

Legislative Council Hansard – 18 October 2017 – Proof

RURAL CRIME LEGISLATION AMENDMENT BILL 2017*First Reading*

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Niall Blair.

Second Reading

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (21:52): I move:

That this bill be now read a second time.

The Rural Crime Legislation Amendment Bill 2017 follows a review into stock theft and trespass undertaken last year by former NSW Police Force Assistant Commissioner Steve Bradshaw, who has spent many decades policing rural and regional communities. The bill proposes a range of amendments to existing legislation designed to provide a more comprehensive and effective response to rural crime. It will respond to calls from rural landholders for greater legislative recognition of the impact of trespass onto rural properties, which is often accompanied by other crimes such as property theft and may trigger a biosecurity risk. The review was commissioned by the Government in 2016 in an effort to gain a clearer picture of the issues facing regional communities across New South Wales in relation to rural crime.

The review followed research published by the University of New England in 2015, which showed that, unlike other crimes, rural crime was not trending downward and was likely to be significantly under-reported. The Bradshaw report referred to advice from the NSW Police Force that the number of stock theft incidents has been increasing since 2013 and New South Wales primary producers experienced a combined \$2,572,462 loss during 2015. This does not include loss of any product—for example, wool or skin—from the stolen livestock or loss of breeding potential. The report states that New South Wales farmers have reported more than \$11 million worth of sheep and cattle stolen during the five years to 2015. This calculation is based on average market prices each year for cows and ewes and does not take into account the loss associated with stud stock, wool, breeding potential or investment to improve bloodlines of stock.

Therefore, one or two instances of stock theft may represent a farmer's profit margin for the year. The latest data from the Bureau of Crime Statistics and Research indicates that in the 12 months to June 2017 there were 484 reported incidents of stock theft across New South Wales.

Mr Bradshaw clocked up thousands of kilometres driving across the State to hear firsthand from the victims of rural crime, and from the police officers and regulatory compliance officers on the front lines who deal with this problem every day. A key message from rural landowners was about the deep fear caused by unwelcome intruders onto their land, whether this was people hunting illegally, opportunistic property thieves, or people trespassing for other reasons. Their fear was often followed by frustration and anger at the penalties imposed for these crimes. The provisions outlined in this bill seek to address this imbalance. I take this opportunity to thank Mr Bradshaw for his work in this important area. I also thank those who took the time to share their experiences of rural crime. Their stories are reflected in Mr Bradshaw's recommendations to Government, and have shaped the bill before the House.

The Government has already begun work to implement its response to some of the issues identified in Mr Bradshaw's report. One crucial development from the perspective of operational policing has been the inaugural appointment of a dedicated NSW Police Force Deputy Commissioner for Regional Field Operations, Mr Gary Worboys. It is well recognised that policing in the bush presents different challenges from those faced in the suburbs of Sydney. For example, the Barrier Local Area Command covers an area stretching from the Queensland border to the Murray River. However, residents still rightly have high expectations of the NSW Police Force. They want to know that police officers will be there when they are needed. They want to know that their issues will be well understood and, most importantly, they want an effective and proportionate response when those who break the law are caught. Along with future operational developments under the leadership of Deputy Commissioner Worboys, this bill will assist the NSW Police Force to reflect better the expectations of rural and regional residents.

I now turn to the provisions in the bill. The bill amends section 10A of the Animals Act 1977 to provide for the conditions of proving ownership for feral goats. The same provision already applies to deer. As members may be aware, New South Wales has a maturing feral—or rangeland—goat industry. Australia is the world's largest exporter of goat meat and supplies more than half of the world's total export volume. In 2015-16 the trade value of this State's goat exports was \$4.3 million. In 2016 the Department of Primary Industries' annual aerial survey of western and central New South Wales estimated there were 5.8 million head of goats—both managed and feral—in the monitoring zone. Clearly this is an important industry for our State and it is important that goat harvesters are able to protect their property rights.

Under existing legislation it has been very difficult for police to proceed with prosecutions for larceny where the property stolen was harvested feral goats. This is because of the difficulties in proving private ownership of the goats. The deeming provision in this bill will support the NSW Police Force and the courts in their investigations and prosecutions of stock theft. The bill also seeks to recognise the particular vulnerability of rural victims of crime by amending section 21A of the Crimes (Sentencing Procedure) Act 1999 to include geographical isolation as an aggravating factor to be taken into account on sentence. This change acknowledges the many submissions to the Bradshaw review made by families that had experienced a situation in which their remoteness made them particularly vulnerable. For example, there were stories of mothers and their children alone on rural properties having to endure nights when people came to hunt illegally on their land, cause damage, and refused to leave. The Bradshaw review received many submissions from different parts of the State on this issue. The Government has listened to those concerns, and this bill gives recognition to the particular experience of victims of crime in rural and remote communities.

The bill also amends the offence of aggravated unlawful entry on enclosed lands in section 4B of the Inclosed Lands Protection Act 1901 to better reflect the impact of trespass and illegal hunting on rural properties.

Specifically, the provision will be expanded to include the following as factors of aggravation: introducing or increasing a risk of a biosecurity impact for those enclosed lands; intending to commit an offence relating to hunting or animal theft; being in possession of firearms, weapons or hunting equipment without reasonable excuse; or being accompanied by a breed of dog ordinarily used for hunting. The bill provides for the same definition of biosecurity impact as that which was in the Biosecurity Act 2015. In the Biosecurity Act 2015, biosecurity impact means:

An adverse effect on the economy, environment or the community that arises, or has the potential to arise, from biosecurity matter, a carrier or dealing with biosecurity matter or a carrier, being an adverse effect that is related to:

- (a) the introduction, presence, spread or increase of a disease or disease agent into or within the State or any part of the State, or
- (b) the introduction, presence, spread or increase of a pest into or within the State or any part of the State, or
- (c) stock food or fertilisers, or
- (d) animals, plants or animal products becoming chemically affected, or
- (e) public nuisance caused by bees, or
- (f) a risk to public safety caused by bees or non-indigenous animals, or

(g) anything declared by the regulations to be a biosecurity impact.

The DEPUTY PRESIDENT (The Hon. Paul Green): It being 10.00 p.m., proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.

The Hon. NIALL BLAIR: Individuals charged with an aggravated offence will have the opportunity to provide evidence to support a defence of reasonable excuse. These changes will ensure the aggravated offence appropriately captures a range of scenarios that we know are happening across rural and regional New South Wales and which cause a great deal of concern and frustration to landowners. The Bradshaw review highlighted that trespassers can cause serious and ongoing consequences for primary producers by spreading disease, and causing stress and other harm to valuable livestock. It is important that victims of stock theft are provided with all reasonable opportunities to locate their stolen animals and organise for their safe return. Many farms run on very slim margins and even one incident of stock theft can prove to be financially devastating. To better assist primary producers, the bill also amends the Law Enforcement (Powers and Responsibilities) Act 2002 to provide for the issuing of stock mustering orders by the Local Court. These will be issued on application from either the owner of stock or a police officer. This concept has been based on existing provisions in chapter 22A of Queensland's Police Powers and Responsibilities Act 2000.

The Local Court will only make a stock mustering order when satisfied, first, that there are reasonable grounds for believing that an individual's stock is on land managed or controlled by another person; and, secondly, that the person managing or controlling the land has refused to allow the stock owner, or police officer who applied for the order, to enter the land to locate and remove the stock, or it is impracticable to seek such permission from the landowner. An application for a stock mustering order is to be made by issuing and filing an application notice in accordance with part 4 of the Local Court Act 2007. An application for a stock mustering order must specify the grounds for the application, including any belief of the applicant, in the manner prescribed by the regulations. The application notice must be served, first, personally on the owner of, or person managing or controlling the land to which the application relates, or, secondly, if personal service cannot be effected promptly, by causing a copy of the application notice to be affixed to or near at least one of the entrances to the land. The application notice must also be served on the police officer in charge of the police station closest to the land to which the application relates, unless the application is made by a police officer.

If granted by the Local Court, a stock mustering order may authorise a person named in the order to do one or more of the following: first, enter the land specified in the order including the airspace above the land to conduct, under the direction and supervision of a police officer, a muster of the stock identified in the order so as to locate and remove the stock; secondly, search for and take possession of stock found at the land that matches the description of the stock identified in the order; thirdly, draft, cut out, and take any other action necessary to identify and separate the stock from other stock but only for the purposes of conducting the muster; and, fourthly, bring onto the land specified in the order any agent, assistant, horse, dog, vehicle or equipment reasonably necessary for the search or for the taking possession of the stock that is authorised by the order.

A stock mustering order is taken to also authorise any police officer to do either or both of the following: first, to enter the land specified in the order including the airspace above the land to direct and supervise the muster of the stock identified in the order so as to locate and remove the stock; and, secondly, to bring onto the land any horse, dog, vehicle or equipment that is reasonably necessary for directing and supervising the muster. Any action authorised by a stock muster order made by the Local Court will be supervised by police. The bill also provides for an offence prohibiting a person who has knowledge of a stock mustering order from acting or making an omission with an intent to frustrate action under the order or obstructing a person who is acting under the order. This offence has an associated maximum penalty of 50 penalty units, being \$5,500, or imprisonment for six months.

As noted in the Bradshaw report, recreational hunting is a popular pastime across many areas of New South Wales. Hunting makes an important contribution to regional economies. Recreational hunting by the 19,000 licensed game hunters in New South Wales is estimated to contribute \$119 million to the gross State product, and to create 860 jobs. The contribution from non-game licence holders is estimated to be four times as much. While we know that most hunters do the right thing, there are unfortunately exceptions. Landowners have made it very clear that they would like to see more done to ensure their property rights are respected.

To deter illegal hunting, and better meet community expectations, this bill doubles the maximum financial penalty for the offence of hunting on private land without consent from \$1,100 to \$2,200 under section 28J of the Summary Offences Act 1988. It will also ensure that NSW Department of Primary Industries [DPI] inspectors can issue penalty notices for this offence. Currently, only police officers can issue penalty notices for this offence. The message we are sending to hunters is to make sure they do the right thing and respect the owner or occupier of the land by seeking their consent or there will be serious consequences.

To further enhance the ability of police officers and DPI inspectors to investigate and prosecute hunting offences, the bill also expands their current powers relating to the stopping, detaining and searching of vehicles and vessels connected with a game hunting offence. The bill broadens the definition of a game hunting offence in relation to particular parts of the Game and Feral Animal Control Act 2002 to include the offence of hunting on private land without consent under section 28J of the Summary Offences Act 1988. Section 44 of the Game and Feral Animal Control Act 2002 concerns the power of inspectors to stop, detain and search vehicles or vessels where the inspector has reason to believe that there is something connected with a game hunting offence in or on a vehicle or vessel. The bill expands the definition of game hunting offence for this purpose to include the aforementioned offence of hunting on private land without consent.

Section 45 of the Game and Feral Animal Control Act 2002 concerns the power of inspectors to seize anything that is found by the inspector in any search under part 4 division 2 of the Act and that the inspector has reason to believe is connected with a game hunting offence. Again, the bill expands the definition of game hunting offence for this purpose to include the offence of hunting on private land without consent.

These changes provide for a useful and logical extension to the current powers and will ensure greater consistency in the investigation and prosecution of illegal hunting offences. The bill also provides for the ability of an inspector to issue a notice to produce to the person in charge of the vehicle or vessel requiring that person to take the vehicle or vessel to a specified place for the purpose of carrying out a search. The notice to produce may only be issued if it is not reasonably practicable to carry out the search where the vehicle or vessel is stopped.

The bill before the House is only one part of the Government's response to the recommendations of the Bradshaw review. The consideration and implementation of the remaining Bradshaw recommendations is ongoing and is being overseen by the Rural Crime Advisory Group, which includes representatives from the NSW Farmers Association, the NSW Police Force, the Department of Primary Industries, Local Land Services and the Australian Livestock and Property Agents Association. This consultative approach will ensure that the action taken by the Government in response to the recommendations of the review will meet the expectations of rural and regional communities. I again thank Mr Steve Bradshaw for his long-time commitment to address rural crime in New South Wales and for his comprehensive and thoughtful review report. While the bill represents progress in our response to stock theft, trespass and illegal hunting, the Liberal-Nationals Government will continue to consult with stakeholders and will always strive to further improve the response to rural and regional crime. I commend the bill to the House.

Debate adjourned.