

Floodplain Management Program Guidelines for voluntary purchase schemes

1. Introduction

This guideline has been prepared for councils seeking funding from the NSW Government's Floodplain Management Program to implement voluntary purchase (VP) schemes.

This guideline details the objectives, eligibility criteria, funding and implementation procedure for a VP scheme that has been included in a council's adopted Floodplain Risk Management Plan (FRMP) as part of a set of flood risk management measures. It does not provide guidance on assessing the viability of VP as a management option as part of an FRMP.

Councils should discuss all proposed voluntary purchase schemes and their potential for funding with their Office of Environment and Heritage (OEH) representative.

2. Objectives

VP is a recognised and effective floodplain risk management measure for existing properties in areas where:

- there are highly hazardous flood conditions from riverine or overland flooding and the principal objective is to remove people living in these properties and reduce the risk to life of residents and potential rescuers
- a property is located within a floodway¹ and the removal of a building may be part of a floodway clearance program that aims to reduce significant impacts on flood behaviour elsewhere in the floodplain by enabling the floodway to more effectively perform its flow conveyance function
- purchase of a property enables other flood mitigation works (such as channel improvements or levee construction) to be implemented because the property will impede construction or may be adversely affected by the works with impacts not able to be offset.

VP can be an effective strategy where it is impractical or uneconomic to mitigate the high flood hazard to an existing property and it is more appropriate to cease occupation to meet the above objectives. It is likely to be a measure that complements an overall floodplain risk management strategy for an area rather than an option that reduces flood risk on its own.

3. Consideration of properties for VP

Assessing the viability of a VP scheme or an individual property for VP is part of a collective assessment of floodplain risk management options for the community when an FRMP is developed. The FRMP will be adopted by the council and should have considered:

- flood hazard classification and associated risk to life
- hydraulic classification in relation to location in a floodway
- the benefits of floodway clearance to the flood-affected areas

¹ Area of the floodplain where a significant discharge of water occurs during floods

- economic, social and environmental costs and benefits
- viability of the scope and scale of the scheme and how the scheme will be prioritised generally on the basis of degree of flood hazard exposure
- identification of each affected property and the buildings on them
- the support of the affected community for VP as determined through consultation with affected owners
- an implementation plan for the scheme.

4. Defining the scope of a new VP scheme

Although properties may have been identified for VP within an FRMP, a more detailed assessment may be required to scope, cost and fully prioritise the VP scheme prior to making an application for funding of the scheme. This assessment will involve consideration of the items identified in Section 3 above.

This may involve development in consultation with OEH flood staff of a short report which is eligible for funding through the normal application process under the Floodplain Management Program. Completion of a new works project ranking form is recommended as part of the report as this will provide an indication of the potential priority of the VP scheme. The new works project ranking form can be downloaded from www.environment.nsw.gov.au/coasts/Floodgrants.htm.

Inclusion of a property in a council's VP scheme places no obligation on the owner to sell the property or on the council or NSW Government to fund the purchase of the property. Owner participation in the scheme is voluntary and there are limitations on the availability of funding.

5. Eligibility criteria for funding a VP scheme

The following criteria need to be met for a property within a VP scheme to be eligible for funding:

1. Only councils are eligible to apply for funding under the program. It is not open directly to individuals. Requests from home owners for properties to be purchased for hardship reasons are not eligible for funding.
2. VP will be considered only where no other feasible flood risk management options are available to address the risk to life at the property.
3. Subsidised funding is generally only available for residential properties and not commercial and industrial properties.
4. Funding is only available for properties where the buildings were approved and constructed prior to 1986 when the original Floodplain Development Manual was gazetted by the State Government. Properties built after this date should have been constructed in accordance with the principles in the manual.
5. The individual properties within a scheme should be identified² within an FRMP developed in accordance with the [Floodplain Development Manual](#) (2005) and adopted by the council.
6. Funding under the program is only available for properties identified in a VP scheme that has been fully defined, scoped and prioritised. The report to scope and prioritise the VP scheme is eligible for funding.

² Individual properties do not need to be identified within the FRMP itself; they can be included within a commercial and confidential appendix.

7. Under limited circumstances, VP can be considered for funding prior to completion of an FRMP. However appropriate investigations and assessments need to be completed and clear and compelling evidence provided as the basis for expediting consideration ahead of a completed FRMP. This would generally include scoping the VP scheme.
8. Properties being considered for VP should be located:
 - within high hazard areas where there is a significant risk to life for occupants and those who may have to evacuate or rescue them – However, a house in a location that is classed as high hazard on the basis of depth or provisional hazard alone would not be automatically eligible for VP. Hazard categorisation should be based on the true hazard assessment and consider a range of other factors that influence flood hazard as detailed in the [Floodplain Development Manual](#) (2005).
 - within a floodway where the removal of the house may be part of a floodway clearance program aimed to reduce the significant impacts caused by the existing development on flood behaviour elsewhere in the floodplain and enable the floodway to more effectively perform its flow conveyance function
 - within the footprint of a proposed flood mitigation measure or where a flood mitigation measure may result in a significant increase in flood risk to a house that cannot be protected – Eligibility will be considered as part of the detailed investigation and design for the works project. Funding the purchase of the property would be considered as part of the total works package which could include pre-construction activities.
9. Unless it is being purchased to facilitate a mitigation work, vacant land is not generally eligible for funding as it does not achieve the main aim of VP. Development controls should be used to limit the potential development of vacant land so that this is consistent with the flood function and flood hazard at the location.
10. Two- or multi-storey properties may be eligible for funding despite the upper floors not being directly affected by over-floor flooding. Residents retreating to the upper floors and their potential rescuers may still face significant risk to life and the building may not be designed to be structurally sound for the potential range of flood conditions. An additional hazard assessment needs to be undertaken to confirm eligibility of multi-storey properties.

6. Eligible/ineligible costs

Costs **eligible for funding** are those that support the purchase of the property including:

- actual purchase price, where this is within the range of a valuation undertaken in accordance with Valuer General requirements to provide a range that is considered fair and equitable in relation to market value
- legal costs of the council
- vendor's legal costs for the sale of the property
- valuation fees
- demolition costs that are incurred within six months of purchase – Eligibility for subsidy of demolition costs outside this period is subject to the agreement of OEH. If unforeseen elements, such as asbestos removal, are discovered during the demolition, the inclusion of these fees will need to be discussed with OEH.

Councils are generally offered funding based on the projected total cost over the three-year period of the scheme at a funding ratio of \$2 State to \$1 Council or local contribution. Where the council believes that their specific financial circumstances warrant a higher funding ratio, this should be discussed with OEH staff.

Costs which are **not eligible for funding** are:

- solatium³ (set compensation amount payable to cover the non-financial inconvenience of relocation)
- removalist costs
- fees associated with any purchase of a new property by the VP vendor
- administrative costs
- retrospective works (with the exception of valuation fees)
- vendor legal costs for purchase of a new property
- costs of maintaining the land after purchase
- costs associated with rezoning the land
- house and land costs outside the range of the valuation outlined above, although the council may purchase the property for more than the maximum valuation.

7. Implementation procedure

Applying for funding

If a scoping study is required to be completed prior to application for a VP scheme, as detailed in Section 4 above, the following steps apply:

- An application is made to undertake a scoping study for the proposed scheme during a funding round. Standard details relating to the provision of grants and a sample funding agreement are available at www.environment.nsw.gov.au/coasts/Floodgrants.htm. The council must also submit the accompanying *New Works Project Ranking Form* also available at this web address. Note this may not be required if the scheme was sufficiently scoped through the FRMP process.
- The scoping study report is finalised in consultation with OEH and the scoping study grant is acquitted.

Once all of the required information detailed in Section 3 above is available through either the completion of a scoping report or the FRMP process, the following steps apply:

- The council submits a funding application for the VP scheme to OEH during a funding round. Standard details relating to the provision of grants and a sample funding agreement are available at www.environment.nsw.gov.au/coasts/Floodgrants.htm.
- The application should outline the scope of the VP scheme, progress on scheme implementation to date and the number of properties that the council wishes to purchase in the three-year funding round in priority order. The council must also submit the accompanying *New Works Project Ranking Form* available at www.environment.nsw.gov.au/coasts/Floodgrants.htm
- OEH reviews the funding application and confirms that all required information to make an assessment is available. If insufficient evidence has been provided, additional information will be requested from the council. If not already completed, this may require the completion of a specific study to scope the VP scheme as outlined above.

³ In the context of VP, 'solatium' is the compensation for non-financial disadvantage resulting from the necessity of a person to relocate their principal place of residence.

- Applications are reviewed by the State Flood Mitigation Assessment Committee and recommendations made to the Minister for approval. Consideration of funding for all flood risk management projects is based on statewide prioritisation for a maximum three-year period. Where a VP scheme is considered a priority and therefore recommended for funding, this is generally provided through access to the statewide Voluntary Purchase/Voluntary House Raising Pool (VP/VHR Pool) for a three-year period.
- If approved, the council will be notified by OEH that they have been given access to the VP/VHR Pool and outlining the conditions of access to the pool for VP.

Purchasing properties

The council approaches eligible property owners in the VP scheme in priority order. However, given the voluntary nature of VP, the owners of these properties may not be willing to sell when initially approached and the owners of properties with lower priority in the VP scheme can then be approached. The council may wish to seek non-binding expressions of interest from a number of owners to expedite this process.

For each property:

- Where an owner is interested, the council should advise OEH and confirm that funds are available from the VP/VHR Pool for the purchase.
- The council should obtain a valuation in accordance with the Valuer General requirements to provide a range that is considered fair and equitable in relation to market value. This provides a basis for determining the maximum value that is eligible for subsidy. The valuation should assume no VP scheme is in place, consider the requirements for minimum floor levels due to flooding, but disregard any flood-related development constraints that may apply on that land due to its flood hazard. The valuation should be undertaken by a registered land and house valuer.
- The council should negotiate with the owners in accordance with its procedures.

Before entering into a binding contract with a recipient for VP or bidding at an auction, the council must:

- receive written confirmation from OEH that funds are still available from the VP/VHR pool as this may have altered due to the timescales involved
- submit a work plan for the purchase of the property, in accordance with the template provided on the OEH website at www.environment.nsw.gov.au/coasts/Floodgrants.htm – The work plan includes proposed milestones and associated payments for eligible costs. The council will receive written confirmation if the work plan is approved.
- enter into a funding agreement with OEH detailing the cost-sharing arrangement between the council and OEH for the estimated amount covering eligible costs as outlined in the approved work plan.

The council may then enter into a contract with a recipient for VP or bid at an auction.

Actions by councils to ensure outcomes

Once the property is purchased, the house must be vacated as a matter of priority and remain vacant unless agreed to in writing by OEH.

Except for heritage-listed buildings or where agreed to in writing by OEH, once a property has been purchased as part of a VP scheme, all buildings/structures must be demolished in accordance with environmental, disposal, work safe and OH&S controls as soon as possible (ideally within six months) and either:

- the site rezoned to an appropriate land use compatible with the flood hazard (such as open space), or
- where rezoning is not expeditious, the application of development controls to the land in the interim to ensure that any future redevelopment is compatible with the flood hazard and flood function at the site.

For heritage-listed buildings or where agreed to in writing by OEH, the buildings can remain. However, the land should be rezoned to an appropriate flood-compatible use and occupancy of the building and property limited to uses compatible with the flood risk. The council should advise OEH of the intended use.

Grant funding would be provided in accordance with the milestones in the approved work plan following submission of an expenditure certificate and milestone report to OEH. This should include evidence of completion of the stage, that is, completion of scoping study, property purchase and/or demolition.

Any profits from the sale of land purchased under a VP scheme funded from the VP/VHR pool must be returned to the pool, in line with the funding ratio, prior to the grant being acquitted.

Monitoring and review

The council is required to keep OEH informed of progress in line with the work plan. Where difficulties arise and the council is unable to spend the agreed grant amount under the funding agreement in the required timeframe, the council is required to inform OEH as soon as possible to enable other VP/VHR projects to proceed.

The council should review the scope of a VP scheme every three years or before submitting a new application for funding under the program. This review should confirm the eligibility and priority of the properties under the scheme and be submitted to support the application.

Acquittal

Grants should be acquitted (as outlined in the agreed funding agreement) in line with funding agreements and associated documentation provided. This should include evidence of the transfer of the land into the council's name and the submission of a final report in accordance with the template provided on the OEH website.

Where a purchase is not completed and costs have been incurred for valuations, a claim may be submitted to OEH supported by evidence of the expenditure for payment.

8. References

Department of Infrastructure, Planning and Natural Resources (2005), [Floodplain Development Manual](#), New South Wales Government, Sydney