

# Meriba Omasker Kaziw Kazipa



**2021-2022**

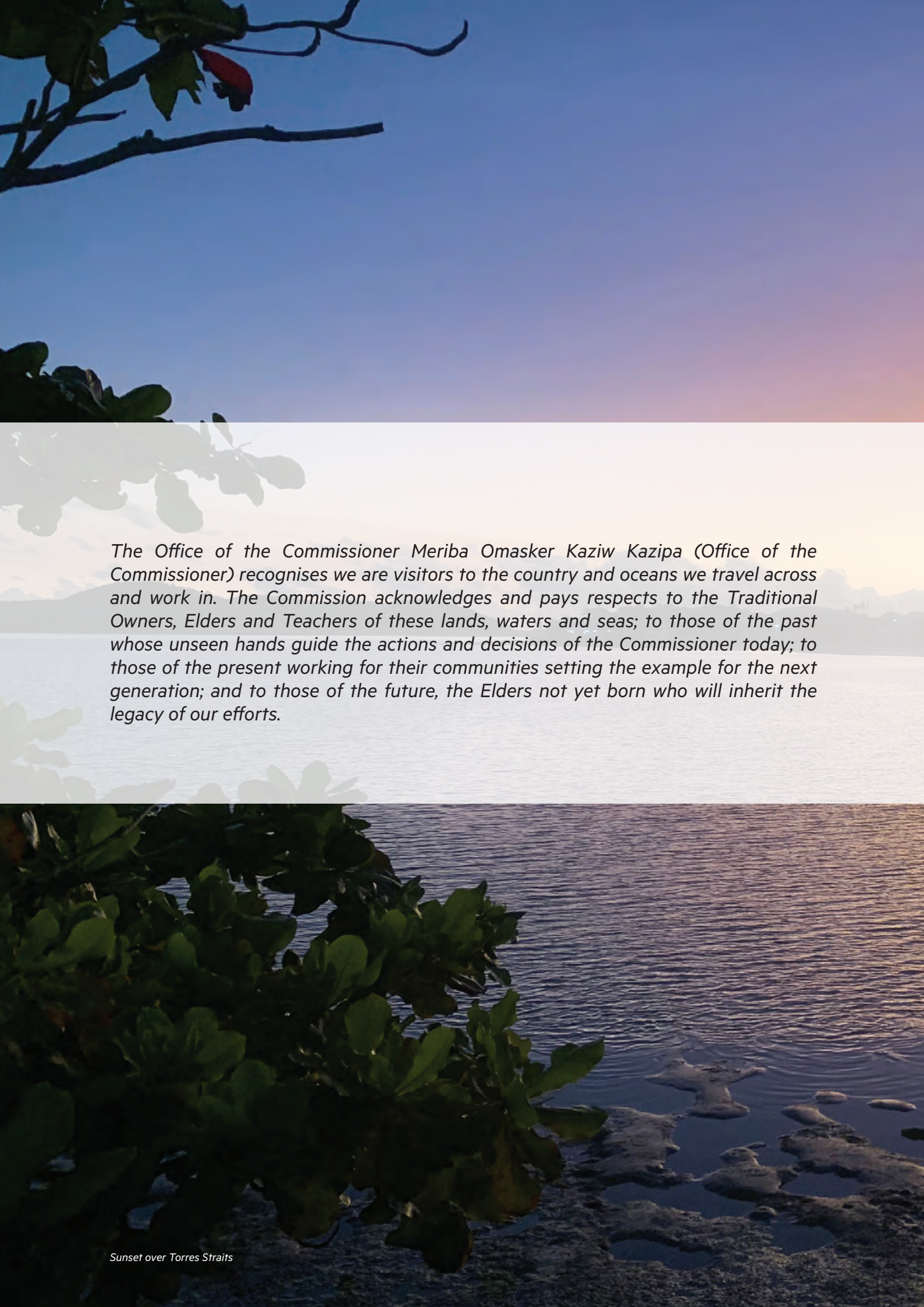
**Annual Report**

© Mapunga by Mersane Loban, 2012

*‘for our children’s children’*

OFFICE OF THE  
**COMMISSIONER**

*Meriba Omasker Kaziw Kazipa*



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



The Office of the Commissioner is proud to provide its inaugural Annual Report for 2021-2022, following the passing of the Act and commencement of the operating office of the Meriba Omasker Kaziw Kazipa program in July 2021.

This inaugural annual report of the Office of the Commissioner summarises the Commission and its financial and corporate performance for the period 1 July 2021 to 30 June 2022.

#### DISCLAIMER

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

An electronic copy of this Annual Report is available from the Office of the Commissioner's website at [www.ocmkk.qld.gov.au](http://www.ocmkk.qld.gov.au)



The Queensland Government is committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you have difficulty in understanding the annual report and need an interpreter, please call the Translating and Interpreting Service (TIS National) on 131 450.

ISSN 2653 6595 (Online)

ISSN 2653 6587 (Print)

Copyright

*Annual Report 2021-2022: Office of the Commissioner Meriba Omasker Kaziw Kazipa.*

Copyright © The State of Queensland (Meriba Omasker Kaziw Kazipa) 2022.

Front cover artwork - © *Mapunga* by Mersane Loban, 2012



The Honourable Craig Crawford MP  
Minister for Seniors, Disability Services and  
Aboriginal and Torres Strait Islander Partnerships  
PO Box 15457  
BRISBANE CITY EAST QLD 4002  
Craig.crawford@ministerial.qld.gov.au

Dear Minister Crawford

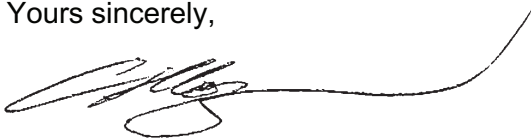
### INAUGURAL ANNUAL REPORT

I am pleased to present our inaugural 2021 – 2022 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 2021 to 30 June 2022. 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 and adult 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

21 October 2022

Level 3, Citi Central Building, 46-48 Sheridan Street  
PO Box 7576  
CAIRNS QLD 4870

**Email:** [office@ocmokk.qld.gov.au](mailto:office@ocmokk.qld.gov.au)  
**Telephone:** 1800 571 102 (free call)  
**Website:** [www.ocmokk.qld.gov.au](http://www.ocmokk.qld.gov.au)

ABN: 25 791 185 155



# Contents

<b>01</b>	<b>INTRODUCTION</b>	<b>8</b>	Overview
		<b>10</b>	Role of the Commissioner Meriba Omasker Kaziw Kazipa (the Commissioner)
		<b>11</b>	Message from the Commissioner
<b>02</b>	<b>BACKGROUND AND HISTORY</b>	<b>14</b>	Torres Strait Traditional Languages Map
		<b>15</b>	Torres Strait Islanders
		<b>16</b>	Ailan Kastom - an explanation of traditional child rearing practices
		<b>19</b>	The Woven Mat
		<b>20</b>	The Coconut Palm Tree
		<b>22</b>	The journey towards legal recognition
		<b>23</b>	Consultations that informed the Act
		<b>24</b>	A timeline of the process
		<b>27</b>	The Bill
		<b>28</b>	Recommendations of the Bill
		<b>29</b>	Inquiry process of the Bill
		<b>29</b>	Establishment and appointment
		<b>30</b>	The Act
		<b>31</b>	The Act's purpose
		<b>32</b>	Key elements of the Act
		<b>34</b>	The Regulation
<b>03</b>	<b>OFFICE OF THE COMMISSIONER MERIBA OMASKER KAZIW KAZIPA</b>	<b>35</b>	Office of the Commissioner Meriba Omasker Kaziw Kazipa
		<b>36</b>	Organisational Chart
		<b>37</b>	The administrative service model - Legal Recognition
		<b>37</b>	Governance
		<b>39</b>	The Meriba Omasker Kaziw Kazipa Advisory Group
		<b>42</b>	Terms of Reference for Advisory Group
<b>04</b>	<b>PERFORMANCE AND OPERATIONS</b>	<b>44</b>	Our Highlights - key achievements
		<b>46</b>	Key organisational outcomes
		<b>46</b>	Cultural Recognition Order (CRO) outcomes
		<b>47</b>	Enquiry outcomes
		<b>50</b>	Who can apply for a CRO?
		<b>50</b>	The application process
		<b>51</b>	How to apply for a CRO
		<b>52</b>	What happens after a CRO is made?
		<b>54</b>	Key communications and engagement
		<b>54</b>	Promoting community awareness and education of the process outcomes
		<b>55</b>	Communications/Operations Strategy 2021-2022
		<b>55</b>	Communications and operations objectives
		<b>57</b>	Media and publicity achieved
<b>05</b>	<b>FINANCIALS</b>	<b>59</b>	Overview
		<b>60</b>	Meriba Omasker Kaziw Kazipa - 2021-22 year end result
<b>06</b>	<b>WHERE TO FROM HERE?</b>	<b>61</b>	Priorities for 2022-2023, Meriba Omasker Kaziw Kazipa implementation and improvement opportunity
		<b>63</b>	Identified challenges for future consideration
		<b>70</b>	Appendix A
		<b>70</b>	References from the Act
		<b>71</b>	Appendix B

# 01

## INTRODUCTION

### Overview

#### Meriba Omasker Kaziw Kazipa

*(Pronounced 'Merry-bah Oh-mus-ker Kah-zeew-Kah-zipper')*

The *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* (the Act) was passed in Queensland Parliament in September 2020 and came into force 1 July 2021 (on an auspicious day known to people of the Torres Strait Islands as 'the Coming of the Light'). The Office of the Commissioner Meriba Omasker Kaziw Kazipa including the Commissioner and the office staff are responsible for administering the Act. The Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships is responsible for providing administrative support services and facilities to the Office of the Commissioner to perform its functions effectively.

In historic legislation, a first of its kind, the Act recognises Torres Strait Islander Law in Western Law and establishes a process for the legal recognition of Torres Strait Islander traditional child rearing practice.

'Meriba Omasker' and 'Kaziw Kazipa' is made up of language terms from Eastern island language and Top Western island languages of the Torres Strait and collectively is translated to mean 'for our children's children'. The Act recognises Ailan Kastom child rearing practice in which a child's birth and cultural parents mutually agree, in accordance with Ailan Kastom, that the parental rights and responsibilities for the child are permanently transferred from the birth parents to the cultural parents.

In view of the very sensitive and taboo nature of openly discussing these Ailan Kastom child rearing practices, there are provisions in the Act to ensure details of these personal family arrangements are generally kept confidential. Ailan Kastom child rearing has been practised for a millennia and takes place in an intricate, extended family setting. The Torres Strait Islander peoples' concept of 'family' is considerably broader than that of Western society. Under Ailan Kastom the practice is an agreement or 'promise' between families about a child that results in the permanent transfer of parentage to the cultural parents. The child's birth parents continue to have a relationship with the child, for example as an aunt or uncle. This rich and living Ailan Kastom continues to be strongly practiced by Torres Strait Island families to this day.

Prior to the Act, the cultural parents had no legal relationship with the child. The child's legal identity did not reflect their cultural identity and lived experience, and the lack of documentation resulted in a number of barriers including difficulties obtaining passports and drivers licences, access to education, health, banking and housing services.

After more than three decades of tirelessly advocating by the Kupai Omasker Working Party, extensive community consultations across Queensland and the work of the Eminent Persons Panel (former Chief Justice of the Family Court of Australia, the Honourable Alastair Nicholson, Ms Ivy Trevallion and Mr Charles Passi), the Queensland Government in fulfilling an election promise, formally and legally recognised the Ailan Kastom traditional child rearing practice on 8th September 2020.

After much deliberations over the naming of the Act during the consultation process, the term Meriba Omasker and Kaziw Kazipa were agreed upon to describe in Torres Strait Islander languages.





With the passing of the Act, the Queensland Government has shown it's unequivocally committed to working in partnership with Aboriginal and Torres Strait Islander people as we journey on the Path to Treaty. The Act is the first of its kind, where it brings Torres Strait Islander and Western laws together, and is the first Act to use traditional Islander language in Queensland. It is especially meaningful that this legislation was introduced by the Member for Cook, Cynthia Lui MP, the first Torres Strait Islander person elected to any Australian parliament. This is a world-first outcome and is one of the strongest acts of reconciliation in Queensland's history.

The Act appoints a Commissioner who is a decision maker with powers to make Cultural Recognition Order (CROs) to permanently transfer parentage to cultural parents. The Act also establishes a process for making applications for, and decisions about, the legal recognition of the cultural practice.

Mr C'Zarke Maza LL.M, a descendant of the Meriam people of Mer (Murray Island) in the Torres Strait Islands and Yidinjdji people from Cairns was appointed as the inaugural Commissioner and commenced his duties in mid-July 2021. C'Zarke was first admitted as a solicitor and barrister in 2002 and takes up the role after 10 years with the Aboriginal and Torres Strait Islander Legal Service (ATSILS) as the Regional Manager and Legal Practitioner on Thursday Island.



## Role of 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 CRO should be made.*

The Act established a Commissioner who is an appropriately qualified Torres Strait Islander person with statutory powers to independently consider applications for legal recognition of Torres Strait Islander traditional child rearing practices and make CROs.

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

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

### **The Commissioner's functions include:**

- independent consideration and decision making on applications for CROs
- 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 functions and the Office of the Commissioner
- advise the Registrar of Births, Deaths and Marriages of each CRO made
- any other functions conferred under the Act such as requesting further information from applicants.

### **The following are not part of the Commissioner's role:**

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



## Message from the Commissioner

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

This landmark legislation is a testament to the enduring strength of Torres Strait Island culture and to all the years of hard work of many who were so critical in bringing about this process that allows for the legal recognition of Torres Strait Islander families' use of traditional child rearing practices. Being a Torres Strait Islander myself, with Meriam (Murray Island) descent and knowing what this historic and world-first legislation means for Torres Strait Islander people, I was truly humbled and honoured in my appointment as the inaugural Commissioner (Meriba Omasker Kaziw Kazipa).

This year has been an exciting year but not without its challenges. It has been pleasing to oversee the development and establishment of the operating Office of the Commissioner and ensuring the application process is accessible, affordable and culturally appropriate for all Torres Strait Island families seeking legal recognition of their sacred Ailan Kastom. It has also been the greatest pleasure to have granted the first of many CROs in November 2021 and bear witness to the life-changing joy and hope it gave to that Torres Strait Island family.

### **Office of the Commissioner staff**

With no blueprint existing for an office of this type, the wonderful staff within this office have played a crucial role in achieving each milestone. The heavy workload of our small Cairns and Thursday Island based staff has continued with their enthusiastic support and I thank the team for their valued commitment in maintaining the high standards we have set for ourselves.

### **Torres Strait Islander child rearing tradition is recognised in Queensland in world-first achievement**

The Act is the first of its kind, where it brings Torres Strait Islander law and Western laws together and is the first Act to use traditional Islander language in Queensland. Since coming into effect, this Act has been positively changing the lives of Torres Strait Islander families forever and I am pleased to report that hundreds of Torres Strait Islander people have made and been assisted with their enquiries by the Office of the Commissioner staff.

This Act is a testament to the Queensland Government's commitment to reframing its relationship with Aboriginal and Torres Strait Islander people and I am proud that the government recognises the outcomes of this secret and sacred customary practice and now has the mechanisms in place to reflect this for Torres Strait Islander peoples in Western law. Indeed, legal recognition of Torres Strait Islander traditional child rearing practice is among the strongest acts of reconciliation in our state's history.

The Office of the Commissioner Meriba Omasker Kaziw Kazipa, Cairns, officially opened in August 2021 and had a full complement of staff from January 2022. From its commencement, the office experienced an impaired start due to COVID-19 restrictions impacting how the office could operate, and engage with vulnerable communities. The Office has been instrumental in the development of the application process and its information management system which is currently being used to process applications. The Office was also influential with key stakeholders and government bodies in making improvements in service delivery for Torres Strait Islander Queenslanders.

**Some of our key achievements include:**

- Establishing, staffing and opening an office in Cairns and Thursday Island to facilitate the application process and creating a culturally safe place where Torres Strait Islander children and families can come to make applications for CROs.
- Assisting 372 Torres Strait Islander people with enquires, granting four CROs, processing six additional applications and assisting with preparation for lodgement of another four applications.

I genuinely acknowledge the efforts of our staff, for the professional way they responded to the rapidly changing operating environment. Our community engagement activities to Torres Strait Island families in the Zenadth Kes (Torres Strait Islands) and to other areas throughout Queensland were able to be undertaken after the relaxation of COVID-19 restrictions in early March 2022. The office could then begin, in earnest visiting vulnerable communities promoting and raising awareness of our service. This engagement resulted in a momentous increase in enquiries from Torres Strait Islander families seeking to make life changing applications for CROs.

**The Commission's future**

On 21 June 2022 the Honourable Craig Crawford MP, Minister for Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, confirmed in a state budget announcement, the extension of funding for the Office of the Commissioner Meriba Omasker Kaziw Kazipa to 30 June 2024. We look forward to continuing and expanding our work with Queensland Torres Strait Islanders.

To ensure the Act is operating as originally intended, and to provide opportunity for process and implementation improvements, the government has committed to a review of the operations and efficacy of the legislation within two years after its commencement. We also look forward to working in partnership with government and service providers to continue building on our successes and work determinedly and proactively in the areas where improvements can be made.

I am pleased to submit the Office of the Commissioner inaugural Annual Report recording its activities for the financial year ending 30 June 2022.



Guba Markai Cultural Dancers