

## **FORTH AND TAY REGIONAL ADVISORY GROUP**

### **Background**

These Terms of Reference (ToR) relate to the Forth and Tay Regional Advisory Group (FTRAG) 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 Forth and Tay region. The section 36/ marine licence conditions require that offshore wind farm developers in the Forth and Tay region must participate in the FTRAG. The FTRAG 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 FTRAG 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 October 2014 under section 36 of the Electricity Act 1989 to construct and operate the Neart na Gaoithe Offshore Wind Farm (NnGOWL) Electricity Generating Station, the Inch Cape Offshore Wind Farm Electricity Generating Station and the Seagreen Alpha and Seagreen Bravo Offshore Wind Farm Electricity Generating Stations in the Firths of Forth and Tay. Revised applications were submitted and consents were granted for NnGOWL in December 2018 (varied in June 2019) and for the Inch Cape Offshore Wind Farm in June 2019.

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) in accordance with the consent conditions and agreed Project Environmental Monitoring Programme (PEMP).
- b. Provide evidence on the effectiveness of mitigation measures.
- c. Allow identification of any unforeseen impacts.

The conditions relevant to the FTRAG are those relating to the (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. These links are for the consents which are likely to be built:

[NnG Offshore Wind Farm \(2018 consent, varied in 2019\)](#)

[Inch Cape Offshore Wind Farm \(2018 consent\)](#)

[Seagreen Alpha and Bravo Offshore Wind Farms \(2014 consents, varied in 2018\)](#)

FTRAG 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 FTRAG**

- To facilitate compliance with relevant conditions within the consents and licences of developments in the Forth and Tay regions.
- Ensure that appropriate and effective monitoring of the impacts of the developments in the Forth and Tay region is undertaken to satisfy the requirements of the section 36 and marine licence conditions.
- To facilitate 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 complimentary work between individual projects.
  - the scope of monitoring activities for all Forth and Tay PEMPs to ensure proportionate, targeted and risk-based post consent monitoring across the Forth and Tay 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 FTRAG 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 discuss relevant strategic opportunities and proposals identified through ScotMER for monitoring/research activities associated with the Forth and Tay developments beyond the individual project monitoring. To discuss/ agree the developers contributions to these strategic monitoring proposals.
- Identify and promulgate lessons learned and good practice with regard to setting monitoring questions, obtaining and analysing data, reviewing monitoring results in answering questions, other aspects that may come to light during FTRAG discussions.
- Engage with other relevant groups when necessary.

### **Terms of Reference**

1. A quorum of 50% of the membership (not including Seagreen 2&3) 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 FTRAG 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).

Members of FTRAG should make all reasonable efforts to attend meetings. Where a member organisation fails to attend more than 3 relevant meetings in

succession they will be asked to step down unless it is a requirement of that organisations consent conditions.

9. Where an existing member resigns from FTRAG, the chair may invite a replacement from the appropriate sectoral body.
  
10. Seagreen phases 2 & 3 are currently in the pre-application stages, undertaking baseline characterisation surveys, but due to their close proximity with the other Forth and Tay developments it may be appropriate for representatives to attend certain FTRAG meetings, particularly in relation to ornithology and marine mammals. Invitations will be sent to Seagreen 2 & 3 as considered appropriate by the Scottish Ministers in consultation with the FTRAG.
  
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 FTRAG, 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 ToRs and focus of the group will be subject to review on a regular basis by agreement of the members.
  
14. FTRAG may amend these ToRs 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. New members must be permitted to join the FTRAG if, following

determination, conditions are placed on any s.36 consent/ marine licence granted which require a developer to participate in the FTRAG. The level and nature of that participation will be determined by the Scottish Ministers. Before the terms of reference can be formally accepted FTRAG 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. Representatives from Seagreen 2 & 3 are not currently eligible to vote, this is the case until a determination is made and they will only be eligible to vote if s.36 consent is granted and a condition is placed on the consent which requires participation in the FTRAG. Marine Scotland representatives will not have a vote as they act on behalf of Scottish Ministers.

16. If members are not present at these meetings, copies of the minutes and any relevant documents and reports should still be circulated to all members for awareness. Once finalised minutes will be uploaded onto the Scottish Government website.

### **Membership and Frequency**

FTRAG 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 FTRAG – 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: Annie Breaden (Crown Estate Scotland CES).
- 2) Secretariat: to be provided by developers.

## 3) Representatives from:

<b>Organisation</b>
Marine Scotland Licensing Operations Team (MS-LOT)
Marine Scotland Science (MSS)
Marine Scotland Renewables and Offshore Wind Policy (MS-MPP)
Scottish Natural Heritage (SNH)
Neart na Gaoithe (NnG) (Developer)
Inch Cape (ICOL) (Developer)
Seagreen Alpha and Bravo (Developer)
Seagreen Phases 2 & 3 (Developer) – limited membership
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 FTRAG if they so wish, but only as an observer to proceedings.

**Costs**

All reasonable costs of the FTRAG 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 FTRAG. Paying for attendance should not feature.

**Roles and Responsibilities**

## Chair

The role of the chair is for:

- a. Communication between MS-LOT, representatives of FTRAG, 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 FTRAG 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 FTRAG 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.