

**Submission
No 65**

ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE

Organisation: Local Government Professionals Australia, NSW

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Legislative Assembly
Public Accounts Committee
NSW Parliament
Macquarie Street
SYDNEY NSW 2000

Dear Public Accounts Committee

Inquiry into the assets, premises and funding of the NSW Rural Fire Service

Thank you for the opportunity to contribute to your inquiry into the assets, premises and funding of the NSW Rural Fire Service.

Local Government Professionals Australia, NSW is the leading association representing the professionals in NSW local government.

This inquiry is welcome by the Association, as it has long been unclear who owns the RFS rural firefighting equipment in terms of accounting and financial sustainability. This has big financial impacts for NSW councils, as they face increasing costs to provide essential services to communities.

The Rural Fires Act 1997 was proclaimed in 1997 and established rural fire districts to co-ordinate bush firefighting and prevention, as well as the NSW Rural Fire Service comprised of the Commissioner, other staff and volunteer firefighters. The rural fire districts were constituted around local government boundaries. Over many years, the RFS has evolved from being part of the local council to now being a State Government Agency reporting to the RFS commissioner.

The evolution of the Rural Fire Service since 1997 has not been reflected in the Rural Fires Act, resulting in the current day misalignment of accountability and responsibility.

RED FLEET ASSETS AND ACCOUNTING TREATMENT

The criteria for asset recognition are contained in various sections of the *Framework for the Preparation and Presentation of Financial Statements* and AASB 116 *Property, Plant and Equipment*.

The Framework provides the following guidance:

- An asset is defined as “...a resource **controlled** by the entity as a result of past events and from which future economic benefits are expected to flow to the entity” (para 49)
- “In assessing whether an item meets the definition of an asset, ... **attention needs to be given to its underlying substance and economic reality and not merely its legal form**” (para 51)
- In respect of not-for-profit entities, economic benefit may be synonymous with service provision or enabling them to meet their objectives to beneficiaries (para Aus54.2)
- The right of ownership is not essential to the determination of control (para 57)

AASB 116 requires that an asset be recognised if, and only if, it is probable that future economic benefits associated with the item will flow to the entity and the cost of the item can be measured reliably.

Despite the provision in the Rural Fires Act regarding the “vesting” of firefighting equipment with council, once the funds are made available, the assets are alienated from council control. Specifically:

- The RFS is funded directly by the State and acquisitions are made directly by RFS Officers. Councils have no input into the operations or acquisitions of the RFS;

- There is no requirement on RFS to supply to councils and maintain the currency of information about equipment, reinforcing the idea of separation of responsibility and accountability;
- Consent for actions that concern the equipment remains with the NSW Rural Fire Service Commissioner;
- Monies resulting from the sale of equipment or associated with damaged or destroyed equipment cannot be remitted to councils, to the extent that the purchase or construction of the equipment was met by the Fund;

The Office of Local Government commissioned Colin Parker, Principal GAAP Consulting in April 2018 to review the existing arrangements for evaluating, identifying and recommending the proper recognition of Rural Fire Services (RFS) assets, including how they should be accounted for to achieve more clarity and consistency within the local government sector.

Colin Parker is highly respected as a former member of the Australian Accounting Standards Board and independent from the NSW Government, NSW Audit Office, local government sector.

The independent assessment concluded that:

- *The authoritative pronouncements strongly indicate that the fire fighting equipment should be based on control rather than legal vesting (and related assessments of risks and rewards of ownership).*
- *The service potential of an asset is specific to an entity in meeting its objectives. An asset cannot be controlled by two entities. The fire fighting equipment in question benefits both the councils and the RFS in helping them to comply with their legislative requirements.*
- *The RFS has the substantive responsibilities for the prevention, mitigation and suppression of bush and other fires in local government areas of NSW and controls fire fighting equipment to meet its statutory objectives. It is the reason for the RFS's existence.*
- *On the other hand, councils have their own unique responsibilities under the Local Government Act 1993 such as prescribed functions (s.21) and service functions, including the provision of goods, services and facilities and carrying out of activities (s.24), public land, environmental upgrade agreements, and regulatory functions. The councils also have what I would consider as secondary or ancillary obligations under Rural Fires Act 1997 to those of RFS.*
- *Through its service standards and rural fire district service agreements, the RFS has decision making authority over fire fighting equipment under the Act. The RFS exercises this authority through them, including the functions of zone managers and rural fire brigades. Many of the decisions are delegated by the RFS commissioner.*
- *Furthermore, control of fire-fighting equipment by the RFS is evident by procurement (and replacement and retirement) decisions, service standards for care and maintenance, access, and deployment within the district and elsewhere. These are substantive rights of RFS. The RFS also has a protective right that prevents councils from selling or disposing of the assets without written consent of the RFS commissioner. There are instances noted by some councils where the 'delegates' of the RFS restrict council access to fire fighting equipment.*
- *The councils have no substantive rights for the control of fire fighting equipment – vesting by itself does not confer control.*
- *Fire fighting equipment recognised by some councils should be derecognised.*

The 'Parker Report' report followed the Australian Accounting Standards and Generally Accepted Accounting Principles (GAAP), which are standard practices and rules from the Financial Accounting Standards Board (FASB) that aim to make financial information more consistent, clear, and comparable.

This independent assessment showed that the Accounting Standards suggest that accounting for Rural Fire Service fire fighting equipment should depend on control rather than legal ownership. The 'Parker Report'

findings on how to recognise Rural Fire Service fire fighting equipment assets were reasonable, including how they should be accounted for to improve clarity and consistency across the government sector.

FUNDING AND OTHER FINANCIAL CONSIDERATIONS

Fire and Rescue NSW (FRNSW), NSW Rural Fire Service (RFS), and NSW State Emergency Service (SES) are funded through the Emergency Services Levy (ESL), with annual contributions sourced from:

- Insurance policies 73.7%
- NSW Government 14.6%
- Local Government 11.7%

A part of the total ESL is allocated to the Rural Fire Fighting Fund, based on the RFS's estimated expenditure. The arrangements concerning the determination and collection of the ESL are currently subject to a NSW Treasury review.

Apart from the ESL payments made by councils, there are other costs that councils incur to support the RFS. One of the financial burdens for councils is having to find land for new RFS facilities. The NSW Government pays for the building costs through grants, but not for the land costs. Section 12A of the Rural Fires Act and the Service Agreements also make councils responsible for providing suitable facilities for the RFS. These costs are often higher than the Emergency Service Levy (ESL) that councils already pay. We also note that there is considerable inconsistency and high complexity in how facilities are funded.

IN CONCLUSION

LG Professionals, NSW strongly recommends changing the Rural Fires Act 1997 so that rural firefighting equipment is no longer "vested" to councils, to align the treatment of assets with accounting conventions.

This would ensure the Rural Fire Service to account for rural firefighting equipment assets that they control and provide greater public accountability.

Councils appreciate the RFS and recognise they have one of the most vital and important roles in the community. Every fire season, they show their capacity and establish their place in NSW as an efficient combat agency that the community relies on for guidance and assistance in managing fire in the environment.

We are calling for changes in how funding and assets are managed, but we are not proposing any cuts to funding. As natural disasters are becoming more common and severe, we anticipate that emergency services funding will have to grow over time.

In conclusion, it is the Association's firm opinion that councils do not control Rural Fire Service firefighting equipment assets and therefore should not be recognising the assets in their financial statements. The LG Professionals, NSW Board and I would welcome the opportunity to explore this with you further.

Yours sincerely

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David Tuxford
President