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Surf Coast Shire Council Meeting

9 August 2022

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MAYOR STAPLETON: Apologies for the delay and, again, good evening and welcome to everyone watching this Special Council Meeting. I'm Councillor Libby Stapleton and I'm the Mayor of the Surf Coast Shire. I'd like to start by acknowledging the Wadawurrung people and the Gadubanud and Gulidjan people of the Maar Nation are the traditional custodians of the land we now call Surf Coast Shire and pay our respects to Elders past, present and emerging and note that Surf Coast Shire Council is committed to a genuine journey and walking with traditional owners of these lands towards reconciliation. Tonight we will be hearing from those who wish to speak to their written submissions regarding the planning permit 22/0040 for 85 Great Ocean Road, Anglesea, for the use of land for the sale and consumption of liquor and associated signages. To facilitate public access, this meeting is being livestreamed and the recording will be available on council's website. If a submitter does not wish to be video recorded, we just ask that you please turn off your video function and use the audio only and live captioning will accompany the livestream. Please direct any questions or comments you have through me as the Chair and I will ensure - endeavour to ensure that everyone has an opportunity to speak while also making sure we stick to time. For the benefit of our speakers, the following procedures will apply during the meeting. Each submitter who has registered to speak will be admitted into the meeting and given five minutes to present their submission and, when the timer on the screen reaches 5 minutes, we ask you the please stop your presentation and the timer will turn orange when you have one minute left as a bit of a warning, and then red when there's 10 seconds remaining. So it would be really helpful if you could stick to your times, keep an eye on the timer, and Councillors will then be invited to ask questions directly related to your submission if needed. And in the interests of time, we do try to keep the questions brief so we can move through each of the submitters in a fair way. I ask that all participants remain on mute when they're not speaking just to allow the meeting to run smoothly and if a speaker has any technical problems, which are not resolved quickly, we will need to remove you from the meeting and you'll be contacted by a member of council staff to try and resolve those issues and, if they are resolved, you'll be invited to deliver your presentation at the end of the meeting. This Special Council Meeting is not a workshop and it should not be necessary for officers to be asked to make comment on the submissions. However, if there are any questions of officers, please do direct them through me as the Chair. And Councillors will not be making any decisions in relation to the matters heard tonight as decision making will occur at a future council meeting - later this month - once all relevant information has been received and reviewed. I'll now recite the pledge on behalf of council. As Councillors we carry out our responsibilities with diligence and integrity and make fair decisions of lasting values to the wellbeing of our community and environment. We do have some apologies for tonight's meeting from Councillor Pattison and Councillor Gazzard and also Councillor Bodsworth has declared a conflict of interest so he's unable to join us for this meeting tonight. So could I please have a mover to accept these apologies? Councillor Schonfelder, thank you. And seconded by Councillor Hodge. Thank you. All those in favour, please raise your hand. And the motion is carried unanimously. Thanks,

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Councillors. And Councillor Bodsworth has obviously declared a conflict of interest. Are there any other Councillors or officers that need to declare a conflict, in which case you'll be removed from the meeting by the host and placed in a virtual meeting room. Councillor Wellington?

CR WELLINGTON: I don't have a conflict to declare, Mayor, but I thought that when a conflict was declared, the reason for the conflict should also be given.

MAYOR STAPLETON: I'll just check with governance, Councillor Wellington. As Councillor Bodsworth is not here, I'll need to just run that by governance, if you could confirm that.

JAKE: Rebecca?

REBECCA: Thank you, Mayor Stapleton, and Councillor Wellington, given that Councillor Bodsworth is an apology now for the meeting, I don't know that we need to record the conflict of interest but it certainly is a driver for him not attending tonight.

MAYOR STAPLETON: And I would assume Councillor Wellington, that when the decision comes to council for consideration, he would declare that conflict publicly then. Are there any other conflicts of interest to be declared? So moving on to the submissions, we had 10 objections and a petition containing 270 signatures received in relation to this planning application and we've had one submitter and a representative for the applicant request to be heard by council, so we will be hearing from them now. And our first speaker is Ryan Calvert, so if we could please admit Ryan into the meeting. And Ryan, if you can hear me, could you just pop your camera on and turn off your mute. And we'll say hello. Thanks, Ryan. Hi. Thanks for joining us.

RYAN CALVERT: No worries. Thank you. Thank you fore the opportunity.

MAYOR STAPLETON: No worries. So we're happy for you to make a start as soon as you're ready and you'll see the timer on the screen kick off, so if you could just keep an eye on that for us and we'll ask any questions we have at the end.

RYAN CALVERT: Yes, no worries, thank you.

MAYOR STAPLETON: Thanks, Ryan.

RYAN CALVERT: Thank you, and obviously for allowing me to speak in regard to the 85 Great Ocean Road proposal for the sale of liquor in Anglesea. I've got a couple of slides that I'd like to obviously present and talk about regarding to this. The proposed signage differs from the original building permit that was obviously submitted to the Surf Coast Shire through Mongel Trading. It was approved with the big 85 Great Ocean

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Road letters above the front verandah and, in the current proposal documents and everything like that, that does not exist or show up in any of those proposals.

MAYOR STAPLETON: So, Ryan, could I just interrupt for you second, did you say you have a submission that you wanted to share?

RYAN CALVERT: So I've done obviously a written submission.

MAYOR STAPLETON: Did you have a slide show, sorry, a presentation that you wanted to share during the submission?

RYAN CALVERT: That's not up on the screen?

MAYOR STAPLETON: No. It's not. I saw that it wasn't so I wanted to stop the clock for a minute and ask officers, are they sharing it for you or are you sharing it directly?

JAKE: We can share that, Madam Mayor. We'll just pull it up.

MAYOR STAPLETON: Thanks, Jake. Sorry, Ryan, if you'll just wait one second. Alright. It looks like we've got that ready to go now, Ryan. So happy for you to continue as soon as you're ready.

RYAN CALVERT: Yes, no worries, thank you. So obviously the top image shows - as we were just saying the proposed signage differs from the original building permit. The top 85 Great Ocean Road, the top image there, shows that it's there in I suppose standout text or standout lettering, whereas the proposed Cellarbrations signage or anything, that is not included in any of the proposed signage work. The current proposed window signage blocks out five of the seven full-height windows and, as such, being such a large presence in the main street of Anglesea, it sort of doesn't give us - I don't think it's a fit for our coastal village and aesthetics of the street and also the town where you've got the three windows from the left, so the first three windows of full-height blockout, they're an image, and then the next windows 4 and 5 in the middle are a clear window, so they're just a normal window, obviously with a bit of signage down the bottom and some trading hours, and then the windows 6 and 7 are a frosted full-glass window. There's no other premises or businesses in the main street of Anglesea that sort of really have that type of blockout signage, so I think it's a major concern for the way the main street is going to look. The amenity is another sort of one that we brought up in our objection to it with the proposed seating also at the immediate front of the building. It affects the ability - also opposite the main loading dock for the main street. There's only one loading zone for the main street of Anglesea, so it affects the safety of the drivers to unload product and goods for the other shops in the main street, but also with the tables and Chairs they want to place there, when you do a measure up of the area, there's only about 1.5m clearway from either side,

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from the seats to the gutter and from the seats to the garden edge, and that will reduce obviously I suppose the foot traffic through the area, make it a congestion point, where this area itself has previously been used for I suppose a lot of gatherings for family and friends and stuff like that. It's really one of the main open areas of the main street in the town. And if I can just go to the next slide please. Thank you, Jake. And probably the main one really is the Surf Coast Shire health and wellbeing plan that was obviously just released last year for the 2021-25 document. As we all know, alcohol is the top 10 of all causes of disease and death in Victoria and, out of that, 74.1% of adults in the Surf Coast are classified as at lifetime risk of alcohol harm and consumption levels. This is the fifth highest level of local government area in Victoria. But alarming alcohol-related harm - this has increased at 15.4% for the Surf Coast Shire since the Surf Coast Shire alcohol and drug plan was reduced in 2018. So that is an alarming jump that I see. Obviously these statistics are alarming and highly concerning. The Surf Coast Shire should be working with existing local liquor licence holders to reduce alcohol harm in the community. But also another one there's already significant liquor outlets in Anglesea, especially in the 500m around the proposed outlet, so this will be the 17th outlet, right next door to our existing liquor outlet, which obviously is Anglesea IGA and also Morgan's Bar and Grill are in the same 87 Great Ocean Road. There's also two other outlets along the main street within not even 50m of this proposed liquor outlet. So I think that's a major concern, like the number of liquor outlets we have here in this short 500m period - 500m area, sorry. And then obviously there was the 270 concerned residents which supported and signed the petition against the proposed Cellarbrations at 85 Great Ocean Road. Then just one last one. As a long-time local Anglesea area person, we don't want Anglesea to end up like Torquay. Other than that, I would just like to say thank you for your time and inviting us along tonight to have a chance to speak.

MAYOR STAPLETON: Thanks, Ryan. Are there any Councillors who would like to ask Ryan any questions? Councillor Wellington?

CR WELLINGTON: Thanks, Madam Mayor. Ryan, can we have a copy - can Councillors have a copy of your presentation? And the statistics that you're quoting, are they out of those plans or are they - where did those statistics come from about alcohol-related harm and --

RYAN CALVERT: Yes, so the plan I have sent through to --

CR HODGE: We have it.

RYAN CALVERT: Those statistics are in the two Surf Coast Shire documents, the drug alcohol plan and also the one listed in 2018.

CR WELLINGTON: Thank you.

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MAYOR STAPLETON: Thanks, Ryan. Councillor Hodge?

CR HODGE: Thank you, and thanks, Ryan, for that. I read your submission earlier. And thanks for doing that. I just want to ask about the loading bay for safety reasons. I know Anglesea quite well, even though I live in Torquay and I like how Torquay is, Ryan, but that's OK. With that loading bay, so right up high with the newsagents, they haven't got a loading bay there? This is the only loading bay for the whole strip?

RYAN CALVERT: Correct. It's the only loading dock, the loading zone, for the whole main street of Anglesea.

CR HODGE: That would probably be occupied nearly every - nearly all the time?

RYAN CALVERT: Yes, quite regularly, where trucks will unload or side-unload on to the footpath there where the proposed seating area is. And obviously they're not unloading just one or two boxes. Some of them are quite substantial deliveries. But it being the only loading zone, it can be - you can have two trucks in there at once sometimes, so yeah.

CR HODGE: Thank you.

RYAN CALVERT: No worries. Thank you.

MAYOR STAPLETON: Thanks, Ryan. Councillor Allen?

CR ALLEN: Thanks, Mayor. Thanks, Ryan, for your submission. If I compare, say, Lorne with Anglesea - and you obviously know the Anglesea community and consumption patterns and so on - we would have a similar number of outlets with a thousand fewer people. So what makes Anglesea perhaps unable to cope with the supply that is proposed? If

RYAN CALVERT: Interesting you say about those numbers in regarding to Lorne. I know Lorne over a peak period obviously has a lot more tourism. There's a lot more numbers that go into Lorne in holiday periods and everything like that. Obviously we're not just talking here in regarding to locals. There is less people in Lorne, yes, as a permanent population in the community. I do know that. At the moment, I feel that - and a lot of locals obviously feel that Anglesea is well-situated with the number of liquor outlets that we already have here in town and they've supplied the community over the last X number of years, 40 years, with no issues and we find that a 200 square metre new liquor outlet in town is going to be very dominant and very sort of in-your-face type development, which in Anglesea for the village feel, community feel, we just don't need.

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MAYOR STAPLETON: Thanks, Ryan. And Councillor Hodge again?

CR HODGE: Yes, thank you. Ryan, when you talk about the windows - and I know V cat and all that look at the zones and commercialism and all that - but if there is room to move on the windows, what do you think would be suitable? Did you want it - say if it went ahead and it was all clear, would you prefer it clear so people can see people sitting down and drinking or a type of frost? Is it the type of pictures that are on it or just the bigness of it, the largeness of it?

RYAN CALVERT: I think it's more so the largeness of the images and stuff. There's a lot of other shops along the main street of Anglesea but they don't - they might have one window that's fully blocked out, not all windows - like not the majority of the windows full height windows that are all blocked out. So whether like obviously they change it - like if it goes ahead obviously, whether they change the - there's not as many of them that are blocked out, but then obviously it depends on whether they want people to see inside.

CR HODGE: That's right.

RYAN CALVERT: And see the products. So there is obviously a bit of a catch 22 I suppose there.

CR HODGE: Thank you.

RYAN CALVERT: No worries.

MAYOR STAPLETON: Councillor Allen?

CR ALLEN: Thanks, Mayor. Ryan, I'm struggling a little bit in that the images that you showed us, two doors down the real estate agent virtually the whole window was blocked by advertisements for the sale of land. Why do you draw the distinction there?

RYAN CALVERT: Yeah, it almost is all blocked but you can actually see through, obviously with the advertisement for the real estate agent. It's not totally blocking out a full window, where if you think the first five windows out of seven are blocked, so two are frosted and five are full blocked and you've only got two windows to see in and out of. But if they're talking about putting tables and Chairs out the front, how do - as an operator inside and probably only up with staff member, how do you get a clear view and how do you watch over the tables and Chairs that are out front?

MAYOR STAPLETON: Thanks, Ryan. And are there any more questions? No. We might finish up there. Ryan, thank you so much for taking the time to make your presentation

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to us and for your submission and we'll see you and be in touch.

RYAN CALVERT: No worries. Thank you. Thanks for the opportunity.

MAYOR STAPLETON: Thanks, Ryan.

RYAN CALVERT: Thank you.

MAYOR STAPLETON: And if officers could please let Kathleen Akers from Urbis who is representing the applicant into the meeting. And we will say farewell to Ryan. Hi, Kathleen.

KATHLEEN AKERS: Hello. Good evening.

MAYOR STAPLETON: Good evening. Thank you for joining us. I believe you have a submission to share with us or a presentation to share with us as well?

KATHLEEN AKERS: I do, and I was under the impression it was 10 minutes so I might have to skip over quite a few slides and just note that obviously the presentation and the information in the presentation is there for you to consider following the meeting and prior to the council meeting.

MAYOR STAPLETON: Yes. We'll definitely have a read through that independently. Thanks.

KATHLEEN AKERS: Great.

JAKE: Mayor, I'll just confirm that in the Governance Rules, she's allowed 10 minutes to speak, representing the applicant.

MAYOR STAPLETON: Yes, you're right, Jake.

JAKE: Sorry.

MAYOR STAPLETON: No worries. Thanks for clarifying that, and Kathleen, there you go. You don't have to race through the slides at all.

KATHLEEN AKERS: OK. I'll try to keep it succinct anyway rather than going over information that we may already know. So thank you. So I thought it might be a good starting point just to talk about the Cellarbrations brand. So they're independent and operated stores and they pride themselves on being more than a bottle shop. So the operators actually of the Cellarbrations in Lorne will be the same operators as the Anglesea store, and they also offer a wine bar component and they really specialise in

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supporting local businesses on the Surf Coast. If we could just go to the next slide. So there's no need to read through this list but it's really just to demonstrate that currently in Lorne, there's approximately 29 businesses there which their stock is in store. Excuse me. And the intention is that the Anglesea store will also promote these local both food and liquor businesses on the Surf Coast. We probably don't need to go into what's proposed but it was more just I guess to emphasise the point that we'll be applying for a General Licence, so that allows the supply of liquor for both on and off premises consumption, and that also includes the outdoor area, which for a General Licence doesn't have to be shown on the red line plan, and this is different from a, say, restaurant and cafe licence where you are required to show that licensed area as part of that red line plan. Next slide, please. So I won't focus too much on this slide but it was more just emphasising the point that the site is located in the defined Anglesea shopping centre, which is identified as Anglesea's commercial and focal point, and planning policy directs that retail and commercial uses be located in these areas and then in that regard, there's always an expectation that there will be a cluster of licensed premises in any type of activity centre, which there is in this case. The next slide, please. So just looking at things that council can and cannot consider as part of the planning permit application, so I just wanted to confirm that the use of the site as a bottle shop and a wine bar is as of right. So it's only under clause 52.27 of the Planning Scheme in which the application can be assessed. So council cannot consider the outdoor dining area because that's under separate local laws for bar trading permit. They can't consider the broad potential public health issues that may arise from alcohol - or the sale and consumption of liquor, cannot consider the need for a package liquor or a wine bar, and this has been demonstrated in many V cat cases and the same I guess goes for submitting an objection for commercial viability reasons in the same way that you couldn't say that there's too many restaurants or cafes in an activity centre because they're as of right uses, and also just in relation to traffic and car parking. That's already been approved as part of the existing use for the site. So I won't go into too much - sorry, just the next slide, please - detail but this slide just references a well-known Hunts club decision which talks about the role and the purpose of clause 52.27 and really the role is for planning to make sure that the location is appropriate, amenity considerations are considered but not to address all issues of public health. Next slide, please. So we thought it would be beneficial just to give a very high-level summary of how the proposal then meets the decision criteria under clause 52.27. So the first one is: is the location appropriate and we say yes, it is because it's a commercial use in a commercial zone, and the store is appropriately separated and orientated away from residential land uses. Secondly is the impact of sale of liquor on the amenity of the area and, as mentioned above, we're in a zoned economic activity area. This is an area where these types of uses are encouraged and there's this expectation that there will be licensed premises in this area and we also say there's also reduced sensitivity, given the number of licensed premises in this area, and it's really about looking at those type of licences and whether or not any negative amenity impacts are created as a result of those licensed premises. Thirdly is the hours of operation, and we say the hours of

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operation are appropriate. So the hours of operation are standard trading hours under the Victorian Liquor Commission and it's not defined as a late-night venue by the VLC at all and the fact that only background music potentially will be played sort of limits those impacts, so we don't have a late night venue with loud music, so it really limits those amenity impacts. Next slide, please. In relation to patron numbers, we say that the patron numbers are reasonable, considering that the wine bar component is really ancillary to the bottle shop component of the use. And ways to ensure that the number of patrons are appropriately managed for a licensed premises is that there are a lot of things you can do to mitigate risk. So all patrons will be seated. Food will always be available. And it's also known that if patrons are sitting down and not vertically drinking, so to speak, they drink at a slower rate, so you're providing more of I guess a relaxed environment. And finally, the last decision criteria for planning is the cumulative impact of the licensed premises within the activity centre. It's also important to recognise that cumulative impact can be both negative and positive, so in terms of negative impact, it may be that it's associated with noise or intoxication by patrons or traffic and car parking impacts. But we would say that this venue - it's a very small venue and those issues are not really associated with, A, the package liquor component or the small wine bar component, which we're offering. I thought it was also just worthwhile pointing out that considering the type - just checking the time, sorry - considering the type of licensed premises in the Anglesea shopping centre, we note that within the defined shopping centre area, there's eight licence premises and most of these are associated with restaurants and cafes. So these premises are not defined by the VLC as high risk venues or associated with alcohol-related harm issues and the reason for this, which I mentioned before, is you have reasonable operating hours, you have seated venues, relaxed setting, people are not standing, there's always food available, and these factors all contribute to how a licensed premise is appropriate within the context of an area. And also noting that the venue wouldn't be proposed to be open later than any venue in the Anglesea Shopping Centre, noting that some venues - there's I think three venues that are permitted to be opened until 11; and two venues that are permitted to open until 1am. So whether or not they decide to open until that time depends on the cooler winter months, I guess. But certainly they have the ability to be open at that time should they require. So we would say that the proposal actually contributes to a positive cumulative impact for the area. It brings enhanced vitality, which is always encouraged in commercial zones, provides economic impact, particularly supporting Surf Coast both liquor and food businesses, and also offers an increased consumer choice for the residents. I just want to - I am conscious of the time, but just in relation to signage, I just wanted to confirm that we have been having discussions with council on seeking the appropriate balance for signage of the site. We wanted to confirm it is three blowout windows and four clear-glazed windows but we're looking at perhaps moving - reducing that to two blackout windows and they will move closer to the doorway so that they align with the cash registers within the store and then the tables would be positioned to have that outlook on to the street so you are creating that balance between creating activity, having the outlook for patrons, but also meeting the operational requirements

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of the client. So having reviews, these matters raised by both the submissions and council, we're looking to make some variations to the proposal. The first one is trading hours and this also comes from experience from the Lorne Cellarbrations where venues - places typically close early, and particularly in the winter months. So we would be looking at reducing the hours to close on a usual day I guess from 11pm to 9pm, and so that's a reduction of 13 hours a week, which we see as quite significant. In relation to signage, as mentioned above, we are happy to work with council to achieve a suitable outcome. I note the submission in relation to this signage doesn't represent the signage that was approved under the previous application but also we have the ability to provide a new signage scheme and that, for example, you would expect if a restaurant or a cafe was to go into this tenancy, that they would have the ability to be able to display the name of their cafe or restaurant. So there was always going to be I guess a change to that approved signage scheme. And I guess lastly, to ensure amenity is protecting the area, we would be happy to submit an operation management plan, and that would look at (inaudible) related matters, patron management and issues around noise, litter and waste management. I think I will wrap it up there because I am out of time. Thank you very much, everyone. Appreciate the time.

MAYOR STAPLETON: Thank you, Kathleen. I'll ask Councillors if they have any questions. I've got one. There you go, Councillor Hodge.

CR HODGE: Thank you, and thanks for that, Kathleen, and it is good to see that there's still dialogue with the hours and the signage. So thanks very much. When you said you support other local businesses, I don't know a lot about Cellarbrations. Do you prepare food on-site so you get your food from local producers?

KATHLEEN AKERS: It's all prepackaged food that's available. I just pulled those images of the second slide on the presentation, so they're images taken from the Lorne Cellarbrations. So for example there's an image there with Barwon Meats I think they're called. So they have that produce in their store and then customers have the ability to then purchase that to consume on-site. So what they currently do down in Lorne, which they would intend to do in Anglesea, is provide I guess deli lines, cheese platters, that kind of thing to accompany the serving of alcohol.

CR HODGE: Thank you.

MAYOR STAPLETON: My question is around the block out signage. What's the I guess need or the desire to have that kind of blackout signage on the windows?

KATHLEEN AKERS: It's really from an operational perspective. So because the cash registers are currently positioned at those two windows closest to the doorway, so it's really blocking out the cash registers, while then allowing the clear glazing where the tables are and where the doorway is. Because I guess in reality you want the tables to

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be at the front of the store and the layout of liquor outlets can be a little bit challenging at times, particularly because high shelving traditionally needs to be around the outside of a store and low and medium height shelving needs to be central to the store and that's to allow adequate surveillance throughout the store but also outside of the store.

MAYOR STAPLETON: So the windows that aren't blocked out, the intention wouldn't be to use those spaces for shelving? That would just be dining?

KATHLEEN AKERS: That's correct.

MAYOR STAPLETON: Councillor Wellington?

CR WELLINGTON: Sorry, I'm not sure if I've understood this. But is the blackout designed - is that for security purposes?

KATHLEEN AKERS: It is, yes. And also just from I guess an aesthetic point of view, having the cash registers immediately adjacent to the window.

CR WELLINGTON: Got it, thank you.

MAYOR STAPLETON: Any other questions? Councillor Allen?

CR ALLEN: Kathleen, this is I suppose not totally pertinent to your application, but I know that the Anglesea Hotel and the IGA would support local sporting venues and community events and so on. Do your outlets have a history of doing that rather than just saying that they do it? Do your outlets support community?

KATHLEEN AKERS: I would probably have to come back to you on that, Councillor Allen. I'm not too sure, to be honest, and I don't really want to speak on behalf of the client as to whether or not they do or do not. But only to say that they do strongly support local businesses as they do in Lorne, which is what they would tend to do with Anglesea. But I'm not sure about community groups per se, but I'm certainly happy to check that out.

CR ALLEN: Thank you.

MAYOR STAPLETON: Thanks, Kathleen. And are there any other final questions? No? Well, thank you so much, Kathleen. Oh, Councillor Schonfelder might have a question.

CR SCHONFELDER: I just wanted to thank those participants tonight for presenting to us. It's much appreciated.

KATHLEEN AKERS: Thank you.



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MAYOR STAPLETON: Thanks, Councillor Schonfelder. And thanks, Kathleen, for joining us. We really appreciate it. Cheers. So Councillors, we do have a recommendation that council receives and notes the submissions relating to the planning permit application and display of associated business identification signage and, two, that we consider the submissions in a report regarding the planning permit application at our meeting on 23 August. Can I have a mover for the recommendation? Councillor Allen, thank you. And seconded by Councillor Wellington. Thank you. And all those in favour? And the motion is carried unanimously. Thank you, Councillors. And there being no further items of business, I declare the meeting closed at 6.50pm and Councillors, just note there is a separate Zoom link to return to our debrief. And thank you to all the community for watching tonight and we can ask governance to end the livestreaming. Thank you.