

22 | 23 Annual Report

OFFICE OF THE
COMMISSIONER

Meriba Omasker Kaziw Kazipa

> We envision a future where all Torres Strait Islander families feel valued and empowered to raise their children in a way that reflects their cultural identity.

MERIBA OMASKER KAZIW KAZIPA
FOR OUR CHILDREN'S CHILDREN



The Office of the Commissioner Meriba Omasker Kaziw Kazipa (Office of the Commissioner) recognises we are visitors to the country and oceans we travel across and work in. The Commissioner acknowledges and pays respects to the Traditional Owners, Elders and Teachers of these lands, waters and seas; to those of the past whose unseen hands guide the actions and decisions of the Commissioner today; to those of the present working for their communities setting the example for the next generation; and to those of the future, the Elders not yet born who will inherit the legacy of our efforts.



The Office of the Commissioner is proud to provide its annual report for 2022-2023, following the passing of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Child Rearing Practice) Act 2020* and commencement of the operating office of the Meriba Omasker Kaziw Kazipa program in July 2021.

This annual report of the Office of the Commissioner summarises the Commission and its financial and corporate performance for the period 1 July 2022 to 30 June 2023.

DISCLAIMER
Every effort has been made to ensure this document is accurate, reliable, and up to date at time of publication. The Office of the Commissioner Meriba Omasker Kaziw Kazipa will not accept any responsibility for loss caused by reliance on this information and makes no representation or warranty regarding the quality or appropriateness of the data or information.

Torres Strait Islander and Aboriginal peoples should be aware that this publication may contain images or names of people who have since passed away. The Commission respects the right of families and communities to request the removal from subsequent publications of any image or name that causes distress.

An electronic copy of this annual report is available from the Office of the Commissioner's website at **WWW.OCMOKK.QLD.GOV.AU**

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COVER IMAGE
Hands of Torres Strait Islander mother and child.

INSIDE
Aerial shot of Victoria Parade, Thursday Island.

OUR VISION

Office of the Commissioner (Meriba Omasker Kaziw Kazipa)

Our vision is to lead the way in recognising and honouring Torres Strait Islander traditional child rearing practices, building a culturally competent service that embraces cultural diversity, and continually enhancing and improving established processes. We envision a future where all Torres Strait Islander families feel valued and empowered to raise their children in a way that reflects their cultural identity, where our Office is recognised as a model of excellence in cultural competency, and where we are relentlessly committed to continuous improvement, innovation, and learning to better serve our community. Through our work, we seek to support and celebrate the unique strengths and resilience of Torres Strait Islander families while advancing equity, social justice, and positive outcomes for all we serve.



TRIBUTE TO THE LATE UNCLE STEVE MAM

We dedicate this annual report to the late Uncle Steve Mam, in honour of his remarkable legacy and unwavering commitment to achieving legal recognition of Torres Strait Islander traditional child rearing practices. As we reflect on the impact of our work and the progress we have made towards attaining cultural rights, social justice, and positive change, we are humbled by the leadership, passion, and dedication that Steve exemplified throughout his life and his work as the Chairperson for the Kupai Omasker Working Party. His tireless advocacy and vision have inspired generations of individuals, and organisations to pursue equity and positive change, and his legacy will continue to be felt throughout the Torres Strait Islander community and beyond. We celebrate the late Uncle Steve's life and legacy by continuing in his work towards improving the lives of all Torres Strait Islanders who have been marginalised or oppressed by systemic barriers, and by promoting cultural continuity, respect, and self-determination for all Torres Strait Islander people.



OFFICE OF THE
COMMISSIONER
Meriba Omasker Kaziw Kazipa

The Honourable Leeanne Enoch MP
Minister for Treaty,
Minister for Aboriginal and Torres Strait Islander Partnerships,
Minister for Communities and
Minister for the Arts

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Dear Minister Enoch

ANNUAL REPORT

I am pleased to present our 2022 – 2023 Annual Report of the Office of the Commissioner Meriba Omasker Kaziw Kazipa. This report is made in accordance with section 110 of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Child Rearing Practice) Act 2020* (QLD) (the Act).

The Annual Report provides information on the statutory responsibilities and key activities of the Office of the Commissioner Meriba Omasker Kaziw Kazipa from 1 July 2022 to 30 June 2023. Specifically, this report outlines the function and a review of the operation of the Office of the Commissioner Meriba Omasker Kaziw Kazipa and its compliance with the relevant legislative provisions, governance and administration as contained in the Act. This report will also highlight proposals for improving the operation of, and forecasts of the workload of, the office in the present financial year.

In accordance with the Act this Annual Report does not contain confidential information or any other information that identifies or is likely to lead to the identification of a child who was the subject of an application, an applicant or a person who was required to give a statement for the application for a Cultural Recognition Order.

Yours sincerely,

Mr C'Zarke Maza
Commissioner, Meriba Omasker Kaziw Kazipa

20 October 2023

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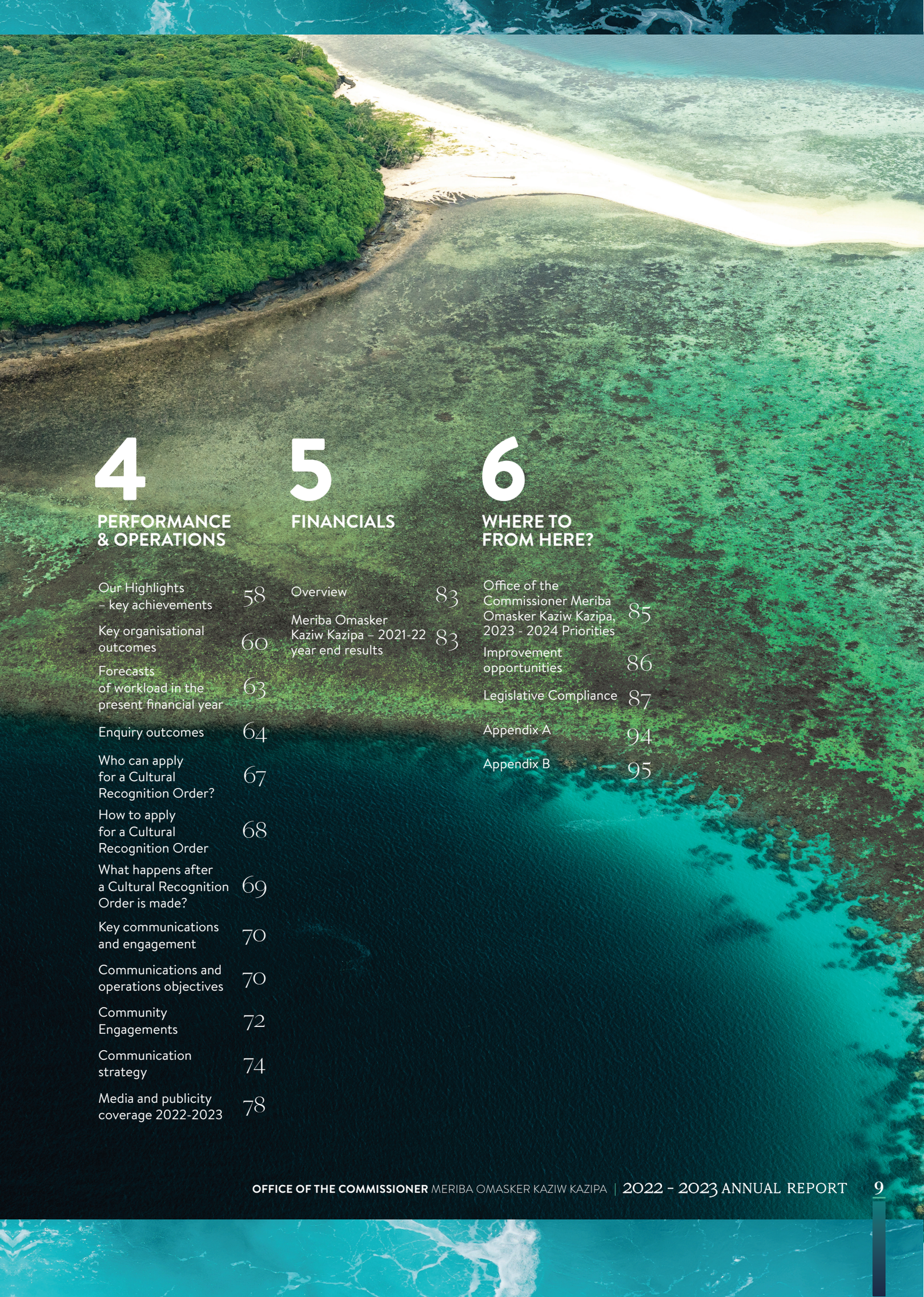

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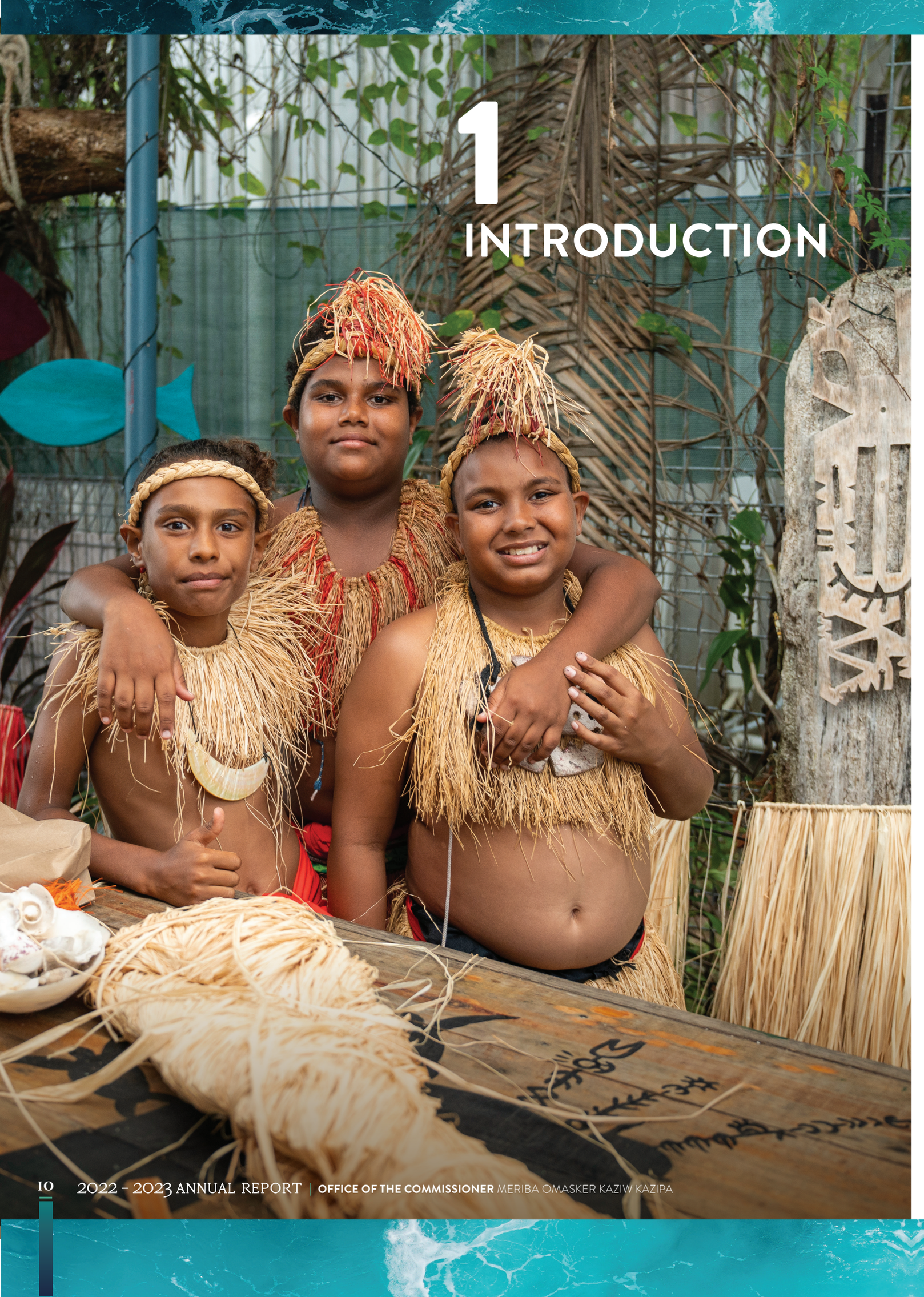


1 INTRODUCTION

CONTENT OVERVIEW

The Office of the Commissioner Meriba Omasker Kaziw Kazipa (The Office) have been working tirelessly over the past year to give Torres Strait Islander people who are subject to Ailan Kastom child rearing practices the legal and cultural recognition they so readily deserve. The Office has also been working hard to inform more communities of the historical *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* (the Act), explaining what it means for Islanders and their families and assisting interested applicants in making Cultural Recognition Orders (CROs), the official process to get cultural identity recognised in Queensland law.

The Act was passed in Queensland Parliament on 8 September 2020 and came into effect 1 July 2021 (on an auspicious day known to people of the Torres Strait Islands as 'the Coming of the Light'). This momentous occasion in Australian history is one of the most outstanding acts of reconciliation taken by the Queensland Government and should be regarded as a framework for further acts of healing, particularly as we move closer towards the Path to Treaty and the Voice to Parliament.

The Act is the first of its kind in Australian history, recognising Torres Strait Islander law in Western Law and establishes a process for the legal recognition of Torres Strait Islander traditional child rearing practice. This Ailan Kastom child rearing practice is the practice recognised by Ailan Kastom under which a child's birth parents and the child's cultural parents agree in accordance with Ailan Kastom that the parental rights and responsibility for the child are permanently transferred from the birth parents to the cultural parents. To protect and preserve the incredibly sensitive and taboo nature of openly discussing this practice, there are provisions in the Act to ensure details of these personal family arrangements are kept strictly confidential.

In passing the Act, the Queensland Government showed it is unequivocally committed to working in partnership with Aboriginal and Torres Strait Islander peoples as we journey on the Path to Treaty. It is also the first Act passed in Queensland to use traditional Islander language. It is especially meaningful that the legislation was introduced by the first Torres Strait Islander person elected to any Australian parliament, Member for Cook, Cynthia Lui. This is a Nation-leading outcome and is one of the strongest acts of reconciliation in Queensland's history.

This significant milestone would never have been possible were it not for the tireless advocacy of the Kupai Omasker Working Party, whose members have now been engaged as members of the Meriba Omasker Kaziw Kazipa Advisory Group. The group, made up of both Torres Strait Islander Elders and a small group of philanthropists, advocated fiercely for over three decades to get the sacred Ailan Kastom traditional child rearing practice recognised at law. They drew on the wealth of their combined experience in social work, legal knowledge and cultural expertise as they underwent extensive consultations with Torres Strait Island communities and the Queensland Government over the years, resulting with the Acts passing in Parliament.

After much deliberation over its naming during the consultation process, the terms 'Meriba Omasker' and 'Kaziw Kazipa' were agreed upon to describe Queensland's first piece of legislation to use Torres Strait Islander traditional languages in its title. 'Meriba Omasker' and 'Kaziw Kazipa' is made up of Torres Strait language terms from both Eastern Island and top Western Island languages, and collectively translates to 'for our children's children'.

Torres Strait Islander traditional child rearing practice is an ancient and unique practice that is integral in Torres Strait communities and has been observed for countless generations, taking place in an intricate, extended family setting. The Torres Strait Islander peoples' concept of 'family' is considerably broader than that of Western society. Under the practice, the child's biological parents are never lost to a child as the child is usually placed within the family network. The child continues to have a relationship with them and can recognise them as aunt, uncle or another familial relationship. This rich living Ailan Kastom continues to be strongly practised by Torres Strait Island families to this day.

Prior to the Act, the cultural parents in the eyes of the law had no legal relationship with the child and the child's legal identity did not reflect their cultural identity and lived experience. This lack of documentation resulted in a number of barriers including difficulties obtaining passports and drivers licences, having access to education, health, and banking and housing services. The Act sought to address these barriers. A CRO made under this Act now results in a new birth certificate being issued to the person who is the subject of the application. Being able to obtain a key identification document like a birth certificate that reflects a person's cultural identity has resulted in many positive flow-on effects, such as access to government services and school enrolments.

The Office, including the Commissioner and the office staff, are responsible for administering a process under the Act to recognise Ailan Kastom child rearing practice and establish a process for making applications for, and decisions about, the legal recognition of the practice. The Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts under the Act are responsible for providing administrative support services and facilities to enable the Office to perform its functions effectively. The Office staff assist the Commissioner in performing their duties which includes providing access to legal advice, counselling services and assisting with interpreter costs if necessary. The Office has several Cultural Support Officers who are presently located in our Cairns and Thursday Island offices. They are constantly engaging with remote Torres Strait Islander communities about the Act, assisting them

in filling out CRO applications and acting as interpreters and translating the application form into multiple Torres Strait Islander languages.

The Act appoints a Commissioner who is a decision maker with powers to independently consider and decide each application for a CRO. The Commissioner's functions also include ensuring the proper, efficient and effective performance of the office as well as promoting a public awareness of the commissioner's functions and the office.

C'Zarke Maza LL.M, a descendant of the Meriam people of Mer (Murray Island) in the Torres Strait Islands and Yidinjdji people from Cairns, was appointed as the inaugural Commissioner in mid-July 2021 and later reappointed as the Commissioner in early November 2022.

C'Zarke brings with him a wealth of experience, having been first admitted as a solicitor and barrister in 2002, and takes up the role of the Commissioner after 10 years with the Aboriginal and Torres Strait Islander Legal Service (ATSILS) as the Regional Manager and Legal Practitioner on Thursday Island.

FUNCTIONS OF THE COMMISSIONER MERIBA OMASKER KAZIW KAZIPA (THE COMMISSIONER)

The Commissioner is appointed by the Governor in Council on the recommendation of the Minister. The Minister may recommend an appointment to the Commissioner role only if the person is a Torres Strait Islander and the Minister is satisfied the person is appropriately qualified.

The Commissioner's role is to independently consider applications for a Cultural Recognition Order (CRO) and determine whether a Cultural Recognition Order should be made and to provide advice and make recommendations to the Minister about the operation of the Act and the office.

The Commissioner is an appropriately qualified Torres Strait Islander person with statutory powers to do all the things necessary or convenient to perform their functions, including independently considering applications for legal recognition of Torres Strait Islander traditional child rearing practices and issue CRO's.

A CRO permanently transfers parentage from the birth parents to the cultural parents and allows for the child's or adult's legal identity to reflect that of their cultural identity and lived experience. The making of a CRO has the same effect as a final adoption order made under the *Adoption Act 2009 (Qld).*

Although a CRO does not result in the issuing of a new birth certificate, it does facilitate the process and enables a person to apply for a birth certificate that accurately reflects their cultural identity.

The Commissioner's function (s.22(a)-(f)) include:

- independent consideration and decision making on applications for Cultural Recognition Orders
- ensure the proper, efficient and effective performance of the Office of the Commissioner Meriba Omasker Kaziw Kazipa
- provide advice and make recommendations to the Minister about the operation of the Act
- promote public awareness of the Commissioner's functions and the Office of the Commissioner Meriba Omasker Kaziw Kazipa
- advise the Registrar of Births, Deaths and Marriages of each Cultural Recognition Order made
- any other functions conferred under the Act such as requesting further information from applicants.

The following are not part of the Commissioner's responsibilities:

- determine the appropriateness of the arrangements made between birth parents and cultural parents
- assess the suitability of the cultural parents to care for the subject person as a parent
- assist in dispute or conflict resolution between parties to an application, or
- provide legal advice to parties to an application.

MESSAGE FROM THE COMMISSIONER

In the fiscal year 2022-23, the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) dedicated itself to refining its frontline operations and identifying opportunities for improvement. These efforts were aimed at ensuring a more responsive approach to emerging trends and effectively meeting the evolving needs of the Torres Strait Islander communities we serve. It has indeed been an exhilarating year, marked by significant achievements and substantial progress in promoting and increasing awareness of the legislation within Torres Strait Islander communities. We have also provided essential support to families navigating the process of applying for Cultural Recognition Orders (CRO's).

As community awareness and confidence in the scheme have grown steadily, we are delighted to report a corresponding increase in the number of applications. Each CRO granted for a child or adult application has effectively addressed the participation barriers previously imposed by Queensland laws, which were based on specific family and parenting constructs. Cultural parents who receive a CRO can now enroll their children in school, provide consent for various guardianship, medical, and other purposes, obtain essential documents such as tax file numbers, open bank accounts, and access government services, payments, and entitlements. Importantly, they no longer face obstacles when accessing their inheritance in the unfortunate event of their cultural parents passing away without a will. For these applicants, the barriers to participation are now a thing of the past, affording them the same fundamental rights and recognition as other Queensland families.

With my reappointment as the Commissioner (Meriba Omasker Kaziw Kazipa) on 1 November 2022, I was honored to continue the vital and sensitive work that commenced in this role in July 2021. This continuity ensures that children who have grown up under Ailan Kastom child-rearing practices, along with their parents, can persist in their efforts to align their legal identity with their cultural identity and lived experience.

Two years have transpired since the commencement of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* (the Act). This Act fulfilled the Queensland Government's 2017 election commitment to introduce new laws that legally recognise the outcomes achieved through Torres Strait Islander families' ongoing utilisation of traditional child-rearing practices. It stands as a historic legislative milestone and represents the first instance in Australia where traditional Torres Strait Islander languages have been incorporated into the title (derived collectively from Eastern island and Top Western island languages).

The Torres Strait Islander traditional child-rearing practices are a sacred and ancient tradition, deeply rooted in the fabric of our culture, and have endured for countless generations. These practices have been a source of safety and love for Torres Strait Islander children since time immemorial. As a proud Meriam man of the Komet Clan from Murray Island, I hold a profound understanding of this Ailan Kastom, and I firmly believe that there is no Torres Strait Islander family untouched by this practice, nor one that would not benefit from the provisions of this Act.

Before the introduction of this Act, Torres Strait Islanders who were raised by their cultural parents encountered formidable barriers that subjected them and their families to undue hardships. They were often compelled to disclose a confidential cultural practice repeatedly, in direct contradiction to the sacred, secretive, and taboo nature of this tradition. Drawing from my Meriam (Murray Island) heritage and legal education, I recognised the paramount importance of passing this historic and groundbreaking legislation. The privilege of administering this Act through our office fills us with immense pride.

The transformative impact we have achieved in the lives of our people is profound, and we can tangibly measure the positive results that enhance the well-being of Torres Strait Islanders. Our office is gratified to establish a standard that paves the way for improved outcomes, recognition, and respect for Torres Strait Islander communities, our families, our traditions, and our culture.

Office of the Commissioner (Meriba Omasker Kaziw Kazipa)

The implementation of strategic business and operational approaches, alongside a restructuring of our organisation, has yielded improved efficiencies and more favourable outcomes for Torres Strait Islander families seeking to submit CRO applications. I want to express my sincere appreciation for the dedication and commitment of our exceptional staff in both our Cairns and Thursday Island offices. Their unwavering efforts have enabled the Commission to successfully accomplish all of this year's operational objectives.

Furthermore, the Commission is fortunate to count among its team highly skilled Cultural Support Officers, whose cultural expertise, dedication and inclusive, practical approach have not only raised community awareness of our Office but have also contributed to a deeper understanding of the Commissioner's role in the CRO application process. These officers are truly indispensable to the effective functioning of my Commission.

To further strengthen relationships, promote our office, and expand our outreach, I have requested that our staff in Cairns and Thursday Island to visit Torres Strait Islander communities across Queensland. Our Cultural Support Officers, in particular, have diligently worked to increase public awareness of the Commissioner's responsibilities and our office's functions. They provide culturally competent assistance to Torres Strait Islander families, guiding them through the application process, often serving as interpreters and translating various Torres Strait Islander languages into English. Their contributions are invaluable to our mission.

I commend my staff for their unwavering dedication in effectively engaging with communities, diverse stakeholders, and other interested parties. They have consistently provided essential administrative support services while maintaining the highest level of professionalism in the execution of the office's operations.

Acknowledging the escalating demand for CRO's, particularly in light of the remote and diverse locations of Torres Strait Island families in Queensland, we have proactively undertaken measures to bolster our operational capabilities. At present, we are in the recruitment phase for three new full-time positions that will serve as cornerstones in facilitating the expansion of our office's operations. The addition of these team members is essential to effectively managing the heightened workload and demands that we anticipate.

Historic, nation-leading legislation that gives a voice to Torres Strait Islander people

The *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* establishes an extraordinary precedent by allowing for the creation of a CRO that permanently transfers parentage to cultural parents and leads to the issuance of a new birth certificate reflecting the subject person's cultural identity and life experiences. Essentially, it incorporates Torres Strait Islander law into Queensland law. At the core of this Act lies the principle of "self-determination."

This principle is evident as the Act originated from grassroots efforts led by the Kupai Omasker Working Party, who tirelessly advocated for over three decades to secure legal recognition of our Ailan Kastom child-rearing practices. Furthermore, it holds significant meaning that this legislation was introduced by the Honourable member for Cook, Cynthia Lui MP, the first Torres Strait Islander individual elected to any Australian parliament. More profoundly, the legislation appoints a Torres Strait Islander as its decision maker and commissioner.

If there ever was an example of legislation that empowers Torres Strait Islander people and provides them with a voice, this Act exemplifies it.

Key achievements this year

The past fiscal year marked significant achievements, with each successfully processed CRO bringing about substantial and meaningful improvements in the lives of entire Torres Strait Islander families. In the 2022-23 period, an impressive total of 17 CRO's were granted, representing a remarkable 425% increase compared to the previous year, 2021-22.

During this time, our office has engaged with over 420 Torres Strait Islander individuals, providing assistance with their enquiries. Notably, more than 120 of these enquiries necessitated the use of a translator, underscoring the invaluable work of our Cultural Support Officers in some of the most remote and vulnerable communities within the Zenadth Kes (Torres Strait Islands). In these communities, where English may be a fourth or even fifth language, their efforts are particularly noteworthy.

As part of our ongoing dedication to improving efficiency and fostering more favourable outcomes for Torres Strait Islander families applying for CRO's, our office is currently streamlining and simplifying the application process. This endeavor includes incorporating Torres Strait Creole and amalgamating the various application forms and attachments into a single, user-friendly document, ensuring ease of navigation, comprehension, and completion.

What the future holds

I eagerly anticipate the opportunity to carry on the crucial initiatives that our office has been spearheading since its inception. Additionally, I am excited to tackle the challenges ahead, particularly the task of ensuring the sustainability of our program funding beyond 30 June 2024.

Given the Act's relative infancy, it mandates a comprehensive review of both the Act itself and the operations of its associated office within two years of its commencement. This review serves a dual purpose: first, to assess whether the Act appropriately strikes a balance in reflecting cultural identity and ensuring adequate safeguards; and second, to identify and address any issues that may have arisen during the introduction and implementation of the new legislation.

> We have once again been able to show this year that legal recognition of Torres Strait Islander traditional child rearing practice is one way the Queensland government has promoted meaningful reconciliation in Queensland, demonstrating that culture can be protected in law.
>
> Commissioner Maza

The Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts, which bears responsibility for conducting this review, has enlisted the services of an independent consultant, Tagai Management Consultants. This strategic choice aims to guarantee that the Act functions in alignment with its intended objectives and offers an opportunity for enhancing the office's processes and the Act's implementation.

Throughout this evaluative process, the independent consultant will engage with various government agencies to consider potential implications across related legislation and consult with relevant stakeholders to pinpoint any gaps in the legislation that may not currently meet community expectations. Moreover, the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) will contribute feedback to the consultant's deliberations, ensuring a comprehensive assessment.

Recognising the relatively early stage of this legislation, we are excited about the prospect of enhancing our services and discovering more effective ways to support Torres Strait Islander individuals in securing legal recognition for their Ailan Kastom child-rearing practices. Anticipating a growing number of families seeking such recognition, we anticipate an uptake in enquiries and applications for CRO's.

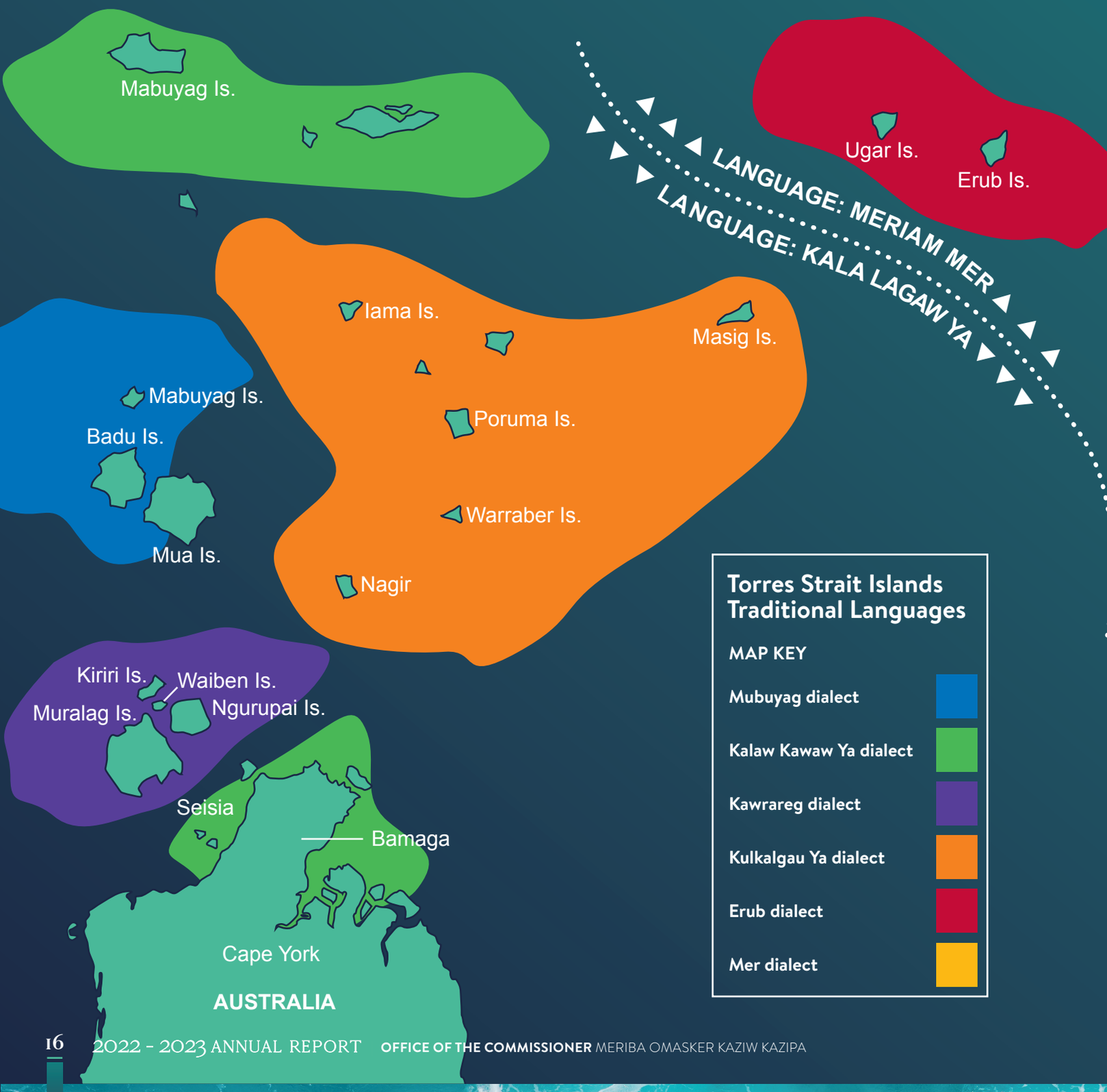
The impact of the Act extends beyond Queensland, influencing our perceptions of birth registrations and parentage throughout Australia. Given the Act's nascent stage, it promises intriguing implications for various facets of law, including family law. As we embark on the forthcoming review, with both State and Federal governments committed to strengthening their relationships with Aboriginal and Torres Strait Islander communities, we find ourselves presented with a precious opportunity to ensure that we proceed in the right direction.

With great pleasure, I present the Annual Report of the Office of the Commissioner, which outlines our activities and accomplishments for the fiscal year concluding on 30 June 2023.



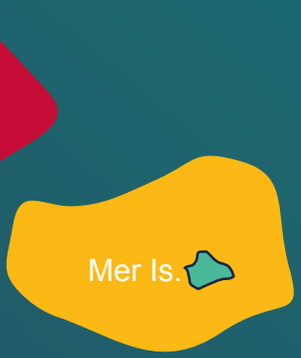
Margaret Musu and nephew

2 BACKGROUND & HISTORY



TORRES STRAIT ISLANDERS

Torres Strait Islanders have a Melanesian heritage and call the Torres Strait Islands, known as 'Zenadth Kes,' their homeland. These islands are located between the tip of Cape York Peninsula and Papua New Guinea. Interestingly, they were named after the Spanish captain, Luis Vaz de Torres, who was the first European to sail through the Torres Strait in 1606 on his way to Manila in the Philippines.



According to the 2021 Census conducted by the Australian Bureau of Statistics (ABS), Torres Strait Islanders number over 80,000 in population. However, the majority reside on the Australian mainland, with more than half in Queensland. Despite being Australia's Indigenous minority, comprising only 8.3% of the total Indigenous population (which itself accounts for 3.8% of the entire Australian population), Torres Strait Islanders often remain overlooked due to the remote location of their homelands, nestled between Cape York and Papua New Guinea.

A possible reason for the migration of Torres Strait Islanders to the mainland may be attributed to a number of factors, such as climate change, cost of living or education. The 2021 census reported over 5,900 people identifying themselves as of Torres Strait Islander and both Aboriginal and Torres Strait Islander descent within the Torres Strait Islands. Among them, approximately 2,000 live on Thursday Island, while the remainder resides on the 17 inhabited islands in the region.

Brisbane boasts the highest number of Torres Strait Islander people at 10,483, although their density in the city is relatively low, constituting only 0.3% of the total population. However, this figure represents one of the highest numbers per capita in Queensland outside of the Torres Strait. Meanwhile, Cairns has the second-highest concentration of Torres Strait Islander people in any population center in Queensland.

Torres Strait Islanders have maintained their culture and traditions relatively intact since European contact, initially by explorers and later through the influence of the London Missionary Society in 1871. They incorporated Christianity into their existing social structures, with island chiefs assuming roles as church leaders. Hierarchical structures adapted to new influences brought about by European contact, contributing to the preservation of their culture.

Taken together, these factors have resulted in Torres Strait Islanders experiencing the negative impacts of colonisation but arguably not to the same degree as many Aboriginal people in Australia. The adverse consequences primarily stemmed from the forced displacement from their ancestral lands and the concerted efforts to eradicate their heritage, language, and culture.

The Torres Strait Islands can be categorized into five main regions: Eastern Islands with volcanic origins and rich soil, Central Islands characterized by flat sandy coral cays, top Western Islands located near the coast of Papua New Guinea and featuring low-lying mangrove islands, and Western Islands, which are remnants of the Australian Great Dividing Range, consisting of old volcanic rock and scrub vegetation.

Eastern Islanders speak their own traditional language called Meriam Mer, while Western Islanders communicate in Kala Lagau Ya. Torres Strait Creole (also known as Kriol), referred to as Ailan Tok, Yumplatok, or Broken (Brokin), is commonly used and is a blend of standard Australian English and traditional languages. It developed from pidgin English during the presence of missionaries in the 1870s and possesses its own distinct sound system, grammar, vocabulary, usage, and meaning.

Most Torres Strait Islanders use Creole in their daily interactions, aiding communication among speakers of various languages. It is also employed in local and regional radio broadcasts. While English is widely understood and taught in the Torres Strait, many Islanders consider it a second or third language, preferring to use Creole for everyday communication.

1. Estimates of Aboriginal and Torres Strait Islander Australians, 30 June 2021 | Australian Bureau of Statistics (abs.gov.au)

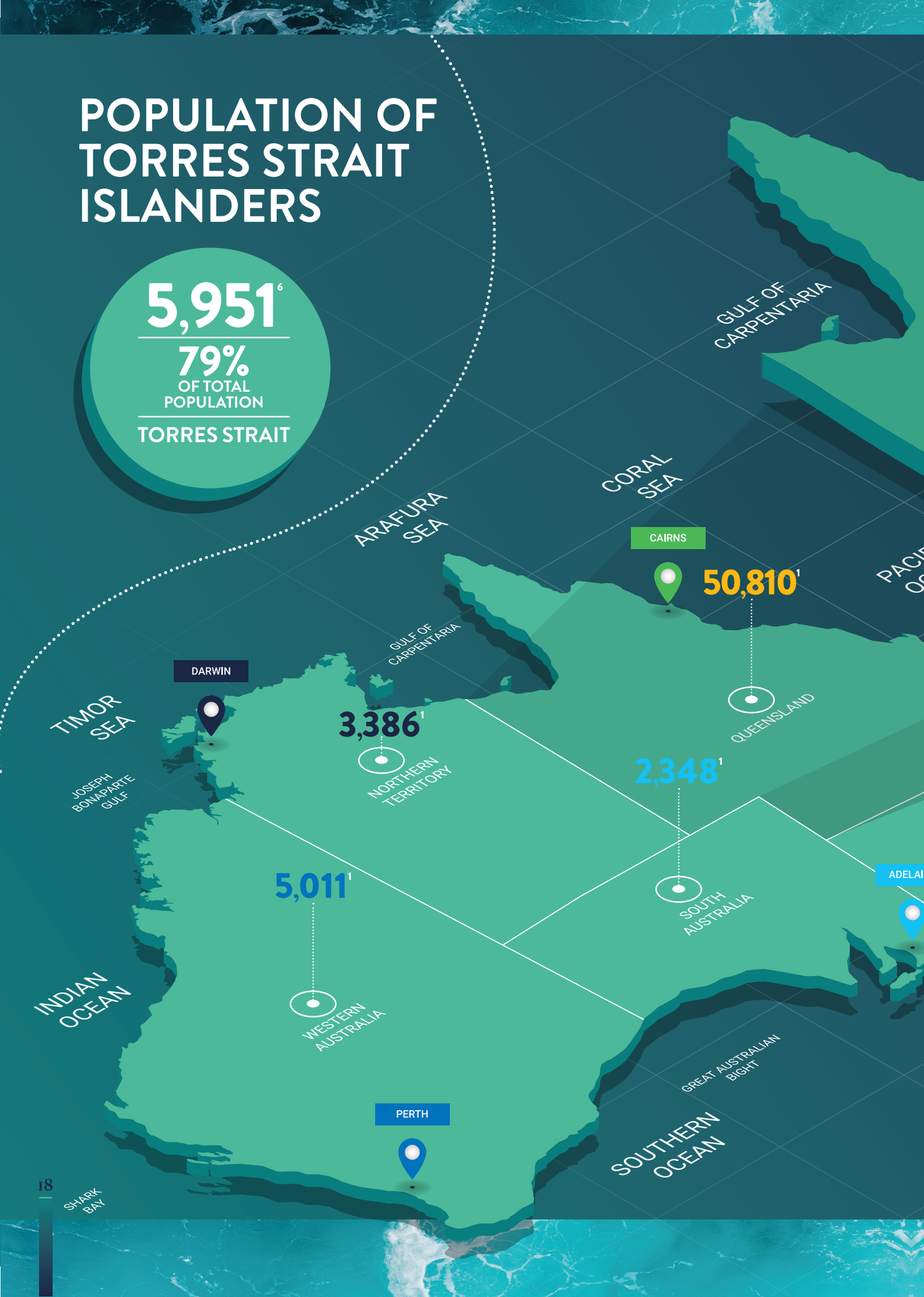
2. https://www.abs.gov.au/census/find-census-data/quickstats/2021/IREG307

POPULATION OF TORRES STRAIT ISLANDERS

5,951[6]

79%
OF TOTAL POPULATION

TORRES STRAIT





1. https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/latest-release
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5. https://abs.gov.au/census/find-census-data/quickstats/2021/IREG301
6. https://www.abs.gov.au/census/find-census-data/quickstats/2021/IREG307

AILAN KASTOM

An explanation of traditional child-rearing practices

Definition:
A child's birth parents and the child's cultural parents agree in accordance with Ailan Kastom that the parental rights and responsibility for the child are permanently transferred from the birth parents to the cultural parents.

Torres Strait Islander child rearing practices' underlying principal is that giving birth to a child is not necessarily a reason to be raising the child. The issue of who rears the child is dependent on a number of social factors, and is a matter of individual consideration by the families involved. Children are never lost to their birth parents' family, as they have usually been placed with relatives somewhere in the family network.

Variation in Ailan Kastom child rearing practice

The Ailan Kastom child rearing practices can differ greatly depending on the Island and family involved and with over 130 islands, sandy cays and rocky outcrops 18 of which are inhabited in the Torres Strait. There is not one, exact practice that covers all of the Torres Straits. What may be practiced on Mer (Murray Island) will vary significantly from Saibai Island. Whilst the above definition of Ailan Kastom child rearing practice encapsulates the essence or common thread in each Island practice, the definition was intentionally left broad enough to encompass these variations in practice.

An explanation of traditional child rearing practices by Paul Ban, Member of the Meriba Omasker Kaziw Kazipa Advisory Group

"Customary adoption is a widespread practice that involves all Torres Strait Islander extended families in some way, either as direct participants or as kin to adopted children... Adoptions are arranged between relatives and close friends where bonds of trust have already been established."

Mr Ban goes on to explain that the gifted children are never lost to their biological parents as "they are usually given to relatives or close friends within their kinship and social network".

Some of the reasons for the widespread nature of Traditional 'child rearing practices' include:

- To maintain the family bloodline by giving a male child to a relative, this is also linked to the inheritance of traditional land in the islands.
- To ensure a family name lives on by giving a male child or a relative or close friend of the family.
- To strengthen alliances and bonds between two families
- To give a family who cannot conceive a child of their own, the chance to experience the joy of raising a child.
- To distribute boys and girls more evenly in families who may only have children of one sex.
- To replace a child who had been gifted to another family.
- To replace a child in the family after a women has felt home so the grandparents would still have someone to care for.

Examples of child rearing practices in other cultures

While the practice of child rearing has been prevalent in Torres Strait Islander culture and tradition for millennia, it is not the only culture in the world to observe this practice. In fact, traditional child rearing practices are widely practiced in Papua New Guinea, a number of the Pacific Islands, New Zealand and Canada with remarkable similarities between these cultures.

In Papua New Guinea, the practice has long been recognised as the equivalent of adoption and under the *Adoption of Children Act 1968*, their legal system may make an order for the adoption of a person who has been brought up, maintained and educated by the applicant or applicants, or by the applicant and a deceased spouse of the applicant, as his or their child.

In Canada, traditional child rearing practices has received various degrees of legal recognition in some of the Canadian Provinces and in particular Nunavut and it is intricately bound to their culture, worldview and kinship system. Inuit people's 'Custom Adoption' as they call it shares incredible similarities to the Torres Strait Islander Ailan Kastom where children can be gifted for a number of reasons including for grieving parents to ease the ache of their loss, for an elderly couple so they would have someone to look after them and more. One notable difference with the Torres Strait Islander approach is that of keeping the Ailan Kastom child rearing practice secret from the child involved until maturity. On the contrary, the fact of the 'custom adoption' with the Inuit people is not a secret between the family group and in that sense is open.

Torres Strait Island community members describe the differences in child rearing practice within the community:

> In Mer culture it (the giving of a child) is through the bloodline. When we say "bloodline", if I am the brother, Mrs A is the sister and Leo is the child and Mrs A as my sibling has no children, we agree - brother and sister - to adopt Leo. That is what we mean by through bloodline, because we are related by blood. We are siblings. We are first cousins. Cousins are recorded in that with siblings.
>
> Francis Tapim Eastern Islander

> From a western island perspective in regards to island adoption, we hold the family circle as very important. In non-Indigenous family circles there is a mother, a father and two or three children. With our family it extends out to uncles, aunties and grandparents. For our community, the waku, the mat that we play on and sit on, is regarded as an analogy of family and community. The strands are woven together which holds our family together. Our relationship with each other and other clan groups is very important and vital.
>
> Ezra Anu
> Western Islander

> Particularly with women, if we marry out, we have to replace ourselves back in the family. So, the eldest child usually is the one that we place with the family. Another one is that if you have a child out of wedlock the family would raise this child for you. Women in particular are not subjected to any sort of domestic violence or jealousy of any sort. The woman can then walk her life knowing that this child is safe with the family group who would look after it.
>
> The eastern islanders practice mainly through bloodline, so you must be related to that person or family for them to give you a child. With the western islands, you can transfer the child.
>
> Ivy Trevallion, Western Islander



Pictured: Liz Ware-Ahwang

THE WOVEN MAT

Traditionally, an agreement is usually made between the families and once the transference has occurred (i.e. giving of the child), the 'mat is closed' (meaning the matter is permanently closed). It is important to be aware that discussions around Ailan Kastom and details of the practice itself is considered taboo and are highly sensitive. Any decision to disclose this Ailan Kastom to the subject person, is fundamentally left to the cultural parents.

Philemon Mosby
Torres Strait Island Regional Council Mayor

For Torres Strait Islanders, the mat signifies life's journey from cradle to grave. It is used for housing material, sleeping, conceiving, birthing, initiation, education, marriage, welcoming, meeting, transport, hunting, ceremonies, shelter and to our final journey. The interwoven pattern and the weaving of our mat signifies our strength and our unity in any challenges we face, but most importantly in this context it signifies the interconnection of all Torres Strait Islanders, regardless of which island or community we may originate from. We are all interconnected, and the residents of our community are all interrelated.

This is not about being recognised in our communities, that recognition already existed, this is more so for our children to reaffirm their identity and place in a western society. As Torres Strait islanders, we are all interconnected and residents of our communities are all interrelated. Because of our inter-connectedness, adoption for Torres Strait Islanders takes on a different context to that in the western world. So too does extended family and kinship.

Margaret Gabey
Murray Island, Zagreb/Geauram Tribe.

The many bends, curves and colours of a Woven Mat, reflects an individual's own journey of life experiences from Womb to Tomb. Our experiences is like a woven mat.

Cynthia Lui
Queensland State Member for Cook.

For our community, the waku, the mat that we play and sit on, is regarded as an analogy of family and community. The strands are woven together which holds our family together. Our relationship with each other and other clan groups is very important and vital. This legislation will legitimatise that lore in regard to our recognition of island adoption. I am a product of that. That means we adopt inside of our totems.

When we talk about the interconnectedness of our people with each other, it represents that mat because unlike the westernised society, we are all connected either through blood or simply because of our very existence in these communities. Each of us are related to each other, That is important for us to understand. That is why we are supporting this and that is why people could not understand before. We are all cousins, mothers, fathers and grandfathers.

Liz Ware-Ahwang
Wug Village, Moa Island

When I see an Island mat or woven mat it reminds me of our Torres Strait Islander Heritage, Culture, Languages and Ceremonies.

The many hands that are used to weave together the leaves represent generations of Families, Friends Uniting together as one.



THE COCONUT PALM TREE

The coconut palm tree: a metaphor for Islander family life

by Steve Mam, McRose Elu, Ivy Trevallion and Allan G. Reid

The coconut palm tree serves as a metaphor for Island family life – the roots represent heritage, the trunk represents tradition, and the growth of leaves and maturing of coconuts/fruit, represent culture.

Each stage contains an underlying principle that showcases a different but integral part of Islander culture, life and traditions.

STAGE 1
THE ROOTS OF THE COCONUT TREE

The roots of the coconut tree represent the basis of existence for Torres Strait Islanders, out of which arise the seed (refer Stage 9) of future generations. In the same way that the coconut tree depends on its roots to provide stability and an anchor in time and place, Torres Strait Islanders depend on their ancestral roots to 'fix' their existence in humanity through their particular traditions and customs.

THE PRINCIPLE: Foundation and Heritage – The past, present, and future parents of Torres Strait Islander existence are embodied in the roots of the coconut tree.

STAGE 2
THE TRUNK OF THE COCONUT TREE

Provided that the roots of the coconut tree are strong, the trunk of the tree shall also be strong and be the conduit for the sap - or 'spiritual energy' - to pass back and forward between the upper and lower parts of the tree. The trunk is the vital channel connecting the upper and lower parts of the tree together.

THE PRINCIPLE: Intimate Union of Male and Female - Husband and Wife – In a 'fundamental' sense, the union of opposites gives rise to offspring and is a continual process underlying the spiritual existence of Torres Strait Islanders.

STAGE 3
THE LEAVES OF THE COCONUT TREE

As with most indigenous peoples throughout the world, the extended family is an environment enjoyed, having a clearly defined structure. The keyword is relationships and in a defined structure has prominence. Relationships between members of the extended family (the microcosm of economy) are subject to strict rules, with 'place' having jurisdiction.

As with the leaves of the coconut tree which are on display to all, relationships between the extended family, according to tradition, custom and practice, are on display to all and in this sense are exposed without shame.

THE PRINCIPLE: The Extended Family – The extended family environment of Torres Strait Islanders is rich with the practice of Traditional Child Rearing.

STAGE 4
THE NEW SHOOT OF THE COCONUT TREE

At the apex of the coconut tree the new shoot grows, and when matured fans out into new leaves. The new leaves when encased in the shoot itself is akin to the embryonic state of childbearing, and, when sprouting, is akin to the birth process.

THE PRINCIPLE: Siblings – Siblings are an important factor in the lifestyle and culture of Torres Strait Islanders.

STAGE 5
THE FIRST TIER OF LEAVES AROUND THE NEW SHOOT

Surrounding the new shoot are tiers of leaves whose geometry is different from that of the main body of leaves on the tree. These leaves grow vertically and in a circular pattern around the new shoot. In that sense they are seen by Torres Strait Islanders to be sentinels of the new shoot, though one can only speculate on their actual function in relation to the rest of the tree.

THE PRINCIPLE: The Teachers – This tier of leaves are the aunts and uncles of the siblings. In the traditional moiety system of Torres Strait Islanders, there is a special person for each child who functions as the 'external teacher' as distinct from the biological parents who function as the 'internal teachers'.

STAGE 6
THE SECOND TIER OF LEAVES AROUND THE NEW SHOOT

Surrounding the first tier of leaves, which are arranged in a circular pattern around the new shoot, is a second tier of leaves.

THE PRINCIPLE: Guardians of Knowledge and Culture – This second tier of leaves functions more remotely in relation to the growth of the siblings than does the first tier of leaves surrounding the new shoot. They are the Elders of the community from whose number is chosen the principal Elder known as the Mamoos (pronounced mah-moose). By virtue of their age, the Elders are considered the wise ones of the community whose collective wisdom oversees the everyday existence of Torres Strait Islanders.

STAGE 7
THE BUNCHES OF COCONUTS

Coconuts are the result of fertilisation of the flower which produces the fruit and, in whose existence is also the seed of new coconut trees. In the cycle of life, they bear the physical evidence of the sap of the tree.

THE PRINCIPLE: The Individual and People – The simile employed here is that the fruit of the tree (the individual and the people) is the material evidence of the transformation of sap (spiritual energy) via the effect gained through channeling the trunk along the strictures of 'household rule.

STAGE 8
THE DEAD LEAVES OF THE COCONUT TREE

The leaves of the coconut tree having completed their function of photosynthesis for their host (viewed from the perspective of the individual) simply fall to the ground and are strewn around the trunk.

THE PRINCIPLE: Old People (Ancestors/Lineage) – Reproduction after rejuvenation – Old people having realised their function of maturity (refer Stage 6) pass on from this physical life and join their ancestors in their spiritual life hereafter.

STAGE 9
THE FALLING COCONUTS

Once the coconuts have reached prime maturity, they simply fall off the tree to the ground below and assimilate into seed form for new growth.

THE PRINCIPLE: Offspring/New Generation – The falling coconuts represent offspring and new generation and the perpetuation of tradition, custom, culture and practice.

STAGE 10
THE GROWTH RINGS AROUND THE TRUNK

Around the trunk of the coconut tree are growth rings which are easily seen.

THE PRINCIPLE: Recording of History (visual and aural) – Torres Strait Islanders use the individual growth rings, or collections of them, to fix a record of an event into place. They are visual records seen and understood by those having the 'key' to read the records. Torres Strait Islander people have practiced the sacred Ailan Kastom child rearing practice since time immemorial however it is important to recognise it has been an extremely long and arduous journey to get the honoured practice legally recognised.

THE JOURNEY TOWARDS LEGAL RECOGNITION

Torres Strait Islander people have observed the sacred Ailan Kastom child rearing practice since time immemorial. However, it's vital to acknowledge that achieving legal recognition for this revered tradition has been an enduring and challenging journey.



Members of the Advisory Group with Hon Craig Crawford MP (left) and Commissioner C'Zarke Maza

CONSULTATIONS THAT INFORMED THE ACT

The Act was developed in response to years of advocacy by Torres Strait Islander peoples and builds on previous consultations held in 1993 and from 2011 to 2013.

Three Eminent Persons were engaged to provide legal, cultural and gender expertise throughout the complex and culturally sensitive consultations. They worked closely with the Queensland Government and Torres Strait Islander communities to ensure the voices of these communities and their peoples were reflected in the development of the Act.



Ms Ivy Trevallion

Torres Strait Islands' first social worker, graduated from Queensland University in 1986 and current Chair of the Kupai Omasker Working Party.

Honourable Alastair Nicholson AO RFD QC

Former Chief Justice of the Family Court with extensive knowledge and experience of traditional Torres Strait Islander childrearing practices including previous assistance with consultations and advisory to the Kupai Omasker Working Party since 2010.

Mr Charles Passi

Torres Strait Islander member of the Queensland Centre for Domestic and Family Violence Aboriginal and Torres Strait Islander Advisory Group and former Chair of the National Aboriginal and Torres Strait Islander Healing Foundation (2013-2015).

In 2018, with the support of a panel of Eminent Persons, the Queensland Government led a series of community meetings.

More than 350 Queenslanders participated in meetings held in communities across the state including Thursday Island, Cairns, Bamaga, Townsville, Mackay, Badu Island, Mer Island, Caboolture, Goodna, Brisbane City and Carindale, in response to 'Akuar Thoeridhay Kazi' – For Our Children's Children' Consultation Paper.

In 2019, the former Department of Aboriginal and Torres Strait Islander Partnerships facilitated a series of targeted consultations with the Eminent Persons on the draft legislative framework that would guide the introduction of the Bill.

The department held a consultation workshop to discuss the Bill with the Kupai Omasker Working Party, Eminent Persons and Judge Josephine Willis AM, Cairns Federal Circuit Court Judge, with representatives from the former Department of Child, Safety, Youth and Women and Department of Justice and Attorney-General in attendance.

Other organisations were also consulted on the draft Bill including the Queensland Human Rights Commission, the Queensland Family and Child Commission, the Queensland Civil and Administrative Tribunal, the Office of the Public Advocate, the Office of the Public Guardian, the Public Trustee, Queensland Law Society, the Bar Association of Queensland, Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Services and relevant heads of the judiciary.

Key findings

The main points drawn from the consultation periods were:

- All Torres Strait Islander children should be able to obtain a birth certificate the reflects their cultural identity and lived experience.
- Cultural law and protocols dictate that discussion about traditional child rearing practices outside the family (particularly those directly involved) is 'taboo', prohibited and regarded as highly inappropriate.
- Any process for Torres Strait Islander people to obtain legal recognition should be affordable, accessible, culturally appropriate and confidential.

A TIMELINE OF THE PROCESS

1930-1970

During the period spanning the 1930s to the 1970s, under the policy of assimilation, forced adoptions were prevalent in Australia. The emotional trauma inflicted upon all those affected by this policy had devastating consequences on First Nations communities, and its lingering effects persist to this day.

Torres Strait Islanders are also victims of the "Stolen Generations" and while children were removed from their families, it was not to the same extent as Aboriginal children on the mainland.

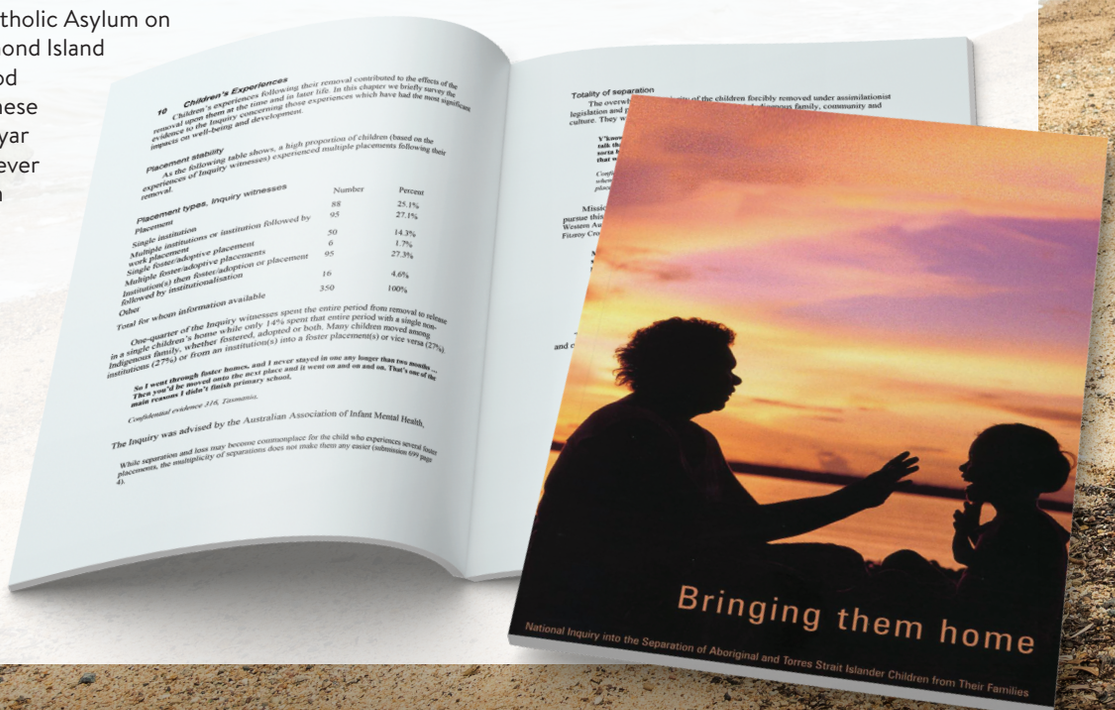
Until the 1960s, it was the Queensland Government's policy to restrict the movement of Torres Strait Islander people, including from island to island. It wasn't until the introduction of the Assimilation Policy in the 1960s that Torres Strait Islander families were allowed to move to the mainland. During this time, forced removals of Torres Strait Islander children occurred from regional centres like Cairns and Townsville, as well as Palm Island rather than up in the Torres Strait.

From 1897 to the 1970s, the most common form of child removal in the Torres Strait was the forced removal of mixed-heritage children to mission dormitories on the Islands which included St Henry's Roman Catholic Asylum on Thursday Island and the Hammond Island Mission Orphanage, for a period during WWII, the children at these missions were sent to the Cooyar Mission near Toowoomba however it is unclear where the children went after it closed in 1944.

Given the remoteness of the Islands, "promising" students were also removed from the Torres Strait for schooling and sent down south during the twentieth century, although it is contested whether this is considered "forceful" removal, because parents consented, kept in contact with their children, and had visits during school holidays.

There also seemed to have been very early removals from the Torres Strait to Pacific Islands around 1900 as, like some Aboriginal people, Torres Strait Islanders were mistaken for Pacific Islanders and forcibly removed to various South Sea/ Pacific Islands.

Past policies and practices within government and non-government organisations saw many forced adoptions of Torres Strait Islander children and many Torres Strait Islander people forcibly moved from their homelands – it has been suggested that between one in three Torres Strait Islander children were forcibly removed from their parents, community and culture. These children were placed in institutions, non-Indigenous foster homes or adopted by non-Indigenous families. Many children were informed their parents did not love them, did not want them or that their parents had passed away. Children were not allowed to speak



their traditional language and they were often given minimal education, limiting their employment options to low skill work like domestic helpers or labourers.

The trauma faced by many Torres Strait Islanders was not limited to the forcible removal of their children as often these children were subjected to harsh living conditions, abuse and neglect. The loss of kin, culture and identity was the result of children growing up not knowing where they came from, who their family is and having no sense of belonging.

The removal of generations of children disrupted the sharing of oral culture between generations, resulting in the loss of cultural knowledge, ways of living, how kinship systems and community offer security, survival techniques such as fishing and hunting and sharing of information through storytelling, art, dance and music.

As an added impact of these forced separation between parents and children, many families were not able to experience healthy family life – the children of these forcible removals are known as the 'Stolen Generations'.



> A people without the knowledge of their past history, origin and culture is like a tree without roots.
> Marcus Garvey

A TIMELINE OF THE PROCESS

Continued...

1970
Torres Strait Islander child rearing practices whilst not legally recognised were able to be registered as adoptions under the now repealed *Adoption of Children Act 1964 (Qld).*

1985
The Queensland government ceased registration of traditional Torres Strait Islander adoptions and issuing new birth certificates to adoptive parents.

1988
Surrogate Parenthood *Act* 1988 (Qld) passed, which prohibited not only commercial surrogacies but also those carried out on an altruistic basis (non-commercialised surrogacy). Basically this *Act* resulted in some forms of Torres Strait Islander traditional child rearing practices being criminalised.

1990
Family Court commences the Kupai Omasker program led by the Hon. Alistair Nicholson then Chief Justice of the Family Court of Australia. The Hon. Alistair Nicholson continues his important work as a member of the Meriba Omasker Kaziw Kazipa Advisory Group.

Working Party Members of the Kupai Omasker Torres Strait Islander Child Rearing Practices formally established. With the Working Party, the Queensland Government authorised consultations with Torres Strait Islander people living on the Islands and on the Australian mainland.

1997
State-wide workshop on Customary Adoption was conducted, funded by the Queensland Government's Office of Aboriginal and Torres Strait Islander Affairs and the Department of Family Youth and Community Care, and was held in Townsville.

The Office of Aboriginal and Torres Strait Islander Affairs and Department of Families, Youth and Community Care report 'The Legal Recognition of Torres Strait Islander Traditional Adoption' confirmed previous findings on the high frequency of customary adoption within the community, and provided direction to the Queensland Government regarding legislative and non-legislative change, including that legislative recognition of this issue be considered by both the Commonwealth and the Queensland Governments.

The report was endorsed by the Torres Strait Islander community at their Seventh National Conference in Rockhampton in late September 1997.

1998
Further consultation conducted by the Working party with Torres Strait Islander people in Queensland as a result of the 1997 National Conference on the legal recognition of customary adoption.

1999
A discussion paper was issued by the Queensland Government's Department of Aboriginal and Torres Strait Islander Policy Development which recommended 'full and proper' consultation take place with the Torres Strait Islander community over proposed ways in which customary adoption could be incorporated legally into existing adoption legislation.

1986

Australian Law Reform Commission report Recognition of Aboriginal Customary Laws, highlighted that the kinship relationships and child-rearing practices of Aboriginal and Torres Strait Islander peoples are of fundamental importance in bringing up children in their societies, however recommended against specific recognition of such customary adoption. It was the Commission's view that sufficient protection was already provided by the placement principle, which in essence provided that if and when the need arose, to place Aboriginal and Torres Strait Islander children outside their family homes, the Aboriginal Child Placement Principle outlined a preference for these children to be placed with other Aboriginal and Torres Strait Islander people.

1993

A consultation was commissioned by the Queensland Government in 1993 and Torres Strait Islanders were interviewed together with attending community meetings at major towns on the coast of Queensland and six islands in the Torres Strait. This consultation process which led to the 1994 'The Tree of Life' Report was conducted, with a consistent theme emerging that due to lack of legal recognition of customary adoption, children were being raised in adoptive families and finding out inadvertently that their adoptive name was not the name on their birth certificate.

1994

In June 1994, a report titled 'The Tree of Life', was presented to the Minister for Family Services and Aboriginal and Islander Affairs by the IINA Torres Strait Islander Corporation. The report was developed as a result of the 1993 consultations which outlined the problems Torres Strait Islander people were facing trying to maintain customary adoption without appropriate legal recognition.

Following representation by the late Chair of the Working Party and a visit to the Torres Strait by the Hon Alastair Nicholson, the Family Court adapted its practices to enable parenting orders to be made in favour of receiving parents. The Family Court remained however unable to correct the birth certificate.

2001

Family Law Pathways Advisory Group noted in their 2001 report titled 'Out of the Maze' that there needed to be meaningful consideration given to amending the *Family Law Act 1975* (C'wlth) to incorporate Indigenous child rearing practices.

2004

Kupai Omasker subject to review by the Family Law Council, made recommendations that the *Family Law Act 1975* (C'wlth) be amended to acknowledge that children of Indigenous origins have a right, in community with other members of their group, to enjoy their own culture and to recognise traditional adoption practices of Torres Strait Islander people.

2008

Investigation into Altruistic Surrogacy committee recommended developing options for recognising traditional Torres Strait Islander adoptions.

2009

Introduction of *Adoption Act 2009 (Qld)* which recognised that Island custom includes a customary child rearing practice that is similar to adoption, in so far as parental responsibility for a child is permanently transferred to someone other than the child's parents

2010

Queensland Government commences consultation in the Torres Strait and on the mainland of Queensland.

Commencement of Surrogacy Act 2010 (Qld) to decriminalise non-commercial and altruistic surrogacy.

2011

The Department of Aboriginal and Torres Strait Islander and Multicultural Affairs consults with Torres Strait Islander people in the Torres Strait.

2012

The Department of Aboriginal and Torres Strait Islander and Multicultural Affairs have consultations with Torres Strait Islander people on the mainland.

The Family Court of Australia in 2012 highlighted its limitations when dealing with Torres Strait Islander child rearing practices and advocated for the Federal and State governments to introduce new laws that respect this practice. As noted by Watts J in *Beck and Anor & Whitby and Anor [2012] FamCA 129* at 75:

"...the first Respondent is recorded on the birth certificate as the child's father and the second Respondent is recorded on the birth certificate as the child's mother. There is currently no power under the *Family Law Act* to make any order that would rectify that situation. Notwithstanding the orders I make today, under the *Family Law Act*, the Respondents remain the child's parents and the Applicants do not become the child's parents. The difficulty with the birth certificate is an example of a practical problem that flows from the lack of formal recognition of the Applicants as the parents of the child. The problem has been discussed for more than 25 years in various significant Government reports. The Federal Government has the power to amend the *Family Law Act* to enable a court to declare persons in the positions of the Applicants in this case as parents. Alternatively, the states have power to amend State legislation to allow full recognition of traditional Torres Strait Islander child rearing practices. Maybe one day the law will be changed."

2019

DATSIP engaged with Alistair Nicholson and Ivy Trevallion regarding the model.

DATSIP worked with colleagues across Queensland Government, including the Births, Deaths and Marriages Registry, QCAT and Right to Information Unit to develop a framework that will legally recognise Torres Strait Islander traditional child rearing practices.

DATSIP has sought a number of legal advices given the complexities of legislation that is a first for Australia.

2020

Queensland's first Torres Strait Islander Member of Parliament Cynthia Lui, Member for Cook, introduced the draft *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Bill 2020.*

The *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Act 2020 (Qld)* was granted royal assent on 14 September 2020.

Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) works to establish the Office of the Commissioner.

This includes engagement with relevant agencies across the Queensland Government including the Births, Deaths and Marriages Registry, Queensland Police Service, Department of Justice and Attorney - General (DJAG) and the Department of Children, Youth Justice and Multicultural Affairs (DCYMA). On 16 July 2020, Ms Cynthia Lui MP, Member for Cook, introduced a private members Bill, the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) into State Parliament (The Bill). This Bill was introduced with the full support of the Palaszczuk Government and was adopted by the Queensland Government.

2021

1 April

Proclamation of some provisions of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Act 2020.*

1 July

Proclamation of remaining provisions of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Act 2020.*

12 July

C'Zarke Maza commences duties as inaugural Commissioner (Meriba Omasker Kaziw Kazipa).

17 August

Office of the Commissioner (Meriba Omasker Kaziw Kazipa) in Cairns officially opened.

2017

During the 2017 Queensland election campaign, the Queensland Government made commitments to:

Introduce new laws that legally recognise the outcomes achieved by Torres Strait Islander families' continued use of traditional 'adoption' (GEC 580);

Appoint an eminent person who will help consult with Queensland's Torres Strait Islander community on the laws to recognise Torres Strait Islander adoption (GEC 581); and

The government further committed to allocate $1 million to implement the legislation

2018

Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) engaged three Eminent Persons, Ms Ivy Trevallion, Mr Charles Passi and the Hon. Alistair Nicholson to provide legal, cultural and gender expertise during the complex and culturally sensitive consultations with Queensland's Torres Strait Islander community.

The Eminent Persons met for the first time on 12 June 2018 together with representatives from DATSIP, Department of Child Safety, Youth and Women (DCSYW), Department of the Premier and Cabinet (DPC) and the Department of Justice and Attorney-General (DJAG); and then again on the 28 June 2018.

DATSIP coordinated more than 30 consultation meetings (including community, small group and individual meetings) held in the Torres Strait and across Queensland in November and December 2018. This included: Thursday Island, Murray Island, Badu Island, Cairns, Bamaga, Townsville, Mackay, Goodna, Caboolture, and Brisbane. Over 350 Queenslanders participated in these meetings.

2021

1 September
Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Regulation 2021 commenced.

7 September
Meriba Omasker Kaziw Kazipa application process opened. Meriba Omasker Information Management System (MOIMS) goes live to undertake record keeping and uploading of information relating to the application process.

2021

22 November
First Cultural Recognition Order was granted.

On 22 November 2021, a significant milestone was reached when the first Cultural Recognition Order was granted. This momentous occasion held profound significance, not only for Queensland but for all of Australia. It underscored the effectiveness of legislation introduced by the Queensland government in making a tangible and meaningful difference in the lives of Torres Strait Islander families. It served as a testament to the Queensland Government's commitment to giving voice to First Nations people and stood as a shining example of legislated self-determination.

The granting of this historic order marked the culmination of decades of tireless advocacy by the Kupai Omasker Working Party, dedicated to achieving legal recognition of Torres Strait Islander child-rearing practices.

With this legislation now in place, Torres Strait Islanders who are granted a Cultural Recognition Order are afforded the same fundamental identity rights as every other Queenslander. It empowers them to obtain a birth certificate, Medicare card, driver's license, and passport that accurately reflect their cultural identity.

The official signing and endorsement of the first order represented more than a mere bureaucratic procedure. It symbolised the collective dedication of countless Torres Strait Islanders who poured their hearts and souls into the arduous journey of securing legal recognition for this ancient and enduring cultural practice.



THE BILL



On **16 July 2020**, Cynthia Lui, the first Torres Strait Islander person elected to the Queensland Parliament, introduced a Private Member's Bill supported by the Queensland Government to legally recognise the Torres Strait Island traditional child-rearing practice, titled *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020.*

The objectives of the Bill were to:

- recognise Ailan Kastom child rearing practice
- establish a process for applications to be made for the legal recognition of the practice
- provide a decision-making process that will establish the legal effect of the practice

The Bill introduced a framework aimed at officially enshrining the traditional Torres Strait Islander Ailan Kastom into the legal system. As per the Torres Strait Island Regional Council, the Bill carried 'specific and important significance as a new nexus between lore and law'.

This legislation marked a groundbreaking milestone as it was the first of its kind in any Australian Parliament to incorporate Torres Strait Islander languages. It also stood as the inaugural legal framework of its kind in Australia.

The Bill also made numerous amendments to other legislation, relating to parental and annual leave entitlements and payroll tax, guardianship and powers of attorney, and criminal law.

> Legally recognising Torres Strait Islander traditional child rearing practice is an important step forward in the Queensland Government's journey to a reframed relationship with First Nations people and acknowledges the strength of Torres Strait Islander culture.
>
> As stated during the departmental briefing by the Deputy Director-General, Policy and Corporate Services, DATSIP.



Pictured: Helen Matthews and sons

> We trust this legislation will help remove identification barriers for participation in important areas such as education, health, housing and finance to ensure our young people raised through traditional child rearing practices don't get left out.
>
> Ivy Trevallion said of the Act's passing.

RECOMMENDATIONS ON THE BILL

RECOMMENDATION 1

The committee recommends the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020* be passed.

RECOMMENDATION 2

The committee recommends that the Department of Aboriginal and Torres Strait Islander Partnerships prioritise the implementation of education programs that are culturally appropriate, independent and supportive, as well as mindful of the sensitive nature of the Ailan Kastom process.

The committee recommends that the department explore opportunities for the provision of independent counselling and support to be made available to people who may experience trauma as a result of their interaction with the legal recognition process.

RECOMMENDATION 3

To uphold the independence of the Commissioner, the committee recommends that the Department of Aboriginal and Torres Strait Islander Partnerships establish the offices for the Office of the Commissioner, in both Cairns and Thursday Island, in facilities separate to departmental offices.

RECOMMENDATION 4

The committee recommends that the clause 124 of the Bill be amended so that section 44 of the *Births, Deaths and Marriages Registration Act 2003* is further amended to explicitly instruct the Registrar to remove the names of the birth parents from the new birth certificate.

RECOMMENDATION 5

The committee recommends that the clause 124 of the Bill be amended so that section 44 of the *Births, Deaths and Marriages Registration Act 2003* is further amended to ensure that the Registrar may give requested information relating to a closed entry for a person (who is the subject of the traditional recognition order, and while still a child) only with the consent of one or more of the cultural parents (and/or guardian).

RECOMMENDATION 6

That proposed section 45 of the Bill be amended to ensure the destruction of any criminal history information received by the Commissioner under that section occurs as soon as practicable after the information is no longer needed for the purpose for which it was requested, similar to other relevant Queensland Acts.

ENQUIRY PROCESS OF THE BILL

On **17 July 2020**, the committee extended an invitation to stakeholders and subscribers to provide written submissions concerning the Bill. In response, a total of nineteen submissions were received. The committee also received written input from the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) addressing matters raised in these submissions.

Subsequently, the committee conducted a public briefing about the Bill on July 22, 2020. The participants included DATSIP, Aunty Ivy Trevallion (Chair of the Kupai Omasker Working Party), and the Queensland Human Rights Commission. Another public briefing on the Bill was received from DATSIP in Brisbane on 10 August 2020.

Throughout the inquiry process, the committee held a total of six public hearings and three private hearings, during which they heard testimonies from 78 witnesses.



These hearings took place not only in Brisbane on 10 August 2020, but also in various locations in North Queensland and the Torres Strait from 3 to 7 August 2020. These locations included Townsville, Thursday Island, Cairns, Saibai Island, and Bamaga.

Additionally, the Bill incorporated consequential amendments to various legislative acts, including the *Adoption Act 2009*, the *Births, Deaths, and Marriages Registration Act 2003*, the *Criminal Code*, *the Domestic and Family Violence Protection Act 2012*, the *Domicile Act 1981*, the *Evidence Act 1977*, the *Guardianship and Administration Act 2000*, the *Industrial Relations Act 2016*, the I*ntegrity Act 2009*, the *Payroll Tax Act 1971*, the *Powers of Attorney Act 1998*, the *Public Service Act 2008*, and the *Right to Information Act 2009*.

THE ACT

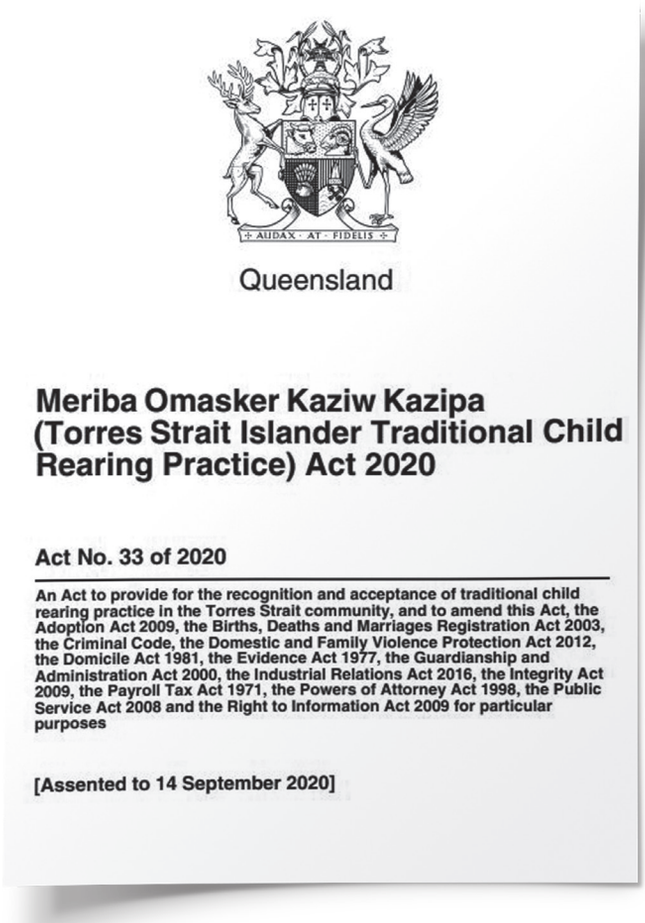
Meriba Omasker Kaziw Kazipa
(Torres Strait Islander Traditional Child Rearing Practice) Act 2020



On **8 September 2020**, the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* was successfully passed in the Legislative Assembly and received formal assent on 14 September 2020. The Act officially came into effect on 1 July 2021, with the exception of sections pertaining to the appointment of the Commissioner and the establishment of their office, which were implemented on 1 April 2021.

This groundbreaking Act facilitates the legal recognition of Ailan Kastom traditional child-rearing practices among Torres Strait Islander people by enabling the creation of Cultural Recognition Orders. It stands as the inaugural legislation of its kind in Australia, harmonising traditional laws and customs with western legal principles, and acknowledging the enduring strength of Torres Strait Islander culture. Notably, it also serves as the first Act to incorporate traditional language within its title.

In addition to outlining the process for seeking legal recognition, the Act establishes both a Commissioner and an Office of the Commissioner. The Commissioner is responsible for issuing Cultural Recognition Orders that permanently transfer parentage to the Cultural Parents.


Queensland

Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020

Act No. 33 of 2020

An Act to provide for the recognition and acceptance of traditional child rearing practice in the Torres Strait community, and to amend this Act, the Adoption Act 2009, the Births, Deaths and Marriages Registration Act 2003, the Criminal Code, the Domestic and Family Violence Protection Act 2012, the Domicile Act 1981, the Evidence Act 1977, the Guardianship and Administration Act 2000, the Industrial Relations Act 2016, the Integrity Act 2009, the Payroll Tax Act 1971, the Powers of Attorney Act 1998, the Public Service Act 2008 and the Right to Information Act 2009 for particular purposes

[Assented to 14 September 2020]



A Significant day – Passing of the Act in Parliament, 8 September 2021
L to R: The Hon. Annastacia Palaszczuk, Premier, Aunty McRose Elu, Mr Craig Crawford MP, Aunty Ivy Trevallion, Belzah Lowah, Ezra Tom, Hon Dianne (Di) Farmer MP, Hon Shannon Fentiman MP

THE ACT'S PURPOSE

The Act establishes a formal procedure for families to seek legal recognition of their traditional child-rearing practices. When families apply for legal recognition, their requests will be reviewed by the Commissioner, who will determine whether to issue a Cultural Recognition Order.

A Cultural Recognition Order effectively and permanently transfers a person's parentage from their birth parents to their cultural parents. Subsequently, individuals can apply for a new birth certificate through the Births, Deaths, and Marriages registration process.

It is crucial to emphasise the sensitive and confidential nature of Ailan Kastom child-rearing practices. The Act does not require applicants to disclose specific details about the practice as part of the application process. Moreover, the Act includes provisions to safeguard the confidentiality of information that is considered secret or sacred (as outlined in section 102 of the Act). The framework for legal recognition has been meticulously designed to be affordable, accessible, culturally sensitive, and confidential. It operates on an opt-in basis, relying on consent and voluntary participation.



L to R: Hon Leeanne Enoch MP, Ms Cynthia Lui MP and Mr Lance McCallum MP with the Act

KEY ELEMENTS OF THE ACT

The framework for legal recognition has been designed so it is affordable, accessible, culturally appropriate and confidential. It is opt-in, consent based and voluntary.

The key elements of the Act are outlined below:

In June 2023, an independent consultant was engaged by the Department to conduct a legislative required review of the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) and the Act. The below information is subject to change.

ELIGIBILITY

There are preliminary eligibility criteria including that:

- one or both of the birth parents and one or both of the cultural parents are of Torres Strait Islander descent
- the child's birth was registered in Queensland
- the cultural practice has occurred.

APPLICATION

In making an application:

- for a child, the application is made by the Birth and Cultural Parents.
- for an adult, the application is made by the adult.

The application is required to include:

- statements from the Birth Parents, Cultural Parents (and where an adult, the subject of an application for an order is the applicant, a statement by the adult).
- that the applicants understand the permanent and lasting effect of making an order for legal recognition.
- if applicable, the informed consent of an 'other carer' (a person with legal decision-making responsibility for the child) to the application being made.
- statements from persons with knowledge and understanding of the cultural practice (informed persons) nominated by each of the Birth Parents and Cultural Parents to verify that the cultural practice occurred.

Parties will be given the opportunity to seek legal advice on the consequences of legal recognition.

CONSIDERATION BY THE COMMISSIONER

The Commissioner considers the application and must be satisfied that the following requirements have been met before granting legal recognition:

- full, free and informed consent to legal recognition has been provided by the birth and cultural parents and, if applicable, the other carers
- that the making of the order is for the wellbeing and best interests of the child
- that the transfer of parentage occurred in accordance with Ailan Kastom child rearing practice
- that each applicant was entitled to apply
- that the requirements for the application are met
- that each applicant has provided the required information or statement.

In deciding what is for the wellbeing and best interest of a person who is the subject of an application, the Act sets out a number of other principles the Commissioner must have regard to. For example:

- the need to ensure appropriate recognition and preservation of Ailan Kastom in general and Ailan Kastom child rearing practice in particular:
    - the need to perform the powers and functions under this Act having regard to the sensitivity and cultural practices associated with Ailan Kastom child rearing practice;
    - the legal and cultural benefits for the child if the Cultural Recognition Order is made recognising Ailan Kastom child rearing practice;
    - recognition of the birth parents' assessment of the suitability of the cultural parents;
    - decisions must be made in a fair, timely and consistent manner; and
    - any other matter that is directly related to the child's wellbeing and best interests.

DECISION

The Commissioner considers the application and must be satisfied that the following requirements have been met before granting legal recognition:

- full, free and informed consent to legal recognition has been provided by the birth and cultural parents and, if applicable, the other carers
- that the making of the order is for the wellbeing and best interests of the child
- that the transfer of parentage occurred in accordance with Ailan Kastom child rearing practice
- that each applicant was entitled to apply
- that the requirements for the application are met
- that each applicant has provided the required information or statement.

NOTICE OF INTENTION

Before deciding not to make a Cultural Recognition Order, the Commissioner must give the applicants an opportunity to respond to a notice of intention.

The notice is to include the proposed decision, the reasons for the proposed decision and that the applicants may provide further information to the Commissioner in support of the making of an order.

RIGHT OF REVIEW

If the applicants are not satisfied with the Commissioner's decision not to make a Cultural Recognition Order the Act provides that an applicant may seek an internal review of the decision.
The Minister appoints a review officer to consider the application, review the Commissioner's decision and make a decision to:

- confirm the Commissioner's decision; or
- revoke the Commissioner's decision and make a Cultural Recognition Order.

Applicants may also be able to seek a judicial review of the Commissioner's decision. An application for judicial review is made under the Judicial Review Act 1991.

NEW RECORD

Following the making of a Cultural Recognition Order, the Commissioner notifies the Registrar of Births, Deaths and Marriages, as soon as practicable.

Once received, the Registrar of Births, Deaths and Marriages will register the transfer of parentage issuing a new record for the child and the original birth record is closed.

The Registrar will close the original birth entry, reflective of the child's birth identity, and note a reference regarding the transfer of parentage registration on the birth entry, and a reference regarding the closed birth entry on the cultural recognition register.

There will be no notation about the closed entry on the new birth certificate to ensure consistency with the sacred nature of the custom.

OTHER ELEMENTS OF THE ACT
DISPENSATION OF CONSENT

There may be circumstances where consent cannot be established, for example:

- applicants cannot locate the relevant parent after making all reasonable enquiries
- there would be an unacceptable risk of harm to the birth mother if the relevant parent was made aware of the application for legal recognition.

To address this, the Act provides an avenue for an applicant to make an application to the Children's Court to dispense with a person's consent.

IMPAIRED CAPACITY

There may be circumstances where a parent or adult is the subject of the application and has impaired capacity. The Act provides that a decision maker must ensure that an adult with impaired capacity is given the support and access to information necessary to participate, to the greatest extent practicable, in the decision-making process.

DISCRETION TO SEEK CRIMINAL HISTORY

As a safeguard, the Act provides:

- for cultural parents to consent to a criminal history check as part of their statement, and
- gives the Commissioner discretion to ask the Queensland Police Service for a written report about a cultural parent's criminal history including recorded convictions and spent convictions.

DISCHARGE ORDERS

The Act provides that a birth parent, cultural parent or the adult applicant may apply to the Childrens Court for an order to discharge a Cultural Recognition Order (discharge order). If the court makes the discharge order, the effect would be as if the Cultural Recognition Order had not been made.
Under the Act the grounds for a discharge order may be that the order was made:

- because of a false or misleading document or representation
- because a person acted fraudulently or used undue influence
- because a person did not provide full, free and informed consent
- the order was made on some other improper basis, or
- if there are other exceptional circumstances that warrant the discharge.

REAPPOINTMENT



C'Zarke Maza was reappointed to the role of Commissioner (Meriba Omasker Kaziw Kazipa) in November 2022 and was congratulated by the Honourable Craig Crawford, the Minister for Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships at the time.

Minister Crawford in a media statement mentioned that "Mr Maza has extensive experience in law, advocating for and engaging with, Torres Strait Islander peoples; and as a Torres Strait Islander person has a deep understanding of the diversity and sensitivity of traditional child rearing practice. Since commencing as the inaugural Commissioner in July 2021, Commissioner Maza has established the Cultural Recognition Order application process and engaged with families and community about accessing the service. With his reappointment to the role, the Commissioner can ensure continuity in the important and sensitive work undertaken since commencing in the role."

Under the Act, the Commissioner must be an appropriately qualified senior Torres Strait Islander person with a deep understanding and comprehensive knowledge of traditional adoption.

During his initial term as Commissioner, C'Zarke, along with the team at the Office, worked diligently, achieving numerous significant milestones in promoting awareness of the legislation within Torres Strait Islander communities and the services offered by the office.

Commissioner C'Zarke Maza

Upon his reappointment, Commissioner Maza conveyed his deep sense of honor and humility. He expressed excitement about the opportunity to continue the valuable work of the Office and eagerly anticipates enhancing and expanding their initiatives and facilities.

MACHINERY OF GOVERNMENT CHANGES AND APPOINTMENT OF A NEW MINISTER

The Office operates in partnership with the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts, under the leadership of the Honourable Leeanne Enoch, who assumed these portfolios on 18 May 2023. The Aboriginal and Torres Strait Islander Partnerships portfolio was previously held by the Honourable Craig Crawford, who currently serves as the Minister for Child Safety and Minister for Seniors and Disability Services.

It is worth highlighting that Minister Enoch made history as the first Indigenous woman elected to Queensland parliament in 2015. Additionally, she holds the distinction of being the first Minister with Indigenous heritage in Queensland's history to oversee both the Aboriginal and Torres Strait Islander Partnerships and Treaty portfolios. Her areas of responsibility span a diverse range of fields, including the path to treaty, preservation of Aboriginal and Torres Strait Islander cultural heritage, policy development, advocacy for rights and culture, community care, recovery, services, social inclusion, youth affairs, archives, and the arts.



Honourable Leeanne Enoch as Minister

THE REGULATION



(Commenced 1 September 2021)

Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Regulation 2021 (the Regulation) Section 112 of the Act provides that the Governor in Council may make regulations under the Act.

The Act further provides the following can be prescribed by regulation:

- information to accompany an application for a Cultural Recognition Order for a child (section 33(1)(b)(vi));
- what a Cultural Recognition Order must state (section 59(f)); and
- information to be included in a discharge order (section 77(3)(d))

The objectives the Regulation are to provide safeguards against the potential for fraud and undue influence in the making of an application for a Cultural Recognition Order for a child and a request for confidential information; and to support the commissioner in being satisfied that each birth parent and cultural parent gave free consent by requiring the following:

- evidence to accompany an application for Cultural Recognition Order for a child and a request for confidential information as proof of a person's identity; and
- statements made as part of an application for a Cultural Recognition Order be witnessed in the presence of an authorised witness.

Achievement of policy objectives

To achieve its policy objectives, the Regulation prescribes the following operational and procedural matters:

Evidence of identity

The following persons are required to provide evidence of their identity:

- A person signing a statement to accompany an application for a Cultural Recognition Order under sections 35, 36, 38 and 39 of the Act;
- A person who requests authorisation from the Commissioner to obtain a certificate, information, source documents or a copy of the Cultural Recognition Order under section 64 of the Act;
- A person who applies to the Commissioner for a copy of restricted information under section 103 of the Act;

Evidence of a person's identity in the above cases will be satisfied when a person provides a certified copy of two of the documents listed in Schedule 1 of the Regulation.

This will provide an effective method of identity verification, to ensure that there are safeguards in place to minimise fraud and protect access to confidential information.

Witness supporting statements

A person signing a statement in an application for a Cultural Recognition Order (under sections 35, 36, 37, 38 and 39) must sign it in the presence of an authorised witness. To minimise potential risks of fraud, the Regulation provides that an authorised witness is limited to certain people such as a solicitor, justice of the peace, or a person who has known the person signing the statement for at least 1 year and who has no other involvement in the application for the Cultural Recognition Order.

Giving consent to a Cultural Recognition Order is significant, and it is important that the Commissioner be satisfied that consent was freely given (as required under section 56(a) of the Act).

- The requirements set out in the Regulation to provide certified proof of identification and witnessed documentation are therefore considered reasonable and appropriate.

The prescribed identity documents and authorised witnesses are considered accessible and consistent with similar regulatory requirements pertaining to the re-registration of life events on the Births, Deaths and Marriages Registry such as the *Civil Partnerships Regulation 2012* and the *Births, Deaths and Marriages Registration Regulation 2015.*

Consistency with policy objectives of authorising law

The Regulation is consistent with the objective of the Act, that is, to provide for the legal recognition of Ailan Kastom traditional child rearing practice by providing a voluntary application process, and decision-making framework by an independent statutory Commissioner.

The Regulation ensures the Commissioner is satisfied with veracity of the provided information and documents in order to make a decision on a request for an application for a Cultural Recognition Order and requests for authorisation to access closed entries or source documents and requests for access to restricted information, both providing access to confidential information likely to contain that of secret and sacred nature.

- It is necessary or convenient to prescribe a requirement for consenting statements to be witnessed because it will facilitate the proper operation of the Act.

3

OFFICE OF THE COMMISSIONER MERIBA OMASKER KAZIW KAZIPA

OFFICE OF THE COMMISSIONER

The Office of the Commissioner (Meriba Omasker Kaziw Kazipa) was officially inaugurated on 17 August 2021, with the aim of fulfilling the lifelong aspirations of many Torres Strait Islanders by enhancing access to support, services, and opportunities. During the opening ceremony, Commissioner Maza stated, "This is a historic moment, and my office takes great pride in playing a role in helping Torres Strait Islander families bridge the gap between their cultural identity and legal identity to access a broader array of opportunities."

The Office of the Commissioner has established offices in both Cairns and Thursday Island and was fully staffed in January 2022. In the fiscal year 2022-23, the Office directed its efforts towards enhancing its front-line operations, expanding it's capabilities and identifying avenues for improvement. This strategic focus aimed to facilitate a more responsive approach to emerging trends and to better meet the evolving needs of the Torres Strait Islander communities we are dedicated to serving.

The support staff's primary function is to assist the Commissioner in carrying out his responsibilities. This includes offering support to potential Cultural Recognition Order applicants, helping them navigate the application process, and providing access to legal advice, counseling services, and interpreter assistance when needed. The officers within the Office are appointed under the *Public Sector Act 2022*, and to ensure the independence of the office, an officer from the office is not subject to direction by anyone other than their colleagues within the office concerning the manner in which the Commissioner's functions or powers under this Act are executed.


OFFICE OF THE
COMMISSIONER
Meriba Omasker Kaziw Kazipa
PUSH
Queens
Govern
Department of A
Torres Strait Isl
Torres Regio

Cultural Support Officers **respond to enquiries about Cultural Recognition Orders** and **assist with applications**





The Office of the Commissioner has two Cultural Support Officers as of 30 June 2023

2

1x CULTURAL SUPPORT OFFICERS CAIRNS BASED

1x CULTURAL SUPPORT OFFICER THURSDAY ISLAND BASED

There are a total of 6 positions employed across the Cairns and Thursday Island offices, plus the Commissioner

58% of staff were proficient in **Torres Strait Island Creole (Yumplatok)**

1x staff member was proficient in **Kalaw Lagaw Ya**

1x staff member was proficient in **Meriam Mir**

58% of staff were of **Torres Strait Island descent**

> My role ensures future generations have the opportunity to overcome the challenges of the past and continue this practice into the future.
>
> Kaleb Mabo
> Cultural Support Officer

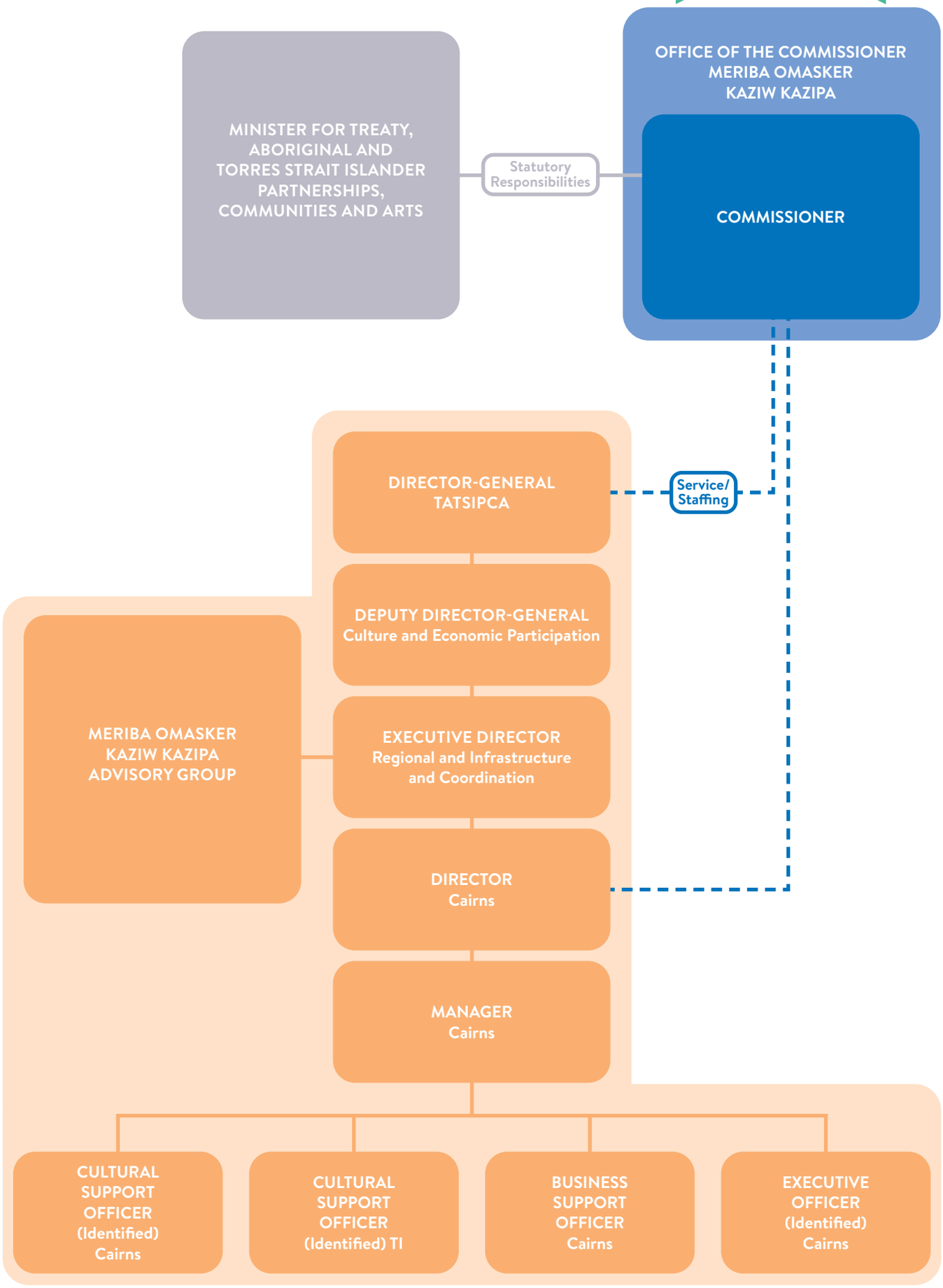
> My job is to help families for Cultural Recognition Order and fill out the application step by step.
>
> Elsie Seriat
> Cultural Support Officer



Pictured: Helen Matthews and son

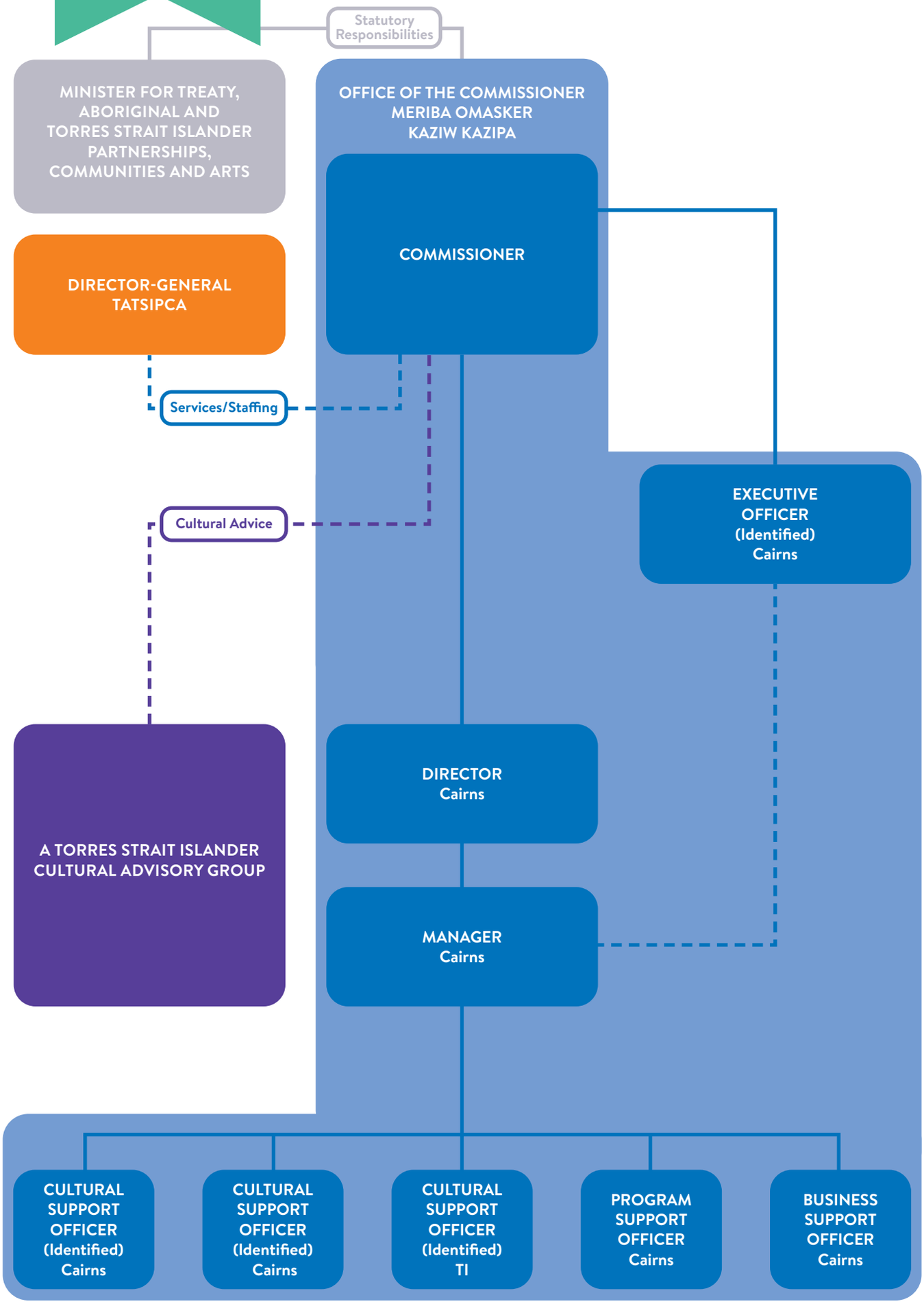
ORGANISATIONAL CHART

ACTUAL MODEL

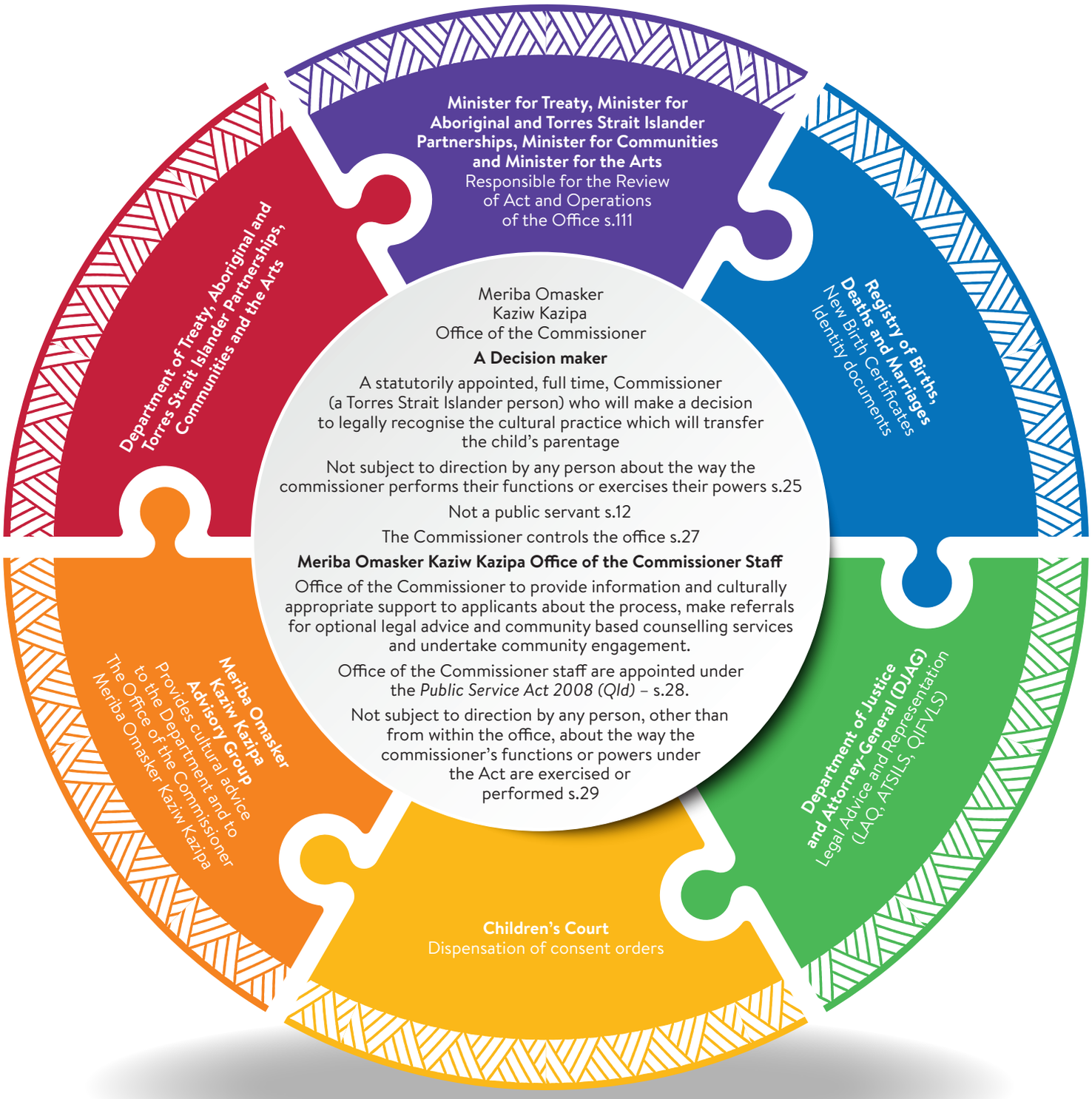


DEPARTMENTALLY CONTROLLED PROGRAM SUPPORT OFFICE

LEGISLATIVE MODEL



THE ADMINISTRATIVE SERVICE MODEL
LEGAL RECOGNITION



GOVERNANCE

Section 108 the of Act allows the Commissioner to make guidelines for matters within the scope of the Act to assist with fair, timely and consistent compliance with the Act.

The Act is the main authority in relation to applications for Cultural Recognition Orders. It sets out the laws which govern and effect the process to make an application for and determine the outcome of a Cultural Recognition Order.

The Commissioner uses the Guidelines in relation to the Act 2020.

These guidelines are designed to assist the Commissioner in making their decisions as well as provide for transparent decision making for applicants and others affected by the Act.

An agreement is being negotiated and drafted to support the independence of the Commissioner to enable the Commissioner to fulfill Legislated requirements, as well as forming a mutual understanding of responsibilities across both area's. A well developed formal agreement, such as an Memorandum of Understanding, will provide clarity and define:

- stakeholders roles, responsibilities and expectations
- protocols for sponsored departmental services (finance, human resources, IT)
- protocols to define communication and reporting responsibilities of the department and the Commissioner
- escalation and resolution mechanisms

Meriba Omasker Kaziw Kazipa Information Management System (MOIMS)

MOIMS supports Meriba Omasker Kaziw Kazipa work, it is an information management system that allows for enquiries and applications for Cultural Recognition Orders to be managed and recorded. The system also has the ability to create individual 'person' profiles which is useful when the Commissioner is reviewing an application and needs specific information from one party to the application.

MOIMS has been designed around Meriba Omasker Kaziw Kazipa flowcharts that identify key decision points that must be actioned prior to moving through to the next phase of the consideration of an application.

Access to MOIMS is restricted to staff who are specifically assigned a role within the Meriba Omasker Kaziw Kazipa body of work. This encompasses staff who are working on enquiry management and processing applications including associated tasks.

MOIMS has been designed with the Departmental Code of Conduct, the *Information Privacy Act 2009* and associated privacy principles in mind. Risks of any violation of the above governance mechanisms are kept to an absolute minimum by employing good system use and user management practices and only capturing information that is strictly necessary for the management of enquiries, Cultural Recognition Orders, and associated applications.

Sharing of stored personal information is governed by the Information *Privacy Act 2009* and the Act.



Elsie Seriat - Cultural Support Officer

THE KUPAI OMASKER WORKING PARTY

In Queensland, the historic legal recognition of Torres Strait Islander traditional child-rearing practices has been achieved, thanks to the dedicated efforts of a small group of Torres Strait Islanders and a handful of philanthropists who came together to form the Kupai Omasker Working Party. For the members of this working party, the journey to secure legal recognition of Torres Strait Islander child-rearing practices in Queensland law was arduous and protracted. Because this practice was not easily understood by government officials or professionals, Torres Strait Islanders' pursuit for legal recognition spanned over three decades. Their extraordinary journey is a saga marked by struggle, setbacks, renewed hope, and ultimately, triumph. Their unwavering commitment to a cause serves as a testament to what can be accomplished when two cultures collaborate to address a social injustice and structural inequity.

Torres Strait Islander traditional child-rearing practices had never received recognition in Australian law until the Queensland Parliament passed the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*. Regrettably, throughout history, multiple unsuccessful efforts within Western legal frameworks were made over generations, either to assimilate traditional child-rearing practices into a Western adoption framework or to offer token acknowledgment of these practices. These attempts have often been detrimental to Torres Strait Islander people.

Under the leadership of Premier Joh Bjelke-Petersen and the National Party in Queensland from 1968 to 1987, Torres Strait Islanders faced an assimilationist approach concerning their traditional child rearing practices. A lasting consequence of this cultural discrimination was the government's pursuit of uniformity in legal treatment for all, particularly when family and cultural customs within communities like the Torres Strait Islanders differed from those of the broader Australian population.

Before 1985, Torres Strait Islanders could find some degree of recognition for their traditional child-rearing practices under the adoption legislation applicable to all Queenslanders. However, the *Adoption of Children Act 1964 (Qld)* did not include specific provisions for Torres Strait Island traditional child-rearing practices and offered only limited safeguards for a child's cultural ties. This approach was akin to trying to fit a round peg into a square hole.

In 1985, the Queensland Government changed its policy stance, considering Torres Strait Islander traditional child-rearing practices as falling beyond the scope of the existing adoption legislation. This shift left Torres Strait Islander families who continued these traditional practices in a state of uncertainty. Since their practices couldn't be accommodated within the existing adoption laws, Torres Strait Islanders were discouraged from pursuing legal adoption.

The Kupai Omasker Working Party was formed in the late 1980s in response to the ongoing frustrations faced by Torres Strait Islander families who sought to uphold their customs. Since its formal establishment in 1990, the members of this group have been dedicated to actively pursuing the legal recognition of traditional Torres Strait Islander child-rearing practices.

In the subsequent years, numerous consultancies, conferences, workshops, and community meetings were convened to address the legal recognition of Torres Strait Islander child-rearing practices, following the establishment of the Working Party. In 1993, the Queensland Government commissioned a consultancy led by the late Steve Mam, who was the Chair of the Working Party. This consultation process culminated in the drafting of a report titled 'The Tree of Life,' which was presented to the government in 1994. The report highlighted the systemic challenges faced by Torres Strait Islanders as they endeavoured to maintain their practices without the necessary legal recognition. Despite this report offering recommendations and options for the Queensland Government, it appeared that the matter was subsequently shelved. Members of the working party continued to strongly advocate in the years following the release of this report. In 1997, the Queensland Government provided funding for a national conference on the legal recognition of customary adoption. The discussions during this conference seemed to generate significant interest at the time, prompting a government response that included funding for an additional consultancy in 1998. This consultation with the Torres Strait Islander community aimed to explore how customary adoption could be incorporated into the existing adoption laws. In fact, the Department of Aboriginal and Torres Strait Islander Policy Development went so far as to draft legislation for this purpose. However, what initially appeared promising eventually turned disappointing when the Queensland Cabinet encountered opposition to the proposed bill from the Member for Cook. The progress that had been made towards achieving recognition of Torres Strait Islander child-rearing practices sadly proved to be nothing more than a false start.

Despite facing this setback, the Kupai Omasker Working Party remained intact and committed to their cause. It wasn't until 2008 that the Queensland Government once again sought the expertise of the Kupai Omasker Working Party members. At that time, the Queensland Investigation into Altruistic Surrogacy Committee was conducting an inquiry into the decriminalisation of altruistic surrogacy. The committee sought guidance regarding the Queensland government's role in regulating such arrangements and extended an invitation to the Working Party to provide their insights on surrogacy from a cross-cultural perspective.

Although the committee expressed interest about Torres Strait Islander traditional child-rearing practices, it ultimately resulted in another roadblock. In their final report, the committee recommended that this practice was separate from altruistic surrogacy and did not fall within the purview of their inquiry. Interestingly, the committee did acknowledge that Torres Strait Islander traditional practices did not neatly align with Western concepts of adoption and surrogacy. They also expressed a desire to see the legal status of Torres Strait Islander adoptions addressed and placed on the policy agenda.

The Kupai Omasker Working Party remained undeterred and persisted in urging the Queensland Government to revisit the matter of legal recognition for Torres Strait Islander traditional child-rearing practices. Their efforts led to another consultation initiated by the Queensland government in 2011.

Notably, the final report submitted to the government after this consultation revealed that Torres Strait Islander people continued to desire legal recognition, particularly in the form of a new birth certificate that accurately reflected their cultural identity. Furthermore, it emphasised that the practice remained an integral part of Torres Strait Islander cultural identity and would persist despite the absence of legal recognition.

The turning point came in 2017 during a Queensland election campaign when the Queensland government made a commitment to enact new laws that would formally recognise the outcomes achieved by Torres Strait Island families through their continued use of traditional 'adoption.' In 2018, the Department of Aboriginal and Torres Strait Islander Partnerships enlisted the services of three Eminent Persons to provide their expertise in another consultation with the Torres Strait Islander community. Notably, two of these Eminent Persons, Ms. Ivy Trevallion and the Honourable Alistair Nicholson, were also members of the Kupai Omasker Working Party. The third Eminent Person involved in this effort was Mr. Charles Passi.

The Kupai Omasker Working Party's unwavering determination, refusal to give up, and deep love for their culture and the countless children embraced by this practice were the driving forces behind their success. Significantly, on the 8th of September 2020, the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Bill 2020 was introduced into the Queensland Parliament, which received royal assent on the 14th of September 2020. Profoundly, it was Queensland's first Torres Strait Islander woman elected to any Parliament in Australia, Cynthia Lui, Member for Cook, who was the person that introduced this historic bill.

Today, the Working Party continue their work but now as an official advisory committee to the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts namely the Meriba Omasker Kaziw Kazipa Advisory Group. Presently they continue to advise and assist both the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) and the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts on the practice.

EZRA STEPHEN (STEVE) LEO MAM

Steve Mam (Ezra Stephen Leo Mam) was the linchpin that unified the Kupai Omasker Working Party, and he served as its leader until his passing in 2016. Described as a man with an exceptional intellect and unwavering determination by those who knew him closely, Steve devoted his life to the Kupai Omasker Working Party's cause and played a proactive role in the eventual adoption of the Act in 2020.

Steve's involvement began when he responded to a heartfelt plea for assistance from a Torres Strait Islander grandmother experiencing challenges in the bureaucratic system in regard to Ailan Kastom traditional child rearing practices. He promptly set aside everything and travelled to Townsville to offer his support, unknowingly embarking on a lifelong journey to secure recognition of the practice in Western law.

He initiated this enduring journey, and it is his legacy that continues to inspire all of us, acknowledging the contributions of everyone involved. It is a matter of great regret that he did not live to see what resulted from the seeds he planted and the impact this legislation would have made to that grandmother's plea.



Steve Mam

> Steve always had a vision of where he wanted to be, where he wanted his people to be, and he was always thinking a few steps ahead of everyone else about what that path was... it was a real honour that he took me on that path and trusted me.
>
> **Paul Ban**

> Steve was someone I looked up to, even though I was the Chairman of the National Secretariate I still looked up to him, he was my elder.
>
> **Francis Tapim**

> He was quite remarkable and magnetic when speaking one-on-one but before a group of people, he was as good a speaker as I had ever seen... he was exceptional and of course there was no nonsense, he always spoke from the heart.
>
> **Honourable Alastair Nicholson**

MERIBA OMASKER KAZIW KAZIPA ADVISORY GROUP



The Department Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts continues to work with the Kupai Omasker Working Party members as an Advisory Group.

To support the establishment phase of the Act, the Meriba Omasker Kaziw Kazipa Advisory Group were engaged to inform the implementation process and work in partnership with the Department. The Advisory Group continues connection between community expertise and advice and the Act's implementation process.

The purpose of the Advisory Group is to:

- Maintain the cultural integrity of the application process for legal recognition.
- Ensure Torres Strait Islander people are aware of the Act and communications and messaging about the Act are culturally appropriate.
- Provide advice on ensuring the application process is confidential, affordable, and accessible to Torres Strait Islander families and communities.
- Ensure community expertise and guidance is maintained throughout the next steps in implementation.



Members of the Advisory Group



Aunty Ivy Trevallion - Co-Chair

Aunty Ivy is a Torres Strait Islander born on Thursday Island where she resides with her husband and three children. She is a descendent of Dhoeybaw, Saibai Keodal, Sui Baidam, Samu and Burum Thabu Clans of Dauan and Saibai Islands. She graduated from the University of Queensland with a Bachelor of Social Work in 1986 and has extensive experience with the Department of Native Affairs. Over the last 40 plus years, Aunty Ivy has held numerous positions in community organisations as well as government departments.

> **"It is a sacred subject to talk about and every person is culturally given to somebody else and we don't have the right to talk about it, it doesn't matter who that person is – there is cultural laws and practices in place that doesn't allow you to talk about it.**



Greg Anderson - Co-Chair and Executive Director Regional and Infrastructure Coordination.

Greg has worked in the Queensland Public Service for 25 years, including over 20 years within the Aboriginal and Torres Strait Islander Partnerships portfolio. Greg has held various senior roles including as the Regional Director North Queensland, Executive Director Social Policy and Community Initiatives, Executive Director Indigenous Government Coordination and for the past two years as the Executive Director Regional and Infrastructure Coordination. In his current role Greg has responsibility for all of the Aboriginal and Torres Strait Islander Partnerships service delivery teams across the state – including the support staff in the Office of the Commissioner, Meriba Omasker Kaziw Kazipa.



Bill (Belza) Lowah - Member

Bill was born on Thursday Island but spent most of his childhood growing up in Cairns before living in Brisbane for a large portion his professional career. He continues his work in social justice and community organisations, specifically working in the areas of Indigenous health, housing and education. Bill was a member of the Council for Aboriginal Reconciliation from its inception and worked with the Royal Commission into Aboriginal Deaths in Custody. He was also a previous member of the Indigenous Advisory Council to the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families and a member of the Anti-Discrimination Commission, Queensland.

> **"There wouldn't be one Torres Strait Islander family today, yesterday or before time began where this practice has not happened – not one.**



Honourable Alastair Nicholson - Member

The Honourable Alastair Nicholson is one of Australia's most learned and respected judges, holding positions of the highest standing in Australia's legal system throughout his career. Graduating from Melbourne University Law School in 1960, Alastair was admitted as a Barrister and Solicitor of the Supreme Court of Victoria in 1961 and signed the Roll of Counsel of the Victorian Bar in 1963. He was appointed Queens Counsel in 1979, a Justice of the Supreme Court of Victoria from 1982-88 and Chief Justice of the Family Court of Australia and a Justice of the Federal Court of Australia from 1988 until his retirement in 2004. Alastair has been a consultant to the Queensland Government on legal recognition of Torres Strait Islander traditional child rearing practices. He received the Human Rights Award at the Fifth World Congress on Family Law and Children's Rights held in Canada in 2009, is an Honorary Professorial Fellow of the University of Melbourne since 2003 and is currently Chair of Children's Rights International.

> **"It became clear to me through our time in the Torres Strait that Traditional Adoption was an integral part of their family structures, you just didn't find the Western adoption – there was a clear recognition of the practice that was so widespread, it was extraordinary.**



Francis Tapim - Member

Born on Mer and living in Townsville, Francis has a Bachelor of Social Work from James Cook University. Previously he was the CEO of Magani Malu Kes, an organisation that promotes Torres Strait Islander culture and resource information in Townsville. He was also the previous Chair of the Queensland Aboriginal and Torres Strait Islander Health Advisory Board and Chair of the National Secretariat of Torres Strait Islander Organisations Ltd. Currently Francis is an Aboriginal and Torres Strait Islander Community Advisory Council member for the Townsville Hospital Health Service, which provides advice to the board on health issues relating to Aboriginal and Torres Strait Islander peoples in the community. Francis is also Co-Chair of the Townsville Aboriginal and Torres Strait Islander Elders council.

“I'm traditionally adopted, so I know what it is like.



Dana Ober - Member

Dana currently lives in Townsville and has worked in Aboriginal and Islander affairs for State and Commonwealth Governments for over twenty years. Since then, he has worked in the higher education sector at James Cook University, Townsville, Batchelor Institute, NT and University of Queensland. He has served on a number of committees including being on the board of Australian Institute of Aboriginal and Torres Strait Islander Studies and the Federation for Aboriginal and Torres Strait Islander Languages, now known as First Languages Australia. Dana was also committee member of a State Government working party to develop Aboriginal and Torres Strait Islander language policy for Queensland. He was also involved in setting up a language program at Tagai State College in the Torres Strait.

“I refer to it as Island Adoption because that is what it is – the significance of the practice is that it is meant to grow the family and it normally happens within the clan group but there are exceptions.



Aunty McRose Elu - Member

Born on Saibai Island and currently living in Brisbane, Aunty McRose has a Bachelor of Arts Degree (PHD) (Anthropology and Political Science) from University of Queensland, a Diploma in Counselling and is a Cultural Advisor for Child Protection issue for the magistrate court. In 1995 she received an Overseas Study Award to undertake research in traditional Hawaiian child rearing practices at the University of Hawaii. She also received the Queensland Senior Australian of the Year Award in 2021. Aunty McRose has worked for the Queensland Government in Aboriginal and Torres Strait Islander Policy Development for 20 years, 15 years with Relationship Australia Queensland and has been an active leader of the Torres Strait Islander Anglican Ministry where she focuses on pastoral care and sits on various committees in the Anglican church of Australia.

“Our society was built up in a way that we are inter-related, we live beside one another, so when you have been given a child, it can be for various reason. If you are childless and your brothers and sisters have many children, they are obligated to give a child to one another – it is not like western adoption, our way of giving and receiving a child is with love.



Paul Ban - Member

Paul Ban was born in Tasmania with a Hungarian and English descent. He previously worked for the Department of Children's Services from 1977 to 1988, spending four years in the Cairns office. He has been working in private practice in Melbourne since 1995, utilising his Bachelor of Social Work, Graduate Diploma in Aboriginal Studies, Master of Social Work, Master of Arts in Aboriginal Studies and Master of Conflict Resolution. He has been a key resource component to the Working Party since its inception in 1990 after the completion of his Master of Social Work thesis 'Traditional Adoption Practice of Torres Strait Islanders and Queensland Adoption Legislation' in 1989. Inspired by his relationships with the Torres Strait Islander community, Paul was instrumental in introducing family group conferencing, a process of engaging extended family in child protection decision making, into Australia in the early 1990s. He became part of an international network of people interested in promoting the practice and has trained people in several countries.

“It is integral to Torres Strait society because it links families together through the exchange of children – they go from one clan group to another.

TERMS OF REFERENCE FOR THE ADVISORY GROUP

PURPOSE

The purpose of the Advisory Group is to:

- Maintain the cultural integrity of the application process for legal recognition.
- Ensure Torres Strait Islander people are aware of the Act and that communications and messaging about the Act are culturally appropriate.
- Provide advice on ensuring the application process is confidential, affordable, and accessible to Torres Strait Islander families and communities.
- Ensure community expertise and guidance is maintained in the implementation and the day-to-day operations of the Act.

PRINCIPLES

- **Respect** – for Torres Strait Islander customs and the Act.
- **Openness** – sharing information to enable members to make informed decisions and provide frank advice.
- **Family-centered** – placing Torres Strait Islander children and family at the centre of the initiative.

OBJECTIVES

The objectives of the Advisory Group are to:

- Provide advice and guidance to the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts (the department) on the implementation and day-to day operations of the Act.
- Provide advice and guidance to the Commissioner when required and upon the Commissioner's request.
- Provide feedback to Torres Strait Islander communities on implementation of the Act and its progress.
- Provide guidance on engagement planning and building community awareness of the Act to aid implementation and day-today operations.
- Support informed discussions with:
    - Torres Strait Islander people, communities and their representatives;
    - Government agencies to:
- Co-consider implementation matters;
- Build a respectful implementation of the legal recognition of the cultural practice
- Build government/relevant agency knowledge of Cultural Recognition Orders
- Provide advice on the operation of the Act for inclusion into the review of the Act which is required within two years of its operation.

MEMBERSHIP

Co Chairs

- Greg Anderson
- Ivy Trevallion

Members

- McRose Elu
- Belza (Bill) Lowah
- Dana Ober
- Francis Tapim
- Paul Ban
- Alastair Nicholson

CONTACT OFFICERS

- The Co-Chair and Chairperson of KOWP is the primary point of contact for the department
- The Director, Meriba Omasker Kaziw Kazipa Program Support Office is the primary point of contact for the Advisory Group.

MEETINGS AND SUPPORT

- Meetings will be Co-Chaired by Ms Ivy Trevallion and the Executive Director, Regional Coordination and Infrastructure.
- The department will provide logistical and administrative support for the meetings of the Advisory Group.
- Meeting are expected at minimum to occur on a quarterly basis for a half day during the appointment period and may include two face to face meetings and two virtual meetings.
- No delegates or proxies for members will be accepted and members have no financial delegation.

REPORTING

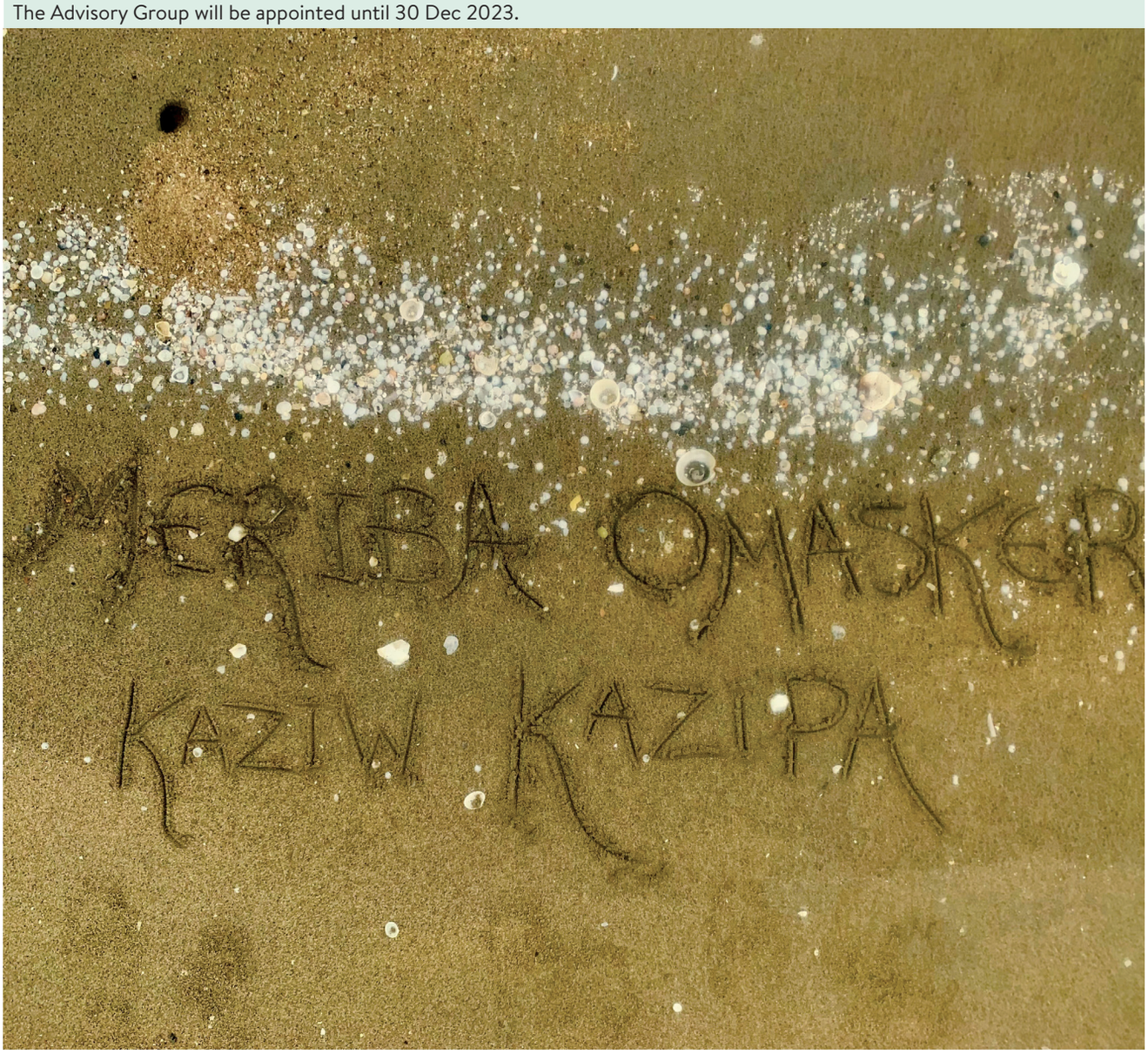
- Decisions and actions confirmed at Advisory Group meetings will be directed by the departmental Co-Chair to the Commissioner relevant work groups of the department or its partner agencies for appropriate action.
- The Advisory Group may determine other reporting required to advance the purpose of the Group.

CODE OF CONDUCT AND CONFIDENTIALITY

Members will be required to comply with the Code of Conduct for the Queensland Public Service, sign a confidentiality agreement and identify any potential conflicts of interest. Cultural Recognition Order Outcomes.

TERM AND REVIEW

The Advisory Group will be appointed until 30 Dec 2023.



4 PERFORMANCE & OPERATIONS

OUR HIGHLIGHTS



Kaleb Mabo and C'Zarke Maza at JCU presentation



Joey Laifoo & C'Zarke Maza





Community Engagement NPA



Ama McRose Elu, Shannon Fentiman MP and Commissioner C'Zarke Maza at the Premier's Cabinet 2022 Christmas Party



KEY ACHIEVEMENTS 2022-2023 FINANCIAL YEAR



Urab Dancers marching at Winds of Zenadth



Kaleb Mabo dancing at Winds of Zenadth



Urab Dancers at Winds of Zenadth



Interim Truth and Treaty Body, Community Yarn in Cairns 9/5/23. Pictured: Aunty Cheryl Buchanan, a proud Guwamu woman, southwest Queensland, Co-chair of the ITTB and C'Zarke Maza.



Office of the Commissioner, QIFVLS and LAQ at Warraber to facilitate collaborative community engagement.



KEY ORGANISATIONAL OUTCOMES



Cultural Recognition Order outcomes

Before the enactment of the Act, Torres Strait Islander family relationships lacked legal recognition, imposing numerous barriers on families striving to uphold their cultural identity.

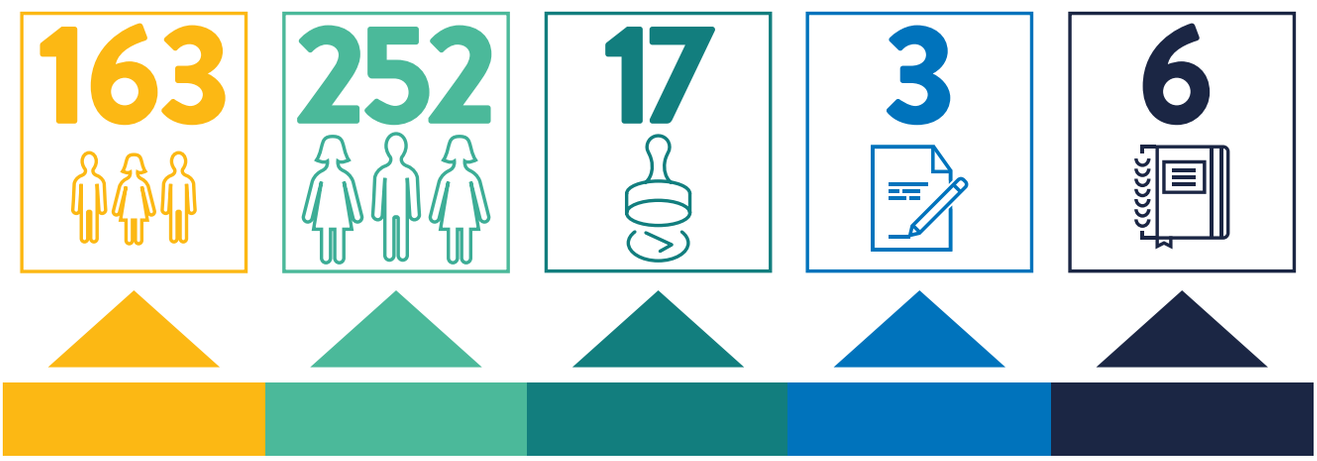
However, on 7 September 2021, following the implementation of the Act and the launch of the Cultural Recognition Order (CRO) application process, these formidable barriers were finally surmountable. This momentous development granted Torres Strait Islander families the same fundamental rights to their identity as other Queensland families.

The legislation ensured that children and adults raised under Ailan Kastom child rearing practices could now align their legal identity with their cultural identity and lived experiences.

The legal impact of a CRO led to the permanent transfer of parentage to the cultural parents, a change that was officially recorded in the Registry of Births, Deaths, and Marriages. Upon the issuance of a CRO, a new Birth Certificate reflecting this transfer of parentage to cultural parents was provided, gaining full legal recognition in Western law.

This pioneering process has had a profound and transformative effect on Torres Strait Islander families and their children, marking a life-altering change.

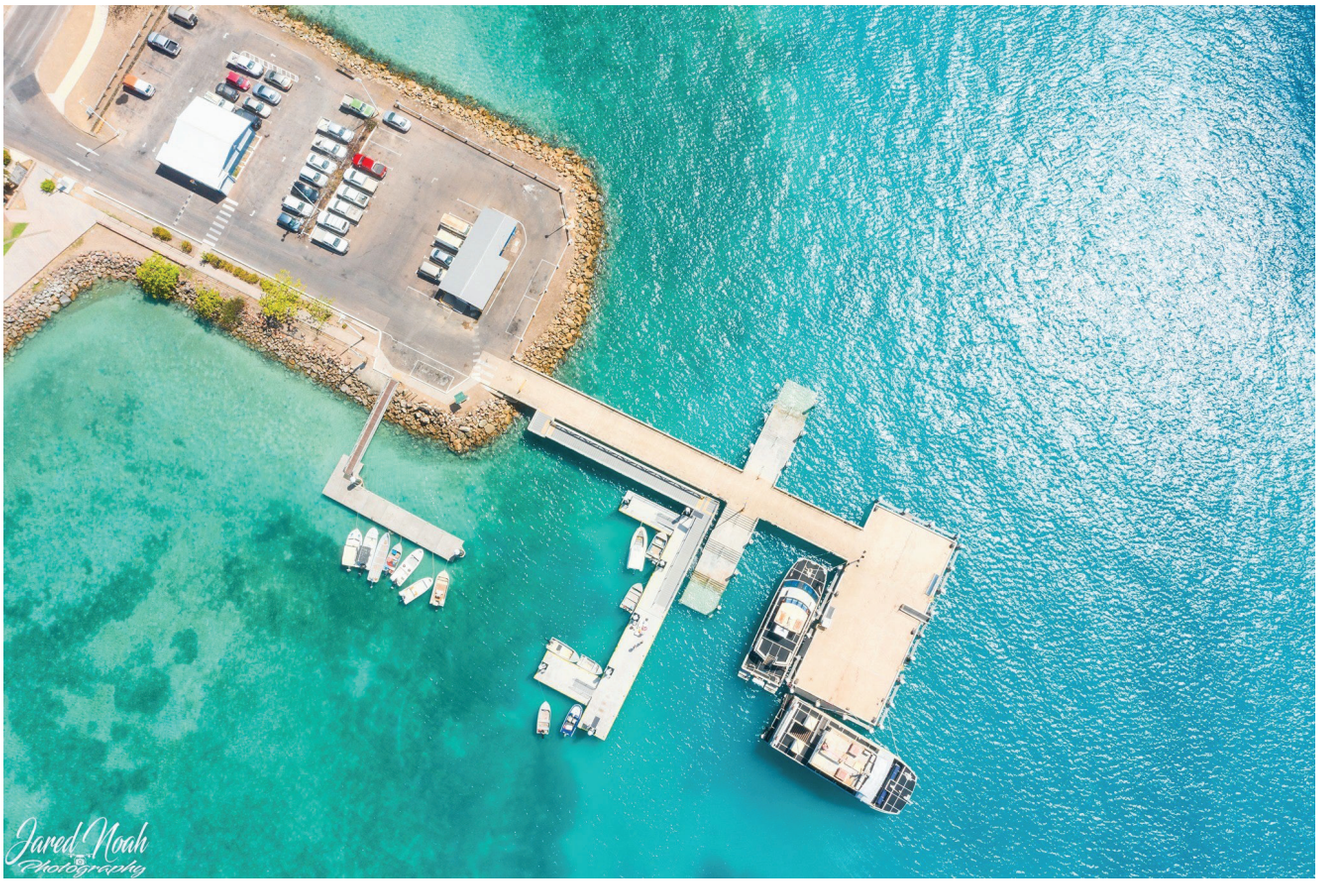
This process is life changing for Torres Strait Islander families and their children.



Number of unique downloads for child CRO	Number of unique downloads for adult CRO	Total number of CRO's granted between 1 July 2022 until 30 June 2023	Total number of CRO applications lodged and being processed as of 30 June 2023	Total number of CRO applications being prepared and supported by the office for lodgement as of 30 June 2023



Total enquiry numbers (completed/closed) received between 1 July 2021 until 30 June 2023	Average duration for enquiry resolution between 1 July 2022 until 30 June 2023	Total number of enquiries (in progress) as of 30 June 2023	Total number of enquiries involving outcome – 'advised enquirer of ineligibility due to deceased parents'	Breakdown of enquiries requiring an interpreter as of 30 June 2023



8

Total number of CRO applications lodged requiring Dispensation of Consent Orders between 1 July 2022 until 30 June 2023

Note: The application for a CRO is consent based and can only be considered or decided if the Commissioner is satisfied that all required parties have given full, free and informed consent to the making of the application and the order being made. However, the Act recognises that there may be circumstances where the consent of a party may be unable to be obtained. A process is available under the Act to allow for applicants to apply to a court for an order dispensing with the need for the consent of that person. Depending on the complexity of the court proceedings, an application for a CRO may be delayed for a significant period. It is not unusual for court proceedings to take several months to be finalised.

56

DAYS

Average Child CRO application processing time between 1 July 2022 until 30 June 2023

Note: the average processing time for applications that necessitated dispensation of consent orders significantly extended the average processing times due to factors beyond the control of the office. These factors involved the participation of third parties, such as lawyers and court processes. In comparison, the average processing time for applications that do not require a dispensation of consent orders is 19 days.

5

DAYS

Average Adult CRO application processing time between 1 July 2022 until 30 June 2023

Note: applications completed during the 2022-23 financial year. Presently, in cases where both cultural and birth parents are deceased, an adult subject person is ineligible to apply for a CRO. This criterion currently poses an obstacle for certain adult applicants who wish to make retroactive applications for a CRO.

427

Total number of enquiry numbers (completed/ closed) our office received between 1 July 2022 until 30 June 2023.

Note: based on the enquiry start date

15

Total number of enquiries (in progress) as of 30 June 2023

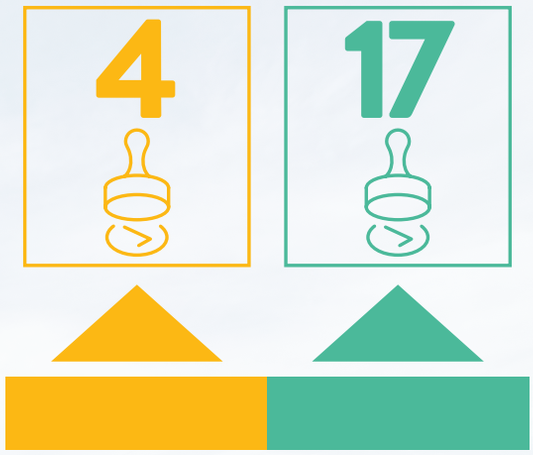
Note: includes enquiries with status 'In Progress' or 'Contacted'

* 'Start Date' values used to group results into financial years



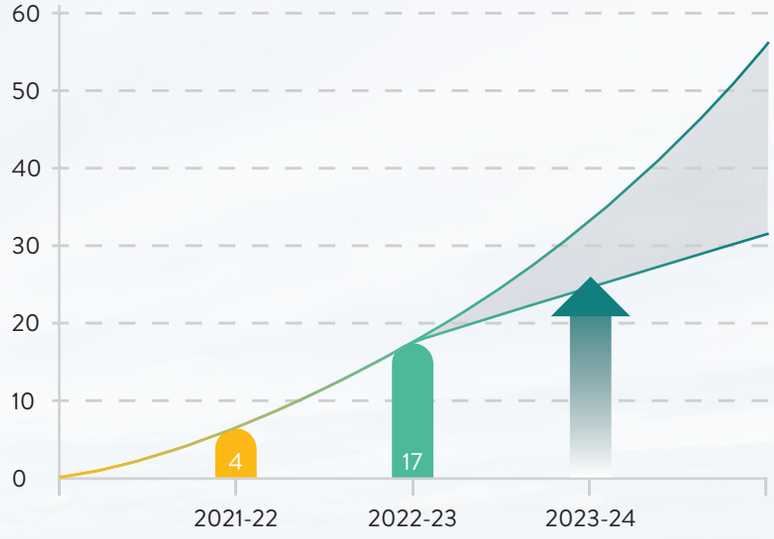
FORECASTS OF WORKLOAD IN THE PRESENT FINANCIAL YEAR

Cultural Recognition Order's - anecdotal forecasts of the workload in 2023-24

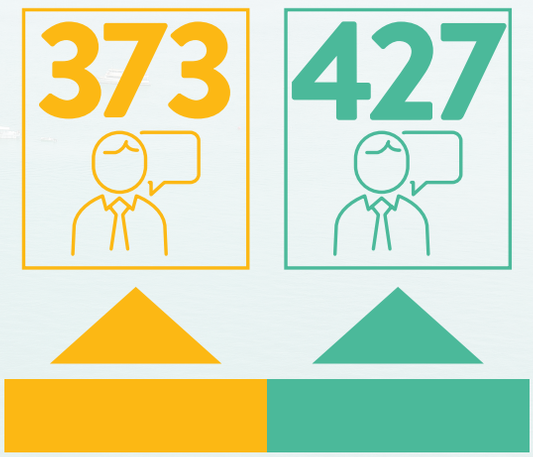


Total number of CRO's granted between 1 July 2021 until 30 June 2022

Total number of CRO's granted between 1 July 2022 until 30 June 2023



Enquiries - anecdotal forecasts of the workload in 2023-24

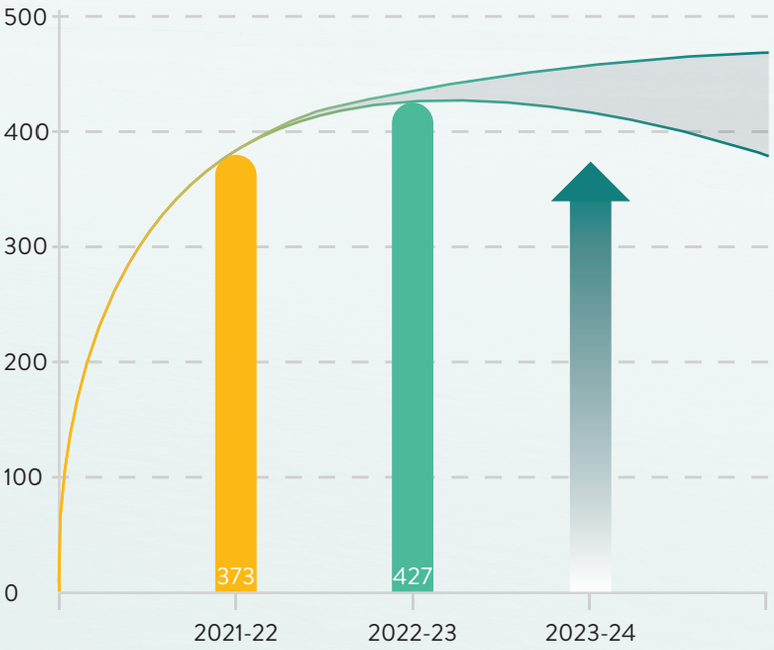


Total number of enquiry numbers [completed/ closed] our office received between 1 July 2021 until 30 June 2022.

Note: based on the enquiry start date

Total number of enquiry numbers [completed/ closed] our office received between 1 July 2022 until 30 June 2023.

Note: based on the enquiry start date



The Office of the Commissioner and the Program Support Office have dedicated substantial effort in establishing operational procedures for the implementation of the Act. This was essential to ensure the provision of culturally appropriate, affordable, and accessible services for Torres Strait Islander children and families. The Act came into force on 1 July 2021 and the acceptance of CRO applications officially commenced in September 2021. Currently, as the Act is still in its early stages, only anecdotal estimates can be made regarding future workloads and application costs. Furthermore, since the Act is currently under review, it is premature to provide precise workload forecasts. Additionally, each application is unique and may involve third parties, such as court processes and legal professionals, making it challenging to predict application costs and workloads. Due to the recent introduction of the Act and the acceptance of CRO applications starting in September 2021, there is a lack of quantitative data for making future workload projections. However, as the Act and program review is scheduled for completion by December 2023, and as the program matures, it may become feasible to forecast the workload and application costs more accurately.

ENQUIRY OUTCOMES

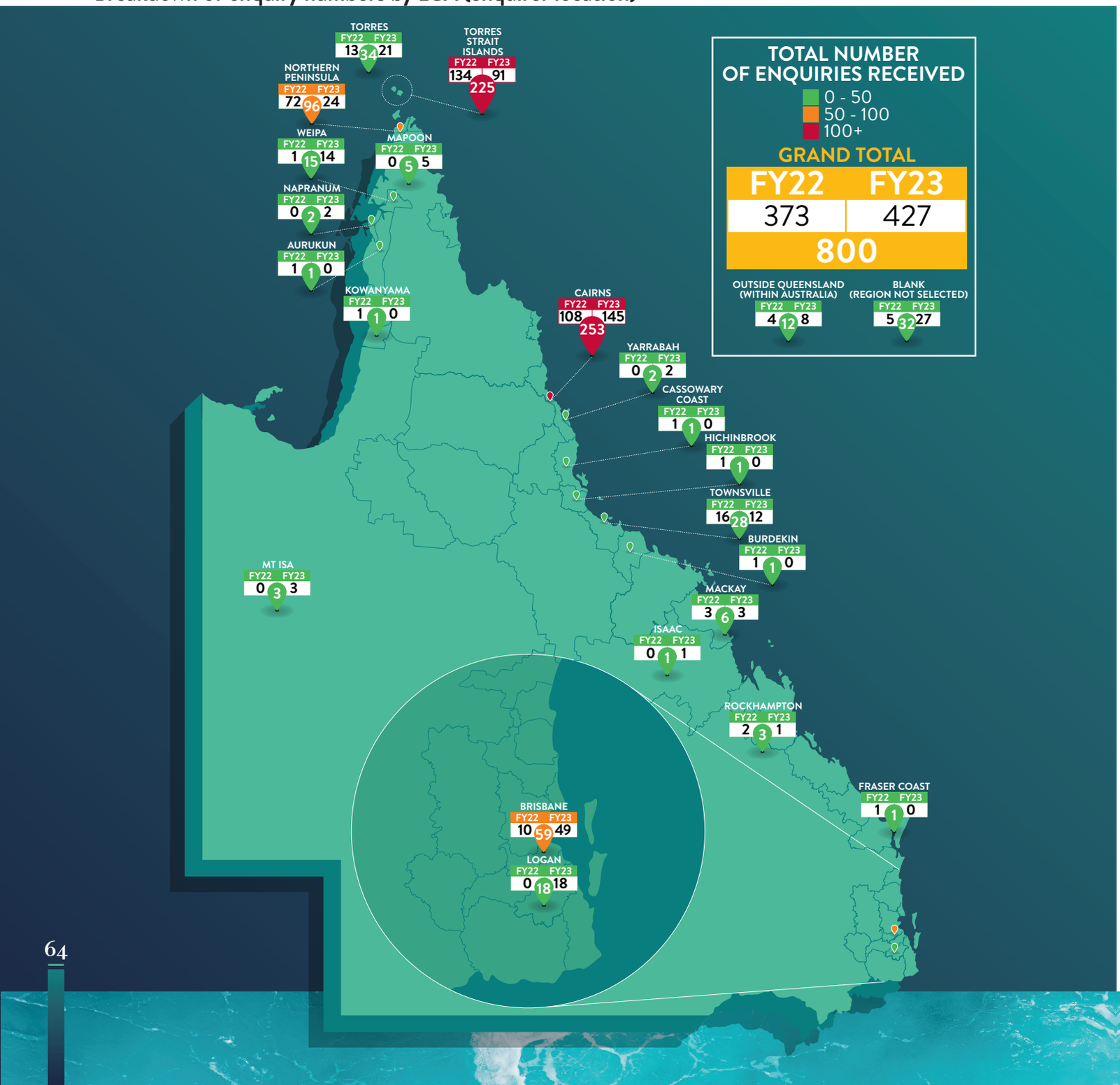
In the fiscal year 2022-2023, the Office of the Commissioner Meriba Omasker Kaziw Kazipa placed a significant emphasis on enhancing its frontline operations. This strategic focus involved improving the efficiency of the office's community engagement efforts and increasing awareness within the community about the services offered by the office and its operational processes. This approach was carefully designed to ensure that the office remains responsive to emerging trends and is well-prepared to meet the evolving needs of the Torres Strait Islander communities it serves.

As part of these efforts, the Office actively promoted the Act by conducting informational sessions at over 90 community engagement events held across Queensland. These events collectively drew an attendance of over 3,300 individuals. This proactive approach allowed Cultural Support Officers to effectively engage with communities, address their enquiries, and raise awareness about the services provided by the office.

Additionally, since March 2023, the office has established a digital presence, including a Facebook page. This online platform has received over 1,900 clicks and garnered more than 380 followers, further expanding the reach and impact of the office's initiatives and information dissemination.

As a result, there has been a notable increase in enquiries and approved CRO's. Since the office's inception, the Office has assisted 800 Torres Strait Islanders with their enquiries and 21 CRO's have been formally granted (as of 30 June 2023). The work undertaken by the office has already yielded positive outcomes for Torres Strait Islander families, as their cultural identity and that of their children are now recognised, enabling them to achieve previously unattainable goals.

Breakdown of enquiry numbers by LGA (enquirer location)



Breakdown of enquiry types for enquiries

Note: as one enquiry record can have multiple enquiry types, the number of enquiry types, will generally exceed the number of enquiry records.

ENQUIRY TYPES	FINANCIAL YEAR		GRAND TOTAL
	2021-22	2022-23	
Application Related	136	133	269
Application Withdrawal	19	1	20
Births, Deaths and Marriages Related	29	15	44
General	340	382	722
Internal Review Related	19	1	20
Legal Advice Related	48	31	79
Post Decision Information Access Related	19	1	20
Response to Further Information\Response Request	19	1	20
Submission of Supporting Documents Without Application	19	1	20
GRAND TOTAL	**648**	**566**	**1214**

Breakdown of enquiry outcomes

ENQUIRY OUTCOME TYPES	FINANCIAL YEAR		GRAND TOTAL
	2021-22	2022-23	
(blank)	48	28	76
Advised enquirer of ineligibility for Cultural Recognition Order due to deceased parents	6	5	11
Application materials emailed to enquirer	159	231	390
Application materials posted to enquirer	13	7	20
Enquirer advised that only a complete application can be submitted	1	2	3
Enquirer provided general information verbally	114	92	206
Enquirer referred to website for further information on Traditional Adoptions	6	2	8
Enquirer referred to website for general information on Meriba Omasker Kaziw Kazipa	6	42	48
Procedure for accessing information explained	7		7
Process for accessing new Birth Certificate explained	4	4	8
Process for responding to a request for further information explained	1		1
Referral to Aboriginal and Torres Strait Islander Legal Services made	2	4	6
Referral to Legal Aid Queensland made	4	8	12
Referral to Queensland Indigenous Family Violence Legal Service made	2	2	4
GRAND TOTAL	**373**	**427**	**800**

Breakdown of enquiries with enquirers requiring assistance (e.g. interpreter - CSO speaking in yumplatok)

Note: it is expected that a number of enquiries will not have a person (enquirer) recorded due to the nature of the enquiry and/or the enquirers preference.

ASSISTANCE TYPES	FINANCIAL YEAR		GRAND TOTAL
	2021-22	2022-23	
(no person recorded)	118	44	162
Interpreter	149	124	273
None	106	259	365
GRAND TOTAL	**373**	**427**	**800**

Average duration for enquiry resolution between 1 July 2022 until 30 June 2023: 7 days

2022 - 23 WEBSITE STATISTICS

Legal recognition of Torres Strait Islander traditional child rearing practice (on the Qld Gov website) page views

4846

144% INCREASE FROM 2021/22

Torres Strait Islander traditional child rearing practice (on the DTATSIPCA website) page views

902

20% INCREASE FROM 2021/22

Number of user site visits

3.18 average web pages per session

3475

65% INCREASE FROM 2021/22

Office of the Commissioner Meriba Omasker Kaziw Kazipa total website visits

8533

Number of downloads for Guidelines in relation to the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*

71

WHO CAN APPLY FOR CULTURAL RECOGNITION ORDER?

Torres Strait Islander families who are raising a child, and a Torres Strait Islander person over 18 year of age who has been raised, under Ailan Kastom child rearing practice can apply for a Cultural Recognition Order, if:

- the person's birth (the child or adult) was registered in Queensland, and
- at least one birth parent is a Torres Strait Islander person, and
- at least one cultural parent is a Torres Strait Islander person.
- Where the application is about a person who is a child, it can only be made:
    - by the child's birth parents and the cultural parents, (unless a dispensation of consent order is granted by the court), and
    - if both the birth and cultural parents are at least 18 years of age, and
    - 30 days, or more, after the child's birth is registered.
- For adult applications, the adult must make the application and the birth and cultural parents must consent.
- Consent must be provided by all living parents, unless a dispensation of consent order has been granted by the court.
- Nothing prevents an application from being made if a birth parent or cultural parent is deceased, however at least one birth parent and one cultural parent must be living at the time of the application.

The Application process

What does it Involve?

- The Commissioner considers and decides applications for a Cultural Recognition Order.
- Main principle of decisions is to ensure wellbeing and best interests of the person
- The Office of the Commissioner Meriba Omasker Kaziw Kazipa assists the Commissioner during the Cultural Recognition Order application process.

What does it consider

- At least one birth and one cultural parent must be Torres Strait Islander
- Ailan Kastom child rearing practice must have occurred before applying
- Applications can be received from persons living interstate as long as the birth was registered in Queensland
- Consent statements from birth and cultural parent/s are required
- Commissioner has discretion to seek criminal history for cultural parents.
- Order can be discharged if false and misleading information has been provided

Under the Act, the Commissioner

- must make decisions for the wellbeing and best interests of the person who is the subject of a Cultural Recognition Order
- will consider that information about the practice is sacred and secret according to Ailan Kastom
- will ensure appropriate recognition and preservation of Ailan Kastom in general and Ailan Kastom child rearing practice in particular
- must maintain confidentiality and will make decisions in a fair, timely and consistent manner
- will have regard to the legal and cultural benefits for the person if the Cultural Recognition Order is made recognising Ailan Kastom child rearing practice
- must act in a way that is fair and reasonable

In making decisions under the Act, the Commissioner does not

- mediate family matters
- determine whether the cultural practice should or should not have occurred
- arrange for a new birth certificate to be sent to applicants
- make decisions about where a child is being raised
- negotiate between birth parents and cultural parents

How to apply for a Cultural Recognition Order

A Process for Legal Recognition of Ailan Kastom Traditional Child Rearing Practices

Private Home Visits & Confidential Support



Need help?

If you need help with an Application for a Cultural Recognition Order, general enquiries and advice bookings, call our office on

1800 571 102

(free call) we'll assist you through the whole process.

www.ocmokk.qld.gov.au

EMAIL: OFFICE@OCMOKK.QLD.GOV.AU

WHAT HAPPENS AFTER A CULTURAL RECOGNITION ORDER IS MADE?

After a Cultural Recognition Order application has been submitted, a few more steps are required before it can be recognised, and a new birth certificate be issued. They are:

- The Commissioner will write to all parties to the application and provide a statement of reasons for the decision and provides them all with a Cultural Recognition Order
- The Commissioner will provide the Cultural Recognition Order to the Registrar of Births, Deaths and Marriages
- The Registrar will register the transfer of parentage as stated by the Cultural Recognition Order and close the previous birth entry of the person
- For a new birth certificate to be issued to the cultural parent or adult applicant, an application will need to be submitted to the Registry of Births, Deaths and Marriages.



KEY COMMUNICATIONS AND ENGAGEMENT

Community Engagement

Breakdown of community engagement, including types and number of attendees

	FINANCIAL YEAR	
	2022-23	
ACTIVITY TYPE	# OF ENGAGEMENTS	# OF ATTENDEES
Community Event presentation	55	3738
Meriba Omasker Kaziw Kazipa Specific presentation	51	300
Grand Total	**106**	**4038**

* 'Session Date' values used to group results into financial years



COMMUNICATIONS AND OPERATIONS OBJECTIVES

To raise awareness for the Act and increase understanding about its implementation, a 2023 communications strategy was established.

The scope of this communication strategy includes communication support for community engagement activities undertaken by the Office of the Commissioner Meriba Omasker Kaziw Kazipa and strategies to raise awareness within Torres Strait Islander communities, relevant Queensland Government agencies and all Queenslanders.

The purpose of this communication strategy is to:

- demonstrate understanding and adherence to Torres Strait Islander cultural protocols
- create an effective communication strategy tailored to the specific needs and preferences of the target audience, taking into account the broader social, cultural and political context in which they operate

Most Torres Strait Islanders, Kaurareg people and Aboriginal people in the Torres Strait Region including Bamaga and Seisia on the Northern Peninsula area (NPA):

- do not speak English as a first language and in some cases English is a second or third language
- are not always familiar with government terminology, procedures or processes and
- have a complex relationship and history with government.

For these reasons, and Ailan Kastom our communication strategy and style needs to be unique. All our communication channels must be visually engaging, not look " government" or bureaucratic and needs to be tailored specifically for Torres Strait Islanders. The Commissioner and Cultural Support Officers positions are identified to ensure cultural competency when assisting families with Cultural Recognition Orders.

Promoting public awareness of the Commissioner's functions, including the process and the benefits of applying for a Cultural Recognition Order outline the communication strategies to support the priorities of the OCMOKK Office over the calendar year to December 2023.

SCOPE

The scope of this communication strategy is to raise awareness within Torres Strait Islander communities, relevant Queensland Government agencies and all Queenslanders.

- Brand development and recognition - Awareness, Community engagement, Sponsorship
- Lead generation - Community Connection, Community Visits, Media Mainstream, First Nations Media, Social Media.
- Website development - Creative design and redevelopment, functionality, mobile optimised.

STAKEHOLDERS

The following stakeholders are critical to the effective implementation of the Act and tactics will be developed to ensure their ongoing support.

These stakeholders include:

- The Minister for Treaty and Aboriginal and Torres Strait Islander partnerships, Communities and Arts
- Advisory Group Members, Members of the KWOP and participants in the Kupai Omasker consultations (2018).

Queensland Government agencies responsible for documenting and releasing official processes, such as:

- Department of Justice and Attorney-General
- Registry of Births, Deaths and Marriages
- Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts
- Department of Education (enrolments)
- Queensland Health
- Midwifery services
- Aboriginal and Torres Strait Islander services
- Queensland Indigenous Family Violence
- Legal Service
- Legal Aid Queensland

PARTNERSHIPS

- Department of Education
  - Enrolments
  - Queensland Health
  - Birthing services
- Aboriginal and Torres Strait Islander services.
- Australian Government Attorney-General's Department; National Indigenous Australians Agency

TARGET AUDIENCES

Primary target audience:
Torres Strait Islander individuals, families, communities and their networks – no matter where they live.

Secondary target audience:
Other members of the community and community influencers including:

- First Nations media
- Religious organisations
- Community Legal Services including Aboriginal and Torres Strait Islander Legal Services.

COMMUNICATIONS OBJECTIVES

Primary target audience:

- To raise awareness and enlighten Torres Strait Islander peoples about the legal recognition of Torres Strait Islander child rearing practice through the establishment of *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* (the Act).
- To raise awareness of the benefits that the introduction of the Act provides for Torres Strait Islander peoples.
- Build business reputation to gain confidence and trust in Torres Strait Islanders, so that they feel comfortable in engaging OCMOKK.
- To encourage and assist Torres Strait Islanders who are interested in making an application for a Cultural Recognition Order to contact the OCMOKK Office via telephone, email, Facebook, Instagram, website.

Secondary target audience:
Other members of the community and community influencers, including:

- Queensland Government agencies and employees to understand the formal legal status of legislation and the function of the Office of the Commissioner Meriba Omasker Kaziw Kazipa in assessing Cultural Recognition Order applications
- to raise awareness of Queenslanders about the Act and the Queensland Government's commitment to reframing its relationship with Torres Strait Islander people
- to raise awareness of the benefits of the Act for Torres Strait Islanders and other Queensland communities and its contribution to reconciliation and healing.

KEY MESSAGING

Primary

- The Act provides the legislative framework for Torres Strait Islander people to apply for legal recognition of traditional child rearing practice, helping to achieve better access to support and services.
- The Act recognised Torres Strait Islander lore in Western Law and establishes a process for the legal recognition of Torres Strait Islander traditional child rearing practice.
- Torres Strait Islander families can now apply for a Cultural Recognition Order to legally recognise their cultural parents

Secondary

- This historic, world-first legislation realises more than 30 years of community advocacy by the Kupai Omasker Working Party and successive governments, to provide legal recognition of the traditional practice for Torres Strait Islander families and communities.
- The establishment of the Act is part of the Queensland Government's commitment to reframing the relationship with Aboriginal and Torres Strait Islander peoples.

CALL TO ACTION

Primary
For more information about Cultural Recognition Orders or help submitting an application visit www.ocmokk.qld.gov.au or phone 1800 571 102.





COMMUNICATION STRATEGIES

Communication about the Office of the Commissioner Meriba Omasker Kaziw Kazipa will be targeted to ensure Torres Strait Islander people are aware of the legislation and its benefits and encourage prospective applicants to contact the Office of the Commissioner Meriba Omasker Kaziw Kazipa or make an application under the Act via the website.

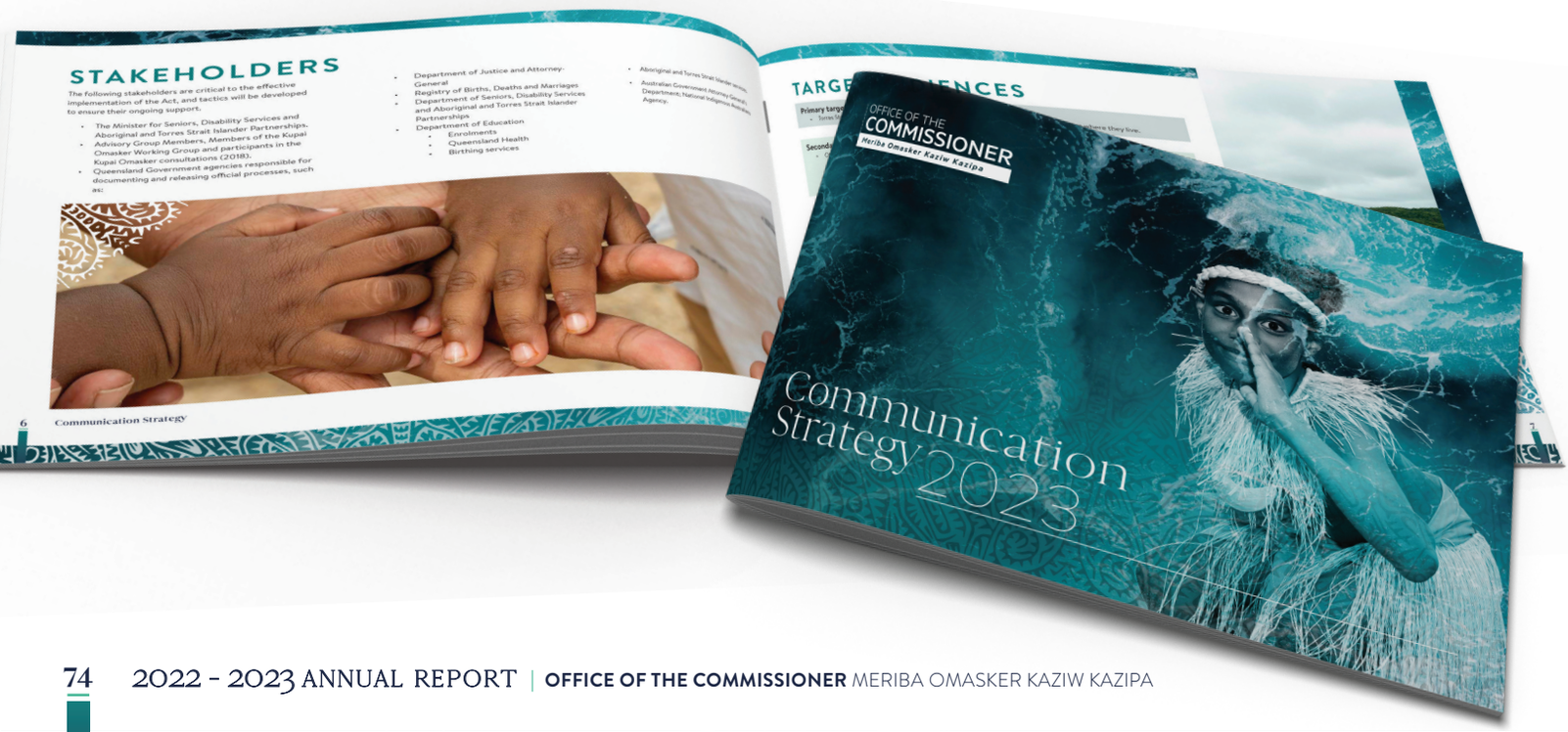
Communication strategies to promote Office of the Commissioner Meriba Omasker Kaziw Kazipa will include:

1. Community engagement and special events

The Office of the Commissioner Meriba Omasker Kaziw Kazipa will develop a schedule of community engagement activities and special events for publication on their website.

Opportunities to promote the Office of the Commissioner Meriba Omasker Kaziw Kazipa may also include significant cultural days of observance such as:

Office of the Commissioner Meriba Omasker Kaziw Kazipa Anniversary Day 01 JUL	**Coming of the Light Celebration** 01 JUL	**NAIDOC Week** 03 JUL TO 10 JUL	**National Reconciliation Week** 27 MAY TO 03 JUN	**Mabo Day** 03 JUN
National Aboriginal and Torres Strait Islander Children's Day 04 AUG	**International Day of the World's Indigenous Peoples** 09 AUG	**United Nation Declaration on the Rights of Indigenous Peoples** 13 SEPT	**Office of the Commissioner Meriba Omasker Kaziw Kazipa Anniversary Day** 14 SEPT	**World Human Rights Day** 10 DEC



2. Develop a suite of promotional and operational materials

To support the Office of the Commissioner Meriba Omasker Kaziw Kazipa's engagement program, a suite of communication resources will be developed including:

- fact sheets summarising the provisions of the Act, the benefits it will provide, the role of the Office of the Commissioner Meriba Omasker Kaziw Kazipa and processes for applying a Cultural Recognition Order
- postcard sized calling card outlining contact information for distribution during community engagement activities
- poster to promote community engagement activity
- review of application form to enable mobile-friendly completion
- consideration of all collateral in local languages
- branded event equipment for community outreach activities including:
    - Tablecloth/s
    - Pull up banners
    - Polo shirts/hats (for staff use).







3. Media

The department will develop a range of media materials to support the Commissioner in his engagement with First Nations journalists and media outlets. A media protocol document has been developed.

Nationwide Torres Strait Islander population research will be conducted to identify Torres Strait Islander populations to direct media advertising including community and commercial Aboriginal and Torres Strait Islander radio.

4. Social media and other online platforms

Nationwide Torres Strait Islander population research will be conducted to identify Torres Strait Islander populations to direct media advertising including community and commercial Aboriginal and Torres Strait Islander radio, Facebook, Instagram and LinkedIn.

5. Support for stakeholder to raise community awareness

Champions and advocates are important stakeholders for both program acceptance and program promotion.

These stakeholders are a valuable resource is promoting community trust and program credibility and have influence as spokespeople, community leaders and trusted voices.

A promotional toolkit will be distributed to community champions and advocates including the suite of promotional materials mentioned in item 2.

Champions and advocates include, but are not limited to:

- State Member for the Queensland electorate of Cook, Cynthia Lui.
- KWOP members.
- Community Elders and leaders.
- Peak bodies with a voice in the community.
- Service providers working in community.
- Local MPs.
- Government agencies e.g. Aboriginal Health services in HHSs and DTATSIPCA regional offices.
- Local government Mayors and Councillors.
- Community justice groups.

6. Activate internal communication

Sharing information about Meriba Omasker Kaziw Kazipa across the Queensland Government to raise awareness among public servants and encourage individuals to make an application under the act.

Office of the Commissioner Meriba Omasker Kaziw Kazipa to consider development of cultural capability training that can be promoted across Government and focused delivery for Births, Deaths and Marriages and Queensland Health.







Office of the Commissioner - Meriba Omasker Kaziw Kazipa
5 May ·

Meet Kaleb, our Cultural Support Officer at the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) in Cairns! He is the grandson of Eddie Koiki Mabo and his extensive understanding and expertise in our Ailan Kastom's make him an essential and highly valued member of our team.

Kaleb is available to provide information and culturally appropriate support to applicants about the application process.

Arrange your confidential meeting with our Cultural Support Officer, Ka... **See more**



11 3

Office of the Commissioner - Meriba Omasker Kaziw Kazipa
1 June ·

Monday 29 May marked the 31st Anniversary of the Torres Strait Islander flag which symbolises the unity and identity of all TSI people.

The celebration held to mark this milestone seen two of our team march from the wharf to ANZAC park alongside hundreds of other people.

Celebrations continued in the park with speeches, traditional Island dancing and the cutting of the cake.... **See more**



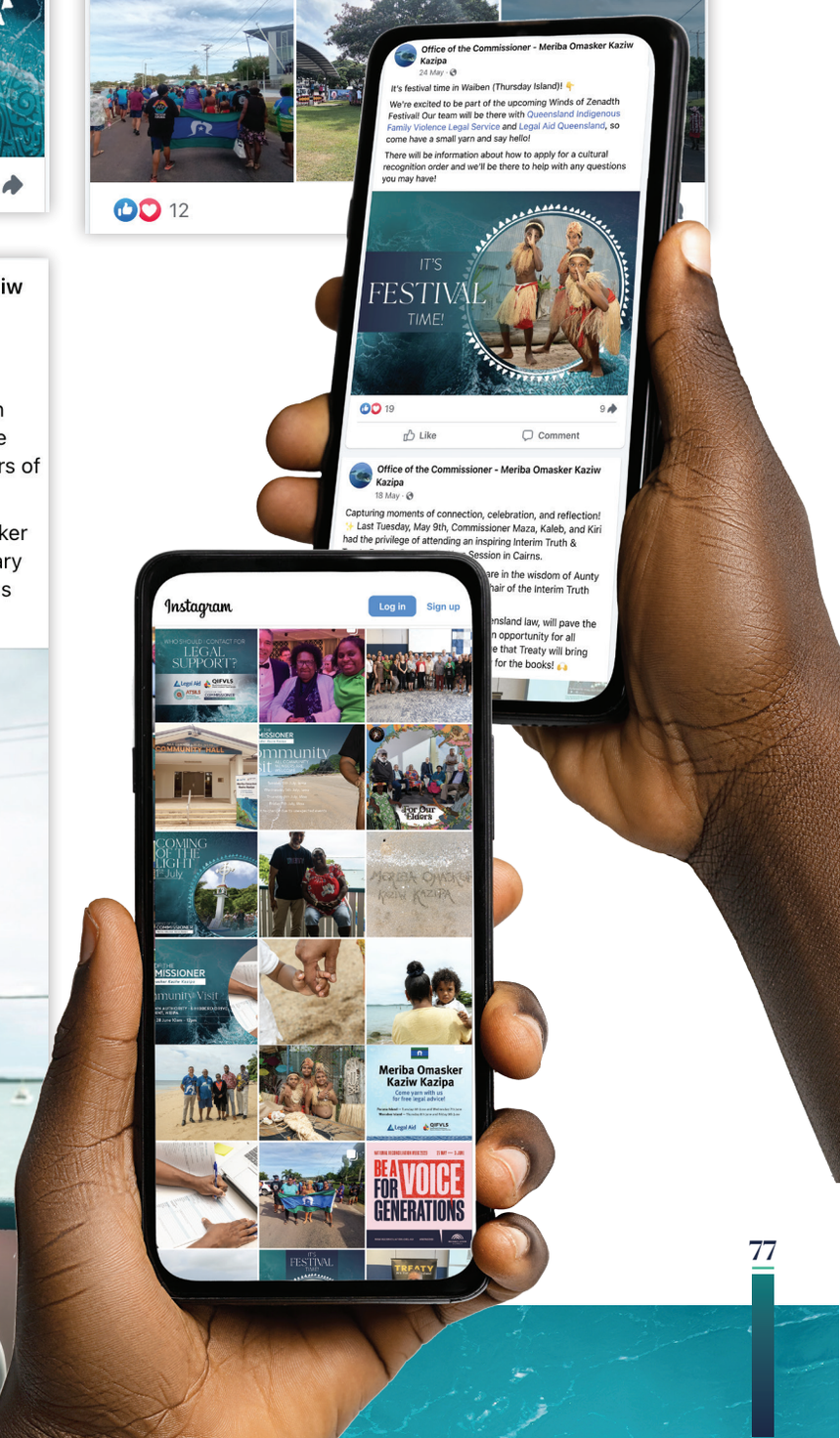
12

Office of the Commissioner - Meriba Omasker Kaziw Kazipa
29 June ·

The decades-long journey towards the legal recognition of Torres Strait Islander traditional child rearing practice which came into force on 1 July 2021, wouldn't have been possible without this incredible woman and other prominent members of the Kupai Omasker Working Party

We want to pay tribute to the leadership of the Kupai Omasker Working Party members, for your tireless effort, extraordinary determination and strength to get legal recognition of Torres Strait Islander... **See more**





MEDIA AND PUBLICITY COVERAGE 2022-2023

Budget invests in cultures and better outcomes for First Nations people

Published Tuesday, 21 June, 2022 at 04:05 PM

Minister for Seniors and Disability Services and Minister for Aboriginal and Torres Strait Islander Partnerships

The Honourable Craig Crawford

The Palaszczuk Government is continuing to invest in First Nations people with over $74 million including new funding
in this year's Aboriginal and Torres Strait Islander Partnerships budget focused on strengthening culture and helping communities to thrive.

Minister for Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships Craig Crawford said the State Budget continued to support the needs of Aboriginal and Torres Strait Islander Queenslanders.

"When it comes to world-leading progress on reconciliation and equality for First Nations people, the Palaszczuk Government is committed to creating more jobs, better services and a great lifestyle for our Indigenous communities," Mr Crawford said.

"In the 2022-23 State Budget, we are providing increased funding of $3.1 million over four years to implement initiatives agreed under the National Agreement on Closing the Gap to improve life outcomes for Aboriginal and Torres Strait Islander Queenslanders.

"Funding of $3 million over the next two years will be invested to ensure the Office of the Meriba Omasker Kaziw Kazipa Commissioner continues to legally recognise Torres Strait Islander traditional child rearing practice.

"This historic legislation and the office are the world first of their kind, and the Palaszczuk Government is committed to supporting this important recognition of First Peoples' cultural practice."

Mr Crawford said the investment of $16.7 million over four years will continue to address land administration requirements and infrastructure planning in remote and regional communities, including more home ownership opportunities.

"We are also investing in employment and economic development in remote First Nations communities, with $1.9 million over two years to support locally led and designed economic development plans," he said.

Continued...
https://statements.qld.gov.au/statements/95458

Appointment of Commissioner (Meriba Omasker Kaziw Kazipa)

Published Wednesday, 12 October, 2022 at 01:12 PM

Minister for Seniors and Disability Services and Minister for Aboriginal and Torres Strait Islander Partnerships

The Honourable Craig Crawford

Aboriginal and Torres Strait Islander Partnerships Minister Craig Crawford has congratulated C'Zarke Maza on his reappointment to the role of Commissioner (Meriba Omasker Kaziw Kazipa).

"Mr Maza has extensive experience in law, advocating for, and engaging with, Torres Strait Islander peoples; and as a Torres Strait Islander person has a deep understanding of the diversity and sensitivity of traditional child rearing practice," Minister Crawford said.

"Since commencing as the inaugural Commissioner in July 2021, Commissioner Maza has established the Cultural Recognition Order application process and engaged with families and community about accessing the service.

"With his reappointment to the role, the Commissioner can ensure continuity in the important and sensitive work undertaken since commencing in the role."

Mr Crawford said the 2022-23 State Budget additional funding of $3 million over the next two years, will be invested to ensure the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) continues to legally recognise Torres Strait Islander traditional child rearing practice, through Cultural Recognition Orders.

Eight Cultural Recognition Orders have been made, with further applications currently being considered.

"There are many cultural and legal benefits of a Cultural Recognition Order recognising Ailan Kastom (island custom) child rearing practice, including the issuing of a birth certificate that reflects a child's cultural identity and lived experience, making life achievements such as school enrolment, participating in sport and getting a driving licence, much easier," Mr Crawford said.

"This reappointment will ensure that children who have grown up under Ailan Kastom child rearing practice and their parents can continue to apply to have their legal identity match their cultural identity and lived experience.

Continued...
https://statements.qld.gov.au/statements/96310

Queensland Government

OFFICE OF THE COMMISSIONER
Meriba Omasker Kaziw Kazipa

To whom it may concern,

It was a significant milestone in Queensland's history when the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020, (the Act) was passed in Queensland Parliament in September 2020 with bipartisan support. Following extensive community consultation, the Act formally acknowledged the importance of the culture that underpins traditional Torres Strait Islander family structures known as Ailan Kastom. The Act came into effect on 1 July 2021 and whilst it may have signaled the end of a long journey for some, for all Torres Strait Islanders in Queensland, it epitomised the start of a meaningful healing process and a more just, fair and inclusive future for all generations of Torres Strait Islander children and families.

The Act is the first of its kind, where it brings Torres Strait Islander law and Western laws together and is the first Act to use traditional Islander language in Queensland. The Act provides an application process for the making of a Cultural Recognition Order (CRO) that will remove many legal barriers and allow individuals to have their cultural identity reflect their legal identity and lived experience. A CRO's legal effect is the permanent transfer of the subject person's parentage to the cultural parents, which is reflected in the records of the Registry of Births, Deaths and Marriages. Once a CRO has been granted, a new Birth Certificate can be issued and the transfer of parentage of the subject person to cultural parents is legally recognised in western law. This process is life changing for Torres Strait Islander families and their children.

Please find below further information on our office and Queensland's first legal recognition process of Torres Strait Island Ailan Kastom traditional child rearing practices.

Office of the Commissioner (Meriba Omasker Kaziw Kazipa)

About Us

If you wish to access more information about us please go to our web page - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)

Meet the Commissioner (Meriba Omasker Kaziw Kazipa)

Commissioner Maza talks about the healing process that the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020 provides to Torres Strait Islander families – see link

Services

For information on services provided by our friendly staff in the Office of the Commissioner Meriba Omasker Kaziw Kazipa – Program Support Office

How to apply for a Cultural Recognition Order

For information on how to apply for a Cultural Recognition Order - How to apply for a Cultural Recognition Order

Additional Information and application forms can be found in the following links:

- Guidelines in relation to the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020
- Annual Report 2021-2022 Meriba Omasker Kaziw Kazipa
- Child application form
- Adult application form

Contact/Information

If you would like to arrange for a more private and confidential meeting with one of our Cultural Support Officers or you would like our office to provide an information session to your workplace, our contact details are as follows:

Telephone: 1800 571 102 (free call)
Email: office@ocmokk.qld.gov.au

Our offices are located at: Level 3, Citi Central Building, 46-48 Sheridan Street, Cairns 4870 and The Torres Haus Offices, Level 1/46 Victoria Parade, Thursday Island 4875.

Regional Service Centre staff from the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts (DTATSIPCA) are also available to provide information and help with an application.

Please feel free to contact our office if you have any questions.
Sincere Regards,
C'Zarke Maza | Commissioner
Office of the Commissioner Meriba Omasker Kaziw Kazipa

C'Zarke Maza reappointed to le

nit.com.au/13-10-2022/4084/czarke-maza-reappointed-...

Aboriginal and Torres Strait Islander peoples should be aware this site contains references to people who have died.

JOBS | EVENTS | ADVERTISE Search

NIT
NATIONAL INDIGENOUS TIMES

C'Zarke Maza reappointed to lead Queensland Commission for Torres Straight Islander community

Callan Morse - October 13, 2022



NEWS

Torres Strait Islander and Yidinjdji man C'Zarke Maza has been reappointed to the role of Queensland's Commissioner (Meriba Omasker Kaziw Kazipa).

Commencing the inaugural position in July 2021, Commissioner Maza has established a Cultural Recognition Order application process so that Torres Strait Islander traditional child rearing practices are legally recognised.

After engaging with families and community about accessing the Cultural Recognition Order process, eight Cultural Recognition Orders have been made so far with additional applications currently under consideration.

Commissioner Maza said after promoting Cultural Recognition Orders throughout the Torres Strait Islander community there has been a large number of enquiries and a gradual increase in applications.

"Many significant steps have been undertaken to-date in promoting and raising awareness about the legislation among Torres Strait Islander communities and supporting families in making applications for Cultural Recognition Orders," he said.

"I am pleased to say hundreds of Torres Strait Islander people have been assisted with their enquiries by the Office of the Commissioner.

"As community awareness and confidence in the scheme continues to grow, applications have been steadily increasing."

Continued...

https://nit.com.au/13-10-2022/4084/czarke-maza-reappointed-to-lead-queensland-commission-for-torres-straight-islander-community

Movers & Shakers: Reappointm

themandarin.com.au/202471-movers-shake...

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THE MANDARIN

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Movers & Shakers: Reappointments at ACMA and Meriba Omasker Kaziw Kazipa

By Anna Macdonald

October 13, 2022



The latest senior public sector appointments from across the country.

Queensland commissioner (Meriba Omasker Kaziw Kazipa) reappointed

C'Zarke Maza was reappointed as commissioner (Meriba Omasker Kaziw Kazipa) in Queensland.

On his reappointment, Maza said he was pleased at the work the office had done thus far for Torres Strait Islander people, particularly when it came to traditional child-rearing practices.

"With Torres Strait Islander families and their children that have been granted Cultural Recognition Orders, I can attest that this process has been life-changing," Maza said.

"When granting a Cultural Recognition Order, it has been the greatest pleasure to witness the meaningful healing and social and emotional wellbeing that this process provides."

The commissioner added he felt humbled and honoured to be reappointed.

Queensland Aboriginal and Torres Strait Islander partnerships minister Craig Crawford said Maza brought with him extensive experience in advocating for Torres Strait Islander people.

Continued...

https://www.themandarin.com.au/202471-movers-shakers-reppointments-at-acma-and-meriba-omasker-kaziw-kazipa/

Recognition of Service - C'Zar

atsils.org.au/recognition-of-service-czarke-maza/

24/7 Legal Assistance Hotline: 1800 012 255

ATSILS Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd

ATSILS | Services | Careers | Publications | News | Donate | Contact

Recognition of Service – C'Zarke Maza

April 26, 2023 / in Good News, News /



ATSILS CEO Shane Duffy, & our Director of Sector Engagement and Communications, Graham White were in Cairns last week and enjoyed a catch-up with previous ATSILS employee C'Zarke Maza, who is now the inaugural Commissioner – Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice).

C'Zarke was a much-valued member of the ATSILS family and spent over 10 years with us as a legal practitioner and as the Regional Manager of our Thursday Island Office.

Continued...
https://atsils.org.au/recognition-of-service-czarke-maza/

Queensland's Historic Milestor

jcu.edu.au/events/2023/september/queenslands-historic-milestone-with-commissioner-czarke-maza

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JAMES COOK UNIVERSITY AUSTRALIA

Future Students | Current Students | Research and Teaching | Partners and Community

JCU Events | JCU Heroes in Science | Heroes in Health Cairns

JCU Events | Queensland's Historic Milestone with Commissioner C'Zarke Maza

Queensland's Historic Milestone with Commissioner C'Zarke Maza

Tue, 5 Sep 2023



Commissioner C'Zarke Maza presents on the ground-breaking cultural recognition of Torres Strait Islander traditional child rearing practice.

Join us for a captivating presentation with Commissioner C'Zarke Maza from the Office of the Commissioner Meriba Omasker Kaziw Kazipa and explore the ground-breaking cultural recognition of Torres Strait Islander traditional child rearing practice.

Continued...
https://www.jcu.edu.au/events/2023/september/queenslands-historic-milestone-with-commissioner-czarke-maza

Aunty Ivy overwhelmed with jo

capeyorkweekly.com.au/aunty-ivy-overwhelmed-with-joy-as-applications-open/738/

Cape York Weekly

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Aunty Ivy overwhelmed with joy as applications open

14 September 2021 | Mark Knowles

Start the conversation



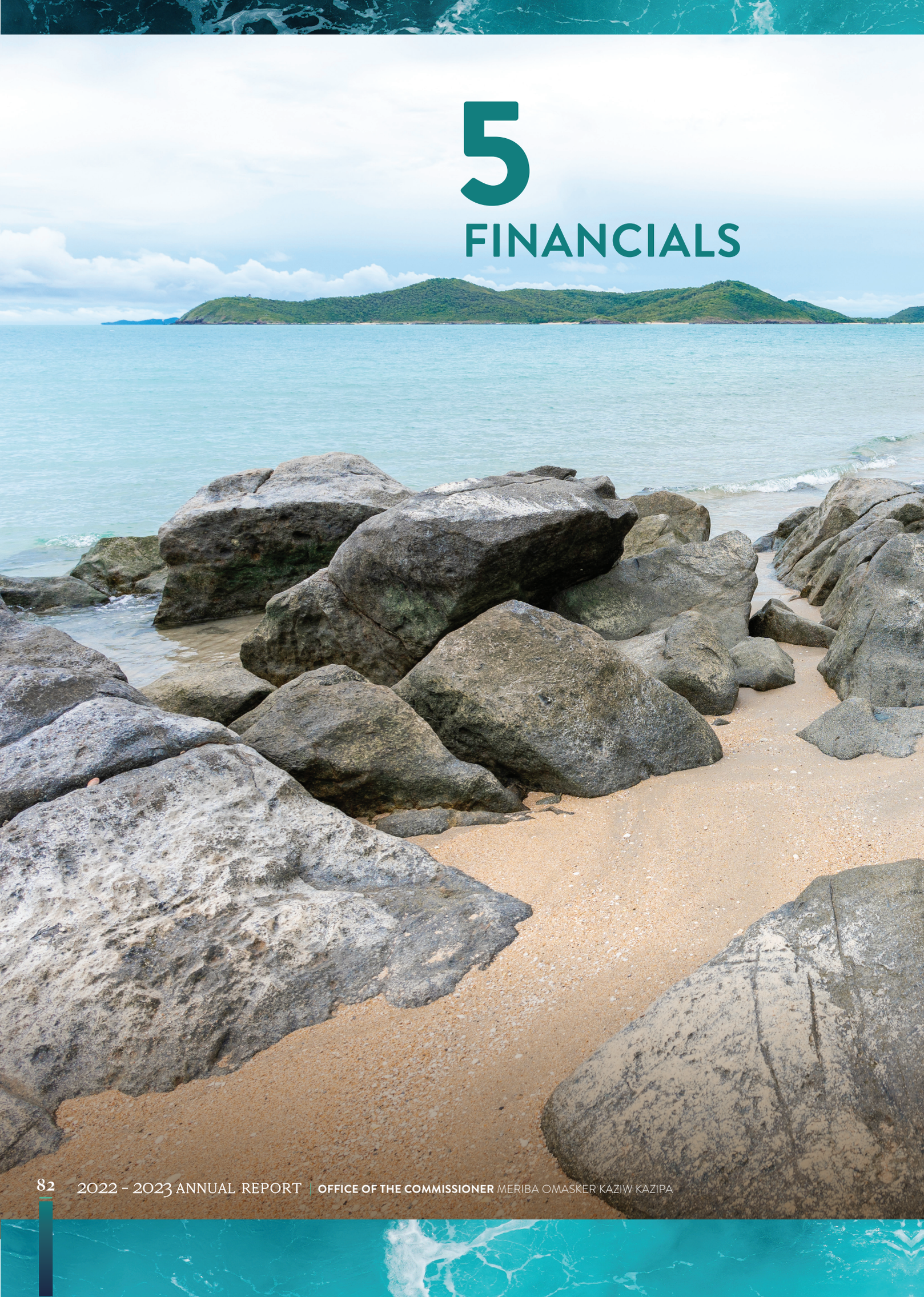
It follows more than 30 years of advocacy by Kupai Omasker Elders to allow Torres Strait Islanders raised by extended family to transfer their legal identity from birth parents to cultural parents.

Minister for Aboriginal and Torres Strait Islander Partnerships Craig Crawford officially opened applications for Meriba Omasker Kaziw Kazipa Cultural Recognition Orders at a ceremony in Cairns last Tuesday.

"This is a living act of reconciliation. It will enable more Torres Strait Islander people to experience and access the same basic rights to identity as every other Queenslander," he said.

Continued...
https://capeyorkweekly.com.au/aunty-ivy-overwhelmed-with-joy-as-applications-open/738/

5
FINANCIALS



OVERVIEW

- Total funding over 2022-23 and 2023-24 is **$4.621 million** of which **$1.513 million** was allocated in 2022-23 and **$3.108 million** in 2023-24. This funding continues to support the implementation of these historic reforms.

- In addition, there is an allocation of capital funding of **$0.57 million** in 2023-24.

- Independent legal services are contracted through the Department of Justice and Attorney-General (DJAG), with **$0.932 million** allocated over two financial years to support applicants access to legal advice and the provision of birth certificates.

MERIBA OMASKER KAZIW KAZIPA – 2021-22 YEAR END RESULTS

Financial transactions in relation to Meriba Omasker Kaziw Kazipa are contained within the certified annual financial statements of the 2022-23 Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts Annual Report which is available at **https://www.dsdsatsip.qld.gov.au/resources/dsdsatsip/about/publications/annual-report/dtatsipca-annual-report-2022-23.pdf**

6

WHERE TO FROM HERE?





OFFICE OF THE COMMISSIONER MERIBA OMASKER KAZIW KAZIPA, 2023 - 2024 PRIORITIES

Overview of the 2022-23 fiscal year and leading into the 2023-24 priorities

In 2022-2023 the priority focus area's for the Office of the Commissioner that have been successfully completed include:

- Ongoing improvement and collaborative practices with partner agencies.

- Ongoing improvements to increase and streamline engagement of Torres Strait Islander families access to Cultural Recognition Order enquiry and application processes.

In 2022-2023 the Office has focused on marketing and branding initiatives, increasing and securing our human and financial capability, community engagement, stakeholder education, and progressing infrastructure improvements.

On behalf of the Minister, the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts initiated the Review in accordance with the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*, s.111 'review of Act and operations of Office'.

The Act and the operations of the Office must undergo a review within two years of their commencement to ensure that they are functioning as intended. An independent consultant, Tagai Management Consultants, has been engaged to conduct this review, collaborating with other government agencies and considering feedback from the Office.

Tagai Management Consultants prioritize Torres Strait Islander culture, with "Tagai" symbolizing the star constellation in the southern skies of the Milky Way Galaxy. They will assess whether the Act is achieving its intended outcomes and identify opportunities to enhance the Office's processes and implementation of the Act.

Tagai Management Consultants have a diverse portfolio encompassing defense, infrastructure, aviation, renewable energy, the resources sector, technology, export/import, and various government levels, along with Indigenous communities. Their clients include the Australian and Queensland Governments, Auckland Council, Torres Strait Regional Authority, Indigenous Business Australia, and Torres Shire Council.

Although the Act has undeniably improved the lives of Torres Strait Islanders and their families by providing legal recognition for traditional child rearing practices in Queensland law, there is always room for enhancements and improvements. Certain aspects of the Act and the Office's operations can be refined to further encourage and facilitate the participation of Torres Strait Islanders in the application process for Cultural Recognition Orders.

> "Over two years has passed since the Act's adoption and whilst I finally see some Torres Strait Islander families benefiting from the legislation, I also see many other families and their children not, because they are presently not eligible. These families and their child should not miss out on obtaining legal recognition of their Ailan Kastom. If the legislation is not meeting the needs of these families, then it must change - Western laws must accommodate Torres Strait Islander laws, not the other way around."
>
> Aunty Ivy Trevallion

IMPROVEMENT OPPORTUNITIES

COMPLETED	IN PROGRESS	ACTION REQUIRED	ON HOLD	MONITOR
Project completed	Project continuing	Project or outcome does not reflect desired result	Project paused	No new progress towards desired result

Key Performance Indicator	2022-2023 Result
• Ongoing direct client engagement	✓
• Responding to enquiries, providing information and undertaking eligibility checks	✓
• Enhancing support services for Torres Strait Islander families through the Cultural Recognition Order application processes	✓
• Further simplifying the application process for Cultural Recognition Orders	◔
• Development of a revised Communication and Engagement Plan to 31 December 2023	✓
• Continued community and stakeholder engagement to increase and promote awareness of the Act and the Office of the Commissioner including:	✓
• Marketing collateral including brochures and postcards	✓
• Upgrade of current factsheets and resources	✓
• Increasing social media presence and website content upgrade	✓
• Additional materials prepared, and manual guide revamped, for departmental Regional Officers assisting on Meriba Omasker Kaziw Kazipa work	✓
• Continued community meetings and outreach (e.g. an information session at Logan)	✓
• Celebrations of significant dates (such as the passing of the Act)	✓
• Involvement in other long-standing events such as NAIDOC week	✓
• To enhance greater accessibility to the application process, particularly for remote living Torres Strait Island families. This can be achieved by Cultural Support Officers travelling more regularly to remote Torres Strait islands and to families in remote locations to assist with raising community awareness, taking enquiries and advising on the preparation of Cultural Recognition Order applications	✓
• Regular liaison with the department's Communications and Media teams	◔
• MOIMS (Meriba Omasker Kaziw Kazipa Information Management System) upgrades	!
• Planning and undertaking of quarterly Advisory Group meetings and undertaking additional Advisory	✓
• Group liaison and engagement when required to seek expert cultural advice	✓
• Management of the fit-out of the Thursday Island office	◔
• Regular meetings and liaison with approved legal service providers to strengthen the Meriba Omasker Kaziw Kazipa program of work and associated legal support for clients	✓
• Build an alliance with Queensland Health to raise awareness within the department	✓
• Continue to foster the working relationship with Birth Deaths and Marriages	✓
• Ongoing training of stakeholder groups such as departmental Regional Officers and Court staff	◔
• Oversee the development of an official logo and branding for the Office of Commissioner	!
• Financial management	✓
• Human Resource management	✓
• General office administration and Meriba Omasker Kaziw Kazipa input into Ministerial Briefs and departmental documents.	✓

LEGISLATIVE COMPLIANCE

				Legislative and Strategic Risk				
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
11	**Commissioner appointment**	Act states the Commissioner must be (a) Torres Strait Islander; (b) Minister is satisfied the person is appropriately qualified. the Act does not describe a definition or criteria for 'appropriately qualified'.		A	4	Medium	Seek to amend Part 2 Interpretation or Schedule 1 Dictionary of Act to include definition for 'appropriately qualified'.	In scope of 2023 Review.
16	**Leave of Absence**	Appointment of another person (2). As per s.11 the application of criteria (a) and (b).	Technical change	A	4	High	Outline or align s.11 and s.16 to consistently describe selection criteria.	Consider as item for inclusion in 2023 Review.
19	**Appointed person appointment**	Act states an Appointed Person must be an appropriately qualified person, but does not state specific suitability checks required and does not say that they must be a Torres Strait Islander.	Technical change	A	4	High	Consider if appropriate to specify what suitability checks are required and further consider if appropriate to specify that Appointed Person must be a Torres Strait Islander.	Consider as item for inclusion in 2023 Review.
26	**Office of the Commissioner**	Act states that the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) consists of the commissioner and the officers of the office. However, under the current structure of the office there are no officers. Presently, the Program Support Office and all officers within (being one Director, one Manager, three Cultural Support Officers, one Program Support Officer, one Business Support Officer and one Executive Assistant) report through to the Executive Director, Regional and Infrastructure Co-ordination within the department.	Technical change	A	4	High	"According to the Act: - There is no Program Support Office, only an office called the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) Consider if this needs to be clearer in the Act"	In scope of 2023 Review.
26	**Office of the Commissioner**	Section outlines the establishment (1), function (2) and composition (3) of the Office of the Commissioner. Through the current Departmental sponsorship arrangement employee's of the Office of the Commissioner reside within hierarchical organisational structure that duplicates their responsibility, accountability and reporting.	Technical change	A	4	High	Re-align all officer's and functions to the Office of the Commissioner in all Departmental documents, and transfer all corporate (human resource and financial) and operational delegations to the Commissioner.	In scope of 2023 Review.
27	**Control of the Office**	s.27 states that the commissioner controls the office. As the Program Support Office and all officers within report through to the Executive Director, Regional and Infrastructure Co-ordination within the department, the commissioner has no control of the office.	Technical change	A	4	High	Consider if appropriate to specify what suitability checks are required and further consider if appropriate to specify that Appointed Person must be a Torres Strait Islander.	Consider as item for inclusion in 2023 Review.

				Legislative and Strategic Risk				
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
27	**Office of the Commissioner**	The Commissioner has partial control of the Office due to replicated responsibility, accountability and reporting functions.	Clarify Intention	A	4	High	Re-align all officer's and functions to the Office of the Commissioner in all Departmental documents, and transfer all corporate (human resource and financial) and operational delegations to the Commissioner.	In scope of 2023 Review.
29	**Office of the Commissioner**	Direction of officer's of the Office of the Commissioner. The fragmented organisational structure limits effectiveness of this requirement.	Clarify Intention	A	4	High	Re-align all officer's and functions to the Office of the Commissioner in all Departmental documents, and transfer all corporate (human resource and financial) and operational delegations to the Commissioner.	In scope of 2023 Review.
30	**Staffing arrangements and administrative support**	Act states that an officer or employee of the department whose services are made available to the commissioner are taken to be an officer of the office and not a separate entity such as a Program Support Office.	Technical change	A	4	High	"According to the Act: - The commissioner may arrange with the chief executive for the services of officers or employees of the department to be made available to the commissioner - An officer or employee whose services are made available continues to be an officer or employee of the department; and - continues to be employed or otherwise engaged by the department on the same terms and conditions applying to the officer or employee before the services were made available; and - is, for the period the services are made available and for carrying out the office's functions, taken to be an officer of the office. Consider if this needs to be clearer in the Act."	Consider as item for inclusion in 2023 Review.
30	**Office of the Commissioner**	Staffing and administrative support. Through the Cabinet Budget Review Committee (CBRC) process the Department presents submissions for the Office of the Commissioner which are restricted to advocating for Time-Limited resources to support sustainable and consistent administration of the Act.	Clarify Intention	A	4	High	Through re-alignment of the Office of the Commissioner functions, incorporate and allocate responsibility for budgetary submissions to progress from Commissioner to the Minister.	Consider as item for inclusion in 2023 Review.

				Legislative and Strategic Risk				
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
32	**Eligibility and Criteria**	Child has lived with cultural parents for 16 years, however both cultural parents died 11 years ago and child was provided a transfer through family court process however child requires valid documentation for passport application and family law court paperwork needs further valid identity. Child is unaware of the birth parents and only the elders are aware of the situation.	Scenario	A	4	High	"s.32 outlines the current eligibility criteria which includes that at least one cultural and one birth parent must be living in order to consent to the process. Consider if consent of the Cultural Parents can be sought via a family member i.e. sister, brother or parents of the cultural parents or a dispensation of consent made with the support of these parties - using the Family Court Order and application material."	Consider as item for inclusion in 2023 Review.
32	**Deceased parents**	Currently where both cultural or birth parents are deceased, a person is not eligible to apply for a Cultural Recognition Order - there have been a number of community enquires from people in this situation.	Major change	A	4	High	Consider analysing as part of the review - are there any avenues to explore that could indicate support of the application - family court applications, multiple informed persons, family member statements.	Consider as item for inclusion in 2023 Review.
32	**Deceased parents**	An application can be made where one birth parent and one cultural is living. However there is no requirement to provide proof of death of any parents who have passed away.	Process	A	3	Medium	Consider whether proof of death should be required as part of the application process.	Consider as item for inclusion in 2023 Review.
32	**Surviving cultural parent is not a Torres Strait Islander**	Child has lived with cultural parents for 10 years, but their Torres Strait Islander cultural parent died 3 years ago, leaving a non-Indigenous cultural parent as sole parent. Birth parents and an informed person have provided statements, documentation and consent. Surviving parent is not a Torres Strait Islander. Can a Cultural Recognition Order be made naming a non-Torres Strait Islander as the cultural parent?	Scenario	L	2	Medium	"According to the Act: - at the time person's parentage is transferred at least 1 cultural parent is a Torres Strait Islander - at least one birth and one cultural parent are living Consider if this needs to be clearer in the Act."	Consider as item for inclusion in 2023 Review.
37	**Age of consent**	Cultural parents have raised the child up and the child is unaware of the Ailan Kastom child rearing practice. At the time of making the application the child has turned 18 (adult) and in accordance with Ailan Kastom continues to remain unaware of the Ailan Kastom child rearing practice. In terms of preserving the Ailan Kastom, can the cultural parents make the application for a CRO on behalf of the adult who is the person subject to the application? Accordingly, it means that no consent is required from the adult who is the person subject to the application.	Scenario	A	4	High	"According to the Act: - at the time the person subject to the application turns 18 they must make an adult application and provide their consent - at least one birth and one cultural parent are living Consider if there can be an exception to this rule whereby cultural parents can provide consent on behalf of the person subject to the application "	Consider as item for inclusion in 2023 Review.

				Legislative and Strategic Risk				
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
38	**Informed person**	Informed person does not identify as a Torres Strait Islander person. Can their statement be accepted as evidence that the cultural practice occurred in the case of the parties named in the application?	Scenario	L	3	Medium	"The Act does not state that an informed person must be Torres Strait Islander, however their statement must: - address their understanding of the Ailan Kastom child rearing practice that occurred - address whether the child rearing practice occurred in accordance with Ailan Kastom Consider if this needs to be clearer in the Act."	Consider as item for inclusion in 2023 Review.
45	**Information to assist Commissioner**	s.45 Criminal History. The Commissioner may request a cultural parent's criminal history, however, there is no express provision for the Commissioner to request a cultural parent's "domestic violence" history which has relevance in determining a decision regarding an Application.	Technical change	P	1	Low	Seek to amend s.45 to include domestic violence history of a cultural parent.	Consider as item for inclusion in 2023 Review.
48-55	**Discharge dispensation order**	"Under s.55 the Court can, under certain circumstances, discharge a dispensation order, however there is no provision within the Act for the Commissioner to be notified of a discharge of a dispensation order. Whereas under s.53 if Court dispenses with consent, the applicant must give a copy of the order to the Commissioner. (NB discharge order cannot be made if a Cultural Recognition Order has already been made, so would the Court seek confirmation from the Commissioner that a Cultural Recognition Order has not been made?)"	Process	P	1	Low	"Explore including a provision that the applicant must provide a copy of the discharge of the dispensation order to the Commissioner. Consider adding s.55 to Dictionary definition of 'discharge order'"	Consider as item for inclusion in 2023 Review.
58	**Reasons for decision**	"Commissioner must advise 'each party' of reasons for the decision whether to make a CRO. Is an informed person a 'party'? There is no definition of 'party' and the term 'applicant' is often used; are these terms interchangeable?	Definition	P	1	Low	"Informed person is not a party to an application. As per s.58 of the Act: Applicants include: - adult applicant Parties to an application include: - cultural parents (for child application only) - birth parents (for child application only) Parents include: - cultural parents - birth parents Consider adding definitions to dictionary for applicants, party to an application."	Consider as item for inclusion in 2023 Review.

				Legislative and Strategic Risk				
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
64	**Entitlement to certificate, information relating to particular entries**	Issues around disclosure - should it be Registry of Births, Deaths and Marriages that disclose all information relating to a CRO or should it be Commissioner?	Process	P	1	Low	"Under s.64 a person who was an applicant for a CRO or an adult who was the child subject can apply to BDM to access previous certificates or source documents. Commissioner authorisation is required prior to submission to BDM. Where an adult who was a child subject applies to the Commissioner for authorisation and authorisation is granted - does the granting of the authorisation confirm the practice occurred? Are there additional steps not outlined in the Act that the Commissioner should consider when giving authorisation?"	Consider as item for inclusion in 2023 Review.
92-96	**Appeals**	"Under ss.92-93 a party who applied for a dispensation order that was not made; or a party whose consent was dispensed with; or an applicant for a discharge order which was not made can appeal a decision and must serve a copy of their appeal to all other persons entitled to appeal the decision (NB there is no provision within the Act for the Commissioner to be notified of an appeal application or an appeal decision). How will the Commissioner be notified that an appeal is lodged? There is no mechanism in the Act to provide for the Commissioner to receive notice of an application for an appeal. There is a need for a trigger for the Commissioner to ensure appropriate action if: a. an appeal against a dispensation order (or no dispensation granted) is lodged and the appeal is heard and decided; b. an appeal against the Court not making a discharge order (or a CRO) is lodged and the appeal is heard and decided."	Process	A	3	Medium	Consider including a provision that the Commissioner be notified (by the courts or the appellant) when an appeal is lodged and when an appeal is decided.	Consider as item for inclusion in 2023 Review.
94	**Appeals - stay of decision**	s.94 (Act) appellate court may stay a decision appealed against but only until court decides the appeal. There is no mechanism in the Act for the Commissioner to receive a notice that a decision is stayed. Could the Court stay a decision on an application for a CRO, and if so, will a notice be sent to the Commissioner?	Process	A	3	Medium	Consider including a provision that the Commissioner be notified when a decision is stayed.	Consider as item for inclusion in 2023 Review.

				Legislative and Strategic Risk				
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
100	**Offence proceedings**	"Proceedings for offences against the Act must start within 1 year after the offence was allegedly committed, or 6 months after the offence comes to the complainant's knowledge but within 2 years of the alleged offence occurring; proceedings will be heard and decided summarily. There is no mention in the Act of where a complainant can lodge their complaint and where the complaint will be heard and decided. Does the Commissioner need to know if a complaint is made?"	Process	A	4	High	"To be finalised - it was agreed with corporate that complaint process should be managed by way of the department's complaint handling processes. Proceeding for offences against the Act to be brought forward by the Commissioner. Process to be developed in conjunction with Corporate Services."	Pending
Other	**Change of name**	If a CRO is granted, it transfers parentage to the cultural parents. It doesn't however seem to change the legal name of the child. So it may not align legal and cultural identity. Cultural parents may then need to change the child's name so their legal and cultural identity are aligned.	Process	L	3	Medium	"Could consider a change in legislation. Current change of name provisions of the BDM do not apply to CRO's. Some subjects may have to access copies of their previous birth certificate (process available under s.64) and new birth certificate to support changing their name with particular entities. Currently the department has worked with BDM to create a solution - the Addendum form. Applicants are encouraged to fill this form out. Information included on this form is the name that will be included on the new birth entry and other information normally found on a birth certificate. The Commissioner will forward this form along with the CRO to BDM to ensure the new entry and any new birth certificates issued are as fulsome as possible. "	Consider as item for inclusion in 2023 Review.
Other	**Deceased child**	Is there a possibility that a birth entry can be changed after death where legal recognition is sought but subject child has passed away	Major change	P	1	Low	"Currently eligibility requirements do not state that a child subject of a CRO must be living at the time of the application. Consider if an application was submitted relating to a deceased child could the Commissioner consider it? If yes and a CRO was made what certificates (if any can be updated)? Suggest discussing further with BDM. "	Consider as item for inclusion in 2023 Review.

				Legislative and Strategic Risk				
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
Other	**Court fees**	"Under the Act a number of applications can be made to the court - such as dispensation of consent, discharge of a dispensation and discharge of a CRO. There are administration fees associated with these applications ($911). This cost can be subsidised to $136.50 with a cover letter from a legal service attached to an application. Note the intention was that legal recognition would not cost participants money to participate in."	Technical change	A	3	High	"There is currently no waiver provision in the Uniform Civil Procedure Rules 1999 (UCPR), which means the Court has no ability to waive the application fee altogether. DJAG (through Courts Services Queensland - Reform and Support Services) has suggested that the review of the Act consider the application of court fees for matters under the Act as this can remove the need for an administration fee."	Consider as item for inclusion in 2023 Review.
Other	**Sibling birth certificates**	Following the approval of a CRO the subject person can apply for a new birth certificate that lists cultural parents as parents. Where a person had siblings registered at time of birth (these may be biological siblings who are not recognised by each other as siblings) the removal of the subject person as a sibling on a birth certificate will not happen automatically. Correction application will need to be made.	Major change	P	1	Low	"BDM are investigating system capacities with these corrections, also what changes can be done under the current Act/framework. This work could be further considered as part of the Review."	Consider as item for inclusion in 2023 Review.
Regulation	**Authorised witness**	Currently there is no requirement under the Regulation for an authorised witness when submitting applications for information under s.64 and s.103.	Process	L	3	Medium	Consider including the requirement for authorised witnesses for these applications given the sensitive nature of the information being sought for release.	Consider as item for inclusion in 2023 Review.
Schedule 1	**Chief Executive**	"There is no definition of chief executive. Does there need to be one? See s.33(11) of the Acts Interpretation Act 1954."	Definition	P	1	Low	Consider whether definition of chief executive is needed to make clear which chief executive is being referred to.	Consider as item for inclusion in 2023 Review.
Schedule 1	**Discharge order**	In the definition of 'discharge order' in the Dictionary, only one relevant section is noted (s.73(1) - re discharging a Cultural Recognition Order), however an application can also be made to discharge a dispensation of consent order (s.55).	Definition	P	1	Low	Consider adding s.55 to Dictionary definition of 'discharge order'	Consider as item for inclusion in 2023 Review.

APPENDIX A

References from the Act

Terms with specific meaning under the Act

The Act uses several key terms which have specific meaning under the Act. The terms are:

- **Ailan Kastom child rearing practice** is the practice recognised by Ailan Kastom under which a child's birth parents and the child's cultural parents agree in accordance with Ailan Kastom that the parental rights and responsibility for the child are permanently transferred from the birth parents to the cultural parents.
- Birth Parent is a person who is recognised at law as being a parent of the child at the time the child is born.
- Cultural Parent is a person who, in accordance with Ailan Kastom child rearing practice, agrees to accept the permanent transfer of the parental rights and responsibility for a child from the child's birth parents to the person.
- Informed person is a person who has knowledge and understanding of the specific Ailan Kastom child rearing practice that occurred in relation to the application and can verify that the transfer of parentage in relation to the subject child occurred in accordance with Ailan Kastom. This could be a family member such as a grandparent.
- **Customary Adoption** has been used as an explanation to describe the practice of permanently transferring a child from one extended family member to another. The term 'customary adoption' is not a term used in Torres Strait Islander culture, but initially used by Queensland Government as a term that could be understood within modern day terminology. The practice is now referred to as Ailan Kastom child rearing practice.
- **Other Carer** is a person other than the child's birth parent or cultural parent who has the right and responsibility to make decisions about the child's daily care under legislation other than this Act or the *Child Protection Act 1999*. An example of an other carer may be someone who is not a birth or cultural parent but has parental rights such as a grandparent of the subject child that may have family law orders providing for parental responsibility or contact. This is to ensure that person who holds those rights is also informed of and consents to the application.
- **Review Officer** is a person (other than the Commissioner) appointed by the Minister to review an application under s.61 of the Act for a review of a decision decided by the Commissioner.
- **Appointed Person** is a person (other than the Commissioner) appointed by the Minister to consider an application instead of the Commissioner under s.19 of the Act where a conflict of interest has been identified.
- **Administrator** is a person who is or was:
    - the Commissioner
    - an officer of the Office of the Commissioner
    - a Review Officer
    - an Appointed Person or
    - an officer or employee of the department whose services are made available to the Commissioner under s.30(2).
- **The Minister** The Minister referred to in the Act is the Minister for Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and Arts under the Administrative Arrangements Order (No. 1) 2023 and s.33 of the *Acts Interpretation Act 1954 (Qld).*
- Schedule 1 of the Act has definitions of other terms used within the Act



APPENDIX B

For Further Information

Office of the Commissioner Meriba Omasker Kaziw Kazipa **www.ocmokk.qld.gov.au**

The Bill	Meriba Omasker Kaziw Kazipa – The Bill, Report No 40, August 2020 tabled by Cynthia Lui MP, Member for Cook, Queensland Parliament https://documents.parliament.qld.gov.au/tableOffice/TabledPapers/2020/5620T1395.pdf
The Act	https://www.legislation.qld.gov.au/view/html/inforce/current/act-2020-033
	https://www.legislation.qld.gov.au/view/html/asmade/act-2020-033
The Regulation	https://www.legislation.qld.gov.au/view/html/inforce/current/sl-2021-0120
The Guidelines	https://www.ocmokk.qld.gov.au/resources/ocmokk/ockmokk-guidelines.pdf
Media Releases	https://www.ocmokk.qld.gov.au/news-updates

Other Information

DTATSIPCA	https://www.qld.gov.au/firstnations/family-social-support/torres-strait-islander-traditional-child-rearing-practice
Paul Ban, 'Customary 'Adoption' in the Torres Strait Islands towards Legal Recognition', Aboriginal Law Bulletin, 1994, 3(66), p 2.	Torres Strait Islander family life | Australian Institute of Family Studies https://www.aifs.gov.au
The coconut palm tree: a metaphor for Islander family life	https://www.creativespirits.info/aboriginalculture/people/torres-strait-islander-culture
Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020 – paper by Alastair Nicholson	https://documents.parliament.qld.gov.au/tableOffice/TabledPapers/2020/5620T1395.pdf
Beck & Whitby – Leading Kupai Omasker Case	http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FamCA/2012/129.html



Continuing the legacy of advocates past and present will help ensure these practices are recognised and strengthened for Torres Strait Islander families raising future generations and leaders of tomorrow. In doing so, we acknowledge the importance of culture, family, connection and self-determination for Torres Strait Islander children, individuals and their families now and into the future.

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