



NSW Legislative Assembly Hansard

Deer Bill

Extract from NSW Legislative Assembly Hansard and Papers Wednesday 30 August 2006.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.02 a.m.], on behalf of Mr David Campbell: I move:

That this bill be now read a second time.

The Deer Bill introduces new legislation to clarify the ownership of deer, to regulate the keeping and management of captive deer, to prevent the release of deer from captivity, and to introduce mechanisms to control deer that are not captive. The difficulties in managing deer have led to significant public safety, and environmental and agricultural impacts. The bill will help manage deer to mitigate those impacts. As honourable members would know, deer are not native to Australia. However, they do have a long history in New South Wales when viewed from the perspective of European settlement. The first deer were imported into New South Wales in 1803 and have since established in the Australian bush, particularly in Victoria and New South Wales.

Two hundred years later, those deer populations are flourishing and today we understand much better the perils of not managing introduced wild animals. Introduced animals are well known for the environmental damage they can cause when present in large numbers. Deer are no different, and excessive deer populations could destroy native vegetation and damage sensitive areas in our fragile Australian landscape. Recently the New South Wales Threatened Species Scientific Committee recognised the impact of deer on our environment. The committee has listed the degradation of vegetation and environment caused by feral deer as a key threatening process under the Threatened Species Conservation Act 1995. Deer in the wild not only damage the environment, they also cause agricultural harm. Deer compete with grazing livestock and can damage crops.

Deer are also becoming an increasing hazard for motorists outside towns and cities, causing significant numbers of motor vehicle accidents. They wander onto roads and because they are flighty, their behaviour can be unpredictable. These are all good reasons for better managing captive deer and for stronger control of wild deer. While deer in the wild can cause significant harm, captive deer remain a legitimate industry for farmers. Deer farming is well established in New South Wales and this State has nearly a quarter of Australia's dedicated deer farmers. Deer products from captive deer fill an important niche market both at home and overseas. There is steadily increasing demand from overseas markets for products such as venison and velvet antler. For example, 90 per cent of Australian venison production is exported.

While the development of the commercial deer industry is important, it is also important to recognise that the control and management of deer present unique challenges. It is necessary to ensure those challenges are properly addressed through appropriate management controls for captive deer. The Deer Bill addresses a range of different issues that arise with respect to deer. First, the bill clarifies the issue of ownership of deer; second, the bill regulates the keeping and management of captive deer, and as part of that, it puts in place measures to help prevent the release of deer from captivity; and, third, the bill provides for the control of wild deer.

Turning to the issue of ownership, there has been considerable uncertainty about the legal status of deer. This has been a major obstacle to the effective control of problem populations of deer. Deer are considered wild animals at common law. This means they are not considered to be domestic, as are cattle and sheep. Domestic animals that have escaped are still considered the property of their owner. However, this is not the case for wild animals. As a general rule there is no ownership in wild animals once they have escaped captivity. The problem with deer is that the rules are not so simple. Farmed deer belong to their owner for a short time after they have escaped. That ownership exists for as long as the deer may return to the herd, but as soon as this tendency to return ceases, ownership in the deer is lost.

This uncertainty means that it is difficult to determine whether a particular deer is owned or not. Therefore, it is not possible to determine whether the deer should be controlled or whether the deer has recently escaped and is the property of a nearby farmer. This legislation clarifies the common law position. Deer farmers will now have absolute property rights over deer, provided they are kept in accordance with the legislative requirements. This ownership will cease the moment such deer escape.

The second major aspect of the bill deals with managing captive deer. Managing captive deer can be a difficult task. Deer are flighty. They can easily escape from normal livestock fences and may quickly travel long distances. Special skills and facilities are needed to muster and capture them. Because of those characteristics, the bill provides a framework for developing regulations for keeping and managing captive deer. These regulations will reflect the deer industry code on important matters such as fencing. The regulations will be

developed in conjunction with the deer industry. The co-operation of industry will be important in ensuring the most appropriate standards are put in place.

As well as addressing the management of captive deer, the bill minimises the risk of damage by deer to public safety, the environment and agriculture. It does that by providing for the control of deer in the wild. First, it adds to sanctions in other legislation to prevent the release of deer into the wild. This bill will make it an offence to release captive deer. Of course, exemptions to this rule will apply in certain circumstances, such as transport of animals for veterinary treatment and sale. The bill also provides for a defence where a deer keeper has taken all reasonable steps to prevent the release of the deer, and after the release, has taken all reasonable steps to capture or control the deer. Preventing the release of deer into the wild is just part of the solution; this bill also sets up a framework for the control of deer in the wild.

Experience in States such as Tasmania shows that deer impacts can be well managed locally and through appropriate arrangements between landholders and licensed hunters. Licensed hunters represent a significant resource available to landholders seeking to control deer on their properties. It is worth noting that the Game Council of New South Wales has already implemented the most comprehensive system in Australasia to ensure that trained, licensed and accountable hunters are available for this purpose.

The bill recognises that wild deer can also cause impacts over large areas and in situations where they can only be successfully controlled through properly organised, broad-scale management programs. These programs are developed with stakeholders, including landholders, the New South Wales Department of Primary Industries, relevant rural lands protection boards, the Game Council, local councils and other public and private land managers, and of course the deer industry. This legislation will provide support to stakeholder groups by allowing the director general to make control orders regarding wild deer.

The deer control order will require landholders to eradicate deer that are not kept in accordance with the regulation. Before making a control order, the director general must consult with the relevant stakeholders. This will help to ensure that key interests and expertise are properly reflected in any control order. The unique characteristics of wild deer mean that our licensed and responsible game hunters represent a particularly important resource for landholders seeking to control deer on their properties. It is worth reiterating my earlier comments:

...the Game Council of New South Wales has already implemented the most comprehensive system in Australasia to ensure that trained, licensed and accountable hunters are available for this purpose.

The Government has consulted widely on this legislation, and feedback from that consultation has been taken into account in the bill. The State Council of Rural Lands Protection Boards, the New South Wales Game Council and the New South Wales Farmers Association all support the policy approach the Government is taking. The provisions introduced by this bill will contribute to public safety, and help to prevent further damage to the environment and agriculture. It will do this by clarifying the ownership of deer, regulating the keeping and management of deer, preventing the release of deer from captivity, and allowing control orders to be made. I commend the bill to the House.