
ARGYLL AND BUTE COUNCIL
CUSTOMER SERVICES

BUTE & COWAL AREA COMMITTEE
5 SEPTEMBER 2023

CRUACH MHOR WINDFARM TRUST: APPOINTMENT OF TRUSTEES

1.0 EXECUTIVE SUMMARY

Cruach Mhor Windfarm Trust has been operating as an unincorporated trust since being established by the Bute & Cowal Area Committee on 5 August 2003. The purpose of the report is to advise of work undertaken to formally establish the Trust as a corporate body, and to invite the Committee to consider the composition of the Trust, taking into account changes through the passage of time since the in Area Committee first considered the establishment of a Trust, the S75 Agreement, discussion with Cruach Mhor Windfarm Trust and discussions with Scottish Power Renewables who are the current benefactors.

The report recommends changes to the trustees identified in 2003, given considerations outlined in the foregoing paragraph and feedback from the Cruach Mhor Windfarm Trust.

There may be some financial implications in terms of increasing the number of community representatives although this would not be known until such time as elections are held. It is anticipated that any cost can be accommodated within the existing budget.

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2.0 INTRODUCTION

2.1 Bute & Cowal Area Committee agreed on 5 August 2003 to establish a Community Trust Fund on 5 August 2003 which was to be known as Cruach Mhor Windfarm Trust. Decisions regarding composition of the Trust, and area of benefit, were also agreed at that time and following that decision, the then Area Corporate Services Manager worked with the group to formally constitute them. This report invites the Area Committee to further consider the matter of Trustees in light of work undertaken to formalise the Trust by way of a more formal Trust Deed.

3.0 RECOMMENDATIONS

- 3.1 It is recommended that the Committee agree to revise the list of Trustees appointed to the Cruach Mhor windfarm by:
1. Agreeing that if Scottish Power Renewables decline appointment as Trustees that the Trust Deed reflect this position;
 2. Resolving to increase in terms of the number of community representative positions on the trust from one to three, and that arrangements for the election of community representatives be delegated to the Returning Officer to progress;
 3. Note that the the boundaries of the windfarm trust and the community council areas are co-terminous

4.0 DETAIL

4.1 On 5 August 2003 the Bute & Cowal Area Committee agree to establish Cruach Mhor Windfarm Trust, agreed that the communities impacted were within the Colintraive & Glendaruel Community Council boundary, and also agreed that the Trust would comprise of 5 members being:

2 Representatives from Colintraive & Glendaruel Community Council;

The local elected member or one other council member from Bute & Cowal Area Committee;

A representative from CRE Energy Ltd (now Scottish Power Renewables); and

One elected member, resident in the community, who is not a member of the community council, or a member or employee of the council or CRE Energy Ltd.

4.2 Officers of the Council were initially approached by the Cruach Mhor Windfarm Trust in terms of difficulties they had had with convening quorate meetings to see whether changes to the constitution might be acceptable and some concerns were expressed when it became evident that the Trust, although running well, was unincorporated. While there was no specification for the Trust to be established by way of a formal Trust Deed, the manner in which the Trust has been established gives some concerns about the exposure of its members and it is the opinion of officers that a more formal set up would be more appropriate. A draft trust deed has been prepared and has been submitted to the Cruach Mhor Windfarm Trust to obtain their feedback. As part of this exercise they have requested that the Council look to increase the number of serving Trustees by increasing the number of community representatives from one to three. They have also asked that the current Colintraive & Glendaruel Community Council (as amended in 2022 to include part of Rashfield) be the designated area rather than the boundary as it was in 2003. The previous decision in regard to beneficiaries states “the Trust Fund will be held and administered by the Trustees for the benefit of the local communities within the Colintraive and Glendaruel Community Council boundary”. On the basis of the 2003 decision, there is no objection to the request, and administratively it would be beneficial in terms of electoral processes if the boundaries of the windfarm trust and the community council areas were co-terminous.

4.3 In taking this forward it has also been established that Scottish Power Renewables (formerly CRE Energy Ltd) do not feel it is appropriate for them to be Trustees given the community aspect of the Trust. In any event their participation is not necessary in terms of the S75 Agreement which stipulated that funds should be awarded following consultation with the relevant local community councillor, local authority councillor, and the council. It is recommended that if they formally decline appointment, this be reflected in the trust deed for the Cruach Mhor Windfarm Trust.

4.4 Given the foregoing comments, and in view of a desire to increase the number of members, it would be appropriate to revisit the matter of Trustees and the suggestion would be that the number of elected community representatives increase from one to three. It is further recommended that as Scottish Power

Renewables are unlikely to want to accept a formal position on the Trust, they be removed from the Trust Deed in light of the explanation at paragraph 4.3.

5.0 CONCLUSION

- 5.1 While the decision to establish a community trust to disperse community benefit funding from the Cruach Mhor Windfarm was taken forward, it has recently come to light that this does not provide the most adequate legal protection. Given the work to remedy that is ongoing, it would be appropriate to review decisions regarding trustees for the reasons set out in section 4 of the report.

6.0 IMPLICATIONS

- 6.1 Policy - None
- 6.2 Financial – There may be increased cost to the council in organising a second election for a further 2 community representatives.
- 6.3 Legal – changes to the Trust will provide more protection for members that the current unincorporated status offers
- 6.4 HR - None
- 6.5 Fairer Scotland Duty:
- 6.5.1 Equalities - protected characteristics - None
 - 6.5.2 Socio-economic Duty - None
 - 6.5.3 Islands – N/a due to area covered by the trust
- 6.6 Climate Change – Depending on how the trust meets, there may be additional travel undertaken in attending meetings.
- 6.7 Risk - None
- 6.8 Customer Service - None

Douglas Hendry

Executive Director with responsibility for Legal & Regulatory Support

Policy Lead – Councillor A Redman

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