

## SPECIAL ADMINISTRATION – ATLA MEMBERS COMMUNIQUE

Friday 18th December 2020

### 1 Respecting Culture and Traditions

- 1.1 We continue to acknowledge the continuing culture and traditions of the Adnyamathanha people, your kinship systems and moiety that include Arurru (North Wind) and Mathari (South Wind), and the place of respect and honor held for your Elders.

### 2 Special Administration extension

- 2.1 The ATLA Special Administration has been extended to 16<sup>th</sup> April 2021.

### 3 ATLA Community Meetings

- 3.1 We have been unable to organise a face-to-face meeting with members this year due to COVID-19 restrictions. A zoom meeting scheduled for Thursday 17 December 2020 was cancelled due to community concerns with the use of Zoom.
- 3.2 Subject to COVID-19 and border restrictions, we hope to organise face-to-face meetings in 2021.
- 3.3 We are looking to hold the ATLA AGM in late February 2021.

### 4 Governance

#### 4.1 Constitutions, trusts and policies reviewed

- (1) We have reviewed all constitutions relating to the companies as listed in section 4.3 of this communique, or otherwise, adopted constitutions for newly formed companies. Considerable work has been conducted to ensure best practises are adopted for each organisation.
- (2) We have considered the interests of ATLA in relation to those companies, and where necessary, have made legal or policy changes to better protect the interests of members. Expert advice has been sourced and implemented to ensure industry leading practises are followed.
- (3) In relation to the Adnyamathanha Traditional Lands Trust, we have taken legal advice explaining that several of the governing deed's clauses are inconsistent with the duties and governance principles set out in (among other sources) the *Trustee Act 1936* (SA), the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and the ATLA Rule Book. It is recommended that the deed is fully revised and amended accordingly.

#### 4.2 Director appointments

- 4.3 We will be working through appointments to the following companies in the New Year.

- (1) ATLA RNTBC (ICN 3743);
- (2) ATLA 1 Pty Ltd ACN: 642 432 648 (new Trustee company);
- (3) Ikara Wilpena Enterprises Pty Ltd ACN: 155 337 474; and

- (4) Wilpena Pound Aerodrome Services Pty Ltd ACN: 154 340 011.

## **5 Committee work consolidated**

- 5.1 Committees that have been established during the Special Administration period have been involved in a number of key areas.
- (1) The Advisory Committee have met with the Special Administrators on a weekly basis to work on a range of issues that broadly affect the day-to-day activities of ATLA, including matters that require expertise in a professional capacity or traditional Adnyamathanha knowledge. In depth discussions are had on pressing issues, and actions are identified and resolutions are made to ensure that ATLA continues to operate with input from the respective Adnyamathanha members.
  - (2) We established the Cultural Heritage and Native Title Committee (CHANT Committee) who have advised on a number of matters and continue to work on refining processes and procedures in relation to the management of cultural heritage and native title. An example of such process is the work area clearance protocols that we are working through to ensure that matters are dealt with in a professional manner, and the correct traditional owners are identified to ensure transparency and good governance.
  - (3) We established the Procurement Committee who continue to work with local organisations to develop partnerships from an individual level (such as employment opportunities) and business opportunities (such as providing services to industries such as mining and pastoral). As a result, the committee has received a number of opportunities for community businesses to tender on significant projects in relation to mining and resources projects. Further, and as a result of direct involvement in developing such relationships, employment opportunities are now being advertised for Adnyamathanha community members to apply.

## **6 Property**

### **6.1 Trust property transferred to new Trustee**

- (1) Adnyamathanha Traditional Lands Trust property has been transferred to the new Trustee, ATLA 1, including:
  - (a) 52 Arkaba Street, Hawker; and
  - (b) 11 Wilpena Road, Hawker.

### **6.2 Repairs undertaken**

- (1) Plumbing and building repairs and maintenance have been undertaken to a number of properties including:
  - (a) 9 Belah Street, Leigh Creek;
  - (b) Leigh Creek Office Complex (rented); and
  - (c) Mt Serle Station (Crown lease).

## **7 Accounting and Financial records**

- 7.1 In order to improve accounting and financial practises and procedures, Xero accounting software has been implemented with all relevant information now being uploaded to this system.
- 7.2 The new ATLA Accountants and Bookkeepers have worked through a number of uncertain transactions including those related to Director payments and have also met with members to query transactions in order to finalise statements for lodgement.
- (1) There are a number of outstanding loans that we are reviewing.

- (2) All trust funds have been transferred from Cramond into ATLA 1 (new Trustee).
- (3) An extension has been sought to lodge the 2020 audited financial statements with ORIC.

## **8 Investments**

### **8.1 Wilpena Pound Resort**

- (1) The Special Administrations have attended a number of Board meetings to assess the performance of Wilpena Pound Resort.
- (2) Despite the Covid-19 pandemic, the Resort continues to outperform expectations. Although recent storm damage may mean that further capital investment is required.

### **8.2 Wilpena Pound Aerodrome Services**

- (1) The Special Administrators have attended a number of Board meetings to assess the performance of Wilpena Pound Aerodrome Services.
- (2) Recent closure of the airstrip due to weather damage and the high-risk nature of this investment may require a further review of its viability.

## **9 Assistance from New Advisors**

### **9.1 New advisors that have been appointed during the Special Administration and have worked extensively with the Special Administrators.**

- (1) ATLA accountants and bookkeepers have spent considerable hours retrieving accounting records and are in the process of reconciling accounts. Limited recordkeeping over the years of ATLA's operations has meant that such tasks require extensive work.
- (2) An extensive review has also been undertaken with the Special Administrators of all mining agreements which has identified a number of inconsistencies in royalty payments. Such work will continue in order to consolidate such matters.
- (3) MPS as the newly appointed legal advisor has assisted the Special Administrators on a significant number of native title and cultural heritage matters.
- (4) We are still in the process of transferring all files from previous ATLA solicitors, Johnston Withers, to MPS Law. We understand that those files cover over 20 years of legal advice and continues to be a work in progress.

## **10 Additional Matters**

### **10.1 Forensic Audit ongoing**

- (1) KordaMentha has been engaged by the Special Administrators to undertake a Forensic audit of accounts and have completed the first stage of the Forensic Audit. The Forensic Audit is due to be completed at the end of the next quarter.
- (2) The Special Administrators are currently assessing the outcome of the report and next steps with the Forensic Auditors.

### **10.2 Legal Proceedings ongoing**

- (1) As previously advised, legal proceedings have been brought in the Supreme Court of South Australia by Mulara Topez (aka Debrorah Nanschild) against ATLA and several of its members.

- (2) The basis for the claim relates to damages for breach of contract, assault, defamation and unconscionable conduct arising out of publications and/or conduct by the respondents since September 2014.
- (3) The application is listed for hearing on Tuesday 2 February 2021 at 10.15am.

### 10.3 Holding of AGM

- (1) It is proposed that the AGM be held in late February 2020 at the Port Augusta Central Oval complex in Port Augusta (or other appropriate venue). We shall keep members updated.

### 10.4 Director Appointments pending

- (1) New Board appointments to ATLA, its subsidiaries and in relation to its investment companies are pending. After such new appointments, we will work with them through a transition period to ensure that they are appropriately briefed in relation to their respective entities.
- (2) We look forward to providing further updates in relation to moving ATLA and its related entities to a position of strength, particularly in relation to its governance structure and processes.

## 11 Membership details

- 11.1 Members should continue to update their member details as appropriate. New member applications can be sent to [atla@jaramerlegal.com.au](mailto:atla@jaramerlegal.com.au) or GPO Box 4592 Melbourne VIC 3001. A process for the formal reconciliation of ATLA membership and member details will be implemented when the ALTA Board is appointed. The Special Administrators thank the ATLA Advisory Group and its Committees, all Adnyamathanha members, and all stakeholders for your continued support and assistance during the Special Administration period.

Have a safe and happy Christmas and New Year.

Sincerely,

Special Administrators

