

**KOKATHA ABORIGINAL CORPORATION RNTBC ICN 8093**

**Kokatha Common Law Holders Meeting**

**Sunday, 19 November 2023**

**Central Augusta Football Club, Hannagan Street, Port Augusta SA 5700**

**Acting Chairperson:** Nyaningu Thomas

**Facilitator:** Geoff Deans

**Present:** (Refer attendance sign in record).

**Apologies:** Carly Chamberlain; Judy Welgraven, Eliza Wilson, Stephen Welgraven, Ben Swales, Kathryn Robin, Tyson Swales-Fenwick.

**Invitees:**

Geoff Deans (facilitator)

Stephen Kenny (representing Camatta Lempens)

Leonora Herweijer (representing Camatta Lempens)

Sarah Cassells (minute-taker)

Representatives from BHP/OzMinerals

Maz Hearne (representing Perpetual)

Peter Reid (representing Petratherm)

Jason from Investigator Resources Limited (for Gawler Resources Pty Ltd Exploration Licences)

Meeting start at 10:05am.

**Welcome, attendance and acknowledgement of country.**

Vice-chair of the KAC Board, Nyangu Thomas (Chair for the meeting) opened the meeting and acknowledged the traditional custodians whose ancestral lands this meeting is taking place on, while also acknowledging the Kokatha people and ancestors.

**Minute's silence**

A minute's silence was held for those country people who have passed since the last meeting.

**Introduction**

The Acting Chair thanked everyone for their participation at the AGM the day prior. A brief discussion was held about the AGM the previous day. Attendees were encouraged to provide any feedback to the Corporation.

The Code of Conduct was raised and

The Facilitator reminded attendees of the Code of Conduct that if there are issues the meeting can be suspended to remove those people not complying with the Code.

He then provided an overview of the agenda for today's meeting, including minor changes to the order of presentations as presenters were travelling from Adelaide to Port Augusta.

**Apologies were noted.****A Quorum was confirmed.****Code of Conduct – (refer introduction)**

The results of the Director election from the AGM the previous day was announced confirming that Mel Reid, Chereena Amos, Michael Turner and Joyleen Thomas were appointed as directors of KAC. The Acting Chair confirmed that the vote counting process at the AGM had been that SANTS counting the vote with two scrutineers, John Hender and Daniel Ramm. The Acting Chair thanked Denise Thomas for her work on the board in the last term.

**Item 2 on Agenda****Confirm Minutes of the Previous Meeting**

**2.1.** The minutes of the previous meeting were considered.

**Motion:** *That the minutes of the previous Kokatha Common Law Holder's meeting be confirmed.*

**Moved:** *John Reid*

**Second:** *Garth Dodd*

**Motion passed (unanimous).**

**Item 3 on Agenda****General Trust Update and Resolutions****3.1. Trustee Advisory Committee Appointment**

Tanya Swales addressed the meeting on behalf of the Trustee Advisory Committee and confirmed who will be stepping down from the committee, meaning 6 positions available, appointed for a 2-year term, and nominations closed on 10 November 2023.

Instructions were provided on the voting process, which included not putting more than 6 marks on the ballot (more than 6 would lead to the vote being invalid and not counted).

*The vote was conducted, and the following motion was put:*

**Motion:** *The Kokatha Common Law Holders elect Mel Reid, Garryn Wingfield, Nyangu Thomas, Jo-Anne Khan, Elaine Kite and Anna Strezlecki to represent them on the Kokatha General Trust Advisory Committee for a period of two financial years in accordance with the Kokatha General Trust Deed.*

**Moved:** *Daniel Ramm*

**Second:** *Max Reid*

**Resolution passed with majority in favour.**

**3.2.** The Acting Chair introduced the co-chairs of the Trust.

Jo-Anne Kahn as co-chair of the trust provided overview of the items to be discussed and decided upon today, noting that the Kokatha General Trust does not specify a process for the election of trustee members and voting slips will be provided to elect nominees later in the day.

Jo-Anne Kahn introduced Garryn Wingfield (co-chair), Elaine Kite, Joyleen Thomas, Anna Strezlecki, Tanya Swales, Nyangu Thomas as other members of the Advisory Committee, noting that Lynette Strangways not in attendance at this meeting. The Perpetual Representative is Maz Hearne.

Jo-Anne Kahn referred attendees to the document about the Trust that has been prepared and provided, noting that the photo on the front of the report was taken by Elaine Kite at the old Roxby homestead. An error appearing in the report re Lynette Strangways will be corrected and an updated digital version provided in due course.

A history of the Trustee Advisory Committee (**TAC**) was provided to the attendees, noting that it came about through the Trust Deed that was signed off in 2016, and this required an Advisory Committee be formed to advise the trustee. Everything the TAC does must be in compliance with the Trust Deed and distribution policy.

Jo-Anne Kahn deferred to Garryn Wingfield to provide an overview of the key achievements of the committee since the last meeting. This included a strategic plan that would be shared with the CLH at the next meeting. An overview of training and the AIATSIIS conference was also provided, and for transparency confirmed that this attendance and training was possible due to residual budget from previous years.

It was confirmed that there will be a future meeting regarding policy with the two trusts and the Board.

Garryn Wingfield provided an overview of the purposes of the trust, which was shared with the CLH.

Anna Strezlecki provided an overview of the finances of the trust, which includes the two sub funds (BHP and OzMinerals respectively) to 30 June 2023.

The total net value of the trust as at 30/6/23 was \$2.863M.

Anna Strezlecki provided information about outgoings from both sub funds (BHP and OzMinerals respectively) to 30 June 2023.

The trust current balance total = \$3.290M

Nyaningu Thomas provided an overview of the approved changes to the BHP Distribution Policy, as voted at the last CLH Meeting, and provided information to the attendees about the processes taking/taken place to try and see monies distributed to the community.

The total amount paid to Kokatha People in the 22-23 financial year equaled \$586,148 (made up of White goods, Medical Equipment, Bedding & Furnishings). To date, approximately \$1M of the \$1.5M was utilized for the wellbeing round (including the 23-24 financial year) and understood the remaining will be returned to the trust to be utilised at a future wellbeing round.

\$176K was provided in OzMinerals scholarships.

Maz Hearne from Perpetual thanked the expiring committee members for their work over the previous term and gave an overview of the remuneration of the TAC, including the proposed changes to the TAC remuneration as the current daily rate has not been increased since 2017. Explained that the proposal to increase the remuneration to \$500 per day is based on CPI, with an automatic increase as per CPI annually.

Maz Hearne provided further clarification in relation to the training that the TAC undertakes in collaboration with Perpetual, including an upcoming financial literacy training day. This explains why the budget was over this year, but it was possible due to the unspent budget from previous years.

*A question was asked about how the training is paid for and how often the committee meets.*

Maz Hearne clarified that as per the Trust Deed, the TAC must meet each quarter, and as the meetings require the TAC members to take time away from their usual work, they get paid for the meetings and training events.

*A question was asked about whether there is any assistance available from the Trust for living expenses including electricity etc.*

Maz Hearne confirmed that the committees and boards need to address policies and policy changes to better support the community, and in early 2024 there will be a meeting where policy will be addressed.

*A question was asked about where Elders sit in the funding dispersion.*

Maz Hearne confirmed that policy needs to change to better support Elders, too. Outcomes planned will include a booklet so that people can easily access information about what is available.

*A question was asked about what the funeral/memorial fund covers.*

Maz Hearne confirmed there isn't a policy (for KAC to distribute) in relation to this yet, but there is a budget to allow for Elders that have passed to be duly acknowledged.

*A question was asked about how elders are defined and differences between over-55s and under-55s.*

Maz Hearne confirmed that the reason for the TAC and KAC meeting is to provide further health support to Elders, and they are now working on a policy.

*A question was asked about whether the wellbeing round could be open all year and held annually as people may not have a need during the round and then later than a need for assistance.*

Maz Hearne confirmed that this is something they are working on, but a date for the next round hasn't yet been decided, so this is why the TAC want to see the remaining \$500K back in the general trust so the next Wellbeing Round can be prepared for.

*A question was asked about the charitable clauses, specifically whether there is scope to make provision the non-charitable distribution of funds to the community when it's available and the issue of having a number of policies which make it difficult for members to navigate. It was requested that the committee look at this issue.*

**Maz Hearne confirmed that this will be put on the agenda for the next joint meeting with the KAC board.**

*A question was asked about whether people have to be members of the KAC and/or the Kokatha native title group in order to receive funding.*

KAC has provided information about the declined applications. This information was that the only people who declined funds have been those who were not Kokatha members or not over 18 years of age.

*A question was asked about mining royalties.*

The TAC confirmed that this is not handled by them, but further information was provided about the BHP sub fund a noting that the trust was established because BHP required that there be a trust for distribution of the funds. No funds from mining come directly into this trust.

The meeting considered the proposed increase of benefits to TAC members to \$500 per day (or any part thereof).

**Motion:** *The Kokatha Common Law Holders consent to benefits being paid to any person appointed as Trustee Advisory Committee (TAC) member of the Kokatha General Trust for activities such persons undertake in their capacity as TAC members, such benefits being the payment of the sum of \$500 per day (or any part thereof) and subject to an automatic annual CPI increase.*

**Moved:** *John Reid*

**Second:** *Max Reid*

**Resolution passed unanimously in favour**

**3.3.** The TAC spoke to the attendees regarding the proposed new sub fund, namely for the addition of this new sub fund to the pre-existing BHP and OzMinerals sub funds that make up the Kokatha General Trust.

Maz Hearne advised that the current process for the existing sub funds is very lengthy and requires BHP be asked permission. To circumvent this so that they only need to ask the CLH they would need the additional sub-fund to be created and can't do that without the permission of the CLH.

*A question was asked about having multiple sub funds and the costs of running these.*

Maz Hearne confirmed that the additional sub fund will allow for the other two to be closed. The new sub fund needs to be approved before any of this can occur.

**Motion:** *In accordance with s11.1(i) of the Kokatha General Trust Deed, the Kokatha Common Law Holders provide consent to the establishment of a sub fund under the Kokatha General Trust.*

**Moved:** *John Reid*

**Seconded:** *Max Reid*

**Resolution passed unanimously in favour**

TAC members shared their experience about being on the TAC and encouraged younger people to get involved and nominate themselves in future.

#### **Item 4 on Agenda.**

#### **BHP General Update**

##### **4.1. Carrapateena (Oz Minerals/BHP)**

BHP representatives attended the meeting and spoke to a PowerPoint presentation.

Paul Cuthbert provided an overview of what they will be speaking about to the CLH.

Paul introduced the Copper South Australia project, and provided overview of the operations at Olympic Dam, Prominent Hill, and Carrapateena, and the plans for the future, and how the three sites might work together.

Rachael Siddall provided information on the new Elevate Reconciliation Action Plan, which is being driven by the Global Indigenous Peoples Policy Statement. This includes procurement and employment opportunities.

Elton Peebles introduced himself to the CLH and his work at Carrapateena. Provided an overview of the past 12 months' operations, culture and initiatives at Carrapateena.

Matt Kidner provided information about the Partnering Agreement and Native Title Mining Agreement. Provided an overview of the achievements between OzMinerals/BHP and Kokatha, including business development, employment and training, and community sponsorships. Provided an update on the PPE Artwork competition, which will be ready to role out in early 2024.

Rachael provided updates on how BHP have been working with Kokatha over the past year, including the "Growing together framework", the reconciliation action plan, visits and meetings, and negotiations around the Olympic Dam agreement, as well as the arid lands indigenous ranger gathering.

#### **4.2. BHP Oak Dam Project Update**

Paul provided an update on the Oak Dam project, including the stages of the project, and the exact location of the proposed retention lease.

*A question was asked about where BHP were getting their water from.*

Paul responded that a bore has recently been sumped to provide water, and provided information about updates to the plan for the site, including reductions in the Boxcut, and confirmed that the environmental impact has been submitted. Paul also touched on ODA and its foundational element to the growing together framework.

*A question was asked about what would be taken from Oak Dam.*

Paul confirmed that the ore body would most likely be copper and gold.

*A question was asked about what BHP's future plans were in relation to water.*

Paul confirmed involvement with ISA and SA Government for a desal plant that will not only service BHP. This is called the Northern Water Supply Project. In the short term BHP will continue extracting from the Great Artesian Basin (GAB). Attempting to utilise some of the existing infrastructure at Carrapateena in relation to water.

*A question was asked about whether BHP are inside the Andamooka Station boundary, or just outside the Native Title boundary.*

Paul confirmed that it's within the Kokatha Native Title area and within the boundary of Arcoona Station.

Acting Chair expressed his belief that Kokatha and BHP are working together more transparently.

Paul expressed thanks for the opportunity to address the Common law holders.

Questions were asked about the heritage processes and ensuring that places where family members were buried were not disturbed on Arcoona Station.

The acting Chair advised that the Kokatha heritage team and Aaron Thomas have confirmed the registered sites and they have been highlighted for BHP.

Paul Cuthbert confirmed that they have not touched or moved any remains or sites.

It was raised that BHP are looking to disturb virgin country and that consultation needs to be undertaken, for example in relation to roads to ensure that no sites are disturbed.

A concern was also raised regarding the water being taken from Arcoona Lakes and the effect that this would have on the bird life.

It was confirmed by KAC that the heritage team has been working to record sites and ensure that heritage sites are not disturbed. All were encouraged to contact the heritage team to raise areas that should be avoided and assist with this work and get involved in the heritage work.

A question was asked about *whether BHP have been in consultation with senior law men and women through KAC.*

Paul responded that they have been following the process and communicating with KAC heritage team.

***[Break for lunch at 1.29pm]***

***[Meeting resumed at 2.13pm —> Item 5.4]***

## **Item 5 on Agenda**

## **Native Title Mining Exploration Agreements**

### **5.1.**

### **5.3. Petratherm Limited Exploration Licenses**

Peter Reid from Petratherm provided background history to the (listed) company, and the members of the board.

Provided an overview of the locations and projects currently working on in South Australia - copper and gold, and rare earths. Woomera project on Kokatha country.

Provided further information in relation to the Woomera project, specifically EL6918 and EL6854 for which Kokatha permission required, and the stage of the project. Woomera Copper-Gold Project gravity survey. Will require deep drilling. Target 1 Rocky Well and Target 2 (unnamed). In 2024 would like to undertake some heritage survey work for future potential investigation.

### **Questions:**

*A question was asked about the tenements south of Woomera (the WPA) and whether these have Commonwealth approval.*

Peter confirmed that they have been provided permission by the Commonwealth to access the land.

#### **5.4. Gawler Resources Pty Ltd Exploration Licences**

The Acting Chair thanked the Kokatha women who helped organise the lunch before introducing Jason Murray from Gawler/Investigator Resources.

Jason provided background information to Investigator Resources Limited, a South Australian organisation.

Area reference is Stuart Shelf Tenements - provided an overview of the investigations undertaken since 2016, and identified the locations would like to add to the NTMA agreement. Seeking addition to existing NTMA to allow exploration activities to occur. Provided an overview of the activities would like to undertake in the locations, including early exploration and advanced exploration components. Spoke about their approach to rehabilitation.

#### **Questions:**

*A question was asked about whether any of the locations include the salt lakes.*

Jason confirmed that the salt lakes will not be disturbed and spoke further about their policy documenting the process to ensure rehabilitation is occurring, which takes about 4 years for a site to be fully rehabilitated.

#### **Camatta Lempens presentations**

Camatta Lempens provided an overview to the existing agreement between KAC and Petrathern, which allows additional tenements, but they have to come back to the CLH for approval. Provided overview of the clauses in the current agreement, including requests, cultural heritage, and notice. Copies of the existing agreement were available to CLH at the meeting. Provided overview of the history of how the terms of the existing agreement came about as approved by the CLH. Provided an overview of the procedure to adopt the agreement for the additional tenements.

#### **An opportunity for the CLH to ask questions:**

*A question was raised about the wording of 5.1.*

Camatta Lempens clarified that the wording relates to the certificate that needs to be signed off on by the Corporation as the prescribed body corporate under the Native Title Act.

*A common law holder expressed concern that in stating there is no traditional method of making decisions will provide permission for mining companies to do whatever they want as it fails to recognise a tradition.*

Camatta Lempens confirmed that there is no issue with taking out 5.1 for the purpose of today's vote as 5.2 confirms the decision-making process which Camatta Lempens understands is the process that has been followed in the past for making decisions about mining agreements. Some from the floor confirmed that understanding was correct.

The following motion was proposed:

## **5.1 Proposed resolution subsequently removed from the vote:**

~~That there is no traditional method of making decisions about native title mining agreements.~~

## **5.2. Motion:**

*That we agree that each Kokatha Common Law Holder over the age of 18 attending shall have one vote and that voting shall be by majority by a show of hands.*

*That we the Kokatha Common Law Holders consent to the Kokatha Aboriginal Corporation RNTBC adding Exploration Licenses 6854 and 6918 held by Petratherm Limited to the Part 9B Native Title Mining Agreement entered into with Petratherm Limited on 21 June 2022.*

**Moved:**            *Joyleen Thomas*

**Second:**        *Andrew Starkey*

*Resolution passed with majority in favour.*

Camatta Lempens addressed the Common law holders regarding Gawler tenements, following the same process of adding the 3 tenements to the existing agreement. Copies of the existing agreement with Gawler were available to members.

Camatta Lempens addressed the rates existing in the agreement, and that they have been advised KAC is seeking an increase to these in line with the agreement for \$800 per day, \$500 for full day travel, \$250 for half-day travel and that there should be an administrative fee as well.

Provided an overview of the agreement and directed CLH to Clause 20 (unreasonable refusal).

Resolution amended and motion proposed as follows:

*That we agree that each Kokatha Common Law Holder over the age of 18 attending shall have one vote and that voting shall be by majority by a show of hands.*

*That we the Kokatha Common Law Holders consent to the Kokatha Aboriginal Corporation RNTBC adding Exploration Licenses 6402 (whole), 6754 (part) and 6853 (part) held by Gawler Resources Pty Ltd to the Part 9B Native Title Mining Agreement entered into with Gawler Resources Pty Ltd in December 2016 (registered 6 March 2017), provided that the heritage rates are increased to \$800 per day with \$500 per day for travelling and \$250 for travelling for half a day and a 15% admin fee to KAC for their costs.*

**Moved:**            *Joyleen Thomas*

**Second:**        *Andrew Starkey*

*Resolution passed unanimously in favour.*

Item 6 on Agenda.

Close.

## **6.1. Opportunity for attendees to address any final issues and ask questions:**

*A number of questions were asked about the KE Board. It was confirmed that KAC as the shareholder of KE had appointed Aaron Thomas and Kim Edwards for a further three years and that expressions of interest would soon be opened for additional Directors. It was also confirmed that Aaron Thomas is the Chair and there are two independent directors on the KE Board.*

*A question was asked about whether:*

*KAC's legal team are currently involved with any other indigenous groups.*

Stephen Kenny confirmed that Camatta Lempens also act for the Arabana and Dieri people, and other corporations further afield.

*A further question was asked about whether there is a conflict in that representation.*

Stephen Kenny advised that no, there is no conflict as there is currently no dispute between groups; however, if there was then he would be required to stand aside for both sides.

*A request was made for the KE Board to provide their rule book to the community.*

The Board noted this request.

Facilitator Deans and Acting Chair expressed thanks to all those involved in organising the AGM and CLH meeting.

The Acting Chair reassured the community that the board will be doing their utmost to do what the community wants.

Meeting closed 3.22pm.