

Biosecurity (white spot disease – Evans River) Control Order (No. 2) 2024

under the

Biosecurity Act 2015

I, JOANNE COOMBE, Director Animal Biosecurity, with the authorisation of the Minister administering the *Biosecurity Act 2015* and under section 62 of that Act make the following Control Order.

Dated 10th May 2024

A handwritten signature in black ink, appearing to read 'J. Coombe', with a long horizontal flourish extending to the right.

JOANNE COOMBE
Director Animal Biosecurity
Department of Regional NSW

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Part 1 Preliminary

1 Name of Control Order

This Control Order is the *Biosecurity (white spot disease – Evans River) Control Order (No.2) 2024*.

2 Commencement and duration

This Control Order commences on the date it is published in on the Department's website and has effect for the period of 3 calendar months.

Note. Notice of this Control Order will be given by publishing it in the Department's website.

3 Definitions

(1) In this Control Order:

commercial fisher means a person who holds a commercial fishing licence under the *Fisheries Management Act 1994*.

contaminated fittings means fittings that have or may have had contact with decapod crustaceans or polychaete worms from the Evans River Control Zone but does not include fittings that have been decontaminated by removing all traces of decapod crustaceans, polychaete worms and other organic matter.

cooked means, in relation to a decapod crustacean or polychaete worm, that it appears fully cooked and has achieved a core temperature of at least 65°C during the cooking process.

decapod crustacean means a crustacean of the Order Decapoda, including school, tiger, eastern king and banana prawns, yabbies and pink nippers, shrimp, slipper lobsters, crabs and hermit crabs.

excluded carrier means any of the following carriers of white spot disease:

- (a) a blue swimmer crab (*Portunus armatus*),
- (b) a bug (*Ibacus* spp. and *Thenus* spp.),
- (c) a mud crab (*Scylla* spp.),
- (d) a red champagne lobster (*Linuparus trigonus*),
- (e) a slipper lobster (*Scyllarides* spp.),
- (f) a spanner crab (*Ranina ranina*),
- (g) a three-spotted crab (*Portunus sanguinolentus*),
- (h) a rocklobster (family Palinuridae).

intertidal zone means the area between mean high water mark and mean low water mark.

NSW DPI means the NSW Department of Primary Industries within the Department of Regional NSW.

ocean waters means waters east of the natural coastline of New South Wales.

polychaete worm means a worm of the Class Polychaeta.

public sewer means a sewer operated by a council, county council, a water supply authority within the meaning of the *Water Management Act 2000*, a State owned corporation specified in Schedule 1 or 5 to the *State Owned Corporations Act 1989* (or a subsidiary of such a corporation) or any other public or local authority of a State or Territory.

the Act means the *Biosecurity Act 2015*.

uncooked, in relation to a decapod crustacean and polychaete worm, means that it is not cooked.

waste depot means a place at which waste may be treated or stored in accordance with an approval under the *Local Government Act 1993* or a place approved as a waste depot or waste facility under any other Act.

white spot disease means the disease caused by the virus *Whispovirus* (Family *Nimaviridae*) and which is also known as white spot disease of crustaceans or infection with white spot syndrome virus.

- (2) Biosecurity matter referred to in this Control Order means the biosecurity matter at any stage of its life cycle.

Note. Section 11 of the *Interpretation Act 1987* provides that words or expressions used in this Control Order have the same meaning as in the Act.

4 Revocation of Biosecurity (white spot disease – Evans River) Control Order 2024

The *Biosecurity (white spot disease – Evans River) Control Order 2024* published on the Department’s website on 9 May 2024 is revoked.

5 Grounds for order

The basis for concluding that it is necessary to make this Control Order is as follows:

- (a) White spot disease is a highly contagious viral disease that affects and can cause mass mortalities in farmed crustaceans.
- (b) White spot disease of crustaceans is prohibited matter throughout New South Wales.

- (c) On 8 May 2024, white spot disease was detected in the wild crustacean population in the Evans River Control Zone from surveillance samples taken on 29 April 2024.
- (d) Control measures are required to provide for incident response surveillance and investigations to collect evidence that will inform risk-based longer term management measures to minimise the risk of the introduction and spread of white spot disease to other crustacean populations of New South Wales.

6 Biosecurity matter and biosecurity risk

- (1) The biosecurity matter which is the subject of this control order is white spot disease of crustaceans.
- (2) The biosecurity risk to which this control order relates is the risk of an adverse effect on the economy, the environment, and the community that arises from the presence, spread or increase of white spot disease within New South Wales.

7 Control zone

The control zone in which control measures are required to be implemented under this Control Order (*Evans River Control Zone*) is the area covering the following:

- (a) the Evans River consisting of all waters upstream to Tuckombil Canal to the upper reach of the estuary where a concrete weir marks the upper limit,
- (b) ocean waters within the coastal waters of NSW commencing at the southern break wall at Evans Head then south along the mean low water mark to 29°11.962'S 153°24.172'E, then due east to 29°11.962'S 153°25.777'E, then north to 29°8.370'S 153°28.580'E, then north to 29°7.720'S 153°28.600'E, then north to the point 29°1.546'S 153°29.159'E then due west to 29°1.546'S 153°27.616'E then south along the mean low water mark to the northern break wall at Evans Head, and any waters in the intertidal zone adjacent to these ocean waters.

Notes.

- 1 The map of the Evans River Control Zone in Schedule 1 to this Control Order is provided for information purposes only.
- 2 The *coastal waters of the State* are defined in section 58 of the Interpretation Act 1987. Generally speaking, coastal waters extend to the waters of the sea within 3 nautical miles of the natural coastline at mean low water.

Part 2 Control measures – movements out of the Evans River Control Zone

8 Persons to whom control measures apply

The control measures in Part 2 of this Control Order apply to any person who deals with decapod crustaceans or polychaete worms, or fittings used in connection with decapod crustaceans or polychaete worms.

9 Prohibition on movement of crustaceans, polychaete worms and fittings

- (1) This clause applies to:
 - (a) decapod crustaceans and polychaete worms that are in the Evans River Control Zone,
 - (b) decapod crustaceans and polychaete worms that have had contact with decapod crustaceans or polychaete worms from the Evans River Control Zone,
 - (c) decapod crustaceans and polychaete worms that have been in contact with contaminated fittings,
 - (d) contaminated fittings,
 - (e) decapod crustaceans and polychaete worms that have had contact with water that has contained decapod crustaceans or polychaete worms from the Evans River Control Zone.
- (2) A person must not move any thing to which this clause applies out of the Evans River Control Zone, unless otherwise permitted by this Control Order.
- (3) If a person moves a decapod crustacean or polychaete worm into the Evans River Control Zone, the person may move that decapod crustacean or polychaete worm out of the Evans River Control Zone:
 - (a) if the person obtained the decapod crustacean or polychaete worm from retail premises,
 - (b) if the person moved the decapod crustacean or polychaete worm into the Evans River Control Zone to use as bait or for human consumption, and
 - (c) the decapod crustacean or polychaete worm did not have contact with water that has contained decapod crustaceans or polychaete worms from the Evans River Control Zone.
- (4) In this clause:

retail premises includes:

 - (a) retail premises as defined in the Dictionary to the *Evans Valley Local Environment Plan 2012*, and includes retail premises attached to service stations or highway services centres, and
 - (b) premises that dispatch decapod crustaceans or polychaete worms advertised for sale by means of newspaper or other print media, the Internet, SMS text message or other on-line communications system.

10 Movement of cooked decapod crustaceans or polychaete worms

A person may move a decapod crustacean or polychaete worm out of the Evans River Control Zone if:

- (a) it is for the purpose of commercial sale, and
- (b) the decapod crustacean or polychaete worm is cooked before it is moved out of the control zone.

11 Movement of uncooked decapod crustaceans that have transited through Evans River Control Zone

(1) A person may move an uncooked decapod crustacean, other than live decapod crustacean, from the Evans River Control Zone into and within the rest of New South Wales if:

- (a) it is for the purpose of commercial sale, and
- (b) the decapod crustacean:
 - (i) originated from outside the Evans River Control Zone and only entered the zone for the purpose of transiting through the zone,
 - (ii) is transported by the most direct route to the intended destination,
 - (iii) is transported in a manner that prevents it being contaminated with the virus that causes white spot disease, and
 - (iv) is packaged and labelled with an identifier specifying the location of where the decapod crustacean was grown, captured or harvested, and the name, address, postcode and State or Territory of the grower or commercial fisher who produced or harvested the decapod crustacean.

Note. Under clause 112 of the *Biosecurity Regulation 2017* a person who is required to label or identify any matter, must ensure that the label or identifier is a complying label or complying identifier.

(2) An endorsement holder may move an uncooked decapod crustacean from the Evans River Control Zone into and within the rest of New South Wales if:

- (a) the decapod crustacean was taken from the waters of the Ocean trawl fishery that are outside the Evans River Control Zone,
- (b) the movement is for the purpose of commercial sale,
- (c) the decapod crustacean is transported by the most direct route to the intended destination, and
- (d) the decapod crustacean is transported in a manner that prevents it being contaminated with the virus that causes white spot disease.

- (3) The endorsement holder must keep Category 1 decapod crustaceans and Category 2 decapod crustaceans separate, so that crustaceans of each category have no contact with crustaceans of the other category.

- (4) In this clause:

Category 1 decapod crustaceans means any decapod crustaceans taken from any parts of the waters of the Ocean trawl fishery that are outside the Evans River Control Zone.

Category 2 decapod crustaceans means any decapod crustaceans taken in the waters of the Ocean trawl fishery within the Evans River Control Zone.

commercial fishing licence has the same meaning as in section 4 of the *Fisheries Management Act 1994*.

endorsement holder means a person who holds a commercial fishing licence that has an endorsement that authorises the taking of fish in the Ocean trawl fishery.

Ocean trawl fishery has the same meaning as in Schedule 1 of the *Fisheries Management Act 1994*.

take has the same meaning as in section 4 of the *Fisheries Management Act 1994*.

12 Movement of uncooked decapod crustaceans that are excluded carriers out of Evans River Control Zone

- (1) A person may move an uncooked decapod crustacean that is an excluded carrier from the Evans River Control Zone into and within the rest of New South Wales if the uncooked decapod crustacean:
 - (a) is being moved for human consumption, and it is cooked as soon as practicable after arrival at its destination, and
 - (b) if it is alive, is not placed in waters to which the *Fisheries Management Act 1994* applies.

Note. Section 7 of the *Fisheries Management Act 1994* describes the waters to which that Act applies.

- (2) Any water used for the purpose of transporting excluded carriers under this clause must be disposed of through a public sewer.
- (3) Any waste produced because of transporting excluded carriers under this clause must be disposed of at a waste depot.
- (4) An excluded carrier being moved out of the Evans River Control Zone under this clause must be accompanied by documentation which provides the following information:
 - (a) the date that the excluded carrier was captured or harvested, and

- (b) the location in the Evans River Control Zone at which the excluded carrier was captured or harvested.

Schedule 1 Map of Evans River Control Zone

