

## Term of Reference – Collector Fund (DRAFT)

Date: 30 November 2018  
 Subject: CWF: Collector Fund (Collector community)  
 Following from community meeting 22 November 2018

Table 1: Community - Collector Fund – Trust

No	Management Principle	Comments				
1	Fund size or Monetary Contributions	1) CWFPL to pay “Monetary Contributions” pursuant to the Council Community Enhancement Fund Deed (see Table 2), <u>PLUS</u> voluntary amount of \$40,000 pa to “top up” the regulated amount <ul style="list-style-type: none"> <li>a) Commitment commences on commercial operation of the Project</li> <li>b) CWFPL contributions to be for the life of the CWF project</li> </ul>				
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">First year of commercial operation</td> <td style="width: 25%;">20% of \$200,000 = \$40,000 pa +CPI</td> <td style="width: 25%;">+ \$40,000 pa + CPI</td> <td style="width: 25%;">= \$80,000 pa + CPI</td> </tr> </table>	First year of commercial operation	20% of \$200,000 = \$40,000 pa +CPI	+ \$40,000 pa + CPI	= \$80,000 pa + CPI
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2) Ability for other parties to deposit monies into the Trust <ul style="list-style-type: none"> <li>a) e.g. Collector Fund can receive from Council Community Enhancement Fund, if applications are successful to Council’s fund</li> <li>b) Other philanthropists, but note control requirements in relation to the Trustee entity while the CWF project is operational</li> </ul>						
2	Fund administration cost	1) RACPL (or CWFHPL) to attend to administrative costs in addition to the Monetary Contributions				
3	Fund vehicle	1) “Collector Fund Trust” Trust Deed – discretionary trust <ul style="list-style-type: none"> <li>a) Collector Wind Farm (Holdings) Pty Ltd A.C.N. 165 511 482 – Trustee</li> <li>b) Collector Wind Farm Pty Ltd A.C.N. 160 195 460 – Settlor</li> <li>c) Advisory Committee – day to day management and recommendations to Trustee</li> <li>d) Collector Fund Trust will need its own A.B.N. (CWFPL lawyers to register)</li> </ul> 2) Tax status <ul style="list-style-type: none"> <li>a) Not For Profit, self-assessed income tax exempt entity</li> <li>b) CWFPL lawyers to write letter of assessment and structure Trust Deed to ensure that the objects are income tax exempt</li> </ul>				

**Term Sheet**

Community – Collector Fund



		<ul style="list-style-type: none"> <li>c) Rationale for proposed vehicle of discretionary trust is to seek lower administration fees than other proposals and enables flexibility to award funds to non-charitable purposes.                             <ul style="list-style-type: none"> <li>i) Able to reduce tax payable by selecting funding recipients that are able to issue tax deductible receipts (however if the Trust is already income tax exempt this has reduced relevance.</li> </ul> </li> </ul>
4	Legal entity (to manage the fund)	<ul style="list-style-type: none"> <li>1) Collector Wind Farm (Holdings) Pty Ltd A.C.N. 165 511 482 as Trustee                             <ul style="list-style-type: none"> <li>a) This entity is established pursuant to the Corporations Act 2001 (Cth), and is within the RAC group</li> <li>b) Trustee role is undertaken on voluntary basis</li> <li>c) RACPL seek to avoid creation of new SPV Trustee as this complicates our tax group and director duties if we have non-group directors representing a RAC company.</li> <li>d) Provision in the Trust Deed for appointment of a new Trustee (especially if RAC divests interests from CWFPL or CWFHPL, or if CWF project ends and want to transfer trusteeship to a community body such as the Collector Community Association (cancelled A.B.N. 67 694 374 743)</li> </ul> </li> </ul>
5	Intended recipients	<ul style="list-style-type: none"> <li>1) Proposed <u>objects of the Trust</u> [TBC by KLG]:                             <ul style="list-style-type: none"> <li>a) providing assistance in whatever form to persons, schools, universities and other organisations within the Collector Community, to enable respective students to develop the knowledge and skills in life to be self-sufficient;</li> <li>b) providing assistance in whatever form to persons, schools, universities and other training organisations to make education more accessible to the Collector Community;</li> <li>c) promoting awareness and respect in the Collector Community of the art, culture and history of Indigenous people within the Collector Community who have a cultural connection to the land;</li> <li>d) promoting awareness and respect in the Collector Community of the art, culture and history of the Collector Community;</li> <li>e) providing infrastructure and other facilities to the Collector Community to build community resilience and to provide additional resources to assist with improving the Collector Community's social wellbeing;</li> <li>f) providing financial assistance to the Collector Community to allow investment in medical facilities and hospitals;</li> <li>g) providing assistance in whatever form to the Collector Community to promote, encourage, allow or carry out environmental or sustainability initiatives within the Collector Community;</li> <li>h) providing assistance in whatever form to the Collector Community to enable the provision of Community Respite;</li> <li>i) engaging in any other ancillary activities which benefit the</li> </ul> </li> </ul>



		<p>Collector Community and enable the Trustee to fulfil the Trust Objects listed above; and</p> <p>j) all such other things that are incidental, ancillary or conducive to furthering the purposes of the Trust set out above.</p> <p>2) Proposed <u>definition for Collector Community</u> (beneficiaries of the Trust):</p> <p>a) the group of people residing or owning land within a 10 kilometre radius of the Collector Wind Farm project site;</p> <p>b) any person or group of people who, while not residing within the above parameters, has an Indigenous cultural connection with the Collector Community.</p> <p>3) <u>Projects eligible</u> to receive funding from the Collector Fund:</p> <p>a) for the benefit or 1 of more members of the Collector Community;</p> <p>b) in exceptional circumstances, such as where there are surplus resources in a financial year or as otherwise determined by an Advisory Committee, for the benefit of a person, community or project outside of the Collector Community, but which still has the effect of promoting the goodwill of the Collector Community;</p> <p>c) demonstrate that it can:</p> <p>d) deliver social, economic or environmental projects or services to the Collector Community; and</p> <p>e) pursue objectives of significant and demonstrable benefit to the Collector Community and which are consistent with the Trust Objects;</p> <p>f) recommended by any relevant Advisory Committee.</p> <p>4) Potential recipients:</p> <p>a) NFP, charities, DGRs, sports clubs, community service organisations, professional/business associations, community groups, private individuals.</p> <p>b) Cannot benefit CWFPL or CWFHPL or other entities in the RAC group</p> <p>c) Cannot benefit landholders who host the location of the wind turbines in their capacity as individuals (as they will obtain other economic benefits from the CWF project) – differentiate between landholders in their sole personal capacity, or when these landholders form part of a group and the benefits will go to the wider group that the landholder is a part of</p>
<p><b>6</b></p>	<p>Fund management "Board"/decision makers</p>	<p>1) Trustee (CWFHPL) has ultimate responsibility for ensuring Trust is managed in accordance with the Trust objects, financial reporting requirements, and that the Trustee meets its fiduciary obligations to the beneficiaries of the Trust.</p> <p>a) Trustee delegates day to day management to Advisory Committee</p> <p>2) Advisory Committee to be governed by code of conduct [<i>to be drafted</i>] and positions are accepted on a voluntary basis. (see below).</p>



		<ul style="list-style-type: none"> <li>a) Advisory Committee runs day to day management and provides recommendations to the Trustee.</li> <li>b) CWFPL is represented on the Advisory Committee, in the Secretary role by a RACPL employee or consultant</li> <li>c) Community members asked on 22.11.18 what protection mechanisms for individual liability for committee members – to be considered by RAC</li> </ul> <p>3) Trustee has ultimate right of decision making in relation to the Trust and the Collector Fund, to reflect CWFPL’s interest in the project and corporate reputation in the community.</p>
7	Disbursement process	<ul style="list-style-type: none"> <li>1) Only triggers upon commercial operation of the CWF project</li> <li>2) CWFPL pays into the Trust bank account the annual payment</li> <li>3) Advisory Committee recommends to Trustee regarding eligible projects, and Trustee (via RACPL accounts team) effects payment to fund recipient bank accounts</li> <li>4) Ability to accrue funds - if there is a surplus of funds in a year (or if Advisory Committee advises Trustee that it seeks to reinvest monies to save up for a strategic project), then needs to be recorded in writing and Trustee to confirm any investment decision (the Fund can seek independent financial advice not from RACPL).</li> </ul>
8	Decision making	<ul style="list-style-type: none"> <li>1) Trustee has ultimate right of decision making in relation to the Trust and the Collector Fund, to reflect CWFPL’s interest in the project and corporate reputation in the community.</li> <li>2) Advisory Committee is responsible for recommending to the Trustee what projects are eligible for funding from the Collector Fund.</li> <li>3) Stages of project approval for funding: <ul style="list-style-type: none"> <li>a) Advisory Committee advertises availability of funds to the local community</li> <li>b) Application form (one has been prepared as a guide)</li> <li>c) Advisory Committee assesses and shortlists applicants, submits shortlisted applications for final approval Trustee</li> <li>d) Trustee generally confirms projects to receive funding (with right of veto)</li> <li>e) Advisory Committee manages notification, payment of funds, reporting, project updates for CWF and engagement with funding recipient</li> <li>f) Advisory Committee collects receipts, project reporting (to prove how money has been spent and document project success)</li> </ul> </li> <li>4) Advisory Committee reports back to Trustee <i>Refer to proposed calendar to be included in the Advisory Committee guidelines, see Table 2 and</i></li> <li>5) Table 3. <ul style="list-style-type: none"> <li>a) Option 2 may be preferred on a strategic basis.</li> </ul> </li> <li>6) Ability for Trustee to obtain independent specialist advice e.g.</li> </ul>

		legal, tax, financial/investment advice for any surplus/accrual funds
9	Advisory Committee charter	<ol style="list-style-type: none"> <li>1) Advisory Committee, comprised of the following in the first year                         <ol style="list-style-type: none"> <li>a) Chairperson – community member – 3 yr term</li> <li>b) Community member 2 – 2 yr term</li> <li>c) Community member 3 – 1 yr term</li> <li>d) Secretary - CWFPL (RACPL) representative – as per RACPL discretion</li> <li>e) Reserve Committee member (from the community) i.e. Committee Member 5</li> </ol> </li> <li>2) Eligibility to be an Advisory Committee member:                         <ol style="list-style-type: none"> <li>a) Cannot be on the s355 committee (Community Enhancement Fund committee)                                 <ol style="list-style-type: none"> <li>i) cannot be Councillors of Upper Lachlan Shire Council (or other local councils?)</li> </ol> </li> </ol> </li> <li>3) Rolling terms (see above), max tenure of 3 yrs</li> <li>4) In the event that a committee member is unable to attend a meeting, they need to be able to assign their right to vote to a proxy, and that proxy must vote in accordance with the first committee members instructions/views</li> <li>5) Agenda or notification of such meeting to be issued 14 days before the meeting date</li> <li>6) First Advisory Committee to be elected by way of a vote                         <ol style="list-style-type: none"> <li>a) Best process to be identified.</li> </ol> </li> </ol>
10	Exceptions to simple majority rule	<ol style="list-style-type: none"> <li>1) Advisory Committee works on simple majority rule, but Chairperson has deciding vote in the event of a deadlock.</li> <li>2) If CWFPL considers that an approved project is not line with company interests, CWFPL is able to veto recommendation of Advisory Committee.</li> </ol>
11	Change in law or governance arrangements	<ol style="list-style-type: none"> <li>1) The arrangements and operation of the Fund will be subject always to the requirements of the DA for CWF.</li> <li>2) Split fund sits within the framework of ULS Council’s Community Enhancement Fund.                         <ol style="list-style-type: none"> <li>a) The Community Enhancement Fund has a provision that if the Collector Fund fails in good governance, that CWFPL’s obligations to the Collector Fund will no longer stand and all of the monetary contribution under development condition C2 will be paid to the Community Enhancement Fund.</li> </ol> </li> <li>3) Advisory Committee charter can be amended in writing and by majority vote – provides flexibility.                         <ol style="list-style-type: none"> <li>a) RACPL will have a representative on the committee to express corporate views, but note that the Advisory Committee is for the benefit of the community.</li> </ol> </li> <li>4) If CWFPL assigns interest in the CWF it is likely to be an assignment of shares in the corporate entities, so Trustee will remain the same entity (with different shareholders) for the operation of the CWF project.</li> </ol>

## Term Sheet

### Community – Collector Fund



<b>12</b>	Approval	5) The proposed arrangement is subject to the approval of the Director-General of the NSW Department of Planning pursuant to Condition C2 of the DA for CWF. 6) This proposal is linked to the ULSC Community Enhancement Fund being publicly notified and endorsed by Council (split fund concept). a) As of 11 January 2019 this Voluntary Planning Agreement was executed by both parties.
<b>13</b>	Reporting and auditing	7) As of January 2019, RAC is considering advice from accountants that this may not be a strict requirement, and may be a “nice to have” feature for the Trust Deed. It is preferable not to put strict obligations into the Trust Deed if they are not required at law, and then any other administrative decisions can be dealt with outside of the Trust Deed.

Table 2: *draft calendar for Collector Fund first year OPTION 1*

Month	Action	Responsible Party
<b>Q4 2018</b>	<ul style="list-style-type: none"> <li>• Finalisation of strategy and governance documents</li> <li>• Settling of Trust Deed, and registration of Trust for ABN</li> <li>• Finalising establishment of email account (if required)</li> </ul>	<ul style="list-style-type: none"> <li>• RACPL/ CWFPL</li> </ul>
<b>[6 mo before commercial operations]</b>	<ul style="list-style-type: none"> <li>• Community consultation inviting applications for funding and confirming/invitations to potential Committee members</li> <li>• Updating CWF project website</li> <li>• Prepare project announcement.</li> </ul>	<ul style="list-style-type: none"> <li>• CWFPL</li> <li>• Trustee</li> </ul>
<b>[2 mo before commercial operations]</b>	<ul style="list-style-type: none"> <li>• Confirming appointments to Advisory Committee</li> <li>• Welcome event/briefing to Advisory Committee members and CWFPL: <ul style="list-style-type: none"> <li>○ background to RAC group and CWFPL;</li> <li>○ background on Wind Farm project;</li> <li>○ role of Committee Members;</li> <li>○ timeline for money allocation; and</li> <li>○ next steps.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Trustee</li> </ul>
<b>31 March</b>	<ul style="list-style-type: none"> <li>• Applications for funding in [202X] close</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee to manage</li> <li>• CWF Hold Co to monitor</li> </ul>
<b>1 April to 14 April</b>	<ul style="list-style-type: none"> <li>• Advisory Committee to assess funding applications</li> <li>• Advisory Committee to provide Trustee with recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee to assess and report to Trustee</li> <li>• CWF Hold Co as Trustee to monitor/liaise</li> </ul>
<b>15 April to 30 April</b>	<ul style="list-style-type: none"> <li>• <i>Note Easter weekend and Anzac Day</i></li> <li>• Trustee to confirm or advise otherwise regarding decisions for funding</li> </ul>	<ul style="list-style-type: none"> <li>• CWF Hold Co as Trustee</li> <li>• Advisory Committee to follow directions of Trustee</li> </ul>
<b>1 May to 17 May</b>	<ul style="list-style-type: none"> <li>• Advisory Committee to advise successful grant recipients and prepare Fund announcement for project newsletter</li> <li>• CWF Pty Ltd to issue <u>payments</u> to approved funding recipients</li> <li>• <i>Also note that <b>Pumpkin Festival</b> likely to be first week May so this may be a good time to make presentations</i></li> </ul>	<ul style="list-style-type: none"> <li>• CWF Hold Co as Trustee</li> <li>• Advisory Committee to follow directions of Trustee</li> </ul>
<b>31 May</b>	<ul style="list-style-type: none"> <li>• Advisory Committee to secure receipts or other acknowledgements of payment from funding recipients and provide to Trustee</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee</li> <li>• CWF Hold Co as Trustee</li> </ul>
<b>30 June</b>	<ul style="list-style-type: none"> <li>• Advisory Committee to review success/ short fallings of [202X] funding recipients and report to Trustee</li> <li>• Arrange for publications of achievements from this year's funding rounds</li> <li>• Advisory Committee to remind community of opportunities for funding close on 31 March the following year.</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee</li> <li>• CWF Hold Co as Trustee to ensure it receives a report from the Advisory Committee</li> <li>• CWFPL as project sponsor to provide project update to RACPL.</li> </ul>

Table 3: *draft calendar for Collector Fund first year OPTION 2*

Month	Action	Responsible Party
<b>Q4 2018</b>	<ul style="list-style-type: none"> <li>• Finalisation of strategy and governance documents</li> <li>• Settling of Trust Deed, and registration of Trust for ABN</li> <li>• Finalising establishment of email account (if required)</li> </ul>	<ul style="list-style-type: none"> <li>• RACPL/ CWFPL</li> </ul>
<b>[6 mo to 2 mo before commercial operations]</b>	<ul style="list-style-type: none"> <li>• Community consultation inviting applications for funding and confirming/invitations to potential Committee members</li> <li>• Updating CWF project website</li> <li>• Prepare project updates for newsletters</li> <li>• Confirming appointments to Advisory Committee</li> <li>• Welcome event/briefing to Advisory Committee members and CWFPL:               <ul style="list-style-type: none"> <li>◦ background to RAC group and CWFPL;</li> <li>◦ background on Wind Farm project;</li> <li>◦ role of Committee Members</li> <li>◦ timeline for money allocation; and</li> <li>◦ ext steps.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• CWFPL</li> <li>• Trustee</li> </ul>
<b>1 May – 17 May</b>	<ul style="list-style-type: none"> <li>• <i>Pumpkin Festival likely to be first week May – good opportunity to invite submissions for funding and also refer to availability of Council Community Enhancement Fund</i></li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee</li> </ul>
<b>1 June</b>	<ul style="list-style-type: none"> <li>• <i>[Deadline for Council Community Enhancement Fund to provide funding proposals to CWFPL – good to know which projects received funding under larger fund, so that Collector Fund can be more discriminate when assessing applications]</i></li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee to familiarise itself with outcome of C.E.F, and if required invite more submissions for funding applications to the Collector Fund</li> </ul>
<b>30 June</b>	<ul style="list-style-type: none"> <li>• Applications for funding in [202X] close</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee to manage</li> <li>• Trustee to monitor</li> </ul>
<b>1 July to 15 July</b>	<ul style="list-style-type: none"> <li>• Advisory Committee to assess funding applications</li> <li>• Advisory Committee to provide Trustee with recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee to assess and report to Trustee</li> <li>• Trustee to monitor/liaise</li> </ul>
<b>16 July to 31 July</b>	<ul style="list-style-type: none"> <li>• Trustee to confirm or advise otherwise regarding decisions for funding</li> </ul>	<ul style="list-style-type: none"> <li>• Trustee</li> </ul>
<b>1 August – 16 August</b>	<ul style="list-style-type: none"> <li>• Advisory Committee to advise successful grant recipients and prepare project newsletter updates.</li> <li>• CWF Pty Ltd to issue payments to approved funding recipients</li> </ul>	<ul style="list-style-type: none"> <li>• Trustee</li> <li>• Advisory Committee to follow directions of Trustee</li> </ul>
<b>17 August to 31 August</b>	<ul style="list-style-type: none"> <li>• Advisory Committee to secure receipts or other acknowledgements of payment from funding recipients and provide to Trustee</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Committee</li> <li>• Trustee</li> </ul>