Afesis-corplan

Promoting local democracy and community-driven development

Energy Trust Development Project

Rapid review report

'Catching the sun and wind for community development'

March 2011

.1. Introduction

Renewable energy is set to become a significant sector in the future development of South Africa. There has however been little investigation into how renewable energy development can be linked to community development.

This report explores how trusts can be used to promote community development within the renewable energy sector. The production of this report was made possible through funding received from the British High Commission. Input received from a workshop on energy trusts held in March 2011, facilitated by Afesis-corplan and sponsored by the British High Commission, was also used to guide the content of this report.

.2. Summary

Overview

The broad approach explored in this paper is one where:

- Trusts are established to support community development
- These trusts own shares in commercially viable renewable energy companies /consortia / projects, and receive an income from this investment
- Each trust decides how to spend its income on community development projects and activities that support renewable energy and/or climate change mitigation or reduction.

Institutional structures

Three types of institutional arrangements are involved in the approach proposed in this report:

- Commercially viable projects: Commercially viable projects are defined as larger scale (although there can be exceptions with smaller projects) renewable energy projects that are able to make a profit.
- Community development projects: These are projects that have a primary objective of community development as opposed to the making of a profit. It helps if these projects are able to break even or even generate a surplus that can be used for further community development work. Community projects may not be (but can be) directly viable for those carrying out the project. For example the project may not make money in conducting energy conservation awareness raising campaigns.

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Many community development projects however do need to break even, as they cannot continue to survive on grants and donations.

- Trusts: these are institutions that manage the interface between commercially viable projects and community development projects; and that assist in channelling resources from commercially viable projects towards community development projects

Trusts and climate change

The approach explored in this report contributes towards addressing climate change in two ways:

- Commercially viable renewable energy projects in which trusts invest contributes towards reductions in greenhouse gas emissions; and
- Community development projects that trusts support also help raise awareness and promote renewable energy – this in turn contributes to reductions in greenhouse gas emissions.

Target group / beneficiaries

The target group of trusts should be on both the poor and on renewable energy. In other words, community development with a focus on the renewable energy sector. Communities refer to both:

- geographic communities where people are from a particular geographic area; and
- non geographic communities or communities of interest where people are from different areas but experience similar circumstances (e.g. owners of small businesses, have concern for environmental sustainability, are unemployed, are living in informal settlements, etc.)

.3. Trusts, renewable energy and community development

Trusts

A trust is a legal entity established by donors to hold and manage assets and resources on behalf of beneficiaries according to an agreed set of objectives. The trust is overseen and managed by a board of trustees.

Renewable energy

Renewable energy refers to both:

- Production of energy in a renewable manner
- Conservation of energy on an on-going basis

Community development

Community development is development that contributes to broader community improvement as opposed to individual development that supports only a small section of society.

In the context of Broad-Based Black Economic Empowerment, community development emphasizes the first two B's – the Broad-Based. This contrasts with previous Black Economic Empowerment approaches of the past that lead to development of a few, while most of society still resided in poverty.

An important element of community development is keeping money and resources flowing locally within the community or local area. This implies that as much as possible of the profits generated from renewable energy projects need to go towards people living in the community. Attention needs to be placed on looking at the whole value chain from production through the disposal.

In the example of solar hot water, it means that as far as possible the material used in the manufacture of the panels needs to be obtained locally, the manufacture of the panels need to occur locally, the instillation of the panels needs to be done by local people, the panels need to be maintained by local maintenance service providers, and the panels need to be recycled by local recycling companies. In all of this, local people need to own the companies that are involved in this process.

.4. The commons

The wind, sunlight, and even land can all be understood as a commons. A commons is something that belongs to everyone to use and enjoy. It is a 'shared gift' we have received from nature (like natural resources, the electromagnetic spectrum, etc.), or we have received from the past (like languages, culture, the market, etc.). We have not created or earned this gift ourselves, only built on what we have received from nature or previous generations. We also 'share' this gift with others in the community now and in the future. Peter Barnes, Capitalism 3.0, 2006 – downloadable from http://capitalism3.com/

This report builds on the understanding of the wind, sunlight, the potential energy of water, etc. all as a commons. Trusts can be seen as one way for those that benefit from the use of these commons' to compensate society and future generations for the benefit of using these common resources.

.5. Trusts and Government

There are broadly two approaches to how community development can be supported through renewable energy projects (see also the section on commons above for a similar discussion):

- The first is where government obtains taxes from renewable energy projects and uses these taxes for community development purposes.
- The second is where a trust invests in commercially viable renewable energy projects and uses the income it receives for community development/.

In each of these two scenarios the question then becomes what does either government or the trust do with the taxes (from government perspective) or divides (from trust perspective) they receive.

One argument would be that government should do what it is mandated and geared up to do and that is to provide basic needs to households such as basic energy needs and basic transport needs etc. as well as provide the necessary energy infrastructure that allows energy producers and consumers to interact.

The trust, in this scenario where government provides the infrastructure and basic needs, can then focus on other things like:

- public awareness raising around energy conservation and renewable energy and promotion of sustainable development generally; and
- the promotion of small business development in the renewable energy sector.

In this scenario the state addresses more basic order needs (like physiological needs, and safety and security needs) in terms of Maslow's hierarchy of needs while the trust addresses higher order needs (like belonging, esteem and self actualisation). The state is therefore not let off the hook by the involvement of the trust, in terms of its constitutional mandate to provide for basic needs and to provide the necessary infrastructure. The trust compliments this government involvement by addressing another set of needs.

Another argument would be that the state just does not have the capacity to address all the basic energy needs in the short term, and that it the state needs as much support as it can get to contribute towards the achievement of these needs. Both the state and the trust in this argument would focus on addressing basic needs.

Different trusts would be able to emphasise different arguments, with some trusts focusing on higher order needs (like education and jobs), while other trusts would focus on providing for immediate needs – like access to energy in the short term.

Many municipalities are also starting to develop renewable energy and climate change policies and programmes. For example the Buffalo City Municipality has developed a climate change response strategy. The issue of how community development can be promoted though these policies is being explored by these municipalities. The concept of energy trusts can be and needs to be linked into this work being done by municipalities. An energy trust, once functioning will need to strengthen these relationships with municipalities and look at how municipalities can support the work of the trust.

.6. Renewable Energy in the Eastern Cape

Research conducted by the East London Industrial Development Zone has confirmed that the Eastern Cape has good renewable energy potential. This short report begins to unpack what can be done to ensure that a strong community development element is included in any future development of these resources.

The following provides examples of opportunities for renewable energy in the Eastern Cape:

- The western half of the Eastern Cape has a high in incidence of solar radiation. This area is also expected to get dryer and hotter. There is potential for large solar panel parks and concentrated solar parks.
- The former Transkei is expected to have an increase in rainfall, and its rivers are underutilized and many are not dammed. There is a high potential for hydro power in these areas.
- The coastal areas and some of the mountainous regions of the province have high average wind speeds.
- There is also increasing potential for forestry production in some of the mountainous regions towards the north east of the province, which is likely to increase with increases in rainfall.
- The province has potential for Bio-fuels – Crops – but careful consideration needs to be given to balancing food versus energy requirements.
- Many municipalities have an untapped resource in the form of Biogas from waste (solid and liquid). Biogas technology is also available at a household / or community scale. This technology turns our wastes from a problem to be removed to a resource to be used.

From an infrastructure point of view, the coastal region and two corridors inland from East London and Port Elizabeth have a existing strong electricity distribution grid. This makes it easier for electricity generating renewable energy projects to be located in these areas and to link into the electricity grid.

The Transkei area in contrast has a very week electricity distribution grid, and many large scale commercially viable renewable energy projects are steering clear from these areas as they are unable to sell their electricity on a commercially viable basis to a large enough consumer base.

There is an opportunity for off-the-grid energy solutions in this area, such as small scale household solar panels and wind generators, and biogas digesters in rural homesteads using waste from households and farm animals.

Two broad long term options for the Transkei region are:

- Increase the electricity distribution grid in the Transkei – the link between the Eastern Cape and kwaZulu Natal This will open up opportunities for large scale renewable energy in this area.
- Continue to invest in the existing areas close to the existing electricity distribution grid and then redistribute some of the income from this investment into off-the-grid (household and community

scale) electricity generation and consumption projects in the former Transkei. An example of a community scale intervention would be the establishment of an energy hub where solar wind, biogas and other technologies are used to generate electricity and energy in a specific area and then make this energy available to business centres, educational resource centres, clinics, etc. that are located in close proximity to this energy source.

.7. Background to trusts

Trusts and other institutional forms

This paper focuses on trusts but there are other legal types that could be considered to promote community development. This section summarises the advantages and disadvantages of some of these legal forms. This information draws heavily on discussions with Neil Townsend from Just-Energy.

Cooperatives

- Co-operative generally have the most democratic (participatory) governance structure;
- Usually all the members of the community would be members of the co-operative;
- Co-operative cannot be exempt from income tax;
- The structure is flexible and can be tailored to suit many different arrangements;
- It is possible to distribute the income in a variety of ways; and
- Requires competent staff and directors running the co-operative on a day to day basis (otherwise it could be de-registered as a co-operative).

Section 21 company

- Community members that are members of the section 21 company may not receive any direct payments from the company:
- Section 21 companies can apply for Non Profit Organisation (NPO) and Public Benefit Organisation (PBO) status (which provides for a certain degree of recognition and tax benefits); and
- The liability of section 21 companies is limited but directors may be held personally liable in certain circumstances and it requires competent staff and directors.

Private company

- Private company may distribute its income to its members directly or may invest in community projects and as such has a very flexible distribution mechanism;
- Cannot obtain a tax exemption; and
- Although the liability of the company is limited, directors may be held personally liable in certain circumstances.

Trust

- Decision-making can be paternalistic (beneficiaries do not have a say in the administration and distribution of trust assets);
- Trustees must be fit and proper persons (in terms of their character, qualifications and education);
- Trustees can be members of the community but trustees may not benefit directly from the trust;
- Trusts are flexible and the powers of trustees can be wide or narrow depending on the structuring of the trust deed;
- Trust assets vest in the trustees in their capacity as trustees but if trust registered as an NPO it acquires a legal personality;
- Taxation of trusts that do not have a tax exempt status is relatively high; however trusts can register as PBO's if they meet the requirements for a PBO; and
- Fewer reporting and administration requirements for trusts unless it has NPO or PBO status in which case similar to those of companies.

Different organisational forms are appropriate for different contexts and depending on what the organisation wants to achieve.

Trusts are suitable for the purpose of providing a link between commercially viable renewable energy projects and community development projects in that they are able to accommodate a more broadly defined set of beneficiaries. There is no chance that the Trust will distribute profits to its trustees and the trustees take legal responsibility for managing the trust on behalf of the beneficiaries. The trust structure can get tax exempt status and is a recognised and understood structure that has a long track record of operating on behalf of clearly defined beneficiaries. Trusts can also hold shares in other companies, which is harder to achieve for section 21 companies where the South African Revenue Service often places strict restrictions on section 21 companies owning shares in other projects (if they want to benefit from tax exempt status).

Cooperatives provide another interesting mechanism for the promotion of community development. There are broadly two types of cooperatives:

- User cooperatives: The users of the services of the cooperative own the cooperative. For example, the consumers of the electricity generated by the wind farm own the wind farm cooperative.
- Worker cooperatives: The workers own the cooperative. For example, workers that work at the wind farm own the wind farm cooperative; or workers that remove the alien vegetation and turn it into fuel own the cooperative.

The cooperative sector as a whole is fairly week in South Africa. The establishment of cooperatives requires a lot of capacity building and support work. It would be interesting to explore how cooperatives can be used more in the renewable energy sector, but it is felt that it would be easier to start with trusts. If the trust proves successful and sustainable, the trust could undertake projects relating to the promotion of cooperatives.

Trust types

There are many different types of trusts ranging from worker trusts to family trusts. This report however, focuses on community development trusts. A report commission by Tshikululu social Investments, on " An Analysis of the Risks and Opportunities Inherent in PDI Beneficiary Trusts as Vehicles of Broad Based Black Economic Empowerment" identifies 4 types of community development trusts:
(See http://www.tshikululu.org.za/media-centre/document-archive/community-trusts/)

- CSR Trusts: Trusts set up by companies to channel funds to community development work as part of their corporate social responsibility (CSR)
- Community trusts: Trusts set up by communities to channel donor funding to the trust, and/or to manage and own common resources (e.g. land)
- Non Government Organisation (NGO) trusts: Trusts that are set up more broadly by society and are not specifically set up by the private sector or communities.
- BBBEE trusts: Trust set up to broadening the empowerment base of a Black Economic Empowerment (BEE) transaction, including trusts to benefit communities and/or employees. Usually has a narrow focus on who the beneficiaries are.

This report focuses more on the concept of NGO trusts, but many of the insights can also apply to other forms of community development trusts.

Functions of a Community Development Trust

The above mentioned report goes on to provide a useful list of the functions of a community development trust:

- Resource development: Mobilise, attract, pool, and manage financial resources for current and long term benefit of a defined community. Build a permanent, continually growing asset base to serve the community/ beneficiaries into the future.
- Financial stewardship: Act as a guardian of donated / accessed funds, investing and overseeing their safe keeping. Follow sound investment principles in a professional and independent manner.
- Donor service: Offer flexible, cost effective service to donors and those providing funds for community development purposes. Create special products for donors (e.g. ring-fence funds for specific use).
- Grant making and programme support: Use income of trust to make grants and operate programmes to address community needs. The type of support can address specific programmes, areas, or sectors like health, environment, education, or energy etc.
- Community leadership: The trust provides leadership in community – acting as facilitator, mediator, broker, convenor, etc. This can be in partnership with others.

Characteristics of trust

The Tshikululu social Investments report quotes Deurt S. (1999, International perspective: models, experience and best practice in Bartelsmann foundation ed community foundations in civil society) who lists the following characteristics of a trust:

- Independent - separate legal entity that makes independent decisions not unduly influenced by others.
- Geographically (or sector) focused – concentrate activity in area of sector.
- Knowledgeable – have in depth knowledge of its area/ sector, including needs, opportunities, resources etc.
- Inclusive – engages with range of role-players in its work (on board, on advisory groups, in networks, etc.).
- Permanent - can plan ahead and address long term issues. Can make a difference into the future.
- Innovative – seeks out new ways of doing things and improving.
- Flexible – gets income from range of sources and addresses range of needs.
- Accountable – open and transparent policies and practices. Informs public and donors on its work.

Examples of where trusts can be used

The concept of trusts is being and can be used in many sectors not just the renewable energy sector. For example:

- Mining companies can establish trusts to channel community development work to surrounding communities affected by negative consequences of mining operations (e.g. dust and noise) and/or communities from where many of their migrant labour is sourced.
- Eco tourism hotels can arrange for the establishment of trusts, representing neighbouring communities to own shares within the eco tourism business so that some profits can be channelled towards community development needs of the surrounding community.
- Telecommunications, where for example trusts can invest in the telecommunication industry and income from this investment can be used to promote access to information within communities and the public.

The following provides a small snap shot of trusts that are already starting to emerge in the renewable energy sector.

- Tsitsikamma Community Wind Farm project: The Mfengu tribe obtained land in the Tsitsikama area through governments land redistribution programme. The Tsitsikamma Development Trust, representing these people, obtained a percentage equity share in a company/ consortium that has been set up to establish a wind farm on this land. The consortium consists of this trust plus a number of key partners including local energy companies and mining companies who all together own a minority shareholding in the wind Farm. An international Danish wind turbine company and other Danish organisations own the majority shares.

- Waainek Wind Energy Project: The Makana Winds of Change Education Trust formed by an Energy company in consultation with Rhodes University owns about 26% shares in the Waainek Wind energy project near Grahamstown. The Trusts objectives are to promote social development, welfare upliftment, and the advancement of learners and educational infrastructure.

- Ndakana project: Aspire (a para statal organisation linked to the Amathola District municipality) is working in the Amabele area near Stutterheim to create a zero waste cluster, where they plan to, amongst other things, use the waste from a berry project to generate energy. Other ideas are to generate gas from wattle/ bamboo and establish a wind farm. No legal form for the wind farm or other projects has yet been decided on but consideration is being given to the establishment of a Community wide development entity (a trust or non profit company), that would own shares in local projects established in the area. Worker owned entities are also being considered to also own shares in some of these projects.

- Saint Helena Bay Wind Farm: The Seeland Development Trust, representing about 200 emerging farmers who obtained land under the governments land redistribution programme, is planning to develop various projects on this land ranging from sheep farming, vegetable tunnel farming, brick manufacture, and wind farming. Various partners are being considered for the Wind farm ranging from the Provincial department of Environment, the Saldanha Municipality and the Seeland Development Trust. Just-energy is also supporting this community.

.8. Projects

<u>Commercially viable projects</u>

Commercially viable projects refer to projects that are able to generate renewable energy and/ or produce products and services used in the renewable energy sector. Energy producers aim to sell electricity and other forms of energy (e.g. gas or bio-fuels) to consumers in a way where income exceeds costs thereby generating a profit. The South African government has recently opened up the energy generation sector and is putting structures, systems and regulations in place to encourage the emergence of independent power producers. The recent Renewable Energy Feed in Tariff (REFIT) structure is one attempt by government to provide a subsidy to renewable energy projects so that they can cover some of their costs of energy generation that without this subsidy would exceed the price that ESKOM and many other energy consumers would-be prepared to pay.

Examples of potentially commercially viable projects include from an energy generation point of view:

- Wind farms
- Concentrated solar parks
- Solar panel parks
- Biogas projects utilising municipal and/ or agricultural waste products

- Bio-fuel projects where agricultural products are converted to fuel
- Biomass projects where invasive and/ or other fast growing trees / bamboo are burnt to generate electricity

Examples of renewable energy products and services include:

- The manufacture of equipment and parts used within the renewable energy sector like turbine blades, solar panels, ceiling insulation etc.
- The instillation of solar hot water and ceiling insulation into energy inefficient domestic, commercial and industrial buildings.
- The provision of a maintenance service to large scale renewable wind farms, solar parks, etc.

Generally some form of consortium or special purpose vehicle is established to take ownership of these projects using the for profit company structure.

Such projects obtain funding from a range of sources ranging from:

- equity finance where developers, financiers and others directly purchase shares in these companies;
- loan finance where financiers provide loans to investors and others; and
- grant funding, which given that these projects often involve large amounts of money to develop, usually does not constitute a significant percentage of these projects financial package. Equity and loan finance generally predominates.

<u>Community development projects</u>

Community development projects refer to those projects that are undertaken to benefit a specific community, be it defined geographically or in terms of interest.

Community development projects can be undertaken by a range of different types of institutions ranging from:

- The trust itself;
- Special purpose vehicles specifically set up to undertake community development projects (which can include the trust as one shareholder); to
- Independent institutional structures that could either be for-profit or not-for-profit entities ranging, for example, from sole corporations, to cooperatives and partnerships.

Community development in its broader sense includes things like:

- Building schools and supporting the educational sector
- Building clinics and supporting the health sector
- Improving road, water supply, sanitation, telecommunication, etc and supporting the infrastructure sector

Community projects linked to the energy sector could also include, for example, the provision of electricity to those that do not have electricity, like the electrification of informal settlements. However, such projects only address the issue of access to energy and do not address the issue of where the electricity/ energy comes from.

This report emphasises community development projects that, over and above providing a benefit to a community, also help communities adapt to climate change or help to mitigate/ reduce future climate change impacts on communities.

An adaptation example would be where storm water management systems are improved in communities so they are not affected by severe flooding and changes in weather patterns. A mitigation example would be were solar hot water heaters are installed on low income houses so they can obtain hot water without using electricity generated by dirty coal. Some projects like ceiling insulation in low income houses are both mitigation projects (in that warmer houses in winter mean that households don't have to use heaters to heat up their houses) as well as adaption projects (as households in climates that are getting hotter are able to have cooler indoor climates).

One of the main intentions of most community development projects is to find ways to keep income and resources flowing within the community, by ensuring that the wages and profits (if any) are obtained by local community members.

The section below on trusts below gives more examples of community development projects.

.9. Trusts

Trusts can be seen as an institutional form found between commercially viable projects and community development projects.

Income of trusts

Trusts can receive their income to undertake projects and/or invest in commercially viable projects from a number of sources including:

- Dividends from shareholding
- Donations
- Low interest loans
- Grants
- Carbon credits/ certified emission reduction certificates

The following provides a list of options for how trusts can get money/ resources to obtain shares in commercially viable renewable energy projects. The trust can:

- Use the non monetary assets of the trust, such a community land on which renewable energy projects are located, to negotiate for a percentage shareholding in commercially viable projects.
- Obtain donated shares from other investors of commercially viable projects
- Get a loan to buy shares
- Receive grants from government to buy shares
- Use income from previous dividends/ investments to buy more shares.

The main source of funding for trusts that is investigated in this report is through equity shareholding in commercially viable renewable energy projects. Dividends from this investment can then be used for community development work as determined by the trustees based on the trust documentation and who the beneficiaries are.

Further analysis is needed to investigate what level of equity shareholding would be possible for different types of projects.

Another approach that the trust could pursue would be for it to become a preferred implementer of corporate social responsibility programmes. In this approach the trust would be more accountable to the organization that provides the CSR funding. There is interest in the CSR sector to also incorporate a strong environmental aspect, which a trust that undertakes environmentally appropriate community development would provide.

Activities of trusts

No matter what type of trust is established there would be a few core activities that any trust would need to perform. These are examples of core activities:

- Obtain finance/ funding for the trust to be able to invest in commercially viable projects and undertake community development projects
- Administer the trusts shareholding portfolio/ investment funds
- Decide how to and distribute the income of the trust to community development projects/ activities
- Administer the expenditure of the trust

The other activities of a trust would depend on what activities the trust decides to do. The type of work can be divided into two types:

- Support work where trusts support other community development projects:
    - Facilitate the establishment of local energy forums where local role-players (energy consumers) come together to lobby for, plan and coordinate local energy related projects and services.
    - Support the establishment of other trusts and community development entities (e.g. Cooperatives) in the energy sector.
    - Provide an administration and capacity building service to other trusts and energy related community development projects/ structures.
    - Build the capacity of and raise awareness of beneficiaries of the work of the trust so they are aware of what trusts are supposed to do and are doing for them.
    - Conduct awareness raising and (environmental) education and capacity building on renewable energy at schools, with consumers, small and larger businesses etc.
    - Provide financial support/ training / networking services etc. to potential and existing small businesses involved in renewable energy projects
    - Undertake/ facilitate research and development on the relationship between renewable energy and energy conservation and community development
    - Lobby and campaign for government to improve the provision of energy related services to those that need and for government to create a more favourable environment for trusts
    - Help set up investment portfolio groups , cooperatives, etc. that the public and small businesses can establish, through which they can become more direct shareholders in renewable energy companies/ projects.

- Implementation, where trusts implement their own community development projects, such as, but not limited to:
    - Undertake/ facilitate pilot demonstration projects – solar hot water, ceiling insulation etc.
    - Subsidise the instillation of solar hot water heaters, ceiling insulation etc.
    - Install wind/ solar/ biogas etc. in rural areas
    - Promote the establishment of off-the-grid energy hubs where renewable energy is generated and fed into a micro grid supplying local small businesses, a resource centre, a clinic, etc.

Trusts can use their income for equity, loan and grant finance:

- Equity finance, to buy equity in further commercially viable renewable energy projects and/ or on community development projects that have the potential to become commercially viable
- Loan finance to provide bridging finance/ loan guarantee to micro lenders/ savings and Credit Co-operatives etc. so that they can on lend to consumers for energy efficiency and renewable energy features.

- Grant finance to start and subsidise certain types of identified projects (e.g. solar hot water, ceiling insulation, etc) and undertaking support projects (e.g. awareness raising, advocacy and lobbying, etc.)

Trusts and climate change adaptation and mitigation activities

Mitigation:

- The trust can invest in commercially viable projects that contribute toward mitigating or reducing the severity of future climate change. For example:
    - Invest in commercially viable renewable energy projects.
    - The trust can invest in commercially viable solar hot water manufacturing companies, thereby reducing the amount of energy needed to heat water.
    - Invest in the conversion of alien vegetation into energy.
- The trust can utilise income it receives on community development projects that contribute to reducing climate change:
    - Support projects that provide a subsidy to households to install solar hot water heaters that they would be struggled to install if they had not received a subsidy.
    - Support projects that educate households and businesses how to conserve energy using low, to no costs techniques, like changing appliances and equipment (low cost) to appropriate sitting of houses to benefit from passive solar design (no cost) thereby reducing the amount of carbon emitting greenhouse gas emissions.

Adaptation:

- The trust can invest in commercially viable projects that help people to adapt to their changing environment. For example:
    - invest in commercially viable micro hydro projects that make use of increasing rainfall (and help reduce floods) while at the same time generating hydro electricity.
    - invest in commercially viable bio-fuel projects in areas where the climate is changing to such a level that these projects now become viable.
- The trust can use its income it receives to undertake projects that contribute to helping people adapt to climate change. For example:
    - Support food gardening education projects that teach the youth and others how to grow crops in a changing environment.
    - Invest in ceiling insulation projects so that low income houses are made cooler in areas where the average temperature is increasing.
    - Conduct energy (and water and soil conservation) awareness training so household are able to adapt to changes in weather patterns that is likely to occur in many areas.

Management of trust

Trusts could undertake all activities themselves or they could just act as a fund manager:

- If a trust does the work itself it can employ staff etc. to undertake projects. This will require the establishment of internal organizational management structures etc. to do this work.
- If the trust acts as a fund manager, it would disburse funds to NGO's and community development projects as appropriate. The trust would not have to set up systems to implement projects itself.

Trust deeds can stipulate for what purpose the funds of the trust must be used. For example funds could be used:

- only for projects implemented by the trust that promote community development with an energy focus

- to support the work of certain NGO's and/ or other identified institutions that are consistently using the funds for community development work with an energy focus. In such a context the trust would have a medium to long term relationship with these organisations.
- To support organisations and/or projects which apply to use funds for community development work.

Key aspects of trust

The following are the key aspects that need to be considered when working with trusts:

- Donors/ founders of trust: Founders hand over property/ funds/ assets to a group of people (trustees). The trustees administer the funds/ assets for the benefit of others (beneficiaries)

- Objective of trust: Some Trusts may have a more focused set of beneficiaries, while others would be more general, allowing flexibility in how the trust responds. The following are examples of possible objectives:
    - Promote community development with an emphasis on renewable energy and climate change
    - Promote community development within a specified geographic area.

- Beneficiaries: The following provide examples of who could be beneficiaries of a trust.
    - People affected by climate change in the Eastern Cape
    - Future generations (who will benefit from climate change mitigation/ reduction and adaptation strategies)
    - People living in low income households and running small businesses in the Eastern Cape

- Trustees: Trustees need to be made up of people who have demonstrated a concern for community development and environmental sustainability and who are recognized as responsible citizens. They need to always act on behalf of the beneficiaries. Trustees can be identified in a number of ways:
    - Drawn from the directors/ board of existing non profit organizations
    - Nominated by certain pre identified groups and/or sectors
    - Nominated from specially set up representative forums made up of people/ organisations from a specific community.

Accountability of trust to beneficiaries

One feature of a trust that needs to be acknowledged is that its trustees are by definition not directly accountable to the beneficiaries. The trustees act in the interest of the beneficiaries but the trustees do not have to directly account to the beneficiaries.

Mechanisms can be put in place to increase the accountability of the trust to the beneficiaries. For example, the trust could establish a forum of some sort made up of beneficiaries. This forum could make recommendations to the trust and receive reports from the trust. The forum could also be involved in nominating trustees to sit on the trust. However, at the end of the day, the trustees make decisions in their personal capacity.

In certain instances, commercially viable renewable energy projects (e.g. a wind farm located on communal land), would want the community to support their projects. A commercially viable project may see the trust as one way to get buy-in from the community. In these instances the trust would need to be in a position to make sure the community supports the commercially viable project (i.e. it does not object to the project

during the planning phase, and helps with prevention of theft and damage to the projects equipment during the lifespan of the project). The trust would also need to demonstrate that it is spending its income in a manner that is in alignment with the development aspirations of the community.

The relationship of the trust to the community and the mechanisms of holding the trust accountable to the beneficiaries is important in this regard. It is also important that the beneficiaries of the trust are defined and it is clear who is and is not a beneficiary.

Communication is important in relation to accountability. Communication includes communication between the commercially viable project and the trust; and the trust and the beneficiaries (often through some form of community development forum).

Trusts and their relationship to Broad-Based Black Economic empowerment (BBBEE)

The BBBEE act provides for a BBBEEE scorecard, which is used to measure how well an institution is addressing BBBEE principles. The following list identifies the principles and notes how trusts relate to these principles.

- Black ownership: Measures the level of black ownership of a business (20 points). Trusts are not owned as such, but if the trustees are all black or PDI's it makes it easier to motivate for points.
- Black management: Measures the level of black management and control of a business (10 points). The management personnel of the trust needs to be predominantly black.
- Employment equity: Outlines general principles for measuring employment equity in the workplace (15 points). Staff employed need to be predominantly black.
- Skills development: Measures the extent to which employers develop the skills and competencies of black people (15 points). The trust can set aside some of its income for its own staff development. Projects the trust support can develop skills of blacks.
- Procurement: Measures the level of goods and services that a business buys from BBBEE compliant suppliers (procurement) (20 points). The trust can have a policy to procure from strong black owned companies.
- Enterprise development: Measures a business's contribution to enterprise development (15 points). The trust can support small business projects in the work it does.
- Socio economic development: Measures the extent to which a business promotes access to the economy for black people and contributes to socioeconomic development (5 points). Socio economic development is a significant feature of the Trust approach. This is what the trust is specifically established to do. Development will look at broad community development as opposed to the development of a few black owned businesses.

Motivation for trust support

From the point of view of commercially viable renewable energy projects there are a number of reasons why they would be interested in supporting a trust. The commercially viable project would be:

- able Comply with BBBEE legislation;
- more confident that its BBBEE partner is using income it receives for significant community development work;
- more confident that the trust is able to demonstrate a track record of successfully managing community development projects
- able to support a broader movement of community development and not just see its resources going into single projects without making a broader impact in society.

In short, the trust would be a reputable and professional partner for the commercially viable project to work with.

Number of trusts

When it comes to how many trusts can participate in the renewable energy sector, there are two broad strategies that could be followed:

- One trust - one project: Each commercially viable renewable energy project has a separate dedicated trust associated with it. The advantage of this is that each trust can have a dedicated set of beneficiaries and there can be a close level of accountability as to how the funds from the project get used. An example where this trust might be appropriate is where the community owns the land and they forms a trust to take part ownership in the renewable energy project. One of the disadvantages of this form of trust is that the trust may not be able to develop the capacity and experience of managing funds on behalf of trustees. Each trust would act as an intermediary between the project and the beneficiaries of the trust.

- One trust – multiple projects: In this example there could be one trust that is linked to many different commercially viable renewable energy projects. The advantage of this approach is that the trust is able to develop capacity and develop a reputation as being a professionally managed institution. This form of trust lends itself to situations where the trust can undertake activities that are not necessarily restricted to a specific geographic community, in for example situations where the trust undertakes broad energy conservation awareness raising of promotes solar hot water etc in households. Effectively this form of trust would become a fund management trust, managing investment portfolios in commercially viable projects (and in other investment areas), and managing how this income gets disbursed and used. Such a trust would act as an intermediary between each project and the community/ beneficiaries.

There can also be some form of combination of these two, with some renewable energy projects working with a centralized trust that is also linked with other renewable energy projects, while other commercially viable projects could work with a single specially created trust for that project.

Different trusts could also have different relationships with regard to the number of community development projects they undertake and/or support. For example, some trusts may focus more exclusively on one or a few types of community development work, whereas other trusts could support a range of community development projects.

An association of trusts can help the various trusts to coordinate their activities and work together to ensure that trusts are recognised as an important component of the renewable energy sector.

An example: One trust – multiple projects

A single trust would be able to invest in many commercially viable projects, obtain income from these investments, and use this income to support a range of community development projects. The income could be seen as a pool of funds that can be used for any number of community development projects, but this would result in there being a disjuncture between where the money comes from and how it is then spent.

A more appropriate approach would be for the trust to ring fence any income that it receives from its investment in commercially viable renewable energy projects, and then utilize these ring fenced funds for

specific pre determined community development projects. Each commercially viable project could then have some say in what type of community development projects can be carried out by funds it generates.

Many international companies are looking for organizations that can deal with community development for them. It's much easier for a big company to partner with an existing and established trust to mange community development relationships and projects rather then it having to negotiate these deals themselves.

The trust document can give guidance to the trustees in terms of how income is used. Some form of agreement would need to be entered into between the trust and each commercially viable project specifying if and how the income generated gets ring fenced and possibly providing guidelines as to how these funds can be spent. The trust can then decide, based on what was in the agreement with the commercially viable project, how it can spend income it receives.

There are a few ways that the trust can decide how to spend its income:

- Determined by what is in the pre determined agreement that was signed with the commercially viable renewable energy project;
- Determined by the trust, based on recommendations received, by an advisory committee made up of representatives from a geographic community (e.g. People living in a certain areas), or a interest based community (e.g. People living in RDP houses)
- Determined by the trustees based on proposals/ applications received from a pre determined set of beneficiaries (i.e. geographic or interest based).
- Determined by the trustees at their discretion based on the objects of the trust document.

The trust would need to ensure that it has sufficient funds for administration so some of the income from commercially viable projects (and from other sources) would need to be set aside for this. As the income of the trust increases the amount needed from each investment return for administration will reduce as administration costs are unlikely to increase at the same rate as the increased income.

Advisory committees could have a say in how funds are spent but the trustees would have the ultimate say as they are responsible for administering the trust assets on behalf of the trusts beneficiaries. The advisory committee can also play some form of monitoring and evaluation role to ensure that the funds and resources are used appropriately for the correct type of activities and efficiently and effectively.

There are number of options as to who can actually undertake the projects or programmes that the trust supports:

- The trust could undertake projects itself (e.g. It could employ staff to conduct energy conservation awareness raising programmes in communities and business)
- The trust could enter into long term programme agreements with certain organizations to undertake specific types of projects (e.g. Promotion of Solar hot water heaters)
- The trust could enter into project specific agreements with other organizations, probably after some form of tender and project procurement procedure, for these organizations to undertake specific types of work. These organizations could either be drawn from:
    - a broader pool of for profit/ not for profit companies (e.g. The trust, acting a client, contracts certain companies to establish renewable energy hubs in certain rural village); or
    - community based companies like cooperatives and small and micro enterprises from a particular geographic community or sector community (e.g. The trust contracts cooperatives to establish small scale biogas facilities, or undertake alien vegetation removal linked to charcoal manufacture.)

<u>Auditing of trusts</u>

Trusts will have to comply with normal auditing requirements to check that they are managing their resources according to good financial and management practice. However, it is likely that trusts will also have to perform additional auditing functions over and above this conventional auditing activity. For example:

- Public benefit audits to check that the public is benefiting. This is needed if the trust wants to achieve tax exemption status. Examples of the types of activities that qualify as public benefit include:
    - Community development for poor and needy persons and anti-poverty initiatives, including promotion and the promotion of community-based projects; and
    - The promotion of, and education and training programmes relating to, environmental awareness, greening, clean-up or sustainable development projects.
- Carbon audits to check that carbon is kept out or taken out of the atmosphere. This is needed if the project wants to benefit from carbon credits. Generally it will be the commercially viable projects (e.g. wind farms) that would apply for carbon credits and they will have to show that they are undertaking activities that would normally not have been undertaken if they were unable to access carbon credits. Gold standard Carbon credits go a step further and require an additional element of rigour in their auditing in that these large scale projects need to be able to show that they are contributing to employment and the livelihood support of the poor and marginalised. Trusts may also want to apply for carbon credits for the community based projects they are undertaking. Examples of this could be for example reforestation projects in areas of poverty, and the generation of electricity from animal wastes.
- PDI audits to check that previously disadvantaged individuals (PDI's) are benefiting from projects. This is needed if trusts want to position themselves as BBBEE partners in commercially viable renewable energy projects to help these projects achieve their BBBEE targets.

It is important that this auditing is independently carried out to ensure there is no bias in reporting. Such auditing and monitoring and evaluation functions should however not just be used to verify that the trust is complying with requirements for tax exemption status, carbon credits, and BBBEE, but the information collected as part of this auditing activity should also help the trust to develop more appropriate plans into the future so that community development and sustainable development can be improved and promoted.

.10. Recommendations

The following provides a tentative list of recommendations to support the development of trusts as vehicles for community development within the renewable energy sector. It is intended that this list will be used to stimulate discussion on what can be done to support trusts in the development of community development projects in the renewable energy sector.

- Government, the private sector and others should provide grant funds (or at least low interest loans) to trust so they can invest in commercially viable renewable energy projects.

- Government, the private sector and others should provide corporate social responsibility and other grant funding to trusts in the short to medium term so they can undertake community development projects in the short to medium term while they wait for investment returns from investment finance.

- Government (at local and national levels as appropriate) should develop legislation, policies and regulations that require commercially viable renewable energy projects to partner with Trusts if these projects want to obtain:

  - Independent Power Producer recognition
  - Renewable energy Feed in tariff (REFIT) subsidies:
  - Power Purchase Agreements from Local government and other government structures
  - Investment, loan and grant finance from organizations such as the IDC, DBSA, etc
  - Approval of project design documents and other documentation as part of the Clean Development Mechanism process that is needed for projects to obtain carbon credits.
  - Environmental Impact assessment approvals
  - Municipal rezoning approval and to be listed on municipal Integrated Development Plans.

- Trusts should plan for how they are going to operate before they start to make any decisions on what type of community development projects they will support. This will help reduce the potential for trusts to become embroiled in local conflicts and power struggles over what the trusts income will be used for.

- Trusts and other NGO's involved in community development need to work together to share experiences, lobby for policy changes in support of community development within the renewable energy sector, and build the capacity of the energy trust sector. There are emerging structures like the Eastern Cape Community Wind Energy Development Association that can form the core of such networking structures.

- Trusts and commercially viable projects need to investigate further how trusts can benefit from carbon credit markets. Developers of commercially viable renewable energy projects could for example possibly 'donate' or cede carbon credits to trusts to be able to invest in renewable energy projects and/or carry out community based renewable energy projects.