

## **AUKUS ‘Australian Naval Nuclear Power Safety Regulations – public consultation’**

To: [annpsr.consultation@defence.gov.au](mailto:annpsr.consultation@defence.gov.au)

Public Submission by Mr David Noonan B.Sc., M.Env.St,

12 July 2025

**Re: Democratic Rights and Public Safety are compromised by AUKUS Regulations Sec.105,  
an untenable *override* of State & Territory laws that prohibit nuclear waste storage.**

### **Contents:**

<b>Overview</b>	2
The public has a ‘ <b>Right to Know</b> ’ who is targeted for storage of High-Level nuclear wastes	3
Indigenous People have a UN recognised <b>Human Right to Say No</b> to nuclear wastes	4
Regulations Section 105 <i>overrides</i> SA, NT and WA prohibitions on nuclear waste storage	5
Port Adelaide Enfield Council <i>opposes</i> AUKUS N-sub waste storage at Osborne	6
Premier Rann passed Laws that <i>prohibits</i> the storage of nuclear reactor waste at Osborne	7
<b>Recommendations</b> , in public interest disclosures required by Defence	8
As to my Relevant Background	9

## **AUKUS ‘Australian Naval Nuclear Power Safety Regulations – public consultation’**

Public Submission by Mr David Noonan B.Sc., M.Env.St, 12 July 2025.

### **Re: Democratic Rights and Public Safety are compromised by AUKUS Regulations Sec.105, an untenable *override* of State & Territory laws that prohibit nuclear waste storage.**

An array of key Public Interests are at stake across SA, NT and WA as a consequence of draft AUKUS [Australian Naval Nuclear Power Safety Regulations 2025](#) and in particular **Section 105 State and Territory laws that do not apply in relation to a regulated activity.**

I provide public input along with Recommendations as disclosures required by Defence (p.8) on public interest matters pertaining to the Regulations, some of my relevant background to these issues as a long-term environment, nuclear and public interest campaigner is cited (p.9).

Integrity, transparency, and accountability are key to public confidence in governance in Australia. The AUKUS nuclear submarine (N-sub) agenda repeatedly fails these standards. The AUKUS Regulations are the pointed end of an unfolding federal Labor agenda to take up powers to impose unwelcome and illegal AUKUS N-sub nuclear wastes on our communities. AUKUS Regulations Section 105 further undermines public confidence and trust in government.

The public has a ‘Right to Know’ who is targeted for storage of High-Level N-sub nuclear wastes. Over three years into AUKUS: Why is there still not even an announced N-waste siting process?

An uncoded liability in AUKUS N-sub nuclear wastes is being imposed on all future generations through the Regulations Section 105 over-ride of State and Territory *Radiation Safety* and nuclear waste related laws. As a consequence, communities across SA, the NT and WA face a future as primary targets for a federal imposed AUKUS High-Level nuclear waste storage site.

Community health and nuclear safety regards AUKUS N-sub is to be taken over by a non-independent military nuclear regulator, set in ‘conflict of interest’ reporting to the Defence Minister – to replace the independent civilian ARPANS Agency that reports to Health Minister.

Nuclear risks to community safety warrant full transparency, accountability and public interest disclosures. The storage of N-sub so called ‘Low Level’ radioactive wastes at Osborne has been [rejected](#) by the Port Adelaide Enfield Council (12 Nov 2024, p.213-218). It is an *illegal* act under the SA [Nuclear Waste Storage \(Prohibition\) Act 2000](#) as amended by Labor Premier Mike Rann. These AUKUS Regulations are to *override* SA Law and to override the will of the people in SA.

The AUKUS Regulations place the Safety, Health and Welfare, and democratic Rights and Interests of targeted Australian communities and Indigenous People at risk and unacceptably compromise’s the protection of the Environment in which they live. The Regulations specifically fail to recognise and respect Indigenous People’s UN recognised Human Right to *Say No* to imposition of hazardous materials, re AUKUS N-sub nuclear wastes, on their lands.

Defence should realise civil society across SA, NT and WA will actively oppose an unacceptable imposition of intractable nuclear wastes in Australia, what-ever the source. High-Level nuclear waste is a dangerous and undemocratic imposition on all future generations.

**The untenable state of AUKUS N-sub nuclear waste issues demonstrates why an AUKUS military nuclear regulator can-not be trusted to protect the public interest.**

## **The public has a ‘Right to Know’ who is targeted for storage of High-Level nuclear wastes:**

Minister Richard Marles MP has still not made a promised ‘announcement’, said to be by early 2024, on a process to manage High-Level nuclear waste and to site a waste disposal facility, he [saying](#) “*obviously that facility will be remote from populations*” (ABC News 15 March 2023).

Best safety practice requires a storage site to be identified before acquisition or generation of High-Level nuclear wastes. AUKUS requires a site before purchase of a N-sub in early 2030’s.

The national press (11 August 2023) reports the Woomera rocket range is understood to be a ‘favoured location’ for storage and disposal of nuclear sub wastes (“[Woomera looms as national nuclear waste dump site including for AUKUS submarine high-level waste afr.com](#)”).

Political leaders in WA, Qld and Vic have already [rejected](#) a High-Level nuclear waste disposal site. SA’s Premier has so far only said it should go to a ‘remote’ location in the [national interest](#).

A ‘[Review](#)’ of the Woomera Prohibited Area was announced by Minister Marles MP: “*to ensure it remains fit for purpose and meets Australia’s national security requirements*” – to read also as AUKUS requirements. Public input to that Review has opposed an AUKUS N-waste storage.

Federal Labor can-not claim to have a ‘**social license**’ for Defence to operate on AUKUS in SA, NT and WA while failing to inform affected communities of the AUKUS nuclear risks, the cultural, environmental & socio-economic impacts they face in siting for nuclear waste storage.

The public and Traditional Owners have rights to full disclosure of nuclear risks and impacts *in advance* of this flawed Regulatory process that assumes a right to impose High-Level nuclear waste storage in SA, NT or WA through *override* of democratic laws prohibiting such wastes.

Nuclear wastes are a threat to the democratic rights of a people to decide their own future.

Storage of nuclear wastes is known to compromise the Safety and Welfare of the people of SA, that is why it is *prohibited* by the SA [Nuclear Waste Storage \(Prohibition\) Act 2000](#). The Objects of this Act set out the fundamental public interests that are at stake:

*“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.”*

This Defence regulatory process must declare in advance whether or not Defence will commit to comply with the [United Nations Declaration on the Rights of Indigenous Peoples](#) Article 29 provision of Indigenous People’s Rights to “Free, Prior and Informed Consent” over storage or disposal of hazardous materials, including nuclear wastes, on their lands.

I refer this Defence process to consider “**The Politics of Nuclear Waste Disposal: Lessons from Australia**”, a [Report](#) by Dr Jim Green and Dimity Hawkins AM, Published by the Asia-Pacific Leadership Network (January 2024). Labor’s AUKUS agenda is failing to learn these lessons. There is an onus on this Defence regulatory process to see that it doesn’t add to a sad history of nuclear disrespect for Indigenous Human Rights and Interests across SA, the NT and WA.

## **Indigenous People have a UN recognised Human Right to Say No to nuclear wastes:**

Traditional owners Human Right to [Say No](#) to imposition of nuclear wastes must be respected.

The AUKUS N-sub agenda triggers the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP, adopted by United Nations, Sept 2007) in Indigenous People's Article 29 Rights to "Free, Prior and Informed Consent" over storage or disposal of hazardous materials on their lands. AUKUS N-sub nuclear wastes absolutely are 'hazardous materials'.

These Regulations should be framed in accordance with the Recommendations of the Federal Inquiry [Report](#) (Nov 2023) into the UN Declaration on the Rights of Indigenous Peoples and respect Chair of the Inquiry, Indigenous Labor Senator Patrick Dodson's clear views, stating:

*"the Commonwealth Government ensure its approach to developing legislation and policy on matters relating to Aboriginal and Torres Strait Islander people be consistent with the Articles outlined in the UNDRIP".*

It is concerning Labor has so far failed to act on key Rec. No.6 of that UNDRIP Inquiry, stating:

*"The Committee recommends that the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth) be amended to include the UNDRIP in the definition of 'human rights', so that it be formally considered when scrutinising legislation."*

Transparency is a minimum public interest standard to expect from a Federal Government.

The intentions of the Labor Federal Government AUKUS N-sub agenda, and of the Regulations in governing N-sub wastes, must be made clear: does Labor support or intend to override the Rights of Indigenous Australians under the UNDRIP Article 29 to "Free, Prior and Informed Consent" - as a Human Right to Say No - over Storage of AUKUS N-sub wastes on their lands?

Issues of Indigenous Rights verses imposition of AUKUS N-sub wastes have been repeatedly raised without response. For instance, my public [input](#) to the 2023 Defence Review and to an Inquiry into the AUKUS Bill that led to these Regulations called for needed transparency:

*Defence should become transparent over proposed Navy High-Level nuclear waste disposal, policy, siting process, rights and legal issues. Defence should commit to respect and to comply with the [United Nations Declaration on the Rights of Indigenous Peoples](#) Article 29 provision of Indigenous People's rights to "Free, Prior and Informed Consent" over storage or disposal of hazardous materials on their lands.*

The Labor Federal Government has long standing questions to answer, see "[AUKUS nuclear waste dump must be subject to Indigenous veto](#)" (by Michelle Fahy, May 2023):

*"Bipartisan secrecy and Defence's poor record with Indigenous groups at Woomera are red flags for consultations over an AUKUS nuclear waste dump. Human rights experts say government must establish an Indigenous veto right."*

**The draft AUKUS Regulations unacceptably disregard Indigenous Peoples UN recognised Right to Say No to the imposed storage of AUKUS N-sub nuclear waste on their land.**

**Regulations Section 105 overrides SA, NT and WA prohibitions on nuclear waste storage:**

Federal Labor is taking powers to impose AUKUS nuclear waste on SA, or on the NT, or on WA.

The [Australian Naval Nuclear Power Safety Regulations 2025](#) sets out **Section 105 State and Territory laws that do not apply in relation to a regulated activity** to override State & Ter Laws.

The [Draft Explanatory Statement \(DOCX, 145.38 KB\)](#) (p.73) explains Section 105 as (extract):

*Subsection 105(1) prescribes, for the purposes of section 135 of the Act, the subsections of the provision which prescribes the laws of States and Territories that do not apply in relation to a regulated activity. ...*

*Subsection 105(3) provides that any provision of any other State or Territory law that regulates nuclear activities is prescribed and do not apply in relation to a regulated activity. This means that the laws prescribed in subsection 105(2) are expressly excluded and do not apply in relation to regulated activities; and that any parts of any other laws of States or Territories that also regulate nuclear activities do not apply to regulated activities, as defined by the Act.*

*The note under subsection 105(3) clarifies that such provision of a law includes provisions regulating the disposal of nuclear waste, the handling or storage of nuclear material or material contaminated with radiation, or the design, construction, operation, decommissioning or disposal of nuclear facilities.*

*Subsection 105(4) clarifies that subsection 105(3) does not apply to a provision of a law that is predominately for the purposes of regulating work or occupational health and safety, or protecting the environment.*

The Parliamentary [Report](#) “**Current prohibitions on nuclear activities in Australia: a quick guide**” (May 2024) provides an overview of current prohibitions on nuclear activities under SA, NT and WA laws that protect community from the risks and impacts of nuclear wastes:

The [Nuclear Waste Transport, Storage and Disposal \(Prohibition\) Act 2004](#) (NT) prohibits the construction and operation of nuclear waste storage facilities, as well as the transportation of nuclear waste for storage at a nuclear waste storage facility in the NT (Sec.6 & 7). Nuclear waste is defined as including waste material from nuclear plants or the conditioning or reprocessing of spent nuclear fuel (Sec.2). ...

The [Nuclear Waste Storage Facility \(Prohibition\) Act 2000](#) (SA) prohibits the construction or operation of a nuclear waste storage facility, and the import to SA or transport within SA of nuclear waste for delivery to a nuclear waste storage facility (Sec.8 & 9).

The Nuclear Waste Storage Facility (Prohibition) Act prohibits the SA Government from expending public funds to encourage or finance the construction or operation of nuclear waste storage facilities (Sec.13). The Act would also require the SA Parliament to hold an inquiry into the proposed construction or operation of a nuclear waste storage facility in SA authorised under a Commonwealth law (Sec.14). ...

The [Nuclear Waste Storage and Transportation \(Prohibition\) Act 1999](#) (WA) also prohibits the storage, disposal or transportation in Western Australia of certain nuclear waste, including waste from a nuclear plant or nuclear weapons (Sec.7 & 7 A, nuclear waste is defined in Sec.3).

### **Port Adelaide Enfield Council opposes AUKUS N-sub waste storage at Osborne:**

Federal and State Labor Governments failed to engage the Port Adelaide Enfield Council (PAE) on their plan for decades of ongoing storage of AUKUS N-sub nuclear reactor radioactive wastes at Osborne, see [Minutes](#) of an PAE Ordinary Council Meeting 12 Nov 2024 (p.5-6).

#### **11.1 Questions on Notice - Cr. den Hartog - Nuclear Waste Storage**

**Question 1.** *Has there been any correspondence or other communication between Council staff and or any elected member(s) and the Federal or State Government or Federal or State Government department regarding a dedicated nuclear waste facility at Osborne under the AUKUS Law?*

**Answer** *To the best of our knowledge there has been no correspondence or communication of this specific nature.*

**... Question 3.** *If a nuclear waste facility is established at Osborne, what is the legislative responsibility of the Council regarding community safety and well-being?*

**Answer** *Given the regulations under the Bill have yet to be publicly released, it is still unclear what legislative responsibilities under the new legislation would rest with council, if any.*

*However, councils are charged with many aspects of the health, safety and well-being of people under existing legislation. The Local Government Act, Public and Environmental Health Act and Environment Protection Act are examples of legislation that prescribe Council's role and responsibilities about community safety and well-being. Local Government's legislated powers in areas related to nuclear power, weapons and defence are limited, but under existing legislation councils can advocate on issues relevant to their communities needs and concerns. This is one of the central premises of the draft PAE Decision Making Framework for AUKUS, which is being considered as part of tonight's Council agenda.*

**Commendably**, PAE decided to advocate on their communities needs & concerns over AUKUS and decided to oppose storage of low-level radioactive waste at Osborne, see the PAE Council Recommendations passed at the [Ordinary Council Meeting - 12 Nov 2024](#) (Agenda p.213-218):

#### **Recommendations:**

*The nuclear safety component of AUKUS in particular demands community engagement. It is therefore recommended that Council write to the relevant local State and Federal MPs and Ministers advising them of Council's*

- position that any applications for licencing for the management, storage or disposal of radioactive waste 'facilities' and 'activities' at the AUKUS operations at the Osborne Naval Shipyard should be subject to full community engagement; and,*
- opposition to the permanent storage or disposal of low-level radioactive waste and, any temporary or permanent storage or disposal of medium and high-level radioactive waste in the AUKUS facilities at Osborne Naval Shipyard. (p.217-218)*

**However, the AUKUS Regulations disrespects PAE's opposition by taking up powers to impose radioactive waste storage at Osborne regardless of the will of the local community.**

**Premier Rann passed Laws that *prohibits* the storage of nuclear reactor waste at Osborne:**

Hon Mike Rann AC CNZM, Premier of SA from March 2002 through to 2011, passed Labor amendments to expand public interest protections in nuclear reactor waste prohibitions in SA.

Federal Labor's intended decades of storage of AUKUS N-sub reactor radioactive wastes at Osborne, promoted by current SA Labor State Government, is *illegal* – against the Law – in SA.

Following years of silence and secrecy from federal and state Labor over the *illegality* of their plans for N-sub waste storage at Osborne, the AUKUS Regulations 2025 are to *override* our legal protections in SA and take up powers to impose N-sub waste storage at Osborne by *decree*.

AUKUS Minister Richard Marles, Defence, local federal MP the Hon Mark Butler the Minister for Health (also responsible for the ARPANS Agency) and local state MP the Hon Susan Close the Minister for Environment & Water and Deputy Premier in SA, should explain this to community.

They all have an *onus* to explain the legal context and consequences of passage of the AUKUS Regulations 2025 in a federal override of long-standing public interest protections in SA Law.

In 2000 the SA Liberal Premier John Olsen showed leadership in legislating to *prohibit* the import, transport, storage and disposal of 'nuclear waste' derived from nuclear reactor operations, using a definition prohibiting High-Level and Intermediate Level radioactive wastes. This was a response to PM Howard targeting SA for storage of ANSTO nuclear fuel wastes.

This SA Law, the will of the Parliament and the people, still stands and applies to legally *prohibit* the storage of AUKUS N-sub nuclear reactor High-Level and Intermediate Level wastes that Minister Marles may seek to target SA with, with a reported focus on the Woomera Area.

In 2002 the incoming SA Labor Premier Mike Rann showed leadership in legislating to expand the range of prohibitions on 'nuclear waste' derived from nuclear reactor operations to also cover 'Low Level' radioactive wastes (that can require isolation for up to 300 years).

Storage of N-sub nuclear reactor 'Low Level' radioactive wastes at Osborne is *illegal* in SA Law.

Minister Marles AUKUS Regulations 2025 Section 105 is intended to override and set aside these key public interest SA Laws passed under the leadership of Liberal & Labor Premiers.

In the near term, Minister Marles wants to use the proposed draft AUKUS Regulations 2025 to impose storage of so called 'Low Level' radioactive waste at Osborne, and in the long-term Minister Marles wants the option to *impose* storage of AUKUS High-Level wastes onto SA.

**Q:** where is the political leadership today from the State Labor Government in response to this?

It is *undemocratic* of a Federal Labor Government to seek to *override* State and Territory laws, that protect the Health, Safety and Welfare of the People and the Environment in which they live, so as to *impose* the hazards, risks and impacts in storage of AUKUS N-sub nuclear wastes.

**Recommendation:**

**The *undemocratic* AUKUS Regulations "Section 105 (3) State and Territory laws that do not apply in relation to a regulated activity" that is intended to take up powers to *impose* N-sub nuclear reactor wastes which are currently *illegal* in SA, in the NT, and in WA, must be withdrawn by the AUKUS Minister Richard Marles MP and by Defence.**

## Recommendations:

Recommendations by David Noonan comprise public interest disclosures that are required by Defence for an informed, transparent and accountable process on AUKUS Regulations 2025.

### 1. Civil Society faces federal imposition of *untenable* AUKUS N-sub nuclear waste storage.

Defence must respect affected Australian communities and Indigenous People's 'Right to Know' the nuclear risks they face in imposed AUKUS nuclear waste storage facilities:

**1.1** Defence must declare its intention to *over-ride* the SA [Nuclear Waste Storage \(Prohibition\) Act 2000](#) to impose AUKUS N-sub reactor nuclear waste storage at Osborne, Port Adelaide.

**1.2** Defence must publicly disclose which Australian regions and Indigenous Peoples are currently under consideration for imposed siting and compulsory land acquisition for an AUKUS High-Level nuclear waste storage, and which - if any - existing Defence lands are included in the regional short list that is currently being prepared across SA, the NT and WA.

**1.3** Defence must become accountable over the future and fate of the Woomera Area, understood in national media to be a 'favoured location' for storage and disposal of AUKUS N-sub nuclear waste ("[Woomera looms as national nuclear waste dump site including for AUKUS submarine high-level waste afr.com](#) AFR 11 August 2023).

**1.4** Defence must declare its reserved right to override the SA [Nuclear Waste Storage \(Prohibition\) Act 2000](#) through powers in the *Australian Naval Nuclear Power Safety Act 2024* Section.135 "Operation of State and Territory laws" to impose an AUKUS nuclear waste dump on outback lands and unwilling community in SA, by *decree* through these AUKUS Regulations.

### 2. Indigenous People have a UN recognised Human Right to Say No to nuclear wastes.

Defence should respect the clear views of Indigenous Labor Senator Patrick Dodson and act to make the AUKUS Regulations *consistent* with the Recommendations of a Federal Inquiry [Report](#) (Nov 2023) into the UN Declaration on the Rights of Indigenous Peoples, stating:

*"the Commonwealth Government ensure its approach to developing legislation and policy on matters relating to Aboriginal and Torres Strait Islander people be consistent with the Articles outlined in the UNDRIP".*

**2.1** Defence must provide a clear disclosure as to whether or not they will commit to respect and comply with the [United Nations Declaration on the Rights of Indigenous Peoples](#) Article 29 provision of Indigenous Peoples Rights to "Free, Prior and Informed Consent", as a Right to Say No, over storage or disposal of hazardous materials on their lands – in this case AUKUS High-Level & Intermediate Level nuclear waste storage.

**3. The undemocratic AUKUS Regulations "Section 105 (3) State and Territory laws that do not apply in relation to a regulated activity" that is intended to take up powers to impose N-sub nuclear reactor wastes which are currently *illegal* in SA, in the NT, and in WA, must be withdrawn by the AUKUS Minister Richard Marles MP and by Defence.**

### As to my Relevant Background:

In 30 years' experience scrutinising environment & nuclear public interest issues and providing public input and Recommendations on nuclear waste matters pertinent to these Regulations:

- The [JSCT Inquiry](#) into the AUKUS Agreement, public input 2 Sept 2024, Rec's p.10-12;
- The [Inquiry](#) into the *Australian Naval Nuclear Power Safety Bill 2023*, by the Senate Foreign Affairs, Defence and Trade Legislation Committee, [Submission No.8](#) Jan 2024, Rec's at p.11;
- The [Reforming Defence Legislation](#) Review, [Submission No.34](#), Recommendations 6-7 at p.3 and discussion at p.7, 20 April 2023;
- An earlier [AUKUS Inquiry](#) by the Senate Foreign Affairs, Defence and Trade Legislation Committee held on the *Defence Legislation Amendment (Naval Nuclear Propulsion) Bill 2023 [Provisions]*, see [Submission No.46](#), Recommendations 1-5 at p.2, 26 May 2023;
- The [Defence Strategic Review](#), my public input is recorded but was not released by that process;
- The "Exchange of Naval Nuclear Propulsion Information Agreement" ([ENNPIA](#)) Inquiry by the Treaties Committee, [Submission No.40](#) (27 p), Recommendations at p.12, 25 Nov 2021.

I served for sixteen years as an Australian Conservation Foundation (ACF) environment campaigner based in Adelaide (1996-2011) with primary roles on public interest nuclear issues.

Roles as an ACF campaigner included over 5 years on a prior federal attempt to impose a nuclear waste dump in SA (1998 through 2004), another flawed process that had to be abandoned by then PM Howard Government, and as lead author of the ACF public submission to the PM Howard Government's [Switkowski](#) Nuclear Power Inquiry.

I was an invited Witness as an individual on nuclear waste issues at a 2016 Hearing of the SA Parliament Joint Committee Inquiry on the Findings of the SA Nuclear Royal Commission.

As an Independent Environment Campaigner, I provided public Submissions and Briefing Papers throughout the [National Radioactive Waste Management Facility](#) process 2015-23.

For instance see a Brief "[Nuclear Waste Store siting at Napandee also targets the Port of Whyalla](#)" (Feb 2020, 2 p), and a formal Public Comment: "[Input to the CEO of ARPANSA on Alternative Storage of ANSTO ILW at Lucas Heights](#)" (Nov 2021, 26 p).

Illustrative of some of the public interest issues in nuclear waste siting processes I refer you to my public [input](#) to the Federal Environment Department on Guidelines for an Environmental Impact Statement process on the proposed nuclear waste facility at Kimba (March 2023, 11 p).

I have a role in media comment on public interest nuclear issues, for instance see an article: "***Alarm on nuclear waste transport***" (SA Sunday Mail Rural Edition, 31 July 2022).

Yours sincerely

Mr David J Noonan B.Sc., M.Env.St.

Independent Environment Campaigner

Seaview Downs SA