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**To: The Committee Secretary
Joint Standing Committee on Treaties
Parliament House, Canberra**

Submission re: AUKUS agreement for Cooperation Related to Naval Nuclear Propulsion

The Medical Association for Prevention of War (MAPW) is a national organisation of health professionals dedicated to the elimination of nuclear weapons and a reduction of armed conflict. We thank the Committee for the opportunity to provide comment on this proposed Treaty.

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SUMMARY AND RECOMMENDATIONS

1. The proposed Treaty undermines Australia's national interests. It should be rejected and the following requirements implemented before any future AUKUS-related treaty is negotiated.
2. A National Interest Analysis with detailed examination of both benefits and costs of the actions proposed in the Treaty should be conducted, with the results determining the future of the AUKUS submarine program.
3. Highly enriched uranium should be rejected as a fuel for Australia's future submarines.
4. Regulation of Australia's submarine program must have functional separation from the delivery of the program.
5. The impacts of the proposed Treaty on Australia's support for a Fissile Materials Cutoff Treaty should be stated.
6. The impacts of the proposed Treaty on Australia's capacity to sign the Treaty on the Prohibition of Nuclear Weapons (TPNW) should be stated. Australia must sign the

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TPNW, as this would be the strongest indication for the global community that Australia will remain nuclear weapons free.

7. Australia's "neither confirm nor deny" policy in relation to visiting US ships and aircraft undermines the spirit of the South Pacific Nuclear Free Zone Treaty (SPNFZ), and should be rejected.
8. The US is the only one of the five major nuclear-armed states that has not ratified the Additional Protocols of the SPNFZ. Australia should urge it to do so.
9. Australia should reaffirm its commitment to the UN Declaration on the Rights of Indigenous Peoples, particularly in relation to the management of nuclear waste from the proposed submarines.
10. The proposed Treaty must clearly and explicitly reject any acceptance of Intermediate or High-level waste from our AUKUS allies.
11. The undisclosed "political commitments" associated with the proposed Treaty must be disclosed.

These matters will now be addressed.

NATIONAL INTEREST ANALYSIS

The National Interest Analysis accompanying the proposed Treaty gives very scant attention to how the AUKUS submarines would serve Australia's national interests. The clause which comes closest to this simply states "Conventionally armed nuclear-powered submarines, when compared to conventional submarines, maintain superior characteristics of stealth, speed, manoeuvrability, survivability and almost limitless endurance. Nuclear-powered submarines can operate with a lower risk of detection and deter against Australia's interests".

No explanation is given as to how the superior characteristics of nuclear-powered submarines relate to Australia's specific geographic and other circumstances. The matter of deterrence is taken as self-evident when it is in fact highly contentious, both as a means of deterring wars generally (history having many examples of "deterrence" failing) and also in relation to the capacity of Australia's very small proposed nuclear submarine fleet to deter aggression. The consequences of the possible failure of Australia's deterrence towards China are not addressed.

No acknowledgement is given of the other huge costs and/or risks of the proposed submarine program, which include:

- The nuclear weapons proliferation potential (addressed below).
- The crippling economic costs that will constrain resources available for many other critically important health, climate and other programs. Astonishingly, [\\$9.4 billion is already committed](#) for UK and US, rather than Australian, submarine production, regardless of what vessels Australia actually receives.

- De facto stationing of an increasing number of US nuclear submarines in Australia, suggested as a possibility in a recent CRS report (see [here](#)). This would intensify Australia's increasing risk of involvement in a war - possibly a nuclear war - between China and the US, with Australia being an almost certain military target.
- Challenges to our international relationships within the region (see for example [here](#), [here](#), [here](#), [here](#), [here](#), and [here](#)), including of course with China.
- Large quantities of high-level nuclear waste (addressed below).

These factors undermine Australia's national interests. Unless both costs and benefits of the proposed Treaty are weighed up, the "National Interest Analysis" is meaningless. Civil society in Australia at multiple levels has provided much of this analysis, but remains locked out of the decision-making process.

AUGMENTING NUCLEAR WEAPONS PROLIFERATION RISKS

The proposed treaty refers several times to "the highest non-proliferation standard", but what is proposed does not comply with that standard.

Highly enriched uranium (HEU)

The proposed naval reactors would be powered by highly-enriched uranium (HEU), which can be directly used as nuclear weapons fuel. This poses a threat to the global non-proliferation regime. Within days of the AUKUS announcement in September 2021, the risks were foreseen (see for example [here](#), [here](#) and [here](#)). Eminent scholars have [reinforced the concerns](#).

IAEA safeguards loophole

The International Atomic Energy Agency (IAEA) Comprehensive Safeguards Agreements with states are designed to prevent the use of weapons-usable material from being diverted to nuclear weapons programs. They contain, in paragraph 14, provision for an exemption which allows for the "non- application of safeguards for purposes such as naval nuclear propulsion. This has long been seen as a [dangerous loophole](#) and a major threat to efforts to limit the production and use of nuclear weapons fuel in the form of HEU.

No state has ever triggered the implementation of paragraph 14; it is uncharted territory. Australia, in order to build submarines fuelled with HEU, would be the first to do so.

In addition, an agreement between the IAEA and Australia in relation to the nuclear submarines does not yet exist. IAEA processes must be rigorous and impartial, and their outcomes should not be taken for granted.

Setting a precedent

Other nations have also expressed interest in nuclear-powered submarines, including South Korea, Japan, Pakistan and Iran. Would Australia be assured by any statements from, say, Iran that their naval reactors would be welded shut and therefore proliferation-proof? Any

special exemptions for Australia alone would be destabilising and provocative, particularly if Iran were to be denied the same.

Adding to NPT tensions

At the 2022 Review Conference of the Nuclear Non-Proliferation Treaty (NPT), a number of nations raised concerns about Australia's nuclear submarine plan. Indonesia submitted a [working paper](#) titled 'Nuclear naval propulsion', which raised safety, environmental and non-proliferation concerns. It stated that HEU used for naval nuclear propulsion increases the risk of nuclear weapons proliferation by potentially setting a precedent, could complicate safeguards and that it could be exploited to provide a shield for diversion of the material to nuclear weapons programmes.

Additional tensions within the NPT have been apparent. Our AUKUS partners and the other nuclear armed states have failed to comply with their Article 6 obligations. While remaining very important, after over five decades the NPT has failed to deliver on its promise of nuclear weapons abolition. Neither of the 2023 and 2024 NPT PrepCom meetings produced an outcome document. The use of HEU by the AUKUS submarines adds to these threats to non-proliferation.

Violating IAEA guidelines on regulation of nuclear programs

One of the indicators of compliance with the highest non-proliferation standards is strict compliance with all IAEA guidelines. The proposed regulation of the AUKUS submarine program does not comply with IAEA guidelines. It is proposed that the Australian Naval Nuclear Power Safety Regulator would report directly to the defence minister, who will also oversee every aspect of the delivery of the program itself. This presents a direct conflict of interests.

The IAEA sets out in its [Governmental, Legal and Regulatory Framework for Safety](#) (Requirement 4) a requirement that regulatory bodies have “functional separation from entities having responsibilities or interests that could unduly influence its decision making.” A system in which the regulator is answerable to the minister overseeing the activities being regulated is not “functional separation”.

Impact on prospects for a Fissile Material Cutoff Treaty

The acquisition by Australia of large quantities of HEU for naval propulsion also directly undermines our previous advocacy for a [Fissile Material Cutoff Treaty](#), which would prohibit the production of both HEU and plutonium.

Impact on Australia's capacity to sign the TPNW

No reference has been made in the documents for this inquiry to the Treaty on the Prohibition of Nuclear Weapons (TPNW), which the Australian Government, when in

opposition, undertook to sign. Important questions remain relating to the impacts that the current AUKUS Treaty would have on Australia's capacity to sign the TPNW.

Australia's signature of the TPNW would be an extraordinarily powerful step towards nuclear weapons abolition, and would be far more beneficial for our security and national interests than the AUKUS nuclear submarine program.

AUSTRALIA'S OBLIGATIONS UNDER THE SOUTH PACIFIC NUCLEAR FREE ZONE (SPNFZ) TREATY

Regardless of whether the AUKUS submarines would violate the letter of the law in relation to the SPNFZ Treaty, they undermine its spirit. SPNFZ prohibits the stationing of nuclear weapons within the territories of its member states, but leaves open the possibility of "de facto stationing". When a prolonged "visit" becomes "stationing" is not defined and is open to interpretation.

Professor Michael Hamel-Green outlined the long history of concerns on this matter at a workshop for the UN Office for Disarmament Affairs in July 2020 (available [here](#)), stating:

"During the course of the South Pacific NWFZ negotiations, both Papua New Guinea and Vanuatu voiced strong concerns that the treaty's lack of regulation of port visits by nuclear-armed vessels could lead to some form of de facto stationing. They argued for time limits on the "duration and pattern of port visits" and a "prior warning" requirement for nuclear ship visits. However, Australia, which chaired the negotiations, rejected the PNG/Vanuatu proposal..."

Australia's "neither confirm nor deny" policy in relation to the presence of nuclear weapons on visiting US vessels and aircraft – visits which will become more frequent and longer under the AUKUS arrangements – are an abrogation of both our sovereignty and our responsibility to act in good faith towards other SPNFZ member states. This policy should be revoked.

Time for the US to ratify the SPNFZ Additional Protocols

There is a further step which Australia could urge the US to take, to demonstrate commitment to not only the letter of the SPNFZ but also its spirit. For the nuclear-armed states, the SPNFZ Treaty has [additional Protocols](#) by which they undertake not to test, use or threaten to use nuclear weapons within the zone to which the Treaty applies. Of the five major nuclear-armed states (the US, Russia, China, France and the UK), all have signed the Protocols, but the US is the only one that has not yet ratified any of them. The Pacific Islands Forum communique of November 2023 (in para 54) urged the US to ratify the Treaty Protocols as soon as possible. This has not happened. Australia should urge our ally to do so before the AUKUS submarine plans proceed further.

NUCLEAR WASTE

Under the terms of the proposed Treaty, “Australia shall be responsible for the management, disposition, storage, and disposal of any spent nuclear fuel and radioactive waste resulting from the operation of Naval Nuclear Propulsion Plants transferred pursuant to this Article...”

However Australia has no proven capacity to do this, and very slim prospects of developing such capacity in the timeframe required. We have no site for long term management of even our current Low and Intermediate-level nuclear waste, let alone High Level Waste. For Low Level Waste, successive federal govts have [failed to establish a national repository](#).

High Level nuclear waste (HLW) must be isolated from the environment for many tens of thousands of years - vastly longer than any human institution. In the case of the AUKUS submarines, the waste will contain weapons-usable HEU, and must be subject to tight levels of security for that period also.

Our AUKUS partners the US and the UK have no solutions yet to their respective HLW problems, despite decades of operating nuclear submarines.

The rights of Indigenous Peoples

With the spectre of Maralinga still clear in the memories of Australia’s Indigenous Peoples, there are well-founded fears that their rights will be overturned yet again, this time to deal with the submarine waste. A push for exemptions for the Defence Department from – thus far unspecified – state and territory laws appeared in a March 2023 [consultation paper](#) released by Assistant Defence Minister Matt Thistlethwaite. It included changes needed for AUKUS. The laws are likely to include those that protect First Nations cultural heritage and the environment.

Australia has pledged to support the [UN Declaration on the Rights of Indigenous Peoples](#), which states “[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“. This must be complied with. Thus far, such consent in relation to military nuclear waste is lacking, and it should not be taken for granted that it will be given.

Explicit rejection of US and UK Intermediate and High-Level waste

Concerns as to whether Australia might in future accept High or Intermediate Level waste from our AUKUS partners continue. In May 2024 the [report](#) of the Senate Foreign Affairs, Defence and Trade Committee inquiry into the Australian Naval Nuclear Power Safety Bill 2023 recommended that “the Government consider amending the Bill so that a distinction is made between Australia’s acceptance of low-level nuclear waste from AUKUS partners, but non-acceptance of high-level nuclear waste.”

Australia's non-acceptance of both Intermedial and High-Level nuclear waste from our allies should be clear and explicit, including in the current proposed Treaty.

UNDISCLOSED "POLITICAL COMMITMENTS"

To add to the many areas of concern with the proposed Treaty, there are also [undisclosed commitments](#), which are being made in our name and without our knowledge or consent. Given the enormous implications of the AUKUS agreement, these additional commitments should be disclosed.