

**JOINT SELECT COMMITTEE ON AUSTRALIA'S  
IMMIGRATION DETENTION NETWORK**

**\*Q306\***

**Question:** We have asked for a copy of the draft report and the final report of the Hamburger report.

**Answer:** A copy of the draft and final report is attached. The reports have been redacted to remove information, which if publicly disclosed would compromise the security of the immigration detention facility, and/or reveal commercial-in-confidence information of the detention service provider, Serco.



**DRAFT**

**Draft Report**

**Assessment of the Current Immigration Detention  
Arrangements at Christmas Island**

**13<sup>th</sup> May 2010**

**Keith Hamburger AM**

Draft Interim Report

Assessment of Current Immigration Detention Arrangements at Christmas Island

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**Disclaimer**

This document has been prepared in good faith, exercising due care and attention following advice from DIAC and SERCO employees and officers from other agencies on Christmas Island as to the situation that existed at the time the report was prepared.

No representation or warranty, expressed or implied, is made as to the relevance, accuracy, completeness or fitness for purpose of this document in respect of the user's circumstances. Knowledge Consulting Pty Ltd shall not be liable to the user or any other person or entity with respect to any liability, loss or damage caused or alleged to have been caused directly or indirectly by this report.

Where DIAC believes there are Duty of Care implications arising from circumstances described in this Report it is DIAC's responsibility to take this into account in reaching decisions arising from Findings and Recommendations contained in the Report.

**Acknowledgements**

The author wishes to acknowledge and thank the undermentioned people for their assistance and contribution that facilitated the undertaking and completion of this assessment and report in the very short time frame required. Each of the officers is carrying an extremely heavy and demanding work load. However, they made themselves available as required for discussion and provided every assistance:

- [Redacted]
- [Redacted]
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## Draft Interim Report

### Assessment of Current Immigration Detention Arrangements at Christmas Island

## 1. Summary of Findings

### Relevant History that Provides Context for the Assessment Made in this Report

#### Finding 1 – Page 19

There are many similarities between the current challenges facing DIAC due to the rapid and significant increase in the number of IMA's and those faced by the then Department in the circa 2000 and post period under similar circumstances. The circa 2000 and post period challenges were not met adequately resulting in disastrous consequences. Experience from the previous events needs to be taken into account in developing strategies to deal with current circumstances;

#### North West Point (NWP) IDC –Current Numbers of Clients, Temporary Additional Accommodation and Impact on Safety and Amenity

#### Finding 2 – Page 22

North West Point Immigration Detention Centre (NWP IDC) is overcrowded and understaffed; much of the temporary sleeping accommodation is not fit for purpose; staff and client safety is compromised; processes for client case management are conceptually sound but implementation is degraded through lack of client placement options and staff shortages; intelligence gathering is compromised due to staff shortages; centre maintenance and services are under stress; and client mental well being is at risk due to lack of meaningful activity; The foregoing raise significant Duty of Care issues for DIAC and SERCO;

#### Finding 3 – Page 23

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will create *two classes* of IMA's within the NWP IDC. This will increase pressure on placement and segregation which has already reached a dysfunctional and unsafe situation;

#### Finding 4 – Page 23

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will mean that a significant number of clients will spend longer in detention. On past experience initiatives will be required to engage clients in meaningful activities for significant proportions of their time to mitigate the adverse impact on client's mental well being of lengthy periods of detention in a state of uncertainty;

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#### **Finding 5 – Page 23**

Concerning early warning signs of deterioration in client morale are evident at NWP which if not addressed have the potential to escalate into a serious incident or incidents;

#### **NWP IDC – The Original Design Concept**

#### **Finding 6 – Page 24**

The original infrastructure at NWP IDC was a purpose built facility which if utilised in accordance with its design concepts achieves DIAC's goals for humane and safe detention of clients;

#### **Finding 7 – Page 24**

Due to the current circumstances commented upon in Finding 2, the infrastructure and operating model has been degraded and is not operating in a fit for purpose manner;

#### **NWP IDC – Optimum Client Capacity of the Infrastructure**

#### **Finding 8 – Page 27**

To ensure *duty of care* is met and effective operational outcomes are achieved a decision to increase the optimum client capacity at NWP IDC would need to be taken in the light of holistic architectural / building consultant and operational advice that takes account of:

- The client demographic;
- Processes and infrastructure needs for initial client processing;
- Client separation and case management needs;
- Likely length of client's stay in detention at NWP IDC;
- The program and activity menu proposed for the various categories of clients;
- The capacity to create a community environment within NWP IDC;
- A staffing model to support the operating culture of a facility based on values and rules that encourage the functioning of a *civil society*; and
- Infrastructure that does not compromise on providing for preservation of individual dignity and safety;

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#### Short Term Remediation

##### Finding 9 – Page 29

DIAC's initiatives to mix clients from different racial backgrounds together in each compound to avoid creating "*cultural enclaves*", to maintain clients who do not meet refugee requirements in their current accommodation and manage them intensively via Case Managers and allowing clients who are subject to the announced processing suspension to mix in the general population are good practice;

##### Finding 10 – Page 30

While the above client management strategies are sound there is every possibility that in isolation they are unlikely to avert incidents as to be successful they are heavily dependent upon a range of other matters which are summarised below with comment concerning their current status:

- Intensive case management; **Note:** There is evidence in this report that while case management concepts are sound, staff shortages and overcrowded facilities have reduced its effectiveness;
- Meaningful and purposeful activity/ programs for clients to assist in offsetting the boredom and frustrations associated with institutional living, the uncertain future and negative outcomes when they occur; **Note:** This is mostly not in place;
- Robust pro-active intelligence to identify early warning signs of deterioration in client morale and detect potential malcontents who may be planning to disrupt and or damage the fabric of NWP functioning; **Note:** The intelligence system is degraded because of staff shortages and overcrowding;
- The capacity to manage/ modify the behaviour of malcontents in separate accommodation where necessary; **Note:** Not possible in the current circumstances;
- The capacity to appropriately place clients according to their risk profile and case management outcomes; **Note:** Not possible in the current circumstances;
- A centre where services are functioning efficiently so that clients are content that their basic daily needs are being met effectively and efficiently; **Note:** Service failures are becoming evident; and
- Staff and clients feeling safe in the institution; **Note:** Staff are starting to express concern largely due to the overcrowded conditions and shortage of staff;

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**Note:** Following Finding 10, on Pages 29 through 32 some suggestions have been made relating to other short term remediation's that may assist in maintaining "good order";

#### **Finding 11 - Page 32**

Even if all of the above suggestions were implemented quickly and this is unlikely given resource issues and that the suggestion for meaningful activity for longer term clients may not be supported and there is no alternative suggestion under consideration, the author's opinion is that they would not in themselves provide sufficient mitigation to lower the risk of a major incident to an acceptable level due to the overcrowded environment and staff shortages that result in:

- An incapacity to appropriately place clients in accommodation according to their risk profile;
- A degraded intelligence gathering system that may not detect in a timely manner warning signs of potential serious challenges to the good order of the IDC; and
- DIAC and SERCO not being able to provide the level of intensive case management required to engage clients positively over time to ensure that they will mostly remain compliant with their circumstances.

#### **Finding 12 - Page 33**

The fundamental underlying challenge is that there are far too many clients accommodated in NWP for the current capacity of the infrastructure, far too many of them are not engaged in meaningful or purposeful activities or programs, client frustration is starting to increase and the potential has now emerged for clients to spend longer periods in an overcrowded, unproductive and frustrating environment.

#### **Lilac Compound, AQUA Compound, Construction Camp and Phosphate Hill Detention Facilities – Optimum Client Capacity of the Infrastructure**

#### **Finding 13 – Page 36**

Lilac Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 100 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (200 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Lilac Compound in a High Risk category for serious incidents in the months ahead;



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#### **Finding 14 – Page 37**

Aqua Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 200 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (400 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Aqua Compound in a High Risk category for serious incidents in the months ahead;

#### **Finding 15 – Page 37**

Phosphate Hill Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. Some of the accommodation was designed to accommodate 24 civilian workers who spend their waking hours at work and not confined to the area of their barracks and the remainder is tents. This factor coupled with crowded accommodation (168 -189 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Phosphate Hill Compound in a High Risk category for serious incidents in the months ahead;

#### **Finding 16 – Page 38**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy;

**An assessment of the respective case management roles of DIAC and Serco in relation to their contribution to the effective and efficient operation of the various facilities**

#### **Finding 17 – Page 40**

From discussions with relevant senior officers, the respective case management roles of DIAC and SERCO appear to be well defined and developed. As discussed throughout this Report their operational effectiveness has been degraded by infrastructure and staffing issues;

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#### **A review of the security arrangements in place, both physical and dynamic, including intelligence gathering**

##### **Finding 18 – Page 40**

The physical security designed into the original NWP IDC infrastructure is high quality. The proposed dynamic security model is best practice. However, the effectiveness of the physical and dynamic security, including intelligence gathering, has been degraded by overcrowding, temporary accommodation and staff shortages;

##### **Finding 19 – Page 40**

The security within Lilac, Aqua and Phosphate Hill Compounds is not at the level required for the category of client accommodated or proposed to be accommodated there, that is, *Single Adult males – Medium Risk*;

##### **Finding 20 – Page 40**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy;

## **2. Summary of Recommendations**

### **Recommendation 1 – Page 33**

Take immediate action to commence reducing the number of clients accommodated within NWP IDC to a level where DIAC and SERCO senior management at NWP, supported by their respective Head Offices, are prepared to certify that they have the appropriate physical infrastructure and staffing resources to effectively discharge their responsibilities to:

- Place clients according to their risk profile;
- Deliver their respective client case management responsibilities effectively;
- Maintain the security of the IDC and the safety of staff and clients;
- Deliver services efficiently and effectively to clients; and
- Provide programs and activities appropriate for the various categories of clients that support maintenance of good order within the IDC and maintain the well being of clients;

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#### Recommendation 2 – Page 33

Concurrent with adopting Recommendation 1 seek architectural / building consultant and operational advice in a holistic form that develops in consultation with DIAC and SERCO Christmas Island and Head Office senior management teams recommendations relating to:

- The operational and infrastructure enhancements necessary at NWP IDC to support an optimum maximum client capacity to be determined above the present capacity of 400 with temporary surge capacity to 800;
- How long it would take and an estimate of cost for any recommended changes; and
- How to manage any challenges associated with infrastructure modification in an operating IDC;

DIAC officers have advised that Recommendation 1 is not a practical recommendation while the off shore processing and mandatory detention policy is in place as there is insufficient immigration detention accommodation elsewhere to allow the overcrowded situation at Christmas Island to be relieved to the extent envisaged by the Recommendation.

Therefore, as previously stated in this Report it is reasonable to assert that DIAC does not currently have the capacity to implement a policy of off shore processing and mandatory detention of IMA's without resorting to overcrowding and temporary facilities which brings into play Duty of Care issues affecting clients and staff arising from:

- Severe overcrowding at NWP compounded by understaffing;
- The planned client demographic of "*single adult males- High Risk*";
- Temporary accommodation that is not fit for purpose;
- Incapacity to appropriately place clients according to their risk profile and case management outcomes;
- Lack of meaningful activity for significant numbers of clients;
- Intelligence gathering compromised due to staff shortages;
- Centre maintenance and services under stress;
- Staff and client safety compromised due to overcrowding, insufficient staff and temporary facilities;
- Early warning signs of deterioration in client morale at NWP;

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- Potential for clients to remain longer in detention. This together with lack of meaningful and purposeful activity for significant numbers of clients in an overcrowded environment will potentially adversely affect client mental well being leading to adverse behavioural outcomes; and
- All of the above representing similar pre-existing circumstances to those that triggered the disastrous outcomes during the period circa 2000 and post 2000;

This leads the author to the conclusion that Recommendation 1 requires consideration at policy level concerning:

- Alternative arrangements for processing and detaining IMA's within the framework of current policy; or
- Making adjustments to current policy until such time as DIAC can achieve an appropriate level of detention infrastructure; or
- Continue with the current overcrowded arrangements with additional resources and initiatives to improve circumstances for clients while working to achieve appropriate detention infrastructure provision; **Note:** For a range of practical operational reasons as covered in this Report this is considered to be High Risk option that will be unlikely to mitigate the risks to a reasonable level;

#### **Recommendation 3 – Page 39**

If Recommendation 2 of this Report is adopted, Lilac, Aqua, Phosphate Hill and Construction Camp Compounds infrastructure and operational requirements should be included in the assessment and advice sought from architectural / building and operational consultants to achieve outcomes that will provide for an environment that reflects DIAC's values;

#### **Recommendation 4 – Page 39**

If Recommendation 2 is adopted, the risks identified in this Report should be taken into account by the consultants engaged to provide the holistic advice sought in Recommendation 2;

#### **Recommendation 5 – Page 41**

DIAC and SERCO management on site at Christmas Island should review intelligence gathering by both parties to ensure that it is effective. If it is found that it is not effective and cannot be made so within the constraint of existing resources this fact should be immediately drawn to the attention of their respective Head Offices;

### 3. Introduction and Terms of Reference

Due to the high number of Irregular Maritime Arrivals (IMA's) at Christmas Island during 2009 - 2010 Knowledge Consulting has been engaged by the Department of Immigration and Citizenship (DIAC) to conduct an assessment of the current arrangements at the Christmas Island Immigration Detention Centre.

In late 2007 construction of the Christmas Island Immigration Detention Centre (IDC), the Department's first purpose built IDC, was completed and handed over to the Commonwealth. The Centre first received clients in September 2008. It is a modern, purpose built secure centre designed to house four hundred (400) clients with a temporary surge capacity to eight hundred (800) clients.

The infrastructure contains high quality provision for support services such as catering, medical, recreation, programs, activities, visitations, administration, storage, case management and staff requirements to deal safely, humanely and securely with the client capacity outlined above.

The infrastructure is designed to support the desired operational model for the Christmas Island IDC determined by DIAC which is based upon:

- A highly interactive and engaging client case management system both for clients' immigration status (DIAC's responsibility) and for their day to day needs within the IDC (Contracted Service Providers' responsibility);
- An emphasis upon dynamic security where staff are:
  - Highly visible and engaging interpersonally on a very regular basis with clients so that they are alert to changes in client's moods, circumstances etc;
  - Part of a multi-disciplinary staffing model that supports both case management streams so that clients various needs can be met in a seamless manner;
  - To adopt a "*lead by example*" approach to place emphasis upon appropriate values and behaviours within the IDC for clients;
  - Well trained in all facets of their work including their interface with the physical and operational security systems;
- A robust intelligence system to gather and analyse information that is relevant for the effective management of risks within the IDC;

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- A robust risk assessment and risk management system;
- Protocols that are regularly scenario tested for engagement with all emergency services and other stakeholders essential for the safe and secure operation of the IDC; and
- Strong and proactive IDC leadership committed to continuous improvement

During 2009 and continuing into 2010 DIAC has been required to respond rapidly to a high number of Irregular Maritime Arrivals (IMA's) at Christmas Island. This has resulted in the number of IMA's needing to be detained exceeding the design capacity of the IDC at North West Point.

To meet this demand for additional accommodation DIAC:

- Has utilised the 400 bed temporary surge capacity within NWP as permanent beds and added a further 558 temporary beds in activity and program areas, in accommodation blocks and in tents;
- Constructed a compound adjacent to NWP IDC known as Lilac Compound containing 100 single person Transportable Rooms plus some limited support facilities;
- At the time of the inspection was constructing adjacent to Lilac Compound a further Compound known as AQUA containing 200 single person Transportable Rooms plus some limited support facilities;
- Is utilising the Construction Camp site some 30 minutes drive from NWP which has 100 single person Transportable Rooms; and
- At Phosphate Hill adjacent to the Construction Camp, is utilising 24 single person Transportable Rooms plus tents;

The following Table summarises the IMA accommodation situation on Christmas Island:

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Facility	Design Capacity	Additional Temporary Beds mid – April 2010	No of Clients above Permanent Design Capacity
North West Point	400 with Temporary Surge to 800	174 within accommodation blocks 144 within education block 240 in tented area Red Compound 400 temporary surge capacity in permanent use Total clients = 1,358	958
Lilac Compound	100 single person Transportable Rooms	100 through double bunks in single person Transportable Rooms	100
Aqua Compound	200 single person Transportable Rooms	200 planned through double bunks in single person Transportable Rooms	200 – Planned, AQUA under construction at time of inspection
Phosphate Hill	24 single person Transportable Rooms	24 through double bunks in single person Transportable Rooms 120 in Tents	189 at time of inspection achieved through some single person Transportable Rooms accommodating 3 men and additional beds in Tents
Construction Camp	100 single person Transportable Rooms	100 through double bunks in single person Transportable Rooms	270 at time of inspection achieved through additional clients in the Transportable Rooms and utilising activity space
<b>Total Permanent Design Capacity</b>	<b>824</b>		<b>1,717</b> clients above permanent design capacity

The figures in the above Table show that client numbers in **NWP IDC** are at **240%** above permanent design capacity and **70%** above maximum temporary surge capacity. All of the other facilities are accommodating numbers of clients well above the original design capacity.

Due to the rapid escalation of IMA numbers with the associated creation of additional temporary accommodation and the significant expansion of services and staffing required to meet the needs of clients, DIAC has decided to seek an independent opinion concerning "the

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*security risk exposures at North West Point, Phosphate Hill and Construction Camp*” as covered in the following Terms of Reference:

*“The focus of the review is to identify the security risk exposures at North West Point, Phosphate Hill and Construction Camp in the context of the emerging IMA numbers and processing arrangements on Christmas Island.*

*This assessment to include but not limited to:*

- *Given the current number of clients held in the facilities on Christmas Island, provide advice as to the optimal capacity of the infrastructure on the Island;*
- *An assessment of the risks currently being faced in administering the facilities in a safe, secure and humane manner;*
- *An assessment of the respective case management roles of DIAC and Serco in relation to their contribution to the effective and efficient operation of the various facilities;*
- *A review of the security arrangements in place, both physical and dynamic, including intelligence gathering; and*

*The assessment should involve consultation with DIAC, SERCO, IHMS Executive and lead of the Australian Federal Police on Christmas Island to achieve an understanding of the operation of the facility.*

*Reports and recommendations of the assessment to be provided with verbal updates to be provided to DIAC Executive as significant risks are identified. An interim report to be available by Tuesday 13<sup>th</sup> April 2010”;*

The Author of this Report inspected immigration detention facilities on Christmas Island, including meetings with senior DIAC and SERCO officers and Australian Federal Police officers, during the period Thursday evening 8<sup>th</sup> April through Tuesday 13<sup>th</sup> April 2010.

Since the inspection meetings have been held with senior DIAC officers to discuss the author’s initial perceptions and Findings from his inspection in the context of the practical issues DIAC and SERCO are facing in being required to respond rapidly to the high number of Irregular Maritime Arrivals (IMA’s) at Christmas Island.

This report is founded in:

- Information gathered during the inspection of immigration detention facilities on Christmas Island;
- Information provided by senior DIAC and SERCO officers on Christmas Island;



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- Information provided by senior DIAC officers from Canberra Head Office; and
- The author's experience over the past decade in investigating and reporting upon serious incidents in immigration detention facilities as well as reviewing outcomes arising from the Palmer and Comrie reports and governance issues under the previous detention services contracts;

#### **4. Relevant History that Provides Context for the Assessment Made in this Report**

The context in which DIAC is working to address the challenge of a rapid and significant increase in the number of IMA's in many ways mirrors the circumstances circa 2000 when a similar surge in "boat people" occurred. Then:

- The event was politically sensitive, aroused community concern and divided community opinion;
- The Department had inadequate infrastructure to accommodate the IMA's and housed many of them in remote locations in mostly overcrowded temporary accommodation not fit for purpose. These remote locations were extremely difficult and costly to staff and service;
- While the Department conducted the immigration case management of the IMA's, the management of the detention facilities to service the daily needs of IMA's and their supervision was outsourced to a private contractor. The governance arrangements for the outsourced contract by both the department and the private contractor were inadequate as proven by a number of serious service delivery failures with adverse consequences for the Department, the private contractor and ultimately for the IMA's;
- An assumption was made by the Department in outsourcing the detention services contract and novation of the temporary and not fit for purpose accommodation to the contractors that the IMA's would be largely compliant with their circumstances. The contractors staffing model reflected this assumption;
- The assumption of compliance was initially valid circa 2000. However, after a period of time when delays in processing of IMA's applications for Visas became systemic and significant numbers spent many months and in some cases years in detention the assumption unravelled and the Department, the private contractor and the IMA's endured a tragic period of extreme disorder in a number of detention facilities.

This disorder was fuelled not only by processing delays but also by the destruction of client well being by the mind numbing boredom of daily life in detention due to lack

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of meaningful activity. Basically detention facilities became places of human storage where clients were under guard but not engaged thus they lost any sense of purpose and hope.

In these circumstances many clients lost confidence in the official processes and began to rebel against authority. This initially involved hunger strikes and self harming and extended to riots, burning and trashing of infrastructure, mass escapes, serious injuries to IMA's and staff including post traumatic stress, loss of reputation for the Department and the private contractor and loss of political capital by the government of the day;

- The extreme disorder in the detention facilities supported by "*protest groups*" in the community and the resultant community and political pressure forced departmental executives, who were extremely hard working and dedicated people, into a reactive/crisis management mode. This left insufficient time to focus on planning, governance and continuous improvement which in turn, it can be argued, contributed to further disasters such as the Cornelia Rau and Vivian Alvarez cases;

The above "*thumb nail*" summary of history is as recalled from the author's involvement in a range of investigative and other projects for the then department. This history is relevant to this assessment of the circumstances at Christmas Island in so far as there appears to be a risk emerging that history is in danger of repeating itself if urgent mitigation action is not taken. For example, as in the period circa 2000:

- This current surge in arrival of IMA's is politically sensitive, has aroused community concern and there is divided community opinion on how to deal with those seeking to enter Australia in this manner and with those who actually arrive;
- DIAC has inadequate infrastructure to accommodate the IMA's and is housing significant numbers of them in a remote location in overcrowded temporary accommodation that is logistically difficult and costly to staff, service and to support. This is even more so in emergencies. DIAC is about to open a further facility in another remote location;
- Given the nature of the additional temporary accommodation provided for IMA's, DIAC and the private contractor are relying to a significant extent upon the assumption that IMA's will remain compliant for good order to be maintained at the Christmas Island Detention Facilities. The Government has recently announced a pause in processing of certain categories of IMA's which as in the 2000 experience will considerably extend the time that many IMA's remain in detention;
- Because of the overcrowded situation in detention facilities many of the activity and program facilities have been lost. The situation is now emerging where it is clear that

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many clients will be in detention for longer periods and there are currently little and mostly no alternate strategies in place to engage clients in meaningful activities to mitigate adverse outcomes from frustration due to processing delays and boredom from inactivity;

- In these circumstances, if as in circa 2000 many clients lose confidence in the official processes and if this is compounded by boredom and inactivity, client's mental well being will be adversely affected and the assumption of "*compliant clients*" will quickly unravel. The likely consequence is that clients as in 2000 and post will begin to rebel against authority. This potentially could follow the same path of hunger strikes and self harming, riots, burning and trashing of infrastructure, mass escapes, serious injuries to IMA's and staff including post traumatic stress, loss of reputation for the Department and the private contractor and loss of political capital by the government of the day;

[REDACTED]

The current overcrowded situation and shortage of staff does not allow for proactive intelligence gathering that identifies potential "*trouble makers*". Further, if they were to be identified the overcrowding makes it impossible to segregate them at NWP IDC to minimise their capacity to influence others.

- If a potential worst case scenario as described above was to occur, then the best efforts of staff and or emergency services to contain unruly and or unlawful behaviour would be severely compromised by the current overcrowding and the inadequate temporary accommodation facilities. There is also the added challenge of the delay factor in getting support personnel to the Island should a serious incident occur unexpectedly;

In the context of the foregoing, in detention facilities a fundamental consideration and accountability of responsible officers is "*duty of Care*". Failures that lead to harm to staff, clients, visitors and members of the public must be avoided at all costs.

Apart from the harm and distress caused to victims of duty of care failures, officials with decision, supervision and leadership responsibilities where catastrophic failures occur (loss of life being a worst case example) can face serious legal consequences if it is established

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that, given their professional training, knowledge, skills and experience they did not take all reasonable steps and precautions to manage the risks that caused the failure.

Elements in detention facility functioning where "*duty of care*" implications exist that require robust risk management are:

- Ensuring that the design of the facility is fit for purpose;
- Ensuring that the facility is used in the manner for which it was designed;
- Ensuring that the design and implementation of the Centre operational model functions in concert with the physical infrastructure in a manner that provides for a dynamic approach to internal security of the centre. This covers the staffing model – roles, functions and hours of duty and the structure of daily programs and activities for clients;
- Ensuring that the centre Operating Procedures take account of "*duty of care*", are fit for purpose and where necessary are accredited by the appropriate independent authorities/ experts;
- Ensuring that all staff are appropriately trained and qualified for their roles;
- Ensuring that staff at all levels are appropriately mentored, supported and supervised;
- Ensuring that all equipment is fit for purpose at all times; and
- Ensuring that the governance arrangements are robust.

The foregoing is a summary of a past problematic period in immigration detention, the current circumstances that potentially could see history repeat if mitigation action is not taken and the duty of care implications should this occur. This is provided as contextual information for this report to illustrate the serious challenge that the author believes DIAC is facing to ensure that immigration detention services are delivered in a safe, secure and humane manner in the current environment of a rapidly expanding IMA population.

#### **Finding 1**

There are many similarities between the current challenges facing DIAC due to the rapid and significant increase in the number of IMA's and those faced by the then Department in the circa 2000 and post period under similar circumstances. The circa 2000 and post period challenges were not met adequately resulting in disastrous consequences. Experience from the previous events needs to be taken into account in developing strategies to deal with current circumstances;

## 5. Addressing the Terms of Reference

### 5.1 Given the current number of clients held in the facilities on Christmas Island provide advice as to the optimal capacity of the infrastructure on the Island;

In dealing with this TOR each accommodation facility is examined separately.

#### a) North West Point (NWP) IDC –Current Numbers of Clients, Temporary Additional Accommodation and Impact on Safety and Amenity

As stated in the Introduction to this Report, DIAC has been faced with the need to accommodate increasing numbers of IMA's by rapidly increasing the capacity at NWP through a range of temporary accommodation facilities that has achieved a total of 1,358 beds within the secure perimeter.

The above additions have created an extremely overcrowded environment for clients to live in. Further, much of the temporary accommodation is not suitable for clients who may stay in the centre for months or more. The arrangements have also created a very challenging work place for staff and a potentially dangerous situation for clients and staff should an emergency situation arise. In summary a situation existed at the time of the inspection where:

- NWP was accommodating 558 clients permanently above its maximum design capacity of 800 at full temporary surge;
- Under these conditions staff say it is not possible to appropriately place and segregate clients in a manner that best suits their needs as covered by a variety of assessment factors;
- In the event of a major violent incident, due to overcrowding and the range of temporary facilities the capacity to respond in a manner that contains those who are a threat while at the same time providing "sanctuary" for those not wishing to be involved is severely compromised;
- The temporary sleeping accommodation which includes tent accommodation, is not satisfactory accommodation, particularly for clients who spend weeks and or months in these facilities;
- Overcrowding has created loss of privacy for clients, loss of access to programs and activities, frustration in delays in access to services such as telephones and responses by staff to personal equipment failure. A senior DIAC officer said, "Clients now queue for everything and they are getting frustrated". A DIAC officer said, "Clients are starting to say to Case Managers – we don't want to talk to you, you can't do anything for us";

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- Maintenance is becoming a serious issue. Infrastructure such as air conditioning is wearing out more quickly than planned. Delays are occurring in effecting repairs due to the capacity of the limited maintenance staff on the Island to respond. Lack of air-conditioning for periods in the Christmas Island climate will be a negative factor for client morale;
- The author was advised that the current client numbers have put considerable strain upon warehousing and refrigeration facilities.
- SERCO is facing significant difficulties in meeting the staffing needs of services functions as the labour pool on the Island is exhausted. The author was advised that catering, cleaning and laundry services are "maxed out" and with the opening of the 400 bed AQUA Compound in the near future they will be functioning largely in a "make do" situation.
- Despite the best efforts by DIAC and SERCO staff the author observed significant numbers of clients in each of the facilities inspected during this "snapshot" review lying on bunks or sitting around with nothing to do. This is an indicator of looming behaviour challenges. [REDACTED]  
[REDACTED]  
[REDACTED]
- A common theme in comments from DIAC and SERCO officers is that more staff is urgently required. However, apart from the capacity to attract people, a major impediment is the lack of suitable staff accommodation on the Island. DIAC is working hard to overcome this but it is costly and will take time.

In the short time available for this review it is not possible to quantify the extent of staff shortages in the DIAC and SERCO Teams. However, from observation and discussion with officers the author can say that in addition to the support services covered above, services critical to "duty of care" such as case management, intelligence gathering and maintaining an active and engaged client group have become degraded. This degradation, apart from the need for more staff, is also caused by the loss of program and activity space to create bed space;

DIAC's Case Management Team has a conceptually sound approach to client case management and the author was impressed with the energy, enthusiasm and empathy of the Case Management Team. They are very visible and active within the Centre in engaging with clients. The Team is spread between NWP, Lilac Compound, the Construction Camp and Phosphate Hill. Their workload was described to the author as "demanding".

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It is understood that more Case Management staff will be allocated to assist with the increased work load involved with the shortly to be opened AQUA Compound and increasing demands at the Construction Camp and Phosphate Hill. However, lack of staff accommodation on the Island may delay this being implemented.

Another issue of concern from a Case Management perspective is that SERCO is in a similar situation to DIAC in finding accommodation for staff which is impacting on its capacity to have sufficient staff in the compounds to play an active engagement role in client Case Management. This outcome also degrades the Intelligence gathering function.

- The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will create *two classes* of IMA's within the IDC. This will increase pressure on placement and segregation which has already reached a dysfunctional and unsafe situation;
- There is evidence that the number of client incidents is increasing. For the first time since the IDC commenced operation a recent incident has occurred of an alleged assault upon a SERCO officer by a client. It is alleged that a client has "*pressed against a female SERCO officer's chest with his body and shoulder as he walked past her*". (Source of this information – Operational Intelligence Report 01/04/2010 – 07/04/2010)

The Health Services Manager advised the author that over the last couple of weeks he has noticed an increase in self harm and "*acting out behaviour such as throwing chairs, yelling out, etc*". He says that more hours are being expended by Mental Health staff in dealing with this.

The evidence in a number of the dot points above, in the author's experience, provides early and concerning warning signs of deterioration in client morale which if not addressed has the potential to escalate into a serious incident or incidents.

### **Finding 2**

North West Point Immigration Detention Centre (NWP IDC) is overcrowded and understaffed; much of the temporary sleeping accommodation is not fit for purpose; staff and client safety is compromised; processes for client case management are conceptually sound but implementation is degraded through lack of client placement options and staff shortages; intelligence gathering is compromised due to staff shortages; centre maintenance and services are under stress; and client mental well being is at risk due to lack of meaningful activity; The foregoing raise significant Duty of Care issues for DIAC and SERCO;

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#### **Finding 3**

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will create *two classes* of IMA's within the NWP IDC. This will increase pressure on placement and segregation which has already reached a dysfunctional and unsafe situation;

#### **Finding 4**

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will mean that a significant number of clients will spend longer in detention. On past experience initiatives will be required to engage clients in meaningful activities for significant proportions of their time to mitigate the adverse impact on client's mental well being of lengthy periods of detention in a state of uncertainty;

#### **Finding 5**

Concerning early warning signs of deterioration in client morale are evident at NWP which if not addressed have the potential to escalate into a serious incident or incidents;

#### **b) NWP IDC – The Original Design Concept**

As stated in the introduction to this Report NWP IDC was the Department's first purpose built IDC. It took account of the lessons learned from the catastrophic events circa 2000 and post and provided for secure and humane containment of clients via:

- A perimeter that provides for the key perimeter security elements of *deterrence, detection and delay* in a manner that makes escape an unlikely event;
- A range of accommodation options for clients in rooms located in accommodation buildings in four (4) separate compounds with each compound containing two accommodation buildings. This arrangement provides for flexibility in the placement and segregation of clients according to a range of needs including ethnicity, gender, processing requirements and behaviour. There is also a unit specifically designed for the temporary accommodation of recalcitrant clients;
- High quality provision for support services such as reception, induction, case management, catering, medical, education, recreation, programs, activities, visitations, laundry, religious facilities, administration, conference, storage and staff needs to deal safely, humanely and securely with the client capacity outlined above; and



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- Sufficient open space to reduce the feeling of claustrophobia, to enhance the social amenity of the centre and to provide opportunities for clients to enjoy socialising in the open air. This amenity, together with a proactive case management approach by DIAC and the Detention Services Provider officers and the facilities listed above for support services works to provide for the mental well being of clients;

The above infrastructure represents the outcome of extensive planning and input from experienced DIAC officers and design and operation consultants with relevant expertise to achieve a secure but humane environment where people detained in the facility can be accommodated safely while their immigration status is assessed.

The aim was to achieve a working environment for staff where their services to clients are delivered safely, professionally and empathetically and where clients access and engage with these services according to their needs, in an environment where they feel their circumstances are respected and their safety is assured.

Importantly, the Department in designing and building the Christmas Island IDC met its "duty of care" obligation by "ensuring that the design of the facility was fit for purpose".

#### **Finding 6**

The original infrastructure at NWP IDC was a purpose built facility which if utilised in accordance with its design concepts achieves DIAC's goals for humane and safe detention of clients;

#### **Finding 7**

Due to the current circumstances commented upon in Finding 2, the infrastructure and operating model has been degraded and is not operating in a fit for purpose manner;

#### **c) NWP IDC – Optimum Client Capacity of the Infrastructure**

As previously stated the original design capacity of NWP IDC is for four hundred (400) clients with capacity for temporary surges to eight hundred (800). This is not to say that the capacity could not be increased beyond these numbers. However, to ensure *duty of care* is met and effective operational outcomes are achieved decisions to increase the client capacity would need to be taken in the light of holistic architectural / building consultant and operational advice.

The author of this report has not been provided with evidence of such holistic input in the decisions taken to date to increase client capacity at NWP IDC to 240% above permanent design capacity.

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The author understands from discussions with Senior DIAC officers that the current shortfall in immigration detention accommodation nationally for clients is such that if the surge in IMA's continues, then for the foreseeable future NWP will be required to accommodate considerably more clients than its original permanent design capacity.

In the author's opinion, the following are critical elements for analysis in arriving at a decision as to any increase in the optimum achievable client capacity of NWP IDC:

- The client demographic, particularly their risk profile. In this regard DIAC has indicated that NWP will accommodate "*single adult males- High Risk*";
- Processes and infrastructure needs for initial client processing;
- Client separation and case management needs;
- Likely length of client's stay in detention at Christmas Island – how many less than one month, how many between one month and three months, how many between three months and six months and how many longer than six months;
- The program and activity menu proposed for the various categories of clients with particular focus around length of stay. That is, the longer clients remain at NWP IDC the more intensive, purposeful and stimulating activity intervention needs to be to offset the effects of institutionalisation and to facilitate compliance with their circumstances;
- The capacity to create a community environment within NWP IDC that is as natural as is possible taking account of the planned client demographic of "*single adult males- High Risk*". That is, a community founded in the premise that the clients are mostly innocent and responsible citizens who are enduring a difficult life circumstance while attempting to transition to a better future.

Based on this premise the operating culture of the facility needs to be driven by values, expectations and rules that encourage the functioning of a "*civil society*" within the institution. These values, expectations and rules need to be reflected in the functioning of NWP IDC through:

- Relaxed, good humoured and supportive interaction between staff and clients and encouragement of similar interaction among clients;
- Friendly and fair application of rules by staff, that is no officious behaviour, but with the capacity to firmly apply rules when necessary for the good order of NWP IDC and to separate those who choose to behave negatively with the potential to degrade the desired relaxed culture. That is, once again taking account of the planned client demographic of "*single adult males- High Risk*";

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- o High quality and very frequent communication from staff to clients concerning both the client's immigration case circumstances and their day to day needs and activities;
- o A capacity for clients to have quality input and a degree of control and ownership of the manner in which NWP IDC functions to meet their daily needs. For example:
  - a capacity to move relatively freely within their accommodation areas and between their accommodation areas and service areas such as programs, activities, catering, medical and recreation;
  - fostering of positive leadership by clients with this aptitude and inclination to assist and encourage other clients in coping with their circumstances in a variety of ways;
  - meaningful input through client committees to decisions relating to catering, recreation, activities, programs, feedback concerning rules and procedures, mental well being issues etc;
  - encouraging clients to undertake and lead initiatives that create a sense of community within NWP IDC where they form friendships across cultural divides, enhance their positive thinking skills and develop attitudes conducive to ongoing self development such that in the future they will look back on their time at NWP IDC as a positive life transition period rather than negative incarceration;
- A staffing model to support the operating culture of a facility based on values and rules that encourage the functioning of a "civil society" within the institution where clients take a high degree of ownership for the operational outcomes in so far as the way in which their daily service needs are delivered;
- Infrastructure that does not compromise on providing for preservation of individual dignity and safety;

It may be argued that the outcomes described above relating to clients having input, control and ownership of certain functions relating to their daily needs and developing a sense of community, a civil society, within NWP IDC does not fit well with a client demographic of "single adult males- High Risk". The author argues from the basis of evidence in the literature and from personal experience in the operation of a range of institutions that with the appropriate infrastructure and staffing model the concepts suggested above work well with particular categories of high risk clients.

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On the evidence available it is considered that the significant proportion of *"single adult males- High Risk"* immigration clients would react more favourably to the *sense of community, a civil society* approach than to a restrictive *prison culture* environment. Such a strategy is in line with DIAC's values and would assist in facilitating maintenance of a compliant client population.

#### **Finding 8**

To ensure *duty of care* is met and effective operational outcomes are achieved a decision to increase the optimum client capacity at NWP IDC would need to be taken in the light of holistic architectural / building consultant and operational advice that takes account of:

- The client demographic;
- Processes and infrastructure needs for initial client processing;
- Client separation and case management needs;
- Likely length of client's stay in detention at NWP IDC;
- The program and activity menu proposed for the various categories of clients;
- The capacity to create a community environment within NWP IDC;
- A staffing model to support the operating culture of a facility based on values and rules that encourage the functioning of a *civil society*; and
- Infrastructure that does not compromise on providing for preservation of individual dignity and safety;

#### **d) Short Term Remediation**

Analysis as covered above to achieve a recommendation as to whether and or to what extent the optimum client capacity of NWP can be increased and then to implement any such recommendation will of necessity take time.

DIAC advises that in addition to any mid to longer term suggestions they are seeking advice as to any short term remediation actions that could make the current arrangements work more effectively and in accordance with DIAC's *"Values"*.

Any such advice needs to be viewed in the context of a facility that is operating with the number of clients housed there at 240% above permanent design capacity, where temporary facilities have been installed that are not fit for purpose which have created a very challenging work place for staff and a potentially dangerous situation for clients and staff should an emergency situation arise.

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DIAC advise that there is no evidence of fall off at this stage in the numbers of IMA's arriving.

In investigations the author has been involved with following riots, disturbances and incidents at various immigration detention facilities he has been required to apply the "*wisdom of hindsight*" to identify the reasons for the failure. Many of the factors covered in **Section 5.1. a** of this Report were identified in investigation of these events. Fortunately in the case of this report a serious incident has not occurred. The report is founded in a proactive request by DIAC to an independent person to provide advice so that pre-emptive action can be taken if required to avert risks emerging with serious consequences.

Given the relevant History and Context provided in **Section 4** of this Report and the evidence relating to current circumstances at NWP as summarised in **Section 5.1. a**, the author argues that it is reasonable to assert that if the severe overcrowding at NWP remains then it is likely that a serious incident will occur in the next six months and highly likely during the next twelve months, particularly if the pause in processing results in significant numbers of clients spending much longer in detention in a state of uncertainty in severely overcrowded conditions.

It is appreciated that this is a qualitative judgement. However, it is based on considerable experience, evidence from an on-site inspection, concerns expressed to the author by DIAC and SERCO staff and synthesis of this information as covered in this Report.

Based on DIAC's advice that it does not have sufficient immigration infrastructure at present to accommodate the current surge in IMA's without resorting to overcrowding and temporary facilities, it is reasonable to assert that DIAC does not currently have the capacity to implement a policy of off shore processing and mandatory detention of IMA's in a manner that meets Duty of Care requirements for clients and staff.

Therefore, to effectively implement a policy of mandatory detention for IMA's, in addition to the Finding and Recommendation above relating to the need for holistic advice concerning a possible expansion of optimum client capacity at NWP, additional purpose built immigration detention facilities are required. The author is advised that plans are underway to achieve this. However, it will take some time to bring these plans to fruition.

The immediate question from the perspective of effectively implementing the current policy of off shore processing and mandatory detention in the short term is – *can appropriate controls be put in place during the current and the likely continuing period of overcrowding to mitigate the risk of a serious incident or incidents that may result in the loss of infrastructure and or loss of life until sufficient purpose built infrastructure is available?*

The author has turned his mind to this question. From discussion with DIAC and SERCO officers it is clear that they have as well. DIAC and SERCO Leadership and staff at NWP IDC

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are working intensively in challenging circumstances to maintain the good will of clients which is an essential element in maintaining good order within any facility of detention.

In the area of client management DIAC has a strategy of mixing clients from different racial backgrounds together in each compound to avoid creating "*cultural enclaves*". The author is advised that this strategy has been successful to date. This is in line with strategies that have been adopted in corrections for many years and has proven advantages over "*cultural enclaves*".

Another initiative adopted is to maintain clients in their current accommodation who do not meet refugee requirements and manage them intensively via Case Managers rather than place them in a separate area. The author supports this initiative. It maintains clients in their normal environment where they have established relationships and does not create a separate group of disaffected clients who may tend to build upon each other's negativity resulting in combined adverse behaviour outcomes which are difficult to manage.

The foregoing strategies are in line with the philosophy outlined previously in this report of creating a community environment within NWP that is as natural as is possible.

A DIAC officer has asked the author to comment on whether clients who are subject to the announced processing suspension should be separated from the rest of the client cohort or allowed to mix generally in NWP. Once again the author believes that there are advantages in the "*allowing to mix option*" in line with the values underpinning a community environment. The "*allowing to mix option*" needs to be supported by the initiative previously mentioned of fostering positive leadership by selected clients who can assist these clients in coping with their circumstances.

#### **Finding 9**

DIAC's initiatives to mix clients from different racial backgrounds together in each compound to avoid creating "*cultural enclaves*", to maintain clients who do not meet refugee requirements in their current accommodation and manage them intensively via Case Managers and allowing clients who are subject to the announced processing suspension to mix in the general population are good practice;

However, the above initiatives need to be viewed in the context of a Facility that is not currently functioning with a "*community environment*" due to severe overcrowding, loss of social amenity and clients growing increasingly frustrated with their circumstances. There are also the fundamental shortcomings covered in **5.1.a)** above which must be addressed holistically.

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#### Finding 10

While the above client management strategies are sound there is every possibility that in isolation they are unlikely to avert incidents as to be successful they are heavily dependent upon a range of other matters which are summarised below with comment concerning their current status:

- Intensive case management; **Note:** There is evidence in this report that while case management concepts are sound, staff shortages and overcrowded facilities have reduced its effectiveness;
- Meaningful and purposeful activity/ programs for clients to assist in offsetting the boredom and frustrations associated with institutional living, the uncertain future and negative outcomes when they occur; **Note:** This is mostly not in place;
- Robust pro-active intelligence to identify early warning signs of deterioration in client morale and detect potential malcontents who may be planning to disrupt and or damage the fabric of NWP functioning; **Note:** The intelligence system is degraded because of staff shortages and overcrowding;
- The capacity to manage/ modify the behaviour of malcontents in separate accommodation where necessary; **Note:** Not possible in the current circumstances;
- The capacity to appropriately place clients according to their risk profile and case management outcomes; **Note:** Not possible in the current circumstances;
- A centre where services are functioning efficiently so that clients are content that their basic daily needs are being met effectively and efficiently; **Note:** Service failures are becoming evident; and
- Staff and clients feeling safe in the institution; **Note:** Staff are starting to express concern largely due to the overcrowded conditions and shortage of staff;

To respond to DIAC's request for *advice as to any short term remediation actions that could make the current arrangements work more effectively and in accordance with DIAC's "Values"*, the following suggestions are put forward for consideration:

- Develop strategies to engage clients in enjoyable and constructive programs and activities that create a sense of community within NWP. That is staff working with clients to encourage an attitude of *"it may be crowded in here and there are some challenges but this could be a step towards a brighter future for you so let's see what we can do together to make this as happy a time as possible so that time passes quickly"*.

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In this process culturally appropriate structures should be created to bring clients together to be part of the solution. Staff should as much as possible play *facilitative and enabler* roles in encouraging clients to put forward suggestions and ideas and then work with clients in implementation. Guidance should be provided that focuses thinking toward ideas that will create *enjoyment for clients or education or improve health, well being, optimism and self efficacy or enhance the amenity of the IDC.*

Opportunities should be taken to encourage and or train clients to lead programs for other clients. Concerning program facilities, while tents are not appropriate for living quarters they may be able to be located in suitable areas to accommodate certain programs if the purpose built program facilities cannot be freed up.

A critical part of this process is to identify and encourage positive Leaders within the client community, tap into ideas and enthusiasm from staff at the client work face and to reward clients and staff who show excellence in developing community spirit with recognition that should always be accompanied by a celebration;

- To support the foregoing, work with SERCO to ensure that the staffing model at NWP has an appropriate Team of *Activity Officer* type people who are skilled at implementing strategies of the type described above in a culturally diverse environment and have them on the ground working with clients as quickly as possible. The Leader of this Team should report to a senior SERCO Officer at NWP so that the Team can achieve quick decisions on "*client and staff ideas*" so that clients and staff see them as credible *enablers*;
- SERCO need more staff in the client compounds/ accommodation areas than were apparent at the time of the inspection. **Note:** While this is considered to be an essential short term action it is most likely impractical at this stage given the unavailability of staff accommodation on the Island;
- Many of the clients have suffered traumatic experiences and the claustrophobic environment of an overcrowded IDC can have further adverse effect upon individual well being resulting in dysfunctional behaviour. To mitigate this, as often as possible, desirably each day, and for as many clients as is practicable there should be excursions away from the IDC. These excursions could be constructed around a variety of potential activities, once again created with client and staff input;
- Meaningful activity for clients is one of the critical issues that need to be addressed to mitigate the risks impacting on the preservation of the good order and safety of the facilities on Christmas Island and in other places while achieving the maximum optimum client capacity within the facilities. It is also an area that will attract criticism from external stakeholders if effective outcomes are not achieved due to the adverse impact this will have on clients well being and mental health.



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The initiatives above relating to culturally appropriate client structures supported by proactive Activities Officers to facilitate delivery of programs and activities and regular excursions away from the IDC for as many clients as is possible as often as possible will be helpful.

However, particularly for longer term clients there needs to be something beyond programs and activities. The author has interviewed many long term detainees who have commented on the boredom arising from the repetitive nature of programs and activities conducted over many months and years within the fence of an IDC. They were seeking the dignity of work, of a sense of achievement of doing something worthwhile. Experience from the last surge in IMA's has been that bored and frustrated longer term clients have in many cases become dysfunctional and engaged in problematic behaviour that has led to dreadful outcomes.

The author has raised a suggestion with DIAC officers relating to possible community work programs for longer term clients supported by vocational training. Such an approach would have the benefits of engaging clients in meaningful activities, skill development, allowing numbers of clients to be away from the IDC on a daily basis thus reducing the effect of institutionalisation and reducing crowding within the IDC during the day.

The initial reaction by DIAC officers is that such a proposal may not meet current policy settings. If a community work program is not acceptable then some other meaningful activity must be developed for longer term clients.

*In the light of the foregoing, to address the question previously posed - can appropriate controls be put in place during the current and the likely continuing period of overcrowding to mitigate the risk of a serious incident or incidents that may result in the loss of infrastructure and or loss of life until sufficient purpose built infrastructure is available?*

#### **Finding 11**

Even if all of the above suggestions were implemented quickly and this is unlikely given resource issues and that the suggestion for meaningful activity for longer term clients may not be supported and there is no alternative suggestion under consideration, the author's opinion is that they would not in themselves provide sufficient mitigation to lower the risk of a major incident to an acceptable level due to the overcrowded environment and staff shortages that result in:

- An incapacity to appropriately place clients in accommodation according to their risk profile;

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- A degraded intelligence gathering system that may not detect in a timely manner warning signs of potential serious challenges to the good order of the IDC; and
- DIAC and SERCO not being able to provide the level of intensive case management required to engage clients positively over time to ensure that they will mostly remain compliant with their circumstances.

### Finding 12

The fundamental underlying challenge is that there are far too many clients accommodated in NWP for the current capacity of the infrastructure, far too many of them are not engaged in meaningful or purposeful activities or programs, client frustration is starting to increase and the potential has now emerged for clients to spend longer periods in an overcrowded, unproductive and frustrating environment.

Given the *Duty of Care* implications the author's recommendation is:

### Recommendation 1

Take immediate action to commence reducing the number of clients accommodated within NWP IDC to a level where DIAC and SERCO senior management at NWP, supported by their respective Head Offices, are prepared to certify that they have the appropriate physical infrastructure and staffing resources to effectively discharge their responsibilities to:

- Place clients according to their risk profile;
- Deliver their respective client case management responsibilities effectively;
- Maintain the security of the IDC and the safety of staff and clients;
- Deliver services efficiently and effectively to clients; and
- Provide programs and activities appropriate for the various categories of clients that support maintenance of good order within the IDC and maintain the well being of clients;

### Recommendation 2

Concurrent with adopting Recommendation 1 seek architectural / building consultant and operational advice in a holistic form that develops in consultation with DIAC and SERCO Christmas Island and Head Office senior management teams recommendations relating to:

- The operational and infrastructure enhancements necessary at NWP IDC to support an optimum maximum client capacity to be determined above the present capacity of 400 with temporary surge capacity to 800;

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- How long it would take and an estimate of cost for any recommended changes; and
- How to manage any challenges associated with infrastructure modification in an operating IDC;

DIAC officers have advised that Recommendation 1 is not a practical recommendation while the off shore processing and mandatory detention policy is in place as there is insufficient immigration detention accommodation elsewhere to allow the overcrowded situation at Christmas Island to be relieved to the extent envisaged by the Recommendation.

Therefore, as previously stated in this Report it is reasonable to assert that DIAC does not currently have the capacity to implement a policy of off shore processing and mandatory detention of IMA's without resorting to overcrowding and temporary facilities which brings into play Duty of Care issues affecting clients and staff arising from:

- Severe overcrowding at NWP compounded by understaffing;
- The planned client demographic of "*single adult males- High Risk*";
- Temporary accommodation that is not fit for purpose;
- Incapacity to appropriately place clients according to their risk profile and case management outcomes;
- Lack of meaningful activity for significant numbers of clients;
- Intelligence gathering compromised due to staff shortages;
- Centre maintenance and services under stress;
- Staff and client safety compromised due to overcrowding, insufficient staff and temporary facilities;
- Early warning signs of deterioration in client morale at NWP;
- Potential for clients to remain longer in detention. This together with lack of meaningful and purposeful activity for significant numbers of clients in an overcrowded environment will potentially adversely affect client mental well being leading to adverse behavioural outcomes; and
- All of the above representing similar pre-existing circumstances to those that triggered the disastrous outcomes during the period circa 2000 and post 2000;

This leads the author to the conclusion that Recommendation 1 requires consideration at policy level concerning:

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- Alternative arrangements for processing and detaining IMA's within the framework of current policy; or
- Making adjustments to current policy until such time as DIAC can achieve an appropriate level of detention infrastructure; or
- Continue with the current overcrowded arrangements with additional resources and initiatives to improve circumstances for clients while working to achieve appropriate detention infrastructure provision; **Note:** For a range of practical operational reasons as covered in this Report this is considered to be High Risk option that will be unlikely to mitigate the risks to a reasonable level;

#### **e) Lilac Compound, AQUA Compound, Construction Camp and Phosphate Hill Detention Facilities – Optimum Client Capacity of the Infrastructure**

##### **Lilac Compound**

Lilac compound is external but adjacent to the NWP facility with a capacity for up to 200 beds in demountable accommodation buildings surrounded by a non-secure perimeter. The 200 bed capacity is achieved through double bunks in 100 transportable rooms designed for one person on construction sites. Each of these rooms has an en-suite shared by the two occupants.

There are limited support facilities for administration, interviews, data and communication services and outdoor cabanas that provide for some recreation.

At the time of the inspection the 200 capacity had been exceeded by the creation of a dormitory situation with double bunks in an area that had originally been intended for dining purposes. It is understood that since the inspection this dormitory no longer exists.

Lilac Compound's sleeping and living arrangements for clients is crowded. This crowded environment combined with the limited opportunities for stimulating activity make it unsuitable in its current configuration for individual clients to remain for months at a time.

DIAC officers have advised that the location of Lilac and Aqua Compounds (see Aqua report below) puts further strain on the delivery of case management services given the time taken to physically access these compounds from their base in NWP administration block.

DIAC advise that their plans are to house clients in Lilac Compound who are *Single Adult males – Medium Risk*.

Lilac Compound's physical infrastructure is not of a standard for a client category of *Single Adult males – Medium Risk*. This factor coupled with crowded accommodation, lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their

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circumstances. This places Lilac Compound in a High Risk category for serious incidents in the months ahead.

#### **Finding 13**

Lilac Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 100 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (200 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Lilac Compound in a High Risk category for serious incidents in the months ahead.

#### **Aqua Compound**

Aqua Compound was under construction at the time of the author's inspection. It is adjacent to Lilac Compound. It will contain 400 beds in demountable accommodation buildings with support facilities surrounded by a non-secure perimeter. It is understood that the compound will be self sufficient for catering purposes.

The 400 bed capacity is achieved through double bunks in 200 transportable rooms designed for one person on construction sites. Each of these rooms has an en-suite shared by the two occupants. The indications are that this number of clients will provide a similar crowded environment to that of Lilac Compound.

The author is not aware of the extent of programs and activities that will be offered to clients in Aqua Compound. However, at this stage it appears that they will be limited.

DIAC officers have advised that the location of Lilac (see Lilac report above) and Aqua Compounds puts further strain on the delivery of case management services given the time taken to physically access these compounds from their base in NWP administration block.

DIAC advise that their plans are to house clients in Aqua Compound who are *Single Adult Males – Medium Risk*.

Aqua Compound's physical infrastructure is not of a standard for a client category of *Single Adult males – Medium Risk*. This factor coupled with crowded accommodation, lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Aqua Compound in a High Risk category for serious incidents in the months ahead.

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#### **Finding 14**

Aqua Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 200 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (400 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Aqua Compound in a High Risk category for serious incidents in the months ahead.

#### **Phosphate Hill Compound**

The Phosphate Hill Compound consists of demountable accommodation buildings and tent accommodation with some limited support facilities. DIAC advise that there are 24 demountable accommodation buildings designed as for use as single rooms providing beds for 48 clients through use of double bunks. There are tents accommodating 120 beds in crowded circumstances. This provides for 168 beds. At the time of the inspection there were 189 single men accommodated there. The 21 beds over the original bed figure has been achieved through further crowding in the accommodation buildings and Tents.

The Compound is enclosed by a single non secure fence. DIAC advise that their plans are to house clients in Phosphate Hill Compound who are *Single Adult Males – Medium Risk*.

The recreation and program opportunities in this compound are totally inadequate for the client group. The sleeping accommodation is crowded.

At the time of the inspection a significant number of men were observed either lying on bunks or sitting around with nothing to do. The general demeanour of clients could be described as "*withdrawn*". Greetings from the author to clients were often not responded to.

Given the racial mix in the compound, the fragile infrastructure, the lack of meaningful activity and the uncertainty in the mind of each client concerning their personal future, the author considers this compound to be a high risk area for DIAC and SERCO.

#### **Finding 15**

Phosphate Hill Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. Some of the accommodation was designed to accommodate 24 civilian workers who spend their waking hours at work and not confined to the area of their barracks and the remainder is tents. This factor coupled with crowded accommodation (168 -189 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients

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### Assessment of Current Immigration Detention Arrangements at Christmas Island

not being compliant with their circumstances. This places Phosphate Hill Compound in a High Risk category for serious incidents in the months ahead.

#### **Construction Camp**

At the time of the inspection the Construction Camp consisted of demountable accommodation buildings providing for around 370 beds and support facilities. This compound is used to house families, women and minors. It is enclosed by a non-secure perimeter.

DIAC advice is that they plan to limit capacity to 200 beds achieved through double bunks in the current 100 transportable rooms designed for one person on construction sites. Each of these rooms has an en-suite which will be shared by the two occupants.

At the time of the inspection some support facilities were in the process of being converted for use as bed accommodation. The amenity of the Compound is regularly disrupted due to the dining area and other facilities being utilised to process new arrivals. There are insufficient staff and support facilities to provide meaningful activities and programs for clients to maintain their mental well being over a period of time.

The layout of the demountable buildings creates a confusing and claustrophobic environment.

However, in spite of the facilities credit must go to DIAC and SERCO staff for the considerable effort they are making to engage the women and children in constructive activities. Children attend the local school and have access to a nearby sports oval and courts for recreation each day. The author was advised that a Women's Group has been established. Nevertheless at the time of the inspection there appeared to be significant numbers of clients not engaged in meaningful activity.

DIAC advise that their plans are to house clients in Aqua Compound who are *Families – low Risk and Crew*.

However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy.

#### **Finding 16**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy.

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#### **Recommendation 3**

If Recommendation 2 of this Report is adopted, Lilac, Aqua, Phosphate Hill and Construction Camp Compounds infrastructure and operational requirements should be included in the assessment and advice sought from architectural / building and operational consultants to achieve outcomes that will provide for an environment that reflects DIAC's values;

#### **5.2 An assessment of the risks currently being faced in administering the facilities in a safe, secure and humane manner**

The Key Potential Risks identified by the author as requiring assessment and management are:

- Inadequate and or insufficient detention infrastructure on Christmas Island to allow clients to be placed according to their risk profile;
- Inadequate staffing and or inappropriate staffing models to allow effective delivery of services to clients and to ensure the safety and security of the detention facilities;
- Lack of meaningful and purposeful activities for clients;
- Impact of the policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement;
- Inadequate governance of detention services at Christmas Island;

The consequences of the above risks have been canvassed throughout this report. If Recommendation 2 is adopted these risks should be taken into account by the consultants engaged to provide the holistic advice sought in that Recommendation.

#### **Recommendation 4**

If Recommendation 2 is adopted, the risks identified in this Report should be taken into account by the consultants engaged to provide the holistic advice sought in Recommendation 2;



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#### **5.3 An assessment of the respective case management roles of DIAC and Serco in relation to their contribution to the effective and efficient operation of the various facilities**

##### **Finding 17**

From discussions with relevant senior officers, the respective case management roles of DIAC and SERCO appear to be well defined and developed. As discussed throughout this Report their operational effectiveness has been degraded by infrastructure and staffing issues;

#### **5.4 A review of the security arrangements in place, both physical and dynamic, including intelligence gathering**

To summarise information covered previously in this report:

##### **NWP Christmas Island IDC**

##### **Finding 18**

The physical security designed into the original NWP IDC infrastructure is high quality. The proposed dynamic security model is best practice. However, the effectiveness of the physical and dynamic security, including intelligence gathering, has been degraded by overcrowding, temporary accommodation and staff shortages;

##### **Lilac, Aqua and Phosphate Hill Compounds**

##### **Finding 19**

The security within Lilac, Aqua and Phosphate Hill Compounds is not at the level required for the category of client accommodated or proposed to be accommodated there, that is, *Single Adult males – Medium Risk*;

##### **Construction Camp Compound**

##### **Finding 20**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy;

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**5.5 Other Issues**

**Emergency Support and Response Protocols**

DIAC and SERCO have been working closely with the Australian Federal Police (AFP) and other emergency support services. [REDACTED]

[REDACTED] This scenario based exercise appears to have been a valuable learning experience for all involved.

The author sat in on a security briefing [REDACTED] involving DIAC, SERCO and AFP representatives. This was a professionally conducted briefing and relevant emergency support and response protocols are in place. Strong attention is being paid to intelligence gathering and communication and coordination between agencies.

In the time available it has not been possible to make an informed assessment of intelligence gathering within the various detention facilities. However, from observations by the author in the various compounds his initial feeling is that intelligence gathering by SERCO officers may be constrained by their workload due to staff shortages.

**Recommendation 5**

DIAC and SERCO management on site at Christmas Island should review intelligence gathering by both parties to ensure that it is effective. If it is found that it is not effective and cannot be made so within the constraint of existing resources this fact should be immediately drawn to the attention of their respective Head Offices;

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## **Assessment of the Current Immigration Detention Arrangements at Christmas Island**

**14<sup>th</sup> October 2010**

**Keith Hamburger AM**

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**Disclaimer**

This document has been prepared in good faith, exercising due care and attention following advice from DIAC and SERCO employees and officers from other agencies on Christmas Island as to the situation that existed at the time the report was prepared.

No representation or warranty, expressed or implied, is made as to the relevance, accuracy, completeness or fitness for purpose of this document in respect of the user’s circumstances. Knowledge Consulting Pty Ltd shall not be liable to the user or any other person or entity with respect to any liability, loss or damage caused or alleged to have been caused directly or indirectly by this report.

Where DIAC believes there are Duty of Care implications arising from circumstances described in this Report it is DIAC’s responsibility to take this into account in reaching decisions arising from Findings and Recommendations contained in the Report.

**Acknowledgements**

The author wishes to acknowledge and thank the undermentioned people for their assistance and contribution that facilitated the undertaking and completion of this assessment and report in the very short time frame required. Each of the officers is carrying an extremely heavy and demanding work load. However, they made themselves available as required for discussion and provided every assistance:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

## **1. Summary of Findings**

### **Relevant History that Provides Context for the Assessment Made in this Report**

#### **Finding 1 – Page 19**

There are many similarities between the current challenges facing DIAC due to the rapid and significant increase in the number of IMA's and those faced by the then Department in the circa 2000 and post period under similar circumstances. The circa 2000 and post period challenges were not met adequately resulting in disastrous consequences. Experience from the previous events needs to be taken into account in developing strategies to deal with current circumstances;

#### **North West Point (NWP) IDC –Current Numbers of Clients, Temporary Additional Accommodation and Impact on Safety and Amenity**

#### **Finding 2 – Page 22**

North West Point Immigration Detention Centre (NWP IDC) is overcrowded and understaffed; much of the temporary sleeping accommodation is not fit for purpose; staff and client safety is compromised; processes for client case management are conceptually sound but implementation is degraded through lack of client placement options and staff shortages; intelligence gathering is compromised due to staff shortages; centre maintenance and services are under stress; and client mental well being is at risk due to lack of meaningful activity; The foregoing raise significant Duty of Care issues for DIAC and SERCO;

#### **Finding 3 – Page 22**

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will create *two classes* of IMA's within the NWP IDC. This will add a further challenge to client management within an overcrowded centre;

#### **Finding 4 – Page 22**

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will mean that a significant number of clients will spend longer in detention. On past experience initiatives will be required to engage clients in meaningful activities for significant proportions of their time to mitigate the adverse impact on client's mental well being of lengthy periods of detention in a state of uncertainty;

#### **Finding 5 – Page 23**

Concerning early warning signs of deterioration in client morale are evident at NWP which if not addressed have the potential to escalate into a serious incident or incidents;

**Note:** DIAC say that Serco, IHMS and DIAC assess the mood and dynamics of the Centre on a daily basis and to date morale has been found to be consistent and not deteriorating. Nevertheless, given the matters identified in this Report, experience shows that client concerns/ grievances in this situation can rapidly escalate into wilful disobedience and violence. Therefore, it is important that the underlying issues that drive client concerns are addressed urgently;

### **NWP IDC – The Original Design Concept**

#### **Finding 6 – Page 24**

The original infrastructure at NWP IDC was a purpose built facility which if utilised in accordance with its design concepts achieves DIAC's goals for humane and safe detention of clients;

#### **Finding 7 – Page 24**

Due to the current circumstances commented upon in Finding 2, the infrastructure and operating model has been degraded and is not operating in a fit for purpose manner;

### **NWP IDC – Optimum Client Capacity of the Infrastructure**

#### **Finding 8 – Page 26**

To ensure *duty of care* is met and effective operational outcomes are achieved a decision to increase the optimum client capacity at NWP IDC would need to be taken in the light of holistic architectural / building consultant and operational advice that takes account of:

- The client demographic;
- Processes and infrastructure needs for initial client processing;
- Client separation and case management needs;
- Likely length of client's stay in detention at NWP IDC;
- The program and activity menu proposed for the various categories of clients;
- The capacity to create a community environment within NWP IDC;
- A staffing model to support the operating culture of a facility based on values and rules that encourage the functioning of a *civil society*; and
- Infrastructure that does not compromise on providing for preservation of individual dignity and safety;



## Short Term Remediation

### Finding 9 – Page 29

DIAC's initiatives to mix clients from different racial backgrounds together in each compound to avoid creating "*cultural enclaves*", to maintain clients who do not meet refugee requirements in their current accommodation and manage them intensively via Case Managers and allowing clients who are subject to the announced processing suspension to mix in the general population are good practice;

### Finding 10 – Page 29

While the above client management strategies are sound there is every possibility that in isolation they are unlikely to avert incidents as to be successful they are heavily dependent upon a range of other matters which are summarised below with comment concerning their current status:

- Intensive case management; **Note:** There is evidence in this report that while case management concepts are sound, staff shortages and overcrowded facilities have reduced its effectiveness;
- Meaningful and purposeful activity/ programs for clients to assist in offsetting the boredom and frustrations associated with institutional living, the uncertain future and negative outcomes when they occur; **Note:** This is mostly not in place;
- Robust pro-active intelligence to identify early warning signs of deterioration in client morale and detect potential malcontents who may be planning to disrupt and or damage the fabric of NWP functioning; **Note:** The intelligence system is degraded because of staff shortages and overcrowding;
- The capacity to manage/ modify the behaviour of malcontents in separate accommodation where necessary; **Note:** Not possible in the current circumstances;
- The capacity to appropriately place clients according to their risk profile and case management outcomes; **Note:** Not possible in the current circumstances;
- A centre where services are functioning efficiently so that clients are content that their basic daily needs are being met effectively and efficiently; **Note:** Service failures are becoming evident; and
- Staff and clients feeling safe in the institution; **Note:** Staff are starting to express concern largely due to the overcrowded conditions and shortage of staff;

**Note:** Following Finding 10, on Pages 30 and 31, some suggestions have been made relating to other short term remediation's that may assist in maintaining "good order";

### **Finding 11 - Page 32**

Even if the suggestions made on pages 30 and 31 were implemented quickly and this is unlikely given resource issues and that the suggestion for meaningful activity for longer term clients may not be supported and there is no alternative suggestion under consideration, the author's opinion is that they would not in themselves provide sufficient mitigation to lower the risk of a major incident to an acceptable level due to the overcrowded environment and staff shortages that result in:

- An incapacity to appropriately place clients in accommodation according to their risk profile;
- A degraded intelligence gathering system that may not detect in a timely manner warning signs of potential serious challenges to the good order of the IDC; and
- DIAC and SERCO not being able to provide the level of intensive case management required to engage clients positively over time to ensure that they will mostly remain compliant with their circumstances.

### **Finding 12 - Page 32**

The fundamental underlying challenge is that there are far too many clients accommodated in NWP for the current capacity of the infrastructure, far too many of them are not engaged in meaningful or purposeful activities or programs, client frustration is starting to increase and the potential has now emerged for clients to spend longer periods in an overcrowded, unproductive and frustrating environment.

### **Lilac Compound, AQUA Compound, Construction Camp and Phosphate Hill Detention Facilities – Optimum Client Capacity of the Infrastructure**

#### **Finding 13 – Page 35**

Lilac Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 100 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (200 clients), lack of meaningful activity for clients (although DIAC is making considerable effort to increase activity options) and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Lilac Compound in a High Risk category for serious incidents in the months ahead.

#### **Finding 14 – Page 36**

Aqua Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 200 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (400 clients), lack of meaningful

activity for clients (although DIAC is making considerable effort to increase activity options) and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Aqua Compound in a High Risk category for serious incidents in the months ahead.

**Finding 15 – Page 36**

Phosphate Hill Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. Some of the accommodation was designed to accommodate 24 civilian workers who spend their waking hours at work and not confined to the area of their barracks and the remainder is tents. This factor coupled with crowded accommodation (168 -189 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Phosphate Hill Compound in a High Risk category for serious incidents in the months ahead;

**Finding 16 – Page 37**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy;

**An assessment of the respective case management roles of DIAC and Serco in relation to their contribution to the effective and efficient operation of the various facilities**

**Finding 17 – Page 38**

From discussions with relevant senior officers, the respective case management roles of DIAC and SERCO appear to be well defined and developed. As discussed throughout this Report their operational effectiveness has been degraded by infrastructure and staffing issues;

**A review of the security arrangements in place, both physical and dynamic, including intelligence gathering**

**Finding 18 – Page 39**

The physical security designed into the original NWP IDC infrastructure is high quality. The proposed dynamic security model is best practice. However, the effectiveness of the physical and dynamic security, including intelligence gathering, has been degraded by overcrowding, temporary accommodation and staff shortages;

### **Finding 19 – Page 39**

The security within Lilac, Aqua and Phosphate Hill Compounds is not at the level required for the category of client accommodated or proposed to be accommodated there, that is, *Single Adult males – Medium Risk*;

**Note:** When reviewing the draft of this Report, DIAC asked the following question - *What can be done to improve the security at Lilac, Aqua and Phosphate Hill if it is not at the level required for the category of client?*

**Response:** The current physical security level of the facilities at Lilac, Aqua and Phosphate Hill is appropriate for clients classified as "open security". A classification of "open security" relates to clients who are not an escape risk and have no behavioural issues that could endanger the safety of other clients, staff or members of the public or create a risk to the good order and security of the facility.

However, it must be noted that clients who are placed in open security facilities are normally engaged in meaningful work activity or education or training such that their mental well being is preserved. That is, the soft physical facilities are complemented by an activity, program and staffing regime that ensures clients are constructively engaged such that the likelihood of behaviour issues is minimised.

Even if at the time of my inspection the clients in Lilac, Aqua and Phosphate Hill facilities were classified as "open security", given the limited activities and programs and as the low staff levels precluded a "dynamic security model" and resulted in a "guarding staffing model" being in place, I would have little confidence that good behaviour of these clients could be assured.

Therefore, to answer your question, what can be done to improve the security at Lilac, Aqua and Phosphate Hill if it is not at the level required for the category of client?

#### **For Open Security Clients**

Implement an activity, program and staffing regime to ensure clients are constructively engaged such that the likelihood of behaviour issues is minimised;

#### **For Medium or High Risk Clients**

To house medium or high risk clients in these facilities would require considerable hardening of the physical infrastructure which in effect would involve scrapping the existing facilities entirely and building a fit for purpose facility. This new facility would need to be complemented by an activity, program and staffing regime that ensures clients are constructively engaged such that the likelihood of behaviour issues is minimised.

### **Finding 20 - Page 40**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy;

## **2. Summary of Recommendations**

### **Recommendation 1 – Page 32**

Take immediate action to commence reducing the number of clients accommodated within NWP IDC to a level where DIAC and SERCO senior management at NWP, supported by their respective Head Offices, are prepared to certify that they have the appropriate physical infrastructure and staffing resources to effectively discharge their responsibilities to:

- Place clients according to their risk profile;
- Deliver their respective client case management responsibilities effectively;
- Maintain the security of the IDC and the safety of staff and clients;
- Deliver services efficiently and effectively to clients; and
- Provide programs and activities appropriate for the various categories of clients that support maintenance of good order within the IDC and maintain the well being of clients;

### **Recommendation 2 – Page 33**

Concurrent with adopting Recommendation 1 seek architectural / building consultant and operational advice in a holistic form that develops in consultation with DIAC and SERCO Christmas Island and Head Office senior management teams recommendations relating to:

- The operational and infrastructure enhancements necessary at NWP IDC to support an optimum maximum client capacity to be determined above the present capacity of 400 with temporary surge capacity to 800;
- How long it would take and an estimate of cost for any recommended changes; and
- How to manage any challenges associated with infrastructure modification in an operating IDC;

DIAC officers have advised that Recommendation 1 is not a practical recommendation while the off shore processing and mandatory detention policy is in place as there is insufficient immigration detention accommodation elsewhere to allow the overcrowded situation at Christmas Island to be relieved to the extent envisaged by the Recommendation.

Therefore, as previously stated in this Report it is reasonable to assert that DIAC does not currently have the capacity to implement a policy of off shore processing and mandatory detention of IMA's without resorting to overcrowding and temporary facilities which brings into play Duty of Care issues affecting clients and staff arising from:

- Severe overcrowding at NWP compounded by understaffing;

- The planned client demographic of "*single adult males- High Risk*";
- Temporary accommodation that is not fit for purpose;
- Incapacity to appropriately place clients according to their risk profile and case management outcomes;
- Lack of meaningful activity for significant numbers of clients;
- Intelligence gathering compromised due to staff shortages;
- Centre maintenance and services under stress;
- Staff and client safety compromised due to overcrowding, insufficient staff and temporary facilities;
- Early warning signs of deterioration in client morale at NWP;
- Potential for clients to remain longer in detention. This together with lack of meaningful and purposeful activity for significant numbers of clients in an overcrowded environment will potentially adversely affect client mental well being leading to adverse behavioural outcomes; and
- All of the above representing similar pre-existing circumstances to those that triggered the disastrous outcomes during the period circa 2000 and post 2000;

This leads the author to the conclusion that Recommendation 1 requires consideration at policy level concerning:

- Alternative arrangements for processing and detaining IMA's within the framework of current policy; or
- Making adjustments to current policy until such time as DIAC can achieve an appropriate level of detention infrastructure; or
- Continue with the current overcrowded arrangements with additional resources and initiatives to improve circumstances for clients while working to achieve appropriate detention infrastructure provision; **Note:** For a range of practical operational reasons as covered in this Report this is considered to be High Risk option that will be unlikely to mitigate the risks to a reasonable level;

### **Recommendation 3 – Page 38**

If Recommendation 2 of this Report is adopted, Lilac, Aqua, Phosphate Hill and Construction Camp Compounds infrastructure and operational requirements should be included in the assessment and advice sought from architectural / building and operational consultants to achieve outcomes that will provide for an environment that reflects DIAC's values;

#### **Recommendation 4 – Page 38**

If Recommendation 2 is adopted, the risks identified in this Report should be taken into account by the consultants engaged to provide the holistic advice sought in Recommendation 2;

#### **Recommendation 5 – Page 40**

DIAC and SERCO management on site at Christmas Island should review intelligence gathering by both parties to ensure that it is effective. If it is found that it is not effective and cannot be made so within the constraint of existing resources this fact should be immediately drawn to the attention of their respective Head Offices;

### **3. Introduction and Terms of Reference**

Due to the high number of Irregular Maritime Arrivals (IMA's) at Christmas Island during 2009 - 2010 Knowledge Consulting has been engaged by the Department of Immigration and Citizenship (DIAC) to conduct an assessment of the current arrangements at the Christmas Island Immigration Detention Centre.

In late 2007 construction of the Christmas Island Immigration Detention Centre (IDC), the Department's first purpose built IDC, was completed and handed over to the Commonwealth. The Centre first received clients in September 2008. It is a modern, purpose built secure centre designed to house four hundred (400) clients with a temporary surge capacity to eight hundred (800) clients.

The infrastructure contains high quality provision for support services such as catering, medical, recreation, programs, activities, visitations, administration, storage, case management and staff requirements to deal safely, humanely and securely with the client capacity outlined above.

The infrastructure is designed to support the desired operational model for the Christmas Island IDC determined by DIAC which is based upon:

- A highly interactive and engaging client case management system both for clients' immigration status (DIAC's responsibility) and for their day to day needs within the IDC (Contracted Service Providers' responsibility);
- An emphasis upon dynamic security where staff are:
  - Highly visible and engaging interpersonally on a very regular basis with clients so that they are alert to changes in client's moods, circumstances etc;
  - Part of a multi-disciplinary staffing model that supports both case management streams so that clients various needs can be met in a seamless manner;

## Assessment of Current Immigration Detention Arrangements at Christmas Island

- To adopt a "*lead by example*" approach to place emphasis upon appropriate values and behaviours within the IDC for clients;
- Well trained in all facets of their work including their interface with the physical and operational security systems;
- A robust intelligence system to gather and analyse information that is relevant for the effective management of risks within the IDC;
- A robust risk assessment and risk management system;
- Protocols that are regularly scenario tested for engagement with all emergency services and other stakeholders essential for the safe and secure operation of the IDC; and
- Strong and proactive IDC leadership committed to continuous improvement

During 2009 and continuing into 2010 DIAC has been required to respond rapidly to a high number of Irregular Maritime Arrivals (IMA's) at Christmas Island. This has resulted in the number of IMA's needing to be detained exceeding the design capacity of the IDC at North West Point.

To meet this demand for additional accommodation DIAC:

- Has utilised the 400 bed temporary surge capacity within NWP as permanent beds and added a further 558 temporary beds in activity and program areas, in accommodation blocks and in tents;
- Constructed a compound adjacent to NWP IDC known as Lilac Compound containing 100 single person Transportable Rooms plus some limited support facilities;
- At the time of the inspection was constructing adjacent to Lilac Compound a further Compound known as AQUA containing 200 single person Transportable Rooms plus some limited support facilities;
- Is utilising the Construction Camp site some 30 minutes drive from NWP which has 100 single person Transportable Rooms; and
- At Phosphate Hill adjacent to the Construction Camp, is utilising 24 single person Transportable Rooms plus tents;

The following Table summarises the IMA accommodation situation on Christmas Island:



Assessment of Current Immigration Detention Arrangements at Christmas Island

Facility	Design Capacity	Additional Temporary Beds mid – April 2010	No of Clients above Permanent Design Capacity
North West Point	400 with Temporary Surge to 800	174 within accommodation blocks 144 within education block 240 in tented area Red Compound 400 temporary surge capacity in permanent use Total clients = 1,358	958
Lilac Compound	100 single person Transportable Rooms	100 through double bunks in single person Transportable Rooms	100
Aqua Compound	200 single person Transportable Roms	200 planned through double bunks in single person Transportable Rooms	200 – Planned. AQUA under construction at time of inspection
Phosphate Hill	24 single person Transportable Rooms	24 through double bunks in single person Transportable Rooms 120 in Tents	189 at time of inspection achieved through some single person Transportable Rooms accommodating 3 men and additional beds in Tents
Construction Camp	100 single person Transportable Rooms	100 through double bunks in single person Transportable Rooms	270 at time of inspection achieved through additional clients in the Transportable Rooms and utilising activity space
<b>Total Permanent Design Capacity</b>	<b>824</b>		<b>1,717</b> clients above permanent design capacity

The figures in the above Table show that client numbers in **NWP IDC** are at **240%** above permanent design capacity and **70%** above maximum temporary surge capacity. All of the other facilities are accommodating numbers of clients well above the original design capacity.

Due to the rapid escalation of IMA numbers with the associated creation of additional temporary accommodation and the significant expansion of services and staffing required to meet the needs of clients, DIAC has decided to seek an independent opinion concerning "the security risk exposures at North West Point, Phosphate Hill and Construction Camp" as covered in the following Terms of Reference:

*"The focus of the review is to identify the security risk exposures at North West Point, Phosphate Hill and Construction Camp in the context of the emerging IMA numbers and processing arrangements on Christmas Island.*

*This assessment to include but not limited to:*

- Given the current number of clients held in the facilities on Christmas Island, provide advice as to the optimal capacity of the infrastructure on the Island;*
- An assessment of the risks currently being faced in administering the facilities in a safe, secure and humane manner;*
- An assessment of the respective case management roles of DIAC and Serco in relation to their contribution to the effective and efficient operation of the various facilities;*
- A review of the security arrangements in place, both physical and dynamic, including intelligence gathering; and*

*The assessment should involve consultation with DIAC, SERCO, IHMS Executive and lead of the Australian Federal Police on Christmas Island to achieve an understanding of the operation of the facility.*

*Reports and recommendations of the assessment to be provided with verbal updates to be provided to DIAC Executive as significant risks are identified. An interim report to be available by Tuesday 13<sup>th</sup> April 2010";*

The Author of this Report inspected immigration detention facilities on Christmas Island, including meetings with senior DIAC and SERCO officers and Australian Federal Police officers during the period Thursday evening 8<sup>th</sup> April through Tuesday 13<sup>th</sup> April 2010. A Draft Report arising from the above inspection was submitted to DIAC on 13<sup>th</sup> April 2010 the day the inspection of facilities concluded.

This Draft Report identified amongst other things a number of matters that in the opinion of the author raised Duty of Care issues. Since 13<sup>th</sup> April 2010 there have been a number of discussions with DIAC officers. These discussions covered the author's initial perceptions and Findings in the context of the practical issues DIAC and SERCO are facing in being required to respond rapidly to the high number of Irregular Maritime Arrivals (IMA's) at Christmas Island. Further drafts of the Report containing amendments were prepared and discussed between the author and DIAC officers.

On 11<sup>th</sup> October 2010 the author was advised by email that the Draft Report provided on 17<sup>th</sup> September 2010 with amendments agreed between the Author and DIAC officers should be submitted as a final report.

This report is founded in:

- Information gathered during the inspection of immigration detention facilities on Christmas Island;
- Information provided by senior DIAC and SERCO officers on Christmas Island;
- Information provided by senior DIAC officers from Canberra Head Office; and
- The author's experience over the past decade in investigating and reporting upon serious incidents in immigration detention facilities as well as reviewing outcomes arising from the Palmer and Comrie reports and governance issues under the previous detention services contracts;

#### **4. Relevant History that Provides Context for the Assessment Made in this Report**

The context in which DIAC is working to address the challenge of a rapid and significant increase in the number of IMA's in many ways mirrors the circumstances circa 2000 when a similar surge in "*boat people*" occurred. Then:

- The event was politically sensitive, aroused community concern and divided community opinion;
- The Department had inadequate infrastructure to accommodate the IMA's and housed many of them in remote locations in mostly overcrowded temporary accommodation not fit for purpose. These remote locations were extremely difficult and costly to staff and service;
- While the Department conducted the immigration case management of the IMA's, the management of the detention facilities to service the daily needs of IMA's and their supervision was outsourced to a private contractor. The governance arrangements for the outsourced contract by both the department and the private contractor were inadequate as proven by a number of serious service delivery failures with adverse consequences for the Department, the private contractor and ultimately for the IMA's;
- An assumption was made by the Department in outsourcing the detention services contract and novation of the temporary and not fit for purpose accommodation to the contractors that the IMA's would be largely compliant with their circumstances. The contractors staffing model reflected this assumption;
- The assumption of compliance was initially valid circa 2000. However, after a period of time when delays in processing of IMA's applications for Visas became systemic and significant numbers spent many months and in some cases years in detention the assumption unravelled and the Department, the private contractor and the IMA's endured a tragic period of extreme disorder in a number of detention facilities.

This disorder was fuelled not only by processing delays but also by the destruction of client well being by the mind numbing boredom of daily life in detention due to lack of meaningful activity. Basically detention facilities became places of human storage where clients were under guard but not engaged thus they lost any sense of purpose and hope.

In these circumstances many clients lost confidence in the official processes and began to rebel against authority. This initially involved hunger strikes and self harming and extended to riots, burning and trashing of infrastructure, mass escapes, serious injuries to IMA's and staff including post traumatic stress, loss of reputation for the Department and the private contractor and loss of political capital by the government of the day;

- The extreme disorder in the detention facilities supported by "*protest groups*" in the community and the resultant community and political pressure forced departmental executives, who were extremely hard working and dedicated people, into a reactive/crisis management mode. This left insufficient time to focus on planning, governance and continuous improvement which in turn, it can be argued, contributed to further disasters such as the Cornelia Rau and Vivian Alvarez cases;

The above "*thumb nail*" summary of history is as recalled from the author's involvement in a range of investigative and other projects for the then department. This history is relevant to this assessment of the circumstances at Christmas Island in so far as there appears to be a risk emerging that history is in danger of repeating itself if urgent mitigation action is not taken. For example, as in the period circa 2000:

- This current surge in arrival of IMA's is politically sensitive, has aroused community concern and there is divided community opinion on how to deal with those seeking to enter Australia in this manner and with those who actually arrive;
- DIAC has inadequate infrastructure to accommodate the IMA's and is housing significant numbers of them in a remote location in overcrowded temporary accommodation that is logistically difficult and costly to staff, service and to support. This is even more so in emergencies. DIAC is about to open a further facility in another remote location;
- Given the nature of the additional temporary accommodation provided for IMA's, DIAC and the private contractor are relying to a significant extent upon the assumption that IMA's will remain compliant for good order to be maintained at the Christmas Island Detention Facilities. The Government has recently announced a pause in processing of certain categories of IMA's which as in the 2000 experience will considerably extend the time that many IMA's remain in detention;
- Because of the overcrowded situation in detention facilities many of the activity and program facilities have been lost. The situation is now emerging where it is clear that many clients will be in detention for longer periods and there are currently little and

mostly no alternate strategies in place to engage clients in meaningful activities to mitigate adverse outcomes from frustration due to processing delays and boredom from inactivity;

- In these circumstances, if as in circa 2000 many clients lose confidence in the official processes and if this is compounded by boredom and inactivity, client's mental well being will be adversely affected and the assumption of "*compliant clients*" will quickly unravel. The likely consequence is that clients as in 2000 and post will begin to rebel against authority. This potentially could follow the same path of hunger strikes and self harming, riots, burning and trashing of infrastructure, mass escapes, serious injuries to IMA's and staff including post traumatic stress, loss of reputation for the Department and the private contractor and loss of political capital by the government of the day;

[REDACTED]

The current overcrowded situation and shortage of staff does not allow for proactive intelligence gathering that identifies potential "*trouble makers*". Further, if they were to be identified the overcrowding makes it impossible to segregate them at NWP IDC to minimise their capacity to influence others.

- If a potential worst case scenario as described above was to occur, then the best efforts of staff and or emergency services to contain unruly and or unlawful behaviour would be severely compromised by the current overcrowding and the inadequate temporary accommodation facilities. There is also the added challenge of the delay factor in getting support personnel to the Island should a serious incident occur unexpectedly;

In the context of the foregoing, in detention facilities a fundamental consideration and accountability of responsible officers is "*duty of Care*". Failures that lead to harm to staff, clients, visitors and members of the public must be avoided at all costs.

Apart from the harm and distress caused to victims of duty of care failures, officials with decision, supervision and leadership responsibilities where catastrophic failures occur (loss of life being a worst case example) can face serious legal consequences if it is established that, given their professional training, knowledge, skills and experience they did not take all reasonable steps and precautions to manage the risks that caused the failure.

Elements in detention facility functioning where "*duty of care*" implications exist that require robust risk management are:

- Ensuring that the design of the facility is fit for purpose;
- Ensuring that the facility is used in the manner for which it was designed;
- Ensuring that the design and implementation of the Centre operational model functions in concert with the physical infrastructure in a manner that provides for a dynamic approach to internal security of the centre. This covers the staffing model – roles, functions and hours of duty and the structure of daily programs and activities for clients;
- Ensuring that the centre Operating Procedures take account of "duty of care", are fit for purpose and where necessary are accredited by the appropriate independent authorities/ experts;
- Ensuring that all staff are appropriately trained and qualified for their roles;
- Ensuring that staff at all levels are appropriately mentored, supported and supervised;
- Ensuring that all equipment is fit for purpose at all times; and
- Ensuring that the governance arrangements are robust.

The foregoing is a summary of a past problematic period in immigration detention, the current circumstances that potentially could see history repeat if mitigation action is not taken and the duty of care implications should this occur. This is provided as contextual information for this report to illustrate the serious challenge that the author believes DIAC is facing to ensure that immigration detention services are delivered in a safe, secure and humane manner in the current environment of a rapidly expanding IMA population.

### **Finding 1**

There are many similarities between the current challenges facing DIAC due to the rapid and significant increase in the number of IMA's and those faced by the then Department in the circa 2000 and post period under similar circumstances. The circa 2000 and post period challenges were not met adequately resulting in disastrous consequences. Experience from the previous events needs to be taken into account in developing strategies to deal with current circumstances;

## **5. Addressing the Terms of Reference**

### **5.1 Given the current number of clients held in the facilities on Christmas Island provide advice as to the optimal capacity of the infrastructure on the Island;**

In dealing with this TOR each accommodation facility is examined separately.

#### **a) North West Point (NWP) IDC –Current Numbers of Clients, Temporary Additional Accommodation and Impact on Safety and Amenity**

As stated in the Introduction to this Report, DIAC has been faced with the need to accommodate increasing numbers of IMA's by rapidly increasing the capacity at NWP through a range of temporary accommodation facilities that has achieved a total of 1,358 beds within the secure perimeter.

The above additions have created an extremely overcrowded environment for clients to live in. Further, much of the temporary accommodation is not suitable for clients who may stay in the centre for months or more. The arrangements have also created a very challenging work place for staff and a potentially dangerous situation for clients and staff should an emergency situation arise. In summary a situation existed at the time of the inspection where:

- NWP was accommodating 558 clients permanently above its maximum design capacity of 800 at full temporary surge;
- Under these conditions staff say it is not possible to appropriately place and segregate clients in a manner that best suits their needs as covered by a variety of assessment factors;
- In the event of a major violent incident, due to overcrowding and the range of temporary facilities the capacity to respond in a manner that contains those who are a threat while at the same time providing "sanctuary" for those not wishing to be involved is severely compromised;
- The temporary sleeping accommodation, which includes tent accommodation, is not satisfactory accommodation, particularly for clients who spend weeks and or months in these facilities. DIAC advise that *"there is a rotation policy within NWP so that clients are regularly moved through the centre to more permanent accommodation facilities. Clients are not expected to be in temporary accommodation for more than a few weeks"*;
- Overcrowding has created loss of privacy for clients, loss of access to programs and activities, frustration in delays in access to services such as telephones and responses by staff to personal equipment failure. A senior DIAC officer said, *"Clients now queue for everything and they are getting frustrated"*;
- Maintenance is becoming a serious issue. Infrastructure such as air conditioning is wearing out more quickly than planned. Delays are occurring in effecting repairs due to the capacity of the limited maintenance staff on the Island to respond. Lack of air-conditioning for periods in the Christmas Island climate will be a negative factor for client morale;
- The author was advised that the current client numbers have put considerable strain upon warehousing and refrigeration facilities;

- SERCO is facing significant difficulties in meeting the staffing needs of services functions as the labour pool on the Island is exhausted. The author was advised that catering, cleaning and laundry services are "maxed out" and with the opening of the 400 bed AQUA Compound in the near future they will be functioning largely in a "make do" situation;
- Despite the best efforts by DIAC and SERCO staff the author observed significant numbers of clients in each of the facilities inspected during this "snapshot" review lying on bunks or sitting around with nothing to do. This is an indicator of looming behaviour challenges. [REDACTED]  
[REDACTED]  
[REDACTED]
- A common theme in comments from DIAC and SERCO officers is that more staff is urgently required. However, apart from the capacity to attract people, a major impediment is the lack of suitable staff accommodation on the Island. DIAC is working hard to overcome this but it is costly and will take time;

In the short time available for this review it is not possible to quantify the extent of staff shortages in the DIAC and SERCO Teams. However, from observation and discussion with officers the author can say that in addition to the support services covered above, services critical to "duty of care" such as case management, intelligence gathering and maintaining an active and engaged client group have become degraded. This degradation, apart from the need for more staff, is also caused by the loss of program and activity space to create bed space;

DIAC's Case Management Team has a conceptually sound approach to client case management and the author was impressed with the energy, enthusiasm and empathy of the Case Management Team. They are very visible and active within the Centre in engaging with clients. The Team is spread between NWP, Lilac Compound, the Construction Camp and Phosphate Hill. Their workload was described to the author as "demanding";

A DIAC officer said, "Clients are starting to say to Case Managers – we don't want to talk to you, you can't do anything for us." A senior DIAC Officer has advised that this type of comment was in relation to visa outcomes and there has been no indication that the client population is becoming disengaged from Case Managers";

It is understood that more Case Management staff will be allocated to assist with the increased work load involved with the shortly to be opened AQUA Compound and increasing demands at the Construction Camp and Phosphate Hill. However, lack of staff accommodation on the Island may delay this being implemented;

Another issue of concern from a Case Management perspective is that SERCO is in a similar situation to DIAC in finding accommodation for staff which is



impacting on its capacity to have sufficient staff in the compounds to play an active engagement role in client Case Management. This outcome also degrades the Intelligence gathering function;

- The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will create *two classes* of IMA's within the IDC. This will add a further challenge to client management within an overcrowded centre;
- There is evidence that the number of client incidents is increasing. For the first time since the IDC commenced operation a recent incident has occurred of an alleged assault upon a SERCO officer by a client. It is alleged that a client has "*pressed against a female SERCO officer's chest with his body and shoulder as he walked past her*". (Source of this information – Operational Intelligence Report 01/04/2010 – 07/04/2010);

The Health Services Manager advised the author that over the last couple of weeks he has noticed an increase in self harm and "*acting out behaviour such as throwing chairs, yelling out, etc*". He says that more hours are being expended by Mental Health staff in dealing with this;

The evidence in a number of the dot points above, in the author's experience, provides early and concerning warning signs of deterioration in client morale which if not addressed has the potential to escalate into a serious incident or incidents.

### **Finding 2**

North West Point Immigration Detention Centre (NWP IDC) is overcrowded and understaffed; much of the temporary sleeping accommodation is not fit for purpose; staff and client safety is compromised; processes for client case management are conceptually sound but implementation is degraded through lack of client placement options and staff shortages; intelligence gathering is compromised due to staff shortages; centre maintenance and services are under stress; and client mental well being is at risk due to lack of meaningful activity; The foregoing raise significant Duty of Care issues for DIAC and SERCO;

### **Finding 3**

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will create *two classes* of IMA's within the NWP IDC. This will add a further challenge to client management within an overcrowded centre;

### **Finding 4**

The policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement will mean

that a significant number of clients will spend longer in detention. On past experience initiatives will be required to engage clients in meaningful activities for significant proportions of their time to mitigate the adverse impact on client's mental well being of lengthy periods of detention in a state of uncertainty;

### **Finding 5**

Concerning early warning signs of deterioration in client morale are evident at NWP which if not addressed have the potential to escalate into a serious incident or incidents;

**Note:** DIAC say that Serco, IHMS and DIAC assess the mood and dynamics of the Centre on a daily basis and to date morale has been found to be consistent and not deteriorating. Nevertheless, given the matters identified in this Report, experience shows that client concerns/ grievances in this situation can rapidly escalate into wilful disobedience and violence. Therefore, it is important that the underlying issues that drive client concerns are addressed urgently;

### **b) NWP IDC – The Original Design Concept**

As stated in the introduction to this Report NWP IDC was the Department's first purpose built IDC. It took account of the lessons learned from the catastrophic events circa 2000 and post and provided for secure and humane containment of clients via:

- A perimeter that provides for the key perimeter security elements of *deterrence, detection and delay* in a manner that makes escape an unlikely event;
- A range of accommodation options for clients in rooms located in accommodation buildings in four (4) separate compounds with each compound containing two accommodation buildings. This arrangement provides for flexibility in the placement and segregation of clients according to a range of needs including ethnicity, gender, processing requirements and behaviour. There is also a unit specifically designed for the temporary accommodation of recalcitrant clients;
- High quality provision for support services such as reception, induction, case management, catering, medical, education, recreation, programs, activities, visitations, laundry, religious facilities, administration, conference, storage and staff needs to deal safely, humanely and securely with the client capacity outlined above; and
- Sufficient open space to reduce the feeling of claustrophobia, to enhance the social amenity of the centre and to provide opportunities for clients to enjoy socialising in the open air. This amenity, together with a proactive case management approach by DIAC and the Detention Services Provider officers and the facilities listed above for support services works to provide for the mental well being of clients;

The above infrastructure represents the outcome of extensive planning and input from experienced DIAC officers and design and operation consultants with relevant expertise to

achieve a secure but humane environment where people detained in the facility can be accommodated safely while their immigration status is assessed.

The aim was to achieve a working environment for staff where their services to clients are delivered safely, professionally and empathetically and where clients access and engage with these services according to their needs, in an environment where they feel their circumstances are respected and their safety is assured.

Importantly, the Department in designing and building the Christmas Island IDC met its "duty of care" obligation by "ensuring that the design of the facility was fit for purpose".

### **Finding 6**

The original infrastructure at NWP IDC was a purpose built facility which if utilised in accordance with its design concepts achieves DIAC's goals for humane and safe detention of clients;

### **Finding 7**

Due to the current circumstances commented upon in Finding 2, the infrastructure and operating model has been degraded and is not operating in a fit for purpose manner;

#### **c) NWP IDC – Optimum Client Capacity of the Infrastructure**

As previously stated the original design capacity of NWP IDC is for four hundred (400) clients with capacity for temporary surges to eight hundred (800). This is not to say that the capacity could not be increased beyond these numbers. However, to ensure *duty of care* is met and effective operational outcomes are achieved decisions to increase the client capacity would need to be taken in the light of holistic architectural / building consultant and operational advice.

The author of this report has not been provided with evidence of such holistic input in the decisions taken to date to increase client capacity at NWP IDC to 240% above permanent design capacity.

The author understands from discussions with Senior DIAC officers that the current shortfall in immigration detention accommodation nationally for clients is such that if the surge in IMA's continues, then for the foreseeable future NWP will be required to accommodate considerably more clients than its original permanent design capacity.

In the author's opinion, the following are critical elements for analysis in arriving at a decision as to any increase in the optimum achievable client capacity of NWP IDC:

- The client demographic, particularly their risk profile. In this regard DIAC has indicated that NWP will accommodate "*single adult males- High Risk*";
- Processes and infrastructure needs for initial client processing;

- Client separation and case management needs;
- Likely length of client's stay in detention at Christmas Island – how many less than one month, how many between one month and three months, how many between three months and six months and how many longer than six months;
- The program and activity menu proposed for the various categories of clients with particular focus around length of stay. That is, the longer clients remain at NWP IDC the more intensive, purposeful and stimulating activity intervention needs to be to offset the effects of institutionalisation and to facilitate compliance with their circumstances;
- The capacity to create a community environment within NWP IDC that is as natural as is possible taking account of the planned client demographic of "*single adult males- High Risk*". That is, a community founded in the premise that the clients are mostly innocent and responsible citizens who are enduring a difficult life circumstance while attempting to transition to a better future.

Based on this premise the operating culture of the facility needs to be driven by values, expectations and rules that encourage the functioning of a "*civil society*" within the institution. These values, expectations and rules need to be reflected in the functioning of NWP IDC through:

- Relaxed, good humoured and supportive interaction between staff and clients and encouragement of similar interaction among clients;
- Friendly and fair application of rules by staff, that is no officious behaviour, but with the capacity to firmly apply rules when necessary for the good order of NWP IDC and to separate those who choose to behave negatively with the potential to degrade the desired relaxed culture. That is, once again taking account of the planned client demographic of "*single adult males- High Risk*";
- High quality and very frequent communication from staff to clients concerning both the client's immigration case circumstances and their day to day needs and activities;
- A capacity for clients to have quality input and a degree of control and ownership of the manner in which NWP IDC functions to meet their daily needs. For example:
  - a capacity to move relatively freely within their accommodation areas and between their accommodation areas and service areas such as programs, activities, catering, medical and recreation;
  - fostering of positive leadership by clients with this aptitude and inclination to assist and encourage other clients in coping with their circumstances in a variety of ways;

- meaningful input through client committees to decisions relating to catering, recreation, activities, programs, feedback concerning rules and procedures, mental well being issues etc;
  - encouraging clients to undertake and lead initiatives that create a sense of community within NWP IDC where they form friendships across cultural divides, enhance their positive thinking skills and develop attitudes conducive to ongoing self development such that in the future they will look back on their time at NWP IDC as a positive life transition period rather than negative incarceration;
- A staffing model to support the operating culture of a facility based on values and rules that encourage the functioning of a “civil society” within the institution where clients take a high degree of ownership for the operational outcomes in so far as the way in which their daily service needs are delivered;
  - Infrastructure that does not compromise on providing for preservation of individual dignity and safety;

It may be argued that the outcomes described above relating to clients having input, control and ownership of certain functions relating to their daily needs and developing a sense of community, a civil society, within NWP IDC does not fit well with a client demographic of “single adult males- High Risk”. The author argues from the basis of evidence in the literature and from personal experience in the operation of a range of institutions that with the appropriate infrastructure and staffing model the concepts suggested above work well with particular categories of high risk clients.

On the evidence available it is considered that the significant proportion of “single adult males- High Risk” immigration clients would react more favourably to the *sense of community, a civil society* approach than to a restrictive *prison culture* environment. Such a strategy is in line with DIAC’s values and would assist in facilitating maintenance of a compliant client population.

### **Finding 8**

To ensure *duty of care* is met and effective operational outcomes are achieved a decision to increase the optimum client capacity at NWP IDC would need to be taken in the light of holistic architectural / building consultant and operational advice that takes account of:

- The client demographic;
- Processes and infrastructure needs for initial client processing;
- Client separation and case management needs;
- Likely length of client’s stay in detention at NWP IDC;

- The program and activity menu proposed for the various categories of clients;
- The capacity to create a community environment within NWP IDC;
- A staffing model to support the operating culture of a facility based on values and rules that encourage the functioning of a *civil society*; and
- Infrastructure that does not compromise on providing for preservation of individual dignity and safety;

#### **d) Short Term Remediation**

Analysis as covered above to achieve a recommendation as to whether and or to what extent the optimum client capacity of NWP can be increased and then to implement any such recommendation will of necessity take time.

In addition to any mid to longer term suggestions DIAC has requested the author of this Report to provide advice as to any short term remediation actions that could make the current arrangements work more effectively and in accordance with DIAC's "*Values*".

Any such suggestions need to be viewed in the context of a facility that is operating with the number of clients housed there at 240% above permanent design capacity, where temporary facilities have been installed that are not fit for purpose which have created a very challenging work place for staff and a potentially dangerous situation for clients and staff should an emergency situation arise.

DIAC advise that there is no evidence of fall off at this stage in the numbers of IMA's arriving.

In investigations the author has been involved with following riots, disturbances and incidents at various immigration detention facilities he has been required to apply the "*wisdom of hindsight*" to identify the reasons for the failure. Many of the factors covered in **Section 5.1. a** of this Report were identified in investigation of these events. Fortunately in the case of this report a serious incident has not occurred. The report is founded in a proactive request by DIAC to an independent person to provide advice so that pre-emptive action can be taken if required to avert risks emerging with serious consequences.

Given the relevant History and Context provided in **Section 4** of this Report and the evidence relating to current circumstances at NWP as summarised in **Section 5.1. a**, the author argues that it is reasonable to assert that if the severe overcrowding at NWP remains then it is likely that a serious incident will occur in the next six months and highly likely during the next twelve months, particularly if the pause in processing results in significant numbers of clients spending much longer in detention in a state of uncertainty in severely overcrowded conditions.

It is appreciated that this is a qualitative judgement. However, it is based on considerable experience, evidence from an on-site inspection, concerns expressed to the author by DIAC and SERCO staff and synthesis of this information as covered in this Report.

Based on DIAC's advice that it does not have sufficient immigration infrastructure at present to accommodate the current surge in IMA's without resorting to overcrowding and temporary facilities, it is reasonable to assert that DIAC does not currently have the capacity to implement a policy of off shore processing and mandatory detention of IMA's in a manner that meets Duty of Care requirements for clients and staff.

Therefore, to effectively implement a policy of mandatory detention for IMA's, in addition to the Finding and Recommendation above relating to the need for holistic advice concerning a possible expansion of optimum client capacity at NWP, additional purpose built immigration detention facilities are required. The author is advised that plans are underway to achieve this. However, it will take some time to bring these plans to fruition.

The immediate question from the perspective of effectively implementing the current policy of off shore processing and mandatory detention in the short term is – *can appropriate controls be put in place during the current and the likely continuing period of overcrowding to mitigate the risk of a serious incident or incidents that may result in the loss of infrastructure and or loss of life until sufficient purpose built infrastructure is available?*

The author has turned his mind to this question. From discussion with DIAC and SERCO officers it is clear that they have as well. DIAC and SERCO Leadership and staff at NWP IDC are working intensively in challenging circumstances to maintain the good will of clients which is an essential element in maintaining good order within any facility of detention.

In the area of client management DIAC has a strategy of mixing clients from different racial backgrounds together in each compound to avoid creating "*cultural enclaves*". The author is advised that this strategy has been successful to date. This is in line with strategies that have been adopted in corrections for many years and has proven advantages over "*cultural enclaves*".

Another initiative adopted is to maintain clients in their current accommodation who do not meet refugee requirements and manage them intensively via Case Managers rather than place them in a separate area. The author supports this initiative. It maintains clients in their normal environment where they have established relationships and does not create a separate group of disaffected clients who may tend to build upon each other's negativity resulting in combined adverse behaviour outcomes which are difficult to manage.

The foregoing strategies are in line with the philosophy outlined previously in this report of creating a community environment within NWP that is as natural as is possible.

A DIAC officer has asked the author to comment on whether clients who are subject to the announced processing suspension should be separated from the rest of the client cohort or allowed to mix generally in NWP. Once again the author believes that there are advantages

in the "allowing to mix option" in line with the values underpinning a community environment. The "allowing to mix option" needs to be supported by the initiative previously mentioned of fostering positive leadership by selected clients who can assist these clients in coping with their circumstances.

### **Finding 9**

DIAC's initiatives to mix clients from different racial backgrounds together in each compound to avoid creating "cultural enclaves", to maintain clients who do not meet refugee requirements in their current accommodation and manage them intensively via Case Managers and allowing clients who are subject to the announced processing suspension to mix in the general population are good practice;

However, the above initiatives need to be viewed in the context of a Facility that is not currently functioning with a "community environment" due to severe overcrowding, loss of social amenity and clients growing increasingly frustrated with their circumstances. There are also the fundamental shortcomings covered in **5.1.a)** above which must be addressed holistically.

### **Finding 10**

While the above client management strategies are sound there is every possibility that in isolation they are unlikely to avert incidents as to be successful they are heavily dependent upon a range of other matters which are summarised below with comment concerning their current status:

- Intensive case management; **Note:** There is evidence in this report that while case management concepts are sound, staff shortages and overcrowded facilities have reduced its effectiveness;
- Meaningful and purposeful activity/ programs for clients to assist in offsetting the boredom and frustrations associated with institutional living, the uncertain future and negative outcomes when they occur; **Note:** This is mostly not in place;
- Robust pro-active intelligence to identify early warning signs of deterioration in client morale and detect potential malcontents who may be planning to disrupt and or damage the fabric of NWP functioning; **Note:** The intelligence system is degraded because of staff shortages and overcrowding;
- The capacity to manage/ modify the behaviour of malcontents in separate accommodation where necessary; **Note:** Not possible in the current circumstances;
- The capacity to appropriately place clients according to their risk profile and case management outcomes; **Note:** Not possible in the current circumstances;



- A centre where services are functioning efficiently so that clients are content that their basic daily needs are being met effectively and efficiently; **Note:** Service failures are becoming evident; and
- Staff and clients feeling safe in the institution; **Note:** Staff are starting to express concern largely due to the overcrowded conditions and shortage of staff;

To respond to DIAC's request for *advice as to any short term remediation actions that could make the current arrangements work more effectively and in accordance with DIAC's "Values"*, the following suggestions are put forward for consideration:

- Develop strategies to engage clients in enjoyable and constructive programs and activities that create a sense of community within NWP. That is staff working with clients to encourage an attitude of *"it may be crowded in here and there are some challenges but this could be a step towards a brighter future for you so let's see what we can do together to make this as happy a time as possible so that time passes quickly"*.

In this process culturally appropriate structures should be created to bring clients together to be part of the solution. Staff should as much as possible play *facilitative and enabler* roles in encouraging clients to put forward suggestions and ideas and then work with clients in implementation. Guidance should be provided that focuses thinking toward ideas that will create *enjoyment for clients or education or improve health, well being, optimism and self efficacy or enhance the amenity of the IDC*.

Opportunities should be taken to encourage and or train clients to lead programs for other clients. Concerning program facilities, while tents are not appropriate for living quarters they may be able to be located in suitable areas to accommodate certain programs if the purpose built program facilities cannot be freed up.

A critical part of this process is to identify and encourage positive Leaders within the client community, tap into ideas and enthusiasm from staff at the client work face and to reward clients and staff who show excellence in developing community spirit with recognition that should always be accompanied by a celebration;

- To support the foregoing, work with SERCO to ensure that the staffing model at NWP has an appropriate Team of *Activity Officer* type people who are skilled at implementing strategies of the type described above in a culturally diverse environment and have them on the ground working with clients as quickly as possible. The Leader of this Team should report to a senior SERCO Officer at NWP so that the Team can achieve quick decisions on *"client and staff ideas"* so that clients and staff see them as credible *enablers*;
- SERCO need more staff in the client compounds/ accommodation areas than were apparent at the time of the inspection. **Note:** While this is considered to be an

essential short term action it is most likely impractical at this stage given the unavailability of staff accommodation on the Island;

- Many of the clients have suffered traumatic experiences and the claustrophobic environment of an overcrowded IDC can have further adverse effect upon individual well being resulting in dysfunctional behaviour. To mitigate this, as often as possible, desirably each day, and for as many clients as is practicable there should be excursions away from the IDC. These excursions could be constructed around a variety of potential activities, once again created with client and staff input;
- Meaningful activity for clients is one of the critical issues that need to be addressed to mitigate the risks impacting on the preservation of the good order and safety of the facilities on Christmas Island and in other places while achieving the maximum optimum client capacity within the facilities. It is also an area that will attract criticism from external stakeholders if effective outcomes are not achieved due to the adverse impact this will have on clients well being and mental health.

The initiatives above relating to culturally appropriate client structures supported by proactive Activities Officers to facilitate delivery of programs and activities and regular excursions away from the IDC for as many clients as is possible as often as possible will be helpful.

However, particularly for longer term clients there needs to be something beyond programs and activities. The author has interviewed many long term detainees who have commented on the boredom arising from the repetitive nature of programs and activities conducted over many months and years within the fence of an IDC. They were seeking the dignity of work, of a sense of achievement of doing something worthwhile. Experience from the last surge in IMA's has been that bored and frustrated longer term clients have in many cases become dysfunctional and engaged in problematic behaviour that has led to dreadful outcomes.

The author has raised a suggestion with DIAC officers relating to possible community work programs for longer term clients supported by vocational training. Such an approach would have the benefits of engaging clients in meaningful activities, skill development, allowing numbers of clients to be away from the IDC on a daily basis thus reducing the effect of institutionalisation and reducing crowding within the IDC during the day.

The initial reaction by DIAC officers is that such a proposal may not meet current policy settings. If a community work program is not acceptable then some other meaningful activity must be developed for longer term clients.

*In the light of the foregoing, to address the question previously posed - can appropriate controls be put in place during the current and the likely continuing period of overcrowding to mitigate the risk of a serious incident or incidents that may result in the loss of infrastructure and or loss of life until sufficient purpose built infrastructure is available?*

### **Finding 11**

Even if the suggestions made on pages 30 and 31 were implemented quickly and this is unlikely given resource issues and that the suggestion for meaningful activity for longer term clients may not be supported and there is no alternative suggestion under consideration, the author's opinion is that they would not in themselves provide sufficient mitigation to lower the risk of a major incident to an acceptable level due to the overcrowded environment and staff shortages that result in:

- An incapacity to appropriately place clients in accommodation according to their risk profile;
- A degraded intelligence gathering system that may not detect in a timely manner warning signs of potential serious challenges to the good order of the IDC; and
- DIAC and SERCO not being able to provide the level of intensive case management required to engage clients positively over time to ensure that they will mostly remain compliant with their circumstances.

### **Finding 12**

The fundamental underlying challenge is that there are far too many clients accommodated in NWP for the current capacity of the infrastructure, far too many of them are not engaged in meaningful or purposeful activities or programs, client frustration is starting to increase and the potential has now emerged for clients to spend longer periods in an overcrowded, unproductive and frustrating environment.

Given the *Duty of Care* implications the author's recommendation is:

### **Recommendation 1**

Take immediate action to commence reducing the number of clients accommodated within NWP IDC to a level where DIAC and SERCO senior management at NWP, supported by their respective Head Offices, are prepared to certify that they have the appropriate physical infrastructure and staffing resources to effectively discharge their responsibilities to:

- Place clients according to their risk profile;
- Deliver their respective client case management responsibilities effectively;
- Maintain the security of the IDC and the safety of staff and clients;
- Deliver services efficiently and effectively to clients; and
- Provide programs and activities appropriate for the various categories of clients that support maintenance of good order within the IDC and maintain the well being of clients;

## Recommendation 2

Concurrent with adopting Recommendation 1 seek architectural / building consultant and operational advice in a holistic form that develops in consultation with DIAC and SERCO Christmas Island and Head Office senior management teams recommendations relating to:

- The operational and infrastructure enhancements necessary at NWP IDC to support an optimum maximum client capacity to be determined above the present capacity of 400 with temporary surge capacity to 800;
- How long it would take and an estimate of cost for any recommended changes; and
- How to manage any challenges associated with infrastructure modification in an operating IDC;

DIAC officers have advised that Recommendation 1 is not a practical recommendation while the off shore processing and mandatory detention policy is in place as there is insufficient immigration detention accommodation elsewhere to allow the overcrowded situation at Christmas Island to be relieved to the extent envisaged by the Recommendation.

Therefore, as previously stated in this Report it is reasonable to assert that DIAC does not currently have the capacity to implement a policy of off shore processing and mandatory detention of IMA's without resorting to overcrowding and temporary facilities which brings into play Duty of Care issues affecting clients and staff arising from:

- Severe overcrowding at NWP compounded by understaffing;
- The planned client demographic of "*single adult males- High Risk*";
- Temporary accommodation that is not fit for purpose;
- Incapacity to appropriately place clients according to their risk profile and case management outcomes;
- Lack of meaningful activity for significant numbers of clients;
- Intelligence gathering compromised due to staff shortages;
- Centre maintenance and services under stress;
- Staff and client safety compromised due to overcrowding, insufficient staff and temporary facilities;
- Early warning signs of deterioration in client morale at NWP;
- Potential for clients to remain longer in detention. This together with lack of meaningful and purposeful activity for significant numbers of clients in an

overcrowded environment will potentially adversely affect client mental well being leading to adverse behavioural outcomes; and

- All of the above representing similar pre-existing circumstances to those that triggered the disastrous outcomes during the period circa 2000 and post 2000;

This leads the author to the conclusion that Recommendation 1 requires consideration at policy level concerning:

- Alternative arrangements for processing and detaining IMA's within the framework of current policy; or
- Making adjustments to current policy until such time as DIAC can achieve an appropriate level of detention infrastructure; or
- Continue with the current overcrowded arrangements with additional resources and initiatives to improve circumstances for clients while working to achieve appropriate detention infrastructure provision; **Note:** For a range of practical operational reasons as covered in this Report this is considered to be High Risk option that will be unlikely to mitigate the risks to a reasonable level;

#### **e) Lilac Compound, AQUA Compound, Construction Camp and Phosphate Hill Detention Facilities – Optimum Client Capacity of the Infrastructure**

##### **Lilac Compound**

Lilac compound is external but adjacent to the NWP facility with a capacity for up to 200 beds in demountable accommodation buildings surrounded by a non-secure perimeter. The 200 bed capacity is achieved through double bunks in 100 transportable rooms designed for one person on construction sites. Each of these rooms has an en-suite shared by the two occupants.

There are limited support facilities for administration, interviews, data and communication services and outdoor cabanas that provide for some recreation. DIAC advise that each hour on the hour clients in Lilac who wish to participate in activities in the main North West Point Compound are escorted from Lilac to this Compound.

**Note:** Since the time of the inspection DIAC advises that additional telephones and recreation Cabanas have been added to Lilac and that further recreation facilities are planned.

At the time of the inspection the 200 capacity had been exceeded by the creation of a dormitory situation with double bunks in an area that had originally been intended for dining purposes. It is understood that since the inspection this dormitory no longer exists.

Lilac Compound's sleeping and living arrangements for clients is crowded. This crowded environment combined with the limited opportunities for stimulating activity make it unsuitable in its current configuration for individual clients to remain for months at a time.

DIAC officers have advised that the location of Lilac and Aqua Compounds (see Aqua report below) puts further strain on the delivery of case management services given the time taken to physically access these compounds from their base in NWP administration block.

DIAC advise that their plans are to house clients in Lilac Compound who are *Single Adult males – Medium Risk*.

Lilac Compound's physical infrastructure is not of a standard for a client category of *Single Adult males – Medium Risk*. This factor coupled with crowded accommodation, lack of meaningful activity for clients (although DIAC is making considerable effort to increase activity options) and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Lilac Compound in a High Risk category for serious incidents in the months ahead.

### **Finding 13**

Lilac Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 100 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (200 clients), lack of meaningful activity for clients (although DIAC is making considerable effort to increase activity options) and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Lilac Compound in a High Risk category for serious incidents in the months ahead.

### **Aqua Compound**

Aqua Compound was under construction at the time of the author's inspection. It is adjacent to Lilac Compound. It will contain 400 beds in demountable accommodation buildings with support facilities surrounded by a non-secure perimeter. It is understood that the compound will be self sufficient for catering purposes.

The 400 bed capacity is achieved through double bunks in 200 transportable rooms designed for one person on construction sites. Each of these rooms has an en-suite shared by the two occupants. The indications are that this number of clients will provide a similar crowded environment to that of Lilac Compound.

DIAC advise that Aqua compound when completed will have facilities for a medical clinic, cabanas, green heart and other recreational facilities. Clients in Aqua will also have access to NWP on the same basis as Lilac Compound clients.

DIAC officers have advised that the location of Lilac (see Lilac report above) and Aqua Compounds puts further strain on the delivery of case management services given the time taken to physically access these compounds from their base in NWP administration block.

DIAC advise that their plans are to house clients in Aqua Compound who are *Single Adult Males – Medium Risk*.

Aqua Compound's physical infrastructure is not of a standard for a client category of *Single Adult males – Medium Risk*. This factor coupled with crowded accommodation, lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Aqua Compound in a High Risk category for serious incidents in the months ahead.

#### **Finding 14**

Aqua Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. The accommodation was designed to accommodate 200 civilian workers who spend their waking hours at work and not confined to the area of their barracks. This factor coupled with crowded accommodation (400 clients), lack of meaningful activity for clients (although DIAC is making considerable effort to increase activity options) and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Aqua Compound in a High Risk category for serious incidents in the months ahead.

#### **Phosphate Hill Compound**

The Phosphate Hill Compound consists of demountable accommodation buildings and tent accommodation with some limited support facilities. DIAC advise that there are 24 demountable accommodation buildings designed as for use as single rooms providing beds for 48 clients through use of double bunks. There are tents accommodating 120 beds in crowded circumstances. This provides for 168 beds. At the time of the inspection there were 189 single men accommodated there. The 21 beds over the original bed figure has been achieved through further crowding in the accommodation buildings and Tents.

The Compound is enclosed by a single non secure fence. DIAC advise that their plans are to house clients in Phosphate Hill Compound who are *Single Adult Males – Medium Risk*.

The recreation and program opportunities in this compound are totally inadequate for the client group. The sleeping accommodation is crowded.

At the time of the inspection a significant number of men were observed either lying on bunks or sitting around with nothing to do. The general demeanour of clients could be described as "*withdrawn*". Greetings from the author to clients were often not responded to.

Given the racial mix in the compound, the fragile infrastructure, the lack of meaningful activity and the uncertainty in the mind of each client concerning their personal future, the author considers this compound to be a high risk area for DIAC and SERCO.

#### **Finding 15**

Phosphate Hill Compound's physical infrastructure is not of a standard for a client category of *Single Adult Males – Medium Risk*. Some of the accommodation was designed to accommodate 24 civilian workers who spend their waking hours at work and not confined to

the area of their barracks and the remainder is tents. This factor coupled with crowded accommodation (168 -189 clients), lack of meaningful activity for clients and challenges in delivering intensive case management by DIAC and SERCO will potentially result in clients not being compliant with their circumstances. This places Phosphate Hill Compound in a High Risk category for serious incidents in the months ahead.

### **Construction Camp**

At the time of the inspection the Construction Camp consisted of demountable accommodation buildings providing for around 370 beds and support facilities. This compound is used to house families, women and minors. It is enclosed by a non-secure perimeter.

DIAC advice is that they plan to limit capacity to 200 beds achieved through double bunks in the current 100 transportable rooms designed for one person on construction sites. Each of these rooms has an en-suite which will be shared by the two occupants.

At the time of the inspection some support facilities were in the process of being converted for use as bed accommodation. The amenity of the Compound is regularly disrupted due to the dining area and other facilities being utilised to process new arrivals. There are insufficient staff and support facilities to provide meaningful activities and programs for clients to maintain their mental well being over a period of time.

The layout of the demountable buildings creates a confusing and claustrophobic environment.

However, in spite of the facilities credit must go to DIAC and SERCO staff for the considerable effort they are making to engage the women and children in constructive activities. Children attend the local school and have access to a nearby sports oval and courts for recreation each day. The author was advised that a Women's Group has been established. Nevertheless at the time of the inspection there appeared to be significant numbers of clients not engaged in meaningful activity.

DIAC advise that their plans are to house clients in Aqua Compound who are *Families – low Risk and Crew*.

However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy.

### **Finding 16**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy.



### **Recommendation 3**

If Recommendation 2 of this Report is adopted, Lilac, Aqua, Phosphate Hill and Construction Camp Compounds infrastructure and operational requirements should be included in the assessment and advice sought from architectural / building and operational consultants to achieve outcomes that will provide for an environment that reflects DIAC's values;

#### **5.2 An assessment of the risks currently being faced in administering the facilities in a safe, secure and humane manner**

The Key Potential Risks identified by the author as requiring assessment and management are:

- Inadequate and or insufficient detention infrastructure on Christmas Island to allow clients to be placed according to their risk profile;
- Inadequate staffing and or inappropriate staffing models to allow effective delivery of services to clients and to ensure the safety and security of the detention facilities;
- Lack of meaningful and purposeful activities for clients;
- Impact of the policy decision announced by the Australian Government on Friday 9<sup>th</sup> April 2010 concerning the pause in processing of IMA's intercepted post this announcement;
- Inadequate governance of detention services at Christmas Island;

The consequences of the above risks have been canvassed throughout this report. If Recommendation 2 is adopted these risks should be taken into account by the consultants engaged to provide the holistic advice sought in that Recommendation.

### **Recommendation 4**

If Recommendation 2 is adopted, the risks identified in this Report should be taken into account by the consultants engaged to provide the holistic advice sought in Recommendation 2;

#### **5.3 An assessment of the respective case management roles of DIAC and Serco in relation to their contribution to the effective and efficient operation of the various facilities**

#### **Finding 17**

From discussions with relevant senior officers, the respective case management roles of DIAC and SERCO appear to be well defined and developed. As discussed throughout this Report their operational effectiveness has been degraded by infrastructure and staffing issues;

#### **5.4 A review of the security arrangements in place, both physical and dynamic, including intelligence gathering**

To summarise information covered previously in this report:

##### **NWP Christmas Island IDC**

##### **Finding 18**

The physical security designed into the original NWP IDC infrastructure is high quality. The proposed dynamic security model is best practice. However, the effectiveness of the physical and dynamic security, including intelligence gathering, has been degraded by overcrowding, temporary accommodation and staff shortages;

##### **Lilac, Aqua and Phosphate Hill Compounds**

##### **Finding 19**

The security within Lilac, Aqua and Phosphate Hill Compounds is not at the level required for the category of client accommodated or proposed to be accommodated there, that is, *Single Adult males – Medium Risk*;

**Note:** When reviewing the draft of this Report, DIAC asked the following question - *What can be done to improve the security at Lilac, Aqua and Phosphate Hill if it is not at the level required for the category of client?*

**Response:** The current physical security level of the facilities at Lilac, Aqua and Phosphate Hill is appropriate for clients classified as "open security". A classification of "open security" relates to clients who are not an escape risk and have no behavioural issues that could endanger the safety of other clients, staff or members of the public or create a risk to the good order and security of the facility.

However, it must be noted that clients who are placed in open security facilities are normally engaged in meaningful work activity or education or training such that their mental well being is preserved. That is, the soft physical facilities are complemented by an activity, program and staffing regime that ensures clients are constructively engaged such that the likelihood of behaviour issues is minimised.

Even if at the time of my inspection the clients in Lilac, Aqua and Phosphate Hill facilities were classified as "open security", given the limited activities and programs and as the low staff levels precluded a "dynamic security model" and resulted in a "guarding staffing model" being in place, I would have little confidence that good behaviour of these clients could be assured.

Therefore, to answer your question, what can be done to improve the security at Lilac, Aqua and Phosphate Hill if it is not at the level required for the category of client?

##### **For Open Security Clients**

Implement an activity, program and staffing regime to ensure clients are constructively engaged such that the likelihood of behaviour issues is minimised;

**For Medium or High Risk Clients**

To house medium or high risk clients in these facilities would require considerable hardening of the physical infrastructure which in effect would involve scrapping the existing facilities entirely and building a fit for purpose facility. This new facility would need to be complemented by an activity, program and staffing regime that ensures clients are constructively engaged such that the likelihood of behaviour issues is minimised.

**Construction Camp Compound**

**Finding 20**

Construction Camp is a low security environment and the clients accommodated there match this classification. However, a low security environment can become degraded where clients are mostly not engaged in meaningful and stimulating activity for lengthy periods of time and are accommodated in cramped quarters with lack of privacy;

**5.5 Other Issues**

**Emergency Support and Response Protocols**

DIAC and SERCO have been working closely with the Australian Federal Police (AFP) and other emergency support services. [REDACTED]

[REDACTED]. This scenario based exercise appears to have been a valuable learning experience for all involved.

The author sat in on a security briefing [REDACTED] involving DIAC, SERCO and AFP representatives. This was a professionally conducted briefing and relevant emergency support and response protocols are in place. Strong attention is being paid to intelligence gathering and communication and coordination between agencies.

In the time available it has not been possible to make an informed assessment of intelligence gathering within the various detention facilities. However, from observations by the author in the various compounds his initial feeling is that intelligence gathering by SERCO officers may be constrained by their workload due to staff shortages.

**Recommendation 5**

DIAC and SERCO management on site at Christmas Island should review intelligence gathering by both parties to ensure that it is effective. If it is found that it is not effective and cannot be made so within the constraint of existing resources this fact should be immediately drawn to the attention of their respective Head Offices;

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