

South Australia

# **Native Vegetation (Credit for Environmental Benefits) Regulations 2015**

under the *Native Vegetation Act 1991*

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### **1—Short title**

These regulations may be cited as the *Native Vegetation (Credit for Environmental Benefits) Regulations 2015*.

### **2—Commencement**

These regulations will come into operation on 3 December 2015.

### **3—Interpretation**

In these regulations—

*Act* means the *Native Vegetation Act 1991*;

*register* means the register kept for the purposes of Part 4A of the Act.

### **4—Application for credit for environmental benefit**

- (1) For the purposes of section 25A(1) of the Act, a person may apply to the Council to be credited with having achieved an environmental benefit under that section.
- (2) An application—
  - (a) must be made in a manner and form determined by the Council; and
  - (b) must be accompanied by such information as may reasonably be required by the Council; and
  - (c) must be accompanied by the fee prescribed in Schedule 1.

## 5—Third party providers to notify Council of changes to information

- (1) For the purposes of section 25C(3)(b) of the Act, the accredited third party provider must notify the Council if there have been changes to information relating to the third party's eligibility for accreditation since he or she was so accredited.
- (2) A notification under subregulation (1) must be made in a manner and form determined by the Council.

## 6—Accreditation of third party provider

- (1) For the purposes of section 25C(12) of the Act, a person may apply to the Council for accreditation as a third party provider.
- (2) An accreditation—
  - (a) must be in writing; and
  - (b) may be conditional or unconditional.
- (3) An application—
  - (a) must be made in a manner and form determined by the Council; and
  - (b) must be accompanied by such information as may reasonably be required by the Council; and
  - (c) must be accompanied by the fee prescribed in Schedule 1.
- (4) The Council must not accredit a person if the person (or, in the case of a body corporate, a director of the body corporate)—
  - (a) is bankrupt or insolvent; or
  - (b) is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth,and may refuse to accredit a person for any other reason the Council thinks appropriate.
- (5) The Council may, by notice in writing, add, vary or revoke a condition of an accreditation.
- (6) The Council may, by notice in writing, revoke the accreditation of a person if—
  - (a) the person becomes a person who, pursuant to subregulation (4), must not be accredited; or
  - (b) the accreditation was made in error; or
  - (c) the person refuses or fails to comply with a condition of accreditation; or
  - (d) the person fails to comply with the Act or these regulations; or
  - (e) the person requests that the accreditation be revoked.
- (7) The Council must keep on the register a record of each person currently accredited as a third party provider.

## 7—Register

For the purposes of section 25E(2) of the Act, the register must contain the following information:

- (a) in relation to each environmental benefit credited to a person under section 25A of the Act—
  - (i) the name of the person to whom the environmental benefit or excess benefit is credited; and
  - (ii) a general description of the environmental benefit referred to in section 25A(1)(a) of the Act (including the location of the land on which the environmental benefit was achieved); and
  - (iii) the date on which the Council credited the person with having achieved the environmental benefit; and
  - (iv) the value of the environmental benefit (as determined by the Council) at the time it was so credited; and
  - (v) if an identification number is assigned in relation to the credit—that number;
- (b) in relation to an application of credit contemplated by section 25A(1)(d) of the Act—
  - (i) the date on which the credit was applied; and
  - (ii) the value of the credit (as determined by the Council) at the time it was applied; and
  - (iii) whether the whole of the credit was applied, and if not, the value of any remaining credit (as determined by the Council) at the time it was applied; and
  - (iv) if an identification number is assigned in relation to the credit—that number;
- (c) in relation to each assignment of credit under section 25B of the Act—
  - (i) the names of the assignor and assignee; and
  - (ii) the address of the assignor; and
  - (iii) the date on which the Council approved the assignment; and
  - (iv) the value of the credit (as determined by the Council) at the time it was assigned; and
  - (v) whether the whole of the credit was assigned, and if not, the value of any remaining credit (as determined by the Council) at the time it was applied; and
  - (vi) whether or not a heritage agreement or management agreement has been entered into in accordance with section 25B(3) of the Act; and
  - (vii) if the approval of the assignment is subject to any conditions; and
  - (viii) if an identification number is assigned in relation to the credit—that number;

- (d) in relation to each achievement of an environmental benefit by an accredited third party provider under section 25C of the Act—
  - (i) the name of the proponent; and
  - (ii) the name and address of the accredited third party provider; and
  - (iii) the date on which the Council approved the achievement of the environmental benefit by the accredited third party provider; and
  - (iv) a general description of the environmental benefit achieved, or to be achieved, by the third party provider (including the location of the land on which the environmental benefit was, or is to be, achieved); and
  - (v) whether or not a heritage agreement or management agreement has been entered into in accordance with section 25C(3) of the Act; and
  - (vi) if the approval of the achievement is subject to any conditions;
- (e) in relation to each management agreement entered into under section 25D of the Act—
  - (i) the names and addresses of the parties to the management agreement; and
  - (ii) the date on which the management agreement was entered into; and
  - (iii) a general description of management agreement (including the location of the land to which the management agreement relates); and
  - (iv) if the management agreement is varied or terminated—the date on which the variation or termination occurred.

## **8—Accounting for the application of credit**

- (1) For the purposes of section 29(12b) of the Act, the Council is to account for the application of a credited environmental benefit as follows:
  - (a) the Council must make the entries in the register required under the Act and these regulations in relation to the application of credit;
  - (b) the Council must keep a record of any determination of the value or values of any relevant environmental benefit;
  - (c) the Council must take such other steps in relation to the applied credit as the Minister may, by notice in writing, require;
  - (d) the Council may take such other steps as it thinks fit to record (whether in the register or otherwise) any other information it thinks necessary or appropriate to account for the application of credit.
- (2) Nothing in this regulation limits the ability of the Council to determine the value of an environmental benefit for the purposes of the Act or these regulations.
- (3) A failure of the Council to comply with this regulation does not, of itself, invalidate the application of a credited environmental benefit.

## 9—Prescribed fees

- (1) The fees in Schedule 1 are prescribed for the purposes set out in that Schedule.
- (2) Pursuant to section 21(3)(cd) of the Act, the fees payable under these regulations are to be paid into the Fund.
- (3) The Council may waive or refund the whole, or part, of a fee if it considers it appropriate in the circumstances.

## Schedule 1—Fees

1	Application for environmental benefit credit achieved under section 25A(1)(a)(i) of Act	\$560.00
2	Application for environmental benefit credit achieved under section 25A(1)(a)(ii) of Act	Nil
3	Application for approval to assign whole or part of environmental benefit credit (section 25B(2)(c) of Act)	\$560.00
4	Application for accreditation as a third party provider	\$560.00
5	Application for approval for environmental benefit to be achieved by an accredited third party provider	\$560.00

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2015	242	<i>Gazette 26.11.2015 p5118</i>	3.12.2015: r 2