

Heritage Agreements

Frequently Asked Questions | July 2017

What is a Heritage Agreement?

A Heritage Agreement is a legal covenant between a landholder and the Minister for Sustainability, Environment and Conservation that permanently protects a special natural feature. The agreement is entered into voluntarily and binds current and all subsequent landholders of that title in perpetuity. The Heritage Agreement is registered on the title of the land.

A Heritage Agreement 'Memorandum of Agreement' document contains information on the location of the protected area, what can and can't be done on the land, and the landholder's and the Minister's responsibilities.

Landholders interested in placing a Heritage Agreement on their property are encouraged to seek advice from their local [Natural Resources Centre](#) before applying.

What is the background of the program?

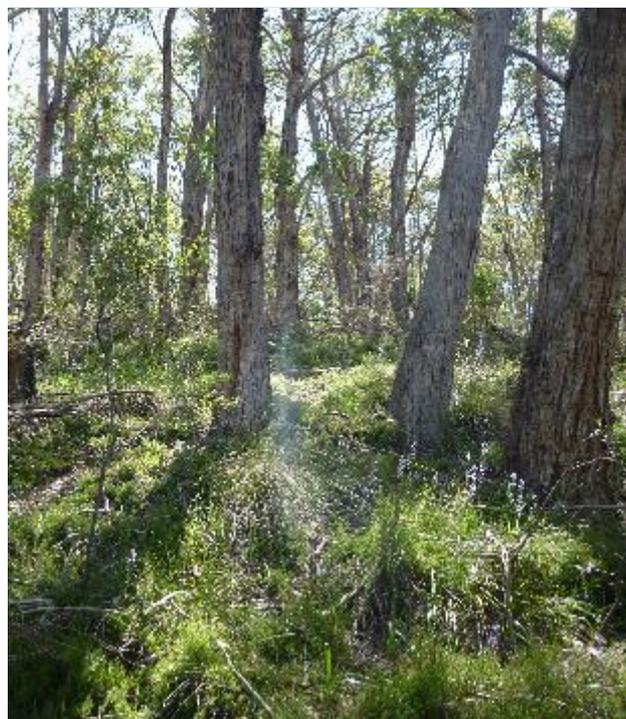
The Heritage Agreement Program began in 1980 as a response to over-clearance of native vegetation in the agricultural regions of the State. When the program commenced, Heritage Agreements were constituted under the then *South Australian Heritage Act 1978-1980*. There were incentives offered for entering into a Heritage Agreement, specifically rates and taxes relief for the area under Heritage Agreement, and fencing to stock proof the area if needed.

In the first two years of the program, over 540 landholders expressed an interest in Heritage Agreements which amounted to approximately 15,000 hectares of land. Clearance continued unabated, and it was apparent that the program in that format would not slow clearance to the extent that was needed to maintain biodiversity goals.

The next major change to the program occurred in the mid-1980s with the introduction of the *Native Vegetation Management Act 1985*. Landholders were offered financial payment for loss of production in return for entering into a Heritage Agreement, as well as the rates and taxes relief and an allowance for fencing. The financial payment was based on the reduction in market value of a component of the land as a result of refusal to clear (subject to some conditions). This significantly increased the number of areas under Heritage Agreement, with some 750 agreements entered into during the operation of the *Native Vegetation Management Act 1985*.

In 1991 the program changed again with the new *Native Vegetation Act 1991*. The type of financial incentive available under the previous Act was changed, with financial assistance no longer linked to refusal to clear. Provision was also given to assist landholders in conservation management works on Heritage Agreement land through an Incentives Program.

While the Incentives Program has now closed, Heritage Agreement landholders can still receive some rebates on rates and taxes through Concessional Property Valuations administered through the State Valuation Office. Property valuations are based on the highest and best potential use of a property. In some circumstances the Valuer-General can apply a concessional valuation – called a Notional Value - where the valuation is based on "actual/current use" of the property. In this way Heritage Agreement landholders can be given a degree of rates and taxes relief. While the Native Vegetation Branch notifies the State Valuation Office of new Heritage Agreements, the calculations and provision of the Notional Value is a matter for the Valuer-General.



Eucalyptus obliqua – Messmate Stringybark – Woodland with healthy understorey in the Mount Lofty Ranges.

The majority of Heritage Agreement applications are made voluntarily by landholders who are conservation minded and interested in the natural value of their bushland. 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.

How is the program administered?

The Heritage Agreement Program is administered by the Native Vegetation Council (NVC) and the Native Vegetation Branch: Climate Change Group, Department of Environment, Water and Natural Resources. The NVC is an advisory body to the Minister for Environment, Sustainability and Conservation on all Heritage Agreement matters and, in accordance with Section 23(5) of the *Native Vegetation Act 1991*, the Minister must not enter into, vary or terminate a Heritage Agreement without first consulting with and obtaining the approval of the NVC.

Establishing a Heritage Agreement

What land can be put under a Heritage Agreement?

Many unique natural features are found on privately owned land. The property may form part of an important wildlife corridor, or act as a buffer to a neighbouring National or Conservation Reserve, or private sanctuaries. Assessment of a proposed Heritage Agreement takes into account factors such as the diversity of native flora and fauna, the presence of 'conservation rated' species (whether regional, state or nationally listed), 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 NVC has agreed that the land should be placed under Heritage Agreement.

What are the costs?

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

If, after this process has been completed, the landholder wishes to make changes to the Memorandum of Agreement or the General Registry Office (GRO) Plan, this will need to be approved by the NVC and the landholder may be responsible for costs associated with the changes.

How long does it take?

Depending on the complexity of the proposal, it takes 12 to 24 months. Whole of parcel Heritage Agreements are generally quicker as there is no need to prepare a GRO Plan.

Why does it take so long?

A process of evaluation, approval and registration is followed to determine if the proposal fits Heritage Agreement criteria. The process also involves several agencies and crosses several disciplines. A regional officer can visit and discuss the potential suitability of the property, including:

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

From there an application for a Heritage Agreement can be lodged with the Native Vegetation Branch, which includes details such as property location, size of the area, type of vegetation and its conservation significance, and any particular recommendations or clauses to be included in the Memorandum of Agreement, such as management plans or tracks.

If stock are likely to have access to the proposed Heritage Agreement via neighbouring paddocks, the landholder will need to secure fencing. This can be discussed at the evaluation stage.

Once the assessment has been completed, negotiations about additional clauses undertaken, and required GRO Plans lodged, a set of Memorandum of Agreement documents which form the basis of the legal agreement between the landholder and the Minister can be signed by all parties. The Heritage Agreement will be formally registered on the title with documents lodged by the Crown Solicitor's Office on behalf of the Minister. When registration is complete, the Native Vegetation Branch will notify the State Valuation Office so that appropriate adjustments to rates and taxes can be made.

Although it is a slow process, the Heritage Agreement lasts in perpetuity, and landholders need to be committed to the idea.

How long does a Heritage Agreement last?

Once established, a Heritage Agreement lasts in perpetuity. Heritage Agreements are placed on the property's title and remain regardless of changes in property ownership.

Do Heritage Agreements cover the whole property?

Every Heritage Agreement is unique – the size and shape, and terms of agreement, will depend on what is being protected and the landholder's aspirations. It can apply to the whole property but usually applies to defined parts of it.



Thysanotus patersonii - Twining Fringe Lily



Stackhousia aspericocca – Creamy Candles

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 through the Bush Management Advisors, or NVC Accredited Consultants. The Friends of Private Bushland also provide assistance to members in managing private land conservation.

What is a Native Vegetation Management Plan (NVMP)?

An NVMP is recommended by the NVC for all Heritage Agreements. The NVMP provides information for landholders to protect and manage their land. It considers all the native vegetation in the Heritage Agreement area and can also include native vegetation outside of the area (if applicable). By taking into account all the native vegetation on the property, a landholder can consider a wider range of property management options.

The NVMP can serve as one layer of a Whole of Property/Business Management Plan or as a standalone document. A Management Plan should be prepared to guide day-to-day management and assist in decision-making. It can also be invaluable to support local, state and Commonwealth approval processes.

A Management Plan should comprehensively describe the place, specify the objectives, policies and principles that will govern the management of the area's values, and guide the preparation of management activities to ensure there are no adverse impacts on any values. It may also identify areas and terms 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 an NVMP important?

The NVMP plays an important role in establishing a management structure that is easy-to-understand and implement for the land protected under the Heritage Agreement.

Who prepares the NVMP?

Management Plans are developed by the landholder or a consultant engaged by the landholder who is accredited in vegetation assessment methodology. A list of NVC Accredited Consultants can be found on the Native Vegetation website <http://www.environment.sa.gov.au/managing-natural-resources/native-vegetation/accredited-consultants>

About the NVMP template

A template is available from the Native Vegetation Branch.

Note that the information required to complete Section 2 of the Plan has often already been collected as a part of the Heritage Agreement assessment. Applicants can also seek the advice of their local NRM Officer or Bush Management Advisor to assist with Section 1 'Property Details' and Section 3 'Management and Monitoring'.

Removal/Changes to Heritage Agreements

What happens if I want to sell my property that has a Heritage Agreement?

As a Heritage Agreement is binding in perpetuity on the property title, it passes with the property title to the new owner if the land is sold. It is a condition of the Heritage Agreement that the Minister be notified in writing when the property is sold – often the conveyancer handling the sale organises this on behalf of the vendor. It is the responsibility of the vendor/conveyancer to notify potential purchasers that the property has a Heritage Agreement over it.

Can a Heritage Agreement be changed?

The NVC will only consider variations to the terms of a Heritage Agreement, whether proposed or existing, if the variations improve the land's conservation values or pose no threat to them. Any proposal to vary a Heritage Agreement requires the approval of the NVC, the landholder and the Minister.

The Memorandum of Agreement 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, in the opinion of the NVC and the Minister, there is a 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.

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

While it is legally possible to terminate a Heritage Agreement between the landholder and the Minister, simply not wanting the Heritage Agreement is not grounds for termination. The Minister must receive direction from the NVC for a Heritage Agreement to be terminated. On the few occasions where a Heritage



Goodenia blackiana – Native Primrose



Arthropodium strictum - Spring Vanilla-lily

Agreement has been terminated, it has been contemporaneously replaced with another, or the land formerly under the Heritage Agreement as become part of the National Parks system.

Can I exclude an area from the Heritage Agreement?

A Heritage Agreement is not easily removed or changed. Changing it can be time-consuming, taking 12 to 18 months. For this reason, house sites or other exclusion zones should be created at the time of (or before) the Heritage Agreement comes into effect, even if the intent to undertake construction is not immediate. Any change to a Heritage Agreement usually requires a new GRO Plan, and the landholder and the Minister must also sign a legal document to formally change the original Agreement. Like the Heritage Agreement, the variation document is registered against the landholder's title.

A request to exclude an area must first be made in agreement with the NVC and then consent must be granted by the Minister. The NVC would usually only agree to removing an area from an existing Heritage Agreement if there is a significant environmental gain to be made, for example, if a 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.

NVC policy 1.3.8 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 5th 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."*

If a landholder wishes to exclude an area for a house site, the local Council along with the NVC will assess potential sites, and in some cases may refuse the exclusion. If there is sufficient cleared land outside of the Heritage Agreement area, for example where a Heritage Agreement does not cover the whole of a parcel, then it is highly unlikely exclusion will be permitted.

Note that the NVC approval to exclude a house site from a Heritage Agreement does not constitute building approval, which is the responsibility of the Local Council. While the NVC may approve an exclusion area, a development may still be refused by the Local Council or Country Fire Service. Any landholder wishing to exclude an area for a dwelling or other construction, 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.

Activities in a Heritage Agreement

The *Native Vegetation Regulations 2017* allow for native vegetation, under certain purposes and under certain circumstances, to be cleared. Some regulations, such as clearance for walking tracks, can be undertaken on Heritage Agreement land subject to meeting the requirements of the regulation. Some regulations, such as clearance for vehicle tracks, can occur but only for maintaining (not establishing) a track. Clearance for recreation tracks can only be undertaken if the terms of the Heritage Agreement permit it.

The provisions as to whether clearance of native vegetation on a Heritage Agreement can occur are found in Schedule 1 of the *Native Vegetation Regulations*.

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

The intent of a Heritage Agreement is to protect native flora and fauna in perpetuity. Activities that may be damaging to native flora and fauna, depending on their intensity, timing and location within the Agreement area, are not permitted. However, there may be an environmental gain for the Agreement area if the landholder engages in these activities, as they can learn about their Agreement area and appreciate its conservation values.

Most activities such as horse riding (on defined tracks), walking dogs, and visiting friends are not prohibited, unless the intensity and location are damaging to native flora and fauna. These activities would be accepted at low level but would not be actively encouraged. Any adverse effects, such as spreading weeds via horse dung, are expected to be controlled.

Camping (other than low impact or bush camping), eco-tourism, and caravans require approval from the NVC 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 looks at the balance between environmental harm and good before making a decision.

Can I drive through my Heritage Agreement?

You can drive through a Heritage Agreement on tracks that are marked on the ground or are obvious on the GRO Plan of the Heritage Agreement. Off-track driving or "bush bashing" is not permitted.

What is prohibited in a Heritage Agreement?

Broadly, anything that impacts on the values of the Heritage Agreement is not allowed. A standard Heritage Agreement generally prohibits:

- native vegetation removal (unless in accordance with a native vegetation regulation)
- the introduction of non-indigenous vegetation – whether through seed or tube-stock, and including non-local native species sourced from outside the ecological district of the Heritage Agreement
- grazing by livestock

- deteriorating water quality, flow or quantity – this includes water in a dryland, groundwater, river, stream, lake, pond, marsh and wetland
- the introduction of non-indigenous fauna, e.g. pets
- the removal of wood or timber – whether standing or fallen, dead or alive
- the removal or disturbance of rocks or soil, including cultivation
- the application of fertiliser
- pasture establishment
- recreational use of trail bikes and other vehicles.

While these are standard restrictions, in certain circumstances they can be modified where the NVC and the Minister are satisfied that the conservation of the land and its values will not be adversely affected.

Can I graze the Heritage Agreement in drought years?

You cannot graze the Heritage Agreement as this is considered to be clearance and is likely to impact upon important values. Such an activity requires the permission of the NVC and the Minister, and permission is unlikely to be given. Both the NVC and the Minister would consider the balance between environmental loss and gain. In some situations, the Minister may consent to grazing for weed control, but the landholder would be required to submit an appropriate Grazing Management Plan, endorsed by the NVC and approved by the Minister, prior to undertaking such activities.

Monitoring and maintenance of Heritage Agreements

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

A Heritage Agreement is protected and should therefore be preserved in as close to its natural state as possible. While a landholder is not necessarily obliged to actively manage, for example through weed control, and may choose not to manage it at all, non-management or mismanagement may impact on the natural values of the Heritage Agreement and the very purpose of its conservation in the first place. Of course, landholders are encouraged to actively manage their Heritage Agreements, and seek advice or assistance to do so.

Am I obliged to monitor my Heritage Agreement?

Heritage Agreements that are voluntary on behalf of the landholder are not subject to an established monitoring program. Monitoring can occur on an informal basis, such as through visits by Bush Management Officers or Regional NRM Officers in assisting Heritage Agreement landholders with management works.

Heritage Agreements that are a requirement of a Significant Environmental Benefit (SEB) offset are subject to review to ensure they meet the conditions of approval.

Incentives and assistance available to Heritage Agreement landholders

Release from rates and taxes

Once registered against the property title, the Native Vegetation Branch notifies the State Valuation Office of the new Heritage Agreement. A reduction in some rates and taxes may apply subject to conditions. Please note that the rates incentive does not apply to areas outside of the Agreement which may include houses, sheds, tanks, etc., even if they are small in size.

The State Valuation Office or your Local Council can advise further on questions relating to rates and taxes relief.

Bush management advice

Advice and assistance may be available from local authorities, funding programs, or other sources for such tasks as weed and pest control, and restoration planting (if appropriate and with the consent of the Minister or through an approved NVMP). Regional NRM Officers can assist with queries relating to possible financial assistance for fencing, survey work, and sources of support, or the landholder can seek their own funding and assistance.

References

Principally:

Native Vegetation Act 1991

Native Vegetation Management Act 1985 (now superseded by NV Act 1991)

South Australian Heritage Act 1978-1980

Native Vegetation Regulations 2017

For more information

Native Vegetation Branch

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