



Ballina Shire Council
 40 Cherry Street
 BALLINA NSW 2478

PO Box 450
 BALLINA NSW 2478

02 6686 4444
council@ballina.nsw.gov.au
www.ballina.nsw.gov.au



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enquiries refer
Anthony Peters
in reply please quote
DA: 2014/328



Mr K A Tanttari
PO Box 747
BALLINA NSW 2478

**NOTICE TO APPLICANT OF DETERMINATION OF A
DEVELOPMENT APPLICATION**
(Issued under Section 81(1)(a) of the Environmental Planning and Assessment Act 1979)

Development Application No: DA 2014/328

Applicant: Mr K A Tanttari

Subject Land: Lot 18 DP 816966,
No. 12 De-Havilland Crescent, Ballina

Development Proposal: To Undertake a Change of Use from an Industrial Building to a Place of Public Worship and including the Rectification of Unauthorised Alterations to the Building and signage

Building Classification under the Building Code of Australia: 9b

Determination: The development application has been determined by Ballina Shire Council on 29 April 2015 by way of **the grant of consent subject to the conditions specified in this notice:**

This consent operates from: 29 April 2015

GENERAL

1. Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including plans prepared by Life Church Amended Site and Floor Plan Dated 18 September 2014, except as modified by any condition in this consent.
2. Ongoing occupation or use of the premises for the purposes authorised by this consent shall occur on the basis that:

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- (a) an occupation certificate has been obtained within six months of the date of this consent for the upgrade of the carpark (including the provision of a disabled car park), payment of contributions and stormwater management in accordance with Conditions 14 to 17 inclusive;
 - (b) an occupation certificate has been obtained within three years of the date of this consent for the provision of access to and within the crèche room and accessible sanitary facilities in accordance with AS1428.1-2009, and
 - (c) all other conditions of this consent have been complied with, unless alternative arrangements have been made with Council.
3. No more than 200 people are to occupy the premises at any time.
 4. The signage approved as part of this consent is limited to one wall sign fronting Southern Cross Drive (1.2 metres x 2.4 metres) and one wall sign fronting De-Havilland Crescent (2.4 metres x 1.2 metres).
 5. No advertising sign(s) is to be erected or displayed without prior submission of a development application to, and approval from, Council, unless the proposed signage is consistent with the terms and conditions of Council's Exempt and Complying Development Control Plan or the signage approved by this consent.
 6. **Building Inspections**

Where Council is the Principal Certifying Authority

Forty eight (48) hours notice is to be given to enable the following building works to be inspected during construction by the Council where Council is the Principal Certifying Authority. NOTE: All required sewer and water service plumbing drainage inspections are to be carried out by Council:

- a) Prior to the pouring of any in-situ reinforced concrete building element.
- b) When the internal sewer drainage pipelines beneath the building have been laid by the licensed plumber so that a water test can be carried out before they are backfilled.
- c) When the steel is in position before any concrete floor slabs including patios and garages are poured.
- d) When the external sewer drainage lines have been laid by the licensed plumber so that a water test can be carried out before they are backfilled.
- e) On completion of the framework with the roof covering and external wall cladding in position before the internal walls and ceilings are fixed.
- f) Prior to the covering of waterproofing flashings to any wet areas.
- g) On completion of the water supply "rough in" and/or plumbing stackwork prior to the internal lining of the building.
- h) On completion of the building before occupation and the issue of any occupation certificate.

NOTE: These inspections are considered to be critical stage inspections required during construction. Failure to carry out these inspections is a breach of the *Environmental Planning & Assessment Act* and may jeopardise the issue of an Occupation Certificate.

7. BCA compliance

The building/premise is to comply with the requirements of the Building Code of Australia and relevant Australian Standards.

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8. Construction certificate to be consistent with DA

Any Construction Certificate issued in association with this development must ensure that any certified plans are consistent (in terms of site layout, site levels, building location, size, internal/external design, external configuration and appearance) with the approved Development Application plans.

9. Essential services

The following services and equipment are essential services required by the BCA to ensure the safety of people in the building in the event of an outbreak of fire in the building.

- (a) Fire hose reels
- (b) Emergency lighting
- (c) Fire blankets
- (d) Exit signs
- (e) Portable fire extinguishers

- 10. Driveway construction** - The driveways and parking bays within the development are to be constructed of reinforced concrete or similar paved material. All driveway areas are to be adequately graded and drained to stormwater treatment areas. These areas must discharge to Council's stormwater system to ensure that stormwater is not directed onto adjoining properties.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (Building and/or Civil)

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development.

11. Administration/inspection fees

Where Council is not chosen as the Principal Certifying Authority, the relevant certificate registration fee and required sewer inspection fees are to be paid to Council in accordance with Council's Fee Schedule, prior to the issue of a Construction Certificate.

- 12.** In accordance with Section 109F of the EP & A Act a Construction Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.

13. Disabled access

The existing building including the accessible car parking space is to be upgraded to provide access and facilities in accordance with AS 1428.1- 2009, *Design for access and mobility- Part 1: General requirements for access—New building work* and AS 2890.6-2009, *Parking facilities -Part 6: Off-street parking for people with disabilities*.

The upgrade is to include:

1. an accessible car parking space in accordance with AS 2890.6 – 2009;
2. a *continuous accessible path of travel* from the accessible carparking space to the building via the principal pedestrian entrance in accordance with AS 1428.1-2009; and



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3. access to and within the crèche room and accessible sanitary facilities in accordance with AS1428.1-2009.

Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying Authority prior to issue of the Construction Certificate. The upgrade is to ensure all required circulation spaces, door openings, fittings and fixtures in the above areas comply with AS 1428.1-2009. Upgrade items one and two are to be completed prior to 29 October 2015 whilst item three is required to be completed prior to 29 April 2018.

14. **Stormwater management plan** - The provision of stormwater controls on site shall be in accordance with the Water Sensitive Design requirements of Council's Development Control Plan Chapter 2 – Section 3.9 - Stormwater Management. The proposed awning must therefore include a rainwater tank with a minimum detention storage of 1,500L. The tank must be fitted with a low flow orifice to ensure that detention remains available on an ongoing basis. The stormwater design for the awning and rainwater tank must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
15. **Car parking & vehicular access** – The development shall provide a total of nine on-site car parking spaces inclusive of one new disabled space. The design of all car parking and vehicular accesses are to be in accordance with the Australian Standard AS/NZS 2890.1:2004. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
16. **Car parking for disabled** - The design of all disabled car parking spaces are to be in accordance with Australian Standard AS/NZS 2890.6: 2009. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

17. Developer Contributions

Prior to issue of a Construction Certificate where building work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979:

Contribution Plan/Development Servicing Plan	Adopted
Ballina Shire Contributions Plan 2008	23 October 2008
Ballina Shire Roads Contribution Plan 2010	25 February 2010
Ballina Shire Carparking Contributions Plan 2014	14 May 2014
Ballina Shire Heavy Haulage Contribution Plan	27 October 2011

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

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The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 (**attached**).

PRIOR TO CONSTRUCTION WORK COMMENCING

The following conditions in this section of the consent must be complied with or addressed prior to commencement of construction works relating to the approved development.

18. Construction Certificate

Prior to construction of the approved development it is necessary to obtain a Construction Certificate. Either Council or an appropriately accredited certifier may issue a Construction Certificate. A separate application, complete with detailed plans and specifications, must be made to the Principal Certifying Authority for a Construction Certificate.

19. Appointment of Principal Certifying Authority

Where Council is not nominated as the Principal Certifying Authority (PCA), the person having the benefit of this development consent is to submit written notification to Council, at least two (2) days prior to the commencement of any works, giving the name and details of the Principal Certifying Authority, in accordance with the requirements of Section 81A(2) of the Environmental Planning & Assessment Act 1979 (as amended).

20. Notice of commencement

Where Council is not nominated as the Principal Certifying Authority (PCA), the person having the benefit of this development consent is to submit written notification to Council, at least two (2) days prior to the commencement of any works, giving the date of commencement and details of the Development Consent and associated Construction Certificate, in accordance with the requirements of Section 81A(2) of the Environmental Planning & Assessment Act 1979 (as amended).

21. Erection of Signs

- (1) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with Section 109R of the Act, to comply with the technical provision of the NSW Government's building laws.

22. Building waste containment

A suitable waste container capable of holding blowable type building waste must be made available on the building site during the course of construction. Building waste such as paper, plastic, cardboard, sarking etc. must be regularly cleaned up and

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placed in the waste container so that it cannot be blown off the building site and litter the locality.

23. Builder's toilet

A suitable builder's toilet is to be provided on-site before building work commences. Such facility is to either connect to Council's sewer or a suitable approved chemical closet is to be provided.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

Unless otherwise stated all development and works referred to in other sections of this consent are to be completed together with the following conditions prior to occupation or use.

24. A Building Certificate application shall be made to Council for the rectification of the unauthorised building works.

25. Outstanding items from BA 250/98

Prior to issue of an Occupation Certificate, items 3, 6 and 7 from BA 250/98 are to be completed as listed below:

3. Exhaust fans in water closet compartments and rangehood over stove are to be ducted to the exterior of the building.

6. Submit certification from a practicing Structural Engineer that the wall panels have been designed and constructed to ensure that the concrete wall panels will not collapse outwards in the event of a fire; and

7. Provide padlock to main stopcock on water to ensure that it remains open at all times.

26. Fire safety certificate

On completion of the erection of the building, the owner is required to provide Council with a Fire Safety Certificate certifying that all essential services installed in the building have been inspected and tested by a competent person and were found to have been designed and installed to be capable of operating to the minimum standard required by the BCA.

27. **Car parking (standard)** - The construction of all car parking and vehicular accesses is to be in accordance with the approved Construction Plans and Australian Standard AS/NZS 2890.1: 2004. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

28. **Car parking (disabled)** - The construction of all disabled car parking spaces is to be in accordance with the approved Construction Plans and Australian Standard AS /NZS 2890.6: 2009. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

CONDITIONS OF USE/DURING OCCUPATION

The following conditions in this section of the consent are to be complied with in the day-to-day use or operation of the approved development.

29. No more than four funerals or weddings are to be conducted from the premises per annum.

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30. Goods not to be exposed

No goods, materials or unauthorised signs (including A-frame signs) are to be stored, displayed or left exposed outside the building or in the street, unless otherwise approved by Council.

31. General amenity

The building, constructed works and activities carried out on the site shall not cause injury to, or prejudicially affect the amenity of the locality by reason of the appearance of the buildings, works, materials or goods on the site; traffic movements, on-street parking; the emission of smell, noise, vibration, dust, waste products, oil, lights and the like.

32. Loading & unloading

All loading and unloading of goods is to be carried out off-street and wholly within the site.

33. Fire safety statement

The owner of the building must provide Council with an Annual Fire Safety Statement at least once in each twelve month period, certifying that the essential services installed in the building have been inspected and tested by a competent person and at the time of that inspection, were capable of operating at the minimum standard required by the development consent. This statement is to be kept in the building to which it relates

34. Occupation Certificate

The new work is not to be occupied or used until an Occupation Certificate has been issued by the Principal Certifying Authority.

35. Hours of operation

The use of the premises as a place of public worship (excluding the use of the building for funerals and wedding ceremonies in accordance with this consent) must be restricted to the following hours.

Monday to Fridays	9.00am to 10.00pm
Saturdays & Sundays	9.30am to 8.00pm

36. Food prepared in the kitchen area is only to be provided to the congregation members. No food is to be sold to the general public from the premises.

37. No tables and chairs are to be placed outside the building for alfresco dining at any time.

38. No trade waste facilities are to be provided on-site.

REASONS FOR CONDITIONS

- ensure compliance with the requirements of the Environmental Planning & Assessment Act, 1979;
- ensure compliance with the objectives of the Ballina Local Environmental Plan 2012;
- ensure an appropriate level of amenities and services is available;
- protect the existing and likely future amenity of the locality;
- maintain, as far as practicable, the public interest;
- ensure compliance with the Building Code of Australia and relevant Australian Standards;

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- ensure satisfactory compliance with relevant Council plans, codes and policies.

ADVISORY MATTERS

1. Disability Discrimination Act 1992

The granting of this consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992 (DDA). The applicant is advised to investigate any liability that may apply under that Act. Australian Standard AS 1428 – Design for Access and Mobility should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

Compliance with the BCA does not guarantee compliance with the DDA. The BCA provides important access provisions however:

- (a) it does not cover all developments that are subject to the provisions of the DDA;
- (b) it focuses primarily on access for people with disabilities which affect their mobility and does not address other disabilities, such as sensory disabilities; and
- (c) while it mandates improved access for people with disabilities, it is not framed in terms of "equality of access".

You are therefore advised to investigate your liability under the DDA with respect to any existing and proposed future works.

2. Protection of the Environment

The development is to be operated in accordance with the provisions of the Protection of the Environment and Operations Act 1997 as it applies to issues of air quality, noise generation, water and wastewater quality.

3. Noise Control

Use of the premises/services/equipment/ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment & Operations Act 1997.

4. WorkCover Requirements

The premises shall be operated in accordance with the requirements of the WorkCover Authority.

5. Wastewater Management Advice

All work carried out in connection with this approval must comply with any applicable standard established by the Local Government (Approvals) Regulation 1999, the Local Government (Water Services) Regulation 1999.

Advisory Note:

The applicant is advised to take care in ensuring that no damage is done to or unauthorised modifications are carried out on either Council's or any other organisation's underground infrastructure assets. Any Council sewer, stormwater or water main or other organisation owned electricity supply or telecommunication facility is not to be damaged or altered in any way without the necessary approvals being obtained beforehand from the relevant server.

You are advised to contact the following:



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- Council - for information on sewer, water supply & stormwater
 - Rous Water - Water Supply for Rous Water Authority controlled areas
 - "Dial Before You Dig" - for other service infrastructure

The information relating to your property is to be obtained prior to any works commencing.

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SCHEDULE 1

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
North & West Ballina Roads 2010	5202	equivalent residential allotment	\$11,161.00	0.2357	\$2,630.65
Roads Administration 2010	5203	equivalent residential allotment	\$169.00	0.2357	\$39.83
TOTAL					\$2,670.48

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The consent shall lapse on **29 April 2020** unless the development has commenced in accordance with the provisions of section 95 of the Act.

Other Approvals: The following approval bodies have given general terms of approval in relation to the development:

N/A

NB. The General Terms of Approval of these approval bodies have been incorporated within the Determination Notice.

Note: The Planning Assessment Commission has not conducted a public hearing in respect of the application.

Signed: _____ on 29 April 2015

Rod Willis
Group Manager
Development and Environmental Health
On behalf of Ballina Shire Council

Right of Appeal: If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to appeal to the NSW Land and Environment Court within 6 months after the date on which you receive this notice or the date on which the application is taken to have been determined under Section 82(1).

Section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for local development that has been the subject of a Commission of Inquiry.

Except in the case of designated development, there is no provision within the Environmental Planning and Assessment Act 1979 for a third party (objector) to appeal against the consent issued by the Council.

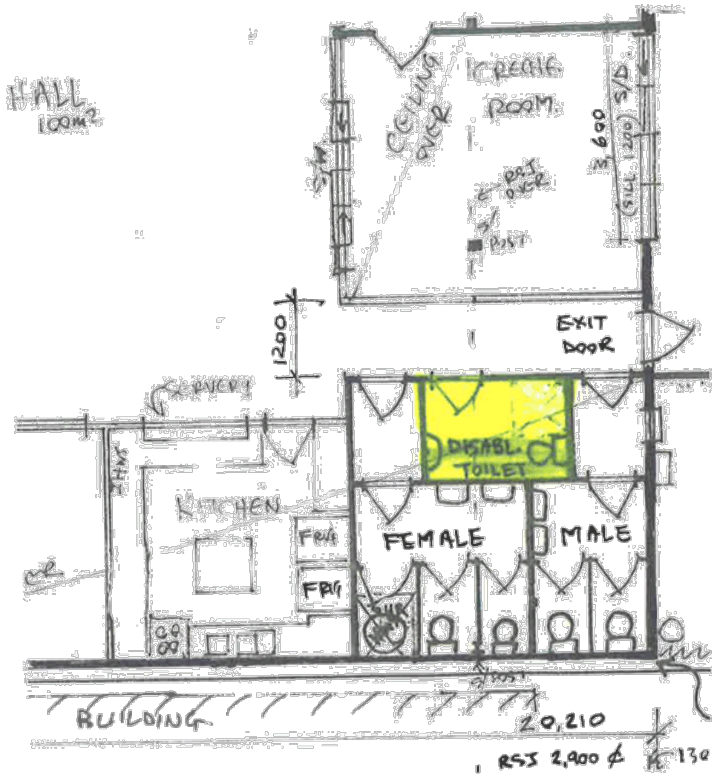
Review of Determination: Section 82A of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to request the Council to review the determination of your application. This request must be made within the time prescribed by Section 82A(2A) and be accompanied by the fee prescribed by Section 257 of the Environmental Planning & Assessment Regulation 2000. Review provisions do not apply to:

- (a) a determination to issue or refuse to issue a complying development certificate, or
- (b) a determination in respect of designated development, or
- (c) a determination in respect of integrated development, or
- (d) a determination made by the Council under Division 4 in respect of an application by the Crown.

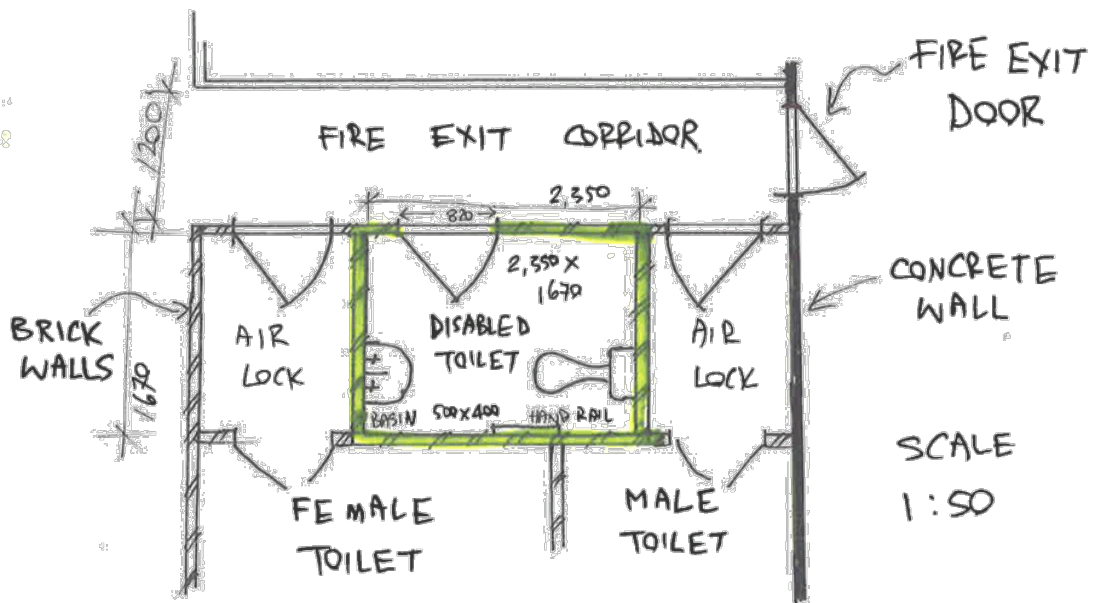
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LIFE CHURCH TOILETS

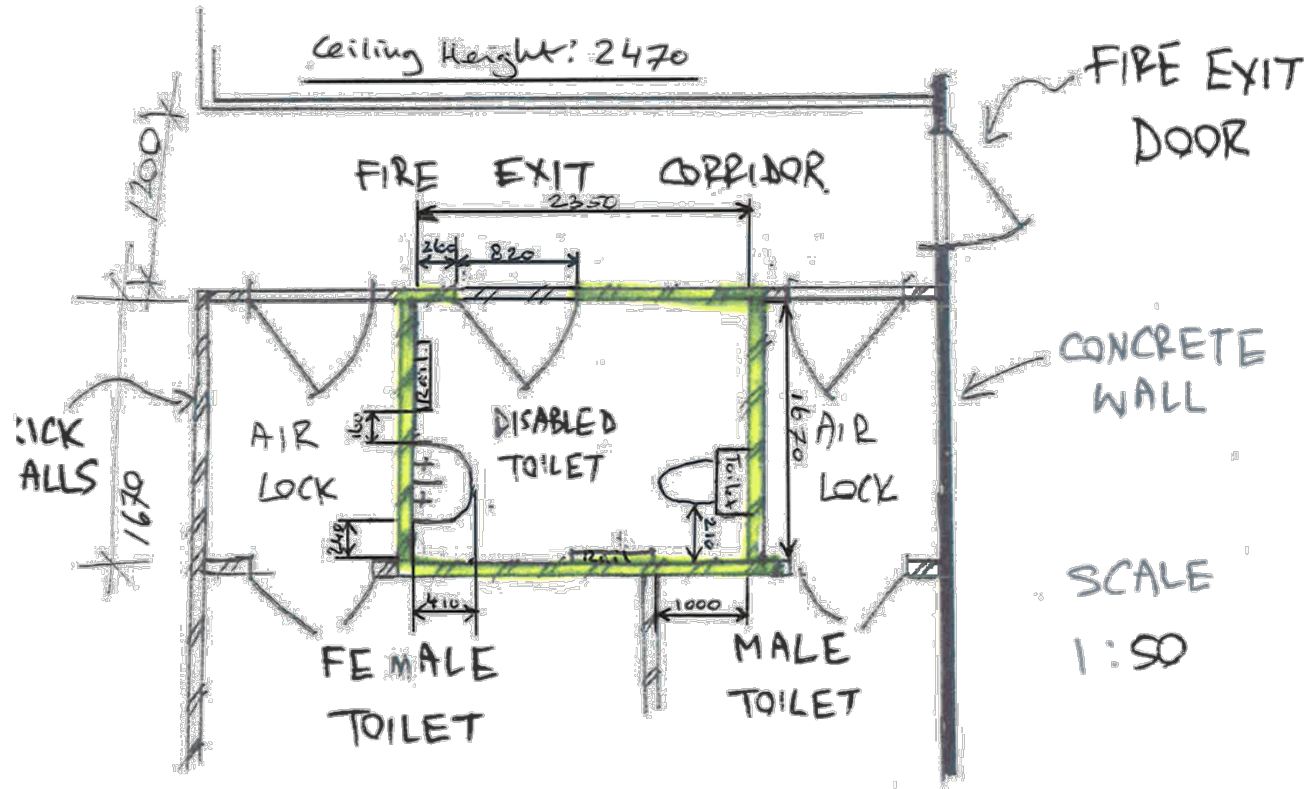
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LIFE Church
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17th June 2017

Ballina Shire Council
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Ref. DA 2014/328 – Life Church Existing Disabled Accessible Toilet

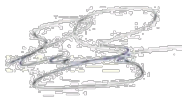
This report supports the S96 (1A) Application for re determination of the DA condition of consent granted by Ballina Council on 23 April 2015.

It was compiled based on information from the following sources:

- **Disability Discrimination Act 1992 (DDA)**
- **Disability (Access to Premises - Buildings) Standards 2010**
- **Explanatory Statement - Issued by the Authority of the Attorney-General**
Disability Discrimination Act 1992
Disability (Access to Premises—Buildings) Standards 2010
- **Final Regulation Impact Statement for Decision - (RIS 2009-05)**
Australian Building Codes Board
- **Guideline on the Application of the Premises Standards Ver. 2 Feb. 2013**
Australian Human Rights Commission
- **Design for access and mobility Part 1: General requirements for access —**
New building work AS 1428.1—2009 (Incorporating Amendment Nos 1 and 2)
SAI Global

Comments and recommendations will be highlighted.

Yours sincerely,



Bert Bos

The Disability Discrimination Act 1992

Part 2 - Prohibition of disability discrimination.

Division 2 - Discrimination in other areas.

23 - Access to premises.

It is unlawful for a person to discriminate against another person on the ground of the other person's disability:

- (a) by refusing to allow the other person access to, or the use of, any premises that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not); or
- (b) in the terms or conditions on which the first-mentioned person is prepared to allow the other person access to, or the use of, any such premises; or
- (c) in relation to the provision of means of access to such premises; or
- (d) by refusing to allow the other person the use of any facilities in such premises that the public or a section of the public is entitled or allowed to use (whether for payment or not); or
- (e) in the terms or conditions on which the first-mentioned person is prepared to allow the other person the use of any such facilities; or
- (f) by requiring the other person to leave such premises or cease to use such facilities.

Section 23 according to Australian Building Codes Board is general in its scope, rather than detailed, specific and prescriptive in its requirements.

Disability (Access to Premises — Buildings) Standards 2010 (Premises Standards)

Part 1 – Preliminary

1.2 - Commencement.

These Standards commence on 1 May 2011

This section states that the date for the commencement of the Premises Standards was 1 May 2011. This was the same date that a new BCA commenced ensuring consistency between the requirements of the BCA and Access Code provisions within the Premises Standards.

Life Church Disabled Toilet was built in 1998 prior to the commencement of the Premises standards.

1.3 - Objects

The specific objectives of the Premises Standards are: to ensure that reasonably achievable, equitable and cost-effective access to buildings, and facilities and services within buildings, is provided for people with disabilities;

Upgrading the existing Disabled Toilet would not be cost-effective, based on no issues nor accidents since its installation in 1998.

Part 2 – Scope of Standards

2.1 – Buildings to which Standards apply

2.1.3

A building is a new building if:

- (a) it is not a part of a building; and
- (b) either: (i) an application for approval for its construction is submitted, on or after 1 May 2011, to the competent authority in the State or Territory where the building is located;

2.1.4

A part of a building is a new part of the building if it is an extension to the building or a modified part of the building about which:

- (a) an application for approval for the building work is submitted, on or after 1 May 2011, to the competent authority in the State or Territory where the building is located;

Subsection 2.1(3) provide details of when to apply the Premises Standards based on the date an application for a new building / construction approval is made. Subsection 2.1(4) means any extension to, or modification of, an existing building for which an application for building work approval is required and is submitted on or after 1 May 2011 to the relevant approval authority.

Life Church Disabled Toilet was built in 1998 prior to the commencement of the Premises Standards, and as part of an existing building that has been modified, is not part of a new work. No modifications to the Disabled Toilet have taken place after 1 May 2011.

2.1.5

An affected part is:

- a) the principal pedestrian entrance of an existing building that contains a new part; and
- b) any part of an existing building, that contains a new part, that is necessary to provide a continuous accessible path of travel from the entrance to the new part.

As the 'new part' and the 'affected part' are the only portions of an existing building within the scope of the Premises Standards, there is no requirement imposed by the Premises Standards to upgrade or modify any other parts of the building in order to comply.

The Disabled Toilet complies as an existing part of the building according to the Premises Standard and does not need to be upgraded or modified.

Part 4 – Exceptions and concessions

4.5 – Toilet Concession

- (1) Paragraphs F2.4 (c) and (e) of the Access Code, to the extent that they require compliance with AS 1428.1—2009, *Design for access and mobility*, Part 1: *General requirements for access—New building work*, do not apply to the following:
- (a) existing accessible sanitary compartments;
 - (b) existing sanitary compartments suitable for use by people with a disability
- (2) For subsection (1) to apply, a sanitary compartment mentioned in paragraph (a) or (b) must:
- (a) comply with AS 1428.1—2001, *Design for access and mobility*, Part 1: *General requirements for access—New building work*; and
 - (b) be located in either a new part, or an affected part, of a building.

This concession recognises that the significant cost of upgrading the circulation space in existing sanitary facilities would not be justified where those facilities meet previous accessibility requirements.

Part F2 - Sanitary and other facilities

F2.4 Accessible sanitary facilities

In a building required to be accessible:

- (c) at each bank of toilets where there is one or more toilets in addition to an *accessible unisex sanitary compartment* at that bank of toilets, a *sanitary compartment* suitable for a person with an ambulant disability in accordance with AS 1428.1 must be provided for use by males and females; and
- (e) the circulation spaces, fixtures and fittings of all *accessible* sanitary facilities provided in accordance with Table F2.4 (a) and (b) must comply with the requirements of AS 1428.1

In Summary:

- (a) *Life Church disabled toilet was built in 1998 prior to the commencement of the Premises standards.*
- (b) *Upgrading the existing disabled toilet would not be cost-effective, based on no issues nor accidents since 1998.*
- (c) *The disabled toilet as part of an existing building that has been modified, is not part of a new work. No modifications to the Disabled Toilet have taken place.*
- (d) *The disabled toilet complies as an existing part of the building according to the Premises Standard and does not need to be upgraded or modified.*
- (e) *The toilet concession recognises that the significant cost of upgrading the circulation space in existing sanitary facilities would not be justified where those facilities meet previous accessibility requirements.*

Conclusion:

Based upon the above the existing disabled toilet facility complies with the 2011 Premises standard and therefore there is no requirement to upgrade to the AS 1428.1 – 2009 standard but instead adopt the AS 1428.1- 2001 standard.

