

<b>JRPP No:</b>	
<b>DEVELOPMENT APPLICATION NO:</b>	<b>X/900/2011</b>
<b>PROPOSED DEVELOPMENT:</b>	<b>a fire brigade station for NSW Rural Fire Service on Crown Reserve 751647 (Part), 117-121 Shipley Road, BLACKHEATH NSW 2785, Crown Reserve 751647 (Part), 123 Shipley Road, BLACKHEATH NSW 2785</b>
<b>APPLICANT:</b>	<b>NSW Rural Fire Service</b>
<b>REPORT BY:</b>	<b>Blue Mountains City Council</b>
<b>CONTACT:</b>	<b>Paul Koen, Acting Manager: Development and Planning Services</b>
<b>TELEPHONE:</b>	<b>4780 5733</b>

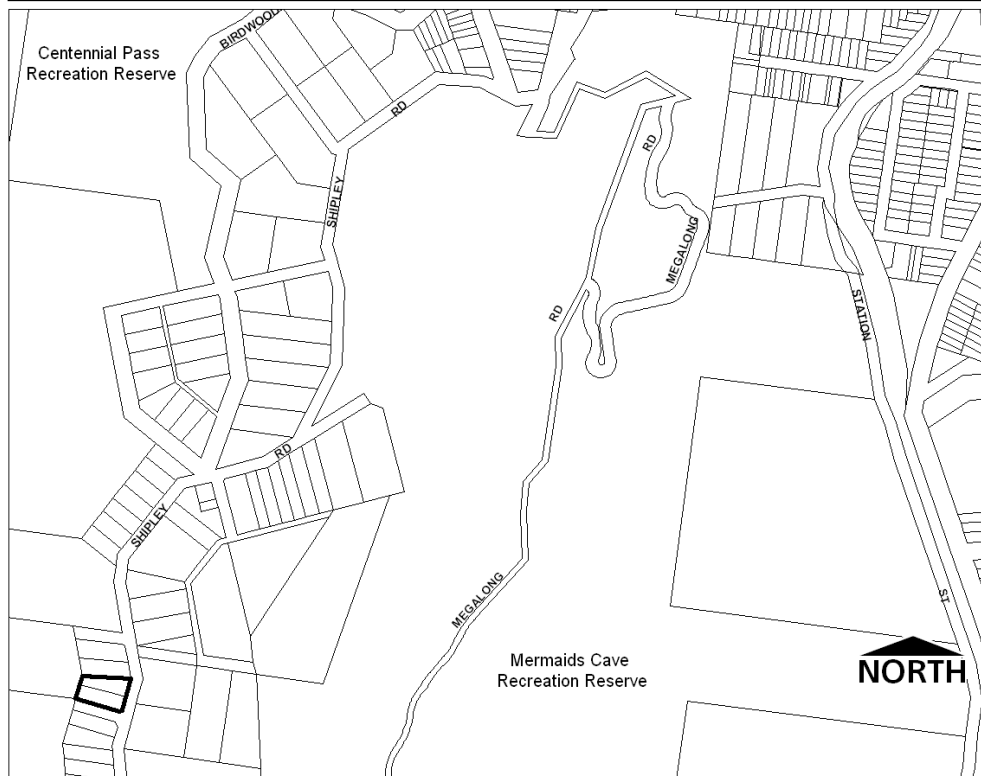
### Assessment Report and Recommendation

#### Recommendations:

1. *That the Development Application No. X/900/2011 for a fire brigade station for NSW Rural Fire Service on L 202 DP 751647, L 203 DP 751647, L 204 DP 751647, L 205 DP 751647, Crown Reserve 751647 (Part), 117-121 Shipley Road, BLACKHEATH NSW 2785, Crown Reserve 751647 (Part), 123 Shipley Road, BLACKHEATH NSW 2785 be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 subject to the deferred commencement matters being satisfied and compliance with the conditions shown as Attachment 1 to this report.*
2. *Upon compliance with the conditions of the deferred commencement and written notification by Council, the consent shall be operative subject to the conditions contained within Attachment 1.*

<b>Reason for report</b>	The application is referred to the Joint Regional Planning Panel (JRPP) for determination, as the Council as the consent authority has been unable obtain agreement to consent conditions for the proposed Crown development. As such, the application is referred to the JRPP for determination in accordance section 89(2) of the <i>Environmental Planning and Assessment Act 1979</i> (as amended).
<b>Applicant</b>	NSW Rural Fire Service
<b>Owner</b>	The Crown
<b>Application lodged</b>	21 October 2011
<b>Property address</b>	Crown Reserve 751647 (Part), 117-121 and 123 Shipley Road, BLACKHEATH NSW 2785

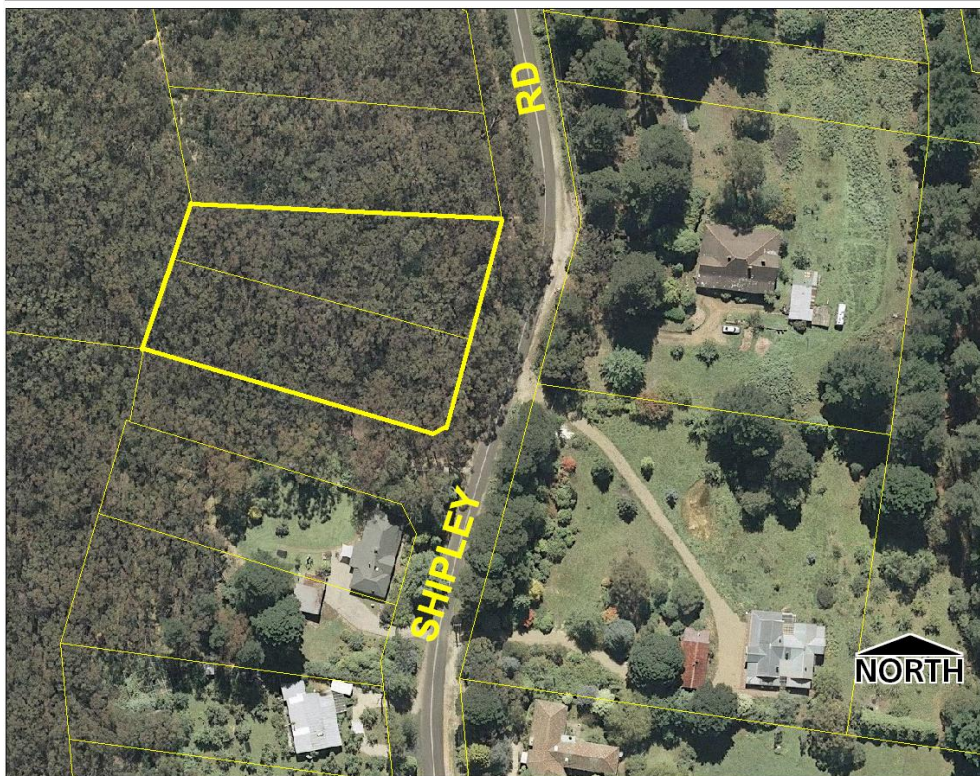
## LOCALITY PLAN



**SUBJECT SITE**

**LOCALITY: BLACKHEATH**

## SITE PLAN



**SUBJECT SITE**

<b>Site description</b>	<p>The site is located at 117-123 Shipley Road, Blackheath and is formally known as Lots 204 and 205 DP751647. The land has a total area of 4,051sqm, with a frontage to Shipley Road of approximately 57.64 metres. The site slopes north west to south east, with an embankment to the Shipley Road reserve and carriageway.</p> <p>The land is Crown Reserve, and currently vacant, with no reticulated water or sewer connected to the site. The site is mapped as Bushfire Prone Land and contains Category 1 vegetation. The site is also mapped as being within the Sydney Drinking Water Catchment and within the Coxs River subcatchment.</p> <p>An unformed Crown Road (Dalton Place) bounds the site to the south, and currently provides informal access to the site. Land further to the south contains rural residential development. The site is bound to the north and west by vacant Crown Reserve land, and to the east by Shipley Road. Rural residential development is located across Shipley Road, east of the site. Two of these properties ('The Ranch' – 128-130 Shipley Road, and 'The Barn' – 132 Shipley Road) are locally listed heritage items (BH079 and BH081 respectively).</p>
<b>Background</b>	<p>The development application was submitted to Blue Mountains City Council on 21<sup>st</sup> October 2011, seeking approval for a 2B Category fire brigade station on Crown Reserve land.</p> <p>Within the initial stages of the development assessment, significant deficiencies and inconsistencies were identified with the information provided. The most significant of these was the omission of a Bushfire Threat Assessment, and the insufficient and inaccurate information provided on the Stormwater and Wastewater Management measures proposed as part of the development. As a result, the applicant was encouraged on a number of occasions to withdraw the application, and resubmit the proposal upon completion of the required detail and technical assessments. The applicant declined to withdraw the application.</p> <p>Additionally, as the site is within the Sydney Drinking Water Catchment, the application requires concurrence from the Sydney Catchment Authority (SCA). The original documentation and a number of subsequent iterations of the stormwater management plan provided by the applicant did not satisfy the requirements of the SCA. Approximately nine (9) months after lodgement of the application, that the SCA was able to provide concurrence, which includes a deferred commencement condition (Condition 10 of SCA letter, dated 14<sup>th</sup> June 2012) requiring the provision of a properly drafted, detailed Stormwater Management Plan (SCA concurrence is provided at Attachment 3).</p> <p>The response from the SCA and provision of other requested detail from the applicant, enabled Council to provide draft conditions of consent on 1<sup>st</sup> August 2012. These conditions were then revised in consultation with the applicant, and a final set of draft consent conditions provided on 18<sup>th</sup> September 2012.</p>

	<p>Since mid-September the applicant has verbally raised concern over the level of construction required for the access road (Dalton Place) and driveway into the site, as well as for the internal pavement areas within the site itself (refer to draft consent conditions 16 and 25). Meetings have been held between Council staff and the applicant to attempt to resolve these concerns, with the Council extending an offer of assistance to the Rural Fire Service, to make some contribution to construction costs required to meet minimum access standards. This offer remains, however to date that is not been pursued by the applicant, and no formal response either requesting amendments or indicating acceptance of the draft conditions, has been received by Council.</p> <p>The applicant also verbally indicated in October 2012 that the plans submitted with the development application may have sought consent for the incorrect category of brigade station, and that the proposed location of the access point may require amendment. With regards to access and boundary locations, ground truthing would suggest that there is no detectable material inaccuracy. The applicant has not made a formal or specific request for any changes to the application.</p> <p>Consequently, the lack of acceptance of draft consent conditions, or any formal response requesting changes to those conditions or amendments to the application, has meant that the assessment of the application has reached an impasse. In accordance with the section 89(1) of the <i>Environmental Planning and Assessment Act 1979</i> (as amended) (<i>EP&amp;A Act</i>) a consent authority must not:</p> <p><i>(a) refuse its consent to a Crown development application, except with the approval of the Minister, or</i>  <i>(b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister</i></p> <p>As such, the application having been with Council for over 450 days (well in excess of the prescribed period), has been forwarded to the Joint Regional Planning Panel for determination under section 89(2) of the <i>EP&amp;A Act</i>. Additional detail and discussion of the primary assessment issues raised above, is provided in the relevant sections of this report.</p>
<p><b>Proposed Development</b></p>	<p>The subject development application seeks approval for the construction of a Category 2B Rural Fire Service brigade station, with associated access, driveway and parking areas.</p> <p>The main features of the proposal are summarised as follows:</p> <ul style="list-style-type: none"> <li>a) Construction of a single storey building which includes a truck parking area, store area, kitchenette, office and toilet facilities (including an accessible toilet);</li> <li>b) Construction of a concrete driveway, and a compacted road base car parking and turning area to the south of the proposed Brigade Station to enable emergency vehicles to enter and exit in a forward direction;</li> <li>c) Upgrade of the existing unformed access road off Shipley Road to the south of the site;</li> <li>d) The implementation on an onsite disposal system as the land is not connected to reticulated sewer;</li> </ul>

	<p>e) Associated stormwater drainage works; f) The establishment of the asset protection zones.</p> <p>The elevations submitted with the application show a mirror reverse image of that shown on the site plan. The applicant has confirmed that the site plan is correct, and the assessment has proceeded on that basis.</p>
<b>Supporting documentation</b>	<p>The application is supported by:</p> <ul style="list-style-type: none"> <li>• Architectural Plans</li> <li>• Statement of Environmental Effects;</li> <li>• Watercycle Management Study</li> <li>• Traffic Impact Study</li> <li>• Flora and Fauna Assessment</li> <li>• Aboriginal Cultural Heritage Assessment</li> <li>• Draft Bushfire Threat Assessment</li> </ul>
<b>Local Environmental Planning Instruments</b>	<ul style="list-style-type: none"> <li>• <b>Blue Mountains Local Environmental Plan (LEP) 1991</b> <ul style="list-style-type: none"> <li>○ Zone: Bushland Conservation (No Subdivision)</li> </ul> </li> </ul>
<b>State and Regional Planning Instruments</b>	<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy No.55 – Remediation of Land;</b></li> <li>• <b>State Environmental Planning Policy (Infrastructure) 2007;</b></li> <li>• <b>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;</b></li> <li>• <b>Sydney Regional Environmental Plan No.20 – Hawkesbury Nepean River</b></li> </ul>
<b>Development Control Plans</b>	<b>Better Living Development Control Plan 2005</b>
<b>Notification</b>	<p>Consultation was undertaken in accordance with the requirements of Part L (Public Participation) of the Better Living Development Control Plan and the requirements under the <i>Environmental Planning and Assessment Regulations 2000</i>.</p> <p>The application was advertised for a period of 14 days from 2 November 2011 to 16 November 2011 in the Blue Mountains Gazette as well as written notification to adjoining and nearby properties.</p> <p>It was brought to Council's attention during the assessment process, that one the adjoining properties (125 Shipley Road) had changed ownership subsequent to the application being notified. As a result, the new owner was invited to make a written submission to Council. A submission was received on 28<sup>th</sup> September 2012. The issues contained therein have since been considered and included in this report.</p>
<b>Submissions</b>	<p>A total of four (4) submissions were received in response to the public exhibition process (including the late submission referred to above). Of these four responses, one was a joint submission received on behalf of "the residents of Shipley Road".</p> <p>The issues raised in the submissions are summarised below and have</p>

	<p>been addressed in detail within this report, and specifically at Section 9:</p> <ul style="list-style-type: none"> <li>a) <i>Noise Impacts within a quiet, residential location;</i></li> <li>b) <i>Visual Impact and Loss of Privacy and Amenity</i></li> <li>c) <i>Traffic Impacts, including road safety and parking</i></li> <li>d) <i>Increase of hazardous materials (greases, oils) leaving the site</i></li> </ul>
<b>Evaluation</b>	<p>The application has been assessed in accordance with Section 79C (Evaluation) of the Environmental Planning and Assessment Act 1979 ("the Act"). A commentary on the assessment of the development against the Section 79C evaluation matters has been detailed in this report for the consideration of the consent authority.</p> <p>The requirements within Section 79C(1)(a)(iv) of the <i>Environmental Planning and Assessment Regulation 2000</i> area also inherent in the assessment processes undertaken for the proposal.</p>
<b>Crown Development</b>	<p>The proposal is a Crown application as defined under Part 4 Division 4, Sections 88-89B and Part 4A, Section 109R of the <i>Environmental Planning and Assessment Act 1979</i> (as amended). As stated above, the provisions prevent the imposition of consent conditions without acceptance by the applicant or the Minister. Section 89(2) states that:</p> <p><i>If the consent authority fails to determine a Crown development application within the period prescribed by the regulations, the applicant or the consent authority may refer the application:</i></p> <ul style="list-style-type: none"> <li>(a) <i>to the Minister, if the consent authority is not a council, or</i></li> <li>(b) <i>to the applicable regional panel, if the consent authority is a council.</i></li> </ul> <p>The period prescribed by the regulations is 70 days after the Crown application was lodged with the consent authority (in accordance with clause 113B of the <i>Environmental Planning and Assessment Regulation 2000</i>). The application was lodged with Council on 21<sup>st</sup> October 2011. As such, as at the date of this report, the application has been with Council for 451 days. For the reasons outlined above, and within the assessment sections of this report, the application is forwarded to the Joint Regional Planning Panel for determination.</p>
<b>Issues</b>	<p>The following assessment issues are further detailed in the report:</p> <ul style="list-style-type: none"> <li>1) Local Environmental Plan 1991</li> <li>2) State Environmental Planning Policies and Plans</li> <li>3) Better Living Development Control Plan</li> <li>4) Vegetation Removal</li> <li>5) Stormwater and Onsite Wastewater Disposal</li> <li>6) Access, Parking and Traffic</li> <li>7) Indigenous Heritage</li> <li>8) Environmental, social and economic impacts, the suitability of the site and the public interest;</li> <li>9) Submissions</li> </ul>
<b>Referrals (External and Internal)</b>	<p>The application was referred to the following external agencies:</p> <ul style="list-style-type: none"> <li>• Sydney Catchment Authority</li> <li>• Rural Fire Service</li> <li>• Department of Primary Industries, Catchment and Lands</li> </ul>

	<p>The application was also referred to the following specialist areas within Council:</p> <ul style="list-style-type: none"> <li>• Environmental Science;</li> <li>• Environmental Health;</li> <li>• Engineering</li> </ul>
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## 1. Local Environmental Plan 1991

The development site is land to which *Blue Mountains Local Environmental Plan 1991* (LEP 1991) applies. Following is a compliance table addressing all of the relevant clauses within this plan.

**Compliance Table: Local Environmental Plan 1991**

Clause	Standard	Proposed	Complies
cl.3.1	Principal Objectives	<p>The principal objectives of the plan are focused on the protection of the unique natural and cultural heritage of the Blue Mountains, through environmentally sensitive design and pollution and erosion control.</p> <p>Particularly relevant to the proposal are objectives 3.1(c) and (d), as the site is within the Sydney Drinking Water Catchment, and is constrained by bushfire and lack of reticulated services.</p> <p>As detailed within this report, it is considered that with the resolution of the matters identified in the deferred conditions, and the implementation of proposed operational conditions of consent, any environmental impacts from the proposed brigade station and its ongoing operation, can be mitigated. It is therefore considered that the proposal is capable of meeting the objectives of the plan.</p>	Yes
cl.6.2	Zone objectives	<p>The site is zoned Bushland Conservation (No subdivision).</p> <p>The proposal is to construct a RFS brigade station. This will require the clearing of a significant amount of vegetation across two allotments (Lots 204 and 205), to accommodate both the proposed building and the Asset Protection Zone (APZ) on the site. Unless appropriately controlled by a Vegetation Management Plan, the extent of the clearing required may not be consistent with the intent of the zone objectives (a) and (d).</p> <p>The design did include the retention of vegetation along the road frontage, to retain the natural bushland character when viewed from the road, and from properties located to the east of the site, across Shipley Road. However, due to the bushfire</p>	Yes (subject to conditions)

		<p>prone nature of the site, the RFS (in its assessment role under section 79BA of the EP&amp;A Act 1979), has required that the entire site be managed as an Inner Protection Area (IPA) (refer to Attachment 4).</p> <p>To mitigate the potentially adverse impacts on the privacy and amenity of adjoining neighbours (particularly those directly south and east of the site) a condition of consent will be included to detail how the Asset Protection Zones are to be established. It is recommended that vegetation at the site boundaries be prioritised for retention within the APZ so as to visually soften the impact to adjoining residential development. In this regard, the proposal is considered to meet the intent of objectives (a), (d) and (e).</p> <p>With regard to objective (c), while the Statement of Environmental Effects states that the external finishes of the building will be completed in a neutral palate to blend into the natural environment, the submitted Finishes Schedule (Drawing Cat.2B, A-08, dated July 2010) identifies a white and red colour palette. This is not considered appropriate in a bushland setting and is not in accordance with the objectives of the zone. A condition of consent requiring that a revised colours and finishes schedule be provided to the consent authority prior to the commencement of works is proposed.</p> <p>With the implementation of appropriate consent conditions, and the retention of vegetation as described above, it is considered that the impacts of the proposal can be effectively mitigated, and the objectives of the zone met.</p>	
cl.7.5	Water Supply Catchment Area	<p>The site is located within the Sydney drinking water catchment, and is not connected to reticulated water or sewer. The application was referred to the Sydney Catchment Authority for concurrence in accordance with State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011. Due to difficulties in obtaining detailed and accurate information from the applicant on both the proposed stormwater and wastewater management for the site, the SCA was unable to be satisfied that the proposal would have a neutral or beneficial effect on the Sydney Drinking Water Catchment. However, concurrence was provided by the SCA on 14<sup>th</sup> June 2012 (refer to Attachment 3). This concurrence included a condition which requires the provision of a detailed Stormwater Management Plan prior to the issue of an operational consent.</p>	Yes



		Further detail on the assessment of stormwater and wastewater issues is provided in detail at Section 2 of this report (under SEPP Drinking Water Catchment 2011).	
cl.9	Permissibility	<p>The site is zoned Bushland Conservation (No subdivision), and the proposed land use of a fire brigade station is not defined under Blue Mountains Local Environmental Plan 1991. The use is defined as an emergency services facility under State Environmental Planning Policy (Infrastructure) 2007, and the proposal relies on the SEPP for permissibility.</p> <p>An emergency services facility is permitted with consent under the SEPP within the Bushland Conservation zone (being equivalent to E3 – Environmental Management, under the Standard Instrument).</p> <p>Permissibility is further discussed below at Section 2 of this report.</p>	Yes
cl.10.2	Access	<p>The proposed brigade station will be accessed from Shipley Road, via the existing unformed Crown road (Dalton Place) to the south of the site. From the unformed road, a six (6) metre wide driveway will be constructed into the site, to a truck turning area and vehicle parking area. The Statement of Environmental Effects submitted with the application states that the new driveway is to be constructed from concrete (page 3) to enable emergency and other vehicles to enter and exit the site in a forward direction. The submitted plans indicate that the turning area will be constructed from compacted road base, with levelled gravel adjoining the proposed building.</p> <p>Council's Engineers have assessed the application and provided draft conditions of consent with regard to the construction standards required for the driveway and turning areas within the site, as well as for the upgrade of the unformed Crown Road, Dalton Place. This level of construction has been confirmed by Council's Assets Branch as the minimum level of construction necessary for this type of development (in accordance with the Council's Specification for Engineering Work for Subdivision and Development, DCP 31), and to ensure the longevity of the asset.</p> <p>Further detail is provided at Section 6 of this report.</p>	Yes
cl.10.4	Design and	<u>Subclause (a) –</u>	Yes

	Character	<p>The proposed construction of the brigade station will require the clearing of a significant area of vegetation. The building will be setback approximately 22 metres from Shipley Road. The original proposal was to retain all vegetation between the road and the building envelope. However to achieve compliance with Planning for Bushfire 2006, the RFS has recommended that the entire site be managed as an Inner Protection Area (IPA). This is likely to result in a high level of visibility of the proposed building from the road. Thus when viewed from a public place, the building is likely to be above the skyline, and not in accordance with clause 10.4(a).</p> <p>Existing trees along the site boundaries should be prioritised for retention within the APZ, to mitigate potentially adverse visual impacts to adjoining properties. This can be achieved, whilst meeting the maximum allowable fuel loads, by such methods as selection of species (e.g. smooth barked trees) and management of canopy separation and clustering. The proposed consent condition for the Vegetation Management Plan requires that the bushland character of the site (as required in accordance with this clause) inform the retention of vegetation within the Asset Protection Zones.</p> <p><u>Subclause (b) –</u> As stated above at clause 6.2, the colour schedule included for the proposed building is not considered to be in keeping with the intent of the clause. A condition of consent has been included requiring a revised colour schedule that includes muted bushland tones.</p> <p><u>Subclause (c) –</u> The proposal does not include landscaping and requires the removal of a significant amount of vegetation across the site. As noted above, the implementation of these Asset Protection Zones is to be guided by the approved Vegetation Management Plan (VMP) to be provided to Council prior to the commencement of works.</p>	(subject to conditions)
cl.10.5	Environmental Impact	<p><u>Subclause (a) –</u> An erosion and sediment control plan has not been submitted with the application. The Statement of Environmental Effects included a statement that sediment fences and stabilised site access will be used to monitor sediment. This is not considered adequate as the proposal requires a significant amount of clearing and site disturbance, due to the requirement for establishment of an Inner</p>	Yes

		<p>Protection Area (IPA) over the entire site. Conditions 19 and 20 of the concurrence provided by the Sydney Catchment Authority require the provision of a Soil and Water Management Plan in accordance with NSW Landcom's <i>Soils and Construction: Managing Urban Stormwater</i> 2004.</p> <p>Vegetation will be retained where possible and conditions will be included to ensure the IPA is managed by retaining as much vegetation as possible within the confines of Planning for Bushfire Protection 2006. The implementation of the Asset Protection Zones will be guided by the approved Vegetation Management Plan.</p> <p><u>Subclause (ca) –</u> The proposal requires that an Asset Protection Zone (APZ) extend over the entire site, to be managed as an Inner Protection Area. The RFS has also recommended a number of construction methods, including radiant heat shields and drenching systems, to ensure that the building can be adequately protected in a fire event. This complies with clause 10.5(ca)(i).</p> <p>However, as discussed above, it is important that the establishment of the APZs be managed to mitigate potentially adverse environmental impacts including site erosion and visual impacts on adjoining residents. The management of the Inner Protection Area should ensure as much vegetation is retained as possible, including a clustering of vegetation along the road frontage to mitigate visual impact.</p> <p><u>Subclause (db) –</u> While the proposal will require the removal of a significant amount of native vegetation, the site does not contain development excluded land. Measures to minimise the removal of vegetation are detailed in Section 5 of this report, and will be reinforced by the inclusion of consent conditions to require a Vegetation Management Plan for the site.</p>	
cl.10.6	Height of Buildings	The proposed building is single storey with a maximum height of 6.2 metres, and therefore complies with this clause	Yes
cl. 10.7	Heritage	<p>The site is located across Shipley Road, immediately west of two listed heritage items, being:</p> <ul style="list-style-type: none"> <li>• BH079 – 'The Ranch' located at 128-130 Shipley Road;</li> <li>• BH081 – 'The Barn' located at 132 Shipley</li> </ul>	Yes

		<p>Road</p> <p>The proposed building is setback approximately 22 metres from Shipley Road with vegetation along the eastern site boundary to be retained where possible, within the Asset Protection Zone, to maintain a visual separation. With the implementation of these measures, and consideration for the distance between the subject site and the listed items (including being separated by Shipley Road) the proposal is not considered to have a significant impact on these heritage item.</p>	
cl.10.8	Services	<p><u>Subclause (a) –</u> The site is not connected to reticulated water or sewer.</p> <p>A Water Cycle Management Study was submitted with the application, and subsequent amendments and requests for additional information have been provided by the applicant at the request of Council and the Sydney Catchment Authority. Sections 2 and 5 of this report detail the proposed stormwater and wastewater measures for the proposal. A final detailed stormwater management plan will be required as a deferred commencement condition. It is considered with this, and the implementation of proposed consent conditions, that the consent authority can be satisfied that the site has adequate arrangements for the treatment of stormwater and wastewater.</p> <p>Electricity is available to the site.</p> <p><u>Subclause (f) (ii) and (h) –</u> The proposal included a Water Cycle Management Report, which was referred to the Sydney Catchment Authority (SCA). In consultation with the SCA, this report was reviewed and amended over the course of several months. Concurrence has been provided by the SCA (dated 14<sup>th</sup> June 2012) and the development conditions contained therein would form part of any development consent.</p> <p>The submitted Water Cycle Management Study did not include a Geotechnical Assessment, as required under this clause. The application was referred to Council's Environmental Scientist and Environmental Health Officer for assessment. This assessment concluded that due to the provision of only a concept level detail on wastewater design, and the absence of geotechnical information, the Council could not be satisfied that the proposed wastewater management for the proposal would adequately dispose of effluent from the site.</p>	Yes

		<p>A Deferred Commencement condition has been included, requiring the provision of a Geotechnical Assessment prior to the issue of an operational consent, to confirm that the wastewater treatment measures proposed are capable of being accommodated on the site.</p> <p>It is noted that the revised Water Cycle Management Study dated April 23 2012, includes a reference (at section 3.2) to a Field Soil Assessment. This assessment was not submitted to Council for assessment, and no technical detail has been provided. This was raised with the applicant at a meeting held at Council in September 2012, where it was suggested that the provision of this field assessment may satisfy the requirements under this clause for Geotechnical Assessment. To date, this information has not been provided to Council.</p>	
cl.10.9	Site Coverage	<p>The site is comprised of two allotments:</p> <p><u>Lot 204:</u> Land area approximately 1997m<sup>2</sup> Permissible site cover: 300m<sup>2</sup> plus 10% of 997m<sup>2</sup> = 399.7m<sup>2</sup> total permissible building site cover.</p> <p>The total building site cover (including the paving around the proposed brigade station) over Lot 204 is approximately 290m<sup>2</sup>, and therefore complies.</p> <p><u>Lot 205:</u> Land area approximately 2173m<sup>2</sup> Permissible site cover: 400m<sup>2</sup> plus 5% of 173m<sup>2</sup> = 408.65m<sup>2</sup> total permissible building site cover.</p> <p>The total building site cover (including the concrete paving around the proposed brigade station) over Lot 204 is approximately 57m<sup>2</sup>, and therefore complies.</p> <p>This calculation does not include the hardstand area proposed adjacent to the brigade station, to be utilised as a truck turning circle.</p>	Yes
cl.10.1 1	Tree Preservation	<p>The proposal involves the clearing of a significant area of native vegetation, to incorporate the building envelope and the Asset Protection Zone on the site. A Flora and Fauna Assessment was completed and submitted as part of the application. A review of the assessment and further discussion is provided at Section 4 of this report.</p> <p>A Tree Preservation Order is not proposed.</p>	Yes

		However, conditions will be included which require the retention of clusters of vegetation to visually shield the proposed building, as well as requiring that the minimum amount of vegetation be removed in the establishment of asset protection zones. Tree removal will be informed and by the Vegetation Management Plan, required to be submitted to Council prior to the commencement of works.	
cl.11.6	Water Supply Catchment Area	The site is located within the Sydney Drinking Water Catchment, and the application has been referred to the Sydney Catchment Authority for concurrence. This is further detailed at clause 7.5 above, and Sections 2 and 5 of this report.	Yes
cl.17	Crown Development and Public Utilities	Clause 17.1 describes a number of development types which Council may not restrict or prohibit if undertaken by or on behalf of the Crown. The construction of a fire station or emergency services facility is not listed as one of these development types. Therefore, this clause is not applicable to the proposed development.	N/A
cl.30	Principal Development Area	<p>Given that the site contains two separate lots, both of which are below 4000sqm, the clause is currently not applicable to the application. However, consolidation of the lots will be required as a condition of consent. Therefore, it is relevant to determine compliance with this clause should any future applications be proposed for the site.</p> <p>For the proposed site (once consolidated, being over 4000m<sup>2</sup>), under clause 30.3 the Principal Development Area shall be a maximum of 2000m<sup>2</sup>, shall not include development excluded land, have boundary setbacks of at least 15 metres and be located to the satisfaction of Council.</p> <p>The proposal is broadly compliant with these provisions, except for the setback of the building to the northern boundary, which is approximately 12.2 metres to the building line, excluding the paving around the perimeter of the building. Should any additional structures (eg. awnings etc) for this part of the building be proposed, this would not comply with the provisions of this clause, and an objection under the provisions of State Environmental Planning Policy No.1 – Development Standards, would be required.</p>	N/A

## **2. State Environmental Planning Policies and Regional Plans**

### **2.1 State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)**

In accordance with clause 7 of SEPP 55, a consent authority must not consent to development unless it has considered whether the land is contaminated, and if the land is contaminated, that it is satisfied that the land is suitable (either in its contaminated state or after remediation) for the proposed development.

The site is not listed on Council's Contaminated Lands Register. The site is vacant Crown Reserve, with not recent history of development. There are no known historical land uses / activities likely to have caused contamination (as listed within the *Managing Land Contamination Planning Guidelines, SEPP 55–Remediation of Land*). It is therefore considered that contaminants are unlikely to be present on the site, and as such, the land is suitable for the proposed development.

### **2.2 State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)**

As stated above, the proposal relies on the provisions of this policy for permissibility.

Clause 47 of the policy permits with the consent of Council, development for the purposes of an *emergency services facility* within a prescribed zone, by or on behalf of the Rural Fire Service. An *emergency services facility* is defined as:

*“a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.”*

The site is zoned Bushland Conservation under Blue Mountains Local Environmental Plan 1991. The equivalent zone under the Standard Instrument Local Environmental Plan is E3 – Environmental Management zone. The E3 – Environmental Management zone is listed in subclause 47(2) of the Infrastructure SEPP as a zone in which development for the purpose of an emergency services facility can be carried out, but only with consent from Council.

### **2.3 State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

The site is located within the drinking water catchment and therefore requires assessment under this policy. A Water Cycle Management Study (prepared by NSW Public Works) was submitted as part of the application and referred to the Sydney Catchment Authority (SCA).

Significant issues were raised by the SCA with the onsite wastewater system proposed for the site, as well as the 'Concept Stormwater Management Plan' submitted with the application. The primary concerns with the information submitted was the lack of site specific detail contained within the plans and the

The SCA has advised that the concept stormwater plan remains inadequate, and as such the provision of a detailed Stormwater Management Plan has been required as a deferred commencement condition. With the provision of this plan, the SCA, has confirmed that the proposal is able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. Detailed discussion is provided at Section 5 of this report.

#### 2.4 Sydney Regional Environmental Plan No. 20: Hawkesbury Nepean River

The site is located within the Cox River subcatchment and is therefore subject to the provisions of this plan. The proposal includes the clearing of a significant area of vegetation, and the requirement for onsite effluent disposal. Both of these activities require careful mitigation to ensure against adverse environmental impact on the subcatchment.

The application included a Water Cycle Management Study, and as the site is also located within the Sydney Drinking Water Catchment, this has been referred to and assessed by the Sydney Catchment Authority (SCA). A detailed discussion of the assessment undertaken by the SCA and the reasons behind the requirement for implementation of deferred consent conditions is provided at Section 5 of this report.

In summary however, the Cox River subcatchment is not defined as a Conservation Area subcatchment under the provisions of the Regional Plan, and with the implementation of the above listed measures, it is considered that the proposed development can comply with the provisions of this plan.

### **3. Better Living Development Control Plan 2005**

The Better Living DCP 2005 applies to the site, and the provisions of Part E4 – Other Forms of Development under LEP 1991. Following is discussion of only those considerations which have not been addressed elsewhere in this report, primarily related to parking calculations and amenity. Other main considerations have been addressed above within the discussion of LEP 2005, and are not repeated here.

#### E4.9 Vehicular access, parking and roads

The proposal is defined as an emergency services facility under SEPP (Infrastructure) 2007, on which the development relies for permissibility. There is no definition under LEP 1991 which relates directly to the proposal. The most appropriate definition would be a ‘public office’ which is defined as:

*“an office used by the Crown, a statutory body, a council or an organisation established for public purposes.”*

This land use generates the need for 1 space per 40m<sup>2</sup> of gross floor area. The proposed building has a gross floor area of approximately 211m<sup>2</sup>. This includes a large truck parking area within the building (with an approximate area of 99m<sup>2</sup>). The development would therefore be required to provide 6 parking spaces, under this definition.

The proposal includes the provision of seven (7) car parking spaces within the site as well as truck parking areas within the proposed building, and is therefore compliant with the requirements of the DCP. A large truck turning area is also proposed in front of the building.

Under LEP 2005 the proposal would be defined as a ‘community building’ which includes bush fire brigade buildings. This definition generates the need for 1 space per 20m<sup>2</sup> of gross floor area. Were the development to be defined as such, it would generate the need for 11 parking spaces. The proposal would therefore be deficient of four (4) parking spaces under this definition.

The application included a Traffic Impact Study prepared by Traffix, dated 24<sup>th</sup> March 2011. This study assessed the potential traffic generation as a result of the proposal, and the impacts on the local network. The findings of this Traffic Impact Study are discussed in detail at Section 6 of this report, however of relevance here is that the



traffic generated by the proposed development is based on assumed activity at this site, including training at the facility once a week. It is expected that up to seven (7) vehicles would arrive at the site for each training session and two (2) fire trucks would be used. From these figures, the Traffic Impact Study (page 5) has determined the increased daily traffic volume to be 18 vehicles per day on approximately seventy-four (74) days per year.

Additional information provided by the applicant (dated 8<sup>th</sup> February 2012) indicated that the site would be utilised twice monthly (for one meeting per month and one training session per month) by 10-15 members. The brigade also estimates that a response to fire incidents would be required on approximately 10 to 20 occasions per year.

Given the intermittent occupation of the site and the number of expected members at each meeting / training session, the proposed parking at the site is considered adequate. Additionally, there is capacity for informal parking within the truck turning area, during these events. Conditions of consent will be included requiring the construction of the parking spaces to the relevant Australian Standard, and the containment of all parking within the site.

#### E4.10 Amenity

Conditions of consent will be included to ensure that any external lighting is shielded, and directed away from property boundaries, to ensure the amenity of adjoining neighbours is not affected. As detailed above, it is also proposed to the implementation of required asset protection zones be managed so as to retain as much vegetation as possible at the site boundaries to create a visual separation between the development and adjoining residents.

Submissions received as a result of the notification have raised concern over an increase in noise levels in the vicinity of the site from both increased traffic and general operation of the facility. Despite being on a main access road, the site is relatively isolated and within a quiet location, dominated by large, residential allotments. The development will result in some change to noise levels within this area. However, it is accepted that the site will not be occupied on a daily basis. Rather, the predominant use will be twice monthly, for training and brigade meetings. Outside of these times, the site will only be used during emergency responses. This intensity of use is considered reasonable and unlikely to result in a significant impact on the acoustic amenity of adjoining properties.

Public submissions also raised potentially adverse visual impacts as a result of significantly vegetation loss, and the construction of an industrial style building within a bushland setting. Vegetation clearing is addressed below in Section 4, and while it is accepted that the change from a vacant vegetated site will inevitably result in some visual impact, it is intended that the required Vegetation Management Plan will inform the retention of vegetation across the site, to retain some visual separation between the proposed development and adjoining properties.

#### **4. Vegetation Clearing**

The proposal requires the removal of native vegetation. The application states that the proposal will require the removal of approximately 1300sqm of native vegetation (to accommodate the proposed brigade station) and the modification of the approximately 1100sqm to establish an asset protection zone. However, recommendations received from the RFS (in their letter dated 5<sup>th</sup> March 2012)

require that in conjunction with construction standards (as referenced in the letter of 5<sup>th</sup> March 2012 and detailed in the Draft Bushfire Threat Assessment provided to Council on 6<sup>th</sup> March 2012) the entire site be managed as an Inner Protection Area (IPA). This will therefore require the removal of additional vegetation across the two allotments.

A Flora and Fauna Assessment was submitted with the application. This assessment identified *Eucalyptus sieberi* – *E. piperita* Open-forest Woodland as occurring across the subject site. The assessment concluded that as the community is not an endangered ecological community, and is well represented within the Blue Mountains LGA, the proposal is unlikely to have a significant impact on that community. The assessment also concludes that while there is the potential for several threatened flora and fauna species to occur on the site, none were detected during the site inspection. Assessments of significance were completed for relevant fauna species, which determined that the proposal is unlikely to have an adverse impact on threatened fauna species.

The Flora and Fauna Assessment also recommended the following mitigation measures:

- During construction: prevent unnecessary vegetation clearance, excess runoff, sedimentation, erosion and pollution;
- Post construction: weed management strategies and incorporation of locally occurring species into landscape design.

The application was referred to Council's Environmental Scientist. This assessment required that the applicant submit a Vegetation Management Plan for the site. The applicant responded with a request that this information be provided as a condition of consent, and as such, a Vegetation Management Plan has not been submitted, but will be required as a condition of consent prior to the commencement of work.

Further, the increase in vegetation clearing due to the recommendation of the Rural Fire Service (in its assessment capacity) that the entire site be managed as an Inner Protection Area (IPA), has the potential to adversely impact on the privacy and visual amenity of adjoining properties (as the original proposal included the retention of all vegetation within 20 metres of Shipley Road). A Vegetation Management Plan is to be provided prior to the commencement of works. This plan requires that the bushland character of the site be considered (as required under clause 10.4 of LEP 1991) and inform the retention of vegetation within the required Asset Protection Zones, and serve to minimise the loss of privacy and amenity to adjoining land.

## **5. Stormwater and Onsite Wastewater Disposal**

### **5.1 Stormwater**

The application included a Water Cycle Management Study (prepared by the Department of Public Works, dated 11<sup>th</sup> March 2011) which outlined several stormwater treatment measures including grate and entrance screens, enviropod pit inserts, bioretention trenches and grass swales on the downstream side of the road pavement. The study was referred to Council's Engineers and Environmental Scientist, and externally referred to the Sydney Catchment Authority (SCA) for their concurrence.

Several requests from both internal Council staff and the SCA were made to amend and improve the proposal and provide additional detail. The SCA in their letter dated 2<sup>nd</sup> November 2011 stated that the information provided within the Water Cycle

Management Study was generic, and had not considered the site and development specific requirements.

An addendum to the Water Cycle Management Study was provided by the applicant on 23<sup>rd</sup> April 2012, and a response received from the SCA in relation to this additional information, was received on 26<sup>th</sup> April 2012. The SCA remained unable to undertake a full assessment of the application due to the unsatisfactory nature of the information provided. The main concerns included the inaccuracy and incompleteness of the data utilised to complete the MUSIC model, and contradictions between the proposed stormwater systems shown on the submitted plans, and those used in the model. Concern was also raised over whether the site had sufficient grade for discharge of the bioretention systems into drainage swales.

The applicant provided a second addendum to the Water Cycle Management Study on 11<sup>th</sup> May 2012. The SCA remained dissatisfied with the MUSIC model provided and sought to rectify the errors and inconsistencies directly with the applicant, and undertake a second site visit to confirm the requirements on site. An email was provided to Council from the SCA on 29<sup>th</sup> May 2012, which confirmed the final details discussed with the applicant. It was on the basis of this information that the SCA provided concurrence on 14<sup>th</sup> June 2012. Despite the progressive revision and amendment of the Stormwater Management Plan, concurrence from the SCA included several notes with regard to the 'hand drawn' nature of the stormwater plan and need for clarification and additional detail prior to the commencement of construction.

The requirement for a professionally drafted stormwater plan will be included as a deferred commencement condition, to be provided prior to the commencement of works. The concurrence provided by the SCA also includes a number of other conditions related to the management of stormwater on and from the site. This concurrence is to form part of any development consent.

## 5.2 Onsite Wastewater Disposal

As detailed above at the discussion of SEPP (Sydney Drinking Water Catchment) 2011, the Water Cycle Management study submitted with the application included an onsite wastewater management system which included an aerated wastewater treatment system followed by subsurface effluent disposal on a large area of land. The Sydney Catchment Authority in their assessment of the information provided responded (on 2<sup>nd</sup> November 2011) that the information included generic detail only, and had not provided a site responsive solution. The design had not considered the suitability of the proposed system for the site, or the suitability of the soils for effluent irrigation disposal. Similar requests for site specific detail were made by Council's internal Environmental Science and Environmental Health officers.

A further response from the SCA was provided on 26<sup>th</sup> April 2012, responding to an Addendum to the Water Cycle Management Study dated 23<sup>rd</sup> April 2012. Within this correspondence, the SCA confirmed that the proposed wastewater management system would be acceptable, however should include an amended soil mound comprised of a soil other than sand, which would be more appropriate for the site conditions. The final management system includes

Concurrence from the SCA was provided on 14<sup>th</sup> June 2012 (upon satisfaction of other matters related to stormwater management). The conditions included in this concurrence will form part of any consent.

## **6. Access, Parking, and Traffic**

### **6.1 Access:**

Access to the site is proposed via Shipley Road from Dalton Place; the unformed access road adjacent to the site to the south. This access road will be required to accommodate heavy vehicle traffic and as such, Council's Engineers have required that the road be sealed to Council's minimum standards. This would require that the access road be a 10mm asphaltic concrete surface, 30mm in thickness on a DGB 20 pavement, with a minimum thickness of 150mm (subject to an approved subgrade). This level of construction is also required for the driveway, car parking and vehicle turning areas within the site. Unsealed roads and parking areas would not be acceptable, due to the nature of the facility and vehicles it is required to accommodate, as well as the identified environmental constraints identified with the site. The road construction standards have been included as conditions of consent.

The applicant has expressed concern over the level of construction required for site access, the driveway and turning areas. It is understood that the primary concern relates to the cost of construction, and the applicant has justified a lesser standard of construction based on the expected infrequent use of the site.

Due consideration has been given to these concerns, however given that the site is required to cater for heavy vehicles entering and leaving and manoeuvring within the site, an unsealed surface is not considered suitable. The construction standard proposed within the draft conditions is consistent with, or less than that of brigade stations within the Blue Mountains Local Government Area (most recently at Faulconbridge and Valley Heights) and Council's Assets Branch has confirmed that this standard is appropriate for the use and vehicle type proposed, and is necessary to ensure longevity of the asset and minimise ongoing maintenance costs for the site.

With regard to concern over the cost of construction, the Council has extended an offer of assistance to the Rural Fire Service and has indicated a willingness to make some contribution to construction costs required to meet minimum access standards. To date, this offer has not been pursued by the Rural Fire Service.

### **6.2 Parking:**

The proposal includes the provision of seven (7) onsite parking spaces, adjacent to the proposed building.

The submissions received during the notification period raised concern over the limited number of onsite parking spaces provided as part of the proposal. The applicant responded to these concerns as follows:

- The Brigade meets for training on a monthly basis, with 10-15 members attending the training sessions;
- The Brigade also holds a monthly meeting, with 10-15 people in attendance;
- The applicant maintains that the proposed onsite parking is sufficient to cater for these numbers.

Given that the site will not be permanently occupied (with the applicant indicating that the use is likely to be contained to two events each month, in addition to emergency responses) the proposed parking is considered adequate to cater for the needs of the brigade. There is the opportunity for informal parking during these events, within the truck turning area. To maintain safety and ensure monthly events do not adversely affect the local community, a condition of consent will be included which requires that all parking is contained within the site.

### 6.3 Traffic Generation:

A Traffic Impact Study was completed and submitted as part of the application. Based on assumed activity at this site, including training at the facility once a week, with the expectation that up to seven (7) vehicles would arrive at the site for each training session and two (2) fire trucks would be used. From these figures, the Traffic Impact Study (page 5) has determined the increased daily traffic volume to be 18 vehicles per day on approximately seventy-four (74) days per year. This level of traffic generation as a result of the proposal is unlikely to result in an adverse impact on the surrounding road network.

## **7. Indigenous Heritage**

The subject site is vacant Crown Land. There is an active Native Title claim over vacant crown land in the Blue Mountains. Therefore, the site needs to be assessed in this context and appropriate consultation undertaken with the relevant Local Aboriginal Land Council and Aboriginal stakeholders.

An Aboriginal Cultural Heritage Assessment was completed on behalf of the applicant, which included consultation with Aboriginal Stakeholders and test excavation at eight locations across the site. No items or objects of cultural significance were found on the site. However, as a result of the archaeological excavation, two new sites were recorded within 250m of the subject site. From the location of these sites, it is thought that the subject land is likely to have formed part of a travelling route for Aboriginal people, across the Shipley Plateau.

Given that no objects were identified during the site survey and test excavation, the proposal is considered unlikely to impact on objects or sites of Aboriginal cultural significance. The assessment recommends that no further archaeological investigation be undertaken at the site, however if archaeological material is uncovered during the construction phase, the works must cease and an archaeologist be contacted. A condition to this effect will be included in any consent.

## **8. Section 79C(1)(b)(c)(e) – The likely environmental, social and economic impacts and the suitability of the site**

As identified within this report, the site is currently vacant, heavily vegetated and without reticulated services. With consideration of these factors, and the location of the site within close proximity to residential allotments, the site is not the most suitable choice for the proposed brigade station. The applicant has advised that other vacant parcels of Crown land were investigated; however none of a suitable size or location for the brigade station were available.

This report has addressed the issues raised throughout the course of the assessment, primarily related to the treatment of stormwater and wastewater and the bushfire threat to the site and the proposed asset. It is considered that with the satisfaction of the deferred matters and the implementation of the operational conditions of consent, these environmental constraints can be appropriately addressed on the site.

The submissions also raised concern over the loss of vegetation as a result of the proposal. This loss of vegetation is regrettable, however importantly the site does not contain threatened species, endangered communities or development excluded land,

and conditions of consent will reinforce the requirement to minimise the loss of vegetation within the establishment of asset protection zones.

There are no perceived economic impacts (positive or negative) likely to occur from approval of the proposal, and there is the potential for positive social impacts, through the provision of a brigade station for the local rural fire service brigade, providing both a community benefit for members, and increased safety during a fire event, for the broader locality. These factors are considered a public benefit.

It is however considered that with the satisfaction of proposed deferred commencement matters and implementation of proposed operational conditions, such risks can be adequately mitigated and the impacts to adjoining properties can be minimised. In this regard, the proposal is not considered contrary to the public interest.

## **9. Section 79C(1)(d) – Submissions**

The proposal was notified by letter to affected property owners and was advertised in the Blue Mountains Gazette, with notification commencing on 2<sup>nd</sup> November 2011 and concluding on 16<sup>th</sup> November 2011.

A total of four (4) submissions were received. Three (3) of these submissions were received as a result of the public exhibition process, including one group submission from Shipley residents. The fourth, as detailed above, was a late submission as a result of a change of ownership to an adjoining property.

All issues raised in the submissions have been addressed within this report. A summary of these issues is detailed hereunder.

### **e) Noise Impacts from a large increase in activity in a quiet, residential location** **Comment:**

The applicant responded to the above concern, by confirming that the site will be only be used during training and monthly meetings. This is likely to occur approximately twice a month (once for each event) and during emergency responses. It is estimated that this will be approximately 10-20 times per year.

With consideration for the frequency of use expected at the site, and mitigation measures including the retention of as much vegetation as possible against Shipley Road, it is reasonable that the impacts to adjoining residents can be minimised. The impacts also need to be viewed in the context of improved fire safety and reduced response times (when compared to coming from the Blackheath brigade station), during fire events.

### **f) Visual Impact and Loss of Privacy and Amenity** **Comment:**

It is accepted that the proposal will result in some visual impact and loss of privacy to adjoining residents given that the site is currently vacant bushland. As detailed in the report, the Vegetation Management Plan required prior to the commencement of works, will inform the retention of vegetation within the asset protection zones (APZs). This selective clearing within the APZs and the setback of the proposed building from the site boundaries will minimise impact on adjoining and adjacent properties. Conditions of consent are also proposed with regard to the shielding and positioning of external lighting, to minimise impacts to amenity.

g) Traffic Impacts, including road safety and parking

Comment:

The Traffic Impact Study submitted with the application has adequately considered the likely traffic to be generated as a result of the proposal. The impacts on the road network as a result of the proposal are considered to be minimal, and issues regarding safety for vehicles entering and leaving the site can be adequately dealt with through conditions of consent. Parking has been addressed in detail at Section 6.2 of this report, and the parking proposed as part of the development is considered reasonable.

h) Increase of hazardous materials (greases, oils) leaving the site

Comment:

The proposal has been assessed referred to the Sydney Catchment Authority and conditions of approval provided, including a deferred condition requiring a detailed Stormwater Management Plan. The provision of this information and the implementation of the proposed operational conditions of consent is considered to adequately address this concern. Reference is made to the detailed

**10. Community Contribution**

The Blue Mountains Citywide Section 94A Infrastructure Contributions Plan 2012 (the Plan) applies to the site.

On the basis that the Council will become the trustee of the site, and will inherit the ownership and maintenance responsibility of the building and infrastructure, it is considered that the development is being carried out by on behalf of Blue Mountains City Council. Therefore in accordance with Part 3.9.3 of the Blue Mountains Citywide Section 94A Infrastructure Contributions Plan 2012, the development is exempt from paying a Section 94A levy.

## Conclusion

As outlined within this report, the crown land chosen for the construction of the brigade station has a number of constraints and requires extensive clearing to achieve the proposal. In this regard, the site is not an ideal fit for the development. Nevertheless, designs for stormwater management and onsite wastewater management have been developed which satisfy the requirements of the Sydney Catchment Authority and asset protection zones which meet the requirements of Planning for Bushfire Protection 2006, have been able to be achieved within the allotment. With the satisfaction of the deferred matters and implementation of appropriate conditions of consent, the proposal is capable of complying with relevant state and local planning instruments, and is unlikely to have a significant adverse impact on adjoining allotments.

\* \* \* \* \*



Kim Barrett  
Senior Planner

15<sup>th</sup> January 2013



Paul Koen  
Acting Manager, Planning and Development Services

15<sup>th</sup> January 2013

**Attachment 1 – Draft ‘Without Prejudice’ Conditions**

**Attachment 2 – Plans and Elevations**

**Attachment 3 – Sydney Catchment Authority Concurrence**

**Attachment 4 – Rural Fire Service Recommendations for Development**