



Company Statement

1 March 2023

Update on Compensation Discussions with the NSW Government

NuCoal Resources Ltd (ASX:NCR) (**NuCoal** or **Company**) advises shareholders and the market regarding previous correspondence between NuCoal and the NSW Government in mid-2022 in the matter of compensation for NuCoal for the confiscation of the Company's main asset (EL 7270 Doyles Creek) by the NSW Government in January 2014. The correspondence has not previously been disclosed.

This correspondence is being released at the present time in accordance with recent legal advice provided to Directors following the acquittal of Mr John Maitland in December 2022. Mr Maitland is the former Chairman of Doyles Creek Mining Pty Ltd, which is the company that was acquired by NuCoal at the time of the listing of NuCoal in February 2010.

The correspondence can be found at <https://nucoal.com.au/compensation/> (under Supplementary Documents) and comprises:

11/03/22 Letter to Kate Boyd (Deputy Secretary, General Counsel, Department of Premier and Cabinet (**DPC**)) asking "when the Government will respond in substance to the outstanding matters raised in Report 72, October 2019" and other matters.

20/05/22 Letter from Kate Boyd explaining that NuCoal had received a letter from Mark Speakman (NSW Attorney General) stating that the failure of the Government to address our matter was because it could prejudice court proceedings.

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ASX:NCR • Share Information
Issued Shares: 768.6m

Board of Directors

Chairman:	G. Galt
Non Executive Director and Company Secretary:	G. Lewis
Non Executive Director:	M. Davies

02/05/22 Letter from Mark Speakman, Attorney General seeking a copy of the NuCoal share register to “facilitate consideration of options for the Government’s position on outstanding matters raised during the Law & Justice Committee enquiry” and that the Government proposes to provide the register to a forensic accountant to assess the information and advise the Government on options in considering outstanding matters raised in the Parliamentary Committee’s inquiry.

26/05/22 Letter to Mark Speakman, Attorney General, from NuCoal containing various information regarding NuCoal shareholders at certain dates and asking for more clarification and whether there was a specific person that NuCoal could talk to in order to make sure NuCoal was providing the correct information.

16/06/22 Letter from Kate Boyd asking for further information regarding shareholder details, with a focus on 30 January 2014 (which is the date that the *Mining Amendment (ICAC Operations Jasper and Acacia) Act 2014 (MAA)* confiscated EL 7270).

02/07/22 Email from NuCoal to DPC with further information on NuCoal share capital.

Despite many and regular attempts, to ascertain where the DPC’s consideration of the matter was up to since July 2022, NuCoal has heard nothing more from the DPC.

Shareholders will note there was a request from DPC that we should keep the correspondence confidential, subject to the requirements of the *Corporations Act 2001*. NuCoal made no commitments in this respect. As noted above, our current legal advice is NuCoal has a responsibility to release this information, especially now that Mr John Maitland has been found to be not guilty of any criminality associated with the award of EL 7270 in December 2008. With Mr Maitland’s acquittal the NSW Government no longer has any reason to state that future relevant (possible) legal proceedings could be affected.

Regarding the implications of the correspondence, NuCoal comments as follows:

- The request from the DPC for shareholder information in mid-2022 shows that the NSW Government was actively undertaking consideration of providing compensation to NuCoal at the time. Such consideration was in accordance with the original ICAC recommendation and the findings and recommendations of both the Standing Committee on Law & Justice and the Committee on the Independent Commission Against Corruption (Reputational Impact on an individual being adversely named in the ICAC’s investigations). **These latter recommendations were unanimous and multi-partisan.**
- The fact that the matter was under active consideration shows, in the opinion of NuCoal Directors, that the Government believed that NuCoal was deserving of compensation as per the conclusions of the Parliamentary Committees. It also supports the conclusion that – even though the Government was publicly stating that the compensation matter could not proceed because of impending legal proceedings – it was actively considering compensation.

The Government ceased corresponding with NuCoal for reasons known only to itself after the 2 July 2022 email noted above. It may be that the Attorney General decided to revert to his stance that he won't comment on this matter pending legal proceedings – but all relevant legal proceedings that could affect the matter of compensation are now finished. The only possible legal matter which may still come to be heard in the future is a (possible) appeal by the former Mining Minister, but clearly that has no bearing on NuCoal.

It is therefore now crystal clear that:

- **THERE ARE NO CORRUPT PARTIES ON THE NUCOAL SIDE and THERE NEVER HAVE BEEN ANY** – not shareholders, not Directors and not past holders of shares or directorships. There is not, and never has been, any corruption from NuCoal or its owned subsidiaries, which includes Doyles Creek Mining. The relevant legal cases are finished and all the judgements are in – all “no case” or “not guilty”. **How much clearer can this be?**; and
- By passing the MAA, the NSW Government denied natural justice to NuCoal and its shareholders, absolved itself of its own mistakes and wrongly confiscated EL 7270 without compensation - notwithstanding the recommendation of even ICAC itself - at the time of confiscation - that compensation should be considered.

It has been long enough. The NSW Government has a clear legal and moral obligation to compensate NuCoal. The shareholders of NuCoal and the people of NSW do not want this mess to continue.

It should have been done before the election – and not “kicked down the road” to be an issue for a new Government.

It is also important to discuss the direction in which the Government could have been heading in mid-2022. This may have been to consider compensating individual shareholders rather than the NuCoal company itself. This is clearly the wrong direction. The NSW Government must recognise that:

- Compensation should be via a commercial settlement with NuCoal via an ex-gratia grant. The asset was confiscated from NuCoal and the compensation should be given to NuCoal. That conclusion is simple and clear.
- It is certainly not appropriate to compensate individual shareholders based on a certain date or dates in the past and exclude those shareholders who have funded the campaign to finally get compensation for a period of 9 long years.
- There are over 3,000 current shareholders – each with individual circumstances. The complexity of pursuing the individual compensation route would undoubtedly leave the Government open to vast amounts of future litigation.

By contrast a commercial settlement with NuCoal completely finalises the matter as far as the Government's legal and moral obligations are concerned and also as far as NuCoal and its past and current shareholders are concerned. What the Company does with any compensation funds should be up to NuCoal itself. It should certainly be open to the company to pursue its original intention to become a company with actual mining operations, for example.

For further enquiries please contact:

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