

Marrickville Peace Group

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31 January, 2024

Foreign Affairs, Defence and Trade Committee
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Dear Committee Secretary,

We welcome the opportunity to contribute to the Senate Standing Committees on Foreign Affairs Defence and Trade concerning the Australian Naval Nuclear Power Safety Bill, 2023.

We are Peter Griffin and Craig Walters. We both live in the electorate of Grayndler and we are members of the Marrickville Peace Group.

We believe that the Bill must be rejected for the following reasons:

1. Nuclear safety aspects, concerns over public health hazards & environmental hazards

The AUKUS partnership is termed a “military technology partnership” and includes the much-touted nuclear-powered SSN-AUKUS submarines. It is important to note that very little is known about the wider and diverse aspects of the AUKUS deal as they are “classified” and have not been covered extensively in mainstream media. Propulsion of the SSN-AUKUS nuclear submarines is by a pressure water nuclear reactor (PWR). These nuclear reactors that will power the SSN-AUKUS submarines will not be built in Australia. They will arrive from either the UK or US in a sealed, welded power unit and will not require refueling during their expected lifetime. The partnership for Australia’s part, involves initially leasing 3 X Virginia class nuclear powered submarines from the US Navy and the manufacture and use of 5 X nuclear-powered SSN-AUKUS submarines later. It also includes a commitment for Australia to manage the disposal of the medium-level waste (MLW) and high-level nuclear waste (HLW) at the end of the service life of the working nuclear reactor units (when the submarines are decommissioned from service)

The potential harmful effects to people, communities, and the environment of both the leased Virginia class nuclear powered submarines and the newly built Australian SSN-AUKUS nuclear-powered submarines fall into four categories:

1. Those deriving from a reactor accident or a core-meltdown on board the submarines, whilst at sea or whilst in port.
2. Those deriving from the normal operations of the nuclear submarines, whilst at sea or whilst in port. This primarily relates to the possible release of radioactivity during normal operations and maintenance activities.
3. Those deriving from the handling, transportation, and storage of the spent fuel (mainly HLW) from the submarines’ nuclear reactor units. This is highly enriched

uranium (HEU) and it needs to be disposed of at the end of the AUKUS submarines life (when they are decommissioned from service.)

4. Those deriving from radiation exposure following the event of a military attack from a foreign hostile adversary, or domestic terrorist attack, sabotage or theft of spent radioactive fuel (HEU) from the submarines' reactors (weapons-grade nuclear fuel) at Australian ports, port communities, nuclear zones waters and seas.

An Australian AUKUS nuclear submarine program (Australian SSN-AUKUS submarines) will need extensive and complex port facilities. The Australia Naval Nuclear Power Safety Bill 2023 allows for AUKUS nuclear powered submarines and allows for regulated activities in "nuclear waste management, storage and disposal" at AUKUS facilities in future nuclear zones to be authorised under Section 135 of the Bill. Two such operating bases or nuclear zones have been identified thus far: Osborne Naval Shipyard, Port Adelaide, South Australia, and HMAS Stirling Naval Base on Garden Island, near Fremantle in Western Australia. These bases / nuclear zones, and perhaps others yet to be prescribed, for example on the East Coast of Australia, (as under the proposed legislation, there is scope for declaring other nuclear zones) would be a potential source of environmental contamination if radioactivity were to escape from the nuclear submarines for any reason. These operating bases would have facilities for running repairs and minor maintenance and a training plant. One site at least, Osborne, will be a construction site for the newer Australian SSN-AUKUS submarines which have been planned as part of the program. To support this program, it is necessary to have a comprehensive system of environmental monitoring and controls, including technologies and personnel capable of dealing with emergency situations.

The Medical Association for the Prevention of War is concerned. In their Safety Brief from January 2023, they state that: "Naval nuclear reactors, like all nuclear reactors, pose potential serious risks for people and the environment. But unlike other reactors, most information about naval reactors is kept classified, and it can be difficult to say how safe they are, and in what ways they are safe" (<https://www.mapw.org.au/nuclear-powered-submarines-safety/> accessed 30 January, 2024)

Serious naval nuclear accidents are infrequent, but catastrophic accidents on board nuclear submarines are possible and are not unknown. There was a total of 8 nuclear-powered submarines that have sunk because of accidents at sea between 1963 and 2003 - two because of fires, two by weapon explosions, two by flooding, and one each from storm damage and for unknown reasons. These contributed substantially to the already widespread radioactive pollution resulting from naval reactors. The most recently reported fatal accident was a fire in a Russian nuclear submarine in 2019, which killed 14 people. (<https://navalpost.com/how-many-nuclear-submarines-have-been-sunk/#:~:text=Nine%20nuclear%20submarines%20have%20sunk%2C%20either%20by%20accident%20or%20scuttling> accessed 30 January, 2024)

One of our allies in the AUKUS program, the US Navy, has lost two nuclear submarines, the "Thresher" (in April 1963) and the "Scorpion" (in May 1968) with the loss of all lives on board. Neither disaster was reported to have involved a reactor accident. However, the submarines and nuclear reactors onboard and possibly nuclear weapons in the submarines have never been recovered. They remain more than two kilometres at the bottom of the Atlantic Ocean.

Unintentional releases of radioactivity are also possible. It is very disturbing that accidents of this type are likely not to be made public by the military as they are highly classified. For example, David Kaplan of San Francisco's Center for Investigative Reporting, spent a year

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looking into the environmental impact of marine nuclear reactors world-wide. In his 1983 article, titled: “When Incidents are Accidents: The silent saga of the Nuclear Navy”, Kaplan writes that:

-serious problems have befallen US naval reactors.....including at least thirteen accidental discharges of radioactive material in coastal areas.

-nuclear vessels frequently encounter difficulties which could lead to nuclear accidents, including flood, fires, and mechanical breakdowns. Although most of these incidents go unreported, Kaplan revealed that there have been 126 in the period from 1954 to 1983.... disturbingly over 25% of the events involved problems related to the nuclear power plant. (David E. Kaplan: “When Incidents are Accidents: the silent saga of the Nuclear Navy” in “Oceans” Volume 16, No 4, July-August 1983, pp.26-33)

So from this evidence above it can be inferred that there will be probable future accidents in our ports and waters, especially given the current civilian nuclear regulator ARPANSA’s assessment that emergency arrangements in Australia, “are not fit for purpose for a future with nuclear-powered submarines”.(<https://www.arpansa.gov.au/sites/default/files/documents/2023-03/RHC%20Letter%20to%20the%20CEO%20-%20Regulatory%20principles%20for%20nuclear%20powered%20submarines%2C%20October%202022.pdf>, accessed 30 January, 2024)

International Physicians for the Prevention of Nuclear War have also raised a very relevant concern in this regard due to Australia lack of experience with nuclear-propelled submarines system in general : “Australia's lack of nuclear, scientific, engineering, management and regulatory capacity and experience will inevitably mean that more is likely to go wrong building and operating nuclear submarines. If something does go wrong with one of its nuclear submarines, the likelihood of it being quickly and effectively managed is reduced and the risks of radioactive release in a port city or into the marine or coastal environment is increased.” (<https://ippnweupdate.files.wordpress.com/2021/09/ippnw-statement-nuclear-subs-letterhead-21.9.21.pdf>, accessed 30 January, 2024)

Therefore, in the light of this evidence and strong probability of accident(s), key questions of public interest which the Government need to answer and make public regarding nuclear safety with respect to the proposed new Act are:

- In the event of a future accident on board the nuclear submarine whilst at sea or whilst in port, what is the plan for distribution of stable iodine to naval personnel, communities, and port workers?
- Will communities be consulted and educated on accident response plans in relation to possible accidents, as is best practice in all WH&S field? Will there be training “Fire drills” or rehearsals for personnel and community members re response plans?
- What is the existing radiation emergency capability in current and proposed nuclear submarine port sites?
- Will local health and medical services be consulted and involved about response plans?
- 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 submarines at Australia’s nuclear zones 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?

Australian Defence Minister, Mr Richard Marles, has made a commitment to manage low and intermediate-level radioactive waste (LLW and MLW) from routine operations from 2027, and to manage intermediated-level and high-level waste and spent fuel (mainly HLW with some MLW) from the nuclear reactors on the submarines from around 2060 (when the first submarines are decommissioned). The spent fuel is highly enriched uranium (93-95% enriched) and must be stored in thick drums deep underground in stable, dry rock formations for hundreds of years. It will need to be heavily guarded by troops given that this HEU is weapons-grade. This greatly exacerbates the storage and disposal problem and introduces new and significant risk that Australia has not dealt with before. Defence Minister, Mr Marles, has said that he will identify the dump site / burial site in early 2024 on Defence land. It seems likely that the burial site will be in land in outback South Australia, remote to populations. This makes the most likely site to be Womera Prohibited Area (WPA). This land important to Australia's Aboriginal people. It is likely that the SSN-AUKUS submarine program has already required the Australian Government to give strong commitment to AUKUS to store large quantities of weapons-grade, HEU, spent nuclear fuel from the nuclear propelled submarine, on the unceded lands of Australia's First Nations people. If this is the case, it would be essential to extensively consult with First nations Peoples on issues of hosting high-level nuclear waste on their land from the start.

Indigenous people have up to the present been very opposed to having nuclear waste being stored on their land. For example, the Federal Government plans for a nuclear waste dump near the South Australian town of Kimba were discontinued after the traditional owners of this area, the Barngarla people, won a Federal Court of Australia challenge. The Defence Department must commit to comply with and respect the UN Declaration on the Rights of Indigenous People, Article 29, provision of Indigenous People s right to "Free, Prior and Informed Consent" over storage or disposal of hazardous waste on their lands. Indigenous people have a right to say "No" to this proposal, and this must not be overridden. If the Australian Government did override this right, it could be justly said that this Act contains racist elements that override cultural heritage protections established by the States and Territories of Australia.

On 8th September in 2023, in Canberra, Dr Marcos Otellana, the UN Special Rapporteur on Toxics and Human Rights, made his end of mission statement about Australia, after hearing from a diverse range of experts on the implications for human rights due to the management of hazardous substances. Dr Otellana noted the particularly acute distance between the Government and Indigenous peoples: "It is instructive that all siting initiatives by the Government for a radioactive waste repository have failed, leaving a legacy of division and acrimony in the communities". The loss of lives and songlines resulting from exposure of Indigenous peoples to hazardous pesticides in the Kimberley region, from asbestos exposure in Wittenoom in Western Australia, and from the radioactive contamination following nuclear weapons testing South Australia, are all open wounds. "Alignment of regulations with the UN Declaration on the Rights of Indigenous Peoples is a critical step in the path towards healing open wounds of past environmental injustices," (<https://www.ohchr.org/en/press-releases/2023/09/australia-deep-divide-between-government-and-community-narratives-toxics> , accessed 30 January, 2024)

It is inevitable that the inexorable pressure to find a location for HLW storage in Australia will oblige the identification and claiming of land which, until now the Commonwealth

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Government has been blocked by either States' or First Nations' community rights. This will have a very negative effect on the lives of First Nations' people.

Refer to Bill, Subdivision C-Facility activities, Section 11e (decommissioning of naval nuclear propulsion reactor NNP) & f (disposing of naval nuclear propulsion reactor NNP). The key words that raise alarm bells are in a designated zone. In Subdivision B, Section 10-Regulated activities and designated zones 2(c): any other area in Australia that is prescribed by the 21 regulations to be a designated zone.

In other words, any other area in all of Australia, Defence land can be declared to be a designated zone for disposal and long-term storage of high-level nuclear waste material from decommissioned nuclear reactor units without reference to State or Territory rights.

In Australia, the historical record and context of the problem of finding suitable technologies and a designated safe storage site for disposing of nuclear waste is not at all reassuring. It is very concerning that after 70 years of a civil nuclear industry, and, despite many goes and many flawed and failed attempts at interim storage, Australia has no current plan for disposal of even the much smaller amount of its existing intermediate level radioactive waste. Dr. Ian Lowe, Emeritus Professor from Griffith University, states that Australia has no long-term storage facility or site to manage even our low level and intermediated nuclear waste from nuclear medicine and laboratory research. This is mainly due to proposals for storage sites being thwarted by strong local opposition. Professor Lowe states: "We still have no system for managing our low-level radioactive waste let alone the much more intractable waste from nuclear submarines," (<https://theconversation.com/australia-hasnt-figured-out-low-level-nuclear-waste-storage-yet-let-alone-high-level-waste-from-submarines-201781>, accessed 30 January, 2024)

Currently, there is no national nuclear waste repository, for any designated level of nuclear waste in Australia. Low-level nuclear waste (LLW) is stored in over 100 sites throughout the country. Medium-level nuclear waste (MLW) is said not to exist, but in an awkward double-speak "if it did exist ...Lucas Heights is the place." However, it is said that the Lucas Heights, ANSTO facility, is reaching capacity and that a new repository is needed to facilitate the practice of nuclear medicine. High-level nuclear waste (HLW), like the spent fuel from the nuclear subs, is said not to exist, and certainly there is no official (approved) HLW site in Australia for this yet.

The potted record of the long and fruitless search for a viable and safe national nuclear waste repository is contained in the link below. Included in this report is the history of States rights withstanding Federal override.

(https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/PU1T6/upload_binary/PU1T6.pdf;fileType=application%2Fpdf#search=%22library/prspub/PU1T6%22, accessed 30 January, 2024)

Another relevant concern relating to this proposed Act is that neither the US nor the UK has developed a high-level nuclear waste repository since the first nuclear powered submarines went to sea over 60 years ago. This makes the claim in the AUKUS fact sheet of "nuclear stewardship" ring very hollow. (<https://www.asa.gov.au/aukus/nuclear-stewardship-waste>, accessed 30 January, 2024) Good planning regarding safe nuclear waste disposal or even very basic care and "nuclear stewardship" has not been demonstrated by our allies thus far in over

60 years. They have “kicked the can down the road” and delayed making decisions and have been very poor nuclear stewards indeed.

It is also possible that the US Navy and the UK Navy, through their governments, might put diplomatic pressure Australia into securing their waste from their nuclear submarines. This is due to the way the Bill defines “an AUKUS submarine” including UK and US nuclear submarines. Therefore, UK and US nuclear submarine material or equipment can be maintained, stored, or disposed of in Australia. The Bill could open a door to Australia becoming the dumping ground for tonnes of high-level nuclear waste from the US and UK nuclear submarine fleets, which these nations have not as yet disposed of. So AUKUS could mean we take on this huge additional waste stream. Central Australia may become the general AUKUS nuclear waste dumping ground. It should be noted that ALP National Platform (2021, Statement 8d) includes a section on nuclear waste and makes a specific commitment to oppose overseas waste: “Labor will: remain strongly opposed to the importation and storage of nuclear waste that is sourced overseas in Australia” (<https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf>, Uranium pp,96-98, accessed 30 January, 2024)

Assuming a suitable site is found for the intermediate-level and high-level nuclear waste for the nuclear subs waste is found, what are the plans to guarantee safe transport of nuclear waste from the ports or nuclear zones cross the country to the high-level nuclear waste repository? Radioactive transportation incidents and accidents are routine occurrences through the world.(see <https://nuclear.foe.org.au/wp-content/uploads/SA-Joint-Select-Committee-FoE-ACF-CCSA-final-transport-only-2020.pdf>, accessed 30 January, 2024).

Transporting highly enriched uranium (weapons-grade nuclear fuel) to the dump from the ports would be very dangerous and introduce a huge security risk. In the United States HEU has been stolen and perhaps diverted to nuclear weapons. In Apollo, Pennsylvania, at the plant of the Nuclear Materials and Equipment Corporation after an inventory, NUMEC was found to be missing about 100 kilograms of bomb-grade uranium, even after accounting for all processing losses.(
<https://thebulletin.org/2014/04/did-israel-steal-bomb-grade-uranium-from-the-united-states/> accessed 30 January, 2024)

There are also serious concerns about the deficit in the proposed Australian Naval Nuclear Power Safety Bill, 2023, of any clear, precise, technical safety standards on nuclear waste handling and nuclear propelled submarines. The categories used are extremely general and vague and lack precise definition. For example, Section 5 subsection 2 defines what is “reasonably practicable” to nuclear ensure safety in relation to duties imposed on a person under subsection 18(1), 20(1), 22(1) or 24 (1) These standards are taken verbatim from the Work Health and Safety Act 2011, which means the same standards we have for working at McDonald’s or Australia Post are what we are using for nuclear waste.

2. Override of State laws and State rights:

This Bill may allow for the regulator to override State and Territory laws that might conflict with where the Federal Government decides nuclear waste and nuclear submarines should be stored. With Subdivision C , Section 135, Operation of State and territory laws, reading: “If a law of a State or Territory, or one or more provisions of such a law, is prescribed by the regulations, that law or provision does not apply in relation to a regulated activity.”

The possible override of State and Territory legislation and the lack of transparency of the decision-makers of Defence is of great concern here. Defence may have the power to make new geographical determinations and nuclear zones and impose a nuclear waste dump.

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AUKUS may aim to compulsorily acquire land and declare a nuclear waste dump, with the override of State laws through this Bill.

For example, if the Federal Government wants to locate an AUKUS nuclear waste dump in Womera Protected Area (WPA) it will have to override existing South Australian law. Most of the WPA is State-owned Crown land and not Commonwealth-owned defence land. The Defence Department must declare whether the South Australian Nuclear Waste Storage (Prohibition) Act, 2000, which prohibits the import, transport, storage and disposal of intermediate level and high-level nuclear waste (ILW &HLW) will be complied with. The purpose of the South Australian (Prohibition) Act, is quite clear and should have priority in decision making: “The Objects of this Act are to protect the health, safety and welfare of the people of South Australia and to protect the environment in which they live by prohibiting the establishment of certain nuclear waste storage facilities in this State”

Does Defence intend to impose a high-level nuclear waste storage and disposal site on “remote lands” in South Australia? This needs clarification as a matter of urgency.

Commentary: In one simplistic override, the entire history of State / Federal relations on State Sovereignty in the face of attempted Federal incursions is swept aside. Specifically, the history of innumerable attempts by Federal agencies to claim storage sites for nuclear waste (all of which attempts have failed) are swept aside. It is, quite frankly, outrageous. The override of States and Territory rights contained in this legislation is a breathtaking disregard for both political and community rights, especially First Nations. This will set Australia back a long, long way.

3. No Independent Regulator:

In the Bill, Part 6, section 132, The existing “Australian Radiation Protection and Nuclear Safety Act 1998” is overridden and superseded in relation to regulated activities regarding nuclear submarines and does not apply and the new statutory agency The Australian Naval Nuclear Power Safety Regulator, which is located within the Defence portfolio, is to take precedence over the Civilian Nuclear safety Agency, ARPANSA. In this Bill, the before mentioned Australian Naval Nuclear Power Safety Regulator reports directly to the Minister of Defence. The Minister of Defence is to hold powers to direct the Naval Nuclear regulator during an emergency, citing “national security” and the role of the nuclear submarines. This is out of step with international standards of nuclear safety and also current practice in Australia.

This Bill fails to meet the fundamental principles of regulatory independence for nuclear waste which is international best practice. This is in direct opposition to the International Atomic Energy Agency (IAEA) in its “Fundamental Safety Principles” (Vienna, 2006) that states concerning the role of Government: “An effective legal and governmental framework for safety, including an independent regulatory body, must be established and sustained” (p7) and “ In the event that the licensee is a branch of government, this branch must be clearly identified as distinct from and effectively independent of the branches of government with responsibilities for regulatory functions” (p8) (https://www-pub.iaea.org/MTCD/Publications/PDF/Pub1273_web.pdf, accessed 30 January,2023)

In addition, it is also not congruent with the current regulation of nuclear waste in Australia. The Australian Radiation Protection and Nuclear Safety Agency ARPANSA sits within the Ministry of Health to ensure that bodies and agencies do not influence it in the industries it oversees. The paramount importance of regulatory independence was also outlined in a letter to the CEO of ARPANSA from the Chair of The Radiation Health and Safety Advisory Council, Dr Roger Allison in October 2022 about the urgent requirement for a very robust, independent, effective and transparent framework to deal with the “actual and perceived safety risks of nuclear powered submarines.”

Dr Allison commented: “Council highlights the importance of independence of the regulatory authority to ensure that the regulator cannot be influenced in its decision-making process by political or economic issues, or other unwarranted interferences and can exercise its functions effectively and efficiently. This includes making and being perceived by stakeholders to make independent and unbiased regulatory decisions. The IAEA has recommended how a country’s radiation safety, security and safeguards regulators can be effectively independent from undue influences on its decision making.

Independence of the regulator is a critical part of its effectiveness. The regulator should be independent of the operators and departments overseeing any aspect of purchase, manufacture, maintenance, and operation of the program. It is noted that some of the more significant global nuclear and radiation incidents have arisen from inadequate separation of responsibilities from regulatory capture.”

(<https://www.arpansa.gov.au/sites/default/files/documents/2023-03/RHC%20Letter%20to%20the%20CEO%20-%20Regulatory%20principles%20for%20nuclear%20powered%20submarines%2C%20October%202022.pdf> , accessed 30 January, 2024)

4. Deficit of community consultation and transparency:

This Bill will allow the Department of Defence to decide where high- level nuclear waste and nuclear submarines are stored and stationed. There is nothing in this Bill about community consent and consultation on this issue. And yet community trust and a social license are of critical importance regarding something as controversial and a new in policy terms to the Australian people as having their own nuclear submarine fleet. Integrity, transparency, and accountability are key to any confidence people will feel in a government process. Ultimately, responsibility for national actions and policy rests with normal people. So, if our government keeps the public “in the dark”, hiding essential information, and is not transparent about processes and decisions this is of great concern. This undermines our democracy. The Government would be advised to create multiple mechanisms, methods and opportunities for people have their say on this issue. There needs to be and a public discussion and debate about the issue of nuclear submarines.

One of the greatest barriers for civilian action and democratic rights is the secrecy and lack of transparency that regularly surround military programs. Already, in early 2023, our government has rejected an Australian Senate order to produce documents, including those about options to deal with operational waste from the nuclear submarines. The grounds for rejection were cited as “national security concerns” and “contrary to Australia’s national interests. The Radiation Health and Safety Advisory Council cautioned against using the smoke screen of national security concerns to “mask inadequate radiation safety protection of the Australian public, weaken regulatory authority, or inhibit transparency on matters of Australian public safety”.

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This action and blanket refusal to provide relevant information by the Government does not pass scrutiny by any mean but can be seen a tactic to conceal. As former independent South Australian senator, and submariner Rex Patrick said of this: “There are some things that should properly be kept secret around a submarine – but these things should not include nuclear stewardship, nuclear regulation, nuclear safety or how to deal with operational waste and spent fuel.” Patrick that this pattern of hiding important information of public interest about AUKUS has been consistent and has continued since the beginning of the program: “This AUKUS program has been orchestrated in total secrecy such that the government and Defence could get to a point of announcing a fait accompli without any debate or resistance,”(<https://www.theguardian.com/world/2023/mar/24/greens-attack-albanese-governments-deeply-unsettling-secrecy-on-submarine-nuclear-waste-plans> , accessed 30 January, 2024)

David Shoebridge, a Green senator from NSW and defence spokesperson, said of this :“The hiding of information at this early stage signals a deeply unsettling approach to future regulation, transparency and oversight of these nuclear submarines,” (<https://www.theguardian.com/world/2023/mar/24/greens-attack-albanese-governments-deeply-unsettling-secrecy-on-submarine-nuclear-waste-plans> , accessed 30 January, 2024)

The Government is following the same pattern as one of our AUKUS allies, the Government of the United Kingdom, who has also withheld information from the public about naval nuclear submarine safety. The Medical Association for the Prevention of War Safety Brief from January 20023 states alarmingly that: “The UK Defence Nuclear Safety Regulator (DNSR) stopped allowing the public to access reports about nuclear sub safety issues in 2017. Prior to 2017, the public was able to learn that there were numerous regulatory and nuclear safety breaches, and that the Regulator itself was understaffed and unable to properly function.”

“Legal appeals to gain access to safety reports issued after 2017 have been rejected on national security grounds. A judge ruled that the potential for hostile adversaries to gain information about nuclear subs outweighed public interest in safety issues.”
(<https://www.mapw.org.au/nuclear-powered-submarines-safety/> accessed 30 January, 2024)

Please accept this public submission and give consideration and response to the public interest matters raised above and to the concerns about this Bill which we have articulated.

Yours sincerely,

Peter Griffin

Craig Walters