

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES
TO CHILD SEXUAL ABUSE

AT NEWCASTLE COURT HOUSE

**CASE STUDY 43
PUBLIC INQUIRY INTO
THE RESPONSE OF CATHOLIC CHURCH AUTHORITIES IN THE
MAITLAND-NEWCASTLE REGION**

SUBMISSIONS IN REPLY ON BEHALF OF CNS

INTRODUCTION

1. CNS adopts and endorses the submissions made by Counsel Assisting the Royal Commission ('Counsel Assisting').
2. He wishes to make the following submissions in reply.

SUBMISSIONS

3. Parts 2 and 6 of Counsel Assisting's submissions relate to the evidence that CNS gave to the Commission, and the other evidence contextual to his dealings with Marist Brothers Hamilton.
4. CNS accepts the summary of his evidence by Counsel Assisting. CNS supports Counsel Assisting's submissions, and concludes that the evidence in this case points inexorably to all available findings.
5. In relation to his evidence specifically, CNS supports the submission at [160], for the reasons outlined by Counsel Assisting in the paragraphs following, that his evidence that he reported allegations of sexual abuse by Romuald, Dominic and Patrick at Marist Brothers Hamilton to Brother Wade should be accepted.
6. CNS consequentially supports Counsel Assisting's submission at [169] in the terms expressed by him, for the reasons outlined in Counsel Assisting's submissions:

No record of any of the complaints reported to Brother Wade was produced by the Marist Brothers. The inference that should be drawn is that no such records were made. Brother Wade's failure to make a full and frank record of the complaints of serious misconduct against Brothers was totally inadequate, and a serious dereliction of his duty as principal of the school and superior of the Marist Brothers community.

7. Further to Counsel Assisting's submissions, CNS submits that there are further matters contained within the evidence which support an extension to available findings relating to the culture at Marist Brothers Hamilton in the 1960s and 1970s.
8. Counsel Assisting has discussed the culture at Marist Brothers Hamilton in the 1960s and 1970s, leading to the following recommended findings:

[T]hat students were subjected to frequent and sometimes brutal physical violence at the hands of certain Brothers and teachers at Marist Brothers Hamilton in the 1960s and 1970s. The severity and frequency of punishment, and the lack of any apparent proportionality between the punishment and the supposed transgression, is such that this cannot be explained as merely an example of typical corporal punishment as accepted in society at the time. The physical punishment was of such a kind as to produce a culture of fear and intimidation of the students.

There was also an element of what might be called 'spiritual intimidation' of students. ...

The evidence was that Dominic, Patrick and Romuald engaged in inappropriate sexual conduct with children in the classroom that was brazen, frequent and in some cases quite blatant. Such offending suggests that the Brothers perceived that they enjoyed a measure of impunity and this was in fact the case. The culture of physical violence and the students' fear of retribution contributed to this state of affairs (at [87]-[89]).

9. These findings are supported – indeed, it was CNS who expressed the opinion in his evidence, *'that the Marist Brothers could do whatever they wanted with us with impunity.'*¹ CNS submits that there is one further cultural aspect arising from the evidence, which led to the Brothers' perception that they enjoyed this measure of impunity (and that this was in fact the case). This was the very considerable respect and trust that the broader community invested in the Brothers, including the school parents, in particular. The Brothers abused that respect and that trust. During the 1960s and 1970s, there was no evidence that the Brothers provided any respect or pastoral support to the broader school community in response to the considerable trust invested in them.
10. Counsel Assisting has carefully summarised the evidence relating to the death of Andrew Nash in Part 2.2 of his submissions. It is difficult to imagine a more traumatic and poignant incident than the circumstances of his death at the age of 13 as described in this case study. Audrey Nash and CQT gave evidence of (inter alia) three Marist Brothers coming to the house – Brother Wade, Romuald and Andrew's rugby coach. Mrs Nash said that Romuald asked her whether

¹ Exhibit 43-16 Statement of CNS STAT.1152.001.0001_R [28].

anything happened at school, and if Andrew had left a note. She said, 'When I said, 'No', they got into a little huddle and left. Mrs Nash told the Royal Commission that after the funeral, she never heard from any of them again.² Her son CQT described the Brothers as leaving whilst his mother was wailing with grief.

*Not one of them offered any pastoral care, counselling or help.*³

11. Counsel Assisting has submitted, appropriately, that there was no reason to doubt Audrey Nash or CQT's account, and it is submitted their evidence about this ought to be accepted. However, their evidence supports not only the available finding expressed by Counsel Assisting at paragraph [112], *"that the likely reason why Brother Wade attended the Nash home was because of a concern that Andrew's suicide might lead to suggestions that he was sexually abused coming to light,"* but it is also an extreme example of a culture within the Brothers which favoured internal interests to the exclusion of members of the broader community. The Christian Brothers should now be recognised for their shameful indifference to, and exploitation of, the trust of the parents who allowed their children to be educated by the Brothers.

Dr Martine Marich
Counsel for EAA
6 February 2017

² Exhibit 43-23 Statement of Audrey Nash STAT.1172.001.0001_R [23]-[24].

³ Exhibit 43-22 Statement of CQT STAT.1173.001.0001_R [25]-[26].