

ASX RELEASE
5 September 2022

Australian Pacific Coal Limited ('**AQC**' or '**Company**') (ASX: AQC) refers to its previous announcement on 2 September 2022 in relation to the \$A100 million underwritten renounceable rights issue.

The Company has re-attached the announcement including an annexure summarising the key terms of the underwriting agreement, which was inadvertently omitted when lodging the original announcement.

The Company also advises that the Directors propose to exercise their discretion and extend the Entitlement Offer to shareholders with a registered address in each of Hong Kong or China, in addition to those with a registered address in Australia or New Zealand, in all cases at the Record Date.

This announcement has been authorised for release to ASX by the Board of Directors of Australian Pacific Coal Limited.

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ASX RELEASE
2 September 2022

TERMINATION OF TREPANG TRANSACTION

LAUNCH OF \$100 MILLION UNDERWRITTEN RENOUNCEABLE ENTITLEMENT OFFER

Update on Trepang Transaction and non-binding indicative proposals

Australian Pacific Coal Limited ('**AQC**' or '**Company**') (ASX: AQC) refers to its previous announcements regarding the proposed sale of its Dartbrook coal mine in the Hunter Valley, NSW to Trepang Services Pty Ltd or its nominee (**Trepang**) (**Trepang Transaction**), and the subsequent receipt of two separate highly conditional non-binding alternative proposals that, subject to the satisfaction of a number of conditions, could result in the parties to those proposals potentially offering to acquire the Company (separately the **Nakevo Proposal** and the **M Resources Proposal**).

Pre-conditions to the Nakevo Proposal and M Resources Proposal unable to be satisfied

AQC confirms that it has received correspondence from, and has responded to, Trepang, in relation to the Nakevo Proposal and the M Resources Proposal.

Trepang has acknowledged that both the Nakevo Proposal and the M Resources Proposal are subject to a number of conditions, including Trepang, Mr Robinson and Mr Paspaley (**Trepang Parties**) agreeing to certain terms set out in each of the proposals, including how the debt owed by the Company to the Trepang Parties should be dealt with. Trepang has confirmed to the Company in writing that the Trepang Parties will not consider or enter into, any such terms or agreements, meaning that critical pre-conditions to both the Nakevo Proposal and the M Resources Proposal progressing any further cannot be satisfied.

Termination of Trepang Transaction

Late on 1 September 2022 the Company received written notice from Trepang advising that due to the non-satisfaction of the condition requiring AQC to obtain shareholder approval for the Trepang Transaction under ASX Listing Rules 10.1 and 11.2 and Part 2E of the *Corporations Act 2001* (Cth) by 23 August 2022, Trepang was terminating the share sale agreement with effect from two business days after the notice. The termination notice was unexpected and was received while the Company was working towards re-convening the postponed extraordinary general meeting (**EGM**) to approve the Trepang Transaction as soon as reasonably possible, including providing shareholders with further detailed information regarding the Nakevo Proposal and the M Resources Proposal that it received, as well as providing an update to the independent expert's report that accompanied the Notice of Meeting for the EGM.

As a result of the receipt of the notice of termination, the Company's work with respect to the re-convening of the postponed EGM will cease and since the purpose of the EGM is now redundant, the EGM will be cancelled.

Launch of \$A100 million underwritten renounceable rights issue

Overview

While working through the re-convening of the postponed EGM, the Board was concerned that there was no fallback position in the event that shareholders did not approve the Trepang Transaction at the postponed EGM. If shareholders did not approve the Trepang Transaction at the postponed EGM, the Company would be left in a perilous financial position with Trepang, Robinson and Paspaley immediately capable of calling in their debt, with the Company having no means to repay that debt. Therefore as a contingency plan, the Board had been seeking fallback funding to repay the Trepang debt if shareholders did not approve the Trepang Transaction. The Company was in the process of finalising that funding when it received termination of the Trepang Transaction.

As a result of the termination, the fallback position has become an essential path to ensure the Company is suitably funded to service its ongoing obligations. The Company hereby announces the immediate launch of a 5.83 for 1 (5.83 new shares for every 1 existing share held on the record date of 7.00pm (Brisbane time) on 8 September 2022) fully underwritten renounceable pro rata entitlement offer of shares in the Company at A\$0.34 per share (**Offer Price**) pursuant to which the Company will raise up to approximately A\$100 million (before costs and expenses and subject to rounding) (**Entitlement Offer**). The Offer Price represents a 6.8% discount to the closing price of the Company's shares on 26 August, the last trading day prior to the Company entering into the trading halt and voluntary suspension preceding this announcement.

The Entitlement Offer is fully underwritten by Evolution Capital Pty Ltd ACN 652 397 263 (**Underwriter**) pursuant to an underwriting agreement, the key terms of which are summarised in the **Annexure** to this announcement. The Company is advised by the Underwriter that any potential shortfall under the Entitlement Offer is fully covered by sub-underwriting arrangements. Accordingly, the Company does not expect the Underwriter to take any meaningful quantity of new shares that will have an effect on the control of the Company.

The proceeds of the A\$100 million to be raised under the Entitlement Offer will be used by the Company to fully repay its debt owing to the Trepang Parties and for general working capital purposes (including paying the costs and expenses of the Entitlement Offer).

Potential strategic partnership with M Resources

In conjunction with the launch of the Entitlement Offer, the Company has entered into a non-binding agreement with M Resources Pty Ltd, an entity associated with Matthew Latimore, with respect to a proposed 50:50 joint venture for the operation of the Dartbrook mine and for potential future mine management services at the Dartbrook mine (including marketing services, logistics services and technical services). In addition, M Resources has committed A\$10 million in sub-underwriting to the Entitlement Offer and will be entitled to appoint a director to the Board, subject to compliance with laws and the ASX Listing Rules. If the Company enters into binding agreements with M Resources and shareholder approval is required to be obtained by the Company with respect to that entry, and such shareholder approval is not ultimately obtained, the Company has agreed to pay M Resources a break fee of A\$1 million.

These arrangements with M Resources were to have been conditional on the Trepang Transaction not being approved by shareholders and the Entitlement Offer concluding but, due to Trepang's termination of the Trepang Transaction, the Company proposes to pursue these arrangements with M Resources immediately. The Company has agreed to grant M Resources exclusivity to undertake due diligence investigations in respect of the Dartbrook mine and to negotiate transaction documents for 28 days from today's date (subject to fiduciary carve-outs).

Given the proposed arrangements with M Resources are currently non-binding (other than the exclusivity arrangement) and subject to ongoing due diligence, there is no guarantee that the partnership with M Resources will eventuate and shareholders are cautioned against placing significant emphasis on any transaction with M Resources when subscribing for shares under the Entitlement Offer.

Details of Entitlement Offer

The Entitlement Offer is available to all registered shareholders who hold shares on the record date with a registered address in Australia or New Zealand, or certain other foreign jurisdictions determined by the directors at their discretion, and subject to being able to comply with local laws.

The Entitlement Offer is being made without a prospectus in accordance with section 708AA of the *Corporations Act 2001* (Cth) (as modified by ASIC Corporations (Non-Traditional Rights Issues) Instrument 2016/84). An Offer Booklet will be despatched to eligible shareholders on or around 9 September 2022.

The Entitlement Offer is expected to open on 9 September and is currently expected to close on 20 September 2022.

Trading of entitlements

Entitlements are renounceable and will be tradeable on ASX or transferable off-market. This provides eligible shareholders the opportunity to sell some or all of their entitlements in order to realise value for those entitlements.

Trading of entitlements on ASX is expected to commence on 7 September 2022 (on a deferred settlement basis) and conclude on close of trading on 13 September 2022 (**Entitlement Trading Period**).

Eligible shareholders can also transfer in whole or in part their entitlement directly to another eligible person off-market.

It is the responsibility of the purchasers of entitlements to inform themselves of the 'eligibility criteria' (details of which will be set out in the Offer Booklet) for exercise. If holders of entitlements after the end of the Entitlement Trading Period do not meet eligibility criteria, they will not be able to exercise the entitlements purchased. If holders are not able to take up their entitlements, those entitlements will lapse and holders may receive no value for them.

Nominee for ineligible foreign shareholders

The Entitlement Offer is only being made to all registered shareholders who hold shares on the record date with a registered address in Australia or New Zealand, or certain other foreign jurisdictions determined by the directors at their discretion, and subject to being able to comply with local laws. The Company has appointed the Underwriter as nominee for ineligible foreign shareholders who will arrange the sale of entitlements that would have been offered to ineligible shareholders, with the net proceeds, if any, distributed to those shareholders.

Key dates for the Entitlement Offer

Key dates of the Entitlement Offer are provided in the indicative timetable below:

Event	Date* (2022)
Announcement of Entitlement Offer, Appendix 3B and 708AA notice	Friday, 2 September
Ex-date for Entitlement Offer and rights trading starts on ASX on a deferred settlement basis	Wednesday, 7 September
Record Date	7.00pm on Thursday, 8 September
Entitlement Offer opens Dispatch of Offer Booklet and Entitlement and Acceptance Form	Friday, 9 September
Entitlement trading on ASX ends	Tuesday, 13 September
New Shares under Entitlement Offer commence trading on ASX on deferred settlement basis	Wednesday, 14 September
Entitlement Offer closes (Closing Date)	5.00pm on Tuesday, 20 September
Announcement of shortfall (if any) under the Entitlement Offer	Wednesday, 21 September
Issue and allotment of shares under the Entitlement Offer; issue Appendix 2A	Monday, 26 September
Dispatch of holding statements	Tuesday, 27 September
Commencement of trading of new shares	Tuesday, 27 September

Note: All dates and times above are indicative and the Company reserves the right to amend any or all of these events, dates and times subject to the Corporations Act 2001 (Cth), ASX Listing Rules and other applicable laws. All times and dates are in reference to Brisbane time. The commencement of quotation of new shares under the Entitlement Offer is subject to confirmation from ASX.

Additional Information

In conjunction with this announcement, the Company has today released to ASX a Cleansing Notice (in accordance with section 708AA(2)(f) of the *Corporations Act 2001* (Cth) and an Appendix 3B (New Issue Announcement) in connection with the Entitlement Offer. Further details about the Entitlement Offer are set out in these documents. Further details regarding the Entitlement Offer are expected to be released to the ASX on or around 9 September 2022.

This announcement has been authorised for release to ASX by the Board of Directors of Australian Pacific Coal Limited.

All enquiries:

Company Secretary

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Annexure

Summary of Underwriting Agreement

Below is a summary of the key terms of the Underwriting Agreement:

Overview	<p>The Entitlement Offer is fully underwritten pursuant to an underwriting agreement (Underwriting Agreement) entered into between the Company and Evolution Capital Pty Ltd.</p> <p>The Underwriting Agreement is subject to certain terms and conditions which are customary for an underwriting agreement of this type, including conditions precedent, representations and warranties and termination rights. If the Underwriting Agreement is terminated, then the Entitlement Offer will be withdrawn.</p> <p>The Company has indemnified the Underwriter and its associated persons against any losses suffered or incurred by them in connection with the Entitlement Offer.</p> <p>All defined terms in this summary have the same meaning given to them in the Underwriting Agreement unless any term is defined separately in this summary.</p>
Conditions	<p>The Underwriting Agreement is subject to the Company completing its due diligence obligations and providing certain documents to the Underwriter in a form acceptable to it, as well as the Company lodging all necessary documents with ASX in connection with the Entitlement Offer.</p> <p>The Underwriter's underwriting obligations are conditional upon, among other things:</p> <ul style="list-style-type: none">• a board resolution confirming the amount of the Trepang debt;• upon repayment of the Trepang debt all debts owing to Trepang and associated parties will be extinguished;• either the shareholders vote on the sale of the shares under the Trepang share sale agreement and the required majority is not met or the Trepang share sale agreement is terminated (Trepang Condition);• the Company enters into a joint venture and management services agreement with M Resources;• ASX has not indicated that it will not grant official quotation to the shares to be issued under the Entitlement Offer; and• certain certificates being provided to the Underwriter in accordance with the Underwriting Agreement. <p>The conditions are for the sole benefit of the Underwriter and may be waived by the Underwriter, other than the Trepang Condition.</p>
Fees	<p>The Underwriter will receive the following compensation in connection with the Entitlement Offer and its underwriting:</p> <ul style="list-style-type: none">• a selling fee of 5.75% of the gross Entitlement Offer proceeds; and• 20,000,000 unlisted options with an exercise price of A\$0.34 per option expiring 3 years from the issue date. The options are subject to shareholder approval under ASX Listing Rule 7.1 before 30 November 2022, or if such approval is not forthcoming utilising the Company's ASX Listing Rule 7.1 capacity.
Termination rights	<p>The Underwriter may, upon certain notice conditions, immediately terminate the Underwriting Agreement and all of its further obligations under the Underwriting Agreement on the occurrence of certain events, including:</p> <ol style="list-style-type: none">(a) Trepang makes a declaration under a Trepang transaction document in relation to a default or receivers, administrators or liquidators are appointed for the Company or if an insolvency event occurs under a Trepang transaction document;(b) a certificate under the Underwriting Agreement is not provided by the

Company on time;

- (c) the Company is prevented from allotting or issuing Offer Shares within the time required under Listing Rules and applicable laws;
- (d) the Company fails to make an ASX announcement as required or fails to lodge the Entitlement Offer Cleansing Note with the ASX as required under the Underwriting Agreement.
- (e) the Offer Documents are not in compliance with the Corporations Act or the ASX Listing Rules due to a statement in the Offer Document which is or becomes misleading or deceptive or is seen as being a forecast, expression of opinion, intention or expectation, based on reasonable assumptions.
- (f) the Company withdraws the Entitlement Offer;
- (g) the Company is required to give a correcting notice under section 708AA(10) other than as a result of a new circumstance arising;
- (h) the S&P/ASX 200 Index closes at a level that is 10% below the level of the index on the business day before the date of the Underwriting Agreement for two consecutive days;
- (i) the ICE Newcastle Coal Nov '22 (LQX22) closes at a level that is 10% below the level of the index on the business day before the date of the Underwriting Agreement for two consecutive days;
- (j) an application is made by ASIC for an order in relation to the Entitlement Offer or the offer documents which becomes public and is not withdrawn within 1 business day after it is made;
- (k) ASIC commences an investigation in relation to the Entitlement Offer and such investigation or hearing becomes public and is not withdrawn within 1 business day after it is made;
- (l) there is an application to a Government Agency for an order in relation to the Entitlement Offer;
- (m) approval for listing or quotation of the Entitlement Offer shares is refused or not granted or is granted subject to conditions other than customary conditions;
- (n) any of the Company's directors commits an indictable offence or is disqualified from managing a corporation;
- (o) the Company or any of its Group Companies become insolvent;
- (p) if any event specified in the timetable is delayed by more than 2 business days without the prior written consent of the Underwriter;
- (q) a new circumstance arises that should have been disclosed in the Offer Documents had it arisen before the Offer Documents were lodged with ASX;
- (r) any judgement is obtained against AQC in an amount exceeding \$100,000;
- (s) if ASIC issues an order under section 739 or hearing under section 739(2);
or
- (t) if an order, investigation or hearing is commenced under Part 9.5 or Part 3 of the ASIC Act 2001.

The Underwriter may also terminate the Underwriting Agreement and all of its further obligations under the Underwriting Agreement on the occurrence of certain events, including the following events, provided that the Underwriter has reasonable grounds to believe and does believe that the event has or is likely to have a material adverse effect on the success, marketing or settlement of the Entitlement Offer, the value of the shares or the willingness of investors to subscribe for the shares or is likely to give rise to a contravention of applicable law by the Underwriter or a liability of the Underwriter under any applicable law:

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| | <ul style="list-style-type: none">(a) public disclosures become misleading or deceptive;(b) any information supplied by or on behalf of the Company to the Underwriter is or becomes misleading or deceptive;(c) hostilities not presently existing commence involving any one or more of the United States, Australia, New Zealand, UK, France, Germany, Russia, North Korea, South Korea, China, Japan or a member state of the EU;(d) there is a change of law which is likely to prohibit or regulate the Entitlement Offer, capital issues or stock markets;(e) the Company fails to perform any of its obligations under the Underwriting Agreement;(f) a representation or warranty provided by the Company becomes untrue or incorrect;(g) there is a general moratorium on commercial banking activities or a suspension or material limitation in trading in securities on major global markets;(h) a change in senior management at the Company;(i) an adverse change to the financial position, results, operations or prospects of the Company; or(j) the Company alters its issued capital or disposes of a substantial part of its business without the prior approval of the Underwriter, or creates any new encumbrance over the whole or a substantial part of the business. |
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