

# 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon

Project No: EP13-041(22)

**Prepared for Peet Limited  
October 2018**



# 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



## Document Control

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## 2018 Compliance Report for EPBC Approval 2008/4250 Avon Ridge Estate, Brigadoon



### Executive Summary

Peet Limited (Peet) received approval pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for the special rural development of Lots 1010 and 1022 Campersic Road in Brigadoon in Western Australia on 8 October 2009 (EPBC 2008/4250).

The development, known as Avon Ridge Estate, is located approximately 30 km northeast of the Perth Central Business District, and contains a 450 hectare (ha) subdivision area and an adjacent 411 ha reserve for Parks and Recreation (PR Reserve) under the Metropolitan Region Scheme (MRS).

Emerge Associates (Emerge) have been appointed by Peet to prepare an annual compliance report (this report) to satisfy Condition 12 of the approval. This document outlines the current level of compliance with all the conditions of EPBC 2008/4250 for the development thus far.

Specifically this document:

- Details the actions undertaken within the development from 5 July 2017 to 4 July 2018
- Demonstrates the level of compliance with the conditions of approval
- Identifies any further actions which are required to meet the approval conditions.

No additional stages have been cleared or constructed during the reporting period. To date, stages one through four and stage seven (out of a total of nine stages) have been subject to clearing and construction activities, with 109 lots out of a total 214 settled.

Compliance has been achieved against all conditions during the reporting period through the ongoing implementation of Restrictive Covenants, Notifications on Title, management plans and other works as detailed in this report.

# 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



## Table of Contents

<b>1</b>	<b>Proposal and proponent details .....</b>	<b>1</b>
1.1	Proposal background .....	1
1.2	Purpose of report.....	2
<b>2</b>	<b>Approvals under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .....</b>	<b>3</b>
2.1	Summary of approval conditions and compliance.....	5
2.2	Compliance details.....	15
2.2.1	Clearing for strategic firebreaks, lot boundary firebreaks and roads - Condition 1.....	15
2.2.2	Measures to manage clearing within lots - Condition 2.....	15
2.2.3	Restrictive Covenant - Condition 8.....	17
<b>3</b>	<b>Conclusion .....</b>	<b>18</b>
<b>4</b>	<b>References .....</b>	<b>19</b>
4.1	General references .....	19
4.2	Online references.....	19
<b>5</b>	<b>Glossary .....</b>	<b>20</b>

## List of Tables

Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 .....	5
Table 2: Areas cleared to date under Condition 1.....	15

## Appendices

### Appendix A

Declaration of Accuracy

### Appendix B

Stage 4 Avon Ridge Estate Restrictive Covenant

### Appendix C

Stage 7 Avon Ridge Estate Restrictive Covenant

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



### List of Abbreviations

*Table A1: Abbreviations – General terms*

General terms	
CEMP	Construction Environmental Management Plan
GIS	Geographic information systems
MNES	Matters of National Environmental Significance
RFMP	Revegetation and Fire Management Plan

*Table A2: Abbreviations – units of measurement*

Units of measurement	
cm	Centimetre
dbh	Diameter breast height
ha	Hectare
m	Metre
mm	Millimetre

*Table A3: Abbreviations – Organisations*

Organisations	
DBCA	Department of Biodiversity, Conservation and Attractions
DEWHA	Department of Environment, Water, Heritage and the Arts (now DoEE)
DFES	Department of Fire and Emergency Services
DoEE	Department of Environment and Energy
DPaW	Department of Parks and Wildlife (now DBCA)

*Table A4: Abbreviations – Planning terms*

Planning terms	
MRS	Metropolitan region scheme
PR Reserve	Parks and Recreation Reserve

2018 Compliance Report for EPBC Approval 2008/4250  
Avon Ridge Estate, Brigadoon



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# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## 1 Proposal and proponent details

<b>Proposal Title</b>	Brigadoon Estate (Avon Ridge Estate) Special Rural Development, Brigadoon Western Australia
<b>Proponent</b>	Peet Limited
<b>EPBC Act reference number</b>	EPBC 2008/4250
<b>Date of EPBC approval</b>	8 October 2009
<b>Date of project commencement</b>	5 July 2010
<b>Current reporting period</b>	5 July 2017 – 4 July 2018
<b>Current implementation phase</b>	Construction

### 1.1 Proposal background

Avon Ridge Estate Special Rural Development (the development) is located in Brigadoon, approximately 12 kilometres north of the Midland Regional Centre and 30 kilometres northeast of the Perth Central Business District. The development is located on the Darling Scarp, bound to the north by Walyunga National Park, and is in close proximity to the Swan River to the west.

The development consists of a special rural subdivision of 214 lots over 450 hectares (ha), with lot sizes ranging from 1.5 ha to 5.1 ha. An additional area of 411 ha adjacent to the development is reserved as Parks and Recreation (PR Reserve) under the Metropolitan Region Scheme (MRS).

Peet Limited (Peet) submitted a referral pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for the special rural development of Avon Ridge Estate in May 2008. The proposal was deemed to be a “Controlled Action” on 2 July 2008 and was assessed by “Preliminary Documentation”.

Additional information to inform the Preliminary Documentation assessment was prepared by Cardno (WA) Pty Ltd and was released for public comment in November 2008. A number of public comments were received and these were addressed in the *Response to Submissions: Brigadoon Estate Special Rural Development, Brigadoon Western Australia, EPBC Reference 2008/4250* (Cardno 2009).

The Department of Environment, Water, Heritage and the Arts (DEWHA) (now Department of the Environment and Energy (DoEE) also referred to as “the Department”) issued an environmental approval for the development on 8 October 2009 subject to 16 conditions. In October 2011 and January 2012, variations to approval conditions were approved by the Department. A correction notification was issued in March 2014 and further variations to the approval conditions were approved by the Department in April 2017.

The current list of 17 conditions is provided in **Table 1 (Section 2.1)**, which incorporates all condition variations and corrections published by the Department to date.

## 2018 Compliance Report for EPBC Approval 2008/4250 Avon Ridge Estate, Brigadoon



### 1.2 Purpose of report

This document has been prepared to satisfy the requirements of Condition 12 of the EPBC approval (2008/4250), 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.”*

The action commenced on 5 July 2010. The reporting period reflects the annual anniversary of the commencement of the action and is to be submitted within 3 months of this date. On this basis, the reporting period covers the period of 5 July to 4 July each year and each annual compliance report should be submitted by the 5<sup>th</sup> October.

The first compliance report was produced in October 2011 (Cardno 2011). Subsequent compliance reports (Cardno 2012, Emerge Associates 2013, Emerge Associates 2014, Emerge Associates 2015, Emerge Associates 2016 and Emerge Associates 2017a) were submitted by the 5 October each year.

On behalf of Peet, Emerge 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 5 July 2017 to 4 July 2018
- Demonstrate compliance with conditions of approval
- Identify further actions which are required to meet conditions of approval.

This compliance report covers the 2018 compliance reporting period and focuses on actions undertaken within the development during the reporting period. The details of compliance with each condition under EPBC 2008/4250 are presented in **Table 1**.

A declaration of accuracy pertaining to the information presented in this report is provided in **Appendix A**.



## 2018 Compliance Report for EPBC Approval 2008/4250 Avon Ridge Estate, Brigadoon



## 2 Approvals under the *Environment Protection and Biodiversity Conservation Act 1999*

Peet received approval from the Department pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* for the special rural development of 450 ha of land at Campersic Road in Brigadoon on 8 October 2009 (EPBC 2008/4250). The action commenced on 5 July 2010.

The approval was subject to 16 conditions. Three separate variations to the approval conditions have been approved by the Department including amendments to conditions 5, 6, 7 and 9 in October 2011 and amendments to conditions 1 and 2 and the addition of condition 17 in January 2012. A correction notification was issued in March 2014. In April 2017 a number of condition amendments and additional conditions were approved by the Department. The current list of 17 conditions is provided in **Table 1**, which incorporates all condition variations and corrections published by the Department to date.

**Section 2.1** includes a summary of the current compliance of all conditions within the current reporting period as provided in **Table 1**. This is supported by more detailed information relating to specific conditions provided in **Section 2.2**. The definitions of the compliance status terms used in **Table 1** include:

- **Compliant:** Implementation of the development has been carried out in accordance with the requirements of the condition.
  - Note that for the purposes of this report, compliance has been assessed as 'ongoing' or 'completed'.
- **Non-compliant:** Implementation of the proposal has not been carried out in accordance with the requirements of the requirements of the condition.
- **Not applicable:** The requirements of a condition or elements of a condition fall outside of the scope of the current reporting period. For example, a condition which applies to an activity that has not yet commenced.

2018 Compliance Report for EPBC Approval 2008/4250  
Avon Ridge Estate, Brigadoon



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## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



### 2.1 Summary of approval conditions and compliance

The approval conditions of EPBC Act Approval 2008/4250 are listed in **Table 1**, in addition to a summary of the current compliance status of the project in relation to each approval condition.

*Table 1: List of approval conditions and current compliance status of EPBC 2008/4250*

No.	Condition Requirement	Status	Evidence/Comments
1	The person taking the action must not clear more than 83.2 hectares of native vegetation within the project area ( <a href="#">Attachment 1</a> ) comprising: <ol style="list-style-type: none"> <li>up to 30 hectares for constructing roads;</li> <li>up to 45 hectares for constructing boundary firebreaks on individual lots as identified in <a href="#">Attachment 2</a>; and</li> <li>up to 8.2 hectares for the purposes of constructing strategic firebreaks and dams.</li> </ol>	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>No clearing was undertaken within the reporting period, and the area cleared is consistent with the calculations provided in the last two compliance reports (Emerge Associates 2016 and Emerge Associates 2017a).</li> <li>Clearing is managed under the Construction Environmental Management Plan (CEMP) (Cardno 2010a), approved by the Department 24 June 2010.</li> <li>The civil contractor manages the implementation of the CEMP, including the completion of required onsite forms and registers. All completed forms are recorded and stored.</li> <li>Refer to <b>Section 2.2.1</b> for more information regarding current cleared areas.</li> </ul>
2	The person taking the action must put in place measures to ensure that clearing of native vegetation undertaken by future landowners within the project area ( <a href="#">Attachment 1</a> ) will not exceed 70.4 hectares, comprising: <ol style="list-style-type: none"> <li>42.1 hectares to construct dwellings, infiltration areas, driveways and buffers around the dwellings; and</li> <li>28.3 hectares in accordance with the approved Revegetation and Fire Management Plan.</li> </ol>	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>Clearing is managed through the Structure Plan and Restrictive Covenants.</li> <li>Restrictive Covenants were placed on 10 lot settlements during the reporting period (three lots in Stage 4 and 7 lots in Stage 7). A copy of the Restrictive Covenant placed on titles within Stage 4 is provided in <b>Appendix B</b>. A copy of the Restrictive Covenant placed on titles within Stage 7 is provided in <b>Appendix C</b>.</li> <li>Clearing restrictions regarding building envelopes for lots have been included in the approved Structure Plan.</li> <li>Refer to <b>Section 2.2.2</b> for more information regarding the Restrictive Covenants.</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
3	<p><b>Revegetation and Fire Management Plan</b></p> <p>The person taking the action must prepare a Revegetation and Fire Management Plan that applies to the 100 ha within the Parks and Recreation Reserve and 450 ha of the subdivision (as identified at <a href="#">Attachment 5</a>) including all 214 individual lots. The proponent must obtain written approval from DFES prior to submission to the Department for approval. The person taking the action must not commence clearing or construction within the project area until the Department has approved the Revegetation and Fire Management Plan in writing. Once approved, this plan must be implemented.</p>	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>• The original RFMP (Cardno 2010b) entitled <i>Brigadoon Estate Revegetation and Fire Management Plan Parts 1, 2 and 3</i> was approved by the Fire and Emergency Services Authority (now DFES) in May 2010 and the Department in June 2010. A number of revisions to the original RFMP have been made since this time, discussed in detail in previous annual compliance reports.</li> <li>• A revised RFMP (Emerge Associates 2017b) was provided to the Department in June 2017 in accordance with the provision of Condition 14(a). This version was approved by the Department on 17 July 2017.</li> <li>• The implementation of the RFMP is ongoing throughout the development, however some components have been completed (refer below).</li> <li>• A free Bushfire Survival Plan workshop was held on 14 December 2017, hosted by Bushfire Safety Consulting (Fire Management Consultant) and well-attended by residents.</li> </ul>
	<p>The person taking the action must ensure that the Revegetation and Fire Management Plan includes (but is not restricted to):</p> <p>a) fuel reduction measures (including cool burn measures) specifying the timing and frequency of fuel reduction measures to minimise impacts on Black Cockatoo habitat.</p>	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>• The RFMP outlines a prescribed burn schedule for the development, timed to occur in stages over a number of years. The most recent prescribed burn was completed by the local bushfire brigade on the 9<sup>th</sup> and 10<sup>th</sup> October 2016, as detailed in the 2017 Compliance Report (Emerge Associates 2017a). Three prescribed burns have previously been undertaken within the eastern portion of the site in 2013, 2014 and 2015.</li> <li>• One prescribed burn was scheduled to occur during the 2018 reporting period, in first half of 2018. The proposed burn was not completed due to unsuitable weather conditions.</li> <li>• A cool burn is proposed for spring 2018, subject to weather conditions and availability of the volunteer fire brigade.</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
	<p>b) revegetation measure to create additional Black Cockatoo habitat across the project site, including in the Parks and Recreation Reserve, specifically:</p> <ul style="list-style-type: none"> <li>i. revegetation for all condition classes (excluding pristine and excellent classes) and vegetation complexes (including maps);</li> <li>ii. mix, numbers and density of species to be planted;</li> <li>iii. timing of proposed planting (must be during or following the annual winter rain period and generally between 1 June and 30 November);</li> <li>iv. weed management measures;</li> <li>v. 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 trees must be replaced with other Black Cockatoo habitat species within 12 months and maintained for at least an additional two years;</li> <li>vi. annual monitoring measures within the project area undertaken by an appropriately qualified and experienced ecologist and 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);</li> <li>vii. 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 planting in the Parks and Recreation Reserve for the purposes of establishing the survivorship rates and replanting efforts within the project area</li> </ul>	<p><b>Compliant.</b> The requirements of Condition 3b have been completed.</p>	<ul style="list-style-type: none"> <li>• 88,255 seedlings have been planted to date as part of the revegetation program. The 3 year monitoring period for this planting has now passed.</li> <li>• The requirements of this section of Condition 3 have now been completed as detailed in the 2017 Compliance Report (Emerge Associates 2017a).</li> </ul>
	<p>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.</p>	<p><b>Compliant.</b> Ongoing.</p>	<ul style="list-style-type: none"> <li>• Known potential habitat trees of 500 mm DBH or greater are flagged with white tape prior to clearing events and construction by Peet Limited for each stage of development.</li> <li>• Potential habitat trees within the lot are identified in the Restrictive Covenant which only allows for clearing of these trees within the Building Protection Zone or for fire management purposes.</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
4	<p><b>Building Protection Zone</b></p> <p>The person taking the action may thin native vegetation within the Building Protection Zone (<a href="#">Attachment 2</a>) on each housing lot (<a href="#">Attachment 3</a>). The thinning process must be in accordance with the approved Revegetation and Fire Management Plan, and be personally supervised (pre and post thinning inspections for individual lots) by a qualified Fire Management Consultant. The person taking the action must obtain written approval from DFES of the first appointed Fire Management Consultant(s) prior to the provision of any Building Protection Zone thinning advice. Any subsequent appointment of Fire Management Consultant(s) must be based upon the consultant(s) having similar qualifications as the first appointed consultant.</p> <p>The location of each Building Protection Zone and house site must be chosen in consultation with the Fire Management Consultant for the purpose of retention of trees specified in <a href="#">Condition 5</a>.</p> <p>The person taking the action must ensure that all native vegetation that provides habitat for Black Cockatoos is retained outside the Building Protection Zones within the 214 housing lots. This excludes native vegetation that is specifically managed under the Revegetation and Fire Management Plan.</p>	Compliant. Ongoing.	<ul style="list-style-type: none"> <li>Restrictive Covenants addressing Building Protection Zone requirements, in accordance with the RFMP, continue to be implemented throughout the development.</li> <li>The Fire Management Consultant prepares a Bushfire Attack Level Assessment Report and Management Statement for each lot. This statement indicates the management commitments with regard to fire safety and provides guidance to new landowners regarding acceptable vegetation modification practices prior to any lot clearing in accordance with the Restrictive Covenants. This statement is kept on file as a record of compliance.</li> </ul>
5	<p>The person taking the action must ensure that all potential breeding habitat trees for Black Cockatoos (as designated at <a href="#">Attachment 4 and 4A</a>) 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 (<a href="#">Attachment 1</a>) 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 the house site;</li> <li>they are located within the Building Protection Zone; and</li> <li>they are required to be removed for Fire Management purposes as advised by a qualified Fire Management Consultant(s).</li> </ol>	Compliant. Ongoing	<ul style="list-style-type: none"> <li>Notifications of Titles and Restrictive Covenants addressing these requirements continue to be implemented throughout development.</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
6	The person taking the action must ensure at the 411 ha Park and Recreation Reserve, as highlighted in green at <a href="#">Attachment 5</a> , be ceded to the WA State Government. The Department must be notified in writing once this has occurred.	<b>Compliant.</b> The requirements of Condition 6 have been completed.	<ul style="list-style-type: none"> <li>On 5th July 2012, the PR Reserve was ceded to the WA State Government.</li> <li>Evidence of completion of Condition 6 was provided in the 2012 Compliance Report (Cardno 2012).</li> </ul>
7	The person taking the action must ensure that a minimum of 88,000 seedlings suitable for foraging and breeding habitat for Black Cockatoos are planted within the Parks and Recreation Reserve as identified in <a href="#">Attachment 7</a> .	<b>Compliant.</b> The requirements of Condition 7 have been completed.	<ul style="list-style-type: none"> <li>88,255 seedlings have been planted to date as part of the revegetation program. The 3 year monitoring period for this planting has now passed, with all of the completion criteria outlined in Condition 7 met for this planting.</li> <li>Evidence of completion of Condition 7 was provided in the 2017 Compliance Report (Emerge Associates 2017a).</li> </ul>
7A	The person taking the action must ensure that all purchasers of lots within the project area, prior to sale and settlement: <ol style="list-style-type: none"> <li>are aware of the existence of potential and actual breeding habitat trees over 500 mm dbh on the individual lots, Notifications on Title and the requirements that these must be protected in perpetuity and not be cleared;</li> <li>are aware of the Restrictive 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; and</li> <li>areas within and outside of the Building Protection Zone.</li> </ol> </li> <li>are aware of 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>	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>Notifications of Titles and Restrictive Covenants addressing these requirements continue to be implemented throughout development.</li> <li>Information regarding the clearing requirements continues to be provided in the purchaser information pack.</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
8	The person taking the action must provide a final version of the Restrictive 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 Restrictive Covenant is in place for each of the 214 lots.	<b>Compliant.</b> Ongoing. Condition amendment will be sought to allow for revisions to the Restrictive Covenant.	<ul style="list-style-type: none"> <li>• A number of versions of the Restrictive Covenant have been developed, approved and implemented to date, as discussed in the 2017 Compliance Report (Emerge Associates 2017a).</li> <li>• In 2017, the Department determined that the current wording of Condition 8 does not allow for amendments to Restrictive Covenants to be made.</li> <li>• An amendment to the wording of this condition to allow for revisions of the Restrictive Covenant will be sought in the upcoming reporting year. This is discussed further in <b>Section 2.2.3</b>.</li> </ul>
9	All elements specified in <u>Attachment 6</u> must be incorporated in either the Structure Plan, approved subdivision conditions or approved Restrictive Covenants. These must be complied with. The Department must be notified in writing on how all the elements in <u>Attachment 6</u> have been incorporated and complied with. If any of the elements in <u>Attachment 6</u> 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.	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>• The Structure Plan was endorsed by the WAPC on 27 March 2014.</li> <li>• Subdivision of all lots within the development has been approved, through various subdivision approvals.</li> <li>• Approved Restrictive Covenants are currently applied to all new lots within the site.</li> <li>• These mechanisms collectively incorporate all elements outlined in Attachment 6 and continue to be implemented as development progresses. Previous compliance reports (Cardno 2011, Cardno 2012) have provided details on how the different elements contained within Attachment 6 of the Approval were included in the above planning mechanisms. Ongoing compliance of Condition 9 will involve the continued application of the Structure Plan, conditions of subdivision approval and approved Restrictive Covenants.</li> </ul>



## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
10	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.	<b>Compliant.</b> The requirements of Condition 10 have been completed.	<ul style="list-style-type: none"> <li>The CEMP (Cardno 2010a) was approved by the Department 24 June 2010.</li> </ul>
	<p>The Construction Management Plan must clearly demonstrate that:</p> <ol style="list-style-type: none"> <li>all habitat trees at <u>Attachment 4 and 4A</u> are to be retained in perpetuity; and</li> <li>all trees to remain that are greater than 500 mm DBH within the subdivision area (as at <u>Attachment 3</u>) and within 10 meters of an area to be proposed to be cleared (excluding those in the Building Protection Zone) are clearly marked and retained.</li> <li>areas of vegetation that are Black Cockatoo habitat and not for clearance (including roadside vegetation, streamline vegetation and Public Open Space areas) are clearly marked and retained;</li> <li>if clearing outside of stipulated areas occurs by other contracted 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</li> <li>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 measures employed within the project area to protect Black cockatoo habitat.</li> </ol>	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>The civil contractor manages the implementation of the CEMP (Cardno 2010a), including the completion of required onsite forms and registers. All completed forms are recorded and stored.</li> </ul>
11	Within 30 days of commencement of construction, the person taking the action must advise the Department in writing the actual date of commencement.	<b>Compliant.</b> The requirements of Condition 11 have been completed.	<ul style="list-style-type: none"> <li>Evidence provided in the 2011 Compliance Report (Cardno 2011).</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
12	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.	<b>Compliant.</b> Ongoing	<ul style="list-style-type: none"> <li>Annual compliance reports have been prepared and submitted to the Department each year since the date of approval.</li> </ul>
13	If, at any time after five (5) years from the date of this approval, the Minister notifies 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.	<b>Not applicable.</b> Condition no longer applicable.	<ul style="list-style-type: none"> <li>Evidence provided in the 2013 Compliance Report (Emerge Associates 2013).</li> </ul>
14	<p>The person taking the action may choose to revise a plan approved by the Department under conditions 3 and 10 without submitting the revised plan for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised plan would not be likely to have a new or increased impact. If the person taking the actions makes this choice they must:</p> <p>a) Notify the Department in writing that the approved plan has been revised and provide the Department with:</p> <ul style="list-style-type: none"> <li>An electronic copy of the revised plan;</li> <li>An explanation of the differences between the revised plan and the approved plan; and</li> <li>The reasons the person taking the action considers that taking the action in accordance with the revised plan would not be likely to have a new or increased impact.</li> </ul> <p>b) Advise the Department in writing of an earliest date on which the revised plan will be implemented by the person taking the action. The earliest date of first implementation must be at least 28 days after condition 14a) is satisfied.</p>	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>No revised plans were submitted to the Department for approval during the reporting period.</li> <li>The most recent plan to be revised and approved under Condition 14A was the RFMP, approved by the Department on 17 July 2017 (Emerge Associates 2017b). This was reported and discussed in the 2017 Compliance Report (Emerge Associates 2017a).</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
15	The person taking the action may revoke their choice under condition 14 at any time by notice to the Department. If the approval holder revokes the choice to implement a revised plan without approval under section 143A of the EPBC Act, the approval holder must implement the version of the plan most recently approved by the Department.	<b>Compliant.</b> Ongoing.	• No update required.
15A	If the Department gives a notice to the person taking the action that the Department is satisfied that the taking of the action in accordance with the revised plan would be likely to have a new or increased impact, then: <ol style="list-style-type: none"> <li>Condition 14 does not apply, or ceases to apply, in relation to the revised plan; and</li> <li>The person taking the action must implement the version of the plan most recently approved by the Department.</li> </ol> To avoid any doubt, this condition does not affect any operation of conditions 14 and 15 in the period before the day after the notice is given.  At the time of giving a notice under Condition 15, the Department may also notify that for a specified period of time Condition 15 does not apply for one or more specified plans required under the approval.	<b>Compliant.</b> Ongoing.	• No update required.
15B	Conditions 14, 15 and 15A are not intended to limit the operation of section 143A of the EPBC Act which allows the person taking the action to submit a revised plan to the Department for approval.	<b>Compliant.</b> Ongoing.	• No update required.
15C	If the Department considers that it is necessary or convenient for the protection of threatened species of threatened ecological (s18 & s18A) to do so, the Department may request that the person taking the action make specific revisions to the plans approved under conditions 3 and 10 and submit the revised plan for the Department's approval. The person taking the action must comply with any such request. The revised plan must be implemented in place of the plan originally approved.	<b>Compliant.</b> Ongoing.	• No update required.

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table 1: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

No.	Condition Requirement	Status	Evidence/Comments
16	The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement management plans required under Conditions 3 and 10 of this approval, and make them available on request by the Department. Such records may be subject to audit by the Department and or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits may be posted on the Department website. The results of audits may also be publicised through the general media.	<b>Compliant.</b> Ongoing.	<ul style="list-style-type: none"> <li>Records of activities undertaken within the site which are associated with these approval conditions are maintained by Peet and its project team.</li> <li>These records are updated as required and have been used to inform this annual compliance report. Copies of specific records can be made available upon request.</li> </ul>
17	In order to offset the impact of clearing of Black Cockatoo habitat, before 1 September 2017, the person taking the action must: <ol style="list-style-type: none"> <li>provide funds to DPAW for the acquisition and management of one or more properties that contain at least 490 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.</li> <li>provide documentary evidence to the Department that funds have been provided to the DPAW as required by approval condition 17a.</li> </ol>	<b>Compliant.</b> The requirements of Condition 17 have now been completed.	<ul style="list-style-type: none"> <li>Evidence regarding the transfer of funds to the WA DPaW (now known as Department of Biodiversity, Conservation and Attractions (DBCA) to acquire a 150ha offset was provided to the Department in 2012 as documented in the 2012 Compliance Report (Cardno 2012).</li> <li>Evidence regarding the transfer of funds to the WA DPaW to acquire a 340ha offset was provided to the Department on 21 June 2017.</li> <li>The requirements of this condition have now been completed as discussed in the 2017 Compliance Report (Emerge Associates 2017a).</li> </ul>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon Avon Ridge Estate, Brigadoon



### 2.2 Compliance details

The following section provides additional detail relating to the ongoing compliance with the conditions of approval, specifically relating to:

- **Section 2.2.1** - Clearing extent, in accordance with the requirements of Condition 1
- **Section 2.2.2** - Measures to manage landowner clearing restrictions, in accordance with the requirements of Condition 2
- **Section 2.2.3** - Information regarding the proposed wording amendment for the Restrictive Covenant, in reference to Condition 8.

Supporting evidence has been included in the Appendices, where applicable.

#### 2.2.1 Clearing for strategic firebreaks, lot boundary firebreaks and roads - Condition 1

During the 2018 reporting period, no civil construction works and associated clearing relating to Condition 1 has occurred within the estate. The current area cleared is consistent with the calculations provided in the last reporting period (Emerge Associates 2017a). Clearing for all purposes set out in Condition 1 are all compliant and have not exceeded their respective clearing allowances.

**Table 2** provides a summary of clearing within the site undertaken to date associated with Condition 1, as determined through a spatial analysis (using GIS software) conducted in 2016. The methodology used to quantify clearing was described in the 2016 Compliance Report (Emerge Associates 2016).

*Table 2: Areas cleared to date under Condition 1*

CONDITION 1 CLEARING RESTRICTIONS	CURRENT LEVEL OF CLEARING (HA)	REMAINING CLEARING (HA)	PERCENTAGE CLEARING (%)
Up to 30 hectares for the purpose of constructing roads	16.56	13.44	55.2%
Up to 45 hectares of the purpose of constructing boundary firebreaks on individual lots	24.27	20.73	60.6%
Up to 8.2 hectares for the purposes of constructing strategic firebreaks and dams	5.39	2.81	65.7%

#### 2.2.2 Measures to manage clearing within lots - Condition 2

A range of measures have been implemented by Peet in order to manage clearing within lots by future landowners, as outlined below. These measures continue to be implemented by Peet, maintaining compliance with the requirements of Condition 2.

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon Avon Ridge Estate, Brigadoon



### Restrictive Covenants

Restrictive Covenants<sup>1</sup> apply to all residential lots sold within the project area, and are created under Section 136D of the *Transfer of Land Act 1893*, providing specific controls on:

- Clearing being permitted only for specific purposes including Aerobic Treatment Unit (ATU) discharge area, driveway, firebreaks and low fuel environment within a building protection zone (BPZ) (now Asset Protection Zone (APZ)) and hazard separation zone (HSZ).
- A restriction on clearing after the construction of the first dwelling
- The total cleared area not exceeding 10% of the lot (or 2,000 m<sup>2</sup>) whichever is the lesser
- The clearing of habitat trees and trees with a diameter at breast height greater than 300 mm
- The use of the Fire Management Consultant to provide specific advice on vegetation modification and clearing of house sites, buffers, APZs and HSZs.

In addition, the Restrictive Covenants explicitly inform the landowner of their obligations pursuant to the EPBC Act. The Restrictive Covenants are registered on the title (which carries over to subsequent landowners) and are enforceable by other landowners within a subdivision stage (which are all lodged on the same deposited plan).

Ten lot settlements occurred during the period 5 July 2017 to 4 July 2018 (seven lots in Stage 7 and three lots in Stage 4). Restrictive Covenants placed on titles within current stages are provided in **Appendix B** and **Appendix C**.

### Structure plan

The development of the site is being implemented in accordance with an approved structure plan, which is spatial plan prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* and to which a decision maker (i.e. local government) must have 'due regard' when determining an application (such as a development application or building licence) within a structure plan area.

The approved structure plan outlines the maximum allowable size of building envelopes within subdivided lots to be 2000 m<sup>2</sup> or 10% of the lot area, whichever is lesser. This criteria was used as a basis to calculate the 31.4 ha of total allowable clearing across the development identified in Condition 2 for the establishment of building envelopes. This allowable clearing area is considered a reasonable area of clearing to incorporate the required infrastructure within an individual lot.

Individual building envelopes are approved by the City of Swan when considering building licence applications. As outlined above, this decision making process should involve due regard to the approved structure plan and the provisions within it, specifically relating to maximum allowable building envelope size.

### Pre-clearing of approved building envelope

It has been identified that during the reporting period, one landowner had exceeded the prescribed building envelope clearing allowance, either for fire management, aesthetics or personal preference

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<sup>1</sup> Restrictive Covenants are created under Section 138D of the *Transfer of Land Act 1893* and are referred to as 'Restrictive Covenants' within the approval conditions of EPBC 2008/4250 and within this report.

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon Avon Ridge Estate, Brigadoon



(Lot 196 Connemara Drive, Brigadoon). The mechanisms put in the place by the proponent to limit clearing are established on the presumption that individual lot owners will comply with the relevant mechanisms and legal requirements, which did not occur in this particular lot.

In an effort to avoid future occurrences of purchasers over-clearing building footprints within subdivided lots, Peet Ltd has proactively engaged with the City of Swan to address the matter and undertake clearing of building envelopes prior to the sale of subdivided lots. This approach is intended to ensure that building envelopes do not exceed the allowable maximum area. This approach has been applied within a number of subdivided lots within current stages and is anticipated to be implemented in future stages of development.

### 2.2.3 Restrictive Covenant - Condition 8

Approval of the original Restrictive Covenant was granted by the Department in August 2010. Since this time, a number of revisions have been made to the Restrictive Covenant and have subsequently been referred to the Department for approval, described in detail in the 2014 compliance report (Emerge Associates 2014).

The 2017 Compliance Report details the minor modifications to the approved Restrictive Covenant (Version 2a), retrospectively provided to the Department on 22 May 2017 (refer to Emerge Associates 2017, Section 2.2.4). The Department determined that the current wording of the condition does not allow for amendments to the Restrictive Covenant, although it was concluded that the minor modifications to the approved Restrictive Covenants will not result in any adverse impact to the environment, MNES or any other significant environmental values. A self-reported technical non-compliance was issued by Emerge on 12 June 2017. The technical non-compliance was acknowledged by the Department on 28 July 2017 (Ref: CAS2852) and determined that no further action is required.

Peet has since been in liaison with the Department regarding an amendment to the wording of this condition to allow for revisions of the Restrictive Covenant. Formal approval for variation to the wording of Condition 8, to allow amendments to Restrictive Covenants, will be sought in the upcoming reporting year.

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon Avon Ridge Estate, Brigadoon



### 3 Conclusion

This report has been prepared to satisfy Condition 12 of the EPBC Act Approval which was granted by the Department on 8 October 2009. The report outlines the level of compliance with conditions of the approval for the development in the reporting period of 5 July 2017 to 4 July 2018.

Ongoing compliance with the approval conditions has been demonstrated in the reporting period. This is due to the implementation of environmental management measures prescribed by the following documents and mechanisms:

- Construction Environment Management Plan
- Revegetation and Fire Management Plan
- Restrictive Covenants
- Notification on Titles
- Use of the Fire Management Consultant.

Ongoing monitoring and evaluation of environmental management works supports continued compliance with approval conditions.

Variation to the wording of Condition 8 to allow for revisions of the Restrictive Covenant will be sought in the upcoming reporting year.

A declaration of accuracy pertaining to the information presented in this report is provided in **Appendix A**.



## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon Avon Ridge Estate, Brigadoon



### 4 References

#### 4.1 General references

Cardno 2009. *Response to Submissions: Brigadoon Estate Special Rural Development, Brigadoon Western Australia* (EPBC Reference 2008/4250).

Cardno 2010a. *Brigadoon Estate Construction Environment Management Plan*. Unpublished Report prepared for Peet Limited.

Cardno 2010b. *Brigadoon Estate Revegetation and Fire Management Plan (Parts 1-3)*. Unpublished Report prepared for Peet Limited.

Cardno 2011. *2011 Compliance Report for EPBC Approval 2008/4250, Avon Ridge, Brigadoon*. Unpublished Report prepared for Peet Limited.

Cardno 2012. *2012 Compliance Report for EPBC Approval 2008/4250, Avon Ridge, Brigadoon*. Unpublished Report prepared for Peet Limited.

Emerge Associates 2013. *2013 Compliance Report for EPBC Approval 2008/4250, Avon Ridge, Brigadoon*. Unpublished Report prepared for Peet Limited.

Emerge Associates 2014. *2014 Compliance Report for EPBC Approval 2008/4250, Avon Ridge, Brigadoon*. Unpublished Report prepared for Peet Limited.

Emerge Associates 2015. *2015 Compliance Report for EPBC Approval 2008/4250, Avon Ridge, Brigadoon*. Unpublished Report prepared for Peet Limited.

Emerge Associates 2016. *2016 Compliance Report for EPBC Approval 2008/4250, Avon Ridge, Brigadoon*. Unpublished Report prepared for Peet Limited.

Emerge Associates 2017a. *2017 Compliance Report for EPBC Approval 2008/4250, Avon Ridge, Brigadoon*. Unpublished Report prepared for Peet Limited.

Emerge Associates 2017b. *Revegetation and Fire Management Plan (Revised 2017)*. Unpublished report prepared for Peet Limited.

#### 4.2 Online references

Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) 2010. *Bushfire Management and National Environment Law*. <

<http://www.environment.gov.au/system/files/resources/f8b2f5e8-14cd-490e-bf35-5a509317e651/files/bushfire-factsheet.pdf>>

## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon Avon Ridge Estate, Brigadoon



### 5 Glossary

TERM	DEFINITION
Notifications on Title	Are created under Section 70A of the Western Australian Transfer of Land Act 1893 to notify landowners of factors that may interfere with the use of their land. The person taking the action must put these titles in place to alert future purchasers if their lot contains habitat trees that must be retained in perpetuity and are not to be cleared in line with fire management procedures
Protection in perpetuity	A tenure or a conservation status on a notification attached to individual land titles that guarantees permanent preservation of vegetation into the future and ensures there will no clearing will be undertaken.

# Appendix A

Declaration of Accuracy



## 2018 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



### Appendix A: Declaration of Accuracy

In making this declaration, I am aware that sections 490 and 491 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed

Full name (please print)

CLAY THOMAS

Position (please print)

SENIOR DEVELOPMENT MANAGER

Organisation (please print including ABN/ACN if applicable)

PEET BRIGADOON PTY LTD

Date

5 / 10 / 2018

# Appendix B

Stage 4 Avon Ridge Estate Restrictive Covenant



# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



### Protective Covenants

### ANNEXURE B

#### 1. PROTECTIVE COVENANT RELATING TO THE PROPERTY

The Buyer acknowledges that the Property will be encumbered by and is sold subject to the protective (restrictive) covenants to be imposed by the Seller as set out below, to be registered on the Property as restrictive covenants (subject to any amendments reasonably required by the Seller).

#### 2. CLEARING LIMITATIONS

2.1 The Buyer must not clear or allow to be cleared vegetation on the Property other than as reasonably required for the following purposes:

- a) for an approved Aerobic Treatment Unit Discharge Area (within the Approved Building Envelope) as approved by the Fire Management Consultant;
- b) for the Approved Driveway;
- c) for fire breaks approved by the Fire Management Consultant; or
- d) for the purpose of maintaining a Low Fuel Environment within the Building Protection Zone and the Hazard Separation Zone, in accordance with the approved Bushfire Management Plan,

provided that:

- e) in respect of clauses 2.1(a) - (d), the Buyer does not clear or allow to be cleared vegetation on the Property within the Building Protection Zone after the construction of a dwelling on the Property, except as otherwise approved by the Fire Management Consultant;
- f) the Buyer seeks advice on vegetation modification and clearing requirements from the Fire Management Consultant, prior to clearing within the Building Protection Zone and Hazard Separation

Zone, conducts any clearing in accordance with this advice, arranges for the Fire Management Consultant to inspect the Property following the clearing to ensure that clearing has taken place in accordance with their advice, and the Buyer complies with any further modifications required by the Fire Management Consultant;

g) if the Buyer undertakes, or allows to be undertaken, any over-clearing, the Buyer must not allow the affected area to remain without vegetation of the kind that has been cleared (to the satisfaction of the Seller); and

h) the total cleared area on the Property must not exceed the lesser of a total area of 2,000m<sup>2</sup> or 10% of the total area of the Property.

2.2 The Buyer must not choose the location of each house site unless it is done in consultation with the Fire Management Consultant.

2.3 No Declared Plants are to be planted on the Property.

2.4 The Buyer acknowledges that there is no additional clearing for access roads or other community infrastructure within the Project Area unless approved by the relevant local authority.

2.5 The Buyer is aware of the existence of potential and actual breeding habitats for Black Cockatoos as disclosed in the Interests and Notifications in Annexure F and must not undertake or allow to be undertaken:

- a) any clearance of any vegetation that provides habitat for Black Cockatoos outside the Building Protection Zone;
- b) any clearance of any habitat trees;

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

- c) any clearance of any other trees deemed as being Ecologically Significant Trees with a diameter by breast height of 300mm or greater unless those trees are:
- i) located within the Building Protection Zone; and
  - ii) required to be removed for fire management purposes as advised by a qualified Fire Management Consultant.
3. **PLACEMENT OF APPROVED BUILDING ENVELOPES, FIREBREAKS & DRIVEWAYS**
- 3.1 The Buyer must not allow the Approved Building Envelope, the Building Protection Zone, firebreaks or any driveway to be present on portions of the Property identified on the Brigadoon Structure Plan as containing any of the following:
- a) Pristine Condition Vegetation;
  - b) Excellent Condition Vegetation; and
  - c) Priority Flora,
- except in special circumstances where required for Bush Fire Protection purposes as defined by the approved Bushfire Management Plan and at the direction of the Fire Management Consultant.
- 3.2 The Buyer acknowledges that Approved Building Envelope boundaries must be at least 30m from Pristine Condition Vegetation and Excellent Condition Vegetation.
- 3.3 The Buyer is not to seek to alter, or allow to be sought to be altered, any of the Building Envelope Area as shown on the approved Brigadoon Structure Plan.
- 3.4 The Buyer must not relocate the crossover between the driveway on the Property and the public roadway as approved by the relevant local authority and as constructed by the Seller.
4. **BUILDING CONTROLS**
- 4.1 Individual dwellings shall not be constructed on the Property unless they are designed and built to conform with:
- a) Bush Fire Survival Manual Guidelines;
  - b) any requirements specified by the local authority; and
  - c) Australian Standards AS3959.
- 4.2 The Buyer must not construct or permit to be constructed on the Property any dwelling unless the form, scale and siting of the dwelling (and any associated outbuildings) are in harmony with the rural character of the balance of the Project Area.
- 4.3 The Buyer must not construct or permit to be constructed any outbuilding (including a shed) unless the outbuilding is located within the Approved Building Envelope.
- 4.4 The Buyer must not construct or permit to be constructed, the Approved Driveway unless:
- a) the Approved Driveway does not exceed 6.0m in width; and
  - b) service connections to the primary residence (other than for Lots 190, 200, 230 and 241), including water, electricity and telecommunications, are positioned within the driveway area.
5. **ESTATE FENCING**
- 5.1 The Buyer must not alter, erect or allow to be altered or erected any fencing other than:
- a) estate fencing erected by the Seller; or
  - b) 'Fauna-friendly' perimeter

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

fencing up to 1.2m in height along the perimeter of the Approved Building Envelope (primarily to allow for the containment of domestic dogs).

diameter by breast height over 300mm; and

ii) areas within and outside the Building Protection Zone; and

d) the species related information on all Black Cockatoos, their presence in the area, ecology, species range and details of habitat.

#### 6. RESTRICTION ON ANIMALS/LIVESTOCK

The Buyer must not keep or permit to be kept on the Property:

- a) any livestock (excluding chickens);
- b) any domestic cats;
- c) any domestic dogs unless they are kept within the Approved Building Envelope and in a fenced area as specified in clause 5.1(b); or
- d) any chickens unless they are kept within the Approved Building Envelope and in a suitably constructed chicken coop.

#### 8. AEROBIC TREATMENT UNIT

The Buyer must not permit any aerobic treatment unit supplied by the Seller to remain unconnected to the dwelling on the Property after practical completion of construction of the dwelling on the Property.

#### 9. DEFINITIONS AND INTERPRETATION

A reference to any law, policy, guideline or standard is deemed to include any change, amendment, re-enactment or consolidation to that law, policy, guideline or standard, from time to time in this Annexure, unless the context otherwise requires or a contrary intention appears:

**Aerobic Treatment Unit Discharge Area** means that part of the sub-strata of the Property required by the relevant local authority to be set aside for the aerobic treatment discharge area which comprises of a maximum discharge area of 150m<sup>2</sup>;

**Approved Building Envelope** means the building envelope (which area must not be greater than 10% of the total area of the Lot or 2000m<sup>2</sup>, whichever is the lesser) approved by Peet and the City located within the Building Envelope Area for the construction of a house and outbuilding but does not include driveways and the approved fire break area on the Lot

**Approved Driveway** means a driveway linking the Approved Building Envelope to the public roadway servicing the Property;

**Australian Standards AS3959** means Australian Standards AS3959 – 2009 Construction of building in bushfire-prone

#### 7. VEGETATION

The Buyer acknowledges and agrees that as a condition of subdivision approval of the land of which the Property forms part imposed by DoE (formerly DEVHA) under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) the Seller is required to make the Buyer aware of:

- a) the existence of potential and actual breeding habitat trees for Black Cockatoos on the Property and the Interests and Notifications in Annexure F ;
- b) the requirements to conserve habitat trees in perpetuity and not to clear such areas;
- c) the protective covenants set out in this document and, in particular the restrictions relating to the clearing of:
  - i) potential breeding habitat trees and any other trees with a



# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

areas;

**Black Cockatoos** means the species *Calyptorhynchus latirostris* also known as the Carnaby's Black Cockatoo and *Calyptorhynchus baudinii* also known as Baudin's Black Cockatoo;

**Brigadoon Structure Plan** means outline development plan for Brigadoon shown in Annexure Q;

**Building Envelope Area** has the same meaning given to the expression 'Building Envelopes' as described in the Brigadoon Structure Plan;

**Building Protection Zone** means a 30m zone around the dwelling as shown hachured in red in the Brigadoon Structure Plan;

**Bushfire Management Plan** means the Fire Management Plan 2009 prepared by FirePlan WA which provides the management objectives that aims to reduce the threat to residents and fire fighters in the event of bushfire within or near the site;

**Bushfire-Prone Areas** has the same meaning as 'Bushfire-prone area' as defined in Australian Standards AS3959-2009;

**Bushfire Survival Manual Guidelines** means Bush Fire Survival Manual Guidelines, FESA 5th Edition, 2008, which is a survival manual prepared by DFES to inform the community about bushfires;

**Declared Plant** means a plant that:

- a) has the same meaning given to that expression under section 7 of the *Agriculture and Related Resources Protection Act 1976 (WA)*; or
- b) competes with native vegetation and has a detrimental impact on both native fauna and fire management regimes;

**DEWHA** means the Federal Department of Environment, Water, Heritage and the Arts

(now DoE).

**DoE** means the Federal Department of Environment.

**DFES** means the Department of Fire and Emergency Services (formerly the Fire and Emergency Services Authority of Western Australia)

**Ecologically Significant Trees** means trees that have been identified by the Fire Management Consultant as being worthy of retention due to habitat, ecosystem or amenity values, as shown in Annexure M. For example, trees that:

- a) provide food and shelter for native animals;
- b) has the potential of producing valuable hollows in the future;
- c) provide and maintain soil stability;
- d) provide landscape values; and
- e) provide shade.

**EPBC Act** means the Environment Protection and Biodiversity Conservation Act 1999 (Cth);

**Excellent Condition Vegetation** means vegetation with its structure intact and with any disturbance (including weeds) affecting individual species of the vegetation only being non-aggressive;

**Fire Management Consultant** means an individual appointed by the Seller and approved by DFES to provide advice on fire management purposes for the project area;

**Hazard Separation Zone** means a 60m zone around the dwelling constructed on the Property;

**Low Fuel Environment** means an area of vegetation that is actively managed to maintain a reduced fuel level in order to minimise the risk of bushfire.

**Priority Flora** means species that are classified by the Department of Parks and Wildlife under the Conservation Codes for

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

Western Australian Flora and Fauna as follows

- a) Priority One – Poorly known species - species that are known from one or a few collections or sight records (generally less than five), all on lands not managed for conservation, for example, agricultural or pastoral lands, urban areas, Shire, rail reserves and Main Roads WA road, gravel and soil reserves, and active mineral leases and under threat of habitat destruction or degradation. Species may be included if they are comparatively well known from one or more localities but do not meet adequacy of survey requirements and appear to be under immediate threat from known threatening processes;
- b) Priority Two – Poorly known species – species that are known from one or a few collections or sight records, some of which are on lands not under imminent threat of habitat destruction or degradation, for example, national parks, conservation parks, nature reserves, State forest, unallocated Crown land, water reserves, etc. Species may be included if they are comparatively well known from one or more localities but do not meet adequacy of survey requirements and appear to be under threat from known threatening processes;
- c) Priority Three – Poorly known species – species that are known from collections or sight records from several localities not under imminent threat, or from few but widespread localities with either large population size or significant remaining areas of apparently suitable habitat, much of it not under imminent threat. Species may be included if they are comparatively well known from several localities but do not meet adequacy of survey requirements and known

threatening processes exist that could affect them;

- d) Priority Four – Rare, Near Threatened and other species in need of monitoring –
  - (i) Rare: species that are considered to have been adequately surveyed, or for which sufficient knowledge is available, and that are considered not currently threatened or in need of special protection, but could be if present circumstances change. These species are usually represented on conservation lands;
  - (ii) Near Threatened: species that are considered to have been adequately surveyed and that do not qualify for Conservation Dependent, but that are close to qualifying for Vulnerable;
  - (iii) Species that have been removed from the list of threatened species during the past five years for reasons other than taxonomy; and
- e) Priority Five - Conservation Dependent species – species that are not threatened but are subject to a specific conservation program, the cessation of which would result in the species becoming threatened within five years;

**Pristine Condition Vegetation** means vegetation in pristine or near pristine condition, with no obvious signs of disturbance; and

**Project Area** means the area identified as 'the site' in the locality plan dated 30 April 2008 allocated with project number V7068 and drawing number SK01

# Appendix C

Stage 7 Avon Ridge Estate Restrictive Covenant

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



### Protective Covenants

### ANNEXURE B

#### 1. PROTECTIVE COVENANT RELATING TO THE PROPERTY

The Buyer acknowledges that the Property will be encumbered by and is sold subject to the protective (restrictive) covenants to be imposed by the Seller as set out below, to be registered on the Property as restrictive covenants (subject to any amendments reasonably required by the Seller).

#### 2. CLEARING LIMITATIONS

2.1 The Buyer must not clear or allow to be cleared vegetation on the Property other than as reasonably required for the following purposes:

- a) for an approved Aerobic Treatment Unit Discharge Area (within the Approved Building Envelope) as approved by the Fire Management Consultant;
- b) for the Approved Driveway;
- c) for fire breaks approved by the Fire Management Consultant; or
- d) for the purpose of maintaining a Low Fuel Environment within the Building Protection Zone and the Hazard Separation Zone, in accordance with the approved Bushfire Management Plan,

provided that:

- e) in respect of clauses 2.1(a) - (d), the Buyer does not clear or allow to be cleared vegetation on the Property within the Building Protection Zone after the construction of a dwelling on the Property, except as otherwise approved by the Fire Management Consultant;
- f) the Buyer seeks advice on vegetation modification and clearing requirements from the Fire Management Consultant, prior to clearing within the Building Protection Zone and Hazard Separation

Zone, conducts any clearing in accordance with this advice, arranges for the Fire Management Consultant to inspect the Property following the clearing to ensure that clearing has taken place in accordance with their advice, and the Buyer complies with any further modifications required by the Fire Management Consultant;

g) if the Buyer undertakes, or allows to be undertaken, any over-clearing, the Buyer must not allow the affected area to remain without vegetation of the kind that has been cleared (to the satisfaction of the Seller); and

h) the total cleared area on the Property must not exceed the lesser of a total area of 2,000m<sup>2</sup> or 10% of the total area of the Property.

2.2 The Buyer must not choose the location of each house site unless it is done in consultation with the Fire Management Consultant.

2.3 No Declared Plants are to be planted on the Property.

2.4 The Buyer acknowledges that there is no additional clearing for access roads or other community infrastructure within the Project Area unless approved by the relevant local authority.

2.5 The Buyer is aware of the existence of potential and actual breeding habitats for Black Cockatoos as disclosed in the Interests and Notifications in Annexure F and must not undertake or allow to be undertaken:

- a) any clearance of any vegetation that provides habitat for Black Cockatoos outside the Building Protection Zone;
- b) any clearance of any habitat trees;

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

- c) any clearance of any other trees deemed as being Ecologically Significant Trees with a diameter by breast height of 300mm or greater unless those trees are:
- i) located within the Building Protection Zone; and
  - ii) required to be removed for fire management purposes as advised by a qualified Fire Management Consultant.
3. **PLACEMENT OF APPROVED BUILDING ENVELOPES, FIREBREAKS & DRIVEWAYS**
- 3.1 The Buyer must not allow the Approved Building Envelope, the Building Protection Zone, firebreaks or any driveway to be present on portions of the Property identified on the Brigadoon Structure Plan as containing any of the following:
- a) Pristine Condition Vegetation;
  - b) Excellent Condition Vegetation; and
  - c) Priority Flora,
- except in special circumstances where required for Bush Fire Protection purposes as defined by the approved Bushfire Management Plan and at the direction of the Fire Management Consultant.
- 3.2 The Buyer acknowledges that Approved Building Envelope boundaries must be at least 30m from Pristine Condition Vegetation and Excellent Condition Vegetation.
- 3.3 The Buyer is not to seek to alter, or allow to be sought to be altered, any of the Building Envelope Area as shown on the approved Brigadoon Structure Plan.
- 3.4 The Buyer must not relocate the crossover between the driveway on the Property and the public roadway as approved by the relevant local authority and as constructed by the Seller.
4. **BUILDING CONTROLS**
- 4.1 Individual dwellings shall not be constructed on the Property unless they are designed and built to conform with:
- a) Bush Fire Survival Manual Guidelines;
  - b) any requirements specified by the local authority; and
  - c) Australian Standards AS3959.
- 4.2 The Buyer must not construct or permit to be constructed on the Property any dwelling unless the form, scale and siting of the dwelling (and any associated outbuildings) are in harmony with the rural character of the balance of the Project Area.
- 4.3 The Buyer must not construct or permit to be constructed any outbuilding (including a shed) unless the outbuilding is located within the Approved Building Envelope.
- 4.4 The Buyer must not construct or permit to be constructed, the Approved Driveway unless:
- a) the Approved Driveway does not exceed 6.0m in width; and
  - b) service connections to the primary residence (other than for Lots 190, 200, 230 and 241), including water, electricity and telecommunications, are positioned within the driveway area.
5. **ESTATE FENCING**
- 5.1 The Buyer must not alter, erect or allow to be altered or erected any fencing other than:
- a) estate fencing erected by the Seller; or
  - b) 'Fauna-friendly' perimeter

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

- fencing up to 1.2m in height along the perimeter of the Approved Building Envelope (primarily to allow for the containment of domestic dogs).
- diameter by breast height over 300mm; and
- ii) areas within and outside the Building Protection Zone; and
- d) the species related information on all Black Cockatoos, their presence in the area, ecology, species range and details of habitat.
6. **RESTRICTION ON ANIMALS/LIVESTOCK**
- The Buyer must not keep or permit to be kept on the Property:
- any livestock (excluding chickens);
  - any domestic cats;
  - any domestic dogs unless they are kept within the Approved Building Envelope and in a fenced area as specified in clause 5.1(b); or
  - any chickens unless they are kept within the Approved Building Envelope and in a suitably constructed chicken coop.
8. **AEROBIC TREATMENT UNIT**
- The Buyer must not permit any aerobic treatment unit supplied by the Seller to remain unconnected to the dwelling on the Property after practical completion of construction of the dwelling on the Property.
9. **DEFINITIONS AND INTERPRETATION**
- A reference to any law, policy, guideline or standard is deemed to include any change, amendment, re-enactment or consolidation to that law, policy, guideline or standard, from time to time in this Annexure, unless the context otherwise requires or a contrary intention appears:
- Aerobic Treatment Unit Discharge Area** means that part of the sub-strata of the Property required by the relevant local authority to be set aside for the aerobic treatment discharge area which comprises of a maximum discharge area of 150m<sup>2</sup>;
- Approved Building Envelope** means the building envelope (which area must not be greater than 10% of the total area of the Lot or 2000m<sup>2</sup>, whichever is the lesser) approved by Peet and the City located within the Building Envelope Area for the construction of a house and outbuilding but does not include driveways and the approved fire break area on the Lot
- Approved Driveway** means a driveway linking the Approved Building Envelope to the public roadway servicing the Property;
- Australian Standards AS3959** means Australian Standards AS3959 – 2009 Construction of building in bushfire-prone
7. **VEGETATION**
- The Buyer acknowledges and agrees that as a condition of subdivision approval of the land of which the Property forms part imposed by DoE (formerly DEVWA) under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) the Seller is required to make the Buyer aware of:
- the existence of potential and actual breeding habitat trees for Black Cockatoos on the Property and the Interests and Notifications in Annexure F ;
  - the requirements to conserve habitat trees in perpetuity and not to clear such areas;
  - the protective covenants set out in this document and, in particular the restrictions relating to the clearing of:
    - potential breeding habitat trees and any other trees with a

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

areas;

**Black Cockatoos** means the species *Calyptorhynchus latirostris* also known as the Carnaby's Black Cockatoo and *Calyptorhynchus baudinii* also known as Baudin's Black Cockatoo;

**Brigadoon Structure Plan** means outline development plan for Brigadoon shown in Annexure Q;

**Building Envelope Area** has the same meaning given to the expression 'Building Envelopes' as described in the Brigadoon Structure Plan;

**Building Protection Zone** means a 30m zone around the dwelling as shown hachured in red in the Brigadoon Structure Plan;

**Bushfire Management Plan** means the Fire Management Plan 2009 prepared by Bushfire Safety Consulting which provides the management objectives that aims to reduce the threat to residents and fire fighters in the event of bushfire within or near the site;

**Bushfire-Prone Areas** has the same meaning as 'Bushfire-prone area' as defined in Australian Standards AS3959-2009;

**Bushfire Survival Manual Guidelines** means Bush Fire Survival Manual Guidelines, FESA 5th Edition, 2008, which is a survival manual prepared by DFES to inform the community about bushfires;

**Declared Plant** means a plant that:

- a) has the same meaning given to that expression under section 7 of the *Agriculture and Related Resources Protection Act 1976 (WA)*; or
- b) competes with native vegetation and has a detrimental impact on both native fauna and fire management regimes;

**DEWHA** means the Federal Department of Environment, Water, Heritage and the Arts

(now DoE).

**DoE** means the Federal Department of Environment.

**DFES** means the Department of Fire and Emergency Services (formerly the Fire and Emergency Services Authority of Western Australia)

**Ecologically Significant Trees** means trees that have been identified by the Fire Management Consultant as being worthy of retention due to habitat, ecosystem or amenity values, as shown in Annexure M. For example, trees that:

- a) provide food and shelter for native animals;
- b) has the potential of producing valuable hollows in the future;
- c) provide and maintain soil stability;
- d) provide landscape values; and
- e) provide shade.

**EPBC Act** means the Environment Protection and Biodiversity Conservation Act 1999 (Cth);

**Excellent Condition Vegetation** means vegetation with its structure intact and with any disturbance (including weeds) affecting individual species of the vegetation only being non-aggressive;

**Fire Management Consultant** means an individual appointed by the Seller and approved by DFES to provide advice on fire management purposes for the project area;

**Hazard Separation Zone** means a 60m zone around the dwelling constructed on the Property;

**Low Fuel Environment** means an area of vegetation that is actively managed to maintain a reduced fuel level in order to minimise the risk of bushfire.

**Priority Flora** means species that are classified by the Department of Parks and Wildlife under the Conservation Codes for

# 2018 Compliance Report for EPBC Approval 2008/4250

## Avon Ridge Estate, Brigadoon



## ANNEXURE B

### Protective Covenants

Western Australian Flora and Fauna as follows

- a) Priority One – Poorly known species - species that are known from one or a few collections or sight records (generally less than five), all on lands not managed for conservation, for example, agricultural or pastoral lands, urban areas, Shire, rail reserves and Main Roads WA road, gravel and soil reserves, and active mineral leases and under threat of habitat destruction or degradation. Species may be included if they are comparatively well known from one or more localities but do not meet adequacy of survey requirements and appear to be under immediate threat from known threatening processes;
- b) Priority Two – Poorly known species – species that are known from one or a few collections or sight records, some of which are on lands not under imminent threat of habitat destruction or degradation, for example, national parks, conservation parks, nature reserves, State forest, unallocated Crown land, water reserves, etc. Species may be included if they are comparatively well known from one or more localities but do not meet adequacy of survey requirements and appear to be under threat from known threatening processes;
- c) Priority Three – Poorly known species – species that are known from collections or sight records from several localities not under imminent threat, or from few but widespread localities with either large population size or significant remaining areas of apparently suitable habitat, much of it not under imminent threat. Species may be included if they are comparatively well known from several localities but do not meet adequacy of survey requirements and known

threatening processes exist that could affect them;

- d) Priority Four – Rare, Near Threatened and other species in need of monitoring –
  - (i) Rare: species that are considered to have been adequately surveyed, or for which sufficient knowledge is available, and that are considered not currently threatened or in need of special protection, but could be if present circumstances change. These species are usually represented on conservation lands;
  - (ii) Near Threatened: species that are considered to have been adequately surveyed and that do not qualify for Conservation Dependent, but that are close to qualifying for Vulnerable;
  - (iii) Species that have been removed from the list of threatened species during the past five years for reasons other than taxonomy; and
- e) Priority Five - Conservation Dependent species – species that are not threatened but are subject to a specific conservation program, the cessation of which would result in the species becoming threatened within five years;

**Pristine Condition Vegetation** means vegetation in pristine or near pristine condition, with no obvious signs of disturbance; and

**Project Area** means the area identified as 'the site' in the locality plan dated 30 April 2008 allocated with project number V7068 and drawing number SK01