

KOKATHA ABORIGINAL CORPORATION RNTBC ICN 8093

ANNUAL GENERAL MEETING OF MEMBERS

Saturday, 18 November 2023

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

CHAIRPERSON: Carly Chamberlain

DEPUTY CHAIR: Nyangu Thomas

BOARD MEMBERS: Mel Reid, Janice Wingfield, Denise Thomas, Leeanne Strangways

FACILITATOR: Geoff Deans

Present:

(Refer attendance sign-in record).

Apologies:

Judith Welgraven, Eliza Wilson, Steven Welgraven, Bill Swales, Kathryn Swales, and Tyson Swales; Anita Amos, Gavin Watson, Melissa Amos, Glenn Dingaman, Glenda Dingaman, Michelle Dingaman, Michael Amos; Gavin Reid, Veronica Reid; Dianna Allen, Jasmine Wingfield; Roger Thomas, Andrew Thomas, Eunice Saunders, Lorraine Thomas, Deon Saunders.

Invitees:

Geoff Deans (facilitator)

Stephen Kenny (representing Camatta Lempens)

Leonora Herweijer (representing Camatta Lempens)

Matthew Gorge (representing RSM)

John Hender (representing Director of Trustee for Kokatha People Native Title Compensation Charitable Trust)

Sarah Cassells (minute-taker)

Item 1 on Agenda**Welcome, apologies, attendance, minutes silence**

Meeting start at 10:01am.

Chairperson Welcome, attendance, apologies and acknowledgement of country.

The Chair opened the meeting and acknowledged the traditional custodians whose ancestral lands this meeting is taking place on. She paid respects to the Kokatha people and their ancestors.

The Chair introduced the facilitator, Geoff Deans, who provided an overview of agenda and proceedings, processes, responsibilities for those in attendance, including a brief overview of the Code of Conduct.

A member raised a question about Deans facilitating the AGM given his previous employment with Oz Minerals and proposed a member to facilitate.

The Chair confirmed that she was elected Chair of the AGM and Deans has been asked to facilitate. She asked for a show of hands from members who approve of Deans acting as facilitator for the AGM. **Majority in favour of Deans acting as facilitator.**

A question was asked about the use of proxies for special resolutions. It was confirmed that proxy votes can be used for all votes at the AGM.

A Quorum was confirmed.**Minute's silence**

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

Apologies were noted as above.

Item 2 on Agenda**Proxy Appointments**

2.1. Proxy nominations closed 48 hours prior to the AGM, with a maximum of 3 proxies per member allowed.

Item 3 on agenda**Minutes of the Previous Meeting****3.1. Confirming the Minutes of the previous meeting****Opportunity for questions from attending Members**

A member asked who the minute taker was for the previous meeting. The Chair advised that the minute-taker at the previous AGM was arranged by the previous Board, and was Sarah Jane Arnold.

A member expressed the view that the minutes were not accurate.

Members were asked to provide details of any corrections.

No corrections were provided.

A question was asked about minutes being available prior to the AGM. It was noted that the minutes were sent with the notices, are available on the Corporation website and printed copies were also available at the meeting. The Chair set aside the matter of the previous AGM minutes to be held over until proxies have been distributed.

Following Morning Tea (see Item 4)

Facilitator Deans confirmed that Item 3 requires a 50%+1 majority in favour for the minutes of the previous AGM to be confirmed. The following motion was put:

Motion: That the minutes of the previous AGM are confirmed.

Moved: Kahlia Gibson

Seconded: John Reid

Motion passed with majority in favour.

3.2 Matters arising

Nil.

Item 4 on the agenda Board Report

4.1. The KAC Board provided an overview of the current term of the board (8.5 months) in a timeline shared with members.

This included an overview of the values and commitments of the current Board.

Ensured that all Board Directors had appropriate training for their role.

An overview of events attended by the Board was shared with members, including information on how this has been beneficial for both the Board and KAC members.

The focus of the Board in this time has been on communicating with the community, including online, and provided members with information from the social media efforts of:

- 1300 Facebook followers
- Facebook posts reach approximately 3.5K accounts
- KAC newsletters have been reintroduced

The Board further provided an overview of who is sitting on all Boards and Committees of the KAC, and directed members to the website for further information.

The Board confirmed the appointment of a new CEO, namely David Whitelaw, who will begin his appointment on 27 November 2023. The process undertaken to find the right CEO for the corporation was shared with members.

The Board provided an informative overview of highlights from the previous 8.5 months including:

- Oak Dam Potable Water Contract
- Ranger Gathering
- MoU with Arid Recovery
- Wellbeing Round
- \$1.36M in financial benefits to the community through those programs

The Board provided a further overview of other achievements during this time, including:

- community event
- Cattle Australia tour
- Andamooka Homestead refurbishment
- joint trusts and board meeting
- special administrator director ban lifted by ORIC
- meeting with the BHP Chief Executive

The Board further provided an overview of community initiatives, including:

- junior netball sponsorship
- PPE Art competition (Carrapateena)
- Umeewarra sponsorship

An overview of Caring for Country was given by the Board, which included:

- New signage at Lake Mary
- Bird Study at Arcoona Lakes
- Arid Recovery Open Day

The Board then went into their goals for next 12 months, which includes:

- KAC/Holcim MOU
- increased community funding
- comprehensive community engagement
- new office building and community space
- Oak Dam retention lease agreement
- strategic plan development
- Kokatha office in Roxby Downs
- Kokatha Dictionary
- Kids on Country
- increasing sports sponsorship

The Board, via the Chair, thanked members for allowing them to be on the KAC Board and expressed their desire to continue working with the community in this role.

The Vice Chair of the Board addressed the members and noted that it was the first time that most of the current directors have been a part of the Board. He expressed wanting to “break down the silos” moving forward, confirming the Board’s commitment to community outcomes, outcomes for country, and business

opportunities. He shared his pride at being on the Board and seeing what it has achieved in the past 8.5 months, believing a foundation has been laid for the next Board.

Members were invited to ask questions:

A question was asked about the Indigenous Empowerment Summit and its purpose.

Vice Chair of the Board responded that the Summit is for communities, organisations and individuals working in Aboriginal and Torres Strait Islander affairs, to undertake professional development through shared experiences. He then provided a brief overview of the benefits and insights that he personally received from attending the summit. It was confirmed that there is a Board Report that can be accessed by members on the KAC website in relation to this summit.

The Vice Chair further acknowledged that a Board Report was not completed for the AIATSIS Summit (June 2023), however feedback has been received at the previous community information day (September 2023) about the need to report back to the community. The Board is to address this moving forward.

A question was asked about when the Bird Study started.

The Chair handed over to KE Chair, Aaron Thomas to provide this information.

The KE Chair confirmed that the bird study was undertaken to coincide with the November rain events of 2021/22. He further clarified that the study was performed because these rain events occur only every 6 years or so and wanted to underpin the activities to exclude or limit usage from the Roxby Downs and Andamooka communities to Lake Mary. The KE Chair advised the members that there had been problems with the aforementioned communities accessing the site, and that there is an environmental impact of people in 4WD and boats due to the presence of the birds. The aforementioned communities wanted proof of this in the form of a study.

A question was asked about the request to ORIC to change the rulebook setting a precedent. This question was taken on notice.

A question was asked about how many of the social media numbers are actually members of KAC. The Board advised that they are unable to know those figures.

A question was asked about posting out information to members that don't have social media. **The Board confirmed that they would look at the communications protocol in light of this feedback.**

The Chair requested that members use the feedback form to provide feedback at any time, and to ensure their queries and concerns are made in writing.

A question was asked about the employment of the former CEO. The Chair confirmed they were unable to comment on this matter due to confidentiality.

A question was about whether members could be involved in the items the Board has planned. The Board confirmed that there will be a mechanism for members' involvement.

The Board were asked give some reflections to the meeting on some of the challenges of being Board members. The Board spoke about some of the challenges being a new Board and over the last 8.5 months but also spoke about everyone for pulling together and getting through that difficult period.

A question was asked about the recruitment process for the CEO. It was confirmed that the process undertaken had followed the Corporation's procedure.

The Board were thanked for their achievements.

Interim CE, Glen Wingfield informed members of a form for questions for the Board that can be followed up following the AGM.

The Interim CE then shared his report, reflecting on achievements, profits, and challenges faced by the organisation. He thanked the community and spoke about highlights during his term as Interim CE, including improvements to communications between the corporation and its members, before concluding with the organisation's focus for the future is in matters of sustainability, environment and protecting cultural heritage.

Break for Morning Tea at 11:30am

Meeting Resumed at 11:45am

Chair confirmed a change to the agenda order.

Meeting returned **Item 3** in order to confirm minutes of previous AGM.

Item 5 on the agenda

Director's Fees

5.1. The Chair handed over to the Independent Director of the KAC Board who provided an overview of the Directors' fees.

She explained that the Independent Director fees have been reduced so that there is parity. The fees for all directors are: \$12K pa per director on the KAC board, \$450 per director activity that is approved, which includes all meetings so that it is standardised.

A member raised that the \$450 rate has been unchanged for many years and suggested a review.

The Board clarified that the fees being tabled related to the directors only and not committee members.

Item 6 on agenda

The Tabling of the Audited Financial Statement

6.1. The Facilitator introduced Matthew Gorge representing RSM (accountant for the corporation):

RSM provided background information to the financial report for the members in attendance, advising that Basso Newman (independent auditor) has confirmed that the financial reports are correct and can be lodged with ORIC.

RSM provided information to members as follows:

- income for KAC, KE and KP for the 2022-23 year, with after tax income being \$2.679m for 2022-23.
- revenue growth for period 2017-2023 (visual representation in graph).
- income streams including contracting, NTMA, BHP, Grants, Kokatha Charitable Trust, and interest.
- breakdown of expenses including payroll, member assistance, contribution to Kokatha Charitable Trust, projects and activities, depreciation, travelling, repairs and maintenance.
- breakdown of community funding including cultural activities, education, funerals, health, wellbeing, equating to a total for 2023 of \$1.4m.
- surplus for the period 2017-2023, noting an increase in cash holdings.
- the cash position as at 30/6/23.
- the net assets and benefits to members.

Members were then invited to ask questions:

A question was asked about why Kokatha Martin profit was only \$1 for the previous two financial years.

Matthew of RSM confirmed that the \$1 reflects the share value that is held. Kokatha Martin JV Pty Ltd is a separate entity, and the next step would be to review the agreement.

A member made a request that the partnership be reviewed by the Board. The Board confirmed that the Board has decided to wind up this joint venture moving forward.

A question was asked about the \$1.5m increase to payroll and what it relates to.

RSM advised as follows:

- In 2022 there were some positions vacant that have since been filled.
- Currently in an environment where wages growth is particularly high, with a need to meet a 10% pay increase in skilled trades and professions. BHP have been reimbursing a significant amount of that in relation to negotiations.
- There's probably not one particularly item but the increase in payroll is reasonable in the circumstances.

A question was asked about who is paid wages.

RSM confirmed that payments are being made by KAC, which includes wages. These are then on-charged to KE and KP etc.

Chair confirmed that this includes directors, committees, travel and the like, noting there has been an increase in meetings with BHP but KAC is also receiving reimbursements, which are not reflected in the figures.

RSM confirmed that KE and KP are charged by KAC for their wage costs, with any commercial agreements or funding from BHP and grants being factored into the funding.

A question was asked about the \$1,500 payment available to members and directors' fees.

The Board confirmed that the \$1500 was from the Wellbeing Round but that there is also other assistance available to members. The Board further clarified for members that it is standard practice for Board members

to be paid in Australia, while also acknowledging that there needs to be better communication with the community about assistance available to members.

A question was asked about the multiple trusts.

The Board confirmed that there are different trusts because one is the Native Title trust, while the others relate to BHP and a charitable trust.

Members asked that the Board look at further assistance to assist with costs of electricity, water and the like to support members and requested information about what it costs to run Board and other committee meetings.

It was noted that all figures are available in the annual report.

A member raised assistance for elders for accommodation to attend the AGM.

Another member requested the Corporation share more information around training and employment, particularly for younger people in the community who currently do not have employment.

The Board took these matters on notice.

The following motion was put to members for vote:

Motion: ***That the 2023 Audited Financial Report for Kokatha Aboriginal Corporation RNTBC and controlled entities be accepted.***

Moved: ***John Reid***

Seconded: ***Denise Dowling***

Motion passed unanimously (0 opposed | 0 abstained)

6.2. Appointment of auditor for the next financial year and set the audit fee.

Members were invited to ask questions relating to the appointment of an auditor for the next financial year.

A question was asked about how long the auditor had been appointed and whether under the Corporations Act there was a limit on how many years the same auditor could be used.

RSM responded that they were unsure how many years Basso Newman had been auditor for KAC, and would further need to check whether the Corporations Act applies in this instance as KAC is governed by the CATSI Act. He further noted that there is a need to appoint the auditor for next year at the AGM, and it may be that the motion is passed subject to considerations.

The following motion was moved:

Motion: ***That Basso Newman be appointed as auditor for KAC and controlled entities for the 2023-2024 financial year.***

Moved: ***John Reid***

Seconded: ***Valerie Gibson***

Motion passed with majority in favour

The following motion was moved:

Motion: *That the Board investigate new auditors for next year.*

Moved: *Tanya Swales.*

Seconded: *Trenna Frankiw*

Motion failed with majority against

Item 7 on the agenda Kokatha People Native Title Compensation Charitable Trust Report and Resolution.

7.1. John Hender spoke to the members on behalf of the Trustee about the Kokatha Native Title Compensation Charitable Trust report, clarifying his role as an Independent Director and the role of the trust, before providing a history to the trust, including the rules of the trust, which stipulates that it can only use half of interest earned without the approval of the members.

Information was then presented relating to the trust's existing investments: International, Australian, Fixed Interest, and Property, together with a justification for those investments.

John Hender confirmed that Perpetual is the investment manager for the trustees, and gave members an overview of how the money in trust is earned and paid to KAC.

He confirmed that the proposed resolution related to the trust that was on the agenda requires two-thirds of members present at the AGM to vote in favour before it is passed.

A question was asked about where the money will go if they vote in favour, and why it is only "likely" to go to the community, and not definitely. John Hender provided a further explanation as to the rules of the trust.

A question was asked about how trustees are appointed. John Hender advised that in the next 12 months they will seek trustees from the community to be appointed, but otherwise the trust is silent on the matter.

A question was asked about the *appointment of Shaun Berg as one of the trustees.*

John Hender explained that the trust deed states that there must be two independent directors and that Shaun Berg was approved by the trust board at the time as he had the requisite skills for the position and that is why he was appointed.

A request was made that the appointment of Shaun Berg as a trustee be reviewed.

A question as asked about whether there can be a resolution about seeking trustees from within the community.

John Hender explained that to change the trust rules it would require a 100% vote in favour of members, noting that it had been tried once but failed.

In relation to remuneration, John Hender confirmed that the trust aligned itself with the KAC Board, meaning that he gets paid \$15K, as do the two independent directors.

John Hender advised that the compensation trust board and the KAC board work together to determine who is on the trust board, and provided further information regarding the purpose of the trust.

A question was asked about the amount that Perpetual gets paid to manage the investments of the trust.

John Hender confirmed that Perpetual receive 0.5% of the capital, and that all trustees get paid by the trust. His role is to provide the information to the community because he is an independent director.

Special consent resolution:

Resolution: *Proposed under 4.5 of the Trust Deed, the members hereby consent to the Trustee applying or appropriating all income accumulated in the accounting period ending 30 June 2023 in pursuit of the Trust's Charitable Object.*

Moved: *John Reid.*

Seconded: *Joyleen Thomas.*

Resolution passed with more than two-thirds in favour (0 opposed).

Item 8 on the agenda

BHP Negotiation update.

8.1. KAC BHP Working Group presentation:

The KAC BHP Working Group explained to the members how the Working Group is made up of 4 board members + 4 Cultural Heritage Committee (CHC) members, and provided information on the following:

- the role of the working group and its priorities
- the Oak Dam, Olympic Dam, Carrapateena projects
- the needs of BHP in relation to Oak Dam and Native Title

The KAC BHP Working Group informed members that negotiations are not yet at the stage where a proposal can be brought to the community, but provided an overview of the agreement negotiations to date, together with the Kokatha priorities in relation to that agreement.

Members were invited to provide suggestions as to a Kokatha name for Oak Dam.

The KAC BHP Working Group then gave an overview of the next steps for the working group, including negotiations regarding a compensation package, noting that if an agreement is reached, approval of the Kokatha Common Law Holders will be required.

The KAC BHP Working Group provided an overview of the Olympic Dam Agreement signed in 2008 by BHP, Kokatha, Kuyani and Barngarla peoples and the problems related to that agreement. It was confirmed that all three signatory groups need to agree for any changes to the existing agreement, and therefore BHP is currently negotiating with all three groups.

Information was also provided about a partnering agreement between KAC and BHP similar to the Carrapateena agreement that is being developed.

Members were then invited to ask questions.

A question was asked about what BHP needs in respect of the retention lease and land being returned to Kokatha.

Stephen Kenny of Camatta Lempens confirmed on behalf of the KAC BHP Working Group that under the Native Title Act, BHP is required to negotiate with KAC but the legislation does not set out the provisions for what is to be negotiated.

A question was asked about whether a mining economist had been engaged.

It was confirmed that the KAC BHP Working Group was looking at experts for such advice but at this stage BHP are not negotiating on a mine itself which is when a mining economist is usually required, but rather further exploration.

The KAC BHP Working Group confirmed that getting back on country and having that land returned to them as the traditional owners was a priority for the working group.

Item 9 on the agenda

Rule Book Amendments.

The Facilitator clarified that item 9 would require 75% of members in favour for the special resolutions to be passed.

9.1. & 9.2.

Stephen Kenny (Camatta Lempens) provided an overview of the issues the rule book working group had identified with the current rule surrounding the Chairperson of the Board and Chair of CHC and why the changes were being proposed.

He then went through what the proposed changes as set out in the notice and agenda. The wording as also projected on the screen for all members to see as they were being explained.

The removal of the word “new” from rule 7.7.2 was suggested to clarify the intention of the amendment and was added to the resolutions on the screen.

Two special resolutions were proposed as follows:

- 1. That the following sentence be removed from the rule 7.7.2 of the Kokatha Aboriginal Corporation RNTBC rule book: “The Chairperson will be ineligible for re-election for a period of three years from the day the Chairperson’s term of appointment expires” and that the word “new” be deleted from the rule.; and*
- 2. That the following sentence be removed from Schedule 5 of the Kokatha Aboriginal Corporation RNTBC rule book: “b) Must be rotated among the CHC members annually with no repeat appointments within a period of four years”.*

Stephen confirmed that this was a special resolution as it was a vote about a rule book change.

Member Elaine Kite, as a member of the working group that had recommend these changes to the Board, informed members as to the purpose of the resolution to give additional power back to Kokatha.

A question was asked about whether members had voted on the original rule. Stephen Kenny confirmed that the administrator had put in this rule.

The following special resolutions were put:

- 1. That the following sentence be removed from the rule 7.7.2 of the Kokatha Aboriginal Corporation RNTBC rule book: “The Chairperson will be ineligible for re-election for a period of three years from the day the Chairperson’s term of appointment expires” and that the word “new” be deleted from the rule.; and**
- 2. That the following sentence be removed from Schedule 5 of the Kokatha Aboriginal Corporation RNTBC rule book: “b) Must be rotated among the CHC members annually with no repeat appointments within a period of four years”.**

Moved (both resolutions together): Glen Wingfield

Seconded: Joyleen Thomas

Special resolutions passed with required 75% minimum (263 in favour | 1 Against | 0 Abstentions)

Item 10 on the agenda.

Members’ petition to remove Directors.

10.1. The Board provided an overview of the agenda item about members’ petition to remove the current board of directors pursuant to clauses 7.10 and 7.11 of the Rule Book and section 249-10 of the CATSI Act.

The Chair advised that the vote would be by secret ballot.

The Board invited Tracy Reid to address the room, she nominated member Elaine Kite to address the room. Elaine Kite spoke in favour of the petition.

Members then spoke for and against the petition.

A question was asked about who had made the decision to hold a secret ballot.

Chair confirmed she made the decision under her authority as Chairperson in accordance with the Rule book which allows the Chair to call for a ballot to avoid angst and disagreement.

A member requested a show of hands instead of a secret ballot.

Chair conferred with the Board and the decision to hold a secret ballot was confirmed.

The resolution was projected on the screen for members to read while voting.

Members were provided with instructions on how to vote and the voting was opened via secret ballot.

Result: 210 no/169 yes.

Board is not to be removed. Elections to the Board will apply to only those terms ending.

The counting was conducted by SANTS with two scrutineers, one nominated by the Board, John Hender and one nominated by the petitioners, Daniel Ramm.

Following the vote, the Chair thanked the members for the show of support and confidence and on behalf of the Board, that she and the directors will continue their work for the community.

[Break for lunch]

[Meeting resumed 1.45pm]

Facilitator: Provided a recap of the agenda items completed, including the votes for item 10.

Item 11 on the agenda.

Directors nominations and election.

11.1. Chair confirmed that there are four positions up for nomination at present.

The names of all members who had nominated were projected on the screens.

Tracy Reid and Max Reid withdrew their nominations.

Nominees were given the opportunity to speak to the members about why they were standing for election as a Director.

A question was asked about Directors ID. The Chair confirmed all current directors have a Director ID, and those elected would need to get a Director ID if they did not have one.

Chair confirmed that voting is for 4 nominees for the board only.

Facilitator Deans opened voting.

[Break for afternoon tea at 2.54pm]

[Meeting resumed 3.20pm]

Item 12 on the agenda.

CHC Nominations.

12.1. The facilitator provided an overview of the requirement for the CHC Nominations and how they work. Members were invited to nominate their CHC representatives.

Nominations for CHC representatives as follows were received:

- Larkin – Elaine Moosha/Khatija Thomas
- Wingfield – Glen Wingfield/Sonja Gaston
- Smith – Kenny Smith/Anna Strzelecki
- Thomas – Tjangu Thomas/Denise Thomas

- Dare – Karen Joslyn/Michelle Joslyn
- Reid – Maxwell Reid/Roxanne Colson
- Davis – Rodney Dodd/Grant Warren
- Kite – Elaine Kite/Trenna Frankiw
- Starkey – Andrew Starkey/Sabrina Starkey
- Dingaman – Barb Amos/Damien Coulthard
- Baker – Allan Wallace/Zaaheer McKenzie
- Fatt- Johnathan Fatt-Clifton/Lee Williams
- Turner – Value Gibson/Ausmund Bakka (Mun-Mun)
- Allen – Dianna Allen/Elton Brady

As the counting for the Board positions continued, the following resolution was put.

- 1. That the nominees with the highest vote will be appointed as Directors for a term of two years.**
- 2. That the nominated CHC representatives be elected to the CHC.**

At the common law holders meeting on Sunday, 19 November the directors will be announced.

Moved (both together): **TJ Thomas**

Seconded: **Kim Chamberlain**

Resolution passed with majority.

NOTE: The results announced at the Common Law Holder meeting on 19 November 2023 were as follows:

Mel Reid, Chereena Amos, Michael Turner and Joyleen Thomas received the highest votes and were appointed as directors for a term of two years in accordance with the resolution above.

Item 13 on the agenda.

Membership Register Update.

13.1. Chair reminded members to update their contact details as required for communication purposes.

Item 14 on the agenda.

Any other business.

14.1. A member raised member conduct and respectful discussion between members at meetings such as the AGM.

Item 15 on the agenda.

Close.

15.1. Chair thanked members for attending the AGM and the **meeting was closed at 4.13pm.**

DRAFT