



Refugee Council
of Australia

PARLIAMENTARY STANDING COMMITTEE ON PUBLIC WORKS

SUBMISSION ON PROPOSED MELBOURNE IMMIGRATION TRANSIT ACCOMMODATION PROJECT

The Refugee Council of Australia (RCOA) is the national umbrella body for refugees, people seeking asylum and the organisations and individuals who work with them, representing over 190 organisations. RCOA promotes the adoption of humane, lawful and constructive policies by governments and communities in Australia and internationally towards refugees, people seeking asylum and humanitarian entrants. RCOA consults regularly with its members, community leaders and people from refugee backgrounds and this submission is informed by their views.

RCOA welcomes the opportunity to make a submission on proposed upgrades at the Melbourne Immigration Transit Accommodation (MITA) facility in Broadmeadows, Victoria. While RCOA welcomes the efforts to ensure people in detention with high and low risk ratings are not co-located, we are concerned about some aspects of this proposal.

RCOA is concerned that the hardening of immigration detention facilities, including in Victoria will further limit the capacity of the detention network to accommodate people who have been assessed as low risk. This will create a need for more frequent transfers to the detention facilities in other states with appropriately equivalent risk ratings. These moves are financially costly and damaging to people's wellbeing as they are moved away from their vital support network.

Many detention facilities have high and low security compounds. RCOA is further concerned about the impact of securitisation of the detention facilities on people who continue to reside in the lower security areas of the detention facility. These concerns include: a more restrictive detention environment; limited programs and excursions; and increased limitations for visitor access.

1. Co-location of high risk and low risk people in detention

- 1.1. The issue of determining risk rating requires detailed analysis, which is outside of the scope of this inquiry. RCOA understands that the Department of Immigration and Border Protection (DIBP) may also consider people who are at high risk of harm to self, and high risk of escape as a "high risk cohort". When RCOA refers to a *high risk cohort*, we are primarily referring to those who pose a high risk to others. RCOA acknowledges that not all people who spend time in prisons are violent offenders who are a high risk to others and not all people seeking asylum are low risk.
- 1.2. RCOA is in regular contact with individuals and organisations that support people in detention, including the legal representatives of those in detention. We have received consistent feedback from these people that the shift in the detention population and the increase in the number of people with high and extreme risk rating have created a number of issues.
- 1.3. Those who spoke to RCOA stated that the increase in the number of people who at times had spent many years in prisons inevitably resulted in periods of co-location of that group with people seeking asylum. Instances where people have been housed in the same residential areas and/or

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had to use shared educational, sports, medical and common facilities at the same time are regularly reported to RCOA. These instances create tensions inside detention facilities and exacerbate the perception among people seeking asylum that their detention is punitive rather than administrative, as they see themselves detained alongside people who had committed criminal offences. People seeking asylum have complained of the introduction of a 'jail' culture inside the immigration detention facilities, including the use of intimidation tactics and the introduction of drugs into the facilities. People seeking asylum consistently report an increasing fear for their safety and some have significantly reduced their movements around the residential compounds and common areas and their participation in activities as a result. This has resulted in those affected becoming isolated and consequently compounding mental health issues.

- 1.4. For a long time, RCOA along with other NGOs has advocated for the separation of people in detention based on the level of risk they pose to others. The current proposal of DIBP puts in place mechanisms to achieve this outcome, including separating residential areas and rostering access to shared facilities. RCOA welcomes the acknowledgement of this need and DIBP's efforts to address this issue. While these positive developments are welcome, not all operational details have been outlined and the implementation of these unknown procedures could negatively affect the experiences of people in detention.

2. Balance between low and high security compounds

- 2.1. RCOA acknowledges that with the increase in the number of people with a high risk rating and in order to separate people according to their risk ratings, there is a need to upgrade immigration detention facilities. This upgrade could mean hardening of some of the compounds.
- 2.2. On the other hand, people continue to be detained as a result of overstaying their visas, breaching their visa conditions and for other reasons. Many of these individuals are assessed as having a low risk rating. Despite the reported efforts of DIBP to process these people in the community (as reported in the DIBP's submission to this committee), some will be placed in immigration detention facilities. In the absence of legislation prohibiting the detention of children, this group could and has included children. While RCOA welcomes government efforts to actively place children in the community and thereby significantly reduced the number of children in detention, children have continued to be detained in immigration detention facilities, even though in much smaller numbers and for shorter times.
- 2.3. Currently there are two immigration detention facilities in Victoria: Maribyrnong Immigration detention Centre (MIDC) and Melbourne Immigration Transit Accommodation (MITA). According to the submission made by DIBP to this committee, MIDC is due to close. The timing for its closure is dependent on the capacity of other key sites, including MITA, to accommodate the current cohort residing at MIDC. Closure of MIDC will leave MITA as the only immigration detention facility in Victoria.
- 2.4. MITA has four compounds: Avon, Eildon, Bass and Caldor. The current submission of DIBP proposes that Eildon and Caldor compounds will be redesigned and upgraded to high security areas. The Department also proposes to construct an eight-bed behavioural management unit. In late 2015, Bass compound was redeveloped and became secure and hardened. The new proposal and the past redevelopments will leave Avon compound as the only place in Victoria to cater for the needs of a low-risk population in detention. Unfortunately, while DIBP has detailed the capacity of Yongah Hill IDC and all of its compounds in its submission on that facility, it has not done so for the proposal relating to MITA. It is therefore unclear how many people can be accommodated in Avon compound. However, the mere fact that there is only one compound that can accommodate a low-risk detention population in Victoria suggests that there will not be enough beds.
- 2.5. RCOA is concerned that this will result in the transfer of low-risk populations to other immigration detention facilities in other States that are able to accommodate larger numbers of low-risk people. Not only are transfers expensive, they have also been proven to have a number of significant negative impacts on people in detention. For many years, people who have spent time in immigration detention facilities, their legal representatives, friends and supporters have told RCOA that being moved away from the state they used to reside in and where their social and support networks were based resulted in isolation and negatively impacted on their mental

wellbeing. Some reported residing in one detention facility for a few months and then being transferred to another facility. It disrupted their relationships with legal service providers or resulted in them missing important dates for appeals or seeking help.

- 2.6. RCOA understands that a number of vulnerable long-term detainees who have been moved around the detention network a number of times are currently accommodated at MITA. RCOA remains particularly concerned about the wellbeing of this group should any further movement to another detention facility occur during or after the construction and upgrade phase.

Recommendation 1

- a) *There should be a balance between low and high security compounds with enough low security beds available to people detained in the state of Victoria without the need for their transfer to other states. This could be achieved by the expansion of Avon compound;*
- b) *All efforts should be made to prevent further transfer of long-term vulnerable detainees who have established support networks in the state of Victoria, unless they request to be moved to another state.*
- c) *The committee should inquire about the exact capacity of Avon compound and the number of low security beds MITA provides and whether or not that meets both the current and planned requirement of the immigration detention network, without the need for frequent transfers.*

3. Impacts of hardening of the detention facility on all population

- 3.1. Even though a detention facility has low security areas as well as high security ones, the hardening of the facility and its increased securitisation can affect all people in detention.
- 3.2. Over the past few years and to mitigate some of the risks the new cohorts presented, Australian Border Force (ABF) has introduced a number of measures, including creating restrictions for visitors, more invasive room searches and significant reduction of excursions. These measures affected all people in detention, irrespective of their risk ratings.
- 3.3. In response to the specific concerns of visitors to immigration detention facilities, RCOA is conducting national research into the experiences of those visitors and the challenges they face. RCOA has published a report [brief](#) with the full report to be published in the coming months .
- 3.4. Visitors to immigration detention facilities referred to some significant concerns specific to MITA. These concerns included the need for people in detention residing in different compounds to make a formal application to the detention service provider and to use the limited capacity of the visiting room to meet each other. The people who are currently detained were previously able to meet and socialise in common areas, during classes and excursions and at meal times, as before the recent changes they had more freedom of movement between compounds and had more shared activities. This new requirement has increased the demand for the limited space of the visiting area. Regular visitors also raised concerns about arbitrary rules such as visits being considered finalised if a person in detention needs a toilet break and therefore has to leave the visiting area. Visitors raised concerns about the increasingly invasive screenings of all visitors, including drug tests, and ever-changing and inconsistent rules about what items they can bring to the visiting area and what items people in detention are able to take back to their accommodation area. Most people who spoke to RCOA were of the belief that these measures were introduced since the detention population changed and were introduced to mitigate the new risks the new population and their visitors may present. However, these measures affected the experiences of everyone in the centres and have made the visits a stressful and frustrating experience rather a respite from the stressful held detention environment as was the situation previously.
- 3.5. People in detention also spoke about more frequent and additionally invasive room searches, which were seen to be implemented in response to the increase in the availability of drugs in detention facilities following the changing cohort. These room searches again affect all people in detention, creating undue stress for many, especially those who have been in immigration detention for years and are more vulnerable.

Recommendation 2

- a) *The security mechanisms employed to maintain the good order and safety of the facility should correspond with the risks different detention populations present.*
- b) *The scrutiny of visitors to immigration detention should be proportionate to the risks of the cohort they are visiting. DIBP is proposing to create a new visiting area. This area could be used for people with a high risk rating and their visitors while the old visiting area could be used for low risk group and their visitors. Such a practical solution has a precedent in New South Wales as the high security compound of Villawood IDC (Blaxland compound) has its own separate visiting area and screening process. People who are assessed as presenting a low risk and their visitors should face fewer restrictions in terms of the socialising and screening process, similar to how the practices were before the shift in the detention cohort.*

4. The outdoor space

- 4.1. After the replacement of Bass compound with a more secure compound in late 2015, a number of concerns from people in detention through their supporters and legal representatives have been reported to RCOA. They included the compounds feeling cramped and confined and people having very little outdoor space where they can walk, engage in leisure activities and/or play sport.
- 4.2. In recent years, there has been a significant reduction in outdoor excursions, which provide people with a chance to leave the held detention environment. Even when they take place, the number of people who are eligible for those activities is very limited. RCOA therefore emphasises the importance of adequate outdoor space inside the detention facility.
- 4.3. The importance of outdoor space has been highlighted in the Detention Guidelines published by United Nations High Commissioner for Refugees (UNHCR), stating that “the opportunity to conduct some form of physical exercise through daily indoor and outdoor recreational activities needs to be available; as well as access to suitable outside space, including fresh air and natural light”.¹ Given the feedback received by RCOA about the inadequate outdoor space in Bass compound, we remain concerned about this issue in any future development.

Recommendation 3

- a) *With the reduction of opportunities for people in detention to leave the held detention environment for excursions, further outdoor space needs to be developed inside the facility. RCOA recommends using the area next to the new Eildon compound marked for “future expansion” or any other suitable space for this purpose.*
- b) *All people in detention should have equitable access to outdoor space inside the detention facility.*

¹ United Nations High Commissioner for Refugees (UNHCR), *Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, <http://www.refworld.org/pdfid/503489533b8.pdf>, p.30