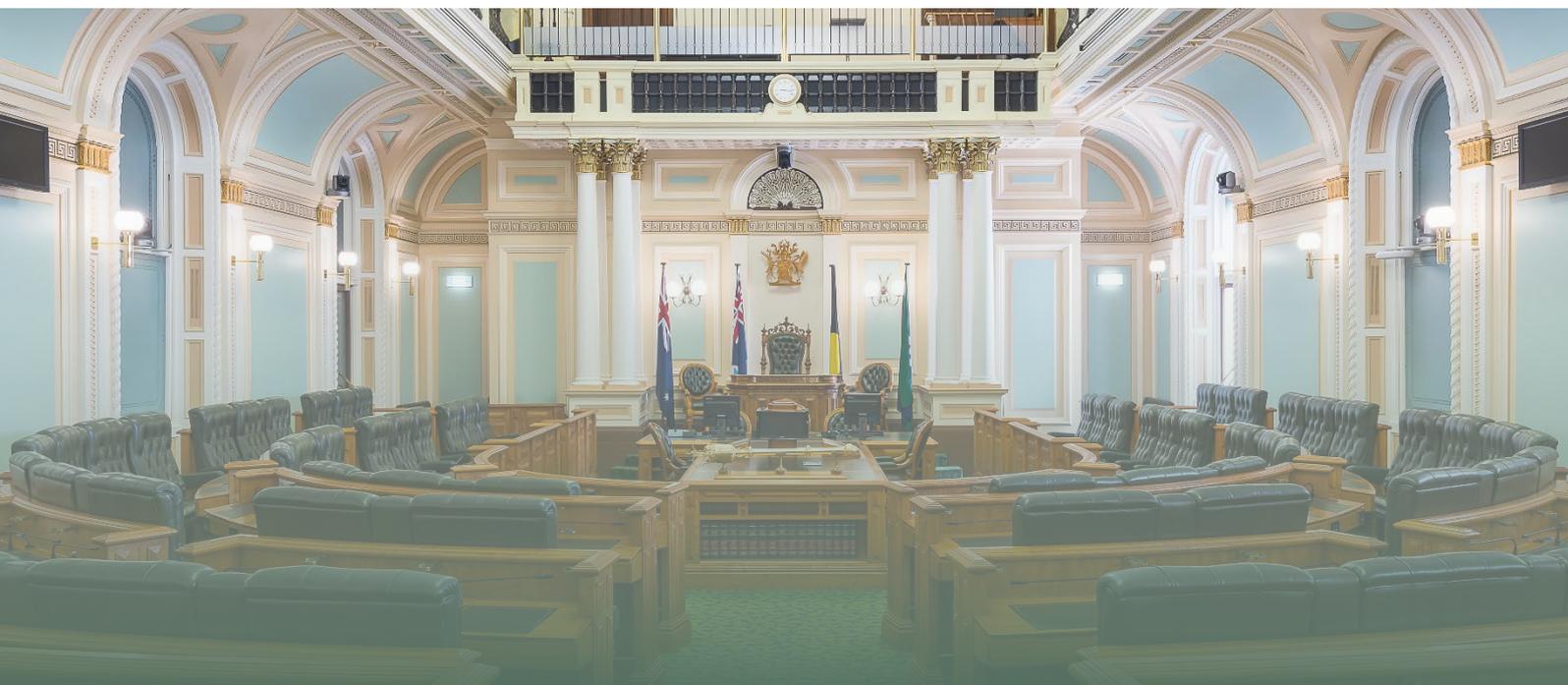




QUEENSLAND PARLIAMENT **COMMITTEES**

Nature Conservation and Other Legislation Amendment Bill 2025

Health, Environment and Innovation Committee



Report No. 5

58th Parliament, April 2025

Health, Environment and Innovation Committee

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All references and webpages are current at the time of publishing.

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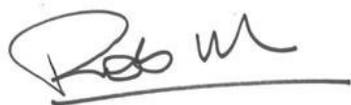
Chair's Foreword

This report presents a summary of the Health, Environment and Innovation Committee examination of the Nature Conservation and Other Legislation Amendment Bill 2025.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff and the Department of the Environment, Tourism, Science and Innovation.

I commend this report to the House.

A handwritten signature in black ink, appearing to read 'Rob M', with a horizontal line underneath.

Rob Molhoek MP

Chair

Executive Summary

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 aim to remove uncertainty regarding the use of electronic systems for automatic authorisations and maximise the use of resources to assess high-risk activities.

The Statement of Compatibility accompanying the Bill notes that 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.'¹

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.²

The committee is satisfied that the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament as required by the *Parliament of Queensland Act 2001*, and the *Legislative Standards Act 1992* (LSA). Further, the committee is satisfied that the Bill is compatible with human rights as defined in the *Human Rights Act 2019* (HRA).

The committee made one recommendation, found at page vi of this report, that the Bill be passed.

¹ Statement of compatibility, p 1.

² Statement of compatibility, p 1.

Recommendations

Recommendation 1 7
The committee recommends that the Bill be passed.

Glossary

DETSI	Department of the Environment, Tourism, Science and Innovation
EA	Environmental Authority
EEO	Environmental Enforcement Order
EP Act	<i>Environmental Protection Act 1994</i>
EPO	Environmental Protection Order
ERAs	Environmentally Relevant Activities
FLP	Fundamental Legislative Principle
HRA	<i>Human Rights Act 2019</i>
LSA	<i>Legislative Standards Act 1992</i>
NC Act	<i>Nature Conservation Act 1992</i>
PIN	Penalty Infringement Notice
P&P Act	<i>Environmental Protection (Powers and Penalties) and Other Legislation Amendment Act 2024</i>

1. Overview of the Bill

The Nature Conservation and Other Legislation Amendment Bill 2025 (the Bill) was introduced by the Honourable Andrew Powell MP, Minister for the Environment and Tourism and Minister for Science and Innovation (the Minister), and was referred to the Health, Environment and Innovation Committee (the committee) by the Legislative Assembly on 14 March 2025.

1.1. Aims of the Bill

The objective of the Bill is to clearly establish that electronic systems may be used for automatically issuing particular authorities. Specifically, the Bill seeks to ensure:

- authorities for low-risk activities under the *Nature Conservation Act 1992* (NC Act) and the *Environmental Protection Act 1994* (EP Act) can continue to be issued automatically through the use of an electronic system; and
- there is no doubt regarding the validity of authorities under the NC Act and EP Act that were previously issued automatically by electronic systems.³

The authorities for low-risk activities under the NC Act include the provision of certain pet licenses (such as non-venomous snakes) and permits for camping in protected areas.⁴ The authorities for low-risk activities under the EP Act include certain environmental related activities connected to, for example, agriculture, mining, and some industrial processes.⁵

In his explanatory speech, the Minister explained how for some years authorities for low-risk activities have been issued via an automatic process where non-discretionary criteria are met. This process is not being changed for the vast majority of authorities. Rather, the process for authorising an electronic system to issue those authorities is being clarified and updated to meet modern drafting standards. The changes will enable the continued use of electronic systems to issue authorities for low-risk activities, with the aim of providing outcomes for business and community members in a timely and efficient manner.⁶

The Bill also seeks to make other minor clarifying amendments, including amendments to ensure compliance and enforcement tools issued prior to the passage of the *Environmental Protection (Powers and Penalties) and Other Legislation Amendment Act 2024* (P&P Act), are enforceable via the issuance of a Penalty Infringement Notice (PIN).⁷

³ Explanatory notes, p 1.

⁴ DETSI, public briefing, Brisbane, 2 April 2025, p 2.

⁵ Business Queensland, 'Environmental relevant activities', 19 December 2024, <https://www.business.qld.gov.au/running-business/environment/licences-permits/applying/activities>

⁶ Hon A Powell MP, Minister for Environment, Tourism, Science and Innovation, Queensland Parliament, Record of Proceedings, 12 March 2025, p 320.

⁷ Explanatory notes, p 1.

1.2. Context of the Bill

1.2.1. Environmental Protection Act 1994 (EP Act)

The Department is responsible for administering the EP Act, which imposes obligations and duties to prevent environmental harm. Particular environmental impacts are managed through licensing environmentally relevant activities (ERAs). The EP Act uses a proportionate licensing framework which ensures that ERAs which have lower environmental risks can receive their Environmental Authority (EA) through a simplified process (a standard application). These EAs are automatically granted via an electronic system which has been in effect for some years. The department noted that by ‘including a specific enabling provision to authorise this system and ensure that it remains fit for purpose, ensures that the authorisation process is fully transparent’.⁸ The EP Act also uses enforcement tools to ensure that obligations and duties to prevent environmental harm are met.⁹

1.2.2. Amendments to the Environmental Protection Act 1994 (EP Act)

The Bill proposes various amendments to provisions in the EP Act, with Division 2 outlining amendments commencing on assent, while Division 3 sets out amendments commencing 28 days after assent. Broadly speaking the proposed changes to the EP Act fall into two categories – automated systems and PINs.

Automated Systems

The Bill proposes amendments to various provisions in the EP Act to ensure that there is a clear and transparent process for authorising an electronic system to automatically grant standard applications for an EA. The Bill proposes consequential amendments to other provisions in the EP Act to ensure there is a clear distinction between those decisions which are made by a delegate of the administering authority and those decisions which may be automatically granted by an electronic system. In addition, EAs which were previously automatically granted, are proposed to be validated by the Bill to ensure that they can continue to be relied upon as at the date of issue.¹⁰

Penalty Infringement Notices (PINs)

The P&P Act introduced a new compliance tool into the EP Act called an Environmental Enforcement Order (EEO). The EEO combined the previous powers and scope available under environmental protection orders (EPOs), direction notices and cleanup notices into one statutory notice to better respond to environmental harm events.

⁸ DETSI Written Briefing, p 3.

⁹ DETSI Written Briefing, p 3.

¹⁰ DETSI Written Briefing, p 1.

Transitional provisions were included in the P&P Act to ensure that offences against former provisions in relation to EPOs, clean-up notices and direction notices, continue to apply after the P&P Act took effect. The Department advised that:

This Bill includes a proposed clarification amendment to put beyond doubt that an existing and in force environmental protection order, clean-up notice, or direction notice can continue to be enforced through the issuance of a PIN.¹¹

The Bill amends existing section 811 of the EP Act to clarify that the offence provisions in former Chapter 7, Parts 5 to 5B relating to EPOs, clean-up notices and direction notices continue to apply as if the EP Act had not been amended by the P&P Act. The introduction of the EEO was never intended to absolve recipients of their obligations or nullify any actions (e.g. issuing of a PIN) or proceedings by the administering authority in response to the non-compliance with a notice or order issued under the pre-amendment EP Act.¹²

1.2.3. Nature Conservation Act 1992 (NC Act)

Most native wildlife (plants and animals) in Queensland are protected under the NC Act, where it is an offence to take, keep or use protected wildlife unless authorised. However, outside of protected areas, dingoes as well as fish and invertebrate species that are not specifically listed, are not afforded protection under the NC Act.

Authorisations, including licences and permits, to allow a person to take, keep or use protected wildlife are provided under the NC Act's subordinate legislation – the Nature Conservation (Animals) Regulation 2020 and the Nature Conservation (Plants) Regulation 2020. Licences and permits can be granted for a broad range of activities, including native animal pet keeping and trading, harvesting, wild animals (crocodiles and kangaroos) for commercial purposes, and managing protected species, such as research, rehabilitation and damage mitigation services.

Since 2017, the department has used an online licensing system to automatically grant particular animal authorities for low-risk activities, such as native animal pet keeping and trade. For these low-risk activities, a person can become a registered user of the online licensing system and, if a person meets the appropriate requirements, be granted a permit without any assessment being undertaken by an authorised officer.

The NC Act also provides for the declaration and management of Queensland's terrestrial protected areas. As with protected wildlife, an authority is required to take, keep, use or interfere with natural and cultural resources within protected areas, as well as to undertake certain activities, such as commercial activities, organised events and camping. Permits for protected areas are granted through the Nature Conservation (Protected Areas Management) Regulation 2024.¹³

¹¹ DETSI Written Briefing, p 2.

¹² DETSI Written Briefing, p 4.

¹³ The department uses an electronic system to automatically grant camping permits (approximately 200,000 per year). A review of requirements under the Nature Conservation (Protected Areas Management) Regulation 2024 found that the automated framework was fit for purpose and there were no concerns with the validity of automated permits for camping. DETSI, Written Briefing, p 4.

1.2.4. Amendments to the Nature Conservation Act 1992 (NC Act)

Part 3 of the Bill covers amendments to the NC Act with various amendments,¹⁴ replacements¹⁵ and insertions¹⁶ to facilitate the enabling of electronic systems to automatically deal with authorities.

Enabling electronic systems to automatically deal with authorities

The Bill proposes amendments to the NC Act to provide contemporary powers for the use of an electronic system to automatically deal with authorities. It also clarifies the requirements for the chief executive to approve a system for this purpose.

The Bill proposes to establish that an automatic electronic system may be approved by the chief executive. To preserve review rights, the Bill also clarifies that an automatically approved authority is taken to have been dealt with by the chief executive.

In addition, the Bill proposes a transitional arrangement, such that, any existing approved electronic system under the NC Act is taken to be approved by the chief executive in accordance with the enabling provisions of the Bill.¹⁷

The Bill includes a proposed validation amendment to ensure that existing or past authorities that were automatically granted by an electronic system can continue to be relied upon as at the date of issue. This is intended to apply even if the system was not an approved electronic system at the time, and irrespective of the matters considered by that system.¹⁸

Enabling provisions

The Bill's proposed enabling provisions require particular authorities suitable to be dealt with by the electronic system to be prescribed by regulation. The Minister would also need to be satisfied that prescribing the matter would not have a detrimental effect on achieving the object of the NC Act.

On 12 March 2025, the Minister stated in his explanatory speech, that the department would "provide an exposure draft of the amendment regulation to the parliamentary committee to assist with its consideration of the Bill".¹⁹ A copy of the exposure draft of the proposed Nature Conservation Legislation Amendment Regulation 2025 (proposed Amendment Regulation) was provided to the committee and a brief explanation of the proposed Amendment Regulation was provided.

¹⁴ Bill, cl 15 and cl 17.

¹⁵ Bill, cl 16, p 14.

¹⁶ Bill, cl 18, p 16.

¹⁷ DETSI Written Briefing, p. 2

¹⁸ DETSI Written Briefing, p 2.

¹⁹ Minister for the Environment and Tourism and Minister for Science and Innovation Explanatory speech, 12 March 2025.

Committee comment



The committee notes that the substantive impact of these proposed amendments will take effect through subordinate legislation. The committee considered the draft of subordinate legislation provided by DETSI in its review of the Bill, and will report on matters of fundamental legislative principle and human rights in its future report on relevant subordinate legislation when it is tabled in the Legislative Assembly.

The following key issues were raised during the committee's examination of the Bill,²⁰ which are discussed in Section 2 of this Report:

- Automated Processes
- Validation Provisions
- Environmental Protection Orders

1.3. Inquiry process

During its examination of the Bill, the committee:

- invited written submissions on the Bill from the public, identified stakeholders and email subscribers, and received 3 submissions (a list of submitters is provided at Appendix A)
- received a written briefing on the Bill from the Department of the Environment, Tourism, Science and Innovation prior to a public briefing with departmental officers on 2 April 2025 (a list of officials who appeared at the briefing is provided at Appendix B)
- requested and received written advice from the department on issues raised in submissions.

The submissions, written advice, and transcripts of the briefing and hearing are available on the committee's webpage.

1.4. Legislative compliance

The committee's deliberations included assessing whether the Bill complies with the requirements for legislation as contained in the *Parliament of Queensland Act 2001*, the *Legislative Standards Act 1992* (the LSA),²¹ and the *Human Rights Act 2019* (the HRA).²²

²⁰ Note that this section does not discuss all consequential, minor, or technical amendments.

²¹ *Legislative Standards Act 1992* (LSA).

²² *Human Rights Act 2019* (HRA).



1.4.1. Legislative Standards Act 1992

Assessment of the Bill's compliance with the LSA identified issues listed below which are analysed in Section 2 of this Report:

- Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively – *Legislative Standards Act 1992*, section 4(3)(g)
- A Bill should have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992*, section 4(4)

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly.²³

Committee comment



The committee is satisfied that the explanatory notes that were tabled with the introduction of the Bill contain the information required by Part 4 of the LSA.

The committee is satisfied that the explanatory notes contained a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.



1.4.2. Human Rights Act 2019

Assessment of the Bill's compatibility with the HRA identified issues with the following:

- Property rights (section 24 of the HR Act)
- Retrospective criminal laws (section 35 of the HR Act)

Engagement with these human rights is outlined in Section 2 of this report. However, the committee's assessment of the Bill's compatibility with the Human Rights Act 2019 did not identify any incompatibilities.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA.

Committee comment



The committee found that the Bill is compatible with human rights.

Further, the committee is satisfied that the statement of compatibility contains a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

²³ LSA, s 22.

1.5. Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.



Recommendation 1

The committee recommends that the Bill be passed.

2. Examination of the Bill

This section discusses key themes which were raised during the committee's examination of the Bill.

2.1. Environmental Protection Act 1994 – Automated Processes

A key policy objective of the Bill is to ensure authorities for low-risk activities can continue to be issued automatically through the use of electronic systems, by establishing contemporary enabling provisions for the approval and use of electronic systems for the automatic issuing of particular authorities, in a way that satisfies administrative law principles and regulatory obligations. The Bill also ensures that authorities previously issued automatically by electronic systems are valid by retrospectively establishing the validity of these authorities under the EP Act.²⁴



2.1.1. Stakeholder Submissions and Department Advice

i. Stakeholder Submissions

Queensland Conservation Council (QCC) were concerned that Clause 9 of the Bill²⁵ reduces transparency and makes enforcement and public participation with Environmental Authorities more difficult, by replacing section 204 to provide that EAs for standard and variation applications are taken to include a condition of compliance, as opposed to compliance with eligibility criteria being imposed as a condition in the EA. They stated:

We do not see a reason that this section should function in the way that other sections in the Environmental Protection Act do, given that it is more straight forward to have all conditions laid out in one place, in the EA.²⁶

ii. Department Advice

The department responded that Section 204 of the EP Act (clause 9 of the Bill) is being replaced and restructured to ensure that an EA which is issued under the new section 169A (automatic decision) is still subject to the condition about eligibility criteria. They stated that:

The updates to the language of new section 204 ensures that it is consistent with other provisions with deemed conditions (e.g. section 206 of the EP Act). These changes to section 204 of the EP Act do not alter the intent of the existing provision in the EP Act.

²⁴ Explanatory Notes, p 2.

²⁵ Replacement of s 204 (Conditions that must be imposed for standard or variation applications).

²⁶ Submission 1, p. 2.

The department stated that the changes ensure that any EA issued following a standard or variation application is subject to a condition that the holder must continue to meet the eligibility criteria. Further, where an applicant cannot comply with the eligibility criteria, a site-specific application for an EA must be made.²⁷

2.2. Nature Conservation Act 1992 – Automated processes

Clause 16 of the Bill replaces the previous section 143B of the NC Act²⁸ and inserts a new section 143BA to provide contemporary provisions for the approval and use of an electronic system for automatically dealing with authorities.²⁹

2.2.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

QCC raised concern about the scope of discretion left to the Minister to make regulation via Clause 16 of the Bill, which can grant automatic approval. QCC believe this could reduce the rigour of assessment for various authorities under the NC Act:

For example, section 260 of the Nature Conservation (Animals) Regulation 2000 relates to renewals of certain existing licences. Section 260(2) requires the chief executive to consider whether the existing licence was obtained on the basis of false or misleading information and whether the applicant has failed to comply with a condition of the existing licence.

QCC believe it is unclear how this consideration as part of the decision-making function could/would occur in an automated system.³⁰

Further, QCC raised the issue of automatic decision-making processes having gone wrong on ‘many’ occasions previously and urged that DETSI implement robust oversight processes to ensure that the automatic assessment process is working as intended.³¹

ii. Department advice

DETSI advised that Clause 16, which requires particular matters to be prescribed by regulation, provides safeguards under the NC Act. For example, in recommending a regulation to the Governor in Council, the Minister must be satisfied that prescribing the matter would not have a detrimental effect on achieving the object of the NC Act. Regulations must be tabled in Parliament and will be subject to disallowance.

Second, the Bill establishes further safeguards by ensuring that an electronic system used to automatically deal with prescribed matters must be approved by the chief executive, and that the chief executive must take all reasonable steps to ensure the approved electronic system operates in compliance with the requirements of the NC Act.³²

The department noted in the public briefing on 2 April 2025, that they have already commenced implementing the oversight requirements of the Bill. For example, the

²⁷ DETSI Response to Written Submissions, p. 2.

²⁸ NC Act, s 143 B (Chief Executive may approve use of information system).

²⁹ Explanatory notes, p 10.

³⁰ Submission 1, p 2.

³¹ Submission 1, p. 2

³² DETSI Response to Written Submissions, p. 2.

proposed Amendment Regulation provides for a robust framework for automatically processing low-risk animal authorities relating to the pet keeping and trade of non-dangerous captive-bred animals. This includes the applicant stating information relevant to their suitability to keep animals, such as previous wildlife convictions and breach of conditions.³³

Further, the department advised that, as per current arrangements for all authorities administered under the NC Act, it will be an offence (Clause 15 of the Bill) for a person to provide false or misleading information using the electronic system. Additionally, the proposed Amendment Regulation will provide provisions for the chief executive to immediately cancel an automatically issued authority on false or misleading grounds. The department advised that these provisions support their ongoing enforcement and compliance program for wildlife monitoring and for visitor management in protected areas.³⁴

Regarding QCC's concerns about automatic decision-making processes going wrong, the department noted that Clause 16 of the Bill requires the Chief Executive to take all reasonable steps to ensure that the approved electronic system operates and continues to operate in a way that meets the requirements of the NC Act. Further, that an electronic system can only be used to automatically deal with authorities if it has been approved for that purpose.³⁵



2.2.2. A Bill should have sufficient regard to the institution of Parliament

Section 4(4) of the LSA provides that a Bill should have sufficient regard to the institution of Parliament, including that the Bill: (a) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and (b) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.

Committee comment



While the Bill includes amendments to the NC Act which sub-delegate power regarding the process for automatic dealing with particular authorities, the committee is satisfied that it does so with sufficient regard to the institution of Parliament.

The Bill provides for automated matters to be prescribed by regulation, including the types and way in which these authorities may be automatically dealt with.

While technically a sub-delegation of power, the Bill also requires that the Minister be satisfied that a regulation prescribing the type of authority that

³³ Public briefing transcript, Brisbane, 2nd April 2025, p.7.

³⁴ DETSI Response to Written Submissions, p. 3.

³⁵ DETSI Response to Written Submissions, p. 3.

may be automatically dealt with and the way it is to be dealt with would not have a detrimental effect on achieving the object of the Act.

In addition, the Bill provides that an electronic system must not be used to automatically deal with an authority prescribed by regulation unless the chief executive has approved the use of the system for that purpose. As the regulation must be tabled in Parliament and subject to disallowance, the committee is thus satisfied that sufficient regard is had to the institution of Parliament

2.3. Environmental Protection Act 1994 - Validation provisions

Clause 12 of the Bill inserts new validation and transitional provisions into the EP Act.³⁶ Section 824 'Validation of environmental authorities purportedly issued for particular standard applications' ensures that environmental authorities which were previously issued under section 170 of the EP Act remain valid as at the date of issue on the environmental authority itself. The explanatory notes state that this is because:

...there is some doubt as to whether the authorities which were automatically granted by the electronic system under section 170 prior to amendment were valid as at the date of issue. This transitional provision ensures that any person who has relied upon their environmental authority as at the date of issue does not have their right to carry out the activity called into question because of the abovementioned uncertainty.

This section only applies to the original issue of the environmental authority which was the subject of a standard approval. Nothing in this section changes any action taken after the initial issue of the authority to amend or cancel the authority.³⁷

2.3.1. Stakeholder Submissions and Department Advice

i. Stakeholder submission

QCC were concerned that the wording of Clauses 12 (and Clause 18, discussed below) required greater clarity so that 'the application of the section is limited to unlawfulness or invalidity arising out of the approval or issuing of an EA by the operation of an automated system.'³⁸

ii. Department advice

In relation to the EP Act, the validation provision (Clause 12 of the Bill) is specific to the validation of granting EAs that were issued through a standard application process via an automated system. The department noted that the explanatory notes for the Bill 'make it clear that it is only the automated aspect of the granting of the EA is being validated.'³⁹ Under the EP Act, these EAs would have been deemed to have been granted. The

³⁶ Insertion of new ch 13, pt 34, 'Validation and transitional provisions for Nature Conservation and Other Legislation Amendment Act 2025'.

³⁷ Explanatory notes, p. 10.

³⁸ Submission 1, p. 2.

³⁹ DETSI Response to Written Submissions, p. 4.

validation simply clarifies the date that the EA took effect (that is, the day that it was issued, rather than the deemed day).⁴⁰

2.4. Nature Conservation Act 1992 – Validation provisions

Clause 18 inserts a new Division 9 into Part 12 of the NC Act to provide for validation and transitional provisions. Section 220 ‘Validation of regulation authorities’ validates all authorities that were issued by an automated system prior to the commencement of this Bill becoming an Act. In short, this section confirms that any authority issued, granted, amended, or renewed by an automated system before the commencement of the amendment Act is valid and lawful, and is taken to have always been so from the original date of issue. It applies regardless of whether the system was approved or what matters were considered at the time. The validation extends to authority types no longer handled automatically but does not validate activities that would have been unlawful even if approved by the chief executive.⁴¹



2.4.1. Stakeholder Submissions and Department Advice

i. Stakeholder submission

As noted at 2.3.1 of this report, QCC were concerned that the wording of Clauses 12 and 18 required greater clarity so that ‘the application of the section is limited to unlawfulness or invalidity arising out of the approval or issuing of an EA by the operation of an automated system.’⁴²

ii. Department advice

The validation provision in Clause 18 of the Bill applies to all authorities under the NC Act that were issued by an automated system prior to the commencement of the Bill’s provisions. This ensures that authorities automatically granted prior to commencement are valid irrespective of whether the granting was done using an electronic system that was approved and irrespective of the scope of matters considered by the operation of the system at the time of issue. The validation only applies to automated decisions to the extent the chief executive could have lawfully made the same decision. Again, the explanatory notes for the Bill make it clear that the validation provisions do not make lawful any activity that would always have been unlawful under the NC Act, nor do they make valid decisions that could not have been lawfully made by the chief executive.⁴³



2.4.2. Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively⁴⁴

The explanatory notes consider whether the insertion of a validation provision into the NC Act to ensure that authorities automatically issued since 2017 and up to commencement are valid comply with FLPs. They note that:

⁴⁰ DETSI Response to Written Submissions, p. 4.

⁴¹ Explanatory notes, p. 12.

⁴² Submission 1, p. 2.

⁴³ DETSI Response to Written Submissions, p. 4.

⁴⁴ *Legislative Standards Act 1992*, section 4(3)(g).

*The validation provides certainty to individuals and the community who have relied upon these authorities to lawfully conduct activities in relation to native animals, and applies irrespective of whether the authorities can continue to be automatically dealt with or not. Given the time period, and to provide the greatest amount of certainty for individuals and the community, the validation is sufficiently broad to deal with authorities automatically issued since 2017.*⁴⁵

Section 173O of the NC Act provides extended review rights under the *Judicial Review Act 1991* for individuals in particular circumstances. Although these review rights have been clarified and have not been removed, the validation arguably impacts on these review rights by limiting the range of matters available for review. However, the explanatory notes cite that this is counterbalanced by the strong justification for validating the individual rights of the authority holders to ensure they have the certainty they need and have relied on to undertake the activities authorised under the authority. Further, existing mechanisms under the NC Act allow the chief executive to amend or cancel an authority, thus providing a further safeguard to checking that an authority continues to comply with the requirements of the Act.⁴⁶

The validation only applies to automated decisions to the extent the chief executive could have lawfully made the same decision – that is, the validation does not apply to a decision that could not have been lawfully made by the chief executive. Further, the validation does not apply to a decision made by a person – that is, the chief executive or a delegate failing to act lawfully.⁴⁷

The explanatory notes continue:

*Going forward, protection mechanisms have been built into the Bill to make sure the process and criteria for automated dealings for particular authorities are much clearer. This includes a contemporary and clear head of power to automatically deal with particular authorities using an approved electronic system, and clarity around the processes involved in automatic dealings with particular authorities.*⁴⁸

Committee comment



The committee is satisfied that the validations (for provisions relating to previously granted authorities under the NC Act and EP Act) are justifiable on the basis that it does not adversely affect individuals' rights and liberties and is being used to provide clarification to prevent unintended consequences.

The validation does not impose obligations retrospectively. Rather, the amendment confirms that authorities that have been relied upon by authority holders as validly issued are legally valid.

The committee is satisfied that the amendments give sufficient regard to the FLPs.

⁴⁵ Explanatory notes, p 3.

⁴⁶ Explanatory notes, p 3.

⁴⁷ Explanatory notes, p. 3.

⁴⁸ Explanatory notes, p. 3.

2.5. Environmental Protection Orders

As noted in the overview of this report,⁴⁹ the Bill seeks to make other minor clarifying amendments, including amendments to ensure compliance and enforcement tools issued prior to the passage of the P&P Act, are enforceable via the issuance of a PIN.⁵⁰

The Bill amends existing section 811 of the EP Act to clarify that the offence provisions in former Chapter 7, Parts 5 to 5B relating to EPOs, clean-up notices and direction notices continue to apply as if the EP Act had not been amended by the P&P Act.⁵¹

2.5.1. Stakeholder Submissions and Department Advice

i. Stakeholder submission

An officer-level submission from Logan City Council outlined how the Act provides powers to require a prescribed person to rehabilitate or restore the environment when a contamination event has or is likely to cause serious or material environmental harm. Commonly referred to as 'clean-up' powers, if the polluter fails to comply with an EEO the issuer of the EEO may complete the works and recover associated costs. The submitter outlined how matters relating to serious or material environmental harm are the jurisdiction of DETSI, and do not extend to local government.

The submitter wrote:

Current enforcement options available to local government when responding to a contamination event include the issue of an EEO, the issue of an Infringement Notice or prosecution. Each enforcement option available to local government is inadequate in offering specific and timely tools that protect the environment from further harm in circumstances where an offender will not comply/clean-up...

The submitter proposed that local government Councils should be given legislative ability to issue an EEO and recover costs of clean up/remediation. The absence of which creates unnecessary and potentially substantial financial risk to Council as well as risk to the environment. In many instances Council is the first to be notified and the first to respond to contamination incidents. Due to this, the submitter believes that Council should be empowered to act quickly and decisively to remediate environmental contamination to prevent further environmental harm.⁵²

ii. Department advice

DETSI acknowledged how the submitter requested an additional EP Act amendment be progressed to include a power that allows local government to apply a charge (levy) to land that can be recouped in the same manner as a rateable charge, similar to the provision in the Public Health Act 2005. The department responded that the amendment suggested is outside the policy objectives and scope of the Bill.⁵³

⁴⁹ Page 1 of this report.

⁵⁰ Explanatory notes, p 1.

⁵¹ Explanatory notes, p 4.

⁵² Submission 2, p 1.

⁵³ DETSI response to written submissions, p 5.



2.5.2. Retrospective criminal laws (section 35 of the HR Act)

In June 2024, the P&P Act amended the EP Act to, amongst other things, introduce a new compliance tool called an EEO. The EEO combined several types of compliance notice and enforcement order into a single statutory notice. As noted at 1.2.2. of this report, the introduction of the EEO was never intended to absolve recipients of their obligations or nullify any actions (e.g. issuing of a PIN) or proceedings by the administering authority in response to the non-compliance with a notice or order.⁵⁴

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.

Committee comment



The committee is satisfied that 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. The committee is satisfied that the Bill is not considered to limit retrospective criminal laws as per section 35 of the HR Act.

⁵⁴ Statement of compatibility, p 2.

Appendix A – Submitters

<i>Sub No.</i>	<i>Name / Organisation</i>
1	Queensland Conservation Council
2	Logan City Council (officer-level)
3	Robert Heron

Appendix B –Public Briefing, 2 April 2025

Department of the Environment, Tourism, Science and Innovation

Ben Klaassen	Deputy Director-General, Queensland Parks and Wildlife Service and Partnerships
Kahil Lloyd	Acting Deputy Director-General, Environment and Heritage Policy and Programs
Jackie Mckeay	Executive Director, Waste and Enforcement Services, Environmental Services and Regulation
Mr Adam Northam	Manager, Permissions Management and Ecotourism, Queensland Parks and Wildlife Service and Partnerships
Ms Karalyn Herse	Manager, Environment and Conservation Policy and Legislation, Environment and Heritage Policy and Programs