

NSW NATIONAL PARKS & WILDLIFE SERVICE

Draft Kosciuszko National Park Wild Horse Heritage Management Plan 2021

Submission by: The La Trobe University Research Centre for Applied
Alpine Ecology (RCAAE)

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Summary

The La Trobe University Research Centre for Applied Alpine Ecology (RCAAE) is a group of professional scientists who have internationally-recognised expertise in all aspects of the ecology and management of Australia's alpine and sub-alpine landscapes.

In our expert opinion *The Draft Kosciuszko National Park Wild Horse Heritage Management Plan (2021)* is a seriously poor piece of environmental planning. The Draft Plan takes little or no account of well-documented principles and practices of managing Australia's high mountain conservation estate and is:

- based on false premises,
- a recipe for wide-spread environmental degradation,
- will likely lead to on-going conflict with Victoria and the ACT, and
- an abrogation of Australia's legislated responsibilities to protect the listed natural values in our conservation reserves.

We propose that preserving any culturally significant heritage values of the Kosciuszko horses will best be achieved by maintaining populations of horses outside the Kosciuszko National Park, preferably in controlled areas that prevent re-population of the park.

Introduction

The Draft Kosciuszko National Park Wild Horse Heritage Management Plan (NPWS 2021; hereafter 'the Draft Plan') is a seriously poor piece of environmental planning. This is the third management plan for horses in the Kosciuszko National Park (hereafter KNP) since 2008. Over the period of development of these plans (NPWS 2008; OEH 2016, NPWS 2021), horse numbers in KNP have grown exponentially, from 1700 in 2005 to 14400 in 2020.

The Draft Plan's central propositions - that the so-called 'Kosciuszko wild horses' (hereafter Kosciuszko horses) have national heritage values, that these values need protection by retaining a 'sustainable population' of horses within Kosciuszko National Park, and that horse numbers and environmental values will be managed as outlined in the Draft Plan – are all flawed.

The arguments concerning the so-called national heritage values of the horses themselves within the KNP are weak; horses in the Australian Alps do not have listed National Heritage values. The proposal to maintain a 'sustainable population' of Kosciuszko horses conflicts with the *National Parks and Wildlife Act 1974*, *Environment Protection and Biodiversity Conservation Act 1999* and similar conservation management legislation, objectives and practices in Victoria and the ACT. The Draft Plan does not adequately address how horse impacts on natural values of the Park will be monitored, nor does it adequately consider how horse populations will be monitored and managed. The Draft Plan does not consider the cost-effectiveness of the proposed actions, nor does it canvass obvious alternative strategies to

house horses outside KNP. We elaborate below, with reference to the relevant sections of the Draft Plan.

Section 3. The heritage value of sustainable wild horse populations and Box 1

The Draft Plan discusses potential National Heritage values of the association between Kosciuszko horses and the park, but does not present any credible evidence that the National Heritage values of the Kosciuszko horses themselves have been codified formally. This is in clear contrast to listed Natural Heritage values of numerous native species and ecosystems with KNP under the NSW National Parks and Wildlife Act 1974, the *NSW Biodiversity Conservation Act 2016*, and, elsewhere in the Australian Alps, via similar legislation in Victoria (*The Flora and Fauna Guarantee Act 1988*) and the ACT (*Nature Conservation Act 2014*), and the Federal *Environment Protection and Biodiversity Conservation Act 1999*.

A credible basis for the attribution of heritage values of the Kosciuszko horses themselves is not presented in the Draft Plan. We do not dispute that the Kosciuszko horses are associated with places and themes of cultural significance, but this is not the same as having codified National Heritage values. No biological or historical evidence is presented or referred to that codifies, or even illustrates, the significant attributes of the horses by which National Heritage value could be conferred. Furthermore, no reference is made to established precedents that demonstrate or evaluate these inherent values.

The Draft Plan bases its attribution of heritage values to the Kosciuszko horses themselves on: (i) the opinion of members of Advisory Committee, (ii) a report to NPWS (Context 2015), and (iii) sections of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This approach is flawed.

The veracity of the opinions of the members of Advisory Committee cannot be scrutinized independently as the Draft Plan does not provide the necessary detail.

(Context 2015) provided “a preliminary assessment based on existing materials and using the National Heritage List criteria and thresholds.” The assessment “found that the wild horse population is an attribute associated with the cultural heritage significance of Kosciuszko National Park.” It concluded that “the cultural heritage values identified should be addressed, and that this implies retaining a wild horse population in an appropriate location or locations within the KNP as one of the attributes of the identified cultural heritage values.” We agree that Kosciuszko horses may be considered an attribute associated with cultural heritage within KNP. However, this opinion is not equivalent to a formal listing of values via rigorous, peer-reviewed scientific assessments that inform associated Federal and State legislation. It is no basis for retaining horses within KNP.

Attributing heritage values to the Kosciuszko horses on the basis the EPBC Act as Box 1 of the Draft Plan attempts is particularly flawed. This section of the Draft Plan argues that the heritage values of the Kosciuszko horses are conferred by the Act. It is true that The EPBC Act lists various National Heritage values of the Australian Alps as a whole, as is stated in Box 1:

“The pioneering history of the high country is valued as an important part of the construction of the Australian identity featuring in myths, legends and literature. The ballad “The Man

from Snowy River" epitomises horsemanship undertaken historically in the rugged landscape. The stories, legends and myths of the mountains and mountain lifestyles have been romanticised in books, films, songs, and television series and many such as the Elyne Mitchell's Silver Brumby novels are part of Australia's national identity."

However, the National Heritage values referred to in the EPBC Act pertain to **the legends and stories concerning the horses**, not the horses themselves.

The National Heritage values of horses in the Australian Alps were evaluated in a recent Federal Court case judgement (*Australian Brumby Alliance Inc v Parks Victoria Inc [2020] FCA 605; VID 1569 of 2018*). The Australian Brumby Alliance (ABA) contended that the brumby horses in the Victorian Alps (horses that are similar to the Kosciuszko horses) had National Heritage values, and the ABA supported its case by reference to, inter alia, the above section of the EPBC Act.

After considering the detailed arguments of the ABA, and the EPBC Act, O'BRYAN J determined that brumby horses in the Victorian Alps did not have national heritage value:

232 "I reject the ABA's contention that the brumbies are part of the National Heritage values of the Australian Alps. The brumbies are not directly referred to in the National Heritage values and are only indirectly referenced through the literary works of Banjo Paterson and Elyne Mitchell and other references to the pastoral history of the Australian Alps."

Clearly, then, horses in the Australian Alps are not listed under the National Heritage provisions of the EPBC Act; to suggest otherwise is a false proposition. The fundamental rationale for the Draft Plan as discussed in Section 3 – the need to preserve heritage values of the Kosciuszko horses by maintaining horses in the Park - is thus flawed.

Section 4. Other environmental values of the park, and Section 5. Protecting wild horse heritage values while maintaining other environmental values

The actions and activities in these two sections of the Draft Plan are in clear conflict with other Park values, particularly the outstanding natural values of KNP.

The potential for environmental damage to alpine ecosystems by horses is acknowledged in The Draft Plan. In our view, however, the Draft Plan does not acknowledge the seriousness of current and potential future damage in KNP. Alarming, this section of the Draft Plan does not provide compelling evidence that the clear conflicts between natural heritage values and cultural values of horses can be resolved.

The Draft Plan documents a number of significant natural features of the KNP (Table 1) and the potential for damage to these values. Horses are livestock, and the damage that livestock do to Australia's high mountain environments has been well-known for decades (Costin 1954; Williams et al. 2014; Venn et al. 2017). The evidence for specific damage by horses in the Australian Alps has been clearly articulated in a Special Issue of *Ecological Management and Restoration* "Feral Horses in the Australian Alps" (Driscoll et al. 2019a,b and papers therein). The EPBC-listed alpine and subalpine bogs/peatlands and White Box-White Cypress Pine communities are particularly vulnerable, as are species such as the critically endangered stocky galaxias and the Broad-toothed Rat (OEH 2017; Schultz 2019).

Hence, the clear legal obligations to protect and manage Kosciuszko's natural environment are undermined by the Draft Plan to protect Kosciuszko horses. The damage, and hence risk to natural values, is both obvious and unequivocal; this damage in KNP has been obvious since the 1990s. Damage by feral horses is recognised as a threatening process in NSW due to its impact on native species and ecosystems, and this is acknowledged in the Management Plan (section 5). Management intervention is therefore necessary to mitigate the negative ecological impacts of feral horses on alpine, subalpine and foothill plant and animal communities. The Draft Plan acknowledges the risks posed by the Kosciuszko horses to these natural values within in the KNP, but it says little or nothing about how these risks will be mitigated.

Crucially, the Draft Plan fails to address ecological restoration strategies that are necessary to rehabilitate ecosystems already severely damaged by feral horses, and it fails to address how threatened species will be protected in areas where feral horses are proposed to remain (Table 3). These are extraordinary oversights.

Recovery plans for peatlands (e.g. under the EPBC Act 1999) clearly state that the exclusion of grazing by livestock (including horses) is necessary for the protection of peatlands. It is both impractical and costly to use fences at landscape scales to exclude stock, so the only way to protect peatlands within KNP and other areas within the Australian Alps from damage by livestock is to exclude livestock from whole of the Park estate. This has been an axiom of Park management in the Australian Alps, including KNP, for over half a century (Williams et al. 2014).

We find it staggering that while these well-known risks to peatlands are acknowledged in the Draft Plan, there is no convincing consideration of how the risks to peatlands (and indeed to all the other natural values listed in Table 1) will be mitigated.

For example, the Draft Plan does not say what indicators of state/change in state will be used, how these indicators will be monitored, what the potential thresholds of concern might be, and what actions will be necessary to mitigate risk, should damage be detected. We know that damage to alpine/subalpine peatlands from horses is accumulative and can occur as a consequence of only a few 10s of horses (Tolsma et al. 2018). To propose retaining 3000 horses within KNP, at densities of up to 10 per km², without even outlining the basics of a monitoring program, is dereliction of duty.

Section 6. Control methods

Monitoring and managing horse population numbers

The Draft Plan does not consider in sufficient detail the practicalities of monitoring horse numbers, as a basis for managing population numbers by appropriate control methods. Glaring deficiencies include:

1. No justification for why 3000 horses are needed to 'preserve' the heritage values.
2. No justification for why horses need to be retained in **two** major regions of KNP, covering an area of more than 200,000 ha.

3. No consideration of how to get to the target number (3000 head) from the present number (14000 head) by 2027. Simple arithmetic tells us that to achieve this will require removing, on average, 2000-3000 horses p.a. Potential means of reducing population numbers are canvassed in the Draft Plan, but how this effort compares with current efforts and capacity is not discussed.
4. No consideration of how the horse population will be kept at 3000, should that target be reached by 2027. Given that the annual rate of population increase may be as high as 20%, then keeping horse numbers at 3000 implies removal of ca. 600 horses p.a. Again, how this effort compares with current efforts and capacity is not discussed.
5. No consideration of the budget for these actions. The Draft Plan gives no indication of the cost-effectiveness of the proposed actions. The taxpayers of NSW are entitled to know even the basic details of the budget for the proposed actions.

The continual disruption of the dingo in and around the Kosciusko region has lessened its effectiveness as an apex predator (*sensu* Ripple and Beschta 2003) and thus its capacity to assist control of populations of over-abundant grazers such as deer and horses. Park Management should seek to work with native ecological processes in their management - it is highly cost-effective.

Section 8. Cooperative management

The Draft Plan is in clear conflict with horse management plans developed by Victoria and the ACT, and is in conflict with the Memorandum of Understanding (MoU) concerning the management of the Australian Alps national parks (Australian Alps National Parks 2021). The Draft Plan acknowledges the need for cooperative management, but does not acknowledge the obvious inter-jurisdictional conflicts the Draft Plan poses.

Both Victoria and the ACT have active plans to reduce horse numbers to as close to zero as soon as possible within their respective alpine national parks (e.g. Parks Victoria 2021).

The proposal aims to retain horses in the southern part of KNP, which shares a State border with Victoria. The proposed northern retention area shares a border with Namadgi National Park in the ACT.

The MoU in relation to the co-operative management of the Australian Alps National Parks was established in 1986, and resigned by national park agencies in 2021 (including Deputy Secretary, National Parks and Wildlife Service, NSW, on May 5th, 2021).

The MoU states that the parties agree that the Agencies “will consult in the preparation of Management Plans” and that the Agencies “will consult on matters of policy formulation and management”. The Draft Plan does not even acknowledge that the MoU exists, let alone that it takes its prescriptions into account. As far as we know, Victoria and the ACT were not consulted about the Draft Plan.

Alternative locations are not considered

Sound management plans need to consider alternatives to that which is proposed. As indicated above, the Draft Plan provides no justification for why the heritage values of horses need to be preserved by keeping horses within KNP. Consequently, the Draft Plan is blind to

obvious alternative locations for accommodating horses, and hence preserving any heritage values, outside KNP.

The 2016 KNP horse plan of management (OEH 2016) specifically describes how horses move between the State forests adjoining the Park and KNP itself. As we understand, the northern population is mostly within KNP but also moves into adjoining State Forest. Similarly, horses in the south move into other State Forests. It follows, then that any culturally significant values that the Kosciuszko horses may have (e.g. those described in Context 2015), are retained in such places **outside** KNP by virtue of the horses moving out of KNP. Re-locating and maintaining populations of horses in the State forests adjacent to KNP thus satisfies the stated objective of preserving the cultural values of the horses themselves.

There is potential in pursuing this strategy, both in NSW and Victoria. There are *ca.* 250,000 ha of high country land above 1200 m in NSW and Victoria that is outside the National Reserve System (Appendix; Map 1). If we assume that approximately half of this is in NSW, then it would be possible to accommodate several thousand horses on these lands at densities that approximate those of the present situation within KNP (*ca.* 1-10 per km²).

If the heritage values of the Kosciuszko horses are such that populations of horses need to be extant in high country landscapes, then these areas outside the national reserve system should be the focus of relocation and management.

The Draft Plan states that reductions in horse numbers will commence as soon as possible. Even with considerable effort, it will take many years to reduce numbers. Thus, there will be many horses within KNP for years to come, and people who wish to see horses in KNP will be able to do so. In the longer term (decades), encounters between people and horses in high country environments will be possible outside the park.

This strategy is not without risk and cost, however. Maintaining a population outside KNP will involve removal of horses that enter KNP and may require some dedicated fenced areas. Nevertheless, a strategy that focuses on preserving a population of horses outside KNP will allow time to develop management plans that address the preservation of any culturally significant values of the horses themselves, and mitigate conflicts between horses, listed National Heritage values, and other jurisdictions.

Conclusion

This is not a credible plan of management. There is no defensible rationale for the objectives, no convincing treatment of how the objectives will be achieved, and, in cases such as this where proposed actions will inexorably lead to conflict, no consideration of alternative strategies that will mitigate or eliminate conflict. An analysis of the cost effectiveness of the proposed actions is not even attempted.

The only practical way forward is to repeal the *Kosciuszko Wild Horse Heritage Act 2018*, and redraft the legislation such that horses are accommodated outside KNP. Removal of horses within KNP needs to commence immediately.

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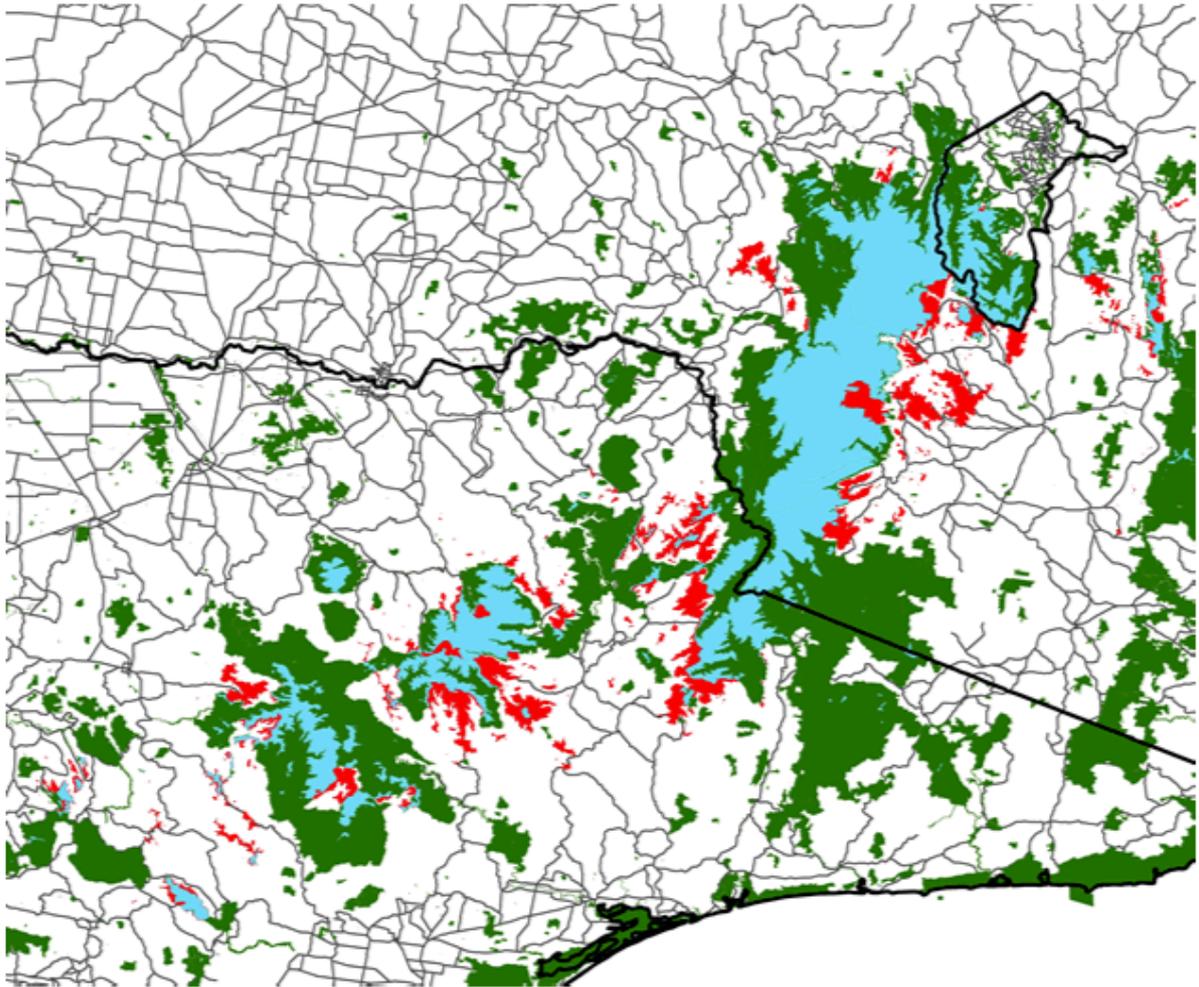
Appendices

Research Centre for Applied Alpine Ecology

The Research Centre for Applied Alpine Ecology (RCAAE) at La Trobe University comprises a group of professional scientists and academics who study all aspects of the ecology of alpine and sub-alpine landscapes in Australia. Our scientific research includes ecological processes, rare and endangered species conservation, effects of fire, exotic plants and animals, human activities, and the management of these ecosystems in response to land-use and climate change. We are grateful for the opportunity to comment on the ‘Draft Kosciuszko National Park Wild Horse Heritage Management Plan.’

Map 1. Land above 1200 m in the Australian Alps

Red = land above 1200m outside the national reserve system. Blue = land above 1200m within the national reserve system. Green = land below 1200m within the national reserve



system. (Source: Matt White Vic DELWP, 2018).