



Council guidelines for

# Fitness Businesses

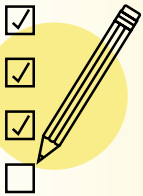
Planning and permitting for gyms, yoga studios and more



## Opening a **business**

So, you're planning to open a new business to help improve people's health and fitness? Congratulations! Perhaps you have a location in mind and want to make sure it's suitable, or expand your current business. Or maybe you've signed a lease and want to know what Council approvals you need to get up and running. Whatever stage you're at, these guidelines are designed to give you the information you need to help get your business operating as quickly as possible.

# What do I need?



## PLANNING APPROVAL

You may need a Planning Permit for your business, depending on the zone, overlay, whether or not you are serving liquor and other factors. A Planning Permit application is where the Council checks to make sure that your business use and development of land won't negatively affect the surrounding area. You should check with your Council to make sure you need a Planning Permit before undertaking an application.



## BUILDING APPROVAL

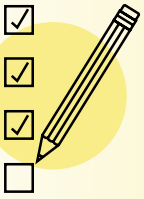
If you're planning to build or renovate, it must be done safely, be structurally sound and appropriate for the area. To ensure this, you'll need a Building Permit. This can only be done if you already have a Planning Permit, so make sure you get that first. You may also need an Occupancy Permit, if your business is different from what the premises are used for now. For more information about getting a Building Permit, view the ***Building Permits for Businesses*** fact sheet.



## REGULATIONS & REGISTRATIONS

For gyms and other fitness businesses, there is a potential to generate noise with music and exercise classes.

You will need to comply with the EPA's noise regulations, and may need to consider some acoustic attenuation measures.



# Planning approval

Of all the approval phases, Planning is usually the longest and the one that requires the most work. It also has the greatest degree of discretion in assessing whether to grant a permit or not, as it can be subject to objections from neighbours or other businesses.

# What to consider before buying or leasing

Before locking yourself into purchasing or leasing premises, it's important to consider some basic planning issues, which could determine whether or not you get a planning permit. Think about:

## Zoning

Zoning is potentially the most important thing to consider as it is the zone that determines whether a permit can be granted or rejected. The zone can therefore be a make-or-break decision. Gyms and fitness studios need a planning permit in most zones, but the purpose of the zone is relevant to how likely a permit is to be granted. For instance, a gym needs a permit in both the Commercial 1 Zone and a Neighbourhood Residential Zone, but a busy commercial area is a much better location for a large gym, particularly if operating late into the evening.

You can check the zoning of a property at [mapshare.vic.gov.au/vicplan](http://mapshare.vic.gov.au/vicplan).

## Overlays

You should also check whether the land is included in any overlays, which include permit requirements to develop land. Many locations have Overlay controls, particularly a Heritage Overlay, or Design and Development Overlay. Overlays are an additional layer of planning control on extensions and external alterations to buildings and may restrict the business layout. For example, you may not be allowed to put additional openings into a building that has heritage protection.

## Car parking

Gyms and fitness studios do not have a set rate of car parking, and therefore parking provision must be 'to the satisfaction of Council'. Consider talking to your Council about properties prior to leasing, to gain an understanding of how many patrons may be accepted with the car parking available. Providing bicycle parking can also be a good alternative, depending on location.

## Neighbours

Most commercial areas allow residential uses. Many buildings have ground floor commercial space and residential apartments above. If your business will create a lot of noise or play loud music, it may be best to look for an alternative location where there are fewer residential uses. Neighbours can object to a planning application and can take a matter to the Victorian Civil and Administrative Tribunal (VCAT) for review, even if Council supports the application.

## Timing

Planning approval can take a long time. This is because there are statutory timeframes in relation to further information, public notice (advertising), objections, Council decision making and a potential VCAT hearing. It is important to factor in potential timeframes when deciding whether to buy or lease a premises. A controversial application that is decided by VCAT can take longer than 12 months.

## Costs

It is important to be aware of potential costs in making an application for a Planning Permit. There are statutory fees for lodging an application, Council fees for public notice and fees if the application goes to VCAT. Information about fees is available on Council websites. There may also be fees if you need to engage an architect, a planning consultant to help you get a Planning Permit or an acoustic consultant if there are potential noise issues. In some instances, you may need to engage other specialist consultants too.

## Contaminated land

Former industrial areas may contain contaminated land. *Victoria Unearthed* is an online mapping tool designed to help you find out more about land, groundwater, past business activities and potential contamination. Contaminated land may be included in an Environmental Audit Overlay. If you are proposing any buildings and works or a sensitive use is proposed on contaminated land, you may be required to engage an environmental auditor to prepare an environmental audit. For more information, visit [www.planning.vic.gov.au/policy-and-strategy/planning-for-environment-protection/contaminated-land-and-planning](http://www.planning.vic.gov.au/policy-and-strategy/planning-for-environment-protection/contaminated-land-and-planning)



# What sort of permit do I need to apply for?

A Planning Permit may be required for multiple reasons, known as 'permit triggers', or just one, depending on the proposal. For example, you may need a permit to change the use of a building, or to construct or modify a building.

Here are the common permit triggers associated with fitness business applications:

- **Change of use** – when you want to operate a business that uses the land for a different reason to its current or previous use, e.g. operate a shop in what was previously a warehouse. Requiring a Planning Permit for liquor also falls into the 'change of use' category.
- **Buildings and works** – when you want to change the building, construct a new building or excavate land.
- **Advertising signs** – e.g. light boxes, signage on windows, flashing or illuminated signs.
- **Car parking to the satisfaction of Council** – you'll need to make a case for an exemption if you don't meet these.

# Applying for a Planning Permit

Before you apply for a Planning Permit, you may wish to have a Pre-application Meeting with your local Council. They can advise:

- Whether or not your proposal actually needs a permit.
- If your proposal is prohibited.
- What additional information you need to supply with your application.
- How your application will be processed.

## What do I need before applying for a Planning Permit?

If you do need a permit, you will need to provide the following information as part of your application:

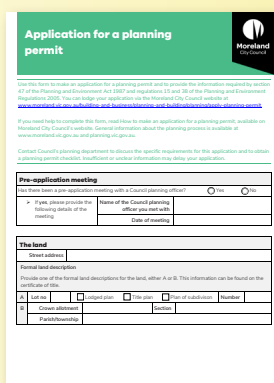
- **Application form** – this is done on your local Council’s website.
- **Certificate of Title** – this must be issued within the last three months.
- **Planning fee** – the amount is available on your local Council’s website.
- **Plans** – show the layout of the proposal, any buildings and works and relationships to adjoining buildings.
- **Planning report or written submission** – see below.
- **Expert reports** – e.g. an acoustic report for noise, or traffic and parking report by a qualified engineer.

### Planning reports

A planning report provides details about your business, like the proposed number of employees, hours of operation, patron capacity (by square metres or seating) and car parking. It assesses the proposal against relevant planning policies and requirements and justifies why a permit should be granted.

You may wish to consider engaging a planning consultant to help prepare the planning report, especially if the proposal is complex.

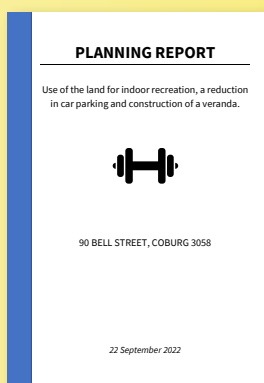
For more details, read the **How to apply for a planning permit** fact sheet.



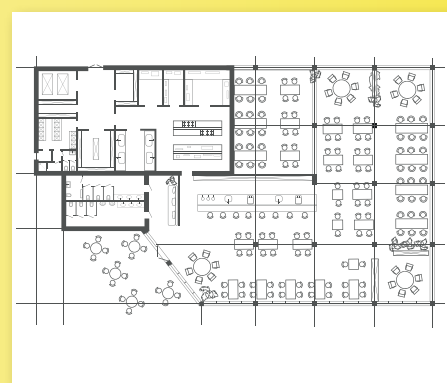
Application form



Certificate of Title



Planning report

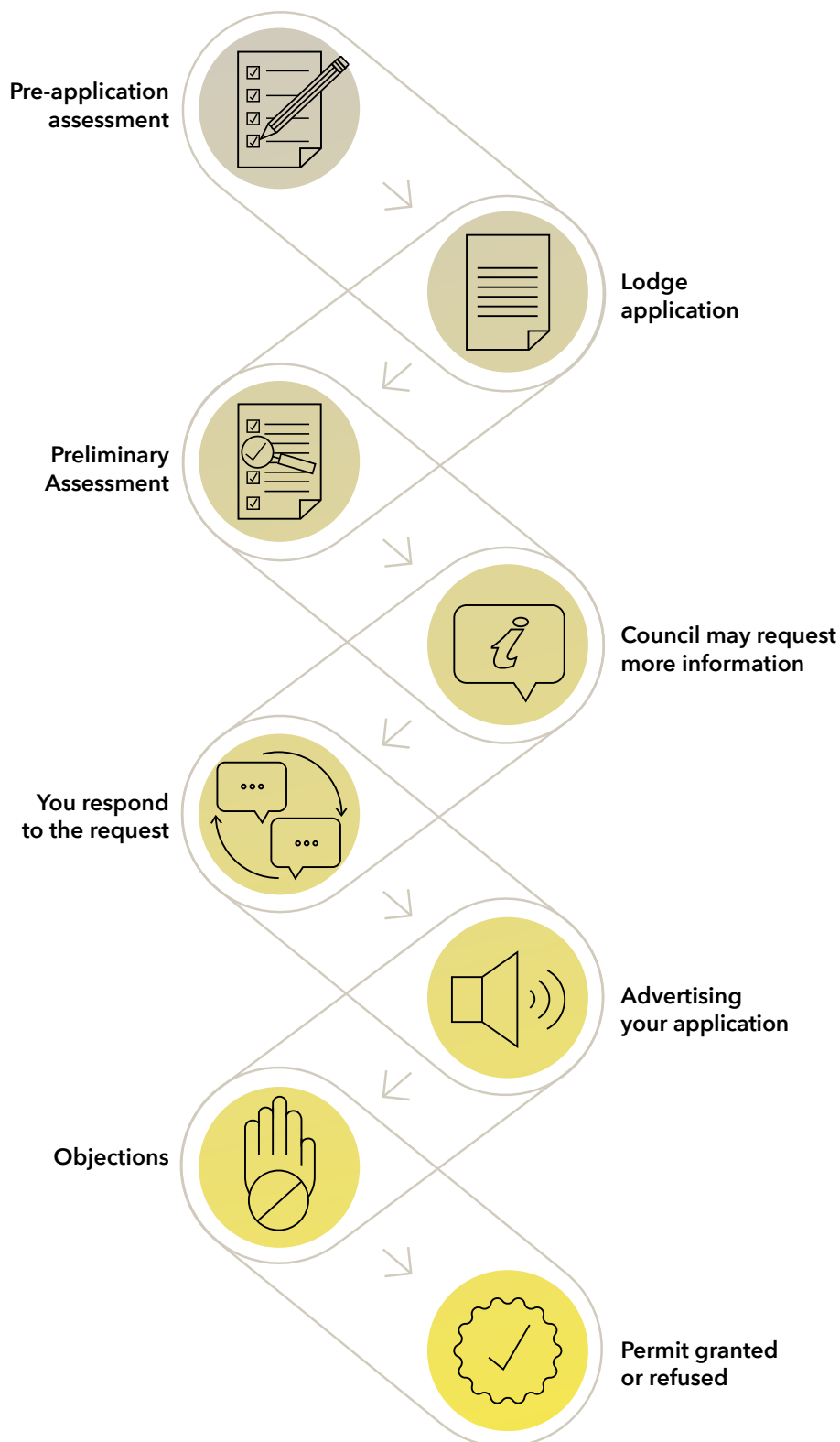


Plans

# What is the approval process?

As a general rule of thumb, allow a few months to gain planning approval – but contact your Council to find out what their current timeframes are like.

After you lodge your application, the Council will first decide whether it has all the necessary information for it to assess it. They may request further information to make a decision on whether to accept or refuse your application.







## Advertising your application

Most applications for planning permits are advertised – which means, a formal notice is given to the adjoining and nearby owners and occupiers, and a sign may have to be displayed on the site for at least 14 days. Anyone may object to the application and must state how they would be affected by the grant of a permit.

## The decision process

In deciding whether to grant a permit, the Council will consider:

- The zone, overlays and relevant planning policies
- Amenity impacts such as noise and parking
- Concerns raised in objections

The Council will then assess the application and decide to approve or refuse it. Your Council will either issue:

- A planning permit. This means you can start straight away.
- A Notice of Decision (NOD) to grant a Planning Permit. This means Council has indicated that it supports the proposal, and you can commence operating in 28 days' time, unless an objector reviews the decision at VCAT.
- A refusal, meaning your application has been rejected.

For more information on appeals, NODs and refusals, see our **Right of Appeal** fact sheet.

If Council approves your business, you will be given conditions of approval that must be met when operating. These may stipulate hours of operation, the number of people that can be accommodated on site and the number of car parking spaces that must be provided.

## What do permits cost?

The State Government sets application fees for all planning permits. You can find them here: <https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-and-subdivision-fees>

If you are required to advertise a public notice for your application, you'll need to pay an advertising fee. This amount is shown on your Council's website in the planning section.

## How long will the whole approval process take?

After you've submitted your application, the Council will get back to you within 28 days with any questions. Sometimes the Council will need to involve another organisation in the decision. This is known as a referral authority and they have 28 days to respond.

Once the Council has all the information they require, they will usually make a decision within 60 days.



# Building approval

There is often confusion about planning and building controls. As discussed, Planning controls are mainly concerned with the use and development of land. Building controls are mainly concerned with the construction of buildings to ensure they are structurally sound and safe.



# When do I need a building permit?

Generally speaking, if you're doing any building works, you need a permit. For example, you will need a permit if:

- You are changing the use of the building (for example, turning an office into a gym).
- You are extending or making structural changes to an existing building.
- You are demolishing structural parts of the building.
- You are changing signs on the building.
- You are making changes to safety features in the building (for example, exit signs, emergency lighting and sprinklers).
- You are making changes to the path of travel through the building (this can impact fire exit regulations).

# What to consider when looking at properties

Before you lease or buy a building, there are some important things to consider that impact the potential work (and expense) required to get a Building Permit.

## What building classification is it?

All buildings are classified according to the type of business operating within them. Each class has different regulations around fire safety, accessibility and other factors. Fitness businesses are usually Class 9b. If your building was previously used for a different class, you may have to make significant changes to comply before you can open your business. For more information, read the **Building Classifications** fact sheet.

## Does it have wheelchair access?

All buildings that require a Building Permit must be wheelchair accessible unless you receive an exemption. Exemptions are uncommon and usually reserved for cases of buildings with historic significance.





### **Fire prevention**

Class 9 buildings have a higher risk of fire than buildings in some other classes. As such, the minimum requirements for fire safety are higher. If you are changing the use of a building, you should engage a specialist consultant to let you know what changes you will have to make.

### **Money saving tip**

Choosing a building that shares the same classification as your business will minimise the renovations you'll have to do. It can save you from making expensive modifications like making it wheelchair accessible or upgrading the fire performance of structural elements like stairs.



# Regulations and Registrations

Depending on your business, there are some regulatory approvals and registrations that are required before you can open. These can usually be organised after your planning permit is obtained.

# Noise control

Excessive noise can be annoying or even harmful to neighbours, so you have an obligation to minimise the impact of your business's noise. While you may think the level of noise is subjective, there are standards to which unreasonable noise can be determined, including statutory noise controls implemented by law. The risk of unreasonable noise impacts is a key factor in deciding whether a permit should be granted and endorsed by Council.

## How do I know if my business will be considered too noisy?

When submitting an application for Planning Permit, unless your application has a low risk of any noise impacts occurring, you should undertake an assessment of noise impacts and include it in your application.

The best way to do this is through an acoustic report, prepared by a qualified acoustics consultant. This will describe the ways to control your noise to an acceptable level so that your application can be approved. It may also include clear conditions that your business would need to operate under, like not playing music outside after 11pm.

## What to consider when looking at sites for your business

The following table provides an overview of the types of applications that have a risk of noise impacts occurring for fitness businesses. It's not exhaustive as every situation is different and will depend on existing noise levels in the area. However, it can be used as a guide to gauge the amount of work required to submit a successful application.

In most cases, an acoustic report will need to be provided with the planning application to determine whether a proposal is satisfactory.

Higher Risk of Impact	Operational Considerations
<ul style="list-style-type: none"><li>• Sensitive uses abutting or within same building</li><li>• Aerobics or instructor-based gyms with loud music or amplified voices</li><li>• Gyms with free weight areas</li><li>• External mechanical plant that is overlooked by sensitive use buildings</li></ul>	<ul style="list-style-type: none"><li>• Specific vibration isolation may be required for floors</li><li>• Limits on amplification</li><li>• Mechanical plant may require mitigation if located close to sensitive use boundaries</li><li>• Architectural building upgrades where premises share common partitions (e.g. directly interface with sensitive uses)</li></ul>





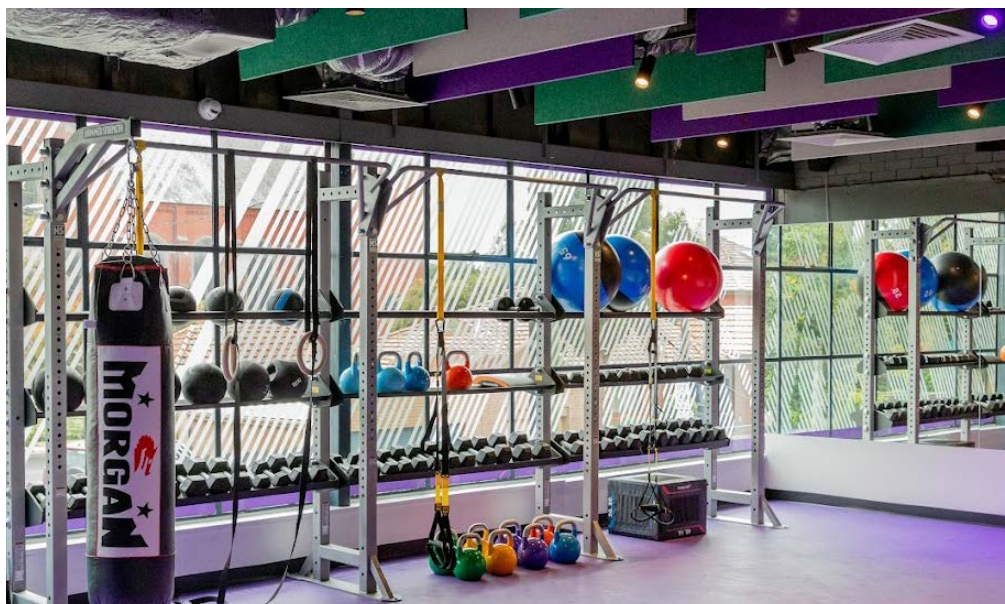
## How do I control my noise levels?

Often the simplest way is by limiting the hours of operation so you're not being too noisy while people are trying to sleep. When this is too limiting to your business, your acoustic consultant may recommend things like:

- Acoustic barriers, screening and fencing.
- Treatments to facades, doors and glazing.
- Electronic controls for amplification (e.g. limiting how high the volume can be turned up).



Checking sound levels



Acoustic Barriers

## For more information on acoustics, read these fact sheets:

- **Acoustics for gyms**
- **Seeking professional advice on acoustics**
- **Acoustics and Unreasonable Noise**



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## **Good luck with your business!**

We wish you all the best with your new business. It's an exciting journey. If you have any questions along the way, contact your local Council. Find your Council using the Know Your Council website: [www.knowyourcouncil.vic.gov.au](http://www.knowyourcouncil.vic.gov.au).

