HOLDING REDLICH

20 April 2021

Attention: Chair of Panel Prof Richard Mackay AM
Office of the Independent Planning Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000

Senior Associate Blake Dyer
Direct Line (02) [redacted]
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Partner Breellen Warry
Our Ref BXW:BZD:18750088

By email ipcn@ipcn.nsw.gov.au

Dear Professor Mackay

Tahmoor South Coal Project – SSD 17_8445 – Public Comment on Additional Material

1. We act for Ironlaw Pty Ltd (**Ironlaw**), the owner of 95 Great Southern Road, Bargo (the **Property**). The Property is located within the proposed project area subject of SSD 17_8445 (**Project**). We refer to our previous submission to the Secretary dated 5 March 2019 and our submission to the IPC on 24 February 2021 (**2021 Submission**).

2. Further to the Statement from the IPC on 14 April 2021, we wish to make a further objection to the Project on behalf of our client, Ironlaw.

Executive Summary

3. As outlined in more detail in this submission:

   (a) The Department's letter of 12 April 2021 notes that *'the Project has a relatively high emissions intensity compared to other mines'*. Despite this, the Proponent does not propose any further abatement measures.

   (b) The development consent conditions proposed by the Proponent lack specificity, certainty and finality. They are vague in what the Proponent is actually required to do, and do not set any particular reduction requirements. Furthermore and of concern, they do not resolve the concerns that the IPC has raised with this aspect of the Project. If the proposed conditions were imposed by the IPC, the consent may be open to a finding of invalidity on this basis.

   (c) It is also relevant to note that the Proponent is reportedly facing the possibility of liquidation which puts the ability of the Proponent being able to deliver any of the speculative mitigation measures into further doubt.[1]

[1] Tahmoor coal mine facing possibility of liquidation | Illawarra Mercury | Wollongong, NSW, dated 7 April 2021

(d) Based upon the decision in *Gloucester Resources Limited v Minister for Planning* [2019] NSWLEC 7 (***Gloucester Resources***), per Preston CJ at [526] the IPC would have to refuse the Project having regard to the applicable policies identified by the Department concerning greenhouse gas emissions (**GHGE**).

Objection

SIMEC letter to IPC of 9 April 2021

4. We understand that the IPC requested further information on the following from the Proponent:

> *1. Whether there are further abatement measures that the Applicant could take to further reduce the predicted Scope 1 GHGE of the Project below 19,310,249 t CO2-e.*
>
> *2. If the Panel was minded to grant development consent to the Project subject to conditions that:*
>
> *a. Impose a target for Scope 1 GHGE less than that presently estimated by the Applicant and*
>
> *b. Having the Applicant implement measures to address actual Scope 1 GHGE of the Project in excess of that target (including possibility of offsets),*
>
> *at what amount of Scope 1 GHGE does the Applicant consider that target could feasibly and reasonably be set.*
>
> *The Panel would also welcome any other relevant information the Department or the Applicant is minded to provide regarding the predicted Scope 1 GHGE of the Project.*

5. We note that the letter from the Proponent on 9 April 2021 says (emphasis added):

> *Tahmoor mine currently operates a series of GHG abatement measures which will continue to be employed for the Project. These abatement measures comprise a flaring system, in which methane extracted from the coal seam is flared, and a power generation plant, in which methane extracted from the mine is used to generate power. The use of these abatement measures will reduce the total Scope 1 GHGE from 26.69 Mt CO2-e over the life of the Project if these measures were not in place, to 19.31 Mt CO2-e with these measure in place. This is a reduction of 26.8% and will be achieved through proven <u>measures that are currently in place at Tahmoor mine</u>.*

6. This statement does not assist the IPC in understanding what the steps will be taken to reduce the Scope 1 GHGE, this is merely a statement of the measures currently in place.

7. In effect, there are *no* additional measures that are proposed by the Proponent. In particular:

(a) Ventilation air methane plant - The Proponent says that is not economically viable and will not be implemented.

(b) In-seam gas drainage - The Proponent says that *'a significant increase of in-seam gas drainage would be required to achieve a small reduction in Scope 1 GHGE.'* The Proponent makes an offer to prepare a plan within 2 years of the development consent being granted

to determine whether *'there are reasonable and feasible additional in-seam gas drainage measures that can be implemented.'* However, such a requirement provides no certainty that any measures would be implemented. For example, any such study would likely find that implementation would not be 'reasonable or feasible' because by that time there would only be 8 years of operational time left in the mine, and also because it would likely not be economically viable for the returns that such a system would deliver. Nothing would be expected to change within 2 years and this is a token measure with no certainty other than a report being generated. Further, given the current financial difficulties that the colliery is facing, this is likely to be considered as a further reason as to why it would not be reasonable or feasible to implement further in-seam gas drainage.[2]

(c) Surface to In-seam - The Proponent says that *'based on the infrastructure required, the land use of the Project area and the approval process required, STIS drilling is not considered viable for the Project.'*

(d) Sealing of areas of the mine - The Proponent says that this reduces *'fugitive GHGE coming from these unused underground areas.'* However, there is no explanation as to how and to what extent this reduces scope 1 GHGE. This also appears to be something that the Proponent does anyway as part of the mining process so there does not appear to be any additional benefit proposed here.

(e) Commitment to ongoing investigation and continual improvement - The Proponent *'acknowledges that while further abatement measures are not currently viable to implement for the Project as described above, GHGE abatement and low emissions technologies are continually and rapidly evolving. Tahmoor Coal is therefore committed to regularly reviewing available GHGE abatement measures to determine if there are any reasonable and feasible measures that can be implemented to further reduce GHGE from the Project (refer to Section 6) over its life.'*

(f) The power purchase agreement from the Molong Solar Farm will only provide approximately 300,000t CO2-e over the 10 year Project life which is at best tokenistic and is not guaranteed.

(g) Future offsets if forecasts of Scope 1 and 2 GHGE are not reached lacks certainty, and again is unlikely given the likelihood that this would be found to not be 'reasonable or feasible' due to the financial issues that the mine currently faces. Furthermore, all of the costs that were flagged as not being included in the costs of the operation of the mine in the Department's peer review of the CBA would add additional doubt to the financial viability of the Project, and their ability to deliver on any further offsets.

8. Effectively, the Proponent has made a series of empty promises in that there is no certainty that any further abatement measures would be implemented, and there is no commitment to reduce Scope 1 emissions at all.

9. Further, as mentioned above, it has been recently reported that the Colliery is facing financial troubles and it has also been reported that Tahmoor coal mine could be placed in liquidation if legal action launched by Credit Suisse is successful.[3] This reflects the earlier concerns raised about the financial viability of the Project, given the minutes of September 2020 which reported a loss.[4]

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[2] See various news reports on the dire financial situation that the colliery currently faces(**attached**).

[3] Tahmoor coal mine facing possibility of liquidation | Illawarra Mercury | Wollongong, NSW, dated 7 April 2021

[4] 3 September 2020 Minutes, Tahmoor Colliery Community Consultative Committee, 8.1

This is directly relevant to any decision of the mine to implement further Scope 1 GHGE mitigation measures on the basis that it would not be 'reasonable or feasible' if the mine is operating and continues to operate at a loss.

10. In summary therefore, the proposed development consent conditions proposed by the Proponent lack specificity, certainty and finality. They are vague and impose no concrete requirements on the Proponent and do not set any particular reduction requirements. As a result, they do not resolve the concerns that the IPC has raised with this aspect of the Project. If the proposed conditions were imposed by the IPC, the consent may be open to a finding of invalidity on this basis.

Department's letter of 12 April 2021

11. The Department's letter of 12 April 2021 notes that *'the Project has a relatively high emissions intensity compared to other mines'*.

12. The Department refers to the IPC's obligation under cl 14(1)(a) of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (**Mining SEPP**) that before granting consent for development for the purposes of mining, the IPC must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the Project is undertaken in an environmentally responsible manner, including conditions to ensure the following that greenhouse gas emissions are minimised <u>to the greatest extent practicable</u>.

13. Clause 14(2) of Mining SEPP provides that in determining a development application for development for the purposes of mining, the IPC must consider an assessment of the GHGE (including downstream emissions) of the Project, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.

14. The Department also points to the *NSW Climate Change Policy Framework* and the Australian Government's commitments to the *United Nations Framework Convention on Climate Change Paris Agreement 2015*.

15. We have previously outlined that in *Gloucester Resources*, Preston CJ said at [526] in relation to the consideration of these policies:

> *'The approval of the Project (which will be a new source of GHG emissions) is also likely to run counter to the actions that are required to achieve peaking of global GHG emissions as soon as possible and to undertake rapid reductions thereafter in order to achieve net zero emissions (a balance between anthropogenic emissions by sources and removals by sinks) in the second half of this century. This is the globally agreed goal of the Paris Agreement (in Article 4(1)). The NSW government has endorsed the Paris Agreement and set itself the goal of achieving net zero emissions by 2050. It is true that the Paris Agreement, Australia's NDC of reducing GHG emissions in Australia by 26 to 28% below 2005 levels by 2030 or NSW's Climate Change Policy Framework do not prescribe the mechanisms by which these reductions in GHG emissions to achieve zero net emissions by 2050 are to occur. In particular, there is no proscription on approval of new sources of GHG emissions, such as new coal mines.'*

16. This decision in *Gloucester Resources* also emphasised the requirement of the consent authority to consider Scope 1, 2 and 3 GHGE when discharging the relevant requirements of consideration

required by cl 14 of Mining SEPP. The Proponent has not provided relevant information in this regard.

17. Since the decision in *Gloucester Resources,* the Department advises the IPC that the NSW Government announced a new 10 year plan to put the State on track to achieve net-zero emissions by 2050 – the *Net Zero Plan Stage 1: 2020-2030*. This *Net Zero Plan* discusses 'coal innovation' (at page 22), however this is directed towards existing mine operations and provides no proscription on approval of new sources of GHGE, such as new coal mines.

18. Based upon the decision in *Gloucester Resources*, per Preston CJ at [526] the IPC would have to refuse the Project on the basis that having regard to the applicable policies identified by the Department concerning GHGE:

    (a) the measures proposed by the Proponent do not minimise GHGE to the greatest extent possible; and

    (b) the Project runs counter to the actions that are required to achieve peaking of global GHGE as soon as possible and to undertake rapid reductions thereafter in order to achieve net zero emissions (a balance between anthropogenic emissions by sources and removals by sinks) in the second half of this century which is not consistent with State and Australian policy.

If you have any questions regarding the abovementioned, please do not hesitate to contact Breellen Warry, Partner or Blake Dyer, Senior Associate.

Regards

Holding Redlich

Enclosures

April 7 2021 - 6:00PM

Tahmoor coal mine facing possibility of liquidation

Latest News

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THREAT: Tahmoor coal mine could be placed in liquidation if legal action launched by Credit Suisse is successful. Picture: Adam McLean

Tahmoor Coal is facing the possibility of liquidation, as legal action against its billionaire owner threatens thousands of jobs.

Citibank, acting on behalf of Credit Suisse, is taking Sanjeev Gupta to court in an attempt to wind up two of his operations - OneSteel Manufacturing and Tahmoor Coal.

If successful, the move could trigger the appointment of liquidators to the Tahmoor coal mine, which employs about 400 people, and the Whyalla steelworks and its associated mines.

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Tahmoor Coal is seeking approval for its Tahmoor South project to extend the life of the mine for 10 years.

The legal action is the latest setback for Mr Gupta's global business after the collapse of one of its major lenders, Greensill, last month.

Credit Suisse is trying to recoup some of the money it is owed by breaking up Mr Gupta's Australian assets.

But his UK-based company, GFG Alliance, has vowed to vigorously defend the court action, saying it does not conduct any financing with Credit Suisse.

Read more: A new skydiving operator is set to move into the Illawarra

A company spokesperson said GFG Alliance was in "constructive discussions" with Grant Thornton, Greensill's administrators, and other stakeholders to negotiate a solution.

"The Australian businesses are performing well and generating positive cash flow, supported by the operational improvements we've made and strong steel and iron ore markets," the spokesperson said.

The case is set for a directions hearing on May 6.

- With AAP

THE AUSTRALIAN

Sanjeev Gupta's OneSteel, Tahmoor Coal hit with winding up application

By **NICK EVANS** and **PERRY WILLIAMS**
10:35AM APRIL 7, 2021 • 56 COMMENTS

More than 2000 Australian jobs hang in the balance as Sanjeev Gupta's creditors seek to seize control of his local steel operations, with Sanjeev Gupta's GFG Alliance vowing to fight the move to appoint liquidators to key parts of his Liberty Primary Steel group.

Citibank, acting on behalf of Credit Suisse, filed a winding up in insolvency application for OneSteel Manufacturing and Tahmoor Coal on Tuesday in the NSW Supreme Court.

If successful, the move could trigger the appointment of liquidators to the Whyalla steelworks and associated mines, which together employ more than 1800 South Australians, and to the Tahmoor colliery in NSW.

However Mr Gupta's troubled Australian steelmaking arm said on Wednesday it has received "multiple offers of finance" from investment funds, as it fights off liquidation moves.

In a statement, a spokesman GFG Alliance said the company was considering term sheets from "large investment funds" that would be more than enough to repay creditors.

"GFG Alliance's Australian Mining and Primary Steel (MPS) business, which includes Onesteel Manufacturing Pty Ltd and Tahmoor Coal Pty Ltd confirms it has received multiple offers of finance from large investment funds and is in advanced due diligence," he said.

"The term sheets as currently proposed would provide enough cash to repay the creditors of MPS. GFG Alliance expects the confirmatory due diligence to be complete within weeks before a final offer is accepted."

The move by Citibank comes after parallel action in the UK courts, and amid attempts by Mr Gupta to secure about $500m in new funding for his Whyalla steelworks to plug the funding gap left by the collapse of Greensill Capital.

The wind-up application includes consent from McGrathNicol for it to act as liquidator over two companies.

McGrathNicol partner Keith Crawford said the insolvency firm would seek to keep the business running if it was appointed as liquidator, saying the liquidators would "work constructively" with stakeholders – including employees, customers, suppliers, creditors, and government – as it reviewed the future of the business.

The court action comes as Mr Gupta struggles to contain the fallout of the collapse of his key financier, Greensill Capital, which dived into administration last month.

Despite racing to refinance about $US5bn ($6.56bn) owed to Greensill, Mr Gupta has remained defiant, saying the debt isn't due for another three years and none of steel plants would close under his watch.

The NSW Supreme Court action comes five days after Credit Suisse sought a winding-up order of his $US6bn metals business Liberty Commodities.

The Swiss bank has applied to a London insolvency court for administrators to file the order regarding Liberty Commodities, with the action bought by Citibank as a trustee.

Credit Suisse had $10bn of funds invested in loans arranged by Greensill which included debts packaged up by businesses run by Mr Gupta.

Liberty Commodities, established by Mr Gupta in 1992, trades raw materials while also structuring finance, logistics and risk management solutions.

At the same time, Mr Gupta's is negotiating directly with Greensill's administrator Grant Thornton in an attempt to strike a standstill on a $US5bn debt owed to the financier's UK arm, offering protection from creditors as he races to find alternate financing. 11

Mr Gupta, whose empire employs 35,000 worldwide, said playing hardball on calling in loans will help no one, and it made no sense to close his plants, many of which he bought on the brink of collapse or from administration.

He said he had committed debt financing facilities with Greensill for another three years, so "according to us, these debts are not due".

"It makes no sense for them or any of their creditors to destroy jobs but more importantly to destroy value because that is the value that will give them their recovery," Mr Gupta told the BBC last week.

"So I am really confident that we will find short-term solutions through our own effort and long-term solutions through refinancing.

"None of my steel plants under my watch will be shut down."

He doubled down on those comments, telling The Australian on Good Friday that he was marshalling his lawyers.

"We have our legal defences ready," Mr Gupta said.

"There is a barrage of lawyers who are readying up all their guns to fight this off.

"What they are doing is not logical and the arguments were made to them very robustly that they are damaging their own stakeholders, their own recovery prospects.

"We are seeing a lot of interest in refinancing, so there is no reason why we can't come through with an arrangement with them which would be good for them."

Mr Gupta acquired Whyalla steelworks and other assets from Arrium in 2017 after it fell into administration. The following year, he bought Glencore's Tahmoor coking coal mine.

Financial records filed with the Australian Securities and Investments Commission in 2020 show his Liberty Primary Metals group — including OneSteel Manufacturing, Arrium Mining Services, 12 Whyalla Ports, Tahmoor Coal and Liberty Primary Metals — had drawn down $429.7m in a receivables purchase agreement through Greensill Capital.

According to separate financial records filed by Liberty Primary Metals Australia in November 2020, the group booked a $124.6m loss in the 2019 to 2020 financial year.

More recently GFG has said the recovery in steel markets has put its steel operations back in the black and running at close to full capacity.

The matter is due to be heard in the NSW Supreme Court on May 6, and a spokesman for GFG said the company would fight the move in the courts.

"GFG Alliance's Australian Mining and Primary Steel (MPS) business, which includes OneSteel Manufacturing Pty Ltd and Tahmoor Coal Pty Ltd, does not conduct any financing with Credit Suisse and has not sold receivables to Credit Suisse," he said.

"Any proceedings instituted by Credit Suisse will be vigorously defended. We do not propose to comment on legal proceedings further.

"GFG Alliance is in constructive discussions with Grant Thornton, Greensill's administrators, and other stakeholders to negotiate a consensual and amicable solution on the way forward, which is in the best interests of all stakeholders. MPS is well advanced in preparations to refinance its Greensill facilities in the very near term.

"The Australian businesses are performing well and generating positive cash flow, supported by the operational improvements we've made and strong steel and iron ore markets."

South Australian treasurer Rob Lucas warned against jumping to any "alarmist conclusions" on the back of the application to appoint liquidators.

"From our viewpoint, it's part of the legal manoeuvring that we've seen going on in financial circles and legal circles for a number of weeks and months now," he said.

"This is, at this stage, just an application in the NSW Supreme Court. It won't be heard until May and it may or may not be agreed by the Supreme Court there. So, we would put this in the context of the ongoing legal and financial discussions that have been going on about the interactions between Greensill, other potential creditors and GFG and this is another development in relation to that."

Mr Lucas said the state government would take Mr Gupta "at his word" that he would be able to refinance his debts and keep Whyalla operating under GFG's control.

"At this stage we don't have any further details other than this application has been made. And we hasten to say we don't want people to jump to alarmist conclusions at this stage because clearly there are significant numbers of workers and their families and others – and we don't want them to be unnecessarily alarmed," he said.

"GFG have continued to assure the market and the government, that they are confident they are going to be able to manage a refinancing of the relationship they've got with Greensill. We can only take them at their word at this particular stage and we'll have to wait and see the results of their attempted renegotiation of finance and then whether or not this application is agreed to or not in May."

Additional reporting: Jared Lynch

NICK EVANS, RESOURCE WRITER

Nick Evans has covered the Australian resources sector since the early days of the mining boom in the late 2000s. He joined The Australian's business team from The West Australian newspaper's Canberra bureau, w... Read more

PERRY WILLIAMS, SENIOR BUSINESS WRITER

Perry Williams joined The Australian in 2018. Previously he was Asia energy reporter for Bloomberg News and prior to that held senior roles at the Australian Financial Review including resources editor and dep... Read more

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Credit Suisse tries to wind up Whyalla steelworks

Jenny Wiggins, Simon Evans and Hans van Leeuwen

Apr 6, 2021 – 6.30pm

Sanjeev Gupta's Whyalla Steelworks could be sold off or forced to seek a government bailout to avoid closure if new court action instigated by Switzerland's Credit Suisse to wind up the 56-year-old South Australian manufacturing plant is successful.

Citibank's London branch filed an application on Tuesday for "winding up in insolvency" in the NSW Supreme Court against GFG Alliance's OneSteel Manufacturing, which operates the Whyalla Steelworks, and GFG's Tahmoor Coal.

Credit Suisse wants to wind up assets owned by Sanjeev Gupta, including the Whyalla Steelworks, to recover money for investors in its supply chain finance funds. **Carla Gottgens**

Citibank acts as trustee for some GFG invoices that were packaged into bonds by the collapsed firm Greensill Capital and held in four supply-chain funds managed by Credit Suisse, which is trying to recover billions of dollars for more than 1000 investors who sank money into them.

The aggressive move by Credit Suisse, which has taken similar legal action against GFG's Liberty Commodities business in Britain, underlines the increasingly precarious financial footing of Mr Gupta's GFG as it desperately races to try to refinance about $6 billion worth of funding that had previously been sourced from Greensill.

GFG entities are coming under legal attack around the world as Credit Suisse launches wind-up motions in several countries to try to seize assets and resurrect its reputation following its association with two collapsed entities: Greensill and the US hedge fund Archegos, which had $13 billion of assets under management.

Credit Suisse's group chief executive officer, Thomas Gottstein, said on Tuesday that the bank would learn "serious lessons" from losses incurred at Archegos as well as the liquidation of its supply-chain finance funds as he warned investors of a CHF4.4 billion ($6.15 billion) charge and confirmed the departure of the bank's chief risk officer, dual US-Australian citizen Lara Warner.

OneSteel Manufacturing operates the Whyalla steelworks that employs about 1500

people and is the lifeblood of the regional town in South Australia of 22,000 people, which is about 380km north of Adelaide.

Hailed as a saviour

The steelworks was acquired by Mr Gupta in mid-2017 when the British billionaire was hailed as a saviour for rescuing the collapsed Arrium Ltd business, which had been in administration for 16 months under KordaMentha.

Mr Gupta also bought the structural steel operations on the east coast of Australia now known as Infrabuild in the same transaction, giving him ownership of two mini steel mills in outer Sydney and Melbourne, a national steel recycling business and a series of structural steel distribution outlets.

He acquired the Tahmoor coal mine in the Southern Highlands region of NSW from commodities giant Glencore in early 2018.

Tahmoor produces about 2 million tonnes a year, most of which is hard coking coal used in steel making, and it supplies the Whyalla steelworks and BlueScope's Port Kembla steelworks.

A directions hearing for the court action brought by Citibank is scheduled for May 6. The onus is on Credit Suisse to prove the GFG entities are insolvent and submit evidence.

It is understood that McGrathNicol will be appointed liquidators if Citibank's application is successful.

McGrathNicol has already been appointed receivers over shares and property in Greensill's British business (which is controlled by Greensill's Australian parent) that were secured by Credit Suisse in late October when it extended a $US140 million loan to the collapsed firm.

Winding-up applications are often issued by creditors to pressure debtors to pay up, and withdrawn if the debts are paid.

But if the GFG companies are declared insolvent by the courts, the liquidators will assess the businesses, try to stabilise them and see if they can continue as a going concern. If not, the steelworks could face closure.

Credit Suisse declined to comment. A spokesman for GFG said its Australian Mining and Primary Steel business, which includes Onesteel Manufacturing and Tahmoor Coal, did not conduct any financing with Credit Suisse and had not sold receivables to Credit Suisse.

"Any proceedings instituted by Credit Suisse will be vigorously defended," the spokesman said. "We do not propose to comment on legal proceedings further."

GFG was in "constructive discussions" with Grant Thornton, Greensill's administrators, and other stakeholders to negotiate "a consensual and amicable solution on the way forward, which is in the best interests of all stakeholders", he said.

"Mining and Primary Steel is well advanced in preparations to refinance its Greensill facilities in the very near term."

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Credit Suisse ups pressure on Sanjeev Gupta with winding-up bid

Credit Suisse's attempts to wind up some of GFG's key Australian assets come as the Swiss bank confirmed that Lara Warner, its Melbourne-born chief risk and compliance officer, stepped down from the bank's executive board on Tuesday and would leave the group along with Brian Chin, who ran the investment bank.

The bank warned it expected to report a first-quarter pre-tax loss of about CHF900 million, including a CHF4.4 billion charge, because of the collapse of a US hedge fund client, Archegos.

Credit Suisse's board has set up a "tactical crisis committee" to investigate the asset management division's supply-chain finance funds and links with Greensill and GFG, as well as the Archegos collapse.

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The bank plans to update investors on the progress of refunds from the supply-chain finance funds in the next few days but has warned that it is struggling to recover money.

About $US10 billion worth of invoices supplied by Greensill, including a large chunk from GFG companies, was invested in the Credit Suisse funds, but only one-third of the money owed to investors has to date been returned. GFG stopped paying money owed to Greensill last month.

Greensill founder, Australian billionaire Lex Greensill, said in a witness statement provided to British courts in early March that he had kept Ms Warner "regularly updated" about the firm's financial problems, including its difficulties renewing insurance, in the weeks leading up to its administration.

insurance, in the weeks leading up to its administration.

Ms Warner is an Australian and US citizen. She attended university in the US, receiving a bachelor of science in finance from Pennsylvania State University, and joined Credit Suisse as an equity research analyst in 2002 after stints at Lehman Brothers and telecoms group AT&T.

She had been Credit Suisse's group chief risk officer since 2019, taking on the additional role of chief compliance officer in mid-2020, and a member of the Credit Suisse group's executive board since 2015.

Greensill filed for insolvency in Britain and Australia on March 8.

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Business Companies Insolvency

Credit Suisse moves to liquidate Whyalla steel mill, Tahmoor Coal

By Sarah Danckert

April 6, 2021 — 5.40pm

Investment bank Credit Suisse has launched legal action that could potentially put the Whyalla steel mill and other steel assets owned by billionaire tycoon Sanjeev Gupta into liquidation.

Citigroup has filed an application on behalf of Credit Suisse in the New South Wales Supreme Court seeking to wind up two entities that are a part of Mr Gupta's Australian business empire over debts associated with failed financier Greensill Capital.

Sanjeev Gupta standing outside one of the OneSteel mills he bought in 2017. BLOOMBERG

The wind up application includes consent from McGrathNicol for it to act as liquidator over two companies owned by Mr Gupta, including OneSteel Manufacturing, the entity that owns the

Whyalla steel mill in South Australia, and Tahmoor Coal, which owns a coking coal asset on the east coast of Australia.

A first hearing for the application will be on May 6. If successful, the entities that own the Whyalla and the Tahmoor coal asset will fall into liquidation – an outcome feared by the unions covering more than 6000 workers across both business.

The NSW Supreme Court action follows a similar winding up application in London on behalf of Credit Suisse that was also filed by Citigroup. Citigroup is the trustee of Greensill's bonds which were part of Greensill's complex financing arrangements with Credit Suisse.

Credit Suisse declined to comment on the winding up application. Mr Gupta's companies were the largest client of Greensill and since the financier's collapse last month there have been ongoing concerns about the financial viability of Mr Gupta's business empire.

Greensill, which specialises in a controversial service known as supply chain financing, collapsed after its key backer Credit Suisse withdrew financial support after Greensill's Australian insurers at Insurance Australia Group (IAG) refused to renew insurance over $10 billion of trade credit.

Greensill's fallout has also seen its German-registered bank Greensill Bank hit with criminal charges by Germany's corporate regulator BaFin and revelations local councils around Germany were exposed to Greensill.

McGrathNicol partner Keith Crawford said it would look to keep the business running if it was appointed as liquidator.

"Upon appointment the liquidators' immediate focus would be to work constructively with all key stakeholders (including employees, customers, suppliers, unions, creditors, and government) to stabilise operations while undertaking an urgent review of the financial position, trading outlook, and funding requirements of the underlying businesses."

"As part of this process we will be assessing all options capable of providing long-term going concern outcomes for the businesses," Mr Crawford said.

The potential liquidation of the entity that owns Whyalla will come just five years after the mill's former owner Arrium was plunged into administration.

Credit Suisse has already appointed McGrathNicol as a receiver to Greensill's Australian parent company to recover a bridging loan it provided to Greensill that was secured by shares in the local Greensill company.

Last month, Greensill's administrators from Grant Thornton told a creditor's meeting the company could face as much as $5 billion in claims from creditors, including a cohort of German banks, as administrators raised the prospect of the once high-flying group heading into liquidation.

Grant Thornton also indicated at the hearing that Greensill could also be headed for liquidation with no rescue plan being prepared and the sale process already failing to find an appropriate buyer for Greensill's operating business.

In a statement released on Tuesday evening, Mr Gupta's GFG Alliance said any proceedings brought on behalf of Credit Suisse would be vigorously defended.

"GFG Alliance's Australian Mining and Primary Steel (MPS) business, which includes Onesteel Manufacturing Pty Ltd and Tahmoor Coal Pty Ltd, does not conduct any financing with Credit Suisse and has not sold receivables to Credit Suisse. We do not propose to comment on legal proceedings further."

"GFG Alliance is in constructive discussions with Grant Thornton, Greensill's administrators, and other stakeholders to negotiate a consensual and amicable solution on the way forward, which is in the best interests of all stakeholders. MPS is well advanced in preparations to refinance its Greensill facilities in the very near term."

"The Australian businesses are performing well and generating positive cash flow, supported by the operational improvements we've made and strong steel and iron ore markets."

Sarah Danckert

Sarah Danckert is a business reporter who specialises in investigations and corporate wrongdoing. She is a two-time Walkley Award winner, and has won four Quill Awards and two Kennedy Awards.

ABC NEWS

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Application to break up Sanjeev Gupta's Australian coal and steel businesses lodged in NSW court

Exclusive by state political reporter Stacey Lee

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Sanjeev Gupta has been battling the collapse of major lender Greensill. *(ABC News: Nick Harmsen)*

People of the steel making town of Whyalla are facing fresh uncertainty amid a push by creditors to break up the Australian empire of British billionaire Sanjeev Gupta.

An application was lodged in the NSW Supreme Court on Tuesday to wind up the operations of two companies, including OneSteel Manufacturing which runs the steelworks, which employs more than 1,200 workers.

The application has been made by Citibank.

There are two defendants in Citibank's action the first is OneSteel Manufacturing Pty Ltd (trading as Liberty Primary Steel), and the second is Tahmoor Coal Pty Ltd.

Key points:

- A claim has been filed to wind up Sanjeev Gupta's Australian operations
- It comes after the collapse of major lender Greensill
- Last month, Mr Gupta conceded GFG had been too dependent on Greensill

The move comes after the collapse of one of the major lenders to Mr Gupta's GFG Alliance, Greensill Capital.

Greensill has been placed in the hands of administrators Grant Thornton after global wealth manager Credit Suisse froze $US10 billion ($13.1 billion) worth of investment funds that it relied on. 25

Citibank filed the action on behalf of Credit Suisse, and it follows a similar application by Citibank in London.

The ABC has requested access to the NSW Supreme Court documents but under NSW rules they are not made publicly available until all parties have filed and the matter has been heard in court at least once.

The defendants are yet to file any documents and the matter is set down for a directions hearing on May 6.

Whyalla's steelworks was bought by Sanjeev Gupta's GFG in 2017. *(ABC News: Nick Harmsen)*

In a statement, a GFG Alliance spokesperson said that "any proceedings instituted by Credit Suisse will be vigorously defended".

"GFG Alliance's Australian Mining and Primary Steel (MPS) business, which includes OneSteel Manufacturing Pty Ltd and Tahmoor Coal Pty Ltd, does not conduct any financing with Credit Suisse and has not sold receivables to Credit Suisse," the spokesperson said.

"The Australian businesses are performing well and generating positive cash flow, supported by the operational improvements we've made and strong steel and iron ore markets."

The spokesperson said GFG remained in "constructive discussions" with Greensill's administrators.

Mr Gupta purchased the Whyalla steelworks in 2017 following months of prolonged uncertainty sparked by steelmaker Arrium entering administration.

Treasurer warns against 'alarmist conclusions'

South Australia's Treasurer Rob Lucas said employees of OneSteel "shouldn't jump to any alarmist conclusions" as it is still very early in the court process.

"This is not an insignificant event, obviously, but our advice has been this is one further part or element of ongoing financial and legal manoeuvring in relation to what is a very complicated issue," Mr Lucas said.

"GFG have continued to ensure the market, and the government, that they are confident they're going to be able to manage a refinancing of their relationship they've got with Greensill.

"We can only take them at their word at this particular stage, and we'll have to wait and see the results of their attempted renegotiation of finance."

In a podcast released last week, Mr Gupta conceded GFG had been too financially dependent on Greensill.

But the billionaire was also bullish about the company's prospects of recovery.

"I'm totally committed to ... come out of this, and actually come out stronger," he said.

"Most of the businesses which are within GFG have seen hardship before, and they have come through that with their own perseverance and their own grit and their willingness not to give up."

Mr Gupta said there were "no plans to sell any of our core businesses", and said GFG was now taking "strong, prudent steps" towards recovery.

The treasurer said the company had not sought further financial assistance from the government.

"We've had no formal applications," Mr Lucas said.

"We've been told by GFG the same thing they've been told that is, that GFG believes their operations are operating profitably and that they are confident of refinancing."