

Decmil Subcontract Update

11 June 2020

ASX & media
announcement
ASX code: SXE

Southern Cross Electrical Engineering Limited (“SCEE”) provides an update regarding the status of its subcontract with Decmil Australia Pty Ltd, a wholly owned subsidiary of Decmil Group Limited (ASX: DCG) (“Decmil”), and to provide clarification in relation to the ASX announcement issued by Decmil on 9 June 2020.

Background

As announced on 24 May 2017, SCEE entered into a subcontract with Decmil to design, supply and construct the electrical, communications, instrumentation and controls (“the Subcontract”) for the non-processing facilities at Rio Tinto’s Amrun mine project (“the Project”). The Project is situated at a remote Queensland site located on the western side of Cape York Peninsula, south-west of Weipa. SCEE successfully delivered its works, with Rio Tinto issuing a press release on 4 March 2019 that it had completed commissioning of the Project.

The original Subcontract sum was for an amount of \$6,000,000 exclusive of GST. In the course of the Project, SCEE carried out substantial additional works beyond the original Subcontract scope and also experienced significant delay and disruption because of Decmil’s failure to properly manage their works and other subcontractors.

SCEE has through the existing and standard contract procedures sought payment by Decmil of the amounts for those further works and its other costs. Whilst Decmil has paid SCEE an additional amount of approximately \$1.4m exclusive of GST, it has so far refused to pay the full amounts claimed by SCEE, as further detailed below, despite the quality service provided to it and the considerable benefit it obtained from SCEE’s assistance in resolving Decmil’s issues with its other subcontractors.

Commercial Close Out Process

SCEE demobilised from site at the end of 2018 and in early 2019 SCEE and Decmil agreed a process to negotiate in good faith the assessment and close-out of SCEE’s claims (“the Commercial Close Out Process”).

In May 2019 the Commercial Close Out Process concluded without resolving the matter, which left SCEE with no alternative but to follow the dispute resolution procedures set out in the Subcontract.

Current Status

SCEE is presently pursuing its claims for payment against Decmil through the formal arbitration process under the dispute resolution provisions in the Subcontract. SCEE recently filed a substantial claim in the arbitration and intends to seek a prompt final determination of all its claims against Decmil, in an amount in excess of \$10.5m plus GST, interest and costs.

Given SCEE’s concerns about Decmil’s financial position, SCEE intends to pursue security for costs against Decmil to secure its costs position in the arbitration and will seek a prompt hearing of the matter.

As is common industry practice, SCEE lodged an adjudication application in February 2020 under the *Building Industry Fairness (Security of Payment) Act 2017 (Qld)* seeking payment from Decmil of outstanding amounts up to approximately \$11.0m excluding GST and interest. On 5 June 2020, the adjudicator determined that Decmil was obliged to pay SCEE the amount of \$152,657.56 excluding GST and interest.

Whilst disappointing, the purpose of these adjudication processes is to provide a payment amount on account only, and this process is not a final determination on the merits of SCEE's claims. Adjudication processes are also interim in nature and do not allow claimants to draw on the full evidential processes and equitable remedies that would be available in legal or arbitration proceedings.

Comment

Commenting on the matter, SCEE's Managing Director, Graeme Dunn, said "It is profoundly disappointing that having performed so successfully for its client, Decmil, in such a harsh and demanding location that SCEE finds itself in a position of having to enforce its rights.

SCEE remains committed to pursuing its substantive claims and is confident as to its entitlement. SCEE does not believe that this matter will have a material impact on the financial performance of the company for the year ending 30 June 2020 or any subsequent financial years."

This announcement lifts the trading halt on the Company's securities.

Authorised for release by Graeme Dunn – SCEE Managing Director

Contact

SCEE Perth Office
41 Macedonia Street
Naval Base WA 6165
T: +61 8 9236 8300

Graeme Dunn
CEO & Managing Director
E: graeme.dunn@scee.com.au

Colin Harper
Company Secretary
E: colin.harper@scee.com.au