

EXPLANATORY STATEMENT

Issued by Authority of the Director of Biosecurity

Biosecurity Act 2015

Biosecurity (First Point of Entry—Port of Brisbane) Amendment (2021 Measures No. 1) Determination 2021

Legislative Authority

The *Biosecurity (First Point of Entry—Port of Brisbane) Amendment (2021 Measures No. 1) Determination 2021* (Amendment Determination) is made under section 233 of the *Biosecurity Act 2015* (the Biosecurity Act).

The Amendment Determination makes amendments to the *Biosecurity (First Point of Entry—Port of Brisbane) Determination 2019* (the Port of Brisbane Determination). The Port of Brisbane Determination is made under subsection 229(1) of the Biosecurity Act.

Section 233 of the Biosecurity Act provides that if a determination is made under subsection 229(1) in relation to a port, the Director who made the determination may vary or revoke the determination, or vary the conditions specified in the determination (including by imposing new conditions), if the Director is satisfied of any of the matters set out in paragraphs 233(a) – (e) of the Biosecurity Act. Paragraph 233(e) provides that one of these matters is that a circumstance prescribed by the regulations has occurred.

Paragraph 59(c) of the *Biosecurity Regulation 2016* (the Biosecurity Regulation) provides that a circumstance in which the Director may vary a determination under section 233 of the Biosecurity Act in relation to a port is that the operator of the port has requested the variation or the revocation of the determination, or the variation of the conditions. Operators at the Port of Brisbane have requested variations to the Port of Brisbane Determination.

Purpose

The purpose of the Amendment Determination is to vary the Port of Brisbane Determination to designate the following sites within the Port of Brisbane as biosecurity entry points:

- Pacific Marine Base as a biosecurity entry point for: vessels other than passenger vessels, inorganic bulk goods, freight containers, general goods, non-commercial vessel baggage and waste (both non-commercial vessel waste, and waste other than non-commercial vessel waste).
- Brisbane International Cruise Terminal as a biosecurity entry point for: vessels other than non-commercial vessels, passenger vessel baggage and waste other than non-commercial vessel waste.
- Rivergate Marina and Shipyard as a biosecurity entry point for non-commercial vessel waste. Rivergate Marina and Shipyard is already a biosecurity entry point for non-commercial vessels and non-commercial vessel baggage.

- Wagners Wharf as a biosecurity entry point for general goods. Wagners Wharf is already a biosecurity entry point for: vessels other than non-commercial vessels and passenger vessels, inorganic bulk goods and waste.

The Amendment Determination also varies the Port of Brisbane Determination to:

- Remove Fisherman Islands General Purpose Berth as a biosecurity entry point for passenger vessel baggage.
- Change the biosecurity entry point name Rivergate Marina to Rivergate Marina and Shipyard.
- Change the biosecurity entry point name GrainCorp Liquid Terminal to Quantem Bulk Liquid Storage.

Background

The Biosecurity Act is about managing diseases and pests that may cause harm to human, animal or plant health or the environment, and provides the Commonwealth with powers to assess and manage biosecurity risk, among other things. ‘Biosecurity risk’ is defined in section 9 of the Biosecurity Act.

The Director of Biosecurity may vary the Port of Brisbane Determination if a circumstance prescribed in the regulations has occurred: see paragraph 233(e) of the Biosecurity Act. For the purposes of the Amendment Determination, the Director of Biosecurity was satisfied that a circumstance prescribed by the Biosecurity Regulation has occurred. Specifically, operators at Port of Brisbane requested variations to the Port of Brisbane Determination, in accordance with paragraph 59(c) of the Biosecurity Regulation.

Impact and Effect

The Amendment Determination amends the Port of Brisbane Determination to add the following additional biosecurity entry points:

- Pacific Marine Base as a biosecurity entry point for: vessels other than passenger vessels, inorganic bulk goods, freight containers, general goods, non-commercial vessel baggage and waste (both non-commercial vessel waste, and waste other than non-commercial vessel waste). As a result, the person in charge of or the operator of these classes of vessels is no longer required to apply to the Department of Agriculture, Water and the Environment (Agriculture Department) for prior permission to moor or to unload these classes of goods at Pacific Marine Base.
- Brisbane International Cruise Terminal as a biosecurity entry point for vessels other than non-commercial vessels, passenger vessel baggage, and waste other than non-commercial vessel waste. As a result, the person in charge of or the operator of vessels other than non-commercial vessels is no longer required to apply to the Agriculture Department for prior permission to moor or to unload these classes of goods at Brisbane International Cruise Terminal.

- Rivergate Marina and Shipyard as a biosecurity entry point for non-commercial vessel waste. It is already a biosecurity entry point for non-commercial vessels and non-commercial vessel baggage.
- Wagners Wharf as a biosecurity entry point for general goods. As a result, the person in charge of or the operator of a vessel is no longer required to apply to the Agriculture Department to unload general goods at Wagners Wharf. The Port of Brisbane Determination lists Wagners Wharf a biosecurity entry point for: vessels other than non-commercial vessels and passenger vessels; inorganic bulk goods and waste.

The Amendment Determination also varies the Port of Brisbane Determination to:

- Remove Fisherman Islands General Purpose Berth as a biosecurity entry point for passenger vessel baggage. As a result, passenger vessel baggage is no longer permitted to be unloaded at Fisherman Islands General Purpose Berth, unless a biosecurity officer has given a direction under subsection 147(3) of the Biosecurity Act requiring the goods to be brought to Fisherman Islands General Purpose Berth, or permission has been given under subsection 148(2) of the Biosecurity Act to bring the goods to Fisherman Islands General Purpose Berth. Fisherman Islands General Purpose Berth remains a biosecurity entry point for vessels other than non-commercial vessels, general goods, inorganic bulk goods and waste other than non-commercial vessel waste.
- Change the biosecurity entry point name Rivergate Marina to Rivergate Marina and Shipyard. The effect of this amendment is to change the name of the biosecurity entry point to Rivergate Marina and Shipyard as requested by the operator of the biosecurity entry point. Rivergate Marina and Shipyard is a biosecurity entry point for non-commercial vessels, non-commercial vessel baggage and non-commercial vessel waste.
- Change the biosecurity entry point name GrainCorp Liquid Terminal to Quantem Bulk Liquid Storage. The effect of this amendment is to change the name of the biosecurity entry point to Quantem Bulk Liquid Storage as requested by the operator of the biosecurity entry point. Quantem Bulk Liquid Storage is a biosecurity entry point for: vessels other than non-commercial vessels and passenger vessels; inorganic bulk goods; general goods; and waste other than non-commercial vessel waste.

The Amendment Determination ensures that vessels and goods that arrive in Australian territory from overseas arrive at locations that have the facilities available to assess any biosecurity risk associated with those vessels and goods and manage it to an acceptable level. Vessels or goods arriving at locations that do not have the capacity to manage the biosecurity risk pose a threat that a disease or pest may enter Australia, establish or spread and cause harm to Australia's human, plant and animal health, the environment and the economy.

Consultation

In considering whether to make the Amendment Determination to vary biosecurity entry points at the Port of Brisbane, the Agriculture Department engaged directly with the operators of the relevant biosecurity entry points.

The Agriculture Department conducted onsite visits to the various biosecurity entry points, exchanged correspondence and undertook ongoing communication with the operators of those biosecurity entry points to confirm the nature of their operations, assess those operations and provide technical and administrative support.

The information and evidence gathered from onsite visits and from the operators has informed the decision that the Port of Brisbane Determination be varied so that:

- Pacific Marine Base is a biosecurity entry point for vessels other than passenger vessels, inorganic bulk goods, freight containers, general goods, non-commercial vessel baggage, and waste (both non-commercial vessel waste, and waste other than non-commercial vessel waste).
- Brisbane International Cruise Terminal is a biosecurity entry point for: vessels other than non-commercial vessels; passenger vessel baggage; and waste other than non-commercial vessel waste.
- Wagners Wharf as a biosecurity entry point for general goods. It is already a biosecurity entry point for: vessels other than non-commercial vessels and passenger vessels; inorganic bulk goods; and waste.

The information gathered from operators has informed the decision that the Port of Brisbane Determination be varied so that:

- Fisherman Islands General Purpose Berth is removed as a biosecurity entry point for passenger vessel baggage.
- The biosecurity entry point name Rivergate Marina is changed to Rivergate Marina and Shipyard.
- The biosecurity entry point name GrainCorp Liquid Terminal is changed to Quantem Bulk Liquid Storage.

The Department of Health has also been consulted in relation to the Amendment Determination and provided a letter of endorsement on 13 January 2021.

The Office of Best Practice Regulation (OBPR) was consulted in the preparation of the Regulation Impact Statement (RIS) for the Biosecurity Bill 2014 (OBPR ID: 25191). The OBPR advised on 31 March 2016 that a RIS is not required for the making of determinations under section 229 of the Act. The OBPR confirmed this advice in the context of amending determinations under section 233 of the Biosecurity Act on 30 May 2019.

Details / Operation

Details of the Amendment Determination are set out in the Attachment.

Other

Paragraph 234(b) of the Biosecurity Act provides that the Amendment Determination is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act) and the instrument is not subject to disallowance. As such, a Statement of Compatibility with Human Rights is not required (subsection 15J(2) of the Legislation Act refers). The decision to vary the Port of Brisbane Determination under section 233 of the Biosecurity Act is a technical and scientific decision to ensure biosecurity risk associated with vessels and goods can be satisfactorily managed at Port of Brisbane.

Biosecurity (First Point of Entry—Port of Brisbane) Amendment (2021 Measures No. 1) Determination 2021

Part 1 Preliminary

Section 1 – Name

This section provides that the name of the instrument is the *Biosecurity (First Point of Entry—Port of Brisbane) Amendment (2021 Measures No. 1) Determination 2021* (the Amendment Determination).

Section 2 – Commencement

This section provides for the Amendment Determination to commence on the day after it is registered.

Section 3 – Authority

This section provides that the Amendment Determination is made under section 233 of the *Biosecurity Act 2015*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to the Amendment Determination is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Biosecurity (First Point of Entry—Port of Brisbane) Determination 2019

The Schedule sets out the amendments made to the *Biosecurity (First Point of Entry—Port of Brisbane) Determination 2019* (the Port of Brisbane Determination).

1 Section 7 (table item 1, column 2)

Item 1 amends section 7, table item 1, column 2 of the Port of Brisbane Determination to insert “and Shipyard” after “Marina”.

This amendment reflects the change of name of the biosecurity entry point to Rivergate Marina and Shipyard. This change was requested by the biosecurity entry point operator.

A biosecurity entry point is a specified area within a first point of entry, where vessels or goods to which the biosecurity entry point relates must enter as soon as possible. This is an optional tool that can be used to assist with the management of biosecurity risk by ensuring vessels and goods are brought to a specified place within the first point of entry with the facilities to assess and, if necessary, treat biosecurity risk.

2 Section 7 (table item 3, column 2, before paragraph (a))

Item 2 amends section 7, table item 3, column 2 of the Port of Brisbane Determination to insert the following:

(aa) Brisbane International Cruise Terminal;

The effect of this amendment is that Brisbane International Cruise Terminal is now a biosecurity entry point for vessels other than non-commercial vessels within the Port of Brisbane. The operator of Brisbane International Cruise Terminal requested that the location be a biosecurity entry point for vessels other than non-commercial vessels. Although Brisbane International Cruise Terminal will primarily facilitate passenger vessels, other classes of vessels, except for non-commercial vessels, can berth there. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Brisbane International Cruise Terminal.

3 Section 7 (table item 4, column 2, paragraph (r))

Item 3 amends section 7, table item 4, column 2 of the Port of Brisbane Determination to repeal the following paragraph:

(r) GrainCorp Liquid Terminal;

This is a consequential amendment to table item 4 below which reflects the change of name of Grain Corp Liquid Terminal to Quantem Bulk Liquid Storage. The operator of the biosecurity entry point requested the change of name.

4 Section 7 (table item 4, column 2, after paragraph (v))

Item 4 amends section 7 table item 4, column 2 of the Port of Brisbane Determination to insert the following after paragraph (v):

(va) Quantem Bulk Liquid Storage;

This amendment reflects the change of name of the Grain Corp Liquid Terminal to Quantem Bulk Liquid Storage. There are no changes to the location of this biosecurity entry point, or the operations carried out there.

5 Section 7 (at the end of the table)

Item 5 amends section 7 of the Port of Brisbane Determination to add the following at the end of the table:

5	Vessels other than passenger vessels	Pacific Marine Base
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This effect of this amendment is that Pacific Marine Base is a biosecurity entry point for vessels other than passenger vessels within the Port of Brisbane. The operator of Pacific Marine Base requested that the location be a biosecurity entry point for vessels other than passenger vessels. The delegate of the Director of Biosecurity was satisfied that there would

be an acceptable level of biosecurity risk associated with these operations at Pacific Marine Base.

6 Section 8 (table item 1)

Item 6 amends section 8 of the Port of Brisbane Determination to repeal table item 1 and substitute the following:

1	All of the following: (a) non-commercial vessel baggage; (b) non-commercial vessel waste	The following areas: (a) Pacific Marine Base; (b) Rivergate Marina and Shipyard
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The effect of this amendment is that Pacific Marine Base, and Rivergate Marina and Shipyard, are biosecurity entry points for non-commercial vessel baggage and non-commercial vessel waste within the Port of Brisbane. The operator of Pacific Marine Base requested that the location be a biosecurity entry point for non-commercial vessel baggage and non-commercial vessel waste. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Pacific Marine Base.

The operator of Rivergate Marina and Shipyard requested that the location be a biosecurity entry point for non-commercial vessel waste. The location was listed as a biosecurity entry point for non-commercial vessel baggage in the Port of Brisbane Determination. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Rivergate Marina and Shipyard.

The item also reflects the change of name of the biosecurity entry point Rivergate Marina to Rivergate Marina and Shipyard.

7 Section 8 (at the end of the cell at table item 2, column 2)

Item 7 amends section 8 of the Port of Brisbane Determination to add the following at the end of the cell at table item 2, column 2:

; (m) Pacific Marine Base

The effect of this amendment is that Pacific Marine Base is a biosecurity entry point for freight containers within the Port of Brisbane. The operator of Pacific Marine Base requested that the location be a biosecurity entry point for freight containers. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Pacific Marine Base.

8 Section 8 (table item 3, column 2, paragraphs (o), (p) and (q))

Item 8 amends section 8 of the Port of Brisbane Determination to repeal paragraphs (o), (p) and (q) of table item 3 of column 2 and substitutes the following:

- (o) Pacific Marine Base;
- (p) Pinkenba Common User Berth;

- (q) Quantem Bulk Liquid Storage;
- (r) Queensland Bulk Terminals;
- (s) Wagners Wharf

This item reflects that:

- Pacific Marine Base and Wagners Wharf are biosecurity entry points for general goods within the Port of Brisbane and
- Grain Corp Liquid Terminal has had a change of name and is now Quantem Bulk Liquid Storage.

The operators of Pacific Marine Base and Wagners Wharf requested that their locations be biosecurity entry point for general goods. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Pacific Marine Base and Wagners Wharf. Pinkenba Common User Berth, Quantem Bulk Liquid and Storage (under the name Grain Corp Liquid Terminal) and Queensland Bulk Terminals are biosecurity entry points for general goods in the Port of Brisbane Determination.

9 Section 8 (table item 4, column 2, paragraph (t))

Item 9 amends section 8, table item 4, column 2 of the Port of Brisbane Determination to repeal the following paragraph:

- (t) GrainCorp Liquid Terminal;

This is a consequential amendment to item 11 below which reflects the change of name of Grain Corp Liquid Terminal to Quantem Bulk Liquid Storage.

10 Section 8 (table item 4, column 2, after paragraph (w))

Item 10 amends section 8 table item 4, column 2 of the Port of Brisbane Determination to insert the following after paragraph (w):

- (wa) Pacific Marine Base;

The effect of this amendment is that Pacific Marine Base is a biosecurity entry point for inorganic bulk goods within the Port of Brisbane. The operator of Pacific Marine Base requested that the location be a biosecurity entry point for inorganic bulk goods. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Pacific Marine Base.

11 Section 8 (table item 4, column 2, after paragraph (y))

Item 11 amends section 8 table item 4, column 2 of the Port of Brisbane Determination to insert the following after paragraph (y):

- (ya) Quantem Bulk Liquid Storage;

The effect of this amendment is that Quantem Bulk Liquid Storage is a biosecurity entry point for inorganic bulk goods within the Port of Brisbane.

This item reflects the change of name of the GrainCorp Liquid Terminal to Quantem Bulk Liquid Storage. There are no changes to the location of this biosecurity entry point at the Port of Brisbane or the operations carried out there.

12 Section 8 (table item 6, column 2, paragraph (b))

Item 12 amends section 8, table item 6, column 2 of the Port of Brisbane Determination to repeal paragraph “(b) Fisherman Islands General Purpose Berth;” and substitute the following:

(b) Brisbane International Cruise Terminal;

The effect of this amendment is that Fisherman Islands General Purpose Berth is no longer a biosecurity entry point for passenger vessel baggage, and that Brisbane International Cruise Terminal is now a biosecurity entry point for passenger vessel baggage within the Port of Brisbane. The operator Brisbane International Cruise Terminal requested that the location be a biosecurity entry point for passenger vessel baggage. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Brisbane International Cruise Terminal.

The operator of Brisbane International Cruise Terminal is also the operator of Fisherman Islands General Purpose Berth. The operator requested that Fisherman Islands General Purpose Berth be removed as a biosecurity entry point for passenger vessel baggage as the unloading of passenger baggage is no longer part of the site’s usual business operations.

13 Section 8 (table item 7)

Item 13 amends section 8 of the Port of Brisbane Determination to repeal table item 7 and substitute the following:

7	Waste other than non-commercial vessel waste	The following areas: (a) BP Products Berth; (b) Brisbane Cruise Terminal – Hamilton 1 Wharf; (c) Brisbane International Cruise Terminal; (d) Caltex Crude Wharf; (e) Caltex Products Berth; (f) Cement Australia Wharf; (g) Fisherman Islands Berth 1; (h) Fisherman Islands Berth 2; (i) Fisherman Islands Berth 3; (j) Fisherman Islands Berth 4; (k) Fisherman Islands Berth 5; (l) Fisherman Islands Berth 6; (m) Fisherman Islands Berth 7; (n) Fisherman Islands Berth 8; (o) Fisherman Islands Berth 9; (p) Fisherman Islands Berth 10; (q) Fisherman Islands Berth 11;
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- (r) Fisherman Islands Berth 12;
- (s) Fisherman Islands Coal Berth;
- (t) Fisherman Islands General Purpose Berth;
- (u) Fisherman Islands Multi-User Terminal at Grain Wharf;
- (v) Hamilton No. 4;
- (w) Incitec North;
- (x) Incitec South;
- (y) Pacific Marine Base;
- (z) Pinkenba Common User Berth;
- (za) Port North Common User Berth;
- (zb) Quantem Bulk Liquid Storage;
- (zc) Queensland Bulk Terminals;
- (zd) Viva Energy Wharf;
- (ze) Wagners Wharf

This item reflects:

- that column 1 of table item 7 of section 8 no longer covers non-commercial vessel waste;
- that Brisbane International Cruise Terminal, Pacific Marine Base and Quantem Bulk Liquid Storage are biosecurity points within the Port of Brisbane for waste other than non-commercial vessel waste; and
- the change of name of Grain Corp Liquid Terminal to Quantem Bulk Liquid Storage, at the request of the operator of that biosecurity entry point. There are no changes to the location of that biosecurity entry point at the Port of Brisbane or the operations carried out there.

The operator of Brisbane International Cruise Terminal requested that their location be a biosecurity entry point for waste other than non-commercial waste. Non-commercial vessels are not permitted to berth at Brisbane International Cruise Terminal. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Brisbane International Cruise Terminal.

The operator of Pacific Marine Base requested that their location be a biosecurity entry point for waste from all classes of vessels. Pacific Marine Base is a biosecurity entry point both non-commercial vessel waste and waste other than non-commercial vessel waste. The delegate of the Director of Biosecurity was satisfied that there would be an acceptable level of biosecurity risk associated with these operations at Pacific Marine Base.

The other biosecurity entry points substituted in table item 7 are listed as biosecurity entry points for waste in the Port of Brisbane Determination. However, the class 'waste other than non-commercial vessel waste' more accurately reflects the class of goods permitted to be unloaded at these biosecurity entry points. Non-commercial vessels are not permitted to arrive at these biosecurity entry points and the unloading of non-commercial vessel waste should not be permitted there.