

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fourth s 486O assessment on Mr X who has remained in immigration detention for more than 54 months (four and a half years). The previous assessment 1001736-O was tabled in Parliament on 29 November 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1976
<b>Ombudsman ID</b>	1001736-O1
<b>Date of department's report</b>	18 October 2017
<b>Total days in detention</b>	1,640 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Christmas Island Immigration Detention Centre.

### Recent visa applications/case progression

18 April 2017	Lodged a Temporary Protection visa (TPV) on which Mr X's wife, Ms Y, and their children Master Z, Master P and Master Q were included as dependants.
12 May 2017	TPV application refused.
26 June 2017	The Immigration Assessment Authority (IAA) affirmed the decision to refuse Mr X's TPV application.
5 July 2017	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a bridging visa.
1 August 2017	Applied to the Federal Circuit Court for judicial review and on 25 September 2017 his hearing was adjourned. Mr X was scheduled to attend a hearing on 5 March 2018.

### Health and welfare

International Health and Medical Services advised that Mr X did not receive treatment for any major physical or mental health issues during this assessment period.

### Other matters

Mr X's wife and their children reside in the community in State B on bridging visas.

### **Ombudsman assessment/recommendation**

Mr X was detained on 22 April 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for more than four and a half years.

Mr X's TPV application was refused on 12 May 2017 and on 26 June 2017 the IAA affirmed the refusal. At the date of the Department of Home Affairs' report Mr X was awaiting the outcome of judicial review.

The Ombudsman's previous assessment recommended that Mr X be considered under s 195A for the grant of a bridging visa in light of the significant length of time he has remained in detention and the absence of any behavioural concerns. The Ombudsman also recommended that consideration be given to transferring Mr X to an immigration facility that is closer to his family if he was not granted a bridging visa.

On 29 November 2017 the Minister advised that he had recently considered Mr X's case under s 195A and declined to intervene. The Minister also stated that transferring Mr X to a facility in City C was not appropriate and advised that a transfer to an alternative high security facility was being considered.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. Mr X also continues to be separated from his family who reside in State B on bridging visas.

The Ombudsman again recommends that consideration be given to transferring Mr X to an immigration detention facility that will enable him to reside closer to his family.