

13 December 2022

The Australian Securities Exchange
Level 40, 152-158 St Georges Terrace
Perth WA 6000

Attention: Dale Allen

Dear Dale,

Further to your letter dated 7 December 2022, Nex Metals Explorations Ltd (NME or the Company) provides the following responses to your request for information (in the same number order).

- 1 The Directors confirm that in the Directors Opinion the 2022 Full Year Report:
 - (a) Complies with the relevant Accounting Standards: and
 - (b) Gives a true and fair view of NME's financial performance and position.
- 2 Yes, by way of background we refer to the ASX to the numerous discussions with the ASX prior to entering into the Joint Venture Agreement with Metalicity Ltd (ASX:MCT). The outcome of those discussions and various derivations of the JV Agreement and ASX due consideration and approval to entering into the agreement were amongst other matters that NME would still be an active participant in the activities of the JV. A maiden JORC was announced during this year. NME is currently actively involved in the JV now that MCT has verified their stage 1 earn in. NME is an active participant on circa 34 tenements as per the appendix 5B for the September Quarter. NME is actively attending to legal matters defending action in the Wardens Court on the Yundamindra tenements (see announcement of 7 December 2022 with respect to Wardens Court proceedings). NME is neither a dormant entity nor a cashbox entity. NME has been active in investigating other exploration opportunities. NME still maintains the rights to the tailings and processing rights. The Board believe its operations are sufficient to warrant continued quotation of its securities on the ASX
- 3 Yes. The company has commenced a process of converting debt to equity to significantly reduce liabilities, has undertaken a rights issue (with the shortfall expected to be placed). The takeover, which has hamstringing the finances of the Company over the last 12 months is now at an end (NME did propose a rights issue in September 2021 but was prevented from so doing). The Company was successful in the Supreme Court as announced on 9 December, which brings that part at an end.
 - 3.1 The Company announced on 29 September 2022 that a significant number of creditors had accepted equity in payment of debt along with the Directors (and related entities) have proposed to convert outstanding Director fees and loans for equity (subject to shareholder approval). At the Annual General Meeting held on 30 November the shareholders approved debt for equity for Messrs Percy. There has been called an EGM for 4 January 2023 which resolutions include inter alia resolution for debt for equity conversion for Messrs Allen and Allens Business Group Pty Ltd. A further meeting will be called for Hock Hoo Chua debt for equity conversion.
 - 3.2 We refer to answer 7 below. The Company expects in the foreseeable future to place the shortfall of the recent rights issue.

3.3 Allens Business Group as per answer 12 continues to provide funding. We also refer you to answer 7.

NME, further advises that with respect to legal action by MCT regarding a cash call that NME both disputes this (before the courts) but also clarifies that although under the JV any called amounts are called a “cash call” that these amounts for every \$1m spent NME can elect to reduce their equity participation in the JV, hence even if NME did lose the proceedings no CASH would be payable by NME.

- 4 Not applicable.
- 5 No. However, the rights issue needs to be based on the ability of the Company to raise the \$3,057,987 this can only be determined at the end of the 3-month period to place the shortfall, we refer you to answer 7.
- 6 Please refer to answer 3 and 7. NME considers that it can still continue as a going concern. If the Company could not place the shortfall then only at that point possibly could the Company not be able to continue as a going concern.
- 7 The company has 3 months to place the shortfall from closing of the rights issue. The Company is in discussions with both sophisticated investors and AFSL registered entities and expects to place the full shortfall within the 3-month period to carry on its activities as per the rights issue prospectus.
- 8 We refer to answer 7 above, in addition the Company has been in discussions with an independent third party proposing to undertake the construction of a processing facility at their expense along with maintaining the operational costs of Kookynie and Yundamindra.
- 9 Not applicable.
- 10 The Company has kept Kookynie Tailings Project on a care and maintenance basis whilst pending funds but has actively maintained the legal status of the Yundamindra Project via the Wardens Court process. The Company has entered discussions with an independent party with respect to processing of the Kookynie tailings.
- 11 We refer to answer 7 above, but further advise that any shortfall will be to unrelated parties.
- 12 Yes, Allens Business Group is continuing to support on the same material terms as described in NME’s 30 September 2022 Appendix 5B Quarterly Cash Flow Report.

- 13 Pursuant to section 4.2 of NME's Corporate Governance Statement the Board is satisfied that that the system is operating effectively in all material respects in relation to financial risk. Which includes 3rd party oversight.
- 14 Not applicable.
- 15 NME confirms that it is in compliance with the listing rules and in particular Listing Rule 3.1.
- 16 The above responses have been authorised by an officer of NME with delegated authority from the Board.

Yours Sincerely



Kenneth M Allen



7 December 2022

Reference: ODIN65365

Mr Kenneth Allen
Nex Metals Exploration Limited
45 Guthrie Street
Osborne Park, WA 6017

By email: ken@nexmetals.com

Dear Mr Allen

Nex Metals Exploration Limited ('NME'): Financial Condition - Query

ASX refers to the following:

- A. NME's full year statutory accounts for the financial year ended 30 June 2022 lodged with ASX Market Announcements Platform ('MAP') and released on 3 October 2022 ('2022 Full Year Report').
- B. ASX notes that the Independent Auditor's Report attached to the 2022 Full Year Report ('Auditor's Report') contains a material uncertainty related to going concern:

"We draw attention to Note 1 (b) in the financial report, which indicates the Group incurred a net loss of \$1,787,199 and had net cash outflows from operating activities of \$773,014 for the year ended 30 June 2022. As at that date the consolidated entity had net current liabilities of \$4,694,970 and net liabilities of \$3,553,061. As stated in Note 1 (b), these events or conditions, along with other matters as set forth in Note 1 (b), indicate that a material uncertainty exists that may cast significant doubt on the Group's ability to continue as a going concern. Our opinion is not modified in respect of this matter."

- C. Note 1 (b) of the 2022 Full Year Report which states the following with respect to the basis upon which NME's directors believe that there are reasonable grounds to believe that NME will continue as a going concern and why it is appropriate to adopt the going concern basis in the preparation of NME's 2022 Full Year Report:

(b) Going concern

The financial statements have been prepared on the going concern basis, which contemplates continuity of normal business activities and the realisation of assets and discharge of liabilities in the normal course of business.

As disclosed in the financial statements, the Consolidated Entity incurred a net loss of \$1,787,199 and had net cash outflows from operating activities of \$773,014 for the year ended 30 June 2022. As of that date, the Consolidated Entity had net current liabilities of \$4,694,970 and net liabilities of \$3,553,061.

Notwithstanding this deficiency of net assets as at balance date, the Directors believe that there are reasonable grounds to believe that Consolidated Entity will be able to continue as a going concern after consideration of the following events that have occurred after balance date, resulting in a reduction of net current liabilities of \$4,823,118 as follows:

On 29 September 2022, the Company issued 28,919,475 shares at \$0.05 cents to satisfy payments to trade and other payables to third parties, totalling \$1,445,974. Refer Note 23(d) for details.	\$1,445,974
On 30 September 2022, the Company announced that director's fees and related party loans totalling \$2.96M will be converted to equity at \$0.05 per share, subject to shareholder approval. Additionally, in the event that the resolution is unsuccessful, the Directors and related party have agreed to defer repayment until at least 31 October 2023. Refer Note 23(b) for details.	\$2,959,406

Accrued Rent and Accounting Fees owed to Allen's Business Group. On 30 September 2022, the Company has received written confirmation these payables will not be called for repayment until at least 31 October 2023.	\$282,871
Annual Leave Liability owing to Director Ken Allen, the director has provided a written conformation to the Company to defer repayment until at least 31 October 2023.	\$134,867

Furthermore, other factors leading to the decision that the Consolidated Entity will be able to continue as a going concern include:

- (a) On 30 September 2022, the Company announced that it is undertaking a capital raising via a non-renounceable rights issue ("Rights Issue") to raise up to \$3.058M before costs. Proceeds from the Rights Issue will be used predominantly to raise working capital to advance the Company's joint venture with Metalicity Limited at the Kookynie and Yundramindra Gold Projects.
- (b) Allens Business Group Pty Ltd, an entity controlled by the Director, Ken Allen, has agreed in writing to continue to cover any short term funding needs up to a further \$750,000 to assist with payment of current payables.
- (c) The Company after consulting its legal counsel and lawyers believe it will be successful in defending a claim by Metalicity of \$1,279,794.26 as disclosed in Note 16.

The Directors of the Company have considered the material uncertainties that exists regarding going concern. In the event of one or a combination of these events occurring, the Company may not be able to continue as a going concern.

- If Nex is not successful in defending a claim by Metalicity of \$1,279,794.26 as disclosed in Note 16;
- If the capital raising announced on 30 September 2022 is not successful;
- If the legal fees from defending the takeover by Metalicity as well as other legal matters are significantly higher than the forecast;
- If Nex is not successful in defending Metalicity's ability to block its attempts to raise capital, convert payables to equity, and convert director's payables and loans;
- If future creditors are not willing to accept payment via shares;
- If Allens Business Group Pty Ltd is unable to provide further financial support; and
- If Nex is not successful in defending any ongoing threats by Metalicity to stifle the Company's progress.

Based on the factors above there is a material uncertainty that may cast significant doubt about whether the Consolidated Entity will continue as a going concern and therefore whether it will realise its assets and extinguish its liabilities in the normal course of business and at the amounts stated in the year ended 30 June 2022 financial report.

The year ended 30 June 2022 financial report does not include any adjustments relating to the amounts or classification of recorded assets or liabilities that might be necessary if the Consolidated Entity does not continue as a going concern.

- D. NME's total equity disclosed in the 2022 Full Year Report as being \$(3,533,061).
- E. NME's prospectus dated 5 October 2022 for a pro-rata non-renounceable entitlement issue of one (1) Share for every 3 Shares held by NME shareholders at an issue price of \$0.031 per Share to raise up to

approximately \$3,057,987 before costs ('Rights Issue') ('Rights Issue Prospectus') released to MAP on 5 October 2022.

F. Section 2.6 of the Rights Issue Prospectus which states the following:

'Any Entitlement not taken up pursuant to the Offer will form the Shortfall Offer ('Shortfall Shares'). The Shortfall Offer is a separate offer made pursuant to this Prospectus and will remain open for up to three months following the Closing Date. The issue price for each Share to be issued under the Shortfall Offer shall be \$0.031 being the price at which Shares have been offered under the Offer.'

G. NME's announcement entitled 'Shareholder Update' released to MAP on 5 October 2022 ('Shareholder Update Announcement') which disclosed, (amongst other matters) the following:

"Moving forward, the Directors are being very mindful of their obligations to maintain solvency for the Company and all its stakeholders.

To this end, the Board have in recent days disclosed the following:

- 2. All directors (including Allens Business Group Pty Ltd, a related party of Mr Allen) have agreed to convert all outstanding director's fees and loans (as of 30 June 2022), a sum which currently stands at a total of \$3,300,611, to equity in the Company at \$0.05 (being five cents per share) subject to shareholder approval at a later date.*
- 3. A pro rata rights issue was announced on 30 September 2022 of a (sic) 1 new share for every 3 existing shares for an issue price of \$0.031 (three point one cent) per share to raise approximately \$3.058m in capital. This will be used to advance the Kookynie and Yundamindra Gold Projects and ongoing administration. Participants in the rights issue will also receive 1 free attaching option for every 3 shares subscribed for with an exercise price of \$0.10 and an expiry date of 31 October 2025. The Company will seek to have the options admitted to quotation on ASX."*

Following the intended actions of the Company listed (1-3) above have been completed, (sic) the Company is confident that will be in a position (sic) of where it will have no overdue creditors and additionally will be well-funded to move forward with its projects."

H. NME's Appendix 5B quarterly cash flow report for the quarter ended 30 September 2022 released to MAP on 31 October 2022 which disclosed (amongst other things) the following:

- (i) NME had cash and cash equivalents as at the end of the quarter of \$80,000 ('September 2022 Cash Balance');
- (ii) had estimated quarters funded of 0.54 ('September 2022 Quarters Funded'); and
- (iii) had arrangements in place with Allens Business Group Pty Ltd ('Allens Business Group') whereby *'Allens Business Group had agreed to cover any short-term funding needs with a facility of clear credit of \$750,000 that is unsecured, with no set maturity date and no interest chargeable.'* ('Allens Business Group Funding Agreement')

I. NME's Notice of Extraordinary General Meeting released to MAP on 1 December 2022 which contains (amongst others) resolutions to approve the issue of shares in NME in satisfaction of fees owing by NME to Kenneth Allen to the value of \$1,423,092 and approve the issue of shares in NME in satisfaction of amounts owing by NME to Allens Business Group to the value of \$806,673 ('Kenneth Allen Share Issue Resolutions').

J. NME's announcement entitled 'Rights Issue Results' released to MAP on 6 December 2022 which disclosed (amongst other things), the following:

- (i) that NME had closed the Rights Issue and raised \$94,234.26 ('Rights Issue Raising Amount')

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- (ii) owing to the amount raised under the Rights Issue, a shortfall amount of \$2,963,753 ('Shortfall Amount') remains to be placed; and
- (iii) in respect of the Shortfall Amount still to be placed, that *'the Board is fully confident of placing the shortfall'*
- K. Listing Rule 12.1 which states:
- 12.1 *The level of an entity's operations must, in ASX's opinion, be sufficient to warrant the continued +quotation of the entity's +securities and its continued listing.*
- L. Listing Rule 12.2 which states:
- 12.2 *An entity's financial condition (including operating results) must, in ASX's opinion, be adequate to warrant the continued +quotation of its +securities and its continued listing.*
- M. Listing Rule 19.11A which states:
- 19.11A *If a listing rule requires an entity to give ASX +accounts, the following rules apply.*
- (a) *If the entity controls an entity within the meaning of section 50AA of the Corporations Act or is the holding company of an entity, required by any law, regulation, rule or accounting standard, or if ASX requires, the +accounts must be consolidated +accounts.*
- (b) *The +accounts must be prepared to Australian accounting standards. If the entity is a +foreign entity the +accounts may be prepared to other standards agreed by ASX.*
- (c) *If the listing rule requires audited +accounts, the audit must be conducted in accordance with Australian auditing standards by a registered company auditor. If the entity is a +foreign entity, the audit may be conducted in accordance with other standards agreed by ASX and may be conducted by an overseas equivalent of a registered company auditor.*
- (d) *If the listing rule requires +accounts to be reviewed, the review must be conducted in accordance with Australian auditing standards. If the entity is a +foreign entity, the review may be conducted in accordance with other standards agreed by ASX. Unless the listing rule says an independent accountant may conduct the review, it must be conducted by a registered company auditor (or, if the entity is a +foreign entity, an overseas equivalent of a registered company auditor).*
- (e) *If there is a +directors' declaration that relates to the +accounts, the +directors' declaration must be given to ASX with the +accounts.*
- (f) *If there is a +directors' report that relates to the period covered by the +accounts, the +directors' report must be given to ASX with the +accounts.*

Request for information

In light of the information contained in the 2022 Full Year Report including the Auditor's Report, the closure of the Rights Issue and the Rights Issue Raising Amount and the application of the Listing Rules stated above, please respond to each of the following questions:

1. Is NME able to confirm that in the Directors' Opinion the 2022 Full Year Report:
 - (a) complies with the relevant Accounting Standards; and
 - (b) gives a true and fair view of NME's financial performance and position?
2. Does NME consider that its level of operations is sufficient to warrant continued quotation of its securities on ASX as required under listing rule 12.1? In answering this question, please explain the basis for this conclusion. In answering this question, please comment on the nature of NME's current business activities.
3. Does NME consider that the financial condition of NME is sufficient to warrant continued listing on ASX as required under Listing Rule 12.2? In answering this question, please also explain the basis for this conclusion, commenting specifically on the following:
 - 3.1 NME's negative working capital of \$4,694,970 and net liability position of \$3,535,061 as at 30 June 2022;
 - 3.2 NME's cash and cash equivalents balance as at 30 September 2022 of \$80,000; and
 - 3.3 NME's quarter's funded as at 30 September 2022 of 0.54.
4. If the answer to questions 2 or 3 is "No", please explain what steps NME has taken, or proposes to take, to warrant continued listing on ASX under the requirements of Listing Rules 12.1 and 12.2.
5. Given the following:
 - 5.1 the commentary in NME's 2022 Full Year Report with respect to whether NME can continue as a going concern, specifically *'in the event that of one or a combination of these events occurring, the Company may not be able to continue as a going concern'*
 - *If the capital raising announced on 30 September 2022 is not successful'* (being the Rights Issue); and
 - 5.2 the Rights Issue Raising Amount of \$94,234.26,Does NME consider the Rights Issue was successful?
6. If the answer to question 5 is "No", does NME consider it can still continue as a going concern? In answering this question, please explain why NME's directors consider NME can continue as a going concern in circumstances where it was stated in NME's 2022 Full Year Report that in the event the Rights Issue was not successful, NME may not be able to continue as a going concern.
7. If the answer to question 5 is "Yes", please explain the basis for that view given the rights issue closed with a shortfall amount of \$2,963,753 and the Rights Issue was intended to raise up to an amount of \$3,057,987?
8. Given that the Rights Issue has closed having raised \$94,234.26, does NME still consider it will have adequate funds available to *'advance the Kookynie and Yundamindra Gold Projects and ongoing administration'* as was contemplated by NME in the Shareholder Update Announcement?
9. If the answer to question 8 is "No" what alternative arrangements does NME propose to ensure it will have adequate funds to continue its operations?

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10. If the answer to question 8 is “Yes”, what activities does NME consider it may undertake on the Kookynie and Yundamindra Gold Projects with the funds raised to date under the Rights Issue, please provide specific details.
 11. Noting there was no lead manager appointed by NME to conduct the Rights Issue, please explain how NME intends to place the Shortfall Amount under the Rights Issue to unrelated parties pursuant to exception 3 of Listing Rule 7.2?
 12. Is Allens Business Group continuing to provide financial support to NME pursuant to the Allens Business Group Funding Agreement on the same material terms as described in NME’s 30 September 2022 Appendix 5B Quarterly Cash Flow Report?
 13. In relation to the preparation of NME’s 2022 Full Year Report, was the NME Board satisfied that the Managing Director had put in place ‘*sound systems of risk management and internal control and that the system is operating effectively in all material respects in relation to financial risk*’ pursuant to section 4.2 of NME’s Corporate Governance Statement?
 14. If the answer to Question 13 is “No”, on what basis did the NME directors satisfy themselves that in their opinion:
 - 14.1 the 2022 Full Year Report complies with the *Corporations Act 2001*, the Australian Accounting Standards, the *Corporations Regulations 2001* and other mandatory professional reporting requirements;
 - 14.2 the 2022 Full Year Report complies with IFRS as issued by the IASB;
 - 14.3 the 2022 Full Year Report gives a true and fair view of NME’s financial position as at 30 June 2022 and of NME’s performance for the financial year ended on that date; and
 - 14.4 having regard to the detailed factors set out in Note 1 (b) to the 2022 Full Year Report, there are reasonable grounds to believe that NME will be able to pay its debts as and when they become due and payable?
 15. Please confirm that NME is complying with the Listing Rules and, in particular, Listing Rule 3.1.
 16. Please confirm that NME’s responses to the questions above have been authorised and approved under its published continuous disclosure policy or otherwise by its Board or an officer of NME with delegated authority from the Board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **12 PM AWST Tuesday, 13 December 2022**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, NME’s obligation is to disclose the information ‘immediately’. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require NME to request a trading halt immediately.

Your response should be sent to me by e-mail at ListingsCompliancePerth@asx.com.au. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Trading halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in NME's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in NME's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to NME's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that NME's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence between ASX and entity

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Questions

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

Dale Allen
Manager, Listings Compliance (Perth)