UDIA Victoria Policy Position

Making Growth Areas Infrastructure Contributions Work

POSITION

Melbourne's population growth and the concentration of this population growth means it is essential we ensure the defined growth areas are adequately serviced by state infrastructure if we are to preserve liveability and unlock opportunity for the areas earmarked for growth and development.

According to the Australian Bureau of Statistics' (ABS) latest Australian demographic figures, based on results of Census 2016, Victoria's population grew by 146,628 people in the year to 31 December 2016. Additionally, the six growth areas of Melbourne – Wyndham, Casey, Cardinia, Whittlesea, Hume and Melton – accounted for over 47% of Melbourne's growth and over 41% of Victoria's growth in the year ending 30 June 2016.

Growth Areas Infrastructure Charge – Background

The Growth Areas Infrastructure Contributions (GAIC) was introduced in 2010 to assist in funding up to 15% of the growth areas state infrastructure needs. Since its introduction, approximately $176 million has been received by the Victorian Government, with over $500 million due through deferred payment arrangements. Revenue over the next five financial years (including the 2016-17 financial year) is expected to add an additional $902 million.

Despite the significant revenue collected at the end of the 2015-16 financial year, only $7,586,206 had been reported to have been spent. Of that, approximately 34% had been allocated to the SRO for administration with an additional $226,602 invoiced not included within the figures.

In the first half of 2017, the State Government announced a total of $31.2 million for six train station projects and a further $29.8 million to partly fund the acquisitions for eight future public school sites in the growth areas.

As GAIC is intended to fund up to 15% of the growth areas' state infrastructure needs, any funding that is used needs to represent the highest value to the new communities and state. However, the lack of any clear prioritisation plan for state infrastructure investment or delivery is of serious concern to the urban development industry.

Making the Growth Areas Infrastructure Charge Work for Victoria

To ensure that GAIC investment in state infrastructure is focused on delivering the most value to new communities and the state, a pipeline of priority infrastructure projects is urgently needed for the growth areas. A plan must consider GAIC as one of many sources of funding projects of a significant size and scale and must address the Government's own short, medium and long term investment timeframes.

In 2011, amendments to the *Planning and Environment Act 1987* were passed in Parliament to allow the GAIC liability on land to be offset through the provision of land or the construction of state infrastructure in lieu of cash payment (known as works-in-kind agreements or WIK Agreements). However, since the amendment was passed, no WIK Agreements have been successfully entered and no infrastructure has been delivered or brought forward by the industry under this model.

To better realise the benefits of WIK Agreements, the UDIA has provided recommendations that seek to address current barriers for both developers and the State Government.

RECOMMENDATIONS

1. That the State Government immediately task the Victorian Planning Authority with the vital task of developing a pipeline of priority infrastructure is planned for Melbourne's growth areas, outlining a 20-year delivery and funding plan for state infrastructure in the growth areas, in close consultation with the development industry and growth area communities; and
2. That the State Government establish a GAIC Reform Advisory Group to address important operation issues relating to GAIC:
    a) Review the application of GAIC to apply the charge to the net developable area of lots rather than gross area, and assess the impact this would have on the operation of GAIC;
    b) Review the Works-In-Kind Agreement Guidelines and produced revised Guidelines which are effective in unlocking the potential benefits of WIK Agreements. The Advisory Group should include both private and public sector stakeholders who will be critical in establishing and implementing such agreements;
    c) Develop a model that allows the landowner/developer to offset all or a portion of the GAIC liability when it is first triggered, where a pre-commitment for the transfer of land for public purposes (i.e. schools) can be agreed to;
    d) Introduce an exemption to the Planning and Environment Act 1987 to allow for GAIC exemptions when a reconfiguration is for the purpose of producing superlots. This may be in the form of exempting subdivisions that create lots no smaller than a specific size; and
    e) Introduce guidelines requiring the Department of Education and Training (DET) to provide strategic justification when identifying school sites for Precinct Structure Plans. Guidelines should also include an expectation that the DET is expected to acquire the land within a reasonable timeframe relative to the pace of development in the area.

DISCLAIMER

The analysis of publicly available government information relating to the collection and expenditure of the Growth Areas Infrastructure Contribution has been undertaken using the best efforts of UDIA Victoria to access and assess the available information. Information regarding the collection and expenditure of GAIC is not regularly updated by the Victorian Government and the following sources have been relied on heavily as key source information:

- Information accessible on the website of the State Revenue Office[1];
- Metropolitan Planning Authority (now the Victorian Planning Authority) Annual Report for FY2015-2016, tabled in the Victorian Parliament in October 2016[2];

[1] http://www.sro.vic.gov.au/gaic-statistics
[2] https://vpa-web.s3.amazonaws.com/wp-content/uploads/2016/10/MPA-Annual-Report-2015-2016.pdf

- Victorian Budget 2017-2018 Papers[3]; and
- Victorian Government media releases and announcement material relating to GAIC funding allocation.

ABOUT US

Urban Development Institute of Australia (Victoria)

The Urban Development Institute of Australia (UDIA) is the peak industry body for the urban development sector. UDIA's Victorian division embodies the views of over 320 member companies across the state; amounting to over 50,000 individuals.

Our members include developers, consultants, financial institutions, suppliers, government authorities and utilities. Together we drive industry discussion and debate and inform all levels of government to achieve successful planning, infrastructure, affordability and environmental outcomes.

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[3] https://s3-ap-southeast-2.amazonaws.com/budgetfiles201718.budget.vic.gov.au/BP5_2017-18_StatementOfFinances.pdf

DETAILED ANALYSIS AND COMMENT

1. Background

In 2008, the Victorian Government detailed how land brought within the Urban Growth Boundary (UGB), would be subject to a contribution to provide state infrastructure that is needed to support the development of new suburbs.

The *Planning and Environment (Growth Areas Infrastructure Contribution) Act 2010* came into effect in 2010 and applied the charge to land within the UGB for the provision of state infrastructure and associated costs. The charge rates were set and specified on land in existing and future growth areas and was to applied retrospectively from December 2008.

On 30 June 2011, the Act was amended to become the *Planning and Environment (Growth Areas Infrastructure Contribution) Act 2011*. The purpose of the amendment was to allow deferral of payment of the GAIC until land is developed for urban purposes and to enable the GAIC obligation to be discharged by the provision of land or the construction of state infrastructure in lieu of cash payment (known as works-in-kind).

GAIC funds collected by the State Revenue Office (SRO) is paid into the consolidated fund and then transferred into two GAIC related funds – the Building New Communities Fund and the Growth Areas Public Transport Fund.

Building New Communities Fund

The purpose of the Building New Communities Fund is to provide financial assistance for or with respect to capital works for state funded infrastructure in any growth area including the following:

- transport infrastructure including walking and cycling but excluding major public transport infrastructure;
- community infrastructure including health facilities, education facilities, regional libraries, neighbourhood houses and major recreation facilities;
- environmental infrastructure including regional open space, trails and creek protection;
- economic infrastructure including providing access to information and technology and infrastructure supporting the development of commerce and industry; and
- the acquisition of land and other infrastructure necessary or required for the establishment or maintenance of any infrastructure referred to in this subsection.

Growth Areas Public Transport Fund

The purpose of the Growth Areas Public Transport Fund is to provide financial assistance for or with respect to the following:

- capital works for state government funded public transport infrastructure in any growth area;
- the acquisition of land and other infrastructure necessary or required for the establishment, operation or maintenance of infrastructure;

- provide for the payment of any recurrent costs relating to the provision of new public transport service in a growth area for a maximum of 5 years after the commencement of that service; and
- provide for the payment of the costs and expenses incurred by the State Revenue Commissioner because of exercising or performing his or her functions, powers and duties relating to growth areas infrastructure contributions.

2. Revenue and Expenditure

Revenue at 30 June 2016

According to the State Revenue Office (SRO) website, over $500 million of GAIC revenue was collected between the 2011-12 and the 2015-16 financial years. The Metropolitan Planning Authority Annual Report 2015 – 2016 released in October 2016, detailed the total amount of GAIC collected to 30 June 2016 being $176 million, with the remainder of the monies being accounted for through deferred payment arrangements with developers.

Of the money collected only $7,586,206 had been spent at 30 June 2016 and of the $176,010,688 collected, $73,279,481 had been transferred into each of the GAIC funds, the Building New Communities Fund and Growth Areas Public Transport Fund.

The remaining $29,451,693 was retained in the consolidated fund.

Of the $7,586,206 spent, approximately 34% ($2,597,566) had been allocated to the SRO for administration with an additional $226,602 invoiced not included within the figures.

Expenditure

The following list of items had been funded at 30 June 2016:

Building New Communities Fund

- Berwick Station Park and Ride Upgrade - $1,100,000
- Upgrade of intersection: Mickleham Road, Greenvale Gardens and Dellamore Boulevard - $1,400,000
- Upgrade to bus facilities, car parking and public space of Events, Aquatic and Leisure Centre - $900,000
- Car parking and public open space at Hume Regional Tennis and Community Centre - $1,000,000.
- Traffic signals at Ferris Road interchange intersection - $588,640

Total: $4,988,640

Growth Areas Transport Fund

- Payment to State Revenue Office - $2,597,566

Total: $2,597,566

Balance

In total, there is reportedly $171,751,285 remaining from GAIC, including interest incurred within each of the GAIC funds. Of that, $29,451,693 is contained in consolidated revenue, $69,759,684 in the Building New Communities fund and $72,539,908 in the Public Transport fund.

Short Term Projected Revenue

According to the Victorian Budget for 2017-2018, GAIC collected in the 2016-17 financial year was expected to generate $166 million in revenue, with the subsequent four financial years expected to generate $175 million, $183 million, $193 million and $203 million respectively.

This equates to approximately $902 million collected over the forward estimates.

Short Term Projected Expenditure

The State Government's *GAIC Application Guidelines 2017-18* outlines the application process, assessment criteria and approval processes for State Government departments or agencies to apply for GAIC funds.

According to these guidelines, only projects requiring $1 million to $10 million will be considered for GAIC allocations. Projects requiring over $10 million are expected to rely on the annual state budget process for funding.

In the first half of 2017, the Victorian Government allocated a total of $31.2 million to six train station projects including:

- $4 million for a major upgrade of the Donnybrook Train Station;
- $6.8 million for early works for future railway station at Toolern;
- $9 million for carparking at Merinda Park station near Cranbourne;
- $2 million for new bus bays and bus shelters at Cranbourne Rail Station;
- $2 million to provide bus access to Caroline Springs station by upgrading the intersection of Christies Road/ and the Western Highway;
- $7.4 million towards the addition of the Hawkstowe Station to the Mernda rail project.

A further $29.8 million was allocated toward land acquisitions for eight future schools in growth areas as part of the 2017-18 state budget, including:

- Timbertop, Cardinia Shire Council;
- Botanic Ridge, Casey City Council
- Clyde North/ East, Casey City Council
- Cragieburn South, Hume City Council
- Greenvale North-West, Hume City Council
- Beveridge West, Mitchell Shire Council
- Edgars Creek, Whittlesea Shire Council

- Wyndham South, Wyndham City Council

The *Metropolitan Planning Authority Annual Report 2015 – 2016* also identified projects that have received a commitment for GAIC funding, but were yet to have been allocated funding, including:

Building New Communities Fund

- Ambulatory Care Centre, Cardinia - $2 million
- Upgrade of intersection South Gippsland Highway and Craig Road - $1 million (under review)
- Traffic signals at Ferris Road interchange intersection - $911,360 (under review)
- Ambulatory Care Centre, Melton - $5 million
- Lithgow Street Interchange - $100,000 (under review)

Total: $9,011,360 ($2,011,360 under review)

Growth Area Transport Fund

- Cragieburn Railway Station Bus interchange and Park and Ride - $4.2 million;
- Wallan Station Parkiteer Bike Cage - $100,000
- South Morang Park and Ride - $3 million (under review)

Total: $7,300,000 ($3 million under review)

3. Works in Kind

The *Growth Areas Infrastructure Contribution Works-in-Kind (WIK) Agreements Guidelines* seeks to provide guidance for GAIC Liable Entities (GLE) considering entering a WIK agreement and facilitate negotiation of agreements. There are two types of agreements, these include:

- Capital Infrastructure Works; and
- Land Transfer.

The potential benefits of WIK agreements to the public, state government and the developer are highlighted in the guidelines. These include:

- Providing land and infrastructure to the growth area community earlier than would be scheduled;
- Fast tracks critical state infrastructure that can enable further development;
- Enables greater control for developers, over the design and timing of state infrastructure associated with their developments;
- Potential cost savings if construction of state infrastructure can be linked with adjacent land development works;
- Ability for the developer to discharge some or all their GAIC liability;
- Reduces time and costs for state to acquire land and building infrastructure; and

- Opportunities for better integration of public and private facilities in new communities.

Despite these benefits clear, no WIK agreements have been successfully entered.

The development industry has a strong interest in offsetting some or all their GAIC liability through WIK agreements. As the connection between the contribution and the benefit to development can be more easily distinguished, WIK agreements are generally favoured over providing a cash contribution. However, due to the risk allocation of works being weighted too heavily towards the GLE, the benefits associated with entering a WIK agreement dissipates.

For example, Clause 14 of the Works Based WIK Template Agreement deals with variations. This section of the agreement allows a developer to apply for and receive approval for a variation that arises after work commences through no fault of their own. However, the additional cost associated with this variation is expected to be worn by the GLE with no increase in the GAIC credit.

Until the State Government can address the risk imbalance within the WIK agreements, the benefits of delivering land and works in kind will not be fully realised.

Recommendation 1: *That the State Government urgently establishes a GAIC Reform Advisory Group to review the Works-In-Kind Agreement Guidelines with a mandate to ensure revised Guidelines are effective in unlocking the potential benefits of WIK Agreements. The Advisory Group will include both private and public sector stakeholders who will be critical in establishing and implementing such agreements.*

4. Works-in-Kind for School Sites

The Victorian Planning Authority (VPA) engages with the Department of Education and Training (DET) and other non-government school providers to plan for school sites.

Non-Government Schools

In planning for non-government schools, the VPA has clear requirements for non-government school providers to provide strategic justification when identifying a potential school site on a proposed Precinct Structure Plan (PSP). The information required to strategically justify the need for a school site includes: school details (type, enrolment estimates, etc.), preferred site, demonstration of demand, analysis of impact on existing schools, and demonstration of commitment to establish the school.[4] Furthermore, non-government school providers are expected to acquire the land within a reasonable timeframe relative to the pace of development in the area.

[4] https://vpa-web.s3.amazonaws.com/wp-content/uploads/2016/09/Strategic-justification-for-Non-Government-school-sites.pdf

The VPA specifically states that:

> *It is not possible (or appropriate) to force landowners to hold sites for a non-government school indefinitely.*[5]

These guidelines and requirements provide the development industry a degree of certainty regarding the need for and delivery of non-government school sites. However, the same level of certainty is not provided for the acquisition of government school sites.

Government School Sites

When government school sites are identified in a proposed PSP, there is no clear process for acquisition or timing applied to when the land will be acquired. The indefinite holding of land provides uncertainty for developers around the costs and revenue expected from a project. The additional risk and costs associated with potentially holding the land for an indefinite period adds further upward pressure on the minimum price sought for development.

There are significant costs associated with delaying the transfer of land for a school site. For example, on a typical 3.5-hectare primary school site and an 8-hectare secondary school site, the additional costs from land tax and rates would be approximately $147,294 per year and $391,347per year respectively.

Type of School	Size	Est. Land Tax	Est. Rates	**Est. Total (per annum)**
Primary School	3.5 hectares	$114,975	$32,319	**$147,294**
Secondary School	8 hectares	$317,475	$73,872	**$391,347**

Note: Based on land value of $200 per square metre. Rates based on Wyndham's rate of 0.4617%, assuming capital improved value is equal to un-improved value of land (i.e. vacant land)

Other costs associated with holding land includes:

- interest accrued for debt funded projects; and
- ongoing maintenance costs such as grass slashing, rubbish removal, etc. (Approx. $50,000 depending on level of illegal dumping).

For debt-free development, the longer it takes to sell and settle the acquisition of a school site, the greater the erosion to returns. These additional costs and the potential for erosion to returns are factored into the minimum price developers require to pursue a project.

Realising the Benefits of WIK Agreements

As mentioned within the *Growth Areas Infrastructure Contribution Works-in-Kind (WIK) Agreements Guidelines*, there are benefits to transferring land in kind for both developers and the State Government.

[5] https://vpa-web.s3.amazonaws.com/wp-content/uploads/2016/09/Development-of-Non-Government-school-sites-for-an-alternative-purpose.pdf

For the government, the later it acquires a school site, the more it will be likely to pay for that site. As more houses are built and more services and amenities are delivered around the school site, the underlying value of the land increases.

For developers, being able to offset all or some of their GAIC liability at the early stages of its triggering, positively impacts the project's cashflow. By reducing upfront costs and increasing certainty on returns, projects will be more viable at a lower price point to meet minimum requirements of return. Furthermore, such a measure could assist in reducing capital requirements in a constrained capital environment.

However, despite these benefits, there has not yet been a successful WIK agreement for the transfer of school land. This is largely due to the risk to State Government in providing credit for land at the time the mandatory 30% GAIC payment is required. As there is no mechanism to reverse credits, there is a risk in providing credit at the future serviced value of the land when it is currently un-serviced.

To fully realise the benefits of a Land WIK agreement in the early stages of development, both State Government and the development industry will need to address these issues around risk.

Recommendation 2: *That the State Government urgently establishes a GAIC Reform Advisory Group to:*

a) Introduce guidelines requiring the Department of Education and Training (DET) to provide strategic justification when identifying school sites for Precinct Structure Plans. Guidelines should also include an expectation that the DET is expected to acquire the land within a reasonable timeframe relative to the pace of development in the area; and

b) Develop a model that allows the landowner/developer to offset all or a portion of the GAIC liability when it is first triggered, where a pre-commitment for the transfer of land for public purposes (i.e. Schools) can be agreed to.

5. Exemptions - Superlots

If a landholder seeks to reconfigure their large allotment into superlots, whether for sale or future development, the associated statement of compliance triggers the full GAIC liability. As the GAIC is not triggered by a dutiable event, the GAIC liability cannot be deferred. As such, the current regime restricts a landholder from efficiently positioning their land for future sale and development.

> ***Recommendation 3:*** *That GAIC Reform Advisory Group investigate and inform Government about the introduction of an exemption to the Planning and Environment Act 1987 to allow for GAIC exemptions when a reconfiguration is for producing superlots. This may be in the form of exempting subdivisions that create lots no smaller than a specific size.*

6. Exemptions for Public Uses

On 10 November 2016, the Victorian Government successfully passed amendments to the *Planning and Environment Act 1987* removing the GAIC exemptions that apply to land subdivided for public purposes.

The legislative changes mean that lots that currently include a significant amount of land to be used for public purposes would be significantly impacted. This inequity may have significant impacts on the viability of projects and/or defer the development of lots with a high proportion of land required for public purposes.

> ***Recommendation 4:*** *That the GAIC Reform Advisory Group review the application of GAIC to apply the charge to the net developable area of lots rather than gross, and assess the impact this would have on the operation of GAIC.*

7. Pipeline of Priority State Infrastructure

The *Planning and Environment (Growth Areas Infrastructure Contribution) Act 2011* acknowledged that GAIC would fund ***up to 15%*** of state infrastructure needed in the new growth areas. The remaining 85% of funding is expected to be delivered from other sources, such as State Government's capital expenditure.

Based on the GAIC revenue expected to be collected over the forward estimates, the State Government is expected to collect up to $5 billion in GAIC revenue over the development of Melbourne's growth areas, spanning between 20 and 30 years.

Due to the significant amount of investment required to deliver state infrastructure in the growth areas, all GAIC expenditure now should be focussed on infrastructure that will obtain the greatest benefit to newly created communities and the state budget.

In reviewing current expenditure of GAIC, there is a significant concern that the projects funded through GAIC do not represent value for the newly created communities or the State. A pipeline of priority state infrastructure is needed to ensure that projects of high value to new communities and the state are prioritised. Prioritisation of funding growth area infrastructure should follow the below principles:

- A plan is developed that identifies all relevant state infrastructure required to service the growth areas over a 20-year period;
- Prioritisation is based on an objective cost-benefit analysis with a focus on infrastructure that will enable the further development of housing and jobs in growing suburbs;
- Prioritisation must be flexible enough to allow consideration of funding projects early if savings can be delivered from delivering the project concurrently with other projects (both public and private);
- Prioritisation considers maximising the affordability of delivering new housing and the affordability of living in these new communities; and
- Projects are designed and delivered in a way that minimises the cost of future local and state infrastructure works, where there is a clear benefit to do so.

As some of the higher priority infrastructure items might be some of the costliest, it is understood that GAIC would not be able to cover the full cost of delivery. However, as highlighted earlier, GAIC was never intended to fully fund the state infrastructure needs of the growth area suburbs. Therefore, GAIC expenditure in many instances should be used as one of many funding sources to ensure high priority 'enabling' infrastructure is funded first.

Other sources of funding that should be considered, include State Government's general infrastructure investment; and Federal Government's 'City Deals' and/or the National Housing Infrastructure Facility.

Recommendation 5: *That the State Government immediately task the Victorian Planning authority with the vital task of developing a pipeline of priority infrastructure for Melbourne's growth areas, outlining a 20 year delivery and funding plan for state infrastructure, in close consultation with the development industry and growth area communities.*