



New South Wales

# National Parks and Wildlife Amendment (Kosciuszko National Park Roads) Act 2004 No 5

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of National Parks and Wildlife Act 1974 No 80	2
Schedule 1 Amendments	3

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New South Wales

# **National Parks and Wildlife Amendment (Kosciuszko National Park Roads) Act 2004 No 5**

Act No 5, 2004

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An Act to amend the *National Parks and Wildlife Act 1974* so as to excise land from Kosciuszko National Park to be used for roads; and for other purposes. [Assented to 17 March 2004]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *National Parks and Wildlife Amendment (Kosciuszko National Park Roads) Act 2004*.

**2 Commencement**

This Act commences on a day to be appointed by proclamation.

**3 Amendment of National Parks and Wildlife Act 1974 No 80**

The *National Parks and Wildlife Act 1974* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 184A

Insert after section 184:

#### **184A RTA roads within Kosciuszko National Park**

- (1) In this section:

*the excised land* means land in the lots described in Schedule 16.

**Note.** The plans referred to in Schedule 16 were, when this section commenced, held at the RTA Property and Land Information Branch, Centennial Plaza, Elizabeth Street, Sydney. It is intended that the plans will be registered as deposited plans.

*the RTA* means the Roads and Traffic Authority of New South Wales.

- (2) On the commencement of this section:
- (a) the reservation under this Act of the excised land as part of Kosciuszko National Park is revoked, and
  - (b) the excised land vests in the RTA for an estate in fee simple, freed and discharged from any trusts, obligations, estates, interests and rights-of-way or other easements existing immediately before its vesting.
- (3) Without affecting the generality of subsection (2), any lease or sublease of, or licence relating to, any land that consisted of or included excised land immediately before the vesting of the excised land by this section does not apply to the excised land after the vesting, but is not otherwise affected by the vesting.
- (4) Persons authorised in that behalf by the RTA may enter (and remain for as long as may reasonably be necessary on) land adjoining or adjacent to excised land, with or without vehicles, plant and equipment, after giving reasonable notice to the Director-General and any lessee or sublessee (or, in an emergency, without notice), for the purpose of:
- (a) inspecting, building, rebuilding, repairing or maintaining roads on the excised land and ancillary infrastructure (such as drainage works) on the excised land or the adjoining or adjacent land, or

- (b) inspecting, placing, replacing, removing, repairing, maintaining or augmenting devices on the adjoining or adjacent land that measure hydrological features or land movement relating to use of the excised land for the purpose of roads.
- (5) Despite any lease or licence entered into before or after the commencement of this section, any such ancillary infrastructure or device (whether or not a fixture) placed on the adjoining or adjacent land before or after the commencement of this section by a person authorised by the RTA:
  - (a) is the property of the RTA, and
  - (b) without giving rise to an action in nuisance, may remain and be used on that land.
- (6) No compensation is payable by the Minister, the RTA or any lessee, sublessee or licensee, or by any person claiming through any lessee, sublessee or licensee, as a consequence of the operation of subsection (2), (3), (4) or (5).
- (7) For the purposes only of provisions of this Act and the regulations (including provisions relating to the control of traffic) that are necessary for park management purposes and the collection of fees for park use, the excised land is taken to be reserved as part of Kosciuszko National Park.
- (8) Subsection (7) does not have the effect of:
  - (a) preventing or restricting the carrying out of development for the purpose of roads on the excised land by or on behalf of the RTA, or
  - (b) restricting the operation of the road transport legislation with respect to roads or road related areas within the meaning of the *Road Transport (General) Act 1999* or the operation of the *Roads Act 1993* with respect to public roads, or
  - (c) authorising the erection of any device if the erection of the device is inconsistent with a function exercisable under the *Road Transport (Safety and Traffic Management) Act 1999* with respect to roads or road related areas within the meaning of that Act or under the *Roads Act 1993* with respect to public roads.

- (9) This section does not operate to extinguish any native title rights and interests, within the meaning of the *Native Title Act 1993* of the Commonwealth, existing in relation to the excised land before its vesting by this section.
- (10) However, this section does not affect any extinguishment of native title rights and interests by the operation of the *Native Title Act 1993* of the Commonwealth or the *Native Title (New South Wales) Act 1994*.

**[2] Schedule 16**

Insert after Schedule 15:

**Schedule 16 Land vested in the RTA**

(Section 184A)

**Kosciuszko Road**

Lots 101–107 in RTA Plan number 0286.119.SS.0129

Lot 201 in RTA Plan number 0286.119.SS.0130

Lots 301–313 in RTA Plan number 0286.119.SS.0131

**Alpine Way**

Lots 401–417 in RTA Plan number 0677.435.SS.0006

Lots 501–522 in RTA Plan number 0677.435.SS.0007

Lots 601–605 in RTA Plan number 0677.435.SS.0008

Lot 701 in RTA Plan number 0677.119.SS.0001

Lots 801–809 in RTA Plan number 0677.119.SS.0002

Lot 901 in RTA Plan number 0677.435.SS.0010

[Second reading speech made in—

Legislative Assembly on 29 October 2003

Legislative Council on 9 March 2004]

BY AUTHORITY