

CASEY PLANNING SCHEME

193-209 King Road, Harkaway

Rosemaur

INCORPORATED DOCUMENT

MAY 2022

This document is an incorporated document in the Casey Planning Scheme pursuant to Section 6(2)(j) of the *Planning and Environment Act 1987*

OFFICIAL

1.0 Introduction

This document is an incorporated document in the schedule to clause 45.12 and clause 72.04 of the Casey Planning Scheme (Planning Scheme) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

The land identified in clause 3.0 of this incorporated document may be developed and used in accordance with the control contained at clause 4.0 of this incorporated document.

If there is any inconsistency between any provision of this incorporated document and any provision of the Planning Scheme, the control at clause 4.0 of this incorporated document shall prevail over any contrary or inconsistent provision in the Planning Scheme.

2.0 Purpose

To permit and facilitate the use and development of the land described in clause 3.0 of this incorporated document more commonly known as Rosemaur, Harkaway for the purpose of an Exhibition Centre (Art Gallery), Function Centre, Restaurant and Dwellings (the **Project**).

3.0 Land

The control in this document applies to all of the land at 193-209 King Road, Harkaway being the land shown as Lot 5 on LP118783 (Land) and the road reserve of King Road between Baker Road and the western access to the Land.

4.0 Control

Any requirement in the Planning Scheme which:

- Prohibits use and/or development of land; or
- Requires a permit for use and/or development of land; or
- Requires use or development of land to be carried out in a particular manner.

does not apply to the following use and development of the Land identified in clause 3.0 of this document where such use or development is carried out by or on behalf of Rose & Maurice Hogg Gallery Ltd:

- Use of Land for:
 - an Exhibition Centre (Art Gallery) and two ancillary Dwellings.
 - a Function Centre and a Restaurant with a combined patron limit of 150 patrons.
- Buildings and works associated with the construction of Exhibition Centre (Art Gallery), Function Centre, Restaurant and Dwellings.
- Removal, destruction and/or lopping of native vegetation.
- Car parking and associated works.
- Sale and consumption of liquor.

This Incorporated Document does not exempt application of the requirements of clause 52.05 (Signs) of the Planning Scheme.

This control is subject to the conditions in clause 5.0 of this document.

5.0 Conditions

The use and development of the Land must be carried out in accordance with the following conditions:

1. Before the development starts, plans to the satisfaction of the Responsible Authority must be submitted to and endorsed by the Responsible Authority. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Architecture Associates and marked '*Plans for Rosemaur Gallery Project 1601*',

dated 15 June 2020, drawings TPO1 to TPO12, but modified to show:

- a) Details of the extent of the area where liquor is to be consumed or sold, represented by a red line, which must be generally in accordance with the Plans 01-A, 01-B and 01-C described as Proposed Redline Plan for Liquor Supply and Consumption, Appendix B to the Operations Statement dated 29/1/2021. The red line plan must be accompanied by a report from a suitably qualified building surveyor confirming the internal space and toilet facilities within the licensed area will accord with relevant building regulations based on patron capacity.
- b) An amended Site Plan to show:
 - i. If applicable, the details, type, location and capacity of the waste water system including details of the setback distances of the dispersal field from any buildings or property boundaries.
 - ii. The maximum width of all cross-overs and material of construction.
 - iii. The provision of a minimum 5.5 metre wide vehicle crossing for the access points to King Road.
 - iv. The location of any proposed water tanks including the setback to the property boundaries.
 - v. The location of Tree Protection Zones for vegetation within the road reserve along the King Road frontage as detailed in the Preliminary Arboricultural Assessment prepared by Artio Consulting, dated 7 November 2016, and any Arboricultural Assessments submitted under condition 1i).
 - vi. A fence (or signage) which prohibits public vehicle access to the access road that services delivery/waste vehicles to the Restaurant area, and a notation that this access is to be used by staff, delivery and waste vehicles only.
 - vii. The surface of the overflow car parking area which must be consistent with condition 27c).
 - viii. The addition of a new east-west internal road, revisions to the north-south access road and a revised layout of the south western car park, generally in accordance with the plan titled Proposed Site Plan, TP002, Rev 4 dated 26/02/2021.
 - ix. Any amendments necessary to reflect the Car Parking and Pedestrian Layout Plan.
 - x. A Splay Wall and retaining wall along the western side of the internal site access drive generally in accordance with the plan titled *'MacKinnon and Rich Rosemaur boundary treatments, dated 25 March 2021'*.
- c) Amended Floor Plans to show:
 - i. The finished floor levels of the building(s) to correspond to the submitted survey plan prepared by Charlton Degg Land Development Consultants, reference 1084, dated 12 July 2018.
 - ii. The contour information to correspond to the submitted survey plan referred.
- d) Amended Elevations Plans to show:
 - i. The maximum wall and building height above natural ground level on all four elevations.
 - ii. The finished floor levels and finished roof levels of the building(s) to correspond to the submitted survey plan prepared by Charlton Degg Land Development Consultants, reference 1084, dated 12 July 2018.
 - iii. A schedule of construction materials, external finishes and colours which must complement the surrounding landscape.
 - iv. The colour of external water tanks.
 - v. Any proposed fencing.
- e) A Vegetation Plan that shows:

- i. Details of all vegetation on the Land including the stand of vegetation along the north side of the property, around the existing dam and within the road reserve including the location, height and species names and a notation of which vegetation is to be removed.
 - ii. The location of all trees on the Land and the location of Tree Protection Zones for vegetation within the road reserve along the King Road frontage as detailed in the 'Preliminary Arboricultural Assessment' prepared by Artio Consulting, dated 7 November 2016, and any Arboricultural Assessments submitted under condition 2i).
 - iii. Compliance with the requirements of the Bushfire Management Plan referred to in condition 48.
- f) A Car Parking, Accessway and Pedestrian Layout Plan which provides the following:
- i. Vehicle access that is designed and constructed in accordance with Table 5 to Clause 53.02-5 and the *Bushfire Management Statement for the proposed construction of a gallery at 193-209 King Road, Harkaway VIC 3806, Terramatrix, September 2020*.
 - ii. Car parking dimensions should be in accordance with Clause 52.06-9 of the Planning Scheme.
 - iii. Car parking and roadway grades should be designed in accordance with the Australian Standard for Off-Street Car Parking Facilities (AS 2890.1:2004), except for roadways to/from loading and coach areas where roadways should be designed in accordance with the Australian Standard for Off-Street Commercial Vehicle Facilities (AS 2890.2:2018).
 - iv. Plans, and sections providing detail on the grades, retaining walls, and cut and fill in relation to the accessways and car parking areas of the site.
 - v. Maintains all sealed car spaces to the west or north-west side of the building, noting that overflow parking may be provided on the north-east side of the building.
 - vi. The pedestrian access between the car park(s) containing *Disability Discrimination Act 1992* (DDA) car spaces should be designed for DDA compliance. If the overflow car park does not contain DDA car spaces then standard grades can apply to the pedestrian access from the overflow car park.
 - vii. The layout and design must:
 - Be sympathetic to the natural contours of the Land through the provision of terraced car parking areas;
 - Provide a sense of arrival that celebrates the views to the south-east;
 - Provide direct and convenient/central pedestrian connectivity to the Restaurant and Exhibition Centre;
 - Be sympathetic to the rural character of the land, including through the choice of the materiality of the car park
 - Be designed for integrated water sensitive urban design;
 - Promote efficient and orderly traffic flow/vehicle movements
 - Provide a dedicated coach/bus drop off area which is independent to areas shared by other vehicles (i.e. waste vehicles);
 - Provide for three secure parking spaces for the Dwellings; and
 - Be informed by the traffic report required in condition 26c).
 - viii. A minimum 8 metre setback to the northern boundary (King Rd road reserve) to allow for sufficient landscaping within the setback area and to ensure that vegetation within the road reserve is not impacted upon. A lesser setback may be permitted where it has been demonstrated that the vegetation within King Rd road reserve would not be impacted upon.

- ix. Signage at the site entry directing all vehicles to use the main (western) access point.
- x. Shows the location of bicycle facilities in accordance with Clause 52.34.
- g) A swept path assessment which demonstrates that waste vehicles, delivery vehicles, fire fighting vehicles and buses/coaches can satisfactorily enter and exit and manoeuvre within the Land. The assessment must demonstrate that there will be no conflict between waste vehicles, buses/coaches and delivery vehicles.
- h) A cross-section/s of the car parking areas and site access roads which accurately depicts the maximum extent of earthworks and location of vegetation within the King Road and Hilden Drive road reserves. All earthworks must be located outside of the Tree Protection Zone of the vegetation location within the King Road and Hilden Drive road reserves.
- i) An Arboricultural Assessment which responds to the final plans and details of the tree protection zones of all roadside vegetation within King Road within 10 metres of any part of the proposed development, including the car parking areas and passing bays within King Road. The report must demonstrate that the development does not impact on any existing roadside vegetation within King Road.
- j) A minimum of 189 car parking spaces including a minimum of 105 sealed car spaces and a minimum of 4 disabled spaces.

Compliance with Endorsed Plans

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The layout of the uses and various activities forming part of the uses on the endorsed plans must not be altered without the written consent of the Responsible Authority.
4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
5. The landscaping shown on the approved plans must be completed within six (6) months of occupation of the development or by such later date as is approved by and to the satisfaction of the Responsible Authority in writing.
6. Unless otherwise agreed in writing, before the use commences, the following works must be completed to the satisfaction of the Responsible Authority:
 - a) The building(s) is/are connected to reticulated water supply, drainage and underground electricity to the requirements of the relevant servicing authority.
 - b) The buildings are connected to reticulated sewerage to the requirements of South East Water, or to an on-site waste water treatment and disposal facility to the satisfaction of the Responsible Authority.
 - c) All proposed areas set aside on the approved plan/s for access, circulation and car parking (with the exception of the overflow car parking area) must be constructed with concrete, asphalt or other hard surfacing material, drained and the parking areas delineated. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
 - d) All road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority.
 - e) The existing vehicle crossings to be removed and the ground surface reinstated.
 - f) Water supply must be provided in accordance with the water supply requirements of the endorsed Bushfire Management Plan.
 - g) Existing vegetation must be managed in accordance with the defendable space requirements of the endorsed Bushfire Management Plan.
 - h) The buildings must be constructed in accordance with construction requirements of the endorsed Bushfire Management Plan.
 - i) The equestrian trail from Farm Lane to Hilden Drive must be constructed as a functional Fire

Access Track in accordance with the approved engineering plans to the satisfaction of the CFA and the Responsible Authority.

- j) King Road must be fully constructed with a sealed pavement between Baker Road and the main (western) site access point and provision of a constructed roadside trail in accordance with the approved engineering plans and to the satisfaction of the Responsible Authority.
- k) Any pruning, planting, signage or other mitigation measures required by the urban design, landscape architect, horse, ecological or arboricultural reports that accompany the Functional Layout Plans prepared under condition 26 to the satisfaction of the Responsible Authority.
- l) Install directional signage of the surrounding road network as approved under condition 33.

The Gallery

- 7. Before the development starts, the Land must be transferred to the Rose & Maurice Hogg Gallery Ltd.
- 8. Before the use starts, evidence must be provided to the satisfaction of the Minister for Planning that the Rose & Maurice Hogg Gallery Ltd holds a minimum of \$500 million worth of art. Any valuation must be undertaken by an 'approved valuer' authorised by the Department of Communication and the Arts as an 'approved valuer' under Australian Government's Cultural Gifts Program.
- 9. Before the use starts, Rose & Maurice Hogg Gallery Ltd and Casey City Council must enter into a Memorandum of Understanding that requires parties to meet annually to identify and maximise opportunities to collaborate and support the local and broader arts community and visitor economy, and includes any other matter associated with the promotion of the art and creative industries and opportunities, to the satisfaction of Casey City Council.
- 10. Unless otherwise agreed in writing by the Responsible Authority, the Exhibition Centre (Art Gallery) must:
 - a) be operated and maintained in compliance with *National Standards for Australian Museums and Galleries*, as amended from time to time; and
 - b) be operated and maintained in such a way that it remains compliant with, and able to act as a 'Borrower' within the meaning of that term in the *International Council of Museum Guidelines for Loans*, as amended from time to time.
- 11. If the Gallery use ceases, the use of the land as a Function Centre, Restaurant and Dwellings must be discontinued until such time as the Gallery is reopened to the satisfaction of the Responsible Authority.
- 12. Unless otherwise agreed in writing by the Responsible Authority, for a minimum of 40 weeks per year, a selection of works held by the Rose & Maurice Hogg Gallery Ltd will be on display across a minimum of 50 per cent (%) of the total available gallery display space.
- 13. No more than two (2) ancillary Dwellings may be constructed and used on the Land at any time. Those Dwellings must at all times be used as part of the Gallery (such as by a caretaker (including a caretaker of the art), artist in residence, security, guest curator, short term accommodation for an owner of or person accompanying art on loan or for an existing or potential benefactor or similar), and not as separate Dwellings.

Waste Collection

- 14. Before the use starts, a Waste Management Plan prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. The plan must:
 - a) Outline the manner in which waste will be collected from the Land, and that waste is to be collected by a private waste contractor;
 - b) State that Responsible Authority will not at any time provide garbage, recycling, green or hard waste collection to this site;
 - c) Show the width and gradients of all access roads;

- d) Detail the bin quantity, size and colour;
 - e) Detail on a site plan showing location and space allocated to the garbage and recycling bin storage area and collection point;
 - f) Estimate garbage and recycling generation volumes for the whole development;
 - g) Detail the collection frequency and times. Waste collection must be outside the peak operation times;
 - h) Shows the waste and recycling collection locations (specifying number and size of bins) and the dedicated bin collection and bin storage locations (drawn to scale and dimensioned);
 - i) Detail the garbage and recycling equipment used, including details of the size and dimensions of the private waste collection vehicle;
 - j) Demonstrate that bin storage areas are suitably screened from public view and appropriately accessible by the waste contractor for collection; and
 - k) Show the waste vehicle route within the site and swept path diagrams for the waste vehicles, including required manoeuvres.
15. The Land must be used in accordance with the approved Waste Management Plan at all times to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design

16. Before the development starts (or such other time agreed to in writing by the Responsible Authority), an Environmentally Sustainable Development Management Plan must be prepared by a suitably qualified environmental engineer or equivalent and must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the *Environmentally Sustainable Design Report submitted (prepared by Atelier Ten, dated July 2017)* but modified to show/include:
- a) Clearly specify Environmental Sustainable Design targets or performance outcomes and demonstrate how they will be achieved to meet sustainability objectives relating to energy management, water sensitive urban design, construction materials, indoor environmental quality, waste management and transport, which may use relevant tools such as either STORM, MUSIC or Green Star or an alternative assessment approach to the satisfaction of the Responsible Authority.
 - b) Clearly demonstrate how 'Australian Best Practice' or Green Star 5 Star equivalent will be achieved relating to energy management, water sensitive urban design, construction materials, indoor environment quality, canopy cover, waste management and transport.
 - c) Details of the specification on the initiatives to be incorporated in the development with regard to indoor environmental quality.
 - d) Details of the energy reduction initiatives that will be incorporated into the design and have regard to energy and greenhouse gas emissions. Include as appropriate provision for solar orientation, natural light, HVAC and the optimisation of energy and greenhouse gas emission of through an architectural strategy.
 - e) Details of Integrated Water Management initiatives to be incorporated including:
 - i. Document the means by which best practice Integrated Water Management including retention on-site and re-use will be achieved;
 - ii. A Melbourne Water STORM rating and MUSIC model demonstrating how initiatives will meet best practice stormwater management;
 - iii. Recycling treatment and re-use of stormwater to best practice;
 - iv. WSUD initiatives;
 - v. A water supply/demand analysis in relation to water collection, storage and re- use; and
 - vi. Clarification of water storage capacity and re-use including consideration of storm

water and rainwater detention on site for non-potable applications including fire testing, toilets, urinals (if installed), air conditioning, and landscaping.

- f) A Green Travel Plan.
17. The Environmental Sustainable Design targets or performance outcomes works as specified within the approved Environmentally Sustainable Development Management Plan must be implemented to the satisfaction of the Responsible Authority

Construction Management Plan, Operational and Management Manual

18. Before the development starts, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Construction Management Plan must be prepared by a suitably qualified person to the satisfaction of the Responsible Authority and must show and/or provide for the following:
- a) Details of the staging of all buildings and works;
 - b) Hours during which construction activity will take place;
 - c) The location of any temporary cabins and site sheds;
 - d) The location and storage of machinery on the site;
 - e) Security fencing and site access details;
 - f) A traffic management plan which ensures that no traffic hazards are created in or around the site and which must include the following details:
 - i. The movement of construction vehicles to and from the site;
 - ii. Details of the delivery and unloading points and expected frequency; and
 - iii. The location for parking of contractors' vehicles, which must be contained within the Land.
 - g) The location of the building refuse points and methods for ensuring the containment of waste within the Land during construction;
 - h) Methods to prevent discharge of construction materials and sediment;
 - i) Arrangements to ensure that no debris is deposited on any road while vehicles are travelling to and from the site, and details of the method and frequency of clean up procedures including facilities for vehicle washing;
 - j) The nomination of, and contact details for, a dedicated liaison officer for contact by the Responsible Authority in the event of relevant queries or problems experienced;
 - k) An outline of any necessary requests to occupy public footpaths or roads and anticipated disruptions to local services;
 - l) The measures necessary to minimise noise/dust and other amenity impacts from mechanical equipment and demolition/construction activities; and
 - m) The erection of a sign on the site prior to any work commencing which is clearly visible from the adjacent road reserves stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The signs may only be removed on satisfactory completion of the works.
19. Before the use starts, an Operational and Management Manual to the satisfaction of the Responsible Authority must be prepared and submitted to the satisfaction of the Responsible Authority. The Operational and Management Manual must include the following:
- a) The contact details of the nominated person(s) responsible for the day to day management and control of the building(s);
 - b) A complaint handling process to effectively manage any complaints received from neighbours including a Complaints Register. The Complaints Register to be kept at the Gallery must include

details of the complaint received, any action taken, and the response provided to the complainant. The Complaints Register shall be maintained and available for inspection by the Responsible Authority at all reasonable times;

- c) Details of delivery vehicle and waste collection times which must not occur prior to 7am Monday to Saturday, prior to 9am on Sunday or public holidays, or after 6pm on any day;
 - d) Details of hours of operation;
 - e) Management of buses and coaches;
 - f) Measures to direct all persons accessing the site to use the main (western) access point, except in the case of emergency or otherwise with the consent of the Responsible authority;
 - g) Nomination of smoking areas for patrons;
 - h) Requirements for security staff to be present for events of a nominated size;
 - i) Management procedures for the orderly departure of patrons; and
 - j) Location of safety signage.
20. At all times the Gallery, Restaurant and Function Centre must be operated and managed to the satisfaction of the Responsible Authority in accordance with the approved Operational and Management Manual.
21. Within two years of the use commencing, the owner must engage a qualified consultant to prepare and provide a car parking demand assessment to the satisfaction of the Responsible Authority. The car parking demand assessment must address the following:
- a) A car parking survey outlining the car parking demand for weekday operation, weekend operation and one exhibition opening weekend where over 300 patrons were on the site at any one time (if any have occurred within the two period period);
 - b) An analysis of whether the parking provision on site is satisfactory, having regard to the actual parking demand;
 - c) If the car parking provision is not adequate to cater to the actual demand, recommendations including the potential need for construction of more parking spaces on the Land;
 - d) If the recommendation requires the provision of more formal car parking spaces on the site, a further car parking demand assessment must be undertaken within one year of the additional car parking spaces being provided to demonstrate that the provision is sufficient;
 - e) Consideration of any written complaints / enquiries received by the Responsible Authority as part of the approved Operational and Management Manual.

Landscaping and Vegetation

22. Before the development starts (or such other time agreed to in writing by the Responsible Authority), a Landscape Plan prepared by a suitably qualified person must be submitted to and approved to the satisfaction of the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
- a) A survey (including botanical names) of all existing vegetation to be retained and/or removed including within the King Road reserve between Baker Road and the eastern access of the Land;
 - b) Details of surface finishes of pathways and driveways;
 - c) A planting schedule of all proposed trees, shrubs and ground covers on the Land and within King Road reserve, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - d) Details of any structural elements such as planter boxes, edging or other non-vegetation landscaping features;
 - e) A planting palette drawn from native and indigenous species;

- f) The provision for the integration of art within, and as part of, the landscape;
- g) Details of integrated water sensitive urban design for the south western car park;
- h) Planting to assist with the concealment of the car park surface and the cars themselves from the property to the west and from the public domain;
- i) The position of any bollard or security lighting to the car park, pathways and exterior landscaped spaces.

All species selected must be to the satisfaction of the Responsible Authority. Landscaping must demonstrate the use of sustainable practices and, if irrigation is to be provided, it must not use potable water. No tree planting is to be undertaken within any easement.

- 23. The landscape works must be carried out in a manner which is consistent with the recommendations set out in the 'Preliminary Arboricultural Assessment' prepared by Artio Consulting, dated 7 November 2016, and any Arboricultural Assessments submitted under condition 2i), to the satisfaction of the Responsible Authority.
- 24. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority. Areas shown on the endorsed plan as landscaped must not be used for any other purpose. For the avoidance of doubt, maintaining landscaping includes the removal and replacement of any dead, diseased or damaged plants.
- 25. Before the development starts, a tree protection fence must be erected around the Tree Protection Zone of any affected vegetation within King Road along the frontage of the Land. The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed and the ground surface of the Tree Protection Zone must be covered by a 100mm deep layer of mulch before the development starts and be watered regularly to the satisfaction of the Responsible Authority.
- 26. No vehicular or pedestrian access, trenching or soil excavation or filling is to occur within the Tree Protection Zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

Engineering

- 27. Before the development starts, detailed construction plans must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale with dimensions and three copies must be provided to the Responsible Authority. The plans must show:
 - a) The construction of an unsealed fire access track through Reserve No. 1 on LP115396, located between Hilden Drive and Farm Lane, to CFA specifications and requirements.
 - b) The sealing of King Road and provision of a constructed roadside trail between Baker Road and the western site accessway including:
 - i. Functional Layout Plans for the sealing of King Road showing:
 - a generally 6.0 metre wide pavement from Baker Road to the western site accessway;
 - localised narrowing to not less than 5.64 metres wide in places where the narrower width is required to accommodate roadside features such as significant trees;
 - the crossing of Walsdorf Creek maintained without widening to provide for one-way traffic movements;
 - provision for unsealed parking at the commencement of the Walsdorf Creek nature trail, and.
 - provision for a constructed roadside trail
 - ii. Detailed design of all roadworks and drainage for the sealing of King Road and provision of a constructed roadside trail in accordance with the approved Functional Layout Plans.

The Functional Layout Plans must be prepared having regard to:

- i. the need to maintain the rural character of the road, including where practicable the retention of vegetation (including trees that are not 'native vegetation');
- ii. the three step approach to native vegetation in *Guidelines for removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, December 2017); and
- iii. road safety

The Functional Layout Plans must be accompanied by a report from:

- i. a qualified traffic engineer;
 - ii. a qualified civil engineer;
 - iii. a qualified urban designer or landscape architect that addresses the extent to which the plans maintain the rural character of the road, including proposed mitigation measures such as additional tree planting;
 - iv. a horse expert that addresses any localised works reasonably required for the safety of horse riders using the constructed roadside trail to the satisfaction of Casey City Council, including signage as required;
 - v. a qualified ecologist or arboriculturist that addresses the impact of the works on vegetation and any mitigation measures proposed; and
 - vi. other reports or information which may be required by the Responsible Authority and Casey City Council if it is not the Responsible Authority, such as a Cultural Heritage Management Plan.
- c) The construction of all internal vehicle access and circulation carriageways and parking areas. The plans must show the provision of the following to the satisfaction of the Responsible Authority:
- i. An all-weather pavement finished in concrete, asphalt or other approved hard surface material for areas shown as sealed parking areas (excluding overflow parking areas).
 - ii. Any overflow parking levelled and reinforced with plastic mesh or similar within the grassed area as necessary to prevent the formation of potholes and depressions according to the nature of the sub-grade and the vehicles which will use the areas. Such parking area will be constructed and maintained to the satisfaction of the Responsible Authority. The permeable mesh product used needs to be to Australian Standards and be able to carry vehicles and function as a car park.
 - iii. Drainage.
 - iv. Signage, line marking, and parking space marking, including safe pedestrian paths designated through all parking areas (excluding overflow parking areas).
 - v. Disabled parking spaces in accordance with Australian Standards.
 - vi. Parking for buses and coaches and access to three secure parking spaces for the Dwellings.

The Functional Layout Plans must be prepared having regard to:

- i. The need for bus and coach parking.
- ii. Provision for access to three secure parking spaces for the Dwellings.

The Functional Layout Plans must be accompanied by a report from:

- i. a qualified traffic engineer that provides an assessment of the expected bus and coach parking demands.
- d) Any dam to be designed in accordance with engineering practice to the satisfaction of the Responsible Authority. The plans must show:
- i. Location of the proposed dam and distances to property boundaries.

- ii. Storage volume of the dam.
 - iii. Dimensions, contours and finished levels.
 - iv. Cross section(s) showing depth, wall height & finished levels.
 - v. Location, design and dimensions of the inlet and outlet.
 - vi. The wall of the dam designed to be watertight and support on a suitable foundation.
 - vii. The spillway and overflow system of the dam to be constructed of suitable material.
 - viii. The extent and type of vegetation proposed to be removed for the dam construction.
 - ix. Proposed location for the disposal of spoil from excavations.
 - x. Measures to limit the rate of stormwater discharge from the dam in minor storm events to the predevelopment rate.
28. Before the use starts or occupation of the buildings, the area/s set aside for the parking of vehicles and access lanes as shown on the endorsed plans (except for the overflow parking spaces) must be:
- a) constructed and properly formed to such levels that they can be used in accordance with the permitted use and development;
 - b) surfaced with an all-weather-seal coat;
 - c) drained, sealed, and line marked to indicate each car space and all access lanes; and
 - d) line marked to show the direction of traffic along access lanes and driveways, all to the satisfaction of the Responsible Authority.
29. Sealed car spaces, access lanes and driveways must be kept available for these purposes at all times.
30. All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.
31. Except with the written consent of the Responsible Authority, during construction, a truck wheel-wash must be installed and operated so vehicles leaving the Land do not deposit mud or other materials on roadways to the satisfaction of the Responsible Authority.
32. Stormwater must not be discharged from the Land other than by means of controlled discharge from the proposed dam to the satisfaction of the Responsible Authority.
33. Polluted stormwater must not be discharged beyond the boundaries of the land from which it emanates, or into a watercourse or drain, but must be treated and/or absorbed on that land to the satisfaction of the Responsible Authority.
34. Before the use starts or occupation of the buildings, a directional signage package must be designed and installed to the satisfaction of the relevant road authority that directs arriving and departing motorists to enter and exit King Road via the Harkaway Road roundabout.

Hours of Operation

35. Unless with the further written consent of the Responsible Authority, the use of the Land may only operate between the hours of:
- Sunday to Thursday: 7am – 11pm
 - Friday and Saturday: 7am – 12 midnight.
36. The Exhibition Centre (Art Gallery), Function Centre and Restaurant must be closed on days where there is a fire danger rating of Code Red.
37. Unless with the further written consent of the Responsible Authority, any activity, function or event that is not held in the restaurant building (including terrace) must conclude by 9:30 pm.
38. Unless with the further written consent of the Responsible Authority, all patrons must be off-site by 12 midnight

Patron Numbers

39. Not more than 300 patrons may be present on-site at any one time, except for four large events per calendar year when 580 patrons may be present on the site at any one time.
40. The maximum number of patrons on the site after 10pm on any night is 150.
41. The combined number of patrons at any one time using the site for the purposes of a Restaurant and/or a Function Centre must not exceed 150. This condition does not apply to functions which are part of or ancillary to the Exhibition Centre (Art Gallery).
42. Not more than 150 patrons may be present within the restaurant building at any one time. This condition applies regardless of whether the restaurant building is being used as a Restaurant or as a Function Centre or as an Exhibition Centre (Art Gallery).
43. The gallery must keep records of:
 - Gallery attendance
 - Restaurant attendance
 - Restaurant attendance when the gallery is closed
 - Function centre attendance.

These records must be made available to the responsible authority on request

Sale and consumption of liquor

44. The layout of the licensed area as shown on the endorsed plan must not be altered or modified without the written consent of the Responsible Authority.
45. Except with the further consent of the Responsible Authority liquor must only be served or consumed in those areas that are shown on the plans as licensed areas between the following hours:
 - Monday to Thursday (excluding ANZAC Day and Good Friday) – 7am to 11pm.
 - Sunday – 10am to 11pm.
 - Good Friday and ANZAC Day – 12 noon to 11pm.
 - Friday and Saturday (excluding ANZAC Day and Good Friday) – 7am to 11:30pm.
46. Liquor must only be sold, stored or consumed in the areas shown on the plans as licensed areas to the satisfaction of the Responsible Authority.
47. Alcohol is not to be taken outside the licensed area by patrons at any time to the satisfaction of the Responsible Authority.
48. The predominant activity carried out within the Restaurant, must be the preparation and serving of meals for consumption on the premises.

Bushfire Management

49. Before the development starts, a Bushfire Management Plan to the satisfaction of the CFA and Responsible Authority must be submitted to and endorsed by the Responsible Authority. The plan must be generally in accordance with the *Bushfire Emergency Management Plan prepared by Terramatrix dated June 2020* but updated to accord with the recommendation in the *Expert Evidence to the Rosemaur Gallery Advisory Committee for the proposed use and development of 193-209 King Road, Harkaway, prepared by Mr Hamish Allan, Terramatrix dated February 2021*. Once endorsed, the plan must not be altered unless otherwise agreed in writing by CFA and the Responsible Authority.
50. Prior to occupation of the buildings, a Bushfire Emergency Management Plan to the satisfaction of the CFA and Responsible Authority must be submitted to and endorsed by the Responsible Authority. The plan must not be altered unless otherwise agreed in writing by CFA and the Responsible Authority.

51. The bushfire protection measures shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on an ongoing basis. This condition continues to have force and effect after the development authorised by this Incorporated Document has been completed.
52. Before the development starts, a Vegetation Management Plan to the satisfaction of the CFA and Responsible Authority must be submitted to and endorsed by the Responsible Authority. The plan must demonstrate vegetation management requirements in the area of defensible space around each building will continue to be met on an ongoing basis.

Amenity

53. The use of the land must not cause any nuisance or annoyance to persons beyond the Land, by way of the emission of noise or otherwise to the satisfaction of the Responsible Authority.
54. Noise levels emanating from the Exhibition Centre (Art Gallery), Function Centre and Restaurant must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1, and (Control of Music Noise from Public Premises), No. N-2 or any policy which replaces those policies.
55. No amplified live music is permitted in any outdoor area, including on the outdoor terrace spaces.
56. Any music played with amplification or through loudspeakers in any outdoor area, including on the outdoor terrace spaces, must be limited to background only. For the purposes of this condition, 'background music' is defined as music played at a level that enables patrons to conduct a conversation at a distance of 600mm without having to raise their voice to a substantial degree.
57. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.
58. The development (including works associated with the construction of the development) must not detrimentally affect the amenity of the area, through the:
 - a) Transport of materials, goods or commodities to or from the Land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products or litter, grit or oil.
 - d) Presence of vermin.
59. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes must be stored out of general view and storage areas maintained in a suitable condition to the satisfaction of the Responsible Authority.
60. External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority so as to cause no loss of amenity to residents of adjoining properties. Lighting must be limited to what is reasonably necessary for way finding, security and safety.
61. The loading and unloading of goods from vehicles must only be carried out on the Land within the designated loading space/s and must not disrupt the circulation and parking of vehicles on the Land.
62. The loading and unloading of vehicles must always be carried out on entirely within the site and not interfere with other traffic.
63. Security lighting must be installed at the entrance to the building and within any car parking area and pedestrian access way, to the satisfaction of the Responsible Authority.

Native Vegetation

64. Prior to any works, an Environmental Management Plan (EMP) that includes a Construction Environment Management Plan and Landscaping/Revegetation Plan must be developed and implemented to the satisfaction of the Responsible Authority and the Port Phillip Region of DELWP.

65. Prior to removal of native vegetation, information about that native vegetation, including an avoid and minimise statement, in accordance with application requirements 1, 5 and 9 in Table 4 of the *Guidelines for removal, destruction or lopping of native vegetation* (DELWP, December 2017) must be provided to the satisfaction of the Secretary to DELWP.
66. Prior to removal of native vegetation, the biodiversity impacts from the removal of that native vegetation must be offset in accordance with the Guidelines, and evidence that the required offset(s) has been secured must be provided to the Secretary to DELWP.
67. The secured offset(s) for the permitted development may be reconciled at the completion of the development but prior to the use commencing in accordance with the *Assessor's handbook – Applications to remove, destroy or lop native vegetation* (DELWP, October 2018).
68. Prior to the removal of native vegetation on public land, an assessment of likely presence of species listed under the *Flora and Fauna Guarantee Act 1998* (FFG Act) and *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* must be provided to the satisfaction of the Secretary to DELWP.

6.0 Expiry of the Incorporated Document

The control in this document expires in respect of the Land identified in clause 3.0 of the following circumstances apply:

- a) The development is not started within four (4) years from the date of approval of this document.
- b) The development is not completed within six (6) years from the date of approval this document.
- c) The use does not start within one (1) year of the completion of the development.
- d) The use is discontinued for a period of two (2) years.

The liquor component will expire if the operation of the liquor license does not commence within 12 months after the restaurant use commencing.

The Responsible Authority may extend the periods referred to if a request is made in writing before the expiry date or within three (3) months afterwards.