

**Submission
No 24**

ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE

Organisation: Murrumbidgee Council

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SUBMISSION: INQUIRY INTO THE ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE (RFS)

Murrumbidgee Council deeply values the vital role the NSW Rural Fire Service (RFS) plays in protecting our communities. We have a strong working relationship with the organisation and appreciate their invaluable contribution to our region's wellbeing and resilience.

Our primary objectives in preparing this submission are:

1. To draw attention to, and advocate for the rectification of, the current anomaly in section 119 of the *Rural Fires Act 1997*: once RFS has procured or constructed fire-fighting assets using money from the Rural Fire Fighting Fund, this legislation vests them to councils.
2. To illustrate how this legislation contradicts operational reality and has created significant accounting complexities and practical challenges for Councils.
3. To propose legislative change to section 119, instead empowering the RFS to be directly responsible for its fleet, equipment, and premises – aligning with its operational control and alleviating the challenges identified.

Council also wishes to emphasise our ongoing willingness to work collaboratively with all relevant stakeholders, and particularly the RFS, to develop a streamlined and practical solution that ensures proper accounting, operational management, and community confidence in the management of RFS assets and premises.

1. Section 119 of the Rural Fires Act 1997

Much of the discussion surrounding these issues centres around section 119 of the *Rural Fires Act 1997*:

119 Maintenance and disposal of fire fighting equipment purchased from Fund

(1) *In this section—*

fire fighting equipment means fire fighting apparatus, buildings, water storage towers or lookout towers.

(2) *All fire fighting equipment purchased or constructed wholly or partly from money to the credit of the Fund is to be vested in the council of the area for or on behalf of which the fire fighting equipment has been purchased or constructed.*



(3) *A council must not sell or otherwise dispose of any fire fighting equipment purchased or constructed wholly or partly from money to the credit of the Fund without the written consent of the Commissioner.*

(4) [Omitted for brevity]

(5) *A council must take care of and maintain in the condition required by the Service Standards any fire fighting equipment vested in it under this section.*

(6) *The Commissioner may, with the concurrence of the council in which fire fighting equipment is vested under this section, use any of the equipment not reasonably required by the council to deal with incidents in the area of the council to deal with incidents outside the area.*

2. Maintenance and operational management of RFS assets

For context, we summarise our current arrangements and involvement with the RFS:

- As legislated, Council funds 11.7% of the NSW Rural Fire Fighting Fund (the Fund) through payment of the Emergency Services Levy (ESL).
- Murrumbidgee Council spans two RFS districts: MIA and the Mid Murray Zone.
- The Murrumbidgee Shire Council and Jerilderie Shire Council each previously had a Service Agreement with the relevant district (signed in October 2011 and August 2012 respectively), however these predate Council's merger into Murrumbidgee Council in May 2016.

Under these agreements, the RFS agrees to undertake the day-to-day management of the service while the Councils agree to provide certain administrative accounting and maintenance service to the RFS. The Councils also agree to allow the RFS to use the equipment and premises.

- Council receives a *Maintenance & Repair Support Payment* from each district which is intended to support the cost of maintaining fleet (excluding white fleet) and stations, and other miscellaneous costs. This payment does not cover all of the expenses incurred by Council.
- Typically, repairs and maintenance are coordinated and undertaken by RFS rather than Council in practice, and Council provides administrative support by issuing purchase orders on request, organising fleet cards, paying invoices, etc.

Council then reports this expenditure back to the RFS.

- Council pays Zone Group expenses, a contribution to the supporting operations of the two districts.
- Council participates in the *Bush Fire Risk Mitigation & Resilience Program*, through which we seek funding to support our hazard reduction activities.
- Council provides on-the-ground support for fire combat operations as required.

In practice, the RFS maintains full operational control and directs the use of its fire-fighting assets, both within and outside council boundaries. Councils have minimal oversight.

Day-to-day management of the whereabouts, condition, and status of these assets is conducted by RFS using its own fleet management system. They are dispersed all over the 6,880 square kilometres of our Local Government Area. Not all of them are in purpose-built sheds with a 'Rural Fire Service' sign on the door; they are in farmers' machinery sheds and hay sheds and inaccessible to Council staff.

The current legislative treatment does not reflect this reality, and has a number of undesirable impacts:

- Firstly, it leads to a circular and unnecessarily complex outcome:
 1. Councils contribute to the Fund through payment of the ESL
 2. The Fund then disperses funds back to Councils through the Maintenance & Repair support payments
 3. Council expends these funds (and more), largely at the direction of RFS staff, and reports this expenditure back to RFS
- Both RFS and Councils experience inefficiencies and an increased administrative burden due to the above.
- It is a driving factor in the NSW Auditor General's position that the RFS assets should be recognised on Council's balance sheets.

Our detailed analysis, supported by an independent report commissioned by the Office of Local Government, concludes that the RFS, not councils, controls these assets through their ability to direct their use and benefit from their service potential. However, the NSW Audit Office refuses to engage and will not sway from their position without legislative change.

Our position is not taken lightly or with a closed mind: I base my position on my professional training as a Fellow Certified Practising Accountant (FCPA); my knowledge of the accounting standards over a career spanning more than 25 years; independent reports placed before me; and consultation with other professionals in the sector, including Council's Chief Financial Officer (herself a Chartered Accountant with more than 10 years' experience).

- If the NSW Auditor General's position were to be complied with, it would effectively result in ratepayers paying twice for the same assets – once through the contribution to the Rural Fire Fighting Fund, and again through the depreciation expense recognised on Council's financial statements.
- This treatment simply does not align with community expectations or understanding about who is truly responsible for these assets. It gives the inaccurate impression that Councils own and are responsible for replacing this firefighting equipment over time, when in reality this responsibility is undertaken by the RFS. This creates a lack of transparency and is potentially misleading.
- The disconnect between the 'on paper' treatment and the practical reality raises potential legal and liability implications. If councils are deemed responsible for assets they cannot effectively manage or maintain, it exposes them to significant risk.

With any other asset we could not find, the General Manager would be held responsible. Am I in the firing line because when we tried to perform a stocktake of assets, based on records provided to us by the RFS, we could not locate them all?

In summary, the current arrangement, which vests RFS fire-fighting equipment and premises in councils under the Rural Fires Act, is problematic from both an accounting perspective and a practical one.

3. An alternate approach

We propose legislative change to section 119 to remove the vesting of RFS assets in Councils. Instead, the RFS should be directly responsible for its fleet, equipment, and premises – aligning with its operational control.

Council is the lessee for a number of peppercorn leases with private property owners on which RFS buildings are situated. To facilitate this transition, we are open to facilitating discussions with the lessors of these properties, and establishing similar peppercorn leases for RFS buildings on Council-owned land.

This streamlined approach would:

- resolve the accounting discrepancies,
- enhance transparency and align with community expectations,
- reduce administrative burdens and inefficiencies, and
- mitigate legal risks arising from lack of Council control.

We appreciate the Committee's examination of this critical issue. We welcome further dialogue to reach a satisfactory resolution ensuring proper accounting and management of RFS assets while maintaining community confidence in NSW's vital fire services.

Yours sincerely




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