

Witness Name: The Rt Rev'd Ross Graham Bay

Statement No.: [WITN0259003]

Exhibits: [WITN0259004-WITN0259006]

Dated: 14 JULY 2022

ROYAL COMMISSION OF INQUIRY INTO ABUSE IN CARE

**THIRD WITNESS STATEMENT OF THE RT REV'D ROSS GRAHAM BAY
(DIOCESE OF AUCKLAND)**

I, **The Rt Rev'd Ross Graham Bay**, of Auckland, Bishop, say in response to the Royal Commission of Inquiry's questions contained in Notice to Produce No. 490 of 23 June 2022, as follows: –

Role of Anglican Church with Dilworth School

Expanding on your brief of evidence dated 18 September 2020, please briefly summarise how you understand your role as Bishop in relation to Dilworth School. Please explain the differences, if any, between your relationship with the School and the School's Trust Board?

- 1 Dilworth School is an independent school established under the terms of the will of the late James Dilworth. Its purpose is to provide education for boys who come from a situation of hardship. James Dilworth required that students be "educated in the tenets of the said Church of the said Province of New Zealand commonly called the Church of England."

- 2 James Dilworth appointed the Bishop of Auckland as the Episcopal Visitor to the School, providing opportunity for the Visitor to make entries in the Visitor's Book on any matter about which the Visitor wished to comment.
- 3 The Anglican Church does not have ownership or control of the assets of Dilworth School. These are vested in the Dilworth Trust Board.
- 4 The Anglican Church does not have a governance role in relation to the School, nor does it appoint Trustees to the Dilworth Trust Board.
- 5 As Bishop of Auckland, my relationship with the School manifests in the following ways:
 - (a) Role as Episcopal visitor which involves an annual day long visit to the School and a face-to-face meeting with the Trustees at a subsequent meeting to present my report;
 - (b) Licensing of any chaplain appointed to work in the School; and
 - (c) Attendance at special school events though the year such as prizegiving ceremonies, Founders' Day service and Confirmation service.
- 6 My relationship with the School is worked out primarily through the Chaplain. The Chaplain is the liaison for setting up the annual visit to the School and for my attendance at any chapel services.
- 7 Attendance at other school events is by invitation from the school office in the same way that a former trustee or staff member would be invited. It is at my discretion as to whether I attend such events.
- 8 Other than seeing the Principal when I am at an event, I do not have a working relationship with him. I cannot think of an occasion when there has been contact between us outside of that during the tenure of the current Principal.
- 9 I cannot say that I had a working relationship with the previous Principal, Donald Maclean, outside of school events. I certainly approached him about the matter that was raised by GRO-B-1 which I detail later, but there was no regular contact or checking in otherwise.

- 10 My relationship with the Trust Board occurs in my visit to the Board following each annual visit. I present a written report and Trustees are able to ask me any questions about it. From time to time during the year, the Board Chair may make contact to update me on matters, but this is a matter of courtesy rather than any governance requirement.

In relation to the role of the Episcopal Visitor to Dilworth School, briefly outline:

a) the purpose of this role;

- 11 The Will of James Dilworth includes a clause as follows:

I DIRECT that the Trustees shall invite the Bishop for the time being of the Diocese of Auckland hereinbefore mentioned to be Visitor of the said Institute, and the Bishop in his capacity as such Visitor shall be empowered from time to time at his discretion:

(a) to visit and inspect the said Institute; and

(b) to enter such remarks as he may think fitting in a book which shall be kept for that purpose and shall be called The Episcopal Visitor's Book; and

(c) to make annually his report to the Trustees respecting the work and condition of the Institute; and:

(d) to inspect the audited annual financial accounts of the Trust Board:

- 12 My understanding is that in the early years of the School's life the Bishop would make a number of visits to the School through the year in order to satisfy himself about matters of well-being and Anglican character. I believe that there are short hand-written notes in the Visitor's book recording such visits and particular comments that resulted.
- 13 Over time as the School grew, the role of the Episcopal Visitor developed into a more formalised annual visit that allowed the Bishop to see what was happening in the School and to be seen in an official way by the School community as a mechanism for maintaining the relationship with the Anglican Church and thus as one mechanism for continuing the School's Anglican character.

- 14 This is the nature of the annual visit as I inherited it from my predecessors. The Chaplain arranges a timetable that includes meetings with the Head of each Campus, the Principal, the Chaplain, often the prefect group, as well as observation of a religious studies class and participation in a chapel service.
- 15 The Heads of Campus would discuss academic performance, their impressions of the Chaplain's work, any concerns they had about school facilities, and their perception of the morale and wellbeing of the school community.
- 16 I have understood the purpose of my role to satisfy myself to the best of my ability that the School is maintaining its Anglican character and (from a lay perspective) that the facilities and environment are of a suitable standard to provide a good education.

b) the extent to which safety of students is within the scope of this role; and

- 17 I have not understood the safety of students to be the primary purpose of the visit. I understand this to be the responsibility first and foremost of the School's management and governance, and an issue to be assessed and reviewed professionally through the Education Review Office.
- 18 However, safety forms a part of it in that if there were matters that raised concerns for me or that were brought to my attention by a staff member or student, I would bring that to the attention of the Principal and the Trustees and seek a response from them about it.
- 19 When issues of historical abuse became apparent, the School structured the 2019 Episcopal Visit around the theme of wellbeing to indicate the programmes and practices that were in place, or being implemented, to attend to this. A copy of the 2019 report is annexed as Exhibit **WITN0259004**.

c) how this role could be better utilised to prevent abuse and to ensure the response to reports of abuse is appropriate.

- 20 I do not think that it is feasible for a one-day annual visit by the Bishop to be able to make a credible assessment of safety within the School beyond what is presented in a structured way. However, the opportunity to meet annually with Trustees and with the Principal could provide the opportunity for an explicit

question to be asked of parties as to whether they are aware if any matters that raise concerns about student safety and any complaints or instances of any form of abuse that have transpired.

Please outline your role as the Bishop of Auckland (other than as Episcopal Visitor) in relation to the safety of students at Dilworth and responses to reports of abuse:

- 21 I have no structural role for general student safety at Dilworth School. I have a moral responsibility for any instance of abuse that came to my attention where I would want to ensure that the matter was being attended to by the responsible authority. The responsible authorities being principally the New Zealand Police and Oranga Tamariki, and perhaps the Teacher's Council if circumstances require.
- 22 In relation to the ministry of the Chaplain, I have a responsibility to ensure that they have fulfilled the requirements of their licence in relation to training and professional development and that they are considered safe to exercise their ministry. I have a responsibility if a complaint of abuse was brought to my attention against the Chaplain that it is made known to the Dilworth School Principal and that it is referred to the Registrar of the Church's Ministry Standards Commission in accordance with the requirements of Title D of the Church's Canons.
- 23 I understand that the main purpose of ERO reviews of private schools is to determine whether the school meets the criteria for registration. I have read the ERO reports for 2015 and 2021 and if they raised anything of concern, I would make further enquiries. I understand that until 2010, the criteria for registration of a private school was quite limited, and did not touch on aspects relevant to safety of students. From 2010 a manager of a private school had to be a 'fit and proper person', the assessment of which took into account convictions for serious criminal activities among other things. In 2019, I understand that the criteria for registration was further expanded on, and explicitly referred to the physical and emotional safety of students.
- 24 I do not believe that my role comes within the definition of 'manager of a private school', as I have no part in the control and management of the school.

25 I understand that the Education (Hostels) Regulations 2005 were introduced to achieve the purpose of ensuring the safety of students at boarding hostels, and that prior to this there was no explicit regulation of school boarding hostels.

What connection or interaction did you as Bishop have with the Ministry of Education, Education Review Office, Teaching Council, Ministry of Social Development, Oranga Tamariki and/or the Police concerning reports or suspicion of abuse at Dilworth School:

26 I interacted with New Zealand Police and Oranga Tamariki in relation to reports of historical abuse against Ross Browne.

27 I wrote jointly to both those bodies in response to Dilworth School's own joint letter to them raising the School's concerns about Ross Browne. A copy of that letter has been previously disclosed to the Royal Commission (08.B.I.10.00002).

28 I received no reply from Oranga Tamariki.

29 I received an initial acknowledgement from the Police. I heard nothing more for a year and so followed up with the Police to ascertain what stage their investigation had reached. The Police advised that their enquiries had developed into an "operation" investigating a wide series of complaints of historical abuse against a number of former staff at the School.

30 In relation to Ross Browne, I was asked by the Police to take no action to alert him to this investigation unless I had a concern that there was an immediate risk to other persons as a result of his work.

31 I did not have any interaction with the other bodies listed.

Anglican Chaplains at Dilworth School

Please briefly explain the history and role of the chaplain at Dilworth School:

32 Chaplaincy work was initially the responsibility of the clergy of St Mark's Parish in Remuera. This is the parish neighbouring the School and to which James and Isabella Dilworth had belonged.

- 33 This relationship continued until 1968 when the School appointed its first full-time Chaplain. Those who have served as Chaplains since then are:
- (a) The Reverend Peter Rynd 1968-1972;
 - (b) The Reverend Bob Barrett 1973-1975;
 - (c) The Reverend Peter Taylor 1976-1978;
 - (d) The Reverend Ross Browne 1980-2006;
 - (e) The Reverend Warren Watson 2006-2016; and
 - (f) The Reverend Greg Worboys 2018-present.
- 34 These full-time Chaplains have from time to time had ordained or lay assistants who have worked with them to offer chaplaincy services. Those who I am aware of are:
- (a) The Reverend Tony Ross 1981-1988;
 - (b) The Reverend Bruce Owen 1996-2006 (acting chaplain during 2006);
 - (c) Mr James Hannah 2020; and
 - (d) Mr Wiremu Kingi (application in process).
- 35 In the case of Bruce Owen and James Hanna, they held other teaching roles in the School and their chaplaincy work was an additional duty. In the case of Wiremu Kingi, he has been employed by the School to provide assistance to the Chaplain as his main duty.
- 36 The role of the Chaplain is to:
- (a) ensure the maintenance of Anglican character in the School in accordance with the Will of James Dilworth;
 - (b) provide opportunities for students to consider and explore their faith;
 - (c) work collaboratively with the religious education staff to develop appropriate programmes;
 - (d) provide pastoral care to students in collaboration with the counselling staff and other pastoral care staff; and

(e) provide services of worship in the school chapel.

Expanding on your brief of evidence dated 18 September 2020, briefly explain how permissions to officiate (PTO) and licensing (including lay licensing) apply to chaplains or other individuals employed at Dilworth:

- 37 Any ordained Chaplain working in the School must have the Bishop's permission to exercise their ministry as a priest in the School.
- 38 As an independent school, Dilworth is at liberty to appoint whomever it chooses to provide chaplaincy within the School. However, in order for that ministry to be authorised as Anglican it must have the permission of the Bishop. This is especially so for ordained clergy who cannot conduct public worship without that permission.
- 39 Thus, in practice, in order to maintain Anglican character, the School has appointed Anglican clergy to the role of Chaplain and sought the Bishop's agreement to make the appointment on the basis that the Bishop will grant the Chaplain permission to exercise their ministry as an Anglican priest.
- 40 I understand that many years ago this may have been on the basis of a priest holding a Permission to Officiate in the Diocese, which gives them general permission to exercise their ministry wherever it is invited within the Diocese.
- 41 At least since the time of Ross Browne, this permission has been granted through the issuing of a Licence to the Office of Chaplain which makes explicit reference to where the place of their ministry is based and provides them with a right to exercise that ministry there.
- 42 It also places an obligation on the licensed person to undertake their ministry in accordance with the Canons of the Anglican Church and thus the teaching and ethos of the Church. A Licence makes the person accountable to the Church's Standards of Ministry and to the disciplinary processes that relate to those Standards, being Title D of the Church Canons.
- 43 In the case of lay people assisting the Chaplain, a lay licence may be issued to both officially recognise the ministry role and to create accountabilities for the ministry that would be perceived as being offered in the name of the Anglican

Church. I have not licensed any lay people at Dilworth School during my time as Bishop (with the exception of the assistant chaplains).

- 44 It will not always have been the case that such chaplaincy assistants have been licensed. The recently appointed assistant chaplain, Wiremu Kingi, is in the process of having a lay licence issued on the request of the Chaplain, Greg Worboys.

Please identify those chaplains or persons whom you have given a PTO or (lay) license who work at Dilworth School:

- 45 Chaplains to whom I personally have issued licenses are:
- (a) The Reverend Greg Worboys (2018 – present);
 - (b) Mr James Hannah (2020); and
 - (c) Mr Wiremu Kingi (application in process).

Please identify all instances where you have removed the PTO license of a chaplain or lay licensed person who worked at Dilworth where allegations of abuse had been made against the individual and your reasons for doing so:

- 46 I have not had cause to remove a PTO or Licence from any person employed at Dilworth School.
- 47 I have removed the Licence of Ross Browne in his role as Vicar of Manurewa once charges were laid by the Police in relation to instances of historical abuse when he was Chaplain at Dilworth. This was on the basis that criminal charges made it untenable for him to continue as a priest. I suspended his Licence, which he subsequently resigned.
- 48 A Church Tribunal has since recommended that he be deposed from his Orders as a Priest in the Church. Pending any appeal against that recommendation, I will impose that recommendation. The appeal period ends on 20 July 2022.

When there is a chaplain vacancy, what is the Bishop's role in the choice of candidate and the final appointment? What measures does the Bishop take to ensure student safety in that appointment process?

- 49 I have only been involved in the appointment of one Dilworth School Chaplain, Greg Worboys.
- 50 The previous Chaplain resigned at the end of 2016 in order to take up a chaplaincy role at another School. I offered to the Principal that we would advertise the vacancy within the Anglican Church networks, given that any applicant would need to be ordained.
- 51 The Principal indicated that the School did not want to immediately rush to make a new appointment and that he would keep alert to whether there may be a suitable person. I reinforced that I was willing to offer support and advice in the appointments process given that the person would need my permission to exercise their ministry.
- 52 On a couple of occasions during 2017 I enquired as to whether the process was advancing and was advised that they were continuing to take their time over any appointment.
- 53 In late October 2017 the Principal phoned me to advise that they had identified a suitable candidate for the role. I was told that the Principal and Senior Leadership Team had met and interviewed him, that the Trustees had met and interviewed him, and that everyone was in agreement that he should be appointed.
- 54 The Principal said that they realised that they needed my agreement and that I could say no if I didn't think he was suitable. I conveyed that I had been placed in a position where it was impossible for me to now say no to the appointment given the level of support within the School. I would necessarily ensure that he was "safe to receive" as a minister from his current Bishop but that beyond that it would be very hard for me to not agree to him becoming the Chaplain.
- 55 This experience made it clear to me that the School's understanding was that the Chaplain was first and foremost an employee of the School, but someone who could not function in their role without the Bishop's agreement.
- 56 I did not consider this to be a satisfactory process and made that clear at the time.

- 57 The Bishop's role in ensuring student safety is to make sure that the person has adequate theological training, has undertaken the necessary profession boundaries for ministry training, has satisfactory references, and when from another Diocese is provided with a "Safe to Receive" document from their Bishop which certifies that they are in good standing and have not been subject to any processes of discipline.
- 58 In addition, expectations around maintaining their Licence are established. These arrangements are currently being formalised in a Diocesan policy, A copy of the draft policy is annexed as Exhibit **WITN0259005**.

If there are any concerns or issues with the chaplain at Dilworth, relating to abuse, what obligations does the school have to inform you? In relation to any such reports of abuse, what is your role in any response?

- 59 There is no obligation for the School to advise me of any such concern or issue as the Chaplain is an employee of the School. As mentioned previously, the school is an independent body which chooses to associate with the Anglican Church in order to fulfil the terms of the Will of James Dilworth.
- 60 However, it is my expectation that a moral duty would exist to do so in order to maintain the safety of those who are within the Chaplain's care.
- 61 I cannot comment personally on what reporting has happened through the years. The only such report that I am aware of relates to Ross Browne when he resigned his role as Chaplain in 2006 and the Chair of the Board wrote to the then Bishop of Auckland to provide background to the resignation.
- 62 If such reports came to my attention, they would be referred to the Registrar of the Church's Ministry Standards Commission in accordance with the requirements of Title D of the Church's Canons. This would provide for an assessment of the alleged behaviour, and if it represented a failure in ministry standards, a Tribunal would be established to determine the facts and recommend an outcome.
- 63 Alongside the process of assessing a complaint through the Tribunal process, the Church would also work with the complainant/survivor to agree on a suitable process of redress. Apart from an Outcome that affects the minister's authority

to exercise their ministry, redress could also include an apology, financial compensation, assistance with counselling, and other matters that could assist the survivor in their process of restoration and recovery.

Disclosures of abuse at Dilworth

Please identify the total number of disclosures of abuse at Dilworth School made to you by students, parents, the School or School Trust Board and summarise the type of abuse alleged:

64 There have been two disclosures made to me about abuse at Dilworth:

- (a) In 2014 Mrs GRO-B-1 discussed with me her concerns that Ross Browne was continuing to exercise ministry as a priest in a parish. She had been advised that when Ross Browne left Dilworth School he would no longer be in a position where he would work with children. She disclosed information that her son had passed to her that Ross Browne used to make physical space available for students to engage in sexual contact with one another. As a result of this disclosure, I first became aware of the report that had been provided to the previous Bishop of Auckland that had led to Ross Browne's resignation from Dilworth. This report detailed an historical incident where Ross Browne was found to have encouraged students to masturbate in class during sex education lessons.
- (b) In 2018 the Chair of the Dilworth Trust Board advised me that the School held concerns about Ross Browne continuing to work as a priest in the light of the reasons for his resignation from Dilworth. The Board's General Manager subsequently wrote to the Police and to Oranga Tamariki to raise these concerns. The Board Chair told me that there were fresh allegations being made about Ross Browne but would not disclose any detail of these. He also advised me that the behaviour that led to Ross Browne's resignation from the School would now be regarded as of a criminal nature whereas at the time of the incident it was not considered criminal.

Please summarise how you responded to those disclosures of abuse, including explaining whether you:

a) recorded any such disclosures and if so, where those records are held; and/or

b) reported disclosures (to the School, Trust Board, State or the Police)

65 In relation to Mrs [GRO-B-1] disclosures, I undertook the following actions:

- (a) I spoke with the Principal of the School who advised me that they had received no such allegations and so there had not been, and could not be, any investigation of them.
- (b) On the advice of the Principal, a search of the files made me aware of the existence and content of the School's investigation and report that had led to Ross Browne's resignation.
- (c) I sought advice from the Diocesan Chancellor, our legal advisor, as to what mind we should form around the disclosure. I did not have a complainant as such, and the matters brought to me were from a third party without supporting evidence.
- (d) I made a finding that I could not act on hearsay without additional evidence. The Bishop of Auckland at the time of Ross Browne's resignation had made a determination to allow him to continue in ministry in the knowledge of the circumstances of his resignation and I did not consider that I could re-litigate that finding.
- (e) I made enquiries to establish that Ross Browne's work at Manurewa did not involve unsupervised contact with children or young people and continued to monitor that over time.

66 In relation to the disclosure by the Dilworth Trust Board, I undertook the following actions:

- (a) I wrote jointly to the Police and Oranga Tamariki to outline my own perspective on the matter and to indicate my willingness to assist in any enquiries.
- (b) I followed up with the Police after 12 months to establish what progress had been made in their investigation.

- (c) I sought further legal advice on the question of whether the behaviours which led to the resignation were criminal.
- (d) I provided Police with information as requested during their ongoing investigations as part of Operation Beverley.
- (e) Once charges were laid by the Policer against Ross Browne, I suspended him from his duties and referred the matter to the Ministry Standards Commission.
- (f) I established a Tribunal to hear the matters relating to Ross Browne's convictions and am awaiting the end of the appeal period to be able to impose the recommendation of the Outcome of Deposition.

67 The disclosures were recorded in a complaints file held in the Bishop's Office, and the documents have been previously disclosed to the Royal Commission.

68 I reported the disclosure of Mrs [GRO-B-1] to the Principal of the School.

69 The letters that I wrote to the Police and Oranga Tamariki added to the School's own disclosure about Ross Browne, in that I clarified some matters from my perspective and offered my assistance in any investigations that might ensure.

With the benefit of hindsight, what do you think were the biggest mistakes by each of Dilworth, the Anglican Church, you as Bishop and any State agency in responding to Dilworth's students' disclosures of abuse?

Dilworth School

70 In relation to Dilworth School:

- (a) Prioritising the School's reputation above the safety of students;
- (b) Allowing staff to resign instead of pursuing disciplinary action;
- (c) Not advising agencies such as Police, Oranga Tamariki, and the Teaching Council about inappropriate behaviour or abuse; and
- (d) Not ensuring the complaints were investigated independently.

Anglican Church

71 In relation to the Anglican Church:

- (a) Not undertaking independent investigations into allegations or reports of abuse;
- (b) In relation to Ross Browne, not holding a Tribunal to determine his ongoing fitness for ministry; and
- (c) Too easily providing “second chances” and offering ongoing trust to clergy without sufficient basis or assessment of their continuing risk profile.

Me as Bishop

72 In relation to myself as Bishop:

- (a) Weighing the disclosures about Ross Browne too heavily towards principles of natural justice which positioned the matters in his favour rather than giving more weight to the situation of possible survivors; and
- (b) Not considering the opportunity to initiate a Tribunal to consider the matters from Ross Browne’s resignation when one had never formally been held, rather the Bishop at the time making a determination not to pursue the matter further.

State agencies

73 I do not have information that enables me to comment on the actions of state agencies.

What do you think are the most important changes that need to be made to enable the Church, and the Bishop of Auckland to protect children attending Dilworth?

74 I consider the following changes to be the most important:

- (a) Effective regulatory oversight that provides more in-depth examination of the environment of boarding schools and an assessment of their safety than the existing ERO processes may be able to offer. For example, a specialist organisation that deals with child safety could conduct reviews alongside any ERO reviews that take place.
- (b) A clearer understanding between the Church and the School about their expectations of one another and their respective accountabilities in

relation to the appointment and oversight of Chaplains, the responsibilities of the Bishop as Episcopal Visitor, and the purpose of the Episcopal Visit. In my Episcopal Visitor's Report to the Dilworth Trust Board in 2021 I proposed that a Memorandum of Understanding be established to address these matters so that we are agreed on what is our understanding in contemporary practice of the requirements of James Dilworth's Will. A copy of the very first draft of such a Memorandum of Understanding is annexed as Exhibit **WITN0259006**.

- (c) An explicit disclosure from the Church and the School to one another at least on an annual basis about any instances of abuse and actions taken, and a commitment to make immediate disclosures about allegations or instances of abuse which involve any chaplain.
- (d) There should and must be consequences for those who do not report cases of abuse or appropriately deal with them in circumstances where the person has sufficient knowledge of the situation. Notwithstanding the fact that a failure to appropriately deal with a report may be done without ill-intent, there must be consequences so that people appreciate the seriousness of the matter. The mandatory reporting requirements as they relate to teachers do not cover all potential perpetrators of abuse.
- (e) Complaints must be independently investigated. The School should be ensuring that there is full independence with their Inquiry, and all relevant processes need to be independent and survivor-focussed while respecting natural justice. There should be an expectation that all persons involved will cooperate in investigations, including former staff, Board members, Principals, and other relevant office holders.

In relation to abuse by chaplains GRO-C-1 ***and Ross Browne, please identify steps the Church could have taken to keep those at Dilworth and in the wider community safe from harm:***

75 In each case:

- (a) The Church should have conducted its own investigation into reports of abuse.

- (b) The Church should have employed the provisions of the Title D Canons to initiate Tribunals and thus hold the clergy accountable for their actions, applying appropriate Outcomes about their ability to offer continuing ministry.
- (c) Prior to any appointments, the Church should have disclosed any information about matters which were known that could place others at risk.

Statement of Truth

This statement is true to the best of my knowledge and belief and was made by me knowing that it may be used as evidence by the Royal Commission of Inquiry into Abuse in Care.

GRO-C

Signed

The Rt Rev'd Ross Graham Bay

Dated: 14 JULY 2022