to be provided by developers.
- 3) Representatives from:

Organisation
Marine Scotland Licensing Operations Team (MS-LOT)
Marine Scotland Science (MSS)
Marine Scotland Renewables and Offshore Wind Policy (MS-MPP)

Scottish Natural Heritage (SNH)
Moray Offshore Windfarm (East) Ltd (Moray East) (Developer)
Beatrice Offshore Wind Ltd (BOWL) (Developer)
Moray Offshore Windfarm (West) Ltd (Moray West) (Developer)
Royal Society for the Protection of Birds Scotland (RSPB Scotland)
Whale and Dolphin Conservation (WDC)
Fisheries Management Scotland (FMS)

A member of the Joint Nature Conservation Committee (JNCC) is welcome to attend the MFRAG if they so wish, but only as an observer to proceedings.

Costs

All reasonable costs of the MFRAG will become the responsibility of the developer(s). This will include costs of hosting the meetings and providing secretariat support. Other costs to be covered will be discussed and decided by MFRAG. Paying for attendance should not feature.

Roles and Responsibilities

Chair

The role of the chair is for:

- a. Communication between MS-LOT, representatives of MFRAG, and the chair in order to inform when the next meeting will be and what needs to be discussed, to inform the agenda.
- b. To ensure MFRAG functions properly to meet the requirements for advising the Scottish Ministers on research, monitoring and mitigation programmes to discharge the conditions of the section 36 and associated marine licence conditions.
- c. To manage and control the meetings as well as act as a facilitator to these discussions.
- d. Introduce and explain the background and the purpose of agenda items.

- e. To advise/report to MS-LOT of the outcome of the meeting discussions if MS-LOT are unable to attend.

Secretariat

The secretariat will be responsible for:

- a. Organising and arranging the meeting, including liaison with the chair.
- b. At least 2 weeks prior to the meeting the secretariat will circulate an agenda and any relevant papers for the meeting to all MFRAG members.
- c. Within 2 weeks from the date of the meeting actions of the meeting will be circulated to the members of the group.
- d. Within a month from the date of the meeting draft minutes of meetings will be prepared and circulated to members of the group; with a timeline for their review and finalisation.
- e. Final versions of the minutes will be made available for publishing on the Scottish Government website. Papers provided for discussion at the meeting will also be made available on the Scottish Government website, unless agreed otherwise at the meeting and recorded in the minutes. Developers may redact information.

Participation in other groups

Section 36 consent/ marine licence conditions may require developers to participate in other groups e.g. the Scottish Strategic Marine Environment Group (SSMEG) if these are established by Scottish Ministers. Developers are encouraged to participate in events organised by Scottish Ministers to facilitate information/ knowledge exchange between all offshore wind developers in Scotland.