

- (l) clearance is carried out by or on behalf of a council in relation to vegetation situated on a road reserve vested in council, if the council has agreed to management guidelines;
- (m) it has been planted (but not vegetation planted as a condition of clearance approval);
- (n) it is for a botanical specimen;
- (o) clearance is associated with mining operations;
- (p) clearance is associated with mining operation at a private mine subject to certain conditions;
- (q) it has invaded land used for cropping or pasture;
- (r) it is grazed by domestic stock at a rate not exceeding the average rate for the previous 5 years;
- (s) it is regrowth following lawful clearance prior to 12 May 1983 that is no more than 5 years old. The regrowth exemption will cease on 12 May 1988; and

Are there any exceptions to these exemptions?

Yes. Native vegetation may not be cleared pursuant to exemptions (f) or (g) where the vegetation is situated within certain areas near and within the township of Robe.

Additionally, native vegetation may not be cleared pursuant to exemptions (c), (e), (j), (k) or (m) if the clearance would be contrary to the requirements of a condition attached to a consent to clear.

Is grazing of native vegetation regarded as clearance?

Grazing is regarded as clearance. However, it is exempted provided that the stocking rate does not exceed the average rate at which stock of that species have grazed the land in the previous five years.

Assessment of Clearance Applications

Who will process applications?

The Native Vegetation Authority is responsible for the processing of applications.

However, the Authority may delegate its decision making powers to any other person, body or committee.

The Authority will be advised by various bodies including the Native Vegetation Management Branch of the Department of Environment and Planning. The Branch will also assist the Authority with day-to-day processing of applications.

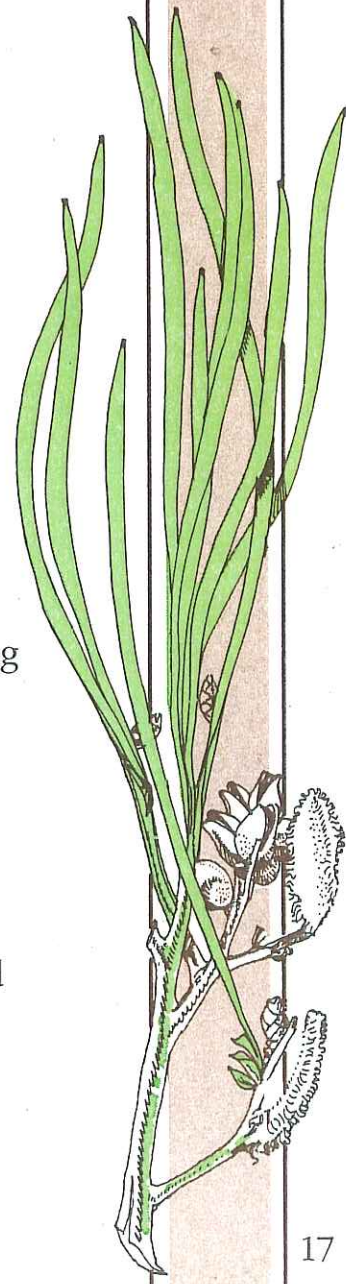
What criteria will be used to assess clearance proposals?

In assessing a clearance application, the Authority or its delegate will consider the principles of the Development Plan or authorised Supplementary Development Plans for the area proposed to be cleared. The Authority cannot make a decision which is seriously at variance with those principles.

The aim will be to ensure that any clearing is carried out in such a way that areas of conservation significance or representative samples of significant areas are retained.

For example, the Authority will consider

- the importance of the vegetation as a habitat for wildlife;
- the presence of rare or endangered species;
- the value of the area as a wildlife "corridor" or "stepping stone" linking larger vegetated areas;
- its value as a remnant of former vegetation types;
- its amenity value to the district;
- whether clearance will create or contribute to soil erosion or soil salinisation, or lead to the deterioration in the quality of surface waters;
- the value of the area as livestock shade and shelter; and
- the effect of retention on farm management and fire control.



What authorities will be consulted on a clearance application?

In all cases the Department of Agriculture, Department of Environment and Planning, and the local council will be consulted with regard to the clearance application. In addition, such organisations as E. & W.S., CFS, ETSA, and Department of Lands, will be consulted where appropriate.

Can a landowner give evidence before the Authority?

Yes. Both written and verbal evidence can be given by a landowner in support of his/her clearance application.

Can a landowner appeal against a decision?

No appeal can be made against a decision. However, an applicant can reapply at any time for reassessment of a case.

If a new application is made within 3 months of receiving a decision on a previous application then the new application must be assessed by the Authority, regardless of whether any other body made the initial decision under delegated powers.

If consent to clear is given can a landowner carry out that development at any time?

Any consent to clear remains in force for 10 years unless a longer period of time is granted by the Authority, or unless a subsequent application for an extension of time is made by the landowner (or agent).

It should be noted that the previous requirement under the Planning Act for a development to have been substantially commenced within a year and substantially completed within three years **no longer applies**.

If the application is approved subject to conditions, or if the application is refused, is the applicant notified of the reasons for the decision?

Notification of a decision granting consent subject to conditions, or refusing the application, will include, the reasons for the decision.

Financial Assistance and Ongoing Management

If clearance of land is refused, am I entitled to any form of financial assistance?

Yes. In accordance with certain criteria, the owner of land is entitled to a payment equivalent to any reduction in the market value of the land resulting from the Authority's decision, provided part or all of the area refused consent to clear becomes subject to a Heritage Agreement.

On what criteria is the Government not bound to make a payment?

The Government is not bound to make a payment:

- (a) in respect of land that is not subject to a Heritage Agreement;
- (b) in respect of land acquired on or after 12 May 1983;
- (c) in respect of land that is not agricultural land;
- (d) in respect of land held under Miscellaneous Lease or by licence from the Crown; and
- (e) where the area of the land for which the payment would be due is 12.5 per cent or less of the area of the holding.

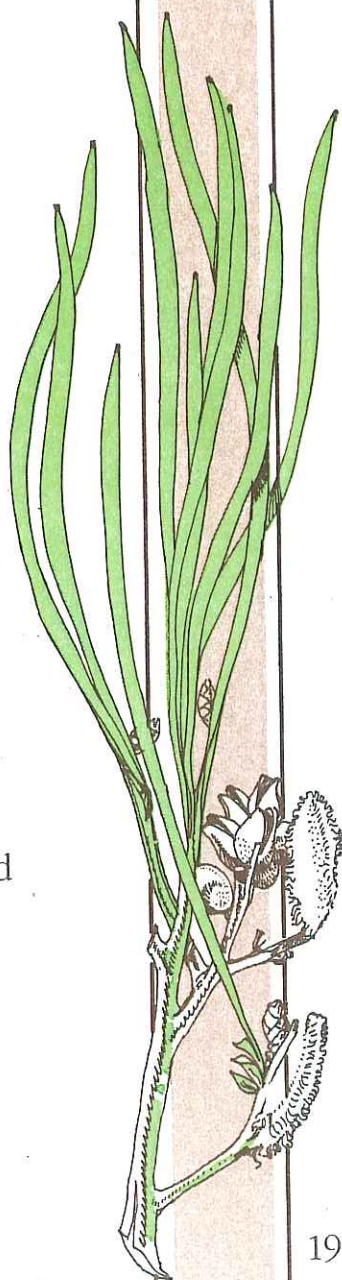
What is meant by agricultural land?

Agricultural land means land declared by the Authority to be suitable, after clearing, for agriculture on a permanent basis.

What is meant by a holding?

A holding means land that immediately before 12 May 1983:

- (a) was owned by a person or by a number of people as co-owners and comprised a single allotment or a number of adjoining allotments or allotments separated by no more than 5 kilometres;
- (b) was owned by the members of a family and comprised a number of adjoining allotments or a number of allotments separated by no more than 5 kilometres;



or

- (c) (i) was owned by a number of people;
 - (ii) comprised a number of adjoining allotments or allotments separated by no more than 5 kilometres;
- and
- (iii) was managed as a single unit.

What will be the amount of the payment?

The payment to which the owner of land is entitled is the reduction in the market value of the agricultural land resulting from the Authority's decision; that is, the difference in value of uncleared land with and without consent to clear.

The calculation of the payment will exclude an area equivalent to 12.5 per cent of the holding. Payment is reduced by an amount calculated using the following formula:

$$A = \frac{RNV}{CL} \times 100\%$$

where A = the amount of the reduction expressed as a percentage of the amount otherwise payable;

RNV = an area that is 12.5 per cent of the area of the holding; and

CL = the area for which payment is to be made.



Who assesses the amount payable?

The Valuer-General will assess the amount payable. The amount payable will be assessed as at the date of execution of the Heritage Agreement. The Valuer-General may also, upon request, provide an estimate of the amount payable should a Heritage Agreement be contemplated.

Can I appeal against an assessment?

If the State Government or a person claiming payment is dissatisfied with the Valuer-General's assessment an appeal may be lodged within 30 days against the assessment to the Land and Valuation Court.

When may a claim for payment be made?

A claim for payment of money must be made within 10 years of the Authority's decision on which the claim is based.

How is the payment to be made?

The amount payable may be paid:

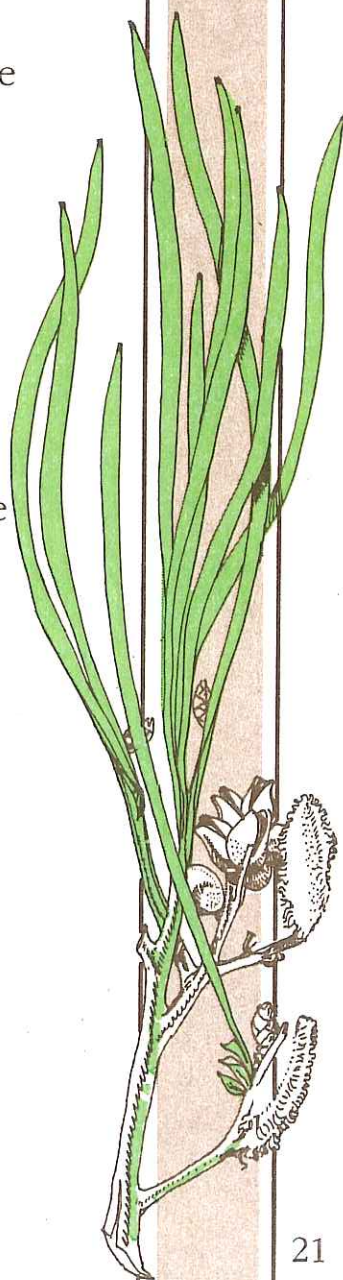
- (a) within one month after the Valuer-General assesses the amount;
- (b) in accordance with an agreement with the owner of the land; or
- (c) by ten equal annual instalments commencing within one month after the Valuer-General assesses the amount.

Will interest be paid on the amount assessed?

The State Government will pay interest at the Commonwealth Government Bond Rate on the unpaid balance of the amount assessed on each anniversary of the execution of the Heritage Agreement.

What other forms of assistance will be given to landowners with a Heritage Agreement?

For this information and other details on Heritage Agreements see page 10.



Enforcement

How will the controls be enforced?

The Minister may appoint authorised officers to enforce or investigate breaches of the Act. Officers will have authority to enter onto and inspect a property, and ask for the name and address of persons involved in an alleged breach. There is a penalty for obstructing an officer who is carrying out such investigations.

What penalties apply if a person clears land without approval or contrary to the conditions under which consent to clear have been given?

The Native Vegetation Management Act provides two distinct forms of proceedings against clearance undertaken contrary to the Act:

(1) Civil proceedings in the District Court.

This enables the Authority to seek an order against a person to provide for corrective or remedial actions to overcome a contravention of the Act. For example, if native vegetation is cleared without consent, a landowner may be obliged to exclude stock from the area to allow regeneration to occur, or, to replant the area with native vegetation.



If a landowner fails to comply with a court order to undertake corrective or remedial action he is guilty of an offence and liable to a maximum penalty of \$10,000 (the Court may impose additional penalties for contempt).

In addition, the Authority may, with court approval, carry out any works required by such an order, and recover the costs of the works as a debt from the landowner.

(2) Proceedings for Offences dealt with summarily in a Magistrates Court.

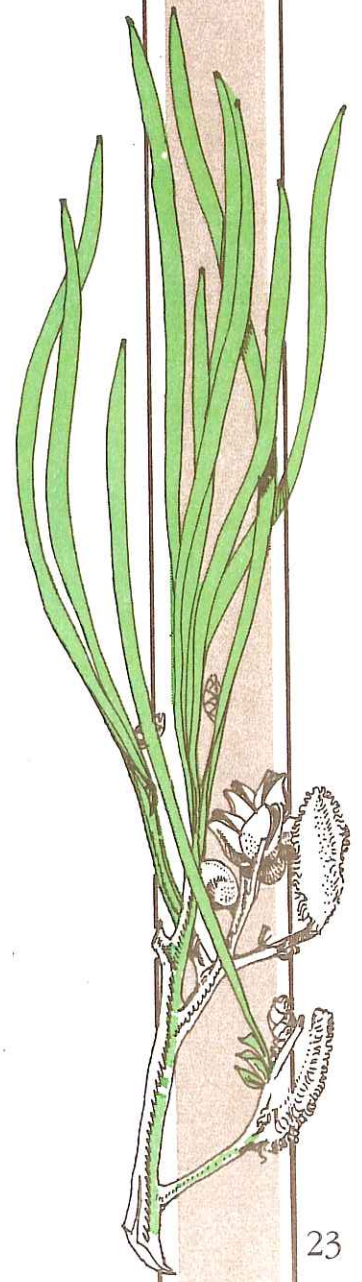
These proceedings are essentially punitive in that they seek to punish an offender for a **criminal offence**. They do not seek to correct any offence by remedial works.

If found guilty, the landowner is liable to a maximum penalty of up to \$10,000 or a penalty of up to \$1,000 for each hectare (or part of a hectare) of land on which the offence was committed.

The Authority may seek to undertake both forms of proceedings simultaneously.

How will clearance be monitored?

Information collected by LANDSAT satellite as well as conventional aerial photography and on-site inspections will be used to monitor clearance.



How to Apply

How can I apply for clearance approval or for a Heritage Agreement?

Applications should be lodged with the Native Vegetation Authority at

55 Grenfell Street
Adelaide, S.A. 5000

or

G.P.O. Box 667,
Adelaide, S.A. 5001.

Where can I get an application form?

Application forms will generally be available from district council offices, or the Authority.

Is a lodgement fee required?

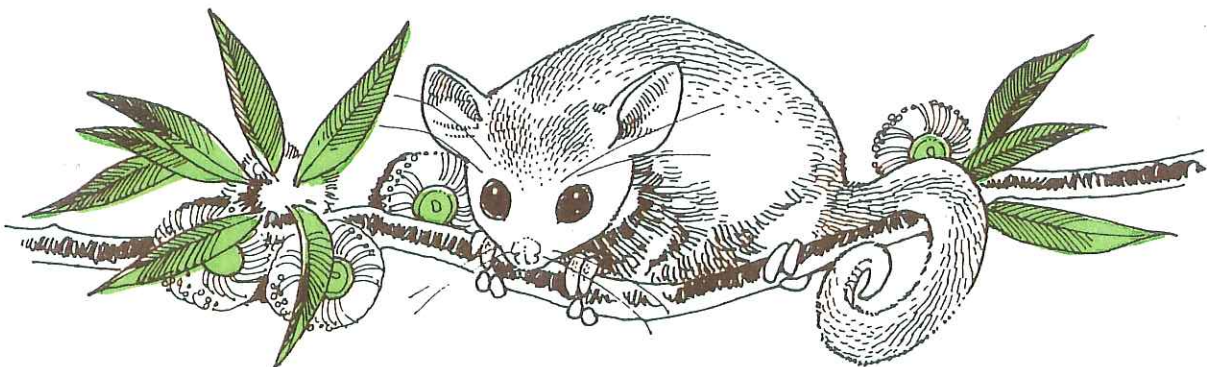
A fee of \$20 to cover administrative costs will be charged and should be lodged with each clearance application. No fee is required for a Heritage Agreement application.

Who can apply?

Only the owner of land on which native vegetation is situated or a person acting on the owner's behalf may apply for either clearance approval or for a Heritage Agreement.

What about wood or brush cutting?

A wood or brush cutter can apply as authorised agent, but the application must be signed by the owner of the land on which the cutting is proposed.



What effect does land tenure have on an application?

Land tenure has no influence on the assessment of an application. However, applications in relation to land held under a Miscellaneous Lease or Licence cannot be accepted unless the Minister of Lands has first given approval for the application to be made.

If I have an existing application for a Heritage Agreement do I need to apply again?

No. However, officers representing the Authority will contact you to ensure that your application is still in a manner acceptable to you.

If I have an existing application to clear under the Planning Act do I have to apply again?

No. Provided your current application is considered valid it will continue to be processed as if it was made under the Native Vegetation Management Act. However, some applicants may elect to revise their applications and apply under the new Act.

What information is required?

As well as the standard application form and any questionnaire required to be completed, your application must include a plan of your clearance proposal or the area proposed for a Heritage Agreement.

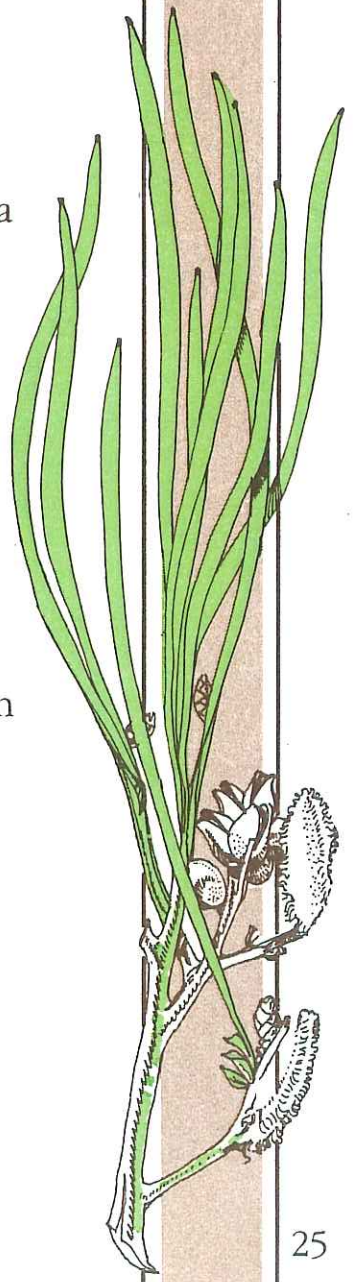
Your plan should be no larger than A4 in size (297mm x 210mm) and should include the following details:

- (a) property boundaries
- (b) existing cleared land
- (c) existing uncleared land
- (d) areas proposed for clearance (if applicable)
- (e) areas proposed to be retained
- (f) areas proposed for a Heritage Agreement
- (g) an indication of "North"
- (h) an approximate scale.

In addition, it would be helpful if you include information on:

- (a) soil types
- (b) vegetation types
- (c) land forms

and in relation to a clearance proposal any management considerations (e.g. current or proposed pipelines, fence lines and watering points) you consider important.



How detailed should my application map be?

Basically, your map should show relevant features as in the example next page for a clearance application. A similar plan would be suitable for a Heritage Agreement application.

How long will the decision take?

Applications will be assessed in order of receipt. However, applications which relate to minor clearance, or which have particular urgency may receive early attention.

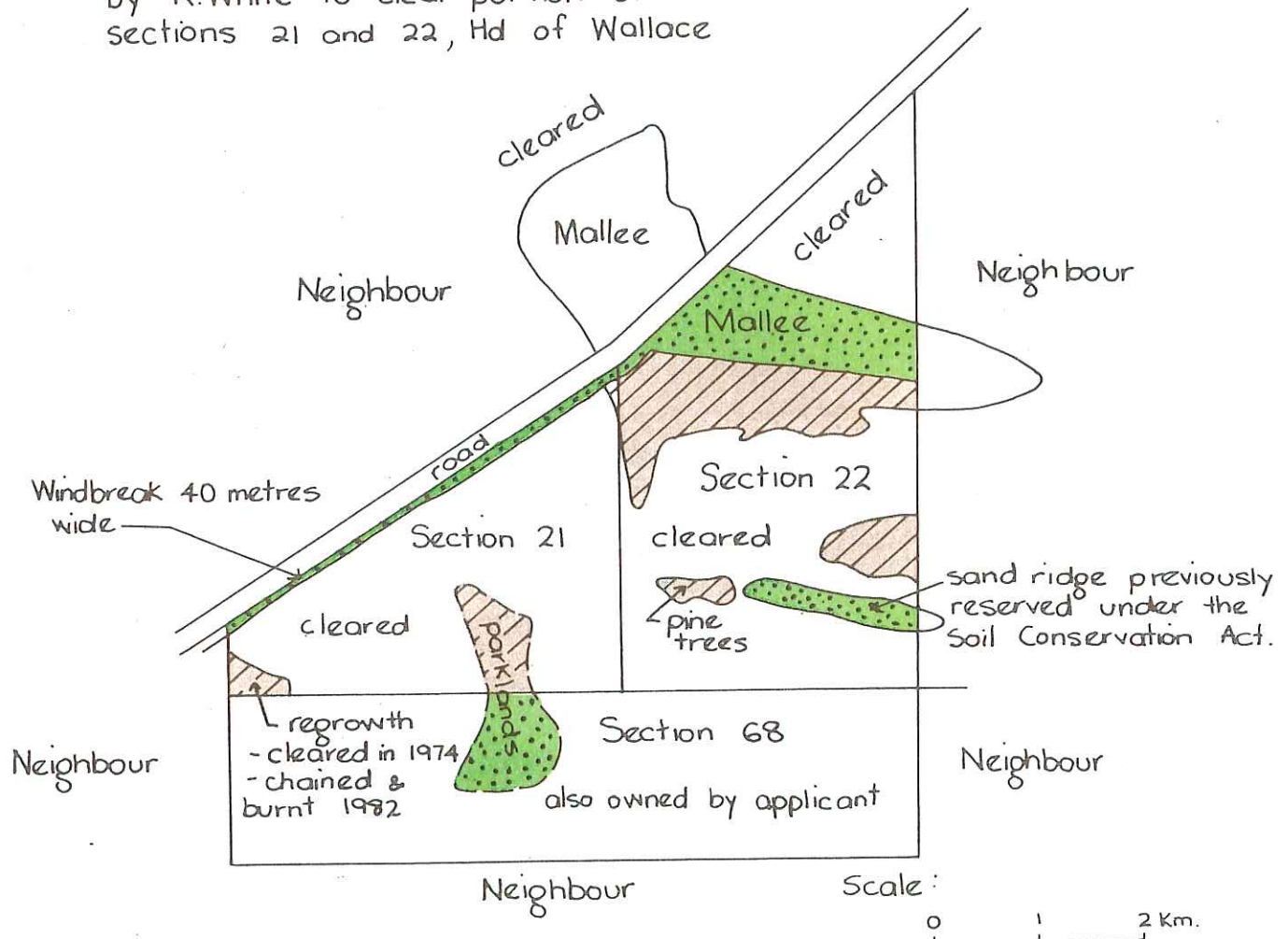
Under normal circumstances, every attempt will be made to process an application within 6 months of receipt, although sometimes a longer period may be required. During this time the Authority will consult with relevant authorities regarding the application. However, every effort will be made to ensure that decisions are made and notified as quickly as possible.

If you consider you have a particular need for your application to receive priority, please provide details at the time of lodgement.



Example Plan

Information in support of application
by R.White to clear portion of
sections 21 and 22, Hd of Wallace



Legend:

- property boundary
(no other property within 5Km)
- existing parkland
(scattered trees on improved pasture)
- ▨ areas proposed to be cleared
- ▤ areas proposed to be retained

Signed: *Robert J. White*

Dated: 12th August 1985

Appendix I

Standard Heritage Agreement Clauses

MEMORANDUM OF AGREEMENT made the day of.....
BETWEEN:.....
[here insert the title of the Minister responsible for the administration of the Native Vegetation Management Act, 1985] (hereinafter called "the Minister") of the one part
and (hereinafter called "the owner") of the
other part.

RECITALS

- A. The owner is the owner of that piece of land containing hectares,
Section, Hundred of being the whole of the land
comprised in
- B. The owner has, pursuant to the Native Vegetation Management Act, 1985, required
the Minister to enter into this agreement in respect of the whole of the land referred to
in Recital A (or that portion of the land referred to in Recital A) as is delineated in the
plan attached to this agreement.

NOW IT IS AGREED as follows:

1. In this agreement, unless the contrary intention appears —
 - (a) —
 - "native fauna" means an animal or animals of a species indigenous to South Australia;
 - "owner" means the person who has executed this agreement as owner of the subject land and includes a person to whom ownership of the land and the rights and liabilities under this agreement have passed;
 - "the subject land" means the land that is subject to this agreement;
 - (b) terms defined in the Native Vegetation Management Act, 1985, have the meanings defined in that Act.
2. During the term of this agreement the subject land is dedicated to the conservation of native vegetation and native fauna on the land and subject to this agreement shall not be used in a manner inconsistent with that dedication.
3. The owner shall not, without the written consent of the Minister, undertake or permit on the subject land —
 - (a) the clearance of native vegetation;
 - (b) the planting of vegetation, whether native or exotic;
 - (c) the construction of a building or other structure;
 - (d) the grazing of stock;
 - (e) any other activity that, in the opinion of the Minister, is likely to damage, injure or endanger the native vegetation or native fauna on the subject land.

4. The owner shall comply with the National Parks and Wildlife Act, 1972, the Native Vegetation Management Act, 1985, the Pest Plants Act, 1975, the Vertebrate Pests Act, 1975, and all other Acts and statutory instruments from time to time in force in relation to the subject land.

5. The owner shall give written notice to the Minister of —

(a) —

(i) any damage to, or destruction of, native vegetation or native fauna on the subject land or the removal of any native vegetation or native fauna from the land;

(ii) any activity on the subject land that is likely, in the owner's opinion, to result in damage, destruction or removal referred to in subparagraph (i);

(b) any change in ownership of the subject land,

as soon as practicable after first becoming aware of the matter to which the notice relates.

6. —

(a) Subject to this clause, the owner is released from the payment of —

(i) rates and taxes (other than council rates) in respect of the subject land during the term of this agreement;

(ii) council rates in respect of the subject land in the second rating year next following the commencement of this agreement and thereafter until the termination of the agreement;

(b) The owner is not released from the payment of rates and taxes in relation to land that, in the opinion of the Minister after receiving advice from the Authority —

(i) is used for primary production or for any other commercial purpose;

(ii) comprises a dwelling and curtilage.

7. —

(a) The Minister may, at any time and at the Minister's expense —

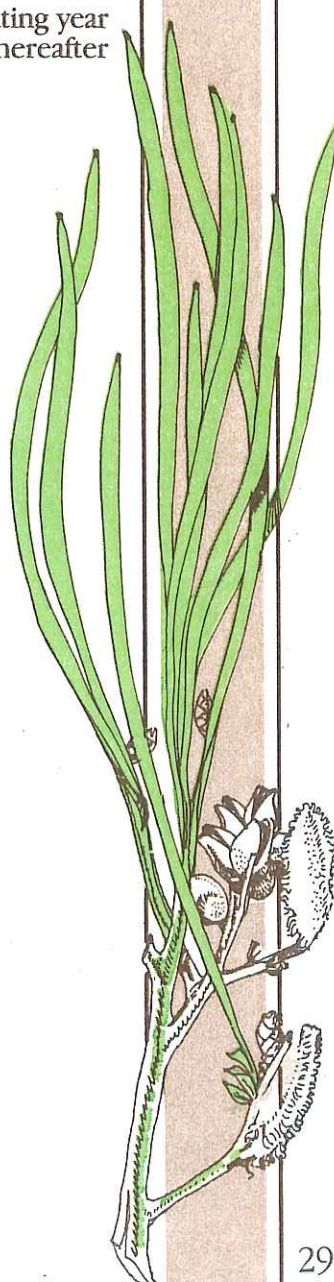
(i) construct or replace fences on the boundaries, or through any part of, the subject land;

or

(ii) perform on those fences major repair work required as the result of damage by fire;

(b) The owner shall, at the owner's expense and to the satisfaction of the Minister, perform all other necessary maintenance and repair work on all fences (whether constructed by the Minister or not) on the boundaries or on any other part of the subject land.

(over)



8. The Minister and any employee or agent of the Minister authorized by the Minister may, at any reasonable time —

(a) enter the subject land for the purpose of —

- (i) constructing any fence on the land;
- (ii) inspecting the land or any fence on the land;
- (iii) exercising any other powers of the Minister under this agreement;

(b) obtain access to the subject land across land of the owner for the purposes referred to in paragraph (a).

9. If the owner is in breach of this agreement the Minister may, by notice in writing served on the owner, require the owner to remedy the breach and if the owner fails to do so the aggregate value of the rates and taxes from payment of which the owner (and every predecessor in title of the owner) has been relieved by virtue of this agreement must be paid by the owner to the appropriate rating or taxing authority.

10. The Minister may delegate any of the Minister's powers under this agreement to any person.

11. This agreement may not be varied except in writing signed by the parties.

12. An act or omission based on a genuine mistake as to the boundaries of the subject land shall not constitute a breach of this agreement.

13. This agreement remains in force until terminated by the parties.

14. Notice shall, for the purposes of this agreement, be properly served on the owner if it is —

(a) posted to the owner at the owner's last address known to the Minister;

or

(b) fixed in a prominent position on the subject land.

SIGNED by the Minister
in the presence of:

.....
.....
(Witness)

SIGNED by the owner
in the present of:

.....
.....
(Witness)