

Appendix

Appendix A: Legislation and standards considered in the investigation

Legislation/ standard	Relevant provisions	
<p><i>Corrective Services Act 2006</i></p>	<p>s 5A</p>	<p>Relationship with <i>Human Rights Act 2019</i></p> <p>(1) This section applies to the chief executive's or a corrective services officer's consideration of –</p> <ul style="list-style-type: none"> (a) the <i>Human Rights Act 2019</i>, section 30(2) in relation to a prisoner admitted to a corrective services facility for detention on remand or a prisoner detained without charge; or (b) the <i>Human Rights Act 2019</i>, section 30 in relation to managing a prisoner in a corrective services facility where it is not practicable for the prisoner to be provided with the prisoner's own room under section 18. <p>(2) To remove any doubt, it is declared that the chief executive or officer does not contravene the <i>Human Rights Act 2019</i>, section 58(1) only because the chief executive's or officer's consideration takes into account –</p> <ul style="list-style-type: none"> (a) the security and good management of corrective services facilities; or (b) the safe custody and welfare of all prisoners.
	<p>s 18(1)</p>	<p>Whenever practicable, each prisoner in a corrective services facility must be provided with his or her own room.</p>

Corrective Services Regulation 2017	s 3	<p>(1) An Aboriginal or Torres Strait Islander prisoner is to be accommodated in a corrective services facility as close as practicable to the prisoner's family unless the chief executive is satisfied the prisoner does not want to be accommodated near the prisoner's family.</p> <p>(2) In deciding what is practicable, the chief executive must consider all relevant factors, including, for example—</p> <p>(a) whether the prisoner's accommodation in the corrective services facility closest to the prisoner's family would pose an unacceptable risk to the safety of persons, including the prisoner, in the facility; and</p> <p>(b) the prisoner's security classification; and</p> <p>(c) any orders to which the prisoner is subject.</p>
	s 4(d)	<p>The chief executive must ensure a prisoner undergoing separate confinement -</p> <p>...</p> <p>is given the opportunity to exercise, in the fresh air, for at least 2 daylight hours a day.</p>
Queensland Corrective Services <i>Correctional Operations Practice Directives</i>	Prisoner Accommodation Management	Sets out the process for officers to follow when allocating accommodation to prisoners, including shared cells. A prisoner is to be placed in suitable accommodation based on their identified risks and needs with consideration given to factors outlined in the COPD.
<i>Human Rights Act 2019</i>	s 30	<p>Humane treatment when deprived of liberty</p> <p>(1) All persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.</p> <p>(2) An accused person who is detained without charge must be segregated from persons who have been convicted of offences, unless reasonably necessary.</p> <p>(3) An accused person who is detained or a person detained without charge must be treated in a way that is appropriate for a person who has not been convicted.</p>

<i>United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)</i>	Rule 11	<p>The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:</p> <p>(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;</p> <p>(b) Untried prisoners shall be kept separate from convicted prisoners;</p> <p>(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;</p> <p>(d) Young prisoners shall be kept separate from adults.</p>
	Rule 12	<p>Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.</p>
	Rule 112	<p>Untried prisoners shall be kept separate from convicted prisoners.</p>
	Rule 113	<p>Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.</p>
<i>Standard Guideline for Corrections in Australia 2012</i>	1.11	<p>Where practicable, remand prisoners should not be put in contact with convicted prisoners against their will.</p>
	2.2	<p>Each prisoner should be provided with suitable living accommodation.</p>
	2.3	<p>Cells or rooms that are designed for single or multiple occupancy, should be consistent with the standards relating to size, light, ventilation etc as set out in the Standard Guidelines for Prison Facilities in Australia and New Zealand or as later modified.</p>
	2.4	<p>Accommodation should be provided to respond effectively to the actual needs and risk status of a prisoner. In some cases, single cell accommodation may be provided, in other cases multiple or dormitory accommodation may be more appropriate.</p>
	2.5	<p>Where prisoners are accommodated in multiple occupancy cells or rooms, the prisoners are to be carefully assessed and selected as being suitable to associate with one another in those conditions.</p>

<i>Guiding Principles for Corrections in Australia 2018</i>	3.3.3	Unsentenced prisoners/detainees are accommodated in a manner which acknowledges their legal status and where practicable, provides for the separation between sentenced and unsentenced prisoners.
<i>United Nations General Assembly Resolution 2200A, International Covenant on Civil and Political Rights</i>	Article 10	<p>(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p> <p>(2) (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.</p>