

Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC

ICN 3743 ABN 14 146 238 567 (under special administration)

NEWSLETTER 10 :: June 2023

DEAR MEMBERS, TRADITIONAL OWNERS AND OTHER INTERESTED PEOPLE,

My name is Peter McQuoid and on 17 April 2021 the then Registrar of Indigenous Corporations, Selwyn Button, appointed me special administrator for Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC (ATLA).

This is my tenth newsletter as the special administrator for ATLA. While I am in this role, I'll send regular newsletters to let you know what I'm doing to help get your corporation ready to hand back to members' control.

Indigenous Business Australia (IBA) continue sale of its share of Wilpena Pound Resort

Just over 10 years ago Crammond Pty Ltd (now ATLA 1 Pty Ltd) and IBA jointly purchased the Wilpena Pound Resort. The aim of this venture was for ATLA1 to buy out IBA's share of ownership over a 10 year period by using profits generated from operating the resort. Unfortunately 10 years has passed and the goal has not been achieved – currently ATLA1 owns only 11.09% of the resort with IBA owning 88.91%.

IBA is selling its share of ownership in Wilpena Pound Resort to the G'Day Group.

G'Day Group would like to partner with the Adnyamathanha people in operating the resort.

G'Day Group representatives attended our information meetings at Hawker and Port Augusta on 3 & 4 February and 29 April. Mr Grant Wilckens

(CEO of the G'Day Group) has listened to concerns and hopes raised by Adnyamathanha people during these meetings.

Adnyamathanha people have determined a list of priorities through the community meetings and through feedback to the G'Day Group and to ATLA. These priorities have been summarised in a document called the Term Sheet.

The G'Day Group are now drafting a Partnering Agreement which sets out a proposed long-term agreement with Adnyamathanha people on how the Resort will be run if the G'Day Group purchase IBA's share of ownership of the resort.

ATLA has appointed:

- Anthony Pike, partner of Moore Australia Chartered Accountants, to review the financial aspects of the Agreement, and
- Luke Paterson, partner of Jackson McDonald multi-sector law, to review the corporate and commercial aspects of the Agreement.

Both Anthony and Luke are working on behalf of Adnyamathanha people to ensure the Adnyamathanha priorities are also covered in the Agreement. Anthony and Luke will prepare a statement / report detailing their opinions on the content of the Agreement and the potential impact on Adnyamathanha people into the future.

When drafting of the proposed Agreement has been completed ATLA will call a general meeting of members. The purpose of the meeting will be to ask members of ATLA to vote on the proposed Agreement with the G'Day Group.

At least 3 weeks before the meeting we will send a lot of information to members by Australia Post, including:

- the report from Moore Australia
- the report from Jackson McDonald
- the Term Sheet and a
- a summary of the Agreement.

Members will be asked to vote Yes or No to entering into the Agreement with G'Day Group. We don't yet know when this meeting will be held as the Agreement is still being worked on.

Information from IBA

We have provided a lot of information about the IBA's sale of its share of Wilpena Pound on the ATLA website. Log on to atla.com.au and select the news link at the top. If you would like information posted to you, please contact Lindell Broadbent at Moore Australia by email lindell.broadbent@moore-australia.com.au or by phone 08 8224 3300.

Message from G'Day Group

An update message from the G'Day Group about their proposal to partner with the Adnyamathanha people in operating the Wilpena Pound Resort is attached to this newsletter.

If you have any comments / queries in relation to the proposed Agreement with G'Day Group please email ikara@gdaygroup.com.au or contact the special administrator Peter McQuoid – contact details below.

Rangelea directors appeal Chief Justice's judgement

Orders

On 26 April 2023, the Chief Justice of the Supreme Court of South Australia made orders following the judgment which was delivered on 5 April 2023. The Court ordered that:

- Mr Hugh McPharlin is appointed as inspector to investigate how the Adnyamathanha Master Trust has been managed by Rangelea, including by the Sub-Groups.
- Within the next 30 days, Mr McPharlin will provide the Court with an interim report which sets out the anticipated scope of his investigation, when he will be able to provide a final report, and how much it will cost for him to do so.
- If Rangelea does not provide an undertaking to the Court by Friday 28 April 2023 that its accountants will cooperate with Mr McPharlin and provide him with information about the Master Trust's records, then Rangelea must give ATLA the books and records of the Master Trust within 14 days. Otherwise, the Court will make further orders about Rangelea giving the books and records of the Master Trust to ATLA at the next hearing.
- Rangelea will pay ATLA's legal costs for the ATLA -v- Rangelea court proceedings.

Rangelea provided the undertaking to the Court by Friday 28 April 2023 and therefore did not have to provide ATLA with the books and records of the Master Trust at that time.

Appeal

On 17 May 2023, Rangelea started an appeal against the Chief Justice's judgment in the ATLA court proceedings. Rangelea's appeal will further delay common law holders finding out how the royalty money has been managed.

There was a hearing before the Chief Justice on 7 June 2023, at which time the Chief Justice stayed his orders pending the outcome of the Rangelea appeal.

Rangelea wants the Court of Appeal to dismiss the Chief Justice's orders that Rangelea open up the books of the Master Trust, and that an inspector be appointed to investigate how Rangelea and the Sub-Groups have managed the Master Trust.

Rangelea will argue that the Chief Justice was wrong when he decided:

- that the Master Trust is not a charitable trust.
- that Mr McKenzie, Mr Wilton and Ms Taylor are beneficiaries who are entitled to information about the Master Trust.
- that ATLA was authorised to seek information about the Master Trust and had the power to bring the court proceedings.
- that the former Special Administrators had validly adopted the 2021 ATLA Rule Book; and
- to appoint an inspector to investigate the Master Trust.

In particular, Rangelea argue that once it has given royalty money to the Sub-Groups, it owes no duty to the members of the Sub-Groups to record how each Sub-Group distributes the royalty money to its members.

These issues will now have to be reconsidered by the Court of Appeal at another court hearing.

On 14 July 2023 at 9:15am, there will be a hearing to set a date for the appeal to be heard. It will likely be up to 12 months before Rangelea's appeal is resolved. In the meantime, the royalty money will remain in court.

Costs of the legal action

ATLA has now spent over \$500,000 in legal fees in this matter and there will be many thousands of dollars spent during the Rangelea appeal in legal fees.

It is unknown how the directors of Rangelea are funding their legal fees in this matter.

ATLA's legal fees have been paid in full by ORIC. My sincere thanks to ORIC and the NIAA for the support they have provided to ATLA during these difficult times.

Extension of special administration

The Registrar has decided to extend the special administration of ATLA to 30 June 2024. The extra time will allow for:

- the Rangelea appeal to be heard and if the directors of Rangelea are unsuccessful:
- the Inspector to complete his review of the Adnyamathanha Master Trust.

- to seek orders from the Court for the Inspector's report to be released in full to the Adnyamathanha common law holders.
- after receipt of the register of common law holders from the directors of Rangelea, call a meeting of common law holders to:
 - » discuss the Inspector's report.
 - » decide if any changes should be made to how royalty payments are managed on behalf of the common law holders.
 - » decide the role of ATLA going forward and how that should be funded.
- implement the decisions made at the common law holders meeting.
- prepare and agree a business plan for ATLA.
- hold consultation meetings on the ATLA rule book and implement any changes required.
- continue to provide assistance with ensuring Adnyamathanha interests are protected with respect to IBA's decision to sell its share of ownership in Wilpena Pound Resort.
- with the assistance of the National Native Title Tribunal mediation team agree with the community how and where meetings should be held for native title business and non-native title business.

Money Story

I am pleased to advise that with the assistance of a grant from ORIC ATLA is now solvent. That is ATLA is able to pay its bills as and when they fall due. All of the old creditors, businesses owed money by ATLA, have been paid in full. ATLA continues to operate in accordance with its budget and is now operating at a small surplus.

Rule book changes

On 25 March 2021, the *Native Title Legislation Amendment Act 2021* came into effect. That law altered both the *Native Title Act 1993* and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*. Also updated are the Native Title (Prescribed Bodies Corporate) Regulations 1999, which guide implementation of the law.

To comply with the above changes in law on 22 March 2023 I notified ORIC that I exercised my powers under

section 499-5(3)(a) of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and changed the corporation's rule book as follows:

1. Rule 5.1 Who is eligible.
2. Rule 5.2 How to become a member.
3. Rule 5.7 Cancelling membership.
4. Rule 20.4 Dispute resolution.

ORIC registered these changes on 1 May 2023.

A copy of the new rule book is available in the public register on oric.gov.au.

For more on the changes to the law which required RNTBC's to have particular rules about disputes and membership eligibility in their rule books are also available on oric.gov.au/native-title.

ATLA Culture Heritage and Native Title committee (CHANT)

The CHANT committee is an advisory committee for the ATLA board. The role of a CHANT committee member is to provide advice on culture and heritage matters to the ATLA board. As there is currently no board, they are providing this advice to the ATLA corporation advisory group. In performing their role, members of CHANT must represent the whole Adnyamathanha community through their knowledge, understanding and awareness of Adnyamathanha culture and heritage.

ATLA Coordinator

The role of the ATLA Coordinator is to support the CHANT committee to ensure ATLA culture and heritage interests are recognised and protected.

Lisa Salisbury left the role of ATLA Coordinator in January 2023 to head overseas. Gordon Stenhouse from Stenhouse Heritage kindly stepped into the role to assist while an alternative provider was sourced. The main tasks of the ATLA Coordinator are attending to all the administration around the Culture, Heritage and Native Title Committee. As of July, Moore Australia will provide these administration services and Stenhouse Heritage will continue to provide specialist skills in Aboriginal archaeology when needed.

Thanks again to the generous funding provided by Heathgate Resources Pty Ltd (75%) and Taruga Minerals Limited (25%), which has enabled the continuation of the ATLA Coordinator.

Sign up to work on heritage surveys

Did you know that any member of ATLA can register their interest in participating in a heritage survey? These are paid positions.

To register, go to atla.com.au/about/culture-heritage-and-native-title-committee/ and click the button to download a '**Heritage Survey Participation Agreement**'.

Fill in the form and email it to the CHANT committee at heritage@atla.com.au

If you would prefer, please contact Lindell Broadbent at Moore Australia by email lindell.broadbent@moore-australia.com.au or by phone 08 8224 3300 to arrange for a form to be sent to you. Lindell is also available to assist with the filling out of the form if that is required.

Your agreement will be added to a 'Register of Survey Participants'. The CHANT committee uses this register to select the most appropriate people to participate in surveys.

More information

See ORIC's fact sheet 'Special administrations: what members and directors need to know', and other fact sheets on corporate governance at oric.gov.au.

You can find out more about special administrations by visiting oric.gov.au or by calling the Registrar's office on 1800 622 431.

Many thanks,
Peter



SPECIAL ADMINISTRATOR

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Message to the Adnyamthanha Community

I'm writing to update you all on the proposed Partnering Agreement between G'day Group and your community. I am grateful to have engaged with many of you already through the community information sessions held in February and April this year.

With ATLA being a part owner in Wilpena Pound Resort, it is important the community understands what is being offered ahead of the formal vote. I think we all acknowledge that there needs to be change and the current arrangement with Indigenous Business Australia (IBA, being part of the Federal Government), hasn't worked out as hoped.

To recap what G'day Group is offering, this includes:

- Working together to see ATLA hold the head-lease (target of 42-year term) over Wilpena Pound Resort. It is not anticipated the State Government will support a freehold transfer of the land, so the head-lease (with G'day Group as your tenant via a sub-lease) being the next best outcome.
- Holding the head-lease comes at an annual cost, however G'day Group will pay this on behalf of the community to the State Government. During the head-lease negotiations we, together, will seek to reduce these costs where possible – but we don't have complete control over this.
- When the Resort is successful, there will also be an annual share of the profits. As G'day Group is going to spend many millions of dollars up-front to improve the Resort, they need to recover their funds. In good faith, G'day Group is proposing annual payments to ATLA, from day 1 and indexed annually as an upfront profit share – financial benefits the community has not received since the start of the IBA relationship.
- G'day Group, through its national operations, has strong systems and processes in place to train and employ Aboriginal people. They will bring these to Wilpena Pound and take a strong focus on ensuring people stay in their jobs (which is currently an issue at Wilpena Pound where employees tend to leave after 4 months). G'day Group has also made a commitment to preferencing Adnyamathanha community members for jobs, and it wants to see a larger percentage of community working at the Resort compared to currently.
- The Partnering Agreement also provides for 2 annual traineeships/apprenticeship (with scholarships to assist with education costs).
- Signage at the Resort will be updated to include Adnyamathanha and English language.
- Business opportunities for the Adnyamathanha community to supply into the Resort will also be a priority – G'day Group will provide initial funding to make this happen.

ATLA has received a draft Partnering Agreement which is currently being legally reviewed. The Agreement will be signed if the community votes to support it.

Any community member who would like to know more details of what is being proposed by the G'day Group can email the G'day Group at ikara@gdaygroup.com.au

Grant Wilckens
Chief Executive Officer
G'day Group