



Speech By
Cynthia Lui

MEMBER FOR COOK

Record of Proceedings, 16 July 2020

MERIBA OMASKER KAZIW KAZIPA (TORRES STRAIT ISLANDER TRADITIONAL CHILD REARING PRACTICE) BILL

Message from Governor

 **Ms LUI** (Cook—ALP) (11.16 am): I present a message from His Excellency the Governor.

Mr SPEAKER: The message from His Excellency the Governor recommends the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

MERIBA OMASKER KAZIW KAZIPA (TORRES STRAIT ISLANDER TRADITIONAL CHILD REARING PRACTICE) BILL 2020

Constitution of Queensland 2001, section 68

I, PAUL de JERSEY AC, Governor, recommend to the Legislative Assembly a Bill intitled-


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

GOVERNOR

Date: 16 July 2020

Tabled paper: Message, dated 16 July 2020, from His Excellency the Governor, recommending the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020 [1186](#).

Introduction

 **Ms LUI** (Cook—ALP) (11.16 am): I present a bill for an act to provide for the recognition and acceptance of traditional child rearing practice in the Torres Strait community, and to amend this act, the Adoption Act 2009, the Births, Deaths and Marriages Registration Act 2003, the Criminal Code, the Domestic and Family Violence Protection Act 2012, the Domicile Act 1981, the Evidence Act 1977, the Guardianship and Administration Act 2000, the Industrial Relations Act 2016, the Integrity Act 2009, the Payroll Tax Act 1971, the Powers of Attorney Act 1998, the Public Service Act 2008 and the Right to Information Act 2009 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee to consider the bill.

Tabled paper: Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020 [1187](#).

Tabled paper: Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020, explanatory notes [1188](#).

Tabled paper: Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020, statement of compatibility with human rights [1189](#).

I rise today as a proud lamalaig woman of the Kulkalgal Nation of the Torres Strait and a member of the Torres Strait community in my capacity as a member of parliament. I acknowledge the traditional owners of the land on which we meet today for this historic moment in Queensland's history. Koeyma eso and au esoau—which means thank you—for allowing us to be here on your beautiful and sacred country and I pay my respects to your elders past, present and emerging. I would also like to acknowledge those Torres Strait Islander elders in our communities who have worked tirelessly in the pursuit of legal recognition of Torres Strait Islander child-rearing practice, and our respected elders, members of the Torres Strait Islander and Aboriginal communities and our non-Indigenous friends tuning in online to bear witness to this important and historic event in Queensland's history. I especially want to acknowledge the work of the late Uncle Steve Mam, whose courageous heart led the Kupai Omasker Working Party to advocate for legal recognition for over 30 years.

I pay my respects to those elders who are no longer with us but whose spirit is still strongly felt and has guided us to this momentous occasion. I acknowledge the ongoing work of the Kupai Omasker Working Party and eminent panel members, some of whom are able to join us for this significant event. I note that Aunty Ivy and Aunty McRose and the rest of our guests here in the gallery this morning are standing as a mark of respect to those elders who have been integral to this recognition but are no longer with us. This has been an incredibly long journey for Torres Strait Islander peoples to see this traditional practice legally recognised in Queensland law. The introduction of this bill today puts us one step closer to realising this long-fought-for recognition.

It is my great privilege to introduce the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020. This bill provides legal recognition of an ancient, sacred and enduring child-rearing practice, an integral part of Torres Strait Islander cultural fabric since time immemorial. This practice sits on the foundations of Torres Strait Islander culture and cultural decision-making processes in Torres Strait Islander community and family life. It promotes inclusiveness by allowing children the ability to grow into their full potential without doubt or questions about their identity.

I acknowledge the many generations of Torres Strait Islander children who have been raised under this traditional practice—a practice that protects a person's cultural right and identity and their position in the family, kinship and community structure. As a child, I wondered why, as Torres Strait Islanders, we do not publicly discuss our traditional child-rearing practice. Today, I speak my cultural truth that children who are raised under this practice deserve only love, respect, dignity and acceptance, and the questions about who they are and where they come from are irrelevant. This practice ensures that the child's cultural right is treated with the utmost respect and dignity it deserves.

In keeping with the Torres Strait Islander community feedback and acknowledging Queensland's diverse cultural landscape, it was a significant decision to ensure the short title of the bill contained Torres Strait Islander languages. Derived from Eastern and Top Western languages, Meriba Omasker Kaziw Kazipa translates to 'for our children's children', holding significant meaning of the recognition of traditional child-rearing practice for all posterity. The phrase also pays homage to the legacy of the Kupai Omasker Working Party, formed in 1990 by the late Uncle Steve Mam.

The Kupai Omasker Working Party held steadfast and resilient as they advocated for the legal recognition of Torres Strait Islander traditional child-rearing practice for over 30 years. I acknowledge Ms Ivy Trevallion; the Hon. Alastair Nicholson, former chief justice of the Family Court of Australia; and Mr Charles Passi as members of the eminent panel who were instrumental in guiding community consultations on this legislative framework and providing valuable feedback on the proposed legislation.

I would also like to acknowledge and thank the Premier of Queensland, the Hon. Annastacia Palaszczuk, and my parliamentary colleagues who have worked alongside the Torres Strait Islander community to advance the recognition of Torres Strait Islander child-rearing practices including: Hon. Yvette D'Ath, Attorney-General; Hon. Shannon Fentiman, ministerial champion of the Torres Strait Islands; my Aboriginal sister and brother, the Hon. Leeanne Enoch and Mr Lance McCallum MP; the Hon. Curtis Pitt; and, of course, Jackie Trad MP whose commitment to this work has brought us to this historic moment in our combined history. I especially want to acknowledge and thank the Minister for Aboriginal and Torres Strait Islander Partnerships, the Hon. Craig Crawford, and the Minister for Child Safety, Youth and Women, the Hon. Di Farmer, for supporting me as the first Torres Strait Islander member of this House to introduce this bill which is of such significance to all Torres Strait Islander people.

This bill is the first of its kind in Australia and delivers on the government election commitment to introduce new laws that recognise the outcomes achieved by Torres Strait Islander families' continued use of the Torres Strait Islander traditional child-rearing practice. Further, the new law will be based on three guiding principles: consent of biological parents, suitability of cultural parents, and the rights and best interests of the child throughout their life.

This bill is about the preservation and survival of ailan kastom by providing a legal framework to support the recognition of Torres Strait Islander traditional child-rearing practice, which has occurred since time immemorial. In accordance with international and Queensland human rights standards, this bill therefore honours ailan kastom and promotes Torres Strait Islander cultural rights, including the right to practise their own laws, customs and traditions, and the right to self-determine their own identity.

If passed, the implementation of this very important legislative reform will resolve longstanding issues faced by Torres Strait Islanders whose legal identity does not currently reflect their cultural identity and lived experience. Legal recognition of the traditional child-rearing practice will allow Torres Strait Islander people to access fundamental human rights, for example, important identity documents, such as a birth certificate, which allow for easy access to government services such as financial support and school enrolment benefits that most Queenslanders take for granted.

This sacred cultural practice supports the permanent transfer of parentage for a child from the biological parents to the cultural parents in accordance with ailan kastom. It is a consent based verbal agreement that usually occurs within an extended family. Under the practice, the child's biological parents are never lost to a child as the child is usually placed within the family network. The child continues to have a relationship with them and can recognise them as aunt, uncle or another familial relationship. A cultural recognition order made under this bill will result in a new birth certificate being issued to the person who is the subject of the application. Being able to obtain a key identification document like a birth certificate which reflects a person's cultural identity will result in many positive flow-on effects, such as access to government services and school enrolments.

Consistent with community feedback from the consultations, the bill creates a framework that is accessible and affordable for community, confidential to honour the secret and sacred nature of the practice and culturally appropriate by not interfering with the cultural practice as occurred. Also consistent with community feedback, an appropriately qualified Torres Strait Islander person will be appointed under the bill to the role of independent commissioner to make decisions on applications for cultural recognition orders. All decisions under the bill, including deciding to make a cultural recognition order, must be for the wellbeing and best interests of a person who is the subject of an application for a cultural recognition order, either children or adult children applicants.

The bill sets out a voluntary, opt-in, consent based process. In the case of a child who is the subject of an application, consent for legal recognition must be provided by the biological parents and cultural parents where reasonably and appropriately available. In the case of adult applicants who were once children under the practice they, too, must provide consent in the application.

Suitability of the cultural parents means that the cultural practice has occurred and has been verified by persons with knowledge and understanding of the cultural practice specific to the community. The verification process is part of the application and it allows for those informed persons to verify that the practice has occurred. The commissioner will also have discretion to seek criminal history information about the cultural parents if required. This is to ensure an appropriate level of safeguards is in place and is consistent with other legislative frameworks which consider the best interests and wellbeing of children.

The bill will commence on a day to be fixed by proclamation, and implementation work is currently underway and scheduled for operation in the first half of 2021. Koeyma eso, au esoau. Thank you.

First Reading

Ms LUI (Cook—ALP) (11.19 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

Mr SPEAKER: In accordance with standing order 131, the bill is now referred to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee.