



Caring for South Australia

Submission from Caring for South Australia

Re: *The Australian Naval Nuclear Power Safety Bill 2023 (NNP Bill)* : Bill for an Act to regulate activities relating to conventionally-armed, nuclear-powered submarines to ensure the nuclear safety of those activities, and for related purposes.

Caring for South Australia is a group of South Australians dedicated to ensuring the wellbeing, health and safety of this state and its citizens. All members of the group have a background in education and involvement in community affairs. Members have lived in far flung areas of SA as well as in cities and towns across the state and a number have been involved with Aboriginal people including those directly affected by the British nuclear tests of the 1950s and 1960s which had generational implications for those people.

As such, the purpose of this submission is to object to the *Australian Naval Power Safety Act 2023*.

This Bill is titled: *A Bill for an Act to regulate activities relating to conventionally-armed, nuclear-powered submarines to ensure the nuclear safety of those activities, and for related purposes*, the key words being “nuclear” and “safety”. It seems to us that these two terms are incompatible. It is accepted scientific knowledge that there is no level of radiation exposure below which there is no risk of fatal cancer.

This commitment by successive Australian governments to the nuclear submarines project is a monumental decision for which executive government so far continues to make no apology; or even recognise the significant policy shift and resulting dangers brought to our Australian citizens, including First Nations peoples, together with our lands and waters.

This is the first time in the history of the nation that governments (immediate preceding and present) of Australia *of their own initiative* have introduced into the nation the existence of the highest-level radioactive waste that the *Australian Naval Nuclear Safety Bill 2023* continues to legitimise. High Level Waste (HLW) has an incredible, undisputed toxicity of 100,000 years, which the present executive government, has, with absolutely no citizen consultation, agreed to take responsibility for. This will apparently even include HLW of US (and UK) origin with the purchase of US built submarines as part of the agreement.

Human Rights

According to the *Bills Digest*, the Government has declared each Bill compatible with human rights. We quote from the previous Bill: *35. Human Rights This Bill 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.*

We believe that simply declaring that the Bill is compatible with human rights does not make it so. The whole project with its extraordinary price tag, contributes to the removal of the human rights of many Australian citizens including Australian children living in poverty.

For First Nations Traditional Owners another looming threat this project threatens is to the well being of lands and seas and for future generations. At no time to date, has there been any genuine effort to comply with the United Nations standard: 'free, prior and informed consent of Traditional Owners. (*UN Declaration on the Rights of Indigenous People: Article*)

Furthermore, there was no opportunity given for Australian citizens, or indeed the Parliament to be consulted prior to ramping up an already controversial and secretive agreement with other countries --an agreement which will affect every Australian generation to come.

Recommendation 1: Compliance with the UN Declaration is essential .

Radiation dangers

- (a) the Stirling designated zone; [HMAS *Stirling* Garden Island WA]
- (b) the Osborne designated zone; [Osborne Naval Shipyards SA]
- (c) any other area in Australia that is prescribed by the regulations to be a designated zone.

The *NNP Bill* exposes Australian citizens, particularly those living in the chosen Port area of the nuclear powered submarines and HMAS *Stirling* on Garden Island to increased risk of radiation including any accident (which cannot be discounted in the usual way by confident declarations by proponents that such an event 'will not happen.'). And prior to this, the purchased, previously owned US nuclear powered submarines will be based on the east coast, possibly Port Kembla. In addition there is the Osborne region during the time of the proposed building of the Australian made submarines -- each of these areas will be 'home' to the weapons grade nuclear material which powers the submarines in question.

The Medical Association for the Prevention of War (MAPW) is a recognised, neutral body, whose aim is to promote peace and disarmament. They point out that, since 1963, there have been a number of accidents involving nuclear-powered vessels, including six submarines that have been sunk. Furthermore, since 2015, this kind of information has not been available to the general public, due to secrecy provisions. The result of nuclear accidents include the loss of radioactive material. So, if an accident involving a nuclear-powered submarine docked at Port Adelaide were to occur, the entire surrounding area would be in danger as a result of the escape of radioactive material. What measures have been put in place to avoid this danger? What measures have been established to ensure that local communities have been informed about the risks incurred by hosting nuclear submarines? Have local medical services been provided with information that will enable them to respond in the event of a nuclear accident?

For decades (1990s to present) when dealing with the challenge of locating a national radioactive waste dump, governments of either persuasion have been careful to note that Australia 'has no high level nuclear waste.' The proposed Bill announces a totally radical change to this previous, oft repeated government assurance.

The toxicity of low-level radioactive waste may last 300 years; the toxicity of intermediate level radioactive waste lasts an unimaginable 10,000 years. No wonder the government has yet to find an undisputed site for both, undisputed in particular by Traditional Owners.

It has been suggested that defence land at Woomera could be used to store such radioactive material. Have the local indigenous land owners been consulted? Four different Aboriginal groups hold native title over areas in the Woomera Prohibited Area. Given the success of the Barngarla people in overthrowing the establishment of a radio-active waste facility at Napandee in South Australia, it is highly likely that the traditional owners of the land around Woomera will not approve of a dump on their land. And what happens when a nuclear-powered submarine is decommissioned? This waste will be high-level radio-active waste with a shelf-life of at least 100,000 years. What plans have been established to dispose of this waste?

What an extraordinary burden to inflict on future generations of Australian citizens particularly those eventually subjected to housing the waste and those along transport corridors.

The concept of transport corridors is not mentioned in this Bill No matter how firmly State government leaders (currently Victoria, Queensland, Western Australia) resist being host to a High Level Nuclear Waste dump, and how 'remote' is the final site eventually decided upon, the highly dangerous material must be transported across this vast country, leaving further openings for accidents and opportunities for terrorist attacks.

Recommendation 2: In order to safeguard Australian citizens against the dangers of nuclear radiation, all AUKUS sites would need to be approved by the Parliament.

Regarding other schemes

We quote the Minister: "The new framework will be harmonised with other schemes, including those relating to work health and safety, nuclear nonproliferation and civilian nuclear safety." Richard Marles , (Second Reading Speech, Australian Naval Nuclear Power Safety Bill 2023)

A. RE work health and safety:

Unsurprisingly the people who work in or who will be called upon to attend to any such calamities like the CFMMEU – (the Construction, Forestry, Maritime, Mining and Energy Union) and those who work the technicalities of the industry (ETU – Electrical Trades Union) are strongly opposed.

Recommendation 3: Compliance with the UN Declaration is essential

B. RE Nuclear nonproliferation

A serious implication of the nuclear powered submarines is the extremely high percentage of radioactivity – nuclear weapons strength. What assurance does the Australian public have that the possession of such material will not lead to the manufacture of nuclear weapons?

There are potential difficulties for the Region in which we live.

There seems to be some cognitive dissidence in the following comment within the previous Bill by the Defence Minister ... *'These interests demand we deploy all elements of our national power in statecraft seeking to shape a region that is open, stable and prosperous: a predictable region, operating by agreed rules, standards and laws, where sovereignty is respected.'*

The Labor nuclear submarine deal was certainly not 'open' nor 'predictable' at least to the Australian voter and indeed an extraordinary ramping up of involvement in nuclear matters and uses may well risk destabilising rather than 'stabilising' the region. Our neighbours including Indonesia and Malaysia would be well aware that the nuclear enrichment strength to enable the propulsion of the submarines is nuclear weapons grade.

The action in fact, leaves Australia open to suspicion that we will indeed proceed along the nuclear path, perhaps even to nuclear weapons.

The project may well set a precedent amongst the countries of the region that if Australia can move a step closer in nuclear possession in this case nuclear powered submarines, other countries in the region can become thus encouraged to step out along escalating their own nuclear path.

Improved diplomatic skills of word and manner, which has undoubtedly occurred under the Labor administration, are undermined by this proposed action.

In 2022 the Labor government made some progress in this ultimately serious matter for the nation and planet, peoples and environment by abstaining from voting against the Nuclear Weapons Ban Treaty. Thus: for the safety and well-being of both internal Australian and external Pacific and other neighbourhood nations we suggest the following recommendation:

Recommendation 4: Australia to sign the Treaty on the Prohibition of Nuclear Weapons (TPNW).

This would send the clearest signal possible to the citizens of Australia and the Pacific Island and other Neighbourhood nations that Australia has no plans to acquire nuclear weapons. Also, it would demonstrate by firm and independent action that we in Australian are indeed 'a sovereign nation.'

The latest figures from ICAN Aust March 2022:(Ipsos) indicate that 76% of Australians are in favour of Australia joining the Treaty.

B. Re 'civilian nuclear safety'

The questions below asked by the Medical Association for the Prevention of War are extremely relevant and clearly need to be answered as the Bill progresses.

Will communities be consulted on accident response plans?

What is the existing radiation emergency capability in current and proposed nuclear sub port sites?

Will local health and medical services be consulted?

How will communities be properly informed about the risks of naval nuclear reactors?

How will safety issues be monitored and communicated?

How will the public interest in safety issues be protected?

When will accident scenarios for nuclear subs at base be modelled and made public?

How can the public verify the quality of emergency management plans and systems?

How can authorities demonstrate their capacity to respond to radiation emergencies, and other accident scenarios? ([MAPW](#) Safety Brief 2023)

Recommendation 5: These crucial, practical questions, extremely relevant to Australian citizens, need to be addressed by the Inquiry.

Lack of independence of the proposed new Regulator and increased proposed powers to the Minister

This Bill seeks to transfer responsibility to the newly established Regulator, the Australian Naval Nuclear Power Safety Regulator from the current independent Regulator ARPANSA. Our members see this as a crucial flaw in the proposed legislation. The current long term Regulator ARPANSA (Australian Radiation Protection and Nuclear Safety Agency) has a track record which gives some evidence of independence. (eg during the previous federal government initiatives to establish a federal nuclear waste facility ARPANSA maintained the ANSTO facility had room to store its own Intermediate and Low level waste 'for decades' ie opposing ANSTO's own claims of urgent insufficient space). Our members question the actual independence of the proposed Australian Naval Nuclear Power Safety Regulator. A cause for genuine concern of lack of independence is that it is proposed that the new Regulator be situated *within* the government Defence Department.

We further note with concern that the current Bill provides for the Minister to give the Regulator directions in some circumstances. This is not independence and is a serious flaw in the proposed legislation in a democratic country.

In addition, the Bill gives the Minister of Defence extraordinary powers *including that of regulating the regulator*. While we note that the Minister is required to table in each House of Parliament a statement that such direction was given to the Regulator, we note again with concern that this is merely an information exercise after the event and in no way inhibits this power of the Minister *before* he acts.

Recommendation 6: The powers of the Regulator should lie outside government departments and should be independent of the Minister.

The Role of the Environmental Protection Biodiversity Conservation Act 1999 (EPBC).

We were surprised that the NNP Bill does not mention the role of the EPBC Act. It is our view that the role of the Act is relevant to this issue and that notice should be taken of its advice in all matters relating to the nuclear industry. It is suggested that the environmental portfolio be strengthened. Minister Tanya Plibersek, whose Environment portfolio encompasses heritage protection, has stated that reforms are coming. She said that heritage protection is currently considered 'at the last minute' but 'that's exactly the wrong approach'. Cultural heritage impacts must be identified 'from the very beginning'.

Recommendation 7: The implications of the updated EPBC Act need to be considered.

Undemocratic overriding of States' powers and legislation

The South Australian Government already has legislation in place to prohibit the federal government from dumping nuclear waste in our state. (*Nuclear Waste Storage (Prohibition) Act 2000*). As South Australians, we are concerned that we are facing a future where high-level radiation exposure will be an ever-present danger.

Recommendation 8: States' powers which protect their citizens should not be overridden.

We thank you for receiving our submission on this extremely important matter. We trust that serious consideration will be given to the matters that we have raised for the protection of our nation, its lands, waters, peoples and future generations.

Carina for South Australia

31 January 2024