2 July 2026

To: New South Wales Resources Minister, the Hon. Courtney Houssos

Re: Reprocessing Mine Tailings Proposed Special Licence

Email: Upload to the NSW Parliament website

Introduction

The Association of Mining and Exploration Companies (AMEC) welcomes the opportunity to provide input into the NSW Government's consideration of policy and regulatory settings to enable the reprocessing of historical mine tailings across the State.

This submission proposes a targeted, fit-for-purpose licensing pathway to enable third-party reprocessing of historical mine tailings in NSW. Current frameworks create barriers, including disproportionate security deposits[1], complex tenure, and unclear liability allocation. Reform would unlock value, improve rehabilitation outcomes, and align with critical minerals policy while also unlocking new sources of value and improve environmental outcomes and land stewardship across NSW.

AMEC strongly supports initiatives that facilitate the recovery of valuable minerals from historical tailings, particularly where such activities can deliver a dual benefit of economic development and environmental rehabilitation. Advances in processing technology, combined with growing demand for critical minerals, have created a timely opportunity to revisit legacy materials that were previously uneconomic to extract.

However, under the current regulatory framework, the reprocessing of tailings is often constrained by tenure, access, and liability settings that were not designed with third-party recovery or modern reprocessing approaches in mind. Without targeted reform, there is a risk that significant volumes of recoverable material and associated environmental benefits will remain unutilised.

A key emerging barrier to enabling these projects is the regulatory classification of historical tailings, slag and previously processed materials as "waste" under existing environmental frameworks. This can unintentionally trigger regulatory pathways designed for waste disposal facilities, rather than resource recovery operations, creating a disproportionate burden on projects that deliver net environmental and economic benefit.

This reform process presents a clear opportunity for the NSW Government to establish a more enabling and contemporary framework that supports safe, responsible, and commercially viable tailings reprocessing. In doing so, NSW can position itself as a leader in circular resource development, strengthen its contribution to critical minerals supply chains, and accelerate the rehabilitation of legacy mine sites.

AMEC therefore provides the following recommendations to support a practical, proportionate, and investment-enabling approach.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is the national peak industry body representing over 550 mining and mineral exploration companies and associated service providers across Australia, with more than 60 member companies actively exploring, mining and developing projects in NSW. AMEC members are responsible for substantial mineral exploration and production activity across the State, supporting regional employment, investment, and economic growth.

The mining and exploration industry makes a critical contribution to the Australian economy. In 2024/2025, these companies collectively paid $3.7 billion in royalties and other taxes paid to the NSW Government.

New South Wales has a significant opportunity to unlock value from legacy mine tailings while delivering improved environmental outcomes.

Context

A critical issue impacting the viability of tailings reprocessing projects in NSW is the classification of historical tailings, slag and similar materials under environmental legislation.

Under the current framework, these materials may be classified as “prescribed waste” due to their chemical composition (for example, elevated levels of arsenic or other elements), even where they contain significant residual mineral value.

This classification can trigger “mineral waste generation” under Schedule 1 of the *Protection of the Environment Operations Act 1997*[1], where more than 5 tonnes of prescribed waste is held on site at any one time. In practice, this threshold is not compatible with mineral processing operations, where continuous feedstock supply and blending are required. A single delivery of material can exceed this threshold, and typical processing operations require substantially larger volumes to operate efficiently.

As a result, projects that are fundamentally mineral processing operations risk being regulated as waste management facilities, creating a significant barrier to investment and innovation.

---

[1] Protection of the Environment Operations Act 1997 No 156 - NSW Legislation

AMEC proposes the recognition of "Semi Processed Ore (SPO)" as a distinct category of material. SPO includes previously mined or processed mineral-bearing materials—such as tailings, waste rock, and smelter slag—that retain economic value and are intended for further processing and recovery.

These materials should be distinguished from waste, as they are not intended for disposal but can be reprocessed to recover valuable minerals and reduce legacy environmental liabilities.

Key Recommendations

AMEC recommends that the NSW Government:

1. Treat SPO as feedstock for mineral processing rather than waste,
2. Establish dedicated licensing pathway for secondary resource processing (including SPO),
3. Apply proportionate or as negotiated security deposits,
4. Enable site access,
5. Streamline approvals,
6. Develop guidance and pilots.
7. Ensure delivery fees reflect efficient cost recovery

Treat SPO as a feedstock for mineral processing rather than waste

SPO should be reprocessed to recover valuable minerals and reduce legacy environmental liabilities.

SPO may exist across different land tenures and facilities, including:

- Existing mining tenements (EL or ML)
- Freehold or agricultural land where legacy minerals remain
- Industrial or commercial sites where material is transported for processing (e.g. Toll treatment facilities)

This framework should explicitly include smelter slag, which is present across numerous historical mining regions in NSW and often contains significant concentrations of recoverable metals such as zinc, copper, gold and silver. In many cases, these materials represent substantial secondary resource opportunities, with individual sites containing tens of thousands to hundreds of thousands of tonnes. Recognising slag as a recoverable resource rather than waste would unlock significant economic and environmental value.

Establish dedicated licensing pathways through a special processing licence

AMEC recommends that the NSW Government establish a dedicated licensing pathway, such as a special processing licence, specifically designed to enable third-party reprocessing of historical mine tailings and previously mined materials.

This pathway would not require a Mining Licence, but only a Development Application under the EP&A Act, serving as the required approval prior to commencing activities.

The current mining tenure framework does not actually classify tailings or waste rock as a mine. Section 4 of the Mining Act (https://legislation.nsw.gov.au/view/whole/pdf/inforce/2025-08-23/act-1992-029 page 378) has an inclusive definition of mine, which omits waste rock and tailings:

(a) Definition of mine (noun)

A mine is defined to include any place, pit, shaft, drive, level or other excavation, drift, gutter, lead, vein, lode, reef or salt-pan, and

b) Definition of mine (verb)

The current Mining Act states that to actively “mine” means to extract material from land.

Tailings and waste have already been extracted, have already been removed from the ground and have already been processed once. Reprocessing tailings does not involve disturbing land, creating new excavations, or accessing new ore bodies. It is a secondary processing activity, not a primary mining activity.

A tailored licence category would provide regulatory clarity by defining the scope of permissible activities, operational boundaries, and associated obligations for reprocessing projects. Importantly, it would recognise that tailings reprocessing is fundamentally different from conventional mining, as it typically occurs on already disturbed land and involves lower incremental environmental impact. Establishing such a pathway would reduce uncertainty for proponents, improve regulatory efficiency, and support investment in innovative recovery technologies.

Apply proportionate or as negotiated security deposits

AMEC recommends that security deposit requirements for tailings reprocessing projects be proportionate to the incremental risk and rehabilitation liability associated with the proposed activity or determined through a negotiated framework where appropriate. Under the current system, security deposits are generally calibrated to cover the full rehabilitation liability of a mining title, which can result in new entrants being required to underwrite legacy liabilities they did not create and cannot control. This creates a significant barrier to investment in projects that may otherwise deliver net environmental benefits. A proportionate approach would ensure that the State remains protected from default risk, while aligning financial assurance requirements with the actual scope and risk profile of the reprocessing activity. Where appropriate, negotiated outcomes between the regulator, existing title holder, and reprocessing proponent could further support fair and practical allocation of responsibility.

Enable site access

AMEC recommends that the NSW Government introduce clearer and more flexible mechanisms to enable third-party access to tailings and mine waste located on freehold land. In many cases, valuable tailings resources are situated on land controlled by an existing title holder who may not have the capability or commercial incentive to undertake reprocessing. The current framework does not readily facilitate limited-purpose access arrangements, which can result in otherwise viable projects being unable to proceed. Establishing a defined pathway—whether through licence conditions, statutory access rights, or streamlined approval for subleasing or cooperative arrangements—would enable specialist operators to undertake reprocessing activities without requiring full transfer of the mining title. This would promote more efficient use of existing resources and infrastructure.

Streamline approvals

AMEC recommends that the NSW Government develop a streamlined and coordinated approvals pathway for tailings of reprocessing projects, particularly where proposals are confined to previously disturbed land and demonstrate a net environmental benefit. At present, such projects may be subject to the same planning and assessment requirements as greenfield mining developments, leading to duplication, extended timeframes, and unnecessary regulatory burden. A more proportionate approach could include risk-based assessment thresholds, coordinated review processes between NSW Resources and Planning, or the development of a specific assessment pathway for secondary resource recovery projects. Streamlining approvals would improve efficiency without compromising environmental standards and would better reflect the lower-impact nature of many tailings of reprocessing activities.

Develop guidance and pilots

AMEC recommends that the NSW Government publish clear regulatory guidance and consider establishing pilot projects to support the implementation of a tailings reprocessing framework. Given the relative novelty of third-party reprocessing in NSW, proponents, regulators, and existing title holders would benefit from greater clarity on how such projects can be structured, assessed, and approved. Guidance material could address key issues such as liability allocation, security deposit calculation, access arrangements, and approval pathways. In parallel, pilot projects would provide an opportunity to test and refine the framework in a controlled environment, demonstrating how regulatory objectives can be met while enabling investment and innovation. This approach would build confidence across government and industry and help establish NSW as a leader in secondary resource recovery and circular mining practices.

Ensure delivery fees reflect efficient cost recovery

To support a viable and sustainable framework for the reprocessing of tailings, it is essential that any delivery or access fees imposed by government are structured to reflect efficient cost recovery rather than functioning as de facto royalties or mining charges. Tailings have already undergone primary extraction, and the remaining material represents a secondary resource that can be recovered only through additional processing rather than new mining activity.

Accordingly, delivery fees associated with accessing, transporting, or handling these waste materials should be calibrated to recover only the reasonable and demonstrable costs incurred by the administering authority. This may include costs related to site management, environmental oversight, monitoring, or administrative processing. Fees should not exceed the level necessary to recover these legitimate expenses, ensuring they remain proportionate to the actual services provided.

Closing Remarks

The reprocessing of historical mine tailings presents a significant opportunity for New South Wales to unlock value, accelerate rehabilitation, and strengthen its contribution to emerging critical minerals supply chains. However, realising this opportunity requires alterations to the current regulatory framework as the activity is fundamentally different from primary mining, with lower environmental impact and substantial potential for government and public benefit.

Enabling the reprocessing of secondary resource materials will support NSW's critical minerals strategy, accelerate rehabilitation of legacy sites, and position the State as a leader in circular resource development.

AMEC looks forward to continuing to work collaboratively with the NSW Government on the implementation of these reforms.

For further information, contact:
Kerry Atkins, Director - New South Wales | 0403 468 994 | kerry.atkins@amec.org.au
Paula Dell-McCumstie, Policy Advisor - New South Wales | 0497 575 258 | paula.dell-mccumstie@amec.org.au