Research Into Deer Genetics and Environment Inc.
Supporting Sustainable Deer Management in Australia

15th March 2016

Mr Salvo Vitelli
Manager, Partnering and Engagement
Invasive Plants and Animals
Department of Agriculture and Fisheries (DAF)
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For Resolution: Interpretations of sections of the *Biosecurity Act 2014*

Dear Salvo,

I am writing in regard to the meeting held between yourself, Mr Ray Fitzsimon and myself on the 6th of October 2015 at your office, when we discussed the future management of wild deer in Queensland.

At this meeting, we expressed our strong support for the intentions of the *Biosecurity Act 2014*. However, we also highlighted concerns that certain sections of the *Act* were not clearly considered and if not improved, there would be outcomes post implementation that will not be in the best interest of landholders, the public and the overall objectives of the *Act* itself.

Our intention at this meeting was to:

1. Highlight to yourself and the Minister, areas of wild deer management/control, of which we are very experienced and knowledgeable;
2. Obtain interpretations from DAF as to how these issues would be considered, implemented and enforced under the *Biosecurity Act 2014;*
3. Provide an insight into possible negative repercussions resulting from the implementation of the *Act;*
4. Suggest possible alternatives, which would improve the overall level of voluntary compliance from the public towards the *Act*.

At the meeting, you kindly gave a commitment to provide us interpretations in relation to sections of the *Act* that we discussed. At this meeting, you took notes with the intention of providing us some clarification. We respect that there has been a change of Ministers since we met with you and acknowledge your heavy workload, so we have left it as long as possible before contacting yourself regarding this matter.

The attachment to this letter outlines our main areas of concern mentioned in our meeting.

We respectfully ask for an interpretation to the points raised and thank you in anticipation of your reply.

Sincerely,

R. Fitzsimon
Vice President

for Clark McGhie
President
R.I.D.G.E Inc.

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Attachment: Items requiring interpretation under the Biosecurity Act 2014 (BA)

The first area that requires an interpretation pertains to the utilisation of game meat, such as that taken from wild shot deer by recreational hunters as part of long established traditions and practices. Research indicates that man has hunted wild game species for over 400,000 years and taken this meat home to their family, tribe or clan. In effect, these hunters were ***supplying*** this food to other people and to this day, many thousands of Queenslanders and interstate visitors continue this practice.

We are seeking clarification as to how harvesting game meat is situated in the crossover between the *Lands Protection (Pest and Stock Route Management) Act 2002*, the *Biosecurity Act 2014* and the *Food Production (Safety) Act 2000*. It is our concern that significant changes to legislation since the time when wild deer were classified as "Introduced Fauna" under the *Fauna Conservation Act 1974-84* have brought about a situation whereby the taking of wild deer for personal use as it currently is conducted may no longer be lawful.

We recognise that under the *Biosecurity Act 2014-18*, it is an offence to "Distribute" (supply) Restricted Matter (formerly a live Pest animal. "***Class 3 declared pests***—*It is an offence to introduce, feed, supply or release Class 3 pest animals without a permit issued by DAFF.*" (*Feral Deer Management Strategy 2013-18*).

The definition of "supply" is given as:

supply includes the following—
(a) distribute, give or sell;
(b) offer or agree to distribute, give or sell;
(c) cause or permit to be distributed, given or sold;
(d) attempt to supply or do an act mentioned in paragraphs (a) to (c).

distribute, restricted matter or a thing, includes the following—
(a) giving the restricted matter or thing to another person;
(b) selling or trading in the restricted matter or thing;
(c) releasing the restricted matter or thing into the environment.

Our concerns are that it may therefore be a breach of the Biosecurity Act for a person:

a) To deal with venison taken from wild deer, even if it is for members of their family, either living in the same residence or in another.
b) In the case of a landholder - to sell, offer to sell or trade a wild deer while it is alive under the long established "Trophy Fee" system whereby a set value is given to the animal and agreed upon between the landholder and the hunter, prior to the animals death.
c) To give another hunter part of the game taken on a hunt together.
d) To sell non-edible parts of the game taken to another person (antlers, skin)

Can you please confirm if the above concerns are valid and if the outcomes are in keeping with the intent of the BA

Furthermore, once a wild deer has been is killed, it is no longer regarded as a biosecurity matter. However, under the *Act*, it is possible to classify it as a carrier. However, it may only be a carrier if dealing with a biosecurity risk and then only if in the presence of a contaminant. The *Act* in its application, passes the wild deer from a classification of biosecurity matter (alive) to Animal Material (carcass) and therefore to the workings of the Food Production (Safety) Act 2000 as Primary Produce (personal use). We are of the understanding that all "primary produce" is linked with DAF.

Therefore can you please confirm is the above assumption is correct and in keeping with the intent of the BA.

The same interpretation for "supply" is used in the *Food Production (Safety) Act 2000* as is used in other *Acts*.

The Food Production (Safety) Act 2000 provides this definition:

> 3) Despite subsection (2), this Act does not apply to primary produce moved from the place at which it was produced if—
> (a) the primary produce is harvested in the wild by an individual for the individual's own use; or
> (b) the following apply—
> (i) Safe Food has advised the Minister that it is satisfied the primary produce is unlikely to expose members of the public to a food safety hazard;
> (ii) the primary produce is prescribed under a regulation for this subsection.

The Food Production (Safety) Act 2000 was amended in 2004 with the wording "*by an individual for the individual's own use*". This would indicate the usage to be singular/possessive and as such, limited to the person who actually "takes" the animal. This term requires immediate interpretation or needs clarification so that there can be some level of understanding given to recreational hunters.

Are you able to confirm that the above interpretation is correct?

It has been and is a long-standing and widely recognised practice for landholders to place a fee per animal in the form of a "trophy fee" on a wild deer prior to it being taken, and then receive payment from the hunter after the deer (singular or plural) is taken.

The trophy fee is based on the characteristics of the specific animal (e.g. species, antler size), and is extra to any charge for entering and staying to hunt on the property. The amount/s paid can be paid separately or as a lump sum, and creatively described in a variety of terms e.g. access fee, camping fee, royalty, which obscures the relationship between the deer (BA material) and the money paid for it. This ploy may reduce the risk of possible prosecution for supply of Biosecurity Material, but it is dishonest and it severely limits the ability for the landowner or guide to openly and transparently advertise or negotiate with prospective hunters. This is especially the case with overseas or interstate interactions where websites and emails become potential evidence. Overseas and interstate recreational hunters are cited as providing a benefit to landholders in the Feral Deer Management Strategy 2013-18. Indeed,

they inject considerable direct and indirect revenue into the Queensland economy but require a full and frank disclosure from their prospective guide before committing to a hunting trip.

Given the ambiguity in the BA, it is possible that this practice is "supplying" and may now be unlawful.

Can you please confirm if charging a fee relating to hunting wild deer is potentially unlawful and is that in keeping with the intent of the BA and the Feral Deer Management Strategy 2013-18?

If this interpretation is correct, the passing of the BA legislation has the potential to destroy the recreational hunting industry, businesses established by dozens of landholders, hunting guides and taxidermists across this State.

This matter was raised with the Hon Mr J McVeigh MP in March 2014 and in his reply he stated, *"...while a landholder cannot sell feral deer, now and in the foreseeable future, including after proclamation of the Biosecurity Act 2014, a landholder may charge a hunter to access their land for the purpose of hunting".* In reality, if this alternative were widely adopted, it would not see an end to trade in wild deer for personal use but rather drive it into a "Black Market" style situation whereby there would be cash transactions utilised and no traceability undertaken of the animals taken as trophy, venison or pet meat.

RIDGE has developed a system known as "Hunt Easy" which if adopted, would allow hunters and landholders to fulfil their general biosecurity obligations, while at the same time providing a self-funding and self-regulatory system for tracing the trade in biosecurity material harvested from wild deer and other species. Furthermore the "Hunt Easy" system along with the Property Based Management Program that we have used for 20 years achieves Strategies 1, 3, 4, 5, 6, 7, 8 and 9 of the Feral Deer Management Strategy 2013-18.

If a landholder is reduced to charging for access only and not on a per animal basis, it will strip away the most successful and essential inherent safety strategies within their Best Practice procedures and policies. Under Property Based Management programs such as those implemented by groups such as RIDGE, hunters, are faced with established fees for each animal they take as well as each animal they may inadvertently wound. The fee structure ensures hunters take extreme care with the identification of every animal prior to firing, a strategy that considerably reduces the risk of a non-target animal or a human being shot. The fee structure ensures that hunters have as their priority vastly improved animal welfare considerations as required by the Animal Care and Protection Act 2001.

If landholders and recreational hunters are not allowed to continue their operations within a "Trophy/Harvest Fee" system it will:

1. Increase the risk of other hunters or members of the public being injured or killed. By removing this fee, the hunters requirement to clearly identify and determine his/her target and therefore potential "out of pocket expense" by default removes the "pause and confirm" (double check) process. Once this "pause and confirm" step has been removed so has an inherent safety mechanism of accurate target identification.

2. Increase the incidence of wounded animals in part due to the lowering of the perceived value of wild deer to a point where hunters view them as a worthless pest.

3. Eliminate the majority of the income available from recreational deer hunting, thus reducing the funding available to landholders for broader pest control operations.

4. Destroy the well-established and highly effective management initiatives already in place for wild deer, which will have the effect of eventually increasing overall herd densities.

5. Of most significance, it will remove the opportunity to implement a traceability system for animal material harvested from properties with established management and self-managed record keeping which would be vital to DAF in the advent of a disease outbreak where traceability is paramount.

Our group is of the opinion that relatively small alterations to the regulations associated with the *Biosecurity Act 2014* are in the best interests of landholders and government alike.

Our request is for DAF to consider a small change pertaining to the ability of a landholder (or their agent) to broker a fee for a wild non-native animal prior to it being harvested for personal use as game meat (human and pet food) antler, trophy and skins.

These changes would enable existing best practice systems to be continued and a far higher level of safety and animal welfare to be enforced and promoted.

We therefore request that DAF consider making this amendment and we would be willing to assist in the process to ensure the best outcome is achieved for all parties.