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**Lot 9 Marmion Avenue,
Brighton Urban and
Residential Development, WA
(EPBC 2011/6137)**

**Annual compliance report (January
2017 to January 2018)**

DRAFT

Prepared for
Satterley Property Group
by Strategen
April 2018



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Residential Development, WA (EPBC
2011/6137)**

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April 2018

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Client: Satterley Property Group

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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) _____

Position (please print) _____

Organisation (please print including ABN/ACN if applicable) _____

Date _____ / _____ / _____

Table of contents

1. Introduction	1
1.1 Project background	1
1.2 Environmental approval to implement the project	1
2. Project status	2
3. Audit methodology	3
3.1 Purpose and scope	3
3.2 Audit period	3
3.3 Methodology	3
3.4 Audit terminology	3
4. Audit results	5
4.1 Compliance with conditions	5

List of tables

Table 1: Persons consulted during audit	3
Table 2: Action implementation status	3
Table 3: EPBC Approval 2011/6137	6

List of figures

Figure 1: Project area – December 2017	2
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1. Introduction

This annual compliance report (ACR) addresses the status and compliance of Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (Eden Beach, the Project) with the conditions in *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) decision notice EPBC 2011/6137.

1.1 Project background

Satterley Property Group (Satterley) is developing Eden Beach, located 40 km northeast of the Perth Central Business District (CBD) within the City of Wanneroo.

Once completed the Eden Beach development will comprise:

- residential dwellings
- local business centre
- primary school
- Eco Tourism village
- coastal node adjacent to the Foreshore Reserve, providing beach access and amenity.

1.2 Environmental approval to implement the project

In September 2011, Satterley referred Eden Beach to the then Department of Sustainability, Environment, Water, Population and Community (DSEWPaC); now the Department of the Environment and Energy [DEE] for determination of whether it constituted a 'controlled action' under the EPBC Act; that is, being likely to have a significant impact on a matter of national environmental significance (MNES). The key MNES potentially affected by the project identified were the endangered species Carnaby's Black-Cockatoo (*Calyptorhynchus latirostris*) and Graceful Sun Moth (GSM) (*Synemon gratiosa*).

On 19 October 2012 the Project was approved under the EPBC Act by the Minister subject to ten (10) conditions prescribed in decision notice EPBC 2011/6137.

On 18 May 2013, GSM was delisted from the list of Threatened Species pursuant to the EPBC Act. Satterley subsequently lodged a formal variation request to DEE on 17 July 2013 to remove and amend conditions associated with GSM from EPBC 2011/6137. DEE accepted this variation request and issued a 'Variation to Conditions Attached to Approval' on 27 August 2013. The variation included the following amendments to EPBC 2011/6137:

- deletion of conditions 1, 2, 7, 8 and 10
- amendment of conditions 5 and 6 to remove reference to the Graceful Sun Moth Mitigation and Offset Plan, previously required under Condition 1 of the original decision notice
- deletion of definition for GSM
- deletion of Attachments A and B.

On the 16 January 2014, Satterley lodged a formal variation request to DEE to amend conditions 3c. DEE accepted this variation request and issued a 'Variation to Conditions Attached to Approval' on the 7 March 2014. The variation included the following amendments to EPBC 2011/6137:

- deletion of conditions 3c
- replacement with an amended condition 3c.

As such, this ACR assesses the following conditions: 3a; 3b; 3c (amended); 4; 5 (amended); 6 (amended); and 9 of EPBC 2011/6137.

2. Project status

The Project commenced on 21 January 2013 with 15 of the 35 stages of subdivision constructed and titled to date (Figure 1). A total of eight community parks have also been developed, including Lot 8005, which comprises the Conservation Area.

In October 2015, the Foreshore carpark providing direct access and allowing residents to access the swimming beach at Eden Beach was opened. Construction on the Eden Beach foreshore landscaped park was completed in September 2016. The development of residential lots is expected to be complete in 2025.

When completed, the Project will comprise of 1450 residential lots, commercial mixed-use lots, 10 landscaped parks, 13 grouped housing sites, one mixed use lot, and a primary school.



Source: Nearmaps (accessed 5 April 2018)

Figure 1: Project area – December 2017

3. Audit methodology

3.1 Purpose and scope

This document has been prepared to assess compliance of the Eden Beach residential development with the conditions of EPBC 2011/6137 and in doing so, address condition 6. Condition 6 requires the proponent to publish an annual compliance report on their website, within three months of every twelve month anniversary of commencement of the action. Condition 6 states the report shall:

- address compliance with each of the conditions of the approval
- stay on the proponent's website for five (5) years
- provide proof of the date of publication and non-compliance with any of the conditions of the approval be provided to the Department at the same time the compliance report is published.

Any potential non-compliance detected will be provided to DEE at the same time that the ACR is published on the Satterley website as required under condition 6.

3.2 Audit period

The audit period for this ACR is 22 January 2017 to 21 January 2018, with the report to be published by 21 April 2018.

3.3 Methodology

The audit was undertaken as a desktop process, principally on the review of evidence supplied by the following auditees via email. Strategen considers this method to be appropriate during this reporting period as the potential for non-compliance is considered low due to no findings of potential non-compliance in previous years. However, a site verification will be required in the next reporting period to provide more assurance of compliance.

Table 1: Persons consulted during audit

Person and position	Organisation	Purpose
Andrew Watkins (Assistant Development Manager).	Satterley.	To obtain verifiable evidence to assist in determining compliance with EPBC 2011/6137.
William Gumbley (Senior Landscape Architect).	EPCAD.	

3.4 Audit terminology

In its assessment and arriving at conclusions regarding compliance or conformance with each audit item, Strategen has adapted DEE (undated) guidance on compliance ratings (Table 2).

Table 2: Action implementation status

Rating	Definition
Compliance / conformance.	A rating of 'compliance' is given when the auditee has complied with a condition or element of a condition. A rating of 'conformance' is given when the auditee has met the requirements of an element of a management plan required by condition.
Potential non-compliance/ conformance.	A rating of 'potential non-compliance' is given when the auditee has not met a condition or element of a condition. A rating of 'potential non-conformance' is given when the auditee has not met the requirements of an element of a management plan required by condition.
Not applicable.	A rating of 'not applicable at the time of the audit' is given when the condition or element of a condition falls outside the scope of the audit e.g. if an activity has not yet commenced.

Rating	Definition
Undetermined.	A rating of 'undetermined' is given when the condition or element of a condition falls inside the scope of the audit but there is insufficient evidence to make a judgement on compliance or non-compliance.
Observation.	An 'observation' may be made about issues relevant to the protection of a matter of national environmental significance when the issue is not strictly related to compliance or non-compliance with a condition or element of a condition.
Completed.	A rating of 'completed' is given when the auditee has satisfactorily completed a condition or element of a condition that has a finite period of application.

4. Audit results

4.1 Compliance with conditions

A total of 19 audit criteria from EPBC 2011/6137 were audited.

No new potential non-compliances were identified during this audit period.

Table 3: EPBC Approval 2011/6137

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
Condition 3						
To offset the loss of 8.1 ha of foraging habitat for Carnaby's Black Cockatoo, the person taking the action must:						
a) Within 12 months of commencement of construction progressively undertake direct planting of a minimum of 650 trees and shrubs, within the POS, consisting of plant species known to be primary feeding plants for Carnaby's Black Cockatoo. The planting of the trees must be completed within 10 years from commencement of construction. After two years of completion of planting, for each stage, an 80% survival rate must be obtained. If this is not obtained, replanting of trees must be undertaken within two years to gain an 80% survival rate.						
b) Within 12 months of commencement of construction progressively undertake direct planting of a minimum of 800 trees, 50% of which must be primary feeding plants for Carnaby's Black Cockatoo, within streetscaping. The planting of trees must be completed within 10 years from commencement of construction. After two years of completion of planting, for each stage, an 80% survival rate must be obtained.						
c) Provide funding of \$80 000 to DEC (now DPaW) for the purchase of at least 50 ha of Carnaby's Black-Cockatoo foraging habitat to be protected in perpetuity, plus an additional financial contribution (amount to be determined in consultation with DPaW) to assist in the ongoing maintenance of the purchased offset by 1 June 2014. Within 4 weeks of the funding being provided to the DPaW, the person taking the action must provide written evidence to the department of these payments.						
3.1	Within 12 months of commencement of construction progressively undertake direct planting of a minimum of 650 trees and shrubs, within the POS, consisting of plant species known to be primary feeding plants for Carnaby's Black Cockatoo.	The 2016 ACR deemed this condition to be completed due to successful achievement of planting of the 650 plants based on the timing of commence planting.	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017	Evidence of planting.	Sighting of planting records.	Completed
3.2	The planting of the trees must be completed within 10 years from commencement of construction.	Refer to Criterion 3.1, planting commenced in 2014. The date for completion of the condition is 21 January 2024.	R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06022018	Evidence of planting.	Sighting of planting records.	Not applicable
3.3	After two years of completion of planting, for each stage, an 80% survival rate must be obtained.	The term 'stage' has not been defined in the approval notice. The auditors have inferred that this means each planting stage (R_001). The first stage of planting was completed on the September 2014, with confirmation of the survival rate due after September 2016. As of January 2018, 374 plants of the 650 target had been installed across all stages subject to planting to date, with 41 of these relevant to the first stage (POS 8001 and POS 8002) (R_002) (completed July 2014), 156 plantings for POS 8004 (completed November 2015), 46 plantings for POS 8007 (completed September 2015), 77 plantings for POS 8008 (completed September 2016), and 21 plantings for PAW 8003 (completed March 2015). 17 plantings have been planted in both Conservation POS and Foreshore to date. Satterley advised via electronic mail correspondence (C_001) that the 'POS tree survival rate would be near 100%'.	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017 C_001_Satterley_RE: Eden Beach 2018 compliance report proposal (SPG17623)_14032018 R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06022018	Evidence of survival survey of the planting.	Sighting of planting records.	Compliance

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
	<p>Aerial photography (G_006, G_007) indicates planting in POS 8001, POS 8002, 8004, 8007, 8008, PAW 8003, and Conservation POS (G_001, G_002, G_003, G_004, G_005). A site inspection will be required next audit period to determine planting in the Foreshore area as it is difficult to ascertain based on aerial photography.</p> <p>Survival rates for PAW 8003, POS 8007 and POS 8004 (planting completed in 2015) were required to be assessed after March, September and November of 2017 respectively. Satterley, advised (C_001) that the 'POS tree survival rate would be near 100%'.</p>	<p>G_001_Strategen_SK001 POS 8001 and POS 8003_04042018</p> <p>G_002_Strategen_SK002 POS 8002_04042018</p> <p>G_003_Strategen_SK003 POS 8004_04042018</p> <p>G_004_Strategen_SK004 POS 8005_04042018</p> <p>G_005_Strategen_SK005 POS 8007 and POS 8008_04042018</p>				
3.4	If this is not obtained, replanting of trees must be undertaken within two years to gain an 80% survival rate.	Refer to Criterion 3.3	Refer to Criterion 3.3	Evidence of replanting.	Sighting of planting records.	Not applicable
3.5	Within 12 months of commencement of construction progressively undertake direct planting of a minimum of 800 trees, 50% of which must be primary feeding plants for Carnaby's Black Cockatoo, within streetscaping.	<p>The ACR for the January 2015–January 2016 audit period (R_003) found this item to be 'Compliance (Completed)' and the auditors subsequently determined this item to be now 'Completed' (Criteria 3.6–3.7 address the successful achievement of planting of the 800 trees).</p> <p>Planting commenced in:</p> <ul style="list-style-type: none"> October 2013 (R_002) in 'Stage 1 Boulevard' July 2014 for the Stage 2 Boulevard February 2015 for the Stage 3 Streetscapes and Nassa Way December 2014 for the Reflection Boulevard September 2016 for the Primary School Verges <p>This item has been completed.</p>	<p>R_003_Strategen_Lot 9, Marmion Avenue, Brighton Urban Development, WA (EPBC 2011/6137) Annual compliance report_20150420</p> <p>R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06022018</p>	Evidence of planting.	Sighting of correspondence to DEE	Completed
3.6.	The planting of trees must be completed within 10 years from commencement of construction.	Refer to Criterion 3.5, planting commenced in October 2013. The date for completion of the condition is 21 January 2024.	Not applicable.	Evidence of planting.	Sighting of planting records	Not applicable
3.7	After two years of completion of planting, for each stage, an 80% survival rate must be obtained.	<p>Refer to Criterion 3.3 - the term 'stage' has not been defined in the approval notice. The auditors have inferred that this means each planting stage (R_001).</p> <p>The first stage of planting in streetscaping was completed in July 2014.</p>	<p>R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017</p> <p>C_001_Satterley_RE: Eden Beach 2018 compliance report proposal (SPG17623)_14032018</p>	Evidence of survival survey of the planting.	Sighting of planting records.	Compliance

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
	<p>As of January 2018, 374 plants of the 650 target had been installed across all stages subject to planting to date, with 41 of these relevant to the first stage (POS 8001 and POS 8002) (R_002) (completed July 2014), 156 plantings for POS 8004 (completed November 2015), 46 plantings for POS 8007 (completed September 2015), 77 plantings for POS 8008 (completed September 2016), and 21 plantings for PAW 8003 (completed March 2015). Currently 17 plantings have been planted in both Conservation POS and Foreshore to date.</p> <p>Aerial photography (G_006, G_007) indicates planting in POS 8001, POS 8002, 8004, 8007, 8008, PAW 8003, and Conservation POS (G_001, G_002, G_003, G_004, G_005). Difficult to determine planting in Foreshore based on aerial photography.</p> <p>Survival rates for PAW 8003, POS 8007 and POS 8004 (planting completed in 2015) were required to be assessed after March, September and November of 2017 respectively. Satterley, advised (C_001) that the 'POS tree survival rate would be near 100%'.</p>					
3.8	If this is not obtained, replanting of trees must be undertaken within two years to gain an 80% survival rate.	As per the Criterion 3.7- - the survival target for the first stage of planting, in Marmion Ave and 'Stage 1 Boulevard', has been achieved. Streetscapes Midsummer Ave, Reflection Boulevard Stage 3 Streetscapes and Nassa Way' (as discussed in Criterion 3.7) achieved survival target.	Refer to Criterion 3.7	Evidence of replanting.	Sighting of planting records.	Not applicable
3.9	Provide funding of \$80 000 to DEC (now DPaW) for the purchase of at least 50 ha of Carnaby's Black-Cockatoo foraging habitat to be protected in perpetuity by 1 June 2014.	The auditors have determined this item to be 'Completed' in the 2017 audit period due to successful achievement of planting of the 650 plants based on the timing of commence planting.	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017	Evidence of payment.	Sighting of correspondence with DEE.	Completed
3.10	Provide an additional financial contribution (amount to be determined in consultation with DPaW) to assist in the ongoing maintenance of the purchased offset by 1 June 2014.	The auditors have determined this item to be 'Completed' in the 2017 audit period (and previous two ACRs [2015 and 2016 audit periods]).	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017	Evidence of correspondence with DBCA	Sighting of correspondence to DBCA	Completed
3.11	Within 4 weeks of the funding being provided to the DEC, the person taking the action must provide written evidence to the Department of these payments.	The auditors have determined this item to be 'Completed' in the 2017 audit period as the Department has been informed in relation to the deadline based on the payment date has since been addressed.	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017	Evidence of transmittal to DEE.	Sighting of correspondence to DEE.	Completed

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
Condition 4						
Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.						
4.1	Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.	The auditors have determined this item to be 'Completed' in the 2017 audit period.	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017	Evidence of transmittal to DEE.	Sighting of correspondence to DEE.	Completed
Condition 5						
The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval and make the available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media.						
5.1	Records maintained substantiating all activities associated or relevant activities.	Satterley has provided the auditors with records substantiating all activities associated with or relevant to the conditions of approval for all applicable conditions for the audit period.	Sighted correspondence as detailed in this audit table.	Evidence of records maintained associated with the EPBC Act approval.	Sighting of records.	Compliance
5.2	Records made available to DotE upon request.	The auditors are not aware of any request for records from the Department.	Not applicable.	Evidence of correspondence with DEE.	Sighting of correspondence with DEE.	Not applicable
Condition 6						
Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval. Each report must stay on the proponent's website for five (5) years. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the compliance report is published.						
6.1	Compliance report published on website within three months of every 12 month anniversary of commencement of the action.	Satterley emailed DEE on 17 April 2017 (C_002) with a Satterley website link to the 2017 ACR. The 2017 compliance report was available on the Satterley website during this 2018 audit (R_004).	C_002_Satterley_EPBC 2011/6137_19042017 R_004_Strategen_ACR publication_20180405	Evidence of publication and date of publication.	Sighting of internal Satterley correspondence confirm date of ACR publication. Sighting of compliance reports on the Satterley website.	Compliance
6.2	Each report must be published on website for five years.	The first assessment of this part of the condition is not due until 19 December 2019; five years from publication of the first compliance report on 19 December 2014 (R_003). The second ACR was published on 21 April 2015 (to remain on website until 21 April 2020), and third ACR published on 13 April 2016 (13 April 2021) and remained available on the Satterley website during the 2016 audit (R_001).	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017	Evidence of publication and date of publication.	Sighting of compliance reports on the Satterley website.	Not applicable

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
	The fourth ACR was published on 19 April 2017 and has remained on the Satterley website during the audit period (R_004).	R_003_Strategen_Lot 9, Marmion Avenue, Brighton Urban Development, WA (EPBC 2011/6137) Annual compliance report_20150420 R_004_Strategen_ACR publication_20180405				
6.3	Documentary evidence of date of publication provided to the Department at the same time as the compliance report is published.	Refer to Criterion 6.1. The correspondence indicates that the date of publication of the 2017 ACR was provided to the Department at the same time the compliance report was published.	Refer to Criterion 6.1.	Evidence of transmittal to DEE.	Sighting of correspondence to DEE and acknowledgement from the Department.	Compliance
6.4	Documentary evidence of non-compliance with any condition provided to the Department at the same time as the compliance report is published.	Refer to Criterion 6.3 No new potential non-compliances were identified in preparing this 2017-2018 ACR.	Not applicable	Evidence of transmittal to DEE.	Sighting of correspondence to DEE and acknowledgement from the Department.	Compliance

Condition 9

If, at any time after five years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the Minister.

9.1	Action not substantially commenced without written agreement of Minister if action not substantially commenced by 19 October 2017.	This requirement has been met as previously reported (R_003).	R_003_Strategen_Lot 9, Marmion Avenue, Brighton Urban Development, WA (EPBC 2011/6137) Annual compliance report_20150420	Evidence of transmittal to DEE.	Sighting of previous compliance report.	Completed
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