



Australian Government  
Department of Home Affairs

**Submission**

For decision  
PDMS Ref. Number MS19-000735

**To** Minister for Immigration, Citizenship and Multicultural Affairs  
**Subject** Management of transitory persons under the Miscellaneous Measures Act

**Timing** As soon as possible.  
~~Received~~

**Recommendations** 05 MAR

That you:

1. agree that Christmas Island will be the primary management location for transitory persons from regional processing countries in Australia for a temporary purpose;
2. agree that all three Christmas Island immigration detention facilities (North West Point, Construction Camp and Phosphate Hill) will operate as a closed centre and transitory persons will not be permitted to freely move around Christmas Island;

s. 47E(d)

4. agree to triage individuals based on clinical need prior to their departure from their regional processing country and that where health services are not available on Christmas Island to manage a transitory persons clinical needs, their health needs will be addressed in mainland locations, and that during this time they will be managed in held detention or alternative places of detention;
5. agree that once a transitory persons mainland-based initial medical treatment is complete, they will be transferred to Christmas Island, pending resettlement, return or removal from Australia; and

☒ agreed / not agreed

agreed / not agreed

**s. 34(3)**

☒ noted / please discuss

☒ agreed / not agreed

☒ agreed / not agreed

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6. note that the transfer of transitory persons to the mainland will place additional pressures on the mainland immigration detention network and that detainees in the mainland network may need to be transferred to Christmas Island.

noted / please discuss

Minister for Immigration, Citizenship and Multicultural Affairs

Signature.....

Date...../...../2019

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Minister's Comments				
s. 22(1)(a)(ii)				
<p>Please note decision re location of medical treatment is to be made by delegate.</p>				
Rejected Yes/No	Timely Yes/No	Relevance	Length	Quality
		<input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	<input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues

1. This submission builds on advice provided to you on 25 February 2019 (MS19-000645 refers) s. 34(3)

Medical assessment process

2. s. 22(1)(a)(ii)
3. s. 22(1)(a)(ii)
- s. 22(1)(a)(ii)
  - s. 22(1)(a)(ii)
  - s. 22(1)(a)(ii)
4. s. 22(1)(a)(ii)

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5. s. 22(1)(a)(ii)

6. s. 22(1)(a)(ii)

*Transfer process – clinical triaging and placement decisions*

7. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

8. The Department will undertake clinical triaging for relevant transitory persons prior to their departure to Australia, using information received from the recommending medical practitioner. If an individual is transferred on medical grounds, the application will identify the treatment or assessment required, which will guide the most appropriate location for treatment.

- Primary consideration will be given to medical treatment on Christmas Island. To support that policy setting, health services are being bolstered.
- Where a transitory person requires complex or tertiary hospital care not available on Christmas Island, they would be initially transferred to an appropriate mainland health facility.
- The Panel may see fit to recommend certain locations for medical treatment or assessment in its advice to you. While the Panel's recommendation to transfer is binding on you, a Panel recommendation for treatment or assessment in a specific location would be discretionary only.

9. Until the health-related logistical issues can be rectified, and the full suite of advanced health capabilities arrives on Christmas Island, there is an increased risk that transitory persons requiring more complex tertiary treatment, including mental health support, may need to be transferred to the mainland for medical intervention.

10. s. 47E(d)

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11. Transitory person receiving medical treatment in Australia will be managed in alternative places of detention or under held detention arrangements. They will be transferred to Christmas Island at the conclusion of their mainland medical treatment.
12. Many transitory persons may be transferred under the provisions of the family unit or as support persons. In these cases, individuals should be located together and close to the relevant transitory person undergoing medical treatment, even though they may not have similar medical needs.

*Readiness of Christmas Island to receive transitory persons*

13. The Christmas Island immigration detention facilities are operationally ready to accommodate up to 250 transitory persons. Operations are being increased to bring to facilities up to full service, which is expected to be ready in late March 2019.
14. Initially all transitory persons, including non-refugees and transitory persons with known character and security issues, will be accommodated at North West Point Immigration Detention Centre, a high-security facility. This centre can be configured to cater for mixed populations of men and women of any risk rating, however is not recommended for family units. Construction Camp and Phosphate Hill will be used to cater for this cohort.

*Management of the onshore immigration detention network detainee population*

15. The onshore immigration detention network is operating well beyond the funded operational capacity of 1000 places, with 1275 detainees currently in held detention (at 27 February 2019). Further consideration will be given to the placement of detainees currently accommodated in held detention to determine whether they could be moved into residence determination or into the community on a Bridging visa. Movement of a number of detainees to Christmas Island from the non-transitory person caseload may also be required.

**Background**

16. [REDACTED] s. 22(1)(a)(ii) [REDACTED]

**Consultation – internal/external**

17. [REDACTED] s. 22(1)(a)(ii) [REDACTED]

**Consultation – Secretary**

18. [REDACTED] s. 22(1)(a)(ii) [REDACTED]

## Client service implications

19. Movement of the transitory person caseload to Australia would create unprecedented pressure on the onshore immigration detention network, which is already operating beyond the 1,000 person capacity of the network (not accounting for contingency capacity created by re-opening Christmas Island facilities). s. 22(1)(a)(ii)

## Sensitivities

20. s. 22(1)(a)(ii)

21. s. 22(1)(a)(ii)

## Financial/systems/legislation/deregulation/media implications

22. s. 22(1)(a)(ii)

## Attachments

23. Nil.

<b>Authorising Officer</b>
Cleared by:
Marc Ablong Deputy Secretary Policy Group
Date: 1 March 2019 s. 22(1)(a)(ii)

### Contact Officers

Vanessa Holben, Assistant Commissioner, Detention and Offshore Operations Command, Ph: s. 22(1)(a)(ii)  
Alana Sullivan, Senior Assistant Secretary Regional Processing Taskforce, Ph: s. 22(1)(a)(ii)

**Through** Cheryl-anne Moy, Chief Operating Officer, Ph: s. 22(1)(a)(ii)  
Mandy Newton Deputy Commissioner Operations, Ph: s. 22(1)(a)(ii)

**CC** Secretary  
ABF Commissioner  
Deputy Secretary Executive  
Deputy Commissioner Support  
Acting Deputy Secretary Visa and Citizenship Services  
Commander Joint Agency Taskforce  
Chief Finance Officer  
General Counsel

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Australian Government  
Department of Home Affairs

## Submission

For decision

PDMS Ref. Number MS19-004042

Date of Clearance:

To Minister for Home Affairs

Subject Management of transitory persons temporarily in Australia and related issues

Timing s. 22(1)(a)(ii)

### Recommendations

That you:

#### *Management of transitory persons*

1. agree that the medevac refugee transitory persons caseload in Australia be considered for residence determination or bridging visas on a case-by-case basis, consistent with processes for transitory persons brought under section 198B; agreed / not agreed

2. s. 22(1)(a)(ii) noted / please discuss

3. s. 22(1)(a)(ii) noted / please discuss

4 s. 22(1)(a)(ii)

agreed / not agreed

agreed / not agreed

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5. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

**Christmas Island**

6. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

7. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

8. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

9. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

**Minister for Home Affairs**

Signature.....

Date:...../...../2019

**Minister's Comments**

Rejected Yes/No	Timely Yes/No	Relevance <ul style="list-style-type: none"><li>Highly relevant</li><li>Significantly relevant</li><li>Not relevant</li></ul>	Length <ul style="list-style-type: none"><li>Too long</li><li>Right length</li><li>Too brief</li></ul>	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

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## Key Issues

1. This submission seeks your direction on the ongoing management of transitory persons in Australia, following passage of the *Migration Amendment (Repairing Medical Transfers) Act 2019* (Repairing Act), which repealed the medevac legislation. s. 22(1)(a)(ii)

### *Impact of the repeal and capacity pressures on immigration detention network*

2. s. 22(1)(a)(ii)
3. Consistent with current policy settings, all transitory persons brought to Australia under the medevac provisions are managed in detention, including alternative places of detention (APOD).
4. As at 9 December 2019, the immigration detention network held 1,423 persons, 423 over the funded capacity of 1,000 beds. While the network was supplemented by 250 beds for transitory persons at Christmas Island Immigration Detention Facilities until the repeal of the medevac provisions, this capacity was not enlivened for the transitory persons caseload and currently services four (4) non-transitory person detainees only. The network cannot provide any additional capacity for further medical transfers from regional processing countries without continuing to increase the use of alternative places of detention (APODs) or transferring non-transitory person detainees to Christmas Island.
5. Transitory persons in APODs are becoming more challenging to manage, noting these arrangements are usually used for short periods only and capacity issues are increasing the risk profile. It is also being increasingly difficult to source new APODs, with limited available options. This placement approach is expensive and not sustainable long term.
  - a. Placement of transitory persons in APODs has become necessary due to current capacity pressures within held detention facilities and the inability to segregate this cohort from higher-risk detainees.
6. Home Affairs and the Australian Border Force (ABF) seek your agreement to adjust current settings for transitory persons transferred under medevac to allow for residence determination, or bridging visa placement, on a case-by-case approach. This action would support efforts to alleviate capacity pressures on the immigration detention network. This approach could result in the release of approximately 135 transitory persons from held detention, noting transitory persons with derogatory holdings and failed asylum seekers would remain in held detention.
  - a. Residence determination and bridging visa consideration would be progressed through the Assistant Customs, Community Safety and Multicultural Affairs in line with Ministerial Intervention guidelines.

s. 22(1)(a)(ii)

7. s. 22(1)(a)(ii)

8. s. 22(1)(a)(ii)

a. s. 22(1)(a)(ii)

9. s. 22(1)(a)(ii)

10. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

11. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

12. s. 22(1)(a)(ii)

13. s. 22(1)(a)(ii)

a. s. 22(1)(a)(ii)

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s. 22(1)(a)(ii)

14. s. 22(1)(a)(ii)

a. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

15. s. 22(1)(a)(ii)

a. s. 22(1)(a)(ii)

b. s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

16. To assist the reduction of the transitory persons caseload in Australia, Home Affairs proposes the 50 failed asylum seekers remain in held detention pending the roll out of enhanced engagement on assisted voluntary return for this cohort in the new year, ahead of any action to involuntarily remove the cohort from Australia. Removal action can be pursued under section 198 of the Act.

17. s. 22(1)(a)(ii)

18. s. 22(1)(a)(ii)

*Further policy authority required for Christmas Island*

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19. s. 22(1)(a)(ii)

[Redacted]

20. s. 22(1)(a)(ii)

If you seek to maintain current policy settings (that is, retain the transitory persons population brought here under the now repealed medevac provision in detention), policy authority will need to be sought from Cabinet for the ongoing use of Christmas Island. However, if you agree to manage the transitory persons outside of a held detention arrangement (that is, residence determination or bridging visa grant), there will be less operational pressure on the overall detention network

s. 22(1)(a)(ii)

21. s. 22(1)(a)(ii)

[Redacted]

22. s. 22(1)(a)(ii)

[Redacted]

## Background

23. s. 22(1)(a)(ii)

[Redacted]

24. s. 22(1)(a)(ii)

[Redacted]



s. 22(1)(a)(ii)

25. s. 22(1)(a)(ii)

26. s. 22(1)(a)(ii)

**Consultation – internal/external**

27. s. 22(1)(a)(ii)

**Consultation – Secretary**

28. s. 22(1)(a)(ii)

**Client service implications**

29. s. 22(1)(a)(ii)

30. s. 22(1)(a)(ii)

**Relationship to Prime Minister's Priorities**

31. s. 22(1)(a)(ii)

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**Sensitivities**

32. s. 22(1)(a)(ii)
33. s. 22(1)(a)(ii)
34. s. 22(1)(a)(ii)

**Financial/systems/legislation/deregulation/media implications**

35. s. 22(1)(a)(ii)
- a. s. 22(1)(a)(ii)
- b. s. 22(1)(a)(ii)
36. s. 22(1)(a)(ii)
37. s. 22(1)(a)(ii)
38. s. 22(1)(a)(ii)

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## Attachments

### Attachment A Letter to Prime Minister seeking policy authority

Authorising Officer	
Cleared by:	
Major General Craig Furini Commander Joint Agency Task Force Operation Sovereign Borders	Kaylene Zakharoff Group Manager Immigration Detention
Date: December 2019 s. 22(1)(a)(ii)	Date: December 2019 s. 22(1)(a)(ii)

#### Contact Officers

*Medical transfers and regional processing policy:* Alana Sullivan, Senior Assistant Secretary, Regional Processing and Resettlement, Ph: s. 22(1)(a)(ii)

*Detention network management:* Claire Rees, Commander Detention Operations, Immigration Detention Group, Ph: s. 22(1)(a)(ii)

CC Secretary  
Commissioner  
Deputy Secretary Policy  
Deputy Secretary Immigration and Settlement Services  
Chief Operating Officer  
Deputy Commissioner Operations  
Deputy Commissioner Support  
Acting Chief Finance Officer  
Acting General Counsel