
**Business Rescue Proceedings Update - Report delivered to all known
Affected Persons**

In terms of Section 132 (3) (a) of Chapter 6 of the Companies Act 71 of 2008

In relation to

Avedia Energy (Pty) Limited (in business rescue)

REGISTRATION NUMBER: 2003/023054/07

Prepared by

Alison Timme

As Business Rescue Practitioner

28 February 2022

1. **Introduction**

1.1. This report is issued by the Business Rescue Practitioner in terms of section 132(3) (a) and (b)(ii) of the Companies Act 71 of 2008 ("Act") (the "Report") and delivered in accordance thereto to all known Affected Persons.

2. **Business Rescue Proceedings**

2.1. On 25 February 2020, Avedia Energy Pty Ltd (the "Company" or "Avedia") was placed under business rescue pursuant to a court order ("the Court Order") on this date;

2.2. Alison Timme was appointed as interim practitioner pursuant to the Court Order on 25 February 2020;

2.3. On 09 March 2020, Avedia instituted an application for leave to appeal the Court Order, thereby suspending the business rescue proceedings of Avedia and the interim appointment of Alison Timme;

2.4. The Western Cape High Court dismissed the application for leave to appeal on 19 March 2020;

2.5. On 26 March 2020, Avedia petitioned the Supreme Court of Appeal ("the SCA"), again suspending proceedings and the interim appointment of Alison Timme;

2.6. The petition to the SCA was dismissed on 14 August 2020;

2.7. On 26 August 2020, Avedia made application to the President of the SCA for a reconsideration of the dismissal of the petition ("the application for reconsideration");

2.8. The application for reconsideration was subsequently withdrawn on 1 September 2020 but replaced with Avedia petitioning the Constitutional Court for leave to appeal on the same date, thereby again suspending proceedings and the interim appointment of Alison Timme;

2.9. The leave to appeal was dismissed by the Constitutional Court on 2 November 2020, thereby lifting the suspension of proceedings and the suspension of Alison Timme's interim appointment;

2.10. Alison Timme's appointment as Business Rescue Practitioner was ratified by creditors at the section 147 meeting on the 18th of November 2020.

2.11. A summary of proceedings and main steps undertaken by the Business Rescue Practitioner in accordance with her statutory obligations are set out in the table below:

Event	Date
Court order to commence Business Rescue	25 February 2020
Alison Timme appointed as interim Business Rescue Practitioner	25 February 2020
Avedia institutes leave to appeal court order	09 March 2020
Western Cape High Court dismisses the application for leave to appeal	19 March 2020

Avedia petitions the SCA	26 March 2020
Petition to the SCA dismissed	14 August 2020
Avedia makes application to the President of the SCA for reconsideration	26 August 2020
Application for reconsideration withdrawn	1 September 2020
Avedia petitions the Constitutional Court for leave to appeal	1 September 2020
Constitutional Court dismisses leave to appeal	2 November 2020
Recommencement of Business Rescue Proceedings	2 November 2020
Holding of first creditors meeting (Section 147)	18 November 2020
Holding of first meeting of employees/representatives (Section 148)	18 November 2020
Alison Timme's appointment as Business Rescue Practitioner ratified by creditors	18 November 2020
Consent received for extension of the publication of the BR Plan (Section 150(5)(b)) and business rescue proceedings on 7 December 2020 to 26 February 2021	26 February 2021 (extension date)
Consent received for extension of the publication of the BR Plan (Section 150(5)(b)) and business rescue proceedings on 24 February 2021 to 30 April 2021	30 April 2021 (extension date)
Issue of First Update Report (Section 132(3)(a))	26 February 2021
Cylinder filling operations to be recommenced once remedial action is completed within the next 2 weeks.	29 March 2021
Engineers have been consulted to do a technical analysis on the remaining requirements in relation to the pipeline interconnection. TNPA meeting to be held on the 7 th of April 2021.	30 March 2021
Issue of Second Update Report (Section 132(3)(a))	31 March 2021
Recommencement of Cylinder filling operations at the Airport site.	9 April 2021
Interconnection Technical meeting held with the TNPA and Sunrise Energy. Engineers to continue working on the technical aspects in relation to the pipeline interconnection and flow meter.	15 April 2021
Consent received for extension of the publication of the BR Plan (Section 150(5)(b)) and business rescue proceedings on 30 April 2021 to 30 June 2021	30 June 2021 (extension date)
Issue of Third Update Report (Section 132(3)(a))	30 April 2021
Further remedial action undertaken to restart gas storage facility in Saldanha Bay	9 May 2021
Offers received from interested parties, negotiations and due diligences are under way.	14 May 2021
Short term storage and filling contract entered into to generate operational income	14 May 2021
Bulk gas purchase made to further operations at the Airport site.	27 May 2021
Issue of Fourth Update Report (Section 132(3)(a))	31 May 2021
Issue of Fifth Update Report (Section 132(3)(a))	29 June 2021
Issue of Sixth Update Report (Section 132(3)(a))	29 July 2021
Request for extension of the publication of the BR Plan (Section 150(5)(b)) and business rescue proceedings to 31 August 2021	29 July 2021 (request date)

Request for extension of the publication of the BR Plan (Section 150(5)(b)) and business rescue proceedings to 30 September 2021	30 August 2021 (request date)
Issue of Seventh Update Report (Section 132(3)(a))	31 August 2021
Request for extension of the publication of the BR Plan (Section 150(5)(b)) and business rescue proceedings to 31 October 2021	23 September 2021 (request date)
Issue of Eight Update Report (Section 132(3)(a))	30 September 2021
Issue of Nineth Update Report (Section 132(3)(a))	29 October 2021
Request for a three business day extension of the publication of the BR Plan (Section 150(5)(b)) and business rescue proceedings to 4 November 2021	29 October 2021 (request date)
Publication of the business rescue plan in accordance with Section (150)(3)(5)	4 November 2021
Holding of voting meetings (and adoption of the Amended Business Rescue Plan) in accordance with Sections 152(2) and 152(3)(c)(ii)(a)	12 November 2021
Issue of Tenth Update Report (Section 132(3)(a))	30 November 2021
Issue of Eleventh Update Report (Section 132(3)(a))	13 December 2021
Issue of Twelfth Update Report (Section 132(3)(a))	31 January 2022
Issue of Thirteenth Update Report (Section 132(3)(a))	28 February 2022

2.12. The BRP continues to oversee operational activities in line with her statutory obligations as referenced in prior reports.

3. **Funding of the business rescue**

3.1. Post commencement financing ("PCF") of R11.2 million have been secured to date (includes the additional PCF secured by the BRP in January 2022). Costs of the business rescue to date amount to circa R13 million and include inter alia operating costs, fees, remedial action, taxes and employee costs.

4. **Publication and adoption of the Amended Business Rescue Plan**

4.1. The business rescue plan of Avedia Energy (Pty) Limited was published to Affected Persons in accordance with Section 150(2) on 4 November 2021.

4.2. The Section 151 meeting of creditors was held on 12 November 2021 where the business rescue plan was amended in accordance with Section 152(1)(d)(i).

4.3. The SFF Proposal contained in the amended business rescue plan was subsequently approved on a preliminary basis by creditors at the same meeting in accordance with Section 152(1)(e) and Section 152(2).

4.4. A shareholder voting meeting (in accordance with Section 152(3)(c)) was also held on 12 November 2021 where the SFF Proposal included in the amended business rescue plan was finally adopted ("**the Approved Business Rescue Plan**").

5. **Implementation of the adopted business rescue plan – the SFF proposal**
- 5.1. The BRP commenced with implementation of the Approved Business Rescue Plan in mid-November, immediately after the adoption of the rescue plan on 12 November 2021.
- 5.2. The BRP over the past three months has primarily focused on the closure of the SFF deal. The deal has now been substantially progressed and is very close to finalisation, save for Competition Commission approval.
- 5.3. As a result of significant investment from the BRP, the BRP advisers and shareholder and shareholder advisers, implementation of the SFF Proposal is substantially progressed. The process is however dependent on SFF's internal steps and approvals, which the BRP does not have control over:
- 5.3.1. Transaction documents are all but finalised; this includes the MOI, shareholders agreement and subscription agreement;
 - 5.3.2. Commercial documents are close to finalisation;
 - 5.3.3. Competition Commission documents (there are minor inputs awaited on the schedule), following which, on receipt of approval from the Minister, will be submitted;
 - 5.3.4. Exco, SFF and CEF Board submissions – (we are awaiting formal written confirmation of this but understand these steps have been completed and that only the Minister's approval remains outstanding);
 - 5.3.5. s54(2) Minister of Energy approval – we understand that the approval request has been sent to the Minister and is awaiting signature (anticipated in the next few days based on the latest written correspondence received from the SFF).
- 5.4. Affected persons are reminded of the amended clause as inserted into the Approved Business Rescue whereby should the back stop (for implementation of a proposal, in this case the SFF Proposal) not be achieved by 28 February 2022, the BRP will be required to revert to Creditors who will then either be able to vote in favour of or against a further extension (in the same manner as per the initial voting on the Approved Business Rescue and as set out in section 152(2) of the Act).
- 5.5. Accordingly, and with reference to the above, the BRP will seek at a meeting to be held next Wednesday (9 March 2022) to update Creditors on the SFF position, following which she will provide Creditors with the option to vote on the way forward as envisaged per the clause referred to in para 5.4 above. Details of this meeting are contained within the email and will be circulated to all Affected Persons again early next week.
- 5.6. Affected persons are reminded that the time frame for Competition Commission approval is subject to the Commission's time frames and therefore wholly outside the control of both the SFF and Avedia (and thereby by extension also outside the control of the BRP, acting on behalf of the Company). This will, on the basis that all approvals and transaction documents are concluded, be the remaining step required to close the deal (which in turn allows for the payment of dividends to Creditors).

5.7. **Conclusion**

- 5.8. In light of the Approved Business Rescue and the extent of how far implementation has already been progressed (in terms of implementing the SFF Proposal), the BRP remains of the view that it is sensible to continue with the SFF Proposal and that accordingly there is still a reasonable prospect of the Company being rescued. The extensions requested however require the approval of the Creditors and details of a Creditors' meeting have accordingly been sent to all Affected Persons in the attached email.
- 5.9. Should any material changes to the estimated timing occur, or additional information come to light, the BRP will inform Affected Persons accordingly.

Yours sincerely

Alison Timme
Appointed Business Rescue Practitioner

SENT ELECTRONICALLY