



Australian Pacific Coal

ASX RELEASE
28 June 2021

Dartbrook – Modification 7 Update

Australian Pacific Coal Limited ('AQC' or 'Company') refers to its ASX Release of 3 June 2021. As previously announced AQC sought leave to appeal the decision of the Land and Environment Court to join the Hunter Thoroughbred Breeders Association (HTBA) to the proceedings the Company has commenced about the determination of its application to modify the development consent for the Dartbrook Coal Mine. The application for leave to appeal has now been decided by the NSW Court of Appeal. The Court of Appeal has granted leave, allowed the appeal, and removed the HTBA as a party to the Land and Environment Court proceedings. It has also ordered the HTBA to pay AQC's costs of the appeal¹.

AQC has now considered the Court of Appeal's decision and 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 revised agreement does not change the conditions proposed under the previous s34 agreement but addresses a potential jurisdictional issue arising from the Court of Appeal's judgment.

The HTBA, although now not a party to the litigation, have made a further application 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). AQC opposes HTBA's application. The application is listed for hearing on 6 July 2021. The Court cannot be asked to dispose of the proceedings pursuant to the revised s34 agreement until after the HTBA application has been decided.

This announcement has been authorised for release by the CEO.

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¹ The decision can be accessed at <https://www.caselaw.nsw.gov.au/decision/179b05c338541a18ac64911d>.