



**ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES  
TO CHILD SEXUAL ABUSE**

**AT NEWCASTLE COURT BUILDING**

COMMONWEALTH OF AUSTRALIA

*Royal Commissions Act 1902*

PUBLIC INQUIRY INTO

**THE RESPONSE OF CATHOLIC CHURCH AUTHORITIES IN THE MAITLAND-NEWCASTLE  
REGION**

**SUBMISSIONS OF COUNSEL ASSISTING THE ROYAL COMMISSION**

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## Introduction

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### About the public hearing

- 1 This was the forty-third Case Study the subject of a public hearing by the Royal Commission. It considered the response of the Catholic Diocese of Maitland-Newcastle (the **Diocese**) and the Marist Brothers to allegations and incidents of child sexual abuse involving Father Vincent Ryan and certain Marist Brothers who held teaching positions within the Diocese, and elsewhere.
- 2 The case study did not consider matters which have been the subject of previous inquiries. Current criminal proceedings and investigations were also taken into account in determining the scope of the case study.
- 3 This case study focussed on one Diocesan priest, Father Vincent Ryan (**Ryan**). It also focused on three Marist Brothers – known as Brother Patrick, Brother Dominic and Brother Romuald. Broadly speaking, the public hearing first examined the response of the Diocese to allegations of child sexual abuse perpetrated by Ryan. It then examined the responses of the Marist Brothers and others in positions of responsibility to allegations of child sexual abuse by Patrick, Romuald and Dominic.
- 4 These submissions are in relation to Ryan only.

### The evidence

- 5 The Royal Commission received evidence from a number of survivors, or parents of survivors, who have made allegations, claims, or substantiated complaints of sexual abuse against Ryan.
- 6 Two nuns and members of the Sisters of St Joseph's of Lochinvar, gave evidence in relation to Ryan, as well as a teacher and a former priest and psychiatrist.
- 7 The former Bishop of the Diocese, Bishop Emeritus Michael Malone, gave evidence. He was Bishop during the period following Ryan's arrest in 1995. Bishop William Wright, the current Bishop of the Diocese, also gave. Bishop Wright became the Bishop some years after the events with which this case study was primarily concerned.
- 8 Notices or summonses to produce documents were served on a number of entities and individuals pursuant to the Royal Commission's statutory powers. A bundle of documents relevant to Ryan was tendered by Counsel Assisting.

## Part 1 Introduction

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### 1.1 Ryan

9 Ryan was born in 1938, in the Maitland-Newcastle region. He was ordained in 1966. He held the following appointments as a priest of the Diocese:

- a. assistant priest, Singleton (1970)
- b. assistant diocesan secretary, Maitland parish (December 1970 – August 1973), bishop’s secretary (from January 1971)
- c. assistant priest, Merewether (August 1973 – December 1975)
- d. assistant priest, Newcastle and undertaking duties at the Marriage Tribunal in Newcastle (December 1976 – July 1978)
- e. Hamilton, continuing duties at the Marriage Tribunal (July 1978 – January 1984)
- f. parish priest, East Gresford (January 1984 – March 1988)
- g. member of the Council of Priests (March 1987 – March 1992)
- h. parish priest, Cessnock (March 1988 – January 1995)
- i. parish priest, Taree (January 1995 – October 1995).<sup>1</sup>

10 As Bishop Wright properly acknowledged, Ryan was a ‘sexual predator who used his status as a priest and the power that gave him to gain access to boys ... and to conceal his abuse.’<sup>2</sup> Bishop Wright also said that ‘The seriousness of the abuse and its terrible effects on the children are clear from the primary documents.’<sup>3</sup> Those documents, and the evidence of witnesses before the Royal Commission, demonstrate the scale and gravity of Ryan’s offending.

11 There is evidence that Ryan was conscious of his sexual attraction to boys even before he entered the priesthood. In an interview with Paul Firman in 1997, Sister Woodward said that she had received a letter from Ryan indicating this. Ryan wrote that he told a priest in confession of his inclinations and said that he was concerned about whether he should be going into the seminary. The priest told him not to be swayed. He reassured him that if he said his prayers God would look after him.<sup>4</sup> Sister Woodward said that she no longer had these letters and that she had shredded them.<sup>5</sup>

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<sup>1</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [16].

<sup>2</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [11].

<sup>3</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [25].

<sup>4</sup> Exhibit 43-5 (Tab 88) CCI.0228.00005.0387\_R at 0389.

<sup>5</sup> Woodward T17681: 14 – 20 (Day 166).

- 12 The scale of Ryan's offending is also evident in the number of offences of which he has been convicted.
- 13 Ryan was arrested in October 1995. In 1996 he was sentenced to a minimum of four years in relation to 18 offences against boys. Further charges were brought in 1996 - 1997 and Ryan was sentenced in relation to an additional fifty-three child sex offences against 28 boys aged between six and 14 in September 1997. Ryan was ultimately sentenced to 14 years in prison for these 53 offences.<sup>6</sup>
- 14 In 2015 Ryan was charged with a further three offences in relation to CNE. He pleaded guilty and received a 15-month suspended sentence.
- 15 Ryan's convictions are for offences that occurred between 1973 and 1995 and in connection with his appointments at four parishes: Merewether, Hamilton, East Gresford and Cessnock.
- 16 Judge Rummery said in his May 1996 sentencing remarks, in relation to the first set of charges against Ryan:<sup>7</sup>

*The offences which bring him to the Court for sentence are most serious breaches of trust by a person who as a priest of the Catholic Church, held and exercised significant privileges and responsibilities. All of his victims were young boys who were subject to his spiritual authority and direction as pupils of Catholic schools and members of Catholic church parishes. They looked to him for example and leadership. The loathing, disgust and contempt his victims have felt for him is evident from the statements and other material provided to the Court, as is, more importantly, the serious psychological damage his victims have and do suffer.*

- 17 In his sentencing remarks in relation to the 1997 proceedings, Judge Nield said:<sup>8</sup>

*These fifty three offences were committed by a parish priest against child members of his congregation, some of whom were altar boys or servers, and all of whom attended the Catholic Primary Schools within his area of supervision. There cannot be a greater breach of trust than for a priest to sexually abuse child members of his congregation.*

*And these fifty-three offences are not the total of the instances when the prisoner sexually abused these victims. Some of these offences are representative of the forms of sexual abuse committed by the prisoner against his victims. This is because there were so many instances of sexual abuse of one form or another committed by the prisoner against his victims that a precise number cannot be determined.*

<sup>6</sup> Exhibit 43-5 (Tab 81) CTJH.210.01025.1379\_R.

<sup>7</sup> Exhibit 43-5 (Tab 53) IND.0491.001.0043\_R at 0048 – 0049.

<sup>8</sup> Exhibit 43-5 (Tab 81) CTJH.210.01025.1379\_R at 1387.

## 1.2 Data relating to Ryan

- 18 The data produced to the Royal Commission revealed that 13 people made a claim or complaint of child sexual abuse that was substantiated against Ryan.<sup>9</sup> The alleged incidents occurred between 1972 and 1988 (inclusive).<sup>10</sup>
- 19 Where the gender was reported, all claimants were male.<sup>11</sup> The average age of the boys at the time of the alleged sexual abuse (where reported) was 10 years and all were under the age of 13 at the time.<sup>12</sup>
- 20 Of the 13 claims or substantiated complaints of child sexual abuse against Ryan, one was instituted through a civil proceeding.<sup>13</sup> That claim resulted in a payment of \$3 million (including legal and other costs). The remaining 12 claims progressed through a redress process other than civil proceedings, resulting in monetary compensation at an average of just over \$245,200 per claimant (including legal and other costs).<sup>14</sup>

## 1.3 The Diocesan leadership

- 21 During the time that Ryan held appointments in the Diocese the Bishops were John Thomas Toohey (1956 – 24 September 1975) Leo Morris Clarke (June 1976 – November 1995) and Michael Malone (November 1995 – June 2011).<sup>15</sup>
- 22 Monsignor Cotter was the Vicar Capitular from October 1975 to June 1976, the period between the death of Bishop Toohey and the date that Bishop Clarke assumed office. Bishop Wright stated that a Vicar Capitular is effectively a caretaker position for the Bishop, subject to certain restrictions under Canon Law. He said a Vicar Capitular could make temporary appointments of priest to parishes, but these would need to be validated by the incoming Bishop.<sup>16</sup>
- 23 An important issue in the case study was the extent to which Monsignor Cotter and Bishop Clarke had knowledge of Ryan's offending in the 1970s. There is no evidence that Bishop Toohey received allegations of child sexual abuse by Ryan.
- 24 Monsignor Cotter and Bishop Clarke are both deceased, but each gave accounts of his alleged knowledge of allegations of child sexual abuse by Ryan in 1975 and 1976. These accounts were given when investigations were made in the 1990s in relation to the indemnity position of the Diocese vis-à-vis the insurers in the context of civil claims.

<sup>9</sup> Exhibit 43-35 REPT.0010.001.0001 [52].

<sup>10</sup> Exhibit 43-35 REPT.0010.001.0001 [53].

<sup>11</sup> Exhibit 43-35 REPT.0010.001.0001 [55].

<sup>12</sup> Exhibit 43-35 REPT.0010.001.0001 [55].

<sup>13</sup> Exhibit 43-35 REPT.0010.001.0001 [60].

<sup>14</sup> Exhibit 43-35 REPT.0010.001.0001 [60].

<sup>15</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [29], Exhibit 43-8 Statement of Bishop Emeritus Malone STAT.1144.001.0001\_R [13], [34]

<sup>16</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [29].

- 25 Sister Evelyn Woodward, a nun and former superior of the Sisters of St Joseph Lochinvar also gave evidence of her conversations with Monsignor Cotter and Bishop Clarke, subsequent to a report she received in December 1975 that Ryan had been sexually abusing altar boys.

## Part 2 St Joseph's Merewether

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- 26 Ryan was appointed the assistant priest at Merewether parish in August 1973. He lived in the Merewether presbytery, which was located on the grounds of St Joseph's Primary School (**St Joseph's School**), the parish school. Ryan was the chaplain at St Joseph's School and was also the instructing priest for the parish altar boys.<sup>17</sup>
- 27 In the years that Ryan was in the parish, the principal of St Joseph's School was Sister Margaret Anne Geatches. Sister Geatches is a nun in the Sisters of St Joseph of Lochinvar.
- 28 Ryan has been convicted of offences against 20 boys during the time he was at St Joseph's, Merewether.
- 29 Most of the children against whom Ryan offended at Merewether were altar boys and students of St Joseph's School aged between 10 and 12. Many of the incidents occurred in the sacristy of St Joseph's church. Other incidents occurred in the playground of St Joseph's School and in other locations such as on altar boy picnics.
- 30 The data produced to the Royal Commission revealed that there were five claims or substantiated complaints of child sexual abuse against Ryan from St Joseph's School.
- 31 Ryan's offending at Merewether was brazen and very serious. The evidence to the Royal Commission of survivors and the police statements of others abused by Ryan at St Joseph's contain details of Ryan performing or attempting to perform oral and anal sex on boys in the presence of other boys and encouraging the boys to perform sex acts on each other.<sup>18</sup>
- 32 Mr Gerard McDonald gave evidence to the Royal Commission of his abuse by Ryan when he was an altar boy at St Joseph's in 1975. He was then in year 5 and was just 10 years old. Mr McDonald told the Commission that he attended altar boy practice at St Joseph's church twice a week and was abused by Ryan after every altar boy practice for almost all of that year. The abuse that Mr McDonald described occurred in the sacristy (in the presence of other altar boys) and also in Ryan's car. Mr McDonald gave evidence that Ryan performed oral sex on him, masturbated him, and attempted to

<sup>17</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [28].

<sup>18</sup> Exhibit 43-1 Statement of Gerard McDonald STAT.1168.001.0001, Exhibit 43-25 Statement of Scott Hallett STAT.1176.001.0001, Exhibit 43-5 (Tab 26) CTJH.210.01025.0531\_R, (Tab 23) CTJH.210.01025.0535\_R, (Tab 25) CTJH.210.01025.0523\_R, (Tab 30) CTJH.210.01025.0514\_R, (Tab 31) CTJH.210.01025.0419\_R, (Tab 44) CTJH.210.01025.0567\_R, (Tab 47) CTJH.210.01025.0338\_R, (Tab 61) CTJH.210.01025.0902\_R, (Tab 74) CTJH.210.01103.0137\_R.

anally rape him. Mr McDonald said Ryan also encouraged him to try to penetrate another altar boy, and for that boy to attempt to penetrate him.<sup>19</sup>

- 33 Mr Scott Hallett was also abused as an altar boy at St Joseph's in 1975. He gave evidence that Ryan fondled his genitals on multiple occasions, masturbated in front of Scott and other altar boys and encouraged them to masturbate Ryan, performed oral sex on him and encouraged him to have anal sex with other boys.<sup>20</sup>
- 34 Both Mr McDonald and Mr Hallett spoke of the devastating impacts of the abuse on them and their families.
- 35 The police statements of a number of other altar boys who were also victims of abuse by Ryan in 1975 show the seriousness of Ryan's offending.<sup>21</sup>

## 2.1 Knowledge of Monsignor Cotter in 1974

- 36 CNA gave evidence that her two sons disclosed to her in 1974 that they had been sexually abused by Ryan. CNA said that one night when she was putting her 6-year-old son to bed he said to her 'Fr RYAN touched me on my dickie bird'. When questioned, CNA's son said this had happened at school when the two boys were playing with Ryan.<sup>22</sup> CNA immediately went to speak with her older son who did not provide much detail about what had happened but said that Ryan had touched him as well.<sup>23</sup>
- 37 CNA sought the advice of a police prosecutor, John Scrogings. She said that Mr Scrogings explained that she could make a complaint to police to press charges and that her sons would be required to appear in court. CNA did not want her sons to have to do that. CNA said that Mr Scrogings suggested that she speak with Monsignor Cotter.<sup>24</sup>
- 38 CNA gave evidence that she and her husband went to see Monsignor Cotter at the presbytery about a week later. CNA said she told Monsignor Cotter she had a complaint against Ryan and that her two boys had said that Ryan touched them on their private parts. She gave evidence that 'the colour drained' from Monsignor Cotter's face and he looked anguished and shocked. After a short time, Monsignor Cotter said words to the effect of 'I thought something like this ...' but did not complete the sentence.<sup>25</sup>
- 39 CNA said that Monsignor Cotter immediately summoned Ryan to the room and CNA repeated that her boys had said that Ryan had touched them on their private parts. Ryan denied that this had happened. CNA offered to bring the boys in to put the

<sup>19</sup> Exhibit 43-1 Statement of Gerard McDonald STAT.1168.001.0001 [9] – [25].

<sup>20</sup> Exhibit 43-25 Statement of Scott Hallett STAT.1176.001.0001 [7] – [18].

<sup>21</sup> Exhibit 43-5 (Tab 25) CTJH.210.01025.0523\_R, Exhibit 43-5 (Tab 46) CTJH.210.01025.0322\_R, Exhibit 43-5 (Tab 47) CTJH.210.01025.0338\_R.

<sup>22</sup> Exhibit 43-2 Statement of CNA STAT.1145.001.0001\_R [7].

<sup>23</sup> Exhibit 43-2 Statement of CNA STAT.1145.001.0001\_R [8].

<sup>24</sup> Exhibit 43-2 Statement of CNA STAT.1145.001.0001\_R [11].

<sup>25</sup> Exhibit 43-2 Statement of CNA STAT.1145.001.0001\_R [14] – [15].

allegation to Ryan but both Ryan and Monsignor Cotter said that would not be necessary.<sup>26</sup>

- 40 CNA said that it was her impression from Monsignor Cotter's reaction and him calling Ryan into the office that Monsignor Cotter believed her.<sup>27</sup>
- 41 CNA said she was at a bit of a loss and did not know where else to turn after this as she did not want to put her boys through the court process.
- 42 An unsigned statement of claim by a former student of St Joseph's School contains an allegation that the student's father reported sexual abuse by Ryan of the student to Monsignor Cotter in around 1974.<sup>28</sup> In a statement to police in January 1996, that student said that he told his father towards the end of 1974 that 'There's a priest down there and he pulls you on the dick' and that his father 'went off and spoke to some of my mates about it and then it wasn't spoke about again.'<sup>29</sup> There is no evidence that any action was taken by Monsignor Cotter (or anyone else) in response to this alleged report.

#### **Monsignor Cotter's accounts as to the 1974 reports**

- 43 In an interview by police in January 1996, Monsignor Cotter said that he had no recollection of receiving a complaint by a father in 1974 and no recollection of receiving any complaints by parents in 1974.<sup>30</sup>
- 44 In an unsigned statement dated 20 October 1997, Monsignor Cotter said he had no recollection of ever being approached by any mother or any victim with a complaint regarding Ryan. He said he had no recollection of CNA or the mother of the other student coming to see him. He said 'I can quite confidently assert that neither woman made any complaints to me because no mother ever came to see me.'<sup>31</sup>
- 45 In an interview with the loss adjustors dated 4 November 1997, Monsignor Cotter said he did not remember a meeting with CNA and did not recall a family of the surname of CNA living in the parish.<sup>32</sup> He later said:<sup>33</sup>

*There was every opportunity for a young child to speak to me but they told me nothing, and if they tried to tell their mother something, no mother came to see me. I had no interview with [CNA] whoever she is ... nor [REDACTED]*

- 46 In a later interview with Carroll & O'Dea solicitors in 1999, Monsignor Cotter was asked if it was possible that two mothers came to see him and he said 'Yes, it could have happened' but that he did not recall it happening.<sup>34</sup>

<sup>26</sup> Exhibit 43-2 Statement of CNA STAT.1145.001.0001\_R [16].

<sup>27</sup> Exhibit 43-2 Statement of CNA STAT.1145.001.0001\_R [17].

<sup>28</sup> Exhibit 43-5 (Tab 72) CTJH.210.01096.0078\_R.

<sup>29</sup> Exhibit 43-2 (Tab 46) CTJH.210.01025.0322\_R at 0327.

<sup>30</sup> Exhibit 43-5 (Tab 45) CTJH.210.01025.0297\_R at 0313 – 0314.

<sup>31</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0082 – 0083.

<sup>32</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0375 – 0376.

<sup>33</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0384.

- 47 Monsignor Cotter's statements that he did not receive any complaints by parents in 1974 are inconsistent with a letter he wrote subsequently to Dr Peter Evans in December 1975. That letter was in response to other allegations of child sexual abuse by Ryan made in late 1975, which precipitated Ryan being removed from the parish (discussed below). In that letter, Monsignor Cotter said (emphasis added):<sup>35</sup>

*The problem which now brings [Ryan] under your care **became known to me about one year ago. The circumstances then were such that he knew that I was aware of what happened**, and thinking the embarrassment he suffered from me knowing, would have been more eloquent than any possible advice of mine, I decided to say nothing ...*

### **Ryan's accounts as to the 1974 reports**

- 48 Ryan's version of the 1974 events is set out in his police statements and interviews in 1996, as well as a later unsigned statement in 1998.
- 49 In his May 1996 police statement, Ryan said he could not remember what the reference in the letter to Dr Evans about an incident in 1974 related to. He said he had a memory of being spoken to by a parent of a child in relation to something inappropriate he had said. Ryan stated that he never spoke to Monsignor Cotter about this, but that Monsignor Cotter got him to see the father.<sup>36</sup>
- 50 In a subsequent interview with police in August 1996, Ryan said that a parent with CNA's surname came to him and accused him of 'touching' the boy. When asked if it was possible he did touch the boy, Ryan said 'Oh, yeah, I, I really didn't, I couldn't remember really doing anything but I knew that I clowned around like that' and that he denied it because he could not remember the incident. When asked about Monsignor Cotter's involvement in the incident, Ryan said 'I didn't think he knew anything about it except that I was upset and he came up and asked, said that these people are downstairs to see me ... I never thought that he knew what it was about.'<sup>37</sup>
- 51 The most detail of Ryan's recollection of the confrontation with CNA is contained in an unsigned statement dated August 1998. Ryan is there recorded as saying he was called downstairs by Monsignor Cotter to see CNA's husband. He said that CNA's husband accused him of touching one of the boys on the genitals, then CNA came in and said that the older son had said Ryan had touched him on the penis. Ryan said:<sup>38</sup>

*I recall that I did not admit it to them other than trying to explain that it must have been some form of accident in terms of the children climbing over me. That was how I described it to try and diffuse the situation.*

*As far as I know, the only involvement Monsignor Cotter had at this stage was simply to open the door and tell me that [CNA and her husband] were there. I*

<sup>34</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0362.

<sup>35</sup> Exhibit 43-5 (Tab 6) CTJH.210.01025.2675\_R (emphasis added).

<sup>36</sup> Exhibit 43-5 (Tab 51) CCI.0228.00004.0026\_R at 0026 – 0027.

<sup>37</sup> Exhibit 43-5 (Tab 62.1) CTJH.210.01025.0823\_E\_R.

<sup>38</sup> Exhibit 43-5 (Tab 93) CTJH.210.01102.0035\_R.

*have no idea whether or not the [sic] have made any complaint to him because Monsignor Cotter never in turn raised the matter with me.*

### **Conclusions on knowledge of Monsignor Cotter in 1974**

- 52 It is submitted that CNA's evidence of her report to Monsignor Cotter ought to be accepted. She had a clear and specific recollection of the event. CNA's evidence is supported by the documents containing accounts provided by Ryan, that CNA and her husband confronted him with an allegation in relation to their children. Ryan's accounts do not place Monsignor Cotter in the room when CNA and her husband confronted Ryan, but they are not inconsistent with the matter having been raised with Monsignor Cotter prior to that time.
- 53 The various records of statements by Monsignor Cotter, in which he says that he did not receive any complaints by parents in 1974 are not conclusive. His own last word on the topic in an interview with solicitors in 1999 was that the report may have happened but that he did not recall it. Further, that Monsignor Cotter was aware of a complaint in 1974 is supported by his reference to knowledge of an incident occurring about a year before the 1975 letter to Dr Evans.
- 54 Monsignor Cotter received at least one complaint against Ryan of child sexual abuse in 1974. No action was taken by Monsignor Cotter in response to the complaint, following Ryan's denial of it. There is no evidence that Monsignor Cotter, who was then the parish priest, reported the allegation to the Bishop.

## **2.2 December 1975 allegations**

- 55 The evidence of witnesses before the Royal Commission and as contained in statements made to police in 1995 and 1996 was that a number of boys made disclosures of sexual abuse by Ryan in December 1975, very shortly before the end of the school term. The disclosures followed an incident on the second-last day of the school term at a sports carnival.
- 56 Mr McDonald gave evidence that he attended the sports carnival and there was a confrontation between Ryan and one of the boys that led to Ryan being called a 'poofter' by Mr McDonald and others. CNC, the mother of another altar boy, was there. She asked Mr McDonald what was going on and he told her that Ryan had been 'touching' them. Mr McDonald said that after this, the boys decided they would go home and tell their parents what had happened.<sup>39</sup>
- 57 CNC made a statement to police in the 1990s. She recalled the incident in the park. She said that Mr McDonald told her that Ryan had taken his penis out of his pants and that 'stuff had come out' of it. CNC said she then went and spoke to Sister Geatches and 'told her what had happened'. CNC said that the Sister was taken back but told CNC to leave it with her. CNC said she later received a phone call from Sister Margaret Anne,

<sup>39</sup> Exhibit 43-1 Statement of Gerard McDonald STAT.1168.001.0001 [26] – [28]. See also Exhibit 43-5 (Tab 44) CTJH.210.01025.0567\_R and Exhibit 43-5 (Tab 30) CTJH.210.01025.0514\_R.

who said she had spoken to the boys and they all told her the same story. CNC said the next thing she was aware of was that Ryan was sent away.<sup>40</sup>

- 58 Mr Gerard McDonald said that on the evening of the sports carnival, the mother of another altar boy came to Mr McDonald's family home. This mother told his mother, Mrs Phyllis McDonald, that her son had made accusations about Ryan. When Mrs McDonald called Gerard into the room, he said he told her that Ryan had sucked his penis.<sup>41</sup>
- 59 Mrs McDonald has passed away, but she gave a statement to police in August 1995. At the time of the incidents she was the secretary at St Joseph's School. Mrs McDonald said in her statement that CNC approached her and told her that something had happened with Ryan and the altar boys. She said that Sister Geatches then came into the office and asked her what happened, and then told Mrs McDonald not to discuss the incident because of her position in the school.<sup>42</sup> Sister Geatches gave evidence that she did not recall at any time telling Mrs McDonald not to talk about the matter.<sup>43</sup> That evening, when the mother of another boy came to the house to discuss the incident, Mrs McDonald asked Gerard what had happened and he said Ryan had been touching him 'down there' and indicated his crotch area.<sup>44</sup>
- 60 The other mother who attended the McDonald's house also made a statement to police. She said that her son said to her that Ryan had been 'playing with my whizzer' and that she went over to Mrs McDonald's. She said that when the boys were called inside Gerard McDonald said something like 'He put our wee wee in his mouth' about what Ryan had done.<sup>45</sup>
- 61 Mrs McDonald said that later that night Dr CND, the father of another boy, came to the house and they spoke about the incident. Mrs McDonald told him what Gerard had told her. Dr CND said that he was going to speak to Monsignor Cotter about it. Mrs McDonald said Dr CND called her the following day and said Ryan would be out of the parish by nightfall.<sup>46</sup>
- 62 Dr CND is deceased. CND's son gave a statement to police in February 1997. He said that his father told him that some boys had come forward to make complaints about Ryan and asked him if he had been involved in or seen anything. He said he told CND that Ryan 'had tried to touch us and that he got around with his penis hanging out.' CND's son said that the next thing he knew Ryan was gone from the parish.<sup>47</sup>

<sup>40</sup> Exhibit 43-5 (Tab 44) CTJH.210.01025.0567\_R at 0568 – 0569.

<sup>41</sup> Exhibit 43-1 Statement of Gerard McDonald STAT.1168.001.0001 [26] – [31]. The other boy and his mother also made statements to police to the effect that they visited the McDonalds that evening and the boys disclosed abuse by Ryan: Exhibit 43-5 (Tab 25) CTJH.210.01025.0523\_R, Exhibit 43-5 (Tab 26) CTJH.210.01025.0531.

<sup>42</sup> Exhibit 43-5 (Tab 23) CTJH.210.01025.0535 at 0537 – 0538.

<sup>43</sup> Geatches T17619: 4 – 11 (Day 165).

<sup>44</sup> Exhibit 43-5 (Tab 23) CTJH.210.01025.0535 at 0539.

<sup>45</sup> Exhibit 43-5 (Tab 26) CTJH.210.01025.0531\_R.

<sup>46</sup> Exhibit 43-5 (Tab 23) CTJH.210.01025.0535 at 0539.

<sup>47</sup> Exhibit 43-5 (Tab 77) CTJH.210.01025.0972\_R.

## Evidence of Sister Geatches

63 Sister Geatches said that before the day of the sports carnival she never had any cause for concern in relation to Ryan.<sup>48</sup>

64 Sister Geatches gave evidence that around 3pm on the second-last day of term she heard students arriving back from the sports day who were very agitated and talking very loudly. She said CNC and Mrs McDonald were there, and she had a vague recollection that some other mothers were also there.<sup>49</sup> CNC told Sister Geatches about Ryan. Sister Geatches said of this conversation:<sup>50</sup>

*Although I recall speaking to CNC I do not now have a clear recollection of what she said but I do remember that she told me that Ryan had been touching some boys down at the park, and I believe she also mentioned that this had occurred in the sacristy as well.*

65 In her statement to police in November 1995, Sister Geatches' recollection of her conversation with CNC was that CNC said Ryan had been 'interfering with the altar boys in the sacristy' and that he had 'put them in a cupboard and was touching them.'<sup>51</sup>

66 In an interview with Paul Firman in 1997, Sister Geatches said that CNC told her that Ryan had been 'playing with them and touching them' and had 'touched them and was fondling them and that sort of thing.' Sister Geatches said that although CNC gave very little description of what had occurred, it was enough information for Sister Geatches to know that maybe there was some truth to the allegation.<sup>52</sup>

67 Sister Geatches gave evidence that after the conversation with CNC she then briefly went and spoke to the group of about 12 – 15 boys, who had accompanied the mothers returning from the sports day. She said the boys started calling out what had happened to them at the park.<sup>53</sup> Sister Geatches said:<sup>54</sup>

*They were saying that they were being touched and they pointed to their crotch area and said that Father Ryan had been touching them and that it also had happened over at the presbytery in the cupboard.*

68 Sister Geatches said that it was clear that the boys were describing sexual touching and that they indicated Ryan had been touching them for some time.<sup>55</sup> When asked whether the boys mentioned or described oral sex, Sister Geatches said 'The boys did

<sup>48</sup> Exhibit 43-5 (Tab 89.2) CCI.0228.00005.0419\_R at 0426.

<sup>49</sup> Geatches T17612: 9 – 14 (Day 165), Exhibit 43-3 Statement of Sister Geatches STAT.1161.001.0001\_R [14] – [15].

<sup>50</sup> Exhibit 43-3 Statement of Sister Geatches STAT.1161.001.0001\_R [16].

<sup>51</sup> Exhibit 43-5 (Tab 41) CTJH.210.01025.0491\_R at 0492.

<sup>52</sup> Exhibit 43-5 (Tab 89.2) CCI.0228.00005.0419\_R at 0424.

<sup>53</sup> Geatches T17612: 46 – T17614: 34 (Day 165).

<sup>54</sup> Geatches T17613: 37 – 40 (Day 165).

<sup>55</sup> Geatches T17613: 45 – T17614: 8 (Day 165).

not describe that to me at the time.<sup>56</sup> Sister Geatches agreed, however, that the boys were being fairly graphic in describing what Ryan had done.<sup>57</sup>

- 69 Sister Geatches said she felt alarmed and that she had to do something about the allegations. She said she believed the boys.<sup>58</sup> She said she remembered thinking that she had to make sure Ryan was not near the children again.<sup>59</sup>
- 70 That day, Sister Geatches told the deputy principal, Sister Patricia Jackson, of the allegations.<sup>60</sup> Sister Geatches gave evidence that she decided to inform Sister Woodward, who was a counsellor, and someone who Sister Geatches thought would have the skills to deal with the matter. She agreed that there was no protocol or policy in place for dealing with the situation.<sup>61</sup>

### **Conversations with Mr Hallinan**

- 71 In 1975 Mr Christopher Hallinan was the grade 5 teacher at St Joseph's School. Mr McDonald and Mr Hallett were students in his class. All three of them gave evidence of a conversation they had about the boys being abused by Ryan. The evidence was that this conversation occurred sometime not long after the incident at the sports day, although there were some differences between the accounts as to the exact timing of the conversation, and whether there was one conversation or multiple conversations.
- 72 Mr McDonald said that shortly after the sports carnival Mr Hallinan asked him what Ryan had done. Mr McDonald said 'I told him and he was utterly disgusted.'<sup>62</sup>
- 73 Mr Hallett gave evidence that at some point near the end of 1975 he told Mr Hallinan that Ryan had 'done something to us' but did not give him any details. Mr Hallett gave evidence that after he spoke to Mr Hallinan, Sister Geatches came to the classroom and asked him what had happened but he did not think he told her much. He said that Sister Geatches told Mr Hallinan to stop asking Scott about what had happened.<sup>63</sup>
- 74 Both Mr Hallett and Mr McDonald gave evidence of only one conversation with Mr Hallinan.
- 75 Mr Hallinan gave evidence that towards the end of 1975, Mr Hallett and Mr McDonald approached him in class. He could not recall the exact words of his conversation with them but he said that they 'indicated that Fr RYAN had sexually assaulted them on several occasions while they were attending altar boy practice.'<sup>64</sup>

<sup>56</sup> Geatches T17614: 10 – 17 (Day 165).

<sup>57</sup> Geatches T17616: 45 – 47 (Day 165).

<sup>58</sup> Geatches T17614: 20 – 24 (Day 165).

<sup>59</sup> Geatches T17618: 34 – 36 (Day 165).

<sup>60</sup> Geatches T17615: 23 – 26 (Day 165).

<sup>61</sup> Geatches T17617: 40 – 43 (Day 165).

<sup>62</sup> Exhibit 43-1 Statement of Gerard McDonald STAT.1168.001.0001 [32].

<sup>63</sup> Exhibit 43-25 Statement of Scott Hallett STAT.1176.001.0001 [21] – [23].

<sup>64</sup> Exhibit 43-7 Statement of Chris Hallinan STAT.1130.001.0001\_R [10].

- 76 Mr Hallinan said that sometime shortly after this conversation he was approached by the mother of another altar boy who told him that her son had been abused by Ryan.<sup>65</sup>
- 77 Mr Hallinan said he decided to interview Mr McDonald and Mr Hallett to see what had happened. He said he did so in a morning in class the next school day after the initial conversation with them.<sup>66</sup> He said while he was doing this, Sister Geatches came to the classroom, called him outside to the hallway and directed him to stop talking to the children and their parents. Mr Hallinan said 'I don't recall her exact words but she said something like it was a church matter and I was not to take any further part in it.'<sup>67</sup> Mr Hallinan's recollection of the timing of this conversation was that it 'didn't seem to be the second-last day of school.'<sup>68</sup>
- 78 Mr Hallinan was asked if he had a clear recollection of this conversation with Sister Geatches and he said 'Yes'.<sup>69</sup>
- 79 Mr Hallinan said that Sister Geatches later asked to see him and told him that the matter had been taken care of and Ryan had been transferred to an administrative position. He said of this 'It was a very brief conversation and she made it clear I was to take no further action.'<sup>70</sup>
- 80 It was put to Mr Hallinan by Ms Needham SC that Sister Geatches said to Mr Hallinan that he should not discuss the matter anymore with the boys that afternoon so that they could be got ready to go home. He said 'I think she may have said that' but his evidence was that this was on a separate occasion.<sup>71</sup>
- 81 Mr Hallinan said:<sup>72</sup>
- To be clear, on a day after the commotion, on a separate day, in the morning, around 10am, she talked to me outside the classroom ... and she told me that I should stop talking to the children ... and to take no further part, and in an assured way said it was a Church matter and provided to me sufficient confidence at the time that the Church would take care of it.*
- 82 It was put to Mr Hallinan that Sister Geatches did not say it was a Church matter, merely that he should stop talking to the children in a way which would cause them to be upset. Mr Hallinan did not accept that. He said again that Sister Geatches told him it was a Church matter and 'the Church would handle it from here on and I was to take – there was no need for me to take any further part' in the matter.<sup>73</sup>

<sup>65</sup> Exhibit 43-7 Statement of Chris Hallinan STAT.1130.001.0001\_R [14] – [16].

<sup>66</sup> Hallinan T17718: 10 – 12 (Day 166).

<sup>67</sup> Exhibit 43-7 Statement of Chris Hallinan STAT.1130.001.0001\_R [19].

<sup>68</sup> Hallinan T17715: 25 – 32 (Day 166).

<sup>69</sup> Hallinan T17710: 46 – T17711: 9 (Day 166).

<sup>70</sup> Exhibit 43-7 Statement of Chris Hallinan STAT.1130.001.0001\_R [25].

<sup>71</sup> Hallinan T17716: 30 – 34, 5 – 9 (Day 166).

<sup>72</sup> Hallinan T17717: 10 – 21 (Day 166).

<sup>73</sup> Hallinan T17717: 23 – 33 (Day 166).

- 83 In her statement to police in November 1995, Sister Geatches said she heard Mr Hallinan talking to several boys, including Scott Hallett, in the classroom on the afternoon of the sports carnival. She said the boys were talking very loudly and although she could not recall their exact words there was a ‘sexual connotation about what Father RYAN was doing to them.’<sup>74</sup> Sister Geatches stated that after the boys left, she remained and spoke to Mr Hallinan on the top veranda. She said they discussed the matter and she told him she was going to do something about it, tried to reassure him and told him ‘these sort of things happen to the best of people.’<sup>75</sup>
- 84 In her evidence to the Royal Commission, Sister Geatches said that she was telling Mr Hallinan not to discuss the matter anymore with the boys that afternoon so that they could get them ready to go home from school. She said ‘I don’t recall saying to him, “Don’t discuss this matter with anyone”’.<sup>76</sup> She later said she only told him to stop talking to the boys ‘because we needed to settle them down.’<sup>77</sup> When asked what she said to Mr Hallinan, Sister Geatches said ‘I just asked him would he help to settle the children down and that they didn’t need – that there was to be no more discussion that afternoon about the matter.’<sup>78</sup>
- 85 Sister Geatches was asked whether she would have told Mr Hallinan that the issue was a Church issue and not a school one and she said ‘Yes, I would have done that and just to let him know that it was something the Church had to deal with.’<sup>79</sup> Sister Geatches said she had no recollection of saying to Mr Hallinan that he was to take no further action. When asked whether she would have told Mr Hallinan that he need not take the matter further because it was a church issue, Sister Geatches said ‘I may have said that because at the time I thought it was a Church issue.’ She agreed that she could have conveyed that to Mr Hallinan, who was a young teacher and a layperson.<sup>80</sup> She later said ‘I don’t think I told [Mr Hallinan] that he wasn’t required to deal with the issue. I just said the issue would be dealt with.’<sup>81</sup>
- 86 Sister Geatches said that she only had the one discussion with Mr Hallinan about the matter.<sup>82</sup>
- 87 Mr Hallinan was asked about the evidence of Mr Patrick Roohan, who was a teacher at the local high school.<sup>83</sup> He said he spoke to Mr Roohan about the topic. Mr Hallinan said his recollection was he told Mr Roohan that ‘there’d been a direction, an unexpected – in light of what had happened, that is was unexpected and there was a

<sup>74</sup> Exhibit 43-5 (Tab 41) CTJH.210.01025.0491\_R at 0492 – 0493.

<sup>75</sup> Exhibit 43-5 (Tab 41) CTJH.210.01025.0491\_R at 0493.

<sup>76</sup> Geatches T17619: 19 – 24 (Day 165).

<sup>77</sup> Geatches T17628: 6 – 11 (Day 165).

<sup>78</sup> Geatches T17628: 44 – 46 (Day 165).

<sup>79</sup> Geatches T17627: 9 – 14 (Day 165).

<sup>80</sup> Geatches T17629: 32 – T17630: 1 (Day 165).

<sup>81</sup> Geatches T17637: 42 – 43 (Day 165).

<sup>82</sup> Geatches T17619: 35 – 36 (Day 165).

<sup>83</sup> Exhibit 43-36 Statement of Patrick Roohan STAT.1169.001.0001\_R.

clear, firm direction to cease my involvement in investigating the matter and taking it forward.<sup>84</sup>

### **Alleged additional remark by Sister Geatches**

- 88 Mr McDonald gave evidence in relation to a further comment by Sister Geatches, during the conversation with Mr Hallinan.
- 89 Mr McDonald said that during his conversation with Mr Hallinan, Sister Geatches came to the class and spoke to Mr Hallinan. Mr McDonald said he could not hear all that was said but that ‘She was waiving her arms around and saying ‘Don’t listen to those boys. You will never work in a Catholic school again.’<sup>85</sup> It was put to Mr McDonald by Ms Needham SC that Sister Geatches did not say those words. Mr McDonald responded ‘Well, I couldn’t really hear, but it sounded like something like that.’<sup>86</sup>
- 90 Sister Geatches could not recall that comment and said she never made a comment to Mr Hallinan about whether how he responded to the allegations could affect his teaching career.<sup>87</sup> She later said ‘I can be almost certain that I did not say such a thing to [Mr Hallinan] about his employment.’<sup>88</sup>
- 91 Mr Hallinan was asked whether he had any recollection of Sister Geatches saying to him anything as to whether he would work in a Catholic school again and he said ‘Certainly not words to that effect, no.’<sup>89</sup>
- 92 As to whether Sister Geatches told Mr Hallinan that if he told anyone about this ‘we’ll all get the sack’, he said he recalled the topic being discussed in general with a number of people, meaning the possible adverse impact on him, but what he remembers most is being directed to cease his involvement.<sup>90</sup> He said:<sup>91</sup>

*It was probably me particularly and others who would be considered to be interfering with school business and meddling in an unwelcome way, and I was definitely aware of my novice status, my probationary status, and that I was an employee and ... I assumed it was the Church, correctly or incorrectly, that had issued the edict to cease my involvement, and they were the employer.*

- 93 Mr Hallinan agreed that he perceived his involvement in any further investigations could be a risk to his future employment, and he said any breach of a direction from an employer could result in adverse consequences. When asked whether Sister Geatches said anything to that effect to him, he said ‘Not that I recall in 2016.’<sup>92</sup>

<sup>84</sup> Hallinan T17712: 29 – 47 (Day 166).

<sup>85</sup> Exhibit 43-1 Statement of Gerard McDonald STAT.1168.001.0001 [32] – [33].

<sup>86</sup> McDonald T17604: 10 – 16 (Day 165).

<sup>87</sup> Geatches T17615: 11 – 21 (Day 165).

<sup>88</sup> Geatches T17638: 19 – 20 (Day 165).

<sup>89</sup> Hallinan T17711: 40 – 43 (Day 166).

<sup>90</sup> Hallinan T17713: 1 – 18 (Day 166).

<sup>91</sup> Hallinan T17713: 18 – 25 (Day 166).

<sup>92</sup> Hallinan T17713: 27 – 37 (Day 166).

- 94 Mr Roohan gave evidence that he had two conversations with Mr Hallinan about what the boys had disclosed. He said on the second occasion he spoke to Mr Hallinan about it, Mr Hallinan told him that he had spoken to Sister Geatches and she had said ‘if anyone finds out about this we’ll all get the sack’, or words to that effect.<sup>93</sup>
- 95 There are conflicting recollections of what was said in a conversation (or conversations) between Sister Geatches and Mr Hallinan. The evidence, however, as to the effect of the conversation was that the matter would be dealt with, that it would be dealt with by the church and, consequently, Mr Hallinan ought not to take any further steps in relation to the matter.
- 96 It is submitted that the evidence does not establish that Sister Geatches expressly conveyed to Mr Hallinan that his job would be in jeopardy if he pursued an investigation of the offences committed by Ryan. Nevertheless, Mr Hallinan perceived that if he did not obey the direction to cease his involvement in the matter, there could be a risk to his future employment. Even if Sister Geatches did not expressly convey or intend to convey that risk, it is understandable that a junior teacher in the position of Mr Hallinan would have formed this apprehension based on what he was told.

#### **Matter reported to Sister Woodward**

- 97 Sister Geatches said she told Sister Woodward that evening, what she had heard at school that day.<sup>94</sup> Sister Geatches gave evidence that she told Sister Woodward that the boys were saying Ryan had been touching them, sexually, and that it had evidently been going on for some time as it had also been happening in the cupboard at the sacristy.<sup>95</sup>
- 98 Sister Woodward gave evidence that she could not recall the exact words of her conversation with Sister Geatches but that Sister Geatches told her that she had received reports that Ryan had sexually molested boys at the sacristy. She said it was not clear how long it had been going on but that there had been more than one incident and it involved the altar boys from the primary school.<sup>96</sup> Sister Woodward said that Sister Geatches ‘mentioned genital handling, masturbation, maybe there was more to it than that.’ When asked if she recalled that Sister Geatches conveyed to her that the incidents also involved oral sex, she said ‘Yes, I do.’<sup>97</sup> That is consistent with what Sister Woodward said in her interview with Paul Firman in 1997. In that interview, Sister Woodward said that Sister Geatches ‘spoke of sexual touching in the Sacristy with altar boys and she intimidated [*sic*] oral sex.’<sup>98</sup> Later in her evidence, Sister Woodward said that she told Monsignor Cotter what was conveyed to her by

<sup>93</sup> Exhibit 43-36 Statement of Patrick Roohan STAT.1169.001.0001\_R [14].

<sup>94</sup> Geatches T17617: 19 – 38 (Day 165), Exhibit 43-3 Statement of Sister Geatches STAT.1161.001.0001\_R [24].

<sup>95</sup> Geatches T17618: 14 – 22 (Day 165).

<sup>96</sup> Woodward T17648: 16 – 39 (Day 165).

<sup>97</sup> Woodward T17648: 44 – T17649: 10 (Day 165).

<sup>98</sup> Exhibit 43-5 (Tab 88) CCI.0228.00005.0387\_R at 0387 – 0388.

Sister Geatches, which she said was ‘oral and anal penetration, penis sucking and attempts at masturbation.’<sup>99</sup>

- 99 Sister Woodward also said that it was her recollection that Sister Geatches said she had been given the information by Dr CND and her memory that Dr CND was mentioned by Sister Geatches was ‘quite strong’.<sup>100</sup> Sister Geatches said, however, she had no recollection of speaking to Dr CND about the matter.<sup>101</sup>
- 100 Sister Woodward said that she was horrified and that she perceived Ryan to be a predator in that he was satisfying his own needs or wants by abusing children.<sup>102</sup>
- 101 Sister Geatches said that she and Sister Woodward decided to report the matter to Monsignor Cotter, and that Sister Woodward undertook to do that.<sup>103</sup>
- 102 At some time during the summer holidays, Sister Geatches also reported what she had heard to the Superior of the congregation, Mother Cletus.<sup>104</sup>
- 103 Sister Geatches gave evidence that she never discussed what the boys reported with Bishop Clarke or with Bishop Malone.<sup>105</sup>
- 104 Sister Geatches said that she never, at any time, discussed the matter with Monsignor Cotter. She said she was expecting that Monsignor Cotter would ask her for more information, but that this never occurred.<sup>106</sup>
- 105 There is some difference between the accounts of Sister Geatches and Sister Woodward as to what Sister Geatches conveyed to Sister Woodward about Ryan’s conduct with the altar boys. Sister Woodward was clear in her recollection that Sister Geatches reported at least genital handling, masturbation and oral sex. Sister Woodward’s evidence was also consistent with her earlier account to Paul Firman in 1997. Her evidence should be accepted.

## Reports to Monsignor Cotter

### *Evidence of Sister Woodward*

- 106 Sister Woodward gave evidence that she attempted to contact Monsignor Cotter right away and travelled to see him that night. When asked what she told Monsignor Cotter, Sister Woodward said ‘I described whatever I knew, which was oral and anal

<sup>99</sup> Woodward T17651: 25 – T17652: 7 (Day 165).

<sup>100</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [17].

<sup>101</sup> Exhibit 43-3 Statement of Sister Geatches STAT.1161.001.0001\_R [36].

<sup>102</sup> Woodward T17649: 39 – T17650: 1 (Day 165).

<sup>103</sup> Geatches T17617: 45 – T17618: 5 (Day 165), Exhibit 43-3 Statement of Sister Geatches STAT.1161.001.0001\_R [24].

<sup>104</sup> Geatches T17615: 28 – 37 (Day 165).

<sup>105</sup> Geatches T17620: 11 – 20 (Day 165).

<sup>106</sup> Geatches T17617: 7 – 13 (Day 165).

penetration, penis sucking and attempts at masturbation.<sup>107</sup> Sister Woodward said that these were things conveyed to her by Sister Geatches.<sup>108</sup>

- 107 Sister Woodward said that Monsignor Cotter was ‘horrified’ and ‘sat there looking confused and embarrassed.’<sup>109</sup> Sister Woodward was asked whether it was clear in her conversation with Monsignor Cotter that she was talking about altar boys who attended the primary school and she said ‘Yes.’ She did not recall referring to the particular ages of the boys but she agreed that Monsignor Cotter must have understood her to be talking about primary school-aged boys.<sup>110</sup>
- 108 According to Sister Woodward, Monsignor Cotter asked for her view of what he should do about Ryan.<sup>111</sup> She said she got the sense that Monsignor Cotter ‘was in a bind’ and did not know what to do.<sup>112</sup> Sister Woodward stated that she said she thought Monsignor Cotter needed to get Ryan away from children straight away and send him to get psychiatric help.<sup>113</sup> Sister Woodward said that she told Monsignor Cotter of Dr Evans, a qualified psychiatrist with the Order of Franciscan Friars in Melbourne, whom she knew of, but did not know personally. She said that Monsignor Cotter was appreciative of the suggestion and told her he would contact Dr Evans as soon as he could.<sup>114</sup>
- 109 Sister Woodward was asked by counsel assisting whether there was anyone more local and she said ‘There may have been, but the thinking behind sending him to Melbourne was that he would be away from the children that he was molesting’.<sup>115</sup>
- 110 Sister Woodward said that shortly after this meeting she got a call from Monsignor Cotter, who told her that Ryan had ‘knelt at his feet, wept, and admitted what he had done.’<sup>116</sup> She said that Ryan told Monsignor Cotter ‘that he was guilty of the offences we had discussed.’ She did not remember Monsignor Cotter explaining to her what he had told Ryan he was accused of but she said because Ryan burst into tears and said he was guilty, she presumed that to be the case.<sup>117</sup>
- 111 Sister Woodward was asked whether Monsignor Cotter said anything more to her of his reaction to Ryan’s admission and the events and she said ‘he spoke about his sadness at the whole episode’ and that he was grateful that she had offered Melbourne as an option for dealing with it.<sup>118</sup>

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<sup>107</sup> Woodward T17651: 25 – 47 (Day 165).

<sup>108</sup> Woodward T17652:1 – 7 (Day 165).

<sup>109</sup> Woodward T17652: 22 – 25 (Day 165).

<sup>110</sup> Woodward T17652: 34 – T17653: 8 (Day 165).

<sup>111</sup> Woodward T17651: 2 – 3 (Day 165).

<sup>112</sup> Woodward T17653: 39 – 42 (Day 165).

<sup>113</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [20].

<sup>114</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [21] – [22].

<sup>115</sup> Woodward T17654: 17 – 21 (Day 165).

<sup>116</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [21] – [22].

<sup>117</sup> Woodward T17655: 27 – 37 (Day 165).

<sup>118</sup> Woodward T17655: 39 – T17656: 1 (Day 165).

*Monsignor Cotter's accounts*

- 112 Monsignor Cotter has given a number of accounts of his recollection of a conversation with Sister Woodward and with Dr CND in December 1975.
- 113 Monsignor Cotter was interviewed by police in January 1996. He generally declined to answer questions in relation to his knowledge of Ryan's offending in the 1970s. Towards the end of the interview when it was said that it was alleged he had knowledge of Ryan's offending, Monsignor Cotter said 'I had knowledge of the rumour about that, I had no definite knowledge about it.'<sup>119</sup>
- 114 In an interview in 1997, when asked when he first became aware that there were problems with Ryan, Monsignor Cotter said 'I had no notion, whatsoever of the intensity and the enormity of problems ... until I read about them in the media about two years ago', which was when Ryan was charged. Monsignor Cotter also said, in a letter he wrote to Bishop Clarke in June 1996 that the 'extent of depravity' reported in the paper 'shocked' him.<sup>120</sup>
- 115 In the 1997 interview, Monsignor Cotter said, however, that he 'got the shadow of something being the matter ... perhaps ... I would say sometime in the 1970s.' He went on to say 'I did have some shadow that there was something going on between [Ryan] and the altar boys.'<sup>121</sup> Monsignor Cotter indicated that he heard some 'rumours' in relation to Ryan, possibly from teachers but he was not sure. When asked what he was told, Monsignor Cotter said he had an 'inkling' and there were 'rumours' about kids in the school, that were circulating in the months prior to December 1975.<sup>122</sup>
- 116 Later in that 1997 interview, when he was asked whether he had observed any unusual behaviour, Monsignor Cotter said he did not, except that Ryan was 'involving himself very much with the altar boys'. Monsignor Cotter said he did not think Ryan involving himself with the altar boys was necessarily a very bad thing and that it did not seem unhealthy. He said that he observed Ryan taking boys up to his room but that Ryan's study was upstairs and it did not seem suspicious.<sup>123</sup> In a later interview in 1999 with Carroll & O'Dea solicitors, Monsignor Cotter said it would be 'unusual' for a person wishing to see Ryan to go up to his bedroom.<sup>124</sup> When asked if he had any idea of the problems from the children themselves, Monsignor Cotter replied 'none whatever' and said 'It's amazing, that at the time, no child came to me. And I mean I was quite friendly ...'<sup>125</sup>
- 117 In relation to his discussion with Sister Woodward, in the unsigned statement dated 20 October 1997, Monsignor Cotter said that he told Sister Woodward that Ryan 'was having problems pertaining to homosexuality', after he received a report from Dr CND,

<sup>119</sup> Exhibit 43-5 (Tab 45) CTJH.210.01025.0297\_R at 0308.

<sup>120</sup> Exhibit 43-5 (Tab 57) CTJH.210.01193.0001 at 0004.

<sup>121</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0375.

<sup>122</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0377.

<sup>123</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0383 – 0384.

<sup>124</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0360.

<sup>125</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0384.

and she suggested Dr Evans.<sup>126</sup> There is no description in that statement, or in the 1997 interview, of Sister Woodward separately approaching Monsignor Cotter to report allegations of sexual abuse of children.

- 118 In the interview with Carroll & O’Dea solicitors in 1999, Monsignor Cotter said that Sister Woodward possibly did speak to him about ‘sexual touching’ but that he had ‘no recollection whatever of oral sex.’ He went on to say that at the time he thought Ryan went to Melbourne ‘for such things as may be touching up or something like that, but as regards oral sex or anal sex, I would have no notion of that ... I only became fully appraised of that when I read it in the paper’.<sup>127</sup>
- 119 In relation to the visit by Dr CND, Monsignor Cotter said in the 1997 interview that the thing he remembered most about the interview was Dr CND’s message ‘Get that priest out of here, straight away.’ Monsignor Cotter was asked whether Dr CND was complaining about his child or others and Monsignor Cotter said ‘I don’t think so, but I’m not sure.’ Monsignor Cotter said he had very little recollection of what Dr CND said, except that the message was to remove Ryan.<sup>128</sup>
- 120 In the unsigned statement in 1997, Monsignor Cotter said he did not recall whether Dr CND gave him any reasons why Ryan should be removed immediately and he did not believe Dr CND had any specific matters to raise.<sup>129</sup>
- 121 In his interview with Carroll & O’Dea in 1999, Monsignor Cotter said that he did not have any recollection of the complaints made by Dr CND about Ryan’s activities.<sup>130</sup>

### **Monsignor Cotter confronts Ryan**

- 122 Following the reports from Dr CND and Sister Woodward, Monsignor Cotter confronted Ryan.
- 123 In a statement to police in May 1996, Ryan said that he had a conversation with Monsignor Cotter in the presbytery, but he only had a ‘vague recollection’ of that time. Ryan said that Monsignor Cotter said to him ‘There’s been an allegation that you’ve interfered with some boys.’ Ryan stated that the name CNC was mentioned and he assumed the allegation was in relation to her son and said ‘I’ve never done anything to [CNC’s son]’. Ryan then said:<sup>131</sup>

*Whether I had said earlier to Monsignor, ‘Yes, there’s truth in that’, I’m not sure about this fact I can’t clearly remember what I said in what order. All I remember then was Monsignor Cotter said, ‘Well you can’t stay in the Parish after doing this.’*

<sup>126</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0084.

<sup>127</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0365 – 0366.

<sup>128</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0377 – 0378.

<sup>129</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0083.

<sup>130</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0363.

<sup>131</sup> Exhibit 43-5 (Tab 51) CCI.0228.00004.0026\_R at 0027 – 0028.

- 124 In his earlier interview by police in October 1995, Ryan said of his departure from Merewether that a boy had made allegations against him. Ryan said that that particular boy was not involved. Ryan said that Monsignor Cotter put the allegation to him that he'd 'interfered with them' (being a reference to altar boys) and that he admitted the allegation to Monsignor Cotter. Ryan said that he could not remember what he said to Monsignor Cotter or any details of the conversation but that afterwards he remembered crying.<sup>132</sup> When asked what Monsignor Cotter's attitude was, Ryan said 'Well, he just said I couldn't ... stay in the parish any longer' and that Monsignor Cotter said Ryan would have to get counselling.<sup>133</sup>
- 125 In an unsigned statement dated August 1998, Ryan said that in late 1975, Monsignor Cotter said to him 'There has been a report that you have been interfering with some of the boys'. Ryan said that he 'admitted then and there that I had been interfering with the boys.'<sup>134</sup> Ryan stated that to his recollection only one name was mentioned to him and he denied touching that boy. He said that Monsignor Cotter did not ask him for any details but told him he had to leave the parish immediately and that treatment would be arranged.<sup>135</sup>
- 126 In his 1997 interview, Monsignor Cotter said that the same day he spoke to Dr CND he confronted Ryan and 'spent a long, long time with him, and dealt with the matter as best I could.' When asked what Ryan's reaction was, Monsignor Cotter said 'His reaction was that he confessed that he needed attention and I got from him permission to do something about it – to get some treatment for him.'<sup>136</sup> The interviewer asked if Ryan gave the Monsignor an indication of the extent of the problem and Monsignor Cotter said 'I don't think so, I don't think so. No. You see, the trouble is I made no effort to remember these things because I thought the situation was rectified.'<sup>137</sup> Later in that interview, when asked about being apprised of the problem, Monsignor Cotter said 'the thought on my mind at that time was the word 'homosexuality' – I had not thought of children.'<sup>138</sup>
- 127 In the unsigned statement dated 20 October 1997, Monsignor Cotter said that he confronted Ryan and asked him whether he had a problem with homosexuality and Ryan said that he did. He said that Ryan needed to get some treatment and he advised Ryan immediately that he was suspended and that he was to leave the parish that next morning.<sup>139</sup>
- 128 Monsignor Cotter was asked in his interview with Carroll & O'Dea in 1999, whether the discussion with Ryan involved the assertion that Ryan was interfering with children. He said 'The thing that came to my mind was that he was homosexual ... Just what exactly might be involved and what expression I gave to it in my conversation with Father

<sup>132</sup> Exhibit 43-5 (Tab 28) CTJH.210.01025.0192\_R\_E at 0199 – 0200.

<sup>133</sup> Exhibit 43-5 (Tab 28) CTJH.210.01025.0192\_R\_E at 0202.

<sup>134</sup> Exhibit 43-5 (Tab 93) CTJH.210.01025.0035\_R.

<sup>135</sup> Exhibit 43-5 (Tab 93) CTJH.210.01025.0035\_R at 0036 – 0037.

<sup>136</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0378.

<sup>137</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0383.

<sup>138</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0383.

<sup>139</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0084.

Ryan, I am not sure.’<sup>140</sup> The interviewer put to Monsignor Cotter that the suspension of Ryan’s faculties seemed a very severe reaction to an admission of homosexuality, but Monsignor Cotter said that was a judgment by today’s standards and that ‘The mentality of the priesthood at that stage, the fact that one of us was homosexual would be in itself I do believe, sufficient to seek treatment.’<sup>141</sup>

### **Monsignor Cotter writes to Dr Evans**

- 129 On 16 December 1975, Monsignor Cotter wrote to Dr Evans, enclosing the referral from Dr CND. In that letter, Monsignor Cotter first referred to the report from a year earlier (as set out above). He said he had said nothing to Ryan about this earlier report and wrote:<sup>142</sup>

*Unfortunately this was a mistake on my part because apparently such a condition does not come right without the help of treatment. The current incident is more serious, involving altar boys and more than one.*

- 130 Monsignor Cotter then wrote:

*Father has left the parish and gone to his parents’ home where he has asked to be permitted to stay until about mid-January. After that he will go to ‘La Verna’ Retreat House under your care, to stay for as long as you might suggest. I shall be grateful to you also for advice as to whether he should take a chaplaincy in Melbourne for a year or so or whether he might attend some tertiary Institute such as the Institute of Catechetics, or a course at a theological Faculty...*

*I think Sister Evelyn has told you the necessary details and there is perhaps no need for me to say more. I hope you will be able to help him with his problem, because I know that if he can be cured he can be a most effective priest.*

*I shall be anxious to hear from you, and be assured of my co-operation in any manner of treatment that you might think necessary.*

- 131 In Ryan’s file taken by police from the Chancery Office,<sup>143</sup> with the letter to Dr Evans there was also a handwritten memo with a list of boys’ names on it, including Scott Hallett and Gerard McDonald and a handwritten note with Dr Evans’ contact details.<sup>144</sup>

### **Discussion with Monsignor Casey and other consultors**

- 132 There is also evidence that the 1975 incidents were reported to Monsignor Vincent Casey, who was one of the Diocesan consultors at the time. He later became the Vicar General of the Diocese.
- 133 In his interview with Carroll & O’Dea in 1999, Monsignor Cotter said that Ryan was the subject of discussion with one of the consultors at the time, but not with the others.

<sup>140</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0364 – 0365.

<sup>141</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0365.

<sup>142</sup> Exhibit 43-5 (Tab 6) CTJH.210.01025.2675\_R.

<sup>143</sup> Exhibit 43-5 (Tab 115) NSW.2094.001.0001.0029\_R.

<sup>144</sup> Exhibit 43-5 (Tab 7) CTJH.210.01025.2673\_R, Exhibit 43-5 (Tab 8) CTJH.210.01025.2674\_R.

He said that he and the other consultor ‘discussed it thoroughly between the two of us.’ He later identified the consultor as Monsignor Vincent Casey.<sup>145</sup>

- 134 Monsignor Cotter also wrote of his discussion with Monsignor Casey in a letter to Bishop Clarke written in June 1996, following media reports on Ryan’s conviction and sentence. Monsignor Cotter said:<sup>146</sup>

*I discussed it only with Mgr Casey and he agreed with what I was doing. The other Consultors were Simms, Flatley, Sylvester and Saunders. I did not fully discuss it at a meeting. I did tell them there was a problem with Vince Ryan and Casey & I had decided to send him to Melbourne for treatment. They were happy with that, and, having spoken to some of them, I find they are still pleased at having heard no more about it then.*

- 135 In an unsigned statement provided by Monsignor Casey in July 1999, he said that he recalled a conversation with Monsignor Cotter in which Monsignor Cotter told him ‘that there had been some trouble with Father Vincent Ryan’ and that Ryan had been sent to see a specialist in Melbourne. Monsignor Casey said ‘My recollection is that Monsignor Cotter told me that there has been some trouble with the altar boys although I do not recall whether or not Monsignor Cotter told me details of what the trouble was.’ He could not recall whether he had any other conversations with Monsignor Cotter about Ryan after that time.<sup>147</sup>

- 136 Monsignor Casey said that he received no reports about Ryan and Bishop Clarke did not discuss the problem regarding Ryan with him during the time he was Vicar General. He said that while he was a consultor, there was never any discussion of any ‘perceived impediment’ in relation to Ryan being moved or placed in a particular parish.<sup>148</sup>

### **Counselling and support for the students abused by Ryan**

- 137 Sister Woodward gave evidence that she suggested to Monsignor Cotter that counselling should be offered to the children and she said she thought he agreed. She said that she did not know whether counselling was offered. When asked if anyone approached her for counselling she said ‘Nobody, not one.’<sup>149</sup>
- 138 Sister Woodward was asked whether she ever discussed the provision of counselling with Sister Geatches and she said ‘No clear memory but I expect that I did.’<sup>150</sup>
- 139 Sister Geatches said that there was no counselling available to assist the children at the time and that in hindsight she should have made that available to the affected children and parents.<sup>151</sup> She said:<sup>152</sup>

<sup>145</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359\_R at 0369 and 0373.

<sup>146</sup> Exhibit 43-5 (Tab 57) CTJH.210.01193.0001 at 0003.

<sup>147</sup> Exhibit 43-5 (Tab 97) CCI.0228.00005.0063.

<sup>148</sup> Exhibit 43-5 (Tab 97) CCI.0228.00005.0063.

<sup>149</sup> Woodward T17657: 29 – T17658: 8 (Day 165).

<sup>150</sup> Woodward T17658: 29 – 33 (Day 165).

<sup>151</sup> Geatches T17623: 21 – T17624: 2 (Day 165).

*Looking back, I regret that I did not take any further action in relation to the children in the school. I did not think about getting counselling for the children who were involved, or talking further with the parents about what had occurred. I would do both those things today.*

- 140 Sister Geatches said she was not aware that Sister Woodward had suggested to Monsignor Cotter that counselling should be arranged for the children. Sister Geatches said she thought Sister Woodward was more involved with secondary schools.<sup>153</sup>
- 141 In 1976, Sister Geatches was transferred to Muswellbrook and Sister Ursula Kauter became the principal at St Joseph's School. In that year, a number of the altar boys who had been abused by Ryan in 1975 were still at the school, in grade 6.
- 142 In a statement to police, Sister Kauter said she was not made aware of the issue before she became principal. She said that Monsignor Cotter (who was Vicar Capitular when Sister Kauter became principal) never discussed the matter with her.<sup>154</sup>
- 143 Sister Geatches gave evidence that she never discussed the matter with Sister Kauter and there was no handover process. She said this was because the appointment was unusual and occurred only four days before the start of the new school term and 'there was very little time to do any communicating about matters like that.'<sup>155</sup>

### **Reporting to police**

- 144 Sister Geatches gave evidence that there was never any discussion with anyone within the school or the congregation about reporting the matter to police at the time.<sup>156</sup>
- 145 Sister Geatches was asked whether she appreciated in 1975 that Ryan's behaviour was a crime and she said 'No, I actually didn't think of it as a crime' but that now she would describe it as a crime. When asked why she did not think of it as a crime at the time, Sister Geatches said 'It was a different era. There wasn't – there hadn't been anything like this before.'<sup>157</sup> Sister Geatches said, however, she would have viewed a sexual assault of a young girl as a crime at the time. When asked why she did not view sexual assault of a boy as a crime, she said 'I just think that we weren't informed enough to be able to make those decisions at the time.' She agreed that Ryan should have been reported to police and the matters dealt with by the criminal law. As to why that did not occur, Sister Geatches said 'Because I really didn't know how to deal with the event that had occurred.'<sup>158</sup>
- 146 Sister Geatches said of the incident:<sup>159</sup>

<sup>152</sup> Exhibit 43-3 Statement of Sister Geatches STAT.1161.001.0001\_R [34].

<sup>153</sup> Geatches T17623: 21 – T17624: 2 (Day 165).

<sup>154</sup> Exhibit 43-5 (Tab 89.1) CCI.0228.00005.0401\_R at 0404 and 0405.

<sup>155</sup> Geatches T17622: 47 – T17623: 16 (Day 165).

<sup>156</sup> Geatches T17620: 22 – 26 (Day 165).

<sup>157</sup> Geatches T17631: 22 – 32 (Day 165).

<sup>158</sup> Geatches T17631: 34 – T17632: 9 (Day 165).

<sup>159</sup> Exhibit 43-3 Statement of Sister Geatches STAT.1161.001.0001\_R [26].

*Looking back on it now, I am very conscious that there was nothing in place at that time to provide me with any guidance about what I should do in those circumstances. Today I would be much better equipped to respond, and I would take any such report to the police as well as to Church authorities.*

147 Sister Woodward gave evidence that she did not think of reporting the matter to police in 1975. She said that she thought then that her responsibility was to report the issue to the most senior Church official in the Diocese. She said ‘In those days it would have been unthinkable for a nun to go around the Bishop. The status of women in the church then would not have contemplated that happening.’<sup>160</sup> Sister Woodward said that, looking back, she regretted that she did not do more and that if she received similar complaints today she would notify both the police and the church authorities.<sup>161</sup>

148 It was put to Sister Woodward that in circumstances where Monsignor Cotter was seeking her advice and she recommended referring Ryan to Dr Evans she could have equally suggested going to the police. She said ‘I suppose I could, yes’ but that it did not occur to her to do so.<sup>162</sup>

149 When asked whether she understood what Ryan was doing was a crime, Sister Woodward said ‘I don’t think I thought like that at the time.’ She said she would ‘probably’ have thought it a crime if it were a man doing the same things to a girl.<sup>163</sup> Later in her evidence, Sister Woodward said she had only one thought in her mind when this was reported to her and that was to get Ryan away from the children. Sister Woodward was asked whether she thought Ryan needed to be dealt with by the criminal justice system and she said:<sup>164</sup>

*I don’t think I thought like that. I kept asking what must we do and there was no precedent, so I had nothing that I could go back to; so the answer is probably no.*

150 In a letter to Bishop Clarke written in June 1996, following media reports on Ryan’s conviction and sentence, Monsignor Cotter said:<sup>165</sup>

*I have been told the parents of the ‘victims’ are angry with me because I did not report what was going on. Well I didn’t report it because I had no firm evidence. Only one parent came to me and all he had to say was that Fr Ryan should be moved from Merewether parish. I had no further evidence apart from rumours. Then I confronted Vince and he did admit he had a problem and that made me decide to send him for treatment.*

151 Monsignor Cotter went on to say:<sup>166</sup>

<sup>160</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [45].

<sup>161</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [46].

<sup>162</sup> Woodward T17659: 25 – 36 (Day 165).

<sup>163</sup> Woodward T17650: 3 – 12 (Day 165).

<sup>164</sup> Woodward T17653: 10 – 26 (Day 165).

<sup>165</sup> Exhibit 43-5 (Tab 57) CTJH.210.01193.0001.

<sup>166</sup> Exhibit 43-5 (Tab 57) CTJH.210.01193.0001 at 0002 – 0003.

*I ask myself whether, even if I had direct evidence, would I have reported to the police. Probably not. In the context and circumstances of today – yes; of twenty years ago probably no, I think I would have tried to keep it in-house.*

### **Advice of DPP as to knowledge of Monsignor Cotter in 1975**

152 When charges were brought against Ryan in the mid-1990s, NSW Police prepared a brief of evidence in relation to Monsignor Cotter's knowledge of the events of 1975, which was sent to the DPP for advice as to whether to press charges for concealment of those offences.<sup>167</sup> In that advice, in 1996, the conclusion was that there was insufficient evidence of the requisite knowledge to prosecute Monsignor Cotter. However, the evidence before the Royal Commission as to Monsignor Cotter's knowledge (including his interviews in 1997 and 1999) is greater than was available was to police in 1996. It is possible that with the benefit of the evidence now obtained different advice may have been given.

## **2.3 The Diocesan response to the 1975 allegations**

### **Knowledge of the Diocese**

153 It is submitted that Monsignor Cotter was made aware in December 1975 of serious allegations of sexual assault by Ryan against altar boys from St Joseph's School. Sister Woodward's evidence was that she described to him the incidents known to her, which included masturbation and oral sex.

154 There was no suggestion in the evidence of Sister Geatches or Sister Woodward that the children were not believed. Although there were discrepancies in the accounts of Sister Geatches and Sister Woodward as to what, exactly, was disclosed they both understood the conduct to be serious. Further, the evidence of Sister Woodward, and the accounts of Ryan, support the conclusion that Monsignor Cotter confronted Ryan and he admitted to sexually 'interfering' with altar boys.

155 Notwithstanding the multiple accounts of reports of serious allegations to him directly, in the records of interview of Monsignor Cotter, he professed to have little or no recollection of those events and the substance of the complaints. Given the gravity of the matters, his claimed lack of recollection defies belief. Monsignor Cotter's records of interview are generally unspecific, unclear or evasive. Monsignor Cotter sought to minimise the gravity of the conduct reported to him and to present the information provided to him as having been vague or inconclusive in circumstances where that was not the case.

156 The statements attributed to Monsignor Cotter that the allegations were of homosexual rather than paedophilic conduct are impossible to reconcile with the evidence of witnesses before the Royal Commission and the documents which indicate that the reports made to Monsignor Cotter were about sexual interference of children. Monsignor Cotter's contemporaneous letter to Dr Evans refers expressly to 'altar

<sup>167</sup> Exhibit 43-5 (Tab 114) NSW.2094.001.0001.0005\_R.

boys', that is, children. He also knew, as set out in the letter, that there were multiple boys involved.

- 157 Monsignor Casey, another senior priest in the Diocese, knew that there had been 'trouble' with Ryan and altar boys and that Ryan had been referred to a specialist as a result. While Monsignor Casey could not recall if he knew the substance of the allegations, Monsignor Cotter said it was discussed in detail. It is submitted that it is likely that Monsignor Casey knew that allegations had been made against Ryan of sexually interfering with altar boys.
- 158 Monsignor Cotter, who was at the time the acting head of the Diocese, did not take appropriate or adequate steps to respond to these serious allegations, which were plainly credible and which Ryan admitted. No official reprimand or sanction was put in place and the allegations were not properly documented and recorded in the Diocese's files. The only step taken was to refer Ryan to Dr Evans and remove him from the parish. That was completely inadequate. The decision to send Ryan for treatment in Melbourne was one of convenience only, which was to remove Ryan from the parish and the area where his continued residence was likely to cause a scandal for the Church.

#### **Failure to recognise the criminality of conduct**

- 159 There was a failure, on the part of those informed of the allegations, to recognise the conduct as criminal and that the matters ought to have been dealt with by police. Monsignor Cotter's admission in his letter to Bishop Clarke in 1997 was that he would have preferred to deal with matters 'in-house' rather than report them to police. That was wrong. The allegations should have been referred to the police, and not doing so was an abject failure to act in the best interests of the children of St Joseph's School and the Diocese.
- 160 No counselling or support was provided to those students who had been abused. This compounded the failure to act in the best interests of the children at St Joseph's School.
- 161 The response plainly demonstrates an attitude that favoured protecting the Church and the perpetrator (Ryan) over the welfare of the children of the parish. It was an opportunity to bring an end to Ryan preying sexually on children within the Church. Missing that opportunity had devastating consequences for those children Ryan went on to abuse in the future.

## **Part 3 Referral to Dr Evans, Melbourne**

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### **3.1 The referral**

- 162 In December 1975, Dr Evans was the director of the Franciscan Retreat House, 'La Verna', in Kew, Melbourne. At that time he was a member of the Order of Friars Minor (commonly known as the Franciscans) and an ordained priest. He gave evidence that towards the end of 1975 he decided to leave the priesthood and the Franciscan

religious order. He commenced the process of laicisation at the end of 1975 and in early 1976.<sup>168</sup> He gave evidence that he had not made any public announcement of that fact and his policy, if anyone inquired, was to say that he would not be stationed at La Verna after the end of the year.<sup>169</sup>

- 163 On 12 December 1975, Dr CND wrote a referral for Ryan to see Dr Evans. Dr CND wrote that Ryan was the parish curate who had a ‘problem’ that he believed Dr Evans would be asked to try to resolve. No further detail of the problem is set out in the referral letter.<sup>170</sup>
- 164 On 16 December 1975, Monsignor Cotter wrote the letter to Dr Evans, enclosing the referral from Dr CND.<sup>171</sup>
- 165 On 2 January 1976, Dr Evans replied to Monsignor Cotter’s letter to say that Ryan would be expected at La Verna in January and the length of his stay and postgraduate studies would be discussed with him upon his arrival.<sup>172</sup>
- 166 In an interview by police in January 1996, Monsignor Cotter said that he did not recall ever having a conversation with Dr Evans about Ryan.<sup>173</sup> Monsignor Cotter said that he had no recollection of the letter to Dr Evans and when asked if it was possible he wrote the letter he said ‘Evidently. My name is to it. Is it possible? I suppose.’<sup>174</sup>
- 167 Dr Evans gave evidence that he could not now recall receiving the letter from Monsignor Cotter, or his response to it, but he accepted that he did receive it and said that the letter’s contents reflected his understanding of what the allegation was at the time.<sup>175</sup>
- 168 Dr Evans stated that he never spoke to Monsignor Cotter about Ryan’s referral.<sup>176</sup>
- 169 The referring doctor, Dr CND, was a medical colleague of Dr Evans, who was well-known to him from his time as a student and young practitioner. Dr Evans said, however, that apart from the referral letter, he did not have any correspondence with Dr CND in relation to Ryan. Dr Evans said that he did not discuss with Dr CND the ‘problem’ for which Ryan was referred, either at the time or later.<sup>177</sup> Dr Evans said the reference to a ‘problem’ was ‘doctor talk’ and that ‘doctors are never specific to me when they refer to priests, ever.’ He agreed the language used in relation to priests was more euphemistic than that in relation to referrals of lay people.<sup>178</sup>

<sup>168</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [7] – [8].

<sup>169</sup> Evans T17781: 21 – 25 (Day 167).

<sup>170</sup> Exhibit 43-5 (Tab 5) CTJH.210.01025.0457\_R.

<sup>171</sup> Exhibit 43-5 (Tab 6) CTJH.210.01025.2675\_R.

<sup>172</sup> Exhibit 43-5 (Tab 9) CCI.265.00008.0179\_R.

<sup>173</sup> Exhibit 43-5 (Tab 45) CTJH.210.01025.0297\_R at 0307.

<sup>174</sup> Exhibit 43-5 (Tab 45) CTJH.210.01025.0297\_R at 0308.

<sup>175</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [14].

<sup>176</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [15].

<sup>177</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [12] – [13].

<sup>178</sup> Evans T17785: 4 – 18 (Day 167).

### Evidence of Sister Woodward

- 170 Sister Woodward said that she contacted Father Peter Cantwell, another Friar at La Verna and told him to let Dr Evans know that Monsignor Cotter would be contacting him. She said she did not ever speak to Dr Evans directly.<sup>179</sup>
- 171 Sister Woodward said that she told Father Cantwell ‘the story’ and Father Cantwell said he was sure Dr Evans would welcome Ryan to the community, which had no links to children. When asked if she told Father Cantwell the details of the abuse that had been reported to her she said ‘Yes.’<sup>180</sup>
- 172 Sister Woodward was asked whether she recalled conveying to Dr Evans either directly or through Father Cantwell that the allegation concerned adolescent boys and she said she would not have used the word ‘adolescent’. She said she would not describe primary school boys as adolescents.<sup>181</sup>
- 173 Dr Evans’ recollection that he spoke to Sister Woodward was put to her and she said it was her recollection that she spoke to Father Cantwell, not Dr Evans. She then said ‘my memory is a bit flawed. So I’m not sure. It’s quite possible that I spoke to him, but I – I’ve always thought that I didn’t speak to him at all; that Peter Cantwell acted as a conduit.’<sup>182</sup>
- 174 Sister Woodward said that Monsignor Cotter told her that he had phoned Dr Evans and asked if he could send Ryan and Dr Evans agreed.<sup>183</sup>
- 175 Sister Woodward was asked about the passage in Monsignor Cotter’s letter to Dr Evans which refers to Sister Woodward having told Dr Evans the ‘necessary details’. She said she never gave a clear undertaking to pass the details on to Dr Evans and it was news to her that Monsignor Cotter thought she did so.<sup>184</sup>

### Evidence of Dr Evans

- 176 Dr Evans’ evidence was that he did speak directly to Sister Woodward. He said that in December 1975 he received a phone call from Sister Woodward. He said it was not a long conversation but that Sister Woodward asked whether he would be willing to see Ryan, because he had ‘been involved sexually with adolescent boys.’ Dr Evans said that Sister Woodward did not go into detail about what the allegation was but he knew it had come to her attention and to the attention of Monsignor Cotter and Dr CND. He said he understood from the conversation with Sister Woodward that the allegation was in relation to altar boys from the parish, and that there was more than one boy involved, although he did not know how many were involved.<sup>185</sup>

<sup>179</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [22].

<sup>180</sup> Woodward T17656: 10 – 26 (Day 165).

<sup>181</sup> Woodward T17694: 33 – 42 (Day 166).

<sup>182</sup> Woodward T17694: 11 – 24 (Day 166).

<sup>183</sup> Woodward T17655: 12 – 18 (Day 165).

<sup>184</sup> Woodward T17657: 10 – 27 (Day 165).

<sup>185</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [9] – [10].

- 177 Dr Evans said that he could not recall whether the word used in the conversation was adolescent boys or altar boys, but that altar boys would largely be adolescent boys. He was asked whether he would consider primary-school boys as adolescents and he said ‘No, depending what age. I’d consider them to be adolescents if they’d reached puberty.’ He agreed it would be unlikely that 10 or 11 year olds would be adolescents, he said ‘they would be children.’<sup>186</sup> Dr Evans said it was his understanding that altar boys were generally 13 – 15 and could be older.<sup>187</sup> He said that he did not recall the word ‘children’ was used in his conversation with Sister Woodward.<sup>188</sup>
- 178 Dr Evans said he was reluctant to see Ryan as he was preparing to leave La Verna, so he agreed to see him on a ‘for assessment’ basis only. He said he would not have told Sister Woodward that he was about to leave the priesthood and religious life and he did not know what Sister Woodward’s expectations would have been of his assessment of Ryan. He said in his statement that would have just said ‘I’ll make an assessment.’ In his oral evidence, however, he said he could not recall if he used the word ‘assessment’.<sup>189</sup> He said an assessment would ordinarily involve making a diagnosis and a proposal for management. He said that he did not explain or specifically address the distinction between ‘assessment’ and ‘treatment’ to Sister Woodward.<sup>190</sup>
- 179 Dr Evans was asked whether he recalled discussing the referral with Father Cantwell and he said ‘I don’t remember any great discussion with him. He may have mentioned the name Sister Woodward, but it was Sister Woodward that I spoke to on the telephone.’<sup>191</sup> In relation to Sister Woodward’s evidence regarding Father Cantwell, Dr Evans said:<sup>192</sup>

*I don’t recollect Peter Cantwell being an intermediary. I don’t know why that would be the case. I was Superior of the house; there’s no reason why she wouldn’t speak to me, if I was to provide the service.*

- 180 When asked if he had a clear recollection of his conversation with Sister Woodward, Dr Evans said ‘Yes ... I’d forgotten the name but it came back to me in a flash when I saw the letter from Monsignor Cotter, which also comments on the fact that Sister Woodward had already spoken to me.’<sup>193</sup>
- 181 It is submitted that the evidence as to whether there was a direct conversation between Sister Woodward and Dr Evans is inconclusive. As Sister Woodward accepted in her evidence, it is possible that the conversation occurred but Sister Woodward has forgotten. Ultimately, little turns on the point. It is clear from the evidence that, whether by way of a direct conversation between Sister Woodward and Dr Evans or

<sup>186</sup> Evans T17783: 32 – T17784: 1 (Day 167).

<sup>187</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [10].

<sup>188</sup> Evans T17792: 21 – 2 (Day 167).

<sup>189</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [10] – [11], T17782 32 – 34 (Day 167).

<sup>190</sup> Evans T17782: 23 – 30 (Day 167).

<sup>191</sup> Evans T17783: 4 – 8 (Day 167).

<sup>192</sup> Evans T17783: 15 – 18 (Day 167).

<sup>193</sup> Evans T17783: 20 – 26 (Day 167).

through a combination of other communications, the referral occurred and some level of detail about the offending was conveyed to Father Evans.

## 3.2 Assessment by Dr Evans

### The consultation

182 Dr Evans only saw Ryan once, in late January or early February 1976. Dr Evans said he conducted a standard psychiatric interview. He observed that Ryan was highly intelligent, well-dressed and affable. He said that Ryan's history revealed a range of psychosomatic symptoms but that he assessed there was no evidence of major depressive illness present.<sup>194</sup>

183 Dr Evans took notes of that consultation, and he read out a portion of those notes in his evidence as follows:<sup>195</sup>

*Presents: Sexual attraction to boys in or from adolescence precipitated by the reporting of the events ...*

184 During the consultation, Dr Evans said that Ryan admitted that he had a sexual attraction to and had had sexual contact with adolescent boys, but did not go into detail about what he had done. The interview was described by Dr Evans as 'non-directive' and Dr Evans did not ask Ryan about the detail of what had happened.<sup>196</sup>

185 Dr Evans said that he ascertained from Ryan that he was sexually attracted to adolescent boys, being 'those boys who had reached puberty and were capable of some sort of sexual activity themselves.'<sup>197</sup> Dr Evans agreed, however, that it was self-evident that the acts described by Ryan were criminal. He said 'They were under the age of 18. I would have thought that that's sexual abuse of a child, of an adolescent, anyway.' When asked if that was evident to him at the time he said 'Oh, yes, yes.'<sup>198</sup>

186 Dr Evans' notes of his assessment of Ryan provide:<sup>199</sup>

*Assessment: Not depressed but feels worried. He had a personality disorder, in my opinion, with immature features both emotionally and sexually.*

187 In his evidence, Dr Evans said that he judged Ryan 'to be an immature but insightful personality exploring his homosexual orientation.' Dr Evans said 'I did not assess him to be a hard-core paedophile at that time but a homosexual seizing opportunities to act out his immature homosexuality with adolescent boys.'

188 In a statement to police in May 1996, Ryan said all he remembered of his consultation with Dr Evans 'was feeling upset about discussing the incidents from 1975. I remember

<sup>194</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [20].

<sup>195</sup> Exhibit 43-5 (Tab 13) CTJH.210.01025.0455\_R and CTJH.210.01025.0456\_R

<sup>196</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [22].

<sup>197</sup> Evans T17792: 25 – 29 (Day 167).

<sup>198</sup> Evans T17792: 36 – 46, Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [23].

<sup>199</sup> Exhibit 43-5 (Tab 13) CTJH.210.01025.0456\_R.

Doctor EVANS consoling me and telling me, ‘Your [*sic*] not the only one to have done something like this.’<sup>200</sup>

### Treatment options

189 Dr Evans’ evidence was that he told Ryan it was unrealistic for him to seek treatment in Melbourne, where he was unknown and away from his supports. He said he recommended that Ryan see a therapist in his local area and that he take the matter up with his referring General Practitioner.<sup>201</sup>

190 The notes of Dr Evans’ assessment of Ryan provide:<sup>202</sup>

*Therapy more appropriate in Maitland area. Not accepted for therapy here. I’ll be finishing practice here next week – U.K. Patient responsibility for own treatment. Essential for this personality disorder.*

191 Dr Evans said he would not have undertaken to write or provide a report in relation to Ryan to Dr CND and did not arrange for Ryan to see anyone else. He said that would be a matter for Ryan’s referring doctor and that specialist-to-specialist referrals were contrary to best practice.<sup>203</sup> Dr Evans said that he was treating the consultation as confidential, as he would ordinarily, and he did not convey to anyone in the Diocese his views about Ryan. He said ‘Father Ryan undertook to take that responsibility himself.’<sup>204</sup> When asked whether this obligation was something that he discussed with Ryan specifically, he said he would have told Ryan the importance of him taking responsibility for his own treatment, as a component of effective therapy.<sup>205</sup>

192 Dr Evans agreed that it was fair to say from Monsignor Cotter’s letter to him that Monsignor Cotter was passing Ryan over to him to deal with the problem as Dr Evans saw fit.<sup>206</sup> It was put to Dr Evans that it is clear from Monsignor Cotter’s letter that Monsignor Cotter had an expectation that Ryan would receive treatment and that the treatment could lead to Ryan being cured. Dr Evans said:<sup>207</sup>

*Well, that’s what he implied in the letter, but that was without any consultation with me and before I’d even seen the patient. And I would – I mean, I wouldn’t accept a letter which virtually prescribes the treatment to be given. I was a professional person and I make the decisions about treatment.*

193 Dr Evans said that Monsignor Cotter misunderstood the role of La Verna and Dr Evans’ role. He agreed with the proposition that Monsignor Cotter’s expectations were unrealistic, but said he never spoke to Monsignor Cotter or anyone else within the Diocese to say that their expectations of what could be achieved were unrealistic.<sup>208</sup>

<sup>200</sup> Exhibit 43-5 (Tab 51) CCI.0228.00004.0026\_R at 0028.

<sup>201</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [25], [30].

<sup>202</sup> Exhibit 43-5 (Tab 13) CTJH.210.01025.0455\_R and CTJH.210.01025.0456\_R.

<sup>203</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [18], [30].

<sup>204</sup> Evans T17793: 1 – 17 (Day 167).

<sup>205</sup> Evans T17793: 19 – 26 (Day 167).

<sup>206</sup> Evans T17786: 41 – 47 (Day 167).

<sup>207</sup> Evans T17787: 16 – 25 (Day 167).

<sup>208</sup> Evans T17787: 27 – 45 (Day 167).

- 194 In relation to Dr Evans' reply letter to Monsignor Cotter, which stated that Dr Evans would discuss the length of Ryan's stay at La Verna and the possibility of post graduate studies, Dr Evans said that the letter 'was saying that I would discuss the issues with him, not saying that I would recommend those issues or that they would happen.'<sup>209</sup>
- 195 Dr Evans accepted that he understood from Monsignor Cotter's request that one of the issues to be discussed with Ryan was whether he might undertake studies in Melbourne but he said Monsignor Cotter was imposing what would happen on Dr Evans and 'that was not going to happen.'<sup>210</sup>
- 196 As regards the National Pastoral Institute (**NPI**), Dr Evans said that it was not a psychotherapeutic institution. He said 'I do not recall discussing with Fr RYAN that he should attend the N.P.I. I would have discussed with Fr RYAN that the option of him doing a course in Melbourne was inappropriate. It would not have been good therapy.' In Dr Evans' opinion, it would have been inadvisable to send someone with a psychological problem to an institution such as the NPI where they would be separated from their normal supports and those who were aware of the problem and could act as a constraint.<sup>211</sup>
- 197 Dr Evans also said it was not part of the arrangement that Ryan would stay at La Verna. He said 'La Verna was a house of spirituality, it was not a treatment centre, so ... I would have no-one staying there for treatment over a long period of time.'<sup>212</sup> (When he was interviewed by police in October 1995, Ryan said that he spent 1976 living at Kew with the Franciscans.<sup>213</sup>)
- 198 Shortly after his arrival at La Verna, Ryan wrote to Monsignor Cotter. Ryan wrote that:<sup>214</sup>
- When I first spoke to Peter Evans, just at the table, he seemed to favour my doing something in theology at one of the theology faculties. However, yesterday we had the first real session and after that he said that the Pastoral Institute is obviously the place for me since ... it's [sic] purpose is more the spirit of things and is community based. He went then immediately to ring the institute.*
- 199 Monsignor Cotter responded on 28 January 1976 to say 'I accept completely the advice of Fr. Peter Evans re the Pastoral institute...' He also wrote 'While you are away from the Diocese you will I hope have a most thorough health check and subsequent programme of treatment according as may be necessary. Please make the most of the opportunity. You seem to have taken kindly to Fr. Peter Evans and this is really great.' He signed off 'Give my kind regards and thanks to Fr. Evans and please keep me informed of progress.'<sup>215</sup>

<sup>209</sup> Evans T17788: 16 – 19 (Day 167).

<sup>210</sup> Evans T17788: 21 – 31 (Day 167).

<sup>211</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [27] – [28].

<sup>212</sup> Evans T17786: 21 – 29 (Day 167).

<sup>213</sup> Exhibit 43-5 (Tab 28) CTJH.210.01025.0192\_R\_E at 0210.

<sup>214</sup> Exhibit 43-5 (Tab 10) CTJH.210.01025.0349\_R.

<sup>215</sup> Exhibit 43-5 (Tab 12) CTJH.210.01025.2668\_R.

200 Dr Evans was shown the letter by Monsignor Cotter in 1997 in which he said ‘the Specialist allowed him back without any advice or warning so we thought he was cured. Now we know different.’<sup>216</sup> It was put to Dr Evans that it suggests that Monsignor Cotter thought that silence from Dr Evans was relied on by Monsignor Cotter to conclude that Ryan was cured. He said ‘Well that was an assumption of his, not mine, and again it simply underscores the fact that Vince Ryan did not communicate.’<sup>217</sup> He said:<sup>218</sup>

*I had no obligation to communicate with Monsignor Cotter. If Monsignor Cotter wanted to do that he could have contacted me and I would have insisted on a joint interview with Monsignor Cotter and Vincent Ryan, all face to face.*

201 When asked whether, looking back, Dr Evans thought there was an opportunity to correct the misunderstanding on Monsignor Cotter’s part of what he expected of Dr Evans, he said ‘No, I relied on Vincent Ryan to communicate that. That may have been misplaced but it was, on the evidence I had available, a reasonable assumption.’<sup>219</sup>

202 Dr Evans said that from what he had learned subsequently, Ryan was not honest with him or with Ryan’s superiors, but that at the time he drew the conclusion that Ryan was honest. He said this was based on his personality, intelligence and appearance of being honest with Dr Evans and wanting to do something about the issue.<sup>220</sup>

### 3.3 Reports sought by Monsignor Cotter

203 In an unsigned statement dated 20 October 1997, Monsignor Cotter said ‘I thought at the time by removing him immediately I got the report from Dr CND and sending him to a professional for assessment and treatment, that I was doing the right thing.’<sup>221</sup> He said ‘In 1975 it was my view that the homosexuality problem that Vince told me that he had was a moral problem. I thought that by receiving treatment from a professional he would be able to cope with that problem.’<sup>222</sup>

204 In the 1997 interview, Monsignor Cotter was asked whether he sought reports on a regular basis when Ryan was in Melbourne and he said:<sup>223</sup>

*Well, I, I (cough) I don't think I did, but I, well, as far as I know he had examination and treatment ... what I should have done is insisted with the doctor, but I insisted to Father Ryan that he get treatment, even found a place for him to board -live, at the IPA, and er my impression was that he was going for regular counselling with Dr. Evans. I found out later that that was not so, but ... then he came back to us, he came back to us afterwards, we had no advice or instructions from the doctor*

<sup>216</sup> Exhibit 43-5 (Tab 84).

<sup>217</sup> Evans T17794: 30 – 37 (Day 167).

<sup>218</sup> Evans T17795: 6 – 9 (Day 167).

<sup>219</sup> Evans T17794: 12 – 21 (Day 167).

<sup>220</sup> Evans T17794: 25 – 38 (Day 167).

<sup>221</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0086.

<sup>222</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0086.

<sup>223</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0378 – 0379.

*as to what, subsequent to then, or anything like that, it was not mentioned, so we thought he was cured.*

- 205 When asked whether Ryan told Monsignor Cotter he was following a particular program or getting treatment, Monsignor Cotter said:<sup>224</sup>

*Not progressively. At the beginning, I do recall a stage at which he said he had at that time only one session, and I told to him to see to it and get more sessions with ongoing treatment, and I have no recollection of what happened after that.*

- 206 In the unsigned statement in 1997, Monsignor Cotter said that he spoke to Ryan once in 1976 on the telephone and that his distinct impression was that Ryan was having ongoing counselling in Melbourne. Monsignor Cotter said it was a 'great surprise' when he found out in 1996 that Ryan had only had one session and said 'that was not the impression I was given by Vince.'<sup>225</sup> Monsignor Cotter also said that he relied on the fact that Ryan had been sent to a professional and said that since Dr Evans received a letter from him requesting that Ryan be assessed and treated he thought that Dr Evans would report back had there been any problem. He said:<sup>226</sup>

*As there was no report, either oral or in writing, and I had been under the impression that Vince had been receiving treatment, I assumed that the treatment had been of benefit to him.*

- 207 In his interview with Carroll & O'Dea in 1999, Monsignor Cotter said that Ryan told him he was getting ongoing counselling and that he impressed on Ryan the need for that.<sup>227</sup>

- 208 In a letter to Bishop Clarke written in June 1996, following media reports on Ryan's conviction and sentence, Monsignor Cotter said that he did not know until he read it in the paper that week that Ryan only attended one session with Dr Evans. Monsignor Cotter said 'I have been told that Dr Evans gave him the names of other psychiatrists (at least two) whom he should go to. But he did nothing about it. In that he let me down.'<sup>228</sup>

- 209 In a handwritten letter from Monsignor Cotter to Bishop Clarke in October 1997, he said 'the specialist allowed him back without any advice or warning so we thought he was cured. Now we know different.'<sup>229</sup> In his evidence, Dr Evans said that he never advised anyone that Ryan was suitable to return to a parish appointment.<sup>230</sup>

- 210 Ryan said that he recalled conversing with Monsignor Cotter during 1976, he thought once in person, once on the phone and once in writing. He stated that Monsignor

<sup>224</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0379.

<sup>225</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0084.

<sup>226</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0085.

<sup>227</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0366.

<sup>228</sup> Exhibit 43-5 (Tab 57) CTJH.210.01193.0001 at 0002.

<sup>229</sup> Exhibit 43-5 (Tab 84) CTJH.210.01162.1000.

<sup>230</sup> Exhibit 43-10 Statement of Dr Evans STAT.1170.001.0001\_R [7] – [8].

Cotter once inquired how he was going and he said things were fine and he was okay.<sup>231</sup>

### 3.4 Conversations between Sister Woodward and Father Cantwell

211 Sister Woodward gave evidence that she heard from Father Peter Cantwell that Ryan had enrolled at the NPI. She said she spoke to Father Cantwell 'A couple of times. Not often.' Sister Woodward was asked whether Father Cantwell provided a report about Ryan and his treatment in those conversations and she said 'No, it was more casual than that.' She said there would be statements to the effect that he was fitting in well and enjoying the NPI and that 'There wasn't much mention of treatment.'<sup>232</sup>

212 Later in her evidence, Sister Woodward was asked about the timing of these conversations with Father Cantwell and she said they would have occurred 'somewhere around' 1976. She said she did not have any conversations with Father Cantwell about Ryan after Ryan returned to the Diocese.<sup>233</sup>

213 Sister Woodward gave evidence that Father Cantwell told her that he 'knew of only one treatment process' between Dr Evans and Ryan. She said she was 'appalled' by this. She was asked whether, as a psychologist, she would have known that such a condition (even if curable) was not going to be treated in one session and she said 'Absolutely.'<sup>234</sup>

214 That evidence does not sit easily with her statement to the Royal Commission, in which Sister Woodward said that after Ryan's return she assumed he had been treated and cured. She said in the statement 'I now know both from my own experience and from the growing social awareness of these issues, that my assumption ... was quite wrong.'<sup>235</sup>

215 Sister Woodward was asked why she thought Ryan had been cured if she knew by this time that he had had only one session with Dr Evans and she said 'Well, I don't know the date of this, so I don't know which came first out of those two things.'<sup>236</sup>

216 Sister Woodward's statement to the Royal Commission does not address the fact that she became aware that there had only been one session with Ryan, or her conversations with Father Cantwell. She was asked to explain the sequence and when she assumed that Ryan had been treated and, consequently, cured and she said 'I can't be sure about that. I knew that the report from Peter Cantwell suggested that there had been only one treatment session. For all I know, there could have been others, but I think not ...'<sup>237</sup>

<sup>231</sup> Exhibit 43-5 (Tab 93) CTJH.210.01025.0035\_R at 0036.

<sup>232</sup> Woodward T17662: 38 – T17663: 7 (Day 165).

<sup>233</sup> Woodward T17681: 29 – 40 (Day 166).

<sup>234</sup> Woodward T17663: 21 – 25 (Day 165).

<sup>235</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [28].

<sup>236</sup> Woodward T17665: 19 – 23 (Day 165).

<sup>237</sup> Woodward T17665: 25 – 25 (Day 165).

- 217 Sister Woodward also gave evidence that she heard from somebody, but could not recall whom, in around 1976 that Dr Evans had suggested that Ryan get treatment closer to home. She said that she was not aware of any arrangements in place for Ryan to receive treatment when he returned from Melbourne.<sup>238</sup>
- 218 Sister Woodward agreed that by the time Ryan returned to Newcastle parish in 1976 her understanding was that he had only had one session with Dr Evans but said 'I had no evidence either way' as to whether Ryan was cured at that point. She said 'If he had been abusing children straightaway when he got back, I'd have known that the whole thing was a failure, but there was a period when I knew he was working in that parish and I didn't hear any murmur of anything negative.'<sup>239</sup>
- 219 It is submitted that Sister Woodward's oral evidence to the effect that she learned through Peter Cantwell that Ryan had only had one session with Dr Evans should be accepted. This evidence does not sit easily with her statement, which says she thought Ryan to be cured when he returned to the Diocese. However, when questioned by Counsel Assisting, Sister Woodward appeared to have a quite specific recollection of receiving this information from Peter Cantwell, although she was unclear on the precise timing. Her recollection, which should be accepted as accurate, was that Father Cantwell told her at or around the time Ryan returned to the Diocese that he had had only one session with Dr Evans, and did not know if he had had other sessions with someone else.

### 3.5 Ryan's return to the Diocese

- 220 Ryan wrote to Bishop Clarke on 14 November 1976. He said that the academic year at the NPI was drawing to a close and said 'I suppose you already know this but I thought I had better write to you rather than just arrive back in the Diocese without any word. I would expect to be back in Maitland in early December.' Ryan wrote that his experience at the NPI had been valuable and he had 'gained a lot of understanding' from it.<sup>240</sup>
- 221 On 6 October 1976, Ryan was appointed assistant priest in the parish of Newcastle. In that role he had some duties as chaplain to Newcastle hospital.<sup>241</sup> In July 1997, Ryan was also appointed to the Diocesan Tribunal for Matrimonial causes.<sup>242</sup> He was not subject to any restrictions that would prevent him interacting with children.
- 222 It is submitted that the evidence indicates that Monsignor Cotter arranged for Ryan to be sent to Dr Evans with an expectation that he would be treated by Dr Evans on an ongoing basis. That fact does not, however, appear to have been communicated to Dr Evans by Monsignor Cotter, or anyone else. Dr Evans did not agree to see Ryan on that basis. It is inherently unlikely that Dr Evans would have agreed to see Ryan on an

<sup>238</sup> Woodward T7664: 34 – T17665: 4 (Day 165).

<sup>239</sup> Woodward T17667: 28 – 44 (Day 165).

<sup>240</sup> Exhibit 43-5 (Tab 14) CTJH.210.01025.0356\_R.

<sup>241</sup> Exhibit 43-5 (Tab 15) CTJH.210.01025.2664.

<sup>242</sup> Exhibit 43-5 (Tab 16) CTJH.210.01025.2660.

ongoing basis in circumstances where he was soon to leave the priesthood and the Franciscan religious order, and his evidence about this should be accepted.

- 223 There was a breakdown in the communications between Dr Evans and the Diocese such that neither party had a clear understanding of the expectation of the other, even in respect of the service to be provided. No adequate explanation was provided to Dr Evans that the Diocese was awaiting and relying upon his advice in relation to Ryan, which would have enabled Dr Evans to disabuse Monsignor Cotter or anyone else of their false assumptions.
- 224 If Monsignor Cotter was relying on professional advice regarding Ryan's condition and whether it was appropriate for him to be returned to ministry, he ought to have sought that advice directly. He did not. There was only minimal contact between Monsignor Cotter and Ryan during 1976 and the evidence of that contact did not provide any reasonable basis for Monsignor Cotter to determine Ryan had been 'cured.'
- 225 It was wrong for Monsignor Cotter to rely on the fact that he had received no adverse report from Dr Evans as a basis to conclude that Ryan had been 'cured' and that it was appropriate that Ryan be given a parish appointment. Rather, it was convenient to describe Ryan as 'cured' as this avoided the need to take any special steps to prevent him from having contact with children or otherwise to deal with what would have been an ongoing management problem and likely scandal.

## Part 4 Knowledge of Bishop Clarke in 1976

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- 226 Bishop Clarke took up the appointment as Bishop in June 1976. At that time, Monsignor Cotter ceased to be Vicar Capitular and became Vicar General.
- 227 There is some controversy in the evidence about the degree of Bishop Clarke's knowledge of Ryan's conduct. It is particularly relevant in this context to consider the available evidence about conversations that Bishop Clarke had with Monsignor Cotter and Sister Woodward about the reasons Ryan was in Melbourne, and in relation to his subsequent reappointment in the Diocese in 1976.
- 228 In a Special Issues claim form dated October 1995 Bishop Clarke, referring to the events of 1975, said he did not become aware of the allegations until September 1995 when he was informed of them by Sister Woodward.<sup>243</sup> That conversation with Sister Woodward is a reference to a visit from her shortly before Ryan's arrest in 1995, which visit is not disputed.
- 229 There was, however, evidence that Bishop Clarke knew of the allegations in 1976. This evidence is set out below.

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<sup>243</sup> Exhibit 43-5 (Tab 29) CTJH.210.01025.2568\_R.

## 4.1 Conversations between Monsignor Cotter and Bishop Clarke

### Monsignor Cotter's accounts

- 230 In the 1997 interview, Monsignor Cotter was asked whether he informed Bishop Clarke or gave him any advice in relation to Ryan and he said 'I guess I did ... that's for him to say.'<sup>244</sup>
- 231 In the unsigned 1997 statement, Monsignor Cotter said that soon after Bishop Clarke's appointment in June 1976, he and Bishop Clarke had a conversation about 'matters that needed addressing in the Diocese' and Monsignor Cotter said 'I spoke with Bishop Clarke about Father Ryan's problems.' He said that the conversation was in about May 1976 (when Bishop Clarke was still Bishop elect) at a conference in Randwick. Bishop Clarke asked 'What's that priest doing in Melbourne?' Monsignor Cotter said that he could not specifically recall his answer but that he certainly told Bishop Clarke that Ryan was 'getting treatment of some sort'.<sup>245</sup> Monsignor Cotter later said in that statement 'I informed the Bishop on his appointment of all relevant matters that were going on in the Diocese', including Ryan's 'position in Melbourne'.<sup>246</sup>
- 232 In the 1999 interview, Monsignor Cotter said that when Bishop Clarke asked why Ryan was in Melbourne, he 'told him [Ryan] was homosexual and that there had been some problems with children and that was the extent of our conversation on the matter.'<sup>247</sup>
- 233 In the 1997 interview, when asked whose decision it was to allow Ryan back into the Diocese, Monsignor Cotter said 'I can't answer that, but I presume it was the doctor.' Monsignor Cotter went on to say, however, 'I didn't think there was anything against his being back because my thought was that he was rehabilitated. And I guess, the Bishop who succeeded me, I was still an advisor of his' and that as a 'matter of common sense or prudence there would not have been any initiating procedure that [Bishop Clarke] would not have discussed with me'.<sup>248</sup>
- 234 In his interview with Carroll & O'Dea in 1999, Monsignor Cotter was asked about whether Ryan's return was discussed between the Bishop and consultors. Monsignor Cotter said he would have informed Bishop Clarke that he believed Ryan 'cured' or that he would not be impeded in his pastoral activities by his condition and that he thought it would be 'a pity to lose the services of a fairly young priest for the Diocese without any adequate reason, as I thought at the time.'<sup>249</sup>

### Bishop Clarke's accounts

- 235 In his statement to police in 1996, Bishop Clarke said when he took over as Bishop, he was 'never informed by Monsignor Cotter or anyone else of the events that took place

<sup>244</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0379.

<sup>245</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0084 - 0085.

<sup>246</sup> Exhibit 43-5 (Tab 86) CCI.0228.00005.0082\_R at 0084 and 0086.

<sup>247</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359 at 0367.

<sup>248</sup> Exhibit 43-5 (Tab 87) CCI.0228.00005.0369\_R at 0382 - 0383.

<sup>249</sup> Exhibit 43-5 (Tab 95) CCI.0049.00009.0359\_R at 0367.

at Merewether in 1974, 1975.’ He said he was aware that Ryan was in Melbourne at the NPI but he ‘had no knowledge of the reason’ for that.<sup>250</sup> Bishop Clarke stated:<sup>251</sup>

*If I had had any knowledge of the situation with Father RYAN I would have sought further advice in relation to how to handle the situation. I was never made aware of the allegations or any inkling of Father RYANS [sic] situation. I believe that I should have been informed by Monsignor COTTER of the situation concerning Father RYAN.*

236 Bishop Clarke said he received a phone call in late 1976 from Ryan seeking an appointment in the Diocese. He said it was customary for the Bishop to consult with the board of advisors before an appointment was made. Bishop Clarke said he had no clear memory of speaking to Monsignor Cotter about Ryan’s appointment to Newcastle parish, but stated it was possible that Monsignor Cotter had ‘input’ in relation to it.<sup>252</sup>

237 Bishop Clarke was interviewed by solicitors in around 1997. He said in that interview that Monsignor Cotter would have told him that in 1976 that Ryan was in Melbourne studying at the NPI but Monsignor Cotter did not tell him why.<sup>253</sup> When he was asked whether Monsignor Cotter sent him some kind of report on Ryan as to why he had gone to Melbourne, Bishop Clarke said ‘No, no. No, that is not true. Monsignor Cotter never in any way informed me of anything that was alleged to have happened at Merewether in 1975’. The interviewer then said to Bishop Clarke ‘Not even in the vaguest terms?’ and Bishop Clarke said ‘No, not even in the vaguest of terms.’<sup>254</sup> Bishop Clarke said that had he known he would never have appointed Ryan to a neighbouring parish and would never have put Ryan in charge of the Marriage Tribunal.<sup>255</sup>

238 Bishop Clarke was asked whether, if he had known the reason Ryan was sent to Melbourne, he would have allowed Ryan to return to the Diocese and he said:<sup>256</sup>

*Well, that’s a tough question looking back to over 20 years ago. I’d – yes, I’d possibly would have but I would not have ... appointed him to a neighbouring parish ... that would have been ... just so absolutely ridiculous ... and I would never have given him these other positions of importance ... I possibly – had I known, I think I would have seen him before he came back and had a discussion with him and tried to ascertain, you know, just what did take place and what this alleged treatment he was sent down to Melbourne for. How did that turn out? ...*

239 When asked if he had any reason to suspect Ryan was involved in some kind of unusual conduct, Bishop Clarke said ‘None whatsoever’.<sup>257</sup>

<sup>250</sup> Exhibit 43-5 (Tab 60) NSW.2094.001.0001.0087\_R at 0089 – 0090.

<sup>251</sup> Exhibit 43-5 (Tab 60) NSW.2094.001.0001.0087\_R at 0090.

<sup>252</sup> Exhibit 43-5 (Tab 60) NSW.2094.001.0001.0087\_R at 0088.

<sup>253</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0170.

<sup>254</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0184 – 0185.

<sup>255</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0185.

<sup>256</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0185.

<sup>257</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0188.

## 4.2 Conversation between Sister Woodward and Bishop Clarke

- 240 In her oral evidence to the Royal Commission, Sister Woodward said that she had a conversation with Bishop Clarke in relation to Ryan, in around 1976.
- 241 Sister Woodward has provided a number of prior accounts of her involvement in relation to Ryan. These are:
- a. a statement to police in November 1995
  - b. an interview with Paul Firman in 1997
  - c. a statement to the Royal Commission in 2016.<sup>258</sup>
- 242 On each of these occasions, the subject matter of the statement/interview meant that Sister Woodward had the opportunity to detail her recollection of conversations with others in relation to Ryan. However, Sister Woodward did not in any of them describe a discussion with Bishop Clarke in or around 1976.
- 243 In her statement to the Royal Commission, Sister Woodward said she spoke to Bishop Clarke about Ryan prior to his arrest, in 1995. She said ‘I ... cannot be sure whether I had spoken to Bishop Clarke at some earlier time about Ryan and what he had done.’<sup>259</sup>
- 244 In her statement to police in November 1995, Sister Woodward said that after she reported the matter to Monsignor Cotter and recommended Ryan be sent to Dr Evans in December 1975 she ‘had no further input or knowledge of the matter’.<sup>260</sup> It was put to Sister Woodward that her statement was untrue in that she did not mention her role in discussing in relation to the information she received from Mrs McDonald in 1995 and she agreed.<sup>261</sup>
- 245 Sister Woodward gave evidence that just prior to Bishop Clarke arriving as Bishop, she had a conversation with Monsignor Cotter in which she recommended that he inform Bishop Clarke of ‘the process so far’ with Ryan. She said that Monsignor Cotter agreed but that she did not think she had a further conversation with him about whether he did so. She said she had no reason to believe that Monsignor Cotter did not tell Bishop Clarke.<sup>262</sup>
- 246 Sister Woodward gave evidence that she spoke to Bishop Clarke in relation to Ryan ‘about a year’ after the events, towards the end of 1976.<sup>263</sup> She said that she would

<sup>258</sup> Exhibit 43-5 (Tab 42) CTJH.210.01025.0495\_R, Exhibit 43-5 (Tab 88) CCI.0228.00005.0387\_R, and Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R, respectively.

<sup>259</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [37].

<sup>260</sup> Exhibit 43-5 (Tab 42) CTJH.210.01025.0495\_R at 0497.

<sup>261</sup> Woodward T17686: 22 – T17687: 2 (Day 166).

<sup>262</sup> Woodward T17660: 7 – T 17661: 3 (Day 165).

<sup>263</sup> Woodward T17661: 15 – 22 (Day 165).

not swear to the date but that she thought it was around that time.<sup>264</sup>  
Sister Woodward was further pressed about this by Counsel Assisting:<sup>265</sup>

*Q. Perhaps just step through it for me, Sister. We're talking about a conversation sometime around 1976?*

*A. Yes.*

*Q. That was the time when Father Ryan came back from Melbourne?*

*A. Yes, around that time.*

*Q. And you had a conversation with Bishop Clarke about Father Ryan returning from Melbourne?*

*A. I think so.*

*Q. Did that include a discussion about why he had been sent to Melbourne in the first place?*

*A. Yes.*

*Q. Can you explain to us what you said to Bishop Clarke and what he said about the circumstances in which Father Ryan had been sent to Melbourne?*

*A. I'm not sure I can. Probably it was a conversation very like the conversation I'd had with Mons Cotter early in the piece, simply the facts - that this was happening, something had to change, the children had to be protected, and so we'd decided on this course of action.*

*Q. And that included describing the conduct that Father Ryan had engaged in with the boys?*

*A. Yes, yes.*

*Q. In the same graphic terms?*

*A. Yes, I think so.*

*Q. Was Bishop Clarke also embarrassed by that conversation?*

*A. Yes.*

*Q. What was his reaction?*

*A. He was inclined to shrug a bit and presume that everything would be all right when Father Ryan came back.*

*Q. Was this in anticipation of him coming back or after he had come back?*

*A. I think it was before he came back. I'm not sure about that, but I think so.*

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<sup>264</sup> Woodward T17661: 28 – 32 (Day 165).

<sup>265</sup> Woodward T17661: 38 – T17662: 34 (Day 165).

- 247 Sister Woodward said she thought that Bishop Clarke was ‘surprised’ and acted as though he had not been informed.<sup>266</sup>
- 248 Sister Woodward gave evidence that she would have told Bishop Clarke that there was only one session between Ryan and Dr Evans. She said ‘Yes’ when asked whether she was confident that she told Bishop Clarke that. When asked whether she did so because she was concerned that there had only been one session, she said ‘I think that would have been obvious.’<sup>267</sup>
- 249 In a 1997 interview with Paul Firman, Sister Woodward said that she visited Bishop Clarke in 1995, when she heard that Ryan could be the subject of criminal investigation. She said she thought it fair to say to him ‘Look, this is what happened, you’d better prepare yourself’ and he said ‘Well, what’s the story?’ so Sister Woodward told him what she knew from 1975.’ Bishop Clarke responded by saying ‘Oh, I didn’t know all that ... I knew vaguely that something had happened in relation to Vince, because he was sent away for a year, but I presumed it was all okay when he came back.’<sup>268</sup>
- 250 Sister Woodward makes no mention in the 1997 interview of an earlier conversation with Bishop Clarke in that interview, notwithstanding that it was information that contradicted her account of Bishop Clarke saying to her ‘Oh, I didn’t know all that’.
- 251 It was put to Sister Woodward by Counsel Assisting that it could only be that Bishop Clarke had forgotten the details and she said ‘Yes. Also, he was getting ready to retire at that stage.’<sup>269</sup>
- 252 In an interview with solicitors in around 1997, Bishop Clarke said that the first indication he had that anything had gone wrong with Ryan was when he was visited by Sister Woodward in 1995.<sup>270</sup> Later in that interview Bishop Clarke was asked whether Sister Woodward told him she had cause for concern about Vince Ryan and he said ‘Only when that case she came to see me about... ‘95.’ Bishop Clarke said that Sister Woodward told him she’d been to see Father Lucas and told him to get Ryan to see Lucas. He went on to say ‘that’s the only time she told me about that.’<sup>271</sup>
- 253 Bishop Clarke’s account was put to Sister Woodward and she said ‘No, he would have known before that – would have been told before that’ and when asked whether she told him, she said ‘Yes’ and was referring to events in around 1976.<sup>272</sup>
- 254 When asked whether she understood Bishop Clarke to have been in any doubt that Ryan had abused the boys in 1975 she said ‘Well, he shouldn’t have been, because we told him pretty clearly.’<sup>273</sup>

<sup>266</sup> Woodward T17661: 34 – 36 (Day 165).

<sup>267</sup> Woodward T17664: 1 – 21, T17665: 46 – T17666: 3 – 4 (Day 165).

<sup>268</sup> Exhibit 43-5 (Tab 88) CCI.0228.00005.0387\_R at 0394.

<sup>269</sup> Woodward T17674: 9 – 12 (Day 166).

<sup>270</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0206.

<sup>271</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0212 – 0213.

<sup>272</sup> Woodward T17677: 3 – 12 (Day 166).

<sup>273</sup> Woodward T17675: 41 – 44 (Day 166).

255 Counsel for the Truth, Justice and Healing Council (Ms Needham SC), took Sister Woodward to parts of her earlier statements. The following exchange took place:<sup>274</sup>

*Q. Having seen your statement to the Royal Commission, your police statement and the interview that you gave in 1997 --*

*A. Yes.*

*Q. -- the parts that I've taken you to, are you now able to give any further evidence about when that conversation with Bishop Clarke might have happened?*

*A. No.*

*Q. Do you have a clear recollection of it happening in 1976?*

*A. Yes, I think so. I'm a bit muddled about dates.*

*Q. Perhaps I can re-ask that question. Do you have a clear recollection of telling Bishop Clarke about the abuse by Father Ryan?*

*A. Yes.*

*Q. Do you have a clear recollection when that might have happened, taking into account the matters that you have now seen?*

*A. I think so but I'm not sure.*

*Q. What are you not sure about?*

*A. The actual timing.*

*Q. Is it possible that it took place in 1995?*

*A. Yes, it's a possibility.*

256 In re-examination by Counsel Assisting, the following exchange took place:<sup>275</sup>

*Q. -- you have said, a few moments ago, you think you are a bit muddled about the timing and your evidence yesterday was that you had a conversation with Bishop Clarke around 1976?*

*A. Yes.*

*Q. I understood the effect of your evidence yesterday to be that you had a conversation with Bishop Clarke relating to Father Ryan's return from Melbourne and you weren't sure whether it was before or after that, but it was around the time of his return from Melbourne?*

*A. Yes, that's right.*

<sup>274</sup> Woodward T17698: 19 – 47 (Day 166).

<sup>275</sup> Woodward T17700: 7 – 24 (Day 166).

*Q. Do you have a fairly clear recollection that you did have a conversation with him around that time, and it was a conversation in which you conveyed to him what you knew about the abuse?*

*A. Yes.*

### **4.3 Other documents indicating knowledge of Bishop Clarke**

257 There are other documents that indicate that Bishop Clarke was aware of allegations relating to Ryan, earlier than 1995.

#### **Special Issues Incident Report**

258 On 8 June 1994, Bishop Clarke completed and signed a Special Issues Incident Report. The report was requested by Catholic Church Insurances for updated information on matters that could give rise to claims for criminal sexual misconduct. In the form, Bishop Clarke wrote:<sup>276</sup>

*In the early 1970 [sic], during the time of Bishop Toohey's death & my appointment as Bishop, the Vicar Capitular, acting on a complaint against Fr Ryan sent him to the National Pastoral Institute, Melbourne for 1 year. On his return he has served in a number of parishes & I have not received any accusations that could be investigated*

259 That Bishop Clarke completed that document in relation to Ryan in 1994 shows that he knew by that point that Ryan could be the subject of a claim for criminal sexual conduct arising from the events of the 1970s. It is inconsistent with his position that he knew nothing at all about the events prior to 1995.

#### **Letter from Father Cahill to Bishop Malone**

260 Father Cahill wrote to Bishop Malone on 3 November 2007. Father Cahill said that he and Monsignor Cotter were good friends and that sometimes Monsignor Cotter would speak about Ryan. Father Cahill said that Monsignor Cotter had told him that he refused to answer questions by police as to whether he had discussed Ryan with Bishop Clarke. But, Father Cahill said, 'he certainly did talk to Bishop Leo about Vince. He told me that it was himself who recommended to [Bishop Clarke] to take Vince back into the diocese.' Father Cahill also said that Monsignor Cotter said he could not understand why Bishop Clarke allowed Ryan to take on such a high profile in the Diocese and said that 'The baton had certainly been passed on to' Bishop Clarke. Father Cahill said he believed that Bishop Clarke 'got off very lightly for an incompetent handling of various episodes.'<sup>277</sup>

<sup>276</sup> Exhibit 43-5 (Tab 19) CCI.0265.00008.0175\_R.

<sup>277</sup> Exhibit 43-5 (Tab 117) CTJH.210.01172.0001.

- 261 Bishop Malone responded on 20 November 2007 and thanked Father Cahill for his letter. Bishop Malone said 'Despite denial of knowledge by Leo, I've always wondered.'<sup>278</sup>
- 262 Bishop Malone gave evidence that he could not recall discussing the matter with Father Cahill. He said he was conscious by this time that Bishop Clarke denied having known about Ryan's offences but Bishop Malone personally doubted those denials. When asked how he came to have those doubts if he had not interrogated Bishop Clarke about the matter, Bishop Malone said he was not sure but that he got the sense from Bishop Clarke that he knew more than he was letting on.<sup>279</sup>
- 263 Bishop Malone was asked whether it was implausible that Bishop Clarke allowed Ryan to return to the Diocese without knowing the reasons why he had been sent to Melbourne and he said it was possible that Bishop Clarke thought Ryan was in Melbourne for study. He agreed that that would have been a complete misapprehension of the situation and that anyone who conveyed that to the Bishop would have been lying.<sup>280</sup> Bishop Malone said he was sympathetic to the fact that Monsignor Cotter was taking all of the blame when other people involved also shared that blame. Asked if that included Bishop Clarke, he said 'I think so, yes.'<sup>281</sup>

#### 4.4 Conclusions in relation to knowledge of Bishop Clarke in 1976

- 264 The evidence of Monsignor Cotter's accounts of conversations with Bishop Clarke in 1976 indicate that Bishop Clarke knew that Ryan was in Melbourne for treatment in relation to homosexuality and 'problems' with children. That makes plain he was aware that Ryan was the subject of allegations of a sexual nature in relation to children.
- 265 It is submitted that Sister Woodward's evidence of her conversation with Bishop Clarke in or around the end of 1976 ought to be accepted. Sister Woodward generally presented as a candid, credible and forthright witness. Notwithstanding that she did not refer to her discussions with Bishop Clarke in 1976 in her prior statements, she affirmed she had a reasonably clear recollection of that conversation occurring at around that time, and not in 1995. She gave this evidence by reference to a sequence of events in 1975 and 1976 which make it plausible that the conversation with Bishop Clarke occurred in or around the end of 1976. The content of the conversation with Bishop Clarke as recalled by Sister Woodward is also consistent with this timing. Particularly given that her evidence was connected with surrounding events, it is implausible that Sister Woodward is mistaken by a matter of two decades.
- 266 These conclusions based on the evidence of Sister Woodward and the accounts given by Monsignor Cotter are inconsistent with Bishop Clarke's position that he only became aware of the allegations in 1995, just prior to Ryan's arrest. However, Bishop

<sup>278</sup> Exhibit 43-5 (Tab 117.1) CTJH.210.01192.0001.

<sup>279</sup> Malone T17754: 7 – 24 (Day 166).

<sup>280</sup> Malone T17754: 26 – 47 (Day 166).

<sup>281</sup> Malone T17755: 22 – 31 (Day 166).

Clarke's position is also inconsistent with other documents, in particular the 1994 Special Issues Incident Report completed more than a year earlier and before the police were involved.

- 267 Further, it is inherently unlikely that the Bishop would have allowed Ryan to return to the Diocese without understanding the reason why Ryan was in Melbourne.
- 268 It is submitted that the evidence establishes that at or around the end of 1976, Bishop Clarke knew that Ryan had been the subject of complaints of child sexual abuse against altar boys, that he had been sent to Melbourne for treatment in relation to those complaints and had only had one treatment session with Dr Evans. Bishop Clarke was not honest when he later claimed that he had no awareness of Ryan's offending until 1995.
- 269 There is no evidence that Bishop Clarke made any inquiries or sought advice from anyone except Monsignor Cotter as to whether Ryan was, in fact, 'cured'. The only evidence of any report to Bishop Clarke was Sister Woodward's evidence that Ryan had only seen Dr Evans once.
- 270 Ryan was returned to ministry and later to parish appointments without any special steps being taken by the Bishop to restrict Ryan's access to children. That was a gross neglect of duty to the children of the parishes in which Ryan was placed and enabled Ryan to continue to sexually abuse children.

## Part 5 Marist Brothers Hamilton

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- 271 Mr McDonald gave evidence that when he was a high school student at Marist Brothers Hamilton in 1977, he saw Ryan give a church service for the beginning of the school year. He said he told his mother when he got home and she was 'furious.' He said she phoned the school (Marist Brothers Hamilton). Mr McDonald said 'I'm pretty sure she spoke to the head honcho, who I think was Brother ALEXIS.' Mr McDonald said he overheard his mother say on the phone something like 'How dare you have that filthy man there. I don't want him at that school, with what he has done to the altar boys.'<sup>282</sup>
- 272 Scott Hallett (who also attended Marist Brothers Hamilton) also gave evidence that he recalled Ryan saying mass at the school hall.<sup>283</sup>
- 273 In her statement to police, Phyllis McDonald said that in 1977 when Gerard told her Ryan had been at Marist Brothers Hamilton to say mass she phoned his form master at the School. She said she told him she was not impressed about Ryan having contact with Gerard 'after what had happened in 1975' and that she 'named the boys to him.' Mrs McDonald did not name the form master to whom she reported.<sup>284</sup>

<sup>282</sup> Exhibit 43-1 Statement of Gerard McDonald STAT.1168.001.0001 [40].

<sup>283</sup> Exhibit 43-25 Statement of Scott Hallett STAT.1176.001.0001 [27] – [28].

<sup>284</sup> Exhibit 43-5 (Tab 23) CTJH.210.01025.0535\_R at 0541.

- 274 In Mrs CNC's statement to police she also said she saw Ryan at the Church and afterwards she received a phone call from Mrs Phyllis McDonald. She said Mrs McDonald said Gerard was afraid to go to school and was worried he would get into trouble. CNC said she advised Mrs McDonald to phone a brother at the school.<sup>285</sup>
- 275 Another boy who was abused by Ryan at St Joseph's Merewether also told police that he had seen Ryan say mass in the great hall when he was in High School.<sup>286</sup>
- 276 When he was interviewed by police in October 1995, Ryan said that he was not at Hamilton until 1978, but that it was 'not impossible' that he had said mass at Sacred Heart Church, Marist Brothers Hamilton in 1977. He also said he could recall saying a mass at Marist Brothers once.<sup>287</sup>
- 277 It is submitted that the evidence of Mr McDonald and a number of others who made statements to police in the 1990s establishes that Ryan said a mass at Marist Brothers Hamilton in 1977 and that Mrs McDonald rang the school to complain. Although Brother Turton was at Marist Brothers Hamilton as principal in 1977 and 1978, Mrs McDonald did not identify him as the Brother to whom she spoke. Her statement to police was that she spoke to Gerard's form master. There is no reason to doubt that Mrs McDonald made a complaint to the school at the time and there should be such a finding. Whether that complaint was made to Brother Turton cannot be established on the evidence. There was no evidence that the report was forwarded on to the Diocese.
- 278 The reappearance of Ryan was a cause of considerable distress and disillusionment for those students who had been abused by Ryan, and for the families of those boys.

## Part 6 Sexual abuse by Ryan in other parishes

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- 279 Ryan continued to sexually abuse children after he returned to the Diocese in 1976.
- 280 Ryan stated that he thought his first offence after 1975 occurred about one year after he returned from Melbourne.<sup>288</sup>

### 6.1 Hamilton

- 281 In 1978 Ryan was appointed assistant priest at Hamilton. While at Hamilton, Ryan lived at the presbytery with Monsignor Cotter and Ryan continued for at least some of the time he was there to be in charge of the Marriage Tribunal.<sup>289</sup>
- 282 A man who was abused as a child by Ryan at Hamilton made a statement to police in July 1996. He told police he was abused by Ryan between 1978 and 1984. He said the

<sup>285</sup> Exhibit 43-5 (Tab 44) CTJH.210.01025.0567\_R at 0569 – 0570.

<sup>286</sup> Exhibit 43-5 (Tab 47) CTJH.210.01025.0338\_R.

<sup>287</sup> Exhibit 43-5 (Tab 28) CTJH.210.01025.0192\_R\_E at 0212 – 0213.

<sup>288</sup> Exhibit 43-5 (Tab 93) CTJH.210.01025.0035\_R at 0037.

<sup>289</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0179.

abuse started one day after school when Ryan invited him and another boy into Ryan's room at the presbytery. Ryan had given them soft drinks and invited them to get undressed. Ryan proceeded to masturbate in front of them. The man said that these incidents happened two-to-three times a week. He was then eight years old. He also told police that between 1979 and 1982 Ryan showed him pornographic videos and performed sexual acts on him, including oral sex. He said that the sex stopped when he was 13 or 14 after an occasion when he and another boy refused to masturbate with Ryan and called him a 'Dirty old man'. He said that at this time he believed Ryan knew that they had 'grown out of his games.' He said he estimated the abuse occurred around 50 times a year.<sup>290</sup>

## 6.2 East Gresford

283 Ryan was at East Gresford from 1984 – 1988.

284 CNE gave evidence to the Royal Commission of his abuse by Ryan at East Gresford from around 1983 to 1985. CNE did not live in the parish, but often visited his grandparents there and served as an altar boy on the weekends. He detailed a number of incidents of abuse by Ryan, including masturbation and oral sex. He told the Royal Commission that on one occasion a male parishioner came into the sacristy and saw Ryan abusing him, but walked out without saying a word. Later, when CNE was convicted of sexually assaulting another child, he was sent to prison and was housed in the same wing as Ryan.<sup>291</sup>

## 6.3 Cessnock

285 Following East Gresford, Ryan was appointed parish priest of Cessnock, in March 1988. He remained there for almost seven years. Ryan continued to abuse boys while he was at Cessnock.

286 Sister Geatches gave evidence that she did hear at some point that Ryan had returned to the Diocese and was in Cessnock. When asked if that concerned her, Sister Geatches said 'I suppose the thought went through my head, but I thought, well, he's had some treatment and therefore, you know, everything should be all right; that's how little we knew.' She agreed that that view was naïve.<sup>292</sup>

287 CNG was abused by Ryan at Cessnock and provided a statement to the Royal Commission. CNG told the Commission that he was abused by Ryan in the late 1980s. He said the abuse occurred numerous times after altar boy practice, twice a week. At the time his mother was ill and Ryan would visit her at the family home and abuse CNG. CNG said he told his mother in 1989 and she arranged for a different priest to attend the house.<sup>293</sup>

<sup>290</sup> Exhibit 43-5 (Tab 61) CTJH.210.01025.0902\_R.

<sup>291</sup> Exhibit 43-6 Statement of CNE STAT.1167.001.0001\_R.

<sup>292</sup> Geatches T17622: 33 – 38 (Day 165).

<sup>293</sup> Exhibit 43-14 Statement of CNG STAT.1171.001.0001\_R.

## Abuse of CNF

- 288 Ryan was convicted of five counts of sexual intercourse with another boy, CNF, that occurred between 1989 and 1993. The evidence indicates that the abuse of CNF by Ryan began when CNF was 12 years old.<sup>294</sup>
- 289 CNF's mother told police that Ryan befriended her and became a father figure to her children. She said that Ryan became one of the family and that CNF came to spend more time with Ryan by himself, staying over at the presbytery at weekends or during holidays. She said that CNF stayed with Ryan with other altar servers for video nights and that CNF continued to have contact with Ryan when he transferred from Cessnock to Taree parish in 1995. In August 1995, shortly after CNF told his mother of his abuse by Ryan, Ryan phoned CNF's mother. When CNF's mother said to Ryan that her son had told her that something very distressing had happened between CNF and Ryan, Ryan said 'Yes'. Ryan admitted to CNF's mother that there were 'A few' others and that he had tried to get help in Melbourne in 1975.<sup>295</sup>
- 290 Sister Woodward said that when Ryan was at Cessnock she 'heard that he was very friendly with two adolescents, adolescent boys in the parish; no details given, just that, and I wondered.'<sup>296</sup> Sister Woodward said she was not being told this in any official capacity. It was put to Sister Woodward by Mr Heazlewood that she just took this on board and did nothing more about it and she said 'Yes, that's true.' When asked whether she thought it would be a good idea to talk to some altar boys, she said:<sup>297</sup>

*No, I don't think I did. There were quite a lot of things happening in the parish at that stage. Father Ryan was criticised a good bit. There was a fair amount of conflict going on about how he had changed things in the Church and refused to put them back where they belonged. People - some people's vested interests were disturbed. There were Stations of the Cross pictures around the walls and he had changed their location and the people who had donated them to the Church got very angry and there was a lot of hassle.*

- 291 The documents indicate that there was significant conflict between sections of the parish community and Ryan in relation to decisions to sell and build churches in the parish.<sup>298</sup> In an interview with solicitors in around 1997, Bishop Clarke referred to this 'trouble' as the reason Ryan was transferred to Taree.<sup>299</sup>

## 6.4 Reports to Bishop Clarke and Monsignor Cotter by CNH in 1991

- 292 A further report in relation to Ryan was made to the Diocese in around 1991.

<sup>294</sup> Exhibit 43-5 (Tab 53) IND.0491.001.0043\_R.

<sup>295</sup> Exhibit 43-5 (Tab 31) CTJH.210.01025.0419\_R.

<sup>296</sup> Woodward T17683: 9 – 13 (Day 166).

<sup>297</sup> Woodward T17683: 27 – 46 (Day 166).

<sup>298</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0204, Exhibit 43-5 (Tab 18) CTJH.210.01025.1647.

<sup>299</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0204.

- 293 CNH is the wife of a man abused by Ryan in the 1970s, when Ryan was at St Joseph's, Merewether. She provided a statement to police in January 1997. CNH told police that at some time in 1990 her husband disclosed to her that Ryan interfered with boys at St Joseph's. CNH's husband said that he had been abused by Ryan and that he was there on an occasion when Mr McDonald was abused. CNH said that in around April or May 1991 she phoned Ryan and said to him that she knew what he did to little boys. CNH said Ryan responded 'Yes but I've stopped I've had help I went to Melbourne it's alright now' and later said 'All I can say is I'm sorry.'<sup>300</sup>
- 294 After this conversation, CNH said she immediately phoned the 'Bishop's office', asked to speak to whoever was in charge and was told she would be put through to Monsignor Cotter. CNH heard a male voice say hello and CNH said 'Are you aware that Father RYAN is molesting boys.' She said she heard a gasp and the response 'Yes we are aware he has been to Melbourne to get Psychiatric help.' CNH asked what was going to be done about it and the person responded 'He's not doing it anymore'. CNH said it was hypocritical for Ryan to preach about goodness as a criminal and the person responded 'We'll deal with it.' CNH hung up.<sup>301</sup>
- 295 CNH then telephoned Cessnock police station and said she believed Ryan was molesting boys because her husband had told her so but that he would not come forward. She did not give her real name.<sup>302</sup> CNH's husband subsequently came forward to police and made a statement in 1997.<sup>303</sup>
- 296 In an interview in around 1997, Bishop Clarke said that in the time he was Bishop, the only complaint he received was an anonymous one he received from a woman, who he said phoned him at Maitland. He said the woman claimed Ryan had interfered with her husband years ago but she would not give her name or other details and he did not hear from her again.<sup>304</sup>
- 297 The conversation referred to by Bishop Clarke is consistent with the substance of the conversation recorded in CNH's police statement. It is not necessary to resolve whether it was the same or an additional report, as Bishop Clarke has said he received an anonymous report that Ryan had 'interfered with' a man years earlier. The fact that the complainant was anonymous did not mean that Bishop Clarke could not put that allegation to Ryan and it was wrong to treat it as a barrier to taking action.

## Part 7 Criminal proceedings

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### Diocese becomes aware of criminal investigation

- 298 Sister Woodward gave evidence that she received a phone call from Mrs Phyllis McDonald in 1995. She said Mrs McDonald told her that a group of boys from St

<sup>300</sup> Exhibit 43-5 (Tab 74) CTJH.210.01103.0137\_R at 0138 – 0140.

<sup>301</sup> Exhibit 43-5 (Tab 74) CTJH.210.01103.0137\_R at 0140 – 0141.

<sup>302</sup> Exhibit 43-5 (Tab 74) CTJH.210.01103.0137\_R at 0141.

<sup>303</sup> Exhibit 43-5 (Tab 75) CTJH.210.01103.0143\_R.

<sup>304</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0187.

Joseph's who had been interfered with by Ryan in 1975, including her son, were planning to go to the police. Sister Woodward said Mrs McDonald, who was still a secretary at a Diocesan school, held fears for her job but asked her to keep the information in confidence.<sup>305</sup>

- 299 Sister Woodward said she was confused about what she should do and felt she had a duty to report the matter to the Bishop. At the time, Sister Woodward was on the National Professional Standards Committee, with Father Brian Lucas. After consulting with Father Lucas, she decided to tell Bishop Clarke. Sister Woodward gave evidence that she was also seeking confirmation that Mrs McDonald's job was not in jeopardy.<sup>306</sup> Sister Woodward said she consulted with Father Lucas in relation to her dilemma whether to break Mrs McDonald's confidence because he was someone who 'understood the ethics of it.'<sup>307</sup>
- 300 Sister Woodward did report the matter to Bishop Clarke, in September 1995. Sister Woodward agreed that the effect of what she told Bishop Clarke was that there was likely to be a police investigation in relation to Ryan, because one of the boys from 1975 was going to the police.<sup>308</sup>
- 301 In the 1997 interview, Bishop Clarke said it was 'extraordinary' that Sister Woodward would 'run off down to Sydney' to see a priest of another Diocese instead of first informing him as the Bishop, and that Sister Woodward apologised for doing so.<sup>309</sup>
- 302 Sister Woodward did not recall that Bishop Clarke was critical of her for approaching Father Lucas.<sup>310</sup>
- 303 Sister Woodward said that she learnt subsequently from Father Lucas that Ryan was about to be arrested, although she did not know how Father Lucas had learned of that. Sister Woodward then relayed this to Bishop Clarke.<sup>311</sup>
- 304 Sister Woodward was asked whether she held any concerns at the time that telling other people within the Diocese of the impending police investigation or charges in relation to Ryan could interfere with what the police were doing. She said 'No, I didn't think like that' and that she expected the Bishop to keep the information to himself.<sup>312</sup>

#### **Alleged conversation with Bishop Malone prior to Ryan's arrest**

- 305 Towards the end of 1994, Bishop Malone became the co-adjutor Bishop of the Diocese (being a priest with the right of succession to the Bishop).<sup>313</sup> Prior to that appointment, he was a priest in the Archdiocese of Sydney and had no familiarity with the Diocese.

<sup>305</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [33].

<sup>306</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [33].

<sup>307</sup> Woodward T17672: 32 – 44 (Day 166).

<sup>308</sup> Woodward T17673: 23 – 27 (Day 166).

<sup>309</sup> Exhibit 43-5 (Tab 85) CTJH.210.01162.0162\_R at 0212 – 0213.

<sup>310</sup> Woodward T17676: 26 – 36 (Day 166).

<sup>311</sup> Woodward T17678: 30 – T17679: 7 (Day 166).

<sup>312</sup> Woodward T17679: 9 – 20 (Day 166).

<sup>313</sup> Malone T17722: 3 – 6 (Day 166).

Bishop Malone arrived in the Diocese in February 1995.<sup>314</sup> Between 1 and 30 October 1995 he was away from the Diocese on annual leave.<sup>315</sup>

306 In her statement to the Royal Commission, Sister Woodward said:<sup>316</sup>

*With respect to Bishop Malone, although my recollection is not entirely clear, I believe that I also informed Bishop Malone about Ryan's conduct. I am not completely sure when that discussion occurred, but I think it was after my discussion with Bishop Clarke in 1995.*

307 In her evidence to the Royal Commission, Sister Woodward said that when she spoke to Bishop Clarke (in September 1995), he said to her 'rather dismissively' that she should tell Bishop Malone. She said that she told Bishop Malone 'the whole story' in relation to Ryan. When asked if she conveyed that the incidents involved sexual touching, she said 'Yes'. She could not guarantee if she said multiple boys were involved, but she presumed she would have.<sup>317</sup> She said that she felt as though Bishop Malone accepted what she said and did not convey any doubt.<sup>318</sup>

308 Mr Harben SC (counsel for Bishop Malone) put the following to Sister Woodward:<sup>319</sup>

*Q. Sister, you have given some evidence about events in 1995 and in particular details as to conversations that you say occurred then. 21 years ago those conversations occurred. Would you agree with me that your memory about those conversations was probably better then than it is when you sit here today?*

*A. Absolutely.*

*Q. In terms of recalling things, such as words said, your memory back then would be better?*

*A. Yes.*

*Q. In terms of recalling when in the year those conversations took place, your memory would be better back then?*

*A. Yes.*

*Q. In terms of recalling where those conversations took place, your memory would be better back then?*

*A. Yes.*

*Q. You have told us that you spoke to Bishop Malone about Father Ryan, and you, I think in answer to Counsel Assisting, indicated that that was in 1995 and I think*

<sup>314</sup> Malone T17722: 37 – 39 (Day 166), Exhibit 43-8 Statement of Bishop Emeritus Malone STAT.1144.001.0001\_R [5], [8].

<sup>315</sup> Exhibit 43-8 Statement of Bishop Emeritus Malone STAT.1144.001.0001\_R [12].

<sup>316</sup> Exhibit 43-4 Statement of Sister Woodward STAT.1160.001.0001\_R [41].

<sup>317</sup> Woodward T17677: 15 – T17678: 14 (Day 166).

<sup>318</sup> Woodward T17678: 20 – 28 (Day 166).

<sup>319</sup> Woodward T17684: 9 – 39 (Day 166).

*you said, or you were asked to agree with the proposition, that it was some time before the arrest of Father Ryan; is that your recollection?*

*A. Yes. I would be pretty sure about the timing of that, because it was very close to the time that Bishop Clarke was retiring, and I remember him saying to me, "Tell Michael that."*

- 309 Sister Woodward also accepted that she would have discussed Ryan with Bishop Malone 'a few times' after the time of Ryan's arrest.<sup>320</sup>
- 310 Sister Woodward agreed that her police statement does not refer to her having discussed Ryan with Bishop Malone.<sup>321</sup> However, she accepted Mr Harben SC's proposition that her statement was not true insofar as it said she had no further input or knowledge in relation to Ryan after December 1975, without referring to the report that she received prior to Ryan's arrest.<sup>322</sup>
- 311 In the 1997 interview with Paul Firman, Sister Woodward also does not describe reporting the matter to Bishop Malone prior to Ryan's arrest. In that interview Sister Woodward says that Bishop Clarke asked her to inform Monsignor Cotter (not Bishop Malone), which she did.<sup>323</sup> Mr Harben SC put to Sister Woodward that her interview did not refer to a discussion with Bishop Malone and she agreed.<sup>324</sup> The following exchange took place:

*Q. During the discussion, if you read down further, I want to suggest to you that you said in your interview that you said, "Well, you'd better get in touch with Monsignor Cotter" and he said, "No, you get in touch with Monsignor Cotter." "So I did that". So is that true?*

*A. I think so.*

*Q. Well, it was your interview, which you specifically refer to in your statement to this Commission?*

*A. Yes.*

*Q. And you were doing the best you could in that interview to tell the truth?*

*A. Yes.*

*Q. And your memory of those conversations from 1995 was far better then than it is now?*

*A. Yes.*

*Q. It goes on, it says:*

<sup>320</sup> Woodward T17685: 20 – 22 (Day 166).

<sup>321</sup> Woodward T17687: 4 – 7 (Day 166).

<sup>322</sup> Woodward T17686: 33 – T17687: 2 (Day 166).

<sup>323</sup> Exhibit 43-5 (Tab 88) CCI.0228.00005.0387\_R at 0394.

<sup>324</sup> Woodward T17688: 18 – 25 (Day 166).

*So I did that. I rang Monsignor Cotter and said the same things I'd said to the Bishop.*

...

*Q. So in terms of your interaction with the Bishop – that is, Bishop Clarke - in the time before the arrest of Father Ryan, that paragraph describes what occurred, doesn't it?*

*A. Yes.*

*Q. And there is not a suggestion in either of those paragraphs I've taken you to that you were directed to speak to Bishop Malone, is there?*

*A. No.*

*Q. And what you were being asked to do in that interview was to provide details of what occurred following the reporting to you by the mother of the person that you have given evidence about?*

*A. Mmm-hmm.*

*Q. And what you told them back then was that the Bishop told you to get in touch with Monsignor Cotter?*

*A. Yes.*

*Q. Not Bishop Malone?*

*A. Mmm.*

*Q. That's what happened, isn't it?*

*A. It would seem so, yes. I don't remember doing that, but it is here in the document, so --*

*Q. It is more likely, isn't it, that your evidence in this Commission is confused about the discussion you say you had with Bishop Malone?*

*A. Confused, yes.*

312 Mr Harben SC put to Sister Woodward that the entirety of the conversation about Ryan that she had with Bishop Malone was to the effect that she said to him if there was ever to be any trouble in the Diocese it would be with Ryan and she said 'I can't be sure of that. It's a possibility, but I'm not sure.'<sup>325</sup>

313 Later, Mr Harben SC asked the following questions of Sister Woodward (emphasis added):<sup>326</sup>

*Q. Well, certainly **from mid or towards the end of September** when you found out this information, the discussions took place between then and when Father Ryan*

<sup>325</sup> Woodward T17691: 1 – 12 (Day 166).

<sup>326</sup> Woodward T17693: 6 – 21 (Day 166) (emphasis added).

*was arrested on 11 October 1995 - that has been your evidence to this Commission; that's right, isn't it?*

A. Yes.

*Q. If I was to ask you to assume that Bishop Malone was away on leave from the end of September to the end of October, you would agree with the proposition I'm putting to you that it makes it improbable that you had that discussion with Bishop Malone that you have given evidence about but, rather, it was with Monsignor Cotter, as you were directed to do by Bishop Clarke, as set out in your 1997 interview?*

A. Yes.

314 It should be noted that Bishop Clarke said that he was visited by Sister Woodward on 19 September 1995,<sup>327</sup> which was two weeks before Bishop Malone went on annual leave (on 1 October), so that concession may have been based on a factual inaccuracy.

315 Bishop Malone said that he had no knowledge of a police investigation in relation to Ryan prior to leaving the Diocese for a holiday in October 1995.<sup>328</sup> When asked if he had any indication that Ryan had been the subject of complaints or had previously committed abuse of children he said 'No, none whatsoever.'<sup>329</sup>

316 Bishop Malone gave evidence that he recalled an occasion on which Sister Woodward visited him in his residence on the hill. He said they had a general conversation about the Diocese and that Ryan's name came up. He said:<sup>330</sup>

*... it came up in a very innocent kind of way, insofar as she mentioned to me that if there was anybody in the Diocese that was going to be in trouble, it was Vince Ryan.*

317 Bishop Malone said that he did not seek any further details from Sister Woodward and said that as she was a counsellor 'for all I knew she was counselling him about a raft of issues that would have been confidential anyway, so I didn't pursue it.'<sup>331</sup>

318 Sister Woodward's account of being directed by Bishop Clarke to speak to the Bishop elect (Bishop Malone), particularly given Bishop Clarke's imminent retirement, is both credible and logical. However, she said in her statement that her recollection of a conversation with Bishop Malone was 'not entirely clear'. While she gave a more detailed account in her oral evidence, she accepted Mr Harben SC's proposition that her recollection of events in 1997 was likely to be more accurate than her recollection now. It is possible Sister Woodward was directed by Bishop Clarke to inform Monsignor Cotter, not Bishop Malone, about the police investigating Ryan. It is submitted that there is insufficient evidence to establish that Sister Woodward

<sup>327</sup> Exhibit 43-5 (Tab 29) CTJH.210.01025.2568\_R.

<sup>328</sup> Malone T17724: 10 – 13 (Day 166).

<sup>329</sup> Malone T17724: 39 – 42 (Day 166).

<sup>330</sup> Malone T17775: 19 – 46 (Day 166).

<sup>331</sup> Malone T17776: 1 – 10 (Day 166).

informed Bishop Malone of the substance of the allegations against Ryan prior to his arrest.

### **Ryan informed of criminal investigation**

- 319 In a statement to police in May 1996, Ryan said that he met with Monsignor Cotter on 10 October 1995 and Monsignor Cotter said that Bishop Clarke had asked him to let Ryan know of ‘some sort of talk’ about allegations that Ryan had sexually assaulted someone. Ryan said that Monsignor Cotter said not to worry too much about it and that it might go away and that it was ‘sort of vague’ and that Monsignor Cotter was worried about Ryan and how he might react to it.<sup>332</sup>
- 320 When Ryan was interviewed by police on 11 October 1995, he said that Monsignor Cotter had come to see him the day before his arrest and warned him that something was underway. Ryan said that Bishop Clarke had asked Monsignor Cotter to contact him.<sup>333</sup>
- 321 It is submitted that Bishop Clarke and Monsignor Cotter should have appreciated that informing Ryan of potential or pending criminal investigations could have prejudiced those investigations and it was wrong for them to inform Ryan.

### **Ryan’s arrest**

- 322 Ryan was arrested on 11 October 1995 at the presbytery at Taree, by Senior Constable Troy Grant and other officers.<sup>334</sup>
- 323 When Ryan was arrested, he asked to phone Father Brian Lucas (then a priest of the Archdiocese of Sydney), whose number he had been given by Monsignor Cotter.<sup>335</sup> When Ryan spoke to Father Lucas, he told a police officer that Father Lucas had said that he should seek independent legal advice, as Father Lucas only advised Bishops.<sup>336</sup>
- 324 Father William Burston travelled to Taree following Ryan’s arrest to provide him support.<sup>337</sup>
- 325 Ryan pleaded guilty to offences in relation to Gerard McDonald, Scott Hallett, CNF and other boys. He was sentenced on 30 May 1996 to a minimum term of four years.<sup>338</sup>

## **7.1 Diocesan response to Ryan’s arrest**

- 326 Ryan’s arrest on 11 October 1995 occurred only two-three weeks before Bishop Clarke’s retirement, and Bishop Malone’s appointment in early November 1995.<sup>339</sup>

<sup>332</sup> Exhibit 43-5 (Tab 51) CCI.0228.00004.0026\_R at 0029.

<sup>333</sup> Exhibit 43-5 (Tab 28) CTJH.210.01025.0192\_R\_E at 0195 – 0196.

<sup>334</sup> Exhibit 43-5 (Tab 36) CTJH.210.01025.0502\_R.

<sup>335</sup> Exhibit 43-5 (Tab 37) CTJH.210.01025.0509\_R at 0511.

<sup>336</sup> Exhibit 43-5 (Tab 27) CTJH.210.01025.0519\_R, Exhibit 43-5 (Tab 37) CTJH.210.01025.0509\_R.

<sup>337</sup> Exhibit 43-5 (Tab 27) CTJH.210.01025.0519\_R.

<sup>338</sup> Exhibit 43-5 (Tab 53) IND.0491.001.0043\_R.

<sup>339</sup> Exhibit 43-8 Statement of Bishop Emeritus Malone STAT.1144.001.0001\_R [13].

### Handover from Bishop Clarke to Bishop Malone

- 327 Bishop Malone was on annual leave and not in the Diocese between 1 and 30 October 1995, and the initial response of the Diocese occurred while Bishop Malone was absent.
- 328 Bishop Clarke wrote to Ryan on 19 October 1995 and said that the events made it 'impossible' for Ryan to fulfil his duties as parish priest and that he had appointed another priest as parochial administrator of the parish.<sup>340</sup>
- 329 When he returned from holidays, Bishop Malone said Bishop Clarke informed him that Ryan had been arrested and he had been stood aside from ministry and his faculties withdrawn. Bishop Malone said he was then asked to take responsibility for handling the Church's response to the matter.<sup>341</sup>
- 330 Bishop Malone said that he did not form a particularly good relationship with Bishop Clarke and when asked if they spoke frankly with each other he said 'Not really, no.'<sup>342</sup>
- 331 Bishop Malone said that his handover with Bishop Clarke 'lasted about five minutes'. He said he had expected the two of them would have a session to discuss serious matters in the Diocese. Instead, he said the handover consisted of Bishop Clarke sliding the Bishop's gold pectoral cross to Bishop Malone across the desk and saying 'This is yours now.' He said he asked Bishop Clarke whether there was anything he needed to know and Bishop Clarke responded 'Oh, no, you will find out.'<sup>343</sup>
- 332 Bishop Malone gave evidence that when Bishop Clarke informed him of Ryan's arrest, he told him that Ryan had been sent to Melbourne for treatment. Bishop Malone said Bishop Clarke 'knew of this in retrospect, I would suggest.' However, he said they did not specifically discuss what Bishop Clarke had known at the time, and Bishop Clarke did not indicate either way.<sup>344</sup>
- 333 Bishop Malone was asked whether he appreciated that one of the important issues for the community was how much was known to the Church about Ryan's conduct, historically, and he said 'That wasn't an immediate concern of mine' and said his concern at that point was how to handle the fall-out from a priest's arrest.<sup>345</sup>

### Steps taken by Bishop Malone

- 334 The first recollection of Bishop Malone of steps he took in relation to Ryan was a statement that he issued to St Joseph's parish in early November. In that, he said that allegations of sexual abuse of minors had been made against Ryan. He wrote 'Our primary concern must be the victims who have suffered such indignities, many of

<sup>340</sup> Exhibit 43-5 (Tab 33) CTJH.210.01025.2554\_R.

<sup>341</sup> Malone T17727: 13 – 26 (Day 166).

<sup>342</sup> Malone T17723: 18 – 23 (Day 166).

<sup>343</sup> Malone T17725: 35 – T17726: 6 (Day 166).

<sup>344</sup> Malone T17727: 28 – 38, T17728: 4 – 16 (Day 166).

<sup>345</sup> Malone T17728: 32 – 34 (Day 166).

whom if not all, still carry the scars of sexual abuse.’ He said that the Diocese was putting into place a number of initiatives, including free counselling for victims, and he would issue a pastoral letter to the Diocese ‘expressing our response to the situation and emphasising our need to act justly and swiftly.’<sup>346</sup>

335 Bishop Malone gave evidence that on 10 November 1995, he travelled to Melbourne to meet with Shane Wall, then principal of CASS, who had experience in dealing with survivors of sexual abuse, and was advised on how to reach out and support victims and communities. After this and following Mr Wall’s recommendation, Bishop Malone said he organised parish meetings and confidential counselling for victims and their families.<sup>347</sup>

336 Bishop Malone wrote to the priests of the Diocese on 13 November enclosing a pastoral statement regarding Ryan and asked that the statement be read out or distributed.<sup>348</sup>

337 Bishop Malone said in the pastoral statement that charges of indecent assault had been laid against Ryan and that in accordance with ‘normal Church procedure’ he had been immediately withdrawn from ministry. He said:<sup>349</sup>

*Our primary concern must be the victims and their families who have suffered such indignities: many, if not all of them, still carry the scars of sexual abuse.*

*Therefore it is essential that we as a Diocese provide help for all who have experienced sexual abuse by Diocesan personnel. The Church cannot tolerate such behaviour and must speak clearly and unequivocally against it.*

338 Bishop Malone wrote that he had authorised the provision of professional counselling for victims and their families and that any parishes or groups who wished to discuss the Diocesan response to the situation should approach the parish priest to facilitate that process.<sup>350</sup>

### **Bishop Malone’s public statements regarding the Diocese’s response**

339 Bishop Malone issued a media release in relation to in April 1996. Having expressed that the revelations had caused hurt and dismay and again saying that the primary concern was for the victims, Bishop Malone said:<sup>351</sup>

*Earlier when the problem in both Church and society was poorly understood, such abusive behaviour was treated as a moral problem. We know a great deal more now than we did, of the complex nature of sexual abuse, and the assistance that all survivors and the community need in the healing process.*

<sup>346</sup> Exhibit 43-5 (Tab 35) CTJH.210.01025.2532.

<sup>347</sup> Exhibit 43-8 Statement of Bishop Emeritus Malone STAT.1144.001.0001\_R [15] – [18].

<sup>348</sup> Exhibit 43-5 (Tab 38) CTJH.210.01162.0006.

<sup>349</sup> Exhibit 43-5 (Tab 39) CTJH.210.01162.0010.

<sup>350</sup> Exhibit 43-5 (Tab 39) CTJH.210.01162.0010.

<sup>351</sup> Exhibit 43-5 (Tab 48) CTJH.210.01025.2493.

340 Bishop Malone gave evidence that the reference to a ‘moral problem’ was to the past understanding of events. He said ‘In the past, as in years ago, I think if a priest offended with regard to anybody, it was regarded as a moral problem, and if he went to confession he’d be forgiven for his sins, he’d do his penance and he would be able to continue on.’<sup>352</sup>

341 When pressed about this, Bishop Malone said he would not have thought such thinking extended to acts of rape, but that the ‘tendency’ towards behaviours generally in relation to adults or children were viewed as moral problems.<sup>353</sup> The Chair asked Bishop Malone whether genital touching was, historically, seen as a moral problem or a criminal act by the Church and Bishop Malone said that he thought it was considered a moral problem in the past. Asked how that could ever have been, Bishop Malone said:<sup>354</sup>

*Membership of the Church is a bit of a strange beast insofar as the Church has its own culture, its own law, its own way of obeying structures within the Church, its own sacramental system, and, as such, it’s divorced from society, and that divorce from society has sometimes meant that the Church has gone along parallel lines with society, so that civil law somehow was not seen as impinging on the life of the Church, in the past. All of that, thank God, has changed.*

342 It was put to Bishop Malone that by the time of this press release, in April 1996, he must have appreciated that the historical knowledge of the Church was an issue of concern to the community and he agreed.<sup>355</sup> When asked whether he spoke with Sister Woodward about what had happened in 1975, he said he could not recall speaking with her about that.<sup>356</sup> Bishop Malone said that he did speak to Bishop Clarke, who ‘didn’t reveal a great deal’ but he did say that Monsignor Cotter was responsible for sending Ryan to Melbourne. Bishop Malone said he did not speak with Monsignor Cotter about the events of 1975, although he was still alive at the time.<sup>357</sup> Later, Bishop Malone said of the fact that he did not confront Monsignor Cotter ‘it wasn’t in my mind to do that. I was so busy trying to work out ways in which we could cope with this situation that had developed so quickly that I was more intent upon reaching out to current members of the Diocese than past leaders.’<sup>358</sup> It was put to Bishop Malone that it was difficult for him to be making pronouncements on behalf of the Church as to what had happened without having determined that himself, and he said ‘Well, that’s a view I suppose.’ When asked if it was a view he would accept, he said ‘Look, yes, but I’m very fresh in the job by this time and I’m just sort of running by the seat of my pants.’<sup>359</sup> He said that if he had his time over he would ‘Definitely’ have interrogated Bishop Clarke and Monsignor Cotter. Bishop Malone said ‘I often wish I had been more decisive and more aware of a forward plan than I was.’<sup>360</sup>

<sup>352</sup> Malone T17730: 38 – 41, T17731: 7 – 11 (Day 166).

<sup>353</sup> Malone T17731: 13 – 25 (Day 166).

<sup>354</sup> Malone T17731: 27 – 44 (Day 166).

<sup>355</sup> Malone T17732: 26 – 30 (Day 166).

<sup>356</sup> Malone T17733: 38 – 41 (Day 166).

<sup>357</sup> Malone T17733: 46 – T17734: 20 (Day 166).

<sup>358</sup> Malone T17740: 22 – 26 (Day 166).

<sup>359</sup> Malone T17740: 33 – 42 (Day 166).

<sup>360</sup> Malone T17740: 44 – 47 (Day 166).

- 343 A further media release was issued by Bishop Malone on 30 May 1996, when Ryan was sentenced. He included in it what was headed a 'Time-line Detailing Catholic Church's Response to Clergy Sexual Abuse'. The first item on the timeline is dated 11 October 1995, when Ryan was withdrawn from ministry following his arrest.<sup>361</sup>
- 344 Bishop Malone accepted that the timeline did not detail the response of the Church in the 1970s. When asked whether he was conscious that that was a question the community wanted answered, he said 'No, I wasn't conscious of that. I think I was too preoccupied with trying to put in place adequate responses to the needs of both survivors and the people generally.'<sup>362</sup> The Chair put to Bishop Malone that the purpose of the timeline was to demonstrate to the community that the Church had acted appropriately, and he said 'Yes, I think so, your Honour, yes.' Bishop Malone accepted that the Church knew more than revealed in the document and that he did not tell the public that.<sup>363</sup>
- 345 In an article published by the Newcastle Herald on 31 May 1996, Bishop Malone is quoted as saying that the Church had 'acted with integrity.'<sup>364</sup> A few days later, Bishop Malone spoke on a radio program, and said:<sup>365</sup>

*In retrospect, with the knowledge we have now, no, we didn't act with integrity. But I think at the time, which is 20 years ago, our knowledge of paedophilia was not all that extensive and I think the Church regarded these sorts of situations as moral problems, you know, that a guy who offended in this way was morally responsible for that offence. Now the way in which that was handled at the time ... was to send Father Ryan off to Melbourne where he was supposed to have had a series of psychological sessions to help with his particular problem. As it turned out, he only had one session and then continued to do a pastoral education course down there before he returned 12 months later to the diocese for a pastoral placement.*

*Now, I'm not suggesting that that 12 months in Melbourne was a sufficient response to his problem or to the victims who came forward, but I think possibly it was consistent with the way in which the Church would have responded at the time to most of these situations ...*

- 346 In that interview, Bishop Malone also said:

*There was, I think, in the mind of the Church then a sense where it's best to cover-up the scandal and the risk of scandal, rather than just publicise everything.*

- 347 In relation to this comment, Bishop Malone said there was a sense that 'we needed to come to the defence of the Church', but that as his time in the Diocese progressed, he had an epiphany where he said he chose to serve the needs of survivors rather than protect the Church. Asked why that was ever a choice, he said 'loyalty to the Church

<sup>361</sup> Exhibit 43-5 (Tab 54) CTJH.210.01025.2403.

<sup>362</sup> Malone T17735: 1 – 10 (Day 166).

<sup>363</sup> Malone T17735: 12 – 29 (Day 166).

<sup>364</sup> Exhibit 43-5 (Tab 55) CTJH.210.01025.2392.

<sup>365</sup> Exhibit 43-5 (Tab 58) CTJH.210.01025.1749 at 1755 – 1756.

goes very deeply.<sup>366</sup> He was asked whether it was the view of the Church in 1975 that it was best to cover up the scandal and he said ‘No, ‘cover-up’ would not be a word I’d use. Loyalty to the Church, yes.’ He accepted, however, that cover-up was the word he’d used in the interview.<sup>367</sup>

- 348 In a later statement in October 1997 for the Diocesan magazine Aurora, Bishop Malone said:<sup>368</sup>

*None of us were aware of the triggers deep within Vince Ryan which were to lead to his dysfunctional and criminal behaviour.*

*When earlier incidents were reported to the (then) Diocesan Authorities, steps were taken to remove him from his pastoral duties and treatment was recommended. On his return to the Diocese his previous ‘misdemeanors’ were considered to have been treated.*

*It was not until 1995 that a tragic scenario of sexual abuse emerged.*

- 349 It was put to Bishop Malone that the statement conveyed the impression that the Church had been kept in the dark about the level of abuse in 1975 and he said ‘You could suggest that’ but said that his use of inverted commas around the word ‘misdemeanours’ was to suggest it was idiotic to use that word to describe sexual abuse.<sup>369</sup> In relation to the serious sexual abuse perpetrated by Ryan in Merewether, ‘misdemeanours’ was indeed a grossly inadequate expression. Bishop Malone said the leaders of the Diocese knew of Ryan’s propensities back in 1975. He agreed Monsignor Cotter knew.<sup>370</sup> It was put to Bishop Malone that a statement to the Diocese in those terms was not correct and he said ‘Okay, you could say that, yes.’<sup>371</sup>

- 350 Bishop Malone wrote a letter to the Editor of the Newcastle Herald in May 2001. In that he referred to the reports of a journalist, Geoff Corbett, and said Mr Corbett continued his attack on the Church, the Diocese and him as Bishop for alleged inaction. Bishop Malone said:<sup>372</sup>

*For Mr Corbett to accuse Church authorities of covering up this case is both incorrect and a slur on the integrity of those authorities. Church authorities learnt of a complaint made against Vince Ryan in the mid-1970s and sought help for him. Subsequent Church authorities definitely did not know of the nature and extent of his abusive behaviour.*

- 351 Bishop Malone said that the attention from the Newcastle Herald towards himself and the Diocese was unrelenting and he thought that in 2001 there was still a sense in which he was trying to defend the Church.<sup>373</sup>

<sup>366</sup> Malone T17738: 43 – T17739: 9 (Day 166).

<sup>367</sup> Malone T17739: 23 – 42 (Day 166).

<sup>368</sup> Exhibit 43-5 (Tab 83) CTJH.210.01025.1408.

<sup>369</sup> Malone T17745: 17 – 33 (Day 166).

<sup>370</sup> Malone T17745: 47 – T17746: 5 (Day 166).

<sup>371</sup> Malone T17746: 17 – 20 (Day 166).

<sup>372</sup> Exhibit 43-5 (Tab 107) CTJH.210.01162.1397.

<sup>373</sup> Malone T17748: 3 – 24 (Day 166).

352 He accepted that the statement was not correct.<sup>374</sup>

353 In a statement in 2007, Bishop Malone said:<sup>375</sup>

*It is unfair of anyone to judge the decisions of Church leaders from over 30 years ago with today's knowledge of similar incidents. Back then the possibility of an adult priest abusing a child sexually was considered too abhorrent for words ...*

*Mgr Patrick Cotter has been judged negligent and suspicion of cover-ups hang over Bishop Leo Clarke and myself. With the benefit of hindsight more could have been done to confront sexual abuse in the Church. I truly regret that this did not happen and approach these matters with greater understanding these days.*

354 Bishop Malone was asked whether there was any suggestion that people disbelieved the boys who had brought complaints in 1975 and he said 'No, I don't think so, no.' He accepted that, in relation to Ryan, the explanation of past inaction was incorrect and that they were irrelevant to the Church's response to Ryan.<sup>376</sup>

355 It is submitted that the evidence supports a finding that Bishop Malone made a number of public statements which misrepresented the true position in relation to the adequacy of the Diocese's response to allegations against Ryan in the 1970s, as follows:

- a. The 30 May 1996 media release is misleading in that it omits from the 'timeline' of the Diocese's response the reports to the Diocese in 1975 and 1976.
- b. The October 1997 statement is misleading as it conveys the impression that the Diocesan authorities only had knowledge of the gravity of Ryan's sexual abuse of children in 1995. That clearly was not the case.
- c. The 2001 letter to the Editor of the Newcastle Herald is misleading as it conveys that the approach in 1975 was an adequate response and that Bishop Clarke did not know of serious allegations of sexual abuse of children by Ryan.
- d. The 2007 statement is misleading as it conveys that the 'Church leaders' in the 1970s did not believe the allegations against Ryan. That is not correct and is not an appropriate explanation of the Diocese's inadequate response.

356 Bishop Malone accepted that he did not seek to interrogate Monsignor Cotter or Bishop Clarke in relation to what each had known about Ryan in 1975 and 1976. Bishop Malone ought to have appreciated that, in order to make truthful and accurate statements about the response of the Diocese, a full understanding of what they knew and how they responded was necessary. To the extent that the public statements were misleading or incomplete because of Bishop Malone's ignorance, that is not a

<sup>374</sup> Malone T17748: 34 – 35 (Day 166).

<sup>375</sup> Exhibit 43-5 (Tab 116) CTJH.210.01162.1397.

<sup>376</sup> Malone T17750: 15 – 38 (Day 166).

reasonable excuse. Bishop Malone should not have been making statements purporting to explain and justify the history of the Church's dealings with Ryan without having taken proper steps to investigate the true position.

- 357 As Bishop Malone acknowledged, his attitude initially in responding to allegations of child sexual abuse was, in some respects, to defend or be loyal to the Church. That is the only available explanation for his failure to make frank and accurate statements based on a proper understanding of the Diocese's dealings with Ryan.

### Independent Review

- 358 Bishop Malone appointed an independent committee to review the response by the Church to crimes committed by Ryan, which issued a report in November 1996.<sup>377</sup> The review was in response to a request by the Australian Catholic Bishops' Conference that the Diocese undertake a case study of a response to the handling of clergy sexual abuse.<sup>378</sup>
- 359 One of the authors of that report, Ms Elizabeth Seysener, provided a statement to the Royal Commission.<sup>379</sup> (The other author of the report, Ms Llewellyn, is deceased.) Ms Seysener gave evidence that she interviewed Monsignor Cotter, who was 'evasive' about his handling of the 1975 and 'spoke at length about how paedophilia was not well understood at the time.'<sup>380</sup>
- 360 After the committee was established Ms Llewellyn wrote to Bishop Clarke regarding the notification to Monsignor Cotter in 1975. She said that 'As there is no available documentation in relation to this we need to learn from your recollections of these events.'<sup>381</sup> However, as detailed in the report, Bishop Clarke went overseas and did not respond to written communication.<sup>382</sup>
- 361 Bishop Malone accepted that it would have been difficult to form any views about the response without speaking to Bishop Clarke, but that he was not aware of that limitation at the time.<sup>383</sup>
- 362 Bishop Malone also said that he accepted the criticisms made of him in the report, namely that he kept too much to himself in terms of information and knowledge and forward planning of the response.<sup>384</sup>
- 363 The report was primarily directed to the response of the Diocese in the 1990s. It does, however, contain some information on the 1975 events. The report provides:<sup>385</sup>

<sup>377</sup> Exhibit 43-5 (Tab 70) CTJH.210.01167.0083\_R.

<sup>378</sup> Exhibit 43-31 Statement of Elizabeth Seysener STAT.1165.001.0001 [8].

<sup>379</sup> Exhibit 43-31 Statement of Elizabeth Seysener STAT.1165.001.0001.

<sup>380</sup> Exhibit 43-31 Statement of Elizabeth Seysener STAT.1165.001.0001 [14].

<sup>381</sup> Exhibit 43-5 (Tab 67) CTJH.210.01025.1563.

<sup>382</sup> Exhibit 43-5 (Tab 70) CTJH.210.01167.0083\_R at 0087.

<sup>383</sup> Malone T17742: 45 – T17743: 5 (Day 166).

<sup>384</sup> Malone T17776: 31 – 38, T17777: 2 – 3 (Day 166).

<sup>385</sup> Exhibit 43-5 (Tab 70) CTJH.210.01167.0083\_R at 0088.

*Following the events of 1975 there was a small group, who were aware, in varying degrees, of the nature of the disclosures relating to Fr Ryan. This included a priest who was a trained psychologist and had a continued association with Fr Ryan.*

364 Ms Seysener gave evidence that the person identified in those paragraphs is Monsignor Burston.<sup>386</sup>

365 The report also provides in relation to Monsignor Burston:<sup>387</sup>

*On a few occasions he wondered whether further inappropriate activity was occurring but had no clear evidence [REDACTED] ... Fr Ryan's response to the news led to a period of incapacity to work and this indicated to the colleague that something might be amiss in his relationship with the young man. The colleague did not approach Fr Ryan about his misgivings and did not discuss the matter with the Bishop of the day.*

366 Monsignor Burston was asked whether he was aware in 1975 of the incidents that led to Ryan being sent to Melbourne and he said no. He said, however, that Monsignor Cotter told him that Ryan had been sent to Melbourne and that there was 'a complaint about inappropriate behaviour with boys'. He said that was as much as Monsignor Cotter told him and he could not remember the context of that conversation.<sup>388</sup> He said that no one else discussed with him the reasons Ryan was sent to Melbourne and he did not discuss the matter with Ryan.<sup>389</sup> When asked what his reaction was to being told by Monsignor Cotter if inappropriate conduct with boys he said 'puzzled' and 'shocked'.<sup>390</sup>

367 Monsignor Burston gave evidence that he did speak to one or both of the reviewers, although he could not recall the occasion.<sup>391</sup> When asked whether he remembered conveying to them that he had wondered whether 'further inappropriate behaviour' was occurring he said 'I probably did, yes. I don't recall immediately the interview with them, but I'm sure I would have said that, yes.'<sup>392</sup>

368 Monsignor Burston gave evidence that on one occasion he witnessed CNF tossing stones at Ryan's crotch and said this conduct struck him as overly familiar. He said 'it was things like that that were not overtly sexual or obvious' that he witnessed between Ryan and CNF that were 'puzzling' to him.<sup>393</sup> When asked whether there were other occasions he could think of, Monsignor Burston said 'No, not at the moment, no.'<sup>394</sup>

<sup>386</sup> Exhibit 43-31 Statement of Elizabeth Seysener STAT.1165.001.0001 [19].

<sup>387</sup> Exhibit 43-5 (Tab 70) CTJH.210.01167.0083\_R at 0088.

<sup>388</sup> Burston T17878: 41 – T17879: 11 (Day 168).

<sup>389</sup> Burston T17879: 13 – 22 (Day 168).

<sup>390</sup> Burston T17879: 24 – 29 (Day 168).

<sup>391</sup> Burston T17877: 16 – 19 (Day 168).

<sup>392</sup> Burston T17878: 19 – 24 (Day 168).

<sup>393</sup> Burston T17878: 32 – 37 (Day 168).

<sup>394</sup> Burston T17879: 42 – 45 (Day 168).

- 369 In relation to the comment that Ryan's reaction to an event prompted Monsignor Burston to think that something might be amiss in Ryan's relationship with CNF, he said 'Well, it didn't strike me as anything terribly serious. There was, you know, an unusual reaction, if you like, but not terribly serious – seriously puzzling, sorry.'<sup>395</sup>
- 370 Monsignor Burston said that he did not speak to anyone else about his misgivings and that he thought the first time he spoke about these matters was when he was interviewed by the authors of the report.<sup>396</sup>
- 371 It is submitted that Monsignor Burston's evidence establishes that he knew, at or around the time that Ryan was sent to Melbourne in early 1976, that he had been sent there because of a complaint about inappropriate behaviour with boys.

### Indemnity

- 372 On 14 June 1996 Paul Reynolds, the National Claims Manager of Catholic Church Insurances wrote a memo about the indemnity position in relation to claims against Ryan. Mr Reynolds wrote 'My concern is that Monsignor Cotter in his capacity as 'caretaker' Bishop was notified of Ryan's activities in 1975 so clearly under Special Issues we would have to exclude any claims that might eventuate.'<sup>397</sup>
- 373 On 29 December 1999, solicitors for the insurer wrote to the Diocese's solicitors and said that the request for indemnity was denied. They wrote:<sup>398</sup>

*The failure by the Diocese to ensure that Fr Ryan was treated appropriately and removed from contact with children bearing in mind that there was no official reprimand or sanction put in place, that there were no steps taken to ensure that he was properly treated, there were no steps taken to obtain a report from his treaters to ensure that the treatment was appropriate and that he was fit to return to Parish work, that there were no steps taken to monitor his activities subsequent to his return to Parish work even though he was, at the time, sharing a residence with Monsignor Cotter who was well aware of his previous problems, there were no steps taken to ensure that proper records and reports were made and provided to Bishop Clarke concerning the complaints in 1975 and the subsequent actions taken. At best the activities of various agents of the Diocese in that period can be described as reckless indifference. At worst, as you are aware, the police had considered charging Monsignor Cotter with criminal offences relating to his failure to deal with this matter appropriately.*

- 374 Bishop Malone responded that Monsignor Cotter's conduct could not be found to be reprehensible or reckless, and that reckless conduct would need to be proved to deny indemnity.<sup>399</sup>

<sup>395</sup> Burston T17880: 16 – 19 (Day 168).

<sup>396</sup> Burston T17880: 21 – 30 (Day 168).

<sup>397</sup> Exhibit 43-5 (Tab 59) NSW.2094.001.0001.0087\_R.

<sup>398</sup> Exhibit 43-5 (Tab 98) CCI.0228.00005.0053\_R.

<sup>399</sup> Exhibit 43-5 (Tab 101) CTJH.210.01174.0004.

375 In February 2000, the Diocese and CCI signed a Heads of Agreement to resolve the indemnity claim by CCI agreeing to contribute \$2 million to the Diocese for claims against Ryan.<sup>400</sup>

## 7.2 Decision not to laicise Ryan and conditional financial support

376 Bishop Malone did not take steps to seek to have Ryan laicised. Rather, the Diocese entered into a Memorandum of Understanding (**MOU**) with Ryan following his release from gaol in 2010 that made his continued financial support dependent upon him complying with certain conditions. Those conditions included not wearing religious or clerical clothing or referring to himself by religious titles, not celebrating or administering sacraments and not having unsupervised contact with children.<sup>401</sup>

377 Bishop Malone gave evidence that he thought it would not be responsible to have Ryan laicised, because by doing so he would be being released into the community without any checks and balances beyond the end of his parole period.<sup>402</sup> He said he understood how it could seem to the community that the Church not take steps to laicise an offender such as Ryan, but he said 'I also understand that ... the community would not thank us for releasing a paedophile into its mist without any controls.'<sup>403</sup>

378 Bishop Malone gave evidence that the MOU was originally suggested by Towards Healing or the national professional standards body and was implemented in conjunction with discussions with probation and parole authorities.<sup>404</sup>

379 Bishop Malone said:<sup>405</sup>

*From the very beginning, I had to negotiate a very fine line. On the one hand I had to ensure victims of Father Ryan were treated with respect and compassion as the primary focus. On the other hand, as the Bishop I felt I still had an obligation to attempt to still look after the needs of Father Ryan. The performance of this obligation had the added benefit of the Diocese having the ability to continue to supervise Father Ryan and that was obviously of benefit to the safety of the community. I found this balance difficult to negotiate and was regularly publicly and privately criticized by supporters of victims, the supporters of Father Ryan, and the press.*

380 It was put to Bishop Malone that Ryan could also be required to comply with conditions by laicising him but still making financial assistance dependent on his compliance with those conditions. Bishop Malone said 'Well, I suppose so, yes ... but he could just go his own way if he wished to.'<sup>406</sup> Bishop Malone agreed he was

<sup>400</sup> Exhibit 43-5 (Tab 102) CTJH.210.01025.2287.

<sup>401</sup> Exhibit 43-5 (Tab 128) CTJH.210.01168.0181\_R.

<sup>402</sup> Malone T17758: 38 – 43 (Day 166).

<sup>403</sup> Malone T17759: 37 – 40 (Day 166).

<sup>404</sup> Malone T17770: 43 – T17771: 7 (Day 166).

<sup>405</sup> Exhibit 43-8 Statement of Bishop Emeritus Malone STAT.1144.001.0001\_R [27].

<sup>406</sup> Malone T17760: 4 – 7 (Day 166).

concerned that member of the community might consider he was providing a safe haven for Ryan and said 'It is quite a serious dilemma that I certainly faced.'<sup>407</sup>

- 381 It is submitted that it is wrong that a person convicted of multiple offences of serious sexual abuse of children should remain a priest. To the extent that retaining such people within the priesthood may be perceived as essential in order to maintain supervision and a level of control, that should not be seen as a necessary evil in all cases. In the case of Ryan, the evidence indicates that supervision and control may be achieved in other ways even with laicisation, such as by making the provision of material assistance conditional on compliance with supervision arrangements and other terms. Ryan retaining his title as a priest, with all of the institutional and spiritual authority that is conveyed by that status, is likely to aggravate the sense of betrayal and disillusionment with the Church felt by Ryan's victims and the Church community. Ryan should be laicised.

## Part 8 Zimmerman Services

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- 382 The Royal Commission also received evidence in relation to Zimmerman Services. It is an agency which operates under the direction of the Bishop.<sup>408</sup> Its mandate is to prevent child abuse, respond to complaints of child abuse, and provide support to persons affected by child abuse (both current and historic).<sup>409</sup>
- 383 Zimmerman Services works with a number of government agencies and the police. It is staffed by lay people with specialist child protection qualifications and experience.<sup>410</sup>
- 384 In 2005 Bishop Michael Malone established a centralised Diocesan Child Protection and Professional Conduct Unit (DCPPU) in the Diocese of Maitland-Newcastle. Bishop Malone gave evidence that Ms Helen Keevers was responsible for a Diocesan-wide survey as to how to put in place an effective child protection unit. The Diocesan Catholic Schools Office already had a small child protection unit which was then merged with the newly created DCPPU.<sup>411</sup>
- 385 Ms Maureen O'Hearn, the current co-ordinator of Healing and Support, gave evidence that Bishop Malone 'clearly saw a need that the Diocese needed to respond to those who had been affected by sexual abuse'.<sup>412</sup> 'I think Bishop [Malone] identified that the Church did need to respond to people. I think it has continued to respond; probably how it has changed is that it has become more proactive over the years'.<sup>413</sup>

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<sup>407</sup> Malone T17760: 30 – 40 (Day 166).

<sup>408</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [107].

<sup>409</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [107].

<sup>410</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [107].

<sup>411</sup> Malone T17757: 43 – T17758: 1 (Day 166).

<sup>412</sup> O'Hearn T17801: 43 – T17802: 3 (Day 167).

<sup>413</sup> O'Hearn T17803: 4 – 10 (Day 167).

- 386 Bishop Malone gave evidence that the role of the DCPPU was:<sup>414</sup>
- a. to create a safe environment for children
  - b. deal with allegations of abuse
  - c. adhere to all legislative requirements
  - d. determine due process was followed in all investigations
  - e. ensure the needs for support of all parties were met
  - f. educate and promote the message of child protection across the Diocese and address the effect on the community.
- 387 Bishop Malone gave evidence that the DCPPU always had the three elements of investigation, complaints handling and healing.<sup>415</sup> These roles were assumed by the manager of the DCPPU, who was also responsible for the negotiation of civil settlements.<sup>416</sup>
- 388 In September 2007, Zimmerman House was opened as a centre providing a support and healing service for victims, in acknowledgement of the need for support services to be in a physically separate location from traditional Diocesan premises.<sup>417</sup>
- 389 Zimmerman House was renamed Zimmerman Services in 2011. The investigative/prevention functions and the healing/support functions were separated, and an independent co-ordinator for Healing and Support was appointed.<sup>418</sup>
- 390 The purpose of this restructure was to address the potential conflict of interest that could arise when the manager of Zimmerman Services managed the negotiation of a civil claim on behalf of the Diocese with a claimant who was also a client of Healing and Support.<sup>419</sup>
- 391 Zimmerman Services has three main teams:<sup>420</sup>
- a. the Prevention and Response Team (PaRT)
  - b. Healing and Support
  - c. the Administrative Support Team.

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<sup>414</sup> Exhibit 43-8 Statement of Bishop Emeritus Malone STAT.1144.001.0001\_R [9]; Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [108].

<sup>415</sup> Malone T17757: 38 – 40 (Day 166).

<sup>416</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [110].

<sup>417</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [109].

<sup>418</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [110].

<sup>419</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [111].

<sup>420</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [115].

## Healing and Support Team

- 392 The Healing and Support Team provides a supportive response to those who have been directly affected by child sexual abuse perpetrated by personnel of the Diocese of Maitland-Newcastle.<sup>421</sup>
- 393 Ms O’Hearn has been head of the Healing and Support Team since December 2007.<sup>422</sup> She gave evidence that her arrival ‘was in response to a particular need that was felt to deal with survivors that were coming forward in relation to Denis McAlinden’.<sup>423</sup>
- 394 Ms O’Hearn gave evidence in the public hearing that ‘Healing and Support is very much a self-contained team. Our files are all confidential so that when people come to us, anything they tell us will remain confidential. No-one else in any other part of the Diocese or other part of Zimmerman Services has any access to that information. If someone then later makes a claim, none of that information can be used; so yes, it is very much a self-contained confidential service.’<sup>424</sup>
- 395 Notwithstanding this, Ms O’Hearn said that some people still perceive Healing and Support to be part of a Catholic organisation, and ‘they don't trust that the Catholic Church will not continue to cover things up. Our experience has been that sometimes people have approached us and that has been their initial response, that they've said, "You're Catholic. How can this be that you can offer us support when this is the institution that caused the abuse.”’<sup>425</sup> Ms O’Hearn said that that is something ‘that can hinder someone approaching Healing and Support.’<sup>426</sup>
- 396 However, Ms O’Hearn gave evidence that the ‘literature would show that people who have been abused by an institution, to have that abuse acknowledged and validated by the institution does assist for some people in their healing, and I think the practical, ongoing support that Zimmerman Services offers is a true reflection of that ongoing validation.’<sup>427</sup>
- 397 Ms O’Hearn gave evidence that there is no criticism from the hierarchy of the Church as a result of Healing and Support working against the interests of the Church.<sup>428</sup>
- 398 The Healing and Support Team has the following functions:
- a. supporting individuals to make statements to police or other statutory authorities

<sup>421</sup> O’Hearn T17797: 20 – 21 (Day 167).

<sup>422</sup> O’Hearn T17796: 29 – 34 (Day 167).

<sup>423</sup> O’Hearn T17802: 42 – 46 (Day 167).

<sup>424</sup> O’Hearn T17799: 9 – 16 (Day 167).

<sup>425</sup> O’Hearn T17798: 39 - T17799: 1 (Day 167).

<sup>426</sup> O’Hearn T17799: 2 – 4 (Day 167).

<sup>427</sup> O’Hearn T17799: 27 – 32 (Day 167).

<sup>428</sup> O’Hearn T17799: 43 – T17800: 6 (Day 167).

- b. supporting individuals through the criminal process, including at trial, at sentencing hearings and in writing impact statements.<sup>429</sup> Ms O’Hearn gave evidence that NSW Police were probably their biggest referrer<sup>430</sup>
- c. conducting group work, developing peer support networks and working collaboratively with survivor community groups
- d. advocating to the Diocese, other Church authorities, community agencies and statutory authorities on behalf of the person or group of persons who have been adversely affected
- e. providing practical assistance to support victims to manage particular crises or challenges in their lives, including assistance in securing accommodation, addressing their personal legal issues (including Family Court and criminal jurisdictions)<sup>431</sup> and spiritual healing<sup>432</sup>
- f. providing support, including through a network of independent, third party counsellors who have experience in working with adult victims of child sexual abuse, funded by the Diocese<sup>433</sup>
- g. supporting people through making a civil claims against the Diocese and attending Special Commissions and Royal Commissions<sup>434</sup>
- h. advocacy work.<sup>435</sup>

399 There is no burden of proof placed on people to access Healing and Support Services<sup>436</sup> and anyone who has been affected by the abuse can seek support.<sup>437</sup>

400 In relation to counselling services, Ms O’Hearn gave evidence that Healing and Support have adopted the Guideline for the Treatment of Complex Trauma and the Guideline for Trauma Informed Care and Service Delivery developed by the organization Adults Surviving Child Abuse. The Guideline for the Treatment of Complex Trauma is for counsellors and mental health professionals, and the Guideline for Trauma Informed Care and Service Delivery is for organizations such as Healing and Support to inform the way in which they provide services to survivors.<sup>438</sup>

401 Ms O’Hearn gave evidence that when Healing and Support refers someone to a counsellor, they look at the individual needs of the person and seek to find a counsellor who is appropriately experienced, qualified and accessible for that

<sup>429</sup> O’Hearn T17797: 20 – 35 (Day 167).

<sup>430</sup> O’Hearn T17800: 47 – T17801: 1 (Day 167).

<sup>431</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [119].

<sup>432</sup> O’Hearn T17807: 16 – 33 (Day 167).

<sup>433</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [119].

<sup>434</sup> O’Hearn T17797: 20 – 35; T17801: 18 – 27 (Day 167).

<sup>435</sup> O’Hearn T17797: 41 – 42 (Day 167).

<sup>436</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [120]; T17798: 28-34 (Day 167).

<sup>437</sup> O’Hearn T17798: 5 – 19 (Day 167).

<sup>438</sup> O’Hearn T17803: 42 – T17804: 27 (Day 167).

person.<sup>439</sup> 'We would then offer to ring and make an appointment and, with the person's permission, give the counsellor some background information so that the person doesn't have to re-tell their story when they get there'.<sup>440</sup> Healing and Support then follows up after the first session and if the counsellor is not working for the person, 'we would then find someone else and reconnect them with another counsellor'.<sup>441</sup>

402 There is no limit to the length of time that a person can continue to seek support from Healing and Support.<sup>442</sup> Ms O'Hearn gave evidence that 'it's very much a very flexible, open-ended, long-lasting service that people can come and go or stay involved with over a long period of time'.<sup>443</sup>

403 The co-ordinator of Healing and Support reports to the Vice-Chancellor Pastoral Ministries rather than the manager of Zimmerman Services.<sup>444</sup> The co-ordinator is in communication with the manager of Zimmerman Services for day-to-day functional support and management.<sup>445</sup> This structure is designed to ensure that there is no conflict of role between the manager of Zimmerman Services and the functions of Healing and Support.<sup>446</sup>

404 The co-ordinator of Healing and Support also has direct access to the Bishop as required, including briefing the Bishop on meetings he has with victims and their families, and keeping the Bishop up to date on the Healing and Support portfolio.<sup>447</sup> Ms O'Hearn gave evidence that Bishop Malone 'was always supportive' of Healing and Support and similarly, Bishop Wright 'has continued to support that, both Bishops have been open to meetings with survivors when I've asked, so, yes, I think we feel that ongoing support'.<sup>448</sup>

405 Bishop Wright gave evidence in the public hearing that in the year of 2015-16, the Diocese paid approximately \$75,000 in support costs for victims through Healing and Support, which included approximately \$60,000 for third party counselling services (exclusive of counselling costs that are part of civil settlements). This amount is in addition to the operating budget of Zimmerman Services.<sup>449</sup>

406 Ms O'Hearn gave evidence that other Diocese and institutions have contacted Healing and Support to ask them to meet with them and talk about their services and describe how it work, including the Parramatta Diocese, Armidale Diocese and the Marist Brothers.<sup>450</sup>

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<sup>439</sup> O'Hearn T17804: 46 – T17805: 11 (Day 167).

<sup>440</sup> O'Hearn T17805: 13 – 16 (Day 167).

<sup>441</sup> O'Hearn T17805: 25 – 35 (Day 167).

<sup>442</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [121].

<sup>443</sup> O'Hearn T17798: 22 – 24 (Day 167).

<sup>444</sup> O'Hearn T17799: 18 – 22 (Day 167).

<sup>445</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [122].

<sup>446</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [122].

<sup>447</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [123].

<sup>448</sup> O'Hearn T17801: 47 – T17802: 3 (Day 167).

<sup>449</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [121].

<sup>450</sup> O'Hearn T17800: 8 – 14 (Day 167).

## Evidence of survivors of experiences with the Healing and Support team

- 407 Many survivors provided positive accounts of their experiences with Healing and Support. Survivor CNE gave evidence that he was ‘receiving counselling support which is being paid for by the Catholic Church. This was arranged through Zimmerman Services, which I have found to be excellent. They have been very supportive of me, have believed my story, and gone out of their way to care for me. I cannot fault the support of Zimmerman Services’.<sup>451</sup>
- 408 Survivor CNG gave evidence that around the time of making his police statement in 2013, ‘Maureen O’Hearn from Zimmerman Services contacted me. I do not know how she got my number. Maureen organised numerous counselling sessions for me, starting in June 2013. Maureen said she was here to help victims who were abused by the priests, offer support and help healing. I would be dead if it weren't for Maureen O’Hearn’.<sup>452</sup>
- 409 Survivor CNQ gave evidence that he contacted Sean Tynan from Zimmerman Services in 2013, who said he should get in touch with Maureen O’Hearn. ‘She was copied in on his reply email and she immediately sent me through details about what to do from there. I brooded over this for about three weeks. Maureen was quite persistent and would call and leave messages on my mobile. I ended up telling her the whole story...I did not have to try and prove my case. Maureen just wanted to know when it happened and who the offenders were. She immediately organised counselling for me and said that the Catholic Church would pay for it...Maureen has also encouraged me to take civil action, which I am currently taking part in, in order to gain some compensation’.<sup>453</sup>
- 410 Survivor CQT gave evidence ‘Maureen O’Hearn of Zimmerman heard my story about the Brothers and also arranged counselling support for me which I believe the Marist Brothers are paying for. It's been very good. I find it helpful because the criminal proceedings and the Royal Commission processes can be stressful. My experience with Zimmerman Services is that Maureen O’Hearn is a really nice lady’.<sup>454</sup>

## Part 9 Bishop Wright’s evidence

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- 411 Bishop Wright delivered an apology to those affected by sexual abuse by clergy as the current Bishop of the Diocese. The apology was expressed in Bishop Wright’s statement to the Royal Commission,<sup>455</sup> and he delivered the apology during his oral evidence.

<sup>451</sup> Exhibit 43-6 Statement of CNE STAT.1167.001.0001\_R [45]; T17708: 24 – 29 (Day 166).

<sup>452</sup> Exhibit 43-14 Statement of CNG STAT.1171.001.0001\_R [30]; T17870: 21 – 45 (Day 167).

<sup>453</sup> Exhibit 43-18 Statement of CNQ STAT.1128.001.0001\_R [57] – [60]; T17923: 21 – T17924: 5 (Day 168).

<sup>454</sup> Exhibit 43-22 Statement of CQT STAT.1173.001.0001\_R [45] – [46]; T18034: 28 – 41 (Day 169).

<sup>455</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [10] – [15].

- 412 Bishop Wright said in his five years as Bishop, he had twice been called to bear witness to a ‘terrible and shameful chapter in the history of this Diocese.’ He said he is ‘called to account for how the Diocese meets its obligations to provide support to those who remain affected today by their abuse, and called to demonstrate how we are committed to ensuring that what happened in the past cannot happen again today.’<sup>456</sup>
- 413 Bishop Wright acknowledged that Ryan was a ‘sexual predator’ who had sexually abused boys from as early as 1972, and that Monsignor Cotter was told something of this in 1974 but ‘objectively failed to do anything meaningful to protect the children who should have been his primary concern.’ He acknowledged that while many of those abused as boys ‘have managed to live stable and fulfilling lives, others have struggled to simply remain alive’ and some have also taken their own lives. Bishop Wright accepted that the harm inflicted by Ryan may have been aggravated by the Diocese by putting survivors through contested court processes when they sought redress.<sup>457</sup>
- 414 Bishop Wright said:<sup>458</sup>

*As Bishop I humbly offer an unreserved apology on behalf of the Diocese to all those men who have suffered and continue to suffer as a consequence of Ryan’s abuse and the actions and omissions of members of the Diocese. Through those failures and omissions, the Diocese failed to act according to the Gospel. I apologise to the parents and siblings of those boys whose innocence was stolen by an evil presence who was allowed to remain amongst us by flawed and failed leaders. I apologise to the spouses and children of those men for any shadows that reach out from the past to affect your lives together today.*

*I renew my commitment, and that of the Diocese, to support fully the work of this Royal Commission generally, and particularly its inquiries into the Diocese’s response to allegations of child sexual abuse made against Ryan. I have said previously that one of the most important and lasting benefits of holding public inquiries into these criminal and tragic stories, is that this can and should change public awareness of child sexual abuse and allow those affected to tell their truths, often for the first time publicly, with a sense of safety and acceptance. I have seen how these inquiries have significantly broken down the remaining walls of silence in the wider community and thereby reduced the sense of isolation and shame that has been one of the many burdens carried by those who were abused.*

*I expect that the days of this case study committed to Ryan will show the Diocese in its worst aspects. Nevertheless it is an unambiguously good and important thing that those whom Ryan has harmed are given this opportunity to give voice to their truths and I acknowledge their courage and strength in doing so. As the representative of the Diocese in which they were abused, I owe these brave men my respectful and humble attention.*

*Although the Royal Commission has only asked me in this statement to address the matter of Ryan, I acknowledge that devastation and hurt has been caused by*

<sup>456</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [10].

<sup>457</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [11].

<sup>458</sup> Exhibit 43-12 Statement of Bishop Wright STAT.1159.001.0001\_R [12] – [15].

*other priests who have sexually abused children in the Diocese, and I extend my apology to those affected, their families and to the community as a whole.*

415 Bishop Wright was right to make the concessions in his statement, and his apology on behalf of the Diocese was appropriate.

416 The Chair of the Royal Commission asked Bishop Wright if all leaders of the Church understood the dimension of the problem for the Catholic Church, and Bishop Wright said he thought all church leaders are aware of the numbers due to the work of the Royal Commission. He said there is a feeling that the great preponderance of the offences were committed in the 1970s and 1980s, and that there is a feeling that a lot has changed.<sup>459</sup> The following exchange took place:<sup>460</sup>

*THE CHAIR: It is apparent to us, or it has been told to us anyway, that there are some in the Church who don't really accept that the spotlight, as it is referred to in the newspapers, should have been shone on the Church to the extent that it has?*

*A. I myself, your Honour, you know, wonder - it sometimes seems that so many of the case studies are delving into matters of 30 and 40 years ago and I kind of wonder where the more contemporary spotlight should be falling.*

*Q. One of the issues there, I'm sure you understand, is it takes people many, many years before they come and tell anyone that they have a problem?*

*A. Yes.*

*Q. We all will leave the Commission with the hope that things have changed, but with an understanding that to say that is impossible because you do not know what will emerge when people are able to speak of what happened to them in the past?*

*A. Indeed, but, you know, you would be very aware that there is a great deal more reporting going on now, for one reason and another, than many years ago and you would be aware of the South Australian Commission into their own difficulties in youth services there and so on. I just feel that we - and it's the remit of the Commission to look at institutional responses, not the broad community stuff, but I just have this misgiving that there's an awful lot of stuff going on out there now and we spend so much time decades ago; I'm sorry, it's just my concern.*

417 When it was put to Bishop Wright that the Royal Commission's task involves the Church facing up to what happened in the past in a public way, Bishop Wright said:<sup>461</sup>

*Yes, please, I have no - I hope I haven't come across as saying that that's an exercise that should not have been performed and it's certainly absolutely right and we're answerable for that, but you asked me a spotlight question and I do have that concern as to where the balance falls, not so much between Catholics and others as between past and present.*

<sup>459</sup> Wright T17836: 21 – 34 (Day 167).

<sup>460</sup> Wright T17836: 36 – T17837: 18 (Day 167).

<sup>461</sup> Wright T17837: 20 – 30 (Day 167).

- 418 Bishop Wright gave evidence about his view of some of the ways in which the Catholic Church is responding so as to ensure, as far as possible, the problems of the past do not continue.<sup>462</sup> He also gave evidence about the steps being undertaken by the Diocese, particularly the role of Zimmerman Services, set out earlier in these submissions. The work undertaken by the Diocese to improve responses to and management of complaints, and provide sensitive, effective and appropriate support to complaints survivors of child sexual abuse is commendable and ought to be acknowledged.
- 419 The Chair asked Bishop Wright if Zimmerman Services and its role in the Diocese had any equivalent in other dioceses in Australia, observing that Zimmerman Services is 'a bit special', and Bishop Wright agreed. He said some dioceses 'rely on what they think are - and I think with reason - pretty good arrangements within their schools offices, whom they - when they have a Diocesan-level complaint call on those skills that have been refined in the school work, others have other arrangements, but Zimmerman is special, I'm happy to say so.'<sup>463</sup>
- 420 When asked if, as a consequence, he had done what he could to bring the other Bishops around Australia to understand what he has done in Newcastle and commend its structure to them, Bishop Wright said he had not done so formally but he thought he had done everything possible to talk to others about his views.<sup>464</sup> The approach of his Diocese in establishing and supporting Zimmerman Services is a positive model to be promoted by Bishop Wright for the consideration of other Church leaders.
- 421 Bishop Wright's comments in response to questions from the Chair suggest a degree of resistance, if not resentment, on his part to the level of scrutiny to which the Catholic Church has been subjected regarding past incidents. However, there is no reason to doubt the sincerity of Bishop Wright's apology to victims and acknowledgement of past failings.

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<sup>462</sup> For example, Wright T17838: 36 – T17844: 28; Wright T17848: 42 – T17855:17 (Day 167).

<sup>463</sup> Wright T17851: 42 – 17852: 10 (Day 167).

<sup>464</sup> Wright T17852: 12 – 29 (Day 167).