



Australian Pacific Coal

ASX RELEASE
28 October 2022

Notice of Annual General Meeting

Australian Pacific Coal Limited (ASX: AQC) (AQC or Company) is pleased to attach a copy of the following documents in relation to the Annual General Meeting of Shareholders to be held on 28 November 2022 at 10.00am (Sydney Time) (Annual General Meeting).

1. Letter to Shareholders regarding arrangements for the Annual General Meeting as despatched to Shareholders;
2. Notice of Annual General Meeting; and
3. Proxy Form.

This announcement has been authorised for release by the Company Secretary.

For further information, please contact:

All enquiries:

Company Secretary

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Australian Pacific Coal

28 October 2022

Dear Shareholders,

I am pleased to invite you to the Annual General Meeting of the Company's Shareholders (**Annual General Meeting**) to be held at the offices of Mills Oakley Lawyers, Level 7, 151 Clarence Street, Sydney NSW 2000 at 10am (Sydney time) on Monday 28 November 2022.

A notice of meeting and accompanying explanatory memorandum was released to ASX on 28 October 2022 (together **Notice of Meeting**) in respect of the Annual General Meeting of the Company's Shareholders.

In accordance with Treasury Laws Amendments (2022 Measures No. 1) Act 2021, the Company will not be sending hard copies of the Notice of Meeting to shareholders. The Notice of Meeting can be viewed and downloaded from www.aqcltd.com. Alternatively, a complete copy of the meeting documents has been posted to the Company's ASX market announcements page. If you have elected to receive notices by email a communication will be sent to your nominated email address. If you have not elected to receive notices by email a copy of your proxy form will be posted to you, together with this Letter.

For further information, please contact the Company Secretary by telephone on +61 7 3221 0679 or by email at cosec@aqcltd.com.

Yours sincerely

Australian Pacific Coal Limited

Craig J McPherson
Company Secretary

Notice of Annual General Meeting and Explanatory Memorandum

Australian Pacific Coal Limited ACN 089 206 986

Date of Meeting: 28 November 2022

Time of Meeting: 10.00am (Sydney time)

Place of Meeting: Mills Oakley Lawyers
Level 7, 151 Clarence Street
Sydney NSW 2000

Notice of Annual General Meeting

Notice is given that the Annual General Meeting of the holders of the ordinary shares in Australian Pacific Coal Limited ACN 089 206 986 (**Company**) will be held at Mills Oakley Lawyers Office, Level 7, 151 Clarence Street, Sydney NSW 2000 on 28 November 2022 at 10.00am (Sydney time).

Terms used in this Notice of Meeting are defined in section 7 (**Interpretation**) of the accompanying Explanatory Memorandum.

Ordinary business

Financial Reports

To receive and consider the Company's Annual Report comprising the Directors' Report and Auditors' Report, Directors' Declaration, Consolidated Statement of Comprehensive Income, Consolidated Statement of Financial Position, Consolidated Statement of Changes in Equity, Consolidated Statement of Cash Flows and notes to and forming part of the financial statements for the Company for the financial year ended 30 June 2022.

1. Remuneration Report

To consider and, if thought fit, pass the following Resolution, with or without amendment, as an Advisory Resolution of the Company:

"That the Remuneration Report for the year ended 30 June 2022 (as set out in the Directors Report) is adopted."

The vote on this Resolution 1 is advisory only and does not bind the Directors or the Company.

Voting restriction pursuant to section 250R(4) of the Corporations Act

A vote on this Resolution 1 must not be cast (in any capacity) by or on behalf of either of the following persons:

- a member of the Key Management Personnel (**KMP**) details of whose remuneration are included in the Remuneration Report; and
- a Closely Related Party of such a member.

However, the above persons may cast a vote on Resolution 1 if:

- the person does so as a proxy;
- the vote is not cast on behalf of a member of the KMP details of whose remuneration are included in the Remuneration Report or a Closely Related Party of such a member; and
- either:
 - the voter is appointed as a proxy by writing that specifies the way the proxy is to vote on the Resolution; or
 - the voter is the chair of the meeting and the appointment of the chair as proxy:
 - does not specify the way the proxy is to vote on the Resolution; and
 - expressly authorises the chair to exercise the proxy even if the Resolution is connected directly or indirectly with the remuneration of a member of the KMP for the Company or, if the Company is part of a consolidated entity, for the entity.

Voting intention of the Chair

Shareholders should be aware that any undirected proxies given to the Chair will be cast by the Chair and counted in favour of the Resolutions the subject of this Meeting, including Resolution 1, subject to compliance with the Corporations Act. In exceptional circumstances, the Chair may change his/her voting intention on any Resolution, in which case an ASX announcement will be made. Further details, in relation to the ability of the Chair to vote on undirected proxies are set out in the accompanying proxy form.

Notice of Annual General Meeting

2. Re-election of Craig McPherson as a Director

To consider and, if thought fit, pass the following Resolution, with or without amendment, as an Ordinary Resolution of the Company:

“That for the purposes of Rule 38.1 of the Company’s Constitution, Listing Rule 14.4 and for all other purposes, Craig McPherson, who retires by rotation and being eligible, is re-elected as a Director.”

3. Issue of Broker Options to Evolution under Underwriting Agreement

To consider and, if thought fit, pass the following resolution, as an Ordinary Resolution of the Company:

“That pursuant to Listing Rule 7.1 and in accordance with clause 8.2 of the Underwriting Agreement, the Shareholders approve the issue of Broker Options to Evolution consisting of 12,427,279 unlisted Broker Options in the Company, with an expiry of 3 years from the date of issue for an exercise price of \$0.34 per Broker Option, that may be exercised at any time up until their expiry.”

Voting exclusion statement

The Company will disregard any votes cast in favour of this Resolution 3 by or on behalf of:

- any person who is expected to participate in, or who will obtain a material benefit as a result of the proposed issue (except a benefit solely by reason of being a holder being a holder of ordinary securities); and
- an associate of that person.

However, this does not apply to a vote cast in favour of this Resolution by:

- a person as a proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with directions given to the proxy or attorney to vote on the Resolution in that way;
- the Chair of the meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chair to vote on the Resolution as the chair decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
 - the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Special business

4. Approval to issue an additional 10% of the issued capital of the Company over a 12 month period pursuant to Listing Rule 7.1A

To consider and, if thought fit, pass the following resolution, as a Special Resolution of the Company:

“That, pursuant to and in accordance with Listing Rule 7.1A, and for all other purposes, the Shareholders approve the issue of Equity Securities of up to 10% of the issued capital of the Company (at the time of issue) calculated in accordance with the formula prescribed in Listing Rule 7.1A.2, over a 12 month period from the date of the Meeting, at a price not less than that

Notice of Annual General Meeting

*determined pursuant to Listing Rule 7.1A.3 and otherwise on the terms and conditions in the Explanatory Memorandum (**Placement Securities**).*”

Voting exclusion statement

The Company will disregard any votes cast in favour of this Resolution 4 by or on behalf of:

- any person who is expected to participate in, or who will obtain a material benefit as a result of the proposed issue (except a benefit solely by reason of being a holder of Shares if this Resolution 4 is passed); and
- an associate of that person.

However, this does not apply to a vote cast in favour of this Resolution by:

- a person as a proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with directions given to the proxy or attorney to vote on the Resolution in that way;
- the Chair of the meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chair to vote on the Resolution as the chair decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
 - the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

General business

To consider any other business as may be lawfully put forward in accordance with the Constitution of the Company.

Important information about voting on the resolutions

In accordance with clause 27.1 of the Company’s constitution, the Chair intends to call a poll on each of the resolutions proposed at the Meeting. Each resolution considered at the Meeting will therefore be conducted by a poll, rather than on a show of hands. The Chair considers voting by poll to be in the interests of the Shareholders as a whole and is a way to ensure the views of as many Shareholders as possible are represented at the Meeting.

By order of the Board

Craig McPherson
Company Secretary
28 October 2022

Explanatory Memorandum

1. Introduction

This Explanatory Memorandum is provided to Shareholders of Australian Pacific Coal Limited ACN 089 206 986 (**Company**) to explain the Resolutions to be put to Shareholders at the Annual General Meeting to be held at Level 7, 151 Clarence Street, Sydney NSW 2000 on 28 November 2022 commencing at 10.00am (Sydney time).

The Directors recommend Shareholders read the accompanying Notice of Meeting and this Explanatory Memorandum in full before making any decision in relation to the Resolutions.

Terms used in this Explanatory Memorandum are defined in section 7.

2. Consider the Company's Annual Report

The Company's Annual Report comprising the Directors' Report and Auditors' Report, Directors' Declaration, Consolidated Statement of Comprehensive Income, Consolidated Statement of Financial Position, Consolidated Statement of Changes in Equity, Consolidated Statement of Cash Flows and notes to and forming part of the financial statements for the Company and for the financial year ended 30 June 2022 was released to the ASX Limited on 30 September 2022 and subsequently dispatched to shareholders as required.

Shareholders can access a copy of the Company's Annual Report at <http://www.aqcltd.com/site/investors/annual-reports>. The Company will not provide a hard copy of the Company's Annual Report to Shareholders unless specifically requested to do so.

The Company's Annual Report is placed before the Shareholders for discussion. No voting is required for this item.

3. Resolution 1 - Remuneration Report

The Board has submitted its Remuneration Report to Shareholders for consideration and adoption by way of a non-binding advisory resolution in accordance with section 250R of the Corporations Act.

The Remuneration Report is set out in the Directors' Report section of the Annual Report. The Report, amongst other things:

- (a) explains the Board's policy for determining the nature and amount of remuneration of Key Management Personnel of the consolidated entity;
- (b) explains the relationship between the Board's remuneration policy and the Company's performance;
- (c) sets out remuneration details for each Key Management Personnel of the consolidated entity including details of performance related remuneration and any options or other securities granted as part of remuneration; and
- (d) details and explains any performance conditions applicable to the remuneration of Key Management Personnel of the Company.

The Board believes the Company's remuneration policies and structures as outlined in the Remuneration Report are appropriately relative to the size of the Company, its business and strategic objectives and current and emerging market practices.

A reasonable opportunity will be provided for discussion of the Remuneration Report at the Meeting.

Explanatory Memorandum

The Directors abstain, in the interests of corporate governance, from making a recommendation in relation to this Resolution. In accordance with the Corporations Act, a vote on this Resolution is advisory only and does not bind the Directors or the Company.

There are restrictions on members of the Key Management Personnel and their Closely Related Parties and their proxies voting (in any capacity) on Resolution 1, details of which are set out in the voting restriction statement included in Resolution 1 of the Notice of Meeting.

Shareholders should be aware that any undirected proxies given to the Chair will be cast by the chair and counted in favour of the Resolutions the subject of this Meeting, including Resolution 1 subject to compliance with the Corporations Act. In exceptional circumstances, the Chair may change his/her voting intention on any Resolution, in which case an ASX announcement will be made.

4. Resolution 2 - Re-election of Craig McPherson as a Director

Rule 38.1 of the Company's constitution provides that one-third of the Directors for the time being, excluding any managing director or any Director required to submit for re-election, must retire at every annual general meeting or, if their number is not a multiple of three, then the greater of :

- a) one; or
- b) the number nearest to but not exceeding one-third,

must submit for re-election under this rule.

Craig McPherson was appointed as a Director on 7 December 2021 and retires in accordance with rule 38.1 of the Company's Constitution and, being eligible, offers himself for re-election as a Non-Executive Director.

Mr McPherson holds a Bachelor of Commerce the University of Queensland and is a member of the Institute of Chartered Accountants in Australia.

Mr McPherson has over twenty years of commercial and financial management experience and has held various roles with ASX and TSX listed companies over the past fifteen years in Australia and overseas.

The Directors (with Mr McPherson abstaining) recommend that the Shareholders vote in favour of this Ordinary Resolution.

5. Resolution 3 - Issue of Broker Options to Underwriter under Underwriting Agreement

(a) Background on Underwriting Agreement

On 2 September 2022, the Company announced a 5.83 for 1 (5.83 new shares for every 1 existing share held on the record date) fully underwritten renounceable pro rata entitlement offer of shares in the Company at A\$0.34 per share pursuant to which the Company raised approximately A\$100 million (before costs and expenses and subject to rounding) (**Entitlement Offer**).

The Entitlement Offer was fully underwritten by Evolution Capital Pty Ltd (**Underwriter**) pursuant to an underwriting agreement, the key terms of which were summarised in the Annexure to the announcement of 5 September 2022 (**Underwriting Agreement**).

The proceeds of the A\$100 million raised under the Entitlement Offer were used by the Company to fully repay its debt owing to Trepang Services Pty Ltd, Mr Robinson and Mr Paspaley and for

Explanatory Memorandum

general working capital purposes (including paying the costs and expenses of the Entitlement Offer).

Under the Underwriting Agreement, the Company appointed the Underwriter as the sole manager, broker and underwriter of the Entitlement Offer on an exclusive basis and the Underwriter accepted the appointment on the terms and conditions of the Underwriting Agreement.

As part of the Entitlement Offer the Underwriter:

- received a selling fee of 5.75% of the gross Entitlement Offer proceeds; and
- is to receive 20,000,000 unlisted options with an exercise price of A\$0.34 per option expiring 3 years from the issue date (**Broker Options**).

A further explanation of the material terms of the Broker Options are provided in Annexure A of this Explanatory Memorandum.

The Company intends to issue to the Underwriter, the Broker Options as follows:

- 7,572,721 of the Broker Options pursuant to its placement capacity determined under Listing Rule 7.1, prior to the date of this meeting;
- The balance 12,427,279 of the Broker Options, subject to the passing of Resolution 3.

(b) **ASX Listing Rule 7.1**

Listing Rule 7.1 provides that a company must not, subject to specified exemptions, issue or agree to issue more Equity Securities during any 12-month period other than that amount which represents 15% of the number of fully paid ordinary securities on issue at the commencement of the 12 month period, without the approval of the holders of its ordinary securities.

The Company notes that its placement capacity under Listing Rule 7.1 is 7,572,721 for the relevant period. Accordingly, the Company will be able to issue up to 7,572,721 Broker Options under its placement capacity and without shareholder approval.

Resolution 3 seeks Shareholder approval for the issue of the remaining 12,427,279 Broker Options (**Shortfall Options**) that are not capable of being issued without shareholder approval.

Listing Rule 7.3 requires that the following information be provided to Shareholders for the purpose of obtaining Shareholder approval pursuant to Listing Rule 7.1:

- (1) The number of securities proposed to be issued to the Underwriter is 12,427,279 unlisted options;
- (2) The Shortfall Options will be issued on a date which is within 3 months of the date of this meeting;
- (3) The issue price of the Shortfall Options to be issued to the Underwriter is nil and the Shortfall Options are being issued for the purpose of satisfying the consideration agreed to be issued to the Underwriter under the Entitlement Offer and unwriting process.
- (4) The Shortfall Options to be issued to the Underwriter:
 - (A) each convert to one fully paid ordinary share in the Company;
 - (B) will be issued with an exercise price of \$0.34 per Broker Option;
 - (C) will be exercisable at any time up to three (3) years from the date of issue;

Explanatory Memorandum

- (D) upon conversion into Shares, will rank equally with each Share in the Company;
 - (E) the other material terms of the Shortfall Options to be issued to the Underwriter are set out in the Annexure of the Notice of Meeting
- (5) If Resolution 3 is passed, the Shortfall Options will be issued to Evolution Capital Pty Ltd;
 - (6) There are no proceeds from the issue of the Shortfall Options to be paid to the Underwriter;
 - (7) The Shortfall Options will be issued to the Underwriter as soon as practicable following the Meeting, and in any event, will be issued no later than 3 months after the date of this meeting.

An appropriate voting exclusion statement is included in the Notice of Meeting.

(c) **Consequences of not approving Resolution 3**

Where shareholder approval of this Resolution 3 is not achieved, the Shortfall Options will not be issued to the Underwriter.

Where the Company is not able to issue the Shortfall Options, the Company will be in breach of its obligations under the Underwriting Agreement. Such a breach will subsequently give the Underwriter a right to make a claim against the Company for both contractual damages for breach and in respect of the indemnity provisions contained in the Underwriting Agreement.

The Board recommends that Shareholders vote in favour of Resolution 3.

6. Resolution 4 - Approval to issue an additional 10% of the issued capital of the Company over a 12 month period pursuant to Listing Rule 7.1A

6.1 Introduction

Pursuant to Resolution 4, the Company is seeking Shareholder approval to issue an additional 10% of issued capital over a 12 month period pursuant to Listing Rule 7.1A. If passed, this Resolution will allow the Company to allot and issue up to the number of new Equity Securities calculated in accordance with Listing Rule 7.1A.2 (**Placement Securities**) each at an issue price of at least 75% of the volume weighted average price (**VWAP**) for the Company's Equity Securities in that class (calculated over the last 15 days on which trades in the Equity Securities are recorded immediately before the date on which the price at which the Placement Securities are to be issued is agreed, or if the Placement Securities are not issued within five trading days of that date, the date on which the Placement Securities are issued) (**Issue Price**).

This approval is sought pursuant to Listing Rule 7.1A. Under Listing Rule 7.1A small and mid-cap listed entities that meet the eligibility threshold and have obtained the approval of their ordinary shareholders by special resolution at the annual general meeting, are permitted to issue an additional 10% of issued capital over a 12 month period from the date of the annual general meeting (**Additional 10% Placement**). The Additional 10% Placement under Listing Rule 7.1A is in addition to the ability of the Company to issue 15% of its issued capital without Shareholder approval over a 12 month period pursuant to Listing Rule 7.1. The Company may issue the Placement Securities to raise funds for the Company. Funds raised from the issue of Placement Securities, if undertaken, would be applied towards working capital.

The Directors of the Company unanimously recommend that Shareholders vote in favour of Resolution 4.

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6.2 Listing Rule 7.1A

(a) General

(1) Eligibility

An entity is eligible to undertake an Additional 10% Placement if at the time of its annual general meeting it has a market capitalisation of \$300 million or less and it is not included in the S&P/ASX300 Index.

The Company has a market capitalisation of less than \$300 million and is not included in the S&P/ASX300 Index and is therefore an “Eligible Entity” and able to undertake an Additional 10% Placement under Listing Rule 7.1A.

In the event that the Company for any reason ceases to be an Eligible Entity after the Company has already obtained Shareholders’ approval pursuant to this Resolution 4, the approval obtained will not lapse and the Company will still be entitled to issue the Placement Securities.

(2) Special Resolution

Listing Rule 7.1A requires this Resolution 4 to be passed as a Special Resolution, which means that it must be passed by at least 75% of the votes cast by members entitled to vote on the Resolution. Pursuant to Listing Rule 7.1A, no Placement Securities will be issued until and unless this Special Resolution is passed at the meeting.

(3) Shareholder approval

The ability to issue the Placement Securities is conditional upon the Company obtaining Shareholder approval by way of a Special Resolution at the Meeting.

(b) Additional 10% Placement period - Listing Rule 7.1A.1

Assuming Resolution 4 is passed, shareholder approval of the Additional 10% Placement under Listing Rule 7.1A is valid from the date of the AGM and expires on the earlier to occur of:

- (1) the date that is 12 months after the date of the AGM;
- (2) the time and date of the Company’s next AGM;
- (3) the time and date of the approval by Shareholders of a transaction under Listing Rule 11.1.2 (a significant change to the nature or scale of activities) or Listing Rule 11.2 (disposal of main undertaking); or such longer period if allowed by ASX.

If approval is given for the issue of the Placement Securities then the approval will expire, on 28 November 2023, unless the Company holds its next AGM or shareholder approval is granted pursuant to Listing Rule 11.1.2 or Listing Rule 11.2 prior to that date.

(c) Calculation for Additional 10% Placement - Listing Rule 7.1A.2

- (d) Listing Rule 7.1A.2 provides that Eligible Entities which have obtained shareholder approval at an annual general meeting may issue or agree to issue, during the period of the approval, a number of Equity Securities calculated in accordance with the formula prescribed in Listing Rule 7.1A.2. **Listing Rule 7.1A.3**

(1) Equity Securities

Any Equity Securities issued under the Additional 10% Placement must be in the same class as an existing quoted class of Equity Securities of the Company and issued for cash consideration.

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As at the date of this notice of meeting, the class of Equity Securities in the Company quoted on the ASX are fully paid ordinary shares. The Company presently has 347,310,953 Shares on issue at the date of this Notice of Meeting.

(2) **Minimum issue price**

The issue price for the Placement Securities issued under Listing Rule 7.1A must be not less than 75% of the VWAP of Equity Securities in the same class calculated over the 15 trading days immediately before:

- (A) the date on which the price at which the relevant Placement Securities are to be issued is agreed by the Company and the recipient of the Placement Securities; or
- (B) if the relevant Placement Securities are not issued within ten trading days of the date in paragraph 6.2(d)(2)(A) above, the date on which the relevant Placement Securities are issued.

(e) **Information to be given to ASX - Listing Rule 7.1A.4**

If Resolution 4 is passed and the Company issues any Placement Securities under Listing Rule 7.1A, the Company must:

- (1) state in its announcement of the issue or in its application for quotation of the Placement Securities that they are being issued under Listing Rule 7.1A; and
- (2) give to the ASX immediately after the issue a list of allottees of the Placement Securities and the number of Placement Securities allotted to each (this list will not be released to the market).

(f) **Listing Rule 7.1 and Listing Rule 7.1A**

The ability of an entity to issue Equity Securities under Listing Rule 7.1A is in addition to the entity's 15% placement capacity under Listing Rule 7.1.

At the date of this Notice of Meeting, the Company has on issue 347,310,953 Shares. The Company will have the capacity to issue the following Shares on the date of the Meeting:

- (1) 52,096,643 Shares under Listing Rule 7.1; and
- (2) subject to Shareholder approval being obtained under Resolution 4, 34,731,095 Shares under Listing Rule 7.1A.

The actual number of Equity Securities that the Company will have the capacity to issue under Listing Rule 7.1A will be calculated at the date of issue of the Equity Securities in accordance with the formula prescribed in Listing Rule 7.1A.2 (as described above).

6.3 **Specific information required by Listing Rule 7.3A**

(a) **The period for which the approval will be valid - Listing Rule 7.3A.1**

As required by Listing Rule 7.3A.3, the Company will only issue and allot the Placement Securities during the approval period. The approval under Resolution 4 for the issue of the Placement Securities will cease to be valid in the event that Shareholders approve a transaction under Listing Rule 11.1.2 (a significant change to the nature or scale of activities of the Company) or Listing Rule 11.2 (the disposal of the main undertaking of the Company), or the Company holds its next AGM before the 12 month anniversary of the AGM.

(b) **Minimum price of securities issued under Listing Rule 7.1A - Listing Rule 7.3A.2**

Pursuant to and in accordance with Listing Rule 7.1A.3, the Placement Securities issued pursuant to approval under Listing Rule 7.1A must be issued for cash consideration and

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have an issue price of not less than 75% of the VWAP for the Equity Securities over the 15 trading days immediately before:

- (1) the date on which the price at which the Placement Securities are to be issued is agreed; or
- (2) if the Placement Securities are not issued within ten trading days of the date in paragraph 6.3(b)(1) above, the date on which the Placement Securities are issued.

The Company will disclose to the ASX the issue price on the date of issue of the Placement Securities.

(c) **Purpose - Listing Rule 7.3A.3**

As noted above, the purpose for which the Placement Securities may be issued include to raise funds for the Company. Funds raised from the issue of Placement Securities, if undertaken, would be applied towards:

- (1) an acquisition of new assets or investments (including expenses associated with such an acquisition);
- (2) continued exploration and development expenditure on the Company's current assets; and/or
- (3) general working capital.

(d) **Risk of economic and voting dilution - Listing Rule 7.3A.4**

As provided by Listing Rule 7.3A.2, if Resolution 4 is passed and the Company issues the Placement Securities, there is a risk of economic and voting dilution to the existing Shareholders. The Company currently has on issue 347,310,953 Shares. The Company could issue 34,731,095 Shares on the date of the Meeting if Resolution 4 is passed in reliance on Listing Rule 7.1A (however, it is important to note that the exact number of Equity Securities which may be issued will be calculated in accordance with the formula contained in Listing Rule 7.1A.2 details of which are set out above). Any issue of Placement Securities will have a dilutive effect on existing shareholders.

There is a specific risk that:

- (1) the Market Price for the Company's Equity Securities may be significantly lower on the date of the issue of any Placement Securities than it is on the date of the meeting; and
- (2) the Placement Securities may be issued at a price that is at a discount to the Market Price for the Company's Equity Securities on the issue date,

which may have an effect on the amount of funds raised by the issue or the value of the Placement Securities.

As required by Listing Rule 7.3A.2, Table 1 below shows the potential economic and voting dilution effect, in circumstances where the issued share capital has doubled and the Market Price of the shares has halved. Table 1 also shows additional scenarios in which the issued share capital has increased (by both 50% and 100%) and the Market Price of the shares has:

- (1) decreased by 50%; and
- (2) increased by 100%.

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Issued capital	Share	50% decrease in Market Price \$0.162		Current Market Price \$0.325		100% increase in Market Price \$0.65	
		10% Voting Dilution	Capital Raised	10% Voting Dilution	Capital Raised	10% Voting Dilution	Capital Raised
Present issued Share capital = 347,310,953 Shares		34,731,095	\$5,626,437	34,731,095	\$11,287,605	34,731,095	\$22,575,212
50% Increase in Share capital = 520,966,430 Shares		52,096,643	\$8,439,656	52,096,643	\$16,931,408	52,096,643	\$33,862,817
100% Increase in Share capital = 694,621,906 Shares		69,462,190	\$11,252,874	69,462,190	\$22,575,211	69,462,190	\$45,150,423

(e) **Assumptions and explanations**

- (1) The Market Price is \$0.325, based on the closing price of the Shares on ASX on 17 October 2022.
- (2) The above table only shows the dilutionary effect based on the issue of the Placement Securities (assuming only Shares are issued), and not any Shares issued under the 15% under Listing Rule 7.1.
- (3) The 10% voting dilution reflects the aggregate percentage dilution against the issued share capital at the time of issue.
- (4) The Company issues the maximum number of Placement Securities.
- (5) The issued share capital has been calculated in accordance with the formula in Listing Rule 7.1A(2) as at 17 October 2022.
- (6) The issue price of the Placement Securities used in the table is the same as the Market Price and does not take into account the discount to the Market Price (if any).

(f) **Company's allocation policy - Listing Rule 7.3A.5**

The Company's allocation policy is dependent on the prevailing market conditions at the time of any proposed issue of the Placement Securities. The identity of the allottees of Placement Securities will be determined on a case-by-case basis having regard to a number of factors including but not limited to the following:

- (1) the methods of raising funds that are available to the Company including, but not limited to, rights issue or other issue in which existing shareholders can participate;
- (2) the effect of the issue of the Placement Securities on the control of the Company;
- (3) the financial situation and solvency of the Company; and
- (4) advice from corporate, financial and broking advisers (if applicable).

The allottees of the Placement Securities have not been determined as at the date of this Notice but may include existing substantial Shareholders and new Shareholders who are not related parties or associates of a related party of the Company.

Further, if the Company is successful in acquiring new assets or investments for which Placement Securities are issued as consideration, it is likely that the allottees of some of the Placement Securities will be the vendors of the new assets or investments.

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(g) **Previous issues under Listing Rule 7.1A.2 - Listing Rule 7.3A.6**

The Company has not issued or agreed to issue any equity securities under Listing Rule 7.1A.2 in the 12 months preceding this AGM.

6.4 **Voting exclusion statement**

A voting exclusion statement is included in the Notice of Meeting. At the date of the Notice of Meeting, the proposed allottees of any Placement Securities are not as yet known or identified. In these circumstances (and in accordance with the note set out in Listing Rule 14.11.1 relating to Listing Rule 7.1 and Listing Rule 7.1A), for a person's vote to be excluded, it must be known that that person will participate in the proposed issue. Where it is not known who will participate in the proposed issue (as is the case in respect of the Placement Securities), Shareholders must consider the proposal on the basis that they may or may not get a benefit and that it is possible that their holding will be diluted and there is no reason to exclude their votes.

Explanatory Memorandum

7. Interpretation

Advisory Resolution means a Resolution which, the result of voting by Shareholders, does not bind the Company.

Annual Report means the annual report for the Company released to the ASX on 30 September 2022.

ASX means ASX Limited ACN 008 624 691 or the Australian Securities Exchange (as applicable).

Board means the board of directors of the Company.

Broker Options means the options to be issued to the Underwriter under the Underwriter Agreement.

Chair means the person who chairs the Meeting.

Closely Related Party (as defined in the Corporations Act) of a member of the Key Management Personnel for an entity means:

- (a) a spouse or child of the member;
- (b) a child of the member's spouse;
- (c) a dependant of the member or the member's spouse;
- (d) anyone else who is one of the member's family and may be expected to influence the member, or be influenced by the member, in the member's dealings with the entity;
- (e) a company the member controls; or
- (f) a person prescribed by the regulations for the purposes of this definition.

Company means Australian Pacific Coal Limited ACN 089 206 986.

Constitution means the constitution of the Company from time to time.

Corporations Act means the *Corporations Act 2001* (Cth) as amended, varied or replaced from time to time.

Director means a director of the Company.

Entitlement Offer means the non-accelerated, renounceable pro rata entitlement offer of Shares to Shareholders entitling each Shareholder (save for Excluded Shareholders) to subscribe at the Offer Price for 5.83 Shares for every 1 Share held by that Shareholder at 7:00pm on the Record Date, to raise up to a total of approximately \$100,070,990.62.

Entitlement Offer Allotment Date means the Entitlement Offer Allotment Date referred to in the Entitlement Offer timetables as announced to Shareholders.

Entitlement Offer Settlement Date means the Entitlement Offer Settlement Date as referred to in the Entitlement Offer timetables as announced to Shareholders.

Entitlement Offer Underwritten Amount means \$100,070,990.62, comprising 294,326,443 Entitlement Offer Shares multiplied by the Offer Price.

Equity Securities has the meaning given to that term in the Listing Rules.

Evolution means Evolution Capital Pty Ltd ACN 652 397 263.

Excluded Shareholder means each Shareholder as at 7:00pm on the Record Date with a registered address outside Australia, or New Zealand to whom Listing Rule 7.7.1(a) applies.

Explanatory Memorandum means this explanatory memorandum accompanying the Notice of Meeting.

Key Management Personnel or **KMP** has the definition given in *Accounting Standards AASB 124 Related Party Disclosure* as those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly and indirectly, including any director (whether executive or otherwise) of that entity.

Explanatory Memorandum

Listing Rule means the official listing rules of the ASX as amended from time to time.

Market Price has the meaning given to that term in the Listing Rules.

Meeting, Annual General Meeting or AGM means the annual general meeting to be held at 10.00am (Sydney Time) on 28 November 2022 as convened by the accompanying Notice of Meeting.

Notice of Meeting or Notice means the notice of meeting giving notice to Shareholders of the Meeting, accompanying this Explanatory Memorandum.

Offer Price means \$0.34 per Entitlement Offer Share.

Offer Shares means the 294,326,443 Shares proposed to be issued under the Entitlement Offer.

Official List means the official list of ASX.

Ordinary Resolution means a resolution passed by more than 50% of the votes cast at a general meeting of shareholders.

Relevant Period means:

- (a) if the entity has been admitted to the Official List for 12 months or more, the 12 month period immediately preceding the date of the issue or agreement; or
- (b) if the entity has been admitted to the Official List for less than 12 months, the period from the date the entity was admitted to the Official List to the date immediately preceding the date of the issue or agreement.

Remuneration Report means the remuneration report as contained in the annual Directors Report of the Company for the financial year ending 30 June 2022.

Resolution means a resolution as set out in the Notice of Meeting.

Share means an ordinary fully paid share in the issued capital of the Company.

Shareholder means a holder of Shares in the Company.

Special Resolution means a resolution:

- (a) of which notice has been given as set out in paragraph 249L(1)(c) of the Corporations Act; and
- (b) that has been passed by at least 75% of the votes cast by members entitled to vote on the resolution.

Underwriter means Evolution Capital Pty Ltd ACN 652 397 263.

Underwriting Agreement means the Underwriting Agreement entered into between the Company and Underwriter on or around 2 September 2022.

VWAP means the volume weighted average closing price.

Any inquiries in relation to the Resolutions or the Explanatory Memorandum should be directed to Craig McPherson (**Company Secretary**):

Level 1
371 Queen Street
Brisbane Qld 4000
+61 7 3221 0679

Proxy form

Proxy, representative and voting entitlement instructions

All resolutions will be by poll

In accordance with clause 27.1 of the Company's constitution, the Chair intends to call a poll on each of the resolutions proposed at the Meeting. Each resolution considered at the Meeting will therefore be conducted by a poll, rather than on a show of hands. The Chair considers voting by poll to be in the interests of the Shareholders as a whole and is a way to ensure the views of as many Shareholders as possible are represented at the Meeting.

Voting Entitlement

The Board has determined that those persons who are registered as holding Shares as at 7:00pm (AEDT) on 26 November 2022, will be entitled to attend and vote at the Meeting. Accordingly, transactions registered after that time will be disregarded in determining entitlements to attend and vote at the Meeting.

If more than one joint holder of a Share is present at the Meeting (whether personally, by proxy, by attorney or by representative) and tenders a vote, only the vote of the joint holder whose name appears first on the Company's Share register will be counted.

Proxies and representatives

Shareholders are entitled to appoint a proxy to attend and vote on their behalf. Where a Shareholder is entitled to cast two or more votes at the Meeting, they may appoint two proxies. Where more than one proxy is appointed, each proxy may be appointed to represent a specific proportion or number of votes the Shareholder may exercise. If the appointment does not specify the proportion or number of votes each proxy may exercise, each proxy may exercise half of the votes. The proxy may, but need not, be a Shareholder of the Company.

Shareholders who are a body corporate are able to appoint representatives to attend and vote at the Meeting under section 250D of the *Corporations Act 2001* (Cth).

The proxy form must be signed by the Shareholder or his/her attorney duly authorised in writing or, if the shareholder is a corporation, in a manner permitted by the *Corporations Act 2001* (Cth).

The proxy form (and the power of attorney or other authority, if any, under which the proxy form is signed) or a copy or facsimile which appears on its face to be an authentic copy of the proxy form (and the power of attorney or other authority) must be **deposited at, posted to, or sent by facsimile transmission to the address listed below, or the Share Registry, C/- Link Market Services Limited Locked Bag A14 Sydney South NSW 1235 Australia** 48 hours before the time for holding the Meeting, or the adjourned Meeting as the case may be, at which the individual named in the proxy form proposes to vote.

Australian Pacific Coal Limited
Level 1, 371 Queen Street, Brisbane, Queensland, 4000
Telephone No: +61 7 3221 0679
Facsimile No: +61 7 3229 9323

If a representative of the corporation is to attend the Meeting the appropriate "Certificate of Appointment of Corporate Representative" should be produced prior to admission. A form of the certificate may be obtained from the Company's share registry.

A proxy form is attached to this notice.

Signing instructions

You must sign the proxy form as follows in the spaces provided:

Individual: Where the holding is in one name, the holder must sign.

Joint Holding: Where the holding is in more than one name, all of the security holders should sign.

Proxy form

Power of Attorney: To sign under Power of Attorney, you must have already lodged this document with the registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the Power of Attorney to this form when you return it.

Companies: Where the company has a Sole Director, who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the *Corporations Act 2001* (Cth)) does not have a Company Secretary, a Sole Director can also sign alone.

Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary.

Please indicate the office held by signing in the appropriate place.

Annexure A

Annexure A Material terms of the Broker Options

1.1 Exercise Price and Exercise Periods

Each Broker Option entitles the Underwriter to acquire one (1) fully paid Share on payment to AQC of \$0.34 per Option (**Exercise Price**).

The Broker Options are exercisable at any time up to the date which is thirty six (36) months after the date of issue (**Exercise Period**).

1.2 Manner of Exercise

The Underwriter may exercise the Broker Options by delivering to the Company's registered address a signed notice in writing (**Exercise Notice**), together with payment (in cleared funds) to AQC of the aggregate Exercise Price for the number of Broker Options exercised.

Broker Options can only be exercised in minimum increments of 100,000 Broker Options, unless the delivery of an Exercise Notice would leave the Underwriter with less than 100,000 Broker Options in which case the Underwriter must exercise all Broker Options held by it.

1.3 Shares Issued on Exercise of Broker Options

Upon the exercise of any Broker Options, AQC must, within ten (10) business days of receiving an Exercise Notice and all relevant documents and payments (in cleared funds):

- (a) issue Shares that rank equally with the then issued Shares on and from their date of issue; and
- (b) if AQC's Shares are quoted on the ASX at the time of the exercise of any Broker Options, then apply to the ASX for the quotation of the Shares to be issued upon their exercise.

1.4 Quotation and Transfer

AQC has not made, and will not make, any application to the ASX for quotation of the Broker Options. However, the Broker Options are transferable to any one or more third parties in any manner approved by the ASX or the Corporations Act.

1.5 Participation Rights or Entitlements

The Broker Options do not provide a right to participate in any new issue of securities or other entitlements offered to Shareholders during the term of the Broker Options.

1.6 Bonus Issues

If, prior to the expiry of the Broker Options, AQC makes a bonus issue of Shares to Shareholders for no consideration, the number of Shares over which a Broker Option is exercisable may be increased by the number of Shares which the holder would have received if the Broker Option had been exercised before the date for calculating entitlements to the bonus issue.

1.7 Pro-Rata Issue

If, after the date of the issue of the Broker Options and prior to the Expiry Date, AQC announces a pro-rata issue of Shares to Shareholders, the exercise price of the Broker Options will be reduced in accordance with ASX Listing Rule 6.22.2.

1.8 Capital reorganisation

If there is a reorganisation of the issued capital of AQC (including any consolidation, subdivision, reduction, or return of capital), the rights of the Underwriter as holder of the Broker Options shall be changed to the extent necessary to comply with ASX Listing Rules at the time of the reorganisation.

Annexure A

1.9 Variation to terms

The terms of the Broker Options shall only be changed if the Shareholders approve such change. However, except as set out clauses 1.6, 1.7 and 1.8 of this Annexure A and as provided for in the Listing Rules, the terms of the Broker Options shall not be changed to reduce the Exercise Price, increase the number of Broker Options or change any period for exercise of the Broker Options.



Australian Pacific Coal

ABN 49 089 206 986

LODGE YOUR VOTE

ONLINE
<https://investorcentre.linkgroup.com>

BY MAIL
Australian Pacific Coal Limited
C/- Link Market Services Limited
Locked Bag A14
Sydney South NSW 1235 Australia

BY FAX
+61 2 9287 0309

BY HAND
Link Market Services Limited
Parramatta Square, Level 22, Tower 6,
10 Darcy Street, Parramatta NSW 2150

ALL ENQUIRIES TO
Telephone: 1300 554 474 Overseas: +61 1300 554 474



X999999999999

PROXY FORM

I/We being a member(s) of Australian Pacific Coal Limited and entitled to participate in and vote hereby appoint:

APPOINT A PROXY

the Chairman of the Meeting (mark box)

OR if you are **NOT** appointing the Chairman of the Meeting as your proxy, please write the name of the person or body corporate you are appointing as your proxy

or failing the person or body corporate named, or if no person or body corporate is named, the Chairman of the Meeting, as my/our proxy to act on my/our behalf (including to vote in accordance with the following directions or, if no directions have been given and to the extent permitted by the law, as the proxy sees fit) at the Annual General Meeting of the Company to be held at **10:00am (Sydney time) on Monday, 28 November 2022 at Mills Oakley Lawyers Level 7, 151 Clarence Street Sydney NSW 2000 (the Meeting)** and at any postponement or adjournment of the Meeting.

Important for Resolution 1: If the Chairman of the Meeting is your proxy, either by appointment or by default, and you have not indicated your voting intention below, you expressly authorise the Chairman of the Meeting to exercise the proxy in respect of Resolution 1, even though the Resolution is connected directly or indirectly with the remuneration of a member of the Company's Key Management Personnel (**KMP**).

The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business.

VOTING DIRECTIONS

Proxies will only be valid and accepted by the Company if they are signed and received no later than 48 hours before the Meeting. Please read the voting instructions overleaf before marking any boxes with an .

Resolutions

	For	Against	Abstain*
1 Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Re-election of Craig McPherson as a Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Issue of Broker Options to Evolution under Underwriting Agreement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Approval to issue an additional 10% of the issued capital of the Company over a 12 month period pursuant to Listing Rule 7.1A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

i * If you mark the Abstain box for a particular Item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your votes will not be counted in computing the required majority on a poll.

SIGNATURE OF SHAREHOLDERS – THIS MUST BE COMPLETED

Shareholder 1 (Individual)

Joint Shareholder 2 (Individual)

Joint Shareholder 3 (Individual)

Sole Director and Sole Company Secretary

Director/Company Secretary (Delete one)

Director

This form should be signed by the shareholder. If a joint holding, either shareholder may sign. If signed by the shareholder's attorney, the power of attorney must have been previously noted by the registry or a certified copy attached to this form. If executed by a company, the form must be executed in accordance with the company's constitution and the *Corporations Act 2001* (Cth).

AQC PRX2203C



HOW TO COMPLETE THIS SHAREHOLDER PROXY FORM

YOUR NAME AND ADDRESS

This is your name and address as it appears on the Company's share register. If this information is incorrect, please make the correction on the form. Shareholders sponsored by a broker should advise their broker of any changes. **Please note: you cannot change ownership of your shares using this form.**

APPOINTMENT OF PROXY

If you wish to appoint the Chairman of the Meeting as your proxy, mark the box in Step 1. If you wish to appoint someone other than the Chairman of the Meeting as your proxy, please write the name of that individual or body corporate in Step 1. A proxy need not be a shareholder of the Company.

DEFAULT TO CHAIRMAN OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chairman of the Meeting, who is required to vote those proxies as directed. Any undirected proxies that default to the Chairman of the Meeting will be voted according to the instructions set out in this Proxy Form, including where the Resolution is connected directly or indirectly with the remuneration of KMP.

VOTES ON ITEMS OF BUSINESS – PROXY APPOINTMENT

You may direct your proxy how to vote by placing a mark in one of the boxes opposite each item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the items of business, your proxy may vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid.

APPOINTMENT OF A SECOND PROXY

You are entitled to appoint up to two persons as proxies to participate in the Meeting and vote on a poll. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning the Company's share registry or you may copy this form and return them both together.

To appoint a second proxy you must:

- (a) on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of shares applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- (b) return both forms together.

SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided:

Individual: where the holding is in one name, the holder must sign.

Joint Holding: where the holding is in more than one name, either shareholder may sign.

Power of Attorney: to sign under Power of Attorney, you must lodge the Power of Attorney with the registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the Power of Attorney to this form when you return it.

Companies: where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the *Corporations Act 2001*) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please indicate the office held by signing in the appropriate place.

CORPORATE REPRESENTATIVES

If a representative of the corporation is to participate in the Meeting the appropriate "Certificate of Appointment of Corporate Representative" must be produced prior to admission in accordance with the Notice of Meeting. A form of the certificate may be obtained from the Company's share registry or online at www.linkmarketservices.com.au.

LODGEMENT OF A PROXY FORM

This Proxy Form (and any Power of Attorney under which it is signed) must be received at an address given below by **10:00am (Sydney time) on Saturday, 26 November 2022**, being not later than 48 hours before the commencement of the Meeting. Any Proxy Form received after that time will not be valid for the scheduled Meeting.

Proxy Forms may be lodged using the reply paid envelope or:



ONLINE

<https://investorcentre.linkgroup.com>

Login to the Link website using the holding details as shown on the Proxy Form. Select 'Voting' and follow the prompts to lodge your vote. To use the online lodgement facility, shareholders will need their "Holder Identifier" - Securityholder Reference Number (SRN) or Holder Identification Number (HIN).



BY MOBILE DEVICE

Our voting website is designed specifically for voting online. You can now lodge your proxy by scanning the QR code adjacent or enter the voting link <https://investorcentre.linkgroup.com> into your mobile device. Log in using the Holder Identifier and postcode for your shareholding.

QR Code



To scan the code you will need a QR code reader application which can be downloaded for free on your mobile device.



BY MAIL

Australian Pacific Coal Limited
C/- Link Market Services Limited
Locked Bag A14
Sydney South NSW 1235
Australia



BY FAX

+61 2 9287 0309



BY HAND

delivering it to Link Market Services Limited*
Parramatta Square
Level 22, Tower 6
10 Darcy Street
Parramatta NSW 2150

*During business hours Monday to Friday (9:00am - 5:00pm)

**IF YOU WOULD LIKE TO PARTICIPATE IN AND VOTE AT THE ANNUAL GENERAL MEETING, PLEASE BRING THIS FORM WITH YOU.
THIS WILL ASSIST IN REGISTERING YOUR ATTENDANCE.**