

## STATUTORY DECLARATION

I, SEAN TYNAN of 841 Hunter Street, Newcastle West in the State of New South Wales, Manager Zimmerman Services, Co-ordinator for Commissions, do solemnly and sincerely declare that:

1. I am the Manager of Zimmerman Services at the Diocese of Maitland-Newcastle.
2. On 12 June 2013 the solicitors for the Special Commission of Inquiry concerning the investigation of certain child sexual abuse allegations in the Hunter Region (Commission) requested I provide a sworn statement regarding certain matters.
3. I give this statutory declaration solely at the request of the Commission. I give this statutory declaration unwillingly and only on the basis that, without exception, section 23(2) of the *Special Commissions of Inquiry Act 1983* applies to restrict the use of this statutory declaration and the documents referred to in it and annexed to it. For the record, the same unwillingness applies to all evidence given by me in any hearings of the Commission, whether public, private or in camera.
- 4.
- 5.
- 6.
7. I refer to an earlier statutory declaration that I made on 27 June 2013 which addressed my role as Manager of Zimmerman Services and other matters.
8. In paragraph 61 I wrote "*I assisted in arranging these interviews.*" I meant to write "*I had not assisted in arranging these interviews.*"

Signed

Signed

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9. Since the making of my earlier declaration, the draft policies to which I referred in paragraph 58 have been approved by Bill Wright, Bishop of Maitland-Newcastle.
10. I insert section 8, the relevant section of the Diocese of Maitland-Newcastle Reporting Child Protection Concerns Policy (Version 1.2), approved on 24 July 2013:

## **8. Procedure for Reporting Criminal Conduct**

*The Diocese of Maitland-Newcastle will report to NSW Police or other relevant authorities, criminal conduct which:*

- *involves crimes against children, or*
- *which could constitute a serious indictable offence.*

*This will be done irrespective of the wishes of the complainant or alleged victim.*

*A serious indictable offence is an indictable offence that is punishable by imprisonment for a term of five years or more. Section 316, Crimes Act 1900 makes it a criminal offence to conceal a serious indictable offence.*

*Members of the Diocese will report criminal conduct to the NSW Police Assistance Line (131 444), unless the alleged crime is life threatening or a time critical emergency situation. In those circumstances ring 000 Emergency Services and ask for 'Police' (refer section 7).*

*Reporting to Police does not relieve the member's responsibility to report to their supervisor within one working day.*

*Where a member of the Diocese's supervisor is unavailable or they believe their supervisor may have a conflict of interest in relation to the situation, the member of the Diocese must make contact with a member of the Diocesan Child Protection Unit (DCPU) within one working day.*

*Where the member of the Diocese is unsure whether the conduct is criminal or not, the member of the Diocese will report their concerns to their supervisor or the DCPU. All members of the Diocese can discuss any alleged criminal conduct directly with the DCPU, to seek advice, guidance and support in addressing their concerns. The DCPU is contactable by phone during office hours, (4979 1390). Under these circumstances, once a member of the Diocese has reported to their supervisor or the DCPU, they have fulfilled their obligations under this section of the policy.*

*The NSW Police Force is a very large and complex organisation. As part of the Diocese's commitment to protecting children, the DCPU has an ongoing working relationship with NSW Police and may be aware of a particular local investigations or strike forces that may be the most appropriate and effective referral point for alleged crimes.*

Signed

Signed

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*It is understood that there is no possibility of obtaining an indictment where an alleged offender is deceased. Nevertheless, those crimes committed against children that were allegedly committed by a deceased person, will be reported to Police for the purposes of supplying intelligence.*

11. The Diocese of Maitland-Newcastle Reporting Child Protection Concerns Policy (Version 1.2) is a generalist policy that is applicable to all members of the Diocese. I insert the definition of a member of the Diocese taken from section 4, the relevant section of the Diocese of Maitland-Newcastle Reporting Child Protection Concerns Policy (Version 1.2):

*A Member of the Diocese means any person engaged with the Diocese of Maitland-Newcastle, including:*

- *persons employed by the Diocese under an award or contract,*
- *performance of work as a self-employed person,*
- *volunteers,*
- *persons undertaking practical training as part of an educational or vocational course,*
- *clergy incardinated to the Diocese of Maitland-Newcastle or providing ministry as an agent of the Diocese (e.g. providing 'relief' for an absent priest),*
- *members of a religious congregations working for or providing ministry on behalf of the Diocese of Maitland-Newcastle, or*
- *authorised (foster) carers or relative or kinship carers, within the meaning of the Children and Young Persons (Care and Protection) Act 1998.*

*A member of the Diocese is inclusive of the definitions of 'child-related work' (ss.6-7) Child Protection (Working with Children) Act 2012, an 'employee of an agency' (s.25A) Ombudsman Act 1974 and 'Church personnel' (p.3) Towards Healing 2010.*

12. I insert section 6.1, the relevant section of the Diocese of Maitland-Newcastle Investigations Policy (Version 1.3), approved on 24 July 2013. This is a specialist policy applicable to the personnel of the Diocesan Child Protection Unit:

### **6.1 Diocese's Obligation to Report Criminal Conduct**

*The Diocese of Maitland-Newcastle will report to NSW Police or other relevant authorities, criminal conduct which:*

- *involves crimes against children; or*
- *which could constitute a serious indictable offence.*

*This will be done irrespective of the wishes of the complainant or alleged victim.*

Signed

Signed

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*Members of the Diocese will report criminal conduct to NSW Police. They are also obliged to report their allegations to their supervisor within one working day.*

*Where the member of the Diocese is unsure whether the conduct is criminal or not, the member of the Diocese will report their concerns to their supervisor or the DCPU.*

*It is a supervisor's responsibility to report any alleged crime or criminal conspiracy to the DCPU (Diocesan Child Protection Unit) within one working day of being advised.*

*Where a member of the Diocese's supervisor is unavailable or they believe their supervisor may have a conflict of interest in relation to the situation, the member of the Diocese must make contact with a member of the DCPU within one working day.*

*Section 316, Crimes Act 1900 makes it a criminal offence to conceal a serious indictable offence. The DCPU will report any alleged crime that would constitute a serious indictable offence or conspiracy to commit a serious indictable offence (refer Appendix D).*

*Where the alleged crime was not committed against a child and does not constitute a serious indictable offence, the presumption remains that the DCPU will report the allegation to NSW Police. However, in some circumstances the investigator is able to submit an application to the investigations manager requesting an exemption from reporting. Such circumstances are restricted to:*

- the alleged offences constituting a summary offence, or being part of a civil dispute, and/or matters that can be dealt with by way of infringement notices or tribunals (for example traffic matters, illicit substance use, minor street offences and stealing offences, family law matters or matters relating to breaches or omissions of local government by-laws or industrial laws); and (if relevant),*
- the alleged offence does not involve any sexual misconduct, and*
- any alleged victim being no longer being at risk from the alleged offender; and*
- any alleged victim providing the investigator with a written statement that they do not want to report the alleged offence to Police.*

*The investigations manager will make the final decision as to not reporting the alleged criminal conduct. In reaching this decision the investigations manager may consult with legal counsel or other persons as is considered appropriate. Any decision not to report alleged criminality will be documented by the investigator and form part of the investigations record.*

*Where appropriate and practical, the investigator will discuss the intended report to Police, with the alleged victim (if they are not the person who informed the investigator of the alleged crime).*

*However, the Diocese will report alleged crimes to Police irrespective of the reporter's or alleged victim's wishes.*

Signed

Signed

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The Investigator will report the alleged crime to the most appropriate Police Officer possible. Where the allegations may be relevant to an ongoing investigation, the investigator will contact the senior Officer in charge of that investigation. Alternatively, the investigator will report the allegation to the Crime Manager of the Local Area Command, in which the alleged crime has occurred or will occur. Any verbal report to Police will be followed up with a written confirmation to the relevant Officer.

The written record of the report will form part of the Investigation record.

When a report is made to Police all relevant available information is provided to the Police, including the identity of the reporter and alleged victim(s) and perpetrator(s). The investigator should ensure that the alleged victim is aware of this practice as soon as practicable.

It is understood that there is no possibility of obtaining an indictment where an alleged offender is deceased. Nevertheless, those crimes committed against children that were allegedly committed by a deceased person, will be reported to Police for the purposes of supplying intelligence.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Declared at NEWCASTLE (place) on 29 JULY 2013 (date)

Signed

.....  
[signature of declarant]

in the presence of an authorised witness, who states:

I, ALEXANDER KOTTA (name of authorised witness),

a SOLICITOR (qualification of authorised witness),

certify the following matters concerning the making of this statutory declaration by the person who made it: [please cross out any text that does not apply]

- ~~\*I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person has a special justification for not removing the covering.~~
- ~~\*I have known the person for at least 12 months OR \*I have confirmed the person's identity using the following identification document:~~

..... [describe identification document relied on]

Signed

29.7.13 (date)

.....  
[signature of authorised witness]

SOLICITOR  
SYDNEY