

# NV Heritage Agreements

## Frequently Asked Questions

### INFORMATION SHEET 43

Updated November 2013

#### **What is a Heritage Agreement?**

A Native Vegetation Heritage Agreement is a permanent, legally binding contract between a landholder and the Minister for Environment, Sustainability and Conservation placed on a property's title for the protection of an area of native vegetation, ensuring native plants and wildlife on the property are protected forever. It is legally recognised under the *Native Vegetation Act, 1991*.

Since the introduction of Heritage Agreements in 1980, the Native Vegetation Council has assisted over 1500 landholders to ensure the long-term protection of over 600,000ha of the state's original vegetation.

#### **Background to Heritage Agreements**

The Heritage Agreement Scheme began in 1980 as a result of over-clearance of native vegetation in the agricultural region of the State. Landholders were offered financial payment for loss of production in return for entering into a Heritage Agreement to conserve their bushland in perpetuity.

When the Scheme commenced in 1980, Heritage Agreements were constituted under the then *South Australian Heritage Act, 1978 – 1980*. The incentives offered then for entering into a Heritage Agreement were rate and taxes relief for the Heritage Agreement area and fencing (to stock proof) the area if needed.

In the first 2 years of the Scheme, over 450 landholders expressed an interest in Heritage Agreements involving approximately 15,000 hectares of land. Clearance remained unabated, and it was apparent that the Heritage Agreement Scheme as it existed then would not slow clearance to the extent needed to maintain biodiversity goals.

The next major change to the Heritage Agreement Scheme came about with the introduction of the *Native Vegetation Management Act, 1985*, which allowed for financial assistance to be paid to landholders (as well as the rates and taxes rebate, and the allowance for fencing). The financial assistance was based on the reduction in market value of a component of the land as a result of a refusal to clear native vegetation, if the land was placed under Heritage Agreement (some additional rules applied). This provision significantly increased the area under Heritage Agreement in the State; indeed some 750 Heritage Agreements were entered into during the operation of the *Native Vegetation Management Act, 1985*.

The Scheme changed again in 1991, with the replacement of the *Native Vegetation Management Act, 1985* with the *Native Vegetation Act, 1991*. The form of financial incentive available under the previous Act was changed. The provision of financial assistance was no longer linked to a refusal to clear native vegetation.

The Act also allows for assistance to be given to the Heritage Agreement landholder for managing the land for the benefit of conservation. The Native Vegetation Council has established a Heritage Agreement Grant Scheme that applies to encourage and assist Heritage Agreement landholders with their conservation management works on Heritage Agreement land.

The existing incentives of relief from rates and taxes for the Heritage Agreement land and for the provision of stock-proof (and sometimes other) fencing still apply. The Scheme aims to encourage farmers and other private landholders through incentives to enter into a Heritage Agreement to retain and manage significant areas of native vegetation on their land.

The majority of new Heritage Agreement applications are received voluntarily from landholders who are conservation minded and interested in the natural value of their scrub. A small percentage of Heritage Agreements are a 'set aside' or offset resulting from an application to clear native vegetation, or from an application to subdivide a block of land with vegetation containing very high biodiversity value.

#### **Administration of the Heritage Agreement Scheme**

The Heritage Agreement Scheme is administered by the Native Vegetation Incentives Program (NVIP), Native Vegetation Council (NVC) and the Native Vegetation Management Unit, Department of Environment, Water and Natural Resources (DEWNR).

The NVC is an advisory body to the Minister for Environment, Sustainability and Conservation on all Heritage Agreement matters and according to Section 23(5) of the *Native Vegetation Act 1991*, the Minister must not enter into, vary or terminate a Heritage Agreement without first consulting and obtaining the approval of the NVC.



## ***Establishing a Heritage Agreement***

### **What land can be put under a Heritage Agreement?**

The property may form part of an important wildlife corridor, or act as buffer to a neighbouring National Park. Assessment of a proposed Heritage Agreement takes into account factors such as the diversity of native flora and fauna, the presence of rare and endangered species, the size and shape of the area, weed infestation and management required to maintain the ecological integrity of the site.

Land is eligible for a Heritage Agreement if:

- The land is held under fee simple, or dedicated under the care and control of a Council
- The land is determined to be of high biological value
- The Native Vegetation Council has agreed that the land should be placed under Heritage Agreement

Land with the highest biological value is given preference for inclusion as a Heritage Agreement area.

### **What costs are involved with Heritage Agreements?**

For Heritage Agreements voluntarily entered into by a landholder, the NVC currently meets all costs associated with the negotiation, assessment, drafting and registration of the Heritage Agreement.

### **How long does it take to enter into a Heritage Agreement?**

Generally between 18 and 24 months, depending principally on region but partly also whether the landholder is entering into a full section Heritage Agreement or not.

Application forms are available from: [http://www.environment.sa.gov.au/managing-natural-resources/Native\\_vegetation/Managing\\_native\\_vegetation/Heritage\\_Agreement\\_Scheme](http://www.environment.sa.gov.au/managing-natural-resources/Native_vegetation/Managing_native_vegetation/Heritage_Agreement_Scheme)

### **Why does it take so long?**

The process of establishing a Heritage Agreement involves several different agencies and crosses as many different disciplines. The area proposed for a Heritage Agreement must be assessed to see if it meets these very different criteria:

- It must have significant conservation value
- If over a portion of the land, a special "GRO" plan must be prepared that meets Surveyor-General criteria
- The document and plan must meet legal standards

Although it is a slow process, the Heritage Agreement is to last in perpetuity, and landholders need to be committed to the idea. None of the costs of putting the Heritage Agreement in place are passed on to the landholder, and incentives are available to Heritage Agreement owners that are not available through other means.

### **How long does a Heritage Agreement last?**

Once established a Heritage Agreement lasts in perpetuity. Heritage Agreements are placed on a property's title so remain regardless of any change in property ownership.

### **Do Heritage Agreements cover the whole property?**

Every Heritage Agreement is unique. Some Heritage Agreements cover the whole property, some only part of the property.

## Management of Heritage Agreement areas

### Who is responsible for managing a Heritage Agreement area?

The landholder continues to own and manage their land once a Heritage Agreement is in place. Expert management advice is available from the Department of Environment, Water and Natural Resources Bush Management Advisors or Accredited and General Consultants. The Native Vegetation Incentives Program can also direct landholders to grants and incentives to help manage their Heritage Agreements.

### What is a Native Vegetation Management plan?

The Native Vegetation Council (NVC) **recommends** that Native Vegetation Management Plans are prepared for Heritage Agreement areas.

A Native Vegetation Management Plan is a tool intended to provide sufficient information for landholders to protect and manage their land. It considers all the native vegetation in the Heritage Area and additionally can include native vegetation outside of the area (if applicable).

By considering all the native vegetation on the property, you will be able to consider a wider range of property management options. The Native Vegetation Management Plan can serve as one layer of a 'Whole of Property/Business Management Plan', or, as a stand-alone document.

It is in a landholder's interest to prepare a management plan to guide day-to-day management and assist in decision-making. A management plan can also be a valuable tool to support Local, State and Commonwealth approval processes.

A management plan in general should comprehensively describe the place, specify the objectives, policies and principles that will govern the management of the area's values and provide guidance on the preparation of management activities to ensure that there are no adverse impacts on any values. It may also identify areas and items that do not embody values or that are intrusive, and allow these to be removed or altered without affecting the values of the place,

### Why is having a Native Vegetation Management Plan for my Heritage Agreement important?

The preparation of a Native Vegetation Management Plan for a Heritage Agreement plays an important role in establishing an easy to understand and implement management structure for the land protected under the Heritage Agreement.

### Who prepares the Native Vegetation Management Plan?

The management plans are developed by the applicant (or a consultant engaged by the applicant who is accredited in BushRAT assessment methodology), and maybe with financial or other assistance from the Native Vegetation Management Unit.

A list of NVC Accredited and General Consultants can be found at:

[http://www.environment.sa.gov.au/managing-natural-resources/Native\\_vegetation/Managing\\_native\\_vegetation/Clearance\\_guidelines](http://www.environment.sa.gov.au/managing-natural-resources/Native_vegetation/Managing_native_vegetation/Clearance_guidelines)

### About the Native Vegetation Management Plan Template

Native Vegetation Management Plan templates are available from the Native Vegetation Management Unit.

Note that the data required to complete Section 2 of the plan has often been already collected as a part of the Heritage Agreement assessment. To assist with Sections 1 and 3 entitled '**Property Details**' and '**Management and Monitoring**', applicants can also seek the advice of their local NRM Officer, or Bush Management Advisor.



## Removal/Changes to Heritage Agreements

### Can a Heritage Agreement be changed?

The Native Vegetation Council will only consider variations to the terms of a Heritage Agreement if the variations improve the land's conservation values or pose no threat to them. Every proposal to amend a Heritage Agreement requires the approval of the NVC, the landholder and the Minister.

The Heritage Agreement document states that the landholder shall not, without the written consent of the Minister, undertake or permit within the Heritage Agreement area the clearance of native vegetation; the planting of vegetation, whether native or exotic; the construction of a building or other structure; the grazing of stock or any other activity that, in the opinion of the Minister, is likely to damage, injure or endanger the native vegetation or native fauna within the Heritage Agreement area.

On occasion where there is biodiversity gain, certain activities (such as revegetation of degraded areas or pulse grazing for weed control) may occur with the written consent of the Minister or with an approved management plan. In such cases, the Minister will be requested to sign and approve a 'Letter of Consent'. As with all Heritage Agreement business, the advice of the NVC is sought beforehand.

### I am a new owner and I don't want the Heritage Agreement. Can it be removed from the land?

It is legally possible to terminate a Heritage Agreement, by agreement between the two parties to the Agreement, i.e. the landholder and the Minister. A new owner not wanting the Heritage Agreement is not grounds for termination. The Minister must receive direction from the Native Vegetation Council for a Heritage Agreement to be terminated. However, historically, no Minister has agreed to a termination, particularly not based on an owner's dislike of the Heritage Agreement. Termination has occurred in some few instances where one Heritage Agreement is terminated and contemporaneously replaced with another, or where Heritage Agreement land has become part of the National Parks system.

### Can I exclude an area from the Heritage Agreement?

A Heritage Agreement exists in perpetuity and is not easily removed or changed. Agreement must first be reached with the Native Vegetation Council and then consent granted by the Minister. The Native Vegetation Council would usually only agree to removing an area from an existing Heritage Agreement if there is a significant environmental gain to be made e.g. another larger area, or an area with a significantly higher conservation status is placed additionally under the Heritage Agreement to offset against the smaller area to be removed from the Heritage Agreement. Native Vegetation Council policy states that: *Council may recommend for approval the exclusion of a house site or other exclusion zone from an area under a Heritage Agreement in the following circumstances:*

- *the Heritage Agreement is of a voluntary type and was established before 5 April 1993 over a FULL section or allotment; and*
- *the site can be established (in Council's opinion) without clearance of sensitive or important native vegetation; or*
- *where, in the case of any Heritage Agreement, the original boundary definition and rationalisation meant that a suitable area of cleared land was included in the Heritage area such that the site can be accommodated without any clearance of native vegetation.*

Should a landholder wish to exclude an area for a house site, the local Council, along with the Native Vegetation Council will assess potential sites, and in some cases may refuse the exclusion. If there is sufficient cleared land outside of the Heritage Agreement area, it is highly unlikely exclusion would be permitted within the Heritage Agreement. It is important to note that NVC approval to exclude a house site from an existing Heritage Agreement does not constitute building approval (this is determined by local Council.)

Any landholder wishing to exclude an area for a dwelling, should first seek approval from their local Council, and as part of the normal process, the NVC will be consulted for an appropriate site if necessary. Any change to the Heritage Agreement usually requires a new GRO plan. The landholder and the Minister must also sign a legal document to formally change the original Heritage Agreement. This document is registered against the owner's title.

Changing a Heritage Agreement can be time-consuming and generally takes between 12-18 months.

**House sites or other exclusion zones should be created at the time (or before) the Heritage Agreement comes into effect.**



## **Activities in a Heritage Agreement**

### **What does a Heritage Agreement prohibit?**

A standard Heritage Agreement generally prohibits native vegetation removal; introduction of non-indigenous vegetation; grazing by livestock; deterioration in the quality, flow or quantity of water; introduction of non-indigenous fauna i.e. pets; removal of wood or timber; removal or disturbance of rocks or soil, including cultivation; the application of fertilizer; pasture establishment, and recreational use of trail bikes and other vehicles. However, these standard restrictions can be modified in certain circumstances where the NVC and The Minister are satisfied that the conservation of the land will not be adversely affected.

### **Can I drive through my Heritage Agreement?**

You can drive through a Heritage Agreement on tracks that are marked on ground or are obvious on the General Registry Office (GRO) plan of the Heritage Agreement.

### **Can I make new walking or vehicle tracks?**

Only with permission from the NVC and the Minister, and again both would look at the balance between the environmental loss and gain.

### **Can I re-clear existing tracks?**

Yes, if these are marked as a track to remain open on the GRO plan. If these are not marked on the plan, permission must be sought from the NVC and the Minister.

### **What can I do within my Heritage agreement? Ride horses, take dogs, bring friends, camp, take eco tours, and bring in a caravan?**

The Heritage Agreement requires that the native flora and fauna on the area are protected. Each of the above activities may be damaging to native flora and fauna, depending on their intensity, timing and location within the Heritage Agreement. Alternately there may also be an environmental gain for the Heritage Agreement area if the landholder undertakes these activities, in terms of learning about their Heritage Agreement. Most activities such as riding horses (on defined tracks), walking dogs, friends visiting the Heritage Agreement are not prohibited from HA's, unless their intensity and location are damaging native flora and fauna. These activities would be accepted at a low level within a Heritage Agreement, but would not be actively encouraged.

Any adverse effects, such as the spreading of weeds via horse dung would be expected to be controlled. Camping (other than low impact or bush camping), Eco tourism and bringing in a caravan require approval from the Native Vegetation Council (and the Minister) before they can be undertaken within a Heritage Agreement, because of the potential damage to flora and fauna. In these circumstances the NVC would look at the balance between environmental harm and good before making a decision.

### **Can I graze the Heritage Agreement in drought years?**

No, not without permission from the NVC and the Minister, and this permission would not normally be granted. Once again both parties would balance the gains and losses. In some instances, the Minister may consent to grazing for weed reduction, but the landholder would need to submit an appropriate grazing management plan, approved by the Minister.

## **Monitoring and Maintenance of Heritage Agreement areas**

### **What does having Heritage Agreement land mean – am I obliged to maintain it?**

It means that the area protected by the Heritage Agreement should be preserved in as close to its natural state as possible. An landholder is not necessarily obliged to undertake weed control etc. and may choose not to manage it at all (although management is of course encouraged).

### **Am I obliged to monitor my Heritage Agreement?**

Voluntary Heritage Agreement areas are not subject to an established monitoring program. Monitoring occurs on an informal basis through follow-up visits (i.e. via the Heritage Agreement Fencing program) and the contact and property visits undertaken by the Bush Management Advisers / NRM Officers in assisting Heritage Agreement landholders with management works in their Heritage Agreement areas.

## Incentives and assistance available to Heritage Agreement Landholders

### Release from Rates and Taxes

The landholder is released from rates and taxes on the Heritage Agreement land in the second rating year following registration of HA on title.

### Fencing assistance

Landholders may be provided with stock fencing if this is necessary to protect the native vegetation.

### Heritage Agreement Grant Scheme

Landholders are eligible to apply for assistance with management works aimed at protecting and improving the conservation value of the Heritage Agreement area.

### Bushland Management advice

Advice on managing bushland is available from the Department of Environment, Water and Natural Resources (DEWNR).

### Further information

The [Native Vegetation Council](#) provides funding for a variety of research and conservation projects that promote the responsible and ongoing management of native vegetation in South Australia, through the Native Vegetation Incentives Program. This includes the Heritage Agreement Grants and financial assistance for the fencing of Heritage Agreements. Further information is available from our website at <http://www.environment.sa.gov.au/get-involved/grants-and-funding/native-vegetation-incentives-programs>

Documentation can be lodged via post or electronically to:

Email: [NVP.DEWNR@sa.gov.au](mailto:NVIP.DEWNR@sa.gov.au)  
Mail:  
 'Heritage Agreement'  
 Native Vegetation Incentives Program  
 DEWNR  
 GPO Box 1047  
 ADELAIDE SA 5001  
Phone: 08 8303 9777

### References

**Principally:** *Native Vegetation Act, 1991*  
*Native Vegetation Management Act, 1985* (now superseded by NV Act 91)  
*South Australian Heritage Act, 1978 – 1980*

### Definition of terms

**"the Council"** means the Native Vegetation Council established by the Native Vegetation Act, 1991.

**"land"** includes an interest in land

**"owner"** of land means-

- (a) in relation to land alienated from the Crown by grant in fee simple- the holder of the fee simple<sup>1</sup>;
- (b) in relation to land held under Crown lease-the lessee;
- (c) in relation to land held under an agreement to purchase from the Crown-the person entitled to the benefit of the agreement;
- (d) in relation to any other land-the Minister who is responsible for the care, control and management of the land or, if no Minister is responsible for the land, the Minister of Lands"

### Responsibilities and/or Authorities

The Native Vegetation Act, 1991, in Section 23, allows for the creation of and defines criteria for the nature of Heritage Agreements as follows:

Section 23 allows for the owner of land to enter into a Heritage Agreement with the Minister for Environment. Further, it specifies that:

- A Heritage Agreement attaches to the land and is binding on the current owner of the land whether or not that owner was the person with whom the agreement was made.
- The Minister may, by agreement with the owner of the land to which a Heritage Agreement applies, vary or terminate the agreement,
- A Heritage Agreement is, to the extent specified in the Agreement, binding on the occupier of the land, and
- The Minister must not enter into, vary or terminate a Heritage Agreement under this section without first consulting and obtaining approval of the Council."

Part IV of the Act further defines the nature, restrictions applying to and potential incentives for Heritage Agreement landholders.

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<sup>1</sup> Fee simple - the most common freehold estate granted by the crown. An estate in fee simple is the greatest estate in land, and is for practical purposes the equivalent to absolute ownership. Note, however, that in Australia, no person other than the crown can 'own' land absolutely.