Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC

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

MEMBER UPDATE :: April 2024

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

The time has now come for ATLA members to have their say and to vote on if they agree with the sale of Wilpena Pound Resort to the Discovery / G'day Group. Discovery and G'day group are the same company.

At the ATLA AGM on Saturday 13 April 2024

☑ ☒

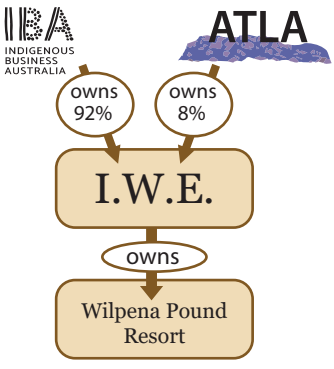
You will be asked to vote YES or NO

Do you agree to the sale of Wilpena Pound Resort to the G'day Group, the proposed Partnering Agreement and for the special administrator to take all additional steps as may be required to give effect to the sale.

ATLA members, please remember:
ATLA does not and has never owned Wilpena Pound Resort.

The Resort is owned by a company known as IWE and IWE is almost totally owned by Indigenous Business Australia (IBA). Currently ATLA only has an 8% share of IWE with IBA owning 92% of IWE and therefore owning 92% of the Resort.

IBA has decided to sell its interest in IWE and therefore sell its interest in Wilpena Pound Resort. ATLA cannot prevent IBA from selling its interest in the Resort.



ATLA has however been talking with Discovery / G'day Group to ensure the Adnyamathanha people get the best possible deal.

Under the current deal with IBA, ATLA and the Adnyamathanha people have received no financial benefits at all for the past 12 years. The investment has not worked, and the resort has been run down and not maintained properly.

Under the proposed sale to Discovery / G'day Group ATLA will not own the Resort, similar to how it is today with the IBA arrangement, but will receive a guaranteed $200,000 in the first year, $100,000 each year thereafter and when the resort is profitable will receive 11% of the profits. Discovery / G'day Group will also spend $20 million of its own money on improving the Resort so as it can be profitable sooner.

Attached is an **information paper for ATLA members** on the proposed sale which includes the following statements from ATLA's advisors and the special administrator:

Luke Paterson **ATLA's lawyer** from Jackson McDonald says:

'Overall, looking at the negotiated deal as a whole the proposed deal with G'day Group offers ATLA benefits it does not presently enjoy in its current arrangements with IBA. Although there are risks involved and a number of terms are more favourable to G'day Group than ATLA, a number of provisions are designed to offset some of these risks.'

Anthony Pike **ATLA's accountant** from Moore Australia says:

'The proposed Partnering Agreement puts ATLA in a far stronger position than it is experiencing under its arrangements with IBA. There are risks with this opportunity like any commercial venture and with careful management of the Partnering Agreement, ATLA should be in a far better position with this investment.'

Peter McQuoid – **ATLA special administrator** says:

Based on my review of the proposed Partnering Agreement between ATLA and the G'day Group and the reviews by Anthony and Luke, I recommend the proposed sale of Wilpena Pound to the G'day Group proceeds. The proposal gives Adnyamathanha people a guaranteed minimum income each year with the chance of being paid an 11.091% share of profits. It allows the voice of Adnyamathanha people to be heard on how the Resort is run and it provides opportunities for Adnyamathanha people to be trained, employed and to set up a business.

Information paper for ATLA members: Sale of Wilpena Pound Resort

If you would like more information or would just like to speak with someone about the proposal, please contact George Treloar george.treloar@moore-australia.com.au or by phone 08 8224 3300. Alternatively, please contact the special administrator, contact details at the end of this update.

ATLA now owns houses in Leigh Creek

The SA Government, Department for Infrastructure and Transport (DIT) has generously transferred ownership of six houses, a shop / office building and one vacant block of land in Leigh Creek to ATLA at no cost.

It is pleasing to advise that all six houses have now been rented to Adnyamathanha people.

ATLA is in the final stages of negotiating with DIT the transfer of a further seven houses to ATLA at no cost. These houses will be transferred with current tenants and will not be available for rent to other people while the existing tenants continue to occupy the houses.

As houses become vacant, they will be advertised to ATLA members and will be available to any Adnyamathanha person who qualifies in the first instance.

Rangelea directors appeal is still being considered by the Court

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.

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.

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 has argued 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 are now being reconsidered by the Court of Appeal. It is not known when the Court will make its decision.

Money Story

I am pleased to advise that with the assistance of a grant from ORIC ATLA continues to be solvent. That is ATLA is able to pay its bills as and when they fall due. ATLA continues to operate in accordance with its budget and is now operating at a small surplus.

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.

Heritage Surveys

Over the last 6 months there has been little survey activity, with only the Orpheus Minerals – Frome Project and Department for Infrastructure and Transport – Beltana Road Floodway Reconstruction surveys being undertaken.

The following heritage surveys have been scheduled over the next few months;

- Department for Environment and Water – Blinman recreational vehicles waste site
- Department for Infrastructure and Transport – Gammon Ranges Road
- Beltana Station/Ediacara National Park 'Fence Line Project'
- Department for Infrastructure and Transport – Strzelecki Track Upgrade

Several mining exploration companies are making enquiries and presentations to CHANT about low level survey work on country.

CHANT Matters

The CHANT is working with South Australian Native Title Service (SANTS) to gain a further understanding around the ATLA Barngala Overlap Claim agreement and the terms and purpose of the agreement. This is in regard to the ongoing discussion between ATLA and the Native Title Tribunal regarding the agreement.

ATLA is currently working with the Environmental Defenders Office in looking to stop the regasification of the Leigh Creek gas fields by NeuRizer (formerly Leigh Creek Energy)

ATLA has engaged lawyers to provide advice in respect to the potential damage of cultural heritage sites on the Nilpena-Ediacara National Park boundary.

The CHANT have been actively involved in the workshops for the Flinders Ranges World Heritage listing

Sign up to work on heritage surveys

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

To register, ask George Treloar to send you a form:
email: george.treloar@moore-australia.com.au
phone: 08 8224 3300
If you need help to fill in the form George can help you.

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.

Many thanks,
Peter

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.

SPECIAL ADMINISTRATOR

Peter McQuoid
PDM Consultancy

Ph: (07) 3289 2596 or 0435 018 879
Email: p.mcquoid@pdmc.net.au

Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC

ICN 3743 ABN 14 146 238 567 (special administrator appointed)

NOTICE OF ANNUAL GENERAL MEETING 2022–23

All corporation members of ATLA are advised that an annual general meeting (AGM) of ATLA will take place as follows:

DATE:	Saturday 13 April 2024
SIGN IN STARTS:	9:00am SA time
MEETING STARTS:	9:30am SA time
VENUES:	1. The Terrace Hotel, 208 South Terrace, Adelaide SA 5000 2. Quorn Town Hall, 20 Railway Terrace, Quorn SA 5433 3. Hawker Institute, 58 Elder Terrace, Hawker SA 5434
TECHNOLOGY: (video access)	https://tinyurl.com/ATLAAGM Members just need to click on the link for access or enter the details to their computer search engine. Attendees using the link are not able to vote on resolutions or to ask questions.

COVID-19 Requirements

Please do not attend the meeting if you are unwell or have any COVID-19 like symptoms.

Peter McQuoid, Special administrator
8 March 2024

SPECIAL ADMINISTRATOR

Peter McQuoid PDM Consultancy

Ph: (07) 3289 2596 or 0435 018 879 **Email**: p.mcquoid@pdmc.net.au

INTRODUCTORY INFORMATION

This notice contains important information about the meeting. It sets out the business of the meeting and the decisions that ATLA members will be asked to make at the meeting. Members should read all of this notice.

Venues

1. There are 3 physical venues for attending the meeting, and Members may also attend via video link.
   - The special administrator will chair the meeting from the Quorn venue.
   - Representatives from G'day Group will be at all 3 venues.
   - Anthony Pike from Moore Australia will be at the Hawker venue.
   - Luke Paterson from Jackson McDonald will attend via video conference from Perth WA.

Registration

2. On arrival at the meeting, members should check the register of members and, if needed, update their name, address and any other details.

3. Members should sign next to their name on the register of members to record their attendance and receive a voting card.

Voting

4. Members must be at one of the three physical locations to vote. Voting is not available to members attending online. Members who are not able to attend in person may appoint a proxy. See details below about appointing a proxy.

5. There will be no election of directors at this AGM. Directors are not elected when a corporation is in special administration.

Quorum

6. In accordance with rule 6.8(1) of the ATLA rule book, 10% of members or 20 members (whichever is the lesser) will constitute a quorum. Twenty members attending will be a quorum.

Proxies

7. In accordance with rule 6.13 of the ATLA rule book, a member has a right to appoint a proxy to attend the meeting and vote for them. A proxy must be a member.

8. A person can only be asked to be a proxy for a maximum of 1 member.

9. A proxy form is attached to this notice at Annexure A. You should use this form if you want to appoint a proxy.

10. ATLA must receive your completed proxy form before 9:30am on Friday 12 April 2024. If it is received later than this your proxy form will be invalid, and your proxy will not be able to vote for you.

11. You should send your proxy form to ATLA via email: atla@moore-australia.com.au.

During the meeting

12. Each member has 1 vote.

13. Only the business set out in this notice can be decided at the meeting. This is so that all members have notice of the business that will be considered and information that helps them decide how to vote at the meeting.

Meanings of words used in this notice

14. Words used in the notice have the following meanings:

15. "CATSI Act" means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

16. "ATLA" means Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC (ICN 3743).

17. "ORIC" means the Office of the Registrar of Indigenous Corporations.

No financial support is available to members to attend this general meeting.
All travel requirements and associated costs are at the member's own expense.

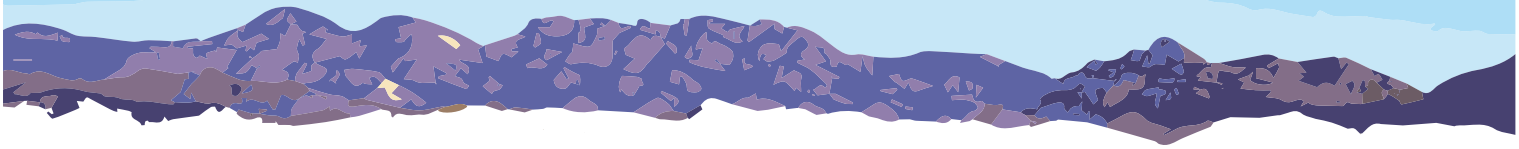
ATLA's code of conduct will apply to this general meeting.

Please contact the ATLA office if you have any queries in relation to this general meeting.
(George Treloar at Moore Australia: george.treloar@moore-australia.com.au)

BUSINESS OF THE ANNUAL GENERAL MEETING 2022–23 (AGENDA)

Item	Description
1.	**Opening** 1.1. Welcome by the chairperson – special administrator 1.2. One minute of silence 1.3. Attendance and apologies 1.4. Confirmation of a quorum 1.5. Announcement of proxy votes received.
2.	**Presentations on the sale of Wilpena Pound Resort** Please refer to the attached *'Information paper for ATLA members: Sale of Wilpena Pound Resort'* Presentation by Grant Wilckens, CEO of G'day Group 2.2. Presentation by Anthony Pike, Accountant for Moore Australia 2.3. Presentation by Luke Paterson, Lawyer for Jackson MacDonald 2.4. Questions from ATLA members 2.5. G'day Group staff leave room.
3.	**Vote on G'day Group Proposal and Partnership Agreement** 3.1. ATLA members to vote on G'day Group Proposal **Proposed resolution 1:** RESOLVED by ordinary resolution to agree to the sale of Wilpena Pound Resort to the G'day Group, the proposed Partnering Agreement and for the special administrator to take all additional steps as may be required to give effect to the sale.
4.	Lunch – 12:30pm – 1:00pm
5.	**Minutes of previous General Meeting** 5.1. Minutes of previous General Meeting of Members **Proposed resolution 2:** RESOLVED by ordinary resolution to accept the minutes of the ATLA General Meeting of 26 November 2022 as a true and correct record of the meeting.

Item	Description
6.	**ATLA register of members** 6.1. Review ATLA register of members
7.	**ATLA & ATLT 2023 Financial Statements** 7.1. Special administrator provides the financial statements to members. 7.2. Members have an opportunity to ask questions about the financial statements.
8.	**Appointment of Auditor** 8.1. Appointment of auditor and agreeing the auditor's remuneration for next 3 years 8.2. The special administrator will provide a recommendation of an auditor for the next three years **Proposed resolution 3:** RESOLVED by ordinary resolution to appoint XXXXXXX as the corporation auditors for the next three years and that their remuneration will be set at $X,XXXX per annum.
9.	**Special administrator's update** 9.1. Rangelea Holdings Pty Ltd -v- ATLA appeal update 9.2. Corporation advisory Group and CHANT 9.3. Questions about the corporation / special administration
10.	**Any other business**
11.	**Close**



Annexure A - APPOINTMENT OF PROXY

Form of appointment of proxy
Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC

_____
full name

of

_____
address

being a member of Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC hereby appoint

_____
full name of proxy

of

_____
address

being a member of Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC, as my proxy to vote for me on my behalf at the annual general meeting of the corporation to be held on Saturday, 13 April 2024, and at any adjournment of that meeting.

Signature: _____
Signature of member appointing proxy

Date: _____

Notes:

1. A proxy vote may not be given to a person who is not a member of the corporation.
2. No member may hold more than one proxy.

Please return your completed form to atla@moore-australia.com.au

The corporation must receive the proxy's appointment at least 24 hours before the meeting (i.e. before 9:30 am on Friday, 12 April 2024).

Information paper for ATLA members: Sale of Wilpena Pound Resort

Dear ATLA member

Over the past year we have been talking about IBA selling their interest in the Wilpena Pound Resort. Grant Wilckens from the G'day Group has spoken at two community meetings and explained what his company is offering the Adnyamathanha people if it buys the Wilpena Pound Resort. ATLA has sent details of the sale deal to members of ATLA via the ATLA Facebook page, SMS, email and by letter.

The time has now come for ATLA members to have their say and to vote on if they agree with the sale of Wilpena Pound Resort to the G'day Group. A vote will be held at the ATLA AGM on **Saturday 13 April 2024**. It is very important as many ATLA members as possible can have their vote and so members can attend the meetings at Adelaide, Quorn or Hawker. All three venues will be linked by video for this important vote. More details about where the meetings are attached.

I remind ATLA members that under the current deal with IBA, ATLA and the Adnyamathanha people have received no financial benefits at all for the past 12 years. The investment has not worked, and the resort has been run down and not maintained properly.

As part of the proposed sale of Wilpena Pound to the G'day Group, ATLA has worked on getting as many benefits for the Adnyamathanha people as is possible. Our aim has been to make sure Adnyamathanha culture is recognised and protected and to make sure Adnyamathanha people benefit financially from the proposed sale. ATLA has paid for Anthony Pike from Moore Australia (accountants) to review the draft agreement and check that it is good for ATLA. ATLA has also paid for Luke Paterson from Jackson McDonald (lawyers) to review the draft agreement and check ATLA is protected.

> ***Luke Paterson from Jackson McDonald says:***
> *'Overall, looking at the negotiated deal as a whole the proposed deal with G'day Group offers ATLA benefits it does not presently enjoy in its current arrangements with IBA. Although there are risks involved and a number of terms are more favourable to G'day Group than ATLA, a number of provisions are designed to offset some of these risks.'*
>
> ***Anthony Pike from Moore Australia says:***
> *'The proposed Partnering Agreement puts ATLA in a far stronger position than it is experiencing under its arrangements with IBA. There are risks with this opportunity like any commercial venture and with careful management of the Partnering Agreement, ATLA should be in a far better position with this investment.'*
>
> ***Peter McQuoid – ATLA special administrator says:***
> *Based on my review of the proposed Partnering Agreement between ATLA and the G'day Group and the reviews by Anthony and Luke, I recommend the proposed sale of Wilpena Pound to the G'day Group proceeds. The proposal gives Adnyamathanha people a guaranteed minimum income each year with the chance of being paid an 11.091% share of profits. It allows the voice of Adnyamathanha people to be heard on how the Resort is run and it provides opportunities for Adnyamathanha people to be trained, employed and to set up a business.*

Grant Wilckens, Anthony Pike and Luke Paterson will attend the AGM and will present to the ATLA members. There will be time for more questions. Grant Wilckens and his staff will then be asked to leave the room and a vote by ATLA members will be taken.

At the AGM ATLA members will be asked to vote on the following question:

Do you agree to the sale of Wilpena Pound Resort to the G'day Group, the proposed Partnering Agreement and for the special administrator to take all additional steps as may be required to give effect to the sale.

You will be asked to vote YES or No.

Yours sincerely,
Peter McQuoid

Below is a summary of the Partnering Agreement and what it means to ATLA members. If you have any queries on this summary, please contact Peter McQuoid at p.mcquoid@pdmc.net.au.

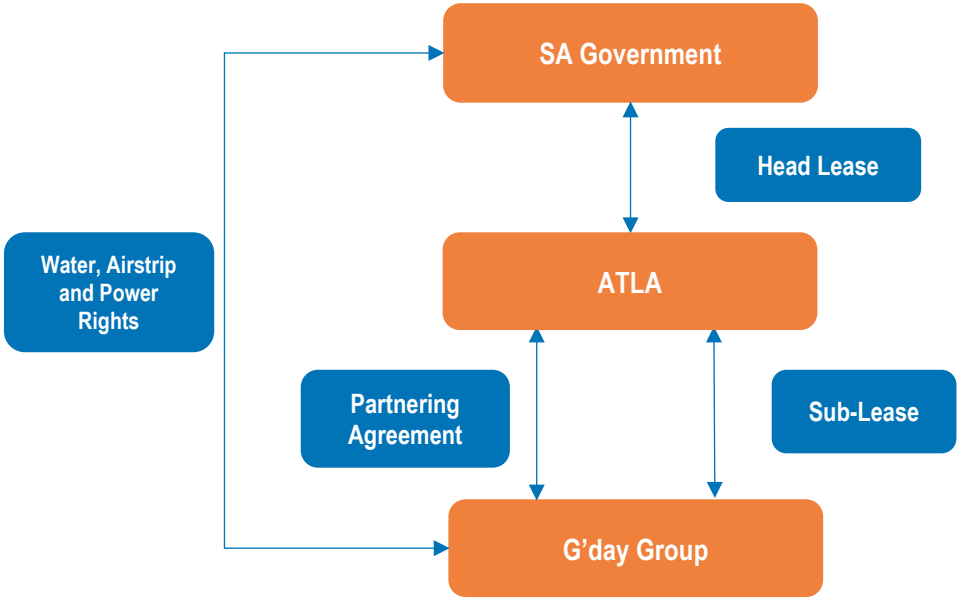
Summary of key terms of the Partnering Agreement

Adnyamathanha Traditional Lands Association (Aboriginal Corporation) RNTBC ICN 3747 (**ATLA**) is the Registered Native Title Body Corporate for the Adnyamathanha people.

Discovery Holiday Parks Pty Ltd (**G'day Group**) has offered to buy the Wilpena Pound Resort (**Resort**) from the current owner and spend their money (G'day Group) to improve the Resort.

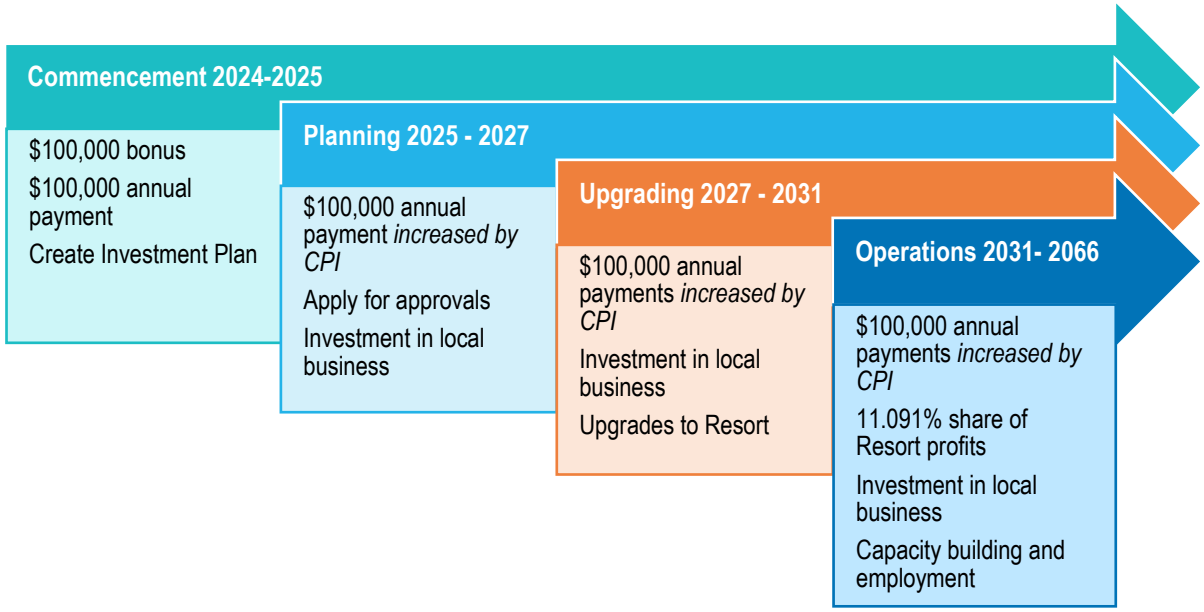
ATLA and G'day Group have worked on a Partnering Agreement. This Agreement states how the G'day Group, ATLA and the Adnyamathanha people can work together. The important bits of the agreement are set out below:

Crown Lease granted to ATLA	The Resort is built on Crown Land. The Crown Lease still needs to be negotiated with the State of SA. The deal with ATLA will only proceed if the State grants ATLA a Crown Lease. The State are waiting to hear if Adnyamathanha people agree to work with G'day Group by voting yes to the Partnering Agreement.
Sub-Lease to G'day Group	ATLA will have a 42-year Crown Lease over the Resort land. G'day Group will enter into a **42-year Sub-Lease** with ATLA giving G'day Group the right to occupy the land and run the Resort. G'day Group will pay rent of $250,000 p.a. direct to the State.
Annual Payments	G'day Group will pay ATLA **$100,000** once the deal commences and then pay ATLA **$100,000 per year** (including the first year and adjusted for CPI (inflation) annually).
Capital improvement	G'day Group will spend **$20m** of its money on improving the Resort and facilities.
Profit Share	If the Resort makes a profit, G'day Group will pay ATLA **11.091% of the Resort's profits**. If the Resort is not profitable then ATLA will not receive any Profit Share payments but will continue to receive a fixed payment of $100,000 every year (adjusted to match inflation).
Indigenous Engagement	G'day Group commits to various Indigenous engagement and capacity building activities, and will focus on jobs for Adnyamathanha people. G'day Group will pay **$60,000** towards supporting the development of local **indigenous tourism businesses**.



Timeline

The redevelopment of the Resort and the potential benefits of this project may flow as follows:



Overview of Partnering Agreement[1]

Term	The Partnering Agreement will be up to **42** years long**.** This will replace the existing Sub-Lease, which has **23** years remaining. The annual Rent of around **$250,000** is payable by G'day Group under the Sub-Lease, but this is paid directly to State Government.
Fixed Payments	The Partnering Agreement contains fixed payments. Even if the Resort is not profitable, these amounts must be paid. These payments include: • **$100,000** bonus paid on signing the Agreement; and • Annual payments of **$100,000 per year** (adjusted in line with inflation) including in year 1.
Profit Share	ATLA will receive a share of the Resort's profits from G'day Group. Two conditions need to be met before ATLA is paid a share of profits in a year: • The Resort must make a profit in that year; and • G'day Group must have received a 10% return on all money it has invested in the Resort[2]. If these conditions are both met, ATLA will receive an **11.091% share of profits** for that year.
Resort Upgrade	G'day Group will prepare a 'Capital Investment Plan' (a plan showing how they will spend money on improving the Resort) within 12 months of signing the agreement. This plan will provide for: • Upgrading Resort buildings. • Developing staff/family accommodation. • Supporting infrastructure (roads, power, water, sewerage, walkways, signs etc). G'day Group estimates the Capital Investment Plan will cost around **$20 million** and they will try to complete the work within 7 - 10 years. There is no requirement for ATLA to contribute to the Capital Investment Plan.

[1] For a more detailed summary, please see Schedule 1
[2] The Partnering Agreement outlines a detailed process for calculating this.

Sale of the Resort	G'day Group owns the Resort business and can choose to sell it during the Term of the Partnering Agreement. But if G'day Group wants to sell the Resort, it must first ask if ATLA wants to buy it before offering it to another Buyer. ATLA will have 60 days to decide if it wants to buy the Resort, or to ask someone else to do so. G'day Group cannot then sell the Resort for less than the price offered to ATLA, minus a 15% discount.
Partnership Committee	G'day Group will work with ATLA to establish a '**Partnership Committee.**' The Partnership Committee aims to give ATLA a voice in how the Resort operates. The Partnership Committee will have 2 members from G'day Group and 2 members from ATLA. The Partnership Committee will not make decisions regarding the operation of the Resort business.
Indigenous Participation Plan	The Partnership Committee will create a new 'Indigenous Participation Plan' every year. The Partnering Committee will oversee the Indigenous Participation Plan. ATLA will have a say on the content of the Indigenous Participation Plan. This Plan will: • Make sure Adnyamathanha people are given preferential offer for **employment** at the Resort. • Provide **training, support and guidance** for indigenous employees of the Resort. • Provide **2 apprenticeships / traineeships** every year in the Resort for indigenous people. • Give a **scholarship up to $2,500 per year** to every Adnyamathanha person who is offered an apprenticeship / traineeship.
Cultural Awareness and Heritage	The Partnership Committee will identify local Adnyamathanha businesses to participate in Indigenous tourism activities. G'day Group will: • Allocate **$60,000 to develop Adnyamathanha businesses in tourism activities**. • Seek **cultural awareness training for** its broader team. • Install **signs in the Adnyamathanha language** around the resort. • Engage with CHANT to develop and use **cultural heritage management** plans.

Default	If G'day Group does not pay ATLA what it is owed, ATLA can terminate the Agreement. The Sub-Lease will also allow ATLA to terminate the Sub-Lease if G'day Group breaches an important term of the Partnering Agreement. If either the Partnering Agreement or the Sub-Lease is terminated, then the other document will also be terminated.
Is this the best deal ATLA can do?	G'day Group's proposal is likely to be the best available option for ATLA because: • IBA wants to sell the Resort and has the right to sell its shares in the Resort without ATLA's consent. The next best deal offers significantly less value to ATLA than G'day Group's offer. • G'day Group's offer to IBA requires the Partnering Agreement with ATLA to be put in place. • ATLA has negotiated as many points as possible with the G'day Group. • No other offer has been presented to ATLA. • Tourism Industry operates on smaller profit margins than the mining industry and therefore cannot obtain the same type of deal
What happens if the deal is not approved?	If ATLA (Adnyamathanha community) votes against this deal then: • There will be no Partnering Agreement (including fixed or profit payments to ATLA). • IBA can still sell to G'day Group (meaning ATLA cannot stop G'day Group becoming the new owner). Note: IBA have said '*IBA would not proceed with this transaction without the Partnership Agreement in place'.* • ATLA may not get all of the benefits offered by the Partnering Agreement

Schedule 1

Key Questions for the Partnering Agreement

1. What rights does ATLA have over the Resort land?

ATLA leases the Resort land from the State of South Australia under a Crown Lease. ATLA, as lessee, then sub-leases the Resort land to G'day Group.

The Crown Lease and the Sub-Lease still need to be negotiated.

The State are waiting to hear if Adnyamathanha people agree to work with G'day Group by voting yes to the Partnering Agreement.

2. Will ATLA own the Resort?

No, G'day Group will own the Resort. That is why it is funding the upgrades and improvements. ATLA will get a profit share, if the resort is profitable long term.

3. What does the Community get out of this deal?

The main benefits to the Community include:

- G'day Group will spend a large amount of money on upgrading the Resort;
- ATLA will receive a minimum of $100,000 per year income from the Resort (plus a $100,000 bonus when the Partnering Agreement is signed);
- ATLA will be entitled to an 11.091% profit share (as outlined in the summary above);
- G'day Group must work with ATLA to develop and implement an Indigenous Participation Plan;
- ATLA will work with G'day Group to create programs and invest money into developing and involving local businesses, apprentices and employees (see summary above);
- G'day Group will provide opportunities to develop Adnyamathanha people as business leaders and managers not only at Wilpena Resort but elsewhere around Australia at G'day Group sites; and
- G'day Group will fund all rent payable by ATLA to the State for the Crown Lease.

4. What happens if the Resort is not profitable?

If the Resort is not profitable then ATLA will not receive any Profit Share payments.

However, even if there are no profits, G'day Group must pay ATLA a fixed payment of $100,000 every year (adjusted to match inflation). If the Resort continues to be unprofitable then G'day Group may look to sell the Resort.

5. What happens if G'day Group sells the Resort?

G'day Group may sell the Resort at any time. To do this, G'day Group would need to sell the Resort business and assets and also transfer its interest in the Sub-Lease to the buyer.

Generally speaking, ATLA's consent will be needed to transfer the Sub-Lease to the buyer. The buyer would also need to sign a document agreeing to continue to comply with the Partnering Agreement. This means that if a sale occurred, the buyer would effectively step into the shoes of G'day Group. This process will be set out in the Sub-Lease, which has not yet been done.

Importantly, ATLA also has a first right to buy the resort. If G'day Group wishes to sell the Resort it must first offer it to ATLA. If ATLA wanted to, it could choose a suitable partner to take over management of the Resort and nominate them as buyer. The buyer would be bound by the terms of this deal unless a new deal was negotiated with ATLA.

6. What happens if G'day Group has financial problems or becomes insolvent (becomes broke)?

G'day Group is presently solvent (has money to pay its bills) and has a favourable financial position (its money story is looking good). However, there will always be some risk that this could change.

If G'day Group has financial problems or becomes insolvent (cannot pay its bills) then a few things will happen. ATLA might stop receiving the annual payment of $100,000 and the profit share payable to it under the Partnering Agreement. G'day Group would also be in default under the Partnering Agreement and the Sub-Lease.

From a legal perspective, this will trigger certain contractual rights for ATLA, including rights to damages (compensation). This will likely mean that G'day Group or ATLA would need to find a new partner to buy and manage the Resort. It could also mean the Partnering Agreement and Sub-Lease are terminated and a new deal would need to be made.

ATLA does not hold any security (buildings, cars etc.) that it could draw on (sell) if G'day Group was unable to perform its obligations under the Agreement (pay the annual fee and profit share to ATLA etc.), meaning it may not receive everything it is owed if G'day Group has financial problems.

7. What happens if ATLA disagrees with how the Resort is being managed?

ATLA will not have the power to tell G'day Group how to run the Resort. G'day Group owns the Resort and can choose how to run the Resort. However, G'day Group is required under the Partnering Agreement to meet minimum standards, particularly in relation to how they work with Adnyamathanha people.

ATLA will have a voice through the Partnership Committee to set targets and goals for G'day Group to achieve and monitor their performance. If G'day Group is not doing what it agreed to do and is not complying with the targets set by the Partnership Committee then this could be a breach under the Partnering Agreement and/or the Sub-Lease.

This would give ATLA certain contractual rights and help encourage G'day Group to ensure it is doing what it said it would do under the Partnering Agreement.

8. What happens if G'day Group does not promptly complete the Resort upgrades?

The timeframe for completing the Resort upgrades will likely be set out in the Sub-Lease, however the Partnering Agreement requires G'day Group to try to complete the upgrades

within 3 years of receiving all approvals. Failure to promptly complete the upgrades will therefore be a breach under the Partnering Agreement and the Sub-Lease.

If G'day Group breaches the Sub-Lease it will be at risk of the Sub-Lease being terminated, which would force it to sell the Resort. G'day Group therefore has an interest in making sure it completes the upgrades as soon as possible. Also, because the Resort is currently operating at a loss, the upgrades are necessary for the Resort to be profitable. Without the upgrades the Resort cannot make enough money to pay its bills.

9. What will Adnyamathanha people get out of this deal?

G'day Group has agreed to make a number of opportunities available to local Adnyamathanha people and businesses. ATLA and G'day Group will work together to ensure these opportunities flow into benefits for the community. In order for the benefits to be fully realised, the community must make the most of these opportunities.

10. How is the Profit Share calculated?

At the end of each year, G'day Group will calculate its yearly profit from the Resort. The yearly profit is calculated as profit before interest, depreciation, income tax. G'day Group has indicated that any amounts paid to ATLA during the year will be counted as 'expenses' and reduce the overall profit.

There will not be any management fees paid to G'day Group's head office included in the profit calculation.

The Profit Share will not become payable until G'day Group has received a 10% return on the money it has spent upgrading the Resort. Currently this is estimated to take 6 years.

Once the 10% return has been achieved, 11.091% of all profits (note this percentage of profits remains the same each year) will be paid to ATLA (note this is in addition to the $100,000 per year fixed payment). If the return falls below 10% in future years, the profit share will stop until the 10% return benchmark is met again. If there is an operating loss in a year after the profit share has begun, it is possible the minimum return on investment will not reach 10% for a number of years depending on how large the loss is. Thus profit share may be suspended for one or more years.

11. What happens if disputes arise with G'day Group?

If disputes arise with G'day Group, ATLA may trigger a dispute resolution process.

If the dispute relates to the Profit Share then the resolution process will involve appointing an expert to determine the outcome of the dispute. This will usually involve the expert reviewing the financial accounts of the Resort and calculating the value of the Profit Share.

If the dispute relates the G'day Group's management of the Resort generally then it will likely be dealt with in the dispute resolution process set out in the Sub-Lease (which is still being discussed). Until the Sub-Lease is finalised we cannot say with certainty what the process will involve, however the standard process would involve the parties participating in a mediation process before they can commence any legal proceedings.

The outcome of a dispute will depend on the nature of the dispute. Where the dispute relates to something that can be clearly determined (e.g. the Profit Share) then both parties should be able to continue working together productively. Where the dispute relates to how an issue

should be approached, mediation and discussions will give the best likelihood of an acceptable approach being agreed.

However, where the disputes are ongoing or relate to the core values of the parties ATLA will not necessarily have a way to force G'day Group to sell the Resort. G'day Group would then need to make its own assessment of whether the Resort is a viable asset where it is in dispute with the Adnyamathanha Community.

12. What are the other legal, commercial and financial risks?

Some additional risk factors are explained in detail below.

Other Risk factors

Without commenting on every provision, detailed below are some of the key legal risks to ATLA under the Partnering Agreement:

1. Profit Share

a) Under the Partnering Agreement, G'day Group will have almost full control and influence over how profitable the Resort is. This means it is possible for G'day Group to run the Resort in a way that would reduce or defer payment of the Profit Share. Of course, they have every commercial incentive to run the Resort profitably.

b) There is no guarantee that profits will be paid in any given year, though the existence of the $100,000 fixed annual payment partly offsets this risk.

c) Further, when calculating the Resort's profit, G'day Group have indicated any amounts paid to ATLA during the previous year (including both the fixed payment and any Profit Share) will be considered as 'expenses' and therefore reduce the profit by that amount. This will reduce the value of the Profit Share from year to year.

d) The calculation of profit to determine ATLA's profit share is profit before interest expense, depreciation and income tax. Income and expenses are to be recognised in accordance Australian accounting standards and in particular those used in the preparation of the G'day Group annual audited financial statements. This ensures that income and costs are accounted for properly.

e) G'day Group are unable to provide an audited set of financial statements for just the Wilpena Resort as reporting on all resorts is consolidated in the G'day Group accounting records. Thus, there is reliance on the G'day Group financial reporting. However, the Partnering Agreement does provide ATLA an ability to dispute the profit calculation and if no agreement can be reached between the parties an independent expert is appointed to determine the profit calculation.

f) The timing of the profit share (in 6 years' time) is based on a number of assumptions including:

   i. Expected purchase price of the resort from IBA;

   ii. Anticipated income earned by the resort for the next 10 years;

   iii. Anticipated costs to be paid in running the resort for the next 10 years;

   iv. Anticipated capital expenditure of $20 million to bring the resort up to an appropriate standard.

If any of the above assumptions change, it is extremely likely the expected time frame for the ATLA profit share in 6 years' time will change to be either a shorter or longer time frame.

g) If there is an operating loss in a year after the profit share has begun, it is possible the minimum return on investment will not reach 10% for a number of years depending on how large the loss is. Thus profit share may be suspended for one or more years.

h) The resort operates in the travel and tourism industry sector. There are many factors outside of the resort which can influence its success such as economic, political and environmental factors. ATLA and G'day Group have little influence over these external factors.

2. Sale of the Resort

a) ATLA will have a 'Right of First Refusal' (**ROFR**) to purchase the Resort (or nominate a Buyer to do so) if G'day Group wishes to sell. This will allow ATLA to ensure that any owner of the Resort will have the appropriate experience to work with the Adnyamathanha people.

b) The offer to ATLA would be open for 60 days only, which will require ATLA to act promptly if it wishes to accept the offer or nominate a Buyer. ATLA's acceptance cannot be 'subject to finance', which means ATLA or its nominee must have funds available to accept the offer.

c) There are some scenarios where the ROFR will not apply, including where:

i. G'day Group restructures its operations.

ii. G'day Group sells the Resort along with other assets/resorts.

In the second situation, the Buyer must be reputable and agree to comply with the Agreement. Our concern with this provision is that, while it gives G'day Group flexibility, ATLA will not have any power to determine who buys the Resort. Ultimately, it would not be in a Buyer's interest to acquire the Resort without ATLA's approval under the Sublease, so the likelihood of this risk occurring is reduced.

d) If ATLA does not accept the offer, then G'day Group may sell the Resort provided the purchase price is at least 85% of the price offered to ATLA. Ordinarily, this would apply based on the same purchase price offered to ATLA, noting that the purpose of the price restriction is to prevent the seller bypassing the ROFR. In practice, it will be in the best interests of all parties for ATLA to be comfortable with the process and the eventual Buyer.

e) If G'day Group sells the Wilpena resort without agreement to comply with the Partnering Agreement, ATLA will lose its annual payment of $100,000 and its 11.091% profit share in the resort unless it can negotiate a similar agreement with the Buyer.

3. Change of Control

a) One way that G'day Group could look to sell the Resort is by the owners of G'day Group selling their interest to another person. This could occur voluntarily (i.e. the shareholders selling the business) or through an insolvency (if G'day Group could not pay their bills) event if G'day Group runs into money problems. The effect of a Change of Control is that ATLA would be dealing with different people even though it is still dealing with 'G'day Group'.

b) To address this risk, it is customary for a Change of Control without the other party's consent to be a default under agreements. However, because G'day Group is ~95% owned by Australian Retirement Trust and the fact that the Resort is only a small

portion of G'day Group's assets, G'day Group are not comfortable requiring ATLA's consent to a Change of Control.

c) The risk with this approach is that it could mean that G'day Group's ownership (and therefore its way of working with ATLA) changes during the course of this deal. However, we note this could occur without any Change of Control so our priority has been ensuring the duty to work with the Community is strong.

4. Failure to engage with the Community

a) ATLA does not have many formal methods of making sure G'day Group meets its obligations to engage with the Community. Broadly, G'day Group will have the power to determine how it manages the Resort and the rights given to ATLA through the Partnership Committee are really ways for the Community to give feedback.

b) G'day Group's preferred approach is for the majority of dispute resolution mechanisms to be set out in the Sub-Lease, which we note is still being negotiated. Until the Sub-Lease is finalised we cannot advise for sure what the impact would be of G'day Group failing to engage with the Community.

c) The desirable position for ATLA would be for G'day Group's failure to meet the objectives and goals set by the Partnership Committee to be a default under the Sub-Lease. Ultimately this would put G'day Group's right to use the Resort land at risk and could be used to force them to sell the Resort.

d) In practice, we anticipate this would only apply where G'day Group has consistently showed an unwillingness to work with the Community or participate in goals set by the Partnership Committee. This would make G'day Group's interest in the Resort unworkable and would be unlikely to occur.

5. Default

a) The majority of the default provisions will be set out in the Sub-Lease, which is yet to be negotiated. If either the Sub-Lease or the Agreement is terminated due to a default then the other document will automatically terminate. We are comfortable with this approach, subject to the default wording under the Sub-Lease being acceptable.

b) ATLA has the right to seek compensation for any breach by G'day Group but may only terminate the Agreement if G'day Group fails to make a payment to ATLA under the Agreement or where the Sub-Lease is terminated. If the Agreement and Sub-Lease are terminated then G'day Group would need to sell the Resort to another Buyer.

c) G'day Group will not provide any security (buildings, cars etc.) to guarantee its obligations under the deal, so there is not much ATLA can do if G'day Group is in default (don't do what they say they will do). If G'day Group were to default on their obligations then ATLA's main remedy would be ending the deal and finding a replacement partner to manage the Resort. If this were to occur then there is no guarantee the terms of the replacement deal would be as favourable as the terms of this deal.

6. Summary

a) Although we have identified some legal risks within the current drafting of the Agreement, there are provisions designed to reduce these risks. For example, the risk that the Profit Share is controlled by G'day Group and may not be payable every year is partially reduced by the fixed annual payment.

b) The majority of provisions dealing with a breach by G'day Group will be contained in the Sub-Lease, which is being worked on. Without reviewing the final form of the Sub-Lease

we cannot advise whether the Default wording is enough and so this has been listed as a risk.

c) We also note G'day Group has not agreed to provide any security (buildings, cars etc) over their obligations (what they said they will do). If G'day Group were to default on their obligations (don't do what they said they will do) then ATLA's main remedy would be ending the deal and finding a replacement partner to manage the Resort. If this were to occur then there is no guarantee the terms of the replacement deal would be as favourable as the terms of this deal.

d) Further, the exclusions relating to the ROFR ('Right of First Refusal') (e.g. that the ROFR does not apply if G'day Group sells the Resort alongside other resorts or assets) leave ATLA at risk of doing business with a resort manager that is not suitable for the Resort. This would not be an ideal result for any party so we do not think it will be likely to happen.

e) Overall, looking at the negotiated deal as a whole the proposed deal with G'day Group offers ATLA benefits it does not presently enjoy in its arrangements with IBA. Although there are risks involved and a number of terms are more favourable to G'day Group than ATLA, a number of provisions are designed to offset some of these risks.