



Land acquisition process

Information for property owners and tenants

North East Link will fix the missing link in Melbourne's freeway network between the M80 Ring Road and an upgraded Eastern Freeway.

With limited road reserve to use, this is a challenging project to deliver and some private land is required for construction.

Now that the environmental assessment process for North East Link is complete and the Victorian Minister for Planning has approved the project, we are talking to impacted residents and businesses about the next steps in the acquisition process.

This fact sheet has answers to some of the common questions you might have about acquisition.

The *Major Transport Projects Facilitation Act 2009* enables certain government authorities to compulsorily acquire land that is included in an area formally designated as the 'Project Area'.

Where land is compulsorily acquired, the *Land Acquisition and Compensation Act 1986 (LACA)* guides how compensation is assessed.

Full versions of these Acts are available at legislation.vic.gov.au

Key steps in the acquisition process

If the land you own or occupy is to be acquired for the North East Link Project, the process generally proceeds in the following stages.

1. Initial contact

Members from the North East Link Project (NELP) team have been talking to affected property owners and tenants since late 2017.

Following planning approvals, NELP has been in contact with impacted residents and businesses to update them on the acquisition process and what it means for them.

2. You will receive a Notice of Intention to Acquire

Following the required planning approvals and conversations with property owners and tenants, a Notice of Intention to Acquire (NOITA) is served to formally let you know that NELP intends to compulsorily acquire your property.

At this stage, you may seek your own advice (for example, legal or valuation advice) in order to commence negotiations with NELP. To ensure these fees are reasonable, you may wish to arrange for your advisors to submit fee proposals to NELP prior to undertaking work for you.

If you want to sell your property to NELP at this time, rather than wait for us to take the next step in the acquisition process, you will be paid the same compensation allowances as would apply under the compulsory acquisition process. If agreement is reached at this point, there is no need to proceed to the next stage.

3. You may receive a Notice of Acquisition

If you have not finalised negotiations with NELP regarding the acquisition of the part of your land or property identified in the NOITA at this stage, NELP will publish a Notice of Acquisition. The Notice of Acquisition protects your rights to receive compensation while enabling NELP to obtain the land within a certain time frame (often before compensation negotiations are finalised).

In these circumstances you will receive a copy of the Notice of Acquisition, which is published in the Victoria Government Gazette. The publishing of the Notice of Acquisition formalises the acquisition of the land, meaning that you are no longer the legal owner of the land.

In most cases, NELP must wait two months after serving a Notice of Intention to Acquire before publishing a Notice of Acquisition and cannot take possession until the expiry of specific time frames set out in the legislation. These time frames differ depending upon whether a property is vacant or if it is a principal place of residence or business.

NELP will work with you to agree the date you will need to vacate your property wherever possible. If the land is a principal place of residence or business, NELP will not take possession for at least three months after giving you a Notice of Acquisition without your prior agreement.

4. Compensation

If your land needs to be acquired, the amount of compensation will be determined in accordance with the principles under the *Land Acquisition and Compensation Act 1986*.

This means that:

- Compensation will be assessed on the basis of the market value of your land, plus additional amounts and allowances which may apply, such as stamp duty and reasonable conveyancing costs of buying a replacement property.
- Market value will be assessed by an independent property valuer based on the unaffected value of your land (that is, the land value disregarding the North East Link Project).
- A compensation offer is required to be made to you within 14 days of the Notice of Acquisition being published. The compensation offer is based on a valuation from the Valuer-General Victoria and signed off by the Government Land Monitor if required.
- Depending on individual circumstances, additional compensation, known as solatium, may be paid. Solatium is assessed as a dollar amount but is capped at 10 per cent of the market value and is to compensate you for non-financial disadvantage caused by the acquisition. This is assessed on a case by case basis and the *Land Acquisition and Compensation Act 1986* sets out the criteria that must be considered. This may include the length of time you have occupied the land, the inconvenience likely to be suffered, and your age.
- If you operate a business on your land, compensation may be payable for financial loss suffered to the business as a result of the acquisition of your land.

Payment

Once you have received an offer of compensation, you can request at any time that NELP pay an advance of the offer (provided that the compensation exceeds \$5,000). The advance payment will be required to be paid within 30 days of receiving the request and any advance will not affect your entitlement to continue negotiating a final settlement. Once agreement is reached on the amount of compensation payable, the balance of the compensation payment would be paid as soon as possible.

Frequently Asked Questions



I am concerned about my property. How will I know if I am being acquired?

NELP has been in contact with all property owners whose property will be required. If you have not heard from NELP, your property is not required. If you have any concerns or are unsure about whether or not your property will be required, please contact us on 1800 105 105.

When will I know if my property is definitely going to be acquired?

Now that the environmental assessment process for North East Link is complete and the Victorian Minister for Planning has approved the project, we've started to contact owners and tenants of properties to confirm their land will be required to build the project.

Members of NELP's landowner engagement team have contacted all people impacted and given an update on the acquisition process.

We will keep talking to people in coming months about the acquisition process, their individual circumstances and timings.

Our focus is on starting the acquisition of properties located near where the North East Link tunnel entrances and exits would be built. Over the next six to twelve months we expect to issue the remaining acquisition notices. We will keep talking to these owners and tenants about their circumstances during this time.

Are there different types of property acquisition?

As the North East Link will include surface construction, tunnels and relocation of services, there will be different types of acquisition.

Property acquisition at surface level:

Acquiring properties required for surface (above ground) construction can either be all or just part of a property.

Underground strata acquisition:

Acquiring land below the surface, where the tunnels pass deep underneath properties. The property at surface level is not required in this type of acquisition.

Easement acquisition:

Where services (such as drainage or power lines) are relocated as a result of this project, NELP will need to acquire an easement over that land. Ownership of the land does not change, but an interest in the land is acquired to protect the service above or below the property.

How do I know I am getting a fair deal?

NELP will reimburse the reasonable costs of you engaging your own legal advisor and any other relevant professional advisors (such as your own valuer), so that when you receive an offer you have your own independent advice to help you understand it. To ensure these fees are reasonable, you may wish to arrange for your advisors to submit fee proposals to NELP prior to them undertaking work for you.



Can I choose not to sell my property?

If your property or part of your property is identified as being required for the delivery of North East Link, the part of your property required for the project will be compulsorily acquired. This is not an optional or discretionary process.

Once the acquisition process begins, how long does it take?

The minimum time frames are set out in the *Land Acquisition and Compensation Act 1986* and the *Major Transport Projects Facilitation Act 2009* and depends on the type of property acquired as well as the time frames for staging of construction.

As we have communicated to residents and businesses, the acquisition process may take a little longer than normal and we may need to do things differently, in line with current health advice related to coronavirus.

You are encouraged to discuss your individual circumstances with the NELP landowner team and we will work through the process with you as best we can.

When will I receive a compensation offer?

NELP will obtain valuation advice enabling compensation offers to be prepared and made as soon as possible after Notices of Acquisition are published.

If owners choose to negotiate following receipt of a Notice of Intention to Acquire, a compensation offer may be made earlier.

Do I have to accept the compensation offer?

No, an owner may obtain their own valuation advice or other consultant advice when weighing up NELP's offer. NELP will reimburse the reasonable cost of obtaining this advice.

What happens if we cannot agree on compensation payable?

The matter may be referred (by either you or NELP) to the Victorian Civil and Administrative Tribunal or the Supreme Court for resolution.

When will I need to vacate my property?

This can vary from property to property as a result of staged works. NELP will advise you when it needs to gain possession of the land in the early stages of negotiations.

I have been planning to renovate/ redevelop – should I go ahead?

Compensation is based on the market value of your property at the time of acquisition and based on the highest and best use of the land.

Please contact NELP if you have any concerns or proposals that you would like to discuss.

I operate a business from my property – what are my rights?

The rights and entitlements of parties (including businesses) with an interest in the land acquired is set out in the *Land Acquisition and Compensation Act 1986*. NELP recognises that every business is unique, and compensation for businesses is determined on an individual basis.

Business disturbance losses, removal costs and costs such as stamp duty and the conveyancing costs of purchasing a replacement property may be paid, but circumstances vary and it is important that you discuss options with NELP and your legal advisors.

I am a tenant – what are my rights?

Tenants may be eligible to receive compensation. The amount likely to be paid, if any, depends on the nature of your occupancy and the impact of the acquisition of your tenancy. For example, a tenant with a long-term lease may be able to demonstrate a more significant impact than one with a month to month arrangement.

I am feeling stressed by this process – is there any support available?

Property acquisition is a difficult part of projects like North East Link. In addition to compensation and support with relocation, we provide access to free and independent personal support through New View Psychology.

Qualified clinical and counseling psychologists are available to provide support on a strictly confidential basis. For assistance, please call 1300 830 687 and quote North East Link.

Contact us

community@northeastlink.vic.gov.au

1800 105 105

northeastlink.vic.gov.au

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