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Dear Dionne

JINDEE INNOVATION PROJECT - REQUEST FOR FURTHER INFORMATION (EPBC 2012/6631)

Thank you for your letter of 13 December 2012. Based on this correspondence we note that the Department seeks additional information in order to assess the relevant impacts of the action as follows:

1. Discussion on the mitigation and avoidance measures that have been applied to the Jindee Innovation Project. In considering these matters DSEWPaC have requested the two on-site parks and recreation reserves are excluded as they were part of a land exchanges agreement which allowed development on the adjacent Bush Forever Site 397.
2. Detail on how the proposed offset package (purchase of 1200 ha property near Lancelin, enhancement of foreshore reserve and provision of funds to expand and improve management of the Wilbinga Nature Reserve) aligns with the principles of the Department's EPBC Act Environmental Offsets Policy (October 2012).
3. The assessment of the proposed offset areas includes the following additional details:
 - * Current tenure arrangements (including zoning and ownership) and future protection
 - * Legal mechanisms proposed to protect these areas in the future
 - * The risk of damage, degradation or destruction to any proposed offset site in the absence of any formal protection and/or management
 - * The current habitat quality for Carnaby's Black-Cockatoo and GSM found at the proposed offset locations, and any plans to maintain or enhance the quality or extent of suitable habitat present on-site over a specified time period.

In response, Westminster Estates provides the following information:

Mitigation and avoidance measures

Measures utilised in the Jindee Innovation Project to avoid or reduce impacts to Matters of National Environmental Significance (MNES) are primarily focussed on the innovative subdivision design, which retains the landform and key habitat, as well as the management, preservation and re-establishment of habitat for Carnaby's Black Cockatoo and Graceful Sun Moth.

The subdivision has been sensitively designed to reflect landform and topographic features. Jindee seeks to encourage a diversity of lot sizes within the estate which respond to the natural topographic contours of the site. For example, the retention of the two significant dunal systems running east-west across the site (perpendicular to the coast) has allowed for the provision of larger lots and retention of native vegetation on private lots.

The T2 – Natural Living lots, to the south of the site, which provide a link between the two Parks and Recreation Reserves, have specific Town Planning Scheme provisions which will control the amount of clearing on private residential lots. In doing so, the protection of vegetation and landform on these future residential lots will remain in perpetuity and will be governed by the City of Wanneroo who will be able to exercise its powers of compliance through the Planning and Development Act should it need to. In addition, it is likely that covenants will be placed on land to add additional controls on the protection of the key linkage areas.

Jindee is therefore considered to be consistent with the principals of avoidance and mitigation of impacts on protected matters, through comprehensive planning and suitable site design. The design of the development has clearly sought to directly reduce the scale and intensity of the potential impacts of the proposed action. This is a key point of difference between Jindee and the existing residential land development approaches within the North West corridor, which are of a conventional nature involving widespread earthworking of the natural topography and clearing of remnant vegetation.

Offset package details

The *EPBC Environmental Offsets Policy* (October 2012) encourages the delivery of an ‘overall conservation outcome that improves or maintains the viability of the aspect of the environmental that is protected by national environmental law and affected by the proposed action’.

While the design of Jindee has minimised the scale and intensity of potential impacts to Carnaby’s Black Cockatoo and Graceful Sun Moth habitat, some residual removal of habitat will occur. On this basis the following proposed additional management measures are proposed to enhance the overall conservation outcome for the estate:

Carnaby’s Black Cockatoo offsets

Westminster Estates propose to provide funds to the Department of Environment and Conservation for the purchase of a 1200 ha property near Lancelin, containing quality Carnaby’s black Cockatoo foraging and potential breeding habitat which the DEC wishes to acquire and convert into nature reserve (Table 1). It is intended that part of this property, in the order of 50%, will be attributed to the Jindee project. This proposed offset is of a size and scale proportionate to the residual impacts on the protected matter.

Table 1 Additional detail – offset property near Lancelin

Detail requested	Response
Current tenure	Private freehold land zoned ‘General Rural’ under the Shire of Gingin Local Planning Scheme No.9 (District Planning Scheme).
Legal mechanisms for future protection	Vesting as a Natural Reserve with the Conservation Commission of Western Australia by the Department of Environment and Conservation (WA).
Risk of damage, degradation or destruction to any proposed offset site in the absence of any formal protection and/or management	If the site is not vested with the Conservation Commission of Western Australia, the land will remain freehold and be subject to activities and usage possibly uncondusive to conservation purposes, including increased grazing and weed incursion, unsympathetic fire regimes and possible further subdivision and clearing.
Current habitat quality for Carnaby’s Black-Cockatoo found at the proposed offset location, and any plans to maintain or enhance the quality or extent of suitable habitat present on-site over a specified time period	The vegetation condition (Keighery 1993) ranges from very good along the external firebreak with some agricultural weeds present, to excellent and pristine throughout the majority of the remaining vegetation.

When compared to the key provisions of the Department’s *EPBC Act Environmental Offsets Policy*, the proposed direct offsets described above address the key offset requirements in the policy as shown in Table 2 below.

Table 2 Comparison of Carnaby’s offset requirements with proposed offsets

Offset requirements – draft policy	Proposed offsets
Suitable offsets must deliver an overall conservation outcome that improves or maintains the viability of the aspect of the environmental that is protected by national environmental laws and affected by the proposed action	The proposed offsets for Carnaby’s black cockatoos will result in an improved overall conservation outcome, ensuring protection and enhancement of key habitat for the species.
Suitable offsets must be built around direct offsets but may include other compensatory measures	The upfront management actions proposed in the offsets represent direct offsets on the basis that they will in themselves directly improve the protection, management and long term viability of Carnaby’s habitat within the Lancelin property.
Suitable offsets must be in proportion to the level of statutory protection that applies to the protected matter	The offsets proposed are considered appropriate and are consistent with DSEWPaC policy, providing greater than 100% of the impact offset as identified through the offset calculator.
Suitable offsets must be of a size and scale proportionate to the residual impacts on the protected matter	The extent of habitat to be subject to improved management and maintenance as a result of the offsets will be proportionate to the residual impacts on habitat within the development area. The project will result in the clearing of approximately 35 ha of potential foraging habitat for Carnaby’s. The proposed offset site is 1200 ha in size, and it is intended that approximately 50% of this property, of a size and scale proportionate to the residual impacts on the protected matter, will be attributed to the Jindee project.
Suitable offsets must effectively account for and manage the risk of the offset not succeeding	The risk of the offset option not fulfilling the aims for which it is designed is considered to be very low. The Lancelin property will be the subject of ongoing management by the DEC and will ensure that the direct offset measures undertaken are enduring in terms of their improvement of the habitat values. This has been the current practice to date.
Suitable offsets must be additional to what is already required, determined by law or planning regulations or agreed to under other schemes or programs (this does not preclude the recognition of state or territory offsets that may be suitable as offsets under the EPBC Act for the same action)	The proposed offsets package for Carnaby’s black cockatoo is to satisfy the requirements of the Commonwealth EPBC Act only.
Suitable offsets must be efficient, effective, timely, transparent, scientifically robust and reasonable	The proposed offsets will be efficiently managed in a transparent manner by the Department of Environment and Conservation.
Suitable offsets must have transparent governance arrangements, including being able to be readily measured, monitored, audited and enforced	Performance measures for the improvement of the direct offset habitat are readily measurable through the development of a baseline position and ongoing monitoring and reporting in terms of improvements being undertaken. This can be readily undertaken in an audited manner and enforced through conditions which can be applied to the approval decision

Graceful Sun Moth offsets

It is noted that the State conservation significance listing for the Graceful Sun Moth has recently been downgraded to the extent that the species is no longer on the State list of threatened species. While the species is still listed under the Commonwealth EPBC Act as endangered, a nomination to delist the graceful sun-moth under the EPBC Act has been sent from the State to SEWPAC seeking a review of the status under the EPBC Act. Until such time as the species is delisted, we are advised that offsets are still required for GSM.

The GSM offsets package proposed for Jindee is built around direct offsets and other compensatory measures. Direct offsets will specifically relate to the protection and enhancement of existing GSM habitat within the foreshore reserve immediately adjacent to the development (Table 3).

Table 3 Additional detail – foreshore reserve

Detail requested	Response
Current tenure	Lot 3054 is owned in freehold by WAPC. The portion of Lot 3054 now zoned Urban will be amalgamated into the Jindee development.
Legal mechanisms for future protection	A portion of the foreshore reserve has recently been rezoned from 'Parks and Recreation' to 'Urban' under the Metropolitan Region Scheme. Active management in the form of habitat protect and enhancement will also be established for the offset.
Risk of damage, degradation or destruction to any proposed offset site in the absence of any formal protection and/or management	No formal protection mechanisms are currently in place on the proposed offset site, asides from the recent rezoning. Active management will reduce the loss of GSM.
Current habitat quality for GSM found at the proposed offset location, and any plans to maintain or enhance the quality or extent of suitable habitat present on-site over a specified time period	The existing quality of the habitat is low as it is generally in a degraded state. Formal protection and active management of the offset will ensure that the risk of loss is minimised as much as possible in an exposed coastal setting, whilst also enhancing the quality of the offset.

Westminster Estates propose to supplement the above local direct offset actions, through the provision of funding to the DEC to extend the operational management of GSM habitat within the Wilbinga Conservation Park. The DEC have indicated their support for this.

Wilbinga Conservation Park is a Bush Forever site (number 406) approximately 20 km from the proposal site. The total area of the Conservation Park is 9158 ha which includes Nature Reserve No. 39412 and State Forest 65 managed by the DEC. Current management issues include incompatible off-road vehicle use, weed infestation and rubbish dumping.

Landforms and soils within the Park include Spearwood and Quindalup Dunes, tamala limestone, sands derived from tamala limestone and Safety Bay sands. Vegetation condition is classified as 70% excellent, 30% very good to good and includes areas of GSM habitat (Bush Forever Volume 2, Government of WA 2000).

In discussion with staff from DEC's Swan Coastal District, the following actions were identified to improve the management of GSM habitat within Wilbinga Conservation Park:

- weed control
- rehabilitation
- vehicle access management
- rubbish removal
- fire control.

These management tasks will enhance the conservation values of existing GSM habitat. In particular weed control and rehabilitation will augment the current GSM habitat, while fire management, rubbish removal and control of inappropriate vehicle access will improve the protection of the area.

When compared against the key provisions of the Department's *EPBC Act Environmental Offsets Policy*, the proposed GSM offsets package for Jindee address the key offset requirements in the policy as shown in Table 4 below.

Table 4 Comparison of GSM offset requirements with proposed offsets

Offset requirements – draft policy	Proposed offsets
Suitable offsets must deliver an overall conservation outcome that improves or maintains the viability of the aspect of the environmental that is protected by national environmental laws and affected by the proposed action	The proposed offsets package for GSM will result in an improved overall conservation outcome, ensuring protection and enhancement of habitat for the species.

Offset requirements – draft policy	Proposed offsets
Suitable offsets must be built around direct offsets but may include other compensatory measures	The management and maintenance actions proposed in the offsets represent direct offsets on the basis that they will in themselves directly improve the management and long term viability of GSM habitat within the adjacent foreshore reserve and the Wilbinga Conservation Park.
A suitable offset must be in proportion to the level of statutory protection that applies to the protected matter	Noting that the conservation status of the GSM is in the process of being downgraded, the offsets proposed are considered appropriate
A suitable offset must be of a size and scale proportionate to the residual impacts on the protected matter	The extent of habitat to be subject to improved management and maintenance as a result of the offsets is proportionate to the residual impacts on habitat within the development area.
A suitable offset must effectively account for and manage the risk of the offset not succeeding	The risk of the offset options not fulfilling the aims for which they are designed is considered to be low. Both the foreshore reserve and the Wilbinga Conservation Park either are or will be the subject of ongoing management by the DEC or City of Wanneroo. In both instances these agencies will be responsible for the long term management of these areas and will ensure that the direct offset measures undertaken are enduring in terms of their improvement of the habitat values in question
A suitable offset must be additional to what is already required, determined by law or planning regulations or agreed to under other schemes or programs (this does not preclude the recognition of state or territory offsets that may be suitable as offsets under the EPBC Act for the same action)	The proposed GSM offsets package for Jindee is to satisfy the requirements of the Commonwealth EPBC Act only.
A suitable offset must be efficient, effective, timely, transparent, scientifically robust and reasonable	The proposed offsets will be efficiently managed in a transparent manner by the DEC or the City of Wanneroo.
A suitable offset must have transparent governance arrangements, including being able to be readily measured, monitored, audited and enforced	Performance measures for the improvement of the habitat to be the subject of both direct offset programmes is readily measurable through the development of a baseline position and ongoing monitoring and reporting in terms of improvements being undertaken. This can be readily undertaken in an audited manner and enforced through conditions which can be applied to the approval decision

Conclusion

Given the above detail, the Project is considered to achieve the avoidance and mitigation measures as primary strategies for managing the potential significant impacts of the proposed action. Where a residual impact is still evident a suite of actions consisting of direct offsets and other compensatory measures has been proposed to contribute to the ongoing viability of Carnaby's black cockatoo and the Graceful Sun Moth. Improving the habitat quality in targeted areas will lead to an improved overall conservation outcome, particularly when combined with the onsite protection of habitat within the development area which is expected to ensure the retention of 15.7% of potential Good – Excellent Carnaby's habitat and 16.67% of potential Good – Excellent Graceful Sun Moth habitat on site.

I trust that the above information is suitable to enable you to finalise the approval decision with respect to the proposed project. Should you require any additional information or further clarity with respect to the offsets proposed it would be appreciated if you could advise as soon as possible.

I look forward to timely finalisation of the approval decision for the matter.

Yours sincerely



Darren Walsh
CEO & SENIOR PRINCIPAL

20 February 2013

cc: James Blitz
Project Manager
Westminster Estates Pty Ltd