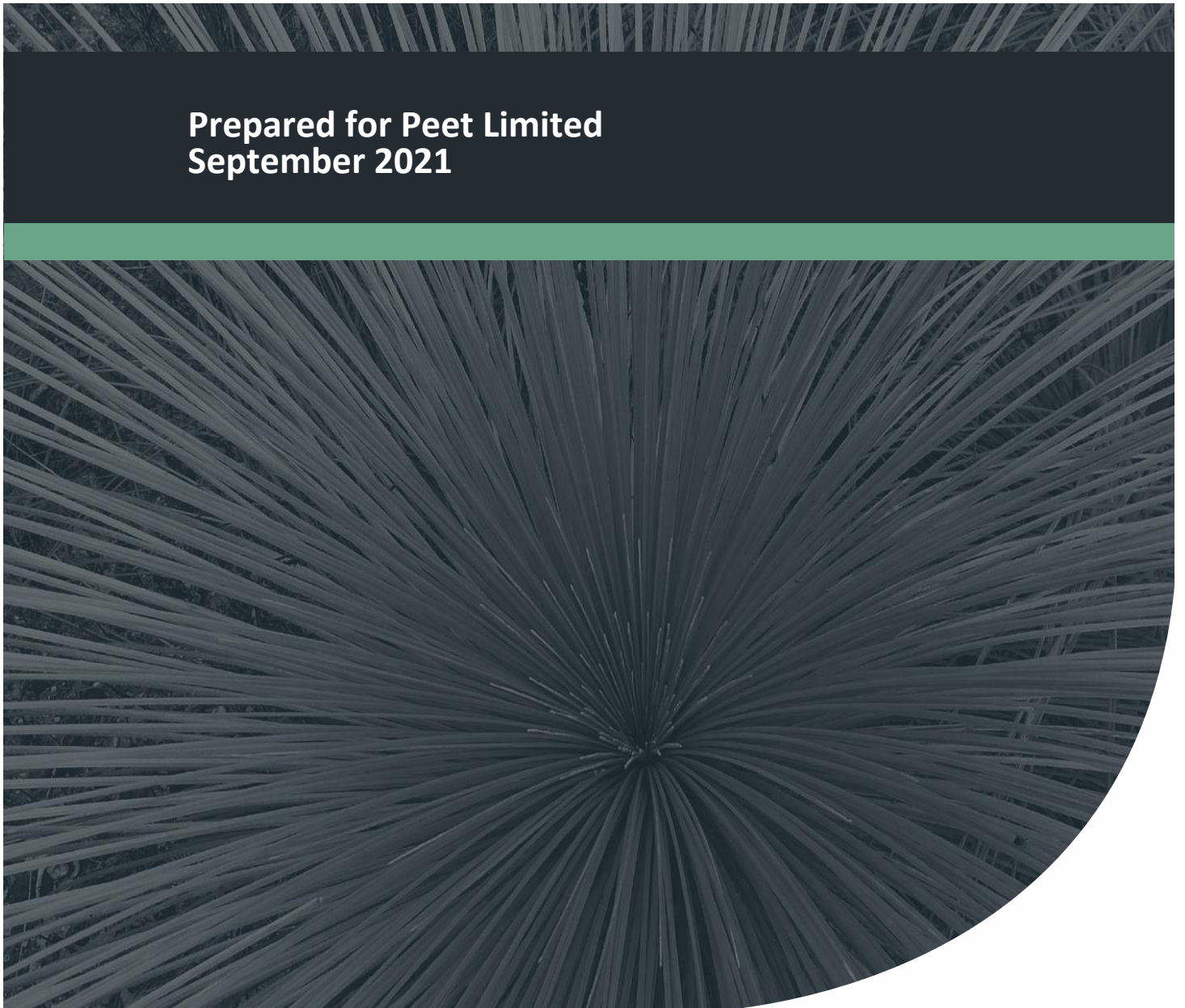


2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon

Project No: EP13-041(29)

**Prepared for Peet Limited
September 2021**



2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Document Control

Doc name:		2021 Compliance Report for EPBC Approval 2008/4250 Avon Ridge Estate, Brigadoon			
Doc no.:		EP13-041(29)--132 SJP			
Version	Date	Author		Reviewer	
1	September 2021	Sarah Poulton	SJP	Jason Hick	JDH
				Dana Elphinstone	DAE
Final report for issue					

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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) has 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 2020 to 4 July 2021.
- 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, stage seven and stage eleven (out of a total of nine stages) have been subject to clearing and construction activities, with 133 Lots out of a total 214 settled.

Compliance has been achieved against the conditions, with the exception of minor non-compliances detailed in this report, during the reporting period through the ongoing implementation of Protective (restrictive) Covenants, Notifications on Title, and the following two management plans:

- The *Construction Management Plan* (Cardno 2010).
- The *Revegetation and Fire Management Plan* (Emerge Associates 2017).

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Figures

Figure 1: Avon Ridge Stages 7, 11a and 11b Location

Appendices

Appendix A

Conformance with Revegetation and Fire Management Plan

Appendix B

Black Cockatoo Habitat Tree Update

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List of Abbreviations

Table A1: Abbreviations – General terms

General terms	
ACR	Annual Compliance Report
BMP	Bushfire Management Plan
CMP	Construction 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	
DAWE	Department of Agriculture, Water and the Environment
DBCA	Department of Biodiversity, Conservation and Attractions
DEWHA	Department of Environment, Water, Heritage and the Arts (now DAWE)
DFES	Department of Fire and Emergency Services
DPAW	Department of Parks and Wildlife (now DBCA)

Table A4: Abbreviations – Planning terms

Planning terms	
CoT	Certificate of Title
DP	Deposited Plan
MRS	Metropolitan Region Scheme
PR Reserve	Parks and Recreation Reserve

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Table A5: Abbreviations – Legislation

Legislation	
EPBC	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
BF Act	<i>Bush Fires Act 1954</i>

Table A5: Abbreviations – Fire management

Fire management	
APZ	Asset Protection Zone
BAL	Bushfire Attack Level (Assessment Report)
BPZ	Building Protection Zone
HSZ	Hazard Separation Zone

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1 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:

A handwritten signature in black ink, appearing to be 'Clay Thomas', written over a horizontal line.

Full name (Please print): Clay Thomas

Position (please print): Project Director

Organisation (please print including ABN/ACN if applicable): Peet Limited ABN 56 008 665 834

Date: 24/09/2021

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2 Introduction

2.1 Purpose

This Annual Compliance Report (ACR) has been prepared to satisfy the requirements of Condition 12 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approval 2008/4250 (EPBC 2008/4250). This condition requires the proponent to publish an annual compliance report addressing compliance with each condition of EPBC 2008/4250, and states:

The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:

- a) publish each compliance report on the website within 60 business days following the relevant 12 month period;*
- b) notify the Department by email that a compliance report has been published on the website within five business days of the date of publication;*
- c) keep all compliance reports publicly available on the website until this approval expires;*
- d) exclude or redact sensitive ecological data from compliance reports published on the website; and*
- e) where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication.*

2.2 Scope

The action commenced on 5 July 2010. The reporting period reflects the annual anniversary of the commencement of the action. This Annual Compliance Report (ACR) is to be submitted to the Department within 60 business days after the commencement of the action. On this basis, the reporting period covers the period of 5 July to 4 July each year and each ACR should be available on the proponent's website by 28 September 2021. The objectives of this report are to:

- Detail the actions undertaken within the development from 5 July 2020 to 4 July 2021.
- Demonstrate compliance with conditions of approval.
- Demonstrate conformance with the commitments in the management plans.
- Identify further actions which are required to meet conditions of approval.

The details of compliance with each condition under EPBC 2008/4250 are presented in **Table 3**.

As part of the preparation of the ACR the relevant environmental management commitments/obligations, included in the following management plans, were assessed to determine if the plans have been satisfactorily implemented:

- *Revegetation and Fire Management Plan (RFMP)* (Emerge Associates 2017) – required by Condition 3.
- *Construction Management Plan (CMP)* (Cardno 2010) – required by Condition 10.

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Where a previous ACR found a condition or management commitment to be 'Completed' that finding was accepted as being applicable to the current audit period, unless circumstances to the contrary were identified, in which case the item was re-assessed.

2.3 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).

2.4 Approvals under the *Environment Protection and Biodiversity Conservation Act 1999*

The Department of Environment, Water, Heritage and the Arts (DEWHA) (now Department of Agriculture, Water and the Environment (DAWE) also referred to as "the Department") issued an environmental approval for the development on 8 October 2009 subject to 16 conditions. Four separate variations to the approval conditions have been approved by the Department.

Table 3 lists the 17 approval conditions, incorporating all variations and corrections published by the Department to date.

In addition to the above, a number of revisions to the original RFMP have been made to date. The original RFMP entitled *Brigadoon Estate Revegetation and Fire Management Plan Parts 1, 2 and 3* was approved by the Fire and Emergency Services Authority (now DFES) in May 2010 and the Department in June 2010. A revised RFMP was provided to the Department in June 2017. This version was approved by the Department on 17 July 2017.

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3 Project status

3.1 Lot settlement

A total of nine Lots were sold or settled between 5 July 2020 and 4 July 2021, as detailed in **Table 1** and **Figure 1**. No sales were cancelled. Three of these Lots contain black cockatoo nesting trees that have been identified for retention, with:

- One habitat tree identified on Lot 316
- Four habitat trees identified on Lot 314
- One habitat tree identified on Lot 313 (one habitat tree lost during the summer fires, detailed in **Section 5.1.3**).

At the conclusion of the reporting period, 133 Lots out of the total 214 Lots were settled.

Table 1: Lots settled and conditioned during the reporting period

Deposited Plan	Stage	Lot number	Street Address	Contract status	Sold	Settled
DP408124	7	261	49 Pendula Loop, Brigadoon	Settled	24 January 2019	14 December 2020
		262	57 Pendula Loop, Brigadoon	Sold	2 July 2021	13 August 2021 (post 2020/2021 reporting period)
DP416540	11A	275	40 Botanic Loop, Brigadoon	Settled	5 June 2020	19 November 2020
		292	41 Botanic Loop, Brigadoon	Settled	25 September 2020	2 November 2020
	11B	310	249 Botanic Loop, Brigadoon	Settled	4 September 2020	12 October 2020
		311	251 Botanic Loop, Brigadoon	Settled	12 June 2020	28 October 2020
		313	250 Botanic Loop, Brigadoon	Settled	15 December 2020	5 February 2021
		314	228 Botanic Loop, Brigadoon	Sold	28 May 2021	19 July 2021 (post 2020/2021 reporting period)
		316	224 Botanic Loop, Brigadoon	Settled	11 November 2020	2 December 2020

3.2 Civil construction works

No additional stages have been cleared or constructed during the reporting period.

Stages one through four, stage seven, and stage eleven (out of a total nine stages) have been subject to clearing and construction activities since the action commenced. The total extent of vegetation clearing associated with civil construction works is discussed further in **Section 5.2.1**, in relation to requirements of Condition 1 of the approval.

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4 Audit terminology

The 'Compliance Status' field of the audit tables describes the implementation of actions and compliance with the approval. **Table 2** details the terminology that has been applied in this audit.

Table 2: Audit terminology

Compliance status term	Abbreviation	Description
Regulatory requirements - applicable to the conditions of approval		
Compliant	C	When all the requirements of a condition have been met, including the implementation of management plans or other measures required by those conditions.
Completed	CLD	Where a requirement with a finite period of application has been satisfactorily completed.
Not Applicable	NA	Where 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.
Non-compliant	NC	Where the requirements of a condition or elements of a condition, including the implementation of management plans and other measures, have not been met.
Corporate policies, standards and procedures – applicable to the RFMP and CMP		
Conformant	C	When sufficient evidence has been provided to confirm that the requirements within a corporate policy, standard and/or procedure (including an environmental management plan) has been satisfactory implemented.
Completed	CLD	Where a requirement with a finite period of application has been satisfactorily completed.
Not Applicable	NA	Where the requirements of a corporate policy, standard and/or procedure (including an environmental management plan) fall outside of the scope of the current reporting period. For example, a management plan which applies to an activity that has not yet commenced.
Non-conformant	NC	Where the requirements within a corporate policy, standard and/or procedure (including an environmental management plan) have not been satisfactory implemented.

*adapted from OEPA (2012b, 2012a); DoEE (2014); Graham A Brown & Associates (2014); OEPA (Undated)

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5 Audit findings

The approval conditions of EPBC Act Approval 2008/4250 are listed in **Table 3**, together with a summary of the current compliance status of the project.

The results of the 2021 audit of conformance with the management actions within the RFMP (Condition 3) are outlined in **Section 5.1** and detailed further in **Appendix A** (RFMP Compliance Table). Given no construction works occurred for the current reporting period, a CMP was not applicable for the current reporting period and hence, omitted from the 2021 Compliance Report and outlined in **Section 5.1.4**.

5.1 Compliance with EPBC 2008/4250

Two non-compliances with the conditions of EPBC 2008/4250 (**Table 3**) were identified during the audit, pertaining to Condition 5 and Condition 8.

5.1.1 Condition 5

5.1.1.1 Historic non-compliance

The wording of Condition 5 states that the person undertaking the action must ensure that all potential breeding habitat trees for Black Cockatoos are protected in perpetuity via a notification on the Certificate of Title ('title'). During the reporting period, the following Lots were sold or settled:

- Lot 313 on Deposited Plan 416540 (250 Botanic Loop, Brigadoon) was sold and settled.
- Lot 314 on Deposited Plan 416540 (228 Botanic Loop, Brigadoon) was sold.
- Lot 316 on Deposited Plan 416540 (224 Botanic Loop, Brigadoon) was sold and settled.

These Lots are present within Stage 11A and contain potential breeding habitat trees as identified on Attachment 4 and 4A of the EPBC 2008/4250 approval.

Within the previous reporting period (2019-2020), it was revealed that these Lots did not contain the required notification on the title under Section 70A of the *Transfer of Land Act 1893*, as per Condition 5. This was confirmed by PEET Limited on 16 September 2020 and the Department was notified of the non-compliance within two business days in accordance with Condition 12A of approval EPBC 2008/4250. However, since these Lots were unsettled, PEET proposed to implement the following corrective measures:

- Arrange to have a notification placed on Lot 313 and Lot 314, since neither Lot was under contract.
- Advise the purchaser of the omission and arrange to have a notification placed on Lot 316, since this Lot was under contract but not yet settled.

These Lots have since been settled and the owners have been notified via letter of the Notification Section 70A required to be included on the title. HWL Ebsworth Lawyers have prepared the

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Notification approval form to be signed by the Lot owners which, once returned, will be lodged to Landgate on behalf of the proprietors. Whilst this has not yet been closed out, PEET are working to ensure that this historical non-compliance is rectified.

Despite the absence of a notification on title for Lot 313, Lot 314, and Lot 316, the contracts of sale for these Lots and the associated Lot diagrams noted the presence of remnant/nesting trees and the requirement that these be retained is further stated in the Deed of Restrictive Covenant, registered against Deposited Plan 416540 and applied to individual Lots. In addition, Lot 313, Lot 314, and Lot 316 also contained a notice on title notifying the registered proprietors and prospective purchasers of the land of pristine and excellent category vegetation and/or priority flora on the land which must be preserved in perpetuity. This notice on title states that such vegetation or flora from the land must not be cleared unless such vegetation or flora is within a building envelope first approved by the City of Swan, or if outside the building envelope, the City must provide written consent prior to clearing.

5.1.1.2 2021 bushfire impacts on habitat trees

On 20 April 2021 and 17 June 2021, two ecologists from Emerge Associates attended the Avon Ridge Estate to survey the potential black cockatoo habitat trees (diameter at breast height (DBH) of equal to, or greater than 50cm) following the Wooroloo bushfire in January – February 2021. Of the 66 trees previously identified by Cardno in 2008 (as illustrated within Attachment 4A), 35 habitat trees were surveyed. Overall, 20 of these were considered to still meet the definition of a habitat tree and 15 were no longer considered to be a habitat tree (**Figure 1**). Of the 15 trees, 12 had been completely destroyed and three were still standing.

The three standing trees no longer meet the definition of a habitat tree as they were dead and do not have trunks or branches above 3 m in height that may form a suitably sized hollow for breeding by black cockatoos. Whilst 12 trees had been completely destroyed, two of these had been impacted by causes other than the Wooroloo bushfire, with one likely damaged due to a previous bushfire in 2019 and the other likely damaged due to natural decay and/or storm damage.

During the survey, each habitat tree was individually photographed and assessed for potential impacts. All habitat trees that were still present were tagged with a unique number identifier tag (**Appendix B**). Habitat tree number 8 located on Lot 313 was observed in 2019 to have been damaged previously. This habitat tree (along with the others identified in Appendix B) has been requested to be removed from Attachments 4 and 4A of the EPBC Approval.

5.1.2 Condition 8

The wording of Condition 8 states that the sale and settlement of any Lot must not proceed unless the Restrictive Covenant has been approved in writing by the Department. A total of nine Lots have been sold and settled within this reporting period with Protective (restrictive) Covenants that vary from the currently approved Restrictive Covenant. Therefore, these lot sales are technically non-compliant with Condition 8.

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The previous wording of Condition 8 of the approval did not allow for the modification of the covenant which was first approved by the Department in August 2010. While subsequent versions of the Protective (restrictive) Covenants were 'approved' by the Department, these approvals were deemed invalid as the previous version of the approval did not allow for variations to the covenants. In 2017, the proponent became aware that Condition 8 of the approval did not allow for the modification of the covenant first approved in August 2010, and in April 2019 the Department varied Condition 8 to allow for revisions of the Protective Covenant.

Therefore, the covenants placed on Lots within Stage 7 were non-complaint because they differed from the original version approved in August 2010. This non-compliance was reported by the proponent on 7 July 2020 within two business days as required under Condition 12A.

The Protective (restrictive) Covenants placed on Lots within Stages 11A and 11B were also non-compliant, although this non-compliance occurred following the 2019 Condition 8 variation. This non-compliance occurred due to a change in project managers in Peet, whereby the variation approved by the Department was not attached to titles. This non-compliance was reported by the proponent on 7 July 2020 within two business days as required under Condition 12A.

Non-compliances of Condition 8 are considered minor, given the Department is already aware of the non-compliant covenants from previous Compliance Reports and the content and intent of these covenants do not allow for additional impacts on MNES. In addition, the proponent has contacted the compliance team within DAWE to ascertain what measures can be implemented to avoid continual non-compliances with the historic Protective (restrictive) Covenants.

5.1.3 Conformance with the Revegetation and Fire Management Plan

No non-conformances with the requirements of the RFMP (**Appendix A**) were identified during the audit.

5.1.4 Conformance with the Construction Management Plan

Given no construction works occurred for the current reporting period, a CMP was not applicable for the current reporting period and hence, omitted from the 2021 Compliance Report.

5.1.5 Compliance evidence

Compliance with the conditions specified in EPBC 2008/4250 has been determined through:

- A review of site background information.
- The request of documentation.
- Email correspondence between Emerge, the proponent and subcontractors.

The status of compliance with each condition has been detailed in **Table 3**.

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250

Condition No.	Condition	Compliance status	Comments	Evidence
1	<p>The person taking the action must not clear more than 83.2 hectares of native vegetation within the project area (<u>Attachment 1</u>) comprising:</p> <ul style="list-style-type: none"> a) up to 30 hectares for constructing roads; b) up to 45 hectares for constructing boundary firebreaks on individual lots as identified in <u>Attachment 2</u>; and c) up to 8.2 hectares for the purposes of constructing strategic firebreaks and dams. 	C	<ul style="list-style-type: none"> • No clearing was undertaken within the reporting period (E21/01), and the area cleared is consistent with the calculations provided in the 2019 compliance report (R21/05). 	<ul style="list-style-type: none"> • E21/01_ Emerge Associates 2020 ACR for EPBC • R21/01_ Emerge Associates 2020 ACR for EPBC 2008/4250 • R21/05_ Emerge Associates 2019 ACR for EPBC 2008/4250 • L21/01_ DoEE Decision on approval of RFMP and CMP • D21/01_ Development Engineering Consultants 43712
2	<p>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 (<u>Attachment 1</u>) will not exceed 70.4 hectares, comprising:</p> <ul style="list-style-type: none"> a) 42.1 hectares to construct dwellings, infiltration areas, driveways and buffers around the dwellings; and b) 28.3 hectares in accordance with the approved Revegetation and Fire Management Plan. 	C	<ul style="list-style-type: none"> • Clearing is managed through the Structure Plan and Protective (restrictive) Covenants (refer to Section 5.2.2). • Protective (restrictive) Covenants were placed on nine titles within Stages 7 (D21/03), 11A and 11B (D21/04) of the development during the reporting period. • Clearing restrictions regarding building envelopes for lots are outlined in the approved Structure Plan (R21/14). 	<ul style="list-style-type: none"> • D21/03 Restrictive Covenant N430755 • D21/04 Restrictive Covenant O196652 • R21/14_ PEET Brigadoon Structure Plan • E21/01_ Emerge Associates 2020 ACR for EPBC • L21/07_ Stage 11 Covenants • L21/08_ Stage 7 Covenants • L21/12_ Tax Invoice Firebreak Maintenance

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
3	<p>Revegetation and Fire Management Plan</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 Attachment 5) 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>	C	<ul style="list-style-type: none"> • A revised RFMP 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 (E21/03). • The implementation of the RFMP is ongoing throughout the development, however some components have been completed (refer to 3b) below). • Refer to Appendix A detailing conformance with the RFMP. 	<ul style="list-style-type: none"> • E21/03_DoEE_EPBC 2008/4250 Update to an Approved Management Plan RFMP
	<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>	C	<ul style="list-style-type: none"> • The RFMP outlines a prescribed burn schedule for the development, timed to occur in stages over a number of years. • The 2019 Compliance Report details the prescribed burns previously undertaken over the development in 2013, 2014, 2015, 2017, 2018 and 2019 (R21/01). • No prescribed burns were undertaken within the reporting period, following advice from the Deputy Chief Bush Fire Control Officer (volunteer) (E21/04). • Due to the rapid drying in spring, the burning window was too narrow to undertake prescribed burns (E21/02). • The Wooroloo fire that occurred during January - February impacted the area that was planned to be burnt (E21/02). 	<ul style="list-style-type: none"> • R21/01_Emerge Associates 2020 ACR for EPBC 2008/4250 • E21/02_Bush Fire Control • E21/04_Prescribed Burns 2020-2021 period

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance status	Comments	Evidence
3	<p>b) revegetation measure to create additional Black Cockatoo habitat across the project site, including in the Parks and Recreation Reserve, specifically:</p> <ol style="list-style-type: none"> i. revegetation for all condition classes (excluding pristine and excellent classes) and vegetation complexes (including maps); ii. mix, numbers and density of species to be planted; iii. timing of proposed planting (must be during or following the annual winter rain period and generally between 1 June and 30 November); iv. weed management measures; 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; 	CLD	<ul style="list-style-type: none"> • 88,255 seedlings have been planted to date as part of the revegetation program. The three-year monitoring period for this planting has now passed. • The requirements of this section of Condition 3 have now been completed as detailed in the Avon Ridge Estate 2017 ACR (R21/03). 	<ul style="list-style-type: none"> • R21/03_Emerge Associates 2017 ACR for EPBC 2008/4250 • L21/01_DoEE RFMP Variation Decision Letter

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance status	Comments	Evidence
	<p>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);</p> <p>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;</p>	CLD	<ul style="list-style-type: none"> The requirements of this section of Condition 3 have now been completed and detailed within the 2017 Compliance Report (R21/03). 	<ul style="list-style-type: none"> R21/03_Emerge Associates 2017 ACR for EPBC 2008/4250
	<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>	C	<ul style="list-style-type: none"> 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. Clearing was not undertaken within the reporting period (E21/01). 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 (D21/04). 	<ul style="list-style-type: none"> E21/01_Avon Ridge EPBC Act Compliance Report D21/04 Restrictive Covenant O196652 L21/07_Stage 11 Covenants L21/08_Stage 7 Covenants

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
4	<p>Building Protection Zone</p> <p>The person taking the action may thin native vegetation within the Building Protection Zone (Attachment 2) on each housing lot (Attachment 3). 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 Condition 5.</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>	C	<ul style="list-style-type: none"> • Protective (restrictive) Covenants addressing Building Protection Zone requirements, in accordance with the RFMP, continue to be implemented throughout the development. • 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 covenants. This statement is kept on file as a record of compliance. • The Fire Management Consultant has provided Bushfire Attack Level Assessment Report and Management Statements for three Lots during this reporting period (R21/08) (R21/09) (R21/10). • The Fire Management Consultant provides a Bushfire Management Statement within each BAL assessment, identifying the required APZ requirements (R21/08) (R21/09) (R21/10). • The Fire Management Consultant meets with every owner and works through the issues for them to establish the APZ. This includes verbal and written advice on the dimensions of the APZ, standards, which trees to remove and keep, fuel load management standards and options, vegetation structure modifications (E21/13). • There has been no change of Fire Management Consultant during this audit period. The Department has approved the current Fire Management Consultant appointed August 2016 (E21/09) (E21/10). 	<ul style="list-style-type: none"> • E21/09_DoEE_Condition 4 - Fire Management Consultant • EP21/10_Fire Consultant Engagement • R21/08_BAL Assessment Report Lot 274 (#22) Botanic Loop, Brigadoon • R21/09_BAL Assessment Report Lot 143 Connemara Drive, Brigadoon • R21/10_BAL Assessment Report Lot 316 (#224) Botanic Loop, Brigadoon • E21/13_Verbal advice to homeowners

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
5	<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"> they are located within the house site; they are located within the Building Protection Zone; and they are required to be removed for Fire Management purposes as advised by a qualified Fire Management Consultant(s). 	NC	<ul style="list-style-type: none"> • Notifications of Titles and Protective (restrictive) Covenants addressing these requirements continue to be implemented throughout development. • Three (Lots 313, 314 and 316) of the nine Lots settled or sold during the reporting period contain identified black cockatoo nesting trees for retention, therefore notifications on titles were required. • In the previous reporting period, unsettled Lots within Stage 11B (Lots 313, 314 and 316) did not contain the required notification on title under Condition 5 and actions were proposed to rectify this non-conformance (E21/08). • This information was revealed during the preparation of the previous compliance report (2019-2020) and reported to the department within two business days (L21/05) specified in Condition 12A and Condition 12B. • Since this time, PEET has undertaken corrective actions (E21/07). • All three Lots have now settled and owners have been notified of the notification via letter (L21/03). • Notification Under Section 70A is currently being prepared by HWL Ebsworth Lawyers. Once these are ready for execution, each will be submitted to the respective landowner for signing. Upon completion of this, the documents will be lodged with Landgate (L21/04). • During the reporting period, the site was affected by the Wooroloo Fires that occurred in January – February 2021. A survey of 35 habitat trees was undertaken in April and June 2021, which identified 15 of these trees to be no longer considered as a habitat tree (L21/02). This includes one tree that was previously affected by a bushfire in 2019 (R21/05). An additional affected habitat tree was found within Lot 313 (L21/02). • As a result, the habitat trees in Attachment 4 and 4A are no longer current and Condition 5 cannot be adhered to. 	<ul style="list-style-type: none"> • E21/07_Condition 5 Notification on Title • E21/08_PEET 2020 non-compliance condition 5 • L21/05_Emerge Associates 2020 Letter to DAWE notification of non-compliance condition 5 • L21/02_Black Cockatoo Habitat Tree Update • L21/03_Notification on Title for Nesting Trees • L21/04_Notification under Section 70A example • R21/05_Emerge Associates 2019 ACR for EPBC 2008/4250 • L21/07_Stage 11 Covenants • L21/08_Stage 7 Covenants

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
6	The person taking the action must ensure that 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.	CLD	<ul style="list-style-type: none"> On 5th July 2012, the PR Reserve was ceded to the WA State Government. The Certificate of Title for Lot 8001 Campersic Road Brigadoon (the PR Reserve) provides evidence of the completion of Condition 6 (L21/09). 	<ul style="list-style-type: none"> L21/09_Landgate Certificate of Title Lot 8001
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 Attachment 7 .	CLD	<ul style="list-style-type: none"> 88,255 seedlings have been planted to date as part of the revegetation program. The three year monitoring period for this planting has now passed, with all of the completion criteria outlined in Condition 7 met for this planting. Evidence of completion of Condition 7 was provided in the 2017 Compliance Report (R21/03). 	<ul style="list-style-type: none"> R21/03_Emerge Associates 2017 ACR for EPBC 2008/4250
7A	<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"> 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; are aware of the Restrictive Covenant; are aware of restriction relating to clearing of <ol style="list-style-type: none"> potential breeding habitat trees over 500 mm DBH; and areas within and outside of the Building Protection Zone. are aware of proposed revegetation measures for their individual lot by person(s) as outlined in Condition 3; are provided with species related information on all Black Cockatoos, their presence in the area, ecology, species range and details on habitat. 	C	<ul style="list-style-type: none"> Information regarding the Notifications of Titles, Protective (restrictive) Covenants and the Lot owner clearing requirements continues to be provided in the purchaser information pack (D21/03) (D21/04) (L21/10). 	<ul style="list-style-type: none"> D21/03 Restrictive Covenant N430755 D21/04 Restrictive Covenant O196652 L21/10_Annexure G Purchaser Information L21/07_Stage 11 Covenants L21/08_Stage 7 Covenants

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
8	<p>The person taking the action must submit a Restrictive Covenant for approval by the Department. The sale and settlement of any lot must not proceed unless the Restrictive Covenant has been approved in writing by the Department and the approved Restrictive Covenant is an annexure to the sale contract.</p> <p>If the person taking the action wishes to vary the approved Restrictive Covenant, a revised Restrictive Covenant must be submitted to the Department for approval. The subsequent sale and settlement of any lot must not proceed unless the currently approved Restrictive Covenant is an annexure to the sale contract.</p>	NC	<ul style="list-style-type: none"> • A number of versions of the Restrictive Covenant have been developed, approved and implemented to date. • Nine lots were sold with seven settled during the reporting period. The covenants placed on the Lots within Stage 7 was non-complaint because it differed from the version approved in August 2010. The Restrictive Covenant placed on lots within Stages 11A and 11B did not include variations made by the Department (due to a change in project manager) and was therefore non-compliant. • The Department were informed of the technical non-compliance with Condition 8 of the unauthorised Protective (restrictive) Covenants placed on lots during the through the non-compliance letter (L21/06) (E21/11) (E21/12) submitted on 7 July 2020. 	<ul style="list-style-type: none"> • E21/11_Emerge Associates 2020 Avon Ridge - Outstanding Items • E21/12_Emerge Associates 2020 EPBC Act Approval 2008 4250 - Condition 8 • L21/06_Emerge Associates 2020 Minor non-compliance with EPBC 2008/4250 approval Condition 8 • E21/18_Historic unapproved covenants
9	<p>All elements specified in Attachment 6 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 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.</p>	C	<ul style="list-style-type: none"> • The Structure Plan was endorsed by the WAPC on 27 March 2014. • Subdivision of all Lots within the development has been approved, through various subdivision approvals. The Stage 11 subdivision plan was approved by the Western Australian Planning Commission on 15 March 2018 (L21/11) (D21/02). • Protective (restrictive) Covenants are currently applied to all new lots within the site (D21/04) (D21/04). • These mechanisms collectively incorporate all elements outlined in Attachment 6 and continue to be implemented as development progresses. • Previous compliance reports (R21/12) (R21/13) 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 Protective (restrictive) Covenants. 	<ul style="list-style-type: none"> • R21/14_PEET Brigadoon Structure Plan • L21/11_Stage 11 Subdivision approval • D21/02_Stage 11 Subdivision plan • R21/12_Cardno 2012 ACR for EPBC 2008/4250 • R21/13_Cardno 2011 ACR for EPBC 2008/4250 • D21/03 Restrictive Covenant N430755 • D21/04 Restrictive Covenant O196652 • L21/07_Stage 11 Covenants • L21/08_Stage 7 Covenants

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
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.	C	<ul style="list-style-type: none"> The CMP was approved by the Department 24 June 2010. 	<ul style="list-style-type: none"> L21/01_DoEE Decision on approval of RFMP and CMP
	<p>The Construction Management Plan must clearly demonstrate that:</p> <ol style="list-style-type: none"> all habitat trees at <u>Attachment 4 and 4A</u> are to be retained in perpetuity; and 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. 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; 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 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. 	C	<ul style="list-style-type: none"> A portion of the Avon Ridge Estate was impacted by the Perth Hills Bushfires (The Wooroloo Bushfire) in January – February 2021. A survey of the 35 habitat trees was undertaken in April and June 2021 (L21/02), which identified 15 trees which were no longer considered to be habitat trees. Therefore, the habitat trees in <i>Attachment 4 and 4A</i> are no longer current and Condition 10 can no longer be adhered to. The civil contractor manages the implementation of the CMP, including the completion of required onsite forms and registers. No construction works were undertaken for 2019/2020 reporting period and therefore no CMP was implemented / required (E21/01). 	<ul style="list-style-type: none"> L21/02_Black Cockatoo Habitat Tree Update E21/01_Avon Ridge EPBC Act Compliance Report

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
11	Within 30 days of commencement of construction, the person taking the action must advise the Department in writing the actual date of commencement.	CLD	<ul style="list-style-type: none"> Evidence provided in the 2011 Compliance Report (R21/06). 	<ul style="list-style-type: none"> R21/06_Cardno Compliance Report for EPBC 2008/4250
12	<p>The approval holder must prepare a compliance report for each 12 month the date of period following the date of commencement of the action, or as otherwise this notice agreed to in writing by the Minister. The approval holder must:</p> <ol style="list-style-type: none"> publish each compliance report on the website within 60 business days following the relevant 12-month period; notify the Department by email that a compliance report has been published on the website within five business days of the date of publication; keep all compliance reports publicly available on the website until this approval expires; exclude or redact sensitive ecological data from compliance reports published on the website; and where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication. 	C	<ul style="list-style-type: none"> This condition came into effect April 2019, and consequently, the proponent has not been required to publish previous ACR's before this period. The Avon Ridge 2021 Compliance Report (for EPBC Approval 2008/4250) will be published on the PEET website by 27 September 2021. The Department will be notified via email when the 2021 ACR is published on the PEET website. Approved Compliance Reports are available from the PEET website (https://www.peet.com.au/communities/perth-and-wa/avon-ridge/purchaser-and-builder-documents) including the Avon Ridge Brigadoon 2020 Annual Compliance Report (E21/05). Evidence of website publication and Department notification will be provided in the following compliance report. 	<ul style="list-style-type: none"> E21/05_PEET Annual compliance reports website publication L21/07_Stage 11 Covenants L21/08_Stage 7 Covenants E21/16_Letter of non-compliance re: Condition 8 – DAWE E21/17_Advice from DAWE re: Compliance E21/18_Historic unapproved covenants

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
12A	<p>The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:</p> <ol style="list-style-type: none"> the condition which is or may be in breach; and a short description of the incident and/or non-compliance. 	C	<ul style="list-style-type: none"> A non-compliance with Condition 8 has been noted pertaining to the unapproved covenants placed on lot titles settled during the reporting period. The proponent became aware of these non-compliances on 3 July 2020 (E21/11) and the Department was notified on 7 July 2020 (E21/12) (L21/06). A non-compliance with Condition 5 has been noted pertaining to the absence of a notification on title under Section 70A of the <i>Transfer of Land Act 1893</i> on the settled Lot, 315 during the 2020 reporting period. The proponent became aware of this non-compliance during the current reporting period on 16 September 2020 (E21/08) and the Department was notified on 18 September 2020 (L21/05). 	<ul style="list-style-type: none"> E21/11 Emerge Associates 2020 Avon Ridge – Outstanding Items E21/12 Emerge Associates 2020 EPBC Act Approval 2008 4250 – Condition 8 L21/06 Emerge Associates 2020 Minor non-compliance with EPBC 2008 4250 approval Condition 8 E21/08 PEET 2020 non-compliance Condition 5 L21/05 Emerge Associates 2020 letter to DAWE non-compliance with Condition 5
12B	<p>The approval holder must provide to the Department the details of any incident or non-compliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying:</p> <ol style="list-style-type: none"> any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future; the potential impacts of the incident or non-compliance; and the method and timing of any remedial action that will be undertaken by the approval holder. 	C	<ul style="list-style-type: none"> Refer to Condition 12A. 	

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition	Compliance Status	Comments	Evidence
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.	N/A	<ul style="list-style-type: none"> Evidence provided in the 2013 Compliance Report (R21/04). 	<ul style="list-style-type: none"> R21/04_Emerge Associates 2013 ACR for EPBC 2008/4250
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"> An electronic copy of the revised plan; An explanation of the differences between the revised plan and the approved plan; and 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. <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>	N/A	<ul style="list-style-type: none"> No revised plans were submitted to the Department for approval during the reporting period. 	

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition Requirement	Compliance Status	Evidence/Comments	Evidence
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.	C	<ul style="list-style-type: none"> Refer to Condition 14, no update required. 	
15A	<p>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:</p> <ol style="list-style-type: none"> Condition 14 does not apply, or ceases to apply, in relation to the revised plan; and The person taking the action must implement the version of the plan most recently approved by the Department. <p>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.</p> <p>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.</p>	C	<ul style="list-style-type: none"> Refer to Condition 14, 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.	C	<ul style="list-style-type: none"> Refer to Condition 14, no update required. 	

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Table 3: List of approval conditions and current compliance status of EPBC 2008/4250 (continued)

Condition No.	Condition Requirement	Compliance Status	Evidence/Comments	Evidence
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.	C	<ul style="list-style-type: none"> Refer to Condition 14, no update required. 	
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.	C	<ul style="list-style-type: none"> Records of activities undertaken within the site which are associated with these approval conditions are maintained by the proponent and its project team. This is achieved through saving emails and invoices. These records are updated as required and have been used to inform this annual compliance report. There has been minimal activity over the reporting period. 	<ul style="list-style-type: none"> E21/06_Records of activities undertaken 2020-2021
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"> 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. provide documentary evidence to the Department that funds have been provided to the DPAW as required by approval condition 17a. 	CLD	<ul style="list-style-type: none"> The requirements of this condition have now been completed as discussed in the 2017 Compliance Report (R21/03). 	<ul style="list-style-type: none"> R21/07_Cardno 2012 ACR for EPBC 2008/4250 R21/03_Emerge Associates 2017 ACR for EPBC 2008/4250

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5.2 Compliance details

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

- **Section 5.2.1-** Clearing extent, in accordance with the requirements of Condition 1.
- **Section 5.2.2-** Measures to manage landowner clearing restrictions, in accordance with the requirements of Condition 2.
- **Section 5.2.4 -** Information regarding the wording amendment for the Restrictive Covenant, in reference to Condition 8.

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

5.2.1 Civil Works clearing for strategic firebreaks, Lot boundary firebreaks and roads - Condition 1

During the 2020/2021 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 2018). Clearing for all purposes set out in Condition 1 are all compliant and have not exceeded their respective clearing allowances.

Table 4 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 2019. No additional clearing has occurred during the current reporting period.

Table 4: 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	18.04	11.96	60.1
Up to 45 hectares of the purpose of constructing boundary firebreaks on individual lots	27.5	17.5	61.1
Up to 8.2 hectares for the purposes of constructing strategic firebreaks and dams	5.84	2.36	71.2

The methodology used to quantify the extent of vegetation clearing associated with the civil construction works involved a comprehensive spatial analysis (using GIS software) of high-resolution aerial photography. The methodology used to quantify clearing was described in the Avon Ridge Estate 2016 and 2020 ACRs.

5.2.2 Measures to manage clearing within Lots - Condition 2

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

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Restrictive Covenants

Restrictive Covenants¹ 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 m²) whichever is the lesser
- The clearing of habitat trees and trees with a diameter at breast height greater than 500 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).

Nine Lots were sold or settled occurred during the period 5 July 2020 to 4 July 2021.

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 license) within a structure plan area.

The approved structure plan outlines the maximum allowable size of building envelopes within subdivided Lots to be 2000 m² or 10% of the Lot area, whichever is lesser. This criterion 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.

5.2.3 Notification on title - Condition 5

Three of the nine lots settled or sold during the reporting period contained identified black cockatoo nesting trees for retention (Lots 313, 314 and 316), therefore, notifications on titles were required. One habitat tree located on Lot 313 was irreparably damaged by a bushfire in 2021. A Notification on the Certificate of Title under Section 70A of the *Transfer of Land Act 1893* regarding the specific

¹ Restrictive Covenants are created under Section 136D 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.

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requirement to retain Black cockatoo trees for Lots 313, 314 and 316 was not submitted due to an apparent administrative oversight. This information was revealed during the preparation of the 2019-2020 compliance report and was confirmed by Peet Limited on 16 September 2020 and reported to the department within two business days specified in Condition 12A and Condition 12B.

As the habitat trees to be retained within Lots 313, 314 and 316 are all located outside of the approved building envelopes, and no permission for additional clearing has been sought from the City of Swan, it is believed that no clearing of habitat trees has occurred. Given the above, the proponent does not consider that any damage has occurred to the habitat trees located within Lots 313, 314 and 316 despite a non-compliance with Condition 5 of EPBC 2008/4250.

PEET proposed to implement the following corrective measures:

- Arrange to have a notification placed on Lot 313 and Lot 314, since neither Lot was under contract.
- Advise the purchaser of the omission and arrange to have a notification placed on Lot 316, since this Lot was under contract but not yet settled.

These Lots have since been settled and the owners have been notified via letter of the Notification Section 70A required to be included on the title. HWL Ebsworth Lawyers have prepared the Notification approval form to be signed by the Lot owners which, once returned, will be lodged to Landgate on behalf of the proprietors. Whilst this has not yet been closed out, PEET are working to ensure that this historical non-compliance is rectified.

Despite the absence of a notification on title for Lot 313, Lot 314, and Lot 316, the contracts of sale for these Lots and the associated Lot diagrams noted the presence of remnant/nesting trees and the requirement that these be retained is further stated in the Deed of Restrictive Covenant, registered against Deposited Plan 416540 and applied to individual Lots. In addition, Lot 313, Lot 314, and Lot 316 also contained a notice on title notifying the registered proprietors and prospective purchasers of the land of pristine and excellent category vegetation and/or priority flora on the land which must be preserved in perpetuity. This notice on title states that such vegetation or flora from the land must not be cleared unless such vegetation or flora is within a building envelope first approved by the City of Swan, or if outside the building envelope, the City must provide written consent prior to clearing.

5.2.4 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 ACR.

In 2017 the Department determined that the wording of Condition 8 at that time did not allow for revisions to the Restrictive Covenant, although it was concluded that the revisions that had been made up to that date had not resulted in any adverse impacts to the environment, MNES or any other significant environmental values. The proponent requested a variation to Condition 8 and in April 2019, the Department approved the variation which enacted the current wording of Condition 8.

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Avon Ridge Estate, Brigadoon



Nevertheless, historic covenants prior to 2019 still continue to be sold and settled by the proponent and as such are non-compliant. This includes lots sold/settled within Stage 4 7 over the current reporting period. In addition, and as outlined in the 2019 and 2020 ACR, an administrative error and change of project managers resulted in the Protective (restrictive) covenants from Stages 11A and 11B being attached to titles without approval. These non-compliances were reported to DAWE on 7 July 2020 (during the current ACR reporting period)

The Department has advised is unable to provide retrospective approval for these historic covenants, however the proponent will work with the Department to work through the ongoing non-compliances that are associated with the Restrictive Covenants.

Notification from DAWE was received in June 2020 that confirmed that non-compliances discussed in the 2019 ACR associated with the historic covenants contravened Section 142 of the EPBC Act however, no further compliance action would be undertaken.

2021 Compliance Report for EPBC Approval 2008/4250 Avon Ridge Estate, Brigadoon



6 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 the approval's conditions during 5 July 2020 to 4 July 2021 reporting period.

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

- Construction 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.

2021 Compliance Report for EPBC Approval 2008/4250 Avon Ridge Estate, Brigadoon



7 References

7.1 General references

Department of Environment and Energy (DoEE) 2014, *Annual Compliance Report Guidelines*, Canberra.

Cardno 2010, Construction Environmental Management Plan, Unpublished Report prepared for PEET Limited, V7068, Version C.

Department of Environment and Energy (DoEE) 2014, *Annual Compliance Report Guidelines*, Canberra.

Emerge Associates 2017, *Revegetation and Fire Management Plan (Revised 2017)*, Unpublished Report prepared for PEET Limited, EP13-041(16)--092 JHL, Version 1.

Emerge Associates 2018, *2019 Compliance Report for EPBC Approval 2008/4250*, EP13-041(24), A.

Graham A Brown & Associates 2014, *Environmental Audit Guidebook*, Thomson Reuters.

Office of the Environmental Protection Authority (OEPA) 2012a, *Post Assessment Guideline for Preparing a Compliance Assessment Report*.

Office of the Environmental Protection Authority (OEPA) 2012b, *Post Assessment Guidelines for Preparing an Audit Table*.

Office of the Environmental Protection Authority (OEPA) Undated, *Post Assessment Form 2 for a Statement of Compliance*, Perth, WA.

7.2 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>>

2021 Compliance Report for EPBC Approval 2008/4250 Avon Ridge Estate, Brigadoon



8 Glossary

TERM	DEFINITION
Notifications on Title	Are created under Section 70A of the Western Australian <i>Transfer of Land Act 1893</i> 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 that no clearing will be undertaken.

Figures



Figure 1: Avon Ridge Stages 7, 11a and 11b Location

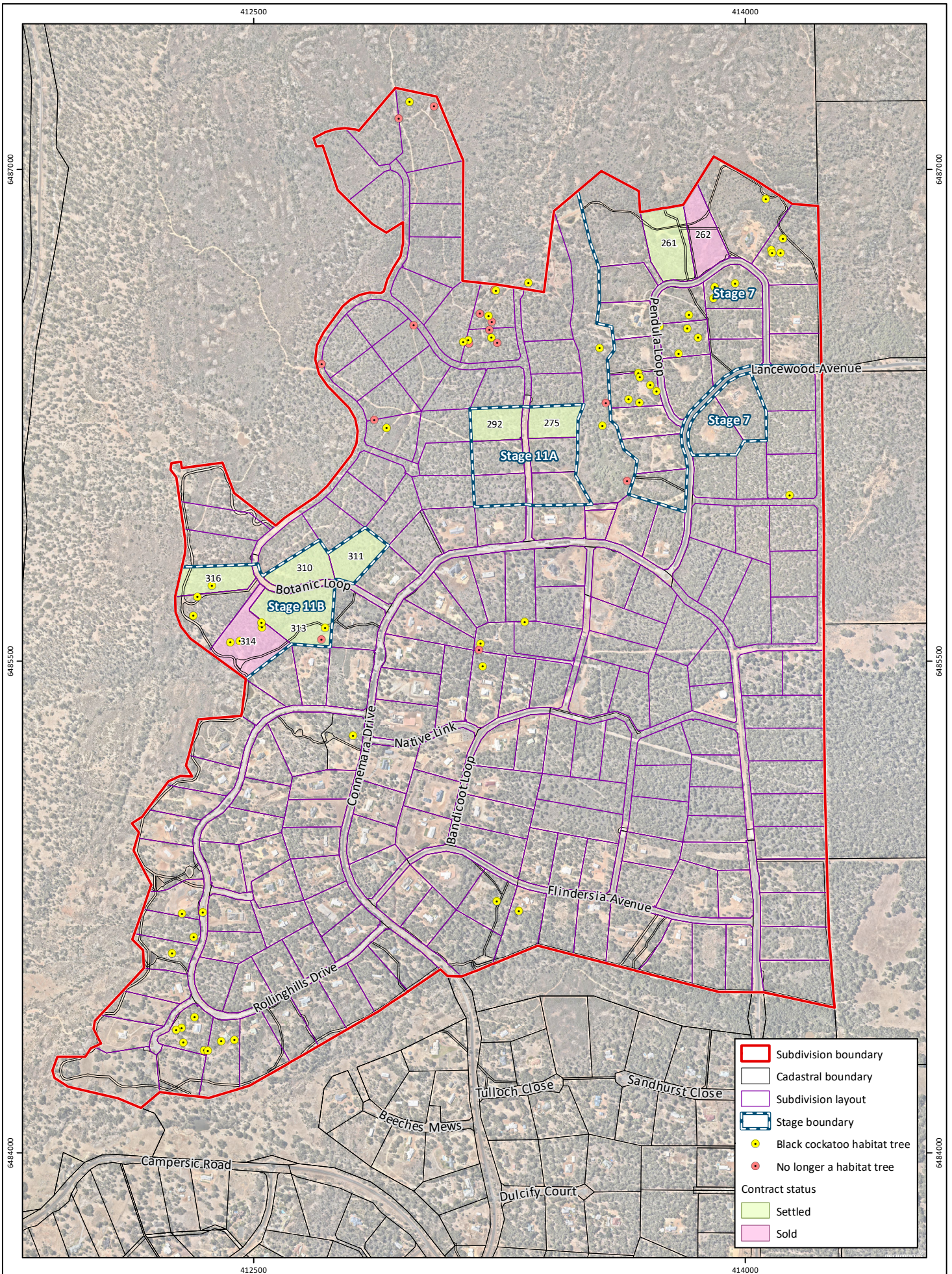


Figure 1: Avon Ridge Stages 7, 11a, and 11b Location

Project: EPBC Act Compliance Report
Peet Avon Ridge Estate, Brigadoon

Client: Peet Avon Ridge Development Support

Plan Number: EP13-041(29)-F146
Drawn: GAR
Date: 10/09/2021
Checked: SJP
Approved: DAE
Date: 24/09/2021

N

0 100 200 300
Metres

Scale: 1:15,000@A4
GDA 1994 MGA Zone 50



While Emerge Associates makes every attempt to ensure the accuracy and completeness of data, Emerge accepts no responsibility for externally sourced data used

Appendix A

Conformance with Revegetation and Fire Management Plan



2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan

Reference code	Action	Status	Comment	Evidence
RFMP 1	Undertake revegetation and monitoring activities in alignment with condition 3 of the EPBC Act approval	CLD	<ul style="list-style-type: none"> All RFMP actions pertaining to condition 3 of the approval have been completed and there are no outstanding revegetation requirements regarding maintenance. Revegetation occurred from 2011 to 2013. The completion criteria of a 90% survival rate after a period of three years after initial planting has been met. Evidence of completion was provided in the 2017 Compliance report (R21/03) 	<ul style="list-style-type: none"> R21/03_Emerge Associates 2017 ACR for EPBC 2008/4250
RFMP 2	Implement the Fire Management Plan (FMP) prepared by FirePlan WA (2013) across the development site.	C	<ul style="list-style-type: none"> Refer to RFMP 3 – RFMP 25. 	
RFMP 3	Planning for prescribed burning will involve determining and arranging the following: <ul style="list-style-type: none"> Fuel loadings Forecast weather conditions (taking into consideration smoke management) Fire management resources Traffic control and access Notification of nearby lot owners and residents 	NA	<ul style="list-style-type: none"> No prescribed burns were undertaken within the audit period. The Wooroloo Fire impacted the Botanic Loop area that was planned to be burned. Due to the rapid drying in spring, the burning window was too narrow to undertake prescribed burns (E21/02). 	<ul style="list-style-type: none"> E21/02_Bush Fire Control
RFMP 4	Experienced fire fighters and fire appliances will be used to carry out all hazard reduction burns. The Brigades will be coordinated by an experienced fire manager acting on behalf of Peet.	NA	<ul style="list-style-type: none"> No prescribed burns were undertaken within the audit period. The Wooroloo Fire impacted the Botanic Loop area that was planned to be burned. Due to the rapid drying in spring, the burning window was too narrow to undertake prescribed burns (E21/02). The East Swan Volunteer Bushfire Brigade is coordinated by John Mangini, the Deputy Chief Bush Fire Control Officer of the City of Swan Fire Services, and an experienced fire manager acting on behalf of Peet. 	<ul style="list-style-type: none"> E21/02_Bush Fire Control

2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan (continued)

Reference code	Action	Status	Comment	Evidence
RFMP 5	<p>The timing for hazard reduction burning within the development site will need to comply with the requirements of the <i>Bush Fires Act 1954</i> (BF Act);</p> <ul style="list-style-type: none"> Any future hazard reduction burning across the site will be prohibited during "Prohibited Burning Times" and on days when the Fire Danger Index reaches "Very High" to "Catastrophic". During "Restricted Burning Time" permits are required from the local Fire Control Officer for any burning under the BF Act. 	NA	<ul style="list-style-type: none"> The 2020/2021 City of Swan unrestricted burning period runs from 1 June until 30 September (R21/11). No prescribed burns were undertaken within the audit period. 	<ul style="list-style-type: none"> R21/11_Fire Season Guide CoS 2020/21
RFMP 6	Any hazard reduction burn will be carried out in the September to October period to achieve a low intensity burn and low scorch height.	NA	<ul style="list-style-type: none"> No prescribed burns were undertaken within the audit period. 	
RFMP 7	Any future hazard reduction burning will comply with smoke management guidelines as contained in the City of Swan firebreak and hazard reduction notice, <i>Your Guide to the 2014/15 Fire Season</i> .	NA	<ul style="list-style-type: none"> No prescribed burns were undertaken within the audit period. 	
RFMP 8	The hazard reduction burn will aim to reduce fuel loads by 60% across 80% of the proposed burn area.	NA	<ul style="list-style-type: none"> No prescribed burns were undertaken within the audit period. 	
RFMP 9	Should the undertaking of the prescribed burn be delayed due to unforeseen circumstances such as unsuitable weather conditions and the unavailability of personnel to conduct, DFES will be informed and the proposed prescribed burn be planned for the following year.	C	<ul style="list-style-type: none"> No prescribed burns were undertaken within the audit period. The planned Botanic Loop burn was to occur within the west block and a portion of the western periphery (northwest of Connemara Drive) (D21/07). Following advice received from the Deputy Chief Bush Fire Control Officer, the City of Swan is the controlling agency for the land concerned, as per the WA emergency management frameworks. As such, planning for this area did not directly involve DFES. Reporting on progress and delays was directed to the City of Swan (E21/14). Information on prescribed burns undertaken and achieved is shared between the City and DFES (E21/14). 	<ul style="list-style-type: none"> D21/07_Proposed Burn Botanic Loop E21/14_Avon Ridge Estate Prescribed Burns

2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan (continued)

Reference code	Action	Status	Comment	Evidence
RFMP 10	DFES and the City of Swan will be informed by Peet's appointed Fire Management Consultant (FMC) of the completion of prescribed burns.	C	<ul style="list-style-type: none"> As a part of the prescribed bushfire preparation, the appointed FMC notifies DFES/City of Swan of the proposed burn timing. The appointed FMC works in coordination with John Mangini, the Deputy Chief Bush Fire Control Officer for the City of Swan Fire Services. The City of Swan was therefore aware that no prescribed burns were undertaken. 	<ul style="list-style-type: none"> E21/14_Avon Ridge Estate Prescribed Burns
RFMP 11	Should prescribed burns be delayed or not undertaken as proposed within this 2017 RFMP a revised prescribed burn plan will be forwarded to DFES.	C	<ul style="list-style-type: none"> No prescribed burns were undertaken within the audit period. Following advice received from the Deputy Chief Bush Fire Control Officer, the City of Swan is the controlling agency for the land concerned, as per the WA emergency management frameworks. As such, planning for this area did not directly involve DFES. Reporting on progress and delays was directed to the City of Swan (E21/14). Information on prescribed burns undertaken and achieved is shared between the City and DFES (E21/14). 	<ul style="list-style-type: none"> D21/07_Proposed Burn Botanic Loop E21/14_Avon Ridge Estate Prescribed Burns
RFMP 12	The FMP will be supplied to all lot owners and there will be a notification on the title that the FMP must be adhered to and complied with.	C	<ul style="list-style-type: none"> Notifications of Titles and Protective (restrictive) Covenants which include the FMP continue to be implemented throughout development (D21/03) (D21/04). The purchaser information pack is provided to the lot owner detailing requirement to adhere to the FMP (L21/10). 	<ul style="list-style-type: none"> L21/10_Annexure G Purchaser Information D21/03 Restrictive Covenant N430755 D21/04 Restrictive Covenant O196652

2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan (continued)

Reference code	Action	Status	Comment	Evidence
RFMP 13	Private lot firebreaks will be installed by Peet/the developer prior to the clearance of lot titles and maintained by Peet/developer until the lot is sold to the standards outlined in the City of Swan Fire Hazard Reduction Notice. Following sale, the lot purchaser will be responsible for the maintenance of this firebreak in perpetuity.	C	<ul style="list-style-type: none"> The internal lot firebreaks installed by the developer have been built to a minimum width of 3 m in accordance with the City of Swan <i>Firebreak Notice</i> and the Avon Ridge Estate Bushfire Management Plan (BMP) and established immediately inside and adjacent to all external property boundaries (D21/06) (E21/15). The internal firebreaks continue to be maintained to a low-threat standard by the proponent until Lots are sold (L21/12) (D21/10). <i>Eldiaza Pty Ltd Coastal Firebreaks and Slashing</i> was contracted in October 2020 to install firebreaks in lots 313 and 314, and reinstate internal firebreaks around lots 261, 262 (stage 7), 275, 292 (Stage 11A) and 313, 314 and 316 (Stage 11B) of the development, as well as the balance (D21/06) (E21/15). 	<ul style="list-style-type: none"> L21/12_Tax Invoice Firebreak Maintenance D21/06 Eldiaza Pty Ltd Coastal Firebreaks and Slashing 2021 Firebreak maintenance invoice E21/15_RFMP Compliance D21/10_Trafficable Firebreaks

2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan (continued)

Reference code	Action	Status	Comment	Evidence
RFMP 14	<p>A strategic firebreak will be installed by Peet/the developer as development progresses within the site to ensure perimeter access for firefighting purposes is in place around all developed areas. The Strategic fire break will follow the standard outlined below:</p> <ul style="list-style-type: none"> • Minimum 6 m wide with a 4 m trafficable surface • Minimum 4 m vertical clearance over the full 6 m width • Where the strategic firebreak is within private lots, no fencing/gates or any form of obstruction is to cross the strategic firebreak. • At regular intervals (every 4 to 6 lots, approximately), a linking firebreak to the public road network will be provided. This link is to be located within a single lot and can be a part of the lot access (i.e. driveway) within each lot, or adjacent to the lot boundary as part of the internal firebreak. These links do not necessarily have to be located on the lot boundary, but must be accessible at all times. • A minimum 60 m-wide setback between the strategic firebreak and any future dwellings, which is facilitated through the designation of BEAs. 	C	<ul style="list-style-type: none"> • The strategic firebreak continues to be installed around the perimeter of Avon Ridge as development progresses to the minimum standard outlined in the City of Swan <i>Firebreak Notice</i> and the Avon Ridge Estate Bushfire Management Plan (BMP) (E21/15). • The strategic firebreak will continue to be maintained to the satisfaction of the City of Swan prior to the clearance of Lot titles and maintained until all affected Lots are sold. • <i>Eldiaza Pty Ltd Coastal Firebreaks and Slashing</i> was contracted in October 2020 to install firebreaks in lots 313 and 314, and reinstate internal firebreaks around lots 261, 262 (stage 7), 275, 292 (Stage 11A) and 313, 314 and 316 (Stage 11B) of the development. Firebreaks were reinstated around the perimeter of remaining landholdings (D21/06). 	<ul style="list-style-type: none"> • D21/06_Eldiaza Pty Ltd Coastal Firebreaks and Slashing 2021 Firebreak maintenance invoice • E21/15_RFMP Compliance • D21/10_Trafficable Firebreaks
RFMP 15	<ul style="list-style-type: none"> • Rural gates (minimum width 4.1 metres) will be installed to provide access from the strategic firebreak to the linking firebreak with a standard City of Swan key system (to prevent unauthorised vehicle access). These gates will be installed by Peet/developer prior to the clearance of lot titles. <p>Rural gates (minimum width 4.1 metres) will be erected where the strategic firebreak interfaces with a public road, with a standard City of Swan key system to prevent unauthorised vehicle access. These gates will be installed by Peet/developer prior to the clearance of lot titles. Signage will be provided where strategic firebreak meet public roads, indicating the FSARs are for "Fire Access Only."</p>	C	<ul style="list-style-type: none"> • <i>Treacy Fencing & Landscaping</i> was contracted in February, March and June 2021 to supply and install rural gates within Stages 11A and 11B of the development. Gates were installed for several Lots including 275, 292, 310, 311, 313, 314 and 316 (D21/11). • Signage is provided for fire access tracks by the proponent (D21/08) (E21/15). 	<ul style="list-style-type: none"> • D21/08_Fire Service Access Signage • E21/15_RFMP Compliance • D21/11_Treacy Fencing Invoice

2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan (continued)

Reference code	Action	Status	Comment	Evidence
RFMP 16	Peet will provide lot owners purchaser information as part of the contract of sale which explains the requirement of BPZ's and HSZ's, the role of the FMC and other fire management information, including the City of Swan maintenance of firebreaks under Section 33 of the <i>Bush Fires Act 1954</i> .	C	<ul style="list-style-type: none"> Information regarding the clearing requirements continues to be provided in the purchaser information pack (L21/10). 	<ul style="list-style-type: none"> L21/10_PEET Annexure G - Purchaser Information
RFMP 17	Peet will organise and fund annual information sessions for Avon Ridge Estate residents attended by the FMC and representatives from DFES, the East Swan Volunteer Bushfire Brigade and City of Swan over three years. Information on how to form the Avon Ridge Estate BRG as well as fuel hazard reduction and bushfire readiness training and support by the agencies will be provided.	C	<ul style="list-style-type: none"> A bushfire information session was not completed during this reporting period. Two previous workshops have been completed, on 8 April 2017 (D21/05) and 14 December 2017 (D21/04). Due to poor attendance additional workshops have not been progressed. 	<ul style="list-style-type: none"> D21/05_Bushfire Safety Consulting 2017.12.14 Record of Avon Ridge BRG Session D21/04_Emerge Associates 2017.04.08 Record of Avon Ridge BRG Session
RFMP 18	A Building Protection Zone of minimum of 20 metres is to be constructed around all buildings and must be within the Lot boundaries. BPZs are to be installed prior to any dwelling construction commencing and are to be part of the Building Licence approval. Bushfire fuel loadings must be maintained to a maximum of 2 tonnes/ha.	C	<ul style="list-style-type: none"> Restrictive Covenants addressing Building Protection Zone and Hazard separation zone requirements, in accordance with the RFMP, continue to be implemented throughout the development (D21/03) (D21/04). Lot owners are required to maintain their BPZ's and HSZ's in accordance with the Protective (restrictive) Covenants. Lot owners are informed of their obligations through the purchaser information pack provided at the time of the lot settlement. The Fire Management Consultant inspects the quality of the BPZ and HSZ establishment after initial vegetation thinning has occurred within the lot. 	<ul style="list-style-type: none"> L21/10_PEET Annexure G - Purchaser Information D21/03 Restrictive Covenant N430755 D21/04 Restrictive Covenant O196652
RFMP 19	The Hazard Separation Zone will built to a width determined at the stage of building site assessment (at least a further 30 m beyond the BPZ). HSZs are to be installed by the landowner prior to construction of a dwelling on the site. Bushfire fuel loadings must be maintained to a maximum of 4-6 tonnes/ha.	C	<ul style="list-style-type: none"> Refer to RFMP 18. 	

2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan (continued)

Reference code	Action	Status	Comment	Evidence
RFMP 20	<p>Peet will provide a service to purchasers to have the building envelope, BPZ and HSZ within their lot inspected by a qualified FMC (at Peet's cost) to ensure compliance prior to the commencement of any in lot clearing. The FMC will undertake the following assessments:</p> <ul style="list-style-type: none"> • BAL (Bushfire Attack Level) rating assessment in accordance with AS3959. • Pre-clearing checklist to identify trees and shrubs requiring vegetation modification. • Post-clearing checklist to confirm vegetation modification has been undertaken. 	C	<ul style="list-style-type: none"> • 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. • The Fire Management Consultant has provided pre-thinning Bushfire Attack Level Assessment Report and Management Statements for three (3) Lots during this audit period (R21/08) (R21/09) (R21/10). • The Fire Management Consultant has provided post-thinning Asset Protection Zone Reports for zero (0) Lots during this reporting period. • The Fire Management Consultant verbally provides post-thinning advice to homeowners in regard to the quality of the APZ establishment (E21/13) 	<ul style="list-style-type: none"> • R21/08_Bushfire Safety Consulting_Lot 274 Botanic Loop Brigadoon Bushfire Attack Level Assessment Report • R21/09_Bushfire Safety Consulting_Lot 143 Connemara Drive Brigadoon BAL report • R21/10_Bushfire Safety Consulting_Lot 316 Botanic Loop Brigadoon BAL report • E21/13_Verbal advice to homeowners
RFMP 21	<p>Lot owners will need to maintain their fuel loadings within lots as follows:</p> <ul style="list-style-type: none"> • Within the BPZ at less than or equal to (\leq) 2 tonnes per hectare (t/ha). • Within the HSZ at \leq 4 to 6 t/ha. • Beyond the HSZ at \leq 6 to 8 t/ha. 	C	<ul style="list-style-type: none"> • Refer to RFMP 18 and 19. 	
RFMP 22	<p>Lot owners will be required to reduce their fire hazards prior to the summer fire season and will need to undertake their fuel reduction in conjunction with the maintenance of firebreaks, which are required to be cleared under Section 33 of the <i>Bush Fires Act 1954</i>.</p>	C	<ul style="list-style-type: none"> • Lot owners are required to maintain their BPZ's, HSZ's, and firebreaks in accordance with the restrictive covenants and City of Swan <i>Firebreak Order</i>. • Information regarding the clearing requirements for fuel reduction continues to be provided in the purchaser information pack. 	<ul style="list-style-type: none"> • L21/10_PEET Annexure G - Purchaser Information
RFMP 23	<p>All habitable buildings will be setback a minimum of 60 m from the edge of the Wetland and Creek Line Conservation area boundary.</p>	NA	<ul style="list-style-type: none"> • Building envelopes are set back 60 m from the edge of the Wetland and Creek Line Conservation as set out in the Avon Ridge Estate Structure plan (R21/14). 	<ul style="list-style-type: none"> • R21/14_PEET Brigadoon Structure Plan

2021 Compliance Report for EPBC Approval 2008/4250

Avon Ridge Estate, Brigadoon



Table A 1: Conformance with Revegetation and Fire Management Plan (continued)

Reference code	Action	Status	Comment	Evidence
RFMP 24	All habitable buildings located adjacent to the Wetland and Creek Line Conservation Area are to be constructed to BAL 29 (BAL 29 has a heat Flux of less than 19 Kw/m2 to 29 Kw/m2).	NA	<ul style="list-style-type: none"> Refer to RFMP 23. 	
RFMP 25	All habitable buildings in lots that are located adjacent to the PR Reserve to the west and north and the Southern POS area to the south are to be setback a minimum of 60 metres from the strategic Firebreaks or fire service access ways	NA	<ul style="list-style-type: none"> Building envelope areas are set back 60 m from the PR Reserve to the west and north and the Southern POS area to the south as set out in the Avon Ridge Estate Structure plan (R21/14). 	<ul style="list-style-type: none"> R21/14_PEET Brigadoon Structure Plan

Appendix B

Black Cockatoo Habitat Tree Update



Document Reference: EP13-041(28)—130 RAW

Emerge contact: Ashley Bird

17 June 2021

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Attention: Office of Compliance
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Department of Agriculture, Water and the Environment
GPS Box 787
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Delivered by email to: compliance@environment.gov.au

To whom it may concern,

UPDATE ON BLACK COCKATOO HABITAT TREES – AVON RIDGE EPBC APPROVAL 2008/4250

Emerge Associates previously notified the Department of Agriculture, Water and the Environment (DAWE) of the portion of Avon Ridge Estate in Brigadoon (EPBC 2008/4250) impacted by the Perth Hills Bushfires (The Wooroloo bushfire) in January - February 2021. This correspondence serves to notify DAWE of the results of an inspection of current status of potential breeding habitat trees for black cockatoos within part of the Estate.

Background

Approval pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) was granted for the above proposal on the 8th of October 2009, subject to a number of conditions (EPBC 2008/4250). Variations to the approval were granted in 2011, 2017 and 2019. Condition 5 and Condition 10 directly relate to the protection of potential black cockatoo habitat trees as detailed below.

Condition 5:

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.

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:

- a) they are located within the house site;*
- b) they are located within the Building Protection Zone; and*
- c) they are required to be removed for Fire Management purposes as advised by a qualified Fire Management Consultant(s).*

Condition 10:

The Construction Management Plan must clearly demonstrate that:

- a) all habitat trees at Attachment 4 and 4A are to be retained in perpetuity; and*
- b) all trees to remain that are greater than 500 mm DBH within the subdivision area (as at Attachment 3) 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.*
- c) 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;*
- d) 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*
- e) 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.*

This letter specifically relates to the current status of 35 potential black cockatoo breeding habitat trees located within lots where notifications have not yet been placed on title (including the balance lot) and lots that are still within Peet's ownership.

Survey for impacts

A survey of the 35 habitat trees was undertaken in April and June 2021, as detailed in **Attachment 1**. Twenty of these trees were considered to still meet the definition of a habitat tree and 15 trees were no longer considered to be habitat trees (either due to the bushfire or other natural causes). This includes one tree that was noted to have been destroyed by a previous bushfire, as detailed in the 2019 compliance monitoring report for EPBC 2008/4250 (Emerge Associates 2019).

Future actions

The survey detailed in **Attachment 1** indicates that 15 of the trees previously identified as habitat trees in EPBC 2008/4250 are no longer capable of forming suitable breeding hollows.

Therefore, the habitat trees in *Attachment 4 and 4A* of EPBC 2008/4250 are no longer current and Condition 5 and Condition 10 are unable to be adhered to. We request that *Attachment 4 and 4A* of EPBC 2008/4250 are updated to reflect the current on-site conditions recorded during the above surveys. If DAWE is accepting of this approach, we will provide revised versions of *Attachment 4 and 4A*.

Summary and closing

We trust that this letter and attachment provides the Department with sufficient information regarding the recommended changes to Condition 5 and Condition 10 of EPBC 2008/4250.

If you have any questions or require further information, please do not hesitate to contact the undersigned.

Yours sincerely
Emerge Associates



Ashley Bird

PRINCIPAL ENVIRONMENTAL CONSULTANT, TEAM LEADER - ENVIRONMENTAL PLANNING & MANAGEMENT

Encl: Attachment 1 Black Cockatoo Habitat Tree Review – Part Avon Ridge Estate, Brigadoon (Emerge Associates 2021)

References

Emerge Associates 2019, *2019 Compliance Report for EPBC Approval 2008/4250 - Avon Ridge Estate, Brigadoon*, EP13-041(24)--112 BRB, Version A.

Attachment 1

Black Cockatoo Habitat Tree Review – Part Avon Ridge Estate,
Brigadoon (Emerge Associates 2021)



Document Reference: EP13-041(28)—129 MS

Emerge contact: Rachel Weber

17 June 2021

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Emerge Environmental Services Pty Ltd ABN
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Attention: Kasia Majewski
Peet Limited
Level 7, 200 St. Georges Terrace
Perth WA 6000

Delivered by email to: Kasia.Majewski@peet.com.au

Dear Kasia,

BLACK COCKATOO HABITAT TREE REVIEW – PART AVON RIDGE ESTATE, BRIGADOON

1 INTRODUCTION

Emerge Associates were engaged by Peet Limited Pty Ltd (Peet) to undertake a review of potential breeding habitat for threatened species of black cockatoo within part of Avon Ridge Estate in Brigadoon (hereafter referred to as 'the site'). The site comprises:

- the balance landholding
- lots where notifications were not placed on title (nos. 313, 314, 315, 316)
- lots still within Peet's ownership (no. 262).

The site is located approximately 12 km north-east of the Perth Central Business District within the City of Swan. The site is approximately 75.65 hectares (ha) in size and is bounded by residential lots and native bushland to the east and south and native bushland to the west and north. The Wooroloo bushfire in February 2021 extended into part of the Avon Ridge Estate. The location and extent of the site and the bushfire is shown in **Figure 1**.

The Avon Ridge Estate development was referred under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and received approval subject to a number of conditions (EPBC 2008/4250). Condition 5 of the approval states that all potential breeding habitat trees for black cockatoos (as designated at Attachment 4 and 4A of the approval) are to be protected in perpetuity via a Notification on Title.

1.1 Purpose and scope of work

The scope of work was specifically to review the status of black cockatoo habitat trees (diameter at breast height ≥ 50 cm) previously identified in the EPBC approval conditions that were located within the site. The purpose of this review was to determine whether any of these habitat trees were damaged or destroyed as a result of the February 2021 Wooroloo bushfire.

As part of this scope of work, the following tasks were undertaken:

- A field survey to assess all habitat trees within the site for impacts as a result of the bushfire.
- Documentation of the survey methodology and results into a report.

2 METHODS

2.1 Field survey

Two ecologists from Emerge visited the site on 20 April and 17 June 2021 to undertake an inspection of habitat trees within the site.

During the survey each habitat tree was individually photographed and assessed for potential impacts. All habitat trees that were still present were tagged with a unique number identifier tag.

A habitat tree is generally defined as a native eucalypt that is typically known to support black cockatoo breeding such as marri, jarrah, blackbutt, tuart, wandoo, salmon gum or to a lesser extent flooded gum, with a DBH ≥ 50 centimeters (cm) or DBH ≥ 30 cm for wandoo or salmon gum (DSEWPaC 2012).

Each habitat tree was assigned to a category listed in **Table 1** below.

Table 1: Definition of impact levels in relation to habitat trees in the site

Category	Definition
Habitat tree	The tree was either not impacted or the impacts were minor and the tree still meets the definition of a habitat tree.
No longer a habitat tree	The tree has been completely destroyed or part of the tree is still present, but it no longer has the potential to form hollows suitable for black cockatoos.

3 RESULTS AND DISCUSSION

A total of 35 habitat trees were inspected within the site during the field survey. Twenty of these were considered to still meet the definition of a habitat tree and 15 trees were no longer considered to be habitat trees. Of the 15 trees, 12 had been completely destroyed and three were still standing.

The three standing trees no longer meet the definition of a habitat tree as they were dead and do not have trunks or branches above 3 metres (m) in height that may form a suitably sized hollow for breeding by black cockatoos. This is because for a hollow to be considered suitable for breeding by black cockatoos, it must be located at least 3 m from the ground (Saunders 1979b; Johnstone and Storr 1998; Groom 2010; Saunders 2014) and be located in a trunk or branch that is generally large enough to contain a hollow that has a floor diameter of at least 40 cm and depth of 50-200 cm such that it could house an adult black cockatoo and nestlings (Saunders 1979a; Johnstone and Storr 1998; Saunders 2014; DPaW 2015).

One of the 12 trees that had been completely destroyed, two trees had been impacted by causes other than the Wooroloo bushfire (numbers 8 and 69). Tree number 8 was likely damaged due to a previous bushfire, as shown in **Plate 1**. This tree was previously identified as being destroyed in 2019 (Emerge Associates 2019). Tree number 69 was likely damaged due to natural decay and/or storm damage as shown in **Plate 2**.

A summary of the results of the survey is provided in **Table 2** below and the locations of the trees are shown in **Figure 2**. Representative photographs of trees from each category are provided in **Plate 2** to **Plate 4**.

Table 2: Summary of the status of habitat trees in the site

Tree category	Number of trees
Habitat tree	20
No longer a habitat tree	15 [#]
Total	35

[#]Includes tree numbers 8 and 69



Plate 1: Tree number 8 with damage likely due to a previous fire. This tree is no longer considered a habitat tree.



Plate 2: Tree number 69 with likely decay/storm damage. This tree is no longer considered a habitat tree.



Plate 3: Tree number 60 almost completely burnt. This tree is no longer considered a habitat tree.



Plate 4: Remainder of tree number 45. This tree is no longer considered a habitat tree.



Plate 5: Tree number 53 with minor fire damage. This tree is considered to still meet the definition of a habitat tree.

Summary and closing

We trust that this letter and its attachments provide you with sufficient information regarding the status of habitat trees within the site following the Wooroloo bushfire in 2021. Should you have any questions regarding the content of this letter, please do not hesitate to contact the undersigned.

Yours sincerely
Emerge Associates

Rachel Weber

SENIOR ENVIRONMENTAL CONSULTANT, TEAM LEADER - ECOLOGY

Encl: Figure 1: Site Location
Figure 2: Black Cockatoo Habitat Trees

General References

- Department of Parks and Wildlife (DPaW) 2015, *How to design and place artificial hollows for Carnaby's cockatoo*, Perth.
- Department of Sustainability Environment Water Populations and Communities (DSEWPaC) 2012, *EPBC Act referral guidelines for three threatened black cockatoo species: Carnaby's cockatoo (endangered) *Calyptorhynchus latirostris*, Baudin's cockatoo (vulnerable) *Calyptorhynchus baudinii* and Forest red-tailed black cockatoo (vulnerable) *Calyptorhynchus banksii naso**, Commonwealth of Australia, Canberra.
- Emerge Associates 2019, *2019 Compliance Report for EPBC Approval 2008/4250 - Avon Ridge Estate, Brigadoon*, EP13-041(24)--112 BRB, Version A.
- Groom, C. 2010, *Artificial Hollows for Carnaby's Black Cockatoo: An investigation of the placement, use, monitoring and maintenance requirements of artificial hollows for Carnaby's black cockatoo*, Department of Environment and Conservation, Perth.
- Johnstone, R. E. and Storr, G. M. 1998, *Handbook of Western Australian Birds. Volume 1 - Non-Passerines (Emu to Dollarbird)*, Western Australian Museum, Perth.
- Saunders, D. A. 1979a, *The Availability of Tree Hollows for Use as Nest Sites by White-tailed Black Cockatoos*, Australian Wildlife Research, 6: 205-216.
- Saunders, D. A. 1979b, *Distribution and taxonomy of the white-tailed and yellow-tailed Black-Cockatoos *Calyptorhynchus* spp.*, Emu, 79(215-227).
- Saunders, D. A., Mawson, P.R., Dawson, R. 2014, *Use of tree hollows by Carnaby's Cockatoo and the fate of large hollow-bearing trees at Coomallo Creek, Western Australia 1969-2013.*, Biological Conservation, 177: 185-193.

Figures



Figure 1: Site Location

Figure 2: Black Cockatoo Habitat Trees

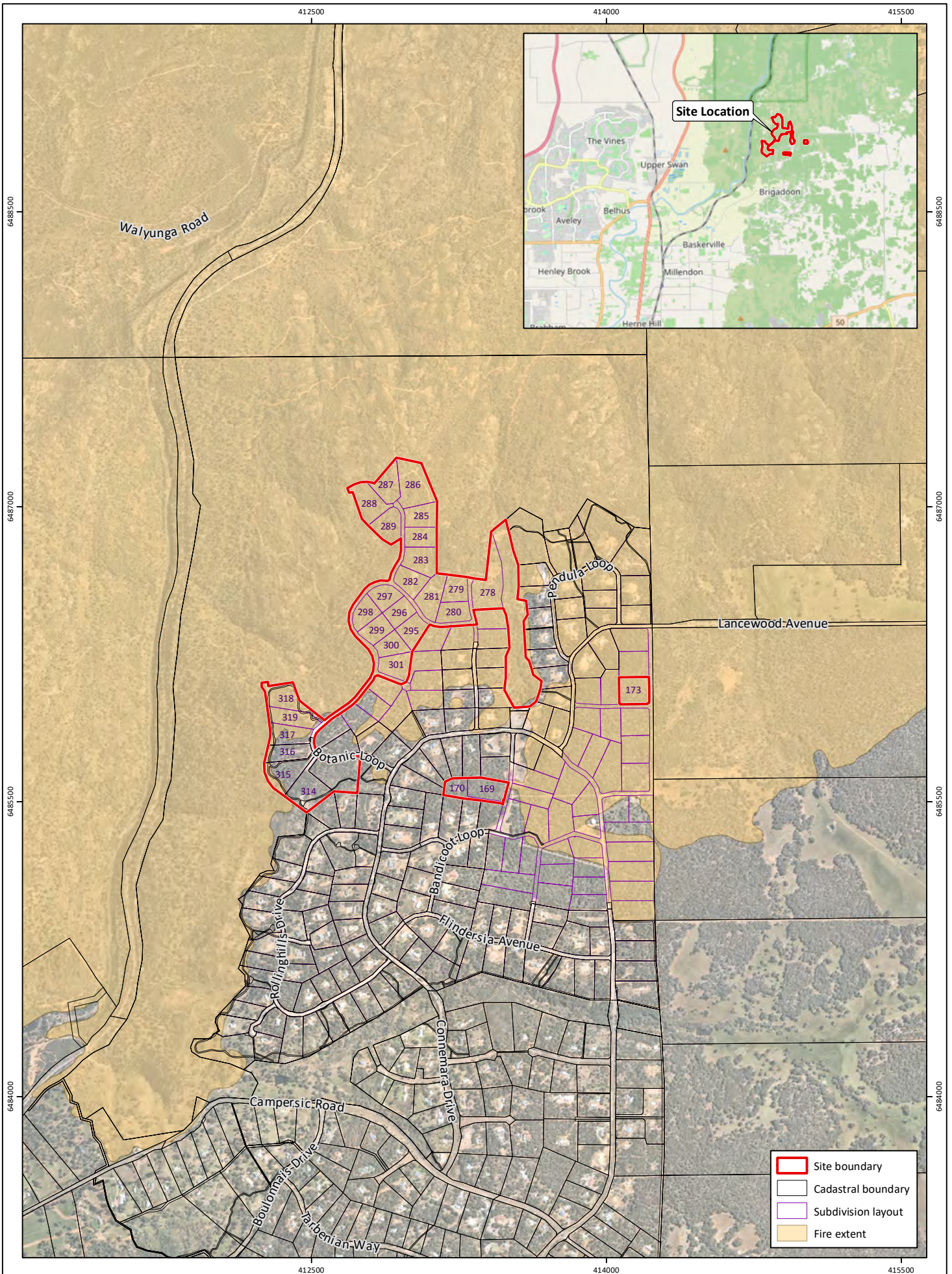


Figure 1: Site Location

Project: Black Cockatoo Habitat Tree Review
Part Avon Ridge Estate, Brigadoon

Client: Peet Limited Pty Ltd

Plan Number: EP13-041(28)-F144
Drawn: GAR
Date: 08/02/2021
Checked: MS
Approved: RAW
Date: 17/06/2021



0 200 400 600
Metres
Scale: 1:25,000@A4
GDA 1994 MGA Zone 50



While Emerge Associates makes every attempt to ensure the accuracy and completeness of data, Emerge accepts no responsibility for externally sourced data used

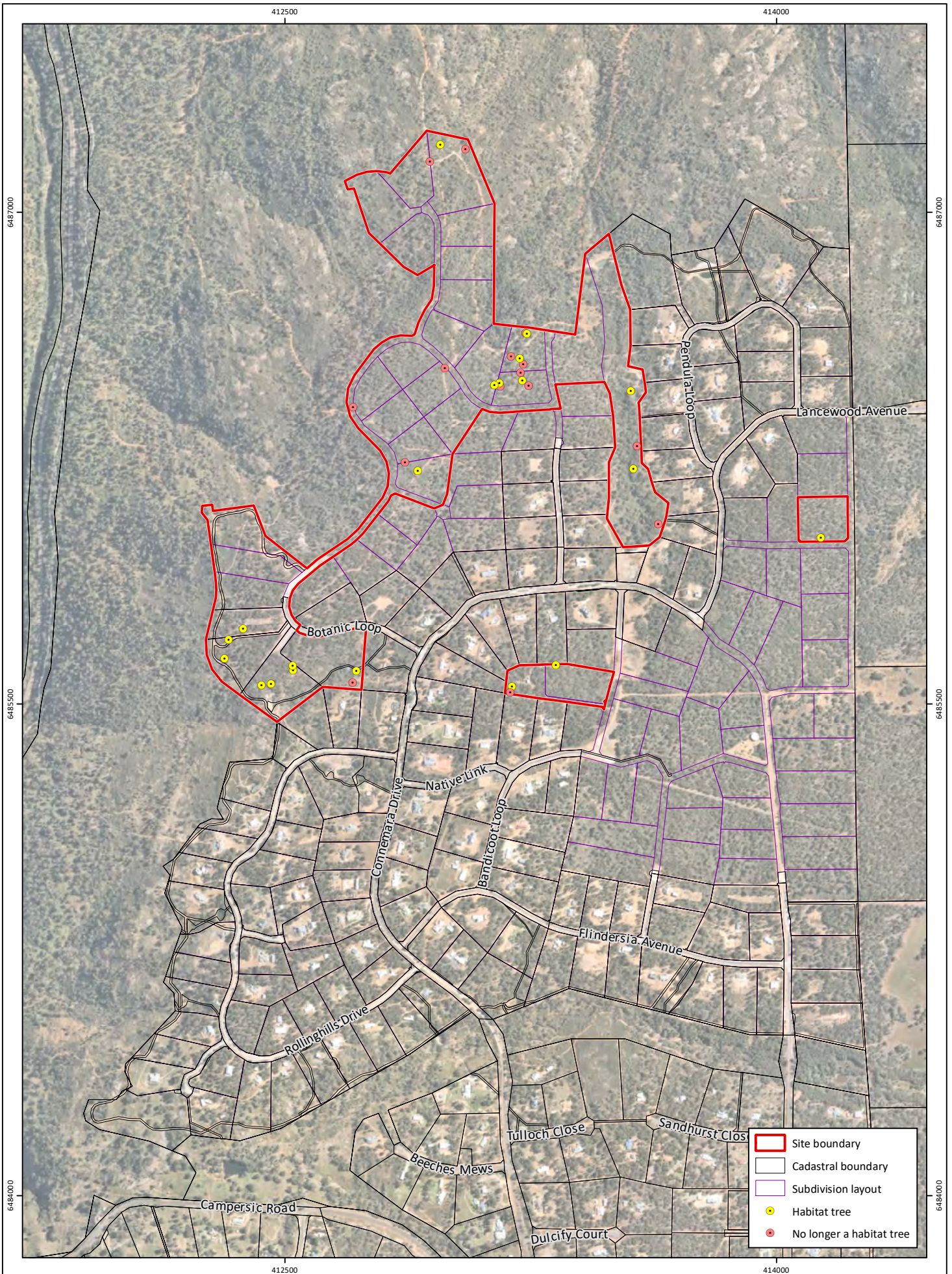
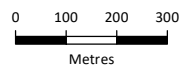


Figure 2: Black Cockatoo Habitat Trees

Project: Black Cockatoo Habitat Tree Review
Part Avon Ridge Estate, Brigadoon

Client: Peet Limited Pty Ltd

Plan Number: EP13-041(28)-F145
Drawn: GAR
Date: 07/05/2021
Checked: MS
Approved: RAW
Date: 17/06/2021



Scale: 1:15,000@A4
GDA 1994 MGA Zone 50

