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

**Annual compliance report (January
2018 to January 2019)**

Prepared for
Satterley Property Group
by Strategen

March 2019



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Brighton Urban and
Residential Development, WA
(EPBC 2011/6137)**

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Strategen is a trading name of
Strategen Environmental Consultants Pty Ltd
Level 1, 50 Subiaco Square Road Subiaco WA 6008
ACN: 056 190 419

March 2019

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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)

GRANT PAUL WILKINS

Position (please print)

PROJECT DIRECTOR

Organisation (please print including ABN/ACN if applicable)

SATTERLEY PROPERTY GROUP

Date

22/3/2019

ABN 38 009 054 979

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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 GSM 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 and 15 of the 35 stages of subdivision have been 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 2018

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 2018 to 21 January 2019, with the report to be published by 21 April 2019.

3.3 Methodology

A desktop review was undertaken prior to the site visit, principally to review all evidence supplied by the following auditees via email.

The site inspection component of the audit was undertaken by Tiffany George (Senior Consultant, Strategen) and Lisa Wells (Consultant, Strategen) on 10 January 2019 and included discussion and review of key documents with Grant Wilkins, Project Director (Satterley) and Will Gumbley, Landscape Architect (EPCAD).

Table 1: Persons consulted during audit

Person and position	Organisation	Purpose
Grant Wilkins (Project Director)	Satterley	To obtain verifiable evidence to assist in determining compliance with EPBC 2011/6137.
William Gumbley (Senior Landscape Architect)	EPCAD	

3.4 Audit terminology

During the assessment and arriving at conclusions regarding compliance or conformance with each audit item, Strategen has adapted DEE guidance on compliance terminology (Table 2).

Table 2: Action implementation status

Rating	Definition
Compliance	A rating of 'compliance' is given when the auditee has complied with a condition or element of a condition.
Potential non-compliance	A rating of 'potential non-compliance' is given when the auditee has not met a condition or element of a 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.
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:						
<p>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.</p> <p>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.</p> <p>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.</p>						
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 confirmed this requirement as not having occurred within 12 months of commencement of construction and was therefore determined to be a potential non-compliance. The 2016 ACR also identified Department of the Environment (now the Department of the Environment and Energy) correspondence had confirmed this 'relates to matters that have been completed' and therefore the compliance finding was designated as 'Potential non-compliance – (completed)'. Planting commenced in July 2014. The species selected are known to be primary feeding plants for Carnaby's Black Cockatoo.	R_001_Strategen_Lot 9, Marmion Avenue, Brighton Urban and Residential Development, WA (EPBC 2011/6137) Annual compliance report_13042017 R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06032019	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.	Construction commenced on 22 January 2014 therefore the date for completion of the condition is 21 January 2024.	R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06032019	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. The relevant planting stages and the corresponding survival rates are outlined below: Stage 1: Completed Jul 2014 – 84% Stage 2: Completed Sept 2014 – 99% Stage 3: Completed Feb 2015 – 100% Stage 4: Completed Mar 2015 – 88% Stage 5: Completed Sept 2015 – 97% Stage 6: Completed Nov 2015 – 93% Stage 7: Completed Sept 2016 – 93%	R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06032019	Evidence of survival survey of the planting.	Sighting of planting records.	Compliant

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
3.4	If this is not obtained, replanting of trees must be undertaken within two years to gain an 80% survival rate.	A greater than 80% survival rate was obtained.	R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06032019	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.	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). Planting commenced in: <ul style="list-style-type: none"> October 2013 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. This item has been completed.	R_003_Strategen_Lot 9, Marmion Avenue, Brighton Urban Development, WA (EPBC 2011/6137) Annual compliance report_20150420 R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06032019	Evidence of planting.	Sighting of planting records.	Completed
3.6.	The planting of trees must be completed within 10 years from commencement of construction.	Construction commenced on 22 January 2014 therefore 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.	The term 'stage' has not been defined in the approval notice. The auditors have inferred that this means each planting stage. The relevant planting stages and the corresponding survival rates are outlined below: Stage 1: Completed Jul 2014 – 84% Stage 2: Completed Sept 2014 – 99% Stage 3: Completed Feb 2015 – 100% Stage 4: Completed Mar 2015 – 88% Stage 5: Completed Sept 2015 – 97% Stage 6: Completed Nov 2015 – 93% Stage 7: Completed Sept 2016 – 93%	R_002_EPCAD_Eden Beach Carnaby's Black Cockatoo Planting_06032019	Evidence of survival survey of the planting.	Sighting of planting records.	Compliant
3.8	If this is not obtained, replanting of trees must be undertaken within two years to gain an 80% survival rate.	A greater than 80% survival rate was obtained.	Refer to Criterion 3.7	Evidence of replanting.	Sighting of planting records.	Not applicable

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
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.	Monies have been paid, as per Criterion 3.9.	C_001_Satterley_SPG payment to DPaW 20150402 C_003_Satterley_Eden - EPBC and other 201504_20150408	Evidence of payment.	Sighting of correspondence with DPaW.	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.	Monies have been paid, as per Criterion 3.10.	C_002_Remittance advice for DPaW and DoE notification_29052014 C_003_Satterley_Eden - EPBC and other 201504_20150408	Evidence of correspondence with DPaW.	Sighting of correspondence to DPaW.	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 Department was notified, as per Criterion 3.11.	C_002_Remittance advice for DPaW and DoE notification_29052014	Evidence of transmittal to DoE.	Sighting of correspondence to DoE.	Completed

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
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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.	Compliant
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Criterion/Indicator		Auditor comments	Measurements made	Requirement	Verification method	Compliance finding
5.2	Records made available to DotE upon request.	Management advised there were no 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.	Strategen emailed DEE, on behalf of Satterley, on 19 April 2018 (C_004) with a Satterley website link to the 2018 ACR. The 2017 compliance report was available on the Satterley website during this 2018 audit (R_004).	C_004_Satterley_EPBC 2011/6137_19042018 R_004_Strategen_ACR publication_14032019	Evidence of publication and date of publication.	Sighting of correspondence to DEE confirms date of ACR publication. Sighting of compliance reports on the Satterley website.	Compliant
6.2	Each report must be published on website for five years.	The 2015, 2016, 2017 and 2018 compliance reports are published on Satterley website, accessed 14 March 2019. 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. The second ACR was published on 21 April 2015 (to remain on website until 21 April 2020), the third ACR was published on 13 April 2016 (13 April 2021), and the fourth ACR was published on 19 April 2017 (19 April 2022). All ACRs remained available on the Satterley website during the 2018 audit.	R_004_Strategen_ACR publication_14032019	Evidence of publication and date of publication.	Sighting of compliance reports on the Satterley website.	Not applicable
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 2018 ACR was provided to the Department at the same time the compliance report was published. C_004_Satterley_EPBC 20116137_19042018.	Refer to Criterion 6.1	Evidence of transmittal to DEE.	Sighting of correspondence to DEE and acknowledgement from the Department.	Compliant
6.4	Documentary evidence of non-compliance with any conditon 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 ACR.	Not applicable	Evidence of transmittal to DEE.	Sighting of correspondence to DEE and acknowledgement from the Department.	Compliant

Criterion/Indicator	Auditor comments	Measurements made	Requirement	Verification method	Compliance finding	
<p>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.</p>						
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