

**Submission  
No 31**

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

**Organisation:** Blue Mountains City Council

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Office of the Chief Executive Officer

Reference File: F01692 / 24/67557

The Chairperson  
Public Accounts Committee

Submitted online

Dear Sir

**SUBJECT                      Submission to the Inquiry into the Assets, Premises and  
Funding of the NSW Rural Fire Service**

Thank you for the opportunity to make a submission to the Public Accounts Committee Inquiry into the assets, premises and funding of the NSW Rural Fire Service. Blue Mountains City Council has advocated for reform of Rural Fire Service support arrangements in the past, and this inquiry is therefore of significant interest to the organisation.

Before providing responses to the matters noted in the terms of reference, Council wishes to make clear that this submission should not be interpreted as being critical of RFS volunteers or the public safety services they provide. Council is deeply appreciative of the commitment and contribution RFS volunteers make to community safety, and for the important hazard reduction work they perform on Council managed land on the Council's behalf. Council's comments in this submission are focussed on high-level governance arrangements, and it is Council's vision that the supporting arrangements for RFS volunteers be strengthened through a modernisation of the statutory arrangements that enable the RFS to operate.

As the *Rural Fires Act 1997* is the governing legislation with respect to the supporting relationship between local government and the RFS, references to this legislation will be summarised as 'the Act' throughout this submission.

Funding for RFS assets and premises

The current model for funding the operations of the RFS, which include contributions from insurers, the NSW Government and local government seems unnecessarily complex. It is acknowledged that this model also extends to the State Emergency Service and Fire & Rescue NSW, and that the supporting arrangements for these agencies is outside the terms of reference for this Inquiry.

It is noted that the NSW Government has previously attempted to replace this funding model through the introduction of a Fire and Emergency Services Levy (FESL). It is unfortunate that this opportunity to modernise and streamline the contributions to



emergency services was abandoned, and Council strongly recommends that the NSW Government consider whether a similar state-administered property-based levy could be introduced to fully fund the RFS, SES and Fire & Rescue NSW.

The current contributions model is both opaque and an inefficient way of funding essential emergency services. The average member of the community is likely unaware of the amount they are currently paying via insurance policies and local government rates, so the adoption of a property-based levy would make administration related to the collection and allocation of emergency services funding both more efficient and more transparent for the community.

#### Maintenance of RFS assets and premises

The process for allocation and management of funding from the RFFF for maintenance and repair of RFS premises and assets is unnecessarily complex and fundamental reform of these arrangements is strongly recommended.

In practice, Council contributes to the cost of RFS operations, as apportioned to the local government area, with a portion of the allocation for the district returned to Council to cover the estimated costs of maintenance and repair of RFS operated assets. Then, as per the arrangements set out in the Rural Fire District Service Agreement, Council allows the RFS to then access that funding and manage those maintenance and repair functions on Council's behalf. This requires RFS staff to have access to Council financial and procurement systems (an issue that will be address later in this submission), which presents several challenges with regard to compliance with both Council's financial and procurement policies as well as RFS policy and procedure.

Council acknowledges that these systems are a function of the current statutory arrangements, which note that Council must provide facilities and accommodation to enable the RFS to exercise their functions (s 37(3) of the Act), and that any fire fighting equipment purchased using money from the Rural Fire Fighting Fund is a vested asset of the relevant Council (s 119(2) of the Act). While the RFS carry out the maintenance and repair function on Council's behalf, as per the provisions of the Service Agreement, this arrangement is archaic and not fit for purpose in the modern operating environment.

Council therefore recommends that consideration be given to a long-term process of transfer of asset ownership and responsibilities from local government to the State. This would offer an opportunity for simplification of funding arrangements and allow funding for maintenance and repair to be directly allocated to and managed by the RFS.

An additional consideration in relation to the maintenance and repair of RFS operated assets and premises is Council's capacity and capability to deliver these services. The current Rural Fire District Service Agreement requires Council to maintain both fleet and many aspects of RFS maintained buildings. With regard to buildings in particular, the funding that is made available only permits for reactive maintenance of faults and failures and is not sufficient to enable proactive inspection, assessment and preventative maintenance or renewal, as would be expected as part of a best-practice asset management system.

In relation to fleet, Council's mechanical services team currently provide a highly cost-competitive service for appliance maintenance and repair, but it is unclear whether

Council will be able to sustain this level of service should appliance design or required maintenance standards change. Given the complexity of the financial arrangements between Council and the RFS, it is difficult to ascertain whether the M&R allocation from the RFFF covers the full cost of these services or whether Council is effectively providing additional in-kind or financial support to the RFS.

#### Accounting for Rural Fire Service assets

The requirement that Councils include the depreciation expense for RFS appliances and other fleet in its financial statements has a significant impact. While Council has previously included this expense and will continue to do so, this matter is best addressed by transferring ownership of these assets to the State.

#### Operational management of assets and premises

The split of responsibilities for the maintenance of RFS occupied premises is complex, as per service agreement. Clarity is required around equipment and fixtures acquired with donated money – responsibility for insurance.

#### Rural Fire District Service Agreements

Before commenting on the form and content of Service Agreements and whether they are fit for purpose, Council wishes to acknowledge that the need for these agreements arises from the statutory assignment of responsibilities to local government in the Act, and that any change to the operation of these agreements would need to be backed by fundamental legislative change. However, there is a need in the short term to ensure that Service Agreements are regularly maintained and updated and that expectations of both parties are clear and current.

The current Blue Mountains Rural Fire District Service Agreement was ratified in 2012 and is based on a template that pre-dates that time by several years. Although the Agreement defines the date of commencement, there are no provisions relating to its lifespan or any require period for review. As such, the agreement will apply in its current form until it is replaced or an agreement for review is reached between the two parties.

Council has made representations to the RFS on several occasions, both through the local District Liaison Committee and to the Commissioner of the RFS directly asking that the Agreement be revised, however, the RFS indicated that they had no appetite to do so at the present time. As the agreement has remained static, it has now drifted out of alignment with current management policies and does not accurately reflect the operating environment in 2024 and beyond.

For example, the current Blue Mountains Service Agreement references parts of the Act that have been amended, the process noted for the development of local budget estimates and bids is no longer followed by the RFS, the included instrument of delegation does not align to Council's current delegation assignment policies, the list of premises is out of date given the movement of several Rural Fire Brigade stations, and the listing of Council services provided to the RFS is in dire need of revision given that Council is no longer able to provide certain support, such as the maintenance of RFS radio systems.

While Council's preference is that the underlying statutory arrangements be amended to reassign responsibility for assets and equipment to the RFS, thereby eliminating the need for Service Agreements, Council strongly recommends that there be an

immediate review of all Agreements to ensure that they at least reflect current legislation and operational policies.

#### Roles and responsibilities in relation to hazard reduction

As a land manager with a commitment to managing bushfire risk, Council accepts it will always maintain responsibility for hazard reduction work on land under its care and control. Council delivers an extensive bush fire management program, with a core focus on the provision of mechanically cleared asset protection zones, utilising a combination of internal funding and external grant income. In this regard, Council must acknowledge the ongoing assistance that the RFS provides to land managers such as Councils through the provision of this funding.

It is also important to note that Council often relies on the assistance of the RFS where hazard reduction burning is undertaken on Council land (and other fire authorities being Fire & Rescue NSW and the National Parks and Wildlife Service). Council is not a firefighting authority and has no internal capacity to carry out complex burning activities with its own resources, so a strong collaborative relationship is maintained in order to enable these important hazard reduction activities to occur on Council land.

Beyond hazard reduction work on Council land, the Act assigns local government other roles in relation to bush fire risk management, including being a recipient of bush fire hazard complaints (s 74C(1)(b)) that must then be referred to the RFS within 14 days (s 74C(3)), and serving as an issuing authority for bush fire hazard reduction certificates covering private land (s 100E(1)(a)). Council has conferred its responsibilities under s 100E of the Act to the RFS through the Service Agreement framework, however, the responsibilities relating to hazard complaints made in accordance with s 74C cannot be exercised by the RFS. Given that Council is required to refer any complaint it receives to the RFS, there appears to be no reason why Council should be required to receive such complaints in the first place.

Council therefore recommends that that Act be amended to remove local government as an issuing authority under s 100E, given that most if not all Councils will have conferred this function to the RFS, and that s 74C be amended to state that all bush fire hazard complaints be made directly with the RFS. This would simplify the process for the community and avoid an unnecessary referral process that adds no value.

#### Compliance with conditions of development consent

Since 2003, a robust framework has existed for the consideration of bushfire risk at the development application stage, with any house or other major building on bush fire prone land likely to have some form of conditioning applied to the development consent. In many cases, this will include the need to create and maintain an asset protection zone on the property on which the development is located, as well as other building-based elements such as ember protection and the use of non-combustible materials.

However, once an occupancy certificate has been issued, a compliance regime ensuring that these conditions are being met in perpetuity is largely absent. Council is not aware of any local government in NSW that has the capacity to proactively monitor and enforce bushfire related conditions of consent, particularly with regard to asset protection zones that are affected by vegetation regrowth. In the absence of monitoring, it is reasonable to assume that the protection afforded to residents and the broader community by construction to modern standards will wane over time as

ownership changes or occupants make conscious decisions not to maintain these measures.

Historically, the RFS position has been that as development consents have been granted under the *Environmental Planning and Assessment Act 1979* (the EP&A Act), enforcement of any related conditions, including those related to bushfire protection, is a matter for Council as the appropriate regulatory authority in relation to that Act. However, given the significant constraints on the capacity of local government to monitor the application of consent conditions and the length of time that enforcement under the EP&A Act can take, it is suggested that the Rural Fires Act be amended to allow the use of s 66, being the issuing of bush fire hazard reduction notices, on any site where a hazard is found to exist, including those subject to development consent conditions.

It is important to note that only offers of the RFS with delegated authority can exercise this power, so this would also effectively transfer responsibility for enforcement to the RFS. As a State-based organisation that can call upon resources beyond the local area, the RFS are clearly better placed to address these needs than local government.

#### Insurance for RFS occupied premises

The Service Agreement imposes an obligation on Council to provide an array of insurance related to the premises and district equipment. This includes both comprehensive insurance and public liability insurance. Although it is reasonable to expect that Council will insure buildings that it owns, the extension of the insurance requirement to firefighting equipment, that Council has no control over, seems unreasonable.

There is also a challenge with regard to the insurance of building contents, as Council does not control what equipment and ancillary items are stored within RFS buildings, nor does it have visibility of these items for the purposes of calculating insured values. This presents a risk that in a catastrophic situation, such as a total loss of a station and all contents, may not be adequately covered.

It is also important to note that these insurances represent a significant cost to local government that is not covered by the maintenance and repair grant allocated to Councils from the Rural Fire Fighting Fund. With ongoing cost pressures on local government, this presents yet another challenge to financial sustainability, particularly where insurance costs are rising due to recurrent natural disasters.

#### Land and construction management for RFS facilities

Recent RFS station construction projects have utilised NSW Public Works for project management. This model is fully supported by Council given its limited project management capacity, particularly at the present time where delivery of NSW Government funded projects is a high priority. It is therefore recommended that this approach be utilised on all RFS related projects into the future.

Council also commends the RFS commitment to fully funding station rebuilds and major refurbishments. However, it must be noted that Council is still required to provide advice and other in-kind support given that it will become the asset owner at the completion of construction. These remain costs to the organisation that are not covered by the RFS capital allocation.

### The role of local government in the provision of emergency services

The current supporting arrangements between both the RFS and SES reflect arrangements from several decades ago when volunteer-based emergency services arose as independent locally managed organisations. These community-led organisations were adopted and supported by Councils, with their elevation to State-based organisations occurring later to ensure consistency and interoperability across the State.

Given the move to centralised State-based management of both the RFS and SES, it is no longer appropriate or necessary for Councils to continue to provide the level of support that has existed in the past. Given the way the RFS and SES operate today, it is likely that a large proportion of the community perceive both agencies as being independent entities, however, under the present statutory framework, inherited from a past era, neither organisation would be capable of providing their services without the significant support that local government provides.

Given that most local governments will be required to provide material and financial support to either the RFS or SES, or both, it is reasonable to expect that the level of service provided to the respective agencies will differ widely between Councils. This clearly introduces potential for inequity in service delivery across the state, which was a key issue that centralisation of these services was intended to address. The development of a long-term strategy for the transfer of responsibilities for supporting RFS and SES operations to the State is therefore strongly recommended.

Were this to occur, Council acknowledges that the increase in costs borne by the State would almost certainly result in increased statutory costs to Local Government. Considering that the sustainability of statutory payments is already a major issue for local government, any such change must be coupled with fundamental reform to the funding model to ensure that the diverse array of services local governments provide to their communities are not adversely impacted by such a change.

### The sustainability of local government contributions to emergency services

As noted previously in this submission, the current trajectory for Council contributions to emergency services is unsustainable. As an example, Blue Mountains City Council's annual contribution to the RFS has doubled in the last decade, from approximately \$807,000 in 2013-14 to \$1.6M in 2023-24. This represents an average annual increase of over 8% per annum, although on a year-to-year basis, increases of up to 33% have occurred within this period. It should be clear that this represents a very significant challenge when revenue increases have been capped in the vicinity of 2% over the last decade.

However, the RFS is just one of three agencies to which local government must contribute to, and payments to Fire & Rescue NSW and the SES are additional to the figures above. In total, BMCC payments to the three agencies have risen from \$1.8M in 2013-14 to almost \$3.7M in 2023-24, which again averages to approximately an 8% increase per annum.

Blue Mountains City Council is a strong supporter of emergency service personnel and wants them to be well resourced. But the current funding model, which requires Council to make such significant contributions that they cannot forecast or influence, represents a threat to the levels of service they are able to deliver in other areas. The investigation of other funding models and mechanisms, such as a State-administered

property-based levy or the ability for Councils to levy an annual charge that makes the actual local cost visible to ratepayers, is necessary.

#### Support during incidents and emergencies

The current Blue Mountains Rural Fire District Service Agreement compels Council to provide an array of plant, equipment and personnel to support the RFS during major incidents. While local government is an important partner in the emergency management space and will support both other agencies and the community as resources permit, the expectation that Council will be able to provide such high-level support in perpetuity is unrealistic. This is particularly so when the ability for Councils to recover costs associated with these support services has diminished over time.

In the context of emergency support, it is important to note that local government staff are not emergency responders and are not trained or equipped to operate under emergency conditions. While Council endeavours to manage the safety and welfare of Council personnel deployed to emergency support activities, this potentially exposes them to considerable risks that they may not be prepared for, including psychosocial hazards and post-traumatic stresses. Even support within an incident control centre, that might once have been provided by general administrative staff, is an increasingly specialised area that requires an understanding of incident management procedures and access to RFS digital systems.

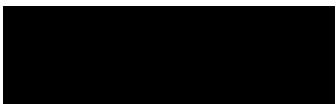
For these reasons, local government staff are not necessarily best placed to support modern emergency operations. It is therefore recommended that the reliance on local government resources and personnel be reduced, and other options for providing appropriately trained and equipped surge capacity be investigated.

#### Conclusion

The current statutory and operational relationship between local government and the Rural Fire Service represents a legacy of past arrangements and is not considered a good operating model in the current high-demand emergency management environment. Blue Mountains City Council therefore requests that the Public Accounts Committee give consideration to the matters raised in this submission, with a view to proposing sensible and achievable change in the medium to long term that reduces the reliance on Councils and their limited resources.

Should you seek further information in relation to any of the matters raised in this submission, please contact Council via [council@bmcc.nsw.gov.au](mailto:council@bmcc.nsw.gov.au).

Yours faithfully



ROSEMARY DILLON  
Chief Executive Officer