

## 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 Ms X who has remained in immigration detention for a cumulative period of more than three years. The previous assessment 1002555-O was tabled in Parliament on 29 November 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1994
<b>Ombudsman ID</b>	1002555-O1
<b>Date of department's report</b>	18 December 2017
<b>Total days in detention</b>	1,095 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Ms X has continued to be 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 Ms X is not eligible to have her protection claims assessed in Australia and remains liable for transfer back to a Regional Processing Centre (RPC) on completion of her treatment.

18 December 2017	<p>The department advised that it is supporting the Government of Nauru to finalise the Refugee Status Determination of Ms X while she remains temporarily in Australia for medical treatment.</p> <p>The department further advised that it was reviewing Ms X's case for possible referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.</p>
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### Health and welfare

International Health and Medical Services (IHMS) advised that Ms X continued to be monitored for ongoing medical conditions.

IHMS further advised that Ms X had previously received treatment for mental health concerns and she continued to be monitored by a general practitioner.

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

### **Ombudsman assessment/recommendation**

Ms X was detained in October 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 years.

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

The Ombudsman's previous assessment recommended that priority be given to resolving Ms X's immigration status and that Ms X's community placement address be varied under s 197AD so that she could reside with her husband.

On 29 November 2017 the Minister advised that the department is reviewing Ms X's case for possible referral under s 195A for the grant of a bridging visa and pending that outcome, Ms X may be considered against the 197AD guidelines for variation to her community placement address. The Minister further advised that the department is supporting the Government of Nauru to finalise Ms X's Refugee Status Determination.

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

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

1. In light of the significant length of time Ms X has remained in detention and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Ms X's case be referred to the Minister for consideration under s 195A for the grant of a bridging visa.