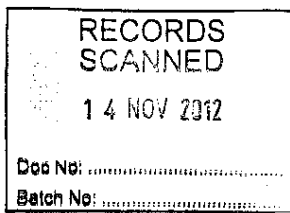




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Ref: FTMIN12/1325

Mr Paul Hickey
The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Mr Hickey

Delegation to Council of functions under the Plumbing and Drainage Act 2012

As you will be aware, the *Plumbing and Drainage Act 2011* (the Act) was passed by Parliament on 9 November 2011. The Act established a single scheme of regulation of on-site plumbing and drainage work in NSW and established NSW Fair Trading as the NSW plumbing regulator.

The legislation is being implemented in stages. In the first stage, the Act commenced on 1 July 2012 and implemented the *Plumbing Code of Australia* as the new technical standard across all of NSW. Fair Trading became the plumbing regulator in areas that, immediately before commencement of the Act, were within the areas of operations of the Sydney Water Corporation, Hunter Water Corporation and other licensed utility operators under the *Water Industry Competition Act 2006*. Local councils in other areas continued to retain compliance and inspection roles in relation to plumbing and drainage work.

In the second stage from 1 January 2013, Fair Trading will become the single regulator across NSW. However, Fair Trading has always intended to delegate certain functions back to local councils in order to continue the important regulatory role of councils in their local areas. Fair Trading has recently completed a series of roadshows, to which all councils were invited, to explain the new system and the role of councils.

Section 21 of the Act allows the plumbing regulator to delegate any of the plumbing regulator's functions to a local council, or any other person the regulator considers has the necessary skills, knowledge or experience to exercise the function. The council may, in turn, subdelegate any of these functions but only as set out in the Act.

Fair Trading proposes to delegate the functions of plumbing regulator to councils outside of the Sydney Water Corporation and Hunter Water Corporation areas of operation. The attached instrument of delegation has been prepared and is now provided to your council for this purpose. Similar instruments are being provided to other local councils throughout New South Wales.

A division of the Department of **Finance & Services**

I ask that you now submit the delegation for your council's consideration. Acceptance of the delegation is required to enable your council to continue to undertake activities in the regulation of on-site plumbing and drainage work.

I also ask that you advise Fair Trading, by completing and returning the attached 'Acknowledgement of Delegation', of your council's acceptance of the delegation.

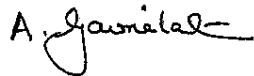
If you have any questions concerning the content or exercise of the enclosed instrument of delegation, please contact Mr Michael Cooper, Director of Mediation Services and Compliance, on (02) 9895 0861 or via email at Michael.Cooper@services.nsw.gov.au.

So that Fair Trading may be certain of the effectiveness of the delegation being provided to your council, I would appreciate receiving your response by close of business on Friday 29 November 2012.

Fair Trading, as the plumbing regulator, is committed to working closely with all councils to support and maintain the important role carried out by local councils in the conduct of plumbing regulatory functions under the new arrangements. The Delegation notes that the regulatory function is to be exercised in accordance with the requirements of the Act and guidelines, if any, issued by the plumbing regulator. At present there are no guidelines in force and Fair Trading will work with councils in developing any such guidelines in the future.

Fair Trading looks forward to working with you and other councils throughout New South Wales.

Yours sincerely



Andrew Gavrielatos
Acting Commissioner
On behalf of Rod Stowe, Commissioner for Fair Trading

Instrument of delegationunder section 21 of the *Plumbing and Drainage Act 2011*

Section 21 of the *Plumbing and Drainage Act 2011* (Plumbing and Drainage Act) provides that:

- (1) The plumbing regulator may delegate any of the plumbing regulator's functions under this Act, other than this power of delegation, to:
 - (a) a local council, or
 - (b) any other person whom the regulator considers has the necessary skills, knowledge or experience to exercise the function.
- (2) A local council may sub-delegate any function delegated to it by the plumbing regulator to:
 - (a) the general manager of the council, or
 - (b) a person engaged as a contractor by the local council whom the council considers has the necessary skills, knowledge or experience to exercise the function.

In accordance with this provision, I, Andrew Gavrielatos, Acting Commissioner for Fair Trading, the plumbing regulator for the purposes of the Plumbing and Drainage Act, hereby delegate the exercise of the following functions to the Ballina Shire Council in the council's area of operations. These functions are to be undertaken by an officer or employee of council holding the necessary skills, knowledge or experience to exercise the functions.

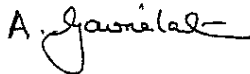
Function	Conditions
To monitor compliance with the Plumbing and Drainage Act (s19 (a))	This function is to be exercised in accordance with the requirements of the Plumbing and Drainage Act, <i>Plumbing and Drainage Regulation 2012</i> (Plumbing and Drainage Regulation) and guidelines (if any) issued by the plumbing regulator.
To ensure that any plumbing and drainage work carried out does not threaten public health or safety (s19 (b))	This function is to be exercised in accordance with the requirements of the Plumbing and Drainage Act, <i>Plumbing and Drainage Regulation</i> and guidelines (if any) issued by the plumbing regulator.
To undertake any other functions conferred or imposed on the plumbing regulator by the Plumbing and Drainage Act (s19 (c)) other than: <ul style="list-style-type: none"> • Receiving notices of work and other documentation required to be submitted to the plumbing regulator concerning proposed 	The exercise of any function by the council as a delegate of the plumbing regulator under the Plumbing and Drainage Act is to be in accordance with the requirements of the Plumbing and Drainage Act, <i>Plumbing and Drainage Regulation</i> and

<p>alternative solutions (s9 (3) of the Plumbing and Drainage Act and clause 10 of the Plumbing and Drainage Regulation),</p> <ul style="list-style-type: none"> • Authorising fittings for use in plumbing and drainage work (s20), and • Initiating criminal or other proceedings as provided for in Part 5 of the Plumbing and Drainage Act. 	<p>guidelines (if any) issued by the plumbing regulator.</p>
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Commencement:

This delegation commences on 1 January 2013 and continues until revoked or replaced by the Commissioner for Fair Trading.

SIGNED:



Andrew Gavrielatos
ACTING COMMISSIONER FOR FAIR TRADING:
 Date: 8 November 2012

Acknowledgment of Delegation

The Ballina Shire Council hereby acknowledges the delegated responsibilities and agrees to act in accordance with the delegation.

The Common Seal of the)
 Ballina Shire Council).....(signature)
 was hereunto affixed on the)
day of.....2012).....(title of position)
 in pursuance of a resolution)
 made by the Council on the).....(signature)
day of.....2012)
).....(title of position)