

GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (GAIC) HARDSHIP RELIEF BOARD INFORMATION SHEET

This information sheet sets out the policy for hardship relief and should be read in conjunction with the Planning interpretation of the legislation.

PURPOSE OF THE HARDSHIP RELIEF BOARD (HRB)

The GAIC legislation has established the HRB to consider applications from a person who is liable to pay the GAIC, for relief from payment of the GAIC.

INTRODUCTION

Part 9B of the Act sets out the operations of the GAIC.

Division 3 Subdivision 4 of the Act determines the functions of the HRB.

GAIC will apply to land in the “contribution area” (as defined in section 201RC of the Act) being land brought into Melbourne’s Urban Growth Boundary (UGB) between 28 November 2005 and 31 December 2006 and also land subsequently brought within a growth area, urban growth boundary and Urban Growth Zone. GAIC on this land will be triggered by the occurrence of a GAIC event pursuant to section 201RA of the Act. These events include the purchase/transfer of, subdivision of, or building application for, any land in the contribution area.

There are a number of specific GAIC exemptions which could exempt individual properties from GAIC in relation to a trigger event under section 201RB of the Act.

The GAIC is to be paid by the purchaser in the event of a dutiable transaction such as a property sale, and by the landowner in the event of a subdivision or building development.

APPLICATIONS TO THE HRB

Section 201TH of the Act enables a person liable for payment of the GAIC to make an application in writing to seek relief from the liability of the GAIC to the HRB.

Subject to section 201H(4) of the Act it is important to note that in order for the application to be considered by the HRB, the application must be made in writing before the day on which the GAIC is payable and a separate application must be submitted by each applicant.

A separate supporting application form also needs to be completed by the applicant’s spouse or domestic partner.

WHAT THE HRB MUST CONSIDER

The HRB must consider the financial hardship that will result to the applicant from the imposition of the GAIC.

The HRB cannot grant an exemption in respect of the GAIC if the whole or part of it has been deferred under Subdivision 3 of Division 2, Part 9B of the Act. (section 201TJ(5))

WHAT THE HRB CAN DETERMINE

The Board may make any one of the following determinations –

- a) to refuse the application; or
- b) to reduce the liability of the person to pay the growth areas infrastructure contribution wholly or in part; or
- c) to exempt the person from the whole of the liability to pay the growth areas infrastructure contribution; or
- d) to extend the period within which the growth areas infrastructure contribution must be paid (section 201TJ (4))

Cases of hardship - Purchaser

The purchaser may apply for relief from the GAIC on the basis that the payment of the full liability would result in financial hardship. The liability to pay the GAIC does not itself constitute hardship. Circumstances must be such that financial hardship would be incurred if payment of the GAIC were enforced. (section 201TJ of the Act)

Cases of hardship - Landowner

In the event of a subdivision or building development, the landowner may apply for relief from the GAIC on the basis that the payment of the full liability would result in financial hardship. The liability to pay the GAIC does not itself constitute hardship. Circumstances must be such that financial hardship would be incurred if payment of the GAIC were enforced. (section 201TJ of the Act)

Cases of hardship – Vendor (limited situations)

The legislation also recognises circumstances where a contract of sale of land was entered into after the relevant day (ie either 2 December 2008 or 19 May 2009) but before 1 December 2009, a person may be entitled to apply to the HRB to have relief provided to the purchaser of the land in relation to any liability to pay the GAIC on that transaction.

WHAT FACTORS MAY BE CONSIDERED IN DETERMINING

FINANCIAL HARDSHIP

There are a number of factors the HRB may consider when deciding whether to grant relief from liability in respect of the GAIC on the basis of financial hardship, and in making a determination the HRB may grant relief subject to any conditions that the Board considers appropriate (section 201TJ(7) of the Act).

In this light, the HRB will consider the following factors, amongst others:

- Whether the payment of the GAIC would leave the applicant, or in the case of corporate taxpayers, the majority of shareholders, unable to provide immediate family with the necessities of food, shelter, clothing, medical expenses and other basic requirements. In determining financial hardship, the HRB will take into account the total assets and income of the family.
- Information relating to any losses, outgoings and expenditure of the applicant.
- Whether the GAIC could be paid by re-arranging finances, selling or drawing on non-essential assets. The HRB will take into account the applicant’s savings, monetary investments and other income and payments in making this assessment.
- Whether the hardship has been caused by an act or omission (for example, through a recent gift or loan to family or friends, or failure to apply for some other entitlement) of the applicant.

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- Whether the hardship is of a short term nature or has been clearly demonstrated to be of a longer term nature.
- Whether an applicant has previously been granted relief and has not traded out of difficulties. The HRB will consider whether it ought to provide relief on the basis that it will not support an unviable business.
- Whether aspects of the GAIC transition period have impacted upon the applicant's financial circumstances.
- Whether there are any other factors that the HRB considers relevant in determining the extent of the financial hardship to be suffered by an applicant.

HOW TO APPLY FOR HARDSHIP RELIEF

An application form for GAIC Hardship Relief may be obtained from the Metropolitan Planning Authority (VPA).

Applications are required to be lodged with the VPA or the State Revenue Office, before the day on which the contribution is payable. For a subdivision or building development, please note the GAIC Hardship Relief Board might accept a later application in some limited circumstances.

The application is to be made in writing, and must specify:

- The name(s) of the person(s) required to pay the contribution (all owners)
- Who is applying for hardship relief
- Details of the area of the property, the nature of the transaction, and the amount of the GAIC that is payable
- Details of the financial hardship that would be suffered as a consequence of the payment of the GAIC
- Hardship relief will only be granted where it can be demonstrated to the HRB the relief will operate in favour of the person suffering financial hardship.

WHAT HAPPENS ONCE AN APPLICATION FOR HARDSHIP RELIEF IS MADE

Once an application has been lodged, the applicant will be notified when the HRB is expected to consider the matter.

An applicant may be requested to provide additional information, prior to the matter being considered by the HRB.

The HRB will issue a notice of determination to the applicant and advise relevant agencies. The notice may contain conditions that need to be met and if an applicant fails to meet any of those conditions, the relief is rescinded. (sections 201TJ and 201TK of the Act)

If relief is granted in the form of an exemption, the applicant can apply to the SRO for a certificate of exemption in respect of their GAIC liability on the trigger event. (section 201SZC of the Act)

ALTERNATIVE RELIEF OPTIONS

Deferral

The Act permits a purchaser to elect to defer a GAIC liability (section 201SM of the Act). This election needs to be made prior to the GAIC becoming payable, and a separate application form (GAIC - Form 3 - Election to Defer) is available on the State Revenue Office (SRO) website.

Staged Payment Arrangement

For a subdivision of land or building development, the Act provides landowners with the option of applying to the Minister for staged GAIC payments. This option is also available to a person that has deferred their GAIC liability and subsequently subdivides or develops the land (section 201SR of the Act). A separate application form is available on the VPA website.

Exceptional Circumstances

The Act also contains provisions for the Governor-in-Council to grant reductions or exemptions in exceptional circumstances (section 201TE of the Act).

FURTHER INFORMATION

GAIC information is available from the SRO and the VPA.

Related publications and forms include:

- Applications for staged GAIC payments in case of subdivision or building development
- Applications for deferral of GAIC payments in case of land purchase

The following are the contact details for:

VICTORIAN PLANNING AUTHORITY

www.mpa.vic.gov.au

03 9651 9600

Level 29, 35 Collins Street

MELBOURNE VIC 3000

STATE REVENUE OFFICE

www.sro.vic.gov.au

Email: sro@sro.vic.gov.au (Subject: GAIC) Telephone: 13 21 61 (local call cost)

Fax: 03 9628 6856 (Subject: GAIC)

Mail State Revenue Office

GPO Box 1641

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