

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who has remained in immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	1002725
Date of DIBP's reports	19 June 2015 and 15 December 2015
Total days in detention	916 (at date of DIBP's latest report)

Detention history

30 October 2011	Mr X arrived in Australia as an irregular air arrival on a fraudulent Country B passport in another name. His Visitor visa was cancelled under s 116 of the <i>Migration Act 1958</i> and he was detained under s 189(1).
1 November 2011	Transferred to Maribyrnong Immigration Detention Centre (IDC).
27 March 2013	Granted a Bridging visa and released from detention.
6 November 2014	Re-detained under s 189(1) and transferred to Maribyrnong IDC.
7 August 2015	Transferred to Wickham Point Alternative Place of Detention (APOD). ¹

Visa applications/case progression

1 November 2011	Mr X was scheduled for removal from Australia, however he claimed protection and his removal was cancelled.
2 December 2011	Mr X lodged a Protection visa application with an associated Bridging visa application.
5 December 2011	Associated Bridging visa application was deemed to be invalid.
20 January 2012	Protection visa application refused.
27 January 2012	Appealed to the Refugee Review Tribunal (RRT).
19 March 2012	RRT affirmed original decision.
17 April 2012	Requested ministerial intervention under s 417.
23 July 2012	The former Minister declined to intervene.
30 January 2013	Requested ministerial intervention under s 48B.

¹ DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

10 March 2013	The former Minister intervened under s 48B to lift the s 48A bar, permitting Mr X to lodge a further Protection visa application.
10 March 2013	Lodged a Protection visa application.
26 March 2013	Mr X's case was referred on a ministerial intervention submission for consideration under s 195A for the grant of a Bridging visa.
27 March 2013	Granted a Bridging visa.
17 July 2013	Protection visa application refused.
26 July 2013	Appealed to the RRT.
3 September 2014	RRT affirmed original decision.
2 October 2014	Bridging visa ceased and he lodged an application for a second Bridging visa.
3 October 2014	Bridging visa application was deemed to be invalid.
6 November 2014	Re-detained and transferred to Maribyrnong IDC.
17 November 2014	Mr X lodged a Combined Partner visa application with an associated Bridging visa application.
16 December 2014	Combined Partner visa application was refused. On the same day, the associated Bridging visa application was deemed invalid.
19 December 2014	Appealed to the Migration Review Tribunal (MRT).
11 May 2015	MRT remitted the application to the Department of Immigration and Border Protection (DIBP).
22 May 2015	DIBP invited Mr X to provide further information relevant to the Combined Partner visa application.
19 June 2015	DIBP advised that Mr X had not yet provided a response and the matter remained ongoing.
19 August 2015	Mr X's case was referred on a further ministerial intervention submission for consideration under s 195A for the grant of a Bridging visa.
21 August 2015	DIBP advised that the Minister declined to intervene under s 195A.

Health and welfare

30 July 2012 – 7 November 2012	International Health and Medical Services (IHMS) advised that Mr X refused food and fluids as a form of protest. He was provided with support and monitored during this period.
9 November 2012	A Department of Immigration and Citizenship (DIAC) Incident Report recorded that Mr X allegedly punched a glass door with his fist causing his hand to bleed. No further information was provided. IHMS advised that Mr X was placed under Psychological Support Program (PSP) observations following reported threats of suicide in the context of plans to remove him from Australia.
11 November 2012	PSP observations ceased after Mr X was able to guarantee his own safety.

27 January 2013	A DIAC incident report recorded that Mr X was taken to hospital following an injury to his shoulder. No further information was provided.
March 2013	Mr X disclosed a history of torture and trauma but declined specialist counselling.
22 June 2015	IHMS reported that since returning to restricted detention in November 2014, Mr X had expressed his frustration with his situation and family issues but no chronic or acute mental health issues had been identified.
27 October 2015 – 29 October 2015	IHMS advised that Mr X refused food and fluids as a form of protest. He was provided with support and monitored during this period.

Other matters

DIBP advised that Mr X's previous residence permit for Country B was revoked by the Country B Police after he was sentenced to three years and four months imprisonment for drug dealing and extortion. On 16 November 2010 the Country B authorities decided to deport Mr X to Country A. Mr X is the holder of a genuine Country A passport valid until 4 April 2021.	
26 February 2012	Mr X married an Australian citizen.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of his Combined Partner visa application.
