

ALINTA GAS PIPELINE

In response to the recent article concerning the Alinta Gas Pipeline; we make the following points:

In the article published July 4, 2006 titled 'Legal stoush may delay gas pipeline' one could easily be mistaken into thinking that Alinta were a sovereign power in the seceded state of South Gippsland. One must be reminded that the system of title in Victoria give the freehold owner the absolute right to protect and reject any person or organisation to diminish this right. Alinta's current proposal of encouraging people to sign options to grant an easement is a situation where the individual has the right to reject the proposal without providing a reason.

The only way in which an 'Authority' such as Alinta, who provides an essential service, can override this right is pursuant to compulsory powers in the Land Acquisition and Compensation Act 1986. To date these powers have not been used, and until they do there is no guarantee the required works will proceed.

We note just a smaller number of 'Essential Services projects' that have relied upon these compulsory acquisition powers.

- The Western Ring Road • The Monash Freeway
- The Melbourne City Link • The Tullamarine Freeway
- Eastlink • Basslink

Compulsory Acquisition:

Outside of the Compulsory Acquisition process, there is no facility or avenue that allows any organisation or individual to require or force a landowner to sign a document that places an encumbrance over their property.

We are surprised at the comments made by the Council Representative who asserts that people affected by the proposed easement (his constituents), should sign away their rights for the common good, on the basis that apparently other people have chosen to sign. We are concerned that this illustrates a lack of understanding of the individuals rights to be fully compensated. To further assert, that landowners making the effort to properly inform themselves about their rights as being 'obstructionist' is inflammatory and unreasonable. Such comments may only have the affect of hardening landowners resolve to reject Alinta's current easement proposal.

Any potential delays in the construction of the 'Pipeline', due to failure to secure land tenure, will be due to Alinta's apparent reluctance to use the powers contained within the Land Acquisition Compensation Act 1986; and not the fault of 'obstructionist' landowners as claimed by the Council representative.

The only way in which Alinta can clearly guarantee the occupation of required land for the purposes of the 'pipeline' is under the power of the Land Acquisition Compensation Act 1986.

It follows that the only way in which an individual landowner can expect to have their rights recognised and be fully compensated is also within the powers of the Land Acquisition and Compensation Act 1986.

The Act specifies the process that must be followed by the 'Acquiring Authority'. It includes the process of acquisition, the assessment and consideration (of value and loss - if any) of each of the individual property's to be acquired, the timing of the process and the avenues for enforcement of professional behaviour required of the parties.

The current offer by Alinta provides none of these safeguards.

We note that Mr Wong as the representative of Alinta, states they are not purchasing the land. Whilst this is technically accurate, the affect is practically the same albeit even worse. An easement gives Alinta the right to enter and occupy that land required for their purposes; whilst transferring all of the responsibility of land ownership, maintenance and possible damage to the pipeline to the landowner.

Public meetings:

The public meetings that we have conducted (and will continue to conduct), have the same consistent message to the affected landowners:

1. Do not sign the "Option to Grant an Easement" (There is no legal enforceability - landowners cannot be forced to do so).

2. If Alinta are serious about the pipeline they will do so. Landowners have the right to make this request within the powers of the "Act". Landowners can request Alinta to compulsorily acquire rights of occupation over their land.

The benefit for the individual landowner under this process (If properly represented) is:

• The individual landowner is entitled to receive compensation with the protection of the Land Acquisition and Compensation Act 1986.

The benefit for Alinta and Council is:-

• The project could proceed along the designated pipeline route they require and allow the acquisition process to proceed at the same time as their construction works are undertaken - therefore there is no reason for a time delay in the construction of the pipeline.

The question must be asked, 'what is the motivation for Alinta not following the compulsory acquisition process?'

We encourage people who have already signed Alinta's "Option to Grant and Easement", to seek independent legal advice as to whether or not their agreement's are enforceable.

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