

Cabinet paper material

Proactive release

Hon Tama Potaka, Minister of Conservation

Title: Wildlife Authorisations (Amendment) Bill

These documents have been proactively released:

Wildlife Act 1953: Update on Urgent Amendments – CAB-25-MIN-0081

Date: 25 March 2025

Author: Cabinet Office

Wildlife (Authorisations) Amendment Bill: Approval for Introduction – CAB-25-MIN-0120

Date: 14 April 2025

Author: Cabinet Office

Material withheld

Some information is withheld under section 9(2)(f)(iv) of the Official Information Act 1982, to maintain the confidentiality of advice tendered by Ministers of the Crown and officials.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Wildlife Act 1953: Update on Urgent Amendments

Portfolio

Conservation

On 24 March 2025, Cabinet:

- 1 **noted** the High Court recently decided it was unlawful for the Director-General of Conservation to authorise the killing of protected species under section 53 of the Wildlife Act unless there is a direct nexus between that killing and wildlife protection;
- 2 **noted** the Court's decision means that the Department of Conservation (DOC) is now unable to continue to regulate the incidental killing of wildlife under section 53 of the Wildlife Act;
- 3 **noted** that developers and infrastructure providers are concerned they could now be prosecuted if they incidentally kill wildlife despite having authorisation to do so under section 53 of the Act, leading them to delay or stop current projects, affecting future projects and harming the economy;
- 4 **agreed** that the Minister of Conservation will announce the Government's intention to quickly make closely targeted amendments to the Wildlife Act to provide certainty to developers and infrastructure providers, and for other public benefit uses of the Act, including those with current section 53 authorisations;
- 5 **agreed** to the following policy approvals to draft amendments to the Wildlife Act 1953:
 - 5.1 retrospectively validate previously authorised activities under section 53 of the Wildlife Act (including those that should have been considered under section 71): it would not be an offence for developers or infrastructure providers to incidentally kill wildlife as part of their activities if DOC previously authorised this and they undertake activities in line with the authorisation granted and any conditions set out;
 - 5.2 enable the Director-General of Conservation to authorise activities that are prohibited under the Act, particularly killing wildlife, if:
 - 5.2.1 this is incidental to the purpose of carrying out otherwise lawful activities;
 - 5.2.2 all reasonable steps are taken to minimise and mitigate impacts on wildlife, consistent with any reasonable and proportionate conditions legally imposed by the Director-General;
- 6 **agreed** it is the Government's intention to progress these changes under urgency to enable legislation to be introduced to the House in the week of 7 April 2025;

- 7 **noted** more major changes to the Wildlife Act would increase risks of unintended consequences and would take longer to progress;
- 8 **noted** that more substantial changes to the Wildlife Act are being considered for a future review of the Wildlife Act;
- 9 **authorised** the Minister of Conservation to make further detailed decisions and issue drafting instructions to the Parliamentary Counsel Office, in line with the decisions above;
- 10 **approved** the inclusion of the Bill in the 2025 Legislation Programme with a priority of category 3 (a priority to be passed by the end of 2025);

11

A large black rectangular redaction box covering the text of item 11. The text 's9(2)(f)(iv)' is written in red across the top of the redacted area.

s9(2)(f)(iv)

Rachel Hayward
Secretary of the Cabinet



Cabinet

Minute of Decision

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Wildlife (Authorisations) Amendment Bill: Approval for Introduction

Portfolio

Conservation

On 14 April 2025, Cabinet:

1 **noted** that on 24 March 2025, Cabinet:

- 1.1 noted that the High Court had recently decided it was unlawful for the Director-General of Conservation to authorise the killing of protected species under section 53 of the Wildlife Act 1953 unless there is a direct nexus between that killing and wildlife protection;
- 1.2 agreed to urgently amend the Wildlife Act in response to the above decision;
- 1.3 agreed to include the Wildlife (Authorisations) Amendment Bill (the Bill) on the 2025 Legislation Programme with a category 3 priority (to be passed by the end of 2025);

[CAB-25-MIN-0081]

2 **noted** that the Bill will:

- 2.1 validate certain previously authorised activities under section 53 of the Wildlife Act;
- 2.2 ensure that authorities granted under section 53 of the Wildlife Act before the date of the judgment in *Environmental Law Initiative vs The Director-General of the Department of Conservation and Others* [2025] NZHC 391 are not unlawful merely because consent is required under section 71, rather than an authority under section 53;
- 2.3 enable the Director-General of Conservation (Director-General) to authorise the incidental killing of wildlife if this is incidental to the purpose of carrying out otherwise lawful activities, if the overall effect of granting the authority is consistent with protecting wildlife;
- 2.4 ensure that, in making decisions to authorise incidental killing, the Director-General is not required to be satisfied that the lawful activity is itself consistent with protecting wildlife, or that each individual act of killing, viewed in isolation, would be consistent with protecting wildlife;

- 2.5 ensure that, when determining whether the overall effect of an authority to incidentally kill wildlife would be consistent with protecting wildlife, the Director-General must regard the effects of an activity on the survival of wildlife populations and the persistence of the species to which that wildlife belongs, as well as any conditions and other matters that the Director-General considers relevant;
- 2.6 require the Director-General to be satisfied that the holder of the authority will take all reasonable steps to protect wildlife, including steps to avoid, minimise and mitigate impacts on individual animals;
- 3 **approved** a provision in the Bill that the validation of authorisations previously made under section 53 of the Wildlife Act will not affect any legal proceedings commenced or in progress before 28 March 2025 (the date Cabinet's decisions under CAB-25-MIN-0081 were announced);
- 4 **9(2)(f)(iv)** [REDACTED]
- 5 **authorised** the Minister Responsible for RMA Reform, the Minister of Conservation and the Minister for Resources to finalise the wording relating to the decisions in paragraphs 2.6 and 4 above, for inclusion in the Bill;
- 6 **approved** the Wildlife (Authorisations) Amendment Bill [PCO 27258/15.0] for introduction;
- 7 **authorised** the Parliamentary Counsel Office to continue to make minor changes to the Bill to settle technical matters in line with Cabinet's policy decisions and to incorporate feedback from proofreading and quality control processes up until the Bill is printed for introduction;
- 8 **agreed** that the Bill be introduced in the week beginning 5 May 2025;
- 9 **agreed** that the Government propose that the Bill be enacted by 9 May 2025.

Rachel Hayward
Secretary of the Cabinet