

Australian Conservation Foundation (ACF) comments on JSCOT's consideration of the Nuclear-Powered Submarine Partnership and Collaboration Agreement between the Government of Australia and the Government of the United Kingdom and Northern Ireland

September 2025

ACF

The Australian Conservation Foundation Inc (ACF) was founded in the mid-1960s and is Australia's lead national environment organization and advocate for the environment.

ACF is strictly non-partisan and we are proud of our political independence.

ACF and AUKUS

ACF holds serious concerns around the AUKUS Agreement, especially the nuclear submarine acquisition project. These concerns include environmental and waste management impacts, nuclear security and safety, costs and consequences and the way this initiative has been advanced.

ACF maintains that there needs to be broader examination of the AUKUS proposal. We support federal crossbench and civil society calls for further scrutiny into the cost and rationale of AUKUS as well as related issues of nuclear proliferation, emergency management, and waste management.

The approach of successive Australian national governments in assessing AUKUS to date has been highly constrained and has failed to address genuine concerns over the Agreement's strategic foundation, rationale and intergenerational implications.

Sadly, this constrained approach continues and is highlighted in the National Interest Analysis (ATNIA 7) of this proposed Agreement: "No public, industry or non-governmental consultation has been undertaken as the Agreement relates to national security and operational capability matters".

In September 2021, the acquisition of nuclear-powered submarines was described by the Australian Chief of Navy Vice Admiral Michael Noonan as "the single most consequential capability decision" and one that would "no doubt change the shape of our nation".

Given the profound – indeed nation changing - strategic, safety, environmental and economic implications of this decision there has been scant public or Parliamentary scrutiny of the AUKUS project in Australia.

ACF maintains this approach actively reduces scrutiny, precludes the credible and comprehensive consideration of the many complex issues and undermines community confidence, procedural credibility and social license.

Scope of ACF concerns

ACF concerns around the AUKUS Agreement include:

- ❑ Radioactive waste management issues and impacts
- ❑ First Nation and wider community consultation, consent and social license
- ❑ Nuclear security, safety and non-proliferation considerations
- ❑ Environmental and public health risks and impacts, esp. from nuclear materials
- ❑ Constrained and unproven emergency management and nuclear incident response capacity
- ❑ Opaque and inadequate licensing and nuclear regulation
- ❑ Political uncertainty, especially with the Trump Administration and moves to seek pre-deployment commitments
- ❑ Untested assumptions over Agreement partners capacity to deliver and limited risk assessment or contingency planning in the event that they do not
- ❑ Mission creep - including proposals to extend AUKUS operations to Space and continuing concerns around radioactive waste
- ❑ Environmental and social opportunity costs due to massive capital diversion
- ❑ Avoidance of scrutiny through the systematic application of national security transparency exemptions

ACF recommendations for JSCOT's consideration

- ❑ That Australia demonstrates its nuclear non-proliferation commitment by signing the UN Treaty on the Prohibition of Nuclear Weapons (TPNW) before any further advance of the AUKUS project.
- ❑ That JSCOT supports the broad civil society and federal cross bench call for a comprehensive Parliamentary Inquiry into AUKUS.
- ❑ That JSCOT notes that both our AUKUS partners are currently holding domestic reviews into the AUKUS arrangement and recommends no advance of this Agreement until these reviews have been completed and any findings considered.
- ❑ That this Agreement is not advanced prior to the completion of a dedicated arrangement pursuant to Article 14 of the Australia-IAEA Comprehensive Safeguards Agreement.
- ❑ That JSCOT seek clarity on the proposed management and disposal pathways for AUKUS radioactive waste before advancing this action. This should include Australia's plans and an examination of the actual experience of waste management by our AUKUS partners.
- ❑ That JSCOT recommend that the principle of Free, Prior and Informed Consent (FPIC) be adopted and formalised as the foundation guidance for AUKUS radioactive waste management and siting policies and practises.
- ❑ That JSCOT recommend further assessment of the new AUKUS nuclear regulator, the Australian Naval Nuclear Power Safety Regulator, particularly in regard to its

transparency and consistency with best international practise around functional separation.

- That JSCOT seek further quality assurance on the robustness of UK design and approval mechanisms given the closure of the Naval Reactor Test Establishment (NRTE) and the subsequent reliance on computer modelling rather than empirical evidence.
- That JSCOT further examine the adequacy and possible implications of the Agreements waiver, liability and indemnity provisions given the history of significant project delivery delays and cost overruns.
- **That this Agreement should not be advanced in its current form or without further detail and scrutiny.**

ACF concerns with the Nuclear-Powered Submarine Partnership and Collaboration Agreement (referencing ATNIA 7)

- 4 - ACF maintains that Australia's diplomatic note to action this Agreement should not pre-empt the conclusion of a planned arrangement pursuant to Article 14 of Australia-IAEA Comprehensive Safeguards Agreement
- 7/8/9 – ACF maintains that the rationale for the wider Aukus Agreement has not been robustly tested and that the claimed national interest benefits have never been proven. Aukus has never enjoyed social license for the simple reason that as from when it was first announced it has never sought it. The entire Aukus process has been highly secretive and politicised and the absence of social license will continue to constrain and erode support for this project.
- 9 – ACF strongly supports the concept of a “peaceful, stable, and prosperous Indo-Pacific region and support of the international rules-based order” however we question whether acquiring nuclear powered submarines is the best way to realise this. ACF holds that the best single step Australia could take to advance this outcome would be to instead sign and ratify the Treaty on the Prohibition of Nuclear Weapons (TPNW).
- 13 – As stated above, the essential mechanism to demonstrate the “highest non-proliferation standard in Australia's acquisition of SSN's” is Australian adoption and compliance with the TPNW. This would provide clear guardrails against potential future mission creep and Aukus interpretation and send a clear non-proliferation message.
- 17 – The planned action would see the UK ‘lead the development and approval of the common design’. This is despite considerable concerns over the efficacy of UK nuclear submarine design and construction. It would be prudent to have a more

independent approval process, especially given the dependency on computer modelling in UK design and development. This vulnerability has been heightened by the closure of the Naval Reactor Test Establishment in 2015. In the decade since empirical leading research has been replaced with computer modelling. The planned AUKUS SSN's would be the first UK designed submarines development without the ground-truthing provided by NTRE input. There should be greater assessment and assurance mechanisms, rather than first of a kind exposures to Australian service personnel and taxpayers.

- 18 – the planned Agreement would see more frequent and extended visits and rotations of UK nuclear submarines at HMAS Stirling in WA. This has been advanced without adequate or open assessment of safety, security and environmental risks, revised emergency management and combat agency capacity or meaningful consultation with local communities. This work should be done before an action that 'requires' the enabling of these visits is advanced.
- 18 - There is negligible analysis of radiological threats or approaches to both minimise and manage these in relation to training, skills and capacity assessment, equipment and resourcing and wider radiation response procedures. The proponent may argue that these are not required at this Treaty stage and will be addressed in subsequent licensing processes. Such an argument fails to address legitimate community concerns and reflects a modular project approach which is not appropriate given the Agreement's gravity, scale and consequence.
- Further ACF holds deep concerns over the lack of independence with the newly formed dedicated AUKUS nuclear regulator – the Australian Naval Nuclear Power Safety Regulator – which is set to take full carriage of AUKUS nuclear safety and waste regulation from November 1, 2025.
- The new regulator is located in the Department of Defence and both reports to, and can be directed by, the Defence Minister. ACF maintains that this formulation is inconsistent with the International Atomic Energy Agency (IAEA) standard on independence in regulatory decision making which requires 'functional separation' between the regulator and the activity that is being regulated. From its foundation this approach fundamentally undermines community and stakeholder confidence in the credibility, rigour and independence of the new regulator.
- The Regulator's stated primary responsibility is to "provide assurance to the Australian community that the naval nuclear propulsion (NNP) facilities and material activities conducted within the Designated Zones maintain the safety and health of the public and the surrounding environment". ACF holds that the new Regulator will be constrained from realising this goal due to both the clear perception and operating reality of a lack of regulatory independence.
- There is a disturbing lack of commitment to public disclosure and reporting throughout the regulatory regime. A key concern is the lack of guidance or articulation around the scope and discretion of the Director-General to not make

matters of clear public interest available for publication or disclosure if they hold the opinion that doing so “may prejudice the security or defence of the Commonwealth”. This discretion needs defined or else it will prioritise Defence’s definition of ‘need to know’ over all other stakeholders and views.

- 20 – ACF restates that a pivotal assurance mechanism that Australia could and should undertake to address nuclear proliferation sensitivities and to ensure that we “do not assist in the manufacture or acquisition of any nuclear weapons” is to sign and ratify the Treaty on the Prohibition of Nuclear Weapons. ACF urges JSCOT to make a clear recommendation to this effect.
- 21 – The questions of nuclear safety and handling and radioactive waste management are deep concerns to ACF and matters we have consistently raised. These are also widely shared across civil society, public health and community organisations and to date have not been meaningfully engaged with or addressed by AUKUS proponents.
- Australia has scant clarity, expertise or capacity for High Level Waste (HLW) management or disposal. Our far more experienced AUKUS partners have no demonstrated disposal pathways in the respective nations. ACF maintains that it is deeply irresponsible to advance an inter-generational waste making activity in the absence of an open, credible and proven method of addressing that waste. Australia’s divisive, long running and unresolved experience with the management of our existing national inventory of radioactive highlights the need for integrated and early planning, contingency development and disclosure.
- It has been stated that future HLW will be managed on ‘current or future’ defence estate. This lack of certainty and the ability of land to be readily classified as a ‘designated zone’ and hence suitable for future HLW siting is deeply disturbing. ACF urges JSCOT to recommend some clarity and guidance around waste management – particularly by supporting the foundation principle of Free, Prior and Informed Consent (FPIC) in all future AUKUS waste discourse and planning.
- FPIC: The UN Declaration on the Rights of Indigenous People’s (Article 29) maintains that: *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 peoples without their free, prior and informed consent.*

Adopting FPIC would also align with the clear guidance provided by the UN Special Rapporteur on Human Rights and Toxics following their 2023 mission to Australia.

In September 2024 the final report on this mission found “a disconnect in narratives between authorities’ efforts and the lived experiences of local communities, Indigenous Peoples, and workers in relation to toxics issues. *The proposed siting of radioactive wastes on the lands of Indigenous Peoples illustrates the lack of respect for rights contemplated in the United Nations Declaration on the Rights of Indigenous Peoples*” (our emphasis)

Further, the Special Rapporteur recommended that “the Government of Australia: (a) Amend the National Radioactive Waste Management Act to explicitly reflect the

United Nations Declaration of the Rights of Indigenous Peoples and the right of free, prior and informed Consent of Indigenous Peoples”.

FPIC is also consistent with the primary recommendation of the 2023 Senate Inquiry into the application of the UN Declaration on the Rights of Indigenous Peoples “that the Commonwealth Government ensure its approach to developing legislation and policy on matters relating to Aboriginal and Torres Strait Islander people (including, but not limited to, Closing the Gap initiatives) be consistent with the Articles outlined in the United Nations Declaration on the Rights of Indigenous Peoples”.

AUKUS related radioactive waste concerns are widespread, real and valid and the formal adoption of FPIC would help provide the clarity, certainty and responsibility needed to realise better management.

- Although not referred to in the NIA ACF welcomes the commitment in Article VI (E) of the Agreement that “Australia shall not receive, manage, store or dispose of any spent nuclear fuel from United Kingdom SSN’s”. This was not the case in the first drafting of the Australian Naval Nuclear Power Safety Bill and it is critical that AUKUS does not become a gateway to Australia hosting foreign radioactive waste. ACF believes that extending the scope of the formal block on foreign waste should be expanded to include intermediate and high level wastes, not simply spent nuclear fuel.
- 28/29 – Given the history of significant delays in project delivery and massive cost overruns it does not seem good or prudent practise for the receiving party to waive all claims for liability. ACF suggests that this waiver requires further specific attention and review from JSCOT.
- 31 – In light of the above concerns over cost and delivery overruns the lack of recourse to any external dispute settlement mechanism is not prudent and should be revisited by JSCOT.
- 33 – Consistent with efforts to make sure “that all measures have been taken to ensure Australia’s compliance with the Agreement” ACF urges JSCOT to recommend no advance of the proposed action until, at least, Australia has completed the IAEA s.14 additional agreement and advanced signature of the TPNW.
- 38/39 – ACF finds the assertion that it is “not possible to estimate costs that will be incurred in connection with the Agreement at this time” to be both extraordinary and unacceptable. Many Australians are experiencing a genuine cost of living crisis and not only is this massive expenditure uncoded but the Office of Impact Analysis maintains that an impact analysis is not required. This approach will simply not be seen as credible to a great many Australians and will be a further continuing weakness as this project comes under growing scrutiny.
- 41 – ACF holds that it is unacceptable that a treaty action with such significant costs and consequences is being advanced to be operative until 31/12/2075 on the basis of so little scrutiny or detail.

- Consultation: The incorrect naming of the national civil nuclear regulator is a forgivable error – the persistent refusal to engage with the broader Australian community is not.
- The statement that “No public, industry or non-governmental consultation has been undertaken as the Agreement relates to national security and operational capability matters” reflects a persistent and deeply unacceptable pattern of evasion and the unhelpful and unjustified use of a national security lens to avoid legitimate scrutiny.

ACF urges JSCOT to recommend and require wider scrutiny and transparency around this Agreement and the wider AUKUS project.

The importance of such transparency was well made by the House of Lords in *R v Shayler* (2003):

Modern democratic government means government of the people by the people for the people. But there can be no government by the people if they are ignorant of the issues to be resolved, the arguments for and against different solutions and the facts underlying those arguments. The business of government is not an activity about which only those professionally engaged are entitled to receive information and express opinions. It is, or should be, a participatory process. But there can be no assurance that government is carried out for the people unless the facts are made known, the issues publicly ventilated.

ACF maintains that this Agreement should not be advanced in its current form or without further detail and scrutiny.

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