

ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE

Organisation: Tweed Shire Council

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Public Accounts Committee
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 **02 6670 2400**
 tsc@tweed.nsw.gov.au
 tweed.nsw.gov.au
    
 PO Box 816
Murwillumbah NSW 2484

Dear Sir/Madam

Inquiry into the assets, premises and funding of the NSW RFS

Thank you for the opportunity to provide input to the above inquiry.

The inquiry covers a number of ongoing issues that have arisen since the introduction of the *Rural Fire Services Act 1997* (NSW) (The Act) and the delegation of responsibilities from local government.

Responses to Terms of Reference

1. The mechanisms for:

a. funding Rural Fire Service assets and premises

Councils contribute 11.7% under the provisions of the Emergency Services Levy (ESL) and as per Division 5, Part 5 of the Act. The outcome of the determination of the contribution is advised through State Government generally after the major considerations of the local government budget have been made. Timing therefore is inadequate with councils having to estimate the apportioning of funds when setting its budget for the following financial year

For the current financial year (23/24) this equates to \$414,592. The average annual increase for Tweed Shire Council's RFS contributions over the past 15 years has been 11%. The average annual rate peg increase over the same period has been 2.3%.

Whilst the percentage is consistent, the ESL funding model varies between the three separate agencies funded – being RFS, State Emergency Service and Fire & Rescue NSW.

Outside of the contribution there is an expectation that councils will also assist in the identification of council-owned suitable land where possible to reduce the cost on the delivery of RFS services.

Subsection 6.3 of the Rural Fire District Service Agreement (Service Agreement) stipulates the Commissioner (NSW RFS) has a right of occupation as specified and no tenancy, estate or interest in the land on which the Premises are situated.

The Premises located in Tweed Shire are located on a variety of land tenure arrangements being lease arrangement and Council-controlled or owned land.

Cost of leased arrangements are passed on through to the RFS budget allocations. Council does not charge a fee where the Premises are on Council-owned land.

Contrary to the Service Agreement at ss 6.5(b) Council does not pay electricity charges at the Premises, these are also passed through to the RFS budget allocation.

Council maintains separate building insurance as per subsection 6.5(d)(i) and its own public liability insurance however this would not extend to the RFS.

Council is involved in local RFS budget considerations, and contrary to ss8.1 is submitted by the local RFS not Council, post the local submission Council is not involved nor does it provide feedback once the budget bid is forwarded to State level for consideration, again contrary to ss8.2. This can then lead to additions that may not be for the betterment of the local brigades. One such example was a blanket State requirement for all stations to have water tanks installed. The tanks were not necessarily welcomed by brigades and was generally perceived as lower priority infrastructure.

Funding forecasts and consultation are not provided to nor undertaken with Council as per ss8.4 to 8.6.

b. Maintaining Rural Fire Service assets and premises

Council has no control in the maintenance of RFS assets and is generally not involved. RFS do have an option of engaging Council's mechanical services if requested and available.

Council generally maintains the RFS premises. When Council provides services to the local RFS the recovery of costs is direct.

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

Due to the ambiguity of the wording, Council is unclear if this term is referring to the accounting issue or the ownership issue of RFS assets. As they are separate issues, both have been addressed separately in the submission.

In regard to ownership of RFS assets.

Council refers to section 119 (2) of the Act in which all fire fighting equipment is vested in the council of the area. Council is unaware of why it was initially decided to keep ownership with the councils or why this should continue in any way. It is ownership in form only requiring formal agreements to validate the actual control of the assets by the RFS. Council has no actual involvement with the planning, acquisition, management, use or disposal of the assets and has no need or desire to do so. This is all controlled by the RFS as it should be.

It is considered that the whole section in relation to fire fighting plant and equipment should be repealed and all existing ownership transferred, with all existing agreements nullified.

In regard to accounting for RFS assets.

The preamble of the Inquiry mentions that it will be looking at the accounting of RFS assets. Item 1 c. of the Terms of Reference appears to be the only section where this is intended to be covered. The problem is the inclusion of the words "for the ownership" in the item. The Committee should be aware that accounting for assets in financial statements under relevant accounting standards is all about control and future benefits, not ownership.

Council believes that in looking at the accounting of RFS assets the Inquiry should specifically consider;

- Whether the RFS or local government should account for the assets; and

- The actions of the NSW Audit Office in this matter.

Which organisation should account for the RFS assets

The assets in question here relate to fire fighting plant and equipment purchased from the NSW Rural Fire Fighting Fund.

The requirements of accounting for assets are contained in the Accounting Standards and the Accounting Framework.

AASB116 provides the following in regard to what is an asset and when it should be recognised;

Definitions

Property, plant and equipment are tangible items that:

- (a) are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes; and
- (b) are expected to be used during more than one period.

Recognition

7 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.*

The key factors here is that they provide a future economic benefit by being used in the supply of services.

In the case of not-for-profit entities where benefits may not include cash inflows, the accounting framework provides;

53 The future economic benefit embodied in an asset is the potential to contribute, directly or indirectly, to the flow of cash and cash equivalents to the entity. The potential may be a productive one that is part of the operating activities of the entity. It may also take the form of convertibility into cash or cash equivalents or a capability to reduce cash outflows, such as when an alternative manufacturing process lowers the costs of production.

54 An entity usually employs its assets to produce goods or services capable of satisfying the wants or needs of customers; because these goods or services can satisfy these wants or needs, customers are prepared to pay for them and hence contribute to the cash flow of the entity. Cash itself renders a service to the entity because of its command over other resources.

Aus54.1 In respect of not-for-profit entities, whether in the public or private sector, the future economic benefits are also used to provide goods and services in accordance with the entities' objectives. However, since the entities do not have the generation of profit as a principal objective, the provision of goods and services may not result in net cash inflows to the entities as the recipients of the goods and services may not transfer cash or other benefits to the entities in exchange.

Aus54.2 In respect of not-for-profit entities, the fact that they do not charge, or do not charge fully, their beneficiaries or customers for the goods and services they provide does not

deprive those outputs of utility or value; nor does it preclude the entities from benefiting from the assets used to provide the goods and services. For example, assets such as monuments, museums, cathedrals and historical treasures provide needed or desired services to beneficiaries, typically at little or no direct cost to the beneficiaries. These assets benefit the entities by enabling them to meet their objectives of providing needed services to beneficiaries.

Essentially, an economic benefit can be derived where they provide a service that is in accordance with the entities objectives.

There can be no doubt that the service these assets provide, is rural fire fighting.

There can also be no doubt that the Rural Fire Service is the entity whose objective is rural fire fighting, per the following extract from the Act;

9 Functions of Service

- (1) The NSW Rural Fire Service has the following functions—
(a) to provide rural fire services for New South Wales, ...*

The assets are not used by local government and are not required for any local government service.

Accordingly, it is clear that once the Act transferred the function of providing rural fire services from local government to the RFS, the accounting for assets transferred as well regardless of ownership. From this point, Tweed Council along with most NSW councils have correctly not recognised RFS assets.

For reasons only clear to the NSW Audit Office (AO), they took the view that local government should account for the assets and as the auditor of the RFS, did not require them to recognise the assets from the outset. In the years before the AO also became the auditor of local government therefore, the issue remained unresolved.

It is interesting to note that during this period, the Office of Local Government (OLG) in the Local Government Code of Accounting Practice for each year, only included the following on this matter;

(bb) Rural Fire Service assets

Under section 119 of the Rural Fire Services Act 1997, “all fire fighting equipment purchased or constructed wholly or 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”. Until such time as discussions on this matter have concluded and the legislation changed, Council will (will not) recognise rural fire service assets including land, buildings, plant and vehicles.

The OLG left it to councils to make their own determination on the matter and they were never reluctant to prescribe how councils should report.

Since the AO took over the audit, slight changes to this have appeared until the code for 2023/24 came out with this change;

Rural firefighting equipment

22. Under Section 119 of the Rural Fire Services Act 1997 (NSW), ‘all firefighting equipment purchased or constructed wholly or 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 firefighting equipment has been purchased or constructed’.

23. *The NSW Government has confirmed its view that these assets are not controlled by the NSW Rural Fire Services or the State.*

24. *Councils should recognise material rural firefighting equipment in their financial statements. Councils derive benefits from the rural firefighting equipment's service potential on the basis they have delegated their legal responsibilities for bushfire prevention, under Part 4 Bush Fire Prevention of the RF Act, to prevent the transmission of fire from council landholdings (particularly asset protection zones) to private land holdings through the District Service Agreements with the RFS.*

The newly added highlighted paragraph 24 is the wording the AO have been using in management letters since 2017/18 in an attempt to justify their opinion on the grounds of who benefits from the assets rather than just ownership.

The Part 4 they refer to requires that it is the duty of public authorities and owners and occupiers of land to take steps notified by the RFS to prevent the occurrence and spread of bush fires on their land.

How the AO see this responsibility as more significant than the RFS responsibility under section 9 (1) (a) is hard to comprehend. It is also doubtful that the assets are ever used for the purposes of Part 4. If this is their strongest argument that local government is the main beneficiary of the assets then it is very clear they are only looking for evidence to support their position rather than looking at all the facts.

In conclusion, council contends that it is abundantly clear from the requirements of the relevant accounting standards and the accounting framework, that the RFS should account for the fire fighting plant and equipment assets.

The actions of the audit office in this matter

Council believes that the Public Accounts Committee in conducting this inquiry should not only put an end to the position that local government should account for RFS assets, but also take a serious look at the actions of the AO in this matter, including;

- How did they arrive at their position?
- Why did they not seek independent advice when they took on the audit role of local government?
- Why have they avoided reasonable debate or explanations?

It is therefore hoped that through this inquiry the Public Accounts Committee can finally put this right and instigate;

- A directive that the RFS should account for RFS assets;
- The removal of any mention to accounting for RFS assets from the code (not required); and
- The repudiation of audit qualifications given for non-reporting of RFS assets.

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

Council does not hold expertise in the operational management of fire fighting equipment nor the ability to affect a response to bush fire emergencies. It holds capabilities to construct and maintain built assets, however these are not capabilities unique to councils. Councils would

rely on the RFS to understand the hazards posed by bushfires, inform councils to identify risks of such hazards on its assets as would any organisation.

Councils play a role in local emergency management through their local emergency management committees and as stipulated in their local emergency management plans.

2. Whether the following arrangements between Councils and the Rural Fire Service are fit for purpose:

a. Service agreements

The Rural Fire District Service Agreement (Service Agreement) is not fit for purpose. The current agreement was signed in 2010 and remains in perpetuity. It is a generic agreement that may not fit each councils' capabilities and/or capacities.

It is outdated and does not reflect current practices. Examples through this submission highlights some of the inadequacies.

b. The division of responsibilities for bushfire management and hazard reduction

Council retaining ownership over bushfire management on its own land is adequate, especially in a location such as the Tweed where staff understanding and knowledge of the ecological sensitivities of the land is crucial to achieving sound ecological outcomes at a landscape scale. However, Council does not have the skills or expertise, and with current funding availability, is unable able to resource on ground implementation of hazard reduction (particularly burning) across its entire estate at the level expected by the community or the legislation.

Local RFS mitigation teams are a practical resource however it is Council's understanding their priority is assisting private landholders before public. Were Council to have a known / quantifiable level of commitment from a Mitigation team each winter to assist with preparation Hazard Reduction Certificates (HRCs) and undertake hazard reduction works this would be a more reasonable arrangement and achieve a greater level of on-ground results.

Further, given the ecological sensitivity of the Tweed, hazard reduction needs to be strategically planned at a landscape (shire wide) scale and in many instances requires significant and costly planning approvals before it can take place. Council does not have the staff resources to do the preparatory work and would benefit from a redirection of funding or resources from RFS to assist.

c. Upkeep of assets

As previously advised Council does not control nor maintain the District Equipment. The Service Agreement requires the Commissioner to maintain the District Equipment as per ss5.2. The arrangements are fit for purpose.

d. The provision of insurance

Council insures its buildings with RFS insuring Fire District equipment.

e. Provision of land and construction management for RFS premises

Currently Council will assist RFS, where possible, to make available Council-owned land for the location or relocation of fire control centre and rural fire stations. Where not possible, Council will assist in the identification of suitable land.

Current premises are a mix of private tenancy arrangements or occupation on Council-controlled or owned land.

Council maintains project management capabilities for construction projects however project management expenses should form part of the project costs.

Current arrangements are not fit for purpose.

Council advocates that the provision and management of RFS services including the premises should be conducted by the RFS.

The provision of adequate emergency services is a role of the State. The State is best placed to consider the strategic and operational aspects of these services. The various services currently plan independently and generally in isolation of each other. Council considers the cost of services could be more efficiently utilised if the various emergency service organisations worked more closely together to identify cost savings including where services, particularly the predominantly volunteer-supported services, could possibly co-locate and share common facilities such as training rooms, kitchens and ablution areas.

f. Bushfire Management Committees

Council's direct responsibilities to the Bush Fire Management Committee (BFMC) include attendance and participation in quarterly meetings and providing quarterly reporting on its progress against bush fire risk mitigation actions identified within the Far North Coast Bush Fire Risk Management Plan. These responsibilities are fair and fit for purpose.

Beyond direct responsibilities to the Committee, Council's responsibilities under the Far North Coast Bush Fire Risk Management Plan (FNC BRMP) include not only land management, but a high level of obligation to undertake community education to better prepare the public for bush fire, particularly in locations where hazard reduction is not achievable. Tweed Shire Council recently completed the 'Tweed Bushfire Resilience Project' - a shire wide education program aimed at increasing public knowledge about the value of private property preparedness, along with developing a bush fire risk mapping and property report tool to assist landowners in bush fire prone areas to understand their overall risk. This project was possible due to external funding under the (post black summer) NSW Bushfire Resilience grant program, which allowed a project officer to work full time on its delivery. While effective as a broad scale communications exercise, the risk mapping and landowner preparedness information was developed at a shire wide scale and, did not provide information at the more granular scale expected under the FNC BRMP, which seeks to provide tailored advice to residents and landowners based on their site-specific characteristics. Current resourcing within Council is not able to support this level of communication or engagement and assistance from RFS in delivering on this action would be appropriate.

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

Council's expertise is not in the delivery of adequate emergency services for the local government area.

Council's role should be supportive in the provision of these services such as it plays in hazard mitigation through bush fire hazard management on public lands and the BFMC, floodplain management, strategic and statutory planning requirements, road safety, supporting community engagement and communication, Local Emergency Management Committee etc.

Council strategies such as those relating to housing, land development and infrastructure could also assist emergency service organisations in better understanding the future demands of our communities.

4. the sustainability of local government contributions to emergency service provision;

As previously mentioned, the average annual increase for Tweed Shire Council's RFS contributions over the past 15 years has been 11%. The average annual rate peg increase over the same period has been 2.3%. The contributions are funded through the General Fund. The model is not financially sustainable.

5. Any other related matters;

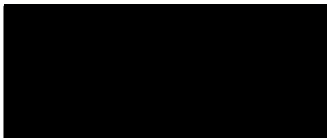
Council recommends the State consider an alternative emergency service model merging the various agencies heavily reliant on volunteers such as, RFS, SES, Volunteer Rescue Association and Marine Rescue to create a core corporate service focus and have an organisational structure that deals with in and on water rescues, fire, marine hazards and general land search and rescue operations.

Post the NSW 2022 severe wet weather events across the State, emergency services agencies were required/encouraged to upskill and increase flood rescue capabilities to support the SES. This increase in capability is particularly beneficial in rural/remote/regional areas.

However, what we are also seeing is the enthusiasm of some local volunteer groups extending themselves into the operations of core emergency service operations such as Fire and Rescue NSW. This then may create duplication and competition for a community's volunteer dollar where perhaps it is better expended elsewhere.

Thank you for your consideration.

Yours Sincerely



Troy Green
GENERAL MANAGER