

Australian Radiation Protection and Nuclear Safety Agency
PO Box 655, Miranda NSW 1490, Australia
public.submissions@arpansa.gov.au

Friday 7 June 2024

To the CEO of ARPANSA,

Re: Submission to Application number: A0346

Thank you for the opportunity to submit to the Australian Radiation Protection and Nuclear Safety Agency on the licence application from the Australian Submarine Agency (ASA) for the siting of a Controlled Industrial Facility (CIF).

This submission is made on behalf of both Nuclear Free WA and Stop AUKUS WA. Nuclear Free WA is a registered charity formed in 2023 with over 80 members and thousands of supporters. The organisation is the latest form of the strong and long standing anti-nuclear movement in WA. Stop AUKUS WA is an organising collective made up of over a dozen organisations and community groups and more than 300 individuals.

Many of our members live in the local government areas of Rockingham (situated on the border of Whadjuk and Binjareb Noongar peoples territories), Kwinana, Cockburn and Fremantle which all face Cockburn Sound - the location of HMAS Stirling at Garden Island. Consequently, they are directly and personally impacted by the AUKUS nuclear powered submarine program and including the ASA's proposed CIF to manage and store nuclear waste.

Stop AUKUS WA and Nuclear Free WA both stand for a nuclear free Indo-Pacific, peace and for Australia to have an independent foreign policy. We are fundamentally opposed to AUKUS and the Force Posture Agreement and the visitations, rotations, procurement and building of naval nuclear-propelled submarines in Australia. We are opposed to this application from the ASA which would facilitate the storage of Low Level Nuclear Waste from visiting US and UK nuclear powered submarines.

We oppose the presence of these submarines, the military build up in the region to secure foreign defence forces and we absolutely reject the establishment of a facility to store radioactive waste from foreign defence forces. This is not in the public interest but instead makes our beautiful Cockburn sound a military target and risk. It poses a health risk to workers, to the environment and in the case of an accident the broader community who use the region intensively through recreation, boating, fishing, walking and more.

Despite our strong opposition, we have engaged, and continue to do so, in policy discussions regarding the implementation of AUKUS, in the interest of constructively advocating for stronger, clearer and more transparent laws and conditions for the operation of nuclear submarines in Australian waters. In the interest of public safety, governance and transparency we offer this submission to the ARPANSA on some more substantive details beyond our broader political opposition.

Transparency and community consultation

The consultation document does not give enough information about what is actually proposed. We have requested further information from both ARPANSA and the Australian Submarine Agency, and in the end we were forced to submit a Freedom of Information request. Following some modification of the initial request (which was rejected) we have been informed that a determination on the FoI will not be made until after this consultation period.

We can only describe the consultation document as an exercise in marketing and public relations. There is no substantive information or clear commitments to certain activities and responses. We have had to source a map of the site (omitted from the consultation document) from elsewhere.

We understand that there may be an EPBC assessment in which a much greater level of information would be provided. We urgently seek clarity on how this proposal will be dealt with under Federal Environmental laws.

We understand this is a preliminary licence to prepare a site and there will be future applications for a licence to construct, a licence to operate and eventually a licence to decommission. Given this licence is tied to the siting we would expect to see in a consultation:

- The application documents submitted to ARPANSA
- Flora, fauna, hydrogeology, geology, and climate impact analysis, to consider the suitability of the site
- A map of the proposed site and details of the movement of waste from the vessels to the facility
- Analysis of alternate locations
- Description of the future processes, assessments, studies to be conducted

There is no assurance the ASA has consulted with the Traditional Owners of Meeandip (Garden Island) and complied with A.29.2 of the UN Declaration on the Rights of Indigenous Peoples: "States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous people without their Free Prior and Informed Consent."

We understand that there is likely to have been some engagement with one corporation, but it is important not to conflate consultation as consent. It is our strong view that for the siting of nuclear waste of any kind on Aboriginal land that a process in line with UN standards on Free Prior and Informed consent be undertaken.

Location

Derbal Nara (Cockburn Sound) and Meeandip (Garden Island) are sensitive ecosystems which are made up of critically endangered ecological communities, highly endemic plant species, migratory species, priority fauna species and diverse and significant marine species. Garden Island is also in close proximity to the Shoalwater Islands Marine Park with many of the same or similar ecological values.

We note many of our supporters who live in the region who frequent the area speak highly of the ecological values and the pristine environment at the island and describe the incredible experiences they have there with their families and children exploring nature. These values are precious and despite ongoing assurances in community consultation forums that recreational access will be maintained, many

of our supporters are already reporting changes to their accessibility because of activities and exclusions around the island.

There are recreation and commercial values of the area which are threatened by the presence of nuclear power submarines and foreign defence forces. The presence of nuclear waste and nuclear powered submarines dramatically changes the security needs of the area and we anticipate this proposal will see a build up of security led by foreign defence needs and security protocols.

We have also heard from local people who work on the island about the existing culture on the island with regard to the protection of the little penguin population and the natural environment and that there are concerns about those values with the presence of 700 foreign defence force personnel. It is important for ARPANSA to consider the impact of LLW on the little penguin population which we understand have nests in the rocks around the shores and where the proposed CIF and submarine activity is set to be located. We also understand that the little penguin population on Meeandip is genetically different from the little penguins on other islands, likely making this population endemic and threatened.

The buildup of activities at HMAS Stirling on Meeandip will dramatically impact the natural environment and on those who use Cockburn Sound and Garden Island for recreation and residents of Rockingham and surrounds. It is unclear at what point in the process these considerations about the location of the nuclear waste storage and porting and maintenance of nuclear submarines will occur and be open for public comment. For this licensing process we would like to make the point that the storing of LLW, should not be handled in a sensitive environment or stored near one of Western Australia's most intensive recreation areas, or in such close proximity to a built up suburban area.

The permanent presence of US and UK nuclear submarines and nuclear waste storage inherently makes HMAS Stirling, a nuclear waste storage facility and the nuclear submarines a military target. If attacked the radiation risks threaten Cockburn Sound, Shoalwater Bay Marine Reserve and the communities facing Cockburn Sound, Rockingham, Kwinana, Cockburn and Fremantle. The licence application document fails to mention this risk, how those risks will be mitigated and any emergency responses to different scenarios.

We are also aware that there are significant cultural stories connected to the island and advocate for the strongest possible standards of heritage protection and working with First Nations communities in meaningful and participatory decision making regarding the cultural heritage values. For any submissions you receive on this point from First Nations community members we suggest you refer these on to Minister Plibersek as they are likely to have great significance. We note recent comments by the UN Committee on the Elimination of Racial Discrimination just last week which condemned the WA Aboriginal Heritage laws and repealed 2023 laws. Given the recent history and issues arising following Juukan Gorge, issues of Aboriginal Heritage must not be sidelined.

We have significant concerns about the environmental impacts, ground water and climate change impacts and impacts on the amenity and social and cultural values of the region. In the case of accidents, leaks or spills the consequences in such an ecologically sensitive and populated area the impacts would be significant and lasting. This is not a suitable location for the storage and handling of low-level nuclear waste.

Waste Classification

We are extremely concerned the ARPANSA Licence Submission Overview of the ASA application contains misleading information in regard to the relevant level of waste.

On page 2 it is stated that the facility will “receive, manage, treat, decontaminate and temporarily store solid and liquid, low-level radioactive material generated from the submarines during their operations. The low-level radioactive waste management activities are similar to those that occur in over 100 locations nationwide, including hospitals, science facilities and universities.” However it is our understanding that the low-level waste generated by hospitals and universities is in effect very short lived waste (VSLW) or very low level waste (VLLW), and does not require the same degree of managing and storage safeguards as “LLW” generated by a naval or other nuclear reactor.

Hence as evidenced by [Australia’s National Inventory of Radioactive Waste 2021](#), we suggest that equating the LLW to be stored at the ASA’s proposed CIF to hospital and university waste is deceptive. Furthermore we note this same misleading comparison has been promoted at the recent community information Hubs held in Rockingham, Kwinana and Cockburn by the Department of Defence. We understand it has also been the position conveyed to the PSWM Alliance of local councils in engaging their support for AUKUS and the infrastructure developments needed at HMAS Stirling, including the CIF.

Temporary Storage

The storage of waste at HMAS Stirling is said to be temporary. There is however little description of how long it is anticipated waste would be stored there and options for future permanent disposal.

This is critical because in the absence of a Federal low level radioactive waste (LLW) facility the idea that this site will be temporary is unrealistic. The Federal government has made several attempts to secure a low-level radioactive waste site for over forty years. There is no indication that the Federal government has changed its approach and so it is unclear if there is a pathway forward to establish a LLW facility. We are deeply concerned about draft legislation that seeks to regulate nuclear waste from submarines from within the Department of Defence. We are concerned this will lead to a lack of transparency and accountability and evade public scrutiny and engagement with First Nations communities on whose land the DoD may seek to establish a waste facility.

Furthermore, the current text of the Australian Naval Nuclear Power Safety Bill (2023) leaves the door open to Australia accepting HLW from the US and UK. We are hopeful that Australia will never actually acquire nuclear powered submarines, we are conscious that the AUKUS pact and Force Posture Agreement (FPA) already means that there is and will be pressure to take foreign nuclear waste.

The Australian Naval Nuclear Power Safety Bill (ANNPS) also would create an internal regulator responsible only to the Minister for Defence. We are deeply concerned about the lack of transparency and the serious risks of having defence in control of nuclear waste and materials which pose a public health and security risk. The consultation documents do not describe the legislative framework which would apply to this facility and the ongoing monitoring and maintenance and public reporting about the site. This is troubling, we hope ARPANSA can assist in providing clarity on the future policy framework for this proposal and subsequent proposals at Osborne in South Australia.

Recommendations:

We recommend that ARPANSA:

- do not approve this licence given the environmental sensitivity of the area, the close proximity to high density population, the popularity of the area for recreation and fishing and the discrepancies in the exact level and type of waste entailed.
- request that the proponent provide a range of alternative solutions for radioactive waste management and analysis on those alternative options.
- advise the proponent to present the alternative options to the community for consultation and consideration.
- directs the proponent to develop a process for Free Prior and Informed Consent with the relevant First Nations communities and that it undertakes that process.

For any clarification or questions please contact.

Mia Pepper
Nuclear Free WA

[REDACTED]
[REDACTED]

Leonie Lundy
Stop AUKUS WA

[REDACTED]
[REDACTED]