

## EXPLANATORY STATEMENT

### *Biosecurity Act 2015*

#### *Biosecurity (Ship Sanitation Certification Scheme—Ports) Amendment (Port Botany and Gold Coast Broadwater) Declaration 2019*

The *Biosecurity Act 2015* (the Act) provides the main legislative and regulatory framework for the Australian Government's management of the risk of pests and diseases entering Australian territory and causing harm to animal, plant and human health, the environment and the economy. The Act manages biosecurity risks, including the risk of listed human diseases or any other infectious human diseases entering Australian territory, or emerging, establishing themselves, or spreading in Australian territory or a part of Australian territory.

In order to give effect to Australia's rights and obligations under the International Health Regulations, the Act provides for a certification scheme in relation to sanitation health risks associated with ships entering or leaving Australian territory.

#### Authority

Section 256(1) of the Act specifies that the Director of Human Biosecurity may declare ports at which vessels can be inspected for the purposes of the ship sanitation certification scheme.

In addition to the power to make this instrument under section 256(1) of the Act, subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

#### Purpose

The instrument amends the *Biosecurity (Ship Sanitation Certification Scheme—Ports) Declaration 2016*, which is made under section 256(1) of the Act to declare ports at which vessels can be inspected for the purposes of the ship sanitation certification scheme.

The purpose of the instrument is to make two changes in respect of the declared ports at which vessels can be inspected for the purposes of the ship sanitation certification scheme.

The instrument declares Gold Coast Broadwater to be a port at which vessels can be inspected for the purposes of the ship sanitation certification scheme.

The instrument also amends the name of the existing declared port 'Port of Botany Bay' to 'Port Botany', to achieve consistency with the name given to that port in the

*Biosecurity (First Point of Entry—Port of Port Botany) Determination 2019*, made by the Director of Biosecurity under subsection 229(1) of the Act.

### Consultation

The Act specifies that the Director of Human Biosecurity must consult with the Director of Biosecurity, being the Secretary of the Department of Agriculture, before the power to make the instrument may be exercised. The Department of Health consulted the Director of Biosecurity through the Department of Agriculture.

### Commencement

This instrument commences the day after registration of the instrument.

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

## ATTACHMENT

### **Details of the *Biosecurity (Ship Sanitation Certification Scheme—Ports) Amendment (Port Botany and Gold Coast Broadwater) Declaration 2019***

#### **1 Name of Determination**

Section 1 states that the name of the legislative instrument is the *Biosecurity (Ship Sanitation Certification Scheme—Ports) Amendment (Port Botany and Gold Coast Broadwater) Declaration 2019*.

#### **2 Commencement**

Section 2 provides that the instrument commences on the day after the instrument is registered on the Federal Register of Legislation.

#### **3 Authority**

Section 3 specifies that the instrument is made under subsection 256(1) of the Act.

#### **4 Schedules**

Section 4 states that each instrument mentioned in the Schedule to this instrument is amended or repealed as set out in the Schedule.

#### **Schedule 1 Amendments**

Schedule 1 contains two Items, both of which make amendments to section 5 of the *Biosecurity (Ship Sanitation Certification Scheme-Ports) Declaration 2016*. Section 5 of that instrument specifies the ports at which vessels may be inspected for the purposes of the ship sanitation certification scheme.

#### **Item 1 Section 5 (table item 1, column headed “Ports”)**

Item 1 omits ‘Port of Botany Bay’ from the list of New South Wales ports in Section 5 and substitutes it with ‘Port Botany’.

#### **Item 2 Section 5 (table item 3, column headed “Ports”)**

Item 2 inserts Gold Coast Broadwater into the list of Queensland ports in Section 5 of the *Biosecurity (Ship Sanitation Certification Scheme-Ports) Declaration 2016*.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Biosecurity (Ship Sanitation Certification Scheme—Ports) Amendment (Port Botany and Gold Coast Broadwater) Declaration 2019**

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

The *Biosecurity (Ship Sanitation Certification Scheme—Ports) Amendment (Port Botany and Gold Coast Broadwater) Declaration 2019* provides for Gold Coast Broadwater to be a declared port at which vessels can be inspected for the purposes of the ship sanitation scheme, and amends the name of the existing declared port ‘Port of Botany Bay’ to ‘Port Botany’.

#### **Human rights implications**

This legislative instrument engages and is consistent with Article 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

This instrument facilitates the protection of public health in Australia through enhancing the ship sanitation certification scheme, which in turn assists with the management of the risk of listed human diseases entering Australian territory, or emerging, establishing themselves, or spreading in Australian territory or a part of Australian territory.

#### **Conclusion**

This legislative instrument is compatible with human rights because it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

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