

## **ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE**

**Organisation:** Eurobodalla Shire Council

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Public Accounts Committee  
Inquiry into the assets,  
premises, and funding of the  
NSW Rural Fire Service.

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Eurobodalla Shire Council  
Submission

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## Executive Summary

It is intended that this submission presents a convincing argument against the current arrangements which require councils to account for the NSW Rural Fire Service (RFS) assets.

The key issue is that councils have little control over the acquisition, utilisation, maintenance, and eventual disposal of those RFS assets, however, are expected to account for them on their balance sheet and profit and loss, either through direct (maintenance) or depreciation costs.

Whilst it could be argued that the local community benefits from these assets, this divided responsibility for the associated costs does not support single accountability for the efficient whole of life use and expenses associated with the assets.

Vehicles are purchased and constructed utilising funds from NSW Treasury then housed in stations as decided by the RFS, relocated, deployed to incidents, and eventually disposed of by the RFS. At no stage in the life cycle of an RFS vehicle does Council have any input into where it is located and what incidents it attends either within the LGA, neighbouring areas or interstate. Buildings used by the RFS are also constructed using state government funding and then vested in Council to manage the maintenance and wear the depreciation. At no time are the buildings used by anyone other than the RFS. They are not public access buildings and often Council does not even have keys to enter the buildings.

The argument that the RFS should be entirely accountable for all costs associated with the assets that they use for their activities is supported by the findings of the:

- GAAP Consulting Report commissioned by the Office of Local Government and titled *"Review of accounting for 'red truck' assets and other firefighting equipment"* (GAAP Report) which asserts that because the RFS, through its Service Standards and rural fire district service agreements, possesses all decision making powers over all equipment under the Act then the assets should be vested in the Commissioner of the RFS, and it should be noted that NSW Treasury's *"The Rural Fire Service – Consideration of the red fleet assets"* which continues the assertion that Council can control the deployment and disposition of the Red Fleet is incorrect.

The situation has arisen from arrangements made when the Bush Fires Act 1949 was written, but NSW is a markedly different place since then with the RFS having evolved into an entity that responds to multiple types of incidents and has administrative involvement in numerous areas of interaction with the community over the 75 years since those arrangements were imposed on councils.

The opportunity to adjust the unfair vesting of assets into councils was missed in 2001 when the RFS staff became state government employees. It is now time to bring the RFS into the 21<sup>st</sup> century by making them responsible for their assets in the same way as other

emergency services within NSW are. Councils are missing countless opportunities for service delivery to their ratepayers because of the cost of wearing depreciation of RFS assets on top of the contribution they make from rate funds to fund the RFS.

The RFS is no longer delivering firefighting services on behalf of councils as was the case in 1949 but is now a stand-alone emergency service that promotes itself as the largest volunteer fire fighting agency in the world; it is time that the asset ownership arrangements are modernised.

This view is shared by Michael Eburn PhD (who specialises in emergency law) when he made the comment on his blog that “It’s questionable whether the service is ‘on behalf’ of the Council. RFS is a state authority that provides rural fire services. Local governments don’t have the option of providing their own fire service or having an RFS brigade. Really the state provides fire services on behalf of the community. If there was no RFS (or F&R NSW) it’s not clear that a local government would have any obligation to provide fire services.”

## Background

The Eurobodalla Shire is located on the southeast coast of NSW and is approximately 280km from Sydney, 760 km from Melbourne and 150 km from Canberra. It is approximately 110 km in length and 50 km in width with an area of 342,173 hectares. Seventy two percent of the shire is vested in the management of Forestry Corporation NSW or NSW National Parks and Wildlife Service.

The population of the Eurobodalla Shire is approximately 39,179 people (2021 census figures) with a major tourist influx in the summer months.

The RFS has 22 brigade stations across the shire, a Fire Control Centre which also houses an additional 2 support brigades, a training centre with multiple training props, and an air base at the Moruya Airport. These brigades utilise a fleet of 82 vehicles across the shire.

## Ownership

NSW Treasury and the NSW Auditor General assert that the RFS Red Fleet of operational vehicles can be controlled, deployed, disposed of, and relocated by councils. Nothing could be further from the truth; this false assertion was used to support the current asset ownership arrangements.

The vehicles are purchased and constructed by the RFS, installed in a brigade station, deployed to local, out of area and interstate incidents without the knowledge or consent of Council. The deployment out of the shire regularly occurs during times of increased fire activity across the state and in doing so the resource is not available for the protection of

the community in which it is housed and vested, and Council has no oversight of a reduction in service delivery when this occurs. If Council was able to make decisions on the deployment of out of area appliances vested within it a discussion would need to be had with the District Manager and Major Incident Co-Ordinator in RFS State Operations around the increase in risk and the reduction in fire protection. These out of area deployments often involve 5 appliances as well as a strike team leader.

Quite often the first that Council knows of a new RFS resource in the LGA is a social media post showing a member of the RFS Executive and the Local Member handing over the keys to the host brigade.

RFS Policy P8.1.0, RFS Service Standards and rural fire district service level agreements all assert that the decisions around fleet are purely those of the RFS. Policy P 8.1.0 section 8.2.3 also includes the intent that asset ownership has been marked for review in the Asset Management Policy Implementation Plan.

Service Standard 5.3.5 Fleet Insurance for the RFS Appliances (21 April 2021) says at (1.1) “as part of sound corporate governance practice and to ensure compliance with NSW Treasury Managed Fund (TMF) requirements, the NSW RFS operates a centrally managed comprehensive motor vehicle arrangement for appliances identified on the NSW RFS Fleet Program.”

Council does not set the training standards to utilise the RFS equipment or define the standard operating procedures for driving. This is described in the RFS document OMP 8.06.07.07 Safe Driving SOP's. Section 119 of the Rural Fires Act 1997 (the Act) compels the RFS to vest assets in Council and prohibits Council from selling or disposing of assets without the written consent of the Commissioner of the RFS, thus clearly indicating that Council has no control of the assets.

Eurobodalla Shire Council recently appointed a full time Local Emergency Management Officer who was formerly the District Manager of the RFS, who can attest to the fact that at no time in the life of an RFS asset is Council consulted about its location, deployment, any relocations, or disposal. At no time is Council permitted to use the vehicles. The firefighting fleet vehicles are not registered and operate on road under Part 2 of Road Transport (Vehicle Registration) Regulation 2017 [NSW] and only for operational purposes, training, and maintenance, which further precludes Council from using them should they be able. The RFS determines the servicing schedule and level of servicing for each vehicle.

Within the Eurobodalla Shire the RFS stations, while vested in council, are not open for use by any person other than an RFS member, nor is the fire control centre, training facilities or air base.

## Financial Implications

The legal vesting of assets with Council as stipulated in section 119 of the Act has not changed since it was first included in the Bush Fires Act 1949 and remained in the rewriting of the Act in 1997, however Australian Accounting Standards have changed considerably since the current Act was written.

The RFS changed significantly from a responsibility of Local Government to a NSW Government Department in 2001 yet the State continues to argue that the single word “vesting” has maintained Council’s control over the management of RFS resources. As previously described, this is not how it works in 2024.

In the 2022/2023 Financial Year depreciation of RFS assets within the Eurobodalla Shire was more than \$800,000 which is a significant amount of service to the community that could not be delivered. In considering that the RFS is planning to build a new Fire Control Centre and office complex at an estimated cost of \$20 million that will add a further \$666,000 annually to the depreciation costs over the forecast 30-year life of the building. Of the estimated 88 personnel that will work within the building, 5 people will be supporting the residents of the Eurobodalla Shire, the remainder will be performing roles for Area Command, Planning and Environmental Services and Forestry Corporation at a NSW Government level. It is unreasonable to expect that Council should be financially liable for what is essentially a State Government Office complex and that rate payers will have even less service delivered as a result.

The RFS is planning to construct a new multimillion dollar station in the locality of Surf Beach which on completion will add another \$100,000 per annum to the depreciation costs resulting in a combined total of more than \$1.5 million dollars loss of services to the community.

This depreciation cost is in addition to the annual contribution assessed by the Minister for Emergency Services which sits just above \$1 million dollars for the current financial year.

## Efficient Utilisation of Public Money

Regardless of whether it is the NSW Government who purchases the assets of councils which fund their maintenance and depreciation, it is the community which funds the RFS and the services it provides, through either taxes or rates.

The division of financial responsibility for the whole of life costs of the assets does not promote the efficient use of those community funds in the same way that single accountability would. For example:

- For a building funded by NSW Government, the investment decision by the RFS would not necessarily take into account significant maintenance and depreciation costs given the asset is vested to Council and those costs are borne by Council.

Similarly, for vehicles, investment decisions are potentially skewed given the split responsibility for costs, being that Council is wrongly responsible for the vehicles' maintenance over and above the Rural Fire Fighting Fund contributions. The legal vesting of assets with Council as stipulated in section 119 of the Act has not changed since it was first included in the Bush Fires Act 1949 and remained in the rewriting of the Act in 1997 however Australian Accounting Standards have changed considerably since the current Act was written.

*The Statement of Accounting Concepts: Definition and Recognition of Elements of Financial Statements (1995)* published by the Australian Accounting Standards Board says at [24] "The entity controlling an asset is the one that can, depending on the nature of the asset, exchange it, use it to provide goods or services, exact a price for others' use of it, use it to settle liabilities, hold it, or perhaps distribute it to owners. An asset is specific to an entity in that it cannot at the same time be an asset of another entity."

Thus, by vesting the asset in councils the RFS is creating a situation where there is a direct conflict with the standards.

## Legislative Confusion

Prior to 2001, councils were obligated to have in their employ a Fire Control Officer (FCO) and dependant on the size of the LGA a Deputy as well. In 2001 all council employed FCOs became employees of the NSW Government and are currently employed under the Government Sector Employment Act 2013 (NSW) effectively changing the RFS into a state managed combat agency, however in the current Act, Schedule 3, part 2, section 4 still refers to FCO under the Bush Fires Act 1949. This needs to be amended to accurately reflect their employment status as not being part of Council anymore.

The FCO is no longer employed by Council (Rural Fires Act 1987 (NSW) s10) and in accordance with the Rural Fires Act (s38(2)) "has the right to use any fire fighting apparatus in the rural fire district." Again, indicating that the RFS has sole control over their assets.

In the time since the transfer to State Government management the RFS has "teamed and zoned" the staff of multiple LGAs together to allow for a larger workforce to manage the various complexities of running an emergency service across multiple LGAs thus further removing Council from being involved in the decision-making process. In many cases multiple Fire Control Centres operate with a few staff in each resulting in a confusion of which cost centre is paying for a service shared across multiple LGAs.



## Conclusion

It is very apparent that the function of the RFS is no longer a responsibility of Council, yet the NSW government continue to force councils to be financially encumbered by cost shifting the depreciation of the fleet and buildings. This is not sustainable and directly impacts the ability of Councils to provide the services their rate payers expect and are entitled to.

The Rural Fires Amendment (Red Fleet) Bill 2023 [NSW] introduced by the Hon A J Marshall, MP sought to address the inconsistencies of compliance with the Act and the significant financial implications of vesting assets in councils.

Eurobodalla Shire Council is supportive of the objective of the Bill to vest in the Commissioner the assets of the RFS and urges the Parliamentary Accounts Committee to find that vesting in the NSW government is appropriate and necessary to relieve councils of a significant financial burden and place the resources into the organisation that controls and operates them.

It is time to bring the NSW RFS into the 21<sup>st</sup> Century and align their resources with their management in the same way as Fire & Rescue NSW, NSW State Emergency Service, NSW Ambulance, and the NSW Police operate.

The RFS has recently purchased several aircraft which are NSW State Government property for exclusive use of the RFS, and the Red Fleet should be treated in the same manner. The RFS State Operations and HQ building is not vested in Council with alternate arrangements in place via the developer and the NSW Government. This arrangement should be investigated and replicated for all fixed assets across the state.

The RFS can no longer intimate that they simply deliver firefighting services on behalf of Council as was the way it operated prior to 2001. The continued vesting of assets that are increasing in cost to buy and build is creating a significant financial imposition on ratepayers than cannot continue. Effectively it may result in an increase in rates charges to the residents consequentially impacting on the 900 or so RFS volunteers in the shire that are already facing the same financial stresses the rest of the community are facing but freely give their time in the protection of their communities.