

Nature Conservation and Other Legislation Amendment Bill 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, Andrew Powell MP, Minister for the Environment and Tourism and Minister for Science and Innovation make this statement of compatibility with respect to the Nature Conservation and Other Legislation Amendment Bill 2025.

In my opinion, the Nature Conservation and Other Legislation Amendment Bill 2025 is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The primary purpose of the Nature Conservation and Other Legislation Amendment Bill 2025 (the Bill) is to maintain current operational practices under the *Nature Conservation Act 1992* (NC Act) to use an electronic system for automatically issuing authorities for low-risk activities. Such authorities include those for low-risk wildlife activities such as keeping native animals as pets. The Bill also aims to maintain the ability to automatically grant certain types of environmental authorities under the *Environmental Protection Act 1994* (EP Act) through an electronic system. The amendments will remove uncertainty regarding the use of electronic systems for automatic authorisations and maximise the use of resources to assess high-risk activities. The amendments will also remove any doubt around the validity of authorities under both the NC Act and EP Act previously dealt with by an automatic system.

The Bill contains amendments to the NC Act and the EP Act to:

- clarify and contemporise relevant provisions of the NC Act in relation to use of electronic systems to automatically deal with authorities;
- ensure the continued automatic dealing for particular authorities using a contemporary framework and in a way that has regard to regulatory obligations; and
- provide retrospective validation to all authorities previously granted by the operation of an automated system.

The Bill also contains amendments to the EP Act to clarify beyond reasonable doubt that penalty infringement notices can be issued for non-compliance with in-force environmental protection orders, direction notices and clean-up notices.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights under the *Human Rights Act 2019* (HR Act), that are relevant to the Bill are:

- Property rights (section 24 of the HR Act); and
- Right to protection against retrospective criminal laws (section 35 of the HR Act).

Engagement with these human rights are outlined below. No other human rights are considered to be engaged upon enactment of the Bill.

Property rights (section 24 of the HR Act)

The Bill positively engages property rights under section 24 of the HR Act. The NC Act provides authorities for the keep and use of native wildlife, including as pets. Most captive pet keeping authorities issued since 2017 have been dealt with automatically, along with other authorities for activities relating to native wildlife. By validating these previously issued authorities and setting up an enabling framework to support the continuation of automated approvals using an electronic system, the Bill preserves property rights.

Retrospective criminal laws (section 35 of the HR Act)

The Bill is not considered to limit retrospective criminal laws as per section 35 of the HR Act. However, the below addresses several considerations relating to the right.

In June 2024, the *Environmental Protection (Powers and Penalties) and Other Legislation Amendment Act 2024* (the P&P Act) amended the EP Act to, amongst other things, introduce a new compliance tool called an Environmental Enforcement Order (EEO). The EEO combined several types of compliance notice and enforcement order into a single statutory notice. The introduction of the EEO was never intended to absolve recipients of their obligations or nullify any actions (e.g. issuing of a penalty infringement notice (PIN)) or proceedings by the administering authority in response to the non-compliance with a notice or order. The P&P Act inserted transitional provisions to achieve this intent. Amendments are being made through this Bill to clarify that the administering authority may issue a PIN for non-compliance with a notice or order as an alternative to court proceedings being brought. The amendments do not introduce any new obligations. Rather, the amendments clarify that the regulator has the full range of tools available to respond to non-compliance as originally intended providing operational certainty and administrative clarity. Given the nature of this amendment, there are no less restrictive and reasonable alternatives.

Conclusion

In my opinion, the Bill is compatible with human rights under the *Human Rights Act 2019* because it does not limit a human right.

ANDREW POWELL MP
MINISTER FOR THE ENVIRONMENT AND TOURISM
MINISTER FOR SCIENCE AND INNOVATION