

Australian Naval Nuclear Power Safety Regulations 2025

City of Port Adelaide Enfield
Endorsed Submission

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Overview

At its Ordinary Meeting in November 2024, Council adopted a Decision-Making Framework for AUKUS to guide its strategic and operational input into the AUKUS development (see **Attachment 1**). The Framework was developed to ensure a consistent approach to any decisions that Council may have to make in relation to the AUKUS development and reflects the guiding principles, goals and role statements from Council's City Vision 2024-34. More specifically, the purpose and scope of the Framework will be for Council to:

- **Use the Framework's guiding principles to develop specific positions:** Council has developed and endorsed the AUKUS decision making framework to guide all its decision making relevant to the AUKUS project, including forming positions when required.
- **Focus on what Council can control and influence:** Council will apply the AUKUS decision making framework in all decision making relevant to the project to ensure Council focuses on its roles and responsibilities.
- **Align with the PAE's endorsed strategy and policy:** The decision-making Framework aligns with the City Vision 2024-34 goals and objectives.
- **Focus on community outcomes, needs and concerns:** Council's primary focus is advocating for community and environmental benefit (including businesses) and minimising negative outcomes for and impacts on relevant communities and environments.

Council has previously considered the legislation for the development of the new regulatory framework that will be regulating the nuclear safety of activities relating to the Osborne Naval Shipyard and the AUKUS submarines. At its Ordinary Meeting in November 2024, Council resolved the following:

- *opposition to the storage or disposal of radioactive waste in the AUKUS facilities at Osborne Naval Shipyard; and*
- *the position that any applications for licencing for the management, storage or disposal of radioactive waste at the AUKUS operations at the Osborne Naval Shipyard should be subject to comprehensive community engagement;*

Council's below comments on the draft Regulations reflect this position and are consistent with the PAE Decision Making Framework for AUKUS.

Recommendation 1

That in keeping with Council's resolution of November 2024, the regulations and supporting codes and other regulatory instruments relevant to the nuclear safety at Osborne, prohibit the storage or disposal of radioactive waste in the AUKUS facilities at Osborne Naval Shipyard.

Regulation Specific Comments

For ease of reference and convenience, the structure of Council's submission follows the structure and order of the draft Regulations.

Part 2 – Making an application for licence authorising facility activity of material activity

(21) Records management system

While this section specifies the requirements for the applications records management systems and processes, it does not address any reporting requirements, including public records and reporting.

Recommendation 2

It is recommended that the regulations be updated to set out explicit requirements for public disclosure, record keeping, and transparent reporting regarding both compliance and noncompliance with licence conditions.

(23) Additional information and documents – any kind of facility

Part 2 Section 23 (d) – Council questions the definition of what 'meaningful' consultation comprises (cross ref - Part 3 Section 43 (b)) and what information would need to be submitted by a licence applicant to meet this requirement.

A recurring community concern in the promulgation of the legislative and regulatory framework relevant to AUKUS activities at Osborne, has been the lack of specificity about when and what will be occurring at the site in terms of nuclear activity. While it is appreciated that such details are subject to ongoing contractual negotiations between the international partners to AUKUS, it is of paramount importance that comprehensive and transparent engagement with the local impacted communities occurs.

Recommendation 3

It is recommended that the regulations establish clear minimum criteria for community engagement by licence applicants. This should include comprehensive and transparent engagement with local affected communities, and specific requirements to ensure the community's right to be informed about both compliance and non-compliance with licences. Such measures would align with the stated social licence objectives of ANI, ASA, and ASC.

(24-27) Additional information and documents—activity of preparing a site for an NNP facility; constructing an NNP facility; having possession or control of an NNP facility; and activity of operating an NNP facility in a designated zone.

Part 2, Sections 24-27 (cross reference to Section 42(3)) include a requirement for the submission of a preliminary decommissioning plan and a preliminary disposal plan for licence applications involving an NNP facility. Council considers that no licence for a regulated activity should be approved without a clear decommissioning plan in place, including confirmation of how the management, storage and disposal of spent nuclear fuel or reactors will be undertaken. This should not be speculative or hypothetical in nature and should give the community certainty as to what the facilities required to manage and dispose of radioactive waste (and spent nuclear fuel) will comprise and where these will be located.

Recommendation 4

The decommissioning plan and disposal plan required under Part 2, Sections 24-27 should not be preliminary in nature and should be more prescriptive in terms of the required contents of the plans, i.e. the respective plans should confirm how the management, storage and disposal of spent nuclear fuel or reactors will be undertaken, including the location of any storage facilities.

Subsection 25 (4) requires the applicant for an activity to construct a NNP facility to advise the regulator if they ‘believe’ that there are no grounds for environmental protection regulation of the activity.

Recommendation 5

It is recommended that subsection 25(4) be reviewed and revised to explicitly reference the applicable environmental protection legislation, ensuring that thorough environmental impact assessments are conducted. This is particularly important given that the ANNPS regulator may lack specialised expertise in environmental protection matters.

(29) Additional information and documents—activity of disposing of an NNP facility in a designated zone

Subsection 29(5) talks to ‘*An assessment by a suitably qualified and experienced independent person of whether the proposed disposal plan for the activity would result in any ongoing radiation exposure at the site of the NNP facility being sufficiently low so as not to pose an ongoing hazard to the public or the environment is required*’.

This section further reinforces the need for the **public health and safety** focused provisions in the regulations to be strengthened.

It is unclear in Subsection 29 (5) whether a hazard and risks management plan would need to be put in place once the independent assessment has been completed.

Recommendation 6

Section 29 should be reviewed and updated to require that comprehensive hazard and risk management controls, as well as detailed management plans covering nuclear safety, radiation protection, and environmental protection measures, are established following the independent assessment. This approach will help ensure that risks to the local community and environment are thoroughly identified and effectively minimised.

(31) Additional information and documents for any kind of material activity – transport management and movement plans

Subsection 31 (2) requires the applicant provide information and documents relevant to transport and movement of NNP material or equipment within and into and out of the designated zone. This would presumably include nuclear and radiative waste materials and the importation of the nuclear propulsion reactors for installation in the submarines.

During the Regulatory Design team's presentation to Elected Members on Tuesday 22 July, clarification was sought on what transportation route would be used to transport materials to and from the designated zone and what exclusions would apply. No detail could be provided.

It is also unclear how the transport related provisions of the *Australian Radiation Protection and Nuclear Safety Act 1998* are called up in the ANNP Regulations. Given that it is likely that radioactive and nuclear material will need to be transported either via the Port River (a legislated wildlife sanctuary) and/or Victoria Road (a key arterial road servicing critical energy and freight infrastructure for the state and residential areas) this matter needs to be addressed in the regulations.

Recommendation 7

Section 31 should be reviewed and amended to require that detailed transport and movement plans are developed. These plans must address and minimise potential hazards and safety impacts on local river systems, as well as transport networks that serve nearby businesses, industries, and communities.

Part 3 – Matters to be satisfied of or taken into account in issuing licence authorising facility activity or material activity

(41) General matters the Regulator must take into account

The wording in this section needs review. For example, subsection 41 (a) states '*whether the applicant has demonstrated that the interaction between technical, human and organisational factors in the management of nuclear safety has been considered in relation to the conduct of the activity*';'. For such matters to only be 'considered' does not provide the

necessary assurance that the applicant will be required to confirm that the safety and protection of the public in the management of nuclear safety is of paramount importance.

Recommendation 8

Section 41 should be revised to explicitly require that the protection of the public and the environment is not merely considered but mandated as a core requirement.

Part 4 – Conditions applying to licence authorising facility activity or material activity

(52) General conduct of the regulated activity

The conditions relating to the conduct of the regulated activity listed from (a) to (k) are very broad in scope.

Recommendation 9

Section 52 should be updated so that specific plans are required for approval, rather than relying on broad and non-specific conditions.

Part 5 – Nuclear safety incidents

(64) Reporting – potential serious impacts and breaches

(65) Reporting -incidents

While sections (64) and (65) outline the licence holders' reporting obligations to the regulator, they do not provide for any public notification and reporting.

Recommendation 10

It is recommended that sections 64 and 65 be revised to require public notification and reporting. This would help ensure that emergency management efforts are effective and that the health and safety of both the community and the environment are properly protected.

Part 7 – Other matters

(105) Applicability of Relevant State Laws

The prescriptions of this section to exclude state laws that do not apply to the nuclear safety regulated activity under the ANNPS Regulations is of concern to Council. In particular, the exclusion of the *South Australian Radiation Protection and Control Act 2021* and consideration of **public health** radiation protection matters.

Subsection 105 (3) exclusions include provisions relating to the disposal of nuclear waste, the handling or storage of nuclear material or material contaminated with radiation or decommissioning of nuclear facilities.

An ongoing concern for the community is the potential for Osborne to be treated as a nuclear waste repository, particularly because Australia has no permanent solution for the disposal of low, medium or high level nuclear/radiative waste. Noting that the AUKUS agreement obligates Australia to manage its own nuclear and radioactive waste.

Council maintains its position opposing the storage or disposal of radioactive waste in the AUKUS facilities at Osborne Naval Shipyard.

The provisions of Section 105(4) that seek to ensure that the provisions of a law that is predominantly for the purposes of regulating work or occupational health and safety; or, protecting the environment, is supported. However, it is considered that the protection of public health should also be included under Section 105(4), to ensure that law that is predominantly for the purposes of protecting public health (such as is regulated under the *South Australian Public Health Act 2011*), will continue to apply.

It is also recommended that the provisions of subsection 4 also apply to those laws that are listed as prescribed under subsection 2, particularly the *Radiation Protection and Control Act 2021* (SA). This will ensure that the elements of law within the *Radiation Protection and Control Act 2021* that are predominantly for the purposes of regulating work or occupational health and safety; protecting the environment; or protecting public health will continue to apply.

The SA Radiation Protection and Control Act 2021 also provides for the establishment and functioning of a Radiation Protection Committee (RPC) and application of the *Public Sector (Honesty and Accountability) Act 1995*. Composition of the RPC and its functions include matters relevant to public health, all of which would be excluded and not apply to Osborne under the provisions of the ANNPS Regulations.

Recommendation 11

Part 7, Section 105(4) should include 'protecting public health' to ensure that provisions of a law that is predominantly for this purpose would still be relevant and enforceable and not exempted by Section 105. The amended text proposed is in red below:

"(4) Subsection (2) and (3) does not apply to a provision of a law that is predominately for the purposes of:

(a) regulating work or occupational health and safety~~; or~~

(b) protecting the environment; or

(c) protecting public health"

The proposed changes to Section 105 are intended to clarify that important South Australian laws related to public health and safety will remain applicable under the ANNPS Regulations. By specifically including provisions for protecting public health, these amendments ensure that such legislative and regulatory safeguards are not inadvertently excluded.

ATTACHMENT 1

PAE Decision Making Framework for AUKUS

November 2024



Application to City Vision 2034 guiding principles

- **Equity and belonging:** apply intergenerational principles to decision making to ensure future local communities are not adversely impacted
- **Participation:** inform, involve and consult with the community in relevant decision making
- **Sustainability:** advocate for economic, social and environmental outcomes, including infrastructure, employment and business opportunities and the protection and enhancement of and public access to the natural environment, including Mutton Cove, Biodiversity Park and the Port River and Barker Inlet estuary
- **Integrity:** ensure decisions align with the City Vision 2030 outcomes
- **Transformative:** engage and partner with the community and local business to leverage the opportunities that are generated from AUKUS

Application to City Vision 2034 goals

- **Thriving Community:** advocate for investment in community infrastructure and initiatives in the areas impacted by the development
- **Prosperous Economy:** advocate for opportunities for local business and investment in local training and employment opportunities and support co-investment in local infrastructure
- **Clean and Green City:** advocate for investment in the local circular economy, climate risk mitigation and environmental protection.
- **Places for Peoples:** advocate for planning for and investment in placemaking outcomes, including the State Government led preparation and delivery of an integrated masterplan for the Lefevre Peninsula.

Council's Roles

- **Leader:** Identifying, setting direction, planning and advocating for the needs and aspirations of the impacted communities (for issues within Council's direct control).
- **Advocate:** Lobbying and advocating for impacted communities, particularly with other spheres of government, to ensure the needs and aspirations of the community are being met (for issues outside of council's direct control but that Council can influence).
- **Facilitator:** Assisting others to meet the needs of impacted community by providing opportunities to remove barriers, which may prevent community needs being met.
- **Information Resource:** Providing a resource for the community and other stakeholders seeking information.

Priority actions

- Apply the Framework to Council's response to the following activities:
 - Determining Council's role in creating social licence for the AUKUS development with a focus on leveraging to maximise community benefit and address intergenerational disadvantage
 - The federal government led and legislatively required strategic assessment process for the overall AUKUS development (under the Environmental Protection, Biodiversity and Conservation Act).
 - The state government led 'major project' assessment process for the development (under the Planning and Design Code)
 - The state government led master planning for the Lefevre Peninsula and broader region (which factors in local infrastructure provision, housing and employment land use and supply and transport planning)
 - The federal government led development of nuclear safety legislation for the AUKUS development.
 - In the formulation of any policy positions relevant to the AUKUS development.
- Engage with impacted communities when developing relevant positions and responses.
- Promote the Framework on PAE's website and prepare FAQ's to support any engagement activities using the Participate PAE platform.
- Inform local MPs and relevant government agencies of the Framework and its application.