



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No.: LM072Aug25

In the matter between:

Sedgeley Solar Group (Pty) Ltd

Primary Acquiring Firm

and

Sedgeley Solar Management (Pty) Ltd and
Sedgeley Solar Energy Holdings (Pty) Ltd.

Primary Target Firms

Panel : I Valodia (Presiding Member)
: T Vilakazi (Tribunal Member)
: G Budlender (Tribunal Member)

Heard on : 16 September 2025
Date of last submissions : 01 October 2025
Order issued on : 09 October 2025
Reasons issued on : 03 November 2025

REASONS FOR DECISION

- [1] On 09 October 2025, the Competition Tribunal ("Tribunal") unconditionally approved the large merger wherein Sedgeley Solar Group (Pty) Ltd ("SSG") intends to acquire 100% of each of the issued share capital of Sedgeley Solar Management (Pty) Ltd ("Sedgeley Solar Management") and Sedgeley Solar Energy Holdings (Pty) Ltd ("Sedgely Solar Energy"), collectively referred to as the "Target Firms".
- [2] Post-merger, SSG will have sole control of the Target Firms.

industrial ("C&I") market through [REDACTED] [REDACTED] [REDACTED] [REDACTED].

[8] FMO Group is an impact investor that supports sustainable private sector growth in developing countries and emerging markets by investing in ambitious projects and entrepreneurs. FMO Group also focuses on sectors that have high development impact, such as Agribusiness, Food and Water, Energy, and Financial Institutions.

[9] In South Africa, FMO Group has interests in [REDACTED] [REDACTED] and [REDACTED] which operate [REDACTED] and [REDACTED] waste-to-energy plants [REDACTED] [REDACTED] [REDACTED].

The target firms

[10] The primary target firms are Sedgeley Solar Management and Sedgeley Solar Energy, which are based in Namibia. Sedgeley Solar Management is ultimately jointly controlled by [REDACTED] and [REDACTED] [REDACTED]. In South Africa, Sedgeley Solar Management controls Solar Saver SA (RF) (Pty) Ltd ("Solar Saver SA") [REDACTED]% and Sedgeley Solar SPV 001 (Pty) Ltd. Solar Saver SA conducts the activities of Sedgeley Solar Management in South Africa. Sedgeley Solar Energy is not controlled by any firm(s), nor does it control any firm in South Africa.

[11] The Target Firms provide on-site renewable solar PV rooftop installations for shopping centres, hospitals, farms, cold storage facilities, hotels and manufacturing plants on a long-term basis (10+ years) to customers in the C&I market. Individually, Sedgeley Solar Management owns the installed rooftop solar PV projects, and Sedgeley Solar Energy is responsible for the sales and marketing of these projects under the brand Solar Saver.

[12] Sedgeley Solar Energy is also an exclusive supplier of engineering, procurement and construction ("EPC") services related to the installation of Sedgeley Solar

Management's rooftop solar PV projects, as well as the cleaning and maintenance of Solar Saver's solar PV projects.

Rationale and indivisibility

- [13] The transaction is said to align with the Acquiring Group's mandate to invest in renewable energy projects. It also presents an opportunity for some shareholders of the Target Firms to realise their investment, while others are looking to roll their shareholding into SSG to give them more exposure to the businesses of the Target Firms.
- [14] The Competition Commission ("Commission") considered whether the proposed transaction constitutes a single indivisible transaction, given that there are multiple Target Firms. In line with the Tribunal's case precedent,³ the Commission found that the acquisition of the Target Firms by SSG constitutes a single indivisible transaction. That is because the Target Firms have common shareholders (i.e., sellers), which will be integrated under a single holding company (common acquirer), and the acquisitions of the Target Firms are inter-conditional on each other.
- [15] In addition, the Commission found that the Target Firms are both active in solar PV activities. Accordingly, the Commission concluded that the proposed transaction is indivisible in line with the Commission's Indivisibility Guidelines and case precedent.
- [16] We are satisfied that the transactions are indivisibly linked.

³ The cases included, *Crown Gold Recoveries (Pty) Ltd and Industrial Development Corporation of SA Ltd and Khumo Bathong Holdings (Pty) Ltd*, (31LMMay02); *Premier Fishing SA (Pty) Ltd and Talhado Fishing Enterprise (Pty) Ltd* (LM299Mar18); and *Khumonetix (Pty) Ltd and Auckland Investments 22 (Pty) Ltd, Blane & Company Sales (Pty) Ltd, Wideprops 97 (Pty) Ltd, Red Gold Investments (Pty) Ltd and Dreamfair Properties 11 (Pty) Ltd* (LM112Jul18).

Competition assessment

Horizontal assessment

- [17] The Commission considered the activities of the merging parties and found that the proposed transaction results in a horizontal overlap as the merging parties are active in the provision of renewable energy.
- [18] Using data from the South African Photovoltaic Industry Association (“SAPIA”), the Commission estimated the merged entity's market share to be less than 5% an accretion of less than 1%, for the provision of rooftop solar PVs to the C&I market. The Commission’s investigation found that several competitors in the market will constrain the merged entity.
- [19] Based on the above, the proposed merger is unlikely to result in a substantial prevention and/or lessening of competition in any market.

Vertical assessment

- [20] In its investigation, the Commission found that the merging parties operate at different levels of the rooftop solar PV value chain. The Commission further found that in the provision of funding for rooftop solar PV installations, the Acquiring Group only provides funding to one entity pre-merger (██████████) and does not fund any other rooftop solar PV providers. Therefore, no foreclosure concerns are likely to arise from the merger.
- [21] In respect of the Target Firms’ provision of rooftop solar PV cleaning and maintenance services to installers, the Target Firms do not provide any cleaning and maintenance services to any third party rooftop solar installation or provider. Therefore, the Commission found that no foreclosure concerns are likely to arise from the merger.
- [22] In terms of the Target Firms’ provision of EPC services, the Target Firms predominantly provide these services ‘inhouse’ and only render same to third parties on a de minimis basis. The Commission found that in the financial year

ended 29 February 2025, ■■■% of Sedgeley Solar Energy's ■■■■■ (all from EPC) was derived from Solar Saver SA whilst the remaining ■■■% was derived from ■■■■■ customers.

[23] In light of the above, we are of the view that the proposed transaction is unlikely to raise any foreclosure concerns; and that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant market(s).

Public interest analysis

Effect on employment

[24] The merging parties provided an unequivocal undertaking that the merger would not have a negative impact on employment.⁴ The Commission contacted the employee representatives of the Target Firms and obtained confirmation that no employment concerns were raised in relation to the proposed transaction.⁵

[25] Based on the above, the Commission concluded that no further intervention is required as regards employment in the circumstances.

[26] Having regard to the above, we conclude that the proposed merger does not raise employment concerns

Effect on the promotion of a greater spread of ownership

[27] Neither of the merging parties has shareholding by historically disadvantaged persons (“HDPs”). However, Sedgeley Solar Management holds ■■■% of Solar Saver SA, which has approximately ■■■■■% HDP ownership. The proposed transaction will result in a net reduction in the HDP ownership of Solar Saver SA of only ■■■%, leaving ■■■■■% HDP ownership.

⁴ Competition Report, paragraph 8.2.2.

⁵ Email from ■■■■■ dated 20 August 2025.

[28] In light of the above, the Commission, during its investigation, initially invited the parties to tender remedies in order to address the dilution of HDP ownership that is brought about by the merger.⁶

[29] The merging parties responded with a view that remedies are unwarranted for the following reasons:

- 29.1. When considering the effect of a merger on a greater spread of ownership, the Commission has considered whether the extent of HDP ownership remains relatively significant, with an HDP shareholding of at least 25% being the acceptable benchmark;
- 29.2. The proposed transaction involves a change of shareholding in Namibia, which is occasioned by the exit of a Namibian company, and does not result in the direct exit of a South African entity;
- 29.3. The dilution of HDP ownership is minimal and does not warrant the imposition of remedies; and
- 29.4. The proposed transaction will result in the growth of Solar Saver SA due to access to increased funding, which is to the benefit of Solar Saver SA's HDP shareholders. Further contending that the proposed transaction is in the broader public interest.

[30] Notwithstanding the above, the merging parties provided public interest undertakings whereby for the period of three (3) years they would provide (i) an HDP procurement spend of not less than R [REDACTED] (representing more than double the 2025 financial year spend) and (ii) two annual bursaries for the benefit of HDP students (each valued at R65,000 per year).

[31] The merging parties envisage that one of the bursaries will relate to obtaining a Wireman's License. The Wireman's License is issued by the Department of Labour and is an accreditation by the Energy and Water Sector Education Training Authority ("EWSETA"), which enables an electrician to sign off on electrical installations with a certificate of compliance. The other bursary is envisaged to be

⁶ Email from the Commission, dated 11 July 2025.

for the attainment of any undergraduate degree at Boston College with at least an NQF level 7.

[32] The merging parties submitted that the aforementioned undertakings are not tendered as conditions for the proposed transaction, as conditions are not warranted in the circumstances.

[33] As such, the Commission noted that despite the minimal dilution in Solar Saver's HDP ownership, Solar Saver will remain substantially owned by HDPs (██████%) post-merger. The Commission relied on case precedent (in matters such as *Old Mutual/Fairheads* (LM177Mar25)⁷, *GEPP/Shenge* (LM089Sep23)⁸ and *Raubex/ABI* (LM125Nov24)⁹, amongst others), where it was found that interventions are not required where the target firm remains substantially HDP-owned post-transaction. The Commission further found that the proposed transaction will also facilitate some HDP shareholders (intending to reinvest in the Target Firms through SSG) to get more exposure to the Target Firms. Thereby concluding that the proposed commitments are additive to public interest in that they are responsive to sections 12A(3)(c) of the Competition Act (the "Act"), and that the proposed transaction is justifiable on substantial public interest grounds.

[34] Noting the above and having considered the pragmatics of merger assessments and the novelty of the submissions before us, we sought the views of the merging parties and the Commission with regard to the commitments, and whether they should be incorporated as conditions of the approval.

[35] In its recommendation, the Commission proposed that no further intervention by way of conditions is required. It relied on *Old Mutual/Fairheads* and *Raubex/ABI*, where the target firms remained substantially HDP-owned post-merger, and the Tribunal concluded that no public interest remedies were warranted.

⁷ Old Mutual Corporate Ventures (Pty) Ltd and Fairhead Benefit Services (Pty) Ltd and Fairheads Financial Services (Pty) Ltd ("*Old Mutual/Fairheads*"), CT case No.: LM177Mar25.

⁸ Government Employees Pension Fund duly represented by The Public Investment Corporation SOC Limited and Shenge Property Group Proprietary Limited ("*GEPP/Shenge*"), CT case No.: LM089Sep23

⁹ Raubex Roads and Earthworks Holdings (Pty) Ltd and ABI 2 (Pty) Ltd ("*Raubex/ABI*"), CT case No.: LM125Nov24.

- [36] The Commission noted that the Dutch State will partially control SSG post-merger, and that in accordance with its policy and Tribunal precedent, such as *GEPF/Lanseria*¹⁰ and *Dubai Aerospace/Nordic Aviation*¹¹, remedies under section 12A(3)(e) are generally not imposed in mergers involving government or public institutions. In addition, the Commission considers that the proposed undertakings are not necessary to address any public interest concerns, and therefore supports unconditional approval.
- [37] The merging parties aligned themselves with the Commission's recommendation of unconditional approval. They stated that while the undertakings were offered in good faith during the investigation, the proposed transaction does not, in their view, give rise to any substantial public interest concerns. The merging parties maintained that the HDP ownership remains significant post-merger, with only a minimal net reduction of approximately ██████%, and that several HDP shareholders are reinvesting.
- [38] The merging parties further submitted that the proposed transaction is expected to promote the growth and sustainability of the enterprise to the benefit of all shareholders, and, given that the Target Firms operate in the renewable energy sector, it supports public interest objectives relating to investment and energy security in South Africa.
- [39] In their letter dated 25 September 2025, the merging parties submitted that a conditional approval may create confusion in relation to the Commission's findings and policy, as well as the merits of this particular transaction. The merging parties contended that, if the Tribunal insists on imposing conditions, the reasons should record that the Commission had recommended unconditional approval, and that the imposition of conditions should not be interpreted as suggesting that the proposed transaction otherwise failed to meet the test under section 12A(1)(b) of the Competition Act.

¹⁰ Government Employees Pension Fund Represented by the Public Investment Corporation SOC Ltd and Lanseria Holdings Property Ltd ("*GEPF/Lanseria*"), CT case No.: LM094Aug24

¹¹ Dubai Aerospace Enterprise (DAE) Limited and Aviation Capital Designated Activity Company ("*Dubai Aerospace/Nordic Aviation*"), CT case No.: LM164Feb25.

- [40] The merging parties further noted that the Tribunal's views appear to be directed at ensuring that merger undertakings are properly recorded, monitored, and enforced, rather than indicating that the transaction gives rise to any public interest concerns.
- [41] Accordingly, the merging parties proposed that the Tribunal, for the sake of clarity and consistency with the Commission's recommendation, record in its reasons that the commitments are not required.
- [42] The Commission submitted that the Tribunal has discretion to determine whether undertakings tendered by the merging parties should be reduced to conditions. However, consistent with its report, the Commission maintained that no public interest conditions are required, as the proposed transaction does not materially alter HDP ownership. The undertakings were offered by the parties in response to section 12A(3)(e) of the Act, but the Commission considered them unnecessary in the circumstances.
- [43] The Commission noted that, in line with case precedent, it is not standard practice to convert voluntary undertakings, such as those concerning employment or ownership, into binding conditions where they are not material. Similar concerns were raised by the Tribunal in *Plett Market Square Properties (Pty) Ltd and Market Square C/O EMIRA Property Fund Ltd* (LM092Aug24) and *Campobelo Investments, S.L. and Seidor Solutions S.L., and Seidor Logistics S.L.* (LM116Oct24), where the appropriateness of minor public interest conditions was questioned.
- [44] Finally, the Commission submitted that monitoring merger conditions requires significant resources. Accordingly, conditions should only be imposed where they are warranted and substantive, to ensure that the Commission's monitoring capacity is reserved for conditions of real consequence.

Our assessment

- [45] Having considered the above submissions, and in light of the absence of any demonstrable competition or public interest concerns arising from this proposed

transaction, we find no basis to pursue the matter further. However, we must record our disagreement with the approach employed by the Commission. We note that the Commission solicited and received the undertakings from the merging parties. It is fundamental to the integrity of the merger control process that undertakings which are tendered as part of that process should be treated as binding on the merging parties.

[46] In this regard, we have noted the findings of the Constitutional Court in *Competition Commission of South Africa v Hosken Consolidated Investments Limited and Another* (CCT296/17) [2019] ZACC 2; 2019 (4) BCLR 470 (CC); 2019 (3) SA 1 (CC) (1 February 2019) paras 72 and 73.

Conclusion on public interest assessment

[47] In our opinion, the proposed transaction did not raise any public interest concerns.

Conclusion

[48] We therefore approved the proposed transaction without conditions.

Signed by: Imraan Valodia
Signed at: 2025-11-03 12:35:56 +02:00
Reason: Witnessing Imraan Valodia

Imraan Valodia

03 November 2025

Prof. Imraan Valodia

Date

Adv. Geoff Budlender SC and Prof. Thando Vilakazi concurring.

Tribunal Case Managers: Thresho Galane and Nomkhosi Mthethwa-Motsa.

For the Merging parties: Chris Charter, Mmakgabo Mogapi of Cliffe
Dekker Hofmeyr Inc.

For the Commission: Wiri Gumbie and Kgothatso Kgobe.