



# Export Council of Australia

The Voice for Australia's Exporters

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## Export Council of Australia submission on the draft Export Control Bill 2017

The Export Council of Australia (ECA) welcomes the opportunity to provide a submission to the Department of Agriculture and Water Resource's consultation about the draft Export Control Bill 2017.

The ECA is the peak industry body for Australia's exporters and importers, particularly small to medium sized businesses (SMEs). With a membership base of around 1,000 and a reach of over 15,000, the ECA represents companies of all sizes and across a wide range of industries.

### Summary

Overall, the ECA supports the proposed draft Export Control Bill 2017 on the understanding the Bill will streamline and simplify the existing agricultural export legislative framework. The ECA notes the minimal substantive changes in the Bill and supports the predominantly procedural amendments.

The ECA urges DAWR to ensure it develops the supporting rules in close consultation with industry, and ensure they are simple, proportionate and do not unnecessarily impede businesses.

### Comments and recommendations

- The ECA supports the delegation of the instrument-making power to the Secretary of DAWR. An ability to amend the Export Control Rules at short notice is necessary in order to ensure Australian exporters are up to date with importing country requirements. But with the secretary's increased power the ECA recommends increased transparency. This should include processes to ensure there is appropriate consultation with industry, including a notification system where interested parties can register for alerts to potential rule changes.
- The ECA supports the graduated enforcement regime proposed in the draft Export Control Bill. A proportionate response to non-compliance enables a better balance between the need to protect Australia's reputation while ensuring penalties do not unduly disrupt businesses for minor issues. The ECA supports including a 'knowledge' component in the provisions for non-prescribed goods that are falsely misrepresented and entered for export. This will ensure that SMEs that make an effort to comply with the legislation are not penalised for inadvertently breaching the requirements. The ECA recommends the use of the new penalties be focused on lessening penalties that would currently be issued for non-compliance, rather than increasing the number of businesses penalised. The ECA urges caution with strict liability provisions; it is essential these are developed in close consultation with industry.
- The ECA is pleased to see the introduction of a provision for the suspension of licenses where DAWR is investigating an issue of non-compliance rather than the sole option of the cancellation of an export license, which can be devastating to an exporter's business. Again, when setting penalties, the focus should be on lessening penalties that would currently be applied, rather than penalising more businesses.
- Finally, the ECA recommends the rules are set in line with best regulatory practice, including taking into account the DAWR regulatory performance framework.