



Commonwealth  
National  
Preventive  
Mechanism



FOR CONSUMERS

# Post Visit Summary

Brisbane Immigration Detention Centre  
(BIDC) and Alternate Place of Detention  
(APOD)

17 December 2024

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# Summary

## Our visit

The purpose of this visit was to observe the implementation and progress of changes made by the Department in response to the Commonwealth NPM's recommendations following our December 2022 visit, and to undertake routine observation.

## What we found

We observed a particularly strong, positive culture amongst staff and an exceptionally productive, collegiate relationship between all stakeholders at the location. Whilst the responsibility for final decision-making lies with the Australian Border Force (ABF) as the detaining authority, decisions made regarding detainee placement, movement and welfare are made with the support and input of all stakeholders at the facility.

Owing to the fewer incidents on site, the ABF team reported that they reviewed all incidents occurring at the facility. We consider this to be best practice and would like to see this approach implemented across other locations.

# Recommendations

I recommend:



## **Recommendation 1**

The Department finalise their actions taken in respect of Suggestions One and Two from the NPM's previous visit in December 2022.

## **Recommendation 2**

The routine use of force in the form of mechanical restraints be ceased for transport and escort movements, to bring practices in line with the Department's Use of Force policy and procedural instructions.

## **Recommendation 3**

Infrastructure of the control room be updated within six months to allow an additional staff member to be rostered on control room shifts consistent with other Centres.

## **Recommendation 4**

The Department consider alternatives to held detention for those individuals who have had their visas re-cancelled under Operation Hullrend.

## **Recommendation 5**

The infrastructure of the visits and outdoor area for detained persons from the APOD be re-arranged to provide greater privacy from the facility for visitors and persons transported from the APOD for outdoor access.

**Recommendation 6**

The Hamilton High Care Accommodation area be formally decommissioned as an HCA bringing it in line with its operational use.

**Iain Anderson**

Commonwealth Ombudsman

Commonwealth NPM

# Facility

The B IDC is a permanent, purpose built immigration detention facility housing male detained persons of all risk levels, located in Pinkenba, Brisbane. The facility is staffed by Serco, overseen by ABF, and health services are provided by International Health and Medical Services (IHMS).

During this visit, the B IDC and APOD were operational and fully staffed, with approximately 104 people in detention.

The ABF at this site also have responsibility for the Brisbane APOD and the Cairns APOD.

The B IDC is comprised of three residential compounds including one general population compound (B IDC residential), and two high security compounds (Fraser and Morton).

B IDC Residential is the largest compound, housing 56 people at the time of the visit. Moreton is the next largest, housing 37 people at the time of the visit. Fraser is the smallest, housing 12 people at the time of the visit.

The Brisbane APOD housed 10 people at the time of the visit. The Cairns APOD, which the NPM did not visit during this trip, reported to have one individual detained.

There are two separate High Care Accommodation areas – Stradbroke and Hamilton – with capacity to hold two people and one person respectively.

The site administration buildings are composed of a series of demountable buildings, one of which is dedicated to ABF staff.

Each compound has access to its own gym facilities of varying size and equipment, and a bitumen basketball court which is available to each compound individually at rostered times. A marquee has been erected on the basketball court to provide some cover during inclement weather for scheduled Programs and Activities sessions.

# Observations

## Progress against previous recommendations

Following the Commonwealth NPM visit in December 2022, **5 suggestions** were made to improve the operations of the BIDC. These suggestions and the observed progress against them are as follows:

Suggestion	Progress
<p><b>Suggestion 1:</b> We suggest that a holistic review of the current infrastructure and its suitability for current and future usage is undertaken, and a strategic infrastructure plan be developed for the facility.</p>	<p><b>Incomplete.</b> We were told of significant planned capital works due to be undertaken at the BIDC, however these had been postponed due to COVID and are now scheduled to occur in the 2024-25 financial year.</p>
<p><b>Suggestion 2:</b> We suggest that if the Hamilton HCA room is to be used for HCA placements in the future that action be taken to remove the hanging points currently in the room.</p>	<p><b>Incomplete.</b> We observed ligature points remained within the Hamilton HCA. We were advised, however, that if placed in the Hamilton HCA, a detainee is under constant observation.</p>
<p><b>Suggestion 3:</b> That action be taken to ensure all detained persons at the Brisbane APOD have access to at least one hour of outdoor recreation each day and that a communal recreation space be made available at the APOD so that detained persons are encouraged to leave their rooms to interact with other detained persons on a regular basis.</p>	<p><b>Complete.</b> Detainees held at the Brisbane APOD are given multiple opportunities to access an outdoor and visits area at the BIDC every day. Where detainees at the APOD are observed to decline these opportunities consistently, Mental Health service staff are engaged to follow-up.</p>

<p><b>Suggestion 4:</b> We suggest that action be taken to ensure that detained persons at the APOD have free access to complaint and request forms and can lodge these without having to interact with an officer to do so.</p>	<p><b>Complete.</b> Persons detained at the APOD are now provided with a complaint form as part of an “induction” pack. We also acknowledge there are numerous opportunities for the detained person to engage with ABF independently of Serco staff to raise complaints.</p>
<p><b>Suggestion 5:</b> We suggest that a formal drug and alcohol treatment and rehabilitation program consistent with the programs that are available at other large detention facilities in the network be established at the BITA.</p>	<p><b>Complete.</b> The “<i>Smart Recovery</i>” drug and alcohol education program has now been implemented at the BIDC, and we received positive feedback from both staff and detainees about the program content, delivery, and engagement. In addition, an Opioid Substitution Therapy Program is available at the location.</p>



**Recommendation 1**

The Department finalise their actions taken in respect of Suggestions One and Two from the NPM’s previous visit in December 2022.

## Safety

### Restraints should not be routine

There were, over an 11-month period (Jan 2023 to November 2023 inclusive), 2163 reported incidents<sup>1</sup> relating to the use of force at BIDC. This includes planned and unplanned uses of force, and the use of mechanical restraints. Of these incidents, only 11 related to the use of force to manage behaviour (i.e., to interrupt or prevent physical altercations between detained persons, to prevent harm to self or others, or to maintain the safety and good order of the facility).

<sup>1</sup> Data provided by Department of Home Affairs





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The remaining 2152 incidents, based on the information available, relate to the use of mechanical restraints during transport and escort activities.

We discussed this data with ABF staff on site, who noted that due to the lack of services on-site (including specialist, medical, dental etc), a greater number of transport and escort movements took place, which were often conducted with the use of mechanical restraints, which inflated the number of use of force incidents due to mandatory reporting.

Both ABF and IHMS independently agreed that any recommendation made by IHMS to not use mechanical restraints in a particular circumstance was accepted. However, IHMS appeared reticent to make this recommendation too often for fear of diluting the gravity of the recommendation.

The following Departmental policies and procedures are relevant to the use of mechanical restraints:

*DSM – PI – Safety and security management – Use of Force (DM-623)*  
ADD2018/5548985

*DSM – SOP – Safety and security management – Use of force (DM-3291)*  
ADD2018/5549614

These documents say:

*“there is a presumption against the UoF, including restraints, during movements within an IDF, transfers between IDFs, and during transport and escort activities outside of IDF”*

And:

*“UoF and/or restraint should only be used as a measure of last resort”*

We would like to see a reduction in the use of mechanical restraints when detained persons are travelling between controlled environments such as the APOD to the BIDC, or to some medical appointments. We reviewed the post incident reports where mechanical restraints had been used on a detainee during transit or escort activities. The reports described the detainees involved as compliant, with nil issues reported, and the reason for unplanned use of force was to ‘prevent escape’ or ‘unscheduled transport/escort’. We consider that the routine use of mechanical restraints may not always be necessary or in line with the above policies. We recommend, in line with Departmental policy, that the presumption against the use of force (mechanical restraints) is adopted.



This recommendation has been [previously](#) made by this Office to the Department in 2020 following its 2018–2019 visits to IDCs, in concert with a recommendation to review the Security Risk Assessment Tool which is used to inform the application of mechanical restraints. Despite acceptance of the recommendations, five years on, neither recommendation has been effectively implemented.



### **Recommendation 2**

The routine use of force in the form of mechanical restraints be ceased for transport and escort movements, to bring practices in line with the Department's Use of Force policy and procedural instructions.

## **Engagement improves security**

Emergency Response Team members were relatively inconspicuous relative to other IDCs – there was no overwhelming visible presence, despite ERT staff being on shift throughout our visit. This is a significant point of difference between other sites such as Melbourne IDC and Villawood IDC where multiple ERT are constantly observed roving. Whilst ERT were present, and observed, their presence was not oppressive and fewer in numbers than the above sites. In B IDC, their low profile may both result from, and contribute to a calmer, less tense atmosphere and speaks to the management of the population through engagement, rather than enhanced security measures.

**We commend the B IDC staff for managing their population through engagement, rather than with ERT presence.**

## **Reviewing all Use of Force is best practice**

The NPM has identified at other locations that ABF staff review unplanned use of force incidents only by exception, if an incident is referred to law enforcement. This is not the case at the B IDC, where there is a reported 100% review rate for all incident types – staff attributed this to the relatively low frequency of incidents at the location enabling them to review each one.

**The NPM commends the ABF staff's review of force process at this location.**

## Control rooms are not one-person jobs

The BIDC, as with other centres, is a secure facility with Closed Circuit Television (CCTV) coverage. The location is covered by 200+ cameras, monitored through a central control room. This includes all internal facing cameras, in addition to external facing monitoring.

During our visit, we observed that, not only did the control room back onto a multi-purpose room used by detained persons, but only one staff member was rostered onto monitoring duties at a time. The current control room currently has adequate space for only one individual to be operating the system at one time.

We heard that the CCTV observer was able to rotate every three-hours, however it did not appear that it was a mandatory rotation, rather an optional one. This results in the potential for a single staff member to complete a 12-hour shift monitoring all 200+ cameras in almost complete isolation.

Not only do we have concerns for staff wellbeing in such a situation, but the concerns over attention and vigilance in CCTV monitoring are widely acknowledged<sup>2</sup>. Aside from the strain on the individual, the attentiveness to the feed decreases significantly over time, and is compounded by the volume of cameras.

If a major incident occurs in the site, the workload of the operator increases significantly – to observing the facility, communicating with Detention Services Officers, management, as well as potentially engaging with external services such as fire, ambulance and police, maintaining incident response logs, staff co-ordination and monitoring. Further, if an operator were to experience a medical or other episode or incident, it may not be detected for some time.

A single staff member responsible for these numerous and vital tasks is not a sustainable operating model. Almost all other facilities in the network have two staff members rostered in control rooms.



### Recommendation 3

Infrastructure of the control room be updated within six months to allow an additional staff member to be rostered on control room shifts consistent with other Centres.

<sup>2</sup> [Task disengagement and implications for vigilance performance, Donald & Donald 2014](#)

## Operation Hullrend impacts the whole network

During our visit, we observed the re-detention of individuals under *Operation Hullrend*. The former Minister for Immigration, Citizenship and Multicultural Affairs, requested the Department undertake an urgent review of all cases where the Administrative Appeals Tribunal (AAT) had set aside a decision of a character delegate under section 501 of the *Migration Act 1958* (Cth) to not grant or to cancel a visa, which relied on former Ministerial Direction 99<sup>3</sup>. The Minister has personal powers under section 501A to set aside a decision of the AAT and refuse to grant a visa to a person or cancel a visa that has been granted to a person, if the Minister is not satisfied the person passes the character test, and the Minister is satisfied the cancellation or refusal is in the national interest. The Minister decided to overturn some of the AAT decisions and replaced Ministerial Direction 99 with Ministerial Direction 110<sup>4</sup>.

The impact of this is that some people who had their visas reinstated based on an AAT decision, and were in the community (some for a substantial period), were then re-detained where the Minister decided to set aside that AAT decision.

The NPM is concerned about the impacts that reintroducing previously released individuals to detention facilities may have on the current population and facility atmospherics – we are especially mindful of this for a location such as the BIDC which has successfully maintained a significantly lower number of incidents of abusive/aggressive behaviour and violence amongst those detained.

We understand that some cases may also still be being dealt with by the AAT under the old Direction, so there may be instances where a person is released from detention, only to have their matter considered by the Minister for re-cancellation and be re-detained days later.

We spoke to several detainees, and even some staff, who discussed a decreased confidence in AAT decisions, because even if persons were released from detention, they may be re-detained, sometimes almost immediately. We are concerned that this can exacerbate uncertainty and tension in the IDN.

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<sup>3</sup> [Ministerial Direction 99 \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/ministerial-directions/99)

<sup>4</sup> [Ministerial direction 110 \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/ministerial-directions/110)

The NPM also has concerns about the impacts abrupt re-detention of individuals who have been living in the community under the belief that they have been (conditional upon their desistance from crime) permanently released from detention.

People re-detained under *Operation Hullrend* may be more vulnerable to psychological injury, as they believed themselves to have been released and had commenced reintegrating into the community. Some individuals may have been living in the community without engaging in criminal activity for over 12 months. The return to detention could result in the undoing of any gains made by the individual since their last release from detention. We have observed several incidents involving people returned to detention facilities across the network under *Operation Hullrend*. Consistent with previous reports published by this office, we observe negative impacts to the mental, social and physical health of people detained.

Information available to the NPM following our visit reveals that a total of (as of 1 October) 72 people have been detained across the immigration detention network under *Operation Hullrend* since May 2024, and in the time between 29 May and 1 October, those individuals have been involved in 132 incidents, 16 of which are self-harm and expression of self-harm ideation, and 21 of which are assaults of varying seriousness against both staff and other detained persons. Notably, one person detained under this operation was stabbed by a person also detained under this operation<sup>5</sup>.

To date, all people who have had their visas re-cancelled under *Operation Hullrend* have returned to detention in an immigration facility in the absence of any advance notice that a change in immigration status is under consideration. Re-detention is both unexpected and unannounced until the time of detention.

Where a person has resided in the community and has not been arrested or charged, there are likely more appropriate means to mitigate their risk to the community. Increased use of community detention for these persons could mitigate the risk of harm inflicted or caused by their changed immigration status, and decrease strain on detention facilities staff and detained persons.



#### **Recommendation 4**

The Department consider alternatives to held detention for those individuals who have had their visas re-cancelled under *Operation Hullrend*.

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<sup>5</sup> Data provided by the Department of Home Affairs routine reporting

## Social wellbeing

### Family visits impacted by infrastructure

Multiple detained persons disclosed to OPCAT Monitors that they felt that the quality of their visits from family and friends was impacted by the infrastructure at BIDC. The Visits area is one secure area of the facility which is divided into an indoor and outdoor area. The outdoor area is comprised of a portable toilet, fixed bench seating under a shade sail and some outdoor gym equipment and a grassed area. The indoor area is inside a demountable building, with several chairs and couches, a bathroom and a small kitchenette. The indoor area is exclusively used to facilitate visits between detained persons residing in the Detention Centre and their family and friends. Whilst visiting, we were advised that the outdoor area is reserved exclusively for detained persons who reside at the APOD to either access outdoors or receive visits; however, we understand that other cohorts at BIDC may make use of this area.

The outdoor Visits area backs directly onto a bitumen basketball court and activities space, which is utilised as a multi-purpose space by the whole of the facility.

This means that during any visit or outdoor access for persons coming from the APOD, their visit or activity time outdoors is held in full view of a communal space which is often in use by numerous persons from the Centre including those with criminal convictions for sexual offenses. In cases where people (mostly women) are coming from the APOD to the centre to visit with children or minors, or simply to have access to the outdoors, this is likely to prove a strong deterrent to accepting visits or outdoor access.

Likewise, for people in the centre engaging in visits, they are confined only to an indoor area of seating, limiting their ability to engage in physical and outdoor activity with their visitors. There is a very formal, impersonal and prison-like aura to visits in this area. We heard that the arrangement of the Visits area was to support the minimisation of contraband entering the centre through visits. However, we heard from people detained at BIDC that it is impacting on the quality of visits contributing to an underlying sense of disquiet or dissatisfaction.

We observed during our visit the centre staff's willingness to adapt to the specific needs in unique circumstances, for example: a detained person who had a child in the community was permitted to have visits with their child at the APOD itself, which was considered to be a more suitable location for their visits than the centre's outdoor area.

**The Commonwealth NPM affirms the site's willingness and ability to demonstrate flexibility without compromising safety and security this way.**



**Recommendation 5**

The infrastructure of the visits and outdoor area for detained persons from the APOD be re-arranged to provide greater privacy from the facility for visitors and persons transported from the APOD for outdoor access.

## Hamilton HCA is not fit for purpose

Whilst on site, we observed the High Care Accommodation (HCA) areas. One such area, the Hamilton HCA, differs from the other HCA areas in the facility. The infrastructure is poorer, with less CCTV coverage, no open area, and poorer visibility. We also observed damage and possible ligature points to/at the windows. If a person is placed in HCA for a longer period, we have concerns that they may be able to cause injury to themselves, or if consciousness is lost, go unnoticed if staff are not maintaining line of sight.

We were advised that the room is no longer used as HCA, rather it is used as an observation room for people who may have been provided medication or are awaiting medical appointments in the adjacent medical appointment room. We are satisfied that an appropriate level of supervision is provided to detained persons when the room is used for this purpose.

We were told that the Hamilton HCA has not been used as an HCA for at least 12 months and will be renovated as part of capital works to the facility.

**We affirm staff's decision not to utilise the room for traditional HCA activities, and seek that policy is amended in line with practice.**



**Recommendation 6**

The Hamilton High Care Accommodation area be formally decommissioned as an HCA bringing it in line with its operational use.

# 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 are<sup>6</sup>:

<b>Safety</b>	people in detention are held in safety and that consideration is given to the use of force and disciplinary procedures as a last resort
<b>Respect</b>	people in detention are treated with respect for their human dignity and the circumstances of their detention
<b>Purposeful activity</b>	the detention facility encourages activities and provides facilities to preserve and promote the mental and physical well-being of people in detention
<b>Well-being and social care</b>	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
<b>Physical and mental health</b>	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

<sup>6</sup> These indicators have been adapted from expectations used by international and domestic inspectorates.



OFFICIAL

EC24-006204

Mr Iain Anderson  
Commonwealth Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Dear Mr Anderson,

Thank you for providing the National Preventive Mechanism's (NPM) Post Visit Summary of its visit to the Brisbane Immigration Detention Centre (BIDC) and Alternate Place of Detention (APOD) in June 2024. I appreciate the opportunity to review the report and respond to its recommendations.

The Department values the NPM's oversight of immigration detention as part of its function under the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. 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

28 November 2024

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**Recommendation 1: The Department finalise their actions taken in respect of Suggestions One and Two from the NPM's previous visit in December 2022.**

The Department **accepts and is addressing** the two outstanding suggestions under Recommendation 1 as follows:

***Suggestion 1: We suggest that a holistic review of the current infrastructure and its suitability for current and future usage is undertaken, and a strategic infrastructure plan be developed***

The Department is in the final stages of drafting a Strategic Detention Estate Plan (SDEP). The SDEP incorporates a maturity model to guide future development of a resilient detention estate over the next three years which enhances the safety, security and sustainability of the IDN. It will include three key components:

- a. *Strategic Asset Management Plan*: providing a comprehensive overview of the programmed life of our detention estate
- b. *Detention Facility Infrastructure Standards*: defining common standards that should apply across our detention estate.
- c. *Risk Assessment tools*: for individual facilities that will complement points a. and b.

The Department will share a copy of the plan with the Office of the Commonwealth Ombudsman (OCO) in Quarter four FY 2024-25.

***Suggestion 2: We suggest that if the Hamilton HCA room is to be used for HCA placements in the future that action be taken to remove the hanging points currently in the room.***

Pedovoli Architects were engaged by the Department to assess ligature points within dedicated high care accommodation (HCA) infrastructure across the Immigration Detention Network (IDN), with recommendations forming the basis of a national project. Work is expected to commence to remove identified ligature points within the Hamilton rooms in late 2024, noting priority is being given to remediation works within Stradbroke Compound which is the primary location for HCA at BIDC. In the interim, should any of the Hamilton rooms be required to facilitate the closer supervision and engagement of detainees, appropriate risk mitigations, including constant officer observations, will be implemented. Once remediation works have been completed within Stradbroke Compound, expected to be by the end of 2024, it will default to the primary location for HCA. Once remediation works have been completed within Hamilton Compound it may be utilised for HCA in the event Stradbroke Compound is unavailable for this purpose.

***Recommendation 2: The routine use of force in the form of mechanical restraints be ceased for transport and escort movements, to bring practices in line with the Department's Use of Force policy and procedural instructions.***

The Department **notes** Recommendation 2. Mechanical restraints are not routinely used for transport and escort (T&E) movements.

Use of force in the form of mechanical restraints is used only on a case by case basis for off-site T&E activities. This is consistent with the Department's Use of Force policy and procedural instructions.

There are increased risks to maintaining immigration detention where a detainee is taken outside an immigration detention facility. The Department mitigates these risks through T&E practices. Pre-planned use of force, including application of restraints, may only be applied to a detainee where an individual risk assessment shows that it is warranted and the relevant ABF delegate has provided written approval for such force to be used in that particular circumstance and prior to that force being applied.

***Recommendation 3: Infrastructure of the control room be updated within six months to allow an additional staff member to be rostered on control room shifts consistent with other Centres.***

The Department **accepts and has already addressed** Recommendation 3.

The reconfiguration of workstations has occurred, with the current infrastructure now able to effectively accommodate two FDSP officers, which had previously been designed for one officer. On 6 November 2024, ABF approved costs associated with the provision of an additional FDSP officer to staff the improved infrastructure. As such, there is now an increase in activities associated with control room duties. This allows one operator to concentrate on CCTV monitoring and the other monitoring alarms, maintaining the occurrence log and controlling radio traffic, resulting in increased monitoring and surveillance of the affected compound.

***Recommendation 4: The Department consider alternatives to held detention for those individuals who have had their visas re-cancelled under Operation Hullrend.***

Recommendation 4 is a matter for Government consideration. The cancellation decisions for those individuals who have had their visas re-cancelled under Operation Hullrend were made by the Minister using the personal, non-delegable power under section 501A or 501BA of the *Migration Act 1958 (the Act)*, relating to the setting aside and substitution of non-adverse decisions in the national interest. 'National interest' is not defined in the Act and it is open to the Minister to determine what is in the national interest in relation to each case. Ministers have found that matters of national interest include, among other things, the protection of the community and the expectations of the Australian community. The Minister has made these decisions with the understanding that an adverse decision for an individual who is in Australia means they will become unlawful and therefore subject to immigration detention.

The Alternatives to Held Detention (ATHD) program is being re-considered in light of the *High Court judgment in NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs & Anor (S28/2023) [2023] HCA 37 (NZYQ)*. In response to NZYQ, the Department formed the Community Protection Board and introduced Enhanced Status Resolution Support Services for the NZYQ-affected cohort. Any individuals cancelled under Operation Hullrend that are NZYQ-affected will be managed in the community through that capability.

Following the High Court's judgment in NZYQ, the Department has continued to consider how ATHD initiatives may be applied to individuals who fall outside the scope of that decision, including through leveraging new capability implemented to respond to NZYQ. Potential ATHD options that remain under development may require changes to legislative and policy settings, and will be subject to policy authority from Government.

The Department continues to actively review processes and assess individual cases as appropriate.

***Recommendation 5: The infrastructure of the visits and outdoor area for detained persons from the APOD be re-arranged to provide greater privacy from the facility for visitors and persons transported from the APOD for outdoor access.***

The Department **does not accept** Recommendation 5.

Contrary to the narrative in the NPM's report, the indoor and outdoor visits areas are not exclusively reserved for any one detainee cohort. Access to visits amenities is flexible to meet detainee and operational needs and both areas are used for detainees housed in B IDC and in the APOD.

The external visit area is a shared area used for multiple purposes, including for persons detained within APODs attending the B IDC for structured and unstructured programs and activities. The current configuration of the area includes a number of CCTV cameras positioned to monitor activities, relying upon a field of view through the fence lines segregating the Visits from Residential areas. Any attempt to fix any sort of hoarding or material to obscure that view through these fence lines would negatively impact the utility of the CCTV infrastructure, potentially, impacting the safety and security of detainees, staff, and visitors.

***Recommendation 6: The Hamilton High Care Accommodation area be formally decommissioned as an HCA bringing it in line with its operational use.***

The Department **does not accept** Recommendation 6.

Hamilton is currently used in the event that other appropriate accommodation (e.g. Stradbroke) is unavailable to implement closer supervision and engagement of detainees for safety and security reasons. Under the departmental Administered Capital Works Program, both compounds (Hamilton and Stradbroke) will undergo enhancements to improve the safety and security of detainees and staff.

Whilst Stradbroke Compound is the primary area for HCA, Hamilton Compound remains an important contingency in the event of infrastructure upgrades and improvements such as those that are currently underway. Given the limited space within BIDC there are no other options for areas that can support HCA.

The Department continues to consider placement of detainees on a case-by-case basis taking into careful consideration an individual's health needs and operational risks.

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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](http://www.pmc.gov.au/government/its-honour)

## **Contact us**

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

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