



ACT
Government

REGULATORY IMPACT STATEMENT

Animal Diseases (Import Restriction) Declaration 2017

DI2017-188

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Purpose

The purpose of this regulatory impact statement is to provide information about the regulatory impact of the *Animal Diseases (Import Restriction) Declaration 2017* (the **declaration**), made under the *Animal Diseases Act 2005* (the **Act**). The declaration declares an import and sales restriction on declared animals and equipment used in connection with the cultivation or catch of declared animals from an import restriction area; that is decapod crustaceans and polychaete worms cultivated or caught in the area in Queensland defined below and outlined in red in the map at Schedule 1:

- (1) the local government areas of Redland City Council, Moreton Bay Regional Council, Logan City Council, Brisbane City Council, Ipswich City Council, Gold Coast City Council and the following localities from Sunshine Coast Regional Council: Bells Creek, Beerburrum, Beerwah, Booroobin, Bribie Island North, Caloundra, Caloundra West, Coochin Creek, Crohamhurst, Kings Beach, Glass House Mountains, Golden Beach, Mount Mellum, Moffat Beach, Landsborough, Peachester, Pelican Waters and Shelly Beach, and
- (2) the waters of Moreton Bay Marine Park bounded by Redland City Council, Brisbane City Council, Moreton Bay Regional Council and a line running generally north westerly from Amity on North Stradbroke Island to the southern most point of Moreton Island and a line running generally westerly from Comboyuro Point Moreton Island to Skirmish Point on Bribie Island to be subject to an import restriction (**the import restriction area**).

Policy problem

On 30 November 2016, Queensland's Biosecurity Sciences Laboratory detected white spot disease (WSD) in a prawn farm on the Logan River, Queensland. Subsequent to this initial detection, a total of 6 other premises were found to be infected. Disposal and decontamination is now complete on all of these. Although a low number of WSD PCR (polymerase chain reaction test) positive animals have been detected in the wild through surveillance activities in nearby waters, the nationally agreed aim is to regain a disease free status.

White spot disease is a highly contagious disease of farmed penaid prawns, including tiger, kuruma, banana and school prawns. It is associated with high mortalities, sometimes approaching 100%. White spot disease is widespread throughout prawn farming regions in Asia and has become established in prawns farmed in the Americas where it has caused severe losses to aquaculture industries. All decapod crustaceans from marine, brackish or freshwater environments are considered susceptible to WSD, and some can act as carriers of the virus. Polychaete worms have also been implicated in the spread of the disease. White spot disease virus

does not pose a threat to human health or food safety. White spot disease is a declared exotic disease in the ACT under the *Animal Diseases (Exotic Diseases) Declaration 2011 (No 1)*.

The prawn farming industry in Australia, with a farm gate value of approximately \$88 million annually, is one of the few worldwide to remain free of WSD. The disease and the virus that causes it were both exotic to Australia, and pose a significant threat to Australia's crustacean industries.

In response to the outbreak, the Queensland Government initially placed a movement control order on uncooked decapod crustaceans and polychaete worms from an area around the Logan and Albert Rivers. They have since updated this order to encompass a control area from Caloundra to the NSW border. Several other Australian jurisdictions, including New South Wales, have prohibited the importation of decapod crustaceans, polychaete worms and equipment used in connection with these animals from Queensland's control area.

The New South Wales prohibition order on the importation of uncooked prawns from the Logan River commenced on 9 December 2016. The current order restricts the import of live or dead decapod crustaceans and polychaete worms taken from the area of Queensland represented by the map in Schedule 1.

The authorising law

The object of the Act is to protect the health and welfare of people and animals and to protect markets for animal products. This is achieved by providing mechanisms for the detection, prevention and control of outbreaks of animal diseases in the ACT and assisting in the prevention and control of outbreaks of animal diseases in other jurisdictions within Australia.

Section 15 (1) of the Act authorises the Minister to declare an area outside the ACT to be subject to an import restriction if the Minister has reasonable grounds for believing that an animal in the area is infected with an exotic disease and the declaration is necessary to prevent the spread of the disease.

White spot disease is declared an exotic disease in the ACT under the *Animal Diseases (Exotic Diseases) Declaration 2011 (No 1)*.

Section 15 (5) of the Act creates an offence if a person contravenes a restriction in an import restriction declaration. The maximum penalty on conviction of this offence is 50 penalty units, imprisonment for 6 months, or both.

Objectives of the declaration

The declaration solves the policy problem outlined above by restricting the import and sale of decapod crustaceans, polychaete worms and the equipment used in the

cultivation and catching of these animals from the area of Queensland defined by the map in Schedule 1. This is to reduce the risk of white spot disease spreading to the ACT or to another jurisdiction via the ACT.

The import and sales restrictions do not apply to decapod crustaceans from the defined control area that have been cooked for human consumption, are securely packaged and are transported directly to a point of sale for human consumption. Uncooked product moving through the control area, but sourced from outside this area, is also exempt from restrictions provided that the containers holding the product remain intact and secure; they clearly display information about the name, address, postcode and State/Territory of the grower and/or commercial fisher and packer; and they are transported directly to a point of sale for human consumption.

A further exception to the import restriction is inserted into this declaration by allowing for the importation of Gamma irradiation treated product that is treated in the Import Restriction Area and moved directly to the ACT provided that it is packaged and labelled correctly and meets other conditions relating to transport of the product and notifying ACT authorities of its intended arrival. This product is considered safe for consumption and presents a low risk to the spread of the disease given the treatment process applied to the product.

The import restriction does not apply to equipment that has been cleaned and disinfected to remove all traces of decapod crustaceans, polychaete worms or their products.

Consistency of the declaration with the Act

Section 15 (1) of the Act authorises the Minister to declare an area outside the ACT to be subject to an import restriction, if the Minister has reasonable grounds for believing that an animal in the area is infected with an exotic disease and the declaration is necessary to prevent the spread of the disease.

Having been advised of the outbreak of WSD in Queensland, the fact that it is highly contagious and that it can be spread via freshwater crustaceans, the Minister reasonably believes that making the declaration is necessary to prevent the spread of the disease both within the borders of the ACT and across the border to New South Wales.

Section 15 (3) of the Act prescribes the content of an import restriction declaration, including that it states—

- (a) the animals to which the declaration applies;
- (b) the disease in relation to which the declaration is made;
- (c) the area to which the declaration applies;

- (d) the restrictions on importing into the ACT an animal, animal product or other thing that has, at any time during a stated period, been in the areas; and
- (e) if the declaration is to have effect for a limited period—the period.

The declaration provides that—

- (a) it applies to all decapod crustaceans and polychaete worms;
- (b) it applies to white spot disease;
- (c) it applies to the area in Queensland defined below and outlined in red in the map at Schedule 1:
 - (i) the local government areas of Redland City Council, Moreton Bay Regional Council, Logan City Council, Brisbane City Council, Ipswich City Council, Gold Coast City Council and the following localities from Sunshine Coast Regional Council: Bells Creek, Beerburrum, Beerwah, Booroobin, Bribie Island North, Caloundra, Caloundra West, Coochin Creek, Crohamhurst, Kings Beach, Glass House Mountains, Golden Beach, Mount Mellum, Moffat Beach, Landsborough, Peachester, Pelican Waters and Shelly Beach, and
 - (ii) the waters of Moreton Bay Marine Park bounded by Redland City Council, Brisbane City Council, Moreton Bay Regional Council and a line running generally north westerly from Amity on North Stradbroke Island to the southern most point of Moreton Island and a line running generally westerly from Comboyuro Point Moreton Island to Skirmish Point on Bribie Island to be subject to an import restriction **(the import restriction area)**.
- (d) restrictions are placed on importing into the ACT, subject to exceptions,—
 - (i) decapod crustacean and polychaete worms from the import restriction area; and
 - (ii) equipment that has been in contact with decapod crustaceans and polychaete worms, or used in or exposed to water — from the import restriction area;
- (e) restrictions are placed on the sale in the ACT of decapod crustaceans sourced from the import restriction area, subject to exceptions; and
- (f) the declaration is only to have effect in relation to the animals or equipment used in the cultivation or capture of decapod crustaceans or polychaete worms that have been present in the import restriction area since 1 November 2016.

The declaration is consistent with the objects of the Act as it protects markets for crustacean products by preventing the outbreak of an exotic animal disease in the ACT and assisting in the prevention and control of the outbreak of the exotic animal disease in another jurisdiction.

Consideration of alternative options

If the declaration were not made, the ACT could attempt to rely on the Queensland Government's movement control order on decapod crustaceans and polychaete

worms from the defined control area; however, that order only prevents the movement of these animals from and within Queensland. The ACT declaration restricts the importation into and sale in the ACT of decapod crustaceans and polychaete worms from Queensland's control area as an added protection to prevent an outbreak of WSD in the ACT.

As a signatory to the Intergovernmental Agreement on Biosecurity (IGAB), the ACT is committed to strengthening its working partnership with other Australian governments to improve the national biosecurity system and minimise the impact of animal diseases on Australia's economy, environment and community. Making the declaration assists in the ACT's contribution to a national response to the WSD outbreak.

Cost/benefit analysis of implementing the declaration

There may be some costs to seafood suppliers and restaurants in the ACT as a result of the declaration that uncooked prawns from Queensland's declared control area are prohibited from import into and sale in the ACT; however, cooked decapod crustaceans are not covered by the prohibition. Seafood suppliers and restaurants may need to identify and engage alternative suppliers for uncooked decapod crustaceans.

The benefit of implementing the declaration is that it reduces the risk of further spreading the WSD throughout Australia, including into the ACT where the disease may make its way into freshwater rivers and creeks and infect freshwater crustaceans.

The cost associated with implementing the instrument is less expensive than later being forced to implement biosecurity measures aimed at controlling, mitigating or eradicating WSD should it ever enter ACT waterways.

Consultation

The response to the outbreak of WSD in the controlled area of Queensland is being coordinated by the national Aquatic Consultative Committee on Emergency Animal Diseases, which contains representatives from all Australian jurisdictions, the Australian Government Department of Agriculture and Water Resources, the CSIRO, and industry. Further targeted consultation has occurred with the New South Wales Department of Primary Industries, to ensure that the ACT's response to the outbreak is aligned with that State's.

The Chief Veterinary Officer has alerted the main seafood importers in the ACT of the WSD outbreak in Queensland and its potential effect on the ACT crustacean

seafood market. Ongoing consultation, as necessary, on this issue is occurring with seafood importers and all major retailers.

Consistency of the declaration with scrutiny committee principles

The Scrutiny of Bills Committee's terms of reference require it to consider whether (among other things) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly—

- is in accord with the general objects of the Act under which it is made;
- unduly trespasses on rights previously established by law;
- makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
- contains a matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

The declaration is consistent with the objects of the Act as it protects markets for crustacean products by taking steps to prevent the outbreak of an exotic animal disease in the ACT and assisting in the prevention and control of the outbreak of the exotic animal disease in other jurisdictions within Australia.

The declaration does not unduly trespass on rights previously established by law. The declaration restricts the import into and sale in the ACT of decapod crustacean and polychaete worms and import of equipment used for the cultivation and/or capture of these animals from a defined area.

The declaration is subject to disallowance by the Legislative Assembly. Should a person contravene the import restriction declaration, normal prosecution procedures would be followed. This includes the ability of a convicted person to seek to appeal their conviction.

Making an import restriction declaration is a matter which is expressly provided for in the Act. As biosecurity measures need to be implemented as soon as possible to reduce the risk of an exotic disease spreading it is appropriate to be dealt with in a disallowable instrument rather than within an Act of the Legislative Assembly.