



**REFUGEE RIGHTS ACTION NETWORK WA SUBMISSION
TO PARLIAMENTARY STANDING COMMITTEE ON PUBLIC WORKS**

*Proposed Yongah Hill Immigration Detention Centre Hardening Project
at Mitchell Avenue, Northam, Western Australia*

The Refugee Rights Action Network WA is a political activist group that was founded in 2001. Since our founding, we have established strong connections with people held in immigration detention centres and worked closely with communities of people seeking asylum. Members of our group visit people detained in the Yongah Hill Immigration Detention Centre on a weekly basis and have considerable insight into the conditions under which people are held and how these have changed and developed over time. We are fundamentally opposed to the mandatory detention regime, and our submission is predicated on the belief that people should not be indefinitely detained without charge or trial.

Comments, concerns and suggestions regarding the appropriateness of proposed 'hardening':

We are deeply concerned by the proposal submitted by the Department of Immigration and Border Protection ('The Department'). The Department has consistently maintained that immigration detention centres are purely 'administrative' and are not intended to be punitive institutions, but implanting prison architecture into the detention network directly contradicts this proposition. The Department's submission states

'the design reference for the accommodation building is the NSW Corrective Services Industries modular buildings with modifications. This building typology has been successfully integrated within NSW Corrections facilities'.¹

The Department is in effect proposing the development of a parallel institution that will incarcerate people after their sentence has been served in a correctional facility. The proposed 'hardening' of the Yongah Hill detention facility would be an unnecessary and expensive exercise that could be avoided with the exploration of alternatives to detention and incarceration or changes to the processes employed by the Department.

Over the past 12-24 months, we have observed a demographic shift in the cohort of people detained at Yongah Hill IDC and we acknowledge the presence of people considered to be in a higher risk category. We appreciate some of the complications and issues that have arisen with the shifting demographic and have noticed changes in relation to visiting processes and procedures as a result.

Visitor screening processes have become more stringent, rules, regulations and limitations on what can be brought into the centre have multiplied, and searches and pat-downs of people incarcerated in the centre have become more frequent and invasive. One man described how Serco's behaviour has changed since higher security individuals have been detained in the centre and how, over this period, things have become "*harder, harder, harder*". He emphasised the invasiveness of physical checks, stating "*before they never touch my body, now they touch everywhere*".² This has also coincided with a more visible presence of Border Force agents and Emergency Response Team (ERT) officers in the centre. We have serious concerns regarding the proposed mobile phone ban that will

1. Department of Immigration and Border Protection, 'Proposed Yongah Hill Immigration Detention Centre Hardening Project at Mitchell Avenue, Northam, Western Australia: Statement of Evidence Submission 1', 15 November 2016, 8.

2. Personal communications with 'A'.

soon be in effect. In the past, we have been critical of the discriminatory policy under which people who arrive in Australia by plane are permitted to possess a mobile phone, while people who arrive in Australia by boat are denied that right. There is no reason for people held in 'administrative' detention to be denied access to communications; phones are a critical communication link and assist people in maintaining connections with their friends, families and communities. Access to communications has a positive impact on people in detention and contributes to the 'good order' of the centre. We have concerns that the 'hardening' of the physical facilities will not alleviate the increasingly stringent 'security' measures, and may indeed lead to more excessive restrictions being put in place. In relation to the argument that the proposed hardening is in response to an increased cohort of people considered to be 'high risk', one man detained in the centre questioned, *'If this is the case, why do people who are 'low risk' need to be locked-up at all?'*³ Fundamentally, however, we maintain that no one should be detained without charge or trial.

We argue that increasingly restrictive physical conditions could have an impact on the culture of the centre. Giving officers more power and control over a marginalised group of people could potentially lead to abuses of that power. We are concerned that there is no reference to any additional training that Serco officers will be provided in order to appropriately respond to and interact with higher risk individuals. If the Department is primarily concerned about 'managing' this cohort, a premise which we view to be problematic in itself, it should consider that effective 'management' will not concern only physical and environmental conditions, but will also necessitate appropriate engagements and regimes of support.

We sought comments on the proposal from a man currently detained in the centre, he stated *"We came to seek asylum, not to be punished...if they make more high security, they punish us...already they punish us."* The man further expressed the view that it would be *'impossible'* for only two of the compounds to be affected by the proposed 'hardening' and stated *'it will affect us too'*. He indicated that, in his view, it was inevitable that if new rules were imposed on those in the high risk, high security compounds, individuals with a medium or low risk and security rating would feel flow-on effects.⁴

People with higher risk ratings are predominantly those who have been transferred from the prison system into the immigration detention system, and who are awaiting deportation. We submit that people who have had their visas cancelled under Section 501 of the Immigration Act have already served time in prison, making further detention arbitrary. If an Australian citizen commits an equivalent offence, once they have served their sentence they are released and subsequently have the opportunity to move on and rebuild their lives.

We submit that for people in this cohort, a preferable arrangement would be for deportation processes to be initiated while they are serving their prison sentence so as to avoid arbitrary detention upon completion. This would reduce the detention population and mean that people with higher risk classifications would be less likely to enter the immigration detention system.

In saying this, we question the appropriateness of deportation in some cases. We view the Department's characterisation of people who have had their visas cancelled as dangerous criminals, who should be removed from the country, to be problematic. A considerable number of people in this cohort have lived in Australia for a significant proportion of their lives. For example some arrived as children, and are themselves a product of Australian society. Many do not have any connection to their country of origin, but do have established family networks and other connections here that would be unjustly severed by forced removal.

3. Personal communications with 'B'.

4. Personal communications with 'A'.

Though we most commonly visit people who are seeking asylum, we often observe while in the visits room other people detained in the centre, some of whom have had their visas cancelled under Section 501 of the Immigration Act. Many of these people receive visits from family members, often including children. While our advocacy is generally focused on the rights of people seeking asylum, we are likewise concerned about the rights of people who find themselves in this situation.

High needs vs. high risks:

A striking aspect of the Department's proposal is that its focus is entirely on accommodating high risk individuals; how the proposal will affect low risk, high needs individuals has been overlooked. No indication has been provided as to whether placements in the 'hardened' accommodation are intended to be short term or long term, or as to what access people in the Eagle and Swan compounds will have to activities and excursions. Access to appropriate recreation, particularly for people detained for extended periods of time, will be important to support peoples' mental health and will be critical to maintain 'good order'. Likewise there is no apparent strategy to address the rehabilitation needs of 'high risk' individuals who may be dealing with substance abuse issues. Any institution designed for the purposes of 'managing' people rather than for rehabilitation or reform is inherently problematic. Incarceration is an ineffective response that fails to address the root issues leading to engagement with the criminal justice system. The emphasis of the Department's submission is 'management' and containment rather than seeking meaningful responses that will, in the long term, benefit the detained persons and society more broadly.

How risk classifications are defined and determined is also a matter of concern. There are some people who are detained in the centre who may be given a 'high risk' classification where this risk may be a risk to themselves due to mental health issues. There is potential for people in this group who also have high needs to be 'managed' in the hardened accommodation, which would likely exacerbate their symptoms. The potential for people who have not been released due to 'behavioural concerns while residing in an immigration detention facility' to be interned in the 'hardened' compounds is also very problematic. It is likely that a proportion of people in this cohort have been detained for prolonged periods of time and as we know from cases like that of Fazel Chegeni⁵ a punitive response can be fatal. We are aware of vulnerable, high needs individuals in the immigration detention network who, due to their risk classification, could be considered for placement in the 'hardened' compounds. Several of these individuals would be unlikely to cope with the restrictive, prison-like conditions. We are concerned that a conflation of the categories of 'high risk' and 'high needs' will lead to the people who fit within these categories receiving the same treatment and response.

Comments and concerns regarding the proposed design:

While the existing accommodation is poorly designed, the proposed accommodation does not offer any improvement. The 'pods' proposed for the Eagle and Swan compounds are cell-like with the only natural lighting provided by a small, higher level window in the wet area; in addition there is no provision for cross-ventilation.

People respond to the environments that they inhabit. The implementation of prison-like architecture with its associated restrictions in the centre is likely to reinforce the development of a prison-like culture among both those detained and those employed there.

5. Ben Doherty, 'How Australia's immigration detention regime crushed Fazel Chegeni,' *The Guardian*, 21 December 2015, <https://www.theguardian.com/australia-news/2015/dec/21/how-australias-immigration-detention-regime-crushed-fazel-chegeni>

While we welcome a reduction in the number of people held in the centre, the 'compression' of the immigration detention footprint and the closure of some centres, we hold concerns about the allocation of resources to 'hardening' existing centres.

Concluding comments:

Indefinite detention without charge or trial is not in the public interest; it is a violation of peoples' fundamental human rights, it reproduces trauma and subjects 'non-citizens' to punitive measures that would not be imposed on Australian citizens, even if the offences were proportional. We believe that immigration detention is punitive despite the Department frequently suggesting otherwise. The proposed hardening of the centre reinforces our view and, we believe, is a clear indication of further steps towards a carceral system. We suggest that alternatives to incarceration be pursued and that the Department's removal processes be reviewed. The proposed \$27.4 million 'hardening' project is an expensive exercise that will not produce better outcomes for people in the custody of the Department. It will instead reinforce a culture of punishment that mirrors that of the prison system.