

Suzanne Orr MLA

Minister for Aboriginal and Torres Strait Islander Affairs
Minister for Climate Change, Environment, Energy and Water
Minister for Disability, Carers and Community Services
Minister for Seniors and Veterans

Member for Yerrabi

RESPONSE TO QUESTION ON NOTICE**Questions on Notice Paper No 3****7 March 2025****Question No. 177**

MR CAIN MLA - To ask the Minister for Climate Change, Environment, Energy and Water:

- (1) Can the Minister clarify the exact powers and responsibilities of the Conservator of Flora and Fauna.
- (2) How is the public assured that these decisions are made independently and without political interference.
- (3) What measures are in place to ensure transparency and accountability in the Conservator's decisions, particularly regarding development proposals that affect the environment.
- (4) Why is there only a single Conservator rather than an independent board or panel to review key conservation decisions.
- (5) Would the Government consider establishing an independent body to strengthen accountability.
- (6) How often are the Conservator's decisions reviewed or challenged.
- (7) What mechanisms exist for appeal or external review of these decisions.
- (8) What safeguards are in place to prevent conflicts of interest in decisions made by the Conservator, especially regarding developments that could harm protected areas.
- (9) How does the Government ensure that the Conservator's decisions prioritise environmental protection over economic or political interests.
- (10) How does the Conservator engage with community groups, environmental experts, and the broader public before making key decisions.



- (11) Will the Government commit to making the decision-making process more transparent and accessible.
- (12) Why are some decisions made by the Conservator not made public.
- (13) What evidence can the Government provide to demonstrate that decisions made by the Conservator have effectively protected and enhanced biodiversity in the ACT.
- (14) Can the Minister guarantee that the Conservator's role is sufficiently resourced and independent to meet the ACT's environmental protection obligations, especially in light of increasing community concerns about habitat destruction.

MINISTER ORR MLA - The answer to the Member's question is as follows:

- (1) The statutory position of Conservator of Flora and Fauna (Conservator) is established under s.20 the Nature Conservation Act 2014 (NC Act).

The Conservator's functions are described in s.21 of the NC Act and include:

- (a) to develop and oversee policies, programs and plans for the effective management of nature conservation in the ACT; and*
- (b) to monitor the state of nature conservation in the ACT; and*
- (c) to provide information to the commissioner for sustainability and the environment for inclusion in a state of the environment report.*

The Conservator has additional responsibilities under the *Planning Act 2023*, the *Fisheries Act 2000* and the *Urban Forest Act 2023*.

Further information about the Conservator's role is available online at

<https://www.act.gov.au/directorates-and-agencies/epsdd/office-of-the-conservator-of-flora-and-fauna>.

- (2) The decisions and the advice of the Conservator are made independently of the Government and Ministers. The Conservator is subject to the ACT's laws and frameworks for conduct including the *Public Sector Management Act 1994* and the *ACT Public Sector Code of Conduct*.
- (3) The Conservator is one of several referral entities recognised under the *Planning Act 2023*. Where a Development Application is referred by the Territory Planning Authority to the Conservator for advice, a summary of the advice is made available by the Territory Planning Authority as the decision maker in the Notice of Decision which is available online.
Decisions about tree removals and registrations under the *Urban Forest Act 2023* are notified to the applicant and published online.
- (4) The Conservator or their delegate provides advice and makes decisions on a daily basis as per their statutory responsibilities. With the current independence and appeal mechanisms, it is considered unnecessary, impracticable, and costly for a panel to assume this function.

The Conservator is able to draw on advice from expert panels including:

- a) The Scientific Committee is established under the *Nature Conservation Act 1994*, and consists of seven members who have appropriate scientific expertise in biology, ecology,

conservation science, or conservation management. At least four Committee members need to be external to the ACT Public Service.

- b) The Tree Advisory Panel is established under the *Urban Forest Act 2023* and consists of at least three members who have extensive knowledge of, and experience in, arboriculture, forestry and/or horticulture.

- (5) The Government has no plans to establish an independent body to perform the functions of the Conservator. As part of its election commitment, the Government will undertake a review of the role of the Conservator of Flora and Fauna to ensure the position is best positioned to deliver their regulatory responsibilities.
- (6) It is relatively uncommon that decisions of the Conservator are challenged. From time to time a person may seek an administrative review of Conservator decisions relating to tree removal matters under the *Urban Forest Act*.
- (7) Decisions of the Conservator are usually subject to merits review in the ACT Civil and Administrative Tribunal.

The Commissioner for Sustainability and the Environment is another mechanism for independent scrutiny of decisions or actions made by the ACT Government that impact the environment within the ACT, including decisions made by the Conservator.

- (8) The Conservator is subject to the provisions of the *Public Sector Management Act 1994* and standards.
- (9) The decisions and/or advice of the Conservator are made independently of the Government and Ministers. The Conservator works to their responsibilities under legislation.
- (10) As a statutory decision maker, the manner in which the Conservator engages with and takes advice from third parties before making statutory decisions is a case-by-case matter for the Conservator and as governed by legislation. The Conservator is supported by an office that includes subject matter experts (ecologists). Where considered necessary, the Conservator may also seek additional internal and external advice including from the ACT Scientific Committee, Tree Advisory Panel, environmental community groups and environmental consultants.
- (11) The Government notes that the Conservator's statutory roles already have a high degree of transparency. Advice of the Conservator on Development Applications is published in the notice of decision, decisions on the registration of trees made through the tree register, and decisions on matters under the Nature Conservation Act notified on the Legislation Register as per legislation. The Conservator also appears at Budget Estimates and Annual Report hearings. Should further opportunities to strengthen the transparency of the Conservator's decisions be identified, this will be considered.
- (12) Most of the decisions of the Conservator are made public. Evidence of the Conservator's advice or decisions are available on the Territory Planning Authority website (in Notices of Decisions for development applications containing Conservator advice), the ACT Tree Register (Tree Registration decisions), and on the ACT Legislation Register with respect to notifiable decisions.
- (13) Recent examples of the Conservator's work to protect and enhance biodiversity include:

- a) Recommending to the Territory Planning Authority that Block 403 Stromlo and the undeveloped parts of Block 12 Denman Prospect become parts of the Molonglo River Reserve.
 - b) Registering all trees of particular species on two blocks in Hughes to protect sensitive habitat.
 - c) Seeking a redesign of multiple developments including the proposed Tuggeranong Ice Skating Rink and a residential block within Bruce that resulted in the protection of vast numbers of mature native trees.
 - d) The implementation and assessment of developer responses to the new Biodiversity Sensitive Urban Design Guide (BSUD). BSUD commits larger developments to protecting and enhancing the ecological values that exist on the development block, by considering a broader view of the landscape, including the values that exist on neighbouring blocks.
 - e) The non-support of a development in Strathnairn that would have fragmented and damaged critically endangered Natural Temperate Grasslands and Pink-tailed Worm-lizard habitat.
- (14) In response to the *ACT Planning System Governance Review* conducted by the former Government, the staffing in the Office of the Conservator increased, to meet additional community expectation.

Approved for circulation to the Member and incorporation into Hansard.

Suzanne Orr MLA

Minister for Climate Change, Environment, Energy and Water

Date 28/03/25

This response required 2hrs 50mins to complete, at an approximate cost of \$339.73.