



Satterley Property Group

Upper Swan Residential Development, WA (EPBC 2017/8062)

Annual Compliance Report (Rev 0)

64816 | 

24 April 2023



We acknowledge the Traditional Custodians of Country throughout Australia and their connections to land, sea and community.

We pay respect to Elders past and present and in the spirit of reconciliation, we commit to working together for our shared future.



Declaration of accuracy

In making this declaration, I am aware that sections 490 and 491 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed



Full name (please print)

SANDY BIAGIONI

Position (please print)

REGIONAL MANAGER

Organisation (please print including ABN/ACN if applicable)

SATTERLEY

BROOKSIDE Pty Ltd ACN: 608 313 515

Date

24 / 04 / 2023

Table of Contents

1. Introduction	4
1.1 Project background	4
1.2 Environmental approval to implement project	4
2. Current Status	6
3. Audit Methodology	7
3.1 Purpose and scope	7
3.2 Audit period	7
3.3 Methodology	7
3.4 Audit terminology	7
4. Audit Results	8
4.1 Compliance with conditions	8
5. Limitations	14
6. References	15

List of Tables

Table 3-1: Persons consulted	7
Table 3-2: Action implementation status	7
Table 4.1: EPBC 2017/8062 Audit table	9

Appendices

Appendix A	EPBC Approval 2017/8062
------------	-------------------------

1. Introduction

This Annual Compliance Report (ACR) addresses the status and compliance of the Upper Swan Residential Development (the Project), located 25 km north, north-east of Perth central business district, Western Australia with the conditions in the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) decision notice EPBC 2017/8062 (Appendix A).

1.1 Project background

Satterley Property Group (Satterley) is developing the Upper Swan Development (Figure 1-1) in the City of Swan, Western Australia, which involves the clearing of vegetation for residential and commercial development. Once completed the Project will comprise residential, commercial, education and public open space (POS) land uses within the 132.9 ha of development area (the project area). The development aims to create between 1600–1700 residential dwellings ranging from 150 m²–900 m² in size.

1.2 Environmental approval to implement project

The Project was referred to the Department of Environment and Energy (DEE), now Department of Climate Change, Energy the Environment and Water (DCCEEW) in August 2017 for assessment under the EPBC Act (EPBC 2017/8062). On 19 March 2018, the delegate for the Minister of the Environment determined that the project was a controlled action requiring an assessment through preliminary documentation, with a reconsideration of decision also determining that it was a controlled action on 4 October 2018. The controlling provisions under Part 3 of the Act are listed threatened species and ecological communities (Sections 18 and 18A) namely:

- Western Swamp Tortoise (*Pseudemydura umbrina*) (critically endangered)
- Clay Pans of the Swan Coastal Plain ecological community (critically endangered)
- *Corymbia calophylla* – *Xanthorrhoea preissii* woodlands and shrublands of the Swan Coastal Plain (endangered).

On 29 November 2018, Department of Agriculture, Water and the Environment (DAWE), now DCCEEW, requested further information to enable assessment through preliminary documentation, with the additional information provided on 9 April 2019. The Project was approved with conditions on 16 January 2020 (EPBC 2017/8062; Appendix A).

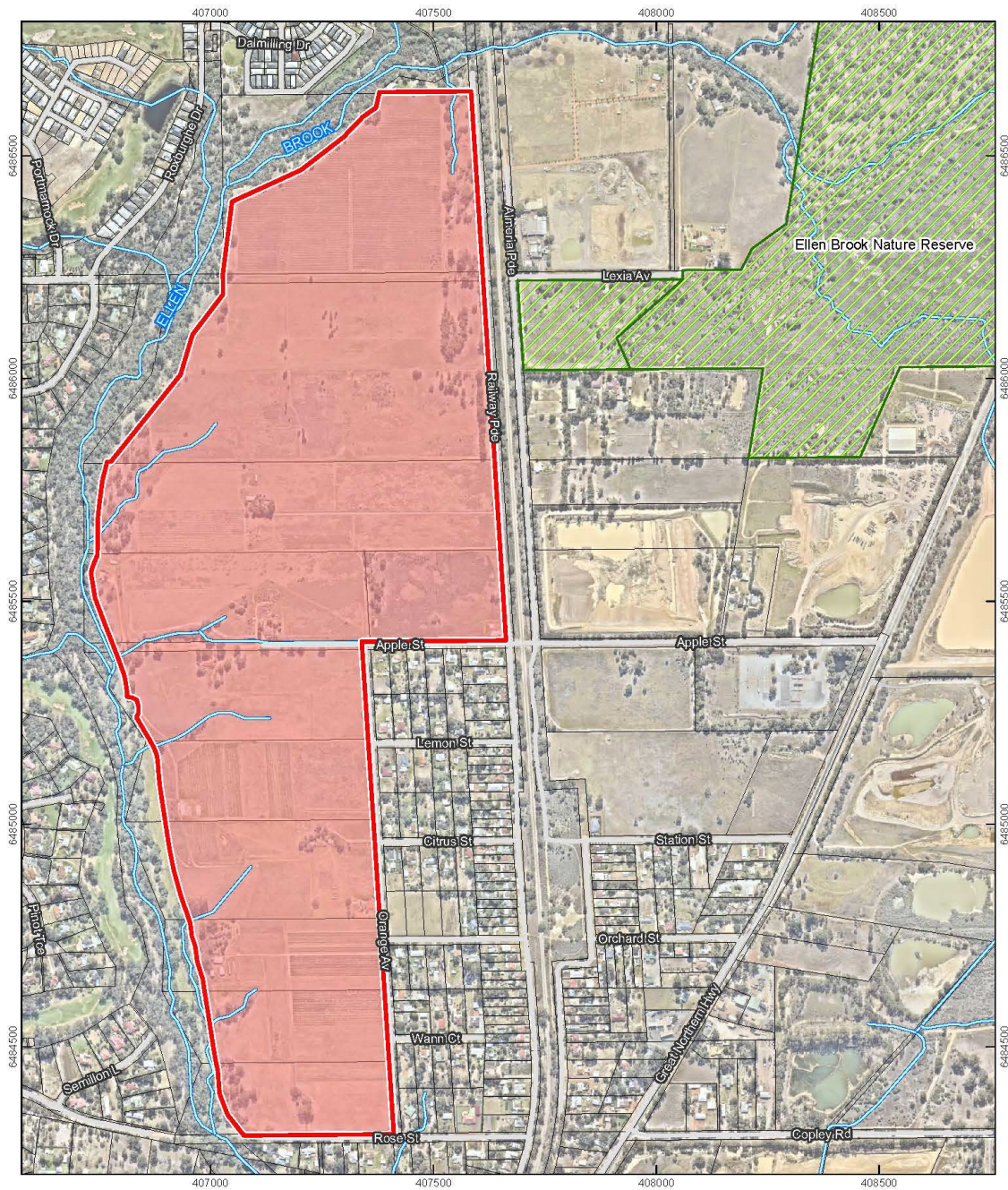
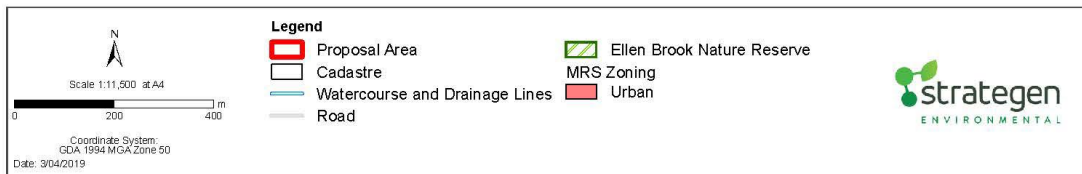


Figure 1: Proposal Area



Q:\Consult\2019\SP01\SP016354\ArcMap_documents\SP016354_0001_RevA.mxd info@strategen.com.au | www.strategen.com.au
 © 2019. Whilst every care has been taken to prepare this map, Strategen & Satterley makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and cannot accept liability and responsibility of any kind (whether in contract, tort or otherwise) for any expenses, losses, damages and/or costs (including indirect or consequential damage) which are or may be incurred by any party as a result of the map being inaccurate, incomplete or unsuitable in any way and for any reason.
 Data source: Neamap; Aerial Image; f10wn 01/2019; Locate Public Aerial Imagery; Client: Satterley; Site data, 01/2019; Created by: n.sullivan

Figure 1-1: Upper Swan Urban Development Proposal Area

2. Current Status

The action commenced on 23 January 2020. Activities undertaken for the previous audit period (23 January 2021 to 22 January 2022) included clearing and bulk earthworks (including drainage and road works) for Stages 3, 6, 7 and 8 of the subdivision

The activities undertaken during this audit period (23 January 2022 to 22 January 2023) included.:

- clearing and bulk earthworks (including drainage and road works) for Stages 7, 8, 9 of the subdivision.
- Civil works for stages 3, 6 and 7.

3. Audit Methodology

3.1 Purpose and scope

This report has been prepared for Satterley (the approval holder) to fulfil the requirements of Condition 16 of the EPBC 2017/8062 (Appendix A) which states that:

*“The approval holder must ensure that **independent audits** of compliance with the conditions are conducted for the 12 month period from the commencement of the action and for every subsequent 12 month period, or as otherwise requested in writing by the **Minister.**”*

3.2 Audit period

This ACR addresses the audit period between 23 January 2022 and 22 January 2023 for the conditions of EPBC 2017/8062 i.e. covering the 12 month period since the date of commencement of the action on 23 January 2020. This report is due to be submitted by 24 April 2023.

3.3 Methodology

The audit was undertaken during April 2022, with a desktop audit completed by Environmental Auditor Andrea Wills from JBS&G. Table 3-1 provides an overview of the personnel consulted as part of the audit.

Table 3-1: Persons consulted.

Person and Position	Organisation	Purpose
Luke Coyle, Site Engineer	Cossil & Webley	To obtain verifiable evidence to assist in determining compliance with EPBC 2017/8062.
Sandy Biagioni, Regional Manager South	Satterley	To obtain verifiable evidence to assist in determining compliance with EPBC 2017/8062.

3.4 Audit terminology

The ‘Status’ field of the audit tables (refer to Table 3-2 describes the implementation of actions and compliance with the approval. DCCEE (DotE 2014) has published Annual Compliance Report Guidelines and terminology from this guidance was applied in this audit (Table 3-2).

Table 3-2: Action implementation status

Status	Acronym	Description
Compliant	C	‘Compliance’ is achieved when all the requirements of a condition have been met, including the implementation of management plans or other measures required by those conditions.
Non-compliant	NC	A designation of ‘non-compliance’ should be given where the requirements of a condition or elements of a condition, including the implementation of management plans and other measures, have not been met.
Not Applicable	N/A	The requirements of a condition or elements of a condition/management action fall outside of the scope of the current reporting period. For example, a condition which applies to an activity that has not yet commenced or has been completed previously.

Source: adapted from DotE (2014)

4. Audit Results

4.1 Compliance with conditions

The results of the audit of EPBC 2017/8062 are shown in Table 4.1. Of 34 sub-conditions of EPBC 2017/8062:

- 21 were found to be compliant, seven were found to be compliant complete
- none were found to be non-compliant
- 13 were found to be not applicable

Table 4.1: EPBC 2017/8062 Audit table

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
EPBC 1	To minimise impacts to the Western Swamp Tortoise , the approval holder must not clear more than 132.9 hectares of vegetation in the area designated as the 'Project Area' in Attachment A, which is in close proximity to the only viable and naturally occurring population of the Western Swamp Tortoise in the wild.	At all times	Records of clearing during the audit period	G01_6161- EW3_clearing_boundary	All construction and subdivision works undertaken during the audit period were located within the approved project area. No clearing was undertaken in the audit period.	C
EPBC 2	To avoid the impacts of water pooling on the Western Swamp Tortoise , the approval holder must not construct any surface water body within 200 metres of lot 505 Almeida Parade .	At all times	Records of construction activities	Management Advice 17/04/2023 G01_6161- EW3_clearing_boundary	No construction or subdivision works have commenced within 200 m of lot 505 Almeida Parade	NA
EPBC 2a	The approval holder must also: prior to the sale of each lot, that is entirely or partially within 200 metres of lot 505 Almeida Parade , inform in writing each prospective purchaser of such a lot that a restrictive covenant will be placed on the title of the lot preventing the construction of a surface water body within 200 metres of lot 505 Almeida Parade	Prior to the sale of each lot that is entirely or partially within 200 m of lot 505 Almeida Parade	Records of notices to prospective purchasers of each relevant lot	Management Advice 17/04/2023 G01_6161- EW3_clearing_boundary	No construction or subdivision works have commenced within 200 m of lot 505 Almeida Parade	NA
EPBC 2b	The approval holder must also: at the time of sale, place a restrictive covenant on the title of each lot, part or all of which is within 200 metres of lot 505 Almeida Parade , preventing the construction of a surface water body within 200 metres of lot 505 Almeida Parade .	At the time of sale	Records of each restrictive covenant placed on each relevant lot	Management Advice 17/04/2023 G01_6161- EW3_clearing_boundary	No construction or subdivision works have commenced within 200 m of lot 505 Almeida Parade	NA
EPBC 3a	To avoid the impacts of water pooling on the Western Swamp Tortoise , the approval holder must ensure that all works associated with the action do not contribute any additional water into the roadside drainage system or increase water pooling along Railway Parade and are designed and constructed in consultation with the Western Australian Department of Biodiversity, Conservation and Attractions and the City of Swan to prevent water from remaining in pools.	At all times	Approved Urban Water Management Plans for each stage of development.	Management Advice 17/04/2023 G01_6161- EW3_clearing_boundary	The subdivision is on the south side of Apple Street. Railway Parade is on the North side of Apple Street. The subdivision does not drain onto Railway Parade and there has been no construction of roadside drainage on Railway Parade.	NA
EPBC 3b	The approval holder must not commence construction of roadside drainage along Railway Parade until the Western Australian Department of Biodiversity, Conservation and Attractions and the City of Swan have each confirmed in writing that the design will prevent the creation of surface water bodies	Prior to commencement of roadside drainage along Railway Parade	Records of construction activities along Railway Parade Correspondence from the Western Australian Department of Biodiversity Conservation and Attractions (DBCA) and the City of Swan	Refer to EPBC 3a	No construction of roadside drainage along Railway Parade has commenced	NA
EPBC 4a	To minimise the impacts of water pooling on the Western Swamp Tortoise as a result of dewatering activities undertaken during construction of the action, the approval holder must: only undertake dewatering activities within 200 m of 'lot 505' in Attachment A for a maximum of two weeks duration during each construction phase .	During construction	Records of all dewatering activities undertaken within 200 m of lot 505	Management Advice 17/04/2023 G01_6161- EW3_clearing_boundary	No construction or subdivision works have commenced within 200 m of lot 505 Almeida Parade	NA
EPBC 4b	To minimise the impacts of water pooling on the Western Swamp Tortoise as a result of dewatering activities undertaken during construction of the action, the approval holder must: ensure that no infiltration basins are constructed within 400 metres outside of the area designated as 'lot 505' in Attachment A.	During construction	Records of all infiltration basins constructed	Management Advice 17/04/2023 G01_6161- EW3_clearing_boundary	No works have been undertaken within 400 m of Lot 505.	NA
EPBC 4c	To minimise the impacts of water pooling on the Western Swamp Tortoise as a result of dewatering activities undertaken during construction of the action, the approval holder must: ensure that all	Within 96 hrs of conclusion of dewatering	Monitoring of infiltration basins	Management Advice 21/04/2023	Dewatering for civils activities occurred through the winter months (June 2022 – October 2022). Infiltration basins, where used, were drained within 96 hours.	C

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
	infiltration basins are fully drained within 96 hours of the conclusion of dewatering activities .					
EPBC 5	To minimise the impacts of water pooling as a result of irrigation activities on the Western Swamp Tortoise , the approval holder must implement the Local Water Management Strategy .	At all times	Approved Urban Water Management Plan for each stage of development	R03_LWMS R001 Rev0 Management Advice 21/04/2023	The LWMS was sighted during the audit. Areas are required to receive an average of 7500 kL/ha/yr of irrigation as per the LWMS. The POS is currently being irrigated at this rate. No ponding as a result of irrigation was observed during the audit.	C
EPBC 6a	To avoid and mitigate the impacts of predators and feral animals on the EPBC Act listed species and ecological communities , the approval holder must provide the equivalent of \$30,000 (by application of the National Consumer Price Index published by the Australian Bureau of Statistics indexed to its value in 2019) to the Western Australian Department of Biodiversity, Conservation and Attractions for predator and feral animal control activities in the Ellen Brook Nature Reserve. This funding must be provided to the Western Australian Department of Biodiversity, Conservation and Attractions within six months of the commencement of the action	Within 6 months of commencement of the action	Records of funding provided to DBCA	Upper Swan Development Annual Compliance Report 2021 [58645/135797]	This condition was met in a previous audit period. The proponent provided evidence of payment of \$30,000 on 23/07/2020 predator and feral animal control activities in the Ellen Brook Nature Reserve in accordance with condition 6. DBCA acknowledged receipt 23/07/2020. This met the six month requirement	NA complete
EPBC 6b	Within two weeks of the approval holder providing the funding to the Western Australian Department of Biodiversity, Conservation and Attractions , the approval holder must provide evidence to the Department in writing that the funding (stating its actual amount) has been provided to the Western Australian Department of Biodiversity, Conservation and Attractions .	Within 2 weeks of providing funding	Correspondence with the Department	Upper Swan Development Annual Compliance Report 2021 [58645/135797]	This condition was met in a previous audit period. The proponent provided evidence of payment to the Department on 07/08/2020 and the Department accepted the evidence satisfied condition 6. on 14/09/2020.	NA complete
EPBC 7a	To avoid and mitigate the impacts of increased human pressure arising from the action on the Western Swamp Tortoise , the approval holder must provide the equivalent of \$20,000 (by application of the National Consumer Price Index published by the Australian Bureau of Statistics indexed to its value in 2019) to the Western Australian Department of Biodiversity, Conservation and Attractions for: <ul style="list-style-type: none"> a. the ongoing maintenance of the predator' proof fence around the lot 505 Almeida Parade and the Ellen Brook Nature Reserve; b. the construction and ongoing maintenance of a predator proof fence around lot 15; and c. ongoing monitoring and management of weeds in lot 505 Almeida Parade, the Ellen Brook Nature Reserve and lot 15 for the life of the approval. The approval holder must provide the funding to the Western Australian Department of Biodiversity, Conservation and Attractions within six months of the commencement of construction.	Within 6 months of commencement of construction	Records of funding provided to DBCA	Upper Swan Development Annual Compliance Report 2021 [58645/135797]	This condition was met in a previous audit period. The proponent provided evidence of payment of \$20,000 on 23/07/2020 for predator proof fences and weed management in accordance with condition 7. DBCA acknowledged receipt 23/07/2020. This met the six month requirement	NA complete
EPBC 7b	Within two weeks of the approval holder providing the funding (stating its actual amount) to the Western Australian Department of Biodiversity, Conservation and Attractions , the approval holder must provide evidence to the Department in writing that the funding has been provided to the Western Australian Department of Biodiversity, Conservation and Attractions .	Within 2 weeks of providing funding	Correspondence with the Department	Upper Swan Development Annual Compliance Report 2021 [58645/135797]	This condition was met in a previous audit period. The proponent provided evidence of payment to the Department on 07/08/2020 and the Department accepted the evidence satisfied condition 7. on 14/09/2020.	NA complete
EPBC 8	To avoid and mitigate the impacts of fire on the EPBC Act listed species and ecological communities, the approval holder must implement the Bushfire Management Plan for the life of the approval.	At all times	Bushfire Compliance Reports for each stage of development	E02_BMP Stage 2, 3 & 6 Clementine (Rev 0)_59747/133,788 E03_Bushfire Condition Clearance Report Stage 2 Clementine Estate (Rev 0)_61197/139,469	In accordance with the structure plan Bushfire Management Plan (BMP), a subdivision BMP was prepared in support of the stage 2, 3 & 6 of the subdivision. The Stage 2 BMP compliance report prepared at the completion of Stage 2 construction found that the BMP had been implemented throughout the duration of subdivisional works to achieve compliance with bushfire protection outcomes.	C

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
EPBC 9a	To compensate for the residual significant impact of the action on aestivation habitat for the Western Swamp Tortoise , the approval holder must provide the equivalent of \$15,000 (by application of the National Consumer Price Index published by the Australian Bureau of Statistics indexed to its value in 2019) to the Western Australian Department of Biodiversity, Conservation and Attractions for the ongoing research, monitoring and management of domestic cats in the Ellen Brook Nature Reserve . The approval holder must provide the funding to the Western Australian Department of Biodiversity, Conservation and Attractions within six months of the commencement of construction.	Within 6 months of commencement of construction	Records of funding provided to DBCA	Upper Swan Development Annual Compliance Report 2021 [58645/135797]	This condition was met in a previous audit period. The proponent provided evidence of payment of \$15,000 on 23/07/2020 for research, monitoring and management of domestic cats in the Ellen Brook Nature Reserve in accordance with condition 9. DBCA acknowledged receipt 23/07/2020. This met the six month requirement	NA complete
EPBC 9b	Within two weeks of the approval holder providing the funding to the Western Australian Department of Biodiversity, Conservation and Attractions , the approval holder must provide evidence to the Department in writing that the funding (stating its actual amount) has been provided to the Western Australian Department of Biodiversity, Conservation and Attractions .	Within 2 weeks of providing funding	Correspondence with the Department	Upper Swan Development Annual Compliance Report 2021 [58645/135797]	This condition was met in a previous audit period. The proponent provided evidence of payment to the Department on 07/08/2020 and the Department accepted the evidence satisfied condition 9. on 14/09/2020.	NA complete
EPBC 10	The approval holder must notify the Department in writing of the date of commencement of the action within 10 business days after the date of commencement of the action	Within 10 business days after the date of commencement of the action	Correspondence with the Department	Upper Swan Development Annual Compliance Report 2021 [58645/135797]	This condition was met in a previous audit period. Notification in writing was provided to the Department on 30/01/2020 that the action had commenced on 23/01/2020 (notification was provided within 10 business days after the date of commencement of the action)	NA complete
EPBC 11	The approval holder must maintain accurate and complete compliance records .	At all times	Maintain accurate and complete compliance records	All evidence utilised to inform this audit report	Accurate records for all applicable conditions have been maintained and were available at the time of the audit and following the audit (64816 Upper Swan ACR).	C
EPBC 12	If the Department makes a request in writing, the approval holder must provide electronic copies of compliance records to the Department within the timeframe specified in the request.	Within the timeframe specified in the request	Compliance records, and records of requests received from the Department.	Management Advice 17/04/2023	There were no requests received from the Department during the audit period for records to be made available.	NA
EPBC 13	The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or otherwise in accordance with an annual date that has been agreed to in writing by the Minister.	Throughout the life of the approval	Compliance report	R01_2023 Upper Swan ACR	The action commenced on 23 January 2020 and therefore this report is the third compliance report which covers the 12 month period following the date of commencement of the action (i.e. 23 January 2022 to 22 January 2023).	C
EPBC 13a	The approval holder must publish each compliance report on the website within 60 business days following the relevant 12 month period.	Within 60 business days following the relevant 12 month period	Records of compliance report publication on the website.	E01_Website Screenshot R02_2022 Upper Swan ACR	The ACR was published on the website 26/04/2022 within 60 business days following the relevant 12 month period.	C
EPBC 13b	The approval holder must notify the Department by email that a compliance report has been published on the website and provide the weblink for the compliance report within five business days of the date of publication.	Within 5 business days of date of publication	Correspondence with the Department	C04_ Notice of EPBC Act Approval 2017_8062 2022 Annual Compliance Report Upper Swan	The Department was notified by email 27/04/2022 that the compliance report had been published online at: https://satterley.com.au/clementine-estate/conservation-and-compliance	C
EPBC 13c	The approval holder must keep all compliance reports publicly available on the website until this approval expires.	At all times	Records of compliance report publication on the website.	R02_2022 Upper Swan ACR R03_2021 Upper Swan ACR E01_Website Screenshot	Annual Compliance Report 2022 and 2021 (R02, R03) were published online at: https://satterley.com.au/clementine/buying-building-resources/conservation-and-compliance-reports/	C
EPBC 13d	The approval holder must exclude or redact sensitive ecological data from compliance reports published on the website	At all times	Records of compliance report publication on the website.		There is no sensitive ecological information that will be published with this compliance report	NA

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
EPBC 13e	The approval holder must where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication.	Within 5 business days of publication	Correspondence with the Department.		As per EPBC 13d, there is no sensitive ecological information that will be published with this compliance report	NA
EPBC 14	The approval holder must notify the Department in writing of any: incident ; non-compliance with the conditions; or non-compliance with the commitments made in plans . The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify: <ul style="list-style-type: none"> a. any condition which is or may be in breach; b. a short description of the incident and/or non-compliance; and c. the location (including co-ordinates), date, and time of the incident and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.	As soon as practicable and within 2 business days of becoming aware of an incident or non-compliance	Records of each non-compliance and all relevant correspondence with the Department.	Management Advice 22/04/2023	Management confirmed that there were no incidents, non-compliance with the conditions; or non-compliance with the commitments made in plans in the audit period.	NA
EPBC 15	The approval holder must provide to the Department the details of any incident or non-compliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying: <ul style="list-style-type: none"> d. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future; e. the potential impacts of the incident or non-compliance; and the method and timing of any remedial action that will be undertaken by the approval holder.	Within 10 business days after becoming aware of the incident	Records of each non-compliance and all relevant correspondence with the Department	Management Advice 22/04/2023	As per EPBC 14, no incidents, non-compliances with the conditions; or non-compliances with the commitments made in management plans have occurred in the reporting period.	NA
EPBC 16	The approval holder must ensure that independent audits of compliance with the conditions are conducted for the 12 month period from the commencement of the action and for every subsequent 12 month period, or as otherwise requested in writing by the Minister .		Records of all compliance with the conditions, and requests from the Department	R01_2022 Upper Swan ACR	This report contains the results of the audit.	C
EPBC 17a	For each independent audit , the approval holder must provide the name and qualifications of the independent auditor and the draft audit criteria to the Department ;	Prior to commencement of independent audit	Correspondence with the Department	C01_64816 L01 Annual Compliance Report - Audit Criteria (Rev 0) C02_RE_EPBC 2017_8062 Draft Audit Criteria and Auditor Qualifications	The name and qualifications of the independent auditor and the draft audit criteria were provided to the Department 17/04/2023	C
EPBC 17b	For each independent audit of compliance, the approval holder must: only commence the independent audit once the audit criteria have been approved in writing by the Department .	Prior to commencement of independent audit	Correspondence with the Department and commencement date of the independent audit.	220323_A Satterley Correspondence	The audit criteria were approved 25/01/2021 and the first independent audit commenced 11/02/2021.	C
EPBC 17c	For each independent audit , the approval holder must submit an audit report to the Department within the timeframe specified in the approved audit criteria	No later 26 April each year	Correspondence with the Department	C04_Notice of EPBC Act Approval 2017_8062 2022 Annual Compliance Report Upper Swan	The annual compliance report [62240/143,635 Rev 0] was submitted to DAWE (C04) 27/04/2022.	C
EPBC 18	The approval holder must publish the audit report on the website within 10 business days of receiving the Department's approval of the audit report and keep the audit report published on the website until the end date of this approval.	Within 10 business days of receiving Departmental approval	Records of the publication of audit reports on the website.	E01_Website Screenshot R02_2022 Upper Swan ACR R03_2021 Upper Swan ACR C04_Notice of EPBC Act Approval 2017_8062 2022 Annual Compliance Report Upper Swan	The 2022 and 2021 audit reports (R02, R03) were published on the website. https://satterley.com.au/clementine/buying-building-resources/conservation-and-compliance-reports/	C

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
EPBC 19	Within 30 days after the completion of the action , the approval holder must notify the Department in writing and provide completion data .	Within 30 days of completion of the action	Correspondence with the Department		The action is not complete, this condition is not applicable to this audit period.	NA (Future)

5. Limitations

This report has been prepared for use by the client who has commissioned the works in accordance with the project brief only, and has been based in part on information obtained from the client and other parties.

The advice herein relates only to this project and all results conclusions and recommendations made should be reviewed by a competent person with experience in environmental investigations, before being used for any other purpose.

JBS&G accepts no liability for use or interpretation by any person or body other than the client who commissioned the works. This report should not be reproduced without prior approval by the client, or amended in any way without prior approval by JBS&G, and should not be relied upon by other parties, who should make their own enquires.

Sampling and chemical analysis of environmental media is based on appropriate guidance documents made and approved by the relevant regulatory authorities. Conclusions arising from the review and assessment of environmental data are based on the sampling and analysis considered appropriate based on the regulatory requirements.

Limited sampling and laboratory analyses were undertaken as part of the investigations undertaken, as described herein. Ground conditions between sampling locations and media may vary, and this should be considered when extrapolating between sampling points. Chemical analytes are based on the information detailed in the site history. Further chemicals or categories of chemicals may exist at the site, which were not identified in the site history and which may not be expected at the site.

Changes to the subsurface conditions may occur subsequent to the investigations described herein, through natural processes or through the intentional or accidental addition of contaminants. The conclusions and recommendations reached in this report are based on the information obtained at the time of the investigations.

This report does not provide a complete assessment of the environmental status of the site, and it is limited to the scope defined herein. Should information become available regarding conditions at the site including previously unknown sources of contamination, JBS&G reserves the right to review the report in the context of the additional information.

6. References

Department of the Environment (DotE) 2014, *Annual Compliance Report Guidelines*, Commonwealth of Australia, Canberra.

Appendix A EPBC Approval 2017/8062

PROPOSED APPROVAL

Upper Swan Residential Development, 25 km north, north-east of Perth, Western Australia
(EPBC 2017/8062)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Satterley Property Group Pty Ltd
ACN or ABN of approval holder	ACN: 009 054 979
Action	To clear vegetation to develop the Upper Swan Urban Development, approximately 25 km north, north-east of Perth central business district, Western Australia [See EPBC Act referral 2017/8062].

Proposed Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 30 December 2039.

Decision-maker

Name and position	Chris Videroni Acting Assistant Secretary Environment Approvals Division Department of the Environment and Energy
Signature	
Date of decision	16 January 2020

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. To minimise impacts to the **Western Swamp Tortoise**, the approval holder must not clear more than 132.9 hectares of vegetation in the area designated as the 'Project Area' in Attachment A, which is in close proximity to the only viable and naturally occurring population of the **Western Swamp Tortoise** in the wild.
2. To avoid the impacts of water pooling on the **Western Swamp Tortoise**, the approval holder must not construct any **surface water body** within 200 metres of **Lot 505 Almeida Parade**. The approval holder must also:
 - a) prior to the sale of each lot, that is entirely or partially within 200 metres of **Lot 505 Almeida Parade**, inform in writing each prospective purchaser of such a lot that a **restrictive covenant** will be placed on the title of the lot preventing the construction of a **surface water body** within 200 metres of **Lot 505 Almeida Parade**; and
 - b) at the time of sale, place a **restrictive covenant** on the title of each lot, part or all of which is within 200 metres of **Lot 505 Almeida Parade**, preventing the construction of a **surface water body** within 200 metres of **Lot 505 Almeida Parade**.
3. To avoid the impacts the impacts of water pooling on the **Western Swamp Tortoise**, the approval holder must ensure that all works associated with the action do not contribute any additional water into the roadside drainage system or increase water pooling along **Railway Parade** and are designed and constructed in consultation with the **Western Australian Department of Biodiversity, Conservation and Attractions** and the **City of Swan** to prevent water from remaining in pools. The approval holder must not **commence construction** of roadside drainage along **Railway Parade** until the **Western Australian Department of Biodiversity, Conservation and Attractions** and the **City of Swan** have each confirmed in writing that the design will prevent the creation of **surface water bodies**.
4. To minimise the impacts of water pooling on the **Western Swamp Tortoise** as a result of dewatering activities undertaken during **construction** of the action, the approval holder must:
 - a) only undertake **dewatering activities** within 200 m of 'Lot 505' in Attachment A for a maximum of two weeks duration during each **construction phase**;
 - b) ensure that no infiltration basins are constructed within 400 metres outside of the area designated as 'Lot 505' in Attachment A;
 - c) ensure that all infiltration basins are fully drained within 96 hours of the conclusion of **dewatering activities**.
5. To minimise the impacts of water pooling as a result of irrigation activities on the **Western Swamp Tortoise**, the approval holder must implement the **Local Water Management Strategy**.
6. To avoid and mitigate the impacts of **predators** and **feral animals** on the **EPBC Act listed species and ecological communities**, the approval holder must provide the equivalent of \$30,000 (by application of the National Consumer Price Index published by the Australian Bureau of Statistics indexed to its value in 2019) to the **Western Australian Department of Biodiversity, Conservation and Attractions** for **predator** and **feral animal** control activities in the **Ellen Brook Nature Reserve**. This funding must be provided to the **Western Australian Department of Biodiversity, Conservation and Attractions** within six months of the **commencement of the action**. Within two weeks of the approval holder providing the funding to the **Western Australian Department of Biodiversity, Conservation and Attractions**, the approval holder must provide evidence to the **Department** in writing that the funding (stating its actual amount) has been provided to the **Western Australian Department of Biodiversity, Conservation and Attractions**.

7. To avoid and mitigate the impacts of increased human pressure arising from the action on the **Western Swamp Tortoise**, the approval holder must provide the equivalent of \$20,000 (by application of the National Consumer Price Index published by the Australian Bureau of Statistics indexed to its value in 2019) to the **Western Australian Department of Biodiversity, Conservation and Attractions** for:
 - a) the ongoing maintenance of the predator proof fence around the **Lot 505 Almeida Parade** and the **Ellen Brook Nature Reserve**;
 - b) the construction and ongoing maintenance of a predator proof fence around **Lot 15**; and
 - c) ongoing monitoring and management of weeds in **Lot 505 Almeida Parade**, the **Ellen Brook Nature Reserve** and **Lot 15** for the life of the approval.

The approval holder must provide the funding to the **Western Australian Department of Biodiversity, Conservation and Attractions** within six months of the commencement of construction. Within two weeks of the approval holder providing the funding (stating its actual amount) to the **Western Australian Department of Biodiversity, Conservation and Attractions**, the approval holder must provide evidence to the **Department** in writing that the funding has been provided to the **Western Australian Department of Biodiversity, Conservation and Attractions**.

8. To avoid and mitigate the impacts of fire on the **EPBC Act listed species and ecological communities**, the approval holder must implement the **Bushfire Management Plan** for the life of the approval.
9. To compensate for the residual significant impact of the action on **aestivation habitat for the Western Swamp Tortoise**, the approval holder must provide the equivalent of \$15,000 (by application of the National Consumer Price Index published by the Australian Bureau of Statistics indexed to its value in 2019) to the **Western Australian Department of Biodiversity, Conservation and Attractions** for the ongoing research, monitoring and management of domestic cats in the **Ellen Brook Nature Reserve**. The approval holder must provide the funding to the **Western Australian Department of Biodiversity, Conservation and Attractions** within six months of the commencement of construction. Within two weeks of the approval holder providing the funding to the **Western Australian Department of Biodiversity, Conservation and Attractions**, the approval holder must provide evidence to the **Department** in writing that the funding (stating its actual amount) has been provided to the **Western Australian Department of Biodiversity, Conservation and Attractions**.

Part B – Standard administrative conditions

Notification of date of commencement of the action

10. The approval holder must notify the **Department** in writing of the date of commencement of the action within 10 business days after the date of commencement of the action.

Compliance records

11. The approval holder must maintain accurate and complete **compliance records**.
12. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Annual compliance reporting

13. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:
 - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
 - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within five **business days** of the date of publication;
 - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
 - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
 - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: Compliance reports may be published on the **Department's** website.

Reporting non-compliance

14. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. any condition which is or may be in breach;
 - b. a short description of the **incident** and/or non-compliance; and
 - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
15. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b. the potential impacts of the **incident** or non-compliance; and
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

16. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted for the 12 month period from the commencement of the action and for every subsequent 12 month period, or as otherwise requested in writing by the **Minister**.
17. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.

18. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

19. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

Aestivation habitat for the Western Swamp Tortoise includes clay soils within a 200 metre radius of the predator proof fence surrounding the Ellen Brook Nature Reserve.

Bushfire Management Plan means the *Bushfire Management Plan (2017)* prepared for Satterley Property Group by Strategen, provided to the Department on 9 September 2019.

Business day means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

City of Swan means the City of Swan or any future agencies that hold its roles and responsibilities in relation to local road design and construction.

Clay Pans of the Swan Coastal Plain Threatened Ecological Community means the EPBC Act listed Clay Pans of the Swan Coastal Plain Threatened Ecological Community.

Clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).

Commence means the first instance of any specified activity associated with the **construction**.

Commencement of the action means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs;
- ii. install signage and /or temporary fencing to prevent unapproved use of the project area;
- iii. protect environmental and property assets from fire, weeds and pests, including use of existing surface access tracks; and
- iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

Completion of the action means all specified activities associated with the action have permanently ceased.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

Compliance reports means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;

- ii. consistent with the **Department's Annual Compliance Report Guidelines** (2014);
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

Construction means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.

Construction phase is as defined in the *Upper Swan (Concept Plan) Masterplan (2019)*, prepared by Rowe Group Design for Satterley Property Group, provided to the Department of the Environment and Energy on 18 October 2019.

Corymbia calophylla (Marri) – Xanthorrhoea preissii (Balga) Woodlands and Shrublands of the Swan Coastal Plain means the **EPBC Act** listed *Corymbia calophylla (Marri) – Xanthorrhoea preissii (Balga)* Woodlands and Shrublands of the Swan Coastal Plain.

Department means the Australian Government agency responsible for administering the **EPBC Act**.

Dewatering activities means any dewatering activities required for construction of the action.

Ellen Brook Nature Reserve means the area designated as 'Ellen Brook Nature Reserve' in Attachment A.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

EPBC Act listed species and ecological communities means the **Western Swamp Tortoise, Clay Pans of the Swan Coastal Plain Threatened Ecological Community and Corymbia calophylla (Marri) – Xanthorrhoea preissii (Balga) Woodlands and Shrublands of the Swan Coastal Plain**

EPBC Regulations means the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth).

Feral animals includes, but may not be limited to, Rabbits (*Oryctolagus cuniculus*) and Pigs (*Sus scrofa*).

Incident means any event which has the potential to, or does, impact on one or more **protected matter(s)**.

Independent audit: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019).

Life of the approval means the period for which this approval has effect.

Local Water Management Strategy means the Local Water Management Strategy (September 2017), prepared for Satterley Property Group by Strategen, and provided to the **Department** as part of the preliminary documentation on 24 November 2018.

Lot 15 means the area designated as 'Lot 507' in Attachment B.

Lot 505 Almeira Parade means the area designated as 'Lot 505' in Attachment A. Lot 505 Almeira Parade is on Deposited Plan 50920.

Monitoring data means the data required to be recorded under the conditions of this approval.

Minister means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

Plan(s) means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

Predators includes, but may not be limited to, European Red Fox (*Vulpes vulpes*), Black Rats (*Rattus rattus*), Water Rats (*Hydromys chrysogaster*) and Australian Ravens (*Corvus coronoides*).

Protected matter means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Railway Parade includes Railway Parade as identified in Figure 3, page 10, of the preliminary documentation.

Restrictive covenant means a restrictive covenant placed on the respective lot under section 136D of the *Transfer of Land Act 1893 (WA)*.

Sensitive ecological data means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

Shapefile means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

Surface water bodies means any pool, dam, pond, sump, or other hollow capable of holding water to a depth of 50 cm or greater, that is potentially accessible to a **Western Swamp Tortoise** roaming outside the **Ellen Brook Nature Reserve**.

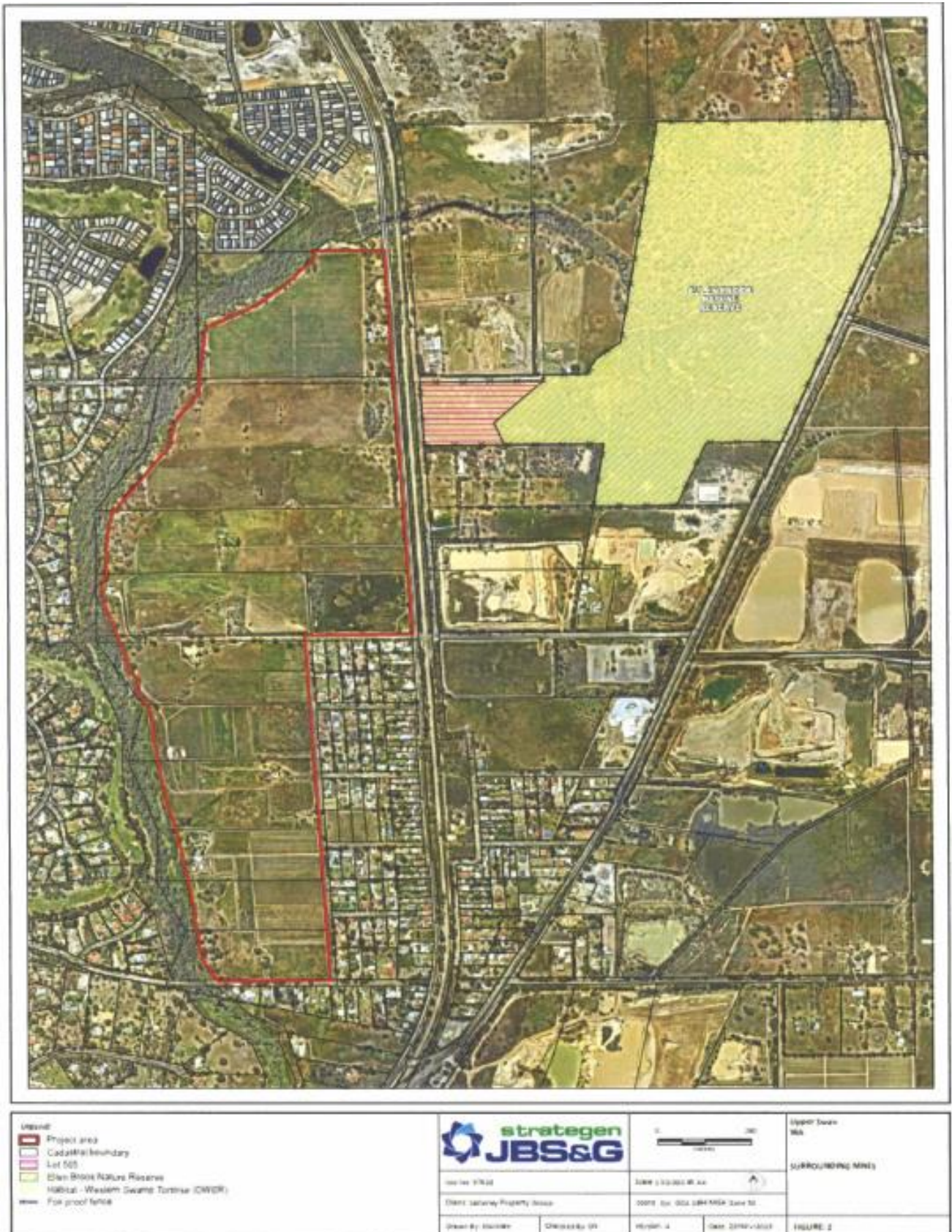
Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Western Australian Department of Biodiversity, Conservation and Attractions means the Western Australian Department of Biodiversity, Conservation and Attractions or any future agencies that hold its roles and responsibilities in relation to conservation of native wildlife.

Western Swamp Tortoise means the **EPBC Act** listed Western Swamp Tortoise (*Pseudemydura umbrina*).

ATTACHMENTS

ATTACHMENT A – Map of project area, Ellen Brook Nature Reserve and Lot 505 Almeida Parade



© JBS&G

This document is and shall remain the property of JBS&G. The document may only be used for the purposes for which it was commissioned and in accordance with the Terms of Engagement for the commission. Unauthorised use of this document in any form whatsoever is prohibited

Document Distribution

Rev No.	Copies	Recipient	Date
0	Final	Sandy Biagioni	24/04/2023

Document Status

Rev No.	Author	Reviewer	Approved for Issue		Date
		Name	Name	Signature	
0	Andrea Wills	Andrew Winzer	Andrew Winzer		24/04/2023



Adelaide

Kaurna Country | 100 Hutt St,
Adelaide, SA 5000
T: 08 8431 7113

Brisbane

Turrbal/Yuggera Country | Level 37, 123
Eagle Street, Brisbane, QLD 4000
T: 07 3211 5350

Bunbury

Wardandi Noongar Country | 177
Spencer Street Bunbury, WA 6230
T: 08 9792 4797

Canberra

Ngunnawal Country | Level 1, The Realm
18 National Circuit Barton, ACT 2600
T: 02 6198 3278

Darwin

Larrakia Country | Suite G1, Level 1
48-50 Smith Street, Darwin NT 0800
T: 08 8943 0600

Hobart

Muwununa/Nuenon Country | Level 6,
111 Macquarie Street Hobart, TAS 7000
T: 03 6108 9054

Melbourne

Kulin Country | Level 5, 10 Queen
Street, Melbourne, VIC 3000
T: 03 9642 0599

Newcastle

Awabakal/Worimi Country | 61 / 63
Parry Street Newcastle West, NSW 2302
T: 02 8245 0300

Perth

Whadjuk Nyoongar Country | Allendale Square,
Level 9, 77 St Georges Terrace, WA 6000
T: 08 9380 3100

Sydney

Gadigal Country | Level 1, 50
Margaret Street, Sydney, NSW 2000
T: 02 8245 0300

Wollongong

Dharawal Country | Suite 1A, 280 - 286
Keira Street, Wollongong, NSW 2500
T: 02 4225 2647