

11/05/2023

Mailing Address: PO Box 390, Gayndah Qld 4625  
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Web: [www.northburnett.qld.gov.au](http://www.northburnett.qld.gov.au)  
ABN: 23 439 388 197  
Your Reference: N/A  
Our Reference: DA230022

Kerry Pearce  
63-69 Lyons Street  
Mundubbera QLD 4626

Dear Sir / Madam

**RE: DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE – FOOD AND DRINK OUTLET AT 63-69 LYONS ROAD, MUNDUBBERA; LAND DESCRIBED AS LOT 71 ON M586**

Thank you for the above-mentioned development application lodged with the North Burnett Regional Council on 27 April 2023 and taken to be properly made on 27 April 2023.

Please find attached the Decision Notice for the above-mentioned development application.

Sections 71 and 72 of the Planning Act 2016 identifies when a development approval has effect and the development may start. In summary, a development approval generally has immediate effect, except when—

- if there is an appeal, after the appeal has ended;
- if there is no appeal but there was a submitter, all submitters have notified the Council that they will not appeal the decision, or when the last appeal period ends.

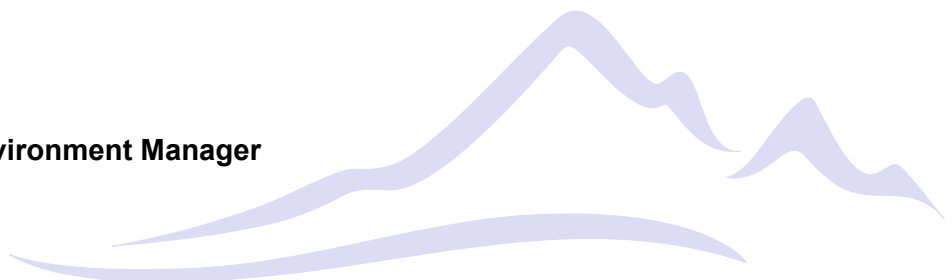
Please quote Council's application number: DA230022 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this matter or wish to schedule a meeting, please contact Council's Development Services team on telephone 1300 696 272.

Yours sincerely,



Rachel Duncan  
**Acting Planning and Environment Manager**

Enc: Decision notice  
Approved plan



## Decision notice — approval (with conditions)

(Given under section 63 of the Planning Act 2016)

Thank you for your development application detailed below which was properly made on 10 May 2023. The North Burnett Regional Council has assessed your application and decided it as follows—

### Applicant's Details

Name: Kerry Pearce  
 Postal Address: 63-69 Lyons Road  
 Mundubbera QLD 4626  
 Email: [awesomemum812@gmail.com](mailto:awesomemum812@gmail.com)  
 Phone No.: -  
 Mobile No.: 0468 912 289

### Location details

Street address: 63-69 Lyons Road, Mundubbera  
 Real property description: Lot 71 on M586  
 Local government area: North Burnett Regional Council

### Application details:

Application number: DA230022  
 Approval sought: Development Permit  
 Description of development proposed: Material Change of Use — Food and Drink Outlet

### Decision

Date of decision: 11 May 2023  
 Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval		<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Approved plans and specifications

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Copies of the following plans, specifications and/or drawings are enclosed in attachment 3—

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Floor Plan 63-69 Lyons St, Mundubbera	Applicant	-	-	-

## Conditions

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This approval is subject to the conditions in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

## Further development permits

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Plumbing and Drainage Work

## Referral agencies for the application

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Not applicable — This application did not require referral to a concurrence agency.

## Conditions about infrastructure

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No conditions about infrastructure have been imposed under Chapter 4 of the Planning Act 2016

## Rights of appeal

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The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016* (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#ch.6>) and Schedule 1 of the *Planning Act 2016* (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#sch.1>). For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016* – <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#ch.6-pt.2>). A hard copy of the appeal rights extracted from the *Planning Act 2016* can be provided upon request.

Should you require any further assistance in process, please contact Council's Development Services Department on 1300 696 272.

Yours faithfully

for 

Rachel Duncan  
**Acting Planning and Environment Manager**

Enc: Attachment 1-conditions imposed by assessment manager  
Attachment 2-approved plans  
Attachment 3-appeal rights

## **Attachment 1 – Conditions Imposed by Assessment Manager**

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### **General**

- 1) Carry out the approved development in accordance with the approved plans and documents identified in section 5 “Approved plans” of the decision notice approval, except as modified by the conditions of this approval as relevant.
- 2) Where there is any conflict between conditions of this approval and details shown on the approved plans and documents, the conditions prevail.
- 3) Exercise the approval and complete all associated works, including any relocation or installation of services, at no cost to Council.
- 4) Comply with all the conditions of this development permit prior to commencement of the use, and maintain compliance whilst the use continues.

### **Hours of operation**

- 5) The approved use must be undertaken between the hours of 7am and 6pm Monday to Friday inclusive, Saturday 8am to 5pm and 9am to 5pm Sunday.
- 6) Deliveries and loading/unloading activities must be undertaken between the hours of 7am and 6pm Monday to Friday inclusive, Saturday 8am to 5pm and 9am to 5pm Sunday.
- 7) Refuse collection that is not undertaken by the North Burnett Regional Council must be undertaken between the hours of 7am and 6pm Monday to Friday inclusive, Saturday 8am to 5pm and 9am to 5pm Sunday.

### **Lighting**

- 8) Lighting to be used within the development is to be designed and installed in accordance with AS4282-1997: “Control of the Obtrusive Effects of Outdoor Lighting” so as not to cause nuisance to occupants, nearby residents or passing motorists.

### **Waste management**

- 9) Provide an impervious bin storage area for the storage of refuse bins in accordance with the following—
  - a) designed so as to prevent the release of contaminants into the environment
  - b) sufficiently sized to accommodate all refuse bins
  - c) screened from the road frontage or other public space by landscaping or constructed screening
  - d) a suitable hose cock (with backflow prevention) and hoses must be provided at the bin storage area, and wash down to be drained to the sewer and fitted with an approved stormwater diversion valve arrangement
  - e) must be maintained in a clean and sanitary manner.
- 10) Maintain and operate an adequate waste disposal service, including the maintenance of refuse bins and associated storage areas so as not to cause an environmental nuisance.

## Advice to the applicant

- Unless otherwise explicitly identified, all condition of this development permit must be completed to Council's satisfaction prior to the commencement of the use.
- This approval relates to development requiring approval under the *Planning Act 2016* only. It is the applicant's responsibility to obtain any other necessary approvals, licences or permits required under State and Commonwealth legislation or council local law, prior to carrying out the development. For information about State and Commonwealth requirements please consult with these agencies directly.
- This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." Council does not warrant that the approved development avoids affecting Aboriginal cultural heritage. It may therefore be prudent for you to carry out searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. The Act and the associated duty of care guidelines explain your obligations in more detail and should be consulted before proceeding.
- All rates, charges or any expenses levied by Council over the land must be paid prior to the Subdivision Plan being endorsed by Council.
- The existing structures may contain asbestos containing materials. A suitably qualified person must inspect the buildings prior to demolition. Any material found that contains asbestos must be handled according to *Work Health and Safety Regulations 2011*. For further information visit [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au).
- To assist Council to undertake an integrated assessment of the operational works application, all aspects of the works must be included in one (1) application and be in accordance with Council's planning scheme. Additional application fees apply to applications where the different aspects of the works are lodged separately. Significant savings in application fees will result if all works are lodged in a single application.



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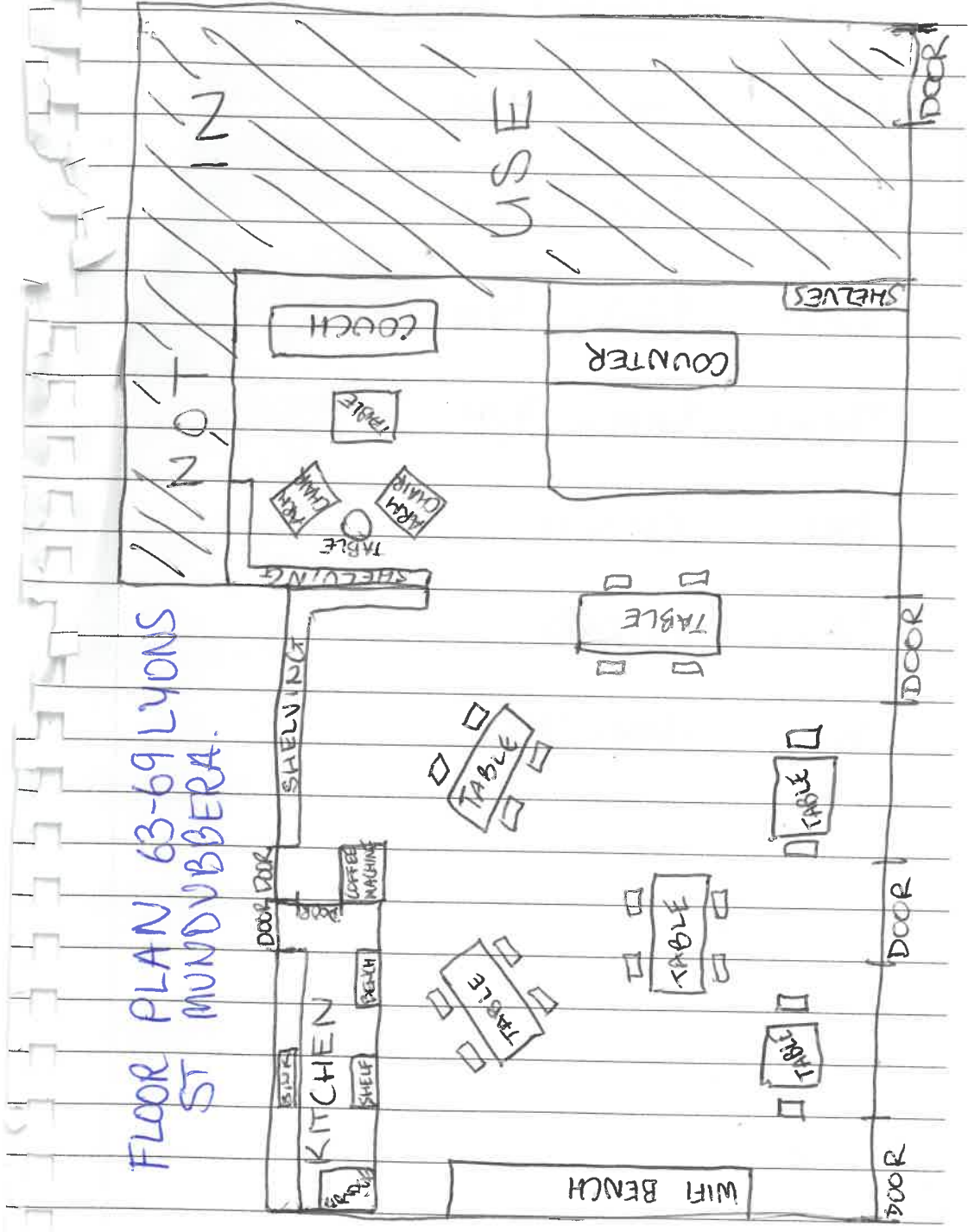
## **Attachment 2 – Approved Plans**

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**Please refer to the following pages for approved plans.**

FLOOR PLAN 63-69 LYONS  
ST MUNDUBBERA.



## **Attachment 3 – Appeal Rights Planning Act 2016**

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**Please refer to attached document or**

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#ch.6>

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#sch.1>