



**PART 3: Fishers**



## Willie Creek (Broome)

### AFMA Facility

- 9.1 In Australia's northern waters one of the concentrations of illegal fishing is around Cartier and Ashmore Reefs. The Royal Australian Navy (RAN) apprehends illegal fishers there and escorts them to the mainland. The RAN considers Broome to be a more convenient destination than Darwin because it requires only a short period of escort (and occasionally towing) by RAN units.
- 9.2 From the AFMA viewpoint, Broome has a court to handle the legal hearings and a suitable site for holding impounded fishing vessels.
- 9.3 Willie Creek is one of a very limited number of sites near Broome which could provide shelter, anchorage, and proximity to the town while still having limited public access. The location was selected following a tendering process in 1995.
- 9.4 Shortly after the contract was let, an Ombudsman's inquiry into the detention of Indonesian fishers generally was announced. The Committee was advised by AFMA that while the inquiry was in progress the contract had been renewed for short terms pending the final report.
- 9.5 The Ombudsman's report, *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*, was released in mid 1998 and placed priority on development of a facility in Darwin. AFMA indicated that the three-year wait, and the thrust of the Ombudsman's report, had inhibited the implementation of a long-term contract and hence the intended development of Willie Creek.

- 9.6 The detainees are male fishers, generally aged 19-21 years. The Committee was told that they prefer, and are permitted, to remain on their boats. At low tide the boats are grounded on the beach, giving the fishers access to the shore. However the Committee noted that when the tide was in some swam to and from their boats.
- 9.7 Boats vary in size according to their function. Shark fishing boats carry 6-7 crew; trochus boats some 25 or more.
- 9.8 The vessels are anchored in a tidal creek inside coastal sandbars. In the event of a cyclone, the ships can be moved further up the watercourse to more sheltered moorings.
- 9.9 The maximum number accommodated at Willie Creek in the past has been 300. At the time of the Committee's visit on 11 November 1999 there were 67 detainees living on nine boats.

## Management and Staffing

- 9.10 Sealife Charters Pty Ltd hold the contract with AFMA to operate the Willie Creek facility. Fisheries Western Australia coordinates the administration of the contract on behalf of AFMA.
- 9.11 Under the existing contract the Caretaker is responsible for food, water and basic first aid, and pays the relevant insurance. The staff is six, comprising the Caretaker and his family, with two others available to assist as required.
- 9.12 The relations between the detainees and the Caretaker, his family and their friends are informal. There is no clear demarcation between the Caretaker's residence and the on-shore facilities for detainees.

## Detention

- 9.13 The fishers are detained because they have been fishing illegally in Australian waters. As outlined in Chapter 1, AFMA uses provisions of the migration legislation to detain fishers who have infringed Australia's borders. The *Border Protection Legislation Amendment Bill 1999*, which had not been proclaimed at the time of the Committee's visit, proposes specific powers of detention under fisheries legislation, but limited to seven days. Subsequent detention would be under the immigration powers.

- 9.14 Unlike the detainees at the DIMA centres, the detained fishers seldom desire to remain in Australia. They are kept at Willie Creek until their court hearings after which they are either imprisoned, or repatriated by DIMA. If they plead guilty they leave within two weeks. The average stay is 2-3 weeks. At the time of the Committee's visit four fishers were being held in a separate compound, awaiting removal and 48 others were due to leave within a day.
- 9.15 While the Committee was inspecting the site, HMAS Wollongong towed a vessel full of recently arrived, suspected unlawful non-citizens close inshore. It was then escorted into the estuary by the Caretaker. When the 182 passengers and 13 crew were ferried ashore, they were met by Australian Federal Police personnel, 11 Australian Customs Service personnel and 16 ACM staff from Curtin.
- 9.16 ACM undertook processing of the passengers and their belongings in an uncompleted building at Willie Creek. They made prompt superficial checks of the immediate well being of the passengers and crew and supplied water to them while they waited in a shaded area. Detainees were given an identity tag and Customs and ACM examined their possessions, placing personal belongings in sealed envelopes. ACM provided the escort on the buses which took the passengers 200 km to the Curtin detention centre.
- 9.17 The Committee witnessed the initial stages of processing, and considered that the approach, demeanour, and concern for the new arrivals displayed by AFP, Customs and ACM was appropriate.

## Amenities

- 9.18 The fishers detained are reported to prefer to remain on their boats as they have spent the majority of their lives at sea and feel "landsick" when ashore. They prepare their own meals on their boats from food provided daily by the Caretaker, including Indonesian sauces, processed tamarind, fish and fresh fruit.
- 9.19 There is little in the way of on-shore facilities. The main buildings at the facility are an unfinished open brick structure containing a pool table and a small concrete building in its own enclosure used to hold convicted individuals prior to deportation.

- 9.20 The Committee was advised that there were six showers and toilets ashore but was not shown these. Sanitation for the boats relies on the strong local tidal flows to remove effluent out to sea.
- 9.21 The Caretaker is in the third year of a contract, which is renewed annually. Upgrading of the centre's amenities had been postponed pending the Ombudsman's report on the detention of Indonesian fishers. The Committee noted that the lack of longer-term arrangements meant that the Caretaker was reluctant to undertake major improvements.
- 9.22 The Committee was later advised that AFMA was waiting until the new legislation was in force, and the proposed Darwin facility was in operation before making a decision on the Broome facility.

## Health

- 9.23 The fishers receive medical examinations and are treated if required. Those in poor health are repatriated as soon as possible after arriving in Broome.

## Recreation

- 9.24 A television set is made available for the detainees on shore. Pool, cards, table tennis and football equipment is provided. At the time of the Committee's visit about half of the detainees were playing football on a sand bar while the remainder were in the boats.

## Conclusion

- 9.25 The presence of the Caretaker's family and friends produced a level of informality not apparent in other detention centres. While this relaxed atmosphere was congenial, the Committee regarded it as inappropriate both for security and in the context of the exercise of delegated Commonwealth migration powers.
- 9.26 The Committee noted that there had been little change in the limited physical amenities since their previous report. The Committee appreciated that delays pending the release of the Ombudsman's report had impeded improving the land-based facilities. Nevertheless, it was

concerned at the state of the facility. In particular, a large deep excavation, remarked upon in the Committee's 1998 report as "potentially dangerous", remained unfenced.<sup>1</sup>

- 9.27 The Committee was concerned that there were health and safety issues with the site as it is, and that the appropriate duty of care was not in evidence.
- 9.28 The Committee believed that the extended lines of communication from AFMA through Fisheries Western Australia might have contributed to the unsatisfactory aspects of the situation at Willie Creek.
- 9.29 Overall, given the lack of response to its 1998 report, the Committee was unconvinced that a longer-term contract would result in a marked improvement in the facility.
- 9.30 In the light of these conclusions, the Committee recommended as follows:

#### **Recommendation 14**

- 9.31 **The Committee recommends that consideration be given by AFMA of a clear physical separation of the family's and detainees' on-land areas.**

#### **Recommendation 15**

- 9.32 **The Committee recommends that the obvious safety risks of incomplete structures be addressed immediately.**

#### **Recommendation 16**

- 9.33 **The Committee recommends that DIMA and AFMA monitor the operation of the Willie Creek facility more closely.**

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1 Joint Standing Committee on Migration, *Immigration Detention Centres Inspection Report*, 1998.

**Recommendation 17**

- 9.34 **The Committee recommends that AFMA examine the desirability of a new facility at Broome.**