

KOSCIUSKO STATE PARK ACT.

Act No. 14, 1944.

An Act to reserve certain land as a State Park to be known as Kosciusko State Park; to make provision for the use of such land; to constitute a Trust to be known as the Kosciusko State Park Trust; to constitute a Kosciusko State Park Fund and to provide for the application of that Fund; for these and other purposes to amend the Crown Lands Consolidation Act, 1913, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 19th April, 1944.]

George VI.
No. 14, 1944.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Kosciusko State Park Act, 1944."

Short
title and
commence-
ment.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. In this Act unless the context or subject matter otherwise indicates or requires—

Definitions.

"Available Crown lands" means Crown lands which are not—

- (a) lands held under any lease or license from the Crown (other than a snow lease or permissive occupancy); or
- (b) within any reserve under the control of a pastures protection board, or any reserve for trigonometrical purposes, commonage, cemetery, cemetery purposes or general cemetery; or

(c)

Kosciusko State Park Act.

No. 14, 1944.

(c) within the boundaries of the villages of Kiandra, Ravine or Yarrangobilly.

“Crown lands” means Crown lands as defined in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

“Prescribed” means prescribed by this Act, or by the regulations.

“Regulations” means regulations made under this Act.

“Trust” means the Kosciusko State Park Trust constituted under this Act.

Reserva-
tion for
Kosciusko
State Park.

3. (1) The following lands are hereby permanently reserved for a State Park to be known as the Kosciusko State Park:—

- (a) All lands within the external boundaries of the lands described in the Schedule to this Act which are, at the commencement of this Act, available Crown lands.
- (b) The Crown lands reserved for the Kosciusko State Park by section seven of this Act.
- (c) Any lands within the external boundaries of the lands described in the Schedule to this Act which become available Crown lands after the commencement of this Act.
- (d) Any available Crown lands outside the external boundaries of the lands described in the Schedule to this Act which are reserved and added to the Kosciusko State Park by the Governor by proclamation published in the Gazette, which proclamation he is hereby authorised to make.

(2) Any lands reserved for Kosciusko State Park under or in pursuance of this section shall remain so reserved unless the reservation is revoked by Act of Parliament:

Provided that where the Minister, with the concurrence of the Trust, declares by notification published pursuant to section twenty-eight of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, that any Crown lands within the Kosciusko State Park are temporarily

Kosciusko State Park Act.

97

temporarily reserved from sale for any public purpose, the lands to which the notification relates shall cease to be part of the Kosciusko State Park. No. 14, 1944.

4. (1) There shall be a Kosciusko State Park Trust which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed on the Trust by or under this Act. Kosciusko
State Park
Trust.

(2) The Minister shall be a member of the Trust and the chairman thereof.

The remaining members of the Trust shall be appointed by the Governor.

(3) Of the members so appointed—

- (a) one shall be appointed on the nomination of the Minister and shall be an officer of the Department of Lands;
- (b) one shall be appointed on the nomination of the Premier and shall be an officer of the Public Service;
- (c) one shall be appointed on the nomination of the Minister for the time being charged with the administration of the Forestry Act, 1916, as amended by subsequent Acts, and shall be the person for the time being constituting the Forestry Commission of New South Wales or an officer of that Commission;
- (d) one shall be appointed on the nomination of the Minister for the time being charged with the administration of the Soil Conservation Act, 1938, and shall be the Director of the Soil Conservation Service or an officer employed in that Service;
- (e) one shall be appointed on the nomination of the Minister for the time being charged with the administration of the department by which the Government Tourist Bureau is administered, and shall be an officer of that Bureau;
- (f) two shall be appointed on the nomination of the Minister.

(4) The member referred to in paragraph (a) of subsection three of this section shall be the deputy chairman of the Trust.

D

(5)

Kosciusko State Park Act.

No. 14, 1944.

(5) No person of or above the age of seventy years shall be eligible for appointment by the Governor pursuant to a nomination under paragraph (f) of subsection three of this section and any person appointed by the Governor pursuant to any such nomination shall cease to hold office on the day upon which he attains the age of seventy years.

(6) All meetings of the Trust shall be called by direction of the chairman, or in his absence, by direction of the deputy chairman.

(7) At any meeting of the Trust the chairman or deputy chairman and any four other members shall form a quorum; and any meeting at which a quorum is present shall have all the powers and authorities conferred upon the Trust by this Act.

(8) The chairman shall preside at any meeting of the Trust at which he is present. In the absence of the chairman the deputy chairman shall preside.

(9) The chairman, or the deputy chairman (when presiding at any meeting) shall have an original vote on any question before the Trust, and in the case of an equality of votes shall have a second or casting vote.

(10) No act or proceeding of the Trust shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(11) The procedure for the calling of meetings of the Trust and for the conduct of business at such meetings shall, subject to any regulations in relation thereto, be as determined by the Trust.

(12) (a) In the case of the illness or absence of any member of the Trust, other than the chairman, the Governor may appoint a deputy to act in the place of such member during his illness or absence.

(b) Any deputy appointed under this subsection, while he acts as such deputy, may exercise all the powers and authorities of the member in whose place he acts.

(13) The members referred to in paragraph (f) of subsection three of this section shall be paid such fees and travelling expenses as may be prescribed.

Kosciusko State Park Act.

99

5. (1) Subject to this Act the Trust shall have the care, control and management of the Kosciusko State Park.

No. 14, 1944.
Powers and functions of Trust.

(2) The Trust may carry out any work in connection with the improvement, development and maintenance of the Kosciusko State Park, including the opening of roads, tracks and paths, the development of ski trails, the erection of hostels and other buildings and structures, the prevention and control of fires, and such other works and functions as may from time to time be prescribed.

(3) The Trust may retain as a primitive area such part of the Kosciusko State Park (not exceeding one-tenth of the area of that Park) as it may think fit.

6. The Trust may arrange with the Minister of any Government department or with any statutory corporation for the carrying out by such department or statutory corporation of any work required or authorised by or under this Act to be carried out by the Trust.

Carrying out of works by Government departments and statutory bodies.
cf. Act No. 10, 1938, s. 13.

In this section "statutory corporation" includes The Commissioner for Railways, The Commissioner for Main Roads, the Water Conservation and Irrigation Commission, the Forestry Commission of New South Wales, and any county, municipal or shire council.

7. (1) Notwithstanding any provision contained in the Forestry Act, 1916-1935, as amended by subsequent Acts, the dedication of all State forests and the reservation of all timber reserves within the external boundaries of the land described in the Schedule to this Act are hereby revoked and the lands comprised therein shall become Crown lands reserved for Kosciusko State Park.

Revocation of State forests and timber reserves.

(2) As from the commencement of this Act the Forestry Act, 1916-1935, as amended by subsequent Acts, shall not, except as in this subsection provided, apply to and in respect of any land within the Kosciusko State Park:

Provided that all licenses and permits under the Forestry Act, 1916-1935, as amended by subsequent Acts, affecting land within the Kosciusko State Park (whether or not such land is within the boundaries of any State forest or timber reserve the dedication or reservation of which is revoked by subsection one of this section) shall,

Kosciusko State Park Act.

No. 14, 1944. shall, unless sooner cancelled under that Act, continue in force until the expiration of the respective terms for which they were granted, and the provisions of that Act shall continue in force for all purposes of or relating to such licenses and permits until the same respectively expire or are cancelled.

Restric-
tion on
operation
of Mining
Act, 1906-
1935.

8. (1) The land within Kosciusko State Park is hereby exempted from occupation under any miner's right or business license issued under the provisions of the Mining Act, 1906-1935.

(2) No lease under the Mining Act, 1906-1935, of any land within the Kosciusko State Park shall be granted except with the concurrence of the Trust and subject to such conditions and restrictions as it may impose.

Restric-
tions as to
timber.

9. (1) Notwithstanding any provision in any Act or any condition annexed to any lease or permissive occupancy of land within the Kosciusko State Park, no person shall fell, cut, destroy, injure or remove any tree or timber on land within the Kosciusko State Park except under and in accordance with the regulations.

(2) Any person who contravenes the provisions of subsection one of this section shall be guilty of an offence, and shall be liable to a penalty not exceeding two hundred pounds.

(3) Where the person convicted of an offence under this section is the holder of a snow lease or permissive occupancy, his snow lease or permissive occupancy shall be liable to forfeiture or termination.

Restriction
on disposal
or dealing
with land.

10. (1) No land within the Kosciusko State Park shall be sold or leased or otherwise dealt with except as provided in this Act; but nothing in this section shall prevent the revocation of any reserve notified under any Act.

(2) No permit to graze over any part of a travelling stock reserve or camping reserve under the control of a pastures protection board which reserve is situated within the external boundaries of the land described in the Schedule to this Act shall be granted except with the concurrence of the Trust.

Any

Kosciusko State Park Act.

101

Any such permit shall be granted subject to such special conditions as the Trust may determine. **No. 14, 1944.**

11. (1) The Minister may, with the concurrence of the Trust—

- (a) grant snow leases or extend the term of snow leases (whether granted before or after the commencement of this Act) under and in accordance with the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts;
- (b) grant permissive occupancies or extend the term of any permissive occupancy, whether granted before or after the commencement of this Act.

Restriction on sale or leasing under the Crown Lands Consolidation Act, 1913.

(2) Where the Minister grants a snow lease or permissive occupancy or extends the term thereof under this section such lease or permissive occupancy shall be subject to such special conditions as the Trust may determine.

12. The Soil Conservation Act, 1938, shall apply to and in respect of land within the Kosciusko State Park, but any experimental or research work conducted pursuant to section six of that Act upon land within the said Park shall be undertaken only with the concurrence of the Trust and subject to such conditions and restrictions as it may impose.

Soil Conservation Act, 1938.

13. Subject to the regulations, land within the Kosciusko State Park shall be available to the public for the purpose of riding, hiking, camping, snow sports, and any other form of recreation, and the public shall have free access to and over all roads and tracks, and to all fishing streams within the Park. But no such road or track shall, by reason only of the provisions of this section, be deemed to be a public road for the purposes of the Local Government Act, 1919, as amended by subsequent Acts.

Area to be available for recreation, etc.

14. (1) There shall be opened within the Colonial Treasurer's Accounts a special fund which shall be called the Kosciusko State Park Fund.

Kosciusko State Park Fund.

(2) The fund shall be under the control of the Trust, and shall be operated upon in the manner prescribed.

Kosciusko State Park Act.

No. 14, 1944.

Payments
into the
fund.**15.** There shall be paid into the Kosciusko State Park Fund—

- (a) all moneys received in respect of—
 - (i) rent for snow leases or permissive occupancies or mining leases within the Kosciusko State Park;
 - (ii) royalties, fees and charges for trees or timber cut or removed from the Kosciusko State Park in pursuance of any authority granted under the regulations; and
 - (iii) penalties recovered in pursuance of this Act, or the regulations; and
- (b) any moneys provided by Parliament for the purposes of this Act.

Payments
out of the
fund.**16.** (1) No money shall be paid out of the Kosciusko State Park Fund except under the authority of this Act.

- (2) There may be paid out of the fund—
 - (a) all costs and expenses incurred by the Trust in exercising and discharging its powers, authorities, duties and functions under this Act including any costs and expenses incurred for or in connection with the improvement, development and maintenance of the Kosciusko State Park, the opening of roads, tracks and paths, the development of ski trails, the prevention and control of fires, and the employment of rangers and other officers; and
 - (b) the fees and travelling expenses payable to members of the Trust.

Regula-
tions.**17.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the power conferred by subsection one of this section, the Governor may make regulations for or with respect to—

- (a) the management and control of the Kosciusko State Park;

(b)

- (b) the conditions under which trees or timber may be cut or removed from the said Park, and the amount of royalties, fees and charges payable in respect thereof; No. 14, 1944.
- (c) the protection of fauna and flora within the said Park;
- (d) the appointment and duties of rangers and other officers.

(3) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(4) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

18. Any penalty imposed by this Act or the regulations may be recovered in a summary manner in a court of petty sessions holden before a stipendiary or police magistrate. Recovery of penalties.

SCHEDULE.

Commencing on the right bank of the Snowy River where it intersects the State boundary between New South Wales and Victoria and bounded thence by the State boundary and its prolongation north-westerly to the right bank of the Upper Indi River; by that river and the Indi or Murray River downwards to portion 19, parish Geeli, county Selwyn; by that portion and lines forming the southern boundary of block R.12 and its prolongation generally easterly to the right bank of the Murray or Swampy Plain River; by that river downwards;

Sees.
3 and 7.

No. 14, 1944. downwards; portions 7, 6, 5, parish Hume; a line crossing The Back Creek; T.S.R. 12938, notified 22nd November, 1890; portion 30, a line, portions 26 and 35, a line, portions 27 and 28, a line, portions 33, 25 and 29 all in parish Youngal; a line crossing Khancoban Creek; portions 33, 50, 39, a line, portions 47, 40, 34, parish Khancoban; a line crossing Swampy Plain Creek; by that creek downwards; portions 12, 20, a line, portions 41, 29, a line, portion 30, a line, portions 37, 17, a line and portion 40, all in parish Lea; a line, portion 33, parish Welumba; a line, portion 40 aforesaid, parish Lea; a line, portions 125, 38, 76, a line, portions 117, 96, a line, portion 84, a line, portion 111, a line, portion 72, the north-western boundary of block G.13, portion 75, all in parish Greg Greg; a line, portions 12, 25, again 12, a line, portion 20, a line crossing Welumba Creek, portions 28, 16, C.R. 2302 notified 1st December, 1879, and portion 11, all in parish Welumba; by the Tooma River upwards, a line, W.R. 2640 notified 25th October, 1880; a line crossing The Pound Creek, portion 16, a line, portion 19, all in parish Cowra; a line, portions 50, 49, 51, a line, portion 20, all in parish Maragle; by Maragle State Forest; by portion 4, a line, portions 3, 15, 35, 45, a line, portions 14, 50, parish Hay; portions 13, 10, 12, 9, 13, a line, portion 20, a line crossing Maragle Creek; W. & C.R. 52853, notified 21st June, 1913, portions 8, 5, all in parish Nurenmerenmong, a line crossing Chambers Creek; by that creek and Maragle Creek downwards to a point south of the north-eastern corner of portion 23, parish Hay; by a line to that corner, by portions 23, 26, 52 and T.S.R. 1744, notified 13th February, 1877 to a point east of the north-eastern corner of portion 39, all in parish Hay; by a line west to the road from Tumbarumba to Lob's Hole; by that road generally north-easterly; a line crossing that road, portions 4, 1, 17 parish Buccleuch; Bago State Forest; portions 118, 117, parish Yellowin; portion 7, a line, portions 3, 5, Buddong Creek upwards, a line crossing that creek, portion 4, a line, portion 16 and a line, all in parish Buddong; by the Tumut River upwards, a line crossing that river, portion 14, parish Boraig, county Buccleuch; a line, portions 19, 18, a line crossing The Mill Creek, portions 47, 53, 52, a line, portions 51, 8, 48, 4, 3, 2, 1, a line crossing Jounama Creek, by that creek downwards, a line, portions 31, 29, 32, 28, 27, 58, all in parish Talbingo; Warogong State Forest; a line crossing Baloo Arm or Peak River; by that river downwards, portions 8, 9, 6, a line, and C.L. 1085, parish Jibeen; by a line crossing the Goobarragandra River and that river downwards, portions 42, 10, 26, 6, 7, a line, portions 19, 32, a line north to the south-eastern corner of portion 39, and by portion 39, a line and portion 38, all in parish Nimbo; by portion 98, a line, portion 96, a line, portions 101 and 122, parish Cooleman; Micalong State Forest; portions 20, 23, parish Napier, portion 18, a line, portion 13, Special Lease 35/6, Queanbeyan, a line crossing Horse Creek, portions 20, 19, 17 and 6, all in parish Cromwell; portions 7, 4, 8, 11, a line, 16, 9, 76, 31, 75, the Goodradigbee or Little River upwards, portions 13 and 12, all in parish Bramina; by portion 4, parish Venterman, county Cowley; again by the Goodradigbee or Little River upwards to block J5; by boundaries of that block, mainly along the Rolling Grounds Spur, generally south-easterly

south-easterly to the Australian Capital Territory: by the Australian Capital Territory; portions 68, 69, 67, 63 and 70, parish Yaouk; a line west, crossing the Murrumbidgee River, to the south-eastern corner of portion 6, parish Gabramatta, country Wallace; by the Murrumbidgee River downwards; by portions 45, 35, 48, 44, 46, 47, parish Gabramatta; the north-eastern boundary of block O and portions 98, 99, 115, 96, 79, 62, parish Chippendale, and portions 33, 32, a line, portions 21, 20, 10, 8, 13, a line, portions 24, 26, 19, 25, a line and portion 27, parish Nungar; by Alpine Creek State Forest, a line, Tolbar State Forest, portions 59 and 49, parish Nimmo; portions 32, 27, Special Lease 34/25 Cooma, portions 36, 35, a line, Bulls Peaks River downwards, portion 28, C.L. 4785, portions 11, 21, a line and portion 20, all in parish Gungarlin, to the Gungarlin River; by that river downwards, a line, portions 16 and 18, parish Nimmo; the Eucumbene River downwards; the Snowy River, Crackenback River and Little Thredbo River upwards; a line, portion 37, Classification Reserve notified 7th July, 1939, and portion 45, all in parish Thredbo, to the Mowamba River: by a line, portions 83, 78 and 85, parish Mowamba; Rendezvous Creek upwards, a line, portion 80, parish Mowamba; portion 62, a line, portion 47, lines forming south-eastern and north-eastern boundaries of blocks Y6 and Z6, portions 64 and 48, all in parish Ingebirah, portion 14, a line, portion 16, parish Grose; by lines forming the southern boundary of Block O7 and its prolongation generally westerly to the right bank of the Tongaroo or Jacobs River and by that river and the Snowy River downwards to the point of commencement.
