

# 140 (Lot 183) Lydiard Street N, BALLARAT CENTRAL

Planning Permit Application

Permit Application No. PA2402865



Officer Assessment Report  
Development Approvals & Design

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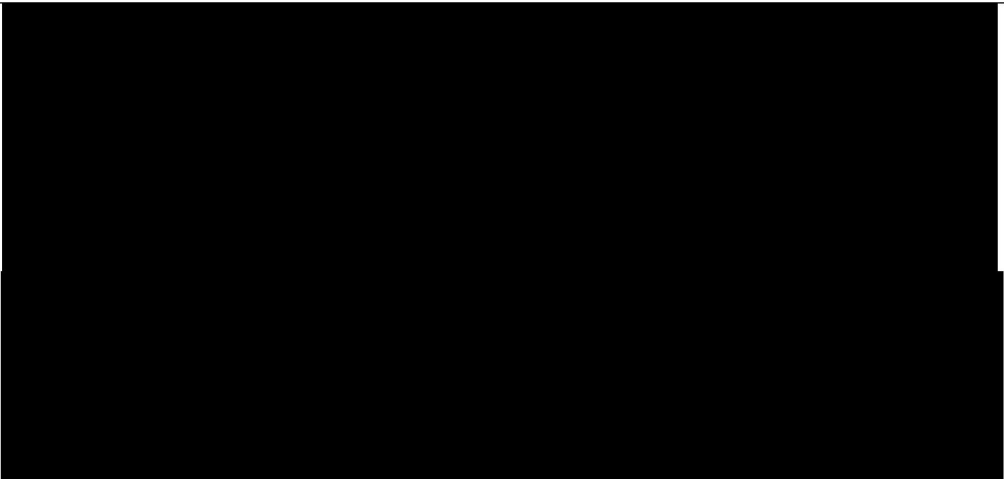


Department  
of Transport  
and Planning

# Executive Summary

Key information	Details	
Application No.:	PA2402865	
Received:	26 June 2024	
Statutory Days:	19	
Applicant:	Radley Holdings Pty Ltd (c/- Sweaty AF)	
Planning Scheme:	Ballarat	
Land Address:	140 (Lot 183) Lydiard Street N, Ballarat Central	
Proposal:	Use of land for a restricted recreation facility (gymnasium)	
Development value:	\$0	
Why is the Minister responsible?	<p>The Minister for Planning is the responsible authority for considering and determining applications, in accordance with Divisions 1, 1A, 2, and 3 of Part 4 and exercising the powers set out in Section 171 and under Division 2 of Part 9 of the Planning and Environment Act 1987 and for approving matters required by the scheme or a condition of a permit to be done to the satisfaction of the responsible authority in relation to the use and development of the following land:</p> <ul style="list-style-type: none"> <li>Land within the Special Use Zone Schedule 16 "Ballarat Station Precinct Redevelopment – Stage One".</li> </ul> <p>The Minister for Planning is the responsible authority for administering and enforcing the Ballarat Line Upgrade Incorporated Document, August 2018 and any other provision of the scheme as it applies to the use or development of land for the purpose of the Ballarat Line Upgrade.</p>	
Why is a permit required?	<b>Clause</b>	<b>Trigger</b>
	Clause 37.01 – Special Use Zone	A permit is required for a section 2 use
Zone:	<ul style="list-style-type: none"> <li>Clause 37.01 – Special Use Zone Schedule 16 (SUZ16)</li> <li>Clause 36.04 – Transport Zone 1 (TZ1)</li> </ul>	Ballarat Railway Station Precinct Redevelopment – Stage One State Transport Infrastructure <i>*does not apply to subject site</i>
Overlays:	<ul style="list-style-type: none"> <li>Clause 45.12 - Specific Controls Overlay – Schedule 6 (SCO6)</li> <li>Clause 43.04 - Development Plan Overlay – Schedule 11 (DPO11)</li> <li>Clause 42.03 - Significant Landscape Overlay – Schedule 2 (SLO2)</li> <li>Clause 43.01 - Heritage Overlay – Schedule HO59</li> </ul>	Ballarat Station Precinct Redevelopment Incorporated Document, August 2016 (Amended April 2021) Ballarat Railway Station Precinct Redevelopment – Stage One Rivers of the Barwon <i>*does not apply to subject site</i> Ballarat Railway Complex
Particular Provisions:	Clause 45.12 – Specific Controls Overlay Schedule 6	<p>The following provisions <u>do not apply</u> to the land identified in this incorporated document:</p> <ul style="list-style-type: none"> <li>Clause 52.05 (Signs)</li> <li>Clause 52.06 (Car Parking)</li> <li>Clause 52.27 (Licenced Premises)</li> <li>Clause 52.34 (Bicycle Facilities)</li> </ul>
Cultural Heritage	The site is located within an area of cultural heritage sensitivity. A CHMP is not required for the proposed use as the grounds have been significantly disturbed (train station) and no works are proposed as part of this application.	
Gross Floor Area:	217m <sup>2</sup>	
Land Uses:	Restricted Recreation Facility (Gymnasium)	



Key information	Details
<b>Parking:</b>	Clause 52.06 does not apply to this application. Car parking is offered via the Ballarat Railway Station car park.
<b>Referral authorities</b>	Ballarat City Council (Section 52 – Notice)
<b>Public Notice</b>	<p>Notice of the application was undertaken by the applicant at the direction of the Minister for Planning in the following manner:</p> <ul style="list-style-type: none"><li>• One (1) sign on site fronting Railway Parade</li><li>• Postal mail to adjoining owners and occupiers (approximately 95 properties)</li></ul> <p>Notice commenced on 29 November 2024 and concluded on 13 December 2024. No objections were received during the advertising period. Notably, VicTrack (landowner) provided a 'no objection' response to the application on 10 December 2024.</p> <p>A completed statutory declaration was provided on 19 December 2024.</p>
<b>Recommendation</b>	The application is recommended for approval subject to the conditions as discussed in this report.
<b>Background information prior to application lodgement</b>	

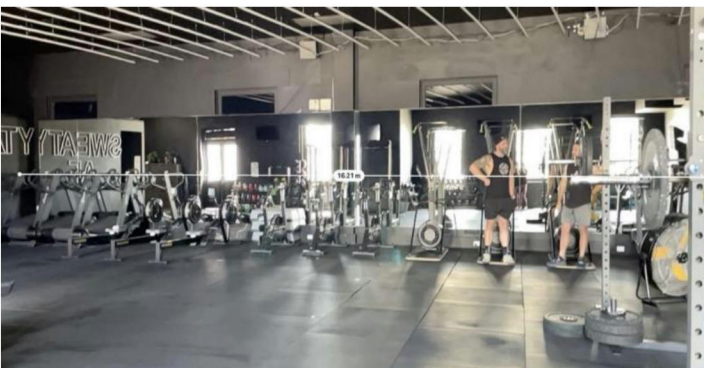


Figure 1. Internal view of retrospective gymnasium use (left) Figure 2. External view of subject site looking south (right)

1. The key milestones in the process of the application were as follows:

Milestone	Date
Pre-application meeting (DTP and Ballarat City Council)	N/A
Application lodgement	26 June 2024
Further information requested	3 July 2024
Further information received	6 September 2024
Further plans submitted (formally under section 50 of the Act)	N/A
Further informally substituted sketch plans submitted (date)	N/A
Decision Plans	Site Plan prepared by Radley Holdings Pty Ltd Patron Management Plan prepared by Sweaty AF and dated February 2024 Acoustic Advice Letter prepared by [REDACTED] and dated 13 April 2024 Acoustic advice letter addendum prepared by [REDACTED] and dated 9 October 2024 Voluntary compliance letter prepared by DTP and dated 7 December 2023 Planning permit advice letter prepared by Ballarat City Council and dated 29 November 2022

2. The subject of this report is the decision plans (as described above).



Figure 3. Aerial view looking south towards the subject site (Ballarat Railway Precinct)

## Site Description

3. The site is located at 140 (Lot 183) Lydiard Street, Ballarat and occupies a leasable commercial space within the Ballarat Railway Station. As such, VicTrack are considered the legal owners of the land (Ballarat Railway Station) and lease sections that are not considered of practical use to the station's operations. The applicant entered into a leasing arrangement with third party since 24 February 2020.
4. As the applicant has been operating as a fitness studio/gymnasium since 2020, this application is seeking retrospective consent for operation and use of the site as a restricted recreation facility.
5. The existing site comprises of a single frontage onto railway parade, an at-grade and multi-level public station car park, Ballarat Goods Shed (mixed-use) and remaining Ballarat Railway Station Precinct inclusive of stabling yards and bus terminal/interchange.
6. The site is formally described as comprising the following land parcels:
  - Lot 5 on Plan of Subdivision 806198H
7. There are a number of easements, restrictions or reserves on the overall site, however they do not apply to the subject site within Lot 5.

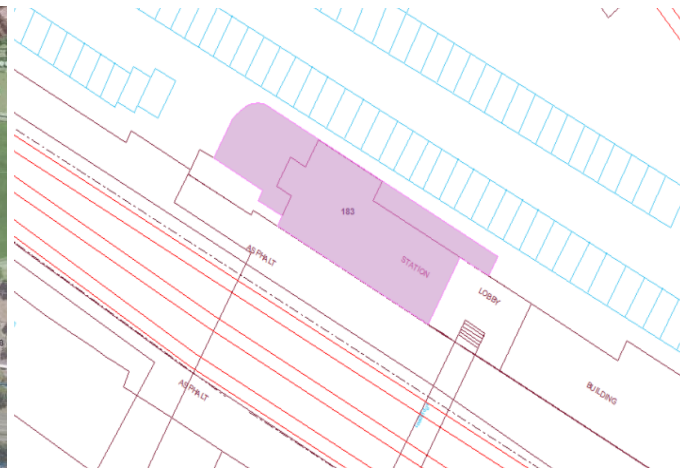


Figure 4: Aerial of Ballarat Railway Precinct (left) Figure 5. VicTrack Site Plan (right)

## Site Surrounds

8. The surrounding development consists mainly of residential area comprised of one to two storey dwellings to the north, and commercial area (Ballarat CBD) to the direct south. The subject site is otherwise situated in the middle of the Ballarat Railway Precinct, surrounded by strategic mixed-use developments, stabling yards and bus terminals/interchanges.
9. Development surrounding the site can be described as follows:
  - To the **north** of the site: to the direct north and within the Ballarat Railway Precinct is the Ballarat Goods Shed. A heritage listed bluestone building constructed in 1863 and recently refurbished into an exemplary mixed-use hub. The Goods Shed includes a dining hall, events hall, and food and beverage offerings, as well as onsite accommodation via Quest Apartment Hotels to its immediate north-west.
  - To the **south** of the site: to the direct north is Ballarat CBD, predominantly characterised by double storey heritage listed commercial buildings.
  - To the **east** of the site: to the direct east is Ballarat railway line and eastern oval to the northeast.
  - To the **west** of the site: west of the site is the Ballarat library, civic centre and the health precinct further west

10. A site inspection of the subject site and surrounds was undertaken on 5 December 2024.

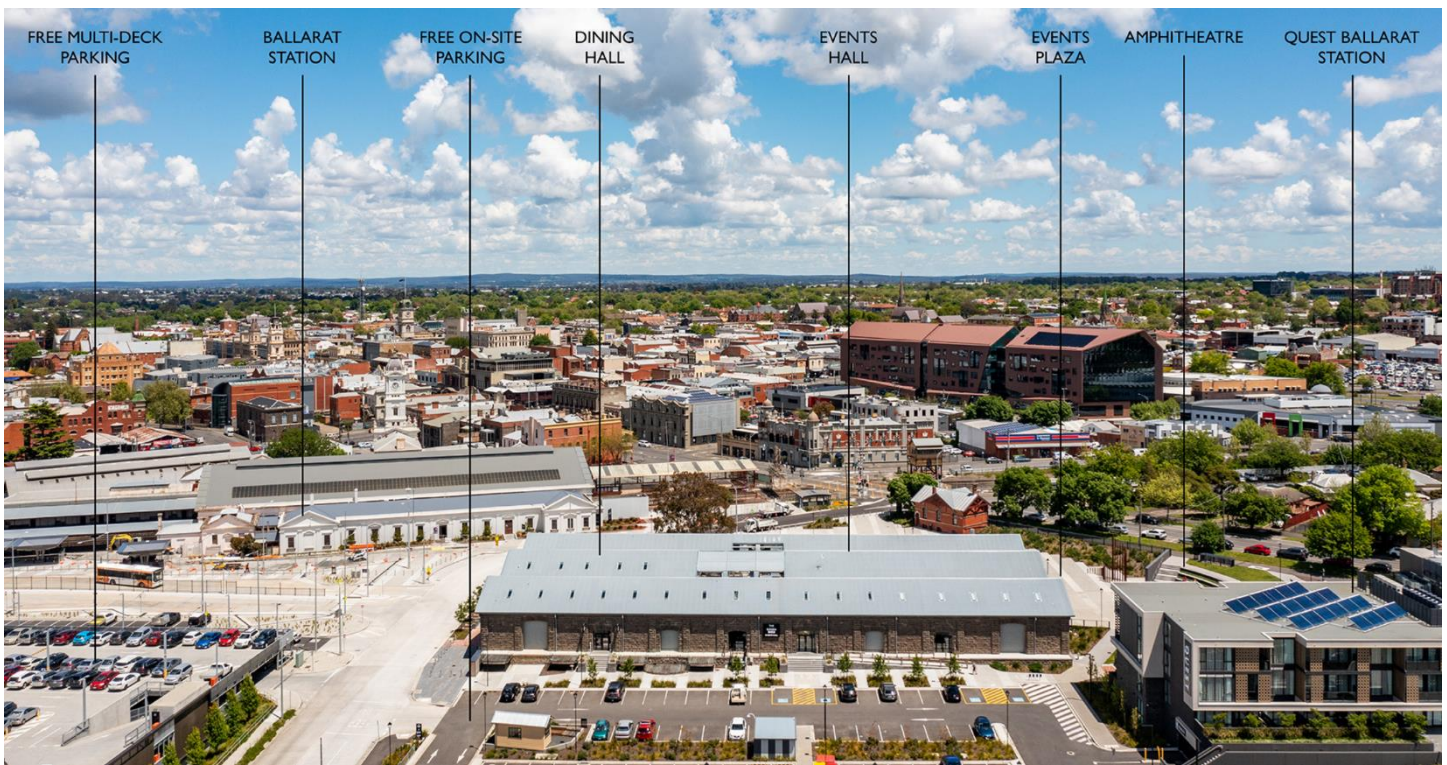
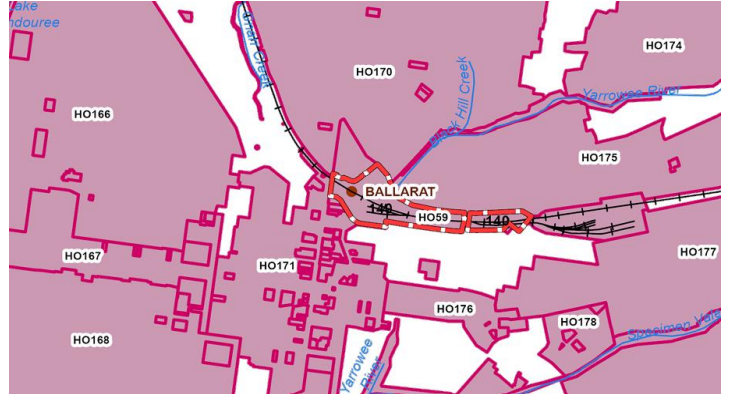


Figure 6. 130 Lydiard Street Ballarat (left) Figure 7. Heritage Overlay for subject site and central Ballarat (right)

Figure 8: Aerial view looking south toward subject site (Ballarat Railway Precinct)



## Municipal Planning Strategy

11. The following objectives and strategies of the Municipal Strategic Statement of the scheme are relevant to the proposal:

Clause no.	Description
<b>02</b>	<b>Municipal Planning Strategy</b>
<b>02.03-7</b>	Economic Development – Regionally significant precincts (Ballarat Railway Station)

## Planning Policy Framework

12. The following objectives and strategies of the Planning Policy Framework of the scheme are relevant to the proposal:

Clause no.	Description
<b>11</b>	<b>Settlement</b>
<b>11.03-1S</b>	Activity Centres
<b>11.03-1L-1</b>	Ballarat CBD – Railway Station Mixed Use – Area 8
<b>15</b>	<b>Built Environment and Heritage</b>
<b>15.03-1S</b>	Heritage Conservation
<b>15.03-1L</b>	Heritage Conservation
<b>15.03-2S</b>	Aboriginal Cultural Heritage

13. The Assessment section of this report provides a detailed assessment of the relevant planning policies (as relevant to the proposal and key considerations)

## Statutory Planning Controls

### Special Use Zone – Schedule 16 (SUZ)

14. A planning permit is required for a section 2 use (restricted recreation facility). The purpose of the SUZ is:
- *To facilitate Stage 1 of the redevelopment of the Ballarat Station Precinct as envisaged in the Ballarat Station Precinct Master Plan, 2014.*
  - *To provide for the use and development of the land for transport purposes by or on behalf of the public land manager.*
15. The SUZ includes application requirements and decision guidelines for use of the land. The following sections include discussion of how the proposal responds to these requirements.
16. Though no works are proposed as part of this application, it is noted that buildings and works are permit exempt if it remains in general accordance with the approved development plan and does not increase floor area.

### Other Zones

17. The TZ1 that applies to the greater site does not apply to the site of the proposed works subject to this application. The overlay therefore does not form part of this assessment.

### Development Plan Overlay – Schedule 11 (DPO11)

18. Pursuant to Clause 43.04, a planning permit is not required for use of the land under the DPO as follows:

- A development plan has been prepared to the satisfaction of the responsible authority (*Ballarat Station Precinct Master Plan, 2014*).
- Stage 1 of the redevelopment of the Ballarat Station Precinct as envisaged in the *Ballarat Station Precinct Master Plan, 2014* has been completed and sits outside of the subject site scope. This is a tenanted site owned by VicTrack with no works proposed as part of the application.

#### **Heritage Overlay – Schedule HO59 (Ballarat Railway Complex)**

19. The subject site sits within the Heritage place of Ballarat Railway Complex (HO59) and is included in the Victoria Heritage Register (H902) as a state significant heritage precinct.
20. Pursuant to Clause 43.01-3, a planning permit is not required for use of the land as follows:
  - The schedule to the overlay specifies that the heritage place allows for prohibited uses
  - The (retrospective) use does not adversely affect the significance of the heritage place and no works are proposed as part of this application
  - The benefits of the use do not adversely impact the preservation of the heritage place

#### **Specific Controls Overlay – Schedule 6 (SCO6)**

21. Pursuant to Clause 45.12-1, a planning permit is not required if the use remains in accordance with the specific controls contained in the corresponding incorporated document (*Ballarat Station Precinct Redevelopment Incorporated Document, August 2016 (Amended April 2021)*).
22. The incorporated document excludes the land from a number of planning provisions in order to facilitate the use and development of the land for Ballarat Station Precinct Redevelopment, in accordance with the approved development plan (*Ballarat Station Precinct Master Plan, 2014*).
23. *The following provisions do not apply to the land identified in this incorporated document:*
  - *Clause 52.05 (Signs)*
  - *Clause 52.06 (Car Parking)*
  - *Clause 52.27 (Licenced Premises)*
  - *Clause 52.34 (Bicycle Facilities)*

#### **Other overlays**

24. The SLO that applies to the greater site does not apply to the site of the proposed works subject to this application. The overlay therefore does not form part of this assessment.

#### **Particular provisions**

25. As stated in section 24 of this report, the site benefits from a number of planning provision exemptions. As such, signs, car parking, bicycle parking and licenced premises triggers do not form part of this application.

#### **Other Strategic considerations**

##### **Incorporated Documents / Structure Plans / Planning Scheme Amendments**

26. Pursuant to the SCO6, the following incorporated document applies to the site:
  - (*Ballarat Station Precinct Redevelopment Incorporated Document, August 2016 (Amended April 2021)*).
27. As stated, the incorporated document excludes the land from a number of planning provisions in order to facilitate the use and development of the land for Ballarat Station Precinct Redevelopment, in accordance with the approved development plan (*Ballarat Station Precinct Master Plan, 2014*).



## Referrals

28. The application was referred to the following groups:

Provision/ Clause	Organisation	Response Received (date)
Section 52 Notice	Ballarat City Council	As of 6 January 2025, no final response has been received. However, it is noted that Council assisted in undertaking the advertising process with the applicant in order to protect owner occupier details and has been in communication with DTP. No specific comments have been made by Council.
Section 52 Notice	VicTrack	No objection response received 10 December 2024

## Municipal Council comments

29. Notice was issued to Ballarat City Council (the Council) on 16 September 2024. Council identified that the site was operating without a use permit in 2022 (refer to background section of this report for further history of site). Council made a number of attempts to formally contact the applicant and remedy the situation with little success.
30. On 13 January 2023, Council contacted DTP stating that the gymnasium was operating without a use permit and that the Minister for Planning is the responsible authority for the site. DTP has been in contact with Council since the 13 January 2023 and the subsequent application process. Council also assisted in carrying out public notification by mailing out letters to adjoining properties at the cost of the applicant in order to protect owner occupier details.
31. Council have not objected to the application and as of 14 January 2025 and have not made comment (i.e. recommended conditions).

## Notice

32. The application is not exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987* pursuant to the following provisions:
- Clause 45.12 – Specific Controls Overlay Schedule 6
  - It is noted that although the subject site sits outside of the scope of strategic works, the application is for retrospective use rather than development and has received noise complaints in the past. DTP therefore considers that advertising triggered under the SCO is necessary for this application
33. The application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987* pursuant to the following provisions:
- Clause 37.01-2 – Special Use Zone Schedule 16
  - Clause 43.03-3 - Development Plan Overlay Schedule 11
  - Clause 43.01 – Heritage Overlay Schedule HO59
34. The applicant was directed to give notice by way of erecting a sign/s on the site and notice to adjoining owners and occupiers. Advertising commenced on 29 November 2024 and concluded on 13 December 2024. No objections were received during the advertising period. Notably, VicTrack (landowner) provided a 'no objection' response to the application on 10 December 2024.
35. A completed statutory declaration was provided on 19 December 2024.

## What are the key considerations?

### Strategic Direction and Land Use

36. The Planning Policy Framework encourages appropriate land use and development which enhances the built environment, supports economic growth, meets the community expectations on retail and commercial provision, delivers diversity in housing supply to meet existing and future needs, and integrates transport and infrastructure planning.
37. The relevant MPS and PPF policies have been considered in assessing the application.

### Heritage

38. The subject site sits within the Heritage place of Ballarat Railway Complex (HO59) and is included in the Victoria Heritage Register (H902) as a state significant heritage precinct.
39. As stated, a permit is not required under the HO for this application. No works are proposed and would be otherwise exempt under the HO, and the use considered retrospective. The proposed use (gymnasium) does not adversely affect the significance of the heritage place and does not impact the external presentation of the building. The benefits of the use do not adversely impact the preservation of the heritage place and limited to a small internal space within a larger heritage site. DTP therefore consider the use appropriate within the heritage context.

### Amenity

#### Amenity impacts (internal and off site e.g. noise)

40. DTP requested that a Patron Management Plan (PMP) be provided as part of the application. The applicant provided a PMP dated February 2024 detailing the operation and management of the proposed restricted recreation facility (gymnasium).
41. The gymnasium will operate between 5/6am to 9pm, 7 days a week including public holidays. It is anticipated that a maximum of 35 people will be present on site at any one time. The use primarily offers fitness classes in the mornings and evenings, with minimal access by members during the day.
42. Anticipated peak times are between 5am-9am and 5pm-7pm during scheduled class times. The gymnasium will typically have one (1) staff member/manager and two (2) personal fitness trainers at any one time on site. The gymnasium is not 24/7 and can only be accessed during staffed hours.
43. Given the structured nature of the operation of the restricted recreational facility, the applicant has requested that the use would operate between the following times:
  - a) 5 am and 9 pm Monday to Friday
  - b) 6 am and 9 pm Saturday
  - c) 6 am and 9 pm Sunday or public holiday.
44. Though the morning commencement times are considered early, DTP acknowledges that the gymnasium's business structure depends on scheduled classes before and after standard working hours. The subject site is not located within a residential zone and is setback over 140m from the nearest residential dwellings. To allow for flexibility to offer these classes outside of employee work commitments, DTP consider the 5am-6am start times appropriate within the context of the proposed use and surrounding environment.
45. It is acknowledged that in the last four (4) years, Ballarat City Council Enforcement Team have received four (4) noise complaints from a mix of passer-by and residents regarding the noise pollution generated by the gymnasium. DTP advised prior to lodgement that additional acoustic treatments be considered and implemented where practicable to address this issue; as well as submission of an acoustic report/letter.
46. The original acoustic statement prepared by [REDACTED] and dated 13 April 2024 concludes that the noise generated by the gymnasium is negligible within the site's context (adjoining train station), as well as the adjoining



car park. Outdoor acoustic readings during a class measured to 57.1dB's, and afterwards 59.8dB's. Indoor readings measured to 74.1dB's during a class, and afterward to 38dB's.

47. On 9 October 2024, an acoustic addendum letter prepared by [REDACTED] was provided in response to sound proofing treatments installed internally to the site. The technician visited the site on 1 October and 8 October 2024 to provide additional readings post installation. Wall dampeners were installed to four (4) critical control points within the building where triple thick brick walls were absent. The addendum states that the installation has further reduced noise output both internal and external to the site. Also improving the user experience within the gymnasium due to the train station noise and vibrations disrupting classes. Outdoor acoustic readings during a morning class measured to approximately 63dB's.
48. The technician concludes within the addendum that environmental factors such as the train station significantly impact the integrity of the outdoor readings and should be taken into consideration during the assessment. DTP acknowledge that the environmental context of the subject site can influence the acoustic readings and resulting treatment of the use's operations. The applicant has made effort to further reinforce noise mitigation measures by installing additional dampeners, providing additional readings and detailing attenuation measures within the submitted PMP.
49. The proposed development is not considered to materially detriment the amenity of surrounding residential property for the following reasons:
  - The closest residential dwellings are approximately 140m from the subject site
  - The closest residential hotel (Quest Ballarat Station) is approximately 120m from the subject site
  - No objections were received by adjoining properties during extended advertising period
  - A noise limiter is utilised for the music system
  - The proposal does not result in an unreasonable increase in cumulative noise impacts within the Ballarat Railway Station Precinct
50. Given the cumulative sound emissions generated by the Ballarat Railway Station Precinct and 140m buffer to residential properties to the north, DTP consider the current acoustic treatments sufficient in addressing adverse amenity impacts to adjoining properties.
51. Sound emissions generated by the gymnasium are significantly reduced when entry doors are shut. As such, a condition will be placed on the permit requesting that the door be kept closed prior to 6am (weekdays) and 8am (weekends) to mitigate noise impacts. A noise limiter will also be requested to be actively used on site.
52. The applicant will be required to comply with the requirements of the *Environment Protection Act 2017* and *Environment Protection Regulations 2021* (as amended from time to time) as measured in accordance with the Noise Protocol to the satisfaction of DTP. The PMP will be requested to include references to the relevant EPA standards as part of their noise management strategy.

### **Car Parking, Bicycle Parking and Signage**

53. Pursuant to the SCO6, the following provisions do not apply to the land identified in the incorporated document:
  - *Clause 52.05 (Signs)*
  - *Clause 52.06 (Car Parking)*
  - *Clause 52.27 (Licenced Premises)*
  - *Clause 52.34 (Bicycle Facilities)*
54. As such, car parking, bicycle parking and signage do not form part of this assessment and are exempt from consideration. It is acknowledged that the subject site has plentiful access to car parking, bicycle parking and public transport given its location within the Ballarat Railway Station Precinct.

### **Waste**



55. A waste management plan has not been provided as part of this application. The amended PMP will sufficiently detail waste arrangements and private collection frequency. As such, a separate waste management plan will not be requested via permit condition. If patronage or floor area of the gymnasium were to significantly increase, a waste management plan would be requested in that instance.

**Cultural Heritage**

56. A CHMP is not required for the site as no buildings and works are proposed and the site has significantly disturbed grounds (Ballarat Railway Station).

# Conclusion



## Recommendation

57. It is recommended that a Delegate of the Minister for Planning issue Planning Permit No. PA2402865 for the use of a restricted recreation facility (gymnasium) at 140 (Lot 185) Lydiard Street N, Ballarat Central, subject to conditions.

## Conclusion

58. The proposal is generally consistent with the relevant planning policies of the Ballarat Planning Scheme and will contribute to the provision of mixed uses within the Ballarat Railway Station Precinct and Ballarat Central area.
59. The proposal is generally supported by the various formal and informal referral agencies.
60. It is recommended that the applicant be notified of the above in writing.

### Prepared by:

I have considered whether there is a conflict of interest in assessing this application and I have determined that I have:

- No Conflict**
- Conflict and have therefore undertaken the following actions:
- Completed the **Statutory Planning Services declaration of Conflict/Interest form.**
  - Attached the Statutory Planning Services declaration of Conflict/Interest form on to the hardcopy file.
  - Attached the Statutory Planning Services declaration of Conflict/Interest form into the relevant electronic workspace.

Name:	[Redacted]	Signed:	[Redacted]
Title:	[Redacted]	Dated:	14/01/2025
Phone:	[Redacted]		

### Reviewed / Approved by:

I have considered whether there is a conflict of interest in assessing this application and I have determined that I have:

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Name:	[Redacted]	Signed:	[Redacted]
Title:	[Redacted]	Dated:	20/01/2025
Phone:	[Redacted]		