



FEDERAL CIRCUIT COURT OF AUSTRALIA

Judge Josephine Willis AM

31 July 2020

Committee Secretary
Health, Communities, Disability Services and
Domestic and Family Violence Prevention Committee
Parliament House, George Street
BRISBANE QLD 4000
By email: health@parliament.qld.gov.au

Dear Secretary,

I set out below a submission on behalf of the Federal Circuit Court of Australia in support of the *Meriba Omasker Kaziew Kazipa* (Traditional Child Rearing Practice) Bill 2020 first introduced into Parliament on 16 July 2020.

Submission on the proposed legislation *Meriba Omasker Kaziew Kazipa* (Traditional Child Rearing Practice) Bill 2020.

In my capacity as a Judge of the Federal Circuit Court and Chair of the Court's Indigenous Access to Justice Committee, and with the support of the Chief Judge of the Federal Circuit Court of Australia, Chief Justice Alstergren, I support the proposed legislation, *Meriba Omasker Kaziew Kazipa* (Traditional Child Rearing Practice) Bill 2020.

I have lived in Cairns for 28 years. I practised as a family law barrister for 14 years before being appointed a Federal Circuit Court Judge in Cairns 11 years ago. I have had exposure to many Torres Strait Islander families. Through the work of the Aboriginal and Torres Strait Islander Access to Justice Committee of our Court I have engaged with the Torres Strait Islander community in Cairns and the Torres Strait. That includes Torres Strait Islander Elders, community workers, lawyers and law students. It also includes working in partnership with our Court's Indigenous Liaison Officers Mrs Josephine Akee AM and Mr Dennis Remedio. I have come to understand that the giving of a child is a most precious gift and done as an act of love. Through my work and friendships, I have listened to many family stories highlighting the need and importance of the State to recognise their cultural child rearing practice through legislation.

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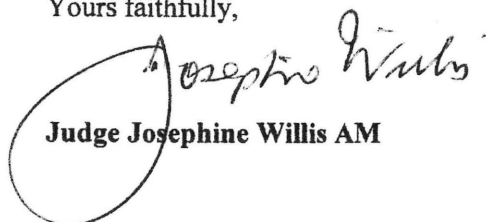
I have seen firsthand the legal difficulties which arise for the cultural parents given they have no legal standing to exercise the usual parental responsibilities and duties enjoyed by biological parents. This impacts on cultural parents in a myriad of ways some examples being:

- They have had no legal document to prove to the world that they are fulfilling the role of parents for their much loved child;
- They are not identified as a parent on the child's birth certificate;
- They lack legal standing to authorise medical or dental procedures and treatment for the child;
- They lack authority to enrol the child in educational institutions starting from kindergarten and going through to enrolment in University;
- They lack standing to be regarded as parents when dealing with the various government agencies encountered by parents during the child's life for example obtaining a passport or a Medicare card for the child.

These issues have been immensely problematic and caused significant personal distress for Torres Strait Islander cultural parents and in turn for the child they have been given to love and raise. Importantly, the proposed legislation provides for the cultural parent to obtain legal acknowledgment of the permanency of their traditional adoption.

Having had the privilege of some involvement in working with Alistair Nicholson AO, RFD, QC and the Kupai Omasker working party and elders in the drafting of the new Bill, I strongly believe that the *Meriba Omasker Kaziew Kazipa* (Traditional Child Rearing Practice) Bill 2020 addresses these difficulties in its content and form. The process to obtain a Cultural Order takes account of the best interests of the child amongst other relevant considerations. The time has come for this ancient child rearing cultural practice to receive the State's legal *imprimatur*.

Yours faithfully,



Judge Josephine Willis AM