Natural disaster financial assistance for local councils

## Repair and reinstatement of essential public assets

Under the Natural Disaster Financial Assistance (NDFA) scheme, financial support is provided to assist local councils with costs associated with emergency protection works and the restoration of essential public assets damaged as a **direct** result of a natural disaster. Reinstatement is only to pre-existing condition using current building and engineering standards.

Financial assistance is provided in accordance with the Commonwealth-State Natural Disaster Relief and Recovery Arrangements (NDRRA).

### Definition of an essential public asset

The *NDRRA Determination 2017,* effective for natural disaster events occurring post-1 July 2017, defines an essential public asset as:

* an integral and necessary part of the State’s infrastructure which is associated with health, education, transport, justice or welfare;
* would, if lost or damaged, severely disrupt the normal functioning of a community; and
* would, if lost or damaged, be restored or replaced as a matter of urgency.

An essential public asset must also be owned by an eligible undertaking such as a local council. Eligibility must be demonstrated for the asset, activity and expenditure claimed.

### Definition of emergency protection works

Emergency protection works are the costs associated with immediate/temporary reinstatement to eligible essential public assets to enable them to operate at a reasonable level of efficiency.

Emergency protection works should occur within the first 24/48 hours and up to two weeks after an event.

Local councils should advise DTF where there is a need to undertake this type of emergency protection works after this length of time.

Please note, in the case of salaries and wages, only staff overtime is eligible under NDRRA (please refer to the Salaries and Wages document for more information).

### Assets generally considered eligible

Examples of assets generally considered to be eligible include:

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| * Roads * Road infrastructure (for example, road signs, guard rails and traffic lights) * Bridges * Tunnels | * Footpaths * Culverts * Levees * Local government offices including maternal health centres and pre-schools * Storm water infrastructure |

However, where a facility has been damaged while undertaking eligible counter disaster activities and where an asset has been damaged when used as an evacuation point, repair costs are eligible as a counter disaster activity.

Relevant costs associated with the establishment and operation of Flood Recovery Offices to co‑ordinate and project manage asset restoration works is considered eligible under the NDRRA. Expenditure for a Flood Recovery Office is recorded on the ACMS under the ‘***Expenditure Type***’: Asset Restoration, with mention made in the comments field that the expenditure is for the Flood Recovery Office, when submitting estimates or an actual claim.

### Assets generally considered ineligible

Examples of assets generally considered to be ineligible by the Commonwealth include:

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| * Sporting, recreational or community facilities (for example, playgrounds and associated facilities, fencing, walking trails, wave energy dissipation structures and piers) * Religious establishments (for example, churches, temples and mosques)   **Note:** Councils and/or Catchment Management Authorities may be required to work with VicRoads and/or DELWP regarding a strategy to proportion general wear and tear from natural disaster damage. | * Memorials * Environmental assets such as natural vegetation, waterways, beaches or undeveloped land * Assets (or part of an asset) damaged due to contributing factors such as poor design, poor construction, inadequate maintenance or pre-existing damage |

**Requirement of evidence that assets are being reinstated using current building and engineering standards**

In order to claim eligible costs the restoration or replacement of a damaged asset, local councils *must* be able to demonstrate and provide supporting evidence that the asset is being restored or replaced using current building and design standards

The allowance for ‘current engineering and building standards’ under the NDRRA is intended to provide a modest level of flexibility to utilise ‘contemporary (rather than the use of obsolete or out-dated) construction methodologies and building materials’. For example, in the case of restoring or replacing a timber bridge asset, this may include using concrete or steel instead of timber.

In the situation where a damaged essential public asset cannot be reinstated in the same way, for example, due to site constraints, consideration may be given to a reasonable alternative, if agreement can be negotiated with the Commonwealth. Local Councils should contact DTF in this instance.

In addition, costs incurred in restoring or replacing an asset to a **more disaster resilient level** (betterment) or **higher level of service** (enhancement), unless otherwise agreed by the Victorian and Commonwealth Governments[[1]](#footnote-1) are ineligible.

**Requirement of supporting evidence that assets are being reinstated to the pre-condition of an essential public asset**

When submitting financial claims under the NDRRA/NDFA in relation to reinstatement of an essential public asset, councils are required to provide supporting evidence that demonstrates the nexus between the disaster and the expenditure incurred by councils, and that the repair is being reinstated to the pre-existing condition of the damaged essential public asset.

The pre-disaster standard of a damaged asset is considered to be the condition of the asset and its level of functionality or utility prior to the eligible natural disaster.

In the case of a road asset, the pre-disaster standard includes factors such as traffic and vehicle capacity, classification and/or role of the road within the road network, signage, street parking, road width and number of carriageways – for example, a gravel road is replaced using gravel and not bitumen.

To demonstrate the pre-disaster standard of a damaged asset, councils *must* be able to demonstrate the location, nature and pre-disaster condition of the damaged asset through one or more of the following means:

* the primary and most direct evidence will include visual and geospatial data and information which may include (but is not limited to) satellite images, Google earth images, photographs, video footage
  + this type of evidence can be used to support the pre-disaster standard of an essential public asset, the post-disaster damage caused as a direct result of the eligible disaster, including the betterment component where applicable, and the condition of the essential public asset once the restoration or replacement works have been completed.
  + where an essential public asset is restored or replaced to its pre-disaster standard in accordance with current building and engineering standards, and through the use of contemporary methodologies and materials, the standard of the eligible essential public asset has been enhanced (see Guideline 1 for further details), states must be able to demonstrate that the level of enhancement to the eligible essential public asset does not amount to restoring or replacing the essential public asset to a more disaster-resilient standard than its pre-disaster standard, i.e. betterment.
  + In the absence of any photographic evidence, other information (less direct) that can be provided to can include Engineer Reports, Asset Maintenance/Register Log, inspection reports for pre-condition evidence, where assessment of this information that is deemed sufficient by VicRoads can be used as acceptable evidence.
  + If there is still no substantive basis using other information identified above that can prove the damages are **directly attributable** to the event, then this assessment outcome should be properly documented by VicRoads as part of the claim assessment, with the reasonable reduction on ineligible costs recommended back to DTF.
* asset inspection and asset maintenance reports and assessments, including but not limited to, asset inspection report(s) conducted or verified by a suitably qualified professional with the appropriate level of expertise and experience, site inspections, design reports and damage assessments
* administrative data and documentation including, but not limited to, contract/work orders, timesheets, news articles, e-mail correspondence, funding approval letters, minutes of meetings
* financial data and documentation including, but not limited to, tax and/or financial statements, cost-benefit analysis, transaction listings used to reconcile invoices, annual reports, proposals and invoices
* grant data and documentation, including but not limited to, grant applications and grant guidelines, and
* mitigation strategies, including but not limited to, disaster resilience plans, including action plans, risk profiles and assessments, and flood mapping., or a narrow two lane road is replaced with a narrow two lane road.
* **Note: Road Management Plans are not sufficient evidence to demonstrate the pre-condition of assets prior to an event.**

### Costs generally considered eligible

Examples of costs generally considered eligible by the Commonwealth associated with restoring an essential public asset to its pre-disaster standard include:

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| * Clearing of blocked drains and pipes * Clearing roads of debris (including green waste and damaged trees) * Where it is evident that an asset has been directly damaged by an eligible natural disaster, costs associated with investigative techniques (i.e. geotechnical testing) used to prove the extent of damage and/or identify the reconstruction option * Removal of storm water from the road surface | * Road sweeping * Scour repairs – small immediate repairs to allow roads or bridges to be used * Running costs associated with the operation of local government owned plant and equipment undertaking essential public asset restoration activities, such as fuel and oils * Vehicle or equipment repairs and additional servicing required while undertaking essential public asset restoration activities |

### Costs generally considered ineligible

Examples of costs generally considered to be ineligible by the Commonwealth include:

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| * Costs recovered through other external funding sources including insurance * Costs associated with investigative techniques used to prove the existence of damage or the cause of damage to an asset, where it is clear that damage was not caused as a direct result of the natural disaster i.e. normal wear and tear * Costs associated with the preparation of claims or reporting under the NDRRA | * Consequential losses subsequent to the actual event, for example, business interruptions, loss of revenue or income, damage not caused directly by the event * Any costs that would have been incurred should the event not have occurred, such as maintenance and normal day labour costs |

### Reinstatement of an asset where the total cost is estimated to be in excess of $1 million

Before commencing a reinstatement or restoration project where the total cost of the project is estimated to be in excess of $1 million, local councils must seek agreement by DTF and demonstrate that the essential public asset being restored or replaced meets the Commonwealth Government’s definition.

### Requirement of evidence that damage is directly associated with a natural disaster

In order to claim costs associated with the restoration of an essential public asset, the responsibility lies with the local council to demonstrate a direct relationship between the activities for which expenditure is claimed, and the restoration of that asset—for example:

* visual and geospatial data and information which may include (but is not limited to) satellite images, Google earth images, photographs, or video footage of the damage following the eligible disaster
* customer call out reports relating to damaged essential public assets during or following an eligible disaster
* asset inspection and asset maintenance reports and assessments, including but not limited to, asset inspection report(s) conducted or verified by a suitably qualified professional with the appropriate level of expertise and experience (from either the state or local government or a delegated third party), site inspections, design reports and damage assessments.
* administrative data and documentation including, but not limited to, contract/work orders, timesheets, news articles, e-mail correspondence, funding approval letters, minutes of meetings
* financial data and documentation including, but not limited to, tax and/or financial statements, cost-benefit analysis, transaction listings used to reconcile invoices, annual reports, proposals and invoices
* grant data and documentation, including but not limited to, grant applications and grant guidelines, and
* mitigation strategies, including but not limited to, disaster resilience plans, including action plans, risk profiles and assessments, and flood mapping.

### Timeframe for completion of the repairs and reinstatement of essential public assets

Under the NDRRA, local councils have 24 months from the end of the financial year in which a disaster occurs to incur expenditure on the restoration or replacement of a damaged essential public asset. Essentially, this means that reimbursement will only be provided for those repairs deemed eligible which are completed by the end of the allowable time period.

The allowable time period deadlines for each current natural disaster event notified to the Commonwealth under the NDRRA can be found at the following link:

<http://www.dtf.vic.gov.au/Victorias-Economy/Natural-disaster-financial-assistance/Allowable-time-period>

### Repeated damage to essential public assets

Where an essential public asset is damaged by subsequent disasters, the following principles are to be applied to determine the allowable time limit for the restoration of an asset under the NDRRA:

* If an asset is damaged by subsequent events and different parts of the asset are damaged, the allowable time limit associated with the relevant disaster is to be applied. For example, if a section of a road is damaged by flooding in May 2016, the allowable time limit for restoring that section is 30 June 2018. If a different section of the road is damaged by flooding in July 2016, the allowable time limit for restoring the different section is 30 June 2019.
* If an asset is re-damaged by a subsequent event, the allowable time limit for the restoration of the asset is that for the most recent (or latter) disaster. For example, if a road is damaged by flooding in May 2016 and then re-damaged by flooding in July 2016, the allowable time limit to be applied to the restoration of the asset is that which is associated with the flooding event in July 2016, being 30 June 2019.
* In the situation where the repairs/restoration treatment fail, all restoration works to remedy this failure need to be undertaken by the end of the allowable time period.

Local councils should notify and involve VicRoads’ regional representatives at the time of the natural disaster as this involvement will assist in substantiating claims made by the council.

Local councils must also advise DTF and their local VicRoads officer if an essential public asset has been re-damaged as soon as possible following a natural disaster.

### Advice regarding eligibility

Where a local council wishes to seek a determination whether a particular damaged asset is eligible for assistance, or anticipates that reinstatement or restoration of a damaged asset may potentially cost in excess of $1 million, or have concerns over the allowable time limit for restoration the council should contact the NDFA Team on (03) 9651 2327 or email [ndfa @dtf.vic.gov.au](mailto:donna.kennedy@dtf.vic.gov.au).

Councils may then be requested by DTF to fill in the *Essential Public Assets Approval Form*.

1. For example, replacing undamaged guardrails with new standard guardrails, including new traffic calming devices, widening the carriageway of a narrow single lane road, adding kerbing, or including storm water drainage where none previously existed. To claim these or similar costs the relevant Council needs to obtain the approval for the proposed work by DTF which, if in agreement, will seek Emergency Management Australia’s agreement to enable a Council to include these costs in a subsequent claim. Please note, this prior approval does not prevent the work being undertaken should a Council choose to do so, it only prevents the costs being eligible for reimbursement. [↑](#footnote-ref-1)