

**Submission
No 19**

ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE

Organisation: Upper Lachlan Shire Council

Date Received: 7 May 2024



SUBMISSION TO LEGISLATIVE ASSEMBLY - PUBLIC ACCOUNTS COMMITTEE

Inquiry into the assets, premises and funding of the NSW Rural Fire Service

Upper Lachlan Shire Council thanks the Legislative Assembly for this opportunity to have input into the inquiry into the assets, premises and funding of the NSW Rural Fire Service (RFS).

Upper Lachlan Shire Council has considered the Terms of Reference and makes the following submission for consideration as part of your deliberations on Item 1(c) - Accounting for the ownership of Rural Fire Service assets and premises

This submission by Upper Lachlan Shire Council presents a compelling case against the current requirement for NSW local councils to account for RFS assets, particularly in light of the findings of the GAAP Consulting Report, commissioned by the Office of Local Government (OLG), dated April 2018, titled "Review of accounting for 'red truck' assets and other fire-fighting equipment" (GAAP Report). The GAAP Report is authored by Mr Colin Parker, an experienced qualified audit expert and his opinion is complimentary to Upper Lachlan Shire Council's accounting treatment of RFS assets. As stated within the GAAP Report "councils have no substantive rights for the control of fire-fighting equipment – vesting by itself does not confer control." The GAAP report continues to state that RFS land and buildings are also likely not controlled by councils.

Upper Lachlan Shire Council agree with Berrigan Shire Council's submission statement that "disconnect between legal ownership and operational control raises questions about the transparency of financial reporting. The mandatory inclusion of RFS assets in council accounts would lead to a distorted representation of council's financial position, creating a scenario where assets are nominally "vested" in council, but effective control resides with the RFS".

The *Rural Fires Act 1997* established the RFS to co-ordinate firefighting, bushfire prevention and to provide rural fire services in NSW. The Rural Fire Fighting Fund holds all contributions required to meet the costs of the service and is maintained by the NSW Treasury. Annual contributions to the fund includes:- NSW Treasurer 14.6%; Councils 11.7% and Insurance Companies 73.7%.

In relation to accounting treatment for RFS assets; as disclosed in Note C1-6 to the 2022/2023 Council Financial Statements, Upper Lachlan has resolved (207/22) to not recognise RFS assets that have been "vested" in the Council.

Upper Lachlan Shire Council strongly disagree with the Auditor General modified audit finding in relation to RFS assets and the qualification of opinion on Council Financial Statements. Please refer to the attached Upper Lachlan Shire Council Accounting Position Paper on recognition of Rural Fire Service (RFS) fire-fighting equipment assets.

Upper Lachlan Shire Council does not accept the word “vested” as stated in Section 119 (2) the *Rural Fires Act 1997*, conveys control of an asset or legal ownership of RFS assets to the Council. The RFS fire-fighting assets are controlled by the RFS and Council has no input or control on a decision on asset acquisition and disposal of an asset and does not control the RFS fire-fighting equipment assets and assets are subsequently not recognised in Council's Financial Statements. Upper Lachlan Shire Council does not record the RFS fire-fighting assets in Council's asset register and do not include these assets in Council Financial Statements.

Council disputes the accounting treatment opinion of the Auditor General (NSW Audit Office) that Council has the ability, outside of emergency events as defined in Section 44, of the *Rural Fires Act 1997*, to prevent the RFS from directing the use of the RFS equipment by either not entering into a service agreement or cancelling the existing service agreement that was signed on 3 August 2011. The Service Level Agreement (SLA) was agreed for a three year term and has expired in 2014 and there is no current SLA in operation for the RFS Southern Zone, including Upper Lachlan Shire Council, Goulburn Mulwaree Council and Yass Valley Council.

In 2021, the Audit Office stated that Upper Lachlan Shire Council “total current year depreciation on these RFS assets amounted to \$360K with a closing Written Down Value (WDV) of \$2.5 million.” Council has not been able to verify the veracity of the RFS fire-fighting asset register supporting the closing WDV stated within the 2021 Audit Office document and likewise cannot verify accuracy with the asset register report in 2023 supplied to Local Government NSW. (LGNSW). The adverse financial impact on local councils by accounting for RFS assets results in distortion of the actual financial position of a council by inflating the assets base value and depreciation expense adversely affects financial reporting benchmarks each year, this in turn adversely impacts on other services that may be provided to our local communities.

Council have not been able to make a reliable determination of the RFS assets existence in Upper Lachlan LGA and cannot determine their asset value and asset condition. In the absence of a reliable RFS asset register, Council's Chief Financial Officer and myself cannot attest that the Financial Statements have been prepared in accordance with the Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board, as required by the *Local Government Act 1993*.

It is now time to finally legislate changes to the *Rural Fires Act 1997* determining that the accounting for the ownership of RFS assets and premises clearly resides with NSW Treasury for all RFS assets. The *Rural Fires Act 1997* requires amending in accordance with the Private Members Bill to NSW Parliament to introduce full transparency of the real total cost of RFS operational management and response to emergencies.

Council has considered the Terms of Reference and makes the following submission for consideration for Item 4. the sustainability of local government contributions to emergency service provision

Upper Lachlan Shire Council paid \$793,727 for 2023/2024 for the Emergency Services Levy (ESL). In 2018/2019 the ESL payable by Upper Lachlan Shire Council was only \$445,466.

The ESL is a cost imposed on councils and insurance policy holders to fund the emergency services budget in NSW. The ESL represents cost shifting at its worse, as it is imposed on councils without any mechanism for councils to recover costs. The ESL annual cost is unsustainable to council budgets and will mean reduced services to our communities due to unaffordable annual cost of the ESL.

Upper Lachlan Shire Council support a well-funded emergency services sector and the critical contribution of emergency services workers and volunteers (many of whom are Councillors and Council staff). However, it is essential that these services be supported through an equitable, transparent and sustainable funding model. If a more sustainable funding model is not developed it may lead to a reduction in important local services and/or the cancellation of necessary community infrastructure projects

Council has concerns that collecting ESL tax through insurance companies under the current funding model is undertaken in such a way that the funding collected may not all be returned for the purpose of delivering emergency services. The current system lacks accountability and transparency, and provides little protection for consumers as there appears to be no transparency of reporting on audits that may be undertaken by the NSW Government on the insurance industry in relation to the collection of the ESL.

Insurance is also based on multiple risks and possible events, and is not limited to fire, flood and storm. This suggests that fire levies on individual premiums may be affected by other risks of property location. Given the changing climate and increased occurrence in natural disasters and extreme weather events, it is inevitable that emergency services costs will increase. The risk to funding associated with this will be property owners choosing to reduce their insurance levels or cancel policies due to increased costs.

Council has considered the other Terms of Reference and makes the following submission for consideration.

Other Issues

1. **Service Agreements.** As stated earlier in Upper Lachlan Shire Council's submission, the terms of the RFS Service Level Agreement (SLA) and Zone Agreements are outdated and in some instances redundant. Councils have not been able to reach consensus and agreement to terms with the RFS to change in Service Level Agreement terms and conditions. Therefore the SLA for Upper Lachlan and Southern Tablelands zone has expired and may not be contractually enforced. Until the Rural Fire Services Act is reviewed and updated, Council remain reluctant to agree to outdated terms and conditions imposed in these archaic agreements.
2. Council contributes annually towards local RFS brigades and SES local units, through buildings utilisation and maintenance costs as these items are generally not reimbursed to Council. Councils bear the cost of RFS sheds and other buildings property protection insurances annually. This equates to a \$40,000 annual expense for Upper Lachlan Shire Council.
3. An issue that requires consideration in the context of this submission is that the administration of the RFS. The archaic administration, financial projection and annual budget bidding system by the RFS continues to be troublesome and not a transparent system to councils. There has been very minimal hazard reduction funding in past 10 years for fire trails maintenance. A review and improvement of RFS budget and reporting systems would no doubt improve the efficiency of this organisation and ensure public confidence that there is value for money being provided from public monies to emergency service agencies.
4. Upper Lachlan Shire Council are very supportive of the dedicated volunteers who have for numerous years provided outstanding service to the community and prompt emergency responses to natural disasters, motor vehicle accidents and bushfires within the local government area. However, Council is critical of the current funding arrangements for emergency services and holds the view that the Rural Fires Act 1997 requires amendment.

The Upper Lachlan Shire Council holds the abovementioned views. In that regard Council appreciates the opportunity to address the "Terms of Reference". Council trusts that the issues raised will be considered further by the Legislative Assembly Public Accounts Committee in their deliberations.


Alex Waldron
Chief Executive Officer
Upper Lachlan Shire Council

1 May 2024



Inquiry into the assets, premises and funding of the NSW Rural Fire Service

Terms of Reference

That the Public Accounts Committee inquire into and report on:

1. The mechanisms for:
 - a. funding Rural Fire Service assets and premises;
 - b. Maintaining Rural Fire Service assets and premises;
 - c. Accounting for the ownership of Rural Fire Service assets and premises;
 - d. Operational management, including the control of assets and premises, risks, and impacts to local government, and the ability to effect a response to emergencies;
2. Whether the following arrangements between Councils and the Rural Fire Service are fit for purpose:
 - a. Service agreements;
 - b. The division of responsibilities for bushfire management and hazard reduction;
 - c. Upkeep of assets;
 - d. The provision of insurance;
 - e. Provision of land and construction management for RFS premises;
 - f. Bushfire Management Committees
3. The appropriate role for local authorities in the provision of emergency services;
4. the sustainability of local government contributions to emergency service provision;
5. Any other related matters.