

Chapter 1

Introduction and background

Referral of the inquiry

1.1 On 5 March 2014, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee for inquiry and report by 26 June 2014:

An inquiry into the incident at the Manus Island Detention Centre from 16 February to 18 February 2014, with particular reference to:

- (a) the chronology of events;
- (b) the sequence of events and factors that gave cause to the incident;
- (c) the sequence of events that led to, and the cause of, Reza Berati's death;
- (d) contractor, subcontractor and service provider involvement and response;
- (e) Department of Immigration and Border Protection involvement and response;
- (f) Papua New Guinean police, military and civilian involvement and response;
- (g) the Minister for Immigration and Border Protection's conduct before, during and after the incident;
- (h) protocols and procedures observed by agencies in the detention centre;
- (i) any documents, including incident reports and emails as well as briefings involving staff, employees, contractors and subcontractors involved in or responding to the incident;
- (j) any communications between the Minister for Immigration and Border Protection and the Government of Papua New Guinea, the Department of Immigration and Border Protection, contractors, sub-contractors and service providers regarding the incident;
- (k) the Australian Government's duty of care obligations and responsibilities;
- (l) refugee status determination processing and resettlement arrangements in Papua New Guinea; and
- (m) any other related matters.

1.2 The reporting date for the inquiry was subsequently extended to 5 December 2014.¹

1 *Journals of the Senate*, 26 June 2014, p. 1017; *Journals of the Senate*, 2 September 2014, p. 1390; *Journals of the Senate*, 28 October 2014, p. 1629; *Journals of the Senate*, 3 December 2014, p. 1965.

1.3 On 5 December 2014, the committee tabled a short interim report stating its intention to present a final report by 11 December 2014.²

Conduct of the inquiry

1.4 In accordance with usual practice, the committee advertised the inquiry on its website. The committee also wrote to relevant organisations inviting submissions due by 2 May 2014. The committee received 37 submissions. These are listed at Appendix 1.

1.5 The committee held public hearings in Canberra on 10, 11, 12 and 13 June and 11 July 2014. Details of these public hearings are at Appendix 2.

Site visit to Manus Island Regional Processing Centre

1.6 Early in the inquiry, the committee formed the view that making a site visit to Manus Island Regional Processing Centre would greatly benefit the inquiry by enabling senators to inspect the centre and gain a firsthand appreciation for conditions and other factors that may have contributed to the incident in February 2014.

1.7 Overseas travel is not standard practice for Senate committees both in terms of available resources but more specifically because an Australian Senate committee does not have any powers to conduct proceedings outside of Australia. Given the incident that was the subject of this inquiry, this committee was also particularly sensitive to the limitations of parliamentary privilege outside of Australia and the lack of any protection for witnesses located and evidence given extraterritorially.³

1.8 On account of the committee's inability to make a site visit to the centre under its own powers, the committee sought the support and assistance of the Commonwealth Government to do so. On 28 April 2014, the committee wrote to the Prime Minister, the Hon Tony Abbott MP, as well as the Minister for Immigration and Border Protection, the Hon Scott Morrison MP, and the Minister for Foreign Affairs, the Hon Julie Bishop MP, seeking the government's approval and assistance.

1.9 The committee did not receive any response.

Acknowledgements

1.10 The committee would like to thank the organisations and individuals who contributed to this inquiry. The committee appreciates that for many witnesses who were present at Manus Island Regional Processing Centre at the time of the incident it was difficult, and at times distressing, to recount their experiences for the committee. The committee has benefited from their willingness to do so and expresses its particular gratitude to them.

2 Senate Legal and Constitutional Affairs References Committee, *Interim Report into the incident at Manus Island Detention Centre from 16 February to 18 February 2014*, 5 December 2014.

3 Dr Rosemary Laing, Clerk of the Senate, *Advice sought by the committee in relation to evidence from witnesses overseas*, 21 March 2014.

A note on terminology

1.11 The Australian Government refers to the immigration detention facility on Manus Island as the Manus Island Regional Processing Centre (Manus Island RPC). The facility is also commonly referred to as Manus Island detention centre, or the Manus Island Offshore Processing Centre (OPC). This report generally uses the term Manus Island RPC, except where directly quoting from submissions and witnesses and these have referred to the centre by another name.

1.12 Individuals held at the Manus Island RPC have been described by stakeholders to the inquiry as 'transferees', 'detainees' and 'asylum seekers', with these terms sometimes used interchangeably. All three usages appear in this report, but ultimately describe the same groups of individuals; those who have arrived in Australia by boat without a visa, and who have been subsequently flown to Papua New Guinea (PNG) and detained at the Manus Island RPC.

Report structure

1.13 The remainder of this chapter provides background on the policies of mandatory detention in Australia and offshore processing as well as a summary and timeline of the incident which occurred at Manus Island RPC between 16 and 18 February 2014.

1.14 Chapter 2 outlines the administrative arrangements in place at the Manus Island RPC, including the role of PNG authorities, Australian authorities and service providers at the centre.

1.15 Chapter 3 examines evidence received about the physical conditions for transferees at the Manus Island RPC and the services provided at the centre.

1.16 Chapter 4 explores the arrangements in place for refugee status determination and resettlement for individuals at the Manus Island RPC.

1.17 Chapter 5 describes the sequence of events that led to the violent unrest at the Manus Island RPC, and canvasses the chronology of what occurred during the events of 16 to 18 February 2014.

1.18 Chapter 6 outlines the responses to the incident at the Manus Island RPC, including the response of the department and the minister, and criminal investigations in PNG. Subsequent developments at the centre in the months since the events occurred are also discussed.

1.19 Chapter 7 discusses the human rights and duty of care obligations of the Australian Government in relation to the Manus Island RPC.

1.20 Chapter 8 contains the committee's conclusions and recommendations in relation to the incident itself and the ongoing operation of the Manus Island RPC.

Background

1.21 This section of the report provides background to Australia's policies of mandatory detention and offshore processing, the geography and climate of Manus Island, as well as a summary and timeline of the incident which occurred at Manus Island Regional Processing Centre between 16 and 18 February 2014.

Mandatory detention and offshore processing

From 1992 to 2012⁴

1.22 The policy of mandatory detention of non-citizens without a valid visa was introduced by the Keating (Labor) government, with bipartisan support, in 1992 through the enactment of the *Migration Amendment Act 1992*. At the time, mandatory detention was envisaged as a temporary and exceptional measure to manage a particular cohort of Indochinese unauthorised boat arrivals.

1.23 The policy was extended to all 'unlawful non-citizens' with the enactment of the *Migration Reform Act 1992* (which came into effect on 1 September 1994).

1.24 Between 1999 and 2001, the number of unauthorised boat arrivals increased to approximately 9500 over that period. These asylum seekers were predominantly from the Middle East. In response, the Howard (Coalition) government introduced a range of measures, including Temporary Protection Visas (TPVs) and the 'Pacific Solution', intended to discourage further boat arrivals and reduce the number of people in detention.

1.25 The 'Pacific Solution' was a policy of offshore processing introduced in response to the events of August 2001 when 433 asylum seekers en route to Australia were rescued from their sinking boat by the Norwegian freighter *Tampa*. The *Tampa* was refused entry to Australia, however, the ship's master defied this order and upon entering Australia territorial waters the ship was forcibly boarded by the Special Air Service (SAS). The asylum seekers on board were subsequently transferred to Nauru.

1.26 Under the Pacific Solution, Christmas Island, Ashmore and Cartier Islands and the Cocos (Keeling) Islands were excised from Australia's migration zone. This meant that non-citizens arriving unlawfully at one of these Australian territories were unable to make a valid application for an Australian visa, including protection visas, unless the bar on the visa application was removed by ministerial discretion. Instead, these asylum seekers were transferred to Offshore Processing Centres which were established at Nauru and Papua New Guinea (Manus Island) where they were detained while their claims for asylum were assessed.⁵ Asylum seekers found to be refugees were resettled in Australia or in a third country, with a preference for resettlement in a third country rather than Australia.

1.27 Between 2001 and 2008, a total of 1637 asylum seekers were detained in the Nauru and Manus Island Regional Processing Centres. Of these 1637, 1153 (approximately 70 per cent) were found to be refugees, with 61 per cent resettled in Australia and the remainder resettled in countries such as New Zealand, Sweden, Canada, and the United States of America (USA).

1.28 During February 2008, under the Rudd (Labor) government, the Pacific Solution was formally ended. The Rudd government announced that the processing

4 Information in this section has been referenced from Janet Phillips and Harriet Spinks, *Immigration detention in Australia*, Background Note, Parliamentary Library, 20 March 2013.

5 Some asylum seekers were also processed on Christmas Island.

centres on Nauru and Manus Island would no longer be used and that future unauthorised boat arrivals would be processed at Christmas Island.

1.29 However, in 2012, in response to an increase in boat arrivals the Gillard (Labor) government reversed this decision and reintroduced the policy of transferring asylum seekers to offshore processing centres in Nauru and Papua New Guinea. The Gillard government stated that offshore detention would be a 'last resort' and that unauthorised arrivals would be detained for identity, health and security checks but once these were completed, it would be up to the then Department of Immigration and Citizenship to justify an asylum seeker's continued detention. Ongoing detention was considered appropriate for people who posed a security risk or who did not comply with their visa conditions.

1.30 Coinciding with the reintroduction of offshore processing of asylum seekers was a government campaign warning asylum seekers that they would be transferred to Nauru or Manus Island if they arrived in Australia by boat and that they would be afforded 'no advantage' over those seeking asylum in Australia whilst in overseas refugee camps.

1.31 Some public commentary around the decision to re-establish offshore processing was critical, describing Manus Island as 'depressing and its only purpose is a jail', citing research demonstrating the negative impact of lengthy detention on mental health.⁶ Archbishop Jeffrey Driver, head of the Anglican Church in Adelaide, described the government's policy as 'inhumane and prohibitively expensive' and argued it was 'punishing the victims in order to discourage the perpetrators'.⁷ The media also reported the limited capacity and lack of readiness of the facility on Manus Island at the time the policy announcement was made.⁸

From 2012 to 2014

1.32 On 8 September 2012, the Australian and Papua New Guinean governments entered into a memorandum of understanding (MOU) relating to regional processing arrangements in Papua New Guinea. The Australian Government described the MOU as 'a significant step towards establishing a regional processing centre on Manus Island' and paving 'the way for processing on Manus Island, subject to the designation of PNG as a regional processing country under Australian law'.⁹

1.33 About one month later, Papua New Guinea was designated as a regional processing country by an instrument signed by the then Minister for Immigration and Citizenship, the Hon Chris Bowen MP under the *Migration Act 1958*.

6 Greg Barns, 'Island "jails" not the answer', *Hobart Mercury*, 20 August 2012.

7 Adam Hegarty, 'Church boss raps asylum law: long wait "inhumane"', *Adelaide Advertiser*, 27 August 2012.

8 Cameron Stewart, 'Few hear the policy on boats', *Weekend Australian*, 1 September 2012.

9 The Hon Chris Bowen MP, Minister for Immigration and Citizenship, 'Australia and Papua New Guinea sign updated memorandum of understanding', *Media release*, 8 September 2012.

1.34 On 21 November 2012, the Gillard government confirmed the first transfer of asylum seekers (a group of seven families of Sri Lankan and Iranian nationalities) from Christmas Island to Manus Island. At the time, the Minister for Immigration and Citizenship stated:

The first transfer to Manus Island has now taken place – and will be the first of many – sending the clear message that people arriving by boat risk being sent to a regional processing centre in either Nauru or Papua New Guinea...To those contemplating the dangerous journey to Australia by boat: people smugglers are lying to you, don't waste your money and don't risk your life – it's just not worth it.

There is no visa on arrival, there will be no special treatment, no speedy outcome and certainly no advantage given to those who come by boat.

On arrival in PNG, the group has undergone local immigration clearance processes before being moved into the regional processing centre at Manus Island, which is currently a combination of temporary and refurbished structures.

Operations at the centre will be overseen by both the Australian and PNG governments, with welfare services provided by the Salvation Army, health services by IHMS and operational support services by G4S. Local Manus Island residents have also been employed at the processing centre.¹⁰

1.35 On 20 June 2013, the Gillard government removed a group of 70 asylum seekers, comprising families with children and vulnerable men, from Manus Island. A spokesperson for the then Department of Immigration and Citizenship stated that the transfer had been made for 'operational reasons'; however, refugee activists believed it was a 'signal that the government was ending detention of families and children on the island'.¹¹ According to G4S, the contractor managing the Manus Island RPC at that time, the decision to remove families from the centre and make the centre a single adult male (SAM) only facility occurred on 15 June 2013.¹²

1.36 On 19 July 2013, the Australian Rudd (Labor) government and the Papua New Guinean Government entered into a Regional Resettlement Arrangement. The arrangement outlined 'further practical measures Australia and Papua New Guinea will pursue together to combat people smuggling' including:

...any unauthorized [sic] maritime arrival entering Australian waters will be liable for transfer to Papua New Guinea (in the first instance, Manus Island)

10 The Hon Chris Bowen MP, Minister for Immigration and Citizenship, 'First transfer to Papua New Guinea', *Media Release*, 21 November 2012.

11 Oliver Laughland, 'Government transports children from detention on Manus Island', *The Guardian*, 20 June 2013, <http://www.theguardian.com/world/2013/jun/20/manus-island-children-removed> (accessed 8 August 2014). See also AAP, 'Asylum families removed from Manus Island: DIAC', *SBS News*, 21 June 2013, <http://www.sbs.com.au/news/article/2013/06/21/asylum-families-removed-manus-island-diac> (accessed 8 August 2014).

12 *Submission 29*, pp 2–3.

for processing and resettlement in Papua New Guinea and in any other participating regional, including Pacific Island, states. Papua New Guinea undertakes for an initial twelve month period to accept unauthorised maritime arrivals for processing and, if successful in their application for refugee status, resettlement.¹³

1.37 The arrangement continued:

Transferees would be accommodated in regional processing centres. Papua New Guinea will undertake refugee status determination. The regional processing centre will be managed and administered by Papua New Guinea under Papua New Guinean law, with support from Australia.

What is unique about this Arrangement is that persons found to be refugees will be resettled in Papua New Guinea and any other participating regional, including Pacific Island, state. Persons found not to be refugees may be held in detention or returned to their home country or a country where they have right of residence.¹⁴

1.38 The arrangement acknowledged the commitment to non-refoulement required under the refugee conventions, as well as Australia and Papua New Guinea's 'obligations for the welfare and safety of any persons transferred to Papua New Guinea under this arrangement'.¹⁵ The arrangement also outlined the assistance and funding Australia would provide to Papua New Guinea in giving effect to the arrangement. In particular, the arrangement stated 'Australia will bear the full cost of implementing the Arrangement in Papua New Guinea for the life of the Arrangement'.¹⁶

1.39 At the time of announcing the Regional Resettlement Arrangement, the then Prime Minister described the policy as 'a hard-line decision' and one intended:

...to make sure that the message is delivered loud and clear to people smuggling networks around the world, and those criminal elements within Australia who may be supporting them that the hopes that they offer their customers for the future are nothing but false hopes.¹⁷

13 Government of Papua New Guinea and the Government of Australia, *Regional Resettlement Arrangement between Australia and Papua New Guinea* (Regional Resettlement Arrangement), 19 July 2013, <http://www.dfat.gov.au/geo/png/regional-resettlement-arrangement-20130719.pdf> (accessed 8 August 2014).

14 Regional Resettlement Arrangement, 19 July 2013.

15 Regional Resettlement Arrangement, 19 July 2013.

16 Regional Resettlement Arrangement, 19 July 2013.

17 The Hon Kevin Rudd MP, Prime Minister, 'Regional Resettlement Arrangement', *Transcript of joint press conference*, 19 July 2013.

1.40 At the same press conference, the then Minister for Immigration, Multicultural Affairs and Citizenship the Hon Tony Burke MP, stated:

In the last couple of weeks, I've removed children and a number of family groups from Manus Island because the facilities, as they are right now, are not appropriate for some of those different groups.

The intention here though, is that we will now bring the quality of those places back up to standard for the processing centre.

So that, where at the moment, we will not be transferring women and children immediately across to Manus Island, the intention is that as the temporary facility moves to a permanent facility, anybody who arrives from now on will be subject to the new rules.

People who are currently within the detention network, within Australia on Manus or on Nauru do not have these rules applied to them.

But from now on, vessels that are intercepted will have the new rules apply to them.¹⁸

1.41 On 6 August 2013, the governments of Australia and Papua New Guinea entered into a new MOU, supporting the Regional Resettlement Arrangement and superseding the MOU of 8 September 2012.¹⁹

1.42 Under the terms of the revised 2013 MOU:

Persons to be transferred to Papua New Guinea are those persons who:

- a. have travelled irregularly by sea to Australia; or
- b. have been intercepted at sea by the Australian authorities in the course of trying to reach Australia by irregular means; and
- c. are authorised by Australian law to be transferred to Papua New Guinea; and
- d. have undergone a short health, security and identity check in Australia.²⁰

1.43 The MOU also stated that Papua New Guinea would host a processing centre (or centres) in Manus Province and that the Papua New Guinean Government would

18 The Hon Tony Burke MP, Minister for Immigration, Multicultural Affairs and Citizenship, 'Regional Resettlement Arrangement', *Transcript of joint press conference*, 19 July 2013.

19 Government of Papua New Guinea and the Government of Australia, *Memorandum of Understanding between the Government of the Independent State of Papua New Guinea and the Government of Australia, relating to the transfer to, and assessment and resettlement in, Papua New Guinea of certain persons, and related issues* (2013 MOU), 6 August 2013, <https://www.dfat.gov.au/geo/png/joint-mou-20130806.pdf> (accessed 7 August 2014).

20 Government of Papua New Guinea and the Government of Australia, 2013 MOU, 6 August 2013.

undertake 'to enable Transferees who enter Papua New Guinea under this MOU who it determines are refugees to settle in Papua New Guinea'.²¹

1.44 During September 2013, the Abbott (Coalition) government took office following the 7 September federal election. Prior to the election, the Coalition had announced its 'Operation Sovereign Borders' policy which included the following undertakings:

- establishing a military-led response to combat people smuggling and to protect Australia's borders (Operation Sovereign Borders or OSB);
- treating the border protection crisis as a national emergency; and
- appointing a senior military commander of three-star ranking to lead OSB.²²

1.45 On 19 September 2013 the Abbott government implemented its pre-election commitments, appointing Lieutenant General Angus Campbell DSC AM as Commander of the Joint Agency Taskforce (JATF) with responsibility for OSB.²³ JATF comprises representatives of the Australian Defence Force, Australian Customs and Border Protection Service, the Australian Federal Police and the Department of Immigration and Border Protection (department) and is tasked with ensuring 'a whole-of-government effort to combat people smuggling and protect Australia's borders'.²⁴

1.46 In October 2013, the Joint Agency Task Force initiated a security risk assessment of the Manus Island RPC, with the intent of assessing the capabilities and security limitations of the centre and identifying risks that required mitigation.²⁵ The classified report from this force protection review was provided to the Minister in November 2013, and an unclassified summary of the report's recommendations and their implementation at the centre was provided to the committee at a public hearing on 11 July 2014.²⁶

1.47 The report made recommendations in areas including service provider staffing, security and other infrastructure at the centre, and engagement with the local

21 Government of Papua New Guinea and the Government of Australia, 2013 MOU, 6 August 2013.

22 Liberal Party of Australia, *The Coalition's Operation Sovereign Borders Policy*, July 2013, http://electionwatch.edu.au/sites/default/files/docs/Operation%20Sovereign%20Borders_1.pdf (accessed 11 August 2014), p. 2.

23 Department of Defence, 'Major General Angus Campbell, DSC, AM promoted to Lieutenant General', *Media release*, 19 September 2013.

24 Australian Customs and Border Protection Service, *Operation Sovereign Borders*, <http://www.customs.gov.au/site/operation-sovereign-borders.asp> (accessed 11 August 2014).

25 Lt Gen. Angus Campbell, DSC, AM, Commander, Joint Agency Task Force, *Committee Hansard*, 11 July 2014, p. 18.

26 Lt Gen. Angus Campbell, DSC, AM, *Committee Hansard*, 11 July 2014, p. 33; Document tabled by Lieutenant General Angus Campbell, DSC, AM at a public hearing on 11 July 2014 – Operation Sovereign Borders Manus OPC Force Protection Review.

community. The implementation of recommendations from the Force Security Review is discussed further in chapter 3.

Manus Island

1.48 Manus Island is part of Manus Province in northern Papua New Guinea. It is the largest island in the Admiralty Islands archipelago and is located in the north of the Bismarck Sea, approximately 800 kilometres due north of Port Moresby.

1.49 Manus Island is covered with lowland tropical rainforest. On average, the temperature ranges between 27 and 30 degrees Celsius.

1.50 The population in Manus Province (including Manus Island) is approximately 50,000 people. Lorengau, the capital of Manus Province, is located on Manus Island and has a population of approximately 6,000 people.

Manus Island Regional Processing Centre

1.51 The Manus Island RPC is located on the north of Manus Island at Lombrum on the site of a PNG Naval base.²⁷ The centre is approximately a 40 minute drive from Lorengau town, and about 30 minutes from the local airport.²⁸ A map of the facility provided by G4S is at Figure 1.1.²⁹ It is a 'closed facility', that is, asylum seekers are not free to come and go from the RPC as they choose.

1.52 The area of the Manus Island RPC is approximately 600 metres (east to west) by 150 metres (north to south). A G4S official described the layout of the centre to the committee:

To the north of the Manus Island [RPC] is the coastline, running parallel. To the south is a road called Route Pugwash, which was used by us and the PNG Navy, as they transited, plus civilian traffic. There is dense foliage to the [south], which is part of the PNG Navy land on which the processing centre was based. To the east we had the PNG Navy accommodation and officers' mess and the Navy sports field, which we used during the incident. To the west, there is local residential area which started immediately within 20 metres of the Mike compound and extended outwards to the west, which contained married quarters for Navy personnel as well as other civilian housing.³⁰

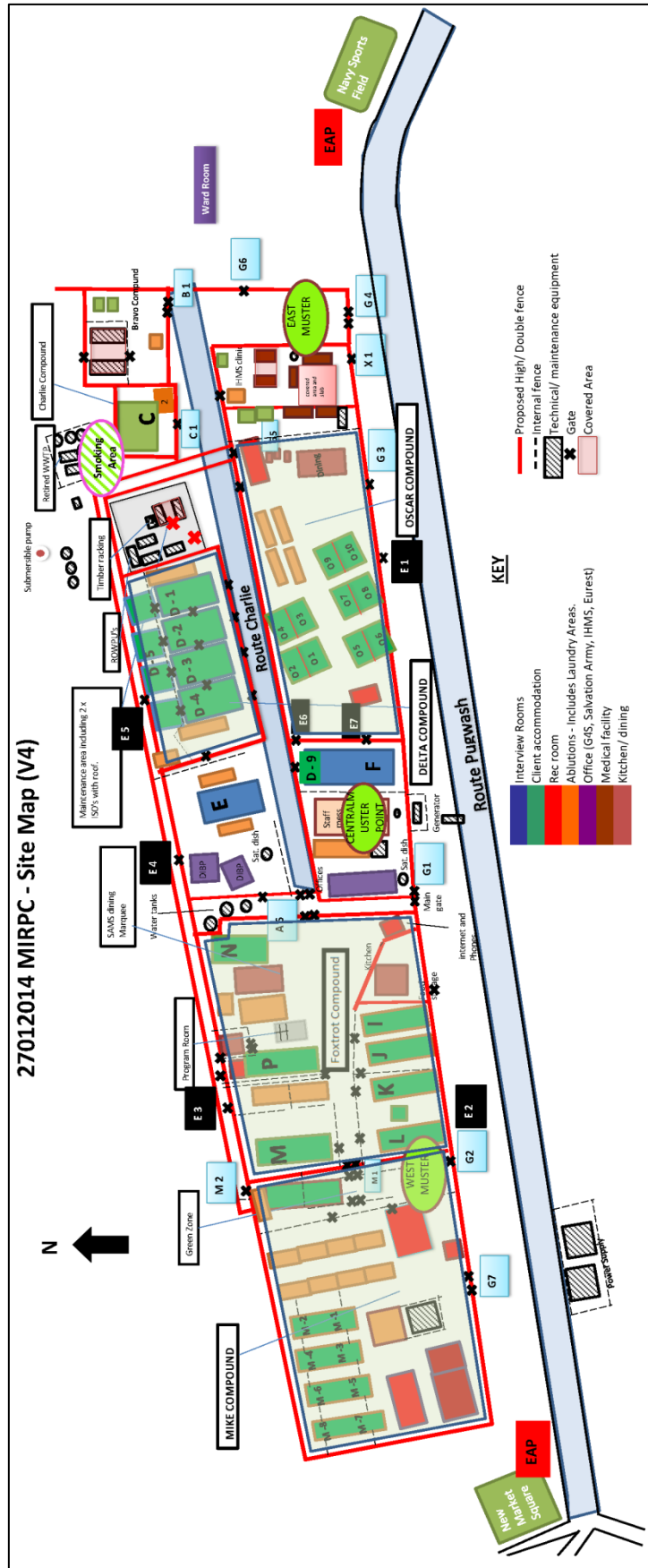
27 Amnesty International, 'This is breaking people: human rights violations at Australia's asylum seeker processing centre on Manus Island, Papua New Guinea', December 2013, (included as *Submission 22*, Attachment 1), p. 36.

28 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, 23 May 2014, p. 20.

29 G4S, *Submission 29*, Attachment 2.

30 Mr Kevin Pye, G4S, *Committee Hansard*, 10 June 2014, p. 38.

Figure 1.1: Manus Island Regional Processing Centre site map



1.53 The Lombrum facility was established in 2012 as a temporary facility, with a site at East Lorengau earmarked for the construction of a permanent facility.³¹ The department explained:

From its inception in November 2012, the Manus site at Lombrum was intended to be a temporary facility right up until the then Prime Minister's announcements of the regional resettlement arrangement in July 2013. From that point it was apparent that the facility at Lombrum would be needed for some time, as well as an intended permanent facility in East Lorengau.³²

1.54 Under the 2012 MOU signed between Australia and PNG, the indicative capacity of the Lombrum facility was about 500 persons.³³ With the RPC changing to a single adult male (SAM) only facility and the introduction of the Regional Resettlement Agreement (RRA) in July 2013, the nature and capacity of the Lombrum centre changed:

It was originally envisaged that the centre would accommodate families, as well as single adult males. With the introduction of RRA—in fact, just prior to that—the government decided to change the mix, and families were taken out of the centre while construction work was progressing towards building the permanent centre much closer to the township of Lorengau. What was there at Lombrum was only ever intended to be a temporary centre. With the introduction of RRA, however, the government, given the commitments that it had made there, effectively transformed Lombrum into a centre which was going to have a longer lifespan and a significant increase in its capacity to its current numbers, which are around 1,200.³⁴

1.55 The implications of these changes for subsequent events at Manus Island RPC are discussed in greater detail in chapter 3.

1.56 Transferees at the centre are accommodated in four main compounds. G4S stated that, at the time of the disturbances in February 2014, Mike compound housed about 420 men; Foxtrot compound housed approximately 320 men; Oscar compound housed 320 men; and Delta compound housed a further 240 men.³⁵

1.57 Oscar and Mike compounds are more recently built facilities than the other compounds; Oscar compound was constructed after July 2013 and completed by

31 The Hon Rimbik Pato OBE, LLB, MP, Papua New Guinea Minister for Foreign Affairs and Immigration, *Update to Parliament on Regional Resettlement Arrangements*, 18 September 2013, p. 4, <http://www.immigration.gov.pg/minister/67-update-to-parliament-on-regional-resettlement-arrangements.html> (accessed 12 August 2014).

32 Mr Mark Cormack, Deputy Secretary, Department of Immigration and Border Protection, *Committee Hansard*, 11 July 2014, p. 19.

33 Mr Kenneth Douglas, First Assistant Secretary, Department of Immigration and Border Protection, *Committee Hansard*, 11 July 2014, p. 27.

34 Mr Kenneth Douglas, Department of Immigration and Border Protection, *Committee Hansard*, 11 July 2014, p. 27.

35 Mr Kevin Pye, G4S, *Committee Hansard*, 10 June 2014, p. 38.

November 2013, while accommodation in Mike compound was still under construction in late 2013,³⁶ and was housing transferees by early 2014.

Local community reaction to Manus Island RPC

1.58 Initial reports indicated that PNG locals welcomed the Gillard government's 2012 announcement that it would re-open the detention centre. On 23 August 2012, *Radio National* reported that the majority of people on the island were happy with the announcement and that residents expected that the local economy would benefit from the decision. However, reservations about the centre were apparent at this early stage:

There's not a lot of industry or business on Manus, it's a very remote and underdeveloped part of PNG, so everyone sees it here as a massive boost for business...But they're worried, they're concerned that they want to see the benefits, the direct benefits, they want to be intimately involved in setting up any new processing centre.³⁷

1.59 A representative of traditional landowners at Lombrum described the arrangement as a 'boomerang' system where 'Australia contracted their own companies and when the money comes in it bounce[s] back [to Australia]'.³⁸

1.60 By mid-September 2012, local opinion had become more hostile towards the RPC with residents dissatisfied with the lack of consultation. A group of landowners from Lombrum demanded compensation to the value of AU\$45 million before repairs began on the centre. Mary Handen, a community leader, said that the money would allow locals to benefit from the centre by setting up businesses to provide catering, security and transport services.³⁹

1.61 In another report, landowner Mr Chawi Konabe expressed his disappointment and the disappointment of other landowners that they had not been included in the construction of the centre. He threatened that:

[T]he asylum seekers project will use the airport that is on traditional land, will use the roads that passes the communities, you know, the power supply that passes across our areas. You know, worst come to worst, we may stop the services.⁴⁰

1.62 The Australian Broadcasting Corporation (ABC) also reported that discontent amongst local residents and ill-feeling towards the Australian Government were further aggravated by the PNG Government's poor communication with the population of the island.⁴¹

36 Amnesty International, *Submission 22*, Attachment 1, p. 37.

37 Liam Fox, 'Locals welcome refugee centre', *ABC Radio*, 23 August 2012.

38 Liam Fox, 'Manus Islanders want spin-offs from re-opened asylum centre', *ABC Radio*, 23 August 2012.

39 Liam Fox, 'Landowners want \$45m for Manus Island processing centre', *ABC Radio*, 21 September 2012.

40 Liam Fox, 'Manus locals threaten detention camp sabotage', *ABC Radio*, 20 October 2012.

41 Liam Fox, 'Manus locals threaten detention camp sabotage', *ABC Radio*, 20 October 2012.

1.63 In November 2012 it was reported that Salvation Army staff on Manus Island had been withdrawn due to the ongoing dispute between the PNG government and local residents. The Salvation Army's Major Paul Moulds stated: 'Our staff did leave Manus because clients didn't arrive. The land owners of Manus have a dispute with the government, there have been ongoing negotiations'.⁴²

1.64 Mr Konabe's threats materialised in November when a group of landowners blocked the runway at Manus Island's airport. The group also blocked the road to the RPC and the island's naval base. One of the landowners, Porou Papi, sent a petition to the local government asking:

[T]hat the security contracts should be given to landowners. They should be given seven or eight land contracts. There should be a round table discussion with the national government, the Australian Government and the landowners.⁴³

1.65 The Australian Government tried to reassure locals that they would be involved in the building of the permanent facility at Lorengau. The Governor of Manus Island, Mr Charlie Benjamin, also expressed his confidence that negotiations with landowners would prevent further closures.⁴⁴

1.66 In response to local protests and the closure of the airport, the PNG Government increased security on Manus Island by flying in two police riot squads to assist with the arrival of the first group of asylum seekers (in November 2012). Mr Ron Knight MP told *The Australian* that he did not think the landowners would disrupt access to the centre with the riot squads in the area. However, Mr Knight was concerned for other infrastructure on the island that landowners had threatened to target, such as the main power station, and he noted that the centre had mostly employed PNG military personnel instead of local people.⁴⁵

1.67 In July 2013, the ABC's 7.30 current affairs programme visited Manus Island to report on residents' attitude towards the plan to expand the island's processing centre. It was reported that since establishment of the centre, residents had raised concerns regarding: the accumulation of waste from the centre; the proximity of the permanent centre's location to a school; and the recent death of a local resident, Raymond Sipaun, who died after being beaten, allegedly by two PNG police officers. It was also reported that residents were concerned with social and cultural impacts that may arise from sharing the island with the asylum seekers.⁴⁶

42 Gemma Jones, 'Nauru waiting to explode', *Daily Telegraph*, 7 November 2012.

43 Liam Fox, 'Angry landowners sabotage Manus Island processing centre', *ABC Radio*, 13 November 2012.

44 Liam Fox, 'Angry landowners sabotage Manus Island processing centre', *ABC Radio*, 13 November 2012.

45 Rowan Callick, 'Threat to shut down PNG site', *The Australian*, 22 November 2012.

46 Liam Fox, 'Manus Island processing plans raise concerns for locals', *7.30*, ABC, 29 July 2013.

Establishment and initial operation of the Manus Island Regional Processing Centre

1.68 The following summary of events relates to the establishment and initial operation of the Manus Island RPC:

Date	Event
August 2012	Gillard government announced the re-commencement of offshore processing in Nauru and Papua New Guinea.
October–November 2012	Protests by Papua New Guinean landowners over 'perceived lack of benefits for Manus Island' from the re-establishment of the RPC. ⁴⁷
21 November 2012	First transfer of asylum seekers to Manus Island following the re-commencement of offshore processing in Nauru and Papua New Guinea.
15–17 January 2013	The United Nations High Commissioner for Refugees (UNHCR) visited the Manus Island RPC. The UNHCR was critical of the detention of children and stated that asylum seekers were 'distressed and confused about their situation. They are in closed detention, without a process in sight'. ⁴⁸
April 2013	G4S had concerns about contraband in the RPC, as well as the conduct of local guards and the PNG Police mobile squad. ⁴⁹
20 June 2013	Australian Government removed families with children from the RPC on Manus Island.
23 June 2013	G4S submitted a revised risk assessment to the then Department of Immigration and Citizenship highlighting 'inadequate security infrastructure' and requested improved fencing and security fencing. ⁵⁰
19 July 2013	Australian and Papua New Guinean governments entered into a Regional Resettlement Arrangement.
After 19 July 2013	Manus Island RPC became a 'single adult male' (SAM) only facility.

47 G4S, *Submission 29*, p. 3 and Liam Fox, 'Angry landowners sabotage Manus Island processing centre', *ABC Radio*, 13 November 2012.

48 UNHCR, 'UNHCR finds significant legal and operational inadequacies at Manus Island', 4 February 2013, http://unhcr.org.au/unhcr/index.php?option=com_content&view=article&id=284:unhcr-finds-significant-legal-and-operational-inadequacies-at-manus-island&catid=35:news-a-media&Itemid=63 (accessed 8 September 2014).

49 *Submission 29*, p. 3.

50 *Submission 29*, pp 2 and 3.

Date	Event
6 August 2013	Australian and PNG governments entered into a memorandum of understanding in support of the RRA which superseded the MOU of 8 September 2012.
7 September 2013	Coalition won the Federal Election.
13 October 2013	G4S submitted a formal proposal for improved security lighting and fencing to the Department of Immigration and Border Protection.
30 October 2013	The number of asylum seekers at Manus Island RPC reached 1100. ⁵¹
October 2013	Force Protection Review conducted by Lt Gen. Campbell and the Joint Agency Task Force to assess security arrangements and risks at the centre.
December 2013	Amnesty International released its report 'This is Breaking People: Human Rights Violations at Australia's Asylum Seeker Processing Centre on Manus Island, Papua New Guinea' ⁵² following a six day site visit to the RPC.
12 December 2013	G4S was advised that the contract for ongoing management of the RPC had been awarded to Transfield Services from 28 March 2014.

Other relevant inquiries and investigations

1.69 In addition to this inquiry, several other inquiries and investigations are worth noting, which deal with the events of 16 to 18 February 2014 at the Manus Island RPC or the operations of the centre more generally.

The Cornall Review

1.70 In the immediate aftermath of the events of 16 to 18 February 2014, the Minister for Immigration and Border Protection announced that a full review of what had occurred would be initiated by the department.⁵³ On 21 February 2014, the minister announced that this independent review would be undertaken by Mr Robert Cornall AO.⁵⁴ The terms of reference provided for the review to investigate

51 *Submission 29*, p. 3.

52 Amnesty International, *Submission 22*, Attachment 1.

53 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident', *Press conference*, 18 February 2014, Canberra, www.minister.immi.gov.au/media/sm/2014/sm211891.htm (accessed 24 September 2014); Mr Robert Cornall AO, *Committee Hansard*, 12 June 2014, p. 9.

54 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 14; The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident, Operation Sovereign Borders, joint review', *Press Conference*, 21 February 2014, Canberra, <http://www.minister.immi.gov.au/media/sm/2014/sm212027.htm> (accessed 30 October 2014).

and report on the key issues surrounding the incidents and leading up to the events, with the report to be made to the Secretary of the department by April 2014.⁵⁵

1.71 The methodology of the review included:

- conducting interviews with a range of service provider personnel;⁵⁶
- reviewing documentation including intelligence reports, incident reports and daily reports provided to Mr Cornall;
- meeting with senior PNG officials and ministers in Port Moresby;
- conducting interviews with four asylum seekers in the presence of an interpreter;
- conducting several two-hour question-and-answer meetings with asylum seekers who Mr Cornall 'was told were leaders of their communities in each compound';
- obtaining information from asylum seekers provided by way of 270 'Transfield Services feedback forms'; and
- conducting a walkthrough of Mike compound with transferees in order to examine 'bullet marks and so forth in the buildings' which the transferees said had occurred on the night of 17 February 2014.

1.72 The report of the Cornall Review is dated 23 May 2014, and was released publicly on 26 May 2014 and published on the department's website.⁵⁷ The report made 13 recommendations addressing aspects of the operation of the Manus Island detention centre including refugee status determination processing, physical infrastructure and risk management, interactions with local police and the local community more broadly, and measures in relation to service providers' interactions with transferees.⁵⁸

1.73 In relation to the death of Mr Reza Barati, the report set out information from an interview conducted with a witness to Mr Barati's death, but did not make recommendations with respect to assigning individual responsibility for Mr Barati's death. It did recommend, however, that certain information be provided to the PNG police investigation.⁵⁹

55 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 2.

56 Mr Robert Cornall AO, *Committee Hansard*, 12 June 2014, p. 1.

57 Mr Martin Bowles PSM, Secretary, Department of Immigration and Border Protection, *Committee Hansard*, 10 June 2014, p. 2. The Cornall Review is available at <https://www.immi.gov.au/about/dept-info/files/review-robert-cornall.pdf> (accessed 2 October 2014).

58 Mr Robert Cornall AO, *Review of the events of 16-18 February 2014 at the Manus Regional Processing Centre*, pp 12-13.

59 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, pp 87-88.

1.74 The department informed the committee that all 13 recommendations of the Cornall Review had been accepted by the government.⁶⁰ The implementation of these recommendations is discussed further in chapter 6.

Criminal investigation

1.75 PNG authorities instigated a criminal investigation into the death of Mr Barati in the aftermath of the events of 16 to 18 February 2014. Two individuals have now been arrested and charged with murder as a result of this investigation; this is discussed further in chapter 6.

60 Mr Martin Bowles PSM, Department of Immigration and Border Protection, *Committee Hansard*, 10 June 2014, p. 2.