



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM
Mr Jeremy Hanson MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),
Mr Michael Petterson MLA

Submission Cover Sheet

Inquiry into drone delivery systems in the ACT

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Environmental Defenders' Office
AUSTRALIAN CAPITAL TERRITORY

Standing Committee on Economic Development and Tourism
GPO Box 1020
London Circuit
Canberra
ACT 2601

25 February 2019

By email: LACommitteeEDT@parliament.act.gov.au

Dear Committee Secretary,

Inquiry into drone delivery systems in the ACT: Environmental Defenders Office ACT Submission

The Environmental Defender's Office (ACT) Inc ('EDO ACT') is a community legal centre specialising in public interest environmental law in the ACT and surrounds. We provide legal representation and advice, take an active role in environmental policy and law reform, and develop community legal education programs and resources.

The EDO ACT received a number of enquiries regarding drone trials in the ACT, and welcomes the opportunity to briefly comment on past and future drone delivery trials and systems in the ACT where it relates to potential impacts to the environment and access to justice.

ToR 1(c) The extent of regulatory oversight of drone technology at various levels of government.

The recent drone delivery trial highlights a gap in legislative frameworks regulating the operation of drone technology in the ACT, including identification of the appropriate regulatory body to receive and action complaints. For example, the trial identified that there was no clear regulatory body responsible for monitoring and enforcing noise pollution. Confusion arose as to whether Access Canberra, the Civil Aviation Safety Authority (CASA), or Airservices Australia were the appropriate bodies to refer complaints to. The *Environmental Protection Act 1997 (ACT)* does not apply to Commonwealth jurisdiction aircraft within the meaning of the *Air Services Act 1995 (Cth)* ([section 8\(1\)\(b\) *Environment Protection Act \(ACT\)*](#)). CASA has stated that "as the safety regulator, the issue of aircraft (drone) noise is not in our remit."¹ Airservices Australia has no powers to restrict aircraft flights (including drones) outside controlled airspace, has no regulatory power to establish maximum noise levels or

¹ <https://www.casa.gov.au/aircraft/standard-page/trial-drone-delivery-systems>



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enforce compliance related to aircraft noise, including from the drone delivery system trial, and there are no federal noise regulations in relation to drones. A clear legislative regime must be established to deal with compliance and enforcement for any future drone delivery trials and for a potential drone delivery system in the future.

Recommendation: A clear and accessible legislative framework be established, with a compliance and enforcement included, particularly for noise concerns.

ToR 1 (d) the extent of any environmental impact as a result of trialling drone delivery technology on:

... (ii) native wildlife; ...

The EDO ACT welcomes the potential for reduced greenhouse gas emissions through the use of drones as delivery systems in the ACT. However, a thorough assessment of the impacts of drones on biodiversity is necessary before any conclusions are drawn on the benefits and costs of such a delivery system. It is noted that the report prepared by AlphaBeta for Wings does not discuss impacts on biodiversity, nor does there appear to be a publicly available environmental assessment relevant to the trial. A trial of this kind must include an assessment of all impacts – positive and negative – in order to determine whether to proceed with a drone delivery system in the ACT. As the 'bush capital', the ACT is home to many species of birds – and research is developing with respect to the impacts of drone on avian activity.² Community members and groups are often best placed to provide accurate information on changes to their environment, and residents have reported changes in wildlife behaviour. Future trials must include the establishment of appropriate baseline studies that assist in monitoring the impacts of biodiversity as a result of providing this service. An environmental assessment must be produced in conclusion of the trial.

Recommendation: The environmental impact of drone delivery systems must be assessed, and environmental impacts should be included as a term of reference in measuring the outcomes of future drone delivery system use.

² Lyons, M., Brandis, K., Callaghan, C., McCann, J., Mills, C., Ryall, S. and Kingsford, R., 2017. Bird interactions with drones, from individuals to large colonies. BioRxiv, p.109926. See https://www.ecosystem.unsw.edu.au/files/Lyons_et_al-2018-Bird%20interactions%20with%20drones.pdf



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Finally, the precautionary principle is a well-recognised principle in ACT law,³ and is derived from national and international environmental law.⁴ The Australian Panel of Experts on Environmental Law define the precautionary principle as follows:

The precautionary principle requires that where there are threats of serious or irreversible damage to the environment, lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation.⁵

The precautionary principle is a 'directing principle', meaning that decision-makers need to take it into account when creating policies, including decisions regarding drone delivery systems in the ACT. Concerns raised regarding the previous drone trial and the use of this technology into the future involve the untested and experimental nature of the new technology, and the lack of regulation with respect to it. Until an appropriate legislative framework is in place, and a greater understanding of the impacts of drone delivery services in the ACT, it is prudent to take a precautionary approach to drone use in the ACT.

If you have any questions or wish to clarify any of the above, please do not hesitate to contact the EDO ACT on (02) 6243 3460 or Stephanie.Booker@edoact.org.au.

Yours faithfully,

Stephanie Booker
Principal Legal Officer

³ Section 3D *Environment Protection Act 1997* (ACT); section 9 *Planning and Development Act 2007* (ACT); section 6 *Nature Conservation Act 2014* (ACT).

⁴ *Report of the United Nations Conference on Environment and Development (Rio Declaration)* UN Doc A/CONF.151/26 (1992), Principle 15.

⁵ Australian Panel of Experts on Environmental Law, *The Foundations of Environmental Law: Goals, Objects, Principles and Norms* (Technical Paper 1, 2017).