



DELEGATIONS ACCEPTED BY COUNCIL

Pursuant to s381 of the Local Government Act 1993

Pursuant to s381 of the Local Government Act 1993 (the Act) and by every other Act conferring a power of delegation, Byron Shire Council accepts the following delegation of the functions and powers to Council:

Food Act 2003

1. Pursuant to s377 of the Local Government Act 1993, Council delegates to the General Manager the functions as prescribed by s60 (Prohibition Order) and s114 (Appointment of Authorised Officers) of the Food Act 2003.
2. Pursuant to s381(3) of the Local Government Act 1993, Council approves the NSW Food Authority's delegation to the General Manager to provide written approvals for dispensations and alternative methods of compliance in regard to the Food Standards Code's [Standard 3.2.2](#) (Clauses 15 and 17) and [Standard 3.2.3](#) (Clauses 10 and 14).

Refer to Appendix 1 attached (copy of original DM537298), per Resolution 05-905, 13/12/2005

Environmental Planning and Assessment Act 1979

~~Functions under s3.36 (previously s59) for the making of the LEP by local plan-making authority.~~

~~(Per Resolution 12-908, 22/11/2012, E2012/19248. See also S2012/3150)~~

Plumbing and Drainage Act 2012

Pursuant to s377 of the Local Government Act 1993 and s21 of the Plumbing and Drainage Act 2012 Council delegates to the General Manager the functions and powers under s19(a), 19(b) and 19(c) subject to conditions and limitations as set out in the Instrument of Delegations attached as Appendix 1 (copy of original E2012/20429).

Per Resolution 12-924, 06/12/2012, E2012/18149.

APPENDIX 1

Delegations under the Food Act 2003

Exercise of the powers of the Director-General as the “appropriate enforcement agency” in NSW for the purposes of the Foods Standards Code Standard 3.2.2 clauses 15 and 17, and Standard 3.2.3 clauses 10 and 14.

Refer Clause 4(1)(c) Food Regulation 2004.

The “appropriate enforcement agency” has various approval functions under the Food Safety Standards of the Food Standards Code. These include matters such as written approvals or exemptions in relation to food premises.

Please Note: the delegation to the General Manager of a council is subject to the approval of the council being granted pursuant to section 381(3) of the Local Government Act 1993. Also note under section 109(4) of the Food Act the consent in writing of the council is required for the function to be delegated.

Authority for this delegation comes from the Director-General under section 109E of the Food Act 2003.

Delegates:

EXECUTIVE DIRECTOR, OPERATIONS

DIRECTOR, FOOD SAFETY PROGRAMS

GENERAL MANAGER COUNCIL UNDER LOCAL GOVERNMENT ACT

Officers Acting or Relieving in The Delegates' Positions

Pursuant to Section 109E (3) the above delegates are hereby authorised to delegate their delegated functions to any person acting or relieving in their position no matter the duration of the period of acting or relieving. The officer so acting or relieving does not have to be entitled to the payment of a higher duties allowance. However the officer does have to be vested with the authority, by the person so being relieved, to exercise the delegations of that person e.g. if an officer in a more senior position is not going to be contactable for several days and indicates to a subordinate officer that they are to undertake that officer's duties.

Officers when exercising another officer's delegation are to sign that they are acting in the higher position.

George Davey
Director-General
NSW Food Authority
08 April 2004

APPENDIX 2

Delegations under the Plumbing and Drainage Act 2011

Instrument of delegation

under 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 Byron 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.

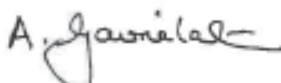
Function	Conditions
To monitor compliance with the Plumbing and Drainage Act (s19 (a))	This function is to be exercised in accordance with the requirements of the Plumbing and Drainage Act, <i>Plumbing and Drainage Regulation 2012</i> (Plumbing and Drainage Regulation) and guidelines (if any) issued 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 Byron Shire Council hereby acknowledges the delegated responsibilities and agrees to act in accordance with the delegation.

The Common Seal of the)	
Byron 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)