

[In Confidence]

Office of the Minister of Conservation
Cabinet Legislation Committee

WILDLIFE ORDER 2022

Proposal

- 1 This paper seeks authorisation for the submission to the Executive Council of the Wildlife Order 2022.

Policy

- 2 Upland game preserves are areas of privately-owned land where captive-bred game birds (mainly pheasants) are released and then hunted recreationally. Upland game preserves have been operating for 20 years, provide valued recreational hunting opportunities, contribute \$6.7 million annually to the economy, and provide 40 full-time jobs.
- 3 The policy for the Wildlife Order 2022 was approved by the Cabinet Environment, Energy and Climate Committee on 10 March 2022.¹
- 4 The Wildlife Order 2022 makes permanent the current temporary regime for commercial upland game preserves by continuing the listing of pheasants and red-legged partridge on Schedule 1 of the Wildlife Act 1953 (as game birds) in areas outside commercial game preserves, and by continuing to list them on Schedule 3 (as non-game birds) within commercial game preserves.
- 5 The birds will continue to be game species in areas where the hunting resource is managed and provided by Fish and Game Councils, and non-game species in areas where the hunting resource is created by a commercial game preserve's private owner. This is consistent with both the requirements and policy intent of section 23(2) the Wildlife Act, which prohibits the sale of hunting rights for Schedule 1 (game) species. The Act allows the sale of hunting rights for Schedule 3 species.
- 6 The Wildlife Order 2022 also provides for three additional commercial upland game preserves by adding their areas to the list of game preserves in Schedule 3 of the Act.
- 7 If no regulatory action is taken, all commercial upland game preserves will be required to cease operating after 6 May 2022 when the existing Wildlife Order 2019 expires. The new Order provides a permanent regime by having no expiry date.

¹ ENV-22-MIN-0009, CAB-22-MIN-0066 refer.

Timing and 28-day rule

- 8 To enable the Wildlife Order 2022 to come into force before the Wildlife Order 2019 expires, a waiver of the 28-day rule is sought. The grounds are that the Wildlife Order 2022 will have little or no effect on the public generally, and will confer only benefits on those members of the public who operate, or hunt on, commercial game preserves.²
- 9 A waiver would allow the new Order to come into force on 6 May 2022, the day the 2019 Order expires. This would ensure that commercial game preserves do not have to temporarily cease their business operations while waiting for the new Order to come into force.

Compliance

- 10 The Order complies with each of the following:
- 10.1 the principles of the Treaty of Waitangi;
 - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 10.3 the principles and guidelines set out in the Privacy Act 2020;
 - 10.4 the Legislation Guidelines (2018 edition), as maintained by the Legislation Design and Advisory Committee.
- 11 There are no statutory prerequisites for the making of this Order.

Regulations Review Committee

- 12 I am not aware of any reasons why the Regulations Review Committee might draw the Order to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 13 The attached draft Order has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet, except that these regulations will come into force earlier than the 28th day after their notification in the Gazette. An early commencement will preserve provisions that would otherwise expire on the close of 6 May 2022.

Impact Analysis

- 14 A Regulatory Impact Assessment was prepared in accordance with the necessary requirements, and was recently considered by Cabinet.³

² Paragraph 7.97(a) of the Cabinet Office Manual refers. This approach aligns with the recent Cabinet direction for the Order to take effect as soon as possible after 6 May 2022 [ENV-22-MIN-0009 refers].

³ ENV-22-MIN-0009, CAB-22-MIN-0066 refer.

- 15 Following proactive release of this paper, a copy of the Regulatory Impact Assessment will be published on the Department of Conservation (DOC) website.

Publicity

- 16 Once the Order is made, DOC will advise the New Zealand Fish and Game Council (NZ Council) and the New Zealand Game and Conservation Alliance (NZGCA – the national game preserve operators' association), who will advise game licence holders and their members accordingly.

Proactive release

- 17 I propose to release the paper proactively within 30 business days of its consideration by Cabinet.

Consultation

- 18 Commercial game preserves have been operating for 20 years, and the continued operation of such preserves has been discussed at length among the Fish and Game Councils and all affected parties (including game preserve operators), since early 2018. The full range of views among affected parties is therefore well known.
- 19 There is an issue of timing given that the current arrangements expire on 6 May 2022. DOC has been advised that birds have already been ordered from breeders for this year's hunting and employment for the people working on preserves has been continued (rather than ended).
- 20 On 20 July 2021 the NZ Council resolved to recommend that commercial game preserves be allowed to continue operating, and the NZGCA also supports this proposal. I do not consider that additional consultation is necessary for this long running activity.
- 21 Specific consultation with tangata whenua involved with existing commercial game preserves (consisting of only 16 farm areas in different parts of the country) was not considered necessary. DOC is not aware of any other interests held by tangata whenua in the activity of shooting on commercial game preserves, beyond personal recreational participation in the activity or through employment. No concerns relevant to commercial game preserves have been raised by tangata whenua consulted by DOC on recent applications to release pheasants to the wild. There are no Treaty settlement implications in relation to such preserves, nor in respect of the introduced species (pheasants and red-legged partridge) bred and released for hunting on preserves.
- 22 The following government agencies were consulted in the preparation of this paper: Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Te Arawhiti, The Treasury, and Parliamentary Counsel Office. The Department of Internal Affairs and Department of Prime Minister and Cabinet were informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that on 10 March 2022 the Cabinet Environment, Energy and Climate Committee agreed that an Order in Council under section 8 of the Wildlife Act 1953 be made to enable existing commercial game preserves to continue operating, and to add three new areas to the list of game preserves listed in Schedule 3 of the Act [ENV-22-MIN-0009; CAB-22-MIN-0066];
- 2 note that the Wildlife Order 2022 will give effect to the decision referred to in paragraph 1 above;
- 3 note that a waiver of the 28-day rule is sought:
 - 3.1 so that the Wildlife Order 2022 can come into force on 6 May 2022, the date the Wildlife Order 2019 expires;
 - 3.2 on the grounds that the Wildlife Order 2022 will have little or no effect on the public generally, and will confer only benefits on those members of the public who operate, or hunt on, commercial game preserves;
- 4 agree to waive the 28-day rule so that the Wildlife Order 2022 can come into force on 6 May 2022;
- 5 authorise the submission to the Executive Council of the Wildlife Order 2022.

Authorised for lodgement

Hon Kiri Allan
Minister of Conservation