

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

**Organisation:** NSW Government

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# NSW Government Submission - Inquiry into the assets, premises and funding of the NSW Rural Fire Service

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## Abbreviations

AONSW	Audit Office of NSW
BFCC	Bush Fire Co-ordinating Committee
BFMC	Bush Fire Management Committees
BFRMP	Bush Fire Risk Management Plan
DAP	Disaster Adaptation Plan
EMPLAN	State Emergency Management Plan
ESL	Emergency Services Levy
ESO	Emergency Service Organisation
IPART	The Independent Pricing and Regulatory Tribunal
LEMC	Local Emergency Management Committee
LEMO	Local Emergency Management Officer
LEOCON	Local Emergency Operations Controller
OLG	Office of Local Government
PPRR	Prevent, Prepare, Respond and Recover cycle
RFA	<i>Rural Fires Act 1997</i>
RFFF	Rural Fire Fighting Fund
RFS	NSW Rural Fire Service
SDMP	State Disaster Mitigation Plan
SERM Act	<i>State Emergency and Rescue Management Act 1989</i>

## Background

The NSW Government welcomes the opportunity to make a submission to the Public Accounts Committee's Inquiry into the assets, premises and funding of the NSW Rural Fire Service (RFS). This submission has been prepared to help the Committee understand the current arrangements for the management and funding for RFS assets.

## History of bushfire fighting in New South Wales

Current arrangements for the management and funding of RFS assets have been shaped by how roles and responsibilities have evolved over time. There is a long history of cooperation of state and local governments in New South Wales in the provision of fire services, extending back as far as 1858, when the *Act for Establishing Municipal Institutions 1858* allowed municipalities to make by-laws for the prevention and extinguishing of fires.

A coordinated approach to bushfire fighting began in 1896 with the informal establishment of a volunteer bushfire brigade at Berrigan. This was formalised in 1900 with new brigades soon forming across New South Wales. At this time, the operation and management of bush fire brigades was the sole responsibility of local councils. To support this, further Acts of Parliament, namely the *Careless Use of Fires Act 1901* (revised 1906 and 1912) and the *Local Government Act 1906* were passed to ensure that brigades could be formed through local shires and municipalities.

Local management of firefighting in rural areas was confirmed under the *Local Government Act 1919*, which covered the use and misuse of fire, and prevention of fires escaping from property boundaries. This Act enabled local councils to appoint an officer to control and manage any bush fire brigades in their local council area, and further amendments gave additional powers and authority to bush fire brigade captains and deputy captains, comparable to the powers held by the chief officer of the NSW Fire Brigade. Fire Control Officers and their staff were employed by councils.

Over time, councils provided assets and equipment to bush fire brigades, and local communities raised funding for the brigades. The brigades' vehicles, firefighting apparatus, fire stations, and fire control centres were vested in councils under the terms of the *Bush Fires Act 1949*. Councils were responsible for the maintenance and repair of this equipment and buildings.

Firefighting efforts were funded by the Bush Fire Fighting Fund and financed by insurance companies, local councils, and the NSW Government. While State-run committees and councils oversaw bushfire planning and coordination, legislation, and technique, individual local councils held the responsibility for bushfire management in their local dedicated bushfire areas, as determined under the 1949 Act.

These long-held arrangements had several benefits, including that councils and local brigades had a deep understanding of their respective local area, responsiveness to emergencies, and community connection and engagement. However, this approach resulted in more than 200 separate firefighting agencies operating in NSW, with no overall chain of command.

Over time, the advantages in centralisation of some bushfire management functions became clear. After the 1994 bushfires and subsequent Coroner's review, on 1 September 1997 the *Rural Fires Act 1997* was proclaimed, leading to the formal establishment of the NSW Rural Fire Service.

The *Rural Fires Act 1997* ensured that the historic role, responsibilities, and benefits of local council managed bush fire mitigation was recognised and maintained, and the RFS was created to provide coordinated oversight of bush fire services in NSW.

## Role of the NSW Rural Fire Service

Today the RFS is the world's largest volunteer fire service, and the lead agency for bush and grass fires in NSW. Members provide fire and emergency services to approximately 95 percent of NSW. NSW RFS members attend a range of incidents and undertake a number of activities including:

- bush and grass fires
- house and structure fires
- storm damage
- search and rescue
- motor vehicle accidents
- community education
- bush fire mitigation.

### Enabling legislation

The RFS is established under the *Rural Fires Act 1997* (RFA). The objects of the Act (section 3) are to provide for:

- a) the prevention, mitigation and suppression of bush and other fires in local government areas (or parts of areas) and other parts of the State constituted as rural fire districts
- b) the co-ordination of bush fire fighting and bush fire prevention throughout the State
- c) the protection of persons from injury or death, and property from damage, arising from fires, and
- c1) the protection of infrastructure and environmental, economic, cultural, agricultural and community assets from damage arising from fires, and
- d) the protection of the environment by requiring certain activities referred to in paragraphs (a)–(c1) to be carried out having regard to the principles of ecologically sustainable development described in section 6 (2) of the *Protection of the Environment Administration Act 1991*.

Section 9 of the RFA prescribes the functions of the RFS, which includes (among other functions): providing rural fire services, issuing warnings about bush fires, assisting the State Emergency Operations Controller (SEOCN) with emergency management functions as required, carrying out rescue operations, and maintaining liaison with other Emergency Service Organisations (ESOs).

### RFS Fleet and Premises

The RFA established the RFS and set out the role of Commissioner, who is responsible for the operational aspects of the RFS. The RFA also recognised the history of the relationship between the newly established RFS and councils, as councils had been eager to ensure that the assets they had purchased or built for their community remained with their community.

Section 119(2) of the RFA requires the RFS to vest fire-fighting equipment purchased wholly or partly from the Rural Fire Fighting Fund (RFFF), in the council of the area for or on behalf of which the fire-fighting equipment has been purchased or constructed.

In line with the RFA, all fire-fighting equipment, including buildings, appliances, communications towers, and other fire-fighting equipment vests in Local Government. This means that expenditure on these items is on the NSW Government recurrent account but is not capitalised on the NSW Government balance sheet. The RFS presently capitalises:

- equipment used by Mitigation Crews, which cannot be identified as being for particular council administrative and operational vehicles, including marked vehicles, which are allocated to State Headquarters, Regional Offices, Mitigation Crews or District staff vehicles (colloquially known as 'white fleet' vehicles)
- RFS owned helicopters and aircraft
- ICT servers and infrastructure to the wall plug, except in District Offices where, other than switches and routers, it is vested
- equipment not allocated to a specific council area with an individual value above \$5,000.

## RFS fleet

The RFS has access to over 6,394 vehicles, boats, and aircraft, including 4,015 firefighting appliances, 2,293 support vehicles, 11 aircraft, 43 bulk water carriers and 32 marine craft. Most of the RFS fleet is vested in councils, except for white fleet support vehicles and mitigation vehicles. RFS owned aircraft are regarded as State assets. In addition to RFS owned aircraft, additional aircraft can be hired through:

- **contract** – through the National Aerial Firefighting Centre where possible, as some Commonwealth funding is available. Where this is not possible, aircraft are contracted directly.
- **call when needed arrangements** – Aircraft are maintained on a pre-qualification list and hired as needed on an all-inclusive hourly rate.

The RFS, using contract body builders, funds and builds fire fighting appliances to standard specifications. Once an appliance is built, the RFS will allocate it to a brigade and it will be vested in the relevant council.

The NSW Government has allocated an additional \$280.6 million over 10 years to deliver new and refurbished tankers. Since July 2020, 840 'red fleet' vehicles (firefighting vehicles) have been replaced and/or upgraded to meet relevant standards – including 547 firefighting appliances.

The RFS has costed the replacement value of its red fleet (approximately 5,000 assets) at circa \$1.65 billion.

## Buildings

The RFS budgets for and funds the construction of RFS buildings vested in councils. The NSW Government provides grant funding to councils for the construction, which is paid on a recoup basis at milestones of major projects, or on completion for minor projects. Annual expenditure on new buildings or refurbishing facilities is approximately \$20.0 million which is a recurrent expense budget funded by the RFFF. The RFFF is funded via state, council, and insurer contributions. The RFS currently receives the use of council owned or Crown land for buildings at no cost.

State Headquarters, Area Offices, Planning and Environment Centres and some Mitigation Crew facilities are leased by the State Government.

The cost of construction of a new Fire Control Centre is approximately \$12.5 million. The cost of construction of a brigade station can range from approximately \$100,000 for a small transportable station to approximately \$3 million for a major station.

The RFS presently has 85 building projects in its works portfolio that are new volunteer brigade stations, Fire Control Centres and other essential RFS facilities. 234 projects are also underway to upgrade existing volunteer brigade stations and other facilities, including improving volunteer amenities.

The RFS is also working with local councils and other stakeholders on the development of co-located Fire Control Centres/ Emergency Operations Centres at Moruya, Hawkesbury, Tumut, Cooma, Clarence Valley, and Narrabri. Construction at Cooma, Clarence Valley, and Narrabri are expected to start in the second half of this year. These are in addition to co-locations at Armidale and Cudgegong.

## RFS Budget and Funding

Part 5 of the RFA establishes the Rural Fire Fighting Fund (RFFF). Section 102 of the RFA establishes the RFFF as a Special Deposits Account. Under s102(1A) of the RFA, monies to be paid into the RFFF include contributions by the Treasurer, appropriations made by the NSW Parliament, the proceeds of investment money and any other money required to be paid into the RFFF by law.

Money payable from the RFFF includes money to be paid to assist in meeting the costs of rural fire brigade expenditure, and:

- a) any money to be paid in connection with the exercise of duties imposed by the Commissioner under section 45 of the RFA
- b) the construction and maintenance of fire trails;
- c) other fire prevention and hazard reduction works
- d) all money directed to be paid from the Fund by or under the RFA or any other Act (s102(2)).

Collection of revenue by Government for contribution to the RFFF involves calculation of the *'rural fire brigade funding target'* under section 103 of the RFA. The *'rural fire brigade funding target'* reflects the estimated rural fire brigade expenditure for the financial year. The Government sources contributions to the *'rural fire brigade funding target'* as follows:

- a) relevant councils pay a 'rural fire brigade contribution' each year of 11.7% of the rural fire brigade funding target applicable to the rural fire district (ss109-110).
- b) the *Emergency Services Levy Act 2017* imposes a contribution on insurers who insure against loss of or damage to property in NSW, to fund 73.7% of the rural fire brigade funding target. Contributions for a) and b) are collected by Revenue NSW.

Using the revenue collected from councils and the insurance industry in a) and b) above, and State general revenue, the NSW Government pays an annual 'rural fire brigade funding amount' into the RFFF which is the estimated rural fire brigade expenditure for the financial year adopted for the rural fire brigade funding target, as adjusted.

In 2023-24 the RFS combined recurrent and capital expenditure budget was \$808.4 million (\$756.1 million recurrent and \$52.3 million capital).

## Partnership with Local Government

Local councils in Rural Fire Districts across NSW are key partners of the RFS. Ownership of RFS fire fighting assets, including vehicles, brigade stations and Fire Control Centres is vested in local government under the RFA.

Councils are responsible for establishing brigades in their local areas (section 15 of RFA). They have legal responsibilities for bush fire prevention (Part 4 of RFA) and local brigades are responsible for hazard reduction and local fire responses (other than events captured under section 44 of the RFA).

The RFS supports local government in meeting its hazard reduction responsibilities through the Bush Fire Risk Mitigation Resilience Program. The program enables councils and other agencies to access funding to assist in meeting the cost of bush fire mitigation works.



Additionally, the RFS also assists through volunteer brigades and salaried mitigation crews to conduct mitigation works on council lands or lands for which council has management responsibility.

Local governments also receive grants from the RFS towards the cost of maintenance and repairs of equipment, tankers and facilities. In 2023-24 this was \$24.2 million. In addition to maintenance and repairs for buildings and appliances, the amount includes costs for other things such as utilities.

The close working relationship between the RFS and local government is also reflected in the establishment of the RFS Local Government Liaison Committee, which meets twice a year to discuss issues of significance.

Local councils are also represented on Bush Fire Management Committees (BFMC). BFMCs are a forum for cooperative and coordinated bush fire management in the local area. To ensure broad community involvement, representation on BFMCs is diverse. In addition to councils, other representatives include land holders, land managers (e.g. National Parks and Wildlife Service, Crown Lands and Forestry Corporation of NSW), Aboriginal Land Councils, NSW Farmers and other government agencies and community organisations.

Two representatives of Local Government NSW are also represented on the Bush Fire Co-ordinating Committee, a statutory committee established under the RFA.

# Inquiry Terms of Reference

This section responds to the Inquiry's Terms of Reference, and outlines the current approach taken by NSW Government agencies.

A change in policy, including the transition of any assets to RFS ownership, would incur transition costs to government and may take several years to complete. The implementation of the change may carry significant resource and cost implications in areas including:

- Legislative amendment (including relevant savings and transitional provisions)
- Annual maintenance
- Building project management
- Centralised maintenance and asset management
- Accounting and procurement resources
- Insurance
- Ownership and provision of land, including existing RFS buildings constructed on land provided by council, as well as any future premises earmarked for construction on council land.

## 1a. Mechanisms for funding Rural Fire Service assets and premises

The predominant funding mechanism for the RFS is through the RFFF.

Before each financial year, the Minister for Emergency Services and Treasurer will agree an emergency services funding target, based on an estimate of emergency services agency expenditure for the next financial year. The target comprises separate funding targets from each of the three emergency services agencies.<sup>1</sup> The RFS portion is the 'rural fire brigade funding target'.

Based on the funding target, contributions to emergency services funding are obtained from:

- the Emergency Service Levy (ESL) on insurers (representing 73.7 per cent of the total funding target)
- council contributions (representing 11.7 per cent of the total funding target), and
- State contributions (representing 14.6 per cent of the total funding target) consisting of the 7.3 per cent from Emergency Services Levy associated insurance stamp duty and 7.3 per cent from other general revenue sources.

Following the calculation of the funding target, there are mechanisms in the RFA to adjust the amounts raised for decisions made by Government between the calculation cycles and ensure that the actual level of expenditure is properly accounted for. The annual contribution and any additional contributions are paid into the RFFF.

RFS assets and premises are funded from this statutory funding pool.

On 16 November 2023, the Government announced the levy would be removed from insurance and applied instead to property. The Government released a public consultation paper for this reform on 10 April 2024.

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<sup>1</sup> NSW State Emergency Service, NSW RFS, and Fire and Rescue NSW, as per section 24B *State Emergency Service Act 1989*, section 103 *Rural Fires Act 1997*, and section 45 *Fire and Rescue NSW Act 1989*.

## 1b. Maintaining Rural Fire Service assets and premises

Section 119(2) is the vesting provision of the RFA. The provision states:

*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.*

Section 119(5) of the RFA places a statutory responsibility on councils to take care of, and maintain in the condition required by Service Standards, any firefighting equipment vested in it under the section. Firefighting equipment is defined in section 119(1) as ‘fire fighting apparatus, buildings, water storage towers or lookout towers’.

Firefighting apparatus is defined in the RFA as *all vehicles, equipment and other things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire.*

The RFS makes an annual Government grant towards the cost of maintenance and repairs for buildings and appliances to councils, which is a recurrent expense budget funded by the contributory model. In 2023-24 this was \$24.2 million. See 2c on the issue of maintenance and repairs. In addition to maintenance and repairs for buildings and appliances, the amount includes costs for other things such as utilities.

## 1c. Accounting for the ownership of Rural Fire Service assets and premises

Each year, the Office of Local Government (OLG) issues the Code of Accounting Practice and Financial Reporting (Code). The Code prescribes a standardised format and ensures that all NSW council financial statements are prepared in a reliable, comparable format as the basis for audit and in compliance with Australian Accounting Standards and the *Local Government Act 1993*.

Until recently, the Code advised councils that they were required to value RFS fire-fighting equipment in line with the requirements of the Code, the Australian Accounting Standards and to recognise in their financial statements any material assets under their control, and to state the relevant accounting policy in relation to the treatment of RFS assets.

In applying this guidance, each council in NSW made local and individual determinations about the control and recording of RFS fire-fighting equipment in their financial statements, which has resulted in inconsistent accounting treatments of RFS fire fighting equipment. Since the Audit Office of NSW (AONSW) was given the mandate to audit all councils, the Auditor General has made repeat recommendations that action needs to be taken to resolve these inconsistent accounting treatments.

In the 2023-24 Code, the Government advised all NSW councils that they should recognise all material rural firefighting equipment in their financial statements.

Neither the RFS, nor the State as a whole, has ever recognised rural firefighting assets and premises in their financial statements, on the basis that they do not have control over these assets in accordance with Australian Accounting Standards. This is also consistent with the RFA.

This position was formally presented to and agreed by the AONSW in 2018. NSW Treasury made a re-assessment and reached the same conclusion in 2021, which was then re-confirmed by AONSW.

Key factors leading to this position are as follows:

- The RFA requires firefighting equipment purchased from the RFFF Special Deposit Account to be vested in local councils (s119):
- Permission from local councils is required when RFS seeks to use the rural firefighting assets in another local council area (except where the RFS Commissioner has specific statutory powers under the RFA, e.g. due to a State bushfire emergency)
- Bushfire prevention is part of the service objective of local councils under the RFA. Rural firefighting assets are used to fulfil this service objective. In comparison, the RFS was

established to coordinate volunteer firefighters. Red fleet asset maintenance work carried out by the RFS is done on behalf of local councils under a service agreement entered into between the RFS and local councils in accordance with the RFA.

The State does not have the power to direct local councils on how to account for the rural firefighting assets. Local councils have the same obligation under the *Local Government Act 1993* as the State has under the *Government Sector Finance Act 2018* to comply with Australian Accounting Standards and related pronouncements.

The Auditor-General's Report to Parliament on Local Governments for 2020, 2021, 2022 and 2023 recommended that local councils should recognise the rural firefighting assets in their financial statements.

The Government has continued to provide guidance, support and to lead councils to understand the Government's recommendations about the appropriate accounting for RFS fire-fighting equipment. This guidance has included a webinar facilitated by the OLG and jointly run by Treasury NSW, the RFS and the AONSW, sharing of the State's accounting paper, providing RFS asset costings lists to councils, ensuring RFS Area Commanders and District Managers share asset listings with councils and ensuring that the RFS personnel provide councils with access to RFS premises to inspect assets.

#### **1d. Operational management, including the control of assets and premises, risks, and impacts to local government, and the ability to effect a response to emergencies**

The RFS has, under an agreement with the relevant council (see section 2a below), day to day access to fire fighting equipment owned by or under the control of the local council. This means that the RFS can access and use fire fighting equipment, including buildings, fire appliances, tanks and other fire fighting apparatus as needed for its functions. The RFS is responsible for using that equipment properly and managing the risks that arise out of its use.

Councils have a statutory responsibility to maintain fire fighting equipment vested in it under section 119(5) of the RFA in good repair, and for providing fire fighting equipment, including buildings, fleet, and other assets to the RFS in a safe condition and to the appropriate standard. See section 2c on the issue of maintenance and repairs.

Much of this risk is managed through insurance (see section 2d). Councils have a responsibility under the RFA and the service agreement to insure RFS fire fighting equipment, except for the RFS fleet assets, which are by agreement insured by the RFS.

### **2a. Service agreements between Councils and the Rural Fire Service**

Section 12A(1) of the RFA gives the RFS Commissioner the power to enter into a Rural Fire District Service Agreement (Service Agreement) with a local authority or authorities responsible for a rural fire district or districts. Without limitation, a Service Agreement may:

- specify which functions imposed on a local authority can be exercised by the Commissioner during a period (if any) specified in the Service Agreement; and
- specify any obligations to be imposed on a local authority as a consequence of the Commissioner agreeing to exercise those functions; and
- set performance targets for the exercise of those functions; and
- provide for the evaluation and review of results in relation to those targets (section 12A(2)).

The Commissioner and the local authorities must, as far as practicable, exercise the functions and carry out the obligations in accordance with the Service Agreement (section 12A(3)). Reporting of the results of performance under a Service Agreement is also required (section 12A(4)).

A Service Agreement enables the RFS Commissioner to manage functions on behalf of council with nominal consideration exchanged, and to undertake the day-to-day management of the RFS in the district. The Service Agreement also stipulates functions which are not or cannot be exercised by the Commissioner, such as the duty of public authorities to prevent bush fires under section 63 of the RFA. Terms and Conditions are standard across all Service Agreements between council and the RFS.

The Service Agreements allow the RFS and councils to discharge responsibilities under the RFA in a way which is more modern, and which better reflects the evolution of emergency management over time.

In the absence of Service Agreements, any statutory functions assigned to the RFS Commissioner would revert back to councils. For example, the formation and oversight of brigades under Section 15 of the RFA and the management and removal of individuals from membership of a brigade under clause 8 of the *Rural Fires Regulation 2022*.

## **2b. Whether the division of responsibilities for bushfire management and hazard reduction between Councils and the Rural Fire Service are fit for purpose**

Under sections 63 and 64 of the RFA, owners and occupiers of land are responsible, in the first instance, for extinguishing fire on their land and to minimise the danger of its spreading. Public land managers also provide initial fire response on land they manage.

The State Emergency Management Plan, established under the *State Emergency Rescue and Management Act 1989* (SERM Act), provides that the RFS is the lead combat agency for fires in rural districts – including bush fires. The RFS also has responsibilities for other emergencies and for rescue.

RFS brigade officers, under the command of the officer in charge at the fire (and under the supervision of the local Fire Control Officer), have powers under the RFA to control or suppress a fire and to protect people, property and the environment from the danger arising from the fire (section 22 RFA).

Where the RFS Commissioner considers a bush fire to be (or is likely to become) beyond the management capability of local fire fighting authorities, the Commissioner, under section 44 of the RFA, takes charge of the fire fighting operations. The Commissioner can give directions to people (including government agencies) and can take control of equipment as necessary to control the fire in the area of the declaration (section 45 RFA).

If the Premier forms the view that a fire constitutes a significant and widespread danger to life or property, the Premier may declare under section 33 of the SERM Act that a State of Emergency exists. The Minister for Emergency Services then becomes responsible for controlling and coordinating the activities of government agencies and the allocation of resources for responding to the emergency.

The NSW State Bush Fire Inquiry in 2020 considered bush fire fighting arrangements and concluded that NSW was well served by the coordinated arrangements in place.

### **Bush fire prevention**

Landowners and managers have the primary responsibility to carry out bush fire hazard reduction activities on their land under the RFA. They must take steps to prevent the occurrence of, and minimise the spread of, bush fires on and from their land (s 63 RFA).

At a strategic level, bush fire prevention is coordinated by Bush Fire Management Committees (BFMCs), including through the bush fire risk management plan (BFRMP) prepared for each BFMC as discussed in 2(f) below. Landowners and managers are obliged to do works specified in a BFRMP that applies to their land.

From time to time, landowners request the assistance of the RFS in carrying out hazard reduction works and the RFS endeavours to assist wherever possible. This includes works on public land or council estates, with RFS utilising local, neighbouring brigades and dedicated mitigation crews.

Additional mechanisms for hazard reduction exist. Concerned community members can complain if they believe a bush fire hazard exists on neighbouring or nearby land (sections 74A, 74B RFA). The RFS must investigate the complaint and can act if a hazard is identified (sections 74D, 74E RFA).

Where a hazard is identified (either because of a complaint or otherwise), hazard management officers within the RFS have the power to issue a hazard notice to a landowner or occupier (including public land managers), compelling them to carry out specified hazard reduction work (section 66 RFA). If landowners or managers fail to do hazard reduction as required by a notice, a BFRMP, or the landowner's primary obligation under the RFA, or if the landowner/occupier cannot be located or identified, the RFS Commissioner has the power to carry out hazard reduction work on their behalf (sections 70, 73 RFA).

These arrangements allow landowners and managers and the RFS to work collaboratively to manage bush fire hazards across NSW.

## 2c. Arrangements for the upkeep of assets between Councils and the Rural Fire Service

Section 119(5) of the RFA places a statutory responsibility on councils to take care of, and maintain in the condition required by Service Standards, any firefighting equipment vested in it under the section. Firefighting equipment is defined in section 119(1) as *'fire fighting apparatus, buildings, water storage towers or lookout towers'*.

Firefighting apparatus is defined in the RFA as *'all vehicles, equipment and other things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire'*.

There are provisions in the Service Agreement regarding the care and maintenance of this fire fighting apparatus (known as 'District Equipment under a Service Agreement' – Clause 5) and the maintenance of premises (Clause 6). In some locations, the RFS undertakes administrative maintenance tasks on behalf of council.

The RFS makes a grant to councils annually towards the costs of maintenance. Many councils also contribute additional maintenance at their cost.

## 2d. Arrangements for the provision of insurance between Councils and the Rural Fire Service

Clause 10 of the Service Agreement outlines the insurance arrangements between councils and the RFS. In accordance with the requirements of the Service Agreement, councils are required to have and keep current a variety of insurances, including:

- Property damage and public liability insurance for premises
- Third party and comprehensive insurance for any motor vehicles which do not form part of the RFS 'red fleet' (unless otherwise agreed between the council and the Commissioner)
- Property damage, public liability, third party and comprehensive insurance for assets such as training facilities; fire spotting towers, radio base stations/radio transmitting towers; and pager repeater sites and towers.



The RFS maintains insurance for fleet assets through the Treasury Managed Fund. This is with the express agreement of councils under clause 10 of the Service Agreement. This ensures consistency of insurance coverage.

The RFS is aware that insurance arrangements across councils vary. The RFS understands that there have been instances of some councils underinsuring district equipment. Additionally, the RFS has been made aware of some councils maintaining policies with a significant excess.

## 2e. Provision of land and construction management for RFS premises

The RFS facilitates construction projects as needed to ensure fit for purpose facilities, including the building or refurbishment of fire control centres, brigade facilities, training, airbase or other facilities.

Councils are required under the RFA to provide facilities and accommodation as needed for each rural fire district (section 37 RFA). This includes providing use of land for buildings and storage. Funding for construction projects is predominantly received from the RFFF. From time to time, brigades contribute towards either construction or improvement costs to their station out of fundraising.

Typically, councils have the direct control and management of construction projects. The RFS provides the design for construction, and councils directly engage contractors, subcontractors, and other service providers to undertake the projects.

On occasion, such as for the construction of larger stations or fire control centres, the RFS may engage Public Works Advisory to provide project, tender and contract management services.

At the completion of a construction project, the property vests in the local council and is typically added to the list of properties which are managed in accordance with the relevant rural fire district service agreement with the council (section 119(2)). The service agreement provides that:

- council retains ownership of the land and buildings, and also retains the legal right to possession and control,
- RFS interest in the land and building is limited to occupancy (not tenancy), and
- council will provide maintenance and repair services to the RFS.

## 2f. Bushfire Management Committees

Bush Fire Management Committees (BFMCs) are provided for in the RFA for each rural fire district (section 50 RFA). They are constituted by the Bush Fire Co-ordinating Committee (BFCC). They are not an arrangement between councils and the RFS, however councils are represented on the BFMC.

Other stakeholders represented on BFMCs include landholders and managers, fire authorities, distribution network service providers, relevant government agencies, local Aboriginal land councils, local rural fire brigades and community organisations (clause 15 *Rural Fires Regulation 2022*).

BFMCs are responsible for overseeing bush fire preparedness in their BFMC area, including planning bush fire risk management activities. BFMCs follow a tenure blind and coordinated approach to bush fire risk management. BFMCs create and maintain the following plans (section 52 RFA):

- **BFRMP:** this plan identifies assets at risk of bush fire within the BFMC area and sets a five-year program of treatments to reduce the risk. Treatments can include hazard reduction burning or manual clearing, community education and emergency planning.
- **Plan of Operations:** this plan outlines arrangements for coordinated fire fighting responses within the BFMC area.

- **Fire Access and Fire Trail** plan for its area: This plan identifies the location of strategic fire trails within the BFMC area, with a 5-year planning horizon.

BFMCs have been given additional responsibilities by the BFCC, including:

- planning and privatising tenure blind mitigation works programs in the BFMC area including the assessment of funding applications
- to prepare an Annual Works Program (to identify and plan bush fire risk treatments scheduled for that year) and an Annual Ignition Prevention Plan (to identify strategies designed to address the occurrence of bush fires within their area)
- to complete a pre-season preparedness checklist
- to identify opportunities for multi-agency bush fire related community education and training activities, and
- monitor and report on hazard reduction along with other bush fire risk mitigation works and BFMC activities to the BFCC in accordance with the BFCC's directions.

The BFMC model provides a forum for collaboration by all interested parties including landowners and managers to engage and agree on bush fire management strategy and to prepare the necessary plans and tools to enable its implementation. Governance arrangements, including the BFMC model, were considered as part of the NSW State Bush Fire Inquiry in 2020. But for some recommendations to strengthen its operation, the model was not questioned.

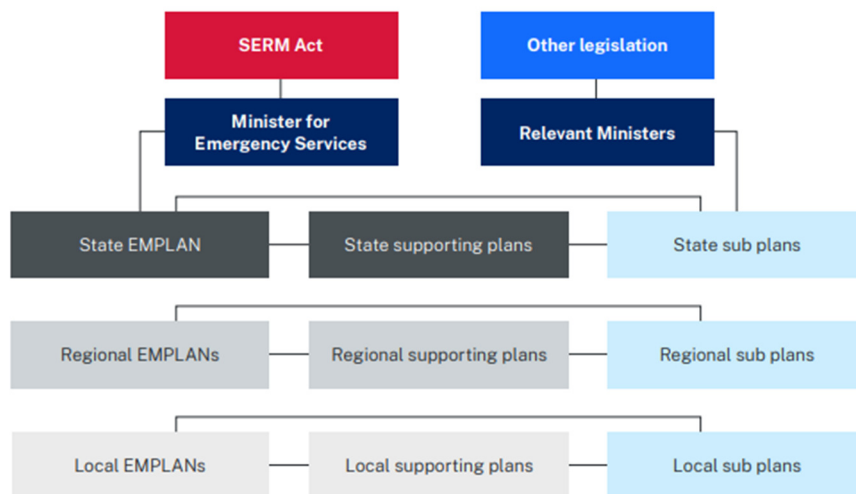
### 3. The appropriate role for local authorities in the provision of emergency services

The SERM Act provides the general legal framework and governance for emergency management in NSW. This includes the creation of the State Emergency Management Plan (EMPLAN) under section 12 of the SERM Act, which describes NSW's approach to emergency management, governance and coordination arrangements, and roles and responsibilities of agencies. The plan is supported by hazard-specific sub plans and functional area supporting plans.

The EMPLAN recognises the need for:

- **Local capability:** Responsibility for prevention, preparation, response and recovery should be conducted at the lowest level of effective coordination, and therefore primarily rests at the local level. Local capability is supported by region and state level coordination as required.
- **Community and stakeholder engagement:** Community and stakeholder engagement is a critical aspect of emergency management across the full spectrum of prevention, preparedness, response and recovery (PPRR). Councils are a critical stakeholder in improving community understanding of emergency arrangements and promoting disaster resilience.
- **Clear roles and responsibilities:** To implement the comprehensive PPRR approach, roles and responsibilities are allocated to State, Regional and Local Emergency Management Committees. Having clear roles and responsibilities allows for joint planning across phases of an emergency, as well as alignment between the local, regional and state level plans, policy instruments and guidelines (demonstrated in the figure below).





Local government involvement in emergency services extends beyond bushfire fighting and management. The *State Emergency Service Act 1989* section 17 allows local government to recommend the appointment of a local commander, provide facilities and contribute funds to its operations.

Further, section 26 of the *NSW Reconstruction Authority Act 2022* ensures that a person with considerable local government experience is included on the NSW Reconstruction Authority Advisory Board. This helps ensure that adaption, preparedness and recovery work is locally driven where possible, including through the preparation of Disaster Adaptation Plans (DAPs) by local councils.

### Local Emergency Management Committees (LEMCs)

The SERM Act recognises that the involvement of local government in all stages of an emergency is critical. Therefore, the emergency management structure and arrangements at the local level are based on local government areas (or combined local government areas).

An LEMC, as outlined in sections 28 to 32 of the SERM Act, are chaired by the General Manager of the council (or equivalent officer where it does not have a General Manager), and consists of the Local Emergency Operations Controllers (LEOCONs) for the relevant local area, senior representatives of each ESO operating in the relevant local area, representatives of Functional Areas (where appropriate and resources permit), and representatives of other organisations as determined by the Chairperson or the Minister.

The LEMC is responsible for, in respect to their local government area:

- executing emergency management policy and coordinating emergency management practice
- reviewing and preparing plans that are, or are proposed to be, sub plans or supporting plans established under the EMPLAN
- developing, conducting and evaluating local emergency management exercises for the purpose of testing sub plans or supporting plans
- making recommendations about and assisting in the coordination of training for emergency management
- facilitating local-level emergency management capability through inter-agency coordination, cooperation and information-sharing arrangements
- assisting the LEOCON in establishing and controlling a local emergency operations centre
- preparing plans in relation to the prevention of, preparation for, response to and recovery from emergencies (noting the responsibility for planning by Combat Agencies)
- considering Aboriginal outcomes in emergency management planning

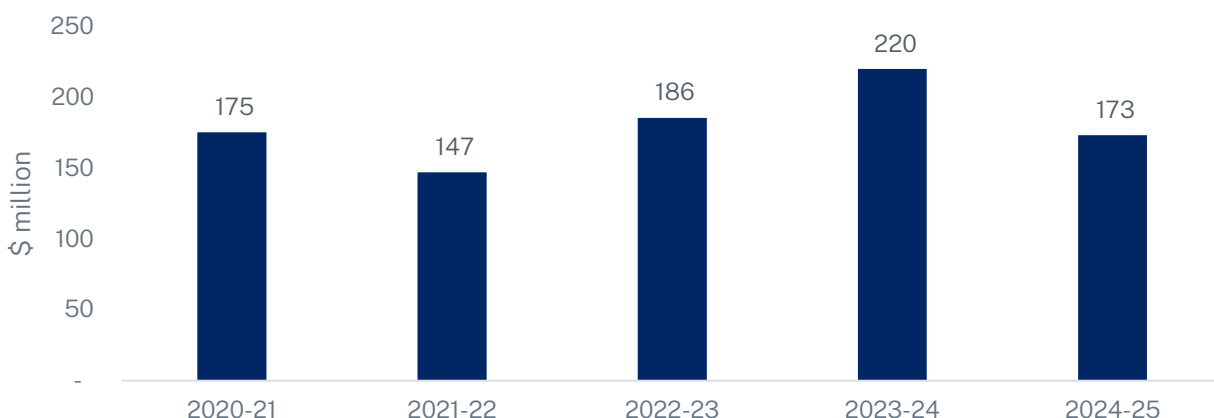
- planning for the effective and efficient coordination of volunteers (noting the responsibility of volunteer coordination by combat and recovery agencies).
- carrying out other functions as assigned by the SEMC
- collaborating with Local Aboriginal Land Councils to prepare and review plans that sit outside local government regulation and service provision.

The LEMC engages with the community to improve their understanding of local experience, needs, strengths and capabilities. Councils, in accordance with section 32 of the SERM Act are required to provide executive support facilities for the LEMC and the LEOCON in its area.

Councils also play a role in convening local Recovery Committees, developing local level Disaster Adaptation Plans to support the State Disaster Mitigation Plan, working with state agencies to identify and prioritise risk mitigation options, and undertaking an all-hazards approach to emergency risk management.

#### 4. The sustainability of local government contributions to emergency service provision

Under the enabling legislation for the three ESOs – the RFA section 110, the *State Emergency Service Act 1989* section 24I and the *Fire and Rescue NSW Act 1989* section 51 – councils are required to make an annual contribution to the cost of providing emergency services to their communities. This contribution funds 11.7% of the ESO's funding targets. The below graph shows total council contributions to the three ESOs over the five years to 2024-25.



Councils generally fund their emergency services contributions from their general income and recover this cost through rates. The Independent Pricing and Regulatory Tribunal (IPART), in its 2023 Review of the rate peg methodology, has introduced a council-specific ESL factor, as part of the new local government rate peg methodology. The ESL factor allows councils to fully recover the annual increases in emergency service contributions without diverting funds required to maintain service levels and infrastructure for their communities. The separate ESL factor in the new rate peg methodology is lagged by one year and reflects the actual change in each council's ESL contribution from the previous financial year. The new rate peg methodology, including the new ESL factor, will apply from the rate peg for the 2024-25 financial year.

## The Premier's Department

52 Martin Place  
Sydney NSW 2000

GPO Box 5341  
Sydney NSW 2001

T: 02 9228 5555

W: [nsw.gov.au/premiers-department](http://nsw.gov.au/premiers-department)



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