

Anthony Albanese under pressure from White House on NSW mining compensation ahead of Donald Trump talks

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Anthony Albanese has been [asked to personally intervene](#) in a decade-old \$400m compensation claim for Australian and US citizens over a NSW government mining confiscation as part of an [upcoming deal with Donald Trump on trade tariffs](#).

As the Prime Minister [prepares to go to Canada for the G7 summit](#) and meet the US President on the sidelines of the conference, trade representatives in Washington DC are seeking a resolution to the compensation claim arising from the NSW Liberal government's [confiscation of mining leases in 2014](#).

US trade representatives have [repeatedly raised the lack of compensation for US investors](#) as a breach of the US-Australia Free Trade Agreement and listed it as an official “investment barrier” in its annual foreign trade barriers report released in March.

Before Mr Albanese's expected first face-to-face meeting with Mr Trump, [US and Australian representatives of “mum and dad” shareholders](#) have appealed to Mr Albanese and Trade Minister Don Farrell to finally provide compensation and smooth strained trade relations.

As well as the lack of compensation for US and Australian shareholders who have suffered financially, Mr Albanese has also been warned there are grave concerns about sovereign risk at a time of global trade uncertainty.

In a letter sent to Mr Albanese and Senator Farrell on behalf of 50 mum-and-dad Australian shareholders last month, NuCoal resources chairman Gordon Galt raised concerns with the Prime Minister about the need for “proper redress for affected investors”.

Mr Galt, who has fought a long-running battle with the NSW government to provide compensation for investors after then-premier Barry O’Farrell axed the Doyles Creek mining exploration licence, warned Mr Albanese that the matter threatened the “nation’s reputation as a safe destination for investment”.

Former Labor MP for the Hunter Joel Fitzgibbon, who was a defence and agriculture minister in the Rudd government, said the decision was “a shocker” and had ruined families’ finances.

“They are mum and dad shareholders. Their only crime was having faith in a market regulated by the government. Yet it was a government which ripped their hard-earned savings away from them. It’s a shocker,” Mr Fitzgibbon told The Australian.

The Australian understands US Trade Representative Jamieson Greer has raised the NuCoal compensation matter with Senator Farrell both in their Paris talks last week and in a March phone call.

The 40th Foreign Trade Barriers report released by Mr Greer in March warned that US NuCoal investors have not been provided with “recourse to seek compensation”. The total compensation bill quoted by domestic and US investors is between \$400m and \$500m.

NuCoal acquired the Doyles Creek mining exploration licence in 2010 for more than \$94m and raised an additional \$10m from investors. The Doyles Creek licence was caught up in a ruling by the NSW Independent Commission Against Corruption over links to disgraced former Labor state minister Ian Macdonald, who in 2008 granted the licence to its former owner.

Despite years of lobbying, successive NSW premiers including Chris Minns have rebuffed recommendations made by a state parliamentary committee that compensation be provided.

Mr Minns earlier this year told Mr Galt that while he empathised with NuCoal shareholders who lost their investments, he had a duty to “act in the public interest” and his priority was investing in hospitals, schools and essential public services.

In the first Trump administration, Robert Lighthizer – Mr Greer’s predecessor in the role – urged former trade minister Steve Ciobo in 2017 to resolve the matter and discuss pathways towards providing compensation under the Australia-US Free Trade Agreement. NuCoal executives also met with Joe Hockey in 2016, when he was Australia’s US ambassador.

In his May 19 letter to Mr Albanese and Mr Farrell, Mr Galt said “the Australian government has both the authority and the obligation to address this injustice, particularly in light of the AUSFTA”.

Mr Galt asked Mr Albanese to “address this matter directly in your upcoming discussions with President Trump, demonstrating Australia’s commitment to upholding the rule of law and respecting the rights of both domestic and international investors”.

“Article 11.7 of AUSFTA explicitly prohibits the expropriation or nationalisation of investments without ‘prompt, adequate, and effective compensation,’” Mr Galt wrote.

“This provision states that neither party ‘may expropriate or nationalise a covered investment’ without compensation, which must ‘be paid without delay [and] be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place.’”

As Mr Albanese and Australia’s ambassador to the US, Kevin Rudd, work behind the scenes to broker exemptions from Mr Trump’s global trade tariffs, Mr Galt said “the NuCoal case has implications far beyond our individual losses”.

“It raises fundamental questions about sovereign risk in Australia, the rule of law, and our nation’s reputation as a safe destination for investment,” he wrote.

“While there has been a recent focus on our fellow American investors, who have also experienced devastating losses, it is important that you understand that about two-thirds of the investors in NuCoal are Australian individuals or managed funds representing many more Australian mums and dads.”

The letter lays out four requests for the Albanese government, including considering federal intervention to provide “just compensation to shareholders”.

In addition to calls for compensation, NuCoal investors have asked Mr Albanese to “recognise that this compensation would not only be just for the affected investors but would also be financially prudent for Australia by potentially averting trade penalties that could cost our economy far more than the compensation itself”.

The US Foreign Trade Barriers report cited a 2019 NSW parliamentary committee recommendation that the “NSW government address the issue of compensation for certain investors, including US shareholders, in a mining project whose operating license was cancelled in 2014”.

“When cancelling the license, the NSW government also passed legislation precluding the payment of compensation relating to such cancellation. To date, the NSW government has not acted on the parliamentary committee’s recommendation to provide shareholders, including US investors, with recourse to seek compensation,” the report said.

The trade report also raised concerns about US beef producers accessing the Australian market and revealed the White House was monitoring Australia’s mandatory bargaining code and any changes to Australian screen content requirements, the prohibition of US apples and pears, and seeking access for local fresh, chilled and frozen pork products.

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