

Ordinary Council Meeting

25 October 2022

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These attachments to be retained for Council Meeting

26 November 2021

DA 2021/0116 – Last Rites Bar Yamba

As per phone contact from CVC representative on Thursday 25 November 2021, I am putting in writing the DA consent conditions review request as per lodgement on NSW Planning Portal, some weeks earlier.

Consent condition (6) states

The noise from the licensed premises shall not be audible within any habitable room in any residential premises during opening hours.

The language in this condition appears to have been taken directly from the NSW Office of Liquor and Gaming however in its an unadulterated form should read:

The noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of midnight and 7:00am.

This consent condition appears to have been “customised” to suit a particular agenda. I note my approved liquor license contains no specific condition for noise control given the existence of condition (2a) and the extensive compliance measures Liquor and Gaming, NSW Police, EPA and Council have at their disposal.

The above condition (6) is considered highly problematic and council has given us an impossible task; if any of our patrons are heard during the day while our bi-fold doors are open (much like the operation of most other bar/cafes/restaurants in Yamba), then we are automatically in breach of this condition. This concern was raised by our acoustic engineer and he has provided us with a number of examples of comparable small bars where the “habitable room” condition is from midnight to 7am; this includes the Sydney Opera House small bar.

Condition 6 provides a clear path for vexatious complaints by our objectors and is in no way consistent with conditions placed on surrounding businesses. It is noted that we have our bi-fold doors open from approx. 5pm until 8pm which is consistent with other food/drink businesses within Yamba business zone, particularly those who offer Al Fresco dining. Music within our venue is reduced to quite background music when the bi-fold doors are open.

CVC recently signed up for a case study on ways to explore and expand live music options within the Clarence Valley (Live and Loud) in order to capitalise on the social and economic value live music brings to the community. By following the logic highlighted above, every future identified space/venue would be in breach of noise regulations without first having to go down the costly road of getting an acoustic report completed; and possibly spending tens of thousands of dollars on mitigation works.

This brings me to my point that the vast majority of businesses within Yamba CBD do not have specific condition within their DA consent relating to (patron) noise, only us. This is not a “level playing field” as told to us by our assessing officer when discussing how consent conditions are applied. Our planner consistently used the Paradiso Bar at 10 Clarence Street Yamba as reference as a comparable business and stated that our consent conditions would be in alignment with that venue. Paradiso Bar is allowed to operate until 11:30pm and has bi-fold doors and windows open at all hours of trade. This venue is located amongst an abundance of residential receivers and has the same condition as us depicted in (our) Condition 6 however theirs states:

The noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 11:30pm and 7:00am.

Yours faithfully,

Dane Byrne – Last Rites Bar.

