EXPLANATORY STATEMENT

Issued by authority of the Minister for Defence

Customs Act 1901

Defence and Strategic Goods List 2024

The *Defence and Strategic Goods List 2024* (DSGL 2024) is made under paragraph 112(2A)(aa) of the *Customs Act 1901* (Customs Act). The DSGL 2024 commences on 1 September 2024 and is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

Purpose

In many ways, the *Defence and Strategic Goods List* (DSGL), as defined in regulation 2 of the *Customs (Prohibited Exports) Regulations 1958*, is the centrepiece of Australia's export control system. The DSGL is a compilation of military and commercial goods and technologies, reviewed regularly to reflect decisions of key international non-proliferation and export control regimes, as well as Australia's national interests more broadly.

The purpose of the DSGL is to list the military and dual-use goods, software, and technologies that are subject to export control regulation in Australia. The DSGL is used by exporters and suppliers to identify which goods, software, and technology are prohibited from being exported, supplied, published, or brokered without a permit first being obtained.

In accordance with Australia's export control system, Defence Export Controls (DEC) grants authorisations to export, supply, publish, and broker in the form of permits and approvals. DEC's mission is to ensure Australia exports responsibly. Detailed information on its roles and functions is available on the DEC website: www.defence.gov.au/ExportControls/

The DSGL is updated approximately every 12 to 24 months to ensure that it remains current. The DSGL was last updated in August 2021.

Background

The DSGL is comprised of listed goods, software, and technology, largely derived from the control lists developed by the multilateral, non-proliferation and export control regimes of which Australia is a participating state.[1] The DSGL includes equipment, assemblies and components, associated test, inspection and production equipment, materials, chemicals, software, and technology.

The DSGL is divided into two parts. Part 1 of the DSGL is the Munitions list, which covers military and related goods – those goods, software, and technologies designed or adapted for use by defence or goods that are inherently lethal. These goods include:

[1] Australia is a participating state of the Wassenaar Arrangement, the Missile Technology Control Regime, the Australia Group and the Nuclear Suppliers Group.

- Military Goods, being goods, software, or technology that are designed or adapted for military purposes, including their parts and accessories; and
- Non-Military Lethal Goods, being equipment that is inherently lethal, incapacitating or destructive such as non-military firearms, non-military ammunition, and commercial explosives and initiators.

Part 2 of the DSGL is the Dual-use list, which covers those goods that have a dual use. Dual-use goods comprise equipment, software, and technologies developed to meet commercial needs, but which may be used either as military components or for the development or production of military systems or weapons of mass destruction. Part 2 contains 10 categories, which are:

- Category 0 – Nuclear Materials;
- Category 1 – Materials, Chemicals, Micro-organisms and Toxins;
- Category 2 – Materials Processing;
- Category 3 – Electronics;
- Category 4 – Computers;
- Category 5 – Telecommunications and Information Security;
- Category 6 – Sensors and Lasers;
- Category 7 – Navigation and Avionics;
- Category 8 – Marine;
- Category 9 – Aerospace and Propulsion.

Updates in the Defence and Strategic Goods List 2024

The DSGL 2024 repeals and replaces the *Defence and Strategic Goods List 2021* (DSGL 2021), with amendments to the previous list so that it aligns with the changes that have been made to the international control lists of the non-proliferation and export control regimes of which Australia is a member. The DSGL 2024 contains 278 updates to the DSGL 2021. The majority of these amendments (231) are clarifications and editorial changes that do not involve a change in the scope of existing controls. The remaining 47 amendments can be categorised as either new controls, deletions of previously existing controls, or modifications to existing controls. Of the 47 amendments, 13 are changes that remove or reduce the requirement to obtain an approval prior to export, and 19 of the updates are either new controls or changes to existing controls that result in an expanded scope. The remaining 15 amendments are modifications assessed as neither expanding or reducing the scope of control, i.e. scope neutral.

DEC has assessed that overall, the updates will have a limited impact on Australian exporters and researchers. Consultation on these amendments occurred previously at the regime proposal stage. Further details on this consultation are set out below.

Details of the instrument

Details of the instrument are set out in **Attachment A**.

Consultation

Consultation was undertaken with a range of relevant stakeholders throughout the drafting and development of the instrument. During the development of the instrument, DEC undertook consultation with other participating states of the export control regimes to arrive at proposed amendments to the various control lists. This consultation has been achieved through direct participation in regime technical meetings.

DEC's domestic consultation process began when proposals for control change were submitted to the regimes. This consultation covered both Australia-initiated proposals and proposals from other regime members ('foreign proposals'). DEC's regulatory stakeholder consultation process involved consultation both within government, and with industry and academia. DEC maintains a register of interested parties who can be consulted on proposals that impact their interests. DEC also used its own data, data from the Australian Border Force, data from the Australian Research Council, and advice from other Government agencies, to identify potentially impacted exporters and researchers.

DEC identified a number of stakeholders potentially affected by various proposals and sought their advice as to how the identified proposal would impact their business or research. DEC considered stakeholder responses when formulating Australia's position on each of the regime proposals. This was to strike an appropriate balance between national and global security and the impact on Australian industry and researchers.

A full Impact Analysis was prepared as part of the *Defence Trade Controls Amendment Act 2024*, which considered certain measures being progressed as part of this instrument (OIA23-05246). The full Impact Analysis is available at https://www.defence.gov.au/about/reviews-inquiries/defence-trade-controls-amendment-bill-2023.

The Office of Impact Analysis was also consulted in relation to this instrument (OIA23-05246 and OIA24-07848).

Documents incorporated by reference

Several controls in the DSGL 2024 refer to internationally recognised testing methods, regulations, and standards to define control parameters. These incorporated documents are managed by various international organisations and their use is derived from the control lists of the multilateral non-proliferation and export control regimes. The standards are generally held by the National Library of Australia and are available free-of-charge to members of the public for loan. Alternatively, the standards are available for purchase from the web links below. Where a standard is not freely and readily available at the National Library of Australia, DEC will provide advice regarding the contents of the standard on request (exportcontrols@defence.gov.au). The following documents are incorporated as in force at the time of the commencement of the instrument:

International Organization for Standardization (ISO): This is a network of national standard bodies of which Australia is a member. ISO Standards are available for purchase through the ISO website at www.iso.org. The following standards are incorporated:

- ISO 841:2001
- ISO 230-2:2014
- ISO 3977-2:1997
- ISO 230/1 1986
- ISO 10360-2
- ISO/IEC 7498-1
- ISO 841:2001
- ISO 230-2:2014
- ISO R-565

American Society for Testing and Materials (ASTM) International*:* This is an international standards organisation, with standards available for purchase at www.astm.org. The following standards are incorporated:

- ASTM B330
- ASTM G-31
- ASTM E-139
- ASTM E-606
- ASTM D 7028-07
- ASTM E 2160-04
- ASTM E-11

Institute of Electrical and Electronics Engineers (IEEE)*:* This is a professional association that has a standards function. IEEE Standards are available for purchase at https://www.ieee.org/standards/index.html. The following standards are incorporated:

- IEEE STD 528-2001
- IEEE STD 952-1997 / IEEE STD 1293-1998

European Telecommunications Standards Institute (ETSI): this is a European Standards Organization. They are the recognized regional standards body dealing with telecommunications, broadcasting and other electronic communications networks and services. The standards can be accessed free of charge at Download ETSI ICT Standards for free. The following standards are incorporated:

- ETSI TS 101 331
- ETSI TS 101 671

National Institute of Justice (NIJ): The Standards and Testing Program is sponsored by the Office of Science and Technology of the National Institute of Justice (NIJ), Office of Justice Programs, U.S. Department of Justice. The program establishes and maintains performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 to test and evaluate law enforcement technologies that may be used by Federal, State, and local law enforcement agencies. The standards can be accessed free of charge at https://nij.ojp.gov/library. The following standards are incorporated:

- NIJ 0108.01, September 1985
- NIJ 0106.06, July 2008

International Telecommunications Union (ITU)*:* This is a specialised agency of the United Nations. The ITU Radio Regulations include internationally recognised allocations for the use of different bands of the radio frequency spectrum. The ITU Radio Regulations are available free-of-charge on the ITU website at https://www.itu.int/pub/R-REG-RR.

World Health Organisation (WHO) Laboratory Biosafety Manual, 3rd edition, Geneva, 2004: This document is published by the WHO and provides guidance on biosafety techniques for use in laboratories at all levels. It is available free-of-charge at http://www.who.int/csr/resources/publications/biosafety/WHO_CDS_CSR_LYO_2004_11/en/

Parliamentary scrutiny

The instrument is subject to disallowance under section 42 of the Legislation Act. The instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights is included at **Attachment B**.

The instrument is made by the Honourable Richard Marles MP, Minister for Defence, in accordance with the requirements of paragraph 112(2A)(aa) of the Customs Act.

Attachment A

Details of the *Defence and Strategic Goods List 2024*

Section 1.1 Name

1. Section 1.1 provides that the name of the instrument is the *Defence and Strategic Goods List 2024* (DSGL 2024).

Section 1.2 Commencement

2. Section 1.2 provides that the DSGL 2024 commences on 1 September 2024.

Section 1.3 Authority

3. Section 1.3 provides that the DSGL 2024 is made under paragraph 112(2A)(aa) of the *Customs Act 1901* (Customs Act).

Section 1.4 Schedules

4. Section 1.4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in this Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms. The only instrument specified in a Schedule to this instrument is the *Defence and Strategic Goods List 2021* (DSGL 2021), with the Schedule having the effect of repealing that instrument.

Analysis of the changes in the Defence and Strategic Goods List 2024

5. The changes from the DSGL 2021 to the DSGL 2024 do not substantially alter the nature or overall purpose of the DSGL. The changes that result in effective changes to the DSGL are discussed below. Minor editorial and clarification changes where the scope of the control has not changed are not discussed here.

Part 1A, Division 3—Interpretation

6. *3.5 CAS Numbers*: interpretation updated to include reference to isotopically-labelled forms or all possible stereoisomers to be within the scope of control.

7. **Impact:** this update does not change the current national interpretation used by Defence Export Controls (DEC). DEC currently control all isotopically-labelled forms or all possible stereoisomers of listed chemicals based on their utility. This change is expected to improve adherence and the enforcement of the control. This change is not expected to increase regulatory burden on industry, or on government agency resources.

8. *3.84 Nuclear technology note (NTN)*: reference to “basic scientific research” replaced with reference to “fundamental research”.

9. **Impact**: references to "basic scientific research" throughout the DSGL have been replaced by the term "fundamental research". This change was made at the request of stakeholders with the intention of ensuring that regulatory controls on research in the DSGL are applied with minimal impact.

10. *3.94 General technology note (GTN)*: reference to "basic scientific research" replaced with reference to "fundamental research".

11. **Impact**: references to "basic scientific research" throughout the DSGL have been replaced by the term "fundamental research". This change was made at the request of stakeholders with the intention of ensuring that regulatory controls on research in the DSGL are applied with minimal impact.

12. *3.12 Clinical trials note*: inserts a new de-control note for clinical trials that covers therapeutic goods that are entered on the Australian Register of Therapeutic Goods or that are subject to, or proposed to be subject to, an exemption or approval under a specified legislative framework.

13. **Impact**: this proposal reduces the controls that apply to certain therapeutic products already regulated under other relevant legislative frameworks to avoid unnecessary duplication. This note was developed in collaboration with stakeholders.

Part 1A, Division 4—Definitions

14. *"Technology"*: 'Algorithms' has been added to Note 2 examples of 'technical data'.

15. **Impact:** the manner in which the term 'technical data' is currently expressed in DSGL 2021 was interpreted by DEC assessors as a non-exhaustive list, and therefore the addition of the term "algorithm" has no practical implications to the control scope.

16. *Basic scientific research"*: the definition for this term is omitted.

17. **Impact:** references to this term throughout the DSGL have been replaced by the term "fundamental research". This change was made at the request of stakeholders with the intention of ensuring that regulatory controls on research in the DSGL are applied with minimal impact.

18. *"Fundamental research"*: inserts a new definition for the term "fundamental research", which means basic or applied research conducted in circumstances where the results of the research:

    (a) are intended for public disclosure, or would ordinarily be published or shared broadly; and

    (b) are not subject to any restrictions on disclosure (however imposed) for purposes connected with the security or defence of Australia or any foreign country.

19. **Impact:** this definition, which replaces that of "basic scientific research", clarifies the types of research that are not subject to certain controls within the DSGL. This change was made at the

request of stakeholders with the intention of ensuring that regulatory controls on research in the DSGL are applied with minimal impact.

20. The meaning of the terms 'basic research' and 'applied research' are intended to be taken from the Organisation for Economic Co-operation and Development (OECD) Frascati Manual 2015: Guidelines for Collecting and Reporting Data on Research and Experimental Development, which is the internationally recognised methodology for collecting and using research and development statistics. In that manual, 'basic research' means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundation of phenomena and observable facts, without any particular application or use in view. Similarly, 'applied research' means original investigation undertaken in order to acquire new knowledge. Applied research is directed primarily towards a specific, practical aim or objective.

21. The definition of 'fundamental research' requires that the research is not subject to any restrictions on disclosure for purposes connected with the security or defence of Australia or any foreign country. Research will typically be considered to have restrictions on its disclosure for purposes connected with the security or defence of Australia or a foreign country where there is an arrangement in place limiting its disclosure for security or defence reasons. An arrangement would be any written agreement, contract, arrangement, understanding or undertaking (both publicly available and confidential as between the parties), entered into by an Australian party or individual authorised to consent to the arrangement, irrespective of whether that commitment is ongoing or legally binding.

22. Examples of these types of arrangements may include commercial contracts, strategic partnerships, joint initiatives, and memoranda of understanding. Oral arrangements, such as oral contracts, are not intended to constitute an arrangement that would establish restrictions on the disclosure of research for purposes connected with the security or defence of Australia or any foreign country.

23. Examples of research that would be considered to constitute fundamental research would be basic and applied research in science and engineering conducted in Australia where the resulting information is ordinarily published and shared broadly within the scientific community. It would also be research that is captured by the public domain exclusion (e.g. readily available in libraries open to the public or at university libraries, published patents and open conferences, tradeshows or exhibitions). Fundamental research also includes education and teaching (e.g. instruction in catalogue courses and associated teaching laboratories of academic institutions).

24. An example of what would not be considered fundamental research would be university-based research where there is a written arrangement in place with the Australian Department of Defence that restricts the publication of the research due to its connection with matters that concern the security or defence of Australia.

25. Another example that would not be considered fundamental research is if a university had a written collaborative research agreement in place with a foreign country, and that research

agreement places certain restrictions on the use or disclosure of the research due to the connection between the researcher's work and the security or defence of that foreign country.

26. A further example of what would not be considered fundamental research is if a company releases its proprietary technology, which has implications for the security or defence of Australia, to a university for the purpose of conducting research. As part of sharing the technology with the university, the company and the university enter into a written contract, which stipulates that the technology cannot be released to the public and requires that the university must agree to a non-disclosure agreement.

Part 1—Munitions List

27. *ML4.a*: "Sub munitions therefor" added to the control for "Bombs, torpedoes, grenades, smoke canisters, rockets, mines, missiles, depth charges, demolition-charges, demolition-devices, demolition-kits, "pyrotechnic" devices, cartridges".

28. **Impact**: clarifies scope of existing ML4 control. Although this additional language may be considered an expansion, note that specially designed components were already captured by the previous control text, and therefore the addition does not increase regulation in the Australian context.

29. *ML4.b Note 1.a*: deletion of "capable of producing 1,000 kg or more per day of gas in liquid form" from the note detailing the controlling parameter.

30. **Impact**: control now captures all mobile gas liquefying equipment, not just the systems capable of producing 1,000 kg or more per day of gas in liquid form.

31. *ML11.b*: sub-entry amended to specify functions of controlled jamming equipment.

32. **Impact**: the impact of this proposal was assessed as very low as most equipment would have been captured by the current national interpretation of the existing control text.

Part 2—Dual-use List

Category 1—Materials, Chemicals, Microorganisms and Toxins

33. *1.C.351.d.13*: removes Cholera toxin from the control list.

34. **Impact**: exports will no longer require a permit for the export of Cholera toxin.

35. *1.C.351.d.20-23*: adds four toxins to the control list: Brevetoxins, Gonyautoxins, Nodularins and Palytoxin.

36. **Impact**: industries that export these toxins will now be required to apply for permits. DEC assessed that the overall impact is low, as the number of Australian entities exporting these toxins is low, and most are familiar with their export control obligations.

37. *1.C.353.*: viral translated products added to the genetic elements and genetically modified organisms control list.

38. **Impact**: this proposal expands the control of genetic elements and genetically modified organisms to include translated products. Due to the current national interpretation of the existing control text, DEC would have assessed viral translated products as controlled.

Category 2—Materials Processing

39. *2.B.209.b*: expands the diameter range of rotor-forming mandrels designed to form cylindrical rotors of internal diameter from 75mm - 400mm to 75mm - 650mm.

40. **Impact**: expands the scope to also apply to mandrels and dies for making bellows between 400mm and 650mm diameter. The total diameter range of the control would be 75-650mm. There are no known Australian exporters who would be affected.

41. *2.D.352.*: the addition of software for the operation of nucleic acid synthesisers and assemblers

42. **Impact**: permits will be required for the export or supply of software meeting the control threshold. Consultation performed by DEC related to nucleic acid assemblers and synthesizers indicated that Australia is not a manufacturer of this technology and its associated software.

43. *2.E.003.b.2*: control has been deleted.

44. **Impact**: permits for the export or supply of technical data consisting of process methods or parameters regarding superplastic forming, diffusion bonding, direct-acting hydraulic pressing, or hot isostatic deformation of certain alloy systems will no longer be required

Category 3—Electronics

45. *3.A.901*: new control on Complementary Metal Oxide Semiconductor integrated circuits

46. **Impact:** industries that export these items will now be required to apply for permits. DEC assessed that the overall impact is low.

47. *3.B.901*: new control on equipment designed for dry etching

48. **Impact**: control is assessed to have minimal impact on Australian stakeholders due to a lack of domestic industry or exporters.

49. *3.B.902*: new control on Scanning Electron Microscope equipment designed for imaging semiconductor devices of integrated circuits

50. **Impact**: control is assessed to have minimal impact on Australian stakeholders due to a lack of domestic industry or exporters.

51. *3.C.00.1, 3C005, and 3.E.003.*: addition of Gallium Oxide (Ga2O3) and diamond to existing controls for substrate materials (3C001 and 3C005), and to technology control text (3E003) for

the development or production of Gallium Oxide (Ga2O3) and diamond substrates for electronic components.

52. **Impact**: control is assessed to have minimal impact on Australian stakeholders due to a lack of domestic industry or exporters.

53. *3.D.006*: new control on highly specialised software for Electronic Computer Aided Design (ECAD), which is used to design complex integrated circuits and advanced electronic systems.

54. **Impact**: control is assessed to have minimal impact on Australian stakeholders due to a lack of domestic industry or exporters.

55. *3.D.901:*new control on software for the use of equipment designed for dry etching

56. **Impact**: control is assessed to have minimal impact on Australian stakeholders due to a lack of domestic industry or exporters.

57. *3.D.902*: new control on software designed to extract circuit layout data, perform layer-to-layer alignment from scanning electron microscope images, and generate multi-layer circuit data or circuit netlist.

58. **Impact**: control is assessed to have minimal impact on Australian stakeholders due to a lack of domestic industry or exporters.

59. *3.E.901*: new control on technology using "Gate-All-Around-Effect Transistor" structures

60. **Impact**: control is assessed to have minimal impact on Australian stakeholders due to a lack of domestic industry or exporters.

Category 4—Computers

61. *4.A.003.b*: adjusted Peak Performance parameter changed from 29 to 70.0 Weighted TeraFLOPS for digital computers

62. **Impact**: reduction in scope by increasing the controlling parameter.

63. *4.A.901*: new control on quantum computers

64. **Impact**: while DEC assesses that a quantum computer with the parameters detailed in this control does not yet exist, industry producing computers which do reach these thresholds in future will need to apply for permits. Research and development prior to reaching these thresholds should not be affected.

65. *4.D.001.b.1*: software specially designed or modified for the development or production of digital computers. The Adjusted Peak Performance parameter changed from 15 to 24 Weighted TeraFLOPS.

66. **Impact**: reduction in scope by increasing the controlling parameter.

67. *4.D.901*: new control on software for the development or production of qubit devices or circuits, or quantum control and measurement devices, for quantum computers.

68. **Impact**: while DEC assesses that a quantum computer with the parameters detailed in this control does not yet exist, industry producing computers which do reach these thresholds in future will need to apply for permits. Research and development prior to reaching these thresholds should not be affected, though such software and related devices may be expected to be developed first ahead of the computer itself.

69. *4.E.001.a*: Scope-neutral amendment to broader Category 4 technology

70. **Impact**: this consequential change is to ensure that Australia is consistent with other international export control frameworks when introducing the 4A900 series of controls. This change ensures that "use" technology relating to quantum computers, their controlled components, and software is not controlled inadvertently.

71. *4.E.001.b.1*: technology for the development or production of digital computers. The Adjusted Peak Performance parameter changed from 15 to 24 Weighted TeraFLOPS.

72. **Impact**: reduction in scope by increasing the controlling parameter.

73. *4.E.901*: new control on technology for the development or production of components and software related to quantum computers.

74. **Impact:** while DEC assesses that a quantum computer with the parameters detailed in this control does not yet exist, industry producing computers which do reach these thresholds in future will need to apply for permits. Technology relating to the development or production of certain quantum computing components, related devices, and software will now require a permit. Category 6—Sensors and Lasers

75. *6.A.005.b.3.a.2*: average output power parameter changed from 50 to 80 W for non-tunable pulsed lasers with output wavelength exceeding 510 nm but not exceeding 540 nm.

76. **Impact**: reduction in scope by increasing the controlling parameter.

77. *6.A.005.d.1.a.1*: wavelength parameter changed from 1510 to 1570 nm, and power parameter changed from 1.5 to 2.0 W for single-transverse mode semiconductor lasers.

78. **Impact**: reduction in scope by increasing the controlling parameters.

79. *6.A.005.d.1.a.2*: wavelength parameter changed from 1510 to 1570 nm.

80. **Impact**: reduction in scope by increasing the controlling parameter.

81. *6.A.005.d.1.b.1*: Power parameter changed from 15 to 25 W for multiple-transverse mode semiconductor lasers.

82. **Impact**: reduction in scope by increasing the controlling parameter.

Category 8—Marine

83. 8.*A.002.o.2 and 8.A.002.o.4*: the control for Permanent Magnet, including Rim-Driven, propulsion motors was removed from 8A002.o.2.c and rewritten as a new control under 8.A.002.o.4.

84. **Impact**: no impact as the overall scope of control has not changed.

Category 9—Aerospace and Propulsion

85. *9.A.001.b*: the removal of aero gas turbine engines designed to power an aircraft to cruise at Mach 1 or higher, for more than 30 min.

86. **Impact**: exports will no longer require a permit for the export of these aero gas turbine engines.

87. *9.A.003*: addition of 9.E.003.k to the list of technologies used in the design of assemblies or components for gas turbine propulsion systems.

88. **Impact**: by including 9.E.003.k as an enabling technology in 9.A.003, these critical assemblies and components will remain controlled until the engines are released from 9.A.001 by Note 1. Note 1 decontrols aero gas turbine engines based on various criteria around civil certification.

89. *9.E.001*: Removal of the technology control to complement to removal of 9.A.001.b.

90. **Impact**: nil. The addition of 9.E.003.k off-sets any scope reduction caused by this amendment.

91. *9.E.002*: Removal of the technology control to complement to removal of 9.A.001.b.

92. **Impact**: nil. The addition of 9.E.003.k off-sets any scope reduction caused by this amendment.

93. *9.E.003.a.2.e*: Addition of the technology required for the development or production of pressure gain combustion (gas turbine engine components).

94. **Impact**: 9.A.001 was amended to decontrol civilian aero gas turbine engines. This decontrol was necessary to support engines and aircraft in commercial service. While the goods were decontrolled, it was considered necessary to publish additional controls regarding the technology to develop these engine types, thus additional controls for combustors was added.

95. *9.E.003.k*: Addition of the technology required for the development of any of the components or systems, specially designed for aero gas turbine engines that enable aircraft to cruise at Mach 1 or greater for more than 30 minutes.

96. **Impact**: by including 9.E.003.k as an enabling technology, these critical assemblies and components will remain controlled until the engines are released from 9.A.001 by Note 1.

97. *9.E.101 and 9.E.102*: Addition of 9.A.112.a (unmanned aerial vehicles capable of a range of 300 km) to the list of control codes. 9.E.101 and 9.E.102 control the export/supply of technology used in the development, production, or use of controlled goods/software.

98. **Impact**: a permit will be required for the export/supply of technology used in the development, production, or use of unmanned aerial vehicles capable of a range of 300 km. Note that this MTCR control is not new. It was only recently identified to have been omitted from the DSGL.

Sensitive List of dual-use goods and technologies

99. *SL 4D001*: Removal of Software specially designed for the development or production of equipment specified by 4A of this List or for the development or production of digital computers having an Adjusted Peak Performance (APP) exceeding 16 Weighted TeraFLOPS (WT).

100. **Impact**: nil.

101. *SL 4E001*: Removal of Technology according to the General Technology Note for the development or production of any of the following equipment or software: a. Equipment specified by 4A of this List; b. Digital computers having an Adjusted Peak Performance (APP) exceeding 16 Weighted TeraFLOPS (WT); or c. Software specified by 4D of this List.

102. **Impact**: nil.

Schedule 1—Repeals

Defence and Strategic Goods List 2021

Item 1 The whole of the instrument

103. Item 1 of Schedule 1 to the instrument has the effect of repealing the *Defence and Strategic Goods List 2021* upon commencement of the DSGL 2024.

104. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions to repeal, rescind, revoke, amend, or vary any such instrument.

Attachment B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Defence and Strategic Goods List 2024

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

The Defence and Strategic Goods List (DSGL) is comprised of listed goods, software and technologies that are derived from the control lists developed by the multilateral, non-proliferation and export control regimes of which Australia is a participating state. [1] The DSGL includes equipment, assemblies and components, associated test, inspection and production equipment, materials, chemicals, software and technology.

The DSGL is divided into two parts. Part 1 of the DSGL is the Munitions list, which covers defence and related goods – those goods, software, and technologies designed or adapted for use by armed forces or goods that are inherently lethal. These goods include:

- Military Goods, being goods, software, or technology that are designed or adapted for military purposes, including their parts and accessories; and
- Non-Military Lethal Goods, being equipment that is inherently lethal, incapacitating or destructive such as non-military firearms, non-military ammunition, and commercial explosives and initiators.

Part 2 of the DSGL is the Dual-use list, which covers those goods that have a dual use. Dual-use goods comprise equipment, software and technologies developed to meet commercial needs, but which may be used either as military components or for the development or production of military systems, or weapons of mass destruction. Part 2 contains 10 categories, which are:

- Category 0 – Nuclear Materials;
- Category 1 – Materials, Chemicals, Micro-organisms and Toxins;
- Category 2 – Materials Processing;
- Category 3 – Electronics;
- Category 4 – Computers;
- Category 5 – Telecommunications and Information Security;

[1] Australia is a participating state of the Wassenaar Arrangement, the Missile Technology Control Regime, the Australia Group and the Nuclear Suppliers Group.

- Category 6 – Sensors and Lasers;
- Category 7 – Navigation and Avionics;
- Category 8 – Marine;
- Category 9 – Aerospace and Propulsion.

The *Defence and Strategic Goods List 2024* (DSGL 2024) repeals and replaces the *Defence and Strategic Goods List* 2021 (DSGL 2021), with amendments to the previous list so that it aligns with the changes that have been made to the international control lists of the non-proliferation and export control regimes of which Australia is a member.

Human rights implications

The disallowable legislative instrument does not engage any of the applicable rights or freedoms. This is because the instrument repeals and replaces the DSGL 2021, with minor changes, in order to ensure that the DSGL remains aligned with updates that have been made to the international control lists of the non-proliferation and export control regimes of which Australia is a member.

The instrument contains 278 updates from the DSGL 2021. The majority of these updates (231) are clarifications and editorial changes that do not involve a change in the scope of existing controls. The remaining 47 updates can be categorised as either new controls, deletions of previously existing controls, or modifications to existing controls. Of the 47 updates, 13 are changes that remove or reduce the requirement to obtain an approval prior to export, and 19 of the updates are either new controls or changes to existing controls that result in an expanded scope. The remaining 15 updates were modifications assessed as neither expanding or reducing the scope of control, i.e. scope neutral. Defence Export Controls has assessed that overall, the updates contained in the instrument will have a limited impact on Australian exporters and researchers.

The instrument ensures that Australia's regulatory framework for export controls is reflective of international best practice and continues to support the responsible export and supply of defence and dual-use goods and technologies. Accordingly, the instrument does not substantially alter the nature or purpose of the DSGL 2021.

Conclusion

This disallowable legislative instrument is compatible with human rights as it does not raise any human rights issues.