

**SUBMISSION TO THE IPART ENQUIRY**  
**INTO**  
**LANDHOLDER BENCHMARK COMPENSATION RATES**  
**IN RELATION TO**  
**GAS EXPLORATION AND PRODUCTION IN NSW,**  
**April 2015**  
**(with reference to the Gloucester Valley project)**

**1. INTRODUCTION**

Genuine community participation in the coal seam gas exploration and production process is an essential prerequisite to the compensation process. However, developments within the Gloucester Basin have revealed deficiencies in the community consultative process in regard to both the preliminary exploration process and the future development process.

Of particular note has been the process utilised by AGL to groom support within the area, often to the detriment of other landholders and community bodies. It is not the purpose of this response to criticise community bodies for their claimed views but the initial support given to one community body that claims to be impartial but is obviously pursuing a pro-gas development policy to the exclusion of all other matters is of concern.

It is not an issue here to consider the legitimacy of such groups but it is relevant to note that such processes cause community division and undermine the integrity of the community consultative processes.

**2. MATTERS TO BE CONSIDERED**

It is a fundamental requirement that any community consultative process should operate at the highest level of integrity. Private landholder contracts to favour some landholders and 'buy support' undermine the integrity of the process. Privacy clauses that prevent disclosure of contractual arrangements are detrimental to an honest and impartial compensation scheme. The private nature of contractual arrangements should not be used as a means of entrenching secrecy in the compensation process. Land contracts and land valuation matters, by long tradition, have essentially been matters of public interest and public access. The public availability of all information relating to compensation should be as broad as possible.

It has been noted that some aspects of the area's economy and lifestyle are not being given due regard in the impact assessment process and the impact on land values. All impacts of the AGL development should receive full and proper consideration in the valuation process.

The following matters are important to the consultative and compensation processes.

**Independent expert advice is required**

Independent expert advice on matters of a legal, environmental and commercial nature should be available to community groups and individual landholders to promote free, open and constructive landholder representation.

**Property entry by mining companies**

The conflicting legal issues regarding the mining company's right to enter properties (whether for initial survey, exploration, production, access to other properties or for any other purpose) and the landholder's rights to deny access should be clarified and formalised at law.

### **Agricultural production**

The Gloucester Valley has a developing agricultural-horticultural industry that depends substantially on organic growing qualities. In addition its established dairy and meat industries are coming under increasing scrutiny concerning purity issues. Both meat and dairy production are known to be highly vulnerable to extraneous chemicals.

The use of fracking procedures is a matter of considerable concern, both in regard to the procedures and materials used, and to the natural release of the highly dangerous BTEX chemicals. The extent and long term effects of this damage cannot satisfactorily be gauged at present but a potentially significant impact on property values can be expected to result.

It should be noted that the long term effects of fracking, water treatment processes and the disposal of waste water cannot be satisfactorily assessed in the short term and may take a number of years to impact fully.

### **Scenic-heritage significance**

Tourism and new settlement are now major industries in the Gloucester Valley. These are addressed further below but the areas scenic-heritage significance should first be addressed. These qualities underpin much of the area's development and impact in a positive manner on the area's land values. Damage to these qualities will impact severely on land values.

Acknowledging the valley's scenic-heritage significance has been strenuously avoided by all government agencies, both State and Federal. These qualities underpin the valley's life-style settlement, its tourism, its developing agriculture/horticulture industries and a significant section of its retail-service businesses. It follows that the impact of CSG and coal developments on property values will be high.

A review of the Valley's heritage assessments follows.

- Robert Dawson acknowledged the area's special scenic qualities in his 1826 exploration. The first recognition of the Vale's heritage significance in a modern sense was in the publication *Vale of Gloucester*, written by Eve Keane and published by Gloucester Shire Council in 1953.
- The National Trust of Australia (NSW) classified the Vale as a heritage landscape in 1975 and revised the listing for the *Vale of Gloucester* in 1981. The National Trust again revised the listing in 2011, changing the listing title to the *Stroud Gloucester Valley, incorporating the Vale of Gloucester*.
- The National Trust referred the nomination to the Australian Heritage Commission in 1976 for entry in the Register of the National Estate. The RNE has now been abolished in favour of the new register, the National Heritage List.
- The Barrington-Gloucester-Stroud Preservation Alliance completed a comprehensive assessment in 2009. That assessment was titled *The Stroud-Gloucester Valley and the Vale of Gloucester: A heritage landscape under threat*. The Alliance submitted a nomination to the Department of Sustainability, Water, Population, Environment and Communities in 2011 for the Valley to be assessed for national heritage significance.

### **3. MATTERS TO BE ADDRESSED UNDER 4.5 COMPENSATION FOR NEIGHBOURS AND BROADER COMMUNITY**

Circumstances prevent this submission from addressing all compensation matters but it is noted that a number of submissions have done so. This submission therefore comments only

on the matters noted under **4.5.1 Neighbouring landholders** and **4.5.2 Broader communities** but submits that by acknowledging these less direct impacts, this submission demonstrates the breadth and intensity of the AGL coal seam gas project.

#### **4.5.1 Neighbouring landholders**

The impact on neighbouring landholders can be severe. Neighbouring landholders have been one of the most disadvantaged groups involved in major development projects. They suffer noise, loss of privacy, stress and loss of visual amenity and frequently suffer ongoing diminishment of lifestyle and ongoing psychological stress. They often suffer considerable loss in property values, frequently without acknowledgement of that and any significant compensation.

#### **4.5.2 Broader communities**

Matters raised under 4.5.2 follow.

*3 Do you agree with our preliminary view on the relevant heads of compensation for hosting CSG exploration and production (value of land occupied and loss due to severance, injurious affection and disturbance)? Are there other temporary impacts of CSG exploration and production on landholders that we should consider?*

The named heads of compensation address the immediate impacts and therefore provide a basis for compensation although the cover 'injurious affection' needs precise definition in regard to the less direct impacts. Loss of amenity, particularly for retired people, impact on tourism and damage to property value/asset security are potential matters.

*4 Should we consider any 'special value' of land and 'loss of opportunity to make planned improvements on the land' in recommending compensation for CSG exploration and production?*

This could be a difficult area to address but a number of potential uses that are relevant to the Gloucester Valley are in conflict with the gas and coal developments. Rural 'holiday' accommodation is a growing industry in the area. This will be severely impacted by the proposed development. Organic horticulture/agriculture, both in the immediate area and downstream, are inconsistent with the impacts of CSG extraction.

*5 Are there any permanent impacts on the market value of land arising from hosting gas exploration and production that we should consider?*

This is unclear at this stage. We note the term 'permanent' is often used in planning terms to mean long term, rather than permanent in the absolute sense. Ongoing matters of soil 'poisoning', water table damage and water quality damage, both locally and downstream, are matters that potentially meet this impact.

*6 Do you agree with our preliminary view that NSW legislative provisions for landholder compensation for gas exploration and production should be broadened? If so, how? If not, why?*

The writer strongly agrees but there is no simple answer to 'If so, how?' The broadening of compensation provisions requires a substantial change in the direction of the thinking processes – old style 'direct damage' concepts need to be set aside to allow a greater understanding of the impacts of this type of development on lifestyle and property values. The breadth of assessment should consider those values that are indirectly affected. This does not mean that damage that is remote and theoretical/hypothetical should be compensated, but that the consideration processes should be as broad as possible, even if some properties would not qualify for compensation.

7 Do you agree with our preliminary view that our recommendations on compensation should be limited to landholders who host CSG activities and their neighbours who are directly affected? If not, why?

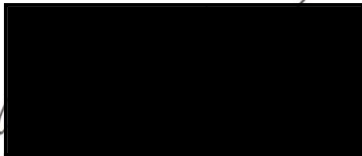
It is critical that recommendations on compensation extend to all properties that are affected by the CSG development, whether directly or indirectly. The term 'directly affected' is itself open to varying levels of interpretation.

There is considerable, though circumstantial evidence open to various interpretations, that property values in a substantial part of the Gloucester Valley have been adversely affected even they lie well outside the development area. It would be unreasonable to attempt to quantify this loss and to compensate for it but compensation should be extended to those areas that clearly suffer some loss of amenity. Properties that are situated within the exploration areas are suffering loss in value by way of their general situation although the impact on individual properties may be difficult to define and quantify. (By way of comment, the writer's property is situated well outside these areas and no impact is claimed.)

#### 4. CONCLUSION

This submission asks that IPART interpret the matters to be considered in the widest possible context. The proposed development will impact in a manner not envisaged by current assessment procedures that are principally concerned with addressing direct impacts. The AGL coal seam gas project will impact significantly on the area's lifestyle, agricultural production, scenic-heritage significance and from that on all aspects of property values. This impact in values is clearly identifiable at this stage and will intensify as the development proceeds.

Yours faithfully,



Garry Smith  
(ADL&AH, BA, LLB, MEL,  
Environmental Planning Consultant)



31 May 2015