

DRAFT AGENDA & MINUTES

COMMON LAW HOLDER MEETING



Name:	Kokatha Aboriginal Corporation
Date:	Saturday, 6 July 2024
Time:	10.30am – 3.30pm ACST
Location:	RoxbyLink Auditorium – Richardson Place, Roxby Downs
Board Members:	Carly Chamberlain (apology), Chereena Amos (acting Chairperson), Janice Wingfield, Joyleen Thomas, Leeanne Strangways, Margot Richardson, Melissa Reid, Michael Turner, Nyani Thomas
Attendees:	Anthony Chhoy (GM Finance & Risk), David Whitelaw (CEO), Erika Grantham (Secretariat), Esther Thorn (Communications), Sarah Cassells (Minutes Secretary), Steven Kenny (Legal Representative), Leonora Herweijer (Legal Representative), Geoff Deans (Facilitator), SANTS Registered Kokatha Common Law Holders as per sign in information; Maxwell Reid by phone
Apologies:	Carly Chamberlain (Director & Chair of KAC Board); Dorothea “Judith” Welgraven; Eliza Wilson; Tegan Welgraven; Ben Swales; Kathryn Robin-Swales; Tyson Swales-Fenwick; Daniel Ramm; Anita Amos; William Fraser; Tyron Fraser; Danielle Fraser; Amelia Amos; Darlene Dingaman; Christine Hannes-Bray; Trevor Hannes; Hector Hannes; Brian Dingaman; David Hannes; Michael Amos; Michael Amos Jr.; Ziah Amos; Janice Reid; Patrick Reid; Jessica Couzner; Meg Couzner; Damien Brady; Craig Brady Snr & Craig Brady Jnr; Chris Larkins; Kaylene Khan; Elaine Moosha; Khatijja Thomas; Doreen Treloar; Danielle Lee; Hope Chamberlain; Naomi Cooley-Chamberlain; Nicole Cooley-Chamberlain; Waylan Cooley; Jasmine Wingfield; Lisa Allen; Diana Allen; Rodney Dodd; John Reid; Garryn Wingfield; Glen Wingfield; Dingaman family; Thomas family.

1. Chairperson’s Welcome, Attendees & Apologies

1.1. Introduction & Apologies

Mr Geoff Deans introduced himself and provided an overview of his role as facilitator of the meeting.

Welcome, attendance and acknowledgment of country

Chereena Amos, acting Chairperson of the KAC Board, welcomed attendees confirmed her position as Chair of the meeting as per earlier Board resolution.

Acknowledgment of the Kokatha people as the traditional custodians of the land where the meeting was being held.

Minutes’s Silence

A minute's silence was held for those Kokatha people who have passed, and to honor the cultural integrity of the Kokatha people.

Introduction

The meeting Chair confirmed a quorum.

General housekeeping information was provided for the benefit of those in attendance.

The facilitator then provided an explanation of the purpose for the Common Law Holder (CLH) meeting, including:

- i. Procedural matters
- ii. Agenda overview including scheduled breaks
- iii. No proxies

A question was asked about the presence of non-Indigenous staff being present at the meeting, with the Corporation confirming that staff were needed to assist in facilitating the meeting.

The presence of legal representatives from Camatta Lempens was noted as being for the Oak Dam Working Party.

The KAC Board and support staff then proceeded to introduce themselves to the CLH.

Apologies for were noted. A apology was given for Maxwell Reid. It was noted that Mr Reid was joining the meeting by telephone. The facilitator confirm that if Mr Reid had any questions or comments he wished to make the facilitator would be alerted and the microphone brought to the phone.

1.2. Lynette Strangways' Address

Lynette Strangways was invited to speak to the CLH, and her address touched on several key topics. She began by discussing the history of Indigenous activism in the fight for recognition of rights, emphasizing the importance of unity and the idea of standing together as "one people." She then provided an overview of the history of native title and outlined proposed goals for the organization in light of this background. Strangways also addressed various misunderstandings within the community and spoke about the need to build a strong foundation for future generations. She acknowledged the hard work of past Elders and stressed the importance of leaving a positive space for future generations, ensuring the preservation of culture and teaching children to stand united.

2. Code of Conduct

2.1. Facilitator's Overview

The facilitator provided an overview of the Code of Conduct and outlined the expectations for attendees' behaviour. It was noted that the Board had passed a resolution that any individual in breach of the Code would be asked to leave the meeting. The facilitator emphasised the importance of safety, respect, and following proper processes.

\

Queries were raised about transparency and access to the agenda and previous minutes prior to the meetings. It was confirmed that the agenda and minutes had been posted to Kokatha Common Law Holders and were in the meeting packs provided at sign in. . A request was made for attendees to check their details, and it was noted that the rule book should be provided at the next meeting.

The Board had made a further resolution appointing the Vice Chair as Chairperson for the meeting.

Queries were also raised about changes to the rule book, but the Chair confirmed that no changes had been made, and any future changes would be brought back to members for voting at a members meeting.

a question was raised about members and Kokatha Common Law Holders. The directors confirmed that the CLHM is for registered CLH only. If someone is not on the register, they should submit an application for consideration by the Corporation as per the usual process.

It was emphasised that the area of Roxby Downs was a sacred place, with culture, lore, and storytelling playing significant roles. Concerns were raised about the safety of workers on country due to the dangers of Kokatha law, and the need to ensure cultural safety on country was underscored.

3. Confirm Minutes

3.1. Confirm minutes of the previous meeting

The facilitator informed the CLH about the need to confirm the minutes from the previous CLHM, noting that these minutes were only a summary and that any amendments needed to be based on facts.

Voting rules were clarified, with a majority of 50% + 1 required.

Feedback was invited from the CLH, and various points were raised. Questions were asked about whether a copy of the previous minutes had been included in the meeting pack. A request was made to replace the word "Elders" with "Senior Law Men and Women." Concerns were expressed about the frequent need for amendments to the minutes, with a response noting that e-newsletters had been sent out requesting feedback. It was also noted that some CLH members lacked access to the necessary technology to receive or view electronic communications. A procedural motion was made to temporarily move past confirming the minutes in order to continue with the agenda, with the intention of returning to the minutes later in the meeting. This motion was passed with a majority. The minutes were held over for later discussion, allowing information sessions to begin, and proceedings moved on to the next agenda item.

Resolution: Procedural motion that proceedings temporarily move past confirming the minutes to continue with the agenda and come back to the minutes later in the meeting.

Moved: Elaine Kite.

Second: Trena Frankiw.

Motion passed with majority.

Before moving on to "Other Business" on the agenda, the matter of confirming the minutes was resumed. The following corrections were noted: replacing the word "Elders" with "Senior Law Men and Women" and correcting the spelling of names as requested. A resolution was passed accepting the minutes of the CLH meeting, subject to the notified corrections. It was also noted that the items the KAC Board had taken on notice at the AGM and CLHM meetings would be followed up, as requested by a CLH member.

Resolution: That the minutes of the Common Law Holders' meeting on Sunday, 19 November 2023 be accepted subject to the corrections as notified.

Moved: Joyleen Thomas

Second: Andrew Starkey

Motion passed with majority.

4. Kokatha General Trust

4.1. Kokatha General Trust Update and Resolution

Noting for Resolution: In accordance with 6.4 (Distribution Policy) of the Kokatha General Trust Deed, the Kokatha Common Law Holders provide their approval of the Distribution Policy as presented for the new 'General Account' under the Kokatha General Trust.

During the Kokatha General Trust update, it was noted for resolution that, in accordance with section 6.4 (Distribution Policy) of the Kokatha General Trust Deed, the Kokatha Common Law Holders were asked to provide their approval of the Distribution Policy for the new "General Account" under the Kokatha General Trust.

The Chair of the Trust Advisory Committee (TAC) provided an introduction and an overview of Perpetual Trustees' role. One TAC member emphasised the importance of moving forward with the agenda and requested that disruptions cease, warning that continued disruptions would result in individuals being asked to leave. Another TAC member requested that attendees respect those who needed to travel back to Adelaide.

The presentation resumed with TAC members providing an overview of the funds currently held in the various sub-funds. Attendees were directed to speak with a KAC employee for feedback and suggestions on the proposed funding programs. An overview of the work of the TAC over the past few years was provided, along with an explanation of the purpose of opening the General Account under the Kokatha General Trust. The process would be simplified, and once the CLH confirmed their approval, funds could be distributed to members more quickly.

A presentation of the KGT strategic plan followed, including vision, priorities, and stakeholder engagement. An overview of the total funds distributed during FY24 was provided, along with details about the trusts drawn from. The new General Account under the KGT, approved at the CLHM in November 2023, was explained, highlighting its purpose in allowing funds to be received from other sources.

During the resolution discussion, a query was raised about the discretionary trust, which was clarified, confirming that the resolution applied only to the KGT. A quorum was confirmed, and a question was raised about the funds' origin, TAC members, and financial reports, all of which were addressed.

A vote was held on the Distribution Policy, and the resolution was passed with a majority. A short break was taken at 12:22 PM ACST.

Resolution: In accordance with 6.4 (Distribution Policy) of the Kokatha General Trust Deed, the Kokatha Common Law Holders provide their approval of the Distribution Policy as presented for the new 'General Account' under the Kokatha General Trust.

Moved: Tanya Swales

Second: Margot Richardson

Motion passed with majority.

5. BHP Update

5.1. Presentation by BHP Representatives

The meeting resumed at 12:33 PM ACST with an introduction by Anna Wiley of CopperSA, who acknowledged the Kokatha people and their country.

Anna Wiley began with an overview of BHP's recent developments. She provided information on BHP's purchase of OzMinerals, the establishment of CopperSA, and key projects, including the Smelter & Refinery Expansion, Oak Dam, and the Growing Together Program.

In her presentation, Anna explained the importance of copper, the growth of assets, and provided an operations snapshot, including CopperSA's organisational structure and her role within the company. As the Asset President, she stated that most decisions come back to her and emphasised her commitment to regularly engage with the CLH.

Presentation breakdown:

i. Smelter & Refinery Expansion

Overview of the capacity and the need for a larger smelter. Study stage and future expectations. BHP are planning for 50% growth to double their production to 500 tonnes per year by 2030. BHP is currently undertaking studies and looking at a business case for a two-stage smelter. BHP will apply for approvals from the Government for this growth.

ii. Oak Dam Update

Jim McClusky who is General Manager at Copper SA and in charge of Oak Dam gave an update about the Oak Dam project where BHP is undertaking exploration. He explained that the next step is advanced exploration and that BHP have been in negotiations with KAC for a native title agreement for advanced exploration under a Retention Lease. Jim said that BHP have worked to avoid heritage sites with all the work that they have done and have worked closely with KAC and also the involvement of elders.

iii. Growing Together Framework

Emma Brinkman from the BHP Indigenous Engagemnet Team spoke about BHP's engagement with KAC, time spent on country, Kokatha Pastoral programs, cultural training for BHP staff, procurement, and employment outcomes. She talked to CLH about the existing contracts that have been awarded to Kokatha business including to Kokatha Mining Services for potable water. She said that there are 14 Kokatha people employed at Olympic Dam, not including contractors.

Anna Wiley spoke about BHP being invested in the region with its three mines on Kokatha country and that they are focused on growth.

Anna spoke about the importance of the relationship with Kokatha to BHP and acknowledged it that the relationship has not always been the best. She spoke about her and her team's commitment to move forward but also to understand and acknowledge the past.

iv. Feedback Invitation

BHP's investment in the region and the upcoming opportunities for connection were highlighted. Questions about support for Indigenous workers were addressed by Anna Wiley and Tracey Nuske, the Indigenous Liaison Officer.

It was raised with BHP that Kokatha and Aboriginal people continue to experience racism when working for BHP and questions were asked about cultural awareness of BHP employees. Anna Wiley acknowledged that racism is never okay and BHP's commitment to address this. She spoke about the work BHP had done but acknowledged there is more to do.

A comment was made about making sure there are avenues to raise issues anonymously.

A question was asked by a CLH about BHP's commitment following Juukan Gorge to renegotiate its agreements and whether BHP will review the Carrapateena mining agreement with KAC.

Anna confirmed that BHP had committed to review agreements and heritage. She noted that there is a review in the agreement for 2027 and suggested this could be discussed in the partnering management committee for Carrapateena.

BHP was thanked for the presentation, and its representatives left during lunch. The meeting broke for lunch at 1:19 PM ACST.

5.2. Update from the KAC BHP Negotiation Working Group

The meeting resumed at 2:10 PM ACST with a presentation from Elaine Kite, Nyani Thomas, and Leeanne Strangways, representing the KAC BHP Negotiation Working Group. They provided an update on Oak Dam negotiations and discussed the group's efforts to secure the best possible outcome for the Kokatha people.

The presentation began with an overview of the 2023 BHP Working Group, which consists of CHC and Board members. The contributions of former members were acknowledged. The project overview focused on negotiations for a Retention Lease over Oak Dam, where BHP has been conducting exploration works and now seeks to engage in more intensive exploration. To proceed, BHP needs an agreement with Kokatha native title holders. The Retention Lease has a term of five years but can be renewed for another five years. If BHP wishes to mine at Oak Dam, a separate mining agreement will be required before any mining activities can commence.

A review of key negotiation meetings followed, including discussions of offers and counter-offers. The Working Group provided additional context on the work they have been doing, including site visits with the CHC. It was confirmed that BHP has submitted an application for the Retention Lease to the government, pending approval of an agreement by the Kokatha CLH.

The naming process for Oak Dam was also addressed. BHP has asked if the Kokatha people would like to propose a name for the site. CLH members were invited to make suggestions, which would be considered by the Working Group, who would then make a recommendation to

the Board for a final decision.

The presentation continued with an overview of the agreement being negotiated with BHP. The agreement will include a partnering management committee, cultural heritage protection, environmental protection, cultural respect training, employment targets, contracting opportunities, compensation, and more. The Working Group also discussed items still under negotiation, including the compensation amount. Confidential details of the current offers and negotiations were shared with the CLHs.

The next steps in the process were outlined. The Working Group aims to reach an in-principle agreement with BHP, which they will recommend to the Board. Once the Board approves it, the agreement will be submitted to the CLHs for approval. A further meeting will be held to provide information about the agreement and to seek CLH approval.

There were no questions from the floor regarding the presentation.

During the discussion, a comment was made about cultural heritage protection and the safety of Kokatha workers on country. The importance of cultural safety was highlighted, and it was noted that CHC members are part of the Working Group. A suggestion was made to involve translators in meetings, drawing comparisons to meetings held by other Indigenous groups. There was also a proposal to increase family participation in cultural clearance processes by nominating two family members for cultural matters to ensure inclusive representation. Additionally, the involvement of senior law men in decision-making was emphasised.

Finally, there was a brief discussion on how cultural matters could be managed moving forward, particularly concerning the involvement of the Cultural Heritage Committee (CHC).

6. Northern Water Supply Update

6.1. Presentation from SA Government Northern Water Supply Project team

Alecia Wright of Northern Water gave a presentation to the CLH on behalf of the Northern Water Supply Project. She provided an overview of the project, which includes a desalination plant near Tumby Bay with a pipeline designed to supply water to Olympic Dam. The pipeline will run approximately 275 kilometres underground through the Kokatha Determination area.

Alecia explained that, in addition to the pipeline, the project would involve two pump stations, water storage facilities, and power infrastructure on Kokatha Country. She also discussed the rehabilitation process that will take place after the pipeline is laid. A summary of heritage surveys conducted with the KAC heritage team, including specific dates, was provided, and Alecia confirmed that Northern Water had worked with KAC to adjust the pipeline route to avoid heritage sites. She also assured attendees that monitoring would be in place during any works.

Business and job opportunities during both the construction and operational phases of the project were highlighted, with further discussions on these topics planned for the negotiations with KAC. Alecia also touched on other project components, such as maintenance and additional infrastructure necessary for water delivery.

Alecia then explained the process for negotiating a Native Title Agreement with Kokatha for the project, outlining the anticipated timeline over the next six months.

During the Q&A session, concerns were raised by a CLH member regarding the potential impact of the project on the Kokatha people, which they felt could be more significant than previous

projects. The issue of managing water demand from industries operating on Kokatha land was also discussed. Alecia responded to questions about negotiations involving the Port Augusta-Woomera pipeline, mentioning the possibility that the Northern Water Supply Project (NWSP) pipeline could be a direct replacement. She acknowledged that BHP is a major water customer and emphasised the importance of collaboration on consents.

A question was then raised regarding the involvement of the Pastoral Board, which was clarified to refer to Kokatha Pastoral rather than the Government's non-Indigenous Pastoral Board.

Alecia Wright was thanked for her presentation and left the meeting, making way for the KAC Northern Water Supply Agreement Committee to present to the CLH.

6.2. Update from KAC Northern Water Supply Agreement Committee

The Chairperson of the committee explained that the committee was established to negotiate an agreement on Northern Water. The composition of the negotiation committee was outlined, which includes members from the CHC and the Board's subcommittee: Andrew Starkey (CHC), Jonathan Fatt-Clifton (CHC), Michael Turner (Board), Janice Wingfield (Board), Leeanne Strangways (Board), Aaron Thomas (Kokatha Enterprises and Pastoral Boards), and Glen Wingfield (KAC Heritage Services). The first meeting of this committee took place in March 2024, and this gathering marked the initial community meeting to provide information to CLH members about the project and the negotiations, which are still in the early stages.

A discussion followed regarding the involvement of senior law men and women, as well as the roles of the Board and CHC in the decision-making process. It was confirmed that the KAC Heritage Manager is responsible for managing KAC heritage matters and is also a member of the negotiation committee.

A question was raised about the role of the RARB and other groups in assessments and clearances. Stephen Kenny, of Camatta Lempens, explained that under the Native Title Act, Kokatha native title holders have the right to negotiate in relation to Kokatha native title land, including the management of heritage. He also noted that under state laws, the Aboriginal Heritage Act defines "traditional owner" differently, which can pose challenges for managing heritage on native title land.

How Kokatha decides to manage claims of heritage interests by others on Kokatha land within these legal frameworks is a matter for Kokatha to decide.

Other queries related to cultural safety were noted to be deferred to the nominated representatives of the Northern Water Supply Agreement Committee.

7. Other Business

7.1. CEO Address

The CEO acknowledged the hard work of KAC staff and the KAC Board and spoke to future growth and achievements.

7.2. Kokatha Pastoral & Kokatha Enterprises

Discussion on the need for a separate Kokatha Pastoral board to provide direction on pastoral matters, with some CLH expressing they are “uncomfortable” with it sitting under Kokatha Enterprises (mining).

7.3. Cultural Feedback

Emphasis was made on cultural respect and the need for culturally experienced individuals to handle cultural matters.

7.4. Chairperson

A query was raised regarding the acting KAC chairperson. Chereena Amos as the chairperson for the meeting responded, clarifying the current chairperson's leave status.

7.5. Genealogy Query

Mr Maxwell Reid, who attended by telephone, raised the completion of genealogy by way of DNA testing to confirm Kokatha descent, and further expressed his desire to attend the meeting in person on the next occasion.

8. Meeting Close

8.1. Close Meeting

The Chairperson thanked everyone for attending, acknowledged the importance of meetings on country, and appreciated the hard work of staff.

Meeting closed at 3.35pm ACST.