



# Regulatory Impact Statement

Plumbing and Drainage Regulation 2017 – June 2017



Finance,  
Services &  
Innovation

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## Executive summary

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The *Plumbing and Drainage Act 2011* (the Act) is currently supported by the Plumbing and Drainage Regulation 2012 (the 2012 Regulation) which is scheduled for automatic repeal on 1 September 2017 under the *Subordinate Legislation Act 1989*.

The Act regulates certain plumbing and drainage work in NSW that is carried out by approximately 15,000 plumbers and drainers licensed under the *Home Building Act 1989*. The Act establishes NSW Fair Trading as the single plumbing and drainage regulator that is responsible for monitoring compliance with the Act, including performing audit-based inspections to target plumbing activities that pose the greatest risk to consumers and public health and safety. The Act also prescribes the Plumbing Code of Australia as the technical standard for plumbing and drainage work in NSW.

It is proposed that the Plumbing and Drainage Regulation 2017 (the proposed Regulation) be made which will retain most of the provisions in the 2012 Regulation, while making necessary amendments to provide updated legislative support and administrative detail for the Act.

The main changes in the proposed Regulation are:

- removing the requirement that a notice of work must be given to the plumbing regulator two days before work not involving an alternative solution commences;
- revising the plumbing regulator's fee structure for audit-based inspections to make it fairer and more cost reflective;
- reducing the maximum penalty payable for certain penalty notice offences; and
- other minor changes to update requirements.

This Regulatory Impact Statement (RIS) sets out the rationale and objectives of the Regulation and various options for achieving those objectives. It includes an assessment of the costs and benefits of each of the alternative options. The proposed Regulation is the alternative which provides the greatest net public benefit.

The RIS also provides a discussion on important aspects of the proposed Regulation and seeks feedback from stakeholders and the community. Submissions are invited on any of the matters raised in the discussion or anything else contained in the proposed Regulation. All submissions will be considered and evaluated and any necessary changes will be made to address the issues identified before the final Regulation is made.

# Consultation process

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## Making a submission

Interested organisations and individuals are invited to provide a submission on any matter relevant to the proposed Regulation, whether or not it is addressed in this RIS. Matters covered by the principal Act – the *Plumbing and Drainage Act 2011* – are not the subject of this consultation process.

We would prefer to receive submissions by email and request that any documents provided to us are produced in an ‘accessible’ format. Accessibility is about making documents more easily available to those members of the public who have some form of impairment (visual, physical, cognitive). Further information on how you can make your submission accessible is contained at <http://webaim.org/techniques/word/>.

We invite you to read this paper and provide comments. Additional copies of the RIS and the proposed Regulation can be downloaded from [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au). Printed copies can be requested from NSW Fair Trading by phone on (02) 9895 0791.

Please forward submissions by:

Email to: [policy@finance.nsw.gov.au](mailto:policy@finance.nsw.gov.au)

Mail to: Plumbing and Drainage Regulation 2017

Better Regulation Division, Department of Finance, Services and Innovation

McKell Building

2-24 Rawson Place

SYDNEY NSW 2000

**The closing date for submissions is close of business Friday, 7 July 2017.**

### Important note: release of submissions

All submissions will be made publicly available. If you do not want your personal details or any part of your submission published, please indicate this clearly in your submission together with reasons. Automatically generated confidentiality statements in emails are not sufficient. You should also be aware that, even if you state that you do not wish certain information to be published, there may be circumstances in which the Government is required by law to release that information (for example, in accordance with the requirements of the *Government Information (Public Access) Act 2009*). It is also a statutory requirement that all submissions are provided to the Legislation Review Committee of Parliament.

## **Identified stakeholders**

The RIS has been provided directly to some stakeholder organisations. A list of these stakeholders is provided at Appendix 4.

## **Evaluation of submissions**

All submissions will be considered and assessed and the proposed Regulation will be amended, if necessary, to address issues identified in the consultation process. If further information is required, targeted consultation will be held before the Regulation is finalised.

## **Commencement of the Regulation**

After the Minister for Innovation and Better Regulation has finalised the Regulation, it will be submitted to the Governor for approval.

Once approved by the Governor, the Regulation will be published on the official NSW Government website for online publication of legislation at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) and in the NSW Government Gazette. Information on how to access the Gazette is available on the NSW Parliamentary Counsel's website.

It is proposed the Regulation will commence on **1 September 2017**.

## Need for government action

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Government action is deemed necessary as the 2012 Regulation is due for automatic repeal on 1 September 2017. The proposed Regulation is a necessary and detailed component of the plumbing and drainage regulatory framework in NSW, and forms a critical link between the Act and monitoring compliance. The Act cannot function as intended without the supporting proposed Regulation.



# Objective and rationale of the Regulation

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## Objective

The primary objective of the proposed Regulation is to provide the legislative support and administrative detail necessary for the effective operation of the Act, which regulates certain plumbing and drainage work in NSW. The Act does not contain specific objectives, however, they are outlined in the Act's second reading speech as follows:

- to establish NSW Fair Trading as the single plumbing regulator responsible for administering the Act, including to monitor compliance with the Act, ensure that any plumbing and drainage work carried out does not threaten public health or safety, and to have the power to delegate its functions to local councils;
- to set the Plumbing Code of Australia as the technical standard for plumbing and drainage work in NSW; and
- to introduce a risk-based inspection regime across NSW that allows the plumbing regulator to target compliance efforts at plumbing activities that pose the greatest risk to consumers and public health and safety.

The main functions of the proposed Regulation are to:

- prescribe the periods within which certain notifications, certificates of compliance and plans of work are to be given in relation to plumbing and drainage work;
- require certain information to be provided to the plumbing regulator in relation to plumbing and drainage work involving alternative solutions under the Plumbing Code of Australia;
- prescribe exemptions from certain provisions of the Act in relation to the carrying out of minor plumbing and drainage work, and plumbing and drainage work carried out by employees of network utility operators;
- prescribe certain offences under the Act and Regulation as offences for which penalty notices may be issued; and
- prescribe fees payable under the Act.

## Rationale

It is necessary to remake the regulation at this time because:

- under the sun-setting provisions contained in the *Subordinate Legislation Act 1989*, the 2012 Regulation will be automatically repealed on 1 September 2017 if it is not re-made; and
- without supporting regulations, the Act cannot be effectively administered or enforced.

## Options for achieving objectives

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The primary objective of the proposed Regulation is to provide operational and administrative detail to support the operation of the Act. There are 3 options for achieving these objectives:

### **Option 1: Maintain the status quo**

Do not make the proposed Regulation, and instead remake the Regulation to be identical to the 2012 Regulation.

### **Option 2: Make the proposed Regulation**

Make the proposed Regulation to provide updated legislative support and administrative detail for the Act.

### **Option 3: Take no action**

Allow the 2012 Regulation to lapse under the sunset provisions of the *Subordinate Legislation Act 1989* and do not make any replacement Regulation.

# Impact assessment of options

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## Assessment of option 1

**Maintain the status quo** – do not make the proposed Regulation and instead remake the Regulation to be identical to the 2012 Regulation.

### Costs of option 1

The costs of this option on industry, the community and the NSW Government would largely remain the same.

- **Industry** would be subject to the same regulatory requirements, resulting in no change to:
  - any current administrative costs associated with complying with the reporting requirements in the Act or Regulation;
  - current compliance costs associated with Fair Trading's audit-inspection regime, including paying the mandatory inspection fees prescribed in the Regulation;
  - costs for non-compliance with the Act and Regulation.
- The **community** would be unlikely to incur any additional costs if the status quo is maintained.
- The **Government** would continue to incur the same costs associated with administering the Regulation and performing its role as the plumbing regulator.

While this option does not impose any additional direct costs on industry, the community or Government, maintaining the status quo would not deliver the benefits of the proposed Regulation, such as the simpler and more equitable fee structure. This missed opportunity represents the main cost of this option, negatively impacting the industry, the community and government alike.

### Benefits of option 1

Remaking the Regulation in its current form would continue to achieve the objectives of the Act. The 2012 Regulation is also familiar to industry and Government, and there would be no need to update existing practices. The 2012 regulation:

- provides for the plumbing regulator to be notified about plumbing and drainage work within a specified timeframe, which enables it to plan inspections and ensure records of plumbing work are maintained;
- ensures transparency for consumers as they are made aware of the proposed use of an alternative solution;
- exempts low-risk types of plumbing and drainage work from the reporting and inspection requirements of the Act, which ultimately reduces the costs for industry, the community and Government for these works;

- allows Fair Trading to issue penalty notices for certain offences to assist with obtaining industry compliance with the Act, instead of requiring all offences to be formally prosecuted;
- enables Fair Trading to recover costs for carrying out its role to inspect plumbing and drainage work.

### **Option 1 – Conclusion**

**Option 1 not the preferred option.** Although remaking the 2012 Regulation in its current form would continue to achieve the objectives of the Act, it would not provide the additional benefits contained in the proposed Regulation, in particular, making the inspection fee structure fairer.

## **Assessment of Option 2**

**Make the proposed Regulation:** Make the proposed Regulation to provide updated legislative support and administrative detail for the Act.

### **Costs of option 2**

The costs of this option to industry, the community and the Government are similar to the costs of remaking the 2012 Regulation. However, while changes to make the inspection fee structure fairer and more cost reflective will decrease costs for some plumbers and drainers, there will be an increase in costs in some instances for industry and the community. In relation to the proposed changes to the Regulation:

- **Industry** may incur additional costs as a result of:
  - an increase in the cost of inspections of plumbing and drainage work involving an alternative solution, to reflect the complexity of these inspections and the associated cost incurred by Government in assessing them. The impact of this change is likely to be relatively low as Fair Trading does not regularly receive applications proposing alternative solutions;
  - proposed changes to how inspection fees are applied to multi-unit developments, with inspection fees charged per sole-occupancy unit rather than a single fee for the inspection. While the 'per unit' inspection fee will be reduced in certain instances, the new approach to multi-unit development inspections will reflect the higher cost incurred by Government in inspecting these types of buildings and introduce more fairness to the audit-inspection system.
  - becoming familiar with the changes in the proposed Regulation, in particular the new fee structure.

- The **community** would be unlikely to incur any direct costs as a result of this option. However, it is recognised that any increase in industry's compliance costs may be passed on through higher service prices.
- The **Government** would continue to incur similar ongoing administrative costs of this option. There may be some additional up-front costs resulting from the need to inform the industry about the changes in the proposed Regulation, in particular the new fee structure, and to update IT systems and procedures to allow for the new fee structure.

### **Benefits of option 2**

Making the proposed Regulation achieves the objectives of the Act. The benefits of this option are similar to the benefits of remaking the 2012 Regulation as it will allow appropriate provisions to continue. However, the proposed Regulation has a number of additional benefits to make it more effective. The proposed Regulation:

- better reflects current industry practice by removing the requirement to provide a notice of work to the plumbing regulator two days before work not involving an alternative solution commences. Instead, it will be able to be provided any time before work commences which may assist with improving compliance with the Regulation;
- reduces red tape by modernising the methods for how the community can indicate to a plumber or drainer that they are aware an alternative solution is proposed to be used;
- reduces the penalty for failing to provide certain documentation to the plumbing regulator or owner of the building so it is more proportionate to the offence;
- expresses inspection fees in units instead of dollar amounts which will reduce the administrative burden and cost to Government as it will not have to amend the regulation each year to adjust the fees for inflation;
- simplifies the inspection fee structure by reducing the number of fees from six to four and introduces a base fee for one inspection. This will reduce inspection costs for industry in circumstances where only one inspection is required;
- gives the plumbing regulator the power to reduce fees which will enable it to apply the fees more fairly to reflect the cost of the inspections for multi-unit developments, and encourage the plumbing and drainage work in multi-unit developments to be staged to gain the maximum value out of the inspection fee paid.

## **Option 2 - Conclusion**

**Option 2 is the preferred option.** The proposed Regulation achieves the objectives of the Act and the additional benefits to the industry, community and government of this option outweigh any new costs imposed.

## **Assessment of Option 3**

**No action** – Allow the 2012 Regulation to lapse under the sunset provisions of the *Subordinate Legislation Act 1989* and do not make any replacement Regulation.

### **Costs of option 3**

The Act requires that a range of matters be prescribed by regulation. To not prescribe these matters will result in the absence of regulatory provisions required to support the objectives and operation of the Act. This would have significant costs to industry, the community and the Government:

- Consumer protection provisions of the Act relating to the provision of documentation to the plumbing regulator and owners would not be accompanied by specific timeframes. Industry would face uncertainty as to how and when certain requirements under the Act should be complied with. Most notification provisions in the Act would be unworkable as they depend on a timeframe being prescribed in the Regulation. This would affect the plumbing regulator's role to monitor compliance with the Act.
- Works currently exempt under the Regulation from certain requirements of the Act would need to comply with all of the requirements of the Act. This would be likely to increase costs for industry for these works which, in turn, could be passed onto the community.
- The absence of prescribed penalty notice offences would mean that all offences will need to be prosecuted in the courts which will remove the administrative benefits and cost savings associated with penalty notices. This could result in little or no action being taken on minor breaches and may lead to a consumer detriment.
- There would be no provisions concerning alternative solutions which may increase the likelihood that consumers, network utility operators and the plumbing regulator would not be aware of when an alternative solution is being used. This could make it more difficult to confirm that health and safety issues have been adequately addressed.
- Costs to Government would increase as it will be unable to charge fees to recover the costs for audit-based inspections. If Fair Trading is unable to adequately fund its program it may be limited in its ability to conduct inspections, thereby placing public health and safety at risk or reducing community confidence in the industry. The absence of fees would also put the plumbing regulatory advice function of Fair Trading at risk. This function receives approximately 11,000 enquiries on its technical helpline each year and is currently funded by inspection fees.

### **Benefits of option 3**

Option 3 has little to no benefit to industry, the community and the Government as the Regulation is necessary to support the operation of the Act. While industry would benefit from not incurring costs to comply with certain requirements of the Act, such as the notification provisions and inspection fees, community confidence in the industry would likely be eroded and public health and safety may be put at risk.

### **Option 3 - Conclusion**

**Option 3 is not the preferred option** as it would have significant costs for industry, the community and Government. This option would not achieve the objectives of the Act, in particular the role of the plumbing regulator to monitor compliance with the Act. Without the details contained in the Regulation, the Act cannot be administered properly and would cease to be effective.

## **Preferred option**

**Option 2 - making the proposed Regulation** is the preferred option as it would facilitate the operation of the Act, achieve the objectives of the Act, and make improvements to the Regulation that will benefit industry, the community and the Government.

## Regulation making powers

Substantive changes to regulation clause content are highlighted in yellow.

Section in the Act	Regulation making power under the Act	Clause in proposed Regulation	Scope of the proposed Regulation
<b>Part 1 Preliminary</b>			
4(1)(e)	Power to prescribe any other type of construction or work to be plumbing and drainage work.	None prescribed.	-
4(5)	Power to prescribe additional work that is excluded from the definition of plumbing and drainage work.	None prescribed.	-
<b>Part 2 Plumbing and drainage work</b>			
7(1)(b)	Power to prescribe that the responsible person must ensure that plumbing and drainage work complies with other standards or requirements in addition to the Plumbing Code of Australia.	None prescribed.	-
9(3)	Power to prescribe the period within which the responsible person must give a notice of work to plumbing regulator before the work is carried out.	Clause 4	Provides that a notice of work relating to plumbing and drainage work that involves a proposed alternative solution must be given no later than 20 business days before the work concerned is carried out.
10(3)	Power to prescribe the period within which the responsible person must give notice of emergency work, in an approved form, to the plumbing regulator.	Clause 5	Provides that a notice of emergency work must be given within 5 business days after the work is carried out.
11(1), (2)	Power to prescribe the period within which the responsible person must give written notice of any defective installation or system to: <ul style="list-style-type: none"> <li>the owner or occupier of the land on discovering the defective installation or</li> </ul>	Clause 6	Provides that notice of any defective installation or system must be given within 2 business days after the responsible person becomes aware of the defective installation or system.



Section in the Act	Regulation making power under the Act	Clause in proposed Regulation	Scope of the proposed Regulation
	system; and/or <ul style="list-style-type: none"> <li>the plumbing regulator on discovering the defective installation or system that poses an imminent threat to public health or safety.</li> </ul>		
12(3)	Power to prescribe a fee for inspections of plumbing and drainage work by the plumbing regulator.	Clause 13  Schedule 1	Provides that the plumbing regulator may waive, reduce or refund payment of (or postpone the requirement to pay) any fee, or part of any fee.  Provides the fees payable for inspections.
13(1)	Power to prescribe the period within which the responsible person must notify the plumbing regulator after the plumbing and drainage work is completed, that the work is ready for inspection.	Clause 7	Provides the responsible person must notify the plumbing regulator that the plumbing and drainage work is ready for inspection within 2 business days after the work is completed.
15(1)	Power to prescribe the period within which a certificate of compliance for plumbing and drainage work or copy of the certificate must be given to the plumbing regulator and the person for whom the work was carried out, after the work is completed.	Clause 8(1)	Provides that a responsible person must give a certificate of compliance (or a copy) within: <ul style="list-style-type: none"> <li>2 business days after the work is completed; or</li> <li>7 business days after the work is completed if the work was not inspected by the plumbing regulator in the period during which the work must be available for inspection.</li> </ul>
15(2)	Power to prescribe the period within which the contractor must provide a copy of the certificate of compliance for plumbing and drainage work to the owner of the premises or the owner's agent.	Clause 8(2)	Provides that the contractor must give a copy of the certificate of compliance to the owner of the premises or the owner's agent within 7 business days after the contractor receives a copy of the certificate.

Section in the Act	Regulation making power under the Act	Clause in proposed Regulation	Scope of the proposed Regulation
16(4)	Power to prescribe the period within which a plan of work or copy of a plan is required to be supplied to the plumbing regulator and the owner of the land or the owner's agent.	Clause 9	Provides that a plan of work (or a copy) must be supplied to the plumbing regulator and the owner of the land or the owner's agent no later than: <ul style="list-style-type: none"> <li>• 2 business days after the work is completed; or</li> <li>• 7 business days after the work is completed if the work was not inspected by the plumbing regulator in the period during which the work must be available for inspection.</li> </ul>
18	Power to exempt specified kinds of plumbing and drainage work, and specified persons or classes of persons, from any provisions in Part 2 of the Act.	Clause 11	Provides exemptions from sections 9, 13 and 15 of the Act for certain plumbing and drainage works such as tap ware replacements and the replacement of a hot water unit.
		Clause 12	Provides exemptions from Part 2 of the Act (except sections 6 and 7) for an employee or contractor of a network utility operator.
<b>Part 5 Criminal and other proceedings</b>			
41(1), (2), (7)	Power to prescribe penalty notice offences and the penalty amount.	Schedule 2	Sets out the offences for which a penalty notice can be issued, and the penalty amount payable.
<b>Part 6 Miscellaneous</b>			
52(1)	Allows regulations to be made for carrying out or giving effect to the Act. Specifically, regulations may be made about:		
52(2)(a)	<ul style="list-style-type: none"> <li>• the fees payable;</li> </ul>	Clause 13	Provides that the plumbing regulator may waive, reduce or refund payment of (or postpone the requirement to pay) any fee, or part of any fee.
		Schedule 1	Provides the fees payable for

Section in the Act	Regulation making power under the Act	Clause in proposed Regulation	Scope of the proposed Regulation
			inspections.
52(2)(b)	<ul style="list-style-type: none"> <li>the requirements for carrying out plumbing and drainage work;</li> </ul>	Clause 10	Provides for additional requirements for plumbing and drainage work that involves a proposed alternative solution, including that the responsible person must give specific documents and information to the plumbing regulator about the proposed alternative solution.
52(3)	<ul style="list-style-type: none"> <li>councils may set fees for exercising functions delegated to them by the plumbing regulator; and</li> <li>the methodology or factors to be used by councils to set these fees, including the maximum fees that may be charged.</li> </ul>	Clause 13	Allows for the fees payable for the plumbing regulator's functions that are delegated to a council to be set by the council.
52(4)	<ul style="list-style-type: none"> <li>creating offences punishable by a penalty not exceeding 20 penalty units</li> </ul>	Clause 10	<p>Provides maximum penalty of 20 penalty units if:</p> <ul style="list-style-type: none"> <li>responsible person does not provide documentation and information to the plumbing regulator about a proposed alternative solution;</li> <li>contractor does not provide written confirmation about a proposed alternative solution to the owner of the premises or owner's agent;</li> <li>responsible person does not comply with a notice about a proposed alternative solution issued by the plumbing regulator.</li> </ul>

Section in the Act	Regulation making power under the Act	Clause in proposed Regulation	Scope of the proposed Regulation
Sch 1(1)	Allows for provisions of a savings or transitional nature following the enactment of the Act.	None prescribed.	-
Sch 1(2)	Power to prescribe a date as the start date for a provision of this Act or of the Regulations.	None prescribed.	-

## Discussion of the proposed regulation

Submissions are welcome on any aspect of the proposed Regulation or any other relevant issue, whether or not raised in this RIS. However, the following discussion points provide greater context for some provisions in the proposed Regulation which are different compared to the 2012 Regulation.

A summary of the proposed Regulation is provided at **Appendix 3**.

### Part 2 - Periods for giving notices, certificates of compliance and plans of work

#### Notifying a plumbing regulator before plumbing and drainage work commences (clause 4)

Section 9(3) of the Act requires plumbers and drainers to submit a notice of work to the plumbing regulator before plumbing and drainage work is carried out and no later than as required by regulations.

Clause 4 of the proposed Regulation removes the existing requirement to submit a notice of work no later than two business days before the work is carried out, if that work does not involve a proposed alternative solution. The prescribed period for providing these notices of work will now be prescribed under the requirements of section 9(3) of the Act. This means that plumbers and drainers will be able to submit a notice of work to the plumbing regulator at any time before the work is carried out.

It is common for plumbing contractors to receive job orders from principal contractors the day before the plumbing and drainage work is due to commence. This means that Fair Trading is regularly not provided with a notice of work in the timeframe specified in the 2012 Regulation. The proposed clause aims to create a more efficient reporting regime that makes it easier for the industry to comply, while providing Fair Trading with sufficient notice to support its compliance activities.

Impact	Costs	Benefits
Industry	-	<ul style="list-style-type: none"><li>Aims to create a more efficient reporting regime that makes it easier for plumbers and drainers to comply with the Act's reporting requirements.</li><li>Better reflects current industry practice whereby plumbing contractors may receive a job order from principal contractors the day before the plumbing and drainage work is due to commence.</li></ul>
Community	-	-
Government	-	<ul style="list-style-type: none"><li>May increase compliance with reporting requirements.</li></ul>

1. Is the notification period for work that does not involve a proposed alternative solution reasonable? If not, what notification period would be preferable and why?

## Part 3 – Miscellaneous

### Additional requirements for proposed alternative solutions (Clause 10)

Clause 10 of the proposed Regulation requires the person for whom plumbing and drainage work is being done to give ‘written confirmation’ to the plumber or drainer that indicates the person knows the work involves a proposed alternative solution. Previously a ‘letter’ was required.

The plumber or drainer needs to give this ‘written confirmation’ to the plumbing regulator. If the person for whom plumbing and drainage work is being done is not the owner of the premises, they must also give a copy of this ‘written notification’ to the owner of the premises or the owner’s agent.

This proposed amendment reduces red tape by updating the terminology to broaden the methods a person can use to provide this information as it allows for electronic options (e.g. email).

Impact	Costs	Benefits
Industry	-	<ul style="list-style-type: none"><li>Reduces red tape by modernising the requirement.</li></ul>
Community	-	<ul style="list-style-type: none"><li>Less onerous on persons for whom plumbing and drainage work is done as they are not restricted to providing the information in a ‘letter’.</li></ul>
Government	-	-

#### 2. Is it reasonable to require a ‘written confirmation’ to be given as opposed to a letter?

### Schedule 1 - Fees

Section 12 of the Act enables Fair Trading, in its role as the plumbing regulator, to inspect plumbing and drainage work across NSW to monitor compliance with the Act and to charge a fee for these inspections.

Fair Trading’s Plumbing Inspection and Assurance Service (PIAS) is responsible for inspecting plumbing and drainage work in areas where Sydney Water and Hunter Water are the water and sewer providers (i.e. Sydney, the Illawarra, Blue Mountains and Newcastle). The plumbing and drainage inspection function is delegated to local councils for work located outside of the Sydney Water and Hunter Water areas. It is the responsibility of the plumbing regulator in each area to set requirements for inspections of on-site plumbing and drainage.

#### How does Fair Trading’s audit-based inspection regime work?

Fair Trading’s audit-based inspection regime targets compliance efforts at plumbing activities that pose the greatest risk to consumers and public health and safety. Under the regime, a portion of the plumbing and drainage work in NSW is inspected rather than all of it.

Plumbers and drainers are required to book an audit inspection for all work covered by a notice of work but they will not know if the work has been selected for a physical inspection until the appointment time. All plumbing and drainage work is either subject to a desktop audit or physical inspection. For riskier work, a physical inspection may be conducted to ensure that the work complies with the relevant standards. The plumbing regulator considers a number of factors to determine whether the work should be physically inspected.

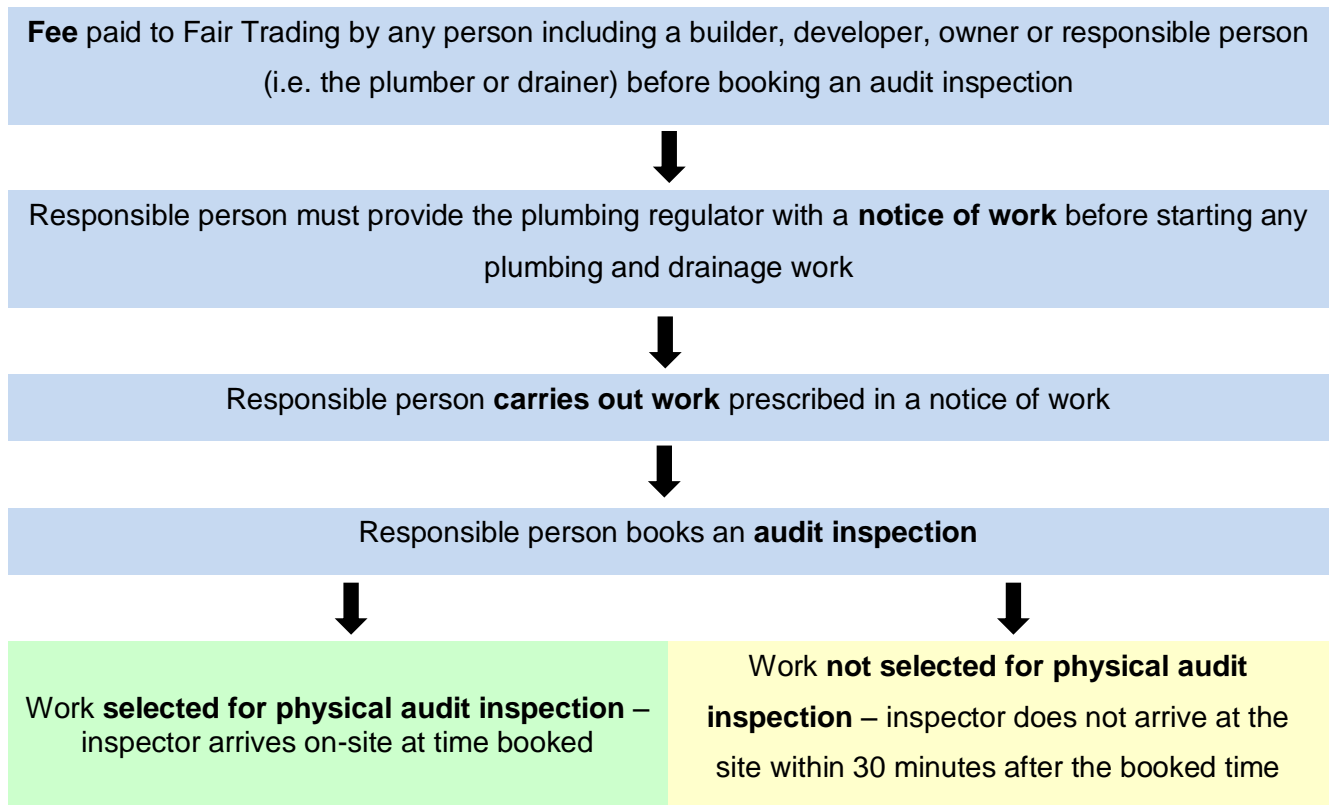


Fig 1.0 – Fair Trading's inspection process

### What fees does Fair Trading charge for carrying out audit inspections?

Section 12(3) of the Act allows the plumbing regulator to charge a fee for inspections. In areas where the plumbing inspection function has been delegated to local councils, a different fee structure may apply as the fees are set by the relevant council.

Schedule 1 of the proposed Regulation sets out the fees payable for inspections carried out by Fair Trading. There are five types of work that require an inspection to be booked:

- **Internal drainage:** sewer drainage installed underneath the building, usually below ground.
- **External drainage:** sewer drainage that connects the internal drainage to a point of connection below ground.
- **Front-run:** below ground water service pipework that connects the building to the meter set-up.
- **Rough-in:** pipework installed inside the building, usually within the walls and / or roof space.

- **Final:** also known as the 'fit out' or 'finish off', includes work involved in installing fittings and fixtures; installing basins, baths, kitchen sinks, connecting appliances, tap-ware etc; any other work to make the plumbing and drainage work complete, such as vents and sewer overflow gully.

The costs of the compliance and inspection regime is intended to be fully funded by the fees that are charged under the Regulation. Inspection fees fund Fair Trading's regulation of the plumbing industry, which includes not only carrying out physical inspections of work, but also providing advice and support to plumbers and drainers, desktop audits of paperwork, monitoring compliance and back office administration. Without the inspection fees, it would compromise Fair Trading's ability to perform its role as the plumbing regulator, which would ultimately reduce public confidence in the industry.

### **The proposed Regulation changes how audit inspection fees are expressed**

The NSW Government is introducing a new approach that will enable fees prescribed in regulations to be automatically adjusted each year in line with the Consumer Price Index (CPI).

The inspection fees in Schedule 1 are now expressed as a number of 'fee units' instead of dollar amounts, which is a similar concept to the penalty units system used in NSW to describe the amount payable for a fine. For example, the fee unit for the after-hours inspection of plumbing and drainage work is 8.54 units. As the fee unit for the 2017-18 financial year is worth \$100, this fee is \$854 (8.54 x \$100).

The inspection fees will be automatically adjusted from 1 July 2018 onwards. The fee unit will change on an annual basis as it is indexed annually for inflation. The introduction of a fee unit scheme will reduce the administrative burden and cost to Government as it will not have to amend the regulations each year to adjust fees for inflation.

### **The proposed Regulation revises the fees for audit inspections**

The proposed inspection fee structure in Schedule 1 simplifies the current fee structure by reducing the types of inspection fees payable from six to four and charging fees per inspection. A comparison of the current and proposed fee structure is in **Fig. 1.1**.

The proposed fee structure:

- **Reduces the base fee to \$103 per inspection** which replaces the:
  - \$198 inspection fee for up to two inspections;
  - \$407 inspection fee for plumbing and drainage work involving alternative water supply system or recycled water supply system for up to four inspections; and
  - \$104 inspection fee for the additional inspection of plumbing and drainage work and work involving alternative water supply system or recycled water supply system.

The current fee structure can be costly and problematic for plumbers and drainers because it provides for up to two or four inspections per fee, regardless of whether the work requires that



number of inspections. This has been addressed by reducing the base fee so it only applies to one inspection. While this change does not impact plumbers and drainers who routinely use two or four inspections, it will positively impact plumbers and drainers in circumstances where only one inspection is required. The base fee works out to be about half of the \$198 inspection fee and about one quarter of the \$407 inspection fee. The base fee also factors in CPI increases for 2016/17, as it was not applied at the time due to the regulation being subject to staged repeal, and for 2017/18, which would have been applied this year if the regulation was not being remade. The proposed base fee is fairer and more cost effective for plumbers and drainers overall, and may result in these savings being passed onto the consumer.

- **Retains the inspection fee for the initial inspection of plumbing and drainage work involving an alternative solution.** The current \$244 fee for the initial inspection of plumbing and drainage work involving an alternative solution does not adequately reflect the costs involved for Fair Trading to assess an alternative solution submission and carry out an initial inspection of the work. It is proposed that the fee increase from \$244 to \$405 to better reflect these costs. This fee also factors in CPI increases for 2016/17 and 2017/18. The total fee consists of a \$254 fee to assess the submission and a \$151 fee for the initial inspection of the work. Where an initial inspection is not required because the alternative solution submission is not approved, Fair Trading may refund the \$151 initial inspection fee. The impact of this fee change on industry is likely to be relatively low as Fair Trading does not regularly receive applications proposing alternative solutions.
- **Retains the inspection fee for additional inspections of plumbing and drainage work involving an alternative solution.** The fee will increase from \$104 to \$151 to reflect the complexity of alternative solutions and the time required to inspect them. Alternative solutions are more complex as an inspector must assess what the alternative solution involves so that the inspection can be carried out against the design of the alternative solution instead of Australian Standards. This increase also factors in CPI increases for 2016/17 and 2017/18.
- **Retains the inspection fee for plumbing and drainage work on a weekend, public holiday or week day before 8am or after 4pm,** however, it will no longer be an additional fee. The fee will increase from \$837 to \$854 to factor in CPI increases for 2016/17 and 2017/18.

### Current fee structure

### Proposed fee structure

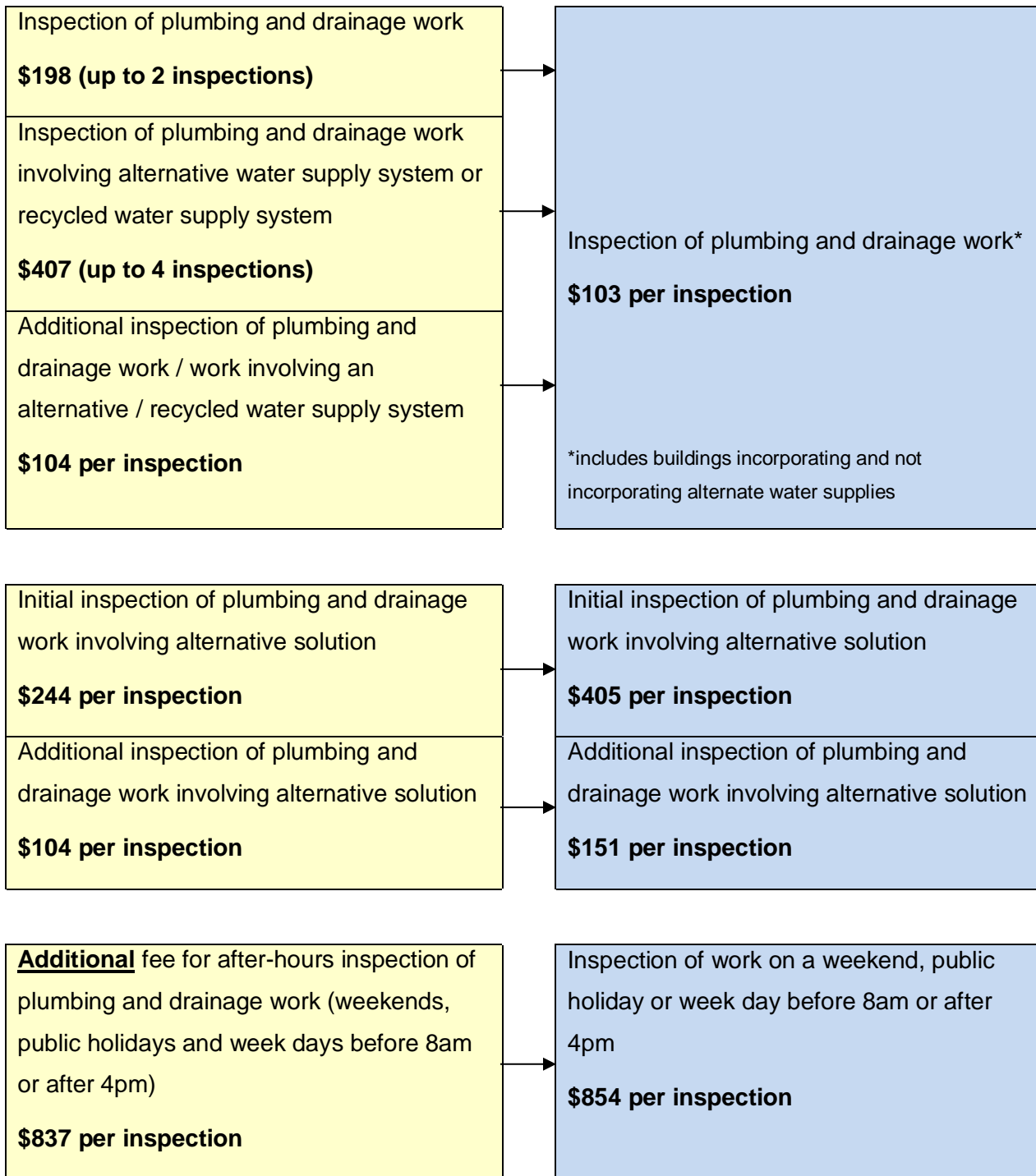


Fig 1.1 – Comparison of current fee structure with proposed fee structure

### Impact assessment of proposed audit inspection fee structure

Impact	Costs	Benefits
Industry	<ul style="list-style-type: none"> <li>Increased cost for alternative solution inspections. However, the impact of this change on industry is likely to be relatively low as Fair Trading does not regularly receive applications proposing alternative solutions.</li> </ul>	<ul style="list-style-type: none"> <li>Fairer fee structure as base fee has been reduced to apply to only one inspection. This is a cost saving for plumbers and drainers where only one inspection is required.</li> <li>Lower after-hours inspection costs with the fee being set at \$854 rather than being an additional amount added to the base fee.</li> <li>Fair Trading is adequately funded to perform its role as the plumbing regulator.</li> </ul>
Community	<ul style="list-style-type: none"> <li>Increased cost for alternative solution inspections may be passed onto the consumer.</li> </ul>	<ul style="list-style-type: none"> <li>Cost savings delivered to industry may be passed onto the consumer.</li> <li>Fair Trading is adequately funded to perform its role as the plumbing regulator which includes safeguarding the health and safety of the public.</li> </ul>
Government	<ul style="list-style-type: none"> <li>Administrative costs resulting from the need to inform industry and the community about new fee structure.</li> <li>Administrative costs associated with IT system and process upgrades to reflect the new fee structure.</li> </ul>	<ul style="list-style-type: none"> <li>Improved efficiency as a result of the proposed fee structure being simpler to administer.</li> <li>Fair Trading is adequately funded to perform its role as the plumbing regulator.</li> <li>Fees for alternative solution inspections now reflect the complexity of these works and the time Fair Trading requires to inspect them.</li> </ul>

### 3. Are the proposed fees for audit inspections appropriate?

## Proposed application of inspection fees to multi-unit developments

### Why is it proposed that the plumbing regulator will change how fees are applied to multi-unit developments?

Currently, inspection fees are applied in the same way to multi-unit developments as single-detached dwellings, regardless of the number of sole-occupancy units<sup>1</sup> in the development. For example, using the proposed fees in Schedule 1, a multi-unit development with 50 sole-occupancy units, is charged \$103 for the inspection of its 50 units; a single detached dwelling is also charged \$103 for an inspection (**Fig. 1.2**).

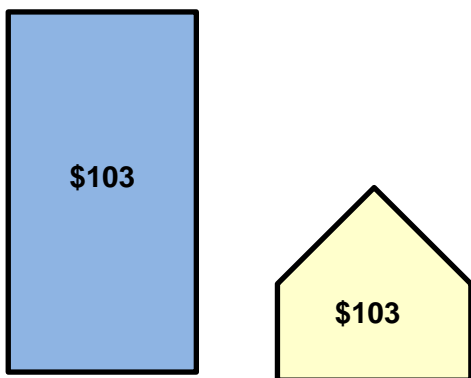


Fig. 1.2

*Currently, inspection fees are applied the same way to multi-unit developments and single detached dwellings*

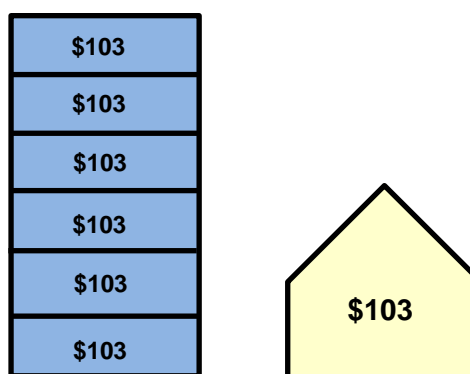


Fig. 1.3

*Under the proposed fee structure, the application of inspection fees will be better reflective of the costs associated with these inspections*

It is proposed to make the application of the Schedule 1 fees to multi-unit developments<sup>2</sup> more equitable and better reflective of the costs associated with these inspections (**Fig. 1.3**). While an inspection fee will be charged for each sole-occupancy unit to be inspected, the plumbing regulator will use its power in clause 13(2) to reduce the inspection fee per unit for multi-unit developments where certain conditions are met. Fees will be set on a sliding scale, similar to the approach used for the former Sydney Water plumbing inspection fee structure. Depending on the number of storeys in a multi-unit development, the minimum number of inspection fees payable will increase as the number of sole-occupancy units in the development increases by five or ten. As a result, the overall 'per unit' cost of an inspection for a multi-unit development will be reduced if the work is programmed to take advantage of the maximum number of units that will be inspected by the Fair Trading at the same time for that fee. This approach reflects the

<sup>1</sup> A sole occupancy unit is defined in the National Construction Code of Australia. It is a room or other part of a building for occupation by one or joint owner, lessee tenant or other occupier to the exclusion of any other owner, lessee, tenant, or other occupier.

<sup>2</sup> The construction or alteration of a class 1b-9 building as defined in the Building Code of Australia.

economies of scale that can be achieved from undertaking multiple inspections during one site visit, and the time and cost savings for Fair Trading to inspect the staged work. Guidance will be published on the Fair Trading website describing how the inspection fees for multi-unit developments will be reduced, including information on the specific conditions that must be met in order for the fees to be reduced.

### **How does the plumbing regulator intend to apply the fees to multi-unit developments?<sup>3</sup>**

A minimum number of inspection fees will be payable per maximum number of sole-occupancy units in a multi-unit development, and will depend on:

**1. the number of storeys in the multi-unit development - 1-3 storeys or 4 or more storeys**

There is a distinction between developments with 1-3 storeys and 4 or more storeys because this impacts the maximum number of units that can be inspected in the time an inspector has to physically inspect the units.

**2. the type of development - not incorporating alternate water supplies or incorporating alternate water supplies**

There is a distinction between developments not incorporating and incorporating alternate water supplies because of the different types of inspections that are needed for these developments.

The minimum number of inspection fees payable per maximum number of sole-occupancy units reflects the types of inspections that a particular development will generally need. For example, a 1-3 storey multi-unit development not incorporating alternate water supplies will typically need an internal, external and final inspection.

A maximum number of sole-occupancy units (up to five or ten depending on the number of storeys and development type) will be inspected for each fee paid provided that:

- the sole-occupancy units available for inspection are located at the same address;
- the plumbing and drainage work done on the sole-occupancy units was undertaken by the same licensee; and
- the same inspection type is being carried out at the same time (i.e. internal, external, front-run, rough-in or final).

This is designed to encourage plumbing and drainage work to be planned and staged in order to gain the maximum value out of the fee paid. If the maximum number of sole-occupancy units are not ready at the time of the inspection, for example only three of the five units are ready, the full benefit of the fee reduction will not be gained and the overall inspection costs incurred will increase as further fees will need to be paid for the remaining two units to be inspected. If the plumbing and drainage work is not staged to take advantage of the fee reductions, a development could potentially end up paying \$103 per inspection for each sole-occupancy unit.

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<sup>3</sup> See Appendix 2 for examples about the proposed multi-unit development fee structure.

## How will the fees apply to 1-3 storey developments? (e.g. units, villas, townhouses)

For a 1-3 storey multi-unit development:

- **not incorporating alternate water supplies**, a minimum of three inspection fees will need to be paid per group of five units. Three inspection fees have been set as these developments typically require an internal, external and final inspection. Up to five units will be inspected for each fee provided that the units are located at the same address, the work was undertaken by the same licensee and the same inspection type is being carried out at the same time.
- **incorporating alternate water supplies**, a minimum of five inspection fees will need to be paid per group of five units. Five inspection fees have been set as these developments typically require an internal, external, front-run, rough-in and final inspection. Up to five units will be inspected for each fee provided that the units are located at the same address, the work was undertaken by the same licensee and the same inspection type is being carried out at the same time.

Type of development	Minimum number of inspection fees to be paid per maximum number of sole occupancy units (Max SOU)	What inspection type will each fee typically cover?	Max SOU inspected per inspection fee
Not incorporating alternate water supplies	3 fees payable	Fee 1. <b>Internal</b>	Up to <b>5</b> units inspected for each fee
		Fee 2. <b>External</b>	
		Fee 3. <b>Final</b>	
Incorporating alternate water supplies	5 fees payable	Fee 1. <b>Internal</b>	Up to <b>5</b> units inspected for each fee
		Fee 2. <b>External</b>	
		Fee 3. <b>Front-run</b>	
		Fee 4. <b>Rough-in</b>	
		Fee 5. <b>Final</b>	

Fig 1.4 Application of Schedule 1 fees to 1-3 storey multi-unit developments

### **Example 1 - 20 unit 3 storey development not incorporating alternate water supplies**

- The proposed fee for the inspection of plumbing and drainage work is \$103 per inspection.
- A minimum of 3 inspection fees need to be paid for each group of 5 units in the development. As there are 4 groups of 5 units in this development, a minimum of **12 inspections fees** need to be paid.
- This means that the minimum fee payable is **\$1,236** (\$103 x 12 inspection fees). This will typically cover an internal, external and final inspection for each group of 5 units. Up to 5 units will be inspected for each fee.
- Where work is staged to ensure that 5 units are ready for the same inspection type at the same time, this effectively reduces the per unit inspection fee to **\$20.60** (\$103 / 5 units), instead of \$103 per inspection per unit. Where work is not staged, additional fees will be payable.

## How will the fees apply to 4 or more storey developments? (e.g. high rise, mixed development)

For a multi-unit development with 4 or more storeys:

- not incorporating alternate water supplies**, a minimum of three inspection fees will need to be paid for the first group of ten units in the development. Three inspection fees have been set as these developments typically require an internal, external and final inspection. A minimum of one inspection fee will need to be paid for every group of ten units after that. One inspection fee has been set as typically only a final inspection will be required. Up to ten units will be inspected for each fee provided that the units are located at the same address, the work was undertaken by the same licensee and the same inspection type is being carried out at the same time.
- incorporating alternate water supplies**, a minimum of five inspection fees will need to be paid for the first group of ten units in the development. Five inspection fees have been set as these developments typically require an internal, external, front-run, rough-in and final inspection. A minimum of two inspection fees will need to be paid for every group ten units after that. Two inspection fees have been set as typically a rough-in and final inspection will be required. Up to ten units will be inspected for each fee provided that the units are located at the same address, the work was undertaken by the same licensee and the same inspection type is being carried out at the same time.

Type of development	Minimum number of inspection fees to be paid per maximum number of sole occupancy units (Max SOU)	What inspection type will each fee typically cover?	Max SOU inspected per inspection fee
Not incorporating alternate water supplies	First Max SOU: 3	Fee 1. <b>Internal</b>	Up to <b>10</b> units inspected for each fee
		Fee 2. <b>External</b>	
		Fee 3. <b>Final</b>	
	Additional Max SOU: 1	Fee 1: <b>Final</b>	
Incorporating alternate water supplies	First Max SOU: 5	Fee 1. <b>Internal</b>	Up to <b>10</b> units inspected for each fee
		Fee 2. <b>External</b>	
		Fee 3. <b>Front-run</b>	
		Fee 4. <b>Rough-in</b>	
		Fee 5. <b>Final</b>	
	Additional Max SOU: 2	Fee 1: <b>Rough-in</b>	
		Fee 2: <b>Final</b>	

Fig 1.5 Application of Schedule 1 fees to multi-unit developments 4 or more storeys

### **Example 2 - 50 unit 4 storey development not incorporating alternate water supplies**

- The proposed fee for the inspection of plumbing and drainage work is \$103 per inspection.
- A minimum of 3 inspection fees need to be paid for the first group of 10 units. This means that the minimum fee payable for the first group of 10 units is **\$309** (\$103 x 3 inspection fees). This will typically cover an internal, external and final inspection for the first group of 10 units. Up to 10 units will be inspected for each fee.
- A minimum of 1 inspection fee needs to be paid for any additional groups of 10 units. As there are an additional 4 groups of 10 units in this development, a minimum of 4 inspection fees need to be paid. This means that an additional **\$412** (\$103 x 4 inspection fees) needs to be paid. This will typically cover a final inspection for each group of 10 units. Up to 10 units will be inspected for each fee.
- A minimum of **7 inspection fees** need to be paid (3 + 4) and the minimum fee payable is **\$721** (\$309 + \$412).
- Where work is staged to ensure that 10 units are ready for the same inspection type at the same time, this effectively reduces the per unit inspection fee to **\$10.30** (\$103 / 10 units), instead of \$103 per inspection per unit. Where work is not staged, additional fees will be payable.

### **Impact assessment of application of proposed fee structure to multi-unit developments**

<b>Impact</b>	<b>Costs</b>	<b>Benefits</b>
Industry	<ul style="list-style-type: none"> <li>• Additional costs as inspection fees are charged by groups of units.</li> <li>• Additional costs if work is not staged, for example only 4 of the 5 units are ready for inspection, due to more inspections being required.</li> <li>• Administrative costs resulting from any changes in process that are required as a result of the proposed approach to multi-unit developments.</li> </ul>	<ul style="list-style-type: none"> <li>• Fairer and more equitable application of inspection fees for industry, that is, a house is not charged the same fee as a 50 unit building.</li> <li>• More efficient construction and time savings resulting from better staging of work to gain the maximum value out of the inspection fee paid.</li> </ul>
Community	<ul style="list-style-type: none"> <li>• Increased costs may be passed onto the consumer.</li> </ul>	<ul style="list-style-type: none"> <li>• More equitable application of inspection fees.</li> <li>• Fair Trading is adequately funded to perform its role as the plumbing regulator, which includes safeguarding the health and safety the public.</li> </ul>
Government	<ul style="list-style-type: none"> <li>• Administrative costs resulting from the need to inform industry and the community about new fee structure.</li> <li>• Administrative costs associated with IT system and process upgrades to reflect the new fee structure.</li> </ul>	<ul style="list-style-type: none"> <li>• Increased efficiencies for the plumbing inspector.</li> <li>• Better reflects the actual costs incurred by the plumbing regulator to inspect multi-unit developments.</li> <li>• Fair Trading is adequately funded to perform its role as the plumbing regulator.</li> </ul>

#### **4. Is the proposed application of the proposed fee structure to multi-unit developments appropriate?**



## Alternative approach to inspection fees

*This approach is not proposed to be adopted but is provided for comparison*

An alternative approach to the proposed fee structure would be to charge a specific fee for each individual type of service the plumbing regulator carries out. This would mean plumbers and drainers would only pay for the specific service they received, being either a desktop audit or a physical inspection. While this would result in more of a user-pays system, it would compromise the compliance objectives of the Act, as plumbers and drainers would know if a physical inspection is going to be conducted, which could potentially impact on the standard of the plumbing and drainage work. This in turn may put the health and safety of the public at risk and may ultimately reduce public confidence in the industry.

This alternative approach is likely to be more complex to administer than the proposed fee structure and Fair Trading would be required to undertake significant and costly changes to its current processes and IT systems. It may also make it difficult for developers to predict the fees at the outset of a development and factor them into development decisions. While this approach would result in lower fees, it would result in those who were physically inspected contributing a disproportionate amount to the overall regulation of the sector. It would also mean that Fair Trading's advice service for plumbers and drainers may be compromised, which would ultimately impact negatively on industry.

Impact	Costs	Benefits
Industry	<ul style="list-style-type: none"> <li>• May make it difficult for developers to predict the fees at the outset of a development and factor them into development decisions.</li> <li>• May reduce public confidence in the industry if compliance objectives of the Act are compromised.</li> <li>• Fair Trading's advice service for the plumbing industry may be compromised.</li> </ul>	<ul style="list-style-type: none"> <li>• Industry only pays for the desktop audit or physical inspection that the plumbing regulator carries out.</li> </ul>
Community	<ul style="list-style-type: none"> <li>• If compliance objectives of the Act are compromised, it may put the health and safety of buildings and the public at risk.</li> </ul>	<ul style="list-style-type: none"> <li>• Cost savings may be passed onto consumers.</li> </ul>
Government	<ul style="list-style-type: none"> <li>• Compromises compliance objectives of the Act as plumbers and drainers would know if a physical inspection is going to be conducted.</li> <li>• Administratively complex and would require significant and costly changes to Fair Trading's current processes and IT systems.</li> <li>• Fair Trading's advice service for the plumbing industry may be compromised.</li> </ul>	-

## Schedule 2 - Penalty notice offences

### Reduced penalty amount for not pre-notifying plumbing regulator about work to commence, not providing certificate of compliance or not providing plans

Schedule 2 of the proposed Regulation prescribes offences under the Act and Regulation for which penalty notices may be issued. The proposed Regulation has been amended to reduce the penalty amount payable from \$1,100 to \$550 for the following offences to better reflect the nature of the compliance risk:

- Plumber or drainer fails to submit a notice of work to the plumbing regulator before work commences: section 9(1)
- Plumber or drainer fails to give a certificate of compliance to the plumbing regulator and the person for whom the work is carried out, after work is completed: section 15(1)
- Contractor, who is not the owner of the premises, fails to give a copy of the certificate of compliance to the owner of the premises or the owner's agent: section 15(2)
- Plumber or drainer fails to supply a plan of the work to the plumbing regulator and the owner of the land or the owner's agent: section 16(1)

Failure to supply these documents is a low-risk activity with a small probability that non-compliance will lead to consumer or public harm. The amendment seeks to ensure that compliance activity undertaken by Fair Trading to enforce a breach is not unfair or excessive.

The updated penalty amounts also align more closely with other legislation administered by Fair Trading such as the *Home Building Act 1989*, the *Motor Dealers and Repairs Act 2013* and the *Tattoo Parlours Act 2012*. In these other Acts similar types of offences are set at a lower threshold. Reducing the penalty amount is unlikely to significantly reduce industry's incentive to comply with the Act.

Impact	Costs	Benefits
Industry	-	<ul style="list-style-type: none"> <li>• Penalties are more proportionate to the nature of the compliance risk.</li> </ul>
Community	-	<ul style="list-style-type: none"> <li>• Unlikely to significantly reduce industry's incentive to comply with the Act.</li> </ul>
Government	-	<ul style="list-style-type: none"> <li>• Compliance activity undertaken by Fair Trading to enforce a breach is not unfair or excessive.</li> <li>• Penalties more closely align with other legislation.</li> </ul>

**7. Are the reduced penalty amounts for the proposed offences appropriate?**

## Miscellaneous changes

Clause	Proposed Regulation	Reason for change
Clause 11(b)	Removed reference to 'bidets'.	Bidets are examples of fixtures in the 2012 Regulation sub-clause that are exempt from certain requirements of the Act. As it is not a common fixture it has been removed from the subclause.
Clause 14 (2012 Regulation)	Provisions about penalty notice offences are contained in Schedule 2.	Clause 14 in the 2012 Regulation has been merged with Schedule 2 to simplify the provision and avoid unnecessary redirection to the Schedule.
Clause 15 (2012 Regulation)	Removed existing clause 15 about staged commencement of the Act and regulations.	Clause 15 in the 2012 Regulation staged commencement of the Act in certain areas on 1 January 2013. Since this date has passed, it is unnecessary to keep it in the Regulation.

**8. Should 'bidets' be removed as an example of a fixture that is exempt from certain requirements of the Act?**

# Appendix 1 - Background information

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## Plumbing and drainage industry

The *Home Building Act 1989* requires plumbing and drainage work to be undertaken by the holder of a licence, qualified supervisors certificate or tradespersons certificate. Fair Trading is responsible for administering the licensing regime. As at 31 December 2016 there were:

- 19,830 licensed drainers;
- 16,041 licensed plumbers and roof plumbers; and
- 3,586 licensed plumbers.

**Plumbers** are licensed to do water plumbing, sanitary plumbing and sewerage work. For example, sanitary plumbing includes installing, removing, repairing and maintaining pipes, tanks, fittings and fixtures that are designed to receive, store, treat, modify or regulate the flow of sewerage.

**Drainers** are licensed to do work that includes constructing, altering, removing, maintaining or repairing any sanitary drain connecting, or intended to connect, directly or indirectly with a sewer.

## History of the *Plumbing and Drainage Act 2011*

The Act was introduced following a review of NSW's plumbing and drainage regulatory framework by the Better Regulation Office and the NSW Department of Water and Energy. The review report, '*Reforming arrangements for regulating plumbing and drainage in NSW*', was released in June 2009 and found that the framework was complex, fragmented and inflexible. The report recommended a number of reforms, including establishing Fair Trading as the single plumbing regulator in NSW, and adopting the Plumbing Code of Australia as the technical standard for on-site plumbing and drainage work in NSW.

In November 2011, the NSW Parliament passed the Act which:

- transferred responsibility for the regulation of on-site plumbing and drainage work from over 100 separate water utilities and local councils to Fair Trading;
- established the Plumbing Code of Australia as the technical standard for plumbing and drainage work in NSW;
- established pre-notification, inspection and certification procedures for plumbing and drainage work in NSW; and
- established a process to appeal decisions made by plumbing regulators through the Land and Environment Court.

In November 2014 Fair Trading released its statutory review of the Act and found that the objective to simplify the plumbing and drainage regulatory framework had been achieved.

## Appendix 2 – Proposed application of proposed fee structure to multi-unit developments

### Inspection of plumbing and drainage work

Inspection cost: \$103 per inspection

The tables below provide examples of the minimum number inspection fees that will need to be paid for a 1-3 storey multi-unit development.

#### 1-3 storeys - not incorporating alternate water supplies

<i>Minimum 3 inspection fees payable for the inspection of up to 5 units for each fee</i>		
Number of units	Minimum number of inspection fees to be paid per 5 units	Fee for inspection of plumbing and drainage work (\$103 / inspection)
2-5	3	\$309
6-10	6	\$618
11-15	9	\$927
16-20	12	\$1,236
21-25	15	\$1,545
26-30	18	\$1,854
31-35	21	\$2,163
36-40	24	\$2,472
41-45	27	\$2,781
46-50...	30	\$3,090

#### 1-3 storeys - incorporating alternate water supplies

<i>Minimum 5 inspection fees payable for the inspection of up to 5 units for each fee</i>		
Number of units	Minimum number of inspections fees to be paid per 5 units	Fee for inspection of plumbing and drainage work (\$103 / inspection)
2-5	5	\$515
6-10	10	\$1,030
11-15	15	\$1,545
16-20	20	\$2,060
21-25	25	\$2,575
26-30	30	\$3,090
31-35	35	\$3,605
36-40	40	\$4,120
41-45	45	\$4,635
46-50...	50	\$5,150

The tables below provide examples of the minimum number inspection fees that will need to be paid for a multi-unit development with 4 or more storeys.

**4 or more storeys - not incorporating alternate water supplies**

<i>Minimum 3 inspection fees payable for the inspection of up to the first 10 units for each fee and 1 inspection fee payable for the inspection of up to 10 units for each fee thereafter</i>		
<b>Number of units</b>	<b>Minimum number of inspections fees to be paid</b>	<b>Fee for inspection of plumbing and drainage work (\$103 / inspection)</b>
2-10	3	\$309
11-20	4	\$412
21-30	5	\$515
31-40	6	\$618
41-50...	7	\$721

**4 or more storeys - incorporating alternate water supplies**

<i>Minimum 5 inspection fees payable for the inspection of up to the first 10 units for each fee and 2 inspection fees payable for the inspection of up to 10 units for each fee thereafter</i>		
<b>Number of units</b>	<b>Minimum number of inspections fees to be paid</b>	<b>Fee for inspection of plumbing and drainage work (\$103 / inspection)</b>
2-10	5	\$515
11-20	7	\$721
21-30	9	\$927
31-40	11	\$1,133
41-50...	13	\$1,339

## Further examples of inspection fees for multi-unit developments

### Plumbing and drainage work involving an alternative solution

**Inspection cost: \$405 for initial inspection; \$151 for additional inspection**

If plumbing and drainage work involves an alternative solution, \$405 is payable for the first inspection of the work involving the alternative solution and then \$151 for any additional inspections that relate to the work involving the alternative solution, and \$103 for any inspections of work that do not relate to the alternative solution.

#### **Example 3 - Work involving an alternative solution to internal drainage only**

##### 1-3 storeys (not incorporating alternate water supplies)

- For up to 5 units, 3 inspection fees are payable:
  - \$405 for an internal inspection of alternative solution
  - \$103 for an external inspection
  - \$103 for a final inspection

##### 4 or more storeys (not incorporating alternate water supplies)

- For up to the first 10 units, 3 inspection fees are payable:
  - \$405 for an internal inspection of alternative solution
  - \$103 for an external inspection
  - \$103 for a final inspection
- For every 10 units after that, \$103 is payable for a final inspection.

### After-hours inspection

**Inspection cost: \$854 per inspection**

The after-hours inspection fee no longer needs to be paid in addition to the base fee. This means that if an inspection is conducted after-hours, Fair Trading may refund the base fee if it has already been paid.

#### **Example 4 - Final inspection to be conducted after hours**

##### **5 unit 1 storey multi-unit development not incorporating alternate water supplies**

- The proposed fee for the inspection of plumbing and drainage work is \$103 per inspection.
- A minimum of 3 inspection fees need to be paid for each group of 5 units. As there is 1 group of 5 units in this development, 3 inspection fees need to be paid. This means that the minimum fee payable is **\$309** (\$103 x 3 inspection fees). This will typically cover an internal, external and final inspection for the group of 5 units. Up to 5 units will be inspected for each fee.
- If the final inspection for each of the 5 units needs to be carried out after-hours, the relevant person will need to pay the \$854 after-hours inspection fee to Fair Trading.
- Fair Trading may refund the \$103 fee already paid for the final inspection to the relevant person as they will have instead paid the \$854 after-hours inspection fee.
- Where work is staged to ensure that all 5 units are ready for the final inspection at the same time, this effectively reduces the per unit after-hours inspection fee to \$170.80 per unit (\$854 / 5 units).

## Appendix 3 – Summary of the Regulation

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**Clause 1, 2 and 3** include the name of the Regulation, the date of commencement and the definitions used in the Regulation.

**Clause 4** prescribes the period within which a notice of work must be given by the responsible person to the plumbing regulator before plumbing and drainage work involving a proposed alternative solution is carried out.

**Clause 5** prescribes the period within which a notice of emergency work must be given by the responsible person to the plumbing regulator after work is carried out.

**Clause 6** prescribes the period within which a notice of a defective installation or system must be given by the responsible person to the plumbing regulator and the owner or occupier of the land.

**Clause 7** prescribes the period after work is completed within which the plumbing regulator must be notified that the work will be ready for inspection.

**Clause 8** prescribes the period after work is completed within which a certificate of compliance must be given to the plumbing regulator, the person for whom the work is carried out, and the owner of the premises or the owner's agent.

**Clause 9** prescribes the period within which a plan of work or copy of a plan is required to be supplied to the plumbing regulator and the owner of the land or the owner's agent.

**Clause 10** prescribes the additional requirements for plumbing and drainage work that involves a proposed alternative solution.

**Clause 11** exempts minor plumbing and drainage work from the requirements in Part 2 of the Act relating to notices of work, notifying the plumbing regulator when work is ready for inspection, and certificates of compliance.

**Clause 12** exempts employees of network utility operators from certain requirements in Part 2 of the Act.

**Clause 13** provides for the plumbing regulator's and council's powers in relation to fees, and that fees payable for inspections carried out by the plumbing regulator are set out in Schedule 1 of the Regulation.

**Clause 14** provides that any act, matter or thing before repeal of the Plumbing and Drainage Regulation 2012, that had effect under that Regulation, continues to have effect under this Regulation.

**Schedule 1** sets out the fees for services provided by the plumbing regulator.

**Schedule 2** sets out the offences under the Act and Regulation for which penalty notices apply and the penalty amounts.



## Appendix 4 – List of stakeholders

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### Key stakeholders

The following key stakeholders have been provided with a copy of the proposed Regulation and this RIS:

- Association of Hydraulic Services Consultants Australia
- Brookfield Multiplex
- Housing Industry Association
- Local Government NSW
- Master Builders Association
- Master Plumbers Association
- Meriton
- Metal Roofing and Cladding Association
- NSW Department of Planning and Environment
- Office of Local Government
- Property Council of Australia
- TAFE NSW