

ASX RELEASE

22 July 2022

## Notice of General Meeting

Australian Pacific Coal Limited (ASX: AQC) (AQC of Company) is pleased to attach a copy of the following documents in relation to the general Meeting of Shareholders to be held on 22 August 2022 at 10.00am (Brisbane) (General Meeting).

1. Letter to Shareholders (including arrangements for the General meeting) as despatched to Shareholders;
2. Notice of 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

E: [cosec@aqcltd.com](mailto:cosec@aqcltd.com)

P: +61 7 3221 0679

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Company Secretary

E: [cosec@aqcltd.com](mailto:cosec@aqcltd.com)

P: +61 7 3221 0679

22 July 2022

Dear Shareholders,

I am pleased to invite you to a General meeting of the Company's Shareholders (**General Meeting**) to be held at the offices of Mills Oakley, Level 23, 66 Eagle Street, Brisbane, Qld, 4000 at 10am (Brisbane time) on Monday 22 August 2022.

A notice of meeting and accompanying explanatory memorandum was released to ASX on 22 July 2022 (together **Notice of Meeting**) in respect of the 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](http://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.

### **Proposed Sale of Dartbrook Coal Project**

The Company refers to the announcements of 21 February 2022, 20 April 2022 and 30 June 2022 regarding the proposed sale of the Dartbrook Coal Project to Trepang Services Pty Ltd (**Trepang**) or its nominee.

The terms of the proposed sale for consideration by shareholders have been previously provided to shareholders, are set out in the attached Notice of Meeting together with an Independent Expert Report and are the subject of Resolution 1 and 2 (**Proposed Sale**).

The Independent Expert has concluded that the terms of the Proposed Sale are fair and reasonable to the non-associated shareholders of the Company.

This announcement has been authorised for release to the ASX by the Board.

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

Yours sincerely  
**Australian Pacific Coal Limited**

David Conry AM  
Chief Executive Officer

## Notice of Extraordinary General Meeting

Australian Pacific Coal Limited ABN 49 089 206 986

### Notice of Extraordinary General Meeting and Explanatory Memorandum

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Date of Meeting: 22 August 2022  
Time of Meeting: 10:00AM Brisbane time  
Place of Meeting: Mills Oakley Lawyers  
Level 23, 66 Eagle Street  
Brisbane, QLD, 4000

This Notice of Extraordinary General Meeting and Explanatory Memorandum should be read in their entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor or other professional adviser without delay.

The Meeting will be held in person.

## Notice of Extraordinary General Meeting

### Notice of Extraordinary General Meeting

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Notice is given that an Extraordinary General Meeting of Shareholders of **Australian Pacific Coal Limited** ABN 49 089 206 986 (**Company**) will be held at Mills Oakley Lawyers Office, Level 23, 66 Eagle Street, Brisbane City, Queensland, 4000 on 22 August 2022 at 10:00AM Brisbane time.

Terms used in this Notice of Meeting are defined in section 4 of the accompanying Explanatory Memorandum.

The Explanatory Memorandum, the Proxy Form and the Independent Expert Report accompanying this Notice of Meeting are incorporated in and comprise part of this Notice of Meeting.

#### **Agenda**

The agenda for the meeting is as follows:

1. Opening of meeting.
2. Resolution 1 – Approval of transactions with Trepang Services Pty Ltd, the Trepang Associates or any of them as contemplated in the Share Sale Agreement and Royalty Deed and as required under Listing Rule 10.1 and Part 2E.1 of the *Corporations Act 2001 (Cth)*.
3. Resolution 2 – Approval of transactions with Trepang Services Pty Ltd, the Trepang Associates or any of them as contemplated in the Share Sale Agreement and Royalty Deed and as required under Listing Rule 11.2 and Part 2E.1 of the *Corporations Act 2001 (Cth)*.
4. Other business.
5. Close of meeting.

## Notice of Extraordinary General Meeting

### 1 Resolution 1 – Approval of transactions with Trepang Services Pty Ltd, the Trepang Associates under applicable Listing Rules 10.1 and Part 2E.1 of the Corporations Act 2001 (Cth).

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

*“That, subject to and conditional upon the passing of Resolution 2, in accordance with Listing Rules 10.1, Part 2E.1 of the Corporations Act 2001 (Cth) and for all other purposes, the Company be authorised, with effect from the passing of this Resolution 1, to proceed with the sale of 100% of the issued share capital in its wholly owned subsidiary, ACQ Investments 2 Pty Limited (**ACQ Investments**), indirectly transferring the ownership of AQC Dartbrook Pty Ltd (**AQC Dartbrook**), AQC Management Pty Ltd (**AQC Management**) and Dartbrook Coal (Sales) Pty Ltd (**AQC Sales**) (**Subsidiaries**) to Trepang Services Pty Ltd (**Trepang**) or its nominee for the Consideration (the **Proposed Transaction**) pursuant to the terms and conditions of the Share Sale Agreement entered into on 19 April 2022. The details of the Share Sale Agreement are annexed in Schedule 1. Each of the Directors of the Company confirm that they do not have a material interest in the outcome of this Resolution 1. Each of the Directors of the Company also confirm that they do not hold an interest in any Excluded Person (as defined in the Voting Exclusion Statement in this Resolution 1).*

#### Notes

For the purpose of Listing Rule 10.5.10, an Independent Expert Report prepared by Ernst & Young Strategy and Transactions Limited is enclosed with this Notice of meeting in Annexure A.

The Independent Expert, Ernst & Young Strategy and Transactions Limited, has concluded that the Proposed Transaction is, in the absence of a superior proposal, fair and reasonable to the Non-Associated Shareholders (**Resolution 1**).

Further details regarding the Proposed Transaction are set out in the accompanying Explanatory Memorandum and Independent Expert Report which the Directors recommend Shareholders read in full before making any decision in relation to Resolution 1.

#### Voting Exclusion Statement – Listing Rules 10.1

For the purposes of Listing Rules 10.1 and section 224 of the *Corporations Act 2001* (Cth), the Company will disregard any votes cast in favor of this Resolution by or on behalf of:

- (a) Trepang Services Pty Ltd;
- (b) John Robinson (Snr);
- (c) Nicholas Paspaley;
- (d) The Trepang Associates; and
- (e) an Associate of Trepang Services Pty Ltd, John Robinson (Snr), Nicholas Paspaley, Trepang Associates, including any nominee nominated under the Share Sale Agreement;

**(Excluded Persons).**

However, the Company need not disregard a vote cast in favour of this Resolution if:

## Notice of Extraordinary General Meeting

- (a) it is cast by a person as a proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with the directions to the proxy or attorney to vote on the Resolution in that way;
- (b) it is cast by the person chairing the meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with the direction given to the chair to vote as the chair decides; or
- (c) it is cast by a holder acting solely as a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - (i) 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
  - (ii) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

A resolution to approve Resolution 1 will not be effective if it would not have been passed but for votes cast by Excluded Persons.

## Notice of Extraordinary General Meeting

### 2 Resolution 2 – Approval of transactions with Trepang Services Pty Ltd, the Trepang Associates under applicable Listing Rules 11.2 and Part 2E.1 of the Corporations Act 2001 (Cth)

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

*“That, subject to and conditional upon the passing of Resolution 1, in accordance with Listing Rule 11.2, Part 2E.1 of the Corporations Act 2001 (Cth) and for all other purposes, the Company be authorised, with effect from the passing of this Resolution 2, to proceed with the sale of 100% of the issued share capital in its wholly owned subsidiary, ACQ Investments 2 Pty Limited (**ACQ Investments**), indirectly transferring the ownership of AQC Dartbrook Pty Ltd (**AQC Dartbrook**), AQC Management Pty Ltd (**AQC Management**) and Dartbrook Coal (Sales) Pty Ltd (**AQC Sales**) (**Subsidiaries**) to Trepang Services Pty Ltd (**Trepang**) or its nominee for the Consideration (the **Proposed Transaction**) pursuant to the terms and conditions of the Share Sale Agreement entered into on 19 April 2022. The details of the Share Sale Agreement are annexed in Schedule 1. Each of the Directors of the Company confirm that they do not have a material interest in the outcome of this Resolution 2. Each of the Directors of the Company also confirm that they do not hold an interest in any Excluded Person (as defined in the Voting Exclusion Statement in this Resolution 2).*

#### Notes

Further details regarding the Proposed Transaction are set out in the accompanying Explanatory Memorandum and Independent Expert Report which the Directors recommend Shareholders read in full before making any decision in relation to Resolution 2.

#### Voting Exclusion Statement – Listing Rules 11.2

For the purposes of Listing Rules 11.2 and section 224 of the *Corporations Act 2001* (Cth), the Company will disregard any votes cast in favor of this Resolution by or on behalf of the acquirer of the Company’s substantial assets, main undertaking and any other person who will obtain a material benefit as a result of the disposal of the Company’s substantial assets and main undertaking (save for a benefit obtained solely by way of being a Shareholder in the Company) or any associates of such person, including:

- (a) Trepang Services Pty Ltd;
- (b) John Robinson (Snr);
- (c) Nicholas Paspaley;
- (d) The Trepang Associates; and
- (e) an Associate of Trepang Services Pty Ltd, John Robinson (Snr), Nicholas Paspaley, Trepang Associates, including any nominee nominated under the Share Sale Agreement;

#### (Excluded Persons).

However, the Company need not disregard a vote cast in favour of this Resolution if:

- (a) it is cast by a person as a proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with the directions to the proxy or attorney to vote on the Resolution in that way;

## Notice of Extraordinary General Meeting

- (b) it is cast by the person chairing the meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with the direction given to the chair to vote as the chair decides; or
- (c) it is cast by a holder acting solely as a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - (i) 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
  - (ii) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

A resolution to approve Resolution 2 will not be effective if it would not have been passed but for votes cast by Excluded Persons.

### General business

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

### Voting by Proxy

Instructions relating to voting by proxy are outlined in the Proxy form, at the end of this document.

### Voting in person

To vote in person, the Shareholders must attend the Meeting at the time, date and place set out above.

By order of the Board



Craig McPherson  
Director and Company Secretary  
Australian Pacific Coal Limited



# Explanatory Memorandum

## 1 Introduction

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This Explanatory Memorandum is provided to shareholders of **Australian Pacific Coal Limited** ABN 49 089 206 986 (**Company**) to explain the Resolutions to be put to Shareholders at the Extraordinary General Meeting to be held at Mills Oakley Lawyers Office, Level 23, 66 Eagle Street, Brisbane City, Queensland, 4000 on 22 August 2022 at 10:00AM Brisbane time.

The Notice of Meeting sets out details of proposals concerning the Resolutions to be put to Shareholders. This Explanatory Statement forms part of the Notice of Meeting and has been prepared to provide Shareholders with material information to enable them to make an informed decision on the business to be conducted at the Extraordinary General Meeting (**Meeting**), as outlined in Resolution 1 and Resolution 2.

***The Independent Expert Report by Ernst & Young Strategy and Transactions Limited (Independent Expert Report) in Annexure A, has concluded that the Proposed Transaction is, in the absence of a superior proposal, fair and reasonable to the Non-Associated Shareholders.***

Nonetheless, the Directors recommend that Shareholders read the accompanying Notice of Meeting, Explanatory Memorandum and Independent Expert Report in full before making any decision in relation to the Resolution.

Unless otherwise defined, terms used in this Explanatory Memorandum have the same meaning given to them in the Share Sale Agreement unless defined alternatively in Section 4.

A copy of the Share Sale Agreement is **attached** to this Explanatory Memorandum in Schedule 1. A copy of the relevant Royalty Deed dated 19 April 2002 (**Royalty Deed**), is also **attached** in Schedule 3 of this Explanatory Memorandum.

## 2 Resolution 1 and Resolution 2 - Approval of transactions with Trepang Services Pty Ltd, the Trepang Associates or their nominee for the purposes of Listing Rules 10.1, 11.2 and Part 2E.1 of the Corporations Act 2001 (Cth).

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### 2.1 Overview of the Company

The Company is an ASX-listed coal-exploration and evaluation company focused on the acquisition and development of thermal and metallurgical coal assets and other resources. It has two primary assets, namely:

- (a) **the Dartbrook Coal Project (Dartbrook Mine)** – the Company acquired the Dartbrook Coal Project from AAMCA and Marubeni in May 2017 for \$30 million plus a royalty. The Dartbrook Coal Project includes tenements located in the NSW Hunter Valley coal region, as well as substantial above ground and underground mining infrastructure. The Company owns the Dartbrook Coal Project through its wholly owned subsidiaries, ACQ Investments 2 Pty Limited (**ACQ Investments**), AQC Dartbrook Pty Ltd (**AQC Dartbrook**), AQC Management Pty Ltd (**AQC Management**) and Dartbrook Coal (Sales) Pty Ltd (**AQC Sales**) (**Subsidiaries**). The Dartbrook Coal Project was not operational when it was acquired by the Company in May 2017 and the Company still does not have any operational assets on the Dartbrook Coal Project.
- (b) **Other Coal Tenements** – the Company has four coal tenements located in Queensland's coal basins. This includes one exploration permit, two joint venture exploration permits with Blackwood Resources Pty Ltd and grassroots project currently on hold. Most of the Company's coal tenements are located in the Bowen Basin, and most of them are in the exploration stage of development and are generally located close to rail and road infrastructure. The philosophy of the Company's management has been to secure strategic tenure by identifying available tenements close to operating mines or in areas with proven or potential in-ground resources in regions suitable for short term development.

## Explanatory Memorandum

The Company also owns an industrial minerals project in central western Queensland. The project forms part of the Company's former industrial minerals business and is no longer part of the Company's core business. It is likely that the assets of the business will be sold or otherwise divested.

As at 21 June 2022, the Company has a current market capitalisation of approximately \$6.1 million.

### 2.2 Overview of the Proposed Transaction

As announced by the Company on 21 February 2022, the Company has received from Trepang an offer for Trepang or its nominee to purchase the Dartbrook Coal Project through the acquisition of four (4) of the Company's wholly owned subsidiaries, namely being ACQ Investments, AQC Dartbrook, AQC Management and AQC Sales (the **Offer and Proposed Transaction**).

As announced on 20 April 2022, the Company has now entered into definitive transaction documents by way of the Share Sale Agreement with its major shareholder and creditor, Trepang Services Pty Limited (**Trepang**) for the sale of the Subsidiaries (as defined in 2.1).

A brief status of the Subsidiaries is as follows:

- (a) AQC Investments owns all of the issued shares in AQC Dartbrook and AQC Management. AQC Investments does not hold any other assets unrelated to the Dartbrook Coal Project.
- (b) AQC Dartbrook currently owns all of the issued shares in AQC Sales. AQC Dartbrook does not hold any other assets unrelated to the Dartbrook Coal Project.
- (c) AQC Dartbrook is the owner of the Mining Tenements on which the Subsidiaries operate the Dartbrook Coal Project.

The Proposed Transaction will mean that all of the issued capital in AQC Investments, along with the Subsidiaries which own the Dartbrook Coal Project, will be transferred to Trepang (or its nominee) for:

- (a) the novation and extinguishment of all debts owed by the Company to the Existing Financiers, the waiver of any right for interest to accrue under the Existing Facilities, whether relating to any past, present or future periods and the forgiveness of historical director's fees owed to John Robinson (Jnr);
- (b) the grant of a royalty by AQC Investments to the Company from the net profits of the Dartbrook Coal Project limited to between \$2.50AUD and \$5.00AUD per tonne of Grantor Coal, based on the average coal price per quarter (more particularly described below); and
- (c) \$1.00,  
**(Consideration).**

#### **Indicative Timetable**

An indicative Timetable for the Proposed Transaction is as follows:

Enter Share Sale Agreement	19 April 2022
Submission of Notice of Meeting and Explanatory Memorandum to the ASX	27 June 2022
Record date for voting at Meeting	18 August 2022
Deadline for return of Proxy Forms	20 August 2022
Shareholder Approval – Meeting under this Notice of Meeting and Explanatory Memorandum.	22 August 2022
Completion	29 August 2022

### 2.3 Proposed Transaction and Outcomes

Completion of the Proposed Transaction will result in (among other things):

## Explanatory Memorandum

### **Sale of Shares**

All of the issued capital in AQC Investments will be sold to Trepang or its nominee in accordance with the Share Sale Agreement.

### **Novation of Debt**

- (a) The Company will be free of all secured and unsecured debt on completion of the Proposed Transaction owing by the Company under financing arrangements with Mr John Robinson (Snr), Mr Nicholas Paspaley and Trepang (together, the **Existing Financiers**) on the basis that the principal amount of all debt (approximately \$30.1 million as at 31 January 2022) will be novated to the Subsidiaries (or another nominated entity);
- (b) All amounts incurred by the Company to fund its ongoing working capital requirements and the completion of the Proposed Transaction, after the 15 February 2022, will also be novated to the Subsidiaries (or any other nominated entity);
- (c) Following completion of the Proposed Transaction, the Subsidiaries will become wholly owned subsidiaries of Trepang (or its nominee).

### **Waiver of Interest**

- (d) The Existing Financiers waive any right for interest to accrue and right to collect any interest (approximately \$33 million) under the Existing Facilities regardless of whether some of the Existing Facilities are repaid in part or in full. The Company will have no liability to the Existing Financiers under the Existing Facilities upon completion of the Proposed Transaction. If new terms are agreed by the Existing Financiers, then the Company may enter into new funding arrangements with the Existing Financiers, commencing from completion of the Proposed Transaction, to fund working operations and growth of the Company;

### **Granting of Royalties**

- (e) Post completion of the Proposed Transaction, AQC Investments will be the wholly owned subsidiary of Trepang (or its nominee) and AQC Investments, through its wholly owned subsidiary, AQC Dartbrook, will have a 100% interest in the Mining Tenements. AQC Investments (as **Grantor**) will pay the Company (as **Royalty Holder**), each Calendar Quarter, a royalty (subject to the Dartbrook Coal Project overcoming the obstacles noted in the Xenith Report and reaching profitability) based on 50% of the Net Profit of the Dartbrook Coal Project provided that the royalty payable does not exceed, for each Calendar Quarter:
  - (i) 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;
  - (ii) 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; and
  - (iii) 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.

Royalties will only be payable to the Company upon the Dartbrook Mine first becoming Profitable (once Gross Revenue from the Dartbrook Coal Project in any Calendar Quarter, exceeds the Allowable Deductions (which include costs incidental to the development, construction and operation of the Mine – see Section 4 for more detail)). Following the Dartbrook Coal Project reaching Profitability, AQC Investments as Grantor must deliver to the Company written notice within 30 days of the Dartbrook Mine first becoming Profitable. The full terms and conditions of the Royalty Deed are set out in Schedule 3.

Based on the Independent Expert Report, the Dartbrook Coal Project is not expected to generate positive cash flows until the financial year ending 30 June 2025 or reach positive cumulative cashflows until the financial year ending 30 June

## Explanatory Memorandum

2027, leaving only 2 years of positive cashflows to generate a return on investment before the current approvals expire (the current mining approvals are due to expire by 5 December 2027).

A complete copy of the Independent Expert Report is provided in Annexure A.

### **Release from AAMCA Royalty**

- (f) the Company will not be indirectly liable, through its ultimate holding company status of AQC Dartbrook Pty Ltd, to make payment of royalties owed to AAMCA and Marubeni, of up to \$30 million in aggregate, for the operation of the Dartbrook Coal Project pursuant to the existing royalty agreement it has with AAMCA (**AAMCA Royalty**). AQC Dartbrook will retain this principal obligation and AQC Dartbrook will be a wholly owned subsidiary of Trepang or its nominee.

### **Company's assets post Completion of the Proposed Transaction**

- (g) In addition to the Royalty referred to in this section 2.3(e), the Company will retain the following assets following completion of the Proposed Transaction:
- (i) **Browns Mountain West** – which comprises of two allotments, Lot 11 in DP 714211 and Lot 63 in DP 833348. The Browns Mountain West hosts the rail loop and train load and the CHPP both of which are significant infrastructures for the Dartbrook Coal Project's operations. The Browns Mountain West is valued at \$607,000 as of 29 June 2021;
  - (ii) **Rehabilitation Bond** – the Company will retain a rehabilitation bond of \$8.95 million which relates to the expected closure costs of areas disturbed when the Dartbrook Coal Project was previously active and operational under AAMCA's control; and
  - (iii) **Tenements** - the Company will also continue to hold other tenements (other than the Mining Tenements held by the Subsidiaries). The tenements, as provided in the table below, will not be transferred or novated under the Proposed Transaction and will be retained by the Company following completion of the Proposed Transaction:

<b>Name</b>	<b>Number</b>	<b>Project</b>	<b>Interest Held</b>
Mount Hess West	EPC 1867	Mount Hillalong Project, Glenden, QLD	100%
Mantuan	ML 70360	Matuan Downs Bentonite Project, Alpha	100%
Bungaban Creek	EPC 1955	Blackwood Joint Venture, Qld	10%
Quondong	EPC 1987	Blackwood Joint Venture, Qld	10%

## **2.4 Existing Financiers and Existing Facilities:**

The financing arrangements with Existing Financiers (which are the subject of the relevant novations and debt extinguishments) currently comprise the following:

- (a) the Vendor Loan Agreement (also referred to as the **Anglo Loan Agreement**) with Trepang, was originally entered into on 29 May 2017 with AAMCA (a subsidiary of Anglo American Plc), the Company and ACQ Investments, under which AAMCA provided \$7.7 million in vendor funding to the Company. As announced by the Company on 28 April 2020, this funding was to be applied towards meeting the costs of conducting a feasibility study into the potential for the open-cut development of the Dartbrook Coal Project. The Anglo Loan Agreement was assigned from AAMCA

## Explanatory Memorandum

to Trepang under a Deed of Assignment dated 17 April 2020, after which Trepang assumed AAMCA's position under the Anglo Loan Agreement;

- (b) the Convertible Loan Deed with Mr John Robinson (Snr) (**Robinson Convertible Loan Deed**) was entered into on 1 February 2016 (and subsequently amended with shareholder approval). The Robinson Convertible Loan Deed pertained to an initial principal loan amount of \$10 million, which was used for the acquisition of the Dartbrook Coal Project. The Company issued Mr Robinson (Snr) convertible loan notes under this document. The purpose of this document was to enable the Company to pay a sufficient amount of money into escrow for the purposes of the SPA (as defined in this Explanatory Memorandum) with the funds under this document to be applied to satisfy the Company's and AQC Investments' obligations under the SPA. On 13 April 2017, the shareholders of the Company approved new terms, including the capitalisation of interest, resulting in a new face value of \$11,266,401. This revised face value was partially repaid, leaving an outstanding balance of \$10,448,591 on or around 29 May 2017. As part of the Proposed Transaction, Trepang will procure from Mr Robinson a deed of novation which will novate all of the Company's obligations under this document to AQC Investments (or any other nominated entity) and discharge and release the Company from all of its obligations under this Robinson Convertible Loan Deed;
- (c) the Convertible Loan Deed with Mr Nicholas Paspaley (**Paspaley Convertible Loan Deed**) was entered into on 1 February 2016 (and subsequently amended with shareholder approval), and pertained to an initial principal amount of \$10 million, which was used for the acquisition of the Dartbrook Coal Project. The Company issued Mr Paspaley convertible loan notes under this document. The purpose of this document was to enable the Company to pay a sufficient amount of money into escrow for the purposes of the SPA (as defined in this Explanatory Memorandum) with the funds under this document to be applied to satisfy the Company's and AQC Investments' obligations under the SPA. On 13 April 2017, the shareholders of the Company approved new terms, including the capitalisation of interest, resulting in a new face value of \$11,266,401. This revised face value was partially repaid, leaving an outstanding balance of \$10,448,591 on or around 29 May 2017. As part of the Proposed Transaction, Trepang will procure from Mr Paspaley a deed of novation which will novate all of the Company's obligations under this document to AQC Investments (or any other nominated entity) and discharge and release the Company from all of its obligations under this Paspaley Convertible Loan Deed;
- (d) the Convertible Loan Deed with Trepang Services (the **TCLD**), was entered into on 1 March 2017 (as subsequently amended) and pertained to an original principal amount of \$15 million, which was used for the acquisition of the Dartbrook Coal Project. The Company issued Trepang convertible loan notes under the TCLD. The purpose of this document was to fund the replacement of environmental bonds (\$9,245,000), payment of NSW stamp duty (up to \$1,400,000), \$1,000,000 as partial repayment of the principal amount owing under the Secured Loan Deed and the remainder to be used as working capital. As part of the Proposed Transaction, Trepang will provide the Company with a deed of novation which will novate all of the Company's obligations under this document to AQC Investments (or any other nominated entity) and release and discharge the Company from all of its obligations under the TCLD;
- (e) the New Convertible Note Deed with Trepang (**Trepang New Convertible Note Deed**) was entered into on 29 November 2018 (and subsequently varied) and pertained to an original principal amount of \$7 million, which was used to repay money owing to Trepang under previous financing arrangements. The purpose of this document was to facilitate the repayment of money owing to Trepang under the Secured Loan Deed, as at 30 November 2018. As part of the Proposed Transaction, Trepang will provide the Company with a deed of novation which will novate all of the Company's obligations under this document to AQC Investments (or any other nominated entity) and release and discharge the Company from all of its obligations under this document;
- (f) the Unsecured Loan between the Company and Trepang was made to enable the Company to obtain funds from Trepang on an undocumented and unsecured basis

## Explanatory Memorandum

together with the funds paid to the Company pursuant to the Term Sheet for Funding AQC. All funds advanced under the Term Sheet for Funding AQC (including pursuant to clause 5.7(a) or 5.7(c) of the Share Sale Agreement will be non-interest bearing and will not be repayable at any time during the term of the Share Sale Agreement. As part of the Proposed Transaction, Trepang will provide the Company with a deed of novation under which all of the Company's outstanding debts will be novated to AQC Investments (or any other entity nominated) including discharging the Company from all of its obligations relating to the unsecured loans between the Company and Trepang;

- (g) the Intercreditor Deed with the Company, AQC Investments, AAMCA and each of the Existing Financiers, was entered into on 29 May 2017 and the Priority Deed was entered into between the Company and the Existing Financiers was entered into on 15 June 2016. These documents set out the relative priorities of the securities granted (or to be granted) by the Company and its subsidiaries to AAMCA and (then) the Existing Financiers. These documents have since been assigned to Trepang (pursuant to a Deed of Assignment dated 17 April 2020). These documents were initially entered into to ensure that the money owing to AAMCA was not subordinated to and ranked in priority to the money owing to the Existing Financiers under each Finance Document (consisting of the Anglo Loan Agreement (including each finance document defined in the Anglo Loan Agreement), the Intercreditor Deed, the Specific and Featherweight Security (including any other documents that may evidence a present or future security interest or guarantee for the payment of the debt owing to AAMCA), each accession deed poll, any document that AQC Investments and Trepang agree is a 'finance document', and any document entered into for the purpose of amending or novating the Intercreditor and Priority Deed). Pursuant to the Deed of Assignment, AAMCA, in exchange for Trepang paying AAMCA an amount of \$5,000,000, has assigned all of its legal and beneficial rights, title and interest under the Intercreditor and Priority Deeds, to Trepang;
- (h) all other agreements listed under Annexure A of the Share Sale Agreement (**attached** herein Schedule 2); and
- (i) any other agreement under which any of the Existing Financiers have lent funds to the Seller.

### (the **Existing Facilities**).

The key terms of each of the Existing Facilities are set out in Annexure A of the Share Sale Agreement which has been circulated to all shareholders.

Some of the Existing Facilities were partly repaid in late 2021 through the divestment of a number of non-core parcels of land and associated water rights valued at \$33.79 million.

As of 31 March 2022, the Company:

- had loans (including interest) totalling approximately \$63 million all of which are current liabilities.
- has debt obligations with Existing Financiers which are currently due and callable.
- has on issue 50,484,810 fully paid ordinary shares and approximately 1000 shareholders with the largest 20 shareholders holding approximately 80.0% of the shares on issue. Trepang and its Associates, in total hold 21,061,667 fully paid ordinary shares in the Company equating to a 41.72% interest in the Company.

## Explanatory Memorandum

The debt and interest liabilities of the Company and Existing Financiers as at 30 June 2022 are as follows:

Facility	Principal	Interest	Total
Vendor Loan	\$7,700,000	\$5,074,807	\$12,774,807
Robinson Convertible Loan	\$10,448,591	\$7,639,588	\$18,088,179
Paspaley Convertible Loan	\$10,448,591	\$7,639,588	\$18,088,179
Trepang Convertible Loans	-	\$12,646,520	\$12,646,520
Trepang Unsecured Loan	\$1,597,947	\$2,297,587	\$3,895,534
<b>Total</b>	<b>\$30,195,129</b>	<b>\$35,298,090</b>	<b>\$65,493,219</b>

Prior to entering into the Share Sale Agreement, AQC Investments also owed John Robinson (Jnr) a debt of \$249,230.64 and any interest that would have accrued on account of the debt owed to John Robinson (Jnr). Pursuant to the Share Sale Agreement, Trepang will procure John Robinson (Jnr) to enter into a deed of forgiveness to forgive this debt owing to John Robinson (Jnr).

### Security

- (a) All money and obligations owed by the Company to the Existing Financiers under the Existing Facilities are secured by security interests over all of the Company's present and after acquired property. As at the date of this Notice, the Company and/or its Subsidiaries have also granted the following Securities to the Existing Financiers:
- (i) all of the Company's present and after acquired personal property security interest granted in favour of Trepang by the Company on or about 27 April 2016 in respect of its obligations under the Trepang New Convertible Note Deed;
  - (ii) all present and after acquired personal property security interest in favour of Trepang by AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One on or about 2 March 2017 in respect of their obligations under the TCLD;
  - (iii) an all present and after acquired personal property security interest granted in favour of each of Mr John Robinson (Snr) and Mr Nicholas Paspaley by the Company, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One on or about 2 March 2017 in respect of their obligations under the Robinson and Paspaley Convertible Loan Deeds;
  - (iv) deeds of guarantee and indemnity granted in favour of each of the Existing Financiers by AQC Investments, Area Coal and Ipoh Pacific on or about 2 March 2017, in respect of the Company's obligations under the Robinson, Paspaley and Trepang Convertible Loan Deeds;
  - (v) real property mortgages over Mining Tenements granted in favour of each of the Existing Financiers by Area Coal and Ipoh Pacific on or about 2 March 2017, securing the obligations of the Company under the Robinson, Paspaley and Trepang Convertible Loan Deeds;
- (b) The Anglo Loan Agreement was secured by a security interest over all of the Company's "Collateral" under the Specific and Featherweight Security Deed dated 29 May 2017.
- 'Collateral' will include:
- (i) all of the Company's present and future marketable securities, rights and proceeds and any certificate registration, title or ownership or rights to either of these things (referred to as Full Recourse Collateral); and

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- (ii) all of the Company's present and future property that is not Full Recourse Collateral but that which the Company has sufficient right, interest or power, to grant a security interest over.
- (c) The Specific and Featherweight Security was assigned from AAMCA to Trepang pursuant to a deed of assignment between AAMCA and Trepang on 17 April 2020.
- (d) As mentioned in section 2.4(g), the Company, AQC Investments, AAMCA, and the Existing Financiers also entered into the Intercreditor Deed to ensure that the Specific and Featherweight Security granted to AAMCA (as the **First Creditor**) under the Anglo Loan Agreement ranks in priority to and ahead of the Security held or to be held by the Existing Financiers (namely being John Robinson (Snr), Nicholas Paspaley and Trepang (each a **Second Creditor**)). Under the Intercreditor Deed, each of the Second Creditors' security interests are secured under the following security deeds which will rank secondary to the security interest granted (at that stage) to AAMCA:
  - (i) General Security Deed between AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One (in respect of this paragraph each a **Grantor**) and Trepang (in respect of this paragraph, the **Secured Party**) dated on or about 2 March 2017 granting Trepang a security interest over all of the Grantors' present and after acquired personal property to secure each of the Grantors obligations under the TCLD and Secured Loan Deed in consideration of Trepang entering into the TCLD and providing the financial accommodation to either of the Grantors under the Secured Loan Deed;
  - (ii) General Security Deed between the Company, AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One (in respect of this paragraph each a **Grantor**) John Robinson (Snr) (in respect of this paragraph, the **Secured Party**) dated on or about 2 March 2017 granting John Robinson (Snr) a security interest over all of the Grantors' present and after acquired personal property to secure each of the Grantors obligations under the Robinson Convertible Loan Deed and Secured Loan Deed in consideration of John Robinson (Snr) entering into the Robinson Convertible Loan Deed and providing the financial accommodation to either of the Grantors under the Secured Loan Deed ;
  - (iii) General Security Deed between the Company, AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One (in respect of this paragraph each a **Grantor**) and Nicholas Paspaley (in respect of this paragraph, the **Secured Party**) dated on or about 2 March 2017 granting Nicholas Paspaley a security interest over all of the Grantors' present and after acquired personal property to secure each of the Grantors obligations under the Paspaley Convertible Loan Deed and Secured Loan Deed in consideration of Nicholas Paspaley entering into the Paspaley Convertible Loan Deed and providing the financial accommodation to either of the Grantors under the Secured Loan Deed; and
  - (iv) General Security Deed between the Company (in respect of this paragraph the **Grantor**) and Trepang (in respect of this paragraph, the **Secured Party**) dated 27 April 2016 granting Trepang a security interest over all of the Grantor's present and after acquired personal property in consideration of Trepang:
    - (A) entering into the Secured Loan Deed and any other document the Grantor and Trepang agree in writing, as being a 'transaction document' (including the Trepang New Convertible Note Deed); and
    - (B) providing the financial accommodation to the Grantor under the Secured Loan Deed, Trepang New Convertible Note Deed and any other document mutually agreed by the Grantor and Trepang as being a 'transaction document'.



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- (e) As mentioned in section 2.4(a), the Anglo Loan Agreement was assigned from AAMCA to Trepang on 28 April 2020 after which Trepang assumed Anglo's position under the Vendor Loan, the Specific and Featherweight Security and the Intercreditor Deed.

### 2.5 Royalty

Following completion of the Proposed Transaction, AQC Investments will be the wholly owned subsidiary of Trepang (or its nominee). As stated earlier in this Explanatory Memorandum AQC Investments, through its wholly owned subsidiary, AQC Dartbrook, has 100% interest in the Mining Tenements.

Subject to the Dartbrook Coal Project overcoming the obstacles noted in the Xenith Report and reaching profitability, AQC Investments (as **Grantor** under the Royalty Deed) will pay the Company (**Royalty Holder**) a royalty based on 50% of the Net Profit (as defined in section 4) of the Dartbrook Coal Project provided that the royalty payable does not 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; and
- (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.

'**Grantor Coal**' refers to 50% of the coal sold from the Dartbrook Coal Project and no royalty is payable unless and until the Dartbrook Coal Project becomes profitable. Calculation of the net profits for the sake of calculating the royalty will take into consideration the Allowable Deductions. The Royalty Deed requires Trepang to guarantee the payment of the Royalty from AQC Investments to the Company even though Royalties will only be payable to the Company once Gross Revenue from the Dartbrook Coal Project in any Calendar Quarter exceeds the Allowable Deductions.

The Royalty will not be payable unless and until the Dartbrook Mine first becomes Profitable. Following the Dartbrook Coal Project reaching Profitability, AQC Investments as Grantor must deliver to the Company written notice within 30 days of the Dartbrook Mine first becoming Profitable. As noted in the Independent Experts Report, the Dartbrook Coal Project is not expected to generate positive cash flows until the financial year ending 30 June 2025 and it is not expected to reach positive cumulative cashflows until the financial year ending 30 June 2027, leaving only 2 years of positive cash flows to generate a return on investment before approvals expire (the current mining approvals expire on 5 December 2027).

If and when the Dartbrook Mine becomes Profitable, AQC Investments will be required to make payment of the Royalties within 40 business days of each calendar year, failing which, AQC Investments will be liable to pay interest on the outstanding Royalties. Interest will be calculated at the rate of 1% per annum above the bank bill rate and will be calculated daily from the date the Royalty falls due.

Where the Royalty payable to the Company exceeds the Royalty Limit (as that term is defined in the Royalty Deed), no Royalty is payable on the amount by which the royalty payable exceeds the Royalty Limit.

### 2.6 Funding

The Share Sale Agreement additionally provides that funding will be provided in accordance with the Term Sheet for Funding AQC, entered into between the Company and Trepang and Trepang Associates, on 15 February 2022 pursuant to which the parties acknowledge and agree that:

- (a) Any financial accommodation provided under the Term Sheet for Funding AQC (including all holdings costs) will form part of the financial accommodation provided under the Trepang Unsecured Loan;

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- (b) No party will call for repayment of any financial accommodation under the Term Sheet for Funding AQC or section 2.6(a) above, unless the Share Sale Agreement is terminated or comes to an end (without completion occurring) for any reason and in such event, the provisions of the Unsecured Loan will apply; and
- (c) If the Share Sale Agreement is terminated or otherwise does not reach completion in accordance with its terms then Trepang (or its nominee) may terminate the Term Sheet for Funding AQC by written notice to the Company after which, Trepang (or its nominee) will not be liable to provide any further funding under the Term Sheet for Funding AQC or the Share Sale Agreement.

The Term Sheet for Funding AQC contemplates that Trepang will assume responsibility for management and holding costs for the Dartbrook Coal Project amongst other Company costs it has agreed to reimburse the Company for. Trepang agrees to do so until completion of the Proposed Transaction or until early termination of the Share Sale Agreement, for the following purposes:

- (a) to fund the Company's working capital in the amount of \$200,000 and if any reasonable costs are paid from this working capital, Trepang will reimburse the Company such that the working capital of the Company will remain no less than \$200,000;
- (b) to assist with the payment of all reasonable Company costs (including those of AQC Investment and AQC Dartbrook) incurred prior to the date of the Term Sheet for Funding AQC;
- (c) to assist with the payment of all reasonable corporate costs (including costs anticipated or incurred for completion of the Share Sale Agreement) of the Company incurred after the date of the Term Sheet for Funding AQC until 31 October 2022;
- (d) to assist with the payment of all reasonable holding costs incurred in relation to the Mining Tenements, the Dartbrook Mine, real property and all other assets, plant and equipment, approvals and other rights and interests comprising the Dartbrook Coal Project.

The Company also holds other tenements (other than the Mining Tenements held by the Subsidiaries). Those tenements, as follows, are not being transferred or novated under the Proposed Transaction:

Name	Number	Project	Interest Held
Mount Hess West	EPC 1867	Mount Hillalong Project, Glenden, QLD	100%
Mantuan	ML 70360	Matuan Downs Bentonite Project, Alpha	100%
Bungaban Creek	EPC 1955	Blackwood Joint Venture, Qld	10%
Quondong	EPC 1987	Blackwood Joint Venture, Qld	10%

### 2.7 Obstacles identified in Xenith Report

Aspects of this Explanatory Memorandum, particularly, in relation to the future of the Company's strategy, payment of the Royalty under the Royalty Deed and the reasonableness of the Proposed Transaction, are subject to the Dartbrook Coal Project overcoming the obstacles noted in the Xenith Report and attaining profitability.

A summary of the obstacles identified in the Xenith Report is provided below. The Directors recommend that Shareholders read the Xenith Report in full before making any decision in relation to the Resolution.

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### **Operational**

- (a) The Dartbrook Coal Project has been in care and maintenance since 2007 and has not been in operation for over 15 years which has caused for a number of its assets to deteriorate. The cost involved in re-starting, re-establishing and refurbishing the Dartbrook Mine is reasonably expected to have increased from the cost assessed initially in the re-start studies carried out in 2016 and 2018.
- (b) The orders of the Land and Environment Court of New South Wales' in AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces (known as Modification 7 or MOD 7) will have a number of implications that will impact the cost, capital expenditure and recommencement of production of the Dartbrook Coal Project:
  - (i) there will likely be an increase in the costs associated with re-starting, re-establishing and refurbishing the Dartbrook Mine;
  - (ii) pursuant to MOD 7, the Dartbrook Mine is permitted to produce a maximum of 6 Mtpa of ROM Coal which will consist of:
    - (A) a maximum production cap of 1.5 Mtpa ROM from bord and pillar mining which is expected to substantially lower production and subsequently the value of the Dartbrook Coal Project. The maximum production cap will also result in additional annual fixed costs and labour which may have an adverse impact on the value of project;
    - (B) production of up to 4.5 Mtpa of ROM Coal from longwall mining in the case of bord and pillar mining, or up to 6 Mtpa of longwall mining in the event there is no bord and pillar mining. Longwall mining will be subject to the regulatory approval of an updated longwall mining extraction plan;
  - (iii) the ability to fully exploit recoverable ROM Coal will likely be constrained if the mining consents cannot be extended beyond 5 December 2027 (**MOD 7 Closure Date**);
  - (iv) the Hunter Tunnel (which must be de-watered) needs to be used for all ROM Coal clearance and handling; and
  - (v) the Coal Handling and Processing Plant (**CHPP**) will need to be updated for noise mitigation measures.
- (c) The implementation of longwall operations will require carrying out further feasibility studies prior to implementation.
- (d) Each of the Mining Tenements, with the exception of CL 386, have pending renewals. It will therefore be difficult to ascertain the good standing of the Mining Tenements which presents a regulatory risk to the Dartbrook Coal Project.
- (e) Contemporary market commentary suggests that in recent years, energy market imperatives, community expectations and broader market investor appetite for pre-development thermal coal resources, have deteriorated in comparison to what was seen in the market in previous years and in similar transactions.
- (f) A thorough updated structural, mechanical and electrical inspection will be required to identify and cost what is required to recommence operations at the Dartbrook Mine.
- (g) The CHPP is clean and tidy however surface rust is observed on many items which will require treatment over time.

### **Legislative/Regulatory**

- (h) The introduction of the State Environmental Planning Policy (Resources and Energy) 2021 prohibits any open cut mining at the Dartbrook Coal Project. The Dartbrook Coal Project has faced strong stakeholder opposition and lengthy legal challenges about this issue in the past and any future open cut mining proposals are expected to attract similar scrutiny.

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- (i) The cessation of mining operations at the Dartbrook Mine by 5 December 2027 means that maintaining any mining potential on the Dartbrook Coal Project following the MOD 7 Closure Date will require further regulatory applications and approvals which will likely be an extended process with no certainty or guarantee of success.
- (j) Historical royalty obligations to previous operating entities create a liability for any future operator, to pay in excess of normal state government royalty payments.
- (k) The New South Wales Resources Regulator (**NSWRR**) has recently advised that Principal Hazard Management Plans (**PHPMs**) are required to be updated every three years. For this reason, the NSWRR will likely treat any resumption of mining at the Dartbrook Mine as a new operation and will expect full compliance with these legislative requirements.
- (l) The NSWRR has renewed focus on the Dartbrook Coal Project. For this reason, NSWRR will likely treat any resumption of mining at the Dartbrook Mine as a new operation and will require full compliance with all legislation prior to recommencement of the Dartbrook Coal Project, including:
  - (i) additional communication equipment;
  - (ii) real time environmental monitoring; and
  - (iii) full compliance with requirements to have current PHPMs updated every 3 years and all supporting subordinate documentation.Compliance with these requirements will incur a significant amount of time and suitable resourcing.
- (m) Additional capital expenditure will be required to re-establish monitoring, and significant resourcing to update compliance documentation.

### ***Plant and Equipment***

- (n) The Dartbrook Coal Project tend towards a medium to high spontaneous combustion risk particularly in the old longwall areas where the risk is much higher. The exposure of the old workings increases the risk of re-activation of dormant heating or the commencement of new heating.
- (o) The coal at the Dartbrook Coal Project can be classed as high volatile bituminous coal and will require beneficiation for export markets.
- (p) Prior to the Dartbrook Coal Project recommencing production, a real-time gas monitoring system will need to be installed and a number of tube bundle sample points increased for statutory compliance.
- (q) The Hunter Tunnel is a critical piece of infrastructure for the Dartbrook Coal Project as it is the only permitted means of transferring coal from the mine to the CHPP (from the west of the Dartbrook Mine to the east). The Hunter Tunnel is equipped with dewatering pumps however these were turned off during the time that the mine was in care and maintenance and the Hunter Tunnel is currently flooded reportedly for half of its approximate 4km length. This will need to be rectified prior to any production being resumed at the Dartbrook Coal Project. The mine dewatering system in the Hunter Tunnel will also need to be remediated.
- (r) There are many areas of minor strata failures underground at the Dartbrook Mine which will require remediation. For instance, stowage (loose clean up material which is present in many areas) will need to be cleaned up.
- (s) The mine water appears to be quite corrosive and this has resulted in the deterioration of structure in damp/humid areas – for example belt guards in the cross-measure drift between the Wynn Seam and Kayuga Seam have “gone to mush”.
- (t) The underground workings of the Dartbrook Mine are flood ventilated by the main ventilation fan and there are currently no designated return airways to ensure access to all areas. This will potentially need remedying prior to production recommencing on the Dartbrook Mine.

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- (u) The cross measure drift between the Wynn Seam and Kayuga Seam of the Dartbrook Coal Project currently has a significant rib failure in the lower 2 metres of the drift, and this will likely need the conveyor structure to be removed for repair. Additionally, the transfer points appear to require remedial strata support.
- (v) Coal is conveyed from the Kayuga Seam to the Wynn Seam of the Dartbrook Coal Project via the cross-measure drift. While the conveyor structure is still in place the conveyor belting appears to have been removed which will need to be reinstalled prior to production recommencing. The flooding in the Hunter Tunnel will need to be remedied prior to the conveyor being investigated and remedied.
- (w) There are an unknown number of air compressors that continue to be operational however their filters may need attention.
- (x) At least one of the pumps in the goaf dewatering system will need to be replaced which will likely incur costs of \$50,000 to source and \$50,000 to replace. The associated down hole cable may also need to be replaced and the surface access track may also require repairs to allow for safe crane access.
- (y) Stockpile bases were cleaned up and top soiled and the product stockpile bases have been topsoiled as a result of the Dartbrook Mine being in care and maintenance. New base material will need to be purchased if the Dartbrook Mine is recommissioned.
- (z) The fire alarm system requires replacement and appropriate quotes have been obtained in this regard. Specifically, the CHPP fire alarm panel will need to be replaced.
- (aa) Although reject storage is rehabilitated, if the CHPP is recommissioned, pits will have to be dug in the rehabilitated areas and the reject will then need to be covered.
- (bb) The remaining belt-worn Self-Contained Self-Rescuers need to be replaced.

### ***Recommendations in the Xenith Report:***

The Xenith Report recommends that the following be considered when determining an updated value estimate for the project:

- (a) the increase of all existing projections regarding capital expenditure required to restart mining and operations in line with inflation;
- (b) the further cost increases that will likely reflect the deteriorated condition of the assets since the last feasibility studies were prepared;
- (c) delay in exploitation of coal by an additional 6 to 12 months to allow for known requirements of dewatering the Hunter Tunnel, remediating the strata defects and re-establishing regulatory compliance and the likely requirement for additional strata and equipment refurbishment; and
- (d) note the 1.5 Mtpa maximum production cap as a bord and pillar capacity constraint following MOD 7 orders.

## **2.8 The Rationale for the Proposed Transaction**

The rationale for the Proposed Transaction is as follows:

- (a) The Proposed Transaction will allow the Company to extinguish all of its financial obligations owing to Trepang and the Trepang Associates from approximately \$30.1 million in principal and potentially \$35.5 million in interest (if interest is not waived by the Existing Financiers as part of the Proposed Transaction), totalling a potential \$65.5 million to \$nil.
- (b) The Company will be also be released and discharged from all of the securities and guarantees it was granted under the debt facilities. Upon releasing the Company of all liabilities with respect to the debts and interest owed to the Existing Financiers, Trepang agrees to cause the Existing Financiers to release and discharge any and all securities they may hold in respect of any liabilities previously owed to them by the Company.

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- (c) Subject to Dartbrook Coal Project overcoming the obstacles noted in the Xenith Report and reaching profitability, the Proposed Transaction will enable the Company to receive the payment of a Royalty consisting of 50% of AQC Investments' Net Profit from the Dartbrook Coal Project provided that the Royalty payable does not exceed, for each Calendar Quarter:
- (i) 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;
  - (ii) 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; and
  - (iii) 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,

which the Company will be entitled to without any obligation to contribute to the funding of the mining operations and without any obligation to contribute to losses that may occur in coal mining at the Dartbrook Mine.

The Company does not currently have sufficient cashflow nor capital to recommence operations on the Dartbrook Coal Project nor sufficient cash flow to repay the debts owing to Existing Financiers. Based on the Xenith Report, significant capital expenditure will be required in order to re-commence mining on the Dartbrook Coal Project given the assets have sat idle for 15 years. These factors imply significant upfront costs and only a short period of time over which a positive return may be generated. The Dartbrook Coal Project therefore needs a means to facilitate a cost-efficient restart to its operations and production which the Offer from Trepang is expected to provide. The requirement and impacts of restarting operations at the Dartbrook Mine are considered and disclosed in the Xenith Report.

If the Offer is not accepted, then the Company only has limited alternative options to raise capital or pay down the significant amount of debt owing to Existing Financiers. In the absence of any alternative options, each of the Existing Financiers' will be treated as secured creditors (other than for the Unsecured Loan). Therefore, if the Proposed Transaction is not completed and the debt owed to the Existing Financiers' is not paid, then the Company will be at risk of any one of the Existing Financiers appointing an independent receiver to take control of and realise the Company's assets the subject of their respective securities deeds.

It is also reasonably foreseeable that the value of the Dartbrook Mine may decrease as a result of being sold on a distressed basis as would be the case if the Dartbrook Mine was to be sold by a receiver.

## 2.9 Key Advantages and Disadvantages of the Proposed Transaction

The passing of Resolution 1 and Resolution 2 at the Meeting will allow the Company to undertake the Proposed Transaction.

### Advantages

The key advantages of the Proposed Transaction to Non-Associated Shareholders include:

#### (a) Reduced debt

If the Proposed Transaction proceeds to completion, the Company will be left in a position whereby it will have no debt owing to the Existing Financiers as that debt would be novated to AQC Investments (being Trepang's wholly owned subsidiary after completion of the Proposed Transaction) or any other entity nominated by Trepang. The Proposed Transaction will result in a reduction in the Company's existing financial obligations to Trepang and its Associates from approximately \$30.2 million in principal and potentially \$35.3 million in interest (if interest were not waived by the Existing Financiers), totalling a potential \$65.5million to \$nil.

The Company will also be released and discharged from any security or guarantees it may have granted under the Existing Facilities with the Existing Financiers.

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### (b) **Company strategy**

If the Proposed Transaction is approved by the shareholders and proceeds, the Company's Board of Directors will continue its strategic review with the aim of considering and assessing available options to the Company of exploiting its remaining assets and other opportunities that may exist, whilst, subject to Dartbrook Coal Project overcoming the obstacles noted in the Xenith Report and reaching profitability, prospectively being paid a Royalty. In the absence of a superior proposal, the Proposed Transaction articulates an outcome which will ensure the Company continues to enjoy its entitlement to the Royalties from AQC Investments and will be able to gain prospective access to an undiluted revenue stream without the added risk and burden of developing and operating the Dartbrook Mine; the cost of which would be significant considering the amount of working capital and expenses that are incurred in ensuring plant, equipment, personnel and all relevant licenses are continually updated, operating efficiently and are maintained in accordance with all applicable laws. With consideration to the amount of debt owing to Trepan and the obstacles noted in the Xenith Report needed to be overcome to operate the Dartbrook Mine profitably, it is unlikely that the Company will be liquid enough to pursue the operation of the Dartbrook Mine without the risk of the Existing Financiers exercising their enforcement rights.

### (c) **Royalty payable to Company**

If the Proposed Transaction proceeds to completion and the Dartbrook Mine overcomes its operational and profitability obstacles as highlighted in the Xenith Report and noted in section 2.7, then the Company will be entitled to receive a Royalty (without any further financial contribution from the Company) into the future while the Dartbrook Mine remains Profitable. The Royalty will not be payable unless and until the Dartbrook Mine first becomes Profitable. Following the Dartbrook Coal Project reaching Profitability, AQC Investments as Grantor must deliver to the Company written notice within 30 days of the Dartbrook Mine first becoming Profitable. The Royalty is deemed an advantage despite the fact that the Dartbrook Coal Project is not expected to generate positive cash flows until the financial year ending 30 June 2025 or reach positive cumulative cashflows until the financial year ending 30 June 2027, leaving only 2 years of positive cash flows to generate a return on investment before approvals expire (current mining approvals are due to expire by 5 December 2027).

### (d) **Limited alternative options**

As analysed in the Xenith Report, AQC will require significant funding for capital expenditure to re-commence operations of the Dartbrook Coal Project and AQC will likely not be able to raise sufficient new equity to pay down its current debts and fund the recommencement of the Dartbrook Coal Project in a cost-effective manner. The Company may also be unable to refinance its current borrowings given the lack of operational cash flows and the existing security arrangements granted in favour of the Existing Financiers and therefore it is unlikely that any third-party lender would or could provide a more attractive offer than the Offer being made by Trepan.

### (e) **Maintaining exposure to future operations through the Royalty Deed**

If the Proposed Transaction is approved by shareholders and provided the Dartbrook Mine reopens and operates Profitably, AQC will likely maintain some exposure to the potential future profits of the Dartbrook Mine by way of the Royalty under the Royalty Deed with limited exposure to operational risk and expense. The Royalty will not be payable unless and until the Dartbrook Mine first becomes Profitable. Following the Dartbrook Coal Project reaching Profitability, AQC Investments as Grantor must deliver to the Company written notice within 30 days of the Dartbrook Mine first becoming Profitable. As noted in the independent Experts Report, the Dartbrook Coal Project is not expected to generate positive cash flows until the financial year ending 30 June 2025 or reach positive cumulative cashflows until the financial year ending 30 June 2027, leaving only 2 years of positive cash flows to generate a return on investment before approvals expire (the current mining approvals are due to expire by 5 December 2027). Although the Royalty is assessed

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to have nominal fair value, it is deemed to have limited downside risk, and is deemed to be associated with potential upside over and above the fair value ascribed to it.

### (f) **Independent Expert**

The Independent Expert has concluded that the Proposed Transaction is, in the absence of a superior proposal, fair and reasonable to the Non-Associated Shareholders.

### **Disadvantages**

The key disadvantages of the Proposed Transaction to Non-Associated Shareholders include:

#### (a) **Reduction of assets**

The Company's asset base will be significantly reduced if the Proposed Transaction were to complete, and the Company would no longer have the benefit of any future increase in the value of its assets. This may also make the Company a less attractive investment option for a potential purchaser in the future and will make it harder for the Company to raise funds from such investors, in the future.

#### (b) **Future uncertainty**

It is widely known that the current market continues to encourage mining companies to monetise their existing coal and energy assets, whilst promoting the requirement for mining companies to replace retiring thermal plants with evolving renewable technologies. It is predicted that the highest proportion of retirements will be in existing coal and gas assets. Although associated with uncertainties, it is in the Company's best interests to proceed with the Proposed Transaction to monetise its existing coal assets as much as possible before companies make a significant shift towards renewables after which such assets will be replaced and devalued.

#### (c) **Re-compliance**

The ASX has advised the Company that following completion of the Proposed Transaction, given it has sold its main undertaking, it must re-comply with Chapters 1 and 2 of the Listing Rules. It is the current view of the Company's Board that it will be difficult to re-comply with the Listing Rules and if it cannot, it will be delisted from the ASX. The ASX has advised that a six (6) month period is generally allowed for companies to re-comply with the Listing Rules, which will expire on 21 October 2022 (six months after the Company's ASX announcement on 20 April 2022).

If this occurs and the Company is delisted, shares currently held within the Company will also be delisted, which will mean that shareholders will no longer have a liquid investment for their shares nor will shareholders have the ability to sell their shares or realise the true or fair value of their investment.

## **2.10 Independent Expert consideration**

Ernst & Young Strategy and Transactions Limited have prepared an Independent Expert Report to assist Shareholders to decide whether or not to vote in favour of Resolution 1 and Resolution 2.

As previously mentioned in this Explanatory Statement, the Independent Expert has assessed that the Proposed Transaction is, in the absence of a superior proposal, fair and reasonable to Non-Associated Shareholders. Shareholders should have regard to all of the information set out in the Independent Expert's Report in Annexure A of this Explanatory Memorandum and refer to this section 2.10 for further details as to the contents of the Independent Expert Report.

### **Fairness – Proposed Transaction**

The Independent Expert compared the assessed fair value of the Offer with the Consideration. The assessed value of the Offer was between \$1.9 million and \$35.5 million, and the consideration to be received by the Company is assessed as being between \$62.2 million to \$63.8 million. As the fair value of the consideration is higher than the range of the assessed fair values of the Offer, the Independent Expert considered the Proposed Transaction, to be fair.



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### Reasonableness – Proposed Transaction

The Independent Expert considered the advantages and disadvantages of the Proposed Transaction to determine whether the Proposed Transaction is reasonable, along with other considerations, as follows:

(a) **Advantages:**

- (i) the Company's debt and future interest accruals will reduce to \$nil following the proposed transaction;
- (ii) the Company will be released and discharged from all securities and guarantees;
- (iii) subject to the Dartbrook Coal Project overcoming the obstacles noted in the Xenith Report and becoming Profitable (Dartbrook Coal Project is not expected to generate positive cash flows until financial year ending 30 June 2025 or reach positive cumulative cashflows until financial year ending 30 June 2027 leaving only 2 years of positive cash flows to generate a return on investment before the current approvals expire), AQC shareholders will maintain some exposure to any future operations of the Dartbrook Mine through the Royalty;
- (iv) there are limited alternative options available to the Company; and
- (v) if the Proposed Transaction is not approved, the Company will require financial support.

(b) **Disadvantages:**

- (i) the attractiveness of the Company to a third party acquirer or investors will likely be reduced;
- (ii) the Company's asset base will be significantly reduced; and
- (iii) the Company will be delisted if it cannot comply with Chapters 1 and 2 of the ASX Listing Rules, which is highly likely.

(c) **Other Considerations**

- (i) There is not expected to be any cash tax payable by the Company as a result of the Transaction;
- (ii) The Company's control and exposure to the Dartbrook Coal Project will be reduced;
- (iii) Certain costs associated with the Proposed Transaction, including one-off transaction costs estimated to be between \$180,000 to \$220,000 (exclusive of GST) will have been incurred and will be payable by the Company regardless of whether the Proposed Transaction is approved;
- (iv) Trebang and its associates potential voting rights will remain unchanged; and
- (v) No preferential treatment of Trebang and its associates.

The Non-Interested Directors (being David Conry, Craig McPherson and Tony Lalor) have given detailed consideration to the Proposed Transaction. The Non-Interested Directors consider that the Proposed Transaction is in the best interests of the Company and recommend the Proposed Transaction to the Shareholders on that basis.

### 2.11 Potential Position of Shareholders if Resolution 1 and Resolution 2 is Not Approved

Resolution 1 and Resolution 2 are both conditional and subject to the approval of the other. The reason behind this is that the passing of the matters in Resolution 1 will inevitably require passing of the matters in Resolution 2. The passing of the matters in Resolution 2 will also require the passing of the matters proposed in Resolution 1. As such, if Shareholders do not approve either of Resolution 1 and Resolution 2 or approve one Resolution as opposed to the other, then the Company will not be able to undertake the Proposed Transaction. This will have a number of consequences including:

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**(a) The Company will need to seek alternative capital raising opportunities to repay the existing financial arrangements**

If the Company is required to repay the full current amounts outstanding under the Existing Facilities, the Company will be required to seek alternative methods of capital raising in order to do so.

The Directors consider that the alternatives available to the Company in circumstances where Resolution 1 and Resolution 2 are not both approved (in which case, the Company will be required to repay the current outstanding amounts under the Vendor Loan, Convertible Loans, Secured Loan and Unsecured Loan) are listed below.

**(b) Raising additional equity capital**

This option has been considered by the Directors of the Company following receipt of certain unsolicited offers. However, any capital offered sufficient to repay the Company's debt has been highly conditional.

The difficulty the Company may face in raising additional equity capital was highlighted in prior years where the Company had undertaken to seek funding from various parties to fund the acquisition of the Dartbrook Coal Project and to fund repayment of the Existing Facilities and the Vendor Loan. To date, the only successful financing arrangements available to the Company were the facilities provided by the Existing Financiers.

Shareholders should note that further attempts to identify alternative investors on terms reasonable to the Company may require considerable amounts of time and even if an alternative investor was to be identified, there is no guarantee of the price at which they would invest in the Company or other terms and conditions that would be required.

**(c) Raising additional debt capital**

Alternatively, the Company may need to attempt to establish an additional debt facility. The current sentiment of Australian Banks towards lending to the coal sector materially reduces the availability of finance for coal companies (such as the Company) from regular bank debt facilities. Similarly, with equity capital, the Company has received offers for debt capital also. Those offers were similarly highly conditional. If the Company was able to secure such a facility, there is no guarantee that it would be on favourable terms with respect to pricing, security or otherwise.

The existing security arrangements granted in favour of the Existing Financiers could add an element of complexity to the Company's likelihood and capacity in engaging in refinancing discussions with potential debt providers in the future.

**(d) Restrictions on use of additional capital raised**

The Anglo Loan Agreement requires the Company (via AQC Investments) to repay all amounts outstanding under the agreement, in priority to any others in the event any funds are realised from capital raisings or from a sale or disposal of Company assets. Although this agreement was assigned to Trebang pursuant to a Deed of Assignment dated 17 April 2020, the same restrictions on the use of capital raised will continue to apply to the Company (and the Subsidiaries).

**(e) The Company and the Subsidiaries risk having receivers appointed to it**

As mentioned in section 2.9(d), the Company has limited alternative options available to raise capital or pay down the significant amount of debt owing to Existing Financiers. Therefore, failing to complete the Proposed Transaction and failing to repay the debt owed to the Existing Financiers' may result in one or all Existing Financier's appointing an independent receiver to take control of the Company and realise its secured assets to recover the debts owing to them.

**(f) Trebang may withdraw funding creating solvency risks for the Company**

If Resolution 1 and Resolution 2 are not both approved and Trebang withdraws its Offer to provide funding under the Proposed Transaction, the Company will be left

## Explanatory Memorandum

with the onerous obligation of needing to raise funds that may not currently be available, to repay the debts owed to Trepang and other creditors. Furthermore, the Company will bear the burden of maintaining the Dartbrook Coal Project, even if it is purely on a care and maintenance basis. The burden of maintaining the Dartbrook Coal Project coupled with the burden of the repaying the debts owed to the Existing Financiers, will make it difficult for the Company to pay its debts as and when they fall due and maintain its operations in accordance with industry standards and enhancements.

The Proposed Transaction gives the Company a chance to realise the monetary value of their assets before the opportunity is lost as a result of a shift to renewables becoming widespread or reduced as a result of the sale of those assets being made on a distressed basis. The Company may also lose the opportunity to benefit from an undiluted income stream by way of the Royalties, without incurring the burden of operating the Dartbrook Mine while noting that the Royalties will not be payable unless and until the Dartbrook Mine first becomes Profitable. As noted in the independent Experts Report, the Dartbrook Coal Project is not expected to generate positive cash flows until the financial year ending 30 June 2025 or reach positive cumulative cashflows until the financial year ending 30 June 2027, leaving only 2 years of positive cash flows to generate a return on investment before the approvals expire (current mining approvals are due to expire on 5 December 2027).

### 2.12 Shareholder Approval

The Proposed Transaction is subject to and conditional upon the Company obtaining the approval of its shareholders and meeting any other requirements of the ASX, including as required by certain ASX Listing Rules and any other applicable laws or regulations following conditions being satisfied by 17 August 2022 unless the date is extended by mutual agreement of the parties or as a right provided to Trepang under the Share Sale Agreement.

The Proposed Transaction was also subject to the Company receiving, to the extent necessary, written notice from the applicable Minister (of Government) providing its consent (if required) in a form reasonably acceptable to the parties in relation to the change in effective control of the respective Mining Tenements forming the Dartbrook Coal Project, however that condition became inapplicable prior to the issue of this Notice of Meeting.

Resolution 1 and Resolution 2 separately, yet collectively, seek shareholder approval under Listing Rules 10.1 and 11.2.

Trepang, Mr. John Robinson (Snr) and Mr. Nicholas Paspaley are Related Parties of the Company and therefore the Company has also made Resolution 1 and Resolution 2 subject to the approval of the Company's shareholders prior to the Proposed Transaction being given effect in accordance with Chapter 2E.1 of the *Corporations Act 2001 (Cth)*.

### 2.13 Listing Rules

For the Proposed Transaction, the applicable Listing Rules are 10.1 (subject to 10.3 and 10.5) and Listing Rule 11.2. Based on guidance from ASX, Listing Rule 11.1.2, 11.3 and 11.4 does not apply.

***Listing Rule 10.1 states that:***

*An entity (or, in the case of a trust, the responsible entity of the trust) must ensure that neither the entity, nor any of its child entities acquires or agrees to acquire a substantial asset from or disposes of or agrees to dispose of a substantial asset to, any of the following persons without the approval of the holders of the entity's ordinary securities.*

*10.1.1 A related party of the entity.*

*10.1.2 A child entity of the entity.*

*10.1.3 A person who is, or was at any time in the 6 months before the transaction or agreement, a substantial (10%+) holder in the entity.*

*10.1.4 An associate of a person referred to in rules 10.1.1 to 10.1.3.*

*10.1.5 A person whose relationship to the entity or a person referred to in rules 10.1.1 to 10.1.4 is such that, in ASX's opinion, the transaction should be approved by security holders.*

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Trepang and the Trepang Associates (who are associates of each other) currently hold a relevant interest of 21,061,667 Shares, or 41.72% of the Shares on issue. As such, Trepang and the Trepang Associates are substantial (greater than 10%) holders as that term is defined in the Listing Rules falling within the classification of Listing Rules 10.1.3, as provided above.

**Listing Rule 10.2 states that:**

*An asset is substantial if its value or the value of the consideration being paid or received by the entity for it is, or in ASX's opinion is, 5% or more of the equity interests of the entity, as set out in the latest accounts given to ASX under the Listing Rules.*

The Dartbrook Coal Project represents significantly more than 5% of the equity in the Company and therefore will be considered a 'substantial asset'.

The notice of meeting must also comply with rule 10.5. Listing Rule 10.5 states that:

Listing Rule	Information
10.5.1 – the name of the person to whom the entity is acquiring or disposing the substantial asset	Trepang Services Pty Ltd ACN 149 489 065 and the Trepang Associates, or any of them.
10.5.2 – the category in rules 10.1.1 – 10.1.5 the person falls into and why	Trepang and the Trepang Associates (who are associates of each other) currently hold a relevant interest in 21,061,667 Shares, or 41.72% of the Shares on issue. As such, Trepang and the Trepang Associates are substantial (10%+) holders as that term is defined in the Listing Rules and fall within the category of rule 10.1.3.
10.5.3 – details of the asset being acquired or disposed of	It is proposed that the Dartbrook Coal Project will be sold to Trepang and the Trepang Associates (or any of them) or their nominee and details of such disposal and the Proposed Transaction is set out in section 2.2.
10.5.4 – the consideration for the acquisition or disposal	The consideration for the Proposed Transaction is set out in section 2.2.
10.5.5 – in the case of an acquisition, the intended source of funds (if any to pay for the acquisition)	Not applicable
10.5.6 – in the case of a disposal, the intended use of funds (if any) received for the disposal	The Consideration of \$1.00 and the contingent future revenue under the Royalty Deed (although conditional upon the Dartbrook Coal Project first becoming Profitable (as defined in section 4) and noting that the Dartbrook Coal Project is not expected to generate positive cashflows until the financial year ending 30 June 2025 or reach positive cumulative cashflows until financial year ending 30 June 2027, leaving only 2 years of positive cash flows to generate a return on investment before approvals expire), will be used to fund the future operations of the Company. Given the nature of the Royalty is prospective and uncertain, the Board cannot definitely determine what those funds will be used for.

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Listing Rule	Information
10.5.7 – the timetable for completing the acquisition or disposal.	An indicative timetable for completion of the Proposed Transaction is set out in section 2.4
10.5.8 – if the acquisition or disposal is occurring under an agreement, a summary of any material terms of the agreement	Refer to Schedule 1 for the Share Sale Agreement.
10.5.9 – a voting exclusion statement	A voting exclusion statement is contained in the Notice.
10.5.10 – a report on the transaction from an independent expert	Refer to Annexure A.

Listing Rule 10.5.10 provides that Shareholder approval sought for the purpose of Listing Rule 10.1 must include a report on the Proposed Transaction from an independent expert. Accompanying this Explanatory Memorandum is an Independent Expert Report prepared by Ernst & Young Strategy and Transactions Limited. This report provides a detailed examination of the Proposed Transaction, and the Independent Expert has concluded that in the absence of a superior proposal the Proposed Transaction is fair and reasonable to the Non-Associated Shareholders.

The Independent Expert Report is intended to assist Non-Associated Shareholders' in their consideration and assessment of the merits of the Proposed Transaction and the making of their decision as to whether to vote in favour of Resolutions 1 and Resolution 2. Shareholders are urged to carefully read the Independent Expert Report, to understand the scope of the report, the methodology of the valuation and the assumptions made, before voting on either Resolution.

A copy of the Independent Expert Report has been provided to each Shareholder entitled to receive this Notice of Meeting and Explanatory Memorandum. Irrespective of this, a copy of the Independent Expert Report is available on the Company's website at [www.aqcltd.com](http://www.aqcltd.com) and hard copies, may be requested (free of charge) by contacting the Company's registered office.

As stated briefly in the table above the Proposed Transaction will be deemed a Listing Rule 10.1 transaction as it relates to a disposal by the entity of substantial assets of the entity's child entities and this disposal is proposed to be made to a relevant person and substantial holder in the entity, on the basis that the Proposed Transaction disposes the Subsidiaries that either own or operate the Dartbrook Coal Project.

The Company therefore requires shareholder approval for the purposes of Listing Rules 10.1 to give effect to the Proposed Transaction. In accordance with Listing Rule 10.3(f), the Company will not give effect to the agreement without such approval.

This Explanatory Memorandum and Notice of Meeting satisfies the requirement of the Company to issue a notice to shareholders in accordance with Listing Rule 10.5, including a voting exclusion statement (per LR 10.5.9) and the report of an independent expert (per LR 10.5.10).

The Company has called the Meeting and Resolution 1 to seek shareholder approval for the Proposed Transaction under and for the purposes of Listing Rule 10.1. If Resolution 1 is

## Explanatory Memorandum

passed then, subject to the passing of Resolution 2, the Company will be able to proceed with the Proposed Transaction and will be able to achieve the benefits of the key advantages contemplated in section 2.9 above.

Completion of the Proposed Transaction will also enable the Company and its related entities (that are not the Subsidiaries) to refocus their resources and operations in exploring the remainder of its assets (to the extent possible).

If Shareholders do not approve Resolution 1, the Share Sale Agreement giving rise to the Proposed Transaction will not have any effect.

### **Listing Rule 11.2 states that:**

*If the significant change involves the entity disposing of its main undertaking, the entity must obtain approval of holders of its ordinary securities and must comply with any requirements of ASX in relation to the notice of meeting. The notice of meeting must include a voting exclusion statement. The entity must not enter into any agreement to dispose of its main undertaking unless the agreement is conditional on the entity getting that approval. Rules 11.1.1 and 11.1.3 apply.*

In compliance with Listing Rule 11.2:

- (a) The Company is proposing to complete the Proposed Transaction;
- (b) Listing Rule 11.2 required a listed company to obtain the approval of its shareholders to a disposal of its main undertaking. The Proposed Transaction is a disposal of the Company's main undertaking for these purposes;
- (c) Resolution 2 seeks the required shareholder approval of the Proposed Transaction under and for the purposes of Listing Rule 11.2;
- (d) Subject to the passing of Resolution 1, if Resolution 2 is passed, the Company will be able to proceed with the Proposed Transaction and the Company will:
  - (i) divest the Dartbrook Coal Project; and
  - (ii) receive the Consideration.
- (e) If Resolution 2 is not passed, the Company will not be able to proceed with the Proposed Transaction and any and all of the events (individually and collectively) outlined in section 2.11 may arise.

### **Conclusion**

The Proposed Transaction will result in a financial benefit being granted to a potential related party. For this reason, the Directors have taken a conservative view of the Proposed Transaction and made it conditional upon the Company obtaining the requisite approval of its members pursuant to Part 2E.1 of the *Corporations Act 2001* (Cth).

Approval of Resolutions 1 and 2 will make it possible for the Company, through the novation of debts, to continue retaining its assets (other than the assets that are the subject of the Proposed Transaction) and will make it possible for the Company to receive the prospective Royalty from AQC Investments provided the Dartbrook Coal Project recommences its operations and achieves the required level of profitability. The Royalty will not be payable unless and until the Dartbrook Mine first becomes Profitable. Following the Dartbrook Coal Project reaching Profitability, AQC Investments as Grantor must deliver to the Company written notice within 30 days of the Dartbrook Mine first becoming Profitable. Based on the Independent Expert Report, the Dartbrook Coal Project is not expected to generate positive cash flows until the financial year ending 30 June 2025 or reach positive cumulative cashflows until the financial year ending 30 June 2027, leaving only 2 years of positive cash flows for the Dartbrook Coal Project to generate a return on investment before the approvals expire (current mining approvals are due to expire on 5 December 2027). The outcome of approving Resolutions 1 and 2 will allow the Company to direct its resources in exploring the remainder of its assets and will be able to reallocate its funds and resources in exploring other opportunities to expand the Company's business after disposal of its substantial undertaking.

## Explanatory Memorandum

### 2.14 Directors' Recommendation

Each of the Directors recommend that Shareholders vote in favour of Resolution 1 and Resolution 2.

## 3 Voting entitlement

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For the purposes of determining voting entitlements at the Meeting, Shares will be taken to be held by the persons who are registered as holding the Shares at 7.00pm (Brisbane time) on 18 August 2022. Accordingly, transactions registered after that time will be disregarded in determining entitlements to attend and vote at the Meeting.

## 4 Interpretation

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The following terms used in the Notice of Meeting and the Explanatory Memorandum are defined as follows:

**\$** means Australian dollars, unless otherwise stated.

**AAMCA** means Anglo American Metallurgical Coal Assets Pty Ltd ABN 59 081 022 246.

**Allowable Deductions** means:

- (a) all costs directly incurred by Grantor or AQC Dartbrook, in Australian dollars, or in Australian Dollar equivalent determined by the Exchange Rate, in the development and operation of the Mine (Dartbrook Mine) and include:
- (i) all costs and charges, including interest and fees, of borrowing money used to finance the design, construction and installation of any development, mining, haulage, crushing, treatment or concentrating plant within or adjacent to the Mining Tenements;
  - (ii) depreciation, depletion and amortisation at normal rates of all fixed assets, machinery and materials used in the development, mining, haulage, crushing, treatment or concentrating activities up to the point of first sale and delivery;
  - (iii) all expenditure incurred in connection feasibility studies, anthropological studies, environmental studies, clearing and site development, other than expenditure deemed to be amortised or depreciated over the life of the Dartbrook Mine in accordance with generally accepted Australian accounting practices;
  - (iv) any Mining Tenement and Dartbrook Mine acquisition, exploration development, construction, mining, milling, crushing, treatment or concentrating operating costs including abandonment and rehabilitation costs, within or adjacent to the Mining Tenements;
  - (v) all costs and Penalties for impurities and all umpire charges and other processor deductions;
  - (vi) all road, sea and rail freight, transportation, security and incidental costs and expenses including forwarding, shipping, demurrage, delay and insurance costs, incurred between the treatment plant or stockpile of, or adjacent to, the existing Mining Tenements and the point of first sale and delivery of Coal;
  - (vii) all handling and incidental costs and expenses including agency, banking, assaying, sampling, weighing, loading, unloading, stockpiling and storage;
  - (viii) actual sales costs and reasonable marketing, representation, agency and brokerage costs of the Coal subject to the Royalty including the costs of site visits for promotional and marketing purposes;
  - (ix) administrative and other general overhead costs that are directly attributable and reasonably allocable to the costs set out in (i) to (viii) above, which are agreed with the Royalty Holder;

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- (x) Carried Forward Deductions;
  - (xi) all taxes (including taxes based on the income of the Grantor), royalties, duties, levies, rent and charges lawfully imposed by any government or other authority, including carbon emissions licence fees, charges, fuel excise (net of any fuel tax credits), carbon trading taxes and imposts, value added taxes or energy consumption taxes, in any way connected with the transportation or sale of Coal, including GST (but not if subject to any input tax credit, which is actually claimed and received) to the first point of sale;
  - (xii) the royalty payable to Anglo American Metallurgical Coal Assets Pty Ltd ABN 59 081 022 246 (or its assignee or transferee); and
  - (xiii) any other incidental charge or expense directly related to the development and operation of the Dartbrook Mine, incurred up to the first point of sale and delivery of Coal, including on-site transport and storage,  
  
and provided that there is no double counting of costs incurred by one Grantor Group Entity and on-charged to another Grantor Group Entity
- (b) but expressly excluding any indirect costs incurred by the Grantor or AQC Dartbrook in the development or operation of the Dartbrook Mine, including but not limited to administrative, head office and other general overhead costs.

**AQC Investments** means AQC Investments 2 Pty Ltd ACN 609 954 734.

**Area Coal** means Area Coal Pty Ltd ACN 132 643 193.

**ASIC** means the Australian Securities & Investments Commission.

**Associates** has the meaning given to that term in the Corporations Act, and Associated has a corresponding meaning.

**ASX** means ASX Limited ABN 98 008 624 691 or the Australian Securities Exchange (as applicable).

**Board** means the board of directors of the Company.

**Calendar Quarter** means each three-month period ending 31 March, 30 June, 30 September and 31 December, as the case may be, provided that the last Calendar Quarter will commence on the day after the end of the previous Calendar Quarter and end on the date of termination of the Royalty Deed.

**Carrier Forward Deduction** means the amount of Allowable Deduction that exceeds the Gross Revenue in a Calendar Quarter (each three month period ending on 31 March, 30 June, 30 September and 31 December, as the case may be, provided that the last Calendar Quarter will commence on the day after the end of the previous Calendar Quarter and end on the date of termination of the Royalty Deed) which may then be carried forward and deducted from Gross Revenue in subsequent Calendar Quarter.

**CHPP** refers to the coal handling and preparation plant of the Dartbrook Coal Project.

**Coal** means coal sold from the Dartbrook Mine after the date of the Royalty Deed.

**Company** or **AQC** means Australian Pacific Coal Limited ABN 49 089 206 986 (ASX: AQC).

**Company Group** means the Company and each of its Related Bodies Corporate.

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

**Corporations Act** means the *Corporations Act* 2001 (Cth).

**Dartbrook Coal Project** or **Dartbrook Mine** means the underground coal mine owned by the Company located in the Hunter Valley, New South Wales.

**Directors** or **Board** means the board of directors of the Company from time to time.

**Exchange Rate** for a day, means (as defined in the Royalty Deed):

- (a) the rate of exchange (as the case requires) published on Reserve Bank of Australia website at or about 4 pm Sydney time on that day or, if a rate is not so published for that day the last day for which that rate was so published; or



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- (b) if that rate ceases to be so published an equivalent rate for converting United States dollars or another currency (as required) to Australian dollars selected by the Grantor, acting reasonably.

**Existing Facilities** means the Robinson and Paspaley Convertible Loan Deeds, the Trepang Convertible Loan Deed, the Trepang New Convertible Note Deed, Intercreditor Deed, the Priority Deed, the Secured Loan Deed and the Unsecured Loan.

**Existing Financiers** means Trepang, Mr John Robinson (Snr), AO, and Mr Nicholas Paspaley, AC.

**Explanatory Memorandum** means the explanatory memorandum accompanying the Notice.

**Grantor** means AQC Investments 2 Pty Ltd ACN 609 954 734 (as defined in the Royalty Deed).

**Grantor Coal** means 50% of the coal sold from the Dartbrook Coal Project.

**Grantor Group Entity** means the Grantor and any related body corporate of the Grantor.

**Gross Revenue** means the gross proceeds actually received by the Grantor or applied to its benefit, whether directly or indirectly through a subsidiary or related body corporate, including but not limited to under any joint venture, profit share or similar arrangement, in Australian dollars, or in Australian dollar equivalent determined by the exchange rate, from the sale of the Grantor Coal including the proceeds received from an insurer in the case of loss of, or damage to, Grantor Coal (net of any excess paid in respect of that loss), less applicable Penalties, refunds, claims or discounts, calculated at all times in accordance with accounting standards.

**Hunter Tunnel** means the Dartbrook Coal Projects coal clearance and handling system.

**Independent Expert** means Ernst & Young Strategy and Transactions Limited.

**Independent Expert Report or IER** means the Independent Expert report set out in 0 of the Notice.

**Intercreditor Deed** means the intercreditor deed between the Company, AQC Investments 2 Pty Ltd, AAMCA and the Existing Financiers dated 29 May 2017.

**Ipoh Pacific** means Ipoh Pacific Resources Pty Ltd ACN 104 553 504.

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

**Marubeni** means Marubeni Coal Pty Ltd ACN 009 932 236 (now Marubeni Resources Development Pty Ltd)

**Meeting** means the Extraordinary General Meeting to be held on 22 August 2022 as convened by the accompanying Notice of Meeting.

**Mining Investments One** means Mining Investments One Pty Ltd ACN 123 222 266.

**Mining Tenements** means the mining tenements owned by the AQC Dartbrook and those listed in Schedule 6 of the Share Sale Agreement.

**MOD 7** means the orders of the Land and Environment Court of New South Wales' in respect of the case of *AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces*.

**MOD 7 Closure Date** refers to a requirement of the MOD 7 orders which requires for the cessation of mining by 5 December 2027.

**Net Profit** means the amount per Calendar Quarter equalling the Gross Revenue, *plus* or *minus* the relevant adjustments to the production, sale or other disposal of the Grantor Coal (usually calculated by AQC Investments) *minus* the Allowable Deductions.

**Non-Associated Shareholders** means the Shareholders whose votes are not to be disregarded on Resolution 1 and Resolution 2.

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

**Offer** has the meaning given to that term in section 2.2.

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

**Paspaley Convertible Loan Deed** means the convertible loan deed entered between the Company and Mr Nicholas Paspaley on or about 1 February 2016, as amended, restated and varied from time to time and as summarised in Schedule 2.

**Penalty** means a charge, in addition to normal refining costs, for removing from the Coal minerals or other substances where the cost of the removal exceeds the value of those minerals or other substances.

**Profitable** means that the Gross Revenue from the Dartbrook Mine (or any part of the Dartbrook Mine) in any Calendar Quarter, exceeds the Allowable Deductions.

**Related Party** pursuant to section 228 of the Corporations Act means each of the following:

- (a) Trepang Services Pty Ltd;
- (b) John Robinson (Snr);
- (c) Nicholas Paspaley;
- (d) The Trepang Associates; and
- (e) an Associate of Trepang Services Pty Ltd, John Robinson (Snr), Nicholas Paspaley, or the Trepang Associates, including any nominee nominated under the Share Sale Agreement.

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

**Robinson and Paspaley Convertible Loan Deeds** means the Robinson Convertible Loan Deed and the Paspaley Convertible Loan Deed.

**Robinson Convertible Loan Deed** means the convertible loan deed entered between the Company and Mr John Robinson (Snr) on or about 1 February 2016, as amended, restated and varied from time to time and as summarised in Schedule 2.

**ROM Coal** means run-of-mine coal referring to coal directly from the Dartbrook Mine.

**Royalty** means the royalty payable by the Grantor to the Royalty Holder under the Royalty Deed calculated by multiplying the Net Profits by the royalty percentage (50%).

**Royalty Deed** means the Dartbrook Royalty Deed entered into by AQC Investments (as the Grantor), the Company (as the Royalty Holder) and Trepang (as the Guarantor) on 19 April 2022.

**Royalty Holder** means Australian Pacific Coal Limited ACN 089 206 986.

**Secured Loan Deed** means the loan deed entered into by the Company and each of Nicholas Paspaley, John Robinson (Snr) and Trepang on or around 27 April 2016 (as subsequently amended and restated on 15 June 2016, 10 October 2016 and 1 February 2017). The Secured Loan Deed was discharged pursuant to the Trepang New Convertible Loan Note.

**Security** means the security granted by the Company and the Company Group to:

- (f) Mr John Robinson (Snr) to secure the indebtedness associated with the Robinson Convertible Loan Deed and the Secured Loan Deed;
- (g) Mr Nicholas Paspaley to secure the indebtedness associated with the Paspaley Convertible Loan Deed and the Secured Loan Deed; and
- (h) Trepang to secure the indebtedness associated with the Trepang Convertible Loan Deed, the Secured Loan Deed, and the Trepang New Convertible Note Deed,

the key terms of which are summarised in Schedule 2 of the Company's previous notice of meeting dated 29 October 2018;

**Shareholder** means a holder of Shares in the Company.

**Shares** means fully paid ordinary shares in the Company from time to time.

**Share Sale Agreement** means the share sale agreement entered into by the Company, Trepang, John Robinson Snr and Nicholas Paspaley dated 19 April 2022.

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**SPA** means the sale and purchase agreement between Anglo American Metallurgical Coal Assets Pty Ltd, Anglo American Metallurgical Coal Holdings Limited, AQC Investments 2 Pty Ltd and the Company dated 24 December 2015 (as varied) to acquire the interests of the Anglo group in the Dartbrook Joint Venture.

**Specific and Featherweight Security Deed** means a specific and featherweight security deed granted to AAMCA by the Company dated 29 May 2017.

**Subsidiaries** has the meaning given to that term in the Corporations Act.

**Term sheet for Funding AQC** means the term sheet between the Company and Trepang and Trepang Associates intended to be binding as at 15 February 2022.

**Trepang** means Trepang Services Pty Ltd ACN 149 489 065 in its own capacity.

**Trepang Associates** means John Robinson (Snr), Nicholas Paspaley and any entity which is controlled (as defined in section 50AA of the Corporations Act) by either John Robinson (Snr), Nicholas Paspaley).

**TCLD** means the convertible loan deed entered between the Company and Trepang on or about 1 March 2017 (as varied from time to time), the key terms of which are summarised in 2.3.

**Trepang New Convertible Note Deed** means the convertible note deed entered between the Company and Trepang on or about 29 November 2018 (as may be varied from time to time), the key terms of which are summarised in Schedule 2.

**Unsecured Loan** means further funding provided to the Company by Trepang on an unsecured basis from time to time, the key terms of which are summarised in Schedule 2.

**Vendor Loan** means the \$7.7 million in vendor funding originally provided by AAMCA under the Vendor Loan Agreement, subsequently assigned to Trepang by AAMCA (also referred to as the Anglo Loan).

**Vendor Loan Agreement** means the vendor loan agreement between AAMCA, AQC Investments 2 Pty Ltd, ACDP, ACDAM and the Company dated 29 May 2017, subsequently assigned to Trepang by AAMCA (**Anglo Loan Agreement**).

**Xenith Report** means the Independent Technical Specialist Report provided by Xenith Consulting Pty Limited dated on or around 10 June 2022.

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

*344 Queen Street, Brisbane QLD 4000*

*+61 7 3221 0679*

**Explanatory Memorandum**

**Schedule 1      Share Sale Agreement**

# Share sale agreement

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Australian Pacific Coal Limited

Trepang Services Pty Ltd

John Robinson Snr

Nicholas Paspaley

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# 1 Definitions and interpretation

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## 1.1 Definitions

The meanings of the terms used in this agreement are set out below.

Term	Meaning
<b>Accounting Standards</b>	at any time: <ol style="list-style-type: none"><li>1 the requirements of the Corporations Act about the preparation and contents of financial reports;</li><li>2 the accounting standards approved under the Corporations Act; and</li><li>3 generally accepted accounting principles, policies, practices and procedures in Australia to the extent not inconsistent with the accounting standards described in paragraph 2.</li></ol>
<b>Anglo</b>	Anglo American Metallurgical Coal Assets Pty Ltd (ACN 081 022 246).
<b>Anglo Loan Agreement</b>	The vendor loan agreement dated 29 May 2017 between Anglo, AQC Investments and the Seller as assigned by Anglo to Trepang Services Pty Ltd pursuant to a Deed of assignment.
<b>Anglo Loan</b>	the loan from Anglo to AQC Investments under the Anglo Loan Agreement.
<b>Approvals</b>	the Authorisations specified in <b>Schedule 6</b> and all other material Authorisations held by the Target Entities, as modified, renewed or replaced.
<b>AQC Dartbrook</b>	AQC Dartbrook Pty Ltd ACN 000 012 813.
<b>AQC Investments</b>	AQC Investments 2 Pty Ltd ACN 609 954 734.
<b>AQC Management</b>	AQC Dartbrook Management Pty Ltd ACN 007 377 577.
<b>AQC Sales</b>	Dartbrook Coal (Sales) Pty Ltd ACN 050 139 841.
<b>ASX</b>	Australian Securities Exchange or ASX Limited, as the context requires.
<b>ASIC</b>	the Australian Securities and Investments Commission.

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<b>Term</b>	<b>Meaning</b>
<b>Audit</b>	In relation to Tax, any audit, investigation, review, or enquiry (other than routine enquiries) undertaken by a Governmental Agency.
<b>Authorisation</b>	any approval, licence, consent, authority or permit.
<b>Business</b>	the business carried out by the Target Entities.
<b>Business Day</b>	a day on which banks are open for business in Brisbane, Queensland, other than a Saturday, Sunday or public holiday in that city.
<b>Buyer</b>	the Original Buyer and, if nominated under clause 4.11, the Nominee or Nominees.
<b>Buyer Group</b>	the <b>Buyer</b> and each of its Related Bodies Corporate (other than the Target Entities) and <b>Buyer Group Member</b> means any member of the Buyer Group and a Buyer Associate, jointly and severally.
<b>Buyer Group Representative or Adviser</b>	any representative or adviser of any Buyer Group Member and any Related Bodies Corporate of such representative or adviser (or any current or former director, officer or employee of any of them).
<b>Buyer Warranties</b>	the representations and warranties in Schedule 3.
<b>Claim</b>	any claim, demand, legal proceedings or cause of action, including any claim, demand, legal proceedings or cause of action under common law, indemnity or under statute in any way relating to this agreement or the Sale and includes a claim, demand, legal proceedings or cause of action arising from a breach of Seller Warranty, under an indemnity or under any Transaction Agreement.
<b>Clearance Certificate</b>	a Foreign Resident Capital Gains Withholding Clearance Certificate issued by the Australian Taxation Office.
<b>Completion</b>	completion of the sale and purchase of the Sale Shares under clause 6.
<b>Completion Steps</b>	the steps that each party must carry out, which are set out in item 2 of Schedule 4.
<b>Consolidated Group</b>	a Consolidated Group or a MEC group as those terms are defined in section 995 1 of the ITAA 1997.
<b>Condition</b>	a condition in clause 2.1.

<b>Term</b>	<b>Meaning</b>
<b>Contamination</b>	the presence of any Hazardous Substance in the Environment at a concentration above the concentration at which the substance is naturally present in the Environment in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment, including the presence of any asbestos or polychlorinated biphenols within buildings or other structures.
<b>Contract</b>	the contracts with ERM Power Retail (Retail Electricity Agreement) in respect of which a Target Entity is a party.
<b>Consideration</b>	has the meaning set out in clause 4.3.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Cut Off Date</b>	27 June 2022 or such later date as agreed to in writing between the parties.
<b>Debt Amount</b>	the combined total of the principal loan amounts advanced to the Seller under the Other Financiers Loan Agreements.
<b>Demand</b>	a written notice of, or demand for, an amount payable.
<b>Disclosure Letter</b>	a letter the date of this agreement addressed by the Seller to the Buyer disclosing facts, matters or circumstances that are or may be inconsistent with the Seller Warranties, together with the attachments to that letter.
<b>Disclosure Materials</b>	<ol style="list-style-type: none"> <li>1 all information set out or referred to, in any document provided by a Seller Group Member or any of their agents, advisers or representatives to a Buyer Group Member or Buyer Group Representative or Adviser prior to the date of this agreement; and</li> <li>2 the Disclosure Letter.</li> </ol>
<b>Duty</b>	any stamp, transaction or registration duty or similar charge imposed by any Governmental Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them, but excludes any Tax.
<b>Encumbrance</b>	<p>an interest or power:</p> <ol style="list-style-type: none"> <li>1 reserved in or over an interest in any asset; or</li> <li>2 created or otherwise arising in or over any interest in any asset under a security agreement, a bill of sale, mortgage, charge, lien, pledge, trust or power,</li> </ol>

<b>Term</b>	<b>Meaning</b>
	<p>by way of, or having similar commercial effect to, security for the payment of a debt, any other monetary obligation or the performance of any other obligation, and includes, but is not limited to:</p> <p>3 any agreement to grant or create any of the above; and</p> <p>4 a security interest within the meaning of section 12(1) of the PPSA, but does not include a Permitted Encumbrance.</p>
<b>Environment</b>	has the meaning given in the <i>Environment Operations Act 1997</i> (NSW).
<b>Environmental Law</b>	a Law or a provision of a Law relating to the Environment.
<b>Exit Payment</b>	the payment required to be made by clause 5.3 in accordance with the Tax Sharing Agreement and pursuant to section 721 35 of the ITAA 1997.
<b>Governmental Agency</b>	any government or governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, Tribunal, agency or entity in any part of the world.
<b>Group Liabilities</b>	has the same meaning as that term is defined in section 721 10(1)(a) of the ITAA 1997.
<b>Guarantee</b>	the guarantee given by the Seller with respect to the Anglo Loan under the Anglo Loan Agreement.
<b>GST</b>	goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.
<b>GST Act</b>	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>GST Group</b>	has the same meaning as that term is defined in the GST Act.
<b>GST Law</b>	has the same meaning as in the GST Act.
<b>Hazardous Substance</b>	any natural or artificial substance, gas, liquid, chemical, mineral or other physical or biological matter (including radiation, radioactivity and magnetic activity) that presents a risk of harm to human health or the Environment or that is controlled, prohibited or regulated from time to time by any Environmental Law, including byproducts and derivatives of any such matter and any waste.
<b>Head Company</b>	has the same meaning as that term is defined in section 995 1 of the ITAA 1997.

<b>Term</b>	<b>Meaning</b>
<b>Holding Costs</b>	all funds paid or provided by Trepang Services Pty Ltd with respect to costs and expenses of the Seller, whether under the Term Sheet for Funding AQC or otherwise, and includes the costs paid by the Buyer under clause 5.7.
<b>Immediately Available Funds</b>	bank cheque or telegraphic or other electronic means of transfer of cleared funds into a bank account nominated in advance by the payee.
<b>Intellectual Property</b>	<p>all intellectual and industrial property rights subsisting or which may subsist throughout the world, whether registered or unregistered, including:</p> <ol style="list-style-type: none"> <li>1 copyright (including any rights in copyrightable works, works of authorship or databases);</li> <li>2 inventions (including patents, innovation patents and utility models);</li> <li>3 confidential information, trade secrets, technical data and know-how;</li> <li>4 circuit layout designs, topography rights and rights in databases;</li> <li>5 any other rights resulting from intellectual activity in the industrial, commercial, scientific, literary or artistic fields; and</li> <li>6 any applications for any of the above.</li> </ol>
<b>Interest Rate</b>	the daily 11.00am cash rate quoted on Reuters RBA30.
<b>ITAA 1997</b>	the <i>Income Tax Assessment Act 1997</i> (Cth).
<b>Law</b>	includes any law or legal requirement, including at common law, in equity, under any statute, regulation or by-law, any condition of any Authorisation, and any decision, directive, guidance, guideline or requirements of any Governmental Agency.
<b>Liabilities</b>	claims, debts, obligations, losses, liabilities, charges, expenses, costs, outgoings, payments and damages of any kind and however arising (including penalties, fines and interest) and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.
<b>Loss</b>	losses, liabilities, damages, costs, charges and expenses and includes Taxes, Duties and Tax Costs.
<b>Management Accounts</b>	the unaudited management accounts for each Target Entity disclosed in the Disclosure Materials.
<b>Mine</b>	the Dartbrook mine located on the Mining Tenements.

<b>Term</b>	<b>Meaning</b>
<b>Mining Act</b>	the <i>Mining Act 1992</i> (NSW).
<b>Mining Tenements</b>	the mining tenements set out in Schedule 6.
<b>Nominee</b>	has the meaning given in clause 4.11.
<b>Notification Date</b>	has the meaning given in clause 4.11.
<b>Original Buyer</b>	the Buyer as specified in this document.
<b>Other Financiers</b>	<ol style="list-style-type: none"> <li>1 John Robinson (Snr);</li> <li>2 Trepang; and</li> <li>3 Nicholas Paspaley.</li> </ol>
<b>Other Financiers Loan Agreements</b>	<ol style="list-style-type: none"> <li>1 the Convertible loan deed between the Seller and John Robinson (Snr) dated on or about 1 February 2016, as amended from time to time;</li> <li>2 the Secured loan deed between the Seller and Trepang Services Pty Ltd ACN 149 489 065 dated on or about 1 February 2016, as amended from time to time;</li> <li>3 the Convertible loan deed between the Seller and Trepang Services Pty Ltd ACN 149 489 065 dated on or about 1 March 2017, as amended from time to time;</li> <li>4 the Convertible loan deed between the Seller and Nicholas Paspaley dated on or about 1 February 2016, as amended from time to time;</li> <li>5 any other agreement listed in Annexure A; and</li> <li>6 any other agreement under which any of the Other Financiers have lent funds to the Seller.</li> </ol>
<b>Permitted Encumbrance</b>	<ol style="list-style-type: none"> <li>1 every lien or retention of title arrangement securing the unpaid balance of purchase money for property acquired in the ordinary course of business;</li> <li>2 any Encumbrance in relation to personal property (as defined in the PPSA and to which that Act applies) that is created or provided for by: <ul style="list-style-type: none"> <li>• a transfer of an Account or Chattel Paper;</li> <li>• a PPS Lease; or</li> <li>• a Commercial Consignment,</li> </ul> that is not a security interest within the meaning of section 12(1) of the PPSA;</li> <li>3 the interest of the lessor or owner in respect of assets subject to a finance or capital lease, a hire-purchase agreement or a conditional sale agreement;</li> </ol>



<b>Term</b>	<b>Meaning</b>
	In this definition, Account, Chattel Paper, PPS Lease and Commercial Consignment have the meanings given in the PPSA.
<b>PPSA</b>	the <i>Personal Property Securities Act 2009</i> (Cth).
<b>PPS Register</b>	means the register established under the PPSA.
<b>Properties</b>	means the properties listed in Schedule 5 and includes all rights attached to the properties.
<b>Related Body Corporate</b>	has the meaning given in section 9 of the Corporations Act.
<b>Royalty</b>	the "Royalty" as defined in the Royalty Deed.
<b>Royalty Deed</b>	the "Royalty Deed" in the form annexed to this agreement.
<b>Royalty Payer</b>	is the entity nominated by the Buyer, pursuant to clause 1.1 of Schedule 4, being any of the following (at the Buyer's discretion): <ol style="list-style-type: none"> <li>1 Trepang;</li> <li>2 if a Nominee is nominated under clause 4.6, then the Nominee; or</li> <li>3 any one of the Target Entities.</li> </ol>
<b>Sale</b>	the sale and purchase of the Sale Shares in accordance with clause 6.
<b>Sale Shares</b>	100% of the issued share capital of AQC Investments, being 10 fully paid ordinary shares.
<b>Security Interest</b>	a security interest as defined in the PPSA.
<b>Seller Group</b>	the <b>Seller</b> and each of its Related Bodies Corporate (other than the Target Entities), and <b>Seller Group Member</b> means any member of the Seller Group.
<b>Seller Group Deed of Release</b>	a deed in the form contained in schedule 7.
<b>Seller Group Representative or Adviser</b>	any representative or adviser of any Seller Group Member and any Related Bodies Corporate of such representative or adviser (or any current or former director, officer or employee of any of them).

<b>Term</b>	<b>Meaning</b>
<b>Seller's Consolidated Group</b>	the Consolidated Group of which the Seller and any of the Target Entities are members.
<b>Seller's GST Group</b>	the GST Group which includes the Seller as a member.
<b>Seller's Head Company</b>	the Head Company of the Seller's Consolidated Group.
<b>Seller Warranties</b>	the representations and warranties in Schedule 2.
<b>Specified Director</b>	David Conry, Tony Lalor, Craig McPherson
<b>TA Act</b>	the <i>Taxation Administration Act 1953</i> (Cth).
<b>Target Entities</b>	Each of AQC Investments, AQC Dartbrook, AQC Management and AQC Sales.
<b>Target Entity Subsidiary Shares</b>	<ol style="list-style-type: none"> <li>1 all of the issued shares in the capital of AQC Dartbrook;</li> <li>2 all of the issued shares in the capital of AQC Management; and</li> <li>3 all of the issued shares in the capital of AQC Sales.</li> </ol>
<b>Target Entity Assets</b>	<ol style="list-style-type: none"> <li>1 the Mining Tenements;</li> <li>2 the Approvals;</li> <li>3 the Properties;</li> <li>4 the Contracts; and</li> <li>5 the Target Entity Subsidiary Shares.</li> </ol>
<b>Tax</b>	any tax, levy, charge, impost, fee, deduction, goods and services tax, compulsory loan or withholding, that is assessed, levied, imposed or collected by any Governmental Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above but excludes Duty.
<b>Tax Claim</b>	a Claim for a breach of a Tax Warranty, a Claim made under clause 7.4 in relation to a Tax Warranty or a Claim made under clause 7.5.
<b>Tax Cost</b>	all costs, and expenses incurred in managing an inquiry in relation to Tax or Duty, but does not include a Tax or Duty.

<b>Term</b>	<b>Meaning</b>
<b>Tax Funding Agreement</b>	any agreement where a Target Entity may be required to pay an amount to the Seller's Head Company to pay a Group Liability or to reimburse the Seller's Head Company after payment of the Group Liability.
<b>Tax Invoice</b>	includes any document or record treated by the Commissioner of Taxation as a tax invoice or as a document entitling a recipient to an input tax credit.
<b>Tax Law</b>	any Law or final binding ruling or determination made by a Governmental Agency relating to Tax.
<b>Tax Sharing Agreement</b>	an agreement contemplated by section 721 25 of the ITAA 1997.
<b>Tax Warranty</b>	Each of the Seller Warranties in item 16 of Schedule 2
<b>Term Sheet for Funding AQC</b>	The binding term sheet between the Seller and the Buyer and the Buyer Associates dated 15 February 2022.
<b>Third Party</b>	any person or entity (including a Governmental Agency) other than a Seller Group Member, a Buyer Group Member or a Target Entity.
<b>Third Party Claim</b>	any claim, Demand, legal proceedings or cause of action made or brought by a Third Party and includes all Liabilities arising from such claim.
<b>Title Claim</b>	a Claim made for breach of a Title Warranty or a Claim made under clause 7.4 in respect of a Title Warranty.
<b>Title Warranties</b>	the Seller Warranties contained in items 1, 2, 3, 8(a), 8(b), 8(c), 10(a) and 10(b) of Schedule 2.
<b>Transaction Agreements</b>	<ol style="list-style-type: none"> <li>1 Royalty Deed</li> <li>2 any other agreement that the parties agree in writing to be a "Transaction Agreement"</li> </ol>
<b>Trepang</b>	Trepang Services Pty Ltd ACN 149 489 065 and its Related Bodies Corporate (other than the Seller and the Target Entities).
<b>Trepang Unsecured Loan</b>	the Unsecured Loan referred to in Item 6 of Annexure A.

<b>Term</b>	<b>Meaning</b>
<b>Tribunal</b>	the administrative appeals tribunal and includes any court or tribunal replacing it or its functions or an equivalent tribunal in a state or territory of Australia.
<b>Withholding Amount</b>	the amount that the Buyer is required to pay to the Commissioner under section 14-200(3) of schedule 1 to the TA Act.

## 1.2 Interpretation

In this agreement:

- (a) Headings and bold type are for convenience only and do not affect the interpretation of this agreement.
- (b) The singular includes the plural and the plural includes the singular.
- (c) Words of any gender include all genders.
- (d) Other parts of speech and grammatical forms of a word or phrase defined in this agreement have a corresponding meaning
- (e) An expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency as well as an individual.
- (f) A reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this agreement.
- (g) A reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (h) A reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (i) A reference to a party to a document includes that party's successors and permitted assignees.
- (j) A reference to an agreement other than this agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.
- (k) A reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.
- (l) No provision of this agreement will be construed adversely to a party because that party was responsible for the preparation of this agreement or that provision.
- (m) A reference to a body, other than a party to this agreement (including an institute, association or authority), whether statutory or not:
  - (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,

is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

- (n) If a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
- (o) A reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
- (p) If an act prescribed under this agreement to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.
- (q) A reference to time is a reference to Brisbane time.
- (r) A reference to \$ is to Australian currency unless denominated otherwise.

### **1.3 Business Day**

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

### **1.4 Inclusive expressions**

Specifying anything in this agreement after the words 'include' or 'for example' or similar expressions does not limit what else is included.

### **1.5 Agreement components**

This agreement includes any schedule.

### **1.6 Term Sheet for Funding AQC**

The parties acknowledge and agree that:

- (a) any financial accommodation provided under the Term Sheet for Funding AQC (including all Holding Costs paid pursuant to Clause 5.3 and costs described in Clause 5.7) is deemed to form part of the financial accommodation provided under the Trepang Unsecured Loan;
- (b) no party will call for repayment of any financial accommodation provided under the Term Sheet for Funding AQC or paragraph (a) above unless this agreement is terminated or comes to an end (without Completion occurring) for any reason and in such event the provisions of the Trepang Unsecured Loan will apply; and
- (c) if this agreement is terminated or otherwise does not reach Completion in accordance with its terms then the Buyer (or Trepang, if the Buyer is not Trepang) may terminate the Term Sheet for Funding AQC on written notice to the Seller, in which case the Buyer (or Trepang, if the Buyer is not Trepang) will not be liable for any further funding under the Term Sheet for Funding AQC or this agreement from the date of termination.

### **1.7 Binding Offer and Term Sheet**

The parties agree that this agreement supersedes and replaces the Binding Offer and Term Sheet for Purchase of the Dartbrook Coal Project, dated 15 February 2022, which is terminated as at the date of this agreement.

## 2 Conditions for Completion

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### 2.1 Conditions precedent

Clauses 4 and 6 do not become binding on the parties and are of no force or effect unless and until each of the following Conditions have been satisfied or waived in accordance with clause 2.4:

- (a) **(Seller shareholder approval)**: If required by ASX in connection with the transactions contemplated under this agreement, the Seller obtaining the approval of its shareholders under ASX Listing Rule 11.1, 11.2 and/or 11.4 and meeting any other requirements of ASX and any applicable laws or regulations;
- (b) **(Mining Tenement change in effective control)**: To the extent consent is required by the conditions associated with any one or more of the Tenements, the Seller has received written notice from the applicable Minister providing its consent to the change in effective control of AQC Dartbrook in its capacity as holder of the Tenements (as applicable),  
  
either unconditionally or on terms that do not impose unduly onerous obligations on the Buyer (including any obligation to pay any money).

### 2.2 Notice

Each party must promptly notify the other in writing if it becomes aware that any Condition in clause 2.1 has been satisfied or has become incapable of being satisfied.

### 2.3 Reasonable endeavours and other obligations

- (a) The Seller must use all reasonable endeavours to ensure that the Conditions in clause 2.1(a) and 2.1(b) are satisfied as expeditiously as possible and in any event on or before the Cut Off Date and, in the case of the Condition in clause 2.1(b), if not satisfied by the Cut Off Date, then no later than the date which is 6 months after the Cut Off Date (or such later date agreed by the parties in writing).
- (b) The Seller must keep the other parties informed of the progress towards satisfaction of their respective obligations under clause 2.3(a).
- (c) If the applicable Minister's consent is required to the change in effective control of AQC Dartbrook in its capacity as holder of the Tenements ("**Change in Control Consent**"), the Seller authorises the Buyer to prepare and file all notices and applications to the Minister, or relevant Governmental Agencies, for the Change in Control Consent subject always to the written approval of the Seller, which approval shall not be unreasonably withheld.
- (d) Each party must cooperate with each other party in approaching the relevant Governmental Agencies for the purposes of obtaining the Change in Control Consent.
- (e) Each party must provide all reasonable assistance to the other as is necessary to satisfy the Conditions.
- (f) If requested by one party ('first party'), the other party must file all notices and applications for approval necessary to obtain the Change in Control Consent and must:
  - (1) consult with, and provide information to, the other party concerning any proposed approach by the first party to a Governmental Agency

or the content of any such application for approval and related material correspondence;

- (2) allow the first party and its representatives the opportunity to be present at any meetings with any such Governmental Agency.
- (g) Each party must provide all information as may be reasonably requested by the other party in connection with any notices and applications for approval (with competitively sensitive, privileged or confidential matters redacted).

## **2.4 Waiver**

The Conditions in clause 2.1 cannot be waived other than by agreement in writing between the Buyer and Seller.

## **2.5 Cut Off Date**

Subject to a party having complied with its obligations under clause 2.3, it may, by not less than 2 Business Days' notice to the other party, terminate this agreement at any time before Completion if:

- (a) the Condition in clause 2.1(a) is not satisfied, or waived in accordance with clause 2.4 (to the extent capable of waiver), by the Cut Off Date; or
- (b) the Conditions in clause 2.12.1(a) or 2.1(b) become incapable of satisfaction or the parties agree that any of the conditions in clause 2.1(a) or 2.1(b) cannot be satisfied.

## **2.6 Condition for change in effective control**

Subject to the Buyer and the Seller having complied with their respective obligations under clause 2.3, the Buyer or the Seller may, by not less than 2 Business Days' notice to the Seller, terminate this agreement at any time before Completion if the Condition in clause 2.1(b) is not satisfied, or waived in accordance with clause 2.4 (to the extent capable of waiver), by the date which is 6 months after the Cut Off Date.

## **2.7 No binding agreement for transfer**

For the avoidance of doubt, nothing in this agreement will cause a binding agreement for the transfer of the Sale Shares to arise unless and until the Conditions in clause 2.1(a) and 2.1(b) have been satisfied or waived in accordance with clause 2.4 and no person will obtain rights in relation to the Sale Shares as a result of this agreement unless and until those Conditions have been satisfied.

# **3 Termination**

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## **3.1 Termination by the Buyer**

If:

- (a) an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the Seller or any Target Entity;

- (b) a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed over the whole or a substantial part of the undertaking or property of the Seller or any Target Entity;
- (c) a holder of an Encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Seller or any Target Entity,
- (d) the Buyer becomes aware that a Seller Warranty is not true and the breach of the Seller warranty would reasonably be likely to result in a Loss claimable by the Buyer in excess of A\$1,000,000; or
- (e) the Seller materially breaches or does not materially fulfil its obligations under clause 5.1, where such breach would reasonably be likely to result in a Loss claimable by the Buyer in excess of A\$1,000,000; or
- (f) there is a material increase in the costs associated with the management, operation and holding of the Target Entity Assets between the date of this agreement and Completion,

then:

- (g) in respect of the events specified in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(e), 3.1(f), the Seller must notify the Buyer as soon as reasonably practicable after the occurrence of the event; and
- (h) irrespective of whether the Seller has notified the Buyer, the Buyer may terminate this agreement at any time before Completion by notice in writing to the Seller.

### **3.2 Termination by the Seller**

In addition to the rights of termination under clause 2.5, the Seller may terminate this agreement by written notice to the Buyer at any time prior to Completion if:

- (a) the Buyer commits a breach of the Buyer's obligations set out in clause 5.7, which is not remedied within 5 Business Days of receiving notice to do so from the Seller;
- (b) an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the Buyer;
- (c) a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed over the whole or a substantial part of the undertaking or property of the Buyer;
- (d) a holder of an Encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Buyer; or
- (e) the Seller becomes aware that a Buyer Warranty is not true and the breach of the Buyer Warranty would reasonably be likely to result in a Loss claimable by the Seller in excess of A\$1,000,000.

### **3.3 Effect of termination**

If this agreement is terminated under clause 2.5, 2.6, this clause 3, or clause 6.3, then:

- (a) each party retains the rights it has against the other in respect of any breach of this agreement occurring before termination;
- (b) the Buyer must return to the Seller all documents and other materials obtained from the Seller;



(c) the rights and obligations of each party under each of the following clauses and schedules will continue independently from the other obligations of the parties and survive termination of this agreement:

- (1) clause 1 (Definitions and Interpretation);
- (2) clause 3 (Termination);
- (3) clause 12 (Confidentiality and announcements);
- (4) clause 13 (Duties, costs and expenses);
- (5) clause 14 (GST); and
- (6) clause 16 (General).

### **3.4 No other right to terminate or rescind**

No party may terminate or rescind this agreement (including on the grounds of any breach of Seller Warranty or misrepresentation that occurs or becomes apparent before Completion) except as permitted under clause 2.5, 2.6, this clause 3, or clause 6.3.

## **4 Sale and purchase**

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### **4.1 Sale Shares**

On the day for Completion determined under clause 6.1, the Seller must sell, and the Buyer must buy, the Sale Shares for the Consideration free and clear of all Encumbrances.

### **4.2 Associated Rights**

The Seller must sell the Sale Shares to the Buyer together with all rights:

- (a) attached to them as at the date of this agreement; and
- (b) that accrue between the date of this agreement and Completion.

### **4.3 Consideration**

In consideration for the sale of the Sale Shares, on Completion, the Buyer will pay to the Seller \$1.00 (on demand).

### **4.4 Novation of Debt Amount**

On Completion, the Buyer Associates and the Buyer (or, if the Buyer is not Trepang, then the Buyer will procure Trepang) (as appropriate) agree to a novation of the Debt Amount from the Seller to AQC Investments, or other entity nominated by the Buyer in writing at least 5 Business Days before Completion, on terms and in a form acceptable to the Seller (acting reasonably), effective from Completion such that the Seller and its Related Bodies Corporate (other than the Target Entities) are released, discharged and indemnified from any and all Liabilities in connection with the Debt Amount. The Buyer will cause the Other Financiers to release and discharge any and all securities they may hold in respect of those Liabilities, over all entities that are not Target Entities.

#### **4.5 Forgiveness of Robinson Debt**

On or before Completion, the Buyer will:

- (a) procure the forgiveness of the amount owing by AQC Investments to John Robinson Jnr (**Robinson Debt**) totalling \$249,230.64 plus any accrued interest, calculated as at Completion;
- (b) procure John Robinson Jnr to enter into a deed of debt forgiveness (**Deed of Debt Forgiveness**) in respect of the forgiveness of the Robinson Debt on terms and conditions acceptable to AQC Investments in its sole discretion; and
- (c) deliver to the Seller on Completion, the original Deed of Debt Forgiveness executed by John Robinson Jnr and AQC Investments.

#### **4.6 Waiver of Interest**

- (a) Subject to Completion occurring, Trepang and the Buyer Associates (as appropriate):
  - (1) waive the right for interest to be accrued at any time under any of the Other Financiers Loan Agreements;
  - (2) waive any right to charge the Seller interest, whether relating to any past, present or future period, under any of the Other Financiers Loan Agreements.
- (b) The Buyer and the Buyer Associates represent and warrant to the Seller that no interest has been charged on any of the Other Financiers Loan Agreements at any time. and
- (c) The Buyer and the Buyer Associates hereby agree that they will not sue for, nor seek any recovery of, any interest under any of the Other Financiers Loan Agreements at any time.

#### **4.7 Release from Guarantee of the Anglo Loan**

On Completion, the Buyer will release, discharge and indemnify the Seller from its Guarantee of the Anglo Loan on terms and in a form acceptable to the Seller (acting reasonably).

#### **4.8 Royalty Deed**

On Completion, the Buyer agrees to procure that the Royalty Payer enter the Royalty Deed for payment of the Royalty to the Seller.

#### **4.9 Actions on Completion**

On Completion the Buyer must take such actions as reasonably necessary to ensure the Seller obtains the benefit of the Consideration.

#### **4.10 Title and risk**

Title to and risk in the Sale Shares passes to the Buyer on Completion.

#### 4.11 Nomination of alternative Buyer

- (a) The Original Buyer may nominate another person or persons to be the buyer or buyers of the Sale Shares under this agreement (the **Nominees**) by notice in writing to the Seller at least 5 Business Days before the Completion Date. The notice must state the identity of the Nominees.
- (b) From the date of receipt by the Seller of that notice (the **Notification Date**):
  - (1) the Original Buyer must ensure that the Nominees complies with all terms and conditions binding upon, and all obligations and liabilities of, the Buyer under this agreement;
  - (2) the parties agree to read and construe this agreement as if the references to 'the Buyer' were references to the Nominees (without the need for any further agreement or amendment); and
  - (3) the Seller agrees that the Nominees will have the benefit of the Buyer's rights under this agreement (including the Warranties).
- (c) Despite clause 4.11(b) the Original Buyer will continue to be bound by all of the obligations of the Buyer under this agreement and any Transaction Agreement to which the Original Buyer is a party and will not be released from any obligations or liabilities under this agreement or a Transaction Agreement following the Notification Date. However, the Seller agrees that the Original Buyer will not be in breach of this agreement or a Transaction Agreement for failing to discharge an obligation of the Buyer under this agreement or a Transaction Agreement if the Nominees fully discharges that obligation.
- (d) The Original Buyer must not, and must procure that the Nominees does not, make a Claim that could result in the Seller's liability being greater than it would have been if the Original Buyer had not exercised its nomination rights under clause 4.11(a).

## 5 Period before Completion

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### 5.1 Carrying on of business

- (a) The Buyer acknowledges that the Mine is an underground mine that has been operated, and is being operated, generally on a care and maintenance basis.
- (b) Subject to clause 5.2 and the Buyer having complied with its obligations under clause 5.7, between the date of this agreement and the earlier of Completion or termination of this agreement, the Seller must procure that:
  - (1) the business of the Target Entities is conducted materially in the ordinary course and substantially consistent with past practice;
  - (2) AQC Dartbrook keeps the Mining Tenements and Approvals in good standing, including by paying all rental, royalties, rates, fees and other charges in relation to the Mining Tenements and Approvals which fall due for payment;
  - (3) no members resolution of a Target Entity is passed (except where the resolution is required by a change to the law or this agreement);
  - (4) each Target Entity:

- (A) does not merge or consolidate with any other corporation or acquire the shares or the business or assets of any other person, firm, association, corporation or business organisation (or agree to do so);
- (B) does not enter into a material contract except with the Buyer's prior written consent (not to be unreasonably withheld or delayed);
- (C) does not assume or incur any material liability or expenditure except with the Buyer's prior written consent (not to be unreasonably withheld or delayed);
- (D) does not sell, dispose of, lease, grant an option or right of pre-emption over, or declare a trust in respect of, any of its shares or any of its other material assets (or agree to do so);
- (E) does not create an Encumbrance over any of its assets, other than in the ordinary course of business;
- (F) does not distribute or return any capital to its members or otherwise reduce its capital;
- (G) does not pay any dividends or make any other distributions of its profits;
- (H) does not buy back any of its shares;
- (I) does not make a loan that is not repaid or extinguished before Completion, other than any loans in respect of Holding Costs;
- (J) does not provide any guarantee or indemnity in respect of the obligations of any person;
- (K) does not enter into a power of attorney that is not terminated before Completion;
- (L) does not issue any shares, options or securities that are convertible into shares in that Target Entity;
- (M) does not alter its constitution;
- (N) does not settle or file any claim by or against a third party;
- (O) does not vary, terminate or fail to renew any Approval, other than as contemplated by the application to amend AQC Dartbrook's development consent lodged prior to the date of this agreement;
- (P) does not enter into or vary (or agree to do so) any enterprise agreement, award or other industrial instrument applying to the Mine, except where required to do so by law;
- (Q) does not vary (or agree to do so) any employment terms of any of its employees;
- (R) does not employ (or agree to do so) any new employee;
- (S) does not remove, or allow to be removed, any plant or equipment from the Properties other than in the ordinary course of business;
- (T) complies in all material respects with the terms and conditions of any material contracts to which it is a party;

- (U) does not terminate or vary any material term of, or do or omit to do anything which might result in a termination or variation of any material term of, or waive any material right under, any material contract to which it is party;
  - (V) complies with all applicable laws and administrative requirements binding on them;
  - (W) takes all reasonable steps to protect its assets;
  - (X) pays all rental, rates, royalties and other fees and charges which fall due for payment in respect of the Mining Tenements, the Approvals and the Properties;
  - (Y) if a Mining Tenement or Approval falls due for renewal, applies for and uses its reasonable endeavours to secure, the renewal of the Mining Tenement or Approval;
  - (Z) complies in all material respects with the terms and conditions of the Mining Tenements, Approvals and all Laws in respect of the Mining Tenements, the Approvals and the Properties;
  - (AA) provides and maintains all securities required under relevant statutory obligations in respect of the Mining Tenements and the Approvals;
  - (BB) does not submit any material notices or reports to a Governmental Agency in respect of the Mining Tenements, the Approvals or the Properties unless the Target Entity has allowed the Buyer a reasonable opportunity to review and comment on those documents before they are submitted and has had reasonable regard to the reasonable comments of the Buyer;
- (c) The Seller must:
- (1) provide the Buyer with copies of any material letters, notices or correspondence received by the Seller or a Target Entity from:
    - (A) a Governmental Agency in respect of the Mining Tenements, Approvals or Properties; or
    - (B) a counterparty to a Contract,
 as soon as reasonably practicable after being received by the Seller or Target Entity; or
  - (2) notify the Buyer of any material claim, demand, legal proceedings or cause of action in connection with the Mine or the assets of the Target Entities which may occur, be threatened, brought, asserted or commenced; and
  - (3) notify the Buyer of any abnormal or unusual events with respect to the Business or the occurrence of any event outside of the ordinary course of business.

## 5.2 Permitted act

- (a) Nothing in clause 5.1 restricts the Seller or any Target Entity from doing anything:
  - (1) **this agreement:** that is expressly contemplated in this agreement;

- (2) **ordinary course of business:** as reasonably required to operate in the ordinary course of the Business as at the date of this agreement;
  - (3) **emergencies:** to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property);
  - (4) **legal obligations:** that is necessary for a Target Entity to meet its legal or contractual obligations; or
  - (5) **Buyer approval:** approved by the Buyer, such approval not to be unreasonably withheld or delayed.
- (b) The Seller must notify the Buyer of anything done by the Seller or a Target Entity under clause 5.2(a), other than clause 5.2(a)(2), and anything done by the Seller under clause 5.2(a)(2) that materially affects the Target Entities or the Target Entity Assets.

### 5.3 Holding Costs

- (a) The Holding Costs including those paid by the Buyer under clause 5.7 will be capitalised and deemed to form part of the financial accommodation provided under the Trepanq Unsecured Loan.
- (b) For the avoidance of doubt, the Seller is not obliged to reimburse any Holding Costs if Completion occurs under this agreement.

### 5.4 Target Entity a member of a consolidated group

If any Target Entity is, or will be, a member of the Seller's Consolidated Group with effect from a date prior to Completion, the Seller must:

- (a) on or before Completion, enter into, a Tax Sharing Agreement with each Target Entity that:
  - (1) covers all Group Liabilities of the Seller's Consolidated Group which fall due after execution of that agreement; and
  - (2) satisfies the requirements of section 721-25 of the ITAA 1997;
- (b) on or before Completion, provide the Buyer with a copy of the Tax Sharing Agreement entered into between the Seller's Head Company and the Target Entities;
- (c) at least 10 Business Days prior to Completion, provide the Buyer with a draft calculation of the Exit Payment for each Target Entity, for the Buyer's review;
- (d) procure that each Target Entity pay the relevant Exit Payments to the Seller's Head Company at least one Business Day prior to Completion; and
- (e) if required by the Buyer, procure that, before Completion, the Seller's Head Company releases each Target Entity from its obligations under the Tax Sharing Agreement or under any Tax Funding Agreement entered into by the Target Entity.

### 5.5 Pre-Completion steps

The parties must comply with item 1 of Schedule 4.

## 5.6 Foreign resident capital gains withholding

- (a) The Seller warrants to the Buyer as at the date of this agreement and as at Completion that the Seller is an Australian Resident (as defined in the TA Act).
- (b) If Completion is after the end date indicated on the Clearance Certificate, the Seller must provide a replacement Clearance Certificate at least five Business Days prior to Completion.
- (c) The Buyer acknowledges and agrees that:
  - (1) the warranties given by the Seller under this clause 5.6 constitute a valid declaration under section 14-210(3) of Schedule 1 to the TA Act; and
  - (2) the Buyer will not be required to, and must not, withhold a Withholding Amount from any amount required to be paid by the Buyer under this agreement.

## 5.7 Management and Costs of Dartbrook

- (a) On and from the date of the Term Sheet for Funding AQC and for such time as this agreement remains in force, the Buyer must provide funds to the Seller Group or the relevant Target Company, as applicable in accordance with the Term Sheet for Funding AQC, including:-
  - (1) working capital in the amount of \$200,000 and if any reasonable costs are paid from this working capital with the prior written consent of the Buyer with such consent not to be unreasonably withheld, the Buyer will reimburse the Seller such that the working capital of the Seller remains no less than \$200,000;
  - (2) all reasonable costs of AQC (including those of AQC and AQC Dartbrook) incurred prior to the date of the Term Sheet for Funding AQC;
  - (3) all reasonable corporate costs (including costs anticipated or incurred for completion of the transaction contemplated by this agreement) of the Seller incurred after the date of the Term Sheet for Funding AQC until 31 October 2022;
  - (4) all reasonable holding costs incurred in relation to the Mining Tenements, Mine, real property and all other assets, plant and equipment, approvals and other rights and interests comprising the Dartbrook Coal Project as at the date of date of the Term Sheet for Funding AQC.
- (b) For the avoidance of doubt, the Buyer will not assume any statutory or regulatory responsibilities (except in respect of funding to be provided under clauses 5.7(a) and 5.7(c)) in connection with the Target Entity Assets until Completion occurs under this agreement.
- (c) The Buyer must pay 100% of all costs associated with the management, operation and holding of the Target Entity Assets between the date of the Term Sheet for Funding AQC and Completion or earlier termination.
- (d) The Buyer will provide the funds under this clause 5.7 to either the Seller Group or the relevant Target Company, as applicable' or directly to the relevant service provider within 5 Business Days after receipt of a valid tax invoice which is approved by the Buyer, with such approval not to be unreasonably withheld or delayed.

- (e) The funds provided and any other costs incurred by the Buyer under clause 5.7(a) and 5.7(c) do not attract interest or fees and neither interest nor fees are payable by the Seller Group or the Target Entities, as applicable, and will be deemed to be amounts advanced by Trepang and form part of the funds provided under the Trepang Unsecured Loan.
- (f) The Buyer must pay any and all costs referred to and in the manner set out in this clause 5.7, that are outstanding as at the date of this agreement, within 1 Business Day of the date of this agreement.

## 6 Completion

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### 6.1 Time and Place

Subject to clause 3, Completion must take place at the office of Herbert Smith Freehills at 480 Queen Street, Brisbane QLD, at 10 am on the day that is 5 Business Days after satisfaction or waiver of the Conditions in clause 2.1, or such other place, time and date as the Seller and Buyer agree.

### 6.2 Completion

- (a) On or before Completion, each party must carry out the Completion Steps referable to it in accordance with item 2 of Schedule 4.
- (b) Completion is taken to have occurred when each party has performed all its obligations under this clause 6 and item 2 of Schedule 4.

### 6.3 Termination for failure to complete

- (a) If a party (**Defaulting Party**) fails to satisfy its obligations under clause 6.2 and item 2 of Schedule 4 on the day and at the place and time for Completion determined under clause 6.1, then the other party (**Notifying Party**) may give the Defaulting Party a notice requiring the Defaulting Party to satisfy those obligations within a period of 10 Business Days (or two Business Days in respect of a payment obligation) from the date of the notice.
- (b) If the Defaulting Party fails to satisfy those obligations within the period specified in clause 6.3(a), then the Notifying Party may terminate this agreement by giving written notice to the Defaulting Party.

### 6.4 Completion simultaneous

- (a) Subject to clause 6.4(b), the actions to take place as contemplated by this clause 6 and Schedule 4 are interdependent and must take place, as nearly as possible, simultaneously. If one action does not take place, then without prejudice to any rights available to any party as a consequence:
  - (1) there is no obligation on any party to undertake or perform any of the other actions;
  - (2) to the extent that such actions have already been undertaken, the parties must do everything reasonably required to reverse those actions; and



- (3) the Seller and the Buyer must each return to the other all documents delivered to it under clause 6.2(a) and Schedule 4 and must each repay to the other all payments received by it under clause 6.2(a) and Schedule 4, without prejudice to any other rights any party may have in respect of that failure.
- (b) The Buyer may, in its sole discretion, waive any or all of the actions that the Seller is required to perform under clause 2.1 of Schedule 4 and the Seller may, in its sole discretion, waive any or all of the actions that the Buyer is required to perform under clause 2.2 of Schedule 4.

## **6.5 Seller to surrender access or compensation rights**

Any access or compensation rights held by the Seller with respect to the Target Entity Assets are surrendered and extinguished at Completion.

# **7 Seller Warranties and indemnities**

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## **7.1 Warranties by the Seller**

Subject to the qualifications and limitations in clause 8, the Seller represents and warrants to the Buyer that each Seller Warranty is true on the date of this agreement and immediately before Completion.

## **7.2 Independent Seller Warranties**

Each of the Seller Warranties is to be construed independently of the others and is not limited by reference to any other Seller Warranty.

## **7.3 Reliance**

The Seller acknowledges that the Buyer has entered into this agreement and will complete this agreement in reliance on the Seller Warranties.

## **7.4 Indemnity for breach of Seller Warranties**

The Seller indemnifies the Buyer against any Loss suffered or incurred by the Buyer as a result of a breach of a Seller Warranty, except to the extent that the Seller Warranty or the Seller's liability for the Loss are limited or qualified under clause 8 and this will be the sole remedy of the Buyer in respect of any breach.

## **7.5 Tax indemnity**

The Seller indemnifies the Buyer and each Target Entity against, and must pay the Buyer or the Target Entity the amount of, any:

- (a) Tax or Duty payable by a Target Entity to the extent that Tax or Duty relates to any period, or part period, up to and including Completion; and
- (b) Tax Costs incurred by or on behalf of a Target Entity to the extent those Tax Costs arise from or relate to any of the matters for which the Seller is liable under clause 7.5(a),

except to the extent that the Seller's liability for the Tax or Duty is limited or qualified under clause 8 or provided for in the Management Accounts at Completion.

## 7.6 Solvency Warranties

The Buyer acknowledges and agrees that each Seller Warranty in relation to solvency under section 3 of Schedule 2 is dependent upon the Buyer funding the Seller as required including the Buyer performing its obligations under the Term Sheet for Funding AQC.

## 8 Qualifications and limitations on Claims

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### 8.1 Disclosure

- (a) The Buyer acknowledges and agrees that the Seller has disclosed or is deemed to have disclosed against the Seller Warranties, and the Buyer is aware of, will be treated as having actual knowledge of, all facts, matters and circumstances that:
- (1) are provided for or described in this agreement or a Transaction Agreement;
  - (2) are fairly disclosed in or otherwise evident from the Disclosure Materials;
  - (3) would have been disclosed if the Buyer had conducted searches on the 10<sup>th</sup> Business Day before the date of this Agreement of records available for inspection by the public maintained by:
    - (A) ASIC;
    - (B) the PPS Register;
    - (C) the High Court of Australia, the Federal Court of Australia, the Federal Circuit Court, the Supreme Courts (throughout Australia), the District Court of New South Wales and the Land and Environment Court of New South Wales;
    - (D) the National Native Title Tribunal;
    - (E) the New South Wales Department of Planning and Environment;
    - (F) the New South Wales Office of Environment and Heritage; and
    - (G) the Commonwealth Department of Environment; or
  - (4) are within the actual knowledge of a Buyer Group Member or a Buyer Group Representative or Adviser or the Buyer Associates or either of them..
- (b) The Seller Warranties (other than the Tax Warranties) are given subject to the disclosures or deemed disclosures described in clause 8.1(a). The Seller will have no liability under the Seller Warranties (other than the Tax Warranties) to the extent that disclosure is made or is deemed to have been made against the Seller Warranties under this clause 8.1.
- (c) The Buyer must not make a Claim (other than a Tax Claim), and the Seller will not be in breach of a Seller Warranty, if the facts, matters or circumstances

giving rise to such Claim are disclosed or are deemed to have been disclosed under clause 8.1(a).

- (d) For the purpose of this clause 8.1, a fact, matter or circumstance is 'fairly disclosed' if sufficient information have been disclosed such that a sophisticated investor experienced in transactions of the nature of the Sale and familiar with the Business, would be aware of the substance and significance of the information and would be aware of the nature and extent of the breach of Seller Warranty.
- (e) Where a Seller Warranty is given 'to the best of the Seller's knowledge', or 'so far as the Seller is aware' or with a similar qualification as to the Seller's awareness or knowledge, the Seller will be deemed to know or be aware of a particular fact, matter or circumstance if a Specified Director:
  - (1) is aware of that fact, matter or circumstance on the date the Seller Warranty is given; or
  - (2) would reasonably be expected to be aware of that fact, matter or circumstance if, on the date the Seller Warranty is given, they had made reasonable enquiries as to the accuracy of the Seller Warranty.

## 8.2 No reliance

- (a) The Buyer represents and warrants to each Seller Group Member, that:
  - (1) no representations, warranties, promises, undertakings, statements or conduct:
    - (A) have induced or influenced the Buyer or the Buyer Group Members to enter into, or agree to any terms or conditions of, this agreement;
    - (B) have been relied on in any way as being accurate by a Buyer Group Member;
    - (C) have been warranted to a Buyer Group Member as being true; or
    - (D) have been taken into account by the Buyer as being important to its decision to enter into, or agree to any or all of the terms of, this agreement,except those expressly set out in this agreement (including in the Seller Warranties);
  - (2) it has entered into this agreement after investigation of the affairs of the Target Entities, the Target Entities Assets and the Sale Shares, including the Disclosure Material; and
  - (3) it has made, and it relies upon, its own searches, investigations, enquiries and evaluations in respect of the Seller, the Target Entities, the Target Entity Assets and the Sale Shares and the Business, except to the extent expressly set out in this agreement (including in the Seller Warranties).
  - (4) at no time has:
    - (A) any Seller Group Member or any person on its behalf, made or given; or
    - (B) any Buyer Group Member relied on,

any representation, warranty, promise or undertaking in respect of the future financial performance or prospects of the Target Entities);

(5) it has not relied on anything other than the Seller Warranties in agreeing to buy the Sale Shares and, in particular, no representations, warranties, promises, undertakings, statements or conduct in respect of the future financial performance or prospects of the Target Entities have:

(A) induced or influenced the Buyer to enter into, or agree to any terms or conditions of, this agreement;

(B) been relied on in any way as being accurate by a Buyer Group Member;

(C) been warranted to a Buyer Group Member as being true; or

(D) been taken into account by the Buyer as being important to its decision to enter into, or agree to any or all of the terms of, this agreement.

(b) The Buyer acknowledges that the Seller has agreed to sell the Sale Shares and enters into this agreement relying on the representations and warranties in this clause 8.2 and would not be prepared to sell the Sale Shares on any other basis.

### **8.3 Opinions, estimates and forecasts**

The parties acknowledge that no Seller Group Member is under any obligation to provide any Buyer Group Member or its advisers with any information on the future financial performance or prospects of the Target Entities. If a Buyer Group Member has received opinions, estimates, projections, business plans, budget information or other forecasts in respect of the Target Entities, the Buyer acknowledges and agrees that:

(a) there are uncertainties inherent in attempting to make these estimates, projections, business plans, budgets and forecasts and the Buyer is familiar with these uncertainties;

(b) the Buyer is taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections, business plans, budgets and forecasts furnished to it; and

(c) to the extent permitted by law, the Seller is not liable under any Claim arising out of or relating to any opinions, estimates, projections, business plans, budgets or forecasts in respect of the Target Entities.

Nothing in this clause 8.3 limits or derogates from the Buyer's representations and warranties in clause 8.2 or the Seller's reliance on those representations and warranties.

### **8.4 Maximum and minimum amounts**

(a) The Seller is not liable under a Claim (other than a Tax Claim) unless the amount finally agreed or adjudicated to be payable in respect of that Claim:

(1) exceeds \$50,000; and

(2) either alone or together with the amount finally agreed or adjudicated to be payable in respect of other Claims that satisfy clause 8.4(a)(1) exceeds \$200,000,

in which event, subject to clauses 8.4(b) and 8.4(c), the Seller is liable for all of that amount including the initial \$200,000.

- (b) Without limiting the effect of clause 8.4(c), the maximum aggregate amount that the Seller is required to pay in respect of:
  - (1) any Claim referable to a breach of a Title Warranty or Tax Claim (whenever made) is limited to the Consideration; and
  - (2) any other Claim not captured by clause 8.4(b)(1) (whenever made) is limited to 50% of the Consideration.
- (c) The maximum aggregate amount which the Seller is required to pay in respect of all Claims whenever made is limited to the Consideration.
- (d) For the purposes of clause 8.4(a)(1):
  - (1) Claims arising out of separate sets of facts, matters or circumstances will not be treated as one Claim, even if each set of facts, matters or circumstances may be a breach of the same Seller Warranty; and
  - (2) Claims of the same or similar nature arising out of the same or similar facts, matters and circumstances will be treated as one Claim.

## 8.5 Time limits

The Seller will only be liable under a Claim if:

- (a) the Buyer notifies the Seller of the Claim in accordance with clause 8.10 within:
  - (1) 6 years after Completion in respect of a Tax Claim;
  - (2) 2 years after Completion in respect of all other Claims; and
- (b) within 6 months after the date the Buyer is required to notify the Seller of the Claim under clause 8.10:
  - (1) the Claim has been agreed, compromised or settled; or
  - (2) the Buyer has issued and served legal proceedings against the Seller in respect of the Claim.

Clause 8.5(b) does not apply to a Claim that relates to a contingent liability if that contingent liability has not become an actual liability and is not due and payable. Once such contingent liability becomes an actual liability and is due and payable, clause 8.5(b) will apply and the Seller will not be liable unless the Buyer has issued or served legal proceedings against the Seller in respect of the Claim within 6 months after that contingent liability becoming an actual liability and is due and payable.

## 8.6 Recovery under other rights and reimbursement

- (a) The Seller is not liable under a Claim for any Loss to the extent that a Buyer Group Member or a Target Entity recovers, or is compensated for, by any other means, from another source whether by way of contract, indemnity or otherwise (including under a policy of insurance or from a Governmental Agency).
- (b) If, after the Seller has made a payment in respect of a Claim, a Buyer Group Member or a Target Entity recovers or is compensated for by any other means, any Loss that gave rise to the Claim, the Buyer must immediately pay to the Seller as an increase in the Consideration, the amount of the Loss that was recovered or compensated for, less the total of:
  - (1) all costs and expenses, including the net present value of increased insurance premiums, incurred by the Buyer Group Member or the Target Entity that relate directly to the fact, matter or circumstance giving rise to the Claim; and

- (2) any Tax payable by the Buyer Group Member or the Target Entity on that amount.

## 8.7 Mitigation of loss

- (a) The Buyer must:
  - (1) take, and procure that each other Buyer Group Member and Target Entity takes (to the extent that the taking of such action by the Target Entity is within a Buyer Group Member's control), all reasonable actions to mitigate any Loss that may give rise to a Claim; and
  - (2) not omit, and procure that no other Buyer Group Member or Target Entity omits (to the extent that the taking of such action by the Target Entity is within a Buyer Group Member's control), to take any reasonable action that would mitigate any Loss that may give rise to a Claim.
- (b) If the Buyer does not comply with clause 8.7(a) and compliance with clause 8.7(a) would have mitigated the Loss, the Seller is not liable for the amount by which the Loss would have been reduced.

## 8.8 General limitations

The Seller is not liable under a Claim for any Loss or amount described below:

- (a) **(provision in management accounts)**: has been included as a provision, allowance, reserve or accrual in the Management Accounts;
- (b) **(contingent losses)**: a contingent Loss, unless and until the Loss becomes an actual Loss and is due and payable;
- (c) **(pre-Completion actions)**: arises from an act or omission by or on behalf of a Seller Group Member or a Target Entity before Completion that was done or made:
  - (1) by a Buyer Group Member pursuant to clause 5.7; or
  - (2) with the written consent of a Buyer Group Member;
  - (3) at the written direction or instruction of a Buyer Group Member;
- (d) **(post-Completion conduct)**: arises from anything done or not done after Completion by or on behalf of a Buyer Group Member or a Target Entity (to the extent such thing was within the Buyer's control) other than in the ordinary course of business and:
  - (1) in reliance of this agreement or to satisfy an obligation under this agreement of the Buyer (including under clause 8.7); or
  - (2) to satisfy an obligation under any legislation, regulations or judicial or governmental requirement in force as at Completion;
- (e) **(change of law or interpretation)**: arises from:
  - (1) the enactment or amendment of any legislation or regulations;
  - (2) a change in the judicial interpretation of the law; or
  - (3) a change in the practice or policy of any Governmental Agency,after the date of this agreement, including legislation, regulations, amendments, interpretation, practice or policy that has a retrospective effect;

- (f) **(consequential loss)**: is special loss or damage, indirect loss or damage or consequential loss or damage (provided that this clause 8.8(f) will not limit the Seller's liability to the Buyer in respect of, or prevent the Buyer from recovering from the Seller, in a Claim against the Seller for breach of a Seller Warranty, any diminution in value of the Sale Shares as a result of the relevant facts, matters or circumstances that made the Seller Warranty untrue or inaccurate); or
- (g) **(legal costs)**: is not a reasonable legal cost.

## 8.9 Sole remedy

- (a) It is the intention of the parties that the Buyer's and Buyer Group's sole remedies in connection with the Sale will be as set out in this agreement.
- (b) No Seller Group Member has any liability to a Buyer Group Member or a Target Entity:
  - (1) in connection with the Sale or the matters the subject of this agreement or the Disclosure Materials; or
  - (2) resulting from or implied by conduct made in the course of communications or negotiations in respect of the Sale or the matters the subject of this agreement or the Disclosure Materials,
 under a Claim unless the Claim may be made under the terms of this agreement or arises out of a statutory right or other claim that cannot be excluded by contract.

## 8.10 Notice of Claims

- (a) **(Potential Claims)**: The Buyer must also promptly notify the Seller if the Buyer believes that it would be entitled to make a Claim against the Seller.
- (b) **(Details required)**: The Buyer must include in each notice given under clause 8.10(a) reasonable details (including as far as reasonably practicable an estimate of the amount) then known to a Buyer Group Member of the Claim and the events, matters or circumstances giving rise to the Claim.
- (c) **(Developments)**: The Buyer must also, on an on-going basis, keep the Seller informed of all material developments in relation to the Claim notified under clause 8.10(a).

## 8.11 Third Party Claims

Despite any other provision under a Transaction Agreement, the following additional obligations apply in respect of Third Party Claims:

- (a) **(No admission)**: The Buyer must not, and must ensure that each Target Entity and Buyer Group Member does not (to the extent within the Buyer's control):
  - (1) accept, compromise or pay,
  - (2) agree to arbitrate, compromise or settle; or
  - (3) make any admission or take any action in relation to,
 a Third Party Claim that may lead to liability on the part of the Seller under a Claim without the Seller's prior written approval.
- (b) **(Defence of claim)**: Following receipt of a notice under clause 8.10 in respect of a Claim that arises from or involves or could potentially involve a Third Party

Claim, the Seller may, by giving written notice to the Buyer, assume the conduct of the defence of the Third Party Claim.

- (c) **(Seller assumes conduct)**: If the Seller advises the Buyer that it wishes to assume the conduct of the defence of the Third Party Claim:
- (1) **(indemnity)**, then provided that the Seller provides the Buyer with an indemnity against all Loss that may result from such action, the Buyer must promptly take, and must procure that each Buyer Group Member and Target Entity (to the extent within a Buyer Group Member's control) promptly takes, all action reasonably requested by the Seller to avoid, contest, compromise or defend the Third Party Claim, including using professional advisers nominated by the Seller and approved by the Seller for this purpose; and
  - (2) **(access)** the Buyer must provide, and must procure that each Buyer Group Member and Target Entity provides, the Seller with all reasonable assistance requested by it in relation to the Third Party Claim, including providing access to witnesses and documentary or other evidence relevant to the Third Party Claim, allowing it and its legal advisers to inspect and take copies of all relevant books, records, files and documents, and providing it with reasonable access to the personnel, premises and chattels of the Buyer Group Members and the Target Entities for the sole purpose of obtaining information in relation to the Third Party Claim.
- (d) **(Conduct of claim by Seller)**: If the Seller assumes the conduct of the defence of a Third Party Claim, in conducting any proceedings or actions in respect of that Third Party Claim the Seller must:
- (1) act in good faith; and
  - (2) liaise with the Buyer in relation to the defence of the Third Party Claim; and
  - (3) provide the Buyer with reasonable access to a copy of any notice, correspondence or other document relating to the Third Party Claim, provided the Seller is not required to do anything that is reasonably likely to cause a loss of client lawyer professional privilege or any other legal privilege and is not inconsistent with a right a relevant insurer may have in respect of the subject Third Party Claim.
- (e) **(Buyer assumes conduct)**: If the Seller advises the Buyer that it does not wish to assume the conduct of the defence of the Third Party Claim, then the Buyer must procure that any Buyer Group Member or Target Entity that is conducting any proceedings or actions in respect of that Third Party Claim:
- (1) acts in good faith;
  - (2) liaises with the Seller in relation to the defence of the Third Party Claim; and
  - (3) provides the Seller with reasonable access to a copy of any notice, correspondence or other document relating to the Third Party Claim, provided the Buyer is not required to do anything that is reasonably like to cause a loss of client lawyer professional privilege or any other legal privilege and is not inconsistent with a right a relevant insurer may have in respect of the subject Third Party Claim.



## 9 Buyer Warranties

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### 9.1 Buyer Warranties

The Buyer gives the Buyer Warranties in favour of the Seller on the date of this agreement and the Buyer Warranties will be deemed to be repeated at Completion.

### 9.2 Independent Warranties

Each of the Buyer Warranties is to be construed independently of the others and is not limited by reference to any other Buyer Warranty.

### 9.3 Reliance

The Buyer acknowledges that the Seller has entered into this agreement and will complete this agreement in reliance on the Buyer Warranties.

### 9.4 Indemnity for breach of Buyer Warranties

The Buyer hereby indemnifies and forever holds harmless the Seller against any Loss suffered or incurred by the Seller as a result of a breach of a Buyer Warranty and must pay the Seller an amount equal to that Loss on demand.

## 10 Post-Completion appointment of proxy

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- (a) From Completion until the Sale Shares are registered in the name of the Buyer, the Seller must:
- (1) appoint the Buyer as the sole proxy of the holders of Sale Shares to attend shareholders' meetings and exercise the votes attaching to the Sale Shares;
  - (2) not attend and vote at any shareholders' meetings;
  - (3) take all other actions in the capacity of a registered holder of the Sale Shares as the Buyer directs.
- (b) The Buyer indemnifies the Seller against all Loss suffered or incurred by it arising out of the implementation of any action taken in accordance with the proxy referred to in clause 10(a).

## 11 Exclusivity

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- (a) Subject to sub-clause 11(b), on and from the date of this agreement until the termination of this agreement (or Completion occurs), the Seller must not, and must procure that its Related Bodies Corporate, directors, officers and employees do not:
- (1) solicit, initiate or encourage any enquiries, proposal, discussions or negotiations, or communicate any intention to do any of those things, in relation to any proposal, transaction or arrangement, whether direct or indirect, in relation to the sale or other disposal (directly or

- indirectly) of all or part of the Sale Shares, the Target Entity Assets or the Business (or any interest in any of them) (**Competing Proposal**); or
- (2) participate in any discussions or negotiations with any party in relation to a Competing Proposal; or
  - (3) enter into any contract, transaction, arrangement or understanding with any party in relation to a Competing Proposal.
- (b) The Seller is not required to comply with clause 11(a) if to do so would cause a director or officer of the Seller to breach his or her duties under the Corporations Act.
- (c) If the Seller or any Target Entities receives a proposal or offer for a Competing Proposal then the Seller must give a copy of the Competing Proposal to the Buyer within 1 Business Day of receipt.

## 12 Confidentiality and announcements

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### 12.1 Agreed announcement

A party must not make any other public announcement relating to this agreement or a Transaction Agreement (including the fact that the parties have executed this agreement or any Transaction Agreement) unless the other party has consented to the announcement in writing, including the timing, form and content of that disclosure, or unless the announcement would be permitted under an exemption in clauses 12.2(a)(1) or 12.2(a)(2).

### 12.2 Confidentiality

- (a) Each party (**recipient**) must keep secret and confidential, and must not divulge or disclose any information relating to another party or its business (which is disclosed to the recipient by the other party, its representatives or advisers), this agreement or any Transaction Agreement or the terms of the Sale other than to the extent that:
- (1) the information is in the public domain as at the date of this agreement (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the recipient);
  - (2) the recipient is required to disclose the information by applicable law or the rules of any recognised stock exchange on which its shares or the shares of any of its Related Bodies Corporate are listed, provided that to the extent practicable the recipient has consulted with the provider of the information as to the form and content of the disclosure;
  - (3) the disclosure is made by the recipient to its financiers or lawyers, accountants, investment bankers, consultants or other professional advisers to the extent necessary to enable the recipient to properly perform its obligations under this agreement or to conduct their business generally, in which case the recipient must ensure that such persons keep the information secret and confidential and do not divulge or disclose the information to any other person;

- (4) the disclosure is necessary to seek satisfaction of any of the conditions in clause 2.1, provided that the relevant Governmental Agency and any relevant financier is made aware of the confidential nature of the information and is instructed to keep the information secret and confidential and does not divulge or disclose the information to any other person;
  - (5) the disclosure is required by law in Australia or elsewhere (other than under section 275 of the PPSA to the extent that disclosure is not required under that section if it would breach a duty of confidence);
  - (6) the disclosure is required for use in legal proceedings regarding this agreement or the Sale; or
  - (7) the party to whom the information relates has consented in writing before the disclosure.
- (b) Each recipient must ensure that its directors, officers, employees, agents, representatives and Related Bodies Corporate comply in all respects with the recipient's obligations under this clause 12.2.
  - (c) Nothing in this agreement is to be construed as constituting the consent of a party, with respect to a Security Interest created by this agreement, to the disclosure of the terms of this agreement for the purpose of section 275(7) of the PPSA. No party who is the grantor of a Security Interest under this agreement will, after the date of this agreement, consent to the disclosure of the terms of this agreement to an interested person for the purpose of section 275 of the PPSA.
  - (d) To the extent not prohibited by the PPSA, each party that is the grantor of a Security Interest under this agreement waives its right to receive any notice otherwise required to be given by a secured party under section 157 (verification statements) or any other provision of the PPSA.

## 13 Duties, costs and expenses

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### 13.1 Duties

The Buyer must pay all Duty in respect of the execution, delivery and performance of this agreement and any agreement or document entered into or signed under this agreement and each Transaction Agreement.

### 13.2 Costs and expenses

- (a) Unless otherwise provided for in this agreement, each party must pay its own costs and expenses in respect of the negotiation, preparation, execution, delivery and registration of this agreement and any other agreement or document entered into or signed under this agreement (including each Transaction Agreement).
- (b) Any action to be taken by the Buyer or the Seller in performing its obligations under this agreement must be taken at its own cost and expense unless otherwise provided in this agreement.

## 14 GST

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### 14.1 Definitions

Words used in this clause 14 that have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context indicates otherwise.

### 14.2 GST

- (a) Unless expressly included, the consideration for any supply under or in connection with this agreement does not include GST.
- (b) To the extent that any supply made under or in connection with this agreement is a taxable supply (other than any supply made under another agreement that contains a specific provision dealing with GST), the recipient must pay, in addition to the consideration provided under this agreement for that supply (unless it expressly includes GST) an amount (additional amount) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.
- (c) Whenever an adjustment event occurs in relation to any taxable supply to which clause 14.2(b) applies:
  - (1) the supplier must determine the amount of the GST component of the consideration payable; and
  - (2) if the GST component of that consideration differs from the amount previously paid, the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.

### 14.3 Tax invoices

The supplier must issue a Tax Invoice to the recipient of a supply to which clause 14.2 applies no later than 7 days following payment of the GST inclusive consideration for that supply under that clause.

### 14.4 Reimbursements

If either party is entitled under this agreement to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent that the cost or expense is the consideration for a creditable acquisition made by the party being reimbursed or indemnified, or by its representative member.

## 15 Notices

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### 15.1 Form of Notice

A notice or other communication to a party under this agreement (**Notice**) must be:

- (a) in writing and in English; and

- (b) addressed to that party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending party by Notice).

## 15.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.  
(b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid ordinary post to the nominated address – within Australia to an Australian address	At 9.00am (addressee's time) on the fourth Business Day after the date of posting
By pre-paid airmail to the nominated address – to or from an address outside of Australia	At 9.00am (addressee's time) on the tenth Business Day after the date of posting
By email to the nominated email address	When the email (including any attachment) comes to the attention of the recipient party or a person acting on its behalf.

## 15.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 15.2).

## 16 General

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### 16.1 Governing law

This agreement is governed by the law in force in New South Wales, Australia.

### 16.2 Dispute resolution

Each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any

proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

### 16.3 Service of process

Without preventing any other mode of service, any document in an action (including, any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of notices under clause 15.

### 16.4 Invalidity and enforceability

- (a) If any provision of this agreement is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 16.4(a) does not apply where enforcement of the provision of this agreement in accordance with clause 16.4(a) would materially affect the nature or effect of the parties' obligations under this agreement.

### 16.5 Waiver

- (a) No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.
- (b) In this clause 16.5:
  - (1) **conduct** includes delay in the exercise of a right;
  - (2) **right** means any right arising under or in connection with this agreement and includes the right to rely on this clause; and
  - (3) **waiver** includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.
- (c) A provision of, or a right, discretion or authority created under, this agreement may not be:
  - (1) waived except in writing signed by the party granting the waiver; and
  - (2) varied except in writing signed by the parties.
- (d) A failure or delay in exercise, or partial exercise, of a power, right, authority, discretion or remedy arising from a breach of, or default under this agreement does not result in a waiver of that right, power, authority, discretion or remedy.

### 16.6 Variation

A variation of any term of this agreement must be in writing and signed by the parties.

### 16.7 Assignment

- (a) Rights arising out of or under this agreement are not assignable by a party without the prior written consent of the other party.
- (b) A breach of clause 16.7(a) by a party entitles the other party to terminate this agreement.

- (c) Clause 16.7(b) does not affect the construction of any other part of this agreement.

## **16.8 Further action to be taken at each party's own expense**

Subject to clause 13, each party must, at its own expense, do all things and execute all documents necessary to give full effect to this agreement and the transactions contemplated by it.

## **16.9 Relationship of the parties**

- (a) Nothing in this agreement gives a party authority to bind any other party in any way.
- (b) Nothing in this agreement imposes any fiduciary duties on a party in relation to any other party.

## **16.10 Remedies cumulative**

Except as provided in this agreement and permitted by law, the rights, powers and remedies provided in this agreement are cumulative with and not exclusive to the rights, powers or remedies provided by law independently of this agreement.

## **16.11 Counterparts**

- (a) This agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this agreement by signing any counterpart.

## **16.12 No merger**

The Seller Warranties, Buyer Warranties, undertakings and indemnities in this agreement will not merge on Completion.

## **16.13 Entire Agreement**

This agreement states all the express terms of the agreement between the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

## **16.14 No reliance**

Neither party has relied on any statement by the other party not expressly included in this agreement.

## **16.15 Section 55 Property Law Act**

Each party agrees that:

- (a) for the purposes of section 55 of the *Property Law Act 1974* (Qld):
  - (1) each director, officer or employee of a Seller Group Member, or a Seller Group Member or Seller Group Representative or Adviser (**Seller Group Beneficiary**) that is not a party to this agreement is a

- “beneficiary” of this agreement in respect of provisions of this agreement which are expressed to benefit them; and
- (2) the Seller, as agent for each Seller Group Beneficiary, hereby accepts the benefit of such provisions;
  - (3) each Seller Group Beneficiary will have the benefit of such provisions as if they were a party to this agreement;
- (b) for the purposes of section 55 of the *Property Law Act 1974* (Qld):
- (1) each director, officer or employee of a Buyer Group Member, or a Buyer Group Member or Buyer Group Representative or Adviser (**Buyer Group Beneficiary**) that is not a party to this agreement is a “beneficiary” of this agreement in respect of provisions of this agreement which are expressed to benefit them; and
  - (2) the Seller, as agent for each Buyer Group Beneficiary, hereby accepts the benefit of such provisions; and
  - (3) each Buyer Group Beneficiary will have the benefit of such provisions as if they were a party to this agreement.
- (c) for the purposes of section 55 of the *Property Law Act 1974* (Qld):
- (1) each director, officer or employee of a Target Entity, or a Target Entity (**Target Entity Beneficiary**) that is not a party to this agreement is a “beneficiary” of this agreement in respect of provisions of this agreement which are expressed to benefit them; and
  - (2) the Seller, as agent for each Target Entity Beneficiary, hereby accepts the benefit of such provisions; and
  - (3) each Target Entity Beneficiary will have the benefit of such provisions as if they were a party to this agreement.

## 16.16 No withholdings

- (a) The Buyer and the Seller must make all payments that become due under this agreement, free and clear and without deduction of all present and future withholdings (including taxes, duties, levies, imposts, deductions and charges of Australia or any other jurisdiction).
- (b) If the Buyer or the Seller is compelled by law to deduct any withholding, then in addition to any payment due under this agreement, it must pay to the other party (the recipient) such amount as is necessary to ensure that the net amount received by the recipient after withholding equals the amount the recipient would otherwise been entitled to if not for the withholding.

## 16.17 Further assurances

Each party must do everything reasonably necessary (including executing or producing documents, getting documents executed or produced by others and obtaining consents, registering documents) to give effect to this agreement including the transactions contemplated by it.



## Schedules

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### [Annexure A](#)

# Schedule 1

## Notice details

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### **Seller**

Address

Attention

Phone

Email

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### **Buyer**

Address SWJR Nominees Pty Ltd, Suite 6, 170 Coonawarra Road, Winnellie  
NT 0820

Attention John Robinson

Phone 0419 825 669

Email john@evogroupnt.com.au

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### Seller Warranties

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#### 1 Ownership and structure

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##### 1.1 Group structure

- (a) All the Target Entities are wholly owned subsidiaries of the Seller.
- (b) No Target Entity is the holder or beneficial owner of any shares or other securities or other capital in any entity (other than in another Target Entity) and does not hold any interest in any trust or partnership.

##### 1.2 Ownership

- (a) At Completion:
  - (1) the Seller is the legal and beneficial owner of the Sale Shares;
  - (2) the Sale Shares comprise 100% of the issued capital of AQC Investments; and
  - (3) the Buyer will acquire the full legal and beneficial ownership of the Sale Shares free and clear of all Encumbrances, subject to registration of the Buyer in the register of shareholders.
- (b) AQC Investments is, and at Completion will be, the sole legal and beneficial owner of all of the issued share capital of AQC Dartbrook and AQC Management.
- (c) AQC Dartbrook is, and at Completion will be, the sole legal and beneficial owner of all of the issued share capital of AQC Sales.
- (d) For each Target Entity:
  - (1) at Completion, all of its shares are free and clear of all Encumbrances, and there is no agreement to give or create any Encumbrances over its shares;
  - (2) its shares can be sold and transferred free of any competing rights, including pre-emptive rights or rights of first refusal;
  - (3) its shares have been validly issued and are fully paid and no money is owing in respect of them;
  - (4) it is not under any obligation to issue, and no person has the right to call for the issue or transfer of, any shares or other securities in it at any time other than the convertible notes issued to the Buyer or the Buyer's Associates (or either of them);
  - (5) it has not issued securities with conversion rights to shares or securities in it and there are no agreements or arrangements under which options or convertible notes have been issued by it other than the convertible

- notes issued to the Buyer or the Buyer's Associates (or either of them);  
and
- (6) there is no shareholder agreement, voting trust, proxy or other arrangement or understanding relating to the voting of its shares.

## 2 Power and authority

---

### 2.1 No legal impediment

The execution, delivery and performance by the Seller of this agreement:

- (a) complies with its constitution; and
- (b) does not constitute a breach of any law or obligation, or cause or result in a default under any agreement or Encumbrance, by which it is bound and that would prevent it from entering into and performing its obligations under this agreement.

### 2.2 Corporate Authorisations

All necessary authorisations for the execution, delivery and performance by the Seller of this agreement in accordance with its terms have been obtained or will be obtained before Completion, other than the consents and approvals required under clause 2.1.

### 2.3 Power and capacity

The Seller has full power and capacity to enter into and perform its obligations under this agreement.

### 2.4 Incorporation

The Seller is validly incorporated, organised and subsisting in accordance with the laws of its place of incorporation.

### 2.5 No trust

The Seller enters into and performs this agreement on its own account and not as trustee for or nominee of any other person.

### 2.6 Target Entities

Each Target Entity:

- (a) is validly incorporated, organised and subsisting in accordance with the laws of its place of incorporation; and
- (b) has full corporate power and authority to own its assets.

### 3 Solvency and related matters

---

- (a) The warranties given in this Clause 3 are given as at the date of this agreement and are not continuing warranties. No promise, representation or warranty is given that they, or any of them, apply until or upon Completion.
- (b) Neither the Seller nor a Target Entity has:
  - (1) gone, or is proposed to go, into liquidation;
  - (2) passed a winding-up resolution or commenced steps for winding-up or dissolution; or
  - (3) received a deregistration notice under section 601AB of the Corporations Act or any communication from ASIC that might lead to such a notice or applied for deregistration under section 601AA of the Corporations Act.
- (c) No petition or other process for winding-up or dissolution has been presented or threatened in writing against the Seller or a Target Entity and, so far as the Seller is aware, there are no circumstances justifying a petition or other process.
- (d) No receiver, receiver and manager, judicial manager, liquidator, administrator or like official has been appointed, or is threatened or expected to be appointed, over the whole or a substantial part of the undertaking or property of the Seller or a Target Entity, and, so far as the Seller is aware, there are no circumstances justifying such an appointment.
- (e) Neither the Seller nor a Target Entity has entered into, or taken steps or proposed to enter into, any arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them.
- (f) No writ of execution has issued against the Seller or a Target Entity or any of their respective assets and, so far as the Seller is aware, there are no circumstances justifying such a writ.
- (g) Each of the Seller and each Target Entity is able to pay its debts as and when they fall due. Each of the Seller and each Target Entity is not taken under applicable laws to be unable to pay its debts and has not stopped or suspended, or threatened to stop or suspend, payment of all or a class of its debts.

### 4 Information

---

- (a) All copies of documents provided by any Seller Group Member to any Buyer Group Member in the Disclosure Materials, are true and complete copies in all material respects.
- (b) As at the date of this agreement, the Seller has not knowingly withheld any information from the Buyer because the Seller believed that the provision of that information would affect the Buyer's willingness to proceed with the purchase of the Sale Shares.

## 5 Registers, returns and filings

---

- (a) The register of shareholders, statutory books and other registers of each Target Entity are up to date and have been properly kept in accordance (in all material respects) with all legal requirements.
- (b) So far as the Seller is aware, all returns, resolutions and other documents which each Target Entity is required by law to file with or deliver to ASIC have been correctly made up and duly filed or delivered.

## 6 Powers of attorney

---

None of the Target Entities have granted any power of attorney or similar authority which will remain in force at Completion (other than under a Transaction Agreement).

## 7 Financial position of Target Entities

---

- (a) The Management Accounts have been prepared by the Seller with due care and attention and give a reasonable view of the financial position of the Target Entities as at the end of the period in respect of which they have been prepared and of their performance for the period in respect of which they have been prepared, having regard to the fact that they are management accounts which have not been audited or prepared on a statutory basis.
- (b) As at Completion:
  - (1) there are no financing agreements or arrangements entered into by any Target Entity for the borrowing of money;
  - (2) there are no debentures, bonds, notes or similar debt instruments issued by any Target Entity;
  - (3) there are no guarantees given by any Target Entity, or to which any Target Entity is otherwise subject, in relation to any other Target Entity or any other person; and
  - (4) no Target Entity has any financial indebtedness (other than financial indebtedness in respect of trade payables incurred in the ordinary course of business).

other than financing agreements with the Buyer or the Buyer Associates (or either of them).

## 8 Properties

---

- (a) The Properties are:
  - (1) fully paid for;
  - (2) the absolute property of a Target Entity free and clear of all Encumbrances (including any agreement or commitment to give or

- create any Encumbrances) other than any Encumbrances granted in connection with the Other Financiers Loan Agreements; and
- (3) not the subject of any lease or hire purchase agreement or agreement for purchase on deferred terms.
- (b) Neither the Seller nor any Seller Group Member has agreed to dispose of, granted or agreed to grant any option or right of pre-emption in respect of any of the Properties to any person.
  - (c) A Target Entity is the sole legal and beneficial owner of the Properties free from any Encumbrances other than any Encumbrances granted in connection with the Other Financiers Loan Agreements.
  - (d) All rates and land tax which are due and payable in respect of the Properties (including any arrears and interest) have been fully paid.
  - (e) The Properties are all of the interests in respect of real property held by the Target Entities.
  - (f) There are no instruments, other than leases, which create a third party right or interest in the Properties other than any right granted in connection with the Other Financiers Loan Agreements.

## 9 Contracts

---

- (a) No Target Entity is in material breach under any Contract to which it is a party and, so far as the Seller is aware as at the date of this agreement:
  - (1) each Contract is in full force and effect;
  - (2) no other party to any Contract is in material breach under that Contract; and
  - (3) no Target Entity has received, or given, any notice of termination of any Contract to which it is a party.

## 10 Mining Tenements

---

- (a) AQC Dartbrook is the 100% legal and beneficial owner of the Mining Tenements free and clear of all Encumbrances (including any agreement or commitment to give or create any Encumbrances).
- (b) Each Mining Tenement is in full force and effect, valid, in good standing and is not liable to forfeiture, termination, cancellation or suspension for any reason (other than as a result of non-renewal).
- (c) All material obligations and liabilities under the terms of each Mining Tenement have been met and satisfied and there are no outstanding material non-compliances with applicable laws in relation to each Mining Tenement.
- (d) So far as the Seller is aware, the operations on the Mining Tenements have not materially contravened any part of the Mining Act.
- (e) All rent and other administrative fees payable under the Mining Tenements which have fallen due for payment are fully paid, and no penalties are owed.

- (f) All private and statutory royalties related to the Mining Tenements and the Properties which have fallen due for payment have been fully paid, and no penalties are owed.
- (g) All returns for the Mining Tenements have been lodged, and no penalties have been imposed for late lodgement.
- (h) All compensation payable under any compensation agreements with landholders which has fallen due for payment has been paid, and no Target Entity is in breach of any of the terms of such agreements or is aware of any circumstances which might give rise to a breach by a Target Entity under such agreements.
- (i) No Target Entity is party to any agreement which requires it to pay a royalty on coal produced or sold by the Business (other than royalties which are payable under the Mining Act 1992 (NSW)) or otherwise share the Target Entity's interest in the coal produced or sold by the Business.

## 11 Environment

---

- (a) As at the date of this agreement, the Seller is not aware of any investigations being conducted or proceedings being taken or threatened by any Governmental Agency or by any person, under any Environmental Laws in respect to the Mine, the Business and the Target Entity Assets.
- (b) As at the date of this agreement each Approval is in full force and effect.
- (c) Each Target Entity has complied with, in all material respects, all material terms and conditions of the Approvals and Environmental Laws in respect to the Mine, the Business and the Target Entity Assets.
- (d) As at the date of this Agreement, no Target Entity has received written notice of any civil, criminal or administrative action or other proceeding or suit under any Environmental Law.
- (e) All Contamination on the Properties, or Contamination arising elsewhere (including by dispersal into the air) as a result of the Target Entities activities related to the Mining Tenements, that the Seller is aware of and that is required to be notified to a Governmental Agency under an Approval has been notified to the relevant Governmental Agency.
- (f) No Target Entity has received from any person, other than a Governmental Agency, any notices of alleged Contamination on the Properties or Contamination arising elsewhere (including by dispersal into the air) as a result of the Target Entities activities related to the Mining Tenements.
- (g) No Target Entity has received any correspondence from a Governmental Agency advising that any aspects of remediation or rehabilitation of the Mining Tenements by or on behalf of the Target Entity is, or has been, unsatisfactory.

## 12 Compliance with Laws

---

As far as the Seller is aware, there has been no breach by a Target Entity of any Law or any legally binding requirement of any Governmental Agency relating to the Mine, the Business and the Target Entity Assets in the three years prior to the date of this Agreement which



would have a material adverse effect on the operation of the Mine, the Business and the Target Entity Assets as at Completion.

## 13 Litigation

---

- (a) As at the date of this Agreement:
  - (1) there is no material litigation, prosecution, mediation, arbitration or other proceeding between any Target Entity and any other person of which any Target Entity or Seller Group Member has received written or verbal notification; and
  - (2) the Seller is not aware of anything which is likely to give rise to any material litigation, prosecution, mediation, arbitration or other proceeding between any Target Entity and any other person.
- (b) No Target Entity has received, as at the date of this Agreement, any written notice or claim threatening the commencement of any material litigation, prosecution, mediation, arbitration or other proceeding.
- (c) As at the date of this Agreement:
  - (1) so far as the Seller is aware, no Target Entity is the subject of any investigation, inquiry or enforcement proceedings or process by any Governmental Agency; and
  - (2) the Seller is not aware of anything which is likely to give rise to any such investigation, inquiry or enforcement proceedings.
- (d) There is no unsatisfied judgment, order, arbitration, award or decision of any court, tribunal or arbitrator against any Target Entity of which any Target Entity or Seller Group Member has received written or verbal notification.
- (e) As at the date of this agreement and as far as the Seller is aware, there are no outstanding claims against any Target Entity of which any Target Entity or Seller Group Member has received written or verbal notification.

## 14 Employees

---

Each Target Entity has complied, in all material respects, with all obligations under employment contracts, industrial relations contracts, awards, orders, industrial agreements or collective agreements and all applicable Laws relevant to conditions of service and to the relations between it and the employees employed by it.

## 15 Insurance

---

So far as the Seller is aware, the insurance policies relating to the Target Entities effected and maintained by the Target Entities or the Seller Group are in force and no act or failure to act has occurred that has caused or would cause any such insurance policy to be cancelled or terminated, or which would entitle an insurer to refuse to honour any claim made against such insurance policy.

## 16 Taxation

---

- (a) Each Target Entity has prepared and kept proper and adequate records to enable it to comply in all material respects with its obligations to:
- (1) prepare and submit any information, notices, computations, returns and
  - (2) payments required in respect of any Tax Law;
  - (3) prepare any accounts necessary for compliance with any Tax Law; and
  - (4) retain necessary records as required by any Tax Law,
  - (5) in each case in connection with each Target Entity as relevant.
- (b) Each Target Entity has complied with all material obligations imposed on that entity by any Tax Law or as requested by any Governmental Agency.
- (c) At Completion the Seller will have entered into the Tax Sharing Agreement, which is valid for the purpose of each Target Entity achieving clear exit.
- (d) At Completion:
- (1) any Tax or Duty arising for which a Target Entity is or will be liable under any Tax Law payable in respect of any transaction, income or assets up to Completion, as provided for in the Management Accounts, will have been paid to the relevant revenue authorities by the due date for payment;
  - (2) each Target Entity has not and will not have any liability for Tax or Duty in respect of the period ending on the Completion Date, other than in respect of AQC Investments in connection with the assessment of the Duty payable on its acquisition of its interest in the other Target Entities and their assets;
  - (3) all Duty has been duly paid in respect of every document or transaction to which a Target Entity is or has been a party (but excluding any Duty payable under a Transaction Agreement and any additional Duty assessed to be payable in respect of AQC Investments in connection with the assessment of the Duty payable on its acquisition of its interest in the other Target Entities and their assets);
  - (4) the Target Entities have documents stamped and Duty duly paid in respect of all land acquisitions; and
  - (5) a Target Entity has not been a party to any transaction where an exemption, concession or other relief from Duty was obtained and for which the acquisition of the Sale Shares would trigger an assessment or re-assessment of Duty previously exempted.
- (e) Any information, notice, computation and return which has been submitted by the Seller Group or a Target Entity to any Governmental Agency in respect of any Tax or Duty payable or assessable by a Target Entity:
- (1) discloses all material facts that must be disclosed under any Tax Law; and
  - (2) is not misleading in any material respect.
- (f) to the best of the Seller's knowledge, the Seller Group or Target Entity has submitted and properly lodged all necessary elections, information, notices, computations, returns or any other document required by Tax Law to the relevant

Governmental Agency in respect of any Tax or any Duty relating to a Target Entity as and when required by law.

- (g) to the best of the Seller's knowledge, the office of public officer for the Seller Group and each Target Entity as required under any Tax Law has always been occupied.
- (h) to the best of the Seller's knowledge, the Seller Group and each Target Entity have not entered into or been party to any transaction which contravenes any anti-avoidance provisions of any Tax Law.
- (i) to the best of the Seller's knowledge, the Seller or each Target Entity have not taken any action which has or might alter or prejudice any arrangement, agreement or tax ruling which has previously been negotiated with or obtained from the relevant Governmental Agency or under any Tax Law.
- (j) The Seller and each Target Entity have at all times up to and including the Completion Date been an Australian resident as defined in section 995-1 of the Tax Law.
- (k) Any obligation on a Target Entity under any Tax Law to withhold amounts and to remit such withheld amounts to the relevant Governmental Agency has been complied with.
- (l) The Seller Group and each Target Entity have not made any elections in respect of Division 230 of the Tax Law.
- (m) The Seller and each Target Entity have fully complied with all of its obligations under the GST Law and have paid all amounts required to be paid pursuant to the GST Law (including any penalties and interest) to the relevant Governmental Agency in the time frame required under the GST Law.
- (n) Each Target Entity is registered for GST.
- (o) Each Target Entity has fully complied with and will until Completion fully comply with the terms of all communications by Governmental Agencies to the Target Entity (including rulings, and communications by way of agreement) prior to the date of this Agreement which will or may affect the calculation of a GST liability after Completion.
- (p) So far as the Seller is aware, the Target Entity is not aware of any threatened, pending or unresolved dispute, audit, investigation or other outstanding matter with a Governmental Agency in respect of a GST law, or in relation to any Tax or Duty other than in respect of AQC Investments in connection with the assessment of the Duty payable on its acquisition of its interest in the other Target Entities and their assets. For the avoidance of doubt, the other outstanding matters referred to in this paragraph include an outstanding request for a ruling, opinion or other decision or advice from a Government Agency in respect of a GST law, Tax or Duty.
- (q) As at Completion, there will be no outstanding correspondence or disputes with any revenue authority (for GST, Tax and Duty) in respect of a Target Entity other than in respect of AQC Investments in connection with the assessment of the Duty payable on its acquisition of its interest in the other Target Entities and their assets.
- (r) Each Target Entity has not engaged any dependent individuals (which excludes for the avoidance of doubt independent individuals, companies, partnerships and trusts) as contractors who would be considered employees under the Tax Law.

### Buyer Warranties

---

#### 1 No legal impediment

---

The execution, delivery and performance by the Buyer of this agreement:

- (a) complies with its constitution; and
- (b) does not constitute a breach of any law, or cause or result in default under any agreement or Encumbrance, by which it is bound and that would prevent it from entering into and performing its obligations under this agreement.

#### 2 Corporate authorisations

---

All necessary action to authorise the execution, delivery and performance of this agreement by the Buyer in accordance with its terms have been obtained or will be obtained before Completion, save for the consents and approvals required under clause 2.1.

#### 3 Power and capacity

---

The Buyer has full power to and capacity to enter into and perform their obligations under this agreement.

#### 4 Debts & Encumbrances

---

The Buyer has disclosed to the Seller every loan, debt, liability and financial accommodation whether secured or unsecured, whether in writing or otherwise, whether actual or contingent and every encumbrance, charge and pledge of the Seller and every Seller Group Member which is owed to, or otherwise promised for, the benefit of the Buyer, any Buyer Group Member, any Related Body Corporate or the Buyer Associates (or any of them).

#### 5 Incorporation

---

The Buyer is validly incorporated, organised and subsisting in accordance with the laws of its place of incorporation.

## 6 Solvency and related matters

---

- (a) The Buyer has not:
  - (1) gone, or is proposed to go, into liquidation;
  - (2) passed a winding-up resolution or commenced steps for winding-up or dissolution; or
  - (3) received a deregistration notice under section 601AB of the Corporations Act or any communication from ASIC that might lead to such a notice or applied for deregistration under section 601AA of the Corporations Act.
- (b) No petition or other process for winding-up or dissolution has been presented or threatened in writing against the Buyer and, so far as the Buyer is aware, there are no circumstances justifying a petition or other process.
- (c) No receiver, receiver and manager, judicial manager, liquidator, administrator or like official has been appointed, or is threatened or expected to be appointed, over the whole or a substantial part of the undertaking or property of the Buyer, and, so far as the Buyer is aware, there are no circumstances justifying such an appointment.
- (d) The Buyer has not entered into, or taken steps or proposed to enter into, any arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them.
- (e) No writ of execution has issued against the Buyer or any of the Buyer's assets and, so far as the Buyer is aware, there are no circumstances justifying such a writ.
- (f) The Buyer is able to pay its debts as and when they fall due. The Buyer is not taken under applicable laws to be unable to pay its debts and has not stopped or suspended, or threatened to stop or suspend, payment of all or a class of its debts.

# Schedule 4

## Completion Steps

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### 1 Pre-Completion actions

---

#### 1.1 Notifications

At least 5 Business Days before Completion:

- (a) the Buyer must notify the Seller of the person it wishes to be appointed as a director of the Target Entities from Completion and deliver to the Seller a consent to act and notification of interests signed by each such person; and
- (b) the Buyer will notify the Seller of any Nominee or Nominees under clause 4.11;
- (c) the Buyer will notify the Seller of the entity who will be the “Royalty Payer” for the purposes of the Royalty Deed.
- (d) if applicable, the Buyer will notify the Seller of the nominee for the purposes of novation of the Debt Amount under clause 4.4.

#### 1.2 Board resolutions

- (a) On or before Completion the Seller must ensure that a meeting of the directors of AQC Investments is convened and approves (subject only to Completion occurring) the registration of the Buyer as the holder of the Sale Shares in its register of shareholders and the issue of new share certificates for the Sale Shares in the name of the Buyer, subject to the Buyer meeting all of its obligations for Completion, to receipt of the executed share transfers referred to in clause 2.1(a) of this Schedule 4 and to payment by the Buyer of any Duty on the transfer of Sale Shares.
- (b) On or before Completion the Seller must ensure that a meeting of the directors of each Target Entity is convened and approves (subject to Completion occurring):
  - (1) the appointment of each person notified under clause 1.1 of this Schedule 4 as a director of the Target Entity (provided that a consent to act and notification of interest signed by that person has been obtained); and
  - (2) the resignation of each existing director and secretary of the Target Entity.

### 2 Completion

---

#### 2.1 Seller’s obligations at Completion

- (a) At Completion, the Seller must give the Buyer the following documents:

	<b>Description</b>	<b>Items to be provided</b>
1	<b>share certificates</b>	share certificates for the Sale Shares.
2	<b>share transfers</b>	completed share transfers of the Sale Shares to the Buyer as transferee in registrable form (but unstamped), executed by or on behalf of the Seller.
3	<b>board resolutions</b>	evidence that the board resolutions referred to in clause 1.2 of this Schedule 4 have been passed.
4	<b>Transaction Agreements</b>	original counterparts of each Transaction Agreement duly executed by the Seller and each Target Entity which is a party to it.
5	<b>Seller Group Deed of Release</b>	an original copy of the Seller Group Deed of Release duly executed by each party to it.

## 2.2 Buyer's obligations at Completion

At Completion the Buyer must:

- (a) deliver to the Seller, the written consent of the Other Financiers to the transactions contemplated by this agreement, in their capacity as Other Financiers under the Other Financiers Loan Agreements;
  - (b) deliver to the Seller an original counterpart of the deed of novation (containing the required releases and discharges), the subject of clause 4.4 duly executed by the requisite Other Financier;
  - (c) deliver to the Seller an original counterpart of the release and discharge of the Seller's obligations under the Guarantee of the Anglo Loan;
  - (d) execute and deliver the share transfers of the Sale Shares;
  - (e) and
  - (f) deliver to the Seller an original counterpart of each Transaction Agreement duly executed by each Seller Group Member which is a party to it.
- Anglo Loan Agreement (plus para (c) above)**
- (g) provide the Seller with a discharge and release from all obligations under the Anglo Loan Agreement. (Security Number 201705290065683)
  - (h) provide the Seller with a discharge and release from all obligations under the featherweight security deed (Associated security) (Includes related financing statement with registration number 201705290065683.)

**Robinson**

- (i) provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Robinson Convertible Note dated on or about 1 February 2016
- (j) procure a discharge and release from all of AQC's obligations under the Associated Security between John Robinson, AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One dated on or about 2 March 2017. (Registration Number 201703160064628)
- (k) procure a discharge and release from all of AQC's obligations under Guarantee and indemnity between John Robinson, AQC Investments, Area Coal and Ipoh Pacific dated 2 March 2017
- (l) procure a discharge and release from all of AQC's obligations under Mining mortgage between John Robinson, Area Coal and Ipoh Pacific dated 2 March 2017

**Paspaley**

- (m) provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Paspaley Convertible Note dated on or about 1 February 2016
- (n) procure a discharge and release from all of AQC's obligations under the Associated Security between Nicholas Paspaley, AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One dated on or about 2 March 2017. (Registration Number 201703160065295.)
- (o) procure a discharge and release from all of AQC's obligations under Guarantee and indemnity between Nicholas Paspaley, AQC Investments, Area Coal and Ipoh Pacific dated 2 March 2017
- (p) procure a discharge and release from all of AQC's obligations under Mining mortgage between Nicholas Paspaley, Area Coal and Ipoh Pacific dated 2 March 2017

**Trepang Convertible Note Deed**

- (q) provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Trepang Convertible Note dated 1 March 2017
- (r) provide a discharge and release from all of AQC's obligations under the Associated Security between Trepang AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One dated on or about 2 March 2017. (Registration Number 201703160064905.)
- (s) provide a discharge and release from all of AQC's obligations under Guarantee and indemnity between Trepang, AQC Investments, Area Coal and Ipoh Pacific dated 2 March 2017
- (t) provide a discharge and release from all of AQC's obligations under Mining mortgage between Trepang, Area Coal and Ipoh Pacific dated 2 March 2017

**Trepang New Convertible Note Deed**



- (u) provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Trepang New Convertible Note dated on or about 26 September 2018
- (v) provide a discharge and release from all of AQC's obligations under General Security Deed dated on or about 27 April 2016 (Registered Security: 201605260040684).

**Trepang Unsecured Loan**

- (w) provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations relating to an unsecured loan between AQC and Trepang.

**Intercreditor Deed and Priority Deed**

- (x) provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Intercreditor Deed and Priority Deed between AQC, investment, Anglo, Trepang, Paspaley and Robinson dated 29 May 2017 as assigned from Anglo to Trepang dated 17 April 2020.
- (y) procure the signed discharge and release of AQC from Nicholas Paspaley and John Robinson Snr and Anglo from all AQC's obligations under the above Intercreditor Deed and Priority Deed.
- (z) provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Priority Deed between AQC, Trepang, Paspaley and Robinson dated 15 June 2016
- (aa) procure the signed discharge and release of AQC from Nicholas Paspaley and John Robinson Snr from all AQC's obligations under this Intercreditor Deed and Priority Deed between AQC, Trepang, Paspaley and Robinson dated 15 June 2016.

**General**

- (bb) provide the Seller with a discharge and release from all obligations under all loan agreements, facility, finance or accommodation of any kind, imposing any obligation by the Seller or any Seller Group member (other than a Target Entity) in favour of the Buyer or any Buyer Group member or to the Buyer Associates (or either of them) whether documented or not and whether secured or not (if any).
- (cc) procure the signed discharge and release from the relevant Buyer Group member and Buyer Associate from all obligations under any such loan, agreement, facility, finance or accommodation as referred to above.

### 3 Post Completion actions

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Immediately following Completion the Buyer must procure that:

- (a) relevant ASIC forms are lodged to reflect the actions taken under this Schedule 4;  
and
- (b) executed counterparts of the Transaction Agreements are compiled into complete executed agreements, and circulated to each party to those agreements.

## Schedule 5

### Properties

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Lot 111 DP 714211 (subject to an existing agreement with Trepang for beneficial interest in part of this lot subject to subdivision)

Lot 63 DP 833348 (subject to an existing agreement with Trepang for beneficial interest in part of this lot subject to subdivision)

Including the CHPP and rail loop

## Schedule 6

### Mining Tenements and Approvals

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#### Mining Tenements

#	Mining Tenement
1.	Authorisation 256
2.	CL 386
3.	EL 4574
4.	EL 4575
5.	EL 5525
6.	ML 1381
7.	ML 1456
8.	ML 1497

#### Approvals

All authorisations, permissions and consents applicable to the Mine held by the Target Entities at the at the date of this agreement.

## Schedule 7

### Seller Group Deed of Release

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[see following pages]

**Date**

## Parties

**Australian Pacific Coal Limited** ACN 089 206 986 of Level 4, 10 Felix Street, Brisbane, Queensland (**Seller**)

**AQC Investments 2 Pty Ltd** ACN 609 954 734 of Level 4, 10 Felix Street, Brisbane, Queensland (**Target**)

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## Background

A The Seller and others have entered into the Share Sale Agreement.

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## Agreed terms

### 1 Definitions

#### 1.1 Defined terms

In this document these terms have the following meanings:

<b>Bank Account</b>	Any bank account held in the name of any Target Group Company (alone or jointly with another person) which is in existence at Completion.
<b>Cash Pooling Arrangements</b>	The meaning given to that term in <b>clause 2.1(b)</b> .
<b>Claims</b>	<p>Claim (including any claim for interest), allegation, demand, legal proceeding or cause of action including any claim, demand, legal proceeding or cause of action:</p> <ul style="list-style-type: none"><li>(a) based in contract (including breach of warranty or under an indemnity);</li><li>(b) based in tort (including misrepresentation or negligence);</li><li>(c) under common law or civil law; or</li><li>(d) under statute or implementing regulations,</li></ul> <p>and includes any investigation, inquiry, audit or prosecution by a Governmental Agency.</p>

<b>Completion</b>	Has the meaning given to that term in the Share Sale Agreement.
<b>Corporations Act</b>	The <i>Corporations Act 2001</i> (Cth).
<b>Effective Time</b>	Upon Completion.
<b>Governmental Agency</b>	Any government minister, government or governmental, semi-governmental, administrative, monetary, fiscal, taxation, anti-trust or judicial body, department, commission, authority, tribunal, agency or entity.
<b>Inter-company Payable</b>	Any amount owing by any Target Group Company to any Seller Group Company.
<b>Inter-company Receivable</b>	Any amount owing to any Target Group Company by any Seller Group Company.
<b>Law</b>	Includes any law or legal requirement, including at common law, in equity, under any statute, regulation or by-law, any condition of any authorisation, and any decision, directive, guidance, guideline or requirements of any Governmental Agency.
<b>Liability</b>	Claims, debts, obligations, losses, liabilities, charges, expenses, costs, outgoings, payments and damages of any kind and however arising (including penalties, fines and interest) and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.
<b>Loss</b>	Any loss, including any damage, claim, action, Liability, cost, expense, charge, penalty, outgoing or payment and legal costs and expenses on a full indemnity basis.
<b>Related Body Corporate</b>	Has the meaning given to that term in the Corporations Act.
<b>Related Party Transaction</b>	A Liability arising in respect of the period before Completion between one or more Target Group Companies (on the one hand) and one or more Seller Group Companies (on the other hand) arising under a transaction or agreement to which they are a party, but does not include Liabilities arising under a Transaction Document.
<b>Seller Group</b>	The Seller and each of its Related Bodies Corporate, but excluding the Target Group Companies.
<b>Seller Group Company</b>	Any member of the Seller Group.

<b>Share Sale Agreement</b>	The <i>Share Sale Agreement</i> between the Seller, Trepang Services Pty Ltd, John Robinson Snr and Nicholas Paspaley dated [insert].
<b>Target Group</b>	Each of: <ul style="list-style-type: none"> <li>(a) the Target;</li> <li>(b) AQC Dartbrook Pty Ltd (ACN 000 012 813);</li> <li>(c) AQC Dartbrook Management Pty Ltd (ACN 007 377 577); and</li> <li>(d) Dartbrook Coal (Sales) Pty Ltd (ACN 050 139 841).</li> </ul>

## 1.2 Right of Offset

Each of Seller Group Company and Target Group Company will have mutual rights of offset with respect to Liabilities in connection with Related Party Transactions. To the extent a mutual offset is not available, the provisions of clause 2 will apply.

# 2 Release

## 2.1 Seller Group Companies

With effect on and from the Effective Time, the Seller irrevocably and unconditionally:

- (a) releases and discharges, and must procure that each Seller Group Company releases and discharges on and from the Effective Time, each Target Group Company from all Related Party Transactions;
- (b) releases and discharges, and must procure that each Seller Group Company releases and discharges on and from the Effective Time, each Target Group Company from all Liabilities in connection with any cash pooling or cash sweeping arrangements (or any equivalent arrangements) in existence prior to Completion between each Target Group Company and each applicable Seller Group Company (**Cash Pooling Arrangements**);
- (c) releases and discharges, and must procure that each Seller Group Company releases and discharges on and from the Effective Time, each Target Group Company from all Liabilities in connection with any Inter- company Payables;
- (d) confirms that each Target Group Company has no Liabilities in respect of any Bank Accounts; and
- (e) agrees that it will not, and must procure that each Seller Group Company does not, make any claim against, and covenants that it will not sue, a Target Group Company in relation to the Related Party Transactions, the Cash Pooling Arrangements, the Inter-Company Payables or the Bank Accounts.

## 2.2 Target Group Companies

With effect on and from the Effective Time, the Target irrevocably and unconditionally:



- (a) releases and discharges, and must procure that each Target Group Company releases and discharges on and from the Effective Time, each Seller Group Company from all Related Party Transactions;
- (b) releases and discharges, and must procure that each Target Group Company releases and discharges on and from the Effective Time, each Seller Group Company from all Liabilities in connection with any Cash Pooling Arrangements;
- (c) releases and discharges, and must procure that each Target Group Company releases and discharges on and from the Effective Time, each Seller Group Company from all Liabilities in connection with any Inter-company Receivables; and
- (d) agrees that it must not, and must procure that each Target Group Company does not, make any claim against, and covenants that it will not sue, a Seller Group Company in relation to the Related Party Transactions, the Cash Pooling Arrangements or the Inter-Company Receivables.

### 2.3 Indemnity

- (a) The Seller indemnifies each Target Group Company against any Loss which any Target Group Company pays, suffers, incurs or is liable for as a result of breach of the undertakings and confirmations set out in **clause 2.1**.
- (b) The Target indemnifies the Seller and each Seller Group Company against any Loss which the Seller or the Seller Group pays, suffers, incurs or is liable for as a result of breach of the undertakings and confirmations set out in **clause 2.2**.

### 2.4 Deed poll

This document operates as a deed poll in favour of each Seller Group Company and Target Group Company that is not a party to it.

## 3 GST

- (a) The terms "GST", "GST law" and other capitalised terms used but not otherwise defined in this clause 3 have the meanings given to them by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time) or any replacement or other relevant legislation and regulations, except that "GST law" also includes any other legislation enacted to validate, recapture or recoup tax collected as GST.
- (b) Unless otherwise stated, all amounts payable by the recipient of a Supply (Recipient) to the party making the Supply (**Supplier**), howsoever described in this document, do not include GST.
- (c) If a Supply under this document is subject to GST, the Recipient must pay to the Supplier an additional amount equal to the amount payable in relation to that Supply multiplied by the prevailing GST rate.
- (d) The additional amount under **clause 3(c)** is payable at the same time as the amount payable in relation to the Supply is payable or to be provided.

- (e) Any additional amount payable in accordance with **clause 3(c)** need not be paid until the Supplier provides a Tax Invoice to the Recipient.
- (f) If the amount of GST paid is more than is required under the GST law the Supplier shall refund the excess amount to the Recipient. If the amount of GST paid is less than is required under the GST law, the Recipient shall pay the Supplier the difference. For the purposes of calculating further variations under this **clause 3(f)**, any additional amount referred to in **clause 3(c)** is taken to be amended by the amount of any earlier variation made under this clause.
- (g) If a party (Claimant) has a right under this document to be reimbursed or indemnified by another party for a cost incurred in connection with this document, and the Claimant is entitled to an Input Tax Credit in relation to the cost (including by operation of section 153-60(1) of the GST law):
  - (i) the amount payable to the Claimant shall be the GST exclusive value of the cost; and
  - (ii) if the Claimant's recovery from the other party is a taxable supply under the GST Law (including by operation of section 153-60(2) of the GST law), clauses 3(c), 3(d), 3(e) and 3(f) apply to the cost.

## 4 General

### 4.1 Duty

Any duty (including any fine or penalty), registration fees and other government charges on or relating to this document, any document executed under it, or any dutiable transaction evidenced or effected by it, is to be paid in accordance with the duty provisions of the Share Sale Agreement.

### 4.2 Waiver and exercise of rights

- (a) A single or partial exercise or waiver by a party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

### 4.3 Further steps

Each party must promptly do whatever any other party reasonably requires of it to give effect to this document and to perform its obligations under it.

### 4.4 Governing law and jurisdiction

- (a) This document is governed by and is to be construed in accordance with the laws applicable in Queensland.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Queensland and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

#### **4.5 Assignment**

- (a) A party must not assign or deal with any right under this document without the prior written consent of the other parties.
- (b) Any purported dealing in breach of this clause is of no effect.

#### **4.6 Counterparts**

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

#### **4.7 Construction**

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it; and
- (f) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
  - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced; and
  - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation.

#### **4.8 Headings**

Headings do not affect the interpretation of this document.

# Execution

**Executed** as a deed.

**Executed by Australian Pacific Coal Limited** in accordance with section 127 of the Corporations Act )  
)

.....  
Company Secretary/Director

.....  
Director

.....  
Name of Company Secretary/Director (print)

.....  
Name of Director (print)

**Executed by AQC Investments 2 Pty Ltd** in accordance with section 127 of the Corporations Act )  
)

.....  
Company Secretary/Director

.....  
Director

.....  
Name of Company Secretary/Director (print)

.....  
Name of Director (print)

## Annexure A

### COMPLETION DOCUMENTARY REQUIREMENT

Note1: For the purposes of this Annexure, AQC includes all of its subsidiaries other than the Target Entities.

	Agreement Name	Summary	Completion Documentary Requirement
<b>1.</b>	<b>Anglo Loan Agreement</b>		
	<p>Vendor Loan agreement between AQC, AQC Investments, AQC Dartbrook, AQC Dartbrook Management and Anglo dated 29 May 2017, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020 and varied by letter agreement on or around 23 May 2020 (<b>Vendor Loan</b>).</p> <p><b>Registered Security:</b> 201705290065683</p>	<p>Loan advanced from Anglo (and subsequently assigned to Trepang) to AQC Investments as Borrower.</p> <p>Associated guarantee from AQC, AQC Dartbrook and AQC Dartbrook Management.</p>	<p>The Buyer to provide the Seller with a discharge and release from all obligations under this loan agreement.</p> <p>Buyer to provide Seller with a discharge and release from all obligations under this guarantee.</p>
<b>1.2</b>	<b>Associated Security</b>		
	<p>Specific and featherweight security deed between AQC and Anglo dated 29 May 2017, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020.</p>	<p>AQC grants a security interest to Trepang (per assignment from Anglo) in all of their "Collateral" to secure payments due under various finance documents connected to the Vendor Loan.</p>	<p>The Buyer to provide the Seller with a discharge and release from all of its obligations under this security deed.</p>

	Agreement Name	Summary	Completion Documentary Requirement
	<b>Registered Security:</b> Includes related financing statement with registration number 201705290065683.		
<b>2. Robinson Convertible Note</b>			
<b>2.1</b>	<b>Underlying Agreement</b>		
	Convertible loan deed between John Robinson and AQC dated on or about 1 February 2016, as amended and restated on or about 15 June 2016 and 10 October 2016 as varied from time to time ( <b>Robinson Convertible Note</b> ).	Convertible loan given by Robinson to AQC, AQC issued the convertible notes to Robinson pursuant to the Robinson Convertible Note on 18 April 2017.	The Buyer to provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Robinson Convertible Note.
<b>2.2</b>	<b>Associated Security</b>		
	General security deed between John Robinson, AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One dated on or about 2 March 2017.  <b>Registered Security:</b> 201703160064628	Each of AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One grant John Robinson a security interest in all their present and after acquired property to secure various obligations arising under the Robinson Convertible Note.	The Buyer to procure a discharge and release from all of AQC's obligations under this document.
	Guarantee and indemnity between John Robinson, AQC Investments, Area Coal and Ipoh Pacific dated on or about 2 March 2017.	AQC Investments, Area Coal and Ipoh Pacific guarantee various obligations arising under the Robinson Convertible Note and indemnify John	The Buyer to procure a discharge and release from all of AQC's obligations under this document.

Seller Group Deed of Release

	Agreement Name	Summary	Completion Documentary Requirement
		Robinson for any loss suffered from non-performance of these obligations.	
	Mining mortgage between John Robinson, Area Coal and Ipoh Pacific dated on or about 2 March 2017.	Area Coal and Ipoh Pacific grant a mortgage in favour of John Robinson over their interest in specified tenements to secure various obligations arising under the Robinson Convertible Note.	The Buyer to procure a discharge and release from all of AQC's obligations under this this document.
<b>3. Paspaley Convertible Note</b>			
<b>3.1</b>	<b>Underlying Agreement</b>		
	Convertible loan deed between Nicholas Paspaley and AQC dated on or about 1 February 2016, as amended and restated on or about 15 June 2016 and 10 October 2016 as varied from time to time ( <b>Paspaley Convertible Note</b> ).	Convertible loan given by Paspaley to AQC, AQC issued the convertible notes to Paspaley pursuant to the Paspaley Convertible Note on 18 April 2017.	The Buyer to provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Paspaley Convertible Note.
<b>3.2</b>	<b>Associated Security</b>		
	General security deed between Nicholas Paspaley, AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One dated on or about 2 March 2017.  <b>Registered Security:</b> 201703160065295	Each of AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One grant Nicholas Paspaley a security interest in all their present and after acquired property to secure various obligations arising under the Paspaley Convertible Note.	The Buyer to procure a discharge and release from all of AQC's obligations under this this document.

Seller Group Deed of Release

	Agreement Name	Summary	Completion Documentary Requirement
	Guarantee and indemnity between Nicholas Paspaley, AQC Investments, Area Coal and Ipoh Pacific dated on or about 2 March 2017.	AQC Investments, Area Coal and Ipoh Pacific guarantee various obligations arising under the Paspaley Convertible Note and indemnify Nicholas Paspaley for any loss suffered from non-performance of these obligations.	The Buyer to procure a discharge and release from all of AQC's obligations under this this document.
	Mining mortgage between Nicholas Paspaley, Area Coal and Ipoh Pacific dated on or about 2 March 2017.	Area Coal and Ipoh Pacific grant a mortgage in favour of Nicholas Paspaley over their interest in specified tenements to secure various obligations arising under the Paspaley Convertible Note.	The Buyer to procure a discharge and release from all of AQC's obligations under this this document.
<b>4. Trepang Convertible Note Deed</b>			
<b>4.1</b>	<b>Underlying Agreement</b>		
	Convertible loan deed between AQC and Trepang dated 1 March 2017 as varied from time to time ( <b>Trepang Convertible Note</b> ).	Convertible loan given by Trepang to AQC, AQC issued the convertible notes to Trepang pursuant to the Trepang Convertible Note on 25 May 2017.	The Buyer to provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Trepang Convertible Note.
<b>4.2</b>	<b>Associated Security</b>		
	General security deed between AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One and Trepang dated on or about 2 March 2017.	Each of AQC, AQC Investments, Area Coal, Ipoh Pacific and Mining Investments One (as Grantors) grant Trepang a security interest in all their present and after acquired property to secure various	The Buyer to procure a discharge and release from all of AQC's obligations under this this document.



Seller Group Deed of Release

	Agreement Name	Summary	Completion Documentary Requirement
	<b>Registered Security:</b> 201703160064905	obligations arising under the Trepang Convertible Note and the Trepang New Convertible Note.	
	Guarantee and indemnity between Trepang, AQC Investments, Area Coal and Ipoh Pacific dated on or about 2 March 2017.	AQC Investments, Area Coal and Ipoh Pacific guarantee various obligations arising under the Trepang Convertible Note and the Trepang New Convertible Note and indemnify Trepang for any loss suffered from non-performance of these obligations.	The Buyer to procure a discharge and release from all of AQC's obligations under this this document.
	Mining mortgage between Trepang, Area Coal and Ipoh Pacific dated on or about 2 March 2017.	Area Coal and Ipoh Pacific grants a mortgage in favour of Trepang over their interest in specified tenements to secure various obligations arising under the Trepang Convertible Note and the Trepang New Convertible Note.	The Buyer to procure a discharge and release from all of AQC's obligations under this this document.
<b>5. Trepang New Convertible Note Deed</b>			
<b>5.1</b>	<b>Underlying Agreement</b>		
	Convertible note deed between AQC, Trepang, AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One, AQC Dartbrook and AQC Dartbrook Management dated on or about 26 September 2018 ( <b>Trepang New Convertible Note</b> ).	Convertible loan given by Trepang to AQC, AQC issued the convertible notes to Trepang pursuant to the Trepang Convertible Note on 29 November 2018 (to satisfy and discharge existing secured and unsecured loan amounts owing at the time).	The Buyer to provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Trepang New Convertible Note.
<b>5.2</b>	<b>Associated Security (Other securities contained above)</b>		

Seller Group Deed of Release

	Agreement Name	Summary	Completion Documentary Requirement
	<p>General security deed between AQC and Trepang dated on or about 27 April 2016.</p> <p><b>Registered Security:</b> 201605260040684</p>	<p>AQC originally granted Trepang a security interest in all their present and after acquired property to secure various obligations arising under the Secured Loan Deed between AQC and Trepang, which has subsequently been discharged pursuant to the Trepang New Convertible Note, however the general security deed also secures obligations under the New Trepang Convertible Note.</p>	<p>Buyer to provide the signed discharge and release of all obligations of AQC under this document.</p>
<b>6. Trepang Unsecured Loan Deed</b>			
<b>6.1</b>	<b>Underlying Agreement (No security)</b>		
	<p>Unsecured loan between AQC and Trepang (<b>Unsecured Loan</b>).</p>	<p>Various funds advanced to AQC by Trepang on an undocumented and unsecured basis together with the funds paid to AQC pursuant to the Term Sheet for Funding AQC.</p> <p>The funds forming part of the Unsecured Loan which comprise the financial accommodation and any other costs incurred by the Buyer under clause 5.7(a) and 5.7(c) of this agreement are:</p> <ul style="list-style-type: none"> <li>a. non-interest bearing and no interest, fees or charges will be payable at any time; and</li> <li>b. not repayable at any time during the term of this Share Sale Agreement or in the event that</li> </ul>	<p>The Buyer to provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations, including funds provided pursuant to the Term Sheet for Funding AQC.</p>

Seller Group Deed of Release

	Agreement Name	Summary	Completion Documentary Requirement
		Trepang breaches a material term of this Agreement or is insolvent.	
<b>7. Intercreditor Deed and Priority Deed</b>			
	Intercreditor deed between, AQC, AQC Investments, Anglo, Trepang, Nicholas Paspaley and John Robinson dated 29 May 2017, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020.	Sets out the relative priorities of the securities granted (or to be granted) by AQC and its subsidiaries to Anglo (now Trepang), Nicholas Paspaley and John Robinson.	<p>The Buyer to provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Intercreditor Deed and Priority Deed.</p> <p>Buyer to procure the signed discharge and release of AQC from Nicholas Paspaley and John Robinson Snr and Anglo from all AQC's obligations under this Intercreditor Deed and Priority Deed.</p>
	Priority deed between AQC, Trepang, Nicholas Paspaley and John Robinson dated 15 June 2016.	Sets out the relative priorities of the security interests granted by AQC and its subsidiaries to each of Trepang, Nicholas Paspaley and John Robinson.	<p>The Buyer to provide to the Seller a Deed of Novation of all obligations of the Seller in relation to the Debt Amount being novated to AQC Investments (or other entity nominated by the Buyer), including providing the Seller with a discharge and release from all obligations under the Priority Deed.</p> <p>Buyer to procure the signed discharge and release of AQC from Nicholas Paspaley and</p>

Seller Group Deed of Release

	Agreement Name	Summary	Completion Documentary Requirement
			John Robinson Snr from all AQC's obligations under this Intercreditor Deed and Priority Deed.
	<b>General</b>		
	All other loan agreements, facilities, finance, or accommodation of any kind, imposing any obligation by the Seller or any Seller Group Member (other than a Target Entity) in favour of the Buyer or any Buyer Group Member or to the Buyer Associates (or either of them) whether documented or not and whether secured or not (if any)		<p>The Buyer to provide the Seller with a discharge and release from all obligations under any such loan agreement, facility, finance or accommodation.</p> <p>The Buyer to procure the signed discharge and release from the relevant Seller Group member and Buyer Associate from all obligations under any such loan, agreement, facility, finance or accommodation.</p>

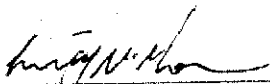
# Signing page

Executed as an agreement

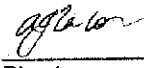
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## Seller

Signed by  
**Australian Pacific Coal Limited**  
by

sign here ▶   
Company Secretary/Director

print name Craig J McPherson - Secretary

sign here ▶   
Director

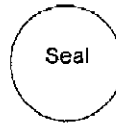
print name Anthony John Lalor

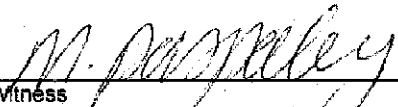
## Buyer

Signed by  
**Trepang Services Pty Ltd** in the  
presence of

sign here ▶   
Authorised signatory

print name NICHOLAS P PASPALLEY

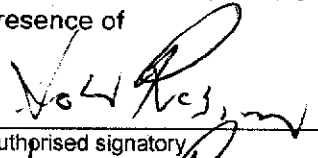


sign here ▶   
Witness

print name MILISSA PASPALLEY

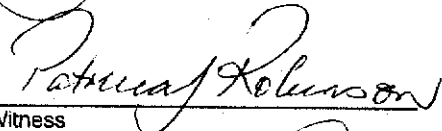
## Robinson

Signed by  
**John Robinson Snr** in the  
presence of

sign here ▶   
Authorised signatory

print name John Robinson



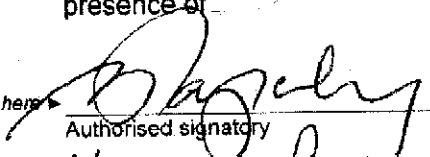
sign here ▶   
Witness

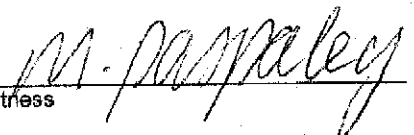
print name PATRICIA ROBINSON

**Paspaley**

Signed by  
**Nicholas Paspaley** in the  
presence of



sign here   
Authorized signatory  
print name NICHOLAS T. PASPALEY

sign here   
Witness  
print name MULISSA PASPALEY

## Explanatory Memorandum

### Schedule 2 Summary of Existing Facilities

1. Anglo Loan Agreement	Associated Security
<p>Vendor Loan agreement dated 29 May 2017, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020 and varied by letter agreement on or around 23 May 2020 (<b>Vendor Loan</b>).</p> <p>Letter of variation to Vendor Loan Deed dated 23 May 2020 to extend maturity date.</p> <p><b>Parties:</b></p> <p>ACQ Investments 2 Pty Ltd (<b>Borrower</b>)</p> <p>Australian Pacific Coal Limited (<b>Initial Guarantor</b>)</p> <p>Anglo American Metallurgical Coal Assets Pty Ltd (<b>Lender</b>)</p> <p><b>Purpose:</b></p> <p>To grant a Loan to the Borrower for the money to be applied to a feasibility study of conducting an open-cut development of the Mine.</p> <p><b>Amount:</b> \$7,700,000.</p>	<p>(a) Guarantee provided by AQC under the Anglo Loan Agreement.</p> <p>(b) Specific and featherweight security deed dated 29 May 2017, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020.</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited (<b>Grantor</b>)</p> <p>Anglo American Metallurgical Coal Assets Pty Ltd (<b>Secured Party</b>)</p> <p><b>Purpose:</b></p> <p>To secure Anglo's right to be repaid the amount advanced under the Anglo Loan Agreement.</p> <p><b>Registered Security:</b> Includes related financing statement with registration number 201705290065683.</p>

## Explanatory Memorandum

2. Robinson Convertible Note	
<p>Convertible loan deed between John Robinson and AQC dated on or about 1 February 2016, as amended and restated on or about 15 June 2016 and 10 October 2016 as varied from time to time (<b>Robinson Convertible Note</b>).</p> <p>The Maturity Date under this Robinson Convertible Note was extended to 1 February 2018 by notice on 26 September 2016.</p> <p>This Approval Date under this Robinson Convertible Note was extended beyond 31 May 2017 by a letter of variation on 20 January 2017.</p> <p>A subsequent Deed of Variation to this Robinson Convertible Note was signed the parties on 29 May 2017.</p> <p>A subsequent Letter of Variation to the Robinson Convertible Note was signed on 1 March 2017 to vary the Loan Proceeds from \$25,000,000 to \$40,000,000.</p> <p>Deed of Variation to Robinson Convertible Note enclosing Dartbrook Financier Royalty Deed Undated (<b>NOT SIGNED</b>).</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited ACN 089 206 986 (<b>Company</b>) (<b>AQC</b>) (<b>Borrower</b>)</p> <p>John Robinson (Snr) (<b>Holder</b>)</p> <p><b>Purpose:</b></p> <p>To enable the Company to pay a sufficient amount of money into the Escrow Account for the purposes of applying those funds to satisfy the obligations under the SPA entered into between Anglo American Metallurgical Coal Assets Pty Ltd., Anglo American Metallurgical Coal Holdings Limited, AQC Investments, and</p>	<p>(a) General security deed dated on or about 2 March 2017.</p> <p style="text-align: center;"><b>Registered PPSR Security:</b> 201703160064628</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited</p> <p>AQC Investments 2 Pty Ltd</p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>Mining Investments One Pty Ltd</p> <p>(each a <b>Grantor</b>)</p> <p>John Robinson (Snr) (<b>Secured Party</b>)</p> <p><b>Purpose:</b></p> <p>To grant the John Robinson a security interest over each of the Grantors' present and after acquired personal property in consideration of John Robinson entering into the Secured Loan Deed and the Robinson Convertible Note and providing financial accommodation to the Grantors, under those transaction documents.</p>
	<p>(b) Guarantee and indemnity dated on or about 2 March 2017.</p> <p><b>Parties:</b></p>



## Explanatory Memorandum

	<p>the Company (<b>SPA</b>) and to satisfy obligations of the Company and AQC Investments 2.</p> <p><b>Principal Amount:</b> \$10,000,000</p>	<p>AQC Investments 2 Pty Ltd</p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>(each a <b>Guarantor</b>)</p> <p>John Robinson (<b>Beneficiary</b>)</p> <p><b>Purpose:</b></p> <p>This document was entered into to provide a guarantee by each Guarantor to the Beneficiary, of payment by the Company (ACQ) of the money owing to the Beneficiary under the Robinson Convertible Note and Secured Loan Deed and to guarantee the Company's performance of its obligation therein.</p> <hr/> <p>(c) Mining mortgage dated on or about 2 March 2017.</p> <p><b>Parties:</b></p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>(each a <b>Mortgagor</b>)</p> <p>John Robinson (<b>Mortgagee</b>)</p> <p><b>Purpose:</b></p> <p>This mining mortgage was granted to John Robinson by each of the Mortgagors to secure the obligations of Australian Pacific Coal to John Robinson under the Robinson Convertible Note.</p>
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## Explanatory Memorandum

		<p>(d) General Security Deed (<b>NOT YET GRANTED</b>)</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook Pty Ltd</p> <p>AQC Dartbrook Management</p> <p>(Each a <b>Grantor</b>)</p> <p>John Robinson (<b>Secured Party</b>)</p>
		<p>(e) Mining mortgage dated on or about 28 August 2017.</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook (a <b>Mortgagor</b>)</p> <p>John Robinson (<b>Mortgagee</b>)</p> <p><b><u>Purpose:</u></b></p> <p>This mining mortgage was granted to John Robinson by the Mortgagor to secure the obligations of Australian Pacific Coal to Robinson under the Robinson Convertible Note.</p>

## Explanatory Memorandum

3. Paspaley Convertible Note	
<p>Convertible loan deed between Nicholas Paspaley and AQC dated on or about 1 February 2016, as amended and restated on or about 15 June 2016 and 10 October 2016 as varied from time to time (<b>Paspaley Convertible Note</b>).</p> <p>This Approval Date under this Paspaley Convertible Note was extended beyond 31 May 2017 by a letter of variation on 20 January 2017.</p> <p>A subsequent Deed of Variation to this Paspaley Convertible Note was signed by the parties on 29 May 2017.</p> <p>A subsequent Letter of Variation to the Paspaley Convertible Note was signed on 1 March 2017 to vary the Loan Proceeds from \$25,000,000 to \$40,000,000.</p> <p>Deed of Variation to Paspaley Convertible Note enclosing Dartbrook Financier Royalty Deed Undated (<b>NOT SIGNED</b>).</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited ACN 089 206 986 (<b>Company</b>) (<b>AQC</b>) (<b>Borrower</b>)</p> <p>Nicholas Paspaley (<b>Holder</b>)</p> <p><b>Purpose:</b></p> <p>To enable the Company to pay a sufficient amount of money into the Escrow Account for the purposes of applying those funds to satisfy the obligations under the SPA entered into between Anglo American Metallurgical Coal Assets Pty Ltd., Anglo American Metallurgical Coal Holdings Limited, AQC Investments, and the Company (<b>SPA</b>) and to satisfy obligations of the Company and AQC Investments 2.</p>	<p>(a) General security deed dated on or about 2 March 2017.</p> <p><b>Registered PPSR Security:</b> 201703160065295</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited</p> <p>AQC Investments 2 Pty Ltd</p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>Mining Investments One Pty Ltd</p> <p>(each a <b>Grantor</b>)</p> <p>Nicholas Paspaley (<b>Secured Party</b>)</p> <p><b>Purpose:</b></p> <p>To grant the Nicholas Paspaley a security interest over each of the Grantors' present and after acquired personal property in consideration of Nicholas Paspaley entering into the Secured Loan Deed and the Paspaley Convertible Note and providing financial accommodation to the Grantors, under those transaction documents.</p>

## Explanatory Memorandum

	<p><b>Principal Amount:</b> \$10,000,000</p>	<p>(b) Guarantee and indemnity dated on or about 2 March 2017.</p> <p><b><u>Parties:</u></b></p> <p>AQC Investments 2 Pty Ltd</p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>(each a <b>Guarantor</b>)</p> <p>Nicholas Paspaley (<b>Beneficiary</b>)</p> <p><b><u>Purpose:</u></b></p> <p>This document was entered into to provide a guarantee by each Guarantor to the Beneficiary, of payment by the Company (ACQ) of the money owing to the Beneficiary under the Paspaley Convertible Note and Secured Loan Deed and to guarantee the Company's performance of its obligation therein.</p>
		<p>(c) Mining mortgage dated on or about 2 March 2017.</p> <p><b><u>Parties:</u></b></p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>(each a <b>Mortgagor</b>)</p> <p>Nicholas Paspaley (<b>Mortgagee</b>)</p>

## Explanatory Memorandum

		<p><b><u>Purpose:</u></b></p> <p>This mining mortgage was granted to Nicholas Paspaley by each of the Mortgagors to secure the obligations of Australian Pacific Coal to Nicholas Paspaley under the Paspaley Convertible Note.</p>
		<p>(d) General Security Deed (<b>NOT YET GRANTED</b>)</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook Pty Ltd</p> <p>AQC Dartbrook Management</p> <p>(Each a <b>Grantor</b>)</p> <p>Nicholas Paspaley (<b>Secured Party</b>)</p>
		<p>(e) Guarantee and indemnity dated on or about 28 August 2018 (NB: .</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook Pty Ltd</p> <p>AQC Dartbrook Management</p> <p>(Each a <b>Guarantor</b>)</p> <p>Nicholas Paspaley (<b>Beneficiary</b>)</p> <p><b><u>Purpose:</u></b></p>

## Explanatory Memorandum

		<p>This document was entered into to provide a guarantee by each Guarantor to the Beneficiary, of payment by the Company (ACQ) of the money owing to the Beneficiary under the Paspaley Convertible Note to guarantee the Company's performance of its obligations therein.</p>
		<p>(f) Mining mortgage dated on or about 28 August 2017</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook (a <b>Mortgagor</b>)</p> <p>Nicholas Paspaley (<b>Mortgagee</b>)</p> <p><b><u>Purpose:</u></b></p> <p>This mining mortgage was granted to Nicholas Paspaley by the Mortgagor to secure the obligations of Australian Pacific Coal to Nicholas Paspaley under the Paspaley Convertible Note.</p>

### 4. Trepang Convertible Note Deed

	<p>Convertible loan deed between AQC and Trepang dated 1 March 2017 as varied from time to time (<b>Trepang Convertible Note</b>).</p> <p>The Issue Price under this Trepang Convertible Note was varied by a letter of variation dated 9 March 2017.</p> <p><b><u>Parties:</u></b></p> <p>Australian Pacific Coal Limited (<b>Company</b>)</p>	<p>(a) General security deed dated on or about 2 March 2017.</p> <p><b>Registered PPSR Security:</b> 201703160064905</p> <p><b><u>Parties:</u></b></p> <p>AQC Investments 2 Pty Ltd</p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p>
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## Explanatory Memorandum

<p>Trepang Services Pty Ltd (<b>Holder</b>)</p> <p><b><u>Purpose:</u></b></p> <p>To enable the Company to meet its expenses in relation to replacement of the environment bonds, payment of NSW stamp duty, partial repayment of principal amount and for the rest to be used as working capital.</p> <p><b><u>Principal Amount:</u></b> \$15,000,000</p>	<p>Mining Investments One Pty Ltd</p> <p>(each a <b>Grantor</b>)</p> <p>Trepang Services Pty Ltd (<b>Secured Party</b>)</p> <p><b><u>Purpose:</u></b></p> <p>To grant the Trepang a security interest over each of the Grantors' present and after acquired personal property in consideration of Trepang entering into the Secured Loan Deed and the Trepang Convertible Note and providing financial accommodation to the Grantors, under those transaction documents.</p> <hr/> <p>(b) Guarantee and indemnity dated on or about 2 March 2017.</p> <p><b><u>Parties</u></b></p> <p>AQC Investments 2 Pty Ltd</p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>(each a <b>Guarantor</b>)</p> <p>Trepang Services Pty Ltd (<b>Beneficiary</b>)</p> <p><b><u>Purpose:</u></b></p> <p>This document was entered into to provide a guarantee by each Guarantor to the Beneficiary, of payment by the Company (ACQ) of the money owing to the Beneficiary under the Trepang Convertible Note and Secured Loan Deed and to guarantee the Company's performance of its obligation therein.</p>
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## Explanatory Memorandum

		<p>(c) Mining mortgage dated on or about 2 March 2017.</p> <p><b><u>Parties:</u></b></p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>(each a <b>Mortgagor</b>)</p> <p>Trepang Services Pty Ltd (<b>Mortgagee</b>)</p> <p><b><u>Purpose:</u></b></p> <p>This mining mortgage was granted to Trepang by each of the Mortgagors to secure the obligations of Australian Pacific Coal to Trepang under the Trepang Convertible Note.</p>
		<p>(d) Guarantee and indemnity dated on or about 28 August 2018</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook Pty Ltd</p> <p>AQC Dartbrook Management</p> <p>(Each a <b>Guarantor</b>)</p> <p>Trepang Services Pty Ltd (<b>Beneficiary</b>)</p> <p><b><u>Purpose:</u></b></p> <p>This document was entered into to provide a guarantee by each Guarantor to the Beneficiary, of payment by the Company (ACQ) of the money owing to the</p>



## Explanatory Memorandum

		Beneficiary under the Trepang Convertible Note and Secured Loan Deed and to guarantee the Company's performance of its obligation therein.
		<p>(e) Mining mortgage dated on or about 28 August 2017</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook (a <b>Mortgagor</b>)</p> <p>Trepang Services Pty Ltd (<b>Mortgagee</b>)</p> <p><b><u>Purpose:</u></b></p> <p>This mining mortgage was granted to Trepang by the Mortgagor to secure the obligations of Australian Pacific Coal to Trepang under the Trepang Convertible Note.</p>
		<p>(f) General Security Deed (<b>NOT YET GRANTED</b>)</p> <p><b><u>Parties:</u></b></p> <p>AQC Dartbrook Pty Ltd</p> <p>AQC Dartbrook Management</p> <p>(Each a <b>Grantor</b>)</p> <p>Trepang Services Pty Ltd (<b>Secured Party</b>)</p>

## Explanatory Memorandum

5. Secured Loan Deed	
<p>Secured loan deed dated on or about dated 27 April 2016 as amended and restated on 15 June 2016, 10 October 2016 and 1 February 2017 and varied on 29 May 2017, 16 October 2017 and 26 September 2018 (<b>Secured Loan Deed</b>).</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited (<b>Company</b>)</p> <p>Trepang Services Pty Ltd (<b>Holder</b>)</p>	<p>General security deed between AQC and Trepang dated on or about 27 April 2016.</p> <p><b>Registered Security:</b> 201605260040684</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited (<b>Grantor</b>)</p> <p>Trepang Services Pty Ltd (<b>Secured Party</b>)</p> <p><b>Purpose:</b></p> <p>To grant Trepang a security interest over all of the Grantor's present and after acquired personal property in consideration of Trepang entering into the Secured Loan Deed and any other transaction document including the Trepang New Convertible Note Deed and providing financial accommodation to the Grantor, under those transaction documents.</p>
6. Trepang New Convertible Note Deed	
<p>Convertible note deed dated on or about 26 September 2018 (<b>Trepang New Convertible Note</b>).</p> <p><b>Parties:</b></p> <p>Australian Pacific Coal Limited (<b>Company</b>)</p>	<p>General security deed between AQC and Trepang dated on or about 27 April 2016.</p> <p><b>Registered Security:</b> 201605260040684</p> <p><b>Parties:</b></p>

## Explanatory Memorandum

<p>Trepang Services Pty Ltd (<b>Holder</b>)</p> <p>ACQ Investments 2 Pty Ltd</p> <p>Area Coal Pty Ltd</p> <p>Ipoh Pacific Resources Pty Ltd</p> <p>AQC Dartbrook Pty Ltd</p> <p>AQC Dartbrook Management Pty Ltd</p> <p>(each a <b>Guarantor</b>)</p> <p>Mining Investments One Pty Ltd</p> <p><b><u>Purpose:</u></b></p> <p>To document the repayment all existing money owing under the Secured Loan Deed and Unsecured Loan.</p>	<p>Australian Pacific Coal Limited (<b>Grantor</b>)</p> <p>Trepang Services Pty Ltd (<b>Secured Party</b>)</p> <p><b><u>Purpose:</u></b></p> <p>To grant Trepang a security interest over all of the Grantor's present and after acquired personal property in consideration of Trepang entering into the Secured Loan Deed and any other transaction document including the Trepang New Convertible Note Deed and providing financial accommodation to the Grantor, under those transaction documents.</p>
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### 7. Trepang Unsecured Loan Deed

<p>Unsecured loan between AQC and Trepang (<b>Unsecured Loan</b>).</p> <p>Various funds advanced to AQC by Trepang on an undocumented and unsecured basis together with the funds paid to AQC pursuant to the Term Sheet for Funding AQC.</p>	<p>N/A</p>
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## Explanatory Memorandum

8. Intercreditor Deed and Priority Deed	
<p>Intercreditor deed dated 29 May 2017, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020.</p> <p>Letter of variation to the Intercreditor Deed was signed by the parties on 28 August 2017.</p> <p><b><u>Parties:</u></b></p> <p>AQC Investments 2 Pty Ltd (<b>Debtor</b>)</p> <p>Australian Pacific Coal Limited (<b>Initial Guarantor</b>)</p> <p>Anglo American Metallurgical Coal Assets Pty Ltd (<b>First Creditor</b>)</p> <p>Nicholas Paspaley</p> <p>John Robinson (Snr)</p> <p>Trepang Services Pty Ltd</p> <p>(each a <b>Second Creditor</b>)</p> <p><b><u>Purpose:</u></b></p> <p>To ensure that the Specific and Featherweight Security granted to Anglo ranks ahead and in priority of the security interests held by the Second Creditors.</p>	N/A
<p>Priority Deed dated 15 June 2016.</p> <p><b><u>Parties:</u></b></p>	N/A

## Explanatory Memorandum

	<p>Australian Pacific Coal Limited (<b>Grantor</b>)</p> <p>Trepang Services Pty Ltd. (<b>Trepang</b>)</p> <p>Nicholas Paspaley (<b>Paspaley</b>)</p> <p>John Robinson (Snr) (<b>Robinson</b>)</p> <p><b><u>Purpose:</u></b></p> <p>To establish the order of priority of securities granted or to be granted by the Grantor to Trepang, Nicholas Paspaley and John Robinson.</p>	
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<b>9. John Robinson Debt</b>		
	<p>An amount owing by AQC Investments to John Robinson Jnr (<b>Robinson Debt</b>) totalling \$249,230.64 plus any accrued interest for unpaid employment entitlements during the period that John Robinson was an employee and director of AQC.</p>	<p>N/A</p>

## Explanatory Memorandum

### Summary Table of Loans and Securities with Non-Target Entities

Loan Arrangements	Non-target entities	Securities
<p><b>Anglo Loan Agreement</b></p> <p>Vendor Loan agreement dated 29 May 2017, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020 and varied by letter agreement on or around 23 May 2020 (<b>Vendor Loan</b>).</p>	<p>Australian Pacific Coal Limited (<b>Guarantor/Grantor</b>) (<b>AQC</b>)</p>	<ol style="list-style-type: none"> <li>1. Guarantee provided by AQC under the Anglo Loan Agreement.</li> <li>2. Specific and featherweight security deed dated 29 May 2017 granting security from AQC to Anglo in respect of the Anglo Loan Agreement, as assigned from Anglo to Trepang pursuant to the deed of assignment between Anglo and Trepang dated 17 April 2020.</li> <li>3. <b>Registered Security:</b> Includes related financing statement with registration number 201705290065683.</li> </ol>
<p><b>Robinson Convertible Loan Deed</b></p> <p>Convertible loan deed between John Robinson and AQC dated on or about 1 February 2016, as amended and restated on or about 15 June 2016 and 10 October 2016 as varied from time to time (<b>Robinson Convertible Note</b>).</p>	<p><b>Robinson Convertible Note</b></p> <p>Australian Pacific Coal Limited (<b>Borrower</b>)</p> <p><b>General Security Deed</b></p> <p>Australian Pacific Coal, Area Coal, Ipoh Pacific, Mining Investments One.</p> <p><b>Guarantee and Indemnity</b></p> <p>Area Coal, Ipoh Pacific.</p> <p><b>Mining Mortgage</b></p> <p>Area Coal, Ipoh Pacific</p>	<ol style="list-style-type: none"> <li>1. General security deed between AQC, AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One (as <b>Grantors</b>) and John Robinson (Snr) (<b>Secured Party</b>) dated on or about 2 March 2017.</li> <li>2. Registered PPSR Security: 201703160064628.</li> <li>3. Guarantee and indemnity dated on or about 2 March 2017 between AQC Investments, Area Coal, Ipoh Pacific (each a <b>Guarantor</b>) and John Robinson (<b>Beneficiary</b>).</li> <li>4. Mining mortgage dated on or about 2 March 2017 between Area Coal, Ipoh Pacific (each a <b>Mortgagor</b>) and John Robinson (<b>Mortgagee</b>).</li> </ol>

## Explanatory Memorandum

<p><b>Paspaley Convertible Loan Deed</b></p> <p>Convertible loan deed between Nicholas Paspaley and AQC dated on or about 1 February 2016, as amended and restated on or about 15 June 2016 and 10 October 2016 as varied from time to time (<b>Paspaley Convertible Note</b>).</p>	<p><b>Paspaley Convertible Note</b></p> <p>Australian Pacific Coal Limited (<b>Borrower</b>).</p> <p><b>General Security Deed</b></p> <p>Australian Pacific Coal, Area Coal, Ipoh Pacific, Mining Investments One.</p> <p><b>Guarantee and Indemnity</b></p> <p>Area Coal, Ipoh Pacific.</p> <p><b>Mining Mortgage</b></p> <p>Area Coal, Ipoh Pacific</p>	<ol style="list-style-type: none"> <li>1. General security deed between AQC, AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One (as <b>Grantors</b>) and Nicholas Paspaley (<b>Secured Party</b>) dated on or about 2 March 2017.</li> <li>2. Registered PPSR Security: 201703160065295.</li> <li>3. Guarantee and indemnity dated on or about 2 March 2017 between AQC Investments, Area Coal, Ipoh Pacific (each a <b>Guarantor</b>) and Nicholas Paspaley (<b>Beneficiary</b>).</li> <li>4. Mining mortgage dated on or about 2 March 2017 between Area Coal, Ipoh Pacific (each a <b>Mortgagor</b>) and Nicholas Paspaley (<b>Mortgagee</b>).</li> </ol>
<p><b>Trepang Convertible Note Deed</b></p> <p>Convertible loan deed between AQC and Trepang dated 1 March 2017 as varied from time to time (<b>Trepang Convertible Note</b>).</p>	<p><b>Trepang Convertible Note</b></p> <p>Australian Pacific Coal (<b>Borrower</b>)</p> <p><b>General Security Deed</b></p> <p>Area Coal, Ipoh Pacific, Mining Investments One</p> <p><b>Guarantee and Indemnity</b></p> <p>Area Coal, Ipoh Pacific.</p> <p><b>Mining Mortgage</b></p> <p>Area Coal, Ipoh Pacific</p>	<ol style="list-style-type: none"> <li>1. General security deed between AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One (as <b>Grantors</b>) and Trepang (<b>Secured Party</b>) dated on or about 2 March 2017.</li> <li>2. Registered PPSR Security: 201703160064905.</li> <li>3. Guarantee and indemnity dated on or about 2 March 2017 between AQC Investments, Area Coal, Ipoh Pacific (each a <b>Guarantor</b>) and Trepang (<b>Beneficiary</b>).</li> <li>4. Mining mortgage dated on or about 2 March 2017 between Area Coal, Ipoh Pacific (each a <b>Mortgagor</b>) and Trepang (<b>Mortgagee</b>).</li> </ol>

## Explanatory Memorandum

<p><b>Trepang New Convertible Note Deed</b></p> <p>Convertible note deed between AQC (as <b>Company</b>), Trepang Services (as <b>Holder</b>) and Area Coal, Ipoh Pacific, AQC Dartbrook, AQC Dartbrook Management (each a <b>Guarantor</b>) and Mining Investments dated on or about 26 September 2018 (<b>Trepang New Convertible Note</b>).</p>	<p><b>Trepang Convertible Note</b></p> <p>Australian Pacific Coal, Area Coal, Ipoh Pacific</p> <p><b>General Security Deed</b></p> <p>Area Coal, Ipoh Pacific, Mining Investments One</p> <p><b>Guarantee and Indemnity</b></p> <p>Area Coal, Ipoh Pacific.</p> <p><b>Mining Mortgage</b></p> <p>Area Coal, Ipoh Pacific</p>	<ol style="list-style-type: none"> <li>1. General security deed between AQC Investments, Area Coal, Ipoh Pacific, Mining Investments One (as <b>Grantors</b>) and Trepang (<b>Secured Party</b>) dated on or about 2 March 2017.</li> <li>2. Registered PPSR Security: 201605260040684.</li> </ol>
<p><b>Trepang Unsecured Loan</b></p> <p>Unsecured loan between AQC and Trepang (<b>Unsecured Loan</b>).</p>	<p>Australian Pacific Coal</p>	
<p><b>John Robinson Debt</b></p> <p>An amount owing by AQC Investments to John Robinson Jnr (<b>Robinson Debt</b>) totalling \$249,230.64 plus any accrued interest for unpaid employment entitlements during the period that John Robinson was an employee and director of AQC.</p>		



**Schedule 3     Royalty Deed**

# Dartbrook Royalty Deed

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AQC Investments 2 Pty Ltd ACN 609 954 734 (**Grantor**)

Australian Pacific Coal Limited (**Royalty Holder**)

Trepang Services Pty Ltd ACN 149 489 065 (**Guarantor**)

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# Dartbrook Royalty Deed

**Date** 19 April 2022

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## Parties

AQC Investments 2 Pty Ltd ACN 609 954 734 (**Grantor**)

Australian Pacific Coal Limited ACN 089 206 986 (**Royalty Holder**)

Trepang Services Pty Ltd ACN 149 489 065 (**Guarantor**)

## Background

- A. On completion occurring under the Share Sale Agreement, the Grantor:
- (a) is a wholly owned subsidiary of the Guarantor; and
  - (b) through its wholly owned subsidiary AQC Dartbrook, has a 100% interest in the Tenements.
- B. The Grantor has agreed to grant a royalty to the Royalty Holder, based on a 50% share of Coal from the Mine (referred to as "Grantor Coal" in this Deed), and calculated by reference to a share of net profits from that Grantor Coal, subject to and on the terms set out in this Deed.
- C. The Grantor has first and last right of refusal, should the Royalty become available for sale in the future, in accordance with this Deed.
- D. The Guarantor guarantees to the Royalty Holder the performance of the obligations of the Grantor under the terms of this Deed.

## It is agreed:

### 1. Definitions and interpretation

---

#### 1.1 Definitions

The meanings of the terms used in this Deed are set out below.

**Accounting Standards** means at any time:

- (a) the requirements of the Corporations Act about the preparation and contents of financial reports;
- (b) the accounting standards approved under the Corporations Act 2001 (Cth); and
- (c) generally accepted accounting principles, policies, practices and procedures in Australia to the extent not inconsistent with the accounting standards described in paragraph 2.

**Adjustment** means any adjustment that may be made by the Grantor to the Royalty Records and a Statement:

# Dartbrook Royalty Deed

- (d) which arise from a subsequent adjustment to the amount paid to the Grantor based on the actual Grantor Coal sold;
- (e) to correct any accounting or recording errors from previous Calendar Quarters;
- (f) which are otherwise made in accordance with this deed; or
- (g) which are agreed by the parties.

**Agreed Rate** means a rate of interest which is 1% per annum above the Bank Bill Rate.

**Allowable Deductions** mean:

- (a) all costs directly incurred by the Grantor or AQC Dartbrook, in Australian dollars, or in the Australian Dollar equivalent determined by the Exchange Rate, in relation to the development and operation of the Mine, and include:
  - (1) all costs and charges, including interest and fees, of borrowing money used to finance the design, construction and installation of any development, mining, haulage, crushing, treatment, concentrating plant within or adjacent to the Tenements;
  - (2) depreciation, depletion and amortisation at normal rates of all fixed assets, machinery and materials used in development, mining, haulage, crushing, treatment or concentrating activities up to the point of first sale and delivery;
  - (3) all expenditure incurred in connection feasibility studies, anthropological studies, environmental studies, hydrological studies, clearing and site development, other than expenditure which is to be amortised or depreciated over the life of the Mine in accordance with generally accepted Australian accounting principles;
  - (4) any Tenement and Mine acquisition, exploration, development, construction, mining, milling, crushing, treatment or concentrating operating costs, including abandonment and rehabilitation costs, within or adjacent to the Tenements;
  - (5) all costs of Penalties for impurities and all umpire charges and other processor deductions;
  - (6) all road, sea and rail freight, transportation, security and incidental costs and expenses, including forwarding, shipping, demurrage, delay and insurance costs, incurred between the treatment plant or stockpile of, or adjacent to, the Tenements and the point of first sale and delivery of Coal;
  - (7) all handling and incidental costs and expenses including agency, banking, assaying, sampling, weighing, loading, unloading, stockpiling and storage;
  - (8) actual sales costs, and reasonable marketing, representation, agency and brokerage costs of Coal subject to the Royalty including the costs of site visits for promotional and marketing purposes;
  - (9) administrative and other general overhead costs that are directly attributable and reasonably allocable to the costs set out in paragraphs (a) to (h) above, which are agreed with the Royalty Holder;
  - (10) Carried Forward Deductions;

# Dartbrook Royalty Deed

- (11) all taxes (excluding taxes based on the income of the Grantor), royalties, duties, levies, rent and charges lawfully imposed by any government or other authority, including carbon emission licence fees, charges, fuel excise (net of any fuel tax credits), carbon trading taxes and imposts, value added taxes or energy consumption taxes, in any way connected with the transportation or sale of Coal, including GST (but not if subject to an input tax credit, which is actually claimed and received) to the first point of sale;
- (12) the royalty payable to Anglo American Metallurgical Coal Assets Pty Ltd ABN 59 081 022 246 (or its assignee or transferee),
- (13) any other incidental charge or expense directly related to the development and operation of the Mine, incurred up to the first point of sale and delivery of Coal, including on-site transport and storage,

and provided that there is no double counting of costs incurred by one Grantor Group Entity and on-charged to any other Grantor Group Entity;

- (b) but expressly excludes any indirect costs incurred by the Grantor or AQC Dartbrook in the development or operation of the Mine, including but not limited to administrative, head office and other general overhead costs.

**Amount** has the meaning given in clause 14.10.

**Assign** includes to sell, assign, transfer, novate, declare any trust or otherwise dispose of or deal with, or to enter into any agreement, understanding or arrangements to sell, assign, transfer, novate, create or suffer the creation of any trust and Assignment has a corresponding meaning.

**Audit** has the meaning given in clause 4.1(b).

**AQC Dartbrook** means AQC Dartbrook Pty Ltd ACN 000 012 813.

**AQC Investments** means AQC Investments 2 Pty Ltd ACN 609 954 734.

**AQC Investments Shares** means the shares held in the capital of AQC Investments.

**Bank Bill Rate** on any day:

- (a) the rate (expressed as a percentage maturity per annum rounded upwards, if necessary, to the nearest one hundredth of one per cent) published by the Reserve Bank of Australia that day (or if that day is not a Business Day then on the Business Day which immediately precedes that day) for bank accepted bills of exchange having a term to maturity of ninety days; or
- (b) if the Bank Bill Rate cannot be determined in accordance with paragraph 1 of this definition, the rate per cent per annum determined by application of a rate that is the Commonwealth Bank of Australia's Corporate overdraft reference rate (monthly cycle) as published at <http://www.commbank.com.au/business/rates-fees#corporateoverdraft>.

**Business Day** a day on which banks are open for business in Brisbane excluding a Saturday, Sunday or public holiday in that city.

**Calendar Quarter** means each three month period ending on 31 March, 30 June, 30 September and 31 December, as the case may be, provided that the last Calendar Quarter will commence on the day after the end of the previous Calendar Quarter and end on the date of termination of this Deed.

# Dartbrook Royalty Deed

**Carried Forward Deduction** means the amount of Allowable Deduction that exceeds the Gross Revenue in a Calendar Quarter, which may then be carried forward and deducted from Gross Revenue in subsequent Calendar Quarter.

**Claim** means, in relation to a person, any action, allegation, claim, demand, judgment, liability, proceeding, remedy, right of action or right of set-off made against the person concerned however it arises whether:

- (a) it is present, unascertained, immediate, future or contingent;
- (b) it is based in contract, tort, statute or otherwise; or
- (c) it involves a third party or a party to this Deed.

**Coal** means coal sold from the Mine after the date of this Deed.

**Coal Price** means, for a Calendar Quarter, the average sale price received per tonne of Coal from the Mine on each Business Day of the Calendar Quarter.

**Confidential Information** has the meaning given in clause 9.

**Control** has the meaning given in section 50AA of the *Corporations Act 2001* (Cth) and Controlled has a corresponding meaning.

**Date of Escalation** has the meaning given in clause 14.10.

**Deed** this royalty deed as it may be amended, modified, replaced or novated from time to time.

**Department** means the NSW Department of Industry Resources & Energy.

**Exchange Rate**, for a day, means:

- (a) the rate of exchange (as the case requires) published on Reserve Bank of Australia website at or about 4 pm Sydney time on that day or, if a rate is not so published for that day the last day for which that rate was so published; or
- (b) if that rate ceases to be so published an equivalent rate for converting United States dollars or another currency (as required) to Australian dollars selected by the Grantor, acting reasonably.

**Expert** an expert appointed for the purposes of clause 8 (Dispute Resolution).

**Financial Year** the period commencing 1 July of a year and ending 30 June of the following year, provided that the last Financial Year will commence on the day after the end of the previous Financial Year and end on the date of termination of this Deed.

**Grantor Coal** means fifty percent (50%) of the Coal.

**Grantor Group Entity** means the Grantor and any Related Body Corporate of the Grantor.

**Gross Revenue** means the gross proceeds actually received by the Grantor or applied to its benefit, whether directly or indirectly through a subsidiary or Related Body Corporate, including but not limited to under any joint venture, profit share or similar arrangement, in Australian dollars, or in Australian Dollar equivalent determined by the Exchange Rate, from the sale of Grantor Coal including the proceeds received from an insurer in the case of loss of, or damage to, Grantor Coal (net of any excess paid in respect of that loss), less any



# Dartbrook Royalty Deed

applicable Penalties, refunds, claims or discounts, calculated at all times in accordance with the Accounting Standards.

**GST Act** a *New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Index Number** has the meaning given in clause 14.10.

**Mine** means the Dartbrook underground coal mine, located within the Tenements, the subject of the Modification 7 approval existing at the date of this Deed including extensions to that approval.

**Net Profits** means, for a Calendar Quarter, Gross Revenue and Adjustments (whether plus or minus) minus Allowable Deductions for that Calendar Quarter.

**Nominee** means the entity nominated by the Guarantor, to acquire 100% of the shares in the Grantor under the terms of the Share Sale Agreement.

**Notice** has the meaning given in clause 13.1.

**Party** means the Grantor or the Royalty Holder and Parties means both of them.

**Penalty** means a charge, in addition to normal refining costs, for removing from the Coal minerals or other substances where the cost of the removal exceeds the value of those minerals or other substances.

**Profitable** means that the Gross Revenue from the Mine (or any part of the Mine) in any Calendar Quarter, exceeds the Allowable Deductions.

**Related Body Corporate** with respect to a corporation, another corporation which Controls, is Controlled by, or is under the common Control with, that corporation.

**Royalty** has the meaning given to it in clause 2.2.

**Royalty Limit** has the meaning set out in clause 2.3.

**Royalty Percentage** means fifty percent (50%).

**Royalty Records** means the records required to be maintained by the Grantor under clause 4.1(a)

**Share Sale Agreement** means the agreement, made between the Royalty Holder (as seller) and the Trepang Parties, for sale and purchase of 100% of the shares in the Grantor (and to which a copy of this Deed was annexed).

**Statement** for a Calendar Quarter, a statement setting out in reasonable detail:

- (a) the Gross Revenue, Adjustments, Allowable Deductions, and Carried Forward Deductions (if any) for the Calendar Quarter, with supporting documents, including sales invoices or bills of lading (as appropriate); and
- (b) the Royalty payable by the Grantor for that Calendar Quarter.

**Tenements** means the tenements shown in Schedule 2, and includes any application for a coal title, and any extension, renewal, variation, conversion, amalgamation, replacement or substitution of a coal title, which is granted in respect of the whole or part of the Tenement Area on the application of the Grantor (or a Related Body Corporate of the Grantor).

# Dartbrook Royalty Deed

**Tenement Area** means the area of the Tenements as at the date of this Deed.

**Trepang Parties** means the Guarantor, John Robinson Snr and Nicholas Paspaley.

## 1.2 Interpretation

In this Deed:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Deed;
- (b) the singular includes the plural and the plural includes the singular.
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (e) an expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
- (f) a reference to a clause, Party, schedule, attachment or exhibit is a reference to a clause of, and a Party, schedule, attachment or exhibit to, this Deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re enactments of any of them;
- (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to a document includes that party's successors and permitted assignees (including the Parties);
- (j) a reference to A\$ is to Australian currency and a reference to USD\$ is to United States currency;
- (k) a promise on the part of 2 or more persons binds them jointly and severally;
- (l) a reference to an agreement other than this Deed includes a Deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing;
- (m) a reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- (n) a provision of this Deed will be construed adversely to a Party because that Party was responsible for the preparation of this Deed or that provision; and
- (o) a reference to a body, other than a Party to this Deed (including an institute, association or authority), whether statutory or not:
  - (1) which ceases to exist; or

# Dartbrook Royalty Deed

(2) whose powers or functions are transferred to another body,

is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

## 1.3 Interpretation of inclusive expressions

Specifying anything in this Deed after the words 'include' or 'for example' or similar expressions does not limit what else is included.

## 1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

## 1.5 Deed components

This Deed includes any schedule.

## 2. Grant of Royalty

---

### 2.1 Grant

The Grantor grants to the Royalty Holder the Royalty and agrees to pay the Royalty in accordance with the terms of the Deed.

### 2.2 Calculation of Royalty

- (a) Subject to clause 2.3, the royalty payable by the Grantor to the Royalty Holder under this Deed is to be calculated by multiplying the Net Profits by the Royalty Percentage (**Royalty**).
- (b) There must be no double counting of any items making up the Allowable Deductions, Adjustments and Carried Forward Deductions when calculating Net Profit or otherwise.

### 2.3 Royalty Limit

- (a) Notwithstanding any clause of this Deed, the Royalty shall not exceed the following amount (**Royalty Limit**):
  - (1) 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;
  - (2) 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;
  - (3) 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.
- (b) The USD amounts mentioned in this clause will be escalated in accordance with clause 14.10.

# Dartbrook Royalty Deed

- (c) For the avoidance of doubt, where the Royalty would, but for this clause, exceed the Royalty Limit then there is no royalty payable on the amount by which the Royalty exceeds the Royalty Limit.

## 2.4 No Royalty Until Mine Profitable

The Royalty will not be payable unless and until the Mine first becomes Profitable. The Grantor must deliver to the Royalty Holder written notice within 30 days of the Mine first becoming Profitable. If the Royalty Holder considers that the Mine has first become Profitable but has not received a written notice from the Grantor in accordance with this clause, then the Royalty Holder may refer the matter to dispute resolution under this Deed.

## 3. Payment of Royalty

---

### 3.1 Notification and timing for payment

Within 40 Business Days of the end of each Calendar Quarter, the Grantor must:

- (a) calculate the Royalty payable by it for that Calendar Quarter in accordance with clause 2, if any;
- (b) provide a Statement to the Royalty Holder in respect of that Calendar Quarter, even if there is no Royalty payable in respect of that Calendar Quarter; and
- (c) if the Royalty is payable for that Calendar Quarter, pay to the Royalty Holder the amount calculated under clause 3.1(a).

### 3.2 Overdue amounts

If the Grantor fails to pay all or any part of the Royalty due under this Deed on or before the due date described in clause 3.1, the Grantor must also pay to the Royalty Holder on demand, interest on the amount from the due date (up to and including the date upon which the monies are paid), calculated on a daily basis at the Agreed Rate.

## 4. Records and audit

---

### 4.1 Audit Report

- (a) The Grantor must maintain true and accurate records of the production of and sale or other disposal of all Coal (**Royalty Records**).
- (b) The Royalty Holder has the right to appoint a firm of chartered accountants upon 30 Business Days' prior written notice to the Grantor, to audit the Grantor's accounts and records (including all production records in respect of the Coal) to determine whether the amounts of the Royalty for a Financial Year have been correctly calculated in accordance with this Deed (**Audit**).
- (c) The Grantor will, following receipt of a written request from the Royalty Holder, allow the Royalty Holder and its Representatives reasonable access to the Tenements at all reasonable times to enable the Royalty Holder to, as is reasonably necessary, inspect the production of the Coal.
- (d) The Royalty Holder will have the right to appoint an auditor under clause 4.1(b) no more than twice per Financial Year during the term of this Deed and within two years after termination of this Deed.

# Dartbrook Royalty Deed

- (e) The Grantor and the Royalty Holder must:
  - (1) cooperate with the auditor appointed under clause 4.1(b) and provide all information reasonably required by the auditor, including full and free access to the Royalty Records to allow the auditor to prepare and deliver the Audit; and
  - (2) use reasonable endeavours to ensure the auditor provides a written report (**Audit Report**) of the results of the Audit within a reasonable time (and, in any event, within two months) of the auditor's appointment under clause 4.1(b).
- (f) The Grantor must use all reasonable endeavours to avoid undertaking any actions which may unreasonably limit the Royalty Holder's rights contained within this clause 4.1.

## 4.2 Disputes

Any dispute that arises in connection with an Audit may be referred to the Expert in accordance with clause 8.

## 4.3 Adjustment

- (a) If the Audit reveals an underpayment of the Royalty for any Financial Year, within 14 days of receipt of the Audit Report, the Grantor must pay to the Royalty Holder the amount of the Royalty outstanding.
- (b) If the Audit reveals an overpayment of the Royalty for any Financial Year, within 14 days of receipt of the Audit Report, the Royalty Holder must pay to the Grantor the amount of the overpayment of the Royalty.

## 4.4 Costs

The Royalty Holder will be liable for the costs of the Audit, unless the Audit reveals that the Royalty Holder has received greater than 10% less than the Royalty to which it was entitled for the Financial Year the subject of the Audit, in which case, the costs of the Audit must be paid by the Grantor.

## 5. No ability to compel operations

---

- (a) Without limiting clause 5(b), nothing in this Deed:
  - (1) obliges the Grantor to carry out any exploration, development, production or other operations or activities in respect of or within the area of the Tenements; or
  - (2) gives the Royalty Holder the right to compel or to require the Grantor to carry out any exploration, development, production or other operations or activities in respect of or within the area of the Tenements.
- (b) The Royalty Holder agrees and acknowledges that to the extent the Grantor carries out, or causes to be carried out, any exploration, development, production or other operations or activities in respect of or within the area of the Tenements, the Grantor is not required to seek:
  - (1) the consent of the Royalty Holder before altering, suspending or discontinuing any such operations or activities; or

# Dartbrook Royalty Deed

- (2) any input or consultation whatsoever from the Royalty Holder in respect of such operations or activities.

## 6. Assignment of Shares and Tenements

---

### 6.1 Restriction

The Grantor and the Guarantor must not and must procure that any Nominee does not, without the prior written consent of the Royalty Holder (with such consent not to be unreasonably withheld) permit any Assignment of any of the AQC Investments Shares.

### 6.2 No Assignment without deed of assumption

In the event that the Royalty Holder consents to an Assignment referred to in clause 6.1 above, the Grantor must procure and provide to the Royalty Holder a deed of assumption in favour of the Royalty Holder from the intended assignee, transferee or other relevant party, under which the assignee, transferee or other relevant party agrees to be bound by this Deed and to assume and discharge all of the obligations of the Grantor under this Deed.

## 7. Guarantee and indemnity

---

### 7.1 Guarantee

Subject to clause 7.3, the Guarantor unconditionally and irrevocably guarantees to the Royalty Holder the obligation of the Grantor to pay the Royalty under this Deed and to comply with the obligations of the Grantor under clause 6.1 (**Guaranteed Obligations**).

### 7.2 Performance

Subject to clause 7.3, if the Grantor does not perform any of the Guaranteed Obligations on time and in accordance with this Deed, the Guarantor must perform or procure the performance of those Guaranteed Obligations (without the need for a demand by the Royalty Holder) in accordance with the terms of this Deed.

### 7.3 End of Guarantee

If the Guarantor or the Nominee ceases to hold or control any AQC Investments Shares then the Guarantor will be automatically released and discharged from any further obligation under clause 7.1 and 7.2 on and from the date on which Guarantor ceases to hold any AQC Investments Shares.

## 8. Dispute resolution

---

### 8.1 Dispute resolution procedure

- (a) The Parties agree to use all reasonable efforts to resolve any dispute arising under this Deed (including by referring the dispute to their respective senior managers) for a period of at least 30 days after the date that the dispute arises.

# Dartbrook Royalty Deed

- (b) If the dispute has not been resolved by the expiration of the 30 day period referred to in clause 8.1(a), either Party may give the other Party Notice of a request to refer the dispute to an Expert (as applicable) for determination in accordance with this clause 8.
- (c) Subject to clause 8.4, a Party must not start court proceedings in respect of a dispute unless it has complied with this clause 8.

## 8.2 Determination by Expert

- (a) If a dispute arises between the Parties solely in relation to the calculation of the Royalty payable by the Grantor to the Royalty Holder under this Deed or in connection with an Audit or as otherwise permitted under this Deed and the dispute has not been resolved in accordance with clause 8.1(a), the Parties agree that the dispute will be conducted by an Expert in accordance with the following provisions:
  - (1) the Parties must attempt to agree on the identity of the Expert within 14 days of the dispute being referred to the expert determination procedure, and, failing agreement, the Expert is to be nominated by an authorised representative of the Institute of Chartered Accountants in Australia.
  - (2) The Expert appointed by the Parties or nominated under clause 8.2(a) must be independent of the Parties and suitably qualified in the area of the dispute.
  - (3) In making a determination, the Expert must:
    - (A) act as an expert and not as an arbitrator;
    - (B) accept submissions from the Parties as to the subject matter of the dispute within 30 days after his or her appointment;
    - (C) determine which Party should bear the costs of such determination and in what proportion; and
    - (D) state his or her determination of the dispute in writing, with a detailed statement of reasons, within 60 days after his or her appointment.
  - (4) The determination of the Expert is final and binding on the Parties other than in the case of fraud or manifest error or conflict of interest and the Parties must promptly comply with the determination of the Expert to the extent either Party is required to take any action as a result of that determination.
  - (5) The Expert and the Parties must treat all information disclosed in connection with the dispute as Confidential Information in accordance with clause 9, except to the extent necessary to enforce the determination made by the Expert.

## 8.3 Compliance with this Deed

During the existence of a dispute the Parties must continue to perform their obligations under and in accordance with this Deed, other than in respect of Royalty amounts payable by the Grantor under this Deed which are the subject of a bona fide dispute, without prejudice to their position in respect of the dispute.

## 8.4 Interlocutory relief

Nothing in this clause 8 prevents a Party from seeking any urgent or interlocutory relief.

# Dartbrook Royalty Deed

## 9. Confidentiality

---

### 9.1 Requirement of confidentiality

- (a) Each Party must maintain the confidentiality of the terms and conditions of this Deed and all information which is made available to or obtained by a Party to this Deed from or in connection with this Deed and which is not a matter of public knowledge or lawfully available from any other source (Confidential Information), and must not, without the prior consent of the other Party and subject to clause 9.1(b) and clause 9.1(c) (as applicable), disclose any Confidential Information to any third person other than in the following circumstances:
- (1) to a Related Body Corporate of the Party, provided that the disclosing Party will be responsible for ensuring that the recipient keeps the information confidential;
  - (2) to the extent the information is required to be furnished by the Parties or their Related Bodies Corporate in compliance with any applicable law or regulation or requirement of any authority or regulatory body;
  - (3) to any tax authority for the purposes of obtaining a tax ruling;
  - (4) pursuant to any legal proceedings or order of court binding upon a Party, including any court proceeding in respect of a dispute arising out of this Deed;
  - (5) to any bank or other recognised financial institution making a loan or giving accommodation to a Party or to a Related Body Corporate of a Party;
  - (6) to a Party's professional or other independent consultant or adviser where necessary for the purposes of this Deed;
  - (7) as may be required to the extent legally required by the rules of any recognised stock exchange on which shares or other securities of a Party or any Related Body Corporate of a Party are listed;
  - (8) to a bona fide prospective transferee of a Party's rights under this Deed, of an interest in the Tenements, of shares in a Party or a party that Controls a Party, to the extent reasonably required in order to allow for the assessment of those rights; or
  - (9) to an Expert for the purposes of resolving a dispute pursuant to clause 8.2.
- (b) Any disclosure made in accordance with clauses 9.1(5), 9.1(6), 9.1(8) or 9.1(9) should only be made subject to the recipient acknowledging the confidentiality provisions of this Deed and undertaking to observe those provisions as if the recipient were a party to this Deed.
- (c) Where a disclosure is made pursuant to clauses 9.1(3), 9.1(4) or 9.1(8), the disclosing Party must make all reasonable efforts to give prompt written notice of its intended disclosure to the other Party.

### 9.2 Reasonable precautions to be taken

Each Party must take reasonable precautions as may be necessary to prevent the disclosure of any Confidential Information.



# Dartbrook Royalty Deed

## 9.3 Public statements

If a Party wishes to publish any public statement (including a press release) relating to or in any way connected with this Deed then, except in the case of a public statement or disclosure authorised by clause 9.1, that Party must furnish the form and content of the proposed statement to the other Party in order to allow a reasonable opportunity for the other Party to comment thereon, and approve the form and content of the proposed statement, prior to the statement being published, such approval not to be unreasonably withheld.

## 10. Assignment of Royalty

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### 10.1 No Assignment without deed of assumption

Subject to clause 10.2, the Royalty Holder may Assign all or part of its interest in this Deed, provided that the Royalty Holder has procured and provided to the Grantor a deed of assumption in favour of the Grantor from the intended assignee, transferee or other relevant party, under which the assignee, transferee or other relevant party agrees to be bound by this Deed and to assume and discharge all of the obligations of the Royalty Holder under this Deed.

### 10.2 Right of First Refusal

Subject to clause 10.3 below, any Assignment by the Royalty Holder of any of its all or part of its interest in this Deed (**Rights**) to any person (an **Assignee**) is subject to the satisfaction of the following conditions precedent:

- (a) the Royalty Holder must provide a written offer of the Rights to the Grantor on the same terms and conditions as received by the Royalty Holder;
- (b) where the Assignment is proposed to be for non-cash consideration, the offer to the Grantor must include a cash value which is equivalent in value to the non-cash consideration (if there is a dispute concerning the equivalence of the cash value, the dispute must be determined by an Expert in accordance with clause 8).
- (c) if the offer is not accepted in writing within 30 days of it being made or, if applicable, within 30 days of a dispute as to a cash value being resolved by agreement in writing or by Expert determination, the Royalty Holder may proceed with the Assignment to the Assignee provided that the Assignment is on terms no more favourable to that Assignee than those offered to the Grantor and the Royalty Holder complies with the other provisions of this clause; and
- (d) the Assignee must enter into a deed of assignment and assumption with the Royalty Holder and the Grantor, in a form acceptable to the Grantor (acting reasonably), pursuant to clause 10.1.

### 10.3 Assignment that is permitted

The Royalty Holder may Assign all or part of its interest in this Deed to a Related Body Corporate of the Royalty Holder without having to comply with clause 10.2.

# Dartbrook Royalty Deed

## 11. Costs and expenses

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- (a) The Parties agree that subject to clause 11(b), each Party will be responsible for its own costs in respect of the negotiation, preparation, execution, delivery and registration of this Deed.
- (b) The Parties agree that to the extent any duty is payable in respect of this Deed, the duty costs will be borne by the Royalty Holder.

## 12. GST

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- (a) Any consideration to be paid or provided for a supply made under or in connection with this Deed, unless specifically described in this Deed as 'GST inclusive', does not include an amount on account of GST.
- (b) To the extent that any supply made under or in connection with this Deed is a taxable supply, the recipient must pay, in addition to the consideration provided under this Deed for that supply (unless it expressly includes GST) an amount (additional amount) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.
- (c) The supplier must issue a tax invoice to the recipient of a taxable supply to which clause 12(b) applies on the date the supply is made.
- (d) Where additional amounts are payable between the Parties pursuant to clause 12(b), amounts so payable, to the extent they are equivalent in amount will be set off against each other as if paid and each Party will be obliged only to give to the other the tax invoice referred to in clause 12(c).
- (e) Whenever an adjustment event occurs in relation to any taxable supply to which clause 12(b) applies:
  - (1) the supplier must determine the amount of the GST component of the consideration payable; and
  - (2) if the GST component of that consideration differs from the amount previously paid, the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.
- (f) If either Party is entitled under this Deed to be reimbursed or indemnified by the other Party for a cost or expense incurred in connection with this Deed, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the Party being reimbursed or indemnified, or by its representative member.
- (g) Terms used in this clause 12 have the same meaning as in the GST Act.

## 13. Notices

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### 13.1 Form of Notice

A notice or other communication to a Party under this Deed (**Notice**) must be:

# Dartbrook Royalty Deed

- (a) in writing and in English and signed by or on behalf of the sending Party; and
- (b) addressed to that Party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending Party by Notice).

## 13.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below. However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (business hours period), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By fax to the nominated fax number	At the time indicated by the sending Party's transmission equipment as the time that the fax was sent in its entirety.  However, if the recipient Party informs the sending Party within 4 hours after that time that the fax transmission was illegible or incomplete, then the Notice will not be regarded as given or received. When calculating this 4 hour period, only time within a business hours period is to be included.

## 13.3 Notice must not be given by email or other electronic communication

A Notice must not be given by email or other electronic means of communication (other than fax as permitted in clause 13.2).

## 14. General

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### 14.1 Governing law and jurisdiction

- (a) This Deed is governed by the law in force in Queensland.
- (b) Each Party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in Queensland and courts of appeal from them in respect of any proceedings arising out of or in connection with this Deed. Each Party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

# Dartbrook Royalty Deed

## 14.2 Invalidity and enforceability

- (a) If any provision of this Deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 14.2(a) does not apply where enforcement of the provision of this Deed in accordance with clause 14.2(a) would materially affect the nature or effect of the Parties' obligations under this Deed.

## 14.3 Waiver

- (a) No Party to this Deed may rely on the words or conduct of any other Party as a waiver of any right unless the waiver is in writing and signed by the Party granting the waiver.
- (b) The meanings of the terms used in this clause 14.3 are set out below.

Term	Meaning
Conduct	includes delay in the exercise of a right
Right	any right arising under or in connection with this Deed and includes the right to rely on this clause
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel

## 14.4 Variation

A variation of any term of this Deed must be in writing and signed by the parties.

## 14.5 Further action to be taken at each Party's own expense

Each Party must, at its own expense, do all things and execute all documents necessary to give full effect to this Deed and the transactions contemplated by it.

## 14.6 Entire agreement

This Deed states all the express terms agreed by the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

## 14.7 No reliance

Neither Party has relied on any statement by the other Party not expressly included in this Deed.

## 14.8 Counterparts

- (a) This Deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.

# Dartbrook Royalty Deed

(c) A Party may execute this Deed by signing any counterpart.

## 14.9 Survival

Clauses 3 (Payment of Royalty), 4 (Records and audit), 5 (No ability to compel operations), 9 (Confidentiality), 10 (Assignment of Royalty), 10.2 (Costs and expenses), 12 (GST), 13 (Notices) and 14 (General) survive the expiry or termination of this Deed.

## 14.10 Indexation

Any amount or rate in this Deed which is subject to escalation (**Amount**) is increased on 31 January each year (**Date of Escalation**) in accordance with the following formula:

$$\text{New Amount} = \text{Amount} \times \frac{B}{C}$$

where:

B = the Index Number last published before the Date of Escalation; and

C = the Index Number last published before the date of this Deed.

**Index Number** means:

- (a) the Consumer Price Index (Brisbane All Groups) number published from time to time by the Australian Bureau of Statistics; and
- (b) if the Consumer Price Index (Brisbane All Groups) is suspended or discontinued, the index published by the Australian Bureau of Statistics which reflects the cost of living in Brisbane, as determined by:
  - (1) agreement between the parties; or
  - (2) if the parties are unable to agree, the president of the Australian Institute of Chartered Accountants or by some person nominated by him or her, whose decision is conclusive and binding.

## 14.11 Relationship of the parties

- (a) Nothing in this Deed gives a Party authority to bind any other Party in any way.
- (b) Nothing in this Deed imposes any fiduciary duties on a Party in relation to any other Party.

## 14.12 Exercise of rights

- (a) Unless expressly required by the terms of this Deed, a Party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this Deed.
- (b) A Party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this Deed. Any conditions must be complied with by the Party relying on the consent, approval or waiver.

# Dartbrook Royalty Deed

**14.13 Notice of Transactions**

The Grantor must provide written notice to the Royalty Holder of any transaction entered into by the Guarantor, Grantor, or AQC Dartbrook in respect of the Tenements and which may have an effect on the Royalty Holder's rights contained within this Deed, with such notice to include sufficient detail of the proposed transaction.

# Dartbrook Royalty Deed

## Schedule 1 - Notice details

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### Grantor

Address SWJR Nominees Pty Ltd, Suite 6, 170 Coonawarra Road, Winnellie NT 0820  
Attention John Robinson  
Fax N/A

### Royalty Holder

Address Level 4, 10 Felix St, Brisbane Qld 4000  
Attention Company Secretary  
Fax +61 (0) 7 3229 9323

# Dartbrook Royalty Deed

## Schedule 2 - Tenements

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Exploration Licence 4574

Exploration Licence 4575

Exploration Licence 5525

Authorisation 256

Coal Lease 386

Mining Lease 1381

Mining Lease 1456

Mining Lease 1497

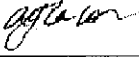


# Dartbrook Royalty Deed

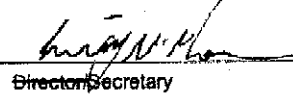
## Signing page

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Executed by Australian Pacific Coal Limited



Director



Director/Secretary

Anthony John Lalor

Print full name of Director

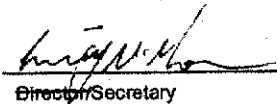
Craig McPherson - Secretary

Print full name of Director/Secretary

Executed by AQC Investments 2 Pty Ltd ACN  
609 954 734



Director



Director/Secretary

Anthony John Lalor

Print full name of Director

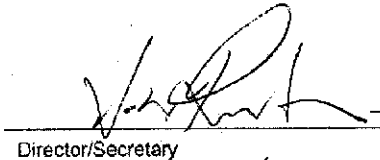
Craig McPherson - Secretary

Print full name of Director/Secretary

Executed by Trepang Services Pty Ltd ACN  
149 489 065



Director



Director/Secretary

NICHOLAS THEODORE JAMES PASPALEY Joan Robinson

Print full name of Director

2022.04.19.

Print full name of Director/Secretary

# Explanatory Memorandum

## 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*.

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 by hand to the Share Registry, **Link Market Services Limited, 1A Homebush Bay Drive, Rhodes NSW 2138** not less than 48 hours before the time for holding the meeting, or adjourned meeting as the case may be, at which the individual named in the proxy form proposes to vote.

Australian Pacific Coal Limited

C/- Link Market Services Limited

Locked Bag A14

Sydney South NSW 1235 Australia

Telephone Phone: 1300 554 474 (Overseas: +61 1300 554 474)

Facsimile No: +61 2 9287 0309

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.

## Voting entitlement

For the purposes of determining voting entitlements at the Meeting, Shares will be taken to be held by the persons who are registered as holding the Shares at 7.00pm on 18 August 2022. Accordingly, transactions registered after that time will be disregarded in determining entitlements to attend and vote at the Meeting.

## 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.

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*) 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 Independent Expert Report**

# **Independent Expert's Report and Financial Services Guide**

In relation to the proposed acquisition by  
Trepang Services Pty Ltd and associated  
entities, of the Dartbrook Coal Project, from  
Australian Pacific Coal Limited

22 July 2022

## Part 1 – Independent Expert’s Report

The Non-Associated Directors  
Australian Pacific Coal Limited  
Level 15, 344 Queen Street  
Brisbane QLD 4000

22 July 2022

Dear Non-Associated Directors

### Proposed acquisition by Trepang Services Pty Ltd and associated entities of the Dartbrook Coal Project from Australian Pacific Coal Limited

#### Background

Australian Pacific Coal Limited (“AQC” or the “Company”) is an Australian coal exploration and evaluation company that listed on the Australian Securities Exchange (“ASX”) in 1999. The Company’s key assets include the Dartbrook coal mine, located in the Hunter Valley, NSW and various coal exploration tenements in Queensland’s Bowen, Galilee and Surat basins<sup>1</sup>. Upon its acquisition in May 2017, the Dartbrook coal mine was not operational. Furthermore, as at the date of this report, AQC has no operational assets.

In order to fund its acquisition of the Dartbrook coal mine as well as to fund ongoing working capital requirements, the Company entered into a number of financing arrangements with Mr John Robinson (Snr), Mr Nicholas Paspaley and Trepang Services Pty Ltd (“Trepang”), (collectively, “Existing Financiers” and/or “Trepang and its associates”). As at 31 January 2022, AQC had loans owing totalling \$62.0 million. These loans are split between the AQC parent entity (\$49.7 million) and its subsidiaries (\$12.3 million). The current market capitalisation of AQC, based on its traded share price, is approximately \$5.6 million at 19 July 2022.

Following several years of negotiations and appeals, AQC announced on 14 March 2022 that it had entered into a revised agreement for the recommencement and extension of mining operations with the Minister for Planning and Public Spaces under s34(3) of the *Land and Environment Court Act 1979*. This enables AQC to recommence mining operations at the Dartbrook coal mine, with certain limitations, for a period up to 5 December 2027.

AQC announced, on 21 February 2022, that it had received a binding offer and term sheet from Trepang that would enable Trepang or its nominee to purchase the Dartbrook Coal project through the acquisition of 100% of the equity in AQC Investments 2 Pty Limited and its wholly owned subsidiaries including AQC Dartbrook Pty Ltd; AQC Dartbrook Management Pty Ltd and Dartbrook Coal (Sales) Pty Ltd (together referred to as the “Dartbrook Coal Project”) (the “Transaction”)<sup>2</sup>. The binding offer and term sheet was subsequently terminated upon the execution of a Share Sale Agreement (“SSA”) between AQC, Trepang, John Robinson (Snr) and Nicholas Paspaley on 19 April 2022.

As per the SSA, Trepang will:

- ▶ pay AQC \$1.00 for the transfer of the Dartbrook Coal Project to Trepang, including all assets and liabilities of the subsidiaries comprising the Dartbrook Coal Project;
- ▶ novate or extinguish all debts and accrued interest owed by the AQC parent entity to the Existing Financiers, including the forgiveness of historical director fees to John Robinson (Jnr); and
- ▶ effect the grant of a royalty by AQC Investments 2 Pty Ltd to AQC from the net profits of the Dartbrook Coal Project limited to between A\$2.50 and A\$5.00 per tonne, based on the average coal price per quarter (the “Royalty”)<sup>3</sup>.

<sup>1</sup> AQC company website

<sup>2</sup> ASX announcement titled “Offer for Purchase of Dartbrook Coal Project” dated 21 February 2022

<sup>3</sup> Share Sale Agreement and Dartbrook Royalty Deed

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Ernst & Young Strategy and Transactions Limited, ABN 87 003 599 844

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In addition, Trepang will assume responsibility for reasonable AQC management and corporate costs, as well as holding costs of the Dartbrook Coal Project from signing of the term sheet until completion or earlier termination of the offer.

### **Requirement for an independent expert's report**

In accordance with ASX Listing Rule 10.1, a proposed acquisition or disposal of a substantial asset from or to a related party, a substantial holder or an associate, requires the approval of the holders of the company's securities not associated with the related party, substantial holder or associate (the "Non-Associated Shareholders"). An asset is a "substantial asset" if its value, or the value of the consideration for it, is 5% or more of the equity of AQC as set out in its latest accounts.

We note that the Dartbrook Coal Project to be sold to Trepang represents significantly more than 5% of the equity of AQC and is therefore considered a "substantial asset" in accordance with the ASX Listing Rules. Furthermore, Trepang and its associates hold a relevant interest of 41.72% in AQC shares on issue as of 31 March 2022 and is therefore considered a substantial holder of shares in the Company. As such, the proposed disposal of a substantial asset to a substantial holder, requires the approval of the Non-Associated Shareholders under ASX Listing Rule 10.1.

In accordance with ASX Listing Rule 10.10.2, the Notice of Meeting to be sent to shareholders must include a report from an independent expert providing its opinion as to whether the proposed transaction is fair and reasonable to the Non-Associated Shareholders. As such, the Non-Associated Directors of AQC have commissioned us to prepare an independent expert's report, setting out, whether or not in our opinion, the proposed Transaction is fair and reasonable to the Non-Associated Shareholders of AQC and the reasons for that opinion. Our Report will accompany the Notice of Meeting and Explanatory Memorandum to be sent to AQC shareholders. Our independent experts report provides an opinion on the proposed Transaction only. We do not provide any opinion on any other resolutions included in the Notice of Meeting and Explanatory Memorandum.

### **Approach**

Neither the Corporations Act 2001 nor the ASX Listing Rules define the term "fair and reasonable" for the purpose of ASX Listing Rule 10. As such, we had regard to ASIC Regulatory Guide 76 *Related Party Transactions* ("RG 76") and ASIC Regulatory Guide 111 *Content of Experts Reports* ("RG 111") which provides some guidance as to how the term "fair and reasonable" should be interpreted in a range of circumstances. With respect to a related party transaction RG 111 provides:

- ▶ An offer is "fair" if the value of the "financial benefit to be provided by the entity to the related party is equal to or less than the value of the consideration being provided to the entity".
- ▶ An offer is "reasonable" if it is fair. It might also be "reasonable" if, despite being "not fair", the expert believes that there are sufficient reasons for security holders to vote for the proposal.

Accordingly, in evaluating whether the proposed Transaction is fair and reasonable to Non-Associated Shareholders, pursuant to ASX Listing Rule 10.1, we have made a separate assessment as to whether, or not, the proposed Transaction is "fair" and "reasonable" as required under RG 111.56. RG 111 also provides that an independent expert should usually give a range of values for the assets that are the subject of the offer. If the value of the consideration offered falls within the range of values of the assets, the offer is considered to be fair.

In assessing the fairness, we have compared the fair value of the Dartbrook Coal Project to be sold to Trepang to the fair value of the consideration being offered by Trepang, which is comprised of \$1.00 plus the extinguishment of debt as well as the right to receive a royalty. In assessing the reasonableness of the proposed Transaction, we considered certain factors which are discussed on the following pages.

## Summary of opinion

### ***Fairness of the proposed Transaction***

We have assessed whether the proposed Transaction is fair by comparing the fair value of the Dartbrook Coal Project (i.e. the value being given up) with the fair value of the consideration that will be received by AQC in the event that the proposed Transaction is approved (i.e. the value being received).

The table below presents a summary of the fair value of the Dartbrook Coal Project and the consideration to be received by AQC shareholders.

Evaluation of the fairness of the proposed Transaction		
\$'000	Low	High
Value transferred		
Fair value of the Dartbrook Coal Project	1,870	35,510
Value received		
<i>Cash</i>	0.001	0.001
<i>Novated debt and interest</i>	61,981	61,981
<i>Forgiveness of Robinson director fees</i>	249	249
<i>Dartbrook Royalty</i>	-	1,551
Total Consideration	62,231	63,781

Source: Ernst & Young Strategy and Transactions Limited analysis

As the fair value of the consideration is above the range of the assessed fair values of the Dartbrook Coal Project, we consider the proposed Transaction to be fair.

We note that it is difficult to assess the value of the Dartbrook coal mine, which is the major asset of the Dartbrook Coal Project, in the current market and given the limitations and conditions of the Modification 7 approval. While spot coal prices are currently experiencing record highs, partly driven by supply constraints, forward prices are expected to decline from current levels. However, under the current mining approvals there is a short timeframe over which the mine is approved to operate, being only until December 2027.

In addition, based on assessments made by Xenith Consulting Pty Limited (“Xenith”), significant capital expenditure is required to re-commence mining as the assets have sat idle for 15 years, and as well as in order to comply with additional requirements for noise mitigation. These factors imply significant upfront costs and only a short period over which a positive return may be generated. Based on the technical expert’s calculations and assumptions adopted, AQC would require an outlay of between c.\$223 million and c.\$355 million before the Dartbrook coal Mine is likely to generate positive net cash flows. As such, to the extent that the mine could achieve an accelerated ramp up to full production, a more cost-efficient restart, realise higher prices and a further extension of the mine life, there could be upside to the value of the Dartbrook coal Mine. However, in our view any re-commencement of mining is not without significant risk and the value range adopted based on Xenith’s analysis, takes into account the current investor demand for assets of this nature and risk profile.

In respect of the Dartbrook Royalty, which may be received by AQC shareholders once the mine generates positive net profits, we consider the fair value to be between nil and \$1.5 million. However, we acknowledge that there may be potential upside over and above this range. This would similarly be dependent upon the mine achieving an accelerated production schedule with lower capital expenditure such that it could reach net profits earlier. Any extension to the current mining approvals would also provide upside potential to the value of the Dartbrook Royalty assessed above.

Based on our assessment AQC’s debts, which are continuing to accrue interest, significantly outweigh the potential value that might be realised by selling its key asset, and there is no clear prospect of being able to fund development of that asset to realise value without a sale. On this basis, the significant debt burden means

there is likely to be minimal value in the equity. The proposed Transaction releases AQC from this debt such that interest expenses are no longer accruing, and provides shareholders the potential to realise some value, via the potential future royalty stream and continued ownership of AQC's other tenement assets. Shareholders also have the option to sell their shares on market.

### ***Reasonableness of the proposed Transaction***

Under the guidance provided by RG 111, as we consider the terms of the proposed Transaction to be fair, we also consider the proposed Transaction to be reasonable. Notwithstanding this conclusion, we have also considered other factors that the Non-Associated Shareholders should consider in forming their view as to whether to approve, or not approve, the proposed Transaction. Individual Non-Associated Shareholders may interpret these factors differently depending on their own circumstances.

### **Advantages**

#### ***AQC's debt will be reduced to nil and all security released***

As a result of the proposed Transaction, all of AQC's borrowings will be extinguished and security over its assets released. As reported in its 31 December 2021 half year report, AQC had consolidated net financial debt (gross debt including accrued interest less cash) of \$61.1 million, of which all borrowings are currently due for repayment. AQC currently has no operating assets or cash flow to repay the debt or service any interest repayments. Furthermore, based on Xenith's discounted cash flow scenarios and accounting for cash outflows for the AAMCA Royalty, the Dartbrook coal mine would likely only generate sufficient cash flows to repay liabilities to the Existing Financiers under the high case scenario<sup>4</sup>.

The proposed Transaction will result in the novation, waiver or extinguishment of all debts of AQC and reduce concerns with respect to its ability to operate as a going concern. AQC would then have no debt, with its main assets including a number of tenements as well as the potential to receive the royalty.

#### ***There are limited alternative options available to AQC***

AQC has no current operations and increasing debt levels resulting from the capitalisation of interest on loans provided by the Existing Financiers to fund its ongoing working capital requirements. AQC has in recent years explored various strategic options, which we view as limited, having considered the following:

- ▶ Based on the technical expert's calculations and assumptions adopted, AQC would require an outlay of between c.\$223 million and c.\$355 million before the Dartbrook coal mine begins to generate positive net cash flows<sup>4</sup>. Given its existing secured debt outstanding and the announcements by many financiers to fund clean energy projects rather than fossil fuel projects, we consider the pool of potential financiers to be very limited and associated funding costs to be high. Furthermore, any financier would also require security and hence require the repayment of existing secured debt which further increases the funding requirements.
- ▶ For similar reasons as above, AQC would be unlikely to be able to raise new equity in order to pay down its borrowings and fund the development of the mine. We understand that AQC last undertook an equity issuance in October 2018 which raised \$1.0 million. Since December 2015, AQC has raised approximately \$7.3 million from unrelated parties. However, the financial position of AQC was more favourable at the time of these raisings, than currently. We understand that AQC's discussions with its equity advisors indicate that an equity issuance is not a viable option. Furthermore, the holders of the existing convertible notes would not likely convert their debt into equity. The existing convertible notes may be converted to equity at the option of the holders at a conversion price of \$0.80 per share. As the current share price at 19 July 2022 is \$0.11 per share, the convertible notes are not likely to be converted by Trepong and its associated entities.

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<sup>4</sup> Xenith Report



- ▶ In our view there are very few buyers for AQC's core asset. The likely buyers would logically be a coal mining operator with existing mining operations in proximity to Dartbrook. Other opportunistic buyers could include mining funds with access to capital seeking to capitalise on the current high coal spot prices. However, there have been very few acquisitions of coal assets in recent years, with those that have occurred generally being large mining companies acquiring remaining minority stakes in existing assets.
- ▶ We understand that AQC received, in March 2022, a highly indicative draft term sheet from a third party to acquire a majority interest in the Dartbrook coal mine. The term sheet was subject to due diligence being undertaken. One other preliminary offer had been received in January 2022 for the acquisition of the Dartbrook coal mine and entry into coal marketing arrangements. We understand the prior offers were preliminary in nature and due to AQC's financial constraints and limited financial support from the Existing Financiers, they were not considered further.
- ▶ The Company is unlikely to be able to refinance its current borrowings. Given the lack of operational cash flows, risks associated with commencing operations at the Dartbrook coal mine, and the existing security arrangements granted in favour of the Existing Financiers, it is unlikely that any third-party lender would, or could, provide more attractive debt terms. We understand that Management's discussions with a major bank concurs with this view.
- ▶ AQC has few other assets of value, aside from the Dartbrook coal mine, that may be applied in order to fund any repayments of debt or servicing of interest. Of the other assets owned by the Company, there are none that are operational or generate profits.
- ▶ While AQC currently owns land upon which the CHPP is located, the current value of the land, even on an alternate use basis for say pastoral, or potentially even forestry and generation of carbon credits use, is at the low end of the current value of the Dartbrook Coal Project.
- ▶ Since the announcement of the proposed Transaction no other offers, other than as noted above, have eventuated for the Dartbrook Coal Project or AQC.

As such, it is our view that the current alternative options available to AQC are very limited, and it is unlikely that an alternative superior proposal will emerge. Furthermore, given the re-commencement of mining is currently only approved until 5 December 2027, further delays in the sale of the asset, or material changes in coal prices, could have a material impact on the value.

***If the proposed Transaction is not approved, AQC will require financial support***

While the Company's financiers have not yet exercised their rights to demand repayment of their loans, in the event that they did, AQC has no ability to repay its debts other than via a sale of its core assets. As a secured creditor, Trepang and its associates would have the ability to affect the appointment of a receiver and manager, and orderly realisation of its assets. However, in our view, realisation proceeds may not be maximised in the event of a sale by a receiver and manager given the generally short time frame over which these assets would be required to be sold and the actual or perceived existence of a "distressed" vendor. In this instance it is unlikely that shareholders would receive any value for their equity and would not have an option to receive any future royalty.

As such, if the proposed Transaction is not approved and implemented, AQC will require financial support in order to repay its current borrowings and meet its going concern obligations. Given the focus on energy transition we consider the pool of potential lenders to be very limited, especially considering the secured charge over all assets currently in favour of Trepang and its associates.

***AQC shareholders will maintain some exposure to any future operations of the Dartbrook coal mine through the Royalty***

If the Transaction is approved, AQC will maintain exposure to the potential future profits of the Dartbrook coal mine through the Dartbrook Royalty, with limited exposure to operational risk. Whilst the Dartbrook Royalty has a nominal fair value and any royalty may not be received for a number of years, it has limited downside risk, but with potential upside over and above the fair value ascribed.

**Disadvantages**

***The sale of its main asset leaves AQC with minimal assets and limited attractiveness to investors***

Whilst the proposed Transaction will result in a reduction of debt, its asset base will also be significantly reduced. AQC will retain only limited assets, comprising some exploration tenements in the Bowen, Galilee and Surat basins, the potential Dartbrook Royalty stream and nominal amount of other assets and liabilities. Net assets of AQC post the proposed transaction are estimated to be between c. \$0.3 million and c. \$1.8 million, with no cash flow to support any future strategic direction, implying no value of the equity for shareholders. This will reduce the attractiveness of the Company to any third party acquiror.

***AQC will no longer be listed on the ASX with limited options for liquidity for shareholders***

In the event of the sale of its main asset and with no operating assets, AQC will no longer meet the requirements for listing on the ASX. As such it will likely be de-listed. AQC shareholders would then hold shares in an unlisted public company with limited ability or market through which shareholders may sell their shares and limited prospect of a dividend other than through any potential future royalty. This could be considered a disadvantage however we also note that in the event Trepang were to exercise its rights as a secured creditor, shareholders would be unlikely to receive any return on their investment given the debt owing (which continues to accrue interest) exceeds the fair value of AQC's assets.

**Other considerations**

***There is not expected to be any cash tax payable by AQC as a result of the Transaction***

If the proposed Transaction is approved, we understand that AQC will recognise a capital gain. However, based on tax advice obtained by AQC, we understand that any capital gain may be offset against the carried forward tax losses available to AQC. As such, there are no specific tax consequences for individual AQC shareholders as a result of the proposed Transaction.

***AQC's control and exposure to the Dartbrook Coal Project will be reduced***

If the Transaction is approved, AQC will no longer be exposed to the Dartbrook coal mine, other than through the Dartbrook Royalty. As such AQC shareholders will forgo any potential value over and above its exposure to the Dartbrook Royalty from any future operating upside. This may also have the effect of making the company less attractive to some potential purchasers or raise funds in future. Alternatively, its lower exposure to coal mining may increase its attractiveness for some investors.

***Certain costs have been incurred associated with the Transaction***

AQC will have incurred or committed to incurring various one-off transaction costs. These transaction costs, which are estimated to be between \$180,000 to \$220,000 exclusive of GST, will be payable by AQC regardless of whether the proposed Transaction is approved.

***Trepang and its associates' potential voting rights will remain unchanged***

Trepang and its associates currently hold Convertible Notes which are convertible into ordinary shares at their option. The Convertible Notes' principal balance may be converted at \$0.80 per share and accrued interest

balance may be converted at the five-day volume weighted average price (“VWAP”). As the current AQC share price is \$0.11 per share, it is unlikely Trepang, and its associates would elect to convert. Assuming no conversion, Trepang and its associates’ voting power remains at 41.72%. If converted their voting power could increase to over 70%, however as the Convertible Notes are not likely to be converted given current AQC share prices, we do not see this to be an advantage or disadvantage of the proposed Transaction.

### ***No preferential treatment of Trepang and its associates***

Trepang currently holds first ranking security over the assets of AQC, through the Vendor Loan which benefits from first ranking security, as well as the Convertible Notes and other secured loans. Of the total loans owed to Trepang and its associates at 31 January 2022 of \$62.0 million, only \$3.4 million is unsecured. Other than the Unsecured Loan, all are secured in favour of Trepang and its associates. As such, there is no preferential treatment of Trepang and its associates, as in the event of calling upon its loans, Trepang and its associates would be entitled, in priority to any other lender, to have recourse to key assets of AQC.

### ***Conclusion***

Taking into consideration the matters detailed in this independent expert’s report, in our opinion, the proposed Transaction is fair and reasonable to the Non-Associated Shareholders.

Our assessment of the proposed Transaction is based on economic, market and other conditions prevailing as at the date of this report. Conditions can change significantly over relatively short periods of time, as evidenced by the market volatility observed during the COVID-19 pandemic since early 2020 and the current conflict in Europe, both of which continue to persist and may persist for some time. If conditions change materially, subsequent to the date of this report, our opinion could be different.

### ***Other matters***


This independent expert’s report has been prepared specifically for the Non-Associated Shareholders of AQC. Neither Ernst & Young Strategy and Transactions Limited, Ernst & Young nor any employee thereof undertakes responsibility to any person, other than the Non-Associated Shareholders in respect of this report, including any errors or omissions howsoever caused.

This independent expert’s report constitutes general financial product advice only and has been prepared without taking into consideration the individual circumstances of the Non-Associated Shareholders. The decision as to whether to approve or not approve the proposed Transaction is a matter for individual Shareholders. Non-Associated Shareholders should have regard to the Notice of Meeting and accompanying documents prepared by AQC. Non-Associated Shareholders who are in doubt as to the action they should take in relation to the proposed Transaction should consult their own professional adviser.

Our opinion is made as at the date of this report and reflects circumstances and conditions as at that date. This letter must be read in conjunction with the full independent expert’s report as attached.

Ernst & Young Strategy and Transactions Limited has prepared a Financial Services Guide in accordance with the Corporations Act 2001. The Financial Services Guide is included as Part 2 of this report.

Yours faithfully  
Ernst & Young Strategy and Transactions Limited



Julie Wolstenholme  
Director and Representative



Jamie Stewart  
Director and Representative

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### Part 2 – Financial Services Guide

# 1. Introduction

## 1.1 Background

AQC is an Australian coal exploration and evaluation company that listed on the ASX in 1999. The Company's focus has historically been on identifying and acquiring strategic tenements in close proximity to operating mines or in areas with proven or potential in-ground resources. Since 2010, AQC has acquired a strategic holding of coal exploration tenements in Queensland's Bowen, Galilee and Surat basins<sup>5</sup>. Further, in May 2017, AQC acquired the Dartbrook coal mine, located in the Hunter Valley, NSW.

In order to fund its acquisition of the Dartbrook coal mine for \$30.0 million as well as to fund ongoing working capital requirements, the Company entered into a number of financing arrangements with the Existing Financiers. Total loans owing by AQC as at 31 January 2022 amount to \$62.0 million. These loans were provided to the AQC parent entity (\$49.7 million) and its subsidiaries (\$12.3 million). AQC currently has no operational assets nor cash flow available in order to repay the loans. Certain of these loans were partly repaid in late 2021 following the divestment of a number of non-core parcels of land and associated water rights for \$33.8 million. AQC has a current market capitalisation of \$5.6 million at 19 July 2022.

Upon acquisition, the Dartbrook coal mine was not operational. AQC subsequently lodged an application for approval to recommence mining operations at the Dartbrook coal mine ("Modification 7"). Following a protracted process, which is discussed further in section 3 of this report, in March 2022, AQC entered into an agreement with the Minister for Planning and Public Spaces allowing for the recommencement of mining and a 5-year extension to operations at the Dartbrook coal mine<sup>6</sup>. The agreement allows the Dartbrook coal mine to produce a maximum of 6.0Mtpa Run of Mine ("ROM") coal, 1.5Mtpa from bord and pillar mining and 4.5Mtpa from longwall mining. Alternatively, it is able to produce a total of 6.0Mtpa from longwall mining in the case of no bord and pillar mining. The project is also required to upgrade the Coal Handling and Preparation Plant ("CHPP") for noise mitigation measures and utilise the Hunter Tunnel for all ROM coal clearance and handling. Under these current approvals, mining operations are to cease by 5 December 2027.

AQC announced, on 21 February 2022, that it had received a binding offer and term sheet from Trepang that would enable Trepang or its nominee to purchase the Dartbrook coal mine through the acquisition of 100% of the equity in AQC Investments 2 Pty Limited, and its wholly owned subsidiaries including AQC Dartbrook Pty Ltd; AQC Dartbrook Management Pty Ltd and Dartbrook Coal (Sales) Pty Ltd (together referred to as the "Dartbrook Coal Project"). Of these entities AQC Dartbrook is the legal and beneficial owner of the mining tenements relevant to the Dartbrook coal mine. The binding offer and term sheet was subsequently terminated upon the execution of a Share Sale Agreement ("SSA") between AQC, Trepang, John Robinson (Snr) and Nicholas Paspaley on 19 April 2022. In addition, the Dartbrook Royalty Deed was entered into between AQC, AQC Investments 2 Pty Ltd and Trepang on the same date.

As per the SSA, Trepang will pay AQC \$1.00 for the transfer of the Dartbrook Coal Project to Trepang or its nominee, including all assets and liabilities of the Dartbrook Coal Project; novate or extinguish all debts and accrued interest owed to the Existing Financiers not transferred with the Dartbrook Coal Project, including the forgiveness of historical director fees to John Robinson (Jnr); and, the granting by AQC Investments 2 Pty Limited of a royalty to AQC. In addition, Trepang will assume responsibility for reasonable AQC management and corporate costs, as well as holding costs from 15 February 2022 being the date the parties entered into the term sheet, until completion or earlier termination of the offer.

### 1.1.1 Key terms of the proposed Transaction

The key terms of the proposed Transaction are set out in the SSA and Dartbrook Royalty Deed, as well as detailed in the accompanying Explanatory Memorandum and include those summarised below.

<sup>5</sup> AQC company website

<sup>6</sup> ASX announcement titled "Dartbrook – Modification 7 Update" dated 14 March 2022

## Acquisition of the Dartbrook Coal Project

- ▶ As a result of the Transaction, if approved, Trepang or its nominee will acquire the entire issued share capital of AQC Investments 2 Pty Limited, which in turn holds 100% of the issued capital in the remaining subsidiaries including ACQ Dartbrook Pty Ltd; AQC Dartbrook Management Pty Ltd and Dartbrook Coal (Sales) Pty Ltd, for a cash consideration of A\$1.00.
  - The Dartbrook Coal Project holds all of the Dartbrook coal mine assets, being the mining tenements, approvals, properties and contracts related to the Dartbrook Coal Project. These subsidiaries do not hold any other assets unrelated to the Dartbrook Coal Project. The properties include two parcels<sup>7</sup> of land on which the CHPP is located, as well as the rail loop. Access to other land the subject of the mining tenements is provided by way of access rights granted by the landowners.
  - The Dartbrook Coal Project also has certain liabilities, namely, provisions for mine rehabilitation, the vendor royalty owed to Anglo American Metallurgical Coal Assets Pty Ltd (“AAMCA Royalty”) and certain loans owed to the Existing Financiers. The net book value of the Dartbrook Coal Project entities as at 31 December 2021 is negative \$36.9 million.

## Novation, waiver or extinguishment of debt and interest to Existing Financiers

- ▶ On completion, Trepang or its nominee agree to the:
  - Novation of loans owed by AQC, to AQC Investments 2 Pty Limited, such that AQC is released, discharged, and indemnified from all liabilities in connection with the debt owed to the Existing Financiers, including all security held in respect of those liabilities over all entities that are not comprising the Dartbrook Coal Project.
  - Forgiveness of accrued director fees payable to John Robinson (Jnr) of \$249,230.64 plus any accrued interest.
  - Waiver of the right to any and all interest to have been accrued in respect of the debt amounts, and any right to charge AQC interest on the debt amounts relating to any past, present, or future period.

The table below illustrates the current debt and interest liabilities of AQC to the Existing Financiers. A detailed description of each of the facilities is included in the Explanatory Memorandum.

Debt breakdown as at 31 January 2022						
Currency: A\$000		AQC Parent		Dartbrook Coal Project		Total Consolidated
Lender	Facility	Principal (Novated)	Accrued Interest (Extinguished)	Principal	Accrued Interest	Principal and Accrued Interest
Trepang	Vendor Loan	-	-	7,700	4,564	12,264
J Robinson (Snr)	Robinson Convertible Loan	10,449	6,894	-	-	17,342
N Paspaley	Paspaley Convertible Loan	10,449	6,894	-	-	17,342
Trepang	Convertible Loan	-	8,598	-	-	8,598
Trepang	Trepang New Convertible Note	-	2,988	-	-	2,988
Trepang	Unsecured Loan	1,391	2,056	-	-	3,447
<b>Total loans and accrued interest</b>		<b>22,288</b>	<b>27,429</b>	<b>7,700</b>	<b>4,564</b>	<b>61,981</b>
<i>Total loans to be novated and extinguished</i>		49,717		-		49,717
<i>Total loans to be transferred to Trepang</i>		-		12,264		12,264

Source: Management

Note: Convertible Loan includes Trepang Convertible Note - \$8.55m and Trepang Unsecured - \$49,000

<sup>7</sup> Lot 111 DP 714211 and Lot 63 DP 833348 referred to as Brown Mountain West

## Royalty

- ▶ In accordance with the terms of the Dartbrook Royalty Deed, a Royalty may be payable to AQC based on a 50% share of the net profit from coal sold from the Dartbrook coal mine (“Grantor Coal”), limited as per the table below:
  - A\$2.50 per tonne for each tonne of Grantor Coal where the coal price is below US\$150.00 per tonne;
  - A\$3.50 per tonne for each tonne of Grantor Coal where the coal price is equal to or greater than US\$150.00 but less than or equal to US\$200.00 per tonne; and,
  - A\$5.00 per tonne for each tonne of Grantor Coal where the coal price exceeds US\$200.00 per tonne.

The coal price used to determine the royalty is based on the average price received for that calendar quarter, with the US\$ coal prices noted above being subject to inflation adjustments.

- ▶ Based on the Royalty Deed, royalties will only be payable to AQC once gross revenue from the Dartbrook Coal Project in any calendar quarter exceeds the Allowable Deductions. The Allowable Deductions are all costs directly incurred in relation to the development and operation of the Dartbrook Coal Project and are inclusive of the AAMCA Royalty. The allowable deductions carry forward such that the Royalty is only payable once the project as a whole is generating net profits. The Allowable Deductions are defined in section 5.3 of the accompanying Explanatory Memorandum.

Other key terms include:

- ▶ Trepang will release, discharge and indemnify AQC from its guarantee of the Vendor Loan; and
- ▶ Trepang will assume responsibility for working capital, reasonable costs of AQC and holding costs in relation to the Dartbrook Coal Project until completion or earlier termination of the offer.

The Transaction is subject to various conditions precedent, including:

- ▶ Approval by the Non-Associated Shareholders of AQC; and,
- ▶ Written consent from the applicable Minister allowing the change in effective control of AQC Dartbrook in its capacity as holder of the mining tenements, to the extent consent is required.



## 2. Scope of the independent expert's report

### 2.1 Purpose of the report

In accordance with ASX Listing Rule 10.1, a proposed acquisition or disposal of a substantial asset from or to a related party, a substantial holder or an associate, requires the approval of the holders of the company's securities not associated with the related party, substantial holder or associate (the "Non-Associated Shareholders"). An asset is a "substantial asset" if its value, or the value of the consideration for it, is 5% or more of the equity of AQC as set out in its latest accounts.

We note that the proposed assets of the Dartbrook Coal Project represent significantly more than 5% of the equity of AQC and are therefore considered a "substantial asset" in accordance with the ASX Listing Rules. Furthermore, Trepang and its associates hold a relevant interest of 41.72% in AQC shares on issue as of 31 March 2022 and are therefore considered a substantial holder of shares in the Company. As such, the proposed disposal of a substantial asset to a substantial holder, requires the approval of the Non-Associated Shareholders under ASX Listing Rule 10.1.

In accordance with ASX Listing Rule 10.10.2, the Notice of Meeting to be sent to shareholders must include a report from an independent expert providing its opinion as to whether the proposed transaction is fair and reasonable to the Non-Associated Shareholders. As such, the Non-Associated Directors of AQC have commissioned us to prepare an independent expert's report, setting out, whether or not in our opinion, the proposed Transaction is fair and reasonable to the Non-Associated Shareholders of AQC and the reasons for that opinion. Our Report will accompany the Notice of Meeting and Explanatory Memorandum to be sent to AQC shareholders.

Our independent expert's report provides an opinion on the proposed Transaction only. We do not provide any opinion on any other resolutions included in the Notice of Meeting and Explanatory Memorandum.

### 2.2 Basis of evaluation

Neither the Corporations Act 2001 nor the ASX Listing Rules define the term "fair and reasonable" for the purpose of ASX Listing Rule 10. As such, we also had regard to ASIC Regulatory Guide 76 *Related Party Transactions* ("RG 76") and ASIC Regulatory Guide 111 *Content of Experts Reports* ("RG 111"). According to RG 76 a related party transaction is any transaction through which a public company provides a financial benefit to a related party. As noted in paragraph 76.1, related party transactions involve conflicts of interest as those related parties are often in a position to influence decisions as to whether the benefit is provided to them, and the terms of its provision. RG 76 refers to RG 111 for guidance on how the independent expert should assess related party transactions.

RG 111 provides some guidance as to how the term "fair and reasonable" should be interpreted in a range of circumstances. RG 111 provides that a related party transaction is:

- ▶ "fair" if the value of the "financial benefit to be provided by the entity to the related party is equal to or less than the value of the consideration being provided to the entity". In valuing the financial benefit given and the financial consideration received by the entity, an expert should take into account all material terms of the proposed transaction.
- ▶ "reasonable", if it is fair. It might also be "reasonable" if, despite being "not fair", the expert believes that there are sufficient reasons for security holders to vote in favour of the transaction.

Accordingly, in evaluating whether the proposed Transaction is fair and reasonable to Non-Associated Shareholders, pursuant to ASX Listing Rule 10.1, we have made a separate assessment as to whether, or not, the proposed Transaction is "fair" and "reasonable" as required under RG 111.56. RG 111 also provides that an independent expert should usually give a range of values for the assets that are the subject of the offer. If the value of the consideration offered falls within the range of values of the assets, the offer is considered to be fair.



In assessing fairness, we have considered how the fair value of the Dartbrook Coal Project to be sold to Trepang compares to the fair value of the consideration being offered by Trepang.

In considering the reasonableness of the proposed Transaction, we considered certain factors as set out in RG 111.62, including:

- ▶ The prices at which AQC shares have traded historically and following announcement of the proposed Transaction;
- ▶ Whether the proposed sale is consistent with the broader strategy of AQC;
- ▶ The implications of the proposed sale for AQC;
- ▶ The alternative options available to AQC and the likelihood of those options occurring;
- ▶ The likely impact on AQC in the event that the proposed Transaction is not approved;
- ▶ Whether there is selective treatment of any security holder, particularly the related party.

In undertaking our assessment of the proposed Transaction, we have had regard to a number of references including Australian Securities and Investment Commission regulatory guidelines, in particular, RG 111 and RG 112: *Independence of experts* (“RG 112”), and relevant market valuation guidelines and generally accepted practices in the preparation of expert reports. This report has also been prepared in accordance with APES 225 *Valuation Services* issued by the Accounting Professional & Ethical Standards Board Limited in July 2008 (revised December 2015).

A glossary summarising the abbreviations we have used in this report is contained in Appendix C.

All amounts are in Australian dollars (“\$” or “A\$”) unless otherwise stated.

## 2.3 Fair value

We have assessed the value of the Dartbrook Coal Project and the consideration on a fair value basis. Fair value in this context is considered to be: *“the price at which an asset could be exchanged between a knowledgeable and willing but not anxious seller and a knowledgeable and willing but not anxious buyer both acting at arm’s length”*.

Fair value does not incorporate any special value. Special value is the additional value that may accrue to a particular purchaser. In a competitive bidding situation, potential purchasers may be prepared to pay part, or all, of the special value that they expect to realise from the acquisition to the seller.

## 2.4 Reliance on technical experts

In considering the fair value of the Dartbrook Coal Project, of which the major asset is the Dartbrook coal mine, we instructed an independent technical valuation specialist given the specialist skills required for the valuation. In accordance with RG 112 it is the expert’s responsibility to appoint a specialist. As such we sought the appointment of Xenith to provide an independent fair valuation of the Dartbrook coal mine. In engaging Xenith, we have satisfied ourselves as to Xenith’s competence, expertise and independence. Xenith has confirmed to us that they have not advised AQC or the Existing Financiers in relation to the proposed Transaction, nor have they undertaken any work with either AQC or the Existing Financiers since 2018. We therefore consider Xenith to be independent in accordance with RG 112.

Xenith acted upon our instruction to prepare an independent valuation report in relation to the Dartbrook coal mine (the “Xenith Report”). The scope of Xenith’s work included an independent assessment of the value of AQC’s coal assets including the reasonableness of reserve and resource estimates, mining plans, mine infrastructure, rehabilitation provisions, operating costs and capital budgets including work required in order to re-commence mining operations.

A copy of the Xenith Report is attached in full in Appendix E and should be read in conjunction with our report.

We are satisfied that the assumptions, methodologies and source data used by Xenith are reasonable and appropriate and that the report contains sufficient information to support the conclusions drawn. We note however that as the Dartbrook coal mine has not been operational for more than 15 years, certain data is limited in nature. Furthermore, while Xenith undertook site visits, we note that some assets were not able to be fully inspected such as parts of the Hunter Tunnel due to safety reasons. As such, Xenith were required to make reasoned estimates as to certain key assumptions.

We note that Xenith's assessment refers to a basis of value being "market value", in accordance with the *Australasian Code for Public Reporting of Technical Assessments and Valuations of Mineral Assets 2015* ("VALMIN Code"). We consider the two bases of value (being market value and fair value) to be synonymous and consistent with the definition of fair value in RG 111.

## 2.5 Independence

Prior to accepting this engagement, we considered our independence with respect to AQC and Trepang and its associates with reference to RG 112. In our opinion, we are independent of AQC and Trepang and its associates. Ernst & Young Strategy and Transactions Limited, Ernst & Young and global affiliations have not provided any services to AQC or Trepang and its associates in relation to the proposed Transaction. We have previously provided two independent expert reports for AQC in relation to a prior sale of property by AQC to Trepang which completed in November 2021, and prior to that, on a proposed transaction more than three years ago, which did not ultimately complete. We have not provided any other services to AQC or Trepang and its associates. We have changed the signing partners for this report compared to prior reports, and do not consider the provision of these prior services to compromise our independence.

## 2.6 Limitations and reliance on information

We have considered a number of sources of information in preparing our report and arriving at our opinion. These sources of information are detailed in Appendix B.

The information provided to us for the preparation of our report has been evaluated through analysis, enquiry and review for the purposes of forming an opinion as to whether the proposed Transaction is fair and reasonable to the Non-Associated Shareholders. We also held discussions with the Non-Associated directors of AQC in relation to the proposed Transaction. However, we do not warrant that our enquiries have identified all of the matters that an audit, an extensive examination or tax investigation might disclose.

Preparation of this report does not imply that we have, in any way, audited the accounts or records of AQC. It is understood that the accounting information that was provided was prepared in accordance with generally accepted accounting principles including the Australian equivalents to International Financial Reporting Standards and International Financial Reporting Standards, as applicable.

In forming our opinion we have also assumed that:

- ▶ Matters such as title, compliance with laws and regulations and contracts in place are in good standing and will remain so and that there are no material legal proceedings, other than as publicly disclosed;
- ▶ The assessments by AQC and its advisers with regard to legal, regulatory, tax and accounting matters relating to the transaction are complete and accurate;
- ▶ The information set out in the Notice of Meeting and accompanying documents to the Non-Associated Shareholders is complete, accurate and fairly presented in all material respects;
- ▶ The publicly available information relied upon by us in our analysis was accurate and not misleading;
- ▶ The Transaction will be implemented in accordance with its terms outlined in the sale agreements;

- ▶ To the extent that there are legal issues relating to assets, properties, or business interests or issues relating to compliance with applicable laws, regulations and policies, we assume no responsibility and offer no legal opinion or interpretation on any issue.

The statements and opinions given in this independent expert's report are given in good faith and in the belief that such statements and opinions are not false or misleading. This report should be read in the context of the full qualifications, limitations and consents set out in Appendix A.

Our assessment of the proposed Transaction is based on economic, market and other conditions prevailing as at the date of this report. Conditions can change significantly over relatively short periods of time, as evidenced by the market volatility observed during the COVID-19 pandemic since early 2020 and the current conflict in Europe, both of which continue to persist and may persist for some time. If conditions change materially, subsequent to the date of this report, our opinion could be different.

We provided draft copies of this independent expert's report to the Non-Associated Directors and management of AQC for comments as to factual accuracy, as opposed to opinions, which are the responsibility of us alone. Amendments made to this report as a result of this review by the Non-Associated Directors and management of AQC have not changed the conclusions reached.

## **2.7 Shareholders' decisions**

This independent expert's report constitutes general financial product advice only. In forming our opinion, we have considered the interests of the Non-Associated Shareholders as a whole, and we have not considered, nor is it practical or possible to consider, the individual circumstances of each Non-Associated Shareholder. The decision to vote for or against the Transaction is a matter for individual shareholders. The Non-Associated Shareholders should consider the advice in the context of their own circumstances, including investment objectives, liquidity preferences, risk profiles, tax position and expectations of future market conditions. Non-Associated Shareholders should also have regard to the Notice of Meeting prepared by the Directors and management of AQC. Non-Associated Shareholders who are in doubt as to the action they should take in relation to the Transaction should consult their own professional adviser.

Similarly, it is a matter for individual shareholders as to whether to buy, hold or sell shares in AQC. This is an investment decision upon which we do not offer an opinion and is independent of a decision to vote for or against the Transaction. Shareholders should consult their own professional adviser in this regard.

Ernst & Young Strategy and Transactions Limited has prepared a Financial Services Guide in accordance with the Corporations Act 2001. The Financial Services Guide is included as Part 2 of this report.

## 3. Overview

### 3.1 Description of AQC

AQC is an Australian company that listed on the ASX in 1999, and since 2010, has principally operated as a coal exploration and evaluation company. The Company's focus has historically been on acquiring strategic tenements in close proximity to operating mines or in areas with proven or potential in-ground resources. Since 2010, AQC has acquired a strategic holding of coal exploration tenements in Queensland's Bowen, Galilee and Surat basins<sup>8</sup>. Furthermore, in May 2017, AQC acquired the Dartbrook coal mine, which is located in the Hunter Valley, NSW. The mine was not operational at the time of acquisition, and AQC has since undertaken a range of activities to assess development options with the aim of recommencing operations:

- ▶ In May 2017, AQC acquired the Dartbrook Coal Project from Anglo American Plc ("Anglo") and Marubeni Coal Pty Ltd for an upfront cash consideration of c.\$30 million plus the grant of a royalty.
- ▶ An Open Cut Pre-Feasibility Study<sup>9</sup> and Coal Reserve estimates were completed<sup>10</sup> in March 2018.
- ▶ In August 2018, AQC entered into a Share Sale Agreement with SNR Minerals Assets Ltd, a wholly owned subsidiary of Stella Natural Resources ("SNR") to form the Dartbrook joint venture, for the potential recommencement of underground mining at the Dartbrook coal mine. However, certain conditions of the sale were not satisfied by SNR and, as a result, the share sale agreement was terminated in July 2019<sup>11</sup>.
- ▶ In September 2018, an environmentally focused drilling program was completed to provide environmental monitoring to AQC and community stakeholder groups.
- ▶ In August 2019 AQC lodged an application to modify mining to the Independent Planning Commission ("IPC") for approval to recommence mining operations at Dartbrook coal mine (Modification 7). In August 2019, the IPC provided approval in relation to some elements of Modification 7 allowing the restart of operations using underground methods, however, denied the application to mine for an additional five years to 2027<sup>12</sup>. Following the determination, AQC lodged an appeal with the Land and Environment Court, reaching an agreement in November 2020 in favour of the extension<sup>13</sup>. However, prior to the agreement becoming effective, the Hunter Thoroughbred Breeders Association ("HTBA") joined the case as an opposing party. AQC lodged an appeal with the Court against HTBA's involvement.
- ▶ In 2020, AQC commenced a strategic review of the proposed coal mining operations at Dartbrook coal mine. As a result of this review, AQC sought to dispose of various non-core mining assets, including land. This resulted in the sale of the Redrock, Byfield, Kelly's Block, and Woodlands parcels of land and water rights for approximately \$3.4 million<sup>14</sup>, which settled in early 2021.
- ▶ In June 2021, it was announced that HTBA had been removed as a party to the proceedings and AQC entered into a revised agreement for the recommencement and extension of mining operations with the Minister for Planning and Public Spaces under s34(3) of the *Land and Environment Court Act 1979*. HTBA made a further application to participate in the proceedings as an *amicus curiae* (friend of the Court) to assist the Court in determining its proceedings. The Court allowed HTBA to participate in the proceedings on a limited basis on specified jurisdictional issues<sup>15</sup>.
- ▶ In November 2021, AQC completed further sales of land, which included the land the Dartbrook coal mine is situated on (and associated water rights) to Trepong for approximately \$32.3 million, the proceeds of which were offset against AQC's debt to the Existing Financiers<sup>16</sup>.

<sup>8</sup> AQC company website

<sup>9</sup> ASX announcement titled "Dartbrook Open Cut Pre- Feasibility Study Completed" dated 28 March 2018

<sup>10</sup> ASX announcement titled "Dartbrook Coal Reserve Estimate" dated 28 March 2018

<sup>11</sup> ASX announcement titled "Modification 7 and Corporate Update" dated 11 January 2021

<sup>12</sup> ASX announcement titled "Dartbrook – Determination of MOD 7" dated 13 August 2019

<sup>13</sup> ASX announcement titled "Dartbrook – Modification 7 Application" dated 2 November 2020

<sup>14</sup> AQC Half Yearly Report 31 December 2020

<sup>15</sup> ASX announcement titled "Dartbrook – Modification 7 Update" dated 19 July 2021

<sup>16</sup> ASX announcement titled "Update on Sale of Property" dated 11 November 2021

- ▶ In March 2022, following the Court's proceedings, AQC entered into an agreement with the Minister for Planning and Public Spaces under s34 of the Land and Environment Court Act 1979 allowing for the recommencement of mining and a 5-year extension to operations at the Dartbrook coal mine<sup>17</sup> until 5 December 2027. The agreement allows the mine to produce a maximum of 6.0Mtpa ROM coal, 1.5Mtpa from bord and pillar mining and 4.5Mtpa from longwall mining. Alternatively, it is able to produce a total of 6.0Mtpa from longwall mining in the case of no bord and pillar mining. The project is also required to upgrade the CHPP for noise mitigation measures and utilise the Hunter Tunnel for all ROM coal clearance and handling.
- ▶ On 21 February 2022, AQC announced it had received a binding offer from Trepang for the acquisition of the Dartbrook Coal Project.

## 3.2 Financial information

The following table outlines AQC's consolidated statement of financial performance for the last three financial years ended 30 June 2021, and half year ended 31 December 2021. As AQC has no operations, the business has generated losses.

Consolidated statement of financial performance				
Currency: A\$000	FY19	FY20	FY21	YTD Dec21
Interest received	8	4	0	-
Dartbrook property rent	137	327	338	122
Ordinary Revenue	145	331	338	122
Other income	76	57	13	5
Unrealised gain on financial assets	1,957	-	-	-
Debt Forgiveness - SNR Mineral Assets Pty Ltd	-	2,688	-	-
Other revenue	2,033	2,745	13	5
<b>Total revenue</b>	<b>2,178</b>	<b>3,076</b>	<b>351</b>	<b>127</b>
Employee benefits expense	(1,323)	(672)	(497)	(693)
Depreciation and amortisation expense	(1,243)	(1,165)	(1,152)	(506)
Exploration and evaluation expense	(46)	(52)	(3,620)	(32)
Impairment of exploration and evaluation capitalised assets	(77)	-	(70)	-
Provision remeasurement	500	-	-	-
Fair value movement of financial assets	-	-	(5,504)	(414)
Administration and consulting expenses	(7,058)	(6,786)	(4,906)	(823)
Finance costs	(6,163)	(7,299)	(8,302)	(4,042)
<b>Total expenses</b>	<b>(15,410)</b>	<b>(15,974)</b>	<b>(24,049)</b>	<b>(6,510)</b>
Loss before income tax expense from continuing operations	(13,233)	(12,898)	(23,697)	(6,383)
Income tax expense	-	-	-	-
<b>Loss after income tax expense from continuing operations</b>	<b>(13,233)</b>	<b>(12,898)</b>	<b>(23,697)</b>	<b>(6,383)</b>

Source: AQC Annual Report 2019, AQC Annual Report 2020, AQC Annual Report 2021, AQC Half Yearly Report 31 December 2021

In relation to AQC's financial performance we note the following:

- ▶ AQC has generated losses over the last three financial years ended 30 June 2021, and for the half year ended 31 December 2021. The losses are largely driven by maintenance holding costs associated with the Dartbrook coal mine, corporate expenses as well as interest expenses capitalised on borrowings.

<sup>17</sup> ASX announcement titled "Dartbrook – Modification 7 Update" dated 14 March 2022

- ▶ Revenue was principally generated in the form of rent received from its properties, the majority of which were divested in November 2021. Other income received included unrealised gains on its investment in Bowen Coking Coal Limited and debt forgiveness from the terminated agreement with SNR.
- ▶ FY21 exploration and evaluation expenses reflects an impairment on AQC's mining tenements. The FY21 fair value movement in financial assets represents the reclassification of Dartbrook water licences to nil from cost, as part of the broader asset sale process to Trepang in November 2021.

The table below outlines the financial position for the last three financial years ended 30 June 2021 and half year accounts as at 31 December 2021.

Consolidated statement of financial position				
Currency: A\$000	30-Jun-19	30-Jun-20	30-Jun-21	31-Dec-21
Cash and cash equivalents	396	603	512	311
Trade and other receivables	182	68	66	140
Available for sale assets	-	-	33,694	-
Prepayments	761	85	111	152
<b>Total current assets</b>	<b>1,338</b>	<b>756</b>	<b>34,383</b>	<b>603</b>
Property, plant and equipment	43,812	42,737	4,738	4,239
Intangibles (Dartbrook water licences)	5,620	5,620	-	-
Exploration and evaluation (accumulated tenement costs)	8,462	8,883	5,435	5,527
Financial assets (Bowen Coking Coal investment)	2,717	-	-	-
Cash and cash equivalents (restricted cash)	285	113	25	25
Tenement security deposits	8,990	8,990	8,974	8,974
<b>Total non-current assets</b>	<b>69,886</b>	<b>66,343</b>	<b>19,172</b>	<b>18,764</b>
<b>Total assets</b>	<b>71,224</b>	<b>67,099</b>	<b>53,555</b>	<b>19,367</b>
Accrued interest on loans	(711)	(3,529)	(5,525)	(6,536)
Other trade creditors	(1,978)	(2,384)	(2,264)	(1,013)
Convertible securities (incl. accrued interest)	-	(60,146)	(66,444)	(45,832)
Interest bearing liabilities (secured loan- Anglo American)	(7,700)	(7,700)	(7,700)	(7,700)
Unsecured loan - Trepang Services Pty Ltd	(3,500)	(6,674)	(8,659)	(1,391)
Unsecured loan - SNR Mineral Assets Pty Ltd	(2,688)	-	-	-
Insurance premium funding	(694)	(93)	(118)	(19)
Bank loans	(31)	(22)	-	-
Provisions for employee entitlements	(23)	(8)	-	-
<b>Total current liabilities</b>	<b>(17,324)</b>	<b>(80,556)</b>	<b>(90,710)</b>	<b>(62,491)</b>
Borrowings	(54,459)	-	-	-
Provision for vendor royalty	(10,600)	(10,600)	(10,600)	(10,600)
Provision for rehabilitation	(8,950)	(8,950)	(8,950)	(8,950)
<b>Total non-current liabilities</b>	<b>(74,009)</b>	<b>(19,550)</b>	<b>(19,550)</b>	<b>(19,550)</b>
<b>Total liabilities</b>	<b>(91,333)</b>	<b>(100,106)</b>	<b>(110,260)</b>	<b>(82,041)</b>
<b>Net assets</b>	<b>(20,109)</b>	<b>(33,007)</b>	<b>(56,704)</b>	<b>(62,674)</b>
<i>KPIs</i>				
<i>Net financial debt</i>	<i>69,101</i>	<i>77,449</i>	<i>87,908</i>	<i>61,142</i>

Source: AQC Annual Report 2019, AQC Annual Report 2020, AQC Annual Report 2021, AQC Half Yearly Report 31 December 2021.

1. Net working capital comprises trade and other receivables, prepayments and trade and other payables (excluding accrued interest on convertible notes and secured loans)
2. Net financial debt comprises current and non-current cash and cash equivalents, accrued interest on convertible notes and loans and current and non-current borrowings

In relation to AQC's financial position we note the following:

- ▶ As AQC has no operations, the movement in net assets since 30 June 2019 largely reflects increasing liabilities from capitalised interest, or movements in relation to the divestment of assets.
- ▶ Available for sale assets of \$33.7 million as at 30 June 2021 relate to certain real properties and water rights related to the Dartbrook coal mine, the sales of which completed in November 2021. Net proceeds, after realisation costs, of \$33.7 million were used to repay debt owing to Trepang.
- ▶ Property, plant and equipment of \$4.2 million as at 31 December 2021 largely relates to the Dartbrook coal mine's land and fixed assets. The significant reduction from prior periods is due to the previous sale of land and water rights to Trepang.
- ▶ The reduction in intangible assets as at 31 December 2021 reflects the sale of water licences by AQC to Trepang. These were first acquired by AQC as part of the initial acquisition of the Dartbrook coal mine and were held at cost until disposal.
- ▶ Exploration and evaluation assets totalled \$5.5 million as at 31 December 2021. This predominantly relates to the Dartbrook coal mine but also AQC's interests in various tenements in the Bowen, Surat and Galilee Basins. Costs are capitalised where AQC considers they may be recouped through development, or if activities in the area have not yet reached a stage which permits a reasonable assessment of the existence of economically recoverable resources. In FY21 AQC recorded an impairment of \$3.0 million in relation to the Dartbrook Coal Project. In addition, AQC recorded a \$0.7 million impairment on its Queensland coal assets. These account for the majority of the reduction in the exploration and evaluation asset from \$8.9 million in 2020 to \$5.4 million in FY21.
- ▶ Tenement security deposits of \$9.0 million reflect cash lodged with the NSW State Government as financial assurance for the future rehabilitation obligations relating to the Dartbrook coal mine. The rehabilitation relates to areas disturbed during operations when the mine was previously active including surface infrastructure, buildings, underground mine workings and underground entries.
- ▶ AQC previously held an investment in Bowen Coking Coal Limited. However, in July 2019, AQC divested a portion of its shareholding for net proceeds of \$1.6 million<sup>18</sup>, and sold the remainder in May 2020 generating net proceeds of \$0.8 million<sup>19</sup>.
- ▶ AQC has entered into a number of financing arrangements, including convertible securities, secured and unsecured loans. These are initially recognised at fair value, net of transaction costs, and subsequently measured at amortised cost under the effective interest method. As at 31 January 2022, AQC has loans (including interest) totalling \$62.0 million, all of which are current liabilities.
- ▶ Proceeds from the completion of the sale of land and water rights to Trepang in November 2021 were offset against debts owed to Trepang and its associates. Specifically, the Trepang unsecured loan was partly repaid, with the convertible securities held by Trepang, Robinson and Paspaley reducing from \$66.4 million to \$45.8 million between 30 June 2021 and 31 December 2021.
- ▶ The provision for vendor royalty of \$10.6 million represents the fair value, as assessed by AQC, of the future royalty obligation to Anglo brought to account as part of the acquisition of the Dartbrook coal mine in 2017. The AAMCA Royalty would become payable upon the mine recommencing saleable production. The value adopted for the AAMCA Royalty is lower than the full nominal amount to reflect the risk and time value of any cash flows.
- ▶ The provision for rehabilitation of \$9.0 million relates to the expected closure costs of currently disturbed areas from when the mine was previously active and operational under Anglo.

<sup>18</sup> ASX announcement titled "Partial Divestment of Investment Holding – Bowen Coking Coal Limited (ASX:BCB)" dated 18 July 2019

<sup>19</sup> ASX announcement titled "Divestment of Investment" dated 7 May 2020



- ▶ Net financial debt decreased to \$61.1 million at 31 December 2021 following the repayment of various loans from asset sales. However, the large financial debt position which remains is reflective of outstanding debts to Trepang and associates.

The following table outlines AQC's debt position as of 31 January 2022.

Debt overview as at 31 January 2022				
Lender	Facility	Principal	Accrued Interest	Total Owing
Trepang	Vendor Loan	7,700	4,564	12,264
J Robinson (Snr)	Robinson Convertible Loan	10,449	6,894	17,342
N Paspaley	Paspaley Convertible Loan	10,449	6,894	17,342
Trepang	Convertible Loan	-	8,598	8,598
Trepang	Trepang New Convertible Note	-	2,988	2,988
Trepang	Unsecured Loan	1,391	2,056	3,447
Total loans and accrued interest		29,988	31,993	61,981

Source: Management

Note:

Currency is presented in A\$000.

Convertible Loan includes Trepang Convertible Note - \$8.55m and Trepang Unsecured - \$49,000

In relation to AQC's debt we note the following:

- ▶ As of 31 January 2022, we understand all debt obligations with the Existing Financiers are currently due and callable. All debt obligations are classified as current liabilities.
- ▶ Convertible securities, including accrued interest, totalled \$46.3 million as at 31 January 2022. These convertible securities are held by Mr Nicholas Paspaley, Mr John Robinson (Snr) and Trepang and secured by various general security deeds, mortgages over mining tenements and land. The principal balance of the Trepang convertible notes is nil as this was repaid following the sale of land and water rights in 2021. The loans are convertible into ordinary shares of AQC at a price of \$0.8 per share. Interest is accrued at a rate of 10% per annum and may be capitalised, at the option of AQC, up to the maturity date of the loan.
- ▶ Interest bearing liabilities of \$7.7 million comprise a secured loan originally provided by Anglo American Metallurgical Coal Assets Pty Ltd ("Anglo Metallurgical Coal") in May 2017 at the time of the sale by Anglo to AQC ("Vendor Loan"). The loan was provided for the purpose of conducting a feasibility study into the potential for open-cut development of the Dartbrook coal mine. In April 2020, the Vendor Loan was assigned from Anglo Metallurgical Coal to Trepang, and as such Trepang has assumed Anglo Metallurgical Coal's position under the Vendor Loan, vendor security and intercreditor deed<sup>20</sup>. The full balance of the loan remains outstanding. Interest is charged at a rate of 10% per annum and is capitalised. The Vendor Loan is secured by various security deeds including a mortgage over the real property held by the Dartbrook Coal Project, and in accordance with an intercreditor deed, ranks first in priority, ahead of the security held by the Existing Financiers.
- ▶ An unsecured loan between AQC and Trepang was established to enable the Company to borrow from Trepang on an undocumented and unsecured basis. These debts (including interest) totalled \$3.4 million as at 31 January 2022. This comprises additional funding provided by Trepang for general working capital purposes<sup>21</sup>. Interest is accrued at a rate of 10% per annum, payable or accrued monthly.

### 3.3 Capital structure

As at 31 March 2022, AQC has on issue 50,484,810 fully paid ordinary shares. AQC has approximately 1,000 shareholders with the largest 20 shareholders holding approximately 80.0% of the shares on issue. Trepang

<sup>20</sup> ASX announcement titled "Secured Funding Update" dated 26 May 2020

<sup>21</sup> AQC Half Yearly Report 31 December 2020



and its associates hold a 41.72% interest – a 39.16% interest held by Trepong, the Company's major shareholder, and a 2.56% interest held by Mr Nicholas Paspaley.

We have presented AQC's substantial shareholders in the table below, being those holding 5% or more of the shares on issue.

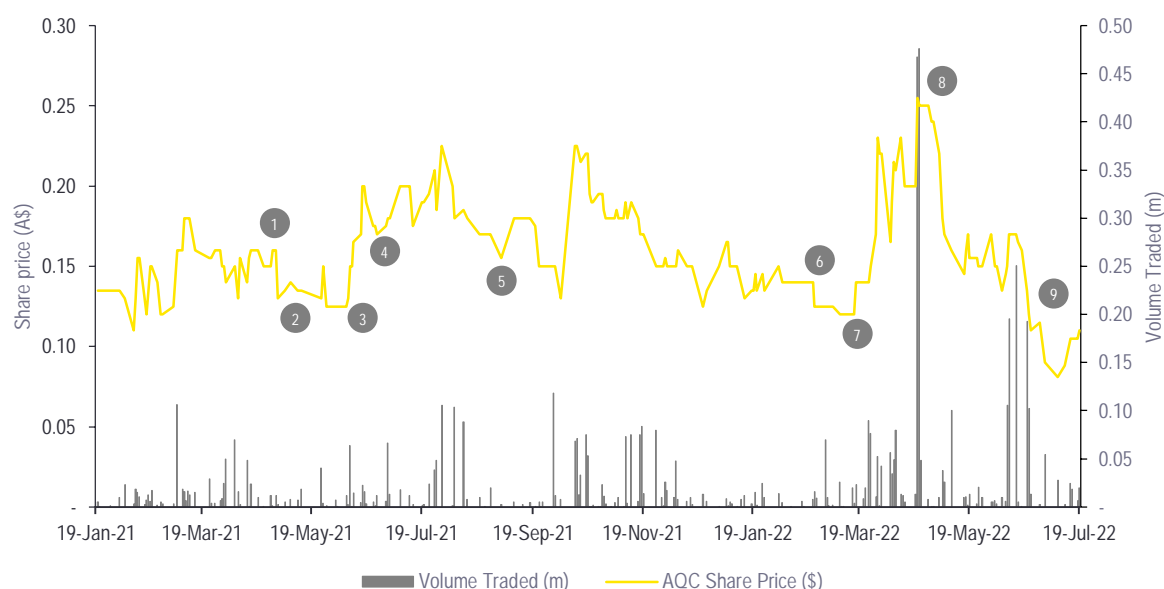
Major shareholders in AQC as at 31 March 2022			
Rank	Shareholder	Number of shares ('000)	Interest (%)
1	Trepong Services Pty Ltd	19,770	39.16%
2	Mr Buguo Wang	5,180	10.26%
3	Jet Arm Limited	5,000	9.90%
	Other Shareholders	20,535	40.68%
	Total shares outstanding	50,485	100.00%

Source: Management

Note: Figures may not add due to rounding.

### 3.4 Share price performance

The following chart presents a summary of AQC's share trading history on the ASX over the last 18 months to 19 July 2022. During this period, AQC's share price closed at a high of \$0.255 per share on 20 April 2022 and a low of \$0.081 per share on 7 July 2022. The daily volume traded over the last 18 months averaged 0.026 million shares with a maximum volume of AQC shares traded on 20 April 2022 of 0.476 million. For the twelve months ended 19 July 2022, only around 9% of the entire issued share capital was traded. This low level of liquidity reflects the existence of some large shareholders and low volume of shares available for trading.



Source: S&P Capital IQ, Ernst & Young Strategy and Transactions Limited analysis

The key announcements impacting on the company's share price and trading volumes to 19 July 2022 include:

1. On 27 April 2021, AQC advised that the application for leave to appeal of Modification 7 had been heard by the NSW Court of Appeal.
2. On 14 May 2021, AQC announced the proposed transaction to sell certain land and water rights to Trepong.

3. On 3 June 2021, AQC announced that HTBA had been removed as a party to the proceedings.
4. On 28 June 2021, AQC announced it had entered into a revised agreement for the recommencement and extension of mining operations at the Dartbrook coal mine. The agreement is subject to the hearing of HTBA's further application to participate in the Land and Environment Court proceedings as an opposing party.
5. On 7 September 2021, AQC announced that shareholders had approved the Company to proceed with the sale of land and water rights to Trepang and its associates.
6. On 21 February 2022, AQC announced the proposed Transaction in respect of the offer for the purchase of the Dartbrook Coal Project.
7. On 14 March 2022, AQC announced a Modification 7 update which included the approval for a 5-year extension of mining operations under the development consent.
8. On 20 April 2022, AQC confirmed that it had entered into conditional binding agreements with Trepang regarding the Transaction. The highest volume of shares were also traded on this day.
9. On 30 June 2022, AQC announced that the parties had agreed to extend the date by which conditions of the Transaction must be met to 17 August 2022.

## 3.5 Background on assets

### 3.5.1 Dartbrook coal mine

The Dartbrook coal mine is located in the NSW Hunter Valley region, approximately 4km west of Aberdeen and 10km north-west of Muswellbrook and is AQC's major asset. Longwall underground mining operations commenced in 1994, under the previous ownership of Anglo, with production reaching over 5.5 million tonnes ("Mt") ROM per annum in 2005. The mine was subsequently placed into care and maintenance in 2006 following volatile commodity prices and operational issues and was not considered a core asset for Anglo<sup>22</sup>.

The latest Ore Reserves and Mineral Resources attributable to the Dartbrook coal mine on an open cut and underground basis as at March 2018, is presented in the table below.

Dartbrook coal mine - Coal Reserve and Resource	
Mt	Mar-18
Ore Reserves	
Proven	-
Probable	470
<b>Total</b>	<b>470</b>
Mineral Resources	
Measured	588
Indicated	850
Inferred	1,097
<b>Total</b>	<b>2,534</b>

Source: AQC Corporate Presentation April 2018, Xenith Report

Notes:

1. Reported Mineral Resources are inclusive of Ore Reserves and are presented on a ROM tonne basis.

2. The Dartbrook Marketable Coal Reserve of 370Mt is derived from a ROM Coal Reserve of 470 Mt estimated in accordance with JORC Code (2012) with a predicted overall yield of 78%

<sup>22</sup> ASX announcement titled "Dartbrook coal resource estimate 2.5 million tonnes" dated 27 June 2017

Within this coal resource, open cut mining would make accessible 1,803Mt at a depth shallower than 450m with the remaining 731Mt designated as underground resource. However current approvals do not allow for open cut mining.

The thermal coal is classified as high volatile bituminous, low sulphur content, with calorific value and quality parameters suitable for high energy, low emission power generation. The Kayuga and Piercefield seams are capable of producing a range of products, including thermal coal with an ash air dried basis ranging between 10% and 18%, and pulverised coal injection (“PCI”) with a 9% ash air dried basis. The coal will require beneficiation for export markets.

The Dartbrook coal mine has significant existing infrastructure to support mining operations including<sup>23</sup>:

- ▶ A rail loop and train load out facility connected to the Hunter Valley Coal Rail Network which provides direct transport of coal to the Port of Newcastle.
- ▶ A CHPP with throughput capacity of 1,000 tonnes per hour (“tph”) of ROM coal. The CHPP comprises, a single-stage wash plant with bypass facility, medium cyclone spirals and flotation circuits.
- ▶ The Hunter Tunnel, a 4km conveyor transporting ROM coal from the underground mine to the CHPP.
- ▶ Product drifts which provide access and transport between a number of seams.
- ▶ Other auxiliary facilities including power, water, waste and office facilities.

Notwithstanding, based on Xenith’s Report and their independent site observations, we understand that existing underground workings, mine and surface infrastructure appear to have deteriorated after having sat idle for over 15 years. This is detailed within the Xenith Report<sup>24</sup>, and includes:

- ▶ Water logging in the Hunter Tunnel. The tunnel has dewatering pumps installed however these have been shut down with flooding of approximately half of the 4km tunnel. Observed water surges indicate that localised roof and (or) rib failures may have occurred.
- ▶ The underground workings of the mine appear to remain in a fair condition; however, some areas will require remediation due to minor strata failures. Mine support in certain parts has deteriorated due to water corrosion, particularly in damp areas.
- ▶ Roof support and conveyor structure which transports the ROM coal through the Hunter Tunnel has corroded significantly.

Modification 7 requires the mine to use the Hunter Tunnel for all ROM coal clearance and handling. Additionally, the legislation requires the mine to upgrade the CHPP for noise mitigation measures. Based on the above, significant capex is estimated to be required in order to return the existing infrastructure to adequate operational status.

We also note that the tenements, with the exception of CL386 have renewals still pending. Xenith noted that they were not able to confirm the tenements good standing and this presents a regulatory risk to the mine.

### **3.5.2 Other tenements**

AQC’s other key assets comprise four coal tenements in Queensland. This includes one exploration permit, two joint venture exploration permits with Blackwood Resources Pty Ltd, and a grassroots project currently on hold<sup>25</sup>. The Blackwood Resources joint venture was created in April 2010, allowing AQC a 10% free carried interest up until the feasibility study stage<sup>26</sup>.

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<sup>23</sup> AQC Corporate Presentation, 3 April 2018

<sup>24</sup> Xenith Report

<sup>25</sup> AQC Annual Report 2020

<sup>26</sup> AQC company website

The following table outlines the details of AQC's current tenements, including those relating to the Dartbrook coal mine.

AQC asset list				
Project	Development Stage	Basin	Ownership	Tenements
Dartbrook coal mine	Prefeasibility	Hunter Valley	100.0 %	AUTH256, CL386, EL4574, EL4575, EL5525, ML1381, ML1456, ML1497
Mount Hess West	Exploration	Bowen	100.0 %	EPC1867
Mantuan Downs North	Grassroots	Eromanga	100.0 %	ML70360
Bungaban Creek	Exploration	Surat	10.0 %	EPC1955
Quandong	Exploration	Surat	10.0 %	EPC1987

Source: Management, AQC Quarterly Activities Report 31 December 2021

## 4. Valuation approach and methodology

In assessing the fairness of the proposed Transaction, we have considered the fair value of the Dartbrook Coal Project being acquired by Trepang or its associates and compared this to the fair value of the consideration offered, which comprises the purchase price of A\$1.00, the transfer or extinguishment of debt to the Existing Financiers, including the forgiveness of historical director fees to John Robinson (Jnr), as well as the potential royalty that may be received by AQC.

### 4.1 Valuation methodologies adopted

RG 111 provides guidance as to the valuation methods that an independent expert should consider when undertaking valuations. These methods generally include the income, market and cost approaches. Further details on these approaches are included in Appendix D.

#### **Valuation methodologies adopted for the Dartbrook Coal Project**

In valuing the Dartbrook Coal Project being acquired by Trepang and its associates, we considered the fair value of the net assets of AQC Investments 2 Pty Ltd being acquired. The principal asset is the Dartbrook coal mine, which encapsulates the value of the CHPP, two parcels of land, tenements and other assets required in order to operate the mine. We have adopted this approach on the basis that the Dartbrook Coal Project companies hold only assets and liabilities related to the Dartbrook coal mine, and currently have no cash generating assets or generate any income.

By their nature, mineral assets, particularly early stage or development assets, are difficult to value. Key considerations in valuing mineral assets include long term views on commodity prices, technical mining risks, development, operational and financial risks, quality of the underlying resource base and expectations on the timing of development of the asset. As such, Xenith was engaged to undertake a technical assessment and valuation of the mining assets and project being acquired. Their report is attached as Appendix E.

In valuing the Dartbrook coal mine, Xenith has considered an income approach, utilising the discounted cash flow (“DCF”) methodology, as well as a market approach based on multiples paid for similar assets in recent acquisitions. In our view the DCF is an appropriate method given the availability of LOM plans as well as the finite period over which the current Modification 7 allows for mining, being up to 5 December 2027. This methodology also allows the appropriate inclusion of the significant up-front capital expenditure required in order to re-commence mining operations, as well as the rehabilitation costs upon cessation of operations.

Xenith has placed greater reliance on the market approach, specifically considering multiples observed in acquisitions of pre-development mining projects considered to be reasonably similar in nature. However, it is difficult to observe acquisitions of projects similar to the Dartbrook coal mine in terms of quality of coal, location, royalty obligations, market price environment and in particular the restricted time period for mining in accordance with Modification 7. Furthermore, in analysing transactions, this requires an understanding of coal price forecasts at the time of the transaction and whether any synergies may have existed to an acquiror, amongst other factors.

As Xenith’s valuation excludes the liability for the AAMCA Royalty, we have separately valued the royalty by applying an income approach, specifically the DCF methodology. Royalty streams are typically valued using this methodology as they are contingent on the production profile of the mining asset on which the royalty is based. Our valuation considers the terms of the royalty agreement and relies on the forecasts prepared by Xenith for the period up to 5 December 2027.

We then considered any other assets and liabilities of the Dartbrook Coal Project subsidiaries in arriving at our assessed value range.

#### **Valuation methodologies adopted for the consideration offered**

The consideration offered to AQC shareholders is comprised of \$1.00 cash, extinguishment of the debts to Existing Financiers as well as the right to receive a future royalty in accordance with the Dartbrook Royalty Deed.



In considering the value of debts proposed to be transferred with the Dartbrook Coal Project or novated to Trepang or extinguished, we assume that the fair value is equal to the book value. This reflects the latest balances available including capitalised interest as at 31 January 2022. We also acknowledge that the fair value of these loans could be lower than their face value where the company may not be financially able to repay all loans in full.

In relation to the Dartbrook Royalty, as noted above we have valued this using an income approach, and specifically the DCF methodology. The future royalty stream is based on the relevant terms of the Dartbrook Royalty Deed and relying on the forecasts prepared by Xenith up to 5 December 2027.

## 5. Fair value of the Dartbrook Coal Project

### 5.1 Fair value of Dartbrook coal mine

In order to assess the fair value of the Dartbrook coal mine, Xenith was appointed by AQC as the independent technical expert to undertake, on our instruction, a technical assessment and valuation of the Dartbrook coal mine. These instructions included a request to:

- ▶ Review relevant data and reports available with respect to the Dartbrook coal mine.
- ▶ Consider any updated technical geophysical, geological and engineering data, JORC reserves and resources, development and drilling plans, production profile (including production volumes, operating costs, capital costs and exploration potential).
- ▶ Assess the reasonableness of the technical and operational assumptions upon which the LOM is based, including the reserves and contingent resources, production life, operating costs, capital costs and any other technical inputs viewed as necessary to conclude on the reasonableness of the operating assumptions.
- ▶ Understand the current development approval status and risks.
- ▶ Provide a valuation of the Dartbrook coal mine using an appropriate methodology in accordance with the VALMIN code.

A copy of the Xenith Report is attached in full in Appendix E and should be read in conjunction with our report.

#### Summary of Xenith valuations

Xenith assessed the market value of the Dartbrook coal mine using the DCF methodology for the period of the Modification 7 approval, as well as applied the market approach using comparable transactions in valuing the remaining residual resource. In addition, Xenith applied a market approach based on multiples observed in acquisitions of broadly similar assets. The result of their valuation is summarised in the table below.

Xenith valuation of the Dartbrook coal mine				
Methodology	Low (A\$m)	High (A\$m)	Mid/Base case (A\$m)	Preferred (A\$m)
DCF	(159.4)	194.8	(1.6)	Nil to Nominal Amount
Residual Resource Component - 711Mt (EV/T Resource)	11.5	11.3	11.4	na
Total DCF plus residual resource value	(147.9)	206.1	9.8	9.8
Comparable Sales Transaction - EV/T Reserve (producer)	41.9	119.8	80.8	na
Comparable Sales Transaction - EV/T Resource (developer comparable)	2.4	57.4	29.9	na
Comparable Sales Transaction - EV/T Resource (developer closely comparable)	1.6	39.2	20.4	na
Selected market value	1.6	39.2	20.4	11.0

Source: Xenith Report

Xenith ultimately assessed a value range of \$1.6 million to \$39.2 million. This is based on a wide range of potential values using a DCF methodology of negative (nil) to \$194.8 million at the upper end, as well as a range of \$1.6 million to \$39.2 million based on a market approach. Xenith's preferred value of \$11.0 million is based on the midpoint to lower half of the multiples observed in acquisitions of pre-development stage assets. The low end of the range reflects the Modification 7 limitations and various other factors, with the upper end of the selected range including the entire underground resource and therefore assumes further mining approvals may be possible. These values are prior to the deduction of any AAMCA Royalty.

The key assumptions underpinning Xenith's DCF valuation range are detailed on pages 75 to 83 of Xenith's Report. We note:

- ▶ Xenith has constructed a set of cash flows based on LOM models and assumptions received by AQC, predominantly from the 2017 feasibility study and an updated 2018 model. Both models were based on bord & pillar mining and were not reflective of the current Modification 7 approvals. As such, Xenith has constructed cash flows to reflect the current Modification 7 operating approvals which limit the mine life to 5 December 2027. Xenith then included longwall mining assumptions based on a longwall restart model provided by AQC, although note no technical study into restarting longwall mining is understood to have been undertaken. As such, the cash flows utilised by Xenith in its valuation are reflective of the approval limitations of Modification 7.
- ▶ Various updates to the cash flows were required to be undertaken by Xenith to reflect that the historic nature of the feasibility study, capital expenditure and operating cost base are not reflective of current market rates; the deteriorated condition of the assets since the restart studies were undertaken and the potential for additional ramp up time to allow for dewatering of the Hunter Tunnel, remediating strata defects and re-establishing regulatory compliance.
- ▶ Significant capital expenditure has been included based on Xenith estimates and considering the condition of the assets. The capital expenditure totals between \$473 million and \$479 million. These estimated costs are materially higher than assumed in the 2017 feasibility study (\$233 million) and the 2018 Model (\$74 million pre-development spend only), with the increases reflecting the required noise mitigation works at the CHPP, as well as remediation works to site facilities, in particular the Hunter Tunnel, following observations as to its condition during Xenith's site inspections and the Modification 7 approval requirements.
- ▶ The feasibility study assumed a period of 12 months for mine refurbishment and ramp up for bord & pillar mining. Xenith has undertaken scenario analysis (high, low, and base scenarios) assuming a period of 12 to 24 months reflecting the requirements works.
- ▶ Coal prices adopted are based on broker consensus coal price forecasts, adjusted for Dartbrook's estimated coal quality – 5,988 vs 6,000 (Kcal/KG NCV). Xenith has ranged prices by assuming the median of the broker consensus prices for the base and low scenarios and applying the 3rd quartile pricing in their high scenario. We note that current coal prices are volatile with a wide range of forecast prices by market commentators.
- ▶ Operating expenses adopted by Xenith are predominantly in line with the 2017 feasibility study on a total \$/t basis, although higher than the 2018 model.
- ▶ The cash flows underpinning Xenith's valuation ranges have been prepared on a pre-tax nominal basis, with no inclusion of depreciation, changes in working capital or income tax. Pre-tax nominal discount rates of 9.5% to 12.5% have been adopted.
- ▶ No royalties that may be payable in respect of the AAMCA Royalty were included, however the cash flows do include the coal royalties payable to the NSW State Government for underground coal mines of 7.2%.
- ▶ Xenith undertook scenario analysis, with the key assumptions varied including the mine refurbishment cost, ramp up and coal prices. These valuation scenarios ultimately result in total ROM tonnes of between 13.45Mt (low) to 20.6Mt (high) being extracted of the total estimated underground resource of 731Mt.
- ▶ Given the large residual coal resource of approximately 711Mt following the expected closure date as per Modification 7, Xenith has assigned a value to the residual resources based on a resource multiple of a comparable transaction discounted to reflect the future risk of development and mine life extension.

The DCF results in a negative value for all but the most optimistic scenario such as applying the 3rd quartile broker consensus prices and the shortest ramp up period. Any value is therefore dependent upon achieving an accelerated ramp up to full production, achieving a more cost-efficient restart, and realising a higher level of coal prices than assumed in the DCF.



Notwithstanding that the DCF indicates minimal value, other than in the most optimistic scenario, Xenith also considered a market approach as detailed on pages 83 to 87 of the Xenith Report. Given the extended period the mine has been idle and the extensive work required to bring the mine back into production, Xenith has assessed the development status of the Dartbrook Coal Project as a pre-development project despite technically being in care and maintenance. The transactions considered are set out below:

Xenith value of the Dartbrook coal mine using a market approach of compare transactions						
Transaction date	Target asset	Market adjusted EV/t (\$/t)	Dartbrook Project Low (Mt)	Implied Value Dartbrook Project (\$M)	Dartbrook Project High (Mt)	Implied Value Dartbrook Project (\$M)
		(a)	(b)	(c) = (a) x (b)	(B)	(C) = (a) x (B)
19/12/19	Springvale & Angus Place	1.396				
	Reserve: Average Market Adjusted Factor Closely Comparable Transactions	1.396	30.0	41.9	85.8	119.8
26/02/18	Maxwell	0.075				
28/09/17	Cooroorah & Mt Hillalong	0.013				
09/15	Spur Hill	0.032				
23/12/14	North Surat Project	0.194				
	Resource: Average Market Adjusted Factor developers comparable data set	0.079	30.0	2.4	731	57.4
	Resource: Average Market Adjusted Factor developers closely comparable	0.054	30.0	1.6	731	39.2

Source: Xenith Report

Of the above transactions, Xenith consider the Maxwell and Spur Hill transactions as being the most comparable to the Dartbrook coal mine on the basis that these assets<sup>27</sup>:

- ▶ represent exploration development projects with underground coal mining potential;
- ▶ are located within the Hunter Valley within a similar geographical location to Dartbrook;
- ▶ had bord & pillar and longwall potential at the time of the transaction.

Xenith has considered adjusted multiples derived from these transactions, after accounting for changes in foreign exchange rates and coal prices between the transaction date and valuation date. They then applied the adjusted multiple to a selected range of resources to form the bounds of their valuation range under the market approach. This resulted in a final valuation range of \$1.6 million to \$39.2 million.

Taking into account various factors relevant to the Dartbrook coal mine, including the wide range of potential DCF values, the extensive capital expenditure required, the Modification 7 production limitations, uncertainty as to any future mining approvals and the current limited investor appetite for assets of this nature, Xenith considered the value to lie at the low to middle of the range of the more closely comparable developers' multiples, with a preferred value of \$11.0 million.

We have relied upon Xenith's assessment of the fair value of the Dartbrook coal mine for the purposes of our report, as well as considered our own views as to the range of values. We have reviewed the Xenith Report and consider it appropriate for our purposes for the following reasons:

- ▶ In our opinion, Xenith is independent of AQC and we understand that Xenith have not provided any services to AQC or Trepang and its associates in relation to the proposed Transaction.
- ▶ The assessment was undertaken by professionals who hold the necessary qualifications and have experience in valuing assets of this nature.

<sup>27</sup> Xenith Report, pg. 85

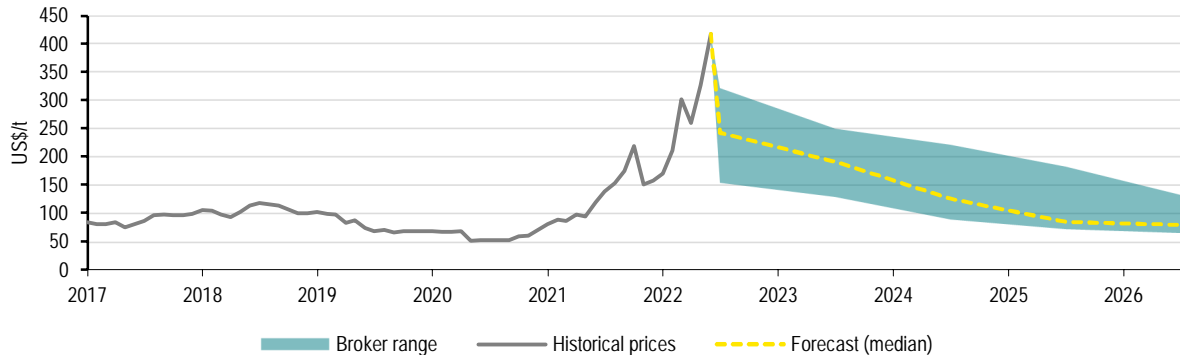
- ▶ There was no restriction on the scope of Xenith’s work. The site inspection allowed for all major areas of the project to be inspected with the exception of some sections of the underground tunnels which Xenith noted were sealed and appeared flooded. In such cases where full internal inspections were not able to be undertaken, we understand Xenith made its assessment based on the observations that were able to be made and information received from representatives of AQC.
- ▶ The assessment undertaken by Xenith was completed for the purposes of the proposed Transaction and was prepared under the VALMIN Code. The VALMIN Code states *“The term Market Value has the same intended meaning and context as the IVSC term of the same name”*. Therefore, for the purposes of its assessment, Xenith refers to the following definition of market value as defined by the International Valuation Standards Committee (“IVSC”): *“the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently, and without compulsion”*. We consider this definition of market value to be consistent with fair value set out in our report which is defined as *“the price at which an asset could be exchanged between a knowledgeable and willing but not anxious seller and a knowledgeable and willing but not anxious buyer both acting at arm’s length”*. The methodology applied in undertaking the valuations is consistent with methodologies generally applied in this industry.
- ▶ The valuation methodologies adopted are consistent with methodologies generally applied in the minerals industry. Xenith has adopted both the income approach and market approach, both being widely accepted for the types of assets being valued.
- ▶ The valuation was undertaken as at 25 May 2022 and remains current as the date of our report.

We also make the following commentary:

- ▶ Coal prices have shown significant volatility over the last two years with recent spot prices being at record highs. In our view this has been impacted by a number of factors, which include:
  - the colder than usual Northern Hemisphere winter increased demand for power generation among thermal coal importers resulting in rising thermal coal prices in the second half of 2021.
  - Russia’s invasion of Ukraine and imposition of sanctions which resulted in a ban on imports of coal from Russia, therefore limiting supply.
  - wet weather across the east coast of Australia impacting on supply, a coal shortage in India, Indonesian export restrictions, as well as a requirement by various key export countries to maintain optimal inventories at power plants.
  - heightened focus on energy transition in Australia, and globally, which has limited investment in coal projects thereby impacting on supply.

While some of these factors may arguably be temporary, we consider them to have contributed to a significant increase in coal prices in the short term. As a result of these extraneous factors, future coal prices are very difficult to predict which results in a wider range of coal prices and possible forecast outcomes than usual. As indicated in the chart on the following page, while the consensus is that longer term prices are expected to reduce from current spot prices, the timing and extent of any reduction is uncertain.

### Historical and forecasted Newcastle thermal coal price (6000 Kcal/KG NCV)



Source: S&P Market intelligence, Consensus Economics, Broker Reports  
Note: Forecast prices presented in financial year, real terms, with 2026 representing long-term price

- ▶ In our view there are significant financial risks to an investor in the project that would warrant a materially higher discount rate than that applied by Xenith. Considering current Modification 7 approvals, significant capital expenditure is required over the life of the Dartbrook coal mine. Dependent upon the case adopted, Xenith estimate these costs to range between \$473.1 million and \$478.8 million. This will be required to be funded by loans or equity injections. In addition, the Dartbrook coal mine is not expected to generate positive cash flows until FY25 or reach positive cumulative cashflows until FY27<sup>28</sup>, leaving only 2 years of positive cash flows to generate a return on investment before current approvals expire.
- ▶ The majority of the transactions included in the Xenith Report are more than twelve months old. While this is not uncommon for valuations of this nature, there is subjectivity in estimating how the market conditions and comparable sale value metrics may have changed since those transactions. Adjusting the transaction metrics for differences to Dartbrook and the market, since the transaction occurred is a somewhat subjective process that we note can differ between two or more experienced valuers.
- ▶ We also acknowledge that there is certain subjectivity in considering multiples paid in other acquisitions as each project has unique characteristics, depends on the coal market conditions at the time of the acquisition, location, proximity to end markets and coal quality, may reflect buyer specific synergies and are generally historic. Additional risks with respect to the Dartbrook coal mine include that the coal reserve for longwall mining operations was estimated in June 2000, pre-dating the current JORC Code (2012), and therefore there may be some uncertainty as to the reliability of these reserves. Furthermore, the tenements, other than CL386, have renewals pending which also may present a regulatory risk.
- ▶ While we understand Xenith has adjusted transaction multiples for differences in coal price and foreign exchange rate forecasts between the date of transaction and current views, this does not explicitly include potential changes in views or sentiment towards coal assets and hence buyer appetite. However, reflecting upon the limited transactions that have occurred in recent years, even with the current high coal prices, we consider there to be limited appetite for such a pre-development project. We therefore concur that the value should fall towards the lower end of previous transactions.

<sup>28</sup> Under Xenith's Base Case scenario

## 5.2 Fair value of the AAMCA Royalty

The AAMCA Royalty is currently represented on the AQC balance sheet through a liability of \$10.6 million which represents the fair value as assessed by AQC, of the future royalty obligation to Anglo brought to account as part of the acquisition of the Dartbrook coal mine in 2017. The AAMCA Royalty would become payable upon the mine recommencing saleable production.

As noted above, the fair value of the Dartbrook coal mine, as assessed by Xenith, excludes the AAMCA Royalty. In order to separately value the AAMCA Royalty we have applied the DCF methodology based on the LOM used by Xenith in their DCF calculations. However, we have undertaken our DCF valuation on a post-tax nominal basis.

The key terms of the AAMCA Royalty include:

- ▶ Anglo and Marubeni are entitled to receive the AAMCA Royalty from the Dartbrook coal mine totaling \$3.00 per ROM tonne of coal sold or otherwise disposed of, and \$0.30 per tonne of any third-party coal processed through Dartbrook. This relates to 100% of the coal from underground mine production at Dartbrook. The total royalty cash flows are capped at \$30 million.
- ▶ Both the royalty price per tonne and \$30 million cap are subject to escalation based on the Brisbane All Groups CPI and increased on 31 January of each year from 29 May 2017, being the date of the deed.
- ▶ Escalation has been applied from 2017 to 2022 based on Brisbane All Groups CPI, whilst market consensus forecasts for Australian Consumer Price Index ("CPI") have been adopted thereafter as a proxy for the Brisbane All Groups CPI. Forecast CPI is between 5.1% and 2.5% (long term).

Other key assumptions adopted by us include:

- ▶ A discount rate range of 7.3% to 9.6% (post-tax, nominal). This represents the post-tax equivalent rate to the pre-tax discount rate applied by Xenith in its DCF.
- ▶ Tax at 30% being the Australian corporate tax rate.

The valuation range assessed based on Xenith's DCF is significantly higher than the valuation range ultimately adopted by Xenith. As the low end of the value of the Dartbrook coal mine is assessed at \$1.6 million, excluding the AAMCA Royalty, we consider it unlikely the mine would be developed under this scenario and therefore ascribed a value of Nil to the low end of the AAMCA Royalty.

In relation to the upper end of the range, using Xenith's cash flows and discount rate (albeit adjusted to post tax basis), would imply a value for the AAMCA Royalty at the upper end of \$20.9 million, which compared to the upper end of their value range for the Dartbrook coal mine of \$39.2 million, is high. As such we have applied a pro rata adjustment to the AAMCA Royalty value range calculated per the DCF, commensurate with the difference in value ranges between Xenith's DCF and Xenith's adopted range. This adjustment ensures the value ascribed to the AAMCA royalty is aligned with the value range for the Dartbrook coal mine and reflects that the DCF value arguably does not fully account for the riskiness of the cash flow profile and current investor interest for assets of this nature.

Based on the above, we have assessed the fair value of the AAMCA Royalty in the range of nil to \$3.97 million.

## 5.3 Fair value of the Dartbrook Coal Project

We consider the value of the Dartbrook Coal Project to be the consolidated value of the subsidiaries proposed to be acquired by Trepang exclusive of the liabilities owed to the Existing Financiers. The book value of the assets we consider to be part of the Dartbrook coal mine and included within Xenith's valuation as at 31 December 2021 are set out below. We assume no material changes between 31 December 2021 and the date of our report.

### Book value of the Dartbrook Coal Project as at 31 December 2021

Currency: A\$000	
Security deposits	8,950
Land	702
Buildings	19
Leasehold improvements	9
Plant and equipment	3,435
Mine development	70
Exploration and evaluation	5,527
Provision for restoration	(8,950)
<b>31 December 2021 book value Dartbrook Coal Project</b>	<b>9,760</b>

Source: Management

In addition to the assets and liabilities above, the subsidiaries proposed to be acquired by Trepang have limited residual assets outside of those directly related to the Dartbrook coal mine (“Other assets”), which include cash, receivables and prepayments totalling \$0.26 million.

In order to arrive at the fair value of the Dartbrook Coal Project we have considered the fair value of the Dartbrook coal mine as ascribed by Xenith, the fair value of the AAMCA Royalty as calculated by us and the book value of other residual assets as a proxy of their fair value. As illustrated below, we consider the fair value of the Dartbrook Coal Project to be between \$1.87 million and \$35.51 million.

Fair value of the Dartbrook Coal Project		
Currency: A\$000	Low	High
Dartbrook coal mine	1,610	39,220
AAMCA Royalty	-	(3,970)
Other Assets	260	260
<b>Total</b>	<b>1,870</b>	<b>35,510</b>

Source: Xenith Report, Management

## 6. Fair value of the consideration

The consideration offered to AQC shareholders is comprised of \$1.00 cash, the transfer or extinguishment of the loans and capitalised interest payable to the Existing Financiers including historical director fees to John Robinson (Jnr) and the right to receive a future royalty in accordance with the Dartbrook Royalty Deed.

### **Novation, waiver or extinguishment of debt and interest to Existing Financiers**

The current debt and interest liabilities owed by AQC to the Existing Financiers as at 31 January 2022 total \$62.0 million as detailed in sections 1.1.1 and 3.2. We acknowledge that the fair value of these loans could be lower than their face value where the company may not be financially able to repay all loans in full. Given the nature of the currently proposed transaction we have adopted the book value and we discuss the relevance of this in our evaluation of the transaction.

In addition, the consideration will include the forgiveness of accrued director fees payable to John Robinson (Jnr) of \$0.25 million plus any accrued interest.

### **Dartbrook Royalty**

We have assessed the fair value of the Dartbrook Royalty using a DCF based on the terms of the Dartbrook Royalty Deed and the production and operating assumptions as per the DCF calculations undertaken by Xenith. Our DCF is on a post-tax nominal basis.

Key terms of the Dartbrook Royalty include:

- ▶ A royalty may be payable to AQC based on 50% share of the net profit from coal sold from the Dartbrook coal mine ("Grantor Coal"), limited as per below:
- ▶ \$2.50 per tonne for each tonne of Grantor Coal where the coal price is below US\$150.00 per tonne;
- ▶ \$3.50 per tonne for each tonne of Grantor Coal where the coal price is equal to or greater than US\$150.00 but less than or equal to US\$200.00 per tonne; and,
- ▶ \$5.00 per tonne for each tonne of Grantor Coal where the coal price exceeds US\$200.00 per tonne.
- ▶ The coal price used to determine the royalty is based on the average price received for that calendar quarter, with the US\$ coal prices noted above being subject to inflation adjustments.

Based on the Dartbrook Royalty Deed, royalties will only be payable to AQC once gross revenue from the Dartbrook Coal Project in any calendar quarter exceeds the Allowable Deductions. The Allowable Deductions are detailed in section 5.3 of the accompanying Explanatory Memorandum and include all costs directly incurred in relation to the development and operation of the Dartbrook coal mine and are inclusive of the AAMCA Royalty. The allowable deductions carry forward such that the royalty is only payable once the project as a whole is generating net profits. Based on the different Xenith's scenarios and accounting for the AAMCA Royalty and tax cash flows, the project is not forecast to reach net profits until at least year 2026 or later.

Our valuation is based on the cash flows adopted by Xenith in their DCF valuation of the Dartbrook coal mine. However, we have then included income tax payable, depreciation and the AAMCA Royalty to Xenith's cash flows in order to align the cash flows with the terms of the Royalty Deed.

The allowable deductions per the Royalty Deed also provide for the deduction of any financing costs as well as any exploration or development costs associated with expansion onto other tenements within the Dartbrook coal mine. We have assumed nil financing costs on the basis that, in our view, it would be difficult for an asset such as this to obtain third party finance, and hence would likely require to be wholly funded by equity. We have also not included any expansion costs on the basis that the current Modification 7 does not allow this.

We have applied a discount rate of 15% (post tax, nominal) to reflect the pre-development nature of the mine and risks in the cash flows. This is higher than the rate applied for the AAMCA Royalty given the Dartbrook

Royalty is payable based on net profit, rather than production (as is the case for the AAMCA Royalty) and therefore carries more risk. We note that the discount rate is also higher than the rate applied by Xenith in its DCF. This reflects our view that there are significant financial risks associated with the Dartbrook Royalty as no returns are expected to be received in respect of this royalty until the mine is profitable. No cash flows are therefore expected from the Dartbrook Royalty until approximately 2026 (year 4) depending on the pricing scenario. This greater financial risk is therefore reflected in a higher discount rate than for the overall cash flows. Even if a lower discount rate was applied for the Dartbrook Royalty, consistent with the post-tax equivalent used by Xenith, this would imply a higher value for the Dartbrook Royalty, as well as the consideration to be received by AQC shareholders. This would not impact on our opinion in relation to the fairness of the proposed Transaction.

Given the low end of the value of the Dartbrook coal mine is assessed at \$1.6 million, excluding the AAMCA Royalty, we consider it unlikely the mine would be developed under this scenario and therefore ascribed a value of nil to the low end of the Dartbrook Royalty.

In relation to the upper end of the range, we have similarly applied a pro rata adjustment to the Dartbrook Royalty value range calculated per the DCF, commensurate with the difference in value ranges between Xenith's DCF and Xenith's adopted range. This adjustment ensures the value ascribed to the Dartbrook Royalty is aligned with the value range for the Dartbrook coal mine and reflects that the DCF value arguably does not fully account for the riskiness of the cash flow profile and current investor interest for assets of this nature.

Based on the above, we have assessed the fair value of the Dartbrook Royalty in the range of nil to \$1.55 million. We also note that the value of the Dartbrook Royalty is not overly sensitive to coal prices given it is capped at a fixed dollar per tonne, nor to discount rates.

As illustrated by the below, based on the cash consideration, debts and capitalised interest novated, waived or extinguished, and the fair value of the Dartbrook Royalty, we assess the total consideration being received in exchange for the Dartbrook Coal Project as between \$62.2 million and \$63.8 million.

Fair value of the Consideration		
Currency: A\$000	Low	High
Cash consideration	0.001	0.001
Transfer / extinguishment of debt to Trepang	61,981	61,981
Forgiveness of Robinson director fees	249	249
Dartbrook Royalty	-	1,551
<b>Total</b>	<b>62,231</b>	<b>63,781</b>

*Source: Management*

Giving consideration to the above, we note whilst we have applied a fair value to the Dartbrook Royalty of between nil and \$1.55 million, we acknowledge that the Dartbrook Royalty carries a potential upside over and above this range with no downside risk. Notably, in the event the mine was to be developed faster and more cost efficiently than forecast, or achieve an extension beyond the current Modification 7, we would expect an increase in the value of the royalty. We note that if the value of the royalty was solely based on the high end of the DCF value range for Dartbrook as assessed by Xenith, the high end of the Dartbrook Royalty would be c. \$8.1 million.



## 7. Evaluation of the Transaction

### 7.1 Evaluation of the Transaction

In forming our opinion as to whether the proposed Transaction is fair and reasonable to the Non-Associated Shareholders, we have considered a number of factors including whether the fair value of the Dartbrook Coal Project is higher or lower than the fair value of the consideration offered. In assessing the fair value of the Dartbrook Coal Project, we have placed reliance on the Xenith Report in respect of the value of the Dartbrook coal mine, which is the major asset being acquired.

We have also considered other factors that shareholders should consider in deciding whether to approve, or not approve, the proposed Transaction including the strategic rationale for the Transaction, alternative options available to AQC, and impact on the Company if the proposed Transaction is not approved, amongst other relevant factors. These are discussed below.

### 7.2 Fairness

In determining whether the proposed Transaction is fair, we have compared the assessed fair value of the Dartbrook Coal Project, being the AQC subsidiaries proposed to be acquired, with the consideration being offered. The following table summarises this comparison:

Evaluation of the fairness of the proposed Transaction		
\$'000	Low	High
Value transferred		
Fair value of the Dartbrook Coal Project	1,870	35,510
Value Received		
Cash	0.001	0.001
Novated debt and interest	61,981	61,981
Forgiveness of Robinson director fees	249	249
Dartbrook Royalty	-	1,551
Total Consideration	62,231	63,781

Source: Ernst & Young Strategy and Transactions Limited analysis

Based on Xenith's assessment of the value of the Dartbrook coal mine, and our adjustments for the AAMCA Royalty and other assets, the assessed fair value of the Dartbrook Coal Project is between \$1.9 million and \$35.5 million. The fair value of the consideration to be received by AQC is between \$62.2 million and \$63.8 million. As the range of consideration received is above the range of the Dartbrook Coal Project, we consider the proposed Transaction to be fair.

### 7.3 Reasonableness

Under the guidance provided by RG 111, as we consider the terms of the proposed Transaction to be fair, we also consider the proposed Transaction to be reasonable. Notwithstanding this conclusion, we have also considered other factors that the Non-Associated Shareholders should consider in forming their view as to whether to approve, or not approve the proposed Transaction. Individual Non-Associated Shareholders may interpret these factors differently depending on their own circumstances.

#### 7.3.1 Advantages

##### ***AQC's debt will be reduced to nil and all security released***

As a result of the proposed Transaction, all of AQC's borrowings will be extinguished and security over its assets released. As reported in its 31 December 2021 half year report, AQC had consolidated net financial debt (gross debt including accrued interest less cash) of \$61.1 million, of which all borrowings are currently due for



repayment. AQC currently has no operating assets or cash flow to repay the debt or service any interest repayments. Furthermore, based on Xenith's discounted cash flow scenarios and accounting for cash outflows for the AAMCA Royalty, the Dartbrook coal mine would likely only generate sufficient cash flows to repay liabilities to the Existing Financiers under the high case scenario<sup>4</sup>.

The proposed Transaction will result in the novation, waiver or extinguishment of all debts of AQC and reduce concerns with respect to its ability to operate as a going concern. AQC would then have no debt, with its main assets including a number of tenements as well as the potential to receive the royalty.

### ***There are limited alternative options available to AQC***

AQC has no current operations and increasing debt levels resulting from the capitalisation of interest on loans provided by the Existing Financiers to fund its ongoing working capital requirements. AQC has in recent years explored various strategic options, which we view as limited, having considered the following:

- ▶ Based on the technical expert's calculations and assumptions adopted, AQC would require an outlay of between c.\$223 million and c.\$355 million before the Dartbrook coal mine begins to generate positive net cash flows<sup>29</sup>. Given its existing secured debt outstanding and the announcements by many financiers to fund clean energy projects rather than fossil fuel projects, we consider the pool of potential financiers to be very limited and associated funding costs to be high. Furthermore, any financier would also require security and hence require the repayment of existing secured debt which further increases the funding requirements.
- ▶ For similar reasons as above, AQC would be unlikely to be able to raise new equity in order to pay down its borrowings and fund the development of the mine. We understand that AQC last undertook an equity issuance in October 2018 which raised \$1.0 million. Since December 2015, AQC has raised approximately \$7.3 million from unrelated parties. However, the financial position of AQC was more favourable at the time of these raisings, than currently. We understand that AQC's discussions with its equity advisors indicate that an equity issuance is not a viable option. Furthermore, the holders of the existing convertible notes would not likely convert their debt into equity. The existing convertible notes may be converted to equity at the option of the holders at a conversion price of \$0.80 per share. As the current share price at 19 July 2022 is \$0.11 per share, the convertible notes are not likely to be converted by Trepang and its associated entities.
- ▶ In our view there are very few buyers for AQC's core asset. The likely buyers would logically be a coal mining operator with existing mining operations in proximity to Dartbrook. Other opportunistic buyers could include mining funds with access to capital seeking to capitalise on the current high coal spot prices. However, there have been very few acquisitions of coal assets in recent years, with those that have occurred generally being large mining companies acquiring remaining minority stakes in existing assets.
- ▶ We understand that AQC received, in March 2022, a highly indicative draft term sheet from a third party to acquire a majority interest in the Dartbrook coal mine. The term sheet was subject to due diligence being undertaken. One other preliminary offer had been received in January 2022 for the acquisition of Dartbrook coal mine and entry into coal marketing arrangements. We understand the prior offers were preliminary in nature and due to AQC's financial constraints and limited financial support from the Existing Financiers, they were not considered further.
- ▶ The Company is unlikely to be able to refinance its current borrowings. Given the lack of operational cash flows, risks associated with commencing operations at the Dartbrook coal mine, and the existing security arrangements granted in favour of the Existing Financiers, it is unlikely that any third-party lender would, or could, provide more attractive debt terms. We understand that Management's discussions with a major bank concurs with this view.
- ▶ AQC has few other assets of value, aside from the Dartbrook coal mine, that may be applied in order to fund any repayments of debt or servicing of interest. Of the other assets owned by the Company, there are none that are operational or generate profits.

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<sup>29</sup> Xenith Report

- ▶ While AQC currently owns land upon which the CHPP is located, the current value of the land, even on an alternate use basis for say pastoral, or potentially even forestry and generation of carbon credits use, is at the low end of the current value of the Dartbrook Coal Project.
- ▶ Since the announcement of the proposed Transaction no other offers, other than as noted above, have eventuated for the Dartbrook Coal Project or AQC.

As such, it is our view that the current alternative options available to AQC are very limited, and it is unlikely that an alternative superior proposal will emerge. Furthermore, given the re-commencement of mining is currently only approved until 5 December 2027, further delays in the sale of the asset, or material changes in coal prices, could materially impact on the value.

### ***If the proposed Transaction is not approved, AQC will require financial support***

While the Company's financiers have not yet exercised their rights to demand repayment of their loans, in the event that they did, AQC has no ability to repay its debts other than via a sale of its core assets. As a secured creditor, Trepang and its associates would have the ability to affect the appointment of a receiver and manager, and orderly realisation of its assets. However, in our view, realisation proceeds may not be maximised in the event of a sale by a receiver and manager given the generally short time frame over which these assets would be required to be sold and the actual or perceived existence of a "distressed" vendor. In this instance it is unlikely that shareholders would receive any value for their equity and would not have an option to receive any future royalty.

As such, if the proposed Transaction is not approved and implemented, AQC will require financial support in order to repay its current borrowings and meet its going concern obligations. Given the focus on energy transition we consider the pool of potential lenders to be very limited, especially considering the secured charge over all assets currently in favour of Trepang and its associates.

### ***AQC shareholders will maintain some exposure to any future operations of the Dartbrook coal mine through the Royalty***

If the Transaction is approved, AQC will maintain exposure to the potential future profits of the Dartbrook coal mine through the Dartbrook Royalty, with limited exposure to operational risk. Whilst the Dartbrook Royalty has a nominal fair value and any royalty may not be received for a number of years, it has limited downside risk, but with potential upside over and above the fair value ascribed.

## **7.3.2 Disadvantages**

### ***The sale of its main asset leaves AQC with minimal assets and limited attractiveness to investors***

Whilst the proposed Transaction will result in a reduction of debt, its asset base will also be significantly reduced. AQC will retain only limited assets, comprising some exploration tenements in the Bowen, Galilee and Surat basins, the potential Dartbrook Royalty stream and nominal amount of other assets and liabilities. Net assets of AQC post the proposed transaction are estimated to be between c. \$0.3 million and c. \$1.8 million, with no cash flow to support any future strategic direction, implying no value of the equity for shareholders. This will reduce the attractiveness of the Company to any third party acquiror.

### ***AQC will no longer be listed on the ASX with limited options for liquidity for shareholders***

In the event of the sale of its main asset and with no operating assets, AQC will no longer meet the requirements for listing on the ASX. As such it will likely be de-listed. AQC shareholders would then hold shares in an unlisted public company with limited ability or market through which shareholders may sell their shares and limited prospect of a dividend other than through any potential future royalty. This could be considered a disadvantage however we also note that in the event Trepang were to exercise its rights as a

secured creditor, shareholders would be unlikely to receive any return on their investment given the debt owing (which continues to accrue interest) exceeds the fair value of AQC's assets.

## 7.4 Other considerations

### ***There is not expected to be any cash tax payable by AQC as a result of the Transaction***

If the proposed Transaction is approved, we understand that AQC will recognise a capital gain. However, based on tax advice obtained by AQC, we understand that any capital gain may be offset against the carried forward tax losses available to AQC. As such, there are no specific tax consequences for individual AQC shareholders as a result of the proposed Transaction.

### ***AQC's control and exposure to the Dartbrook Coal Project will be reduced***

If the Transaction is approved, AQC will no longer be exposed to the Dartbrook coal mine, other than through the Dartbrook Royalty. As such AQC shareholders will forgo any potential value over and above its exposure to the Dartbrook Royalty from any future operating upside. This may also have the effect of making the company less attractive to some potential purchasers or raise funds in future. Alternatively, its lower exposure to coal mining may increase its attractiveness for some investors.

### ***Certain costs have been incurred associated with the Transaction***

AQC will have incurred or committed to incurring various one-off transaction costs. These transaction costs, which are estimated to be between \$180,000 to \$220,000 exclusive of GST, will be payable by AQC regardless of whether the proposed Transaction is approved.

### ***Trepang and its associates' potential voting rights will remain unchanged***

Trepang and its associates currently hold Convertible Notes which are convertible into ordinary shares at their option. The Convertible Notes' principal balance may be converted at \$0.80 per share and accrued interest balance may be converted at the five-day volume weighted average price ("VWAP"). As the current AQC share price is \$0.11 per share, it is unlikely Trepang, and its associates would elect to convert. Assuming no conversion, Trepang and its associates' voting power remains at 41.72%. If converted their voting power could increase to over 70%, however as the Convertible Notes are not likely to be converted given current AQC share prices, we do not see this to be an advantage or disadvantage of the proposed Transaction.

### ***No preferential treatment of Trepang and its associates***

Trepang currently holds first ranking security over the assets of AQC, through the Vendor Loan which benefits from first ranking security, as well as the Convertible Notes and other secured loans. Of the total loans owed to Trepang and its associates at 31 January 2022 of \$62.0 million, only \$3.4 million is unsecured. Other than the Unsecured Loan, all are secured in favour of Trepang and its associates. As such, there is no preferential treatment of Trepang and its associates, as in the event of calling upon its loans, Trepang and its associates would be entitled, in priority to any other lender, to have recourse to key assets of AQC.

## 7.5 Conclusion

In the absence of a superior proposal, based on the matters outlined above, in our opinion, the proposed Transaction is fair and reasonable to the Non-Associated Shareholders of AQC.

This independent expert's report has been prepared to assist Non-Associated Shareholders in assessing the merits of the proposed Transaction. In doing so, the report provides general information only and does not consider the individual situation, objectives and needs of each Non-Associated Shareholder. On this basis, Non-Associated Shareholders should consider whether this report is appropriate for their circumstances, having regard to their own situation, objectives and needs before relying on or taking action based on this report. If there is any doubt, Non-Associated Shareholders should seek their own professional advice.

## Appendix A Statement of qualifications and declarations

Ernst & Young Strategy and Transactions Limited, which is wholly owned by Ernst & Young, holds an Australian Financial Services Licence under the Corporations Act 2001 and its representatives are qualified to provide this report. The directors of Ernst & Young Strategy and Transactions Limited responsible for this report have not provided financial advice to AQC.

Prior to accepting this engagement, we considered our independence with respect to AQC and Trepang and its associates with reference to RG 112. In our opinion, we are independent of AQC and Trepang and its associates. Ernst & Young Strategy and Transactions Limited, Ernst & Young and global affiliations have not provided any services to AQC or Trepang and its associates in relation to the proposed Transaction. We have previously provided two independent expert reports for AQC in relation to a prior sale of property by AQC to Trepang which completed in November 2021, and prior to that, on a proposed transaction more than three years ago, which did not ultimately complete. We have not provided any other services to AQC or Trepang and its associates. We have changed the signing partners for this report compared to prior reports, and do not consider the provision of these prior services to compromise our independence.

This report has been prepared specifically for the Non-Associated Shareholders in relation to the proposed sale of the Dartbrook Coal Project. Neither Ernst & Young Strategy and Transactions Limited, Ernst & Young and any employee thereof undertakes responsibility to any person, other than the Non-Associated Shareholders, in respect of this report, including any errors or omissions howsoever caused.

The statements and opinions given in this report are given in good faith and the belief that such statements and opinions are not false or misleading. In the preparation of this report we have relied upon and considered information believed after due inquiry to be reliable and accurate. We have no reason to believe that any information supplied to us was false or that any material information has been withheld from us. We have evaluated the information provided to us by AQC, its advisors, as well as other parties, through inquiry, analysis and review, and nothing has come to our attention to indicate the information provided was materially mis-stated or would not afford reasonable grounds upon which to base our report. We do not imply and it should not be construed that we have audited or in any way verified any of the information provided to us, or that our inquiries could have verified any matter which a more extensive examination might disclose.

The information relied upon in the preparation of this report is set out in Appendix B of this report.

AQC has provided an indemnity to us for any claims suffered or incurred by us directly arising out of any mis-statement or omission in any material or information provided to us and used or relied upon by us in the preparation of this report.

We provided draft copies of this report to the Non-Associated Directors of AQC for comments as to factual accuracy, as opposed to opinions, which are the responsibility of us alone. Changes made to this report as a result of this review by the Non-Associated Directors and management of AQC have not changed the methodology or conclusions reached by us.

We will receive a professional fee based on time spent in the preparation of this report estimated at approximately A\$82,500 (inclusive of GST). We will not be entitled to any other pecuniary or other benefit whether direct or indirect, in connection with the making of this report.

Julie Wolstenholme a director and representative of Ernst & Young Strategy and Transactions Limited and a partner of Ernst & Young and Jamie Stewart, a director and representative of Ernst & Young Strategy and Transactions Limited and a partner of Ernst & Young have assumed overall responsibility for this report. Both have the necessary experience and professional qualifications appropriate to the advice being offered. Other staff have been consulted in the preparation of this report where appropriate.

It is not intended that the report should be used for any other purpose other than to be included in the Notice of Meeting to be sent to AQC Shareholders with respect to the proposed Transaction. In particular, it is not intended that this report be used for any other purpose other than as an expression of our opinion as to whether or not the proposed sale of the Dartbrook Coal Project by AQC is fair and reasonable to the Non-Associated Shareholders of AQC. We consent to the issue of this report in the form and context in which it is included in the Notice of Meeting.

## Appendix B Sources of information

In preparing this report, we have had regard to the following sources of information:

- ▶ Valuation Report and accompanying calculations on the Dartbrook coal mine prepared by Xenith Consultants
- ▶ Draft Notice of Extraordinary General Meeting and Explanatory Memorandum
- ▶ Share Sale Agreement between Australian Pacific Coal Limited, Trepong Services Pty Ltd, John Robinson (Snr) and Nicholas Paspaley
- ▶ Dartbrook Royalty Deed between AQC Investments 2 Pty Ltd, Australian Pacific Coal Limited and Trepong Services Pty Ltd
- ▶ Various public disclosure documents lodged by AQC with the ASX, including annual reports for the years ended 30 June 2018 to 30 June 2021 and the half yearly report for half year ended 31 December 2021
- ▶ Information from AQC's website
- ▶ AQC shareholder information at various dates, as provided by the Company's share registry
- ▶ Market data obtained from sources including S&P Capital IQ

In addition, we held discussions with the Non-associated members of management of AQC and its advisors.

## Appendix C Glossary

Glossary	
Abbreviation	Full Title / Description
Act	Corporations Act 2001
Anglo	Anglo American Plc
Anglo Metallurgical Coal	Anglo American Metallurgical Coal Assets Pty Ltd
APES 225	Valuation Services issued by the Accounting Professional & Ethical Standards Board Limited
AQC or the Company	Australian Pacific Coal Limited
AQCD	AQC Dartbrook Pty Ltd
AQC DM	AQC Dartbrook Management Pty Ltd
ASIC	Australian Securities and Investment Commission
ASX	Australian Securities Exchange
CHPP	Coal handling and preparation plant
Consideration	Payment for the acquisition of the Dartbrook Coal Project
CPI	Consumer price index
Dartbrook Coal Project	AQC Investments 2 Pty Limited; AQC Dartbrook Pty Ltd; AQC Dartbrook Management Pty Ltd and Dartbrook Coal (Sales) Pty Ltd
Existing Financiers	Mr Nicholas Paspaley, Mr John Robinson (Snr) and Trepang Services Pty Ltd
FYXX	Financial year ending/ended 30 June XX
Ha	Hectares
HTBA	Hunter Thoroughbred Breeders Association
IPC	Independent Planning Commission
IVSC	International Valuation Standards Committee
Management	Management of AQC
Modification 7	AQC's submission of an application to the IPC to recommence limited underground mining at Dartbrook coal mine
Mt	Million tonnes
Non-Associated Shareholders	Shareholders of AQC not associated with Trepang or its associates
NSW	New South Wales
Report	The independent expert's report
RG 76	Regulatory Guide 76: Related Party Transactions
RG 111	Regulatory Guide 111: Content of expert reports
RG 112	Regulatory Guide 112: Independence of expert
SNR	Stella Natural Resources
SSA	Share Sale Agreement
tph	Tonnes per hour
Transaction	Proposed acquisition of the Dartbrook Coal Project by Trepang
Trepang	Trepang Services Pty Ltd
Trepang and its associates	Trepang Services Pty Ltd, Mr Nicholas Paspaley and Mr John Robinson (Snr)
US\$	United States dollars
VWAP	Volume weighted average prices
We, us or our	Ernst & Young Strategy and Transactions Limited
Xenith	Xenith Consultants Pty Limited
Xenith Report	Independent Technical Specialists Report produced by Xenith
\$ or A\$	Australian dollars

## Appendix D Valuation methodologies

RG 111 provides guidance on the valuation methods that an independent expert should consider when valuing a company. These methods include the:

- ▶ DCF method and the estimated realisable value of any surplus assets;
- ▶ Application of earnings multiples (appropriate to the business or industry in which the entity operates) to the estimated future maintainable earnings or cash flows of the entity, added to the estimated realisable value of any surplus assets;
- ▶ Amount that would be available for distribution to security holders on an orderly realisation of assets;
- ▶ Quoted price for listed securities, when there is a liquid and active market and allowing for the fact that the quoted price may not reflect their value, should 100.00% of the securities be available for sale;
- ▶ Recent genuine offers, if any, received by the target for any business units or assets as a basis for valuation of those business units or assets; and
- ▶ Amount that any alternative acquirer might be willing to offer if all the securities in the target were available for purchase.

Each methodology is appropriate in certain circumstances. The decision as to which methodology to apply generally depends on the nature of the asset being valued, the methodology most commonly adopted in valuing such an asset and the availability of appropriate information.

The DCF methodology involves calculating the net present value of cash flows that are expected to be derived from future activities. The forecast cash flows are discounted by a discount rate that reflects the time value of money and the risk inherent in the cash flows. This methodology is particularly appropriate in valuing projects, businesses and companies that are in a start-up phase and are expecting considerable volatility and/or growth in earnings during the growth phase, as well as businesses with a finite life (such as mining projects). The utilisation of this methodology generally requires that the asset be sufficiently advanced to enable management to provide long term cash flows with some degree of robustness.

The capitalisation of earnings methodology involves capitalising the earnings of a project, a business or a company at an appropriate multiple, which reflects the risks underlying the earnings together with growth prospects. This methodology is theoretically most appropriate where a company or business is expected to generate a relatively stable level of earnings but in practice, is also frequently used in a range of other circumstances.

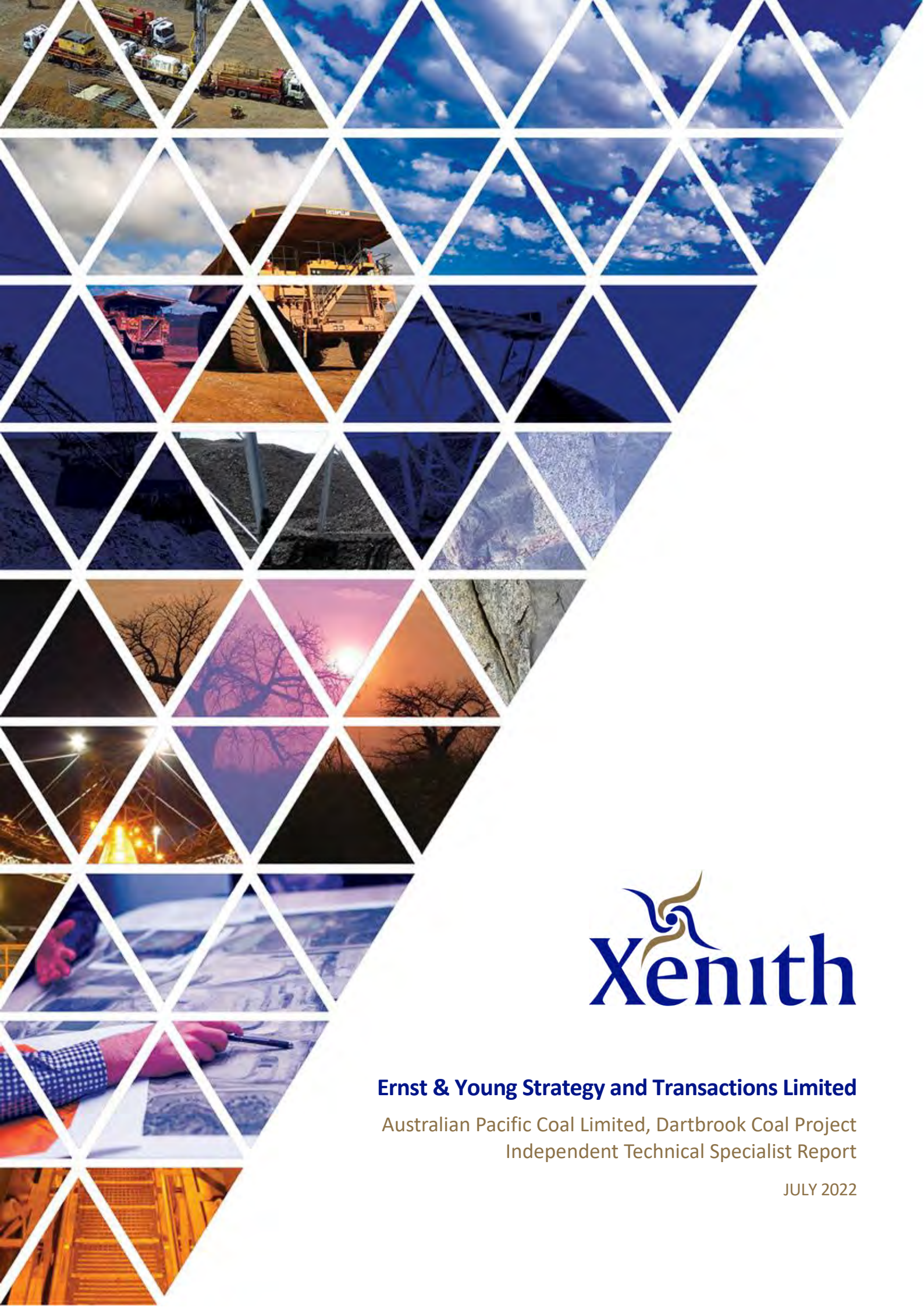
The net asset backing methodology involves consideration of the net realisable value of the assets of a business or company on a going concern basis, assuming an orderly realisation of those assets. This value includes a discount to allow for the time value of money and for reasonable costs of undertaking the realisation. It is not a valuation on the basis of a forced sale, where assets may be sold at values materially different to their fair value.

Market based assessments relate to the valuation of companies, the shares of which are traded on a stock exchange. While the relevant share price would, prima facie, constitute the market value of the shares, such market prices usually reflect the prices paid for small parcels of shares and as such do not include a control premium relevant to a significant parcel of shares.



## Appendix E      Xenith Report





**Ernst & Young Strategy and Transactions Limited**

Australian Pacific Coal Limited, Dartbrook Coal Project  
Independent Technical Specialist Report

JULY 2022

21 July 2022

Ms Julie Wolstenholme  
Director and Representative  
Ernst & Young Strategy and Transactions Limited  
200 George Street  
Sydney NSW 2000

By Email: [julie.wolstenholme@au.ey.com](mailto:julie.wolstenholme@au.ey.com)

Dear Julie,

**RE: Dartbrook Project – Independent Technical Specialists Report**

Further to our engagement by Australian Pacific Coal Limited (APC), and your letter of instruction of 31 March 2022.

We have finalised our Independent Technical Specialists Report (Report) for the Dartbrook Project and provide the Report by attachment to this letter.

Xenith understand the Report will be attached in full, in the form and context in which the Report is provided, as an appendix to the IER and that the IER, inclusive of the Report will accompany the notice of meeting to be sent to shareholders of APC.

Accordingly, Xenith confirm that EYSaT is entitled to rely on the Report and is able to refer to the content of the report in the IER, on the basis that the findings set out in the individual sections of the Report are considered with, and not independently of, the detailed analysis and information in the complete Report.

Xenith does not consent to this Report being used for any other purpose.

Yours sincerely,



**Troy Turner**  
Managing Director  
Xenith Consulting

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### DISCLAIMER

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Without limiting the generality of the above comment, we do not assume responsibility or accept liability where the costing is relied upon after the expiration of 60 days from the date of the estimation or such earlier date if you become aware of any factors that have an effect on the estimation.



## DOCUMENT ISSUE APPROVAL

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## DISTRIBUTION

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EYSaT	Julie Wolstenholme	-	1	AK 27/07/2022
Australian Pacific Coal	Messrs C.McPherson and T.Lalor	-	1	AK 27/07/2022

To be initialled and dated by the person who actions the issue of the documents.



## DEFINED TERMS

Abbreviation	Definition
AAMC	Anglo American Metallurgical Coal
ABS	Australian Bureau of Statistics
AQC	Australian Pacific Coal Limited
AQC Model	Australian Pacific Coal, Microsoft Excel spreadsheet, AQC Underground BP model (v July 2018)
AUTH	an EL for coal granted under the NSW Mining Act 1973. AUTHs are no longer granted; however, some AUTHs remain active. AUTHs are deemed to be exploration licences for the purposes of the NSW Mining Act 1992. An AUTH does not permit mining, nor does it guarantee that a mining lease will be granted over the area
ASX	Australian Securities Exchange Ltd
AUD, Dollars or \$	Australian dollar
AusIMM	Australasian Institute of Mining and Metallurgy
Capex	Capital Cost
C&M	Care and maintenance
CHPP	Coal Handling and Processing Plant
CL	a ML for coal granted under the NSW Mining Act 1973. CLs are no longer granted; however, some CLs remain active
Comparable Transactions	A market based valuation methodology using comparable sales transactions for which price information is known
Dartbrook Project	Dartbrook Coal Project
DCF	Discounted Cash Flow, an income based valuation methodology
DCF Analysis	The collective Base Case DCF and DCF Scenario assessment
DCF Scenarios	DCF assessment of scenarios in this Report
EA	Environmental Assessment
EL	an exploration license under the NSW Mining Act 1992 providing the titleholder the exclusive rights to explore for a specific mineral or mineral group(s) within a designated area. An EL does not permit mining, nor does it guarantee that a mining lease will be granted over the area
EYSaT	Ernst & Young Strategy and Transactions Limited
EV	Enterprise Value
EV/Reserve	The EV proportioned over the tonnage contained within a Reserve
EV/Resource	The EV proportioned over the tonnage contained within a Resource
FCF	Free Cash Flow
Feasibility Study	The 2017 Bord and Pillar Feasibility Study for the Dartbrook Project published by AQC
FX	Foreign Exchange
Hunter Tunnel	The Dartbrook Projects coal clearance and handling system
IER	EYSaT's independent expert's report
Indicated Resource	The mid confidence classification of a Resource as defined by the JORC Code

Abbreviation	Definition
Inferred Resource	The lowest confidence classification of a Resource as defined by the JORC Code
Instructions	Instructions as per the Letters of Instruction
IPC	Independent Planning Commission
ITS	Independent technical specialist
IVSC	International Valuations Standards Council
JORC or JORC Code	Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves, 2012
k	Thousand
kcal/kg	Thousand calories per kilogram, a unit of measure for the energy output of thermal coal
Letter of Instruction	Letter of instruction from EYSaT dated 31 March 2022
Longwall Model	A proposed longwall restart financial model developed by AQC
M	Million
Mining Study	A technical mining study undertaken as part of the Feasibility Study
ML	a mining lease under the NSW Mining Act 1992 providing the titleholder the exclusive right to mine for a particular viable mineral resource within a selected area
Model	The most current financial model for the Dartbrook Project bord and pillar project developed by AQC in 2018
MOD 7	The Land and Environment Court New South Wales orders in respect to the case of AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces and associated annexures
MOD 7 Closure Date	Part of the MOD 7 orders requiring cessation of mining by the 5 December, 2027
Mt	Million tonnes
Market Value	The underlying standard of value used in this Report as defined by the IVSC as <i>the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion</i>
Measured Resource	The highest confidence classification of a Resource as defined by the JORC Code
Mining Information	Technical and financial information and material provided by AQC and its advisors to Xenith, along with other publicly available data and information sourced by Xenith
Newcastle Index	Thermal coal FOB pricing index that is the accepted seaborne thermal coal export price benchmark for Australian coal exporters
Nominal Amount	A nominal value as set out in this Report
NPV	Net Present Value of future cash flows
NSWRR	The NSW Resources Regulator
PHMP	Principal Hazard Management Plans
Pre-Development Project	A project at the pre-development stage, as defined by the VALMIN Code

Abbreviation	Definition
Reserve	Ore Reserve as defined by the JORC Code
Resource	Mineral Resource as defined by the JORC Code
Report	This report summarising the Technical Assessment and Valuation
ROM	Run of mine
t	Tonnes
Tenements	The various EL's, Auth's, CL's and ML's included in the Dartbrook Project as set out in section 4.3 of this Report
Trepang	Trepang Services Pty Ltd
USD	United States Dollar
VALMIN Code	The Australasian Code for the Public Reporting of Technical Assessments and Valuations of Mineral Assets, 2015 Edition
Valuation	The Market Value relating to the Dartbrook Project as contained in this Report
Valuation Date	25 May 2022
WACC	Weighted Average Cost of Capital
Xenith	Xenith Consulting Pty Ltd
Xenith Model	the financial model developed by Xenith for the purposes of the DCF Analysis and DCF Scenarios set out in this Report



## 1 EXECUTIVE SUMMARY

The following summary of findings is provided for convenience only and should be read subject to the detailed analysis in this report.

All references in this report to dollars or \$ refer to Australian dollars unless otherwise stated.

### 1.1 Summary of objectives

---

On the 21 February 2022, Australian Pacific Coal Limited (**AQC**) announced it had received a binding offer from its major shareholder and creditor, Trepang Services Pty Ltd (**Trepang**), for Trepang or its nominees to purchase the Dartbrook Coal Project (**Dartbrook Project**)<sup>1</sup>.

The consideration for the transaction is comprised of the novation of all loans from Trepang and associated entities, as well as the grant of a coal royalty from the Dartbrook Project based on achieving certain future coal prices.

AQC noted that any sale would be subject to the receipt of shareholder approval in accordance with the ASX listing rules, including listing rules 10.1 and 11.2.

Ernst & Young Strategy and Transactions Limited (**EYSaT**) have been appointed by the Directors of AQC to prepare an independent expert's report (**IER**) in relation to the proposed transaction.

Given the nature of the Dartbrook Projects assets, EYSaT require an independent technical specialist (**ITS**) to assess the current fair value of the Dartbrook Project. Accordingly, AQC management has appointed Xenith Consulting Pty Ltd (**Xenith**) as the ITS to act under instruction from AQC, and EYSaT, as set out in Section 2.3 below.

### 1.2 Outline of work program

---

Relevant technical and financial information and material were provided by AQC and its advisors to Xenith. Review of this information was undertaken, along with other publicly available data and information sourced by Xenith, including historical reports on the Dartbrook Project completed by Xenith (collectively the **Mining Information**).

A site inspection was undertaken to the Dartbrook Project on Wednesday 13<sup>th</sup> April with all major areas of the Project inspected including the:

- underground access and operational areas available;
- the mines coal clearance and handling system (the **Hunter Tunnel**);
- surface mine infrastructure;
- Coal Handling and Processing Plant (**CHPP**); and
- rail access loop and loadout facility.

---

<sup>1</sup> Australian Pacific Coal Limited, ASX Release, Offer for Purchase of Dartbrook Coal Project, 21 February 2022



The Mining Information was reviewed by Xenith consultants, in conjunction with the findings of the site inspection, and research completed to inform the Technical Assessment and Valuation. Set out below are the key steps followed in Xenith’s review of the Mining Information:

- review of the Land and Environment Court New South Wales orders in respect to the case of AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces and associated annexures (**MOD 7**)<sup>2</sup>;
- with consideration to MOD 7, review of the most relevant and advanced technical study, the 2017 Bord and Pillar Feasibility Study and its various contributing reports and annexures (**Feasibility Study**)<sup>3</sup>;
- review of Dartbrook Project geology and AQC Resource estimates as set out in the Feasibility Study and released to the ASX;
- confirmation of the Dartbrook Project tenements status<sup>4</sup>;
- review of AQC’s financial model for Dartbrook Project bord and pillar mining (the **AQC Model**)<sup>5</sup>;
- assessment of the assumptions and inputs to the AQC Model against MOD 7, the Feasibility Study and findings of the site inspection; and
- determination of the Value of the Dartbrook Project by application of appropriate valuation methodologies as set out in the body of this Report.

### 1.3 Summary of opinion – Technical Review

---

The Dartbrook Project was placed on care and maintenance (**C&M**) in 2007, and thus the asset has not been operational for over fifteen years.

The Dartbrook assets appear to have deteriorated, particularly in respect to water ingress in parts of the mine, since the Mining Information and various studies were completed in 2016-2018, accordingly re-start costs, as well as mine re-establishment and refurbishment timeframes can be reasonably expected to have increased.

The expected increase in re-start costs, extended mine re-establishment and refurbishment timeframes, along with the MOD 7, 1.5 Mtpa ROM production cap for bord and pillar mining and consent expiry in December 2027 will likely result in substantially lower production and value than estimated in the Dartbrook Projects bord and pillar mining Feasibility Study.

We have identified a range of relevant factors that we consider material to the technical standing and valuation of the Dartbrook Project, including the following significant items, as set out in detail in this Report:

- elements of the MOD 7 orders impact the cost, capital expenditure and potential production schedule of the Dartbrook Project, and accordingly are material to the Valuation as they require the Dartbrook Project to:
  - produce a maximum of 6Mtp.a of ROM coal made up of:

---

<sup>2</sup> Land and Environment Court New South Wales, NSWLEC 1089, Court Orders, 11 March 2022

<sup>3</sup> Australian Pacific Coal, Dartbrook Mine Kayuga Seam Bord and Pillar Feasibility Study, 27 February 2017

<sup>4</sup> Australian Pacific Coal tenement management advisors – Hetherington, Microsoft Excel spreadsheet, AQC Dartbrook Tenement Summary

<sup>5</sup> Australian Pacific Coal, Microsoft Excel spreadsheet, AQC Underground BP model (v July 2018)



- a maximum of 1.5Mtpa ROM Coal from bord and pillar mining; and
- produce up to 4.5Mtpa of ROM Coal from longwall mining in the case of the above bord and pillar mining, or up to 6Mtpa with no bord and pillar mining, subject to the regulatory approval of an updated long wall mining extraction plan;
- utilise the Hunter Tunnel for all ROM coal clearance and handling;
- upgrade the CHPP for noise mitigation measures; and
- cease mining operation by the 5 December, 2027 (**MOD 7 Closure Date**).
- the timeframe between the Dartbrook Project first being placed under care and maintenance from January 2007, until confirmation of the MOD 7 orders, has meant the project, including existing underground workings, mine and surface infrastructure have now sat idle for over 15 years;
- our site inspection has identified various potential constraints and issues not previously allowed for in the Mining Information, Feasibility Study or Model including:
  - the historic nature of the Feasibility Study CAPEX and operating cost base is not reflective of current market rates;
  - the deteriorated condition of the assets since the re-start studies were prepared warrant consideration of further cost increases;
  - additional ramp up time to first coal from six to twelve months over and above the Feasibility Study assumptions is likely to be required to allow for known requirements of dewatering the Hunter Tunnel, remediating strata defects, and re-establishing regulatory compliance, and the probable requirement for additional strata and equipment refurbishment since the re-start studies were prepared;
- restrictions exist with respect to the potential open cut mining resource previously declared as part of the Dartbrook Project, the ‘State Environmental Planning Policy (Resources and Energy) 2021’ prohibits any open cut mining at Dartbrook<sup>6</sup>, accordingly the total underground resource is 731Mt after allowing for the 1,803Mt open cut resource<sup>7</sup>;
- the coal Reserve for long wall mining operations were estimated in June 2000, pre-dating the current JORC Code (2012), Xenith have not been provided or have been able to identify an underpinning report to support these reserves;
- the Tenements, with the exception of CL 386, have renewals pending, accordingly, Xenith is unable to confirm the Tenements ‘good standing’ and note that this presents a regulatory risk to the Dartbrook Project;
- any future mining potential beyond the MOD 7 Closure Date will necessitate further regulatory application and approval which in our opinion, is likely, based upon the 4 year process and stakeholder interest in MOD 7, to be an extended process with no certainty or guarantee of success;
- historical royalty obligations exist to previous operating entities which create a liability for any future operator, over and above normal state government royalty payments; and
- contemporary market commentary suggests energy market imperatives, community expectations, and broader market investor appetite for pre-development thermal coal resources, have deteriorated in recent years compared to the most recent comparable transactions.

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<sup>6</sup> State Environmental Planning Policy (Resources and Energy) 2021, Part 2.11 and Schedule 1, (<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731#sec.2.11>)

<sup>7</sup> Australian Pacific Coal, Completion of Open Cut Pre-Feasibility Study for Dartbrook Project, 28 March 2018, Page 8.



## 1.4 Summary of opinion – Valuation

We have considered the value of the Dartbrook Project using:

1. the income approach, utilising the DCF methodology for activities up to the MOD 7 Closure Date, in combination with the market approach, using comparable transactions (discounted for coal reserve depletion and project development risk) for any residual coal resource remaining; and
2. the market approach, using the comparable sales transaction methodology on an EV/t resource basis for a closely comparable set of transactions with a low to high range controlled by, in the case of the low range, the MOD 7 orders which limit mining to 6Mtpa and the MOD 7 Closure Date, and in the case of the high range, 100% of the existing underground resource.

Our preferred Market Value for the Dartbrook Project at the Valuation Date is \$11.01M, representing the mid-point of the lower half of the developers closely comparable, Comparable Sales Transaction range and having consideration for the various market and project risk factors detailed in the body of this Report.

It should be noted that the historical royalty obligations to previous operating entities specific to the Dartbrook Project noted at section 1.3 above, and other royalty obligations arising out of the proposed transaction<sup>8</sup> are not reflected, consistent with the instructions provided to Xenith, in this valuation. Xenith understand these and any such other liabilities will be considered as part of EYSaT's analysis.

The results of our valuation assessment are summarised in Table 1.1 below.

**Table 1.1 – Summary of Dartbrook Project Valuation (\$M)**

Methodology	Low (\$M)	High (\$M)	Mid/Base case (\$M)	Preferred (\$M)
DCF May 25	-159.4	194.8	-1.6	<b>Nil to Nominal Amount</b>
Residual Resource component ~711Mt (EV/T Resource)	11.5	11.3	11.4	
<b>Total DCF/Residual Resource value</b>	<b>-147.9</b>	<b>206.1</b>	<b>9.8</b>	<b>\$9.8M</b>
EV/T Reserve (producer)	41.9	119.77	80.82	
EV/T Resource (developer comparable data set)	2.36	57.42	29.89	
EV/T Resource (developers closely comparable)	1.61	39.22	20.41	
<b>Selected Market Value*</b>	<b>\$1.61M</b>	<b>\$39.22M</b>	<b>\$20.41M</b>	<b>\$11.01M</b>

<sup>8</sup> Australian Pacific Coal Limited, ASX Release, Offer for Purchase of Dartbrook Coal Project, 21 February 2022



Source: Xenith analysis, (\*note: the historical and new royalty obligations are not reflected in this valuation).

Our DCF Analysis, returned negative NPV's for all but the most optimistic scenario. Accordingly, the value produced by the DCF analysis is nil based on the base case NPV, with a potential value of \$9.8M subject to the development risk of the residual resource remaining after the MOD 7 Closure Date.

Notwithstanding the Nil value generated from the DCF Analysis, in our opinion, the Dartbrook Project could attract some nominal value (**Nominal Amount**) as a strategic investment option, albeit heavily contingent on successfully optimising the economics of the Dartbrook Project by:

- a. achieving an accelerated ramp up to full production in order to maximise coal production within the consented mine life;
- b. achieving a more cost effective restart and refurbishment;
- c. realising a more positive set of commodity and FX factors in the near and medium term; and
- d. an assumption that approval for an extension of mine life can be achieved beyond the MOD 7 Closure Date.

Accordingly, Xenith has undertaken a range of comparable transaction analysis as an indicator of the potential Nominal Value.

Based on our preferred valuation underpinned by the 'developers closely comparable' transactions, in Xenith's opinion, the Dartbrook Project at the Valuation Date is valued at between \$1.61M and \$39.22M.

With consideration to the range of relevant factors that we consider material to the technical standing and valuation of the Dartbrook Project, as summarised at Section 1.3 above, we consider the value of the Dartbrook Project to be at the low end of the developers closely comparable, Comparable Sales Transaction range.

Accordingly, our preferred Market Value of \$11.01M is based on the mid-point of the lower half of the developers closely comparable, Comparable Sales Transaction range and noting, as set out above that this valuation does not consider the historical royalty obligations to previous operating entities specific to the Dartbrook Project, or any other royalty obligations arising out of any future transaction.





## 2 INTRODUCTION

Set out below is the background, scope of work and other relevant information in relation to the purpose and basis of this Independent Technical Specialist report (**Report**).

### 2.1 Background and purpose

---

On the 21 February 2022, Australian Pacific Coal Limited (**AQC**) announced it had received a binding offer from its major shareholder and creditor, Trepang Services Pty Ltd (**Trepang**), for Trepang or its nominees to purchase the Dartbrook Coal Project (**Dartbrook Project**)<sup>9</sup>.

The consideration for the transaction is comprised of the novation of all loans from Trepang and associated entities, as well as the grant of a coal royalty from the Dartbrook Project based on achieving certain future coal prices.

AQC noted that any sale would be subject to the receipt of shareholder approval in accordance with the ASX listing rules, including listing rules 10.1 and 11.2.

Ernst & Young Strategy and Transactions Limited (**EYSaT**) have been appointed by the Directors of AQC to prepare an independent expert's report (**IER**) in relation to the proposed transaction.

Given the nature of the Dartbrook Projects assets, EYSaT require an independent technical specialist (**ITS**) to assess the current fair value of the Dartbrook Project. Accordingly, AQC management has appointed Xenith Consulting Pty Ltd (**Xenith**) as the ITS to act under instruction from EYSaT, as set out in Section 2.3 below.

### 2.2 Location of asset

---

The Dartbrook Project is an underground coal mine and supporting surface infrastructure located in the Upper Hunter Valley, NSW. The closest town to the mine is Aberdeen with a population of approximately 2,000. Further detail is provided in section 3.1 below.

The Dartbrook Project has been on care and maintenance (**C&M**) since 2007 when the prior managing operator, Anglo American Metallurgical Coal (**AAMC**) ceased production.

### 2.3 Scope of work

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As set out in EYSaT's letter of 31 March 2022 (**Letter of Instruction**), attached at **Appendix A**, the scope of work requires:

- review of relevant data and reports available with respect to AQC's key asset of Dartbrook;

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<sup>9</sup> Australian Pacific Coal Limited, ASX Release, Offer for Purchase of Dartbrook Coal Project, 21 February 2022



- consideration of any updated technical geophysical, geological and engineering data, JORC reserves and resources, development and drilling plans, production profile (including production volumes, operating costs, capital costs and exploration potential);
- understanding of the current development approval status and risks;
- consideration of an appropriate valuation methodology in accordance with the VALMIN code;
- valuation of the Dartbrook Project using an appropriate methodology (**Valuation**);
- where the income approach is the primary valuation approach, consideration of any Life-of-Mine model prepared by AQC and determination of the reasonableness of the technical and operational assumptions upon which the model is based, including the reserves and contingent resources, production life, operating costs, capital costs and any other technical input viewed as necessary to conclude on the reasonableness of the operating assumptions; and
- where the income approach is a secondary methodology any review of assumptions may be limited to only key material assumptions.

## 2.4 Work program

---

AQC confirmed Xenith's engagement and work commenced on 31 March 2022.

Following an information request, relevant technical and financial information and material were provided by AQC and its advisors to Xenith. Review of this information was undertaken, along with other publicly available data and information sourced by Xenith, including historical reports on the Dartbrook Project completed by Xenith (collectively the **Mining Information**).

A site inspection was undertaken to the Dartbrook Project on Wednesday 13<sup>th</sup> April with all major areas of the Project inspected including the:

- underground access and operational areas available;
- the mines coal clearance and handling system (the **Hunter Tunnel**);
- surface mine infrastructure;
- Coal Handling and Processing Plant (**CHPP**); and
- rail access loop and loadout facility.

The Mining Information was reviewed by Xenith consultants, in conjunction with the findings of the site inspection, and research completed to inform the Technical Assessment and Valuation. Set out below are the key steps followed in Xenith's review of the Mining Information:

- review of the Land and Environment Court New South Wales orders in respect to the case of AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces and associated annexures (**MOD 7**)<sup>10</sup>;
- with consideration to MOD 7, review of the most relevant and advanced technical study, the 2017 Bord and Pillar Feasibility Study and its various contributing reports and annexures (**Feasibility Study**)<sup>11</sup>;
- review of Dartbrook Project geology and AQC Resource estimates as set out in the Feasibility Study and released to the ASX;

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<sup>10</sup> Land and Environment Court New South Wales, NSWLEC 1089, Court Orders, 11 March 2022

<sup>11</sup> Australian Pacific Coal, Dartbrook Mine Kayuga Seam Bord and Pillar Feasibility Study, 27 February 2017



- confirmation of the Dartbrook Project tenements status<sup>12</sup>;
- review of AQC's financial model for Dartbrook Project bord and pillar mining (the **AQC Model**)<sup>13</sup>;
- assessment of the assumptions and inputs to the AQC Model against MOD 7, the Feasibility Study and findings of the site inspection;
- determination of the Value of the Dartbrook Project by application of appropriate valuation methodologies as set out in the body of this Report.

## 2.5 Reporting standard

---

This Report has been prepared in accordance with the:

- Australasian Code for the Public Reporting of Technical Assessments and Valuations of Mineral Assets, 2015 Edition (**VALMIN Code**); and
- Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves, 2012 Edition (**JORC Code**).

This Report has been prepared by Xenith as a Technical Assessment and Valuation Report under the VALMIN Code.

For the purposes of this Report, value is defined as Market Value as defined by the International Valuation Standards Council (**IVSC**).

The VALMIN Code states *"The term Market Value has the same intended meaning and context as the IVSC term of the same name."*<sup>14</sup>

The IVSC defines Market Value as follows:

*"Market Value is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion"*<sup>15</sup>.

## 2.6 Information sources

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In developing this Report, Xenith has relied upon materials provided by AQC and information available in the public domain. Key sources of information Xenith has relied upon are referred to in the body of this report or identified by way of footnote.

Xenith has reviewed all relevant technical and corporate information made available by AQC, its advisors, and EYSaT. Xenith has no reason to believe that any material facts have been withheld. The information has been accepted in good faith as being true, accurate and complete, after having made due enquiry.

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<sup>12</sup> Australian Pacific Coal tenement management advisors – Hetherington, Microsoft Excel spreadsheet, AQC Dartbrook Tenement Summary

<sup>13</sup> Australian Pacific Coal, Microsoft Excel spreadsheet, AQC Underground BP model (v July 2018)

<sup>14</sup> The Australasian Code for the Public Reporting of Technical Assessments and Valuations of Mineral Assets, 2015 Edition, Section 8.1, Page 28.

<sup>15</sup> International Valuation Standards Council, International Valuation Standards, 31 January 2020, IVS 104, Page 18, 30.1.



## 2.7 Valuation Date

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The effective date of this Report is 21 July 2022, and the **Valuation Date** is 25 May 2022.

We note recent volatility in commodity prices and FX rates means that coal prices have fluctuated since the Valuation Date. We consider these fluctuations are immaterial to our Valuation since, in our opinion:

1. based on market commentary we have considered, recent price fluctuations are due to various macro impacts driven by geo-political events that at the effective date are uncertain and not anticipated to extend for the medium to long term;
2. having considered the weighted average June forecast coal price for the five year period up to the MOD 7 Closure Date and based on our Base Case DCF production forecast, compared to the consensus five year average FX and coal price forecasts at the Valuation Date used in the determination of our Valuation, we consider the difference to be immaterial to our Valuation;
3. the risk profile associated with the potential restart of operations, and the constrained mine life as determined by the MOD 7 Closure Date, are material considerations for market participants in consideration of the Market Value of the Dartbrook Project, we note these risks are unaffected by any recent coal price fluctuations and hence remain material determinants to the Market Value.

## 2.8 Capability & independence

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This report was prepared on behalf of Xenith by Mr Andrew Knuckey, Manager Corporate Solutions, supported by the project team set out in section 2.10 below. Mr Knuckey is a Fellow of the AusIMM and is qualified to express a professional opinion on the value of the mineral assets described.

Xenith is a consulting business providing professional services to the mining and resource sector. Xenith's Corporate Solutions team provides specialist advisory services to the resources and financial services industry including due diligence, technical assessment, valuation and expert witness services.

Xenith has most recently carried out an assignment for AQC in October 2018. That assignment was a review of updated technical information as it pertained to an ITS report previously prepared by Xenith in relation to the Dartbrook Project in February 2017.

Xenith conducted a conflict check in relation to the parties involved in the Proceedings. Those enquiries did not reveal any association with the parties that compromises Xenith's independence in preparing this report.

Drafts of this Report were provided to EYSaT and AQC for the purposes of factual accuracy checking only.

## 2.9 Consulting fees

---

The fees charged by Xenith in relation to this assignment are based on the time spent by Xenith's consultants and sub-consultant involved in the assignment on an hourly rate basis. Payment of Xenith's fee is not contingent on the outcome of this assignment.



Xenith will receive a professional fee based on time spent in the preparation of this Report estimated at approximately A\$80,000 (exclusive of GST). We will not be entitled to any other pecuniary or other benefit whether direct or indirect, in connection with the making of this Report.

## 2.10 Project team and reliance on other experts

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This Report has been prepared by Mr Knuckey, Manager Corporate Solutions, supported by a team of Xenith consultants, and a sub-consultant recognised as an expert in their field. Xenith's project team have extensive experience in the mining industry and are members in good standing of appropriate professional institutions.

Key functions of the project team in the development of this Report are set out below. Further qualifications and experience are included in **Appendix B**.

**MR Andrew Knuckey, FAusIMM, Manager Corporate Solutions** – preparation of this Report and Specialist as set out in the VALMIN Code<sup>16</sup>.

**Mr Bernhard Heizman, MAusIMM, Principal Geologist** – review of geological information and JORC Resources, Competent Person as set out in the JORC Code<sup>17</sup>.

**Mr Gregor Carr (sub-consultant), MAusIMM, Principal Mining Engineer** – review of Mining Information, site inspection of Dartbrook Project, expert observations and opinion.

**Mr Chris Campbell, MAusIMM, Principal Mining Engineer** – review of Mining Information, research and analysis in support of the Valuation related to comparable transactions.

**Mr Ken Wasley, Principal Civil Engineer** – research with respect to longwall mining capital equipment.

**Mr Grant Phillips, Senior Business Analyst** – review of Mining Information and analysis in support of the Valuation.

## 2.11 Limitations and exclusions

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This Report is provided solely for the purpose that are the subject of the Letter of Instruction. It should not be distributed to any party other than those entitled to receive a copy with the IER.

Xenith's opinion contained in this Report relies on the information sources set out at section 2.6 above and as described in this Report, and various technical and economic conditions at the time of writing. Such information has been accepted in good faith. Xenith has not independently verified the Mineral Resource or Reserve estimates by means of recalculation.

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<sup>16</sup> The Australasian Code for the Public Reporting of Technical Assessments and Valuations of Mineral Assets, 2015 Edition, Section 2.1, Page 9.

<sup>17</sup> The Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves, 2012 Edition, Section 11, Page 7.



Xenith's engagement has involved an analysis of financial and other business records, however it does not constitute an audit in accordance with Australian Accounting Standards. Accordingly, no assurance as to accuracy of the financial and business records analysed is provided in this Report

Xenith reserves the right to revise this Report if:

- a. any of the information relied on is revealed not to be accurate, complete or reliable; and
- b. any relevant additional information existing at the date of this report, subsequently becomes known to Xenith.

## **2.12 Consent**

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Xenith understand the Report will be attached in full, in the form and context in which the Report is provided, as an appendix to the IER and that the IER, inclusive of the Report will accompany the notice of meeting to be sent to shareholders of AQC.

Accordingly, Xenith confirm that EYSaT is entitled to rely on the Report and is able to refer to the content of the report in the IER, on the basis that the findings set out in Section 1 above and in the individual sections of this Report are considered with, and not independently of, the detailed analysis and information in the complete Report.

Xenith does not consent to this Report being used for any other purpose.





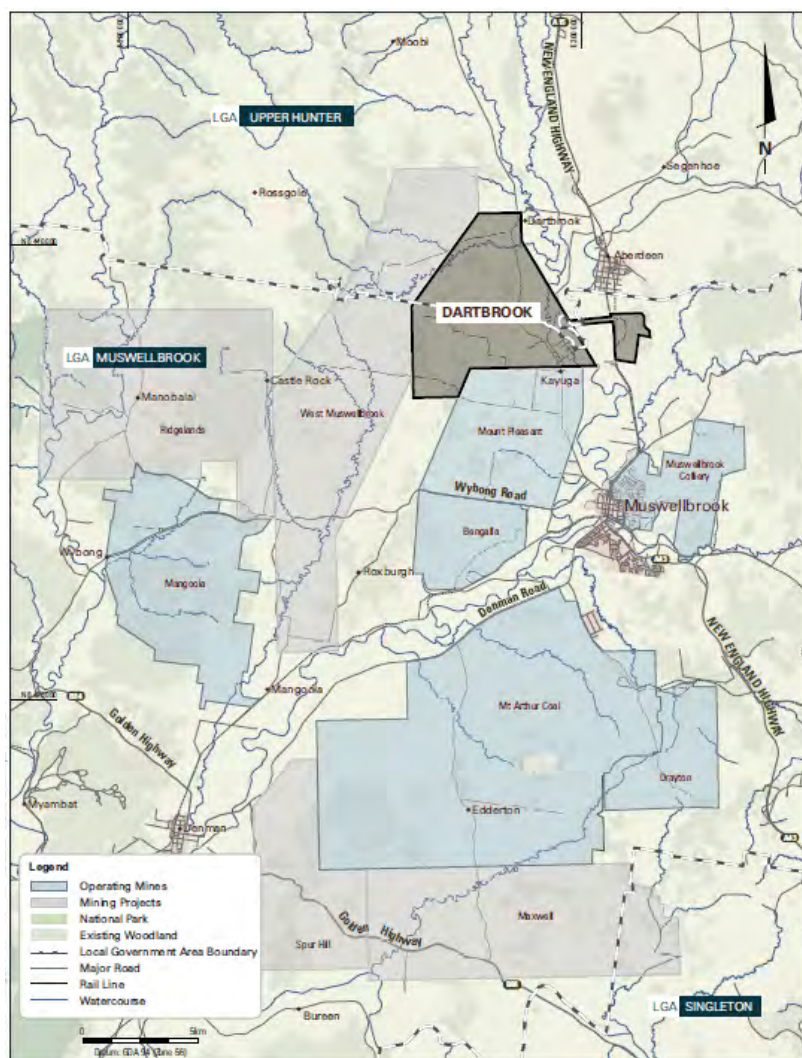
### 3 DARTBROOK PROJECT REVIEW - INTRODUCTION

#### 3.1 Location

The Dartbrook Project is located in the highly developed coal producing region of the Hunter Valley in NSW. The project is approximately 4km west of the township of Aberdeen and 10km North of the township of Muswellbrook. This location ideally places the Dartbrook Project near world class rail and road infrastructure along with a skilled workforce and support industries.

Figure 1 below illustrates the location of the Dartbrook Project and its regional locality.

**Figure 1 – Dartbrook Project boundary and regional locality**



Source: James Bailey & Associates, Dartbrook Mine Environmental and Rehabilitation Compliance Report: EL 4574 ,10 September 2021, Page 3



### 3.2 Background<sup>18,19</sup>

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Set out below is a chronological summary of the key milestones relevant to the Dartbrook Project:

- **1990s** – Dartbrook was first developed and operated by a Shell Coal managed joint-venture with construction of the mine and infrastructure commencing in 1993. First development coal was produced from underground mining in October 1994 and first coal from the Wynn Seam in October 1996.
- **2001 (June)** – AAMC announced it would acquire Shell Coal, including the Dartbrook Project, in 2001
- **2001 (August)** – development consent ‘DA 231-7-2000’ was granted over the Dartbrook Project for extended mining operations, the Consent was modified thereafter six times and allowed for:
  - longwall mining operations in three coal seams, the Kayuga, Mt Arthur and Piercefield seams;
  - coal to be extracted at a rate of up to 6Mtpa per annum of run-of-mine (**ROM**) coal;
  - continued use of the facilities at the site including the CHPP, rail loop and loading facilities, a reject emplacement area and the Hunter Tunnel; and
  - operations until 5 December 2022.
- **2001 to 2006** – Dartbrook continued operating as an underground longwall coal mine in the Kayuga seam up until October 2006.
- **2007 (January)** – the mine was placed under C&M from January 2007 due to a combination of prevailing market conditions, geological conditions and the unsuitability of some of the underground equipment to mine the Kayuga seam<sup>20</sup>. The main headings in both the Wynn Seam and Kayuga Seam were sealed of the inter seam drift.
- **2007 to 2015** – after being placed under C&M, AAMC:
  - sold off several key items of mine equipment including development equipment, diesel equipment, electrical equipment, conveyors and mine fans; and
  - retained mining approvals, licences and permits and maintained compliance with these, however mining activities such as producing coal were not permitted.
- **2015 to 2017** – AQC agreed to acquire the Dartbrook Project from AAMC, and their joint venture partner Marubeni, the acquisition was completed in May 2017.
- **2018 (February)** – AQC lodged a request with the Department of Planning to modify the ‘DA 231-7-2000’ consent under section 75W of the EPA Act (DA 231-7-2000 (MOD 7)) allowing for:
  - mining of the Kayuga Seam using the first workings bord and pillar method as an alternative to the approved longwall mining within the Kayuga seam;
  - ROM coal to be hauled using road registered trucks on existing private roads to a new shaft facility located between the existing private Western Access Road and New England Highway. A new, enclosed shaft would be used to deliver coal via the existing Hunter Tunnel under the New England Highway to an existing stockpile. Crushed, unbeneficiated raw coal would be delivered to the train loadout facility; and
  - extend the period of DA231-7-2000 for 5 years.
- **2018 (June)** – AQC submitted an Environmental Assessment (**EA**) in line with the Mod 7 application with the EA placed on public exhibition from 28 June to 25 July 2018.
- **2018 (August)** – Response by AQC to submissions (received during public exhibition).
- **2019 (April)** – Independent Planning Commission (**IPC**) held a public meeting re MOD7 in April 2019.

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<sup>18</sup> Australian Pacific Coal, Dartbrook Mine Kayuga Seam Bord and Pillar Feasibility Study, 27 February 2017, Section 4 Mining, Page 41

<sup>19</sup> Land and Environment Court New South Wales, NSWLEC 1089, Court Orders, 11 March 2022

<sup>20</sup> Xenith Consulting, Independent Technical Specialists Report, Australian Pacific Coal Assets, 28 February 2017





- **2019 (August)** – IPC partly approved MOD7 subject to conditions of consent which permit:
  - underground coal mining in the Kayuga Seam using bord and pillar methods;
  - use of a varied coal clearance and handling system, confined to the coal extracted from the bord and pillar operation; and
  - the approval only operates until 5 December 2022 (that is, for the duration of the current approval DA 231-7-2000). The IPC did not approve the request in the MOD 7 for the extension of the approval by five years to 2027.
- **2019 (November)** – in response to the IPC determination, AQC commenced Class 1 proceedings in the Land and Environment Court on 4 November 2019 seeking:
  - “...the determination of the Independent Planning Commission, as delegate of the Minister for Planning and Public Spaces, of a request to modify the development consent for underground coalmining at the Dartbrook Underground Mine (DA231-07-2000) granted by the Minister for Urban Affairs and Planning on 28 August 2001. (DA 231-7-2000 MOD7) made on 27 February 2018 for the modification of development consent DA 231-7-2000 (Dartbrook consent), in the form applied for, subject to conditions, and extending the timeframe of the consent by 5 years to 5 December 2027”<sup>21</sup>.
- **2020 (January)** – the Minister filed a Statement of Facts and Contentions contending that the decision to refuse the five-year extension be maintained. The contentions related solely to a lack of assessment and information in respect of the five-year extension. In response, AQC provided further assessments and information.
- **2020 (March)** – The proceedings were then referred to a Section 34 conciliation conference where AQC indicated that it no longer intended to proceed with a modification to the coal clearance system.
- **2020 (August)** – the IPC placed the applicant’s response to contentions on public exhibition and received several submissions from various stakeholders.
- **2020 (October)** – the AQC provided further responses to the submissions received by the IPC.
- **2022 (March)** – the proceedings were resolved through a Section 34 agreement dated 25 Feb 2022 and includes the conditions in Annexure A to the agreement which, amongst other things, include:
  - imposition of a new condition (‘1.1(a)(xi)’ of the Annexure A to the Section 34 agreement) requiring mining operations to be carried out in accordance with the ‘Dartbrook Mine Modification 7 Environmental Assessment Kayuga Seam Bord and Pillar Mining Operations’, dated June 2018, which caps bord and pillar ROM tonnage at a maximum of 1.5Mtp.a.;
  - authorisation of mining operations until 5 December 2027;
  - restriction on the use of the CHPP until noise mitigation measures are addressed, estimated at \$26.8M;
  - imposition of a condition which effectively refuses the alternative coal clearance system originally proposed in MOD 7; and
  - a requirement that AQC demonstrate additional matters in its extraction plan required to be submitted to and approved by the Secretary in order to carry out longwall mining operations.

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<sup>21</sup> Land and Environment Court New South Wales, NSWLEC 1089, Court Orders, 11 March 2022, Paragraph 19.



## 4 DARTBROOK PROJECT REVIEW – MOD 7 AND TENURE

### 4.1 Implications of MOD 7 in respect to the Valuation

As set out in section 3.2, the Dartbrook Project has faced an extended period of procedural challenge and process prior to the MOD 7 orders.

A number of key elements of the MOD 7 orders impact the cost, capital expenditure (**CAPEX**) and potential production schedule of the Dartbrook Project, and accordingly are material to the Valuation as they require the Dartbrook Project to:

- produce a maximum of 6Mtp.a of ROM coal made up of:
  - a maximum of 1.5Mtpa ROM Coal from bord and pillar mining; and
  - produce up to 4.5Mtpa of ROM Coal from longwall mining in the case of the above bord and pillar mining, or up to 6Mtpa with no bord and pillar mining, subject to the regulatory approval of an updated long wall mining extraction plan;
- utilise the Hunter Tunnel for all ROM coal clearance and handling;
- upgrade the CHPP for noise mitigation measures; and
- cease mining operation by the 5 December, 2027.

### 4.2 Other implications of the Dartbrook Project in respect to the Valuation

In addition to the MOD 7 orders, we note the following additional material impacts to the cost, CAPEX and potential production schedule of the Dartbrook Project, over and above those contemplated by the Mining Information, Feasibility Study and the AQC Model:

- the timeframe between the Dartbrook Project first being placed under C&M from January 2007, until confirmation of the MOD 7 orders, has meant the project, including existing underground workings, mine and surface infrastructure have now sat idle for over 15 years;
- our site inspection has identified various potential constraints and issues not previously allowed for in the Mining Information, Feasibility Study or Model;
- restrictions exist with respect to the potential open cut mining Resource previously declared as part of the Dartbrook Project, the 'State Environmental Planning Policy (Resources and Energy) 2021' prohibits any open cut mining at Dartbrook<sup>22</sup>;
- the coal Reserve for long wall mining operations were estimated in June 2000, pre-dating the current JORC Code (2012), Xenith have not been provided or have been able to identify an underpinning report to support these reserves;
- any future mining potential beyond the MOD 7 Closure Date will necessitate further regulatory application and approval which in our opinion, is likely, based upon the 4 year process and stakeholder interest in MOD 7 to be an extended process with no certainty or guarantee of success;
- historical royalty obligations exist to previous operating entities which create a liability for any future operator, over and above normal state government royalty payments;

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<sup>22</sup> State Environmental Planning Policy (Resources and Energy) 2021, Part 2.11 and Schedule 1, (<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731#sec.2.11>)



- contemporary market commentary suggests energy market imperatives, community expectations, and broader market investor appetite for pre-development thermal coal resources, have deteriorated in recent years compared to the most recent comparable transactions; and
- as set out in section 4.3 below the Tenements, with the exception of CL 386, have renewals pending, accordingly, Xenith is unable to confirm the Tenements 'good standing' and note that this presents a regulatory risk to the Dartbrook Project.

### 4.3 Tenure

The Dartbrook Project consists of the following NSW mining exploration licenses (EL), authorisations (AUTH), coal lease (CL) and mining leases (ML), as set out in Table 4.1 below (collectively the Tenements).

Xenith highlight that all the Tenements, with the exception of CL 386, have renewals pending. Accordingly, Xenith is unable to confirm the Tenements 'good standing' and note that this presents a regulatory risk to the Dartbrook Project.

For the purposes of the Valuation, Xenith has assumed the Tenements renewals will be approved in advance of, and in time for, any future mining activity.

**Table 4.1 – Dartbrook Project Tenement Summary**

Tenement	Holder	Grant Date	Expiry Date	Status	Area (HA)	Annual Rental Fee	Annual Administration Levy	Security Required	Security Held
EL 4574	AQC Dartbrook Pty Ltd	13/08/93	07/04/15	Renewal Pending	1336	\$267.20	\$100	\$10,000	\$10,000
EL 4575	AQC Dartbrook Pty Ltd	13/08/93	23/05/16	Renewal Pending	960.6	\$192.12	\$100	\$10,000	\$10,000
EL 5525	AQC Dartbrook Pty Ltd	22/09/98	21/09/16	Renewal Pending	692	\$138.40	\$100	\$10,000	\$10,000
AUTH 256	AQC Dartbrook Pty Ltd	16/12/80	02/05/15	Renewal Pending	811	\$162.20	\$200	\$20,000	\$20,000
CL 386	AQC Dartbrook Pty Ltd	19/12/91	19/12/33	Current	1467	\$9,535.50	\$22,250	\$8,900,000	\$8,900,000
ML 1381	AQC Dartbrook Pty Ltd	23/10/95	23/10/16	Renewal Pending	2.635	\$100.00	\$22,250		
ML 1456	AQC Dartbrook Pty Ltd	27/09/99	26/09/20	Renewal Pending	5.425	\$100.00	\$22,250		
ML 1497	AQC Dartbrook Pty Ltd	06/12/01	05/12/22	Renewal Pending	1793	\$11,654.50	\$22,250		

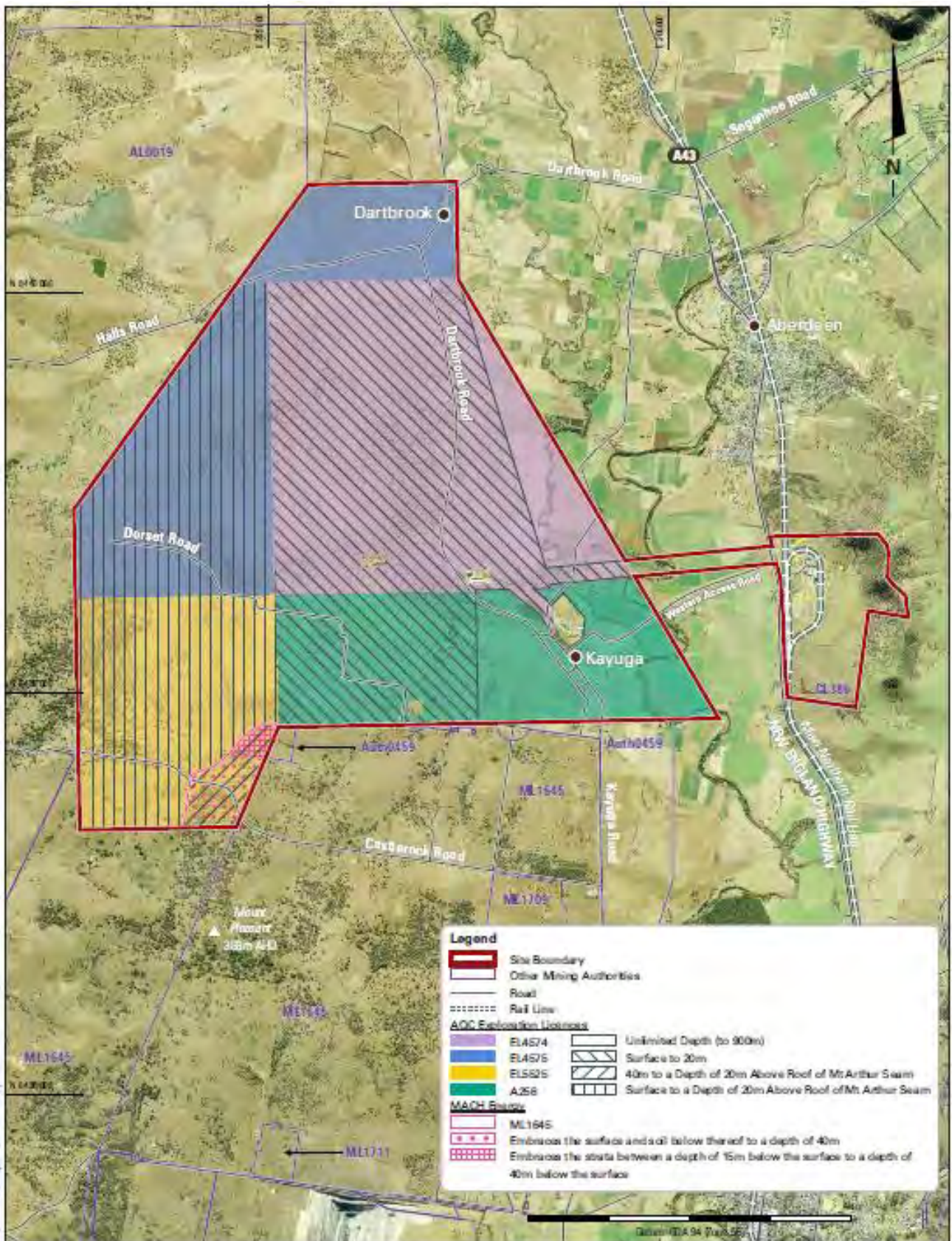
Source: Australian Pacific Coal independent tenement management advisors – Hetherington, Microsoft Excel spreadsheet, AQC Dartbrook Tenement

As illustrated in Figure 2 and Figure 3 below. The ML'S and CL pertain to same area as the EL's and AUTH.





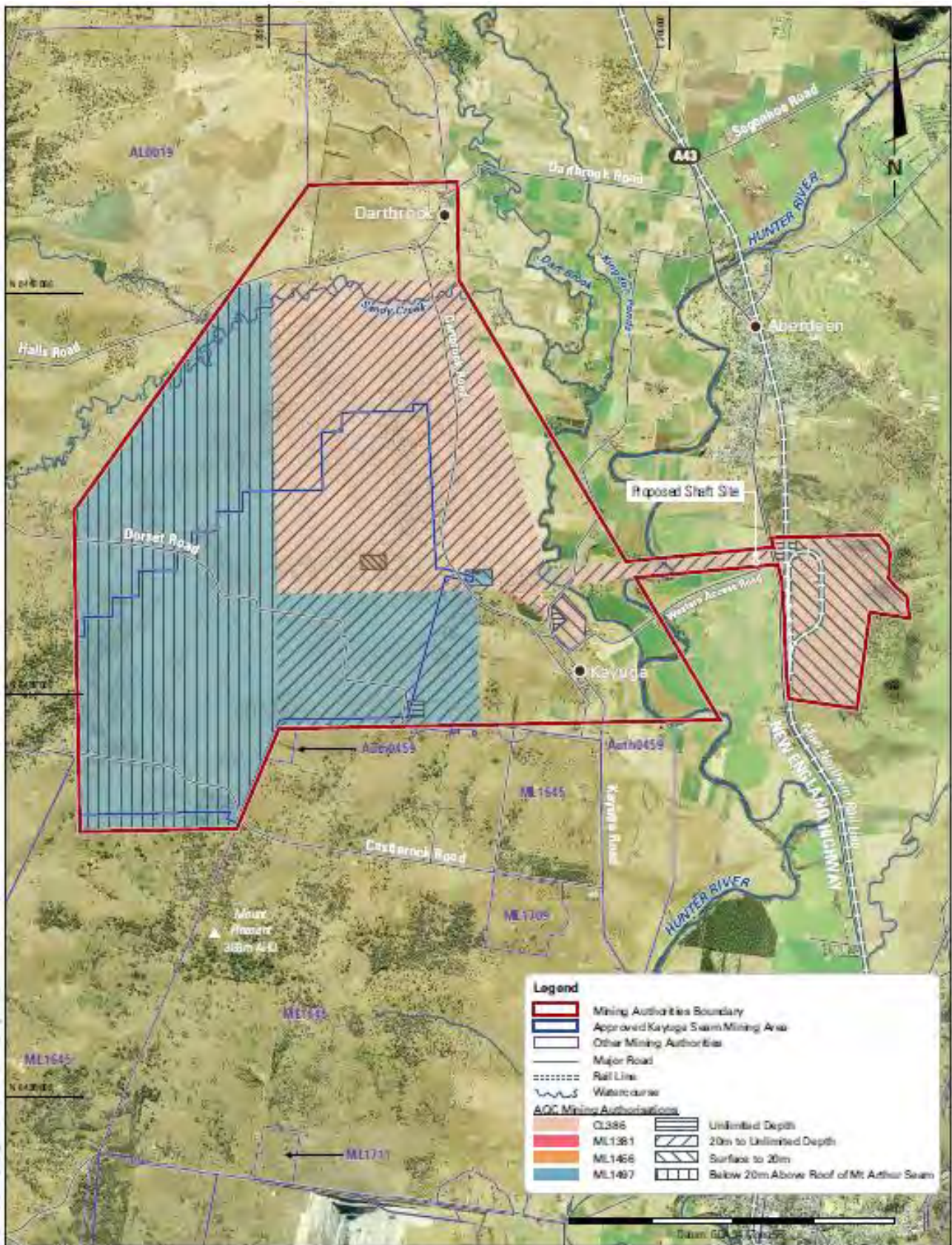
Figure 2 – Dartbrook Project EL and AUTH boundaries



Source: Australian Pacific Coal, Environmental Advisor - Hansen Bailey, Doc # HB1768 F2 Exploration Licenses



Figure 3 – Dartbrook Project ML and CL boundaries



Source: Australian Pacific Coal, Environmental Advisor - Hansen Bailey, Doc # HB1774 F17 Mining Titles



## 5.1 Overview

As set out in the following sections (5 to 6.2.3), Xenith has undertaken a review of the Dartbrook Project's geology and AQC Resource estimates as detailed in the Feasibility Study and ASX releases, in order to provide confirmatory guidance in respect to the Valuation assumptions.

Xenith has not independently verified the Mineral Resource or Reserve estimates by means of recalculation.

Two resource estimates were available and reviewed, the '2016 Resource report'<sup>23</sup> and the '2017 Resource Report'<sup>24</sup>. Both reported resources in accordance with the 2012 JORC code. No drill hole data or geological models were available for this review.

The coal seams of the project dip to the west and occur continuously from their subcrop to the lease boundaries (see Figure C.3 and Figure C.4 of **Appendix C**). The 2016 Resource estimate focuses on open-cuttable resources within a nominal pit area (Figure A.5) that avoids the Hunter River alluvium and the village of Kayuga and is limited to a maximum depth of 350 m.

The 2016 resource report includes detailed resource tables as well as maps of the ply resource areas, thickness and raw ash. The 2017 resource estimate does not have aerial constraints. The 2017 Resource report does not include any geological or resource area maps.

Both Resource reports appear to have built their models used for the resource estimates from the same drill hole and coal quality database from 2010 model. The described data validation, modelling and resource estimation processes described as well as the estimated resource appear reasonable.

A direct comparison of the two resource estimates has not been possible due to the different constraints applied to the estimates.

### 5.1.1 Documents reviewed

The geology and/or resource estimation reports available for this review are the '2016 Resource report' and the '2017 Resource Report'. A summary of the exploration history is given in the '2021 Compliance reports'<sup>25</sup>.

The resources of the 2016 Resource report have been based on the seam intervals of the 2010 Minex Structure model and the 2012 Quality model. The actual model date has not been stated but it is

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<sup>23</sup> JB Mining Services Pty Ltd (2016). Dartbrook Project, Resource Update as at January 2016. JB Mining Services Pty Ltd for Australian Pacific Coal

<sup>24</sup> GPPH & Associates (2017). Dartbrook Coal Resource Estimate 2.5 Billion Tonnes. Lynne Banwell of GPPH & Associates for Australian Pacific Coal Limited

<sup>25</sup> James Bailey & Associates (2021). Annual Reports for Dartbrook Mine, Environmental and Rehabilitation Compliance Report: Exploration Licence 4574, 4574 and 5525. For AQC Dartbrook Pty Limited, 10 September 2021





understood the model has been generated in 2016. The resources of the 2017 Resource report have been estimated from a geological model generated in 2011-2012.

It appears that neither of the reports includes holes drilled after 2010 and that both resource estimates were generated from the same drill hole and coal quality database. The description of the project's geology and the resource estimation process are also similar. As the 2016 Resource report is more extensive this report summarises the 2016 Resource report, unless stated differently. The one notable difference between the two resource estimates is that the 2016 Resource report did report resources only opencut resources excluding areas under alluvial lands and with a depth of more than 350 m while the 2017 report had no such limits. The 2017 Resource report therefore quotes more resources (2.5 Bt) than the 2016 Resource report (1.2 Bt).

### **5.1.2 Drill hole data and geological models**

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Neither drill hole data nor geological model(s) were available for this review.

### **5.1.3 Tenements**

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As set out at Section 4.3, all the Tenements, with the exception of CL 386, all the Tenements have renewals pending. Accordingly, Xenith is unable to confirm the Tenements 'good standing'.

Individual tenements may also be restricted to certain depths and Xenith notes the south-eastern portion of EL5525 and ML1497 is overlapped by Mach Energy's ML1645, neither of which limit the resource estimates.

## **5.2 Geological setting**

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The Dartbrook coal resources are located on the western side of the Muswellbrook Anticline. Strata of the Permian Wittingham Coal Measures outcrop in the area and dip 3 to 5 degrees to the west. Structural geology is simple with relatively minor faulting.

Underground mining has been carried out in this area and this has provided direct evidence of the coal continuity in the mined seams and confirmation of the interpretations based on drilling data.

The deposit is stratigraphically complex with 15 main seam groups broken up into approximately 110 different plies. Seam splitting is common particularly in the Mt Thorley and Burnamwood Formations. Despite the amount of seam splitting the coal plies show good lateral consistency in both thickness and raw ash providing confidence in resource classification.

### **5.2.1 Quaternary (alluvium) and weathering**

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Recent sediments from the Hunter River occur in the narrow Hunter River flood plain zone. The edge of alluvium has been defined by 500-700 metre spaced backhoe costeans in a 2007 study by Australasian Groundwater & Environmental Consultants.

The base of weathering depth ranges from 5 to 45 m with an average of 18 m in the resource area.

## 5.2.2 Structure and igneous features

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Fault trends are NW and ENE. Faults have been delineated from intersections in underground workings, drill holes and seismic surveys.

Igneous features within the Dartbrook area include major dykes, plugs and other minor intrusions thought to be Tertiary in age. Two major dykes have been interpreted at Dartbrook from various magnetometer surveys, surface trenching, in-seam drilling and in-seam intersections. These dykes traverse the area in a north-east to south-west direction and are named the 'Roman Road' dyke and 'The Great Wall of China' dyke. Other (minor) dykes also trend in a north-east to south-west direction. One proven igneous plug has been proven close to the Kayuga underground working. Other plugs have been interpreted from magnetic surveys.

## 5.2.3 Previous mining

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Underground mining has taken place in the Kayuga and Wynn Seams in the central area of the project.

## 5.3 Exploration history

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Set out below is a brief Exploration History after the 2016 Resource and the 2021 Compliance reports:

- initial coal exploration in the early 1970s conducted by Peabody Coal;
- the Department of Mineral Resources (DMR) undertook further drilling in the late 1970s;
- exploration drilling programs in the 1980s exploring open cut mining opportunities, conducted by Bellambi Coal Company;
- underground mining feasibility exploration in 1993, with further investigations from 1996 to 1998, conducted by Anglo Coal;
- coal quality analysis, geophysical logging, geotechnical, groundwater and seam gas investigations in 1990 and 2000, conducted by Anglo Coal;
- deep underground coal seam investigation for underground coal mining options between 2001 and 2005, conducted by Anglo Coal;
- coal seam exploration in 2006 prior to Dartbrook Mine being placed under C&M in 2006, conducted by Anglo Coal;
- coal quality and geotechnical testing exploration programs from 2007 to 2017 to assess potential for future open cut mining options, conducted by Anglo Coal; and
- since acquiring the Dartbrook Mine in May 2017, AQC has drilled several cored and non-cored boreholes to investigate seam thickness and structure as well as ongoing groundwater observations.

### 5.3.1 Drill holes

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The 2016 Resource report shows the drill hole statistics in Table 5.1 below. Drilling is generally on a 250 m grid pattern with only the north and north-west portion of EL4575 not covered by the 250 m grid. The majority of holes are geophysically logged for at least caliper, gamma and density. The geophysical statistics for the structural model holes are given in Table 5.2 below.





There are 352 cored hole with raw quality data in the database. The coal quality hole spacing is 350 to 500 m in the eastern half of the deposit and 500 to 1000 m in the western part of the deposit. Except for bulk samples (up to 200mm core), samples are from HQ (61 mm diameter) or HQ-3 (63 mm diameter) core. Coal quality hole statistics are given in Table 5.3 below.

No information is available on the depth of the drilled holes, i.e. the seams intersected and analysed in each drill hole.

**Table 5.1 - Drill Hole Statistics**

Number	Details
1230	Total Number of Holes in Database excluding barren holes
774	Holes in used in Structural Model
373	Holes in used in Quality Model

**Table 5.2 - Structural Model Holes - Statistics of Downhole Geophysics**

Number of Holes	Details
264	Geophysically logged with verticality
316	Geophysically logged with no verticality
104	Geophysically logged hardcopy record only
90	Not Geophysically logged
774	Total No of Holes in used in Structural Model

**Table 5.3 - Coal Quality Holes Data Types**

Number of Holes	Details
352	with Raw Coal Quality Data
343	with Float Sink (Washability) Data
373	Total with Quality Data

Xenith notes the 2017 Resource estimate reports different drill hole statistics (Table 5.4 below). Xenith has not been able to confirm where the difference comes from but do not consider the variation significant to the resource estimates. A comparison of the 2016 and the 2017 Resource reports' resources maps shows visually very little differences.

**Table 5.4 - Summary of Dartbrook Borehole Data**

Number of Holes	Holes
1123	In Database
1026	In Model



Number of Holes	Holes
547	With some Geophysics
355	With Raw CQ Analyses
343	With Washed CQ Analyses

### 5.3.2 Other exploration

An aeromagnetic survey was flown by Geoterrex Pty Ltd in 1989. The survey was flown over the northern half of Authorisation 256 (Dartbrook area) with the purpose of identifying intrusives or other structures that may have given a magnetic response and which could possibly have affected future underground coal mining development. A ground magnetometer survey was carried out by Scintrex Pty Ltd in May 1990. Both surveys targeted intrusive features.

Velseis carried out a 2D Mini-Sosie seismic survey in 1995 and a 2D dynamite seismic survey in 2003. While the Mini-Sosie survey did not identify specific features, the dynamite survey identified the split zone between the Kayuga and Mt Arthur seams and indicated the Kayuga Fault Zone and its North-Western Branch.

A considerable amount of good quality rock property data has been generated for the Dartbrook project. The focus of geotechnical data has been for underground mine planning.

Extensive testing since the 1980's of the gas content and composition of the major coal seams present within the Dartbrook area, including the Mt Arthur, Kayuga, Piercefield, Vaux, Broonie, Bayswater and Wynn seams, were carried out by AAMC or its predecessors.

The seams at Dartbrook tend towards a medium to high spontaneous combustion risk. In open pits that are within the influence of the fractured ground above the old longwall areas the risk is much higher than a normal open cut due to the higher permeability of the subsided ground and the easier access of air into the seams. The exposure of the old workings also increases the risk of re-activation of dormant heatings or commencement of new heatings.

Testing of some potential underground seams at Dartbrook was carried out in the late 1980's and early 1990's by predecessors of AAMC. Adiabatic heating tests (R70) on borecores from DDD54, DDH57, DDH60, DDH66 and DDH68 indicated that the propensity for spontaneous combustion for the seams tested was as follows:

- Kayuga – very high risk
- Piercefield Middle – high risk
- Piercefield Lower – high risk
- Broonie – low to medium
- Wynn Upper – medium to high risk



## 5.4 Coal quality

Coals at Dartbrook can be classed as high volatile bituminous coal. It is slightly lower in rank than the coals to the south in the Hunter Valley. The raw coal inherent moisture ranges from 2.0 to 8.0 averaging 4.3%. There is insufficient Moisture Holding Capacity data to model on a ply basis. For the purposes of estimation of In situ moisture average (seam group) MHC values were used for the determination of the In situ Relative Density.

The coal will require beneficiation for export markets. It is able to produce a range of Thermal coal products between 10 to 18% Ash adb. There is potential to produce a 9% ash adb PCI product from the Kayuga and Piercefield seams.

## 5.5 Resources estimation

The Dartbrook regional and local geological setting is well understood and defined by extensive drilling. The deposit has been mined by underground methods providing direct evidence of seam continuity and a simple structure. The deposit is nearby large well established open cut mines some of which have been operating for over 40 years.

Comprehensive coal quality analyses have been undertaken. Critical data is viewed as raw ash and yield which are well defined by core analyses. The plies show good consistency of coal quality and thickness, demonstrated by locally trending model contours and low coefficients of variation.

Quality domains are essentially defined by seam splits. Statistical analyses have been carried out.

Omni-directional variograms have been constructed for ply thickness and raw ash for a “select” ply in each seam group to provide an indication of the drill hole spacing required to achieve the standard levels of confidence for Measured, Indicated and Inferred resource estimation. Results from this work indicate that the drill hole spacing criteria used in the previous assessment were conservative.

Given that the geostatistical studies are not exhaustive the drill hole spacing criteria used in the previous assessment has been used in both assessments.

Both resource estimations were based on geological ply models. Both Resource reports estimated the resources in accordance with the 2012 JORC code. Both used the drill hole spacing between and the radius of influence around Points of Observations as per Table 5.5. below, where a Point of Observation is a cored drill hole with core recovery >90% and having raw ash data.

**Table 5.5 - Point of Observation Spacing for Resource Classification**

Classification	Radius of Influence (m)	Maximum Distance Apart(m)
Measured	250	500
Indicated	500	1000
Inferred	1000	2000

Almost all raw ash data points have associated Float sink (F/S) ash yield data. Because of a strong correlation between raw ash and float yield and ash, any absent F/S data can be back calculated from raw ash.

As the geological models for both Resource reports are ply models there are “in seam” plies that are thin but are part of a thicker working section. Excluding areas where the ply thickness is <0.3m is only valid when the ply is not part of a contiguous working section. The following logic was applied to the resource blocks. A minimum ply thickness constraint of 0.3m was applied where the overlying ply is more than 0.3m above the ply. Applying this rule only removes ~73 Mt from the resource estimates (2016 Resource report).

A maximum Raw ash constraint of 45% was applied. Coal in the Kayuga plug and two major dykes areas is excluded. Resources tonnages were estimated using the In situ Relative Density calculates via the Preston & Sanders formula.

The 2016 Resource report reported only open cut resources to a maximum depth of 350 m. The aerial constraints were

- The western up-dip limit is the nominal pit boundary or the ply Lox line (Limit of Oxidation. The boundary of weathered and unweathered coal)
- The northern limit is set as the nominal pit boundary
- The down-dip limit is set by lease boundaries
- The southern limit is set by lease boundaries

The nominal pit boundary is west of the limit of Alluvium and west of the Kayuga village.

The 2017 Resource report had no depth limit. The only stated aerial constraint was the ply Lox lines as eastern up-dip limits. Both Resource reports have a cut-off grade of 45% ash applied.

### 5.5.1 Resources

The 2016 Resource report’s resources to a maximum depth of 350 m are shown in Table 5.6 below. Although the report states that ‘Tonnages are divided by depth of cover to each ply at the following depths 100m, 200m, 250m, 300m, 350m, 400m, 500m, and 600m.’, no resources beyond 350 m depth were reported.

**Table 5.6 - 2016 Resource Report In Situ Resources (Mt)**

Depth	Measured	Indicated	Inferred	Total
Total	466	449	294	1,209

The 2017 Resource report’s resources without depth limit are shown in Table 5.7 below.



**Table 5.7 - 2017 Resource Report In Situ Resources (Mt)**

Depth	Measured	Indicated	Inferred	Total
< 450m	507	638	658	1,803
< 450m Non-Open-Cut	80	208	388	675
>450m	2	3	51	56
Total	588	850	1,097	2,534

Apart from the depth limit applied to the 2016 Resources, they are also constrained in the east by the limit of the Hunter River flood plain Alluvium and nominal pit boundaries in the north. The 2017 Resource report does not include any maps showing the resources areas making a comparison of the two resource estimates difficult.

A comparison of the resources by tenements (Table 5.8 and Table 5.9 below) shows exploration leases (ELs) contribute only 38Mt in 2016 but 558Mt in 2017. Coal seams in these two ELs are generally less than 350m deep. Only the Wynn seam is deeper than 350m in the eastern part of EL4575. the difference can be expected to be from the different aerial limits. This could explain 520Mt of the 600Mt the 2016 resource is lower than the <450m 2017 resource.

The upper seams are not affected by the 350m depth constraint; only seams below the Mt. Arthur seam show areas with depths greater than 350m. Due to the westerly dip of the seams, this ranges from only a very small percentage for the Kayuga seam to most of the seam occurring at depths of more than 350m for the basal Edderton seam. The depths of the individual seams/plies are shown in the resource classification maps (Figures 25 to 38 of the AQC 2016 Resource report).



**Table 5.8 - 2016 Resources by Tenement**

Tenements	Measured	Indicated	Inferred	Total
ML386	265	120	87	472
ML1497	179	314	205	699
EL5525 & EL4575	21	15	1	38
Total	466	449	294	1,209

**Table 5.9 - 2017 Resources by Tenement**

Tenements	Measured	Indicated	Inferred	Total
CL386	338	291	178	807
ML1497	195	345	487	1,026
ML1381	0	1	0	1
ML1456	0	0	0	
A256	34	74	34	142
EL4574	7	51	173	231
EL4575	11	49	154	214
EL5525	3	39	71	113
Total	588	850	1,097	2,534

Table 5.10 shows the ply weighted average qualities within the Measured and Indicated resource categories, including theoretical ash and yield for Float 1.5 and 1.6 fractions.

The qualities do not include the partings between plies that might be incorporated into a mining working section. As a result working section qualities will have higher ash and lower yield.



**Table 5.10 - Ply Weighted Average Qualities within the Measured and Indicated Resource Categories**

Seam Group	Insitu RD	Inherent Moisture %	Raw Ash %	Raw CSN	Raw Total Sulphur %	Raw Volatile Matter %	F1.50 Yield %	F1.50 Ash %	F1.60 Yield %	F1.60 Ash %
Blakefield	1.39	6.4	16.2	-	0.34	29.0	-	-	-	-
Glen Munro	1.52	7.1	33.8	-	0.26	24.4	50.5	13.1	62.1	16.5
Woodlands Hill	1.47	7.0	25.5	-	0.31	27.9	67.4	10.4	74.7	12.4
Arrowfield	1.37	7.1	12.8	1.3	0.35	31.9	84.8	5.8	88.1	6.5
Bowfield	1.49	6.3	26.7	0.8	0.34	27.5	63.1	10.2	69.8	12.4
Warkworth	1.43	5.9	20.5	1.7	0.41	30.2	71.9	9.6	78.8	11.6
Mt Arthur	1.43	5.6	19.4	1.1	0.31	28.7	77.2	10.5	83.6	12.0
Kayuga	1.40	5.5	17.9	2.1	0.29	31.4	76.1	8.6	82.1	10.3
Piercefield	1.39	5.0	15.5	2.0	0.41	31.7	80.6	7.8	84.7	8.9
Vaux	1.46	4.8	23.6	1.8	0.36	28.2	67.5	10.0	74.8	11.9
Broonie	1.43	4.0	20.8	1.6	0.44	29.7	71.4	10.1	77.6	11.9
Bayswater A	1.41	3.9	17.5	1.0	0.38	29.2	77.8	10.7	85.2	12.0
Bayswater B	1.52	3.5	24.8	0.6	0.27	24.2	51.9	13.5	69.2	16.1
Wynn Upper	1.43	3.6	21.1	1.7	0.37	29.6	73.0	10.2	78.1	11.2
Wynn Lower	1.50	4.2	27.5	1.4	0.47	28.1	63.7	13.0	72.2	15.2
Edderton	1.52	3.8	29.8	1.9	0.41	28.5	57.1	13.1	67.4	15.8

*Air Dry Basis unless noted otherwise.*

### 5.5.2 Proposed underground mining seams

Underground mining has been proposed on the mining leases (CL & MLs) in the Mt. Arthur, the Kayuga and the Piercefield seams. The 2016 Resource reports resources for these seams is shown in Table 5.11.

The 2017 Resource report does not detail resources by seams.



**Table 5.11 - Resources of Proposed Underground Mining Seams**

Seam	Mt. Arthur				Kayuga				Piercefield				Grand Total
	Mea	Ind	Inf	Total	Mea	Ind	Inf	Total	Mea	Ind	Inf	Total	
0-100m	19	9	2	30	10	6	2	17	5	3	1	9	56
100-200m	25	21	6	52	20	9	4	33	51	13	4	67	152
200-250m	12	12	5	30	7	9	7	23	27	16	5	47	99
250-300m	5	9	6	19	3	11	5	18	24	20	7	52	89
300-350m	0	4	4	9	1	5	4	10	7	19	10	36	55
<b>Total</b>	<b>61</b>	<b>56</b>	<b>23</b>	<b>140</b>	<b>40</b>	<b>40</b>	<b>22</b>	<b>102</b>	<b>114</b>	<b>71</b>	<b>26</b>	<b>210</b>	<b>452</b>

\* Mea = Measured, Ind = Indicated, Inf = Inferred

### 5.5.3 Reasonable prospects

The 2016 Resource report comments that “The resources at Dartbrook are considered to have reasonable prospects of eventual extraction by open cut method in a nominal pit area. A Pre-feasibility study in 2015 indicates that an open cut mine is viable within a 10 year period even to depths in the order of 350m.”

The 2016 Resource report also refers to Previous Resource Estimates with ‘The previous resource assessment **by Anglo in 2010 [emphasis added]** quoted a total JORC resource of 412 Mt as detailed below. A further 1,396 Mt of potential resource was identified in the report. This tonnage is not reported (as a JORC reportable resource) as it was considered “Low Potential” due to failing Anglo’s strict “Reasonable Prospects test criteria”. The 412 Mt resource area was constrained to a pit area that excluded the western ML1497 and also a maximum depth of 250m was applied. Refer to Figure 24 of the 2016 Resource report for the Anglo Resource area.’ The Anglo pit area is shown in **Error! Reference source not found.** of the 2016 Resource report.

No reasonable prospect comments were made in the 2017 Resource report.

AQC published its own pre-feasibility study for open cut mining in August 2018, which referenced the 2017 Resource report and coal tonnages shown in Table 5.7 above, and stated:

*“The Coal Resource have been estimated in accordance with the JORC Code, 2012 Edition. The Dartbrook tenements contain a total Coal Resource of approximately 2,534 Million tonnes (588 Mt Measured, 850 Mt Indicated, 1,097 Mt Inferred). Within this Coal Resource, **open cut mining is amenable in areas for a total of 1,803 Mt [emphasis added]** at a depth shallower than 450m”.<sup>26</sup>*

Accordingly, the 2018 AQC open cut pre-feasibility infers that of the most recent, 2017 Resource of 2,534Mt:

- 1,803Mt are designated as open cut Resource; and
- 731Mt are designated underground Resource.

<sup>26</sup> Australian Pacific Coal, Completion of Open Cut Pre-Feasibility Study for Dartbrook Project, 28 March 2018, Page 8.





## 6 DARTBROOK PROJECT REVIEW – FEASIBILITY STUDY REVIEW

### 6.1 Dartbrook Project – Feasibility Study overview

The following sections summarise Xenith’s high-level review of the Feasibility Study and its proposed Kayuga Seam bord and pillar mine plan, in order to provide guidance in respect to the Valuations assumptions.

Dartbrook Coal Mine commenced development in the Wynn Seam during 1994 before commencing longwall operations in 1996. After encountering difficulties in mining the Wynn Seam, operations relocated to the Kayuga Seam in 2004, but were suspended in 2006 after further operational difficulties were experienced. AAMC placed the operation on C&M in 2006, and as set out at section 3.2 it was purchased by AQC in 2017.

The deposit is stratigraphically complex with 15 main seam groups broken up into approximately 110 different plies. Despite a significant amount of seam splitting the coal plies show good lateral consistency in both thickness and raw ash providing confidence in resource classification.

The deposit has been worked on by Shell, AAMC and industry consultants over a period of some 25 years and is well understood.

The area has a low stripping ratio even to depths of 500 m and hence a large potential resource exists as discussed in section 5.5 above.

### 6.2 Feasibility Study – Kayuga seam reserves

AQC’s Feasibility Study<sup>27</sup> focussed on restarting underground bord and pillar mining in the Kayuga seam, and relied on the 2017 Reserve report<sup>28</sup> which was based on the JORC Resources reported in the 2016 Resource report.

The JORC Reserves Statement is based on the selective mining of the remaining Kayuga seam within the confines of the current mining lease using underground Bord and Pillar first working methods. The JORC Reserve<sup>29</sup> is 8.98Mt ROM yielding 6.68Mt of product coal at 12% ash (adb). The mining study<sup>30</sup> (**Mining Study**) on which the Feasibility Study is based upon, indicates a mineable reserve of 9.76Mt ROM yielding 7.3Mt of product thermal coal at nominally 12% ash (adb). Inferred Resources in the mine plan account for approximately 765,000 tonnes which cannot be included in the JORC Reserve.

<sup>27</sup> Australian Pacific Coal (2017). Dartbrook Mine Kayuga, Seam Bord and Pillar Feasibility Study, Summary. 27 Feb 2017; and Mining Consultancy Services (2017). Dartbrook Mine, Kayuga Seam, Underground Mine Feasibility Study. For Australian Pacific Coal. February 2017

<sup>28</sup> Mining Consultancy Services (2017). Dartbrook Kayuga Seam Underground, JORC Reserves Statement, Coal Reserves as at February 2017. For Australian Pacific Coal. February 2017.

<sup>29</sup> Dartbrook Kayuga Seam Underground JORC Reserves Statement - Coal Reserves as at February 2017, MCS, February 2017

<sup>30</sup> Dartbrook Mine - Kayuga Seam - Underground Mine Feasibility Study - Australian Pacific Coal, MCS, February 2017



The 2017 Reserve Report’s maps show the Approved Mining Area but do not show lease boundaries. The 2016 Resource report shows lease boundaries but not the Approved Mining Area. Orienting the Board & Pillar panels of the reserve report against resource areas is difficult but it appears the that Inferred resources are located in the south-eastern panels.

The (base case) mine design is shown in Appendix C. The Board & Pillar panels are within the Approved Mining Area and are constrained by the previously mined out area, the Seam Spit Zone where the Kayuga seam splits from the overlying Mt. Arthur seam, the high ash areas in the north and west, faulting as well as a depth of cover limit of 240 m to the Kayuga seam roof.

The reserves are based on the selective mining (working section) of the remaining Kayuga seam. The resources of the 2016 Resource report are based on plies. The Kayuga seam is separated into two main ply groups, the KYA and KYB, which are further divided into eight plies. The 2017 Reserve report’s ‘Figure 4-6’ shows the Kayuga seam thickness, and ‘Figure 5-7’ shows the working section thickness for the mining panels. These figures show a working section thickness of 3.0 to 3.5 m in a seam that appears to be generally 4 to 4.5 m thick. It is unknown which plies make up the working section.

There is insufficient detailed information available to define the resources remaining after mining extraction.

### 6.2.1 Feasibility Study – economic modelling

The Feasibility Study, modelled the Dartbrook Project over a 6 year Project life, producing up to 2.5Mt pa for the total LOM production of the 9.76Mt ROM mineable reserve, and undertook a sensitivity analysis on each of coal price, revenue exchange rate, productivity and coal yield.

The results of the Feasibility Study’s economic modelling (pp. 62-65 of the Mining Study<sup>31</sup>) show a negative NPV for the baseline economic assumptions, and only show a positive NPV for higher coal prices and tonnages.

The results indicated that the economic modelling for the Dartbrook Underground Restart in the Kayuga seam “**exhibits no economic return for the Base Case assumptions, however with slight changes for commercial and operating parameters, the Project could prove some economic benefit as a stand-alone project**” [emphasis added].<sup>32</sup>

Table 6.1 summarises the outputs of the Feasibility Study NPV, with only the most optimistic scenarios producing a positive NPV.

**Table 6.1 - Dartbrook Project Prefeasibility Study NPV assessment summary**

Financial Parameters	Feasibility Study Results
Base Case NPV	• -\$38,762,685

<sup>31</sup> Dartbrook Mine - Kayuga Seam - Underground Mine Feasibility Study - Australian Pacific Coal, MCS, February 2017, Page 62 to 65

<sup>32</sup> Australian Pacific Coal, Dartbrook Mine Kayuga Seam Bord and Pillar Feasibility Study, 27 February 2017, Executive Summary, Page vii



Financial Parameters	Feasibility Study Results
Coal Price Sensitivities (USD/t)	<ul style="list-style-type: none"> <li>• 80 (USD/t): -\$112,505,143</li> <li>• 85 (USD/t): -\$75,358,707</li> <li>• 90 (USD/t): -\$38,762,685</li> <li>• 95 (USD/t): -\$1,321,799</li> <li>• 100 (USD/t): \$42,273,132</li> </ul>
Exchange Rate Sensitivities (AUD:USD)	<ul style="list-style-type: none"> <li>• 0.70 (AUD:USD): \$22,601,130</li> <li>• 0.75 (AUD:USD): -\$30,308,413</li> <li>• 0.76 (AUD:USD): -\$38,762,685</li> <li>• 0.80 (AUD:USD): -\$71,644,064</li> <li>• 0.85 (AUD:USD): -\$109,009,008</li> <li>• 0.90 (AUD:USD): -\$142,222,291</li> </ul>
Productivity Sensitivities (Tones per ROM)	<ul style="list-style-type: none"> <li>• 8,771,964: -\$96,253,600</li> <li>• 9,259,296: -\$67,232,935</li> <li>• 9,746,627: -\$38,762,685</li> <li>• 10,233,958: -\$10,867,030</li> <li>• 10,721,290: \$23,468,270</li> </ul>
Yield Sensitivities (%)	<ul style="list-style-type: none"> <li>• 70.68%: -\$67,232,925</li> <li>• 74.40%: -\$38,762,685</li> <li>• 78.12%: -\$10,867,041</li> </ul>

## 6.2.2 Feasibility Study – development timeline

The Feasibility Study outlined a timeline for resuming operations following the extended period the Dartbrook Project had been under C&M divided into the following phases:

- C&M Phase (pre-approvals to commence restart) – 15 weeks
- Pre-Production Phase 1 (prior to breaching the Kayuga Seam seals) – 13 weeks
- Pre-Production Phase 2 (post breaking the Kayuga Seam seals and prior to starting production mining in B&P Panel 101) – 9 weeks
- Production Phase (pit bottom development and LOM ventilation and infrastructure to connect to ventilation shaft #2 while commencing production in B&P Panel 101) – 15 weeks

Accordingly, a total of 52 weeks was allowed for re-establishment and refurbishment of the mining operation and develop sufficient mine development works in advance to commence production mining.

## 6.2.3 Feasibility Study – product quality

Historically, between May 2004 and November 2006, Anglo Coal Dartbrook shipped 75 shipments of Kayuga seam coal totalling 4.15 million tonnes. A detailed history of delivered coal shipment specifications are readily available. The Dartbrook mine as a longwall operation has consistently met and exceeded the following quality specifications.



Table 6.2 shows the Kayuga Product Coal Quality Specification of Newcastle Benchmark and Dartbrook Kayuga's shipment (Table 1-3 of the Feasibility Study).

**Table 6.2 - Product Coal Quality Specification**

Specifications	Newcastle Benchmark	Dartbrook Kayuga
Calorific Value Basis (Min 5850 kcal/kg NCV)	6000 kcal/kg NCV	5988
Total Moisture (ARB)	15% max	12.80%
Volatile Matter Min (ARB)	27.00%	30.60%
Ash (ARB)	14.0% max	11%
Sulphur (ARB)	0.75% max	0.33%

As a future Bord and Pillar operation with more precise mining thereby minimising out-of-seam dilution and utilising the same CHPP plant and equipment, it is envisaged that this specification will continue to be consistently achieved, with potential to reduce moisture.

No reference to product simulations could be found. It appears that the 12% ash product is (entirely?) based on past performance. Given that the same seam is mined and processed through the same CHPP this is not unreasonable. A review of the raw ash ply maps (2016 Resource report Figures 3-50 to 3-58) does not show an obvious trend towards higher ash coals in the Board & Pillar panels than in the mined longwall panels.

#### 6.2.4 Feasibility Study – underground mining method

The Mining Study<sup>33</sup>, selected the bord and pillar mining method based on the size of the resource, the nature of the deposit, and the time scale of the project. A super-panel configuration was proposed with the use of two bolter-miners in each panel to mine coal and install primary support, supplemented by a separate mobile roof bolter installing secondary support.

No form of secondary extraction was incorporated in the mine plan for the stated reasons of providing higher productivity and production as soon as possible from start-up and to avoid caving the roof to minimise the risk of spontaneous combustion in the resultant goaf.

A simple square pillar layout was adopted. The introduction of limited partial extraction may improve resource recovery if subsequent associated surface subsidence is acceptable, and possibly improve productivity in some instances.

<sup>33</sup> Dartbrook Mine - Kayuga Seam - Underground Mine Feasibility Study - Australian Pacific Coal, MCS, February 2017



## 6.2.5 Feasibility Study – mine layout

The Kayuga Seam bord and pillar mine layout, illustrated in Figure 4 below, is constrained by structure, old workings, and the approved mining area. Initial panels are accessed to the north of the existing West Mains, and southern panels require re-entry into the South Mains.

**Figure 4 – Kayuga seam bord and pillar mine plan**



## 6.2.6 Feasibility Study – production schedule

The Feasibility Study's Kayuga Seam bord and pillar panels mineable reserve of 9.76Mt ROM, is mined out within six years at a maximum rate of 2.5Mt/pa as shown in Figure 5 below, and following the mining sequence shown in Figure 6 below.





Figure 5 – Kayuga Seam Bord and Pillar ROM Production Forecast

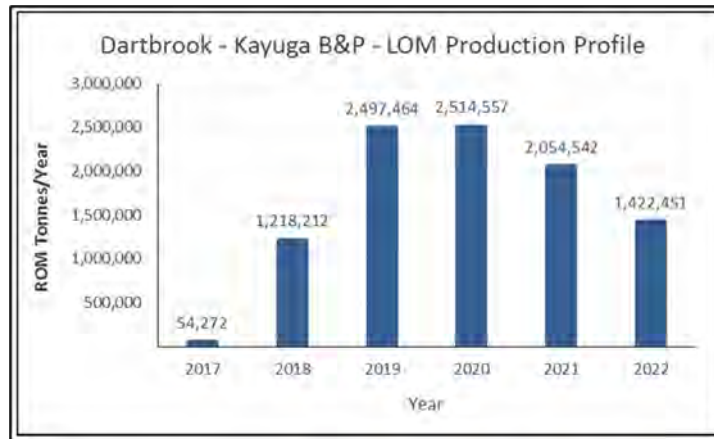


Figure 6 – Kayuga Seam Bord and Pillar Mining Sequence



### 6.3 Other options to exploit the residual Dartbrook Project resource

The Kayuga bord and pillar Feasibility Study proposes to exploit only a small portion of the Dartbrook Project resource shown at Table 5.7 above. Other possible mining methods include longwall and open cut. These are considered, in the case of an open cut unviable, and in the case of a long wall challenged, due to:



- significant capital investment for either option;
- in the case of the open cut, restrictions exist as part of the Dartbrook Project since the ‘State Environmental Planning Policy (Resources and Energy) 2021’ prohibits any open cut mining at Dartbrook<sup>34</sup> as detailed at section 4.2 above;
- the MOD 7 limits underground mining to 5 December 2027; and
- the likelihood, given historic challenges detailed in section 3.2 above, of strong stakeholder opposition and potentially lengthy legal challenges.

### 6.3.1 Longwall mining

Longwall reserves were estimated for the Mt Arthur, Kayuga and Piercefield Seams by MCS in June 2000. The summary table shown in Figure 7 below has been provided to Xenith by AQC, however Xenith have not been provided, or have been able to identify an underpinning report to support these reserves.

In respect to the longwall mining reserve, Xenith notes:

- Due to the long dated nature of the reserve and insufficient underpinning material available, we are unable to comment in detail on the viability of the reserves presented in Figure 7.
- AAMC abandoned longwall operations in the Wynn Seam and then in the Kayuga Seam due to operational difficulties, and accordingly Xenith consider the application of a longwall would require further feasibility study work prior to its implementation;
- the 76 Mt of ROM coal identified in the Piercefield Seam is a low tonnage to commit to investment in a new longwall operation; and
- as already detailed, the MOD 7 orders currently only provide for five years of mining to 5 December 2027, which increases the risk associated with investing in major capital equipment such as a longwall.

**Figure 7 – Longwall Reserves**

Working Section	Reserves ** (Mt)					
	Proved		Probable		Total	
	Recoverable	Marketable	Recoverable	Marketable	Recoverable	Marketable
<b>Mt Arthur (MAWS)</b>	11.3	9.6	0.0	0.0	11.3	9.6
<b>Kayuga (KWS)</b>	51.1	40.1	6.1	3.7	57.2	43.8
<b>Piercefield (PWS)</b>	78.8	66.3	2.8	2.4	76.2	68.7

\*\*Source: "Assessment of Coal Reserves for the Mt Arthur, Kayuga and Piercefield Seams. Australian Mine Consulting Services, June 2000."

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30 June 2000

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<sup>34</sup> State Environmental Planning Policy (Resources and Energy) 2021, Part 2.11 and Schedule 1, (<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731#sec.2.11>)

### 6.3.2 Opencut mining

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AQC have reported the results of an open cut pre-feasibility study<sup>35</sup> completed in March 2018. The PFS study nominated 226 Mt of coal that may be mined over a 25 year mine life by open cut methods at a ratio of 4.0:1 bcm/ROM t, but a Probable ROM Reserve of 470 Mt that extends beyond the PFS pit is reported.

In respect to the open cut pre-feasibility, Xenith notes:

- the Dartbrook Project has faced strong stakeholder opposition and lengthy legal challenges as detailed in section 3.2 above and any open cut proposal could be expected to face similar scrutiny;
- the closest existing open cut voids to Dartbrook are Bengalla and Muswellbrook Coal, located respectively to the west and east of Muswellbrook;
- the MOD 7 orders do not permit open cut mining; and
- the 'State Environmental Planning Policy (Resources and Energy) 2021' prohibits any open cut mining at Dartbrook<sup>36</sup> as detailed at section 4.2 above.

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<sup>35</sup> <http://www.aqcltd.com/site/quality-coal/dartbrook-open-cut>

<sup>36</sup> State Environmental Planning Policy (Resources and Energy) 2021, Part 2.11 and Schedule 1, (<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731#sec.2.11>)





## 7 DARTBROOK PROJECT REVIEW – SITE INSPECTION

### 7.1 Dartbrook Coal – Site inspection

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Xenith undertook a site inspection of the Dartbrook Project on the 13th April 2022 in order to provide confirmatory guidance in respect to the Valuation assumptions.

The mine was placed on C&M in 2006, and thus the asset has not been worked for approximately sixteen years. The inspection was a high-level verification of the physical presence and apparent overall condition of the project assets. These notes are based on observations and discussion during the visit and have not been reviewed by those interviewed to confirm the author's interpretation.

The following sections set out:

- observations on the current condition of the Dartbrook assets;
- observations in respect to the potential for delivery of the proposed bord and pillar mine plan;
- identification of major risks or limitations to the mine plan; and
- recommendations for consideration in respect to valuation assumptions.

The Dartbrook assets appear to have deteriorated since the Mining Information and various studies completed in 2016-2018, accordingly re-start costs, as well as mine re-establishment and refurbishment timeframes can be reasonably expected to have increased.

The expected increase in re-start costs, extended mine re-establishment and refurbishment timeframes, along with the MOD 7, 1.5 Mtpa ROM production cap for bord and pillar mining and consent expiry in December 2027 will likely result in substantially lower production and value than estimated in the Feasibility Study.

#### 7.1.1 Workforce

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The current workforce totals four. Additional support is sourced on an ad hoc basis as required – e.g. surveyors to submit current mine plans

##### 7.1.1.1 Administration Officer

The incumbent provides general administrative support and was absent during the inspection.

##### 7.1.1.2 Electrician

The incumbent provides general electrical support, generally on the surface, but underground as required. The incumbent hosted the inspection of the surface facilities.

##### 7.1.1.3 Fitter

The incumbent provides general mechanical support, generally on the surface, but underground as required.



#### 7.1.1.4 Mine Manager

Incumbent is appointed to all required operational statutory roles, including:

- Mine manager
- Undermanager
- Deputy
- Ventilation Officer
- Fire Officer
- Stone Dust Sampler

#### 7.1.2 Regulatory compliance

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The NSW Resources Regulator (**NSWRR**) has recently refocused attention on Dartbrook, according to the manager. The manager advised that the Principal Hazard Management Plans (**PHMPs**) should be updated every three years. The PHMPs developed in 2018 were recently reviewed by NSWRR - many Improvement Notices (~140) have been issued. The PHMPs reportedly showed signs of significant cutting/pasting, and minimal representative workforce participation. This would be hard to achieve in a C&M situation.

Xenith expects the NSWRR will treat any resumption of mining at Dartbrook as a new operation and expect full compliance with legislative requirements. This will take time and require suitable resourcing.

A TARP is in place for when any person has to go underground. A minimum of two personnel must be available on stand-by on the surface. Personnel who go underground must communicate at regular intervals. If nothing is heard from underground personnel after a 45 minute period, this triggers investigation/recovery by the surface team.

There is no explosives magazine maintained on site.

#### 7.1.3 Mine infrastructure area

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##### 7.1.3.1 Offices

The mine offices appear to remain serviceable.

##### 7.1.3.2 Bathhouse

A small section of the bathhouse was seen to be in service. The main section was not observed.

##### 7.1.3.3 Muster Area

The muster area has two lamp racks remaining, partially populated with lamps. The self-contained oxygen self-rescuers reportedly run out of compliance in May 2022. The control room has limited communication underground via telephone. The underground intercom system (DAC) is out of service.

There is a tube bundle system that monitors about six locations underground, and methane emission from the upcast shaft. No real-time gas monitoring system is in place. There appears to be a non-functional gas



chromatograph in an office opposite the control room. Prior to resuming production, for statutory compliance, a real-time gas monitoring system would have to be installed, the number of tube bundle sample points increased, and a gas chromatograph preferably be installed to allow fast turnaround of samples.

#### 7.1.3.4 Workshop

Only observed when driven past – appears to be small. The only diesel equipment on site consists of one Driftrunner and one LHD.

#### 7.1.3.5 Warehouse

Only observed when driven past – appears to be integrated within workshop.

#### 7.1.3.6 Laydown Areas

The lay down areas appear reasonably tidy with minimal equipment/material lying around

### 7.1.4 Mine access

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The Wynn and Kayuga Seams have separate surface accesses as shown in Figure 8 below, and are connected by a cross-measure drift underground. Two means of egress are thus available from the workings, supplemented by the Hunter Tunnel (once dewatered).

**Figure 8 – Wynn and Kayuga Seam Portals – Aerial View**

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#### 7.1.4.1 Wynn Seam

Access to the Wynn Seam is via the 'Western Drift' shown in Figure 9 below. The portal is located near the muster area. Coal clearance to the CHPP is via the Hunter Tunnel.



Figure 9 – Wynn Seam Portal – Aerial View



Figure 10 – Wynn Seam Portal



#### 7.1.4.2 Kayuga Seam

Access to the Kayuga Seam is via three headings driven off a shallow box cut to the west of the bathhouse as shown in Figure 11 below. The highwall appears stable (Figure 12), and the portals are protected by concrete culverts (Figure 13).





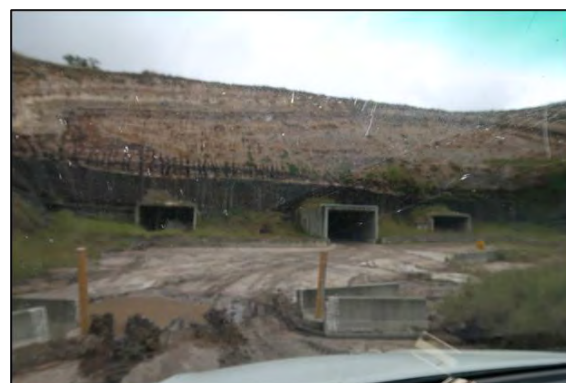
Figure 11 – Kayuga Seam Boxcut – Aerial View



Figure 12 – Kayuga Seam Boxcut



Figure 13 – Kayuga Seam Portals



#### 7.1.4.3 Hunter Tunnel

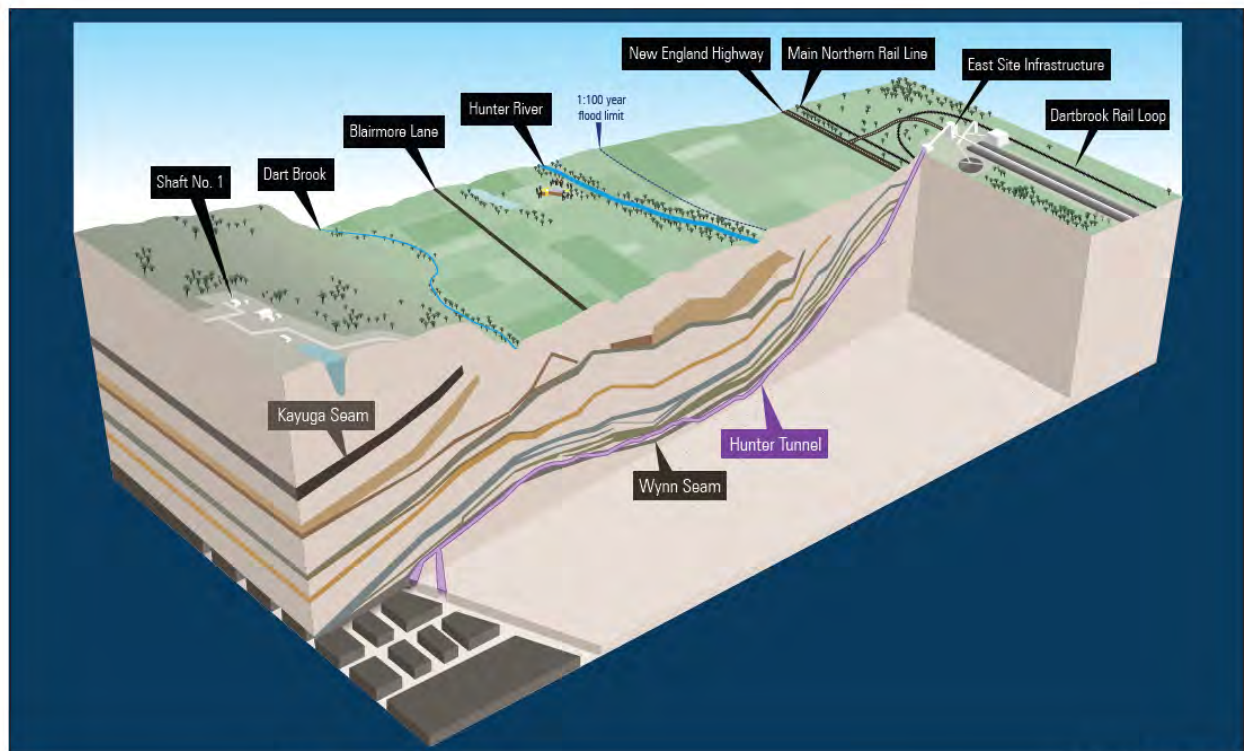
The Hunter Tunnel connects the mine workings located west of the Hunter River and the New England Highway to the CHPP located east of the highway. The Hunter Tunnel is a critical piece of infrastructure for the Dartbrook Project and the only permitted means of transferring coal from the mine to the CHPP.



The tunnel is equipped with dewatering pumps, but they have been shut down during the C&M period as a cost containment measure. Consequently the Hunter Tunnel is now flooded, reportedly for half of its approximate 4km length, with some 54 ML of water, and it is feared that localised roof and or rib failures may have occurred as small surges in water make have been observed.

Figure 14 below provides a cross section of the Dartbrook Project coal seams and illustrates the course followed by the Hunter Tunnel to deliver coal from the mine workings, under the Hunter River, New England Highway and rail infrastructure to the CHPP.

**Figure 14 – Dartbrook Project cross section and Hunter Tunnel**



DARTBROOK MINE

Hansen Bailey  
ENVIRONMENTAL CONSULTANTS



Conceptual Schematic of the Hunter Tunnel

### 7.1.5 Underground workings

The workings are in fair condition overall however there are many areas where minor strata failures (rib failure and at least one small roof fall) require remediation. Stowage (loose clean-up material, potentially containing broken coal) is present in many areas. The mine water appears to be quite corrosive and this has resulted in the deterioration of support in damp/humid areas. The workings are flood ventilated by the main ventilation fan and there are currently no designated return airways so all areas are readily accessible.



#### 7.1.5.1 Wynn Seam

After the Western Drift meets up with the Hunter Tunnel, the Wynn Seam workings expand to five headings, sealed off by Micon Seals inbye of 3, 4 and 5 cut-throughs. The Kayuga bord and pillar mine plan does not involve re-entering the sealed Wynn workings (**Appendix D**).

#### 7.1.5.2 Cross Measure Drift

The Wynn Seam workings and Kayuga Seam workings are connected by a 1:6 cross measure drift (Figure 15). Where this passes through the Piercefield Seam, there is a stub driven to facilitate future access to this seam if required. The Piercefield Seam has not been mined previously at Dartbrook. It is understood that a target of some 80Mt of ROM coal recoverable by longwall has been identified in this seam.

The cross-measure drift is a key component of MCS's proposed Kayuga bord and pillar operation to get the ROM coal out of the pit via the Hunter Tunnel following the MOD 7 orders which precludes coal transportation by trucking.

There is significant rib failure in the lower 2 m of the drift in places, and this will likely need the conveyor structure to be removed to repair safely and effectively. The transfer points appear to require remedial strata support.

Floor heave is present in areas. Perhaps up to a maximum of 300 mm in the centre line, and the concrete floor has cracked. There was a small fall at 15 man-hole.

#### 7.1.5.3 Kayuga Seam

The Kayuga Seam Workings generally comprise three headings (**Appendix D**), sealed off by Micon Seals inbye of 7 cut-through. The Kayuga bord and pillar mine plan involves re-entering the sealed Kayuga workings.

### 7.1.6 Kayuga seam

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Coal is conveyed from the Kayuga Seam workings to the Wynn Seam workings via the cross-measure drift. There is a 1500 t bin to provide surge capacity. Conveyor structure appears to still be in place, with longwall sized frames and rollers and transfer points. Conveyor belting appears to have been removed.

The mine water appears to be quite corrosive and this has resulted in the deterioration of structure in damp/humid areas – for example belt guards in the cross-measure drift have “gone to mush”.

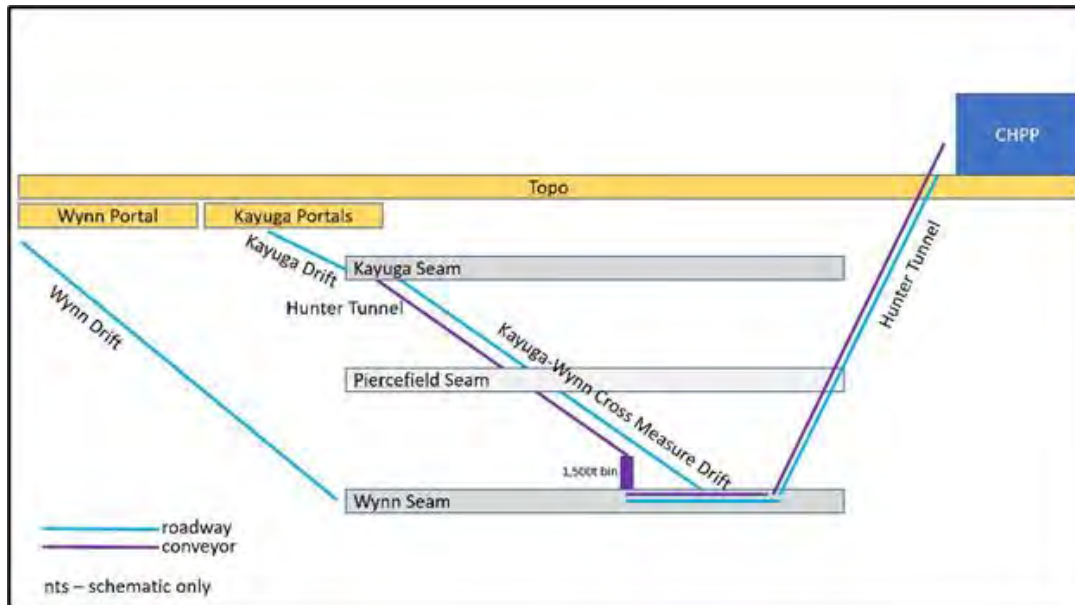
#### 7.1.6.1 Hunter Tunnel

As noted above in section 7.1.4.3 the Hunter Tunnel is a critical element of the coal clearance system and it is believed that localised roof and or rib failures may have occurred, and this will require investigation following the removal of flood waters, and remediation of the tunnel itself before the conveyor system can be investigated and remediated.

The relationship between the drifts and the Hunter Tunnel is presented schematically (Figure 15).



Figure 15 – Access and Coal Clearance Schematic



### 7.1.7 Surface infrastructure

The main ventilation system runs continuously. Other infrastructure is run as required – e.g. compressed air is only reticulated underground when personnel are underground.

#### 7.1.7.1 Main Fans

One fan remains operational (upcast) on No.1 Ventilation Shaft (Figure 16). The staff noted that they did not want to shut the fan down “in case it wouldn’t restart”. The base of No. 1 shaft appeared tidy and relatively dry. No. 2 shaft is capped.

Figure 16 – No. 1 Shaft and Ventilation Fan





CO<sub>2</sub> at the weir was measured by the manager as 0.12%. He advised that NSW regulations allow up to 1.25%, or 2.5% on a Time Weighted Average basis. Statutory officials can enter to 3% for inspection/remediation work. When working the Wynn Seam, Dartbrook had an exemption in place to run a “sewer” return in excess of 3% CO<sub>2</sub>.

### 7.1.7.2 Air Compressors

The air compressors appear to be in place (Figure 17), but filters may need attention.

**Figure 17 – Air Compressors**



### 7.1.7.3 Dewatering System

The mine workings dewatering system (Figure 18, Figure 19) appears to be in place and managing make into the mine workings.

**Figure 18 – Dewatering System**



Figure 19 – Staged Discharge Dam



#### 7.1.7.4 Goaf Water Management

The goaf dewatering system consists of two Pleuger submersible pumps (Figure 20). One has failed, and there is no redundancy in the system. The failed pump is at a service provider in Tomago for assessment. Costs of \$50k to source and \$50k to replace were mentioned. The down hole cable may also require replacement after assessment. The surface access track may also require repairs to allow safe crane access.

Figure 20 – Pleuger Goaf Dewatering Station



The goaf water level is believed to be influencing the gas levels in the sealed workings. When the water level cuts off No. 2 shaft at the Wynn level, oxygen levels inbye the Kayuga seams rise, and can exceed 3% (Level 1 TARP). At the time of visiting, the Wynn seals were breathing out (~1.5 kPa on Magnahelic gauge), and the Kayuga Seams were breathing in (0.2 kPa on Magnahelic gauge).

#### 7.1.7.5 Mine Water Management

The mine dewatering system appears to be functioning adequately, with the exception of in the Hunter Tunnel. There is a weir at the base of the flooded Hunter Tunnel, and make from this is estimated at 300 l/min.



#### 7.1.7.6 Fire Fighting Water

The fire fighting water system (Figure 21) appears to be in place and operational.

**Figure 21 – Fire Water System**



#### 7.1.8 Coal handling and preparation plant (CHPP)

The CHPP is located to the east of the New England Highway (Figure 22). The CHPP appears to be in fair condition. When AAMC had Dartbrook on C&M, the plant was run up wet (with no coal) every six weeks, and individual sections of plant were run up each week on a rotational basis. This is not believed to have been done since Anglo American divested the operation.

Some conveyors still have rubber on them, but many have only structure. Stockpile bases have been cleaned up and topsoiled. New base material will be required if the operation is recommissioned.

Pipes connection sumps and pumps have been disconnected , perhaps to ensure they can drain freely.

Security cameras have been fitted to the plant as opportunistic thieves were stealing copper cables from the cable trays.

The fire alarm system is understood to require replacement, and prices have been obtained.

A thorough updated structural, mechanical and electrical inspection will be required to identify and cost what is required to place the plant back into operation as it has likely deteriorated since this was last done in 2016 by Ausenco.



Figure 22 – Dartbrook CHPP



#### 7.1.8.1 Raw Coal Handling

ROM coal passes through a raw coal distribution system (Figure 23), and can be diverted to an emergency overflow (Figure 24), or to the circular raw coal stockpile (Figure 25).

Figure 23 – Raw Coal Distribution System





**Figure 24 – Raw Coal Emergency Overflow**



**Figure 25 – Raw Coal Circular Stockpile**



### 7.1.8.2 Coal Preparation

The CHPP appears to be clean and tidy, however surface rust can be observed on many items.

**Figure 26 – CHPP Sumps**



Figure 27 – CHPP Sump Floor



Figure 28 – CHPP Pump



Figure 29 – CHPP Pump



Figure 30 – CHPP Screen



Figure 31 – CHPP Decking



Figure 32 – CHPP Control Room



### 7.1.8.3 Product Coal Handling

The product stockpile bases have been topsoiled and will require a new base if recommissioned.





**Figure 33 – Product Coal Stacker and #2 Product Coal Reclaimer**

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**Figure 34 - #1 Product Coal Reclaimer**

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#### **7.1.8.4 Reject Management**

The reject storage area appears to have been fully rehabilitated (Figure 35). If the CHPP is recommissioned, pits will have to be dug in the rehabilitated area and the reject then covered over.

**Figure 35 – Reject Storage Area**

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#### 7.1.8.5 Rail Loadout

The rail loop (Figure 36) is being used to store coal wagons destined for scrapping.

**Figure 36 – Rail Loop and Rail Bin**



#### 7.1.8.6 Other Surface Land Use

Outside the mine and CHPP footprints, the surface appears to currently be utilised for cropping and grazing. Paspaley Pastoral Company is reputedly involved in this endeavour.

#### 7.1.9 Potential for delivery of proposed bord and pillar mine plan

##### 7.1.9.1 Geotechnical Aspects

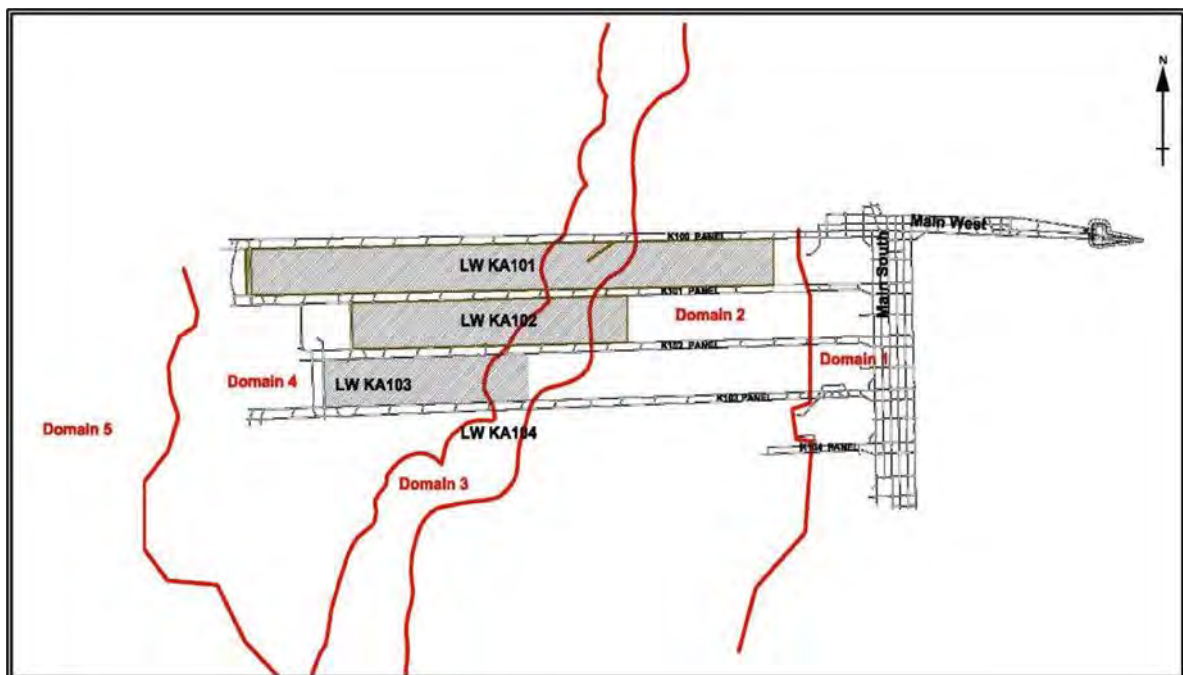
Golder Associates (Golder) assessed<sup>37</sup> the geotechnical factors to be taken into consideration for the Feasibility Study, and identified five geotechnical domains as proposed by Seedsman (Figure 37).

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<sup>37</sup> Geotechnical Factors to be Considered as part of the Proposed Underground Mine Plan in the Kayuga Seam at Dartbrook Mine (Draft Copy), Golder Associates, January 2017



Figure 37 – Proposed Mining Domains in the Kayuga Seam (Seedsman Geotechnics)



Golders recommend that no production panels be placed in Domain 3 and at depths greater than 250 m in Domains 4 and 5. Golder deems all other areas as appropriate for bord and pillar first workings using some form of in-place miner.

The Mining Study applied a maximum depth of cover constraint of 250 m consistent with Golder's recommendations, and the mine plan appears to describe Domain 3 as Seam Split Zone which constrains the panel layout (refer the Mining Study Fig. 1-5).

The pillar dimensions selected by MCS appear, from a brief comparison, to be consistent with the Golder recommendations.

#### 7.1.9.2 Operational Aspects

The Mining Study appears to be structured, comprehensive and based on sound principles. It identifies a target of 9.7 Mt and addresses the following key topics:

- Resource characteristics
- Kayuga Seam resource and mining limits
- Mining method
- Mine layout
- Project start-up and pit bottom development
- Production schedule
- Pre-production
- Steady state production
- Capital costs
- Operating costs
- Risk review and further work



The peak Prefeasibility Study production rate target is 2.5 Mtpa from four continuous miner units, each producing 0.7 Mtpa appears realistic. However, the Mining Study describes a super-panel configuration, with two miner-bolters per panel, Xenith considers this would be very low capital utilisation.

Workforce estimates and costs exclude the CHPP – Ausenco prepared a separate CHPP report<sup>38</sup>.

Detailed staged plans have been prepared to re-enter and recommission the mine.

Capital expenditure estimates are at a claimed accuracy of  $\pm 15\%$  and include 15% contingency.

Operating cost estimates built up on a per quantity basis (e.g. \$/t; \$/m; \$/FTE)

The Mining Study's risk review appears comprehensive. The risk review team mitigated seven Extreme risks to Low/High/Moderate in the table on p. 212, with brief controls listed in appendix 3 (p. vi) of the Mining Study for most risks. Note that Risks 17 and 18 (approvals) are mitigated, but no controls are identified in appendix 3 of the Mining Study.

## 7.2 Identification of major risks or limitations to the mine plan

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The Mining Study presents a risk assessment on p. 211 of the Mining Study.

However, and as set out above, Xenith notes that since the Feasibility Study was completed in 2017, the mine and CHPP have continued to deteriorate, including:

- roof support and conveyor structure in the underground workings has corroded badly and requires remediation;
- ribs in the underground workings have failed in spots and require remediation;
- the Hunter Tunnel has been allowed to flood and will require dewatering, inspection, and likely remediation of strata and conveyor structure (Golder noted it already required remediation before it was flooded);
- failure of one goaf dewatering pump resulting in a loss of redundancy;
- the C&M crew are reluctant to stop the main fan in case it cannot be restarted;
- the remaining belt-worn Self-Contained Self-Rescuers (SCSRs) are coming up for replacement; and
- the CHPP fire alarm panel requires replacement.

### 7.2.1 Regulatory compliance requirements

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NSWRR have renewed focus on Dartbrook, and will require full compliance with legislation prior to any restart. This will require at the least:

- additional communication equipment,
- real time environmental monitoring,
- full compliance with requirements to have current Principal Hazard Management Plans and all supporting subordinate documentation.

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<sup>38</sup> Australian Pacific Coal – Dartbrook CHPP – Restart Risk Mitigation Report, Ausenco, November 2016



Capital expenditure will be required to re-establish monitoring, and significant resourcing will have to be provided to update compliance documentation.

### 7.2.2 Approval capacity constraints

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Restarting operations at Dartbrook has been the subject of a lengthy regulatory approval process. The MOD 7 orders were provided in March 2022.

As set out above, the MOD 7 has modified the development consent in accordance with the s34 agreement, subject to the conditions in annexure A. As set out at section 4 above Xenith notes:

- item 1.2 of Annexure A extends the period of approval to 5 December 2027;
- Annexure A 1.1(a)(xi) requires development to be carried out generally in accordance with several documents, including “the environmental assessment titled “Dartbrook Mine Modification 7 Environmental Assessment Kayuga Seam Bord and Pillar Mining Operations”, dated June 2018 and prepared by Hansen Bailey Environmental Consultants . . . “ which limits bord and pillar mining to a maximum of 1.5Mtpa;
- Annexure A 2.3(a) caps total ROM production at 6 Mtpa; and
- approval remains in place for longwall mining.

Since MOD 7 caps bord and pillar production at 1.5 Mtpa rather than the 2.5 Mtpa contemplated by the Feasibility Study:

- the impost of carrying additional annual fixed costs and labour will have an adverse impact on project value;
- longwall mining may be reinstated but is likely to be challenged by the long restart timetable to develop a long wall mining area, mine plan approvals, and provision of capital items; and
- the ability to fully exploit the identified 9.74 Mt bord and pillar of recoverable ROM coal may be constrained if the consent cannot be extended beyond 2027.

### 7.3 Recommendations

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It is recommended that the following be considered when determining an updated value estimate for the project:

- inflate all existing study re-start capital expenditure and operating costs in line with inflation;
- consider the application of further cost increases to reflect the deteriorated condition of the assets since the re-start studies were prepared;
- delay time to first coal by an additional six to twelve months to allow for known requirements of dewatering the Hunter Tunnel, remediating strata defects, and re-establishing regulatory compliance, and the probable requirement for additional strata and equipment refurbishment since the re-start studies were prepared;
- note the 1.5 Mtpa ROM bord and pillar capacity constraint identified in the MOD 7 orders.



## 8 VALUATION

### 8.1 Key outcomes

We have considered the value of the Dartbrook Project using:

1. the income approach, utilising the DCF methodology for activities up to the MOD 7 Closure Date for three alternative production scenarios, in combination with the market approach, using comparable transactions (discounted for coal reserve depletion and project development risk) for any residual coal resource remaining; and
2. the market approach, using the comparable sales transaction methodology on an EV/t resource basis for a closely comparable set of transactions with a low to high range controlled by, in the case of the low range, the MOD 7 orders which limit mining to 6Mtpa and the MOD 7 Closure Date, and in the case of the high range, 100% of the existing underground resource.

Our preferred Market Value for the Dartbrook Project at the Valuation Date is \$11.01M, representing the mid-point of the lower half of the developers closely comparable, Comparable Sales Transaction range and having consideration for the various market and project risk factors detailed in the body of this Report.

It should be noted that the historical royalty obligations to previous operating entities specific to the Dartbrook Project noted at section 1.3 above, and other royalty obligations arising out of the proposed transaction<sup>39</sup> are not reflected, consistent with the instructions provided to Xenith, in this valuation. Xenith understand these and any such other liabilities will be considered as part of EYSaT's analysis.

The results of our valuation assessment are summarised in Table 8.1 below.

**Table 8.1 – Summary of Dartbrook Project Valuation (\$M)**

Methodology	Low (\$M)	High (\$M)	Mid/Base case (\$M)	Preferred (\$M)
DCF May 25	-159.4	194.8	-1.6	<b>Nil to Nominal Amount</b>
Residual Resource component ~711Mt (EV/T Resource)	11.5	11.3	11.4	
<b>Total DCF/Residual Resource value</b>	<b>-147.9</b>	<b>206.1</b>	<b>9.8</b>	<b>\$9.8M</b>
EV/T Reserve (producer)	41.9	119.77	80.82	
EV/T Resource (developer comparable data set)	2.36	57.42	29.89	

<sup>39</sup> Australian Pacific Coal Limited, ASX Release, Offer for Purchase of Dartbrook Coal Project, 21 February 2022

Methodology	Low (\$M)	High (\$M)	Mid/Base case (\$M)	Preferred (\$M)
EV/T Resource (developers closely comparable)	1.61	39.22	20.41	
<b>Selected Market Value*</b>	<b>\$1.61M</b>	<b>\$39.22M</b>	<b>\$20.41M</b>	<b>\$11.01M</b>

Source: Xenith analysis, (\*note: the historical and new royalty obligations are not reflected in this valuation).

Our DCF Analysis returned negative NPV's for all but the most optimistic scenario. Accordingly, the value produced by the DCF analysis is nil based on the base case NPV, with a potential value of \$9.8M subject to the development risk of the residual resource remaining after the MOD 7 Closure Date.

Notwithstanding the Nil value generated from the DCF Analysis, in our opinion, the Dartbrook Project could attract some nominal value (**Nominal Amount**) as a strategic investment option, albeit heavily contingent on successfully optimising the economics of the Dartbrook Project by:

- a. achieving an accelerated ramp up to full production in order to maximise coal production within the consented mine life;
- b. achieving a more cost effective restart and refurbishment;
- c. realising a more positive set of commodity and FX factors in the near and medium term; and
- d. an assumption that approval for an extension of mine life can be achieved beyond the MOD 7 Closure Date.

Accordingly, Xenith undertook a range of comparable transaction analysis as an indicator of the potential Nominal Value.

Based on our preferred valuation underpinned by the 'developers closely comparable' transactions, in Xenith's opinion, the Dartbrook Project at the Valuation Date is valued at between \$1.61M and \$39.22M

With consideration to the range of relevant factors that we consider material to the technical standing and valuation of the Dartbrook Project, as summarised at Section 1.3 above, we consider the value of the Dartbrook Project to be at the low end of the developers closely comparable, Comparable Sales Transaction range.

Accordingly, our preferred Market Value of \$11.01M is based on the mid-point of the lower half of the developers closely comparable, Comparable Sales Transaction range and noting, as set out above that this valuation does not consider the historical royalty obligations to previous operating entities specific to the Dartbrook Project, or any other royalty obligations arising out of any future transaction.

## 8.2 Mineral reporting – the JORC Code

The JORC Code is a professional code of practice that sets minimum standards for public reporting of Exploration Results, Mineral Resources and Ore Reserves in Australia and internationally and has been adopted in the listing rules for the Australian Securities Exchange (**ASX**).

The core value of all mineral assets resides in the Mineral Resources and Ore Reserves (or the potential to discover them). The JORC Code provides the following definitions:

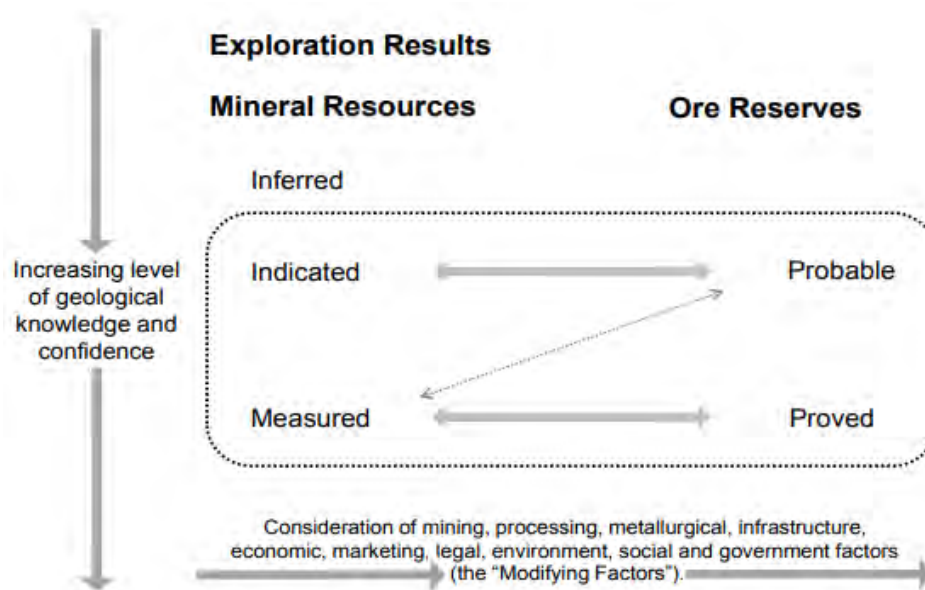




- Mineral Resource – a concentration or occurrence of material of intrinsic economic interest in or on the Earth’s crust in such form, quality and quantity that there are reasonable prospects for eventual economic extraction. The location, quantity, grade, geological characteristics and continuity of a Mineral Resource are known, estimated or interpreted from specific geological evidence and knowledge. Mineral Resources are sub-divided, in order of increasing geological confidence, into Inferred, Indicated and Measured categories.
- Ore Reserve – is the economically mineable part of a Measured and/or Indicated Mineral Resource. Ore Reserves are those portions of Mineral Resources which, after the application of all mining factors, result in an estimated tonnage and grade which, in the opinion of the Competent Person making the estimates, can be the basis of a viable project, after taking account of all relevant Modifying Factors. Detailed studies on mining, processing, metallurgical, infrastructure, economic, marketing, legal, environment, social and government factors (referred to in the JORC Code as the ‘Modifying Factors’) are required to be undertaken in order to provide the necessary confidence that all or part of the Indicated Resources and Measured Resources will be economically mineable and therefore can be converted to Ore Reserves.

Figure 38 summarises the general relationship between Exploration Results, Mineral Resources and Ore Reserves. It should be noted that Inferred Resources must be converted to Indicated Resources or Measured Resources before they can be converted to an Ore Reserve.

**Figure 38 – General Relationship Between Mineral Resources and Ore Reserves**



Source: JORC Code

### 8.3 Development status – the VALMIN Code

The VALMIN Code classifies mineral assets into five categories according to their development status:

- Early Stage Exploration Projects** – Tenure holdings where mineralisation may or may not have been identified, but where a Mineral Resource has not been identified.
- Advanced Exploration Projects** – Tenure holdings where considerable exploration has been undertaken and specific targets identified that warrant further detailed evaluation, usually by drill

testing, trenching or some other form of detailed geological sampling. A Mineral Resource estimate may or may not have been made, but sufficient work will have been undertaken on at least one prospect to provide both a good understanding of the type of mineralisation present and encouragement that further work will elevate one or more of the prospects to the Mineral Resource category.

- c) **Pre-Development Projects** – Tenure holdings where a Mineral Resource has been identified and the extent estimated (possibly incompletely), but where a decision to proceed with development has not been made. Properties at the early assessment stage, properties for which a decision has been made not to proceed with development, properties on C&M and properties held on retention titles are included in this category if a Mineral Resource has been identified, even if no further work is being undertaken.
- d) **Development Projects** – Tenure holdings for which a decision has been made to proceed with construction or production or both, but which are not yet commissioned or operating at design levels. Economic viability of Development Projects will be proven by at least a Pre-Feasibility Study.
- e) **Production Projects** – Tenure holdings – particularly mines, wellfields and processing plants – that have been commissioned and are in production.

### 8.3.1 Development Status – the Dartbrook Project

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Consistent with the VALMIN Code definitions<sup>40</sup> and recognising the extended period the Dartbrook Project has been under C&M and the extensive work required to bring the mine back into production, we have assessed the development status of the Dartbrook Project as a Pre-Development project.

## 8.4 Valuation methodology

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There are a number of valuation approaches available to assess the value of a mineral asset. These valuation approaches comprise:

- Income approach (e.g. discounted cash flow methodology)
- Market approach (e.g. comparable transactions methodology)
- Cost approach (e.g. sunk costs or current replacement cost methodologies).

Under each valuation approach, there are a number of different valuation methodologies. **Appendix E** sets out the common valuation methodologies we have considered in undertaking our Valuation.

### 8.4.1 Selected Valuation methodology

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In selecting an appropriate valuation methodology with which to undertake our Valuation, we have had regard to:

- the purpose of the Valuation;
- the nature of the assets being valued;
- the extent and reliability of the available information; and

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<sup>40</sup> The Australasian Code for the Public Reporting of Technical Assessments and Valuations of Mineral Assets, 2015 Edition, Section 14, Page 38





- the development status of the Dartbrook Project and the corresponding guidance from the VALMIN Code, summarised in Table 8.2.

**Table 8.2 – VALMIN Code Guidance on Applicable Valuation Methodologies**

	Exploration Projects	Pre- Development Projects	Development Projects	Production Projects
<b>Income Approach</b>	No	In some cases	Yes	Yes
<b>Market Approach</b>	Yes	Yes	Yes	Yes
<b>Cost Approach</b>	Yes	In some cases	No	No

Source: VALMIN Code

As set out at section 8.3.1 above, we have assessed the development status of the Dartbrook Project as a Pre-Development project on the basis that:

- despite having historically been a producing mine, the Dartbrook Project has been under C&M for over 15 years;
- a Mineral Resource exists, albeit the mineable Resource is limited by the MOD 7 orders in terms of cessation of mining by 5 December 2017 and a maximum ROM tonnage of 6Mtpa;
- extensive development and refurbishment works are required to re-establish mining operations;
- a Feasibility Study was undertaken for the bord and pillar operation, including the re-establishment of mine and support infrastructure, and the AQC Model established;
- no specific Technical Study into the re-establishment of longwall mining operations is understood to exist, albeit Xenith have been provided and relied upon a proposed longwall restart financial model (**Longwall Model**).
- Despite the MOD 7 orders providing the authority to undertake mining operations until 5 December 2017, no decision to proceed with re-establishment of the mine has been made.

Accordingly, we have valued the Project using the discounted cashflow (**DCF**) methodology, an income based valuation approach, as our first valuation methodology, in combination with the market approach, using comparable transactions (discounted for coal reserve depletion and project development risk) for any residual coal resource remaining post the DCF forecast production schedule.

The DCF methodology, assesses the value of an asset as equal to the Net Present Value (**NPV**) of the future cash flows expected to be generated by the asset.

To determine the NPV, the expected future cash flows of an asset must first be estimated and then discounted to a single value using a discount rate which reflects:

- the time value of money (i.e., money available now is worth more than the same amount of money in the future due to the erosional effects of inflation over time on purchasing power and the opportunity to invest the money and earn a return); and
- the risk associated with the future cash flows (i.e., the risk that the amount and timing of the actual cash flows generated from the asset are different to those that were expected).

The DCF methodology captures the fundamental principle of valuation, that the value of an asset is equal to the risk-adjusted present value (**PV**) of the future financial benefits expected from that asset, since it captures all of the following elements from the perspective of market participants at the Valuation Date:



- an estimate of future cash flows for the asset;
- expectations about possible variations in the amount and timing of the cash flows representing the uncertainty inherent in the cash flows;
- the time value of money, represented by the rate on risk-free monetary assets that have maturity;
- dates or durations that coincide with the period covered by the cash flows and pose neither uncertainty in timing nor risk of default to the holder (i.e. a risk-free interest rate);
- the price for bearing the uncertainty inherent in the cash flows (i.e. a risk premium);
- other factors that market participants would take into account in the circumstances; and
- for a liability, the non-performance risk relating to that liability, including the entity's (i.e. the obligor's) own credit risk.

In undertaking the DCF analysis we have adopted a base case set of assumptions, and then considered alternative upside High Case, and downside Low Case, assumptions as set out in Section 8.5 below.

In considering the value of any residual coal resource remaining post the DCF forecast production schedule, we have valued the remaining resource using comparable transactions after additional discount for coal reserve depletion and project development risk.

#### 8.4.2 Second Valuation methodology

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The VALMIN Code recommends the use of two valuation approaches in valuing a mineral asset, unless it is impractical to do so.

Accordingly, we have utilised the comparable transactions methodology, a market based valuation approach to provide a second basis of value for the Dartbrook Project.

The comparable transactions methodology is widely used as it takes into account the subject project's specific features in relation to similar or competing projects. In addition, because of the currency of its data, the approach incorporates present market realities.

It is based on the principal of substitution (ie that a buyer will pay no more for the subject project than would be sufficient to purchase a comparable project) and contribution (ie that specific characteristics add value to a project).

The transactions deemed to be comparable to the mineral asset being valued are used to determine a unit price (eg \$/ t or \$/km<sup>2</sup>) for the asset.

While this method is used widely in the minerals industry, it contains a number of weaknesses that may undermine the accuracy of this method:

- it is limited in that every mineral project is unique. As a result, it is often difficult to find a good reliable comparable dataset;
- the market must be active, otherwise sales prices lack currency and reliability;
- there is an intricate value dynamic between the quantity (size) and quality (grade or prospectivity) of deposits that may result in the exclusion of a large number of comparable transactions;
- the disclosed price of an asset may not necessarily equate to the value of the tenement, as the calculated value may be influenced by factors such as the arrangement of debt financing, marketing rights, contingent payments, and future royalties; and

- the method is largely retrospective and may not consider anticipated or recent commodity or other variable value drivers.

Where information about the prospectivity of an asset is available (such as an Ore Reserve, Mineral Resource or Exploration Target), this information will be the primary driver of value.

Preference is therefore given, where appropriate, to valuing a mineral asset using an EV/Ore Reserve multiple, over an EV/Mineral Resource multiple and, similarly, an EV/Mineral Resource multiple over an EV/Exploration Target multiple given the increased level of geological and technical confidence.

We have applied the comparable transactions methodology by valuing the Tenements with reference to EV/reserve multiples for producer assets, and EV/t resource multiples for developer assets implied from transactions involving comparable assets to the Dartbrook Project.

We have only identified 1 ‘producer’ sales transaction which we consider comparable to the Dartbrook Project within relevant time frames, the Springvale and Angus Place transaction from December 2019 as set out in Table 8.7 below.

We have identified four broadly comparable ‘developer’ transactions to the Dartbrook Project within relevant time frames, including two transactions we consider closely comparable, the Maxwell transaction from February 2018 and the Spur Hill transaction of September 2015 as set out in Table 8.7 below.

## 8.5 DCF analysis

Table 8.3 below presents Xenith’s assessment of the Value of the Dartbrook Project at the Valuation Date using the DCF methodology and additional residual resource using the comparable transaction methodology.

**Table 8.3 – Dartbrook Project DCF assessment summary (\$M)**

Methodology	Low (\$M)	High (\$M)	Base (\$M)	Preferred (\$M)
DCF	-159.4	194.8	-1.6	Nil to Nominal Amount
Residual Resource component ~711Mt (EV/T Resource)	11.5	11.3	11.4	n.a
<b>Total DCF/Residual Resource</b>	<b>-\$147.9M</b>	<b>\$206.1M</b>	<b>\$9.8M</b>	n.a

Source: Xenith analysis

In undertaking our analysis we have assessed three alternative production and cost scenarios based upon the above factors as summarised below:

- Base Case (NPV -\$1.6M)**
  - 5-year mine life inclusive of an 18mth mine refurbishment and ramp up period to establish Bord and Pillar mining at maximum 1.5 million ROMtpa;
  - Longwall mining inclusive of a 2 year ramp up to maximum total mine production of 6Mtpa;



- Forecast coal pricing based on the median coal price forecasts and FX effective at the Valuation Date; and
  - Discount rate of 7% real, 9.5% nominal in line with NSW Government guidance<sup>41</sup> and industry peer review undertaken by Xenith.
- **High Case (NPV \$194.8M)**
    - 5-year mine life inclusive of a 12mth mine refurbishment and ramp up period to establish Bord and Pillar mining at maximum 1.5 million ROMtpa;
    - Longwall mining inclusive of a 2 year ramp up to maximum total mine production of 6Mtpa;
    - Forecast coal pricing based on the 3rd quartile coal price forecasts and FX at the Valuation Date to reflect potential medium – long term strength in commodity prices;
    - CPI forecast adjusted proportionally with the coal price premium against the base case median coal price; and
    - Discount rate of 10% real reflective of a stronger inflationary commodity environment, 12.5% nominal.
  - **Low Case (NPV -\$159.4M)**
    - 5-year mine life inclusive of a 24mth mine refurbishment and ramp up period to establish Bord and Pillar mining at maximum 1.5 million ROMtpa;
    - Longwall mining inclusive of a 2 year ramp up to maximum total mine production of 6Mtpa;
    - Forecast coal pricing based consistent with the Base Case given current market strength at the median coal prices and FX effective at the Valuation Date; and
    - Discount rate of 7% real, 9.5% nominal as per Base Case.

### 8.5.1 DCF – basis of assessment

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In undertaking our base case DCF assessment of the Dartbrook Project (DCF Analysis) we have reviewed and considered:

- Feasibility Study forecast
- Model forecast
- MOD 7 orders
- other sources provided and publicly available information.

We have identified a range of factors relevant to our DCF Analysis, including the following significant items, as set out in the above sections of this Report:

- elements of the MOD 7 orders impact the cost, capital expenditure (**CAPEX**) and potential production schedule of the Dartbrook Project, and accordingly are material to the Valuation as they require the Dartbrook Project to:
  - produce a maximum of 6Mtp.a of ROM coal made up of:
    - a maximum of 1.5Mtpa ROM Coal from bord and pillar mining; and

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<sup>41</sup> <https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/guidelines-for-the-economic-assessment-of-mining-and-coal-seam-gas-proposals-2015-12.pdf?la=en>, [https://www.treasury.nsw.gov.au/sites/default/files/pdf/TPP07-5\\_NSW\\_Government\\_Guidelines\\_for\\_Economic\\_Appraisal.pdf](https://www.treasury.nsw.gov.au/sites/default/files/pdf/TPP07-5_NSW_Government_Guidelines_for_Economic_Appraisal.pdf)



- produce up to 4.5Mtpa of ROM Coal from longwall mining in the case of the above bord and pillar mining, or up to 6Mtpa with no bord and pillar mining, subject to the regulatory approval of an updated long wall mining extraction plan;
- utilise the Hunter Tunnel for all ROM coal clearance and handling;
- upgrade the CHPP for noise mitigation measures; and
- cease mining operation by the 5 December, 2027.
- the timeframe between the Dartbrook Project first being placed under C&M from January 2007, until confirmation of the MOD 7 orders, has meant the project, including existing underground workings, mine and surface infrastructure have now sat idle for over 15 years;
- our site inspection has identified various potential constraints and issues not previously allowed for in the Mining Information, Feasibility Study or Model including:
  - the historic nature of the Feasibility Study CAPEX and operating cost base is not reflective of current market rates;
  - the deteriorated condition of the assets since the re-start studies were prepared warrant consideration of further cost increases;
  - additional ramp up time to first coal from six to twelve months over and above the Feasibility Study assumptions is likely to be required to allow for known requirements of dewatering the Hunter Tunnel, remediating strata defects, and re-establishing regulatory compliance, and the probable requirement for additional strata and equipment refurbishment since the re-start studies were prepared;
- restrictions exist with respect to the potential open cut mining Resource previously declared as part of the Dartbrook Project, the ‘State Environmental Planning Policy (Resources and Energy) 2021’ prohibits any open cut mining at Dartbrook<sup>42</sup>
  - accordingly the total “non open cut Resource” is 731Mt after allowing for the 1,803Mt open cut resource<sup>43</sup>; and
- the Tenements, with the exception of CL 386, have renewals pending, accordingly, Xenith is unable to confirm the Tenements ‘good standing’ and note that this presents a regulatory risk to the Dartbrook Project.

Accordingly, for Xenith’s DCF Analysis we have relied upon the Model, updated to reflect the above factors and other current market conditions, and informed by the Longwall Model where applicable, as the basis of our assessment (**Xenith Model**).

Table 8.4 below sets out the key inputs and assumptions adopted:

- in the Xenith Model as the basis for our DCF Analysis compared to those assumed in the Feasibility Study, the Model, and the Xenith Model
- for alternative refurbishment and ramp up periods due to the uncertain nature of the works involved, and reflecting the upper and lower quartile in commodity price forecasts respectively, for our upside (High) and downside (Low) scenario on our base case DCF Analysis (**DCF Scenarios**).

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<sup>42</sup> State Environmental Planning Policy (Resources and Energy) 2021, Part 2.11 and Schedule 1, (<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731#sec.2.11>)

<sup>43</sup> Australian Pacific Coal, Completion of Open Cut Pre-Feasibility Study for Dartbrook Project, 28 March 2018, Page 8.



**Table 8.4 – Dartbrook Project DCF Analysis input and assumption summary**

Items	Feasibility Study (Feb 2017)	The Model (2018)	Xenith Model
Life of Mine (LOM) Project Schedule	5.75 to 6-year mine life, Bord and Pillar mining maximum 2.5 million ROMt per annum	8-year mine life, Bord and Pillar mining maximum 2 million ROMt per annum	<p><b>Base Case –</b> 5-year mine life inclusive of an 18mth mine refurbishment and ramp up period to establish Bord and Pillar mining at maximum 1.5 million ROMtpa, supplemented by Longwall mining after a 2 year ramp up to maximum total mine production of 6Mtpa.</p> <p><b>High Case –</b> 5-year mine life inclusive of a 12mth mine refurbishment and ramp up period to establish Bord and Pillar mining at maximum 1.5 million ROMtpa, supplemented by Longwall mining after a 2 year ramp up to maximum total mine production of 6Mtpa.</p> <p><b>Low Case –</b> 5-year mine life inclusive of a 24mth mine refurbishment and ramp up period to establish Bord and Pillar mining at maximum 1.5 million ROMtpa, supplemented by Longwall mining after a 2 year ramp up to maximum total mine production of 6Mtpa.</p>
Duration to Full Production Schedule	<ul style="list-style-type: none"> <li>• Pre-production period: 6 months including 3 mths non-development time prior to commencement</li> <li>• Ramp Up to Full Production period: approximately 18 months</li> <li>• Total Duration: 24 months</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-production period: 7 months</li> <li>• Ramp Up to Full Production period: 5 months</li> <li>• Total Duration: 12 months</li> </ul>	<p><b>Base Case –</b></p> <ul style="list-style-type: none"> <li>• Pre-production period from 1 June 2022: 13 months</li> <li>• Ramp Up to Full Production period: 5 months</li> <li>• Total Duration: 18 months</li> </ul> <p><b>High Case –</b></p> <ul style="list-style-type: none"> <li>• Pre-production period from 1 June 2022: 7 months</li> <li>• Ramp Up to Full Production period: 5 months</li> <li>• Total Duration: 12 months</li> </ul> <p><b>Low Case –</b></p>



Items	Feasibility Study (Feb 2017)	The Model (2018)	Xenith Model
			<ul style="list-style-type: none"> <li>• Pre-production period from 1 June 2022: 19 months</li> <li>• Ramp Up to Full Production period: 5 months</li> <li>• Total Duration: 24 months</li> </ul>
Forecast Coal Prices	Mid-pricing coal prices 2017 to 2022 in AUD/t: <ul style="list-style-type: none"> <li>• 2017 - 116</li> <li>• 2018 - 120</li> <li>• 2019 - 116</li> <li>• 2020 - 120</li> <li>• 2021 - 130</li> <li>• 2022 - 133</li> </ul>	Coal prices from 2018 to 2027 in USD/t: <ul style="list-style-type: none"> <li>• 2018 - 100</li> <li>• 2019 - 100</li> <li>• 2220 - 95</li> <li>• 2021 to 2027 - 90</li> </ul>	Mean forecast coal prices in USD/t (Nominal) <sup>44</sup> : <ul style="list-style-type: none"> <li>• 2022 - 244</li> <li>• 2023 - 157</li> <li>• 2024 - 105</li> <li>• 2025 - 88</li> <li>• 2026 - 85</li> <li>• 2027 - 87</li> </ul>
Forecast FX AUD:USD	Revenue exchange rate sensitivity analysis ranging from AUD:USD 0.70 to 0.90	AUD:USD of 0.75 for the life of the project	Mean forecast FX AUD:USD <sup>45</sup> : <ul style="list-style-type: none"> <li>• 2022 – 0.73</li> <li>• 2023 to 2027 – 0.75</li> </ul>
Inflation on historical OPEX and CAPEX	Determined as current (Real) OPEX and CAPEX estimates at time of study	Determined as current (Real) OPEX and CAPEX estimates at time of study	All Real CAPEX and OPEX from the 2017, 2018 and 2020 studies inflated to projected 2022 Real prices/costs using the ‘Producer Price Index – Input to the coal mining industry’, (Australian Bureau of Statistics, Dec 2021)’, resulting in ~13% inflation on 2017 figures and 5.3% on 2020 figures
Forecasted annual inflation (CPI)	No forecast future inflation applied	<ul style="list-style-type: none"> <li>• Annual 2.5% on OPEX used throughout LOM</li> <li>• No inflation on CAPEX identified through the life of the project</li> </ul>	CPI applied to all CAPEX and OPEX as of 2022 according to <sup>46</sup> : <ul style="list-style-type: none"> <li>• 2022 – 5.1%</li> <li>• 2023 – 3.0%</li> <li>• 2024 - 2.6%</li> <li>• 2025 - 2.5%</li> <li>• 2026 - 2.5%</li> <li>• 2027 - 2.5%</li> </ul>

<sup>44</sup> Bloomberg consensus figures and Consensus Economics forecasts, as provided by EYsAT, effective 25 May 2022

<sup>45</sup> Ibid

<sup>46</sup> EYsAT provided figures





Items	Feasibility Study (Feb 2017)	The Model (2018)	Xenith Model
Mine Closure Costs	No CAPEX allowed for underground mine closure or rehabilitation	An overhead of \$400k per annum defined as Rehabilitation Provision defined as an OPEX overhead	Underground mine closure costs sourced from NSW Government Summary Rehabilitation Cost Estimation dated the 20 <sup>th</sup> November 2017 costing \$8,903,379.19 and inflated to a forecast LOM closure price
Noise Reduction CHPP	Not a requirement at the time of the study	Not a requirement at the time of the study	CAPEX requirement of \$27M as required by MOD 7 orders
Hunter Tunnel Refurbishment	Identified to require minor remedial works. An approximate 400m section of the road identified as requiring remedial support costing \$158k	No identifiable CAPEX associated with direct remediation of the tunnel although some CAPEX has been provided for conveyors and bin repairs	As set out by Xenith's site inspection significant deterioration has occurred in the ground conditions involving the tunnel due to water ingress. It is assumed that 2000m of tunnel may require remediation and CAPEX has been defined for this work by increasing the Feasibility Study 400m section CAPEX five-fold to allow for the increased scope of work and inflated to 2022 prices.
CAPEX Costs	<ul style="list-style-type: none"> <li>Total: \$233.1M</li> <li>Pre-Production: \$129.3M</li> <li>Production /Sustaining: \$103.9M</li> </ul>	<ul style="list-style-type: none"> <li>Total: \$74M</li> <li>Pre-Production: \$74M</li> <li>Production /Sustaining: None</li> <li>Some CAPEX items may be imbedded in the OPEX</li> </ul>	<p><b>Base Case –</b></p> <ul style="list-style-type: none"> <li>Total: \$473.1M</li> <li>Pre-Production: \$148.7M</li> <li>Production/Sustaining: \$324.4M</li> </ul> <p><b>High Case –</b></p> <ul style="list-style-type: none"> <li>Total: \$477.2 million</li> <li>Pre-Production: \$59.9 million</li> <li>Production/Sustaining: \$417.3 million</li> </ul> <p><b>Low Case –</b></p> <ul style="list-style-type: none"> <li>Total: \$478.8M</li> <li>Pre-Production: \$160.3M</li> <li>Production/Sustaining: \$318.5</li> </ul>





Items	Feasibility Study (Feb 2017)	The Model (2018)	Xenith Model
Opex Unitised Costs	<ul style="list-style-type: none"> <li>• Mining: \$40.17 (\$/ROMt)</li> <li>• CHPP: \$5.76 (\$/ROMt)</li> <li>• Mine Site/Infrastructure: \$1.18 (\$/ROMt)</li> <li>• Rail &amp; Port: \$10 (\$/prodt)</li> <li>• Royalties: \$6 (\$/prodt)</li> <li>• Marketing: \$2 (\$/prodt)</li> </ul>	<ul style="list-style-type: none"> <li>• Mining (incl processing): \$27.1 (\$/ROMt)</li> <li>• Rail &amp; Port: \$10 (\$/prodt)</li> <li>• Royalties: \$8.75 (\$/prodt)</li> <li>• Marketing: \$1 (\$/prodt)</li> </ul>	Costs ranging across the three cases were as follows: <ul style="list-style-type: none"> <li>• B&amp;P Mining: \$50.82 to 51.91 (\$/ROMt)</li> <li>• CHPP: \$7.50 to 7.71 (\$/ROMt)</li> <li>• Mine Site/ Infrastructure: \$0.46 to 0.62 (\$/ROMt)</li> <li>• Rail &amp; Port: \$13.03 to 13.39 (\$/prodt)</li> <li>• State Royalties: \$8.57 to 10.45 (\$/prodt)</li> <li>• Marketing: \$0.79 to 1.06 (\$/prodt)</li> </ul>
Yield	• 75%	• 88%	• 75%
Coal Quality	• 5988 (kcal/kg NCV)	• Unknown	• 5988 (kcal/kg NCV)

### 8.5.2 DCF assessment outputs

Table 8.5 below provides the output of our DCF Analysis and DCF Scenario assessment.

**Table 8.5 – Dartbrook Project DCF Analysis and DCF Scenario assessment summary**

Items	Base Case DCF Analysis	High Case DCF Scenario	Low Case DCF Scenario
Coal Price (Nominal adjusted for coal quality)	<ul style="list-style-type: none"> <li>• 2022: 243.0 USD/t</li> <li>• 2023: 156.2 USD/t</li> <li>• 2024: 104.8 USD/t</li> <li>• 2025: 88.1 USD/t</li> <li>• 2026: 84.8 USD/t</li> <li>• 2027: 87.1 USD/t</li> </ul>	<ul style="list-style-type: none"> <li>• 2022: 265.7 USD/t</li> <li>• 2023: 198.1 USD/t</li> <li>• 2024: 143.5 USD/t</li> <li>• 2025: 107.3 USD/t</li> <li>• 2026: 97.3 USD/t</li> <li>• 2027: 97.6 USD/t</li> </ul>	<ul style="list-style-type: none"> <li>• 2022: 243.0 USD/t</li> <li>• 2023: 156.2 USD/t</li> <li>• 2024: 104.8 USD/t</li> <li>• 2025: 88.1 USD/t</li> <li>• 2026: 84.8 USD/t</li> <li>• 2027: 87.1 USD/t</li> </ul>
ROMt LOM	19,949kt	20,574kt	13,448kt
Saleable Tonnes LOM	14,961kt	15,430kt	10,086kt
OPEX/ROMt	<ul style="list-style-type: none"> <li>• Mining: \$37.22 (\$/ROMt)</li> <li>• CHPP: \$7.50 (\$/ROMt)</li> <li>• Mine Site/ Infrastructure: \$0.46 (\$/ROMt)</li> </ul>	<ul style="list-style-type: none"> <li>• Mining: \$38.10 (\$/ROMt)</li> <li>• CHPP: \$7.71 (\$/ROMt)</li> <li>• Mine Site/ Infrastructure: \$0.51 (\$/ROMt)</li> </ul>	<ul style="list-style-type: none"> <li>• Mining: \$37.55 (\$/ROMt)</li> <li>• CHPP: \$7.57 (\$/ROMt)</li> <li>• Mine Site/ Infrastructure: \$0.62 (\$/ROMt)</li> </ul>
Rail/ Port/ Marketing OPEX per (\$/prodt)	<ul style="list-style-type: none"> <li>• Rail &amp; Port: \$13.03 (\$/prodt)</li> <li>• State Royalties: \$8.80 (\$/prodt)</li> </ul>	<ul style="list-style-type: none"> <li>• Rail &amp; Port: \$13.39 (\$/prodt)</li> <li>• State Royalties: \$10.45 (\$/prodt)</li> </ul>	<ul style="list-style-type: none"> <li>• Rail &amp; Port: \$13.14 (\$/prodt)</li> <li>• State Royalties: \$8.58 (\$/prodt)</li> </ul>

Items	Base Case DCF Analysis	High Case DCF Scenario	Low Case DCF Scenario
	• Marketing: \$0.79 (\$/prodt)	• Marketing: \$0.87 (\$/prodt)	• Marketing: \$1.06 (\$/prodt)
CAPEX	\$473.1 million	\$77.2 million	\$478.8 million
CAPEX/ROMt	\$23.72 \$/ROMt	\$23.20 \$/ROMt	\$35.61 \$/ROMt
NPV	-\$1.6 million @9.5% (Nom')	\$194.8 million @12.5% (Nom')	-\$159.4 million @9.5% (Nom')

The DCF Analysis generates an NPV of negative -\$1.6M, with a low and high range indicated by the DCF Scenario's analysis of negative -\$159.4M (low) and positive \$194.8M (high) respectively.

Accordingly, the value produced by the DCF analysis is nil based on the Base Case DCF Analysis.

### 8.5.3 DCF assessment – value of residual resource

In our opinion, the negative results driven by all but the most optimistic of the DCF scenarios imply only nil to nominal value for the Dartbrook Project.

Notwithstanding the DCF assessment results, we recognise that a large residual coal resource of approximately 711Mt remains post the forecast period adopted by the DCF analysis up to the Mod 7 Closure Date.

Whilst any future development and mining of this residual resource is heavily contingent on future development risk and mine life extension as set out at section 1.3 above, it is reasonable to assume some strategic value for this residual resource, noting:

- the development risk associated with any mine life extension;
- the bord and pillar resource will have been virtually exhausted; and
- a material amount of the longwall mining reserve will have been already mined.

Accordingly, we have valued the residual resource on a comparable transaction basis using the Spur Hill transaction EV/t value as set out in section 8.6.3 below, discounted by a factor of 50% to reflect coal reserve depletion and project risk as set out above.

Table 8.6 below provides the output of our DCF Analysis residual resource comparable transaction assessment.

**Table 8.6 – Dartbrook Project DCF Analysis residual resource comparable transaction assessment**

Transaction Date	Target Asset	Market Adjusted EV/t (\$/t)	Residual Resource Low (Mt)	Residual Resource High (Mt)	Residual Resource Base (Mt)
09/15	Spur Hill	0.032			
	Coal reserve depletion and project risk adjustment factor	50%			
	Spur Hill adjusted EV/t	0.016			

Transaction Date	Target Asset	Market Adjusted EV/t (\$/t)	Residual Resource Low (Mt)	Residual Resource High (Mt)	Residual Resource Base (Mt)
	Residual resource post MOD 7 Closure Date		717.5	710.4	711.0
	<b>Implied value of residual resource (\$M)</b>		<b>\$11.5</b>	<b>\$11.3</b>	<b>\$11.4M</b>

For all but the most optimistic of the DCF scenarios, the DCF assessment results in material negative NPV's, with the base case supported only by potential residual value in any remaining resource post the MOD 7 Closure Date.

We emphasise the value of this residual resource is itself largely contingent on the various development risk factors noted at section 1.3 above.

#### 8.5.4 DCF assessment conclusion

Notwithstanding the Nil value generated from the DCF base case analysis, in our opinion, the Dartbrook Project could attract some nominal value (**Nominal Amount**) as a strategic investment option, albeit heavily contingent on successfully optimising the economics of the Dartbrook Project by:

- achieving an accelerated ramp up to full production in order to maximise coal production within the consented mine life;
- achieving a more cost effective restart and refurbishment; and
- realising a more positive set of commodity and FX factors in the near and medium term; and
- an assumption that approval for an extension of mine life can be achieved beyond the MOD 7 Closure Date.

The VALMIN Code recommends the use of two valuation approaches in valuing a mineral asset. Accordingly, we have used the Comparable Sales Transaction Method (a market based approach) as a second and alternative methodology applied on both an EV/t Resource, and EV/t Reserve, basis to inform our opinion with respect to the Nominal Amount.

#### 8.6 Comparable Transaction analysis

In undertaking the Comparable Transaction analysis we have considered the following aspects of the Dartbrook Project:

- Bord and pillar reserve – as noted in section 6.2, the total Kaygua bord and pillar reserve anticipated by the Mining Study is 9.6Mt;
- Longwall mining reserve – as noted in section 6.3.1 the longwall mining reserves dates from 2000 and insufficient underpinning material is available to confirm the reserve, AAMC abandoned longwall operations in the Wynn Seam and then in the Kayuga Seam due to operational difficulties, there remains 76 Mt of ROM coal identified as 'reserve' from the 2000 assessment in the Piercefield Seam;



- Open Cut reserve – as noted in section 6.3.2, the total open cut Reserve is of 470 Mt, however the MOD 7 orders do not permit open cut mining and the ‘State Environmental Planning Policy (Resources and Energy) 2021’ prohibits any open cut mining at Dartbrook<sup>47</sup>;
- Underground resources – as noted in section 5.5.3 the total underground resource is 731Mt after allowing for the 1,803Mt open cut resource<sup>48</sup> which as above is not permitted to be mined;
- as already detailed, the MOD 7 orders currently only provide for five years of mining to 5 December 2027, which increases the risk associated with investing beyond the current approved life of mine; and
- the Tenements, with the exception of CL 386, have renewals pending, accordingly, Xenith is unable to confirm the Tenements ‘good standing’ and note that this presents a regulatory risk to the Dartbrook Project;
- any future mining potential beyond the MOD 7 Closure Date will necessitate further regulatory application and approval which is likely, based upon the 4 year process and stakeholder interest in MOD 7, to be an extended process with no certainty or guarantee of success;
- historical royalty obligations exist to previous operating entities which create a liability for any future operator, over and above normal state government royalty payments; and
- contemporary market commentary suggests energy market imperatives, community expectations, and broader market investor appetite for pre-development thermal coal resources, have deteriorated in recent years compared to the most recent comparable transactions.

#### 8.6.1 Comparable Transaction valuation tonnages:

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To recognise the uncertainty and risk associated with the MOD 7 Closure Date and any potential extension of the mine life, we have assumed low and high range comparable transaction tonnage parameters for Reserve and Resources respectively of:

- Low Range Reserve – total minimum reserve of 30Mt for comparison on an EV/tonne reserve basis, and zero open cut resource, representing the maximum tonnage allowed to be mined in the approximate 5yr period remaining to the Mod 7 Mine Closure Date, and where comparable transactions exist for developer assets;
- High Range Reserve – total reserve of 85.8Mt for comparison on an EV/tonne reserve basis, and zero open cut reserves, representing that volume deemed economic to mine for the Kayuga bord and pillar and Piercefield long wall areas, and where comparable transactions exist for producing assets;
- Low Range Resource – total minimum resource of 30Mt underground resource, and zero open cut resource, representing the maximum tonnage allowed to be mined in the approximate 5yr period remaining to the Mod 7 Mine Closure Date, and where comparable transactions exist for developer assets; and
- High Range Resource – total maximum resource of 731Mt underground resource, and zero open cut resource, representing the total underground JORC Resource assuming a successful extension of mine life beyond the Mod 7 Mine Closure Date, and where comparable transactions exist for developer assets.

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<sup>47</sup> State Environmental Planning Policy (Resources and Energy) 2021, Part 2.11 and Schedule 1, (<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731#sec.2.11>)

<sup>48</sup> Australian Pacific Coal, Completion of Open Cut Pre-Feasibility Study for Dartbrook Project, 28 March 2018, Page 8.



### 8.6.2 Comparable Transactions identified:

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We have only identified 1 ‘producer’ sales transaction which we consider comparable to the Dartbrook Project within relevant time frames, the Springvale and Angus Place transaction from December 2019 as set out in Table 8.7 below.

We consider the Springvale and Angus Place transaction closely comparable since it:

- Producers thermal coal;
- operates underground coal mines;
- utilise predominantly longwall mining methods in line with the Dartbrook Reserve base; and
- is situated in Lithgow NSW reflecting NSW specific market characteristics.

We have identified four broadly comparable ‘developer’ transactions to the Dartbrook Project within relevant time frames, including two transactions we consider closely comparable, the Maxwell transaction from February 2018 and the Spur Hill transaction of September 2015.

We consider the Maxwell and Spur Hill transactions more closely comparable since they:

- represents exploration development projects with underground coal mining potential;
- are located in the Hunter Valley within a similar geographical location to Dartbrook;
- have bord & pillar and longwall potential at the time of the transaction.

We consider the Cooroora & Mt Hillalong, and North Surat Projects only broadly comparable since they:

- are located in Queensland and do not necessarily reflect specific NSW market characteristics;
- in the case of Cooroora & Mt Hillalong include a significant metallurgical coal element;
- in the case of the Surat Project, contains a large open cut resource and the transaction dates over seven years to 2014.

### 8.6.3 Comparable Transaction analysis:

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In undertaking our Comparable Transaction analysis, we have assumed an average of the identified comparable transactions ‘market adjusted EV/t’, after adjusting for changes in FX and coal price between the transaction date, and the five year average forecast FX and coal price for the period up to the MOD 7 Closure Date, as forecast at the Valuation Date. We have applied this adjustment factor to the High and Low tonnage scenarios set out in section 8.6.1 above.

Our Comparable Transaction analysis is summarised in Table 8.7 below.



**Table 8.7 – Dartbrook Project comparable transaction, EV/t Reserve (Producer) and EV/t Resource (Developer) assessment summary** (note: closely comparable developer transactions appear in **bold**)

Transaction Date	Target Asset	Market Adjusted EV/t (\$/t)	Dartbrook Project Low (Mt)	Implied Value Dartbrook Project (\$M)	Dartbrook Project High (Mt)	Implied Value Dartbrook Project (\$M)
		(a)	(b)	(c) = (a) x (b)	(B)	(C) = (a) x (B)
19/12/19	Springvale & Angus Place (Springvale JV)	1.396				
Reserve: Average Market Adjusted Factor Closely Comparable Transactions		1.396	30	\$41.88M	85.8	\$119.77M
<b>26/02/18</b>	<b>Maxwell</b>	<b>0.075</b>				
28/09/17	Cooroorah & Mt Hillalong	0.013				
<b>09/15</b>	<b>Spur Hill</b>	<b>0.032</b>				
23/12/14	North Surat Project	0.194				
Resource: Average Market Adjusted Factor developers comparable data set		0.079	30	\$2.36M	731	\$57.42M
<b>Resource: Average Market Adjusted Factor developers closely comparable</b>		<b>0.054</b>	<b>30</b>	<b>\$1.61M</b>	<b>731</b>	<b>\$39.22M</b>

Source: Bloomberg and Consensus Economics consensus commodity forecast and FX data (assumed average of the forward 5yr Real forecasts FY23 - FY27)

The Comparable Sales Transaction assessment generates implied value ranges of:

- \$1.61M (low) and \$39.22M (high) on an EV/t Resource basis and based on the developers closely comparable data set of transactions;
- \$41.88M (low) and \$107M (high) on an EV/t Reserve basis reliant on a single Comparable Sales Transaction containing reserves, and subject to the large historic longwall mining reserve; and
- \$2.36M (low) and \$57.42M (high) on an EV/t Resource basis and based on the full developers comparable data set of transactions.

The valuation ranges based on the Comparable Transaction analysis is summarised in Table 8.8 below.

**Table 8.8 – Dartbrook Project comparable transaction assessment summary**

Methodology	Low (\$M)	High (\$M)	Mid (\$M)	Preferred (\$M)
EV/T Reserve (producer comparable)	\$41.88M	\$119.77M	\$80.82M	n.a
EV/T Resource (developer comparable data set)	\$2.36M	\$57.42M	\$29.89M	n.a

Methodology	Low (\$M)	High (\$M)	Mid (\$M)	Preferred (\$M)
EV/T Resource (developers closely comparable)	\$1.61M	\$39.22M	\$20.41M	\$11.01M

In our opinion the EV/t Resource transactions for developers that are closely comparable is the most appropriate indicator of Market Value of the Dartbrook Project since they:

- are based on transactions involving similar and closely comparable assets to the Dartbrook Project;
- presents a set of transactions and does not rely solely on a single transaction;
- as a developer market transaction, is more likely to reflect the uncertainty associated with future development faced by the Dartbrook Project beyond 2027, than a reserve based producer transaction;
- the mid-point of \$20.41M falls within the broader ranges, at approximately the 37<sup>th</sup> percentile, of the developer comparable data set of \$2.36M to \$57.42M;

For the reasons set out in section 1.3, and since the Dartbrook Project is not in production in our opinion the application of a reserve based multiple implying comparability with producing operations is appropriate in this instance; and

For the reasons set out in section 8.6.2 we consider the Cooroorah & Mt Hillalong, and North Surat Projects only broadly comparable since they are located in Queensland and do not necessarily reflect specific NSW market characteristics, include a significant metallurgical coal element and contain a large open cut resource.

#### 8.6.4 Preferred Value:

With consideration to:

- the outcomes of the DCF analysis;
- the extensive operational, cost and capex risk associated with restarting the Dartbrook Project as set out at section 1.3;
- the MOD 7 production limitations and constraints;
- the uncertainty and risk associated with any potential life of mine extension beyond the MOD 7 Closure Date,

in our opinion, the Market Value of the Dartbrook Project is likely to be in the lower end of the valuation range indicated by the developers closely comparable, Comparable Transaction Analysis.

Accordingly, with consideration to the range of relevant factors that we consider material to the technical standing and valuation of the Dartbrook Project, we consider the value of the Dartbrook Project to be at the low end of the developers closely comparable, Comparable Sales Transaction range.

Our preferred Market Value of \$11.01M is based on the mid-point of the lower half of the developers closely comparable, Comparable Sales Transaction range and noting, as set out in section 1.4 above, this valuation does not consider the historical royalty obligations to previous operating entities specific to the Dartbrook Project or any other royalty obligations arising out of any future transaction.



APPENDIX A. LETTER OF INSTRUCTION







Ernst & Young Strategy and Transactions  
Limited  
200 George Street  
Sydney NSW 2000 Australia  
GPO Box 2646 Sydney NSW 2001

Tel: +61 2 9248 5555  
Fax: +61 2 9248 5959  
ey.com/au

31 March 2022

Mr Troy Turner  
Xenith Consulting Pty Ltd  
Level 6, 40 Creek Street  
Brisbane VIC 3000

## Independent Technical Specialist's Report

Dear Sir

Ernst & Young Strategy and Transactions Limited ("EYSaT") has been appointed by the Directors of Australian Pacific Coal Limited ("AQC") to prepare an independent expert's report ("IER") in relation to a proposed sale of assets to a related party ("Transaction"). We understand that in accordance with a Binding Offer and Term Sheet ("Offer"), Trepang Services Pty Limited ("Trepang") and associated entities propose to acquire all of the issued shares in AQC Investments 2 Pty Ltd and its subsidiaries ("AQC Investments") (which hold all assets comprising the Dartbrook Coal Project). The consideration for the transaction is comprised of the novation of all loans from Trepang and associated entities, as well as the grant of a coal royalty from the Dartbrook Coal Project based on achieving certain future coal prices.

As the proposed Transaction involves a sale of a substantial asset to a related party, ASX Listing Rule 10.1 requires the approval of the holders of the company's non-associated security holders. The Notice of Meeting to be sent to security holders must include a report from an independent expert providing an opinion as to whether the transaction is fair and reasonable.

A key aspect of our analysis will be the assessment of the value of AQC Investment's assets. The assets include the tenements, land and all other assets, plant and equipment, approvals and other rights and interests comprising the Dartbrook Coal Project. Given the nature of these assets we will require an independent technical specialist to assist us in assessing the current fair value of certain assets. We understand that AQC management has had discussions with, and intends to appoint, Xenith as the independent technical specialist. AQC is appointing Xenith and, in conjunction with EYSaT, is responsible for setting the scope of your engagement, which will include the following:

- ▶ Review of relevant data and reports available with respect to AQC's key asset of Dartbrook
- ▶ Consideration of any updated technical geophysical, geological and engineering data, JORC reserves and resources, development and drilling plans, production profile (including production volumes, operating costs, capital costs and exploration potential)
- ▶ Understanding of the current development approval status and risks
- ▶ Consideration of an appropriate valuation methodology in accordance with the VALMIN code
- ▶ Valuation of the Dartbrook project using an appropriate methodology. Where the income approach is the primary approach, consideration of any Life-of-Mine model (the "Model") prepared by AQC. Your role will be to determine the reasonableness of the technical and operational assumptions upon which the Model is based, including the reserves and contingent resources, production life, operating costs, capital costs and any other technical input viewed as necessary to conclude on the reasonableness of the operating assumptions. EYSaT will provide the economic and financial assumptions around commodity prices, exchange rates and inflation rates. In the interests of clarity, Xenith will be responsible for consideration of the following:

- ▶ Mining and processing operations and supporting site infrastructure, including confirmation of production estimates, operating costs and capital costs
- ▶ Environmental costs pertaining to the operating mines (and extensions or expansions to those mines), including confirmation of rehabilitation, environmental bonds and closure cost
- ▶ Consideration of the technical and operational assumptions (including any technical risking factors) for any reserves and contingent resources that are not included in the Model (if any)
- ▶ Where the income approach is a secondary methodology any review of assumptions may be limited to only key material assumptions.

The subject of Xenith's work will be the Dartbrook Coal Project.

It is intended that the results of your work will be presented in a report (the "Technical Specialist Report"), which will be attached in full as an appendix to the IER. The IER, inclusive of the Technical Specialist Report, will accompany the Notice of Meeting to be sent to shareholders of AQC. Given our reliance on the Technical Specialist Report we request that you address the report to us.

In order for us to rely on the work and the Technical Specialist Report, we request that:

- the work completed is, where appropriate, in accordance with the Australasian code for public reporting of technical assessments and valuations of mineral assets (2015 Edition);
- we are given the opportunity to hold discussions with yourselves in order to satisfy ourselves as to:
  - the source data used and how you satisfied yourself as to it being sufficient, relevant and reliable; and
  - the rationale for the assumptions used in your report, if any;
- you confirm your independence from the parties associated with the proposed Transaction.

We expect that our work would need to commence immediately and be completed in a short timeframe from when final transaction terms are confirmed. We will require your draft report within three to four weeks of commencement.

While EYSaT seeks to rely on the work undertaken by Xenith, AQC will appoint and be responsible for the payment of your professional fees. On this basis could you please prepare a proposed letter of engagement addressed to AQC confirming the intended scope of work, and an estimate of fees. We will require confirmation from you in the engagement agreement that EYSaT is entitled to rely on the Technical Specialist Report and is able to refer to the content of the report in the IER. All discussions in relation to fees and other engagement terms should be directed to AQC.



**Building a better  
working world**

Should you have any questions in relation to this letter please do not hesitate to contact me on 0400 177 217. If you could sign the Acknowledgement included below and return a copy of this letter to us it would be much appreciated.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Julie W', is written over a light grey rectangular background.

**Julie Wolstenholme**  
Director and Representative

### **Acknowledgement**

EYSaT shall be entitled to rely on the Technical Specialist Report and will be able to refer to the content of the report in the IER, subject to Xenith's prior written consent as to form and context.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

APPENDIX B. PROJECT TEAM





## ANDREW KNUCKEY

Manager Advisory

MBA (Financial Management) – Central Queensland University  
Dip Mining and Mineral Technology – Curtin University  
FAusIMM • AAICD



Andrew leads Xenith's Advisory service providing clients with valuation, expert witness, technical assessment, due diligence, and owners representative services.

Andrew has a portfolio of technical, operational and financial skills with over twenty years in the mining industry including Mine Management and corporate secondment to the London headquarters of global mining house Anglo American.

Andrew's extensive industry experience is complimented by twelve years company and asset valuation experience in financial advisory and equity markets as a top ranked resource sector analyst.

### Mining industry experience

- comprehensive mining industry career with Australian and international operations including over 12 years in the coal sector and 8 years in the precious and base metals sector
- leadership of large and complex coal operations with global mining house Anglo American including:
  - Mine manager Moura/Dawson operations (Queensland), producing over 8 million tonnes of metallurgical coking and thermal coal, and over 60 million cubic metres of overburden material, per annum
  - Mine manager German Creek open cut mine (Queensland), producing over 2 million tonnes of PCI coal and over 20 million cubic metres of overburden material, per annum. Development of major life of mine extension
  - Mine superintendent Callide mine (Queensland), producing over 6 million tonnes of thermal coal and over 40 million cubic metres of overburden material per annum
  - Advisory role to multiple South African coal operations
- leadership of large multifunctional workforces of over 700 persons including management of operational, technical, coal quality and contractor operations
- negotiation of industrial agreements, internal development proposals and strategic business plans
- strategic relationship management, international and cross-cultural border exposure
- safety and sustainable development leader, specialist advisor to corporate and divisional executive including corporate audits of diverse operating divisions
- Senior manager coal strategic business development including downstream coal to liquid projects.

### Financial advisory experience

- twelve years in Financial Advisory and Institutional Equity markets specialising in the metals and mining sector
- specialist skills in financial modelling, company and project valuation, strategy and the macro commodity environment
- Expert Witness and owners' representative services, financial evaluation and specialist advisor to corporate and divisional executive of exploration, mining and infrastructure companies, and Government departments
- extensive professional relationships with executive management of mining corporates and institutional investment market
- guidance to equity sales, trading, equity capital markets and debt financing
- top three ranked analyst in leading Australian Institutional Investor survey.

### Recent Assignments

Some assignments to which Andrew has undertaken and contributed to in his recent career include:

- due diligence for debt and equity investment purposes of a Queensland coal operation
- due diligence for M&A purposes of a globally significant international coal operation
- due diligence for M&A purposes of a Queensland coal operation
- life of mine strategic assessment for New South Wales coal operation

- lenders independent engineer, due diligence and assurance of major Australian coal mine development
- valuation of Indonesian coal assets for potential loss claim
- expert witness report regarding an Indonesian coal dispute for arbitration purposes
- expert witness report and valuation regarding Queensland coal assets dispute
- specialist advisory for insolvency sale of Queensland metallurgical coal mine
- expert witness report for a Queensland metallurgical coal acquisition dispute
- valuation for stamp duty purposes of a Queensland metallurgical coal operation
- valuation of a manganese project for a Northern Territory Aboriginal Land Council
- due diligence and project valuation for Queensland gold mining project
- due diligence and investment analysis for various Western Australian gold mining projects
- expert witness report and loss quantification for Queensland base metal royalty dispute
- valuation of Queensland copper and base metal exploration tenements for Joint Venture buy out
- expert witness report and valuation for major New Zealand steel producer
- Victorian Government financial support package cash flow monitoring of major industrial installation
- expert witness report for a manganese tenement dispute before the West Australian Wardens court
- valuation of a New South Wales gold mine for transfer duty purposes
- specialist advisory regarding valuation of exploration assets for audit purposes
- financial and economic review of major Australian industrial manufacturer for Victorian Government
- valuation of a farm-in and joint venture agreement over an international gold deposit
- expert determination regarding reserved mineral rights over a shared mining tenure
- due diligence of a Tasmanian base metals operation on behalf of a potential non-bank lender.

## Qualifications/Memberships

- MBA, Financial Management (Central Queensland University)
- Graduate Diploma in Management (Central Queensland University)
- Diploma in Mining and Mineral Technology (Western Australian School of Mines, Curtin University)
- Successful Acquisitions programme (Ashridge London School of Business)
- Australian (WA & QLD) Open Cut Mine Managers statutory certificates
- VALMIN Code Reporting short course (AusIMM)
- Professional Certificate in ESG and Social Responsibility (AusIMM)
- Affiliate Australian Institute of Company Directors
- Fellow of the Australasian Institute of Mining and Metallurgy

## Professional Experience

Manager Advisory	2020 – Current	Xenith Consulting Pty Ltd
Director Corporate Value Advisory	2017 – 2020	PwC Australia
Director Metals & Mining Equities Research	2008 – 2016	Commonwealth Bank of Australia
Senior Business Development Manager	2007 – 2008	Anglo American Plc – London
Executive Safety Adviser (Secondment)	2005 – 2007	
Mine Manager Moura (Dawson) Mine	2003 – 2005	Anglo Coal Australia
Mine Manager German Creek Mine	2001 – 2003	
Production Superintendent	1996 – 2001	
Project Manager	1990 – 1996	Macmahon Contractors
Mining Engineer	1989 – 1990	Leighton Contractors



## BERNHARD HEIZMANN

Principal Geologist

MSc (Geology) – Free University Berlin, Germany  
MAusIMM • Site Senior Executive (SSE)



Bernhard is a highly experienced geologist who has worked extensively in different roles in resource evaluation, geological modelling, operations and exploration.

This includes planning and managing exploration programs, database management, resource modelling and estimation, project and study reports, operational mine geology and coal quality assessment (thermal and coking coal). He is a Competent Person for JORC reporting as well as an exploration SSE. After early days in South Africa and Victoria, he has worked on coal projects in the Bowen and Galilee Basins for over 15 years.

### Expertise

- **Operations:** Responsible for all geological issues on several coal mines, including exploration, mine planning, horizon/grade control, contamination, yield/product quality predictions, reconciliations of tonnages and qualities; as well as managing the geology departments
- **Exploration:** Target generation; planning and execution of exploration programs (drilling and seismic); managing exploration departments (as SSE) which included budget and cost control, contract and contractor management; staff development and supervision, tenement management etc
- **Resource Evaluation:** Competent Person for JORC reporting of coal; data collection/validation (incl. coal quality), database management, geological modelling, resource estimation, resource reporting; audit/review, due diligence and study reports.

### Career Highlights

- **Xenith Consulting:** Due Diligence for sale of coal mines by major mining house; modelling and reconciliation support to operating coal mine; overburden model for WA gold mine
- **Vale:** Red Hill (East) exploration program, resource estimation and PFS report compilation
- **Hancock:** Completion of Kevin’s Corner Underground PFS study; Alpha mine exploration and resources
- **Anglo American:** Responsible for all of Anglo Coal’s exploration; 1000 LTI free exploration days.

### Professional Experience

Principal Geologist	2017 – Current	Xenith Consulting Pty Ltd
Exploration Manager and Technical Lead	2014 – 2016	Vale Exploration
Principal Resource Geologist	2012 – 2014	GHD Consulting
Geology Manager	2011 – 2012	Hancock Coal (GVK)
Exploration Manager	2001 – 2010	Anglo Coal Australia



## Gregor Carr

### Mining Engineer

BE Mining (University of Queensland)  
 Grad. Dip. In Mine Ventilation (University of New South Wales)  
 Member (AusIMM); RPEQ



### Profile

Gregor Carr is a Mining Engineer Professional with significant experience in the underground and open cut coal mining sectors in Australia since 1982. With specialised knowledge of longwall operations in the Bowen Basin and Hunter Valley, Gregor draws on extensive practical mining experience to enhance concept studies, life of mine plans, technical evaluations and optimisation studies.

### Expertise

- **Life of Mine Planning:** Identification of key value drivers, capability analysis and strategy development, fulfilling client corporate objectives;
- **Short and Mid Term Planning:** Optimisation of mining operations and creation of plans for immediate implementation
- **Scheduling:** Preparation of mine production forecasts for a longwall operation producing over 5 Mtpa. Coordination of schedules for an operation with two longwall mines and a two dragline open cut mine delivering over 4Mtpa clean coal.
- **Margin Ranking:** Maximisation of reserves through margin ranking
- **Design:** Development of longwall, highwall mining, dragline, prestrip, drill and blast designs, for multi-seam operations
- **Computer Proficiency:** Xpac, Deswik, Microsoft Office Suite, and MS Project
- **Reserve Estimation:** Reserve Statements in accordance with JORC and NI 43-101 guidelines
- **Operations:** Statutory coverage for underground and open cut operations

### Career Highlights

- **Palaris:** Preparation of Reserves Statements for client. Completion of concept studies. Reserves audits
- **Rio Tinto Coal:** Provided underground expertise for strategic mine planning studies
- **John T Boyd:** Completion of a mining study for the extension of an existing multi-seam open cut operation into a longwall operation. Due diligence support for an international entity's purchase of Australian assets.
- **Anglo Coal:** Provided planning support for dragline, highwall mining and longwall operations.
- **Callide Coalfields:** Member of a team that secured a 20 year power station feed contract

### Professional Experience

Independent Mining Consultant	2015 – Current	Self Employed
Senior Mine Planning Consultant	2013 – 2015	Palaris
Senior Mining Engineer / Principal Mining Engineer	2004 – 2013	Rio Tinto Coal Australia
Senior Engineer	2002 – 2004	John T Boyd
Senior Mining Engineer (Moranbah North) Senior Mining Engineer U/G (Brisbane)	1998 – 2002	Shell Coal / Anglo Coal
Mining Engineer / Senior Mining Engineer (Southern Colliery) Head of Surface Engineering (German Creek Open Cut)	1991 – 1998	Capricorn Coal Management
Mining Engineer / Senior Mining Engineer	1982 – 1991	Callide Coalfields



## CHRIS CAMPBELL

### Principal Mining Engineer



BEng (Mining) – University of New South Wales  
 Master Business & Technology – University of New South Wales  
 Site Senior Executive Qualified – Queensland  
 MAusIMM

Chris Campbell is a Mining Engineer with diverse experience, predominantly within the coal industry and has over 25 years of experience in owner/operator, contractor and consultant roles. With a thermal & metallurgical opencut operations background combined with expertise in dragline, truck & shovel, contractor management, drill & blast as well as coal quality & logistics management, Chris has lead a number multi-disciplinary technical teams responsible for delivery of technical services support for mining operations and corporate functions. Chris is able to provide technical & operational expertise that can assist with fulfilling client’s operational and strategic objectives.

### Expertise

- **Resource Sector Experience:** Opencut Coal (Thermal & Metallurgical), Iron Ore, Contract Earthmoving, Corporate Planning, Coal Mine Operational Management, Consulting & Advisory.
- **Due Diligence Studies:** Project reviews supporting acquisition and divestment activities.
- **Pre-Feasibility Studies:** Managing study teams to develop and assess project options.
- **Strategic Mine Planning:** Identification of key value drivers, capability analysis and strategy development.
- **Mid Term Planning:** Optimisation of mining operations to achieve key objectives.
- **Operational Mine Planning (Coal and Iron Ore):** Dragline & truck & shovel operational planning, drill & blast design, coal/ore quality and logistics management.
- **Contract Estimation/Bidding:** Development, from first principles, contract bids for mining projects.
- **Technical Team Management:** Management of technical teams to meet operational and corporate objectives (mining engineers, geologists, surveyors and coal quality professionals).
- **Project Management and Advisory:** Operational and technical project management focus on stakeholder engagement, meeting key milestones, deadlines and budget. Technical advisory capacity, and technical contribution management, to support project objectives.

### Career Highlights

#### Xenith Consulting:

- Due Diligence for opencut coal operation advising on further steps towards possible acquisition.

#### BHP Coal:

- Strategic plan development for Blackwater, South Walker Creek, Poitrel & Daunia operations. Providing strategic advice to operations to inform on production profiling, pit sequence development, equipment selection, environmental and regulatory approvals management, infrastructure development and mine site rehabilitation.
- Mid-term, operational planning and technical team management for the South Walker Creek operation resulting in the operation consistently achieving budget objectives.

#### Contractor Operation:

- Estimation and tender submission for development of greenfields operation near Blackwater resulting in successful bid.
- Business and cash flow management.

#### Curragh, German Creek, Premier Coal:

- Operations based technical planning management over numerous years.

### Recent Professional Experience

Principal Mining Engineer	2021 – Current	Xenith Consulting Pty Ltd
Superintendent – Strategic & Tactical Planning	2017 – 2020	BHP Corporate
Mine Planning Manager	2014 – 2017	BHP South Walker Operation
General Manager/Technical Manager	2012 – 2014	Link Mining Contractors



**KEN WASLEY**  
Principal Civil Engineer

BEng (Civil) – Queensland University of Technology



Ken is a principal civil engineer and has more than 35 years of experience in civil engineering and management for infrastructure, including over 20 years as a team manager, team leader and project manager. His experience includes mine infrastructure, major roads, residential & commercial subdivision, rail, airports, water supply and sewerage projects. He offers clients exceptional technical ability, strong management and communication skills, and knowledge derived from four decades of practical experience.

Ken has high-level skills in planning, design, client liaison, business development, cost estimating, contract administration, programming, quality assurance, site supervision and technical writing, demonstrated on small and large projects throughout Australia, as well as in Papua New Guinea, Indonesia, New Zealand and the Philippines.

**Expertise**

- **Planning and Design:** Concept through to detailed design for construct only or D & C contracts across all aspects of civil infrastructure particularly for road, rail and mining projects
- **Studies:** Undertaking concept, pre-feasibility, feasibility and supplementary studies especially for civil infrastructure associated with road, drainage and mining projects of all types
- **Technical Writing:** Specifications and study reports
- **Project Management:** Managing design and study projects of all types.

**Career Highlights**

- **Xenith Consulting:** Led infrastructure project design teams on several feasibility studies and detailed design projects, especially those associated with new mining projects for clients including Stanwell, Batchfire, New Hope, Yancoal, Mach Energy QCoal and Ensham Resources.

**WSP | Parsons Brinckerhoff:**

- Seconded to Adani Mining as Engineering Manager–Infrastructure on the integrated PMC team overseeing review of design consultants work and preparing and vetting contracts for construction of early work infrastructure components of the Carmichael Coal Mine Project
- Seconded into the MMG Owners Team as Value Engineering Reviewer to review and guide all civil design for the Dugald River Silver Lead Zinc Mine Project
- Lead the Coal Stream Alliance civil design team for both the Abbot Point Rail Upgrade Project, Goonyella to Abbot Point Expansion and the Surat Basin Rail Project Feasibility Study for Wandoan to Moura
- Over an 11 year period held the positions of Design Manager, Team Manager and Principal Civil Engineer on major projects as diverse as the Frieda River Copper Project in PNG, the Jacinth – Ambrosia Mineral Sands Mine Project, Eucla Basin, SA and the Dawson Coal Mine Project near Moura in QLD.
- **GHD:** Over an 18 month period, took on the challenge and succeeded in returning the Urban Development Group in Brisbane to profitability, something it hadn't experienced for some time.
- **KJ Wasley Consulting:** Contracted to John Holland Group as Acting Contract Quality Representative for the Pacific Motorway Upgrade Project - Package 1 in Nerang, QLD.

**Professional Experience**

Principal Civil Engineer	2015 – Current	Xenith Consulting Pty Ltd
Design Manager, Team Leader, Principal Civil Engineer	2004 – 2015	WSP   Parsons Brinckerhoff
Urban Development Group Manager	2003 – 2004	GHD
Director	1999 – 2003	KJ Wasley Consulting
Operations Manager, Associate Director	1993 – 1999	Hughes McNaughton Consultants



## GRANT PHILLIPS

Senior Business Analyst - Financial

BEng (Geological) – Royal Melbourne Institute of Technology  
Master of Finance (MFin) – Curtin University



Grant has over 20 years experience working within the mining and resources industry. He has almost 15 years in roles as an on-site mine Business Analyst reviewing and analysing financial and operational performance and identifying business and operational improvements, and as a Mining Financial Analyst delivering quality services ranging from capital and operating cost assessments through to analysing and developing detailed financial models in conducting economic, financial and strategic evaluations of mining projects. Grant’s earlier experience was as a geotechnical engineer in underground and open pit environments in roles varying from on-site roles at mine sites in operational and development stages to working on varying mining projects within the consultancy industry.

### Expertise

- **Mining Project Evaluation:** Value driver-based analysis including the assessment of alternate scenarios
- **Business Analysis:** Conducting variance analysis focusing on cost and value drivers and improvement opportunities
- **Financial Modelling:** Modelling for capital expenditure business cases through to life of mine and financials
- **Capital and Cost Forecasting:** Monthly forecasts to annual budgets and long terms plans
- **Cost Initiatives:** Identifying and implementing business and productivity improvement initiatives
- **Equipment Selection:** Ensure commercial input to selection process is weighed against operational fit
- **Project Management:** Ensure project delivery through strong communication, reporting and stakeholder engagement skills.

### Career Highlights

- **Thiess Pty Ltd:** Provided business analysis by tracking production and financial metrics, compared budgets and forecasts to actuals, reported on mining physicals, operational performance and operating costs, identified and managed costs drivers, identified and implemented business and productivity improvement initiatives and conducted financial modelling and cost benefit analysis on business cases and capital expenditure applications
- **IMC Group Consulting Ltd and URS/Scott Wilson Group:** Conducted financial modelling and capital and operating cost analysis in delivering economic and financial evaluations at various lifecycle stages of mining projects, identified critical performance issues and improvements for existing mines, defined issues in the financial viability of potential mines as well as analysed, forecasted and benchmarked capital and operating costs for mining projects.

### Professional Experience

Senior Business Analyst - Financial	2022 – Current	Xenith Consulting Pty Ltd
Business Analyst – Mt Owen Mine	2015 – 2021	Thiess Pty Ltd
Mining Financial Analyst	2011 – 2014	IMC Group Consulting Ltd (UK)
Mining Financial Analyst	2007 – 2011	URS/Scott Wilson Group (UK)
Project Manager/Technical Supervisor	2006 – 2007	
Geotechnical Engineer – Century Mine	2004 – 2006	Zinifex Limited
Geotechnical Engineer	2002 – 2004	GHD-Longmac Pty Ltd
Geotechnical Engineer – Telfer Gold Mine	2000 – 2002	Newcrest Mining Ltd
Contract Exploration Geologist	2000 – 2000	Mines and Resources Australia
Geotechnical Engineer – Telfer Gold Mine	1998 – 1999	Newcrest Mining Ltd
Geotechnical Engineer	1997 – 1998	BFP Consultants Pty Ltd

## APPENDIX C. GEOLOGY SUPPORTING MATERIAL

Figures from the AQC 2016 and 2017 Resource Reports





Figure C.1 – Seam Stratigraphy

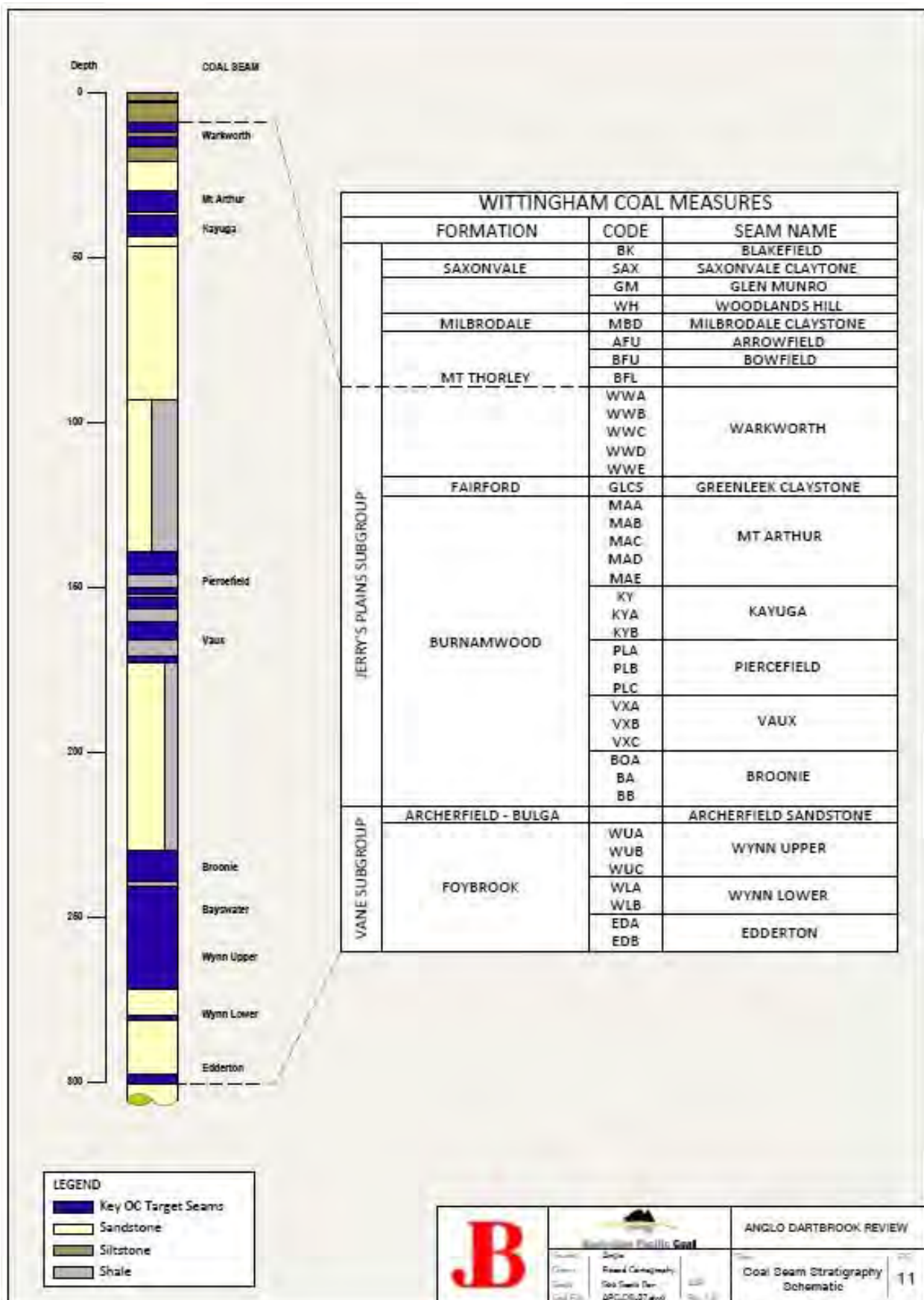


Figure C.2 – Drill holes

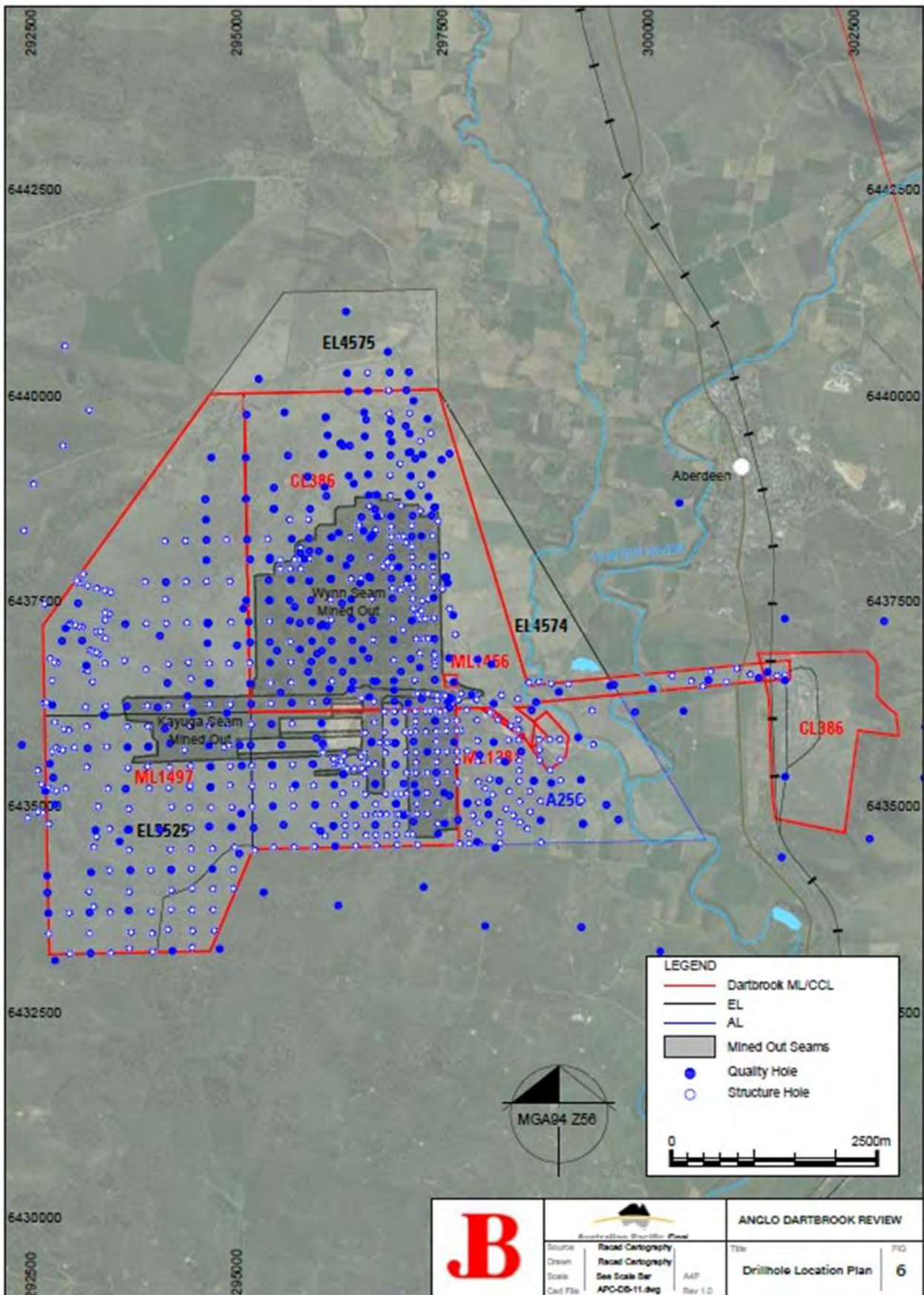




Figure C.3 – Seam subcrops

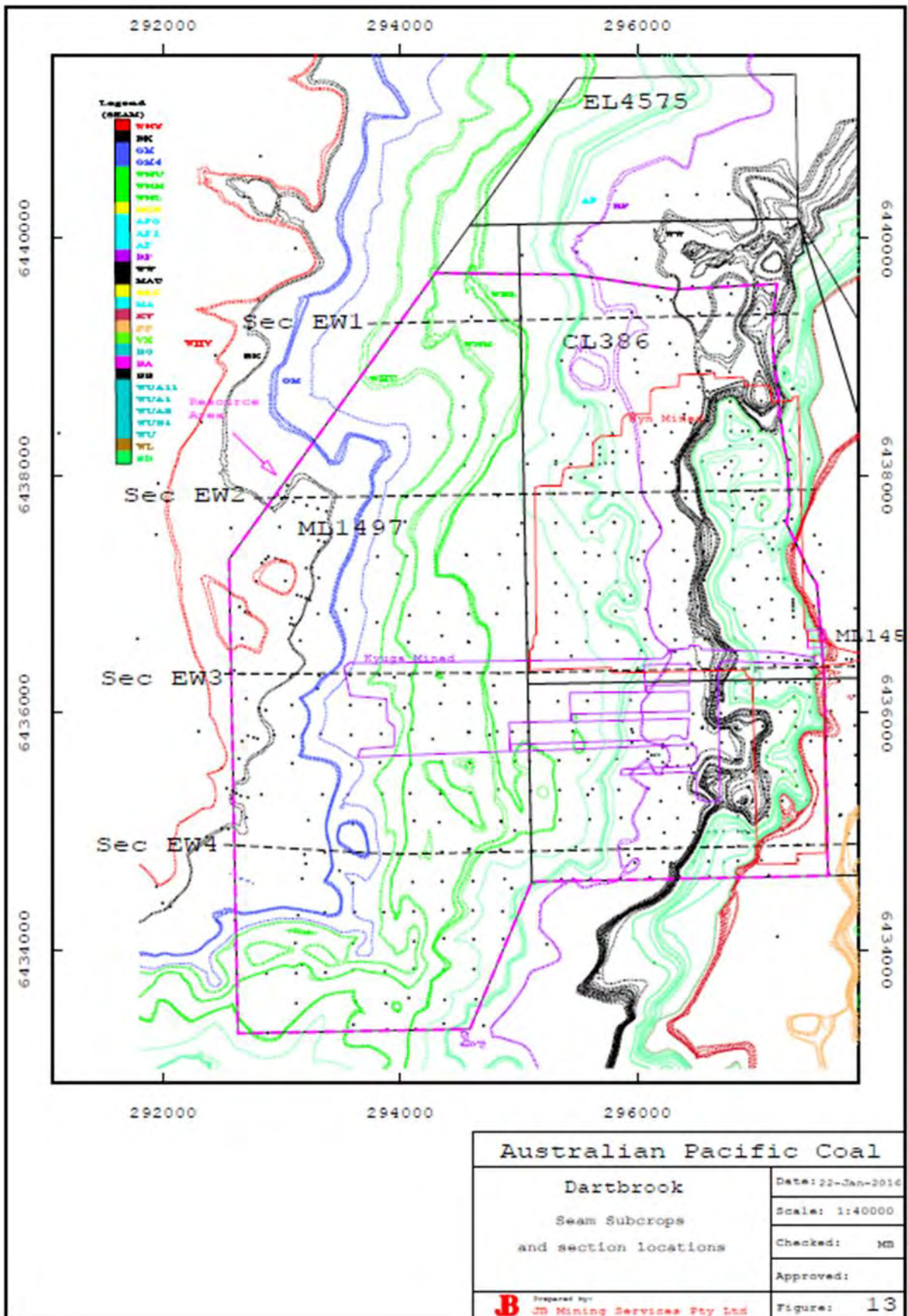




Figure C.4 – Representative cross section

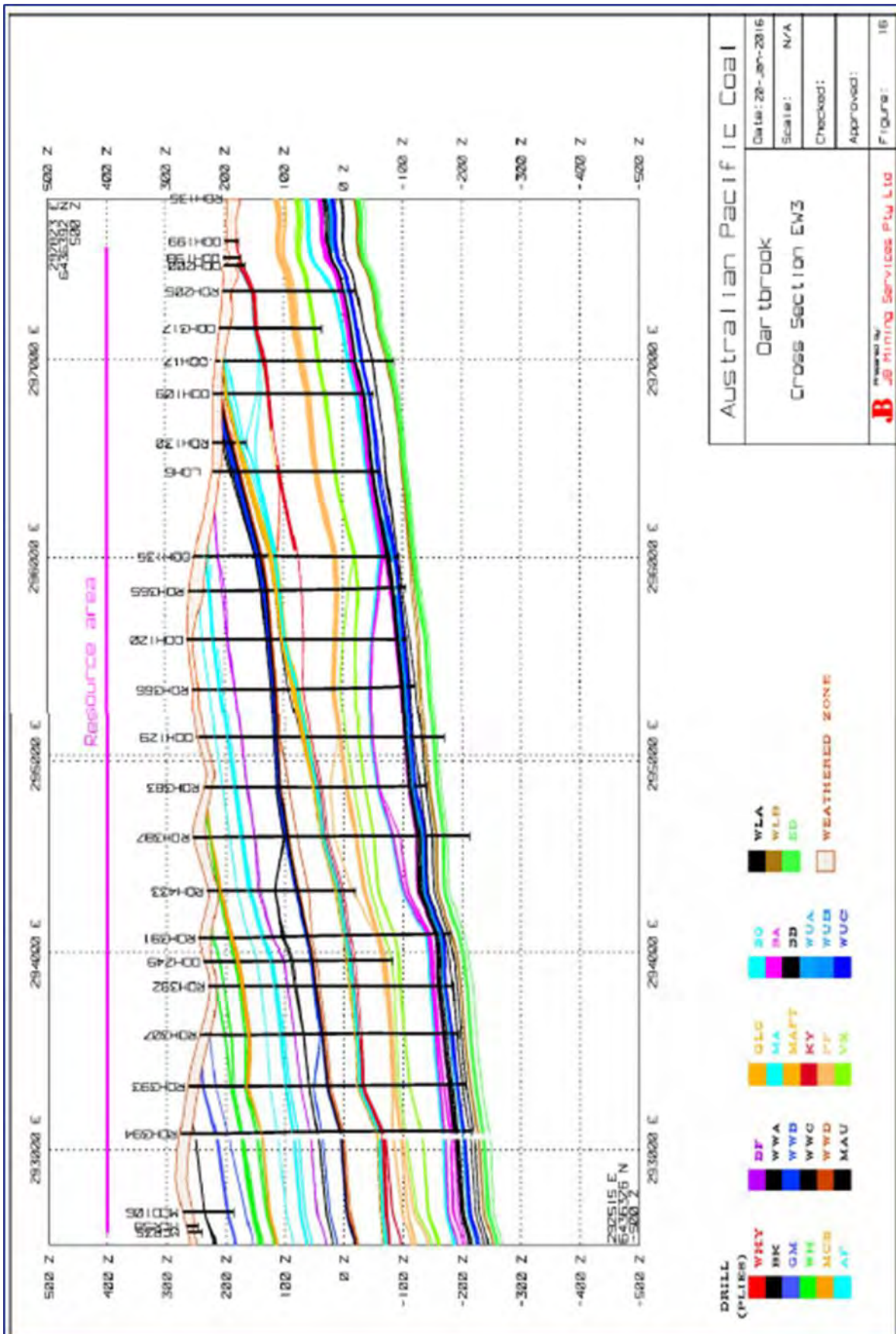


Figure C.5 – 2016 Resource Report resource area

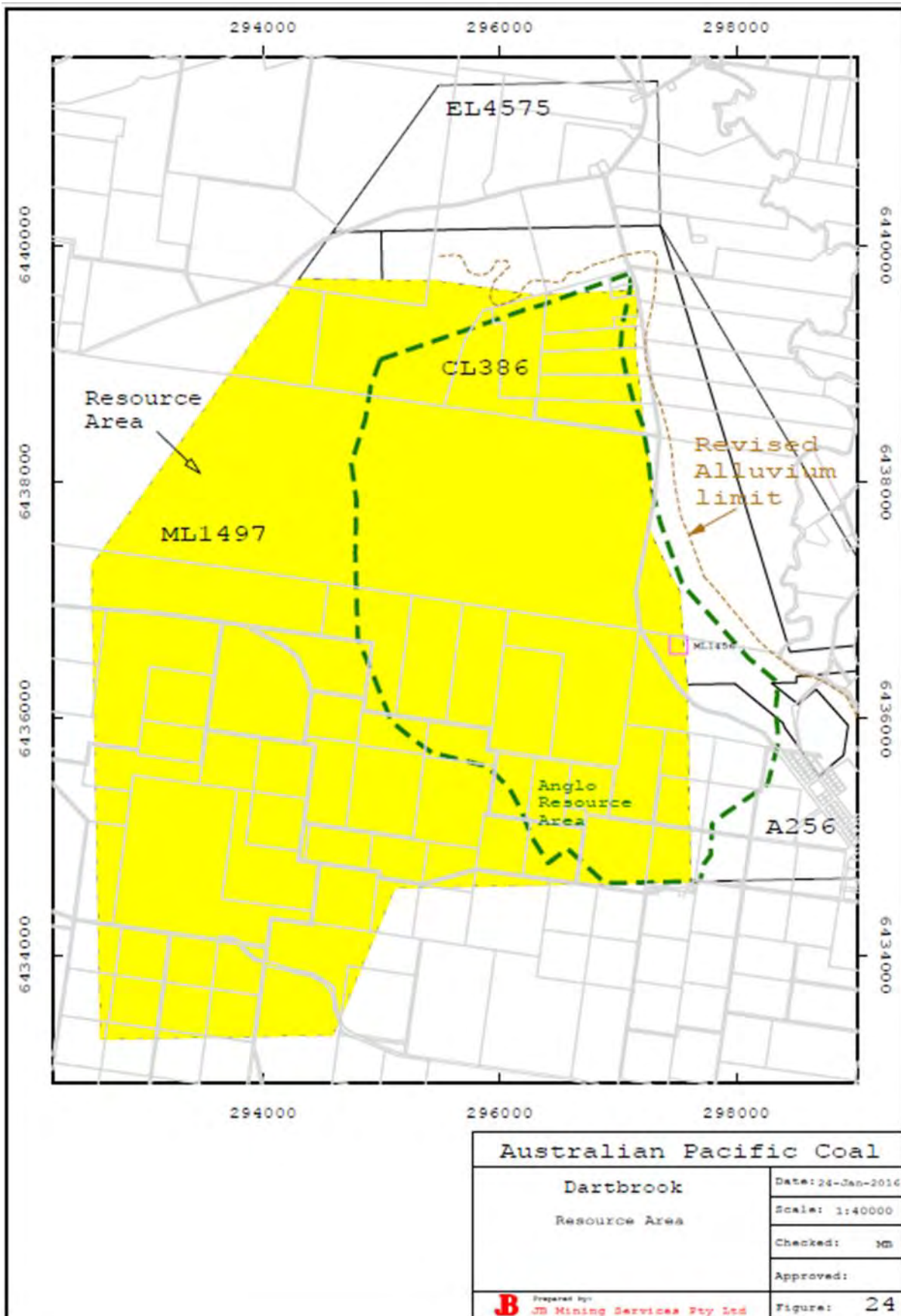




Figure C.6 – 2016 Resources Mt. Arthur Seam

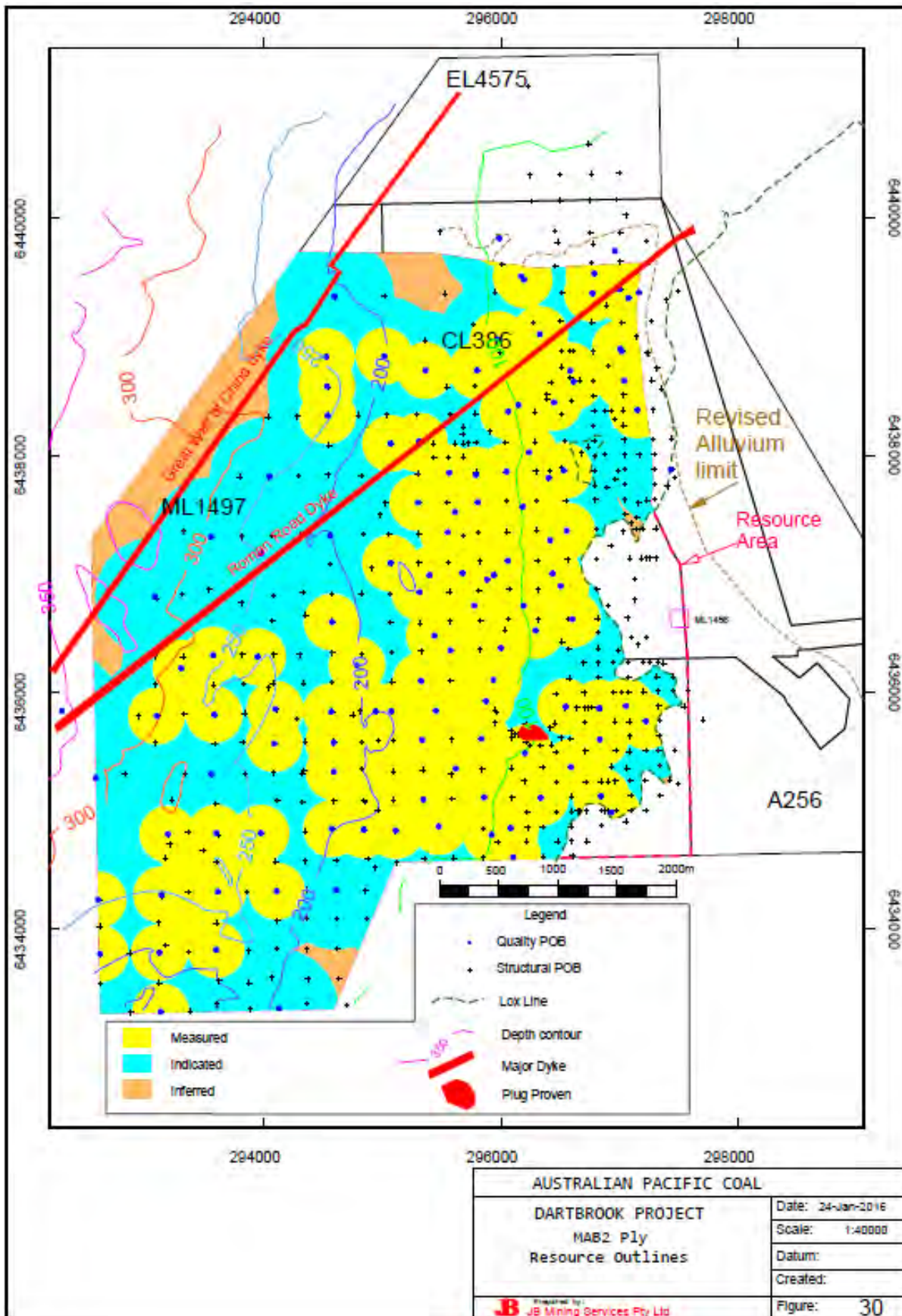


Figure C.7 – 2016 Resources Kayuga Seam

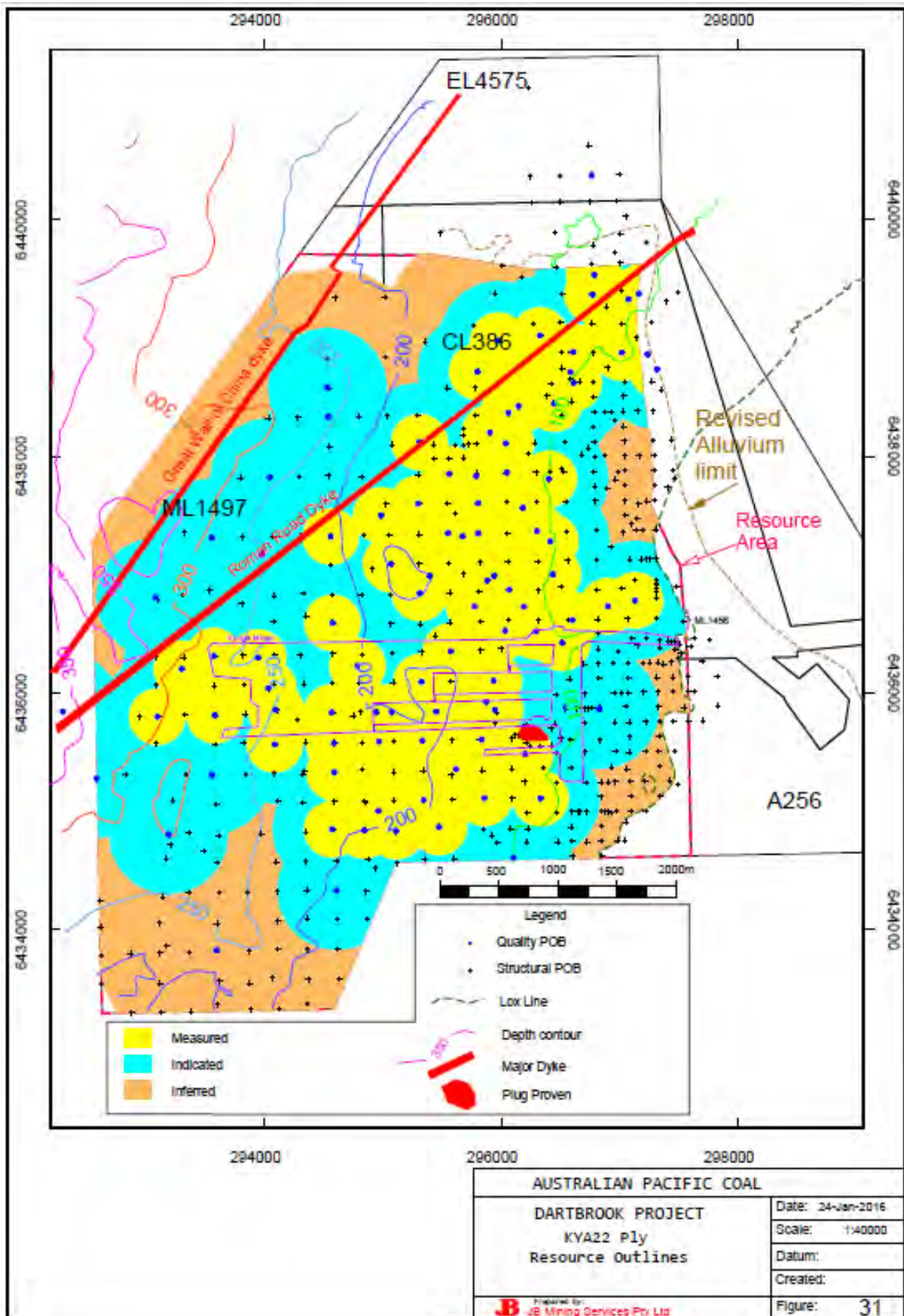




Figure C.8 – 2016 Resources Piercefield Seam

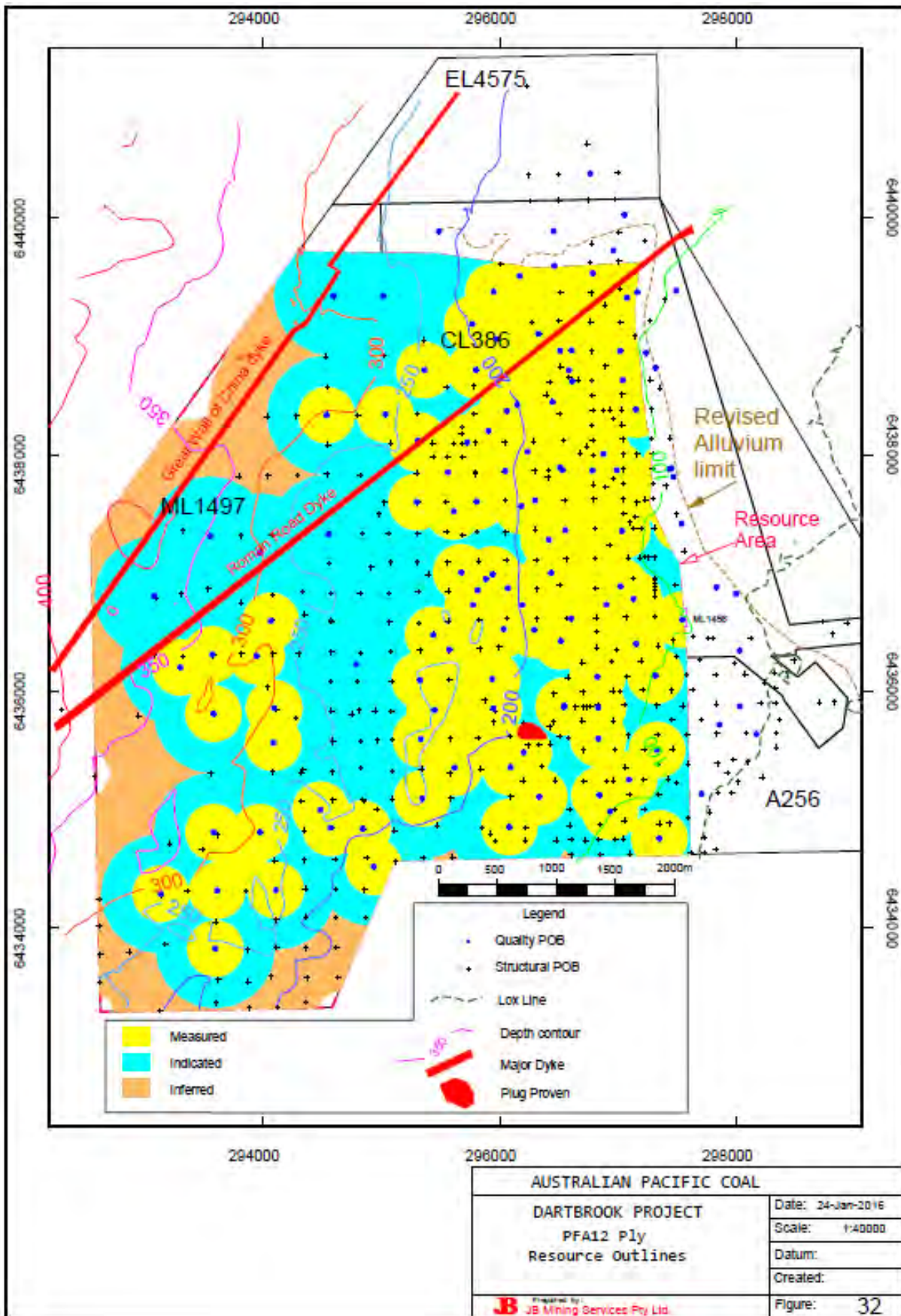




Figure C.9 - Feasibility Study - Base Case Mine Design

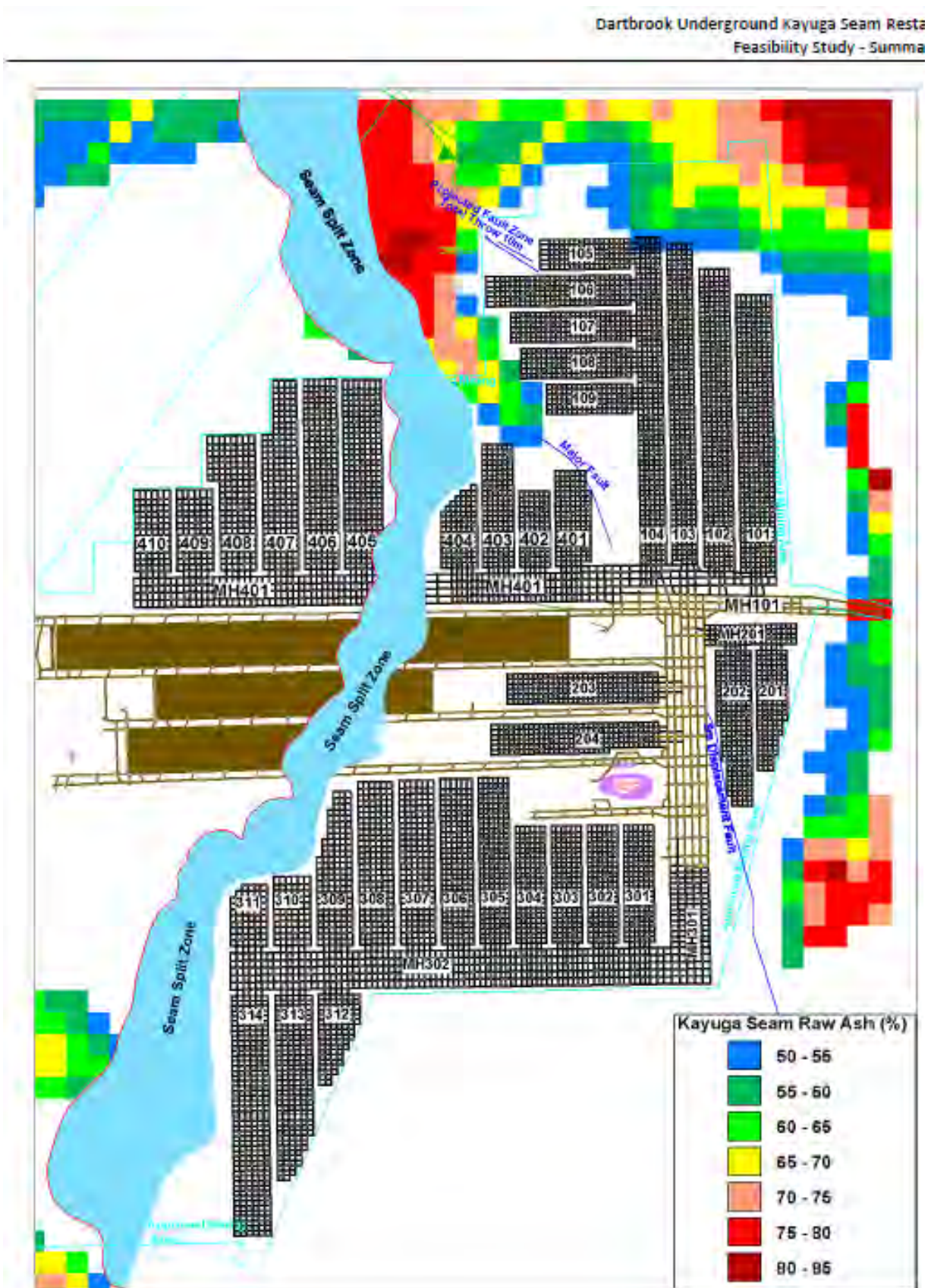


Figure 4-4 Base Case Mine Design



**APPENDIX D. DARTBROOK PROJECT SITE VISIT SUPPORTING MATERIAL**

**Figure D.10 – Wynn Seam working plan**



**Figure D.11 – Kayuga Seam working plan**



## APPENDIX E. VALUATION APPROACHES AND METHODS

There are a number of approaches that are generally accepted for valuing Mineral Assets. Most of these valuations methods typically fall within three categories: cost, income, or market based methods.

### c. Income Based Methods

#### i. Discounted Cash Flow (DCF)

DCF theory provides that the value of an asset is equivalent to the Net Present Value (NPV) of the future cash flows of that asset. In practice, the future cash flows of the asset are discounted to the NPV using a discount rate. The discount rate is an interest rate, which takes into account:

- the time value of money (ie money available now is worth more than the same amount of money in the future because it could be invested and earn a return)
- the risk or uncertainty of the anticipated future cash flows (ie there is a risk that the future cash flows may be less (or greater) than expected).

This widely used valuation method is most appropriate for assets with a finite life or businesses that are forecasting significant growth and/or experience 'lumpy' volatile cash flows.

Generally speaking, when valuing a resource project, it is only appropriate to use the DCF methodology for Development Projects or Operating Mines, where Ore Reserves have been defined. This is because both the revenue and costs of projects at earlier stages typically have not been evaluated to a sufficient degree of accuracy and therefore generate unreliable (inaccurate) forecast cash flows.

### d. Cost Based Methods

#### i. Multiple of Exploration Expenditure

This method involves determining how much money has been spent on the project in the past and/or future (must be effective expenditure). The total figure is adjusted by a Prospectivity Enhancement Multiplier (PEM), a factor related to the prospectivity of the areas.

PEM can range from 0 to 5 but usually should be in the range of 0.5 to 3. The average is approximately 1.8. the table below specifies the criteria for selection of an appropriate PEM.

PEM	Description
0	No further exploration is justified. The tenement should be relinquished
0 - 0.5	Exploration has significantly downgraded the tenement's prospectivity. The tenement remains at the grass roots stage in spite of considerable past and current exploration expenditure. Further exploration is not justified, and a JV based upon a future royalty, or disposal (by sale or relinquishment) are the best options.
0.5 - 1.0	Past and recent exploration has maintained (rather than enhanced) or slightly downgraded the prospectivity of the tenement. Further field exploration is not justified without deposit model and geological reassessment. A non-contributory JV would be the best alternative.
1.0 - 1.3	Further exploration is justified, based on previous exploration results and the potential prospectivity of the deposit, which is based upon the geological model adopted. Recent





PEM	Description
	exploration has maintained or slightly enhanced (but not downgraded) the prospectivity of the tenement. Contributory JVs should be considered.
1.3 - 1.5	The available data has considerably increased the prospectivity of the tenement by identifying and defining geochemical or geophysical anomalies and other exploration targets. Further exploration is justified. Contributory JVs could still be considered, but it may be worth taking it to the next stage alone, if the results are so encouraging.
1.5 - 2.0	Recent exploration has enhanced the prospectivity of the tenement. The results from the target area(s) due to past expenditure have identified some drill target(s); and reconnaissance drilling has found some interesting intersections of mineralisation. Further exploration is definitely justified to evaluate the target area(s). The PEM rises with the number of targets now involved and economic interest if any intersections.
2.0 - 2.5	Exploration has defined a target(s) with some drill intersections of economic interest and infill drilling is justified to attempt to define a Resource. Continue exploration alone or negotiate a very favourable JV deal.
2.5 - 3	A small Resource is very likely to be defined by the current drilling with potential for extension down dip or along strike by further infill drilling and other exploration. Evaluation does not yet include a prefeasibility study. Any JV should include being free-carried to the bankable feasibility study stage.
3 - 5	A Resource of variable significance has been defined with economic features (indicated by prefeasibility study) that make early conversion to Reserves probable. Additional Resources are also likely to be found by more drilling. Consider preparation of a feasibility study before selling any equity.

Source: Lawrence M J, 2007. *Valuation Methodology for iron Ore Mineral Properties – thoughts of an Old Valuer; Iron ore Conference, Perth WA, 20-22 August 2007*

#### ii. Geoscience Matrix (Kilburn Method)

Originally developed by Woodcock in 1985 and later enhanced by Kilburn in 1990 to systematically assess the physical attributes of the exploration property using a scoring system relating to:

- location
- proximity to known mineralisation
- geophysical, geochemical and geological targets.

Scores are adjusted for local market conditions and multiplied against a standard cost (\$ per km<sup>2</sup>) for a typical exploration project – Basic Acquisition Cost (BAC). This is the average cost incurred to acquire a tenement and pay all Government charges for the next 12 months.

The methodology is very subjective and relies heavily on the judgement of the valuer.

#### e. Market Based Methods

##### i. Recent comparable transactions

This method uses the sales price of other projects to determine the value of the exploration project. Comparable transactions should have similarity to the subject property in commodity, geology, mineralisation, neighbourhood, and be within a reasonable time period before the valuation date.



This approach considers the amount at which the project can be sold i.e. the highest value that an informed buyer is prepared to pay in an open market on a willing buyer and willing seller basis.

It is often difficult to find truly comparative transactions. In such circumstances it may be appropriate to adjust the value of transactions to increase their comparability. Transaction values can be adjusted by taking into account:

- Type of commodity
- Grade/quality of the resource
- Genesis of the resource
- Depth of the deposit
- Size of the resource
- Location of the deposit
- Stage of development.

Due to the large number of projects variables, it is not practical to attribute value in isolation to each of the above characteristics. Instead, the above characteristics should be assessed as a whole, and a single overall adjustment made if deemed appropriate.

ii. Joint venture method

Value is directly related to how much the Joint Venture ('JV') partner will spend on exploration to earn his interest in the project.

$$\text{Value of 100\% of Project} = \frac{\text{(Exploration Expenditures)}}{\text{(Equity share for JV Partner)}}$$

$$\text{Remaining Value to Original Owner} = \text{(Value of 100\% of Project)} \times \text{(Owner's Equity Share)}$$

An adjustment is required to account for the delay in when the money is spent (time-value-of-money) as well as the likelihood that the JV partner will continue to fund the project.

To some extent this method does reflect market conditions, however it does not reflect the fact that most properties are put up for JV because the owner puts a low value on them.

iii. Peer companies (listed) – metrics

This method assesses the trading value of comparable publicly listed companies to determine the value of the project





**BRISBANE**

Level 6, 40 Creek Street  
(GPO Box 993)  
Brisbane QLD 4000  
Australia  
**P** +61 7 3835 3900

**HUNTER VALLEY**

Suite 2, Level 1  
129 John Street  
(PO Box 1169)  
Singleton NSW 2330  
Australia  
**P** +61 2 6572 2878  
**M** +61 400 480 118

**SYDNEY**

**M** +61 498 280 435

[www.xenith.com.au](http://www.xenith.com.au)

## Part 2 – Financial Services Guide

**THIS FINANCIAL SERVICES GUIDE FORMS PART OF THE  
INDEPENDENT EXPERT'S REPORT**

22 July 2022

### 1. Ernst & Young Strategy and Transactions Limited

Ernst & Young Strategy and Transactions Limited (“we,” or “us” or “our”) has been engaged to provide general financial product advice in the form of an Independent Expert’s Report (“Report”) in connection with a financial product of another person. The Report is set out in Part 1.

### 2. Financial Services Guide

This Financial Services Guide (“FSG”) provides important information to help retail clients make a decision as to their use of the general financial product advice in a Report, information about us, the financial services we offer, our dispute resolution process and how we are remunerated.

### 3. Financial services we offer

We hold an Australian Financial Services Licence which authorises us to provide the following services:

- ▶ financial product advice in relation to securities, derivatives, general insurance, life insurance, managed investments, superannuation, and government debentures, stocks and bonds; and
- ▶ arranging to deal in securities.

### 4. General financial product advice

In our Report we provide general financial product advice. The advice in a Report does not take into account your personal objectives, financial situation or needs.

You should consider the appropriateness of a Report having regard to your own objectives, financial situation and needs before you act on the advice in a Report. Where the advice relates to the acquisition or possible acquisition of a financial product, you should also obtain an offer document relating to the financial product and consider that document before making any decision about whether to acquire the financial product.

We have been engaged to issue a Report in connection with a financial product of another person. Our Report will include a description of the circumstances of our engagement and identify the person who has engaged us. Although you have not engaged us directly, a copy of the Report will be provided to you as a retail client because of your connection to the matters on which we have been engaged to report.

### 5. Remuneration for our services

We charge fees for providing Reports. These fees have been agreed with, and will be paid by, the person who engaged us to provide a Report. Our fees for Reports are based on a time cost or fixed fee basis. Our directors and employees providing financial services receive an annual salary, a performance bonus or profit share depending on their level of seniority. The estimated fee for this Report is \$82,500 (inclusive of GST).

Ernst & Young Strategy and Transactions Limited is ultimately owned by Ernst & Young, which is a professional advisory and accounting practice. Ernst & Young may provide professional services, including audit, tax and financial advisory services, to the person who engaged us and receive fees for those services.

Except for the fees and benefits referred to above, Ernst & Young Strategy and Transactions Limited, including any of its directors, employees or associated entities should not receive any fees or other benefits, directly or indirectly, for or in connection with the provision of a Report.

## **6. Associations with product issuers**

Ernst & Young Strategy and Transactions Limited and any of its associated entities may at any time provide professional services to financial product issuers in the ordinary course of business.

## **7. Responsibility**

The liability of Ernst & Young Strategy and Transactions Limited, if any, is limited to the contents of this Financial Services Guide and the Report.

## **8. Complaints process**

As the holder of an Australian Financial Services Licence, we are required to have a system for handling complaints from persons to whom we provide financial services. All complaints must be in writing and addressed to the AFS Compliance Manager or Chief Complaints Officer and sent to the address below. We will make every effort to resolve a complaint within 30 days of receiving the complaint. If the complaint has not been satisfactorily dealt with, the complaint can be referred to the Australian Financial Complaints Authority Limited.

## **9. Compensation Arrangements**

Ernst & Young and its related entities hold Professional Indemnity insurance for the purpose of compensation should this become relevant. Representatives who have left the Ernst & Young's employment are covered by our insurances in respect of events occurring during their employment. These arrangements and the level of cover held by the Ernst & Young's satisfy the requirements of section 912B of the Corporations Act 2001.

<p><b>Contacting Ernst &amp; Young Strategy and Transactions Limited</b></p> <p>AFS Compliance Manager Ernst &amp; Young 200 George Street Sydney NSW 2000</p> <p>Telephone: (02) 9248 5555</p>	<p><b>Contacting the Independent Dispute Resolution Scheme:</b></p> <p>Financial Ombudsman Service Limited PO Box 3 Melbourne VIC 3001</p> <p>Telephone: 1300 78 08 08</p>
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This Financial Services Guide has been issued in accordance with ASIC Corporations (Financial Services Guides) Instrument 2015/541.


**LODGE YOUR VOTE**

 **ONLINE**  
www.linkmarketservices.com.au

 **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: +61 1300 554 474

**PROXY FORM**

I/We being a member(s) of Australian Pacific Coal Limited and entitled to attend 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

**STEP 1**

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 Extraordinary General Meeting of the Company to be held at **10am (Brisbane time) on Monday, 22 August 2022 at Mills Oakley, Level 23, 66 Eagle Street, Brisbane, Qld, 4000** (the Meeting) and at any postponement or adjournment of the Meeting.

**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**


**1** Approval of transactions with Trepang Services Pty Ltd, the Trepang Associates or any of them as contemplated in the Share Sale Agreement and Royalty Deed and as required under Listing Rule 10.1 and Part 2E.1 of the Corporations Act 2001 (Cth).

**For Against Abstain\***

**2** Approval of transactions with Trepang Services Pty Ltd, the Trepang Associates or any of them as contemplated in the Share Sale Agreement and Royalty Deed and as required under Listing Rule 11.2 and Part 2E.1 of the Corporations Act 2001 (Cth).

**For Against Abstain\***

**STEP 2**

 \* 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).

**STEP 3**





## 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.

### 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 attend 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 attend 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](http://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 **10am (Brisbane time) on Saturday, 20 August 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:



#### 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

or

Level 12  
680 George Street  
Sydney NSW 2000

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

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