

**COUNCIL ASSESSMENT BRIEFING TO PANEL**  
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSHCC-271 – DA 16-2023-590-1
<b>PROPOSAL</b>	Subdivision of land - 1 into 232 lot Torrens title subdivision for residential purposes and associated civil works, vegetation removal, intersection upgrade and stabilisation of anti-aircraft battery heritage item
<b>ADDRESS</b>	Lot 5 DP 233358 - 14 POPPLEWELL ROAD FERN BAY 2295
<b>APPLICANT</b>	Tom Allison - Defence Housing Australia
<b>OWNER</b>	Defence Housing Australia
<b>DA LODGEMENT DATE</b>	22 December 2023
<b>APPLICATION TYPE</b>	Integrated development
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 8, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Coastal Subdivision
<b>CIV</b>	\$24,078,073 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	N/A
<b>LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&amp;A ACT)</b>	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <i>State Environmental Planning Policy (Planning Systems) 2021</i>
<b>AGENCY REFERRALS</b>	Completed
<b>TOTAL &amp; UNIQUE SUBMISSIONS</b>	1 unique submission
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	Attachment A: Assessment Briefing Report prepared by Council for the 7 August 2024 assessment briefing with the HCCRPP.
<b>PREVIOUS BRIEFINGS</b>	7 August 2024
<b>ASSESSMENT STATUS</b>	Awaiting amended plans/information
<b>PREPARED BY</b>	Courtney Sargent – Senior Development Planner

## 1. INTRODUCTION

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This report provides a brief overview of the site and the proposed development and is intended to provide the HCCRPP with an update on the application.

The assessment briefing report provided to the HCCRPP for the 7 August 2024 assessment briefing meeting should be reviewed should further clarification on the proposal be sought.

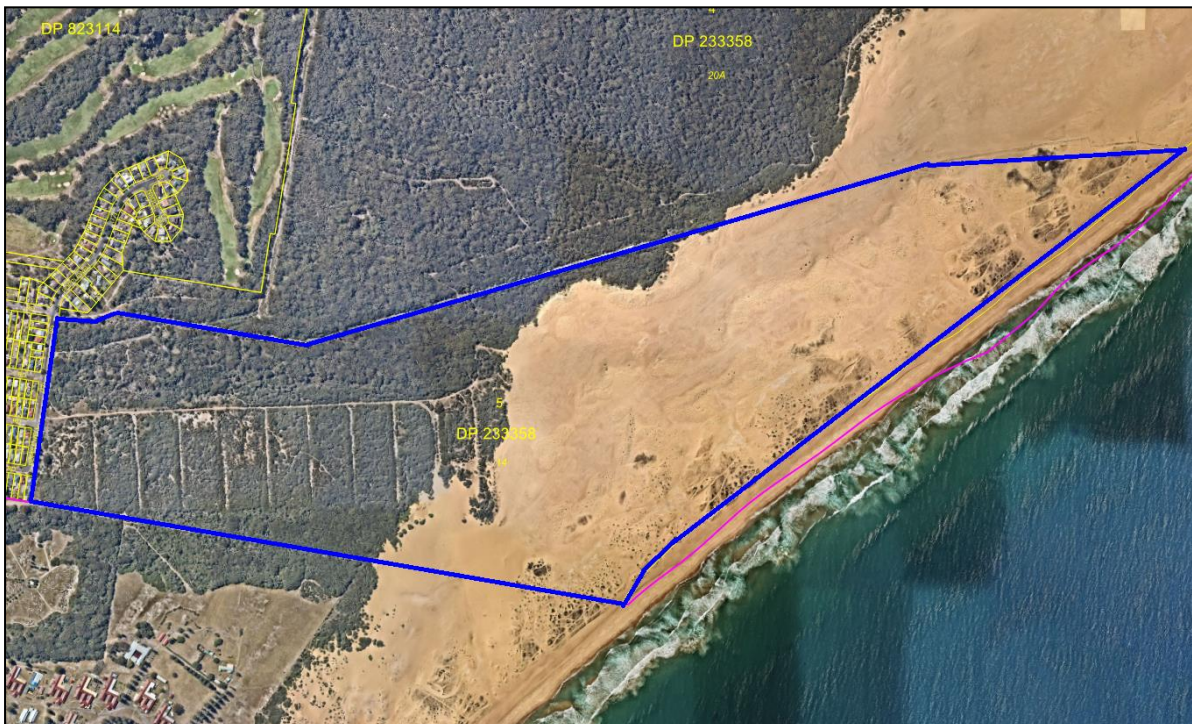
## 2. THE SITE AND LOCALITY

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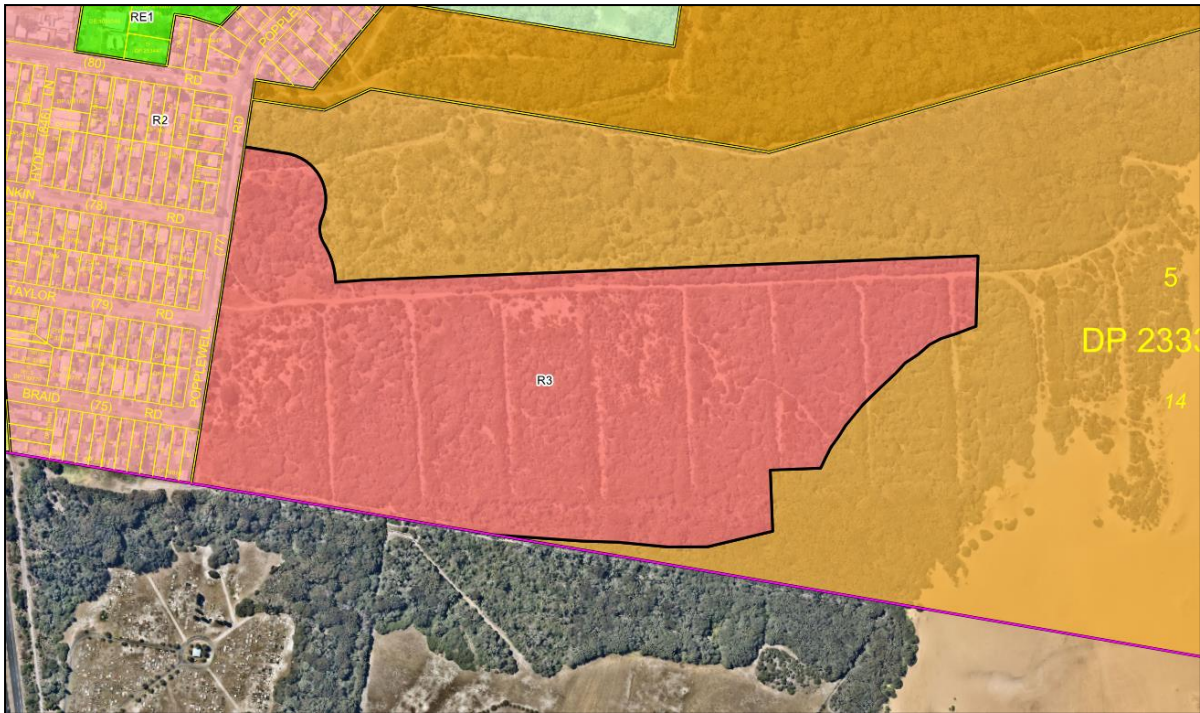
### 2.1 The Site

The development is proposed to take place on a single allotment, legally identified as Lot 5 DP 233358 and measuring 105.8ha in size with an irregular shape (see **Figure 1**). The western half of the lot has been subject to significant prior ground disturbance associated with historic Defence activities while the eastern half consists of a relatively undisturbed coastal sand dune extending approximately 500m to the ocean at the eastern extent of the lot. The site is split zoned R3 Medium Density Residential and C1 Environmental Conservation. The zones generally correlate with the disturbed area in the west and the undisturbed areas to the east and north.

Specifically, the development is proposed on the western portion of the site, corresponding with the R2 low density zoned land shown in **Figure 2** below. The area of the proposed development will herein be referred to as 'the site'.



**Figure 1:** Satellite Image Overview of Lot 5 DP 233358



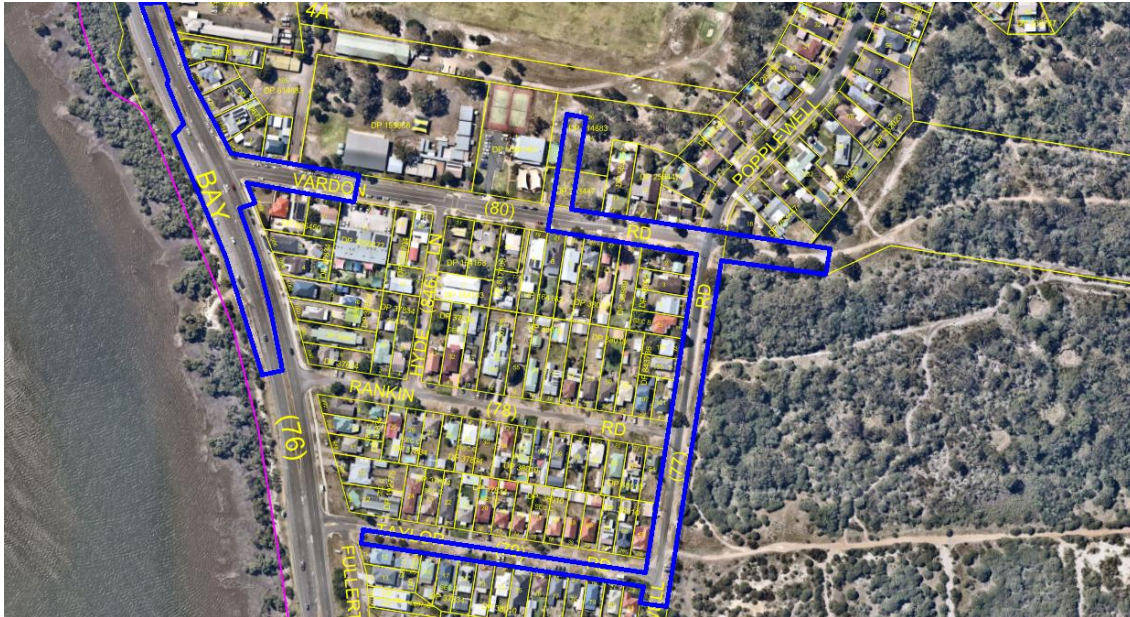
**Figure 2:** Site area as shown by R3 Medium Density zoning in pink

The site is the location of a former Department of Defence (Defence) rifle range. The range was officially opened in 1941. From 1953, the site was a training facility for all shooting in the region and was utilised by the police force, military, school cadets and civilian rifle clubs. In December 1997, the site was no longer required by Defence and was subsequently closed. The site forms part of a Local Heritage Item (Item I34), associated with its former use as a Defence site.

The site undulates with a maximum height of 10.5m AHD at several locations and as low as 2.5m AHD in some locations. Despite the scattered undulation the site is generally between 6m and 7.5m AHD for most of the site extent. Due to previous disturbance associated with prior land uses vegetation on the site primarily consists of re-growth vegetation. A series of cleared mounds extend parallel across the site in rows associated with the former Defence use. The sites primary frontage and existing vehicular access is to Popplewell Road to the west. An unsealed driveway extends from east to west across the site. An overhead power line and associated easement traverses a small portion of the site in the northwest and another in the southwest. The north western easement crosses over the area of the northern most proposed road and the front setback areas of lots 5, 6 and 7.

In addition, offsite infrastructure works are proposed within the road network surrounding the site and within Council owned land at 8A & 10 Vardon Road Fern Bay and Crown Land at 20A Popplewell Road Fern Bay. The area of proposed offsite works is shown in **Figure 3** below. Due to the offsite works being primarily located in the road corridor, there is little vegetation with only several mature trees. Immediately to the west of the proposed works on Nelson Bay Road is the North Channel of the Hunter River which is part of Hunter Wetlands National Park and is a RAMSAR and SEPP Resilience and Hazards 2021 wetland area. Work are proposed adjacent to but not within the wetland area.





**Figure 3:** Location of Offsite Works

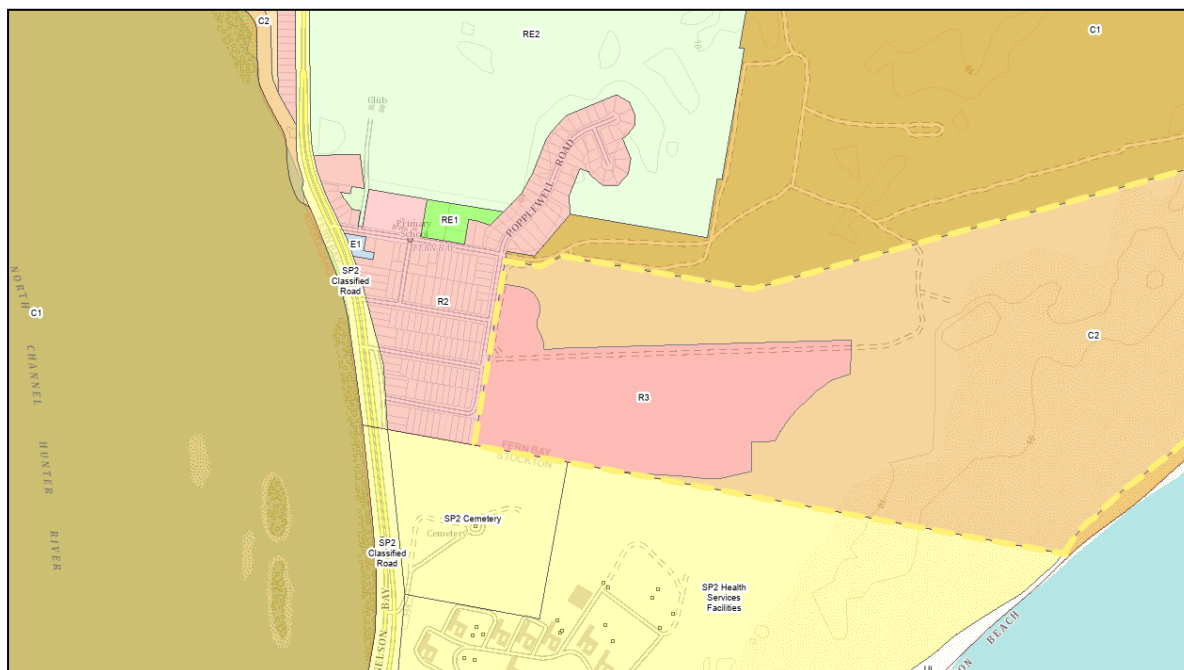
## 2.2 The Locality

The proposal is located within Port Stephens Local Government Area (LGA), approximately 6km north of the Newcastle Central Business District (CBD). The Fern Bay locality primarily consists of R2 Low Density Residential, RU2 Rural Landscape and C2 Environmental Conservation land, as shown in **Figure 4** below. The nearest commercial centres include land recently rezoned for commercial purposes (E1 Local Centre zone) at 42 Fullerton Cove Road, 2km from the site. A development application for a supermarket and several other retail premises is currently under assessment by Council at this location under DA 16-2023-685-1. A further commercial centre is located in the suburb of Stockton located 4.5km to the south of the site in the Newcastle LGA. A small neighbourhood shop and café is located on Nelson Bay Road within a walkable distance approximately 300m from the western site boundary. A development application for a 172 unit Seniors Housing Development at the nearby Newcastle Golf course, north of Vardon Road is currently under assessment by Council under DA 16-2023-403-1.

The Fern Bay area is serviced by Hunter Valley Buses and Port Stephens Coaches in addition to a school bus service. Bus services connect residents to Newcastle City, Stockton, Newcastle Airport and Nelson Bay. Nelson Bay Road to the west of the site provides a major connection between Nelson Bay to the north and Kooragang to the south. It forms part of the regional road network and carries a high volume of traffic between Newcastle and the Port Stephens LGA, including Newcastle Airport / Williamtown RAAF base

Land uses to the west of the site consist of low density residential, primarily consisting of predominately older housing stock. To the north and east of the site lies the Worimi National Park. The 'Stockton Centre' and associated land owned by the state government exists to the south of the site and may be developed for residential and commercial purposes in the future, in accordance with Port Stephens Council and City of Newcastle's North Stockton and Fern Bay Strategy. The Stockton Centre is currently zoned SP2 for the purposes of a Health Services Facility which opened in 1900 and forms part of local heritage I34 which also covers the site. The Stockton centre is no longer operational, having closed in 2020. All existing structures associated with the centre remain on the site. A cemetery is also immediately located to the south of the site within the Newcastle LGA. A 40m wide vegetated buffer exists between the site and the cemetery.

The site is within the area subject to the North Stockton and Fern Bay Strategy (the Strategy) which seeks to identify opportunities for Fern Bay and North Stockton to create a pedestrian focused place which offers housing diversity, a mixed-use town centre, connected open spaces and community facilities. The site is identified within the Strategy as offering the potential for approximately 300 dwellings and open space. The proposed development allocates a future connection point to the land to the south, including land to support a round-a-bout, consistent with the location identified in the Stockton Strategy



**Figure 4:** Zoning of the Locality

### 3. THE PROPOSAL AND BACKGROUND

#### 3.1 The Proposal

The development application seeks consent for the subdivision of land, including a 1 into 232 lot Torrens title subdivision for residential purposes and associated civil works, vegetation removal, intersection upgrade and stabilisation of anti-aircraft battery heritage item, as shown in **Figure 5** below.

The proposed subdivision includes the following key elements:

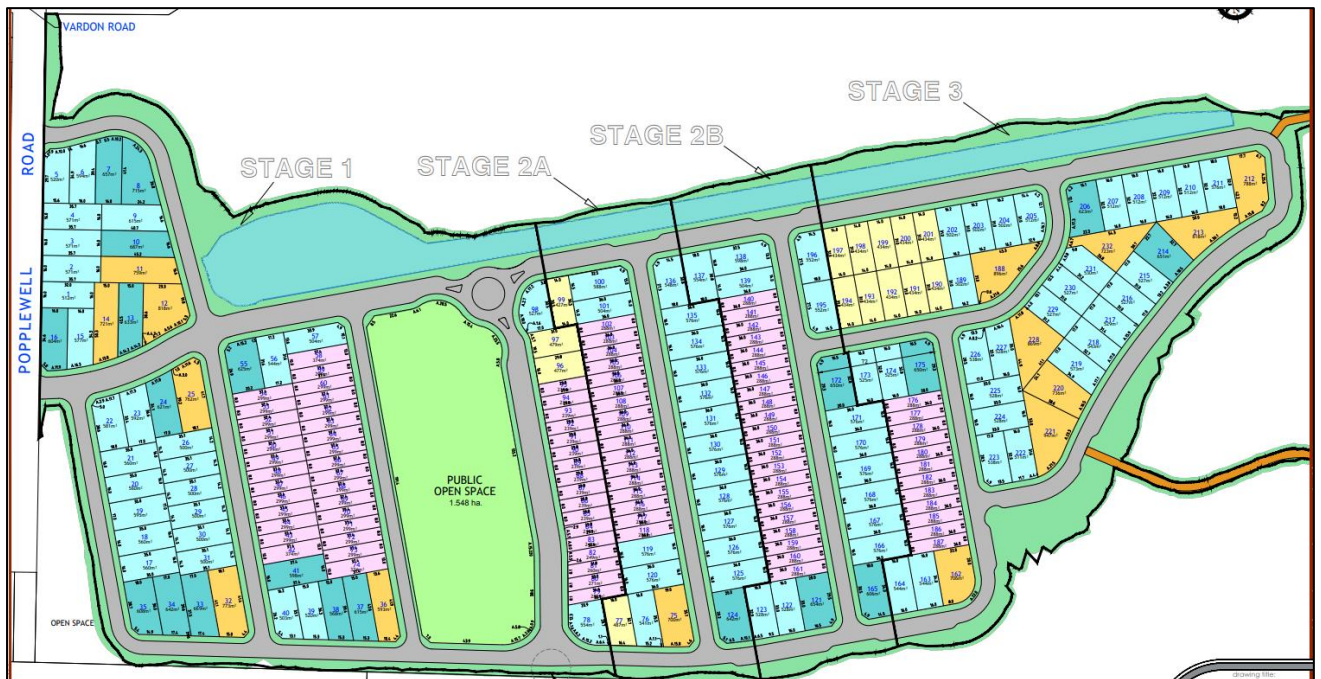
- 1 into 232 lot Torrens title subdivision across 4 stages;
- Internal road network and associated roundabout and footpaths;
- New signalised intersection, including 60m left turn acceleration lane out of Vardon Road and an extension to the right turn lane on Nelson Bay Road;
- Stormwater management utilising infiltration basins;
- Earthworks and retaining associated with new lots, roads, drainage and service installation;
- Stabilisation of Anti-Aircraft Battery Heritage Item;
- Connection to water, sewer, electrical (including kiosks), telecommunications and gas is proposed;

- Landscaping; and
- Access tracks to the Stockton Sand Dunes;
- The subdivision also includes the creation of a residue lot which will wholly contain the C2 Environmental Conservation zoned portion of the site.

Key development data is provided in **Table 1** below.

**Table 1: Development Data**

Control	Proposal
Site area	105.8ha
Clause 4.6 Requests	Yes/No – specify
No of lots	232
Lot Size	200m <sup>2</sup> to 947m <sup>2</sup>



**Figure 5: Proposed Subdivision Layout and Staging**

### 3.2 Background

The development application was lodged on 22 December 2023. A chronology of the development application since lodgement is outlined below including the Panel’s involvement (briefings, deferrals etc) with the application:

**Table 2: Chronology of the DA**

Date	Event
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<b>22 December 2023</b>	DA lodged
<b>22 December 2023</b>	Stop the clock issued on lodgement of DA due to an incomplete Aboriginal Cultural Heritage Assessment.
<b>5 January 2024</b>	DA referred to external agencies
<b>23 January 2024</b>	Exhibition of the application
<b>7 February 2024</b>	Panel kick-off briefing
<b>1 March 2024</b>	Request for Information from Council to applicant
<b>7 August 2024</b>	Assessment briefing

#### **4. KEY ISSUES**

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A request for information was issued by Council to the applicant on 1 March 2024. A response to this request has not yet been received. The key issues were detailed in the Council briefing report submitted to the HCCRPP on 7 August 2024. Given no response has been provided, the key issues with the proposal remain unchanged or unresolved. However, Council seek to consult with the HCCRPP further with regard to the long-term management of the C2 zoned land as detailed below.

##### **5.1. Ownership and management of residue lot**

The proposal includes a Vegetation Management Plan (VMP) with ongoing management actions for the proposed residue lot zoned C2 – Environmental Conservation. The key management actions in the VMP are summarised below:

- Demarcate site boundary;
- Install temporary erosion and sediment controls;
- Undertake pre-clearance surveys;
- Weed management (where required);
- Undertake follow up weed control (where required);
- Site maintenance – ongoing weed control (where required);
- Where required, revegetation;
- Irrigate plantings;
- Annual monitoring of all vegetation management after implementation of VMP;
- and
- Regular inspections of weed management and site maintenance.

The information currently lodged with Council does not provide detail regarding who will be responsible for the ongoing implementation of the VMP and associated financial costs. It is noted that the VMP is also intended to include measures to address dune stabilisation and rehabilitation works to mitigate the risk of dune transgression. However, this detail has not been provided by the applicant.

The request for information issued by Council in March 2024 sought further understanding on whether the land could be dedicated to the adjoining Worimi National Park or to otherwise put forward an alternative ongoing management mechanism, such as a Conservation Agreement or Biodiversity Stewardship Agreement (BSA).

A formal response to the request has not yet been received from the applicant. However, it has been advised by the applicant that that Defence Housing Australia (DHA) propose to continue to own the residue/C2 zoned lot and will be proposing that a condition be placed on the consent requiring a positive covenant be put on the s88B requiring the ongoing management of the land for a period of 5 years, as per the VMP.

Alternatively, Council and the HCCRPP could consider imposing a condition requiring the payment of a financial security to Council to ensure the ongoing management of the dune and conservation lands relying on Section 4.17(6)(d) of the EP&A Act. This would require a bond or bank guarantee provided to Council by applicant to provide a financial security for the ongoing conservation and dune management actions.

A Voluntary Planning Agreement (VPA) is another management mechanism, however Council will not be taking ownership or long-term responsibility for the management of the conservation lands. A VPA would only be utilised in this instance to provide a financial guarantee to Council that the conservation lands would be managed in-perpetuity under a VMP. Noting a VPA is voluntary, neither Council nor the HCCRPP could impose such a requirement as a condition of consent without a formal offer from the applicant.

## **5. ATTACHMENTS**

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The following attachments are provided:

- Attachment A: Assessment Briefing Report prepared by Council for the 7 August 2024 assessment briefing with the HCCRPP.