

# Briefing: Papers to introduce the Wildlife (Authorisations) Amendment Bill

<b>To</b>	Minister of Conservation	<b>Date submitted</b>	9 April 2025
<b>Action sought</b>	<b>Agree</b> to lodge the attached Cabinet paper and accompanying documents by 10am on Thursday 10 April 2025 for Cabinet consideration on 14 April 2025	<b>Priority</b>	Very High
<b>Reference</b>	25-B-0153	<b>DocCM</b>	DOC-10229984
<b>Security Level</b>	In Confidence	<b>Timeframe</b>	10 April 2025
<b>Risk Assessment</b>	High Making legislative changes rapidly increases risks of unforeseen consequences or drafting errors. We have mitigated these risks by ensuring the draft bill has undergone legal and operational testing, as widely as possible in the time available.		
<b>Attachments</b>	Attachment A – Cabinet Paper – Introducing the Wildlife (Authorisations) Amendment Bill Attachment B – Wildlife (Authorisations) Amendment Bill 2025 Attachment C – Disclosure Statement		

<b>Contacts</b>	
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## Purpose – Te aronga

1. To seek your agreement to lodge the attached Cabinet paper and accompanying documents by 10am on Thursday 10 April 2025 ahead of Cabinet consideration on 14 April 2025. This material includes:
  - the Cabinet paper (**Attachment A**) seeking agreement to introduce the Bill into the House in the first week after the Easter recess (week commencing 5 May),
  - the Wildlife (Authorisations) Amendment Bill 2025 (**the Bill**) (**Attachment B**); and
  - the Departmental Disclosure Sheet (**Attachment C**).

**Attachment B is withheld in full as it is legally privileged**

2. Talking points (**Annex 2**) have also been prepared to support the discussion at Cabinet on 14 April.

### **Background and context – Te horopaki**

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3. The decision of the High Court in *Environmental Law Initiative v The Director General of the Department of Conservation and others* [2025] NZHC 391 significantly restricted the Department of Conservation's ability to regulate incidental harm to wildlife. Additionally, it created uncertainty regarding the status of existing authorisations, leaving holders unsure about how to lawfully continue their activities [25-B-0107 refers].
4. On 24 March 2025, Cabinet agreed to amend the Wildlife Act 1953 (**the Act**) to fix this issue and authorised you to make further detailed decisions and issue drafting instructions to the Parliamentary Counsel Office (**PCO**) [CAB-25-MIN-0081 refers].
5. On 26 March 2025, we sought your direction on drafting instructions to provide PCO [25-B-0122 refers]. In addition to the policy proposals agreed to by Cabinet on the 24 March, you agreed to:
  - a) establish a set of 'reasonable and proportionate' conditions that the Director-General of Conservation (the **Director-General**) could impose when granting an authorisation for incidental harm/killing, and
  - b) **9(2)(f)(iv)** [REDACTED]
6. On 3 April 2025, we provided you with a draft Cabinet paper and draft Bill seeking your feedback [25-B-0133 refers], and you conducted ministerial consultation on these drafts over 7 and 8 April.

### **The Bill has been updated since the previous version that we shared with you**

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7. Cabinet's policy intent and approval is to enable the Director-General to authorise incidental killing of wildlife if '*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*' [CAB-25-MIN-0081 refers].
8. A significant change is that the revised Bill no longer explicitly refers to '*reasonable*' or '*proportionate*' conditions. This is based on legal advice that general administrative law principles will apply to all decision-making on conditions, including the principles of reasonableness, rationality, and proportionality. Including the terms 'reasonable' or 'proportionate' would therefore be redundant.
9. **s9(2)(h)** [REDACTED]
10. The policy intent Cabinet agreed can be met without explicitly specifying the need for '*reasonable and proportionate conditions*' in the Bill.
11. The Bill also incorporates technical drafting changes that do not alter the policy intent of the Bill.

### **The attached Cabinet paper incorporates your feedback on the previous draft**

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12. In your feedback on the draft Cabinet paper and Bill we provided [25-B-0133 refers], you asked us to ensure that the drafting is consistent with existing expectations on applicants to protect wildlife. That is, the Bill should not create higher thresholds to protect wildlife than DOC has applied in the past.

13. We have made changes to the Cabinet paper to ensure this position is clear. The Director-General already has broad powers to set conditions for authorisations to take or kill wildlife under section 53(5) of the Wildlife Act and the Bill does not limit these existing powers or expand how they are exercised.
14. As requested, we have also added examples of conditions that the Director-General has previously set as part of authorisations to incidentally kill wildlife.
15. We have made further changes to the Cabinet paper for editorial reasons, to align with the revised Bill, and in response to feedback from PCO and other agencies.
16. **Annex 1** summarises changes to the Cabinet paper since the previous version that we shared with you.

## **Risks, implications, and consultation**

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17. The proposed Cabinet paper and Bill are non-compliant with regulatory impact analysis requirements.
18. This is because Cabinet agreed to progress this Bill with urgency to limit any flow-on implications to wildlife populations and the economy, and to provide certainty to operators where projects may result in incidental harm to wildlife. Due to this urgency (and the consequential time constraints) completing a comprehensive regulatory impact analysis (**RIA**) is impractical for this Bill.
19. We consider the risk of unintended consequences is low given the changes confirm what has previously been the usual practice under section 53 of the Act. It is reasonable to make this urgent amendment now, without broader analysis and consultation, to avoid any flow-on implications to wildlife populations or the economy.
20. The Ministry for Regulation has noted that this is a case of non-compliance with impact analysis requirements as no RIA was prepared when policy decisions were made. The Ministry for Regulation is required to report all cases of non-compliance to the Minister for Regulation. A statement has been prepared by the Ministry for Regulation which is included in the Cabinet paper.
21. We have been in discussion with the Ministry for Regulation on other options to fulfil requirements and have agreed that a post-implementation review will be developed and provided to Cabinet within two years after implementation.
22. Conducting a post-implementation review will provide a useful safeguard to ensure that the change is meeting its objectives and can identify potential improvements. Any key concerns identified in the post-implementation review will inform DOC's planned work programme to repeal and replace the Act.

## **Financial implications - Te hiraunga pūtea**

23. There are no direct financial implications of this paper or the attached Bill.

## **Legal implications – Te hiraunga a ture**

24. The urgency and time constraints of progressing these changes may affect the Bill's workability. Given the speed of the drafting process and the complexity of the existing provisions in the Act, DOC's legal team has worked closely with PCO to mitigate this risk as much as possible. We consider that the Bill attached delivers on Cabinet's mandate and the intent of this fix and can be lodged for Cabinet's consideration.

## *Impacts to the jurisdiction of a court or tribunal and retrospective effect*

25. The Bill itself does not create, amend or remove the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal).
26. As a general rule, legislation should not have retrospective effect. To restore certainty to existing authority holders, this Bill validates all authorised activities under section 53 retrospectively, except for the authority granted to the New Zealand Transport Agency on 22 December 2021, which was the subject of the Mount Messenger case.
27. As previously advised, the Legislation Design and Advisory Committee guidelines anticipate situations in which litigation leads to an outcome that Parliament may wish to countermand. In this case, DOC previously considered applications that needed authorisation under s 53 of the Act and set conditions to protect wildlife populations. Authority holders relied on these authorisations to lawfully undertake their activities. Through no fault of their own, their projects are now affected. We understand that it is appropriate to enable those authorisations to continue, to restore regulatory certainty.
28. Appropriate safeguards, in line with section 33 of the Legislation Act 2019, have been incorporated in the drafting of the Bill to limit potential legal implications from this retrospective validation.
29. However, there is a period (between the date of the Court's decision and the date at which these amendments take effect) where further applications for judicial review could be received. The amendments will limit the ability of applicants filing proceedings during this time to challenge earlier s 53 decisions.
30. Over one hundred existing s 53 authorities, many authorising the killing of wildlife without a direct nexus to protection, could be set aside if challenged.
31. Judicial reviews during the period between the Court's decision and before the Bill's enactment may temporarily impact the jurisdiction of a court or tribunal, to the extent that a court will not be able to impugn a s 53 decision on the basis that the decision was not consistent with the interpretation of s 53 as determined by His Honour McHerron J.
32. We are not aware of any new proceedings and consider the risk of additional litigation is low. DOC has paused decisions on section 53 applications until the Bill is passed to limit any further impacts.

### ***Consultation – Kōrero whakawhiti***

33. On 1 April 2025, we provided the following agencies with an early draft of the Cabinet paper for comment: Crown Law, the Department of the Prime Minister and Cabinet, the Ministry of Business, Innovation and Employment, the Ministry for the Environment, the Ministry of Housing and Urban Development, the Ministry of Primary Industries, the Ministry of Regulation, the Ministry of Transport, Te Puni Kōkiri, Te Waihanganga New Zealand Infrastructure Commission, and the Treasury. We also shared the draft Bill with these agencies on 8 April 2025.
34. DPMC provided feedback on content to include to more clearly set the context on why legislative changes are needed, and the risks of making legislative changes quickly (which are mitigated by taking a targeted and narrow approach to the amendments).

### **Treaty principles (section 4) – Ngā mātāpono Tiriti (section 4)**

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35. DOC considers that the proposals in the Cabinet paper and accompanying Bill are consistent with the government's Treaty of Waitangi obligations as these changes are intended to clarify and reinforce already established DOC processes.
36. We recognise that this Bill is likely to attract attention from Treaty partners due to their longstanding interest in updating the Act to address broader issues related to the government's Treaty of Waitangi obligations.

37. The current Bill is specifically designed to address the immediate issues raised by the Court's decision. It aims to protect wildlife and ensure that previously authorised projects and activities can continue lawfully, ahead of a broader review. It is not intended to make fundamental changes to broader aspects of the Act.
38. Clearly communicating that these changes are not intended to affect DOC's longer-term work to repeal and replace the Act may provide greater certainty to Treaty partners. This work programme will be a more appropriate avenue to address any fundamental issues with the government's Treaty of Waitangi obligations in the Act.

### Next steps – Ngā tāwhaitanga

39. Following Easter recess, we will provide you with a briefing and collateral to support you through the House processes from the Bill's Introduction to Royal Assent.
40. Hard copies of the Committee of the Whole House package will be provided to you in the week of 28 April 2025.
41. Officials will be available to support you through the House stages in the week beginning 5 May.

### We recommend that you ... (Ngā tohutohu)

		Decision
a)	<b>Note</b> that the Bill has been updated since the last version you received on 3 April 2025.	Noted
b)	<b>Note</b> that the Cabinet paper has been updated to reflect feedback received from your office (including from ministerial consultation) and other agencies.	Noted
c)	<b>Note</b> that the Ministry for Regulation has stated that the proposals associated with the Cabinet paper and Bill are a case of non-compliance with impact analysis requirements, and that they are required to report all cases of non-compliance to the Minister for Regulation.	Noted
d)	<b>Note</b> that the Ministry for Regulation and DOC have agreed that a post-implementation review will be developed and provided to Cabinet within two years after implementation.	Noted
e)	<b>Agree</b> to lodge the paper with Cabinet office on Thursday 10 April 2025 to be considered directly by Cabinet on Monday 14 April 2025.	Yes / No

**s9(2)(a)**

Date: 9 April 2025

Ruth Isaac, Deputy Director-General,  
Policy and Regulatory Services

Date: / /

Hon Tama Potaka  
Minister of Conservation

**ENDS**

## Annex 1: Changes to the Cabinet paper since 4 April 2025

Section and paragraphs	Reason	Comments
<i>Targeted and narrow amendments to the Wildlife Act</i> 9-12	Agency feedback	Noted the risks of making rapid changes to legislation, and that these risks have been mitigated by making targeted and narrow amendments.
<i>Validating previously authorised activities</i> 13-16	Editorial	Edited wording in the validation section to make it clearer why the Minister is seeking Cabinet agreement to set a date for validation to take effect.
	Legal advice	Explained why a clause was also added to validate authorisations that should have been consented under section 71.
	Technical	Removed the word ‘retrospective’ based on technical advice from PCO that the validation occurs when the Bill is enacted.
<i>Conditions that the Director-General of Conservation can set when authorising incidental harm to wildlife</i> 19-23	Minister’s request	Made it clearer that the Bill does not expand or limit the existing powers of the Director-General (or the exercise of these powers) to set conditions as part of authorisations for incidentally killing wildlife.  Provided examples of conditions that the Director-General has previously set.
	Legal advice	Noted that existing administrative law principles will apply to decision-making on conditions, so conditions will need to be reasonable and proportionate to be lawful.  This is why the Bill does not explicitly use the words ‘reasonable’ or ‘proportionate’ but still gives effect to Cabinet’s policy approvals.
9(2)(f)(iv)		

		9(2)(f)(iv)
<i>Impact Analysis</i> 34-35	Agency feedback	This section was updated with wording provided by the Ministry of Regulation. It still notes that no Regulatory Impact Analysis was done in the time available so a Post-Implementation Review will be completed.
<i>Recommendations</i>	Policy clarity	The recommendations now provide more details on key provisions in the Bill, for Cabinet to note. This section has also been updated to align with the revised Bill.
	Legal advice	An additional recommendation has been added to agree that Parliamentary Counsel Office can continue to make minor changes to the Bill (if necessary) to settle technical matters in line with Cabinet's previous policy decisions and incorporate feedback from PCO proofreading and quality control processes up until the Bill is printed for introduction.



## **Annex 2: Talking points to assist your Cabinet discussion**

### **This Bill targets problems with the Wildlife Act that urgently need fixing**

- As you are aware, the High Court recently decided that the Director General of Conservation had unlawfully authorised the incidental killing of protected wildlife under section 53 of the Wildlife Act for a new highway at Mt Messenger.
- The Court's decision has wide-ranging impacts that could delay or stop many infrastructure and development projects such as new housing developments, roads, wind farms, any many other initiatives that are important for our society and economy.
- It affects:
  - projects that previously received authorisation under section 53 of the Wildlife Act
  - projects in the pipeline that are currently awaiting authorisation, but cannot be processed until this matter is resolved
  - future projects that would require authorisation under s 53 of the Wildlife Act for operators to have confidence they are undertaking their activities lawfully.

### **This Bill was drafted in line with Cabinet's policy approvals on 24 March**

- The Bill does not raise or lower the bar for protection. It will effectively restore the status quo practice before the Court's decision.
- It does this in two ways. It:
  1. validates previously authorised activities under section 53 of the Wildlife Act, before the Court's decision, so these activities can lawfully continue
  2. enables the Director-General of Conservation to grant authority to kill wildlife incidentally, and to set conditions as part of these authorisations.

### **Firstly, this Bill validates previously authorised activities**

- Validation will apply to all authorisations granted under section 53 of the Wildlife Act before 5 March 2025.
- This is when the High Court made its decision on the Mt Messenger case.
- Legislation should not interfere with cases already before the courts.
- For this reason, I am seeking your agreement to include a clause that validation will not affect any legal proceedings that began before I announced Cabinet's decision to amend the Wildlife Act on 28 March 2025.



- There are no legal proceedings currently underway, that officials are aware of, that would not be covered by this validation.

**Secondly, this Bill gives the Director-General of Conservation the power to grant authorisations to incidentally kill wildlife**

- The power to authorise incidental killing needs to be consistent with the protective purpose of the Wildlife Act – which is New Zealand’s principal piece of legislation to protect species such as Kiwis, Kea, Kākāpō, and many other threatened and treasured species.
- To determine whether the incidentally killing wildlife is consistent with protecting wildlife, the Bill requires the Director-General to consider the impacts of an activity on species surviving. For example, the Director-General would consider whether an activity could lead to a species becoming extinct.
- The Director-General would also need to be satisfied that an applicant will take all reasonable steps to avoid, minimise, and mitigate any harmful effects of their activities on wildlife.
- This reflects the current regulatory approach already applied by DOC, and will neither increase, nor decrease, the level of protection that in practice has been applied through this decision-making process.
- What it will do is clarify, in response to the judgment issued on the Mt Messenger case, that protecting wildlife may not require protecting every individual animal. It can involve protecting species at a population and species level.

**The Director-General can also set conditions as part of authorisations**

- As previously mentioned, the Bill does not raise or lower the bar for protection or the conditions that the Director-General may set.
- The Director General already has broad powers in the Wildlife Act to set conditions for authorisations to take or kill wildlife.
- The Bill does not limit these existing powers or expand how they are exercised.
- Instead, the Bill provides clarity on the types of conditions that the Director General may impose when authorising incidental harm to wildlife.
- These include:
  - measures to avoid making a species more threatened or extinct
  - measures to avoid, minimise, or mitigate harm to individual protected animals and affected populations.
- These measures are consistent with the types of conditions that the Director General has previously set for authorisations to incidentally harm wildlife.

- For example, the Director-General has previously set conditions to protect species such as kiwis from development projects by requiring applicants to:
  - follow animal management plans submitted by applicants
  - follow best practice guidelines to capture and relocate animals, and
  - undertake predator control and site enhancement in places where animals are relocated.
- The Director-General could also authorise the incidental killing of individual animals if this is offset by other measures to increase that species' population.

s9(2)(f)(iv)

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### **We need to introduce this bill as soon as possible**

- As you are aware, we urgently need to introduce, and pass, this Bill to amend the Wildlife Act.
- Over the last few weeks, I have been contacted by a growing number of businesses and industry groups that are concerned about the implications of the Court's decision. They are urging the Government to act now to fix this issue.
- On 28 March, I announced the Government's intent to promptly change the Wildlife Act.
- Now we are ready to deliver on this by introducing this Bill to the House and progressing it under urgency.

## Legally Privileged

Office of the Minister of Conservation

Cabinet

## Wildlife (Authorisations) Amendment Bill: Approval for Introduction

### *Proposal*

- 1 This paper seeks approval for introducing the Wildlife (Authorisations) Amendment Bill.

### *Policy*

- 2 On 24 March 2025, Cabinet provided the following policy approvals to amend the Wildlife Act 1953 (**the Wildlife Act**) [CAB-25-Min-0081 refers]:
  - 2.1 to retrospectively validate previously authorised activities under section 53 of the Wildlife Act (including those that should have been considered under section 71) to ensure that it would not be an offence for developers or infrastructure providers to incidentally kill wildlife as part of their activities if the Department of Conservation previously authorised this and they undertake activities in line with the authorisation granted and any conditions set out
  - 2.2 to enable the Director-General of Conservation (**DG of Conservation**) to authorise activities that are prohibited under the Act, particularly killing wildlife, if
    - 2.2.1 this is incidental to the purpose of carrying out otherwise lawful activities;
    - 2.2.2 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.
- 3 Cabinet also authorised me to make further detailed decisions and issue drafting instructions to the Parliamentary Counsel Office (**PCO**), in line with Cabinet's decisions.
- 4 The Wildlife (Authorisations) Amendment Bill (**the Bill**) was drafted in line with these approvals. Overall, the approach taken in the Bill is to ensure that the DG of Conservation can continue to approve or decline authorisations as prior to the Court's decision – that is, the Bill neither lowers or raises the bar for protections.

*This Bill addresses the need to quickly fix a legal problem.*

- 5 On 24 March 2025, Cabinet noted that the High Court recently decided it was unlawful for the DG 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 protecting wildlife [CAB-25-Min-0081 refers].
- 6 This related to a case taken by the Environmental Law Initiative to judicially review the Crown's approach to authorise the incidental killing of protected wildlife during construction of a new road at Mt Messenger (*Environmental Law Initiative v The Director-General of the Department of Conservation and others* [2025] NZHC 391).
- 7 The Court's decision means that the DG of Conservation is now unable to continue regulating incidental harm to wildlife (being the unwanted but foreseeable harm, including killing, of wildlife that occurs when doing otherwise lawful activities) under section 53 of the Wildlife Act.
- 8 The Court's decision impacts:
  - 8.1 *Current infrastructure and development projects*, which previously received authorisation under section 53 of the Wildlife Act to incidentally harm wildlife if they met specific conditions to protect wildlife. Developers and infrastructure providers are concerned that they could now be prosecuted if they incidentally kill wildlife in carrying out their projects, despite being previously authorised to do so and complying with all conditions set. This may lead them to delay or stop projects spanning a huge range of activities – including subdivision, construction, solar and wind farms, powerline maintenance, and road infrastructure
  - 8.2 *Other current projects that are important for our environment and economy* that may also incidentally harm wildlife and require authorisation under section 53 of the Wildlife Act. This includes the government-funded TBfree programme that aims to control and eradicate bovine tuberculosis.
  - 8.3 *Future projects* that would require authorisation under section 53 of the Wildlife Act to incidentally harm wildlife. The Department of Conservation (**DOC**) is currently processing over 300 applications for authorisations under section 53 of the Act for a variety of activities and will receive more in the future. Around half of these applications are likely to be for authorising incidental harm to protected wildlife during activities by developers and infrastructure providers. DOC is continuing to process these applications, but the DG of Conservation will not make any decisions involving incidental killing of wildlife until this legal issue is resolved.

*Targeted and narrow amendments to the Wildlife Act will fix this problem.*

- 9 We need a solution that enables the government to authorise and regulate activities that cause incidental killing of wildlife, while keeping appropriate safeguards in place to protect wildlife.
- 10 The intent of this Bill is to enable the Wildlife Act to be interpreted and applied as it has to date, effectively enabling what was understood to be the status quo, before the Court's decision, to continue.
- 11 The Bill will give businesses, developers, and infrastructure providers the certainty they need to continue activities permitted under existing authorities and enable DOC to process authorities waiting in the pipeline, while still aligning with the Wildlife Act's purpose to protect wildlife.
- 12 Rapid legislative changes introduce risks of unanticipated consequences that could make regulation less effective and more difficult to work with. To mitigate this risk, the Bill makes targeted and narrow changes to the Wildlife Act.

*The Bill will validate previously authorised activities.*

- 13 The Bill does this by inserting a new schedule (schedule 1AA) to the Wildlife Act. The validation will generally apply to all authorisations granted under section 53 of the Wildlife Act before 5 March 2025, when the High Court made its decision on the Environmental Law Initiative case. The DG of Conservation has not granted any authorisations under section 53 of the Wildlife Act since this time.
- 14 The Bill will also ensure that authorities granted under section 53 of the Wildlife Act before the date of the judgment in the Environmental Law Initiative case are not unlawful merely because consent is required under section 71 of the Act, rather than an authority under section 53. For example, this will cover authorities previously granted to the NZ Transport Agency for projects under section 53 that should have been given consent under section 71.
- 15 Legislation should generally not interfere with the judicial process of cases before the courts. For this reason, I propose to include a clause that the validation will not affect any legal proceedings that began before I announced Cabinet's intention to amend the Wildlife Act on 28 March 2025.
- 16 There is a very low risk of existing legal proceedings that commenced before 28 March 2025, which would not be covered by the validation. Officials have not been notified of any cases.

*The Bill outlines conditions that the DG of Conservation can set when authorising incidental harm to wildlife.*

- 17 The Bill establishes that the DG of Conservation needs to consider potential adverse effects of an activity that will cause incidental harm on:

17.1.1 the survival of wildlife populations; and

17.1.2 the persistence of the species to which those wildlife belong.

- 18 The DG of Conservation may then set conditions as part of granting an authorisation.
- 19 The DG of Conservation already has broad powers to set conditions for authorisations to take or kill wildlife under section 53(5) of the Wildlife Act, so the Bill does not limit these existing powers or expand how they are exercised. Instead, the Bill provides clarity on the types of conditions that the DG of Conservation may impose as part of an authority for incidental killing.
- 20 These conditions include:
- 20.1 measures to avoid reducing the survival of species of wildlife (including, for example, measures to offset the potential harm caused by killing individual wildlife belonging to that species); or
- 20.2 measures to avoid, minimise, or mitigate any adverse effects of the lawful activity on individual wildlife.
- 21 These measures are consistent with the types of conditions that the DG of Conservation has previously set for authorisations for incidental killing under section 53 of the Wildlife Act. For example, the DG of Conservation has previously set conditions to protect species such as kiwis and lizards during the development of projects such as housing subdivisions, mines, and quarries to:
- 21.1 follow the approach established in a wildlife management plan (submitted by applicants) to identify the presence of species, take steps to avoid harming them, relocate animals when practical, and to monitor impacts
- 21.2 follow established best practices for capturing, transferring and releasing animals
- 21.3 ensure sites where animals will be transferred are suitable for them, which may be supported by predator control and site enhancement.
- 22 Existing administrative law principles will also apply to decision-making, which means that any conditions that the DG of Conservation imposes will need to be reasonable, rational, for a proper purpose, and proportionate.
- 23 Collectively, this approach will ensure that the DG of Conservation can continue to approve or decline authorisations as they did before the Court's decision. That is, the clarification drafted in the Bill neither lowers or raises the bar for authorisations and/or conditions put on authorisations.

*The Bill will resolve a key issue behind the Environmental Law Initiative case.*

- 24 Prior to the Court's decision, DOC's interpretation of the Wildlife Act was that this Act does not solely seek to protect wildlife from harm at an individual level. DOC considered that the protective purpose of the Act could also be met by addressing effects on protected wildlife at a population level.
- 25 DOC considered that this meant that wildlife protection could be achieved in situations where there was incidental harm to some individual animals, so long as reasonable steps are taken to minimise and mitigate this harm and wildlife populations are protected. This protection was supported through measures such as enhanced habitat improvements and pest control.
- 26 The Court's decision was based on the view that every individual act of harm or killing needs to be consistent with the purpose of protecting wildlife. This effectively made it unlawful for the DG of Conservation to authorise incidental harm of individual animals even if broader approaches are being taken to protect a wildlife population as a whole.
- 27 The Bill will allow the DG of Conservation to authorise the incidental harm of protected wildlife in cases where some individual animals may be killed by an activity, but the wider population is being protected. For example, an application to authorise the incidental killing of some individuals of a protected bird species during construction of a new wind farm may be approved if the applicant takes action to increase survival rates of this species at nearby nesting sites, so that the overall population is no worse off.
- 28 The Bill will also limit the DG of Conservation from granting an authority to incidentally kill wildlife if this would lead to a species becoming more endangered or extinct. For example, an application to authorise the incidental killing of threatened sea birds in the one location where this species nest is unlikely to be approved unless there are very strict conditions to protect this species.

s9(2)(f)(iv)

29 s9(2)(f)(iv)

30 s9(2)(f)(iv)



31 s9(2)(f)(iv) [REDACTED]

32 s9(2)(f)(iv) [REDACTED]

33 Wider changes are not recommended or possible at this time as required analysis cannot be completed in the timeframe for introducing the Bill and a delay is not tenable.

**Impact analysis**

34 No impact analysis was prepared when Cabinet originally made policy decisions on this proposal [CAB-25-Min-0081 refers], and the Ministry for Regulation had not exempted the proposal from the impact analysis requirements. Therefore, it did not meet Cabinet's requirements for regulatory proposals.

35 The Ministry for Regulation and DOC have agreed that a post-implementation review will be developed and provided to Cabinet within two years after implementation.

**Compliance**

36 The Bill complies with each of the following:

36.1 the principles of the Treaty of Waitangi;

36.2 the disclosure statement requirements (a disclosure statement is attached to this paper);

36.3 the principles and guidelines set out in the Privacy Act 2020; and

36.4 relevant international standards and obligations;

37 DOC's assessment is that the Bill complies with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 (**NZBORA**) and the Human Rights Act 1993. The Ministry of Justice is currently undertaking an assessment of whether the Bill is consistent with the NZBORA and will advise the Attorney-General prior to the Bill's introduction.

38 The Bill complies with the Legislation Guidelines, except the following principles:

- 38.1 *Public consultation should take place*: this was not possible due to the limited time available to make a rapid legal fix. While some members of the public may raise concerns about this, the Bill is intended to maintain the way the Wildlife Act has been interpreted and applied in the past.
- 38.2 *Legislation should not have retrospective effect*: The Legislation Design and Advisory Committee guidelines anticipate situations in which litigation leads to an outcome that Parliament may wish to countermand. In this case, DOC previously considered applications that needed authorisation under section 53 of the Wildlife Act and set conditions to protect wildlife populations. Developers and infrastructure providers relied on these authorisations to lawfully undertake their activities. Through no fault of their own, their projects are now affected. It is appropriate to validate those authorisations to restore certainty.

### ***Consultation***

- 39 The following agencies were consulted on proposed amendments to the Wildlife Act prior to Cabinet agreeing to policy approvals on 24 March 2025, and provided feedback: Crown Law, the Ministry of Business, Innovation and Employment, the Ministry of Transport, and Te Waihangā New Zealand Infrastructure Commission.
- 40 The following agencies were informed of this paper and the proposed Bill: Crown Law, the Department of Prime Minister and Cabinet, the Ministry of Business, Innovation and Employment, the Ministry for the Environment, the Ministry of Housing and Urban Development, the Ministry of Primary Industries, the Ministry of Regulation, the Ministry of Transport, Te Puni Kōkiri, Te Waihangā New Zealand Infrastructure Commission, and the Treasury.

### ***Binding on the Crown***

- 41 This Bill will not alter the extent to which the Wildlife Act, or any specific provisions in it, binds the Crown.

### ***Creating new agencies or amending law relating to existing agencies***

- 42 This Bill will not create new agencies or the coverage of the Ombudsmen Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

### ***Allocation of decision-making powers***

- 43 The Bill does not allocate decision-making powers between the executive, the courts, and tribunals.

### ***Associated regulations***

- 44 No regulations are needed to bring the Bill into operation.

### ***Other instruments***

- 45 The Bill does not include any provision to empower the making of other legislative instruments.

***Definition of Minister/department***

- 46 The Bill does not amend the existing definitions for Ministers and departments in the Wildlife Act.

***Commencement of legislation***

- 47 The Bill will come into force on the day after the date of Royal assent.

***Parliamentary stages***

- 48 I propose for this Bill to be introduced under urgency and passed through all its stages without going to a select committee. This is necessary to quickly fix the legal problems that have arisen because of the recent Court decision.
- 49 The Bill should be introduced in the week beginning 5 May 2025 and be passed by 9 May 2025.

***Proactive Release***

- 50 I intend to proactively release this Cabinet paper, subject to any redactions that need to be made, within 30 days of being confirmed by Cabinet.

***Recommendations***

I recommend that Cabinet:

- 1 **note** that the Wildlife (Authorisations) Amendment Bill holds a category 3 priority in the 2025 Legislation Programme
- 2 **note** 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 the Environmental Law Initiative case 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 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 **approve** 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 (when Cabinet's decision to undertake amendments to the Wildlife Act was announced).
- 4 **s9(2)(f)(iv)** [REDACTED]
- 5 **approve** the Wildlife (Authorisations) Amendment Bill for introduction, subject to sufficient support in the House of Representatives.
- 6 **agree** that Parliamentary Counsel Office can continue to make minor changes to the Bill to settle technical matters in line with Cabinet's previous policy decisions and incorporate feedback from PCO proofreading and quality control processes up until the Bill is printed for introduction.
- 7 **agree** that the Bill be introduced in the week beginning 5 May 2025.
- 8 **agree** that the Government propose that the Bill be passed by 9 May 2025.

Authorised for lodgement

Hon Tama Potaka  
Minister of Conservation

## Departmental Disclosure Statement

Wildlife (Authorisations) Amendment Bill 2025
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Department of Conservation.

The Department of Conservation certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

9 April 2025.

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## Part One: General Policy Statement

The Wildlife Act 1953 (the Act) is the principal means by which wildlife is protected in New Zealand. The Act provides for the management of New Zealand's land, freshwater, and marine species. It regulates many human interactions with wildlife species. The Act absolutely protects most native birds, all native reptiles, frogs, and bats, some specified native land and marine invertebrates, and 9 marine fish species. Without proper authorisation, the species cannot be lawfully taken or killed.

One of the principal purposes of the Act is the protection of wildlife. This Bill provides that authorisations to kill wildlife can be granted by the Director-General of Conservation (the Director-General), consistent with this protective purpose, where the overall effect of granting the authority will be protective of wildlife. The objective of this Bill is to enable the Department of Conservation to regulate the incidental killing of wildlife that inevitably occurs during the carrying out of otherwise lawful activities. While undesired, the incidental killing of some individual wildlife is often unavoidable when undertaking many activities.

The Bill responds to legal uncertainty regarding the scope of section 53 of the Act, which provides a power to lawfully authorise the taking or killing of wildlife for certain purposes. This provision was considered by the High Court in *Environmental Law Initiative v The Director General of the Department of Conservation and others* [2025] NZHC 391. In that case, the Court determined that under the current law, there must be a direct nexus between killing and protecting wildlife. The effect of the judgment was to significantly limit the Department's ability to regulate incidental harm to wildlife. It also left the status of existing authorisations uncertain, leaving existing authorisation holders unclear on how they could continue to undertake their activities lawfully.

The Court also determined that section 71 of the Act is the appropriate authorisation power for acts in respect of protected wildlife performed under an Act specified in Schedule 9 of the Act, rather than section 53, and that where section 71 applies, an authority under section 53 is not a valid substitute for consent under section 71. The Director-General had granted several authorisations under section 53 in circumstances in which section 71 was applicable.

The Bill restores the regulatory approach that had been taken by the Department prior to the judgment. The Bill enables the Director-General to continue to authorise the killing of wildlife that occurs incidentally to an otherwise lawful activity, where the overall effect of the authorisation, including its conditions, will protect wildlife. The Bill also clarifies that neither the lawful activity itself nor each individual act of killing needs to be consistent with wildlife protection. The Bill ensures activities, such as development and infrastructure projects, and conservation work, such as pest control, do not cause permanent harm to the viability of protected species.

The Bill:

- enables the Director-General to grant an authority under section 53 of the Act that authorises killing of wildlife that is incidental to carrying out an otherwise lawful activity; and
- provides that in making decisions to authorise incidental killing, the Director-General is to have regard to any potential adverse effects of the lawful activity on the survival of populations of wildlife, the persistence of the species to which that wildlife belongs; and the extent to which the authority addresses those



effects, and any other matter that the Director-General considers is relevant; and

- provides that, in making decisions to authorise incidental killing, the Director-General is to have regard to:
  - any potential adverse effects of the lawful activity on the survival of populations of wildlife and the viability of the species to which that wildlife belongs; and
  - the extent to which the authority addresses those effects; and
  - any other matter that the Director-General considers is relevant.

The Bill recognises regulatory overlap with the Resource Management Act 1991 (RMA). The RMA provides broad powers to consenting authorities to impose conditions to address environmental effects of activities, including effects to wildlife. The Bill requires the Director-General to be satisfied that any conditions of an authority will not unreasonably duplicate any conditions of a resource consent under the RMA.

The Bill validates existing authorities to kill wildlife granted under section 53, and exclude authorities granted under section 53 from legal challenge on the ground that consent is required under section 71, rather than authorisation under section 53. The validation set out is limited in nature and will not affect the ability to challenge a section 53 decision on any basis other than in relation to the matters addressed in this legislative amendment.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
<u>Environmental Law Initiative v Director-General of the Department of Conservation [2025] NZHC 391 (5 March 2025)</u>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>No impact analysis was prepared when Cabinet originally made policy decisions on this proposal [CAB-25-MIN-0081 refers], and the Ministry for Regulation had not exempted the proposal from the impact analysis requirements. Therefore, it did not meet Cabinet's requirements for regulatory proposals.</p> <p>The Ministry for Regulation and the Department of Conservation have agreed that a post-implementation review will be developed and provided to Cabinet within two years after implementation.</p>	

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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>YES</b>
<p>DOC has some information on the impacts that may arise from this Bill. However, this information is limited and insufficient to inform a full impact assessment in the time available.</p> <p>The High Court determined it was unlawful for the Director-General to authorise the killing of protected species under s 53 of the Wildlife Act unless there is a direct nexus between that killing and protecting wildlife [CAB-25-MIN-0081 refers].</p> <p>The proposed Bill is not anticipated to cause any group to suffer significant, unavoidable losses in income or wealth. However, the counterfactual of not implementing the Bill may result in certain groups facing substantial and unavoidable financial losses due to the regulatory uncertainty linked to existing Wildlife Act authorisations, following the court's decision</p> <p>The Court's decision impacts:</p> <ul style="list-style-type: none"> <li>• <b>Over 100 current authorisations provided under s 53 of the Wildlife Act to incidentally harm wildlife if specific conditions are met to protect wildlife, relating to a range of infrastructure and development projects.</b> Affected developers and infrastructure providers are concerned that they could be exposed to prosecution and other legal proceedings if they incidentally kill wildlife in carrying out their projects, despite being previously authorised to do so and complying with all conditions set. This may lead to project delays or cancellations, harming our economy.</li> <li>• <b>Other current projects that are important for our environment and economy</b> that may also incidentally harm wildlife and require authorisation under s 53 of the Wildlife Act. This includes the TBfree programme that aims to control and eradicate bovine tuberculosis and other pest control programmes.</li> <li>• <b>Future projects</b> that would require authorisation under s 53 of the Wildlife Act to incidentally harm wildlife. <b>Over 300 applications for authorisations under s 53 of the Act for a variety of activities are pending decision by DOC.</b> DOC is continuing to process these applications, but the Director-General will not make any decisions involving incidental killing of wildlife until this legal issue is resolved.</li> </ul>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>
<p>DOC considers that any changes proposed in this Bill will not alter level of compliance as this Bill is intended to clarify and maintain existing practice and does not make fundamental changes to the legislation.</p>	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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The amendments in this Bill are intended to maintain previous practice and do not make fundamental changes to the policy intent of the legislation. DOC considers that any changes proposed in this Bill are consistent with New Zealand's international obligations (such as under the Convention on Biological Diversity) as these changes are intended to clarify and reinforce already established DOC processes, and appropriately balance protection and human-wildlife interactions.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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The amendments in this Bill are targeted and intended to enable the previous regulatory approach to continue. The Bill does not make fundamental changes to the policy intent of the legislation. DOC considers that any changes proposed in this Bill are consistent with the government's Treaty of Waitangi obligations as these changes are intended to clarify and reinforce already established DOC processes.
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Separately, Treaty partners have communicated to DOC longstanding interests in updating the Wildlife Act to address broader issues with the government's Treaty of Waitangi obligations. However, this Bill is narrow and targeted to address the immediate issues raised by the Court's decision. DOC considers that wider and more fundamental changes to policy are required to address the broader issues with the Act raised by Treaty partners as well as others. DOC has a work programme underway to repeal and replace the Wildlife Act that will be a more suitable avenue to address these broader issues. Ahead of the completion of this work, and any changes agreed by Cabinet, this Bill will do what is needed to protect wildlife and make sure that the kinds of projects and activities that have been authorised in the past can be undertaken lawfully.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>YES</b>
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The Ministry of Justice (MOJ) is undertaking an assessment of whether the Bill is consistent with the New Zealand Bill of Rights Act 1990 and will provide advice to the Attorney-General. Advice provided to the Attorney-General by MOJ is generally expected to be made available on the MOJ website on introduction of a Bill, at <a href="#">Compliance reports   New Zealand Ministry of Justice</a>
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## Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<p><b>Offences and Penalties:</b> The Bill does not create or remove offences or penalties. Existing offences and penalties in the Wildlife Act 1953 (the Act) will continue to apply.</p> <p><b>Jurisdiction of a court or tribunal:</b> The Bill itself does not create, amend or remove the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal).</p> <p>To ensure appropriate safeguards are in place to avoid affecting the jurisdiction of a court or tribunal, in line with section 33 of the Legislation Act 2019, the Bill:</p> <ul style="list-style-type: none"> <li>• will apply from enactment of the provisions relating to the Wildlife (Authorisations) Amendment Act 2025.</li> <li>• is limited so that it does not affect the ability to challenge a s 53 decision on any other basis.</li> <li>• will not apply to the authority that the Director-General granted to the New Zealand Transport Agency under section 53 on 22 December 2021, and that was the subject of <i>Environmental Law Initiative v The Director General of the Department of Conservation and others</i> [2025] NZHC 391.</li> <li>• will not affect any proceedings commenced or in progress before 28 March 2025 (the date that Cabinet's decision to amend legislation was communicated), or any rights of appeal.</li> </ul> <p>However, there is a period (between the date of the Court's decision and the date at which these amendments take effect) where further applications for judicial review could be received. The amendments will limit the ability of applicants filing proceedings during this time to challenge earlier s 53 decisions.</p> <p>There are over one hundred existing authorities granted under s 53 of the Act, many of which authorise the killing of wildlife where there is no direct nexus between that killing and the protection of other wildlife. Based on the High Court judgment, the decisions to grant these authorities were unlawful and, if challenged, could be set aside by the Court. Those authority holders face uncertainty, and this uncertainty could lead to some authority holders pausing activities until the position is clarified. Cabinet agreed to retrospectively validate all authorised activities under s 53 (including those that should have been issued under section 71) [CAB-25-MIN-0081].</p> <p>Judicial reviews brought forward during the period before this Bill is enacted may temporarily impact the jurisdiction of a court or tribunal, to the extent that a court will not be able to impugn a s 53 decision on the basis that the decision was not consistent with the interpretation of s 53 as determined by His Honour McHerron J.</p> <p>As at the finalisation date of this document, DOC is not aware of any proceedings challenging additional authorities. The risk of additional proceedings being filed ahead of enactment is considered low. The sooner this Bill is enacted, the lower the risk of additional litigation during this period.</p> <p>To avoid any additional implications during this period, DOC has not made decisions on any further applications under s 53 since the court's judgment. There are currently over 300 applications under s 53 being processed. Decisions on these applications will recommence once this Bill has been passed, and these legal issues are addressed.</p>	

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>NO</b>
The Ministry of Justice was consulted regarding any implications for the Bill of Rights Act. The Ministry of Justice was not consulted on the provisions of the Bill, as the amendments to existing penalties are minor (as described above).	

### Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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### External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>NO</b>
Due to urgency and time constraints, it has not been possible to consult externally on the Bill. This Bill is narrow and targeted to the specific issues raised in the court decision. Given the changes confirm what has previously been the usual practice under s 53, the risk of unintended consequences is considered low. DOC considers it is reasonable to make this urgent amendment, without broader analysis and consultation, to avoid any flow-on implications to wildlife populations or the economy.	

### Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>NO</b>
No further testing or assessment has occurred, as the intent is to clarify and maintain status quo policy settings.	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
<p>The Bill retrospectively authorises some incidental harm under the Wildlife Act, in line with DOC's interpretation of sections 53 and 71 of the Wildlife Act prior to the High Court decision. This ensures that people and organisations that have already been issued authorisations can continue to lawfully undertake the activities associated with those authorisations.</p> <p>The Legislation Design and Advisory Committee guidelines anticipate situations in which litigation leads to an outcome that Parliament may wish to countermand. In this case, DOC previously considered applications that needed authorisation under s 53 of the Wildlife Act and set conditions to protect wildlife populations. Authority holders relied on these authorisations to lawfully undertake their activities. Through no fault of their own, their projects are now affected. It is appropriate to enable those authorisations to continue, to restore regulatory certainty. See section 3.4 of this disclosure statement.</p>	



### Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>

### Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>
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### Significant decision-making powers

<b>4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>YES</b>
<p>The Bill will amend s 53 of the Wildlife Act 1953 to enable the Director-General to authorise the incidental killing of wildlife if this is incidental to the purpose of carrying out activities, if:</p> <ul style="list-style-type: none"><li>• all reasonable steps are taken to minimise and mitigate impacts on wildlife, and</li><li>• the applicant's actions will not materially reduce the likelihood of the protected species surviving in New Zealand.</li></ul> <p>The Bill contains safeguards to limit the Director-General from granting an authority to incidentally harm/kill wildlife if this would lead to a species becoming more endangered or extinct. This ensures that the power will be exercised consistently with the protective purpose of the Act.</p> <p>This approach ensures that the Director-General can continue to approve or decline authorisations as they did before the Court's decision. The clarification drafted in the Bill neither lowers or raises the 'bar' for authorisations and/or conditions put on authorisations.</p>	

### Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>
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<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>NO</b>
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### Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>
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