

# Drone Usage Guidelines

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## 1. Background

Drones are becoming increasingly popular for both commercial and recreational use in Australia and worldwide. Further, there is an increase in recreational drone users using open spaces, such as local parks and reserves, to fly drones without permission.

Recreational use of drones in parks can interfere with visitors' enjoyment and individuals' privacy and can impact on wildlife. They can also dangerously interfere with park operations, such as fire management.

This increased activity brings with it an identified risk where drones are being used on Council land, either with or without consent.

Council has an obligation to ensure that its land is used in a safe manner and that any drone activity in the municipality (over Council managed land) is controlled and conducted in a safe manner.

As such, Council has implemented an approval process for both commercial and recreational drone activity, to ensure that drone users have appropriate Civil Aviation Safety Authority (CASA) licenses, risk management plans and safety measures in place, as well as minimum Public Liability Insurance.

## 2. Purpose

This document sets out Council's minimum requirements for the use of drones within Moonee Valley, both commercial and recreational.

While the current regulator and enforcer of such regulations for drones within airspace in Victoria is CASA, Council has obligations and a duty of care under Section 14B of Victoria's *Wrongs Act 1958*, to ensure that any person on its land is not "...injured or damaged by reason of the state of the premises (land) or of things done or omitted to be done in relation to the state of the premises (land)."

Council also has obligations to protect wildlife and to provide opportunities for the public appreciation and enjoyment of the natural and cultural values of its parks and reserves. Further, many of Council's reserves and parks are used for events, and as such, Council has a vested interest in ensuring that any potential drone activity will not conflict with organised events.

Council is committed to the safety of residents who occupy Council managed land, including parks, sporting ovals and recreation reserves, and requires that all drone

operators on Council land complete an application and approval process prior to activity taking place.

Further, Council has an interest in monitoring the level of drone activity taking place on its land, to ensure that designated areas can be supported with appropriate signage etc.

### 3. Scope

These guidelines apply to the use of commercial or recreational drones on Moonee Valley City Council managed land. They do not apply to the use of drones on privately owned land within the municipality.

### 4. Definitions

**CASA** - Civil Aviation Safety Authority (the Commonwealth Government agency responsible for ensuring aviation safety).

**CASR Part 101** - *Civil Aviation Safety Regulations 1998, Part 101.*

**Drone** (or unmanned aerial vehicle) - means remotely piloted aircraft which can be used for recreational and commercial uses;

The Civil Aviation Safety Authority (CASA) refers to drones as remotely piloted aircraft (RPA), or sometimes as an unmanned aerial vehicle (UAVs). RPA is the term used by the International Civil Aviation Organization, the international aviation regulator.

**Commercial use** - When flying a drone for money, or any form of economic gain i.e. asset and infrastructure monitoring and inspection, aerial mapping, filming and photography, CASA requires operators to hold an RPA (Remotely Piloted Aircraft) operator's certificate (ReOC). If the RPA weights less than 2 kilograms, an operator's certificate is not required, however the operator must notify CASA.

**Council managed land** – for the purposes of these guidelines, Council managed land refers to parks and reserves which are owned, occupied or under the control of Council.

**Recreational use** - when flying for fun or a hobby, and not commercially, regulations are less restrictive and allow people to fly a drone without being a certified pilot. However, safety rules and regulations still apply.

## 5. Responsibility

It is the responsibility of Council's Civic Compliance team to ensure that any requests by the public for recreational or commercial use of drones on Council managed land are appropriately assessed and approved in line with these guidelines.

It is also expected that if any Council officer identifies the unauthorised use of drones within the municipality, where possible, the following actions will be undertaken:

- The drone user will be requested to cease conducting use of the drone and to complete a formal application process (as per these guidelines).
- If a breach of CASA Standard Operating Conditions (SOCs) is identified or suspected, the Council officer will be required to notify Council's Risk Management team of the breach.

## 6. Permit application process

Council requires commercial and recreational use of drones on Council land to undergo a permit application and approval process.

- Refer to Appendix A for requirements that must be met to receive Council approval for the use of a drone on Council managed land, for recreational or commercial purposes.
- Refer to Appendix B for Council's application form.
- Refer to Appendix C for Council's Standard Operating Conditions (SOCs).

Completed permit application forms and copies of supporting documentation should be submitted to Council:

- **By mail:** Coordinator City Compliance, Moonee Valley City Council, PO Box 126, Moonee Ponds VIC 3039
- **By email:** [council@mvcc.vic.gov.au](mailto:council@mvcc.vic.gov.au)
- **In person:** 9 Kellaway Avenue, Moonee Ponds (8.30am to 5pm, Monday to Friday)

## **6.1 Enforcement**

While CASA ultimately enforces Civil Aviation Safety Regulations (CASR), where Council suspects that a drone being operated on Council land has not undergone an approval process or has breached CASA regulations, Council has the right to request the operator to cease from operating on its land. Further, Council reserves the right to notify of CASA of any suspected breaches.

Council also reserves the right to revoke any permits for commercial or recreational operators of drones where a risk to public health and safety is identified.

## **7. Legislation and regulations**

- *Civil Aviation Act 1988* (Commonwealth)
- *Civil Aviation Safety Regulations 1998* (Commonwealth)
- *Privacy and Data Protection Act 2014* (Victoria)
- *Filming Approval Act 2004* (Victoria)

## Appendix A - Checklist of requirements

Council requirements	Notes / comments	Mandatory requirement	
		Commercial	Recreational
Details of the type of drone to be operated	Applicant required to provide a brief outline of the model aircraft or drone (e.g. the model and/or aircraft type, how it is powered and works and any supporting images or photos).	✓	✓
Details of the preferred site and operating times		✓	✓
If drone is 2kg or over - RPA licence and operator's certificate from CASA required	Applicant required to provide copy of both CASA licence and operator's certificate with application.	✓	✗
If drone is less than 2kg - don't need to hold an operator's certificate, but must meet CASA Standard Operating Conditions	SOC applies to the commercial use of drones (under 2kg). Drone operator to sign off as part of application. Applicant to provide CASA registration number (proof of CASA approval) as part of application.	✓	✗
Public notification	If the drone is expected to be conducting surveying activity within close range of the public, the applicant will be required to undertake a public notification process prior to conducting the activity. This would include instances of a multi-rotor survey where the drone is visible and within earshot of the public.	As required	As required

Council requirements	Notes / comments	Mandatory requirement	
		Commercial	Recreational
Certificate of Currency - Public and Products Liability Insurance (minimum \$20m)	Applicant will be required to confirm that the drone which will be in use has valid Public and Products Liability Insurance. The certificate of currency should stipulate a minimum of \$20M in coverage and be valid for the duration of the agreement / period of time that the drone will be operated on Council managed land.	✓	✓
If operating on Council land that is within 5.5 km of Essendon Airport - CASA approval required	Applicant will be required to provide evidence of approval for the operator to conduct activity within 5.5 km of an aerodrome.	As required	As required
Risk assessment	Applicant must supply a risk management plan that identifies the risks and addresses the safety measures in place or to be implemented to safeguard users and the general public in the space the drone will be operated.	✓	✓
Are any other supporting elements or infrastructure required for the operator's activity	Applicant is required to advise of any supporting elements or infrastructure that may be required by Council to assist in the activity.  Note: community events on Council managed land require application and approval separate to this application process.	As required	As required

# Appendix B - Permit application for use of a drone on Council managed land

**Name of applicant:**

**Name of business:**

If applicable. Include ABN or ACN.

**Address of the applicant or business**

Residential/business:

Mailing:

**Telephone (BH):**

**Mobile phone:**

**Email:**

**Will you be using the aircraft professionally or for financial gain?**

**Yes**

Provide details below and attach documentation, including copies of relevant contractual agreements.

**No – for recreational purposes only**

**CASA reference/s**

Provide details below (i.e. ARN, pilot's licence, UOC, ROC or other) and attach documentation.

*For commercial operators of drones 2kg and over, a copy of RPA licence and operator's certificate is required.*

**Details of drone**

Including model and weight class.

**Public and Products Liability Insurance**

Provide details, including policy number, below and attach valid certificate of currency for drone (minimum \$20m coverage).

**Locations and details of activity**

Provide details below and attach site map.

*If you expect to be operating within 5.5km of Essendon Airport, please provide evidence of CASA authorisation.*

*If drone is expected to be surveying activity within close range of the public, notifications to public will be required.*

**Proposed period of operations**

Provide details below, including start date and time, finish date and time.

**Risk management plan**

Attach risk management plan.

**Other supporting elements or infrastructure requirements**

## Terms and conditions

In consideration of Council granting the applicant a permit to operate the drone for commercial or recreational purposes on Council managed land, the applicant agrees to adhere to the following terms and conditions:

1. In respect of a drone, the applicant must:
  - operate only at areas advised under the approved permit;
  - not operate in a way that annoys or creates a hazard to park or reserve visitors, disturbs wildlife or interferes with park management operations;
  - ensure flights are conducted in alignment with the requirements of the Civil Aviation Regulations and Council's Standard Operating Conditions (refer to Appendix C) for the permitted aircraft;
  - not use the drone to record or photograph people without their permission;
  - respect the privacy of other people by not flying near homes and backyards;
  - not fly over or near emergency response operations, including but not limited to accidents, bushfires, flood emergencies, police operations and search and rescue activities.
2. It is the responsibility of the applicant to comply with all statutes, local laws and regulations in force, in respect of the park or reserve, and all other legal requirements relevant to the operation of the aircraft, and to ensure that all employees, agents and other persons associated with the operation of the aircraft comply.
3. The applicant agrees to hold a valid Public Liability Insurance policy for the drone for no less than \$20 million dollars (\$20,000,000).
4. The applicant must:
  - a. make good any damage to the park or reserve which results from the activity or the presence of the applicant on Council managed land;
  - b. indemnify, keep indemnified and hold harmless Council and its representatives from and against loss of and/or damage to any property of Council and any liability to any person or any claim by any person against Council or its representatives in respect of personal injury or death, or loss of or damage to any property, arising out of, as a consequence of, or in relation to the activities of the applicant under this agreement.

5. The applicant must comply with all reasonable directions or requests given by any officer of Council and comply with the all conditions specified within their permit. Council reserves the right to revoke a permit for use of a drone on Council managed land at any time.
6. The permit for the use of a drone on Council managed land does not give the applicant any rights to the exclusive use, enjoyment or occupancy of any area of the park, reserve, oval or other Council managed land.

The below agreement is to be completed by the applicant, to seek a permit from Moonee Valley City Council for the use of a drone for commercial or recreational purposes on Council managed land.

## **Agreement**

### **By submitting this application, you are agreeing with the following conditions:**

I declare that I am an authorised person to apply for a permit for the use of a drone for commercial or recreational purposes on Council managed land and that all information in this application is true and correct. I have read the application form and accompanying guidelines and accept the terms and conditions. I agree to comply with all permit conditions, local laws and relevant legislation. I declare that all details provided are accurate and the operation of this drone will be conducted in line with Moonee Valley City Council's guidelines and conditions, in addition to all relevant CASA regulations. I accept this application requires final Council approval.

Further, in signing this agreement, I provide consent to Moonee Valley City Council to contact any third parties, including (but not limited to) insurer, vendor or any parties, in connection with the use of the drone, should Council have questions in relation to this application.

**Name of applicant:**

**Applicant signature:**

**Date:**

## **Privacy statement**

Council collects your personal information for the purposes of assessing a permit application for the use of a drone on Council managed land within the municipality of Moonee Valley, and being able to contact you if an issue arises. Council recognises that your privacy is very important, and we are committed to protecting information we collect from you. Council is committed to full compliance with its obligations to manage your information under the *Privacy and Data Protection Act 2014*. In particular, Council will comply with the Information Privacy Principles contained within the Act. Council's Information Privacy Policy describes how we collect, use, disclose and otherwise manage personal information about you.

# Appendix C - Standard Operating Conditions

Standard Operating Conditions apply to the commercial use of very small drones (under 2kg) and recreational use. These standard operating conditions are noted as follows:

- The drone must only be flown during the day, not at night;
- The drone must be within the visual line of sight of the operator, to maintain orientation and achieve accurate flight tracking;
- The drone must not be flown higher than 120 metres (400 feet) above ground level;
- The drone must not fly any closer than 30 metres of other people;
- The drone must not be flown in a prohibited area or restricted area without the permission of the responsible authority;
- The drone must not be flown over populous areas, such as heavily populated parks or sports ovals where there is a game in progress. The risks to life, safety and property depend not only on the density of people and property in an area, but also the flying height and the likelihood of injury or damage, should something go wrong;
- It is prohibited to fly a drone within 5.5 kilometres of a controlled aerodrome (one with an operating control tower);
- A drone must not be flown in the area of a public safety operation without the approval of the person in charge of the emergency response. This includes situations such as a car crash or any police, fire fighting or search and rescue operations.

Any drone operator wishing to fly outside of these standard operating conditions need to be licenced and/or certified by CASA. For example, licensed pilots may, subject to an air traffic control clearance, fly an RPA within 5.5 kilometres of a controlled aerodrome.

Further, special permissions can be obtained by CASA to fly beyond line of sight and at night.