

EXPLANATORY STATEMENT

Biosecurity Act 2015

Biosecurity (Human Health Response Zone) (Swissotel Sydney) Determination 2020

Subsection 113(1) of the *Biosecurity Act 2015* (the **Act**) provides that the Director of Human Biosecurity may determine that a specified area within a State or Territory is a human health response zone (**zone**) if satisfied that it is necessary to do so for the purposes of preventing, or reducing the risk of, a listed human disease emerging, establishing itself or spreading in Australian territory or a part of Australian territory.

In determining a zone the Director of Human Biosecurity may determine requirements for individuals entering or leaving the zone.

The purpose of the *Biosecurity (Human Health Response Zone) (Swissotel Sydney) Determination 2020* (the **Determination**) is to determine the Swissotel, 68 Market Street, Sydney, in the State of New South Wales as a zone, and determine requirements for individuals who are entering or leaving the zone. The Determination is necessary to prevent or reduce the risk of COVID-19 further establishing itself or spreading in Australian territory.

As required by subsections 113(3) and (4) of the Act, the Director of Human Biosecurity is satisfied that the determination of the zone, and the requirements for individuals who are entering or leaving the zone, are both necessary, and appropriate and adapted, to prevent or reduce the risk of the listed human disease ‘human coronavirus with pandemic potential’ (**COVID-19**) emerging, establishing itself or spreading in Australian territory.

On 5 January 2020, the World Health Organization (WHO) notified Member States under the *International Health Regulations (2005)* (IHR) of an outbreak of pneumonia of unknown cause in Wuhan city, China. The pathogen is a novel (new) coronavirus. On 21 January 2020 ‘Human coronavirus with pandemic potential’ became a ‘listed human disease’ by legislative instrument made by the Director of Human Biosecurity under the Act. On 30 January 2020, the outbreak was declared by the WHO International Regulations Emergency Committee to constitute a Public Health Emergency of International Concern.

On 11 February 2020, WHO announced that the International Committee on Taxonomy of Viruses named the pathogen virus ‘severe acute respiratory syndrome coronavirus (SARS-CoV-2).’ It is closely related genetically to the virus that caused the 2003 outbreak of Severe Acute Respiratory Syndrome (SARS). The international name given by WHO to the disease caused by SARS-CoV-2 is Coronavirus disease 2019 (COVID-19).

On 17 February 2020 the Australian Health Protection Principal Committee (AHPPC) endorsed the Australian Health Sector Emergency Response Plan (Health Sector Emergency Plan). On 27 February 2020, the Prime Minister of Australia announced

the Australian Government had endorsed and activated the Health Sector Emergency Plan. The Prime Minister noted the rate of transmission of the virus outside mainland China, and the indications that the world will soon enter a pandemic phase of the listed human disease. On 11 March 2020 WHO declared the outbreak of COVID-19 a pandemic.

COVID-19 has entered Australia. It continues to represent a severe and immediate threat to human health in Australia as it has the ability to cause high levels of morbidity and mortality and to disrupt Australian community socially and economically.

The Swissotel Sydney will temporarily house individuals who are returning to Australia by aircraft after having been passengers on the Norwegian Jewel cruise ship to undertake 14 days of isolation. It is anticipated that those individuals will remain in isolation for 14 days after their arrival. Subject to medical clearances, it will be appropriate for the individuals to return to their homes in Australia after that time. It is possible that the zone may also temporarily house other individuals returning to Australia on an aircraft due to COVID-19, if considered necessary and appropriate.

In accordance with subsection 113(5) of the Act, the Determination does not specify as a requirement a biosecurity measure described in Subdivision B, Division 3, Part 3, Chapter 2 of the Act (**Detention**). In accordance with the Act, and clinical guidance, consideration will be given to human biosecurity control orders, such as isolation measures, if necessary and appropriate.

The Determination is in force for 3 months beginning on the day it is registered.

A person to whom a requirement applies under the Determination must comply with the requirement: civil penalty, 30 penalty units, section 116 of the Act.

Consultation

In accordance with section 114 of the Act, before making the determination the Director of Human Biosecurity consulted with the Chief Health Officer for the State of New South Wales and the Director of Biosecurity.

The Determination commences immediately after it is registered on the Federal Register of Legislation. In addition, and as required by subsection 115 of the Act, the Director of Human Biosecurity will ensure that the determination is made public by publication on the Department of Health website.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

A provision by provision description of the Determination is contained in the Attachment.

ATTACHMENT

Biosecurity (Human Health Response Zone) (Swissotel Sydney) Determination 2020

1 Name

Section 1 provides for the instrument to be referred to as the *Biosecurity (Human Health Response Zone) (Swissotel Sydney) Determination 2020*.

2 Commencement

Section 2 provides that the instrument commences immediately after it is registered.

3 Authority

Section 3 provides that the instrument is made under subsection 113(1) of the *Biosecurity Act 2015*.

4 Human health response zone

Section 4 provides that the Swissotel, 68 Market Street, Sydney in New South Wales is a human health response zone.

5 Listed human disease to which this instrument relates

Section 5 provides that this instrument relates to human coronavirus with pandemic potential.

6 Requirement that specified classes of individuals must not enter the zone

Section 6 provides that an individual, other than one listed in paragraph 6(a)-(e), must not enter the human health response zone.

7 Requirement for certain individuals who are leaving the zone

Section 7 provides that an individual mentioned in paragraph 6(a) or (b) of the Determination who is leaving the zone must, before leaving the zone, communicate, or attempt to communicate, their intention to leave the zone to the person who has operational (but not clinical) control over the zone.

Section 7 does not apply to a child or incapable person, as it would not be appropriate to impose this requirement on a child or incapable person. Children and incapable persons in the zone will be under the care and supervision of an accompanying person (usually a parent) who would themselves be subject to the requirement to communicate, or attempt to communicate.

8 Period during which the instrument is in force

Section 7 provides that this instrument is in force for 3 months beginning on the day it commences.