



Commonwealth
National
Preventive
Mechanism



FOR CONSUMERS

Post Visit Summary

Northern Alternative Places of Detention
(APOD)

12 December 2024

Table of Contents

Summary	3
Our visit.....	3
What we found	3
Recommendations	4
Facility and demographics	5
Observations	6
Safety.....	6
Use of Force is minimal	6
Respect	6
Appropriate communication is a focus	6
Recreation facilities are not fit for purpose.....	6
Wellbeing and Social Care	9
Appropriate arrangements for minors.....	9
Purposeful activity.....	9
Programs and activities are offered.....	9
Physical and Mental Health.....	10
Access to health services is adequate	10
The Commonwealth National Preventive Mechanism Mandate	11
Methodology	13
Agency Response	14



Summary

Our visit

The Commonwealth National Preventive Mechanism (NPM) undertook an announced visit to the Northern Alternative Place of Detention (APOD) on 17 April 2024. We advised the Department of Home Affairs of the intended visit two days prior to the visit on 15 April 2024.

The visit was conducted by two OPCAT monitors.

The Commonwealth NPM had not previously visited this facility at its current location.

What we found

The Northern APOD is situated in a hotel building in Darwin. We were advised that the building was constructed in the 1970s and it did not appear that the floors occupied by the APOD had undergone any significant renovations in recent times. The accommodation areas were cramped, and while facilities appeared to be clean, we noted that some rooms had water damage to walls and carpeting. Recreational facilities were limited and not fit for purpose, especially the areas used for access to fresh air and outdoor recreation/exercise.

During this visit we received a positive reception from staff who were cooperative with our visit. We were provided with full and free access to the entire facility and were able to move freely around the facility.



Recommendations

Based on the visit to the Northern APOD, I make the following recommendations:



Recommendation 1

Within 6 months, Home Affairs /ABF review the suitability of the current facility to ensure it is meeting both Australian and international standards and guidelines, and the needs of the current cohorts.

Recommendation 2

As part of the review identified in Recommendation 1, consideration be given to establishing a permanent purpose-built facility in the Northern Territory that appropriately meets the needs of the current cohorts rather than relying on hotel facilities.

Recommendation 3

Pending the outcome of Recommendation 1, action be taken to ensure that people held in detention at the Northern APOD are provided with immediate access to appropriate outdoor recreation and exercise facilities in line with international standards and guidelines.

Iain Anderson

Commonwealth Ombudsman
Commonwealth NPM



Facility and demographics

The Northern APOD occupies the top two floors of a hotel building in Darwin City. One floor provides accommodation and recreation facilities for people in detention and the other floor houses a medical clinic, staff offices and amenities, storage, and a small number of accommodation rooms primarily used for quarantine purposes, but these were not in use at the time of the visit. The reported capacity of the APOD is 20 people.

On 17 April 2024, the APOD held 18 people, 12 of whom were classified as illegal foreign fishers and 6 who were classified as search and rescue detainees who were rescued from an island in Australian waters after they became stranded while illegally fishing. All of the people in detention during the visit were adult males aged between 20 and 62 years. On the day of the visit, the people in detention at the APOD had been held there for between 10 and 16 days.

Illegal foreign fishers being held pending the outcome of court processes make up the majority of people held at the APOD, and we were advised that they would normally be held for around two weeks. From time-to-time other cohorts such as people refused immigration clearance at an airport, and people whose visas are cancelled on character grounds are also accommodated there. We were advised however, that these cohorts are usually only accommodated at the NAPOD for up to 24 hours before they are returned to their home county or transferred to a detention facility in another state.



Recommendation 1

Within 6 months, Home Affairs /ABF review the suitability of the current facility to ensure it is meeting both Australian and international standards and guidelines, and the needs of the current cohorts.



Recommendation 2

As part of the review identified in Recommendation 1, consideration be given to establishing a permanent purpose-built facility in the Northern Territory that appropriately meets the needs of the current cohorts rather than relying on hotel facilities.



Observations

Safety

Use of Force is minimal

Reports of use of force at this centre were minimal, with no unplanned use of force reported in the six months prior to the visit. Planned use of force was restricted to offsite transport and escort activities, which appeared to have appropriate risk assessments and approval processes in place.

Respect

Appropriate communication is a focus

While we were visiting the APOD, we observed interactions between people in detention and staff of the facility. The interactions we observed were all polite, professional, and respectful.

We noted that there were no onsite interpreters at the APOD but some staff at the APOD were able to speak to people in detention in their native language and telephone interpreters were used for more complex conversations. We noted that a number of forms had been translated into Bahasa Indonesian including complaints forms, food menus, and programs and activity schedules.

Recreation facilities are not fit for purpose

We are concerned about the suitability of the facilities for fresh air and outdoor recreation.

Internationally recognised standards and guidelines such as the Mandela Rules provide guidance on the treatment of people deprived of their liberty. These standards require people in detention to undertake outdoor recreation and exercise for a minimum of one hour per day. The area in use to provide people detained at the Northern APOD with this access is a service area on the ground floor of the hotel and is not fit for purpose due to its size and location, and privacy, safety, and security issues.





Figure 1 Detainee outdoor area NAPOD

The outdoor area consists of a temporary camping gazebo that has been erected in an enclosed service area of the hotel between a shipping container and hotel service equipment. Directly behind the shipping container is an area that appears to be a storage area for old air-conditioning units, broken furniture, and other rubbish and discarded equipment. While we were advised that an officer would always be stationed in the area when it was in use to prevent access to these areas, we noted that there is no physical barrier between the outdoor area and the hotel service equipment or storage area. If a person in detention was determined to access these other areas of the outdoor area they could easily do so despite the presence of an officer, and this poses a safety and security risk to both people in detention and staff.

The area is fenced, but we noted a number of areas of the fence appeared to be in poor condition. We noted some attempts had been made to screen the area from an adjacent road by erecting shade cloth on part of the fence, but the area is also directly overlooked by the parking area of the hotel. There is no screening in this area and hotel guests and the public can see directly into the area, which impacts the privacy of detained persons using the area.

The area does not have any recreational equipment and no area where people in detention can exercise. In effect, the area is a covered seating area that is exclusively used as a smoking area.



Recommendation 3

Pending the outcome of Recommendation 1, action be taken to ensure that people held in detention at the Northern APOD are provided with immediate access to appropriate outdoor recreation and exercise facilities in line with international standards and guidelines.



Figure 2 Detainee outdoor area NAPOD



Figure 3 Detainee outdoor area NAPOD shade cloth screening



Figure 4 Detainee outdoor area NAPOD service equipment

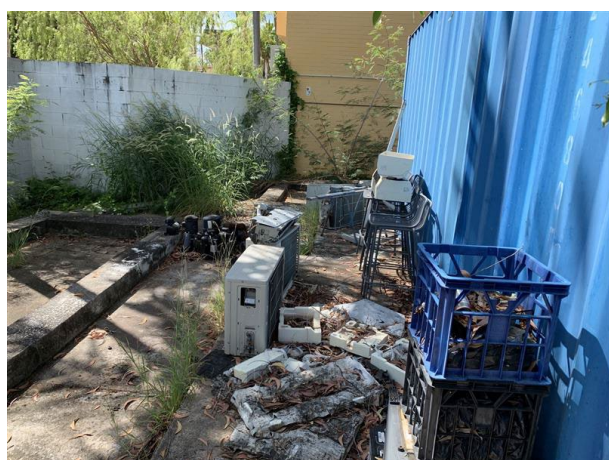


Figure 5 Detainee outdoor area NAPOD - storage/rubbish area



Wellbeing and Social Care

Appropriate arrangements for minors

The Commonwealth NPM undertakes the role of Independent Visitor for Children in Immigration Detention, and we take a special interest in the care of children held in detention facilities. At the time of the NPM's visit to the APOD there were no minors held at the facility, but we noted that two minors had been held at the facility until a few days before the visit.

In the 6 months leading up to our NPM visit, the APOD had accommodated three minors aged between 15 and 17 who had been part of the crews of fishing vessels that had been intercepted illegally fishing in Australian waters. The average time these young people spent in detention was 11 days before they were returned to their home country.

Two of the young people were accompanied by family members and these family members acted as guardians while they were in detention. The third young person was initially listed as an unaccompanied minor and ABF took action to appoint a carer and independent decision maker to ensure the minors best interests were ensured. It was later established that this minor was accompanied by his brother-in-law and after contact with diplomatic representatives and contact with the minor's parent in his home country it was agreed that this person would act as the minor's guardian while he was in detention.

We were satisfied that there were suitable arrangements in place to ensure the appropriate support and supervision for minors at this APOD.

Purposeful activity

Programs and activities are offered

Access to meaningful programs and activities while in detention is important for the wellbeing of people in detention. People detained at the NAPOD have access to three structured activities each weekday including art and craft activities, social recreation, and education programs including a weekly English class and health promotion activities. Structured activities are not offered on weekends or on public holidays at this facility.



Recreational facilities on the accommodation floor at the APOD consist of a converted hotel room which is small and cramped. We observed one activity that was underway and noted that not everyone who wished to take part was able to fit into the recreation room, so the activity had overflowed into an adjacent room with staff actively attempting to manage the activity in two separate spaces.

Detained persons also have access to a small library, with books available in several languages, as well as a collection of DVDs and video game consoles, board games and recreational equipment.

As detailed elsewhere in this summary, outdoor exercise or recreation is not possible.

Physical and Mental Health

Access to health services is adequate

One of the hotel rooms on the upper floor of the APOD has been converted into a medical clinic. The Clinic is staffed by a single nurse who manages initial health inductions, triages requests to see doctors and other health providers and distributes medications. Access to other health providers such as GPs, and mental health practitioners, are either undertaken through telehealth services or from offsite local providers.

A telephone health advisory service is available for staff to contact for any medical concerns raised by people in detention after hours or on weekends.





Figure 6 Medical clinic

The Commonwealth National Preventive Mechanism Mandate

The *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) is an international human rights treaty designed to strengthen the protections for people deprived of their liberty and potentially vulnerable to mistreatment and abuse.

OPCAT does not create new rights for people who are detained, rather it seeks to reduce the likelihood of mistreatment. OPCAT combines monitoring at an international level (by the Subcommittee for the Prevention of Torture) and by National Preventive Mechanisms (NPMs) at a domestic level.

NPMs are independent visiting bodies, established in accordance with OPCAT, to examine the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman, or degrading treatment or punishment.

An NPM is not an investigative body. The mandate of an NPM differs from other bodies in its preventive approach: it seeks to identify patterns and detect systemic risks of torture and ill-treatment, rather than investigating or adjudicating complaints.

In July 2018, the Australian Government announced the Commonwealth Ombudsman as the visiting body for Commonwealth places of detention (the Commonwealth NPM). At present, the Commonwealth NPM visits places of detention operated by:

- the Department of Home Affairs
- the Australian Federal Police
- the Australian Defence Force



Methodology

The Commonwealth NPM visits places of detention to:

- monitor the treatment of people in detention and the conditions of their detention.
- identify any systemic issues where there is a risk of torture or ill-treatment.
- make recommendations, suggestions, or comments promoting systemic improvement.

The Commonwealth NPM conducts three types of visits: announced, unannounced, and semi-announced. The type, location and timing of each visit is determined by the Commonwealth NPM alone.

Each place of detention is observed in terms of its performance based on the management and conditions for people in detention. We assess these against the 5 indicators of a healthy detention facility, adapted from those used by other international and domestic visiting bodies.

The five indicators of a healthy centre are¹:

Safety	people in detention are held in safety and that consideration is given to the use of force and disciplinary procedures as a last resort
Respect	people in detention are treated with respect for their human dignity and the circumstances of their detention
Purposeful activity	the detention facility encourages activities and provides facilities to preserve and promote the mental and physical well-being of people in detention
Well-being and social care	people in detention are able to maintain contact with family and friends, support groups, and legal representatives, and have a right to make a request or complaint
Physical and mental health	people in detention have access to appropriate medical care equivalent to that available within the community. Stakeholders work collaboratively to improve general and individual health conditions for people in detention

¹ These indicators have been adapted from expectations used by international and domestic inspectorates.





OFFICIAL

Our ref: EC24-006036

Mr Iain Anderson
Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Iain
Dear Mr Anderson,

Thank you for providing the National Preventive Mechanism's (NPM) Post Visit Summary of their visit to the Northern Alternative Place of Detention (APOD). I appreciate the opportunity to review the report and respond to its recommendations.

I welcome the feedback provided by the NPM which will inform our ongoing process of review and improvement of the Immigration Detention Network. The Department did not identify any omissions, errors of fact, or operationally sensitive matters in the report. A response to the recommendations is attached.

Should your staff wish to discuss any aspects of the response, they can contact [REDACTED]

Alternatively, you are welcome to contact me directly if that is helpful.

Yours sincerely,

[REDACTED]
Stephanie Foster PSM

22 November 2024

Recommendation 1: Within 6 months, Home Affairs/ABF review the suitability of the current facility to ensure it is meeting both Australian and international standards and guidelines, and the needs of the current cohorts.

The Department **agrees** with Recommendation 1. The Department will review the suitability of the current facility to ensure it is meeting both Australian health and safety standards and international standards and guidelines on the treatment of people deprived of their liberty.

Recommendation 2:

As part of the review identified in Recommendation 1, consideration be given to establishing a permanent purpose-built facility in the Northern Territory that appropriately meets the needs of the current cohorts rather than relying on hotel facilities.

Recommendation 2 is **for Government consideration**.

Recommendation 3:

Pending the outcome of Recommendation 1, action be taken to ensure that people held in detention at the Northern APOD are provided with immediate access to appropriate outdoor recreation and exercise facilities in line with international standards and guidelines.

The Department **agrees** with Recommendation 3.

In the short term, the Department will work closely with the relevant service provider on access to enhanced outdoor recreation and facilities. At present, detainees are provided an opportunity to access outdoor areas within the facility on a daily basis, up to five (5) times a day, escorted by Facilities and Detainee Service officers. Detainees have access to structured programs and activities delivered as per the approved schedule.

Daily activities offered to detainees include opportunities for physical exercise including:

- yoga and Zumba
- body weight exercises
- indoor basketball, bag toss and ring toss.

Detainees also have 24/7 access to a stationary exercise bike.

Any longer term action will be informed by the outcomes of the review referred to in Recommendation 1.

Disclaimer

The Commonwealth owns the copyright in all material produced by the Ombudsman. With the exception of the Commonwealth Coat of Arms, the Office of the Commonwealth Ombudsman's logo, any material protected by a trade mark, and where otherwise noted, all material presented in this publication is provided under a Creative Commons Attribution 4.0 licence.

The details of the relevant licence conditions are available on the Creative Commons website (creativecommons.org/licenses/by/4.0/deed.en) as is the full legal code for the CC BY 4.0 licence.

The Commonwealth's preference is that you attribute this report and any material sourced from it using the following wording:

Source: Licensed from the Commonwealth Ombudsman under a Creative Commons 4.0 licence. This report is available from the Commonwealth Ombudsman website at www.ombudsman.gov.au.

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are set out on the It's an Honour website www.pmc.gov.au/government/its-honour

Contact us

Inquiries regarding the licence and any use of this report are welcome at:

Commonwealth Ombudsman

Level 5, 14 Childers Street

Canberra ACT 2600

Tel: 1300 362 072

Email: ombudsman@ombudsman.gov.au