In Confidence

Office of the Minister of Conservation

Chair, Cabinet Legislation Committee

WILDLIFE ORDER 2019

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the Wildlife Order 2019.

Executive Summary

2. Commercial upland game preserves have assisted the hunting of pheasants and red-legged partridge for the last 17 years – charging for services such as guiding and hospitality but with 'free hunting' to comply with a Wildlife Act requirement prohibiting the sale of hunting rights. 9(2)(h) [redacted]

3. In addition, Fish and Game Councils are of the view that upland game preserves should cease to be part of the game bird hunting regime.

4. Abrupt, forced closure of the current 16 commercial preserves would be unfair to business operators and employees, who could suddenly lose investments and employment. An orderly phase-out period is therefore appropriate.

5. The Wildlife Order 2019 would move pheasants and red-legged partridge to Schedule 3 of the Wildlife Act (when on commercial preserves) temporarily for three years, thereby allowing existing commercial upland game preserves to operate for up to three more years before closing. The sale of hunting rights would be allowed for Schedule 3 species.

Policy

6. The policy for the Order was approved by Cabinet on 17 June 2019 (ENV-19-MIN-0021; CAB-19-MIN-0289).

7. Upland game bird hunting preserves are areas of private land where captive-bred game birds (pheasants and red-legged partridge) are released for clients to shoot recreationally. A fee has normally been charged for the provision of guiding, hospitality, and related services, but the hunting has been free in order to comply with a prohibition in section 23(2) of Wildlife Act 1953 on the sale of game bird hunting rights.

8. 9(2)(h) [redacted] Without regulatory change, existing preserve operators will be considered unable to operate their

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businesses lawfully, and existing investments and employment will be lost as businesses will have to close abruptly.

9. To overcome this, I propose that the schedules to the Wildlife Act be amended by Order in Council (section 8 of Act refers) so that pheasants and red-legged partridge are moved from Schedule 1 to Schedule 3 of the Wildlife Act for those parts of the country where commercial game preserves are currently operating (see pages 3-4 of the Order). This would mean that pheasants and red-legged partridge would no longer be 'game' within those areas and the prohibition on the sale of hunting rights would no longer apply to those species in those areas.

10. This would be a transitional arrangement, and the Order would expire after three years. By that date a decision on the long-term future of the commercial upland game preserve industry would need to have been made. The NZ Fish and Game Council (my statutory advisor on recreational game bird hunting matters) is currently of the view that all game preserves should wind down their operations over the next three years and then close.

11. 9(2)(h) [redacted] The only other alternative is amending primary legislation.

12. There are no outstanding policy issues in relation to this Order.

Timing and 28-day rule

13. The Wildlife Order 2019 will come into effect 28 days after the day it is notified in the *NZ Gazette*.

Compliance

14. The Wildlife Order 2019 complies with:

    14.1. the principles of the Treaty of Waitangi;

    14.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

    14.3. the principles and guidelines set out in the Privacy Act 1993;

    14.4. relevant international standards and obligations (none applicable);

    14.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

15. There are no statutory prerequisites for the making of this Order.

Regulations Review Committee

16. I know of no reason why the Regulations Review Committee might wish to draw this disallowable instrument to the attention of the House of Representatives under Standing Order 319.

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Certification by Parliamentary Counsel

17. The Order has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

18. A regulatory impact analysis was provided with the policy paper (ENV-19-SUB-0021).

Publicity

19. Once the Order is signed by the Governor-General, the New Zealand Fish and Game Council would advise the affected 16 game preserve operators, and also draw their attention to the 6 May 2022 expiry date and that all commercial upland game preserve businesses would need to cease to operate after that date.

Proactive release

20. I propose to release the paper proactively in its entirety within 30 business days.

Consultation

21. All operators of the 16 commercial upland game preserves affected by this matter have been consulted by the NZ Fish and Game Council and all operators support this proposal to allow them to operate in the interim.

22. The proposed changes to be effected by the Order have not been consulted on with the public, as this is a transitional arrangement to maintain the status quo temporarily.

23. The Treasury was consulted on the policy proposals and DPMC was informed.

Recommendations

24. I recommend that the Cabinet Legislation Committee:

    1. **note** that on 13 June 2019 the Cabinet Environment, Energy and Climate Committee agreed that pheasants and red-legged partridge be moved from Schedule 1 to Schedule 3 of the Wildlife Act for the land areas listed in Appendix 1 of the paper under ENV-19-SUB-0021, for a period of three years ending 6 May 2022 [ENV-19-MIN-0021; CAB-19-MIN-0289].

    2. **note** that the Wildlife Order 2019 would give effect to the decision referred to in recommendation 1 above;

    3. **authorise** the submission to the Executive Council of the Wildlife Order 2019;

    4. **note** that the Wildlife Order 2019 would come into force 28 days after its notification in the *Gazette*.

Authorised for lodgement

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Hon Eugenie Sage
Minister of Conservation

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