

**Senator Shoebridge:** *I took ANSTO through four instances where this bill is not comparable to the existing ARPANSA provisions and safeguards. For the sake of time, could I ask if any of you, on notice, might like to share your views on whether or not those elements should be incorporated into the bill and, if so, how?*

I note that from the Hansard record that the four items he refers to are as detailed below:

– p11. under ARPANSA the CEO must table a report of any serious accident or malfunction which occurs at a nuclear installation in each house of parliament within three sitting days of the incident occurring, and there's nothing at all comparable under this bill?

– p11. Section 41 of the ARPANS Act requires that if directions are given in order to protect the health and safety of people or to avoid damage to the environment or because there's a risk of death, serious illness, serious injury or serious damage to the environment, the minister must table those directions in parliament within 15 sitting days.

– p12. ARPANS Act establishes three bodies to advise the CEO, including the Radiation Health and Safety Advisory Council, the Radiation Health Committee and the Nuclear Safety Committee, and the act requires at least one member of each advisory body to be a person to represent the interests of the general public? And before making the appointments, there's a public consultation process? ...

There's none of that in this bill, not one equivalent provision, not one separate council, not one separate body, no reference to the interests of the general public,...

– p12,13. It requires that the exercise of the power or discretion or the performance of the duty or function is authorised by this act only to the extent that the exercise or performance is not inconsistent with Australia's obligations under the relevant international agreements, and there are the critical international agreements on nuclear safeguards.

We feel it is vital that Australia's compliance with its nuclear non-proliferation and safeguards obligations be at least maintained and not in any way eroded as a result of the proposed bills. Indeed a convincing case could be made that the advent of unprecedentedly large volumes of directly weapons usable highly-enriched uranium in Australia, powering both visiting and Australian submarines, requires even greater diligence, accountability and transparency in fulfilling our safeguards obligations.

We emphasised this in our submission. For convenience I am including below a relevant extract and the associated recommendation from our submission:

***“2.2 Australia's non-proliferation obligations and effective application of nuclear safeguards***

The proposed ANNPS Bill (Section 133) and the ARPANS Act (Section 9) have an important difference relating to their interaction with the *Nuclear Non-Proliferation (Safeguards) Act 1987*. The ARPANS Act (Section 84) requires that “the exercise of the power or discretion or the performance of the duty or function is authorised by this Act only to the extent that the exercise or performance **is not inconsistent** with Australia’s obligations under the relevant international agreements.”(emphasis added)

The ANNPS Bill in Section 133 gives primacy to the ANNPS Bill over the Nuclear Non-Proliferation (Safeguards) Act 1987, in stating: "This Act [the Non-Proliferation Act] does not exclude the operation of the *Nuclear Non-Proliferation (Safeguards) Act 1987*, to the extent that the *Nuclear Non-Proliferation (Safeguards) Act 1987* is capable of operating concurrently with this Act."

Section 136 of the proposed ANNPS Bill only requires that: “If this Act confers a function on a person, the person **must have regard to** Australia’s obligations under any international agreement prescribed by the regulations in performing that function” (emphasis added). This is inadequate and concerning, and different from the ARPANS Act. Australia's non-proliferation obligations and effective application of nuclear safeguards must not be weakened by the planned nuclear-powered submarine acquisition.” ...

***“3. Australia's nuclear non-proliferation obligations and effective and consistent application of nuclear safeguards must not be compromised by the planned nuclear submarine acquisition.***

Any weakening of Australia's nuclear non-proliferation and safeguards regime or their application as a result of nuclear-powered submarine acquisition would be unacceptable.”

The other questions asked by Senator Shoebridge of ANSTO representatives in the public hearing extend somewhat beyond the mandate of ICAN. However our general position is that no aspect of public and parliamentary timely reporting, accountability and transparency; and no aspect of regulatory independence and inclusion of public representatives in advisory bodies for nuclear safety and radiation protection should be weakened by the planned nuclear-powered submarine acquisition.

Thank you for the opportunity to participate in the committee's public hearing and to provide this further comment.