

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

PURPOSE

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

The person liable to pay GAIC may seek approval to spread the payments of GAIC on a development stage-by-stage basis across the proposed land subdivision or building development. Each staged payment is due by the date specified in the staged payment approval (SPA) in accordance with section 201SR(5) of the Act.

Land subject to a SPA may be on-sold, with the SPA approval remaining with the land and becoming a responsibility of the new landowner, pursuant to section 201SRA of the Act, so long as all of the land is on-sold.

KEY ELEMENTS

The provisions in the Act include:

- A person who is 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 SPA 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 approve a SPA with conditions, including that:

- there will be an initial, upfront payment of a minimum of 30% of the total GAIC liability
- the remaining liability will be paid in instalments 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 must be no later than 17 years after the SPA approval is first given
- any other condition agreed by the applicant and the Minister.

Example:

An original land parcel 100.0 hectare of type A land, and the first stage is to subdivide and develop 20 hectares (20% of the total land) for urban development. If GAIC on this land is triggered in 2018-2019 financial year (Type A 2018-19 rate \$95,440 per hectare):

- The total GAIC payable if it is triggered in 2018-19 financial year - \$9,544,000 (100 hectare x \$95,440)
- The GAIC paid for the first stage - \$2,863,200 (30% of the total liability). If the first stage is more than 30% of the land (e.g. 45% of the total GAIC land) then 45% of the total liability is payable.
- The remaining GAIC on the balance is to be paid pro-rata at the subsequent stages, with interest calculated by the State Revenue Office.

APPLICATION AND AMENDMENT

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

A SPA application form is available from the VPA website to facilitate applications.

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 applications are appropriately assessed and approved prior to the next payment due date.

EXISTING DEFERRAL

When applying for a SPA that 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 requirement for a minimum 30% initial payment under a SPA does not apply.

REFUSAL

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.

APPROVAL NOTICE

If the Minister for Planning grants a GAIC SPA, 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.

SUBSEQUENT TRANSFER OF LAND

When a landowner transfers land subject to an existing GAIC SPA 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 SPA and for all of the remaining liability arising from the GAIC, and the former landowner will no longer be responsible for discharging the GAIC liability.

INTEREST CHARGED

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.

PAYMENTS AND INTEREST

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

FAILURE TO PAY

If there is a failure to make payment for any stage by the due date for that stage determined under the SPA, 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 that created the liability.

FURTHER INFORMATION

GAIC websites:

- DELWP Planning
<https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-legislation/growth-areas-infrastructure-contribution>
- DELWP GAIC funds
<https://www.suburbandevelopment.vic.gov.au>
- SRO
<https://www.sro.vic.gov.au/growth-areas-infrastructure-contribution>
- VPA
<https://vpa.vic.gov.au/greenfield/growth-area-infrastructure-contribution-gaic/>

GENERAL GAIC queries:

State Revenue Office

email gaic@sro.vic.gov.au
phone 13 21 61 (local call cost)
mail GPO Box 1641
MELBOURNE VIC 3001

SPA queries:

Victorian Planning Authority

email info@vpa.vic.gov.au
phone 03 9651 9600
mail Level 25, 35 Collins Street
MELBOURNE VIC 3000