

Summary of Submissions:

The tables below summarise the comments received during the advertising period of the proposal, together with the Administration's response to each comment.

Comments Received in Support:	Administration Comment:
<ul style="list-style-type: none">• Support for the amended operating times. The range in operating times proposed allows for greater flexibility/work life balance for the surrounding residents nearby and members from other areas. The proposal to allow members to train at 5:30am before works is crucial as some residents cannot go to the gym after work;• The gym will lose a number of members if they cannot train at 5:30am;• The midday classes allow office workers a break during the day and a stress relief;• The gym is part of the community and is a social hub and support network for many people providing them with a way to be healthy and fit, both mentally and physically;• The gym has actively been reducing the noise impacts to the surrounding properties including providing thick rubber mats to prevent barbells from making noise when they are dropped and playing no/soft music in the mornings;• Since complaints were received, the coaches and members have been very considerate of noise levels by following the noise management plan to ensure neighbouring residents are not impacted. Members would continue to do this to ensure the gym can still operate;• The gym is located in appropriately zoned commercial strip on a major arterial road, being exactly the kind of location the City should be encouraging for this kind of use. Fitzgerald Street is not a residential area and shouldn't be treated like one - this is a great thriving business that the community should support and prioritise;• Local cafes and businesses benefit from the gym especially on the weekends due to the social aspect of the gym;• The gym is a specialist training centre not seen anywhere else in the surrounding area;• Given that there is a 24 hour service station just two doors down and a yoga studio across the road starting classes at 5:45am and their last class finishes at 9:00pm, the requested variation is consistent with other local businesses nearby;• Never had issues with parking around the gym. Parking near Hyde Park provides additional parking when there is none at the gym. The gym is very conveniently placed with plenty of places to park for free;• Most members walk, cycle or use public transport as they live close or they come from work in the City;	<p>Comments received in support are noted by Administration.</p>

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<ul style="list-style-type: none"> • Small businesses in the area benefit from the gym (restaurants, cafes, shops, service stations tec). In the post COVID times we must support small businesses where we have the power to do so. Being seen to be doing otherwise is harmful and damaging; • The use is supported by surrounding businesses including Munro's and Circles which frequent the gym; and • Would prefer there not be a 15-minute gap between classes as it would prevent the members from socialising between classes. Members have a bit of chat / catch-up with the people in the previous class. Having the classes directly flow on from each other allows more socialisation and makes the gym more of a community. 	
Comments Received in Objection:	Administration Comment:
<ul style="list-style-type: none"> • Concerns in relation to excessive noise and vibration as a result of weights being dropped and the impact on adjoining properties; • Neighbours have attempted to resolve previous noise complaints with no assistance from the gym owners; • Noise issues have been ongoing since 2014; • A number of tenants at adjoining properties have been lost over the years as a result of the noise and vibration emanating from the gym. This results in loss of rent due to the need to terminate leases; • The Noise Management Plan suggests that 40mm mats are suitable to contain the noise and vibration of heavy weights being dropped from shoulder height and 2 x 40mm mats is suitable to absorb the impact from above head height. The impact of this proposed solution needs to be proven with a controlled demonstration, witnessed by the City in each of the adjoining properties that have expressed concern before the Management Plan should be agreed; • The applicant's submission in relation to the Local Planning Strategy Objectives is misleading in a number of ways. <ul style="list-style-type: none"> - The decision not to alter the existing building has had a detrimental impact on the noise and vibration abatement for the current use and this has been evidenced by ongoing complaints to the current and previous owner / operator of the business. This is not a plus- it is just evidence of the operator avoiding making appropriate modifications to suit the intended occupancy; - The Objectives highlight that the business should be self-contained, which it is not. The business frequently instructs its clients to run laps around Fitzgerald & Eden Streets which has an impact on the local amenity and a sense of the locality being dominated by this one business; 	<p>Following the community consultation period the Applicant submitted an amended Noise Management Plan to address concerns raised by the community consultation submissions as well as the City's concerns.</p> <p>The proposed Noise Management Plan is included in Attachment 3 and proposes the following measures:</p> <ul style="list-style-type: none"> • The use of rubber mats when certain weights may be dropped. The use of mats are for movements where there is a possibility that barbells may be dropped. Administration staff have attended the site and confirmed the use of these mats; • Requirements for barbells and weights to be under control. The noise management plan states the only time weights will be dropped is when a person cannot safety control the weight; • Implementation of volume control levels for different times of the day; • Noise mitigation measures for amplified music, voice levels and the opening of roller door for different parts of the day; • Contact details of the Gym owner provided to all surrounding properties to assist in quick response to noise matters; and • If patrons run on public roads, they are reminded to keep voice levels down. <p>In addition to the Noise Management Plan measures proposed, the use would still be required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> at all times.</p> <p>Administration consider the proposed noise management strategies will go some way to mitigating the impact of activities from the Gym, so long as the</p>

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Comments Received in Objection:	Administration Comment:
<ul style="list-style-type: none"> - The health benefits of gym attendance are not disputed, but the health impact of the constant noise and vibration issues from this business should also be acknowledged as they are detrimental to the health and wellbeing of the surrounding occupants and/or land owners; - The fact that there have been consistent noise complaints from all adjoining occupiers - including across the road on Eden Street – over many years, indicates that despite being located adjacent to one of the busiest roads in the locality, the business has been incapable of operating without causing significant stress and concern to its neighbours; • Point 5 on Page 8 of the applicant's noise submission is refuted. It is entirely theoretical. It ignores the reality that the conduct of the patrons of this business is encouraged by the owner and their coaches and they have not been prepared to appropriately invest in noise and vibration mitigation measures to deal with it. This is not about "some level of noise in a commercial locality" - this is about the frequent throwing of heavy weights from above head height onto an inadequate flooring system that is causing vibration and noise to be heard and felt by occupants two properties away; • The Gyms roller door opens out to Eden Street is open all day during summer or when it is hot & at other times due to more than 15 people in the gym. The yelling of trainers above extremely loud music along with the dropping of weights can be heard from residential properties across the laneway; • Construction work noise is not allowed to start before 7am -5pm & 8am on Saturdays. Why should a gym be any different; and • The instructors train patrols up and down the rear laneway, creating noise and safety issues for other road users. 	<p>Gym rules are administered and any breaches of those rules are investigated and the Noise Management Plan updated.</p> <p>The Applicant proposes to provide the Noise Management Plan to all coaches surrounding property owners as well as the City. The Noise Management Plan provides a commitment for the applicant to comply with what has been written within the Plan and would be a daily tool which to be used to manage the Gym.</p> <p>Administration recommends a condition of development approval requiring an amended Noise Management Plan to be submitted to the satisfaction of the City outlining measures that will be implemented to address any breaches to the Plan's requirements and the compliance measures that will be undertaken where breaches of these requirements are identified. This requirement would assist to minimise the impact of noise on surrounding residents and tenancies.</p> <p>In response to concerns received relating to lack of technical input on the noise management measures, Administration has recommended a condition of approval requiring a technical review to be undertaken by an acoustic consultant that demonstrates that the noise management strategies set out in the Noise Management Plan are effective at mitigating the impact of noise and achieves compliance with the assigned levels of the <i>Environmental Protection (Noise) Regulations 1997</i>. This would provide assurance to both the City and neighbouring properties that the measures implemented by the Noise Management Plan would be effective in mitigating the impact of noise.</p> <p>Nevertheless, the use would still be required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> at all times, irrespective of any conditions imposed on the development application. This safeguards the requirement to comply with the assigned levels at all times.</p> <p>A condition of development approval is also recommended that requires a review of the Noise Management Plan within six months and 12 months to ensure that if there are any matters to be addressed, the Plan could be updated.</p> <p>Administration does not consider the use of the gym to be comparable to construction work noise. Construction sites can generate significantly more noise given they are open air and involve the use of power tools.</p>

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	<p>Running on the laneway is considered acceptable by the City if noise levels are kept down. This is would be similar to the public using pathways for running and cycling.</p> <p>There is no evidence to suggest that vacant tenancies within the area are as a result of the gym use. Loss of income is also not a relevant planning consideration. Furthermore, the City does not have any planning policies that restrict operating hours for gyms. The <i>Environmental Protection (Noise) Regulations 1997</i> also do not restrict construction work.</p>
<p><u>Patron Numbers</u></p> <p>The premises is not large enough to take the proposed additional 5 patrons and 5 trainers.</p>	<p>In terms of car parking, the development does not result in a further shortfall to the previously approved parking shortfall as a result from the increase in client numbers. After seven years of operation, the Gym has demonstrated that the parking for the use does not have a detrimental impact on traffic or parking for residents or business in the area. The City has not received any complaints relating to car parking since the use commenced operation.</p> <p>Public Building requirements also do not prohibit the occupancy numbers proposed.</p>

Note: Submissions are considered and assessed by issue rather than by individual submitter.