Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I modify the project approval referred to in Schedule 1, as set out in Schedule 2.

Carolyn McNally
Secretary

Sydney 20th October 2014

SCHEDULE 1

The development consent (DA 345-11-01) granted by the Minister for Planning for the Broken Hill Mineral Separation Plant on 27 May 2002.

SCHEDULE 2

1. In the acronyms and abbreviations at the beginning of Schedule 2:

   (a) Delete the definitions for DECC, The Applicant, The Department, The Director-General, DoP, DPI(Minerals), DWE and RTA.

   (b) Insert the following acronyms and abbreviations in alphabetical order:

Applicant, The	BeMax Resources NL (ACN 009 247 858) on behalf of the BIP Joint Venture (a joint venture between BeMax Resources NL 75% and Probo Mining Pty Limited 25% [ACN 079 938 819]) (or its successors)
Department, The	Department of Planning & Environment
EA	Environmental Assessment
EPA	Environment Protection Authority
NOW	NSW Office of Water
OEH	Office of Environment and Heritage
RMS	NSW Roads and Maritime Services
Secretary	Secretary of the Department of Planning & Environment (or nominee)

2. Delete all references to "DWE" and replace with "NOW".

3. Delete all references to "Director-General" and replace with "Secretary".

4. Delete all references to "RTA" and replace with "RMS".

5. Delete all references to "DECC" and replace with:
   (a) "OEH" in condition 3.9; and
   (b) "EPA" in all other cases.

6. In condition 1.1(a) replace the title with "Adherence to terms of DA, EIS, SEE, EA etc".

7. In condition 1.1(a) replace (v) with the following:

   (v) the modification application MOD-130-8-2005i, lodged with the Department of Infrastructure and Planning on 25 August 2005 and accompanied by Statement of Environmental Effects August 2005 Modification for Broken Hill Mineral Separation Plant, prepared by Resource Strategies and dated August 2005; and

8. In condition 1.1(a), insert the following after (vii):

(viii) *the modification application lodged with the Department on 11 November 2013 and accompanied by an Environmental Assessment entitled Murray Darling Basin Operations Modification, prepared by Resources Strategies Pty Ltd and dated November 2013;*

(ix) *the Murray Darling Basin Operations Modification Response to Submissions lodged with the Department on 20 February 2014, prepared by Resource Strategies Pty Ltd and dated February 2014; and*

9. In condition 1.1, delete conditions (c) and (d).

10. Replace condition 1.2 with the following:

1.2 Compliance

The applicant shall comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:

(a) *any reports, strategies, plans, programs, reviews, audits or correspondence that are submitted in accordance with this consent;*

(b) *any reports, review or audits commissioned by the Department regarding compliance with this consent; and*

(c) *the implementation of any actions or measures contained in these documents.*

11. Replace condition 1.3 with the following:

1.3 Obligation to Prevent and Minimise Harm to the Environment

In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, or decommissioning of the development.

12. Delete condition 1.4.

13. Replace condition 1.5 with the following:

1.5 Processing Operations

(a) *Processing operations may take place until 31 December 2032.*

(b) *The Applicant shall not process more than 1,200,000 tonnes per annum of mineral concentrate/heavy mineral concentrate per year at the premises.*

14. Insert the following condition after condition 1.6:

1.7 Structural Adequacy

The Applicant shall ensure that any new buildings and structures, and any alterations, or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:
Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

15. Delete Section 2.

16. In condition 3.1(a) replace the table with the following:

EPA No.	***Type of monitoring point***	***Type of discharge point***	***Description of location***
1	*Dust Monitoring*		*Dust Deposit gauge marked 'DBH3' in Figure 6 of Murray Darling Basin Operations Modification EA*
2	*Dust Monitoring*		*Dust Deposit gauge marked 'DBH1' in Figure 6 of Murray Darling Basin Operations Modification EA*
3	*Dust Monitoring*		*Dust Deposit gauge marked 'DBH2' in Figure 6 of Murray Darling Basin Operations Modification EA*
4	*Dust Monitoring*		*Dust Deposit gauge marked 'DBH4' in Figure 6 of Murray Darling Basin Operations Modification EA*
5	*Dust Monitoring*		*High Volume Air Sampler marked in Figure 6 of Murray Darling Basin Operations Modification EA*
6	*Air emissions monitoring*	*Discharge to air*	*Bag house stack serving leucoxene circuit identified as 'Leucoxene Hygiene Bag House Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*
7	*Air emissions monitoring*	*Discharge to air*	*Bag house stack serving ilmenite circuit identified as 'Ilmenite Hygiene Bag House Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*

8	*Air emissions monitoring*	*Discharge to air*	*Bag house stack serving rutile/zircon circuits identified as 'Rutile/Zircon Hygiene Bag House Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*
9	*Air emission monitoring*	*Discharge to air*	*Bag house stack serving LPG/LNG fired zircon dryer identified as 'Zircon Dryer Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*
10	*Air emission monitoring*	*Discharge to air*	*Bag house stack serving LPG/LNG fired leucoxene dryer identified as 'Leucoxene Dryer Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*
11	*Air emission monitoring*	*Discharge to air*	*Bag house stack serving LPG/LNG fired rutile dryer identified as 'Rutile Dryer Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*
12	*Air emission monitoring*	*Discharge to air*	*Bag house stack serving LPG/LNG fired ilmenite dryer identified as 'Ilmenite Dryer Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*
13	*Air emission monitoring*	*Discharge to air*	*Scrubber stack serving brown coal fired roasting kiln identified as 'Ilmenite Kiln Stack' in Figure 3 of Murray Darling Basin Operations Modification EA*

17. In condition 3.1(b) replace the 7 tables (not numbered) with the following 2 tables:

Points 6, 7 and 8

Pollutant	***Units of Measure***	***100 percentile concentration Limit***
Solid particulates	*mg/m^3*	*100*

Points 9, 10, 11, 12 and 13

Pollutant	***Units of Measure***	***100 percentile concentration Limit***
Solid particulates	*mg/m^3*	*100*
Nitrogen dioxide (NO_2) or nitric oxide (NO) or both (as NO_2)	*g/m^3*	*0.35*

Note: *The reference conditions for limit concentrations in the above tables are: "dry, 273K, 101.3 Kpa, 3% O_2"*

18. In condition 3.2(a) in the table (3rd line, 4th column) replace 1.20 with 0.75.

19. In condition 3.2(b) replace the note with the following:

Note:
Where necessary, the Applicant can apply to modify the stack design parameters included in Condition 3.2(a). The application must demonstrate that the modified design parameters comply with the Protection of the Environment Operations (Clean Air) Regulation 2010.

The following documents should be referred to for determining good engineering practice stack height:

USEPA, 1985, Guideline for Determination of Good Engineering Practice Stack Height (Technical support Document for the Stack Height Regulations), Revised EPA-450/4-80-023R. United States Environment Protection Agency, Washington DC, USA.

USEPA, 1995, User's Guide to the Building Profile Input Program, Revised February 1995, EPA-454/R-93-038. United States Environment Protection Agency, Washington DC, USA.
USEPA, 1997, Addendum to ISC3 User's Guide, The PRIME Plume Rise and Building Downwash Model. United States Environment Protection Agency, Washington DC, USA.

20. Delete condition 3.2 (c).

21. Replace condition 3.6 with the following:

3.6 Noise Limits

(a) *The Applicant must ensure that noise associated with the project does not exceed the noise limits at surrounding residential premises detailed in the Table below.*

Location	***Day/Evening/Night (excluding temperature inversions) dB(A) LAeq*** *(15 minute)*	***Day/Evening/Night with temperature inversion dB(A) LAeq*** *(15 minute)*
R3 – Smith	*35*	*39*
All other residential	*35*	*35*

premises		

Noise generated by the project is to be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the NSW Industrial Noise Policy. Attachment 2 sets out the meteorological conditions under which these criteria apply, and the requirements for evaluating compliance with these criteria.

However, these criteria do not apply if the Applicant has an agreement with the relevant landowner to exceed the noise criteria, and the Applicant has advised the Department in writing of the terms of this agreement.

3.6A Noise Monitoring

(a) The Applicant shall prepare a Noise Monitoring Program for the project to the satisfaction of the Secretary. This program must be submitted to the Secretary by the end of March 2015, and must include a regular attended noise monitoring in accordance with Attachment 2.

3.6B Noise Mitigation

(a) Upon receiving a written request for noise mitigation measures from the owner of the property shown as 'R3 – Smith' in Attachment 3, the Applicant must arrange the commencement of the physical implementation of noise mitigation measures at the property. The Applicant must provide an offer for the implementation of noise mitigation measures within 3 months of receiving the written request.

If the Applicant and the landowner cannot agree on measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Secretary for resolution.

(b) By the end of November 2014, the Applicant shall notify in writing the owner of property R3 that they have the right to request the Applicant for noise mitigation measures to be installed at their residence at any stage during the project.

Note: Noise mitigation measures include but are not limited to double glazing of windows, the installation of insulation in walls and ceilings and/or air conditioning.

3.6C Operating Noise Conditions

(a) *All external auxiliary equipment to the processing circuits (i.e. external fans, pumps and screening external to the tables) identified as noise generating must be acoustically treated with cladding or be enclosed.*

(b) *The approved zircon, rutile and ilmenite kiln/roasted circuits must be constructed so as to be housed within a building.*

(c) *Once mineral concentrate trains from the Atlas-Campaspe Mineral Sands Project are received at the MSP, any front end loader operating in the night time period must be fitted with a noise suppression kit.*

3.6D Construction Noise

All construction work at or associated with the development must only be conducted between the following hours:

(a) *7:00am to 6:00pm Monday to Friday, and*

(b) *8:00am to 1:00pm Saturdays.*

22. Delete condition 3.9(b).

23. In condition 3.11, delete conditions (a), (f), (g1), (g2), (h) and (i).

24. In conditions 3.12(n) and 3.12(q) in the notes, replace "Protection of Environment (Waste) Regulation 1996" with "Protection of Environment (Waste) Regulation 2005".

25. Delete condition 3.15.

26. In condition 3.16, insert the following after 3.16(a):

    (b) Process waste is to be transported by the heavy vehicles otherwise transporting mineral and heavy mineral concentrates, as backloads on return trips, wherever practicable.

27. Replace condition 4.1 with the following:

4.1 Independent Environmental Audits

(a) *Within 2 years of the latest modification (DA 341-11-01 Mod 3) and every 3 years thereafter, or at periods otherwise agreed to by the Secretary, and until such time as agreed to by the Secretary, the Applicant shall arrange for an independent audit of the environmental performance of the development. The audits shall:*

- *be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;*
- *include consultation with the relevant agencies;*
- *assess the environmental performance of the development and assess whether it is complying with the requirements in this consent, and any other relevant approvals, relevant EPL/s (including any assessment, plan or program required under these approvals);*
- *review the adequacy of any approved strategy, plan or program required under the abovementioned approvals; and*
- *recommend measures or actions to improve the environmental performance of the development, and/or any strategy, plan or program required under these approvals.*

(b) *Within 3 months of commissioning this audit, or as otherwise agreed by the Secretary, the Applicant shall submit a copy of the audit to the Secretary, together with its response to any recommendations contained in the audit report.*

28. Delete condition 4.2.

29. Delete Section 5.

30. Delete condition 6.1.

31. Replace condition 6.2 with the following:

6.2 Environmental Management Strategy

The Applicant shall prepare and implement an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:

(a) *be submitted to the Secretary for approval by the end of March 2015;*
(b) *provide the strategic framework for environmental management of the development;*
(c) *identify the statutory approvals that may apply to the development;*
(d) *describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;*
(e) *describe the procedures that would be implemented to:*

- *keep the local community and relevant agencies informed about the operation and environmental performance of the development;*
- *receive, handle, respond to, and record complaints;*
- *resolve any disputes that may arise;*
- *respond to any non-compliance;*
- *respond to emergencies; and*

(f) *include:*

- *copies of any strategies, plans or programs approved under the conditions of this consent; and*
- *a clear plan depicting all the monitoring to be carried out in relation to the development.*

32. Following condition 6.7 insert the following condition:

6.8 Revision of Strategies, Plans and Programs

Within 3 months of the submission of:

(a) *an AMER under condition 7.1 below;*
(b) *any incident report;*
(c) *an audit under condition 4.1; or*
(d) *any modification to the conditions of this consent (unless the conditions require otherwise);*

the Applicant shall review and, if necessary, revise the strategies, plans, and programs required under this consent to the satisfaction of the Secretary. Where this review leads to revisions in any such document, then within 4 weeks of the review, the revised document must be submitted to the Secretary for approval.

Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.

33. Delete Condition 7.3.

34. Delete condition 7.4.

35. Insert the following two attachments after Attachment 1:

Attachment Number 2 – Noise Compliance Assessment

Applicable Meteorological Conditions

1. *The noise criteria in condition 3.6A are to apply under all meteorological conditions except the following:*
   - (a) *average wind speed at microphone height exceeds 5 m/s;*
   - (b) *wind speeds greater than 3 m/s measured at 10 m above ground level; or*
   - (c) *temperature inversion conditions greater than 3oC/100m.*

Determination of Meteorological Conditions

2. *Except for wind speed at microphone height, the data to be used for determining meteorological conditions shall be recorded by the closest meteorological station.*

Compliance Monitoring

3. *Unless directed otherwise by the Secretary, quarterly attended monitoring is to be used to evaluate compliance with the relevant conditions of consent.*

   Note: The Secretary may direct that the frequency of attended monitoring increase or decrease at any time during the life of the development.

4. *Unless otherwise agreed with the Secretary, this monitoring is to be carried out in accordance with the relevant requirements for reviewing performance set out in the NSW Industrial Noise Policy (as amended from time to time), in particular the requirements relating to:*
   - (a) *monitoring locations for the collection of representative noise data;*
   - (b) *meteorological conditions during which collection of noise data is not appropriate;*
   - (c) *equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and*
   - (d) *modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration.*

Attachment Number 3 – Receiver Locations