

Jacob Atkinson

From: Andrew Thornton <AThornton@tract.net.au>
Sent: Wednesday, 27 July 2022 4:55 PM
To: George Sinadinos
Cc: Joseph Indomenico; Donna Whiffin
Subject: RE: CM: Piano Bar - Update

Hi George,

The Piano Bar team has made substantive progress on the investigation works this week. I have been advised that Stantec attended site today and confirmed that deficiencies in the roof construction are the source of noise spill from the venue.

Stantec has provided instruction to the Piano Bar team to address these issues and the works will be undertaken over the coming weeks, commencing next Monday 1 August.

The Piano Bar will be closed for the duration of these works including the weekend of 6-7 August and into the following week. It is anticipated the works will be completed to allow for subsequent testing to occur on the weekend 13-14 August, however it is possible this may not be able to be scheduled until the following weekend (20-21 August).

Accordingly, it is the request of the Piano Bar team that the current enforcement deadline of Friday 5 August be extended by 4 weeks to 2 September to allow for the works, testing and subsequent analysis to be completed and issued to Council.

The team is very thankful to be receiving advice from Stantec to assist with this process and thanks you for your understanding that the change in consultant team has resulted in a further delay to our initial testing timing. The venue now has a clear pathway forward to compliance.

Should you have any concerns please give me a call tomorrow morning.

Kind Regards,

Andrew Thornton
Associate Town Planner
03 9427 3710

Tract
Level 6, 6 Riverside Quay
Southbank VIC 3006 Australia
03 9429 6133

Tract



The health, safety and wellbeing of our team and community is of utmost importance. That's why we ask that you are vaccinated, symptom free and we encourage you to wear a face mask when visiting our offices. [Read our full visitor policy here.](#)

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From: Andrew Thornton
Sent: Wednesday, 20 July 2022 4:05 PM
To: George Sinadinos <GSinadinos@moreland.vic.gov.au>

Cc: Joseph Indomenico <JIndomenico@tract.net.au>; Donna Whiffin <donna@eastbrunswickhotel.com.au>
Subject: RE: CM: Piano Bar - Update

Hi George,

Thank you for your time on the phone. Please find an update below.

As discussed, since last correspondence the Piano Bar team has made the decision to engage the services of Stantec as acoustic consultant for this matter moving forward. The intention is to obtain the highest quality advice and testing in order to achieve compliance with the EPA regulations.

Stantec undertook acoustic testing at Piano Bar and the first floor apartment on Saturday 9 July with the results confirming that the operation of Piano Bar does not comply with the EPA thresholds, despite the measures undertaken by our client over the past 12 months. Based on the readings Stantec suspects that the acoustic attenuation of the ceiling is not performing as intended.

Stantec has also observed that the ambient background noise levels within the apartment are higher than the criteria applied in Marshall Day's initial Acoustic Report. This is on the basis that Marshall Day's report was prepared prior to the completion of the development and therefore the report adopts a conservative criteria as baseline. Stantec has requested that for future testing an updated background noise level be applied that is consistent with the ambient noise in the apartment. We are seeking Council's confirmation in this respect.

In terms of the pathway forward the following steps have been set by the team:

1. Investigative works are to be undertaken to the ceiling next week, commencing Monday.
2. Stantec will make inspections during the investigation and provide advice on the necessary works required to address any deficiencies that are discovered.
3. Pending the completion of any requisite works Stantec will undertake a further round of acoustic testing. This testing will apply the revised ambient background levels for the apartment in lieu of the conservative criteria in the Marshall Day report.

The team is clear on the need for this investigation to be undertaken thoroughly to ensure that any deficiencies are discovered and addressed. The intention is that the completion of the three steps above will lead to a compliant performance outcome.

We will provide you with a further update mid-to-late next week once the outcomes of the investigation are known. We will continue to work toward the 5 August deadline and appreciate that extensions may only be granted in exceptional circumstances.

Thank you again for your patience and understanding through this process. Please be in touch with any questions ahead of next week's update.

Kind Regards,

Andrew Thornton
Associate Town Planner
03 9427 3710

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From: George Sinadinos <GSinadinos@moreland.vic.gov.au>
Sent: Tuesday, 5 July 2022 9:58 AM
To: Joseph Indomenico <JIndomenico@tract.net.au>
Cc: Andrew Thornton <AThornton@tract.net.au>
Subject: RE: RE: CM: Piano Bar

Hi Joe

Thanks for your call today. I understand your client has concerns about being able to comply with the deadline set by Council due to the acoustic testing being unable to occur as a result of affected apartment residents refusing to allow the consultant access. Please note that the compliance deadline has since been extended to **Friday 5 August 2022** and later in this e-mail I will summarise some further events in the matter, since my last e-mail to you, that it appears have yet to be communicated to you by your client.

The information I've been provided by affected residents is that they would consent to the testing but only on the basis of it being the acoustic consultant attending. My understanding is they are uncomfortable with anyone else attending, such as piano bar staff, and this is likely due to a bad relationship between some of the residents and the piano bar lot owner, which seem to extend beyond just the noise issues in this matter, and may also relate to separate legal proceedings that have previously occurred.

As an update, since my last e-mail to you below where I had attached a letter with a deadline of 8 July 2022, the following sequence of events has occurred:

- 20 June 2022 - I received an e-mail from Chris Wright of Kerr and Kerr Partners acting on behalf of the lot owner which attached a letter summarising the challenges in the client being able to meet the 8 July deadline due to pre-booked events and requesting an extension of time to 5 August 2022
- 22 June 2022 – I received a further e-mail and attached letter from Mr Wright which expanded on the points raised in the previous letter
- 23 June 2022 – I responded granting the requested extension of time to 5 August 2022 (see attached a copy of my letter with the conditions on which the extension was allowed)
- 1 July 2022 – E-mail from Mr Wright that sought the deadline be amended to '*six weeks after results of further monitoring of the affected areas is undertaken*' based on apartment residents refusing consent to allow access for testing to occur
- 4 July 2022 – I responded refusing this request noting the duration of the noise issue and the implications of allowing this extension could mean an indefinite deadline with no fixed date

I hope this summary has assisted you with an update on the status of the matter. Please feel free to contact me if you have any further queries.

Regards,

George Sinadinos
Senior Planning Enforcement Officer

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www.moreland.vic.gov.au



Moreland City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Moreland. We pay respect to their Elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.

From: George Sinadinos
Sent: Thursday, 16 June 2022 4:42 PM
To: Joseph Indomenico <JIndomenico@tract.net.au>
Cc: Andrew Thornton <AThornton@tract.net.au>; Donna Whiffin <donna@eastbrunswickhotel.com.au>
Subject: CM: RE: CM: Piano Bar

Hi Joseph

I'm responding to you given Andrew's advice below that you will be looking after this matter in his absence. Firstly, please see attached a very broad dot point summary of the history of this matter from the time of the first complaints to Council up until present. I've copied into this e-mail East Brunswick Hotel General Manager, Donna Whiffin, at her request after a phone conversation we had about this matter yesterday. Please advise if this information assists with the enquiry and if anything further is required noting I cannot disclose any personal details of affected residents for privacy reasons.

Secondly, please see attached formal correspondence that sets a final compliance deadline 3 weeks from tomorrow being **Friday 8 July 2022** by when Council requires confirmation that noise levels at all times have been brought into compliance with EPA requirements as per condition 8 of the Permit. Failure to confirm compliance by this deadline may result in Council escalating this matter to further enforcement proceedings. Once more, a copy of this correspondence is also being posted directly to the land owner.

The decision to set a final deadline has been made due to the severe amenity impacts multiple residents are reporting to be experiencing as a result of the noise and from what they say has been a cumulative impact due to how long this issue has endured without resolution.

If there are any questions about this, please feel free to contact me.

Regards,

George Sinadinos
Senior Planning Enforcement Officer

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From: Andrew Thornton <AThornton@tract.net.au>
Sent: Friday, 10 June 2022 12:40 PM
To: George Sinadinos <GSinadinos@moreland.vic.gov.au>
Cc: Joseph Indomenico <JIndomenico@tract.net.au>
Subject: CM: Piano Bar

Hi George,

Hope it's been a good week.

The team at Piano Bar has requested a copy of the complaints received from the residents in the hope this will help them better understand history of this matter and nature of the issue. Is it possible that Council can provide a copy or summary?

So you're aware I will be on annual leave from next week until mid-July, so in this time Joe (CC'd) will be able to assist you in relation to this matter.

Kind Regards,



Andrew Thornton
Associate Town Planner
03 9427 3710

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From: Donna Whiffin <donna@eastbrunswickhotel.com.au>
Sent: Friday, 10 June 2022 12:31 PM
To: Andrew Thornton <AThornton@tract.net.au>
Subject: Complaints

Hi Andrew
Happy Friday!

I am after a list of the complaints we have received from the residents of 294 Lygon St.
As you know, I have come into this just recently, so keen to get a copy of the complaints.

Hope you can help.

Best,

Donna Whiffin
General Manager
East Brunswick Hotel
0419 527 157

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