



ACT
Government

REGULATORY IMPACT STATEMENT

Plant Diseases (Importation Restriction Area) Declaration 2018 (No 1)

DI2018-86

Mick Gentleman MLA
Minister for the Environment and Heritage

2018

Purpose

The purpose of this regulatory impact statement is to provide information about the regulatory impact of the *Plant Diseases (Importation Restriction Area) Declaration 2018 (No 1)* (the **declaration**), made under the *Plant Diseases Act 2002* (the **Act**). The declaration declares an importation restriction on plant disease carrier material from an importation restriction area.

Policy problem

In early April 2018, strong evidence of a citrus canker outbreak was found in Darwin, Northern Territory, on a variety of West Indian lime grown for the retail trade. Citrus canker is a contagious disease caused by the bacterium *Xanthomonas citri* subsp. *citri* that affects all citrus species. The disease presents as lesions or cankers at infection sites and severely impacts fruit quality and yield. Premature fruit drop can occur, along with defoliation, twig dieback and general tree decline. In severe cases citrus canker can lead to tree death. Long distance spread of the disease can occur through flooding, cyclones and by people moving infected plant material or equipment.

The Northern Territory Department of Primary Industry and Resources is working with retailers, production nurseries and other jurisdictions to undertake diagnostic testing of affected and other sampled plant material and tracing activities. Diagnostic testing is complex and citrus canker is yet to be confirmed. The suspect disease has not been detected in citrus growing areas in the Northern Territory.

As a precautionary measure, New South Wales (NSW) has placed movement restrictions on citrus canker carriers. Citrus canker carriers include citrus plants (and their fruit and leaves) and soil, packaging, equipment and machinery that has come into contact with citrus plants. It is likely other jurisdictions will adopt similar measures. These measures will remain in place until a national protocol has been agreed through the Consultative Committee on Emergency Plant Pests.

The authorising law

The object of the Act is for the control of diseases and pests affecting plants. Managing plant diseases and pests through detection, prevention and the control of outbreaks in the ACT protects markets for plant products, social amenity and the environment, and assists in preventing their spread into other jurisdictions within Australia.

Section 12 (1) of the Act authorises the Minister to declare an area outside the ACT to be subject to an importation restriction if the Minister has reasonable grounds for believing that the declaration is necessary or desirable to prevent a disease or pest becoming established, or spreading, in the ACT.

Sections 12 (8) and (9) of the Act create offences if a person contravenes a restriction in an importation restriction area declaration. The maximum penalty on conviction of an offence is 1,000 penalty units.

Objectives of the declaration

The declaration solves the policy problem outlined above by restricting the importation of citrus canker carriers from the Northern Territory. This reduces the risk of citrus canker spreading to the ACT or to another jurisdiction via the ACT, particularly NSW.

Consistency of the declaration with the Act

Section 12 (1) of the Act authorises the Minister to declare an area outside the ACT to be subject to an importation restriction if the Minister has reasonable grounds for believing that the declaration is necessary or desirable to prevent a disease or pest becoming established, or spreading, in the ACT.

Having been advised of the outbreak of citrus canker in the Northern Territory, the fact that it is a serious disease that attacks a significant Australian horticultural and export industry, and can be spread via the transport of citrus plants and other carriers, the Minister reasonably believes that making the declaration is necessary to prevent the spread of the pest both within the borders of the ACT and across the border to NSW.

Section 12 (3) of the Act prescribes the content of an importation restriction declaration, including that it must contain a diagram showing the declared area and state—

- (a) the disease or pest to which the declaration relates;
- (b) the restrictions on importing into, or selling in, the ACT any plant, plant product or other stated thing that has, during a stated period, been kept in or travelled through the declared area;
- (c) the date the declaration takes effect; and
- (d) if the declaration is to have effect for a limited period—the date when (unless sooner revoked) it stops having effect.

The declaration provides that—

- (a) it applies to citrus canker caused by the bacterium *Xanthomonas citri* subsp. *citri*;
- (b) it applies to the whole of the Northern Territory as shown on the diagram at schedule 1 of the declaration;
- (c) restrictions are placed on importing citrus canker carriers into the ACT from the importation restriction area; and
- (d) the declaration expires on 1 May 2021.

The declaration is consistent with the object of the Act as it:

- (a) protects markets for citrus products and social amenity by preventing and controlling the outbreak of an exotic plant disease in the ACT; and
- (b) assists in the prevention and control of the outbreak of the exotic plant disease in another jurisdiction.

Consideration of alternative options

If the declaration was not made, the ACT could attempt to rely on NSW movement restrictions on citrus canker carriers from the infected area. The Northern Territory is not a significant commercial producer of citrus, with only a small amount of trade to NSW through the Sydney markets. However, NSW restrictions only prevent the movement of carrier material into and within the NSW Citrus Canker Control Zone. The ACT declaration restricts the importation into the ACT of citrus canker carriers directly from the declared area as an added protection to prevent an outbreak of citrus canker in the ACT.

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

Cost/benefit analysis of implementing the declaration

There may be minor costs to fruit and horticultural suppliers in the ACT as a result of the declaration that citrus canker carriers are prohibited from importation into the ACT; however, the amount of material concerned is likely to be small.

Fruit and horticultural suppliers may need to identify and engage alternative suppliers for citrus plants, fruit and leaves from the declared area. As the majority of Australian citrus is grown outside the importation restriction area, the declaration is expected to have minimal impact on local businesses.

The benefit of implementing the declaration is reducing the risk of the spread of citrus canker throughout Australia. Citrus is one of the most important horticultural industries in NSW with a production area of around 13,000 hectares producing 250,000 tonnes of citrus annually and representing 40 per cent of Australian production and 36 per cent of citrus exports. The Australian citrus export industry is worth in excess of \$200 million annually. Preventing an outbreak of citrus canker in the ACT will also benefit home citrus growers.

Consultation

The initial response to the suspected outbreak of citrus canker in the Northern Territory is being assisted by the Consultative Committee on Emergency Plant Pests, which contains representatives from all Australian states and territories, the Australian Government Department of Agriculture and Water Resources, the CSIRO, and industry. Further targeted consultation has occurred with the NSW Department of Primary Industries to ensure the ACT's response to the outbreak is aligned with that of other jurisdictions.

Consistent with NSW, major fruit and horticultural wholesale and retail outlets will be advised of the importation restrictions provided in the declaration.

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 horticultural products by preventing the outbreak of an exotic plant disease in the ACT and assisting in the prevention and control of the outbreak of the exotic plant disease in other jurisdictions within Australia.

The declaration does not unduly trespass on rights previously established by law. The declaration restricts the importation into the ACT of citrus canker carriers from a defined area for a limited period.

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

Making an importation 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.