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## **SUBMISSION TO THE AUSTRALIAN DEFENCE STRATEGIC REVIEW**

To: Professor Stephen Smith and Sir Angus Houston, Convenors, Australian Defence Strategic Review

From: ICAN Australia (International Campaign to Abolish Nuclear Weapons)

20 October 2022

Thank you for the opportunity to make a submission to the Australian Defence Strategic Review announced in August. ICAN Australia is a non-governmental organisation which is supported by 85 diverse Australian partner organisations. ICAN was launched in Melbourne in 2007; it has since expanded to over 100 countries. Its purpose is to work for the global elimination of nuclear weapons, a goal supported by thousands of politicians, military leaders, faith-based groups and others around the world. In 2017, ICAN won the Nobel Peace Prize for our work drawing 'attention to the catastrophic humanitarian consequences of any use of nuclear weapons' and our 'ground-breaking efforts to achieve a treaty-based prohibition of such weapons', the United Nations Treaty on the Prohibition of Nuclear Weapons (TPNW). ICAN is the first Australian-born Nobel Peace laureate.

Against the context of the Labor Party's December 2018 national policy platform to sign and ratify the TPNW once in government, re-confirmed in 2021, we offer advice and recommendations to your Review on elements which pertain specifically to nuclear weapons, disarmament and non-proliferation.

We make two recommendations:

- 1. That the Australian government formally ceases any reliance on the nuclear weapons of the United States, and that any military engagement with the US be conducted on a non-nuclear basis only, without assisting, encouraging, or inducing, in any way, the United States to develop, test, produce, manufacture, or otherwise acquire, possess, stockpile, transfer, use or threaten to use nuclear weapons. Future Australian Defence White Papers or other official statements should not endorse the notion that Australia is under a US nuclear umbrella.**
- 2. That the Australian government reject the proposal to acquire nuclear-powered submarines, a proposal which undermines the international nuclear non-proliferation and safeguards regime, including the nuclear Non-Proliferation Treaty, damages regional diplomatic relationships, reduces our independence in foreign and defence policy, and aggravates regional tensions, increasing the risk of war including nuclear war.**

Recent events have starkly demonstrated the urgent need for rapid progress towards the total global elimination of nuclear weapons. Such progress is a paramount security imperative for Australia, the Asia-Pacific region, and the world. Nuclear weapons can never be viewed as legitimate weapons of war. Their use would have catastrophic humanitarian consequences that transcend national borders and span generations,

and amount to a grave violation of international law. They should have no place in Australia's defence doctrines.

### **MAINTAINING A NON-NUCLEAR ANZUS ALLIANCE WHILE ENDING EXTENDED NUCLEAR DETERRENCE AS A PRECURSOR TO MEMBERSHIP OF THE TPNW**

Our first focus is the need for Australia to cease its reliance on the US 'nuclear umbrella', the policy of extended nuclear deterrence (END). This is a necessary step for the Labor government to take, in order to uphold its commitment to signing and ratifying the TPNW. We note relevant aspects of our current policy, showing how and why the existing reliance on END needs to change.

- The assumed reliance on a US nuclear umbrella was never formally codified by the United States and Australia. The ANZUS Treaty makes no mention at all of nuclear weapons, and the policy has been based on implicit assumptions.
- It was not until the 1994 Defence White Paper that Canberra made a formal announcement of what was presumed to have been in place already: a declaration that it was indeed reliant on the US nuclear umbrella. This statement came as a surprise to many observers (including in Washington circles, where Australian reliance on a US nuclear umbrella had never been made explicit), given the peaceful ending of the Cold War just a few years earlier, the relinquishment of nuclear weapons by several states at that time, and the impending indefinite extension of the nuclear Non-Proliferation Treaty. Asserting an Australian reliance on US nuclear weapons was an extraordinary claim to make, in light of the prevailing goodwill between the superpowers, the START arms control treaty, and the shift from Cold War tensions, reducing the threat of nuclear annihilation.

Importantly however, this statement was accompanied by a crucial caveat, one which needs to be reiterated widely. The White Paper noted that,

**"The government does not accept nuclear deterrence as a permanent condition. It is an interim measure until a total ban on nuclear weapons, accompanied by substantial verification provisions, can be achieved."** (emphasis added)

And indeed, within a year of this White Paper, the Labor government had convened a group of experts to form the *Canberra Commission on the Elimination of Nuclear Weapons*, which released its Report in 1996.<sup>1</sup> This argued unequivocally that the world must embark on a process of phased, mutual and verified reductions to reach a world free of nuclear weapons. The Canberra Commission Report was a landmark document which subsequently

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<sup>1</sup> Australian Government, Department of Foreign Affairs and Trade. 1996. *Report of the Canberra Commission on the Elimination of Nuclear Weapons*, <https://www.dfat.gov.au/about-us/publications/international-relations/Pages/the-canberra-commission-on-the-elimination-of-nuclear-weapons#:~:text=The%20members%20of%20the%20Canberra,most%20direct%20and%20imaginativ e%20way>

went on to influence several other similar studies around the world, including the Tokyo Forum Report (1998), the Weapons of Mass Destruction Commission (2003), and the joint Australia-Japan International Commission on Nuclear Non-proliferation and Disarmament (2008).

The 1994 White Paper statement should therefore **not** be seen as an indefinite endorsement of Australia's reliance on extended nuclear deterrence. Australia's subsequent global activism to promote the elimination of nuclear weapons, our long-standing commitment to a rules-based international order and the prohibition and elimination of weapons of mass destruction and other inhumane and indiscriminate weapons, indicate that extended nuclear deterrence should not be considered any longer as the status quo position. Undue influence has been placed on the 1994 statement of an assumed nuclear umbrella protecting Australia, which has been repeated in successive Defence White Papers since 1994.

A comprehensive and categorical prohibition on nuclear weapons has indeed been achieved through the TPNW, and this treaty also contains the only internationally agreed pathway for the verified elimination of nuclear weapons. A shift from reliance on extended nuclear deterrence and provision of assistance for possible use of US nuclear weapons is required in order not to contradict, undermine and delay Australia joining the TPNW. Australia's claimed support for nuclear disarmament cannot be credible or effective while Australia contributes to nuclear dangers and encourages nuclear proliferation by claiming protection from and supporting continued possession and possible use of nuclear weapons.

This will mean attending to the changes necessary to ensure that the functions of our Joint Facilities are brought into compliance with our commitment to the TPNW, and that we negotiate a transition away from actions which assist the United States in its nuclear weapon activities. Considerable work has been undertaken on this issue, and we refer you to our 2019 report [Choosing Humanity](#), (especially Chapter 2).<sup>2</sup>

A number of other US allies support the TPNW, and New Zealand, Thailand and the Philippines have already demonstrated the compatibility of ratifying the TPNW and continuing without disruption their ongoing non-nuclear military cooperation with the US.

The Australian government and ADF already have experience implementing policies which differ from those of the United States regarding other inhumane weapons - anti-personnel landmines and cluster munitions.

Nothing in the 1951 ANZUS Treaty bars Australia from joining the TPNW, and nothing in the TPNW bars a state party from remaining in an alliance with a

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<sup>2</sup> See also Richard Tanter, 2019. *An Australian Pathway through Pine Gap to the nuclear ban-treaty*, available at The Nautilus Institute, <https://nautilus.org/network/associates/richard-tanter/publications/>

nuclear-armed state, so long as it refrains from assisting, encouraging, or inducing that state to possess or use nuclear weapons. Indeed, the negotiators of the TPNW took care in the drafting process to ensure that states parties could continue to cooperate militarily with nuclear-armed states in conventional operations. As a future TPNW state party, Australia would, however, need to disavow the notion of protection from US nuclear weapons and abstain from all nuclear-weapon-related activities in order to comply with Article 1 of the treaty.

According to the *Nuclear Weapons Ban Monitor* published by Norwegian People's Aid: "States parties to the TPNW can remain in alliances and military cooperation arrangements with nuclear-armed states, and can continue to execute all operations, exercises, and other military activities together with them in so far as they do not involve nuclear weapons. Participation in [NATO] 'nuclear burden-sharing' and other nuclear-related military activities, however, would need to be discontinued."<sup>3</sup>

So-called "nuclear umbrella" arrangements are inconsistent with the TPNW's object and purpose and with Article 1. Under Article 1(1)(e) of the TPNW, a state party must never under any circumstances assist, encourage, or induce anyone to engage in any activity prohibited under the treaty. By accepting the notion of protection from US nuclear weapons, Australia is encouraging the United States to possess and – in extreme circumstances – use or threaten to use nuclear weapons on its behalf.

According to the International Human Rights Clinic of Harvard University, TPNW states parties "must renounce existing nuclear umbrella arrangements, but the TPNW does not require them to abandon existing, long-standing security alliances".<sup>4</sup>

TPNW states parties may participate in joint military operations involving nuclear-armed states provided that they in no way assist, encourage, or induce anyone to engage in activities prohibited under the treaty. As is the case with other humanitarian disarmament treaties, such as the 1997 Anti-Personnel Mine Ban Convention and the 2008 Convention on Cluster Munitions, "mere participation" in a joint operation with a state possessing the prohibited weapons is not a violation. In the context of the mine ban treaty, it is well established that a state party can lawfully participate in joint military activities with a mine-possessing state, so long as there is no "nexus" between the state party's actions and the use of prohibited weapons by the state not party.<sup>5</sup> Under

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<sup>3</sup> Ban Monitor: <https://banmonitor.org/tpnw-prohibitions/the-prohibition-on-assisting-encouraging-or-inducing-prohibited-activities>

<sup>4</sup> International Human Rights Clinic, Harvard: [http://hrp.law.harvard.edu/wp-content/uploads/2018/06/Nuclear\\_Umbrella\\_Arrangements\\_Treaty\\_Prohibition.pdf](http://hrp.law.harvard.edu/wp-content/uploads/2018/06/Nuclear_Umbrella_Arrangements_Treaty_Prohibition.pdf)

<sup>5</sup> Stuart Casey-Maslen, *Commentaries on Arms Control Treaties Volume 1: The Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on Their Destruction*, Oxford University Press, 2015, para. 1.71.

the TPNW, Australia could continue to engage in most of the current activities of its alliance with the United States.

This position was recently affirmed by 55 former Australian Ambassadors and High Commissioners in an open letter to the Prime Minister, published this June on the eve of the first Meeting of States Parties to the TPNW in Vienna, which Australia attended as an observer. They wrote:

“Membership of the TPNW is compatible with Australia’s alliance commitments and will make a positive contribution to the security objectives we share. We have previously signed and ratified treaties – on landmines, cluster munitions and nuclear testing – to which the United States is not a party.”<sup>6</sup>

### **REJECTING THE PROPOSAL FOR HIGHLY-ENRICHED URANIUM NUCLEAR-POWERED SUBMARINES**

Our second recommendation concerns the announcement made in September 2021 that Australia might be provided with eight nuclear-powered submarines (SSNs), vessels which if they eventuate, are likely to utilise significant quantities of highly-enriched uranium (HEU). There is a very concerning lack of acknowledgement of and complacency in government about the many adverse impacts of these submarines. It is very important to be clear about the strategic consequences of the planned acquisition.

A number of senior Australian defence experts and former senior politicians see the plan as driven by domestic political and alliance management considerations rather than a careful and balanced assessment of Australia’s primary strategic defence needs.

We encourage this review to acknowledge that this is an extremely high-risk undertaking, with very broad impacts well beyond usual defence materiel acquisitions. It represents a profound reorientation of Australian security, defence and nuclear policy. The massive expenditure - likely an order of magnitude greater than any other Australian military purchase - will also have significant adverse opportunity costs both for the defence forces and for Australian society.

Some see the program as hopelessly unrealistic in terms of budget and defence procurement capability, and doubt Australia will in fact acquire the promised submarines.

In September 2022, the Executive Officer of the US Navy’s Strategic Submarines Program, Rear Admiral Scott Pappano, stated unequivocally that there was simply no spare capacity to meet Australia’s requirements. A week later, the First Sea Lord of

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<sup>6</sup> Open letter in support for the Treaty on the Prohibition of Nuclear Weapons, June 2022: <https://icanw.org.au/former-ambassadors-urge-pm-to-join-nuclear-ban-treaty/>

the Royal Navy, Admiral Ben Key, made the same point – saying that it would be “detrimental” for Britain to do so and that this was hardly a surprise.<sup>7</sup>

There is a serious level of disquiet in the community. When the Joint Standing Committee on Treaties called for responses to the AUKUS agreement, 104 submissions were received, despite the public being given less than a week to respond. These submissions were overwhelmingly against the proposal.<sup>8</sup>

Many others have questioned the need for the SSNs in the first place.<sup>9,10</sup> Such vessels are viewed primarily as a means of projecting power close to China’s coast in tandem with US war-fighting, including nuclear war-fighting, strategies, rather than as vessels suited to defending Australia’s own coast; as such a return to conventionally-powered submarines is seen as a more appropriate and cost-effective strategy. There is also the view that acquiring nuclear submarines could entail an escalation in many things nuclear: further nuclear military enmeshment with the US and UK and closer integration with the operations of US nuclear-armed ships, submarines and aircraft.

We expand on some of these points here:

- **Nuclear powered-submarines undermine the nuclear Non-Proliferation Treaty and non-proliferation and safeguards regime more broadly.** The most immediate concern is the proliferation risk posed by nuclear-powered submarines. Australia has long supported nuclear non-proliferation efforts. It has championed domestic and international efforts to reduce and remove HEU from civilian uses worldwide, and it claims to support a Fissile Material Cut-off Treaty. But acquiring large quantities of HEU – one analyst suggests that there would be more than 20 nuclear weapons’ worth of HEU on each submarine<sup>11</sup>,

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<sup>7</sup> Michael McKinley. 2022. ‘The incoherent narrative of the AUKUS nuclear powered attack submarines-SSNs’ October 12.

<https://johnmenadue.com/the-incoherent-narrative-of-the-aukus-nuclear-powered-attack-submarines-ssns/>

<sup>8</sup> Submissions can be viewed here:

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Treaties/ENNPIA/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/ENNPIA/Submissions)

<sup>9</sup> Hugh White, 2021. ‘From the submarine to the ridiculous’, Strategic and Defence Studies Centre, Australian National University, 18 September. <https://sdsc.bellschool.anu.edu.au/news-events/news/8191/submarine-ridiculous>

<sup>10</sup> Mike Gilligan. October 2022. ‘The Defence Strategic Review: AUKUS is the wrong submarine for Australian needs’

<https://johnmenadue.com/defence-strategic-review-aukus-chose-the-wrong-submarine-for-australian-needs/>

<sup>11</sup> Alan Kuperman. 2021. ‘Bomb-grade uranium for Australian submarines?’, Kyodo News, 11 November, <https://english.kyodonews.net/news/2021/11/006a0287253b-opinion-bomb-grade-uranium-for-australian-submarines.html>

on mobile stealth platforms for several decades outside of usual IAEA safeguards and scrutiny - jeopardizes non-proliferation efforts and fissile material security.

Nuclear submarines, which can remain at sea far longer than other submarines, represent a significant proliferation challenge because they operate beyond the reach of IAEA inspectors. Standard onsite inspection techniques applied to land-based nuclear power reactors, including nuclear material accountancy, the application of seals, and the installation of cameras and sensors will be impossible. No safeguards agreement can change the capabilities of the platform and the inherent proliferation risk posed by Australia's acquisition of SSNs.

Previous requests to the US for nuclear propulsion technology from Asian allies such as South Korea have been refused, but this is now diplomatically unsustainable. The inevitable result is an escalating naval arms race in East and South East Asia. This development runs counter to the enduring defence interests of all concerned.

The Australian decision was made on the assumption that it will be permitted to divert nuclear material from peaceful purposes for what would be, essentially, a non-proscribed military purpose, by utilising Paragraph 14 of the IAEA's Comprehensive Safeguards Agreement (CSA). The 'loophole' of Paragraph 14 is seen by many as problematic because it potentially allows non-nuclear states to acquire nuclear material which would be effectively removed from IAEA safeguards. This poses a risk to the nuclear non-proliferation regime which relies not only on suppressing demand for nuclear weapons but also on controlling the supply of material which could be used to produce these weapons.

Dr Trevor Findlay from the University of Melbourne notes,

"The three partners in the AUKUS arrangement have committed themselves to "the highest standards for safeguards, transparency, verification and accountancy measures to ensure the non-proliferation, safety and security of nuclear material and technology".

Yet because no state has ever triggered the implementation of paragraph 14, this is unknown territory. There is no model for Australia to follow. Canada did begin discussions with the IAEA in the late 1980s before abandoning its submarine plans, but safeguards have become infinitely more complex since then. Even though it is currently building its own nuclear-powered submarine, using its own enriched fuel, Brazil has not yet notified the IAEA of its intentions. South Korea, Japan, and Pakistan have all expressed interest in nuclear-powered submarines. Worryingly, and herein lies the problem, Iran has informed the IAEA that

it intends at some unspecified time to acquire them, undoubtedly yet another ploy to justify its suspect enrichment activities.

For Australia there is also an element of moral hazard. In creating a precedent and safeguards model it could be paving the way for the proliferation of nuclear-powered submarines to a wide variety of non-nuclear weapon states.”<sup>12</sup>

Indeed, if the proposal goes ahead, Australia will set a risky precedent: it would become the first non-nuclear weapon state to be given this highly sensitive nuclear technology and exploit a previously unused safeguards loophole.

Similar concerns have been expressed by Tariq Rauf, Former Head of Verification at the International Atomic Energy Agency,

“...it defeats the underlying purposes and objectives of the NPT safeguards; and adds another layer of discrimination to that between nuclear weapon and non-nuclear weapon States (NNWS) by creating a new category of NNWS with significant quantities of weapon-grade material out of NPT safeguards.”<sup>13</sup>

Rauf also wrote that

“Australia’s acquisition of SSNs under AUKUS could well open Pandora’s Box of proliferation with non-nuclear-weapon States such as Argentina, Brazil, Canada, Iran, Japan, Saudi Arabia and South Korea among others also going in for nuclear-powered submarines and keeping nuclear fuel (both low- and highly-enriched uranium) outside the scope of IAEA safeguards. This would weaken the IAEA safeguards (verification) system already facing challenges from new technologies and open up possibilities of diversion of nuclear material for nuclear weapons.”<sup>14</sup>

At the 2022 Review Conference of the nuclear Non-Proliferation Treaty (NPT), Indonesia, in a working paper, “note[d] with concern the potential

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<sup>12</sup> Trevor Findlay. 2022. ‘The AUKUS submarine project and the nuclear non-proliferation regime’, *Troubled Waters: Nuclear Submarines, AUKUS and the NPT*, July 2022. <https://icanw.org.au/wp-content/uploads/Troubled-Waters-nuclear-submarines-AUKUS-NPT-July-2022-final.pdf>

<sup>13</sup> Tariq Rauf. 2022. ‘The Challenge of nuclear-powered submarines for IAEA safeguards’, *Troubled Waters: Nuclear Submarines, UKUS and the NPT*. <https://icanw.org.au/wp-content/uploads/Troubled-Waters-nuclear-submarines-AUKUS-NPT-July-2022-final.pdf>

<sup>14</sup> Tariq Rauf. 2021. ‘Australia’s Nuclear-Powered Submarines Will Risk Opening a Pandora’s Box of Proliferation’, TODA Institute. <https://toda.org/global-outlook/global-outlook/2021/australias-nuclear-powered-submarines-will-risk-opening-a-pandoras-box-of-proliferation.html>



consequences of nuclear-powered submarine capability sharing to the global non-proliferation regime,' which it warned, "increases the associated risks...posed by potential proliferation and conversion of nuclear material to nuclear weapons, particularly HEU in the operational status of nuclear naval propulsion."<sup>15</sup>

China argued that, "The AUKUS nuclear-powered submarines collaboration is a serious violation of the object and purpose of the NPT, sets a dangerous precedent for the illegal transfer of weapons-grade nuclear materials from nuclear-weapon states to a non-nuclear-weapon state, and thus constitutes a blatant act of nuclear proliferation."<sup>16</sup>

South Korea, Netherlands and Norway, in an NPT working paper, recalled that, "Minimization of the use of highly enriched uranium was established as a key nuclear security goal' at international nuclear security summits, and emphasized that, 'Efforts to reduce stocks of highly-enriched uranium and to minimize and eventually eliminate the use of highly-enriched uranium are a form of permanent threat reduction and a fundamental element in our shared efforts to strengthen nuclear security."<sup>17</sup>

A number of other nations, including Kiribati, Peru, South Africa and Russia also expressed concerns about the submarine proposal at the NPT Review Conference. Following the AUKUS announcement, then-President Duterte of the Philippines was concerned the decision could result in "a nuclear arms race".<sup>18</sup>

United States non-proliferation experts and former government officials, in a letter to President Joe Biden, advised that, "The challenge of verifying that submarine fuel is not diverted for nuclear weapons would be significantly easier if the fuel were made with low-enriched uranium (LEU)' – which is not suitable

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<sup>15</sup> Working Paper submitted by Indonesia to the 2022 Review Conference of the NPT, 'Nuclear Naval Propulsion', August 2022.

[https://www.un.org/sites/un2.un.org/files/npt\\_conf.2020\\_wp.67\\_advance\\_0.pdf](https://www.un.org/sites/un2.un.org/files/npt_conf.2020_wp.67_advance_0.pdf)

<sup>16</sup> China Arms Control and Disarmament Association. 2022. 'A Dangerous Conspiracy', August.

<http://www.cacda.org.cn/ueditor/php/upload/file/20220720/1658303877747462.pdf>

<sup>17</sup> 'Minimizing and eliminating highly enriched uranium in civilian stocks and use', November 2021.

<https://reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2022/documents/WP14.pdf>

<sup>18</sup> William Choong and Alan Storey. 2021. 'Southeast Asian Responses to AUKUS: Arms Racing, Non-Proliferation and Regional Stability', <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/2021-134-southeast-asian-responses-to-aukus-arms-racing-non-proliferation-and-regional-stability-by-william-choong-and-ian-storey/>

for nuclear weapons – because ‘HEU fuel could be diverted directly to a nuclear weapon without further enrichment.’<sup>19</sup>

- **Implications for regional diplomacy:** In international law the object and purpose of treaties is given particular significance - signatories and states parties must not defeat the object and purpose of a treaty.<sup>20</sup> We have already outlined the grey area in the NPT-IAEA verification regime. This raises the question of whether a non-peaceful nuclear activity with the potential to contradict the NPT’s object and purpose is really a legitimate action to take for a state party that otherwise professes to be a champion of nuclear non-proliferation.

The stationing of nuclear weapons in Australia is prohibited under the nuclear Non-Proliferation Treaty and the South Pacific Nuclear Free Zone (Rarotonga) Treaty. The Rarotonga Treaty is intended to be a comprehensive multilateral pact to create a broader nuclear-free zone (as opposed to a nuclear weapon free zone). The proposal that Australia acquires nuclear-powered submarines is vastly out of step with Pacific regionalism and a long-standing commitment to a nuclear free Pacific. AUKUS and its upscaling of military capabilities suggests an amplifying of hostilities and now situates the Pacific within the crosshairs of escalating nuclear threats and potential disasters. Over 315 nuclear tests (and dumping of nuclear waste) in the Pacific have left a legacy of displacement, severe environmental contamination and numerous health consequences for affected communities. The proposed nuclear submarines are seen as just an extension of this highly damaging nuclear legacy.

Several Pacific leaders made statements at the 76<sup>th</sup> UN General Assembly in support of a nuclear free zone, including Solomon Islands Prime Minister Manasseh Sogavare, Marshal Islands President David Kabua and New Zealand Prime Minister Jacinda Ardern. Separately from the UNGA, New Caledonia’s President Louis Mapou said the announcement of AUKUS had drastically destabilised the region.

The submarines proposal stands in stark contrast to the renewed interest of the Pacific Islands Forum (PIF) (of which Australia is a member) in a Nuclear Free Pacific. The Secretary General of the PIF, Henry Puna, has emphasised the region’s deep political struggle for a Nuclear Free Pacific. Many community organisations in the Pacific have also spoken out against the submarine proposal, including the Pacific Conference of Churches, the Pacific Network on Globalisation and Yougswara, who noted that, “It contradicts what (Australia)

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<sup>19</sup> Alan Kuperman. 2022. ‘At NPT RevCon, US Expert Calls for AUKUS States to Abandon Bomb-Grade Nuclear Submarine Plan’, 5 August <https://sites.utexas.edu/nppp/files/2022/08/NPT-NPPP-2022-Aug-5.pdf>

<sup>20</sup> Vienna Convention on the Law of Treaties, opened for signature 23 May 1969, 1155 UNTS 331 (entered into force 27 January 1980) arts18. 60(3)(b)

has continued to commit to the Pacific in terms of ensuring it is a nuclear free zone.”

In South East Asia there is a strong and enduring view that the region must remain free from nuclear weapons, and the 1995 South East Asian Nuclear Weapons Free Zone Treaty is seen as reflecting this. Both Indonesia and Malaysia have expressed their strong reservations over the Morrison-Dutton government's plan to acquire nuclear-powered submarines. Malaysia's Prime Minister reiterated Kuala Lumpur's stance on not allowing nuclear-powered vessels to enter Malaysian territorial waters.

Indonesia stated it is “deeply concerned over the continuing arms race and power projection in the region”. Making such an important decision without informing or consulting its closest neighbours was seen as betrayal of the serious efforts which have been made to improve bilateral relations between Indonesia and Australia. “Indonesia views any cooperation involving the transfer of nuclear materials and technology for military purposes from nuclear-weapon states to any non-nuclear weapon states as increasing the associated risks [of] catastrophic humanitarian and environmental consequences.”<sup>21</sup>

- **Nuclear Suppliers Group and the Missile Technology Control Regime concerns:** Australia is a participant of the Nuclear Suppliers Group. If Australian uranium ends up being used in the military nuclear fuel cycles, then the bilateral nuclear cooperation agreements between Australia, the US and the UK will almost certainly need to be modified to allow for the material's use in military nuclear propulsion. There would be considerable hypocrisy in Australia insisting that none of its many other trading partners ever use Australian uranium for military purposes, when Australia is trading with the US and UK for nuclear-powered submarines.

Australia's acquisition of SSNs enables additional long range strike capabilities, which could undermine the international benchmarks of the Missile Technology Control Regime. The plan includes Australia receiving Tomahawk cruise missiles. Given the poor example it sets, Australia's acquisition of such missiles would undoubtedly be a blow to the fragile norm against missile proliferation.

**Other adverse impacts:** These submarines are primarily designed for operations in distant waters, most likely working in concert with the US Navy in operations against China. It is an important principle that we do not fund US initiatives which do not serve our own priorities. These submarines would be able to join US attacks on Chinese air, naval and ground targets. They also,

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<sup>21</sup> 'Beijing warns AUKUS submarine project sets a "dangerous precedent" and threatens non-proliferation' <https://www.abc.net.au/news/2022-07-29/indonesia-aucus-deal-criticism-at-united-nations/101282786>

more seriously, could act as “hunter killer” submarines attacking Chinese nuclear ballistic missile submarines which underpin China’s second-strike nuclear deterrence. China’s land-based missiles could well be rendered ineffective by a US first-strike.

Nuclear-powered submarines increase Australia’s vulnerability as a nuclear target. Construction sites and host ports for nuclear-powered submarines would become higher priority targets for an adversary’s conventional or nuclear attack, with major risks of radiological contamination. Nuclear submarines may also be a target for domestic security threats.

Australia should not legitimise or involve itself in the war-fighting strategies of two nuclear-armed states, both of which are investing massively in nuclear weapons and refusing to abide by their NPT obligations to pursue disarmament. The UK has decided to increase its nuclear weapons cap by 40%, in contravention of its commitments as a State Party to the NPT.

In sum, it would set a poor precedent for Australia to use legal loopholes and technicalities to acquire and use nuclear material, equipment, and technology for non-peaceful, non-proscribed military purposes. This will encourage other non-nuclear weapons states to do the same, and significantly undermine the efficacy of the international non-proliferation regime. The acquisition of nuclear-powered submarines is a high risk and high cost proposal, which undermines the NPT, damages regional diplomatic relationships, reduces our independence in foreign policy and reduces our ability to defend ourselves. Crucially, it would contribute to an arms race and emerging cold war between the US and its allies and China, and increase the danger of war in the Asia-Pacific region, including nuclear war.

## **CONCLUSION:**

Given the current alarming nuclear threats globally, efforts to advance nuclear non-proliferation are of high importance. In a context where the Treaty on the Prohibition of Nuclear Weapons has entered into force and is gathering support, and is the only current positive development regarding nuclear disarmament, the Australian government must fulfil its commitment to sign and ratify the TPNW. This will require Australia to dissociate itself from any support or justification for nuclear weapons or contribution to their possible use.

Similarly, the proposal to acquire nuclear-powered submarines is a risky step towards, rather than away from, utilization of weapons-usable fissile material and technology, and carries unacceptable and unnecessary risks. Reconsideration of this proposal is urgently required.

Dr Margaret Beavis    Associate Professor Marianne Hanson

Co-Chairs, ICAN AUSTRALIA