



## Dear members, traditional owners and other interested people,

This is my fifth newsletter as the special administrator for Kokatha Aboriginal Corporation RNTBC (KAC). While I am in this role I'll send regular newsletters to let you know what I'm doing to help get your corporation back on track.

Since my last newsletter in July, the Covid-19 pandemic continues to impact the corporation and the special administration.

Last month I advised the special administration had been extended to Friday 9 October 2020. I am pleased to advise the special administration is on track to end at that time. Unfortunately it will be impossible to hold an information meeting or a meeting of Kokatha common law holders prior to the end of the special administration.

The decision not to meet was made after significant consultation, and with consideration of the South Australian Government's current advice on the holding of public meetings, and the risks to Kokatha people from Covid-19. It is disappointing, because these meetings provide for interested people to ask questions of the Registrar and myself on the outcomes of the special administration, and for me to hear feedback on discretionary decisions that need to be made.

### ANNUAL GENERAL MEETING

Given that KAC is unable to hold meetings due to the risks of Covid, the Registrar of Indigenous Corporations (Registrar) has granted KAC an extension of time to hold the corporation's AGM. We now have until 28 February 2021. After KAC is handed back to its members on 9 October, your

new board will schedule the date for the AGM as soon as possible before 28 February 2021.

The Registrar has offered to attend the AGM and answer questions on the outcome of the special administration.

The current Culture and Heritage Committee will remain in place until the AGM, when an election will occur—as it will at each AGM thereafter. Each family group can nominate a representative.

As I will appoint a new board of directors on 9 October 2020 and the term of their directorships will be two years, there will be no elections of directors at this AGM. Their continuity will give the corporation some stability after the special administration.

### CORPORATION ADVISORY GROUP

The Corporation Advisory Group met in person in Port Augusta in July. This all-day meeting went well and covered the following:

- discussion of changes to the KAC rule book
- approval to fund a Kokatha women's gathering
- feedback to the Department of Defence on the Regional Compliance Officer program

#### SPECIAL ADMINISTRATION STATUS

1

Take control of the assets, including land. Find out if the corporation can recover financially.

2

Restore good operational order.

3

Prepare the corporation for return to members' control as soon as possible.

- review of financial reports for the 2019–20 financial year for the Kokatha group of entities
- approval of a heritage survey access policy
- approval to support four Kokatha people to attend the National Native Title Conference
- agreement to conduct the three-day board workshop in August 2020 at Roxby Downs.

Further information is available at [kokatha.com.au/newsletters](http://kokatha.com.au/newsletters). If you do not have access to the internet please call the office on (08) 8642 2068 to have the details posted to you.

## CONSOLIDATION OF ENTERPRISES

### Kokatha Mining Services Pty Ltd (KMS) and Kokatha Pastoral Pty Ltd (KP)

I will be recommending to the new KAC board that Kokatha’s subsidiary companies—Kokatha Mining Services Pty Ltd (KMS) and Kokatha Pastoral Pty Ltd (KP)—be merged. The new company should have up to five Kokatha directors and two independent specialist directors who will contribute professional skills in governance as well as the mining and pastoral sectors. To help make this happen I will:

1. Change the name of KMS to Kokatha Enterprises Pty Ltd (KE). Going forward this will be the company used for all new commercial business activity.
2. Recruit a group of board members to direct both KE and KP.

Note that the name Kokatha Mining Services would continue. It will be a trading name owned by Kokatha Enterprises. For example, vehicles used for the road maintenance contract will continue to be branded with Kokatha Mining Services.

At the end of the special administration I will advise the new board to explore the possibility of transferring all KP assets and activities to the new Kokatha Enterprises. This will leave Kokatha with one entity to manage all of its commercial activities.

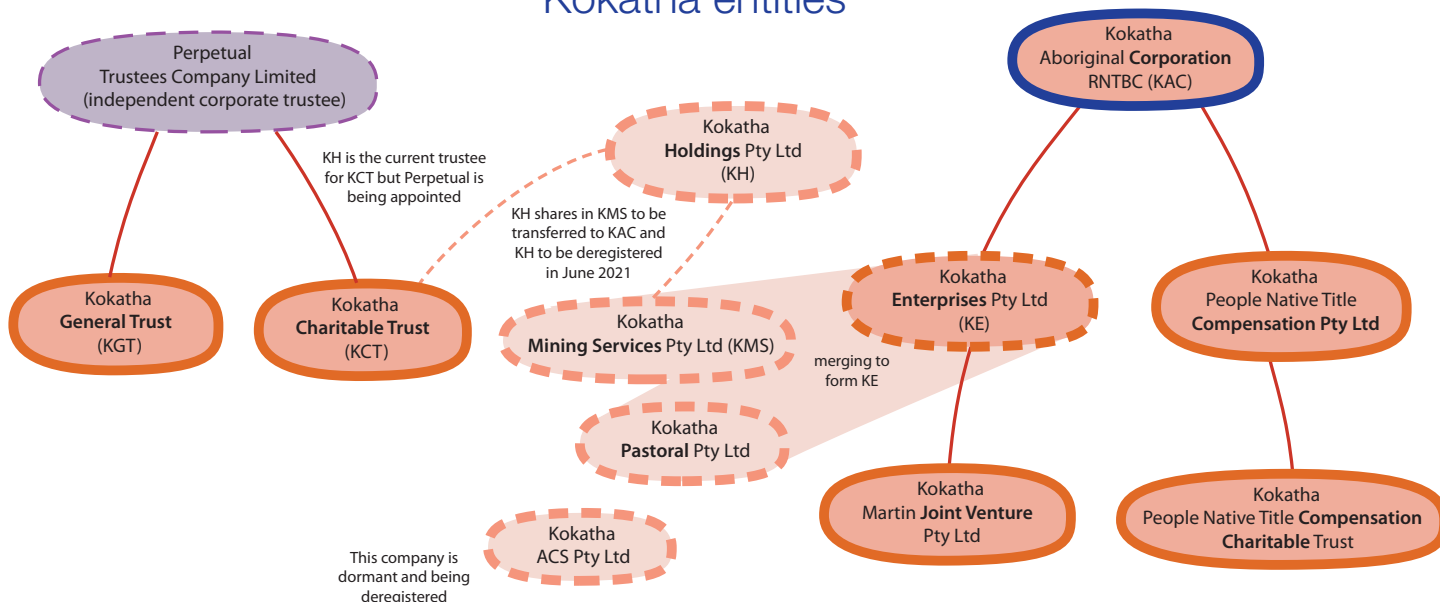
### Kokatha Charitable Trust

During the special administration changes were made as to how Kokatha Charitable Trust (KCT) operates. From here on the trustee will:

1. work with the KAC board to approve the budget for each of the financial support schemes
2. agree on the terms, conditions and application process for the schemes
3. transfer funds to KAC for money to be released to Kokatha people
4. pass applications to KAC staff to process
5. review and adjudicate any disputes or complaints made by unsuccessful applicants.

All applications for financial support will be processed by KAC staff and treated in exactly the same manner. They will be assessed against the scheme criteria and if successful a payment will be processed. KAC staff are unable to alter the scheme criteria.

## Kokatha entities



### Kokatha Holdings Pty Ltd

Kokatha Holdings Pty Ltd (KH) is currently trustee of Kokatha Charitable Trust and also holds the shares in Kokatha Mining Services Pty Ltd (KMS). I am in the process of transferring the KMS shares to KAC—so KAC will own KMS. When Perpetual has officially been appointed as Trustee of Kokatha Charitable Trust, Kokatha Holdings Pty Ltd will no longer have a purpose and can be de-registered. This will reduce the number of entities in the Kokatha Group and reduce the costs of administering the group.

Our accountants have advised us to wait until June 2021 before deregistering Kokatha Holdings, to avoid the possibility that company taxation will cause cashflow issues for Kokatha as a whole. Kokatha accountants will nominate one of their staff to be the sole director of Kokatha Holdings Pty Ltd until it is deregistered in June next year. To be clear, Kokatha Holdings will have no assets and no activity. It will be dormant until its deregistration next year.

### Kokatha ACS Pty Ltd

Kokatha ACS Pty Ltd was established as part of a joint venture proposal. The joint venture did not proceed and the company has never traded. I have started its deregistration, to simplify Kokatha holdings reduce administration costs.

### Kokatha Mula Nations Land Council and Kokatha (Olympic Dam Association)

Kokatha Mula Nations Land Council and Kokatha (Olympic Dam Association) are both incorporated associations with their own directors and members. I understand Mula Nations Land Council was the original association established for Kokatha business. Both associations are

outside the Kokatha group of entities so in future they won't be listed as part of the group. However, KAC will continue to offer administrative assistance as required.

### Olympic Dam Aboriginal Corporation Trust

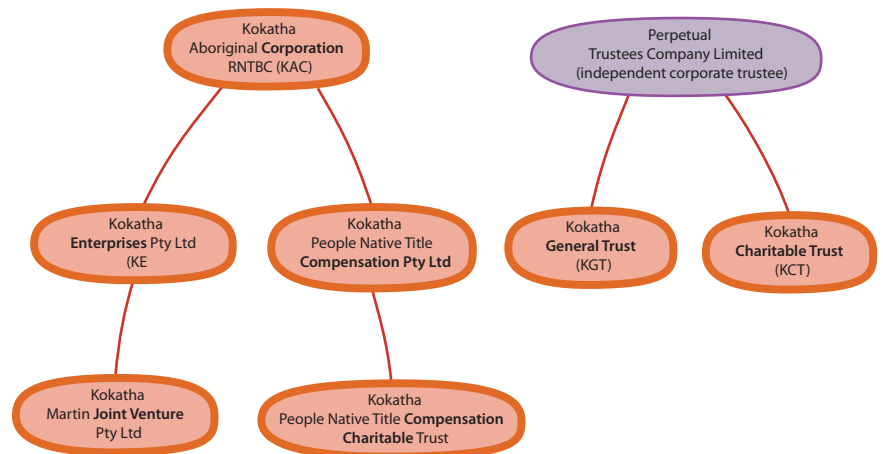
There is no record of any activity of this trust. Corporation staff continue to research the trust's background and its relationship to KAC.

### The final Kokatha group of entities

After all of the above changes the group structure will be as follows.

This simplified structure will reduce accounting and administration fees and allow for better oversight of the operation of the group by the KAC board.

### Kokatha entities



### CHANGES TO THE RULE BOOK

The Corporation Advisory Group has discussed proposed changes to the rule book. The changes are summarised below, and feedback is invited from members:

- Attendees at general meetings must comply with the corporation's code of conduct.
- Any person who was a director of the corporation during the period 1 July 2018 to 23 September 2019 is not eligible to be appointed as a director of KAC or its subsidiaries for a period of four years from 9 October 2020.
- Every director of KAC and its subsidiaries is to represent all Kokatha common law holders.
- KAC directors are appointed on rotation for a two-year period so that half the directors' appointments expire

each year. Directors are eligible for re-election. All directors appointed at the end of the special administration on 9 October 2020 are appointed until the 2022 AGM, at which time half of the board appointments will be presented to the AGM for election. Thereafter, half of the board will be elected at each AGM:

- The KAC board will be skills-based with a commercial focus. KAC directors will be required to appoint two independent specialist directors.
- The KAC board will comprise eight directors—six Kokatha members and two independent specialists.
- Directors will need to be nominated for a directorship in advance of the AGM. All members will be sent a brief summary of nominees
- The board may no longer delegate all its powers to a committee.
- Sub-committees of the board will be advisory, not decision-making. They will make recommendations for consideration by the full KAC board.
- The corporation will facilitate a meeting of common law holders twice per year (subject to Covid-19 restrictions).
- There will no longer be a requirement for alternate directors.
- Directors of KAC will be ineligible to be a director of any subsidiary.
- KAC subsidiaries must:
  - i. include on the board:
    - at least one independent specialist director
    - three Kokatha common law holders—note that they need not be members of KAC
  - ii. offer a four-year term for directorships. After four years there must be a selection process along the lines of the KAC recruitment policy, but decided by the KAC board. Directors may be re-appointed.
  - iii. require the directors to report to the KAC board on the performance of the subsidiary including but not limited to quarterly reports on budget variance;
  - iv. in June each year, present a budget for the next financial year to the KAC board for approval
  - v. without a resolution of the KAC board,

prohibit directors from spending corporation funds on any item not in the agreed budget

- The corporation must establish and maintain a Culture and Heritage Committee (CHC). Members of the CHC will be appointed in accordance with Kokatha lore by each family group at each AGM. The CHC's terms of reference will be part of the rules of the corporation. They will not prescribe activities of the committee in terms of culture and heritage; they will set out the administrative function of the committee and its role in advising the KAC board.
- KAC membership applications will involve a three-stage process.
  - i. In the first instance, membership applications are reviewed by the KAC board. Applicants passing that review are accepted as members.
  - ii. Applicants not recognised by the board go to the CHC for consideration. Applicants passing this second review are accepted as members.
  - iii. Applicants unrecognised by the CHC are given the opportunity to present their application at the next meeting of common law holders. At that meeting, the decision to accept or reject an application is final.

To provide feedback on the proposed rule changes please email, call or write to Melinda Forrest at KAC—by **Friday 18 September** 2020. (Email [adminsupport@kokatharntbc.com.au](mailto:adminsupport@kokatharntbc.com.au) or use the contact details at the top of page 1.)

The next, final newsletter of the special administration will include details of the KAC directors to be appointed and other matters with respect to the handback of the corporation to members' control.

For more about special administrations see [oric.gov.au/special-admins](http://oric.gov.au/special-admins) or call **1800 622 431** (not free from mobiles).

#### **SPECIAL ADMINISTRATOR**

**Peter McQuoid**  
PDM Consultancy  
(07) 3289 2596 or 0435 018 879  
[p.mcquoid@pdm.net.au](mailto:p.mcquoid@pdm.net.au)

