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Species Information Section  
Department of Sustainability, Environment, Water, Population and Communities  
GPO Box 787  
Canberra ACT 2601

Email: [speciespolicy@environment.gov.au](mailto:speciespolicy@environment.gov.au)

Dear Sir/Madam

**Draft referral guidelines for three threatened black cockatoo species:**

**Carnaby's cockatoo (endangered) *Calyptorhynchus latirostris***

**Baudin's cockatoo (vulnerable) *Calyptorhynchus baudinii***

**Forest red-tailed black cockatoo (vulnerable) *Calyptorhynchus banksii naso***

The Urban Development Institute of Australia (WA) is pleased to make this submission to the Department of Sustainability, Environment, Water, Population and Communities on the *draft referral guidelines for three threatened black cockatoo species* advertised under the Environment Protection and Biodiversity Conservation Act 1999.

UDIA (WA) is the peak body representing the urban development industry in Western Australia. UDIA is a membership organisation with members drawn from the development, planning, valuation, engineering, environmental, market research and urban design professions. Our membership also includes a number of key State Government agencies and Local Government Authorities from across the state. Nationally, UDIA represents the interests of thousands of members and includes all the major land development companies, both public and private, and specialist consultancy firms.

UDIA was anticipating that the draft guidelines would provide greater certainty around the referral process, however we question their value as a meaningful policy document in their current format. While they provide general commentary about the black cockatoos there are statements that are misleading and contradictory which will have poor outcomes for the department and industry. The data and reasoning by which the 'triggers' have been formulated are lacking and there is little, if any, science contained within the document that provides substantive evidence on which to base the proposed approach.

The apparent lack of scientific rigour and clarity leaves the guidelines open to mis-interpretation by all parties. They show a lack of understanding of environmental regulation policy writing, a criticism that has been directed at the department previously. It is therefore incumbent on the department to prepare guidelines that are based on scientific evidence that is appropriately referenced in order that they provide clear direction for both proponents and assessors.

The inclusion of mitigation measures are welcomed by UDIA and this is consistent with the current Environmental Impact Assessment best practice.

## Key issues

UDIA's principal objections to the draft guidelines relate to:

1. The impact on the number of referrals;
2. The thresholds of the criteria for referral;
3. The lack of scientific rigour and clarity.

### 1. Impact on the number of referrals

UDIA understands that the Minister for Sustainability, Environment, Water, Population and Communities supports the preparation of guidelines to:

- provide greater certainty for proponents
- reduce the number of referrals
- reduce the administrative burden on departmental staff

The draft referral guidelines fail to support any of these outcomes and, in our view they will have a contrary impact on all three and perpetuate project-by-project regulation.

The draft guidelines fail to provide any certainty for proponents and provide no guidance whatsoever on the need to refer. Even where a proponent considers in good faith that there is a case not to refer, the land can be assessed for environmental impact at a later date. The development industry is very aware of the penalties for not referring and the draft guidelines will generate a large volume of unnecessary referrals from proponents requiring the legal certainty of having referred. There is no benefit to the environment in this approach and the outcome will be increased yet avoidable costs as a result of reporting requirements and the time taken for the assessment process which ultimately impact on housing affordability.

It is also to be expected that the number of referrals will increase if the proposed guidelines are implemented as they will capture most project proposals in the state that have any potential habitat for these three species of Black Cockatoos. This will increase the administrative burden for assessing officers which contradicts the outcomes and aims detailed above. The administrative burden will not only be an increase in the volume of projects to be assessed, the assessment process for officers is made more difficult because of the lack of clear definitions and scientific reference. The process loses objectivity where the assessing officer does not have access to well defined criteria upon which to base decision making. The risk for industry is the partial views of the officer, which may not have a scientific basis, being imposed on the assessment.

### 2. The thresholds of the criteria for referral

UDIA considers that the thresholds for referral are low and will result in an escalation in the number of referrals the department will have to review or assess which clearly conflicts with our understanding of the position of the Minister. The triggers for referral are so wide-ranging they fail to provide any clear guidance to proponents.

- Table 1: Habitats used by black cockatoos (page 12) indicates that an impact on one tree with a diameter of more than 500mm in any patch of woodland or forest that might be breeding habitat could be a trigger for referral.
- Table 3: Referral guidelines (page 17) indicates the pruning of the top canopy of a known roosting site warrants referral. This potentially requires referral where street trees are pruned or where pruning is carried out in a private garden.

- Table 3 also indicates the clearing of more than 1ha of quality foraging habitat is a trigger for referral which probably includes the entire Swan Coastal Plain.
- Where there is clearing of more than 1ha of quality foraging habitat and there is a high risk of a significant impact, referral is required however there is no clear definition of 'high risk', 'quality' or 'significant'.

The risk for DSEWPC is the large number of referrals the reporting of individual trees and the 1ha requirement will trigger and the issue for industry is the lack of scientific justification to support the reliability of the criteria.

The draft referral guidelines include trees greater than 500mm diameter *without* a hollow as breeding habitat. It would be more accurate to reference these trees as "potential future breeding habitat" if the government wishes to include them or delete them altogether as it is clear that a tree needs to have a hollow to be used by cockatoos for breeding.

If the Minister's goals are to be supported to provide greater certainty, fewer referrals and a reduced work load for the department, we recommend the 1ha requirement be re-evaluated and the determining criteria be supported by scientific evidence that has been subject to due process of peer review. There is no explanation why the trigger for breeding habitat has changed to an impact on one tree where previously it was three.

### **3. The lack of scientific rigour and clarity**

The draft referral guidelines have no evidence of reference to supporting documentation or scientific research or publications supporting referral thresholds and the thresholds proposed seem extremely conservative. Introduction of issues such as spread of *Phytophthora cinnamomi* and changes in hydrology becoming referral triggers would effectively result in almost every action on the Swan Coastal Plain being referred. These issues are currently addressed through both the Western Australian Environmental Protection Authority and the Western Australian Planning Commission for any proposed change in land use and it is redundant to include them in the guidelines.

In addition, there appears to have been no peer review of the work undertaken. UDIA is surprised at this approach as other guidelines for threatened species, such as those relating to the Western Ringtail Possum, are based on scientific research and referenced accordingly which provides both proponents and assessing officers a high level of certainty of the habitat areas, significant impact thresholds and mitigation measures projects should consider. The scientific community is unlikely to accept the draft guidelines where there has been no evidence of peer review and statements are not referenced or substantiated by relevant research.

The lack of clarity and generalised nature of statements made in the guidelines extend to the definitions. For example, trees identified as 'breeding habitat' are described on page 11 should relate only to trees within the mapped breeding range of the relevant species, however this is not indicated. Table 1 on the following page suggests breeding habitat for all three species can be 'any patch of woodland or forest' with no reference to the relevant mapped breeding range, which implies the criterion applies to any area outside the mapped breeding range. This is not a scientific approach and suggests a lack of confidence in the information relating to breeding habitat. The guidelines must provide a clear indication of the areas to which the criteria apply so that proponents fully understand the need for referral.

The lack of scientific rigour is particularly apparent in Table 3 with a number of unsubstantiated trigger criteria, for example the clearance of more than 1ha of quality foraging habitat, and the 4km gap between habitats. There is no indication how the criteria have been determined and

there is no reference material against which the statements can be verified. The WA Department of Environment and Conservation mapping suggests the information is not correct and that many of the known roost sites are in highly modified urban environments and not specific to native vegetation.

The draft guidelines are also silent on the definition of key terms, for example 'significant' or 'quality' which compounds the lack of clarity and consistency. The explanations of terms in the glossary are generic and provide no guidance on the need to refer. For example, on page 18;

*Known nesting tree: Any existing tree in which breeding has been recorded or suspected.*

These words 'known' and 'suspected' contradict each other and offer no guidance to the proponent on the decision to refer. The legal ramifications of not referring are taken seriously by the industry which is why it needs clear guidance based on accepted science to properly ascertain its position on the need to refer.

### **Mitigation**

UDIA is pleased that the guidelines include impact mitigation (Section 6) as this is central to the decision to refer and consideration of mitigation is consistent with current Environmental Impact Assessment best practice. The draft guidelines seem to contradict previous advice from DSEWPC that mitigation measures cannot be considered in determining the significance of an action, and hence whether referral is required. Promotion of mitigation measures, including planting of habitat within Public Open Space areas and street verges, should be considered as part of the consideration of impact significance and will assist in the co-existence of Black Cockatoos and people within a primarily urban environment.

It would be beneficial to include in this section more information on how proponents can better integrate Black Cockatoos into projects, for example the use of exotic fruit and nut trees as a food source for the birds. The guidelines indicate the appeal of non-native food sources and a better understanding of the energy outputs of particular vegetative food species would help proponents mitigate any impacts.

### **General Comments**

Industry needs a policy guiding the proponent in the requirements to refer projects however these draft guidelines do not provide the intended guidance. The guidelines must be workable for both industry and the government. In its current format, the document will generate a lot of compliance work that does little to reduce risk for the environment or the community. The thresholds articulated in the document will impact on land supply and housing affordability which is of critical interest to the government.

The draft guidelines refer to the Perth Metropolitan Area; we recommend that all such references be changed to the Swan Coastal Plain to provide a more accurate context for the species and the application of the guidelines.

We were surprised to see the reference to a 'suitably qualified person' in the glossary which is described as one who has had at least three years experience surveying for black cockatoos. UDIA believes this requirement should be deleted as a qualified botanist or environmental scientist is more than qualified to undertake potential habitat (flora) surveys. The WA Department of Environment and Conservation has well documented procedures for flora surveys that are applicable to the Black Cockatoos and these should be referenced in the document.

UDIA is aware that an extensive literature review of 42 known reports and scientific articles on the Black Cockatoos was recently undertaken by LandCorp, the state's land development agency. We respectfully suggest that DSEWPC access this literature when finalising the draft guidelines to eliminate conflicting information, to fill knowledge gaps and to base the guidelines on the most up to date, scientifically endorsed data available.

Since the release of the draft guidelines, it appears that species other than those indicated in the guidelines are being considered as Carnaby's Black Cockatoo foraging habitat and may trigger a referral. The species that we are aware of are widespread on the Swan Coastal Plain and would effectively result in almost every action in the region being referred. There is a need for good science to justify the elevation of the status of species on the foraging list as this has implications for referral decisions as well as assessments.

### **Conclusion**

UDIA is concerned that the draft guidelines will have an uncalculated negative impact on urban development and housing affordability with the guidelines' focus on a single species without consideration of any other aspect of the urban landscape.

The draft guidelines lack clear definitions and common understanding and will capture even more projects than are currently referred. They do not appear to be based on scientific research and there is an obvious lack of scientific references to statements made in the guidelines, which impacts on their credibility and their efficacy for both industry and assessors.

The revised guidelines should have clearer definitions and better clarity which will benefit both proponent and assessor. At the very least 'significant impact' should be defined to provide clarity to proponents on the need to refer.

The draft guidelines do not support the principles of the government response to the Hawke Review and are in direct conflict with the Minister's goal to reduce the number of referrals the department has to deal with. The draft guidelines do not provide greater certainty for proponents; they will not reduce the number of referrals, nor will they reduce the administrative burden on staff.

We trust you will give this submission due consideration when finalising the draft guidelines.

Yours sincerely

A handwritten signature in black ink that reads "Debra Goostrey". The signature is written in a cursive, slightly slanted style.

**Debra Goostrey**  
Chief Executive Officer