clarence
VALLEY COUNCIL

DELEGATION OF AUTHORITY

GENERAL MANAGER

Delegation from: Clarence Valley Council

Delegation to: General Manager, Mr Ashley Lindsay

That Council delegate to the General Manager pursuant to section 377 of the Local Government Act, the powers, duties, functions and authorities arising from the legislation specified in Schedule 1 below, subject to the limitations specified in Schedule 2 below.

This delegation shall remain in force until specifically altered or revoked in writing.

The following schedules give details:

Schedule 1

The powers, functions, duties and authorities of the Council as specified in the Local Government Act and Regulations, and all other Acts and Regulations under which Council has powers, authorities, duties and functions, including but not limited to:

(a) the functions under sections 60 and 114 of the Food Act

(b) the appointment of the General Manager as an authorised officer for the purposes of the Protection of the Environment Operations Act with the authority to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of that Act

(c) the appointment of the General Manager as an authorised person for the purposes of ss. 680, 681 and 681A of the Local Government Act

(d) a power of entry under s.191 of the Local Government Act

(e) a power of entry under s.9.16 of the Environmental Planning and Assessment Act

(f) a power of entry under s.111 of the Protection of the Environment Operations Act

(g) the power to issue penalty notices under s.679 of the Local Government Act

(h) the power to issue penalty notices under s.9.58 of the Environmental Planning and Assessment Act

(i) the power to appoint authorised officers to exercise powers in relation to weeds only and only on land for which they are the Local Control Authority under Section 372 of the Biosecurity Act; and to delegate to any officer or employee of the LCA any function conferred on the LCA by the Act, or the regulations, other than this delegation under Section 375 of the Biosecurity Act

(j) the plan-making powers/delegations delegated by the Minister under section 2.4 of the Environmental Planning and Assessment Act 1979, including the power:

(i) to make or determine not to make – an LEP under section 3.36(2) of the Act

(ii) to defer inclusion of certain matters in an LEP under section 3.36(3) and

(iii) to identify which matters must be considered and which stages of the plan-making process must be carried out again prior to resubmission (section 3.36(4)) if the Council defers the proposal or if a matter is deferred from the LEP.

(k) the delegations set out in the attached Instrument of Delegation under the Plumbing and Drainage Act.

(l) the function to release, vary or modify restrictions on the use of land that are created by an instrument under s.88 of the Conveyancing Act 1919 where Council is the nominated beneficiary or party authorised to release or modify that restriction in the following circumstances :

a. where the restrictions are inconsistent with current adopted Council planning instruments or,
b. they no longer serve a planning purpose, or
c. where consideration has been given under s.4.15 (formerly 79C) of the Environment Planning and Assessment Act 1979.

(m) to authorise leases and licences under the Local Government Act 1993, the Residential Tenancies Act 2010, the Retail Leases Act 1994, the Roads Act 1993 and the Crown Land Management Act 2016, that have an annual rental of $50,000 or less and have not been objected to as part of a public exhibition process.

(n) implementing the provisions of various temporary legislation and regulation enacted in response to State and Federal declared disasters and/or emergency response and recovery activities, provided there is no conflict with the limitations identified in Schedule 2.

Schedule 2

1. Limitations arising from the provisions of the Local Government Act and all other legislation relevant to this delegation of authority.

2. All resolutions from time to time of Council directing the General Manager in the exercise of any powers, authorities, duties and functions, including:

(a) No delegated authority is given to determine the following Development Applications:

(i) Applications that are subject to an appeal to the Land & Environment Court.

(ii) Applications where an application to vary a planning standard under cl 4.6 of the LEP exceeds 10% of the maximum set by the standard.

(iii) Applications involving one or more of the following elements:

- Significant public interest,
- Substantial non-compliance with relevant prescribed planning controls (e.g. LEP's, DCP's, codes & policies) or a proposal involving a qualitative matter, (amenity, design, etc) that cannot be resolved by conditions of consent.
- Significant land use,
- Any proposal involving a recommendation for refusal,

- Any section 8.3 review and/or section 4.55 modification application (other than a modification application made pursuant to section 4.55(1) of the EP&A Act to correct a minor error, misdescription or miscalculation) concerning a determination previously made by the Council.

(b) That the relevant procedure for the involvement of the elected Council in the determination of regionally significant development applications be adopted and that Council always make a submission to the Joint Regional Planning Panel (JRPP) reflecting its collective view and advising the range of community views.

(c) That development applications referred to Council for comment under the provisions of State Environmental Planning Policy (State & Regional Development) 2011 be reported to the Environment & Planning Committee for consideration and endorsement of staff comments and that a monthly table be prepared where the State Government is the consent authority and it has been referred to Council for comment.

Acknowledgement of Delegation

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

The Common Seal of the Clarence Valley Council was hereunto affixed on 26 May 2020 in pursuance of a resolution 6c.20.059 made by Council on 26 May 2020.

CLARENCE VALLEY COUNCIL THE COMMON SEAL OF

Ashley Lindsay, General Manager

Cr Jim Simmons, Mayor

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.

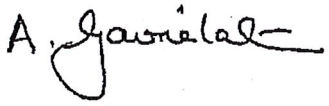
In accordance with this provision, I, Andrew Gavrielatos, Acting Commissioner for Fair Trading, the plumbing regulator for the purposes of the Plumbing and Drainage Act, hereby delegate the exercise of the following functions to the Clarence Valley Council in the council's area of operations. These functions 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, *Plumbing and Drainage Regulation 2012* (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, Plumbing and Drainage Regulation 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: • 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, Plumbing and Drainage Regulation and

alternative solutions (s9 (3) of the Plumbing and Drainage Act and clause 10 of the Plumbing and Drainage Regulation), • 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.	guidelines (if any) issued by the plumbing regulator.

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