



James Jackson
President

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Director, Airspace and Emerging Technologies
Department of Infrastructure, Transport,
Regional Development and Communications
GPO Box 594
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Dear Director

NSW Farmers' comments on the National Aviation Policy Issues Paper

The NSW Farmers' Association ('NSW Farmers') welcomes the opportunity to comment on the National Aviation Policy Issues paper.

Farmers across New South Wales produce more than \$15 billion worth of food and fibre every year, representing around one quarter of Australia's total agricultural output.

NSW Farmers is Australia's largest State farming organisation representing the interests of its diverse intensive and extensive agricultural production base – from avocados and tomatoes, apples, bananas and berries, through grains, pulses and lentils to oysters, cattle, dairy, goats, sheep, pigs and chickens.

As small business owners with intimate understanding of the performance of their farm, farmers recognise the value of new technology to enhance their operations and improve profitability.

Drones can provide farmers with valuable data to better and more quickly monitor farm conditions such as monitoring fixed infrastructure, fences, and water troughs. They can aid efficient operation of a variety of tasks that support biosecurity and animal welfare, such as weed and pest management, surveying, fire monitoring, and stock monitoring and management.

NSW Farmers supports reform to expand the use of drones for agricultural purposes to the extent that it aids farm productivity improvements. However, such reforms must also ensure the appropriate levels of protections for privacy and security of farm businesses and farming families.

NSW Farmers holds concerns around potential trespass and nuisance issues from un-monitored use of drones in rural areas. For example, if tourists or animal activists conduct unauthorised filming or surveillance over a farmer's property, the current legal framework does not provide farmers sufficient protection or recourse.

Members have repetitively raised concerns regarding action that may be taken to address unauthorised surveillance and therefore NSW Farmers supports a targeted exemption to allow farmers to use drones more easily, whilst protections from the misuse of drones and aerial surveillance should be strengthened.

NSW Farmers' Association

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NSW Farmers considers that the protections within the law should require that no drones should be allowed to fly over any private property without prior consent from the owner. When drones hover over paddocks, in addition to invading the privacy of the landholder, they can disturb and distress stock, which can cause injury to both animals and farmers.

NSW Farmers recommends that the Australian Government work with CASA and state and territory governments on the drafting of legislation or regulation regarding the appropriate use of Unmanned Aerial Vehicles, including incorporating the impact on animal welfare and introducing stronger protections with the ability to successfully enforce and prosecute.

It is also critical that stronger penalties are introduced to deter the misuse of drones, accompanied by an improved ability to enforce and prosecute drone operators. Currently, the focus of penalties is on protecting the drone and its operator rather than those impacted by drone misuse, including illegal surveillance. The current maximum penalty for shooting down or interfering with a drone is two years in prison and/or a fine of up to \$26, 640 for an individual. If a drone is being operated over rural land without permission, as urban privacy requirements don't apply, the processes for reporting and resolving the issue are lengthy and complex. As a consequence, the penalties are inconsistent, lack deterrence and are unclear.

We recommend that the Australian Government work with the states and territories to refer appropriate investigative authority under law to support timely on-ground investigations of illegal surveillance – both on ground and in air space. There is a need to simplify the reporting process to enable landholders to act quickly on trespass issues.

Core principles

NSW Farmers provides in-principle support for the proposed core principles to underpin a National Emerging Aviation Technologies Policy. It is critical that a nationally consistent approach is taken to provide certainty, clarity and consistency.

We agree with the need to encourage best practice and safe and secure operations, whilst ensuring that this does not entail unnecessarily onerous regulation. It is important that such a policy will need to be considerate of the community and the environment, and emphasise the importance of protection of privacy, in particular for rural landholders.

NSW Farmers recommends a regulatory approach that can incorporate state or territory police to further aid clarity and compliance. This would enable farmers or others with concerns to report and progress incidents through rural crimes investigators or their local police - the instinctive option, rather than following up concerns through CASA.

In relation to the proposed approach to policy development, NSW Farmers makes the following comments.

Safety

In relation to safety, NSW Farmers holds concerns around potential impacts of unauthorised or inadvertent drone usage over farming properties that could cause serious injury to animals or farmers.

We support fit for purpose rules that are flexible enough to protect farmers, but also enable the operation of drones in an appropriate manner to complete agricultural tasks, suitable to the geographic location. NSW Farmers considers it would be appropriate for farmers to operate drones beyond visual line of sight in the Far West of NSW, over land that is owned or managed by the operator. This would not have a detrimental impact on community safety, and would improve work health and safety outcomes for farm workers by decreasing the need to use quad bikes, for example.

NSW Farmers notes the potential danger presented by drones for low flying aircraft, such as those used to spray. As drone technology is enhanced, there is potential that aircraft will have very little chance of avoiding drones or finding safe landing space in the event of a collision. In accordance with the policy approach presented in the issues paper, we support fair and competitive access to airspace to mitigate risks and impacts presented by sharing airspace.

Security

NSW Farmers supports stronger regulation of data security to prevent malicious, unlawful, or inadvertent misuse of drones and the data they collect. As noted in the issues paper, existing regulation controls where drones can fly, who can use them, and the level of training or licensing required. The current frameworks are not intended to manage the risks posed by malicious use of drones, but the potential implications are significant.

For example, if drones were used to surveil, collect, and share data on different properties for animal activist purposes, this could lead to serious privacy and trespass issues for farming families and businesses.

NSW Farmers agrees that the security risks associated with drones should be mitigated. A framework that includes providing powers and training to police to ensure they have adequate authority to respond to threats, and provides greater investigative powers for instances of illegal surveillance is supported.

Privacy

Adequate privacy protections are of great concern. The current framework makes it extremely difficult to successfully prosecute for invasion of privacy.

NSW has recently amended the *Inclosed Lands Protection Act 1901* (NSW) to bolster protections from trespass. However, it remains unclear whether the operation of a drone above the surface of inclosed lands could constitute “entering into” those inclosed lands. There is a need for consistency of legislation across all jurisdictions to ensure clarity and certainty, particularly for those in border regions.

In addition to the difficulties faced in successfully gathering evidence and prosecuting privacy, trespass, nuisance, or surveillance actions, the penalties and remedies currently available also fail to adequately deter breaches and meet the needs of those negatively impacted by inappropriate use.

Both the NSW and the Australian Law Reform Commissions have recommended introducing a statutory cause of action for invasion of privacy. This would assist affected landholders in having a clear action to pursue, and would make it clear to potential offenders that there are repercussions for breaching privacy. As with other aspects of drone regulation, it is important that any work in this space is centrally coordinated to ensure clarity and consistency across Australia.

Productivity

Government policy is very clearly to enhance the uptake of technology to improve innovation, productivity and product quality. This will require building the skills to use new and emerging technology tools; collect and analyse data to enhance decision-making; install and manipulate tools for precision agriculture; and aid compliance with environmental, food safety, and animal welfare legislation and regulation.

The use of drones, or Remotely Piloted Aircraft Systems (RPAS), is seeing a rapid rise in use across Australia. Technological development is enabling more, diverse applications of drones across the supply chain or from paddock to plate.

It is estimated that nationally the growth in drone use will support 5,500 full-time jobs every year for the next 20 years; result in a \$4.4 billion increase in GDP in regional NSW, Victoria and Queensland; and deliver cost savings to agriculture, forestry and fisheries of \$2.95 billion over the same period.

However the skills to effectively and appropriately operate and deliver key productivity gains will require investment. Hands on experiential learning delivered through short courses that cover operation of specialist machinery and precision and control technology are highly effective.

NSW Farmers seeks the following changes to enhance primary producer productivity:

- Permit use of drones beyond visual line of sight (BVLoS) in the Far West of NSW, over land that is owned or managed by the operator. There is a real need for primary producers in the remote areas of NSW to be able to utilise the BVLOS capability of the equipment to improve safety, efficiency and animal welfare through more regular checks of animals and water points. There may be some training required to enable operators to safely take up this BVLoS option.
- Permit night operations such as identifying pests at night using thermal imaging in inside country (central and eastern areas of NSW), as currently they need to be registered.

The common feedback from members after a drones workshop is 'I wish we could fly them at night to utilise the thermal camera for pest animal monitoring'.

A usual example of pest animal monitoring with a sub 2kg unit is to monitor pigs damaging crops. This shows the grower crucial information such as how many pigs are on the crop and where they are entering the field from, which can then be used to assist in planning effective pest animal management strategies.

NSW Farmers does not advocate for blanket changes to CASA regulations to permit these activities. Rather, we seek targeted exceptions for primary producers to be able to undertake these activities and increase their productivity. By progressing targeted exceptions, primary producers can still be protected from unlawful surveillance activities, where other operators would not be permitted to fly drones beyond visual line of sight or at night.

Should your staff require additional information, your office is invited to contact Renee Austin, Policy Advisor

Sincerely

James Jackson
PRESIDENT