



**Date:** Wednesday, 29 June 2022  
**Time:** 2:00pm  
**Location:** Condobolin Council Chambers

# **BUSINESS PAPER**

## **Late Reports**

### **Ordinary Council Meeting**

**29 June 2022**

## Order Of Business

<b>1</b>	<b>Corporate and Community Services .....</b>	<b>3</b>
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## 1 CORPORATE AND COMMUNITY SERVICES

### 1.1 RURAL FIRE SERVICE ASSETS

**TRIM Number:** R22/182

**Author:** Director - Corporate and Community Services

#### PURPOSE

To provide Council with information from the Auditor General, Office of Local Government and LG NSW.

To seek direction on the inclusion or exclusion of Rural Fire Service (RFS) red fleet assets in Council's Infrastructure, Property, Plant & Equipment register.

#### SUPPORTING INFORMATION

Letter from NSW Auditor General, response from Office of Local Government and email from LG NSW are attached.

#### BACKGROUND

The Department of Planning, Industry and Environment (inclusive of the Office of Local Government) confirmed in the 'Report on Local Government 2020' (tabled in Parliament on 27 May 2021) its view that rural firefighting equipment is not controlled by the NSW Rural Fire Service.

In 2020/21 FY, 68 councils did not record rural firefighting equipment in their financial statements versus 41 councils who did record them.

Intendus, our auditors, sent an email on 27 June 2022 stating the Audit Office believes RFS assets which exceed the capitalisation threshold of \$10,000 should be included in Council's financial statements.

#### ISSUES AND COMMENTS

The Auditor General (AG) believes Council through application of clause 119 (2) of the *Rural Fires Act 1997 NSW*, all firefighting equipment purchased or constructed wholly or partly 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. They are relying heavily on the term **vested**. There is no definition of vested under the *Rural Fires Act 1997*. The common Oxford dictionary meaning of vested is to confer property, permanently and inalienably.

The AG letter fails to mention that clause 119 (3) of the *Rural Fires Act 1997 NSW* states "council must not sell or otherwise dispose of any firefighting equipment purchased or constructed, without the written consent of the Commissioner".

The sale proceeds of RFS assets are deposited into Council's bank account initially. Any costs of sale such as advertising incurred by Council can be retained with the balance going to the RFS.

Accounting Standard *AASB 116 Property, plant & equipment* requires council to recognise an asset if it is probably economic benefits (which can be through the use of the RFS assets) will flow to Council and the cost can be reliably measured. It is likely RFS assets will meet this definition.

The Office of Local Government Code of Accounting Practice and Financial reporting 2021/2022 states Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards and recognise in their financial statements any material assets under their control.

The RFS assets may have been given to Council but does Council control them and is their value material?

Control requires Council to have the power to make all the important decisions. Council has no say in what RFS equipment is purchased, when it is purchased, which brigade it is allocated to or when to sell the equipment.

Accounting standard *ASSB 101 Presentation of Financial Statements* defines materiality. Information is material if omitting, misstating or obscuring it could reasonably be expected to influence decisions of the users of the financial statements. Council assesses whether information, either individually or in combination with other information, is material in the context of its financial statements taken as a whole.

Based on Councils Infrastructure, Property, Plant & Equipment assets as at 30 June 2021, the inclusion of the RFS assets (on the list supplied) would not be material. However, based purely on the class of plant & equipment, it will be material. It is difficult to know how the AO will assess this.

The issue of RFS assets was discussed at the 9 February 2022 Audit, Risk and Improvement Committee (ARIC) meeting. The ARIC Chair disagrees with RFS assets inclusion and recommended Council does not include the assets.

Council's adopted Asset Accounting Policy states "Council will assess whether they have control over rural fire service assets. Where control is demonstrated, council will recognise in its financial statements rural fire service assets that meet asset recognition thresh holds.

Council has been provided an interim list of red fleet assets with purchase costs and depreciation as at 30 June 2021. This list has not been verified via a stock take and is 12 months out of date. We had an online meeting with the District Manager of the RFS Mid Lachlan this week. They have advised they can supply a list of assets, their location, purchase costs, an estimate of their sale price and their opinion on the condition of the assets. They have not completed a stocktake. It is unlikely Council could complete a stocktake and have an independent condition assessment performed on these assets in time for the completion of the financial statements.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

If the RFS assets are included, this will mean increased depreciation costs, estimated to be at least \$550,000 as well as recording any gain or loss on disposal of the assets in Council's financial statements. As Council is already projecting a sizeable operating deficit (nearly \$1.9m), this would worsen our financial position. It is important to note depreciation is not a cash expense. Depreciation is meant to allow for the replacement of the asset. Given RFS assets are vested (given to) Council, this does not seem appropriate.

## **LEGAL IMPLICATIONS**

If Council choses to exclude the Rural Fire Service assets, the NSW Audit Office (AO) may issue a modified (qualified) audit opinion on the 30 June 2022 financial statements. This would be on the basis that the AO believes Council is in breach of the Accounting Standards.

If Council chose to include RFS assets but did not perform a stocktake and/or a condition assessment, a modified (qualified) audit opinion would most likely be the result.

Audit opinions of NSW Councils, whether they be unmodified (the result we want) or modified (qualified) are reported to the NSW Parliament and on the NSW Audit Office website via the annual Report on Local Government.

## **RISK IMPLICATIONS**

Legislative risk – if the AO believes Accounting Standards have been breached. Risk of a qualified audit opinion.

## **STAKEHOLDER CONSULTATION**

Rural Fire Service District Manager Mid-Lachlan.

NSW Audit Office  
LG NSW  
Office of Local Government  
Intentus, Councils external auditors  
Audit, Risk and Improvement Committee

### OPTIONS

1. Exclude RFS assets from Council's asset register on the basis that Council does not control the assets, and/or they are not material.
2. Include RFS assets on Council's asset register.

### CONCLUSION

Council to consider the position of LG NSW, the NSW Audit Office and the Office of Local Government with regards to the exclusion or inclusion of RFS assets in the Council's financial statements. Council should consider whether control and materiality requirements are met. In addition, it should consider the impact on Council's financial statement audit opinion if it chooses to exclude the RFS assets.

### LINK TO POLICY AND / OR COMMUNITY STRATEGIC PLAN

Community Strategic Plan - 4.2 Strong Effective Responsive Council.

4.2.1 Council is financially sustainable and provides services at a level expected by the community.

### ATTACHMENTS

1. **Letter from the Auditor-General to GMs - RFS Assets** [↓](#)
2. **Office of Local Govt response to Auditor General 070622** [↓](#)
3. **LG NSW email to Council re Rural Fire Service assets** [↓](#)

### RECOMMENDATION

That Council:

1. Formally receive and note the Director Corporate and Community Services report R22/182.
2. Support the direction of Local Government NSW and not record Rural Fire Service assets in Council's financial statements, acknowledging that Council may receive a modified audit opinion on its 30 June 2022 Financial Statements if it takes this position.



Mr Greg Tory  
General Manager  
Lachlan Shire Council

Contact: Aaron Green  
Phone no: 02 9275 7209  
Our ref: D2210985/FA1750

By email only

23 June 2022

Dear Mr Tory

### Rural Firefighting Equipment

I am writing to let you know that our Report to Parliament, 'Local Government 2021' was recently tabled and is available on our [website](#). This report brings together findings and recommendations from our 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 our audits.

The intent of this letter is to draw your attention to the specific findings and recommendations reported to Parliament about rural firefighting equipment vested to councils. Please refer to the Appendix for the relevant extract from the Report.

Our management letters issued to councils on the 2020–21 financial audits included recommendations to undertake a stocktake of the rural firefighting equipment vested to councils and record the value in the council's financial statement. I trust these recommendations are being actioned. Please share this letter with relevant staff within your council to ensure they consider recommendations when preparing your financial statements for the 2021–22 financial year.

If you wish to discuss this matter further, please contact Aaron Green on 02 9275 7209.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Margaret Crawford'.

Margaret Crawford  
Auditor-General for New South Wales

## APPENDIX

### **Sixty-one per cent of the total value of uncorrected errors was due to unrecorded rural firefighting equipment**

In 2017, we recommended that OLG should address the different practices across the local government sector in accounting for rural firefighting equipment.

In 2020–21, 68 (2019–20: 68) councils did not record rural firefighting equipment in their financial statements estimated to be \$145 million (2019–20: \$119 million). Forty-one councils recognise this equipment in their financial statements with a total value of \$162.8 million, highlighting the inconsistent recognition practices across the local government sector.

The financial statements of the NSW Total State Sector and the NSW Rural Fire Service do not include these assets, as the State is of 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 argued that on balance it would appear the councils control the rural firefighting equipment that has been vested to them. It is important to note that there are only two parties to the agreements that govern the use of vested rural firefighting equipment, leaving only two parties who would be considered to control this equipment- the NSW Rural Fire Service in the State sector, or councils in the Local Government sector.

The Department of Planning and Environment (inclusive of the Office of Local Government) (the Department) confirmed in the 'Report on Local Government 2020' (tabled in Parliament on 27 May 2021) their view that rural firefighting equipment is not controlled by the NSW Rural Fire Service.

The Local Government Code of Accounting Practice and Financial Reporting confirms the State's view that it does not control these assets but provides that 'Councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards'. It would seem however, given the State's view that it does not control these assets, that these assets can only be controlled and therefore recognised by councils in the local government sector.

Despite this, many councils do not report these critical assets in their financial statements.

The continued non-recording of rural firefighting equipment in financial management systems of some councils increases the risk that these assets are not properly maintained and managed. Councils who have rural firefighting equipment vested from the NSW Rural Fire Service should recognise these assets in their financial management systems and consider their condition and useful life.

#### **Recommendation to councils**

**Councils should perform a full asset stocktake of rural firefighting equipment, including a condition assessment for 30 June 2022 financial reporting purposes.**

**Consistent with the requirements of the Australian Accounting Standards, councils should recognise this equipment as assets in their 30 June 2022 financial statements.**

#### **The Department should intervene where councils do not recognise rural firefighting equipment**

The Department, through the Office of Local Government, requires each council to prepare financial statements in accordance with Australian Accounting Standards (accounting standards), as required by the LG Act. The State Government, through NSW Treasury (and in agreement with the Department), has concluded that under accounting standards rural firefighting equipment vested to councils is not controlled by the State, and further on balance that councils in the local government sector control this rural firefighting equipment.

The Department's role includes assessing whether intervention is appropriate with respect to council's compliance with and performance against legislative responsibilities, standards or guidelines. Given the State's clear position, it would appear that any council not recognising this equipment is non-compliant with the relevant accounting standards.

Having considered the accounting position papers prepared by the respective stakeholders, the Audit Office has advised councils and the Department that any council not recognising this equipment is not complying with the requirements of the Australian Accounting Standards.

The Department should now intervene to address this matter as a priority.

### **Recommendation to the Department**

**Consistent with the Department's role to assess council's compliance with legislative responsibilities, standards or guidelines, the Department should intervene where councils do not recognise rural firefighting equipment.**

We acknowledge that the Department has committed to working closely with NSW Treasury to educate, guide and assist councils to understand the State's view regarding ownership and recognition of rural firefighting equipment in their financial statements.

Non-recognition of this equipment may impact the financial statements audit opinions of those councils. The NSW Rural Fire Service (NSW RFS), a state government entity, has spent in excess of \$1.1 billion over the past ten years on rural firefighting activities and equipment. While confirming the State Government's position that it does not control this equipment, the NSW 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 has provided this to the Department. The NSW RFS also confirmed that as it does not control the equipment, it is unable to confirm its value or condition.

This raises two general questions: whether these assets are being properly managed as in some instances they are purportedly not controlled by any government sector and are not recorded in either the State or the local government sector financial records, and whether in these instances there is non-compliance with accounting standards if this equipment is not recorded in the financial statements of councils. This may impact audit opinions on the financial statements of councils.

The Audit Office is conducting performance audits of the NSW Rural Fire Service (Planning and managing bushfire equipment) and the Office of Local Government (the effectiveness of local government regulation and support).



# Appendix one – Response from the Office of Local Government within the Department of Planning and Environment

Strengthening local government



5 O'Keefe Avenue NOWRA NSW 2541  
 Locked Bag 3015 NOWRA NSW 2541

Our Reference: A822114  
 Your Reference: D2206464  
 Contact: Ally Dench  
 Phone: 02 4428 4100

Ms Margaret Crawford  
 Auditor-General for New South Wales  
 GPO Box 12  
 SYDNEY NSW 2001

Email:

7 June 2022

Dear Ms Crawford

Thank you for the opportunity to review an updated draft of the report on Local Government 2021.

I have reviewed the changes in the draft report and would like to clarify my feedback in relation to the recognition of rural firefighting equipment (RFS Assets) for your consideration in finalising the report.

I acknowledge 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. Councils need to recognise, in their financial statements, any material assets under their control and state the relevant accounting policy in relation to the treatment to the Audit Office.

The Minister for Local Government and the Department do not have legal authority to direct councils in this matter. However, we are working closely with Treasury to educate, guide and assist councils to understand the State's view regarding the ownership and recognition of the RFS assets in their financial reporting.

Should you require further assistance in relation to these matters, please do not hesitate to contact Ally Dench, OLG's Executive Director on \_\_\_\_\_ or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Yours sincerely

**Michael Cassel**  
 Secretary  
 Department of Planning and Environment

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**\*A822114\***

**Karen Pegler**

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**From:** Karen Pegler  
**Sent:** Tuesday, 28 June 2022 4:53 PM  
**To:** Karen Pegler  
**Subject:** FW: Important Update to Members as the Red Fleet Fight Comes to a Head

**From:** LGNSW President Cr Darriea Turley AM <[lgnsw@lgnsw.org.au](mailto:lgnsw@lgnsw.org.au)>  
**Sent:** Friday, 24 June 2022 6:33 PM  
**To:** Greg Tory <[Greg.Tory@lachlan.nsw.gov.au](mailto:Greg.Tory@lachlan.nsw.gov.au)>  
**Subject:** Important Update to Members as the Red Fleet Fight Comes to a Head



### The Red Fleet Fight Comes to a Head

Dear Mr Tory

As many of you would be aware, the accounting dispute over the Red Fleet is rapidly coming to a head following the release of the Auditor-General's latest Report on Local Government this week.

In the Report, the Auditor General reiterates the State Government determination that Rural Fire Service (RFS) assets are the "property" of councils, who must therefore absorb all depreciation costs.

This Determination is nothing more than a financial sleight of hand, which would force councils to absorb significant depreciation costs for assets over which we have precisely zero management or control.

Councils have **no** say in the acquisition of the assets, **no** involvement in their deployment, and **none** in their disposal.

In fact, the *only* connection between the two is the Government's nonsensical determination that the Auditor General has called out in this latest report.

Comparable assets held by Fire & Rescue NSW (FRNSW) and the State Emergency Service (SES) are not vested anywhere other than with the organisations that purchase, use, maintain and dispose of them.

The State Government's own *Local Government Accounting Code of Accounting Practice and Financial Reporting* states councils are able to choose whether or not to record this RFS equipment on their books.

Unsurprisingly, 68 impacted rural and regional councils have refused to record these assets just as they refuse to wear costs which last year stood at \$145 million.

The latest Audit Report tightens the screws on councils by:

- recommending them to undertake a stocktake of RFS assets and record the value in their financial statements;
- warning councils that do not recognise the assets will be found non-compliant; and
- calling on the NSW Department of Planning and Environment to intervene.

This latest development only compounds the farce, given the Government's 7 June letter – included in the Report and attached to this email – which states neither it nor the Local Government Minister have legal authority to direct councils to record the assets and assume the costs.

I have today written urgently to the NSW Treasurer Matt Kean, Minister for Emergency Services and Resilience Steph Cook, and Local Government Minister Wendy Tuckerman.

I have urged them to finally clear up this mess once and for all by ensuring the NSW Government acknowledges rural firefighting equipment is controlled by and the property of the RFS.

I am also appealing to you to join your fellow councils in rejecting this shameless financial chicanery.

Help restore financial transparency and integrity to the process by moving motions advising the Audit Office your council will not carry out the stocktakes, and will not record RFS assets on your financial statements.

This action is supported by resolutions passed at several LGNSW Conferences and meetings of the Country Mayors Association.

Local government in NSW stands together, and speaks with one voice. To help us amplify that voice, please let us know of the actions you intend to take by contacting our Chief Economist Shaun McBride via email at [shaun.mcbride@lgnsw.org.au](mailto:shaun.mcbride@lgnsw.org.au).

**Kind Regards,**  
Cr Darriea Turley AM  
President LGNSW

## Questions?

Feel free to send us an enquiry regarding this member message.

Contact us today

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**Karen Pegler** | Director - Corporate and Community Services  
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