

KOKATHA ABORIGINAL CORPORATION RNTBC ICN 8093

Kokatha Common Law Holders Authorisation Meeting

Saturday, 12 April 2025

West Augusta Football Club, 13 Gardiner Avenue, Port Augusta West SA 5700

Chairperson: Nyani Thomas

Facilitator: Geoff Deans

Attendees: Refer attendance sign-in register.
Maxwell Reid by telephone.

Apologies: Refer apologies register.

Invitees: Representatives from BHP (Jim McClusky, Rachael Siddall, Paul Cuthbert, Katherine Betschart, John Liston, Mei Goh, Kyle Andrews)
Representatives from Camatta Lempens (Stephen Kenny & Leonora Herweijer).
Sarah Cassells (Office81 – Minutes Secretary)
KAC Staff

1. Chairperson's Welcome, Attendees and Apologies

The meeting was opened by the facilitator at 10:48am, following an extended registration period to allow for sign-ins until 11:30am.

The facilitator introduced his role, confirmed he had no conflicts of interest, and provided an overview of the day's agenda. Housekeeping matters, including emergency procedures, were addressed.

The Chairperson delivered an Acknowledgement of Country and a minute's silence was observed to honour past Kokatha people.

Apologies were noted as listed above, and a quorum was confirmed.

The facilitator outlined the Code of Conduct and voting protocols, and advised that no proxies were permitted for this meeting. A standing resolution remains in place that one warning will be given for breaches of the Code of Conduct, after which individuals may be asked to leave.

Thanks were extended to the Kokatha Pastoral team for providing breakfast. Attendees were

informed that merchandise would be distributed following the meeting.

The Chairperson provided an overview of the purpose of the meeting: to consider resolutions regarding the Oak Dam Retention Lease Indigenous Land Use Agreement (ILUA) with BHP.

The Chair noted the resolutions were provided separately on a blue piece of paper for ease of reference and that legal representatives would be on hand to explain these.

He confirmed that BHP representatives were scheduled to present on the project, followed by a presentation from the KAC Oak Dam Working Group and legal team.

The Chair invited attendees to direct any heritage-related questions to the Interim Heritage Manager, Paul Strangways, who was present.

2. Confirmation of Minutes of the Previous Meeting

Minor amendments to the draft minutes from 15 December 2024 were noted relating to Maz Hearne's role with Perpetual and Joanne Khan's role as the Chair of the TAC.

Motion

That the minutes of the Common Law Holders Meeting held on 15 December 2024 be accepted.

Moved: Joyleen Thomas

Seconded: TJ Thomas

Outcome: Motion carried by majority in favour. 0 against, any abstaining?.

3. Oak Dam Retention Lease Indigenous Land Use Agreement (ILUA) with BHP

3.1 BHP Presentation

Representatives from BHP, including Jim McClusky, Paul Cuthbert, Mei Goh, John Liston <check>, Kyle Andrews, Rachael Siddall and Katherine Betschart, provided a presentation on the Oak Dam project for the benefit of the CLH present.

BHP acknowledged Country and spoke to the journey toward negotiating an agreement with KAC. Jim McClusky acknowledged the need to renegotiate the Olympic Dam Agreement and its legacy, and acknowledged the importance of BHP building trust.

BHP confirmed that the ILUA concerns advanced exploration only and not a mining project. The project is in reference to Phase 2 (Retention lease) to construct a decline for further underground access and ore body assessment. The work may or may not lead to future mining.

BHP outlined the area that the ILUA covered including the Retention Lease area and areas of the miscellaneous purpose licences and the activities they intend to undertake under the ILUA.

Heritage and environmental considerations were outlined, with BHP confirming 21 KAC heritage surveys covering more than 1,550 hectares had been completed with 293 days in the field. BHP will need to seek authorisations under the *Aboriginal Heritage Act 1998* (SA) before any impact on heritage. BHP committed to protecting heritage and undertaking rehabilitation obligations. The agreement includes plans for heritage monitoring, cultural heritage protocols, and future engagement through a Partnering Management Committee (PMC).

Questions from the floor addressed concerns about the heritage process, water access, and the Indenture Act. BHP confirmed Oak Dam operates under the Mining Act, not the Indenture Act, and that water will be sourced from Carrapateena and eventually via the Northern Water Supply Project (NWSP).

An attendee raised concerns about the availability of heritage reports and requested more time to review the ILUA and associated materials. BHP and KAC representatives clarified that survey reports had recently been provided as they were done through a separate entity under the Olympic Dam Agreement and further review could take place with support from the Interim Heritage Manager. It was noted that he was available for members to speak to today. Jim McClusky also clarified that the ILUA does not authorise disturbance or damage to heritage and that this would be a separate process under State laws.

A question was asked about where BHP will get the water from for this project. A comment was made that there is great concern about water BHP is taking out of the Great Artesian Basin (GAB) on Arabana Country and water running out noting the connections of families. The attendee raised that springs are dying as a result of the water BHP has taken.

BHP confirmed that the water for Olympic Dam comes from the GAB while water for Oak Dam will come from the Carrapateena well field which is the

Following BHP's presentation, the meeting broke for lunch at 12:34pm.

3.2 KAC Oak Dam Working Group Presentation

The meeting resumed at 1:30pm. BHP representatives had departed.

Nyani Thomas and Elaine Kite presented to the CLH on behalf of the KAC Oak Dam Working Group. An overview was provided of the Working Group's role, it being made up of directors and CHC members, the negotiation process including community consultation with 3 previous community meetings, and engagement with the CHC and Board throughout the process. It was confirmed that Kokatha native title holders have the right to negotiate under the Native Title Act, but not to veto projects.

Key terms of the ILUA were outlined, including cultural heritage protections, environmental safeguards, compensation, employment and contracting targets, and the renegotiation of Carrapateena and Olympic Dam agreements.

The Working Group also explained that a key part of the negotiation had been self-determination of benefits and that the ILUA did not include trust structures or third-party trustees being imposed by BHP or BHP approvals of how the money is used by KAC on behalf of the Kokatha People. The Working Group explained that the ILUA includes that KAC will be paid the financial benefits and how it will determine how it is used.

The agreement includes oversight via the PMC, funding for an implementation officer, and has some confidentiality requirements.

The ILUA is a five-year agreement, with a potential extension to ten years, and does not authorise mining.

Open discussion followed. An attendee raised access to heritage reports, consent requirements, and cultural decision-making processes. The Working Group acknowledged feedback and noted that consultation with CLHs had been extensive. Heritage reports which are separately done through the NTP Rep Corp under the Olympic Dam Agreement heritage protocol which continues to apply to Oak Dam were received the night before after very recent requests for information and arrangements could be made for culturally appropriate review. CLHs were also invited to talk to Acting Heritage Manager Paul Strangways at the meeting and that one on one sessions with KAC's lawyers in the lead up to this meeting had been offered to all CLH. Legal and cultural processes were explained, including the application of the existing ODA Heritage Protocol to the Oak Dam project

The Working group confirmed that the draft ILUA had been available to CLHs at the meeting in December 2024 and that there had been extensive engagement with the community including multiple community meetings, updates and opportunity for one on one sessions with KAC's lawyers to ask questions about the ILUA leading up to this meeting.

3.3 Legal Presentation – Camatta Lempens

Stephen Kenny and Leonora Herweijer of Camatta Lempens provided a clause-by-clause explanation of the ILUA, referring to the plain English summary, Executive summary and copies of the ILUA provided to attendees. Key sections included:

- Parties and scope of the agreement
- Term, interpretation, and registration requirements
- Financial benefits, mutual obligations, and agreed benefit accounts including that KAC will receive the money and will determine how under the ILUA
- The consents and covenants provided by KAC and Kokatha CLH under the ILUA
- Cultural heritage and environmental provisions
- Governance, dispute resolution, confidentiality, and taxation

It was confirmed that the compensation paid under the ILUA will be in full and final satisfaction of BHP's native title compensation obligations for the Retention Lease activities outlined in the ILUA. If BHP want to mine, a new agreement is required. . The agreement establishes structures for monitoring compliance and has dispute resolution procedures.

Following the legal overview, further questions were taken from the floor regarding the ILUA, its implications, and consent.

4. Resolutions

The proposed resolutions were read aloud and explained in plain English by legal representatives from Camatta Lempens.

Questions were raised regarding traditional decision-making methods and age eligibility for voting. Clarification was provided on the voting method and that minors under 18 are not eligible to vote.

Voting was conducted by a show of hands and from Mr Max Reid over the phone. Vote counting was undertaken by SANTS.

Motion

1. It is acknowledged by the Kokatha Common Law Holders that Kokatha Aboriginal Corporation RNTBC ICN 8093 (KAC) has consulted with them in relation to the proposed native title decision to enter into the Indigenous Land Use Agreement with BHP Olympic Dam Corporation Pty Ltd (BHP) and the State of South Australia over the Oak Dam Retention Lease Area and Miscellaneous Purposes Licence areas (Oak Dam ILUA) (Proposal).

2. The Kokatha Common Law Holders acknowledge that they understand the purpose and nature of the Proposal as an act that will affect their native title rights and interests and to a level sufficient to decide whether to consent to KAC entering into the Oak Dam ILUA.

Moved: TJ Thomas

Seconded: Elaine Moosha

Outcome: Majority in favour 21 against. No abstentions.

Motion carried.

Motion

3. Kokatha Common Law Holders in attendance at this meeting are satisfied that:

3.1. the people of the meeting who have signed the attendance sheets are Kokatha Common Law Holders and are sufficiently representative of the Kokatha Common Law Holders to make authoritative decisions at this meeting and non-Kokatha people will be observers only;

3.2. sufficient notice was given of this meeting to Kokatha Common Law Holders to enable authoritative decisions to be made today; and

3.3. Kokatha Common Law Holders have been given a reasonable opportunity to attend this meeting.

4. That we, the Kokatha Common Law Holders, agree:

4.1. that there is no traditional method of making decisions about native title mining agreements including the Oak Dam ILUA; and

4.2. that each Kokatha Common Law Holder over the age of 18 attending this meeting shall have one vote and that voting to confirm consent to the Proposal shall be by simple majority

by a show of hands.

Moved: Elaine Kite

Seconded: TJ Thomas

Outcome: Majority in favour 17 against. No abstentions..

Motion carried.

Motion

5. That we, the Kokatha Common Law Holders, consent to:

*5.1. KAC entering into the Oak Dam ILUA in accordance with the Native Title Act 1993 (Cth);
and*

*5.2. The directors of KAC authorising technical changes to the Oak Dam ILUA as required for
registration of the Oak Dam ILUA with the National Native Title Tribunal.*

*6. That we, the Kokatha Common Law Holders, direct the directors of KAC to execute the Oak
Dam ILUA and that it be lodged for registration with the National native Title Tribunal (subject
to any required amendments per paragraph 5.2).*

Moved: TJ Thomas

Seconded: Peter Khan

Outcome: Majority in favour 23 against. No abstentions..

Motion carried.

Stephen Kenny of Camatta Lempens thanked the community for their participation and acknowledged the importance of the resolutions passed.

5. Meeting Close

The Chairperson of the KAC Board thanked attendees for their participation and confirmed that merchandise was available for collection.

The meeting was formally closed at 3.27pm.