



Australian Government
Defence



DEFENCE EXPORT CONTROLS

In-Focus Sessions

Group A | Friday 14th February, 2025

Group B | Monday 17th February, 2025

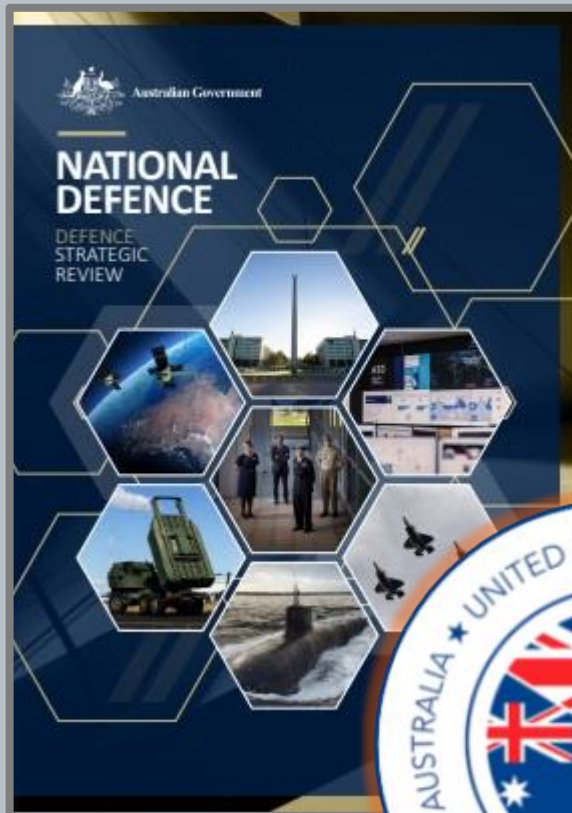
Agenda

Item	Description
01	Overview
02	1 st March 2025 – What to Expect?
03	Guidance on Legislative Changes
04	Tips & Tricks
05	Close



1. Overview

Defence Exports – Strategic Context



We are Defence Export Controls

Defence Export Controls (DEC) is the **Australian Government regulator** for the movement of defence-related goods and technology. This involves:

- **Assessing applications** to export/supply/etc.
- **Issuing permits** to legally operate
- **Monitoring reporting obligations** are met
- **Performing compliance audits** (incl. end-user verification)

Permits may be required when seeking to **export**, **supply**, **publish** or **broker** (or **provide services** related to) military and/or dual-use goods and technology on the Defence Strategic Goods List (DSGL).



Current Export Controls Framework

DEC administers Australia's defence export controls framework through a combination of:

Federal Legislation

Covering 'Controlled' items listed on the DSGL



[Customs \(Prohibited Exports\) Regulations 1958](#)



[Defence Trade Controls Act 2012](#)



[Weapons of Mass Destruction \(Prevention of Proliferation\) Act 1995](#)



[Customs Act 1901 Military End-Use provisions \(section 112BA\)](#)

Covering 'Uncontrolled' items not listed on the DSGL

Legislative Instruments



[Defence and Strategic Goods List 2024](#)



[Australian Military Sales Program items 2024](#)



[Excluded DSGL Goods and Technologies List 2024](#)



[Foreign Country List 2024](#)



2. 1st March 2025 – What to expect?

Compliance Transition Period is Ending

On 1 March 2025, **the compliance transition period ends** for the three new offences of the *Defence Trade Controls Act 2012*.

Section 10A

Intangible supply of DSGL tech to a foreign person in Australia

Section 10B

Re-export/supply of certain DSGL goods/tech outside Australia

Section 10C

Provision of certain DSGL services outside Australia

What happens when the compliance transition period ends?

Criminal penalty provisions for each new offence will take effect. If prosecuted for an offence under Australian export control law, you **may face penalties** (max. 10 years imprisonment and/or 2,500 penalty unit* fine).

* *one penalty unit (as of 7 November 2024) = \$330, for a **total maximum fine of \$825,000***



DEC's Approach to Compliance

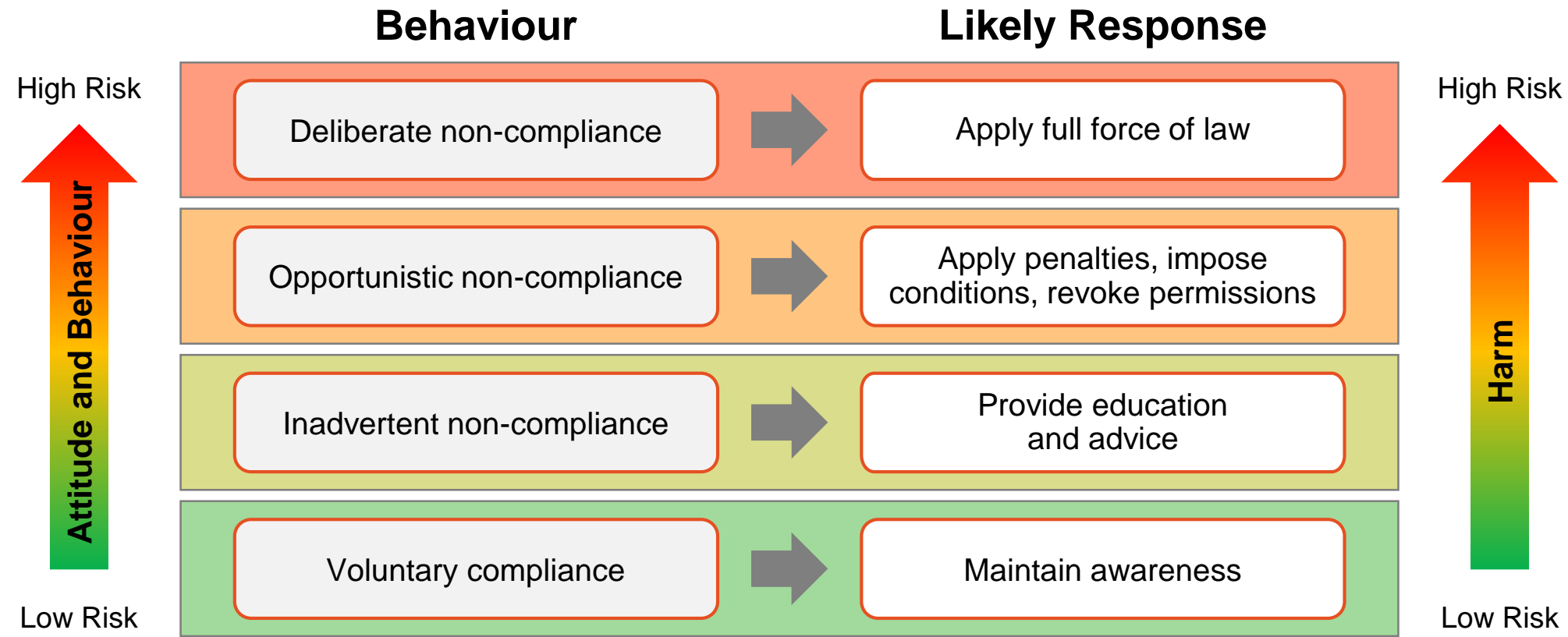
DEC continues to take a **graduated approach to compliance** using a proportionate response model, which:

- **Recognises** that most regulated entities are prepared to voluntarily comply with Australia's export control laws
- **Enables** and empowers the regulated community to self-audit and expand their own due diligence checks
- **Verifies** compliance, including through audits, data analysis, and intelligence reporting
- **Escalates** suspected non-compliance to our enforcement agencies for further investigation

Factors considered when addressing non-compliance
Risk of harm
Seriousness of the contravention
Apparent intent of the entity (inadvertent, negligent, reckless or deliberate)
Compliance history
Frequency of the issue occurring



Proportionate Response Model



Note: this is an indicative guide



How to Maintain Compliance

It is important to meet your obligations under Australia's defence export control laws:

- 1 **Attain permits from DEC when required**
- 2 **Keep records, both under permits and when relying on an exception**
- 3 **Adhere to the licence-free environment terms and conditions (if using)**
- 4 **Make a voluntary disclosure if non-compliance detected**

Best-practice for maintaining compliance often involves clear policies around actions, processes, and behaviours that ensure alignment with legislative requirements



Record-Keeping Obligations

Records must be kept for controlled activities under the Customs Regs and DTC Act, whether they were conducted **under a permit** – OR – when **using an exception**.*

Information you will need to retain in records for ...	Permit Activities	Exempted Activities
Description of DSGL goods, technology, or services provided	Keep Record	Keep Record
Name of person who received DSGL goods, technology, or services	Keep Record	Not Required
Country in which DSGL goods, technology, or services were received	Not Required	Keep Record
Date(s) of activity / activities in question	Keep Record	Not Required
Unique identifier of permit	Keep Record	N/A

Note: the record-keeping obligations above relate only to activities covered by Section 11 permits (e.g. permits for Section 10 / 10A / 10B/ 10C). For brokering permits, records would also be required for the place in which the DSGL goods/tech/services were supplied from.

Records must be retained for 5 years from the date of export/supply, or provision of services. Failure to retain or produce records is an offence under the *Defence Trade Controls Act 2012*.

* Exceptions do not include de-controls such as **Fundamental Research**



3. Guidance on Legislative Changes

Complete List of Provisions

Australian defence export control offences (as of 1 September 2024):

	Offence Provision	Description of Control	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
'Controlled' provisions (covering items on the DSGL)			Applies to DSGL ...			
EXISTING	Customs Regs (13E)	Physical/tangible export of DSGL goods cross-border	✓	✓	✓	✓
EXISTING	DTC Act (s10)	Intangible supply of DSGL technology cross-border	✓	✓	✓	✓
NEW	DTC Act (s10A)	Intangible supply of DSGL technology to a foreign person in Australia	✓	✓	✓	✓
NEW	DTC Act (s10B)	Re-export or re-supply of certain DSGL goods/technology outside Australia	✓	✓	✓	✗
NEW	DTC Act (s10C)	Provision of certain DSGL services outside Australia	✓	✗	✗	✗
EXISTING	DTC Act (s14A)	Publication of certain DSGL technology	✓	✗	✗	✗
EXISTING	DTC Act (15)	Brokering of certain DSGL goods and technology	✓	* ✓	* ✓	* ✓
'Uncontrolled' provisions (covering items not on the DSGL)			Applies to DSGL ...			
EXISTING	WMD Act	Export/supply of uncontrolled goods, and provision of services that may be used in/assist a weapons on mass destruction (WMD) program	N/A			
EXISTING	Customs Act (112BA)	Export of uncontrolled goods that may be for military end-use (MEU)	N/A			

* Brokering permits only required for DSGL Part 2 when goods or technology may be for WMD or MEU purposes



Section 10A Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	YES	YES	YES

It is an **offence under Section 10A** of the *Defence Trade Controls Act 2012* if:

- 1. **A person supplies** (incl. provision of access)
- 2. **DSGL technology** (not goods)
- 3. **to a ‘non-exempt’ foreign person**
- 4. **within Australia**

Without a permit from DEC

10A Exceptions	General Description
FCL recipient	Supplies to foreign persons (incl. citizens and permanent residents) from a country on the Foreign Country List .
Defense Trade Cooperation Treaty	Supplies of Treaty articles under US-Australia Defense Trade Cooperation Treaty .
Australian government employees	Supplies by or to certain Australian Government employees in the course of their duties.
NV1 or equivalent security clearance	Supplies to NV1 or above security clearance holders (or holders of equivalent Canada/NZ/UK/US clearances).
Build-to-print	Supplies for component production of DSGL goods (limited to what is reasonably necessary for component manufacture, must not inform overall design or way of producing DSGL goods as a whole).
Foreign Work Authorisation (SAMS)	Service provider holds a <i>Foreign Work Authorisation</i> for relevant work or training under the Safeguarding Australia's Military Secrets legislation .



Exception not applicable if DSGL goods/technology on the [Excluded Goods and Technologies List](#) or [Australian Military Sales Program](#)

Note: Refer to the [Defence Trade Controls Act 2012](#) and [Defence Trade Controls Regulation 2013](#) for the comprehensive legal criteria and exceptions for Section 10A



Section 10B Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	YES	YES	NO

It is an **offence under Section 10B** of the *Defence Trade Controls Act 2012* if:

- 1. **A person supplies to another person** (current supply)
- 2. **from one place outside Australia, to another place outside Australia**
- 3. **certain DSGL goods and technology** (excl. firearms)
- 4. **previously exported / supplied out of Australia in a manner requiring a DEC permit** (earlier export/supply)

Without a permit from DEC

10B Exceptions	General Description
Defense Trade Cooperation Treaty	Re-transfers of Treaty articles under US-Australia Defense Trade Cooperation Treaty .
Intracompany (Australian / FCL)	Re-transfers made within a company to Australian or Foreign Country List employees/officers in the course of their duties.
Australian government employees	Re-transfers by or to certain Australian Government employees in the course of their duties.
NV1 or equivalent security clearance	Re-transfers to NV1 or above security clearance holders (or holders of equivalent Canada/NZ/UK/US clearances).
Original equipment manufacturer	Re-transfers where the earlier export/supply, current supply, or any intervening supply is to the Original Equipment Manufacturer (OEM).
FCL involvement (Part 2 only)	Re-transfers within, to, or from a country on the Foreign Country List (except for DSGL Part 1).
Elapsed period	Re-transfers after certain amount of time since earlier export/supply: <ul style="list-style-type: none">12 months – DSGL Part 1 / Part 2 ‘Very Sensitive’.6 months – for DSGL Part 2 ‘Sensitive’.
Grandfathering	Re-transfers where permit for earlier export/supply granted before 1 Sep 2024.
AUKUS partners	Re-transfers made from the US or UK.



Exception not applicable if DSGL goods/technology on the [Excluded Goods and Technologies List](#) or [Australian Military Sales Program](#)

Note: Refer to the [Defence Trade Controls Act 2012](#) and [Defence Trade Controls Regulation 2013](#) for the comprehensive legal criteria and exceptions for Section 10B



Section 10C Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	NO	NO	NO

It is an **offence under Section 10C** of the *Defence Trade Controls Act 2012* if:

- 1. An Australian person located outside Australia
- 2. provides certain DSGL services
- 3. to a ‘non-exempt’ foreign person located outside Australia

Without a permit from DEC

10C Exceptions	General Description
Five Eyes Recipients	Services provided to Canada/NZ/UK/US citizens, permanent residents, corporations, or governments/government authorities, received in any of those countries.
Foreign Work Authorisation (SAMS)	Service provider holds a <i>Foreign Work Authorisation</i> for relevant work or training under the Safeguarding Australia's Military Secrets legislation .
Defense Trade Cooperation Treaty	Services provided in relation to Treaty articles under US-Australia Defense Trade Cooperation Treaty .
Intracompany (FCL)	Services provided within a company to Foreign Country List employees/officers in the course of their duties.
Maintenance services	Services involving (the performance of / training related to) limited forms of maintenance [see 10C(5)(c)/(d)], provided in support of a lawful supply of DSGL goods/tech.
Australian government employees	Provision by or to certain Australian Government employees in the course of their duties.
NV1 or equivalent security clearance	Provision to NV1 or above security clearance holders (or holders of equivalent Canada/NZ/UK/US clearances).
Grandfathering	Services provided in connection with a lawful export/supply that occurred (and under a contract/agreement entered into) before 1 Sep 2024.

 **Exception not applicable** if DSGL goods/technology on the [Excluded Goods and Technologies List](#) or [Australian Military Sales Program](#)

Note: Refer to the [Defence Trade Controls Act 2012](#) and [Defence Trade Controls Regulation 2013](#) for the comprehensive legal criteria and exceptions for Section 10C

Excluded Lists

There are **two ‘excluded lists’ limiting use** of exceptions or the licence-free environment.

The [Excluded Goods and Technologies List \(EGTL\)](#) specifies certain DSGL goods and technology **subject to more stringent controls**.



- Includes ~10% items across the DSGL
- Most items relate to DSGL Part 1 – Munitions list
- Includes MTCR (Missile Technology Control Regime) obligations
- AUKUS partners have near-identical lists

The [Australian Military Sales Program \(AMSP\)](#) comprises **all sovereign Australian defence technology** Defence is transferring (or plans to transfer) to another Government – any AMSP transfer must comprise a **Government-to-Government agreement**.

DSGL goods or DSGL technology	DSGL Reference
Ghost Shark Extra-Large Autonomous Undersea Vehicle	ML9.
MQ-28A Ghost Bat UAV	ML10.
E-7A Wedgetail AEW&C aircraft	ML10.
Active Electronically Scanned Array	ML5.
Jindalee Operational Radar Network high-frequency over-the-horizon radar	ML5.

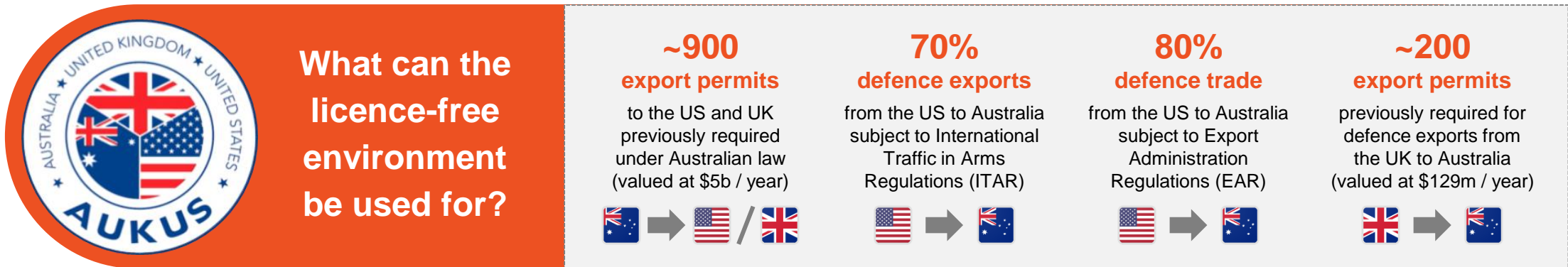
Note: EGTL / AMSP items are determined by the Minister of Defence and specified in their respective legislative instruments.



Take Advantage of the Licence-free Environment

Under a new licence-free environment, many military and dual-use goods, technologies and services can now be **transferred without permits** between AUKUS partners.

This 'national exemption' for defence trade and collaboration with the US and UK applies to the **Customs Regs** (Provision 13E) and **DTC Act** (Sections 10, 10A, 10B, 10C, 15) when certain eligibility criteria are met.



REMEMBER

DSGL goods and technology on the [Excluded Goods and Technologies List](#) or [Australian Military Sales Program](#) are **not eligible** for licence-free trade

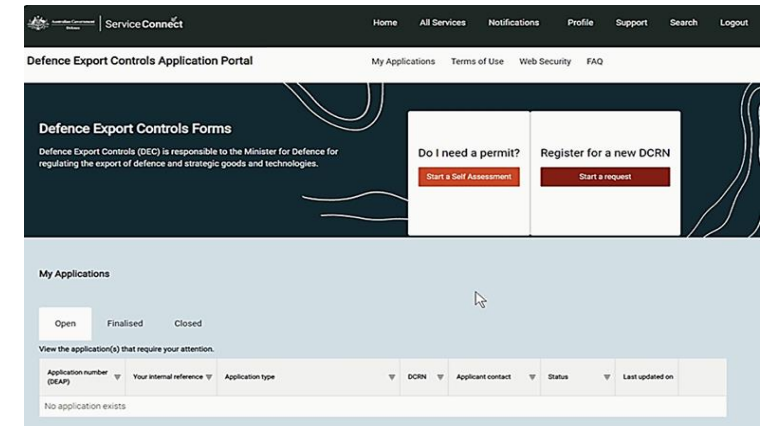


4. Tips & Tricks

Engaging with DEC

Use the [My Australian Defence Exports \(MADE\)](#) portal to:

- Register with Defence Export Controls
- Apply for a range of permits / authorisations
- Provide pre-notification (licence-free environment)



DEC takes its regulatory obligations for the transfer of controlled goods and technology very seriously, administering a **three-stage assessment process**:

1. Triage

2. Technical Assessment

3. Risk Assessment

All permits are assessed **case-by-case** against **specific legislative criteria** in the [Defence Trade Control Regulations \(2013\)](#)



10A assessments are limited to the 3 criteria in orange only

Legislative Criteria

Criteria for deciding whether things prejudicial to security, defence or international relations of Australia

Item	Criterion
1	The risk that the DSGL goods or DSGL technology may go to or become available to, or the DSGL services or information provided through those services may be provided or become available to a country upon which the Security Council of the United Nations or Australia has imposed a sanction
2	The risk that the DSGL goods or DSGL technology may go to or become available to, or the DSGL services or information provided through those services may be provided or become available to a country where it may be used in a way contrary to Australia’s international obligations or commitments
3	The risk that the DSGL goods or DSGL technology, or the DSGL services or information provided through those services, may be used to commit or facilitate serious abuses of human rights
4	Whether the supply of the DSGL goods or technology, the provision of the DSGL services, or the publication of the DSGL technology: (a) may aggravate: (i) an existing threat to international peace and security or to the peace and security of a region; or (ii) a particular event or conflict of concern to Australia; or (b) may otherwise contribute to political instability internationally or in a particular region
5	Whether the DSGL goods or DSGL technology, or the DSGL services or information provided through those services may: (a) be used for conflict within a country or for international conflict by a country; or (b) further militarise conflict within a country
6	Whether the supply of the DSGL goods or DSGL technology, the provision of the DSGL services, or the publication of the DSGL technology, may compromise or adversely affect Australia’s defence or security interests, its obligations to its allies or its international obligations and responsibilities

Item	Criterion
7	Whether the DSGL goods or DSGL technology may go to or become available to, or the DSGL services or information provided through those services may be provided or become available to a country that has policies or strategic interests that are inconsistent with the policies and strategic interests of Australia or its allies
8	The risk that the supply of the DSGL goods or DSGL technology, the provision of the DSGL services, or the publication of the DSGL technology, may: (a) adversely affect Australia’s military capability; or (b) substantially compromise an Australian defence operation; or (c) increase the military capability of a country that is a potential adversary of Australia
9	The risk that the DSGL goods or DSGL technology may go to or become available to, or the DSGL services or information provided through those services may be provided or become available to a country: (a) that is developing, or is reasonably suspected of developing: (i) weapons that may be capable of causing mass destruction; or (ii) the means of delivering such weapons; or (b) that supports, or is reasonably suspected of supporting, terrorism; or (c) whose actions or foreign policies pose a risk of major disruption in global stability or the stability of a particular region
10	Whether the supply of the DSGL goods or DSGL technology, the provision of the DSGL services, or the publication of the DSGL technology, may lead to a reaction by another country that may damage Australia’s interests or relations with the other country or with a particular region
11	Whether the DSGL goods or DSGL technology, or the DSGL services or information provided through those services may be used for mercenary activities or a terrorist or other criminal activity
12	Whether preventing the supply of the DSGL goods or DSGL technology, the provision of the DSGL services, or the publication of the DSGL technology, may have an adverse effect on Australian research industry, trade and economic prosperity to the extent that it may adversely affect the security, defence or international relations of Australia



Supporting Information

DEC relies on the details you provide to assess permit applications. **Make sure you provide sufficient information** (including in support documents if necessary).

Helpful information to include:

- A description of the goods or technology
- Details about the consignee and end-user
- Non-technical summary for context
- Technical specifications (consider DSGE parameters)
- How the goods and technology will be used
- Potential military applications
- The aim of the project (publication, commercial development)



Case Study

Providing sufficient detail when describing a DSGE good/technology

An applicant only indicates the DSGE category (e.g. Cat 6, ML10) but lacks information on the actual good/technology (e.g. providing a model number / name / actual description).

Assessors are left with additional work to determine details about the DSGE item, slowing processing time.

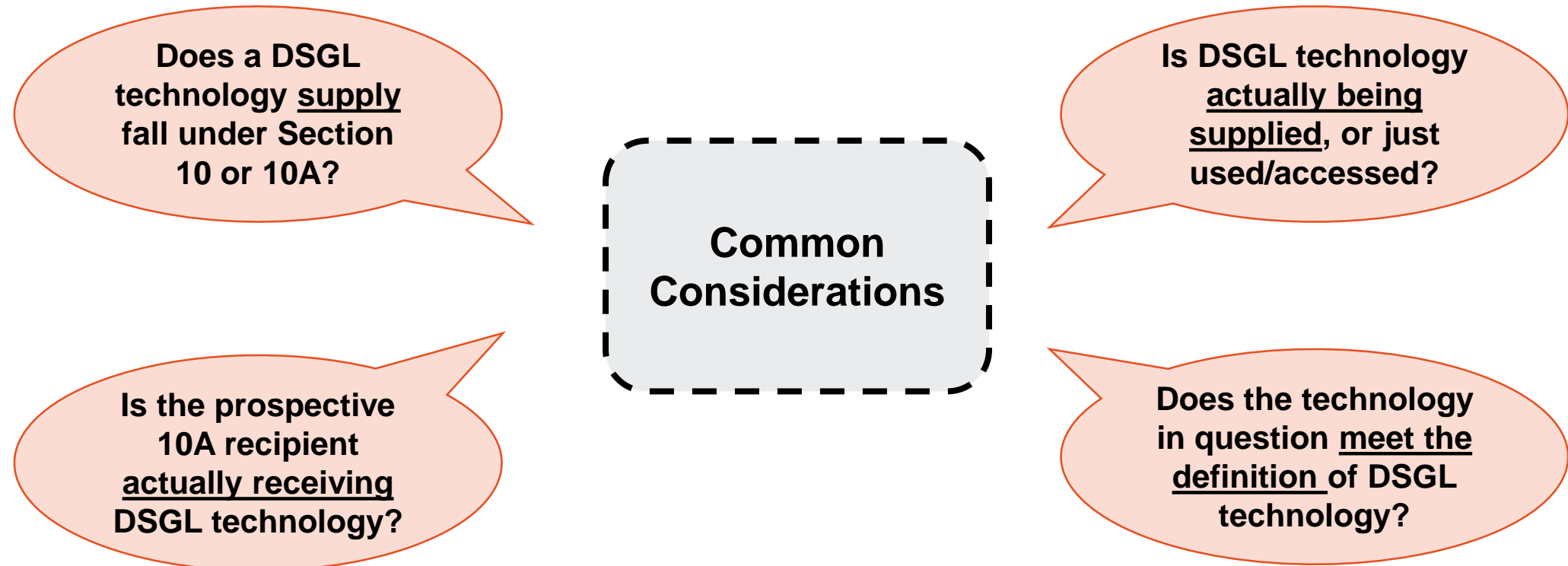
The submission could be improved with more detailed information (see example below):

“This product is the Air-Traffic Control (ATC) software designed to be hosted on general purpose computers located at Air Traffic Control centres. It is capable of accepting radar target data from more than four primary radars. The DSGE code is 6D003.h.1.”



Determining Whether to Get a Permit

Consider your circumstances carefully (including relevant offences and exceptions) when determining if your activity requires a permit, or which permit to get.



Navigating MADE

The MADE portal has been live since 1 September 2024 – **take advantage and be aware of its many features** to aid your permit applications and pre-notifications.



Admin

- DCRN Administrators are responsible for adding/removing users, and upgrading access to Super Users
- More than one Super User per DCRN is recommended to cover absences and leave
- Avoid making a new DCRN if you receive a error message that the ABN is already in use – become a user for the DCRN associated with that ABN



Features

- End users and consignees are added via the DCRN data tab on MADE portal
- Enrolling to participate in the AUKUS licence-free environment is done through MADE portal
- Your application status can be viewed in the MADE portal



Amendments

- Amendment request forms are not available in the MADE portal – email DEC at exportcontrols@defence.gov.au for help with any amendments



5. Close

In Summary

What should you keep in mind?

1. **Understand Australian export control laws** (e.g. Customs Regs 13E, interplay between DTC Act s10 / s10A)
2. **Understand your good/technology** (is it on the DSGL, and where?)
3. **Understand who your end-user is** (who will be receiving the DSGL good/technology)
4. **Understand your export destination** (if transferring overseas)
5. **Understand your compliance obligations** (incl. record-keeping)





Where to Get Help and Assistance?

1. **Contact your organisation's export controls office**
2. **Visit the Defence Export Controls website**
<https://www.defence.gov.au/business-industry/exporting>
3. **Use the MADE portal self-help tool and guidance materials**
4. **Email exportcontrols@defence.gov.au**

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