



New South Wales

# Kosciuszko Wild Horse Heritage Bill 2018

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2018*



New South Wales

## **Kosciuszko Wild Horse Heritage Bill 2018**

Act No , 2018

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An Act to recognise the heritage value of sustainable wild horse populations within parts of Kosciuszko National Park and to protect that heritage.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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The Legislature of New South Wales enacts:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Kosciuszko Wild Horse Heritage Act 2018*.

### 2 Commencement

This Act commences on the date of assent to this Act.

### 3 Definitions

(1) In this Act:

***adopted plan*** means a wild horse heritage management plan adopted by the Minister under Part 2.

***Advisory Council*** means the National Parks and Wildlife Advisory Council constituted under the *National Parks and Wildlife Act 1974*.

***Chief Executive*** means the Chief Executive of the Office of Environment and Heritage.

***function*** includes a power, authority or duty, and ***exercise*** a function includes perform a duty.

***Heritage Council*** means the Heritage Council of New South Wales constituted under the *Heritage Act 1977*.

***plan of management*** means a plan of management prepared under the *National Parks and Wildlife Act 1974*.

**Note.** The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

(2) Notes included in this Act do not form part of this Act.

### 4 Object of Act

The object of this Act is to recognise the heritage value of sustainable wild horse populations within parts of Kosciuszko National Park and to protect that heritage.

## Part 2 Wild horse heritage management plan

### 5 Preparation of draft wild horse heritage management plan

- (1) The Chief Executive is to cause a draft wild horse heritage management plan to be prepared for Kosciuszko National Park (the *draft plan*).
- (2) The draft plan is to:
  - (a) identify the heritage value of sustainable wild horse populations within identified parts of the park, and
  - (b) set out how that heritage value will be protected while ensuring other environmental values of the park (including values identified in the plan of management for the park) are also maintained, and
  - (c) take into account the object of this Act, and
  - (d) take into account the objects of the *National Parks and Wildlife Act 1974* and the matters that are required (by section 72AA of that Act) to be taken into consideration in the preparation of a plan of management, and
  - (e) include any other matter prescribed by the regulations.
- (3) The Chief Executive is to seek the advice of the Wild Horse Community Advisory Panel constituted under Schedule 1 in the preparation of the draft plan.

### 6 Public consultation on draft plan

- (1) The Chief Executive is to give notice of the public exhibition of the draft plan by publishing the notice in the Gazette and in any other manner that the Chief Executive considers to be appropriate.
- (2) The notice is to specify:
  - (a) how a person may make a representation on the draft plan, and
  - (b) the period within which representations may be made, being a period of not less than 30 days from the date on which the notice is published in the Gazette.

### 7 Consultation with Advisory Council and Heritage Council

The Chief Executive is to provide a copy of the draft plan to the Advisory Council and the Heritage Council and is to specify a period of not less than 30 days within which representations on the draft plan may be made to the Chief Executive.

### 8 Draft plan and representations to be given to Minister

The Chief Executive is, as soon as practicable after the end of the later of the periods referred to in section 6 or 7, to forward a copy of the following to the Minister for consideration:

- (a) the draft plan,
- (b) any representation on the draft plan by the Chief Executive,
- (c) any representations received under section 6 or 7,
- (d) a summary of any representations received under section 6.

### 9 Adoption of plan

The Minister may, after considering the following, adopt the draft plan without alteration or with such alterations as the Minister thinks fit or may refer it back to the Chief Executive for further consideration:

- (a) the draft plan,

- (b) any representations made by the Chief Executive, the Advisory Council or the Heritage Council under this Part,
- (c) any representations made by other persons under this Part (or a summary of those representations).

**10 Adopted plan must be carried out and given effect to**

An adopted plan must be carried out and given effect to by the Chief Executive.

**11 Amending or replacing adopted plans**

- (1) The Minister may, at any time, direct the Chief Executive to prepare a draft amending plan to make amendments to an adopted plan or to prepare a new draft plan to replace an adopted plan.
- (2) An amending plan when adopted amends the adopted plan and a new draft plan when adopted repeals any previous adopted plan.
- (3) Sections 6–9 apply to a draft amending plan in the same way as those sections apply to a draft plan.

## Part 3 Miscellaneous

### 12 Relationship with National Parks and Wildlife Act 1974

- (1) An adopted plan prevails to the extent of any inconsistency between the adopted plan and a plan of management.
- (2) Without limiting subsection (1), section 81 (4) of the *National Parks and Wildlife Act 1974* does not apply in relation to anything done to carry out or give effect to an adopted plan.
- (3) When causing a plan of management for Kosciuszko National Park to be prepared, the Chief Executive must ensure that the plan of management recognises the heritage value of sustainable wild horse populations within parts of the park.

### 13 Delegation

The Chief Executive may delegate the exercise of any function of the Chief Executive under this Act (other than this power of delegation) to:

- (a) any person employed in the Office of Environment and Heritage, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

### 14 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (3) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## Schedule 1 Wild Horse Community Advisory Panel

### Part 1 General

#### 1 Definitions

In this Schedule:

*Chairperson* means the Chairperson of the Panel.

*Deputy Chairperson* means the Deputy Chairperson of the Panel.

*member* means any member of the Panel.

### Part 2 Constitution

#### 2 Minister to constitute Panel

The Minister is to constitute a Wild Horse Community Advisory Panel.

#### 3 Composition of Panel

- (1) The Panel is to consist of at least 6 but no more than 8 members appointed by the Minister.
- (2) The members of the panel are to include the following persons:
  - (a) at least 1 Aboriginal person,
  - (b) 1 representative of the community from the locality around Kosciuszko National Park,
  - (c) 1 representative of the Minister,
  - (d) other persons who, in the opinion of the Minister have expertise and experience in any 1 or more of the following:
    - (i) recreational planning and management (including horse riding),
    - (ii) horse or other animal welfare management,
    - (iii) alpine tourism planning and management,
    - (iv) community involvement in conservation.
- (3) The Minister is to ensure, as far as is possible, that the composition of the Panel reflects the expertise and experience referred to in subclause (2).
- (4) The Minister is to appoint 1 of the members as a Chairperson of the Panel and 1 of the members as the Deputy Chairperson of the Panel in the member's instrument of appointment or by another instrument.
- (5) The Chief Executive is to arrange for a senior officer of the National Parks and Wildlife Service to attend meetings of the Panel and for secretarial support to be available to the Panel.

#### 4 Functions of Panel

The functions of the Panel are:

- (a) to provide advice to the Minister or the Chief Executive (if requested to do so) on any matter relating to the identification of the heritage value of, and the management of, sustainable wild horse populations within Kosciuszko National Park, and
- (b) to provide advice to the Chief Executive on the preparation of a draft wild horse heritage management plan under Part 2 of this Act.

## **5 Terms of office of members**

Subject to this Schedule and the regulations, a member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

## **6 Part-time appointments**

Members hold office as part-time members.

## **7 Remuneration**

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

## **8 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office by the Minister under this clause, or
  - (e) is absent from 3 consecutive meetings of the Panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
  - (f) becomes a mentally incapacitated person.
- (2) The Minister may remove a member from office at any time.

## **9 Filling of vacancy in office of member**

If the office of any member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.

## **10 Chairperson and Deputy Chairperson**

- (1) The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if he or she:
  - (a) is removed from that office by the Minister under this clause, or
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a member of the Panel.
- (2) The Minister may at any time remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.

## **11 Effect of certain other Acts**

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.
- (2) If by or under any Act provision is made:
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or



- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

## **12 Personal liability**

A matter or thing done or omitted to be done by the Panel, a member of the Panel or a person acting under the direction of the Panel does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

## **Part 3 Procedure**

### **13 General procedure**

The procedure for the calling of meetings of the Panel and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Panel.

### **14 Quorum**

The quorum for a meeting of the Panel is a majority of its members for the time being.

### **15 Presiding member**

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, a person elected by the members of the Panel who are present at a meeting of the Panel) is to preside at a meeting of the Panel.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **16 Voting**

A decision supported by a majority of the votes cast at a meeting of the Panel at which a quorum is present is the decision of the Panel.

### **17 Transaction of business outside meetings or by telephone etc**

- (1) The Panel may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Panel for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Panel made at a meeting of the Panel.
- (2) The Panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone or other electronic means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Panel.

- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Panel.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by electronic means.

**18 First meeting**

The Minister may call the first meeting of the Panel in such manner as the Minister thinks fit.