

Pamela Curr

Committee Secretary  
Parliamentary Standing Committee on Public Works  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Dear Secretary,

Please find attached this submission on the Proposed Melbourne Immigration Transit Accommodation Project, Broadmeadows, Victoria.

My background is that I have been involved with this human rights work for 16 years. I have recently retired from the Asylum Seeker Resource Centre after twelve years of working with and supporting people seeking asylum. The past four years I held a specific role as the ASRC Detention Human Rights Advocate where I visited and supported people to access lawyers, medical services and assist with human rights issues. In this role I have visited Christmas Island Detention camps in 2008 and again last year. I have also visited all on-shore camps past and present except for Curtin and Port Hedland.

I have been a visitor at the Melbourne Immigration Transit Accommodation (MITA) since it opened in 2008 and have witnessed the changing population from unaccompanied minors to single men to families and children to today.

As a Designated Person I was trusted to take people out of detention unescorted for years until Border Force policies were introduced in 2015. At first it was the unaccompanied minors and then the single men. We took them to cafes and shops and activities to give them relief from a life behind fences. I also took families and children out on picnics, visiting family and friends and shopping. In six years not one person ran away or was harmed during these outings.

I believe this illustrates that internal control generated by trust and a belief in justice and fairness is more effective in gaining compliance than external control methods of force and expensive and ever increasing surveillance.

As a community visitor, I attend the quarterly Community Consultative Group meetings with SERCO and BORDERFORCE where policy and operation of both the MITA and MIDC detention centres is discussed. I write from the perspective of first-hand experience with the changing conditions at the MITA. I am aware also from my recent visit to the high security detention facility at Christmas Island that the proposed changes at MITA and Yongah Hill aim to replicate the prison-like environment on Christmas Island. My submission follows.

Yours sincerely,

Pamela Curr

I write with grave concerns about the proposed \$30 million dollar spending on the MITA at Broadmeadows. The DIBP statement of evidence as to the need for this expenditure states that there will be no increase in the number of beds for this \$30 million but that the beds will be “hardened” and the aim is to separate the “cohorts” because of their high security risk.

1. The plan is to ensure that the people can be separated and locked down when DIBP and SERCO deem this necessary. I contend in this submission that this capacity already exists through the “Controlled Movement Zone” policy which has been in place since last year. The MITA had substantial alterations and four metre high fences installed to separate people into 5 separate living areas. These are people who had lived together amicably for years.
2. This proposal imposes harsh prison like conditions on different groups of people with very different needs- those seeking asylum and refugees are mixed with people exiting the prison system and people who have overstayed work and tourist visas. The people seeking asylum are criminalised by association. They are body searched constantly and handcuffed to go to hospital or medical appointments. This criminalising of people seeking asylum destroys their spirit and belief in justice. Their constant refrain is “we are not criminals”. The proposed prison like changes at the MITA will exacerbate this distress. These are the same people who I have taken unescorted on outings for years without incident.

#### RATIONALE GIVEN FOR EXPENDITURE

3. It is useful to examine the current operation and population of the MITA to look at why this may not be necessary. Throughout 2015 and 2016 extensive construction work has been underway. As stated it is said that there will be no increase in beds from the current 140. However as the numbers at MIDC consistently run at over 100 and MITA has a current population of 161, it is hard to see how this objective can be reached under current policy. There is already an empty unused compound at the MITA as well as the four compounds and one small area in use.
4. Recent figures reveal that of the 141 people in the MITA, only half are people who arrived by boat and 23 who arrived by air seeking asylum. The rest are people whose visas have been cancelled, people who are over-stayers and found working or increasingly people who have arrived by air and had their visas cancelled at the airport. Very few of the ex-prison people are at the MITA.
5. Much is made of the character cancellation cohort but from my documentation of histories of these people, they do not present a security or flight risk. It is a fact that young men in particular have been victims of the excessive visa cancellation policy. They are then re-detained on matters so trivial that there are no police charges or interest in them.
6. Those who have been charged are held in detention instead of waiting in the community for a Magistrates Court hearing even when the matter is trivial and bail is granted.

7. Example 1. A young man was accused of behaving badly in a club towards a girl. He was re-detained for 11 months before the matter went to Court. Evidence and camera footage revealed that he had no contact with the girl at all and had committed no offence. It was a vexatious complaint. The Magistrate threw the matter out but yet this young man waited a further 5 months for release from detention. He was denied his freedom for 16 months in total.
8. Example 2. A man on a good behaviour bond spent two years locked up away from his family. Even detention staff said that they could not understand it. He pleaded guilty on advice because the matter was trivial but was then punished by two years in detention.
9. Example 3. A young woman waited in detention 19 months for a Court decision on her immigration matter. She had no criminal record or any taint of misbehaviour.
10. There are many such cases of people waiting in detention at great expense to the taxpayer, who could reasonably and safely be living in the community. If this proposal proceeds they will now be held in even worse conditions and mentally and psychologically destroyed before they are released.
11. The proposal admits that women will be locked up in these high security "hardened beds". There is no recognition in this proposal that Immigration detention is supposed to be administrative in nature not punitive. This proposal provides for a prison-like institution in which people are accommodated in 10 bedroom pods which are locked down and are high security with a guard post on watch.
12. The people who have exited prison now risk even longer periods locked up if there is more capacity for them to be held in high security prison detention. It is noteworthy that the single largest national group in the immigration detention system are people from New Zealand. Please see the latest published figures on the numbers and reasons for people currently held in immigration detention centres.  
<https://www.border.gov.au/ReportsandPublications/Documents/statistics/immigration-detention-statistics-30-nov-2016.pdf> It is extraordinary that our neighbours are held for so long without resolution. I was told two years ago that a process was in place to make these visa cancellation determinations before they exited the prison system. This has not happened. These people want to return to their families and communities like any other person who has finished their sentence. It is unclear why it takes so long for them to be allowed to stay in Australia or sent home to New Zealand.
13. The Controlled Movement Zone policy was introduced in 2016 in both the MITA and MIDC. In MITA there are five controlled zone areas and the people are not allowed to mingle or visit each other. Each zone has its own dining area and a small room with a couple of pieces of gym equipment, an area with computers and little other amenity.

14. This was enabled by the construction of the Hungarian style mesh non-climbable fences which now encircle every building and compound. Sensors and surveillance lights and cameras are mounted at intervals and heavy metal gates are locked at all times and controlled by SERCO guards from a central command post across the road from the centre.
15. The only place where they can meet up with old friends is in the visits centre if they are lucky enough to be called there at the same time as a friend from another compound.
16. The people detained and visitors were told in April 2016 when the Controlled Movement Policy was being implemented that they could put in a written request to see each other and that it would be facilitated. This was never implemented. I give this example which is emblematic of a process where undertakings are given in order to gain compliance to new regulations and then broken without reason.
17. The statement of evidence does not explain why further restrictions are required when the MITA is already divided into 5 separate locked down zones.
18. An expensive new Soccer pitch has been installed recently. It is now only available for use for one hour per night and only to players. Spectators are not allowed so an opportunity for the men to gather socially is further denied by the controlled movement zone policy.
19. A well- equipped gym is now only available to the men in AVON compound. These are mostly people who are classified as “airport turn-arounds” or “rapid returns”. The long term men who are seeking asylum only have access to a small room with a few pieces of equipment and no outdoor space to exercise.
20. At MIDC men seeking asylum are placed in compounds with men who are exiting the prison system. We have repeatedly sought explanations for this deliberate policy as it is a matter of safety for the men. It has not been a problem at the MITA as the men there are low risk however at the MIDC there have been vicious unprovoked attacks by ex-prisoners on men seeking asylum.
21. Not all the men exiting the prison system are violent and a threat to others. Some men however are very angry because they expected to be released and yet are held for months in immigration detention without an end date. They bring the prison culture to the immigration detention centres. The guards are scared of them so they act with impunity.
22. We have brought this risk to the attention of DIBP and asked why with the introduction of the controlled movement zone policy, when there is a physical capacity to separate cohorts that DIBP have deliberately refused to do so. DIBP themselves know from SERCO reports of the number of times where asylum seekers have been attacked by angry ex-prisoners. The reply has been that these are “operational decisions”.

23. I can cite a recent case where a teenage boy was brutally bashed at MIDC by a man newly arrived from prison. He was knocked unconscious and taken to hospital. When he was returned to MIDC, we had to beg DIBP not to put him back in the same compound with the attacker. This man was not charged. He was sent back to New Zealand. The boy remains in detention.
24. I visited Christmas Island Detention Centre in August 2016. There I witnessed the high security, lock down prison features as described in this proposal. Christmas Island like all the other detention camps contains a mixed cohort, men who are seeking asylum, ex- prisoners, men who have had visa cancellations and asylum seekers in the community re-detained without reason.
25. On Christmas Island, men seeking asylum are placed in compounds of 30 to 40 men in ratios of 3-5 asylum seekers and the rest ex-prisoners. Bashings are common and the 26 men we visited over 6 days, all told us of their fear of being bashed or raped. Within two weeks of leaving we were asked for help by a man who was raped twice by a gang. It took ten days before DIBP removed him to Perth where he is still in detention. The detainees were not safe in spite of the excessive security because even there with capacity to physically separate cohorts, Border Force policy of mixing them up, prevailed.
26. I cite these examples because approval is being sought for millions of dollars on the grounds that people can then be separated into different cohorts to manage risk better. The capacity to do this exists now but it is departmental policy not to exercise this option which could ensure safety for all.
27. *Article 9 of the ICCPR provides everyone has the right to liberty and security of person. The use of reasonable force against any person in an immigration detention facility engages Australia's obligation to respect the right to security of persons under Article 9 of the ICCPR. The Department has a responsibility to detainees and other persons in immigration detention facilities to ensure that they are free from harm". The Government breaches this article in two ways. Firstly by placing asylum seekers at risk by putting them in an overcrowded locked environment with angry ex-prisoners who state openly that they will kill them or do them harm and secondly by depriving them of their liberty for an indefinite and lengthy period of time with judicial oversight. Australian taxpayers are being asked to fund these breaches.*

#### **Deficiencies in Current MITA Facility- Access to Legal Representation**

28. The proposal has not addressed the known deficiencies of the current MITA facility. I am concerned that in the Statement of Evidence given by DIBP for the Expenditure, no mention has been made of this major problem in legal service delivery at the MITA.
29. Under Section 256 of the Migration Act 1958 it is clearly stated *...where a person is in Immigration detention...the person responsible for their detention shall...afford them reasonable facilities...for obtaining legal advice or taking legal proceedings in relation to their detention.*

30. Where in this proposal is an acknowledgement and provision made for people in locked detention to be able to see a lawyer or migration agent for timely legal advice. The MITA population has increased significantly but the number of interview rooms for legal representatives remains at two. The timelines for appeals have shortened e.g. 9 days for 501 cancellations, 7 days for IAA appeals & 2 days for BV cancellations. Beyond these times the applications are out of time yet lawyers and migration agents have to haggle for an interview space to see a client and prepare an application. Some report being given only one hour because of space restrictions.
31. Of further concern is the current practice of posting a guard at the door of the interview room, so that the client has no assurance of confidentiality when revealing information vital to their case. The current small rooms offer no basic confidentiality.
32. Complaints about the quality of the telephones in the interview rooms have not been addressed. Calls drop out which when phone interpreters are assisting lead to long time delays.
33. These matters are raised at CCGP meeting regularly yet there is no mention in the \$30 million dollar proposal of acknowledgement or plans to remedy the problem.

**Communication into and out of MITA**

34. Our complaints about the system of trying to contact a detainee at MITA by telephone have now been made far worse. SERCO and DIBP now refuse to facilitate calls. We requested a phone system similar to that at the MIDC which has an incoming phone to each zone which can be accessed by the caller on the phone number pad. This system exists at BITA in Brisbane also. There is no mention of provision to upgrade the communications in this proposal.
35. On the 20<sup>th</sup> of February DIBP and SERCO have announced that they are confiscating all mobiles. Until now while people who arrived by boat are denied a simple mobile (no sound or picture facility allowed), people who come by air are allowed to have mobiles.
36. The only phone access will be the 3 landlines in each compound. To use these lines, a phone card purchasable at the canteen is needed. There are 30 to 40 people for three phones in Bass 1 and Bass 2 compounds. If 48 hours elapses before a person re-detained on a visa cancellation, finds a lawyer to assist with an application, they cannot apply for a review. They are then condemned to years in detention until the Minister makes a non-reviewable, non-compellable decision to release.
37. Days may pass before the person is interviewed by an Immigration case manager and has a chance to seek advice. At this point the case manager is not required to give them a legal phone number for assistance. The ability to communicate with outside support persons is

essential. There is no allocation or plan visible in this project for improvement of communications.

38. It is unclear what changes will be made to visitor access. The reference to the need for high security precautions are concerning. Currently at MIDC some visitors are only allowed to visit through the non-contact room where the visitor stands at a glass window. In addition some visitors are being screened for drugs with scanning equipment. This is causing much distress as mothers and young people who have never used drugs are being tested positive. They are told that they test positive to heroin or cocaine. They receive nothing in writing but are then blocked from visiting. Are these high security precautions cited in this proposal intended to include drug testing and body searching visitors?
39. So far no information or assurance is given that 1) The persons using the test equipment have been trained by an approved Cert. IV Trainer, who has a qualification in using the test equipment themselves or 2) That maintenance and calibration of the testing equipment has been carried out. There would be recommended maintenance procedures and most likely a calibration interval as provided by the manufacturer. The company who verify the calibration would have to be certified as per NATA, National Association of Testing Authorities. <http://www.nata.com.au/nata/>
40. Thirty Million dollars is a lot of taxpayer money to spend on a proposal whose stated aims have already been implemented by a recent upgrade. The stated reasons for the expenditure namely the separation of people into small groups and increased fencing and security have been done already. Communications and the provision of legal access are in urgent need of an upgrade but no provision for these is visible in the proposal.

We ask the Public Works committee to investigate exactly how this money is being used and also to ask if it is necessary.

Yours sincerely

Pamela Curr