

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

**Organisation:** Canberra Region Joint Organisation

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# **Canberra Region Joint Organisation's submission to the NSW Parliament Public Accounts Committee inquiry into assets, premises and funding of the NSW Rural Fire Service**

## **Introduction**

This submission is from the Canberra Region Joint Organisation which comprises eleven NSW councils as members of the joint organisation, as well as the Canberra Airport & ACT Government:

- Goulburn Mulwaree Council
- Snowy Valleys Council
- Eurobodalla Shire Council
- Bega Valley Shire Council
- Snowy Monaro Regional Council
- Queanbeyan Pelerang Regional Council
- Yass Valley Council
- Upper Lachlan Shire Council
- Hilltops Council
- Wingecarribee Shire Council
- Wagga Wagga Regional Council

This submission is to the Public Accounts Committee inquiry into assets, premises and funding of the NSW Rural Fire Service which will examine:

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 Rural Fire Service assets and premises;
  - 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;
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.

Submissions have been called for at the commencement of the inquiry's process with guidance as to submission content only from the inquiry's terms of reference, as above, with no specific questions, issues or discussion items/paper prepared by the committee as yet.

This submission to the inquiry is in addition to individual submissions that have been made by Canberra Region Joint Organisation member councils.

## Summary

CRJO's member councils support the services provided by the RFS to our local communities and are advocating for an efficient model to ensure the RFS can operate well without dependency on councils.

Our member councils particularly respect and support the large community volunteer base involved in the RFS. While seeking reform of funding and asset management arrangements, councils are not making any criticism of the core operations of the RFS' volunteer base.

The submission recommends removing legacy arrangements which are outdated and do not align to fundamental accounting principles and are inefficient for both councils and the RFS.

The submission also provides information to recognise and clarify the roles and responsibilities of local government in providing emergency services and the impacts and consequences on local communities due to significant financial and administrative contributions to emergency service provision.

The RFS must be in control of its own organisation, governance and resources in order to meet the growing expectations of communities.

The submission presents an argument against the current requirement for councils to account for RFS assets, particularly considering that the RFS - through its service standards, rural fire district service agreements, Treasury documents regarding 'red fleet' assets and legislation - possess all decision-making powers and control over all equipment and assets including:

- vehicles which are housed in RFS stations and relocated, deployed and disposed of by the RFS. At no stage in the life cycle of RFS assets do councils have any input into their management, and
- buildings used solely by the RFS, constructed using state government funding and then vested in Council to manage the maintenance and wear the depreciation, despite councils not actually even able to access the buildings, let alone the public.

These unusual arrangements are a legacy of the past and change is needed so that RFS is responsible for their assets similarly to other NSW emergency services: Fire & Rescue NSW; NSW State Emergency Service; NSW Ambulance; and the NSW Police.

Councils have significant service obligations and financial sustainability problems and are missing opportunities for service delivery to their ratepayers because of the cost of depreciation of RFS assets on top of the contribution councils make from ratepayers' funds to fund the RFS.

The RFS is no longer delivering firefighting services on behalf of councils as was the case in the past but rather is a stand-alone emergency service and management of its assets, premises and funding should reflect that separation from councils.

There are examples of RFS assets (aircraft) and buildings (State Operations and HQ building) which are not vested in councils, indicating alternative arrangements are possible and we seek to have these arrangements investigated as alternatives to assets being vested in councils.

Local government has been advocating for the ownership agreement to be settled for several years by amendment to the Rural Fires Act and the sector supports the Rural Fires Amendment (Red Fleet) Bill 2023 introduced into Parliament by Adam Marshall MP which sought to address inconsistencies of compliance with the Act and the significant financial implications of vesting assets in councils.

The Bill would make it clear that RFS assets vest in the state government in the same way that assets of other emergency services in NSW are vested in the state government.

## **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 Rural Fire Service assets and premises;**
- 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;**

**Regarding funding of the RFS**, introduction of a broad-based property levy to fund emergency services in NSW is preferred by councils with such a levy be undertaken by the state government and levied like land tax rather than using local government as a collection agent.

Consideration should be given to removing the emergency services levy on both insurance and councils and replacing with a broad-based property levy, as is adopted by most other states. Mechanisms should be put in place to ensure that the insurance industry is compelled to reduce insurance policies by the amount equivalent to the fire levy.

Currently, the NSW Government provides councils with the annual contribution assessment notice in April each year. This notice includes councils' indicated contribution amount to RFS. The timing is problematic given that the contribution amount must be included in council budgets and council budgets are required to be placed on exhibition to the public for at least 28 days before being adopted by 30 June. Council then does not receive formal notification of the RFS allocation until later in the year, often as late as December. Most regional councils do not have the financial capacity to fund RFS support given our highly financially constrained operating environment.

The Rural Fire Fighting Fund allocates funding between fire districts and councils for operations and was historically used to calculate the amount of the emergency services levy for individual councils. Budget management and financial reporting of the Rural Fire Fighting Fund is not clear or understandable to councils.

**Regarding maintenance of Rural Fire Service assets and premises**, councils, under service agreements, may be required to provide administrative support to the RFS to undertake procurement activities related to new building assets for the RFS and councils have no input or control into the decision for the expansion, renewal or building of new assets and premises. With many, sometimes more than 30 for a single council, RFS premises in each local government area, and despite having no control over the costs to operate and maintain these, councils are responsible for providing budget monitoring to ensure expenditure aligns with the allocation from RFS. This places pressure on the staff of RFS and has resource impacts on council as well.

Rural and regional councils do not have the financial capacity to manage the community assets we are directly responsible for let alone those further imposed upon us by the state through the RFS Act. This can be clearly evidenced through observing financial results of local government and reviewing asset management schedules that compare asset values, depreciation and infrastructure renewal ratios.

The RFS determines the servicing schedule and level of servicing for each vehicle and in some councils, this work is undertaken by council employees.

**Regarding accounting for the ownership of Rural Fire Service assets and premises**, councils no longer have management and control in the acquisition, deployment, usage or disposal of RFS assets which are managed by the RFS. Assets held by Fire and Rescue NSW and the State Emergency Service (SES) are appropriately vested with those organisations rather than councils and this inconsistency should be addressed with there being no justification for retention of legacy arrangements whereby RFS assets are vested in councils. The vesting of RFS assets in councils means that councils must record RFS assets as council property in financial statements and fund depreciation costs as well as

the costs of inspecting, recording and booking these assets in their accounts, whilst having no control over these assets or operations of the RFS.

It is inefficient and ineffective use of ratepayers' funds with a requirement for councils to inspect these specialised assets that councils do not have any control over, and then make an assessment as to current condition and value. This diversion of resources distracts councils from their core work for the community and does not provide any value with the existing arrangement. It would be far more logical and efficient for a single specialised agency that owns and operates this equipment, the RFS, to undertake this stocktake and reflect these assets in its own financial statements, consistent with how Fire and Rescue NSW and State Emergency Services assets are administered.

This NSW Government policy disproportionately impacts smaller rural and regional councils as they have a proportionally larger RFS presence.

The argument that depreciation expenses are merely book entries and not a cash expense is not an appropriate justification for vesting RFS assets in councils as this equally applies should they be vested in the RFS. Regardless of being a non-cash expense, depreciation expenses impact on councils' financial performance ratios and limit expenditure on councils' services.

Reference to responsibilities of local government under the Rural Fires Act as a justification for councils recognising RFS assets in council financial statements is inappropriate given it is clear that councils have secondary and ancillary obligations under the Rural Fires Act whereas the RFS has primary responsibility for the prevention, mitigation and suppression of fires in NSW. This has been the case since 2000 when legislative change meant that local government no longer had any role in the employment or management of RFS staff.

Audit results for councils are confusing with there being various contentions by auditors that councils dispute such as: that councils have control over RFS assets; that councils can prevent the RFS from directing the use of the rural fire-fighting equipment by either not entering into a service agreement or by cancelling existing service agreements; and that councils obtain economic benefits from the rural fire-fighting equipment as these assets are used to fulfill council's responsibilities.

The committee's attention is drawn to the GAPP Consulting report, written by Colin Parker, commissioned by the NSW Office of Local Government, which supports councils' position to vest RFS assets in state government not councils.

NSW Treasury and the NSW Auditor General assert that the RFS 'Red fleet' of operational vehicles can be controlled, deployed, disposed of, and relocated by councils. Councils do not agree. The vehicles are purchased and constructed by the RFS, installed in a brigade station, deployed to local, out of area and interstate incidents without the knowledge or consent of council. The deployment out of the shire regularly occurs during times of increased fire activity across the state and in doing so the resource is not available for the protection of the community in which it is housed and vested. Council has no oversight in the reduction of availability of emergency resources when this occurs.

To further demonstrate the lack of control in purchasing or allocation of red fleet in local government areas, we note that quite often the first time that council becomes aware of a new RFS resource in the LGA is a social media post showing a member of the RFS Executive and NSW Government politicians handing over the keys to the host brigade. There is no formal notification to council and therefore impossible for us to be responsible for the accounting of these assets.

RFS policy and RFS Service Standards and rural fire district service level agreements confirm that decisions around fleet are purely those of the RFS and also include the intent that asset ownership has been marked for review in the Asset Management Policy Implementation Plan.

The *Rural Fires Act 1997* both compels the RFS to vest assets in council and prohibits council from selling or disposing of assets without the written consent of the commissioner of the RFS, further supporting the fact that councils have no control of the assets and therefore cannot be responsible for the accounting of these assets.

RFS stations, while vested in council, are not open for use by any person other than an RFS member. In addition, the fire control centre and training facilities that are accounted for and maintained by council are not even a shared resource between RFS and councils.

Section 119 of the Rural Fires Act 1997 states that firefighting assets purchased wholly or partly from money credited to the RFFF are vested with local councils and the auditor general's report reiterated that assets are legally owned by the councils for which the asset has been purchased and that the RFS is able to use the firefighting assets through district service agreements. There is confusion between legislation (assets vested in councils) and responsibilities (RFS responsible for service) and this results in no-one managing the red fleet assets well which is not acceptable for such critical assets.

Assets should be accounted for and managed by the RFS in order that strategic fleet planning can be undertaken with proper knowledge of the current fleet. Proper asset management would enable the RFS to assess the capability of the firefighting fleet to respond to bushfire events and risks.

It is very difficult for councils to meet requirements for valuation of red fleet assets vested to them, including condition assessments, as they do not have knowledge of or access to the vested assets. The audit office decision to issue qualified audit opinions against NSW councils that do not complete the fair value assessment of RFS assets has created significant reputational issues for councils.

**Regarding operational management, including the control of assets and premises, risks, and impacts to local government, and the ability to effect a response to emergencies,** the legal vesting of assets with councils as stipulated in the Act has not changed however Australian Accounting Standards have changed considerably since the current Act was written and the accounting requirements are negatively impacting on the financial performance of councils.

Councils do not agree with the argument that the single word "vesting" means that councils' control and manage RFS resources. It is time for the Act to be amended and recognise the reality of how emergency management is provided in local communities. This is an opportunity for NSW Government to be clear on the investment made and stipulate that the RFS as an agency has the authority and responsibility for their assets and premises across the state.

Councils are responsible for providing building and equipment maintenance, purchasing, accounts payable, emergency funds, petty cash and purchase cards to RFS. Councils have no visibility of the budget for these items until many months (often more than six months) after the financial period has commenced. It would make more sense that the RFS had the ability to manage their own operational budgets. This would alleviate cost shifting and administrative burden on councils and improve decision-making for RFS by having control over their own budget monitoring.

The RFS is now an expert organisation which plays a very specific and significant role in the community with much of its own governance and policy direction. Because of the well-known RFS brand community expectations regarding fire prevention and management are high. The RFS needs to be able to manage and govern the whole of the operations of the RFS to ensure that it can respond effectively to that expectation.

Through the NSW Rural Fires Act, councils are on Bush Fire Management Committees and participate in all aspects of committees' business. Councils also have a relationship with the RFS through the provisions of the State Emergency and Rescue Management Act, most notably through the operation of Local Emergency Management Committees. Councils value this relationship and contributing to promoting community safety and wellbeing.

In examining the experiences of RFS and council staff, when it comes to business-as-usual operational matters, it is obvious to Council that the current arrangements around funding and mandatory support are a frustration for both. Organisationally, councils are removed from the RFS and not aware of day-to-day operational matters such as fleet management. Councils are not always aware of the obligations they have to the RFS through the Rural Fire Services Act via district service

agreements. This can have the effect of councils not being as responsive as the RFS could expect them to be, which impacts on the operational effectiveness and efficiency of the local RFS. Particularly, this occurs when staff change and new staff are not aware of the arrangements that are in place whereby some processes and responses are managed by the RFS and then transacted via councils' systems.

The RFS competes with other areas of councils in terms of prioritisation of works which, as mentioned earlier is a source of frustration for council staff who already manage full workloads and the RFS who have to compete within those workloads.

The NSW Audit Office report recognises that councils do not have responsibility for planning, purchasing or distributing firefighting fleet assets and do not have firefighting responsibilities. It found that councils have a joint role in maintaining and repairing the firefighting fleet.

The report also recognised that the RFS currently owns air-based firefighting equipment and the white fleet of cars, personnel transport vehicles and catering vehicles and some heavy plant.

Bringing the red fleet fully under the care and control of the RFS is a rational step considering the audit findings that the RFS:

- does not have an overarching strategy to guide its planning, procurement, or distribution of the firefighting fleet
- does not have effective oversight of the fleet maintenance activity across the state and is not ensuring the accuracy of District Service Agreements where maintenance responsibilities are described
- does not have effective systems for communicating with brigades and local councils about fleet management.

The current reasoning for the delineation of ownership of the red fleet to councils rests on whether the appliances were funded wholly or partly through the Rural Fire Fighting Fund (RFFF) and the concept of the assets being vested in councils who have care and control over that class of asset. In terms of care and control, this is a theoretical construct only, practically councils have no care or control over firefighting assets and nor should they.

Overall, the committee is asked to review the operating models of the State Emergency Service and Fire and Rescue NSW and implement these as a preferred model for the Rural Fire Service in order to bring about consistency in funding and delivery of emergency services in local communities.

## **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.**

**Regarding service agreements**, these are not considered to be fit for purpose. Councils' service agreements new template agreement has been under development for a number of years and a draft was recently due to be released for consultation. Service agreements are meant to give effect to the Rural Fires Act 1997 under which councils are responsible for rural fire fighting functions. This is spelt out in clause 4 of the existing but defunct agreement template.

The existing service agreements do not reflect the reality of the modern relationship between councils and the RFS. While the Rural Fires Act substantially modernised the relationship between

the RFS and local government, a number of significant but outdated arrangements have persisted and were carried over into the new Rural Fires Act.

The Act and related service agreements are predicated on local government responsibility for bushfire fighting and localised ownership of assets, including premises, fire fighting vehicles and appliances. In reality, the RFS has assumed responsibility for bushfire fighting and in recognition of this reality, should logically have ownership of bushfire fighting assets.

Councils do not have service agreements with Fire and Rescue NSW, State Emergency Service, NSW Police or NSW Ambulance and these relationships are managed very effectively through the local emergency management committees and directly when the need arises. Other mechanisms could be put in place such as memoranda of understanding or via bushfire management committees.

Currently there are governance measures that are designed to meet the requirements of councils but are applied to the RFS because of the nature of the service agreement. This means that aspects of councils' governance may not necessarily suit the local RFS operationally and may differ between RFSs based on differing councils' policies and procedures.

In relation to purchasing, for instance, any procurement that the RFS undertakes is subject to councils' procurement policies. Similarly, the RFS has to align with all of council's processes and timelines for accounts payable and processing, an extra layer of processes which does not provide value.

Another example relates to RFS not being easily able to accept donations and needing to go through councils as an option, which requires councils to manage money not belonging to councils and donors not being able to claim their donations through the tax system as councils do not have gift recipient status.

Furthermore, the service level agreement between NSW RFS and local councils should be reviewed and updated to reflect a more realistic operating environment between RFS and councils.

**Regarding responsibilities**, the Rural Fires Act and related service agreements require councils to provide the RFS with suitable premises and cover premises-related costs, maintenance and insurances. These requirements place a considerable cost burden on councils, frequently surpassing the emergency service levy that councils already contribute to.

Councils have noted the inconsistency and complexity of funding arrangements for premises. At some times, funding originates from the Rural Fire Fighting Fund (RFFF), at others it is funded fully or partially funded by council, and occasionally it may stem from a central source. To alleviate administrative burden and streamline decision making, it would be more efficient if maintenance (and associated costs) of RFS occupied buildings were managed by the RFS.

Responsibilities for bushfire management and hazard reduction should primarily rest with NSW RFS now that fire control officers are no longer employed by councils. In the past, council-employed fire control officers played a role in identifying properties where hazard reduction was required but now this responsibility falls to councils' regulatory staff, which in itself is cost shifting.

Under this division of responsibilities councils would remain responsible for public lands under their control and other lands would be the responsibility of either the NSW Rural Fire Service or Fire and Rescue NSW.

**Regarding upkeep of assets**, all NSW Rural Fire Service assets including the red fleet, brigade stations and other assets should be in the ownership of state government and not local government authorities.



Councils support the RFS in meeting their operations and maintenance activities for both assets and premises. The Act should be updated to accurately reflect the ownership and control of these activities and remove council as a party.

**Regarding provision of insurance,** all insurance coverage including brigade stations should be the responsibility of the NSW RFS, assuming they become the asset owner.

Councils include RFS premises in our property register and provides insurance, however this is not by choice and councils do not believe they should. This means when new buildings are added, or the value increased through asset renewals, the expenses of that new insured value is increased and must be covered by councils. The valuation and administration required to insure these premises takes time and money for assets over which councils have no control or use.

**Regarding provision of land and construction management for RFS premises,** the provision of land is linked to the ownership of the asset and as the Act is currently written, brigade stations when constructed become an asset of the local authority by virtue of land ownership. Councils are advocating that all RFS assets should vest with state government and therefore the obligation for local authorities to provide land for brigade stations and the like should be removed.

The responsibility for local government to identify and make available land for RFS premises is difficult and adds bureaucracy through delegation and decision making. In many instances, RFS premises are located on council-managed crown land and in some cases private land that councils need to enter into lease arrangements on.

Councils provide administration support for the procurement, engagement and monitoring of project management for funded capital works projects. To expect councils to do this when the delivery of the project lies with RFS imposes financial, legal and reputational risks for all parties.

Currently one of the financial imposts of some significance facing councils is the requirement to provide land for new RFS premises. If land is available, councils are not be able to supply land without associated costs such as ongoing environmental offsets and compensation and, if land is unavailable, councils must pay for land purchase in order to supply land.

While the NSW Government recognises it needs to assist councils meet the cost of construction of premises, its assistance is via a grants-like process, however this is administered on a cost recovery basis paid after costs are incurred and involves considerable administration and evidence to be submitted before councils' claims are accepted. There is no assistance available for the cost of land supply.

**Regarding bushfire management committees,** these are interagency committees, ensuring key stakeholders have a say on bushfire management activities for the benefit of their communities. Councils generally support the retention of bushfire management committees and the continuation of bushfire risk management plans as an important tool to mitigate risks.

Bushfire management committees are a suitable mechanism for preparedness between local government and emergency services. Councils generally arrange hazard reduction activities within allocated budget, however a risk-based approach is taken due to financial resources not being adequate. It is also important to note that local government is responsible for bushfire management on council-managed crown land.

It is considered important that there is a continuation of collaborative approaches towards bushfire risk management planning such as through bushfire management committees).

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

The role for local authorities should be maintained as is with the exception that the management and control of the RFS should be structured in the same manner as Fire and Rescue NSW and the State Emergency Service. This will provide consistency in terms of status and asset ownership and efficiency in how local authorities engage with local authorities.

In relation to the provision of emergency services, councils have multiple roles including statutory obligations under the *State Emergency and Rescue Management (SERM) Act 1989*, an assistance role to combat agencies in the event of an emergency and as custodians of critical public assets.

Councils are also responsible to establish and chair multi-agency local emergency management committees.

When councils are not facing an emergency, councils undertake significant planning, asset protection zone works and preparedness, response and recovery work.

Councils acknowledge the work and legislation supporting NSW Reconstruction Authority as a key action taken by NSW Government to implement the recommendations from the Bushfire Inquiry. However, 28 of the 76 recommendations bring increased roles to local government which is not realistic and other agencies such as those providing emergency services and the NSW Reconstruction Authority should have clear obligations to lead implementation in partnership with councils.

Over time the expectations from the state government and the community on councils have increased yet there are not the resources available to meet the needs for emergency management planning, response and recovery.

The NSW Government has allocated a large budget to the administration of the NSW Reconstruction Authority and similar consideration should be given to resourcing councils.

Councils have always provided an important role during fires in provision of support for aspects such as road impact management, heavy plant provision (e.g. graders, excavators, water carts etc) which we will continue to support on the assumption there will be appropriate mechanisms for reimbursement, despite councils' experience often being that expenses in support of combatting the fires are not reimbursed. This places pressure on councils' financial sustainability, particularly where there are multiple emergency events in short spaces of time.

### **4. The sustainability of local government contributions to emergency service provision**

It is widely acknowledged that NSW councils are facing significant challenges in maintaining financial sustainability.

The ongoing increase in the emergency services levy on councils has placed additional financial pressures in maintaining financial sustainability with modest rate peg increases. This issue is compounded by the additional contributions that councils are obligated to provide, particularly to the RFS. This is a cost shift experienced onto councils and ultimately ratepayers.

LGNSW has conducted analysis of data from NSW Budget Papers over the last decade and observed that total emergency services levy council contributions rose by 124%, total budgets for the three agencies covered by the emergency services arrangements have risen by 98%.

Escalation of emergency services budgets and emergency services levy on councils far exceeded the rate peg over the past decade. This cost shift demonstrates a non-sustainable arrangement with the existing funding arrangements.

Councils oppose the NSW Government's decision to impose an emergency services levy increase on councils this and removing the emergency services levy subsidy. As a consequence, councils' ability to provide essential community services and infrastructure are reduced.

Councils ask that the committee considers recommending development of a fairer, more transparent and financially sustainable method of funding emergency services rather than the emergency services levy tied to the rate peg.

**5.Any other related matters**

Nil

Canberra Region Joint Organisation, on behalf of its member councils sincerely thanks the NSW Parliament for the opportunity to provide input to the Public Accounts Committee inquiry into assets, premises and funding of the NSW Rural Fire Service.