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11 November 2024

Ms Kate Boyd
Deputy Secretary, General Counsel
GPO Box 5341
SYDNEY NSW 2001
By Email: Kate.Boyd@dpc.nsw.gov.au

Dear Ms Boyd,

NuCoal Resources Ltd – Confiscation of Exploration Licence EL7270

I am writing to you on this occasion on behalf of the more than 3,000 shareholders in NuCoal Resources Ltd (**NuCoal**) regarding progress on the NSW Government's consideration of outstanding matters raised in the report of the Legislative Council Standing Committee on Law and Justice entitled *Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019* (Report 72, 30 October 2019). This report is now over 5 years old and the NSW Government has taken no action or given any guidance as to what it intends to do regarding Recommendation 2 of this Committee.

From our records, we believe the last correspondence from you to NuCoal on this matter was on 2 February 2023, wherein you stated, "*The NSW Government continues to reserve its position on the outstanding matters ...*". We have also been shown correspondence from you to Mr John Maitland dated 8 March 2023, in which you stated the same status for the matter.

Given the State Election was then held on 25 March 2023, we expected the new Government would turn its attention to the matter before the end of calendar 2023. To date, we have received no correspondence on this matter at all from the NSW Government, and our shareholders are becoming increasingly anxious.

For the record, we have set out below what had been occurring on this matter commencing from 30 October 2019 including matters that were active in the first half of 2022, when the Government was clearly taking the matter seriously and was, in our opinion, headed towards a positive compensation decision for NuCoal. I have not listed the history of the matter before 30 October 2019 but can provide extensive material if needed.

<p>30 October 2019</p>	<p>Report of Legislative Council Standing Committee on Law and Justice entitled <i>Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019</i> (Report 72, 30 October 2019):</p> <ul style="list-style-type: none"> • <i>Recommendation 1 – That the Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019 not proceed in its current form.</i> • <i>Recommendation 2 – That the NSW Government address the outstanding matters raised during this inquiry, where appropriate, including the issue of compensation for innocent shareholders.</i>
<p>30 April 2020</p>	<p>The NSW Government provided a formal response to the Standing Committee noting that they agreed with Recommendation 1 and reserved their position with respect to Recommendation 2.</p>
<p>25 November 2021</p>	<p>Report of the Committee on the Independent Commission Against Corruption. Reputational impact on an individual being adversely named in the ICAC’s investigations.</p> <p>“1.32 <i>Similarly, the Legislative Council Standing Committee on Law and Justice’s inquiry on the Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019, recommended for the Government to address the outstanding matters in relation to NuCoal, including the issue of compensation for ‘innocent stakeholders’. The Government’s response reserves its position on this matter. Given the time that has passed since then, the Committee urges the NSW Government to respond to the Legislative Council’s Law and Justice report as a matter of urgency.</i>”</p>
<p>December 2021</p>	<p>Meeting between Mr Perrottet (then Treasurer) wherein he told NuCoal Directors the matter would be resolved by mid-2022 and that carriage of the matter was in the hands of Mr Tudehope (Finance) and Mr Speakman (Attorney General).</p>
<p>March 2022</p>	<p>Meeting between NSW Government and staff of the US Trade Representative (USTR) from Washington, DC in which NuCoal was the major topic on the agenda. USTR stated the NuCoal matter was still very active and continued to be a barrier to US investment in NSW (as related to NuCoal by USTR later in 2022).</p>
<p>2 May 2022</p>	<p>Correspondence from Attorney General requesting shareholder information.</p>

25 May 2022	Correspondence to Attorney General providing information requested.
16 June 2022	Correspondence from Ms Boyd: requesting further information with the purpose being <i>“the Government intends to provide the information provided on 26 May 2022, and this requested further information, to a forensic account to assess the information and advise the Government on options in considering outstanding matters raised in the inquiry of the NSW Legislative Council’s Standing Committee on Law and Justice entitled Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2009 (Report 72, 30 October 2019).”</i>
1 July 2022	NuCoal correspondence to Cianci, Klein, Hare and Boyd confirming information transmitted.
July 2022	Cabinet submissions regarding quantum and methodology of potential compensation package (confirmed by Mr Black in September 2022).
7 September 2022	Mr Black informed NuCoal a brief had been prepared by DPC and it was with the Attorney General for his decision.
October 2022	Retrial of Mr Maitland and Mr Macdonald.
20 December 2022	Mr Maitland acquitted of all charges against him in the Supreme Court of NSW by Justice Hament Dhanj. Mr Maitland was found to be nothing more than a lobbyist.
2 February 2023	Correspondence with NuCoal from Ms Boyd on behalf of the Attorney General stating <i>“The NSW government continues to reserve its position on the outstanding matters raised ... etc”</i> .
8 March 2023	Correspondence with Mr Maitland from Ms Boyd on behalf of the Premier, the Attorney General and other Ministers stating <i>“The NSW government continues to reserve its position on the outstanding matters raised ... etc”</i> .
25 March 2023	NSW State Election: Mr Minns becomes Premier.
June 2024	USTR reiterates that the matter is still a priority item for them (Ref meeting with USTR in Washington by NuCoal Director).
November 2024	A Private Members Bill is currently being prepared in the Upper House of the NSW Parliament which is again seeking compensation for NuCoal.

Clearly, the summary in the table does not tell the complete story of interactions between NuCoal and the NSW Government during this period. Suffice to say that during mid-2022, it appeared to us from your actions and requests and direct communication with relevant persons that:

- Issues related to the withholding of compensation had been resolved by the senior members of the Government, which was consistent with the findings of the Parliamentary Committees and ICAC itself;
- The Government believed there was a moral obligation to compensate; and
- The only matters for resolution were how compensation should be delivered and how much it should be.

Nothing that has occurred since 25 March 2023 should have changed any of these conclusions, however, the messages we are being given by the current Government seem at odds with these conclusions, with non-factual, obfuscatory information circulating which may be designed to defer the matter further. To formally dispel this information, NuCoal is NOT seeking an amount of anything near \$500m and has publicly stated its expectations in Quarterly ASX Reports. In addition, NuCoal has stated its willingness to accept periodic payments over several years for the delivery of compensation and has noted that the increased royalties now being provided to the NSW Government from coal mining will easily make compensation deliverable without any major affect on the NSW budget.

It is difficult for NuCoal's shareholders to understand how the moral obligation to compensate NuCoal, which is accepted by every politician that we talk to, remains unsatisfied. A simple ex-gratia payment plan would be easy to implement and no current legislation would need to be changed.

We also know, from speaking to the crossbench and the opposition, compensating NuCoal will be accepted in a multi-partisan manner and will not create a political issue for the Parliament.

We therefore ask you to bring this matter to the attention of the Premier and advise us so we can restart the discussions and intents that were present in mid-2022 as soon as possible.

Yours Sincerely



Gordon Galt
Chairman
NuCoal Resources Limited

cc The Hon. Chris Minns, The Hon. Mark Speakman, The Hon. Rod Roberts and The Hon. John Ruddick