



PLANNING COMMITTEE MEETING

AGENDA

WEDNESDAY 8 NOVEMBER 2017

AT 4PM

COPACC

COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

NOTICE is hereby given that the next *PLANNING COMMITTEE MEETING OF THE COLAC OTWAY SHIRE COUNCIL* will be held in COPACC on 8 November 2017 at 4pm.

AGENDA

1. I DECLARE THIS MEETING OPEN

OPENING PRAYER

Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.

AMEN

2. PRESENT

3. APOLOGIES

4. MAYORAL STATEMENT

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendants here today.

Colac Otway Shire encourages community input and participation in Council decisions.

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings.

Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy.

In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting.

5. DECLARATION OF INTEREST

6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

The Mayor is to read out the names of those applicants and objectors who have confirmed in writing that they wish to make a verbal submission. These verbal submissions will be made in relation to each respective agenda item and must be directly relevant to the respective agenda item. A time limit of five minutes will apply.

7. CONFIRMATION OF MINUTES

- **Planning Committee held on 12 July 2017.**

Recommendation

That the Planning Committee confirm the above minutes.

PLANNING COMMITTEE

USE OF THE LAND FOR A GYM 31-33 MURRAY STREET COLAC (PP185/2017-1)

PC170811-1

ADDRESS AND PROPERTY DETAILS	31-33 Murray Street COLAC	GENERAL MANAGER	Gareth Smith
PREPARED BY	Francis Wong	TRIM FILE	F17/8303
DIVISION	Development & Community Services	CONFIDENTIAL	No
PERMIT TRIGGERS	Commercial 1 Zone (Use); Heritage Overlay (Signage); Clause 52.05 (Advertising Signs)		
TRIGGER FOR DETERMINATION BY COMMITTEE	More than 3 objections (29)		
APPLICATION NUMBER	PP185/2017-1		
PROPOSAL	Use of the Land for a Restricted Recreation Facility (Gym) and Display of Business Identification Signage		
ZONE	Commercial 1 Zone	OVERLAYS	Heritage Overlay (HO305 – Murray Street Precinct, Colac); Design and Development Overlay Schedule 8 (DDO8 – Colac CBD); Parking Overlay Schedule 1 (PO1 – Colac Commercial Centre).
COVENANTS	Nil		
LIST OF ATTACHMENTS	1. Plans		
CULTURAL HERITAGE	Nil		

1. LOCATION PLAN / AERIAL PHOTO

AERIAL PHOTO



2. EXECUTIVE SUMMARY

A planning permit is sought to use the premises as a 24 hour, seven day a week Snap Fitness gym (which comes under the State-wide definition of 'Restricted Recreation Facility' in the Colac Otway Planning Scheme) and for the display of three business identification signs. The proposed gym would be staffed by a manager between 10.00am and 7.00pm on Monday to Thursday, and between 9.00am and 1.00pm on Friday to Saturday, with two personal trainers (contractors) available for bookings generally outside the normal staffed hours. It is anticipated that the proposed gym would have a maximum of 50 patrons at any one time.

The site is located on the north side of Murray Street, with surrounding properties generally consisting of restaurants, retail shops and offices. Most of the premises along Murray Street have multiple signs (above/on/below the front verandah, on the front windows, and facing the rear laneway), direct access from the public footpath and rear laneway access. Most of these premises historically have no onsite car parking.

A total of twenty-nine (29) objections to the proposal were received, with the key issues being the lack of onsite car parking, financial impacts on other gyms in Colac, and the potential for detrimental impacts on Council's Bluewater Leisure Centre facility.

The key planning consideration relates to the car parking implications of the proposal and the potential for any amenity impacts from the use. Given that the premise has historically been used for commercial uses and most recently as a 'Tavern' (Straight Shooters), it is considered that the car parking credit from the previous use could be applied to the proposed gym.

It is not considered that the nature of the use, which is common in commercial strips, would cause any material amenity impacts to other properties or the area generally. The financial impact on other gyms (including Council's Bluewater Leisure Centre facility), which has been raised by objectors, is not a material planning consideration. Planning guidance and case law make it clear that commercial competition is not a material planning consideration. Therefore, it is considered that a Notice of Decision to Grant a Permit could reasonably be issued for the proposed gym, subject to the conditions in the recommendation below being included on any permit issued.

3. RECOMMENDATION

That Council resolves to issue a Notice of Decision to Grant a Permit for the use of the land for a Restricted Recreation Facility (Gym) and Display of Business Identification Signage at 31-33 Murray Street, Colac (Lot 1 TP131164, V/F: 9073/177) subject to the following conditions:

Endorsed plans

- 1. The use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 2. The location and details of the signage and any supporting structures, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.***

Limit on number of persons

- 3. No more than 50 patrons may be present on the premises at any one time unless otherwise approved in writing by the Responsible Authority.***

Amenity

- 4. The use must be managed so that the amenity of the area is not detrimentally affected through the:***
 - (a) Transport of materials, goods or commodities to or from the land;***
 - (b) Appearance of any building, works or materials; and***
 - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.***
- 5. Any signage lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land and/or adjacent roads/streets.***
- 6. Noise levels emanating from the premises must not exceed noise levels determined using Noise from Industry in Regional Victoria (EPA publication 1411), October, 2011.***
- 7. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.***

8. *All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and must be connected to a security service.*

Expiry

9. *The use will expire if one of the following circumstances applies:*

- (a) *The use has not commenced within two years of the date of this permit.*
- (b) *The use is discontinued for a period of two years.*

In accordance with section 69 of the Planning and Environment Act 1987, an application may be made to the Responsible Authority to extend the periods referred to in this condition.

10. *The signage element of this permit will expire if:*

- (a) *The signage is not completed within two years of the date of this permit.*

In accordance with section 69 of the Planning and Environment Act 1987, an application may be made to the Responsible Authority to extend the periods referred to in this condition.

Note

- 1) *This permit does not authorise any building works. Prior to the commencement of the use of the premises as a gym, it will be necessary to apply for and obtain building approval for the proposed use.*

4. OPTIONS

Council has the options of:

- a) Granting a planning permit (via a Notice of Decision) subject to the recommended conditions;
- b) Granting a planning permit (via Notice of Decision) subject to the recommended conditions with changes;
- c) Refusing to grant a permit on specified planning grounds.

It is considered that the proposed use of the premises for a gym and the display of business identification signage are acceptable. It is recommended that Option a) is supported for the reasons outlined in this report.

5. RELEVANT BACKGROUND

The following outlines the planning history of the site relevant to the consideration of the current proposal:

PP246/2004-1 – *Use and development of the land as a Tavern, a Place of Assembly for amusement machines, and to sell and consume liquor under an On-Premises Licence together with a waiver of car parking.* Planning permit issued 5 January 2006.

This permit included the following conditions pertaining to trading hours:

- *Patrons under the age of 18 years will only be admitted to the premises between the commencement of trading each day and 6.00pm.*
- *During the hours from the commencement of trading each day and 6.00pm (“the Alcohol free Hours”):*
 - *No alcohol will be sold or displayed,*
 - *The bar of the premises will be enclosed with locked screens, and*
 - *Any areas used for the storage of alcohol will be securely locked.*
- *The business will be closed for business between 6.00pm and 7.00pm on any trading day.*
- *After the hour of 7.00pm no underage patron will be admitted to the premises for any reason.*
- *The hours of trading must only be:*
 - *Between 9.00am and 11pm Sunday to Thursday both inclusive, and*
 - *Between 9.00am and 1.00am the following day on Friday and Saturday.*

This permit allowed use of the premises as an entertainment centre (coin-operated video machines, pool tables, etc.) during the day and as a tavern during the evening, with the liquor licence only coming into effect during the evening hours when the tavern was trading. Whilst the application mentioned an expected maximum of 50 patrons at any one time, the permit did not contain a condition that placed a limit on the maximum number of patrons at any one time. An Occupancy Permit issued in June 2008 allowed a maximum of 250 patrons.

PP113/2012-1 – *Use of land as a Tavern.* Planning permit issued 08/08/12.

The reason this permit was required is because the ‘Tavern’ use allowed under PP246/2004-1 did not start operating before the permit expiry date, as a Liquor Licence had not been issued. Therefore, the ‘Tavern’ use had expired and a new permit needed to be obtained. This permit allowed the Tavern to trade between 7pm and 11pm Sunday to Thursday inclusive, and between 7pm and 1am the following day on Fridays and Saturdays. Condition 3 of the permit allowed 299 patrons at the Tavern, stating:

“The number of patrons attending the ‘Tavern’ at any one time must not exceed 299 unless with the written consent of the Responsible Authority”.

The Renewable Limited Liquor Licence did not place a limit on the maximum number of patrons at any one time.

6. PROPOSAL

The application seeks a planning permit to use the building as a 24 hour, seven day per week Snap Fitness gym (Restricted Recreation Facility) and to display three business identification signs. The proposed gym would have a small reception area at the front of the building and would be staffed between 10.00am and 7.00pm from Monday to Thursday, and between 9.00am and 1.00pm on Fridays and Saturdays. Staff would consist of 1 club manager and up to 2 personal trainers who would be contractors. The applicant has advised that it is expected that normal peak time attendance would be 30-40 members, with a maximum of 50 members at any time. The peak times are expected to be 5.00pm – 7.00pm daily, except Fridays and Saturdays where reduced numbers are typically observed at gyms at this time (the Snap Fitness franchisee also owns the South Yarra branch, and has based the estimated patron numbers and peak times on that facility).

There would be some toilets towards the rear of the building, with the rest of the building being one large open area occupied by gym equipment. No extensions to the building are proposed.

The proposed business identification signage would consist of the following:

- Replacing the existing under-awning double-sided light box with the Snap Fitness logo.
 - 1.7m x 0.3m = 0.51sqm
- Relocating the existing above-canopy light box to the rear façade above the rear entrance.
 - 3.5m x 0.9m = 3.15sqm
- Displaying a new fabricated illuminated logo sign above the canopy in the same position as the existing above-canopy light box.
 - 4m x 1.5m = 6sqm

7. SUBJECT LAND & SURROUNDINGS

The lot has an area of approximately 580 square metres and is located within the Colac CBD, with a frontage of 12.5 metres to Murray Street on the south boundary. The subject lot has an existing loading bay area that is accessible via Regent Place on the north boundary.

The site was most recently issued a planning permit (PP113/2012-1) for use as a Tavern and was occupied by 'Straight Shooters'. The building is currently vacant.

Surrounding land is predominantly used for commercial purposes. Apart from a couple of residences to the rear of the strip of commercial properties fronting Murry Street, there are no dwellings in the vicinity of the site. The nearest dwellings are approximately 85 metres to the north, with the closest residential zone over 130m to the north. Memorial Square is located approximately 60 metres to the west.

8. PLANNING SCHEME PROVISIONS

State Planning Policy Framework

The State Planning Policy Framework (SPPF) seeks to ensure that the objectives of Planning in Victoria are fostered through appropriate land use and development policies. The policies considered relevant to the application are identified below:

Clause 11.00 Settlement

- Clause 11.03-1 - Activity Centre Network
- Clause 11.03-2 - Activity Centre Planning

Clause 11.07 Regional Victoria

- Clause 11.07-1 - Regional Planning

Clause 11.09 Geelong (G21)

- Clause 11.09-3 - Connected Communities
- Clause 11.09-6 - Sustainable Communities
- Clause 11.09-7 - A Diversified Economy

Clause 15 Built Environment and Heritage

- Clause 15.01-5 - Cultural Identity and Neighbourhood Character
- Clause 15.01-6 - Healthy Neighbourhoods
- Clause 15.03-1 - Heritage Conservation

Clause 17 Economic Development

- Clause 17.01-1 - Business

Local Policy Planning Framework, including the Municipal Strategic Statement

The Local Planning Policy Framework (LPPF) sets a local and regional strategic policy context for the Shire. The policies considered relevant to the application are identified below:

- Clause 21.02-2 - Land Use Vision
- Clause 21.03 - Settlement
- Clause 21.03-1 - General
- Clause 21.03-2 - Colac
- Clause 22.01 - Heritage Places and Areas
- Clause 22.01-9 - HO305 - Murray Street Precinct, Colac

Other relevant provisions

Zones and Overlays

The subject site is within the Commercial 1 Zone (C1Z) and is covered by a Heritage Overlay (HO305 – Murray Street Precinct, Colac), a Design and Development Overlay (DDO8 – Colac CBD), and a Parking Overlay 1 (PO1 – Colac Commercial Centre).

Clause 52.25 - Advertising Signs

The purposes of this particular provision are:

- *To regulate the display of signs and associated structures.*
- *To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.*

Relevant Planning Scheme amendments

There are no current planning scheme amendments relevant to the proposal.

9. OFFICER'S ASSESSMENT

Assessment

A permit is required to use the premises as a gym and also for the proposed signage. The key considerations in this case relate to the potential car parking implications of the proposed use and whether there would be any material impacts on the character and amenity of the area.

Use

It is considered that the proposed location of the gym in the Commercial 1 Zone would be acceptable in principle, with such a use commonly found within commercial centres and shopping strips. Gyms have the potential to contribute positively to existing areas containing mixed uses such as retail, office, business, entertainment and community uses, bringing additional activity and customers to these areas. It is considered that gyms have the potential to create synergies with surrounding businesses, e.g. as a destination for nearby office workers before/after work or during their lunch break, and for some retail outlets (e.g. sports apparel, accessories, etc.) and restaurants/cafes (for food and drink). Gyms also have the potential to reinforce the positive social influence of a more active and healthy community.

It is not considered that the proposed gym would cause any material detriment in terms of noise levels, hours of operation or light spill. This is due to its location on Murray Street, away from most sensitive uses, with only a couple of residences within this strip towards the rear of the commercial premises fronting Murray Street. Apart from these residences, the nearest dwellings (residences on the north side of Dennis Street, which are also within the Commercial 1 Zone) are located approximately 85 metres to the north. The nearest residentially zoned land is over 130m from the subject premises, further to the north. There is public open space (Memorial Square) located approximately 60 metres to the west. In addition to the distance of the premises from residentially zoned land, it will be noted that the recommendation earlier in this report also contains conditions to control any potential sources of disturbance.

It is an established planning principle that the amenity expectations of residential properties must have regard to a site's policy and zoning context, and must be tempered if a residence is located outside residentially zoned land. A key purpose of the Commercial 1 Zone is to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. Whilst residential uses can exist in this zone and can be of particular value, for example, in utilising the upper floors of existing buildings, the level of amenity that a resident can expect will not be the same as within a residential zone. It is considered that the proposed gym use would cause less potential detriment to the amenity of any nearby residences than the previous tavern use.

Whilst the use would operate 24 hours a day, it is unlikely that patronage would be significant in night time hours. The BP service station on Murray Street to the east of the site operates similar hours at night, and there is night time traffic in Murray Street associated with its role as part of the Princes Highway, minimising any potential disturbance to existing amenity which might arise from night time patronage of the facility.

It is therefore considered that the main potential issue in this case is the lack of onsite parking and the resultant reliance on on-street parking. It is noted that this has historically been the case for previous commercial uses in the premises and would also be the case for any other use occupying the building in the future.

Car parking (Clause 52.06)

There is no set parking standard for a 'Restricted Recreation Facility' specified in Clause 52.06. Therefore, pursuant to Clause 52.06-6:

"Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority".

Clause 52.06-3 states, inter alia, that:

*A permit is not required (for parking, or to reduce or waive parking requirements) if:
.....the number of car parking spaces currently provided in connection with the existing use is not reduced after the new use commences.*

In assessing the parking implications of the proposed gym, it is necessary to have regard to the history of the site and to any parking credits which may apply to the premises. As noted earlier in this report, the most recent use of the premises, which has a leasable floor area of 628.75sqm, was as a Tavern ('Straight Shooters') and a Place of Assembly. The permit that allowed these uses also waived the associated parking requirements.

The applicant has advised as follows, in relation to the provision of parking:

"For the purposes of applying a relevant rate, the applicant proposes that the permit, if issued, includes a condition that a maximum of 50 members be on the premises at any time plus staff.....

The previous planning permit for the 'tavern' and 'place of assembly' granted a waiver of parking for a non-specified number of spaces. The minutes from the Council meeting (22 September 2004) suggested the required number of spaces for the former use were:

- *0.3 spaces to each seat or 0.3 spaces to each metre² of floor area, whichever is the greater (place of assembly) requiring 16 (or 165) spaces. The report's author observed the large discrepancy between these figures and noted the 16 spaces would be a more appropriate figure for provision.*
- *The observed credit for the former shop was 8 spaces to each 100m² of leasable floor area, or 48 spaces.*

Since the time of that decision, Colac Otway Shire has undertaken the Colac Parking Strategy which resulted in the application of the Parking Overlay – Schedule 1 to the commercial area of Colac in 2013.....

Having regard to the parking strategy, the intention is that there is less of an onus on the commercial premises to provide on-site parking where historically none is available, having regard to the intended use of the premises and opportunities for shared parking.

In this instance, we consider that there is sufficient on-street parking to accommodate the use which is likely to be more intensively visited before 9am and after 5pm, outside periods of stronger parking demand. There is potential on Friday & Saturday evenings for some competition for parking spaces coinciding with busy times of the existing restaurants, bar and RSL, however gym attendance is generally less on these evenings as members pursue other entertainment options.”

The applicant included a plan showing existing on-street parking as part of the application and noted:

“...There are 68 spaces available, 2 of which are disabled, and all of which have limited 1 hour or 2 hour parking between 8.30-5.30pm Mon-Fri and 8.30am-1.00pm Saturday. Gym visits are generally less than 1 hours duration and consistent with current restrictions.”

In terms of assessing the parking requirement for the premises, it is noted that if the current parking requirement was applied to ‘Straight Shooters’, i.e. the parking rate for a tavern specified in the planning scheme, as modified by the Parking Overlay (PO1), of 3.5 car spaces to each 100sqm of leasable floor area, the current car parking requirement for a Tavern at the site would be 22 car spaces $[(629 \div 100) \times 3.5 = 22]$, which would give the subject site a car parking credit of 22 car spaces for any proposed use of the premises (compared to the 48 spaces for a shop, or the 16 or 165 spaces for a place of assembly noted earlier in this report).

The application was referred internally to Council’s Infrastructure Department for comment about the proposed reliance on on-street parking. That department raised no objection to the proposal noting:

“In regards to the parking for PP185/2017-1 at 31 Murray Street if we take into account the parking for all businesses in the area (restaurants, takeaway, RSL etc.) it would be more than likely that there are not enough carparks and it has been like this for a long time. Also, this included patrons for Shooters using the carparks at peak time (5pm to 12pm) for long time limits. Assuming the gym will have the same amount of patrons as what Shooters had (limited by fire rating) at peak time and considering that the patrons for the gym will use the carparks for only a limited time we believe that the parking will improve in the area. On this basis we approve the parking analysis for the gym and a planning permit can be issued based on parking.”

As noted earlier, ‘Straight Shooters’ had an Occupancy permit for a maximum of 250 patrons, significantly in excess of the maximum of 50 members (+ staff) proposed in the current application. Given the historic uses of the site, including their reliance on on-street parking, and the proposed limit on the numbers of members that would be present at the gym at any one time, on balance it is considered that it would be difficult to substantiate a reason for refusal of the current application based on parking grounds. Any commercial use that occupies this premise would be faced with the same situation regarding parking and would have to rely on on-street parking in the area. This is similar to other premises in the vicinity of the site, which would face the same issue if their use changed or they wished to extend their premises.

Whilst there are a number of restaurants in the immediate vicinity, it is unlikely the proposed gym would be in peak demand on Friday and Saturday evenings when restaurant demand would be highest, thereby avoiding a conflict of highest parking demand for these uses. In any case, demand for parking associated with retail uses in the area would be relatively low during peak use of the gym.

It is noted that the applicant plan of on-street parking in the area (of 68 spaces) only referred to parking in Murray Street (between Hesse Street and Queen Street) and Hesse Street itself (between Murray Street and Dennis Street). In practice, a far wider range of on-street parking in surrounding streets would be available for patrons of the premises to use (further west along Murray Street or south along Hesse Street for example). A distance of 400m is often used as a benchmark in planning as representing a walkable catchment to a proposed use.

Whilst Council does not have any specific recent parking surveys of the area to inform its assessment of the application, this does not adversely affect the analysis undertaken of the potential parking impacts which is based on an understanding of the nature of uses in the area and times of peak use of the proposed gym relative to other uses.

Signage

There are permit triggers for the proposed signage under clause 52.06 (Advertising Signs) of the planning scheme and under the Heritage Overlay. The relevant provision for signage under clause 52.06 is dictated by the Design and Development Overlay (DDO8), as that is more restrictive than the signage provisions relating to the Commercial 1 Zone. Any signage that is considered acceptable from a heritage perspective is considered to also meet the requirements of DDO8.

The application was referred to Council's Heritage Advisor, who raised no objection and provided the following comments:

"The property at 31-33 Murray Street Colac, is a commercial/ building of recent construction. It is within but does not contribute to the Murray Street Heritage Overlay Precinct.

Assessment:

The proposed signs generally replace existing signage on the building but with a different logo. The existing and proposed signage is to be located in traditional signage locations and is of an appropriate scale. While the parapet sign will be larger than the existing lightbox on the parapet, the scale is still appropriate. I have no issues with the proposed colours of the signage. The proposed signage will not detract from or overwhelm the significant Murray Street streetscape.

Conclusions:

I have no heritage issues with the proposed signage changes at 31-33 Murray Street, Colac, which are of an appropriate in scale, colour and placement and are sympathetic to the heritage streetscape.

Given these comments it is considered that the proposed signage is acceptable.

Loading and unloading of vehicles (Clause 52.07)

An assessment of loading/unloading requirements is only applicable if the proposal includes buildings and works. As the proposal does not include any buildings or works, the loading/unloading is not required to be assessed.

Land adjacent to a Road Zone Category 1 (Clause 52.29)

The proposal does not include the creation or alteration of access to a road in a Road Zone Category 1 (Murray Street), or subdivision. Therefore, a planning permit is not required pursuant to this particular provision.

10. REFERRALS

Internal Referrals

The application was referred internally to Council's Infrastructure Department, Building Unit and Health Protection Unit, as well as to Council's Heritage Advisor. No objections were raised as a result of these referrals, with the Health Protection Unit recommending conditions related to amenity and the Building Unit recommending a note related to the requirement for a building permit.

External Referrals

The application did not require any external referrals.

11. PUBLIC NOTIFICATION & RESPONSE

Public Notification

Public notice was carried out on 11 September 2017. The application received 29 objections, 12 of which were from other local businesses in Colac:

- Evolv Fitness (x3 – business owner and two staff members)
- I AM Fitness
- Marina Seafoods
- Colac Video
- Cartridge Man
- Hickey Meats
- Lilly Pilly
- Mango Thai Restaurant
- Hulm's Bakery
- Heather's Swim School

Key issues raised in objections include:

- Car parking:

The proposal has no provision for car parking and is relying on the parking waiver obtained by the previous business Straight Shooters, where most patrons walked to and from the venue (due to alcohol consumption). As the proposal is anticipating a minimum of 30 patrons at any time, it is contended that a minimum of 30 car spaces should be provided.

There has been no consideration of other local businesses in the area, which are predominantly restaurants and takeaway food shops.

Other gyms approved in Colac were required to provide car parking, including Evolv Fitness, Bluewater Fitness, I AM Fitness, Colac Indoor Sports, and Curves.

- Cumulative impact:

There are enough gym facilities in Colac, which are all small family operations that have been part of the community for a number of years. Allowing the proposal could put these local gym facilities out of business and increase local unemployment (as the proposal would only employ 1 manager and 2 personal trainers).

- Bluewater Fitness

There was a cost blowout for the Bluewater renovations and Council would have passed this onto the ratepayers. Therefore, the Council should protect their own community facility by refusing this proposal, thus avoiding any further financial impacts on ratepayers and avoiding any impacts on the community if Bluewater were to close down.

Response

Car parking

The subject site has historically been used for commercial purposes without any provision for car parking, similar to most premises along Murray Street. The following provides some information about the car park provision for other gyms in Colac:

- 'Evolv Fitness' benefitted from existing use rights (permit not required) when it changed its hours to operate 24 hours, seven days per week in 2015.
- The planning application for 'I AM Fitness' stipulated a maximum of 6 patrons at any one time, which was reflected in a permit condition, and also voluntarily included the provision of 7 car spaces (i.e. it was not a Council requirement to provide 7 car spaces). However, it should be noted that 'I AM Fitness' is located within the General Residential Zone where onsite parking is generally sought for commercial uses so as to minimise amenity impacts in a sensitive area, rather than a commercial zone with shared on-street parking.
- Colac Indoor Sports Centre is a large premises that hosts many more activities than a gym, and is located opposite a residential area.
- 'Curves' is considered the most comparable to the subject proposal, as it also benefitted from a car park credit due to the previous office use, and Council's Infrastructure Department considered that there was adequate street parking available.

A refusal of this planning application on the grounds that there is no provision for car parking, and that the car parking credit would not address the lack of onsite parking, could have implications for any future commercial use of this building, and also for changes of use or extensions to other commercial premises in the vicinity of the site. To justify a refusal on parking grounds, it would be necessary to demonstrate that the potential parking impacts from the proposed gym would materially differ from the previous use of the premises. Consideration would also need to be given to how the use of the premises for a gym would differ from other commercial uses of the premises which may also seek to rely on the car parking credit, as any future application at this site would have to have regard to its planning history (including any refusal based on parking grounds).

Cumulative impact

The financial impact on other gyms, or the general issue of commercial competition, is not relevant to the consideration of this application. Ultimately competition between rival operators is decided by market forces and is not a material planning consideration or a matter to be dictated by Council.

It is noted that the *Planning and Environment Act 1987* even includes a provision in section 57 that allows the responsible authority to reject an objection which it considers has been made primarily to secure or maintain a direct or indirect commercial advantage for the objector.

Bluewater Fitness

As noted above, the financial impact on Bluewater Fitness is not a material planning consideration. Notwithstanding this, it is noted that Council's Bluewater Leisure Centre facility includes aquatic facilities, a gymnasium, childcare services for users, stadium facilities shared with Colac Secondary College, change facilities with showers, multipurpose rooms and free car parking. Therefore, it is considered that the proposed gym would not cause any significant detrimental impact on this multi-purpose community facility.

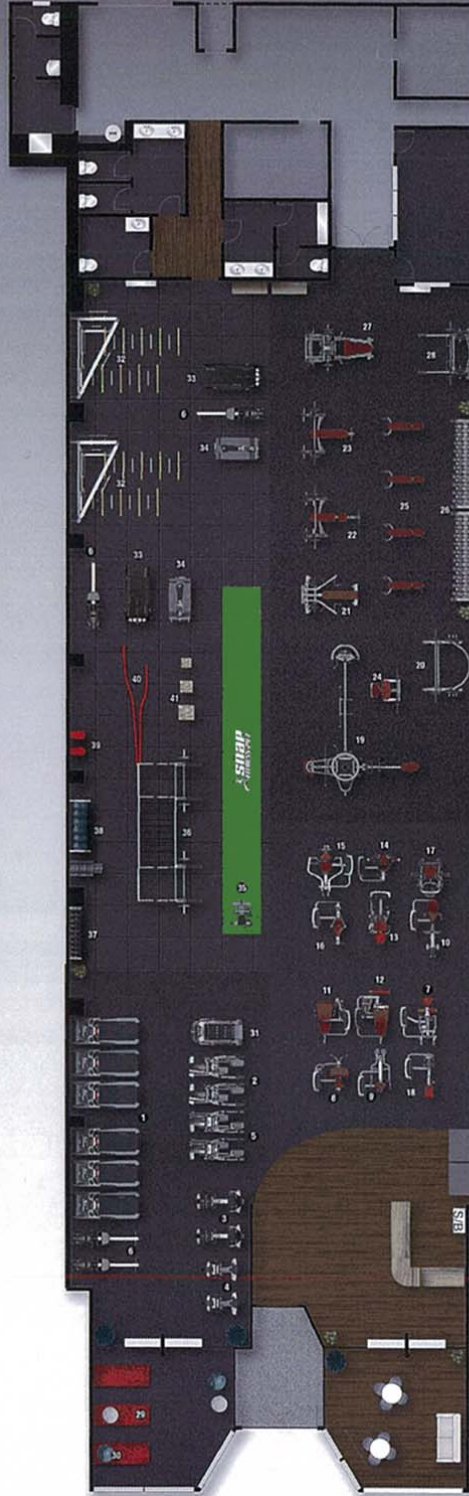
Consultation Meeting

As with all applications to which objections are received, Council offered to facilitate a meeting between the applicant and objectors. The applicant declined the offer of a Consultation Meeting, stating that "*...there are no opportunities to compromise on the hours of operation or car parking provision*".

12. DECLARATION OF INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

- 1 Treadmill
- 2 Elliptical
- 3 Recumbent
- 4 Bike
- 5 Ascent
- 6 Rower
- 7 Div.Lat Pulldown
- 8 Bicep Curl
- 9 Tricep Press
- 10 Leg Press / Calf Press
- 11 Leg Extension
- 12 Leg Curl
- 13 Hip Abd / Add
- 14 Conv. Chest Press
- 15 Conv. Shoulder Press
- 16 Abdominal
- 17 Assisted Chin Dip
- 18 Seated Row
- 19 Multi-Station 5 Stack
- 20 Smith Machine
- 21 Supine Bench Press
- 22 Olympic Incline Bench
- 23 Olympic Bench Press
- 24 Preacher Curl
- 25 Adjustable Multi Bench
- 26 Dumbbells & Rack
- 27 Leg Press 45 Deg
- 28 Power Rack
- 29 Stretch Mats
- 30 Exercise Balls
- 31 ClimbMill
- 32 Connexus Perimeter
- 33 S-Drive
- 34 Krank Cycle
- 35 Sled & Track
- 36 Crossfit Rig
- 37 KettleBells
- 38 Slam / Dead Balls
- 39 Medicine Balls
- 40 Battle Ropes
- 41 Plyometric Boxes



MATRIX
Strong • Smart • Beautiful

Snap Colac

PROJECT PLAN:
174202 V1
30.05.2017

PRESENTED BY:
Wes Moss
0400 904 014

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3D FABRICATED LOGO - FACADE
illuminated LED modules



EXISTING LIGHTBOX
internally illuminated



RELOCATED LIGHTBOX from front
Internally illuminated

Estimated heights and dimensions.
Subject to on-site confirmation.

September 4, 2017

ROD BRIGHT & ASSOCIATES PTY. LTD.
SURVEYING & LAND DEVELOPMENT SERVICES

SNAP FITNESS, 31-33 MURRAY STREET, COLAC

| SIGNAGE - PROPOSED

