

# 2012 Compliance Report for EPBC Approval Conditions

Avon Ridge Estate, Brigadoon

V7068.004



Prepared for  
Peet Ltd.

October 2012

## Document Information

Prepared for Peet Ltd.  
Project Name Avon Ridge Estate, Brigadoon  
File Reference V7068.004.EPBC ACR 2012.doc  
Job Reference V7068.004  
Date October 2012

## Document Control

Version	Date	Author	Author Initials	Reviewer	Reviewer Initials
1.0	13/10/2012	Kelby Jennings	KJ	Paul Rokich	PR

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# 1 Executive Summary

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This report has been prepared to satisfy Condition 12 of the EPBC Act approval which was granted by the Department on the 8<sup>th</sup> October 2009. In addressing Condition 12, this document has outlined the level of compliance with conditions of approval for the Development in the reporting period October 2011 to October 2012.

Peet Limited's (Peet) Avon Ridge Estate, Brigadoon Special Rural Development (the Development) is situated on the outer fringes of Perth's metropolitan area, approximately 15 kilometres north of the Midland Regional Centre and 30 km north-east of the Perth Central Business District (**Figure 1**). The Development is located on Lots 1010 and 1022 Campersic Road, a total area of approximately 861 hectares. The Development involves the subdivision of approximately 450 ha of the site into 214 individual lots, an area of Public Open Space (POS) and a Creekline and Wetland Conservation Area. An additional area of 411 ha is reserved as "Parks and Recreation" under the Metropolitan Region Scheme.

Implementation of the Development in the reporting period is considered to exhibit a high level of compliance with approval conditions.

A number of conditions which have discrete actions have been implemented and are considered to be completed. No further action on these conditions is required. These conditions are:

Condition 2	Protective Covenants put in place
Condition 4	Protective Covenants and Contract of Sale documents finalised. Fire Management Consultant has been appointed.
Condition 5	Protective Covenants and Contract of Sale documents finalised. Pre and post clearing inspection checklists.
Condition 6	P&R reserve ceded to the WA State Government
Condition 9	Attachment 6 requirements incorporated into relevant documents
Condition 10	CEMP has been prepared and endorsed by SEWPaC
Condition 11	The development has been commenced. SEWPaC has been notified.
Condition 13	The development has been commenced. SEWPaC has been notified.
Condition 17	Offset site purchased by DEC

Ongoing implementation of Protective Covenants, management plans, rehabilitation and other provisions detailed in this report will occur as the Development progresses on a stage by stage basis. This will ensure continued compliance with approval conditions.

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## 2 Introduction

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### 2.1 Project Background

Peet Limited's (Peet) Avon Ridge Estate, Brigadoon Special Rural Development (the Development) is situated on the outer fringes of Perth's metropolitan area, approximately 15 kilometres north of the Midland Regional Centre and 30 km north-east of the Perth Central Business District (**Figure 1**).

The Development is located on Lots 1010 and 1022 Campersic Road, a total area of approximately 861 hectares (ha). The Development involves the subdivision of approximately 450 ha of the site into 214 individual lots, an area of Public Open Space (POS) and a Creekline and Wetland Conservation Area. An additional area of 411 ha is reserved as "Parks and Recreation" under the Metropolitan Region Scheme.

In May 2008, the Development proposal was referred to the Federal Minister for the Environment, Heritage and the Arts, pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The matters of national environmental significance which triggered referral of the proposed development were the potential significant impacts on Threatened Species, as protected by Part 3 of the EPBC Act. The referral contained information on the Development including existing environment, the manner in which various potential environmental impacts were to be managed through both subdivision construction phase and future purchase and development by future residents (including dwelling construction and the use of lots by individual landowners).

The delegate for the Minister for the Environment, Heritage and the Arts decided in July 2008 that the Development constituted a "controlled action", and therefore required assessment and approval under the EPBC Act. The relevant controlling provisions were "listed threatened species and communities (sections 18 and 18A)". The Minister also determined that the assessment approach for the Development would be "preliminary documentation", and also requested additional information as part of the assessment process.

In 2008, Cardno (WA) Pty. Ltd. prepared a document entitled "Preliminary Documentation: Brigadoon Estate Special Rural Development, Brigadoon Western Australia, EPBC Reference 2008/4250" (Cardno, 2008). This document addressed the information requirements as outlined by the Department of Environment, Water, Heritage and the Arts (DEWHA), now known as the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) (the Department), and was released for public comment in November 2008.

The document entitled "Response to Submissions: Brigadoon Estate Special Rural Development, Brigadoon Western Australia, EPBC Reference 2008/4250" (Cardno, 2009) was compiled in March 2009. This document provided information regarding the advertising and public comment process, a summary of submissions received, an outline of the amendments put in place or that are proposed and a response to the issues, comments and queries raised in submissions.

DEWHA issued environmental approval pursuant of the EPBC Act, subject to 16 Conditions, on the 8<sup>th</sup> of October 2009. In October 2011 and January 2012, variations to approval conditions were approved by DSEWPaC. The current list of consolidated conditions are presented in Table 1

## **2.2 Purpose of Report**

This document has been prepared to satisfy the requirements of Condition 12 of the EPBC approval, which states:

“Within three months of every annual anniversary of commencement of the action, the person taking the action must submit to the Department a report addressing compliance with the conditions of this approval. Annual Reports must be provided until the Minister is satisfied that the proponent has complied with all conditions of the approval.”

On behalf of Peet, Cardno has prepared this compliance report to demonstrate the current level of compliance with conditions of approval under the EPBC Act. The objectives of this report are to:

- > Detail the actions undertaken within the Development from September 2011 to October 2012;
- > Demonstrate compliance with conditions of approval; and
- > Identify further actions which are required to meet conditions of approval.

### 3 Approvals under the Environmental Protection and Biodiversity Conservation Act 1999

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Approval for the Development was granted on October 8, 2009.

In October 2011, the Department issued a variation to Conditions Attached to Approval, which altered Conditions 5, 6, 7 and 9 of the original approval and the definition of 'Memorial on Title'.

In Conditions 5 and 7, the definition of habitat trees was changed from 300mm dbh. to 500mm dbh., to reflect the EPBC referral guidelines for Black Cockatoo species (Commonwealth of Australia, 2011).

Condition 6 was altered to identify the receiving body as the 'WA State Government', as this was deemed preferable to the WA DEC due to uncertainty regarding the timing of handover to the eventual receiving body. The timing requirements for the ceding of the 411 ha P and R Reserve to the WA State government have also been removed. This was due to delays in subdivision approvals and the creation of the P and R Reserve Certificate of Title. This alteration was deemed to not affect the eventual responsibility and management for the Parks and Recreation Reserve.

Variation for Condition 9 replaced the term Outline Development Plan with Structure Plan.

Under Definitions, the term Memorials on Title was changed to Notifications on Title, with no change to definition.

In January 2012, further variations to the conditions of approval were issued by the Department. These involved the alterations of Conditions 1 and 2, and created a further condition of approval, Condition 17.

Variation of Condition 1 allowed for the total amount of allowable native vegetation clearing to increase from 58.2 ha to 63 ha, for the purpose of constructing roads, boundary firebreaks, strategic firebreaks and dams.

Condition 2 was altered to allow for an increase in the maximum allowable clearance of native vegetation by future landowners, from 17.1 ha to 37.4ha, for the purpose of construction building envelopes and driveways.

These clearing increases were driven by the need to install Aerobic Treatment Units for the on-site infiltration of household wastewater effluent, and also by recommendations of FESA's Major Incident Review of the Perth Hills fires of 2011 (Appendix 1). This review found that individual landowners should more actively address fire safety on individual lots, and this increase in allowable vegetation clearance is to enable more active management through fuel reduction measures.

These increases in native vegetation loss were offset by the creation of Condition 17, which provided funds from Peet to the (DEC) to allow for the acquisition and management of properties with a minimum of 150 ha of high-quality foraging habitat for Black Cockatoos, including the provision of documentary evidence of the funds transfer.

Table 1 provides a summary of compliance status for the Development. All conditions are in compliance. A number of conditions are completed.



### **3.1 Inconsistencies in Approval Conditions**

#### **3.1.1 Significant Trees**

Variations to EPBC Conditions of Approval have resulted in the definition of 'significant trees' being changed from a minimum of 300 mm dbh (diameter at breast height) to a minimum of 500 mm dbh in Conditions 5 and 7. However, Condition 10 has not been subject to variation, and continues to refer to 'significant trees' as those of 300 mm dbh or greater.

This inconsistency is also present in the Restrictive Covenants, Notification on Title and the Contract of Sale, all of which refer to 300 mm dbh. The revised *EPBC Act referral guidelines for three black cockatoo species* note that for most eucalypt species the suitable DBH to develop nest hollows is 500mm but for salmon gum and wandoo, a DBH of 300mm is suitable for the development of hollows. In view of this, no change to the wording of Notification on titles is proposed.

#### **3.1.2 Protective (Restrictive) Covenants**

The EPBC Conditions of Approval refer to the application of 'Protective Covenants' on individual lots to restrict and direct development activities. These Covenants apply limitations in areas such as vegetation clearing, building controls and the keeping of livestock.

These Covenants are formally known as Restrictive Covenants. However, for the purposes of the EPBC conditions and related documentation, including this compliance document, use of the term 'Protective Covenant' refers to 'Restrictive Covenants'.

**Table 1 Compliance Register**

No.	Version	Condition	Tasks and Implementation	Timing	Compliance Status	Evidence	Start Date	End Date
1	2	Management of clearing by developer The person taking the action must not clear more than 63 hectares of native vegetation within the project area (Attachment 1) comprising: (a) up to 30 hectares for the purpose of constructing roads; (b) up to 27 hectares of the purpose of constructing boundary firebreaks on individual lots as identified in Attachment 2; (c) up to 6 hectares for the purposes of constructing strategic firebreaks.	Construction Environmental Management Plan (CEMP) approved (see Condition 10).	Through construction phase	Compliant. Requires ongoing implementation of the approved CEMP through the life of the development	Audit / record keeping of CEMP	6/01/2012	
2	2	The person taking the action must put in place measures to ensure that clearing undertaken by future landowners within the project area (Attachment 1) will not exceed 37.4 hectares of native vegetation comprising: (a) up to 31.4 hectares for the purposes of constructing house sites, infiltration areas and buffers around the house sites; and (b) up to 6 hectare for the purpose of constructing driveways.	Protective Covenants placed on each lot to restrict clearing to permitted areas.		Completed Protective Covenants have been finalised and approved by SEWPaC	Purchasers are made aware of clearing restrictions within the Sustainable Living Guidelines. Purchasers sign a copy of the Contract of Sale stating they must comply with the Sustainable Living Guidelines.	6/01/2012	
3	1	Revegetation and Fire Management Plan. The person taking the action must prepare a Revegetation and Fire Management Plan that applies to the 100 ha within the Park and Recreation Reserve and 450 ha for the subdivision (as identified at Attachment 5) including all 214 individual lots. The proponent must obtain written approval from FESA prior to submission to the Department for approval.  The person taking the action must not commence clearing or construction within the project is until the Department has approved the Revegetation and Fire management Plan in writing. Once approved this plan must be implemented. The person taking the action must ensure that the Revegetation and Fire Management Plan includes (but is not restricted to): <b>a.</b> fuel reduction measures (including cool burn measures) specifying the timing and frequency of fuel reduction measures to minimise impacts on Black Cockatoo habitat. <b>b.</b> Revegetation measure to create additional Black Cockatoo habitat across the project sites, including in Parks and Recreation Reserve, specifically: <b>i.</b> revegetation for all condition classes (excluding pristine and excellent classes) and vegetation complexes (including maps) <b>ii.</b> mix, numbers and density of species to be planted; <b>iii.</b> timing of proposed planting (must be during or following the annual winter rain period and generally between 1 June and 30 November; <b>iv.</b> weed management measures; <b>v.</b> the survivorship rate of all revegetation measures must be at least 90% after three years. If after three years of the date of the planting, a survival rate of 90% of the planted trees is not achieved, all dead tress must be replaced with other Black Cockatoo habitat species within 12 months and maintained for at least an additional two years; <b>vi.</b> annual monitoring measures within the project area undertake by an appropriate qualified and experience ecologist an must commence within 12 months of the completion of revegetation and continue for at least three year after the initial revegetation planting in any particular area (given that revegetation will be staged across the development); <b>vii.</b> annual monitoring measures undertaken by an appropriately qualified and experienced specialist must commence in the Parks and Recreation Reserve within 12 months of completion of revegetation and continue for at least three years after the initial revegetation planted in the Parks and Recreation Reserve for the purposes of establishing the survivorship rates and replanting efforts within the project area; <b>viii.</b> mapping of all potential Black Cockatoo habitat trees of 500 mm dbh or greater on individual lots and information on how these will be retained for permanent conservation.	Prepare Revegetation and Fire Management Plan	Prior to construction	Completed. R&FMP_V1 has been produced and approved by the Department in writing.	Plan provided to FESA - Transmittal Form and email Plan provided to SEWPaC - Transmittal Form and email	8/10/2009	
			Prepare the revision to the Revegetation and Fire Management Plan	Ongoing	Compliant Requires ongoing implementation of the approved R&FMP through the life of the development	RFMP V2 currently in preparation and will need approval from CoS, FESA and SEWPAC		
						Provide copy to FESA Provide copy to SEWPaC for information purposes Email from FESA approving RFMP Email from FESA provided to SEWPaC – Transmittal form and email Letter from SEWPaC approving plan June 2010.		
			Implementation of Revegetation and Fire management Plan.	During development		Revegetation Tender documents specifying conditions.		
						Revegetation Tender responses and appointment.		
						Copies of seedling order forms (with		

No.	Version	Condition	Tasks and Implementation	Timing	Compliance Status	Evidence	Start Date	End Date
						species and numbers).		
						Vegetation Modification Completion Certificate for demonstration lots (required)??		
						Photographic evidence of revegetation		
						Copies of aerial photography		
						Revegetation Monitoring Reports. Annual spring monitoring undertaken by Tranen in 2011.		
						Tranen provides bimonthly documentation on revegetation and weed management works undertaken (including date and species).		
				Aug/Sept 2012		Burning Prescription and signoff (from City of Swan)		
					Not yet carried out	Post burn review document		
4	1	Building Protection Zone	The person taking the action may thin native vegetation within the Building Protection Zone (Attachment 2) on each housing lot (Attachment 3). The total thinning within the Building Protection Zones of the 214 housing lots (Attachment 3) must not exceed 112,350 plants suitable for foraging for Black Cockatoos. The thinning process must be managed under the terms of the approved Revegetation and Fire management Plan, and be personally supervised (pre and post thinning inspection for individual lots) by a qualified Fire Management Consultant. The person taking the action must obtain written approval from FESA of the first appointed Fire Management Consultant prior to the provision of any Building Protection Zone thinning advice. Any subsequent appointment of Fire Management Consultants will be based on that consultant having similar qualification as the initially appointed consultant.		Completed.	Protective Covenants	8/10/2009	
			The Building Protection Zone must be implemented on each of the 214 housing lots in the dimensions specified in Attachment 2. The location of each Building Protection Zone and house site must be chosen in consultation with the Fire Management Consultant for the purpose of maximizing the retention of trees as specified in Condition 4.		Protective Covenants have been finalised and approved by SEWPaC	See Annexure B – Section 3 - Placement of approved building envelopes, firebreaks and driveways and Section 4 - Building Controls		
			The person undertaking the action must ensure that all native vegetation that provides habitat for Black Cockatoos is retained outside of the Building Protection Zones within 214 housing lots. This excludes native vegetation that is specifically managed under the Revegetation and Fire management Plan.		Contract of sale has been finalised	Signed Copies of the Contract of Sale are to be kept by Peet.		
					Bill Harris has been appointed as the FMC	Letter from FESA provided to SEWPaC – Transmittal form and email Appointment of a Fire Management Consultant		
						Pre-Clearing Checklist Purchaser information package Information on FMC provided in Sustainable Living Guidelines on p.45/ii		
						Post-Clearing Checklist Clearing completion certificate Purchaser information package Information on FMC provided in Guidelines on p.45/ii		
						Sustainable Living Guidelines		

No.	Version	Condition	Tasks and Implementation	Timing	Compliance Status	Evidence	Start Date	End Date
5	2	<p>The person taking the action must ensure that all potential breeding habitat trees for Black Cockatoos (as designated at Attachment 4 and 4A) are protected in perpetuity via a Notification on Title.</p> <p>The person taking the action must ensure that all other trees within the lot area (Attachment 1) with a diameter by breast height (dbh) of 500 mm or greater are retained unless:</p> <ol style="list-style-type: none"> <li>They are located within a house site;</li> <li>They are located within the Building Protection Zone;</li> <li>they are required to be removed for fire management purposes as advised by a qualified Fire Management Consultant(s).</li> </ol>			Completed Protective Covenants have been finalised and approved by SEWPaC	Protective covenant Purchaser information checklist	24/10/2011	
6	2	<p>The person taking the action must ensure at the 411 ha Park and Recreation reserve as highlighted in green at Attachment 5 be ceded to the WA State Government. The Department must be notified in writing once this has occurred.</p>			Completed early 2012	Correspondence between Cardno and SEWPaC regarding the vesting of the Parks and Recreation Reserve Waiting on correspondence between Peet and DoP prior to notification of SEWPaC	24/10/2011	
7	2	<p>The person taking the action must ensure that the following the sale and settlement each individual lot owner will be offered at least 1000 seedlings suitable for foraging and breeding habitat for Black Cockatoos to be permanently planted on their purchased lot. This planting must be undertaken under the direct supervision of a Revegetation Specialist at the proponent's expense.</p> <p>The person taking the action must ensure that any seedlings allocated for individual lots that cannot be planted because of Fire management or other reasons, must be planted in the Parks and Recreation Reserve as identified in Attachment 7. Planting must be undertaken following the sale and settlement of the individual lots so that the planting under this condition total at least 214,000 plants on either individual lots or in the Parks and Recreation Reserve.</p> <p>The person taking the action must ensure that all purchasers of lots within the project area, prior to sale and settlement:</p> <ol style="list-style-type: none"> <li>Are aware of the existence of potential and actual breeding habitat trees on the individual lots, Notification on Title and the requirements that these must be conserved into perpetuity and not be cleared</li> <li>Are aware of the Protective Covenant;</li> <li>Are aware of restriction relating to clearing of <ol style="list-style-type: none"> <li>Potential breeding habitat trees over 500 mm dbh</li> <li>Area within and outside of the Building Protection Zone.</li> </ol> </li> <li>Are aware of the proposed revegetation measures for their individual lot by person(s) as outlined in Condition 3;</li> <li>Are provided with species related information on all Black Cockatoos, their presence in the area, ecology, species range and details on habitat.</li> </ol>			Compliant RFMP V1 includes these provisions. This is being implemented	Signed Copy of Contract of Sale are to be kept by Peet.  Purchaser Information Checklist. Information on revegetation (p.38), recommended plant list (p.41,42) and black cockatoos (p.7-8) provided in the Sustainable Living Guidelines. Requirement to plant species on the recommended plant list included in Sustainable Bushland Living checklist (p.58)Protective Covenants - Annexure B, section 7 – Revegetation. Annexure F - Section 3 - Habitat trees.	24/10/2011	

No.	Version	Condition	Tasks and Implementation	Timing	Compliance Status	Evidence	Start Date	End Date
8	1	The person taking the action must provide a final version of the Protective Covenant in writing to the Department for approval prior to the sale and settlement of any lot. The person taking the action must ensure that the approved Protective Covenant is in place for each of the 214 lots.		Ongoing through the development	Compliant	Protective Covenants provided to SEWPaC and approved on 31/8/2010  Letter from SEWPaC endorsing Protective Covenants.  Purchaser information checklist DA Checklist. Contract of Sale	8/10/2009	
9	2	All elements specified in Attachment 6 must be incorporated in either the Structure Plan, approved subdivision conditions or approved Protective Covenants. These must be complied with. The Department must be notified in writing on how all the elements in Attachment 6 have been incorporated and complied with. If any of the elements in Attachment 6 are not incorporated, to the Department's satisfaction, the person taking the action must negotiate an outcome to the Department's satisfaction, prior to commencing construction.  (Attachment 6 elements are provided in Table 2)			Completed	All elements have been included in the Structure Plan, WAPC Conditions of Subdivision and Protective Covenants.  Previous annual reports have provided details on how the different elements contained within Attachment 6 of the Approval were included in the above processes.  A further update will be provided to the Department following the final endorsement of the Structure Plan by the WAPC.	24/10/2011	
10	1	The person taking the action must prepare and implement a Construction Management Plan. This plan must be submitted and approved by the Department prior to any clearing taking place. The Construction Management Plan must clearing demonstrate that:  <b>a.</b> All habitat trees at Attachment 4 and 4A are to be retained in perpetuity; <b>b.</b> All trees to remain that are greater than 300mm dbh within the subdivision area (as at Attachment 3) and within 10 meters of an area proposed to be cleared (excluding those in the Building Protection Zone) are clearly marked and retained. <b>c.</b> Area of vegetation that are Black-Cockatoo habitat and not for clearance (including roadside vegetation, streamline vegetation and Public Open Space area) are clearly marked and retained; <b>d.</b> If clearing outside of stipulate area occurs by other contract parties, then the person taking the action must notify the Department in writing and will ensure that these areas will be revegetated to the same density (following the annual winter rain period and between 1 September – 30 November); and <b>e.</b> All contracted parties will undergo an induction programme prior to commencement of construction and/or clearing. This programme will include information on EPBC listed species and measure employed within the project areas to protect Black Cockatoo habitat.			Completed  Completed	Plan provided to SEWPaC – transmittal form and email  Letter from SEWPaC approving plan	8/10/2009	
				Ongoing through the development	Compliant Implement plan	Land Clearing Approval Form including flagging of habitat trees, additional trees over 300mm DBH, Cockatoo habitat, area of clearing and purpose of clearing (roads, boundary firebreak or strategic firebreak) Contractor contracts – specifying excess clearing will result in revegetation and recognition of CMP Site inductions		
11	1	Within 30 days of commencement of construction, the person taking the action must advise the Department in writing the actual date of commencement.		Within 30 days of commencement of construction	Completed	Letter to SEWPaC	8/10/2009	

No.	Version	Condition	Tasks and Implementation	Timing	Compliance Status	Evidence	Start Date	End Date
12	1	Within three months of every annual anniversary of commencement of the action, the person taking the action must submit to the Department a report addressing compliance with the condition of this approval. Annual Reports must be provided until the Minister is satisfied that the proponent has complied with all condition of the approval.		Annually through the development	Compliant	Annual compliance report – demonstrating compliance and presenting evidence	8/10/2009	
13	1	If, at any time five year from the date of this approval, the Minister notified the person taking the action in writing that the Minister is not satisfied that there has been substantial commencement of the construction of the rural residential development at Brigadoon, Western Australia, the action must not thereafter be commenced without the written agreement of the Minister.	Commencement within 5 years		Completed The project has been substantially commenced within 5 years of the project's approval	See condition 11	8/10/2009	
14	1	If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans, reports or strategies referred to in these condition, the person taking the action must submit for the Minister's approval a revised version of any such plan, report or strategy for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan, report or strategy must be implemented in place of the plan, report or strategy originally approved.	Change from agreed reports/plans/strategy.	Ongoing through the development	Compliant	A revised RFMP V2 is in preparation. Until the revised plan is approved, the current version (V1) will remain in effect	8/10/2009	
15	1	If the Minister believes that it is necessary or desirable for the better protection of threatened species and threatened ecological communities (s18 and s18A) to do so, the Minister may request that the person taking the action make specified revision to the plan, reports or strategies approved pursuant to Condition 2 and submit the revised plan, report or strategy for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan, report or strategy must be implemented in place of the plan, report or strategy originally approved.			Not Applicable	NA at this time. No such request has been received from the Minister	8/10/2009	
16	1	The person taking the action must maintain accurate records of all activities associated with or relevant to the above conditions of the approval, and make them available on request by the Department. Such document may be subject to audit by the Department and used to verify compliance with the condition of approval. Summaries of audits may be posted on the Department website. The results of audits may also be publicized through the general media.		Ongoing through the development	Compliant	Accurate records of all activities described above are being maintained by the proponent	8/10/2009	
17		In order to offset the impact of clearing of Black Cockatoo habitat, before June 30 2012, the person taking the action must: <b>a.</b> Provide funds to the Western Australian Department of Environment and Conservation for the acquisition and management of one or more properties that contain at least 150 hectares of high quality foraging habitat for Black Cockatoos to be protected in perpetuity. The offset property must be approved in writing by the Department. <b>b.</b> Provide documentary evidence to the Department that funds have been provided to the Western Australian Department of Conservation as required by approval condition 17a.	Transfer of funds to DEC for an offset site.	Prior to 30 June 2012	Completed.	Letter from SEWPAC dated 6 January 2012 approving variation to conditions and approving the offset site.  Transfer of payment documents from Peet to DEC regarding the acquisition and management of the offset property.  Letter from SEWPac March 2012 regarding Peet's remuneration and clearance of conditions	6/01/2012	

**Table 2 Attachment 6 elements**

No.	Attachment 6
1	All habitat trees identified in Attachment 4 must be conserved into perpetuity via a Memorial on Title
2	Restrictions on building envelopes is a maximum of 10% of the gross lot area
3	Requirement for protective covenants to restrict a clearing, including the use of FESA approved Fire Management Consultant must be included
4	Building development envelopes must not impinge on any areas identified by the Bush Forever vegetation classification as the following, unless approved by Council a. Areas determined to be in 'pristine' conditions; and b. Areas determined to be in an 'excellent' condition This includes driveways or any other points of access
5	No additional clearing for access roads other community infrastructure within the project area unless approved by Council
6	A Construction Management Plan must be prepared and applied to all stages of development within the project area.
7	A Revegetation and Fire Management Plan must be prepared and applied to all stages of the development within the project area.
8	There should be no clearing outside the Building protection zone areas on the 214 lots, excluding those required for fire management purposes and approved driveway purposes.
9	There should be no clearing within the Building Protection Zone after the construction of the first house on each lot.

## 3.2 Compliance Details

### 3.2.1 Condition 1

Clearing is managed through the Construction Environmental Management Plan (Condition 10). At present, clearing has only been completed for Stage One. This includes:

- > Clearing for the purpose of constructing roads (this includes the clearing of the connecting road that has been constructed for fire management purposes to adjoin O'Brian Road);
- > Clearing for lot level firebreaks;
- > Clearing for the strategic firebreaks.

Calculation of the current clearing has been undertaken using engineering drawings and analysis of the most up to date aerial image (August 2012). Table 3 provides a summary of the current level of clearing, the area remaining to be cleared and the percentage of clearing completed.

**Table 3 Areas Cleared under EPBC Condition 1**

Clearing Restrictions	Current level of clearing (ha)	Remaining clearing (ha)	Percentage of clearing complete (%)
up to 30 hectares for the purpose of constructing roads;	18.54	11.46	61.80
up to 27 hectares of the purpose of constructing boundary firebreaks on individual lots;	7.23	19.77	26.77
up to 6 hectares for the purposes of constructing strategic firebreaks.	5.06	0.94	84.33

Continued monitoring of clearing will occur and be reported annually as part of the Compliance Report.

### 3.2.2 Condition 2

Clearing is managed by the Contract of Sale and Protective Covenants. Further advice is provided to landowners in the Sustainable Living Guidelines (Appendix 2). Calculation of the current clearing has been undertaken using an analysis of the most up to date aerial image (August 2012). Table 4 provides a summary of the current level of clearing, the area remaining to be cleared and the percentage of clearing complete. Continued monitoring of clearing will occur and be reported annually as part of the Compliance Report.

**Table 4 Current level of clearing undertaken across the Development by individual landowners**

Clearing Restrictions	Current level of clearing (ha)	Remaining clearing (ha)	Percentage of clearing complete (%)
up to 31.4 hectares for the purposes of constructing house sites and buffers around the house sites; and	0.51	30.89	1.62
up to 6 hectare for the purpose of constructing driveways.	0.11	5.89	1.83

### 3.2.3 Condition 3

Cardno prepared the Revegetation and Fire Management Plan (RFMP) (Cardno 2010a) which was approved by the Department on the 24<sup>th</sup> of June 2010. This was reported in the 2011 Annual Compliance Report.

In August 2012, the RFMP was updated to reflect changes to the revegetation strategy and the objectives of the RFMP in response to adaptive management at Avon Ridge Estate. The fire management plan, prepared by independent Bushfire Planning consultant FirePlan, which forms the basis of the Avon Ridge Estate RFMP, has not been modified. However, prescribed fuel reduction burning times and areas have been revised. This updated document supersedes the previously endorsed RFMP and will require endorsement from the WAPC, FESA and DSEWPAC.

At this stage of subdivision development there has been limited implementation of the RFMP due to low levels of construction. Implementation of the RFMP will be subject to ongoing adaptive management to ensure best practise management of the conditions of approval. Adherence to these conditions is being monitored, and the level of compliance is reported in the annual compliance report. Table 5 provides a summary of the current actions to implement condition 3.



**Table 5 Condition 3 – Compliance Overview**

Condition 3	Status of Compliance	Future Actions
Preparation, approval and implementation of a RFMP.	Complete	<p>Plan completed and approved.</p> <p>Individual sections of the original RFMP have been amalgamated into a single document and the revegetation strategy revised to better reflect the restoration activities proposed for the development area. The revised plan will be resubmitted to various agencies for reapproval.</p> <p>Ongoing implementation required.</p>
<i>The person taking the action must ensure that the Revegetation and Fire Management Plan includes (but is not restricted to):</i>		
Fuel reduction measures.	In Progress	<p>Fuel reduction measures are planned prior to Lot development.</p> <p>Ongoing management to be provided by the FMC.</p>
Revegetation measures to create additional Black Cockatoo habitat, specifically:	Complete	Landowners provided with sufficient information with the Protective Covenants (section 7) and the Sustainable Living Guidelines (pp. 38-42).
i. revegetation for all condition classes (excluding Pristine and Excellent), and vegetation complexes;	Compliant	Revegetation will be restricted to the P and R Reserve. However, controlled burning across the development will facilitate natural recruitment and regeneration of native vegetation across all classes and complexes.
ii. mix, numbers and density of species to be planted;	Compliant	<p>Although no planting has occurred within individual lots, new purchasers have been provided with a recommended plant list the Sustainable Living Guidelines (pp. 41-42) which indicates species that are suitable for the nesting, roosting or feeding of the Black Cockatoos.</p> <p>Revegetation within the P and R Reserve has been undertaken and included a wide range of suitable Black Cockatoo habitat species</p>
iii. timing of proposed planting;	Compliant	Planting is to be undertaken during June – August to correspond with suitable planting conditions.
iv. weed management measures;	Compliant	Weed management has been undertaken in the P and R Reserve and will continue on a regular basis. Weed management will occur across the Development once lot level revegetation has commenced.
v. the survivorship rate of all revegetation measures must be at least 90% after three years;	NA yet	If the completion criteria are not achieved, all dead plants will be replaced and maintained for at least an additional two years.
vi. annual monitoring measures within the project area;	Compliant	To be implemented once monitoring is required.
vii. annual monitoring measures undertaken by an appropriately qualified and experienced specialist must commence in the P and R Reserve	In Progress	The monitoring report detailing success of revegetation is contained in Appendix 3
viii. mapping of all potential Black Cockatoo habitat trees of 500 mm dbh or greater on individual lots and information on how these will be retained for permanent conservation	Complete	<p>All trees of 500mm dbh or greater have been mapped and marked with white flagging tape.</p> <p>These trees have been included in the Protective Covenants and must be retained unless located within the house site, BPZ or required to be removed for fire management purposes (Section 3.6c).</p>

### 3.2.4 Condition 4

A Building Protection Zone (BPZ) has been created for each of the lots purchased. This will continue as the lot sales of the Development progress and landowners initiate construction on their lots. Given that lot sales have only recently commenced, only four BPZs have been established.

Thinning of the BPZ has been undertaken for three demonstrational lots (197, 200, 203) as well as a purchased lot (192). A Fire Management Consultant (FMC) is currently engaged with the preparation of the BPZs and Hazard Separation Zones (HSZ) for purchasers of lots, and will continue to provide guidance to new landowners regarding acceptable tree clearing practices prior to any lot clearing in accordance with the Protective Covenants.

The role of the FMC is to perform pre-thinning and post-thinning site checks to ensure that landowners understand what is required, and evaluate whether their clearing actions are compliant with the RFMP and condition 4 of the approval. These site checks are documented by the FMC in a Pre-Clearing Checklist and Post-Clearing Checklist (Appendix 4). The retention of vegetation outside of the BPZ is also monitored by the FMC for compliance with the RFMP, and documented in the Post-Clearing Checklist. Landowners are required to sign the pre-clearing checklist in acknowledgment that they understand the clearing requirements and advice provided by the FMC, and also enables them to nominate a date for a post- thinning inspection.

The Post-Clearing Checklist confirms whether clearing and vegetation modification has been undertaken in a manner that is consistent with the advice provided, including the retention of habitat trees outside the BPZ. The pre-clearing and post-clearing inspection procedures of individual lots will be continued by the FMC as the sales and construction phases of the Development progresses.

Given that only four lots have been cleared so far within Stage One of the Development, with each of these lots not removing more than approximately 500 plants per lot, the total thinning of the combined BPZs throughout the Development is on target to not exceed 112,350 plants.

### 3.2.5 Condition 5

Protective Covenants have been finalised and approved by SEWPaC. This has been reported in previous Annual Compliance Report. The proponent will satisfy Condition 5 of the approval through the application of Notifications on titles as they are created on a stage by stage basis.

Protective Covenants detail requirements for retention of any trees with a diameter by breast height of 300 mm or greater. They further support the Notifications by describing actions necessary for protection of habitat trees for the Black Cockatoo. The Notifications and Protective Covenants are implemented through the Construction Environmental Management Plan (CEMP) (Cardno 2010b), which is the management framework which serves to ensure the requirements of these two instruments are enacted. Table 6 provides a summary of the current actions to implement condition 5.

**Table 6 Condition 5 – Compliance Overview**

Condition 5	Status of Compliance	Future Actions
All potential breeding habitat trees protected in perpetuity via a Notification on Title.	Complete	As the Development progresses, the Notifications on Title will apply to each newly released lot which displays potential habitat trees.
All trees with a dbh of 500mm or greater are retained unless they: They are located within the house site; They are located within the BPZ; and They are required to be removed for fire management purposes.	Complete	Protective (Restrictive) Covenants apply to all lots in the development area. These include notification of potential and future habitat trees. No disturbance to significant trees has been recorded to date. Monitoring will continue throughout the future stages of construction.

### **3.2.6 Condition 6**

On 5th July 2012, the P and R Reserve was ceded to the WA State Government. This action completes condition 6.

### **3.2.7 Condition 7**

To implement this condition, the proponent has established a Purchaser Information Checklist and a Contract of Sale. These are attached in Appendix 5. These are used to verify that a purchaser is aware of the restrictions upon the land and have received the relevant information which will aid them in adhering to the requirements of the Notifications on Title and the Restrictive Covenants.

These documents implement the requirements of Condition 7 and will continue to be utilised as the Development progresses.

### **Revegetation within the Parks and Recreation Reserve**

It had been the original intent that the replanting of the 214,000 tube stock would be carried out across the estate with planting being carried out within private lots to replace those trees and shrubs removed to facilitate Lot development. However, it was soon realised that the density of the remnant vegetation which would be retained within these lots is such that the installation of tube stock would be difficult and unfeasible given space limitations and the amount of direct competition from established plants. Additionally, advice from revegetation contractor Tranen was that offset planting with privately owned lots is fraught with a number of issues including:

- > Difficulty gaining permission for contractors to access private property;
- > Opposition by future residents to additional plantings;
- > Delays between the purchase and eventual development of Lots by purchasers;
- > Issues associated with the on-selling of Lots to new owners;
- > Difficulties associated with distinguishing plantings from natural recruitment and monitoring the survival success of scattered plantings within remnant vegetation; and
- > Inability to erect fencing to protect tube stock from the impacts of grazing (rabbits and kangaroos).

Following a review of the FMP prepared by independent bush fire planning consultant, FirePlan, it was also evident that the planting of tube stock within the Lots is in conflict with the bush fire hazard reduction requirements, which require the establishment of a thinned bushfire hazard separation zone.

In view of the above, it has been determined that the most appropriate location for the required revegetation is the largely degraded P & R Reserve. This strategy is in accordance with condition 7.

Prior to the decision to concentrate revegetation efforts within the P and R Reserve, Peet had advertised to Lot purchasers the provision of 1000 tube stock for in-Lot planting as per the EPBC condition. Only one landowner, the owner of Lot 227, has approached Peet requesting that these plants be provided. Peet has subsequently requested that Tranen source suitable tube stock and install these plants on behalf of the Lot owner in the winter of 2013. The plants will be installed outside of the CoS approved building envelope in accordance with the requirements of the RFMP and no trees shall be planted within 6m of the centre of the established firebreaks.

Peet have commissioned revegetation specialists Tranen to undertake the required planting of 214,000 tube stock, comprising of known Black Cockatoo foraging and breeding species. It is envisaged that the entirety of the required 214,000 tube stock will be installed within in the degraded Parks and Recreation Reserves, as this will result in a greater net environmental benefit than carrying out small-scale planting activities within the vegetated Lots within the estate.

## Progress to Date

Stage 1 of revegetation works involved winter planting of approximately 30,000 seedlings in an area of 2.58ha in the Parks and Recreation Reserve. The following measures were undertaken to maximise the success of revegetation:

- > Ripping of previously grazed areas to loosen compacted soils and maximise water infiltration to assist seedling establishment ;
- > Weed control to reduce seedling competition within the revegetation area;
- > Construction of a 1.8m galvanised fence to minimise grazing from native wildlife and pest species;
- > Planting of established tube stock with fertilizer tablets to maximise seedling growth;

In winter 2012, 37,000 seedlings were planted. Of these, 30% were planted in Stage 1 to increase plant density and diversity. The remaining 70% were planted in a nearby area of 4.32ha, referred to as Stage 2. Revegetation activities proceeded in the same manner as Stage 1, and will be subject to ongoing management and monitoring as described for Stage 1.

Revegetation specialists Tranen monitor the revegetation annually as specified in condition 3(b)(vi). The Spring 2011 and Autumn 2012 monitoring reports are contained in Appendix 3.

Over the two planting years, a total of approximately 67,000 plants have been planted in a combined area of 6.9ha. This results in a planting density of almost 10,000 plants per hectare or 1 plant per square metre.

## Future work and review

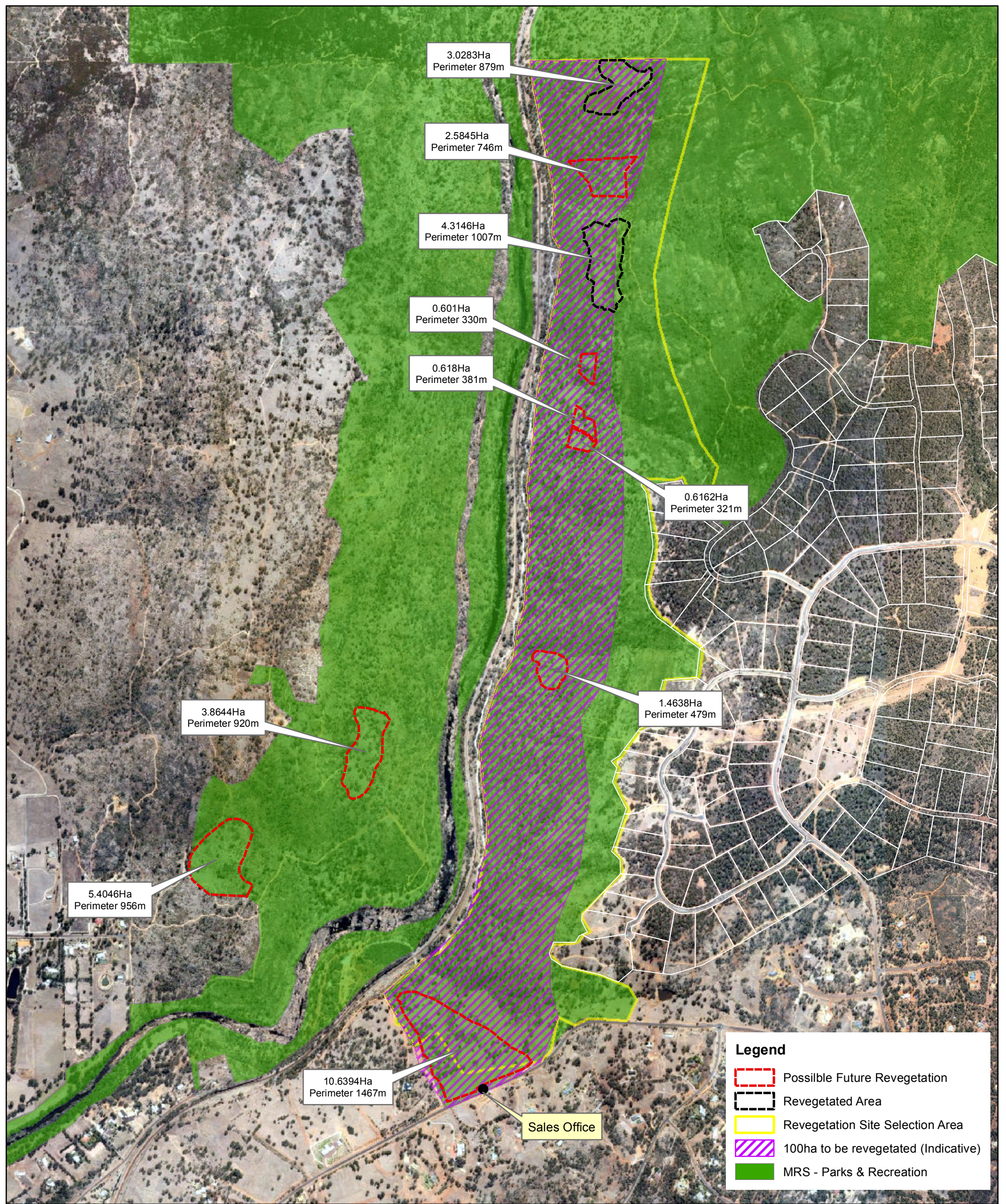
On the planting density above, it follows that 21.4 hectares of available land is required in the P&R reserve for the 214,000 plants required to satisfy Condition 7. However, on the basis that the final survival rate of 90% after 3 years is 214,000, the initial planting required is 235,000. This equates to 23.5 hectares of available planting space.

Given a range of constraints including steep terrain, granite outcrops/skeletal soils and low fuel buffer areas, a desktop review was undertaken on the P&R reserve to identify likely areas for replanting. The result is shown in Figure 3-1. This indicates that a further area of 2.6ha, similar to the two areas already planted is available in the north of the P&R reserve. An additional area of approximately 10.6 hectares is available in a mostly cleared area below the Peet sales office. The remaining semi-cleared areas in the P&R reserve are small ranging from 0.6 – 1.5 hectares. It is considered the practicalities of fencing costs against the small number of plants that could be put in these areas makes them unsuitable for rehabilitation.

This totals a maximum of 13.2 hectares available for future planting. On the current planting density this translates to 132,000 plants that can be planted or a shortfall of 36,000, assuming all this area can be utilized.

The likelihood of a shortfall in available area for planting was raised with Departmental staff at a site meeting held on 22/10/2012. A number of possible options are being considered by Peet and Cardno. One option is to seek permission to plant in other areas of the P&R reserve, in close proximity to the project. A number of possible locations are shown in Figure 3-1. This would require agreement of State and Federal departments to vary Attachment 7 in the approval.

The purpose of raising this matter now is to bring it to the attention of the Department. Consultation with Department officers will continue.



DATE	No.	ACTIVITY - REVISION DESCRIPTION	DES	DRN	CHK'D	APPD	DATE	No.	ACTIVITY - REVISION DESCRIPTION	DES	DRN	CHK'D	APPD



**CONSULTING ENGINEERS  
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Scale: **1:14,000** 0 100 200 400 600 800 1,000 1,200 1,400 1,600 1,800 2,000 Metres

PROJECT **Brigadoon Estate**  
DRAWING TITLE **FIGURE 3 :Possible Areas for Revegetation**  
PRINCIPAL **PEET Limited**



Project Number <b>V7068</b>	Original <b>A3</b>
Drawing Number <b>SK21</b>	Revision <b>A</b>
Designed AH	Checked
Drawn MGW	Approved
Local Authority: City of Swan	
Sheet 1 of 1	Date 27/04/12

This drawing has been prepared in accordance to Cardno Quality Management System. It remains the property of Cardno WA Pty. Ltd. and shall not be used without permission. The drawing shall be preliminary only and/or not for construction until signed approved.



Attachment 6	Document	Documentation
9. There should be no clearing within the Building Protection Zone after the construction of the first house on each lot.	Protective Covenants	› Protective Covenants, Condition 2.8

### 3.2.10 Condition 10

A Construction Environmental Management Plan (CEMP) has been prepared and is applicable to all activities undertaken by the Development team (Peet, Consultants and Contractors). The plan has been endorsed by SEWPaC. Implementation of the CEMP will continue throughout the construction phase of the Development.

#### a) Retention of Habitat Trees

All Black Cockatoo habitat trees have been identified and clearly marked for retention. The following management actions were taken in line with the CEMP:

Clear marking (with white spray paint) of habitat trees to identify these trees during the construction period (construction activities excluded within 5m of habitat trees where possible);

The requirement that these habitat trees must not be cleared as part of the construction process;

Inclusion of habitat trees within Notifications on Title and Protective Covenants. These mandate the protection of habitat trees in perpetuity.

#### b) Retention of Significant Trees

Mapping of all trees greater than 300mm diameter breast height (dbh) was undertaken in 2010 prior to the commencement of construction. This has been reported in a previous annual compliance report.

Note: As described in Section 3.1.1, Condition 10 refers to a significant tree as that with a dbh of 300 mm or greater. This is inconsistent with the definition contained in Conditions 5 and 7, which refer to 500 mm dbh or greater.

#### c) Retention of Vegetation

Areas of "Pristine" and "Excellent" vegetation condition are protected by the following measures:

- > Protective Covenants address the requirement to protect such vegetation on private lots.
- > No clearing other than for strategic firebreaks is permitted within these areas (In 2011, the strategic firebreaks in the northern portion of the Development were redrawn so as to not interfere with areas of "Pristine" condition vegetation);
- > Areas of "Pristine" and "Excellent" vegetation condition are clearly demarcated with orange coloured flagging tape;
- > Access to these vegetation areas is only permissible on foot or on designated tracks, such as existing tracks and constructed strategic and lot firebreaks.

#### d) Clearing Outside of Stipulated Areas

The CEMP stipulates that there is to be no clearing outside pre-defined clearing areas and any unauthorised clearing will require the Contractor to revegetate and replace vegetation with the same vegetation type at their own expense. Land Clearing Forms and Registers are to be completed and approved by the Proponent and Environmental Consultant prior to any vegetation clearing.

No breaches of the clearing requirements have occurred in the reporting period.

#### e) Personnel Induction Programme

A copy of the induction PowerPoint is included in the CEMP. Prior to the commencement of any activities associated with construction, Peet Representatives and Contractors participated in a Site Environmental Induction.

No breach of the induction requirement has occurred in the reporting period.





**3.2.11 Condition 11**

This condition is completed and has been reported in the previous annual compliance report. No further action on this condition is required

**3.2.12 Condition 12**

This Compliance Report outlines the current level of compliance with the conditions of approval under the EPBC Act. The objectives of this report are to:

- > Detail actions undertaken in the Development for the reporting period (October 2011 to October 2012);
- > Demonstrate the level of compliance with conditions of approval; and
- > Identify any further actions which are needed to meet the conditions of approval.

**3.2.13 Condition 13**

As approval was granted under the EPBC Act on the 8<sup>th</sup> October 2009 and construction commenced on Monday the 5<sup>th</sup> July 2010, construction has commenced within the period of five years from the date of approval.

This condition is completed and has been reported in the previous annual compliance report. No further action on this condition is required.

**3.2.14 Condition 14**

A revised RFMP (V2) is in preparation. Until the revised plan is approved, the current approved version (V1) will remain in effect.

**3.2.15 Condition 15**

No request has been received by the Minister requiring better protection for environmental features are considered.

**3.2.16 Condition 16**

Peet and Cardno have maintained comprehensive and accurate records of all activities associated with or relevant to the conditions of approval. Copies of the records are available upon request.

**3.2.17 Condition 17**

On 6 January 2012, the Department issued a letter to Mr Craig Raynor of Peet, providing written approval of the identified offset property. The Department was provided with documentary evidence, in a letter dated 8 February 2012, confirming transfer of funds to the DEC for purchase of the approved offset property

In a letter dated 15 March 2012, the Department issued a statement confirming that Condition 17 for EPBC 2008/4250 approval has been satisfied in full. This condition is completed. No further action on this condition is required.



Key Issue	Condition	Primary Responsibility	Supporting Responsibility	Future Actions
Prevention of Fauna disturbances (injuries and deaths).	10	Cardno; Development Engineering Consultants	Peet; Wildlife Carer	<p>Ensure all clearing boundaries and significant flora species are clearly demarcated, with any ambiguous boundaries to be checked with the Site Supervisor prior to clearing.</p> <p>The following measures will be undertaken to avoid disturbance to fauna:</p> <p>Prior to clearing, areas are to be inspected by the contractor for obvious signs of fauna inhabitation.</p> <p>If fauna are found to inhabit proposed clearing sites, relocation of the fauna will take place by a Wildlife Carer a minimum of 50 meters from the proposed clearing area.</p> <p>Excavated areas (such as trenches constructed during civil works) are to be regularly inspected for trapped fauna and fauna egress ramps are to be installed.</p>





Avon Ridge, Brigadoon

APPENDICES

(On attached CD)



