

Briefing to Incoming Minister Information Release

Release Document

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BRIEFING PAPER FOR SHAREHOLDING MINISTERS

Business Area: Solid Energy New Zealand Ltd and Group
Prepared By: Tony King, Chief Executive Officer
Approved By: Andy Coupe, Chair

Date: 8 November 2017
Date: 8 November 2017

1 PURPOSE

To brief incoming Ministers on the status of Solid Energy New Zealand Ltd (Subject to Deed of Company arrangement) (SENZ), and issues facing the company as it moves closer to its planned solvent liquidation in March 2018.

2 BACKGROUND

The factors leading up to the financial failure of SENZ have been extensively covered in the public media and in a review by the Auditor General. A brief summary of key facts is as follows:

- During the resources boom of the late 2000's the Company invested heavily in conventional coal projects (ie new and existing mines), alternative coal technologies (eg briquetting and coal gasification) and renewables (eg wood pellets and biodiesel).
- In early 2012 the export price for the key hard coking coal commodity plummeted throwing the Company into a cashflow negative position. (Refer to *Appendix 1*)
- In the latter part of 2012 and 2013 there were major changes to the Board and senior management.
- In 2013, with debt reaching \$400M and ongoing losses, a first support package was agreed with creditors and the Crown, that saw the Crown provide additional funding and the banks writing off a portion of their debt.
- In 2014, the Crown provided further support to the company by indemnifying the Company's rehabilitation liabilities recognising that in liquidation these obligations would fall back on central or local government.
- In late 2014 and early 2015, in the face of further declining prices, it was recognised that the company had no likelihood of being able to refinance its remaining debt and work started on a compromise arrangement.
- In August 2015 after 6 months of intense negotiations between the banks, the Crown, the Company and their various advisors, the Company was briefly placed in voluntary administration pending the approval of a Deed of Company Arrangement (DoCA). This was overwhelmingly supported by creditors including over 1000 suppliers, employees, banks and the Crown. The expectation in the independent report by the Deed Administrators was for a pay-out to Participating Creditors of 35-40 cents in the dollar under the DoCA compared to 15-20 cents had immediate liquidation occurred.
- Under the DoCA there were/are certain key activities required:
 - Control of the company was handed back from the Administrators to the Board.
 - The Company's assets were all to be sold.
 - Holders of debt and other term obligations become 'Participant Creditors'.
 - The company is to be overseen by a Participants Committee representing Participant Creditors and including Crown representation. KordaMentha were appointed the Deed Administrators.
 - The DoCA process is to be concluded in 2.5 years, which is March 2018.
 - All sales proceeds, after costs for trade creditors and employees have been met in full, will be distributed to participant creditors.
 - On the final distribution date, participant creditors write off remaining debt and the Company will go into solvent liquidation.

3 RESULTS TO DATE

The company is well advanced on meeting its obligations under the DoCA. Key achievements to date include:-

- Goldman Sachs was appointed sales advisor for the main asset sales programme that ran between November 2015 and August 2017.
- The main mine sales that have settled have been as follows:
 - Southland Mines (Ohai and New Vale) to Greenbriar Ltd, a division of the South Island owned Palmer group.
 - Strongman Mine, Mt Davy mining permit and Rocky Creek coal washery (Greymouth area), Reefton Distribution Centre and Island Block Mine (Reefton area) to Birchfield Coal Mines Ltd - a West Coast owned family business.
 - Reefton Mines to Moore Mining Ltd - a Reefton company.
 - Stockton Mine to the Bathurst/Talley JV - BT Mining Ltd.
 - North Island Mines at Rotowaro and Maramarua to BT Mining Ltd.

The only asset sales under the DoCA that have required OIO approval have been those to BT Mining, although the last mine site sale – [3][4][5]

In addition, the company's extensive portfolio of land holdings across the country has been sold to a wide variety of purchasers.

- The aggregate pay-out to participant creditors to date has been 50 cents on the dollar with more to come from final sales, the release of a cash buffer held by the company [3][4][5]
- Almost all staff (>90%) at mines that have been sold have transferred to new owners.
- All trade creditors have been paid in full – at one stage over 1000 trade creditors - mainly small businesses in provincial NZ - faced major losses if the company went into liquidation.
- Rehabilitation liabilities have been transferred to the new owners with the associated indemnities, except for the Stockton acid mine drainage liability which remains with the Crown.
- All staff - both those transferring and those who have been made redundant - have received their full entitlements, in many cases representing a substantial increase on their entitlement in a liquidation.

4 CURRENT STATUS AND REMAINING TASKS

At the time of writing this paper the key actions remaining for SENZ leading up to its solvent liquidation are as follows:

North Island:

- Complete minor clean-up works at the sealed Huntly East underground mine – [3][4][5]
Their acquisition will depend on ministerial approval to their becoming an "approved owner" to access the Crown rehabilitation indemnity funds for the site.
- [3][4][5] then a sale process will be required or it will be disclaimed to the Crown on solvent liquidation. SENZ has been working hard to ensure any assets are disclaimed to the Crown only as a last resort.
- Some other minor land/mineral sales and termination of agreements are underway.

Buller:

- As noted above, [3][4][5]
Everything else is complete.

Greymouth:

- Completion of the sealing and closure of Spring Creek mine and transfer of the land and assets to the new land owner [3][4][5]

Southland:

- Transfer of unsold coal resources (mineral titles only) in Southland, Huntly and the Buller to NZ Petroleum and Minerals.

Pike River: See next section

Corporate and General:

- Resolution of any remaining claims against the company
- Exit the corporate office for a serviced office in December
- All remaining staff redundant (see *appendix 2*) with residual group (5-6 people) on fixed term contracts to March 2018
- Complete obligations under the Public Records Act
- Close out all remaining trading relationships, cost streams and contracts
- Final tax returns and all other financial/administrative/legal requirements

Participant debt

- The participant debt is \$385M
- To date the Company has distributed \$177M or 50 cents on the dollar
- [3][5]
-

5 PIKE RIVER

In July 2012 SENZ purchased the assets of Pike River from the receivers of Pike River Coal Company Ltd, apparently for commercial reasons.

Soon after in 2012 the company entered into an agreement with the Crown to undertake body recovery as part of the reopening of the Mine for commercial purposes. In 2013 with commercial redevelopment ruled out, this agreement was replaced by one requiring the company to investigate the feasibility of a manned re-entry of the drift if technically feasible, safe and economically viable. In November 2014 the Company concluded it was not safe and would not undertake re-entry.

Work started on closing the mine permanently. Actual sealing took place in November 2016 in the face of rising protest. The Mine now has a stable pure methane atmosphere and is safe with the existing shaft seal and type 'C' seal at the portal.

In February 2017 the Government asked SENZ to stop further sealing work and to investigate unmanned re-entry. This was confirmed in a terms of reference in April 2017.

Three proposals for robots were considered:

- A development prototype from Victoria University that was rejected as it required entry through the portal (the first 1.5km of the drift has already been explored by robot as far as the vehicle blocking the drift).
- A machine from the US that was proposed to the Pike Families but the supplier was non-responsive and no evidence could be found of real world use.
- The preferred machine which is a well proven borehole deployable unit with multiple examples working in various places around the world – but which was non-compliant with NZ mining regulations.

Work has progressed on several fronts:-

- A drawn out interactive process with the robots Australian agent and Canadian manufacturer sought initially to make the machine compliant with NZ regulations. This ultimately proved to be unfeasible except at great time and cost and introducing risk. A specification has now been settled on with the supplier. The machines have a wide variety of options and customisability.
- A supply contract is being finalised, and cost estimate provided, but no purchase commitment has been entered into yet.

- When it was established the machine could not be made compliant, an application for exemption from the relevant technical regulations was prepared utilising section 220 of the Health and Safety at Work Act 2015. This section sets out an application process for exemptions from regulations. This followed thorough risk assessments of using a non-compliant machine which identified that no persons would be exposed to risk and equivalent levels of safety could be achieved by other controls. This application is still being processed by WorkSafe.
- The operating limits for successful deployment of the machine through steep dipping boreholes were established (up to 10° off vertical) and the search for suitable drill sites was started in the very steep terrain overlying the upper part of the drift. This was followed up by engineering and geotechnical assessment of an identified site. This work is helicopter supported and during the winter and spring period as few as one day in a fortnight is flyable for reasons of wind, fog, rain or cloud in the Paparoa ranges.
- An approval process for track cutting and drill pad construction has been worked through expeditiously with DOC despite it being in a National Park.
- In the immediate pre-election period and before the formation of the new government it was apparent that with the National Government in caretaker mode, further commitments to the project would be inappropriate (eg actually ordering the robot or starting pad construction). Work on other aspects has continued in the event the project is to proceed.

Consistent with terms agreed with the Crown, the Pike River assets will be disclaimed to the Crown on solvent liquidation (unless the Crown wishes to take over the site sooner). Assets include the mine, various plant and equipment, all information held including all previous plans, designs and risk assessments, resource consents, the Mining Permit and land access agreements.

The Company is co-operating fully with information to assist the new Government in developing its plans and will continue to maintain the assets in a safe and secure and stable state until the new agency takes over. The Company will also assist in procuring the transfer any staff that new agency requires to the extent those staff are willing to transfer. We suggest that a number of staff hold useful knowledge and skills that will be required and note that the site staff have unfailingly been professional and respectful custodians of the site throughout the difficult period of the last 3 years.

[3]

The Company has since 2014 posted relevant documents relating to Pike River re-entry on its website <http://www.solidenergy.co.nz/operations/> and will make arrangements for these documents to go to the new agency.

6 SUMMARY AND CONCLUSION

SENZ is rapidly approaching the end of its life as a State Owned Enterprise. At current progress, 5- 6 staff (plus any required at Pike River for maintenance) will remain after Christmas to oversee and complete the final activities associated with it completing remaining obligations and entering solvent liquidation.

The final date as set out in the DoCA for entry into solvent liquidation is 17 March 2018 and the achievement of this date is the company's highest priority.

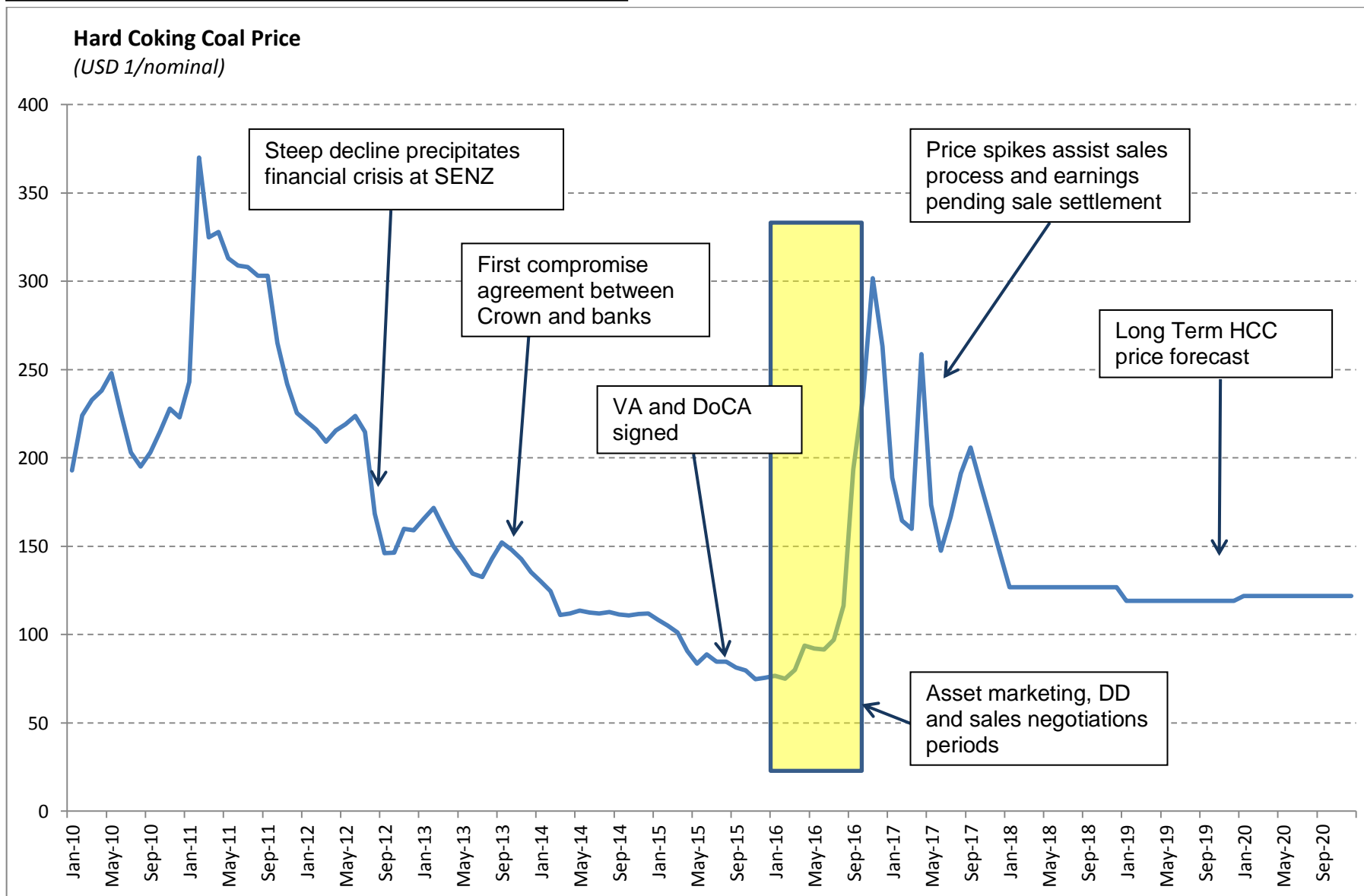
One of the goals remains the sale of all assets (except for Pike) rather than their disclaiming to the Crown on liquidation. [3][4][5]

The controversy surrounding the sealing of Pike River has at times overshadowed the obligations of SENZ under the DoCA and the performance of those obligations. The company remains committed to completing the sale, closure and wind up of the Company.

While the 30 year story of SENZ as an SOE is one ultimately of failure with loss of equity and cost to the taxpayer, once the decision was made and approved to enter into the DoCA and wind up the company, the outcome for staff, trade creditors and participant creditors has been one of success. In terms of the outcome of the sales process it has been far better than expected with a return to creditors well in excess of their expectations at the time the DoCA was entered into.

All the economic operating Mines that were owned and operated by SENZ have now passed into the hands of local operators who continue to employ staff, use local goods and services and importantly, continue to supply the coal customers who depend on ongoing supply of the product for their businesses.

Appendix 1 – Export Coal Prices and Key Dates
(from Wood Mackenzie data)



THE BOARD OF SOLID ENERGY



ANDY COUPE LL.B

Chair

Andy Coupe is a professional company director with more than 30 years' experience in investment banking.

Directorships

Farmright Ltd (Chair)
Barramundi Ltd
Kingfish Ltd
Marlin Global Ltd
Gentrack Group Ltd
Television New Zealand Limited
Briscoes Group Ltd

Other

Takeovers Panel (Chair)
Institute of Directors, Chartered Member



KEIRAN HORNE BCM, BA

Deputy Chair

Keiran Horne, a consultant with Nexia, is a Chartered Accountant with more than 20 years' experience as a business advisor and insolvency practitioner.

Directorships

Breastscreen Otago Southland Ltd

Other

Lotto NZ Board, Commissioner
Timaru District Council (Audit and Risk Committee Member)
Chartered Accountants Australia and New Zealand Member
Institute of Directors, Chartered Member



RABIN RABINDRAN Barrister-at-Law
(Middle Temple) AAMINZ, MA (Business Law)

Rabin Rabindran is a barrister and legal consultant specialising in major national and international project structuring, negotiation and documentation mainly in construction, energy, transport and infrastructure development.

Directorships

Bank of India (NZ) Ltd (Chair)
Auckland Transport
New Zealand Liaoning International Investment & Development Co Ltd
Singapore Chapter, ASEAN New Zealand Business Council (Chair)
Swift Energy New Zealand Ltd
Swift Energy New Zealand Holdings Ltd
Kowhai Operating Ltd
Counties Manukau District Health Board (Deputy Chair)
New Zealand Health Partnership Ltd



DAVID REECE BE Mining, Grad Dip Min Res (Risk Management), GAICD

David Reece has more than 35 years' experience as a mining engineer and operational risk manager in the Australian and international mining industries. He is a principal consultant with The Safety Managers and has been Senior Inspector of Mines with the Queensland Mines Inspectorate.

Directorship

The Safety Managers Pty Ltd (Australia)



NEVILLE SNEDDON BE Mining (Sydney), ME (UNSW), MAIMM, Grad AICD

Neville Sneddon is a mining engineer with more than 40 years' experience in the Australian mining industry as a company director and in senior management roles with the NSW Mines Department.

Directorships

CSM Energy Ltd (Australia) (Chair)
Stanmore Coal Ltd (Australia) (Chair)
Cobbora Holding Company Pty Ltd (Australia)

Other

Australasian Institute of Mining and Metallurgy (Chairman – Hunter Branch)

Appendix 2 Contd - SENZ MANAGEMENT

Chief Executive Officer

Tony King – Had previously worked for the company in various mine management and general management roles up until 2000. He spent 12 years as consultant and company director before rejoining the company in 2013 as Chief Operating Officer, and then leading the restructuring and sales processes. CEO since late 2016.

Chief Financial Officer

Stephen Coe became CFO in July 2017 having previously filled the role of financial controller. Stephen is a Chartered Accountant.

Environment and Community Manager

Phil Rossiter has a science background and has worked very closely with the Crown and local authorities throughout the last few years as the company's rehabilitation liabilities and Crown indemnities have assumed major importance.

General Manager

Stephen Esposito – Until recently the GM of the export division Stephen has agreed to remain to negotiate remaining issues for the company. Stephen is a civil engineer.

Legal Services Manager

Robert Page – has been with the company for 10 years and has overseen a substantial legal effort by external firms over the last 4 years in particular.

Spring Creek (and Pike River) Manager

Ian Judd has filled the statutory roles of Site Senior Executive for Spring Creek and Pike River as well as Mine Manager for Pike River. He is a career mining engineer and mine manager.

STAFFING

The entire complement of Solid Energy is set out below:-

	Permanent (full and part time)	Contractors/casuals/fixed term employees	Total
Corporate	10	6	16
North Island		4	4
West Coast (Spring Creek and Pike River)	9	4	13
Total	19	14	33

End