

Australian Department of Defence
annpsr.consultation@defence.gov.au

To the Department of Defence,

Wednesday 30 July 2025

Re: Australian Naval Nuclear Power Safety Regulations 2025 – Submission

Thank you for the opportunity to comment on the draft Australian Naval Nuclear Power Safety Regulations.

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 just 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 400 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 (Whadjuk Noongar) which all face Cockburn Sound - the location of HMAS Stirling at Garden Island, one of the named "Designated Zones" in the Regulations. Consequently, they are directly and personally impacted by the Regulations.

Nuclear Free WA and Stop AUKUS WA 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; the visitations, rotations, procurement and building of naval nuclear-propelled submarines in Australia; and the storage of any form of nuclear waste from visiting US and UK nuclear powered submarines under AUKUS SRF-W.

We oppose the presence of these submarines, the military build up in the region to secure foreign defence forces. This is not in the public interest but instead makes our beautiful Cockburn sound a military target and inevitably subject to the risk of radioactivity escape. 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, exercise 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 Defence on some more substantive details beyond our broader informed opposition.

Please see Appendix 1 for our joint submission to the **Australian Naval Nuclear Power Safety Bill 2023 [Provisions] and Australian Naval Nuclear Power Safety (Transitional Provisions) Bill 2023 [Provisions]** made in January 2024. Many of these concerns remain and many questions remain unanswered.

Interface with other Jurisdictions

It is unclear how the Regulator relates to ARPANSA and the various state and territory regulators. Although the Regulator has complete jurisdiction within Designated Zones (Section 105) there will inevitably be some crossover of radioactive materials outside of those zones. One example is

radioactive spillages from US and UK submarines either berthed within a Designated Zone or outside of it, with the Regulator specified as having no jurisdiction over foreign submarines.

Section 89 refers to transport of radioactive material within the Designated Zone. What safety arrangements would be made for when the material leaves the Designated Zone, or does that become the responsibility for another state of federal jurisdiction? Examples could include transport of radioactive waste to a remote long term storage site or movement of radioactive material between Designated Zones (e.g. from Henderson to the CIF at HMAS Stirling).

Section 87 refers to the transport or movement of a naval nuclear propulsion plant, which presumably means the nuclear reactor of nuclear powered submarines. As written, it allows for the dismantling of not only Australian but also US and UK nuclear submarines for long-term custody of those reactors in Australia. This is contrary to the Government's denial that dismantled nuclear reactors from foreign submarines will be stored in Australia.

In section 52(f-h) reference to the "naval nuclear propulsion plant" is unclear. Surely this is part of the "submarine activity" (13) not under the purview of these regulations, unless at some stage it is intended to remove naval nuclear propulsion plants from submarines in Designated Zones.

Obligations under international agreements that a person must have regard when performing functions under the Act (Section 106):

The absence of any reference to the Force Posture Agreement (FPA) between the US and Australia and under which the SRF-West US rotations are to occur, makes it unclear how the Regulations will interact with FPA related activities. In fact HMAS Stirling has been confirmed by Defence as an "agreed facility and area" under the FPA. Hence under Article V.5, "The Parties shall mutually develop procedures to address incident and accident responses, including for the following matters: (a) first response; (b) the security of incident or accident sites and human remains; (c) investigations; and (d) public statements concerning accidents and incidents."

The proposed regulations fail to take this into account and hence pose questions as to the role and jurisdiction of the regulations and the Regulator over the FPA.

Public Accountability

According to the Act the Regulator is only required to be accountable to the Defence Minister, and is thus protected from direct public scrutiny. Together with the lack of clarity of how the Regulator interacts with other jurisdictions, as mentioned above, there seems to be limited scope for feedback to the public particularly in the case of accidents affecting beyond Designated Zones. Regarding reporting of the Regulator it is stated in Section 104(2) that "the report is not required to include details of any of the above matters if, in the opinion of the Director-General, the inclusion may prejudice the security or defence of the Commonwealth". Simply, such statements are a measure to exclude any item from the public that may embarrass the Ministry of Defence.

It is not clear who could be exempted "from a provision of Act or licence condition" (Section 107) – US or UK nationals? Would not such exemptions jeopardize security?

In section 105 (5) on Ministerial Directions, there is a requirement for a Statement to be tabled when a direction has been given, but there is no further guidance on what information is required in the Statement. Where a Direction is given related to a matter where there may be a matter of public interest such as an environmental impact or public health risk we are of the strong view that details of the Direction and reason for the Direction should be made public.

We welcome inclusion of applications for licenses (R 36(2) and mandatory information requirements (104) in annual reports, however, it would be far more transparent and accountable if licenses were made public at the time of an application and made open for public comment and if decisions and reasons for decisions are also made public. Similarly mandatory information requirements would be far more accessible, timely and relevant if made public on a public register rather than just in annual reports.

Designated Zones

Sections 8 and 9 need further elaboration on the characteristics and restrictions of [Designated Zones](#). We are of the strong view that there should be a public consultation period held just on the issue of Designated Zones. It is unclear how the Designated Zones will operate, the requirements for people to use the Designated Zones and at what times and when greater restrictions will be in place and why and for how long. There is much ambiguity around the day to day operation of HMAS Stirling and impact on the local community who frequent the area for recreation.

Firstly, the whole of Garden Island is considered as a Designated Zone but Factsheet B indicates that it does “not represent exclusion zones for the public”. Presumably, activities involving radioisotopes will be confined to the existing boundaries of HMAS Stirling at either end of the island. Thus public access would remain ongoing for the rest of the island. However, it remains unclear if and when the Regulator could close the entire island to public access and what access licenses the public can apply for and what activities may be allowed or restricted.

Secondly, Factsheet B indicates the possibility of further Designated Zones being proclaimed into the future. One such would be the [Henderson marine complex](#) where development of drydock facilities for nuclear submarines has been mentioned. If that is so then a Controlled Industrial Facility would be required there, under the jurisdiction of the Regulator. Factsheet B indicates that public consultation would be needed for a new Designated Zone to be established. It must be pointed out that public consultations regarding AUKUS implementation in WA have been inadequate and there has in essence been no consultation until now about the proposed Designated Zone.

Ministry of Defence public consultations in 2024 were largely ineffective as they were not adequately advertised and the plans seem to continually change and expand so that the public are never given a whole proposal or plan at scale. Australian Submarine Agency (ASA) consultations this year were ineffective as they were only given to local council members and excluded the general public. In light of these consultation shortcomings the 42(2)(b) statement “that meaningful consultation has been undertaken with all relevant stakeholders, Aboriginal and Torres Strait Islander peoples and the public about the regulated activity and the facility or proposed facility” needs to be clarified.

Free Prior and Informed Consent

Section R42(2)b outlines “*that meaningful consultation has been undertaken with all relevant stakeholders, Aboriginal and Torres Strait Islander peoples and the public about the regulated activity and the facility or proposed facility.*”

This standard falls well short of international standards which should be applied where there is storage or disposal of hazardous materials such as the radioactive waste generated from AUKUS and the FPA and to be stored at the Controlled Industrial Facility at Garden Island within the Designated Zone. We strongly call for the Regulations to include the standard outlined in the UN Declaration on the Rights of Indigenous People Article 29 (2) which maintains:

“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.”

Identity of the Licence Holder

Part 2. It is unclear who would be a licence holder, an individual or a group (e.g. ASA), and thus where ultimate accountability lies. Section 12 just specifies a “Commonwealth-related person” but it is not specified how “persons, or class of persons, to be authorised to conduct the regulated activity” are identified. Is it just open ended for the person applying for the licence to nominate others to be involved later or must all individuals involved, or their designations, be specified beforehand?

Radiation Hazards

Sections 5 and 6 need to be elaborated on to at least give some indication of the radiation hazards to be faced. The point of listing all parent and progeny nuclides in Schedule 2 is unclear. Not all nuclides to be handled need to be specified but those likely to be involved in the AUKUS program should be.

Greater detail on what comprises an “environmental protection plan” (61(1)(j)) would be welcome, along with greater detail on the scope of the plan; is it restricted to the prevention of leakage of radioactivity to the environment? or does it include management of other wastes, water management, flora and fauna, air emissions, responses to climate change etc?

Please see Appendix 2 for our recent joint submission to ARPANSA in response to the Australian Submarine Agency application to construct a radiological facility at Stirling for more detailed concerns and questions on radiation hazards.

Monitoring and Safety

It appears that radiation monitoring would entirely be the responsibility of the Licence Holder, with no scope for third party involvement (Section 19). There should be independent involvement in baseline monitoring and in the case of accidents. To meet public expectations on safety and transparency we strongly call for timely public reporting on the detail of any baseline study and results from ongoing monitoring.

Does “damage to a package (however described) that contains NNP material or NNP equipment or plant” (97(1)(e)) include an explosion impacting NNP material or NNP equipment or plant, either through an internal cause or enemy attack? These regulations do not include contingency plans for catastrophic events causing spread of radioactivity outside of the Designated Zone, as in the case of an internal explosion or enemy attack.

Section 66 refers to “radioactive waste awaiting disposal”. Does this just apply to waste temporarily stored in the Controlled Industrial Facility and awaiting isotope decay to safe levels, or removal from the designated zone for storage elsewhere? If the latter then any long term storage site is yet to be identified – no such long term storage sites have been identified for civilian radioactive waste, after at least 60 years of trying.

The Table in Section 72 raises questions about how radiation exposure limits can be set for emergency workers and helpers? Do they just stop offering help when a limit is reached, assuming someone is actually measuring real-time radioactivity then?

The “experienced independent person to investigate and report on the nuclear safety incident” (Section 99(8)(a)) should not be selected by the Licence Holder, due to possible concerns about

“independence”. It should be someone not otherwise associated with the Ministry of Defence or selected by the Regulator.

It is not clear how “the activity would be adequately and appropriately insured” (40(2)(i)). Surely it would not be possible to secure commercial insurance in this case.

Regulatory Roles and Responsibilities

Under the Act the Regulator does not have as part of its purpose, to protect the environment and public health from the impacts of radiation.

The draft regulations describe that the ANNPSR will exist with a “national regulatory system” - which includes ASNO, ARPANSA and DCCEE along with State and Territory regulators. Within the overall national regulatory system it is critical that it is made clear who is responsible for ensuring the protection of public health and the environment from the impacts of radiation and how they will fulfill that function.

Under the Australian Radiation Protection and Nuclear Safety Act the object of the Act is stated as: *“The object of this Act is to protect the health and safety of people, and to protect the environment, from the harmful effects of radiation.”*

Under the Australian Naval Nuclear Power Safety Act 2024, there is no objective to protect the health and safety of people or the environment generally from radiation. It is to promote safety and promote public confidence and promote defence and support AUKUS, viz.

- (a) to promote the [nuclear safety](#) of activities relating to [AUKUS submarines](#); and
- (b) to promote public confidence and trust in relation to the [nuclear safety](#) of Australia's nuclear - powered submarine enterprise; and
- (c) to promote the defence and interests of Australia; and
- (d) to support the AUKUS partnership.

None of the objectives of the ANNPS Act mandate protection of public health or the environment from the harmful effects of radiation and yet this is the legislation and regulations that oversee the operation of nuclear powered submarines. There can be no public confidence without real and definitive legislative protections.

For any clarification or questions please contact us and we look forward to your written responses to our questions raised above.

Appendix 1: Joint Nuclear FreeWA/Stop AUKUS WA submission to the **Australian Naval Nuclear Power Safety Bill 2023 [Provisions]** and **Australian Naval Nuclear Power Safety (Transitional Provisions) Bill 2023 [Provisions]** made in January 2024. (attached)

Appendix 2: Joint Nuclear FreeWA/Stop AUKUS WA submission to the **Australian Submarine Agency License to Construct a facility application to Australian Radiation Protection and Nuclear Safety Agency July 2025.** (attached)

Mia Pepper
Nuclear Free WA, Committee Member

[REDACTED]
[REDACTED]

Dr Chris Johansen
Stop AUKUS WA and Nuclear Free WA Member

[REDACTED]
[REDACTED]