

Foreign Affairs, Defence and Trade Committee Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
fadt.sen@aph.gov.au

31st January 2024

Attn.: Committee Secretariat

Subject: Australian Naval Nuclear Power Safety Bill 2023

I am grateful for the opportunity to comment on this draft bill. I do so as someone who has used radioisotopes in agricultural research from 1967, and therefore claim to have knowledge of the safety requirements in handling radioactive materials. From 1979, I have worked on agricultural development projects in much of Asia, and also into Africa and the Middle East, and thus claim to have some grasp of international relations.

I must firstly state that I am strongly opposed to the overall concept of AUKUS, believing that it will more likely endanger peace in the Asia region rather than enhance it. Such an Anglophile alliance is an affront to the many countries of the region still trying to emerge from centuries of European colonization. However, I will not here go into the details of the rationale of my opposition but just comment on some aspects of the Bill, should it ultimately be passed by Parliament, that clearly need revision.

A first anomaly appears on the title page, which includes the wording "... conventionally-armed, nuclear-powered submarines ...). The Bill does not address measures to ensure that AUKUS nuclear powered submarines, which includes Australian, US and UK vessels, will at all times be just "conventionally armed" and not carrying nuclear weapons, when in Australian waters. Foreign Affairs Minister Penny Wong has stated that there is a "don't ask, don't tell" agreement with the US as to whether their military assets visiting Australia are carrying nuclear weapons or not. It is strongly doubted that US or UK nuclear submarines, included under the definition of "AUKUS submarines", would offload their nuclear weapons before visiting Australia. The Bill does not definitively rule out eventual Australian nuclear submarines from ever hosting nuclear weapons, leaving Australia as the only country with nuclear powered submarines not armed with nuclear weapons. As the wording of the Bill stands, it would be possible to add nuclear weapons to a vessel that is already "conventionally armed".

Objectives of the Bill (Clause 6)

I disagree with the assumptions of the stated objectives of this Bill:

(a) *"to promote the nuclear safety of activities relating to AUKUS submarines"* – the presence of AUKUS submarines at HMAS Stirling Naval Base makes that region a prime target in the event of a global war. The presence of nuclear powered submarines in Australian waters raises the possibility of accidents involving radioactivity, of which there have been many globally over the last half century.

(b) *“to promote public confidence and trust in relation to the nuclear safety of Australia’s nuclear-powered submarine enterprise”* – since the initial AUKUS announcement there has been negligible opportunity for parliamentary or public debate about AUKUS. To the public, details and implications remain shrouded in secrecy.

(c) *“to promote the defence and interests of Australia”* – AUKUS submarines are designed for long distance intimidation and attack purposes, not for defending Australia’s shoreline. Their presence will only intimidate most Asian countries, which is not really in Australia’s interest. AUKUS will only facilitate Australian involvement in future wars instigated or provoked by the USA, which, like so many wars involving Australia over the last 60 years, are unlikely to be in the best interests of Australia. Defence against who/what is yet to be defined and rationally debated.

(d) *“to support the AUKUS partnership”* – a return to, and renewed alignment with, the global imperialism of the Anglosphere: not the way to pursue peace in Asia at least, just remind of colonial history.

Scope of the Bill

With regard to *“Regulated activities can only occur in a designated zone or in relation to an Australian submarine”* (Clause 10) it is unclear as to the extent that visiting US or UK nuclear submarines, and the foreign personnel manning or servicing them, are regulated under this Bill and, if not, what regulations, if any, apply to them?

Two designated zones are identified – HMAS Stirling Naval Base and Osborne Naval Shipyard – but the Bill leaves open the possibility of *“any other area in Australia”* (Clause 10) being so designated, unilaterally. This statement also leaves the way open for the Defence ministry to designate any area of their choosing to be a storage site for low to high level radioactive waste derived from AUKUS, irrespective of the wishes of the inhabitants within or near that area. Of immediate concern in WA is how far the boundaries of HMAS Stirling would extend into the mainland, particular to incorporate the Henderson dry dock facilities in the City of Cockburn (where I live)?

It is stated in Clause 135 that the Bill overrides any state and territory laws, and presumably local council laws, undermining local sovereignty. This would presumably apply to any environmental or First Nations Title laws, which is unacceptable, and would follow the precedent of nuclear weapons testing on Aboriginal land in South Australia in the 1950s and 1960s without permission of the then inhabitants.

Although the Bill includes “safety” in its title it is deficient in considering the safety of the public that the Bill would expose the public to. There is no requirement indicated to inform exposed public to the types of hazards that could possibly arise, the emergency procedures to respond to those hazards and even to disclose when a safety incident has occurred. Admittedly, it is global practice to keep accidents within the military from the public, but do we really want to prolong this tradition?

Regulation (Part 5)

Definition of “The Regulator” indicates regulation of this Bill remains in-house, removed from public scrutiny, and is unsatisfactory for the following reasons:

- The Regulator has no obligation to civilian authorities, and just regulates within this Bill (Clause 104). For example, it establishes a radiation safety unit separate from the existing Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), with no indication of how these organizations would interact (Clause 132).
- Although indicated as an independent agency the Regulator is only required to report to the Defence Minister (Clauses 122, 123) and to accept directions from the Minister “*in the interests of national security and to deal with an emergency*” (Clause 105), a phrase subject to broad interpretation.
- The Regulator has no responsibility for accountability or reporting to the public (Clause 107); any information reaching the public would need to go through the Defence Minister. This is most unsatisfactory in the case of a serious breach of protocol which could possibly threaten or affect public safety.
- Clause 121 indicates immunity of members of the Regulator from public scrutiny, which is unsatisfactory in the case of enquiries as to how significant breaches affecting the public are handled.

Management, storage and disposal of radioactive waste (Clause 12-15)

The Bill requires further elaboration of the nature of the radioactivity associated with AUKUS submarines, and the quantities from low level nuclear waste (LLW) to high level nuclear waste (HLW) expected to be generated. Particularly required is description of the intended storage facilities. It is understood that Australia would be required to eventually dispose of nuclear core HLW in their own submarines on their retirement. It is also unclear if Australia would be required to host the waste from US and UK submarines. It needs to be realized that to the present there is no permanent [long-term storage facility for HLW](#) in the world, acknowledged as safe into perpetuity. Australia has been unsuccessful in identifying a permanent storage facility for LLW for over 50 years. This Bill commits Australia to an intractable radioactive waste storage program with little definitive planning of how it is likely to be implemented. Do we just leave it as a problem for future generations?

The highly enriched uranium (HEU) used in Virginia Class submarines, and presumably also on the intended Australian nuclear-powered submarines, can be used either directly, or with reprocessing, in the manufacture of nuclear weapons. The Bill should clearly state that this should be prohibited in Australia or for any Australian derived HEU provided to other countries.

Relation to the Nuclear Non-proliferation Treaty

The claim that this Bill would be compatible with the Nuclear Non-proliferation Treaty (NPT) (Clause 133) is not plausible. The possibility of nuclear armed submarines being in Australian ports and the various loopholes in this Bill around nuclear safety would breach the NPT. Australia’s nuclear submarines are supposed to be interoperable with those of its AUKUS

partners, the US and UK. It is understood that the US, at least, is increasing its nuclear weapons capability, in breach of the NPT. Thus Australia would breach the NPT by association. The possible presence of UK and US submarines carrying nuclear weapons when in Australian waters and the lack of safeguards against using or reprocessing HEU for nuclear weapons production would breach the NPT.

Conclusion

In view of the limited public consultation and parliamentary scrutiny so far with respect to AUKUS, it is suggested that public consultation be markedly enhanced, especially among populations living near declared or yet to be declared (e.g. nuclear waste storage sites), designated zones. The extent to which the Bill would override, or be aloof from existing national, state and local government laws is disturbing and needs re-examination. This particularly applies to the prospect of there being two separate agencies for nuclear regulation in Australia. The proposed regulation of this Bill, under the Regulator, essentially remains within the Ministry of Defence, with negligible responsibility to be accountable to the public, particularly when a radioactivity-related accident is involved. And, the Bill opens the way breaches of the NPT, and even for the deployment and production of nuclear weapons.

It is my hope that the Government will see the overall folly of AUKUS and therefore the need to have such a bill. However, if it does proceed it is hoped that the flaws in the Bill mentioned above can be rectified before it does become law.

Yours sincerely,

Dr Chris Johansen, Agricultural Scientist