

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

14 April 2022

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JBS&G Australia Pty Ltd T/A Strategen-JBS&G

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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 the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) decision notice EPBC 2011/6137 (Appendix A).

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
- coastal node adjacent to the Foreshore Reserve, providing beach access and amenity.

1.2 Environmental approval to implement project

In September 2011, Satterley referred Eden Beach to the then Department of Sustainability, Environment, Water, Population and Community (DSEWPaC; now the Department of Agriculture, Water and the Environment [DAWE]) 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 (*Calyptrorhynchus 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 (Appendix A).

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 DAWE on 17 July 2013 to remove and amend conditions associated with GSM from EPBC 2011/6137. DAWE accepted this variation request and issued a 'Variation to Conditions Attached to Approval' on 27 August 2013 (Appendix A). 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 DAWE to amend conditions 3c. DAWE accepted this variation request and issued a 'Variation to Conditions Attached to Approval' on the 7 March 2014 (Appendix A). The variation included the deletion of conditions 3c and 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. Current Status

The Project commenced on 21 January 2013 and 30 of the 35 stages of subdivision have been constructed and titled to date. 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.

POS/PAW 8019 and the streetscape of Spinosa Chase were planted out, foreshore replanting, access tracks and dune rehabilitation were also finalised. Construction of POS 8012 and POS 8013 and Marginella Boulevard continued.

Once complete, 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.

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 DAWE 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 2021 to 21 January 2022, with the report to be published by 21 April 2022.

3.3 Methodology

The site inspection component of the audit was undertaken by Andrea Wills (Consultant, Strategen-JBS&G) on 30 March 2022. Key persons consulted during the audit are listed in Table 3-1.

Table 3-1: Persons consulted during audit

Person and Position	Organisation	Purpose
John Hirdman (Project Director)	Satterley	To obtain verifiable evidence to assist in determining compliance with EPBC 2011/6137.
Marcelo (Contract Administrator)	EPCAD Pty Ltd	To provide tree survivorship data for current audit period
Roger Hutchison	ldtotal	To provide details on tree planting

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. DAWE (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

A total of 19 audit criteria from EPBC 2011/6137 were audited (Table 4-1).

Of 19 sub-conditions of EPBC 2011/6137:

- eight were found to be 'compliant',
- eleven were found to be 'not applicable'.

Table 4-1: EPBC 2011/6137 Audit table

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
3.1.1	To offset the loss of 8.1 ha of foraging habitat for Carnaby's Black Cockatoo, the person taking the action must: 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.	Within 12 months of commencement of construction.	Evidence of planting.	A02_Brighton Urban and Residential Development ACR [April 2015]	Condition relates to a previous compliance reporting year. Note: Direct planting of trees and shrubs in POS commenced July 2014 (6 months overdue) however the Department advised this breach of the EPBC Act would not result in compliance action on 23/06/2014.	NA Complete
3.1.2	The planting of the trees must be completed within 10 years from commencement of construction.	within 10 years from commencement of construction.	Evidence of planting.	-	Completion date for this condition is 21 January 2023.	NA Future
3.1.3	After two years of completion of planting, for each stage, an 80% survival rate must be obtained.	After two years of completion of planting.	Evidence of survival survey of the planting.	A03_Eden Beach Carnaby's Cockatoo Plant Schedule 080921.	No trees and shrubs were planted in 2019 (two years post completion of planting). The survival rate of all trees and shrubs across the development in POS were 98% at 08/09/2021. Individual Stages achieved the following: Stage 1: 96% (S1) Stage 2: 99% (S2) Stage 3 95% (S15) Stage 4: 91% (S12) Stage 5: 96% (RB) Stage 6: 100% (S15B) Stage 7: 100% (S7B) Stage 8: 98% (S3) So far effectively 3,508 trees, shrubs and tube stock have been planted across the development.	C
3.1.4	If this is not obtained, replanting of trees must be undertaken within two years to gain an 80% survival rate.	Within two years.	Evidence of replanting.	A04_Carnaby's species required_191021	Condition 3.1.3 achieved and planting under this condition was not required.	N/A

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
3.2.1	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 .	Within 12 months of commencement of construction.	Evidence of planting.	A02_Brighton Urban and Residential Development (EPBC 2011/6137) ACR [April 2015]	Condition relates to a previous compliance reporting year. Note: Tree planting Norfolk Pine (<i>Araucaria heterophylla</i>) commenced October 2013.	NA Complete
3.2.2	The planting of trees must be completed within 10 years from commencement of construction.	within 10 years from commencement of construction.	Evidence of planting.	-	Completion date for this condition is 21 January 2023.	NA Future
3.2.3	After two years of completion of planting, for each stage, an 80% survival rate must be obtained.	After two years of completion of planting.	Evidence of survival survey of the planting.	A03_Eden Beach Carnaby's Cockatoo Plant Schedule 080921	No streetscapes were two years post Completion in this reporting period.	NA
3.2.4	If this is not obtained, replanting of trees must be undertaken within two years to gain an 80% survival rate.	Within two years.	Evidence of replanting.	A05_EPCAD advice 30 March 2022	Planting of <i>Agonis flexuosa</i> and <i>Corymbia ficifolia</i> to address poor survival rates for Stage 1, Display Village 2 and 3 and POS 8004 was conducted in September and November 2021.	C
3.3.1	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.	By 1 June 2014.	Evidence of payment.	A02_Brighton Urban and Residential Development (EPBC 2011/6137) ACR [April 2015]	Condition relates to prior compliance reporting year. Note: Payment of \$80,000 was made 17/11/2014 following receipt of the DPaW invoice dated 30/10/2014.	NA Complete
3.3.2	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.	By 1 June 2014.	Evidence of correspondence with DPaW.	A02_Brighton Urban and Residential Development (EPBC 2011/6137) ACR [April 2015]	Condition relates to prior compliance reporting year. Note: The financial contribution of \$36,866.50 to assist in the ongoing maintenance of the purchased offset was made to DPaW 29/05/2022	NA Complete
3.3.3	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.	Within 4 weeks of the funding being provided to DEC.	Evidence of transmittal to DoE.	A02_Brighton Urban and Residential Development (EPBC 2011/6137) ACR [April 2015]	Condition relates to historical compliance reporting year. Note: Provision of evidence was acknowledged by DoE 06/06/2015.	NA Complete
4.1.1	Within 30 days after the commencement of the action, the person taking the action must advise	Within 30 days after the commencement of the action.	Evidence of transmittal to DEE.	A02_Brighton Urban and Residential Development (EPBC 2011/6137) ACR [April 2015]	Condition relates to historical reporting year. Note: Satterley advised DSEWPac of the date of commencement (21 January 2013) on 15 May 2013. The time period between these	NA Complete

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
	the Department in writing of the actual date of commencement.				two dates exceeded the 30 day requirement of the condition. This administrative non-compliance was reported in Report SPG12239_01 R001 Rev B - 29 January 2014. This did not result in any material consequences with respect to matters protected under the EPBC Act.	
5.1.1	Records maintained substantiating all activities associated or relevant activities.	At all times.	Evidence of records maintained associated with the EPBC Act approval.	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. (refer to other items in this table)	C
5.1.2	Records made available to DotE upon request.	Upon request.	Evidence of correspondence with DEE.	A06_Management advice 28 March 2022	Management advised that no requests to make records available were made by DAWE during the reporting period (22/01/2021 - 21/01/2022)	C
6.1.1	Compliance report published on website within three months of every 12 month anniversary of commencement of the action.	Within three months of every 12 month anniversary of commencement of the action.	Evidence of publication and date of publication.	A07_Eden Beach Website Snapshot 20220318	<p>Compliance Reports are posted on the Satterley Eden Beach website (confirmed during audit 18/03/2022): https://satterley.com.au/eden-beach/conservation-and-compliance-reports. This includes the following CARs published as follows:</p> <ul style="list-style-type: none"> • the first ACR was published on the 19 December 2014 • the second ACR was published on the 21 April 2015 • the third ACR was published on the 13 April 2016 • the fourth ACR was published on the 19 April 2017 • the fifth ACR was published on the 17 April 2018 • the sixth ACR was published on the 23 March 2019 	C

Reference	Criteria	Timing	Requirement	Evidence	Comments	Compliance Status
					<ul style="list-style-type: none"> the seventh ACR was published on the 15 April 2020 the eighth ACR was published 13 April 2021 the ninth ACR was published on 15 April 2022 	
6.1.2	Each report must be published on website for five years.	Five years.	Evidence of publication and date of publication.	A07_Eden Beach Website Snapshot 20220501	All ACRs remained available on the Satterley Eden Beach Website during the 2021 reporting period (> 5 years). Audit 18/03/2022 confirmed all reports in entirety available to view.	C
6.1.3	Documentary evidence of date of publication provided to the Department at the same time as the compliance report is published.	At the same time as the compliance report is published.	Evidence of transmittal to DEE.	A08_Notice of EPBC Act Approval 2011_6137 2022 Annual Compliance Report for Eden Beach	Email 1 May April 2022 to postapproval@environment.gov.au submitting January 2021 to January 2022 CAR sighted during audit 18/03/2022. Vaughn Cox (Compliance Monitoring Team, DAWE) acknowledged the submission	C
6.1.4	Documentary evidence of non-compliance with any condition provided to the Department at the same time as the compliance report is published.	At the same time as the compliance report is published.	Evidence of transmittal to DEE.	A08_Notice of EPBC Act Approval 2011_6137 2022 Annual Compliance Report for Eden Beach A09_RE_Notice of EPBC Act Approval from EPBC	Email 1 May April 2022 to postapproval@environment.gov.au submitting January 2021 to January 2022 CAR sighted during audit 18/03/2022. Vaughn Cox (Compliance Monitoring Team, DAWE) acknowledged the submission.	C
9.1.1	Action not substantially commenced without written agreement of Minister if action not substantially commenced by 19 October 2017.	If action not substantially commenced by 19 October 2017.	Evidence of transmittal to DEE.	A10_Eden Beach Internal EPBC Act compliance audit [January 2014]	Action was substantially commenced 21/01/2013.	NA Complete

5. Limitations

Scope of services

This report ("the report") has been prepared by Strategen-JBS&G in accordance with the scope of services set out in the contract, or as otherwise agreed, between the Client and Strategen-JBS&G. In some circumstances, a range of factors such as time, budget, access and/or site disturbance constraints may have limited the scope of services. This report is strictly limited to the matters stated in it and is not to be read as extending, by implication, to any other matter in connection with the matters addressed in it.

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Within the limitations imposed by the scope of services, the preparation of this report has been undertaken and performed in a professional manner, in accordance with generally accepted environmental consulting practices. No other warranty, whether express or implied, is made.

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.

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6. References

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

Appendix A EPBC Approval 2011/6137 and Variation to Approval Conditions


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