



# Legislative Council

## Game Bill Hansard - Extract

27/06/2002

### Second Reading

**The Hon. IAN MACDONALD** (Parliamentary Secretary) [4.32 p.m.]: I move:

That this bill be now read a second time.

I am sure that most honourable members of this House would be aware of the capacity of pest animals to cause significant losses to agricultural production, and also of the threat pest animals pose to native plants and animals. Most members would also be familiar with the killing and maiming of lambs and adult sheep by feral pigs, dogs and foxes. These shocking attacks cause great pain and suffering to the animals concerned. Pest control officers attached to the State's 48 Rural lands protection boards [RLPB] work with State government agencies and private land-holders to control wild dogs, pigs and other animal pests to minimise the economic and environmental costs of these attacks by pest animals. Apart from benefiting neighbouring farmers, these programs produce conservation benefits as pest animals are also a major threat to the conservation of biodiversity. Feral goats, for example, compete with the rare yellow-footed rock wallaby and cause severe damage to habitat in forests and on rangelands. We have also heard much about the capacity of feral cats to create havoc among our smaller native fauna, particularly birds and other animals susceptible to their predation.

A great many of Australia's minor species are the prey of feral cats and foxes. Predation by foxes and cats is widely recognised as the key process associated with the threatened status of many of these species. Foxes also pose a threat to mountain pygmy possum in the Snowy Mountain National Park, and to the southern brown bandicoot, the little tern and the pied oyster catcher on coastal areas. The Carr Government is keen to build on these joint pest control initiatives, and to take advantage of other opportunities to minimise the damage caused by pest animals, particularly on public and neighbouring private lands. For this reason, in November 1998 the Premier, Bob Carr, announced, in response to representations from the Hon. John Tingle, that the Government would establish a Game Council to enable hunters to become more involved in pest management. Since the Premier's announcement the Government has been examining options to involve private hunters more in pest control, particularly on Crown lands.

Hunting, as many in this House would be aware, is a popular and widespread activity, and many vertebrate pests are sought after by hunters. Despite this, RLPBs and State government agencies in New South Wales have not routinely involved private hunters in pest animal control. The Game Bill seeks to remedy this by creating a framework for involving private hunters to much greater extent than in the past. The bill proposes to create a new statutory body—the New South Wales Game Council. The council will have 16 members, who will be eight persons nominated by hunting organisations; a nominee of the State Council of Rural Lands Protection Boards; a nominee of the Australian Veterinary Association; two wildlife management scientists; a nominee of the New South Wales Aboriginal Lands Council; a nominee of the Minister administering the Forestry Act; and a person appointed on the nomination of the Minister.

The Game Council will report directly to the Minister for Agriculture and also be available to provide advice to other Ministers responsible for pest control on public and private lands. The bill also provides for a six member Committee of Management of the Game Council, which is to consist of the Chairperson of the Game Council, who is to be the Chairperson of the Committee of Management; two other members of the Game Council, appointed on the nomination of hunting organisations; the Game Council member who is the nominee of the State Council of Rural Lands Protection Boards; the Game Council member who is the nominee of the Australian Veterinary Association; and the member of staff of the Game Council who is the chief executive officer.

The Game Council may also establish other committees to assist it in connection with the exercise of any of its functions. The members of these committees need not be members of the Game Council. Rural lands protection boards are represented on the Game Council to take advantage of opportunities to involve hunters in regional pest control programs and because of the increasingly important role they play in general landscape management. This bill also underpins the tough animal welfare and gun control laws the Carr Government has introduced since 1995 through its amendments to the Prevention of Cruelty to Animals Act and the Firearms Act.

As one of its first actions, for example, the Game Council will develop a code of practice for hunters, subject to the approval of the Minister after a public comment period. This code of practice will address, among other things, acceptable standards of behaviour in areas as diverse as animal welfare, firearms safety, access to private and public land and recognition of target species. To promote responsible firearms use and humane hunting behaviour, licences will be conditional on the applicant agreeing to abide by the code of practice. Failure to comply with the code will result in the hunter being banned from holding a hunting licence. This bill therefore codifies in legislation for the first time in New South Wales acceptable standards of hunting behaviour.

The bill also gives the Game Council the explicit power to cancel a game hunting licence if a person is found guilty of an offence involving cruelty or harm to animals, personal violence, damage to property, or unlawful entry into land. In this and other ways the Game Act will directly emphasise humane hunting. A hunter who loses his or her

Game Council licence will forfeit his or her legal right to hunt on public lands in New South Wales, and also lose the right to hunt deer and other game animals on all private property in New South Wales. The bill also enables the Game Council to appoint inspectors who will have the responsibility, among other things, of ensuring that hunters observe the Hunter Code of Practice. To underscore the importance of the Hunter Code of Practice, Minister Amery has given an assurance that he will direct that the Game Council ensures that any inspectors appointed under the bill are properly trained to ensure that hunters comply with the code and with other aspects of the bill.

I also want to touch on what this bill does not do. It does not mandate unrestricted access by hunters to all animals on all lands in New South Wales. It does not mean a return to the era of duck "open" seasons. It does not enable ducks to be hunted for sporting or recreational purposes. It does not introduce game parks. As I said earlier, national parks and other lands reserved for similar conservation purposes are outside the scope of this bill. Also, access to public and private lands will continue to be controlled by the landowner or manager, whether that is a private individual or a New South Wales Government Minister. This bill does not restrict the activities of farmers and other land-holders who need to control pest animals as a normal part of land management practice.

I want to make it very clear to those who see this bill as a retreat from tight gun control and animal welfare laws that this bill explicitly emphasises responsible and humane hunting. I also want to make it very clear that this bill does not undermine the provisions of the Prevention of Cruelty to Animals Act—in fact it is subordinate to it. These animal welfare laws must be observed by hunters if they want to continue to have the privilege of hunting game on private and public lands anywhere in New South Wales. I think it is worthwhile to remind ourselves about exactly what is being debated here. What we are talking about is hunting.

Hunting, as I said earlier, is a legal pastime in New South Wales as long as it is carried out in a manner consistent with the Prevention of Cruelty to Animals Act 1979, the Firearms Act 1996, the Weapons Prohibition Act and other legislation. I am sure that most members of this House acknowledge the legitimacy of hunting. I make this point because hunting is legal in spite of the fact that we have a Prevention of Cruelty to Animals Act—which I am sure all honourable members who have followed this debate would know by now is more usually referred to as the POCTAA. The basis of this apparent contradiction lies in the fact that the POCTAA, while designed to prevent animal cruelty, also permits a limited range of acts, some of which might be regarded as cruel, to be performed—provided that they are carried out in accordance with certain standards and in specific circumstances.

Section 5, for example, states that where pain is being inflicted upon the animal, the perpetrator is to take such reasonable steps as are necessary to alleviate that pain. Section 6 states that a person shall not commit an act of aggravated cruelty upon an animal. As a mark of the seriousness it attaches to such offences, the Government has set a maximum penalty for an offence of aggravated cruelty of 500 penalty units in the case of a corporation, and 100 penalty units or imprisonment for 2 years, or both, in the case of an individual. These amounts equate to \$55,000 and \$11,000, respectively.

On the other hand, section 24 states that a person charged with a cruelty offence is not guilty of that offence if they can prove that their actions were undertaken in the course of various permissible activities. The POCTAA standards have been drafted to help the community strike a balance between acceptable or warranted levels of harm and unwarranted cruelty. Finding the right balance is never easy, and the Government relies heavily on the advice provided to it by the Animal Welfare Advisory Committee and similarly on research protocols by the Animal Research Review Panel. It also relies on and respects the advice of the staff of the New South Wales Agriculture Animal Welfare Unit, from those staff who regularly deal with animal welfare issues from an animal industry, pest control or a legal perspective, from the Royal Society for the Prevention of Cruelty to Animals and the Animal Welfare League. The combined input of these bodies is vital to ensuring that the outcome reflects both the community values of the day and the cost and availability of alternative technologies and production regimes.

Since coming to office the Carr Government has made well over 30 major changes to the POCTAA. These changes have been in diverse areas. The first I mention is animal husbandry. For example, it is now an offence to tether a sow in a piggery or to operate a feedlot without regard to prescribed guidelines for the welfare of farm animals, or to grind the teeth of sheep or to fire the tendons of horses. The second is hunting. It is now an offence to set a steel-jawed trap with the intention of using it to trap an animal, or even to possess a trap for that purpose. Third, animal baiting and fighting offences have been extended and clarified. It is also now an offence to simply be found in a premises where dog fighting is occurring. Coursing laws involving live quarry have been similarly revised. The fourth area I mention is electrical devices. It is also now an offence to use certain devices which give an animal an electric shock.

Several very important points are to be noted in this debate. First, hunting is legal in New South Wales. Secondly, the Game Bill proposes no amendments to the POCTAA. Moreover, clause 6 of this bill explicitly states that nothing in the bill exempts people from their responsibilities under the POCTAA. Also the bill does not give a "green light to recreational hunters to use any means at their disposal to injure maim or kill any cats, dogs, deer, pigs foxes goats or other animals who cross their path." This was a quote of a statement made in a letter to the Editor of the *Sydney Daily Telegraph* by one national animal rights group. Rather, this bill addresses the composition, powers and activities of a new statutory body, the Game Council. In doing so, the bill consolidates some of the hunter permit systems which are currently used by State government agencies to provide hunters with access to game and pest animals on public and private lands.

As I said earlier, questions of regulating hunting behaviour and animal cruelty will remain with bodies other than the Game Council. As such, judgments about the animal welfare component of hunting are largely out of the hands of hunters, in just the same way that questions about the welfare aspects of animal husbandry are not given over to industry bodies. This has been conveniently ignored by those who are opposed to hunting and to this bill. The

State Government currently has few opportunities—other than through the POCTAA—to directly promote ethical and humane activities of hunters who are not actively involved in hunting or shooting club activities. The Game Council will address this vacuum. The bill therefore underpins, rather than undermines, the POCTAA. It is not a bill which throws the POCTAA out the door, as others have suggested.

I wish to turn now to some amendments that the Government will move to the bill. First and foremost, the title of the bill will be changed to the Game and Feral Animal Control Bill. This reflects the Government's priorities of tackling the wild feral animal problem in New South Wales. Second, all references to ducks and native quails, and overprotected fauna, have been deleted from the bill. The list of game animals, as a result of these amendments, now comprises deer, California quail—which, as all honourable members know, is an introduced species—and pheasant, Partridge, pea fowl and turkey, and, further, any of the following pest animals that are living in the wild or on public land: Pig, dogs—other than dingo—cat, goat, rabbit, hare and fox.

Importantly, it is also proposed to amend clause 5 (3) of the bill to include reference to the National Parks and Wildlife Act. This underscores the existing reference to the Threatened Species Conservation Act in this clause, which stipulates that no animal which is a threatened species can be declared to be a game animal. This will add protected fauna within the meaning of the National Parks and Wildlife Act to the list of animals which are specifically excluded from this legislation. The Government also proposes to replace the land care representative on the council with a representative of the Australian Veterinary Association. It is also proposed that the Australian Veterinary Association will be represented on the Game Council Committee of Management. Importantly, it is also proposed that all references to ducks, as I have said, will be removed from the bill. Reflecting this, it is also proposed to delete the reference to the occupier's licence in the bill.

The Government also proposes to amend clause 9 (1) (a) so that the Game Council now may only represent the interests of hunters in matters pursuant to this bill. The powers of the Game Council to delegate its functions to any person have been limited by the proposed removal of clause 13 from the Game Bill 2002. A number of other amendments proposed for consideration in Committee have been circulated to honourable members. This bill has taken a while to fashion. The views of a wide range of statewide community groups have been consulted in framing this legislation. We believe that the bill achieves a very good balance between responsible shooting, particularly of feral and pest animals, and the conservation needs of New South Wales. I commend the bill to the House.