

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the second s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002474-O was tabled in Parliament on 21 June 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1987
<b>Ombudsman ID</b>	1002474-O1
<b>Date of department's reports</b>	18 August 2017 and 14 February 2018
<b>Total days in detention</b>	1,276 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility B.	
June 2017	Placed in the community. <sup>1</sup>

### Recent visa applications/case progression

The Department of Home Affairs (the department) has advised that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to a Regional Processing Centre (RPC) on completion of his treatment.	
June 2017	The Minister intervened under s 197AB of the <i>Migration Act 1958</i> to grant Mr X a community placement.
August 2017 and February 2018	The department advised that it is supporting the Government of Nauru to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored by a general practitioner for an ongoing medical condition. Mr X attended a review with a specialist and no significant concerns were identified. A subsequent review was scheduled for January 2018.  IHMS further advised that Mr X was referred to a psychologist after presenting to a general practitioner with low mood and anxiety. He attended an appointment in August 2017 and continued to engage with supportive counselling.	
April 2017	An Incident Report recorded that Mr X threatened self-harm.

<sup>1</sup> Mr X was granted a placement in the community under s 197AB and remains in immigration detention.

## Ombudsman assessment

Mr X was detained in August 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three and a half years.

Mr X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X arrived after 19 July 2013 he remains liable for transfer back to an RPC on completion of his treatment.

The department further advised that it is supporting the Government of Nauru to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

The Ombudsman's previous assessment recommended that Mr X's case be reassessed for the grant of a community placement and that priority be given to resolving Mr X's immigration status while noting his ongoing medical condition and mental health concerns.

On 21 June 2017 the Minister advised that he had intervened under s 197AB to grant Mr X a community placement. The Minister further advised that under current legislation and policy settings, Mr X remains subject to return to an RPC on completion of this treatment.

Mr X's return to an RPC is likely to be protracted due to his ongoing mental and physical health concerns.

It appears likely that Mr X will remain in detention for a prolonged and uncertain period while he receives medical treatment, posing a serious risk to his mental and physical health.