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CASA EX40/19 — Remotely Piloted Aircraft Operation over Approved Areas of Canberra (Wing Aviation) Instrument 2019

1 Name
This instrument is CASA EX40/19 — Remotely Piloted Aircraft Operation over Approved Areas of Canberra (Wing Aviation) Instrument 2019.

2 Definitions

Note In this instrument, certain terms and expressions have the same meaning as they have in the Act and the Regulations. These include: AGL, obstacle limitation surface, remote pilot licence and RPA.

In this instrument:

approved operating area means the operating area approved by CASA under paragraph 101.030 (1) (a) of CASR as an area for the operation in Canberra of relevant aircraft by Wing Aviation.

Note At the commencement of this instrument, the approved operating area is specified in CASA instrument number RPAS2019-3512 and contains the Canberra suburbs of Mitchell, Crace, Harrison and Franklin.

buffer area, for a relevant aircraft, means an area:
(a) that is outside the approved operating area; and
(b) in which it is reasonably considered the relevant aircraft may safely come to the ground if fail-safe actions by the operator remote pilot of the aircraft cannot contain the aircraft within the approved operating area.

Canberra aerodrome means Canberra aerodrome, certificate number CASA.ADCERT.0015.

chief remote pilot means a person performing the functions and duties mentioned in regulation 101.342 of CASR.

contingency area, for a relevant aircraft, means an area:
(a) that is within the approved operating area; and
(b) in which fail-safe actions aimed at preventing the relevant aircraft from entering the buffer area must be immediately implemented by the operator remote pilot of the aircraft if the aircraft enters the contingency area.

**delivery activity** means the Google Project Wing research and development activity for the Google Project Wing “Drone delivery” program that is limited to the operation of relevant aircraft for, or in connection with, the delivery of goods to persons who have:

(a) applied in writing to Wing Aviation to become a participant in the delivery activity; and 
(b) been approved by Wing Aviation as participants in the delivery activity; and 
(c) requested a specific delivery via the Google smart phone application to a pre-approved delivery location located within the approved operating area.

**documented practices and procedures** has the same meaning as in paragraph 101.335 (1) (d) of CASR.

**intended**, in relation to a recovery site, means a site intended by Wing Aviation to be used for the recovery of a relevant aircraft.

**operator remote pilot** means a holder of a remote pilot licence who is an employee of Wing Aviation.

**recovery site** means a site to be used for the recovery of a relevant aircraft.

**relevant aircraft** means any of the following aircraft operated by Wing Aviation under its certification as an RPA operator:

(a) a Hummingbird Quiet Hover Propulsion aircraft;
(b) any other RPA that is of a kind approved in writing by CASA for this instrument.

*Note* A person who was certified as a UAV operator as at 28 September 2016 is taken to have been certified as an RPA operator — see subregulation 202.462 (3) of CASR.

**remote pilot station** means the laptop, control unit and avionic interfaces:

(a) approved by CASA as a remote pilot station; and 
(b) used to control and command a relevant aircraft.

**Wing Aviation** means Wing Aviation Pty Ltd, ARN 1046704.

**Wing Aviation flight manual** means RPAS Operational Procedures Wing Aviation Pty Ltd, release date 26 January 2019, version 2.

### 3 Application

This instrument applies in relation to Wing Aviation if it operates a relevant aircraft in or over the approved operating area, for the purposes of the delivery activity.

### 4 Exemption — operating near people

(1) The following persons, while operating a relevant aircraft in or over the approved operating area, are exempt from compliance with subregulation 101.245 (1) of CASR to the extent that the subregulation requires that a person must not operate a relevant aircraft within 30 metres of a person who is not directly associated with the operation of the relevant aircraft:

(a) Wing Aviation;
(b) the operator remote pilot of the relevant aircraft.

*Note* A person who was certified as a UAV controller as at 28 September 2016 is taken to have been granted a remote pilot licence under regulation 101.295 of CASR — see subregulation 202.461 (3) of CASR.
(2) The exemption in subsection (1) is subject to the conditions that apply to the person that are mentioned in sections 7, 8 and 9.

(3) The exemption in subsection (1) ceases to be in force at the end of 31 January 2020.

5 Exemption — operating over populous areas

(1) The following persons, while operating a relevant aircraft over the approved operating area, are exempt from compliance with subregulation 101.280 (2) of CASR to the extent that the subregulation requires that a person must not operate a relevant aircraft at a height less than the height from which, if any of its components fails, it would be able to clear the area:
   (a) Wing Aviation;
   (b) the operator remote pilot of the relevant aircraft.

(2) The exemption in subsection (1) is subject to the conditions that apply to the person that are mentioned in sections 7, 8 and 9.

(3) The exemption in subsection (1) ceases to be in force at the end of 31 January 2020.

6 Exemption — compliance with documented practices and procedures

(1) Wing Aviation is exempt from paragraph 101.340 (1) (e) of CASR to the extent that the paragraph requires Wing Aviation to comply with a requirement of its documented practices and procedures that is inconsistent with a requirement under this instrument.
   
   Note CASA considers that the Wing Aviation documented practices and procedures include at least the Wing Aviation flight manual and the Wing Aviation Pty Ltd Operations Manual, release date 26 January 2019, version 2.

(2) The exemption in subsection (1) is subject to the condition mentioned in subsection 9 (1).

(3) An operator remote pilot is exempt from regulation 101.370 of CASR to the extent that the regulation requires the operator remote pilot to comply with a requirement of the documented practices and procedures of Wing Aviation that is inconsistent with a requirement under this instrument.

(4) The exemption in subsection (3) is subject to the condition that the operator remote pilot notify the Wing Aviation chief remote pilot in writing of the inconsistency, within 24 hours of becoming aware of the inconsistency.

(5) The exemptions in subsections (1) and (3) cease to be in force at the end of 31 January 2020.

7 Operational conditions — Wing Aviation and operator remote pilot

(1) Wing Aviation and the operator remote pilot of the relevant aircraft must ensure that:
   (a) the relevant aircraft is not operated in or over the approved operating area when a total fire ban is in place; and
   (b) the relevant aircraft is equipped and operated with an active fail-safe mode that will ensure that, in the event of a data-link loss, the aircraft will land or otherwise terminate the flight in accordance with the procedures mentioned in the Wing Aviation flight manual; and
(c) any site from which the relevant aircraft is launched, or intended to be recovered, must not be located within 15 metres of a sealed road, and any launch or recovery operation for the relevant aircraft must not pose an unreasonable level of distraction to motorists; and

(d) the relevant aircraft is not operated:
   (i) more than 400 feet above ground level; or
   (ii) at night; or
   (iii) over public gatherings; or
   (iv) over the Barton Highway, the Federal Highway or Horse Park Drive; or
   (v) less than both 5 metres overhead a person and 2 metres horizontal distance from a person.

(2) Wing Aviation and the operator remote pilot of the relevant aircraft must not operate the relevant aircraft in or over the approved operating area outside the hours of:
   (a) 7:00 a.m. to 8:00 p.m. Monday to Saturday; and
   (b) 8:00 a.m. to 8:00 p.m. Sunday and public holidays.

   Note Under ACT legislation, there are ACT government restrictions relating to suburban noise that may also apply to Wing Aviation.

(3) Wing Aviation and the operator remote pilot of the relevant aircraft must ensure that any operation of the relevant aircraft within Class C airspace remains below the greater of the following:
   (a) 200 ft AGL;
   (b) the obstacle limitation surface of Canberra aerodrome.

(4) Wing Aviation and the operator remote pilot of the relevant aircraft must ensure that:
   (a) if the relevant aircraft enters the contingency area — fail-safe actions aimed at preventing the aircraft entering the buffer area are immediately implemented; and
   (b) if the relevant aircraft leaves the approved operating area — the aircraft is immediately brought to ground in the buffer area.

8 Operational conditions — Wing Aviation

(1) Wing Aviation must not use a launch site, or intended recovery site, unless the location of the site has been notified to CASA in writing.

(2) Wing Aviation must ensure that any operations of the relevant aircraft have a designated contingency area and a designated buffer area.

(3) Wing Aviation must not operate simultaneously more than 15 aircraft in or over the approved operating area from each remote pilot station.

(4) Wing Aviation must implement a written stakeholder engagement plan that has been approved in writing by CASA.

   Note The condition to implement a stakeholder engagement plan is limited to matters within the scope of CASA’s functions and powers, including the matters mentioned in section 9A of the Civil Aviation Act 1988.

9 Regulatory conditions — Wing Aviation

(1) In the event of an inconsistency between the documented practices and procedures of Wing Aviation and this instrument, Wing Aviation must:
   (a) comply with this instrument to the extent of the inconsistency; and
(b) notify CASA in writing of the inconsistency, within 2 business days of
becoming aware of the inconsistency.

(2) Wing Aviation must email to CASA, within 30 days of the end of each calendar
month in 2019 during which this instrument is in force, a report containing the
information mentioned in subsection (3).

(3) For subsection (2) and section 10, the information is the following information
relating to operations for the delivery activity during the month:
(a) total number of flights conducted for the delivery activity;
(b) total number of flights which were deliveries for the delivery activity;
(c) total hours of operation for the delivery activity;
(d) number of incidents;
(e) number of accidents;
(f) in relation to each incident and accident:
   (i) a description, analysis of causal factors, corrective actions identified,
       and the extent to which corrective actions have been implemented; and
   (ii) if a relevant aircraft was recovered from a site other than an intended
        recovery site notified to CASA — the location of the recovery site.

(4) Wing Aviation must not amend its documented practices and procedures, or
implement a change to the procedures mentioned in paragraph 7 (1) (b), unless
Wing Aviation has notified CASA of the change at least 14 days before making
the change.

Note A change to the matters mentioned in this subsection will result in the reissue of this
instrument to give effect to the amended matters.

10 Direction
For regulation 11.245 of CASR, Wing Aviation must email to CASA, within
30 days of the end of January 2020, a report containing the information
mentioned in subsection 9 (3).

Note For regulation 11.250 of CASR, this direction ceases to be in force at the end of
1 March 2020.

11 Repeal
This instrument is repealed at the end of 1 March 2020.