

Bulletin, Thursday 5 November 2009

Growth Areas Infrastructure Contribution Bill

Property & development

In October 2009, the Victorian State Government announced significant changes to the proposed Growth Areas Infrastructure Contribution (GAIC) provisions previously announced, and released the draft *Planning and Environment Amendment (GAIC) Bill* for public comment. The final version of the Bill is expected to be introduced into Parliament shortly.

The GAIC was developed in response to the *Melbourne @ 5 Million Report* released in December 2008. This report identified the Investigation Areas being considered for the proposed shift in the Urban Growth Boundary (UGB) to provide the additional land necessary to accommodate the projected population growth and maintain housing affordability. The GAIC will apply to land brought into the UGB from 2005 and zoned for urban development.

The key features of the amended *GAIC Bill* are summarised below.

Key features

- The original land owner is no longer responsible for the GAIC when they sell the land. Rather, the liability now falls on the purchaser to pay the GAIC. This enables the original land owner to sell at any time without liability to pay the GAIC.
- Special provisions have been introduced to enable the payment of the GAIC to be deferred.
- The original land owner remains responsible for the GAIC payable upon subdivision of the land.
- Special 'Staged Payment' provisions have been introduced to address a number of time of payment concerns for land development.
- Buyers or sellers of land that have pre-existing binding sale arrangements before the relevant announcement date (2 December 2008, or 19 May 2009 for the additional investigation area in Melton) are not required to pay GAIC on settlement of that transaction.
- Existing agreements and conditions for infrastructure provision may by application be considered as 'credits' against a GAIC liability subject to approval.

What triggers the contribution and who pays the contribution?

The GAIC contribution will be triggered by three types of events:

1 Purchase / transfer

- The GAIC to be paid by the purchaser upon settlement of the purchase or transfer.
- The GAIC also applies to land rich duty acquisitions of shares or units in land rich companies or unit trusts holding land affected by GAIC.

- The GAIC is to be paid within three months of settlement and prior to the transfer being registered.

2 Subdivision Permit

- The GAIC to be paid by the land owner.
- GAIC liability will be triggered by the issue of a statement of compliance for a plan of subdivision.
- The GAIC is to be paid within three months of the issue of the statement of compliance and prior to application to the register the subdivision.

3 Building Permit

- The GAIC to be paid by the landowner.
- GAIC liability will be triggered by the Building Permit application.
- The GAIC is to be paid before the Building Permit is issued.

Ability for deferred or staged payment of the contribution

The *GAIC Bill* contains two mechanisms which enable the deferred or staged payment of the contribution. This ability for payment to be made over time can assist in managing the timing, cost and impact of the GAIC, which is particularly relevant for large scale urban subdivisions.

Deferred payment of GAIC by purchaser

- Provisions have been developed which allow the purchaser to defer payment of the GAIC beyond three months.
- Any deferral of a liability in excess of \$2 million will require the Treasurer's approval.
- The deferred GAIC liability will be a charge on the land.
- The deferred GAIC liability becomes payable when the purchaser subdivides or develops the land.

Staged payment of GAIC – Subdivisions and Building Permits

- Provisions have been developed which enable the landowners in large scale urban developments to make staged payments of the GAIC in particular circumstances.
- To be eligible for staged payment, a landowner must make an application to the Growth Areas Authority.
- Applications will be assessed against the still to be released Ministerial Guidelines on what types of land developments may be considered for staged payments.
- Applications may be approved in full or part (subject to conditions about payment).
- The staged GAIC payment may become a charge on the land.



Payment of interest

Interest is payable on deferred and staged GAIC liabilities. The interest rate payable cannot exceed the interest rates specified in the *Taxation Administration Act 1997*.

What about pre-existing sales arrangements?

Buyers or sellers of land that have pre-existing contracts or agreements entered into before the relevant announcement date (2 December 2008, or 19 May 2009 for the additional investigation area in Melton) are not required to pay GAIC on settlement of that transaction after the relevant date. However, the next relevant property transaction, subdivision or development of the land will attract the GAIC.

What about partial transfers of land?

Where an interest in land is partially transferred, a proportionate amount of GAIC is payable. For instance, if a co-owner sells a 30 per cent interest in land, that transfer will be the first GAIC event in relation to that 30 per cent interest in land. The purchaser will be liable to pay 30 per cent of the total GAIC payable in respect of the land. If the land is then subdivided or a building permit application lodged, such events will be a first GAIC event relating to the remaining 70 per cent interest in the land and the remaining 70 per cent of the GAIC will be payable by the owners of that 70 per cent interest.

What happens if there is an existing agreement for infrastructure provisions over the land?

If there is an existing agreement or permit conditions for infrastructure provisions over the land, the landowner may make an application to the Growth Area Authority that such agreements be considered a 'credit' against a GAIC contribution.

Credit applications can only be made in respect of existing agreements which were in place before the introduction of the GAIC legislation.

What will happen to local Council charges?

The GAIC relates to State infrastructure and is separate from local Council infrastructure charges. The local Council infrastructure charge arrangements will remain in place.

Contacts

If you would like further details about the information contained in this bulletin or assistance with any issues relating to infrastructure charges, please contact:

Ken Gray, Partner
Telephone 61 3 9229 9874
kgray@abl.com.au

Lily Tell, Partner
Telephone 61 3 9229 9848
ltell@abl.com.au

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E-mail: privacy@abl.com.au
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Arnold Bloch Leibler
Level 21 333 Collins Street
Melbourne VIC 3000