

Submission Cover Sheet

North East Link Project EES IAC

579

Request to be heard?: yes

Full Name: Mark Murnane

Organisation: Aitken Partners

Affected property: 25 Kempston St Greensborough

Attachment 1: Submission_7.6.1

Attachment 2:

Attachment 3:

Comments: We have sent our submission via email to northeastlinkproject.ppv@delwp.vic.gov.au as a back up as advised by Amy. We are representing property owners' Shinichi and Leya Endo.

Inquiry and Advisory Committee
Planning Panels Victoria

Online Submission

Via <https://engage.vic.gov.au/north-east-link-project>

Principal Lawyer Andrew Blogg
Contact Natasha Ozolins
Email nozolins@aitken.com.au
Phone 03 8600 6036
Our Ref END500/00001
Date 7 June 2019

Dear Sir/Madam

Project: North East Link
Property: 25 Kempston St, Greensborough
Acquiring Authority: North East Link Authority ("the Authority")
Our Clients: Shinichi & Leya Endo

We act on behalf of Shinichi & Leya Endo.

Our clients wish to make the following submission in regard to the likely impact the North East Link will have on them, their family and their house at 25 Kempston Street Greensborough ("**home**")

Background

Our clients, Shinichi, 43, Leya, 39 and their 3 children, [REDACTED] have lived in their home for 9 years after purchasing it in 2010.

We note the Environment Effects Statement does not identify their home as likely being impacted by compulsory acquisition but comes into close proximity to the Project. As a matter of fact, the rear of our clients' property backs on to the Project.

Our clients' [REDACTED] [REDACTED] s a [REDACTED] During construction of the Project and when the Project is completed, it is likely to cause complications to [REDACTED]. In the short term, the Project presents potential health risks to [REDACTED] which include, increased coughing, wheezing and shortness of breath, with possible long-term health effects.

Our clients have had plans drafted to extend their home with a living room and bathroom and were ready to submit the plans to Council for approval. The plans to extend their home have been put on hold by our clients because of the uncertainty surrounding the Project. Our clients are a family of five living in a home that is too small for their requirements. They need to extend the home's living area for their family and the delay in doing so is causing considerable disappointment and inconvenience for the family.

Additionally, because of the fact our clients' property abuts the Project, our clients have concerns that the Project is likely to cause a substantial drop in value to their home and a loss in amenity. They are apprehensive that if they wish to sell, potential purchasers will be discouraged because of

the traffic noise, dust, vibrations and other issues that come with having a Freeway constructed adjacent to the rear of their home.

The proposed sound barrier will be directly behind the backyard. Our clients have concerns of the sound barrier creating potential shade issues on the Property.

Of course, these issues will have an ongoing impact for them if they continue to live in their home, and will result in a substantial loss in amenity.

Of further concern is that while the Project is being constructed, the construction works will significantly impact on their quality of life, particularly if the construction works are being conducted during the night. There is also a likelihood of road closures and the like, interfering or restricting how the family access their home. Our clients expect the construction works to be undertaken over a lengthy period.

Possible Compensation Outcomes

In the circumstances, our clients preferred option is to sell their property. Accordingly, we suggest the following alternatives on compensating them by reason of the impact of the Project on their property and lifestyle, namely:

1. the Authority acquires the whole of their property for market value in accordance with the principles contained in the *Land Acquisition and Compensation Act 1986*, so our clients can be fairly and justly compensated in accordance with that Act; or
2. our clients be entitled to make a loss on sale claim consistent with section 98 of the *Planning and Environment Act 1987* by:
 - (a) agreement with the Authority;
 - (b) the Project area be extended to include our clients' Property to enable our clients to make a loss on sale claim if they decide to sell; or, alternatively
 - (c) if our clients' home is not part of the properties that are compulsorily acquired, our clients ask that Planning Panels Victoria consider advising the relevant Minister, to consider declaring the land to be proposed to be reserved for a public purpose so our clients can be properly compensated, pursuant to section 113 of the *Land Acquisition and Compensation Act 1986*; or
3. the Authority compensates our clients for the detrimental impact of the Project (including during construction), both on a diminution in the value of the property and the impact the Project will have as outlined above, in accordance with the compensation provisions of the *Land Acquisition and Compensation Act 1986* concerning severance, disturbance and solatium.

The potential impact on our clients' property may not be limited to the above and our clients reserve their rights to make further submissions in this regard in the future.

Our client would be happy to discuss any of the alternatives suggested above with you.

Please advise us if you require further information from us.

We look forward to your response.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Andrew Blogg", with a long horizontal stroke extending to the right.

Andrew Blogg
Principal Lawyer
Accredited Specialist Commercial Litigation