

**Decision and
Reasons for Decision**

Applicant: Teana Murray

Respondent: Minister for Immigration and Citizenship

Tribunal Number: 2026/1074

Tribunal: Senior Member K Rosser

Place: Sydney

Date: 10 June 2026

Decision: The decision under review is set aside and substituted with a decision that the cancellation of the applicant's Class TY Subclass 444 Special Category (Temporary) visa is revoked under s 501CA(4).

.....[SGD].....
Senior Member K Rosser

CATCHWORDS

MIGRATION – Refusal to revoke cancellation of a Class TY Subclass 444 Special Category (Temporary) visa under s 501CA(4) of the Migration Act 1958 (Cth) - where the applicant does not pass the character test - whether there is another reason to revoke the cancellation - Direction No 110 - protection of the Australian Community - expectations of the Australian Community - ties to the Australian community - interests of minor children - legal consequences of decision under review - impediments -

LEGISLATION

Crimes Act 1900 (NSW)

Crimes (Sentencing Procedure) Act 1999 (NSW)

Migration Act 1958 (Cth)

Migration Regulations 1994 (Cth)

Returning Offenders (Management and Information) Act 2015 (NZ)

CASES

CRNL v Minister for Immigration, Citizenship and Multicultural Affairs [2023] FCAFC 138

FHHM v Minister for Immigration [2022] FCAFC 19

Ismail v Minister for Immigration, Citizenship & Multicultural Affairs [2024] HCA 2

Love v Commonwealth (2020) 270 CLR 152

RCLN v Minister for Immigration, Citizenship and Multicultural Affairs [2024] FCA 876

Suleiman v Minister for Immigration [2018] FCA 594

SECONDARY MATERIALS

Direction No 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA

Statement of Reasons

INTRODUCTION

1. The applicant, who is a national of New Zealand, seeks review of a decision made by a delegate of the Minister on 18 March 2026 not to revoke the mandatory cancellation of her Class TY Subclass 444 Special Category (Temporary) Visa (**visa**). The delegate's decision was made under s 501CA(4) of the *Migration Act 1958* (Cth) (**Act**).
2. The applicant's visa was mandatorily cancelled on 8 March 2025 on the basis that she did not pass the character test as she has a substantial criminal record and was serving a sentence of imprisonment on a full-time basis for an offence against a law of a State.
3. The delegate found that the applicant has a substantial criminal record because on 23 October 2024 she was convicted in the Drug Court of NSW of ten counts of *Dishonestly obtain property by deception* (**the index offences**). The applicant was originally sentenced to a term of imprisonment of two years for these offences, which was suspended so that the applicant could participate in a drug treatment program. That sentence was set aside when the matter returned to Court for determination of the final sentence. At that time, the applicant was convicted of additional offences, committed both before and after the offences of which she was convicted on 23 October 2024. The applicant was re-sentenced to a term of imprisonment of one year and nine months.
4. On 8 March 2025, the applicant made representations seeking revocation of the delegate's decision.
5. On 18 March 2026, the delegate decided not to revoke the cancellation of the applicant's visa. The applicant was notified of the delegate's decision on 19 March 2026. She lodged the application for review on the same day.
6. The application for review was heard on 1 and 2 June 2026. The applicant was represented at the hearing by Dr J Donnelly of Counsel. The Minister was represented by Mr I Duldig, solicitor.
7. The applicant gave oral evidence, as did her sister, Ms Renee Turner.

8. For the following reasons, I have decided to set aside the decision under review and substitute a decision that the cancellation of the applicant's visa is revoked.

JURISDICTION

9. The Tribunal has jurisdiction to hear and determine the application for review under s 500(1)(ba) of the Act because it was lodged within nine days after the decision was notified in accordance with s 500(6B).

EVIDENCE AND SUBMISSIONS

10. The following material was included in the Hearing Book (**HB**) prepared by the Minister:
- (a) The applicant's Statement of Facts, Issues and Contentions (**SOFIC**) - Exhibit A1
 - (b) The applicant's tender bundle – Exhibit A2
 - (c) Letter from NM¹ – Exhibit A3
 - (d) Letter from Ms Catherine Hesketh – Exhibit A4
 - (e) Letter from Mr Todd Foran – Exhibit A5
 - (f) The Minister's SOFIC - Exhibit R1
 - (g) The Minister's tender bundle - Exhibit R2
 - (h) The G-Documents - Exhibit G
11. In addition to relevant material contained in the HB, in deciding the application I have also considered:
- (a) The applicant's statement dated 26 May 2026 – Exhibit A6
 - (b) The statement of the applicant's sister, Ms Renee Turner, dated 26 May 2026 – Exhibit A7

¹ NM is the applicant's oldest daughter. The applicant's children have all been anonymised in these reasons for decision.

- (c) The oral evidence given by the applicant and by Ms Turner
 - (d) The closing oral submissions made by the parties
12. Relevant parts of the documentary evidence, the oral evidence and the submissions are considered below.

BACKGROUND

13. The following background is taken largely from the parties' SOFICs,² sentencing judges' remarks in relation to the index offences and earlier offences,³ the applicant's statement in these proceedings,⁴ and other material contained in the HB, as well as the oral evidence of the applicant and Ms Turner.

Family and personal background

14. The applicant was born in New Zealand on 29 December 1992. She travelled to Australia for short periods and holidays from 21 December 2004 and settled in Australia in January 2014. The applicant's mother and her sister live in Australia. The applicant also has extended family in Australia, consisting of uncles, aunts, nieces, nephews and cousins. Her father lives in New Zealand.
15. The applicant has seven children ranging in age from sixteen to two. They are:
- KM, aged sixteen
 - NM, aged fifteen
 - KT aged six
 - AT, aged five
 - MT, aged four
 - KiT, aged three

² HB 1-22 and HB 669-692.

³ HB 525-544.

⁴ Exhibit A6.

- CN aged two
16. KM and NM are New Zealand citizens. The other children are Australian citizens. The children were all in out of home care at the time the applicant was incarcerated and remain in care. With the exception of two of the applicant's younger daughters, the children live apart from each other with various guardians. KM lives with his father, NM lives with the applicant's sister, who is her guardian.⁵ KT and AT live with the applicant's mother, who is their guardian. MT, KiT and CN are in foster care. MT lives with the applicant's friend. KiT lives with the applicant's sister's friend. CN lives with her paternal grandmother. The applicant is currently in regular contact with all of her children other than CN, whose grandmother will not respond to requests for contact to be resumed. The applicant has taken up this issue with NSW Department of Communities and Justice (**DCJ**) but so far no action has been taken.
17. The applicant worked in various jobs between 2016 and 2021, including in shearing sheds, retail, trucking and other businesses. She also spent six months volunteering in an animal shelter. In New Zealand, the applicant obtained a heavy rigid truck license and worked with her father.
18. The applicant's relationships with intimate partners have been characterised by dysfunction and violence. She is currently single.
19. The applicant told the Department that her father was of Torres Strait Islander background and that her grandmother adopted him from an Australian woman when he was six weeks old.⁶ On 20 November 2025, the Department wrote to the applicant, noting that she had previously been asked questions to determine whether she might be affected by the High Court decision in *Love v Commonwealth* (2020) 270 CLR 152 (**Love**).⁷ The letter set out the tripartite test endorsed by the majority in *Love*; that is, biological descent from Aboriginal or Torres Strait Island people, self-identification as an Aboriginal or Torres Strait Islander

⁵ At the time of the hearing, NM was living on a temporary basis with Ms Turner's mother-in-law. Ms Turner's evidence at the hearing was that this arrangement was agreed on within the family and was implemented because NM is currently exhibiting challenging behaviours and needs to be in the care of a person who can fully devote herself to NM's needs.

⁶ HB 580.

⁷ HB 588-589.

person and recognition by elders or other people who are seen, by their own Aboriginal or Torres Strait Islander community, as having authority under the laws and customs of that community as passed down through the generations, to make decisions about membership of that community. The applicant did not provide any further information concerning her claim to be of Torres Strait Islander descent. Accordingly, the delegate found applicant to be a non-citizen who could be lawfully detained under s 189 of the Act and who, in the event of a non-revocation outcome, could be removed from Australia under s 198 of the Act.⁸ The applicant did not raise this issue in connection with the application for review. I therefore conclude that the applicant does not claim to be affected by the *Love* judgment.

History of substance abuse

20. The applicant claims to have been exposed to domestic violence as a child in the family home. She also claims to have been sexually abused when she was a child. The applicant has claimed that she started drinking alcohol at dangerous levels from the age of thirteen or fourteen, drinking around 34 standard drinks a day until she was in her mid-twenties. She then started taking drugs instead of consuming excessive alcohol. Since that time, the applicant's drug of choice has been ice.⁹
21. The applicant was prescribed buprenorphine when she was in prison. At the hearing she indicated that it was ineffective, as it is used to treat heroin addiction rather than ice addiction. The applicant has been regularly consulting with a mental health professional in the immigration detention centre. She does not currently take any medication to treat a psychiatric condition or drug dependence.
22. The applicant has not taken illegal drugs since her incarceration in December 2024.

Physical health

23. There is no evidence to suggest that the applicant is otherwise than in good physical health.

⁸⁸ HB 506.

⁹ Crystal meth, or ice is a highly addictive illegal methamphetamine, which is linked to chronic physical and mental health problems. See healthdirect.gov.au, accessed on 2 June 2026.

Mental health

24. A psychologist whose report was before the Drug Court when the applicant was originally sentenced and again when the applicant was re-sentenced was of the view that the applicant had a presentation consistent with post-traumatic stress disorder (**PTSD**). The Court was also told that the applicant has a history of depression and attempts at self-harm. While the applicant apparently has a presentation and history consistent with mental health issues, she has not been formally diagnosed with any mental health disorder.

Criminal history

25. The applicant has a lengthy criminal history between 2017 and 2024. This relevantly includes:
- On 23 October 2024, the applicant was convicted by the Drug Court of ten counts of *Dishonestly obtain property by deception-T1*. The applicant was subsequently resentenced for these offences and convicted of and sentenced for additional offences of *Dishonestly obtain property by deception-T1*. She was also convicted of and sentenced for *Never licensed person drive vehicle* and *Possess prohibited drug*. Some of the additional offences were committed prior to and some after 23 October 2024.
 - On 3 November 2021, the applicant was convicted of *Destroy or damage property <=\$2000-T2*. She was initially sentenced to a Community Correction Order (**CCO**) of two years. On 19 May 2023, this offence was called up by the Penrith Local Court. The applicant was sentenced to an Intensive Correction Order (**ICO**) of 25 months and was ordered to submit to random drug and alcohol testing.
 - On 19 May 2023, the Applicant was convicted in the Penrith Local Court of *Affray-T1* and *Dishonestly obtain financial advantage by deception*, and was re-sentenced for several offences due to offending while on a CCO), including for *Possess prohibited drug*, *Making false document*, *Destroy damage property*, and *Aggravated Break & Enter dwelling etc in company damage property <=\$60k-T1*.
26. The applicant was found guilty but appears not to have been convicted of the following offences in her criminal history check:
- Offences for which she appeared in court from 2016 to 24 May 2021; and

- The following offences for which she appeared in court on 3 November 2021; that is, Possess prohibited drug, Contravene prohibition/restriction in AVO (Domestic), and Drive vehicle, illicit drug present in blood etc – 2nd+off.
27. The offences of which the applicant was apparently not convicted have not been taken into account in making this decision.
28. The applicant has a history of not complying with court orders.

Index offences

29. The index offences of *Dishonestly obtaining property by deception* occurred in the context of the applicant and a co-offender using a phone app to obtain fuel from bowzers in service stations and leaving the premises without paying for the fuel. In one instance, \$900 worth of fuel was obtained. In another instance the applicant and her co-offender obtained \$453 worth of fuel. Other instances of the applicant's offending involved the applicant and a co-offender responding to advertisements for the sale of motor vehicles, producing fake screenshots of payments to the sellers and driving away the vehicles without paying for them. One vehicle obtained this way was valued at \$20,000 and another at \$4,000.
30. The applicant's initial sentence of an aggregate term of imprisonment of two years. was suspended to allow the applicant to complete a drug program. On 5 March 2025, the applicant was given a final sentence in respect of the original offences and an additional six offences, three of which were committed while the applicant was supposed to be participating in the drug program. In the sentencing remarks, the Drug Court notes that the applicant left the drug program after one night and committed the further offences.
31. This was the applicant's first term of imprisonment served on a full-time basis. She was eligible for parole on 15 September 2025.¹⁰

¹⁰ HB 536-538.

Conduct in prison and immigration detention

32. There is no evidence supporting a conclusion that the applicant has engaged in problematic conduct in prison or in immigration detention.

LEGISLATIVE FRAMEWORK

33. Section 501 of the Act deals with decisions to cancel a visa on character grounds.
34. Relevantly to this case, under s 501(3A) the Minister must cancel a visa that has been granted to a person if the Minister is satisfied that the person does not pass the character test because the person has a substantial criminal record, having been sentenced to a term of imprisonment of 12 months or more, and the person is serving a sentence of imprisonment on a full - time basis in a custodial institution for an offence against a law of the Commonwealth, a State or a Territory.
35. In accordance with s 501CA(3), as soon as practicable after making a decision under s 501(3A), the Minister must give the person whose visa was cancelled written notice setting out the decision together with particulars of specified information that were the reason or part of the reason for making the decision. The Minister must also invite the person whose visa was cancelled to make representations to the Minister about revocation of the decision.
36. Under s 501CA(4) the Minister may revoke the original decision if representations are made in accordance with the invitation and the Minister is satisfied that the person passes the character test (as defined by s 501) or that there is another reason why the original decision should be revoked.
37. An application to review a decision made under s 501CA(4) not to revoke the cancellation of a visa may be made to the Tribunal under s 500(1)(ba).
38. The Minister may give written directions under s 499(1) of the Act to a person or body having functions or powers under Act if the directions are about the performance of those functions or the exercise of those powers. Section 499(2A) requires the Tribunal to comply with any directions made under s 499(1).

DIRECTION 110

39. 'Direction No 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA'¹¹ (**the Direction**) applies in this case.
40. For the purposes of deciding whether to refuse an application for a visa or whether to revoke the mandatory cancellation of a visa, 5.2 of the Direction sets out several principles that must inform the decision-maker's application of the primary and other considerations set out in Part 2 of the Direction, where those considerations are relevant to the decision.
41. These principles are:
- (1) Australia has a sovereign right to determine whether non-citizens who are of character concern are allowed to enter and/or remain in Australia. Being able to come to or remain in Australia is a privilege Australia confers on non-citizens in the expectation that they are, and have been, law-abiding, will respect important institutions, such as Australia's law enforcement framework, and will not cause or threaten harm to individuals or the Australian community.*
 - (2) The safety of the Australian Community is the highest priority of the Australian Government.*
 - (3) Non-citizens who engage or have engaged in criminal or other serious conduct should expect to be denied the privilege of coming to, or to forfeit the privilege of staying in, Australia.*
 - (4) The Australian community expects that the Australian Government can and should refuse entry to non-citizens, or cancel their visas, if they engaged in conduct, in Australia or elsewhere, that raises serious character concerns. This expectation of the Australian community applies regardless of whether the non-citizen poses a measureable risk of causing physical harm to the Australian community.*
 - (5) Australia has a low tolerance of any criminal or other serious conduct by visa applicants or those holding a limited stay visa, or by other non-citizens who have been participating in, and contributing to, the Australian community only for a short period of time.*
 - (6) With respect to decisions to refuse, cancel, and revoke cancellation of a visa, Australia may afford a higher level of tolerance of criminal or other serious conduct by non-citizens who have lived in the Australian community for most of their life, or from a very young age.*
 - (7) Decision-makers must take into account the primary and other considerations relevant to the individual case. In some circumstances, the nature of the non-citizen's conduct, or the harm that would be caused if the conduct were to be repeated, may be so serious that even strong countervailing considerations may be insufficient to justify not cancelling or refusing the visa, or revoking a mandatory cancellation.*

¹¹ Minister for Immigration, Citizenship and Multicultural Affairs (Cth) *Direction No 110: Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA* (7 June 2024).

(8) The inherent nature of certain conduct such as family violence is so serious that even strong countervailing considerations may be insufficient to justify not cancelling or refusing the visa, or revoking a mandatory cancellation, even if the information available at the time of consideration suggests that the noncitizen does not pose a measureable risk of causing physical harm to the Australian community.

42. In making a decision informed by these principles, I must take into account the relevant primary and other considerations set out in the Direction.
43. Section 7.1 of the Direction states that appropriate weight is to be given to information and evidence from independent and authoritative sources. Section 7.2 of the Direction states that the primary consideration of the protection of the Australian community is generally to be given greater weight than other primary considerations. It also states that primary considerations should generally be given greater weight than 'other' considerations.
44. The primary considerations are set out in section 8 of the Direction. They are:
- (1) Protection of the Australian community from criminal or other serious conduct;
 - (2) Whether the conduct engaged in constituted family violence;
 - (3) The strength, nature and duration of ties to Australia;
 - (4) The best interests of minor children in Australia; and
 - (5) Expectations of the Australian community.
45. A non-exclusive list of other considerations is set out in section 9 of the Direction. They are:
- (1) The legal consequences of the decision;
 - (2) The extent of impediments if removed; and
 - (3) The impact on Australian business interests.
46. In *FHHM v Minister for Immigration*,¹² the Full Federal Court considered 8.4 of Direction 79, which also stated that primary considerations should generally be given greater weight than other considerations. O'Callaghan and Colvin JJ (Derrington J agreeing) referred to remarks

¹² [2022] FCAFC 19.

made by Colvin J in *Suleiman v Minister for Immigration*,¹³ and stated at [34] that ‘...particular circumstances may pertain that may justify greater weight being given to one or more of the other considerations than one or more of the primary considerations’.

ISSUES

47. The issues to be decided in this matter are:
- Does the applicant pass the character test?
 - If not, is there is another reason to revoke the decision cancelling the applicant’s visa, taking into account considerations in the Direction and any other relevant considerations?

CONSIDERATION

Does the applicant pass the character test?

48. As noted above, under s 501(3A)(a)(i) of the Act, the Minister must cancel a visa if a person does not pass the character test and the person is serving a sentence of imprisonment on a full-time basis in a custodial institution for an offence against a law of the Commonwealth, a State or a Territory.
49. A person will not pass the character test if they have a substantial criminal record. A person will have a substantial criminal record if they have been sentenced to a term of imprisonment of 12 months or more.
50. The applicant concedes and I find that the applicant does not pass the character test because she has a substantial criminal record, having been sentenced to a term of imprisonment of one year and nine months.

¹³ [2018] FCA 594 at [23].

Is there is another reason to revoke the decision cancelling the applicant's visa, taking into account considerations in the Direction?

51. I have considered each of the relevant primary and other considerations. The applicant did not submit and the evidence does not suggest that any additional other considerations are relevant to this case.

Primary considerations

Protection of the Australian community from criminal or other serious conduct - 8.1

52. In accordance with 8.1(1) of the Direction, in considering the protection of the Australian community, I have had regard to the principle that the Government is committed to protecting the Australian community from harm as a result of criminal activity. I have also considered that entering or remaining in Australia is a privilege that Australia confers on non-citizens in the expectation that they are, and have been, law abiding, will respect important institutions, and will not cause or threaten harm to individuals or the Australian community.
53. As required by 8.1(2) of the Direction, I have considered:
- (a) the nature and seriousness of the applicant's conduct; and
 - (b) the risk to the Australian community, should the applicant commit further offences or engage in other serious conduct.

Nature and seriousness of the applicant's conduct - 8.1.1

54. When considering the nature and seriousness of the applicant's conduct, I must have regard to 8.1.1(1) a) and 8.1.1(1) b), which lists criminal conduct the Australian community views either very seriously or seriously.
55. Crimes of violence are viewed very seriously in accordance with 8.1.1 (1)a) i.
56. The applicant has been convicted of only one crime potentially involving violence. This was a conviction for affray in 2022. This offence was committed in the context of a neighbourhood dispute in which a number of people, including the applicant, were

arrested.¹⁴ The police fact sheet indicates that the applicant was armed with a knife during the affray. However, the knife was removed from her and there is no evidence that the applicant injured anyone with the knife or otherwise. At the hearing, the applicant denied that she had a knife, stating that she was the one who suffered a cut to her hand, which prevents her from moving her finger. While I note that the applicant pleaded guilty to the affray charge, there is insufficient evidence for me to conclude that the applicant used a knife on another person or otherwise committed a crime of violence.

57. Although the applicant has not committed crimes listed in 8.1(1) a) or 8.1.1(1) b), I am nevertheless satisfied that the applicant's offending should be viewed as serious overall.
58. This conclusion is supported by other factors listed in 8.1.1(1). The relevant factors in this case are:
- The sentence imposed on the applicant - 8.1.1(1) c);
 - The impact of the applicant's offending on any victims of offending and their family - 8.1.1(1) d);
 - The frequency of the applicant's offending and/or whether there is any trend of increased seriousness - 8.1.1(1) e); and
 - The cumulative effect of repeated offending - 8.1.1(1) f).
59. In relation to 8.1.1(1) c), the applicant was re-sentenced to a term of imprisonment of one year and nine months for the index offences. The imposition of a custodial sentence reflects the seriousness of the offences. This is because s 5(1) of the *Crimes (Sentencing Procedure) Act* 1999 (NSW) states that a court must not sentence an offender to imprisonment unless it is satisfied, having considered all possible alternatives, that no penalty other than imprisonment is appropriate.
60. In relation to 8.1.1(1) d), there is no evidence directly addressing the impact on victims of the applicant's offending. That said, I conclude that the applicant's offending would have had an adverse impact on individuals who were its victims, particularly on those people from whom she obtained motor vehicles without paying for them and the owner of the Airbnb

¹⁴ HB 695-699.

property she and others broke into. That the sellers of the motor vehicles which the applicant and her co-offenders effectively stole were adversely impacted by the applicant's conduct is reflected in the sentencing remarks, where the Court found that they 'were likely to have been significantly impacted'.¹⁵

61. In relation to 8.1.1(1) e) and 8.1.1(1) f), I am not satisfied that the applicant's offending has increased in seriousness over time. Rather, the applicant has committed multiple offences of a similar kind. However, the applicant has offended frequently, and I consider that her offending has a cumulative adverse effect. She has continued to offend even when given sentences that would have allowed her to deal with the underlying reasons for her offending. Furthermore, the applicant has a history of ignoring court orders, which demonstrates a disregard for the law.

Risk to the Australian community - 8.1.2

62. In accordance with 8.1.2, when assessing the risk that the applicant may pose to the Australian community, I must have regard to, cumulatively:
- The nature of the harm to individuals or the Australian community should the applicant engage in further criminal or other serious conduct - 8.1.2(2) a);
 - The likelihood of the applicant engaging in further criminal or other serious conduct, taking into account information and evidence about the risk of the applicant re-offending, as well as evidence of rehabilitation achieved by the time of the decision - 8.1.2(2) b).
63. The applicant's most recent offences were not violent. However, they were not victimless. The applicant obtained a financial benefit by deception on multiple occasions. She acted with dishonesty and no regard to Australia's laws. While the victim of the offences which involved not paying for fuel may have been large corporations, the Australian community ultimately pays the price for that conduct through price increases. The victims of the applicant's crimes involving a failure to pay for motor vehicles suffered at least financial loss and likely emotional harm. I consider that the nature of the financial, emotional and possibly

¹⁵ HB 531.

physical harm to individuals or the Australian community should the applicant engage in further criminal or other serious conduct would be serious.

64. I have considered the evidence relevant to the risk of the applicant re-offending.
65. Unusually in a case such as this, there are no pre-sentencing reports that directly assess the risk of the applicant re-offending. Nor has the applicant provided any independent evidence in the review proceedings that is directly relevant to the risk of her reoffending.
66. A psychologist's report was before the Drug Court when the applicant was sentenced in 2024 and re-sentenced in 2025. According to the sentencing remarks, the report stated that the applicant would benefit from 'substance use specific interventions' and from being 'supported in a wholistic manner with regards to supervision and reintegration in the community, post release'.¹⁶ However, as noted above, the applicant did not engage with the treatment made available to her by the Drug Court and committed further offences. At the time the applicant was sentenced, the Court noted that although the applicant had expressed a desire to recover from substance dependency, she had unfortunately not taken up the opportunity she had been given by the Drug Court, commenting that it seemed that the applicant's dependency was 'too powerful at this point in time'.¹⁷
67. Sentencing for the index offences was not the first opportunity the applicant had been given to engage with services to deal with her drug addiction. For example, in 2023 the applicant was sentenced to an ICO in Penrith Local Court. At the time she had been on a CCO. She had given birth to her fifth child, KiT, three weeks previously. The Court was told that the applicant was engaged with the Miranda Project,¹⁸ which contributed to the Court making an ICO. In sentencing the applicant, the Court stated:¹⁹

I know you have had a tough few weeks, having had the baby removed. It is really in your interests to get your act together, get clean, stay clean, remove yourself from all the other negative people that you spend time with so that you

¹⁶ HB 534.

¹⁷ HB 535.

¹⁸ This is a program run by the Community Restorative Centre (CRC) in NSW. It works with people who identify as female who are at risk of both domestic violence and criminal legal system involvement. The CRC is a community provider of support services to people impacted by the criminal legal system in NSW. See [CRC website](#), accessed on 28 May 2026.

¹⁹ HB 542.

can spend more time with your baby and hopefully get [KiT] restored to you. You have got to think about what is more important to you. You know, the drugs, the getting involved with people with stolen goods and everything else, or being with [KiT], and you have got all the other kids, as well, but this is, you know, a really big chance for you to turn things around, but it is only going to work if you put that effort in. You have obviously got plenty of support services out there wanting to help you, so it is up to you. ...

What I have done today in the resentencing, given there is the need to send you the message this is not acceptable and the rest of the community, but given the positive steps you have taken with your engagement with the Miranda Project and, it seems, a willingness, you know, to do as Community Corrections direct you to, and I can understand, you know, the added bonus is for you, not only is it going to help you, but it will definitely work towards your interaction with FACS, okay, and the progress there.

68. The applicant did not avail herself of the opportunity given to in by this sentence, as she did not avail herself of the opportunity given to her by the Drug Court in October 2024. I accept that the applicant's offending essentially arises from her drug dependence and her poor choice of intimate partners, which have led to domestic violence and income and housing instability. However, this does not excuse the applicant's criminal conduct. Furthermore, unless the applicant has supports in place which allow her to achieve ongoing control over her drug addiction, there is a tangible risk that she will again engage in criminal behaviour.
69. I have considered the evidence of the rehabilitation the applicant has achieved.
70. In the revocation request, the applicant stated that she has done an EQUIPS program²⁰ and wants to not reoffend because she is missing important milestones in her children's lives.²¹ She also stated that she has 'learned her lesson', that she mainly offended because she was on drugs and has now been drug free for a year.²² The applicant further stated that she was on a Bupidole program while in prison.²³ The applicant provided no documentary evidence in relation to participation in the EQUIPS program.

²⁰ HB 573. EQUIPS Addiction is a program designed to address addictive behaviour including drugs, gambling or other problematic behaviours. It is available to all eligible offenders who have an identified addiction, regardless of their offence type. See [NSW government Therapeutic Access Portal](#). Accessed on 29 May 2026.

²¹ HB 561.

²² HB 576.

²³ HB 578.

71. In her statement dated 26 May 2026,²⁴ the applicant states in relation to rehabilitation:

16. While in prison, I completed the EQUIPS program. In that program I learned about addictions, how to avoid anti-social peers, and how to put a relapse-prevention plan in place. The program helped me understand that I need to deal with problems differently instead of doing things in the old way.

17. I have also done online courses, including parenting courses, mental health courses and drug-related programs through Universal Class. I have certificates for those courses.

18. In detention I have also attended women's courses and positive lifestyle courses. I have had at least one positive lifestyle session and have been learning about living in a more positive way. I have also done inner restoration work about culture. I had a SMART Recovery session arranged, although it was put off on the day of my conference.

19. If I am allowed to remain in Australia, I intend to continue my rehabilitation in the community. I intend to see a general practitioner, obtain assistance for drug addiction and mental health, continue counselling or mental health treatment, attend support programs such as SMART Recovery if available, avoid anti-social peers and old associates, and live in a way that keeps me close to my children and away from the people and situations that led me into trouble.

72. In her statement, the applicant comments that at the time she had the conference with her Counsel which led to her statement, she was not receiving Suboxone treatment and did not crave drugs. However, she knows that she still needs support and treatment, because addiction is a serious issue and she cannot simply rely on willpower.

73. At the hearing, the applicant confirmed that she attended fortnightly sessions of the EQUIPS Addiction program for six months. She stated that these were group sessions. She stated that she engaged with the program content and learned where to find help and how to prevent relapsing into taking drugs. The applicant stated that she has done other online training programs, including an anger management course and a women's wellbeing course. From the anger management course, she learned to use breathing techniques and to deal with anger in different ways. From the women's wellbeing course, she learned about positive lifestyles and about empowering women.

74. The applicant stated that she lost everything because of her ice addiction. She stated that she has not taken drugs since she was incarcerated in December 2024 and that this period of incarceration and immigration detention is the longest time she has been outside the community. The applicant stated that it has been the wakeup call she needed and that she does not think she will reoffend as she does not want to miss out on being with her children

²⁴ Exhibit A6.

and does not want to come back to the situation she is in currently. The applicant stated that she does not communicate with her two violent former partners or with her former friends. She indicated that she would not associate with them again, as she has promised her children that she would try her best not to relapse. The applicant stated that she knows she will have to undergo rehabilitation to have any chance of getting her children back.

75. I accept that the applicant has been abstinent from illegal drugs since December 2024. I further accept that the applicant loves her children and is aware that her addiction and criminality has led her directly to the children being removed from her care. I accept that the applicant genuinely wants to remain drug free, with a view to ultimately being in a position to again care for her four older children and to care for her three younger children for the first time.
76. It is abundantly clear that central to the applicant's rehabilitation is whether she can remain abstinent from drugs. She has had opportunities to obtain treatment in the past, of which she has not availed herself. However, while I accept that the applicant has not taken illicit drugs while in prison and in immigration detention, her abstinence has only been tested in a controlled environment. Further, the applicant's evidence concerning how she would go about rehabilitation in the future was lacking in detail. She referred to going to a doctor, obtaining a mental health plan and engaging in drug rehabilitation, but did not provide any details as to how she would go about obtaining these services. In my view, the applicant will need support within the community to do this. Given the strained relationship the applicant has with her sister and with her mother, it is not clear who would be in a position to provide such support. I conclude that while the applicant has taken the first steps towards rehabilitation, her rehabilitation remains at a very early stage.

Conclusion in relation to protection of the Australian community

77. I have found the applicant's offending to be serious. I accept that should the applicant again engage in similar conduct, the resulting harm to an individual and to the Australian community would also be serious.
78. I have also found that there is a tangible risk that the applicant will re-offend. In addition, the applicant's commitment to remaining drug-free is as yet untested in the community and she is at an early stage of rehabilitation.

79. The view of the Government is that the Australian community's tolerance for any risk of future harm becomes lower as the seriousness of the potential harm increases. In this regard, I have had regard to 8.1.2(1), which states that '[s]ome conduct and the harm that would be caused, if it were to be repeated, is so serious that any risk that it may be repeated may be unacceptable'.
80. I do not consider this to be one of those cases. In relation to this, the applicant's offending has not been violent. I accept that the applicant's offending has adversely impacted both the direct victims of her crimes and the Australian community generally through the resources expended within the criminal justice system. However, those most seriously harmed by the applicant's conduct are arguably her children, her mother and her sister.
81. That said, considering the nature and seriousness of the applicant's offending overall together with the fact that the applicant's rehabilitation is incomplete has not been tested in the community, I conclude that this consideration weighs strongly against revocation of the cancellation of the applicant's visa.

Family Violence – 8.2

82. The Minister conceded that there is insufficient evidence to conclude that this consideration is engaged. I therefore conclude that it bears neutral weight.

The strength, nature and duration of ties to Australia - 8.3

83. In accordance with 8.3(1) of the Direction, I have considered the impact of the decision on the applicant's immediate family members in Australia, where those family members are Australian citizens, Australian permanent residents, or people who have a right to remain in Australia indefinitely.
84. The applicant's immediate family members in Australia are her mother and her sister²⁵ and her seven minor children. While the children's interests are relevant to this consideration, I have considered them separately below. While the applicant has been in long-term relationships with the fathers of her children, she is currently single.

²⁵ HB 572.

85. I accept that the applicant's mother and sister are either Australian citizens or have the right to remain permanently in Australia.
86. The applicant's mother did not provide a statement or give oral evidence.
87. The applicant's sister is Ms Renee Turner. She provided a statement²⁶ and gave oral evidence. In her statement, Ms Turner stated that her relationship with the applicant is very strained, that she has not spoken to the applicant voluntarily for about eight years and that does not presently want a personal relationship with her. At the hearing, Ms Turner was blunter about this issue, stating that her personal relationship with the applicant ceased about eleven years ago. I conclude from Ms Turner's evidence about her relationship with the applicant that she would not be personally adversely affected if the applicant were removed to New Zealand, except in relation to how the decision would affect the applicant's children and in particular the applicant's oldest daughter, NM. I have dealt with this below.
88. At the hearing, the applicant indicated that she has a relationship with her mother and that she speaks to her fortnightly. However, I conclude from the fact that the applicant's mother did not provide any evidence in support of the request for revocation and has not provided any evidence in support of the application for review that she would not be personally adversely affected if the applicant were removed to New Zealand. That said, the applicant's mother is the guardian of two of the applicant's daughters, so I accept that the decision would have an effect on her in relation to her caring responsibilities in relation to those children. I have dealt with this below.
89. I have considered the strength, nature and duration of other ties the applicant has to the Australian community in accordance with 8.3(2).
90. I have first considered the applicant's ties to her extended family, who I accept are either Australian citizens, Australian permanent residents or people who have an indefinite right to remain in Australia. In the revocation application, the applicant referred to having aunts, uncles, nieces, nephews and cousins in Australia.²⁷ However, The only member of her

²⁶ Exhibit A7.

²⁷ HB 572.

extended family with whom the applicant did claim an ongoing relationship is her niece, EST. As she is a minor, I have considered her interests below.

91. I accept that the applicant has connections to the Australian community otherwise than through family members.
92. Two of the applicant's friends, Samantha Barker and Loreana Burnes, together with David McDougall, who is the uncle of her youngest child CN, provided letters in support of the revocation application. They were not required for cross-examination at the hearing.
93. In her letter of support,²⁸ Ms Barker relevantly states that she has known the applicant for approximately six years and that in that time they have become best friends. Ms Barker states that the applicant has supported her when she was in a violent relationship which left her with an acquired brain injury. She states that the applicant cared for her and will act as her carer if she is released. She claims that the applicant's removal to New Zealand would have a huge impact on her life.
94. In her letter of support,²⁹ Ms Burnes states that she has known the applicant for about two years and that the applicant has helped her to maintain a healthy bond with her fourteen-year-old son. Ms Burnes further states that she has health issues and that the applicant has helped her to get to appointments.
95. In his letter of support,³⁰ Mr McDougall states that he has known the applicant for almost three years. He states that the applicant has become a member of his family and has formed a valuable relationship with his two daughters as well as with him. Mr McDougall states that he is aware of the charges that led to the applicant's incarceration. He claims that the applicant is remorseful for her offences and the impact they have caused. Mr McDougall expresses his hope that his niece CN will have a chance to grow up with her mother.

²⁸ HB 581.

²⁹ HB 582.

³⁰ HB 583.

96. Two of the applicant's friends, Catherine Hesketh and Todd Foran, provided letters in support of the application for review.³¹ Neither was required for cross-examination. Both refer to the impact of the decision on the applicant's children, which I have considered below.
97. In relation to the impact of the decision on Ms Hesketh, she states in her letter of support that she would be devastated if the applicant were deported from Australia. Ms Hesketh claims that the applicant is 'caring, loving, loyal and always puts the people around her first'. She claims that the applicant is a 'good person who genuinely cares for the people in her life' and that the applicant's 'children, friends and family all depend on her emotionally'. Ms Hesketh claims that deporting the applicant would 'destroy so much for not only her, but for the people who love her as well'.
98. In his letter of support, Mr Foran states that he has known the applicant since 2018 and can speak confidently about 'her character, her significant personal growth, and her vital importance to [his] commercial operations and her family'. Mr Foran refers to the applicant's 'tireless work ethic' in shearing sheds. He states that he can offer her full-time employment in his wood supply business. Mr Foran also refers to the applicant's relationship with her children, which I have considered below.
99. I accept that the applicant was in employment in Australia between 2016 and 2021. During this period, she worked full time in shearing sheds, and part-time for a car rental company and a supermarket chain. I further accept that the applicant volunteered in an animal shelter for six months. In view of her paid and voluntary work, as well as the connections evidenced by the letters of support written by friends, I accept that the applicant has developed ties to Australia and has made some positive contribution to this country.
100. However, I conclude that this consideration should only be given moderate weight. I reach this conclusion while accepting that those friends who provided letters of support would be distressed if the applicant were removed from Australia. I also acknowledge that the applicant's strongest tie to Australia is through her minor children. Their best interests are accounted for below.

³¹ HB 468-469 and HB 470-471.

101. In reaching this conclusion, I have placed weight on the fact that while the applicant has spent almost all of her adult life in Australia, she did not arrive in Australia until some thirteen years ago and did not spend her formative years in this country. I also have placed weight on the fact that the applicant began offending in 2016, which is only two years after she settled in Australia.

The best interests of minor children in Australia - 8.4

102. The applicant has seven minor children, all of whom are in Australia. The applicant also claimed that the interests of her niece should be taken into account under this consideration.
103. In relation to the applicant's children, the evidence before me suggests that the four older children, who have spent time living with the applicant in the past, have different interests to the three younger children, who were removed from the applicant at birth. The evidence also suggests that the applicant's oldest daughter and second oldest child, NM, currently has interests that distinguish her from the applicant's other children.
104. The evidence given by the applicant's sister Ms Turner is particularly relevant to this consideration. Ms Turner was a most impressive witness, who gave compelling evidence. Her evidence was all the more compelling as it was not given because of her relationship with the applicant, but because of her knowledge of and concern for the applicant's children. In the absence of any expert evidence concerning the children, I consider that Ms Turner is best placed to give evidence about their interests. I have therefore placed significant weight on her evidence. It is appropriate to set out that part of Ms Turner's statement that is relevant to this consideration:

.....

3. I have one biological child, [EST], who was born on 19 April 2016. I am also one of the legal guardians of Teana's oldest daughter, [NM] was born on 2 June 2011. My husband and I are the legal guardians of [NM].

4. [NM] has been in my care for about 11 years. I have had formal guardianship of her for about two to three years. Before that, my husband and I were foster carers for her for about three years. Prior to the formal orders and arrangements, I was doing my best to raise and care for Teana's children when they needed care.

5. I have also raised two of Teana's children for extended periods of time. I continue to raise one of those children. I have also assisted in relation to care arrangements for other children of Teana, including by participating in family conferences and trying to ensure that the children, including the girls and [KM], were placed in safe and suitable homes when I could not personally take all of them into my home.

6. My relationship with Teana is very strained. I do not presently have a meaningful personal relationship with her. I have not spoken to her voluntarily for about eight years. I do not give this statement because I have a close relationship with Teana or because I excuse her conduct.

7. To be clear, I do not presently wish to have a personal relationship with Teana. However, my feelings about Teana are separate from the interests and rights of her children. I am giving this statement because I am concerned about the welfare and best interests of her children in Australia.

8. In my view, Teana's children have a right to know who their mother is and to maintain a relationship with her if that can occur safely and appropriately. What Teana has done to me personally does not change the children's interest in having some form of relationship with their mother. I will not stand in the way of the children having that relationship.

9. The children have already suffered disruption and instability. They do not have the kind of relationship with Teana that children would ordinarily expect to have with their mother. They have been removed from Teana's care and placed with other family members, carers and households. That has not been the children's fault.

10. The contact arrangements involving Teana and the children are already difficult. There are different carers, different households and Department of Communities and Justice involvement. Contact meetings and arrangements are already stressful for the children and for the adults who care for them.

11. Despite those difficulties, Teana being in custody or immigration detention has created a form of stability in relation to contact. The children know that when they attend the detention centre or participate in arranged contact, Teana will be there. In my experience, that has been the most reliable contact the children have had with their mother since they were removed from her care.

12. I regard that reliable contact as important for the children. It means that the children can see their mother in a predictable way. It also means that the children are not left wondering whether she will attend or disappear. Although the circumstances are far from ideal, the reliability of contact has been positive for the children.

13. If Teana is removed to New Zealand, I believe that the children's relationship with her would be severely damaged. In practical terms, it would likely cut the children off from their mother or make contact far more difficult and far less regular.

14. If Teana were in New Zealand, the people caring for the children would need to coordinate passports, travel permissions, leave from work, accommodation, transport, money and departmental arrangements in order for the children to have in-person contact with her. Those steps would be very difficult across multiple children and multiple carers.

15. Those practical difficulties would not just inconvenience adults. They would affect the children. The children would be the ones who would lose regular contact or have contact reduced to something occasional, complicated and difficult to organise.

16. I am particularly concerned about [NM]. [NM] has been in my care for most of her life, but Teana remains her biological mother. [Her] relationship with Teana is not a conventional mother-child relationship because of everything that has happened, but it is still a relationship that matters to [NM].

17. My daughter [EST] is not Teana's biological child. However, because [EST] has been raised in the same household as [NM], she is aware of Teana and sometimes speaks in the background when [NM] is speaking with Teana. [EST] sees the way [NM] has an auntie raising her and also a mother with whom she has contact. That family situation affects the children in our household.

18. I am aware that Teana has a serious criminal history in Australia. I understand that her criminal history includes dishonesty offences, drug-related matters, driving offences, breaches of court orders and other offending. I do not minimise that conduct. I understand that her conduct has caused harm and hardship to others.

19. However, my evidence is not directed at excusing Teana's conduct. My concern is what removal would do to her children. The children should not be punished by being effectively separated from their mother because of adult decisions and failures that were not of their making.

20. I understand that Teana did not have a criminal history in New Zealand and that she lived in Australia for a period before her criminal history developed. From what I have seen over the years, her offending appears connected to drug dependency, mental health issues, instability, poor relationships and an absence of proper intervention at an earlier stage.

21. I believe that Teana needs supervision, structure, treatment and accountability. I do not believe that permanently removing her to New Zealand before her children are adults is in the best interests of those children. Removal would not address the children's need to know their mother and maintain contact with her.

22. I cannot give evidence that Teana has changed or rehabilitated because I do not have a personal relationship with her and I have not been in regular contact with her. My evidence is confined to what I know about the children, their care arrangements, the practical realities of contact and the likely impact on them if Teana is removed from Australia.

....

23. I have concerns about Teana's ability to successfully rebuild her life in New Zealand. In my view, she would be returning there in a worse position than when she left. She would be separated from her children, carrying the consequences of her offending, and without the daily practical purpose that her children give her.

.....

26. The reality is that several adults in Australia have had to step in to care for Teana's children. We have done so because the children need safety, stability and family. That does not mean the children no longer need their mother or that their relationship with her is unimportant.

26. It is difficult for me to give evidence in support of any outcome that benefits Teana personally. I have been hurt by her conduct over many years. However, I can separate my feelings about Teana from what I believe is best for the children.

27. I do not want to be the reason why Teana's children are unable to have a relationship with their mother. If Teana chooses not to engage properly with her children, that is on her. But I do not believe that the Australian Government should remove her in circumstances where removal would create a major and likely permanent barrier between her and her children.

28. For those reasons, I believe it is in the best interests of Teana's minor children in Australia that Teana not be removed to New Zealand at this time. I ask the Tribunal to give significant weight to the interests of the children, including [NM] and the other children who have already experienced removal from Teana's care and placement with other carers.

105. At the hearing, Ms Turner gave evidence consistent with her statement. She stated that the applicant's oldest two children, KM and NM, lived with her from the end of 2015. They lived with the applicant's and Ms Turner's mother and her partner for about six weeks after she gave birth to EST in April 2016, then returned to live with Ms Turner, her husband and EST. In 2020, KM went back to live with the applicant because he wanted to do so. Ms Turner described KM as having 'a high level of responsibility'. At that time, NM did not want to live with the applicant, so she stayed with Ms Turner and her family. Ms Turner stated that in 2021, DCJ removed KM, KT and AT from the applicant's care and brought them to live with Ms Turner. They were with her for about a year. After that, KM went to Darwin to live with his father, and KT and AT went to South Australia to live with their grandmother and her partner.
106. Significantly, Ms Turner confirmed oral evidence given by the applicant that NM is currently living with Ms Turner's mother-in-law on a temporary basis. Ms Turner stated that this was a family decision, made because NM has been going through a very difficult period. She exhibits some very challenging behaviours and needs to live with a person who could totally focus on her needs.
107. NM also provided a statement in support of the application for review. She was not required for cross-examination. She states:

I am a secondary school student and work casually.

Teana is my mum.

If My Mum was Deported From Australia, It would Honestly destroy me. She is my mum and one of the most important people in my life. I can't even imagine what life would be like without her here. Just thinking about her being taken away makes me feel scared, upset, and hopeless.

It would also break our family even more than it already has been. She has seven kids, and we have all already been separated into different states after being taken away from her when we were really young. Because of that, our relationship with our mum has already been damaged by so much distance and lost time. Deporting her would take away any chance for us to heal properly as a family. I know she made some bad mistakes but that doesn't mean her children should be punished. I know my mum is trying so hard to be a better person and she deserves another chance.

Even though we are separated, she has never stopped loving us or trying to be there for us. She still cares about every single one of her children and wants us together again.

For me personally, it would be heartbreaking. After everything that has happened in our lives, the thought of my mum being forced out of the country on my birthday feels cruel. We already lost so much time with her growing up, and deportation would take away even more time that we can never get back. I would constantly worry about her and feel devastated knowing she was so far away.

Our family has already gone through enough separation. We should be given the chance to rebuild our relationship with our mum, not have her taken away from us again. She is important to all seven of her children, and deporting her would affect every single one of us.

My mum has been beneficial to my life because she has always loved and supported me no matter what has happened in our family. Even though we were separated when i was little, she never gave up on me or stopped caring about me. Having her in my life gives me comfort and makes me feel like I still have someone who truly loves me and wants the best for me. My mum has been a beneficial member of society because she cares deeply about her family and the people around her. She loves all of her seven children no matter what. Australia is her home, and she is part of a family and community here. Deporting her would not only hurt her children, but also remove someone who cares about others.

If my mum got her visa back, I would feel really happy and relieved. It would give me and my siblings a chance to spend more time with her and rebuild our relationship after being separated for so long. It would mean everything to have our mum stay in Australia with us.

108. Given that NM turned fifteen on 2 June 2026, consistent with 8.4(4) f) I consider that considerable weight can be placed on her views.
109. I place no weight on the opinions expressed by Mr Hesketh and Mr Foran in their letters of support insofar as it concerns the applicant's children, which are referred to above. First, there is no evidence to suggest that these people are acquainted with the children. Second, in circumstances where the applicant has not cared for any of her children since 2021 and has not cared for her youngest three children at all, I do not accept that the applicant's children 'depend on her emotionally' as claimed by Ms Hesketh,³² or that the applicant is the children's 'primary source of emotional stability', as claimed by Mr Foran.³³ I consider the assertions arise from a well-meaning, but misplaced, desire to assist the applicant's case for revoking the cancellation of her visa.
110. The factors to be considered in respect of this consideration are set out in 8.4(4). They are:
- The nature and duration of the relationship between the applicant and the children - 8.4(4) a);

³² HB 468.

³³ HB 470.

- The extent to which the applicant is likely to play a positive parental role in the future - 8.4(4) b);
- The impact of the applicant's prior conduct, and any likely future conduct, and whether that conduct has, or will have a negative impact on the children - 8.4(4) c);
- The likely effect that any separation from the non-citizen would have on the child, taking into account the child's or non-citizen's ability to maintain contact in other ways - 8.4(4) d);
- Whether there are other persons who already fulfil a parental role in relation to the child - 8.4(4) e);
- Any known views of the children, with those views being given due weight in accordance with the age and maturity of the child - 8.4(4) f);
- Evidence that the child has been, or is at risk of being, subject to, or exposed to, family violence perpetrated by the applicant, or has otherwise been abused or neglected by the non-citizen in any way, whether physically, sexually or mentally - 8.4(4) g); and
- Evidence that the child has suffered or experienced any physical or emotional trauma arising from the applicant's conduct - 8.4(4) h).

111. In relation to 8.4(4) a), b) and e), the applicant is her children's biological mother. As such she has known them all of their lives. She does not play a direct parental role in their lives at present because they are all in out of home care. This means that the children's guardians and other carers, play a parental role in their lives. However, I accept that the applicant loves her children and currently has regular contact with all but her youngest child, CN. I accept the applicant's evidence that she is making attempts through DCJ channels to regain contact with CN.

112. Even though the applicant does not have care of her children presently and even if she does not resume direct care of any of her children in the future, I am of the view that she is still in a position to play a positive parental role – as long as she remains abstinent from drugs – for two to three years in the case of her older two children, and many years in the case of her younger five children.

113. As far as 8.4(4) c), g) and h) is concerned, there is no evidence that the applicant's children have been, or are at risk of being, subject to, or exposed to, family violence perpetrated by the applicant, or that they have otherwise been abused or neglected by the applicant physically, sexually or mentally. Nor is there evidence that any of the applicant's children have experienced physical trauma arising from the applicant's conduct. It appears that when KM, KT and AT were removed from the applicant's care in 2021, it was because they had been exposed to violence perpetrated against the applicant by the applicant's partner at the time, who is the father of KT, AT, MT and KiT. In relation to this, the applicant stated at the time that her partner had almost choked her.
114. However, it is reasonably clear that all seven children are in out of home care not only because of family violence perpetrated by the applicant's former partner, but also because of the applicant's drug addiction and criminal conduct. In these circumstances, I consider that the children are likely to have suffered a degree of emotional trauma arising from the applicant's conduct.
115. In relation to 8.4(4) d), I am of the view that different considerations apply in relation to various of the children. The younger three children were removed from the applicant at birth and have not known her as a carer. I consider that their primary attachment is likely to be to their carers and not to the applicant. The older four children have been cared for by the applicant in the past. However, KT and AT were removed from the applicant's care when they were very young. I consider it likely that they are more attached to their primary carer - the applicant's mother - than they are to the applicant. CN has also never been in the applicant's care. Her primary attachment is likely to be to her paternal grandmother. I consider that at least in the short term, the applicant's removal to New Zealand may have less of an adverse effect on the applicant's four younger children than it would on KM and NM.
116. In relation to KM, I accept the applicant's evidence that he is in regular contact with the applicant through social media applications. I consider it likely that the applicant's removal to New Zealand would have an adverse effect on him. However, KM lives in Darwin with his father. The evidence does not suggest that he has visited the applicant in NSW, or that she has been to Darwin to visit him since he moved there in about 2022. Subject to my findings below concerning the impediments the applicant is likely to face on removal to New Zealand, they could continue to communicate via social media.

117. I consider that the most significant adverse impact of the applicant's removal to New Zealand would be on her daughter, NM. I accept both Ms Turner's statement and her oral evidence in relation to the very serious negative impact removal of the applicant would have on NM. I also accept NM's written evidence concerning this issue. I conclude that the applicant's removal to New Zealand would have a devastating effect on NM that would be made worse in circumstances where NM is currently experiencing significant behavioural and emotional challenges.
118. While I have found that the removal of the applicant to New Zealand would have the most serious adverse impact on NM, that at least in the short term would have less of an adverse impact on KM and the younger children, I do not take this view in the long term. The applicant is the mother of seven children. Even if they do not return to her care, it is very much in their best interests to maintain a relationship with her. This includes CN, even though the applicant is not currently in contact with her. I do not consider that communication by electronic means is a satisfactory substitute for contact visits between the applicant and her children, even if such visits are supervised. There will be inherent difficulty arranging for this to occur if the applicant remains in Australia, particularly given that KM lives in Darwin and KT and AT live in South Australia and the applicant lives in New South Wales. However, if the applicant is removed to New Zealand, there is almost no chance that the applicant will have any personal contact with her children again, considering the factors referred to in Ms Turner's statement regarding the expense and logistical difficulties of making the necessary arrangements.
119. In relation to the applicant's niece EST, I accept that she knows who the applicant is and that she has some incidental contact with her when the applicant is speaking to NM. However, Ms Turner's oral evidence, which I accept, is that EST does not have a relationship with the applicant. In these circumstances, and considering the factors listed in 8.4(4), I am not satisfied that the applicant's removal from Australia would adversely affect EST.
120. I conclude that revocation of the cancellation of the applicant's visa is in the best interests of the applicant's minor children and most particularly in the best interests of NM at this time. This consideration weighs very strongly in favour revocation of the applicant's visa.

Expectations of the Australian community - 8.5

121. In relation to this consideration, 8.5(1) of the Direction states:

(1) The Australian community expects non-citizens to obey Australian laws while in Australia. Where a non-citizen has engaged in serious conduct in breach of this expectation, or where there is an unacceptable risk that they may do so, the Australian community, as a norm, expects the Government to not allow such a non-citizen to remain in Australia.

122. In this case, the applicant has engaged in serious conduct in breach of the expectation that she will obey Australian laws.

123. I note that 8.5(2) of the Direction states:

(2) In addition, visa cancellation or refusal, or non-revocation of the mandatory cancellation of a visa, may be appropriate simply because the nature of the character concerns or offences is such that the Australian community would expect that the person should not be granted or continue to hold a visa. In particular, the Australian community expects that the Australian Government can and should refuse entry to non-citizens, or cancel their visas, if they raise serious character concerns through conduct, in Australia or elsewhere, of the following kind ...

124. Although the applicant has not engaged in conduct of a kind specified in 8.5(2) a) and d) of the Direction, I must also consider 8.2(3) of the Direction, which states that the expectations of the Australia community apply 'regardless of whether the non-citizen poses a measureable risk of causing physical harm to the Australian community'.

125. In accordance with 8.5(4) of the Direction, I must also consider the expectations of the Australian community as a whole and proceed on the basis of the Government's views expressed in the Direction, without independently assessing the community's expectations in the particular case.³⁴

126. In *RCLN v Minister for Immigration, Citizenship and Multicultural Affairs*,³⁵ Horan J stated:

The assessment of community expectations is therefore not a matter of evidence, and does not turn on the personal circumstances of the individual non-citizen: compare, in relation to an earlier iteration of the Ministerial direction: FYBR v Minister for Home Affairs (2019) 272 FCR 454 at [66] –[67] , [74] –[75] (Charlesworth J), [91]–[93], [103]–[104] (Stewart J); see also CKL21 v Minister for Home Affairs [2022] FCAFC 70; (2022) 293 FCR 634 at [29]–[30] (Moshinsky, O'Bryan and Cheeseman JJ). The “degrees of tolerance” referred to elsewhere in the Direction “are matters that fall for consideration by the decision-maker in the ultimate

³⁴ See *Ismail v Minister for Immigration, Citizenship & Multicultural Affairs* [2024] HCA 2, at [38] and [51] to [52].

³⁵ [2024] FCA 876 at [56].

exercise of his or her discretion” (or, in the present context, the determination whether there is another reason to revoke the original cancellation decision), and “in determining whether it is appropriate to give more or less weight to a deemed community expectation of visa refusal that might otherwise arise simply because of the nature of the non-citizen’s character concerns or offences”: FYBR at [77] (Charlesworth J). In other words, the decision-maker can take into account the personal circumstances of the individual non-citizen in so far as they are relevant to another primary consideration or one of the other considerations, and adjust the relative weight to be given to each of the primary and other considerations accordingly.

127. The applicant has engaged in serious conduct in breach of Australian laws. I conclude that this factor weighs strongly against revoking the cancellation of the applicant’s visa.

Other considerations

Legal consequences of the decision - 9.1

128. A legal consequence of the decision to cancel the applicant’s visa not being revoked is that she will remain in immigration detention pending removal from Australia under s 198 of the Act, which in accordance with s 198(2B) would need to occur as soon as reasonably practicable.
129. Another legal consequence is that there will be significant restrictions on the applicant’s ability to apply for another visa. An application for any visa other than a protection visa would be subject to s 501E; that is, it could not be made from within the migration zone unless it was for a Bridging Visa R (Class WR) as prescribed by cl 2.12AA of the *Migration Regulations 1994*. The applicant could only apply for such a visa in response to an invitation.
130. Further, depending on the visa that may be applied for once the applicant is offshore, the applicant may be subject to indefinite or permanent exclusion as she may not be able to meet Special Return Criteria 5001(c) if it applies to the relevant schedule 2 criteria of the visa.
131. The applicant has not claimed that her case raises non-refoulement obligations.
132. I consider that the legal consequences of the decision - specifically the possibility of permanent exclusion from the country in which she has lived all of her adult life, with the consequent separation from her children - weigh moderately in favour of revocation of the decision to cancel the applicant’s visa.

Extent of impediments if removed - 9.2

133. This consideration refers to impediments the applicant may face if she is removed from Australia to New Zealand in establishing herself and maintaining basic living standards in the context of what is generally available to other citizens of New Zealand. I must consider the applicant's age and health, whether there are substantial language or cultural barriers, and any social, medical and/or economic support available to her in New Zealand.
134. The applicant is 33 years of age and does not suffer from any identified physical health conditions. She has mental health issues, although she has not been formally diagnosed with a mental illness. The applicant is currently accessing sessions with a mental health professional within the immigration detention centre.
135. The applicant came to Australia from New Zealand as an adult. I am satisfied that she would not face language or cultural barriers if she returned there. Furthermore, I am satisfied that if she did so, the applicant would have access to the same social, medical and health services that are available to other nationals of New Zealand. I am satisfied that such services would be comparable in quality to the services available to the applicant in Australia. I am also satisfied that Australian Border Force would provide accommodation and cash payments to assist the applicant when she was first returned to New Zealand.³⁶
136. However, I am nevertheless of the view that the applicant's mental health issues and her history of drug addiction would give rise to significant impediments.
137. First, I consider that the prospect of the applicant being permanently separated from her children would have a significantly adverse effect on her mental health. I consider it likely that the applicant would take the view that she had little to live for if the prospect of reuniting with her children was removed from her. Given the applicant's history, I consider that this would significantly increase the chance of the applicant relapsing into drug addiction and consequently into criminal behaviour. In these circumstances, given how the applicant has responded to previous attempts to divert her from drug taking in the past, I conclude that she would be unlikely to access support services or, if she did access support services,

³⁶ ['FAQs for Returning Offenders'](#) - Ara Poutama Aotearoa – New Zealand Department of Corrections – Accessed on 5 June 2026.

maintain contact with those services. This would likely lead to a further deterioration in the applicant's mental health. It would also increase the chances of the applicant re-offending. I reach this conclusion even if the applicant were designated a 'returning prisoner' under the *Returning Offenders (Management and Information) Act 2015* (NZ), supervised on return to New Zealand and given support to identify and access accommodation and other support.

138. Second, while I accept that the applicant has a good relationship with her father, the evidence does not lead me to conclude that he is in a position to support her, either financially or emotionally. The applicant's evidence is that he is an alcoholic and is going through a relationship breakdown. Ms Turner's oral evidence was equivocal as to the extent and effect of her parents' drinking habits. However, she does not consider it reasonable to expect that her father would be able to take on the responsibility of supporting the applicant.
139. I note the applicant's evidence concerning her cousins, who she says belong to illegal gangs. I accept that the applicant has cousins who are gang members. However, the applicant's evidence concerning these cousins was somewhat vague. I consider the chance that the applicant would be compelled to become involved in gang activity if she returned to New Zealand just because she has cousins who are gang members is speculative.
140. I note the material provided by the applicant concerning criminal deportations to New Zealand.³⁷ While this is interesting background material, I do not find most of it useful in assessing what weight to place on this consideration.
141. In my view, permanent separation from her children with the consequent risk of the applicant relapsing into drug addiction and criminality, are the most significant impediments facing the applicant on return. I conclude that this consideration weighs strongly in favour of revocation of the cancellation of the applicant's visa.

Impact on Australian business interests – 9.3

142. In relation to this consideration, I must consider any impact on Australian business interests if the applicant is not allowed to remain in Australia. I note that an employment link would

³⁷ HB 23-465.

generally only be given weight where the decision would significantly compromise the delivery of a major project, or delivery of an important service in Australia.

143. The applicant has some work experience in Australia and, given her age, she could be expected to work again. As noted above, she has a job offer from Mr Doran. However, there is no evidence that a failure to revoke the decision to cancel the applicant's visa would compromise the delivery of a major project or important service in this country. Nor would it otherwise have any impact on Australia's business interests.
144. This consideration should be given neutral weight.

CONCLUSION

145. I have made the following findings concerning the primary considerations in the Direction:
- (a) Protection of the Australian community against criminal and other serious conduct weighs strongly against revoking the cancellation of the applicant's visa.
 - (b) The family violence consideration is neutral.
 - (c) The strength, nature and duration of ties to Australia weigh moderately in favour of revoking the cancellation of the visa.
 - (d) The best interests of minor children weigh very strongly in favour of revoking the cancellation of the visa.
 - (e) The expectations of the Australian community weigh strongly against revoking the cancellation of the visa.
146. I have made the following findings concerning the other considerations:
- (a) The legal consequences of the decision weigh moderately in favour of revoking the cancellation of the visa.
 - (b) The extent of the impediments if the applicant were removed to New Zealand weighs strongly in favour of revoking the cancellation of the visa.
 - (c) Australian business interests are neutral.

147. Compliance with the Direction is not achieved by focussing upon the weight given to the various considerations in isolation. In deciding this case I must ‘bring together the considerations as part of a single evaluation of their relative significance thereby weighing them all together’.³⁸

148. In *CRNL v Minister for Immigration, Citizenship and Multicultural Affairs* stated:

*The balancing process is directed to determining whether there is “another reason” why the visa cancellation should be revoked. It requires an identification of the matters that may constitute “another reason” and bringing to bear the considerations that the Direction requires the Tribunal to take into account where relevant in determining whether or not the Tribunal is satisfied that there is another reason (or reasons) to revoke the visa cancellation. Some of the considerations set out in the Direction, where relevant, may weigh in favour of revocation, and so may constitute “another reason” capable of supporting the state of satisfaction required in order for revocation under s 501CA(4)(b)(ii) to occur. But whether they do qualify as a reason of that kind will need to be assessed in the context of different considerations set out in the Direction which may weigh against revocation, where relevant. That is why it is appropriate to describe it as a process of weighing and balancing. But to go beyond that to treat the Direction as mandating some sort of calculation of the net weight to be given to the considerations on each side is to lose sight of the ultimately evaluative nature of the statutory task.*³⁹

149. As noted above, 7.2 of the Direction states that the primary consideration of the protection of the Australian community is generally to be given greater weight than other primary considerations. It also states that primary considerations should generally be given greater weight than ‘other’ considerations.

150. In this case, the protection of the Australian community and the expectations of the Australian community weigh strongly against revoking the cancellation of the applicant’s visa. Balanced against this are the other relevant considerations, of which the most significant are the best interests of the applicant’s minor children and the impediments the application will face if she returns to New Zealand.

151. The applicant has a long criminal history and there is a tangible risk that she will re-offend if she relapses into drug addiction. However, I consider that the past eighteen months of abstinence from drugs, coupled with the applicant now knowing the likely consequences for her status in Australia if she does re-offend, should provide the applicant with a powerful incentive not to relapse into drug taking. Although the applicant has in the past put

³⁸*CRNL v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] FCAFC 138 at [28].

³⁹ *CRNL v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] FCAFC 138 at [38]

dysfunctional personal relationships and drugs ahead of her children's interests, the fact that the applicant now genuinely wants to repair her relationship with her children should also strongly motivate the applicant to pursue rehabilitation.

152. As noted above, Ms Turner's evidence was particularly compelling, particularly in relation to the applicant's daughter NM. I am of the view that the applicant remaining in Australia is realistically the only way her children will be able to build a positive relationship with their mother. This is especially so for NM at this point in time. Ms Turner has cared for NM since she was a small child and is well-placed to have an opinion about NM's best interests. Based on Ms Turner's evidence, I conclude that having a relationship with the applicant is critical for NM, at what is clearly a difficult time in her adolescence. While contact between the applicant and NM is currently conducted electronically, Ms Turner's evidence was that she would facilitate contact between the applicant and her children.
153. The best interests of the applicant's minor children are not the only consideration which weighs in favour of revoking the cancellation of the applicant's visa, but it is the one that does so most compellingly. I conclude that this is a case where the interests of the applicant's seven minor children, and in particular the interests of her daughter NM, when taken together with the other considerations which weigh in the applicant's favour, outweigh the considerations that weigh against revocation of the cancellation of the applicant's visa.

DECISION

154. I conclude that there is another reason to revoke the cancellation of the applicant's visa. I have therefore set aside the decision under review and substituted a decision that the cancellation of the applicant's Class TY Subclass 444 Special Category (Temporary) visa is revoked under s 501CA(4).

Date of hearing: **1 and 2 June 2026**

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