

**Subject: Submission regarding the Nuclear-Powered Submarine Partnership and Collaboration Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland (NPSPACA)**

The NPSPACA is a foundational legal instrument for Australia's most ambitious defence undertaking: the AUKUS Pillar I initiative to acquire nuclear-powered submarines (SSNs). This submission aims to contribute to the Committee's examination by highlighting aspects relevant to Australia's national interest, optimizing benefits, and critically, managing associated risks and threats, in line with the Committee's mandate to inquire into matters arising from treaties and related National Interest Analyses.

## **1. Overview of the NPSPACA and its Contribution to Australia's National Interest**

The NPSPACA establishes a legally-binding framework for comprehensive bilateral cooperation between Australia and the United Kingdom on their respective SSN programs. This Agreement is **critical to achieving Australia's "Optimal Pathway"** for acquiring conventionally armed, nuclear-powered submarines for the Royal Australian Navy.

Key contributions to Australia's national interest, as outlined in the National Interest Analysis (NIA) and the Agreement itself, include:

- **Enhanced Naval Capability:** SSNs offer superior characteristics of stealth, speed, manoeuvrability, survivability, and virtually limitless endurance compared to traditional submarines. This capability uplift is deemed crucial for Australia to make a "credible contribution to maintaining strategic balance, deterring adversaries, and supporting the rules and norms that have long underpinned security and stability in our region".
- **Sovereign Capability and Industrial Capacity Building:** The Agreement is fundamental to Australia delivering a sovereign SSN capability by the early 2040s, elevating Australia's industrial capacity to produce and sustain advanced and interoperable SSNs by developing the necessary personnel, workforce, infrastructure, and regulatory systems. It facilitates cooperation across all aspects of production, operation, sustainment, and disposal of SSN-AUKUS vessels.
- **Stronger Bilateral Partnership:** The NPSPACA builds upon Australia's robust and enduring defence partnership with the UK, making legally-binding commitments for a new SSN class based on the UK's next-generation design, integrating technology from Australia, the UK, and the US (SSN-AUKUS).
- **Non-Proliferation Commitment:** A cornerstone of the program's justification is the unwavering commitment to upholding the "highest nuclear non-proliferation standard". The Agreement reaffirms Australia's non-proliferation approach and its consistency with obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the South Pacific Nuclear Free Zone Treaty, and safeguards agreements with the International Atomic Energy Agency (IAEA).

## **2. Key Elements within the NPSPACA Framework for Optimization**

The NPSPACA outlines several areas of cooperation designed to optimize Australia's SSN capability and broader strategic interests:

- **Common Design and Development:** The SSN-AUKUS vessels for both nations "shall have a common design," with the United Kingdom leading its development and approval, and Australia participating in the design process. This commonality is presented as key for interoperability and shared burden.
- **Personnel Exchange and Training:** The Parties are required to conduct, enable, or facilitate the exchange of military and civilian personnel to develop the necessary personnel and workforce for a sovereign SSN capability. This is crucial for transferring essential skills and expertise.
- **Industrial Base Enhancement:** Cooperation extends to enhancing and optimizing the collective and respective industrial capabilities to produce, sustain, and dispose of SSNs, including through facilities development, workforce growth, machinery acquisition, supply chain resilience, and Australian industry participation.
- **Port Visits and Rotational Presence:** The Agreement enables UK SSN visits to Australian ports and the intended rotational presence of a UK SSN at HMAS Stirling, Western Australia. This supports the development of Australian SSN capabilities and contributes to regional security.
- **Information and Material Transfer:** The Agreement facilitates the communication of information and the transfer of equipment and material, and provision of services, deemed reasonably required for its purposes, subject to mutually determined terms and conditions. This is essential for knowledge and technology transfer.
- **Bilateral Governance Framework:** A bilateral governance framework is established for effective implementation, ensuring appropriate oversight, consistency with other relevant frameworks, and transparency/communication measures.

### 3. Key Risks and Threats to Australia's National Interest

While the NPSPACA presents significant opportunities, it also codifies a "profound strategic gamble" exposing Australia to unprecedented and deeply interconnected risks. This report identifies critical-level risks, many of which are inherent in the program's structure and execution:

- **Unquantified and Potentially Significant Costs:** A primary financial risk is that it is **"not possible to estimate the costs that will be incurred in connection with the Agreement at this time"**. Costs will be negotiated on a "proportionate, justifiable, fair, and mutually transparent basis". This lack of upfront financial clarity, especially with an unprecedented AU\$123 billion contingency fund (50% of the median estimated cost), signals profound uncertainty and high probability of major unforeseen expenses. This is a significant threat as it commits Australia without a clear understanding of the full financial implications.
  - **Profound Opportunity Cost:** The forecast expenditure of up to AU\$368 billion will inevitably "cannibalize" the wider Australian Defence Force (ADF) budget, risking an unbalanced "hollow force" over the next two decades. Funding for readiness, munitions, and other essential capabilities may be sacrificed for a platform not fully operational until the 2040s.

- **Erosion of Strategic Sovereignty:** The deep integration with US and UK operational doctrines, command structures, and industrial ecosystems will **significantly constrain Australia's future foreign policy and defence autonomy**. The acquired capability is optimized for high-intensity coalition warfare alongside the US Navy, creating a de facto commitment that reduces Australia's capacity for independent strategic action.
  - **Alliance Reliability and Political Volatility:** The program is acutely vulnerable to shifts in US political priorities. A future US administration could delay, renegotiate terms, or cancel the transfer of Virginia-class submarines, leaving Australia in a catastrophic capability gap. The treaty provides no firm guarantees against such a contingency.
- **Systemic Industrial Fragility:** The entire program rests on the over-committed and underperforming submarine industrial bases of the United States and the United Kingdom. Both nations are struggling to meet their own domestic production and maintenance schedules, creating a **high probability of significant delays and cost escalations for Australia**. The NPSPACA legally binds Australia's submarine future to the UK's industrial performance, which is already facing severe challenges, with the SSN-AUKUS program effectively third in the queue for UK shipyard resources.
  - **Domestic Workforce Shortfall:** Australia faces the monumental challenge of creating a nuclear-qualified workforce of up to 20,000 people from a near-zero base, a major potential point of failure.
- **Perpetual Nuclear Waste Liability:** The treaty framework confirms that **Australia assumes sole and permanent responsibility for the high-level nuclear waste** generated by the submarines. This is a technically unsolved and politically toxic challenge that will impose immense security and financial burdens on Australia for millennia, with no proven final disposal solution available globally.
- **Legal Liability and Indemnification Burden:** The Agreement explicitly states that the **Receiving Party (Australia) waives all claims against the Providing Party (United Kingdom) for any liability, loss, costs, damage, or injury** arising from government-to-government transfers of equipment, material, or services (excluding nuclear risks, which are governed by the ANNPA). Furthermore, Australia is required to indemnify the UK for any liability, loss, costs, damage, or injury incurred by the UK due to Australia's breach of commitments regarding the use or disclosure of information. This represents a profound transfer of legal and financial risk from the UK to Australia, creating a significant and largely unquantified financial liability.
- **Absence of Public and Non-Governmental Consultation:** The National Interest Analysis for the NPSPACA explicitly states: **"No public, industry and non-governmental consultation has been undertaken as the Agreement relates to national security and operational capability matters"**. This is a significant threat to transparent and inclusive treaty-making. Critiques of the general treaty-making process highlight that a lack of detailed information and transparency impedes the government from receiving expert advice and leads to "unexpected impacts" for stakeholders. Civil society and union representatives consistently argue they lack equitable access compared to business, leading to "inadequate or tokenistic" consultation.
- **Lack of Independent Analysis and Scrutiny:** The NIA for the NPSPACA, like others prepared by the government, is seen by some stakeholders as lacking independence and "invariably reflects favourably on agreements without providing a genuine

analysis of their potential costs and benefits". This lack of independent scrutiny risks obscuring the true basis of expected gains and undermines public confidence.

- **Geopolitical Risks:** The AUKUS announcement has been viewed by China as a provocative act, contributing to escalating military competition and regional instability. Key ASEAN members, particularly Indonesia and Malaysia, view AUKUS with suspicion, complicating Australia's regional diplomacy and undermining ASEAN centrality.

## 4. Recommendations for Addressing Problems and Optimizing Australia's Position

To navigate these profound challenges and optimize Australia's national interest, a proactive, nationally-driven strategy for risk mitigation and enhanced governance is essential. This strategy must focus on reinforcing sovereign control, de-risking the industrial pathway, and hedging against potential failure points.

### 4.1 Reinforcing Sovereign Control and Program Oversight:

- **Establish an Independent, Statutorily-Empowered AUKUS Program Assurance Office:** This new body should report directly to Parliament and conduct independent, comprehensive audits of cost, schedule, and performance of the Australian Submarine Agency (ASA) and prime contractors, with unfettered access to data. This directly addresses concerns about governance and poor administration identified in past defence projects.
- **Mandate Five-Yearly "Off-Ramp" Reviews:** Legislate a requirement for formal, independent reviews of the entire AUKUS program every five years. These reviews must assess program viability against original objectives and present options for continuation, re-scoping, or termination, providing a structured mechanism to exit if risks become unmanageable.
- **Develop a Formal Alliance Risk Mitigation Strategy:** The National Security Committee of Cabinet should commission a classified strategy to actively manage the risk of US political volatility, including detailed contingency plans for US withdrawal or delays, exploring alternative pathways such as a modified UK-only partnership or an accelerated sovereign build.

### 4.2 De-risking the Industrial and Workforce Pathway:

- **Implement a Federally-Led National AUKUS Workforce and Skills Strategy:** A single, federally-led and funded national strategy is needed to consolidate state-based efforts with industry and universities. This should include a dedicated "AUKUS visa" to fast-track essential, security-cleared workers and a significant expansion of international "train the trainer" placements to rapidly build domestic expertise.
- **Maximize Australian Industry Content (AIC) through Enforceable Contractual Mandates:** All major contracts must include specific, measurable, and enforceable AIC targets, independently audited by the proposed Program Assurance Office, with financial penalties for non-compliance. Programs like the Defence Industry Vendor

Qualification Program should aggressively integrate Australian SMEs into the trilateral supply chains.

- **Prioritize Investment in Sovereign Sustainment Capability:** While acquisition is crucial, long-term industrial benefit lies in sustainment. The government should prioritize investment and workforce development for facilities at HMAS Stirling, aiming for a world-class sovereign capability to sustain Australian, US, and UK SSNs.

#### 4.3 Leveraging AUKUS Pillar II as a Strategic Hedge:

- **Create Dedicated, Ring-Fenced Funding for Pillar II:** Pillar II initiatives (e.g., autonomous systems, long-range strike, quantum technologies) must have clear, publicly visible, and ring-fenced budget lines to prevent critical innovation funding from being consumed by Pillar I cost overruns.
- **Prioritize and Fast-Track Near-Term Capabilities:** Pillar II efforts must focus on capabilities that can be developed and fielded within 3-5 years to address pressing ADF gaps, providing a credible return on investment while Australia awaits the submarines.
- **Mandate Pillar II Technology Integration into the SSN-AUKUS Design:** A formal, integrated process must ensure advanced technologies from Pillar II are designed into the SSN-AUKUS from the outset, preventing obsolescence and maximizing synergy between the two AUKUS pillars.

#### 4.4 A Proactive Diplomatic and Strategic Communications Agenda:

- **Launch a Sustained Diplomatic Reassurance Campaign in Southeast Asia:** Australia must significantly increase engagement with ASEAN nations, particularly Indonesia and Malaysia, emphasizing transparency regarding safeguards, reinforcing NPT commitment, and framing AUKUS as a defensive contribution to regional stability.
- **Develop a Clear Public Narrative Justifying the Cost and Risk:** To maintain long-term bipartisan and public support, the government must consistently articulate the strategic logic, be transparent about the immense costs and risks, and demonstrate how opportunity costs are being managed.
- **Strengthen Trilateral Governance and Communication:** Permanent, co-located trilateral implementation teams in Canberra, London, and Washington should be established to break down bureaucratic silos and facilitate real-time problem-solving.

#### 4.5 Addressing Specific Treaty-Making Process Improvements (Relevant to NPSPACA's Lack of Consultation):

- **Enhanced Transparency for Sensitive Agreements:** Despite the NPSPACA's lack of public consultation due to national security, for future agreements of similar strategic importance, where national security permits, the Government should explore mechanisms to enhance public and stakeholder understanding. This could include **publishing negotiation aims and objectives at appropriate stages.**
- **Consider Non-Disclosure Agreements (NDAs) with Key, Trusted Stakeholders:** To facilitate deeper, confidential consultation without compromising sensitive information, the Government should consider the use of NDAs with key stakeholders, as recommended by the Productivity Commission and used in other countries. While

acknowledging concerns about secrecy, this approach aims to provide expert advice to negotiators and mitigate unexpected impacts.

- **Independent Modelling and Analysis of Long-Term Costs and Benefits:** Given the inability to estimate NPSPACA costs at this time, the Government should implement a process for **independent modelling and analysis of the Agreement's costs and benefits** at both macro and sectoral levels. An independent expert body, such as the Productivity Commission, should undertake this, providing its findings to the Committee alongside future updates or related analyses. This directly addresses the cost uncertainty and enhances public confidence.
- **Clarity on Cost Management and Accountability:** The Committee emphasizes the importance of developing robust, transparent mechanisms for **ongoing cost estimation, reporting, and oversight** as the program progresses. This ensures financial commitments are managed optimally and Australia's national interest is protected against unforeseen escalations.

## 5. Conclusion

The Nuclear-Powered Submarine Partnership and Collaboration Agreement represents a profound, multi-generational commitment reshaping Australia's strategic posture. While the Agreement's provisions for nuclear non-proliferation, safety, and security appear robust on paper, the identified financial, industrial, sovereign, nuclear waste, and geopolitical risks are significant and deeply interconnected.

To fully optimize Australia's national interest and effectively manage the inherent complexities and immense investments, **continuous vigilance, enhanced transparency where feasible, and rigorous independent scrutiny of the program's evolving costs and benefits will be paramount.** Implementing the recommendations outlined above, particularly those related to independent oversight, de-risking the industrial and workforce pathways, leveraging Pillar II, and proactive diplomacy, is not merely advisable; it is essential for the preservation of Australia's security and sovereignty in the decades to come.

This submission aims to contribute to the Committee's vital work in scrutinizing this Agreement, ensuring that Australia's long-term interests are optimally served.