

ASSETS, PREMISES AND FUNDING OF THE NSW RURAL FIRE SERVICE

Organisation: Weddin Shire Council

Date Received: 11 May 2024

Public Accounts Committee Review into the Accounting Treatment of RFS Assets 2024

Terms of Reference:

That the Public Accounts Committee inquiry into and report on:

1. The mechanisms for:
 - a. Funding Rural Fire Service assets and premises
 - b. Maintaining Rural Fire Service assets and premises
 - c. Accounting for the ownership of RFS assets and premises
 - d. Operational management, including the control of assets and premises, risks, and impacts to local government, and the ability to affect a response to emergencies.
2. Whether the following arrangements between Councils and the Rural Fire Service are fit for purpose:
 - a. Service agreements
 - b. The division of responsibilities for bushfire management and hazard reduction
 - c. Upkeep of assets
 - d. The provision of insurance
 - e. Provision of land and construction management for RFS premises
 - f. Bushfire Management Committees.
3. The appropriate role for local authorities in the provision of emergency services.
4. The sustainability of local government contributions to emergency service provision.
5. Any other related matters.

Weddin Shire Council Submission



Weddin Shire Council Advocates against the Requirement for Councils to account for the Ownership or 'Control' of Rural Fire Service Assets and Premises (RFS Assets) and report RFS Assets in their financial statements as the Agreement stands between RFS NSW and Councils

TO: The Public Accounts Committee

The position held by Weddin Shire Council is that it does not own or control RFS Assets (or the Red Fleet and its Premises).

Preamble:

Historically, the RFS was always been a strong community based function. This however, has changed over the years. It has evolved from a community based function to becoming part of the local government (Councils) instrumentality to now becoming a State Agency. This has coincided with the statutory and regulatory changes that the RFS has been regulated under. With the introduction of the Rural Fires Act in 1997 and further

amendments in 2001, the RFS is now regulated and controlled under this Act through its State Government Agency, the RFS.

The RFS staff are employed by the RFS. This came into effect with the 2001 changes (amendments) to the Act. We along with most local Councils believe the assets and the control of those assets similarly rest with the RFS.

Despite this evolution and regulatory and statutory change, the RFS (and the NSW Audit Office) maintain the position that RFS assets (namely the Red Fleet and the premises that houses this fleet) are owned, held and controlled by local Councils.

Our Position:

In our response we invite the Committee to focus primarily on the following items that are key to us.

- 1. The mechanisms for:*
- b. Maintaining Rural Fire Service assets and premises,*
- c. Accounting for the ownership of RFS assets and premises, and*
- d. Operational management, including the control of assets and premises, risks, and impacts to local government, and the ability to affect a response to emergencies.*

Weddin Shire Council (and as have most NSW regional Councils) has formed the view that we do NOT own, or control, or enjoy an economic benefit from Red Fleet assets and therefore we should NOT report these assets in our financial statements.

We do NOT recognise them in our financial statements because we do not believe that the current arrangement between Councils and the NSW RFS complies with Australian accounting standards.

We can only assume that the NSW government's auditors, the NSW Audit Office (NSWAO) take the counter view of RFS NSW that these assets DO in fact belong to Council, and that Council DOES enjoy an economic benefit from holding these RFS assets, and that the Red Fleet ARE actually controlled by Councils. Because they take this position they issue a qualified audit opinion on RFS assets on our financial statements and on all other Councils that materially misstate their financial statements by the NON inclusion of the RFS fleet.

Further, as we and many other Councils do NOT recognise RFS Assets and their premises (the Red Fleet) we would like to challenge then that the financial statements of the RFS should probably include them on their balance sheets to meet Australian Accounting Standards. Put simply since they are assets that are controlled by the RFS then the RFS should in accordance with Australian Accounting standards report them. Further, they should, based on accounting standards as they are written and interpreted also in our opinion receive an audit qualification for omission.

These qualifications get tabled and reported to Parliament communicating that our Council (and many others) is not complying with accounting standards. This is contrary to our view and the position we are articulating in this paper and recommending to this Public Accounts

Committee Review is that we ARE in fact complying with Australian Accounting Standards based on the current arrangements in place between RSFS NSW and local Councils in NSW. There are many qualified experts in the field of accountancy that hold the same view as ourselves and the view taken by the majority of local Councils, and that is that in accordance with Australian Accounting standards, and in accordance with the current arrangements between RFS NSW and Councils that Councils cannot possibly control their Red Fleet based on the facts and in accordance with the recognition and measurement definitions of control within the accounting standard 116 Property Plant & Equipment.

In accordance with **AASB 116 Property, Plant & Equipment** – the Recognition Clause (7) states that 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 test here is whether, according to the first limb of clause 7 (a) the recognition of an asset, there are future economic benefits from the holding of the Red Fleet that will flow to Council? Or in fact do these economic benefits actually flow to the RFS? Who really is in control of these assets?

The argument surrounding the accounting for the RFS assets centres around who enjoys the economic benefits. Put another way who actually holds the control of the assets under the Australian Accounting Standards and can direct where that benefit flows to? That is, who actually benefits here in an economic sense?

The current view taken by the RFS, some Councils and also the NSW Audit Office is that the first component of this recognition clause of AASB116 means that the benefits actually flow to Council. Our view and many other Councils is actually contrary to this. That is, we believe that the RFS assets cannot be recognised as Council assets and we will further elaborate why we take this view.

For example if Council (speaking hypothetically) was to own or control the Red Fleet then it could then contemplate control over where the fleet is kept, how and how often it is to be maintained, control over when and when it can and cannot be driven and used (and housed for that matter) in its ordinary Council operations as is the case with any other piece of equipment, vehicle or assets that it owns, holds and or controls. Council could then decide when and when not to use the fleet.

Council would be getting a future economic benefit for the asset or at the very least recovering on its outgoings and costs. Council should be in the position through its arrangements with RFS NSW to be able to recharge for the actual running costs to run and control these assets back to the NSW government so that Council actually enjoys the 'economic benefit'. As it stands now Council do not receive sufficient funds back from RFS NSW to maintain the fleet, they incur the depreciation or loss over time on the wear and

tear of the assets, they are required to include the Red Fleet on their insurance cover which involved further running costs to Council. Most if not all Councils we would argue that they incur a net deficit or an economic loss and not a surplus or economic benefit. As it stands the current arrangements in place do NOT provide Council with an economic benefit. The arrangements in place clearly have the controller in the transaction of holding and running the assets with RFS NSW.

If Councils were commensurately compensated to enjoy a surplus from the holding of these assets then this could be seen as a strong argument to conclude that Council is in fact enjoying an economic benefit and therefore the RFS assets Red Fleet should in fact be recognised (per the AASB116 Recognition Clause (7)) on Council's balance sheets respectively. However, as it stands we do NOT consider that Council enjoys an economic benefit and that is why we do NOT recognise the Red Fleet as assets of Council.

Council cannot just 'start the engine' and drive the fleet somewhere to perform a particular function, albeit hazard control works within Council boundaries, or to the contrary not drive it. Obviously if there was a fire naturally Council is always going to drive it but I say this for illustrative purposes only.

This is all prescribed by the current agreement in place between the two bodies. Based on the present agreement in place, and rightly Council must act on the directive/s and delegation of RFS NSW in all respects in accordance with its agreement with RFS NSW. Furthermore it must maintain the asset under the directive of the NSW RFS.

But by complying with the current arrangements Council does not enjoy economic benefits and do not control the assets and therefore SHOULD NOT report the RFS assets in their balance sheets accordingly.

It therefore clearly cannot be said that the benefits of this asset will flow to Council. In fact the contrary is what we have illustrated here and that is why Weddin Shire Council takes this view.

Essentially, Council is saying that for the Red Fleet to be an asset of Council, this requires Council to have full control over the fleet, which it clearly and evidently does not and unlikely will do in the future either. Or it needs to be compensated appropriately so that it can enjoy an economic benefit from that asset and therefore report the asset in its financial statements.

One pre-eminent expert in the field of Accountancy and Accounting Standards often mentioned is Mr Colin Parker. Colin is:

- a Bachelor of Business (Accounting) RMIT,
- a Fellow of The Institute of Chartered Accountants in Australia,
- a Fellow Certified Practising Accountant with CPA Australia, and
- a Member of the Australian Institute of Company Directors

Colin has issued many papers on Red Fleet where he says that they do they meet the definition of AASB116 where such assets are purportedly held and controlled by Council. Notably, a paper called 'Review of accounting for 'red truck' assets and other fire-fighting equipment in NSW, April 2018.¹

Colin's main finding and conclusion is that it is the RFS (and not the Councils) - through its service standards and rural fire district service agreements, that possesses the decision making authority over fire-fighting equipment under the Act. Further, the RFS's procurement decisions, replacement and retirement determinations, service standards and the RFS's protective right preventing Councils from selling or disposing of assets without written consent, all contribute to the conclusion that control of the assets rests with the RFS.

This is the view that Weddin Shire Council also takes and the 'lived experience' that Weddin Shire Council, and all Councils for that matter have.

This requirement that Councils' include the Red Fleet in their financial statements is inconsistent with, and contrary to Council it at the same time having to certify that their financial statements meets Australian Accounting Standards and all the legislative requirements.

Weddin Shire Council as do many other Councils for this reason, continues to not account for RFS assets in its financial statements.

We thank the Public Accounts Committee for reviewing our Submission and respectfully ask that the Committee review the definition of an asset in accordance with AASB116 Property, Plant & Equipment, who actually has control over the Red Fleet, and then overlay this to see if the proper accounting treatment of the Red Fleet is currently being adhered to by being required to be included in Council's financial statements.

In addition we recommend that the Committee also review s119 of the *Rural Fires Act 1997* to determine whether with the matters raised here along with all the other weight of evidence and commentaries respectively in the public domain on this topic, that in fact RFS assets are not deemed to be the property of Councils.

In conclusion, Weddin Shire Council respectfully makes the following recommendations to the Public Accounts Committee to consider:

1. that you consider and recommend to Parliament an amendment to the existing section 119 of the Rural Fires Act 1997 be made, to more clearly set out that the red fleet assets are not vested in local Councils as is contested at present but rather be vested in the RFS, and

¹ Colin Parker, Principal and Former Member of the Australian Accounting Standards Board, GAAP Consulting, 'Review of accounting for 'red truck' assets and other fire-fighting equipment in NSW', April 2018. The report is listed as a final draft, and notes that the Office of Local Government asked that the draft report first be considered by NSW Government before any consultation with the local government sector. This local government consultation on the report never occurred and the report was not shared publicly until it was successfully released under a Government Information (Public Access) Act request in 2022.

2. that you consider and recommend to Parliament that in consideration of the recognition clause within Australian Accounting Standard AASB 116 Property Plant and Equipment, and the notion of economic benefit and control and in consideration of the notion of economic benefit and control - that the red fleet assets do not get vested to local Councils, or
3. if they do then that you consider and recommend that an amendment to the Agreement between the RFS and Councils be made to make sure that Councils are compensated adequately and fairly so that they can in fact enjoy an economic benefit. As such they will then meet the current accounting standards as they are, and then be able to report the red fleet in the balance sheets, and finally
4. that you recommend to Parliament that a review of the Act should be performed with the intent to better define the actual and legislatively binding respective roles, responsibilities and functional arrangements of the RFS and local government.

Weddin Shire Council would be pleased to provide clarification on any matter raised in this submission. For further information, please contact, John Thompson, Director of Corporate Services, at [REDACTED] or on [REDACTED]