Legislative Assembly

Game Bill Hansard

Extract

19/03/2002

Second Reading

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services) [8.06 p.m.]: I move:

That this bill be now read a second time.

Honourable members will recall that I first introduced this bill on 28 November last year, almost four months ago. My contribution tonight should be taken in conjunction with the references I made when introducing the bill at that time. I indicated that my intention was to leave the bill on the table for the Parliament's consideration over the summer recess and to provide an opportunity for public comment. Since tabling the bill I have received comment from many organisations and private individuals, and today I am tabling a revised Game Bill based on that feedback. Before outlining some of the major changes I have made to the bill I take this opportunity to thank all those who took the time to bring their support for, or concerns about, the bill to my attention. The submissions covered a wide range of issues. Some submissions questioned both the need for a statutory Game Council and for legislation to involve appropriately skilled, licensed, private hunters in vertebrate pest management and conservation activities.

Submissions from animal welfare and animal rights groups that are totally opposed to hunting stated that the bill should be withdrawn completely. Other animal welfare interests, on the other hand, argued that the bill as originally tabled needed to be amended to improve consistency between it and the Prevention of Cruelty to Animals Act 1979 and the Companion Animals Act 1998. These groups also argued for stronger penalties for hunters who fail to observe the proposed code of practice for licensed game hunters. They also advised that the definition of "hunt" in the original bill could be misconstrued as condoning aggravated cruelty to animals and thereby subvert the Prevention of Cruelty to Animals Act.

The groups also asked that animal welfare interests be represented on the Game Council. Greater consistency between the bill and the pest control provisions of the Rural Lands Protection Act was sought by rural lands protection boards, the New South Wales Farmers Association and the Pest Animal Council, as well as environmental interests. The groups stressed the need to minimise misunderstanding which may arise as a result of usage of the term "pest" in the bill and in pest control orders issued under the Rural Lands Protection Act 1998.

The New South Wales Farmers Association indicated that defining goats as pest animals for the purposes of the bill may undermine the growing status of goats and goat meat as an agricultural export. It asked that the bill treat goats in a manner consistent with the needs of an expanding export industry. The Farmers Association and the State Council of Rural Lands Protection Boards asked that the bill be amended to clarify the relationship with the Wild Dog Destruction Act 1923. The Total Environment Centre argued for provisions governing public notification of the declaration of an area as available for hunting. As a result of these and other suggestions I am pleased to bring a new bill back to the House. The main changes are as follows. The definition of "hunt" has been altered to take account of concerns by animal welfare groups that the previous definition could have been misconstrued as authorising harm to animals in a manner inconsistent with the Prevention of Cruelty to Animals Act 1979.

On the advice of the State Council of Rural Lands Protection Boards, the Pest Animal Council, the New South Wales Farmers Association and others, the term "pest" has been removed from clause 5 (2) and other parts of the bill to improve consistency with the Rural Lands Protection Act. Hares have also been removed from clause 5 (1) and are now classified as a clause 5 (2) game animal to take account of the fact that they are regarded as a nuisance animal by farmers in some parts of New South Wales. Private hunters and land-holders no longer require a game hunting licence to hunt hares on private land as a consequence of this change, which was brought to my attention by the New South Wales Farmers Association.

The term "feral" has been removed from clause 5 (2) to improve consistency with the Companion Animals Act. This change arose out of concerns expressed by the Humane Society International, the Cat Protection Society of New South Wales and other groups with an interest in domestic animal control under the Companion Animals Act. In a complementary change, the bill makes it clear that dingos are not game animals. A new clause has been added to indicate that the bill is subordinate to the requirements of the Prevention of Cruelty to Animals Act [POCTAA]. This change was recommended on the basis that there is a need for a statement in the bill which makes it very clear that a future Game Act would not remove any of the obligations that the POCTAA imposes on hunters.

Many individuals and groups supported this change, including the RSPCA, the Faculty of Veterinary Science at University of Sydney and the New South Wales Animal Welfare Advisory Committee. The composition of the Game Council has been increased from 14 members to 16 members, comprising an additional member nominated by the Minister for Agriculture and an additional member nominated by hunting organisations. Clause 18 (1) (d) has been amended to make it clear that a game hunting licence is not required by anyone suppressing wild dogs as part of a duty imposed under the Wild Dog Destruction Act.

Under amendments to clause 30 the hunting code of practice now contains mandatory provisions to be observed by licensed game hunters. Failure to observe these mandatory provisions now constitutes an offence under the Act and is grounds for cancellation or suspension of a licence. These mandatory provisions will address acceptable standards of behaviour in areas as diverse as animal welfare, firearms safety, access to private and public land, and recognition of target species. Making parts of the code a condition of the licence accommodates in large part the view that the code of practice should be embodied in a regulation. Clause 35 of the bill has been amended to require the Game Council to suspend or cancel a game hunting licence if a person is found guilty of an offence involving cruelty to animals. This change ensures that anyone found guilty of breaching the code will be banned from hunting game animals on private land, and hunting any animal on all public land in New South Wales.

Furthermore, under another important change to clause 35 the Game Council has been given the power to disqualify a person from holding a game hunting licence for an indefinite period. This is in addition to its existing power under clause 29 of the previous bill to refuse to issue a licence to a person found guilty of an offence involving personal violence, damage to property, or unlawful entry into land. Under an amendment to clause 53 hunters will also be required to carry their licences while hunting game animals. It is in relation to this amendment that I acknowledge Mr Ron Rees of Mildura, who suggested this practical and, I think, very important amendment. Some honourable members would know Ron. For those who do not, Ron and his family before him have been farming in the south-west of the State for many decades. Ron has been actively involved in the West 2000 structural adjustment program and with rabbit control work in the region and occasionally sends me a hands-on report of rabbit control work in his region. My thanks to Ron Rees for this suggestion.

At the suggestion of the Total Environment Centre a new clause requiring public notification of areas available for hunting has been added. A regulation addressing public notification will also be made and State Forests and other relevant New South Wales Government agencies and other organisations will be invited to have input into this regulation as it is prepared. My investigation of many other concerns raised in submissions revealed that they are already addressed in the bill in its current form; that the bill is highly unlikely to have the stated impact, or that the issue is best addressed in other existing legislation. For example, rural lands protection boards and other pest control bodies were concerned that the bill might give hunters and land-holders the right to ignore their obligations under the pest control provisions of the Rural Lands Protection Act.

The State Council of Rural Lands Protection Boards requested that a new provision be added to the bill stating that that hunters should not interfere with or in any way adversely affect the suppression and destruction of pests under the Rural Lands Protection Act 1998. The bill does not take precedence over either the Prevention of Cruelty to Animals Act [POCTAA] or the pest control provisions of the Rural Lands Protection Act. It was also claimed that the bill authorised currently illegal methods of hunting, the introduction of game parks, and the re-introduction of trap shooting using live birds. This was never the case and I hope that the issue is now firmly put to rest with the reference to the need for hunters to observe the POCTAA appearing in this revised bill.

The State Council of Rural Lands Protection Boards also requested that all private hunters helping a land-holder to meet an obligation to control pest animals under the Rural Lands Protection Act 1998 be exempt from the need to hold a game hunting licence. It was always intended that land-holders hunting on neighbouring land as part of a co-ordinated pest control program should not be required to hold a game hunting licence—even if their neighbour is a public authority—while participating in that program. The bill as originally drafted provided for an exemption of this nature to be made under clause 18 (h) and provided for further exemptions of a similar nature when this is necessary.

I will ensure that a regulation exempting land-holders from the need to hold a game hunting licence when taking part in joint pest control programs is made as soon as possible, should this bill receive the support of Parliament. I also remind the House that a game hunting licence is not required by anyone hunting on private land any of those animals listed under clause 5 (2). Clause 5 (2) includes those animals that we commonly regard as nuisance or pest animals. As such, a licence would not be required by any person taking part in a co-ordinated control program targeting pigs, wild dogs other than dingos, feral cats, goats, rabbits, hares and foxes on private land.

In effect, the bill as drafted goes a long way towards providing the type of exemption sought. However, a blanket exemption for all private hunters and all game animals on private land could not be supported, for several reasons. As the House would be aware, ducks are protected fauna and can currently be hunted only if the hunter has a pest mitigation permit issued by the National Parks and Wildlife Service. The Government has determined that this situation should not change under the bill. Private hunters hunting protected fauna will therefore continue to require a licence. A licence will also be required for deer and those other animals that are classed in the bill as game animals on private land.

To broaden the exemption to all hunters and to all game animals on private lands would undermine the intention of the Act, which is to require private hunters of game to hold a licence when hunting designated game animals—unless they have a good reason for not doing so. The State Council of Rural Lands Protection Boards also sought an assurance that the Act should not prevent the control of pests under the Rural Lands Protection Act when such pests inhabit a proclaimed ecological community under the Threatened Species Conservation Act 1996. I am advised that the bill would not prevent control of pests in these circumstances, providing that the control program in question was consistent with the requirements of the Threatened Species Conservation Act.

The New South Wales Farmers Association asked that the bill be amended to clarify the relationship with

section 7 of the Inclosed Lands Protection Act with respect to goats. I have been advised that the bill has no adverse impact on this legislation as it does not require people hunting goats on private land to be in possession a game hunting licence. Employees of public agencies hunting goats on public lands as part of their normal duties are also exempt from the need to hold a game licence. The State council also requested an amendment that required hunters to obtain the written permission of the land-holder before entering private land.

While I am sympathetic to the proposal, introducing such a requirement under this bill would create a law that applies to one group of private hunters—licensed game hunters—but does not apply to hunters of non-game animals. To create this type of difference under the law between two very similar groups of people and to effectively require a person to seek written approval when hunting game animals on private land but not when hunting pest animals on private land is not good policy. This matter is best left to other legislation which can apply equally to all hunters as appropriate. I also remind the House that if the holder of a game hunting licence enters any land when he or she is not authorised to do so, it is trespassing and will be an offence under the proposed Game Act. My inquiries also revealed that some private land-holders do not want to have to prepare written permission of this type. For those reasons I have decided not to incorporate an amendment to this effect in the bill.

I have also investigated the concern that the Game Council's powers of delegation under clause 13 are unusually broad. I have been advised that it is standard practice for a statutory body to have this type of power. I also point out that the power to issue an occupier's licence and to issue a restricted licence cannot be delegated under this provision. These are just some of the many issues which have been brought to my attention during the public comment phase of this bill. I believe that the changes I have made to the original bill have made this a better bill and one which should be supported by this House. Before concluding today, I want to comment on some other statements that have been made about the bill, in particular the claim that the bill is purely a bill for hunters.

For example, it has been claimed that the bill allows recreational hunters to use any means at their disposal to injure, maim or kill any cats, dogs, deer, pigs, foxes, goats or other animals that cross their path. This is not the case. The Game Bill only addresses animal species which can currently be legally hunted on public and private land in New South Wales using methods currently permitted by the Prevention of Cruelty to Animals Act [POCTAA]. The tight gun control laws introduced by the Carr Government, and indeed all governments, since 1995 have not been affected in any way by this bill. These two points are emphasised in clause 6 of this bill. The objectives of this bill are clearly stated in both the introduction to the bill and in clause 9, which sets out the functions of the Game Council. One of the two primary objectives set out in the explanatory note to the bill is, for example:

> To promote the responsible and orderly hunting of game animals on public and private land and of certain pest animals on public land.

However, the bill is not—I repeat "not"—as has also been claimed, a free ticket to shooters, hunters, and pig doggers to carry out their blood sport almost anywhere in New South Wales. The bill does not give hunters sole control over hunters' activities, as has also been claimed. This type of claim ignores the fact that the bill preserves and clarifies the existing regulatory framework and actually imposes additional regulation and controls on hunting. It has also been claimed that the bill promotes animal cruelty by allowing hunters to use any hunting method or weapon to capture and kill game animals. These people are also saying that illegal methods of hunting will be made lawful under this Act. This statement deliberately ignores the fact that no amendments to POCTAA are made in this bill. It also ignores the fact that hunters are required to abide by a statutory code of practice linked to a revocable hunting licence which, once forfeited, prevents a person from hunting on all public land in New South Wales.

Rather than undermining the Prevention of Cruelty to Animals Act, this bill underpins it. I remind the House that I have included a clause in the bill stating that nothing in the bill affects the operation of the Prevention of Cruelty to Animals Act to underscore this fact. Also, apart from asking hunters to accept additional regulation, this bill does not give hunters everything they asked for. For example, the bill does not give hunters access to national parks and other lands identified for similar conservation purposes. In fact, as I pointed out in this House in November last year when I originally tabled this bill, it specifically excludes national park estate land from the definition of "public land". The result is that the main public lands available to hunters under the bill are State Forests and Crown lands. Private hunter access to these areas is consistent with the existing management regimes for these areas.

More importantly, casting the bill in this way ensures that an amendment to the Act would be required to provide licensed game hunters with access to the national park estate. As honourable members would be aware, any such amendment would be subject to the fullest public scrutiny afforded by legal, administrative and parliamentary processes. This feature of the bill, among others, represents a significant point of departure from the Liberal-National Coalition's hunting policies, which favour providing private hunters with access to the national park estate. This bill does not pave the way for the future introduction of hunting by licensed game hunters in national parks any more than it allows hunting pet cats in the back lanes and alleyways of our cities and towns, which has also been claimed by some people. Also, some hunting groups asked that the Game Council, rather than the Director-General of National Parks and Wildlife, set protected game animal quotas, which includes ducks, and that these quotas be set for sporting and recreational purposes.

Quota setting is still undertaken by the director-general, and the bill specifically excludes the setting of these quotas for sporting and recreational purposes. Some hunter submissions also asked that the Game Council have the power to nominate additional species as game animals under clause 5. This has not been done. It was also suggested that the requirement for visiting private hunters to hold a game licence when hunting game species on private property should be removed. An amendment to the bill to enable individual hunting groups, rather than the Game Council, to issue the mandatory hunting code of practice was also requested. While I have been able to accommodate some of the views of hunters when preparing this bill, I have not incorporated either of these features

in the bill. As I said last November, this bill primarily establishes a framework to involve private hunters more in pest animal control, particularly on public lands. As I said at the outset, many submissions made constructive suggestions, and where possible these have been incorporated in the bill. I believe that the bill I have introduced today is a better bill as a result of the public consultation phase. I commend the bill to the House.