



YARRA CITY COUNCIL
Internal Development Approvals Committee
Agenda

**to be held on Wednesday 26 June 2019 at 6.30pm
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

Rostered Councillor membership

Councillor Stephen Jolly
Councillor Bridgid O'Brien
Councillor James Searle

- I. ATTENDANCE**
Chris Stathis (Senior Planner)
Ally Huynh (Senior Co-Ordinator Statutory Planning)
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***"Welcome to the City of Yarra.
Yarra City Council acknowledges the
Wurundjeri as the Traditional Owners
of this country, pays tribute to all
Aboriginal and Torres Strait Islander
people in Yarra and gives respect to
the Elders past and present."***



Guidelines for public participation at Internal Development Approval Committee meetings

POLICY

Council provides the opportunity for members of the public to address the Internal Development Approvals Committee.

The following guidelines have been prepared to assist members of the public in presenting submissions at these meetings:

- public submissions are limited to a maximum of five (5) minutes
- where there is a common group of people wishing to make a submission on the same matter, it is recommended that a representative speaker be nominated to present the views of the group
- all public comment must be made prior to commencement of any discussion by the committee
- any person accepting the chairperson's invitation to address the meeting shall confine himself or herself to the subject under consideration
- people making submissions shall address the meeting as a whole and the meeting debate shall be conducted at the conclusion of submissions
- the provisions of these guidelines shall be made known to all intending speakers and members of the public generally prior to the commencement of each committee meeting.

For further information regarding these guidelines or presenting submissions at Committee meetings generally, please contact the Governance Branch on (03) 9205 5110.

**Governance Branch
2008**

1. Committee business reports

Item		Page	Rec. Page
1.1	PLN18/0873 - 571-573 Victoria Street, Abbotsford - Use of the land for a Restricted Recreation Facility (Gymnasium) and the display of business identification signage	5	21

1.1 PLN18/0873 - 571-573 Victoria Street, Abbotsford - Use of the land for a Restricted Recreation Facility (Gymnasium) and the display of business identification signage

Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN18/0873 at 571-573 Victoria Street, Abbotsford for the use of the land for a Restricted Recreation Facility (gymnasium) and the display of signage; and recommends approval subject to conditions

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 13.05 –Noise;
 - (b) Clause 22.04 – Advertising Signs Policy
 - (c) Clause 21.04-2 – Activity Centres
 - (d) Clause 34.02 – Commercial 2 Zone
 - (e) Clause 52.06 – Car Parking

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Land use;
 - (b) Off-site amenity impacts;
 - (c) Signage
 - (d) Car parking, traffic and bicycle facilities and;
 - (e) Objector Concerns

Objector Concerns

4. 25 objections were received to the application, these can be summarised as:
 - (a) Car parking and traffic impacts;
 - (b) Noise
 - (c) Oversupply of gyms.
5. 25 letters of support were received to the application.

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported, subject to conditions.

CONTACT OFFICER: Robert Galpin
TITLE: Statutory Planner
TEL: 9205 5139

1.1 PLN18/0873 - 571-573 Victoria Street, Abbotsford - Use of the land for a Restricted Recreation Facility (Gymnasium) and the display of business identification signage

Trim Record Number: D19/104707
Responsible Officer: Coordinator Statutory Planning

Proposal: Use of the land for a Restricted Recreation Facility (24 hour Gym) and the display of business identification signage.
Existing use: Vacant (previously bathroom supplies)
Applicant: CS Town Planning Services
Zoning / Overlays: Commercial 2 Zone
Design and Development Overlay (Schedule 2)
Design and Development Overlay (Schedule 22)
Date of Application: 19 November 2018
Application Number: PLN18/0873

Background

Internal Works

7. Council Planning Officers are aware that internal fitout works on the premises have occurred. Internal works are exempt from the requirements of a planning permit (provided there is no increase in gross floor area), pursuant to Clause 62.02-2 of the Yarra Planning Scheme

Planning History

8. The following paragraphs outline the planning permit history relevant to the subject building.
9. Planning Permit PL03/0741 was issued on 9 March 2004 for the use of the site for motor vehicle repairs.
10. Planning Permit PL02/0235 was issued on 17 May 2002 for the use of the site for a motor vehicle showroom.

The Proposal

11. The application is for the use of the land for a Restricted Recreation Facility (Gymnasium), and the display of business identification signage. More specifically, the application includes;

Use

- (a) Restricted Recreational Facility (Gym)
- (b) Approximately 940sqm of floor area over two levels of the existing building;
- (c) Open 24 hours, seven days per week
- (d) No classes
- (e) Maximum of 50 patrons on premises at any one time.
- (f) Maximum of two staff members at any one time.
- (g) Music at background level only.

Signage

- (h) The display of eight (8) business identification signs (total area of 15.63sqm – refer figure below) with the following specifications:

<u>Sign</u>	<u>Type</u>	<u>Location</u>	<u>Size</u>
Sign 1	Steel framed PVC Banner Business Identification Sign "Dukes Gym"	First floor top north corner of the building fronting Victoria Street	2.13sqm (4.382m x 0.486m)
Sign 2	Window Vinyl Business Identification Sign "24 hour access"	First floor western window fronting Victoria Street	1.8sqm (2.775m x 0.65m)
Sign 3	Window Vinyl Business Identification "Women's only section"	First floor central window fronting Victoria Street	1.57sqm (2.352m x 1.7m)
Sign 4	Window Vinyl Business Identification Sign "Infrared Sauna"	First floor eastern window fronting Victoria Street	1.8sqm (2.775m x 0.65m)
Sign 5	Window Vinyl Business Identification Sign "Dukes Gym"	Ground floor eastern window fronting Victoria Street	4sqm (2.352m x 1.7m)
Sign 6	Window Vinyl Business Identification Sign	Ground floor eastern window fronting Victoria Street	2.40sqm (3.7m' x 0.65m)
Sign 7	Steel framed PVC Banner Business Identification Sign "Dukes Gym"	First floor top south corner of the building fronting Duke Street	1.98sqm (4.23m x 0.48m)
Sign 8	Illuminated light box business identification sign	Projecting lightbox sign perpendicular to Victoria Street. 2.68m above the footpath.	0.825sqm (1.1m x 0.75m)
Total			16.50sqm

Car and Bicycle Facilities

- (i) One disabled car parking space to be provided accessed via Duke Street.
- (j) Six bicycle parking racks located internally (number not shown on the plans).

Existing Conditions

Subject Site

12. The subject site is located on the north side of Victoria Street, Abbotsford, on the eastern corner of Duke Street and 60m west of Grosvenor Street. The site has a frontage to Victoria Street of 15.4m and frontage to Duke Street of 31.92m and an area of approximately 491sqm. There is no appreciable fall across the site.

13. The subject site contains a double storey commercial building fronting Victoria Street. The building is constructed to all site boundaries with a pedestrian entrance and a total of 5 window openings to the Victoria Street façade. The western interface to Duke Street incorporates an open undercroft parking area accommodating two cars, two roller doors and a series of west facing windows. The northern boundary wall interfaces with a Right of Way (ROW) with a pedestrian door and a series of windows. The eastern interface is a solid boundary constructed wall to the adjoining property to the east.
14. The proposal seeks to use both the ground and first floors constituting approximately 940sqm of internal floor space.

Restrictive Covenants/Easements

15. The title shows no restrictive covenants. An easement is located adjacent the eastern title boundary requiring that an eave be maintained to benefit the property to the east. This is will not be affected by the proposal



Image 1: The Subject site viewed from Victoria Street (July 2017)

Surrounding Land

16. The surrounding land is characterised by the commercial spine of Victoria Street Major Activity Centre. Uses within the immediate surrounds consist of predominantly commercial on the northern side of Victoria Street with residential dwellings located on the southern side.
17. Victoria Street is classified as a Major Activity Centre pursuant to Clause 21.08-1 (Neighbourhoods – Abbotsford). The predominant land uses along Victoria Street varies with retail and hospitality businesses the dominant land use towards the western end. The western side of Victoria Street is more varied with larger buildings and the Commercial 2 Zone encouraging restricted retail, office and semi industrial uses.

There is also a number of newer mixed use developments containing commercial shop fronts at ground floor with residential above.

18. To the north, land is zoned Industrial 1 with manufacturing and industrial uses reflecting this zoning. Residential areas are located on the southern side of Victoria Street west of Johnston Street. There are also residential apartments located to the east, approximately 60m away on Grosvenor and Flockhart Streets.

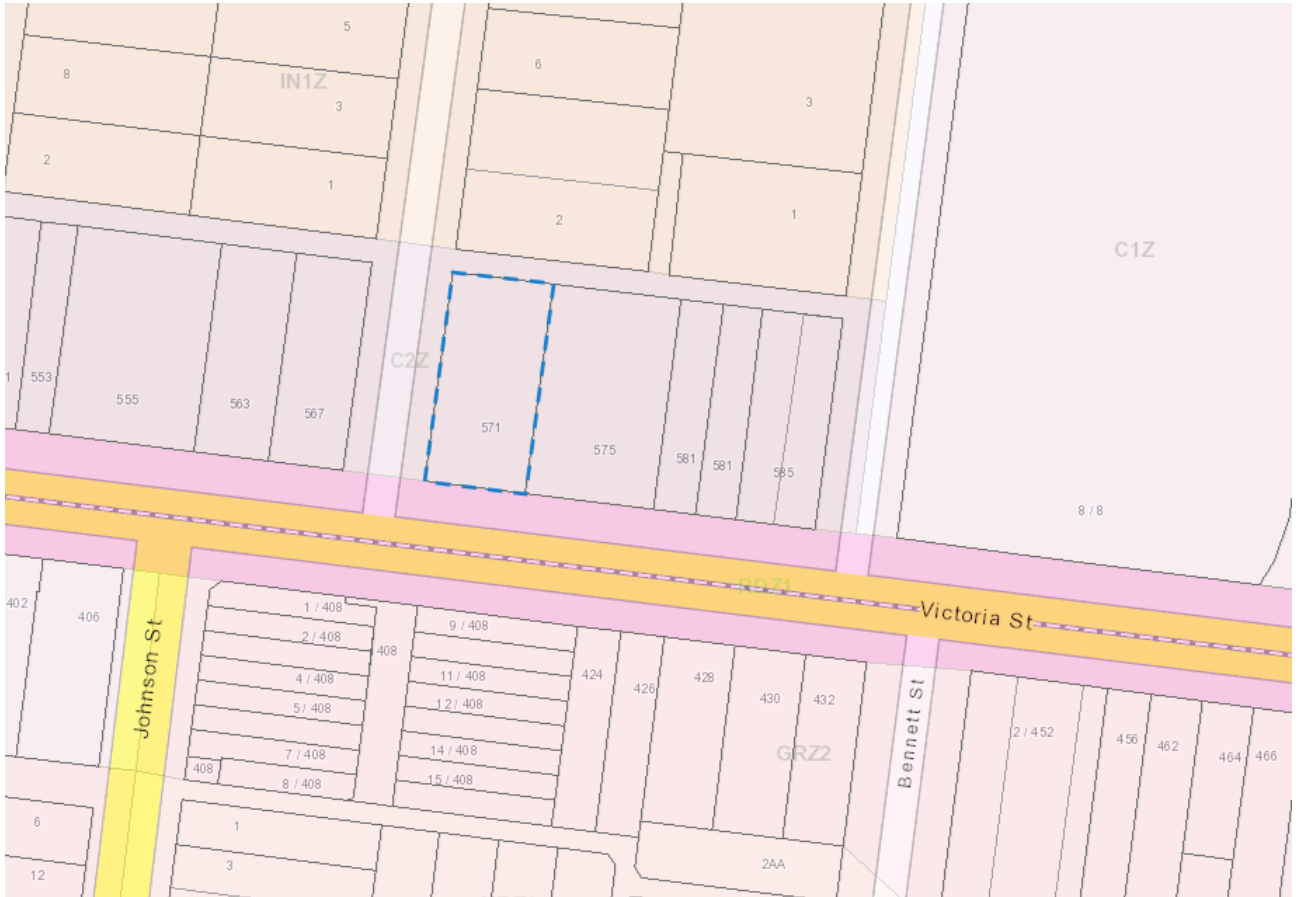


Image 2: The subject site and surrounding zoning

Nearby properties

19. To the west of the subject site on the other side of Duke Street is a double storey commercial building. The building houses an art gallery within the most eastern tenancy and a 24 Hour Gym within the most western tenancy. The gym was granted planning permit PLN16/0948 on 3 February 2017 allowing for 24 hour trading and a maximum of 40 patrons at any one time.
20. To the east of the site is a double storey commercial building housing a carpet store. The building shares a boundary wall with the subject site for its entire length. The building is purpose built for restricted retailing with a double width crossover and roller door fronting Victoria Street.
21. To the north of the subject site on the other side of the ROW is an automotive repair centre and panel beater. The two storey building has a series of roller doors fronting Duke Street with the ground floor containing a workshop and offices located first floor.

22. To the south of the site on the opposite side of Victoria Street is a townhouse development containing 16 townhouses and an internal garden/car park.

Planning Scheme Provisions

Zoning

23. The subject site is located within the Commercial 2 Zone. The following provisions apply:
- (a) Pursuant to Clause 34.02-1 of the Yarra Planning Scheme (the Scheme), a permit is required to use the land for Leisure and Recreation (including Restricted Recreation Facility).
 - (b) Pursuant to Clause 34.02-8 of the Scheme, advertising sign requirements are at Clause 52.05. This zone is in Category 1.

Overlays

24. The subject site is located within the Design and Development Overlay (Schedules 2 and 22). The following provisions apply.
- (a) Pursuant to Clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works. However, given this provision does not specifically require a permit for internal rearrangement, the proposed internal rearrangement does not require a permit as it satisfied the requirements of Clause 62.02-2 of the Scheme.
 - (b) Pursuant to Clause 43.02-4 of the Scheme, advertising sign controls are at Clause 52.05 unless otherwise specified in a schedule to this overlay.

Particular Provisions

Clause 52.05 – Advertising Signs

25. The subject site is located within the Commercial 2 Zone and as such is classified as Category 1 – Commercial area (minimum limitation). The 8 proposed signs require a planning permit as together they result in greater than 8sqm of total advertisement area. A planning permit is also triggered for the internally illuminated sign as it located less than 30m from the nearest residentially zoned land.

Clause 52.06 – Car parking

26. Clause 52.06-1 requires that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces pursuant to Table 1 have been provided on the land.
27. Pursuant to clause 52.06-6, where a use of land is not specified in Table 1, car parking spaces must be provided to the satisfaction of the responsible authority prior to a new use commencing. Neither 'Restricted recreation facility', nor its parent use 'Minor sports and recreation facility', is listed within Table 1 of Clause 52.06-5, therefore car parking must be provided to the satisfaction of the Responsible Authority.
28. Pursuant to Clause 52.06-9 disabled car parking spaces must be designed in accordance with Australian Standard AS2890.6-2009 (disabled) and the Building Code of Australia. Disabled car parking spaces may encroach into an accessway width specified in Table 2 by 500mm.

Clause 52.34 – Bicycle Facilities

29. A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. The table below outlines the bicycle parking requirements for the proposed use pursuant to clause 52.34-3:

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Reduction sought
Minor sports and recreation facilities	2 staff max.	1 space to each 4 employees.	0	6	0
	874m ² net floor area	1 visitor space to each 200m ² of net floor area.	4 (4.37)		

30. Given that no employee spaces are required by the proposed use, the provision of change room/ shower facilities (pursuant to Clause 52.34-3) is not required for this application.

General Provisions

Clause 65 – Decision Guidelines

31. The decision guidelines outlined at clause 65 of the Scheme are relevant to all applications. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant sections of Planning Policy Framework, Local Planning Policy Framework and any local policy, as well as the purpose of the Zone, Overlay or any other provision.

Planning Policy Framework (PPF)

Clause 11.03-1S – Activity Centres

32. The objective of this policy is: *‘To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.’*

Clause 11.03-1R – Activity Centres - Metropolitan Melbourne

33. The vision outlined under this policy seeks to support the development and growth of Metropolitan Activity Centres by ensuring they: *“Locate significant new education, justice, community, administrative and health facilities that attract users from large geographic areas in or on the edge of Metropolitan Activity Centres or Major Activity Centres with good public transport”*

Clause 13.05-1S – Noise abatement

34. The objective of this clause is: *‘To assist the control of noise effects on sensitive land uses.’*

Clause 17.02-1S – Business

35. The objective of this clause is: *‘To encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.’*

Clause 18.02-1S - Sustainable personal transport

36. The objective of this clause is: *‘To promote the use of sustainable personal transport.’*

Clause 18.02-4S – Car parking

37. The objective of this clause is: *‘To ensure an adequate supply of car parking that is appropriately designed and located.’*

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement

38. The MSS provides a broad demographic overview of the municipality and is structured into four themes at Clause 21.01 consisting of 'land use', 'built form' 'transport' and 'environmental sustainability'. Relevant clauses are as follows:

Clause 21.04-3 – Industry, office and commercial

39. *'Within Yarra the volume of commercial and associated uses is so significant that they form clusters of interrelated activity. The commercial and industrial sectors underpin a sustainable economy and provide employment. Yarra plans to retain and foster a diverse and viable economic base.'* The objective of this clause is: *'To increase the number and diversity of local employment opportunities.'*

Clause 21.06-3 – The road system and parking

40. The relevant objectives and strategies of this clause are:

- (a) *'To reduce the reliance on the private motor car.'*
- (b) *'To reduce the impact of traffic.'*
- (c) *'Ensure access arrangements maintain the safety and efficiency of the arterial and local road networks.'*

Clause 21.08-1 – Abbotsford and Clause 21.08-9 – North Richmond (area north of Bridge Road

41. The subject site is at the southern end of the Abbotsford suburb and within the Victoria Street link precinct, which is described in Clause 21.08-9 as:

"This precinct spans the area between Church Street and Grosvenor Street. This linking area includes residential and commercial development and a wide range of land uses. New development in this part of the precinct must include active frontages."

Relevant Local Policies

Clause 22.04 – Advertising Signs Policy

42. This Policy applies to all permit applications for advertising signs or for development which incorporates an advertising sign.

The objectives of this clause are:

- (a) *To allow for the promotion of goods and services.*
- (b) *To ensure that signs contribute to and do not detract from the visual amenity of commercial precincts, activity centres and residential areas.*
- (c) *To minimise visual clutter.*
- (d) *To ensure that signs are not the dominant element in the streetscape.*
- (e) *To protect and enhance the character and integrity of places of heritage significance.*
- (f) *To protect major view corridors and vistas.*
- (g) *To maintain vehicular and pedestrian safety.*

Clause 22.05 – Interface Uses Policy

43. Pursuant to Clause 22.05 of the Scheme, this policy applies to applications for use or development within Mixed Use, Commercial and Industrial Zones (amongst others). The policy contains the following relevant objective and policy:

- (a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.'*
- (b) *'New non-residential use and development within Business [i.e. Commercial] and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.'*

Advertising

44. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 73 letters sent to surrounding owners and occupiers and by two signs displayed on site. Council received 25 objections and 25 letters of support, the grounds of which are summarised as follows):
- (a) Car parking and traffic impacts;
 - (b) Noise;
 - (c) Over supply of gyms.
45. A planning consultation meeting was held on 12 March 2019 and attended by 15 persons including objectors, the Applicant, and Council Officers to discuss all issues and concerns raised in the letters of objection. The Applicant did not make any commitments to make changes, moreover the proposal, as originally submitted to Council, forms the basis of assessment and decision.

Referrals

46. The referral comments are based on the advertised plans dated 31 January 2019 and the Acoustic report dated 27 February 2019.

External Referrals

47. No external referrals were required for this application under Clause 66 of the Scheme. The application, however, was referred externally to SLR Acoustic Consulting for peer review of the applicant's submitted acoustic report. The peer-review was generally supportive of the proposed use subject to greater detail on window operability. The peer review advice is discussed in further detail throughout the report and included in the appendices to the report.

Internal Referrals

48. The application was referred to Council's Traffic Engineering Unit. Advice received is supportive of the proposal however noted that the proposed DDA compliance car space is not appropriately dimensioned. This advice is included within the appendices to this report and discussed in the officer assessment as relevant.

OFFICER ASSESSMENT

49. The primary considerations for this application are as follows:
- (a) Land- use and strategic justification;
 - (b) Off-site amenity
 - (c) Signage
 - (d) Car parking and traffic
 - (e) Objector concerns

Land-use and strategic justification

50. The subject site is located within the Commercial 2 Zone, where a purpose is;
- "To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services"*
51. The site is also located within the Victoria Street Major Activity Centre, which Clause 21.08-9 (Neighbourhoods – North Richmond) identifies it as having:
- "A variety of land uses along its length – some vibrant and others more dormant in terms of activity and street frontage."*
52. Clause 21.08-1 also provides a general description for the neighbourhood of Abbotsford and acknowledges that;

“Abbotsford is a highly varied neighbourhood with a substantial number of industrial and commercial buildings of various types and eras. The residential precincts are surrounded by industrial development”

53. Clause 21.04-2 (Activity Centres) outlines the need for *“the presence of service, retail and entertainment uses creates active and vibrant activity centres with good access to services and facilities, which is an important attribute of the municipality”*. This Clause also seeks to *“Support land use change and development that contributes to the adaptation, development and economic growth of existing activity centres.”*
54. The proposed ‘restricted recreation facility’ (gym) supports the aforementioned purpose of the zone purpose given that it would provide additional employment opportunities and economic activity within the centre. The proposed use as a gym caters predominantly to the local area and is therefore considered to be appropriate for the Victoria Street Major Activity Centre.
55. The impact of the use on the demand for on-street car parking will be discussed later in this assessment. However given patrons are likely to be from nearby residential and commercial areas, the use is unlikely to noticeably impact the availability of on-street car parking. Given the nature of the use, it will not require frequent deliveries to the site and so will not compete with local business for access to on-street loading bays. For all of these reasons, the proposed use would not have an unreasonable impact on surrounding commercial uses as encouraged by the Commercial 2 Zone.
56. The proposal seeks approval for a maximum of 50 patrons at any one time with 24 hour access. Staffed hours are proposed between 6am-7am and 6:30pm and 8pm. The application package notes that members will have access to the gym by a member only key fob swipe. No further details have been provided as to how the maximum number of patrons will be managed. As discussed within the submitted acoustic report management strategies are also proposed to limit noise impacts (such as preventing patrons from dropping weights). Given that there will be no staff on site for much of the day/evening it is recommended that if a permit is granted, an operational management plan be submitted detailing how these aspects of the proposal will be enforced.
57. The Operational Management Plan should detail the following;
- (a) *How the maximum patron numbers will be monitored during unstaffed hours*
 - (b) *Details of security, safety measures/emergency contact when facility is unstaffed.*
 - (c) *How music levels will be maintained*
 - (d) *How doors and windows remain closed during evening/night time hours*
 - (e) *How patron behaviour will be managed (e.g prevention of dropping weights)*
- The management plan would ultimately be endorsed to form part of the permit, should a permit issue.
58. Given the patron numbers proposed (maximum of 50 at any one time), the location within a Major Activity Centre it is not considered that the proposed use would affect the amenity of adjacent, more sensitive uses in accordance with the Commercial 2 Zone decision guidelines.

Off-site amenity

59. State and local policies encourage the concentration of commercial uses within and around activity centres whilst providing adequate protection against off-site amenity impacts. Specifically, Clauses 13.05-1S (Noise abatement), 21.04-2 (Activity centres) and 22.05 (Interface Uses Policy) identify that noise and the interface between uses must be managed appropriately, particularly in a municipality such as Yarra where *almost all residents are within 400m of an activity centre... Abutting uses along the length of the strips are generally residential, creating interface conflicts where some uses are not well managed or inappropriate uses are permitted* (Clause 21.04-2). The proposed use is located within the Commercial 2 Zone with residential uses located 20m away on the southern side of Victoria Street. Therefore careful consideration of amenity impacts is warranted. The critical amenity consideration for this application is noise impacts. Waste impacts and light spill will also be discussed.
60. The application package submitted 19 November 2018 and subsequent letter (dated 22 January 2019) states the following with regards to noise:
- (a) Music will be limited to background level and comply with SEPP N-2
 - (b) no group classes would take place on site;
61. As part of the planning application, the applicant was required to submit an acoustic report produced by a suitable qualified consultant. A report by Acoustic Dynamics, dated 27 February 2019 was submitted to Council (refer to relevant attachment). The acoustic report identified the most sensitive noise receivers as being the dwellings at No. 408-428 Victoria Street (to the south), and dwellings at 609 Victoria Street to the east.
62. The submitted acoustic report assessed the following potential noise sources:
- (a) mechanical plant noise
 - (b) gym activity noise
 - (c) patron arrival and departure;
 - (d) car movements
63. The submitted acoustic report found that the proposed use would result in noise at an acceptable level for nearby dwellings subject to the inclusion of the following measures
- (a) *Ensuring the doors and roller doors of the proposed gym are kept closed at all times (other than when patrons enter and exit the premises);*
 - (b) *If operable windows are installed along the southern façade, they should be kept closed during night time hours 10:00pm to 7:00am;*
 - (c) *All doors on the external façade should have an appropriate acoustic seal installed around the door frame and door bottom;*
 - (d) *The erection of clear signage at all studio entries and exits advising patrons that they must not generate excessive noise when entering and leaving the premises;*
 - (e) *Staff monitoring the behaviour of patrons within the subject premises and as patrons egress to ensure noise emission of patrons is kept to a minimum when entering and leaving the premises;*
 - (f) *Restricting the use of low frequency speakers (sub-woofer) and ensuring any full range speakers are isolated from building services;*

- (g) *The noise level of background music within the gym should be kept to a level below LAmax 80 dB(A) at all times to enable speech intelligibility within the gym and to ensure patrons are not required to raise their voices while at the gym. Note is made that the maximum internal reverberant sound pressure level can be set to ensure the adjacent receivers are not adversely affected by the operation of the subject gym, following the sit-out of the premises and installation of the speaker system.*
 - (h) *The installation of impact sound absorbing flooring to reduce the regenerated noise and vibration throughout the building;*
 - (i) *The implementation of an appropriate management policy regarding the dropping of weights, including:*
 - (i) *Education of staff and all patrons instructing how to place weights without dropping;*
 - (ii) *Erection of clearly visible signage throughout the gym advising patrons they must not drop weights or allow weights to the drop on the floor, or use weights outside the designated weights areas;*
 - (iii) *Imposition of penalties (patron warnings, suspensions or lockout warnings on patrons identified dropping weights; and*
 - (j) *Instruct patrons and staff not to park along Victoria Street during night-time hours (10:00pm to 7:00am) to reduce the likelihood of sleep disturbance due to car doors closing.*
64. The acoustic report was peer reviewed by an independent acoustic engineer at the direction of Council Officers. The peer review found that the proposed use would be low risk from an acoustic perspective and that the submitted acoustic report had adequately addressed the potential noise impacts. The independent acoustic report recommended that if operable windows are installed to the façade that these are kept closed during evening and night periods or an updated acoustic report addressing a 'windows open' scenario is provided.
65. The applicant has since confirmed that all windows will be closed during the evening/night time hours as prescribed by SEPP N-1 periods. It is recommended that this form a condition of any permit granted. As previously discussed within paragraph 57, it is also recommended that the specifics as to how this will be managed be detailed within the requested Operational Management Plan.
66. Given findings of the peer review, it is recommended that the submitted acoustic report (including all operational recommendations/commitments) be endorsed to form part of the permit, should a permit issue. In light of the above considerations and subject to the inclusion of recommended conditions, it is considered that the proposal will not result in unreasonable noise impacts for nearby dwellings.
67. Further to the above, compliance with SEPP N-1 and N-2 noise requirements will be included as permit conditions, should a permit issue. This will ensure that the use complies with these provision at all times, thereby ensuring further noise protection for nearby residential uses.
68. With regards to waste, the proposed use is not anticipated to generate significant waste and therefore would be expected to utilise Council's waste collection services. Sufficient area appears to be available within the back of house area to store bins concealed from view. However to ensure this occurs, a condition of the permit will require the location of bin storage to be shown on the plans, concealed from the public realm. As such, a Waste Management Plan is not required for this application.
69. The proposal is unlikely to impact nearby residentially-zoned dwellings via light spill. The nearest dwellings are located 20m away and on the other side of a major arterial road (Victoria Street). Under the existing conditions the four lane road is illuminated by traffic and street lighting situated on both sides of the street.

While there are windows facing Victoria Street, it is not anticipated that there would be a sufficient increase in light spill from the proposed restricted recreation facility.

- 70. The proposal does not incorporate any new windows and there are no residential dwellings within 9m of the subject site under the existing circumstances. As such the proposed use would not result in any new overlooking opportunities, thereby in accordance with overlooking policy at Clause 22.05.

Signage

- 71. The application proposes to display a total of eight (8) signs along the Victoria Street and Duke Street frontages, as shown at figures 3 and 4 below.

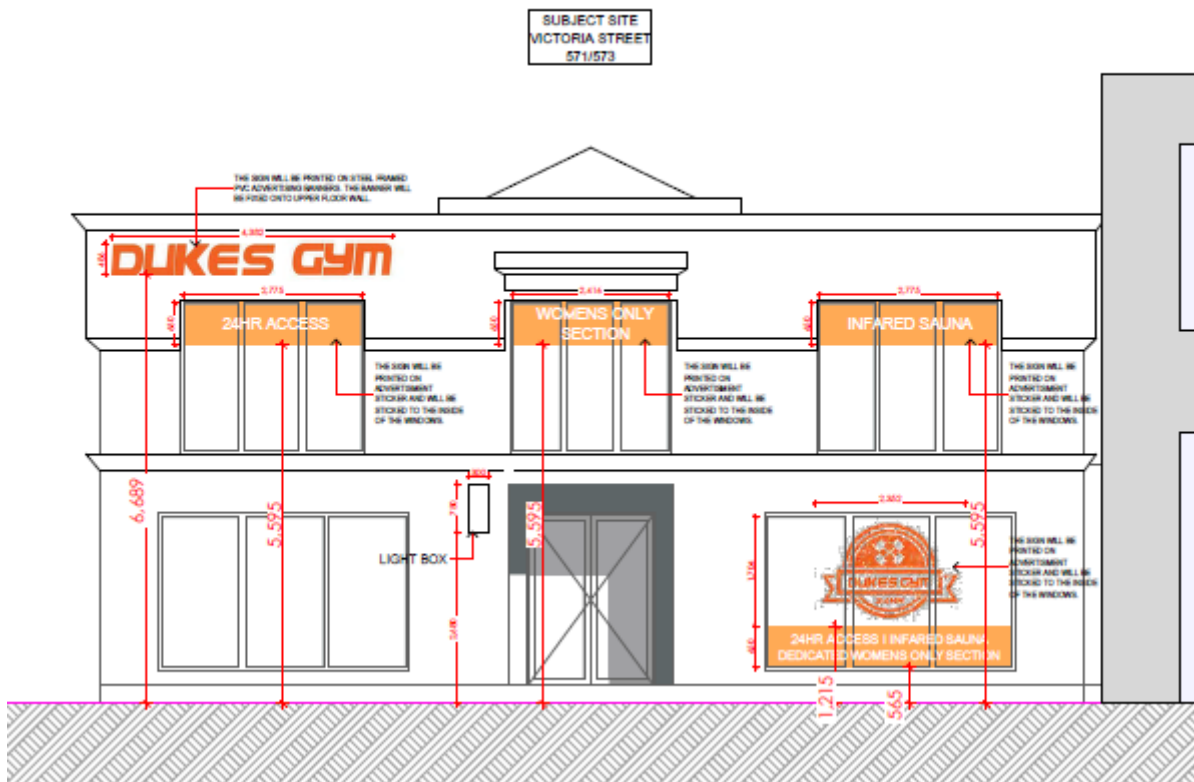


Figure 3: Proposed signage on the Victoria Street façade.

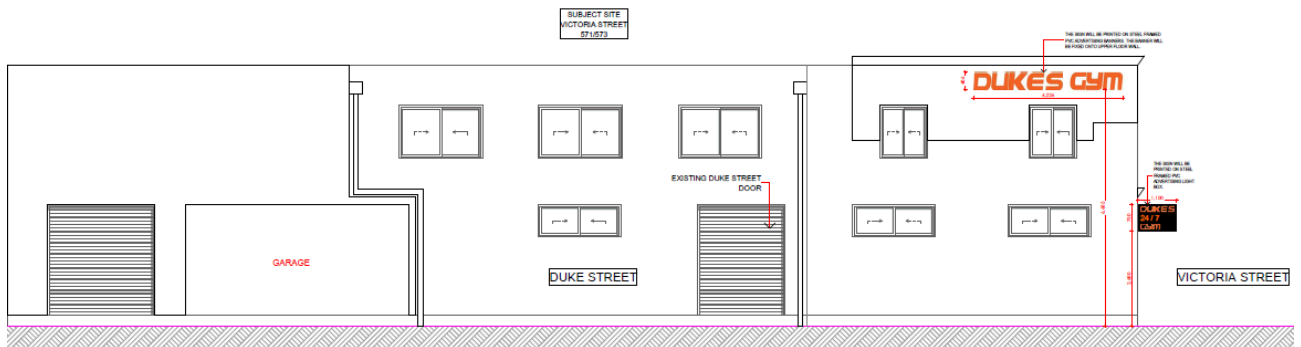


Figure 4: Proposed signage on the Duke Street façade

- 72. Clause 52.05-3 (Advertising Signs) and clause 22.04 (Advertising Signs Policy) of the Scheme provides the relevant decision guidelines for signage, and can be assessed under the following categories:

The character of the area

73. Business identification signage and illuminated signs are a common feature on commercial buildings within the immediate environs. In this sense, the proposed signs are considered an acceptable addition to the existing building and located in a reasonable location in front of the commercial premises fronting Victoria and Duke Streets. As such, it is considered that the proposed sign will be *compatible with the existing or desired future character of the area* which meets the objective of clause 52.05-3 of the Scheme.

Impacts on views and vistas

74. The proposed signs sit flush with the façade of the building with the exception of the illuminated sign, which is to be located relatively central to the building, and positioned at a height of 2.68m above ground level, perpendicular to the façade over Victoria Street. The sign will not *obscure any important views or vistas*; is relatively small in size and restrained in design, and is therefore consistent with the decision guidelines.

The relationship to the site and building

75. The proposed signage is appropriate in terms of its scale and form. The combined total area of the eight signs (16.5sqm) is considered proportionate to the building and appropriate in the commercial context. The signs whilst affixed to the existing windows will continue to allow for passive surveillance of the street. The proposed decals are located to the topmost portion of the first floor windows and only affect one of the two ground floor windows. The affected ground floor window will still allow for activation as the proposed decal does not cover the entire window.

The relationship to the streetscape, setting or landscape

76. The signage proposed is compatible with the existing streetscape. As previously stated signage and illuminated signage is common for commercial buildings in close proximity to the site. There is an existing illuminated lightbox sign associated with another 24 hour gym two sites down on Victoria Street. The number of signs proposed at 8 are clearly distinguishable signs serving different purposes and spread over two frontages. The design is simple and uniform, which is supportive of the objective specified at clause 52.05-3 of the Scheme; *“the ability to reduce the number of signs by rationalising or simplifying signs”*.

The impact of any illumination

77. The proposed illuminated signage is to be internally illuminated business identification lightbox sign. The sign is a total of 0.825sqm in area. The sign fronts Victoria Street, a busy arterial road containing a high volume of traffic and illumination through, street lights, traffic lights, passing traffic and existing illuminated signage. As such it is considered that within the context of the immediate area the proposed illuminated sign is considered acceptable and consistent with the decision guidelines of clause 52.05-3 of the Scheme.

Design and relationship of the sign(s) on the building/Opportunities and need for identification of the site.

78. The advertising signs identify the business and provide relevant information about facility. The design and function of the signage is reflective of the commercial business (24 hour gym) that operates on site.

Construction and Support

79. The proposed signage is to be applied to the existing building façade in various manners; the logo (signs 1 and 7) will be affixed flush to the façade. Signs 2,3,4,5 and 6 will be vinyl stickers adhered to the inside of the existing windows. Sign 8, the illuminated sign, will sit perpendicular to the façade projecting above the Victoria Street footpath. The sign will protrude 1.1m from the façade at a height of 2.68m above the footpath. Whilst the proposed height from the kerb is 20mm short of the 2.7m prescribed within Clause 22.04-3.4 this is not considered unreasonable given the minimal variation. Annotations confirming the distance from the kerb have not been included on the plans provided. The kerb however appears to be approximately 3m wide ensuring that the 750mm minimum clearance will be met. It is recommended that a condition of the permit require that this distance is annotated on the plans. Overall the proposed signage will not result in any adverse impacts on vehicular and pedestrian safety, pursuant to the requirements of clause 22.04-2 of the Scheme.

Car parking, traffic and bicycle facilities

Car parking

80. This section of the assessment will be guided by clause 52.06 of the Scheme. As outlined earlier, car parking for the proposed use must be provided to the satisfaction of the Responsible Authority.
81. The proposed use would provide one disabled car parking space on site. This is supported given the following:
- (a) the subject site enjoys excellent access to public transport, including:
 - (i) direct access to the route 109 and 12 tram service which connects the site to the CBD, Docklands, St Kilda and through to the eastern suburbs of Melbourne;
 - (ii) tram services along Church Street (450m south) which connect the site to the Richmond, South Yarra and Prahran;
 - (b) the provision of cycling infrastructure including dedicated bike lanes on Burnley Street which is a highly utilised north-south route for cyclists;
 - (c) the subject site's proximity to both the Victoria Street Major Activity Centre and the Victoria Garden Shopping centre will enable multi-purpose trips for patrons who arrive by private vehicle;
 - (d) residentially-zoned properties to the south are largely protected by parking permit restrictions, which would ensure that patrons arriving by private vehicle would not unduly affect these streets. Both Victoria and Duke Streets provide some 1 hour parking during the day, which are transient spaces that would provide for patrons arriving by private vehicle during the day;
 - (e) there is limited parking within the centre during daytime hours which would likely discourage people from driving. After hours parking would likely be freed up (when people are more likely to drive) given the surrounding commercial area to the north largely operates during the daytime hours only.
 - (f) the previous use - a restricted retail shop - did not provide for additional car parking on the land. The shortfall in the existing car parking provision (21 spaces) is considered transferrable to the subject application, and;
 - (g) Council's Engineering Unit raised no objection to car parking provision stating that "*the waiver of car spaces for the proposed gymnasium is considered appropriate in the context of the development and the surrounding area. The site can easily be reached by public transport services.*"
 - (h) In addition to the above, evidence of recent approvals of car parking provision associated with Restricted Recreation Facilities, as shown in the table below. The majority have zero provision of car parking, including for facilities with patron numbers similar to that of the subject application.

Development Site	Approved Parking
Fitzroy	
Gymnasium (24 hour) 224 Brunswick Street PLN14/0892 issued 14 January 2015	No on-site car parking (40 patrons)
Gymnasium (24 hour) 188 - 196 Gertrude Street PLN17/1070 issued 16 august 2018	No on-site car parking (30 patrons)
Collingwood	
Fitness Studio 157-159 Langridge Street PLN16/0019 issued 20 March 2017	1 on-site space (20 patrons)
Gymnasium (24 hour) 436 Smith St PLN17/0799 issued 07 February 2018	No on-site car parking (30 patrons)
Richmond	
Gymnasium 377-379 Bridge Road PLN17/0568 issued 12 October 2017	No on-site car parking (16 patrons)
Personal Training Studio Floor 1, 446 Church Street PLN14/0397 issued 8 August 2014	No on-site car parking (25 patrons)
Gymnasium 66-68 Blazey Street PLN16/0211 issued 28 June 2016	3 on-site spaces (50 patrons)
Gymnasium and Personal Training Studio 9-11 Rooney Street PLN15/0810 issued 5 March 2016	No on-site car parking (45 patrons)
Gymnasium (24 hour) 509-511 Bridge Road PLN14/0278 issued 15 September 2014	No on-site car parking (50 patrons)
Abbotsford	
Gymnasium (24 hour) 563 Victoria Street PLN16/0948 issued 3 February 2017	No on-site car parking (40 patrons)

82. The dimensions of the single disabled access space provided on-site has been reviewed by Council Traffic Engineers and deemed unsatisfactory as the depth to too short, stating; *“the depth of the on-site car space is considered too short for an accessible parking space or as a regular car space. A minimum depth of 5.4 metres is required to prevent the rear of a vehicle from overhanging the footpath. The depth of the car space must be increased to a minimum of 5.4 metres to satisfy AS/NZS 2890.6:2009 or AS/NZS 2890.1:2004”*. Given that the car parking area is an existing condition and no external works are proposed to the building as part of the proposal, it is considered unreasonable to require that the car space be modified to comply. As such it is recommended that a condition of any permit should require plans to remove reference to the disabled access space.
83. Given all of the above, the omission of on-site car parking is appropriate.

Traffic

84. The traffic volumes associated with the proposal are also unlikely to result in any significant impact to traffic flows given the capacity of the gym is limited to 50 people at any one time. Also for the reasons outlined in the car parking assessment, it is expected that many of the members would already be in the area, or travel to the site by foot or bike.
85. Given that no classes are proposed it is also acknowledged that patrons would likely arrive and leave intermittently rather than in large groups.
86. In addition to support for the proposal offered by Council's Traffic Engineering Unit, it is noted that State policies found at Clause 18 (Transport) encourages the clustering of trip generators in and around activity centres in order to encourage the use of sustainable transport modes. Further, clause 21.06 of the Scheme outlines objectives to promote walking, cycling and public transport use in order to reduce car dependency.

Bicycle facilities

87. Whilst the decision plans show an area set aside internally for bicycle parking the number of spaces is not noted on the plans. The application package confirms that six (6) spaces are proposed. As such a permit condition is recommended for the number of bicycle spaces to be annotated on the plans, should a permit issue.

Objector Concerns

88. The following objector concerns have been addressed within this report:
 - (a) *Amenity impacts from noise and vibrations associated with the use* – paragraphs 59-70;
 - (b) *Car parking and traffic impacts* – paragraphs 80-86.
89. Outstanding issues raised are as follows:

Oversupply of gyms

90. The presence of other existing gym uses nearby is not a relevant planning consideration when determining the appropriateness of the proposed use.

Conclusion

91. The proposal is considered to be acceptable having regard to the relevant State and Local Policies, the Commercial 2 Zone and relevant signage policy outlined in the above assessment and should therefore, be approved, subject to conditions.

RECOMMENDATION

That having considered all relevant planning controls and policies, it is recommended that a Notice of Decision to Grant a Planning Permit (PLN18/0873) be issued for use of the land for a Restricted Recreation Facility (Gymnasium) and the display of business signage at 571 – 573 Victoria Street, Abbotsford, generally in accordance with the decision plans and subject to the following conditions:

1. Before the use commences or signage is displayed, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:
 - (a) Deletion of reference to the disabled parking spot;
 - (b) An annotation confirming 6 bicycles spaces will be located within the internal bicycle storage area;
 - (c) The bin storage location concealed from the public realm;

- (d) An annotation confirming a minimum 750mm distance of the internally illuminated sign to the edge of the kerb.
2. The use, and the location and details of signage as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
4. Prior to the commencement of the use, an Operational Management Plan must be submitted to and approved to the satisfaction of the Responsible Authority. Once approved, the management plan must not be altered without the prior written consent of the responsible authority. The Management Plan must show:
 - (a) How the maximum patron numbers will be monitored during unstaffed hours
 - (b) Details of security, safety measures/emergency contact when the facility is unstaffed.
 - (c) How music levels will be maintained
 - (d) How doors and windows remain closed during evening/night time hours
 - (e) How patron behaviour will be managed (e.g. prevention of dropping weights)
5. The provisions, recommendations and requirements of the endorsed Operational Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Use conditions (6 -15)

6. A maximum of 50 patrons are permitted on the land at any one time.
7. Except with the prior written consent of the Responsible Authority, a maximum of 2 staff are permitted on the land at any one time.
8. Except with the prior written consent of the Responsible Authority, no group classes are to be held on site.
9. All windows to be closed during the evening/night time periods
10. The provision of music on the land must be at a background noise level.
11. Speakers external to the building must not be erected or used.
12. The amenity of the area must not be detrimentally affected by the use, including through:
13. the transport of materials, goods or commodities to or from land;
 - (a) the appearance of any buildings, works or materials;
 - (b) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (c) the presence of vermin.to the satisfaction of the Responsible Authority.
14. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
15. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

Signage Conditions (16-19)

16. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.

17. The signs must not be illuminated by external or internal light unless otherwise shown.
18. The signs must not include any flashing or intermittent light.
19. The signage component of this permit expires 15 years from the date of the permit.

Permit Expiry

20. This permit will expire if:
 - (a) the use is not commenced within two years of the date of this permit;
 - (b) the signs are not erected within two years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

NOTES

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5585 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

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Attachments

- 1 PLN18 0873 - 571 - 573 Victoria Street Abbotsford - S52 Advertising Plans
- 2 PLN18/0873 - 571 - 573 Victoria Street Abbotsford - Advertising Town Planning Report
- 3 PLN18/0873 - 571 - 573 Victoria Street Abbotsford - Advertising Traffic Assessment Report
- 4 PLN18/0873 - 571 - 573 Victoria Street Abbotsford - Engineering comments
- 5 PLN18/0873 - 571 - 573 Victoria Street Abbotsford - Supplied Acoustic Report
- 6 PLN18/0873 - 571 - 573 Victoria Street Abbotsford - SLR Report