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14 October 2021

Dear Ms Opoku

Thank you for the opportunity to make a submission in response to the Regulation Impact Statement (RIS) for proposed reform to Remotely Piloted Aircraft and electric Vertical Take-Off and Landing (eVTOL) aircraft noise regulations.

The ACT has been a national leader in drone technology and testing, as both a launch-pad for the trial and commercial operation of ground-breaking drone delivery services, and as a home to several advanced research and development organisations. The ACT Government has been engaging with the opportunities and challenges presented by drone delivery technology through its response to the arrival to Canberra of Wing Australia, a drone delivery service. Canberra is one of only two locations in Australia, and a handful worldwide, where Wing is in operation. This experience puts the ACT in a unique position to understand the process of meeting community expectations regarding drone generated noise levels in an urban setting.

Throughout the consultation period commencing in August 2021, the ACT Government has necessarily directed efforts to managing the ACT COVID-19 pandemic response and is now returning

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to consideration of other matters. Given our experience and the importance to the community of ensuring sustainable noise settings in relations to drones, the ACT Government welcomes the opportunity to provide a response that addresses several areas of the RIS directly. We would also welcome the opportunity to work with the Commonwealth as the interim regulatory framework is developed, drafted and implemented.

Community expectations regarding the regulation of noise

As stated in the ACT Government's submission to the Commonwealth's Issue Paper on a National Emerging Aviation Technologies Policy (NEAT Policy) in November 2020, community acceptance of the noise volume and pitch generated by drones will be of critical importance to realising the opportunities this technology presents. It does not appear likely at present that developments in drone technology will be sufficient to overcome reservations that communities may have on the noise generated by this kind of aircraft operating at low altitudes.

As such, a regulatory approach to managing noise will be required. It is critical for the sustainability and longevity of the emerging aviation technologies sector that noise is regulated in a way that addresses community expectations while encouraging innovation and the development of new technologies and services. For this reason, we agree that RIS Option 1 (No Change) and 2 (Deregulation) would not be acceptable or desirable from a community or business perspective.

Single national approach to noise regulation

As stated in our November 2020 submission, it is our view that the Commonwealth remains best placed to implement a single regulatory regime for drone noise across Australia. To do otherwise would be to needlessly complicate what ultimately are aviation and aircraft issues, even though systems like drones and urban air mobility aircraft may be novel and still fast developing.

It is not in the interests of business, the consumer or Government to have multiple overlapping schemes for airspace where State and Territory land boundaries have no relevance. However, the ACT Government does note that the States and Territories may be able to regulate the use of land by commercial operators of drones. These may well go to matters such as local nuisance and hours of operation, but such rules would be complementary to the Commonwealth's regulatory scheme for the use of airspace and would not replace it.

It is important to note at this point that the ACT's Environmental Protection Regulation 2005 specifically excludes aircraft noise from its noise limits and standards as aircraft noise is regulated by the Commonwealth.

Support Option 3 – Flexible Reform

We acknowledge this RIS focuses on an interim solution for noise regulation, which aims to feed in into a long-term framework which will be developed as part of the NEAT Policy. We note that while an interim solution will enable businesses and the community to have certainty around current noise requirements, a long-term solution that provides a sustainable framework on an ongoing basis will be required. We note that it is likely that the long-term solution would require further changes to the Regulations and would be subject to a separate RIS process.

We agree the best interim solution of the options proposed is Option 3, which has a mix of self - regulatory and regulatory mechanisms. Option 3 would remove requirements for approvals for drone operations, when those operations are unlikely to have a significant noise impact. Option 3 proposes to amend current Regulations to create specific approval processes for drone and eVTOL operations. Some drone operations would not be required to seek an approval. Examples include recreational drone operations, drones and eVTOL used by emergency services and other categories deemed appropriate, drones weighing under 250 grams. The RIS suggests this would prevent thousands of businesses potentially needing apply for approval to operate based on noise impacts.

Self-assessment process

A critical part of the process is based on a self-assessment by the operator. Those who advise their drones are likely to have a significant noise impact will require approvals and would be subject to conditions designed to mitigate noise impact. It is anticipated very few current operators would require approvals. The RIS suggests this would be approximately 5 large businesses, and 1 community organisation who would be required to apply for an approval. While the Commonwealth can request an operator apply for approval, there is a risk in this model that operators may not apply for approvals when required.

An operator could self-assess without acknowledging the potential for their operation to create a significant noise impact, when in practice a significant impact may occur. This may be compounded by the recommended approach, that the operator does not need approval, but may be required to provide further information at a future time. Even if operators are required to document consideration of all the factors, and make a declaration to be kept on record, this approach may incentivise loss of paperwork by the operator, to prevent future compliance work by the regulator.

These risks could be mitigated through nuancing of the self-assessment process in the following ways:

- An operator could be required to make a declaration in relation to the self-assessment criteria and to provide the declaration to the regulator. That way the regulator can track operators and has a point of contact towards which to direct complaints.
- Alternatively, an operator could be required to keep the document in case it is required and for penalties to apply (equivalent to loss of capacity to fly) if the declaration is not provided on request by the regulator.
- Additionally, the self-assessment criteria should have simple, measurable, safe harbour checkpoints. For example, rather than just checking a box of “no”, in response to whether an aircraft will bring about a significant noise impact, the operator would be guided that significant noise is considered within a specified decibel range.

A self-assessment approach as proposed, with a greater level of accountability from the outset, would both make compliance achievable at minimal cost and guard against abuse.

The Commonwealth may also consider making sanctions available for entities who falsely represent issues to the regulator (and for the regulator to have powers to request the self-assessments).

Significant impact

Option 3 would require an operator to seek approval only in the circumstance where they anticipate their operations to have a significant noise impact on the community. Operators would need to assess this impact against a series of criteria. These include:

- The noise sensitivity of the area in which operations occur (for example, residential areas, public parks).
- Whether the operation takes place over the operator's own land.
- The frequency of operations in a particular area.
- Noise mitigation strategies being used by the operator.
- The noise output of the drone.

These criteria will usefully guide the operator in making an assessment and where possible should use tangible parameter guidelines to assist in an accurate assessment being made.

Additionally, we suggest further consideration of what constitutes a "significant" noise impact and whether this is a threshold that would be acceptable to the Australian community. To meet community expectations a more nuanced threshold that would enable comprehensive consideration of the impacts could be considered. Potential terms may include a "harmful", "damaging" or "offensive" impact. If the definition of "significant" is set at too high a level, it may also work against providing an incentive for businesses to innovate in their technology and practices to reduce noise. During the trial of drone delivery services in the ACT, Wing Australia developed and introduced quieter drone technologies and improved flight path management practices following community feedback on the impact of noise. This demonstrates how community expectations of noise can work to drive innovation in this area of emerging aviation technology.

Move from an interim solution to a long term approach

The RIS notes that, if adopted, Option 3 would remain in place until a longer term approach to noise regulation is developed as part of the NEAT policy. The RIS could benefit from the inclusion of indicative timeframes for a move from an interim to a longer term approach for noise regulation.

Community as a stakeholder

The RIS includes an analysis of impact on stakeholders primarily in terms of regulatory and administrative burden for commercial operators. While community expectations are discussed in general in the RIS, there is no discussion of local community in the analysis of stakeholder impacts. Option 3 notes that the proposed interim framework would include consideration of "Community feedback mechanisms, to ensure that local community sentiment regarding drone and eVTOL operations can be effectively monitored" (p 19). The ACT Government considers that community engagement and feedback must be an essential design feature of the interim solution.

Option 4

We acknowledge that RIS is focused on interim solutions. Option 4, which includes a more holistic approach to land use and noise, may be a better long-term solution. However, this would require further careful consideration and consultation to ensure the greater utility of such an approach is achieved.

I acknowledge that issues beyond the scope of this RIS include safety, security and privacy impacts. The ACT Government welcomes further opportunities to work with the Commonwealth to progress this important work.

Sincerely



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Minister for Business and Better Regulation

cc: Chief Minister, Mr Andrew Barr MLA
Minister for Planning and Land Management, Mr Mick Gentleman MLA
Minister for Transport and City Services, Mr Chris Steel MLA
Minister for the Environment, Ms Rebecca Vassarotti MLA