

ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE

Organisation: Campbelltown City Council

Date Received: 9 May 2024

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

Campbelltown provides this submission in response to the Parliamentary Inquiry regarding the funding, maintenance, accounting and operational management of NSW Rural Fire Service assets and premises, and more specifically regarding the impractical and financial impact on local council authorities having to account for RFS red fleet in their financial statements.

Issue

Whether the Rural Fire Service (RFS) or local council authorities should recognise red fleet assets and account for them in their financial statements.

Background

The Rural Fire Service does not recognise red fleet assets. This position was presented and agreed to by the Audit Office in 2018. In 2020 the Audit Office requested Treasury undertake a review of the accounting treatment of these assets.

During the 2016-17 financial audits increased focus was placed on accounting for RFS equipment, of which Council received mention in the audit management letter for the non-recognition of these assets stating "RFS assets, specifically the red fleet assets are vested in the Council and combined with other indicators, there is the presumption that they are controlled by the Council and should be recognised in Council's financial statements".

This continued for the proceeding years as the debate continued regarding the accounting treatment and who ultimately has care and control.

The Secretary of the Department of Planning and Environment wrote to the Auditor General, dated 7 June 2022, stating: "the State's position is that it does not control RFS assets. Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards". The correspondence also makes clear that "The Minister for Local Government does not have legal authority to direct councils in this matter".

On 22 June 2022, the Auditor General wrote to councils to advise of the Report to Parliament 'Local Government 2021' being recently tabled. This report brought together findings and recommendations from the 2020-21 financial audits of local councils and comments on financial reporting and performance, internal controls and governance and areas of interest that are in focus during the conduct of the audits. The intent of the letter was to draw Council's attention to the specific findings and recommendations reported to Parliament about rural firefighting equipment vested to councils.

Ownership, Care and Control – State's position

The financial statements of the NSW Total State Sector and the RFS do not include these assets, with the State having the view that rural firefighting equipment that has been vested to councils under section 119(2) of the *Rural Fires Act 1997* is not controlled by the State. In reaching this conclusion, the State argues, that on balance, it would appear the councils control the rural firefighting equipment that has been vested to them.

The Auditor General report outlined the RFS, a state government entity, has spent in excess of \$1.1 billion over the past 10 years on rural firefighting activities and equipment, all the while reiterating the State Government's position that it does not control this equipment.

The RFS advised it has a complete listing of the rural firefighting equipment vested to councils under section 119(2) of the *Rural Fires Act 1997* and provided this to the Department. The RFS also confirmed that as it does not control the equipment and is unable to confirm its value or condition. This information is contrary to what is happening in practice, namely that the transacting of purchases and sales of fleet and equipment happens through the State's Rural Fire Fighting Fund (the Fund) which holds all contributions required to meet the costs of the service and the Fund is maintained by NSW Treasury.

Ownership, Care and Control – Council's position

In accordance with previous updates of the Local Government Code of Accounting Practice, Council assessed whether it controlled any rural firefighting equipment in accordance with Australian Accounting Standards and had determined that the assets are not controlled by Council.

As defined in SAC 4, assets are future economic benefits controlled by the entity as a result of past transactions or other past events. This definition identifies three core characteristics:

- There must be future economic benefits.
- An entity must have control over the future economic benefits; and
- The transaction or other event giving rise to an entity's control over the future economic benefits must have occurred.

SAC 4 defines the control of an asset to mean the capacity of the entity to benefit from the asset in the pursuit of the entity's objectives and to deny or regulate the access of others to that benefit. Paragraphs 24 to 28 of SAC 4 provides further detail regarding control by an entity. It is important to note that legal ownership is not synonymous with control over the future economic benefits of an asset; detailed analysis and assessment must be undertaken to determine whether an entity has control over an asset.

Per AASB 116, the cost of an item of property, plant and equipment shall be recognised as an asset if, and only if:

- (a) It is probable that future economic benefits associated with the item will flow to the entity; and
- (b) The cost of the item can be measured reliably.

Simply put, Council has no say in the acquisition of the RFS assets, no involvement in their deployment, no visibility of location or movement, and no participation in the disposal process. This is purely facilitated by RFS volunteers and the brigades, directly supported and managed by the RFS.

The stocktake and recognition of these assets is a tokenistic process that is a further impost on Council's resources and, also adds to significant depreciation expenses for assets over which Council have no management or control, which in turn impacts Council's operating performance result and sustainability ratios.

Auditor Reports

Council in assessing whether to recognise RFS assets or not, was made abundantly clear by the Audit Office of NSW that should Council choose not to recognise, that our financial statements would receive a qualified audit opinion. This left Council with no alternative other than to recognise, given the potential reputational damage, potential intervention by the Office of Local Government via a performance improvement order, lack of eligibility for potential grant funding opportunities, lack of eligibility for NSW Treasury low-cost loan initiatives or impact on the General Managers performance assessment.

Summary

Campbelltown City Council feels strongly about the need to amend the *Rural Fires Act 1997* so that the effect is to make it clear that RFS assets are not the property of councils and 'vested' in the RFS. This would align the ownership, care and control and subsequent recognition and these assets and associated depreciation expense.

These assets, as detailed in Council's Detailed Assessment below, do not meet the asset recognition criteria as outlined in the Australian Accounting Standards or reflect the reality of the operational activities in practice.

Council does not deem control of RFS assets that are:

- specified and specialised as per the requirements of the RFS,
- purchased by the RFS,
- managed on a day-to-day basis by the RFS,
- RFS trained personnel drive and operate the equipment,
- deployed by the RFS as and when required within and outside of the Campbelltown LGA,
- transferred, repurposed and sold by the RFS and all this without reference to Council or any resulting funds being received by Council.

In practice

Preparation of detailed budgets for RFS related activities	RFS
Approves and oversees procurement of assets	RFS
Holds firefighting equipment, uniforms, and protective clothing	RFS
Trains RFS volunteers	RFS
Coordinates RFS volunteers	RFS
Directs resources to outside districts	RFS (Commissioner)
Maintains fleet	Council - service agreement
Stocktakes	RFS
Insurance	RFS
Owns buildings that are occupied by RFS	Council – some of which on Crown land
Fleet registration	Council

In addition to the below Detailed Assessment regarding control and recognition of RFS assets, Council also considered the term 'vested', given this forms the basis of the State Government view that Council maintains control over RFS assets.

Put simply, the term vested is defined as the 'present ownership rights, absolute and fixed'. It is a right to an asset that cannot be taken away by any third party without the consent of the owner. Whilst Council provides a maintenance contribution towards RFS red fleet, which is reimbursed from the Fund each year; Council does not own, acquire or dispose of RFS assets. Insurance policies relating to RFS assets are also in the name of the RFS which indicates that any legal matters relating to damages and claims are the responsibility of the RFS.

Furthermore, the 1996 Coronial Inquiry into the 1993/94 bushfires, outlined a key finding with respect to the management of Bush Fire Services relating to the problems with dual control of the Service by local authorities and the Department of Bush Fire Services. The Deputy State Coroner stated: "...what is required is a structured full time organisation, such as the Department of Bush Fire Services, to administer these organisations in respect of their District Fire Committee duties, unfettered from the interference of local Councils". The Court was of the opinion that the major problems which arose were brought about because of the grey area surrounding dual control. This further supports the need for the amendment of the *Rural Fires Act 1997*.

Campbelltown City Council Detailed Assessment

In line with Australian Accounting Standards and the Local Government Code of Accounting Practice and Financial Reporting, Council made an assessment as to whether it has control over RFS assets.

Council considered all factors in its assessment and noted the following:

Control Criteria Assessment	
<i>There must be future economic benefits</i>	There is no future economic benefit, or expectation thereof, embodied in the RFS assets that contribute to the flow of cash and cash equivalents to Council.
<i>An entity must have control over the future economic benefits</i>	<p>The definition of control should enable Council to benefit from an asset in the pursuit of its objectives and to deny or regulate the access of others to that benefit.</p> <p>This concept suggests that Council as the controlling entity can exchange, sell, retain and/or determine and direct the use of the asset.</p> <p>Under s119 of the RFS Act, the Commissioner is to seek concurrence of the council in which equipment is vested under to deal with incidents outside the council area. This concurrence is not sought or given from Campbelltown City Council by the RFS giving rise to the effect of no</p>

	<p>control of direct use the assets. Council does not have any right to direct the RFS as to how and where the assets are used.</p> <p>In practical terms, Council does not have control over what assets are purchased, sold or re-located by the RFS.</p>
<i>The transaction or other event giving rise to an entity's control over the future economic benefits must have occurred</i>	Council does not have control over RFS brigade management of their assets, nor control or economic benefit as a result of the purchase and or disposal of RFS assets.
Recognition Criteria Assessment	
<i>It is probable that future economic benefits associated with the item will flow to the entity</i>	<p>Council does not have control over the purchase and disposal of the assets under the Rural Fire Services Act 1997. A council must not sell or dispose of an item without written consent of the Commissioner. Any credits associated with a sale will be paid to the credit of the fund including any amounts recovered by the RFS from losses through insurance.</p>
<i>The cost of the item can be measured reliably</i>	<p>AASB16 makes no clear distinction between the initial costs of acquiring an asset and any subsequent expenditure on an item. All expenditure on item of IPPE must meet the asset recognition criteria to qualify as an asset or part of an asset.</p> <p>Further, future economic benefits include the assets ability to contribute to the entities objectives of delivery goods or services.</p>

Yours faithfully



Jai Rowell
Deputy General Manager | Director City Governance