



ASX RELEASE (ASX: AQC)

Australian Pacific Coal

Quarterly Activities Report for the period ended 31 March 2022

Dartbrook Mine

Modification 7 Appeal

As previously disclosed, the Board of Australian Pacific Coal Limited (ASX: AQC) resolved to lodge an appeal against the determination made on 9 August, 2019, by the NSW Independent Planning Commission (IPC), acting as the delegate for the Minister of Planning, Infrastructure and Environment (MPIE), with respect to AQC's Modification 7 Submission.

AQC previously announced that it had reached agreement with the NSW Minister for Planning and Public Spaces in the Land and Environment Court proceedings the Company had commenced about the determination of its application to modify the development consent for the Dartbrook Coal Mine. As announced such agreement only becomes effective, and the development consent is only modified, once the Land and Environment Court disposed of the proceedings in accordance with the agreement.

As previously reported, subsequent to reaching agreement AQC received notice of a proposed application by the Hunter Thoroughbred Breeders Association (HTBA) to join the proceedings. Judgment on the HTBA's application was delivered on 20 November 2020 and the HTBA were joined to the proceedings on a limited basis.

AQC subsequently sought leave to appeal the decision of the Land and Environment Court to join the HTBA to the proceedings. The Court of Appeal granted leave, allowed the appeal, and removed the HTBA as a party to the Land and Environment Court proceedings.

Following the Court of Appeal's decision, AQC entered into a revised agreement with the Minister for Planning and Public Spaces under s34(3) of the Land and Environment Court Act 1979 (LEC Act) about the 5 year extension of mining operations under the development consent for the Dartbrook Coal Mine.

The HTBA, although not a party to the litigation, made a further application to the Land and Environment Court to participate in the Land and Environment Court proceedings under s38(3) of the LEC Act (to assist the Court in determining the proceedings) or as an amicus curiae (friend of the Court). Although AQC opposed HTBA's application the Land and Environment Court permitted HTBA to make a short submission on specified jurisdictional issues associated with the Court's power to impose conditions on the determination of the Mod 7 application.

The Land and Environment Court was asked to dispose of the proceedings in accordance with the revised s34 agreement. The Court advised the parties that it considers there is a further jurisdictional issue arising from proposed condition 2.3(c) (which prevents mining in the Piercefield seam during the proposed 5 year extension period).

On 14 March 2022, AQC announced that it had entered into an agreement with the Minister for Planning and Public Spaces under s34 of the *Land and Environment Court Act 1979* which, amongst other things, provides for a 5 year

extension of mining operations under the development consent. The Land and Environment Court has now modified the development consent in accordance with the s34 agreement¹.

Corporate

Offer for Purchase of Dartbrook Coal Project

On 21 February 2022, AQC announced that it had received from its major shareholder and creditor Trepang Services Pty Ltd ('Trepang'), an offer for Trepang or its nominee to purchase the Dartbrook Coal Project through acquisition of 100% of the Company's wholly owned subsidiaries (AQC Investments 2 Pty Ltd; ACQ Dartbrook Pty Ltd; AQC Dartbrook Management Pty Ltd and Dartbrook Coal (Sales) Pty Ltd 'Subsidiaries') (the **Offer**).

The Offer was made by Trepang on the basis that all debt and accrued interest (approx. \$61m at 31 December 2021) owed by the Company to Trepang and its associates will be novated to the Subsidiaries such that at completion of the transaction the Company will be released from all liabilities with respect to debt owed to Trepang and its associates.

On 20 April 2022 the parties entered into a conditional share sale agreement to give effect to the following terms of the Offer:

- (a) AQC selling to Trepang or its nominee 100% of the issued share capital in AQC Investments No. 2 Pty Ltd and contemporaneously transferring to Trepang, all the rights attaching to the shares;
- (b) AQC and Trepang, Paspaley and Robinson (the **Financiers**) agreeing to, or procuring the novation of, the principal amount of all debts owing by AQC to the Financiers, amounting to approximately \$29,988,418, to certain of AQC's Subsidiaries (the ownership of which will be directly or indirectly transferred as part of the transaction) or as may be nominated by Trepang.
- (c) The Financiers agreeing to waive any right for interest to be charged or accrued, whether relating to any past, present or future periods, under any of the Other Financiers loan agreements;
- (d) Trepang agreeing to procure the forgiveness of the debts owing by AQC to John Robinson Jnr equalling \$249,230.64 and contemporaneously entering into a Deed of Debt Forgiveness to document this debt being forgiven;
- (e) Trepang agreeing to release AQC from its guarantee and any obligation to repay the loan advanced to them from Anglo American Metallurgical Coal Assets Pty Ltd (as assigned to Trepang) on such terms as may be acceptable to AQC;
- (f) Trepang agreeing to fund certain costs of AQC for the term of the Share Sale Agreement.

Following completion, AQC's consolidated liabilities will be reduced by approximately \$61m (based on 31 December 2021 balances).

AQC has also entered into a Royalty Deed with AQC Investments No. 2 Pty Ltd to procure the payment of a royalty to AQC by AQC Investments No. 2 Pty Ltd of 50% of the Net Profit of the Mine, provided that the royalty payable to AQC cannot exceed for each Calendar Quarter:

- (a) A\$2.50 per tonne for each tonne of Grantor Coal for a Calendar Quarter, where the Coal Price received for that Calendar Quarter is equal to or less than USD\$150.00 per tonne;
- (b) A\$3.50 per tonne for each tonne of Grantor Coal for a Calendar Quarter, where the Coal Price received for that Calendar Quarter is greater than USD\$150.00 per tonne but less than or equal to USD\$200.00 per tonne;
- (c) A\$5.00 per tonne for each tonne of Grantor Coal for a Calendar Quarter, where the Coal Price received for that Calendar Quarter is greater than USD\$200.00 per tonne.

¹ A copy of the Court's judgment and the associated conditions are available at <https://www.caselaw.nsw.gov.au/decision/17f099d077a5cbe39191e994#>.

Grantor Coal means 50% of the Coal sold from the Dartbrook Mine.

The binding agreements remain subject to certain conditions precedent, including shareholder and regulatory approvals. These conditions must be satisfied by 27 June 2022 unless the date is extended by the parties.

AQC has appointed EY to prepare an Independent Expert Report on the proposed transaction and that report together with further detail on the above transaction and agreements will be provided to shareholders in due course.

The AQC board has received interest from certain other parties in relation to the Dartbrook mine but all other approaches have been highly conditional and therefore the board has agreed that this transaction should be considered by shareholders.

Other Corporate

At quarter end the Company held \$0.1 million in cash reserves. Funds during the quarter were primarily used to progress the modification appeal (\$0.06 million), care & maintenance holding costs (\$0.25 million) and corporate administration (\$0.56 million). The Company was also reimbursed \$0.43m in corporate and project costs.

The Company's accompanying Appendix 5B (Quarterly Cashflow Report) includes an amount in item 6.1 of \$261k which constitutes executive and non-executive directors' fees paid during the quarter.

This announcement has been authorised for release by the Board.

All enquiries:

Company Secretary

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The Company provides the following additional information in accordance with ASX Listing Rule 5.3.3.

Mining tenements held at the end of the quarter and their location

Name	Number	Status	Interest Held
Dartbrook Project, Hunter Valley NSW			
AUTH 256	AUTH 256	Renewal Pending *	100%
EL 4574	EL 4574	Renewal Pending *	100%
EL 4575	EL 4575	Renewal Pending *	100%
EL 5525	EL 5525	Renewal Pending *	100%
CL 386	CL 386	Granted	100%
ML 1381	ML 1381	Renewal Pending *	100%
ML 1456	ML 1456	Renewal Pending *	100%
ML 1497	ML 1497	Granted	100%
Mount Hillalong Project, Glenden QLD			
Mount Hess West	EPC 1867	Granted	100%
Matuan Downs Bentonite Project, Alpha			
Mantuan	ML 70360	Granted	100%

* The Company has lodged renewal applications for certain Dartbrook Project Authorities, EL's and ML's as noted above.

Mining tenements acquired during the quarter and their location

Not applicable.

Mining tenements disposed of during the quarter and their location

Not applicable.

Beneficial percentage interests held in farm-in or farm-out agreements at the end of the quarter

The Company's 100% owned subsidiary Mining Investments One Pty Ltd holds a 10% interest in each of the following Blackwood Resources Pty Ltd JV tenements.

Name	Number	Status	Interest Held
Blackwood Joint Venture, Miles QLD			
Bungaban Creek	EPC 1955	Granted	10%
Quondong	EPC 1987	Granted	10%

Beneficial percentage interests in farm-in or farm-out agreements acquired or disposed of during the quarter

Not applicable.

Appendix 5B

Mining exploration entity or oil and gas exploration entity quarterly cash flow report

Name of entity

AUSTRALIAN PACIFIC COAL LIMITED

ABN

49 089 206 986

Quarter ended ("current quarter")

31 MARCH 2022

Consolidated statement of cash flows	Current quarter \$A'000	Year to date (9 months) \$A'000
1. Cash flows from operating activities		
1.1 Receipts from customers	-	64
1.2 Payments for		
(a) exploration & evaluation	-	-
(b) development	(59)	(262)
(c) production	-	-
(d) staff costs	(411)	(1,084)
(e) administration and corporate costs	(169)	(677)
1.3 Dividends received (see note 3)	-	-
1.4 Interest received	-	-
1.5 Interest and other costs of finance paid	-	-
1.6 Income taxes paid	-	-
1.7 Government grants and tax incentives	-	-
1.8 Other (mine care and maintenance)	(251)	(1,257)
1.8 Other (GST refunds received)	63	208
1.8 Other (Cost reimbursements)	428	428
1.8 Other (Transaction costs)	(41)	(41)
1.9 Net cash from / (used in) operating activities	(440)	(2,621)

Mining exploration entity or oil and gas exploration entity quarterly cash flow report

Consolidated statement of cash flows	Current quarter \$A'000	Year to date (9 months) \$A'000
2. Cash flows from investing activities		
2.1 Payments to acquire or for:		
(a) entities	-	-
(b) tenements	-	-
(c) property, plant and equipment	-	(8)
(d) exploration & evaluation	-	-
(e) investments	-	-
(f) other non-current assets	-	-
2.2 Proceeds from the disposal of:		
(a) entities	-	-
(b) tenements	-	-
(c) property, plant and equipment	-	-
(d) investments	-	-
(e) other non-current assets	-	-
2.3 Cash flows from loans to other entities	-	-
2.4 Dividends received (see note 3)	-	-
2.5 Other (provide details if material)	-	-
2.6 Net cash from / (used in) investing activities	-	(8)

3. Cash flows from financing activities		
3.1 Proceeds from issues of equity securities (excluding convertible debt securities)	-	-
3.2 Proceeds from issue of convertible debt securities	-	-
3.3 Proceeds from exercise of options	-	-
3.4 Transaction costs related to issues of equity securities or convertible debt securities	-	-
3.5 Proceeds from borrowings	213	2,213
3.6 Repayment of borrowings	-	-
3.7 Transaction costs related to loans and borrowings	-	-
3.8 Dividends paid	-	-
3.9 Other (provide details if material)	-	-
3.10 Net cash from / (used in) financing activities	213	2,213

Consolidated statement of cash flows		Current quarter \$A'000	Year to date (9 months) \$A'000
4.	Net increase / (decrease) in cash and cash equivalents for the period		
4.1	Cash and cash equivalents at beginning of period	331	520
4.2	Net cash from / (used in) operating activities (item 1.9 above)	(440)	(2,621)
4.3	Net cash from / (used in) investing activities (item 2.6 above)	-	(8)
4.4	Net cash from / (used in) financing activities (item 3.10 above)	213	2,213
4.5	Effect of movement in exchange rates on cash held	-	-
4.6	Cash and cash equivalents at end of period	104	104

5. Reconciliation of cash and cash equivalents	Current quarter \$A'000	Previous quarter \$A'000
at the end of the quarter (as shown in the consolidated statement of cash flows) to the related items in the accounts		
5.1 Bank balances	79	306
5.2 Call deposits	-	-
5.3 Bank overdrafts	-	-
5.4 Other (funds held in escrow)	25	25
5.5 Cash and cash equivalents at end of quarter (should equal item 4.6 above)	104	331

6. Payments to related parties of the entity and their associates

6.1	Aggregate amount of payments to related parties and their associates included in item 1
6.2	Aggregate amount of payments to related parties and their associates included in item 2

**Current quarter
\$A'000**

261

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Note: if any amounts are shown in items 6.1 or 6.2, your quarterly activity report must include a description of, and an explanation for, such payments

Mining exploration entity or oil and gas exploration entity quarterly cash flow report

7. Financing facilities	Total facility amount at quarter end \$A'000	Amount drawn at quarter end \$A'000
<i>Note: the term "facility" includes all forms of financing arrangements available to the entity.</i>		
<i>Add notes as necessary for an understanding of the sources of finance available to the entity.</i>		
7.1 Loan facilities	-	-
7.2 Credit standby arrangements	25	3
7.3 Other (please specify)	30,201	30,201
7.4 Total financing facilities	30,226	30,204

7.5 **Unused financing facilities available at quarter end** Nil

7.6 Include in the box below a description of each facility above, including the lender, interest rate, maturity date and whether it is secured or unsecured. If any additional financing facilities have been entered into or are proposed to be entered into after quarter end, include a note providing details of those facilities as well.

7.1 Not applicable.

7.2 NAB Business Visa. Interest 15.50%. Unsecured

7.3 Mr N Paspaley Convertible Loan Deed. Interest 10.0%. Secured. \$10,448,591 fully drawn

7.3 Mr J Robinson Convertible Loan Deed. Interest 10.0%. Secured. \$10,448,591 fully drawn

7.3 Trepang Services Pty Ltd Unsecured Loan. Interest 10.0%. \$1,604,005

7.3 Trepang Services Pty Ltd Vendor Secured Loan. Interest 10.0%. \$7,700,000 fully drawn

8. Estimated cash available for future operating activities	\$A'000
8.1 Net cash from / (used in) operating activities (Item 1.9)	(440)
8.2 Payments for exploration & evaluation classified as investing activities (Item 2.1(d))	-
8.3 Total relevant outgoings (Item 8.1 + Item 8.2)	(440)
8.4 Cash and cash equivalents at quarter end (Item 4.6)	104
8.5 Unused finance facilities available at quarter end (Item 7.5)	-
8.6 Total available funding (Item 8.4 + Item 8.5)	104
8.7 Estimated quarters of funding available (Item 8.6 divided by Item 8.3)	0.24

Note: if the entity has reported positive relevant outgoings (ie a net cash inflow) in item 8.3, answer item 8.7 as "N/A". Otherwise, a figure for the estimated quarters of funding available must be included in item 8.7.

8.8 If Item 8.7 is less than 2 quarters, please provide answers to the following questions:

- Does the entity expect that it will continue to have the current level of net operating cash flows for the time being and, if not, why not?

Answer:

The Company has recently announced a conditional agreement with Trepang Services Pty Ltd (Trepang) for the purchase of the Dartbrook Coal Project. Under the agreement Trepang has agreed to fund certain costs of AQC and as a result the Company does not expect that it will continue to have the same level of net operating cash flows.

- Has the entity taken any steps, or does it propose to take any steps, to raise further cash to fund its operations and, if so, what are those steps and how likely does it believe that they will be successful?

Answer:

The Company has recently announced a conditional agreement with Trepang Services Pty Ltd (Trepang) for the purchase of the Dartbrook Coal Project. Under the agreement Trepang has agreed to fund certain costs of AQC, as a result the Company expects Trepang will continue to provide ongoing working capital so that the Company can meet its net operating cash flows in the short term.

3. Does the entity expect to be able to continue its operations and to meet its business objectives and, if so, on what basis?

Answer:

The Company expects that it will be able to continue its operations and to meet its business objectives based on the Company's intention to seek additional funding from Trepang and or reduce its expenditure.

Compliance statement

- 1 This statement has been prepared in accordance with accounting standards and policies which comply with Listing Rule 19.11A.
- 2 This statement gives a true and fair view of the matters disclosed.

Date: 31 March 2022

Authorised by: By the Board
(Name of body or officer authorising release – see note 4)

Notes

1. This quarterly cash flow report and the accompanying activity report provide a basis for informing the market about the entity's activities for the past quarter, how they have been financed and the effect this has had on its cash position. An entity that wishes to disclose additional information over and above the minimum required under the Listing Rules is encouraged to do so.
2. If this quarterly cash flow report has been prepared in accordance with Australian Accounting Standards, the definitions in, and provisions of, *AASB 6: Exploration for and Evaluation of Mineral Resources* and *AASB 107: Statement of Cash Flows* apply to this report. If this quarterly cash flow report has been prepared in accordance with other accounting standards agreed by ASX pursuant to Listing Rule 19.11A, the corresponding equivalent standards apply to this report.
3. Dividends received may be classified either as cash flows from operating activities or cash flows from investing activities, depending on the accounting policy of the entity.
4. If this report has been authorised for release to the market by your board of directors, you can insert here: "By the board". If it has been authorised for release to the market by a committee of your board of directors, you can insert here: "By the [name of board committee – eg Audit and Risk Committee]". If it has been authorised for release to the market by a disclosure committee, you can insert here: "By the Disclosure Committee".
5. If this report has been authorised for release to the market by your board of directors and you wish to hold yourself out as complying with recommendation 4.2 of the ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations*, the board should have received a declaration from its CEO and CFO that, in their opinion, the financial records of the entity have been properly maintained, that this report complies with the appropriate accounting standards and gives a true and fair view of the cash flows of the entity, and that their opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively.