ANNUAL REPORT

OFFICE OF THE COMMISSIONER

Meriba Omasker Kaziw Kazipa

2023 | 2024

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

This Annual Report details the administration of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* (Qld) and summarises operation of the Office and its financial and corporate performance for the period 1 July 2023 to 30 June 2024 in an open and transparent manner to inform the Minister for Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts, and members of the public.

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www.loladigital.com.au

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Cover Image
Laurie Nona Artwork

Inside Cover
Waibene Rosehill Aerial

Report Snapshot

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

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

The Benefits

- Cultural parents and their child/children are not unduly exposed to inappropriate disclosure that the practice has occurred, and any associated trauma or grief is avoidable.
- Cultural parents and their child/children can be legally enrolled/registered with authentic identification documents.
- Cultural parents' assurance that their child/children are legally recognised with all the same rights as a biological child/children.

Comparison between QLD known child adoption numbers compared to CRO numbers

CRO's Granted in 2021-2024

46

Known child adoptions in QLD from 2021-2024

27

Total CROs compared to QLD known child adoptions (2021-2024)

*Read more on page 18

Receiving enquiries outside QLD

(within Australia)

FY22	FY23	FY24
4	8	12

(Region not identified)

FY22	FY23	FY24
6	31	26

Receiving enquiries outside Australia

FY22	FY23	FY24
0	0	1

Total number of enquiries received in each fiscal year

FY22	FY23	FY24
374	430	**364**

*Read more on page 22

207

Number of unique downloads for child CRO applications

465

Number of unique downloads for adult CRO applications

*Read more on page 21

Streamlined Cultural Recognition Order Applications

Some of the benefits of a granted Cultural Recognition Order include:

- Elimination of legal obstacles for cultural families.
- Recognition of the parental rights and responsibilities of cultural parents raising children.
- Legal registration of cultural children in the name of their cultural parents.
- Reduction of generational trauma through inappropriate revelations of the practice.

The new application has been streamlined through colour coding the sections for a child or adult application, and Yumplatok (or Torres Strait Creole) has been included throughout to make it easier to read and understand thereby making the form a more culturally responsive document.

*Read more on page 26

Cultural Acknowledgement

The Office of the Commissioner (Meriba Omasker Kaziw Kazipa) (The Office) acknowledges that we are visitors to the country and oceans we travel across and work in.

The Office 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.

Our Vision

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.

The Story Behind Our New Logo

The Mat | The Mat represents Torres Strait Islander culture and all its aspects; cultural lore, ailan kastom, protocols, beliefs and values. In the artwork, the Mat has gaps between its strands to represent the gaps within culture, and the truth that we as Torres Strait Islanders are losing our culture. However, there are organisations and Torres Strait Islander driven initiatives, like Meriba Omasker Kaziw Kazipa that can help to close these gaps. The strands of the mat represent Torres Strait Islanders who are fluent language speakers and are the cultural knowledge holders in the community.

The Mat is significant in birthing, child rearing and end of life practices in Torres Strait Islander culture and therefore, including the mat within the artwork, is a respectful acknowledgement of the important role it plays in our lives.

The People | This represents the Kupai Omasker Working Party and those who have played an important role in upholding culture and the traditional practice of child gifting. The lines outside the heads symbolising the phases of the moon; the moon phases are how Torres Strait Islanders track time.

The people have their arms up in the air - which is no easy thing to maintain – signifying that it is hard work to uphold culture and protect traditional practices. However, the arms meet to provide support, and together they create a roof-like shape, symbolising the home; safety and security.

The Dhoeri & Homes | The feminine headdress sits in the centre of the Torres Strait Islander home, symbolising Torres Strait Islander women and the important role mothers play in Torres Strait Islander families. Inside the headdress is a pupil (the eye) to emphasise that everyone is responsible for keeping an eye on our cultural practices and ensuring the preservation of lore.

The Umbilical Cord | This is the Kupai. It represents the traditional practice of planting the placenta on traditional lands and growing a Fruit Tree. This tree will take on the DNA of the child and grow with the child. When the child bears children, so too will this fruit tree. This tree becomes family. There is a single tear within the cord, symbolising the happy tears of love when a child is born and the sad tears of loss when someone passes on to the next life.

The Circle | This area represents a mother's womb and all that happens within the body as it creates life.

The Coconut | Within the entire practice is the coconut, divided into three sections and together they represent the passing of cultural knowledge, and planting the seed, emerging from the placenta that was planted with the tree:

The Nut | The nut has its own identity, its own dreams, goals and passions and when you plant an idea, it can often blossom and become a thing of beauty. This is symbolic of Torres Strait Islander children who absorb cultural knowledge from their communities, families and Elders.

The Husk | This is the protective outer layer of the coconut, symbolising the importance of protecting this traditional practice.

The Shoot | The shoot is connected to the nut, it represents growth, maturity and the blossoming of a young person's cultural knowledge and wisdom. As the tree will grow, it will eventually provide the shade and give the fruit that will sustain Torres Strait Islander practices, to repeat the cycle and share their wisdom and cultural knowledge with the next generation.

Artist Acknowledgement:
Laurie Nona

Brand Identity

Brand Logo - Colored

Brand Logo - Mono

Corporate Brand Horizontal Logo - Coloured

Corporate Brand Horizontal Logo - Mono

Branding Evolution

The initial OCMOKK branding featured the artwork by renowned Torres Strait Islander artist David Bosun and showcased a turtle. In 2023, the decision was made to rebrand OCMOKK to include an illustration specifically created to capture and honour the sacred practice we safekeep.

Brand Logo

The brand badge is circular to connote symbols of trust, unity and community.

The outer dark circle is the layer of protection that the act, and the Commissioner provides for the sacred practice of child gifting.

The practice is represented inside the circle of trust, and illustrated in the beautiful artwork.

Corporate Identity

For corporate usage, where the badge is not appropriate or legible, you are encouraged to to use the horizontal logo which features the artwork alongside the words "Office of the Commissioner".

Solid colours have been used to express strength and affirmation in the brand's positioning as the first entity of its kind. However, we have kept gradients within the artwork itself as homage to the legacy of the original branding.

Tribute to Kupai Omasker Working Party

We dedicate this annual report to the Kupai Omasker Working Party, whose unwavering commitment, and promotion of Torres Strait Islander traditional child rearing practices has resulted in the introduction of the Act.

The Kupai Omasker Working Party, an exceptional group of dedicated Torres Strait Islanders and a handful of philanthropists, were the driving force behind the Queensland government's historic legislation that grants legal recognition to Ailan Kastom child rearing practices. Their tireless advocacy over three decades has culminated in a milestone that not only rectifies a long standing social wrong but also addresses deep-seated structural injustices.

The journey of the Kupai Omasker Working Party is a profound testament to what can be achieved when two cultures work collaboratively towards a common goal. Their efforts embody the spirit of perseverance, unity, and the transformative power of advocacy. For over 30 years, this small yet formidable group championed the cause, tirelessly working to bring about change that would honour and protect the rich cultural heritage of the Torres Strait Islander community.

Their unwavering commitment and resilience have set a powerful example of how dedicated individuals can influence policy and effect meaningful change. The Working Party's success in securing the passage of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* is a landmark achievement, ensuring that Ailan Kastom child rearing practices are legally recognised and respected. This legislation not only acknowledges the cultural practices of the Torres Strait Islander community but also promotes cultural preservation and the protection of children's rights within these communities.

The legacy of the Kupai Omasker Working Party is a beacon of hope and inspiration. Their story is a poignant reminder of the impact that dedicated advocacy and cross-cultural collaboration can have on society. By bringing together the voices of Torres Strait Islanders and the support of philanthropists, they have paved the way for a more inclusive and just society.

As we celebrate the historic milestone, we honour the vision, perseverance, and tireless efforts of the Kupai Omakser Working Party. Their journey has not only achieved legal recognition for Ailan Kastom child rearing practices but has also strengthened the bonds between cultures and set a precedent for addressing social injustices through collaboration and mutual respect. Their work will continue to inspire future generations to fight for justice, cultural preservation, and the legal recognition of other Indigenous practices and rights.

"Those outside Ailan Kastom, and are not Torres Strait Islanders, have found it difficult to understand a practice based on collectivist and communal ways of living rather than western individualism."

Piri Piri Mab, Introduction

Testimonial to Meriba Omasker Kaziw Kazipa Advisory Group

The members of the Kupai Omasker Working Party in recognition of the forthcoming implementation of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020,* agreed to partner with the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts.

This arrangement guarantees that cultural imprimatur of Torres Strait Islander traditional child rearing practices can be authenticated by recognised cultural and technical experts who appreciate and acknowledge the importance of the lived experiences of Torres Strait Islander families engaging in this Ailan practice/Kastom.

The group's devotion and enthusiasm to preserve the unprecedented introduction of Ailan Kastom within western legislation is their testament to ensure that Torres Strait Islander children's cultural and birth identity correspond symmetrically to reflect the cultural gifting of children between/amongst Torres Strait Islander families.

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

PO Box 806
BRISBANE QLD 4001
treatyandcommunties@ministerial.qld.gov.au

Dear Minister Enoch,

I am pleased to present our 2023 – 2024 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 2023 to 30 June 2024. 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
4 September 2024

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Message from the Commissioner

I am pleased to provide you with an update for the 2023-2024 financial year on key developments and changes in the landscape of the Office of the Commissioner.

Working closely with the Meriba Omasker Kaziw Kazipa Program Support Office, our efforts have concentrated on enhancing place-based, face-to-face service delivery throughout the remote regions of the Torres Strait Islands and Northern Peninsula Area. This approach ensured the efficient operation and administration of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Child Rearing Practice) Act 2020*.

Evolution of Service Delivery

In recognition of the limitations of the original administrative model (July 2021), and the Program Support Office's function primarily as an information intermediary, we had adapted our strategy. The correlation of the low number of Torres Strait Islanders accessing Cultural Recognition Order applications in 2021-2022 highlighted several challenges, including remote residential locations, inconsistent network coverage, high-priced transit charges, an understanding of the scope of the legislation, navigating complex applications without necessary supports, and a paucity of equitable access to essential services in communities. These systemic challenges contribute to scepticism and general distrust of service providers among Torres Strait Islanders.

Late in 2022, I petitioned the department to increase the department's Program Support Office workforce resource from six to nine full-time staff. This allowed us to establish a more functional and streamlined service delivery model, providing practical access to Torres Strait Islanders wishing to take advantage of the new service. With these additional resources, we adjusted our approach and, in February 2024, commenced delivering a community-based model in partnership with Legal Aid Queensland, Births, Deaths and Marriages, and Queensland Indigenous Family Violence Legal Service.

Improved Access and Education

The implementation of this nonpartisan model has significantly improved and increased Torres Strait Islander's access to all service providers. Additionally, the team has received invaluable education from Torres Strait Islander elders on the unique variations of the cultural practice within Torres Strait Islander kinship structures. This education has enhanced the Cultural Support Officers' ability to support families, accurately record their cultural practices related to their Ailan Kastom child rearing practices, exchange information with families and the communities about the different service functions in supporting a Cultural Recognition Order application, and provide cultural insight for legal services staff who provision general legal advice and complete dispensation consent orders.

Throughout the year, the Commissioner and officers within the Program Support Office have remained committed to their core functions. These include:

- Reviewing and re-drafting manual guides.
- Combining the Child and Adult Cultural Recognition Order applications into one streamlined application form.
- Including Yumplatok (Torres Strait Islander creole) translations in the application.
- Reviewing and refreshing Office of the Commissioner information resources.
- Drafting a project plan for system improvements to the Meriba Omasker Information Management System (MOIMS).

Challenges and Ongoing Efforts

The Act, now in its third year of operation, continues to develop in response to the increasing demand for the service. However, challenges remain, particularly the processing timeframe for enquiries to completed Cultural Recognition Orders, which ranges from approximately six weeks to 12 months. Key challenges to the successful conversion of enquiries into CRO applications include:

- Prescribed eligibility criteria within the Act.
- Obtaining consent of 'Birth Parents' or biological parents, which is not always straightforward.
- Applicants' lacking minimal identification documents, such as a birth certificate.
- Applicants' inability to obtain the requisite consent of all parties to an application.
- Delays due to applicants adhering to cultural protocols, such as following up with other parties to a CRO.
- Commissioner requests for additional information, such as Criminal History or other pertinent materials.

Looking Ahead

I eagerly anticipate pursuing the crucial initiatives our office has been spearheading since its inception. Additionally, I am excited to tackle the challenges ahead, particularly ensuring the sustainability of our program funding beyond 30 June 2025.

Given the Act's relative infancy, Section 111 of the Act mandates a comprehensive review of both the Act and the operations of its associated office within two years of its commencement. This review assesses whether the Act appropriately balances reflecting cultural identity and ensuring adequate safeguards; and identifies and addresses any issues that may have arisen during the introduction and implementation of the new legislation.

An independent consultant completed the work, and in May 2024, a final review report was submitted to the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities, and the Arts. The department is tasked with preparing the report for tabling, after which the Minister will present it to Parliament as required by legislation.

Future Negotiations and Service Enhancements

Recognising the early stage of this legislation, I welcome negotiations with departmental delegates to co-create service adjustments, ensuring the Act's continued implementation. I am optimistic about enhancing our services and the essential supports we provide to Torres Strait Islander families in securing legal recognition for their Ailan Kastom child-rearing practices, and the growing number of families seeking this recognition.

With the government's commitment to strengthening relationships with Aboriginal and Torres Strait Islander communities, we have a precious opportunity to ensure that we proceed in the right direction. It is vital that the Legislative Review Report is expedited to multiply the beneficial aspects of a Cultural Recognition Order for Torres Strait Islanders.

Broader Implications

The Act's impact extends beyond Queensland, influencing 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.

With great pleasure, I present the Annual Report of the Office of the Commissioner (Meriba Omasker Kaziw Kazipa), outlining our activities and accomplishments for the fiscal year concluding on 30 June 2024.

Mr C'Zarke Maza
Commissioner, Meriba Omasker Kaziw Kazipa

Performance and Operations

Prior to the introduction of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*, Torres Strait Islander families could only apply for child adoption under the *Adoption Act 2009 (Qld)*.

It is important to understand the distinct purpose and unique differences of both Acts in Queensland.

1 *Adoption Act 2009*

Provides a process for families to make permanent application for children who, for various reasons, cannot live with their Birth Family. The legal adoption process establishes a permanent parent-child relationship between a child and his or her adoptive parents. Adoption also removes the legal relationship between the child and his or her Birth Parents and extended family.

Adoption Services is responsible for providing services in Queensland for:

- parents considering adoption for their children,
- children requiring adoptive placements,
- people seeking to adopt children,
- people seeking information or to lodge a contact statement in relation to a past adoption.

It is unlawful to attempt to privately arrange an adoption in Queensland.

The processing timeframe is approximately 6 – 18 months.

The Australian Institute of Health and Welfare Adoptions Australia report dated 3 April 2024 informs that the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) defines the placement hierarchy for Aboriginal and Torres Strait Islander children in out-of-home care with Indigenous or non-Indigenous relatives or kin, or as close as practicable geographically to their existing family.

The Principle defines five indicators which relate to Placement (Placing children in out-of-home care in accordance with ATSICPP placement hierarchy) and Connection (Maintaining and supporting connections to family, community, culture and country for children in out-of-home care).

From 2017 to 2022 the proportion of Aboriginal and Torres Strait Islander children placed with relatives or kin increased from 50% to 54%. This Act works in conjunction with the *Child Protection Act 1999*.

In 2022–23:

- Four Aboriginal and Torres Strait Islander children had adoption orders finalised as part of a known child adoption, and one was adopted through a local adoption.

Source: AIHW Unpublished National Adoptions Data Collection

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

Provides a process for legal recognition of Ailan Kastom traditional child-rearing practices among Torres Strait Islander people through Cultural Recognition Order applications. The Act establishes a western administrative process to support legal recognition of a cultural law and custom.

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.

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 / responsive, and confidential. It operates on an opt-in basis, relying on consent and voluntary participation.

The processing timeframe is approximately 1 – 48 weeks.

Section 33 (b) (ii), (iii) and (iv) Act outlines what is required if the application relates to a child.

The following tables outline the total number of known child adoptions in QLD versus total number of Cultural Recognition Orders granted in Queensland from 2021-22 to 2023-24.

Known child adoptions in Queensland, 2021–22 to 2023–24#
(Qld Population = 5.2 million)

	2021–22	2022–23	2023–24
Jurisdiction QLD	6	6	15

Source: AIHW Adoptions Australia data collection and the Registry of Births, Deaths and Marriages.

Cultural Recognition Orders granted, 2021–22 to 2023–24
(Torres Strait Islander Population in Qld = 50,810)

	2020–21	2021–22	2022–23
CROs Granted	*4 (4 child CROs granted)	17 (15 child CROs granted and 2 adult/retrospective CROs granted)	25 (21 child CROs granted and 4 adult/ retrospective CROs granted)
CROs Refused	0	0	1
CROs Withdrawn	0	0	1

Source: Meriba Omasker Information Management System data collection

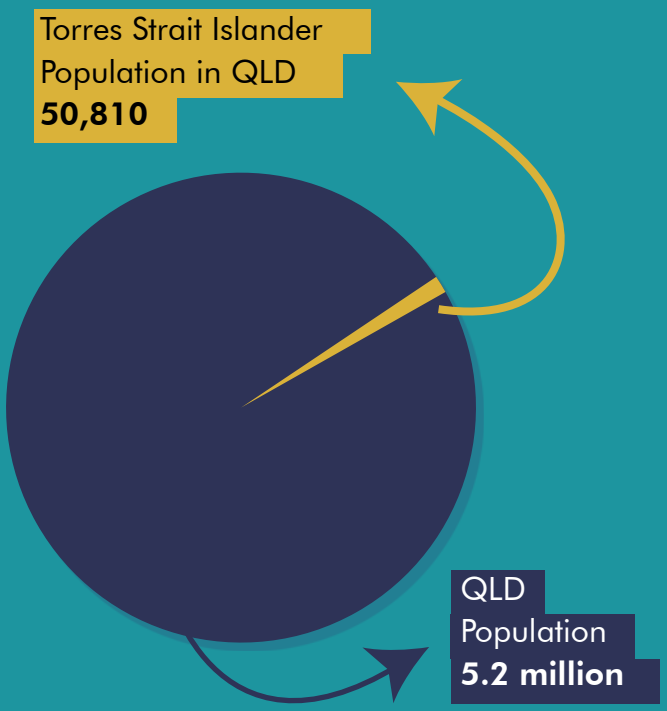
*The application process for Cultural Recognition Orders established by the Act, was delayed as it officially opened on 7 September 2021 and further impacted by COVID-19 travel restrictions.

Known child adoptions are adoptions of children who were born or permanently living in Australia before the adoption, who have a pre-existing relationship with the Adoptive Parent(s).

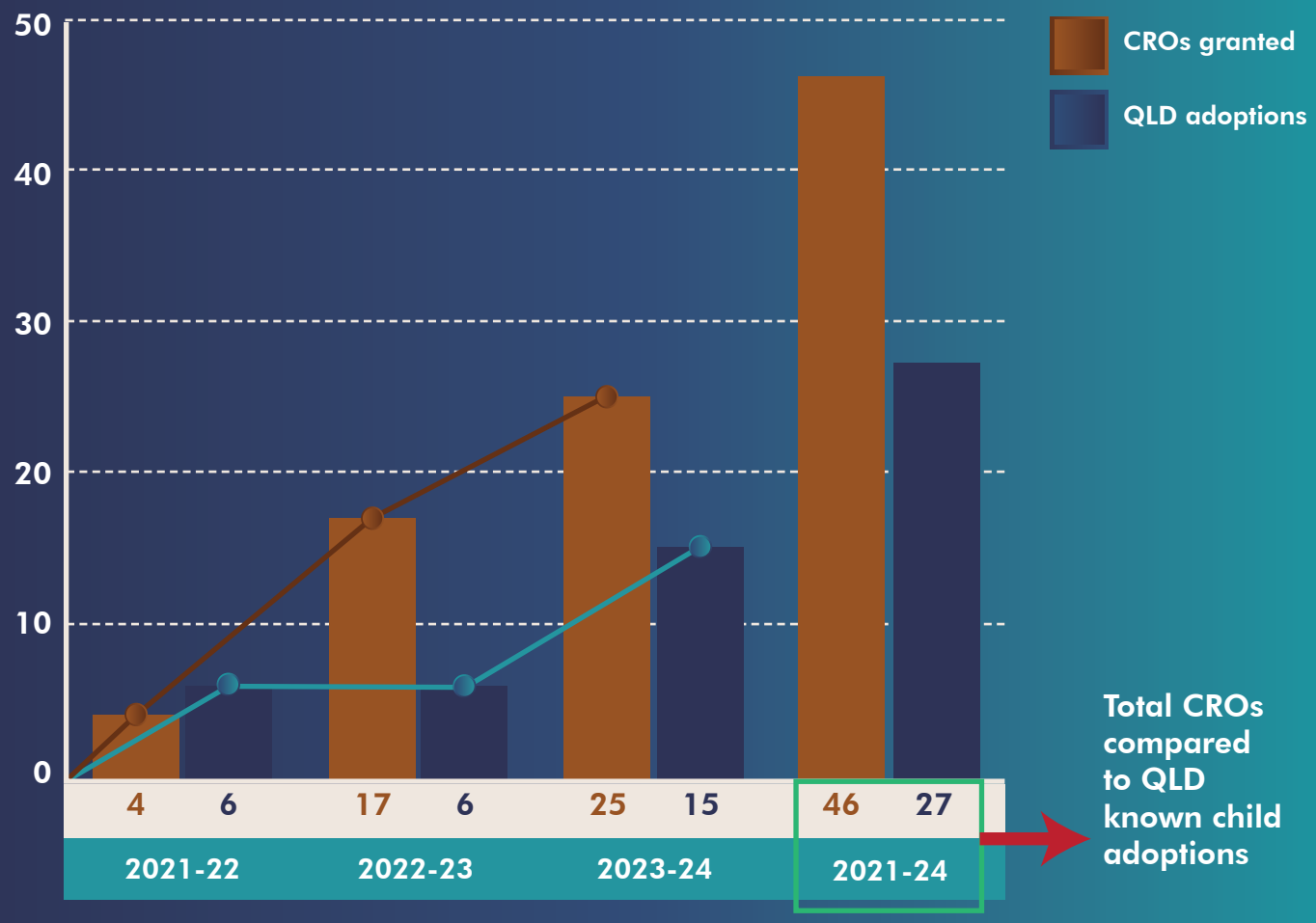
The Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020 does not have any defined performance indicators, and the above data authenticates the year-on-year service demand in comparison to annual Queensland mainstream known child adoption numbers.

Cultural Recognition Orders

The comparative data indicates a notable trend where the number of Cultural Recognition Orders (CROs) granted significantly surpasses, and even more than doubles, the number of mainstream known child adoptions in Queensland within a single financial year. In 2023-2024, twenty-five (25) CROs were granted, while only fifteen (15) mainstream known child adoptions occurred during the same period. This disparity underscores the growing importance of CROs within the Torres Strait Islander community. Despite the Torres Strait Islander population in Queensland being relatively small—at 50,810 compared to the total Queensland population of 5.2 million—the high number of CROs granted highlights the community's reliance on this form of cultural recognition and child-rearing practice.



Comparison between QLD known child adoption numbers compared to CRO numbers



Key Organisational Outcomes

Cultural Recognition Order Outcomes

The introduction of the Cultural Recognition Order (CRO) application process has been a transformative milestone for Torres Strait Islander families, establishing a legal framework that honours and preserves their cultural practices. This has marked a profound and life-altering change for many within these communities. By aligning legal identities with cultural identities, the CRO process has not only reinforced the significance of Ailan Kastom child-rearing practices but also ushered in a new era of recognition and empowerment for Torres Strait Islander people.

From the launch of the CRO application process on 7 September 2021 until 30 June 2024, the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) has granted 46 Cultural Recognition Orders. This includes 40 CROs for children and 6 retrospective or adult CROs. Each of these orders represents a victory for the Torres Strait Islander community, as the historic Act introduced by the Queensland government continues to fulfill its intended purpose.

The CRO process has effectively dismantled participation barriers that were previously entrenched in Queensland laws, which were based on specific constructs of family and parenting that did not account for the cultural practices of Torres Strait Islander families. For cultural parents who have been granted a CRO, the implications are profound. They can now enrol their child in school, provide consent for guardianship, and make critical medical decisions - rights that are fundamental but were previously inaccessible to them under the law. This legal recognition extends beyond these immediate benefits, offering a sense of validation and respect for their Cultural Parenting practices.

For individuals who are the subject of a CRO, the benefits are far-reaching. They can now open a bank account in their own name, obtain a tax file number, and secure other forms of legal identification such as a driver's license or passport. These may seem like basic steps in adulthood, but for those whose identities were not legally recognised, these opportunities represent a significant shift towards equality and inclusion. Access to government services, payments, and entitlements has also become available to them, removing long-standing barriers to participation in society. Additionally, these individuals no longer face the legal challenges that once hindered their ability to access their inheritance, particularly if their Cultural Parents passed away without a will. The CRO ensures that their rights are protected and recognized under Queensland law, providing them with financial security and the same rights and opportunities as other Queenslanders.

For Torres Strait Islander Queenslanders who have been granted a CRO, the once-formidable barriers to full participation in society are now a thing of the past. They can now enjoy the same basic rights that other Queensland families have long taken for granted, with the reassurance that their cultural identity is legally protected. This process has not only levelled the playing field but has also affirmed the cultural heritage of Torres Strait Islander communities within the legal framework of Queensland.

The success of the CRO process highlights the importance of culturally responsive legislation in promoting equity and inclusion. It has empowered Torres Strait Islander families by validating their cultural practices and ensuring that their legal rights align with their lived experiences. As a result, this historic Act continues to make a profound difference in the lives of those it was designed to protect, ensuring that future generations can thrive with their identities fully recognised and respected.

207

Number of unique downloads for child CRO

465

Number of unique downloads for adult CRO

25

Total number of CROs granted between 1 July 2023 until 30 June 2024

11

Total number of CRO applications lodged and being processed as of 30 June 2024

54

Total number of CRO applications being prepared and supported by the office for lodgement as of 30 June 2024

1167

Total enquiry numbers (completed/closed) received between1 July 2021 until 30 June 2024

22

Average duration for enquiry resolution in days between 1 July 2023 until 30 June 2024

49

Total number of enquiries (in progress) as of 30 June 2024

8

Total number of enquiries involving outcome – 'advised enquirer of ineligibility due to deceased parents'^^^

176

Breakdown of enquiries requiring an interpreter as of 30 June 2024

11

Total number of CRO applications lodged requiring Dispensation of Consent Orders between 1 July 2023 until 30 June 2024^

60

Average CRO application processing time between 1 July 2023 until 30 June 2024^^

364

Total number of enquiry numbers (completed/ closed) our office received between 1 July 2023 until 30 June 2024

129

Total number of community engagement sessions held from 1 July 2023 until 30 June 2024

5031

Total number of participants at community engagement sessions held across the country from 1 July 2023 until 30 June 2024

^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.

^^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.

^^^Applications completed during the 2023-24 financial year. 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.

Enquiry Outcomes

In the 2023-2024 fiscal year, the Office of the Commissioner Meriba Omasker Kaziw Kazipa implemented a more efficient and accessible service delivery model, designed to better serve Torres Strait Islanders. This improvement was made possible by increasing the Program Support Office's full-time staff from six to nine, which allowed for a strategic shift in our approach.

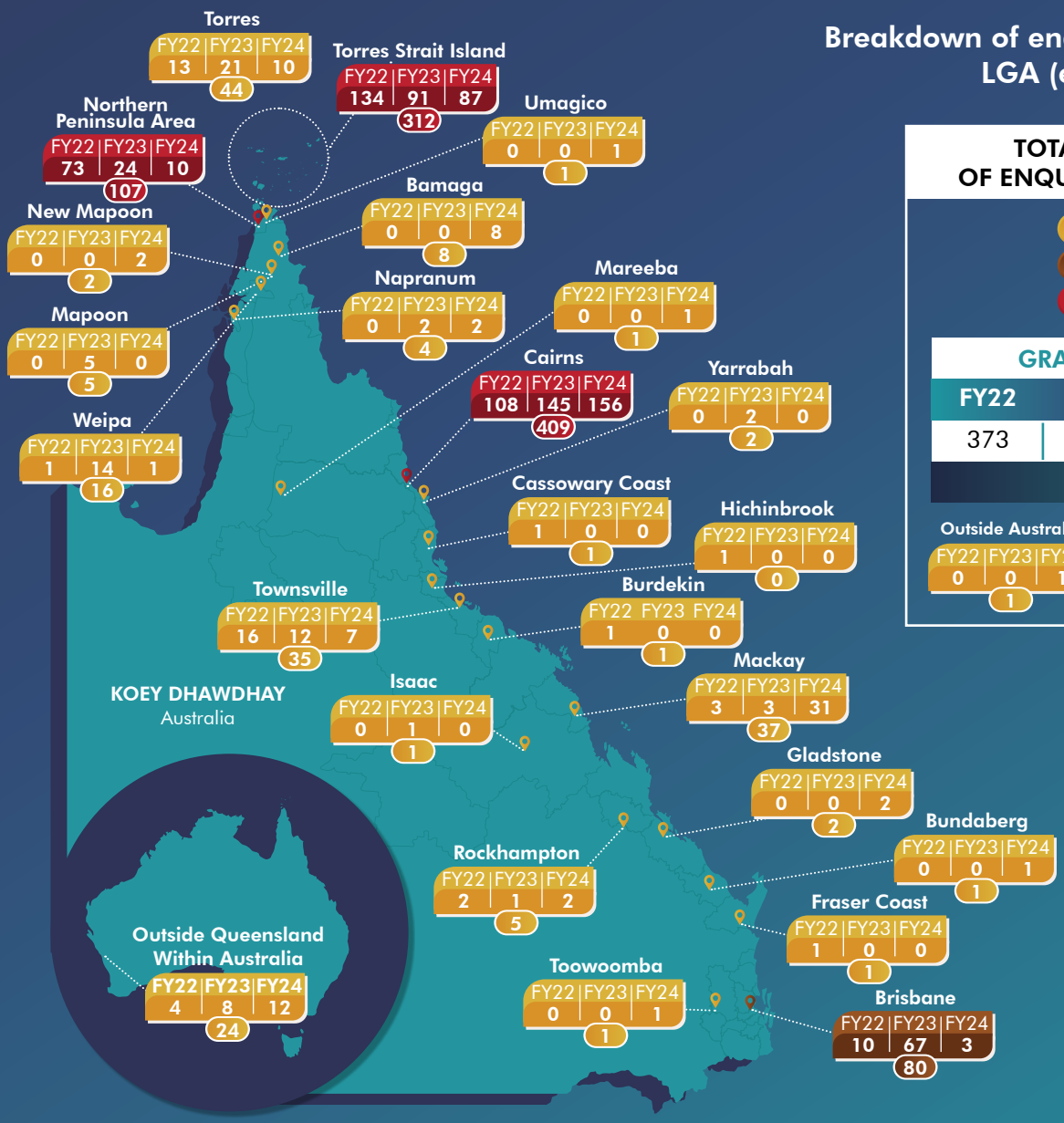
Beginning in February 2024, we introduced a community-based service model in collaboration with Legal Aid Queensland, Births, Deaths and Marriages, and the Queensland Indigenous Family Violence Legal Service.

This collaborative, nonpartisan model has significantly enhanced and broadened Torres Strait Islanders' access to crucial services. To further these efforts, the Office, in conjunction with key partner agencies, actively promoted the Act through informational sessions at 129 community engagement events across Queensland. These events collectively attracted over 5,000 attendees, highlighting the widespread interest and engagement with the new service model. Since the office's inception, we have assisted 1,167 Torres Strait Islanders with their enquiries and as of 30 June 2024, 46 Cultural Recognition Orders have been formally granted.

Moreover, the Office's social media presence has experienced substantial growth, particularly on Facebook, where the number of followers surged by 678 (+230.73%). This impressive increase has more than quadrupled the Office's Facebook audience, bringing the total number of followers to 1,260, marking a 414.29% overall growth. This enhanced online visibility has resulted in a significant number in enquiries about the program, extending interest beyond Queensland to regions such as Western Australia, New South Wales, and even internationally.

The combination of these efforts has not only streamlined access to services for Torres Strait Islanders but also expanded the reach and awareness of the program, demonstrating the Office's commitment to meeting the needs of the community through both traditional and digital means.

Breakdown of enquiry numbers by LGA (enquirer location)



TOTAL NUMBER OF ENQUIRIES RECEIVED

- 0-50
- 50-100
- 100+

GRAND TOTAL		
FY22	FY23	FY24
373	430	364
1,167		

Outside Australia			Blank (region not selected)		
FY22	FY23	FY24	FY22	FY23	FY24
0	0	1	4	34	26
1			64		

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	2023-24	
Application Related	136	133	135	404
Application Withdrawal	19	1	19	39
Births, Deaths and Marriages Related	29	15	29	73
General	340	382	339	1061
Internal Review Related	19	1	19	39
Legal Advice Related	48	31	48	97
Post Decision Information Access Related	19	1	19	39
Response to Further Information/Response Request	19	1	19	39
Submission of Supporting Documents Without Application	19	1	19	39
GRAND TOTAL	**648**	**566**	**646**	**1,860**

Breakdown of enquiry outcomes

ENQUIRY OUTCOME TYPES	FINANCIAL YEAR			GRAND TOTAL
	2021-22	2022-23	2023-24	
(blank)	48	31	43	122
Advised enquirer of ineligibility for Cultural Recognition Order due to deceased parents	6	5	7	18
Application materials emailed to enquirer	159	231	82	472
Application materials posted to enquirer	13	7	3	23
Enquirer advised that only a complete application can be submitted	1	2	19	22
Enquirer provided general information verbally	114	92	74	280
Enquirer referred to website for further information on Traditional Adoptions	6	2	4	12
Enquirer referred to website for general information on Meriba Omasker Kaziw Kazipa	6	42	80	128
Procedure for accessing information explained	7		3	10
Process for accessing new Birth Certificate explained	4	4	30	38
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	18	30
Referral to Queensland Indigenous Family Violence Legal Service made	2	2	1	5
GRAND TOTAL	**373**	**430**	**364**	**1,167**

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	2023-24	
Interpreter used	149	124	176	449
No interpreter used	106	306	188	718
GRAND TOTAL	**373**	**430**	**364**	**1,167**

Website Statistics

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

7,429

53% INCREASE FROM 2022/23

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

1,169

30% INCREASE FROM 2022/23

Number of user site visits

1.95 average web pages per session

2,114

Office of the Commissioner Meriba Omasker Kaziw Kazipa total website visits

10,189

19% INCREASE FROM 2022/23

Total downloads of the child and adult applications

672

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

147

107% INCREASE FROM 2022/23

2,101 Views	**https://www.ocmokk.qld.gov.au** Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
826 Views	**https://www.ocmokk.qld.gov.au/our-journey** Our Journey – Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
668 Views	**https://www.ocmokk.qld.gov.au/apply-cultural-recognition-order** Apply for a Cultural Recognition Order – Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
577 Views	**https://www.ocmokk.qld.gov.au/commissioner/commissioner/czarke-maza** Commissioner C'Zarke Maza - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
537 Views	**https://www.ocmokk.qld.gov.au/publications-resources** Publications and resources - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
505 Views	**https://www.ocmokk.qld.gov.au/contact-us** Contact us - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
470 Views	**https://www.ocmokk.qld.gov.au/commissioner/office-commissioner** Office of the Commissioner - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
284 Views	**https://www.ocmokk.qld.gov.au/commissioner/meriba-omasker-kaziw-kazipa-program-support-office** Meriba Omasker Kaziw Kazipa Program Support Office - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
249 Views	**https://www.ocmokk.qld.gov.au/news-updates** News and updates - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)
245 Views	**https://www.ocmokk.qld.gov.au/commissioner** The Commissioner - Office of the Commissioner (Meriba Omasker Kaziw Kazipa)

Meriba Omasker Kaziw Kazipa Information Management System (MOIMS) Upgrade

The MOIMS system upgrade commenced in May 2024 to rectify the current system constraints and ensure MOIMS was suitable for purpose:

- Increase capacity and streamline processes
- Improve productivity and increase information accuracy, enabling establishment of Key Performance Indicators and reporting data.
- Improve compliance to negate any potential breach in legislative timeframes and increase security for the data.

Year in Review (Highlights)

Tabling of the 2022-23 Annual Report

The Office of the Commissioner (Meriba Omasker Kaziw Kazipa) 2022-2023 Annual Report was tabled in Queensland Parliament on 1 March 2024 by the Honourable Leeanne Enoch MP, Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and the Minister for Arts.

Commissioner Maza Reappointed

On 27 June 2024 the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) was advised that the Governor in Council had approved the reappointment of Commissioner Maza as the Commissioner for the period 1 July 2024 to 30 June 2025.

Streamlined Cultural Recognition Order Applications

Through the Office of the Commissioner (Meriba Omasker Kaziw Kazipa), Torres Strait Island people can complete and submit either a child or adult cultural recognition order application seeking to change the legal identity of a person subject to the application. Some of the benefits of a granted Cultural Recognition Order include:

- Elimination of legal obstacles for Cultural Families.
- Recognition of the parental rights and responsibilities of Cultural Parents raising children.
- Legal registration of Cultural Children in the name of their Cultural Parents.
- Reduction of generational trauma through inappropriate revelations of the practice.

We are pleased to announce a single application for a child or adult cultural recognition order. The new application has been streamlined through colour coding the sections for a child or adult application, and *Yumplatok* (or Torres Strait Creole) has been included throughout to make it easier to read and understand thereby making the form a more culturally responsive document.

By streamlining the application process and making it more accessible, we aim to support more families in having their traditional practices recognised and upheld. This not only strengthens the cultural identity of individuals but also reinforces the community's trust in government and the legal system.

Office Opening Ceremony

We officially opened our office on Waiben (Thursday) Island on 27 September 2023. At our opening ceremony, we had overwhelming support and attendance across Thursday Island, Cairns and surrounding islands. Some Notable attendees included The Honourable Leeanne Enoch, Minister for Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and

The Arts, Mayor Yen Loban and Mayor Phillemon Mosby. Minister Enoch joined Commissioner Maza and members of the Meriba Omasker Advisory Group in the ceremonial blessing and ribbon-cutting ceremony.

The newly established office provides families with a secure environment to engage in discussions about this intrinsic sacred practice when applying for a cultural recognition order. Moreover, it fulfils the lifelong aspirations of many Torres Strait Islander families.

The Office of the Commissioner (Meriba Omasker Kaziw Kazipa) Thursday Island office is located at Level 1 Torres Haus, 46 Victoria Pde.

New Torres Strait Islander Birth Certificate

There is a new Torres Strait Islander specific birth certificate issued by Births Deaths and Marriages. The Commissioner was on the panel for the choice of the artwork and shows his collaborative engagement and outcomes with other stakeholders. Artwork by Matilda Nona (Torres Strait Islander Artist).

Our Chair of the Meriba Omasker Kaziw Kazipa Advisory Group, **Aunty Ivy Trevallion has also been appointed as a member of the First Nations Treaty Institute Council**

Professional Events

3rd and 4th National Indigenous Empowerment Summit

Our Commissioner C'Zarke Maza attended as a speaker at Third Sector's 3rd & 4th National Indigenous Empowerment Summit, held in Brisbane on 22nd to 23rd August 2023 and 11th -14th June 2024. He discussed how the office of the Commissioner's works towards making life easier for Torres Strait Islanders with Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020.

He was one of over 65+ speakers in the summit. This summit gives attendees the opportunity to gain practical tools and strategies to nurture strong, resilient and culturally strong concepts through speaking and seminar events.

Queensland Reconciliation Awards

On May 27th 2024 we attended as a guest to the Queensland Reconciliation Awards night 2024.

This event celebrates and recognises the inspiring initiatives of businesses, community, health, education and people for dedicated commitment to reconciliation.

First Nations Leadership and Allyship Summit

Our Commissioner presented at the First Nations Leadership & Allyship Summit from 29th - 30th of November 2023. This event gathering was an opportunity to create a platform for our First Nations leaders and emerging leaders to share their journeys, insights, and guidance. By participating we're able to network with other organisations raising awareness of the important work of the office of the Commissioner.

Join November 27th 2023
First Nations Leadership and Allyship Summit

Opening Night of the Gab Titui Indigenous Art Award

On 2nd November 2023 we attended the opening night of the Gab Titui Indigenous Art Award, this was a fantastic initiative to support and showcase the representation of works created in the remote communities of the Torres Strait Islands.

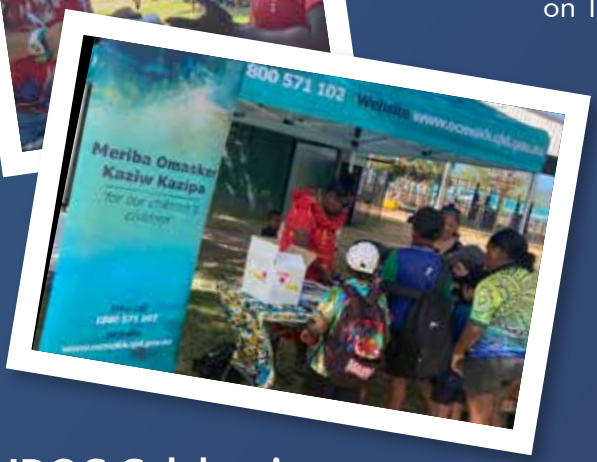
Special Events

National Aboriginal & Torres Strait Islander Children's Day Celebration

On August 4, 2023, we celebrated National Aboriginal and Torres Strait Islander Children's Day by hosting a stall at ANZAC Park, on Thursday Island. This day is an opportunity for families and communities to come together and celebrate the unique strengths and culture of our children.

Our participation provided an opportunity to raise awareness on what Office of the Commissioner - Meriba Omasker Kaziw Kazipa provides.

August 4th, National Aboriginal & Torres Strait Islander Children's Day - celebration at ANZAC Park



NAIDOC Celebrations

On Friday, August 9 2023, we proudly participated in the NAIDOC celebrations at Forgarty Park. Our involvement in this community event allowed us to raise awareness on what the Office of the Commissioner - Meriba Omasker Kaziw Kazipa provides.

Sponsored 2023 Brisbane Community NAIDOC Ball:

In July 2023, Commissioner Maza and Elsie Seriat attended the 2023 Brisbane Community NAIDOC Ball. We were a proud sponsor and excited to assist in the success of the annual event.

The 2023 Brisbane Community NAIDOC ball is a night of celebration and recognition of Aboriginal and Torres Strait Islander excellence in Queensland.

JCU Smithfield Market Day

We hosted a stall at JCU Cairns Market Day, at the Nguma-bada Campus on 14th February 12 -1.30pm. At market day our team collaborated with the Cairns Regional Legal Assistance Forum to assist their efforts for collaborative service planning.

Aboriginal and Torres Strait Islander Law Students Meet the Profession event

Our Commissioner C'Zarke Maza attended and spoke at Bond University's Aboriginal and Torres Strait Islander Law Students Meet the Profession event on 14th September 2023. There he spoke of his role and the importance of the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Act 2020.

Queensland's Historic Milestone

On 5th of September 2023 our Commissioner C'Zarke Maza presented at the James Cook University as part of the 2023 Law Seminar Series. Within the presentation, he explored the significance of the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Act 2020 and its importance in preserving Torres Strait Islander traditions for future generations.

Community Engagement

From February 2024 we commenced community visits across throughout the Torres Strait Islands and Northern Peninsula Area to share information with Elders and the community, support families to access Cultural Recognition Order applications. Our visits also included partnering with the Registry of Births, Deaths and Marriages to improve access to birth registrations and birth certificate applications, and legal services who provide independant legal advice on Cultural Recognition Order applications. We provided an array of free activities, yarning circles and information sessions promoting the Cultural Recognition Order as well as other resources and services the Office of the Commissioner provides.

Media Coverage: Torres News

CHASER

Traditional adoption office opens 'for our children's children'

Francis Tapin hugs the Minister. Pics Carli Willis.

Father Tom Stephen blessed the new building.

TSIRC Mayor Phillemon Mosby was among the dignitaries to attend.

Commissioner C'Zarke Maza making his opening speech.

Aunty Tassie McDonald brought the day full circle by sharing Allan hymns.

Elsie Seriat will take on the only role on Thursday Island as Cultural Support Officer.

ABOVE & RIGHT: Island Stars dancers.

Meister Enoch reveals a plaque at the front of the office.

Continued from P1

Elder Francis Tapin, based in Townsville, was part of the Meriba Omasker Kaziw Kazipa Advisory group and played a vital role connecting Torres Strait communities to Government.

He said the eyes of the world were watching.

"Canada, New Zealand, all the South Pacific countries, are interested to see the Queensland legislation and where child rearing practice goes," he said.

"They can take them up, plug them in and enact the same process for recognising their own traditional practices."

He said families had also travelled from interstate to seek the service out.

"At the moment we're working with other state and territory governments so that it may recognise holistically around Queensland and other state and territories," he said.

C'Zarke Maza who was appointed as Commissioner (Meriba Omasker Kaziw Kazipa) in July 2021, was charged with processing each 'Cultural Recognition Order' – the transfer of a child's parentage from their birth parent to their cultural parent.

In June 22, the Office of the Meriba Omasker Kaziw Kazipa Commissioner received federal funding of $9 million for two years.

To date there have been 22 Cultural Recognition Orders and 15 families supported in preparing their applications.

The organisation employed seven people in Cairns and one on Thursday Island.

Commissioner Maza said it meant families were able to offer their children the same fundamental rights all Queenslanders enjoy.

"They can now enrol their kid in school, they can provide consent for a child's guardianship, medical care and other essentials," he said.

"They can now put their name on bank accounts and other forms of legal identification like a passport or a licence."

Minister Enoch said she had spent time consulting with community members and the Advisory Group.

She said there were concerns that families who had their cultural identity recognised through the new legislation had experienced barriers through other legal frameworks that still only recognised biological parentage.

The Minister said a review of the Act was underway to determine its efficacy.

"It's built into the actual legislation that we would do this review at this point in time, and that's coming through in this in the submissions and the consultations," she said.

Mr Tapin said aligning law with law was difficult and the Advisory Group always knew there would have to be adjustments made to the process.

"We just want to make sure that whatever language or whatever thing we use, it comes from us," he said.

"So that when we speak about the traditional child rearing practices, it's what Torres Strait Islander people want."

Before

After

Children's rights & interests to be better protected

BY DARREN MONCRIEFF

Health, children's well-being and human rights organisations around the country have welcomed the idea of the development of a new National Aboriginal and Torres Strait Islander Children's Commissioner, announced last month.

The Federal Government said the new position would be formally created in the coming weeks with the main aim of promoting the rights, interests and well-being of First Nations children and young people.

An interim Commissioner was expected to be appointed soon.

The role has long been advocated by the peak bodies representing Australia's First Nations children.

Aboriginal and Torres Strait Islander Social Justice Commissioner June Oscar welcomed the move.

"First Nations children continue to be removed from their families at disproportionate rates – disrupting their connection to community and culture," Ms Oscar said.

SNAICC CEO Catherine Liddle said the Commissioner would be a champion for Indigenous children, young people and families and would hold governments to account.

"They will help turn the tide of our children being over-represented in out-of-home care and youth detention," Ms Liddle said. "They will be able to investigate and make strong recommendations on issues that affect our children, ensuring their safety and rights are upheld.

"This significant commitment to our children should have bi-partisan support nationally and in all states and territories.

"Our children deserve this."

Kupai Omasker Working Party chair Ivy Trevallion also welcomed the idea.

Kupai Omasker Working Party chair Ivy Trevallion welcomes the idea of the new National Aboriginal & Torres Strait Islander Children's commissioner. Pic supplied.

Kupai Omasker was instrumental in having Torres Strait child-rearing practices formalised into law in 2020.

Aunty Ivy said she wanted the position to be a power-sharing role – between a Torres Strait Islander and an Aboriginal person.

"We welcome this good news, everybody will be watching this with interest," she said.

"We've got a chance now because also we have two distinct cultures – mainland and Torres Strait Islander, and there's also a crossover between the two.

"So any new commissioner has to be culturally knowledgeable, have an understanding and be well-versed in the cultural aspects of Aboriginal and Torres Strait Islander life.

"Mine is the issue of cultural practice because the history of our children in this country is not good. The different cultural practices – from east to west, north to south – need to be acknowledged in this because there's a variety of ways people can look after children.

"I want them to be visible, families in communities to be acknowledged and to be accessible for the people.

"Personally, first day on the job, I would introduce myself to all the government departments, to all the Aboriginal organisations, tell them who I am and what is expected of me."

To whoever fills the new role, Aunty Ivy had some wise words for them.

"They have to really thick skin because they're in a public position and they will come under scrutiny so they have to be well-equipped for any public backlash," she said.

THURSDAY 8 FEBRUARY 2024 TORRES NEWS

Hope for the next generation

For many of us, Christmas is a time spent with family and friends as we free ourselves from the demands of the daily grind to focus on each other. As the summer wears on and our children head back to school, we return to our 'norms'. Saibai Elder of the Koedal clan McRose Elu offered this reflection on holiday periods gone by on-air with TSIMA broadcaster Gilmore Johnstone, written up by Carli Willis.

14 NEWS THURSDAY 21 MARCH 2024 TORRES NEWS

Piri Piri Mab: a story of struggle and success

STORY AND PICS BY ALF WILSON

Interest in the book *Piri Piri Mab*, about child-rearing practice, is continuing to grow.

The book, which was about the 30 years of struggle, setbacks, renewed hope and ultimate triumph by a Working Party for the Queensland Parliament to pass a bill in 2020 to legally recognise the traditional custom, was launched in Townsville late last year.

The Kupai Omasker Working Party included Waiben-based Aunty Ivy Trevallion, Belza Lowah, former Chief Justice of the Family Court of Australia the Honourable Alastair Nicholson, Townsville's Francis Tapim of Mer descent, and author Paul Ban.

Other members of the Working Party were Dana Ober and McRose Elu.

Uncle Steve Mam was the original leader.

Mr Ban told the *Torres News* earlier this month Aunty Ivy had the book on display at the offices of the service on Waiben.

"She intends having the liaison people to the Commissioner promote the book for sales to all parties who inquire about a cultural recognition order," Mr Ban said.

Mr Ban said Mr Tapim was also working to promote the book in Townsville, where there has been wide interest.

"Francis is speaking at a few meetings soon and will promote the book to the attendees," Mr Ban said.

For his part, Mr Ban intended to contact a range of services/agencies he thought might be interested in buying and promoting the book.

"I have sent a copy to Stephen Mam junior and he is going to use his networks to promote it," Mr Ban said.

The Working Party was credited with helping pass the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* through the Queensland Parliament in 2020.

Aunty Ivy Trevallion (right) with her daughter Surum Trevallion at the launch.

TORRES STRAIT TOURS

TIMETABLE SUBJECT TO CHANGE WITHOUT NOTICE DUE TO QANTAS SCHEDULING, SOME FERRIES MAY NOT OPERATE

Ph: (07) 4069 1586

REBEL MARINE PTY. LTD.

THURSDAY ISLAND/HORN ISLAND FERRY TIMETABLE (18/01/2024)

All TI transfers include complimentary bus service on Thursday Island

Social Media Impact

166.64k impressions	Facebook posts viewed FY23/24
3,702 reactions	Facebook posts viewed FY23/24
125 posts published	Total Facebook posts FY23/24
125 posts published	Total Facebook posts FY23/24
8,355 impressions	Ave. Instagram impressions per day
304 profile views	Ave. Instagram profile views per day
125 posts published	Total Instagram posts published

ocmokk

8 likes

ocmokk What is the role of Commissioner C'Zarke Maza?

Commissioner C'Zarke Maza is a qualified lawyer first... more

17 July 2023

ocmokk

11 likes

ocmokk It's NAIDOC week! ❤️

A time to celebrate the culture, heritage and achievements of First Nation Australians!

This year's NAIDOC week theme is For Our Elders.

We pay respect to all of our elders who have played an important role in all factors of our life, including the passing of the Meribah Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020. 🙏

ocmokk
Waibene (Thursday Island) Queensland, Australia

Liked by lewisjamesmedia and 9 others

ocmokk Tune into Radio '4 Meriba Wakai' (4MW) tomorrow morning, 27 September, from 9am to hear Meriba Omasker Advisory Group members Francis Tapim and Belza... more

26 September 2023

Office of the Commissioner - Meriba Omasker Kaziw Kazipa
28 May

Last night the Queensland Reconciliation Awards 2024 concluded with the Premier's Award for outstanding contribution to Reconciliation in our state.... See more

Elsie Seriat and 23 others 1 share

Like Comment Send Share

Legislative Review

In accordance with sections 111(1) and (2) of the Act, the Minister is required to review the "operation and efficacy of this Act within 2 years after its commencement" and to table a report on the outcome of the review in the Legislative Assembly as soon as practicable after the review is completed.

In July 2023, an independent consultant commenced a review to assess the operation and efficacy of the Act. The final version of this review report was submitted to the department on 3 May 2024. The process to find a suitable consultant began earlier, with the department issuing a tender for the work in December 2022. The procurement process concluded on 24 April 2023, and on 3 July 2023, a contract was executed with Tagai Management Consultants, a Torres Strait Islander business.

Tagai Management Consultants conducted extensive consultations with community members, various stakeholders, the Kupai Omasker Working Party, and the Commissioner. This consultation was crucial in ensuring that the review was thorough and reflective of the needs and concerns of those impacted by the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act* 2020. The final report, which was delivered to the department on 3 May 2024, contains the findings from these consultations and the overall evaluation of the Act's effectiveness.

During the consultation process, the Office of the Commissioner (Meriba Omasker Kaziw Kazipa), with support from the Kupai Omasker Working Party, strongly advocated for the Office of the Commissioner to transition into a statutory body. This transition was seen as essential to ensure greater compliance with the Act and to safeguard the independence of the Commissioner as a decision-maker. Additionally, this move would align with the Queensland government's commitment to Closing the Gap and Reframing the Relationship with Aboriginal and Torres Strait Islander Queenslanders.

As of 30 June 2024, the Department was considering the outcomes of the review and preparing a report for tabling in the Legislative Assembly. The Office of the Commissioner has emphasised the importance of expediting the tabling of this report in accordance with section 111(2) of the Act. Delays in tabling the review report have already had significant implications for the Commission's current funding and could potentially impact future funding.

The timely tabling of the review report is critical not only for compliance with the Act but also for ensuring that the necessary resources and support are in place to continue the important work of the Office of the Commissioner. The outcomes of this review will play a key role in shaping the future direction of the Commission and ensuring that it can effectively carry out its mandate to support Torres Strait Islander families and uphold their Cultural Practices.

"Over two years have 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

The Act

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 (1 April 2021) and the establishment of the Office of the Commissioner (17 August 2021) and the Meriba Omasker Kaziw Kazipa Program Support Office (4 January 2022).

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.

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/responsive, and confidential. It operates on an opt-in basis, relying on consent and voluntary participation.

The key elements are outlined below:

The below information is subject to change based upon the Legislative Review Report.

ELIGIBILITY

There are preliminary 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 careers
- That the making of the order is for the well being 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 applicant 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 practices;
  - Recognition of the birth parents' assessment of the sustainability of the culture parents;
  - Decisions must be made in the fair, timely and consistent manner; and
  - Any other matter that is directly related to the child's wellbeing and best interests.

DECISION

*check with new applicant process

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 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 the 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 registrar.

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 parents 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.

DISCHARGE ORDERS

The Act provides that a Birth Parent, Cultural Parent or the adult applicant may apply to the Children's Court for an order to discharge a Cultural Recognition Order (discharge order). If the count 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 same other improper basis, or
- If there are other exceptional circumstances that warrant the discharge.

The Regulation

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 and Cultural Parent gave free and informed consent by requiring the following:

- evidence to accompany an application for a 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 one 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 2023 and the Births, Deaths and Marriages Registration Regulation 2024.

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 the veracity of the information and documents provided in order to make a decision on a request for an application for a cultural recognition order. It also covers requests for authorisation to access closed entries, 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 to prescribe a requirement for consenting statements to be witnessed because it will facilitate the proper operation of the Act.

The Commissioner

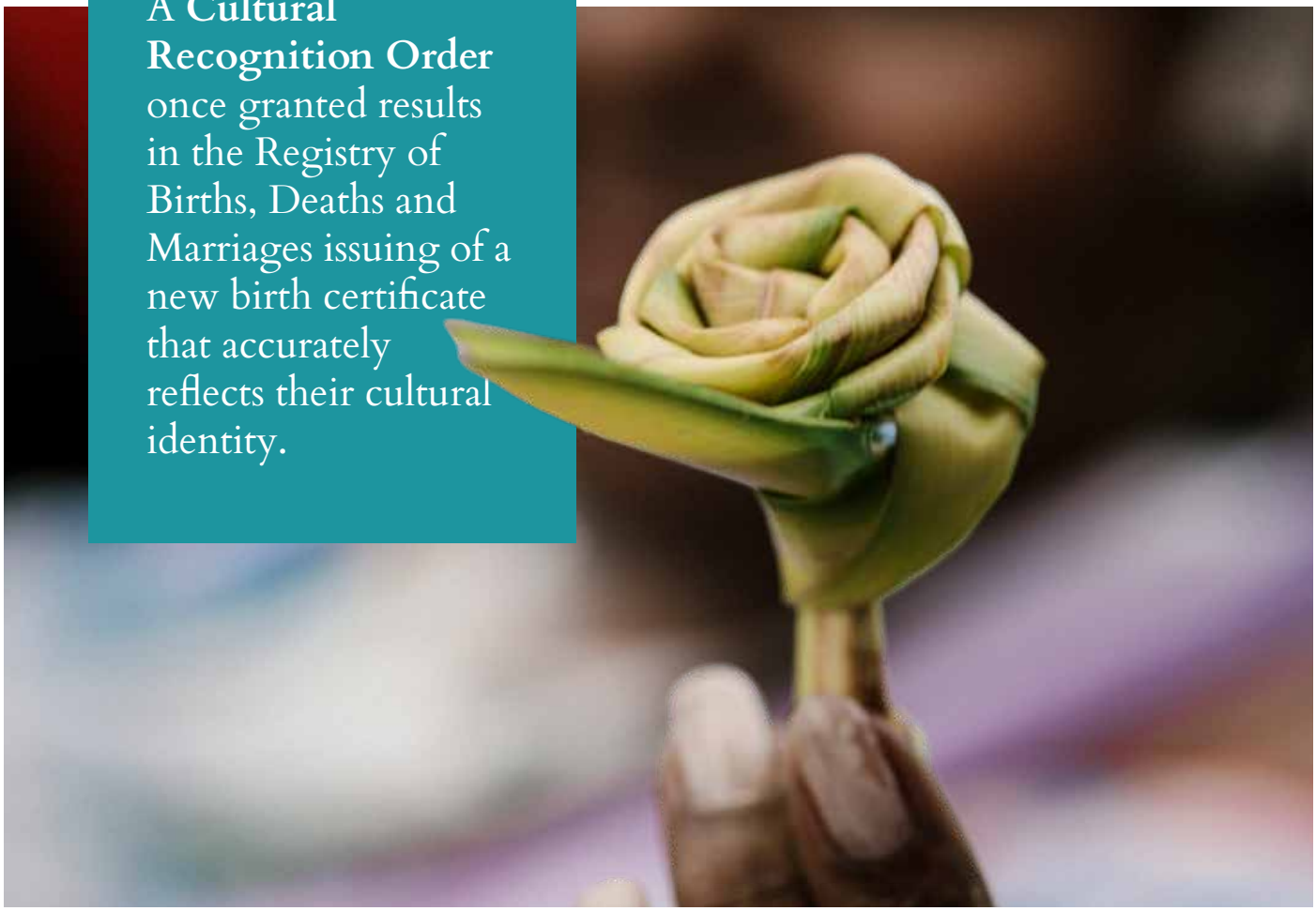
The Commissioner is appointed by the Governor in Council on the recommendation of the Minister. The Minister may recommend an appointment to the Commissioner role only if the person is a Torres Strait Islander and the Minister is satisfied the person is appropriately qualified.

The Commissioner's role is to independently consider applications for cultural recognition 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 make Cultural Recognition Orders.

A Cultural Recognition Order 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 Cultural Recognition Order has the same effect as a final adoption order made under the *Adoption Act 2009* (Qld).

A Cultural Recognition Order once granted results in the Registry of Births, Deaths and Marriages issuing of a new birth certificate that accurately reflects their cultural identity.



The Commissioner's functions 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.
- Provide advice and make recommendations to the Minister about the operation of the Act.
- Promote public awareness of the Commissioner's, and the Office of the Commissioner's functions.
- 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 the birth parents and the 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 the parties to an application, or
- Provide legal advice to parties to an application.

Office of the Commissioner

The Office of the Commissioner (Meriba Omasker Kaziw Kazipa) was officially inaugurated on 17 August 2021 with the opening of the Cairns office and 27 September 2023 for the Thursday Island office, with the aim of fulfilling the lifelong aspirations of many Torres Strait Islanders by enhancing access to culturally competent support, confidential 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 Commissioner commenced his duties on 12 July 2021.

Meriba Omasker Kaziw Kazipa Program Support Office

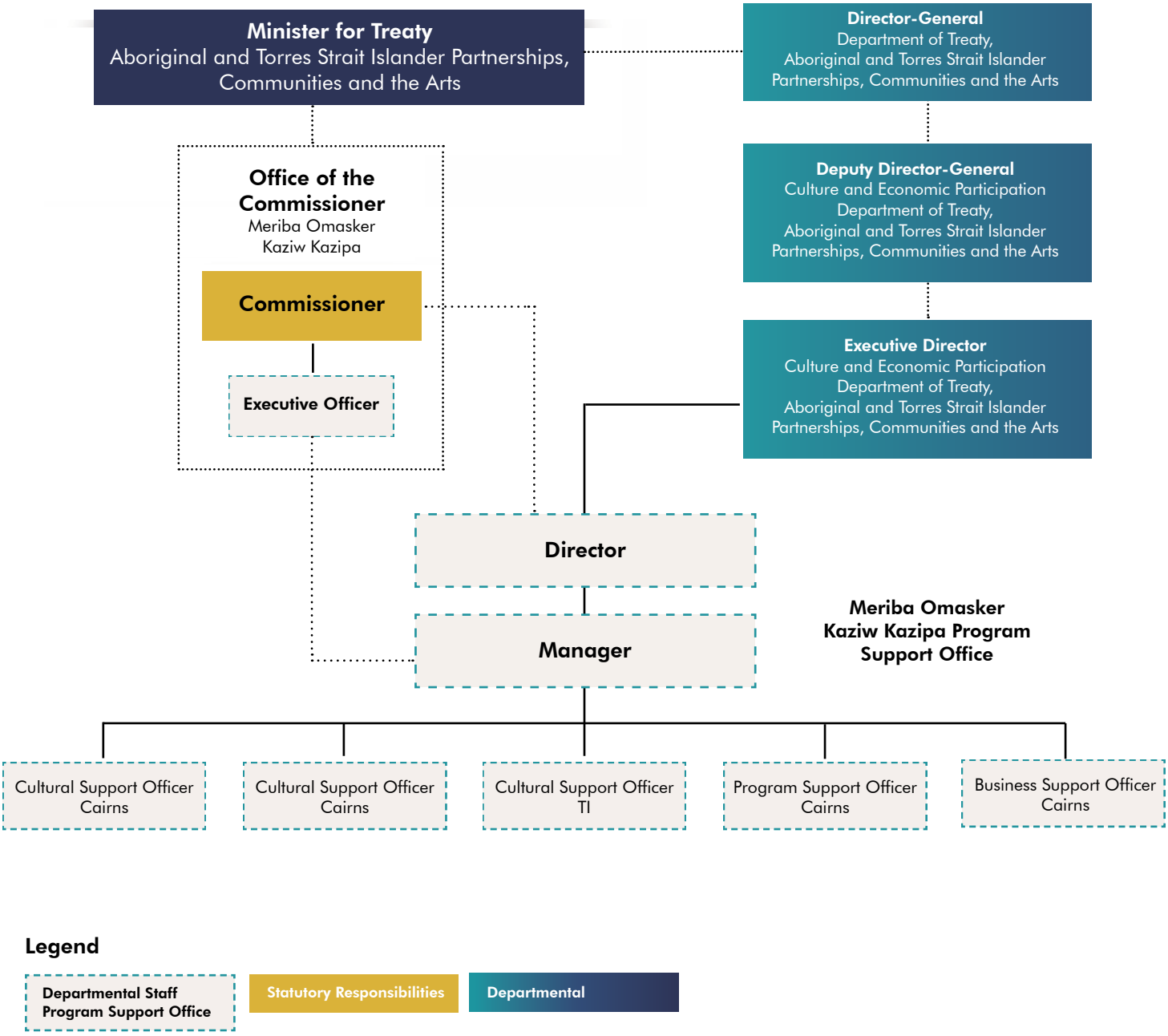
The Meriba Omasker Kaziw Kazipa Program Support Office (MOKK PSO) was established by the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts (the department). Whilst the MOKK PSO reports directly to the department, its purpose is to enhance the administration of the Act by supporting the Commissioner, and the Office of the Commissioner.

The MOKK PSO was fully staffed in January 2022. The MOKK PSO supports the Commissioner in carrying out the Commissioner's responsibilities and functions under the Act by providing practical and culturally sensitive services that guide applicants through the Cultural Recognition Order application process. This support encompasses referrals to free legal service providers for independent advice, access to interpreters, and connections to community-based counselling services. Additionally, the MOKK PSO facilitates engagement with stakeholders and the community.

In April 2024, the department conducted a functional organisational review. As a result, the MOKK PSO transitioned from Regional and Infrastructure Co-ordination to the Cultural and Economic Participation portfolio in May 2024, as illustrated in the Organisational Chart.

Office of the Commissioner (Meriba Omasker Kaziw Kazipa), Meriba Omasker Kaziw Kazipa Program Support Office and the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts.

Organisational Chart



Legend

The officers within the Office are appointed under the *Public Sector Act 2022,* to ensure the independence of the Office. In accordance with section 29 of the Act, "an officer of the office is not subject to direction by any person, other than from within the office, about the way the Commissioner's functions or powers under this Act are performed or exercised." This guarantees that officers operate independently and without external influence.

The Office of the Commissioner has two locations, which accommodates the Office of the Commissioner and Meriba Omasker Kaziw Kazipa Program Support Office staff:

Head Office
Level 3, 46-48 Sheridan Street,
Cairns QLD 4870

Thursday Island Office
The Torres Haus Offices
Level 1/46 Victoria Parade,
Thursday Island QLD 4875

In the fiscal year 2023-24, the Office of the Commissioner shifted its focus towards consultation and engagement with elders and the community to provide education and information about the Cultural Recognition Order application process. This collective approach involves collaboration with Legal Aid Queensland, Births, Deaths and Marriages and Queensland Indigenous Family Violence Legal Services. It operates and functions through a place-based, face-to-face service model to ensure that the Act's objective (section 4 (b)) is achieved.

Throughout the year, the Commissioner and Program Support Office have remained steadfast and consistent on their core function and commitment in progressing their work agenda for the year. Key activities included:

1. Review and Redrafting of Manual Guides: Comprehensive revisions of existing manuals to improve clarity and usability.
2. Streamlining the Application Process: Combining the Child and Adult Cultural Recognition Order applications into a single, unified form to simplify the process for applicants.
3. Inclusion of *Yumplatok* Translations: Incorporating Yumplatok translations in the application form to enhance accessibility for Torres Strait Island applicants.
4. Refreshing Information Resources: Updating and refining the Office of the Commissioner's information resources to ensure they are current and relevant.
5. Project Planning for System Improvements: Drafting a project plan aimed at enhancing the Meriba Omasker Information Management System (MOIMS) to better support the administration of the Act

These efforts demonstrate the Office's commitment to effectively supporting the Cultural Recognition Order process and ensuring that the services provided are accessible, culturally sensitive, and aligned with the needs of the Torres Strait Islander community. The collaborative and community-focused approach underscores the Office's dedication to achieving the objectives of the Act.

Meet our Cultural Support Officers

Godfrey Kalimo Bero

Godfrey Kalimo Bero is a proud Zenadth Kes man of the Komet and Zagaureb tribes. His heritage is deeply rooted in the Torres Strait, with his father hailing from Mer and mother, Paipaidagam, from Mabuygilgal, Mabuyag. His totems are Wanpun (Gecko), Gar (Mangrove Seed), Saigob (White Breast Frigate Bird), Nam (Turtle) & Dhangle (Dugong). He grew up in Tamwoy Town on Waiben (Thursday Island) and Koosoonsoog and Owla, Wug (St Pauls village, Moa Island).

After leaving the Torres Strait Islands at a young age to serve in the defence force, he recently returned closer to home. It has been a fulfilling experience to work and reconnect with his community. Over the past 12 months as a Cultural Support Officer, he has been privileged to listen to the stories of our families. Celebrating and recognising Torres Strait Ailan Kastom has brought him immense professional and personal fulfillment. His time with the Office of Commissioner Meriba Omasker Kaziw Kazipa has deepened his understanding and appreciation of our rich culture.

Outside of work, Godfrey often spends quality time with his sons and family or engaging in his hobbies, which include boating, camping, hiking, fishing, spearfishing and hunting.

Kiri Harris

Kiri Harris is a proud Kulkalaig woman from the Kulkalgal nation, raised on Thursday Island (Waiben). Throughout her career, she has worked in various roles and organisations across Australia but always felt a strong pull to return home and contribute to her community. Becoming a Cultural Support Officer has given her the opportunity to do just that.

In this role, Kiri feels privileged to uplift her people, especially the younger generation. The heartfelt gratitude expressed by the families she assists is deeply rewarding, and their appreciation reaffirms her commitment to her work. For Kiri, the greatest joy comes from knowing she's making a meaningful difference in the lives of her community members.

Shanice Havili

Shanice Havili is a proud Meriam woman from Dauareb and Peibri tribes of Murray Island (Mer) in the Torres Strait. She's deeply connected to her cultural heritage and connected to her totems being nam (green sea turtle) and peibri sor (spotted eagle ray).

She was born and raised on Thursday Island, where she continues to live and work. Despite the challenges of distance, Shanice has remained committed to learning and practicing her culture and traditions.

As a Cultural Support Officer based in the Thursday Island office, Shanice plays a vital role in supporting and empowering her community. Her work allows her to honour her heritage while actively contributing to the preservation of cultural practices, especially Ailan Kastom child-rearing traditions.

When not immersed in her professional duties, Shanice enjoys spending quality time with her family, dancing and fishing, all of which keep her grounded in the rich traditions of her people.

Kaleb Mabo

Non-Ongoing Team Member

"Debe Gerger wabim Kara nei dike Kaleb Mabo, Kara ged Mer, ka piadrum baui giz, ka Koiki, Bonita ira napa."

"Good day to you, My name is Kaleb Mabo, I come from Mer Island and I belong to the Piadrum clan. I am a grandson of Koiki and Bonita Mabo." Kaleb studied a Bachelor of Arts majoring in Anthropology and Archaeology, at James Cook University.

Prior to enrolling in tertiary education, he was a well-respected and decorated sailor in the Royal Australian Navy with a committed 13-year career.

More recently, Kaleb commissioned and managed a community-based project 'Mabo Day 2022 - the Dr Koiki Mabo project' aiming to restore his grandfather Koiki Mabo's traditional home and final resting place. Kaleb joined the team as the Meriba Omasker Kaziw Kazipa Program Support Office and was excited to assist clients.

Elsie Seriat

Non-Ongoing Team Member

Elsie Seriat is a proud Wagadagum woman from the Moegi Buai tribe of Mabuiag Island in the Torres Strait and a Kaurareg Traditional Owner of the Kaiwalagal Archipelago (Inner Islands). Deeply committed to her community, Elsie is an inspirational figure throughout the Torres Strait region, dedicated to seeing her people flourish. A 2014 graduate of the Indigenous Marathon Project and a New York Marathon veteran, Elsie is also the driving force behind the Thursday Island Deadly Runners and the Thursday Island Running Festival.

Before stepping into her current role as a Cultural Support Officer, Elsie worked with the Johnathan Thurston Academy as a JTBelieve Officer and served as a Community Research Officer for the Mayi Kuwayu Aboriginal and Torres Strait Islander Wellbeing Study. These roles allowed her to support her community in meaningful ways, reinforcing her passion for cultural leadership.

Elsie's aspirations extend beyond her current work; she envisions a future in politics, where she can drive positive change for her people and community. Her journey continues to inspire many, as she remains focused on her mission to uplift her people and preserve the cultural heritage of the Torres Strait.

On 21 March 2024, Elsie made history by becoming the first Kaurareg Traditional Owner to be elected as Mayor of the Torres Shire Council in its 121-year history and only the second female to hold this position. Her election marks a significant milestone, reflecting her deep commitment to driving positive change for her people and preserving the cultural heritage of the Torres Strait.

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

Cultural Recognition Order

The Act establishes a formal procedure for Torres Strait Islander 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 (CRO) permanently transfers a person's parentage from their Birth Parents to their Cultural Parents. Following this, individuals can apply for a new birth certificate through the Births, Deaths, and Marriage's registration process.

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

It is imperative to clarify that the Act's intent, in considering an application for a Cultural Recognition Order, is not to interfere with existing Ailan Kastom child rearing practice arrangements. Rather, the Act seeks to assess whether the issuance of a Cultural Recognition Order aligns with the subject child's wellbeing and best interests, as articulated in section 6 of the Act.

Wellbeing and best interests of a child

In deciding the wellbeing and best interests of a child, who is subject to application for a CRO, the Commissioner must have regard to:

- the need to ensure appropriate recognition and preservation of Ailan Kastom in general and in particular, Ailan Kastom child rearing practice,
- the need to perform the powers and functions under the Act having regard to the sensitivity and Cultural Practices associated with Ailan Kastom child rearing practice,
- the legal and cultural benefits if a CRO is made,
- recognition of the Birth Parents' assessment of the suitability of the Cultural Parents,
- decisions being made in a fair, timely and consistent manner,
- any other matter that is directly related to the child's wellbeing and best interests.

Guidance note
Contemporary principles of best interests of children are best known from the "United Nations Convention of the Rights of the Child 1989".
In the context of CROs, consideration of best interest principles must relate to the consequences of legal recognition and whether the legal recognition is in the best interests of the person. The Commissioner's role does not include managing or interfering with cultural practice, living arrangements determined by the family or making an assessment about the suitability of the Cultural Parents. Therefore, considerations of best interests must be in the context of whether the legal recognition and the consequences of that recognition are in the child's best interests throughout their entire life including adulthood.

Wellbeing and best interests of an adult

In deciding what is in the wellbeing and best interest of an adult who is subject to application for a CRO, the Commissioner must have regard to:

- the need to ensure appropriate recognition and preservation of Ailan Kastom in general and, in particular, Ailan Kastom child rearing practice
- the need to perform the powers and functions under the Act having regard to the sensitivity and Cultural Practices associated with Ailan Kastom child rearing practice
- decisions being made in a fair, timely and consistent manner
- the legal and cultural benefits for the adult if the CRO is made recognising Ailan Kastom child rearing practice.

Guidance note
The considerations that the Commissioner must have are not exhaustive. Additionally, they do not restrict or limit the Commissioner from having regard to other matters in deciding the best interests of the person an application relates to.

Image source: Jared Noah

Other benefits include:

- Cultural parents and their child/children are not unduly exposed to inappropriate disclosure that the practice has occurred and any associated trauma or grief is avoidable.
- Cultural parents and their child/children can be legally enrolled/registered with authentic identification documents.
- Cultural parents assurance that their child/children are legally recognised with all the same rights as a biological child/children.
- This process is life changing for Torres Strait Islander families and their children.

Division 2 s35 (h), s36 (j), s39 (b) - Consent

All parties (Birth Parent's, Cultural Parent's, Other Carer(s)) to a Cultural Recognition Order application must provide free, prior and informed consent to an application being submitted. The Act defines informed consent of a person as:
(a) the person has capacity to consent; and
(b) the consent is given freely and voluntarily.

Named parties to an application consent is required to:

- agree to a Cultural Recognition Order application being made
- recording of personal information (name, address and contact details)
- obtaining statements relating to Ailan Kastom child rearing practice
- making of inquiries
- exchanging of information
- obtaining cultural parent(s) criminal history

The application process for legal recognition of traditional child rearing practice is an opt-in consent-based system. In the absence of free, prior and informed consent a

- Court can reverse a Cultural Recognition Order.
- Consent is provided in the form of a signed statement.
- A signed statement is where a section of the application form is filled out by the relevant party and then signed by the party. This signature needs to be witnessed by an authorised person (refer to 2.4.3).
- The Commissioner cannot progress an application if a required party is refusing to provide consent.
- There are some circumstances where the Court may declare that the consent of a certain party is not required for the application for a Cultural Recognition Order to be considered (s47-55, Division 3 Dispensing with a person's consent)
- If only one Birth Parent or one Cultural Parent is living and they consent to the application, the application can be submitted for the Commissioner's consideration.
- It is recommended that all parties obtain independent legal advice if there are issues about consent.
- Legal Aid Queensland, Aboriginal Torres Strait Islander Legal Services and Queensland Indigenous Family Violence Legal Services offer free legal advice.
- Where orders such as final adoption orders exist, Other Carer's are also considered a party to the application.

In order for the Commissioner (Meriba Omasker Kaziw Kazipa) (the Commissioner) to consider an application for a Cultural Recognition Order, both Birth Parents, Cultural Parents, and other carer(s) must provide full, free and informed consent when making the application. Use of undue influence on another person to gain consent is a ground for a Court to discharge (cancel or withdraw the legal effect of an order) the Cultural Recognition Order.

Dispensation Order

Dispensation of consent – (s48) 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.

The Act provides that these applications must be made to the Children Court constituted by a Childrens Court judge, under the *Childrens Court Act 1992* (Qld).

Need help?

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

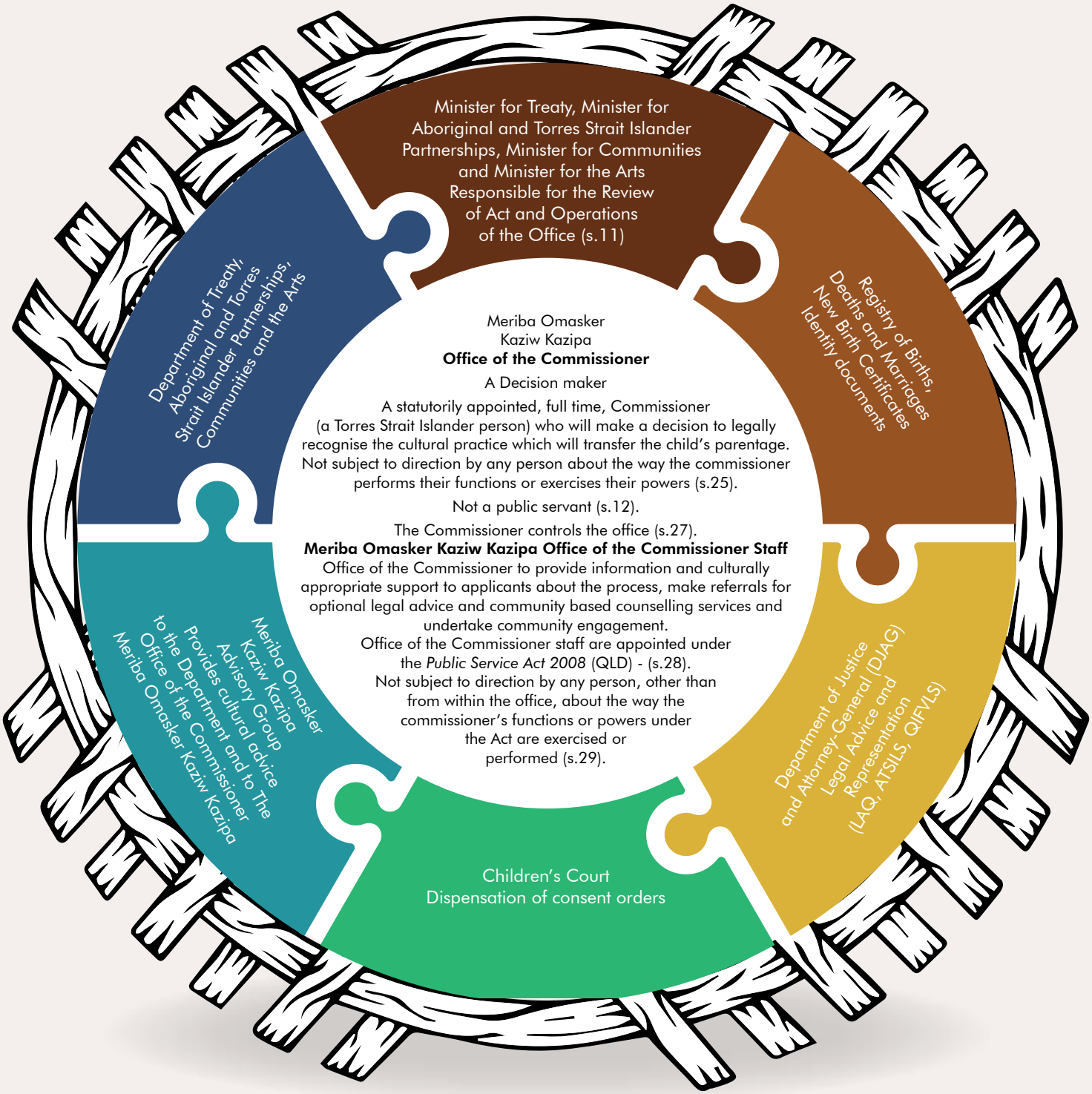
1800 571 102

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

www.ocmokk.qld.gov.au

Partnerships

In accordance with Closing the Gap, Priority Reform One, Formal Partnerships and Shared Decision Making, the Commission is committed to establishing and maintaining partnering arrangements with our internal and external stakeholders that supports the economic, social and cultural aspirations of Torres Strait Islander people. The foundational principles of these relationships are authenticity, equity and reciprocity between the partners.



Stakeholder Engagement

The work of the Commission cannot be achieved without the support of other agencies such as Registry of Births, Deaths and Marriages, Legal Services, and Children's Court. In February 2024 considerable focus and effort commenced to transition to a collaborative service delivery model to share information with Torres Strait Islander Elders and community members, in accordance with the Administrative Service Model.

Elder and Community Engagement

The introduction of the Legislation is the result of over 30 years of campaigning by the Kupai Omasker Working Party to obtain legal recognition of Torres Strait Islander Child Rearing Practices.

The Office of the Commissioner (Meriba Omasker Kaziw Kazipa), in collaboration with the Registry of Births, Deaths and Marriages, Legal Aid Queensland, and Queensland Indigenous Family Violence Legal Service, have been promoting the processes relating to Cultural Recognition Order Applications.

The aim of the information sessions is to provide elders and community members with an understanding of the criteria and process for Cultural Recognition Order Applications:

- Eligibility.
- Consent. What is the process if all parties to an application do not consent?
- What is recorded regarding Torres Strait Traditional Child Rearing Practices. Provide assurance that due to the sacred and private nature of cultural gifting practices the information collected is confidential.
- Benefits of a CRO.
- What happens when a CRO is granted?
- Birth Registrations and Birth Certificates.

The benefits of these bilateral forums cannot be underestimated and are essential for:

i. Obtaining the trust and confidence of Torres Strait Islander peoples.
ii. Increasing the delivery of place-based, face-to-face customer service model.
iii. Increasing opportunities for service providers to receive invaluable cultural education from Torres Strait Islander Elders on the unique variations of the practice within Torres Strait Islander kinship structures.
iv. Improved capability of service providers to accurately record Cultural Practices, and exchange information with families and communities about the Cultural Recognition Order application process.

This model of essential service delivery is particularly more effective for families residing in the remote islands of the Torres Strait and the communities of the Northern Peninsula Area and has two-fold benefits of equitable access and reducing unnecessary financial disadvantage.

Forecast of workload in 2024 – 2025

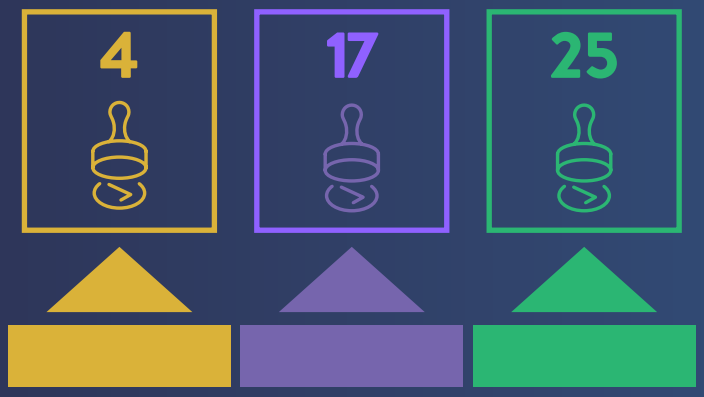
Given the recent implementation of the Act, with the official acceptance of CRO applications commencing only in September 2021, the commission currently faces challenges in accurately projecting future workloads due to a lack of comprehensive quantitative data. The early stages of the Act's administration have not yet provided sufficient information to facilitate reliable forecasting, making it difficult to anticipate and plan for upcoming demands effectively.

As mandated by section 111 of the Act, the Minister holds the responsibility to conduct a thorough review of the Act's operations and efficacy within two years of its commencement. This review is crucial for assessing the performance and impact of the legislation, identifying areas for improvement, and ensuring that the Act fulfills its intended purposes. Following the completion of this review, the Minister is required to present a detailed report outlining the findings and recommendations to the Legislative Assembly at the earliest appropriate opportunity.

An independent consultant was engaged to carry out this comprehensive review, culminating in the delivery of the final report to the department in May 2024. This report is expected to provide valuable insights into the Act's performance, highlight successes, and pinpoint challenges encountered during its initial implementation phase. The findings and recommendations contained within the report will be instrumental in guiding future policy decisions and adjustments to the Act, thereby enhancing its effectiveness and efficiency.

However, as of now, the review report has yet to be tabled in the Legislative Assembly by the Minister. The absence of this critical document means that stakeholders and policymakers lack access to the detailed analyses and evidence-based recommendations necessary for informed decision-making and strategic planning. Consequently, any current estimates regarding future workloads and resource allocations remain largely anecdotal and speculative. Access to the review's findings will be essential for transitioning from conjecture to data-driven projections, enabling the commission to better prepare for and manage future operational demands associated with the Act's ongoing implementation.

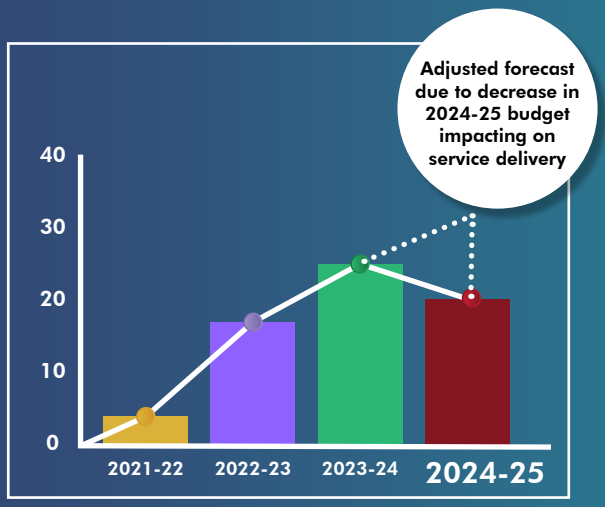
Cultural Recognition Orders – anecdotal forecasts of the workload in 2023–24



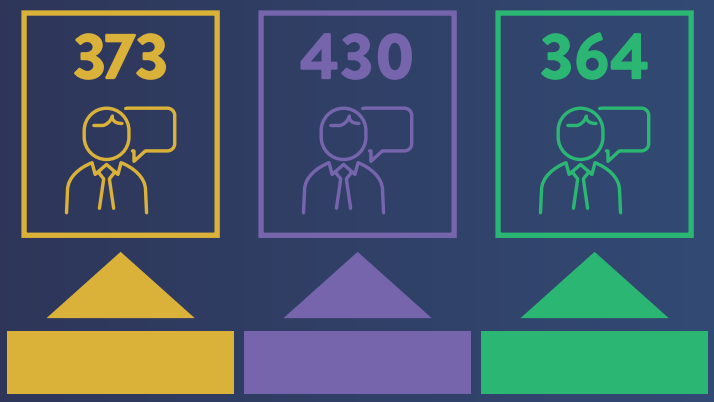
Total number of CROs granted between 1 July 2021 until 30 June 2022

Total number of CROs granted between 1 July 2022 until 30 June 2023

Total number of CROs granted between 1 July 2023 until 30 June 2024



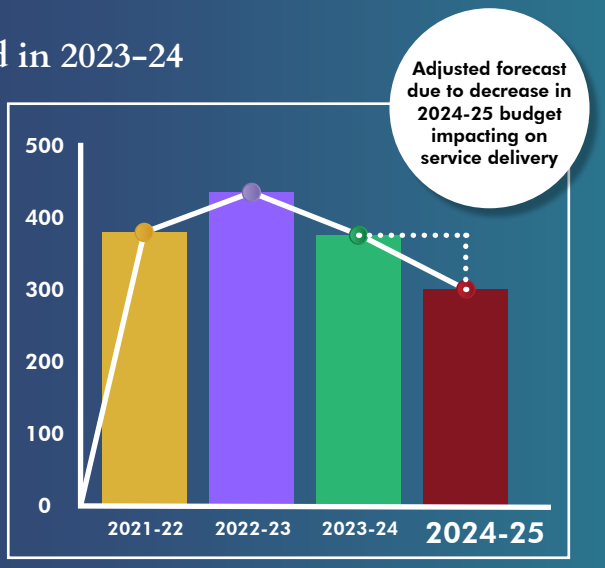
Enquiries – anecdotal forecasts of the workload in 2023–24



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

Total number of enquiry numbers [completed/closed] our office received between 1 July 2023 until 30 June 2024.
Note: based on the enquiry start date



Due to the impact of these elements our focus will be to maintain:

- Implementation of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Child Rearing Practices) Act 2020*.
- Maintenance of Cairns and Thursday Island office operations, inclusive of staff resourcing, to efficiently and effectively respond to Cultural Recognition Order enquiries and applications.
- Legislative recognition, through Cultural Recognition Orders, of the immemorial traditional practice of gifting children within Torres Strait Island families.

The Act continues to positively improve the lives of Torres Strait Islanders and their families by providing a process to legally recognise traditional child rearing practices in Queensland law. The recommendations made in the Legislative Review Report define the roadmap for systemic and programmatic enhancements and improvements. The Commission will continue to advance the efficiencies of the Act and Office's operations to ensure effective support is provided to Torres Strait Islanders in the application process for Cultural Recognition Orders.

Financials

Meriba Omasker Kaziw Kazipa 2023 – 2024 Year End Results

Financial transactions in relation to the administration and implementation of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*, are contained within the certified annual financial statements of the 2023-2024 Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts Annual Report. Available at: **https://www.dsdsatsip.qld.gov.au/about-us/corporate-publications/annual-report**

Appendix A: 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'.	Definition	A	4	Medium	Seek to amend Part 2 Interpretation or Schedule 1 Dictionary of Act to include definition for 'appropriately qualified'.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
26	**Office of the Commissioner**	Act states that the Office of the Commissioner (Meriba Omasker Kaziw Kazipa) consists of thecommissioner 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 Coordination 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"	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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 employees 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 officers 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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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	Re-align all officers 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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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	Medium	Re-align all officers 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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.

			Legislative and Strategic Risk					
Section of the Act	Short Title	Issue	Category	Likelihood (A - E)	Consequence (1 - 5)	Risk Priority	Treatment	Status
29	**Office of the Commissioner**	Direction of officers of the Office of the Commissioner. The fragmented organisational structure limits effectiveness of this requirement.	Clarify Intention	A	4	High	Re-align all officers 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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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 e.g. 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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.

			Legislative and Strategic Risk					
Section of the Act	Short Title	Issue	Category	Likelihood (A - E)	Consequence (1 - 5)	Risk Priority	Treatment	Status
32	**Deceased parents**	An application can be made where one Birth Parent and one Cultural Parent 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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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: - 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"	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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 Parent 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"	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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	1	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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.

			Legislative and Strategic Risk					
Section of the Act	**Short Title**	**Issue**	**Category**	**Likelihood (A - E)**	**Consequence (1 - 5)**	**Risk Priority**	**Treatment**	**Status**
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'"	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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?"	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.

			Legislative and Strategic Risk					
Section of the Act	Short Title	Issue	Category	Likelihood (A - E)	Consequence (1 - 5)	Risk Priority	Treatment	Status
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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 CROs. 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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
Regulation	**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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.

			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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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. A 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."	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
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.	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.
Schedule 1	**Discharge order**	In the definition of 'discharge order' in the Dictionary, only one relevant section is noted (s.73(1) - redischarging 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'	Item considered in review which was finalised in May 2024. Minister to table review report in Legislative Assembly.

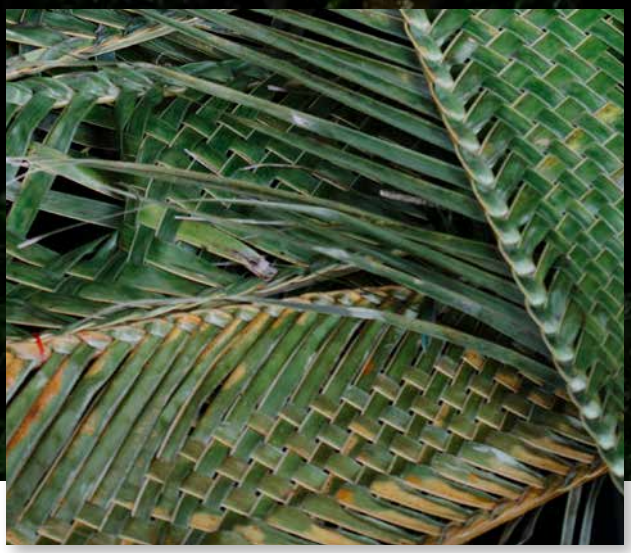
Appendix B

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 that 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 who 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** 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 C: 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.

The Coconut Palm Tree

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.

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

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 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.

Appendix D

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/inforce/current/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/first-nations/family-social-support/torres-strait-islander-traditional-child-rearing
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
Paul Ban's book 'Piri Piri Mab: The Journey to Legal Recognition of the Torres Strait Islander Child Rearing Practice'	https://www.amazon.com.au/Piri-Mab-Recognition-Islander-Practice-ebook/dp/B0CL956L7H
Adoptions Australia Australian Institute of Health and Welfare	https://www.aihw.gov.au/getmedia/c48c507e-6dd9-43ec-a9f4-e31006f616ba/AIHW-CWS-94-Adoptions-Australia-supplementary-tables-2022-23.xlsx *Table S10: Adoptions of Aboriginal and Torres Strait Islander children, by Indigenous status of adoptive parent(s) and type of adoption, 1998–99 to 2022–23 (number and proportion).*
***Clovis & Huff* [2023] FedCFamC2F 1147 (29 November 2023)**	https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FedCFamC2F/2023/1147.html *Family Law - parenting – Torres Strait Islander child rearing practices – whether a cultural adoption has occurred – whether the Court has the jurisdiction to make such a finding – whether interlocutory orders should be made - legislative pathway for non-parents – whether cultural parents are parents according to law.*
***HD & MD v MP & Unknown* [2022] QChC 24**	https://www.queenslandjudgments.com.au/caselaw/qchc/2022/24 *Civil Application – Application for Dispensation Order under Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020 (Qld) – application to dispense with requirement to serve the application on unknown male birth parent – application to dispense with need for consent of unknown male birth parent as part of application for cultural recognition order – whether cultural parents cannot establish identity of male birth parent after making "all reasonable enquiries" – whether there are other special circumstances to dispense with the requirements.*

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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