

Conservation Council of WA (ABN 35982476107)
PO Box 883, West Perth, WA, 6872
T 08 6558 5155 | E conswa@ccwa.org.au



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Submission on Australian Naval Nuclear Power Safety Bill 2023

31st January 2024

About the Conservation Council of WA

The Conservation Council of WA (CCWA) is the state's foremost non-profit, non-government conservation organisation representing close to 100 environmental organisations across Western Australia, with tens of thousands of engaged individuals state-wide. This broad collective of like-minded groups and individuals creates a vibrant and passionate community, dedicated to the conservation of our unique and diverse state.

CCWA has been a prominent and forthright voice for conservation for more than 50 years working directly with the government, media, industry, community groups, and political parties to promote a more sustainable WA and to protect our natural environment.

conswa@ccwa.org.au

Acknowledgement of Country

The Conservation Council of WA respectfully acknowledges the Whadjuk People of the Noongar nation, along with the Traditional Owners of all Countries where it works. We pay our respects to Elders past and present. CCWA seeks to always walk alongside our Aboriginal partners, recognising their continued connection through land, sea, culture and community.

Submitted to:

Foreign Affairs, Defence and Trade Committee Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Phone: +61 2 6277 3535
fadt.sen@aph.gov.au

By online submission forum

Background

The Bill

CCWA thanks the Australian Government for the opportunity to comment on the *Australian Naval Nuclear Power Safety Bill 2023 (the Bill)*, referred by the Senate on the 16th of November 2023 to the Senate Foreign Affairs, Defence and Trade Legislation Committee, proposed for inquiry and report by 26th April 2024.

The Senate intends to regulate the operations of AUKUS submarines within Australia, a result of the AUKUS agreement between Australia, the UK and the US. The Agreement includes the expansion of the HMAS Stirling Naval Base, the building of nuclear submarines in Australia, and the maintenance and servicing of visiting UK and US submarines. The Bill seeks to introduce safety regulations for these new operations.

The HMAS Stirling Naval Base is located at Garden Island, Western Australia, and is home to rich biodiversity (outlined below), high recreational value and dense industrial business¹.

The environment of Cockburn Sound

Cockburn Sound contains high biodiversity values and also includes a range of aquaculture, recreational, cultural and industrial uses. CCWA submits that the health of Cockburn Sound ecosystems be protected within social and industrial contexts.

Cockburn Sound contains a diverse assemblage of marine species¹ and ecosystems, including a spawning and nursery ground for Pink Snapper, forage grounds for the Little Penguin, and critical seagrass meadows, which are facing significant decline. The mounting industrialisation and overuse of Cockburn Sound is placing this ecosystem at risk of collapse.

Onshore, Cockburn Sound contains EPBC listed Threatened Ecological Communities (TECs), including *Sedgeland in Holocene dune swales of the Swan Coastal Plain*; nearby *Thrombolite (microbial) community of coastal freshwater lakes of the Swan Coastal Plain (Lake Richmond)*; *Banksia Woodlands of the Swan Coastal Plain*; and *Tuart (Eucalyptus gomphocephala) Woodlands and Forests of the Swan Coastal Plain*. Consideration of impacts to these important ecological communities is required in any plan to increase industrialisation of CS.

CCWA's submission points

CCWA presents the following grounds for its submission:

1. There has been insufficient community engagement or environmental assessment for the Cockburn Sound environment
2. The low-level radioactive waste storage proposal requires review
3. The Bill will be at variance to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

1. There has been insufficient community engagement or environmental assessment for the Cockburn Sound environment

¹ See [Cockburn Sound – home to a surprising diversity of marine species – Western Australian Marine Science Institution \(wamsi.org.au\)](http://wamsi.org.au)

There has been insufficient community engagement addressing the environmental risks to Cockburn Sound in regard to the activities described in the Bill, as follows:

- constructing submarines
- operating submarines
- decommissioning submarines
- disposing of submarines
- possessing or controlling naval nuclear propulsion (**NNP**) material or equipment
- using NNP material
- using or operating NNP equipment
- maintaining, storing or disposing of NNP material or equipment
- expansion of the HMAS Stirling Naval Base

NNP material is material that emits ionizing radiation spontaneously, and thus represents a threat to the environmental receptors to AUKUS submarines that exist at the Stirling designated zone (i.e., HMAS Stirling Naval Base), located at Garden Island WA. The Cockburn Sound environment is a large receptor for this zone, presenting risks to the environmental, recreational, industrial and tourism values of the area. Cockburn Sound holds unique biodiversity, significant breeding and foraging habitat², and contains residential and industrial development. There has been limited community consultation in and around this area and, accordingly, community views do not inform the draft of the Bill. A much broader consultation program should be implemented to better direct the development of the Bill.

Further, there has been no apparent environmental assessment to inform the Bill. The regulation of AUKUS submarines and nuclear material must be informed by an environmental assessment, including thorough assessment of the impacts to sensitive environmental receptors.

2. The low-level radioactive waste storage proposal requires review

The Bill lacks clarity and detail on the regulation of visiting UK and US submarines, including in relation to:

- accidents and incidents relating to visiting UK and US submarines
- UK and US submarines undergoing servicing and maintenance
- offloading of low-level waste (**LLW**)

Further clarity must also be provided to regulate:

- where nuclear waste can be managed, stored and disposed
- intended nuclear waste storage facilities
- how nuclear waste will be managed, stored and disposed
- the intended type of nuclear waste storage (e.g., temporary or permanent)

Currently, the broad definition and scope of Scope #10 of the Bill enables the Defence Ministry to choose any area for the storage of radioactive waste, regardless of the inhabitants or occupation of that land. The eventual disposal of the nuclear waste of Australia's submarines is a reality

² Government of Western Australia, Department of Water and Environmental Regulation (2023). State of Cockburn Sound Marine Area Report 2022

proposed by the Bill, however, Australia is yet to find a permanent storage solution for LLW³, whilst internationally, no country has yet commissioned and completed a high-level nuclear waste facility⁴. The lack of regulation in the Bill for nuclear waste and storage presents a significant risk to the environment and community, which will bear the brunt of any mismanaged nuclear waste, or the storage of this waste in unacceptable locations, as is currently made possible by the Bill. There is also no clear process for risk assessment of this waste or the site of storage. Hence, the Bill commits Australia to a radioactive waste storage program with no planning of how it will be implemented or safely managed. The Bill should contain strategies to regulate the management, storage and disposal of nuclear waste, and this must be informed by community consultation.

3. The Bill will be at variance to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

The EPBC Act states that a nuclear action means any or all of the following:

- (a) *establishing or significantly modifying a nuclear installation or a facility for storing spent nuclear fuel;*
- (b) *transporting spent nuclear fuel or radioactive waste products arising from reprocessing;*
- (c) *establishing or significantly modifying a facility for storing radioactive waste products arising from reprocessing;...*
- (e) *establishing or significantly modifying a large-scale disposal facility for radioactive waste;*⁵...
- (f) *establishing, significantly modifying, decommissioning or rehabilitating a facility where radioactive materials at or above the activity level specified in regulation 2.02 of the Environment Protection and Biodiversity Conservation Regulations 2000 (EPBC Regulations) are, were, or are proposed to be stored.*⁶

Therefore, the ownership and operation of nuclear submarines by Australia, as described in the Bill, would be at variance to the EPBC Act, which states that:

- (1) *A constitutional corporation, the Commonwealth or Commonwealth agency must not take a nuclear action that has, will have or is likely to have a significant impact on the environment.*³

Nuclear activity poses a significant threat to the Australian environment and community. The threat of environmental harm being caused by a nuclear action, as defined under the EPBC Act, will be far greater in the absence of rigorous environmental assessment, and a lack of clarity and regulation of nuclear activities and of nuclear waste management, storage and disposal, as proposed by the Bill.

³ Shepherd, T. (2023, July, 29). Australia's nuclear waste is scattered in 'cupboards and filing cabinets' – and the pile is growing. *The Guardian*. [https://www.theguardian.com/environment/2023/jul/29/nuclear-waste-australia-how-much-why-kimba-lucas-heights#:~:text=There's%20no%20definitive%20list%2C%20because,Ansto\)%20facility%20in%20Lucas%20Heights.](https://www.theguardian.com/environment/2023/jul/29/nuclear-waste-australia-how-much-why-kimba-lucas-heights#:~:text=There's%20no%20definitive%20list%2C%20because,Ansto)%20facility%20in%20Lucas%20Heights.)

⁴ World Nuclear Association (2023). *Storage and Disposal of Radioactive Waste*. <https://world-nuclear.org/information-library/nuclear-fuel-cycle/nuclear-waste/storage-and-disposal-of-radioactive-waste.aspx>

⁵ *Environment Protection and Biodiversity Conservation Act 1999* (Cth)

⁶ Australian Government, Department of the Environment (2013). *Matters of National Environmental Significance: Significant impact guidelines 1.1: Environment Protection and Biodiversity Conservation Act 1999*

Recommendations

In view of the above points, CCWA recommends that:

- a. The communities of Australia, WA, the Cockburn Sound environment and any area that may be impacted by the Bill be consulted and considered in future drafts of the Bill.
- b. A thorough environmental assessment is conducted to inform future drafts of the Bill.
- c. Further clarity is brought to the following matters in the Bill:
 - i. The regulation of visiting UK and US submarines.
 - ii. The regulation of UK and US submarines undergoing servicing and maintenance.
 - iii. The regulation of the offloading of LLW from submarines.
 - iv. The management, storage and disposal of nuclear waste.
 - v. The intended nuclear waste storage facilities and their location.
 - vi. The intended type of nuclear waste storage (e.g., temporary or permanent).
 - vii. The intended process of assessment for nuclear waste facilities and incidents.