

These guidelines are to be read in conjunction with the Planning and Environment Act 1987 (Act) and are not intended to supplement or to provide assistance in the legal interpretation of the legislation.

PURPOSE OF STAGED PAYMENT ARRANGEMENTS

Section 201SR of the Act allows the Minister for Planning to approve the staged payment of the liability arising from a Growth Areas Infrastructure Contribution (GAIC) event, being either a subdivision or a building development.

This provision enables the person liable to pay GAIC or who may be liable to pay GAIC to seek approval to spread the payments of the GAIC on a stage by stage basis across the proposed subdivision. Each staged payment will become due by the specified date in the staged payment arrangement in accordance with section 201SR(5) of the Act.

The provisions also enable land subject to a Staged Payment Approval to be on-sold with the approval remaining with the land and becoming binding on the new landowner, pursuant to section 201SRA of the Act, so long as all of the land is on-sold.

INTRODUCTION

A key issue raised during the GAIC consultation process in relation to land development was the potential impact on development cash flow of the timing of the GAIC payment, in particular for large scale urban subdivisions on larger sized lots.

This issue has been addressed in the GAIC legislation through the Staged Payment Approval provisions contained in section 201SR of the Act. These provisions address a number of the payment timing concerns for land development, while still ensuring that the fundamental principles underpinning the GAIC are maintained.

The Government has agreed that the initial payment must be a minimum of 30% of the total GAIC liability with the remaining 70% to be paid pro-rata on the remaining development stages. In other words each payment will be aligned with the specified subdivision stage, based on the proportional percentage of that stage to the total lot area contained in the balance of the original title being subdivided. In addition, the liability at each stage would include the interest incurred to date for that stage of the subdivision.

KEY ELEMENTS OF THE STAGED PAYMENT PROVISIONS

The provisions in the Act include:

- A person who is or may be liable for the payment of GAIC, on the issue of a statement of compliance relating to a subdivision of land or on making an application for a building permit, may apply to the Minister for Planning for a staged payment arrangement of the GAIC;
- The application must be in writing and made before the GAIC is due for payment (ie in the case of liability arising from issue of a statement of compliance, within three months after the liability arises; in the case of liability arising from an application for a building permit, before the permit is issued).

The Minister may issue a Staged Payment Approval with conditions. These include:

- There will be an initial up front payment of a minimum of 30% of the total GAIC liability;
- The remaining liability will be paid in installments on the development stages calculated on a pro-rata basis relating to the total of the remainder of the land being subdivided or otherwise developed;
- In the case of a subdivision, each staged payment relates to a specified part of the land to be subdivided;
- The amount of each payment for each stage is specified;
- The payment for each stage must be paid by a specified date;
- There is a final date specified for payment of the whole contribution which will be no later than 17 years after the Staged Payment Approval is first given, and;
- Any other condition agreed by the applicant and the Minister.

For example, if the original land parcel is 100 hectares, and the first stage is to subdivide and develop 20 hectares for urban development, then under the Staged Payment provisions the GAIC would be paid at the time of approval would be for the minimum amount of 30% amounting to \$2,850,000 (based on $30\% \times (100 \times \$95,000)$), and the remaining GAIC on the balance of the 80 hectares becomes a debt of \$6,650,000 to be paid pro-rata at the agreed subsequent stages, with interest applied annually. In other words a second stage of 20 hectares would require a GAIC payment of \$1,662,500 ($20/80 \times \$6,650,000$) plus the proportion of any interest due at the payment date.

Any GAIC payable which is subject to a Staged Payment Approval becomes a charge upon the land, and as such has a priority over all other encumbrances to which the land is subject (Section 201SW of the Act).

If the landowner wishes to alter a GAIC Staged Payment Approval, a further GAIC Staged Payment Approval application needs to be made in writing prior to the due date of the next staged payment (section 201SR(7) of the Act).

APPLYING FOR A STAGED PAYMENT APPROVAL

Applications must be made in writing and addressed to the Minister for Planning care of the Victorian Planning Authority (VPA) before the GAIC is due for payment.

A Staged Payment Approval application form is available from the VPA to facilitate applications. If this form is not used, an application must provide the same information to enable the application to be considered quickly.

Application for a Staged Payment Arrangement can be made prior to a GAIC transaction occurring, but generally approval would be given conditional on the GAIC being triggered.

The circumstances for applying for a Staged Payment Approval when a pre-existing deferral arrangement is already in place are marginally different, please see the section below.

The Minister may seek the advice of the VPA or the State Revenue Office (SRO) on any applications to stage the GAIC payment.

Any amendment applications need to be lodged at least 10 business days prior to the next payment due date, in order for the VPA to ensure that SPA amendment applications are appropriately assessed and approved prior to the next payment due date.

APPLYING FOR STAGED PAYMENT WHEN EXISTING DEFERRAL IN PLACE

When applying for a staged payment arrangement which incorporates a current deferral arrangement subject to the deferral provisions of section 201SM of the Act, the application must be made before the Statement of Compliance in relation to a subdivision is issued, or before the application for a building permit is made (section 201SR(2) of the Act). If a 30% initial payment has been made under a deferral arrangement, the staged payment arrangements requirement for a minimum 30% initial payment does not apply.

REFUSAL OF A STAGED PAYMENT APPLICATION

If the application is inadequate or insufficient and does not comply with the outlined requirements, or has a negative impact on the staging of surrounding developments, the Minister for Planning may refuse the application.

MINISTER TO PROVIDE NOTICE OF STAGED PAYMENT APPROVAL

If the Minister for Planning grants a GAIC Staged Payment Approval, the Minister is to provide the applicant with a Notice of Staged Payment Approval. A copy of that Notice is also to be provided to the Commissioner of State Revenue.

The Commissioner may register a charge on the land by depositing with the Registrar of Titles a certificate describing the land charged and stating that there is an unpaid GAIC in respect of the land (section 201SQ of the Act). The contents of the Approval Notice are set out in the Act, and are included in the Notice of Approval of Staged Payment form.

SUBSEQUENT TRANSFER OF LAND SUBJECT TO A STAGED PAYMENT ARRANGEMENT

When a landowner transfers land subject to an existing GAIC Staged Payment Approval, within 10 days of the occurrence of the dutiable transaction, the former owner must provide written notification to the Minister for Planning, through the Victorian Planning Authority, of the transaction, including contact details of the new owner (section 201SRA of the Act).

On receipt of the notification from the former landowner, the Minister for Planning will provide the new landowner with a Notice of Staged Payment Approval. In the event of such a transfer, the new landowner will take responsibility for the GAIC Staged Payment Approval and for all of the remaining liability arising from the GAIC. The former landowner will no longer be responsible for discharging the GAIC liability.

INTEREST CHARGED ON GAIC STAGED PAYMENTS

Section 201ST of the Act states that interest is to be accrued on a daily basis using the daily yields calculated from the 10-year Treasury Corporation of Victoria Bond rate.

STAGED PAYMENTS AND INTEREST TO BE PAID TO STATE REVENUE OFFICE

The amounts set out in the GAIC Staged Payment Schedule are payable in full to the Commissioner of State Revenue on or before the stated due date along with any interest calculated in accordance with section 201ST of the Act.

FAILURE TO PAY GAIC STAGED PAYMENT

If there is a failure to make payment for any stage by the due date for that stage determined under the Staged Payment Approval, the whole amount of the balance of the original liability becomes immediately payable effective from the original GAIC due date of payment as if the approval had not been given. The remaining total outstanding liability arising from the GAIC will then incur penalties and charges as set out in the Taxation Administration Act 1997 from the date of the original GAIC event which created the liability.

FURTHER INFORMATION

Up-to-date information about the GAIC can be found on the SRO website and the VPA website. GAIC information is also available from the SRO and the VPA on request.

Related publications and forms include:

- Applications for deferral of GAIC payments in case of land purchase
- Applications to GAIC Hardship Relief Board

The following are the contact details for:

VICTORIAN PLANNING AUTHORITY

www.vpa.vic.gov.au

03 9651 9600

Level 25, 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

MELBOURNE VIC 3001

or DX 2600090 MELBOURNE