



Mr Mark Fitt
Committee Secretary
Senate Foreign Affairs, Defence and Trade Legislation Committee

Dear Mr Fitt

Thank you for your letter of 15 May 2023 to Secretary David Fredericks inviting the Department of Climate Change, Energy, the Environment and Water (DCCEEW) to make a submission to the Senate Foreign Affairs, Defence and Trade Legislation Committee's inquiry into the *Defence Legislation Amendment (Naval Nuclear Propulsion) Bill 2023*. This Bill will amend Sections 37J, 140A, 146M, and 305(2) of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) which is administered by DCCEEW.

The EPBC Act provides a legal framework to protect and manage Australia's unique plants, animals, habitats and places. This includes protection in relation to matters of national environmental significance, which include listed threatened species, Commonwealth marine areas, wetlands of international importance, migratory species and nuclear actions. The EPBC Act also provides protection for the environment when actions are taken on Commonwealth land, or by an Australian government agency.

The sections of the EPBC Act that would be amended by this Bill currently prohibit the approval of certain nuclear facilities, and may have prevented the approval of some aspects of the conventionally armed nuclear powered submarines program. The amendments will have the effect of specifically enabling the Minister responsible (currently the Minister for the Environment and Water) to consider the approval of these actions under the EPBC Act.

This means the amendments enable the independent, rigorous environmental assessment and approval of conventionally armed, nuclear-powered submarines, associated nuclear infrastructure, facilities and sites under Australia's national environmental laws. This assessment will cover potential impacts to matters of national environmental significance against the criteria for these matters, and potential impacts to the environment as a whole.

The scope of the environmental assessment that will be enabled is expected to include Defence sites, facilities to be installed, as well as the operation of the conventionally armed nuclear powered submarines themselves. This program is expected to trigger assessment under the EPBC Act as a Commonwealth action and, for some components of the program, as a nuclear action, which it is anticipated will also cover the handling, storage and disposal of nuclear material.

DCCEEW also considered whether the exemptions under the current framework were appropriate on national interest grounds under section 158 of the EPBC Act. It is our view that nuclear actions such as those proposed within the conventionally armed nuclear submarine program should be subject to an independent, rigorous environmental assessment.

The amendments do not alter the moratorium on civil nuclear power and do not disturb the existing prohibition on the approval of civil nuclear power projects.

DCCEEW were consulted on the proposed legislation and supports its passage.

Yours sincerely

Cassandra Kennedy
Acting Deputy Secretary
25 May 2023